



JUDICIAL COUNCIL
OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

TRIAL COURT BUDGET ADVISORY COMMITTEE

MATERIALS FOR OCTOBER 5, 2020
VIRTUAL MEETING

Meeting Contents

Agenda	1
Minutes	
Draft Minutes from the August 12, 2020 Meeting	3
Discussion and Possible Action Items	
Item 1 – COVID-19 Backlog Funding (Action Required) ,.....	6



JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

www.courts.ca.gov/tcbac.htm
tcbac@jud.ca.gov

Request for ADA accommodations
should be made at least three business
days before the meeting and directed to:
JCCAccessCoordinator@jud.ca.gov

TRIAL COURT BUDGET ADVISORY COMMITTEE

NOTICE AND AGENDA OF OPEN MEETING

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

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

Date: October 5, 2020
Time: 12:00 p.m. to 1:30 p.m.
Public Call-in Number: jcc.granicus.com/player/event/1049

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 August 12, 2020 Trial Court Budget Advisory Committee virtual meeting.

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

This meeting will be conducted by electronic means with a listen only conference line available for the public. As such, the public may submit comments for this meeting only in writing. 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. Only written comments received by 12:00 p.m. on October 2, 2020 will be provided to advisory body members prior to the start of the meeting.

III. DISCUSSION AND POSSIBLE ACTION ITEM (ITEMS 1)

Item 1

COVID-19 Backlog Funding (Action Required)

Consideration of an Ad Hoc COVID-19 Backlog Subcommittee recommendation on a definition, reporting requirements, and methodology as it relates to the first and second half of the \$50 million one-time COVID-19 backlog funding received in the 2020 Budget Act, and in response to a Judicial Council-motion from July 24, 2020.

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

Ms. Rebecca Fleming, Vice Chair, Trial Court Budget
Advisory Committee

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

tcbac@jud.ca.gov

TRIAL COURT BUDGET ADVISORY COMMITTEE

MINUTES OF OPEN MEETING

August 12, 2020

12:00 p.m. – 1:30 p.m.

<http://jcc.granicus.com/player/event/988?>

Advisory Body Members Present: Judges: Hon. Jonathan B. Conklin (Chair), Hon. Jeffrey B. Barton, Hon. Daniel J. Buckley, Hon. Mark A. Cope, Hon. Jill C. Fannin, Hon. Kimberly Gaab, Hon. Joyce D. Hinrichs, Hon. Patricia L. Kelly, Hon. Charles Margines, Hon. Deborah A. Ryan, and Hon. B. Scott Thomsen.

Executive Officers: Ms. Rebecca Fleming (Vice Chair), Ms. Kim Bartleson, Ms. Sherri Carter, Ms. Nancy Eberhardt, Mr. Chad Finke, Mr. Shawn Landry, Mr. Mr. Michael D. Planet, Mr. Chris Ruhl, Mr. Neal Taniguchi, Mr. Brian Taylor, Ms. Kim Turner, and Mr. David Yamasaki.

Advisory Body Members Absent: None.

Others Present: Mr. John Wordlaw, Ms. Fran Mueller, Mr. Zlatko Theodorovic, Ms. Brandy Olivera, Ms. Michele Allan, Mr. Catrayel Wood, Mr. Don Will, and Ms. Anna Maves.

OPEN MEETING

Call to Order and Roll Call

The chair welcomed the members, called the meeting to order at 12:00 p.m., and took roll call.

DISCUSSION AND ACTION ITEMS (ITEMS 1-3)

Item 1 - AB 1058 Budget Reduction (Action Required)

Consideration of a Family and Juvenile Law Advisory Committee recommendation for an updated allocation methodology that takes into consideration a \$7 million contract reduction for the AB 1058 child support program with the Department of Child Support Services in 2020-21.

Presenter(s)/Facilitator(s): Mr. Don Will, Deputy Director, Judicial Council Center for Families, Children & the Courts

Ms. Anna Maves, Supervising Attorney, Judicial Council Center for Families, Children & the Courts

Action: TCBCAC unanimously voted to recommend that the Judicial Council, effective July 1, 2020:

1. Approve the committee's recommended reduction for funding of child support commissioners for FY 2020-21, as set forth in Attachment A1. This methodology distributes 75 percent of the \$7 million reduction to the child support commissioners based on the FY 2020-21 allocation approved by the Judicial Council in January 2019. Additionally, the methodology applies the reduction based on courts' child support commissioner workload by establishing a 4 percent band around the statewide average funding level (2 percent above the average funding level and 2 percent below) and includes the following criteria:
 - a. Courts within the band take a pro rata reduction, but do not fall outside the band;
 - b. Courts above the band take up to an additional 1 percent cut from those within the band without falling into the band;
 - c. Courts below the band take up to 1 percent less of a cut than those within the band; and
 - d. Cluster 1 courts are held to a cut of 50 percent of the percentage reduction taken by courts within the band.
2. Approve the committee's recommended reduction for funding of family law facilitators for FY 2020-21, as set forth in Attachment A2. This methodology distributes 25 percent of the \$7 million reduction to the family law facilitators based on the FY 20-21 allocation approved by the Judicial Council in March 2020. Additionally, the methodology applies the reduction pro rata, holding the cluster 1 courts to 50 percent or the pro rata reduction.
3. Approve the committee's recommendation for FY 2020-21 AB 1058 program funding for the courts for the total base funding allocations derived from recommendations 1 and 2, and the application of the additional federal drawdown funding, as displayed in Attachment C1 and C2.

Item 2 - 2020-21 Court Interpreter Program (CIP) Methodology (Action Required)

Consideration of an Ad Hoc Interpreter Subcommittee recommendation for a 2020-21 allocation methodology for the CIP, not to exceed the current appropriation, while the Ad Hoc Interpreter Subcommittee continues working with Judicial Council staff on a long-term, data-based solution to address the program's ongoing funding shortfall.

Presenter(s)/Facilitator(s): Mr. David Yamasaki, Member, Ad Hoc Interpreter Subcommittee
Mr. Catrayel Wood, Senior Analyst, Judicial Council Budget Services

Action: TCBCAC unanimously voted to approve the recommendation of the Ad Hoc Interpreter Subcommittee to approve the one-time 2020-21 allocation methodology by court as outlined in Attachment 2B, while the Ad Hoc Interpreter Subcommittee continues development of a workload-based

allocation methodology recommendation for implementation beginning in 2021-22, for consideration by the council at its September 24-25, 2020 business meeting.

Item 3 - \$50 Million One-Time Funding for COVID-19 Backlog (Action Required)

Begin discussion on gathering data from trial courts for reporting on how the first \$25 million is used as approved for immediate, pro rata allocation by the Judicial Council; developing a more precise definition on COVID-19 backlog and practices for documenting and reporting in relation to a recommendation for the remaining \$25 million; and identifying an allocation recommendation based on data and need for the remaining \$25 million in consultation with the Judicial Branch Budget Committee.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
 Ms. Rebecca Fleming, Vice Chair, Trial Court Budget Advisory Committee
 Ms. Fran Mueller, Deputy Director, Judicial Council Budget Services

Action: TCBCAC unanimously voted to approve to identify the next course of action for the following items for future consideration by the Judicial Council:

- A. Define COVID-19 backlog and related documentation practices;
- B. Develop documentation practices for reporting on the first \$25 million allocation; and
- C. Develop an allocation methodology recommendation based on data and need for the second \$25 million in consultation with the Judicial Branch Budget Committee.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

None.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:28 p.m.

Approved by the advisory body on enter date.

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

(Action Item)

Title: COVID-19 Backlog Funding

Date: 9/30/2020

Contact: Ms. Leah Rose-Goodwin, Manager, Judicial Council Business Management Services
415-865-7708 | leah.rose-goodwin@jud.ca.gov
Ms. Brandy Olivera, Manager, Judicial Council Budget Services
415-865-7195 | brandy.sanborn@jud.ca.gov

Issue

Consider a recommendation from the Ad Hoc COVID-19 Subcommittee on a definition, reporting requirements, and methodology as it relates to the first and second half of the \$50 million one-time COVID-19 backlog funding received in the 2020 Budget Act, and in response to a Judicial Council-motion from July 24, 2020.

Background

Background for COVID-19 Funding for Trial Courts

As described in the enacted budget summary for 2020-21, the Judicial Branch has had to radically change its operations to protect the public from the spread of COVID-19 while also maintaining access to justice. Actions taken by the Judicial Council include extending court deadlines, suspending jury trials, using technology to conduct proceedings remotely, and suspending evictions and foreclosures. Trial courts have also taken actions to protect the public by closing courthouses and courtrooms, limiting operations to only essential court functions, and suspending collection activities, among others.

These actions have resulted in delays in court operations and a backlog of cases that will take time for the courts to process as they continue to practice physical distancing. In an effort to help the trial courts address the backlog and resume normal operations, the Budget includes \$50 million one-time General Fund in 2020-21.

To ensure public health directives are followed to protect court staff and the public, the trial courts are using technology to allow employees to telework, using audio and video systems for remote courtroom proceedings and self-help/court support services, and modifying courthouse facilities with plexiglass and other safety precautions.

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

Initial \$25 Million Allocation and Judicial Council Motion

Summary of Judicial Council motion from its July 24, 2020 business meeting:

1. Of the \$50 million appropriated to the Judicial Branch for trial court COVID-19 related backlogs, the Judicial Council allocates \$25 million immediately using the pro rata method proposed by the Trial Court Budget Advisory Committee (TCBAC)¹.
2. TCBAC will develop more precise definitions and practices for documenting and reporting COVID-19 related backlogs and report its recommendations to the council prior to distribution of any of the second \$25 million.
3. TCBAC will gather from trial courts data regarding how trial courts spent the first \$25 million. Report that data back to the council prior to allocation of the second \$25 million.
4. Have TCBAC develop, in consultation with the Judicial Branch Budget Committee (Budget Committee), recommendations for allocating the remaining \$25 million on a data and needs basis. TCBAC will report the recommendations to the council.

COVID-19 Backlog

COVID-19 Workload Backlog Definition

When cases are not disposed in a timely manner, a workload backlog develops. The COVID-19 related backlog consists of workload that was not disposed during the pandemic period (March 2020 through September 2020).

The Judicial Branch will measure the COVID-19 related backlog using the change in average case dispositions from the pre-pandemic period (March 2019 to September 2019) compared to the pandemic period (March 2020 through September 2020) using disposition data reported by the courts in the Judicial Branch Statistical Information System (JBSIS)².

Delayed COVID-19 Related Backlog

Given that a relatively short interval of time has elapsed since the courts have resumed operations, with many courts continuing to operate in only a limited capacity, some courts have identified large numbers of cases that have been submitted to courts but that have not been filed or processed. Other courts are now starting to see filings greatly increase due to phased reopening of courthouses and restored court services. It is recognized that there will be a workload delay for all new cases filed

¹ Judicial Council report (July 24, 2020), <https://jcc.legistar.com/View.ashx?M=F&ID=8651228&GUID=27A3B6D8-9783-4865-8C5A-F6697EB58734>.

² Defined as the termination of a proceeding whether before or after a trial or other non-trial dispositive event.

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

due to limitations imposed by physical distancing and other COVID-19 impacts. This “delay factor” will increase the amount of resources needed to process these new filings.

Court staffing resources have also declined due to budgetary constraints; Coronavirus Aid, Relief, and Economic Security (CARES) Act; and the Families First Coronavirus Response Act (FFCRA). Not only are staff out due to illness, but also due to other circumstances in having to care for their family members including children and dependent adults. These and other measures have prolonged and will prolong the work required to address the backlog for an extended period of time and will require continuous and periodic evaluation.

The Ad Hoc COVID-19 Backlog Subcommittee will continue its work to evaluate a potential statewide case-processing delay factor to determine the need for potential additional funding to address the continued impact of the pandemic on court operations and service to the public.

COVID-19 Proposed Methodology and Distribution of Funding

The calculation of existing backlog shall be based on a snapshot from the period noted in the above definition using actual data from each court, as reported to JBSIS. Only courts that have a calculated backlog consistent with the above definition are eligible for a funding allocation from the remaining \$25 million available for distribution.

Each court’s COVID-related backlog is the net difference between the average March 2019 to September 2019 dispositions compared to average March 2020 to September 2020 dispositions. The second \$25 million would be allocated proportionally based on each court’s share of the total statewide backlog.

Upon Judicial Council approval, this remaining COVID-19 backlog funding (second \$25 million) is scheduled to be allocated using this methodology by January 2021 following a short period for appeals to be considered after the November 2020 council business meeting and until December 15, 2020.

Hypothetical Application of COVID-19 Backlog Definition and Distribution of Funding

The charts below demonstrate how the proposed allocation of the second \$25 million would be carried out in three different-sized hypothetical courts:

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

Chart 1 (Court A)

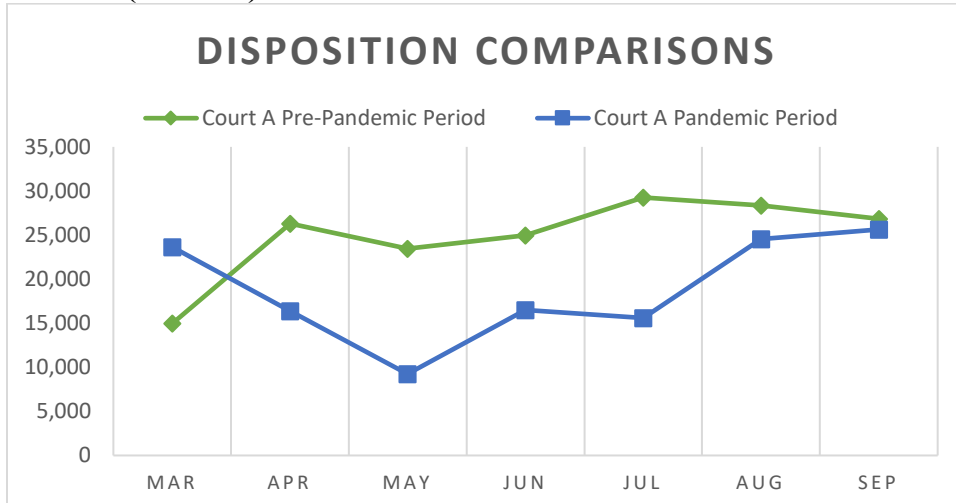


Chart 2 (Court B)

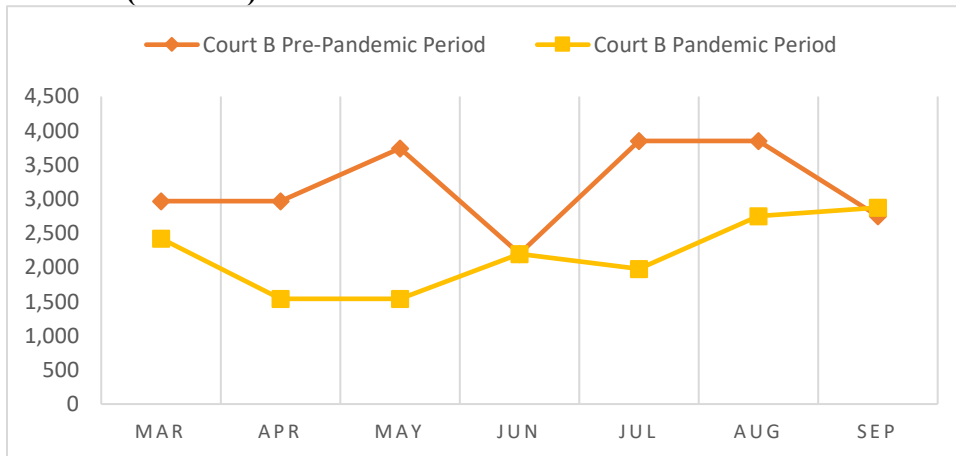
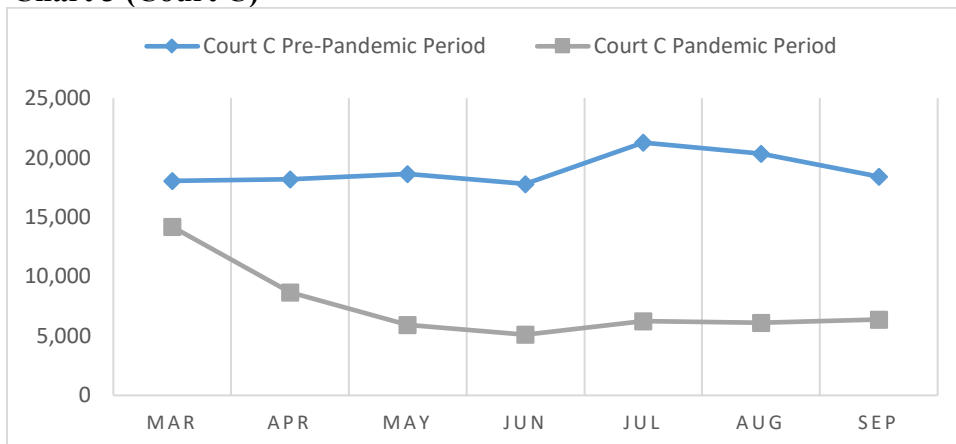


Chart 3 (Court C)



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

The following tables provide the detail behind the charts above, as well as an example of how the methodology would be applied in allocating the second \$25 million, assuming, for demonstration purposes, that the three hypothetical courts represented the state as a whole. The funding would be allocated proportionally based on each court’s share of the total disposition backlog.

Table 1

Pre-Pandemic Period				Pandemic Period			
	Court A	Court B	Court C		Court A	Court B	Court C
Mar '19	14,960	2,970	18,045	Mar '20	23,650	2,420	14,180
Apr '19	26,290	2,970	18,197	Apr '20	16,390	1,540	8,668
May '19	23,430	3,740	18,605	May '20	9,240	1,540	5,938
Jun '19	24,970	2,200	17,788	Jun '20	16,500	2,200	5,106
Jul '19	29,260	3,850	21,259	Jul '20	15,620	1,980	6,240
Aug '19	28,380	3,850	20,348	Aug '20	24,530	2,750	6,092
Sep '19	26,840	2,750	18,417	Sep '20	25,634	2,874	6,367
Total	174,130	22,330	132,659	Total	131,564	15,304	52,591
Average	24,876	3,190	18,951		18,795	2,186	7,513

Table 2

Average Difference		
Court A	Court B	Court C
-6,081	-1,004	-11,438
-18,523		
Percent of Difference		
Court A	Court B	Court C
32.8%	5.4%	61.8%
100.0%		
Second \$25m Allocation		
Court A	Court B	Court C
8,207,234	1,354,697	15,438,069
\$25,000,000		

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

COVID-19 Expenditure and Reporting Requirements

The first \$25 million in one-time COVID-19 funding, already distributed for the preparation and implementation of COVID-19 strategies, can be used for COVID-19-related costs (including but not limited to equipment, personal protective equipment, remote technologies, and personnel costs directly related to COVID-19).

The second \$25 million can be used for COVID-19 backlog as defined and calculated from a comparison of court-specific disposition information from the established pre and current pandemic time periods.

Trial courts shall report on the status of addressing progress in reducing the COVID-19 related backlog no less than quarterly. Courts shall maintain appropriate expenditure records and documentation for internal files and for audit purposes for both the initial and second allocation. This information will be collected by Judicial Council staff and shared with the Trial Court Budget Advisory Committee, the Judicial Branch Budget Committee, and the Judicial Council.

Reporting will be continuous with regular updates presented to the council to confirm funds are spent as authorized. Courts unable to spend any part of their second allocation of \$25 million, per the definition, shall return for redistribution to those courts that meet the COVID-19 backlog definition. This is to ensure funds are allocated and spent consistent with legislative intent and in support of addressing the backlog and resuming normal operations for court constituents. In March 2021, after the second \$25 million is allocated and prior to the end of the fiscal year, there will be a reconciliation to determine if courts were unable to spend any part of their allocation per the backlog definition, with the possibility of redistribution as necessary.

The Ad Hoc COVID-19 Backlog Subcommittee will continue to review and discuss this funding and associated processes and will make additional recommendations as necessary after the first report recommendation is submitted to the council for consideration at its November 2020 business meeting.

COVID-19 Data Collection, Tracking, and Reporting

Not all courts have the disposition data in JBSIS for the time periods identified. Upon approval of this recommendation, Judicial Council staff will provide specific details for reporting this data in JBSIS by December 1, 2020. Due to the expedited nature of this request, every effort will be made to assist courts in submitting their data.

For the purpose of courts to track and report on COVID-19 expenditures and the impact of COVID-19 backlog, two Work Breakdown Structure (WBS) elements have been established in the Phoenix accounting system.

Subsequent to approval of the Ad Hoc COVID-19 Backlog Subcommittee and Trial Court Budget Advisory Committee recommendations, both the subcommittee and committee will revisit these

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

WBS elements for tracking backlog expenditures and will assist in providing direction to trial courts to ensure information can be made available for reporting purposes.

Recommendations

The Ad Hoc COVID-19 Subcommittee recommends the following for approval, to be considered by the council at its November 12-13, 2020 business meeting:

- A. COVID-19 backlog is defined as workload that was not disposed during the pandemic period (March 2020 through September 2020);
- B. The methodology is the net difference between the average of each court's COVID-related backlog from March 2019 to September 2019 dispositions, compared to average March 2020 to September 2020 dispositions, allocated proportionally based on each court's share of the backlog;
- C. Eligible expenditures for the first \$25 million include, but are not limited to, equipment, personal protective equipment, remote technologies, and personnel costs directly related to COVID-19. Eligible expenditures for the second \$25 million are for expenses that address and reduce the COVID-19 backlog as defined and calculated from a comparison of court-specific disposition information from the established pre and current pandemic time periods;
- D. Reporting on progress will occur no less than quarterly, with a redistribution of the second \$25 million to take place in March 2021 in the event courts are unable to spend their full allocation; and
- E. Data collection details in JBSIS and expenditure tracking directions using established WBS elements are forthcoming.