



JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

TRIAL COURT BUDGET ADVISORY COMMITTEE FUNDING METHODOLOGY SUBCOMMITTEE

MATERIALS FOR OCTOBER 8, 2019

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JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET
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TRIAL COURT BUDGET ADVISORY COMMITTEE FUNDING METHODOLOGY SUBCOMMITTEE

NOTICE AND AGENDA OF OPEN IN-PERSON MEETING

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

THIS MEETING IS BEING RECORDED

Date: October 8, 2019
Time: 11:30 a.m. to 2:00 p.m.
Location: 2850 Gateway Oaks Drive, Sacramento, CA 95833; Sutter Room
Public Call-in Number: 1-877-820-7831; passcode 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.

Members of the public seeking to make an audio recording of the meeting must submit a written request at least two business days before the meeting. Requests can be e-mailed to tcbac@jud.ca.gov.

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 17, 2019 Funding Methodology Subcommittee meeting.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1)-(2))

In-Person 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 cochair will establish speaking limits at the beginning of the public comment session. While the advisory body welcomes and encourages public comment, time may not permit all persons requesting to speak to be heard at this meeting.

Written Comment

In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to tcbac@jud.ca.gov or mailed or delivered to Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Ms. Lucy Fogarty. Only written comments received by 11:30 a.m. on October 7, 2019 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

Methodology for Reallocation of Workload Formula Funds (Action Required)

Discuss a methodology for reallocation of Workload Formula funds in years of no new money.

Presenter(s)/Facilitator(s): Ms. Michele Allan, Supervisor, Budget Services

Item 2

Distribution of the Fee for Court Reporter Services in Civil Proceedings Lasting More Than One Hour (Action Required)

Discuss distribution of the court reporter fee assessed pursuant to Government Code 68086(a)(2).

Presenter(s)/Facilitator(s): Ms. Brandy Sanborn, Manager, Budget Services

Item 3

El Dorado Superior Court Workload Formula Adjustment Request (Action Required)

Discuss the Workload Formula Adjustment Request submitted by El Dorado Superior Court.

Presenter(s)/Facilitator(s): Ms. Leah Rose-Goodwin, Manager, Business Management Services

IV. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Info 1

Annual Base Funding Floor Review

Update regarding the annual review of the base funding floors in the Workload Formula.

Presenter(s)/Facilitator(s): Ms. Michele Allan, Supervisor, Budget Services

V. ADJOURNMENT

Adjourn



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TRIAL COURT BUDGET
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TRIAL COURT BUDGET ADVISORY COMMITTEE
FUNDING METHODOLOGY SUBCOMMITTEE

MINUTES OF OPEN MEETING

June 17, 2019

10:00 a.m. - 1:00 p.m.

Tower Room A&B, 2850 Gateway Oaks Drive, Sacramento, CA 95833

Advisory Body Members Present: Judges: Hon. Daniel J. Buckley (Cochair), Hon. Andrew S. Blum, Hon. Mark Ashton Cope, and Hon. B. Scott Thomsen

Executive Officers: Ms. Rebecca Fleming (Cochair), Ms. Sherri R. Carter, Mr. Michael D. Planet, Mr. Michael M. Roddy, and Mr. David Yamasaki.

Advisory Body Members Absent: Ms. Tania Ugrin-Capobianco

Others Present: Mr. Zlatko Theodorovic, Ms. Lucy Fogarty, Ms. Michele Allan, and Ms. Melissa Ng.

OPEN MEETING

Call to Order and Roll Call

The cochairs called the meeting to order at 10:00 a.m. and took roll call.

Approval of Minutes

The subcommittee reviewed and approved the minutes of the February 28, 2019 Funding Methodology Subcommittee (FMS) meeting.

DISCUSSION AND ACTION ITEMS (ITEMS 1-4)

Item 1 – Allocation of Cannabis Convictions Resentencing Funding in the Governor’s Proposed Budget (Action Required)

Consideration of an allocation methodology for the \$13.9 million in 2019-20 and the \$2.929 million in 2020-21 to support increased workload for the trial courts because of the enactment of Chapter 993, Statutes of 2018 (AB 1793).

Presenter(s)/Facilitator(s): Ms. Melissa Ng, Senior Budget Analyst, Budget Services

Action: The FMS voted unanimously to approve the following recommendations to the Trial Court Budget Advisory Committee contingent on the funding being approved in the 2019 Budget Act:

1. Use a proportional allocation methodology based on the percentage of estimated eligible cases by county.
2. Distribute 50% of the 2019-20 allocation at the beginning of the fiscal year with a reassessment taking place mid-year based upon actual workload.

Item 2 - Workload Formula Adjustment Requests (Action Required)

Review the Workload Formula adjustment request referral from the Trial Court Budget Advisory Committee (TCBAC) and prioritize the request into the proposed annual work plan to be submitted back to TCBAC no later than July.

Presenter(s)/Facilitator(s): Ms. Lucy Fogarty, Deputy Director, Budget Services

Action: The FMS voted unanimously to approve the recommendations that FMS add this item to its workplan for consideration.

Item 3 - Annual Funding Methodology Subcommittee Work Plan Update (Action Required)

Update and prioritize the items on the annual work plan.

Presenter(s)/Facilitator(s): Ms. Lucy Fogarty, Deputy Director, Budget Services

Action: The FMS voted unanimously to approve the following updates to the annual work plan:

1. Mark as complete the following items:
 - a. Evaluate the impact of civil assessments as it relates to the Workload Formula.
 - b. Identify all funding sources and determine allocation models.
 - c. Develop policy parameters regarding an allocation methodology for trial courts that exceed 100% of their Workload Formula.
 - d. Evaluate whether and/or how to include unfunded costs for facilities – courthouse construction, maintenance and modifications, including a review of the Workload Formula adjustment request from Stanislaus Superior Court, submitted on January 16, 2018.
 - e. Develop a methodology for incorporating inflationary increases for operating expenses and equipment into the Workload Formula.
 - f. Address new judgeship staffing complement funding when necessary.
 - g. Evaluate how Criminal Justice Realignment (AB 109) funding should be factored into the Workload Formula.
 - h. Track technology funding streams to identify any potential impacts on trial court workload (updates from JCTC and ITAC in June and December).
2. Move items 3 and 7 to 2019-20.
3. Edit item 8 to read:
Develop a methodology for reimbursement of expenditures for the Court Interpreter Program in the event of a funding shortfall.
4. Edit item 12 to read:
Identify and evaluate the impact of Judicial Council-provided services versus those that are funded by local trial court operations funds.

In addition, the FMS voted unanimously to include Criminal Justice Realignment (AB 109) funding in the Workload Formula without making any changes to the allocation methodology.

Item 4 - Workload Formula Funding at 100% (Action Required)

Consideration of policy parameters regarding an allocation methodology for trial courts that exceed 100% of their Workload Formula.

Presenter(s)/Facilitator(s): Ms. Lucy Fogarty, Deputy Director, Budget Services

Action: The FMS voted unanimously to approve the following recommendations that FMS

1. Approve a change to the workload formula policy concerning reallocations in years with no new money so that any court above 105% of funding be subject to a 2% reduction of funding without going below 104%
2. Allocate any funding received for cost increase adjustments to trial courts based upon their pro-rata share of the Workload Formula.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Info 1- Report to the Judicial Council Regarding Trial Court Allocations for Fiscal Year 2019–20

This report being presented to the Judicial Council at its July 18-19, 2019 business meeting includes a methodology to allocate \$24.5 million in proposed new funding related to 25 judgeships.

Presenter(s)/Facilitator(s): Ms. Melissa Ng, Senior Budget Analyst, Budget Services

Action: No action required.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:16 a.m.

Approved by the advisory body on enter date.

JUDICIAL COUNCIL OF CALIFORNIA
BUDGET SERVICES
Report to the Funding Methodology Subcommittee

(Action Item)

Title: **Methodology for Reallocation of Workload Formula Funds**
Date: 10/8/2019
Contact: Michele Allan, Budget Supervisor, Budget Services
 916-263-1374 | michele.allan@jud.ca.gov

Issue

Item 5 of the Funding Methodology Subcommittee (FMS) Work Plan states:

1. Develop a methodology to allocate:
 - a. 50 percent of funding to courts under the statewide average funding ratio in years of new money per the policy approved by the Judicial Council on January 12, 2018; and
 - b. Funding from courts above the band to courts below the band every other year for which no new money is provided per the policy approved by the Judicial Council on January 12, 2018.
 - c. Reallocation of funding from courts above 105% as proposed by FMS on June 17, 2019.

On September 24, 2019, the Judicial Council approved the recommendation regarding 1c as follows:

Approve a change to the Workload Formula policy concerning reallocations in years with no new money so that any court above 105 percent of funding be subject to a 2 percent reduction of funding without going below 104 percent.

Background

Judicial Council Meetings

At its January 12, 2018 business meeting, the Judicial Council approved new policy parameters for the Workload Formula which specifically addressed how new money¹ is to be allocated in

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

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the Workload Formula. The current process allocates funding in the following sequenced manner:

1. Bring all Cluster 1 courts up to 100 percent of funding need.
2. Allocate up to 50 percent of remaining funding to courts under the statewide average funding ratio. Allocated funds will bring courts up to but not over the statewide average funding ratio.
3. Allocate remaining funding to all courts based on the Workload Formula.
4. Allow no court's allocation to exceed 100 percent of its need unless it is the result of a funding floor calculation.

At its July 19, 2019 business meeting, the council approved 2019-20 trial court allocations including funding for support of 25 judgeships totaling \$24 million². The current Workload Formula does not specify a method for allocating 50 percent of funding for courts below the statewide average funding level, and in this instance, there were not enough funds remaining to bring all courts under the statewide average up to the statewide average. The Trial Court Budget Advisory Committee (TCBAC) recommended for 2019-20 to allocate the first 50 percent of new funding based on a weighted approach, taking into account both the courts' distance from the statewide average and the size of the court to continue on the path towards equity of funding.

Methodologies

Work Plan Item 1a - Methodology for Allocation of up to 50 Percent of New Funding to Courts Below the Statewide Average

For the 2019-20 allocation of new funding, the distance from the statewide average was calculated for each eligible court. The percentage share of the funding the court should receive based on the distance from the average was then scaled based on the relative size of courts' Workload Formula allocation.

While this was the approach that was taken to allocate the support funding for the judgeships provided in the 2019 Budget Act, Judicial Council Budget Services staff recommends an alternative approach to scale new funding based on the relative size of courts' Workload Formula need, rather than the courts' current Workload Formula allocation.

Attachment 1A displays the allocation of new judgeship funding for courts below the statewide average for 2019-20, and then allocates the dollars as if they were based on need and not

² Judicial Council meeting report (July 19, 2019), <https://www.courts.ca.gov/documents/tcbac-20190617-fms-materials.pdf>; Judicial Council meeting minutes (July 19, 2019), <https://jcc.legistar.com/View.ashx?M=A&ID=640299&GUID=79BFCCF3-78C5-45FE-909E-190F0A45083B>

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allocation. With the alternate approach, the court farthest from the statewide average would have received additional funding. Budget Services staff support the alternate approach as it is thought that allocating dollars based on allocation perpetuates the disparity in allocations, which the Workload Formula is meant to remedy. Allocating dollars based on need supports the path to equity.

The \$24 million allocated in 2019-20 represented 10 months of costs. In 2020-21, an additional \$5 million will need to be allocated in 2020-21 to account for the full year cost of general trial court operations as part of the funding to support the 25 judgeships. Judicial Council Budget Services staff recommend that the methodology applied for the \$24 million be used for the remaining \$5 million to be consistent with how funding has been previously allocated for this purpose.

Work Plan Items 1b and 1c - Sequence in Applying the Reallocation of Funds from Courts Above the 2 Percent Band and Reallocation of Funds from Courts Above 105 Percent of Workload Formula Need in Fiscal Years for Which No New Money is Provided

At its January 12, 2018 meeting, the Judicial Council also approved the following parameters:

- A band will be established that is 2 percent above and below the statewide average funding level, eliminating annual allocation fluctuations from minor changes in workload. Courts more than 2 percent above or below the statewide average funding ration would be subject to an allocation change, whereas courts within the band would not be. The size of the band identified may be subject to reevaluation in the future.
- No allocation adjustment will occur for those courts within the band or for Cluster 1 courts. The goal is to fully fund the Cluster 1 courts, and an allocation adjustment would be contrary to that outcome.
- 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.
- Up to 1 percent of allocations for courts above the band will be reallocated to courts below the band to provide an increased allocation of up to 1 percent. The allocation reductions are capped at 1 percent, regardless of the need of the courts below the band. Conversely, the allocation increases are capped at 1 percent, regardless of the available funding of the courts above the band. If adequate funds are available, some courts under the band may be able to penetrate into the band.

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With the addition of the 105 percent policy, the sequencing in which the reallocations will take place during every other year in which no new funding is provided needs to be addressed as well as the methodology for distribution.

Judicial Council Budget Services staff recommends the following process for reduction of allocations for courts more than 2 percent above the band and over 105 percent of funding need:

1. Establish beginning Workload Formula base allocations using applicable prior-year end base allocations.
2. Calculate new Workload Formula funding amounts based upon any funding provided that is not considered new money and after routine annual updates.
3. Establish a new statewide average funding ratio based on updated workload data and step 2.
4. Apply up to a 1 percent reduction to courts more than 2 percent above the band based on beginning Workload Formula base allocations.
5. Reallocate up to 1 percent of the funding identified in step 4 to courts below the band utilizing the same methodology identified under Work Plan Item 1a.
6. For courts still over 105 percent of funding need after step 4, apply a 2 percent allocation reduction without reducing the allocation below 104 percent of funding need.
7. Reallocate the funding identified in step 4 to courts that remain below the band utilizing the same methodology identified under Work Plan Item 1a.

Attachment 1B displays examples of the process as describe above, and then alternating the order to display each outcome. If the order is reversed by first applying a 2 percent allocation reduction for courts over 105 percent followed by the up to 1 percent reduction for courts more than 2 percent over the band, the reductions are larger. Budget Services staff support the first option as written out in steps 1 through 7 above as it is thought that the recent policy decision for courts over 105 percent was set up in a way to prevent courts from taking too large a cut in one year and was designed to prevent courts from going below 104 percent.

Recommendations

Approval of the following recommendations for consideration by the Trial Court Budget Advisory Committee at its November 21, 2019 meeting:

- A. Specify that the methodology for the first 50 percent allocation of new funding to courts below the statewide average be scaled by courts' distance from the statewide average and size based on the courts' Workload Formula need;
- B. Include an exception for consistency purposes to allow the 2020-21 funding provided in the 2019 Budget Act for support of the 25 judgeships apply the same allocation methodology used for 2019-20; and

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- C. Specify that the reallocation of funding for every other year in which no new money is provided be based on beginning Workload Formula allocation, distributed to courts via distance from statewide average and size based on Workload Formula need, and in the following sequence:
- i. Up to 1 percent reduction for courts above the 2 percent band to courts below the 2 percent band.
 - ii. Up to 2 percent reduction for courts above 105 percent of funding need to courts below the 2 percent band.
 - iii. Courts above 105 percent of funding need will not fall below 104 percent of funding need.
 - iv. Courts that penetrate into the band following the up to 1 percent reallocation will not be eligible for additional funding from the 2 percent reallocation from courts above 105 percent of funding need.

Attachments

Attachment 1A: New Judgeship Funding Provided to Courts Below the Statewide Average

Attachment 1B: Order of Process w/ Redistribution and Over 105% in Year of No New Money

New Judgeship Funding Provided to Courts Below the Statewide Average Based on Workload Formula Allocation

Cluster	Court	Workload Formula-Related Allocation (Before New Money)	Workload Formula Need	% of Need (81.4% Statewide)	Distance from Statewide Average	Share of % Based on Distance from Statewide Average	Adjustment for Size of Allocation	Additional Allocation Based on Distance From Average and Relative Size of Allocation	Share of Additional Funding	Additional Allocation Based on \$11m in Available Funding	New Funding Level
		A	B	C	D	E	F	G	H	I	J
4	Sacramento	84,300,745	119,006,905	70.8%	10.5%	14.6%	12,296,086	1,793,504	31.6%	3,622,322	73.9%
2	Sutter	5,921,311	7,939,123	74.6%	6.8%	9.4%	556,724	52,343	0.9%	105,718	75.9%
3	Ventura	38,606,279	51,502,221	75.0%	6.4%	8.9%	3,428,705	304,510	5.4%	615,017	76.2%
3	San Joaquin	38,351,342	51,084,825	75.1%	6.3%	8.7%	3,345,881	291,904	5.1%	589,556	76.2%
2	Lake	3,900,242	5,147,175	75.8%	5.6%	7.8%	302,466	23,456	0.4%	47,375	76.7%
4	Los Angeles	549,049,278	720,403,452	76.2%	5.2%	7.1%	39,239,127	2,804,319	49.4%	5,663,854	77.0%
2	Yolo	12,399,254	16,124,983	76.9%	4.5%	6.2%	769,403	47,743	0.8%	96,427	77.5%
2	Butte	11,471,848	14,668,798	78.2%	3.2%	4.4%	503,774	22,123	0.4%	44,681	78.5%
4	San Bernardino	108,147,907	138,199,504	78.3%	3.1%	4.3%	4,675,681	202,149	3.6%	408,278	78.6%
2	Shasta	12,557,141	15,990,523	78.5%	2.9%	3.9%	495,344	19,540	0.3%	39,465	78.8%
2	San Luis Obispo	15,533,639	19,759,134	78.6%	2.8%	3.8%	594,206	22,730	0.4%	45,908	78.8%
2	Placer	18,680,754	23,721,877	78.7%	2.6%	3.6%	679,941	24,748	0.4%	49,984	79.0%
2	Madera	8,767,645	11,079,000	79.1%	2.2%	3.1%	272,005	8,439	0.1%	17,043	79.3%
2	Merced	13,773,443	17,378,170	79.3%	2.1%	2.9%	404,507	11,880	0.2%	23,994	79.4%
2	Santa Cruz	13,666,902	17,187,826	79.5%	1.9%	2.6%	352,623	9,098	0.2%	18,375	79.6%
3	Stanislaus	27,397,197	34,329,251	79.8%	1.6%	2.2%	596,155	12,972	0.2%	26,200	79.9%
3	Solano	24,042,341	30,059,311	80.0%	1.4%	1.9%	464,661	8,980	0.2%	18,138	80.0%
3	Santa Barbara	24,281,849	30,231,570	80.3%	1.1%	1.5%	356,248	5,227	0.1%	10,556	80.4%
3	Fresno	54,146,707	67,406,253	80.3%	1.1%	1.5%	787,368	11,449	0.2%	23,124	80.4%
3	Tulare	24,733,683	30,721,420	80.5%	0.9%	1.2%	297,843	3,587	0.1%	7,244	80.5%
2	El Dorado	7,707,027	9,497,526	81.1%	0.2%	0.3%	24,765	80	0.0%	161	81.1%
		1,097,436,533	1,431,438,848			100.0%				11,473,418	

New Judgeship Funding Provided to Courts Below the Statewide Average Based on Workload Formula Need

Court	Workload Formula-Related Allocation (Before New Money)	Workload Formula Need	% of Need (81.4% Statewide)	Distance from Statewide Average	Share of % Based on Distance from Statewide Average	Adjustment for Amount of Need	Additional Allocation Based on Distance From Average and Relative Size of Need	Share of Additional Funding	Additional Allocation Based on \$11m in Available Funding	New Funding Level
	K	L	M	N	O	P	Q	R	S	T
Sacramento	84,300,745	119,006,905	70.8%	10.5%	14.6%	17,358,318	2,531,880	33.2%	3,806,550	74.0%
Sutter	5,921,311	7,939,123	74.6%	6.8%	9.4%	746,440	70,181	0.9%	105,513	75.9%
Ventura	38,606,279	51,502,221	75.0%	6.4%	8.9%	4,574,020	406,228	5.3%	610,743	76.1%
San Joaquin	38,351,342	51,084,825	75.1%	6.3%	8.7%	4,456,787	388,823	5.1%	584,575	76.2%
Lake	3,900,242	5,147,175	75.8%	5.6%	7.8%	399,167	30,956	0.4%	46,540	76.7%
Los Angeles	549,049,278	720,403,452	76.2%	5.2%	7.1%	51,485,365	3,679,525	48.2%	5,531,975	77.0%
Yolo	12,399,254	16,124,983	76.9%	4.5%	6.2%	1,000,594	62,089	0.8%	93,348	77.5%
Butte	11,471,848	14,668,798	78.2%	3.2%	4.4%	644,165	28,288	0.4%	42,529	78.5%
San Bernardino	108,147,907	138,199,504	78.3%	3.1%	4.3%	5,974,935	258,321	3.4%	388,372	78.5%
Shasta	12,557,141	15,990,523	78.5%	2.9%	3.9%	630,782	24,883	0.3%	37,410	78.8%
San Luis Obispo	15,533,639	19,759,134	78.6%	2.8%	3.8%	755,843	28,913	0.4%	43,469	78.8%
Placer	18,680,754	23,721,877	78.7%	2.6%	3.6%	863,428	31,427	0.4%	47,249	78.9%
Madera	8,767,645	11,079,000	79.1%	2.2%	3.1%	343,712	10,663	0.1%	16,032	79.3%
Merced	13,773,443	17,378,170	79.3%	2.1%	2.9%	510,373	14,989	0.2%	22,535	79.4%
Santa Cruz	13,666,902	17,187,826	79.5%	1.9%	2.6%	443,467	11,442	0.1%	17,202	79.6%
Stanislaus	27,397,197	34,329,251	79.8%	1.6%	2.2%	746,994	16,254	0.2%	24,438	79.9%
Solano	24,042,341	30,059,311	80.0%	1.4%	1.9%	580,950	11,228	0.1%	16,881	80.0%
Santa Barbara	24,281,849	30,231,570	80.3%	1.1%	1.5%	443,539	6,507	0.1%	9,783	80.4%
Fresno	54,146,707	67,406,253	80.3%	1.1%	1.5%	980,180	14,253	0.2%	21,429	80.4%
Tulare	24,733,683	30,721,420	80.5%	0.9%	1.2%	369,948	4,455	0.1%	6,698	80.5%
El Dorado	7,707,027	9,497,526	81.1%	0.2%	0.3%	30,519	98	0.0%	147	81.1%
		1,097,436,533	1,431,438,848			100.0%			11,473,418	

Differences

Court	Share of Additional Funding	Additional Allocation Based on \$11m in Available Funding	New Funding Level
	U	V	W
Sacramento	1.6%	184,228	0.2%
Sutter	0.0%	(205)	0.0%
Ventura	0.0%	(4,274)	0.0%
San Joaquin	0.0%	(4,981)	0.0%
Lake	0.0%	(835)	0.0%
Los Angeles	-1.1%	(131,879)	0.0%
Yolo	0.0%	(3,079)	0.0%
Butte	0.0%	(2,152)	0.0%
San Bernardino	-0.2%	(19,906)	0.0%
Shasta	0.0%	(2,055)	0.0%
San Luis Obispo	0.0%	(2,438)	0.0%
Placer	0.0%	(2,735)	0.0%
Madera	0.0%	(1,012)	0.0%
Merced	0.0%	(1,458)	0.0%
Santa Cruz	0.0%	(1,173)	0.0%
Stanislaus	0.0%	(1,762)	0.0%
Solano	0.0%	(1,257)	0.0%
Santa Barbara	0.0%	(773)	0.0%
Fresno	0.0%	(1,695)	0.0%
Tulare	0.0%	(546)	0.0%
El Dorado	0.0%	(13)	0.0%

0

Order of Process w/ Redistribution and Over 105% in Year of No New Money

Court	% Funded	Option 1 - Bands (1%), then 105% (2%)				Option 2 - 105% (2%), then Bands (1%)			
		Up to 1% Reduction	2% Reduction*	Total	Difference	2% Reduction*	Up to 1% Reduction	Total	Difference
A	105.3%	-1.0%	0.0%	104.3%	-1.0%	-1.3%	-1.0%	103.0%	-2.3%
B	106.5%	-1.0%	-1.5%	104.0%	-2.5%	-2.0%	-1.0%	103.5%	-3.0%

**Not to go below 104%.*

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(Action Item)

Title: Distribution of the Fee for Court Reporter Services in Civil Proceedings Lasting More Than One Hour

Date: 10/8/2019

Contact: Brandy Sanborn, Manager, Budget Services
415-865-7195 | brandy.sanborn@jud.ca.gov

Issue

Consideration of the fee collected per Government Code 68086(a)(2), court reporter services in civil proceedings lasting more than one hour, to be distributed back to trial courts on a dollar-for-dollar basis after deposit into the Trial Court Trust Fund (TCTF) as well as how this revenue stream will impact the Workload Formula effective July 1, 2020.

Background

GC 68086

GC 68086(a)(2) fees are currently deposited into the TCTF on a statewide level and are not transmitted directly back to the courts from which the fees were collected. GC 68086 is silent as to where the fees collected pursuant to this section should be deposited.

On December 14, 2012, the Judicial Council approved a recommendation on a new \$30 fee for court reporter services in civil proceedings lasting less than one hour,¹ which specifies that fees collected per GC 68086(a)(1) are first deposited into the TCTF and then distributed back to the trial courts on a dollar-for-dollar basis (see Attachment 2A).

Funding Categories

On July 19, 2019, the council approved a recommendation to adjust each court's workload allocation to include net civil assessments and specific general ledger accounts as part of the Workload Formula effective with fiscal year 2019-20 allocations.²

¹ Judicial Council meeting report (December 14, 2012), <https://www.courts.ca.gov/documents/jc-20121214-itemH.pdf>

² Judicial Council meeting report (July 19, 2019), <https://jcc.legistar.com/View.ashx?M=F&ID=7338800&GUID=9284F0B3-BCAE-4C0C-A110-49AA99D8A139>

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The Workload Formula is for normal, status quo, core business operations; costs associated with activities that are not captured in the Resource Assessment Study and/or not included in the Workload Formula (e.g., interpreter staff; court reporter staff in non-mandated areas) are excluded. As a result, it was determined that revenues as a result of court reporter proceedings under one hour would not be included in the Workload Formula.

Fiscal Details

Revenues

The revenues collected and distributed under GC 68086(a)(1-2) are provided to the council and reported to the Joint Legislative Budget Committee per GC 68086(f). The last three fiscal years reported are as follows:

Fiscal Year	GC 68086(a)(1) Fees Returned to Court (Less than One Hour)	GC 68086(a)(2) Fees Deposited to the TCTF (One Hour or More)
2018-19 Estimated	3,954,659	3,125,569
2017-18 ³	3,912,289	2,696,123
2016-17 ⁴	4,453,368	4,062,522
2015-16 ⁵	4,644,543	3,786,656

TCTF Fund Condition

The most recent TCTF fund condition statement is reflected in Attachment 2B. The revenue stream would be impacted annually by a reduction of approximately \$3 million should the fees from GC 68086(a)(2) be redirected to trial courts on a dollar-for-dollar basis beginning July 1, 2020.

In addition, redirecting revenue that supports base allocations in the TCTF would be removed from the backfill calculation and any General Fund benefit the TCTF is currently receiving. The

³ Judicial Council meeting report (March 15, 2019), <https://jcc.legistar.com/View.ashx?M=F&ID=7058016&GUID=AFC4EA16-D1BE-45D5-9977-88BBA8C68DBD>

⁴ Judicial Council meeting report (March 2, 2018), <https://jcc.legistar.com/View.ashx?M=F&ID=5804246&GUID=DBA1FD57-FBFD-40AB-B4FB-BB7CB3C180B8>

⁵ Judicial Council meeting report (December 16, 2016), <https://jcc.legistar.com/View.ashx?M=F&ID=4817513&GUID=A9F6AE32-236C-43FA-A8F6-7F0D5A0588C8>

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potential loss is estimated at \$1.4 million when compared to the 2013-14 base value used for the backfill calculation.

Recommendation

As trial courts are providing the court reporters in each civil instance and are able to retain fees collected through GC 68086(a)(1) to offset costs, approval of the same approach for GC 68086(a)(2) will provide consistency in allowing courts to offset costs here as well.

The following recommendations are presented for approval to be considered by the Trial Court Budget Advisory Committee at its November 21, 2019 meeting:

1. GC 68086(a)(2) fees, deposited into the TCTF, to be distributed back to trial courts on a dollar-for-dollar basis beginning July 1, 2020; and
2. Exclude court reporter fees in civil proceedings for one hour or more as a funding category in the Workload Formula.

Attachments

Attachment 2A: GC 68086

Attachment 2B: TCTF Fund Condition Statement, July 19,
2019

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68086.

The following provisions apply in superior court:

(a) In addition to any other fee required in civil actions or cases:

(1) For each proceeding anticipated to last one hour or less, a fee of thirty dollars (\$30) shall be charged for the reasonable cost of the court reporting services provided at the expense of the court by an official court reporter pursuant to Section 269 of the Code of Civil Procedure.

(A) The fee shall be charged to the party, or parties if filing jointly, that filed the paper that resulted in the proceeding being scheduled. If no fee has been charged, and a party subsequently requests a court reporter, that party shall be charged the fee if a reporter is to be provided by the court.

(B) All parties paying the fee shall deposit the fee with the clerk of the court as specified by the court, but not later than the conclusion of each day's court session.

(C) The fee shall be charged once per case for all proceedings conducted within the same hour if the total time taken by those proceedings is one hour or less. If the total time taken exceeds one hour, the fee shall be charged and collected pursuant to paragraph (2).

(D) The fee shall be deposited into the Trial Court Trust Fund and distributed back to the court from which the fee was collected on a dollar-for-dollar basis.

(E) The fee shall be refunded as soon as practicable to the remitting party or parties if no court reporting services were provided.

(2) For each proceeding lasting more than one hour, a fee equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for the services of an official court reporter on the first and each succeeding judicial day those services are provided pursuant to Section 269 of the Code of Civil Procedure.

(A) All parties shall deposit their pro rata shares of these fees with the clerk of the court as specified by the court, but not later than the conclusion of each day's court session.

(B) For purposes of this paragraph, "one-half day" means any period of judicial time, in excess of one hour, but not more than four hours, during either the morning or afternoon court session.

(b) The fee shall be waived for a person who has been granted a fee waiver under Section 68631.

(c) The costs for the services of the official court reporter shall be recoverable as taxable costs by the prevailing party as otherwise provided by law.

(d) The Judicial Council shall adopt rules to ensure all of the following:

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(1) That parties are given adequate and timely notice of the availability of an official court reporter.

(2) That if an official court reporter is not available, a party may arrange for, at the party's expense, the presence of a certified shorthand reporter to serve as an official pro tempore reporter. At the arranging party's request, the court shall appoint the certified shorthand reporter to be present in the courtroom and serve as the official reporter pro tempore unless there is good cause shown for the court to refuse that appointment. The fees and charges of the certified shorthand reporter shall be recoverable as taxable costs by the prevailing party as otherwise provided by law.

(3) That if the services of an official pro tempore reporter are utilized pursuant to paragraph (2), no other charge shall be made to the parties.

(e) The fees collected pursuant to this section shall be used only to pay the cost for services of an official court reporter in civil proceedings.

(f) The Judicial Council shall report on or before February 1 of each year to the Joint Legislative Budget Committee on the fees collected by courts pursuant to this section and Section 68086.1 and on the total amount spent for services of official court reporters in civil proceedings statewide in the prior fiscal year.

(Amended by Stats. 2018, Ch. 497, Sec. 1. (AB 2664) Effective January 1, 2019.)

Trial Court Trust Fund - Fund Condition Statement

#	Description	YEAR END FINANCIAL STATEMENTS			ESTIMATED	
		2016-17	2017-18	2018-19 ¹	2019-20	2020-21
A		B	C	D	E	F
1	Beginning Fund Balance	34,829,875	66,569,099	60,477,544	55,891,484	59,505,403
2	Prior-Year Adjustments	5,759,000	8,556,629		-	-
3	TOTAL REVENUES AND TRANSFERS	1,288,395,327	1,303,737,015	1,311,847,000	1,316,445,000	1,325,090,819
4	<i>Total Revenues</i>	<i>1,270,421,327</i>	<i>1,283,589,015</i>	<i>1,291,879,000</i>	<i>1,296,968,000</i>	<i>1,306,775,819</i>
5	Transfers/Charges/Reimbursements					
6	General Fund Loan - Statewide E-Filing		671,000	491,000		(1,162,000)
7	Reduction Offset Transfers	6,080,000	6,080,000	6,080,000	6,080,000	6,080,000
8	Net Other Transfers/Charges/Reimbursements	11,894,000	13,397,000	13,397,000	13,397,000	13,397,000
9	Total Resources	1,328,984,203	1,378,862,742	1,372,324,544	1,372,336,484	1,384,596,222
10	EXPENDITURES/ENCUMBRANCES/ALLOCATIONS					
11	Program 0140010 - Judicial Council (Staff)	2,306,934	2,657,198	3,957,000	3,915,900	3,856,500
12	Program 0150010 - Support for Operation of the Trial Courts	1,860,003,547	1,857,899,805	1,982,502,691	2,039,916,181	2,039,916,181
13	Program 0150011 - Court-Appointed Dependency Counsel	114,699,919	130,146,303	136,700,000	156,700,000	156,700,000
14	Program 0150019 - Compensation of Superior Court Judges	335,384,000	348,583,021	375,051,369	413,807,000	413,807,000
15	Program 0150028 - Assigned Judges	25,923,351	28,063,247	28,117,000	29,090,000	29,090,000
16	Program 0150037 - Court Interpreters	102,282,915	108,537,000	116,781,000	120,686,000	120,686,000
17	Program 0150046 - Grants	8,147,000	9,554,900	10,329,000	10,329,000	10,329,000
18	Program 0150095 - Expenses on Behalf of the Trial Courts	11,391,069	9,543,398	11,207,000	10,015,000	11,431,000
19	Total Local Assistance	2,446,549,101	2,493,406,000	2,660,688,060	2,780,543,181	2,781,959,181
23	<i>Less Funding Provided by General Fund:</i>	<i>1,197,832,000</i>	<i>1,177,981,000</i>	<i>1,348,486,000</i>	<i>1,471,944,000</i>	<i>1,461,344,000</i>
24	Total, Expenditures/Encumbrances/Allocations	1,262,415,104	1,318,385,198	1,316,433,060	1,312,831,081	1,324,880,681
25	Ending Fund Balance	66,569,099	60,477,544	55,891,484	59,505,403	59,715,541
26	Total Restricted Funds	28,450,583	31,355,448	27,157,424	26,506,585	25,648,733
27	Ending Unrestricted Fund Balance	38,118,516	29,122,096	28,734,060	32,998,818	34,066,808

¹ 2018-19 revenues reflect the most current revenue projections (actuals through February 2019)

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(Action Item)

Title: Workload Formula Adjustment Request: El Dorado Superior Court
Date: 9/25/2019
Contact: Leah Rose-Goodwin, Manager
415-865-7708 | leah.rose-goodwin@jud.ca.gov

Issue

The Superior Court of El Dorado submitted an Adjustment Request to ask that the Workload Formula be adjusted to account for operating multiple locations. The court states that the model currently does not provide sufficient funding for operating multiple locations, particularly in smaller courts, in order to maintain “the expected standard and level of efficiency required by the Judicial Branch, and its own mission statement.”

This proposal was referred to the Funding Methodology Subcommittee for inclusion in its workplan for the current year. The Adjustment Request Policy states that FMS should provide its recommendation to TCBAC by January of the year in which the request may take effect.

Background

In early 2014, TCBAC previously reviewed a request for a change to the Workload Formula based on geography and operation of multiple locations where 25% or more of the population were served by an outlying location. A working group of FMS was formed to evaluate the request, submitted by the Superior Court of Mendocino County, and determine whether an adjustment was to be made. Ultimately, the group recommended that the request be denied. The basis for denial was that the Workload Formula and underlying Resource Assessment Study model properly identified the funding need based on workload but that it was the lack of full funding and not an omission in the workload model that made it difficult for the court to support a branch location. The committee denied the request for the adjustment, acknowledging instead that lack of full funding was an access to justice issue that fell outside the scope of the Adjustment Request Process and the purview of the committee.

At its June 17, 2019 meeting, FMS acknowledged receipt of the Adjustment Request from the El Dorado Superior Court and directed staff to review the request and confirm whether there had been any changes in council policy or circumstances that would warrant a new perspective on this issue.

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Analysis

The following factors were considered in reviewing this request:

Workload Measurement Policies

Staff Need Based on Courtwide Workload. The Workload Formula is based on the Resource Assessment Study (RAS) model that is driven by a court's average total filings. Filings are multiplied by caseweights for 22 different casetypes and then divided by the average work year to determine the number of full-time equivalents needed for the court's workload. These estimates are multiplied by ratios to determine the number of managers/supervisors and administrative staff needed. The ratios are based on average staffing ratios derived from data in the Schedule 7A, based on court size.

The model currently does not provide a basic level of staffing based on court location. An earlier analysis of court locations relative to workload, conducted in 2004 when the RAS model was first adopted, found that courts that operated multiple facilities varied in how outlying locations were used: outlying locations could be open fewer days per week or hours per day relative to the primary location; and outlying locations differed in the types of matters that they handled depending on the type of facility, local needs, or available resources. This variation was difficult to quantify in the workload model because either the underlying data needed are not currently collected by the Judicial Council or the time required to collect the data was too burdensome. It should be noted that the RAS model does factor in staff travel time between locations for courts that operate out of multiple sites.

Formula Adjustments That Account for Workload Need in Smaller Courts. The RAS model does make some adjustments that benefit primarily the smaller courts; these adjustments are intended to balance out some of the inefficiencies and lack of economies of scale that smaller courts and courts with multiple locations are facing. For example, staff FTE estimates are rounded up to the nearest whole value, so that a court with a need for 19.1 staff will get a workload need of 20. Other adjustments include a larger infractions caseweight and lower manager/supervisor and Program 90 ratios.

On the Workload Formula side, there are adjustments made for salary costs in smaller courts and to Operating Expenses and Equipment costs. Additionally, FMS is separately reviewing both OE&E expenditures and the effect of the formula on the cluster two courts (El Dorado is part of cluster two.) While the subcommittee has not reviewed those recommendations yet, the purpose of those analyses is to make sure that the Workload Formula is not disadvantaging smaller courts for many of the same reasons expressed in the Adjustment Request.

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Allocation of Resources as a Local Decision. The Workload Formula is not designed to be a staffing model; instead, workload need, expressed as FTE, is converted to dollars that courts can deploy in the manner that they choose. The model does not use the number of locations as a factor in making allocation decisions. One of the primary Workload Formula principles is that courts should locally determine how best to allocate funding.

Court Construction and Facilities Policies

Staff from the Judicial Council court construction and facilities policies were consulted to determine whether there had been any policy development in recent years regarding locations that courts should operate. The Site Selection and Acquisition Policies for Court Facilities (August 2009) and Revision of Prioritization Methodology for Trial Court Capital-Outlay Projects (August 2019) were consulted. The scoring criteria utilized in the latter document assigns points for projects that realize cost avoidance or savings through operational or organizational efficiencies. Points are also assigned for “access to court services” which is defined as a court’s proportion of authorized judicial resources compared to assessed judicial need. Neither policy incorporates criteria for geographical considerations, including locations of population centers and then like.

California Rules of Court, Rule 10.182 addresses the operation and maintenance of court facilities, but purely from a physical plant perspective and not in terms of the operational needs of a court.

There do not appear to be any rules or standards regarding the criteria for siting or maintaining a particular court location or specific number of locations, such as proximity to population centers and transportation routes, the number and type of matters that should be transacted at an outlying location, and the like. The existence of many court facilities seems to be partly based on historical use patterns, often holdovers from the era before trial court unification when there were two tiers in the lower court system.

Recommendation

Based on the research conducted by staff, it is recommended that FMS deny the request.



SUPERIOR COURT OF CALIFORNIA COUNTY OF EL DORADO

2850 Fairlane Court Suite 110
Placerville, California 95667

The Superior Court of California, County of El Dorado respectfully submits the following WAFM Adjustment Request as the required resources to operate multiple location courts – specifically small courts with multiple locations – is not factored into the WAFM model at this time.

1. A description of how the factor is not currently accounted for in WAFM.

Courts with multiple locations, especially small courts, are not considered in the model for funding distribution. WAFM allocations follow filing trends, failing to take into consideration the minimum staffing level and resources required in each location simply to maintain an acceptable level of continuity of operations at each location. Multiple locations results in duplicative staffing and increased expenses that would not otherwise be incurred for a single-site court.

This Court is requesting that WAFM be modified to take into consideration the additional resources required to keep small, multi-location courts operating at the expected standard and level of efficiency required by the Judicial Branch, and its own mission statement.

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

Our Court is spread out over 5 locations and 80 miles, with one courthouse located in South Lake Tahoe. Travel is often impacted in the winter and spring due to unpredictable weather and mountain conditions. The budget is insufficient to allow full time public access to justice due to the increased consumption of resources necessary to operate multiple court locations.

3. A detailed analysis of why the adjustment is necessary.

Due to WAFM underfunding in prior years, this Court has been reliant on court fees to help fund operational expenses. The significant decline in court fees collected has made the need for a WAFM adjustment even more critical. If our Court was in one centralized location, we would be able to fund sufficient staffing levels, due to substantial reductions in duplicative operational costs and staffing requirements. However, since we have multiple locations, we have had to fund greater operational costs, and stretch staffing over those locations.

WAFM funding adjusts pursuant to filing trends, recalculating the court's share on an annual basis. Consideration of multiple locations as a factor in determining "baseline resources," i.e. complement of staffing, necessary for court locations to remain able to serve the public at a standard level of operating should be part of the determining factor in WAFM allocations. Each Court location require minimum staffing levels beyond just clerical; administrative and support

positions are also be required. For example, our South Lake Tahoe branch is so far removed from other court locations, it requires its own operations manager, a minimum of administrative staff and court reporters, its own lead clerk, as well as clerical staff, simply to maintain operations.

Each location is at its minimum staffing level to function, with reduced public access. We are constantly moving staff – court reporters, clerks, IT staff – between locations to cover for absences due to illness, vacation, training, etc. These transfers raise an issue of liability and actual cost of unproductive driving time, which could be 15 minutes to an hour and a half, depending on locations. Orchestrating these scheduling moves takes a lot of administrative time as well as the aforementioned non-productive driving time, a resource that would be better spent if we had adequate funding to provide adequate staffing levels.

Each location requires duplicate services, such as IT support and equipment; court reporters; interpreters; operational equipment, often with contracts (copiers, postage meters, security equipment); increased vendor expenses due to the South Lake Tahoe location; and, services that would otherwise not be needed at all, such as a courier.

4. A description of whether the unaccounted for factor is unique to the applicant court(s) or has broader applications.

This issue is not unique to our court; in fact all small courts with multiple locations are at a disadvantage with the current model. Small fluctuations in funding to small courts have a direct impact on access to justice for residents in those courts’ counties. This Court has had fewer filings and therefore we receive a smaller allocation than larger courts, but are still required to maintain full time operations in 5 locations.

5. Detailed description of staffing need(s) and/or costs required to support the factor that is unaccounted for by WAFM.

Duplicative expenses are required to maintain 5 court locations. El Dorado Court has had to reduce staffing well below WAFM need to fund operations:

Fiscal Year	WAFM Need	Actual Filled FTE Q4
FY 16/17	82	75.30
FY 17/18	76	71.00
FY18/19	74	69.80 (as of 12/31/18)

Due to its distant location, our South Lake Tahoe court requires 1 Court Operations Manager (\$117,031 average annual salary & benefits per FTE), 1 Child Custody Recommending Counselor (\$130,114), and 1 Lead Clerk (\$91,020), as well as sufficient clerks to provide basic services and support. The total cost for these 3 duplicative positions at one location alone is \$338,165.

Examples of duplicative operational expenses at each location are:

Description	Average/ location	# of locations	Annual expense
Janitorial	\$17,000.00	5	\$ 85,000.00
Postage Meter Lease	1,500.00	4	6,000.00
Copiers	2,500.00	5	12,500.00
Security Equip. Registration	512.00	5	2,560.00
Security Equip. Maintenance (for years not reimbursed by JCC – between replacements)	3,000.00	5	15,000.00
Sonitrol Building Security	3,840.00	5	19,200.00
Shredding services	750.00	5	3,750.00
Data Circuits for interconnecting court facilities	7609.00	4	30,437.00
Servers for each location (avg. every 5 years, <i>annual</i> average/amount stated here)	1,080.00	3	3,240.00
Annual remote server support contract	600.00	3	1,800.00
TOTAL	\$38,391.00		\$179,397.00

Contract court reporter and interpreter expenses are increased for multiple locations. Time could be more efficiently used in a single location, instead of hiring for multiple locations, and not being able to fully utilize the contractor for the entire day or half day.

Other annual operational costs would not be needed at all, such as:

Description	Annual Cost
Courier between courts	\$21,250.00
Fedex between SLT & West Slope	1,000.00
Travel Expense between courts	4,000.00
TOTAL	\$26,250.00

A centralized location is able to operate at a significantly reduced cost.

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

El Dorado has closed its clerk's offices at 3 pm to the public; the phones turn off at 1 pm. Due to inadequate staffing levels, we have been forced to close non-priority divisions (civil, family law) from time to time to keep our mandated dockets covered (criminal and juvenile). Predicting when these one-day or temporary closures will occur is impossible, as it depends on unknown and uncontrollable events such as illness or accident caused vacancies. Not only is access to justice denied, the public is further inconvenienced by not knowing they cannot conduct their business until they arrive to a closed door. We recently had to shut down our mandated small claims night court program, resulting in even longer waits for litigants to get their day in court.

7. Description of the consequences to the requesting court(s) of not receiving the funding.

As our facilities must remain operational, without an increase in funding the Court's only recourse is to further reduce staffing, to utilize salary savings to meet operational expenses. This has a direct negative impact on access to justice. The goal and our mission statement has always been to improve services and increase access to justice for the public. Instead we are holding vacant FTE positions to utilize salary savings for operating costs.

- Shutdown of mandated programs, such as small claims night court
- Even longer wait times to get a court date
- Continued long wait for Court Recommended Counseling appointments
- Continued reduction in accessibility at all courthouse locations to court clerks (currently close at 3 pm each day, may need even shorter days)
- Continued reduction in accessibility to telephonic assistance (phones shut off at 1 pm)
- Inability to implement sustain some mandated services such as juvenile mediation services
- Increased occasional court or division closures
- Longer wait times for customer service, due to decreased staffing levels and open hours
- Difficulty maintaining certain grant related programs due to inability to fund matching requirements

8. Any additional information requested by the JCC Budget Services, Funding Methodology Subcommittee, and/or TCBCAC deemed necessary to fully evaluate the request.