

Commission on the Future of California's Court System

Public Comment Session



December 8, 2015

Judicial Council Conference Center
Malcom M. Lucas Board Room
455 Golden Gate Avenue
San Francisco, California 94102

Agenda

- *Public call-in number (listen only): 1-877-820-7831, passcode: 9579924*
- *Check-in will be available beginning at 9:30 a.m.*
- *Agenda times are approximate and are subject to change on the date of the hearing, based on the number of speakers providing public comment for each concept.*

10:00 – 10:10 a.m. **Welcome and Opening Remarks**

Justice Carol Corrigan, Chair

Justice William McGuinness, Vice-Chair

10:10 – 10:40 a.m. **Concept 1: Judgeships** – Explore a mechanism within the judicial branch for more equitable distribution of judgeships based on population/workload.

Click [here](#) for additional information.

Presentation (5 minutes)

Justice Kathleen E. O'Leary, Fiscal/Court Administration Working Group Chair

Public Comment (25 minutes)

Jody Patel, Facilitator, Project Lead, and Judicial Council of California Chief of Staff

10:40 – 11:10 a.m. **Concept 2: Trial Court Funding** – Explore a new funding structure for the judicial branch.

Click [here](#) for additional information.

Presentation (5 minutes)

Justice Peter J. Siggins, Fiscal/Court Administration Working Group member

Public Comment (25 minutes)

Jody Patel, Facilitator, Project Lead, and Judicial Council of California Chief of Staff

11:10 – 11:20 a.m. **Break**

11:20 – 12:10 p.m. **Concept 3: Collection of Court-Ordered Debt** – Realign the court-ordered debt collection process and conduct a comprehensive evaluation of court-ordered debt collection practices and responsibilities.

Click [here](#) for additional information.

Presentation (5 minutes)

Mike Roddy, Fiscal/Court Administration Working Group Vice-Chair

Public Comment (45 minutes)

Jody Patel, Facilitator, Project Lead, and Judicial Council of California Chief of Staff

12:10 – 1:00 p.m.

Topic 4: Decriminalizing Traffic Infractions – Explore decriminalizing traffic infractions and/or moving their processing to an administrative or a non-criminal forum.

Click [here](#) for additional information.

Presentation (5 minutes)

Judge Carrie McIntyre Panetta, Criminal/Traffic Working Group Chair

Public Comment (45 minutes)

Jody Patel, Facilitator, Project Lead, and Judicial Council of California Chief of Staff

Topic 1: Judgeships

Explore a mechanism within the judicial branch for more equitable distribution of judgeships based on workload.

Why is this concept being considered by the Futures Commission?

The public's right to timely access to justice is contingent on having adequate numbers of judges in every jurisdiction. The number of judgeships within a trial court in the past had been set by statute and was established based on a combination of workload needs and historical precedent. Major population changes throughout the state in the last few decades have resulted in changes in workload.

While filings have changed over time, the number of judges authorized in each court has not changed to match identified needs as determined by the Judicial Council. Specifically, the Judicial Council report, *The Need for New Judgeships in the Superior Courts: 2014 Update of the Judicial Needs Assessment*, authorized under Government Code section 69614(c)(1) and (3), concluded that nearly 270 new judgeships are needed to meet the workload-based need in the trial courts, with some courts having a shortfall as great as 70 percent between judicial positions needed and the number of filled and authorized positions. The Judicial Council has also identified some courts as having an excess of judgeships based on workload measures; these courts have generally experienced a decline in filings in recent years, but have maintained the same number of authorized/filled positions, because there is currently no mechanism in place to transfer existing judgeships from one court to another.

Goals and Potential Strategies

In exploring a mechanism for reallocating existing judgeships between courts, the Commission will consider, at a minimum, a mechanism that: 1) maintains Legislative control of the statewide number and funding of judgeships; 2) gives the judicial branch the authority to use its established workload models to direct the location of those judgeships; and 3) is flexible enough to accommodate fluctuations that occur over multiple years.

Other considerations by the Futures Commission will include factors such as the appropriate number of years that should be factored into an assessment of judicial needs; the impact of natural attrition or voluntary reassignment on the reallocation process; the impact reallocating judgeships might have on individual court funding; the minimum number of judgeships a court should have; and whether there should be a maximum number/percentage of reallocations per court.

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Topic 2: Trial Court Funding

Explore a new funding structure for the judicial branch.

Why is this concept being considered by the Futures Commission?

The judicial branch is overly reliant on fines and fees as a funding mechanism. The current court fines and fees structure has become a de facto revenue stream, the result of years of legislative efforts to fund programs within and outside the judicial branch without placing an increased demand on the state general fund. In many cases, fines for infractions are no longer proportionate to the offense committed, creating a disproportionate burden on individuals with lower incomes.

In addition to being disproportionate, the current fines and fees structure is also overly complicated. For example, the total amount owed on a traffic ticket with a base fine of \$50 becomes \$361 after all penalties, surcharges, and assessments payable to at least a half dozen different funds have been added. The complicated structure, and manual methods of receipt and distribution of fines and fees, hinders accurate and consistent distribution.

Additionally, trends indicate that civil filing fees may not be a predictable and adequate source of funding, and there is a concern that increased filing fees may discourage some litigants from seeking redress of grievances in the courts.

Goals and Potential Strategies

In exploring a new funding structure for the judicial branch, the goals of the Futures Commission will be to ensure: all members of the public have access to the courts without bearing the burden of budgetary shortfalls; a funding structure that provides for the direct government funding of judicial branch salaries and benefits rather than one that is reliant on fines and fees; a simplified, transparent fines and fees structure that courts can enforce consistently; and that fines and fees are proportionately related to the gravity of the offense or the service provided by the court.

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Topic 3: Collection of Court-Ordered Debt

Realign the court-ordered debt collection process and conduct a comprehensive evaluation of court-ordered debt collection practices and responsibilities.

Why is this concept being considered by the Futures Commission?

In 2014, the Legislative Analyst’s Office (LAO) issued a report on *Restructuring the Court-Ordered Debt Collection Process* in California courts. Among its findings, the report found that the current court-ordered debt collection process lacks clear fiscal incentives for programs to collect debt in a cost-effective manner or to maximize collections. For example, there appears to be no direct connection between the efforts expended by courts and the success of those efforts. The LAO found it difficult to comprehensively evaluate and compare the performance of existing collection programs due to a lack of complete, consistent, and accurate reporting. Finally, the current statutory division of collection responsibilities between counties and courts, the LAO concluded, can undermine the oversight and modification of collection programs—thereby making it difficult to make improvements.

Goals and Potential Strategies

The Futures Commission will consider the recommendations of the 2014 LAO report on the court-ordered debt collection process. Specifically, the Futures Commission will examine: whether to realign the current court-ordered debt collection process so that one entity is responsible for collections; ways to provide greater flexibility in how court-ordered debt is collected; collections incentive models; and ways to improve data collection and performance metrics.

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Topic 4: Decriminalizing Traffic Infractions and/or Moving to an Administrative Forum

Explore decriminalizing traffic infractions and/or moving their processing to an administrative or a non-criminal forum.

Why is this concept being considered by the Futures Commission?

Traffic infraction violations make up a substantial part of the 58 Superior Courts of California’s workload, with over 4.5 million traffic infraction filings processed through the California criminal courts. For many Californians, this is their only or primary contact with the courts. Criminal law procedures may be sometimes restrictive and non-intuitive, potentially impeding access to justice and impairing efficient court operations. These high-volume cases, which consume substantial criminal judicial and court resources, may be more suitable for a different adjudication forum and procedures.

Goals and Potential Strategies:

In exploring how traffic infractions may be adjudicated differently, the Futures Commission is guided by the goal of having a traffic adjudication process that preserves due process for defendants, but is more efficient, flexible, user-friendly, and consistent with the less serious nature of these violations. Specifically, the Futures Commission will assess the pros and cons of the current system, previous traffic adjudication pilot programs, previous legislatively required studies and recommendations, and alternative systems. At a minimum, the Futures Commission will consider the following: which infraction violations (e.g., “no-point” violations) may be suitable for decriminalization and resolution in an alternate forum; what role judicial officers and the criminal court may have in the alternative forum (e.g., appeal/review); procedures for party and witness participation, trials by written declaration, and failures to appear; the appropriate burden of proof threshold; resolution

methods (e.g., fines and fees, traffic school, and community service); and the appropriate prosecutorial body. The Commission will also investigate the fiscal impact of any resulting recommendation.

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