

To: Hon. Laurie Earl, Chair
Trial Court Presiding Judges Advisory Committee

From: Hon. Barry Goode, Presiding Judge
Contra Costa County Superior Court

Date: March 11, 2013

Re: Summary of Impacts From Instant Survey

Forty-eight counties responded to the Trial Court Presiding Judges' Advisory Committee's "Instant Survey." Those counties represent 1,560 judges and 260 commissioners; approximately 97% of the bench officers in the state.¹ Thus, it is fair to say we have reasonably comprehensive data.

In several areas, those data show that the impacts of the budget crisis have been somewhat worse than the Assembly Judiciary Committee found. So, in just the few weeks between the Assembly Judiciary Committee's questionnaire and the TCPJAC survey, the problem has become more serious.

I. Statistical Information

Closing Courthouse Doors

At least 53 courthouses have been closed in these 48 counties. The total should be closer to 61 soon, because Los Angeles has announced plans to close another eight. (The Assembly Judiciary committee survey found 46 closed courthouses.)

Similarly, in those 48 counties a net of at least 175 courtrooms have been closed. (The Assembly Judiciary committee survey found 164 closed courtrooms.)

At least 20 counties will have a total of 263 furlough days this fiscal year. That is an average of 13 days in each of those courts. Thus, in twenty counties, courts will be closed an average of more than one day a month.

Sixteen of the 48 courts have closed one or more locations at which they used to hear traffic cases. In each of those instances, people must travel farther to have their day in court.

Twenty-five of the 48 courts have closed one or more branch courts. (Five courts do not have branches.)

¹ Of the ten courts that did not respond, nine have between two and four judges. One court with 21 judges did not respond.

Seventeen counties have reduced night court sessions. Nine have completely eliminated night court. (Seventeen counties never had night court.)

Specialty courts have been cut in 18 out of the 48 counties. That includes drug court, homeless court, youth court, mental health court, domestic violence court and others. We have been losing many of the most innovative, problem-solving courts as the judiciary is redirecting resources to keep core, mandated calendars fully staffed.

Ten of the 48 counties have reduced their small claims court sessions. In one county (San Joaquin) small claims hearings have been eliminated entirely. In at least two counties, small claims hearings survive only because the bar is providing temporary judges to hear those cases.

Inability to Provide Services to the Public

Thirty-one of the 48 counties have reduced the hours their public windows are open. On average, the reduction is 5.1 hours a week. But that understates the problem, because many counties also reported having fewer clerks staffing the windows when they are open. So far fewer people are served and waits increase dramatically.

Thirty-eight of the 48 counties have reduced their self-help services. It is hard to quantify how much, but it is clear from reading the surveys that this has been one of the areas in which most courts have reduced services because of budget cuts. (The Assembly Judiciary committee survey found that 37 counties reduced their self help or family law facilitator services.)

In at least 19 courts the time for custody mediation has increased. The range of *increase* is from 6-91 days. In at least 14 counties, parents have to wait six weeks or more (up to 17 weeks in Stanislaus) for mediation. This number has gone up and down in some counties. When it gets too high, most counties tend to use reserves (or reallocate staff) to bring the number down, since it is so critical.

Twenty-eight counties have stopped providing court reporter services in at least one case type. (Three other counties never provided court reporter services even before the budget crisis.) In 19 counties, court reporters have been removed from some or all family court hearings.

Eleven counties acknowledge that they are unable to process domestic violence temporary restraining orders the same day they are filed. But the text of the responses suggests that more counties than that are having trouble. Since the standard is whether “the application is filed too late in the day to permit effective review” some courts may have relaxed their definition of “too late in the day” – especially since so many courts have cut their window service hours. If the windows are closed, court users cannot file applications.

Increased Backlogs

All courts are still getting their criminal time-not-waived cases to trial timely. But 19 report delays in getting time-waived cases out. That means more defendants remain in pre-trial custody longer, increasing the strain on county jails.

Twenty courts report increased civil backlogs. Some courts report extensive amounts of unfiled papers. (San Mateo is filing papers that were submitted more than seven months ago; Fresno reported 6,000 unfiled papers.)

Twenty-three courts report increases in the time it takes to process default judgments. San Francisco is taking 3 to 8 months to process them. San Mateo is taking up to 7 months; San Joaquin and San Diego are taking up to 6 months.

Overall staff counts

Staff counts are down by 19.6% in these 48 counties. In '07-08 these counties reported total staff (permanent plus temporary) of 21,282.5. In '12-13 the count was 17,112.5. That is a reduction of 4,170. (The Assembly Judiciary committee survey found 36 courts had laid off a total of 1,885 employees.)

II. Anecdotal Information

Turning People Away from Self-Help Centers

In 2012 Ventura could not help 3,800 self-represented litigants in the family law self-help center on the same day they came in because the center was at capacity. They also could not help another 1,100 people in the civil self-help center.

In San Bernardino County, between July and September 2012, 2,804 people who came to the self-help centers were unable to be served. They were either turned away or left in frustration.

Kern County says self-help services in family law are not keeping up with demand. Phone calls go unanswered almost all day and appointments fill by 10:00 a.m. requiring that customers be turned away.

San Francisco has reduced its self-help services to the point that it no longer offers one-on-one counseling.

In San Mateo, people have to wait up to three hours at the self-help center. There is less assistance available in Spanish; there are fewer workshops, and less assistance with child support and domestic violence calendars.

The Sutter County self-help center cannot provide drop-in assistance except in cases of emergency child safety or DV. It takes them up to two weeks to return a phone call seeking help.

Shasta County writes, “If we were to triple the number of staff [in the self-help center] it still wouldn’t be enough. Much of their business is driven by the recession and the high unemployment rate in our rural county...Websites are wonderful but they don’t do much good for people without computers or access to the Internet.”

Making People Wait

In San Francisco, paying a traffic ticket can take up to four hours. Filing a complaint can take up to three hours.

Monterey has had to close its public clerk windows at 2:00 p.m. That means domestic violence victims who cannot get to the window by 2:00 p.m. have to rely on the police to get an emergency protective order. They cannot get a temporary restraining order from the court.

In some of the larger courts, it is important to realize that window service hours have not just been cut; the number of clerks staffing windows has been slashed. So, for example, in Sacramento, in ’07-08 there were 11 civil filing windows open 40 hours a week; today there are only 3 windows open 35 hours a week. That is a reduction of more than 75%. There have been reports of fights breaking out in lines in the Sacramento Superior Court.

In San Mateo, phone service has been reduced, so people calling for information about traffic court may have to be placed on hold for up to 45 minutes.

Closing Courts and Eliminating Services

Riverside County has long suffered from a shortage of bench officers. In ’07-’08 it was using approximately 21 assigned judges a day to keep up with its caseload. But now it does not have money to staff all those courtrooms, so it has reduced its use of assigned judges to an average of only 7 a day. That has had ripple effects. For example, the judge assigned to mental health court now holds fewer sessions of that specialty court so the judge can try other cases.

Shasta County has insufficient staff for its guardianship and conservatorship workload. It writes, “This year we saw one horrific case in our community where a guardian beat a seven year old boy and left him to die on the floor. Law enforcement was tipped off and found the boy in the home with multiple broken ribs, a collapsed lung and other internal injuries. Doctors testified that the boy would have died within 24 hours had he not been found. These kinds of stories will continue until adequate funding and staffing exists to properly investigate homes where children are placed and regular

reviews take place to ensure safety.” At least 16 courts report an increase in the time it takes for conservatorship investigations.

In San Diego, there is at least a five month wait to have a trial on a traffic matter. When the case does come to trial, it is on calendar with 59 other cases set for that day.

San Bernardino has closed many of its courthouses. As a result, some people have to drive up to 175 miles, one way, to get to court.

Inyo County eliminated its Child Support Night Center, which had won a KLEPS award.

San Diego has suspended its Court Appointed Special Advocates funding. (CASA represents the best interests of abused and neglected children.)

San Joaquin has closed its full-service branches in Lodi and Tracy. All trials and other case processing now occur at the main courthouse in Stockton. For some people that is a 40 mile drive.

When San Joaquin published a public notice about closing its outlying courthouses, one commentator wrote, “Residents are already faced with long wait to resolve issues through the judicial system, and the court’s intention of having all civil and related matters heard in Stockton will further strain residents’ abilities...In fact, this may have the largest impact on low-income communities, in that it will isolate this population who already find it difficult to make time to resolve pressing legal matters due to their unforgiving work schedules and responsibilities. By forcing out-of-towners to travel to Stockton to file claims, they many never get the opportunity to do so because of the distance and time that it would take for them to bring their cases to the Stockton courthouse. In essence, justice will not be accessible to this population.”

Imposing Costs on Law Enforcement

The Mayor of Lodi wrote to the San Joaquin Superior Court about the closure of the Lodi courthouse: “Lodi Police Officers responded to over 1,100 subpoenas in criminal and traffic matters filed with the Lodi court. The move to Stockton will add an additional four hours of officer time to each of those subpoenas when counting travel time and dead time that will no longer be avoidable ...If the responding officer is on duty, the City will be filling their positions with off-duty officers at an overtime pay rate of time and a half. It goes without saying that 4,400 additional police overtime hours would have a catastrophic effect on Lodi’s already beleaguered budget.” The Mayor and City Manager of Tracy presented similar concerns, estimating it would cost Tracy 1600 hours and about \$100,000. With the closing of 61 courthouses, these costs are multiplied throughout the state.

Backlogs

Shasta has been hit by a combination of reduced funding and additional AB 109 obligations. It writes, “Our biggest backlog of cases currently is felonies. Because one-third of our jail was closed when AB 109 took effect, the crime rate has risen steadily and the failure to appear rate in courts is the worst it has ever been because offenders know there is no place to incarcerate them. The District Attorney continues to file new felony cases such that most defendants have seven or eight cases on a calendar at a time...The system has completely broken down. The floors in our clerks offices are lined with boxes of criminal cases waiting to be filed and calendared for court. As of today there are 18 boxes of felony cases waiting to be processed.”

In San Francisco certain records filings are backlogged 19 months; criminal records requests take up to 12 weeks to process.

Kings County says, “due to limited staff in the Criminal Division, processing complaints are taking longer and cases given to judges are incomplete.”

Monterey reports that in its Traffic Division the DMV error log has cases that date back to late 2010. These errors cause convictions to not appear on a person’s driving record.

Sacramento also reports that almost all of its civil documents are backlogged. It takes 5-6 weeks to file new civil complaints and twelve weeks to process answers and cross complaints. (Before the crisis those documents were typically processed within two days.) A civil default judgment takes more than three months to process; it formerly took a week or two. It is harder to get a civil motion on calendar. Demurrers are being set 6 months out; summary judgments 5 months out.

Essentially the same is true in San Diego County. Civil default judgments now take six months to process. (It formerly took two weeks.) Civil motions, which used to be set within 16 court days, are not scheduled 4-5 months out.

San Joaquin has about a six month backlog in processing civil defaults. It is not even setting hearings in small claims cases filed after August 31, 2012.

San Mateo has large civil backlogs as well. As of February 2013 it had over 1,100 hours of backlog, with documents dating back to June 2012.

Increased Stress and Workers' Compensation Costs

Riverside reports that it has seen a 35% increase in stress claims through worker's compensation among its staff in the last two years.

Kern also reports that its employees suffer more "stress which has resulted in a 25% increase in sick and long term illness use by remaining staff over the last two years. Increased absences, coupled with fewer staff to backup absences, is having an adverse impact on employee productivity."

San Bernardino notes "the crushing workload has impacted staff productivity and morale. In the last quarter, we saw a significant increase in usage of sick, vacation and furlough time...which averages out to more than 25% of the staff gone program-wide each day...Too many times now the center are run with 'short staffing' and more customers get turned away because staff simply can't keep up the hectic, superhuman pace."

The "tyranny of the urgent" and "pernicious delay"

Inyo County summarizes its plight, "The court is moving from a fair and equitable administration of justice, to providing services based upon the tyranny of the urgent. As we find ourselves unable to enter citations, eliminate services, and deny the public access to justice, a cascade of negative results will follow."

Los Angeles – which had closed 67 courtrooms as of June 30, 2012, lost Asian language self help services, and eliminated full child custody evaluations – writes, "Trial courts are forced to cloak problems in delay and thereby hide them. Applying due process to every case before us, and with the constitutional and statutory obligation to attend to all matters submitted to the court, the only outlet is to delay. Delay is pernicious. It takes hold incrementally. There will be no catastrophe, only a slow and inexorable decline. Delay allows everyone to continue to pretend there is access to justice. Only after months or years of waiting will one litigant at a time realize how the system has failed. Those failures have real consequences. When traffic tickets cannot be resolved timely, traffic laws lose their force. When people cannot depend upon the courts to help them settle domestic disputes, they will take matters into their own hands. When people cannot find relieve in the civil courts, predators are emboldened. None of these sorts of impacts show up in our statistics. They will, however, signal to all those involved a failure of California government to provide for the welfare of Californians."

The near-future

Orange County is looking ahead to the problems it will have if it loses its fund balances. “Mandatory furloughs and severe cuts in staffing levels are being planned over the coming months as a result of depleted fund balance, *e.g.* another 500 employees (and additional 30% over and above the nearly 20% reduction in force already implemented), which will require closure of courthouses and courtrooms, consolidate case types to a centralized location limiting public access.”

Amador says “the court will fall below the Judicial Council standards on everything relating to criminal case processing and dispositioning.” “The last fiscal year Amador has been looking into implementing e-filing and e-citations. However, with these on-going cuts, the court cannot take advantage of these technology advances that would help ease the workload.”

San Benito says, “We chose to conservatively maintain services at minimum levels without greatly expanding services. The savings were used to maintain service levels until the State legislature took our reserves and eliminated our ability to save for a “rainy day.” We can now expect rapid deterioration in current minimum service levels.”

SUMMARY OF BUDGET IMPACTS ON COURTS

- **61 courthouses closed**
- **175 courtrooms closed**
- **Furloughs averaging one day a month in 20 counties**
- **Branch courts closed in 25 counties**
- **Night court reduced or eliminated in at least 26 counties**
- **Problem-solving courts closed in at least 18 counties**
- **Small claims hearings reduced or eliminated in at least 10 counties**
- **Self-help services reduced in at least 38 counties**
- **Clerks windows open fewer hours in at least 31 counties**
- **Child custody mediation waits increased in at least 19 counties**
- **Court reporters eliminated in various case types in at least 28 counties**
- **Domestic Violence TRO's not processed timely in at least 11 counties**
- **Criminal trials delayed in at least 19 counties**
- **Civil backlogs increased in at least 20 counties**
- **Court staff cut by 19.6% since '07-'08**

Source: Survey of 48 Superior Courts by the Trial Courts Presiding Judges Advisory Committee
February 2013