From: "Carvill, Judge Wynne, Superior Court" <wcarvill@alameda.courts.ca.gov>
Date: September 23, 2017 at 2:45:56 PM PDT
To: "'Conklin, Jon B.'" <jconklin@fresno.courts.ca.gov>
Cc: "Jacobson, Judge Morris, Superior Court" <mjacobson@alameda.courts.ca.gov>, "Finke, Chad, Superior Court" <cfinke@alameda.courts.ca.gov>
Subject: RE: touching base

Jon,

Morris and I are on the same page here, but I want to make a point that is relevant given the last FMS discussion I observed.
One of the ideas floated was a "band" around the 75% funding level such that courts above the band would be cut to fund those below the band.
For example, if the band was +/- 3%, then those over 78% would be cut to 78% and the money used to provide extra money to those below 72%.
I suspect that is where the committee will come out; the debate will be the width of the band: 1%? 3%? 5%? or what?

There are 2 problems with this:

First, if the band is too tight, lots of courts will be donors and it will lead to the disunity Morris mentions.

Second and perhaps even more importantly, as long as this is all based on filings, it is much too volatile. At best a court can guess where it will be based on their filing trends, but no court can be sure because you don't know until late June what impact the changes in the filings in other courts may be. Thus we might be at 78% this year but we could drop to 71% or jump up to 83% or whatever. These fluctuations don't really matter if there is a hold harmless rule but without such a rule no court other than those at the extremes has a clue what will happen to their funding until the very last moment.

The population model would remove that uncertainty but WAFM could also be modified to do the same thing. I agree with Morris that the population model may be dropped if you like, but that is only because fighting over that obscures the real issue: the impact of cuts compounded by the volatility of filing data.

Wynne

From: Finke, Chad, Superior Court [mailto:cfinke@alameda.courts.ca.gov]
Sent: Wednesday, September 27, 2017 1:03 PM
To: Conklin, Jon B. <jconklin@fresno.courts.ca.gov>; Carvill, Judge Wynne, Superior Court <wcarvill@alameda.courts.ca.gov>
Cc: Jacobson, Judge Morris, Superior Court <mjacobson@alameda.courts.ca.gov>
Subject: RE: touching base

Judge Conklin,

We realized that there may be a need to further clarify the proposal in our September 21, 2017, submission. As you know, the key tenet of our proposal is what we call the "no cuts" or "hold harmless" model. In light of the FMS materials that we recently received (pertaining to Monday's meeting)—which appear to rely heavily on the new case weights that were recently adopted by the JCC—we feel compelled to clarify that our request as to "no cuts" applies whether those cuts would be the result of a court's increase/decrease in filings OR as a result of the new case weights. In other words, in a flat budget year, we are advocating that no court be cut at all, and that that court instead have as its base funding the same base funding as the prior year.

We think that position is probably implicit in our submission already but, in an abundance of caution, we wanted to make it clear for the record that we also oppose any reduction from the FY 17-18 base that might occur solely or in part as a result of the new case weights. This is particularly true where there has been no comprehensive statewide audit of filings to ensure that we are all reporting correctly and consistently with one another. Bottom line: We think that no court should go below our respective FY 17-18 allocations for any reason, unless there is a budget cut to the trial courts as a whole.

Please let me know if this email is sufficient to add into the record as a clarification on Alameda's part, or whether we need to formally revise and resubmit our September 21, 2017, submission.

Thanks,
Chad

Chambers of
BECKY L. DUGAN
Presiding Judge

W. SAMUEL HAMRICK, JR.
Court Executive Officer

Superior Court of California
County of Riverside

4050 Main Street
Riverside, CA 92501

September 19, 2017

Hon. Jonathan B. Conklin
Chair, Trial Court Budget Advisory Committee (TCBAC)
1100 Van Ness Avenue, Department 72
Fresno, CA 93724-0002

Dear Judge Conklin,

The Superior Court of California, County of Riverside thanks you and the TCBAC for the opportunity to offer input as the branch considers how to move forward now that the five-year Workload Allocation Funding Methodology (WAFM) phase-in that was approved back in 2013 is concluding.

As one of the state's most historically underfunded courts relative to others in the state, WAFM has been particularly beneficial to this court. It has allowed the court to: open and staff the new Banning Justice Center and the Southwest Juvenile Courthouse; continue to provide self-help services to those who need the most help in navigating the court system; maintain operating hours and keep courthouses open throughout the 7,200 square mile county; provide court reporter services where they are not mandated; and maintain staffing levels so that those who need court services in this county have access and can receive them.

While WAFM funding has been beneficial, our work is not done. The court is not in compliance in completing probate investigation reports in a timely manner or in correcting Department of Justice records and sealing cases as required by Propositions 47 and 64. Riverside's courtrooms hearing felony matters have over 100 cases on calendar each day. These problems and others can be corrected by staying the course with WAFM and continuing to provide equitable funding.

In short, WAFM has worked to help equalize funding gaps across trial courts. The map on the California Courts Newsroom web page showing court underfunding by county before and after the implementation of WAFM speaks volumes. The before map is

littered with courts that were 50 – 60% underfunded. The after map shows how dramatically that situation has changed, and we think for the better.

We are acutely aware that the chronic underfunding of California's judicial branch has complicated the implementation of WAFM and courts throughout the state are suffering. We recognize the failure of the Governor and the Legislature to adequately fund the branch. We agree that it is time to abandon the "historical share" as a part of the branch's funding model and are open conceptually to discussion of sharing equally in overall cuts to the branch. Of course, we want to see each court fully funded and the branch as a whole should continue to strive for a 100% funding level. Thus, WAFM could be modified to include funding goals such as 75%, 80%, and so on. Without new money for the branch, which we cannot depend upon at all, we must come up with a solution to continue the equity distribution among the courts so that services statewide are equalized as best they can be. While there have been suggestions that there be no changes to baseline budgets in years without additional funding, we do not believe this approach is in the best interest of the citizens of this state. Indeed, we are persuaded that the 2016 recommendation of TCBAC to the Judicial Council for a 10% per year with a three-year goal of full implementation of WAFM was a perfectly good solution. We do not object to altering the percentages. Perhaps a 5%, 10%, 15% incremental approach would be more palatable. The main goal of our recommendation to the Judicial Council is that we continue with WAFM and achieve full implementation within the next few years.

We are inalterably opposed to any methodology that ties funding to judgeships in a way that insures courts who are overjudged remain overfunded and courts that are chronically underjudged, such as Riverside, remain underfunded. This would institutionalize inequity in funding and would be a retreat from commitments made by the branch for equal funding of trial courts.

Of equal concern to us is the small court proposal to alter the Bureau of Labor Statistics (BLS) to transfer significant amounts of funding from larger courts to small courts. The reasons cited for this proposal exist in most, if not all, courts. We all have staff that move elsewhere for a better opportunity. We are advised that some nine accommodations have already been given to small courts including a funding floor, extra funding for case management systems and recent added funding for dependency counsel. Even with these accommodations, many of the small courts are shown on the above-mentioned chart in green – meaning that they are at full or more funding. Changing the BLS formula for small courts will simply make green courts greener and we cannot afford it. Small courts should consider pursuing alternative models of providing their services in a way that would enable them to benefit from economies of scale.

During the August 2017 meetings of the Funding Methodology Subcommittee, we heard two other items of concern. First, it was suggested that "equal funding" for the trial courts could be defined as 5% on a line either side of absolutely equal funding. This is a 10% variance which is too wide and is unacceptable. A more acceptable definition of "equal funding" would be 1.5% on a line either side of absolute equal funding which

would be a more narrow 3% variable. The branch has the analytical talent to achieve a 3% variable in the funding of all courts; there is no excuse not to keep the margin to full equal funding as tight as possible. We also heard it may take 10 years to achieve equal funding. This too is not acceptable. The Branch should fully implement WAFM during the next three fiscal years. While progress may vary from year to year, there is no need to extend WAFM implementation beyond a total of eight years. Let's get it done.

Riverside Superior Court does not want other courts' money, judgeships, dependency counsel funding, etc. We just want our fair share of funding which we have never received. The WAFM approach to funding distribution will achieve each court receiving its fair share of funding. WAFM should not be abandoned. While we are open to a more gradual schedule for implementing WAFM, we feel strongly that this model should be fully implemented over the next three years. To continue to institutionalize funding inequities across different court systems is the antithesis of the very concept of a statewide judicial branch.

We thank you again for the opportunity to be heard and look forward to participating in refining the funding model for the courts.

Sincerely,

BECKY L. DUGAN
Presiding Judge

W. SAMUEL HAMRICK, JR.
Court Executive Officer

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ANDREW S. BLUM
PRESIDING JUDGE

KRISTA D. LeVIER
COURT EXECUTIVE/CLERK
JURY COMMISSIONER

September 29, 2017

Funding Methodology SubCommittee
c/o Hon. Jonathan B. Conklin, Co-Chair and
Rebecca Fleming, Co-Chair

Re: Bureau of Labor Statistics (BLS) Impact on WAFM Calculations

Dear Committee Members:

Lake Superior Court has always, and continues to support a workload based funding allocation model. The current model simply needs small adjustments to accurately capture the funding need of small rural courts.

The staff memo correctly points out that on average over 25% (27.5%) of Lake's voluntary turnover over the last five years has gone out of county. In two of the last five years 50% of turnover was due to employees taking jobs out of county. (Note: all but one of the employees who took jobs out of county over the last five years, took jobs with a neighboring court.)

It is understood that many courts compete with neighboring courts. However, the BLS factors for most neighboring courts are much closer. For example, Lake's BLS factor is 37% and 47% lower than neighboring Sonoma and Napa, respectively. Whereas, Los Angeles, Ventura and Orange are all within 9% of each other. That means that we cannot address the problem by raising our salaries and hiring fewer staff, contracting out for services instead of hiring full-time employees, or minimizing the number of supervisory positions, all of which Lake has done.

In Lake our actual average salary is $51,756, excluding the CEO and SJO. The average salary that is calculated into our need under WAFM is $45,508. In neighboring Sonoma the average salary used to calculate need in WAFM is $66,554 and Napa is $72,837. The need as calculated by WAFM is significantly higher in

these neighboring courts, despite Lake's labor pool including these two neighboring counties. We are not asking to receive the same BLS factor as neighboring courts, we do recognize that the labor market is not exactly the same as those counties. We are asking that the model recognize that the labor pool in Lake County overlaps with neighboring counties.

A minimum BLS factor of .9 is a good solution for two reasons. First, it is far simpler than attempting to regionalize BLS factors, yet would still be effective in addressing the regional concern. Second, it would ensure the dollar per-FTE figures are not unrealistically low, particularly for small, rural courts.

Early in the implementation of WAFM it was recognized that setting a minimum BLS factor was necessary to avoid "rural courts receiving unrealistically low dollar per-FTE allotments." The FTE Allotment Factor in effect sets the BLS floor at .765 for all courts with an FTE need of less than 50. Despite the attempt to address this recognized issue, small rural courts are in fact receiving unrealistically low dollar per-FTE figures which are used to calculate a court's funding need.

We urge you to adopt a minimum BLS factor of .9 or alternatively ask staff to develop additional options to implement a regional BLS. Thank you for your time.

Sincerely,

Krista LeVier
Court Executive Officer