



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on May 18–19, 2017

Title

Trial Court Allocations: Continued Children's
Waiting Room Funds Distribution

Agenda Item Type

Action Required

Effective Date

July 1, 2017

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

May 4, 2017

Recommended by

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

Contact

Suzanne Blihovde, 916-263-1754
suzanne.blihovde@jud.ca.gov

Executive Summary

Effective July 1, 2014, the Superior Court of Monterey County began receiving funds to establish and maintain a children's waiting room (CWR). The court anticipated that the CWR would open during 2015–2016. However, due to lower than expected collections, the court has insufficient funds to open the CWR. The Superior Court of Monterey County is requesting to continue to receive CWR funds so that its balance can build to a sufficient level to begin operations. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve the continuation of the distribution of funds to allow the court to begin operating its CWR.

Recommendation

The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 1, 2017, approve the continuation of the distribution of CWR funds to the Superior Court of Monterey County to allow it to accumulate sufficient funding for start-up costs as well as the ongoing costs to begin operating its CWR.

Previous Council Action

The Judicial Council's Children's Waiting Room Distribution and Fund Balance Policy was last revised by the council on March 24, 2017 (see Attachment A). The council approved the Superior Court of Monterey County's original request for a CWR distribution at its June 27, 2014 business meeting.

Rationale for Recommendation

According to Government Code section 70640, after January 1, 2006, a court may apply to the Judicial Council for a CWR distribution between \$2 and \$5 from applicable filing fees (see Attachment B). The Judicial Council's policy requires the Trial Court Budget Advisory Committee to adopt a recommendation related to a court's request for council consideration. The court's original request for a CWR distribution and its current request for a continued CWR distribution are provided in Attachments E1 and E2, respectively.

Attachment C provides the current distribution amount and total distributions for 2013–2014, 2014–2015, 2015–2016, and 2016–2017 (for the period of July 2016 through Jan. 2017) for the 20 courts that currently have a CWR distribution. The attachment also provides the amount the Superior Court of Monterey County has received since 2014–2015.

Attachment D provides the distribution from the First Paper General Civil Unlimited Uniform Filing Fee (Gov. Code, § 70611) for Monterey County. There is no change in the distribution for this request because the court is already receiving a CWR distribution.

Comments, Alternatives Considered, and Policy Implications

No public comments were received when the court's request was considered by the TCBAC at its April 13, 2017 open meeting. There are no policy implications from approving this request and no alternatives were considered.

Implementation Requirements, Costs, and Operational Impacts

By approving the court's request for a continued CWR distribution, the council would reduce by approximately \$34,000 the total amount of uniform first paper civil filing fee revenues that would otherwise support all courts' Trial Court Trust Fund base allocations for court operations. The actual amount would vary each year depending on the number of paid filings.

Attachments

1. Attachment A: *Children's Waiting Room Distribution and Fund Balance Policy*
2. Attachment B: Government Code section 70640
3. Attachment C: Children's Waiting Room—Distribution Amount and Total Distribution
4. Attachment D: Distribution from First Paper General Civil Unlimited Uniform Filing Fee (GC 70611) in Monterey County
5. Attachments E1 & E2: Superior Court of Monterey County's CWR Distribution Requests

Children's Waiting Room (CWR) Distribution and Fund Balance Policy

A. Applying for a New CWR Distribution

- A court's presiding judge or executive officer must submit a request to the director of the Judicial Council Finance Office 45 days prior to the date of the council meeting at which the court is requesting consideration.
- The request must include the following information:
 - o Date of the council meeting at which the court is requesting consideration.
 - o Requested effective date of the distribution (July 1 or January 1). If a court wants to begin receiving distributions more than one year in advance of the planned opening date of a CWR, the request should include an explanation of the extenuating circumstance(s).
 - o The scheduled opening date of the CWR(s).
 - o Description of the CWR(s).
 - o The date when the court intends to make expenditures related to operating its CWR(s).
 - o The requested distribution amount between \$2 and \$5. Courts can request the Judicial Council Finance Office to provide an estimate of annual distributions.
- The Trial Court Budget Advisory Committee (TCBAC) will make a recommendation to the council on each court's request.
- If the council approves that distributions begin prior to the operating of a CWR but the court does not operate a CWR six months after their planned opening date, the court must apply for a continued distribution.

B. Requesting a Decreased CWR Distribution Amount

- Any court's request to decrease its existing CWR distribution is approved by the Judicial Council and the request can be implemented by Judicial Council staff, effective either January 1 or July 1.

C. Temporarily or Permanently Ceasing CWR Operations

- Courts that cease operating all CWRs must notify the director of the JC Finance Office within 60 days of the cessation date. Unless a court provides notification and submits an application to continue receiving distributions while not operating a CWR within 60 days of the cessation date, the court's CWR distributions will be stopped either January 1 or July 1, whichever is earlier, and the court will be required to return any CWR fund balance to the TCTF.
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return of the CWR fund balance will occur on the February trial court distribution for those courts that the CWR distribution stopped on January 1, and on the August distribution for those courts that the CWR distributions stopped on July 1.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

Children's Waiting Room (CWR) Distribution and Fund Balance Policy

- An application for a continued distribution must include all the information required of courts applying for a new distribution (see section A above) as well as the amount of any CWR fund balance.
- The TCBAC will make a recommendation to the Judicial Council on each court's application.
- For courts that apply and whose application is denied by the Judicial Council, any CWR fund balance shall be returned to the TCTF.

D. Cap on CWR Fund Balance

- Courts shall monitor the CWR distribution amount per filing to ensure it is adequate to meet the CWR needs of the court without accumulating an amount in excess of the cap described below.
- Effective July 1, 2015, there shall be a cap on the amount of CWR fund balance that courts can carry forward from one fiscal year to the next. The cap shall be the amount of the highest annual distribution within the three most recent fiscal years.
- Courts that have a CWR fund balance greater than the cap (as described above) at the end of the every other fiscal year (beginning with fiscal year 2016–2017) will be required to return to the TCTF the amount above the cap in the subsequent fiscal year.
- For courts that are required to return the portion of their CWR fund balance above the cap to the TCTF, the return of the CWR fund balance will occur on the August trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.
- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- If a court wants a cap adjustment, it must submit a request explaining the extenuating circumstance and including its CWR expenditure plan to the director of the JC Finance Office for consideration by the TCBAC and the Judicial Council. The request must be received by the Finance Director within 60 days of the end of the fiscal year for which the adjustment is being requested.
- JC staff will report any return of CWR fund balance through the trial court distribution process to the TCBAC and the Judicial Council.
- For courts that have Judicial Council–approved adjustments to their CWR caps, Annual reporting will be required 60 days after the end of each fiscal year for courts that have an adjustment to their CWR cap approved by the Judicial Council, using a template provided by Judicial Council staff.

E. Courts that have Received a Distribution but Never Operated a CWR

- Courts that received distributions between January 1, 2006 and June 30, 2014 but did not operate a CWR during that time period must either apply for a continued distribution by

Children's Waiting Room (CWR) Distribution and Fund Balance Policy

September 26, 2015 or have their distributions stopped on January 1, 2016 and return to the TCTF any CWR fund balance.

- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return will occur on the October 2015 trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

Government Code 70640

(a) It is the policy of the state that each court shall endeavor to provide a children's waiting room in each courthouse for children whose parents or guardians are attending a court hearing as a litigant, witness, or for other court purposes as determined by the court. To defray that expense, monthly allocations for children's waiting rooms shall be added to the monthly apportionment under subdivision (a) of Section 68085 for each court where a children's waiting room has been established or where the court has elected to establish that service.

(b) The amount allocated to each court under this section shall be equal to the following: for each first paper filing fee as provided under Section 70611, 70612, 70613, 70614, or 70670, and each first paper or petition filing fee in a probate matter as provided under Section 70650, 70651, 70652, 70653, 70654, 70655, 70656, or 70658, the same amount as was required to be collected as of December 31, 2005, to the Children's Waiting Room Fund under former Section 26826.3 in the county in which the court is located when a fee was collected for the filing of a first paper in a civil action under former Section 26820.4.

(c) Notwithstanding any other provision of law, the court may make expenditures from these allocations in payment of any cost, excluding capital outlay, related to the establishment and maintenance of the children's waiting room, including personnel, heat, light, telephone, security, rental of space, furnishings, toys, books, or any other item in connection with the operation of a children's waiting room.

(d) If, as of January 1, 2006, there is a Children's Waiting Room Fund in the county treasury established under former Section 26826.3, the county immediately shall transfer the moneys in that fund to the court's operations fund as a restricted fund. By February 15, 2006, the county shall provide an accounting of the fund to the Administrative Office of the Courts.

(e) After January 1, 2006, the court may apply to the Judicial Council for an adjustment of the amount distributed to the fund for each uniform filing fee. A court that wishes to establish a children's waiting room, and does not yet have a distribution under this section, may apply to the Judicial Council for a distribution. Applications under this subdivision shall be made according to trial court financial policies and procedures authorized by the Judicial Council under subdivision (a) of Section 77206. Adjustments and new distributions shall be effective January 1 or July 1 of any year beginning January 1, 2006.

(f) The distribution to a court under this section per each filing fee shall be not less than two dollars (\$2) and not more than five dollars (\$5).

(Amended by Stats. 2007, Ch. 130, Sec. 135. Effective January 1, 2008.)

Children's Waiting Room
Distribution Amount and Total Distribution

Attachment C

	Court	Distribution Amount	FY 2013-14 Total Distribution	FY 2014-15 Total Distribution	FY 2015-16 Total Distribution	FY 2016-17 July 2016-Jan 2017
	A	B	C	D	E	F
1	Alameda	\$5	\$ 174,397	\$ 165,434	\$ 162,487	\$ 94,306
2	Butte	\$5	\$ -	\$ 21,312	\$ 19,372	\$ 13,930
3	Contra Costa	\$5	\$ 126,632	\$ 106,292	\$ 104,333	\$ 64,300
4	El Dorado		\$ 18,305	\$ -	\$ -	\$ -
5	Fresno	\$5	\$ 108,094	\$ 98,711	\$ 98,469	\$ 59,323
6	Los Angeles	\$5	\$ 936,724	\$ 829,265	\$ 830,421	\$ 542,850
7	Merced		\$ 22,732	\$ 20,851	\$ 1,718	\$ -
8	Monterey	\$5	\$ -	\$ 35,124	\$ 32,856	\$ 19,329
9	Orange	\$5	\$ 423,422	\$ 376,107	\$ 369,617	\$ 225,213
10	Riverside	\$5	\$ 290,080	\$ 254,609	\$ 253,815	\$ 154,606
11	Sacramento	\$5	\$ 279,388	\$ 241,942	\$ 504,807	\$ 228,145
12	San Bernardino	\$5	\$ -	\$ -	\$ -	\$ 146,876
13	San Diego	\$5	\$ 383,285	\$ 350,801	\$ 336,581	\$ 210,927
14	San Francisco	\$5	\$ 112,455	\$ 106,721	\$ 115,160	\$ 69,067
15	San Joaquin		\$ -	\$ -	\$ -	\$ -
16	San Luis Obispo	\$5	\$ 26,818	\$ 24,872	\$ 23,484	\$ 14,289
17	San Mateo	\$5	\$ 77,520	\$ 66,316	\$ 64,791	\$ 39,250
18	Santa Barbara	\$5	\$ 43,866	\$ 39,718	\$ 39,686	\$ 24,040
19	Santa Clara	\$5	\$ 177,027	\$ 154,615	\$ 147,497	\$ 83,731
20	Solano	\$5	\$ 55,986	\$ 47,757	\$ 46,724	\$ 27,589
21	Sonoma	\$5	\$ 52,810	\$ 48,528	\$ 45,987	\$ 26,092
22	Stanislaus	\$2	\$ 60,059	\$ 27,382	\$ 19,924	\$ 12,041
23	Ventura	\$5	\$ 91,686	\$ 83,721	\$ 84,342	\$ 50,369
24	Total		\$ 3,461,288	\$ 3,100,078	\$ 3,302,071	\$ 2,106,273

	Court	Distribution Amount	FY 2013-14 Total Distribution	FY 2014-15 Total Distribution	FY 2015-16 Total Distribution	FY 2016-17 July 2016-Jan 2017
25	Monterey - Actual	\$5	\$ -	\$ 35,124	\$ 32,856	\$ 19,329
26	San Joaquin - Estimated ¹	\$5	\$ 79,105	\$ 73,885	\$ 72,856	\$ 45,629

¹ Total distribution that would have occurred from a \$5 CWR distribution

**Distribution from First Paper General Civil Unlimited Uniform
Filing Fee (GC 70611) in Monterey County**

Distribution	State vs. Local	Current	Requested
Trial Court Trust Fund Base Allocation	State	\$315.70	\$315.70
Children's Waiting Room	State	\$5.00	\$5.00
Automated Recored-Keeping and Micrographics	State	\$3.00	\$3.00
Judges' Retirement Fund	State	\$2.50	\$2.50
State Court Facilities Construction Fund	State	\$35.00	\$35.00
Immediate & Critical Needs Account	State	\$30.00	\$30.00
Local Courthouse Construction Surcharges		\$0.00	\$0.00
Equal Access Fund	Local	\$4.80	\$4.80
Dispute Resolution	Local	\$8.00	\$8.00
Law Library	Local	\$31.00	\$31.00
Fee Amount		\$435.00	\$435.00



SUPERIOR COURT OF CALIFORNIA COUNTY OF MONTEREY

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June 10, 2014

Hon. Tani G. Cantil-Sakauye
Chief Justice of California
Members of California Judicial Council
455 Golden Gate Avenue
San Francisco, California, 94102-3688

Re: Children's Waiting Room Distribution

Dear Chief Justice Cantil-Sakauye and Members:

We respectfully request for your consideration at the June 27, 2014 Judicial Council meeting that the Superior Court of California, County of Monterey be provided a Children's Waiting Room (CWR) distribution pursuant to Government Code section 70640. Listed below are additional information items related to our amended request:

- Requested effective date of distribution: July 1, 2014
- Scheduled opening date of CWR: Fiscal 15-16
- Description of the CWR: The CWR will be located in the Monterey Courthouse. It is anticipated that we will utilize the distribution for contracted services along with furnishings, toys, and books.
- Anticipated date of CWR expenditures: Fiscal 15-16
- Requested distribution amount: \$5 per filing fee. It is estimated that annual CWR restricted fund revenues will be \$55,000 annually.

This distribution, if approved, will help facilitate CWR services which will be offered for the first time in Monterey County.

Sincerely,

Teresa A. Risi
Court Executive Officer

Background:

Superior Court of California, County of Monterey is submitting an amended request to provide more detailed information as requested. The Court plans to open a Children's Waiting Room in the Monterey Courthouse where Family Law, Domestic Violence, Probate, and other Civil matters are heard, and Self-Help Services are provided. Currently, there are roughly 50 children in the Monterey Courthouse weekly who must wait in crowded halls while their parents are receiving services. The Court anticipates that the need for CWR services will grow because we plan to double our Judicial Officers assigned to Family Law matters.

The Court anticipates \$50,000 (fifty thousand dollars) on initial startup costs for furniture, toys and books. Additionally, the Court anticipates annual operating expenditures of \$83,000 (eighty-three thousand dollars) to provide full time contracted child care services in the Monterey Courthouse facility.

December 27, 2016

**Zlatko Theodorovic
Director and Chief Financial Officer
Budget Services/Administrative Division
Judicial Council of California
2850 Gateway Oaks Drive, Suite 300
Sacramento, CA 95833-4353**

Re: Request to Continue Receiving Children's Waiting Room Distribution

Effective July 2014, Superior Court of California, County of Monterey began receiving funding to establish and maintain a Children's Waiting Room facility (CWR) per GC 70640. Our original request to begin receiving these funds indicated our expectation that the CWR would open during fiscal year 2015/16. Due to reasons indicated below, we are not yet able to open our CWR and no expenditures have been incurred relating to the opening of a CWR; however the need remains and we are writing to request continuation of receiving these funds as critical to opening a CWR for our court.

As indicated in our initial request, it is necessary for our court to accumulate sufficient funds to cover initial start-up costs of \$50,000 as well as help secure a 3 year contract to staff the CWR estimated at \$83,000 in annual ongoing costs. Our court estimated \$55,000 in annual CWR revenues and expected that our initial costs would be funded by revenues accumulated for that purpose. Unfortunately, actual revenues collected since July 1, 2014 has been well below our initial estimate resulting in a balance insufficient open our CWR. Specifically, our court has received \$79,710.97 to date, averaging just \$34,111 annually. Accordingly, we will require further funding in order to open our CWR and continuing to receive CWR funding is essential for that purpose due to ongoing budgetary constraints relating to our TCTF allocation. We continue to explore options for staffing the CWR that can better leverage the revenues to the actual anticipated expenses. We received information from other Courts regarding how they staff their

CWRs along with on-going costs. We will explore partnerships with the County and/or other means in order to provide this service to the citizens of Monterey County.

Additionally, our initial request indicated our CWR would be opened at our Monterey Courthouse location where Family Law, Domestic Violence, Probate, and other civil matters are heard. This CWR is expected to relocate to our planned South County Courthouse facility once available. Due to facility and logistical constraints at our Monterey Courthouse which is managed by the County, we need additional time to work through the space and facility issues at that location. Further, as our South County Courthouse project is currently on the indefinitely delayed list, continuing to receive CWR funding for the purpose of opening a CWR is imperative to integrating a planned opening in conjunction with our South County Courthouse when that project resumes.

Our ability to fund the opening of a much needed CWR for our court is contingent on approval of our request to continue receiving CWR funding and your consideration is greatly appreciated.

Sincerely,



Teresa A. Risi
Court Executive Officer

cc: Hon. Mark E. Hood, Presiding Judge
Hon. Lydia M. Villarreal, Assistant Presiding Judge