



JUDICIAL COUNCIL
OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

TRIAL COURT BUDGET ADVISORY COMMITTEE

**MATERIALS FOR OCTOBER 15, 2020
VIRTUAL MEETING**

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TRIAL COURT BUDGET
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www.courts.ca.gov/tcbac.htm
tcbac@jud.ca.gov

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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 15, 2020
Time: 12:00 p.m. to 1:00 p.m.
Public Call-in Number: <http://jcc.granicus.com/player/event/1068?&redirect=true>

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 October 5, 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 14, 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 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



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TRIAL COURT BUDGET ADVISORY COMMITTEE

MINUTES OF OPEN MEETING

October 5, 2020

12:00 p.m. – 1:30 p.m.

<http://jcc.granicus.com/player/event/1049?>

Advisory Body Members Present:	Judges: Hon. Jonathan B. Conklin (Chair), Hon. Daniel J. Buckley, 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, and Mr. David Yamasaki.
Advisory Body Members Absent:	Hon. Mark A. Cope and Ms. Kim Turner.
Others Present:	Mr. John Wordlaw, Ms. Fran Mueller, Mr. Zlatko Theodorovic, Ms. Leah Rose-Goodwin, and Ms. Brandy Olivera.

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.

Approval of Minutes

The advisory body reviewed and approved minutes of the August 12, 2020 Trial Court Budget Advisory Committee (TCBAC) video conference meeting.

DISCUSSION AND ACTION ITEMS (ITEM 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

Action: TCBAC unanimously voted to recommend that the first part of recommendation C be approved for council consideration at its November 12-13, 2020 business meeting:

Eligible expenditures beginning July 1, 2020 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.

After additional discussion and recommendation considerations that included public comment received by the committee and the items below, TCBAC unanimously voted to recommend that the Ad Hoc COVID-19 Backlog Subcommittee reevaluate recommendations A, B, the second part of C, D, and E and develop a revised proposal for the Judicial Branch Budget Committee prior to council consideration.

- *Consideration of establishing the measurement dates as March 1, 2020 through September 30, 2020, with an acknowledgement that reporting is done on a monthly basis although half of March 2020 was not under shelter-in-place orders.*
- *Consideration of caseweights as defined by the Resource Assessment Study to be included in the definition.*
- *Consideration of addressing and reducing backlog to include “good faith effort” towards reduction.*

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

None.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:27 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: 10/8/2020

Contact: Ms. Brandy Olivera, Manager, Judicial Council Budget Services
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Issue

Consider recommendations from the Ad Hoc COVID-19 Backlog Subcommittee (subcommittee) for allocating the second half of the \$50 million one-time COVID-19 backlog funding received in the 2020 Budget Act, and in response to the Judicial Council-motion from July 24, 2020.

Background

The subcommittee presented its recommendations to the Trial Court Budget Advisory Committee (TCBAC) on October 5, 2020¹ and was directed to clarify language in the proposed recommendation as well as consider public comments received by the committee.

Recommendation Principles

During the subcommittee's meetings and discussions, the following principles guided the discussions and proposed recommendations:

- The allocation must be made on the basis of backlog as defined by the subcommittee;
- There is recognition that all courts have been affected by the unprecedented occurrence of COVID-19. It is also recognized that the methodology for this funding is addressing the need for those courts most impacted by existing backlog at this point in time. The methodology must be transparent, simple to implement, and simple for reporting purposes; and
- The methodology must be data-based, and the data reporting burden should be minimized. It is recognized that this initial approach to a methodology is singular in its usage of data due to the urgency of need to distribute this allocation of funds. This initial allocation methodology is a precursor to further analysis of future funding need as it relates to backlog, which is workload that has not impacted the court system yet but that is anticipated as courts continue to expand operations and capacity.

¹ TCBAC report (October 5, 2020), <https://www.courts.ca.gov/documents/tcbac-20201005-materials.pdf>.

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The recommendations by the subcommittee are the beginning of the ongoing evaluation and reporting of the impact of COVID 19 to the branch and the legal system supporting the courts. The subcommittee, TCBAC, and others who have contributed to this effort believe that this impact will be felt and should be evaluated and measured for a significant time to come. The subcommittee will continue to review and refine approach and will make additional recommendations as appropriate after the first report recommendation is submitted to the council for consideration at its November 12-13, 2020 business meeting.

Alternatives Considered

Over the course of four meetings, the Ad Hoc COVID-19 Backlog Subcommittee considered a number of options to measure the backlog:

- i. Use filings data to create a pandemic weighted caseload model that adds an additional “COVID-19 delay factor to new filings.”
 - a. This option appeared too complicated for review at this time due to the need to conduct a time study to calculate the delay factor by Resource Assessment Study (RAS) case category.
- ii. Use filings to dispositions ratio or gap to express backlog.
 - a. This option requires collecting two data elements, increasing the data reporting burden on courts.
 - b. There were viewpoints that the same result could be achieved by only collecting disposition data.
- iii. Develop a two-part measurement that includes a point-in-time “snapshot” of backlog plus a forward-facing measure of backlog that has yet to impact the court system which includes calculating a “delay factor” that accounts for expected slowing of court processes due to physical distancing requirements.
 - a. Similar to the first option, this option was difficult to implement in a short timeframe and would require a time study or similar effort to develop the delay factors.
- iv. Distribute the remaining \$25 million via a pro rata allocation, mirroring the allocation of the first \$25 million.
 - a. This option did not support the data and needs-based approach to measuring backlog as directed by the Judicial Council.
- v. Use the average change in dispositions as a measure for pending backlog.
 - a. This measure is simple but oversimplifies COVID-19 impact and workload differences in the courts.
- vi. Use the average change in dispositions, weighted by RAS caseweights, as a measure of pending backlog.

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- a. This was the selected option, developed further as detailed in Table 1 of this report.

Data Reporting Considerations

The subcommittee discussed the data elements that would be used to measure backlog and the courts' ability to report these data. To that end, the subcommittee considered the following:

- vii. Proxy measures should be developed and employed for courts unable to report disposition data. The committee considered approaches that utilized clusters or county COVID-19 exposure rate percentages.
 - a. These options were not adopted in favor of using statewide averages, an approach that is used in other branch allocation methodologies.
- viii. Identify the data collection periods needed to measure change in backlog. Initially, the periods of March 2019 through September 2019, and March through September 2020, were to be used to calculate the backlog for the affected pandemic period for purposes of the second \$25 million allocation.
 - a. The date range was changed from September to August for both years to increase complete data reporting, as it gives more time for courts to complete reporting and then submit data. There is no added benefit to using September data since the proposed measurement measures change in dispositions between two data periods. Dropping September from the data collection period increases the likelihood of complete data reporting.

Public Comment

Public comment was submitted for the October 5, 2020 TCBAC meeting. This information, along with three (3) other considerations representing the input of 31 courts presented a variety of approaches to the distribution of this funding. Due to the urgency of distribution, the ideas will be reviewed at a future date in order to develop more refined definitions and measurements for all COVID-19 related backlog impacts.

Due to the need for continued work and future recommendation development, the public comment and other items of submission and discussion will be placed on the subcommittee agenda for further analysis.

Reevaluation of Recommendations

In reviewing its initial recommendations, the subcommittee clarified language and made updates (See table 1 below).

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Table 1: Initial Pandemic Period

Initial Recommendations	Recommended Considerations	Subcommittee Updates
A. COVID-19 backlog is defined as workload that was not disposed during the pandemic period (March 2020 through September 2020).	Consider specifying the measurement dates as March 1, 2020 through September 30, 2020, with an acknowledgement that half of March 2020 was not under shelter-in-place orders, but the monthly approach is how reporting is done.	A. COVID-19 backlog is defined as workload that was not disposed of during the pandemic period, March 1, 2020 through August 31, 2020. Half of March 2020 was not under shelter-in-place orders, but the monthly approach is how reporting is done.
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.	Consider applying caseweights as defined by the Resource Assessment Study (RAS) to be included in the disposition definition.	<p>B1. The methodology of establishing COVID-19 backlog is to determine the net difference between the average of each court’s COVID-19 backlog from March 1, 2019 to August 31, 2019 weighted dispositions (see B2 below), compared to average March 1, 2020 to August 31, 2020 weighted dispositions (see B2 below), allocated proportionally based on each court’s share of the backlog. The results for all courts will be applied to the available \$25 million in remaining funding and allocated accordingly.</p> <p>B2. RAS caseweights will be applied to the disposition data defined in B1 for the purpose of allocating the remaining \$25 million.</p> <p>B3. In the event there are courts that are unable to enter the disposition data by case type for the time periods noted in B1, proxies based on statewide averages will be applied to those courts for</p>

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Initial Recommendations	Recommended Considerations	Subcommittee Updates
		each time period to establish those courts' COVID-19 backlog and proportional allocation of the remaining \$25 million.
C1. 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, effective July 1, 2020.	This recommendation was unanimously approved by TCBAC on October 5, 2020 for recommendation to the Judicial Council at its November 12-13, 2020 business meeting.	n/a
C2. 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.	Consideration of addressing and reducing backlog to include "good faith efforts" being made towards reduction.	C2. Eligible expenditures for the second \$25 million are for expenses that endeavor to 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 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.	n/a	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 project the expenditure of their full allocation.
E. Data collection details in the Judicial Branch Statistical Information System (JBSIS) and expenditure tracking directions using established work breakdown structure (WBS) elements are forthcoming.	n/a	E. Specifics on JBSIS data elements required and expenditure tracking directions using established WBS elements are forthcoming.
n/a	n/a	F. Request that Judicial Branch staff create and distribute a template to all 58

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Initial Recommendations	Recommended Considerations	Subcommittee Updates
		courts to report non-dispositional information on how courts have addressed COVID-19 related challenges.
n/a	n/a	G. Consistent with efforts on initial approach to report COVID-19 disposition data for the purpose of allocating the remaining \$25 million, and in anticipation of additional work in this area, courts should be prepared to submit disposition data regularly to be eligible for potential future funding.
n/a	n/a	H. The Ad Hoc COVID-19 Backlog Subcommittee will remain active. The recommendations above are to address the one-time allocation of the \$50 million received this fiscal year and are intended to address the courts most impacted as compared to the statewide impact. The subcommittee will continue to meet and evaluate data that represents the impact of COVID-19 to all courts.

Recommendations

The Ad Hoc COVID-19 Backlog Subcommittee has identified dispositions as one point of data analysis for evaluation of the backlog for the branch, and with further analysis downstream, will include more points of data that will display additional impact to courts. Further, the subcommittee recommends the following for approval to be presented to the Judicial Branch Budget Committee and then considered by the council at its November 12-13, 2020 business meeting:

A. COVID-19 backlog is defined as workload that was not disposed of during the pandemic period, March 1, 2020 through August 31, 2020. Half of March 2020 was not under shelter-in-place orders, but the monthly approach is how reporting is done.

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B1. The methodology of establishing COVID-19 backlog is to determine the net difference between the average of each court's COVID-19 backlog from March 1, 2019 to August 31, 2019 weighted dispositions (see B2 below), compared to average March 1, 2020 to August 31, 2020 weighted dispositions (see B2 below), allocated proportionally based on each court's share of the backlog. The results for all courts will be applied to the available \$25 million in remaining funding and allocated accordingly.

B2. RAS caseweights will be applied to the disposition data defined in B1.

B3. In the event there are courts that are unable to enter the disposition data by case type for the time periods noted in B1, proxies based on statewide averages will be applied to those courts for each time period to establish those courts' COVID-19 backlog and proportional allocation of the remaining \$25 million.

C1. 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, effective July 1, 2020.

C2. Eligible expenditures for the second \$25 million are for expenses that endeavor to 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 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 project the expenditure of their full allocation.

E. Specifics on JBSIS data elements required and expenditure tracking directions using established WBS elements are forthcoming.

F. Request that Judicial Branch staff create and distribute a template to all 58 courts to report non-dispositional information on how courts have addressed COVID-19 related challenges.

G. Based on efforts on initial approach to report COVID-19 disposition data for the purpose of allocating the remaining \$25 million, and in anticipation of additional work in this area, courts should be prepared to submit disposition data regularly to be eligible for potential future funding.

H. The Ad Hoc COVID-19 Backlog Subcommittee will remain active. The recommendations above are to address the one-time allocation of the \$50 million received this fiscal year and are intended to address the courts most impacted at this point in time. The subcommittee will continue to review and refine this methodology and make additional recommendations as necessary.