



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 21-044*

For business meeting on May 21, 2021

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**Title**

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

**Agenda Item Type**

Action Required

**Effective Date**

May 21, 2021

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

None

**Date of Report**

April 19, 2021

**Recommended by**

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

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### Executive Summary

The Trial Court Budget Advisory Committee recommends approving a one-time recommendation to return unspent Court Interpreters Program allocated funding for 2020–21 and a one-time allocation methodology for 2021–22 while the Ad Hoc Interpreter Subcommittee continues development of a workload-based methodology recommendation for consideration effective July 1, 2022.

### Recommendation

The Trial Court Budget Advisory Committee recommends the Judicial Council approve the following effective May 21, 2021, while the Ad Hoc Interpreter Subcommittee continues development of a workload-based methodology recommendation beginning in 2022-23:

1. Require courts to return to the Judicial Council all unspent 2020–21 Court Interpreters Program allocated funds, which will first reimburse courts with a shortfall in 2020–21, with any remaining funds reverted to the Trial Court Trust Fund as restricted program funding; and
2. Allocate in 2021–22 the same amount of funding provided to trial courts in 2020–21.

The 2020–21 funding allocation methodology by court is included as Attachment A.

### **Relevant Previous Council Action**

Before 2020–21, the Court Interpreters Program (CIP) fully reimbursed trial courts for all eligible trial court interpreter expenses, and until recently the CIP carried a funding surplus. In recent years, the CIP has been faced with a shortfall, with expenditures exceeding allocations. To address the shortfalls, CIP savings were first used, and then Trial Court Trust Fund (TCTF) unrestricted fund balance was used as approved by the council.

With adoption of the Judicial Council’s *Strategic Plan for Language Access in the California Courts* in 2015, the council has also approved budget change proposals (BCPs) to augment the CIP to support expansion of interpreter services to all case types under the 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 use, 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 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 Trial Court Budget Advisory Committee (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).

At its business meeting on September 25, 2020, the council approved the TCBAC’s recommendation for a one-time allocation methodology for 2020–21, not to exceed the 2020 Budget Act appropriation, while the Ad Hoc Interpreter Subcommittee continued development of an ongoing workload-based allocation methodology for implementation beginning in 2021–22 (Link C). The recommended change from a reimbursement to an allocation methodology addresses funding shortfalls previously addressed through the use of now-depleted program savings and unrestricted TCTF fund balance, which is not a viable, ongoing fund source. The council-approved 2020–21 allocation methodology was effective immediately.

The council continues its efforts to secure additional funding through the BCP process, which in the current year has resulted in over \$9 million in the 2020 Budget Act. The CIP was originally projected to experience a deficit again this fiscal year. However, the impact of the COVID-19 pandemic and related operating changes have resulted in a projection of expenditures below the

appropriation amount allocated to the trial courts, because of longer case-processing times and increased video-remote interpreting usage.

## **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.

Expenditure increases in the CIP required the use of CIP savings, and subsequently TCTF unrestricted fund balance through 2019–20, to fully reimburse court costs and provided courts the opportunity to cover cost increases and maintain service levels. The recommended change from a reimbursement to an allocation methodology, effective 2020–21, recognized the need to address insufficient funding to reimburse trial courts based on actual expenditures. Through the Ad Hoc Interpreter Subcommittee, a one-time approach to allocate the 2020–21 appropriation was developed to ensure timely allocation information and planning opportunities to the courts.

Recent data indicates that trial courts may not fully spend the 2020–21 allocation on eligible interpreter expenses in the current fiscal year as a result of changes to operation and use in response to the pandemic. In the event of unspent funding at the end of the current fiscal year, and because these funds can only be used for eligible interpreter services and support, it is prudent that courts return all unspent 2020–21 CIP allocated funds to the Judicial Council. Those funds will first be used to reimburse courts with a 2020–21 shortfall in CIP expenditures, and any remaining funds will be reverted to the TCTF as restricted program funding. A recommendation on how to spend the restricted funds on eligible interpreter expenditures would be developed based on the amount of surplus, the amount of next year's appropriation, and projected expenditures as county restrictions change in relation to reopening guidelines.

The one-time, 2020–21 allocation methodology was implemented to provide the Ad Hoc Interpreter Subcommittee additional time to continue its work to develop an ongoing workload-based allocation methodology recommendation beginning in 2021–22. During that time, various

data points were considered in an effort to identify the best data points to use in the development of a long-term workload-based allocation methodology and the source of such data.

One data source under consideration was the Court Interpreter Data Collection System. However, it became clear that gaps and limitations exist in this data; thus, other alternatives should be considered. The TCBAC determined that additional time, information, and input would be needed to develop an ongoing and equitable workload-based allocation methodology for future implementation.

In evaluation of the current-year methodology in which the courts are still operating under pandemic protocols, and in order to ensure that the current model avoids updates that would result in the capture of impact from the pandemic, which would negatively affect allocations in a fiscal year that still holds many unknowns, allocating in 2021–22 the same amount of funding provided to trial courts in 2020–21 will provide trial courts with a set amount of funding for planning purposes. In addition, this approach will provide additional time for the Ad Hoc Interpreter Subcommittee to continue its research and deliberations as well as its membership expansion to ensure adequate statewide representation in the ongoing development of the workload-based allocation methodology and recommendation.

### **Policy implications**

The approach to collect unspent CIP funds from trial courts in the current fiscal year, make whole courts that experienced a funding shortfall, and then revert remaining unspent funds to the TCTF as restricted fund balance for the CIP will allow the program to experience a fund balance for future planning purposes.

The allocation methodology for next fiscal year will help trial courts plan because they will know in advance how much funding will be available to provide interpreter services to LEP court users. Continuing with the council-approved allocation methodology not to exceed the current appropriation amount will maintain the careful consideration required by courts, including cost-saving measures, that will help to maintain current interpreter service levels.

### **Comments**

This item was not circulated for public comment. Neither the TCBAC nor its Funding Methodology Subcommittee (FMS) received any public comments.

### **Alternatives considered**

The TCBAC had two considerations related to returning current-year funds and the methodology approach for next fiscal year. First, the TCBAC's FMS considered a recommendation not to make whole the courts that experienced a shortfall in the current year. However, because recent data suggests that trial courts may not fully spend the 2020–21 allocation on eligible interpreter expenses in the current fiscal year, the committee deemed appropriate the use of those restricted savings to reimburse courts with a 2020–21 shortfall in CIP expenditures. Regarding the methodology, the committee considered updating the current short-term methodology with the 2019–20 contractor data and 2020–21 employee data. However, this update would include

negative impacts from the pandemic. The determination was, at minimum, to keep courts at the same funding level as in the current year for planning purposes and because next fiscal year's pandemic and operational impacts are unknown.

### **Fiscal and Operational Impacts**

Some courts may not need the full allocation amount in 2021–22 pending pandemic and operational changes. In addition, some courts' CIP expenditures may exceed the allocated funding amounts in 2021–22. Judicial Council staff will continue monitoring usage and 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. 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>
3. 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>
4. Link C: Judicial Council meeting minutes of September 25, 2020, at <https://jcc.legistar.com/View.ashx?M=M&ID=711584&GUID=760102E7-3D1B-4C00-9CA8-0A7AA617BF8B>

2020-21 Budget Act Appropriation<sup>1</sup>: **130,977,000**

**STAFF INTERPRETERS**

Region	Court	Full-Time Equivalent*	Statewide Averages		BLS Salary Adjustment***	Updated Average Salary	Total Staff Need
			Salary**	Benefits			
			A	B			
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

**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%	\$ 42,476,106
151,134	0.495%	167,740	726,452	0.533%	697,704
753,843	2.471%	836,676	2,090,634	1.533%	2,007,902
1,139,030	3.733%	1,264,188	2,166,128	1.588%	2,080,409
1,303,121	4.271%	1,446,309	5,592,314	4.101%	5,371,012
1,272,618	4.171%	1,412,455	3,151,013	2.311%	3,026,319
61,063	0.200%	67,773	67,773	0.050%	65,091
193,292	0.634%	214,531	298,465	0.219%	286,654
114,961	0.377%	127,593	127,593	0.094%	122,544
206,005	0.675%	228,642	836,604	0.613%	803,498
182,292	0.597%	202,322	273,595	0.201%	262,768
350,791	1.150%	389,336	1,739,629	1.276%	1,670,788
323,640	1.061%	359,202	711,931	0.522%	683,758
116,488	0.382%	129,288	129,288	0.095%	124,171
1,209,628	3.965%	1,342,544	4,146,658	3.041%	3,982,564
1,647,654	5.400%	1,828,700	4,000,365	2.933%	3,842,060
3,718,221	12.187%	4,126,784	7,268,113	5.330%	6,980,494
168,676	0.553%	187,210	1,027,797	0.754%	987,125
377,774	1.238%	419,284	761,559	0.558%	731,422
751,845	2.464%	834,459	1,921,932	1.409%	1,845,876
2,336	0.008%	2,593	2,593	0.002%	2,490
64,824	0.212%	71,947	71,947	0.053%	69,100
178,427	0.585%	198,032	537,620	0.394%	516,345
43,400	0.142%	48,169	75,023	0.055%	72,054
109,097	0.358%	121,085	121,085	0.089%	116,293
218,492	0.716%	242,501	306,114	0.224%	294,001
1,127,255	3.695%	1,251,119	2,502,964	1.835%	2,403,915
108,565	0.356%	120,494	120,494	0.088%	115,726
863,809	2.831%	958,725	3,960,639	2.904%	3,803,906
277,475	0.909%	307,964	584,030	0.428%	560,918
22,702	0.074%	25,196	25,196	0.018%	24,199
201,354	0.660%	223,479	893,625	0.655%	858,262
41,374	0.136%	45,920	45,920	0.034%	44,103
722,442	2.368%	801,825	1,420,816	1.042%	1,364,591
7,201	0.024%	7,992	7,992	0.006%	7,675
9,908	0.032%	10,996	79,204	0.058%	76,069
53,209	0.174%	59,056	59,056	0.043%	56,719
262,122	0.859%	290,924	708,353	0.519%	680,321
7,153	0.023%	7,939	7,939	0.006%	7,625
853,702	2.798%	947,508	4,551,589	3.338%	4,371,471
954,688	3.129%	1,059,590	1,945,076	1.426%	1,868,104
365,959	1.199%	406,171	518,049	0.380%	497,548
371	0.001%	412	412	0.000%	396
52,207	0.171%	57,944	57,944	0.042%	55,651
1,254,941	4.113%	1,392,835	1,699,230	1.246%	1,631,987
166,991	0.547%	185,340	305,544	0.224%	293,453

2020-21 Budget Act Appropriation<sup>1</sup>: **130,977,000**

**STAFF INTERPRETERS**

Region	Court	Full-Time Equivalent*	Statewide Averages		BLS Salary Adjustment***	Updated Average Salary	Total Staff Need
			Salary**	Benefits			
			A	B			
3	Tehama	1.00	79,108	42,427	0.891	65,730	103,770
3	Trinity	0.00	-	-	0.782	57,687	-
3	Tulare	8.00	79,540	45,517	1.080	79,698	941,902
3	Tuolumne	0.00	-	-	0.927	68,416	-
3	Yolo	1.00	91,201	55,265	1.225	90,364	128,404
3	Yuba	0.00	-	-	1.071	79,041	-
4	Imperial	5.95	77,384	25,210	0.718	52,973	541,529
4	Inyo	0.25	16,357	6,726	0.789	58,221	24,065
4	Orange	71.70	82,374	41,722	1.243	91,685	9,301,313
4	Riverside	45.80	78,930	32,820	1.110	81,866	5,491,684
4	San Bernardino	46.00	97,890	58,584	1.000	73,771	5,143,329
4	San Diego	45.40	81,573	31,908	1.140	84,115	5,545,862
<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 reported on 2019-20 Schedule 7A; supervisor, coordinator, interpreter, and pro tempore.  
 \*\*The total average salary amount is an average of averages.  
 \*\*\*Bureau of Labor Statics; three-year average.

**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.)
41,211	0.135%	45,739	149,509	0.110%	143,593
23,730	0.078%	26,337	26,337	0.019%	25,295
1,300,557	4.263%	1,443,464	2,385,366	1.749%	2,290,970
40,816	0.134%	45,301	45,301	0.033%	43,508
796,947	2.612%	884,516	1,012,921	0.743%	972,837
53,740	0.176%	59,645	59,645	0.044%	57,285
151,729	0.497%	168,401	709,930	0.521%	681,836
51,646	0.169%	57,321	81,386	0.060%	78,166
1,597,206	5.235%	1,772,708	11,074,021	8.120%	10,635,793
969,803	3.179%	1,076,366	6,568,050	4.816%	6,308,135
496,888	1.629%	551,486	5,694,815	4.176%	5,469,456
1,034,317	3.390%	1,147,969	6,693,831	4.908%	6,428,939
<b>\$ 30,510,247</b>	<b>100.000%</b>	<b>\$ 33,862,747</b>	<b>\$ 136,373,667</b>	<b>100.000%</b>	<b>\$ 130,977,000</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 contract interpreters (75.2% for staff).