



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: September 21, 2018

Title	Agenda Item Type
Trial Court Budget: Allocation of \$75 Million in Discretionary Funds	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	September 21, 2018
Recommended by	Date of Report
Trial Court Budget Advisory Committee Hon. Jonathan B. Conklin, Chair	August 30, 2018
	Contact
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Executive Summary

The Trial Court Budget Advisory Committee recommends that the Judicial Council approve allocation of \$75.0 million in discretionary funding provided in the Budget Act of 2018. The recommendation is to allocate \$3.6 million to bring cluster 1 courts to 100 percent of their funding need, \$0.8 million for court-provided non-sheriff security, and \$70.6 million in discretionary funds to all courts, save for the cluster 1 courts, proportionally based on their fiscal year (FY) 2018–19 base allocation following the council actions taken on July 20, 2018. The committee also wants to indicate that the trial courts recognize and intend to comply with the legislative intent that \$10.0 million of the \$75.0 million be utilized to increase the level of court reporters in family law cases.

Recommendation

The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective September 21, 2018, allocate the \$75.0 million in discretionary funds in the Budget Act of 2018 as follows:

1. Allocate \$3.6 million to bring all cluster 1 courts up to 100 percent of funding need.
2. Allocate \$0.8 million, representing a 1.96 percent increase, for court-provided non-sheriff security.
3. Allocate the remainder of the \$75.0 million, totaling \$70.6 million in discretionary funds, to all courts, save for the cluster 1 courts, proportionally based on their FY 2018–19 base allocation following the council actions taken on July 20, 2018. Included with this allocation is the Legislature’s appropriation intent language that \$10.0 million be utilized to increase the level of court reporters in family law cases and that the \$10.0 million not supplant existing trial court expenditures on court reporters in family law cases.

Relevant Previous Council Action

Allocation of trial court funds is one of the principal responsibilities of the Judicial Council. Government Code section 68502.5(c)(2)(A)¹ requires the council to make a preliminary allocation for the trial courts in July of each fiscal year and a final allocation in January. On July 20, 2018, the council approved \$1.940 billion, or 96 percent of the FY 2018–19 base allocations for the trial courts.² This allocation did not include the \$75.0 million in discretionary funds that were pending a review by the TCBAC to develop recommendations for the council regarding their allocation.

Guidance from the council

During the July 20, 2018, business meeting of the Judicial Council, Hon. Jonathan B. Conklin, chair of TCBAC, provided the council with an overview of the discussions that took place at a meeting of the Funding Methodology Subcommittee (FMS) of the TCBAC on July 12, 2018. In addition, he sought guidance and input from the council regarding the allocation of the \$75.0 million in preparation for the FMS recommendation being presented to TCBAC on July 31.

The council provided clear direction that the new money should not be allocated via the Workload-based Allocation and Funding Methodology (WAFM). The intent from the Legislature and the Administration has been clear since the Governor’s proposed budget was released in January that the \$75.0 million was not to be allocated according to WAFM. However, it was clearly stated that the \$47.8 million for courts below the statewide average funding ratio would be allocated according to WAFM.

The council expressed its intent that the methodology used should result in all 58 trial courts receiving benefit from the funding. This would afford all courts the ability to report service-level improvements as a result of the investment from the Legislature.

¹ See http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=68502.5.&lawCode=GOV.

² See Judicial Council of Cal., Advisory Com. Rep., *Trial Court Budget: 2018–19 Trial Court Base Allocations* (June 8, 2018), <https://jcc.legistar.com/View.ashx?M=F&ID=6353563&GUID=B6C7B821-0722-4663-B27A-A23B367148E2>.

Analysis/Rationale

The \$75.0 million was appropriated by the Legislature in the Budget Act of 2018. Included in the Budget Act was the following provisional language:³

Of the discretionary \$75,000,000 appropriated in Schedule (1) of this item for allocation according to a methodology determined by the Judicial Council, it is the intent of the Legislature that \$10,000,000 be utilized to increase the level of court reporters in family law cases. Further, it is the intent of the Legislature that the \$10,000,000 not supplant existing trial court expenditures on court reporters in family law cases.

In order to comply with this statutory provision, the Judicial Council needs to approve a methodology for allocation of the \$75.0 million. In addition, the council should be prepared to report to the Legislature regarding any change in the level of court reporters in family law cases.

Recommendation 1

Allocate \$3.6 million to bring all cluster 1 courts up to 100 percent of funding need (column B on Attachment A).

On January 12, 2018, the council approved a new WAFM for FY 2018–19 and beyond. A component of that policy was to fund cluster 1 courts at 100 percent of their WAFM funding need in the event that the trial courts received an appropriation of new money. The state's smallest courts do not have the flexibility that larger courts have in managing their budgets at less than 100 percent of their funding need. The foundation for WAFM, the Resource Assessment Study (RAS), and WAFM contain a number of adjustments for the smallest courts that recognize how they should be differentiated from the other courts.⁴ Although the TCBAC is not recommending that the WAFM policy be used for the majority of the \$75.0 million, it is important that the cluster 1 courts be provided this additional funding so they can more effectively manage their budgets and operations.

Recommendation 2

Allocate \$0.8 million, representing a 1.96 percent increase, for court-provided non-sheriff security (column C on Attachment A).

³ Budget Act of 2018 (Stats. 2018, ch. 29), item 0250-101-0001, http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB840.

⁴ RAS adjustments include rounding to next highest whole numbers to determine FTE need, differentiated ratios for management and administrative overhead, and higher infraction caseweights for courts with fewer than 100,000 filings. WAFM adjustments include allotment factors for benefits, funding floor calculations, and operating expense and equipment clustering, all in recognition of the difficulties of achieving economies of scale in smaller courts.

On July 28, 2015, the council approved the following recommendation from the TCBAC regarding court-provided non-sheriff security allocations:⁵

1. Beginning in FY 2016–17 and beyond, if any new General Fund (GF) augmentation is received, courts with court-provided (non-sheriff) security since 2010–11 would be provided funding based on the same growth funding percentage that the county sheriff receives; and
2. If the growth percentage provided to the county sheriffs exceeds the GF augmentation percentage increase to the trial courts, the funding provided (to courts with court-provided security) will equal the GF augmentation percentage increase and will cease if a court discontinues its court-provided security services.

The TCBAC is recommending that this policy apply to the \$75.0 million in discretionary funds.

Recommendation 3

Allocate the remainder of the \$75.0 million, totaling \$70.6 million in discretionary funds, to all courts, save for the cluster 1 courts, proportionally based on their 2018–19 base allocation following the council actions taken on July 20, 2018 (column G on Attachment A).

The committee is recommending this option on the basis that future appropriations of discretionary funding will be allocated based on WAFM. WAFM is the workload model the council has adopted to allocate the majority of funds to the trial courts and the committee remains committed to that model. Based on direction provided by the council on July 20, the committee is recommending this proportional allocation to remain consistent with the intent of the Legislature and Administration.

The committee is not recommending that the \$10.0 million for court reporters in family law cases be delineated in any fashion. However, it is clear to all the trial courts that this allocation is made with the understanding that the trial courts recognize and intend to comply with the provisional budget language that \$10.0 million be utilized to increase the level of court reporters in family law cases and that the \$10.0 million not supplant existing trial court expenditures on court reporters in family law cases.

Judicial Council staff will work with the trial courts to assist those not currently providing court reporters in all family law matters in enhancing service levels. Council staff will survey the trial courts to ascertain current levels of service provided for court reporters in family law and current plans for expansion of services. Later in the fiscal year, a further survey will be issued to ascertain actual increased levels of service. This survey will also seek to gather data, if any, regarding challenges recruiting and retaining sufficient court reporter personnel.

⁵ Judicial Council of Cal., Advisory Com. Rep., *Budget: Fiscal Year 2016–2017 Budget Request for the Trial Courts* (July 15, 2015), www.courts.ca.gov/documents/jc-20150728-itemG.pdf.

Policy implications

The TCBAC believes these recommendations are consistent with the provisional budget language that states the council should determine an allocation methodology for the \$75.0 million.

All items were voted on unanimously by the TCBAC.

Comments

No public comment was received for these items when they were considered by the FMS on July 12 or by the TCBAC on July 31, 2018.

Alternatives considered

Alternative 1: Use a modified WAFM to allocate the funds (column D of Attachment A)

A modified WAFM approach was considered that made an adjustment to the WAFM policy, approved by the Judicial Council in January 2018. The policy, as approved, has the following provisions for allocation of new funding:

1. Bring all cluster 1 courts up to at least 100 percent of funding need.
2. Allocate up to 50 percent of remaining funding to courts under the statewide average funding ratio. Allocated funds will bring courts up to but not over the statewide average funding ratio.
3. Allocate remaining funding to all courts based on WAFM.
4. Allow no court's allocation to exceed 100 percent of its need unless it is the result of a funding floor calculation.

The option before the TCBAC was that the \$75.0 million be allocated consistent with the above provisions save for item 2, which allocates up to 50 percent of funding to courts under the statewide average funding ratio. This would allocate the funds in the following manner:

1. Bring all cluster 1 courts up to 100 percent of funding need.
2. Allocate a 1.96 percent increase for court-provided non-sheriff security.
3. Allocate the remainder of the \$75.0 million to all courts based on WAFM.
4. Allow no court's allocation to exceed 100 percent of its need unless it is the result of a funding floor calculation.

When the WAFM provisions were developed, the appropriation of \$47.8 million for courts below the statewide average funding ratio was not anticipated. Applying the WAFM policy as is, coupled with the new \$47.8 million, would result in a disproportionate amount of the \$75.0 million going to the courts below the average with little remaining to distribute to all courts.

In light of the guidance received by the Judicial Council on July 20, 2018, the TCBAC is not recommending this option as it is not consistent with the intent of the Legislature.

Alternative 2: Use a pro rata methodology to allocate the funds (column J of Attachment A)

The pro rata approach would allocate the funds in the following manner:

1. Bring all cluster 1 courts up to 100 percent of funding need.
2. Allocate a 1.96 percent increase for court-provided non-sheriff security.
3. Allocate the remainder of the \$75.0 million to all courts, save for the cluster 1 courts, pro rata based on FY 2017–18 ending base allocations.

This methodology results in similar allocations by court as the recommended proportional option. This is not the preferred option as it is not using the most current base allocation data. Because the council makes allocation decisions in July, the base amounts are effectively reset for calculation. The proportional option results in the allocation of the \$75.0 million taking place after the allocation of the \$47.8 million for those courts under that statewide average funding ratio according to WAFM. As such, it makes more progress toward equity of funding in the trial courts than this alternative.

Fiscal and Operational Impacts

If the recommendations to allocate funds are not approved, the trial courts will not be able to enhance services and some courts may have to implement service reductions due to cost increases they cannot support.

Attachments and Links

1. Attachment A: 2018–19 New Funding Allocation Scenarios

Cluster	Court	2018-19 WAFM Need A	\$75 Million New Funding Deductions		Option 1 Modified WAFM			Option 2 Proportional Share			Option 3 Pro Rata			Informational WAFM As Approved		
			Cluster 1 to 100% B	1.96% Non-Sheriff Security C	Modified WAFM Allocation D	2018-19 Total WAFM Allocation ¹ E	% of Need F (E/A)	Proportional Allocation G	2018-19 Total WAFM Allocation ¹ H	% of Need I (H/A)	Pro Rata Allocation J	2018-19 Total WAFM Allocation ¹ K	% of Need L (K/A)	WAFM As Approved Allocation M	2018-19 Total WAFM Allocation ¹ N	% of Need O (N/A)
4	Alameda	81,002,945	-	62,960	2,838,293	73,376,308	90.6%	2,807,210	73,345,225	90.7%	2,969,634	73,501,170	90.7%	1,390,742	71,928,764	88.8%
1	Alpine	423,375	-	-	-	750,000	177.1%	-	750,000	177.1%	-	750,000	177.1%	-	750,000	177.1%
1	Amador	2,875,289	593,910	-	-	2,893,823	100.6%	-	2,893,823	100.6%	-	2,893,614	100.6%	-	2,893,823	100.6%
2	Butte	13,374,342	-	9,255	431,860	11,152,999	83.4%	428,976	11,150,114	83.1%	399,290	11,119,444	83.1%	476,282	11,197,420	83.7%
1	Calaveras	2,611,172	483,502	-	-	2,632,987	100.8%	-	2,632,987	100.8%	-	2,632,792	100.8%	-	2,632,987	100.8%
1	Colusa	1,994,887	64,812	-	-	2,005,530	100.5%	-	2,005,530	100.5%	-	2,005,351	100.5%	-	2,005,530	100.5%
3	Contra Costa	49,564,075	-	-	1,600,435	41,477,191	83.7%	1,507,159	41,383,916	83.6%	1,545,090	41,418,183	83.6%	1,765,056	41,641,812	84.0%
1	Del Norte	2,821,641	438,565	-	-	2,834,735	100.5%	-	2,834,735	100.5%	-	2,834,516	100.5%	-	2,834,735	100.5%
2	El Dorado	8,706,630	-	-	281,139	7,278,753	83.6%	265,574	7,263,188	83.3%	258,926	7,255,897	83.3%	310,057	7,307,671	83.9%
3	Fresno	61,505,974	-	-	1,986,041	51,268,604	83.4%	1,872,068	51,154,631	83.2%	1,865,218	51,143,253	83.2%	2,190,327	51,472,888	83.7%
1	Glenn	2,131,394	185,696	194	-	2,145,268	100.6%	-	2,145,268	100.6%	-	2,145,089	100.6%	-	2,145,268	100.7%
2	Humboldt	7,859,064	-	3,324	253,771	6,555,644	83.4%	246,823	6,548,697	83.4%	249,292	6,550,586	83.4%	279,874	6,581,747	83.7%
2	Imperial	10,646,670	-	8,330	343,783	8,882,283	83.4%	337,904	8,876,403	83.4%	338,728	8,876,443	83.4%	379,145	8,917,644	83.8%
1	Inyo	2,005,177	17,282	3,698	-	2,014,165	100.3%	-	2,014,165	100.4%	-	2,013,981	100.4%	-	2,014,165	100.4%
3	Kern	64,924,267	-	1,299	2,096,419	54,042,447	83.2%	1,989,078	53,935,107	82.8%	1,809,562	53,750,819	82.8%	2,312,058	54,258,085	83.6%
2	Kings	8,937,370	-	8,359	288,590	7,452,114	83.4%	292,293	7,455,817	83.3%	279,064	7,441,930	83.3%	318,274	7,481,798	83.7%
2	Lake	4,564,481	-	3,893	147,388	3,800,412	83.3%	145,079	3,798,103	82.9%	133,388	3,786,077	82.9%	162,549	3,815,572	83.6%
1	Lassen	2,147,934	291,511	5,821	-	2,162,865	100.4%	-	2,162,865	100.9%	-	2,166,511	100.9%	-	2,162,865	100.7%
4	Los Angeles	638,806,215	-	283,197	20,770,402	536,092,399	83.9%	20,385,116	535,707,115	83.9%	20,859,388	536,134,054	83.9%	22,906,856	538,228,843	84.3%
2	Madera	9,793,045	-	7,556	316,220	8,162,031	83.3%	305,180	8,150,992	83.1%	296,067	8,141,158	83.1%	348,746	8,194,557	83.7%
2	Marin	12,566,559	-	191	480,953	12,426,372	98.9%	444,417	12,389,836	98.7%	461,388	12,405,710	98.7%	235,663	12,181,083	96.9%
1	Mariposa	1,345,369	172,351	-	-	1,354,133	100.7%	-	1,354,133	105.7%	-	1,422,350	105.7%	-	1,354,133	100.7%
2	Mendocino	7,193,213	-	5,931	232,270	5,982,722	83.2%	225,723	5,976,175	82.9%	214,406	5,964,329	82.9%	256,162	6,006,614	83.5%
2	Merced	15,840,897	-	-	511,506	13,213,028	83.4%	487,205	13,188,727	83.0%	449,772	13,150,127	83.0%	564,120	13,265,641	83.7%
1	Modoc	1,028,437	148,851	16	-	1,033,062	100.4%	-	1,033,062	100.4%	-	1,032,981	100.4%	-	1,033,062	100.4%
1	Mono	1,921,905	149,585	479	-	1,928,522	100.3%	-	1,928,522	105.3%	-	2,024,584	105.3%	-	1,928,522	100.3%
3	Monterey	23,133,221	-	17,236	746,977	19,315,557	83.5%	732,723	19,301,303	83.3%	694,624	19,261,498	83.3%	823,811	19,392,391	83.8%
2	Napa	8,401,332	-	5,855	280,802	7,249,511	86.3%	282,501	7,251,211	86.4%	290,643	7,258,712	86.4%	309,685	7,278,394	86.6%
2	Nevada	5,843,371	-	8,587	188,684	4,872,802	83.4%	200,973	4,885,092	83.6%	203,129	4,886,817	83.6%	208,092	4,892,211	83.7%
4	Orange	158,456,848	-	54,161	5,351,704	138,397,955	87.3%	5,187,611	138,233,863	87.3%	5,341,717	138,375,747	87.3%	5,902,183	138,948,431	87.7%
2	Placer	20,276,800	-	-	654,742	16,928,158	83.5%	637,875	16,911,291	83.4%	630,216	16,902,137	83.4%	722,089	16,995,505	83.8%
1	Plumas	1,248,131	160,602	-	-	1,257,703	100.8%	-	1,257,703	100.8%	-	1,257,602	100.8%	-	1,257,703	100.8%
4	Riverside	115,862,199	-	38,267	3,741,216	96,823,287	83.6%	3,630,293	96,712,364	83.3%	3,453,343	96,526,864	83.3%	4,126,039	97,208,108	83.9%
4	Sacramento	94,395,798	-	36,937	3,048,061	78,677,410	83.3%	2,936,221	78,565,570	83.3%	2,970,989	78,593,391	83.3%	3,361,586	78,990,933	83.7%
1	San Benito	3,296,242	680,861	-	-	3,323,701	100.8%	-	3,323,701	100.8%	-	3,323,461	100.8%	-	3,323,701	100.8%
4	San Bernardino	122,742,865	-	64,773	3,963,394	102,396,352	83.4%	3,912,674	102,345,632	83.3%	3,792,345	102,216,262	83.3%	4,371,071	102,804,027	83.8%
4	San Diego	149,934,947	-	13,020	5,486,897	141,914,165	94.7%	5,241,847	141,669,116	94.5%	5,287,217	141,701,954	94.5%	2,688,538	139,115,819	92.8%
4	San Francisco	50,232,141	-	-	3,239	53,105,884	105.7%	1,980,599	55,083,235	109.7%	2,022,275	55,120,032	109.7%	1,511	53,104,156	105.7%
3	San Joaquin	44,735,096	-	5,701	1,444,506	37,300,014	83.4%	1,370,793	37,226,301	83.1%	1,343,094	37,195,308	83.1%	1,593,089	37,448,595	83.7%

¹ Includes pro rata allocation, cluster 1 to 100%, \$47.8 million, SJO adjustments, micrographics, benefits funding, funding floor adjustment, and \$19.1 million self help (excludes non-sheriff security).

2018-19 New Funding Allocation Scenarios

Cluster	Court	2018-19 WAFM Need A	\$75 Million New Funding Deductions		Option 1 Modified WAFM			Option 2 Proportional Share			Option 3 Pro Rata			Informational WAFM As Approved		
			Cluster 1 to 100% B	1.96% Non-Sheriff Security C	Modified WAFM Allocation D	2018-19 Total WAFM Allocation ¹ E	% of Need F (E/A)	Proportional Allocation G	2018-19 Total WAFM Allocation ¹ H	% of Need I (H/A)	Pro Rata Allocation J	2018-19 Total WAFM Allocation ¹ K	% of Need L (K/A)	WAFM As Approved Allocation M	2018-19 Total WAFM Allocation ¹ N	% of Need O (N/A)
2	San Luis Obispo	16,955,493	-	4,788	547,497	14,136,010	83.4%	529,022	14,117,536	83.1%	505,330	14,092,595	83.1%	603,812	14,192,326	83.7%
3	San Mateo	44,665,811	-	8,777	1,442,269	37,254,079	83.4%	1,401,210	37,213,020	83.2%	1,334,802	37,143,323	83.2%	1,590,621	37,402,431	83.7%
3	Santa Barbara	27,023,513	-	20,904	872,595	22,531,895	83.4%	860,903	22,520,203	83.3%	853,252	22,510,562	83.3%	962,351	22,621,650	83.7%
4	Santa Clara	84,090,893	-	-	3,041,186	78,706,211	93.6%	2,827,186	78,492,212	93.5%	2,931,549	78,589,624	93.5%	1,490,158	77,155,190	91.8%
2	Santa Cruz	15,685,230	-	-	506,480	13,085,426	83.4%	475,253	13,054,200	83.1%	456,144	13,033,935	83.1%	558,576	13,137,522	83.8%
2	Shasta	14,659,632	-	52,181	473,363	12,191,202	83.2%	545,780	12,263,619	83.4%	515,113	12,231,876	83.4%	522,053	12,239,892	83.5%
1	Sierra	384,421	-	-	-	750,000	195.1%	-	750,000	195.1%	-	750,000	195.1%	-	750,000	195.1%
2	Siskiyou	2,947,529	-	-	5,298	2,969,110	100.7%	115,659	3,079,470	104.4%	114,992	3,078,532	104.4%	5,298	2,969,110	100.7%
3	Solano	26,312,624	-	8,626	849,640	21,937,819	83.4%	821,797	21,909,975	83.2%	818,920	21,905,161	83.2%	937,035	22,025,213	83.7%
3	Sonoma	26,972,981	-	8,717	920,882	23,792,996	88.2%	885,596	23,757,712	88.2%	914,397	23,784,411	88.2%	1,015,604	23,887,718	88.6%
3	Stanislaus	31,117,525	-	185	1,004,792	25,959,508	83.4%	943,000	25,897,717	82.9%	841,673	25,794,097	82.9%	1,108,145	26,062,861	83.8%
2	Sutter	6,637,467	-	4,895	214,325	5,527,607	83.3%	206,350	5,519,632	83.0%	197,887	5,510,681	83.0%	236,371	5,549,652	83.6%
2	Tehama	5,482,422	-	-	177,029	4,557,924	83.1%	162,453	4,543,348	82.6%	149,948	4,530,441	82.6%	195,238	4,576,133	83.5%
1	Trinity	1,577,430	179,799	10,201	-	1,584,008	99.8%	-	1,584,008	100.4%	-	1,583,879	100.4%	-	1,584,008	100.4%
3	Tulare	26,630,469	-	309	859,904	22,217,583	83.4%	809,784	22,167,463	83.0%	734,898	22,090,615	83.0%	948,354	22,306,032	83.8%
2	Tuolumne	4,353,053	-	4,369	140,561	3,620,882	83.2%	140,251	3,620,572	82.9%	130,653	3,610,654	82.9%	155,019	3,635,340	83.5%
3	Ventura	44,625,264	-	30,890	1,440,960	37,262,730	83.5%	1,421,034	37,242,805	83.4%	1,392,533	37,211,014	83.4%	1,589,177	37,410,947	83.8%
2	Yolo	13,505,143	-	11,548	436,084	11,257,377	83.4%	433,447	11,254,740	83.0%	384,824	11,205,123	83.0%	480,940	11,302,233	83.7%
2	Yuba	5,960,394	-	2,626	192,462	4,957,713	83.2%	181,971	4,947,222	82.9%	178,900	4,943,712	82.9%	212,259	4,977,509	83.5%
Total		2,214,738,616	3,567,327	818,056	70,614,617	1,908,780,971	86.2%	70,614,617	1,908,780,971	86.2%	70,614,617	1,908,780,971	86.2%	70,614,617	1,908,780,971	86.2%

¹ Includes pro rata allocation, cluster 1 to 100%, \$47.8 million, SJO adjustments, micrographics, benefits funding, funding floor adjustment, and \$19.1 million self help (excludes non-sheriff security).