

## **Trial Court Funding Workgroup Minutes of the February 19, 2013 Meeting**

Justice Harry E. Hull, Jr., Co-chair, called the meeting to order at 9:07 a.m. on Tuesday, February 19, 2013, in the Veranda Conference Room of the Administrative Office of the Courts, Sacramento office.

**Trial Court Funding Workgroup members present:** Justice Harry E. Hull, Jr.; Mr. Phillip Isenberg; Judges Emilie H. Elias, Mary Ann O'Malley, and David Rosenberg; Ms. Diane Cummins, Ms. Angela Davis, Mr. Martin Hoshino, Ms. Eraina L. Ortega, and Mr. David Yamasaki.

**Lead staff members present:** Ms. Jody Patel

### **Public Comment**

Two letters were submitted to the Trial Court Funding Workgroup in advance of the meeting, including one from the California Commission on Access to Justice. Mary Flynn, staff to the commission, appeared before the workgroup to present the commission's letter. The commission's letter presents a statement of principles titled "Minimum Standards for Access," which it adopted to assist the workgroup in its efforts to identify some basic needs that are faced by all courts and the litigants who use them.

### **Approval of January 15, 2013 minutes**

No changes were requested to the January 15, 2013 meeting minutes that had been distributed to the members in advance of the meeting. Judge Rosenberg moved to accept the minutes, seconded by Judge Mary Ann O'Malley. The motion passed unanimously.

### **Overview of SB 56 Working Group proposal—Resource Assessment Model**

Ms. Leah Rose-Goodwin, Senior Research Analyst, Administrative Office of the Courts, provided the workgroup with an overview of the Resource Assessment Model (RAS). Ms. Rose-Goodwin indicated that the SB 56 Working Group (working group) has approved a methodology and will present it at the Judicial Council's February 26 meeting.

Ms. Rose-Goodwin presented the following information on RAS:

- The initial RAS was adopted by the Judicial Council in 2005.
- The SB 56 working group was formed in 2009 with the intent of evaluating both judicial officer and staff workload studies.
- The current proposal does not measure the number of judicial officers needed in the courts, it concentrates on court staff and uses weighted filings as the most consistent and complete measure of court workload needs. RAS looks at three-year filing averages to assist with smoothing out fluctuations in filings.
- RAS is based on averages, not optimal resources needed for case processing.
- The working group consulted with the National Center for State Courts (NCSC) and the study is consistent with efforts NCSC has undertaken in other states; however, the California court study provides more detail than what is found in other NCSC studies.

- RAS will require modification from time to time. For instance, the model will require modification with major statutory changes.
- Although RAS was not developed as a funding methodology, it was used in 2005, 2006, and 2007 to redirect approximately 10% of State Appropriations Limit (SAL) funding received by the trial courts. It was also used to reduce funding reductions for severely under-resourced courts.

Members indicated an interest in seeing the analysis that was used when the extra SAL funding was received by the trial courts.

### **Overview of work by the Funding Allocation Subcommittee of the Trial Court Budget Working Group**

Judge Laurie Earl, chair of the Funding Allocation Subcommittee of the Trial Court Budget Working Group, informed the workgroup that this subcommittee first met in November 2012 to discuss an alternative to the current allocation methodology utilized by the Judicial Council.

Judge Earl reported that the subcommittee:

- Is evaluating a budget development process that will address each trial court's funding need and then recommending an annual allocation process that concentrates on establishing a statewide model while remaining cognizant of individual trial court issues and concerns.
- Is determining a budget development process first and then will concentrate its efforts on the allocation process with a goal of delivering a recommendation to the Judicial Council in April.
- Will provide a report to the Trial Court Funding Workgroup at its March meeting.
- Will utilize RAS to determine staffing needs for each trial court.
- Will also recommend an allocation methodology to be used to determine adjustments that need to be made if overall funding of the branch from the State of California is insufficient to meet the needs of each trial court as established by the proposed budget process.

During the report, a workgroup member inquired if the subcommittee will be looking at the use of block grants for at least a portion of trial court funding and Judge Earl indicated that they are unsure at this time.

A member also asked if the recommended methodology will encourage trial court efficiencies, for instance, funding information technology that will result in efficiencies. Although a decision has not been made in this area, it is scheduled for discussion by the subcommittee.

### **Review of proposal for the report of the Trial Court Funding Workgroup**

AOC staff presented a draft table of contents of the final report for the workgroups consideration. Some of the points raised included:

- Staff anticipates presenting drafts of the following sections at the March meeting:
  - Introduction
  - Background

- Meeting the Goals of the Trial Court Funding Act
- Staff requested direction on the recommendations section of the report. Members discussed several possibilities, including recommending the adoption of a specific methodology (e.g., the proposal being prepared by the subcommittee, or a proposal based on RAS or other model), and recommending broader principles, components, or factors to be considered by the Judicial Council when reviewing allocation methodologies.
- Some members expressed concern that the workgroup has data, but lacks sufficient analysis to assist in forming recommendations.
- Some members expressed concern that the workgroup has not fully evaluated how funding by court relates to equal access.
- Members requested that staff from the AOC and DOF may want to provide the workgroup with two or three recommendation options for discussion at the March meeting.
- Some members suggested that the report should include how lack of funding has affected the trial courts and their ability to provide equal access.
- Members indicated that it is the responsibility of the Judicial Council, not the executive or legislative branches to allocate funding. Staff from the Department of Finance confirmed that the Administration shares this understanding.
- Mr. Isenberg requested that the workgroup go back to the initial charge document and ensure those components are included in the final report.
- Members discussed whether the report should define what equal access to justice meant in 1997 and how that compares to 2013? For instance, inconsistent level of accountability, efficiencies, technology.
- Mr. Isenberg requested that the report contain the following elements:
  - Executive Summary at the front, similar to the Court Statistics Report.
  - Letter from the Governor and Chief establishing the workgroup and the *Trial Court Funding Workgroup—Charge, Composition and Activities* document that was provided to the workgroup at the start of its work.

### **Quick review of materials requested from staff at January 15, 2013 meeting**

Staff provided a high-level overview of the materials that were prepared for the workgroup.

### **Discussion of next steps for March 26/27 meeting**

The workgroup members discussed what needs to be completed and how to proceed for the March 26/27 meeting. Members raised the following points:

- Would appreciate hearing more about how the Judicial Council arrived at their findings to redirect approximately 10% of the SAL money as previously discussed during the RAS agenda item.
- Interested in finding link between funding to the trial courts and how it impacts equal access to justice throughout the state. Linking accomplishments to funding is important as well. Equal access has many components and the workgroup should look at efficiencies as well.
- The Act did not guarantee funding; rather it was about creating efficiencies.
- Some members expressed a desire to evaluate discretionary items to determine if the report can recommend that some become mandatory thus create efficiencies. However,

concern was raised that the group must first address recommendations on funding allocations prior to completing that evaluation.

### **Meeting Wrap-up and Assignments**

The workgroup requested the following information from staff:

- Develop recommendations on how to allocate funding for discussion by the workgroup at the March 26/27 meeting.
- Develop over-arching principles that could be included in a funding allocation methodology for discussion by the workgroup at the March 26/27 meeting.
- During the March 26/27 meeting, staff should be prepared to discuss how RAS can be utilized as a component of a funding allocation methodology.
- Provide the workgroup with the introduction and summary for the 2011 Court Statistics Report.
- Provide the workgroup with the factors that went into deciding that a court was underfunded when SAL funding was provided to the courts.

Justice Hull adjourned the meeting at 1:40 pm.