



# JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET  
ADVISORY COMMITTEE

## TRIAL COURT BUDGET ADVISORY COMMITTEE

### MATERIALS FOR DECEMBER 4, 2017

#### Meeting Contents

<b>Agenda</b> .....	1
<b>Minutes</b>	
<b>Draft Minutes</b> from the June 8, 2017 Meeting .....	4
<b>Draft Minutes</b> from the June 29, 2017 Action by E-mail Between Meetings .....	8
<b>Draft Minutes</b> from the October 12, 2017 Action by E-mail Between Meetings .....	9
<b>Discussion and Possible Action Items</b>	
<b>Item 1</b> – Historical Review of the Workload-based Allocation and Funding Methodology (WAFM) (Action Required) .....	10
<b>Item 2</b> – WAFM 2018-19 and Beyond (Action Required) .....	22
<b>Attachment 2A:</b> Summary of Letters and Public Comment .....	26
<b>Attachment 2B:</b> Alameda Adjustment Request Process Submission (September 21, 2017) ....	27
<b>Attachment 2C:</b> Alameda ARP Submission Update (September 27, 2017) .....	32
<b>Attachment 2D:</b> Small Court WAFM Methodology Review Group (March 22, 2017) .....	33
<b>Attachment 2E:</b> Superior Court of California, County of Lake (April 11, 2017) .....	38
<b>Attachment 2F:</b> Superior Court of California, County of Glenn (May 5, 2017) .....	39
<b>Attachment 2G:</b> Superior Court of California, County of Siskiyou (May 23, 2017) .....	40
<b>Attachment 2H:</b> Superior Court of California, County of Lake (May 24, 2017) .....	41
<b>Attachment 2I:</b> Superior Court of California, County of Riverside (September 19, 2017) .....	45
<b>Attachment 2J:</b> Superior Court of California, County of Alameda (September 23, 2017) .....	48

<a href="#">Attachment 2K</a> : Superior Court of California, County of Lake (September 29, 2017) .....	49
<a href="#">Attachment 2L</a> : Superior Court of California, County of San Bernardino (October 5, 2017) .....	51
<a href="#">Attachment 2M</a> : Superior Court of California, County of Orange (October 16, 2017) .....	61
<a href="#">Attachment 2N</a> : Superior Court of California, County of Siskiyou (October 23, 2017) .....	64
<a href="#">Attachment 2O</a> : Superior Court of California, County of Alameda (October 24, 2017) .....	68
<a href="#">Attachment 2P</a> : Superior Court of California, County of Orange (October 24, 2017) .....	81
<a href="#">Attachment 2Q</a> : Funding Scenarios .....	82
<a href="#">Attachment 2R</a> : Existing Judicial Council Policies: WAFM .....	84
<b>Item 3 – Funding Methodology Subcommittee (FMS) Work Plan .....</b>	<b>93</b>
<a href="#">Attachment 3A</a> : FMS Work Plan as Approved on June 8, 2017 .....	95
<a href="#">Attachment 3B</a> : Updated FMS Work Plan .....	96



# JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET  
ADVISORY COMMITTEE

[www.courts.ca.gov/tcbac.htm](http://www.courts.ca.gov/tcbac.htm)  
[tcbac@jud.ca.gov](mailto:tcbac@jud.ca.gov)

## TRIAL COURT BUDGET ADVISORY COMMITTEE

### OPEN MEETING AGENDA

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

THIS MEETING IS BEING RECORDED

---

**Date:** December 4, 2017  
**Time:** 10:00 a.m. – 2:00 p.m.  
**Location:** Judicial Council of California, Sequoia Room  
455 Golden Gate Avenue, San Francisco, CA 94102  
**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 June 8, 2017 Trial Court Budget Advisory Committee (TCBAC) meeting, and June 29, 2017 and October 12, 2017 TCBAC Action by E-mail meetings.

---

#### 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](mailto:tcbac@jud.ca.gov) or mailed or delivered to Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Ms. Brandy Sanborn. Only written comments received by 10:00 a.m. on December 1, 2017 will be provided to advisory body members prior to the start of the meeting.

---

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

---

**Item 1**

**Historical Review of the Workload-based Allocation and Funding Methodology (WAFM) (Action Required)**

Consideration of adoption of a report from the Funding Methodology Subcommittee (FMS) providing a historical review of WAFM since its implementation in 2013-14.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee

Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee

Ms. Leah Rose-Goodwin, Manager, Judicial Council Budget Services

**Item 2**

**WAFM 2018-19 and Beyond (Action Required)**

Consideration of recommendations of the FMS regarding the structure of WAFM in 2018-19 and beyond.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee

Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee

Ms. Lucy Fogarty, Deputy Director, Judicial Council Budget Services

**Item 3**

**FMS Work Plan (Action Required)**

Consideration of recommendations of the FMS regarding changes to the Work Plan related to WAFM.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Co-Chair, Funding Methodology Subcommittee

Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee

---

**IV. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

---

**None**

---

**V. ADJOURNMENT**

---

**Adjourn**



# JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET  
ADVISORY COMMITTEE

[www.courts.ca.gov/tcbac.htm](http://www.courts.ca.gov/tcbac.htm)  
[tcbac@jud.ca.gov](mailto:tcbac@jud.ca.gov)

## TRIAL COURT BUDGET ADVISORY COMMITTEE

### MINUTES OF OPEN MEETING

June 08, 2017

10:00 a.m. - 2:00 p.m.

JCC Veranda Rooms, 2860 Gateway Oaks Drive, Sacramento Ca, 95833

**Advisory Body Members Present:** Judges: Hon. Jonathan B. Conklin (Chair), Hon. Jeffrey B. Barton, Hon. Kevin C. Brazile (phone), Hon. Mark Ashton Cope, Hon. Laurie M. Earl, Hon. James E. Herman, Hon. Joyce D. Hinrichs, Hon. Elizabeth W. Johnson (phone), Hon. Ira R. Kaufman, Hon. Paul M. Marigonda (phone), Hon. Brian L. McCabe, and Hon. Glenda Sanders.

Executive Officers: Ms. Sherri R. Carter, Mr. Jake Chatters, Ms. Rebecca Fleming, Mr. W. Samuel Hamrick, Jr., Mr. Kevin Harrigan, Mr. Jeffrey E. Lewis, Mr. Michael D. Planet, Mr. Michael M. Roddy, Ms. Linda Romero-Soles, Mr. Brian Taylor, Ms. Tania Ugrin-Capobianco, and Mr. David Yamasaki.

Judicial Council staff advisory members: Ms. Jody Patel, Mr. John Wordlaw, Ms. Millicent Tidwell, and Mr. Zlatko Theodorovic.

**Advisory Body Members Absent:** Judges: Hon. Andrew S. Blum

**Others Present:** Ms. Lucy Fogarty, Ms. Brandy Sanborn, Mr. Patrick Ballard, Ms. Suzanne Blihovde, Ms. Angela Guzman, Mr. Chad Finke, and Mr. Bob Fleshman.

---

### OPEN MEETING

---

#### Call to Order and Roll Call

The chair called the meeting to order at 10:00 a.m. and roll was called.

#### Approval of Minutes

The advisory body reviewed and approved the minutes of the May 23, 2017 Trial Court Budget Advisory Committee (TCBAC) meeting.

---

### DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-3)

---

#### Item 1 – 2017–2018 Trial Court Allocations for General Court Operations and Specific Costs (Action Required)

Consideration of the 2017–2018 base and base-related allocations from the General Fund and Trial Court Trust Fund, including WAFM, criminal justice realignment, and benefits.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee; Mr. Patrick Ballard, Supervisor, Judicial Council Budget Services; and Ms. Suzanne Blihovde, Senior Budget Analyst, Judicial Council Budget Services.

*Action: The Trial Court Budget Advisory Committee voted to approve the following recommendation in a vote as follows:*

Yes: 22

No: 2

- 1. Approve the 2017–2018 beginning base allocation for court operations of \$1.821 billion, which carries forward the ending 2016–2017 TCTF base allocation and adds the General Fund benefits base allocation and adjustments to annualize partial-year allocations made in 2016–2017.*
- 2. Allocate a total of \$4.8 million for non-interpreter employee benefits funding from the TCTF for each court's share 2016–2017 cost changes in the 2017 May Revise. (The remaining \$174,000 provided for 2016–2017 court interpreter benefits cost changes would be added to the TCTF Court Interpreter Program 0150037).*
- 3. Allocate each court's share from the TCTF using the 2017–2018 WAFM consisting of a reallocation of 50 percent (\$720.2 million) and an additional \$233.8 million of courts' historical WAFM-related base allocation of \$1.44 billion, and reallocation of \$233.8 million in new funding provided from 2013–2014 through 2016–2017 for general court operations for general court operations for a net zero total allocation.*
- 4. Allocate each court's share of the 2017–2018 WAFM funding-floor allocation adjustment, which includes funding-floor allocations for six courts receive a total of \$321,949 in floor adjustments and all other courts are allocated a reduction totaling \$321,949, for a net zero total allocation.*
- 5. Approve a one-time allocation of \$9.2 million for criminal justice realignment costs from the TCTF based on the most current available postrelease community supervision (PRCS) and parole workload data submitted to the Judicial Council's Criminal Justice Services office pursuant to Penal Code section 13155.*
- 6. Allocate \$13.44 million from the Programs 0140010 and 0150095 - TCTF Judicial Council and Trial Court Operations appropriations and \$135.6 million from the Program 0150010 - Support for Operation of the Trial Courts appropriation.*

**Item 2 – Recommendation of the Funding Methodology Subcommittee (FMS) on the 2017-2018 Work Plan (Action Required)**

Consideration of recommendations of the FMS regarding the finalization of the 2017- 2018 Work Plan related to WAFM.

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 Trial Court Budget Advisory Committee voted to approve the following recommendation in a vote as follows:*

Yes: 23

No: 1

#### *Funding Methodology Subcommittee Work Plan*

##### FY 2017-2018

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 to evaluate the allocation methodology for Child Support Commissioner and Family Law Facilitator Program funding including. Subsequent to receiving information from working group, FMS will start to review AB 1058 revenue as an offset to WAFM funding need.*
5. *Evaluate the impact of civil assessments as it relates to the Workload-based Allocation and Funding Methodology (WAFM)*
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*

#### **Item 3 – Recommendation of the FMS on the WAFM Adjustment Request Process and WAFM Adjustment Timeline (Action Required)**

Consideration of recommendations of the FMS regarding the Judicial Council approved Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Process, including formalizing the date for when changes to WAFM can be made and implemented.



Presenter(s)/Facilitator(s): 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 Trial Court Budget Advisory Committee unanimously approved the revisions to the WAFM Adjustment Request Procedure.*

---

**INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

---

**Item 1 – Budget Update for 2017-2018 (No Action Required)**

Update on the budget for 2017-2018.

Presenter(s)/Facilitator(s): Mr. Zlatko Theodorovic, Director, Judicial Council Budget Services

*Action: No Action Taken*

**Item 2 – AB 1058 Funding Allocation Joint Subcommittee Update (No Action Required)**

Update on the AB 1058 Child Support Court Allocation Project.

Presenter(s)/Facilitator(s): Ms. Anna Maves, Supervising Attorney/Program Manager, Judicial Council Center for Families, Children & the Courts

*Action: No Action Taken*

**Item 3 – Discussion (No Action Required)**

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee

*Action: No Action Taken*

---

**ADJOURNMENT**

---

There being no further business, the meeting was adjourned at 1:34 p.m.

Approved by the advisory body on enter date.



# JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET  
ADVISORY COMMITTEE

[www.courts.ca.gov/tcbac.htm](http://www.courts.ca.gov/tcbac.htm)  
[tcbac@jud.ca.gov](mailto:tcbac@jud.ca.gov)

## TRIAL COURT BUDGET ADVISORY COMMITTEE

### MINUTES OF ACTION BY EMAIL BETWEEN MEETINGS JUNE 29, 2017

#### **Email Proposal**

The Trial Court Budget Advisory Committee (TCBAC) was asked to vote on recommendations for the new Trial Court Trust Fund (TCTF) allocations anticipated to be provided in the Budget Act of 2017 for consideration by the Judicial Council at its July 28, 2017 meeting. Anticipated allocations include Court-Appointed Dependency Counsel, State Controller's Office (SCO) Audits, and Statewide Electronic Filing Implementation:

1. Recommend the 2017-2018 court-appointed dependency counsel allocations of \$22 million in new funding for consideration by the Judicial Council.
2. Recommend the 2017-2018 allocation and subsequent distribution reduction of a maximum of \$540,000 for audits completed on behalf of the trial courts pursuant to Budget Act of 2017, item 0250-101-0932, Provision 15.
3. Recommend the 2017-2018 allocation of a \$671,000 loan to implement and administer a statewide electronic filing program.

#### **Notice**

On June 22, 2017, a notice was posted advising that TCBAC was proposing to act by email between meetings under California Rules of Court, rule 10.75(o)(1)(B).

#### **Public Comment**

The public comment period ended at 10 a.m., Thursday, June 29, 2017. No public comments were received.

#### **Action Taken**

TCBAC members were asked to vote between 10:07 a.m. June 29, 2017 and 4:00 p.m. June 29, 2017. Twenty-two members submitted votes via e-mail. For the proposed recommendations, the votes were as follows:

1. Twenty-two members voted "yes", one member voted "no", and two members did not vote.
2. Twenty-two members voted "yes", one member voted "no", and two members did not vote.
3. Twenty-three members voted "yes", zero members voted "no", and two members did not vote.



# JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET  
ADVISORY COMMITTEE

[www.courts.ca.gov/tcbac.htm](http://www.courts.ca.gov/tcbac.htm)  
[tcbac@jud.ca.gov](mailto:tcbac@jud.ca.gov)

## TRIAL COURT BUDGET ADVISORY COMMITTEE

### MINUTES OF ACTION BY EMAIL BETWEEN MEETINGS OCTOBER 12, 2017

#### **Email Proposal**

The Trial Court Budget Advisory Committee (TCBAC) was asked to vote on recommendations from the TCBAC Fiscal Planning Subcommittee to approve the following increases in the amount of the cap on the Children's Waiting Room 2016-17 fund balance the named courts can carry forward from one fiscal year to the next:

1. \$66,981 for the Contra Costa Superior Court;
2. \$352,922 for the Orange Superior Court; and
3. \$443,386 for the Santa Barbara Superior Court.

#### **Notice**

On October 4, 2017, a notice was posted advising that TCBAC was proposing to act by email between meetings under California Rules of Court, rule 10.75(o)(1)(B).

#### **Public Comment**

The public comment period ended at 11 a.m., Thursday, October 12, 2017. No public comments were received.

#### **Action Taken**

TCBAC members were asked to vote between 11:04 a.m. October 12, 2017 and 5:00 p.m. October 12, 2017. Twenty-three members submitted votes via e-mail. For the proposed recommendations, the votes were as follows:

1. Twenty-three members voted "yes", zero members voted "no", and two members did not vote.
2. Twenty-one members voted "yes", zero members voted "no", two members voted to "abstain", and two members did not vote.
3. Twenty-three members voted "yes", zero members voted "no", and two members did not vote.

JUDICIAL COUNCIL OF CALIFORNIA  
BUDGET SERVICES  
Report to the Trial Court Budget Advisory Committee

**(Action Item)**

**Title:** Historical Review of Workload-based Allocation and Funding Model  
**Date:** 12/4/2017  
**Contact:** Leah Rose-Goodwin, Manager, Budget Services  
415-865-7708 | [leah.rose-goodwin@jud.ca.gov](mailto:leah.rose-goodwin@jud.ca.gov)

---

## **Background**

This report stems from a request of the Funding Methodology Subcommittee (FMS) co-chairs, Hon. Jonathan B. Conklin and Ms. Rebecca Fleming, that Judicial Council staff prepare an analysis of the first five years of implementation of the Workload-based Allocation and Funding Methodology (WAFM). Specifically, the subcommittee wished to explore whether WAFM achieved the objectives that were set forth when the model was first developed.

The Trial Court Budget Advisory Committee is asked to review and receive the report as an informational item.

## **Previous Judicial Council Action**

At its April 26, 2013 meeting, the Judicial Council adopted a recommendation from the Trial Court Budget Working Group (now the Trial Court Budget Advisory Committee) for a new trial court budget development and allocation process.<sup>1</sup> WAFM quantifies the workload-based funding need for trial courts for non-judicial, filings-driven functions. Under WAFM, trial courts are allocated funding based on workload instead of the historical basis under which they had been funded previously. A five-year transition plan to move from historical allocations to WAFM-based allocations was implemented starting in 2013-14, with 10% of allocations to be based on WAFM in that year, increasing to 50% in 2017-18 (see Table 1 below). In addition, any new money appropriated for general trial court operations was to be allocated using WAFM, and an amount of historical base funding equal to the new money amount would then also be reallocated using WAFM.

---

<sup>1</sup> <http://www.courts.ca.gov/documents/jc-20130426-itemP.pdf>

**Table 1: WAFM Five-year Implementation Plan**

Fiscal Year	Reallocation %	Other Features
2013-14	10%	<ul style="list-style-type: none"> <li>Cluster 1 courts exempt from reallocation</li> <li>\$60m new funding allocated</li> </ul>
2014-15	15%	<ul style="list-style-type: none"> <li>Cluster 1 courts introduced into reallocation</li> <li>Funding floor introduced</li> <li>Local labor cost (BLS) methodology revised</li> <li>\$22.7m shortfall allocated</li> <li>\$86.3m new funding allocated</li> </ul>
2015-16	30%	<ul style="list-style-type: none"> <li>\$67.9m new funding allocated</li> </ul>
2016-17	40%	<ul style="list-style-type: none"> <li>\$19.6m new funding allocated</li> </ul>
2017-18	50%	<ul style="list-style-type: none"> <li>\$0 new funding allocated</li> </ul>

Following the action taken at the April 2013 meeting, the Judicial Council approved several subsequent modifications to the WAFM methodology (see Table 2):

**Table 2: WAFM Policies Adopted by the Judicial Council**

Date of Council Meeting	Modification to WAFM
July 25, 2013 <sup>2</sup>	Exempted the cluster 1 courts from any funding reallocation using WAFM; simplified the cost of labor adjustment calculation; employed a cluster-average salary for the court executive officer; determined that Bureau of Labor Statistics (BLS) Category 92: local government should be used as the comparator; approved use of a blended local-state government BLS factor if the proportion of state employees in a jurisdiction is greater than 50%.
August 22, 2013 <sup>3</sup>	Approved an Adjustment Request Process (ARP) through which trial courts could request adjustments to WAFM funding based on workload factors not yet accounted for in WAFM, but deemed essential to the fundamental operation of a trial court.
February 20, 2014 <sup>4</sup>	Approved use of a three-year average BLS adjustment factor; adopt a per-Full Time Equivalent (FTE) dollar allotment floor for courts with fewer than 50 employees; established an absolute and graduated funding floor and cap on the size of the allocation adjustment for courts eligible for the graduated funding floor; eliminated cluster 1 exemption put in place in July 2013.
July 28, 2017 <sup>5</sup>	Changed deadlines and submission requirements for the ARP.

<sup>2</sup> <http://www.courts.ca.gov/documents/jc-20130725-itemC.pdf>

<sup>3</sup> <http://www.courts.ca.gov/documents/jc-20130823-item2.pdf>

<sup>4</sup> <http://www.courts.ca.gov/documents/jc-20140220-itemK.pdf>

<sup>5</sup> <https://jcc.legistar.com/LegislationDetail.aspx?ID=3090107&GUID=7A0AB9F5-4767-424B-96F7-8D962B258BD5>

In addition to these changes, annual allocations via WAFM have been approved by the Judicial Council at its July meeting.<sup>6</sup>

In the spring of 2017 and with the fifth year of WAFM implementation approaching, FMS determined that it would be timely for the subcommittee to consider changes to the funding model for years 2018-19 and beyond. To better formulate its approach, the subcommittee started with an evaluation of the first five years of WAFM to order to better understand the model's impact on the trial courts and to inform any revisions to the funding methodology going forward.

## Summary of Findings

The April 26, 2013 report to the Judicial Council summarizes the rationale for the WAFM approach, specifically, this excerpt from pages 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.”*

Based on the above, the two principal objectives of WAFM appeared to be: equitable allocation of funding and equitable access to justice. Derived from the same excerpt, supporting principles include:

- Time for adjustment and adaptation;
- Responsiveness to local circumstances;
- Transparency and accountability; and
- Independent authority of trial courts

These objectives and principles were shared with FMS members at its August 8-9, 2017 meeting. FMS members who had been part of the development of WAFM indicated that equity of funding

---

<sup>6</sup> For 2014-15 allocations: <http://www.courts.ca.gov/documents/jc-20140729-itemC.pdf>

For 2015-16 allocations: <http://www.courts.ca.gov/documents/jc-20150728-itemH.pdf>

For 2016-17 allocations: <https://jcc.legistar.com/LegislationDetail.aspx?ID=2779294&GUID=E3E058AA-27D3-443B-85B9-6FB255E1C344>

For 2017-18 allocations: <https://jcc.legistar.com/LegislationDetail.aspx?ID=3109797&GUID=4F7132E6-3467-4458-B6D6-C7FEB0D4D6DD>

was the guiding objective for the new funding model, with access to justice more aptly characterized as a secondary objective. It was their belief that the policy decisions made concerning the funding methodology were not done explicitly to increase or change access to justice – the hope was that equalizing funding would in turn improve access to justice.

### **Measuring Funding Equity**

At the August 8-9 meeting, FMS members reviewed three measures of funding equity: a review of courts' relative funding ratios; a comparison of relative underfunding levels; and comparison of relative funding ratios over time amongst similarly-sized courts.

### **Relative Funding Ratios**

To reiterate the methodology, WAFM measures each court's workload-based funding need and then allocates funding using a formula that gradually shifts the basis of funding allocations towards workload and away from historical-based allocations. Equity of funding may be assessed by comparing each court's relative level of funding as shown in the formula below:

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

In a fully-funded system, each court would receive 100% of its funding need, for a relative funding ratio of 1.0. However, over the five years of WAFM, the trial courts have never been fully funded, and the relative funding ratios for the courts have been considerably lower for some courts. To assess whether progress has been made towards achieving equity over the five years of WAFM, a statistical method called median absolute deviation was used to determine whether variability in relative funding ratios has decreased over time. This method allows for comparison of trends across the trial courts using a single metric by comparing each court's funding ratio to the median relative funding ratio and then calculating the median of these 'distances' for all courts. The resulting statistic is a measure of how far the typical court is from the typical relative funding ratio.

Funding floor courts have been excluded from this analysis because their funding allocations are not entirely based on workload need, but on operational minimum levels of service. This makes their ratios non-comparable to those of courts that are entirely workload-funded.

Using this technique, variability in funding ratios moves gradually towards zero over time, indicating progress towards complete equity (see Table 3). The biggest jumps appear in the earliest years; however, to some extent this is an artifice of how WAFM policies evolved. The funding floor was not policy in baseline and 2012-13, so the courts that would subsequently become funding floor courts slightly skew the comparison because some of these had very high relative funding ratios in the early years of WAFM. By focusing on just the years when the funding floor was in place, it is possible to be able to evaluate courts consistently. In that time period, (2013-14 to 2017-18) the typical court moves from being about 6% (.059) from the

median funding ratio to 1% from the typical funding ratio. These findings indicate that variability in funding has decreased over time, increasing relative equity.

**Table 3: Variability in Funding Ratios Over Time**

Fiscal Year	Variability
Baseline	.096
2013-14	.080
2014-15	.059
2015-16	.050
2016-17	.045
2017-18	.040

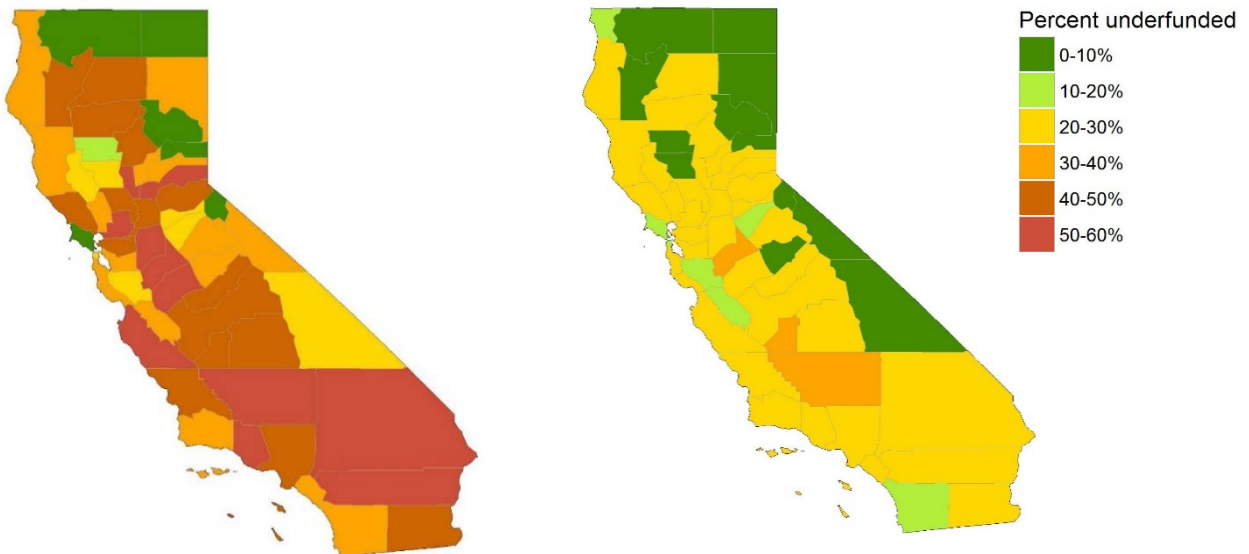
**Relative Underfunding of Courts Before and After WAFM**

Another way to assess equity is to compare relative *underfunding* of courts before and after the implementation of WAFM. The following maps show the percent underfunded in color-coded categories each with a range of 10% (see Graph 1).

**Graph 1: Equity Maps, Before and After WAFM**

**Before WAFM: Baseline**

**After WAFM: 2017-18**



For example, the Superior Court of Del Norte County, in the upper left-hand corner of the map, is colored light orange, indicating that its percent underfunded is in the 30-40% range. In 2017-



18, the court is shaded light green, indicating a shift to the 10-20% range. Courts with funding higher than their WAFM need are shown in the 0-10% category; this could include courts that received floor funding.

These maps show that relative funding has increased (moved away from red) and that the color gradient has become less diverse. Most courts are now in the 20-30% range, suggesting that relative underfunding has become more equalized.

### **Comparison of Relative Funding Ratios, by Court Size, Over Time**

Finally, FMS reviewed a series of line charts (Appendix A) showing relative funding ratios over time for groupings of similarly-sized courts. The purpose of the charts was to determine whether like-sized courts' funding ratios (shown on the vertical axes) converged or diverged over time (the horizontal axes). If WAFM were to be determined to be successful at increasing relative equity, this analysis should show the lines, representing the trajectory of each of the courts, converging over time.

The charts show that, generally, courts gain in relative funding from baseline. The WAFM methodology, combined with new infusions of general funds in the first several years of WAFM implementation, have improved the funding ratios for most courts. Another causal factor contributing to the improved funding ratios is that workload need has generally declined over time due to lower filings.

Additionally, the line graphs show that relative funding ratios amongst courts have converged over time, meaning that funding disparity is decreasing. This is seen on the charts by assessing the distance between the lines (representing each of the courts) moving from left (onset of WAFM) to right (after four years of WAFM implementation). Over time, the distance between the lines has decreased, suggesting that funding has become more equalized.

The equity trends become more difficult to interpret for groups 1-3, which are the groups made up of the smallest courts. The volatility shown on the maps can be attributed to several factors. One is that some courts have received floor funding in some of the years, and that funding makes the lines move more erratically. Also, WAFM and the underlying RAS models provide a series of small court adjustments used to compute the funding need which can result in some volatility in the workload need calculation when combined with fluctuations due to filings trends.

## **Conclusions**

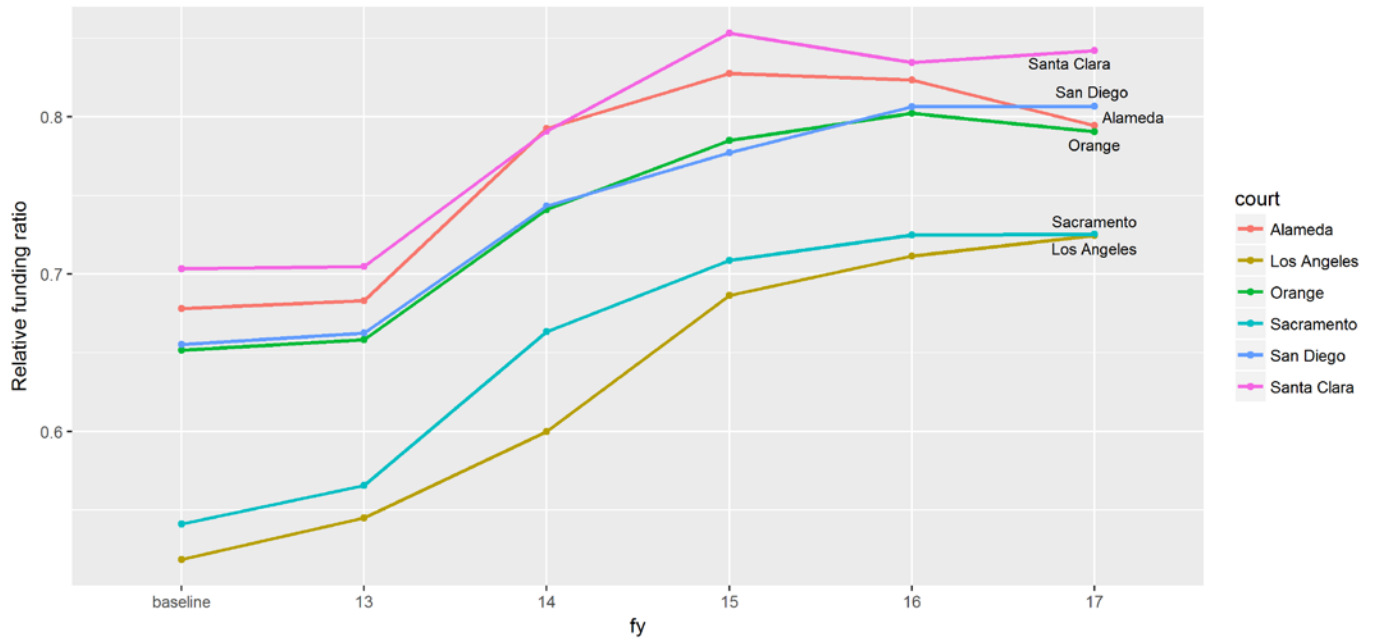
The following conclusions can be drawn from the analysis provided:

- WAFM has achieved progress on equity
- Relative funding ratios are more similar after WAFM than before WAFM
- Both increases and decreases in relative funding have contributed to progress on equity
- An equity gap remains because the relative funding ratios remain variable across the courts

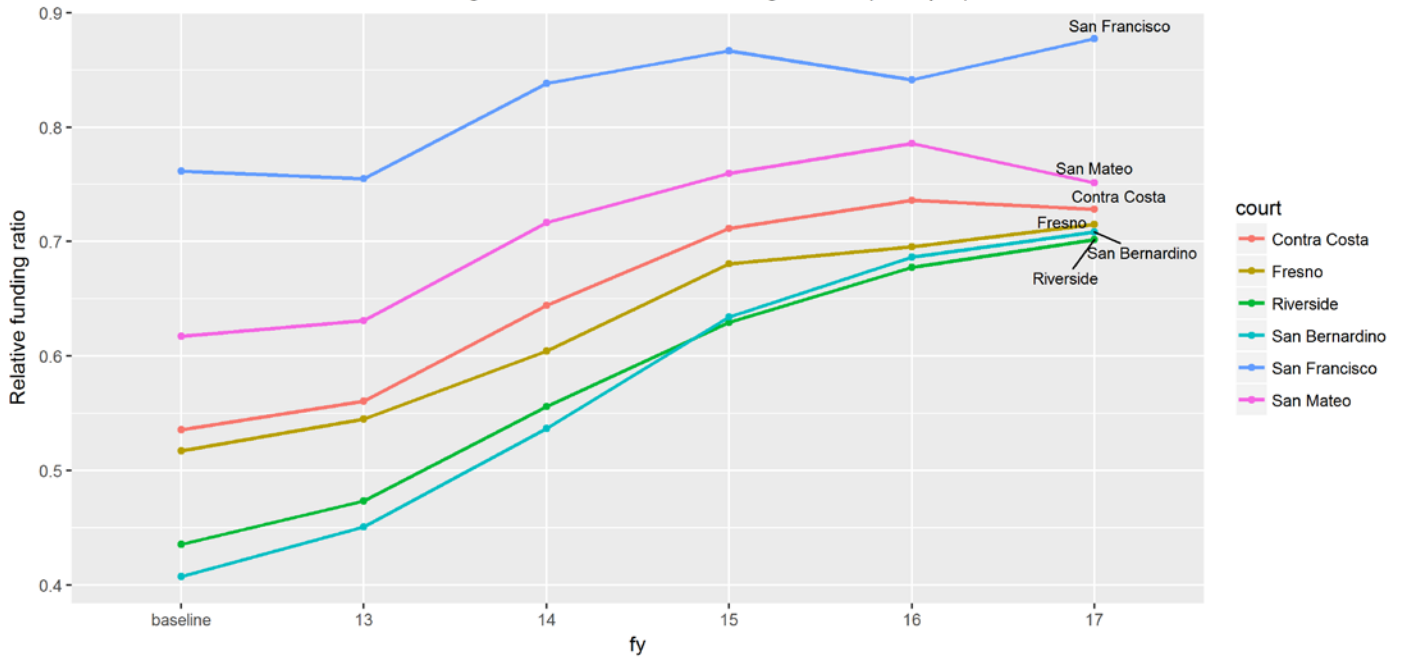
- We lack data to understand the net impact of WAFM on access to justice across the state

This analysis and findings were used as part of the basis for FMS to determine how best to proceed with any revisions or updates to WAFM for 2018-19 and beyond.

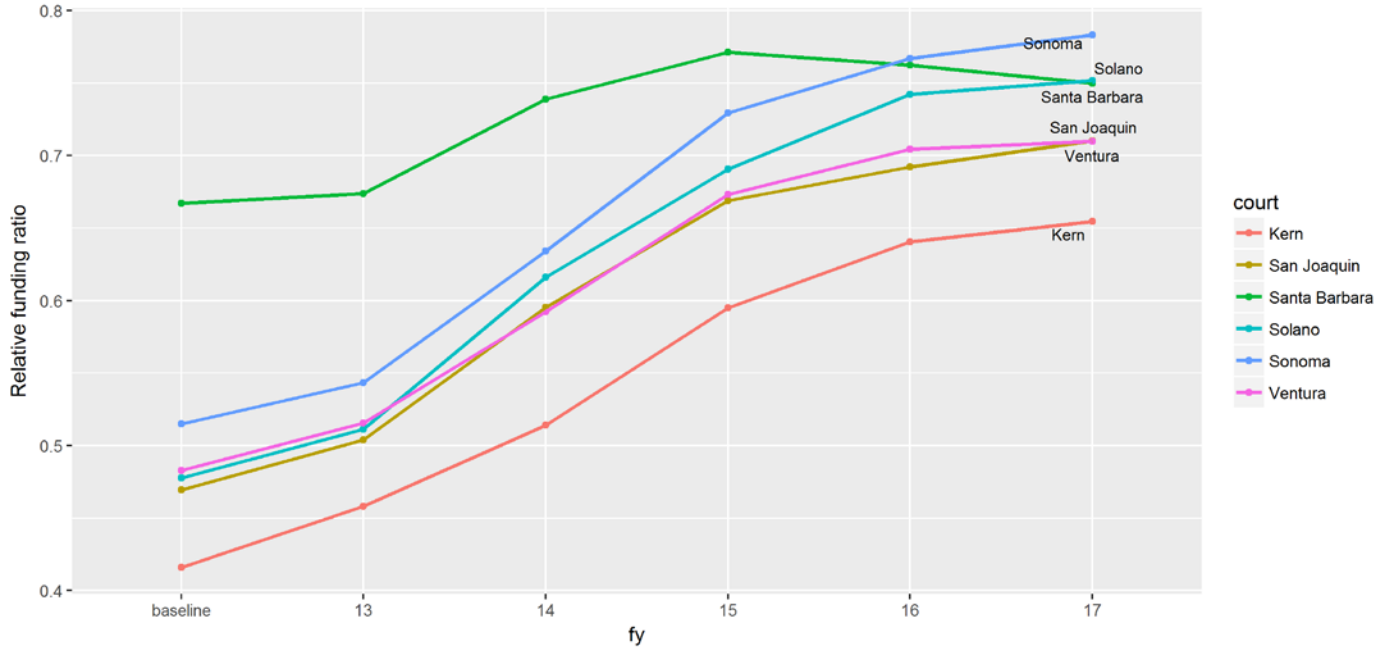
Relative funding ratios from baseline through FY17 (Group 10)



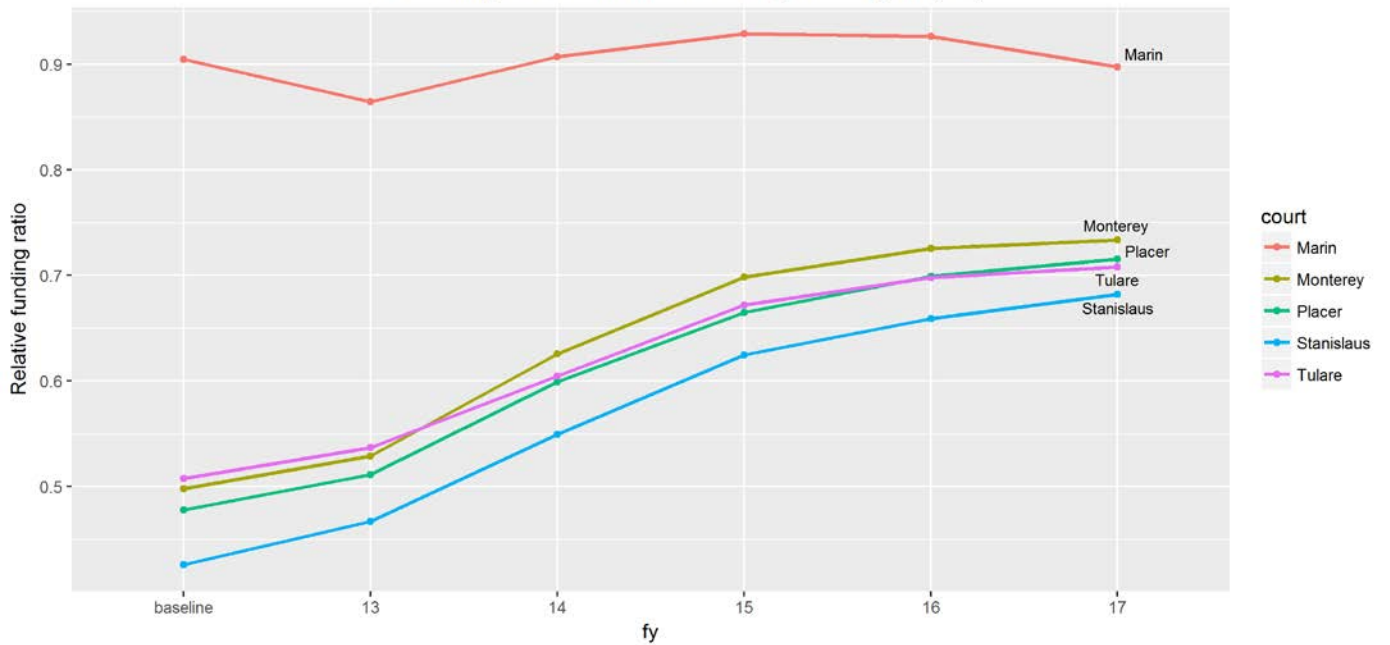
Relative funding ratios from baseline through FY17 (Group 9)



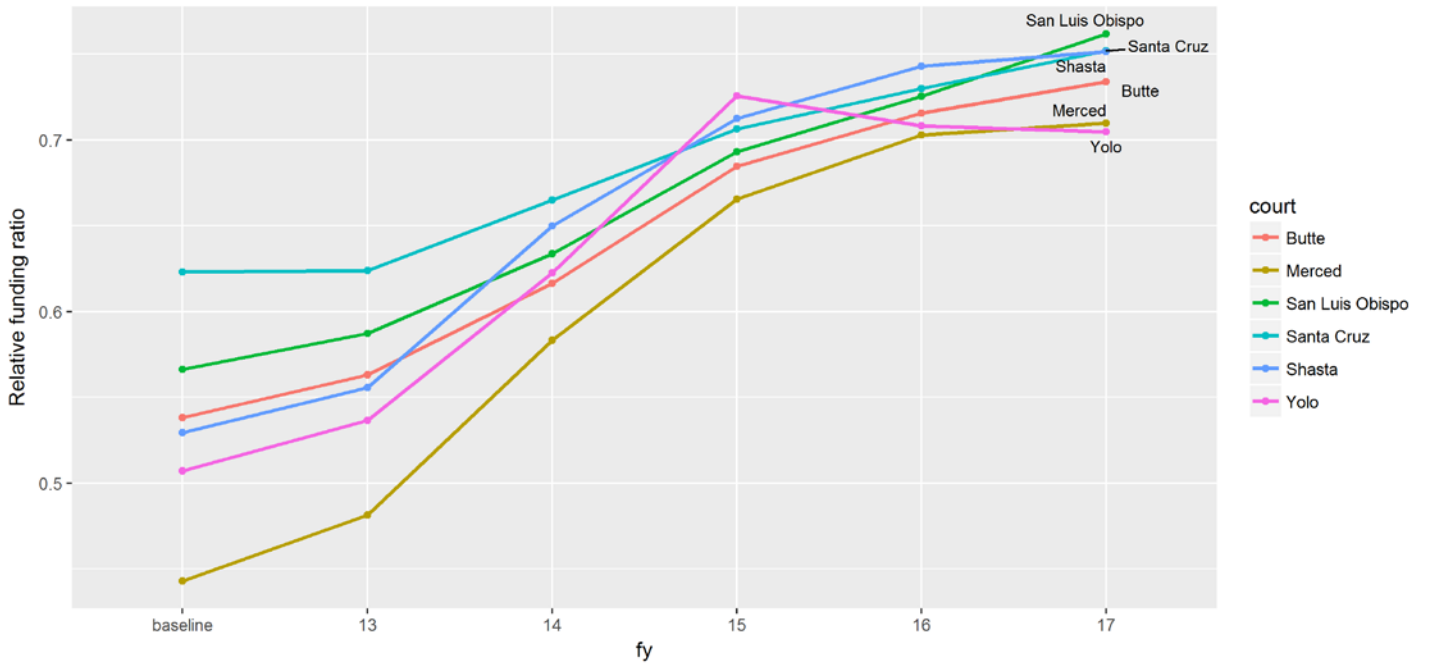
Relative funding ratios from baseline through FY17 (Group 8)



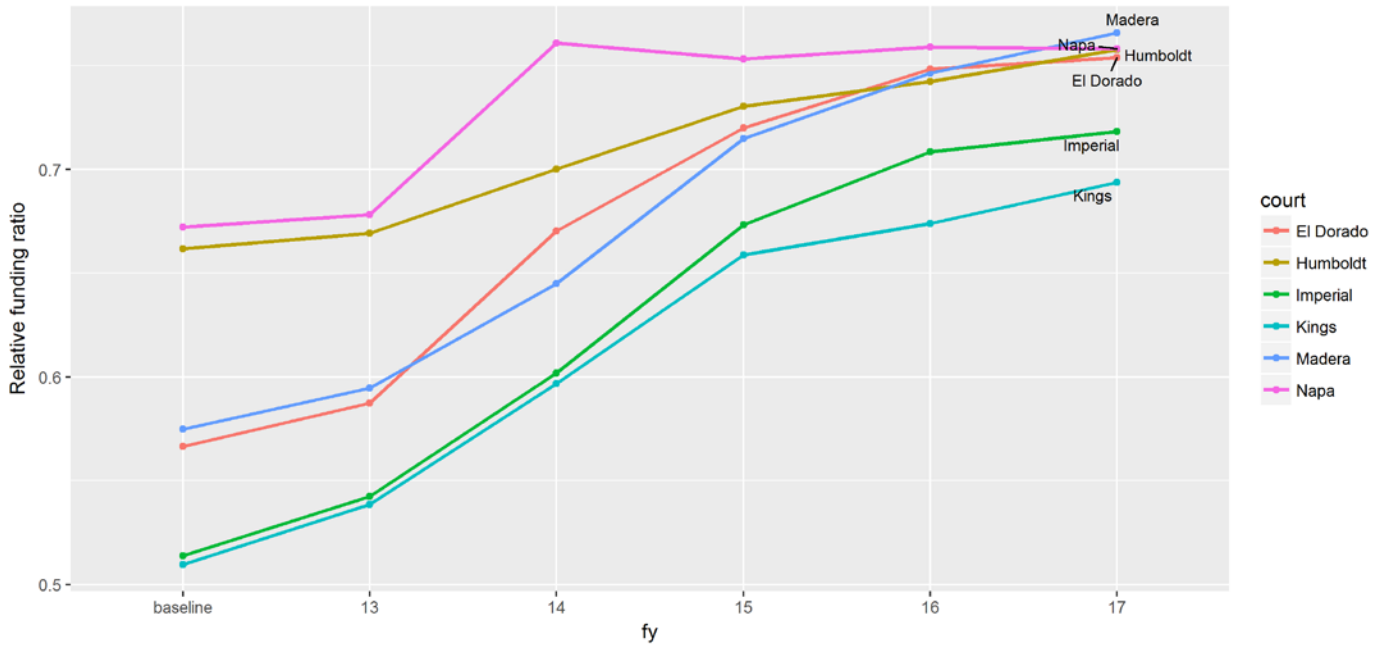
Relative funding ratios from baseline through FY17 (Group 7)



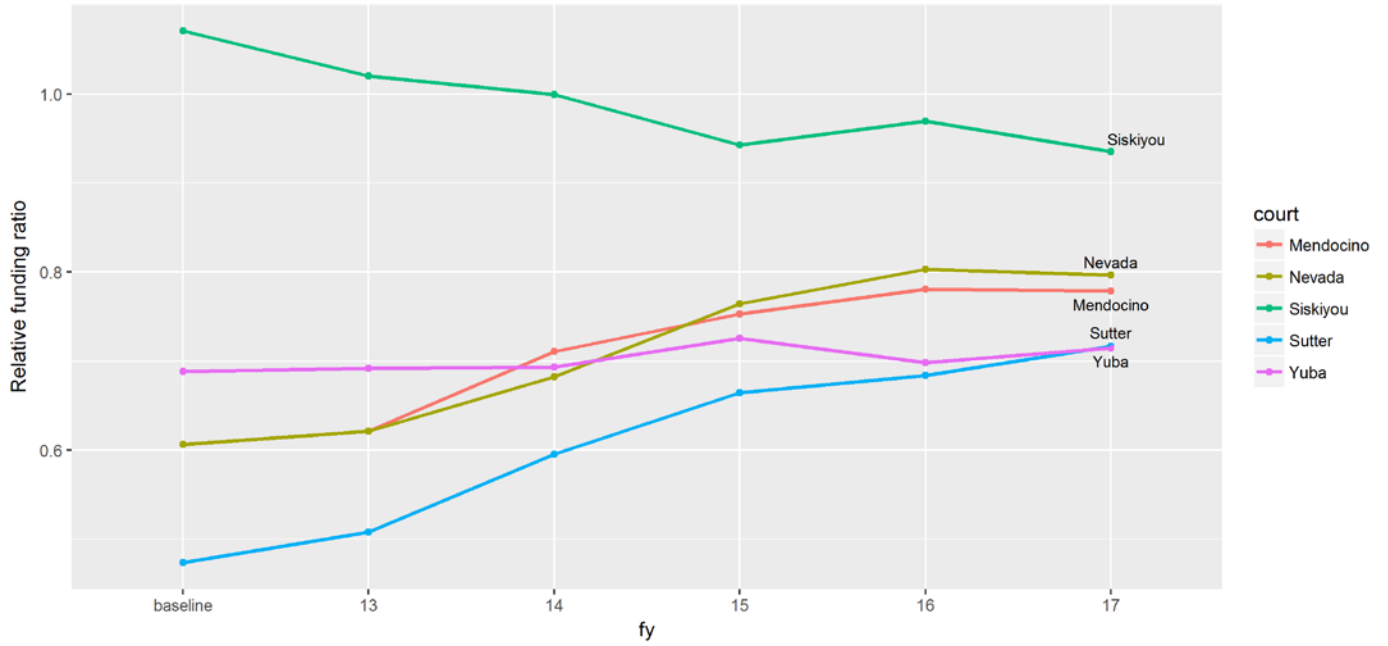
Relative funding ratios from baseline through FY17 (Group 6)



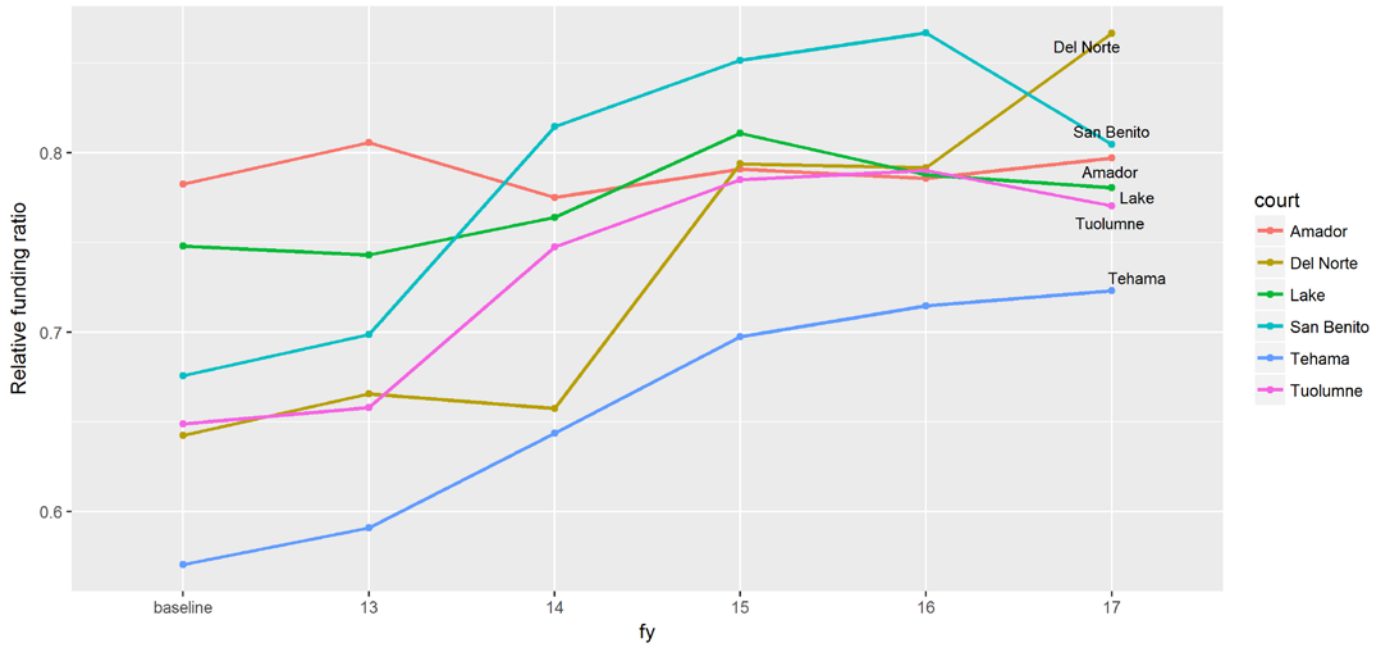
Relative funding ratios from baseline through FY17 (Group 5)

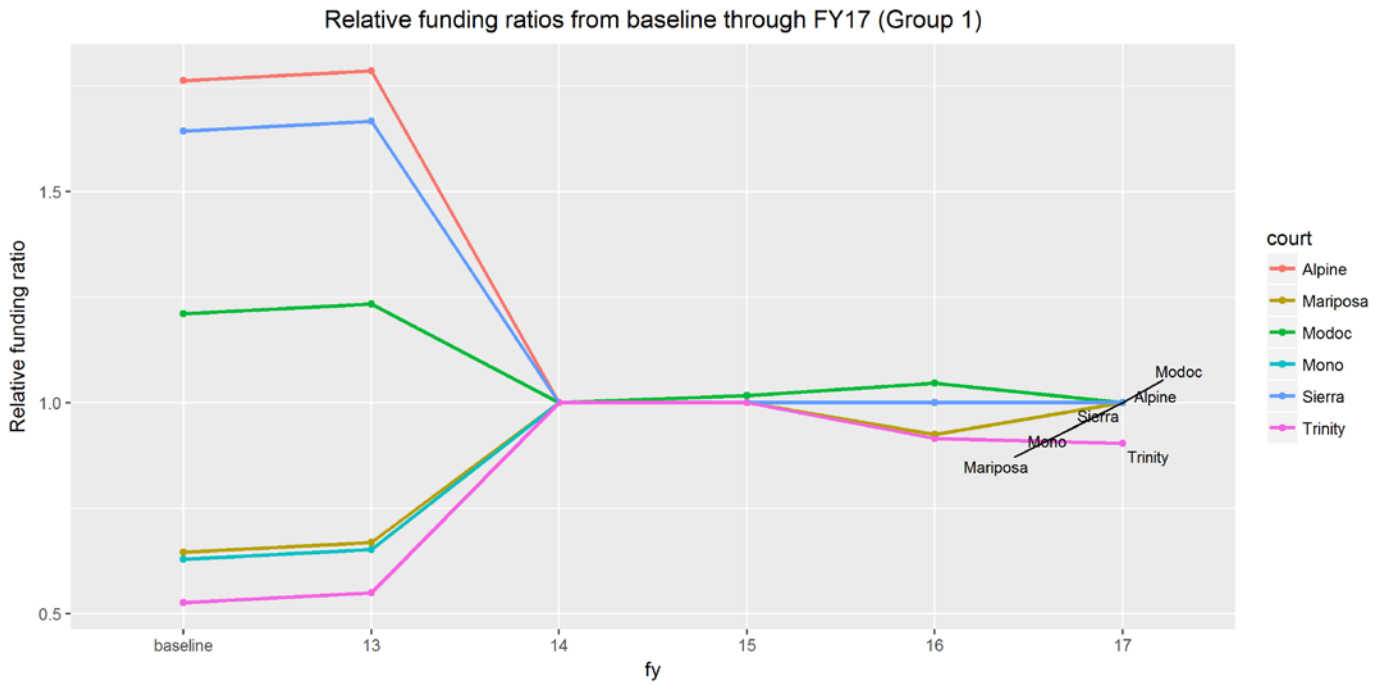
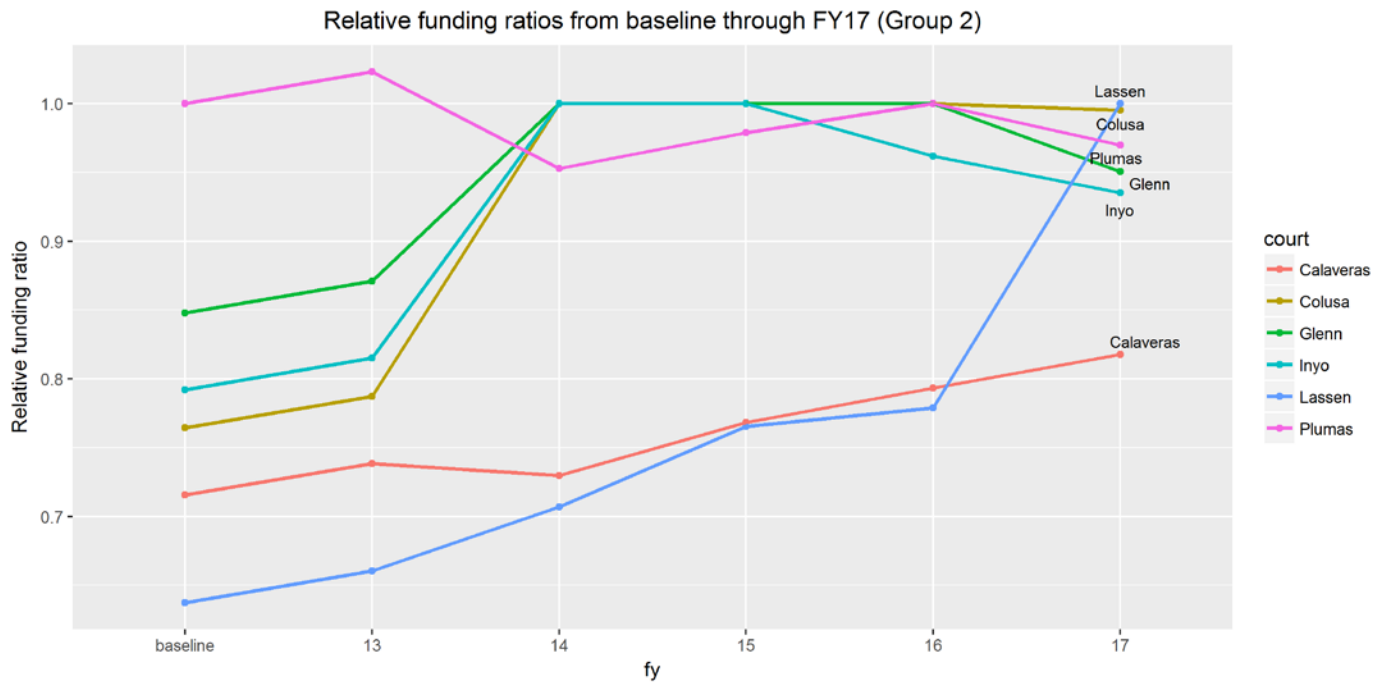


Relative funding ratios from baseline through FY17 (Group 4)



Relative funding ratios from baseline through FY17 (Group 3)





JUDICIAL COUNCIL OF CALIFORNIA  
BUDGET SERVICES  
Report to the Trial Court Budget Advisory Committee

(Action Item)

**Title:** Workload-Based Allocation and Funding Methodology for 2018-19 and Beyond  
**Date:** 12/4/2017  
**Contact:** Lucy Fogarty, Deputy Director, Budget Services  
415-865-7587 | [lucy.fogarty@jud.ca.gov](mailto:lucy.fogarty@jud.ca.gov)

---

**Issue**

The Funding Methodology Subcommittee was formed in November 2012 to address the need to remedy funding equities in the trial courts. 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 based on workload.

The Workload-Based Allocation and Funding Methodology (WAFM) was submitted to and approved by the Judicial Council on April 26, 2013 and became effective July 1, 2013. The council approved a five-year implementation schedule, incrementally shifting funds using an historical re-calculation each year, which concluded in 2017-18. New policy parameters are needed for WAFM effective 2018-19 and beyond in order to further the objectives of the Judicial Branch in reaching workload-based equitable funding.

**Background**

In order to provide adequate time for adjustment and adaptation regarding any policy changes to the funding methodology for the trial courts, the Funding Methodology Subcommittee worked towards a resolution that would allow for a policy decision by the Judicial Council in January 2018. In addition, council approval in January would provide Judicial Council staff the ability to notify courts of their anticipated 2018-19 base operations allocations in a timely manner. The subcommittee met on April 12, May 8, May 25, August 8-9, October 2, October 26, and November 14, 2017 to review WAFM and develop a recommendation to the Trial Court Budget Advisory Committee for trial court allocations beginning in 2018-19.

The subcommittee adopted objectives, principles, and measures as a basis for their deliberations:

**Objectives**

1. Reach equity of available funding based on workload.
2. Develop process to identify trial court funding needs based on workload and related factors.



JUDICIAL COUNCIL OF CALIFORNIA  
BUDGET SERVICES  
Report to the Trial Court Budget Advisory Committee

**Principles**

1. Minimize volatility, maximize stability and predictability to extent possible.
2. Committed to evaluating all submissions as submitted via the process (WAFM Adjustment Request Process).
3. Time for adjustment and adaptation.
4. Responsiveness to local circumstances.
5. Transparency and accountability.
6. Independent authority of the trial courts.
7. Simplification of reporting while maintaining transparency.

**Measures**

1. Parity of Funding.
2. Implementation of a data-driven funding methodology that supports branch-wide advocacy efforts for trial court funding.

The deliberations of the subcommittee over the eight months were extensive and, as each component of the model was considered, it was reviewed in light of the recognized benefits and concerns of the first five years of WAFM, and then the established objectives and principles. The subcommittee approached the review from a policy-based rather than a results-based perspective to ensure that the numbers were not driving the decision making. In addition, a structured review of the model on the last day of deliberations resulted in a comprehensive and cohesive proposal.

The subcommittee carefully reviewed all input regarding the model structure from the courts that was received in letter form, through the formal WAFM Adjustment Request Process, and via public comment at the subcommittee meetings (Attachments 2A – 2P). In addition, the co-chairs met with the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory committee to seek further input.

**Recommendations**

By a near unanimous vote, the recommendations below are presented by the Funding Methodology Subcommittee for consideration by the Trial Court Budget Advisory Committee. The recommendations represent a combined proposal such that the individual recommendations are inter-dependent, and are broken down into categories to assist with the discussion. In the event of a proposed change to a recommendation, the impact of the change on other recommendations should be considered.

JUDICIAL COUNCIL OF CALIFORNIA  
BUDGET SERVICES  
Report to the Trial Court Budget Advisory Committee

<b>A. Determining Need</b>	
1	Reaffirm the workload model, the Resource Assessment Study, as the basis for establishing funding need for the trial courts.
2	Report a workload need adjustment every fiscal year based on a three-year average of filings data, consistent with existing policy.
3	Establish a new statewide average funding ratio based on the workload need adjustment and new funding, if applicable.
4	Defer the review of the impact of civil assessments on the model to 2018-19.
5	Retain all existing small court adjustments.
6	Make no changes to the current policies regarding application of Bureau of Labor Statistics data, the Base Funding Floor, and the computation for benefits and retirement funding.
<b>B. Building Trial Court Allocations</b>	
1	Eliminate the historical base as established by the Judicial Council on April 26, 2013.
2	Define new money as any new ongoing allocation of general discretionary dollars to support cost of trial court workload, excluding funding for benefits and retirement increases.
3	Beginning in 2018-19 and annually thereafter, trial court beginning base allocations will be established using applicable prior year ending base allocations.
4	Retain the graduated funding floors until such time as cluster one courts reach 100% of funding need.
<b>No New Money</b>	
5	In fiscal years for which no new money is provided: <ul style="list-style-type: none"> <li>a. A band will be established that is 2% above and 2% below the statewide average.</li> <li>b. No allocation adjustment will occur for those courts within the band or cluster one courts.</li> <li>c. Funds will be reallocated from courts above the band to courts below the band every other fiscal year for which no new money is provided regardless of years of increase or decrease in between. The first year of no new money will provide time to adjust for a second year of no new money in which an allocation change will occur.</li> <li>d. Up to 1% of allocations for courts above the band will be reallocated to courts below the band to provide an increased allocation of up to 1% with the courts under the band being able to penetrate into the band if adequate funds are available.</li> <li>e. The size of the band identified in B3(a) will be subject to re-evaluation.</li> </ul>
<b>New Money</b>	
6	In fiscal years for which new money is provided: <ul style="list-style-type: none"> <li>a. Bring all cluster one courts up to at least 100% of funding need.</li> <li>b. Allocate up to 50% of remaining funding to courts under the statewide average based on WAFM. Allocated funds will bring courts up to but not over the statewide average.</li> <li>c. Allocate remaining funding to all courts based on WAFM.</li> <li>d. No court's allocation can exceed 100% of its need unless it is the result of a funding floor calculation.</li> </ul>

JUDICIAL COUNCIL OF CALIFORNIA  
 BUDGET SERVICES  
 Report to the Trial Court Budget Advisory Committee

	<b>Trial Court Trust Fund Reduction &amp; Non-Discretionary Funds</b>
7	An allocation reduction to the Trial Court Trust Fund will be considered and recommended in the fiscal year it occurred with special consideration for those courts below the statewide average funding ratio.
8	Ongoing and one-time funds designated for non-discretionary purposes will be addressed as needed.
<b>C. Adjustments</b>	
1	The committee reserves the right to return to the Judicial Council to propose changes to the model as needed.
2	Delegate authority to Judicial Council staff to make technical adjustments to the recommendations as necessary.

Existing Judicial Council policies that apply to WAFM, some of which are referenced in the recommendations, are provided in Attachment 2R.

**Attachments**

- Attachments 2A – 2P: Summary of WAFM Letters and Public Comments  
 Attachment 2R: Existing Judicial Council Policies: WAFM

## Summary of WAFM Letters and Public Comments

<b>WAFM Adjustment Request Process</b>		
Superior Court of California, County of Alameda	September 21, 2017	<a href="#">Attachment 2B</a>
Superior Court of California, County of Alameda	September 27, 2017	<a href="#">Attachment 2C</a>
<b>Written Letters and Public Comment</b>		
Small Court WAFM Methodology Review Group	March 22, 2017	<a href="#">Attachment 2D</a>
Superior Court of California, County of Lake	April 11, 2017	<a href="#">Attachment 2E</a>
Superior Court of California, County of Glenn	May 5, 2017	<a href="#">Attachment 2F</a>
Superior Court of California, County of Siskiyou	May 23, 2017	<a href="#">Attachment 2G</a>
Superior Court of California, County of Lake	May 24, 2017	<a href="#">Attachment 2H</a>
Superior Court of California, County of Riverside	September 19, 2017	<a href="#">Attachment 2I</a>
Superior Court of California, County of Alameda	September 23, 2017	<a href="#">Attachment 2J</a>
Superior Court of California, County of Lake	September 29, 2017	<a href="#">Attachment 2K</a>
Superior Court of California, County of San Bernardino	October 5, 2017	<a href="#">Attachment 2L</a>
Superior Court of California, County of Orange	October 16, 2017	<a href="#">Attachment 2M</a>
Superior Court of California, County of Siskiyou	October 23, 2017	<a href="#">Attachment 2N</a>
Superior Court of California, County of Alameda	October 24, 2017	<a href="#">Attachment 2O</a>
Superior Court of California, County of Orange	October 24, 2017	<a href="#">Attachment 2P</a>
<b>In-Person Public Comment</b>		
Hon. Morris Jacobson, Presiding Judge Superior Court of California, County of Alameda	April 12, 2017	
Mr. Chad Finke, Court Executive Officer Superior Court of California, County of Alameda	April 12, 2017	
Hon. Morris Jacobson, Presiding Judge Superior Court of California, County of Alameda	May 25, 2017 <sup>1</sup>	
Mr. Chad Finke, Court Executive Officer Superior Court of California, County of Alameda	May 25, 2017	
Hon. Wynne Carvill, Assistant Presiding Judge Superior Court of California, County of Alameda	October 2, 2017	
Mr. Chad Finke, Court Executive Officer Superior Court of California, County of Alameda	October 2, 2017	
Mr. David Yamasaki, Court Executive Officer Superior Court of California, County of Orange	October 26, 2017	

<sup>1</sup> This was an item on the Funding Methodology Subcommittee agenda rather than in-person public comment.



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**

**Executive Office**

**René C. Davidson Courthouse • 1225 Fallon Street, Oakland, CA 94612**

**Telephone: (510) 891-6012**

**MORRIS D. JACOBSON**  
*Presiding Judge*

**CHAD FINKE**  
*Executive Officer*

September 21, 2017

Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee, and Co-Chair, Funding Methodology Subcommittee

Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee

VIA E-MAIL

Dear Judge Conklin and Ms. Fleming,

This letter is intended to be a formal request by the Superior Court of Alameda County for adjustments to WAFM. This request is made pursuant to the revised process adopted by the Judicial Council of California on July 28, 2017. While the revised process contemplates the request being made on an application form to be developed by Judicial Council staff, we are not aware that any such form yet exists. As such, we are presenting our request in letter format and we trust that that will be acceptable.

In making this request, we are addressing the eight informational points set forth in the revised process adopted by the Judicial Council of California on July 28, 2017. Because that process appears to contemplate that requests will be limited to the addition of new WAFM "factors," some of the informational points are not directly applicable to our request. Nonetheless, we have done our best to respond to each informational point. And we are happy to provide any additional information as may be requested by the Judicial Council, the Trial Court Budget Advisory Committee, the Funding Methodology Subcommittee, or any other body.

**1. Description of how the factor is not currently accounted for in WAFM**

Our request is that WAFM be amended as follows:

- Eliminate all reference to, or use of, the "historic share" in calculating annual allocations to the trial courts.
- Adopt the trial courts' FY 17-18 allocations as their new respective "base" funding levels.
- Modify the WAFM formula such that, where the overall allocation to the trial courts for a fiscal year (not including one-time or specially designated funds such as dependency funding or

Hon. Jonathan B. Conklin and Ms. Rebecca Fleming  
 September 21, 2017  
 Page 2

innovation grant funding) is the same as the allocation for the prior fiscal year, then the courts' respective allocations likewise remain the same for the two years. In other words, make WAFM a "no cuts" model in flat budget years. To illustrate: If the FY 17-18 allocation to the trial courts is \$1.4B, and the allocation in FY 18-19 is also \$1.4B, then each court should, in FY 18-19, get the same allocation it received in FY 17-18.

- Modify the WAFM formula such that, in a year where the overall allocation to the trial courts for a fiscal year increases over the allocation for the prior fiscal year, each trial court's starting base budget allocation will be the same as in the prior fiscal year. Then, modify the formula such that a percentage of the increased overall allocation (which percentage shall be determined by FMS) is allocated only to the most severely underfunded courts. Lastly, modify the formula such that the remainder of the increased overall allocation is allocated to all courts, subject to criteria to be determined by FMS. To illustrate: If the trial courts overall receive \$100M more in FY 18-19 than in FY 17-18, then, e.g., \$50M of that new funding should go solely to the most underfunded courts, while the remaining \$50M should be distributed among all 58 courts.
- Modify the WAFM formula such that, in a year where the overall allocation to the trial courts for a fiscal year decreases over the allocation for the prior fiscal year, each trial court's starting base budget allocation will be reduced by a percentage equal to the value of the overall percentage reduction to the trial courts overall. To illustrate: If the trial courts overall receive 5% less funding via the State Budget in FY 18-19 than in FY 17-18, then each court's allocation in FY 18-19 should be reduced by 5%. Note that FMS would likely need to adopt a funding floor for the smallest courts in connection with this modification to ensure that they do not suffer reductions that effectively render them unable to function.

The "factors" embodied by the above-multi-part request are not currently accounted for in WAFM. That is, WAFM continues to rely on the "historic share" to some extent. Further, WAFM reallocates funding each year without regard to the overall level of funding to the trial courts respective to the prior fiscal year. And in years where funding to the trial courts overall is increased, it is still theoretically possible for a court not only to not share in the new funding, but to actually see a cut to its budget. Thus, our overall proposal represents an approach to funding allocation that is not currently accounted for under WAFM.

## **2. Identification and description of the basis for which the adjustment is requested**

This informational point does not appear to be applicable to our request.

## **3. Detailed analysis of why the adjustment is necessary**

While WAFM has resulted in a redistribution of currently available funding amongst the trial courts, it has done so at the cost of major disruptions to the operations of many of the "donor" courts, as well as a significant decrease in access to justice for the public served by those courts. The changes proposed in this request will make WAFM more transparent, stable, and predictable. This will, in turn, ensure that access to justice for the citizens of the "recipient" counties does not come at the cost of a reduction in

Hon. Jonathan B. Conklin and Ms. Rebecca Fleming  
September 21, 2017  
Page 3

access by citizens in the “donor” counties. We discuss the access implications further in connection with informational point 6 below.

As to transparency, both FMS and TCBAC have acknowledged, in public meetings, that WAFM in its current incarnation is difficult both to explain and understand. In particular, the calculations involved in determining the phase-in of the “historic share” over time make the WAFM formula complex to the point of opacity. Eliminating the historic share as proposed will make the formula much easier to explain and thus significantly more transparent, particularly to those outside of the branch.

As to stability and predictability, WAFM as it stands is flawed in a number of regards. First, WAFM is overly sensitive to changes in filing trends. By recalculating each court’s share on an annual basis, with reference to the immediate past three years of filings data, WAFM leads to unpredictable, sometimes extreme swings in funding “need” from year-to-year. This is not speculative; historical WAFM data demonstrate that there are a number of courts that have oscillated between “donor” and “recipient” status since the model’s inception, sometimes seeing year-to-year swings in excess of \$1M.

Exacerbating the issue, courts do not receive their WAFM allocation information until mid-June, just weeks before those allocations go into effect. Moreover, because WAFM is reliant on data from all 58 courts, there is no way for any single court to predict accurately whether it will in fact be a donor or recipient, nor to what extent. Thus, a court may find itself approaching July 1 expecting to receive an increase in its allocation over the prior year, only to learn at the last minute that it will instead be facing a reduction, perhaps even at a catastrophic level. Conversely, a court may find itself an unexpected recipient, without any clear, fiscally prudent plan for how to spend its excess funding.

These sorts of last-minute, unpredictable, and often dramatic changes in funding make it nearly impossible for any court other than the most under-resourced (which can at least assume that they will be “recipients” to some extent, and thus plan accordingly) to engage in sound budget management, including entering into multi-year contracts (which often provide fiscal savings over contracts of shorter duration) or agreeing to multi-year COLAs for staff (which then causes the court and the JCC to expend resources annually on wage reopeners).

Our proposal cures these issues. As stated above, the fundamental principle underlying the proposal is stated simply as “no more cuts,” i.e., no court will suffer any cut in its allocation over the prior year unless the trial courts as a whole are cut. That fact—whether the trial courts overall are likely to see a budget reduction—is generally telegraphed by the Governor in January. Thus, under our proposal all courts would know approximately 6 months in advance if there was a need to prepare for a budget reduction. Otherwise, each court would know that its budget for the upcoming year would be at least the same as the current year, which would begin to restore our ability to engage in long-range planning and expenditure plans.

As an added benefit, adopting a “no cuts unless all are cut” model would eliminate the current unfortunate situation in which courts are divided by WAFM into two warring camps. Because WAFM is, in essence, a zero-sum game; some advance only at the expense of others. By adhering to a model that is, at its heart, divisive, the branch has weakened the ability of the trial courts to harmonize our message

Hon. Jonathan B. Conklin and Ms. Rebecca Fleming  
 September 21, 2017  
 Page 4

to the other branches. If, however, our proposal is accepted, it will instantly align the trial courts around a single goal: vigorous advocacy for much-needed new funding, to be disproportionately allocated to those courts most in need.

**4. Description of whether the unaccounted for factor is unique to the applicant court or has broader applications**

This request has a statewide application, and would affect all 58 trial courts.

**5. Detailed description of staffing needs and/or costs required to support the factor that is unaccounted for by WAFM**

In our view, the elimination of the “historic share” and the calculations surrounding its application will greatly reduce the workload on Judicial Council staff tasked with implementing WAFM. That workload reduction should easily offset any one-time workload involved in creating the new calculations necessary to implement the recommendations above.

**6. Description of the consequence to the public and access to justice without the funding**

As noted above, one presumably unintended consequence of WAFM in its current form has been that it has significantly reduced access to justice for the citizens in some counties, particularly those in which the trial courts have been repeated “donors.” Among other things, the public in perennial “donor” counties have seen the following:

- Reductions in clerk’s office hours;
- Court closures on days that would otherwise be business days, to accommodate voluntary and mandatory furloughs;
- Longer lines and increases in various response times as a result of decreased staffing levels; and
- A loss of certain grant-funded programs due to unavailability of sufficient matching funds at the local level.

These access restrictions are particularly harmful to our most vulnerable populations, e.g., the indigent, the elderly, and others whose life situations already limit their options in terms of available time for traveling to, and interacting with, the court.

We understand and acknowledge that many of these outcomes may have been present in the most severely underfunded courts for years. And yet we cannot accept that it is now “the turn” of courts that were historically less underfunded to have to suffer those same access reductions. That position is, in our view, simply a restatement of the principal that somehow “two wrongs DO make a right.” In our view, the solution that is best for the public as a whole across the state is to adopt a “hold harmless” model like we have proposed, ensuring that those with the most dire need grow the fastest while at the same time not forcing some citizens to endure increased access restrictions to mitigate historical access restrictions faced by others.



Hon. Jonathan B. Conklin and Ms. Rebecca Fleming  
 September 21, 2017  
 Page 5

To be clear, however, without the changes we have proposed—i.e., if WAFM continues as it has—there is no doubt that we will continue to see access eroding in the “donor” counties. Clerk’s hours will continue to be reduced, services will be curtailed, staff reductions will continue, and the public will suffer for it.

**7. Description of the consequences to the requesting court of not receiving the funding**

As a court that has been a major “donor” for most of the lifespan of WAFM, it is tempting to say that, if our request is not granted, Alameda will suffer the additional reductions in staff, services, and access described above. And yet, because of the unpredictability and volatility of WAFM, there is no way, in September 2017, to predict with any certainty what the specific fiscal consequences will be for our court if our proposal is rejected. It may be that the filings of the other 57 courts will decline more than ours, and we will reap a windfall as a “recipient” next year. Or the converse may happen and we may take a significant cut and have to revive the layoff plan that we had prepared to put into place in FY 17-18.


The fact is that we don’t know, and in fact no court other than the most underfunded can know either. Thus, if our proposal or some other “no more cuts” proposal is not approved, then we will all do our best to manage the money we received this year, without ability to plan confidently for next year. We will continue to pass up multi-year contracts that offer good rates, for fear of not being able to afford them in the out years. We will continue to try to get our labor unions to agree to meager COLAs with annual reopeners, in hopes of fending off strikes. We will continue to assure the public that we regret the loss of services, and that we would like to restore them if only we could predict accurately whether we can truly afford to hire more staff.

If, however, our proposal were adopted, we could in fact begin to address these issues. We would have assurances as to at least our minimum funding level for next year, which would allow for some planning to begin.

**8. Any additional information requested by the JCC, et al., deemed necessary to fully evaluate the request**

We are happy to provide any additional information that may be needed, and we thank FMS and TCBC in advance for their consideration of our request.

Yours Very Truly,



Hon. Morris Jacobson, Presiding Judge

Hon. Wynne Carvill, Assistant Presiding Judge and Presiding Judge Elect

Chad Finke, Executive Officer

cc: Martin Hoshino, Administrative Director of the Courts, Judicial Council of California  
 Zlatko Theodorovic, Director and Chief Financial Officer, Judicial Council of California

**From:** "Carvill, Judge Wynne, Superior Court" <[wcarvill@alameda.courts.ca.gov](mailto:wcarvill@alameda.courts.ca.gov)>  
**Date:** September 23, 2017 at 2:45:56 PM PDT  
**To:** "Conklin, Jon B." <[jconklin@fresno.courts.ca.gov](mailto:jconklin@fresno.courts.ca.gov)>  
**Cc:** "Jacobson, Judge Morris, Superior Court" <[mjacobson@alameda.courts.ca.gov](mailto:mjacobson@alameda.courts.ca.gov)>, "Finke, Chad, Superior Court" <[cfinke@alameda.courts.ca.gov](mailto: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

## Small Court WAFM Methodology Review Group

March 22, 2017

Honorable Tani G. Cantil-Sakauye  
Chief Justice of the Supreme Court  
Martin Hoshino  
Administrative Director  
Judicial Council of California  
455 Golden Gate Avenue  
San Francisco, CA 94102

Dear Chief Justice and Martin Hoshino:

The undersigned Presiding Judges, Assistant Presiding Judges and Court Executive Officers strongly urge the Judicial Council to direct and commission an evaluation of the Workload Allocation Funding Model (WAFM), before the end of its five-year implementation plan. WAFM was approved in 2013, to be implemented gradually over a five-year transition period. Because of its various unintended consequences, set forth in part below, WAFM needs refinement and should not be used for trial court funding allocations in its current form beyond that five-year term. Among other things, the current WAFM model has adversely impacted the smaller and rural trial courts. Such a disparate system was never intended by the 1988 Constitutional Amendment, which provided for a unified court system, or by the companion law known as the Trial Court Funding Act, which established a requirement for equitable statewide funding. Under these reform measures, old historical inequities were to be eliminated, and replaced with a statewide formula that would fairly fund trial courts in all 58 counties, thus maintaining more equal access to, and quality of, justice throughout the state.

### *Background*

Some background lends perspective to why WAFM needs further review and refinement.

First, WAFM was adopted in a short time frame and was never completed. WAFM was born of an effort to respond to Governor Brown's (and the Department of Finance's) insistence that the judicial branch take immediate steps to correct the historical inequities of trial court funding allocations that persisted. Because it was clear to the leadership in the judicial branch that the funding swept from branch reserves, and cuts to branch funding in the state budget, would not be restored unless the branch leadership took a significant step to correct the historical funding methods that had persisted for ten years after the Trial Court Funding Act was adopted (Gov. Code §§ 77001, 77200, et seq.), WAFM was developed. This work was managed primarily through Judicial Council staff, working with the Trial Court Budget Working Group (now Advisory Committee) and various subcommittees. The rush to prepare

an allocation formula was absolutely necessary, but in hindsight, and even at the time (cf. numerous "parking lot issues" that remain unresolved), the need for further refinement is obvious.

Second, WAFM is based primarily on the Resource Allocation Study (RAS), a model using JBSIS data that attempts to determine each court's workload, based on number of filings annually, as apportioned based on weighted case types within that number of filings. The RAS helps to focus, but does not fully identify needs of each court. It does not recognize costs that vary widely county-by-county, such as standard or cost of living differences, the number of judges, geographical challenges, necessary security, economies of scale and a limited qualified workforce.

Third, WAFM includes a multiplier that is tied to labor costs reported in the Bureau of Labor Statistics database (BLS factor) for each county. The effect of using the BLS as a key variable is that an individual court's funding becomes tied to the local economy, which necessarily reflects the level of wealth or poverty within each county. The result is, a poor county's court stays poor, and rich county's court stays rich.<sup>1</sup> This is aggravated by the fact that in wealthier counties, high value labor earns more than the courts pay, so that the BLS ratio is favorable and these courts receive more money through WAFM. In poor counties, by contrast, the courts are often the highest paying employers, meaning that the BLS ratio is unfavorable and funding for their labor costs is restricted.

Fourth, at the time WAFM was implemented, the smallest 15, the two-judge courts, were exempted for the first year because the committee that developed it recognized even then how drastic the impact of the methodology would be on these courts. It was decided that if WAFM were to be implemented these courts would need to receive a basic level of funding apart from workload measures, representing the "floor" cost of opening the doors and being available to the public. This floor may exceed the basic identified workload need in some cases; in that situation, the excess rolls over and the resulting excess is subtracted from the floor allocation in the following year. But for those courts whose funding need under WAFM exceeds the floor amount, WAFM alone becomes the basis for funding. This has resulted in those smaller courts having reduced funding (or losing out on new funding) in the years since WAFM has been in place. So, another factor, "less than 50 FTE," was added to the WAFM, together with the floor, to mitigate the disparate impact of WAFM on the smallest 18 trial courts.

<sup>1</sup> Exhibit A, attached, is an excerpt from the 2015 Court Statistics Report and Trial Court Allocations for 2015-2016. Exhibit B, from the same source, shows that the Cluster 4 courts having 59 percent of the state's workload receive 64 percent of the funding allocation. As indicated in the statistical data the <50FTE courts have 1.9 percent workload and 1.6 of funding allocation.

Finally, all new money<sup>2</sup> is being distributed using WAFM, as a means of transitioning to this workload allocation model. Then, for each new dollar received, a dollar of historical base funding is then reallocated using WAFM. The effect of this on the smallest 18 trial courts is that they do not receive any portion of new funding. Moreover, the small donor courts, actually lose money through the reallocation of the historical base funding. This "floor deduction," coupled with the adverse BLS ratio, doubly undercuts the smallest counties. And, for some courts, the minimum floor has become a ceiling.

It is time for a pause to reflect. Based on the foregoing background and perspective of the smaller courts, the undersigned respectfully request the Judicial Council to stop further implementation of WAFM until the small courts funding requirements can be more accurately identified and predicted. These courts do the same job as courts in the larger metropolitan areas: deciding facts and resolving disputes, handling trials and rendering judgments and sentences, directing responsibility and care for lost children and wayward adults, assigning programs to meet the needs of the homeless, mentally ill and addicts, and so on. These courts must interpret and uphold the same laws, know the same rules and follow the same procedures in every case, if the promise of evenhanded justice is to be real. This holds regardless whether the court is rich or poor, urban or rural. Funding must enable this effort, not impair it.

The BLS factor, in particular, should be re-examined. This assigns a value to the personnel in a court which is extrapolated from the pool of similar jobs in the community. When there are no similar jobs, the extrapolation is invalid and obviously inaccurate. Further, the BLS alone does not consider the added costs of recruiting, encouraging longevity, training and cross-training, which are absolutely essential in a community lacking a wide pool of qualified replacement employees to draw from. Trial court employees in smaller courts have to be trained to handle any and all types of cases and court duties. Once trained, the trial court then struggles to maintain these employees, often losing them to the higher paying positions with state or federal government or to neighboring courts or employers in wealthier communities. While it may eventually be possible to develop a mathematical factor that would represent these hidden or indirect costs and factors applicable to the courts in those counties facing such challenges, as a variation of the BLS or substitute factor, the time and work required to do so make it unlikely that this could be accomplished within the transition period for WAFM. Instead, it may be preferable to use a neutral [1.0] factor for BLS in the case of these counties. In any case, we strongly believe this set of issues should be studied further.

Looking forward, we believe that a critical evaluation of WAFM is even more compelling given the effort to utilize WAFM methodology as the basis for other trial court funding allocations, such as dependency counsel, AB 1058 grant allocations, and so on. An incomplete methodology should

<sup>2</sup> That is, any funding that has been "restored" or "reinvested" in the branch not assigned to a specific purpose by the Legislature.

not become the prototype for all funding allocations. However, we also acknowledge that this critique of WAFM is distinct from the Judicial Council's call for full and equitable funding of the entire judicial branch.

In conclusion, the judicial branch as a whole must continue to seek reinvestment in the branch as a whole. But it must also strive to fund every trial court fairly, insuring equal access to justice, and ending perpetuation of the historically inequitable funding flaws of the past. Our branch must do more to assist the individual trial courts in funding their needs appropriately, consonant with the needs of the community as well as statewide standards. It must do its part to carry out the express intention of the Legislature in the Trial Court Funding Act, to provide "uniform standards and procedures, economies of scale and . . . improve access to justice for the citizens of the State of California . . . [while] giv[ing] strong preference to the need for local flexibility in the management of court financial affairs." (Lockyer-Isenberg Trial Court Funding Act of 1997 (ch. 850, Stats. 1997) §§ 2(b), (c), and (3)(1).)

As always, we stand ready to assist the Judicial Council in this critical evaluation.

Very truly yours,

Elizabeth W. Johnson, PJ  
Michael B. Harper, APJ  
Staci Holliday, CEO  
Trinity Superior Court

William J. Davis, PJ  
Laura Masunaga, APJ  
Renee McCanna Crane, CEO  
Siskiyou Superior Court

Janet Hilde, PJ  
Ira Kaufman, APJ  
Deborah Norrie, CEO  
Plumas Superior Court

Michele Verderosa, PJ  
Andi Barone, CEO  
Lassen Superior Court

Andrew S. Blum, PJ  
Michael Lunas, APJ  
Krista LaVier, CEO  
Lake Superior Court

William H. Follett, PJ  
D. Darren McElfresh, APJ  
Sandra Linderman, CEO  
Del Norte Superior Court

F. Dana Walton, PJ  
Mariposa Superior Court

Francis W. Barclay, PJ  
David A. Mason, APJ  
Ronda Gysin  
Modoc Superior Court

Donald Cole Byrd, PJ  
Peter Twede, APJ  
Kevin Harrigan, CEO  
Glenn Superior Court

Dean T. Stout, PJ  
Pamela Foster, CEO  
Inyo Superior Court

Steve Hermanson, PJ  
Rob Klotz, CEO  
Amador Superior Court

Charles Ervin, PJ  
Yvette Durant, APJ  
Lee Kirby, CEO  
Sierra Superior Court

Mark G. Magit, PJ  
Stan Eller, APJ  
Hector Gonzalez, CEO  
Mono Superior Court

Jeffrey A. Thompson, PJ  
Colusa Superior Court

Cc: Chief of Staff Jody Patel



# Superior Court of California

COUNTY OF LAKE  
255 NORTH FORBES STREET  
LAKEPORT, CALIFORNIA 95453

STEPHEN O. HEDSTROM  
SUPERIOR COURT JUDGE

(707) 263-2374 EXT 2231  
FAX (707) 262-1327

April 11, 2017

Trial Court Budget Advisory Committee

Re: Item 4 Recommendation of the Small Court Dependency Workload Working Group Methodology

Dear Committee Members:

We are writing to express our strong support for the recommendations made by the Small Court Dependency Workload Working Group. We ask that you approve these recommendations and submit to the Judicial Council for final approval.

If these recommendations are not approved, Lake's dependency counsel funding will be reduced by a staggering 60%. At this reduced funding, it will be very difficult to retain the experienced attorneys we have in our juvenile court today. As a small rural court, it is already difficult to recruit and retain experienced, qualified attorneys. This problem is exacerbated because dependency attorneys funded at this reduced level will need to secure other sources of income that will reduce their dependency caseload attention. In addition, it is not worth an attorney's time to maintain training and keep current in complex dependency law for a caseload that provides a very limited portion of their income. If we are able to recruit any attorneys at this significantly reduced rate, it is likely that they will be less experienced and capable.

The recommendations before you today will prevent these devastating consequences in Lake County and many other small courts statewide at a minimal statewide cost.

Thank you for your time.

Sincerely,

Stephen O. Hedstrom  
Presiding Juvenile Judge

Krista LeVier  
Court Executive Officer





# Superior Court of California, County of Glenn

Kevin Harrigan  
Court Executive Officer • Jury Commissioner

May 5, 2017

Trial Court Budget Advisory Committee  
Funding Methodology Subcommittee

Re: Item 3-Impact of Adjusting Bureau of Labor Statistic (BLS) on WAFM calculations

Dear Committee Members,

Thank you for your interest and time spent to review the impact of the BLS factor on small courts in California. With a BLS factor of .68, this topic is of particular interest to Glenn Superior Court in the pursuit of fair and adequate funding.

Similar to public comments made by Lake Superior Court in an April 11, 2017 letter, we too compete with neighboring courts to recruit and retain competent staff. In fact, over the course of several years now, our labor contract necessitates that consideration be given to wages paid to court employees in the seven surrounding counties of Butte, Colusa, Shasta, Sutter, Tehama, Yolo, and Yuba. The average BLS of these counties is .92. When just Colusa County with a BLS of .72 is removed from this calculation, the average BLS for these counties is .96.

Please accept this as both a letter of gratitude for your work on this topic as well as strong support for an increase in the minimum BLS factor applied to small courts when calculating WAFM need.

Thank you for the opportunity to comment and for your consideration.

Sincerely,

Kevin Harrigan



**Superior Court of California**  
**County of Siskiyou**  
311 Fourth St., Rm. 206,  
Yreka, CA 96097

May 23, 2017

Trial Court Budget Advisory Committee  
Funding Methodology Subcommittee  
May 25, 2017

Re: Items 1 & 2

I had previously submitted a written comment for the meeting on May 8, 2017, but apparently it did not reach the Sub-Committee for that meeting. Therefore, I am sending another written comment for this Funding Methodology Sub-Committee Meeting set for May 25, 2017.

First and foremost, Siskiyou appreciates the work efforts of this committee. It is pretty clear however, that there are further steps to go in refining WAFM, to avert what are cumulating unintended consequences which appear to be disparate to smaller courts. Unaddressed, some of these unintended consequences will create or have created regression for courts with less than a 1 BLS and will eventually compromise access to justice and put us on a course from which growth or recovery is unlikely.

The different scenarios provided to this committee for consideration at its' May 8, 2017 meeting were prompted by a letter that was sent to the Chief Justice, Martin Hoshino, and Jody Patel from the smaller/rural courts. The intention of that letter was to emphasize some of the parking lot issues that have been dormant since implementation of WAFM and for this committee as well as the full Trial Court Budget Advisory Committee to seriously consider refining WAFM going forward.

Sincerely,

*Reneé McCanna Crane*

Reneé McCanna Crane  
Court Executive Officer



Superior Court  
State of California  
County of Lake  
255 N. Forbes Street  
Lakeport, California 95453  
707-263-2374

ANDREW S. BLUM

\_\_\_\_\_  
PRESIDING JUDGE

\_\_\_\_\_  
KRISTA D. LeVIER

\_\_\_\_\_  
COURT EXECUTIVE/CLERK  
JURY COMMISSIONER

May 24, 2017

Funding Methodology SubCommittee  
Hon. Jonathan B. Conklin, Co-Chair  
Rebecca Fleming, Co-Chair

Re: Item 2 Bureau of Labor Statistics (BLS) on WAFM Calculations

Dear Co-Chairs and Committee Members:

It is unclear based on the posted materials why this topic is on the Funding Methodology Subcommittee(FMS) agenda again instead of on the full Trial Court Budget Advisory Committee Agenda(TCBAC). The only indication is found in the minutes from the May 8, 2017 FMS meeting, there is a staff note that reads action was taken “based on an understanding that such action was part of the 2016-2017 work plan.” Perhaps there is some concern that the action was not within the scope of the 2016-2017 work plan? The idea to adjust the BLS factor was raised in discussions related to adjustments to the funding floor calculation, which is listed on the FMS 2016/2017 work plan. Additionally, the TCBAC 2017 Annual Agenda states that “review and refinement” of WAFM is the purpose of the Funding Methodology Sub-committee.

I urge the Funding Methodology Subcommittee to confirm the unanimous action taken by your committee on May 8, 2017 to implement a minimum BLS factor of .9 effective Fiscal Year 2017/18, with additional study as to the regional BLS impacts.

I will reiterate here in an effort to be thorough, that the impact of the current BLS factor for a small, rural court like Lake is extremely detrimental. Using the BLS factor assumes that the court is competing with the local public sector for employees. That is not accurate. In my 12+ years of employment with the court, I do not recall a single instance when the court has lost an employee to the County of Lake (the largest public employer in the County). We do, however; often lose employees to

neighboring courts such as Sonoma. Due to the extremely low BLS factor in Lake County (.75 in FY16/17), we are unable to compete with neighboring courts. Our employees can drive just over an hour to neighboring Sonoma (BLS of 1.13) or Napa (BLS of 1.22) and earn significantly more. We are a training ground for nearby courts who can offer more lucrative pay and benefits. The WAFM already recognizes that the labor pool can be something other than the local government, i.e. in counties where the competing labor pool is state government an adjustment is made accordingly.

The need for the model to recognize and account for a more broad comparable labor pool by comparing salaries to other trial courts in a region was recognized when the WAFM model was initially implemented in 2013 (see materials for JCC Meeting April 26, 2013 <http://www.courts.ca.gov/documents/jc-20130426-itemP-presentation.pdf>). However, the issue has not been addressed to date.

Your action is consistent with the Judicial Council's April 2013 direction, the Annual TCBAC Agenda, and the FMS work plan. These technical adjustments improve the accuracy/validity of the model, are exactly what was envisioned by the Judicial Council.

Sincerely,



Krista LeVier  
Court Executive Officer

Attachment: Previous public comment letter submitted to April 12<sup>th</sup> and May 8<sup>th</sup> meetings.



*Superior Court*  
 State of California  
 County of Lake  
 255 N. Forbes Street  
 Lakeport, California 95453  
 707-263-2374

ANDREW S. BLUM

—  
 PRESIDING JUDGE

—  
 KRISTA D. LeVIER

—  
 COURT EXECUTIVE/CLERK  
 JURY COMMISSIONER

April 11, 2017

Trial Court Budget Advisory Committee  
 Funding Methodology Subcommittee

Re: Item 4 Impact of Bureau of Labor Statistics (BLS) on Small Courts

Dear Committee Members:

First, thank you for taking the time to review the impact of the BLS factor on small courts. The impact for a small, rural court like Lake is extremely detrimental. Using the BLS factor assumes that the court is competing with local public sector employers for employees. That is not accurate. In my 12+ years of employment with the court, I do not recall a single instance when the court has lost an employee to the County of Lake (the largest public employer in the County). Although, we often lose employees to neighboring courts such as Sonoma. Due to the extremely low BLS factor in Lake County (.75 in FY16/17), we are unable to compete with neighboring courts. Our employees can drive just over an hour to neighboring Sonoma (BLS of 1.13) or Napa (BLS of 1.22) and earn significantly more. We are a training ground for nearby courts who can offer more lucrative pay and benefits. The WAFM already recognizes that the labor pool can be something other than the local government, i.e. in counties where the competing labor pool is state government an adjustment is made accordingly.

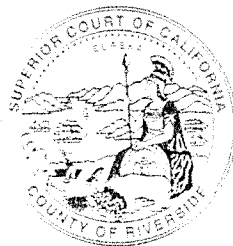
The need for the model to recognize and account for a more broad comparable labor pool by comparing salaries to other trial courts in a region was recognized when the WAFM model was initially implemented in 2013 (see materials for JCC Meeting April 26, 2013). However, the issue has not been addressed to date. I recognize the complexities of attempting to regionalize the BLS factor when appropriate; therefore, I ask that your committee recommend to the full Trial Court Budget Advisory Committee a **minimum BLS factor for all courts**. That minimum BLS factor could be .9, .95 or 1.0. I urge you to take the steps necessary to make this adjustment for the FY17/18 WAFM allocations.

One last note, the materials show an option of a minimum BLS factor for courts with less than 50 full-time equivalent positions. I have not seen any data to support this as a logical breaking point. All of the recruitment and retention challenges that are outlined above exist whether a court's FTE need is 49 or 51.

Sincerely,

A handwritten signature in black ink, appearing to read 'Krista LeVier', written in a cursive style.

Krista LeVier  
Court Executive Officer



Chambers of  
**BECKY L. DUGAN**  
Presiding Judge

4050 Main Street  
Riverside, CA 92501

**Superior Court of California**  
County of Riverside

**W. SAMUEL HAMRICK, JR.**  
Court Executive Officer

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

Hon. Jonathan B. Conklin  
September 19, 2017  
Page 2

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



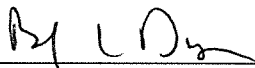
Hon. Jonathan B. Conklin  
September 19, 2017  
Page 3

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

**From:** "Carvill, Judge Wynne, Superior Court" <[wcarvill@alameda.courts.ca.gov](mailto:wcarvill@alameda.courts.ca.gov)>  
**Date:** September 23, 2017 at 2:45:56 PM PDT  
**To:** "Conklin, Jon B." <[jconklin@fresno.courts.ca.gov](mailto:jconklin@fresno.courts.ca.gov)>  
**Cc:** "Jacobson, Judge Morris, Superior Court" <[mjacobson@alameda.courts.ca.gov](mailto:mjacobson@alameda.courts.ca.gov)>, "Finke, Chad, Superior Court" <[cfinke@alameda.courts.ca.gov](mailto: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



*Superior Court*  
State of California  
County of Lake  
255 N. Forbes Street  
Lakeport, California 95453  
707-263-2374

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,

A handwritten signature in black ink, appearing to read 'Krista LeVier', written in a cursive style.

Krista LeVier  
Court Executive Officer



**Superior Court of California  
County of San Bernardino**

**247 West Third Street, Eleventh Floor  
San Bernardino, CA 92415-0302  
(909) 708-8747**

Nancy CS Eberhardt  
Court Executive Officer and Clerk  
Jury Commissioner

Raymond L. Haight III  
Presiding Judge

October 5, 2017

Judicial Council of California  
Trial Court Budget Advisory Committee  
Funding Methodology Subcommittee

Hon. Jon Conklin, Chair  
Ms. Rebecca Fleming, Co-Chair  
455 Golden Gate Avenue  
San Francisco, California 94102

Re: Trial Court Funding Methodology

Members of the Trial Court Budget Advisory Committee (TCBAC) and Funding Methodology Subcommittee (FMS):

This letter is written in support of the Judicial Council's and TCBAC's ongoing efforts to provide funding to trial courts through a fair, consistent, and equitable funding model.

Serving the largest county in the contiguous United States presents many challenges. San Bernardino County is larger than each of the nine smallest states, larger than the four smallest states combined, and larger than 71 sovereign nations. Courthouses are spread out over 20,000 square miles, requiring long commutes for our citizens. Continued and chronic underfunding and under-resourcing of judgeships while experiencing double digit increases in population and case filings in the first decade of this century has compounded the natural and structural barriers affecting our ability to provide access to justice.

The most recent economic downturn and consecutive years of budget cuts served as the perfect storm for the San Bernardino County Superior Court. Between 2008-09 and 2012-13, the court lost one-fifth of its annual funding allocation resulting in an unmet WAFM-based funding need of 54.9 percent. The baseline service levels for the court at that time ranked far below like-size courts. While San Bernardino never had sufficient funding for value-added programs and compliance functions, the severe downturn highlighted the true impact of budget reductions and corresponding severe actions taken by the court. We were, in essence, already cutting from the

bone. The chart attached as Exhibit A reflects our court's annual revenue from fiscal year 2008-09 to present.

In these dire times, the court initially implemented numerous cost saving measures ranging from hiring freezes and furloughs to a wide array of resource, facility, and operational efficiencies. This included an in-depth review of court calendars across various districts that led to the reorganization and consolidation of courtrooms in our central region.

Those efforts were not enough. Subsequently, the court was forced to take drastic measures that led to the closure of five courthouses and 10.4 courtrooms across the county, the elimination of hundreds of staff positions, dozens of layoffs including commissioners and court reporters, as well as significant reductions in service hours. This led to a county-wide disruption in services. In 2013 alone, nearly 9,000 people were denied justice—having either been turned away due to insufficient self-help resources or leaving the court without receiving service due to extended wait times. Our court was forced to close 11 percent of its courtrooms. During this same time our assessed judicial need was 56 new judgeships. Again, justice denied. See Exhibit B for depiction of the closures. These were dark times for our court. Yet we worked diligently to manage our scarce resources and minimize the impact of reduced court services to the public.

Applying reinstated resources received from WAFM allocations and new funding, the court has efficiently and with purpose begun restoring services and access across the county by reopening courtrooms and reinstating service hours. This includes new courtrooms in Family and Juvenile, expansion of self-help resources, establishment of a stand-alone Probate Division, rolling out language access to additional areas, implementing recommendations of the Elkins Family Law Task Force and new staff to support these efforts. As we enter the fifth year of the WAFM rollout, we have reinstated partial services to Needles—located on the Nevada border; residents there currently have a minimum drive of 150 miles to access justice. A depiction of restored services as a result of WAFM funding is attached as Exhibit C. Despite the additional funding provided by the partial rollout of WAFM, our court still has five fewer courtrooms than it did in the fall of 2012.

We have also taken steps to retain and attract a quality workforce, a goal of the Judicial Council's Strategic Plan. This includes—after 8 years of layoffs, furloughs, and no cost of living increases—modest adjustments to staff compensation. When compared to other like-sized courts throughout the state *after* taking into account these actions, the San Bernardino Superior Court still ranks at or near the bottom in nearly every critical staff classification relative to compensation. A chart comparing employee salary/benefits for selected courts is attached as Exhibit D.

Moving forward, we will continue to apply new, ongoing funding to restore services and access by leveraging technology, providing targeted case management in areas like family law, and reopening shuttered courtrooms. We still have a long way to go to return to our resource high water mark from a decade ago, let alone reaching an acceptable level of funding to meet our constitutional obligations.

We recognize allocating all base funding at 100 percent under WAFM will impact courts with more resources while bringing all courts to the same level. The chart attached as Exhibit E illustrates the impact to the largest courts as a result of the current WAFM implementation being extended to a 100 percent allocation. All courts will be equally underfunded at approximately 75 percent of assessed need given current funding of the branch. While it is unacceptable that courts statewide are underfunded to such a great extent, equitable funding would at least provide for consistent service levels across the state. This further highlights the need for adequate funding for all courts to provide reasonable service levels in every county. The chart attached as Exhibit F illustrates the result to the same ten courts if the WAFM rollout is limited to the current reality. If this remains in place without adjustment, the California court system will have accepted a two-tiered system of justice where the traditionally underfunded courts hover at 70 percent funding and traditionally better funded courts hover over 80 percent funding. Equal access to justice will not be a reality in our court system under this multi-tiered system of resource allocation.

We recognize that neither scenario is acceptable. Equity in funding for all 58 courts is the ultimate goal and is our charge under the Isenberg-Lockyer Act. However, the current pace of implementation, along with the failure of the Governor and Legislature to adequately fund the courts has left us with a funding model in need of adjustment. The intent of WAFM was to provide a reallocation of funding based on the premise of new funding to the courts equal to the workload assessed. This never materialized. We are at a pause in WAFM implementation and a critical assessment indicates a need for change. The San Bernardino Superior Court supports the Funding Methodology Subcommittees' efforts to review WAFM – the good and bad – and proposes refinements that continue the march toward equity at a more deliberate pace. We support the following principles:

1. maintaining the workload based methodology of determining need;
2. in years with new funding, movement must continue to be made to equity;
3. in years with no new funding, movement to equity may pause temporarily but not for more than one year in any given cycle; and
4. in years with cuts in funding, more underfunded courts take less of a cut in funding than the less underfunded courts,

The current WAFM methodology *works*. Perfect? No, but it is effective and has provided tremendous value to under-resourced courts. The model is fair by relying on workload-driven resource allocation. The Judicial Council, through the Trial Court Budget Advisory Committee, has demonstrated a willingness to modify WAFM to reflect new information, data, or to shore up areas not fully addressed when the methodology was developed in 2013. This is the right thing to do as improvements can, and should, be made when the merits exist. We applaud the openness of the TCBAC's work and the ability for any court to submit a request for modification of the funding methodology.

The last decade has been taxing for all California trial courts. While recent new funding as well as the rollout of WAFM has yielded some restoration of resources to the trial courts, no court today has the resources—judges, staff, or funding—to effectively manage its workload. The Judicial Council has demonstrated leadership on many levels, from aggressively pursuing new funding for courts, to establishing a more equitable method for allocating resources, but more

Members of the Funding Methodology Subcommittee  
October 5, 2017  
Page 4 of 4

work remains to be done to promote the fair and efficient administration of justice. We believe making necessary changes to WAFM and securing new funding for courts to meet constitutional obligations, continues a march in the right direction and fulfills the true intent of the Lockyer/Isenberg Act to unify our courts and provide equal access to justice across the State.

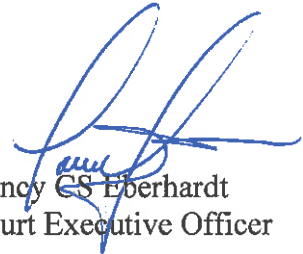
Sincerely,



Raymond L. Haight III  
Presiding Judge



John P. Vander Feer  
Assistant Presiding Judge



Nancy Eberhardt  
Court Executive Officer

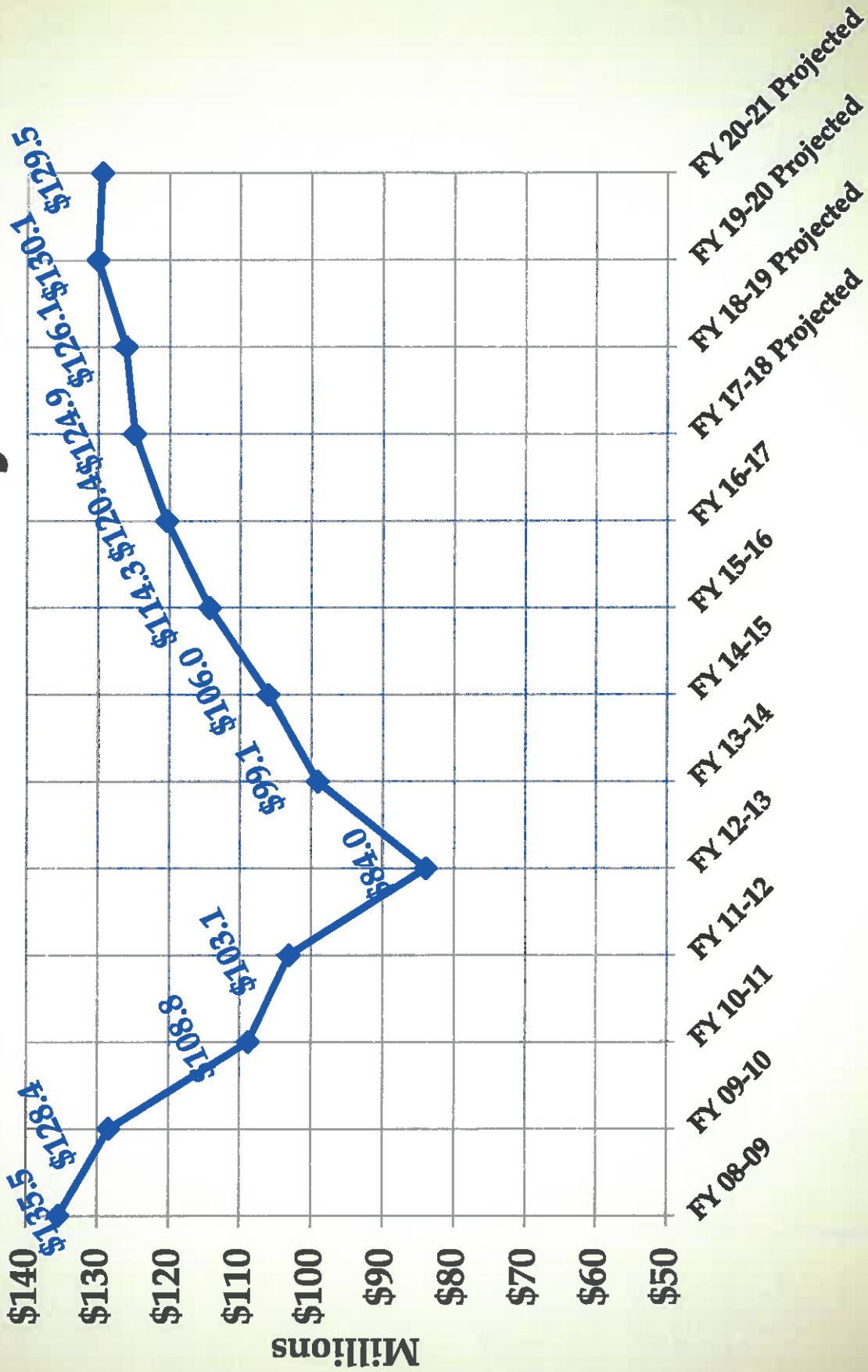
RLH/JPV:sb

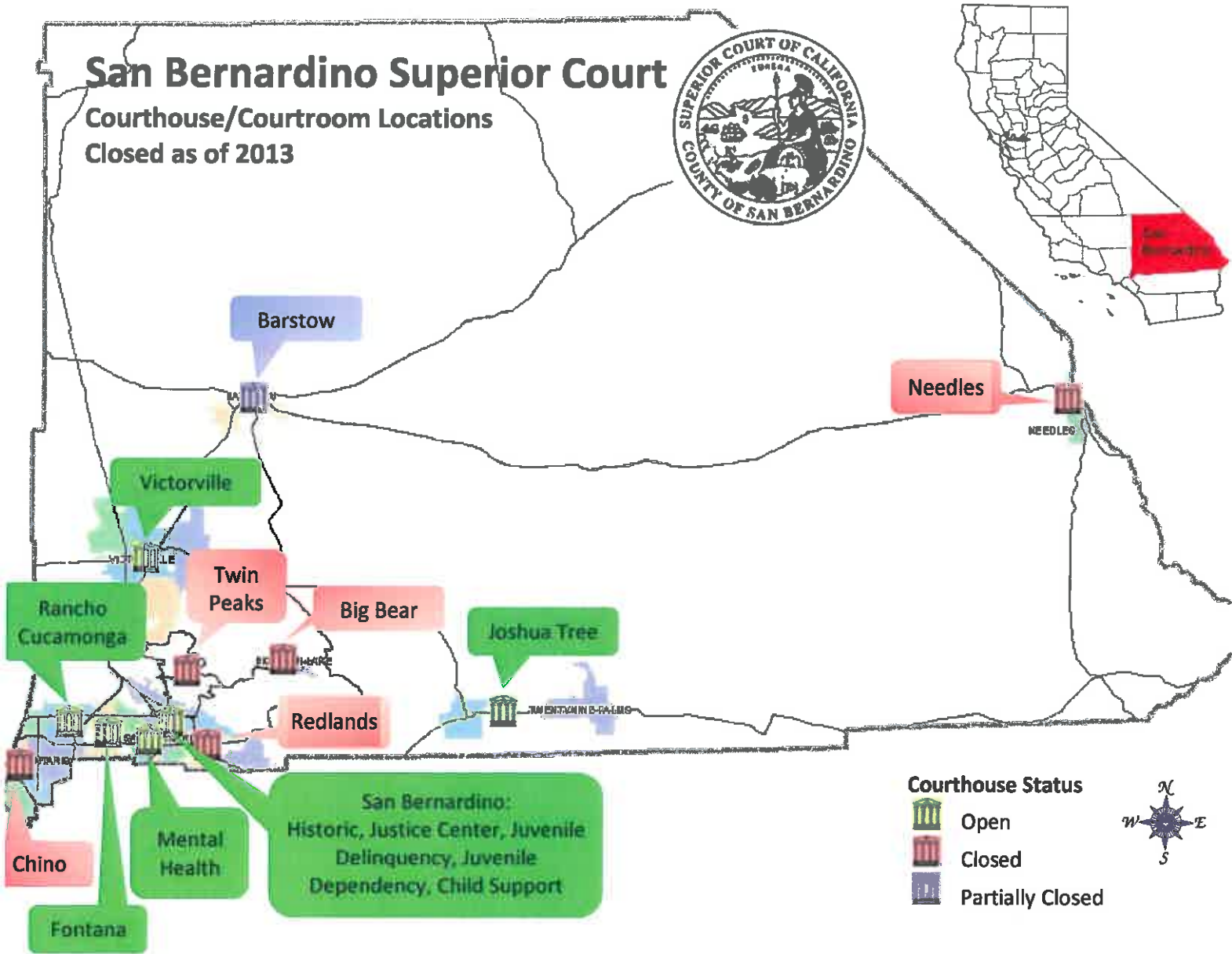
attachments

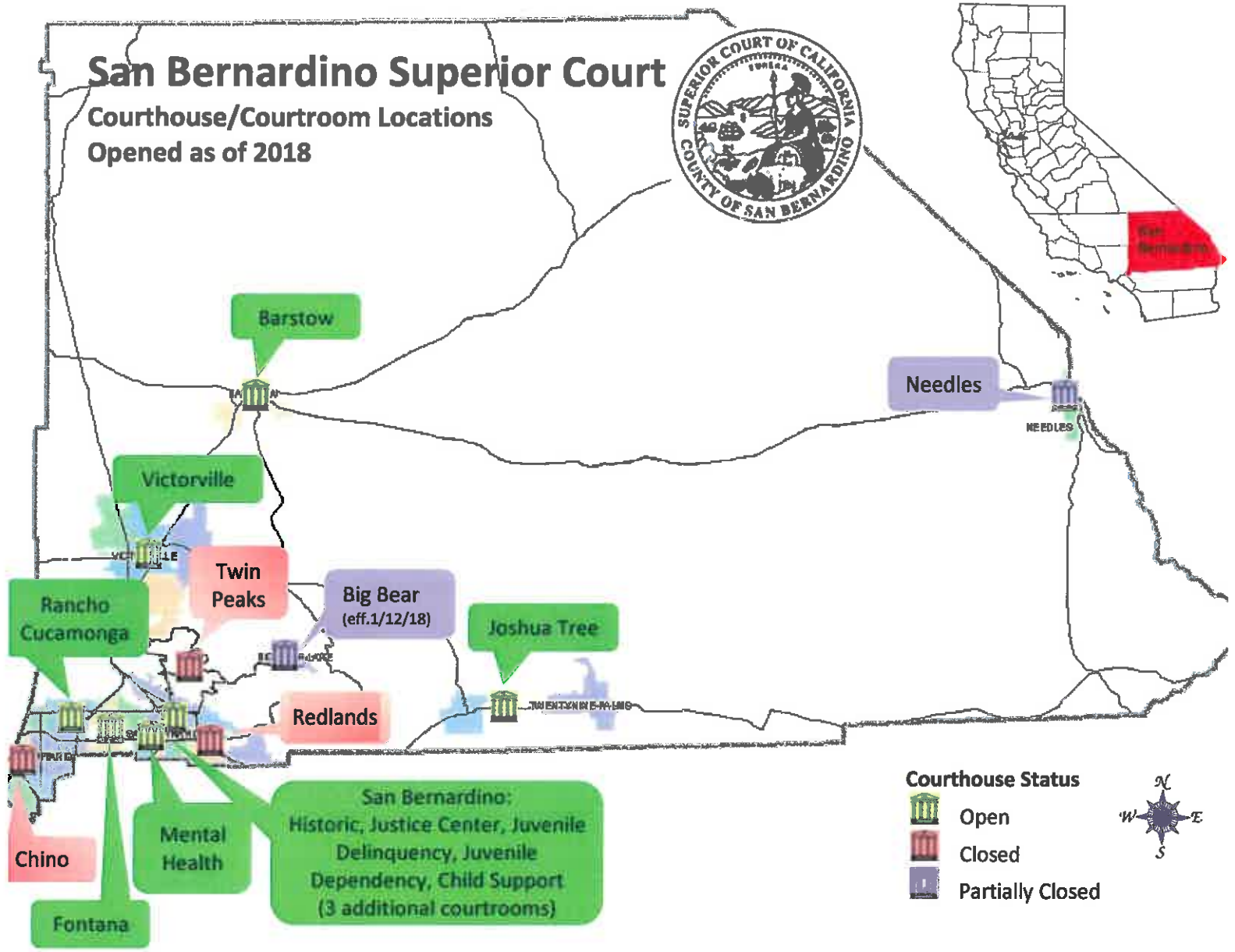
cc: Martin Hoshino, Administrative Director, Judicial Council



# Total Revenues By Year

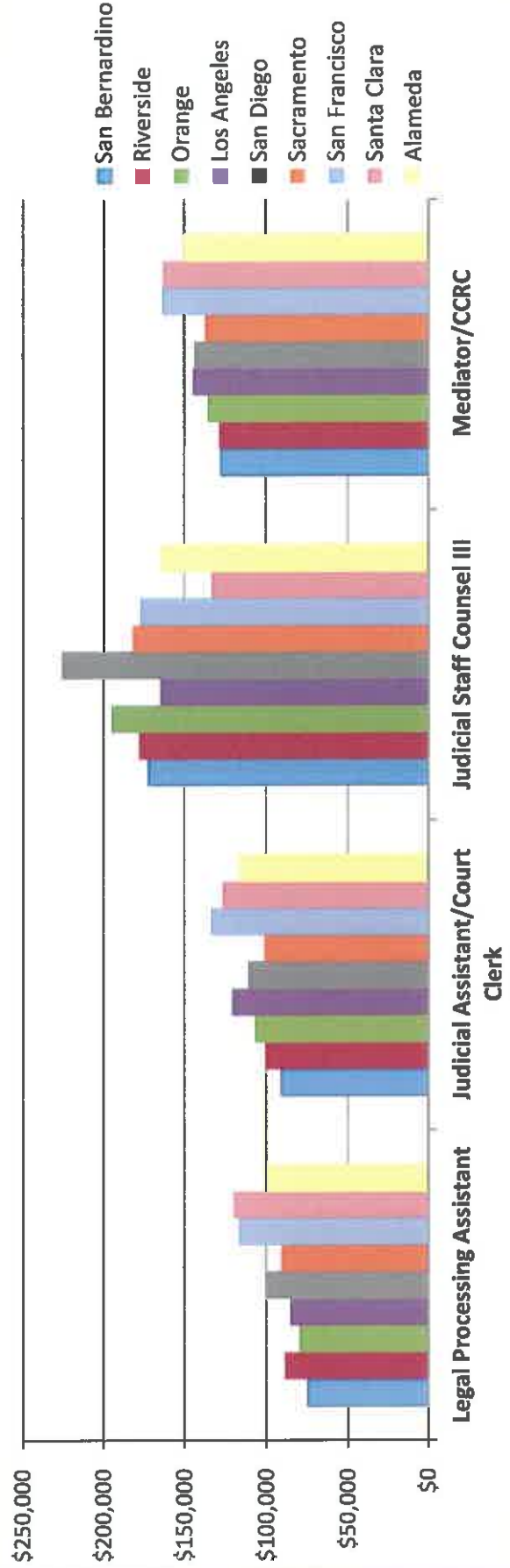






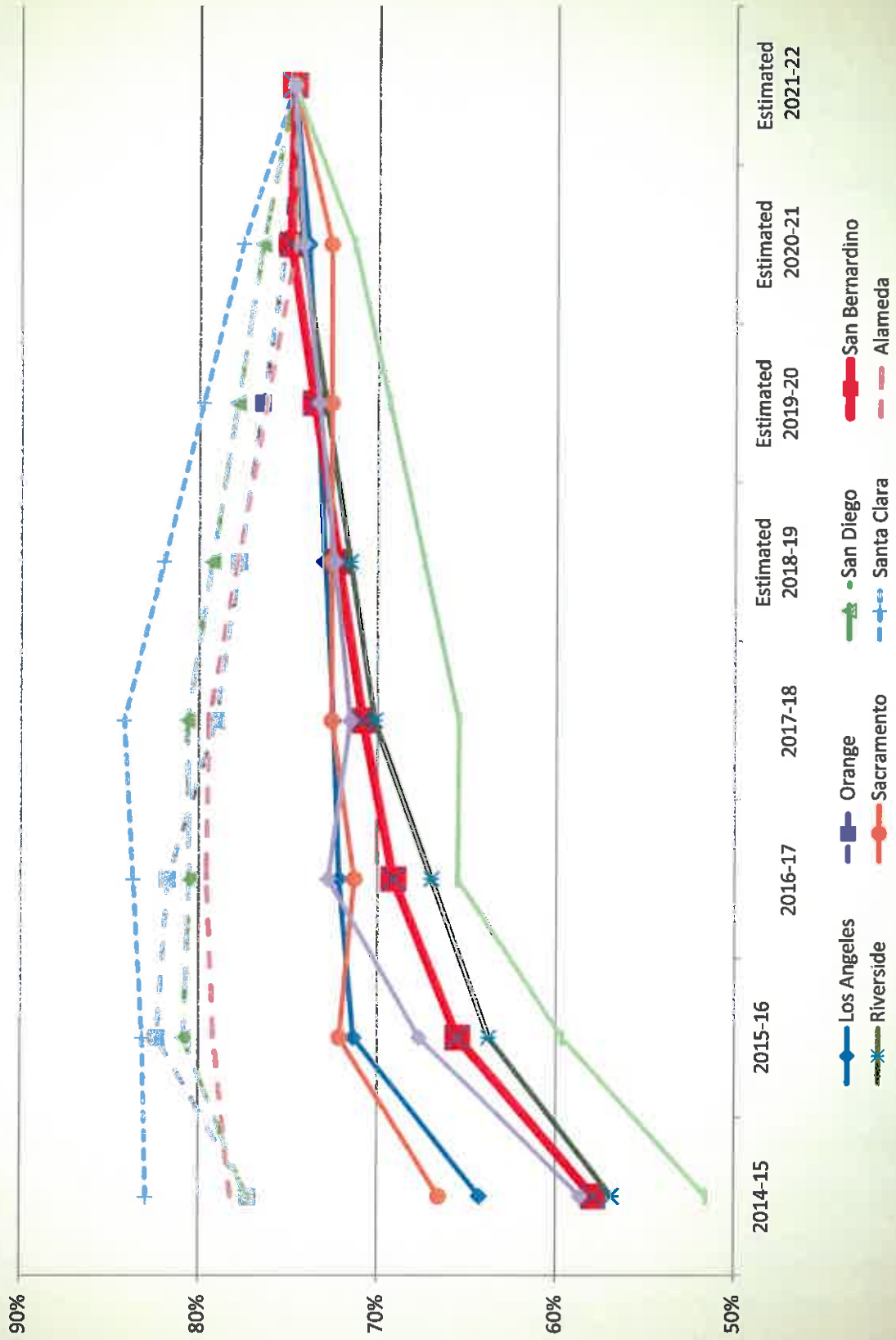
# Position Salary Benefit Comparison for Various Courts <sup>1]</sup>

Classification	San Bernardino		Riverside		Orange		Los Angeles		San Diego		Sacramento		San Francisco		Santa Clara		Alameda	
Legal Processing Assistant/Court Operations Clerk	\$ 74,889	\$ 88,482	\$ 79,559	\$ 85,121	\$ 99,763	\$ 90,636	\$ 116,842	\$ 119,835	\$ 99,471									
Judicial Assistant/Court Clerk	\$ 90,866	\$ 100,533	\$ 106,882	\$ 120,949	\$ 110,923	\$ 100,986	\$ 133,613	\$ 126,626	\$ 115,788									
Judicial Staff Counsel III	\$ 172,230	\$ 178,082	\$ 194,931	\$ 164,814	\$ 225,805	\$ 181,937	\$ 177,109	\$ 133,374	\$ 163,548									
Mediator/CCRC	\$ 127,676	\$ 128,590	\$ 135,544	\$ 144,795	\$ 143,723	\$ 137,374	\$ 163,584	\$ 162,950	\$ 149,835									



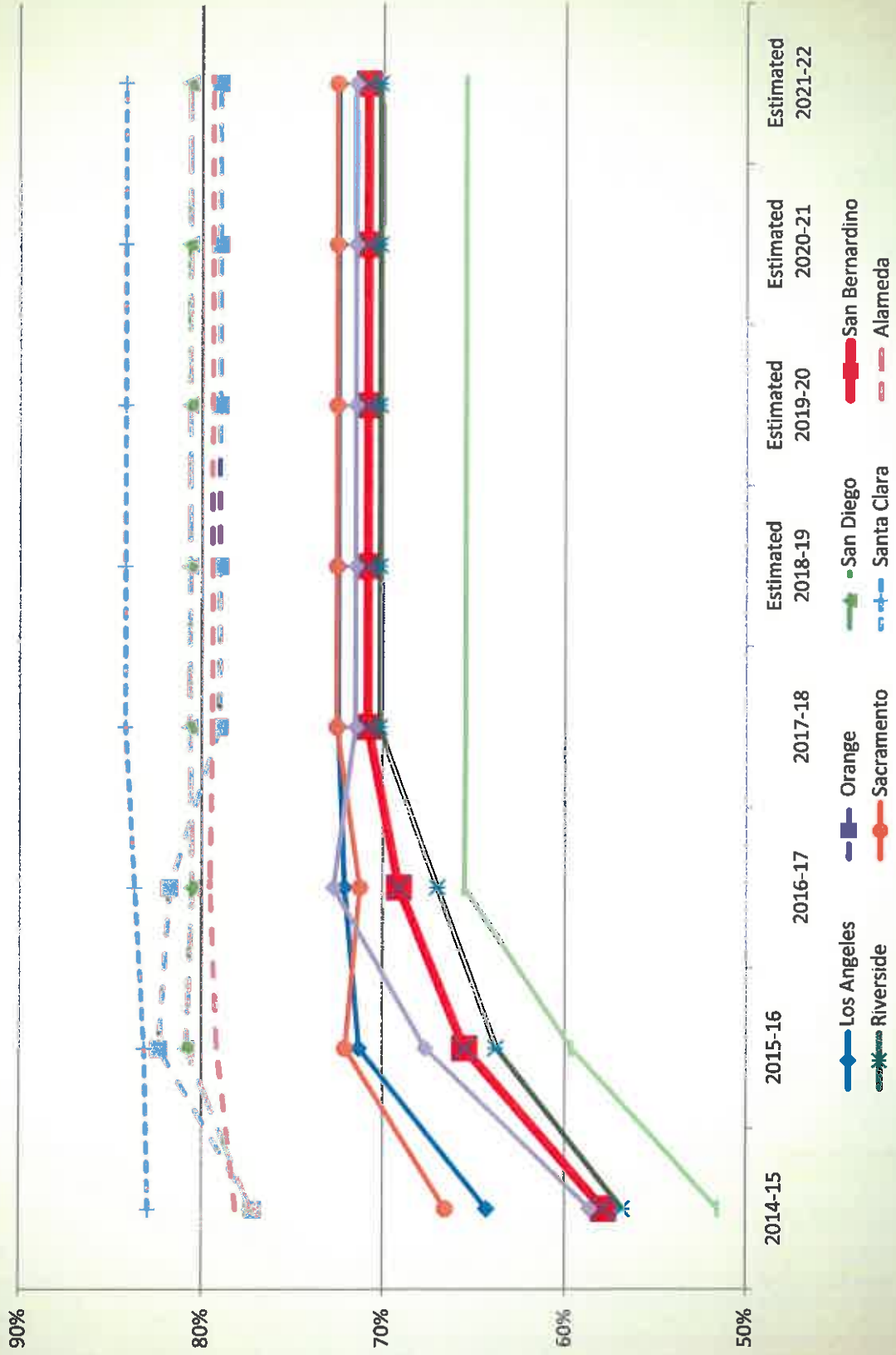
1] Based on FY 2016-17 Schedule 7A data

# WAFM-Related Allocation as a % of Court WAFM Total Funding Need (100% WAFM Allocation)





# WAFM-Related Allocation as a % of Court WAFM Total Funding Need (50% WAFM Allocation + New Funding through 2016-17)



## REVISITING WAFM – Orange County Superior Court

October 16, 2017

As we are entering the 5<sup>th</sup> year of the Workload-based Allocation and Funding Methodology (WAFM) phase-in implementation, the concerns raised by various courts suggest revisiting the original intent of WAFM and evaluating whether it has achieved its original goals. Has it worked as intended? What needs improvement or adjustment? We wholeheartedly support the underlying model of funding on workload, but there have been challenges when putting it into practice, especially when it comes to advocacy and obtaining ongoing State funding for court operations.

We are pleased that the committee was formed to evaluate WAFM and its effectiveness and we encourage the committee to continue evaluation in the following areas:

- 1) **Simplifying the formula** and establishing a measure that is easier for the legislature and public to understand.
- 2) **Focus on funding advocacy for equity and parity with other State agencies** (such as building in a cost of living adjustment or growth factor).
- 3) **Improve predictability and stability:** establishing predictability and avoiding devastating downward swings in funding.
- 4) **Minimize reductions:** consider a position of growth for all courts and consider holding courts harmless with 50% funds to all and the remainder to those most underfunded when there is new funding and no further reallocation of historical funding when there is no new State funding. Contributing courts continue to dismantle important programs and public services and the focus needs to shift to what we can accomplish with more funding to the branch so that we can all focus on restoration and improving services to the public.

### THEME 1: Minimize volatility, maximize stability and predictability

**Suggestion: Explore ways to minimize the swings or changes in filing data**

- Provide new WAFM rates to courts as early as possible for planning purposes, but no later than April when courts begin to build budgets for the upcoming fiscal year.
- Limit percent swing or dollar change from year-to-year ([already being explored](#))
  - Courts can't move too quickly in either direction
  - Consider 1% cap on adjustments for zero funding years

**Suggestion: Explore other less volatile measures or adjusted factors**

### THEME 2: Improve transparency/accountability

**Suggestion: Revisit or eliminate the historical base calculation used for WAFM and establish a new base**

- Discontinue historical base target of \$1.4 billion. Instead, allocate total appropriations for general trial court funding *less programmatic needs and NSIs (as defined by subcommittee)*

- Consider including cost of living adjustments (COLA). COLAs are easier to understand by the public and are universal factors, whereas NSIs could vary from court to court and would be hard to explain.
- Set aside a reserve for new workload swings or even funding changes that the formula does not address (past examples include Prop 47, AB 109, Amnesty – all of which led to loss of revenue).

**Suggestion: Audit and standardize JBSIS data and reporting**

- Standardize JBSIS reporting, provide training, and address any CMS limitations. **MAKE THIS A PRIORITY** (some courts count cases differently).
- Schedule regular audits and report findings so that courts can move toward standardized reporting. Implement a transparent plan that includes regular communication and training.

**THEME 3: Mitigate impact to access to justice / consider local realities and impacts**

**Suggestion: Survey top 10 courts that have lost the most funding in the last 5 years to understand the impact on public service** (Plumas, Siskiyou, Marin, Glenn, San Francisco, Santa Clara, Inyo, San Benito, Salaveras, and Alameda)

**Suggestion: Consider service impacts before reducing any court further**

- The top 10 contributing courts have lost on average over 20% of base funding when comparing, point in time to point in time, 2017-18 funding reallocation as a percent of change from the 2013-14 base funding prior to WAFM implementation. Please refer to the attached chart; source is from Judicial Council 7/25/13 WAFM exhibits and 6/8/17 TCBAC WAFM exhibits.
- As a court with 11% in reductions, Orange had to close two court locations in the southern part of the County that serviced a population of 600,000 residents. Since the recession, Orange also reduced staffing from 1,900 employees to fewer than 1,450 employees. The top 10 contributing courts have suffered worse reductions that have impacted public service and access to justice. In our quest for funding parity and equity, we should be mindful of the overall service impacts to the public, regardless of whether they are residing in Siskyou, Glenn, San Francisco, Fresno, or Riverside.

**Suggestion: Hold all courts harmless from further reductions**

- Allocate a portion of any new / additional funding (50% to all courts and the remainder to the most severely underfunded; the committee to develop and define qualifications for severely underfunded – refer to the themes suggested above)



## Year 5 WAFM Reallocation of Funding as a Percent of 2013-14 Pre-WAFM Base Funding

row	Cluster	Court	FY 2013-14 Base (pre-WAFM)*	**FY 2017-18 Cumulative WAFM Reallocation	% of change since FY 2013-14 Pre-WAFM Base
1	1	Plumas	1,429,991	(492,032)	-34.4%
2	2	Siskiyou	3,317,504	(935,142)	-28.2%
3	2	Marin	13,587,985	(3,453,384)	-25.4%
4	1	Glenn	1,799,795	(377,816)	-21.0%
5	4	San Francisco	55,153,072	(11,036,077)	-20.0%
6	4	Santa Clara	75,407,649	(12,905,278)	-17.1%
7	1	Inyo	1,919,492	(316,667)	-16.5%
8	1	San Benito	2,476,122	(389,648)	-15.7%
9	1	Calaveras	1,927,985	(250,452)	-13.0%
10	4	Alameda	74,069,725	(9,512,623)	-12.8%
11	4	San Diego	126,960,874	(14,911,172)	-11.7%
12	1	Del Norte	2,315,586	(268,261)	-11.6%
13	1	Amador	2,066,138	(229,703)	-11.1%
14	4	Orange	127,622,123	(14,000,446)	-11.0%
15	1	Colusa	1,352,785	(116,703)	-8.6%
16	2	Lake	3,130,735	(253,241)	-8.1%
17	3	San Mateo	31,297,630	(2,099,821)	-6.7%
18	2	El Dorado	5,867,266	(379,696)	-6.5%
19	2	Napa	6,628,648	(364,624)	-5.5%
20	3	Santa Barbara	19,657,482	(1,079,191)	-5.5%
21	2	Nevada	4,478,125	(234,445)	-5.2%
22	2	Mendocino	4,636,654	(185,966)	-4.0%
23	3	Sonoma	19,577,796	(746,010)	-3.8%
24	2	San Luis Obispo	11,353,662	(421,015)	-3.7%
25	2	Tuolumne	2,819,593	(100,693)	-3.6%
26	1	Trinity	1,431,739	(30,827)	-2.2%
27	2	Santa Cruz	10,187,917	(210,668)	-2.1%
28	2	Madera	6,269,329	(94,905)	-1.5%
29	2	Humboldt	5,258,372	(46,626)	-0.9%
30	3	Contra Costa	34,237,741	83,392	0.2%
31	4	Sacramento	64,637,712	219,669	0.3%
32	3	Solano	16,489,461	436,993	2.7%
33	2	Merced	9,195,644	415,188	4.5%
34	3	Monterey	13,973,323	664,060	4.8%
35	4	Los Angeles	428,645,200	22,309,330	5.2%
36	2	Butte	7,956,105	419,892	5.3%
37	2	Imperial	6,805,406	433,848	6.4%
38	2	Shasta	10,063,775	672,007	6.7%
39	2	Tehama	2,879,149	254,500	8.8%
40	3	Fresno	35,177,288	3,908,725	11.1%
41	2	Placer	11,920,337	1,354,525	11.4%
42	3	Ventura	26,332,175	3,080,831	11.7%
43	2	Kings	5,292,481	643,125	12.2%
44	2	Yuba	3,335,312	407,102	12.2%
45	2	Yolo	7,474,390	914,199	12.2%
46	2	Sutter	3,604,262	505,801	14.0%
47	3	San Joaquin	24,406,106	3,554,799	14.6%
48	3	Stanislaus	15,772,316	2,423,555	15.4%
49	4	San Bernardino	66,832,972	11,589,021	17.3%
50	4	Riverside	61,221,794	10,931,184	17.9%
51	3	Tulare	12,726,148	2,474,845	19.4%
52	3	Kern	30,203,399	8,919,537	29.5%

\*Per 7/25/13 Judicial Council materials, beginning base (col 1) plus allocation of \$261 million reduction (col 2)

\*\*Per 6/8/17 TCBAC exhibit 1L, "FY 2017-2018 Allocation of New Funding and Reallocation of Historical Funding",  
sum of Col G & J, net reallocation of 50% and reallocation of new \$233.8M

\*\*\* 6 funding floor courts are excluded: Alpine, Lassen, Mariposa, Modoc, Mono, and Sierra

	# courts	Average gain / loss	Top 10 Average	Max	Min
Contributing Courts (exclude floor)	29	-10.9%	-20.4%	-34.4%	-0.9%
Recipient Courts (exclude floor)	23	10.6%	16.5%	29.5%	0.2%
	52				

Siskiyou County Superior Court

311 Fourth Street, Room 206, Yreka, CA 96097

October 23, 2017

To Honorable Members of the Funding Methodology Subcommittee:

At the outset, kindly excuse the format of these comments. The meetings of the Funding Methodology Subcommittee, in October with goal to make recommendations to the TCBAC for its November meeting and then to the Judicial Council for its January 2018 meeting seem to be moving at a pace that is difficult for any meaningful input or comment from the trial court judges or CEOs.

The BLS factor should be reviewed in WAFM, as it remains the factor, from inception, that has inequitably underestimated the funding need for small rural courts. The concerns of a collaboration of small courts were set forth in the March 22, 2017 letter to Chief Justice Cantil-Sakauye and Director Hoshino. This collaborative letter emphasized that the BLS factor, for small rural courts, should be re-examined. We note said letter has been provided to the committee in its materials for meeting on October 26, 2017, but without the attachments referenced in the foot notes of the collaborative letter.

As these materials were omitted, we are attaching copies to this comment letter. The exhibits attached to the letter of March 22, 2017, were summaries of Court Statistics from the 2015 Court Statistics Report and Trial Court Allocations for 2015-2016. They demonstrate that the Cluster 4 courts having 59% of the state's workload receive 64% of the funding allocation, and the <50FTE courts have 1.9% workload and 1.6% of funding allocation. This is a result of the BLS factor currently used in WAFM, which ties small rural courts to the poverty of their counties.

The discussions of the FMS at its meeting on October 2, 2017 also have to be addressed. Despite all concerns raised regarding the BLS, the BLS factor was described as the most understood factor in WAFM. There is also a lack of understanding on how that factor came to be in WAFM. That decision was made by an earlier funding methodology subcommittee after looking at other labor "indexes" and after it was decided on, it was described as a deal breaker. In other words, there was nothing else the committee was going to consider as a labor factor.

There was no consistency in the BLS when initially decided on as a factor, as data from counties was inconsistent. There was an effort from some of the trial courts to follow through with the BLS, and at some point it appeared the public administration was at least an index within the BLS that had more consistent data compilation. It became apparent that in the small rural courts, and the example was Del Norte, low local BLS would not even begin to represent local wages where the state workforce, as in Pelican Bay, drove the labor market. The discussions then turned to consider the state BLS to some degree, with the understanding that the state labor factor by itself would not

be considered. The 50-50 suggestion was eventually adopted and included. This was just a consensus by the subcommittee as to when the state BLS would be applied. The inclusion of the 50-50 (local and state) increased the funding allocation for 3 Cluster 1 courts, 2 Cluster 2 and 1 Cluster 4.

There was also a consensus by a small committee to develop a <50 FTE consideration, when the funding floor was also explored. The <50 FTE is what some members of the committee describe as a "BLS Flooring." The WAFM in its current formulation then has a funding floor and a BLS flooring. After these initial modifications, there were no further considerations by any committees regarding the "parking lot" issues raised primarily by small courts, particularly regarding their hybrid employees, an issue raised again in the March 22, 2017 letter.

The FMS is reviewing the funding floor for an inflationary increase. It could be stated that a court funding floor should have been the start of a funding allocation methodology then with a multiplier factor based on filings. Instead, given the pressure to come up with something, as described in the March 22, 2017 letter, this was a secondary consideration.

People talk about the BLS as if it was a gold standard, which it is not. It is data that is compiled from voluntary reporting and some data collection. Note that in the 2017-2018 BLS factors presently before the committee, Alameda, Alpine, Merced, San Benito and Sierra reported 0% state employees. This demonstrates that the same data is not being compiled for each county.

Now that the BLS (public administration index) is in the "formula" the argument becomes, if there is an "arbitrary" adjustment, does that invalidate the factor and undermine the credibility of the formula. It is not an arbitrary adjustment to make a decision that the "BLS Flooring" should be .9 for the trial courts <50 FTE. This would support a more transparent and less complicated methodology, in that the <50FTE factor could be deleted. It would directly impact the funding floor as well, and reduce the number of trial courts relying on the funding floor.

Comment on the "bands," to achieve a mean funding allocation: it may be more productive to look at "bands" by Clusters. The 58 trial courts include courts from 3 FTE up to 4,716, judges from 2 to 585, filings from 825 to 1,891,060, and populations between 1,110 and 10,170,292. Economies of scale are not considered at all in the band. Can it really be shown that all trial courts can stay open and operational with the band applied to reallocate funding?

Very truly yours,

*Honorable William Davis, PG*  
*Honorable Laura Masunaga, APG*  
*Renee McCanna Crane, CEO*

BLS by Clusters based on 2015 Court Statistics Report and Trial Ct Allocations 2015-2016									
		AJP'14(JE'13-14)(Assessed '14)*	BLS in '15-'16 WAFM	Total WAFM Funding Need	Number of Filings	Filings/APJ	RAS*-CEO	FTE	Metro (M)
<b>Subcluster 1</b>									
1	Alpine	2.3(2.3)(0.2)	0.83	378,883	1531	666	2		
1	Sierra	2.3(2.3)(0.2)	0.73	368,280	623	271	2		
1	Amador	2.3(2.9)(2.7)	1.00	2,773,992	7806	3394	25		
1	Calaveras	2.3(2.6)(2.8)	0.91	2,716,963	6442	2801	26		
1	Colusa	2.3(2.4)(1.6)	0.71	1,880,790	9017	3920	17		
1	Glenn	2.3(2.4)(2.0)	0.69	2,048,781	11089	4821	21		
1	Inyo	2.3(2.4)(1.6)	0.83	1,963,799	10787	4690	19		
1	Lassen	2.3(3.0)(3.2)	0.80	2,595,035	7669	3334	27		
1	Mariposa	2.3(2.5)(1.3)	0.78	1,282,132	3366	1463	12		
1	Modoc	2.3(2.3)(0.8)	0.60	917,190	2342	1018	9		
1	Mono	2.3(2.4)(1.1)	1.15	1,795,596	6184	2689	12		
1	Plumas	2.3(2.6)(1.4)	0.70	1,299,380	3656	1590	13		
1	San Benito	2.3(2.4)(2.8)	0.98	2,874,516	7702	3349	26		M
1	Trinity	2.3(1.9)(1.6)	0.65	1,290,907	2896	1259	12		
1	Del Norte	2.8(3.3)(3.7)	0.77	3,012,322	7513	2683	28		
<b>Subcluster 2</b>									
2	Tehama	4.3(4.6)(5.8)	0.80	5,026,551	20870	4820	53		
2	Lake	4.8(5.8)(5.2)	0.75	3,677,284	11919	2483	45		
2	Tuolumne	4.8(5.0)(4.3)	0.83	3,442,496	10300	2168	37		
2	Siskiyou	5.0(5.4)(3.4)	0.69	3,103,058	17130	3426	34		
2	Sutter	5.3(5.8)(6.7)	0.95	6,509,119	19430	3666	61		M
2	Yuba	5.3(5.7)(5.6)	0.93	4,961,988	16237	3046	53		M
2	Nevada	7.6(8.1)(5.4)	0.97	5,512,421	25156	3310	53		
2	Humboldt	8.0(8.7)(10.6)	0.77	7,863,801	29317	3665	90		
2	Napa	8.0(8.5)(8.2)	1.22	8,717,542	26069	3259	71		M
2	Mendocinc	8.4(8.5)(7.3)	0.83	6,450,265	22935	2730	65		
2	El Dorado	9.0(10.7)(9.9)	1.00	9,020,166	27775	3086	86		M
2	Kings	8.5(9.7)(11.4)	0.88	8,763,482	34473	4056	98		M
2	Madera	9.3(9.9)(10.9)	0.93	9,681,041	27795	2989	95		M
2	Imperial	11.4(11.6)(13.8)	0.78	11,522,757	71989	6326	137		M
2	Shasta	12.0(13.2)(16.4)	0.85	12,953,657	42140	3512	147		M
2	Yolo	12.4(12.9)(11.2)	1.03	11,394,431	36673	3046	102		M
2	Santa Cruz	13.5(13.8)(14.2)	1.15	15,417,797	57235	4240	131		M
2	Butte	13.0(14.1)(14.2)	0.91	12,827,059	38208	2939	133		M
2	Merced	12.0(12.4)	0.90	16,884,889	56380	4698	149		M
2	Marin	14.5(14.4)(11.8)	1.28	13,305,924	48648	3355	105		M
2	San Luis Obispc	15.0(15.5)(17.9)	1.07	17,894,938	51705	3447	153		M
2	Placer	14.5(16.1)(19.4)	1.17	20,924,301	50851	3507	167		M
<b>Subcluster 3</b>									
3	Monterey	21.2(21.4)(21.8)	1.19	22,176,616	67790	3198	192		M
3	Santa Barbara	24.0(24.3)(23.4)	1.17	25,514,338	96925	4039	214		M
3	Solano	23.0(25.0)(25.0)	1.20	27,158,939	68418	2975	221		M
3	Sonoma	23.0(25.2)(26.1)	1.17	30,874,621	77355	3363	230		M
3	Tulare	23.0(25.4)(25.9)	0.83	22,962,196	85284	3708	243		M
3	Stanislaus	24.0(24.5)(32.6)	1.02	31,536,429	77911	3246	286		M
3	San Mateo	33.0(32.7)(31.1)	1.44	42,969,454	160115	4852	279		M
3	Ventura	33.0(33.9)(40.4)	1.21	45,268,238	158987	4818	366		M
3	San Joaquir	33.5(34.8)(42.3)	1.10	44,735,436	121834	3637	368		M
3	Kern	43.0(41.7)(58.0)	1.05	68,715,131	211920	4928	534		M
3	Contra Costa	46.0(47.6)(42.5)	1.25	54,845,890	147606	3209	380		M
3	Fresno	49.0(50.2)(60.7)	0.99	65,077,123	171025	3490	532		M
<b>Subcluster 4</b>									
4	San Francisc	65.0(66.7)(53.8)	1.68	67,069,047	233399	3591	379		M
4	Sacramento	72.5(76.1)(81.8)	1.28	102,140,312	325138	4485	728		M
4	Riverside	76.0(84.3)(127.4)	1.08	121,029,006	423340	5570	1099		M
4	Alameda	85.0(84.1)(70.1)	1.42	85,724,209	320554	3771	600		M
4	Santa Clara	89.0(88.6)(69.6)	1.44	86,629,182	245244	2756	581		M
4	San Bernardino	86.0(89.3)(143.0)	1.06	132,144,453	411101	4780	1200		M
4	Orange	144.0(146.2)(155.6)	1.30	173,366,093	511134	3550	1310		M
4	San Diego	154.0(151.0)(153.3)	1.17	169,142,391	558351	3626	1276		M
4	Los Angeles	585.3(570.8)(629.5)	1.34	718,122,121	2183611	3731	5201		M
<b>Total</b>				<b>2,380,254,758</b>					
							<b>*RAS Program 10 &amp; 90</b>		
							* excludes CEO,		
*AJP 2014				D-H from Trial Court Allocations 2015-2016			Enhanced Collection,		
Judicial Equivalent:				Judicial Council Report Dated 7-17-15			Interpreter, Security		
2013-2014				effective 7-28-15					
Assessed Judicial Need									
Dec. 2014									

Courts	Population	%of population	% of Filings 2016 Court Statistics	Share % total Wafm funding need FY 16-17	% of Historical Funding	Authorized Judicial positions as of 6/30/15 less 50 AB159	Judicial position equivalents FY 14-15	Assessed Judicial needs 2016 report JC 10/28/16
Los Angeles	10,170,292.00	0.2598	0.2768	0.2981	0.2725	585.3	572.9	573.3
San Diego	3,299,521.00	0.0843	0.0782	0.0691	0.0852	154	151.9	142.9
Orange	3,169,776.00	0.081	0.0712	0.0717	0.0854	144	147.4	144
Riverside	2,361,026.00	0.0603	0.0585	0.0503	0.0397	76	86.4	122.8
San Bernardino	2,128,133.00	0.0544	0.0531	0.0548	0.0426	86	89.7	134.1
Santa Clara	1,918,044.00	0.0491	0.0317	0.0379	0.0516	89	92	66.9
Alameda	1,638,215.00	0.0419	0.0414	0.0368	0.0483	85	83.9	67.7
Sacramento	1,501,335.00	0.0384	0.0406	0.042	0.0427	72.5	78.7	82.9
Contra Costa	1,126,745.00	0.0288	0.0222	0.0218	0.0228	46	48.3	40.9
Fresno	974,861.00	0.0249	0.0226	0.0291	0.0239	49	50.4	61.8
Kern	882,176.00	0.0225	0.029	0.0298	0.02	43	44.1	56.8
San Francisco	864,816.00	0.0221	0.033	0.0287	0.0368	55.9	59	48.4
Ventura	850,536.00	0.0217	0.0223	0.0194	0.0169	33	35.5	38
San Mateo	765,135.00	0.0195	0.0226	0.018	0.0207	33	33.3	29.1
San Joaquin	726,106.00	0.0185	0.0168	0.0198	0.0164	33.5	35.6	42.2
Stanislaus	538,388.00	0.0138	0.0098	0.0133	0.0108	24	24.6	31.5
Sonoma	502,146.00	0.0128	0.0108	0.0124	0.0131	23	24.9	23.8
Tulare	459,863.00	0.0117	0.0123	0.0104	0.0085	23	25.1	27.5
Santa Barbara	444,769.00	0.0114	0.014	0.0112	0.0127	24	26.1	22.4
Solano	436,092.00	0.0111	0.0088	0.0111	0.0109	23	24.7	22.6
Monterey	433,898.00	0.0111	0.01	0.0096	0.009	21.2	21.9	20.5
Placer	375,391.00	0.0096	0.0066	0.009	0.0077	14.5	16.3	19.2
San Luis Obispo	281,401.00	0.0072	0.0075	0.0073	0.0074	15	15.9	16.9
Santa Cruz	274,146.00	0.007	0.0071	0.0066	0.0069	13.5	14.2	13.6
Merced	268,455.00	0.0069	0.0073	0.007	0.0063	12	12.8	15
Marin	261,221.00	0.0067	0.0063	0.0056	0.0093	12.7	11.8	10.6
Butte	225,411.00	0.0058	0.0051	0.0056	0.0051	13	14	14.6
Yolo	213,016.00	0.0054	0.0052	0.005	0.0045	12.4	13	11
El Dorado	184,452.00	0.0047	0.0033	0.0037	0.0041	9	10.9	9.1
Imperial	180,191.00	0.0046	0.01	0.0049	0.0044	11.3	11.7	12.9
Shasta	179,533.00	0.0046	0.0064	0.0056	0.0051	12	13.4	16.7
Madera	154,998.00	0.004	0.0036	0.0042	0.0041	9.3	9.4	10.3
Kings	150,965.00	0.004	0.0052	0.0039	0.0033	8.6	9.4	11.7
Napa	142,456.00	0.0036	0.0032	0.0038	0.0042	8	8.5	8
Humboldt	135,727.00	0.0035	0.0039	0.0034	0.0035	8	8.7	10.4
Nevada	98,877.00	0.0025	0.0036	0.022	0.0026	7.6	8.1	4.9
Sutter	96,463.00	0.0025	0.0029	0.0029	0.0024	5.3	5.7	6.8
Mendocino	87,649.00	0.0022	0.0029	0.0028	0.003	8.4	8.7	7.5
Yuba	74,492.00	0.0019	0.0023	0.0026	0.0022	5.3	5.3	5.9
Lake	64,591.00	0.0017	0.0016	0.0017	0.002	4.7	5.8	5.5
Tehama	63,308.00	0.0016	0.0029	0.0022	0.002	4.3	4.6	5.8
San Benito	58,792.00	0.0015	0.0012	0.0012	0.0017	2.3	2.6	2.6
Tuolumne	53,709.00	0.0014	0.0016	0.0015	0.0018	4.8	4.9	4.5
Calaveras	44,828.00	0.0011	0.001	0.0012	0.0014	2.3	3	2.7
Siskiyou	43,554.00	0.0011	0.0024	0.0013	0.0023	5	5.3	3.2
Amador	37,001.00	0.0009	0.0012	0.0012	0.0014	2.3	2.8	2.8
Lassen	31,345.00	0.0008	0.0012	0.0011	0.0013	2.3	2.9	2.6
Glenn	28,017.00	0.0007	0.0015	0.0008	0.0013	2.3	2.4	1.6
Del Norte	27,254.00	0.0007	0.0013	0.0014	0.0015	2.8	3.3	3
Colusa	21,482.00	0.0005	0.0014	0.0008	0.0009	2.3	2.4	2.7
Plumas	18,409.00	0.0005	0.0005	0.0006	0.001	2.3	2.4	1.2
Inyo	18,260.00	0.0005	0.0015	0.0008	0.0012	2.3	2.8	1.5
Mariposa	17,531.00	0.0004	0.0005	0.0005	0.0006	2.3	2.4	1
Mono	13,909.00	0.0004	0.0012	0.0008	0.0009	2.3	2.5	1
Trinity	13,069.00	0.0003	0.0004	0.0006	0.0007	2.3	2.5	1.5
Modoc	8,965.00	0.0002	0.0003	0.0004	0.0006	2.3	2.3	0.9
Sierra	2,967.00	0.0001	0.0001	0.0001	0.0004	2.3	2.4	0.2
Alpine	1,110.00	0.000028	0.0002	0.0002	0.0004	2.3	2.3	0.2
Totals	39,144,818.00	1.000228	1.0001	1.0196	1	1963.1	2013.8	2049.7

**From:** [Finke, Chad](#)  
**To:** [TCBAC](#); [Conklin, Hon. Jonathan](#); [Fleming, Rebecca](#); [Chatters, Jake](#); [Carter, Sherri R.](#); [Ugrin-Capobianco, Tania](#); [Roddy, Mike](#); [Planet, Michael](#); [Lewis, Jeff](#); [Cope, Mark A.](#); [Hinrichs, Joyce D.](#); [Marigonda, Paul M](#)  
**Cc:** [Jacobson, Morris](#); [Carvill, Judge Wynne, Superior Court](#)  
**Subject:** Written public comment by the Superior Court of Alameda County for October 26, 2017, FMS meeting  
**Date:** Tuesday, October 24, 2017 11:32:22 AM  
**Attachments:** [RE Urgent CEAC Meeting to Discuss WAFM - Rescheduled to October 3rd .msg](#)

---

Dear Members of the Funding Methodology Subcommittee of the Trial Court Budget Advisory Committee:

The email below is sent by the Superior Court of Alameda County on behalf of Presiding Judge Morris Jacobson, Assistant Presiding Judge and Presiding Judge-Elect Wynne Carvill, and Executive Officer Chad Finke. In recognition of the length of the October 26, 2017, meeting and the fullness of the FMS agenda, we are submitting this as written commentary in lieu of making oral public commentary at the meeting on October 26.

We have been discussing the options that seemed to emerge at the last FMS meeting and how the goals we believe should be pursued can best be achieved within the WAFM framework. As we have stated before, while we believe there are approaches that would be superior to WAFM, we withdrew our previous proposal because it was clear that there was too much momentum behind WAFM. That was only reinforced at the recent Executive Committee of TCPJAC where it was noted that a “needs-based” model based on filings is in many ways more in keeping with the submissions the Department of Finance is accustomed to seeing from the various executive departments. Recognizing that some WAFM-related approach is inevitable, we offer the following to achieve the stated goals.

### **The Stated Goals**

As we understand it, two competing goals have emerged.

The first is equity among the various trial courts. This fundamental issue is what motivated the Branch to engage in the evaluation process that eventually led to WAFM. The problem with our historical funding model was it effectively “baked in” the inequitable funding that existed from county to county at that time and did not even allow for the differences in regional growth rates. The Executive Branch gave the courts an ultimatum to address the equity issue in order to obtain increased funding. WAFM was the Council’s attempt to respond to that ultimatum, and the historically underfunded courts have a keen interest in seeing the Branch continue down the path to achieving full equity.

The second competing goal is “stability/predictability” and reflects the volatility and lack of predictability introduced by the roll out of WAFM. These are two related but distinct issues. One has to do with the severity of the cuts that certain courts have suffered under the first 5 years of WAFM and the other relates to how late in the budget cycle the outcomes are

disclosed. “Donor” courts have been required to scramble to deal with unexpected cuts, while “recipient” courts may find themselves with funding beyond what they projected, and which they cannot, in a single fiscal year, use in a fiscally prudent way. The whole process has fostered conflict between the donor and recipient courts. The planning challenges have played out in multiple ways and made labor negotiations almost impossible.

Based on discussions to date, the FMS is clearly sensitive to the above two issues, but a third issue also needs to be considered – namely, equal access to justice. This was specifically identified in the April 2013 memorandum to the Council that led to the approval of WAFM as one of the anticipated outcomes of the WAFM phase-in. That is, it was assumed that using WAFM to address historical funding inequities would enhance equal access to justice across the state. We expect that the effect of WAFM on access will be an issue whenever the FMS recommendation reaches the Council and that any approach that cuts some courts so as to increase funding to others will be seen as deficient from this perspective as well. Accordingly, we continue to advance the following proposal as the one best suited to using WAFM in a way that satisfies all three goals; however, we have made a few modifications to protect the most vulnerable courts.

## **Proposal**

Our proposal is as follows:

- No cuts to any court except in a year when the overall branch budget for the trial courts is reduced, in which case the cuts are shared pro rata among all courts with a possible exception for the most severely underfunded. The latter might be spared by spreading the pro rata cuts among all other courts.
- Eliminate the .9 BLS adjustment, and use BLS only to recognize the higher costs of courts with a BLS over 1.0. This modification of the use of the BLS factor will provide modest assistance to the smaller, rural courts that currently are below 1.0.
- 50% of all new funding to courts more than 3% below the branch funding average as measured by WAFM. Thus, if any new money is allocated to the Branch, 50% is set aside exclusively for courts more than 3% below the average, and 50% distributed to all courts based on the WAFM formula. Given the likelihood of some new funding in more years than not, this is likely to bring up the more severely underfunded courts over time. Note that, while 50/50 was discussed at the last meeting, a more generous split in favor of the underfunded courts (e.g., 55/45 or 60/40) would be one way to recognize the severity of the underfunded courts’ needs while still ensuring that all courts benefit from new money.

## **Merits**

We believe the above is within the spirit of the discussion at the last FMS meeting. It is an approach that can be permanent and would not require the TCBAC to revisit the issue on any regular basis. It accounts for up, down and flat budget years. It reduces volatility, increases predictability and reflects a commitment to bringing the underfunded courts up as rapidly as possible without damaging other courts. By endorsing this proposal, though, we do reserve our objection that WAFM is based on unaudited data and uses filing definitions as to which there does not seem to be a clear consensus. To achieve real “equity” the data and definition problems do need to be addressed. Until they are, no one can be assured that this or any other filing-based proposal will achieve equity.

For a more detailed defense of this approach and especially the no-cuts principle, we have attached a statement sent to the attendees at the most recent CEAC meeting.

Thank you for your consideration,

Hon. Morris Jacobson

Hon. Wynne Carvill

Mr. Chad Finke



**From:** Finke, Chad, Superior Court  
**To:** [Conklin, Hon. Jonathan](#); [Fleming, Rebecca](#)  
**Cc:** [Hoshino, Martin](#); [Theodorovic, Zlatko](#); [Jacobson, Morris](#); [Carvill, Judge Wynne, Superior Court](#)  
**Subject:** Request by the Superior Court of Alameda County for Adjustments to WAFM  
**Attachments:** [Request for adjustments to WAFM 9-21-17.pdf](#)

---

Please see the attached letter.

Thanks,  
Chad

Chad Finke  
Court Executive Officer, Jury Commissioner and Clerk of the Courts  
Superior Court of California, County of Alameda  
1225 Fallon Street Room 209  
Oakland, CA 94612  
510-891-6273 phone; 510-891-6276 fax  
[www.alameda.courts.ca.gov](http://www.alameda.courts.ca.gov)



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**

**Executive Office**

**René C. Davidson Courthouse • 1225 Fallon Street, Oakland, CA 94612**

**Telephone: (510) 891-6012**

**MORRIS D. JACOBSON**  
*Presiding Judge*

**CHAD FINKE**  
*Executive Officer*

September 21, 2017

Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee, and Co-Chair, Funding Methodology Subcommittee

Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee

VIA E-MAIL

Dear Judge Conklin and Ms. Fleming,

This letter is intended to be a formal request by the Superior Court of Alameda County for adjustments to WAFM. This request is made pursuant to the revised process adopted by the Judicial Council of California on July 28, 2017. While the revised process contemplates the request being made on an application form to be developed by Judicial Council staff, we are not aware that any such form yet exists. As such, we are presenting our request in letter format and we trust that that will be acceptable.

In making this request, we are addressing the eight informational points set forth in the revised process adopted by the Judicial Council of California on July 28, 2017. Because that process appears to contemplate that requests will be limited to the addition of new WAFM "factors," some of the informational points are not directly applicable to our request. Nonetheless, we have done our best to respond to each informational point. And we are happy to provide any additional information as may be requested by the Judicial Council, the Trial Court Budget Advisory Committee, the Funding Methodology Subcommittee, or any other body.

**1. Description of how the factor is not currently accounted for in WAFM**

Our request is that WAFM be amended as follows:

- Eliminate all reference to, or use of, the "historic share" in calculating annual allocations to the trial courts.
- Adopt the trial courts' FY 17-18 allocations as their new respective "base" funding levels.
- Modify the WAFM formula such that, where the overall allocation to the trial courts for a fiscal year (not including one-time or specially designated funds such as dependency funding or

Hon. Jonathan B. Conklin and Ms. Rebecca Fleming  
 September 21, 2017  
 Page 2

innovation grant funding) is the same as the allocation for the prior fiscal year, then the courts' respective allocations likewise remain the same for the two years. In other words, make WAFM a "no cuts" model in flat budget years. To illustrate: If the FY 17-18 allocation to the trial courts is \$1.4B, and the allocation in FY 18-19 is also \$1.4B, then each court should, in FY 18-19, get the same allocation it received in FY 17-18.

- Modify the WAFM formula such that, in a year where the overall allocation to the trial courts for a fiscal year increases over the allocation for the prior fiscal year, each trial court's starting base budget allocation will be the same as in the prior fiscal year. Then, modify the formula such that a percentage of the increased overall allocation (which percentage shall be determined by FMS) is allocated only to the most severely underfunded courts. Lastly, modify the formula such that the remainder of the increased overall allocation is allocated to all courts, subject to criteria to be determined by FMS. To illustrate: If the trial courts overall receive \$100M more in FY 18-19 than in FY 17-18, then, e.g., \$50M of that new funding should go solely to the most underfunded courts, while the remaining \$50M should be distributed among all 58 courts.
- Modify the WAFM formula such that, in a year where the overall allocation to the trial courts for a fiscal year decreases over the allocation for the prior fiscal year, each trial court's starting base budget allocation will be reduced by a percentage equal to the value of the overall percentage reduction to the trial courts overall. To illustrate: If the trial courts overall receive 5% less funding via the State Budget in FY 18-19 than in FY 17-18, then each court's allocation in FY 18-19 should be reduced by 5%. Note that FMS would likely need to adopt a funding floor for the smallest courts in connection with this modification to ensure that they do not suffer reductions that effectively render them unable to function.

The "factors" embodied by the above-multi-part request are not currently accounted for in WAFM. That is, WAFM continues to rely on the "historic share" to some extent. Further, WAFM reallocates funding each year without regard to the overall level of funding to the trial courts respective to the prior fiscal year. And in years where funding to the trial courts overall is increased, it is still theoretically possible for a court not only to not share in the new funding, but to actually see a cut to its budget. Thus, our overall proposal represents an approach to funding allocation that is not currently accounted for under WAFM.

## **2. Identification and description of the basis for which the adjustment is requested**

This informational point does not appear to be applicable to our request.

## **3. Detailed analysis of why the adjustment is necessary**

While WAFM has resulted in a redistribution of currently available funding amongst the trial courts, it has done so at the cost of major disruptions to the operations of many of the "donor" courts, as well as a significant decrease in access to justice for the public served by those courts. The changes proposed in this request will make WAFM more transparent, stable, and predictable. This will, in turn, ensure that access to justice for the citizens of the "recipient" counties does not come at the cost of a reduction in

Hon. Jonathan B. Conklin and Ms. Rebecca Fleming  
September 21, 2017  
Page 3

access by citizens in the “donor” counties. We discuss the access implications further in connection with informational point 6 below.

As to transparency, both FMS and TCBAC have acknowledged, in public meetings, that WAFM in its current incarnation is difficult both to explain and understand. In particular, the calculations involved in determining the phase-in of the “historic share” over time make the WAFM formula complex to the point of opacity. Eliminating the historic share as proposed will make the formula much easier to explain and thus significantly more transparent, particularly to those outside of the branch.

As to stability and predictability, WAFM as it stands is flawed in a number of regards. First, WAFM is overly sensitive to changes in filing trends. By recalculating each court’s share on an annual basis, with reference to the immediate past three years of filings data, WAFM leads to unpredictable, sometimes extreme swings in funding “need” from year-to-year. This is not speculative; historical WAFM data demonstrate that there are a number of courts that have oscillated between “donor” and “recipient” status since the model’s inception, sometimes seeing year-to-year swings in excess of \$1M.

Exacerbating the issue, courts do not receive their WAFM allocation information until mid-June, just weeks before those allocations go into effect. Moreover, because WAFM is reliant on data from all 58 courts, there is no way for any single court to predict accurately whether it will in fact be a donor or recipient, nor to what extent. Thus, a court may find itself approaching July 1 expecting to receive an increase in its allocation over the prior year, only to learn at the last minute that it will instead be facing a reduction, perhaps even at a catastrophic level. Conversely, a court may find itself an unexpected recipient, without any clear, fiscally prudent plan for how to spend its excess funding.

These sorts of last-minute, unpredictable, and often dramatic changes in funding make it nearly impossible for any court other than the most under-resourced (which can at least assume that they will be “recipients” to some extent, and thus plan accordingly) to engage in sound budget management, including entering into multi-year contracts (which often provide fiscal savings over contracts of shorter duration) or agreeing to multi-year COLAs for staff (which then causes the court and the JCC to expend resources annually on wage reopeners).

Our proposal cures these issues. As stated above, the fundamental principle underlying the proposal is stated simply as “no more cuts,” i.e., no court will suffer any cut in its allocation over the prior year unless the trial courts as a whole are cut. That fact—whether the trial courts overall are likely to see a budget reduction—is generally telegraphed by the Governor in January. Thus, under our proposal all courts would know approximately 6 months in advance if there was a need to prepare for a budget reduction. Otherwise, each court would know that its budget for the upcoming year would be at least the same as the current year, which would begin to restore our ability to engage in long-range planning and expenditure plans.

As an added benefit, adopting a “no cuts unless all are cut” model would eliminate the current unfortunate situation in which courts are divided by WAFM into two warring camps. Because WAFM is, in essence, a zero-sum game; some advance only at the expense of others. By adhering to a model that is, at its heart, divisive, the branch has weakened the ability of the trial courts to harmonize our message

Hon. Jonathan B. Conklin and Ms. Rebecca Fleming

September 21, 2017

Page 4

to the other branches. If, however, our proposal is accepted, it will instantly align the trial courts around a single goal: vigorous advocacy for much-needed new funding, to be disproportionately allocated to those courts most in need.

**4. Description of whether the unaccounted for factor is unique to the applicant court or has broader applications**

This request has a statewide application, and would affect all 58 trial courts.

**5. Detailed description of staffing needs and/or costs required to support the factor that is unaccounted for by WAFM**

In our view, the elimination of the “historic share” and the calculations surrounding its application will greatly reduce the workload on Judicial Council staff tasked with implementing WAFM. That workload reduction should easily offset any one-time workload involved in creating the new calculations necessary to implement the recommendations above.

**6. Description of the consequence to the public and access to justice without the funding**

As noted above, one presumably unintended consequence of WAFM in its current form has been that it has significantly reduced access to justice for the citizens in some counties, particularly those in which the trial courts have been repeated “donors.” Among other things, the public in perennial “donor” counties have seen the following:

- Reductions in clerk’s office hours;
- Court closures on days that would otherwise be business days, to accommodate voluntary and mandatory furloughs;
- Longer lines and increases in various response times as a result of decreased staffing levels; and
- A loss of certain grant-funded programs due to unavailability of sufficient matching funds at the local level.

These access restrictions are particularly harmful to our most vulnerable populations, e.g., the indigent, the elderly, and others whose life situations already limit their options in terms of available time for traveling to, and interacting with, the court.

We understand and acknowledge that many of these outcomes may have been present in the most severely underfunded courts for years. And yet we cannot accept that it is now “the turn” of courts that were historically less underfunded to have to suffer those same access reductions. That position is, in our view, simply a restatement of the principal that somehow “two wrongs DO make a right.” In our view, the solution that is best for the public as a whole across the state is to adopt a “hold harmless” model like we have proposed, ensuring that those with the most dire need grow the fastest while at the same time not forcing some citizens to endure increased access restrictions to mitigate historical access restrictions faced by others.

Hon. Jonathan B. Conklin and Ms. Rebecca Fleming  
 September 21, 2017  
 Page 5

To be clear, however, without the changes we have proposed—i.e., if WAFM continues as it has—there is no doubt that we will continue to see access eroding in the “donor” counties. Clerk’s hours will continue to be reduced, services will be curtailed, staff reductions will continue, and the public will suffer for it.

**7. Description of the consequences to the requesting court of not receiving the funding**

As a court that has been a major “donor” for most of the lifespan of WAFM, it is tempting to say that, if our request is not granted, Alameda will suffer the additional reductions in staff, services, and access described above. And yet, because of the unpredictability and volatility of WAFM, there is no way, in September 2017, to predict with any certainty what the specific fiscal consequences will be for our court if our proposal is rejected. It may be that the filings of the other 57 courts will decline more than ours, and we will reap a windfall as a “recipient” next year. Or the converse may happen and we may take a significant cut and have to revive the layoff plan that we had prepared to put into place in FY 17-18.

The fact is that we don’t know, and in fact no court other than the most underfunded can know either. Thus, if our proposal or some other “no more cuts” proposal is not approved, then we will all do our best to manage the money we received this year, without ability to plan confidently for next year. We will continue to pass up multi-year contracts that offer good rates, for fear of not being able to afford them in the out years. We will continue to try to get our labor unions to agree to meager COLAs with annual reopeners, in hopes of fending off strikes. We will continue to assure the public that we regret the loss of services, and that we would like to restore them if only we could predict accurately whether we can truly afford to hire more staff.

If, however, our proposal were adopted, we could in fact begin to address these issues. We would have assurances as to at least our minimum funding level for next year, which would allow for some planning to begin.

**8. Any additional information requested by the JCC, et al., deemed necessary to fully evaluate the request**

We are happy to provide any additional information that may be needed, and we thank FMS and TCBC in advance for their consideration of our request.

Yours Very Truly,



Hon. Morris Jacobson, Presiding Judge

Hon. Wynne Carvill, Assistant Presiding Judge and Presiding Judge Elect

Chad Finke, Executive Officer

cc: Martin Hoshino, Administrative Director of the Courts, Judicial Council of California  
 Zlatko Theodorovic, Director and Chief Financial Officer, Judicial Council of California

**From:** Finke, Chad, Superior Court  
**To:** ["ExecutiveNetwork List"](#)  
**Subject:** memo on WAFM discussion points for this week's PJ-CEO meetings

---

Dear Colleagues,

As you all know, the TCPJAC/CEAC meetings this week will feature a number of break-out sessions, including one on WAFM. This conversation is crucial because the 5-year WAFM phase-in that was approved back in 2013 has been completed. Given the chronic underfunding of the judicial branch by the Legislature and the Governor, we think that the issue of how trial courts will be funded going forward is perhaps the most important issue before us at the moment.

In terms of process, the Trial Court Budget Advisory Committee (TCBAC) and its Funding Methodology Subcommittee (FMS) have already begun work on what comes next as we complete the original 5-year WAFM implementation. The Judicial Council has approved a deadline for offering input from the interested stakeholders, including the Presiding Judges and their CEOs. That deadline is October 15, 2017, so the available time to be heard is very limited.

Earlier this year Alameda circulated a proposed alternative to WAFM, the Population to Judge Ratio. While that model serves as an example of a more transparent, stable, and predictable alternative to WAFM, we remain open to and supportive of any budget allocation methodology that provides these basic protections to all of the trial courts. Thus, this email is not intended to reiterate that model nor seek support for it. Rather, we hope to build consensus among the courts as to certain fundamental concepts that should underpin whatever comes next, whether WAFM or some other methodology. Those concepts are as follows.

### **1. ELIMINATE THE "HISTORICAL SHARE"**

Under WAFM, a portion of each court's budget is based on its "historical share" of overall trial court funding. As has been noted many times, this factor—a product of political compromise in the 1990s—is largely responsible for the disparities and inequities in trial court funding that persist to this day. Whatever allocation model is used moving forward, it should in no way rely on the "historical share." That measure is anachronistic and has no relevance to the funding needs of the trial courts in 2017 and beyond. It is time to abandon the historical share as a part of the model and instead use FY 2017-18 as a new "base" from which to proceed.

### **2. NO MORE CUTS; STAGGER THE GROWTH; ALL SHARE EQUALLY IN OVERALL CUTS TO THE BRANCH**

The allocation model for our branch should no longer rely on cutting some courts to benefit others. While some courts are still more underfunded than others, after five years of “robbing Peter to pay Paul,” we have largely succeeded only in changing the names in the “budget winners” and “budget losers” categories. The courts that were historically underfunded remain underfunded, while courts that were managing have now also been brought down to minimal levels of functionality. It does not appear that access to justice has improved overall for trial court users under the five years of WAFM.

As an apparent prerequisite to a return to full funding, the Judicial Branch attempted in good faith to address inequalities within our own ranks. That return to full funding never materialized and our Branch remains woefully underfunded. Now is the time to send a message to the other branches that we will no longer cut ourselves; the further elimination of funding disparities will only be achieved when the Legislature and Governor adequately fund the courts.

**a. No more cuts in flat budget years**

In a flat budget year, like the present year, every court should get the same allocation as in the previous year. Thus, while the rate of growth for the most underfunded courts would be slowed, no courts would suffer harsh cuts without the ameliorating offsets of lesser budget gains (as many courts suffered this year).

**b. More underfunded courts receive a higher percentage of new funding in budget growth years**

Because some courts remain more underfunded than others, any new money coming into the branch should be disproportionately allocated to the most underfunded courts to bring them up to the level of those that are less underfunded. However, in a budget growth year, all courts should get at least some money, including the “least underfunded” courts. When new money comes in, some portion of that money should be divided among all 58 courts so that we all benefit. Another portion of the new money should be earmarked specifically for those courts that are most in need so as to continue to eliminate the funding gap between us. Such a split at, e.g., a 50/50 level would ensure that in good years we all gain, but those who need the most will gain the fastest.

**c. All courts share equally in budget reduction years**

In the unfortunate event of a future funding cut to the entire branch, all courts should share equally in the cut. For example, if the overall trial court budget were reduced by 5%, all courts should take a 5% cut, perhaps subject only to some level of funding floor for the very small courts. Such a model would ensure a shared community of interests among the trial courts.



### **3. THE FUNDING STRUCTURE MUST PROMOTE UNITY IN OUR BUDGET ADVOCACY**

Both agreeing to stop cutting courts in years with flat or improved budgets and agreeing to share overall branch cuts equally, have additional benefits. One consequence of WAFM has been that it has made it much more difficult for the courts to speak with a unified voice when it comes to budget advocacy. By pitting the courts against each other for a limited pool of resources, we have eroded our ability to come together and present a cohesive front to the Legislature and the Governor. If, however, we agree to treat FY 2017-18 as a new “base” year from which to build, it will be much easier to get all 58 courts to engage in vigorous advocacy around a single, unifying principle: full funding to the Judicial Branch so that all trial courts are both adequately and equally resourced.

#### **CONCLUSION**

We appreciate the opportunity that the Council, TCBAC, TCPJAC, and CEAC have provided to comment on these extremely important issues. Our time to make our voices as the leaders of the 58 trial courts heard is extremely short given the need for a Council to vote on a WAFM successor next spring. While we may not all agree completely on the specifics of any given model, we hope that each of you will give consideration to supporting us on the basic principles outlined above, and that you will communicate that support to TCBAC by no later than its October 15 deadline for doing so.

Thank you,

Hon. Morris Jacobson, Presiding Judge, Superior Court of Alameda County

Hon. Wynne Carvill, Assistant Presiding Judge and Presiding Judge-Elect, Superior Court of Alameda County

Chad Finke, Executive Officer, Superior Court of Alameda County



# Superior Court of California County of Orange

**DAVID YAMASAKI**  
COURT EXECUTIVE OFFICER  
CLERK OF THE COURT  
JURY COMMISSIONER

700 CIVIC CENTER DRIVE WEST  
SANTA ANA, CA 92701  
PHONE: 657-622-7017  
FAX: 657-622-8235

October 24, 2017

Trial Court Budget Advisory Committee  
Funding Methodology Subcommittee  
October 26, 2017

Re: Future Distribution Formulas

Dear Members:

I address you on behalf of the Orange County Superior Court. As one of the participating members of TCBAC that helped develop WAFM, I continue to be supportive of WAFM and the work before this subcommittee. Clearly, recommending to TCBAC and the Judicial Council on how best to allocate funding in the future is extremely complex and will be long lasting. The long-lasting effect is why I feel compelled to provide these comments.

My thoughts are consistent with remarks I made during the full Budget Advisory Committee meeting in July, where I felt it was necessary to review the impact of WAFM on the trial courts during the previous five years. It is obvious that those courts that have been woefully underfunded have gained with this new methodology. Gains from modest increases in new funding, but also through the reallocation of historic funding to less underfunded courts.

Today, recipient courts are in a much better place as funds have allowed those who struggled financially to reopen courtrooms, hire much needed staff, and invest in their infrastructure. During that same period, the less under-resourced courts have seen their workforce decline by 20-35%, close courtrooms, reduce service hours to the public, and see their backlogs skyrocket. Despite such sacrifices, I continue to be a supporter of WAFM as we have established a model for allocating trial court funds on the basis of workload.

As we plan for our future, it is very clear that drawing upon historic funding to increase funding to receiving courts will result in even further reductions in staff, courtrooms, public service hours, and growing backlogs for contributing courts. The additional funds that have been appropriated in the past few years have provided needed resources for some trial courts, but those courts that have been contributing toward WAFM have experienced ten years of consecutive reductions. This has been a product of zero funding years and the redistribution of historic funding. This fact was expressed by one of the Funding Methodology Subcommittee members at your previous meeting.

During the construction of WAFM in 2012, members of the TCBAC remained optimistic that this new and equitable calculation to fund trial courts would be received positively by the Governor and Legislature such that they would adequately fund the trial courts. Hope and reality are concepts that have not paired

October 24, 2017

**Page 2**

in the funding of our Branch since the birth of WAFM. At this stage in its evolution, it is obvious that adopting any practice of allocating additional funding to trial courts by reducing funding to others outside of the WAFM model (the banding concept) would be counter-productive if it will require further reductions to any court.

As I've spoken with other colleagues who have contributed the most toward improving equity, I believe courts have reached a breaking point and cannot sustain further reductions in their allocations. With costs continuing to climb, these courts have been required to reduce staff, services and other expenses as operating costs continue to climb. For these stated reasons, we urge this body to adopt a formula for the future allocation of funds to trial courts that are not offset by further reductions to other courts.

I urge this body to rely upon funding increases to our base to help courts that have been woefully underfunded and allow the less underfunded courts to sustain services at the current and already diminished services levels by discontinuing any further baseline reductions.

Sincerely,



David Yamasaki  
Court Executive Officer

## Trial Court Allocation Scenarios Based on New Policy Recommendations

December 2017

**Scenario 1:** No New Money for 3 Years

**Scenario 2:** No New Money in Years 1 and 3; New Money in Year 2

**Scenario 3:** 5-Year Blend of New Money / No New Money

**Scenario 4:** Reduction

**Scenario 5:** New Non-Discretionary Money

<b>Scenario 1: No New Money<sup>1</sup> for 3 Years</b>		
<b>2018-19 – No New Money</b>	<b>2019-20 – No New Money</b>	<b>2020-21 – No New Money</b>
Adjustment year, no allocation changes made unless the result of a floor adjustment.	No allocation change will occur for those courts within the band 2% above and 2% below the statewide average funding level, or for cluster one courts.	Adjustment year, no allocation changes made unless the result of a floor adjustment.
Workload measures updated, but no change to allocation. <sup>2</sup>	Up to 1% of allocations for courts above the band will be reallocated to courts below band to provide an increased allocation of up to 1%, allowing courts to penetrate the band if adequate funds are available.	Workload measures updated, but no change to allocation.
	This would fall into every other year no money, so not an adjustment year.	

<b>Scenario 2: No New Money in Years 1 and 3; New Money in Year 2</b>		
<b>2018-19 – No New Money</b>	<b>2019-20 – New Money</b>	<b>2020-21 – No New Money</b>
Adjustment year, no allocation changes made unless the result of a floor adjustment.	Bring all Cluster 1 courts up to at least 100% of funding need.	No allocation change will occur for those courts within the band 2% above and 2% below the statewide average funding level, or for cluster one courts.
Workload measures updated, but no change to allocation.	Allocate up to 50% of remaining funding to courts under the statewide average based on WAFM, bringing courts up to (but not over) the statewide average.	Up to 1% of allocations for courts above the band will be reallocated to courts below band to provide an increased allocation of up to 1%, allowing courts to penetrate the band if adequate funds are available.
	Allocate remaining funds to <i>all courts</i> based on WAFM.	This would fall into every other year no money, so not an adjustment year.

<sup>1</sup> New money is defined as any new, ongoing allocation of general discretionary dollars to support cost of trial court workload, excluding funding for benefits and retirement increases.

<sup>2</sup> Workload will be run every year, but will not be used for allocation purposes on every other year of no new money until such time as all courts are within the band.

## Trial Court Allocation Scenarios Based on New Policy Recommendations

December 2017

<b>Scenario 3: 5-Year Blend of New Money / No New Money</b>				
<b>2018-19 – No New Money</b>	<b>2019-20 – New Money</b>	<b>2020-21 – No New Money</b>	<b>2021-22 – No New Money</b>	<b>2022-23 – New Money</b>
Adjustment year, no allocation changes made unless the result of a floor adjustment.	Bring all Cluster 1 courts up to at least 100% of funding need.	No allocation change will occur for those courts within the band 2% above and 2% below the statewide average funding level, or for cluster one courts.	Adjustment year, no allocation changes made unless the result of a floor adjustment.	Bring all Cluster 1 courts up to at least 100% of funding need.
Workload measures updated, but no change to allocation.	Allocate up to 50% of remaining funding to courts under the statewide average based on WAFM, bringing courts up to (but not over) the statewide average.	Up to 1% of allocations for courts above the band will be reallocated to courts below band to provide an increased allocation of up to 1%, allowing courts to penetrate the band if adequate funds are available.	Workload measures updated, but no change to allocation.	Allocate up to 50% of remaining funding to courts under the statewide average based on WAFM, bringing courts up to (but not over) the statewide average.
	Allocate remaining funds to <i>all courts</i> based on WAFM.	This would fall into every other year no money, so not an adjustment year.		Allocate remaining funds to <i>all courts</i> based on WAFM.

<b>Scenario 4: Reduction</b>
No policy direction save will be considered and recommended in the fiscal year it occurs with special consideration for those courts below the statewide average.
Recommendation to include a determination if these years will be considered “New Money” vs. “No New Money” years.

<b>Scenario 5: New Non-Discretionary Money</b>
No policy direction save will be addressed as needed.
Recommendation to include a determination if these years will be considered “New Money” vs. “No New Money” years.

## Workload-based Allocation and Funding Methodology (WAFM) Policy Development

November 7, 2017

### Funding Need Calculations:

Clusters		
Description	Rationale	Calculation
Clusters	Helps the branch overcome scale issues when applying statewide policies. Based on premise that courts of different sizes have different needs, different economies of scale.	Based on judicial positions and 'natural' breaks between groupings of judicial officers in early 2000s; never been updated.  Funding Methodology Subcommittee (FMS) added work plan item to review clusters, and specifically WAFM model effects on cluster 2 (October 26, 2017).
Resource Assessment Study (RAS) Full-Time Equivalent (FTE) Need		
Description	Rationale	Calculation
RAS FTE need, Program 10 and 90.	Branch agreement in principle that funding should be linked to workload.  Affirmed by the Trial Court Budget Advisory Committee (TCBAC) in its Judicial Council (JC) report (April 26, 2013). FMS reaffirmed use of a workload-based model for funding (October 26, 2017).	<ul style="list-style-type: none"> <li>See July 27, 2017 Workload Assessment Advisory Committee (WAAC) JC report for most recent set of RAS model parameters.</li> <li>There are four Small Court Adjustments (SCAs) in RAS:               <ol style="list-style-type: none"> <li>1) rounding to next highest whole numbers;</li> <li>2) differentiated manager/supervisor ratios;</li> <li>3) differentiated Program 90 ratios; and</li> <li>4) higher Infractions case weights for courts with fewer than 100,000 filings.</li> </ol> </li> <li>RAS is always based on the average of the three most recent years of filings data.</li> </ul> <p><b>Update Frequency:</b> Annual (RAS FTE estimates); caseweights and other measures (about every five years).</p>
Average Salary Calculations		
Description	Rationale	Calculation
FTE allotment factor (courts with more than 50 FTEs)	<ul style="list-style-type: none"> <li>Existing court employee salaries in each court should be used to project salary dollar needs (April 26, 2013).</li> </ul>	To compute salary costs and salary-driven benefits, using the most recent Schedule 7A data: <ul style="list-style-type: none"> <li>Sum up total salaries of all RAS-related positions by court;</li> </ul>

	<ul style="list-style-type: none"> <li>The average of averages is the same methodology used to calculate the Bureau of Labor Statistics (BLS) salary adjustment factor (February 20, 2014).</li> </ul>	<ul style="list-style-type: none"> <li>Sum up total of all filled RAS-related FTEs by court;</li> <li>Salaries and FTEs exclude those related to non-court-operations Program, Element, Component, Task (PECTs), Subordinate Judicial Officers (SJOs), Court Executive Officers (CEOs), marshals, court attendants, interpreters and interpreter coordinators, and vacant positions; and</li> <li>The statewide FTE allotment factor is the average of each court's average.</li> </ul> <p><b>Update Frequency:</b> Annual</p>
FTE allotment factor (courts with fewer than 50 FTEs)	<p>Applying BLS with no modifiers has resulted in some rural courts (with fewer than 50 FTEs) receiving unrealistically low dollar per-FTE allotments.</p> <p>This policy is consistent with federal and state government policies that recognize the special circumstances of employers of fewer than 50 employees.</p>	<ul style="list-style-type: none"> <li>To receive a funding need adjustment, a court must meet both conditions.</li> <li>The difference between the court's BLS-adjusted FTE dollar allotment and the median BLS-adjusted FTE dollar allotment of all courts with a workload need of fewer than 50 FTEs is computed.</li> <li>Courts whose average FTE dollar allotment is lower than the median are brought up to the median.</li> <li>Allotment factor for salaries is the 6<sup>th</sup> SCA; the allotment factor is also applied to the salary-driven benefits for Program 10 staff and Program 90 staff (7<sup>th</sup> and 8<sup>th</sup> SCA).</li> </ul> <p><b>Update frequency:</b> Annual</p>
Use a cluster-average salary for the CEO.		<p>Add the CEO salary based on the cluster average. Previously, the actual CEO salary was added into the salary need after adjustment. In the amended method the CEO salary will be added to the unadjusted salary total using the cluster average CEO salary (July 25, 2013 JC meeting).</p> <p><b>Update Frequency:</b> Annual</p>
<b>BLS Cost of Labor Adjustment</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
Cost of labor adjustment based on BLS Quarterly Census on Wages.	<ul style="list-style-type: none"> <li>Implements legislative requirement that salaries and benefits are set by each local trial court based on local circumstances</li> </ul>	<p><u>July 25, 2013 JC Report:</u></p> <ul style="list-style-type: none"> <li>BLS Category 92: Local government should be used as the comparator.</li> </ul>

	<p>(Government Code, sections 71620 and 71623, implementing legislative intent in section 77001(c)(2)).</p> <ul style="list-style-type: none"> <li>• Court employee classifications are deemed comparable to the classifications of local government employees.</li> <li>• Tying salaries and benefits to local labor markets is to ensure that the courts can attract equivalent caliber employees. Basing all court employee salaries on a statewide average would underfund courts in counties with higher public employee labor costs and overfund courts with lower public employee labor costs, resulting in uneven access to justice.</li> </ul>	<ul style="list-style-type: none"> <li>• A statewide BLS average is calculated using BLS county averages. A ratio for each county is then calculated by dividing the BLS series average for a specific county by the statewide BLS average. The ratio indicates what each county's average is relative to the statewide average.</li> </ul> <p><u>February 20, 2014 JC Report:</u></p> <ul style="list-style-type: none"> <li>• Approved use of a blended local-state government BLS factor if the proportion of state employees in a jurisdiction is greater than 50%.</li> <li>• For courts with missing data in Category 92 (Local Government), State Government data is used; for courts with missing data in Category 92 (State Government), Local Government data is used.</li> <li>• A three-year average of the most current salary data is used to determine the BLS salary adjustment.</li> </ul> <p><b>Update Frequency:</b> Annual</p>
<b>Benefits calculations</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
Each court's actual salary-driven and non-salary driven benefits used are multiplied by the RAS FTE need to determine funding needed for benefits costs.	Actual benefit ratios are used because of the statutory requirement that benefits be determined locally via existing labor relations structures. Also, the benefit rates may be set by county retirement systems and not subject to change by the court, although contribution levels may be the subject of bargaining (April 26, 2013 JC report).	Average Salary-Driven Benefits as % of Salary and Average Non-Salary-Driven Benefits Per FTE from each court's Schedule 7A for all RAS-related, filled positions.
<b>Funding Floor</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
Absolute and graduated funding floors.	There is a minimum level of funding that is required for a court to serve the public.	<p><u>February 20, 2014 JC Meeting:</u></p> <ul style="list-style-type: none"> <li>• Established an absolute (\$750,000) funding floor; three graduated funding floors (\$875,000, \$1.25m, \$1.875m).</li> <li>• Caps the amount of the allocation adjustment that courts eligible for funding at the graduated floor level can receive</li> </ul>



	<p>Minimum level of funding needed based on an open-the-books analysis of the operational needs of the smallest courts.</p>	<p>in a given fiscal year to the higher of their prior-year WAFM allocation plus 10%; or current allocation.</p> <ul style="list-style-type: none"> <li>• Cost of funding floors is paid by a pro rata reduction in the allocations of courts that do not qualify for funding floors.</li> </ul> <p><u>October 26, 2017 FMS Meeting:</u></p> <ul style="list-style-type: none"> <li>• Retained funding floor at current levels (no inflationary adjustments made).</li> </ul> <p><b>Update Frequency:</b> None</p>
<b>Operating Expenditures and Equipment (OE&amp;E)</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
<p>Funding needed for non-personnel costs such as supplies, equipment, information technology, and various types of professional and other services.</p>	<p>The use of an aggregate total based on FTE implies that:</p> <p>a) the expenditures for equipment and supplies vary by FTE, and</p> <p>b) total costs for items within these expense categories do not vary widely across courts.</p> <p>Use of actual expenses accepts existing business practices as relatively efficient.</p> <p>Although courts may enter expenses in different cost account categories, the summation across accounts eliminates most of the impact from inconsistent coding of expenses.</p> <p>Courts often have different levels of expenses in each of the OE&amp;E categories. The methodology used assumes these 'average out' across OE&amp;E line items within a court.</p>	<ul style="list-style-type: none"> <li>• Calculate ratio of actual OE&amp;E costs per existing FTE (filled positions only) for each trial court using 2011-12 end of year data on OE&amp;E expenses from Phoenix and FTE totals from Schedule 7A. An average OE&amp;E figure was then calculated for two court size clusters – all the cluster 1 courts (those with two judges) and the rest of the courts.</li> <li>• Apply ratio to total (including CEO) FTE need.</li> <li>• Categories of expenses <b>included</b> are itemized in the April 26, 2013 JC report (may have been subsequently revised in later years).</li> <li>• Categories of expenses <b>excluded</b> in OE&amp;E calculation: <ol style="list-style-type: none"> <li>1) Services which may be included in the RAS FTE need estimate; for example, child custody mediators and probate investigators. Even if these services are contracted out, they are included in RAS FTE estimates.</li> <li>2) Categories of expenses which were not common to most courts, or were unique to only a few courts;</li> <li>3) Rent for lease costs on facilities used for records storage was included but rent for lease costs on</li> </ol> </li> </ul>

		<p>facilities used for other purposes was excluded pending further review [review has never been conducted];</p> <p>4) Services provided by the Judicial Council to a court where there was no charge to the court (i.e. HR or labor relations assistance and IT support such as for V2, V3, and SUSTAIN).</p> <p><b>Update Frequency:</b> Unknown, To Be Determined</p>
<b>AB 1058 staff costs</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
AB 1058 staff/Family Law Facilitator costs	The FTE need for these services are captured in RAS; the dollar amount of federal funding received for those services should be subtracted from each court's WAFM need.	The most recent fiscal year of program data is used.  <b>Update Frequency:</b> Annual

### Equivalent Funding:

<b>Funds Included in Base Funding</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
<b>Judicial Council Meeting Date:</b> April 26, 2013		
Funds that have been identified as comparable to workload-based funding need.	Does not include any revenue or resources that are allocated using a formula that is not filings-driven, such as reimbursed expenses for court interpreters or jury. 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.	<p>Fund categories included:</p> <ul style="list-style-type: none"> <li>• TCTF Program 45.10 base allocation</li> <li>• Self-help</li> <li>• Replacement of 2% automation</li> <li>• Automated recordkeeping and micrographics distribution (2011-12)</li> <li>• Benefits base allocations</li> </ul> <p>(See Table 1, April 26, 2013 JC report)</p>
<b>Fund Exemptions</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
<b>Judicial Council Meeting Date:</b> April 26, 2013		
The following funds are not part of the	These revenue sources are not filings-driven.	Fund descriptions include: <ul style="list-style-type: none"> <li>• Security Base Adjustment;</li> </ul>

<p><u>WAFM Model:</u></p> <ul style="list-style-type: none"> <li>• Revenue or resources 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.</li> <li>• 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.</li> </ul>		<ul style="list-style-type: none"> <li>• SJO Adjustment (AB 1058 Commissioner Compensation Removed);</li> <li>• Court-Appointed Counsel (including DRAFT);</li> <li>• Jury;</li> <li>• Criminal Justice Realignment (one-time 12-13);</li> <li>• \$30 Court Reporter Fee;</li> <li>• Fees Retained by Courts;</li> <li>• Civil Assessments;</li> <li>• Children’s Waiting Room;</li> <li>• Telephonic Appearance;</li> <li>• Court Interpreters;</li> <li>• Civil Case Coordination;</li> <li>• Family Law Information Centers;</li> <li>• Model Self-Help;</li> <li>• Complex Civil Litigation;</li> <li>• Self-Help;</li> <li>• AB 1058 Child Support Commissioner, Family Law Facilitator, and Staff;</li> <li>• Prisoners’ Hearings;</li> <li>• Service of Process;</li> <li>• Interest Income;</li> <li>• Investment Income;</li> <li>• Local Fees;</li> <li>• Non-Fee Revenues;</li> <li>• Enhanced Collections;</li> <li>• County Program – Restricted;</li> <li>• Reimbursement Other; and</li> <li>• Other Miscellaneous.</li> </ul>
--	--	---

## General Policies:

WAFM Adjustment Request Process		
Description	Rationale	Calculation
<b>Judicial Council Meeting Date:</b> August 22, 2013		
Allows courts the opportunity to identify factors which are not yet accounted for in WAFM, but are essential to the fundamental operation of a trial court, and to request ongoing adjustments to the assessed WAFM funding needs. Not intended to address one-time emergency circumstances nor supplement funding for urgent needs.		<p>Requesting courts must provide:</p> <ol style="list-style-type: none"> <li>1) A description of how the factor is not currently accounted for in WAFM.</li> <li>2) Identification and description of the basis for which the adjustment is requested.</li> <li>3) A detailed analysis of why the adjustment is necessary.</li> <li>4) A description of whether the unaccounted for factor is unique to the applicant court(s) or has broader applications.</li> <li>5) Detailed description of staffing need(s) and/or costs required to support the factor that is unaccounted for by WAFM.</li> <li>6) Description of the consequence to the public and access to justice without the funding.</li> <li>7) Description of the consequences to the requesting court(s) of not receiving the funding.</li> <li>8) Any additional information deemed necessary to fully evaluate the request.</li> </ol>
<b>Judicial Council Meeting Date:</b> July 28, 2017		
Changed deadlines and submission requirements.	A longer timeline will allow more time for courts to prepare and operationalize impacts based on adjustments to the WAFM model.	<p>Changes include:</p> <ol style="list-style-type: none"> <li>1) Make technical changes to reflect organizational changes within the Judicial Council of California;</li> <li>2) Change the submittal date and review timelines by the FMS and the TCBAC;</li> <li>3) Formalize that no changes to the WAFM formulae can occur after the March/April Judicial Council meeting if they impact the subsequent fiscal year; and</li> </ol>

		4) Allow the FMS to take expedited action on the request, if directed by the TCBAC.
<b>Unresolved Issues / Parking Lot / Work Plan</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
<b>TCBAC Meeting Date: June 8, 2017</b>		
Work plan as approved by the TCBAC.		<ol style="list-style-type: none"> <li>1) Plans for FY 2018–2019 and year 6 and beyond <ol style="list-style-type: none"> <li>a. Simplify display of worksheets for after year 5</li> <li>b. Review and evaluate funding methodology</li> </ol> </li> <li>2) New and existing judgeships staffing complement funding</li> <li>3) Track technology funding streams (quarterly updates from JCTC and CITMF)</li> <li>4) Track joint working group with Family and Juvenile Law Advisory Committee to evaluate the allocation methodology for Child Support Commissioner and Family Law Facilitator Program funding including. Subsequent to receiving information from working group, FMS will start to review AB 1058 revenue as an offset to WAFM funding need.</li> <li>5) Evaluate the impact of civil assessments as it relates to the Workload-based Allocation and Funding Methodology (WAFM)</li> <li>6) Review TCTF and IMF self-help funding allocation</li> <li>7) Identify all funding sources and determine allocation models</li> <li>8) Review funding floor calculation and determine handling of inflation and refresh cycle</li> <li>9) Special circumstances cases funding</li> <li>10) Evaluate impact of JCC and other provided services</li> <li>11) Evaluate how to include unfunded costs – courthouse construction</li> <li>12) Address impact of BLS in the model</li> </ol>

**Policies Not Adopted (NOT COMPLETE AS OF November 7, 2017):**

<b>Special Circumstances / Death Eligible Cases to be Measured in RAS</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
Directed a study of special circumstance/death eligible cases in the next round of workload study updates.	February 20, 2014 JC meeting.	Not adopted (refer to WAAC meeting minutes).
<b>Geographical Factors (Mendocino Adjustment Request)</b>		
<b>Description</b>	<b>Rationale</b>	<b>Calculation</b>
Funding adjustment request for county geography		

**Judicial Council Reports**

April 26, 2013: <http://www.courts.ca.gov/documents/jc-20130426-itemP.pdf>

July 25, 2013: <http://www.courts.ca.gov/documents/jc-20130725-itemC.pdf>

August 22, 2013: <http://www.courts.ca.gov/documents/jc-20130823-item2.pdf>

February 20, 2014: <http://www.courts.ca.gov/documents/jc-20140220-itemK.pdf>

July 28, 2017: <https://jcc.legistar.com/LegislationDetail.aspx?ID=3090107&GUID=7A0AB9F5-4767-424B-96F7-8D962B258BD5>

**Judicial Council Minutes**

April 26, 2013: <http://www.courts.ca.gov/documents/jc-20130426-minutes.pdf>

July 25, 2013: <http://www.courts.ca.gov/documents/jc-20130725-minutes.pdf>

August 22, 2013: <http://www.courts.ca.gov/documents/jc-20130823-minutes.pdf>

February 20, 2014: <http://www.courts.ca.gov/documents/jc-20140220-minutes.pdf>

July 28, 2017: <https://jcc.legistar.com/View.ashx?M=M&ID=512292&GUID=8C379D3F-1774-4555-AE4D-5B8728283100>

JUDICIAL COUNCIL OF CALIFORNIA  
BUDGET SERVICES  
Report to the Trial Court Budget Advisory Committee

**(Action Item)**

**Title:** Funding Methodology Subcommittee Work Plan  
**Date:** 12/4/2017  
**Contact:** Lucy Fogarty, Deputy Director, Budget Services  
415-865-7587 | [lucy.fogarty@jud.ca.gov](mailto:lucy.fogarty@jud.ca.gov)

---

**Issue**

The Funding Methodology Subcommittee’s (FMS) proposed work plan as updated on October 26 and November 14, 2017 needs review and approval of the Trial Court Budget Advisory Committee (TCBAC).

**Background**

The FMS prepares an annual work plan to direct its efforts in developing and refining the Workload-based Allocation and Funding Methodology (WAFM) model. The TCBAC approved changes to the 2017-18 work plan at its meeting on June 8, 2017 (Attachment 3A).

As part of the review and evaluation of the funding methodology identified in item 1b of the work plan, the FMS is proposing the following changes to the work plan:

- a. Amend the language of item 2 to read “Address new judgeship staffing complement funding when necessary.”
- b. Create an “Annual Updates” section.
- c. Move items 3 and 4 to the Annual Updates section.
- d. Amend the language of item 8 to read, “Review the base and graduated funding floor amounts annually to determine whether an inflationary adjustment is needed.”
- e. Amend the language of item 9 to read, “Evaluate special circumstances cases funding.”
- f. Amend the language of item 12 to read, “Evaluate the cluster 2 Bureau of Labor Statistics and small court adjustment contributions.”
- g. Defer items 2, 5, 6, 7, 9, and 10 to 2018-19.
- h. Defer item 11 to 2019-20.

In addition, a technical adjustment is proposed by Judicial Council staff. Item 4 should read, “Track joint working group with Family and Juvenile Law Advisory Committee to evaluate the allocation methodology for Child Support Commissioner and Family Law Facilitator Program funding. Subsequent to receiving information from working group, FMS will continue to review AB 1058 revenue as an offset to WAFM funding need.”

JUDICIAL COUNCIL OF CALIFORNIA  
BUDGET SERVICES  
Report to the Trial Court Budget Advisory Committee

The updated work plan is provided as Attachment 3B.

**Recommendations**

The following recommendations are presented for the TCBAC's consideration:

1. Approve the FMS proposed 2017–2018 Work Plan for WAFM as presented.

Or

2. Make changes to the FMS proposed 2017–2018 Work Plan for WAFM and approve with those changes.



## FUNDING METHODOLOGY SUBCOMMITTEE (FMS) WORK PLAN

Updated on June 8, 2017

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 to evaluate the allocation methodology for Child Support Commissioner and Family Law Facilitator Program funding including. Subsequent to receiving information from working group, FMS will start to review AB 1058 revenue as an offset to WAFM funding need.
5. Evaluate the impact of civil assessments as it relates to the Workload-based Allocation and Funding Methodology (WAFM)
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

**FUNDING METHODOLOGY SUBCOMMITTEE (FMS) WORK PLAN**  
Updated on October 26 and November 14, 2017

**2017-18**

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

**2018-19**

2. Address new judgeship staffing complement funding when necessary.
3. Evaluate the impact of civil assessments as it relates to the Workload-based Allocation and Funding Methodology (WAFM).
4. Review TCTF and IMF self-help funding allocation.
5. Identify all funding sources and determine allocation models.
6. Evaluate special circumstances cases funding.
7. Evaluate impact of JCC and other provided services.
8. Evaluate the cluster 2 Bureau of Labor Statistics and small court adjustment contributions.

**2019-20**

9. Evaluate how to include unfunded costs – courthouse construction.

**Annual Updates**

10. Review the base and graduated funding floor amounts annually to determine whether an inflationary adjustment is needed.
11. Track technology funding streams (quarterly updates from JCTC and CITMF).
12. Track joint working group with Family and Juvenile Law Advisory Committee to evaluate the allocation methodology for Child Support Commissioner and Family Law Facilitator Program funding. Subsequent to receiving information from working group, FMS will continue to review AB 1058 revenue as an offset to WAFM funding need.