



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 20, 2014

Title	Agenda Item Type
Trial Court Allocations: Criminal Justice Realignment, Court-Appointed Dependency Counsel, and Workers' Compensation Liabilities	Action Required
	Effective Date
	February 20, 2014
Rules, Forms, Standards, or Statutes Affected	Date of Report
None	February 10, 2014
Recommended by	Contact
Trial Court Budget Advisory Committee Hon. Laurie M. Earl, Judge of the Superior Court of Sacramento County; Cochair of the Trial Court Budget Advisory Committee	Steven Chang, 415-865-7195 steven.chang@jud.ca.gov
Zlatko Theodorovic, Director and Chief Financial Officer, AOC Fiscal Services Office, and Cochair of the Trial Court Budget Advisory Committee	
David H. Yamasaki, Court Executive Officer, Superior Court of Santa Clara County, and Chair of the Court Executives Advisory Committee	

Executive Summary

The Trial Court Budget Advisory Committee recommends the council allocate \$7.64 million in funding from the Trial Court Trust Fund and the State Trial Court Improvement and

Modernization Fund for costs associated with criminal justice realignment, court-appointed dependency counsel, and the settlement of workers' compensation tail claim liabilities.

Recommendations

Based on actions taken at its January 16, 2014, meeting, which were passed either unanimously or with one "no" vote, the Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective February 20, 2014:

1. For the purpose of reimbursing courts for costs incurred to reduce court-appointed attorney caseloads in dependency proceedings beyond their share of the current \$103.7 million base allocation, allocate to courts a one-time share of the \$2.31 million in the Trial Court Trust Fund, using the methodology adopted by the council on August 23, 2013, and distribute the funding on a reimbursement basis;
2. Allow any of the \$2.3 million allocation that is not distributed to a court in 2013–2014 to carry forward to subsequent fiscal years;
3. Allocate \$4.61 million in one-time funding from the Trial Court Trust Fund for court costs related to criminal justice realignment using a method that incorporates equally both population and workload metrics, as described in this report; and
4. Allocate \$719,749 from the State Trial Court Improvement and Modernization Fund to pay the County of Sacramento for a workers' compensation tail claim liabilities settlement.

Recommendations 1 and 2: Court-Appointed Dependency Counsel

1. For the purpose of reimbursing courts for costs incurred to reduce court-appointed attorney caseloads in dependency proceedings beyond their share of the current \$103.7 million base allocation, allocate to courts a one-time share of the \$2.31 million in the Trial Court Trust Fund (TCTF), using the methodology adopted by the council on August 23, 2013, and distribute the funding on a reimbursement basis.
2. Allow any of the \$2.3 million allocation that is not distributed to a court in 2013–2014 to carry forward to subsequent fiscal years.

Previous Council Action

At its August 23, 2013, business meeting, the council approved a need-based method for allocating monies collected through the Juvenile Dependency Counsel Collections Program (JDCCP). These monies are reimbursements from parents and other responsible persons liable for the cost of dependency-related legal services to the extent that those persons are able to pay.

The estimates of courts' funding needs are computed using the Caseload Funding Model (CFM) approved by the council in 2007 and 2008.¹

Rationale for recommendations 1 and 2

Based on the most recent caseload data, the Caseload Funding Model estimates that the total funding required to enable each full-time, equivalent appointed dependency attorney to represent no more than 188 clients at a given time—the maximum caseload permissible to ensure the adequate and competent representation required by statute—is about \$136.8 million. The current base allocation for court-appointed dependency counsel is \$103.7 million, or \$33.1 million less than the estimated need. A Budget Change Proposal to request funding for the shortfall was submitted to the Department of Finance for consideration to be funded in fiscal year (FY) 2014–2015, but the Governor did not include this in the budget proposal that was released in January 2014.

From the inception of the JDCCP until the end of FY 2012–2013, the trial courts have remitted a cumulative \$2.3 million, excluding administrative costs and monies recovered to offset their cost of collections, through the JDCCP to the TCTF. These funds are part of the overall TCTF fund balance available for use in 2013–2014 and beyond. Statute requires the Judicial Council to allocate the monies remitted through the JDCCP to the trial courts for use to reduce court-appointed attorney caseloads to the council's approved standard. For a court to be eligible to receive an allocation of these funds, it must have demonstrated participation in the program by submitting the annual report required by section 13 of the program guidelines and adopted a rule or policy to inquire regarding a responsible person's ability to reimburse the cost of appointed counsel at each dispositional hearing.

Every court that has satisfied those requirements and whose allocated share of the available base funding is lower than its share of the statewide estimated funding need receives an allocation. Each eligible court's allocated share of the JDCCP funds is equivalent to its share of the aggregate funding need of all the eligible courts. Attachment A displays the recommended allocation amount for each court.

By allocating the JDCCP funding on a reimbursement basis and allowing unclaimed allocations to be carried forward to subsequent fiscal years, recommendations 1 and 2 provide courts the most flexibility to use their allocation, particularly in light of the 1 percent cap on carrying forward funds received by the court that will take effect on June 30, 2014. Although the use of the JDCCP monies is statutorily restricted to reducing the caseloads of court-appointed dependency attorneys, these funds would not be excludable from the cap if received by the courts

¹ The CFM uses data collected in the 2002 Caseload Study to calculate the amount of time a court-appointed attorney would spend working on each stage of a juvenile dependency case. Because the basic elements of a dependency case remain the same as they were in 2002, the constants in the CFM remain valid indicators of attorney workload per case. The variable inputs in the CFM—total clients and attorney salaries—are updated periodically to reflect changing conditions.

and unspent because they are not identified in Government Code section 77203(b). Because JDCCP funds reside in the TCTF, allocations not distributed to courts during a given fiscal year will not be subject to the cap for that fiscal year.

If the courts request the full \$2.3 million in 2013–2014, the existing TCTF expenditure authority for Program 45.10 (Support for Operation of the Trial Courts) might not be sufficient to allow for their full reimbursement. The Budget Act of 2013 does, however, authorize an increase of the expenditure authority for Program 45.10 by the “amount of any additional resources collected for the recovery of costs for court-appointed dependency counsel services” on the approval of the Director of the Department of Finance. To ensure sufficient expenditure authority in FY 2013–2014 to reimburse courts if they were to seek reimbursement for the entire \$2.3 million, the Administrative Office of the Courts (AOC) will request the Director of the Department of Finance to augment the 2013–2014 Program 45.10 expenditure authority in the TCTF by the full \$2.3 million.

Comments, Alternatives Considered, and Policy Implications

The TCBAC considered recommending that the council allocate less than the \$2.3 million on a reimbursement basis to the extent that an allocation of \$2.3 million might unduly limit Judicial Council flexibility to make future allocations or make it more difficult for the trial courts to plan ongoing expenditures because the amount available for allocation in future fiscal years is anticipated to be much lower than the 2012–2013 balance.

Recommendation 3: Criminal Justice Realignment

3. Allocate \$4.61 million in one-time funding from the Trial Court Trust Fund for court costs related to criminal justice realignment using a method that incorporates equally both population and workload metrics, as described in this report.

Previous Council Action

At its July 25, 2013 business meeting, the council allocated an initial \$4.61 million, on a one-time basis, in 2013–2014 of the ongoing \$9.223 million available to be allocated for criminal justice realignment costs. The allocation by court was based on the method that relied on an estimate of caseload from the California Department of Corrections and Rehabilitation and used by the council to allocate realignment funding in 2011–2012 and 2012–2013.

Rationale for recommendation 3

The TCBAC recommends that the remaining \$4.61 million in funding not be allocated to courts using the method based on CDCR data but instead be allocated according to a method that incorporates equally recent data provided by courts, specifically:

- Population (post-release community supervision [PRCS] and parole); and
- Workload (measured as petitions to revoke/modify PRCS or parole).

Incorporating population information is recommended at this time because only one quarter's worth of workload data is available. Parole revocation hearings were required effective October 1, 2013. Specifically, the recommended methodology for determining each court's share of the allocation is to add each court's percentage of the statewide population of individuals on PRCS and parole weighted at .50 (see column A of Attachment B) and each court's percentage of the statewide realignment workload measured as the number of petitions filed and court motions made to revoke/modify PRCS and parole weighted at .50 (see column D of Attachment B). The sum of the weighted percentages results in the percentage share of the \$4.611 million that each court receives (see column E of Attachment B). Column F of Attachment B lists the recommended court-by-court allocation amounts.

Once full-year workload data is available, the TCBCAC anticipates recommending that for future years the council allocate realignment funding solely based on workload measures that are established, consistent with the Workload-Based Allocation Funding Methodology. A reserve of \$130,450 of unallocated funding from prior years is available to reimburse courts whose 2013–2014 costs exceed their total 2013–2014 allocation.

Comments, Alternatives Considered, and Policy Implications

No alternatives were considered by the TCBCAC.

Recommendation 4: Workers' Compensation Tail Claim Liabilities

4. Allocate \$719,749 from the State Trial Court Improvement and Modernization Fund to pay the County of Sacramento for a workers' compensation tail claim liabilities settlement.

Previous Council Action

At its August 23, 2013, business meeting, the council allocated \$67.09 million from the State Trial Court Improvement and Modernization Fund (IMF) for 2013–2014. Although in previous years the council set aside funding for possible settlement costs, this fiscal year's total allocation did not include any funding for workers' compensation tail claim settlements with counties, as the AOC did not anticipate any settlements in the current fiscal year.

Rationale for recommendation 4

Senate Bill 2140 established the courts as separate employers effective January 1, 2001, whereby court staff went from being county employees to court employees. However, since the state-administered Judicial Branch Workers' Compensation Program (JBWCP) only came into existence as of January 1, 2003, this created a "runoff" or "tail claim" situation for the files with dates of injury occurring from January 1, 2001, to the date the files were transferred from the counties to the JBWCP.

The JBWCP accepted claims starting from the date of the courts' entrance into the program and thereafter. At that time, the tail claims were not transferred or resolved. The AOC has been resolving the monies owed to the counties for claims payment and administration for those losses

with dates of injury occurring between January 1, 2001, and the date the files were transferred to the JBWCP, in addition to transferring those tail claims to the JBWCP. The Superior Court of Sacramento County joined the program at its inception, thus placing its claim within the liability of the JBWCP.

Before the county and the AOC reach an agreement and a settlement amount is determined, the AOC initiates a series of due diligence tasks. If no agreement can be reached and the county initiates litigation, the case is then referred to the Legal Services Office for further action. Since the establishment of the program, settlements have been reached with eight counties, in the total amount of \$6,542,726.

If allocated by the council, there are sufficient monies and expenditure authority to disburse the funding in 2013–2014. An allocation of \$719,749 would reduce the projected ending fund balance of the IMF in 2013–2014 to about \$18 million and would reduce the projected unused local assistance expenditure authority to about \$9.4 million.

Comments, Alternatives Considered, and Policy Implications

No alternatives were considered by the TCBAC.

Implementation Requirements, Costs, and Operational Impacts

The recommendations, if adopted, would not require trial courts to implement anything.

Attachments

1. Attachment A: Recommended Allocation per Court of \$2.3 Million in Collections Generated by the Juvenile Dependency Counsel Collections Program
2. Attachment B: Recommended Additional Allocation per Court of \$4.6 Million for Criminal Justice Realignment Costs in 2013–2014

Recommended Allocation per Court of \$2.3 Million in Collections Generated by the Juvenile Dependency Counsel Collections Program

	Estimated Funding Need per Caseload Funding Model (CFM) 1/13	Estimated Funding Need as Percentage of Statewide Need	Allocation of CAC Base Funding	Allocation as a Percentage of Total CAC Base Funding	Eligible for JDCCP Funding ¹	Funding Need of Eligible Courts	Need as a % of Total Need of Eligible Courts	Recommended Allocation of \$2.3 Million
Court	A	B (A/Total)	C	D (C/Total)	E	F	G (F/Total)	H
Alpine	-	0.00%	-	0.00%	N	-	0%	-
Butte	983,444	0.75%	664,759	0.64%	Y	983,444	1.14%	26,477
Calaveras	164,426	0.12%	76,519	0.07%	Y	164,426	0.19%	4,427
Colusa	53,045	0.04%	-	0.00%	N*	-	0.00%	-
Contra Costa	2,543,025	1.93%	3,120,151	3.01%	N	-	0.00%	-
Fresno	2,957,067	2.24%	2,958,296	2.85%	N	-	0.00%	-
Glenn	159,674	0.12%	55,250	0.05%	Y	159,674	0.19%	4,299
Humboldt	407,523	0.31%	562,460	0.54%	N	-	0.00%	-
Inyo	38,018	0.03%	76,990	0.07%	N	-	0.00%	-
Kern	3,456,745	2.62%	2,023,943	1.95%	Y	3,456,745	4.02%	93,065
Kings	594,445	0.45%	199,672	0.19%	Y	594,445	0.69%	16,004
Lassen	104,407	0.08%	108,374	0.10%	N	-	0.00%	-
Los Angeles (DRAFT)	53,820,131	40.84%	34,064,073	32.84%	Y	53,820,131	62.59%	1,448,983
Madera	470,467	0.36%	53,031	0.05%	Y	470,467	0.55%	12,666
Mariposa	56,413	0.04%	32,243	0.03%	Y	56,413	0.07%	1,519
Merced	988,496	0.75%	593,861	0.57%	Y	988,496	1.15%	26,613
Modoc	17,682	0.01%	16,064	0.02%	N	-	0.00%	-
Mono	14,257	0.01%	12,329	0.01%	N	-	0.00%	-
Monterey	591,586	0.45%	329,570	0.32%	Y	591,586	0.69%	15,927
Napa	285,405	0.22%	176,430	0.17%	Y	285,405	0.33%	7,684
Nevada	204,344	0.16%	232,799	0.22%	N	-	0.00%	-
Orange	6,227,511	4.73%	6,583,082	6.35%	N	-	0.00%	-
Placer	655,010	0.50%	418,422	0.40%	Y	655,010	0.76%	17,635
Riverside	9,960,737	7.56%	4,171,898	4.02%	Y	9,960,737	11.58%	268,170
San Benito	190,088	0.14%	31,885	0.03%	Y	190,088	0.22%	5,118
San Bernardino	7,271,806	5.52%	3,587,297	3.46%	Y	7,271,806	8.46%	195,777
San Francisco	3,101,987	2.35%	3,907,633	3.77%	N	-	0.00%	-
San Mateo	861,104	0.65%	323,022	0.31%	Y	861,104	1.00%	23,183

	Estimated Funding Need per Caseload Funding Model (CFM) 1/13	Estimated Funding Need as Percentage of Statewide Need	Allocation of CAC Base Funding	Allocation as a Percentage of Total CAC Base Funding	Eligible for JDCCP Funding ¹	Funding Need of Eligible Courts	Need as a % of Total Need of Eligible Courts	Recommended Allocation of \$2.3 Million
Court	A	B (A/Total)	C	D (C/Total)	E	F	G (F/Total)	H
Shasta	861,355	0.65%	569,416	0.55%	Y	861,355	1.00%	23,190
Sierra	10,946	0.01%	14,898	0.01%	N	-	0.00%	-
Siskiyou	167,556	0.13%	256,552	0.25%	N	-	0.00%	-
Sutter	290,834	0.22%	84,083	0.08%	Y	290,834	0.34%	7,830
Tehama	317,430	0.24%	93,909	0.09%	Y	317,430	0.37%	8,546
Trinity	92,619	0.07%	83,204	0.08%	N	-	0.00%	-
Tulare	1,486,953	1.13%	658,892	0.64%	Y	1,486,953	1.73%	40,033
Tuolumne	216,700	0.16%	63,981	0.06%	Y	216,700	0.25%	5,834
Ventura	1,763,824	1.34%	755,357	0.73%	Y	1,763,824	2.05%	47,487
Yolo	539,849	0.41%	333,430	0.32%	Y	539,849	0.63%	14,534
Yuba	210,997	0.16%	199,732	0.19%	N	-	0.00%	-
19 DRAFT courts ²	29,654,711	22.50%	36,231,939	34.93%	N	-	0.00%	-
Total	131,792,617	100.00%	103,725,445	100.00%		85,986,921	100%	2,315,000

1. A court is eligible for an allocation if the court has met the participation requirements in section 14(a) or the JDCCP guidelines and the court's percent of total statewide need in column B is greater than the court's share of the base allocation in column D.

2. The 19 DRAFT courts not eligible for JDCCP funding this year are Alameda, Amador, Del Norte, El Dorado, Imperial, Lake, Marin, Mendocino, Plumas, Sacramento, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, and Stanislaus.

* Although Colusa would be eligible for an allocation of JDCCP funds based on relative funding need, the court did not meet the participation requirements for eligibility. Under an agreement between the trial court and Colusa County, the county pays an unknown amount for the appointment of counsel in dependency cases.

Recommended Additional Allocation per Court of \$4.6 Million for Criminal Justice Realignment Costs in 2013-2014

	Population ¹	% of Total	Workload ²	% of Total	Recommended Allocation Share (50% of B + 50% of D)	Recommended Allocation of \$4.611 Million	Initial Allocation	% of Total	Recommended Total Allocation for 2013-2014
Court	A	B	C	D	E	F	G	H	I
Alameda	2,888	3.27%	487	3.95%	3.61%	166,507	255,518	5.53%	422,025
Alpine	1	0.00%	-	0.00%	0.00%	26	659	0.01%	685
Amador	49	0.06%	3	0.02%	0.04%	1,842	1,646	0.04%	3,488
Butte	732	0.83%	90	0.73%	0.78%	35,954	38,196	0.83%	74,150
Calaveras	70	0.08%	9	0.07%	0.08%	3,512	659	0.01%	4,170
Colusa	21	0.02%	3	0.02%	0.02%	1,110	659	0.01%	1,768
Contra Costa	1,238	1.40%	79	0.64%	1.02%	47,125	87,916	1.90%	135,042
Del Norte	80	0.09%	6	0.05%	0.07%	3,213	1,976	0.04%	5,188
El Dorado	255	0.29%	40	0.32%	0.31%	14,141	19,098	0.41%	33,239
Fresno	3,671	4.16%	389	3.15%	3.66%	168,660	221,273	4.79%	389,933
Glenn	46	0.05%	6	0.05%	0.05%	2,324	4,939	0.11%	7,263
Humboldt	429	0.49%	55	0.45%	0.47%	21,493	39,513	0.86%	61,006
Imperial	212	0.24%	33	0.27%	0.25%	11,709	20,415	0.44%	32,124
Inyo	22	0.02%	2	0.02%	0.02%	949	1,646	0.04%	2,595
Kern	3,846	4.36%	535	4.34%	4.35%	200,520	145,540	3.15%	346,060
Kings	736	0.83%	73	0.59%	0.71%	32,882	18,110	0.39%	50,992
Lake	237	0.27%	8	0.06%	0.17%	7,690	10,537	0.23%	18,227
Lassen	65	0.07%	5	0.04%	0.06%	2,634	1,976	0.04%	4,609
Los Angeles	24,771	28.08%	5,669	45.95%	37.02%	1,706,989	1,278,576	27.69%	2,985,565
Madera	412	0.47%	51	0.41%	0.44%	20,301	26,013	0.56%	46,314
Marin	144	0.16%	7	0.06%	0.11%	5,072	6,586	0.14%	11,658
Mariposa	27	0.03%	2	0.02%	0.02%	1,080	3,954	0.09%	5,034
Mendocino	218	0.25%	23	0.19%	0.22%	9,997	16,134	0.35%	26,131
Merced	692	0.78%	94	0.76%	0.77%	35,656	43,464	0.94%	79,121
Modoc	17	0.02%	2	0.01%	0.02%	725	659	0.01%	1,383
Mono	5	0.01%	1	0.01%	0.01%	318	659	0.01%	976
Monterey	989	1.12%	63	0.51%	0.82%	37,626	84,294	1.83%	121,921
Napa	192	0.22%	11	0.09%	0.15%	7,075	7,244	0.16%	14,319
Nevada	79	0.09%	20	0.16%	0.13%	5,803	2,634	0.06%	8,437
Orange	4,998	5.67%	603	4.89%	5.28%	243,342	215,675	4.67%	459,017
Placer	416	0.47%	41	0.33%	0.40%	18,537	27,001	0.58%	45,537
Plumas	26	0.03%	-	0.00%	0.01%	680	988	0.02%	1,667
Riverside	5,134	5.82%	698	5.66%	5.74%	264,651	175,174	3.79%	439,826

	Population ¹	% of Total	Workload ²	% of Total	Recommended Allocation Share (50% of B + 50% of D)	Recommended Allocation of \$4.611 Million	Initial Allocation	% of Total	Recommended Total Allocation for 2013-2014
Court	A	B	C	D	E	F	G	H	I
Sacramento	4,521	5.13%	296	2.40%	3.76%	173,498	315,116	6.82%	488,614
San Benito	109	0.12%	21	0.17%	0.15%	6,774	3,951	0.09%	10,725
San Bernardino	6,999	7.93%	938	7.60%	7.77%	358,256	272,969	5.91%	631,225
San Diego	5,562	6.31%	430	3.49%	4.90%	225,753	233,127	5.05%	458,880
San Francisco	1,550	1.76%	152	1.23%	1.49%	68,924	132,369	2.87%	201,293
San Joaquin	2,388	2.71%	220	1.78%	2.25%	103,538	118,210	2.56%	221,748
San Luis Obispo	774	0.88%	59	0.48%	0.68%	31,259	30,952	0.67%	62,211
San Mateo	808	0.92%	42	0.34%	0.63%	28,970	45,440	0.98%	74,410
Santa Barbara	889	1.01%	57	0.46%	0.73%	33,891	40,830	0.88%	74,721
Santa Clara	3,289	3.73%	200	1.62%	2.67%	123,352	161,016	3.49%	284,368
Santa Cruz	346	0.39%	38	0.31%	0.35%	16,146	29,635	0.64%	45,781
Shasta	673	0.76%	90	0.73%	0.75%	34,412	40,501	0.88%	74,913
Sierra	3	0.00%	1	0.01%	0.01%	265	-	0.00%	265
Siskiyou	116	0.13%	-	0.00%	0.07%	3,032	4,610	0.10%	7,642
Solano	1,025	1.16%	167	1.35%	1.26%	58,004	95,161	2.06%	153,165
Sonoma	729	0.83%	70	0.57%	0.70%	32,138	44,452	0.96%	76,590
Stanislaus	1,673	1.90%	146	1.18%	1.54%	71,018	74,416	1.61%	145,434
Sutter	237	0.27%	18	0.15%	0.21%	9,559	13,500	0.29%	23,059
Tehama	265	0.30%	12	0.10%	0.20%	9,170	13,500	0.29%	22,670
Trinity	26	0.03%	-	0.00%	0.01%	680	2,636	0.06%	3,316
Tulare	1,398	1.58%	126	1.02%	1.30%	60,092	30,623	0.66%	90,714
Tuolumne	97	0.11%	6	0.05%	0.08%	3,657	3,622	0.08%	7,279
Ventura	1,241	1.41%	56	0.45%	0.93%	42,905	99,112	2.15%	142,017
Yolo	425	0.48%	62	0.50%	0.49%	22,697	29,964	0.65%	52,661
Yuba	347	0.39%	23	0.19%	0.29%	13,369	23,049	0.50%	36,418
Total	88,208	100.00%	12,338	100.00%	100.00%	4,611,500	\$ 4,618,090	100.00%	\$ 9,229,590

1. Population of PRCS and parole through the first quarter of 2013-2014.

2. Petitions for PRCS and parole for a 3-month period.