



JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

TRIAL COURT BUDGET ADVISORY COMMITTEE FUNDING METHODOLOGY SUBCOMMITTEE

MATERIALS FOR NOVEMBER 2, 2022 VIRTUAL MEETING

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

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TRIAL COURT BUDGET ADVISORY COMMITTEE FUNDING METHODOLOGY SUBCOMMITTEE

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: November 2, 2022
Time: 3:00 p.m. to 5:00 p.m.
Public Call-in Number: <https://jcc.granicus.com/player/event/1991>

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 July 6, 2022 Funding Methodology Subcommittee 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 3:00 p.m. on November 1, 2022 will be provided to advisory body members prior to the start of the meeting.

III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 3)

Item 1

Community Assistance, Recovery, and Empowerment (CARE) Act Allocation Methodology (Action Required)

Consideration of a recommendation on a new methodology for 2022-23 CARE Act allocations.

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

Ms. Anne Hadreas, Supervising Attorney, Judicial Council Center for Families, Children & the Courts

Item 2

Base Funding Floor Inflationary Increases (Action Required)

Consideration of options for updating the base funding floor process for automatic inflationary increases similar to all other courts.

Presenter(s)/Facilitator(s): Ms. Oksana Tuk, Senior Analyst, Judicial Council Budget Services

Item 3

Court Interpreters Program (CIP) Allocation Methodology (Action Required)

Consideration of a recommendation from the Ad Hoc Interpreter Subcommittee on an allocation methodology for CIP funding effective July 1, 2023.

Presenter(s)/Facilitator(s): Ms. Brandy Olivera, Manager, Judicial Council Budget Services

IV. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

None

V. ADJOURNMENT

Adjourn



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MINUTES OF OPEN MEETING

July 6, 2022
12:00 p.m. - 1:00 p.m.

<https://jcc.granicus.com/player/event/1853>

Advisory Body Members Present: Judges: Hon. Jonathan B. Conklin (Cochair), Hon. Kevin M. Seibert, and Hon. B. Scott Thomsen.

Executive Officers: Ms. Rebecca Fleming (Cochair), Mr. Kevin Harrigan, Mr. Brandon E. Riley, Mr. Neal Taniguchi, and Mr. David Yamasaki.

Advisory Body Members Absent: Hon. Patricia L. Kelly, Mr. Chad Finke, and Mr. James Kim.

Others Present: Ms. Fran Mueller, Mr. Zlatko Theodorovic, Ms. Brandy Olivera, Ms. Michele Allan, and Ms. Oksana Tuk.

OPEN MEETING

Call to Order and Roll Call

The cochair called the meeting to order at 12:00 p.m. and took roll call.

Approval of Minutes

The subcommittee reviewed and approved the minutes of the June 15, 2022 Funding Methodology Subcommittee meeting.

DISCUSSION AND ACTION ITEMS (ITEM 1)

Item 1: 2022-23 AB 177 Allocation Methodology (Action Required)

Deliberation on the development of an allocation methodology for trial court backfill funding related to the repeal of fees authorized by AB 177.

Presenter(s)/Facilitator(s): Ms. Oksana Tuk, Senior Analyst, Judicial Council Budget Services

Action: The FMS unanimously voted to approve the two-year average revenue collection methodology for allocation of the \$10.3 million backfill funding to trial courts for consideration by the Trial Court Budget Advisory Committee, the Judicial Branch Budget Committee, and the Judicial Council at its September 20, 2022 business meeting.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:14 p.m.

Approved by the advisory body on

JUDICIAL COUNCIL OF CALIFORNIA
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Report to the Funding Methodology Subcommittee

(Action Item)

Title: Community Assistance, Recovery, and Empowerment (CARE) Act Allocation Methodology

Date: 10/27/2022

Contact: Don Will, Deputy Director, Judicial Council Center for Families, Children & the Courts
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Anne Hadreas, Supervising Attorney, Judicial Council Center for Families, Children & the Courts
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Issue

The CARE Act establishes a court-based mental health services engagement and oversight program for individuals with “schizophrenia spectrum and other psychotic disorders,” as defined in the DSM-V. The first cohort of counties to begin implementation consists of Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne to begin CARE Act programming no later than October 1, 2023. The 2022 Budget Act includes \$2.8 million for staff or other administrative costs for the seven trial courts in these counties to begin planning implementation¹.

Background

Funding for courts to begin implementation of the CARE Act in 2022-23 was estimated using Table 1 and was included in the 2022 Budget Act, Item 0250-101-0932, Provision 36:

Table 1 – Estimated CARE Act Funding

Court Program Administration	
Staff for program administration, coordination, and Self-Help Centers (2.0 FTE per court avg. for full year)	14.5
Costs (Salary, benefits, and operating expenditures and equipment)	\$195,000
Total Court Administration costs	\$2,828,000

¹ (AB 179, Ting. Budget Act of 2022);
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB179.

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Cost/Impact

Attachment 1A presents four alternatives for allocating funding to the first cohort of seven courts:

- A. By county population;
- B. By total filings;
- C. By the 2022-23 Workload Formula; and
- D. By the 2022-23 Workload Formula with a floor of \$49,000 to ensure that small courts have sufficient resources to plan implementation.

The \$49,000 floor was calculated as 0.25 full-time equivalent (FTE) of the average \$195,000 per FTE provided to the Department of Finance in implementation estimates.

The first cohort of courts intends to meet regularly and share implementation experience. Center for Families, Children & the Courts (CFCC) staff also recommend that the consideration of an allocation methodology for funding available in 2023-24 and following be deferred until early 2023, when more information will be available from the first cohort on implementation costs.

Recommendations

CFCC staff recommend the following for approval, to be considered by the Trial Court Budget Advisory Committee (TCBAC) at its November 10, 2022 meeting followed by the Judicial Branch Budget Committee, and then the Judicial Council at its January 19-20, 2023 business meeting:

1. Approve for the CARE Act Cohort One courts the 2022-23 scenario *Allocation by Final Workload Allocation* with 0.25 FTE base, displayed in columns K-M of Attachment 1A;
2. Approve the TCBAC to perform a reconciliation using CARE Act spending reports and court projections to redistribute the 2022-23 funds to Cohort One courts still in need of funding by June 2023; and
3. Continue the Funding Methodology Subcommittee work to develop an allocation for CARE Act funding in 2023-24 and subsequent years.

Attachments

Attachment 1A: CARE Act Cohort One Court Funding Allocation Models

ATTACHMENT 1A. CARE Act Cohort One Court Funding Allocation Models

Col. A	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G	Col. H	Col. I	Col. J	Col. K	Col. L	Col. M
Court	Allocated by County Population			Allocated by Total Filings			Allocated by Final Workload Allocation			Allocated by Final Workload Allocation		
	Population	Percent	Distribution	Total Filings	Percent	Distribution	Final Workload Allocation	Percent	Distribution	Base: 0.25 FTE	Final Workload Allocation	Total Distribution
Glenn	29,750	0.29%	\$ 8,119	5,204	0.48%	\$ 13,538	\$ 2,913,222	0.49%	\$ 13,971	\$ 49,000	\$ -	\$ 49,000
Orange	3,162,245	30.52%	863,013	373,014	34.31%	970,359	184,275,447	31.25%	883,748	49,000	786,834	835,834
Riverside	2,435,525	23.50%	664,683	298,751	27.48%	777,171	133,058,980	22.56%	638,124	49,000	568,146	617,146
San Diego	3,287,306	31.72%	897,143	286,236	26.33%	744,614	169,972,330	28.82%	815,153	49,000	725,761	774,761
San Francisco	842,754	8.13%	229,997	59,696	5.49%	155,293	63,648,431	10.79%	305,245	49,000	271,771	320,771
Stanislaus	549,466	5.30%	149,956	56,985	5.24%	148,241	31,028,662	5.26%	148,807	49,000	132,489	181,489
Tuolumne	55,291	0.53%	15,090	7,221	0.66%	18,785	4,785,485	0.81%	22,950	49,000	-	49,000
Total	10,362,337	100.00%	\$ 2,828,000	1,087,107	100.00%	\$ 2,828,000	\$ 589,682,557	100.00%	\$ 2,828,000	\$ 343,000	\$ 2,485,000	\$ 2,828,000

Total Court Allocation 2022-23 \$ 2,828,000

Sources

Department of Finance, Population Estimates for Cities, Counties and the State (E1)

<https://dof.ca.gov/forecasting/demographics/estimates-e1/>

Judicial Council, June 28, 2022. Trial Court Budget: Allocations from the Trial Court Trust Fund and Trial Court Allocations for 2022-23.

Attachment C: 2022-23 Workload Formula Allocation

Judicial Council, Court Statistics Report. Appendix G. County Tables. Caseloads and Judicial Positions, by County Superior Courts Fiscal Year 2020-21

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(Action Item)

Title: Base Funding Floor Inflationary Increases
Date: 10/27/2022
Contact: Oksana Tuk, Senior Analyst, Judicial Council Budget Services
916-643-8027 | oksana.tuk@jud.ca.gov

Issue

Consider options for updating the annual base funding floor process to include automatic increases for the base funding floor courts, Alpine and Sierra, similar to all other courts when inflationary funding is received through the budget process.

Background

Funding Methodology Subcommittee Meeting

On April 19, 2022, the Funding Methodology Subcommittee (FMS) was asked to consider updates to the current base funding floor process for requesting adjustments as included in its work plan. The FMS voted that the base funding floor courts should be eligible for inflationary increases similar to all other courts and asked that Judicial Council staff develop options to bring back to FMS for consideration that provide an inflationary increase for the base funding floor courts not in excess of the inflationary percentage provided to all other courts and not to the base funding floor courts' detriment¹.

Base Funding Floor Changes

The base funding floor amount is allocated to the two smallest trial courts, Alpine and Sierra, based on the minimum level of staffing and necessary operational costs. When the Workload Formula (WF) was first approved, a funding floor was established for these courts as there was operational funding needed above that which the WF provided using workload metrics alone. Based on staffing needs and operational costs at the time, a base funding floor amount of \$750,000 was approved by the Judicial Council at its February 20, 2014 business meeting, effective 2014-15².

¹ FMS meeting report (April 19, 2022), <https://www.courts.ca.gov/documents/tcbac-20220419-fms-materials.pdf>; FMS meeting minutes (April 19, 2022), <https://www.courts.ca.gov/documents/tcbac-20220419-fms-minutes.pdf>.

² 1 Judicial Council meeting report (February 20, 2014), www.courts.ca.gov/documents/jc-20140220-itemK.pdf; Judicial Council meeting minutes (February 20, 2014), <https://www.courts.ca.gov/documents/jc-20140220-minutes.pdf>.

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No changes were made to the funding floor amount for approximately five years. At its March 15, 2019 business meeting, the council approved a \$50,000 inflationary adjustment which increased the base funding floor to \$800,000, effective 2019-20³. This increase was based primarily on personnel and operating expenditures and equipment cost increases that the courts were attempting to cover through cutbacks and with funding they could retain within their 1 percent fund balance reserve. These resources were not sufficient and the courts' cost-cutting efforts were impacting core business operations.

Most recently, at its March 11, 2022 business meeting, the council approved a \$150,000 inflationary adjustment, increasing the base funding floor to \$950,000, effective 2022-23. This increase was based on numerous cost increase factors including information technology, case management systems, modernization projects, benefits, staffing, recruitment, and retention. In addition, this increase will provide critical funding to support operations and access to justice for the two smallest courts.

Consumer Price Index (Inflationary) Funding

In 2021-22, the trial courts received a 3.7 percent ongoing inflationary increase of \$72.2 million which the council approved to allocate to all 58 courts, including the two base funding floor courts, by allocating a 3.7 percent increase over each court's 2020-21 WF allocation⁴. However, because Alpine and Sierra have a set base funding floor amount, the Consumer Price Index (CPI) adjustment was not provided to these two courts because it would have exceeded the established base funding floor amount.

In 2022-23, the trial courts received an additional 3.8 percent ongoing inflationary increase of \$84.2 million which the council also approved to allocate to all 58 courts, including Alpine and Sierra, which was allocated as a 3.8 percent increase over each court's 2021-22 WF allocation⁵. However, because of the set base funding floor amount, the CPI adjustment received by these two courts was included in their allocation up to their newly established base funding floor amount of \$950,000.

³ Judicial Council meeting report (March 15, 2019),
<https://jcc.legistar.com/View.ashx?M=F&ID=7058011&GUID=805D0070-0C38-40C7-A8CE-F08E82D8DDD5>;
Judicial Council meeting minutes (March 15, 2019),
<https://jcc.legistar.com/View.ashx?M=M&ID=640295&GUID=4C88EDD5-7207-4839-BB72-89B184E22C9B>.

⁴ Judicial Council meeting report (July 9, 2021),
<https://jcc.legistar.com/View.ashx?M=F&ID=9499530&GUID=797D4736-AE15-43D3-84D7-4676D4D7C4B0>;
Judicial Council meeting minutes (July 9, 2021),
<https://jcc.legistar.com/View.ashx?M=M&ID=803683&GUID=7A91FDD5-4839-4018-9831-79E23D4383BF>.

⁵ Judicial Council meeting report (July 15, 2022),
<https://jcc.legistar.com/View.ashx?M=F&ID=11018996&GUID=EFC36BA3-294F-4DC3-8C7E-1AC030ED7B72>;
Judicial Council meeting minutes (July 15, 2022),
<https://jcc.legistar.com/View.ashx?M=M&ID=869107&GUID=7982B915-4E53-4539-9B54-8536AB5EF9A1>.

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Base Funding Floor Inflationary Increase Options

To assist the subcommittee in deliberations to update the annual base funding floor process, options have been outlined below for providing automatic increases for the base funding floor courts in years in which inflationary funding is included in the annual state budget:

1. Implement an automatic annual adjustment to the base funding floor amount in years that CPI is provided in the budget that is equal to the same percentage provided to the other 56 trial courts.
 - a. For example, if this year's 3.8 percent CPI was applied to the current base funding floor amount, the increase would have been \$36,100:
$$\begin{aligned} \$950,000 \times 0.038 &= \$36,100 \\ \$950,000 + \$36,100 &= \$986,100 \text{ (new base funding floor amount)} \end{aligned}$$
2. Implement an automatic annual adjustment to the base funding floor amount in years that CPI is provided in the budget that is a portion of the percentage amount provided to the other 56 trial courts.
 - a. If 50 percent of this year's CPI percentage was applied, the increase would have been \$18,050:
$$\begin{aligned} \$950,000 \times 0.019 &= \$18,050 \\ \$950,000 + \$18,050 &= \$968,050 \text{ (new base funding floor amount)} \end{aligned}$$
3. Revisit and evaluate the established process for adjustments to the base funding floor for a set period and make necessary modification recommendations.
 - a. For example, every two years on an ongoing basis; or
 - b. Every three years.

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(Action Item)

Title: Court Interpreters Program (CIP) Allocation Methodology
Date: 10/28/2022
Contact: Brandy Olivera, Manager, Judicial Council Budget Services
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Issue

Consider recommendations by the Ad Hoc Interpreter Subcommittee (subcommittee) for an ongoing CIP allocation methodology effective July 1, 2023.

Background

Funding Methodology Subcommittee Work Plan

On July 18, 2022, the Trial Court Budget Advisory Committee (TCBAC) approved the Funding Methodology Subcommittee (FMS) recommendation for updates to the annual FMS work plan which included an item on the CIP funding methodology as follows¹:

Ongoing Through 2022-23

Develop an ongoing, workload-based methodology for allocation of CIP funding including, but not limited to, video remote interpreting and cross assignments, effective in 2023-24.

Judicial Council Meeting

On January 21, 2022, the Judicial Council approved the TCBAC's recommendations for an ongoing, workload-based allocation methodology for CIP funding, including cross assignments, benefit cost changes, and unspent funds effective July 1, 2022². The approved recommendations include:

- i. A proportional allocation methodology based on a three-year average of expenditure data available (2017-18, 2018-19, and 2019-20), up to the CIP appropriation amount effective

¹ TCBAC meeting report (July 18, 2022), <https://www.courts.ca.gov/documents/tcbac-20220718-materials.pdf>; TCBAC meeting minutes (July 18, 2022), <https://www.courts.ca.gov/documents/tcbac-20220718-minutes.pdf>.

² Judicial Council meeting report (January 21, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=10355221&GUID=7EA909C1-C551-46AA-9795-09A8FAC0B7C6>; Judicial Council meeting minutes (January 21, 2022), <https://jcc.legistar.com/View.ashx?M=M&ID=869095&GUID=3DDA3E03-F7A5-4C1F-AF15-AB32C4ABF652>.

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2022-23, while the Ad Hoc Interpreter Subcommittee continues review of pandemic impact and reporting data considerations effective in 2023-24;

- ii. Require courts to return to the Judicial Council all unspent 2021-22, 2022-23, and ongoing CIP-allocated funds, which will first reimburse courts with a shortfall in each respective year not to exceed the overall appropriation amount, with any remaining funds reverting to the Trial Court Trust Fund (TCTF) as restricted program funding;
- iii. Allocate staff interpreter benefits dollar-for-dollar to courts reporting cost benefit changes effective 2022-23; and
- iv. Require receiving courts to offset interpreter expenses to courts providing cross assignments (or “home” courts) and charge the Ad Hoc Interpreter Subcommittee with working with Judicial Council staff on development of a payment/reimbursement method.

Ad Hoc Interpreter Subcommittee

Through the subcommittee’s continued deliberations as outlined in the FMS work plan for the development of an ongoing, workload-based methodology for allocation of CIP funding including, but not limited to, video remote interpreting and cross assignments effective 2023-24, and as outlined in the council-approved recommendation to include pandemic impact, reporting data considerations, and development of a payment/reimbursement method for cross assignments, the subcommittee developed the following recommendations:

- A. **Review of Pandemic Impact on Funding Methodology** – The out-year allocations will continue to include three-year average expenditure data, and the full pandemic year 2020-21 will be excluded indefinitely. As a result, the 2023-24 allocation will include fiscal years 2018-19, 2019-20, and 2021-22; the 2024-25 allocation will include fiscal years 2019-20, 2021-22, and 2022-23.
- B. **Reporting Data Considerations** – In an effort to accurately reflect what current interpreter needs are utilizing data in support of a workload-based allocation methodology, the subcommittee was provided a presentation from the Center for Families, Children & the Courts Language Access Program (LAP) on the current functionality of the Court Interpreter Data Collection System (CIDCS).

Recognizing that additional data elements are needed, and that CIDCS updates can take some time, the subcommittee determined that it would continue recommending historical data at this time and commit to enhancing the amount of data collected in CIDCS through collaboration with the LAP, to include consideration of feasibility and

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cost, as well as other data factors such as consistent and timely data reporting and reliability of data.

- C. **Reimbursements to Courts with a Shortfall not to Exceed the Appropriation** – The current process will remain in place whereby courts with a shortfall are reimbursed by courts with excess funding up to the appropriation amount, and the CIP fund balance will be utilized as needed to make courts whole. Annual CIP fund balance information will be shared with the Judicial Council every July when the new fiscal year’s TCTF allocations are recommended.

If the amount of the shortfall exceeds the appropriation, and there is no surplus fund balance available, courts would be provided advance notification that they are projected to exceed their allocation and they would be required to fund these excess costs from their trial court operating budgets. This notification would be provided by the Judicial Council Budget Services office to the impacted courts as information is identified through the CIP projection process.

In the event there is not enough savings or surplus funding to cover the full amount of court shortages, the methodology to provide the available funding would be a proportional approach by shortage amount as outlined in Table 1.

Table 1 – Funding Shortage Example

Court	Appropriation & Allocation	Expenditures	Difference Surplus / (Deficit)
A	\$100,000	\$150,000	(\$50,000)
B	200,000	175,000	25,000
C	300,000	300,000	0
D	400,000	425,000	(25,000)
Total	\$1,000,000	\$1,050,000	

Since there is only \$25,000 in savings from Court B to cover the -\$75,000 shortage in Courts A and D, each court would receive a percentage of available dollars based on the respective shortage amounts as outlined in Table 2.

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Table 2 – Funding Shortage Methodology

Court	Difference Surplus / (Deficit)	% of Shortage	Proportional Allocation	Amount to be Covered by the Court	Total
A	(\$50,000)	67%	\$16,750	\$33,250	\$50,000
D	(25,000)	33%	8,250	16,750	25,000
Total	(\$75,000)	100%	\$25,000	\$50,000	\$75,000

In this example, \$75,000 of the shortage would be covered partially by court savings of \$25,000 with the remaining \$50,000 covered from the impacted courts' operating budgets.

In the event the CIP fund balance is depleted, future budget change proposals may be required to keep pace with increasing costs.

- D. **Cross Assignments** – Beginning in 2022-23, a court receiving interpreter services (“receiving” court) from another court (“home” court) will reimburse the “home” court for interpreter service expenses out of the “receiving” court’s CIP allocation including salary, benefits, overtime, and travel costs.

The accounts receivable and payable processes will occur directly between the “receiving” and “home” courts.

- E. **Video Remote Interpreting (VRI)** – Uniform VRI definitions are being developed by the LAP as VRI is not currently utilized consistently within each of the four regions. As a result, the subcommittee has determined that more information is needed prior to considering the inclusion of VRI into a CIP allocation methodology.

Recommendations

The Ad Hoc Interpreter Subcommittee recommends the following for approval, to be considered by the TCBAC at its November 10, 2022 meeting, followed by the Judicial Branch Budget Committee, and then the Judicial Council at its January 19-20, 2023 business meeting effective July 1, 2023:

1. Approve the allocation methodology excluding the 2020-21 pandemic year in the three-year average expenditure data used in the model indefinitely;
2. Approve the use of historical expenditure data in the model while the Ad Hoc Interpreter Subcommittee continues collaborating with the LAP on possible enhancements with the data collected in the CIDCS and how that data could be utilized in the allocation methodology;

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3. Approve the approach and methodology in the event courts experience a shortfall in which the courts with a shortage will first be covered by other court savings up to the appropriation amount, then the CIP fund balance will be utilized in the event there is not sufficient savings available to make a court whole, and that funds will be allocated proportionally based on the percentage of the shortfall if there is not sufficient savings or fund balance to cover the shortage;
4. Approve “home” courts to submit cross assignment reimbursements to “receiving” courts for the “receiving” court to cover the costs of the interpretation using its CIP allocation; and
5. Approve VRI as a possible future consideration in the allocation methodology as more information is developed and finalized.