



JUDICIAL COUNCIL
OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

TRIAL COURT BUDGET ADVISORY COMMITTEE

FUNDING METHODOLOGY SUBCOMMITTEE

MATERIALS FOR AUGUST 8/9 , 2017

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ADVISORY COMMITTEE

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tcbac@jud.ca.gov

TRIAL COURT BUDGET ADVISORY COMMITTEE FUNDING METHODOLOGY SUBCOMMITTEE

OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING RECORDED

Date: August 8, 2017
Time: 10:00 a.m. – 6:30 p.m.
Location: Judicial Council of California, Veranda Room C
2860 Gateway Oaks Drive, Suite 400
Sacramento, CA 95833
Public Call-In Number 1-877-820-7831, Pass code: 1884843 (listen only)

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Approval of Minutes

Approve minutes of the May 25, 2017, Funding Methodology Subcommittee (FMS) meeting.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))

Public Comment

Members of the public requesting to speak during the public comment portion of the meeting must place the speaker's name, the name of the organization that the speaker represents if any, and the agenda item that the public comment will address, on the public comment sign-up sheet. The sign-up sheet will be available at the meeting location at least one hour prior to the meeting start time. The Chair will establish speaking limits at the beginning of the public comment session. While the advisory body welcomes and

encourages public comment, time may not permit all persons requesting to speak to be heard at this meeting.

Written Comment

In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to tcbac@jud.ca.gov or mailed or delivered to Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Ms. Lucy Fogarty. Only written comments received by 10:00 a.m., August 7, 2017 will be provided to advisory body members prior to the start of the meeting.

III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1 – 3)

10:10 a.m. – 12:00 p.m.

Item 1

Workload-based Allocation and Funding Methodology (WAFM) Funding Overview (No Action Required)

Overview and discussion of WAFM.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Mr. Peter James, Senior Budget Analyst, Judicial Council Budget Services

12:00 p.m. – 12:30 p.m.

Break

12:30 p.m. – 2:30 p.m.

Item 2

Evaluation of WAFM (No Action Required)

Evaluation and discussion of WAFM.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Mr. Peter James, Senior Budget Analyst, Judicial Council Budget Services

2:30 p.m. – 5:00 p.m.

Item 3

Learning for Future Funding Model (No Action Required)

Discussion of funding model.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Mr. Peter James, Senior Budget Analyst, Judicial Council Budget Services

5:00 p.m. – 6:30 p.m.

Item 4

Introduction to Defining Objectives for Future Funding Model (No Action Required)

Discussion to begin defining objectives.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Mr. Peter James, Senior Budget Analyst, Judicial Council Budget Services

IV. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

None

V. ADJOURNMENT

Adjourn



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OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING RECORDED

Date: August 9, 2017
Time: 8:00 a.m. – 3:00 p.m.
Judicial Council of California, Veranda Room C
Location: 2860 Gateway Oaks Drive, Suite 400
Sacramento, CA 95833
Public Call-In Number 1-877-820-7831, Pass code: 1884843 (listen only)

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))

Public Comment

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III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-3)

8:00 a.m. – 11:30 a.m.

Item 1

Finalizing Definition of Objectives for Future Funding Model (No Action Required)

Discussion to finalize objectives.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Mr. Peter James, Senior Budget Analyst, Judicial Council Budget Services

11:30 a.m. – 12:00 p.m.

Break

12:00 p.m. – 3:00 p.m.

Item 2

Organizing 2017-2018 Funding Methodology (FMS) Workload-based Allocation and Funding Methodology (WAFM) Work Plan (No Action Required)

Discussion of work plan.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Mr. Peter James, Senior Budget Analyst, Judicial Council Budget Services

IV. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

None

V. ADJOURNMENT

Adjourn



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TRIAL COURT BUDGET ADVISORY COMMITTEE
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MINUTES OF OPEN MEETING

May 25, 2017

10:00 a.m. – 2:00 p.m.

JCC American Room, 2860 Gateway Oaks Drive, Sacramento Ca, 95833

Advisory Body Members Present: Judges: Hon. Jonathan B. Conklin (Co-Chair), Hon. Mark Ashton Cope, and Hon. Joyce D. Hinrichs.

Executive Officers: Ms. Rebecca Fleming (Co-Chair), Mr. Jake Chatters, Mr. W. Samuel Hamrick Jr., Mr. Jeffrey E. Lewis, Mr. Michael D. Planet, Mr. Michael M. Roddy, and Ms. Tania Ugrin-Capobianco.

Advisory Body Members Absent: Executive Officers: Ms. Sherri R. Carter

Others Present: Hon. Morris D. Jacobson, Hon. Ursula Jones-Dickson, Ms. Jody Patel, Ms. Millicent Tidwell, Mr. Zlatko Theodorovic, Ms. Lucy Fogarty, Ms. Brandy Sanborn, Ms. Leah Rose-Goodwin, Ms. Suzanne Blihovde, and Mr. Chad Finke.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 10:01 a.m. and roll was called.

Approval of Minutes

The advisory body reviewed and approved the minutes of the May 8, 2017 Funding Methodology Committee Meeting.

ACTION ITEMS (ITEMS 1-3)

Item 1 – 2017–2018 Workload-based Allocation and Funding Methodology (WAFM) Funding Reallocation (Action Required)

Discussion of the updated 2017-2018 WAFM funding need estimate and reallocation of 50% of 2013-2014 historical funding per the Judicial Council approved Five-Year WAFM Implementation Schedule.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Ms. Suzanne Blihovde, Senior Budget Analyst, Judicial Council Budget Services

Action: The Funding Methodology Subcommittee unanimously approved the estimated 2017-2018 WAFM Funding Reallocation to the Trial Court Budget Advisory Committee for approval by the Judicial Council at its July 27-28 2017 meeting.

Item 2 – Bureau of Labor Statistics (BLS) on WAFM Calculations (Action Required)

Update on BLS adjustment to .90 for all courts below this BLS level in 2017-2018.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Ms. Lucy Fogarty, Deputy Director, Judicial Council Budget Services

Action: The Funding Methodology Subcommittee voted to rescind the BLS adjustment of .90 for all courts for Fiscal Year 2017-2018, but moved it to the 2017-2018 Funding Methodology Work Plan in a vote as follows:

- Yes: 8
- Abstain: 2
- Absent: 1

Item 3 – Finalizing the 2017-2018 FMS Work Plan (Action Required)

Status update on each item of the 2016-2017 FMS Work Plan and review of the 2017- 2018 FMS Work Plan proposed by the subcommittee at its May 8, 2017 meeting to clarify work related specifically to Civil Assessments/Maintenance of Effort revenues.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Ms. Suzanne Blihovde, Senior Budget Analyst, Judicial Council Budget Services

Action: The Funding Methodology Subcommittee unanimously approved the Fiscal Year 2017-2018 work plan.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Info 1– Superior Court of Alameda Presentation (No Action Required)

Presentation from the Superior Court of Alameda.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee; Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee; and Hon. Morris D. Jacobson, Presiding Judge, Superior Court of Alameda

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:36 p.m.

Approved by the advisory body on enter date.

Funding Methodology Subcommittee

August 8/9, 2017



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Orientation



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Goals for 2017-18

- Managing workplan
 - Set direction for future funding model
 - Address key items on workplan
- Key dates
 - Oct 15 2017: WAFM change proposals deadline
 - Feb 2018: FMS recommendations to TCBAC on next year's allocations
- Goals for process
 - Learn from WAFM
 - Develop sustainable future funding model



Approach for 2017-18

- General approach
 - Begin with a balanced evaluation of WAFM
 - Design future funding model on explicit objectives
 - Focus on broader issues before specific issues
 - Reaching agreement on principles and actions
- Engaging the branch
 - Updates and recommendations to TCBAC
 - Seeking further input from courts where appropriate



Agenda

- Day 1
 - Orientation
 - Evaluation of WAFM
 - Learning for future funding model
- Day 2
 - Defining objectives for future funding model
 - Organizing workplan
- Reaching agreement on principles and actions





Evaluation of WAFM



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Evaluation background



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Introduction

- Why evaluate WAFM?
 - Understand courts' past experience and current status
 - Inform objectives and design for next funding model
- This is an preliminary evaluation of selected issues; members to direct further analysis.
- Steps in preliminary evaluation:
 - Review context and policy design
 - Evaluation against specific objectives of WAFM
 - Evaluation of broader impacts of WAFM



Context

- Trial Court Funding Act (1997):
 - Statewide allocation to meet court needs and promote equal access
- Trial Court Funding (1997 – 2013):
 - Allocations based on historical funding level from county
 - Some limited adjustments based on workload
- Great Recession budget pressures (2012-2013):
 - Significant cuts to trial courts budget
 - Branch recognizes need to change allocation methodology



Development of WAFM

- Funding Methodology Subcommittee (FMS), Trial Court Budget Advisory Committee (TCBAC),¹ developed new allocation methodology
- Responding to demand for methodology that addresses equity and disparities in access to justice
- WAFM: Workload-based Allocation and Funding Methodology
- Central concept is that allocations are increasingly driven by workload rather than historical funding

1. Formerly, Trial Court Budget Working Group.



WAFM rationale

Recommendation of New Budget Development and Allocation Methodology, April 2013, p. 5-6.

"The WAFM involves a step-by-step budget development and allocation process building on accepted measures of trial court workload and creating formulas to allocate funding in a more equitable manner. At the same time the WAFM implementation schedule recognizes the need to move deliberately, to allow courts the time to adjust and to take into account local circumstances that may not be captured in the formula-based funding methodology.

The proposed method provides the transparency necessary to ensure the accountability of the branch and individual courts to the public and sister branches of government while preserving the independent authority and local autonomy of trial court leaders to meet the needs of their communities and assure equitable access to justice in each of California's 58 trial courts."



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WAFM objectives

- Objectives of WAFM may be summarized as follows:
 - Equitable funding: *"... allocate funding in a more equitable manner..."*
 - Equitable access to justice: *"...assure equitable access to justice in each of California's 58 trial courts..."*
- Supporting principles include:
 - Time for adjustment and adaptation
 - Responsiveness to local circumstances
 - Transparency and accountability
 - Independent authority of trial courts



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WAFM design - need

Staff FTE need
based on RAS



Salaries,
adjusted for local labor cost

+

+

Benefits

Operating
Expenses



Workload-driven
Need



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WAFM design - allocation

Prior year base +
benefits cost change

Workload-driven

+

+

Reallocation of
historical base (+/-)

Allocation of
new funding (+)

+

Funding floor
adjustment (+/-)



Funding
allocation



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WAFM implementation

Fiscal year	Realloc. %	Other features
FY13	10%	<ul style="list-style-type: none">Cluster 1 courts exempt from reallocation\$60m new funding allocated
FY14	15%	<ul style="list-style-type: none">Cluster 1 courts introduced into reallocationFunding floor introducedLocal labor cost (BLS) methodology revised\$22.7m shortfall allocated\$86.3m new funding allocated
FY15	30%	<ul style="list-style-type: none">\$67.9m new funding allocated
FY16	40%	<ul style="list-style-type: none">\$19.6m new funding allocated
FY17	50%	<ul style="list-style-type: none">\$0 new funding allocated





Equity impact



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Measuring equity

- Measure funding relative to need

$$\text{Relative funding ratio} = \frac{\text{WAFM allocation } (\$)}{\text{WAFM need } (\$)}$$

WAFM allocation includes:

- Base funding
- Benefits cost changes
- Reallocation of historical funding
- Allocation of new funding
- Funding floor adjustments
- Misc. other adjustments

WAFM need includes:

- Salaries
- Benefits
- Operating expenses

Equity impact

- Complete equity = identical funding ratios
- To assess progress – has variability decreased?
- Baseline: historical funding subject to reallocation compared to FY13-14 WAFM need
- Variability measure: MAD (median absolute deviation from median) is a robust measure of variability
- Funding floor courts excluded as need based on operational minimum rather than workload

Fiscal year	Variability
Baseline	.096
FY13	.080
FY14	.059
FY15	.050
FY16	.045
FY17	.040

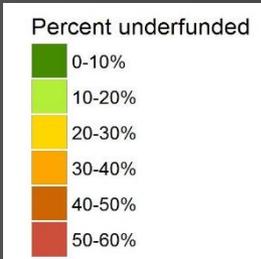
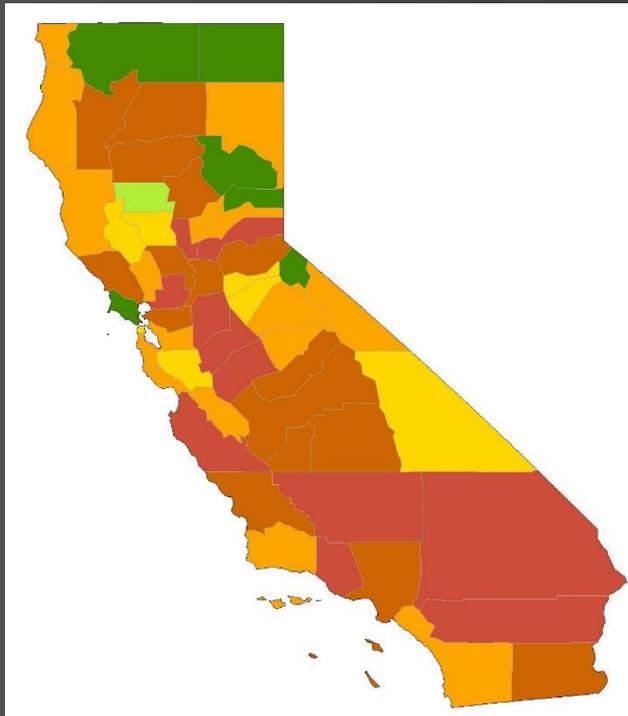
Median absolute deviation from median is reported raw and prior to scaling.



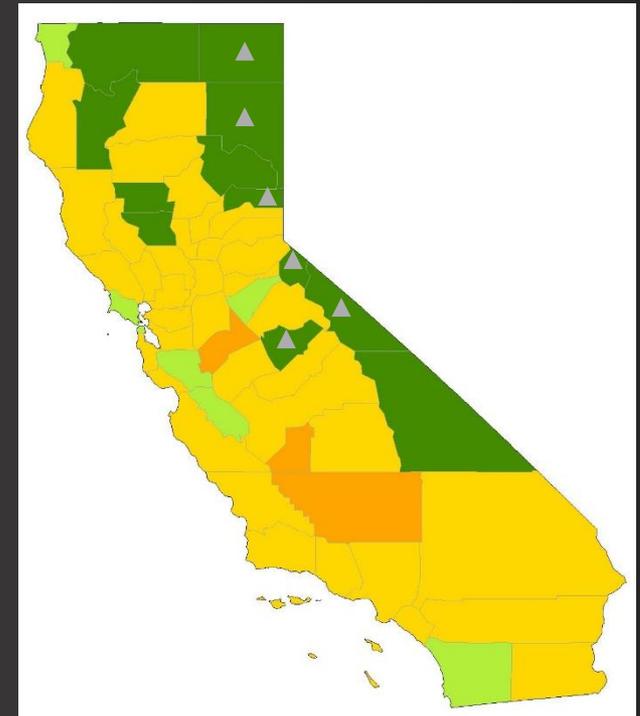
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Equity maps

Before WAFM: Baseline



After WAFM: FY17



▲ Funding floor applied



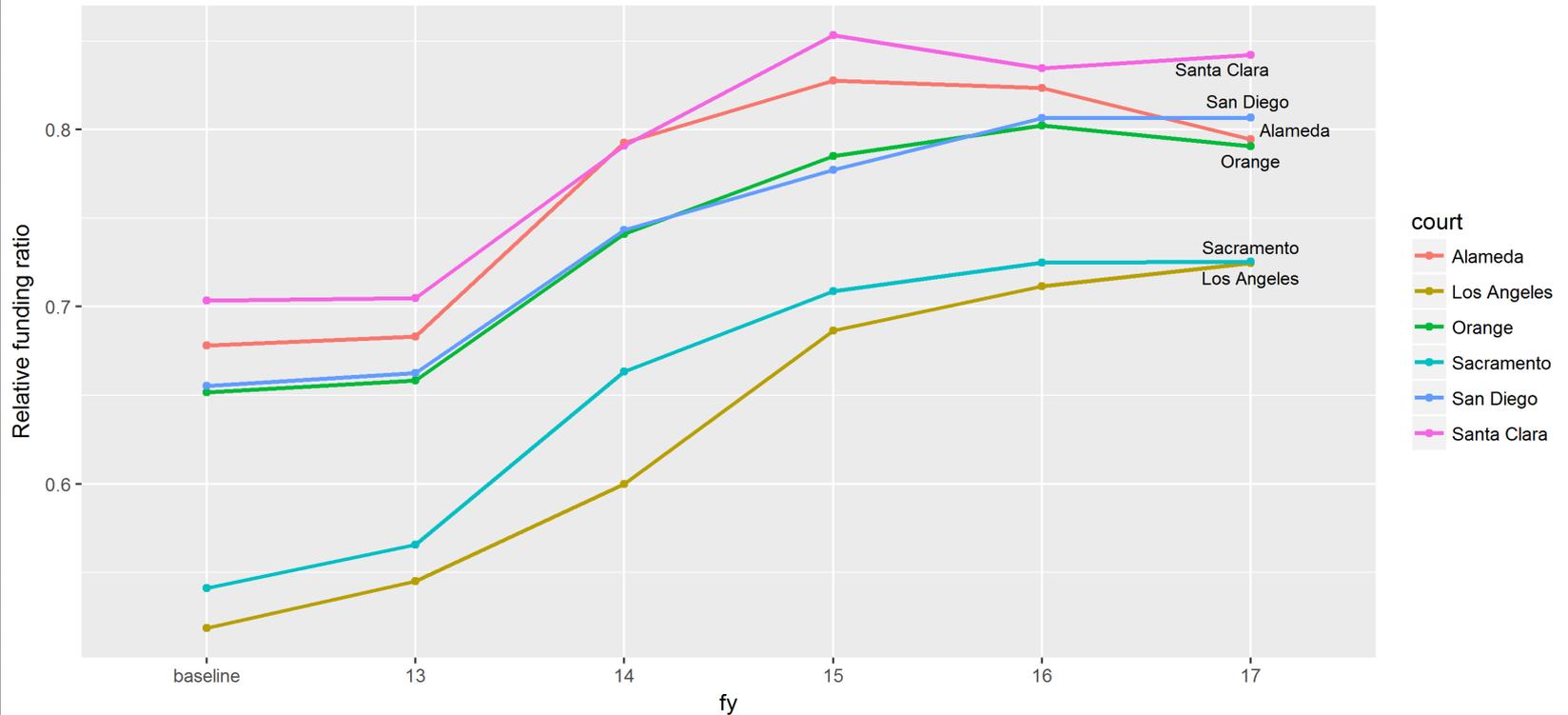
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Equity trends

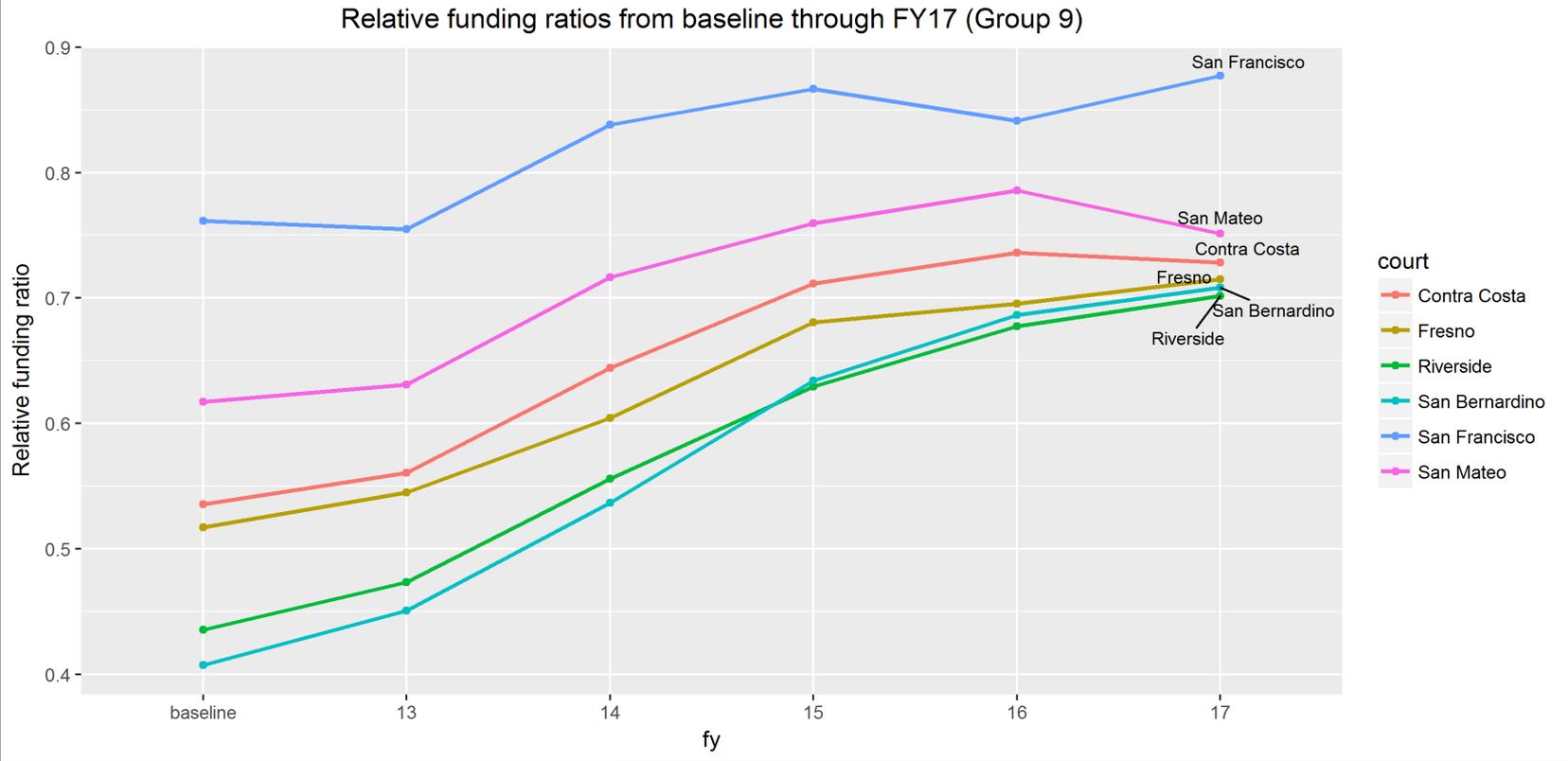
- Equity trends: comparing courts relative funding ratios over the course of WAFM side by side
- To enable comparison, courts are split into 10 groups based on actual funding level at baseline
- Other groupings possible and may reveal different angles (e.g. group by funding ratio at baseline)
- Key question for equity: do courts relative funding ratios converge or diverge over time?

Equity trends – G10

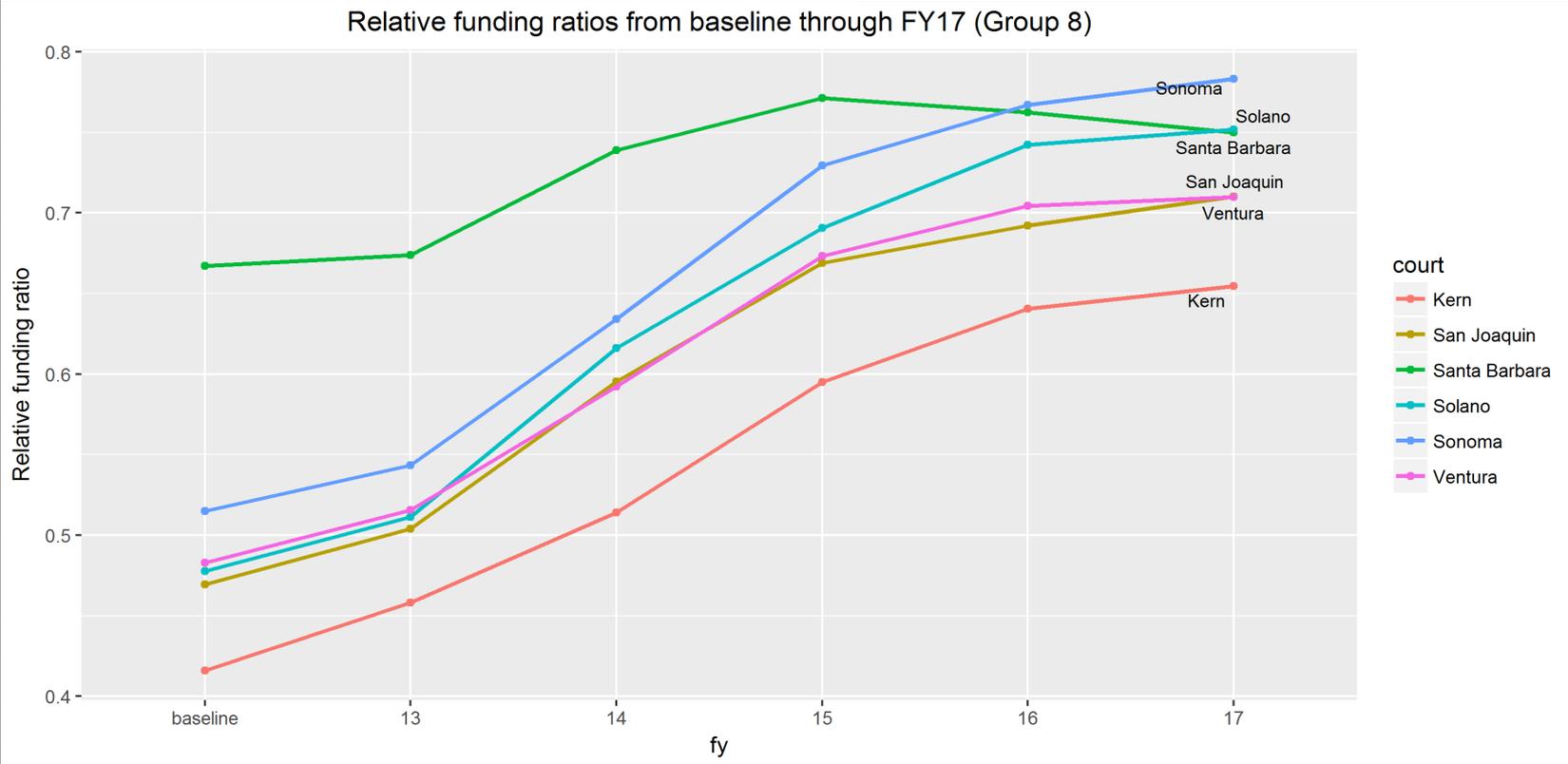
Relative funding ratios from baseline through FY17 (Group 10)



Equity trends – G9

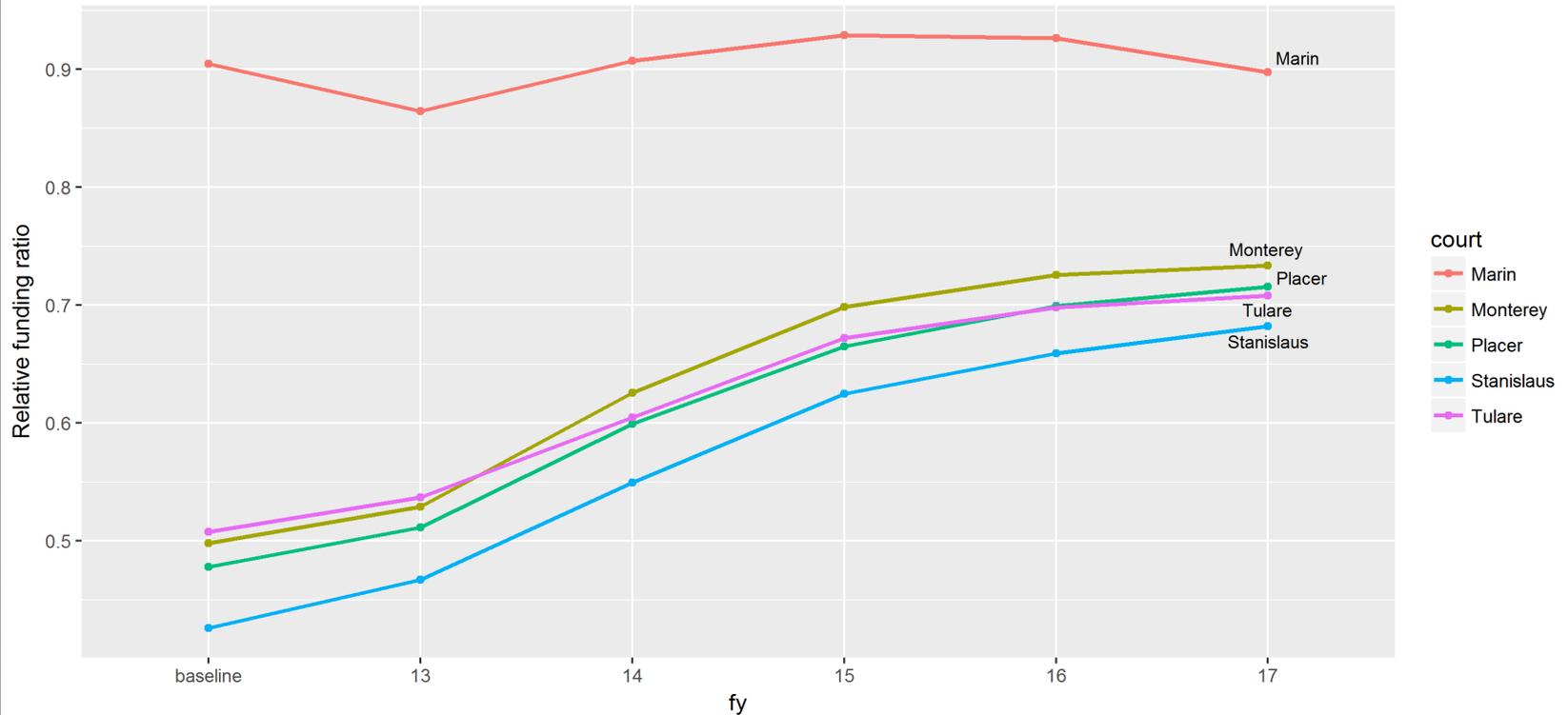


Equity trends – G8



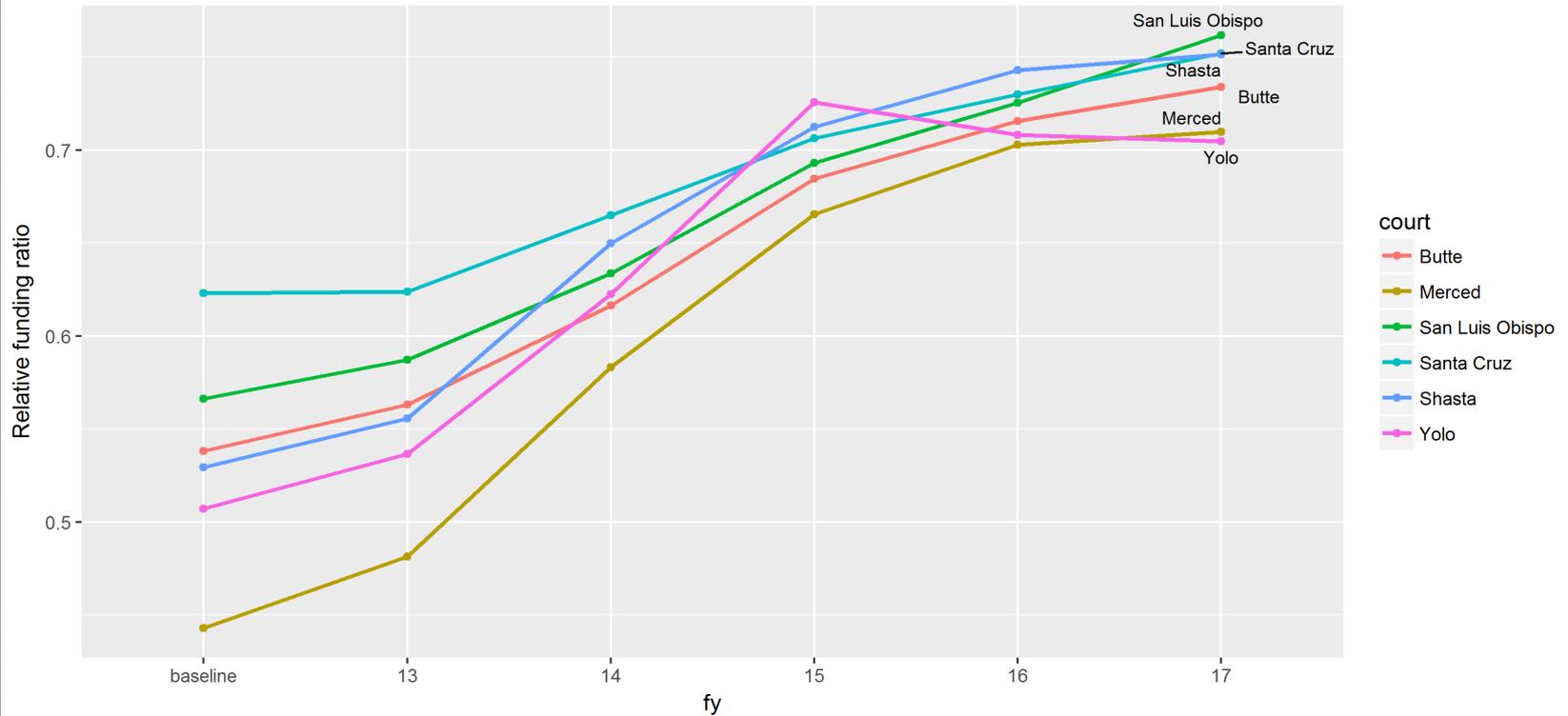
Equity trends – G7

Relative funding ratios from baseline through FY17 (Group 7)



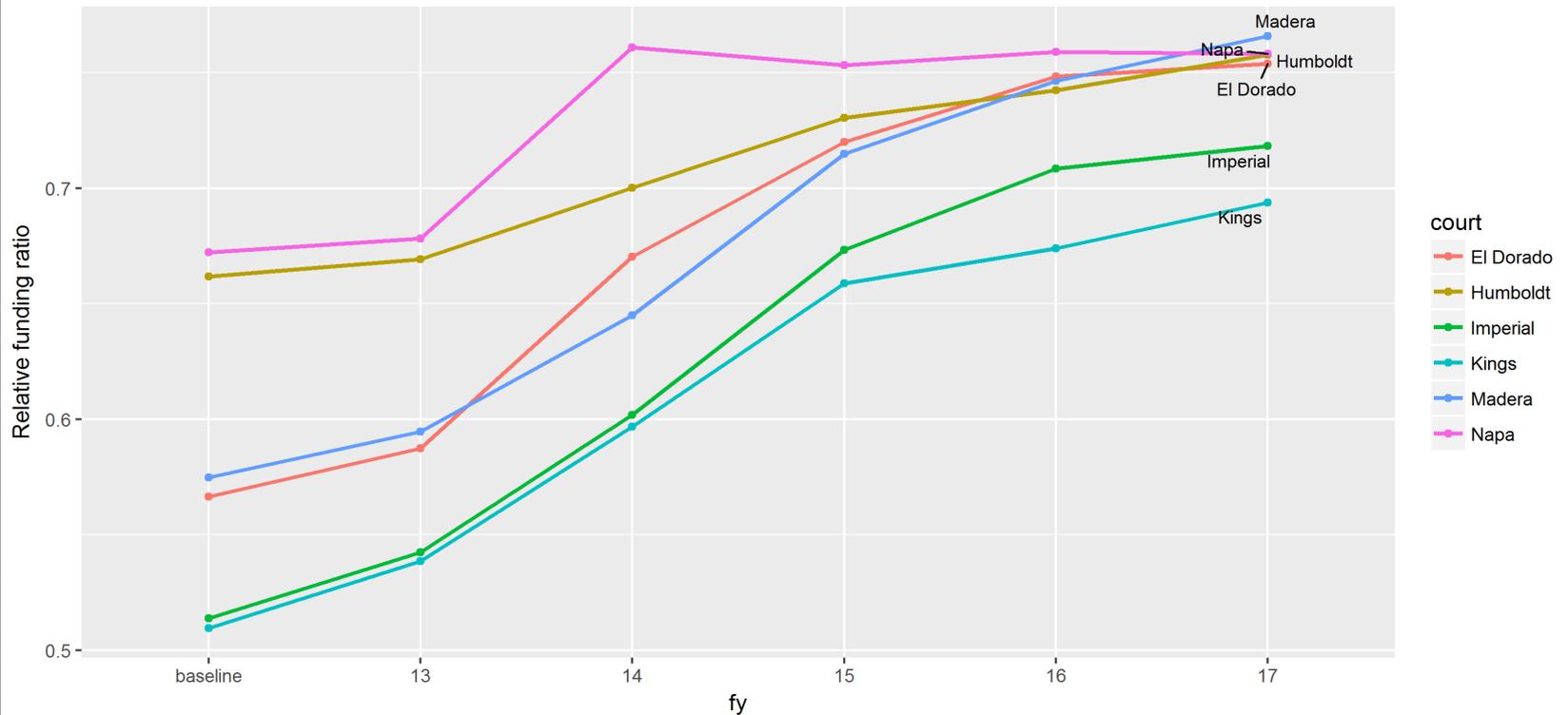
Equity trends – G6

Relative funding ratios from baseline through FY17 (Group 6)



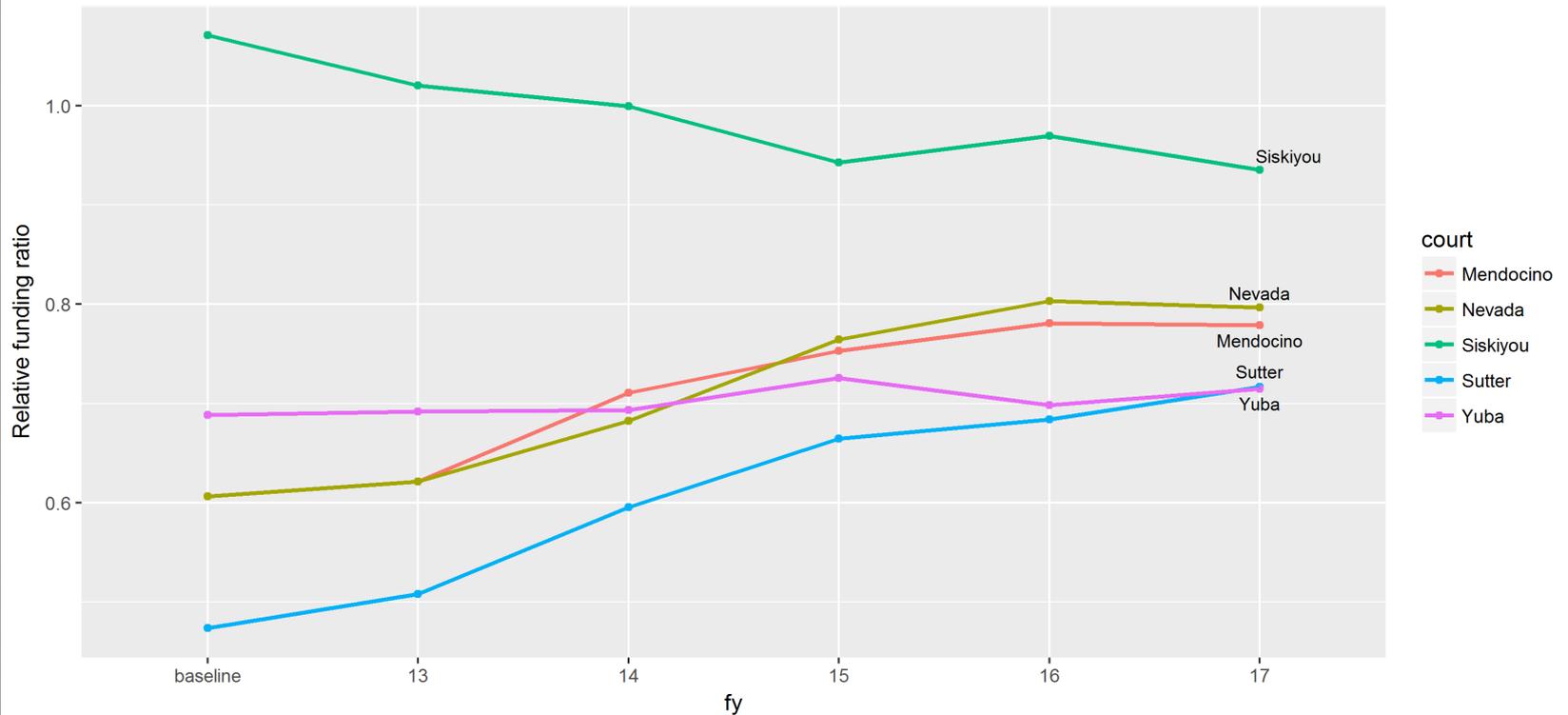
Equity trends – G5

Relative funding ratios from baseline through FY17 (Group 5)



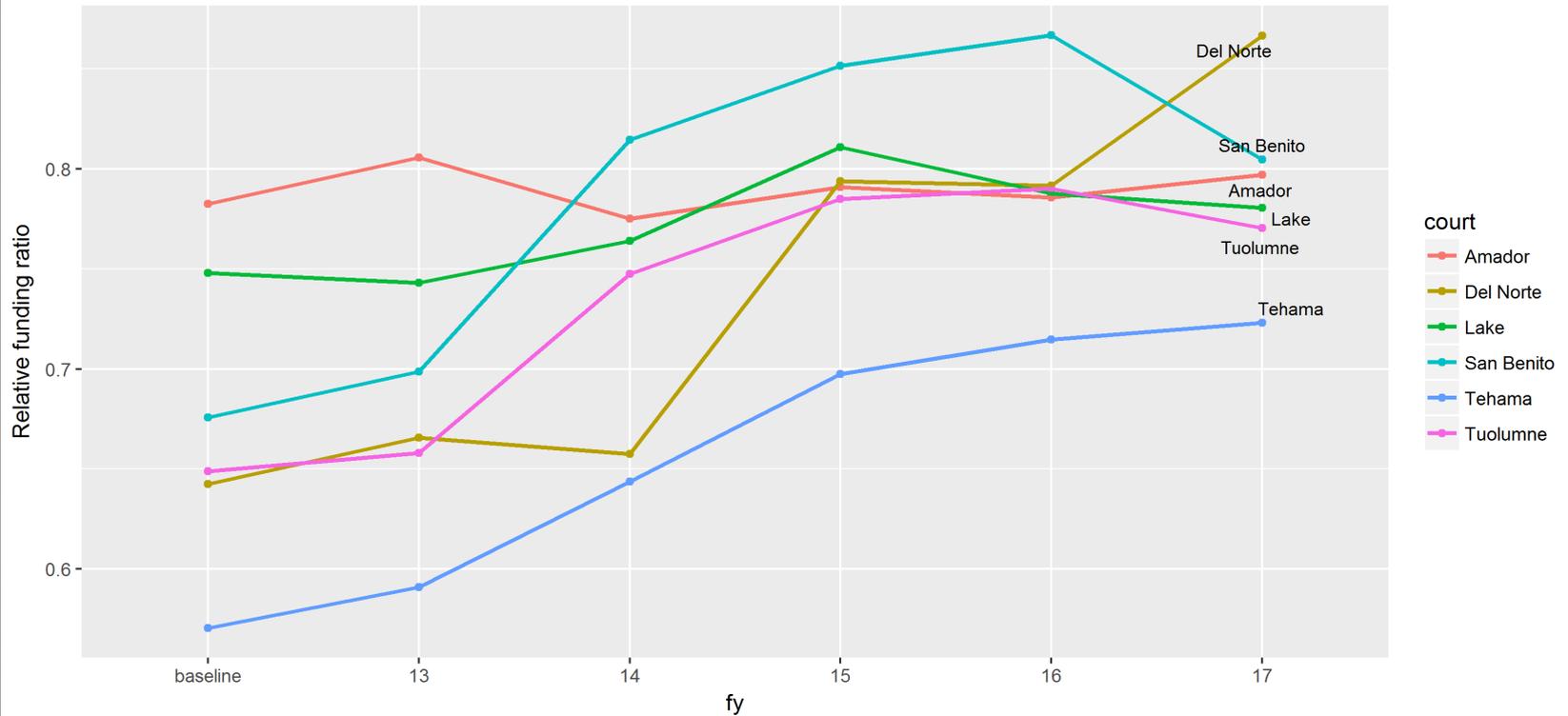
Equity trends – G4

Relative funding ratios from baseline through FY17 (Group 4)

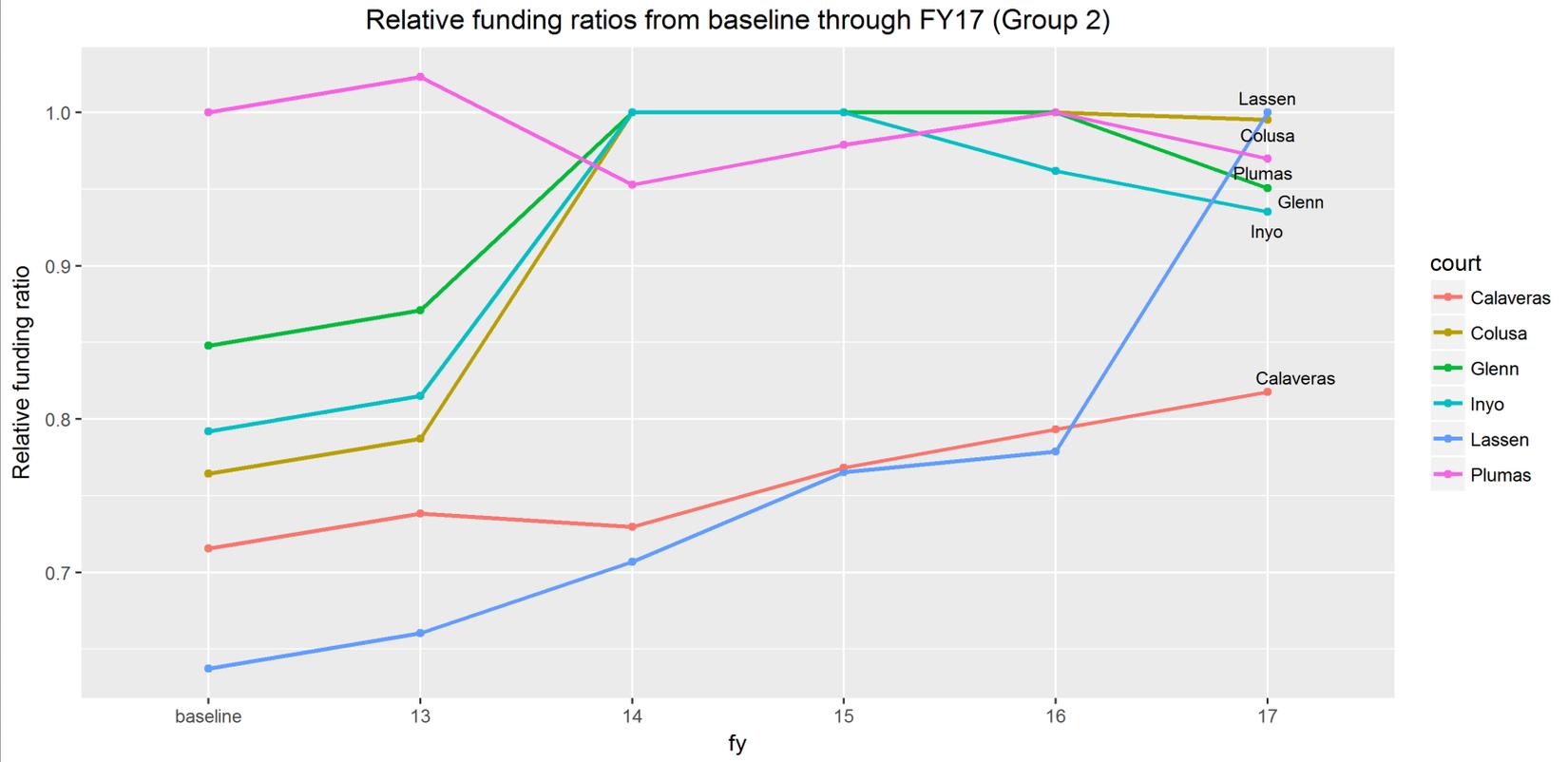


Equity trends – G3

Relative funding ratios from baseline through FY17 (Group 3)

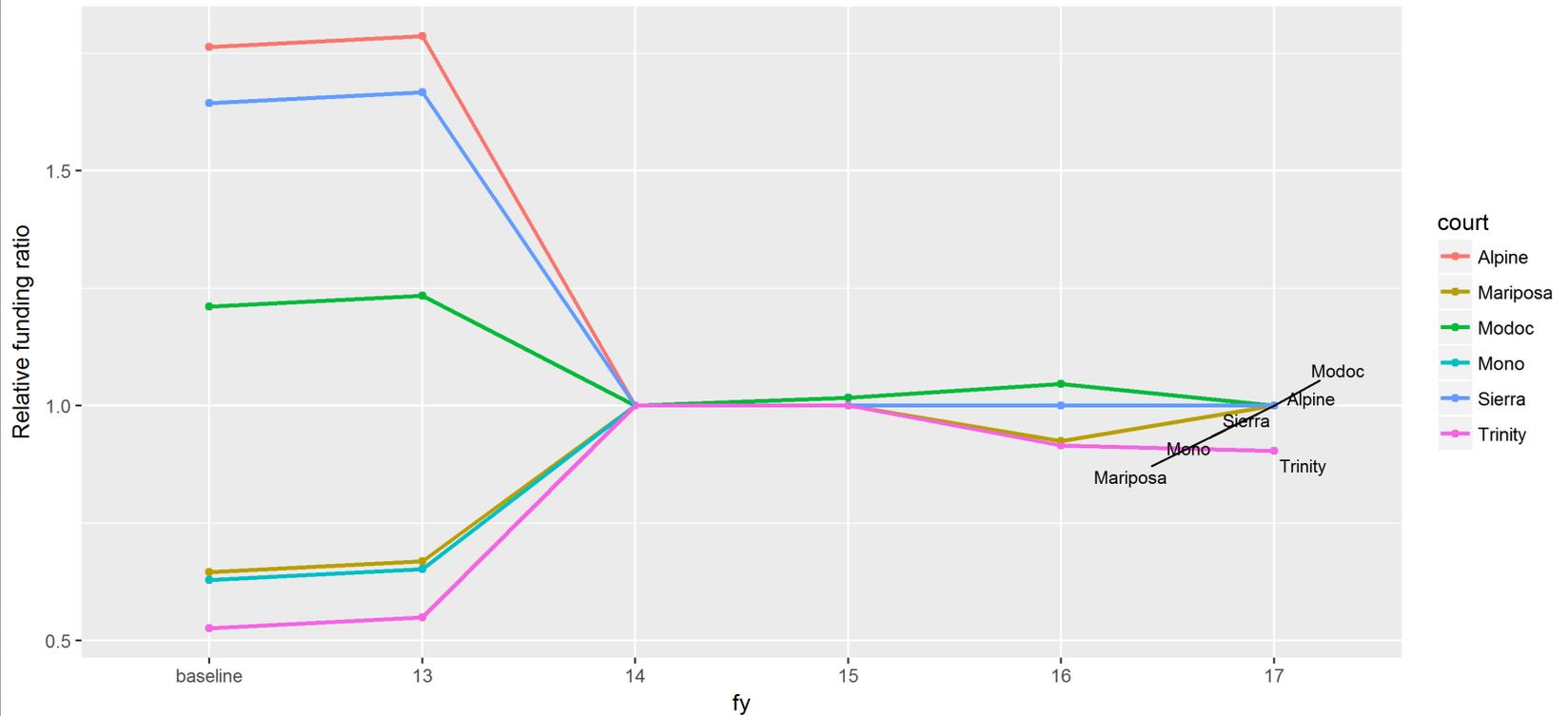


Equity trends – G2



Equity trends – G1

Relative funding ratios from baseline through FY17 (Group 1)



Equity and justice

- Exploring association between:
 - Funding levels <> court operations
 - Court operations <> access to justice
- Relevant questions:
 - *On average, how does an increase or decrease in a court's relative funding impact operations and access to justice?*
 - *Statewide, does WAFM's redistributive policy produce net gains for access to justice across the state?*
- Relevant data is currently not available; however there is scope to learn from WAFM and build measurement framework for future funding model



Equity - summary

1. WAFM has achieved progress on equity
2. Relative funding ratios are more similar after WAFM than before WAFM
3. Both increases and decreases in relative funding have contributed to progress on equity
4. An equity gap remains because the relative funding ratios remain variable across the courts
5. We lack data to understand the net impact of WAFM on access to justice across the state





Broader impacts



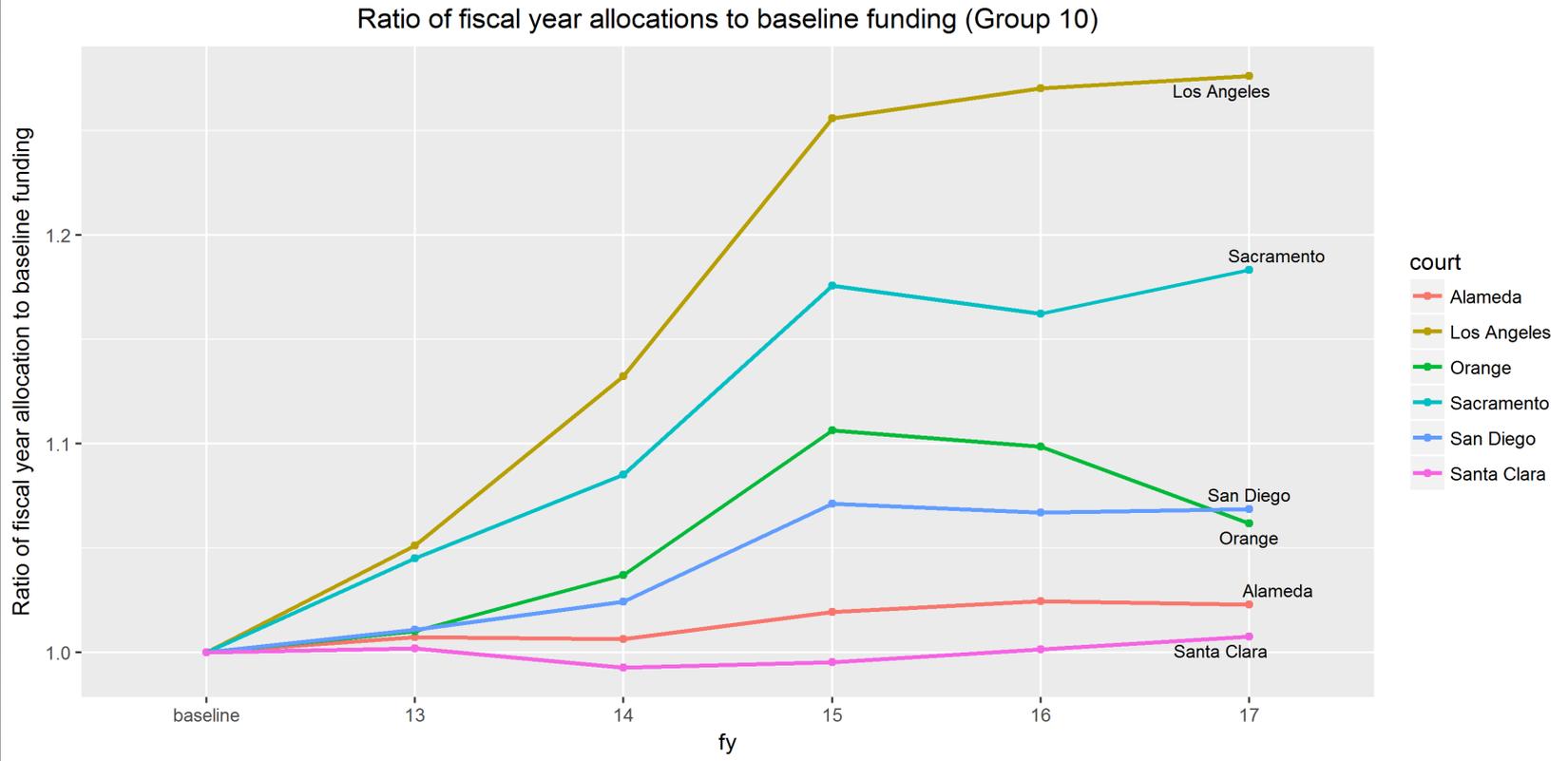
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Funding trends

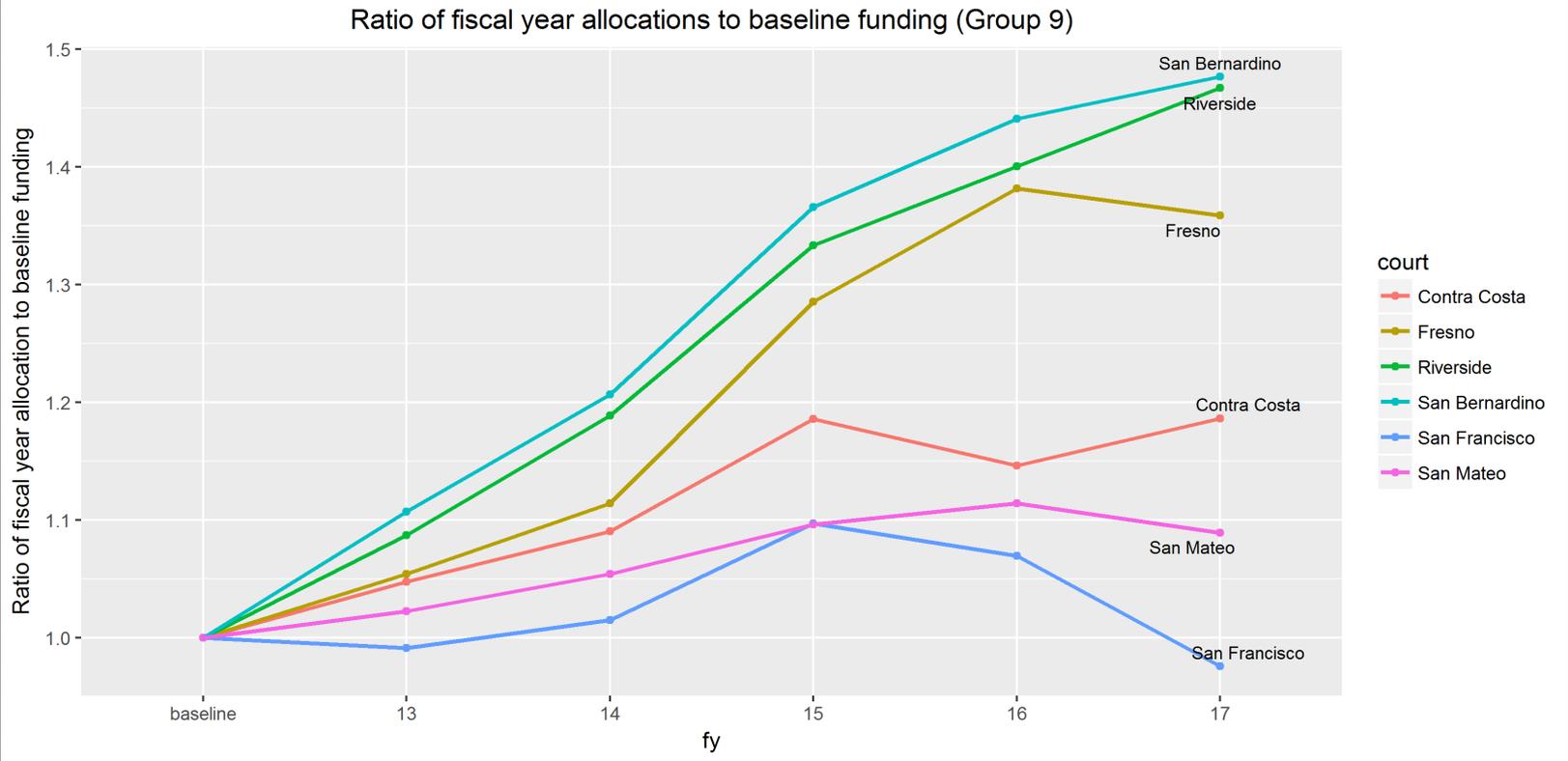
- Broader impacts = consequences of policy that should be considered in evaluation and redesign
- Particular consequences of concern:
 - Changing budgets
 - Future budget predictability
 - Impacts of budget decreases
- Many issues related to change in absolute funding levels (rather than relative funding ratios)
- Funding trends: comparing courts' relative change from baseline over the course of WAFM



Funding trends – G10

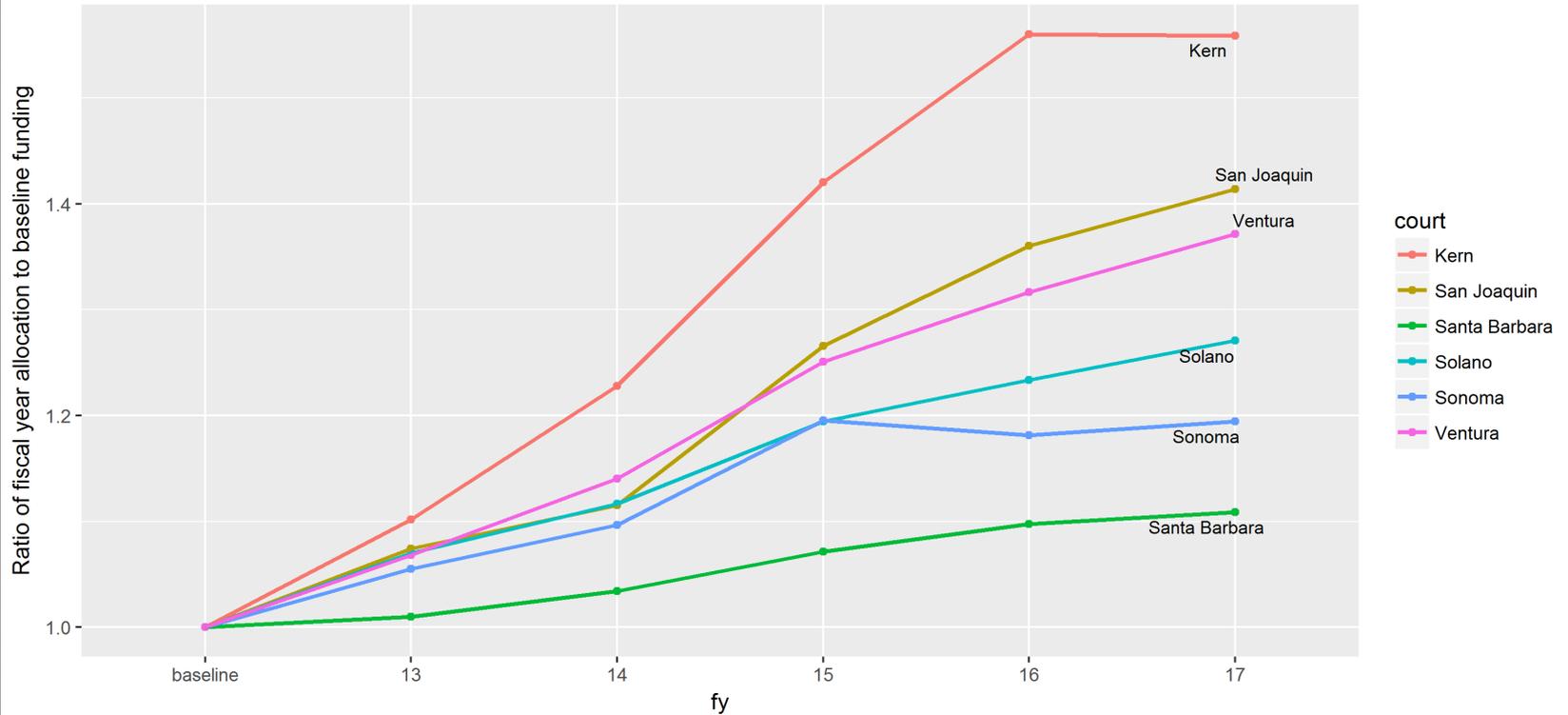


Funding trends – G9



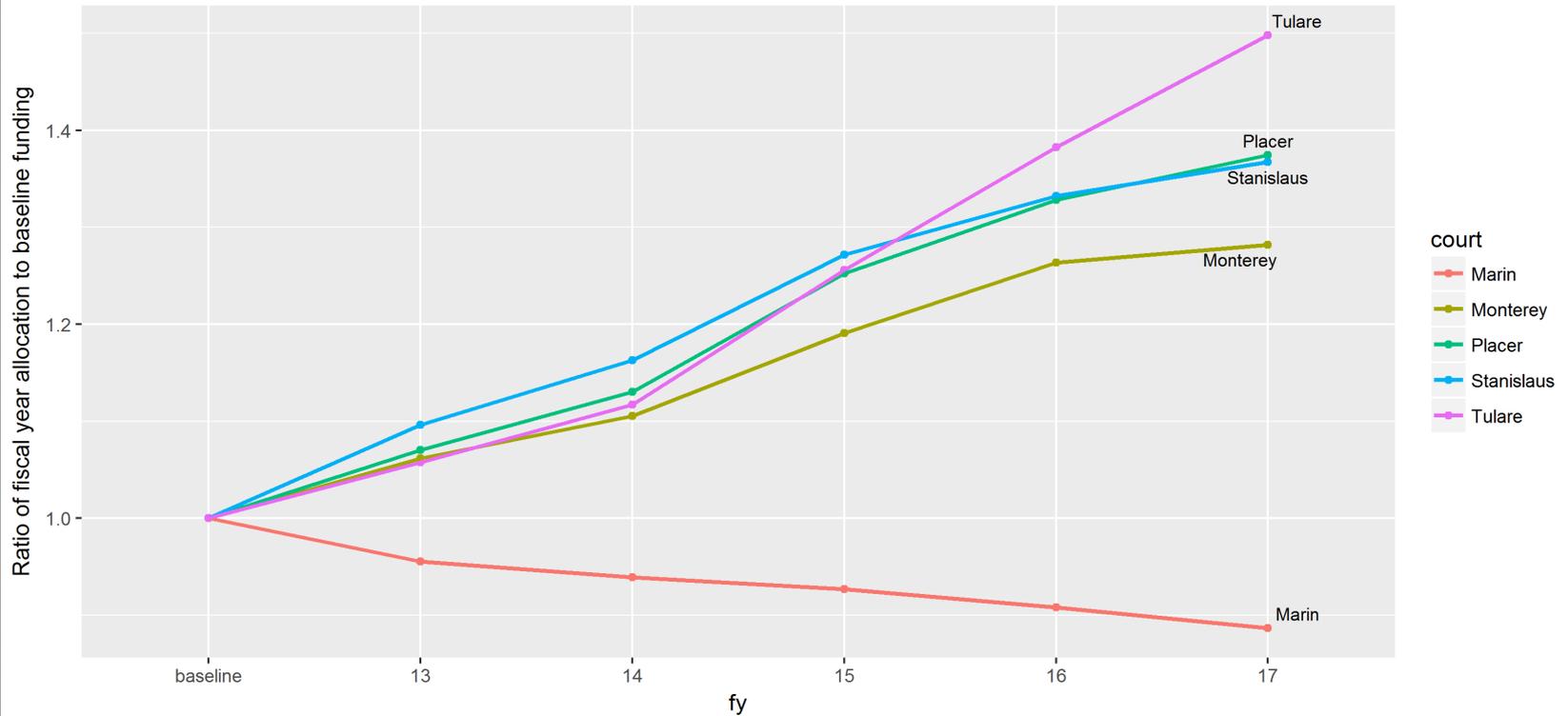
Funding trends – G8

Ratio of fiscal year allocations to baseline funding (Group 8)

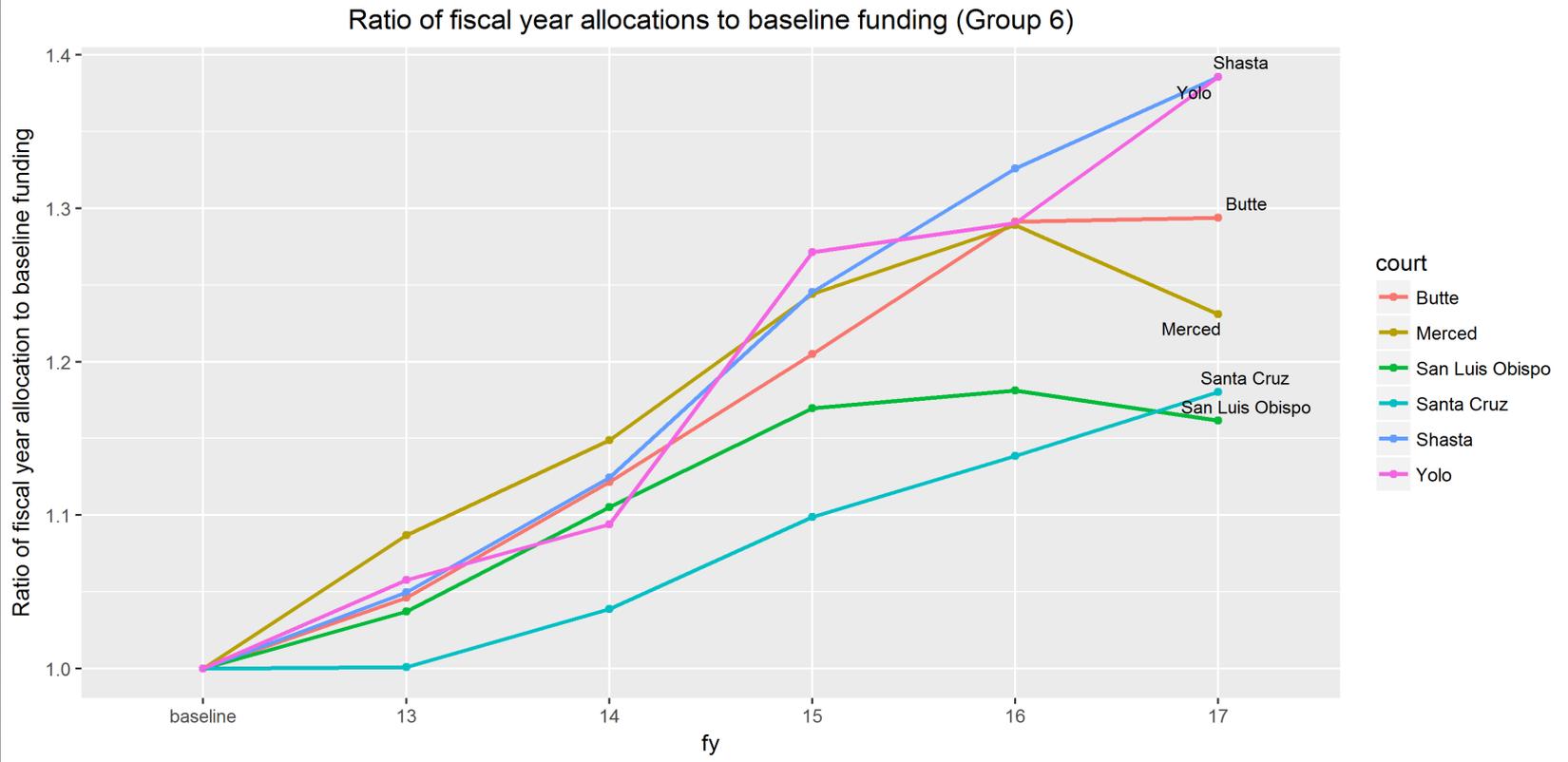


Funding trends – G7

Ratio of fiscal year allocations to baseline funding (Group 7)

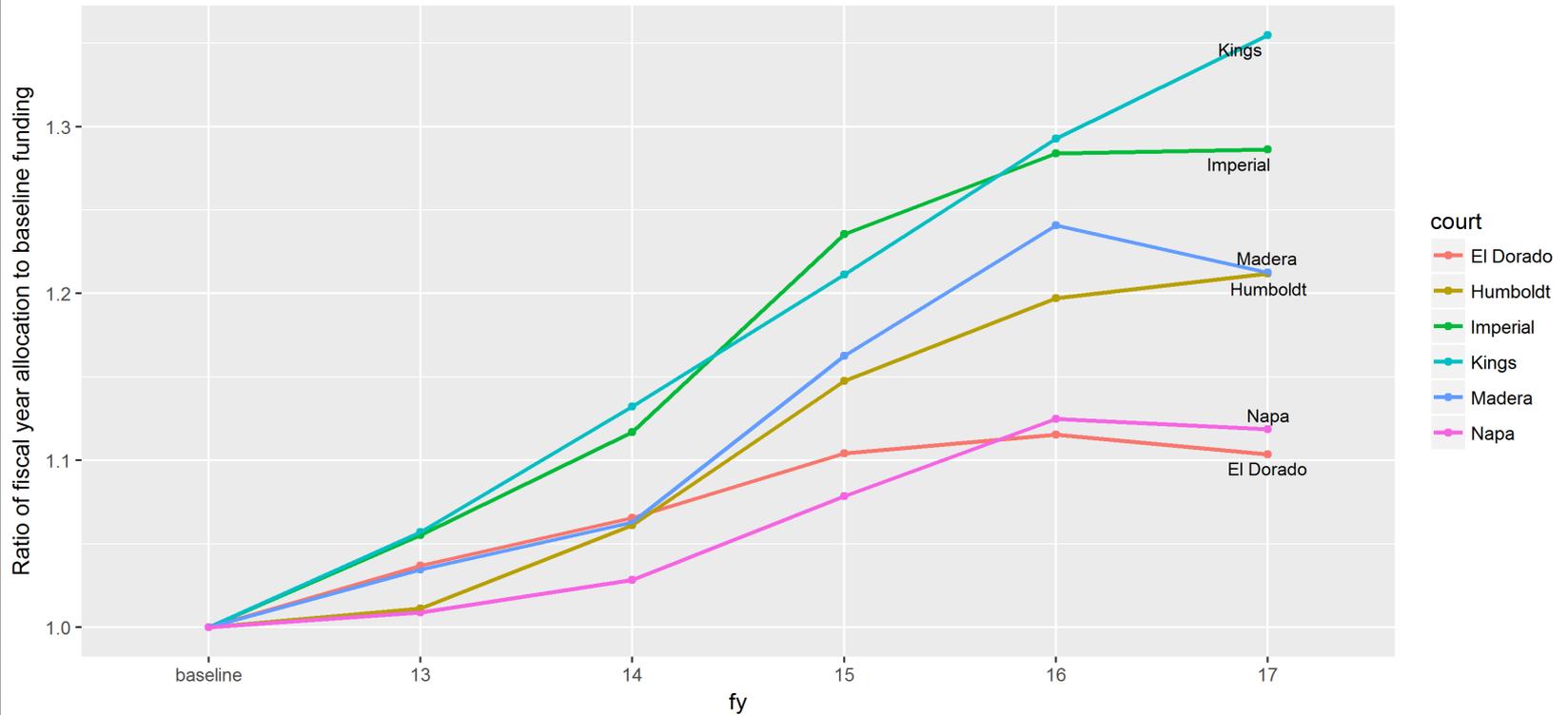


Funding trends – G6

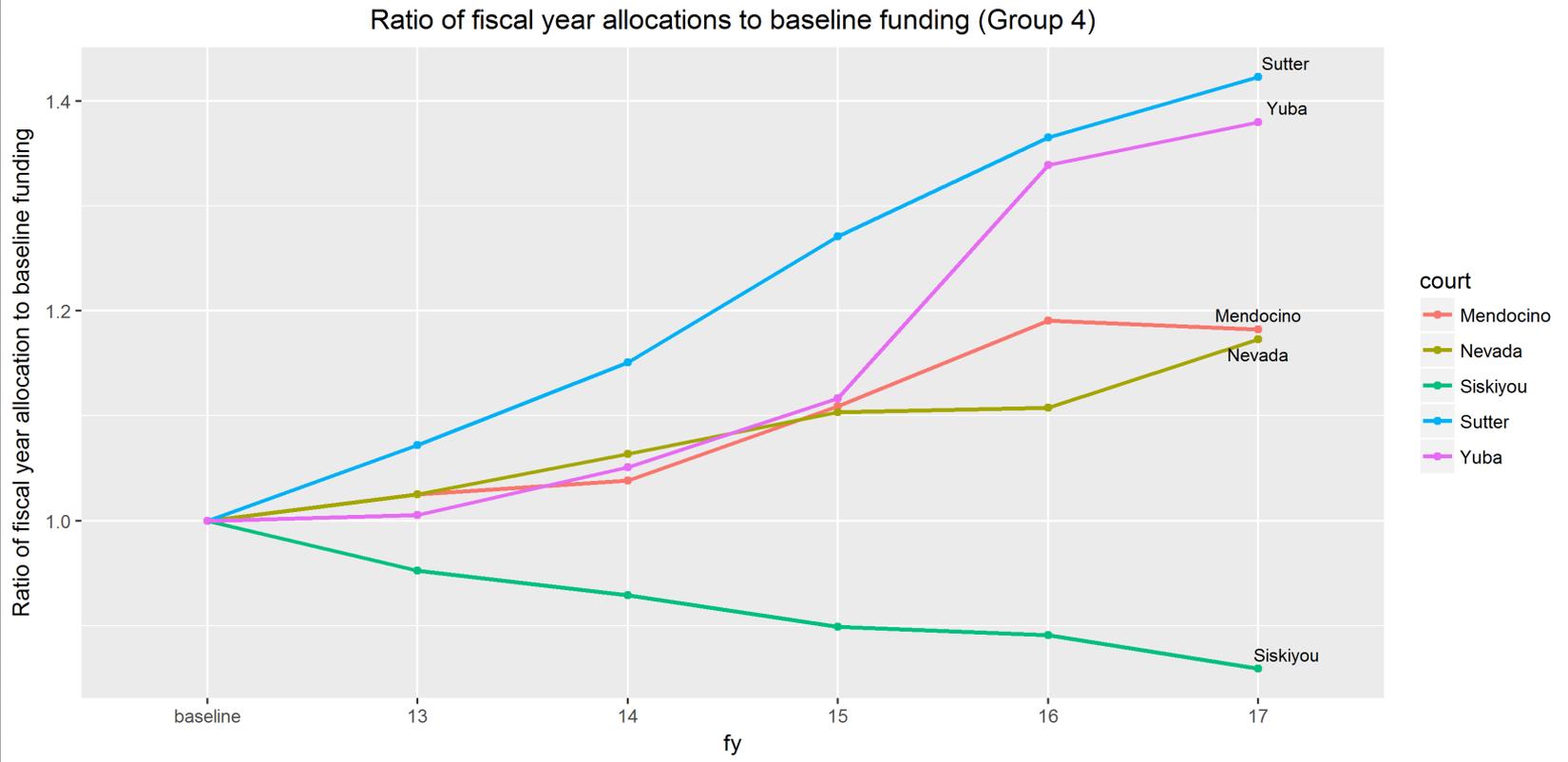


Funding trends – G5

Ratio of fiscal year allocations to baseline funding (Group 5)

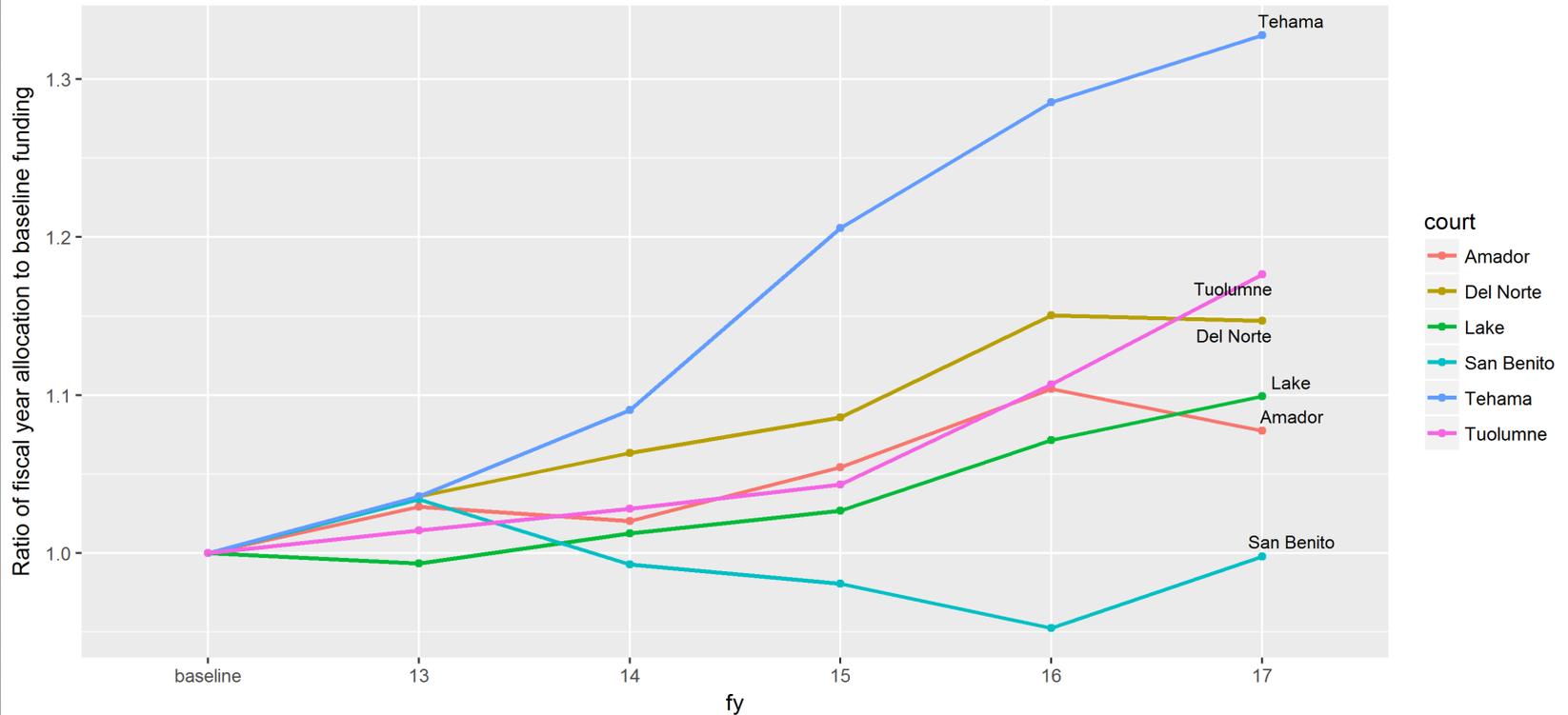


Funding trends – G4

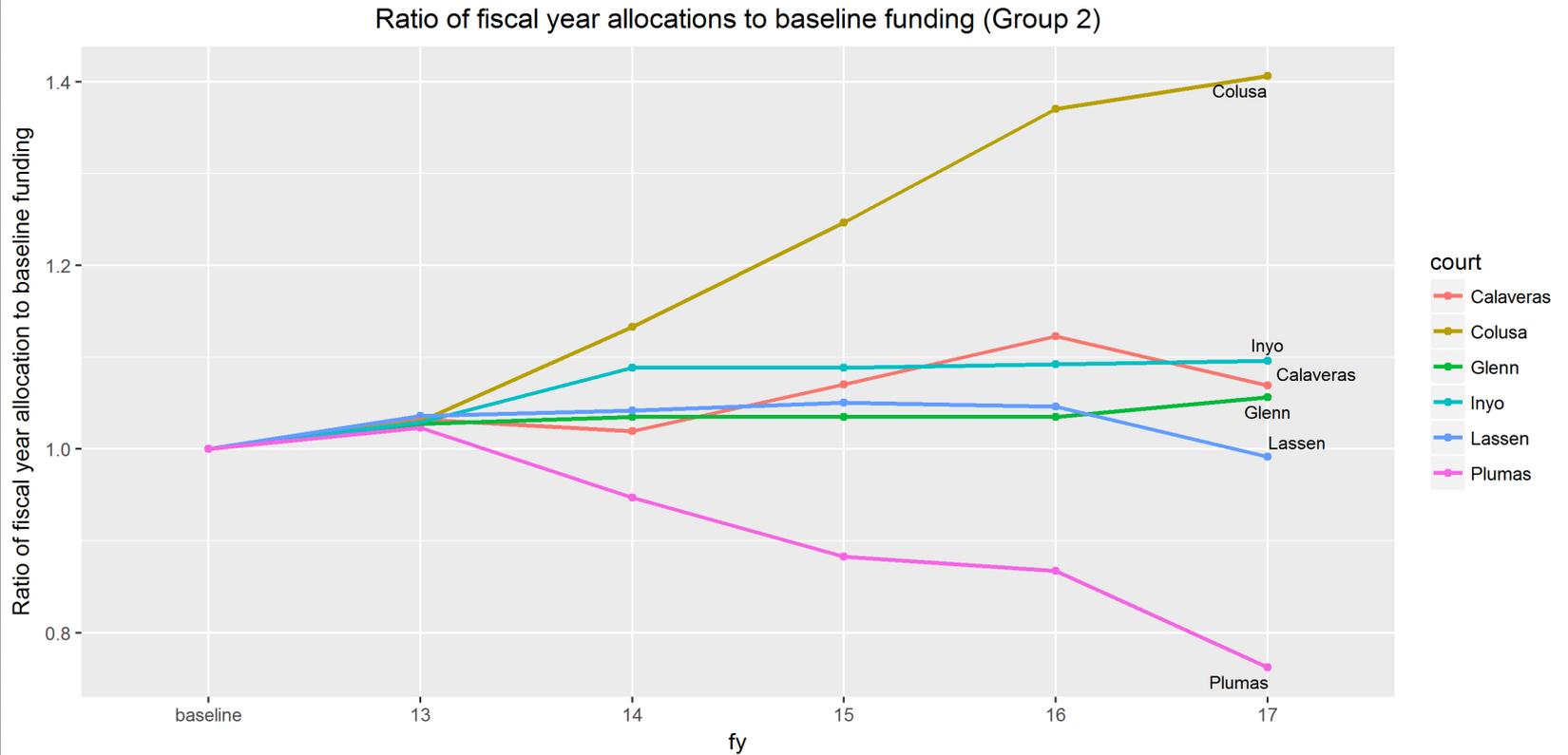


Funding trends – G3

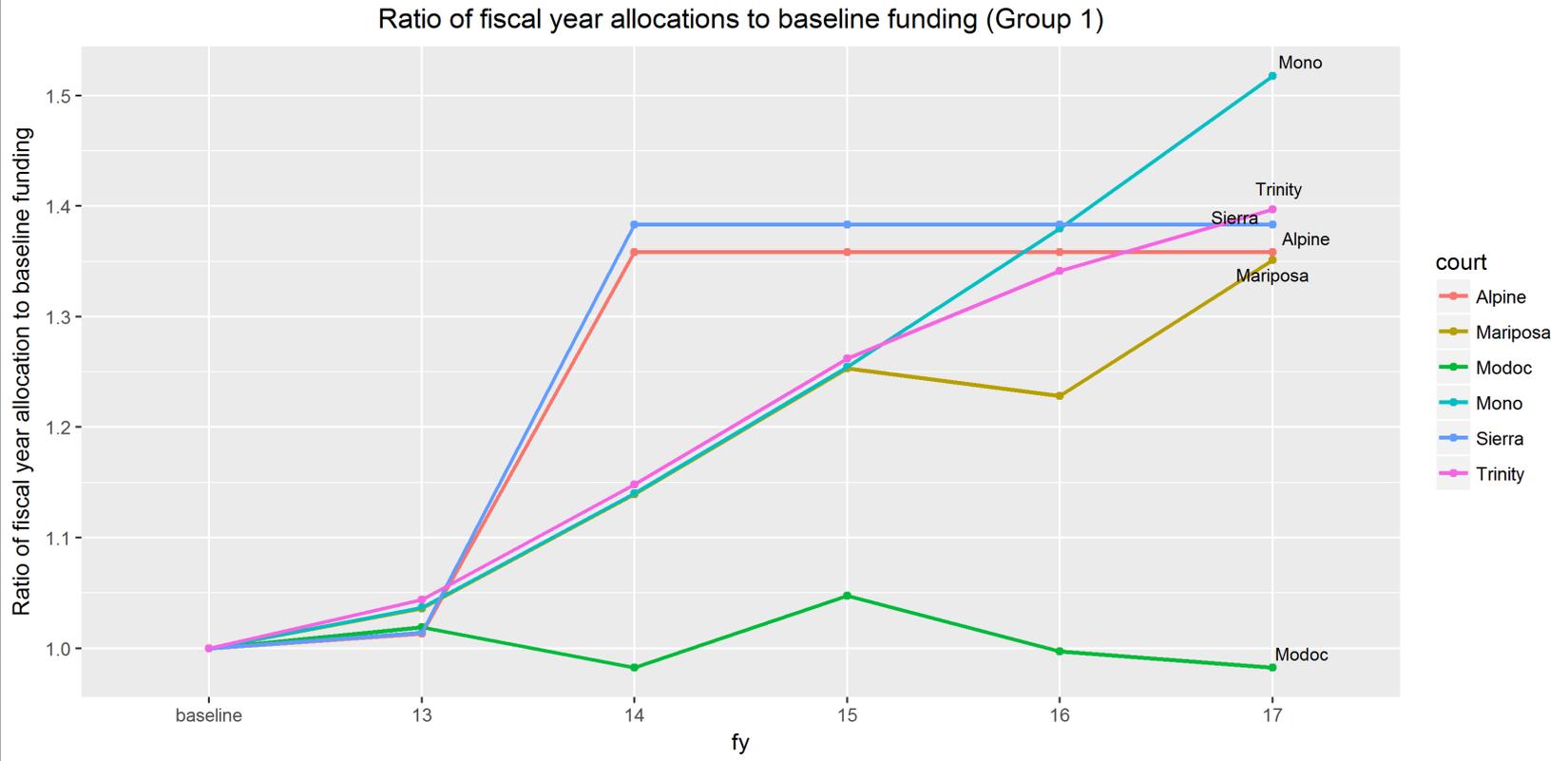
Ratio of fiscal year allocations to baseline funding (Group 3)



Funding trends – G2



Funding trends – G1



Funding - summary

1. WAFM has caused courts to experience divergent trends in funding from baseline line
2. Typical trajectory tracks the change in overall funding for the branch over period
3. Some courts experiencing steeper year-on-year gains in funding than other courts
4. Some courts experiencing year-on-year declines in funding





Comment and proposals



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WAFM comments

- Public comments have been made by following counties:
 - Lake
 - Glenn
 - Siskiyou
- Key theme is need to review impact on small rural courts with lower BLS factors



WAFM proposals

- Mendocino (October, 2015) – denied
 - Proposed additional funding for courts with significant populations in remote geographic areas
- Small Court WAFM Methodology Review Group (March, 2017) – for consideration
 - Raised a number of concerns, and potential proposals, regarding the needs of small courts
 - Key proposal is reviewing BLS factor (with 1.0 as default)
- Alameda (March, 2017) – for consideration
 - Proposed a broad alternative to the WAFM model
 - Need estimated using population-to-judge ratios
 - Use only new funding to adjust based on need





Preliminary conclusions



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Preliminary conclusions

1. WAFM has achieved progress on equity, however an equity gap remains
2. We lack data to understand the net impact of WAFM on access to justice across the state
3. WAFM has caused absolute funding levels to move in different directions at different speeds
4. A range of comments and two proposals identify specific concerns regarding existing methodology
5. One proposal has suggested a broadly different methodology for allocations



Further analysis

- Do members have any further questions for analysis of WAFM?
- Further evaluation can be presented as appropriate at future meetings



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Learning for future funding model



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WAFM: Reflection

- Strengths of WAFM
 - *{Facilitated discussion}*
 - *{Facilitated discussion}*
 - *{Facilitated discussion}*
- Weaknesses of WAFM
 - *{Facilitated discussion}*
 - *{Facilitated discussion}*
 - *{Facilitated discussion}*



Goals for future model

- Facilitated discussion on goals for future funding model
- Goals will be revisited on Day 2
- Goals for future funding model
 - *{Facilitated discussion}*
 - *{Facilitated discussion}*
 - *{Facilitated discussion}*





End of Day 1



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Objectives for future funding model



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Role of objectives

- Use objectives to guide development of future funding model
- Objectives can be used to
 - Evaluate anticipated impact of specific design decisions
 - Validate that the overall model produces the intended effect
- Objectives need to be clearly defined and measurable
- E.g. Equity –
 - Defined: total equity = courts have identical funding ratios
 - Measurable: increased equity = decreased variability in income ratios



Weighting objectives

- Where there are multiple objectives, they may be in competition with each other
- E.g. Equity and stability
 - Full weighting on equity = low stability
 - Full weighting on stability = limits progress on equity
- Important to define the weighting applied to different objectives
- We may be able to simulate scenarios to show how different policies may result in different weightings



Setting objectives

- Objective 1 – *Facilitated Discussion*
 - {Definition}
 - {Measurement}
 - {Weighting}
- Objective 2 – *Facilitated Discussion*
 - {Definition}
 - {Measurement}
 - {Weighting}
- *Expand to add further objectives*



Example objectives

- Five examples of potential objectives
 - *Equity*
 - *Stability*
 - *Predictability*
 - *Flexibility*
 - *Credibility*





Organizing workplan



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Working to objectives

- Workplan has range of items, some general and many specific
- Recommend a focus on 1B “review and evaluate funding methodology” to organize process
- 1B implies:
 - Defining objectives – what criteria shall be used to review and evaluate options for future funding model?
 - Key decisions – based on these criteria, what significant decisions on direction need to be taken?
 - Specific decisions – how can specific decisions be used to fine-tune the model in line with its objectives?



Key decisions

- Examples of key decisions:
 - Estimating need: workload vs. alternative models?
 - Weighting objectives: options for implementation, e.g. how to stagger any further reallocations?
 - Evaluating impact: include access to justice measures?
- Key Decision 1 – *Facilitated Discussion*
 - *{Definition of decision}*
 - *{Issues to consider}*
 - *{Rationale for decision}*
- *Expand to add further decisions*



Prioritizing workplan

1. Plans for FY 2018–2019 and year 6 and beyond
 - a. Simplify display of worksheets for after year 5
 - b. Review and evaluate funding methodology
2. New and existing judgeships staffing complement funding
3. Track technology funding streams (quarterly updates from JCTC and CITMF)
4. Track joint working group with Family and Juvenile Law Advisory Committee [...]
5. Evaluate the impact of civil assessments
6. Review TCTF and IMF self-help funding allocation
7. Identify all funding sources and determine allocation models
8. Review funding floor calculation and determine handling of inflation and refresh cycle
9. Special circumstances cases funding
10. Evaluate impact of JCC and other provided services
11. Evaluate how to include unfunded costs – courthouse construction
12. Address impact of BLS in the model



Defining items

- Workplan Item A– *Facilitated Discussion*
 - *{Specific question(s) to be addressed}*
 - *{Information, research or analysis required}*
 - *{How analysis will guide decision-making}*
- *Expand to add further decisions*



Grouping items

- Grouping scheme – *Facilitated Discussion*

Group 1:

- Item A
- Item B
- Item C

Group 2:

- Item A
- Item B
- Item C

- *Expand to add further groups*



Planning ahead

FMS meeting	Items
Sept 18 th , 2017	<ul style="list-style-type: none">• Further evaluation of WAFM (as requested)• <i>{Other items – facilitated discussion}</i>
Oct 26 th /27 th , 2017	<ul style="list-style-type: none">• WAFM proposals considered (deadline: Oct 15th)• <i>{Other items – facilitated discussion}</i>
Dec 12 th , 2017	<ul style="list-style-type: none">• Preliminary approach to FY 18 allocations• <i>{Other items – facilitated discussion}</i>
Jan 11 th /12 th , 2018	<ul style="list-style-type: none">• Finalize recommendation for FY18 allocations• <i>{Other items – facilitated discussion}</i>





End of meeting



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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 26, 2013

Title	Agenda Item Type
Trial Court Budget Working Group: Recommendation of New Budget Development and Allocation Methodology	Action Required
	Effective Date
	July 1, 2013
Rules, Forms, Standards, or Statutes Affected	Date of Report
N/A	April 24, 2013
Recommended by	Contact
Trial Court Budget Working Group Hon. Laurie Earl, Co-chair Zlatko Theodorovic, Co-chair	Hon. Laurie Earl earll@saccourt.ca.gov
	Zlatko Theodorovic zlatko.theodorovic@jud.ca.gov

Executive Summary

The Trial Court Budget Working Group recommends that the Judicial Council adopt the proposed trial court budget development and allocation process. Funding needs for each trial court would be based upon workload as derived from filings through a specified formula. The new allocation methodology would require shifts in current baseline funding from some courts to others. These shifts would be phased in over a five-year period. New state funding for trial court operations would be fully allocated according to the proposed methodology. Specified elements of the process would be subject to further refinement by the Trial Court Budget Working Group based upon input from trial courts and key stakeholders, and subject to final review and approval by the Judicial Council.

Recommendation

The Trial Court Budget Working Group has adopted the updated Resource Assessment Model (RAS) model as the basis for the trial court budget development and allocation process that is the subject of this recommendation.

The RAS model demonstrates that the trial courts are currently funded below necessary levels. Because (unlike 2005–2007) there is no new money available for equalization, any additional funding for some courts must be offset by funding reductions to others. Given the extreme financial hardship under which all courts currently operate, the Trial Court Budget Working Group recommends against immediate full equalization of Trial Court Trust Fund allocations based on RAS.

Instead, the working group recommends a phased-in approach described in detail below, phasing in greater equalization over five years and providing for more rapid equalization to the extent that new state funding is made available for trial court operations.

The Trial Court Budget Working Group recognizes that this approach does not remedy the funding crisis currently affecting the courts and that increased state funding will be necessary to restore the capacity of the California trial courts to provide equal—and adequate—access to justice across the state.

The Trial Court Budget Working Group (TCBWG) recommends that the Judicial Council:

1. Approve the Workload-based Allocation and Funding Methodology (WAFM) for use in allocating the annual state trial court operations funds, consistent with the implementation schedule below, with the understanding that ongoing technical adjustments will continue to be evaluated by the TCBWG and that those adjustments will be submitted to the Judicial Council for approval.
2. Direct the TCBWG to provide annual updates of the WAFM beginning with the April 2014 Judicial Council meeting.
3. Adopt the five-year implementation schedule for the WAFM outlined below and described in more detail in the body of this report:
 - a. In fiscal year (FY) 2013–2014 the currently estimated \$261 million in unallocated reductions shall be allocated to each court on a pro rata basis (based upon each court's current share of the statewide total of all applicable funds);
 - b. Beginning in FY 2013–2014, *base funds*—the courts' applicable funding adjusted for the \$261 million reduction identified above and excluding any adjustments based on new money—shall all be allocated pursuant to the new WAFM as follows:

FY 2013–2014:

- 10 percent allocated pursuant to the WAFM
- 90 percent allocated pursuant to the FY 2013–2014 historically based funding methodology (see 3b for definition of FY 2013-2014 base funds)
- The state’s smallest courts—courts that are classified as Cluster 1 in Appendix A—would be excluded from any change in their allocation based upon the WAFM in FY 2013–2014. Instead, base allocations to these courts would be based on their historical share of the statewide total of all applicable funds subtracting only their share of the \$261 million reduction until the impact of the methodology upon these smallest courts is reviewed and adjusted. Any recommendations to include the Cluster 1 courts in the WAFM will be evaluated by the TCBWG and submitted to the Judicial Council for approval.

FY 2014–2015:

- 15 percent allocated pursuant to the WAFM
- 85 percent allocated pursuant to the FY 2013–2014 historical based funding methodology

FY 2015–2016:

- 30 percent allocated pursuant to the WAFM
- 70 percent allocated pursuant to the FY 2013–2014 historical based funding methodology

FY 2016–2017:

- 40 percent allocated pursuant to the WAFM
- 60 percent allocated pursuant to the FY 2013–2014 historical based funding methodology

FY 2017–2018:

- 50 percent allocated pursuant to the WAFM
- 50 percent allocated pursuant to the FY 2013–2014 historical based funding methodology

- c. Allocate any new money appropriated for general trial court operations entirely pursuant to the WAFM; and
- d. Reallocate applicable base funding pursuant to the WAFM on a dollar-for-dollar basis for any new money appropriated for general trial court operations.

Previous Council Action

Allocation of trial court budgets is one of the principal responsibilities of the Judicial Council, and every funding decision taken by the council has an impact upon the equity of funding in the courts. An exhaustive recounting of council action on funding allocations since the enactment of

the Lockyer-Isenberg Trial Court Funding Act would require considerably more space than is appropriate for a report such as this and would not provide much illumination on the central topic at hand.

It is possible, however, to sketch the principal action in budget allocation undertaken by the council since the enactment of the Lockyer-Isenberg Trial Court Funding Act. The list of previous council actions below is restricted to only the most significant actions taken by the council in the area of funding allocations and is focused on the reduction of inequity in funding across the courts.

- In fiscal year 1998–1999, the Judicial Council directed the Trial Court Budget Commission (TCBC) to allocate \$3 million in ongoing funding to address courts with insufficient resources. Twelve courts qualified for this funding.¹
- Between 1998–1999 and 2004–2005 augmentations to trial court funding were provided through Budget Change Proposals to the Department of Finance. The BCPs were based on the Budget Change Request process (a component of the overall state budget development process through which funding approval is made by the Legislature and Governor) in which courts applied for funds based on Judicial Council priorities, and working groups made decisions on which of the applications to approve.
- In 2005, the Judicial Council approved the use of a weighted caseload study (Resource Assessment Study (RAS))² that estimates staffing needs in core operational areas for any specified level of filings in nine courts, which were validated and adjusted by the study courts and subject matter experts to ensure that the model reflected adequate time for case processing work.—The Judicial Council approved the use of the RAS model for three successive years—fiscal years 2005–2006 through 2007–2008—to allocate a portion of new, State Appropriations Limit (SAL) funding to courts that the RAS model identified as historically underfunded. Over three years, a total of approximately \$32 million in new funding was redirected to the baseline budgets of those courts using the RAS model.³
- In 2006, the Legislature passed Senate Bill 56, which authorized the creation and funding of 50 new judgeships. Significantly, SB 56 incorporated the judicial workload assessment adopted by the Judicial Council, effectively deferring to the council’s workload-based model for the allocation of the new judgeships and their attendant funding.⁴

¹ Trial Court Budget Commission (TCBC), *Allocation of Funding to Courts with Insufficient Resources: Report Summary* (Jan. 26, 2000).

² At that time, it was known as the Resource Allocation Study (RAS) model.

³ Report to the Judicial Council: *Fiscal Year 2005–2006 Trial Court Budget Allocations* (July 20, 2005) (<http://www.courts.ca.gov/documents/0705item1.pdf>)

⁴ Senate Bill 56; Stats. 2006, ch. 390.

- Since 2008, changes in trial court funding, with few exceptions, have primarily been reductions. Also with few exceptions, the reductions to trial court funding have been allocated to the trial courts based on their proportionate share of statewide allocations, often referred to as their pro rata share. In February 2013, the Judicial Council approved the updated and renamed Resource Assessment Study (RAS) Model for use in estimating workload need for non-judicial staff⁵. The parameters of the updated model were derived from a time study of 24 courts and again validated by study courts and subject matter experts.
- In many recent years the Budget Act has specifically provided additional funds to the trial courts to cover increases in benefit costs incurred based on labor negotiations. These funds were allocated according to actual increases reported by courts, not the pro rata formula. The amounts were added to each court's base, thus changing their pro rata share permanently.

Some of the council actions described above provided relief to historically underfunded courts. However, uneven workload growth since the advent of state funding has in many cases overtaken these relatively modest attempts to improve the equity of trial court funding. In particular, funding adjustments have not matched workload growth in Inland Empire and Central Valley courts or the slower growth of workload in larger, urban, and coastal courts.

Rationale for Recommendation

Recognizing the need to remedy funding inequities, the *Funding Methodology Subcommittee* of the Trial Court Budget Working Group (TCBWG) was formed last November to address this issue. The subcommittee consists of 16 members: 7 presiding judges and 9 court executive officers from counties of variable size, geographic location, and funding need. The charge of the subcommittee was to develop a trial court funding methodology that would result in a more equitable distribution of trial court funding among each of the 58 trial courts. (Appendix B lists the members of the Trial Court Budget Working Group and Appendix C lists the members of the Funding Methodology Subcommittee.)

The work product of the subcommittee is a Workload-based Allocation and Funding Methodology (WAFM), which was approved by the full TCBWG at its meeting on April 9, 2013. The WAFM involves a step-by-step budget development and allocation process building on accepted measures of trial court workload and creating formulas to allocate funding in a more equitable manner. At the same time the WAFM implementation schedule recognizes the need to

⁵ Report to the Judicial Council: *Update on the Resource Allocation Study Model* (February 8, 2013) (<http://www.courts.ca.gov/documents/jc-20130226-itemM.pdf>)

move deliberately, to allow courts the time to adjust and to take into account local circumstances that may not be captured in the formula-based funding methodology.⁶

The proposed method provides the transparency necessary to ensure the accountability of the branch and individual courts to the public and sister branches of government while preserving the independent authority and local autonomy of trial court leaders to meet the needs of their communities and assure equitable access to justice in each of California's 58 trial courts.

The recommended budget development process is designed to create a baseline funding formula for each court using identifiable, relevant, and reliable data consistently applied to all courts. The process is rooted in workload assessment, established by the Judicial Council–approved Resource Assessment Study (RAS) model and other identifiable cost drivers, and estimates the funding need for each superior court based upon the components listed below and described in more detail in Appendices D and E.

The allocation method is premised on identifying funding need for court operations and then comparing that amount to equivalent, available funding. “Equivalent, available funding” is not considered to be a court's total budget allocation, but specifically that portion that is comparable to the filings-driven funding need.

1. Estimation of total filings-driven trial court costs:

- a. An estimation of workload—the number of full-time equivalent (FTE) staff based on the number and complexity of filings that each court receives;
- b. An estimation of personnel costs consistent with the number of FTE staff needed in each court;
- c. An adjustment to the needed personnel costs to take into account cost-of-labor differentials across counties using U.S. Bureau of Labor Statistics (BLS) data or similar comparable data on the wages of local government employees in each county as a reference point;
- d. An estimation of non-personnel costs (OE&E) needed for court operations—including items such as computer equipment, copiers, and office supplies but also expenditures that are unique to trial courts such as forensic examinations and psychological evaluations—and estimated based on average OE&E costs per FTE staff;
- e. Potential additional adjustments based on defined unique factors (which may include a high proportion of complex cases or trial court facilities in remote locations) that are not captured in other components;⁷

⁶ Detailed estimates, meant only as drafts, of the impact of the allocation methodology on each court can be found in Appendix F.

⁷ The unique factors component was not finalized in time to be included in the FY 2013–2014 budget process.

f. The addition of costs that were not captured in the workload measurements, such as costs associated with programs or salaries funded through local revenues or that are funded by dedicated state funding sources, grant funding, county funding, and/or federal funding.

2. Identification of funding equivalent to the total filings based trial court costs:

In determining the available funding need, the subcommittee determined that any revenue or resources that are allocated using a formula that is not filings-driven, such as reimbursed expenses for court interpreters or jury, should not be considered “available funding” for the purposes of comparing to workload need. Likewise, revenue sources such as civil assessments or enhanced collections, which are implemented based on local court decisions, are also not considered part of the “available funding” to be compared to workload need. The funds that are not considered part of the allocation formula are shown in Appendix G.

The subcommittee identified the following categories of funding as comparable to workload-based funding need:

Table 1

Fund Category	Fund Source	Statewide Funding Amount for FY 13–14 Allocation
Current TCTF Program 45.10 Base Allocation	TCTF 45.10	1,694,659,219
<i>Items subtracted from base allocation:</i>		
Security Base (FY 10–11) Adjustment		(40,983,089)
SJO Adjustment (does not include compensation for AB 1058 commissioners)		(64,674,907)
Projected \$261M Reduction based on Governor Budget Proposal		(261,000,000)
Self-help	TCTF 45.10	2,500,000
Replacement of 2% Automation	TCTF 45.10	10,907,494
Automated Recordkeeping and Micrographics Distribution (FY 11–12)	TCTF 45.10	3,160,318
Benefits Base Allocation (FY 10–11 and FY 11–12)	General Fund	68,818,575
Benefits Base Allocation (Confirmed as of 1/31/2013)	General Fund	23,199,967
Benefits Base Allocation (Unconfirmed as 1/31/2013)	General Fund	483,174
Total		1,437,070,751

3. Comparison of estimated funding need in filings-driven workload and actual funding in the equivalent categories:

The comparison between the amount of funding in the above categories and the estimation of total filings-driven workload costs provides the foundation for the proposed reallocation.

- a. Trial courts whose proportion of the statewide total funding is *greater than* their proportion of the filings-driven workload need are identified for a reduction in their allocation.
- b. Trial courts whose proportion of the statewide total funding is *below* their proportion of the filings-driven workload *and below* the statewide average funding need are slated to receive additional funding.
- c. Additionally, because the total available funding falls below the filings-driven workload-based funding need, courts whose proportion of the statewide total funding is *below* their need but *greater than* the statewide average funding need will also see a reduction in their funding. Put another way, there are some courts that need additional funding, but *not as much as* other courts. These courts will see a reduction in their share of the budget allocation because their funding need is less dire than that of other courts. If new funding is provided, however, these courts would most likely not see a reduction.

Next steps

Given the significance of the change that this funding methodology represents and the limited time available to finalize an allocation methodology for the coming fiscal year, the Funding Methodology Subcommittee plans to continue working to improve the methodology as needed and develop allocation criteria and procedures for FY 2014–2015 and beyond.

Additionally the subcommittee has identified other issues that do not lend themselves to easy resolution and subcommittee members are committed to working through these issues in order to refine the proposed methodology. Included among these unresolved issues are the following:

- a. Evaluate impacts of the new methodology on California’s smallest courts (Cluster 1) and include or make adjustments as appropriate;
- b. Further refine the process for estimating employee benefits;
- c. Evaluate self-help funding;
- d. Evaluate the impact of AOC provided services;
- e. Include best practices standards;
- f. Evaluate what to do with local fees and financial obligations;
- g. Evaluate how to allocate funding for technology; and
- h. Validate the data used in the new methodology, including the accuracy of the data.

The funding methodology proposed will result in a more systematic, transparent, and equitable allocation of trial court funding and address issues of disparities in court services for California’s court users. Subsequently, it will further the branch’s commitment to provide equal access to justice for all Californians.

Access to justice is a concept that resists simple definition. Even if difficult to define or measure, the effort to achieve access to justice necessarily includes an effort to eliminate identifiable barriers to its achievement. California's baseline achievement in equal access to justice is highlighted by contrasting it with the court reform agenda that dominates discussion in other parts of the country. Several states continue to pursue unification and jurisdictional simplification; California completed this reform a decade ago. However the state's current fiscal crisis and the branch's current allocation methodology threaten the basic delivery of justice. The barrier is our own and the proposed workload-based funding methodology is a significant step in eliminating it.

Comments, Alternatives Considered, and Policy Implications

Comments received

The subcommittee presented their findings at various forums in order to solicit feedback. A presentation was made to the Trial Court Funding Workgroup at its March 26 meeting. The subcommittee also presented the methodology at regional meetings held on March 25, March 29, and April 2. Representatives from 56 courts attended at least one of the regional meetings. Six courts provided written comments at the meetings; generally the questions were technical in nature, concerning the implementation of the BLS cost-of-labor adjustment or about the calculations used in the materials distributed at the meetings. The comments are summarized in Appendix H.

Alternatives considered/policy implications

The creation of a funding methodology and allocation process such as those described above involves innumerable decision points, each of which has multiple alternatives. Although the alternatives considered in developing the proposal in this report are too numerous to recount in their entirety, many of the specific decisions and alternatives considered are listed in Appendix E.

In addition to the alternatives considered and discussed in the appendix, a number of broader policy alternatives were discussed:

Alternative 1. Continue pro rata funding based on historical proportions of state funding. Historic reliance on pro rata funding failed to take into account either the vast differences in funding available to courts at the outset of state funding or the uneven growth of workload across courts since then. Given the dire crisis facing the state judiciary and the inadequate baseline funding for the courts as a whole, the recommended funding formula begins to address the inequity in the allocation of funding. It does not address the insufficiency of funding.

Although the TCBWG recognizes the dilemma of taking funding away from some courts and giving it to others, it also believes that for the branch to operate *as a branch*—rather than as a collection of loosely affiliated county courts—this type of difficult decision is necessary. Indeed,

it was part of the legislative intent of the Lockyer-Isenberg Trial Court Funding Act. Therefore, Alternative 1 was rejected.

Alternative 2. Implement the WAFM more aggressively. A more aggressive implementation could involve either a *shorter* implementation time frame, the reallocation of a *larger proportion* of total funds available to the courts, a larger proportion of the \$1.4 billion identified in Table 1, or all of the above. Alternative 2 was rejected because:

- a. Courts need time to adjust—not just to less funding, but also to more funding to ensure that new funding is used effectively. The gradual, five-year implementation schedule appeared to provide courts with sufficient time to adjust without delaying implementation unduly. Thus, accelerating the implementation time frame was rejected.
- b. Portions of total trial court funding are either not captured in the workload model that provides the foundation for the WAFM, allocated based on a different formula, or are captured locally and should remain local. The subcommittee of the TCBWG engaged in lengthy discussions of which funds to include and exclude in the allocation using the new methodology. Various funds that were excluded from the reallocation were excluded because their purpose and allocation are not logically tied to the workload model that drives this recommendation and/or because reallocation of these funds would create perverse incentives, e.g., reallocation of funds that are collected locally through enhanced collections or civil assessments should be retained locally.
- c. There are unresolved issues as previously identified that need to be addressed and finalized.

Implementation Requirements, Costs, and Operational Impacts

There are considerable costs to some courts in adopting the new methodology. In particular, many courts will see potentially significant reductions in their funding. These costs, however, are not the type of cost normally identified as an implementation cost because the reductions in funding to some courts are offset in their entirety by additional funding to other courts. Without seeking to minimize these costs to individual courts, the principal impact of the new methodology on the *branch* is zero because the method involves a transfer of resources among courts.

The AOC and the trial courts will incur ongoing costs in implementing the new policy if the Judicial Council adopts the new methodology and recommended next steps. Additional resources will be required to adequately address ongoing maintenance and improvement of the model envisioned by the TCBWG. This implies that staff—primarily AOC staff but also some trial court staff—will be responsible for collecting and reviewing new data, conducting analysis of the data, developing recommendations, preparing written reports, and modifying systems of data collection and reporting.

Among the most labor intensive of the items identified by the TCBWG that will have an impact on AOC and trial court resources are:

- Evaluation of the impacts of the new methodology on California’s smallest courts (Cluster 1) and inclusion or adjustment to the model as appropriate;
- Improvement of data quality control—including the possibility of expanding auditing services to include the evaluation of the completeness, consistency, and accuracy of trial court filings data and Schedule 7-A data;
- Evaluation of the workload contribution of services provided by the AOC to the trial courts;
- Construction of a cost-of-labor index that more accurately reflects trial court labor costs in each county; and
- Development, testing, and implementation of best practices and performance standards.

Relevant Strategic Plan Goals and Operational Plan Objectives

The Workload-based Allocation and Funding Methodology is consistent with Goal II, Independence and Accountability, of the strategic plan, in that the methodology model aims to “[a]llocate resources in a transparent and fair manner that promotes efficiency and effectiveness in the administration of justice, supports the strategic goals of the judicial branch, promotes innovation, and provides for effective and consistent court operations” (Goal II.B.3).

It also meets with related Operational Plan Objective III, Modernization of Management and Administration, in that a workload-based approach creates “[s]tandards for determining adequate resources for all case types—particularly for complex litigation, civil and small claims, and court venues such as family and juvenile, probate guardianship, probate conservatorship, and traffic; accountability mechanisms for ensuring that resources are properly allocated according to those standards” (Objective III.A.2.c).

Attachments

1. Appendix A: California’s superior courts and the size groups to which each belongs
2. Appendix B: Trial Court Budget Working Group Roster
3. Appendix C: Roster of the Funding Methodology Subcommittee
4. Appendix D: Trial Court Budget Development and Allocation Process Diagram
5. Appendix E: Detailed Budget Development Process Narrative
6. Appendix F: Funding, Funding Need, and Allocation Scenarios
7. Appendix G: Funding not included
8. Appendix H: Comments received at regional meetings
9. Appendix I: Program, Element, Component, and Task (PECT) Definitions
10. Appendix J: FY 2012-2013 Schedule 7A Salary and Position Worksheet General Directions and Detailed Instructions
11. Appendix K: Quarterly Report of Revenues Reporting Requirements

For attachments to this report, please visit: <http://www.courts.ca.gov/documents/jc-20130426-itemP.pdf>