



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 20-049*

For business meeting on: September 25, 2020

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**Title**

Allocations and Reimbursements to Trial Courts: Allocation Methodology for Court Interpreters Program Shortfall

**Agenda Item Type**

Action Required

**Effective Date**

September 25, 2020

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

September 2, 2020

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Jonathan B. Conklin, Chair

**Contact**

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### Executive Summary

The Trial Court Budget Advisory Committee recommends the Judicial Council approve a one-time allocation methodology to allocate the 2020–21 Court Interpreters Program (CIP) appropriation, while a workload-based methodology is developed for consideration effective July 1, 2021. Funding shortfalls that began in 2014–15 in the CIP were addressed in prior years by using program savings carryover until depleted in 2018–19, and subsequently by using Trial Court Trust Fund unrestricted fund balance as approved by the Judicial Council.

### Recommendation

The Trial Court Budget Advisory Committee (TCBAC) recommends the Judicial Council approve the one-time, 2020–21 allocation methodology as outlined in Attachment A, not to exceed the appropriation amount of \$130.393 million, while the Ad Hoc Interpreter Subcommittee continues development of a workload-based allocation methodology recommendation for implementation beginning in 2021–22.

## **Relevant Previous Council Action**

The Court Interpreter Program (CIP) has operated as a reimbursement fund for all eligible trial court interpreter expenses, and for several years the fund carried a surplus. In recent years, the CIP has been faced with a shortfall with expenditures continuing to exceed allocations. To address the shortfalls, CIP savings carryover was first used, and more recently Trial Court Trust Fund (TCTF) unrestricted fund balance, Attachment B, was used as approved by the council.

With adoption of the council's *Strategic Plan for Language Access in the California Courts* in 2015, the council has also approved budget change proposals (BCP) to augment the CIP to support expansion of interpreter services to all case types under the Language Access Plan. Expenditure increases in the CIP are a result of multiple factors including wage growth on ratified agreements, expansion of interpreter services to all case types, increases in the number of mandated staff interpreters and mandated contractor usage, and merit salary adjustments. The use of savings, BCP augmentations, and TCTF unrestricted fund balance through 2019–20 has allowed courts to cover cost increases and maintain service levels.

At its business meeting on September 21, 2018, the council approved an allocation of unrestricted fund balance from the TCTF on a one-time basis to address an anticipated shortfall in the CIP for 2018–19, not to exceed the estimated \$3.4 million amount required to cover cost increases and maintain service levels. The council directed staff to continue to monitor CIP funding and to provide regular updates to the TCBAC to report any changes, and to incorporate any additional funding after the Governor's proposed budget was released in January 2019 (Link A).

At its business meeting on May 17, 2019, the council approved a one-time allocation of unrestricted fund balance from the TCTF in an amount not to exceed \$13.5 million to address the projected 2019–20 shortfall (Link B).

The council's continued efforts to secure additional funding through the BCP process resulted in the CIP receiving over \$9 million in the 2020 Budget Act. With this new funding, and absent projections that take the COVID-19 pandemic and recession into consideration, the CIP was projected to experience a deficit again in 2020–21.

## **Analysis/Rationale**

A fundamental goal of the California judicial branch is equal access to justice and to the courts, regardless of an individual's ability to communicate in English. With over 200 languages spoken in California, court interpreters play a critical role in achieving this goal by accurately interpreting for persons who are limited English proficient (LEP).

Article I, section 14 of the California Constitution was amended in 1974 to provide that "[a] person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings." This provision established a mandate for courts to provide interpreters in criminal matters to all defendants who have limited proficiency in English. The

constitutional mandate and subsequent case law have been interpreted to include proceedings related to criminal, misdemeanor, and delinquency matters as well as certain civil matters such as divorce or separation involving a protective order and child custody and visitation proceedings.

Effective January 1, 2015, the enactment of Assembly Bill 1657 (Stats. 2014, ch. 721) through Evidence Code section 756 authorized courts to provide interpreters to all parties in civil matters, regardless of income, and presented a priority and preference order when courts have insufficient resources to provide interpreters for all persons.

Actual expenditures reimbursed through the current CIP funding process have consistently exceeded the annual appropriation provided in the Budget Act. This has required the use and depletion of CIP savings and the use of unrestricted TCTF fund balance. The TCBAC has recognized the need to address insufficient funding to reimburse trial courts based on actual expenditures, and through the Ad Hoc Interpreter Subcommittee, a one-time approach to allocate the 2020–21 appropriation has been developed to ensure timely allocation information and planning opportunities to the courts.

The TCBAC determined more time is needed to develop an ongoing, workload-based allocation methodology and will continue its work to establish a data-driven methodology for implementation in 2021–22.

### **Policy implications**

The allocation methodology will assist all courts to plan and know in advance how much funding they will have available to provide interpreter services to LEP court users in the current fiscal year. A move to an allocation model not to exceed the current appropriation amount will likely require careful consideration by courts, including cost savings measures that will help to maintain current interpreter service levels. The overall impact of COVID-19 on the state of the CIP fund is also still under review and analysis.

### **Comments**

Two public comments were received by the TCBAC. Of the comments submitted, one letter highlighted the need to continue to support courts in their efforts to provide interpreter services for LEP court users in nonmandated civil cases while utilizing technology resources such as video remote interpreting. The other letter was in opposition to the recommended one-time court interpreter program allocation methodology for 2020–21 because the author believed it would negatively impact the delivery of language access to California’s diverse population, and it misrepresents the current fiscal situation for the program.

### **Alternatives considered**

Initially, the Funding Methodology Subcommittee of TCBAC was considering a recommendation that uses TCTF unrestricted fund balance again this year; however, that was prior to the COVID-19 pandemic and branch budget reductions. It has been determined that the TCTF unrestricted fund balance is no longer a viable option as it cannot sustain the estimated funding amount needed to reimburse the courts for actual expenditures to provide CIP services.

## **Fiscal and Operational Impacts**

If CIP expenditures for 2020–21 exceed the appropriation, and if no mitigating actions are taken, there could be fiscal and operational impacts to the trial courts—either to interpreter services directly or to other service areas—in an effort to maintain current levels of interpreter services. It is possible that some courts will not need the full allocation amount in 2020–21 as a result of decreased usage due to the COVID-19 pandemic and implementation of social distancing safety protocols. The Judicial Council will continue monitoring usage to determine if such a situation occurs. Council staff are also working with courts to support cost saving measures, including appropriate use of technology to provide interpreter services and reduce costs.

## **Attachments and Links**

1. Attachment A: 2020–21 allocation methodology by court
2. Attachment B: Trial Court Trust Fund–Fund Condition Statement
3. Link A: Judicial Council meeting minutes of September 21, 2018, at <https://jcc.legistar.com/View.ashx?M=M&ID=559788&GUID=1AF2481A-79EE-44AD-A8E6-1D5F9E02CC7A>
4. Link B: Judicial Council meeting minutes of May 17, 2019, at <https://jcc.legistar.com/View.ashx?M=M&ID=640297&GUID=9C71CADA-D8FB-4AA9-A887-0260DB284273>

2020-21 Budget Act Appropriation<sup>1</sup>: 130,393,000

## STAFF INTERPRETERS

Region	Court	Full-Time Equivalent*	Statewide Averages**		BLS Salary Adjustment***	Updated Average Salary	Total Staff Need
			Salary	Benefits			
		A	B	C	D	E (Total B * D)	F (A * (Total C + E))
1	Los Angeles	345.00	\$ 85,202	\$ 39,074	1.137	\$ 83,912	\$ 42,073,555
1	San Luis Obispo	5.50	60,368	32,682	0.861	63,544	558,711
1	Santa Barbara	11.30	58,821	32,575	0.989	72,930	1,253,958
1	Ventura	8.00	100,638	50,380	1.013	74,703	901,941
2	Alameda	32.00	98,122	40,668	1.241	91,523	4,146,005
2	Contra Costa	14.50	92,893	30,478	1.110	81,861	1,738,559
2	Del Norte	0.00	-	-	0.755	55,679	-
2	Humboldt	0.99	83,418	44,858	0.634	46,741	83,933
2	Lake	0.00	-	-	0.660	48,655	-
2	Marin	5.00	77,097	34,841	1.133	83,552	607,963
2	Mendocino	0.80	69,865	45,373	0.692	51,052	71,273
2	Monterey	12.00	56,941	27,372	1.010	74,484	1,350,294
2	Napa	3.00	89,220	48,490	1.078	79,536	352,729
2	San Benito	0.00	-	-	0.865	63,847	-
2	San Francisco	19.50	88,651	49,104	1.434	105,761	2,804,114
2	San Mateo	16.25	89,036	50,992	1.296	95,601	2,171,665
2	Santa Clara	24.00	92,173	55,962	1.259	92,849	3,141,329
2	Santa Cruz	7.50	75,771	39,144	1.004	74,038	840,587
2	Solano	3.00	82,606	43,459	1.031	76,051	342,275
2	Sonoma	9.70	88,683	31,340	1.004	74,071	1,087,474
3	Alpine	0.00	-	-	0.790	58,314	-
3	Amador	0.00	-	-	1.035	76,331	-
3	Butte	3.00	58,282	19,940	1.019	75,156	339,588
3	Calaveras	0.25	14,948	7,028	0.940	69,376	26,854
3	Colusa	0.00	-	-	0.834	61,530	-
3	El Dorado	0.50	35,133	509	1.209	89,188	63,614
3	Fresno	10.80	81,698	51,195	1.056	77,871	1,251,845
3	Glenn	0.00	-	-	0.746	55,025	-
3	Kern	25.00	78,018	60,713	1.112	82,037	3,001,914
3	Kings	2.60	84,867	31,872	0.924	68,139	276,066
3	Lassen	0.00	-	-	0.824	60,813	-
3	Madera	6.00	70,483	39,567	0.998	73,651	670,146
3	Mariposa	0.00	-	-	0.999	73,687	-
3	Merced	5.70	75,294	28,034	0.956	70,555	618,991
3	Modoc	0.00	-	-	0.636	46,952	-
3	Mono	0.60	23,316	5,159	1.025	75,639	68,207
3	Nevada	0.00	-	-	1.192	87,933	-
3	Placer	2.99	82,687	51,694	1.377	101,568	417,428
3	Plumas	0.00	-	-	0.775	57,167	-
3	Sacramento	25.30	87,375	51,631	1.415	104,414	3,604,081
3	San Joaquin	6.94	77,793	55,287	1.214	89,552	885,486
3	Shasta	1.00	44,916	22,885	1.001	73,838	111,878
3	Sierra	0.00	-	-	-	-	-
3	Siskiyou	0.00	-	-	0.772	56,954	-
3	Stanislaus	2.50	54,680	32,543	1.146	84,518	306,395
3	Sutter	1.00	81,303	64,613	1.114	82,164	120,204
3	Tehama	1.00	79,108	42,427	0.891	65,730	103,770
3	Trinity	0.00	-	-	0.782	57,687	-

## CONTRACT INTERPRETERS

Per Diem Costs*	Pro Rata Percentage	Total Per Diem Need	Total Projected Need	Pro Rata Percentage	Total Allocation
G	H	I	J (F + I)	K (J / Total J)	L (K * Approp.)
\$ 1,939,577	6.357%	\$ 2,152,700	\$ 44,226,256	32.430%	\$ 42,286,713
151,134	0.495%	167,740	726,452	0.533%	694,593
753,843	2.471%	836,676	2,090,634	1.533%	1,998,949
1,139,030	3.733%	1,264,188	2,166,128	1.588%	2,071,133
1,303,121	4.271%	1,446,309	5,592,314	4.101%	5,347,063
1,272,618	4.171%	1,412,455	3,151,013	2.311%	3,012,826
61,063	0.200%	67,773	67,773	0.050%	64,800
193,292	0.634%	214,531	298,465	0.219%	285,375
114,961	0.377%	127,593	127,593	0.094%	121,998
206,005	0.675%	228,642	836,604	0.613%	799,915
182,292	0.597%	202,322	273,595	0.201%	261,597
350,791	1.150%	389,336	1,739,629	1.276%	1,663,338
323,640	1.061%	359,202	711,931	0.522%	680,709
116,488	0.382%	129,288	129,288	0.095%	123,618
1,209,628	3.965%	1,342,544	4,146,658	3.041%	3,964,806
1,647,654	5.400%	1,828,700	4,000,365	2.933%	3,824,929
3,718,221	12.187%	4,126,784	7,268,113	5.330%	6,949,370
168,676	0.553%	187,210	1,027,797	0.754%	982,723
377,774	1.238%	419,284	761,559	0.558%	728,161
751,845	2.464%	834,459	1,921,932	1.409%	1,837,646
2,336	0.008%	2,593	2,593	0.002%	2,479
64,824	0.212%	71,947	71,947	0.053%	68,792
178,427	0.585%	198,032	537,620	0.394%	514,043
43,400	0.142%	48,169	75,023	0.055%	71,732
109,097	0.358%	121,085	121,085	0.089%	115,774
218,492	0.716%	242,501	306,114	0.224%	292,690
1,127,255	3.695%	1,251,119	2,502,964	1.835%	2,393,197
108,565	0.356%	120,494	120,494	0.088%	115,210
863,809	2.831%	958,725	3,960,639	2.904%	3,786,945
277,475	0.909%	307,964	584,030	0.428%	558,417
22,702	0.074%	25,196	25,196	0.018%	24,091
201,354	0.660%	223,479	893,625	0.655%	854,435
41,374	0.136%	45,920	45,920	0.034%	43,906
722,442	2.368%	801,825	1,420,816	1.042%	1,358,506
7,201	0.024%	7,992	7,992	0.006%	7,641
9,908	0.032%	10,996	79,204	0.058%	75,730
53,209	0.174%	59,056	59,056	0.043%	56,466
262,122	0.859%	290,924	708,353	0.519%	677,288
7,153	0.023%	7,939	7,939	0.006%	7,591
853,702	2.798%	947,508	4,551,589	3.338%	4,351,979
954,688	3.129%	1,059,590	1,945,076	1.426%	1,859,775
365,959	1.199%	406,171	518,049	0.380%	495,330
371	0.001%	412	412	0.000%	394
52,207	0.171%	57,944	57,944	0.042%	55,403
1,254,941	4.113%	1,392,835	1,699,230	1.246%	1,624,711
166,991	0.547%	185,340	305,544	0.224%	292,144
41,211	0.135%	45,739	149,509	0.110%	142,953
23,730	0.078%	26,337	26,337	0.019%	25,182

2020-21 Budget Act Appropriation<sup>1</sup>: **130,393,000**

**STAFF INTERPRETERS**

Region	Court	Full-Time Equivalent*	Statewide Averages**		BLS Salary Adjustment***	Updated Average Salary	Total Staff Need
			Salary	Benefits			
		A	B	C	D	E (Total B * D)	F (A * (Total C + E))
3	Tulare	8.00	79,540	45,517	1.080	79,698	<b>941,902</b>
3	Tuolumne	0.00	-	-	0.927	68,416	-
3	Yolo	1.00	91,201	55,265	1.225	90,364	<b>128,404</b>
3	Yuba	0.00	-	-	1.071	79,041	-
4	Imperial	5.95	77,384	25,210	0.718	52,973	<b>541,529</b>
4	Inyo	0.25	16,357	6,726	0.789	58,221	<b>24,065</b>
4	Orange	71.70	82,374	41,722	1.243	91,685	<b>9,301,313</b>
4	Riverside	45.80	78,930	32,820	1.110	81,866	<b>5,491,684</b>
4	San Bernardino	46.00	97,890	58,584	1.000	73,771	<b>5,143,329</b>
4	San Diego	45.40	81,573	31,908	1.140	84,115	<b>5,545,862</b>
<b>Totals</b>		<b>837.32</b>	<b>\$ 73,772</b>	<b>\$ 38,040</b>		<b>\$ 74,146</b>	<b>\$ 102,510,920</b>

\*Includes all interpreter positions filled on the 2019-20 Schedule 7A; supervisor, coordinator, interpreter, and pro tempore.

\*\*The statewide total salary and benefits is an average of the courts' averages.

\*\*\*Bureau of Labor Statics; three-year average.

<sup>1</sup> Excludes \$87k for CIDCS database and language access funding for video remote interpreting.

**CONTRACT INTERPRETERS**

Per Diem Costs*	Pro Rata Percentage	Total Per Diem Need	Total Projected Need	Pro Rata Percentage	Total Allocation
G	H	I	J (F + I)	K (J / Total J)	L (K * Approp.)
1,300,557	4.263%	<b>1,443,464</b>	<b>2,385,366</b>	1.749%	<b>2,280,755</b>
40,816	0.134%	<b>45,301</b>	<b>45,301</b>	0.033%	<b>43,314</b>
796,947	2.612%	<b>884,516</b>	<b>1,012,921</b>	0.743%	<b>968,499</b>
53,740	0.176%	<b>59,645</b>	<b>59,645</b>	0.044%	<b>57,030</b>
151,729	0.497%	<b>168,401</b>	<b>709,930</b>	0.521%	<b>678,796</b>
51,646	0.169%	<b>57,321</b>	<b>81,386</b>	0.060%	<b>77,817</b>
1,597,206	5.235%	<b>1,772,708</b>	<b>11,074,021</b>	8.120%	<b>10,588,370</b>
969,803	3.179%	<b>1,076,366</b>	<b>6,568,050</b>	4.816%	<b>6,280,008</b>
496,888	1.629%	<b>551,486</b>	<b>5,694,815</b>	4.176%	<b>5,445,069</b>
1,034,317	3.390%	<b>1,147,969</b>	<b>6,693,831</b>	4.908%	<b>\$ 6,400,274</b>
<b>\$ 30,510,247</b>	<b>100.000%</b>	<b>\$ 33,862,747</b>	<b>\$ 136,373,667</b>	<b>100.000%</b>	<b>\$ 130,393,000</b>

\*2018-19 actual expenditures; includes each per diem category of certified, non-cert., registered, and non-reg.

Contractor costs made up 24.8% of total interpreter costs (75.2% for staff).

<b>Trial Court Trust Fund</b> <b>Fund Condition Statement</b> <b>as of June 30, 2020</b>					
Description		YEAR END FINANCIAL STATEMENTS		ESTIMATED	
		2017-18 (Financial Statements)	2018-19 (Financial Statements)	2019-20	2020-21
#	A	B	C	D	E
1	<b>Beginning Fund Balance</b>	<b>66,659,468</b>	<b>60,478,281</b>	<b>71,630,938</b>	<b>118,842,009</b>
2	Prior-Year Adjustments	(12,185,090)	7,380,390	-	-
3	<b>TOTAL REVENUES AND TRANSFERS</b>	<b>1,303,563,015</b>	<b>1,314,999,921</b>	<b>1,278,761,252</b>	<b>1,016,638,277</b>
4	<i>Total Revenues <sup>1</sup></i>	<i>1,283,589,015</i>	<i>1,295,031,921</i>	<i>1,159,284,252</i>	<i>1,098,323,277</i>
5	<b>Transfers/Charges/Reimbursements</b>				
6	General Fund Loan - Statewide E-Filing	671,000	491,000		(1,162,000)
7	Reduction Offset Transfers	6,080,000	6,080,000	106,080,000	(93,920,000)
8	<i>From State Court Facilities Construction Fund</i>	<i>5,486,000</i>	<i>5,486,000</i>	<i>5,486,000</i>	<i>5,486,000</i>
9	<i>From Immediate and Critical Needs Account - Loan <sup>2</sup></i>	<i>-</i>	<i>-</i>	<i>100,000,000</i>	<i>(100,000,000)</i>
10	<i>From Trial Court Improvement and Modernization Fund</i>	<i>594,000</i>	<i>594,000</i>	<i>594,000</i>	<i>594,000</i>
11	Net Other Transfers/Charges/Reimbursements	13,397,000	13,397,000	13,397,000	13,397,000
12	<b>Total Resources</b>	<b>1,358,037,393</b>	<b>1,382,858,593</b>	<b>1,350,392,190</b>	<b>1,135,480,286</b>
13	<b>EXPENDITURES/ENCUMBRANCES/ALLOCATIONS</b>				
14	Program 0140010 - Judicial Council (Staff)	2,657,200	3,446,535	3,452,975	3,764,417
15	Program 0150010 - Support for Operation of the Trial Courts	1,831,305,998	1,990,037,604	2,030,148,207	1,954,915,838
16	Program 0150011 - Court-Appointed Dependency Counsel	136,631,250	134,062,223	156,700,000	156,700,000
17	Program 0150019 - Compensation of Superior Court Judges	348,583,021	373,931,033	388,452,000	387,647,000
18	Program 0150028 - Assigned Judges	28,063,247	22,372,129	21,000,000	25,212,000
19	Program 0150037 - Court Interpreters	108,537,000	112,773,052	134,186,000	131,380,000
20	Program 0150075 - Grants	9,554,900	9,003,519	10,329,000	10,329,000
21	Program 0150095 - Expenses on Behalf of the Trial Courts	10,078,398	8,950,559	10,014,999	21,186,152
22	<b>Total Local Assistance</b>	<b>2,462,675,415</b>	<b>2,651,130,120</b>	<b>2,750,830,206</b>	<b>2,687,369,990</b>
23	<i>Pro Rata/State Ops</i>	<i>128,098</i>	<i>176,000</i>	<i>240,000</i>	<i>383,643</i>
24	<i>Supplemental Pension Payments</i>		<i>98,000</i>	<i>76,000</i>	<i>76,000</i>
25	<b>Total Expenditures (includes State Ops and LA)</b>	<b>2,465,332,615.79</b>	<b>2,654,576,654.54</b>	<b>2,754,283,181.00</b>	<b>2,691,134,407.00</b>
26	<i>Less Funding Provided by General Fund:</i>	<i>1,177,981,000</i>	<i>1,343,623,000</i>	<i>1,523,049,000</i>	<i>1,610,932,000</i>
27	<b>Total Expenditures and Expenditure Adjustments</b>	<b>1,297,558,112</b>	<b>1,311,227,655</b>	<b>1,231,550,181</b>	<b>1,080,662,050</b>
28	<b>Ending Fund Balance</b>	<b>60,478,281</b>	<b>71,630,938</b>	<b>118,842,009</b>	<b>54,818,236</b>
29	<b>Restricted Funds</b>				
30	<b>Total Restricted/Reserved Funds</b>	<b>26,663,679</b>	<b>29,701,648</b>	<b>28,599,894</b>	<b>28,448,051</b>
31	<b>Ending Unrestricted Fund Balance</b>	<b>33,814,602</b>	<b>41,929,290</b>	<b>90,242,115</b>	<b>26,370,185</b>

<sup>1</sup> Revenues reflect May Revise estimates provide to DOF. Revenues include possible impacts of COVID-19.

<sup>2</sup> 2019-20 Fund Balance includes \$100M loan from the ICNA to be repaid in 2020-21

<sup>3</sup> The revenue affects of a temporary reduction to the fee collected by CourtCall will be known by August 2020.