

MEMORANDUM

To: Legal Services Trust Fund Commission Members
From: Richard G. Reinis, Co-Chair
Re: 1st Meeting, Legal Services Trust Fund Stakeholders Working Group,
October 15, 2018, California State Capitol
Date: October 25, 2018

The Legal Services Trust Fund Stakeholders Working Group (Working Group) convened its first meeting in a Senate meeting room, with members seated semi-circularly facing an auditorium. Members are listed in the attached roster.

This initial meeting was well attended by representatives of Legal Services Projects (LSPs) and Support Centers (SCs). The audience approached 50 in number. Legal Services Trust Fund Commission (Commission) members in attendance included Corey Friedman, Chris Schreiber, Judge Brad Seligman (by phone), and Richard Reinis. Professor James Meeker attended as Special Advisor to the Working Group.

Materials presented by PowerPoint included an overview of the Interest on Lawyer Trust Accounts (IOLTA) Program, including its historic enabling legislation and the State Bar Rules by which it is administered. Program Supervisor Doan Nguyen from the State Bar Office of Access & Inclusion presented a thorough review of the methods used by staff to determine eligibility of grantees, including detailed distribution formulas. Corey Friedman and I reviewed the role of the Commission, Chris Schreiber described the Partnership Grant process and Judge Seligman described the Bank Grant making process.

Some Working Group members questioned Doan as to the formulas used to determine geographic distribution and other aspects of a quite complex procedure. Questions were posed by Norma Chavez-Peterson of the ACLU, Leora Gershenson of the State Assembly Judiciary Committee, Margie Estrada of the Senate Judiciary Committee, Justice Vance Raye of the California Court of Appeal and others.

Staff Executive Director Leah Wilson posed questions about authority: what is the legislative – or other - source of a formula rule that regulates distribution?

One issue raised by Ms. Gershenson related to administrative costs: the total cost to administer IOLTA funds is \$1.6M. An additional \$500K is charged for Equal Access Fund (EAF) administration, and \$200K is for Bank Grant administration.

Members of the public lined up to speak. All speakers were from LSPs and SCs. Some of their messages: the value of stability and reliability of IOLTA funding; the benefits of unrestricted IOLTA grants; the value of quality control efforts by staff; the benefits of formula funding (non-discretionary grants are good); long-term funding permits them to offer career opportunities; unrestricted funds enable them to be flexible in the type of work they perform for indigent civil

litigants; they can commit to long term litigation because funding will be there year after year; reporting for smaller agencies can be onerous; more private foundations are now requiring similar reporting.

These comments were very illuminating. The speakers conveyed a perceived challenge to the current system and funding of their agencies.

Principal Program Analyst Ron Pi from the State Bar Office of Research and Institutional Accountability presented a series of slides which are attached. These are entitled "Patterns of Disparity in Legal Services Funding." To Commission members in attendance, this information was most interesting. Much of the data is gleaned from Case Summary Reports (CSR) submitted by grantees as to closed cases. Other reports were used by Mr. Pi in assembling the charts that drew strong responses. Using statutorily required US Census data and clients served data from 2016 and 2017, Mr. Pi drew conclusions, admittedly preliminary, that the California Hispanic community is underserved by LSPs, as are males, and certain rural counties. Professor Meeker and others questioned the source data and the conclusions drawn from these charts and Mr. Pi committed to providing underlying data for review. Chris Schreiber noted concerns about the publication of these conclusions.

Mr. Pi's presentation appears to be central to the upcoming work of the Working Group. If the Working Group is to make recommendations for changes in the IOLTA formula, those changes will be predicated on a determination that, in fact, there is such disparity in the distribution of free legal services. LSP representatives cast doubt on this in their short rebuttal statements. More data collection will be undertaken by the Mr. Pi for the Working Group for the purpose of better understanding how IOLTA funded programs are fulfilling their statutory purpose.

No information was presented as to the role of the Commission in connection with disparity assertions.

Next meeting is scheduled for November 19 at State Bar Los Angeles office. A values discussion will be undertaken and a review of other states' IOLTA programs will be presented. Ultimately, a survey will be compiled to submit to LSPs and others to collect data to better determine if the legislative intent of the IOLTA Program to provide free legal services to underserved indigent persons of California is being served.

Enclosures: LSTFC Stakeholder Working Group Roster
"Patterns of Disparity in Legal Services Funding" PowerPoint

Legal Services Trust Fund Commission Stakeholder Working Group Roster

Co-Chairs

Debbie Manning

Richard Reinis

Members

Norma Chávez-Peterson

Salena Copeland

Margie Estrada

Corey Friedman

Leora Gershenzon

Kaylon Hammond

Yvonne Mariajimenez

Lynn Martinez

Margaret Morrow

Presiding Justice Vance Raye

Chris Schreiber

Sean SeLegue

Hon. Brad Seligman

Liaisons

Greg Fortescue, Supreme Court Liaison

Leah Wilson, State Bar Liaison



The State Bar *of California*

Patterns of Disparity in Legal Services Funding

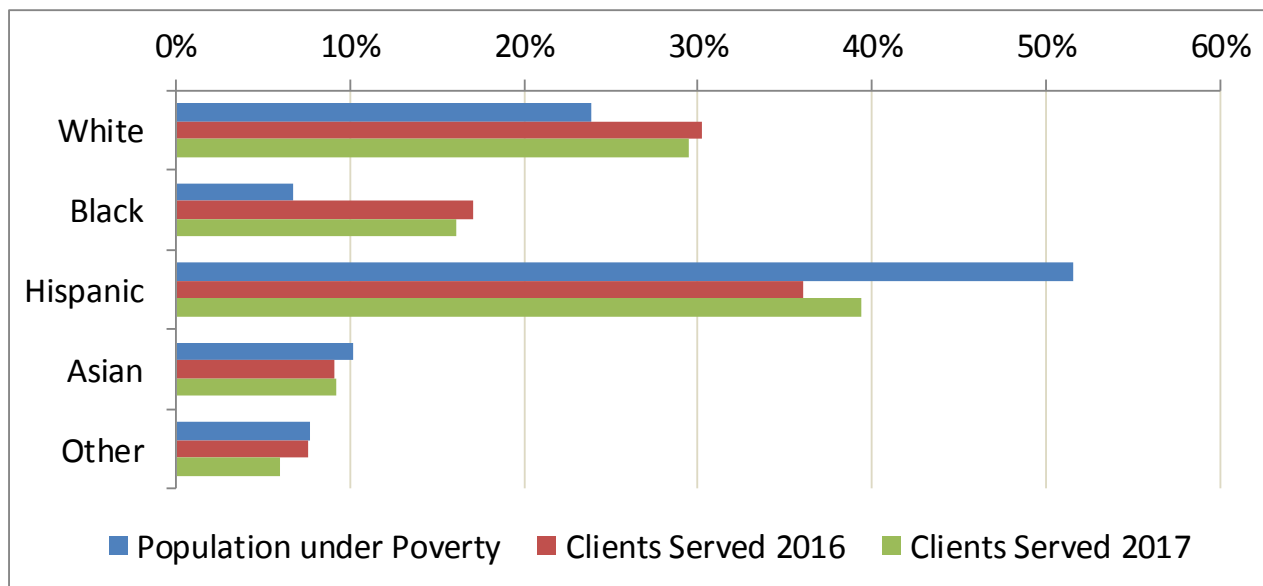
A Preliminary Assessment of Empirical Evidence

Ron Pi
Office of Research
and Institutional Accountability



Race/Ethnicity Disparity

Race/Ethnicity	Clients Served, 2016		Clients Served, 2017		California Poverty Population*	
	N	%	N	%	N	%
White	73,821	30%	69,830	29%	1,893,699	24%
Black	41,833	17%	38,052	16%	531,491	7%
Hispanic	88,173	36%	93,249	39%	4,089,126	52%
Asian	22,312	9%	21,763	9%	804,962	10%
Other	18,581	8%	14,105	6%	604,569	8%
Total	244,720	100%	236,999	100%	7,923,847	100%

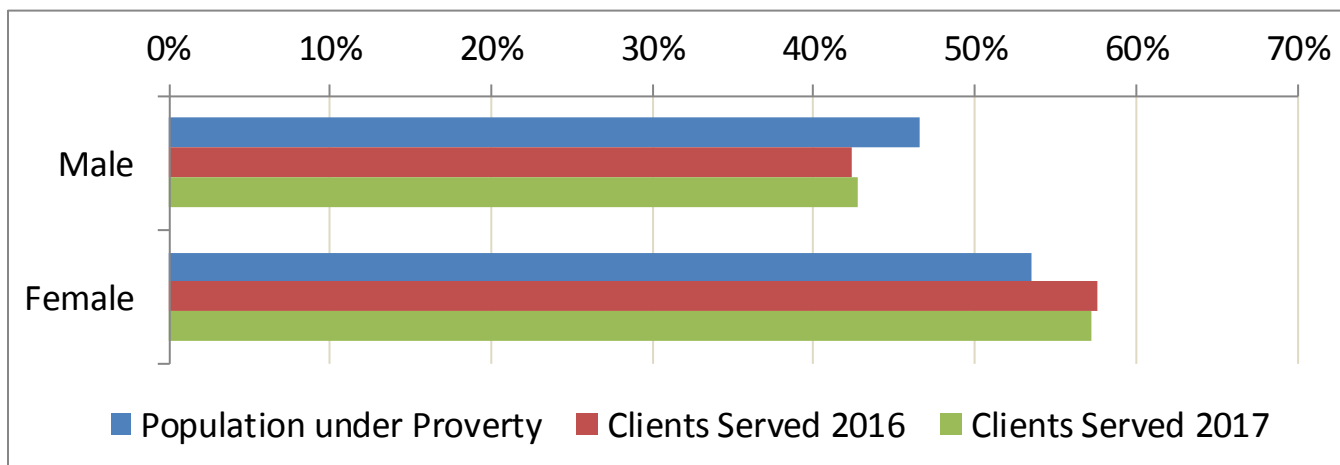


* Below 125 percent poverty line. US Census/American FactFinder. S1703: Selected Characteristics of People at Specified Levels of Poverty in the Past 12 Months, American Community Survey 5-Year Estimates, 2012-2016. October 2018
<<https://factfinder.census.gov>>.



Gender Disparity

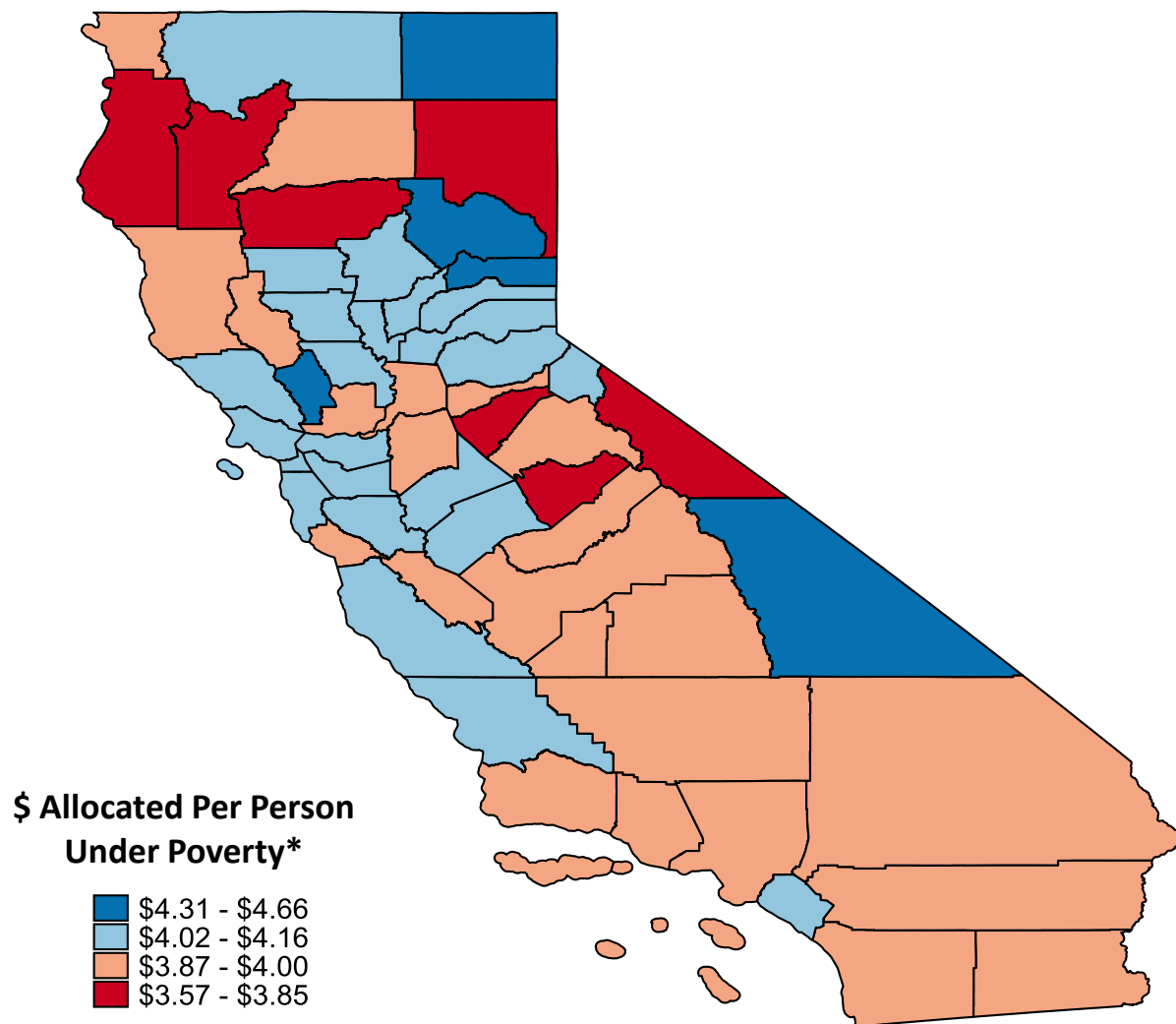
Race/Ethnicity	Clients Served, 2016		Clients Served, 2017		California Poverty Population*	
	N	%	N	%	N	%
Male	103,426	42%	100,566	43%	3,689,461	47%
Female	140,840	58%	134,683	57%	4,239,867	53%
Total	244,266	100%	235,249	100%	7,929,327	100%



* Below 125 percent poverty line. US Census/American FactFinder. S1703: Selected Characteristics of People at Specified Levels of Poverty in the Past 12 Months, American Community Survey 5-Year Estimates, 2012-2016. October 2018
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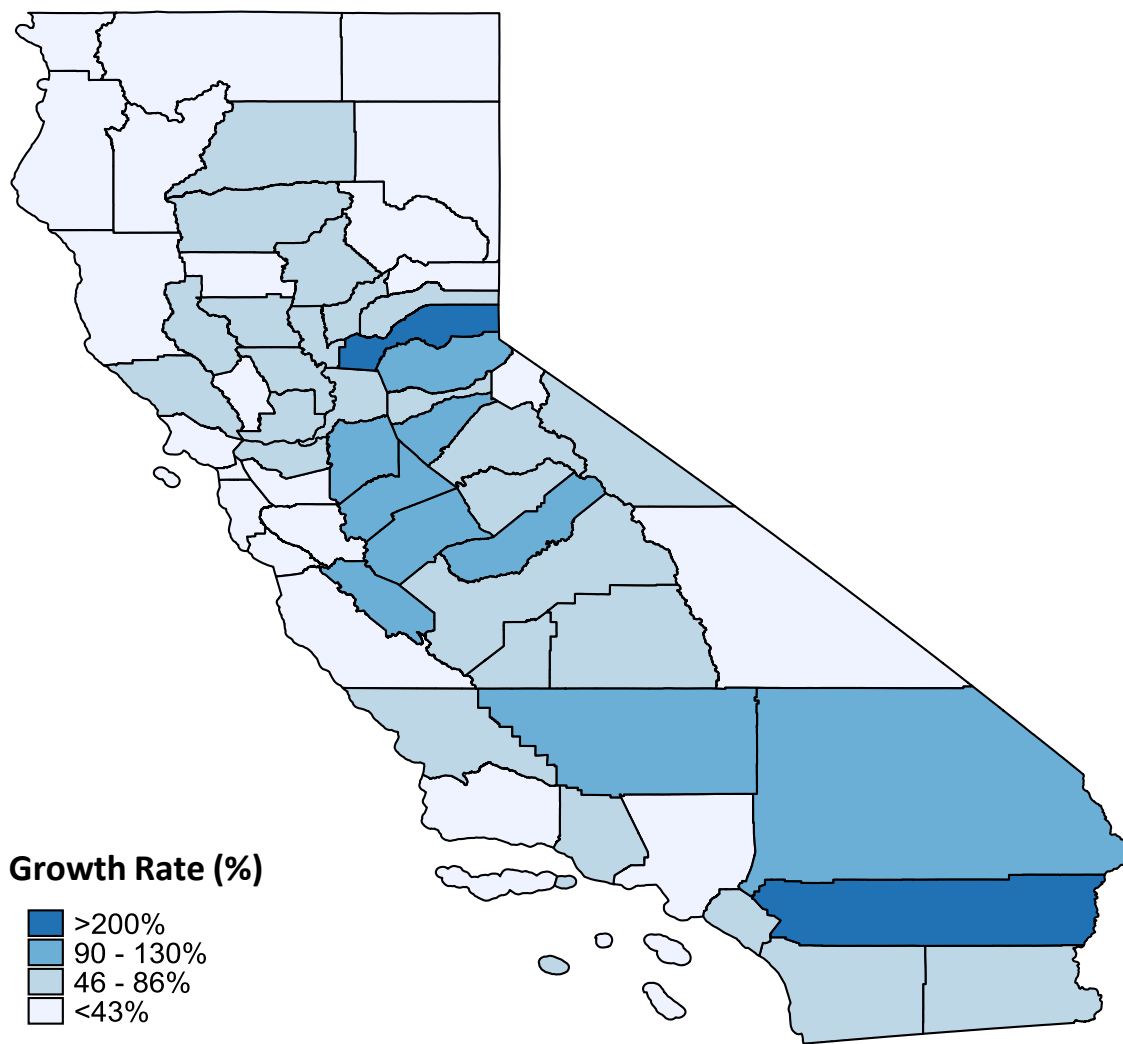
Geographic Disparity



* Funds allocated include IOLTA and Equal Access Fund. Poverty population are persons whose income is 125 percent or less of the current poverty threshold in 2016.

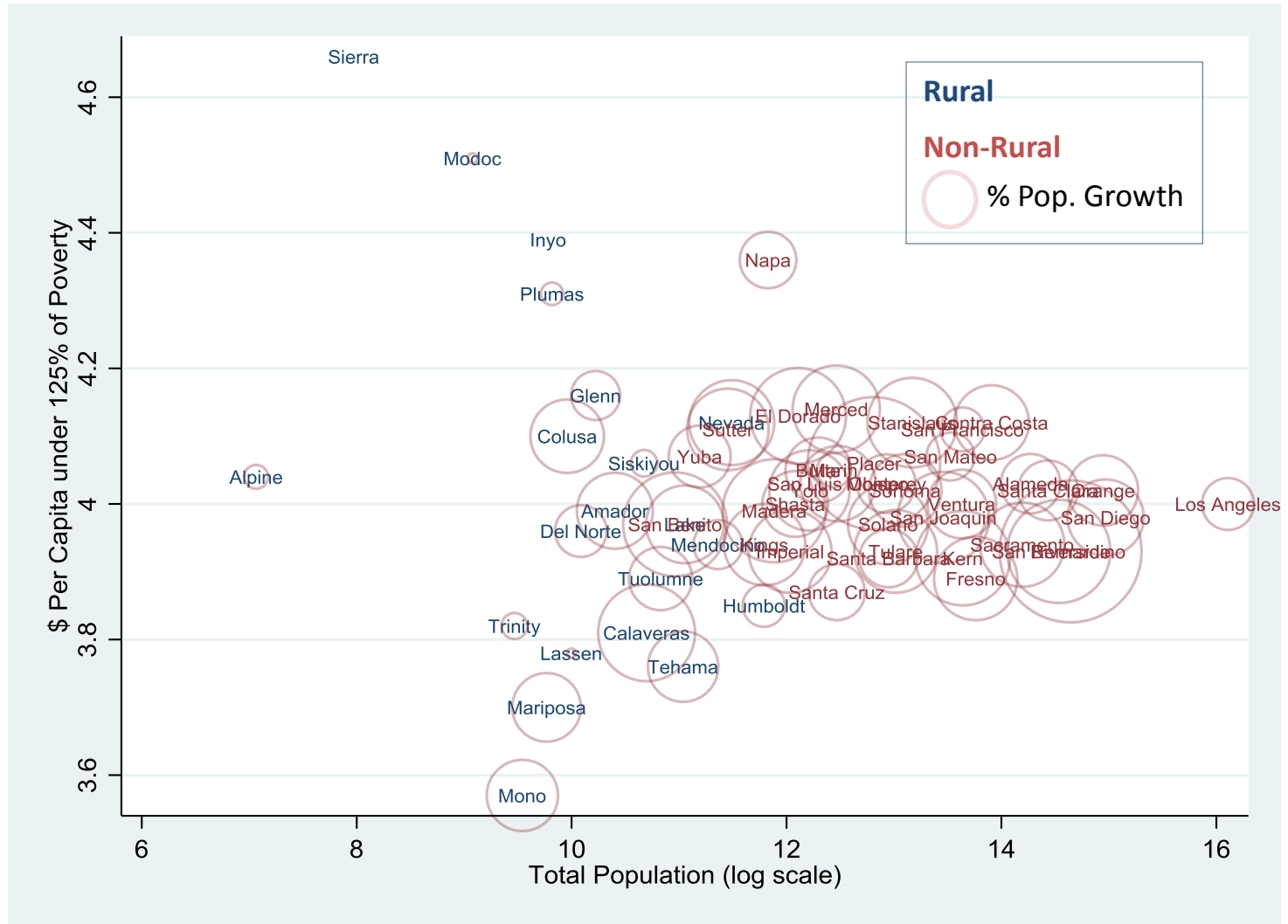


Population Growth – from 1980 to 2016





Population Size, Population Growth Rate, and \$ Allocation

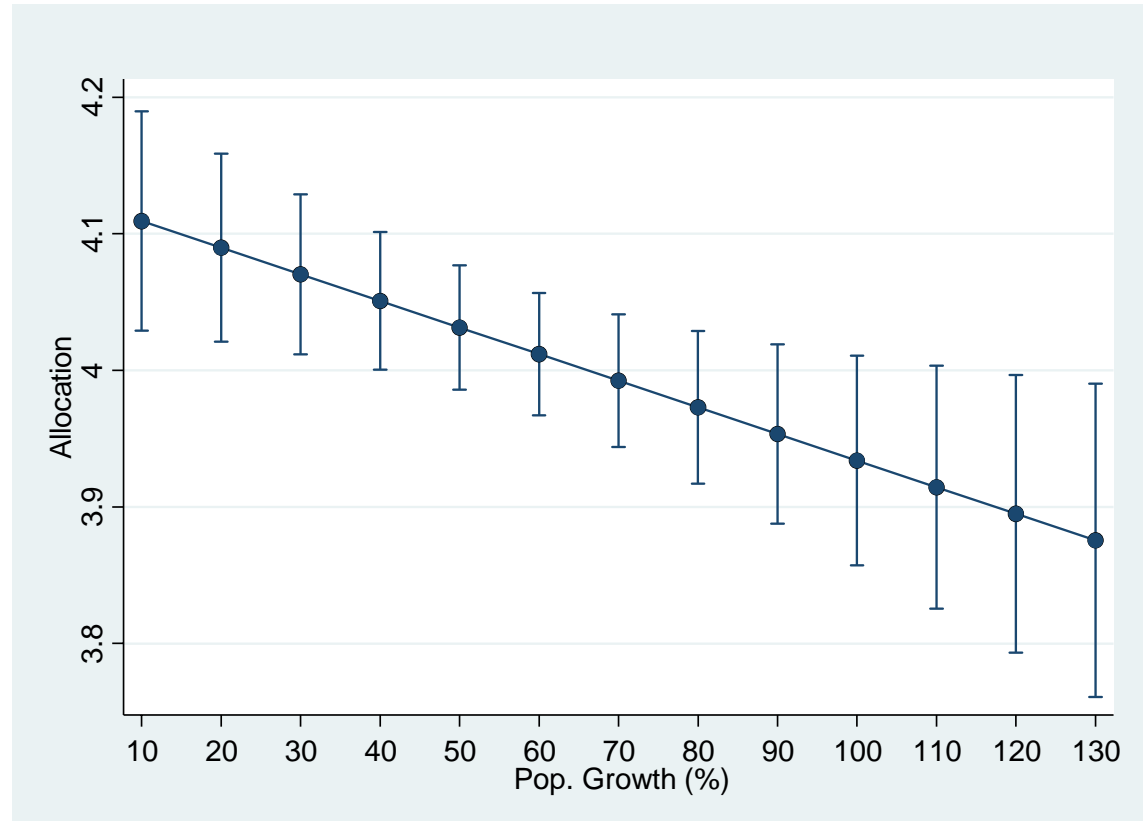


Note: Rural vs. non-rural counties based on designations in 2013 by the Office of Rural Health Policy, US Dept. of Health and Human Services. Population growth from 1980 to 2016.



Population Growth and Allocation Per Capita

- Higher population growth is associated with less funding per capita – as revealed in the downward slope.
- The impact is significant cumulatively over time, especially for rapid growth counties, such as Placer and Riverside that experienced more than 200% growth in population from 1980 to 2016.





Additional Correlates of Geographic Disparities

Factors found to be correlated with per capita allocation:

- Higher population growth → Lower \$ per capita
- Larger population size → Lower \$ per capita
- Rural counties → Lower \$ per capita*

Factors found to be not correlated with per capita allocation:

- Poverty rate
- Proportion of non-white population

* Disparity between rural and urban counties is revealed only after controlling for population size; i.e., allocation to rural counties are likely to be lower among counties with comparable population sizes.