

The Commission on the Future of California's Court System
Public Comment Session Transcript
July 22, 2016
Ronald Reagan State Building Auditorium
Los Angeles, CA

Corrigan: Good morning, ladies and gentlemen. Thank you all for, particularly to all of you who had to get here by way of Southwest. What an adventure. Who says that the people who care about justice in California aren't a hearty lot? Welcome to our fourth public hearing for the Commission on the Future of California Courts. My name is Carol Corrigan and I am on the California Supreme Court and I am joined by, not only a number of members of the Commission, but also by our esteemed vice-chair Justice William McGuiness who is the Administrative Presiding Judge of the First District Court of Appeal.

Thank you for joining us to help us envision the future of what things might look like for the California courts. We are very interested in your insights and your assistance as we go about this work. As you may know, the Chief Justice brought this group together and has asked us to consider what legal and structural changes might help our court system meet the challenges of the future in a way that helps us be responsive to the needs of Californians in an effective way that uses the people's resources and their most important resource, time, in an effective way. Part of our inquiry is how best to ensure that justice is both affordable and accessible to all Californians.

We recognize that change can sometimes be difficult and sometimes can seem very uncertain. That is why we really want to be careful and deliberative and open when we consider these competing ideas that have been put forward. We want to look at what is working well in the system and there are many things that are working well. We also want to look at things that might be improved in light of any number of possibilities that are evolving from technology and other tangible aspects of the 21st century, because we don't want to be mired in the past. We don't want to be coming into courts and having it look like the courtroom scene in *To Kill a Mockingbird*.

We are looking at what it costs to do things the way we do them now. What might be saved in terms of both money and time if we are open to doing some things differently? We also, very importantly, want to look at what it would cost to change, because all change has some costs that goes with it, and we want to look at what might be lost in terms of responsiveness and culture if certain changes are put into place. All of those things are important to consider when looking at possible change and we are dedicated to looking at all of those.

We are all mindful, and you may or may not be relieved to know, that this is not a Judicial Council effort and this is not a decision-making body. Our charge is simply to study ideas and make recommendations to the Chief Justice, and she will consider in her own best judgment

what she thinks of the ideas that we put forward, which ones she wants to pursue, and how best to do that working in concentration not only with the leaders of the judicial branch, but the other two branches of government as well.

At the outset of our work we asked everybody we could think of – lawyers, judges, interested members of the public, anyone who cares about the doing of justice in California – what they thought we were doing well and what they thought, not only what they thought we could do differently and better, but how we should go about doing it. Over the last year or so, we've considered a number of proposals and now some of those concepts are being refined and studied in terms of hard data to see whether or not, what seemed like a good idea at the time, is worth bearing fruit. Because we are now moving in the direction of securing our final report, we wanted to check in again with stakeholders and with all of you in this room and many people beyond. We have received a number of inputs in writing as well as informal discussions throughout the process. We will be having another public hearing session next month.

It is important for all of us to remember that nothing is set in stone. We're going to continue our work to look at the data that support or give us pause about some of the ideas that are being studied, and we continue to need not only your sound support, but all of us in the

system who have some insights into about how things work. Our goal is to have a final report to the Chief Justice within the next 6 to 8 months, and we will continue to be in dialogue with all of you and people beyond this room as that process continues. What else do you have for us Justice McGuiness?

McGuiness: To carry on Justice Corrigan's remarks, today's hearing will include a brief presentation with the majority of time allotted for public comment on three concepts under consideration. We want to clarify that today's public comments will only be entertained as it relates to these three specified concepts. There may be interest in other concepts under consideration by the Commission that are outside of today's topics. Those will be addressed at a public comment session scheduled for August 29, 2016 in Los Angeles. The Commission will be issuing further information about the public comment session in the next couple of weeks.

Jody Patel, staff of the Commission, will act as facilitator today to monitor the time frames and ensure that comments stay focused on the topics of the day's discussion. However, those interested in providing comments outside of the identified concepts today, we encourage you to attend the next public comment session or provide your comments through the Futures Commission website.

A few other areas to highlight is this session is designed for Commission members to hear from you. This day will not include the opportunity for dialogue or questions and answers with presenters. Each speaker will receive up to five minutes depending on the number of interested speakers for a specific topic. If you have not signed in to speak on one of the three topics being presented today, please do so now so that staff can plan for the appropriate time available for public input per topic. A request to speak will be taken up to the point that the comment is called on a specific topic. In addition to those that are speaking in person today, we have also received written comments that will be forwarded to Commission members. We also have the opportunity for the public to listen in through the future Commission website, so there are other outside this board room today that will be listening in on the session.

During this session we will have a break in the morning and potentially a lunch break. The agenda identifies that this public comment session will end by 2pm. However, depending on the amount of time each comment takes, the lunch break may also serve as the conclusion of this public comment session.

I'd like first to introduce concept 1, the Consolidated Juvenile Court Jurisdiction. To begin today's session, I would like to introduce Judge Stacy Boulware Eurie, a Sacramento Superior Court Judge and Chair to

the Futures Family/Juvenile Working Group who will present a concept relating to consolidated juvenile court jurisdiction. As a reminder, please ensure that public comment received during the remainder of the day remains focused on the issues presented.

Boulware Eurie: Thank you Justice McGuinness and good morning to all. We are here today, the first item on our agenda is to explore the establishment of the consolidated juvenile court with jurisdiction that would include what is now divided as dependency, or child welfare cases, and juvenile justice, or otherwise known as dependency and delinquency cases, under one unified juvenile court. We are considering this concept because under a consolidated system, juvenile court would be able to enhance the effectiveness and efficiency of the juvenile court's orders by serving the family as a whole, ensuring a focus on the youth's well-being, as well as improving outcomes of cases by integrating services across all of the systems and agencies that serve youth and families now in juvenile court.

Under the current construct, many children re-enter the juvenile court system shortly after exiting because of subsequent abuse or neglect or alleged criminal behavior. System-involved youth have significantly lower educational outcomes than peers who are not system-involved or in foster care. Youth who come before the juvenile court have higher rates of mental health and substance abuse disorders than their peers

who were not in the system or in foster care. Currently, repeat involvement with the court suggests there are opportunities to improve effectiveness and efficiencies by delivering needed services early, thereby limiting the number of times that children and families return to juvenile court jurisdiction.

Collaboration between child-serving entities, child welfare, probation, behavioral health, is also less effective due to separate jurisdictional processes, institutional mandates, funding as well as terminology. Multiple hearings and case plans leave children and families confused and disengaged from the current court process too often. Current jurisdictional constructs and funding streams can impede full delivery of necessary services and interventions and distract from the shared responsibility to stabilize and protect the child, the family, and the community at large. All of these factors are high contributors to the low success rates for juveniles that re-enter and stay in the system. A consolidated court could provide enhanced community safety by maintaining both the path to permanency, be of the child welfare system, and the important stabilizing relationship with caseworkers, treatment providers, communities, and attorneys who are familiar with the needs of the child.

The Futures Commission is looking into the potential benefits and challenges of consolidating the juvenile court under one jurisdictional

statute with the goal of reducing recidivism, promoting self-sufficiency, reducing re-entry and eliminating the need for further government intervention. Because this model is premised on the benefits of performing a full assessment of the needs and strengths of each child and family to shape appropriate and effective dispositional orders, it would require the involvement of multiple service agencies from inception to the conclusion of each case. The objective is not to deliver more services, but rather to assess and prioritize services early in the case and provide a mechanism for flexible revision of dispositional plan as the case develops. It would also demand shared accountability across child and family-serving systems, as well as eliminate the incentive to shift responsibility for particular child or family from one agency to another.

The resulting system would assess all children and families that come before the juvenile court on a case-by-case basis and generate dispositional orders for the most effective and appropriate services based on need rather than jurisdictional origin. Because the concept would result in parents, guardians and children being represented regardless of the jurisdictional allegation, it would be an expansion of the court's existing authority under Welfare and Institution code section 634, and would require appointment of counsel for parents at the initial hearing when their child is alleged to be a status offender or is accused of committing a crime. Appointed counsel for parents would assist the

court by ensuring that parents are informed and engaged from the detention or initial hearing through the termination of jurisdiction.

To ensure that the due process rights of the child alleged to have committed a crime are not compromised by this proposed reform, attorneys for parents would have a very limited role at the jurisdictional phase of the case when the jurisdictional allegations solely involve the conduct of the child. Trial strategy in each of these cases would be at sole discretion of the child and his or her attorney, with parents counsel providing a conduit of information to the child's counsel.

The most significant challenges in ensuring adequate representation for children under this jurisdictional model, would be in cases where those jurisdictional allegations involve abuse and/or neglect of the child, as well as the alleged criminal behavior of the child. Ideally, one attorney could be sufficiently trained to represent the child's needs and interests across the board with the benefits that the child could rely on that attorney to advocate for his or her needs holistically throughout the proceedings. However, given the challenges to achieving this level of training of counsel for children across the current spectrum, it is expected that two attorneys may need to be appointed, in some cases, to ensure that the due process rights of the child are protected.

A key anticipated advantage of the consolidated juvenile courts is an opportunity for all child and family-servicing agencies within a county to work together to identify the most effective services and interventions available to meet the needs of their children and families and to initiate those services in a timely and efficient manner with regular follow-up. This approach is in contrast to current practices in which the quality and nature of services can vary greatly.

The success of this proposed concept is contingent on early and effective assessment and coordinated case planning and service delivery. The sharing of information and data will be needed to maximize case planning and must be done in a way that such information gathered to craft an effective dispositional order will not be used to incriminate or sanction a child. Accomplishing this goal will require current statutes to be redrafted to ensure that confidential information gathered is not available for use outside of the dispositional case planning phase of the case. Such an approach would be built on the model currently in Welfare and Institution code section 18961.7.

In drafting this proposal, we acknowledge that many children and families who come before the consolidated juvenile court will have been exposed to trauma or adverse childhood experiences that make it more difficult for them to effectively participate in productive court proceedings. To address this challenge, all judicial officers and staff who

interact with children and families at the court would be trained in trauma informed practices and court facilities would be organized in a safe and supportive environment for accomplishing the underlying purpose of this proposed juvenile court. It is expected that the implementation of such practices can mitigate risks of placing children who have been abused and neglected in proximity with children who have engaged in alleged criminal behavior within the courthouse setting.

In keeping with the ambitious goals set by the Chief Justice for the Futures Commission, this proposal would result in substantial changes to the existing statutory framework and the way that the juvenile court hears cases currently in California. Accordingly, the working group acknowledges that implementation of this concept would have significant impact on our under-resourced child welfare and juvenile justice system. To address these legitimate concerns, it is proposed that prior to considering a statewide implementation of this concept, a piloting of the concept model in a number of courts would occur so as to allow for data collection and evaluation of the actual impact.

A piloting of the concept would also enable the judicial branch to evaluate and determine the extent to which re-entry and recidivism rates are reduced and other positive outcomes are achieved over sufficient length of time. Such a pilot would ideally include at least one

small, medium and large court and reflect the geographical diversity of the state. Pilot courts would be given resources needed to plan for an implement the consolidated court and be provided with technical assistance and data collections support to ensure that information gleaned from the pilot can be used for effective statewide implementation. Justices Corrigan and McGuinness that is the conclusion of my prepared comments. I know that we have one public speaker identified and signed up, Mr. Greg Rose, Deputy Director of the California Department of Social Services, good morning.

Rose: Thank you for the opportunity to speak. I appreciate the fact that the Commission is looking at the evolution of the courts in response to serving kids and families in the state. Couple of things that I would just like to mention, first, we did submit public comment via writing in May. Some of this I will just touch on a couple of those points right now.

Certainly the department, currently has and working with our County colleagues in probation and child welfare are, in the process of rolling out a number of family-centered, child-focused practices and policies that are consistent with the values of a unified, consolidated court. There is a couple of things you touched on in your remarks that I think are worth noting from our perspective as well.

There is some question that we wonder about the current dual status, or the 241.1 process and how well that is working and if there is opportunities for us to learn from those courts and those processes and how they might influence the thinking of the working group. We have some concerns potentially about the funding, as you mentioned, when it comes to support services for young people and their families. Best we could tell, a good number of them might not be federally eligible, and therefore, you would have to think through state and local funds, and how we would resource that, and certainly in the days of post-prop 30 we have to consider the funding that way as well.

I think we are, I am encouraged to think here about thinking about a pilot approach. I do think that if the Commission recommends to move forward that certainly piloting it in a few jurisdictions to identify the value added above maybe the 241.1 process, and looking at the outcomes for the young people and their families, or the young people particularly in the context of families, and then of course trying to understand the size and scope of the services to see what those resources would look like on a statewide implementation. Just a few comments to have you consider. Thank you.

Corrigan: With regard to our next concept, I want to introduce Judge Lorna A. Alksne who is from the San Diego Superior Court. She also serves as

the vice-chair of the Family/Juvenile Working Group, and she's going to present concept 2.

Alksne: What we're talking about in the family subgroup of the family/juvenile working group, is implementing a statewide uniform multi-tiered child-custody mediation process in family courts, and also with ADR, or alternative dispute resolution for everything else in family law. And I would note that family courts haven't lost sight of other issues, for example self-help and access to the record.

So, why is this being considered? With anyone who is familiar with family court and child custody issues, there are differences in all the counties, so some courts do it one way, some courts do it another way. Families are treated differently, from one county to another. I think if we were creating a family court mediation process in the beginning we would not have created it to be done differently throughout the state of California. There is due process concerns and the need for uniformity throughout the state, that families have the same type of access in each county.

There's also an undercurrent that we've heard in public comment through Elkins I and Elkins II for the need for changes to the family court about how we go to a recommending county with sort of a need for the family to feel like they get meaningful recommendations and,

therefore, to get a result sooner. We all understand that families need to reach a parenting agreement that is why--if they could reach one without us they wouldn't be coming to family court mediation--so, that is why we need, or are recommending a multi-tiered mediation program.

We also really want to focus on early resolutions for non-custody issues. Sometimes divorces can last for a long time. They don't know where to go, there are lots of forms to get divorced. We say it takes one form to get married, and 50 to get divorced. It can be complicated for families, especially in our self-represented population. Some courts have self-help services, where they are able to do a settlement conference, some courts don't have any services like that. What we're recommending is a statewide effort to have ADR. So, the goal is to have multi-tiered mediation and have all courts have some sort of early resolution in non-custody issues.

Why do we want this multi-tiered approach? I know that people are anxious to know the details. It doesn't matter which county you go to, everybody believes in their county that the way they do it is the best way. We have based that throughout the state of California as long as I've been in family court. We are not trying to say that one way is better than the other, what we're trying to say is let's try to think about how we would set it up in the future to effectively resolve these cases for families so that we don't have families that aren't able to resolve their

disputes come back in again and again and again. Let's try to get it right from the start.

In a confidential first-tiered approach, all families have access to confidential mediation, meaning all of their private thoughts and feelings about going through this difficult resolution would remain confidential. In that type of approach, we hope that is helpful based on the study that we have from one county that has successfully implemented this, gone from recommending to non-recommending, the families were able to resolve at a higher rate knowing that there was no product coming out after the mediation. They were able to deal in court, the study we looked at, they were able to resolve faster, not faster that way, but more effectively and not have to come back again and again.

If they aren't able to reach a decision, the court requires, or the statute requires they go to mediation first. Then they would go see a judge. They would get to the judge, if the judge could not resolve their issue, meaning the judge with one question, are we going to have Johnny go on Tuesdays or Wednesdays with one parent or the other, if the judge couldn't resolve the issue, make the decision with enough information, the judge could order a non-recommending. How far is it from mom's house to dad's house? Where is the activity that someone needs to go to? Neutral fact-finding, factual information that would be gathered at the request of the judge. This would only be offered if the judge thought

it was necessary, so the judge is making the decision as to what needs to happen.

And, at the end, I'm sorry, at the third tier, if they weren't able to reach an agreement in the first confidential mediation, or couldn't resolve it with the judge at the parent reading the declaration, taking oral testimony in a regular family law hearing, the judge could send the parties to a different mediator to do a recommending mediation. In this way, the judge has the ability to make the decisions when those types of services are needed in the select cases where we have a larger dispute, for example to move away, there would be systems of recommendation, of fact-finding or in most cases the Fresno project suggests they do not need to go to that level because the parents are able to resolve it at the first level or the second level without going to child custody recommendation.

What we are suggesting is that we have been successful in Fresno if you talk to the director of family court services in Fresno, she is a supporter of it. Judges there where they had recommending but now gone to this model they found that it does not cost any more to implement this program, in fact it has freed up mediators because they spend more time mediating and less time writing. If anyone has sat in family court, and been in family court and know recommending mediation, it can be very lengthy and very detailed and takes a lot of time to do that. The

idea that has been implemented in Fresno modeling this is to see if we can't save money and also respectively allow families to resolve their differences.

Obviously, we're not going to change the way that the state of California does family court services with one recommendation to the Chief. We need more data, we need to pilot this, substantial change the way some counties do business and if the pilot needs to be efficiently so that we have raw data to be able to say it does work in large counties, it doesn't work in small counties, it works in all counties, whether small courts only have one or two mediators, how can mediators do one mediation when they are in a tiered-three mediation. We understand there are hurdles, but we have been given vision from Justice Corrigan and Justice McGuinness to think outside the box and so we think of the pilot as the best way to test.

We also and equally as important, the need to promote ADR, there are not uniform programs. Some counties have one day resolutions where folks come in and they resolve their case from soup to nuts in one day, some courts don't have it. We would like to see that brought statewide, in partnership with the self-help technology working online and we will talk about that, and what we would like to see is different projects throughout the state be made available to all. That is the conclusion of

my presentation. We have one public comment, Nusku Utley-Sanders, please come forward.

Utley-Sanders: First I want to congratulate you on a great job. I didn't hear too much about the families versus the situation. What determines the outcome of where the child goes, or which parent goes to. I know a lot of times when there's delegating that type of thing, it's not necessarily based off what is best for the child, it could be whoever is legislating. Being a child who went through family court, I understand that sometimes it's not what's best for the child. What is going to be done to determine who the child goes to or is that just based off of the judge?

Corrigan: I appreciate your insight, particularly you have a personal experience, and as Justice McGuinness explained from the outset, we are very focused, always, on the best interest of the child. That will continue to carry forward. We are not in a position to engage in dialogue this morning. I can assure you and I'll let Judge Alksne speak for herself, that that is always the most important thing that they look at. They will continue, and they may reach out to you as they go through this so we can make sure we have the benefit of your particular insight having been inside the system. That is very helpful to us. I do not mean to step on your toes Judge Alksne. Thanks very much.

Utley-Sanders: Thank you.

Corrigan: Ladies and gentlemen, we have one more concept to present but I am informed by the next presenter that they need a small break. Just a few minutes. Don't go anywhere but feel free to stand and stretch. They are going to do something magical and rabbits will be pulled out of hats and things like that.

McGuinness: The concept now, concept 3 relating to restructuring criminal fines and fees. I would like to introduce Justice Peter J. Siggins, Associate Justice of the Court of Appeals, First Appellate District, Division Three, and member of the Commission's Fiscal/Court Administration Working Group. Justice Siggins.

Siggins: Thank you, Justice McGuinness. Good morning everyone. This is the second time that we have held a public hearing on this topic, the restructuring of fines and fees, particularly in infractions cases. A hearing was held in February. Based upon the comments received both orally and in writing and deliberations with my work group and subcommittee, we are back today with a little bit more meat on the bone, so to speak, to explore.

California courts received considerable financial support from court imposed fines and fees. The fines that are imposed for common infractions are considered by many to be excessive and

disproportionate. They are also used to supplement a variety of local programs in addition to the courts. This awareness and concern has been expressed by policy makers and the public. The process, moreover, when we looked into the distribution and receipt of these fines and fees, the process is unduly complex and cumbersome, and large amounts go uncollected.

We are exploring increasing baselines for infractions and misdemeanors while eliminating the surcharges, penalties and assessments, essentially. If you violate the law, you're going to know what you have to pay. Often now, you don't know what you're going to pay and it's very hard to figure out what you're going to have to pay. The second concept, or part of the concept, is to deposit fine revenue into a single fund for distribution to the courts and state and local programs. Each court or county, takes the money in and pursuant to a 100-page manual determines where that money has to go. We think some consolidation could yield some efficiency in that area. And then the third is to address a longstanding problem which is the collection of court-ordered debt, and that would be placing overall responsibility, kind of supervisory responsibility, in an executive branch agency and not in the courts or counties.

As I've said, fines and fees are no longer proportionate to the underlying offenses. Driver's license suspensions for inability to pay a fine can have

very serious consequences for the offenders. The nature of high fines for very common infractions often leads to license suspensions and it creates a spiraling effect for some people, some segments of our population. The current fines and fees structure also provides significant judicial branch revenue, but it is important to know that that revenue stream has been steadily declining over the years. There was a recent legislative analyst report that point out that as a revenue source, it is not stable source of revenue.

As I mentioned before, the current fine & fee structure is not transparent. Penalty for infractions are not readily identifiable. The accounting and distribution of payments under the current structuring is very difficult. Finally, collection practices lack consistent standards. We are currently into an amnesty program. Prior to that, there are no consistent standards for when debt may be written off – it's uncollectable or when court-ordered debt may be compromised in some other amount.

So the goals and strategies would be to increase the base fines, to eliminate the add-ons, deposit all the revenue in a special deposit funded thereafter to be paid out to the courts and other state and local programs as identified by the legislature and then to shift overall supervisory responsibility for collection of court-ordered debt away from the courts and the counties and put that under supervision of some

agency in the Executive Branch. At this point, we would entertain public comment. The first is Theresa Zhen who is affiliated with A New Way of Life Re-entry Project.

Zhen: Good morning Commissioners. My name is Theresa Zhen and I am an attorney with a New Way of Life Re-entry Project, where I represent low-income people in Los Angeles County traffic court on traffic and non-traffic infractions. My primary job is to advocate for reduced fines. My experience in the traffic courts in Los Angeles has led me to believe that our current traffic court system as well as our current fines and fees system, drives inequality and reinforces poverty.

One key aspect of the fines and fees system that was notably absent from the Commission's report as well as the Commission's recommendation, was the assessment of an offender's ability to pay on the front end, at the time the person is sentenced. And just to bring this home, I would like to tell a story of one of my clients, to put a human face to the system that we are trying so hard to make fair. My client, we'll call him Mr. Smith, in 2009 he has just finished a stint in the military and had come back from his military service with PTSD and an inability to find steady work. He was living out of his car, and his vehicle was his primary source of transportation as well as his shelter, and he received a number of tickets during that time. When he showed up in court at no time did the judge, the judicial officer, ask for his

financial circumstances, his employment status or his ability to pay. He ended up with over \$10,000 in fees owed to the court. That is base fines as well as penalty assessments.

Fast-forward to 2014 when he and his family of three kids and his wife are just trying to get their lives back together. He is finally now in a homeless shelter and he is actively looking for work. I should mention that because of this tickets his driver's license was suspended. On his way to the pharmacy to get medication for his daughter who was born prematurely, he gets stopped by police officers. Seeing that his license is suspended, they decide to order him out of the car. They towed his car, the one asset that he has, they tow it. He is forced to walk two miles with his daughter's car seat and medication, two miles to get to his daughter. He got another ticket that he is now contending with the court. And so, if he had gotten an ability to pay assessment early on, all of this could have been prevented.

Ability to pay is not something that is meaningfully, and I would argue that even if your number one goal is accomplished to increase the base fines such that you eliminate the add-ons and penalty assessments, if the those base fines even approach the amount that it is with the penalties and assessments and add-ons, low-income individuals like Mr. Smith still will not be able to pay those fines.

I would ask that the Commission, in your report to the Chief Justice, include a section in your already very detailed assessment about the necessity of ability to pay hearings for three reasons that I think will be of interest to the Chief Justice. One, it has a possibility of increasing collections. If someone has the money to pay the amount that they are sentenced to, they are more likely to resolve the case and close the case by paying that amount there and then. Whereas the status quo now, if you are making \$200 per month on cash aid and you're looking at a \$1,000 ticket, you may not pay any portion of that \$1,000 ticket.

Number two, is that, if there are ability to pay assessments, later down the road, you reduce the costly temporary solutions like the amnesty program which has taken up significant staff time and court resources. The amnesty program as was mentioned is very much a patchwork, band-aid solution to the growing enormous problem of licenses that have been suspended because of inability to pay traffic tickets.

Number three, in addition to costs to the court, I would ask that the Commission also consider the cost to the state. A lot of my clients use their cash aid, use their disability checks in order to pay their court fines and fees. That is just redistributing public assistance to the judicial branch and taking away money that would be used for the necessities of life to pay for traffic infractions which I don't think is what the court intends or what the Chief Justice intended. With that, I urge

again that the Commission had a section to your report about the importance of judicial officers incorporating ability to pay assessments on the front end. Thank you.

Siggins: Our next speaker is Olivia Hudnut who is associated with Neighborhood Legal Services of Los Angeles

Hudnut: Good morning and thank you for having me to speak on behalf of Neighborhood Legal Services of Los Angeles County. We strongly agree with the changes and that changes are urgently needed to address the disproportionate impact of court-ordered debt on low-income individuals in California. In certain situations, courts take into consideration the financial burden in proceedings in making determinations, and we suggest that as with traffic amnesty and base fine program, courts evaluate on a sliding scale an individual's ability to pay at the time of sentencing.

California's traffic ticket amnesty program is proof that making fines and fees relative to a person's ability to pay increases the likelihood that a litigant will make payments while reducing the devastating consequences of a failure to pay. Together, our organization, A New Way of Life that Theresa is representing, and Neighborhood Legal Services of Los Angeles County, have witnessed the profound impact that this program has had on the lives of low-income people.

Just last month, a couple came into our community clinic, saddled with \$3,000 in court-ordered debt. This was a result of two unpaid traffic tickets. The husband had had his license suspended and was having difficulty finding employment as transportation was limited. Through the traffic amnesty program, he was able to reduce this debt by nearly 50% and make payments in affordable \$25/month through a payment plan, and his license was reinstated.

An ideal system would allow the courts to determine a defendant's ability to pay at the time of judgement. The base fine model allows for courts to adjust misdemeanor and infraction judgments to reflect the person's ability to pay. According to findings from a study conducted in four United States jurisdictions, the base fine model demonstrated the issue in judgment based on a person's daily income, gives low income litigants a fair chance at meeting their financial obligation.

Another option is to build upon the current fee waiver process. For example, when a person files with a California court and they cannot pay, they can request a fee waiver. Filing this form with the court provides the court with an assessment of the person's ability to pay, utilizing three eligibility categories. First, those who receive public benefits, second those whose household income falls within a certain threshold, and third those who demonstrate that their financial obligations necessitate a fee waiver. By utilizing a similar form, the

court could set up a corresponding tiered client schedule resulting in a lower base fine for someone on public benefits and for someone earning a living wage. The court will still determine the gravity of the offense and based upon both the gravity and the litigant's ability to pay, the total amount owed would be affordable, reasonable and just. Because of the ease of administration and the above success stories in Los Angeles, we believe that there is compelling evidence that California can create a just process that assesses an individual's ability to pay at sentencing, improves the effectiveness of the court's ability to collect on fines, and reduces unreasonable financial obligations for indigent residents in California courts. Thank you.

Siggins: Our next speaker is Raj Dhillon from Senator Bob Hertzberg's office.

Dhillon: Good morning. My name is Raj Dhillon. I am a district representative for Senator Bob Hertzberg, Senator Hertzberg represents the San Fernando Valley in the California State Legislature. Senator Herzberg submitted a formal letter, but it may not have made it into your briefing document. He asked me to read this statement on his behalf.

I would like to begin by thanking the Commission, the Judicial Council and especially the Chief Justice for the work that has already been done. As the agenda today noted, the steep cost of infractions is often out of reach for California's disadvantaged citizens and is

disproportionate to the offense. I firmly believe that we need a solution based on a defendant's ability to pay.

This principle must be considered at every stage of the assessment and collection processes. That means community service should be readily available in appropriate cases and that judges should modify sentences when the defendants personal circumstances change. There is no question that court funding needs a stable revenue stream. But today, the system relies too heavily on civil assessments that unjustly burden low-income California.

We must also improve collection rates, reducing the burden on courts, counties and individuals. Over the last two years, I have worked on this issue in Sacramento especially in regards to the use of license suspensions to collect court-ordered debt. A person should lose their license because they are a bad driver, not because they are poor or missed a court date. This policy creates a modern-day debtors prison where people who can't pay a ticket lose their license and face additional barriers to employment, health care and education.

Any analysis of this system has to rely on the knowledge that most working Californians, not just those who are poor, cannot afford a \$500 ticket let alone lose their license. Thank you for your consideration of

these comments. I look forward to working with the Commission to make California a more just and fair state. Thank you.

Siggins: Thank you Mr. Dhillon. Our final speaker, I hope I get this correctly, Nusku Utley-Sanders.

Utley-Sanders: Firstly, I would like to -- I am advised to not only consider people's ability to pay but also restructure the payment process or how we determine how much money people pay. I'm not sure if the government takes surveys or whatever the case may be, that decides what the number is for ticket, but I advise that in determining that, it should be structured around the region of the people getting the tickets. The amount should be structured around the income level of the region. It's not to say that if someone lives in the Valley, they shouldn't get something a lot higher, but they shouldn't be exceedingly more expensive than the income of that region. If someone is a low-income community committed a crime should have to pay for it, it should be an affordable fine, but it should be something that doesn't restructure your families' lifestyle.

Then, assessing the family size and comparison to their income distribution, so if they have five children and they are spending money on bills, food, all of these different things and then they have this \$500-\$1,000 ticket that they have to take care of as well, that results in

losing their license, or many different other things. We should reassess how we charge them seeing as how they do have more than one person depending on them and their lives will change as well.

Then, as well, this does not necessarily apply, but our police officers do get the blame oftentimes when they are providing these tickets. It becomes a distrust in the community against our law enforcement. We tend to think they are giving us high-end tickets and that creates a distrust between the law enforcement and the people. I don't think they should be taking the burden for that as well. That is a result of having such high ticket and high penalties for small crimes. Thank you.

Siggins: Thank you very much. Justice Corrigan, Justice McGuinness, that concludes our speakers on this topic.

Corrigan: Ladies and gentlemen, we are most grateful for your taking the time out of your day not only to appear here, but to read the stuff we sent, and to give us your consideration we hope you will continue to do so as we do our work, as I said we will be having another public hearing on other topics at the end of August and we are going to be in recess for the morning. If the members of the Commission could stay for just a few minutes, that would be helpful to all of us. And by the way I should say to all the members of the public we have been very graced with the Commission that the Chief Justice has put together and we have a

number of Commission members who weren't sitting up here on the podium but have been in the audience today. Thank you very much. We are adjourned.