Court funding isn’t a “sexy” topic. You don’t hear about it on the news and few people outside of those who work in the legal system truly understand how our community has been jeopardized by significant budget cutbacks our judicial branch over the last several years. The long-term effects of an inadequately funded system continue to be in question, however when we ask lawyers and other business leaders in our community to share the immediate effects on their clients and businesses, there is one common thread — long wait times and unprecedented processing delays. Given the critical role our justice system plays in keeping families and businesses intact “justice delayed” continues to be “justice denied.”

As the voice of San Diego’s legal community, it is incumbent upon the San Diego County Bar Association (SDCBA) to continue to report on the current state of our courts and to make a concerted effort to illustrate the impacts of an underfunded system on the greater San Diego community. While we’ve shared specific incidents of the real impacts of reduced court services in previous editions of this report, this year we aim to present on the current state of affairs and explain how the budget is currently determined.

**Current State**

In 2016, we are in the second year of California Governor Brown’s two-year budget plan, which allots a little over $90 million to California’s courts. While this was a sign of stabilizing the court’s budget, there is no certain analysis of what that will mean in regards to restoring services previously slashed by extreme budget cuts — $1.2 billion since 2007 — and whether this is intended to be used for operational costs.

It is also important to understand (and we’ve used an illustrated infographic in this report to help explain) the effects the Workforce Allocation Funding Methodology (WAFM) will have on San Diego courts. Adopted for California’s courts in 2013, WAFM is designed to provide financial support for courts throughout the state with the most dire needs, and in turn reduce funding for other courts in order to provide for those in greatest need. This methodology is in the midst of its five-year rollout, and the impact on San Diego is significant. The estimated WAFM gap exceeds $25 million for San Diego Superior Courts based on the FY 2016-17 allocation. The branch is currently funded to only about 70 percent of the workload identified in the WAFM analysis.

While potentially of great help to other courts throughout the state, WAFM continues to negatively impact San Diego, as our court’s efficiencies and ability to run relatively smooth despite drastic budget cuts may hinder its appearance of “need.” This model will present ongoing challenges for our court, as the share of revenue for San Diego continues to decline, and will decline further as WAFM’s implantation continues. An even further decline is projected for 2017/18.

Another detriment to San Diego is the implementation of a new funding method for dependency counsel. Funding cuts caused the loss of San Diego’s long-time provider of legal representation for children
and parents in the juvenile dependency system, and the Judicial Council is actively seeking new providers in San Diego. At this time however, it is at a much reduced financial level.

Despite the uncertainties regarding service restoration and the disadvantageous effects of WAFM for our county in particular, there is some good news in San Diego. In 2017, our new State courthouse will open downtown. We celebrate the planned consolidation of central San Diego court services into one location (family, probate and criminal cases will be heard in the same building as civil cases for the first time in over 50 years) and the opportunity to increase efficiencies as a result of this consolidation, including faster case processing.

Also of note, the San Diego Superior Court, due to additional increased efficiencies, was able to expand its business office hours in 2016 in its central office, and is working on a plan to restore telephone service hours.

In addition, the court has been able to institute a policy of providing an interpreter free of charge for courtroom proceedings when necessary in all case types, to the extent that interpreters can be made available. In family court, a new case management program has been instituted, which will eventually enable the Court to have electronic files and e-filing in family law. Traffic court is also in the process of being transitioned to this electronic case management system, and it will be implemented in 2017. Following, the court will look into transitioning the civil departments to this case management system as well. While this represents positive and significant progress, in large part due to the diligence of our court leadership, the level of service the court is able to provide is still significantly diminished in comparison to where it was prior to the first large scale budget cuts in 2007.

Following is an updated list that details delays/impacts that are still present and hindering the effectiveness of our justice system.
State of Court Service Delays

Civil Independent Calendar department caseloads have jumped from 500-600 cases to 900-1,100 cases per judge since 2012-13. In North County, judges have up to 1,300 cases. This is the “new normal” which means that judges are processing significantly more cases and delays are inevitable.

- A demurrer is a pleading to challenge an opposing party’s initial filing and sometimes can resolve an entire case. Currently, some demurrers are being scheduled for hearing as far out as eight months after filing. Before funding cuts, demurrers typically were only scheduled 35 days out.

- The law and motion calendar consists of pretrial motions (such as a motion to compel the other side in a civil case to answer discovery requests) or other legal requests not directly connected to a trial. Some heavy motions are being set anywhere from eight to 12 months out from filing. Currently, routine law and motion matters are being scheduled for hearing six to seven months after filing. Previously, the same types of motions used to be scheduled and heard in as little as 16 days.

- Some family court judgments currently take anywhere from three weeks to three-and-a-half months.

- It is now more expensive to access court services — fines and court service fees were increased in 2012, and are not set to be reduced anytime soon — making it cost prohibitive for many businesses to bring a case to trial.

- Independent civil departments cut in 2012/2013 cannot be restored at this point due to lack of funding.

- Court reporters are no longer available in civil or family law hearings, a significant service cut that needs adequate funding in order to restore.

- Staff vacancy rate exceeds 25%. All business offices are understaffed and court clerks and other staff necessary to facilitate business operations cannot be hired until further funding is available.

Conclusion:

In our 2015 report on the State of the Judiciary, we stated the following:

“A budget in the next year is a good starting point…the proverbial glass is not half full — it is just no longer leaking as dramatically as it has been. Full restoration of services to reach the point we were at seven years ago can only be accomplished if there is a full restoration of funding to address the budget cuts.”

This still holds true. At this point, we are anxious to see how the governor’s two-year budget plan affects our courts once it is complete and we are able to analyze whether it did anything to meet our specific needs in San Diego. We are also anticipating the detrimental impacts of WAFM locally.

While we appreciate that the situation is not as dire as it has been in the past, it is also paramount to recognize that until services are fully restored, justice in our community is not fully served.

To thoroughly understand the effects of an underfunded judiciary on our community, please review previous versions of our report at www.sdcba.org/courtfunding. Please help us continue to report on the importance of an adequately funded judiciary by sharing your stories of how you have been affected by lack of service or extended delays:

www.sdcba.org/realworldimpacts
WAFM is the formula that the Judicial Council of California uses to determine funding needs for 58 courts statewide. The WAFM formula method is based on the Resource Allocation Study (RAS) model that estimated the number of staff needed to handle the volume of filings. RAS was developed by looking at 5000 cases in 24 trial courts.

A court system’s WAFM share is calculated based on a number of factors:

- Case Quantity & Type
- Staffing Needs
- Operating Expenses
- Special Expenditures & Unique Factors

**WAFM GAP**
The WAFM gap is the disparity between the WAFM calculated need and state budget appropriations.

- The WAFM Gap statewide is **$444 MILLION**
- The WAFM Gap in San Diego County exceeds **$25 MILLION**

A **30% DEFICIT** exists between the WAFM identified workload and 2016–2017 budget allocations.