



Chambers of
JOHN W. VINEYARD
Presiding Judge

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Superior Court of California
County of Riverside

W. SAMUEL HAMRICK, JR.
Court Executive Officer

February 26, 2019

Hon. Daniel J. Buckley, Co-Chair
Ms. Rebecca Fleming, Co-Chair
Funding Methodology Subcommittee
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102

Dear Judge Buckley and Ms. Fleming:

The Superior Court of California, County of Riverside provides the following comments on Item 1 of the Funding Methodology Subcommittee's upcoming agenda (entitled Civil Assessment and Maintenance of Effort Agreement) scheduled for Thursday, February 28 and Friday, March 1, 2019. The comments also relate to the Funding Methodology Subcommittee's October 18, 2018 Discussion Item 2 – Civil Assessment and WAFM. At that time, the issue before the committee was to "Evaluate the impact of civil assessments as it relates to the Workload-based Allocation and Funding Methodology (WAFM)."

Recommendation 1 - Determine how civil assessments should be distributed beginning in FY 2019/2020.

The recommendation proposes a 4-step process on how civil assessments should be distributed.

Recommendation 1 (a & b) – Pool civil assessment revenue statewide and then fund the MOE obligations for all courts.

We believe the first step should be to determine if the County MOE Buy-Outs are a branch-wide obligation or an individual court obligation. Historically, these MOEs have been treated as an individual court debt. Currently, the JCC recovers them by reducing the respective individual courts' civil assessment collections. It should be noted that since the late 1990's, as County MOE payments were being established and negotiated, local courts were not required to absorb debt agreements in other counties. Local

arrangements stayed local arrangements. To require a complete shift in funding these debts, using civil assessment agreements in particular, so many years later is neither equitable nor reasonable. To our knowledge, no specific decision has yet been made as to whether these agreements are legally a statewide obligation. Such a decision needs to occur and be outlined very clearly before a \$48 million debt is spread across all 58 courts.

If it is determined that this is a branch-wide debt, the next step would be to determine how to pay the obligation. The FMS recommends using statewide civil assessment revenue as a funding source and tying the payments to a court's respective percentage of collections. Therefore, the better a court does in terms of collections; the more it will pay to cover other counties' debts. We oppose this approach for the following reasons:

- *Civil assessment revenue is a very unstable funding source to apply to individual courts' ongoing obligations. Civil assessments have steadily declined over the past four years. For the period FY 2014/2015 (\$160,039,838) to FY 2017/2018 (\$104,659,715) there was a drop in collections of \$55,380,123 or over 34%. A good portion of this decline is due to significant legislative changes, which have negatively impacted the collection efforts of the courts (driver's license holds/ability-to-pay measures). These initiatives continue to be put forward by the Legislature. In addition, the Futures Commission recommended legislation be sought to limit civil assessments and to implement a civil model of adjudication for minor vehicle infractions (Recommendation 2.3 and 2.4). To support these recommendations, the Chief Justice established the Futures Traffic Working Group to develop a proposal to implement a civil model for adjudication of minor vehicle infractions. Further, we believe this recommendation will create a disincentive for courts to collect these fees, accelerating the decline even further.*
- *We question the fairness of using civil assessment collections to fill this gap created by the MOE Buy-Outs as there is a lack of uniformity within the branch as to the imposition, amount, and enforcement of these fees. There are disparate levels of collections and collection efforts vary considerably. Civil assessments, like many other fees that are remitted to the JCC and returned to the courts, are a reimbursement for the work performed to impose and collect them. Of the 38 courts with civil assessment MOE obligations in FY 2017/2018, six were unable to fully pay this debt with their civil assessment collections.*
- *Lastly, this proposal represents the largest transfer of resources between courts since the implementation of WAFM. Clearly, there are far more losers than winners with this recommendation and the implications to individual courts need to be carefully assessed before making a responsible recommendation to the Judicial Council.*

There are other approaches to funding these MOE obligations if the determination is made that they are a branch-wide debt. An alternative option would be to allocate the reduction on a pro-rata basis to all courts. This method is fair and equitable as the reduction is absorbed by all courts and follows a pattern for allocating reductions to the trial courts that has occurred in the branch in the past. This approach is also transparent, stable, and consistent. We fully support the recent recommendation of the Trial Court Budget Advisory Committee to request a BCP and seek statewide relief through the

Department of Finance. Our recommendation is that civil assessment revenues continue to be allocated to each court as has been done historically.

Recommendation 1(c) - Fund other civil assessment obligations as identified in written agreements provided by the courts. .

We recommend that any agreements other than the County MOE Buy-Outs (\$48.3M) be removed from consideration as a potential branch-wide obligation.

Recommendation 1(d) - Distribute the net civil assessments to each court based on a pro-rata share of gross civil assessment collections.

This item needs to be considered as a completely independent decision, aside from how to handle the MOE Buy-Out debt. We put forward the following:

- *Civil assessments are just one of many local fees collected by courts to offset the cost of a specific service. Treating them independent of other local fees is inconsistent, confusing, and illogical.*
- *Pooling and distributing this revenue does not ensure equity among the courts, in fact it does just the opposite. With some courts standing to lose up to 49.91% of these revenues, others stand to gain from between 50 and 69.6%.*
- *Courts with robust civil assessment programs are penalized for their efforts. The disincentive to continue the work involved in imposing and collecting these fees will be imminent and a reduction in statewide collections a foregone conclusion.*
- *Courts should be able to maintain the local agreements in place for these collections.*

Recommendation 2 – Review the civil assessment obligations identified in Attachment B and determine if they should be covered by the statewide pool in the event the methodology identified in 1 is recommended.

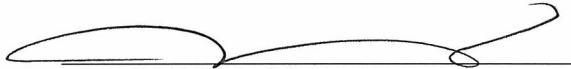
See comments for 1(c) above.

Although not included in the recommendations, but included as Item 1 of the Funding Methodology Subcommittee’s Work plan for FY18/19 “Evaluate the impact of civil assessments as it relates to the Workload Formula”, the court would further comment. We support an approach which factors civil assessments into a court’s overall funding need only after a thorough analysis is performed - one which takes into consideration both the volatility/decline of these fees and the impact it will have on a court’s year to year WAFM need – and a determination is made that it is a fair and equitable approach to funding.

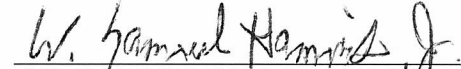
The issues raised in these recommendations are extremely complex, resulting from various actions taken over many years, and can be difficult to explain. Given this is such a significant policy shift, we believe it should only be pursued when it has been fully

understood and all of the implications have been thoroughly vetted and impacts evaluated. We appreciate having an opportunity to comment on these recommendations and for your consideration of our views.

Sincerely,



JOHN W. VINEYARD
Presiding Judge



W. SAMUEL HAMRICK, JR.
Court Executive Officer

cc: Hon. Harold Hopp, Judicial Council Member
Hon. John Monterosso, Assistant Presiding Judge
Hon. Jonathan B. Conklin, Chair of the Trial Court Budget Advisory Committee