

Written Comments Received for
February 19, 2013, Trial Court Funding Workgroup Meeting

Item No.	Name and Title	Affiliation	Date of Receipt
1	Teresa J. Schmid	Attorney and Public Policy Consultant	February 10, 2013
2	Hon. Ronald B. Robie, Chair Commission on Access to Justice	California Commission on Access to Justice	February 15, 2013

From: [Teresa Schmid](#)
To: [TCEWG](#)
Subject: Public Comment to Task Force
Date: Sunday, February 10, 2013 2:25:59 PM
Attachments: [T.Schmid Public Comment 2-10-13.pdf](#)

Please accept the attached public comment to the Trial Court Funding Work Group. This is a written comment only; no personal appearance in requested.

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Public Comment to the Trial Court Funding Workgroup

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Submitted February 10, 2013

[Written comment only; no personal appearance requested.]

Comment Summary

Task Force's stated mission is to ascertain "whether the goals of the Trial Court Funding Act have been met and to propose options to the Judicial Council to effectively meet and maintain the goals of having a state-funded trial court system and enhance transparency and accountability." The California Judicial Council has in hand two recent capstone reports concerning the current cost effectiveness of its operations, but neither is included among the Task Force's reference materials. These reports provide insights on the Council's governance, which is critical to the Task Force's assessment of whether court consolidation has worked, or can work.

Comment

In May 2012 the Judicial Council received the report of the Strategic Evaluation Committee (SEC Report) recommending reorganization of the Administrative Office of the Courts. In August the Council received the California Courthouse Capital Program Management Audit Report issued by Pegasus Global Holding, Inc. (Pegasus Report) that calls for reorganization of the Office of Court Construction and Management, plus reconstruction of OCCM's project planning and documentation process.

Neither of these reports currently appears on the list of reference materials under consideration by the Task Force. Both reports have an underlying theme, which is a call for the Judicial Council to articulate and exercise its leadership role over the judicial branch. The Pegasus Report uses the term "ownership" to describe the kind of institutional leadership required for programs of OCCM's scope; the term could be extended by analogy to AOC itself, of which OCCM is a part. The only course of action the Council could take which would be more dangerous than no action at all is uninformed action. Currently, the Council purports to govern the judicial branch, and it requires the level and quality of information that a board of directors would require. At a minimum, the Council needs the following support:

--- Since the Council does not meet monthly, it should have standing committees that do. Such committees represent a board's expertise in critical areas. They must continuously

be informed and in turn inform the board to ensure responsible decision-making by the board. The kinds of committees a board would require to meet responsibilities commensurate with those of the Council include executive, finance, facilities, human resources, communications, government relations, and governance.

--- The Council needs a standing committee to be its designated expert in all matters relating to OCCM activities. The Pegasus Report describes in detail the scope of information the Council requires in order to make responsible decisions about court construction and facilities management.

--- The Council should direct the Director of the Finance Division to prepare an AOC financial report for every Council meeting. This report should include: a comparison of year-to-date budgeted income and expense to actual, and percent variances in each category; a comparison of actual income and expense to the same period last year, with variances; balances of all major funds; a current count of full time employees; and a cover memo of no more than three pages by the Director noting any trend or anomalies in the reports, with a short explanation of each.

Without this structure in place, the Council cannot make informed decisions about the operations of the Administrative Office of the Courts. Even if the Task Force is able to establish that court consolidation is viable in theory, the administration of the courts remains at risk if the Judicial Council fails to either assume the responsibility of full governance or to propose an appropriate governing body to take it on. .

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

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February 15, 2013

Hon. Harry E. Hull, Jr., Co-Chair
Member, Judicial Council of California
Associate Justice of the Court of Appeal
Third Appellate District

Hon. Phillip Isenberg, Co-Chair
Delta Stewardship Council, Chair

Dear Justice Hull and Mr. Isenberg:

The California Commission on Access to Justice has adopted this statement of principles in an attempt to respond to the Legislature's request for an analysis of court funding needs. Recognizing that appropriation and allocation of judicial resources is a complex matter, it was our intent to identify some basic needs that are faced by all courts and the litigants who use them, with the hope these goals will help to define necessary funding levels.

The Commission stands ready, if these principles are helpful to you, to assist in the development of a narrative that amplifies and explains the outline. In the interests of time, keeping in mind the very short deadlines that face you, however, we wanted to make this available to you at the earliest possible time. We will be happy to provide any further information or assistance that you would find beneficial.

Sincerely,



Hon. Ronald B. Robie – Chair
Commission on Access to Justice

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Minimum Standards for Access

To ensure equal access to justice in California, courts must be funded adequately throughout all parts of the state, and courts must design their own processes to provide effective and efficient court services for all who use the courts. Recognizing that each litigant, advocate, and witness may have different individual needs, courts should adopt procedures and rules that meet the constitutional mandate of due process and that do not disadvantage any identifiable cohort of the population. To meet these goals, and to ensure the most efficient use of available resources to provide the same access to justice for all litigants in all jurisdictions, the following principles of access are defined:

- **All litigants shall receive due process of law**
 - Hearings will be conducted by impartial, trained bench officers according to applicable laws, rules and procedures.
 - Hearings will be conducted on a timely basis and dispositions will be reached without undue delay.
 - Hearings will be timely provided in all case types, from traffic and small claims to family, complex civil, and long cause criminal matters.
 - Services will be provided to ensure participants understand and can participate in the proceedings.
 - Court users will have access to accurate and timely information through adequate counter hours at clerks' offices and telephonic access to a live court staff member.
 - Court users will have access to accurate and timely information both on-line and through staffed self help centers.
 - Interpreter services will be provided.
 - Orders after hearing and judgments will be timely prepared and made available to litigants.

- **Courts shall be accessible to all court users**
 - Courthouses will be located so that users are not forced to travel unreasonable times or distances, especially where public transportation is inadequate or unavailable.
 - Court facilities will be safe and adequate to conduct the business of the courts.
 - Courts will maintain reasonable hours of operations so that court users can file documents and conduct their court business without undue delays.
 - Technology will be developed and maintained to meet the needs of the court and court users.
 - State and federal access requirements, including the Americans with Disabilities Act, will be met for all court facilities and services.
 - Copies of court pleadings, orders and judgments will be accessible in a timely manner and at a reasonable cost.

- **An official record shall be made to preserve court proceedings and to preserve the right to a meaningful appeal**
- **Access to the courts shall be affordable**
 - Courts will be funded principally from public funds, not user fees.
 - User fees will not be set at levels that deny access to persons of moderate income, nor at levels that create the perception that process is based upon incentives other than the fair administration of justice.
 - Petitions for fee waivers will be addressed in full compliance with the law.
 - Where technology is utilized, it will be designed for all users to have impartial and effective access and will not be deployed in a manner that excludes access to court proceedings and services to those without access to technology or the internet.
 - Courts will not order participation in services or programs a litigant cannot afford.
- **Jurisdictions shall have adequate numbers of judicial officers, staff, and other non-judicial resources to meet caseloads**
 - Courts will appropriately assign judicial and non judicial resources by case type.
 - Courts will make resources available for alternative dispute resolution to assist litigants in resolving their civil cases at a cost which does not create a barrier to utilization.
 - Regular training will be provided to all judicial officers and staff.
- **Courts shall provide services to meet community needs**
 - Specialty courts will be maintained or established whenever they are the most effective way to serve population needs, such as drug courts, homeless courts, and veterans' courts.
 - Other services identified as special needs in the community to obtain access to the courts will be provided.
- **The identified components of these access standards shall be tracked on a regular basis**
 - The allocation of resources will be adjusted if these standards are not achieved in the period under review.

Adopted by the Executive Committee, California Commission on Access to Justice,
February 14, 2013