

1. Those experienced in the program – professionals on both the CSC and FLF funding side – agree on this very important point: Use of case filings (or open cases in DCSS) is not an accurate model to rely upon to assess court workload

- For Courts: the vast majority of the court workload is *motion-driven (e.g. motions filed post-Judgment)*, not case filings
- For FLFs: the vast majority of the workload is *litigant/customer demand*, not case filings

Comment: Currently there is no accurate data that fairly assesses AB1058 court workload. So, why would one move forward based on an inaccurate measure of case filings? A rote response that WAFM/RAS is a recognized and approved model by Judicial Council does not address the undisputed unique aspects of AB1058 cases and the fundamental issues and points raised here.

2. Unlike trial court budget money, this funding is a Federal GRANT, which carries with it specific federal requirements, in addition to performance measures. It is the grantee's (Judicial Council's) responsibility to act in a way that does not jeopardize overall program grant funding or the success of the program.

- Who is examining whether these federal requirements going to be met by re-allocating AB1058 funding as contemplated by this Joint Subcommittee? Will moving monies from X counties to Y counties further optimize program success, or will it be detrimental to the requirements of the program? (See also NEXT red numbered point below)
 - Judicial Council has repeatedly recognized that counties must be able “to meet required federal performance standards” (its contractually required)
 - See, e.g. p.5, Judicial Council Report dated 4/8/15, from Family and Juvenile Advisory Committee relating to FY 2014-2015 mid-year reallocation funding and FY 2015-2016 base funding allocation.
 - See also p. 6 of that same report which recommends formation of this Joint Subcommittee “to be charged with examining the myriad of factors that must be considered when allocating funding to both *optimize program success* and provide for mechanisms for all funds to be spent by the end of each fiscal year.” [Emphasis added]

Comment: Assessments on the potential impact (negative or otherwise) on the federal grant requirements need to be built in and monitored closely *at the front end of this process*. One way to ensure that there is no devastating impact is to put in place an implementation schedule that – e.g. – mirrors WAFM/RAS for trial court budgets (now showing problems) – i.e. implement up to the 50% level in a 3 to 5 year time frame (keeping 50% historical), and then PAUSE, to evaluate the grant program performance.

3. The state DCSS' own recent two-year study and assessment of AB1058 funding allocation/re-allocation issue has been paused, as it uncovered how devastating reallocation would be for certain counties (per this Jt. Subcomm.'s last mtg minutes).

- Instead, DCSS is working on improving data collection, and helping program improvement through other means, e.g. shared services (this approach actually addresses and leverages the skill sets and particular needs of under-resourced/under-performing counties)
- Director Griffin specifically noted that DCSS has seen counties that are underfunded but have high performance and counties that are overfunded with low performance
 - One can actually see similar variations on the court side – which demonstrates a need to take a hard look at WHY this is occurring

Comment: At this point, DCSS' approach appears to be one of targeted re-allocation funding and spending, i.e. improving operations and moving money to address specific needs and program improvements, and not moving money based on sheer numbers of open cases. *This makes sense for a grant-funded program that has "grown" into a myriad of different operational modes. It also leverages the strengths that have developed in the program statewide.*

Since the AB1058 program's inception, similar strengths, efficiencies, etc. have developed in the various courts, allowing them to process cases in statistically significant different timeframes than other courts with similar # of averaged open cases. Efficiencies, such as batch e-filing, should be targeted for funding across counties BEFORE the "funding pie" is simply re-allocated statewide, the latter of which may actually lead to sending money to counties that have inefficient practices. Such an approach could not only dovetail with the state DCSS' approach, but by targeting

efficiencies it would actually discharge the statutory duties of the Judicial Council under Family Code §4252(b)(5) which states:

(b) The Judicial Council shall do all of the following: ...

(5) Offer technical assistance to courts regarding issues relating to implementation and operation of the child support commissioner system, including assistance related to funding, staffing, *and the sharing of resources between courts.* [Emphasis added]

4. Analysis of historical funding AND spending patterns is crucial. The “Ask” for funding that each county has historically made since the inception of the program should be examined, and can help frame the funding floor issue, and expressed need of each county. Similarly, the “Amount Spent” by each county historically should be examined, and can help identify program inefficiencies

- The current AB1058 program has been in existence since 1997. For the past 20 years, each court has been given the opportunity to “ask” for the amount of funding it needs to adequately meet their respective needs. If this longitudinal data were examined, one could actually “see” what the courts themselves have sought for their own funding needs. *Utilizing this data could help avoid the situation of moving more money than is necessary to assist in meeting the needs of each court’s grant program.*
 - EVERY year, EVERY county submits a financial questionnaire response as to that court’s base funding needs and mid-year re-allocation needs. Each year, a Judicial Council report is provided in which (JC) staff and the Fam/Juv Advisory Comm.’s AB1058 Sub-Comm. has analyzed the courts’ program-related spending histories and the questionnaires. Looking at the results, it is clear that in many years, many counties do NOT request any change in base funding and counties actually return funds.
 - E.g. Mid-year CSC questionnaires: (info. from J.C. reports)
 - 2008-09: 35 courts request no change in base funding, 6 courts offer to return money
 - 2009-10: 24 courts request no change in base funding, 5 courts offer to return money

PUBLIC COMMENTS re: AB1058 FUNDING: FUNDAMENTAL ISSUES / POINTS

- 2010-11: 28 courts request no change in base funding, 9 courts offer to return money
- 2011-12: 25 courts request no change in base funding, 6 courts offer to return money

And so on... (Similar historical info. is available on the FLF side)

Comment: Why isn't this information compiled and analyzed – at a minimum to expose a possible mis-match and see if any funding methodology recommendations being considered will actually recommend *giving more \$ than was ever requested by a county in the history of the program??*

5. Program Efficiency does not appear to be addressed in this process

Please, please re-read the 2nd paragraph of the Comment to Item No. 3 above.

6. Credibility, Accountability and Responsibility: Using an approach that admittedly does not properly measure a grant program's true workload is neither credible nor responsible. A lack of reliable data, as well a lack of analysis of fundamental efficiency problems, also does not provide the accountability needed to address the federal program requirements of this grant.

- The old adage of GIGO is instructive. Bad data in (is) bad data out [aka garbage in/garbage out]

Comment: The job of the Joint Sub-Committee is unquestionably a difficult one. However, until you can obtain good data, it simply does not make sense to “charge forward” just because a general methodology previously recognized by the Judicial Council as “valid” exists.

7. Finally, it is unclear if this Joint Sub-committee is aware that there is an ongoing grant funding AUDIT being done of all of the trial courts with regard to their AB1058 funding allocations (as is allowed/required under the grant). It is unclear if any problems identified so far, if fixed, might mean a particular county does not actually need any more money, again signaling a need to proceed with caution before re-allocating grant funds.

PUBLIC COMMENTS re: AB1058 FUNDING: FUNDAMENTAL ISSUES / POINTS

- **At least 10 courts have been audited so far; problems have been found in *at least* 5 courts. Additional courts are slated to be audited in the next few years. All final audits with findings are submitted to the Judicial Council.**

Comment: This issue is **ONLY** being raised for purposes of awareness and coordination, as some problems found may be minor. *However, one would think that it would be prudent to make sure that ALL courts, big and small, are properly accounting for the grant funds they now have before re-allocating funds to any such county.*

Summary: The danger in simply using an “accepted” model that uses as its basis (e.g. case filings or open cases) data that is admittedly ill-suited for a federally funded program that has unique requirements and operational differences between counties – unlike regular trial court budgeting – is that:

- **It can devastate local court operations – particularly in small counties**
- **It can cause harm to the federal grant program requirements, which in turn can potentially jeopardize existing grant funding**
- **It can lead to throwing good money towards bad practices (inefficiency), and again, negatively impact the success of the AB1058 program**
- **If it is not done in conjunction with any assessment of how to improve the program statewide (e.g. help all courts get to batch e-filing, help all courts that need it to reduce the unacceptably high default rates), then again, the statewide program can be negatively impacted.**

If the overall statewide performance is negatively impacted, this translates to LESS MONEY for children & families in California—clearly NOT a good result! Re-allocating money in such an important program needs to be done in a fashion tailored and measured to the AB1058 grant funding requirements.

Bottom Line Recommendations:

Immediately begin the process of collecting reliable and relevant data going forward. Go slowly in any implementation plan, and allow a pause for re-assessment.

Quite frankly what I would recommend be done in this coming year is to utilize a small amount (e.g. \$60,000 plus or minus) to hire a consultant who has California

AB1058 experience –someone such as Michael Wright (former AB1058 Program Manager at Judicial Council’s CFCC) or soon-to-be retired AB1058 Commissioner, such as Sue Alexander*)—to put their boots on the ground and visit each of the counties to see what they actually need to help improve the program, which could help this Joint Sub-committee come up with a targeted approach to re-allocating money where it will benefit the success of the program (akin to what DCSS has determined to do). So, for example, if L.A. really needs a Commissioner to help move cases along, then take a measured amount of money from San Francisco and Santa Clara, for example, and re-direct it. Judicial Council should also utilize mid-year monies to help with structural program improvements across the state, whether it be shared resources or assisting in implementing getting same day orders in court in all counties (as an example).

This is really what the initial function and responsibility of the Family Law & Juvenile Advisory Committee was set out to do. The problem is, no one followed up on the clear recommendations when the program started, that data such as motions filed, etc. be collected. So here we are. I say, let Family Law & Juvenile Advisory Committee get back to work to in fact get that data in place, and to make more targeted program improvement shifts in funding EVERY year.

[*Note: I did not tell either one of these individuals that I was going to use their names, but the point is this Jt. Subcommittee needs someone respected and credible to be their eyes and ears on the ground in each county to determine what these counties really need.]

However, if targeted re-allocation (and, e.g. getting courts to share resources) is not to be, then alternatively, I would recommend:

- ✓ NOW and ongoing: Work on collecting RELEVANT data
- ✓ Year 1: Carve out initial funding re-allocation monies to make structural program improvements to targeted counties
- ✓ Year 2-5: Implement phased-in percentages up to 50% (allow courts to adjust)
- ✓ Year 5: PAUSE and re-assess

Thank you. Respectfully submitted,
- Rebecca Wightman, Commissioner (SF)*

*These comments are submitted as an individual and not on behalf of any county or court organization.