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*Administrative Director,
Judicial Council*

November 1, 2016

Ms. Diane F. Boyer-Vine
Legislative Counsel
State Capitol, Room 3021
Sacramento, California 95814

Mr. Daniel Alvarez
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California 95814

Re: *The Need for New Judgeships in the Superior Courts: 2016 Update of the Judicial Needs Assessment* as required under Government Code section 69614(c)(1) & (3)

Dear Ms. Boyer-Vine, Mr. Alvarez, and Mr. Wilson:

Attached is the Judicial Council report required under Government Code section 69614(c)(1) and (3), which requires the Judicial Council to provide an update every two years on the need for new judgeships in the California superior courts and to report on the conversion of certain subordinate judicial officer (SJO) positions to judgeships.

The judicial branch has adopted a weighted caseload model based on filings type and volume to estimate the need for new judgeships—a methodology that is used by many other states and is codified in Government Code section 69614. Based on this methodology, California needs nearly 189 new judicial officers, as shown in Table 2 of the report. The public's right to timely access to justice is contingent on having adequate judicial resources in every jurisdiction. The number of judgeships authorized and funded by the Legislature has not kept pace with workload, leaving many courts with serious shortfalls—as high as

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more than 60 percent—between the number of judgeships needed compared to the number that have been authorized and filled.

As directed by Government Code section 69614(c)(3), this year's report also addresses the implementation of conversions of additional SJO positions (above the 16 authorized each year) that result in judges being posted to family or juvenile assignments previously held by SJOs (as authorized by Gov. Code, § 69615(c)(1)(C)). No additional conversions took place in this reporting period.

If you have any questions related to this report, please contact Robert Lowney, Acting Director, Judicial Council Court Operations Services, at 415-865-7833 or bob.lowney@jud.ca.gov.

Sincerely,



Martin Hoshino
Administrative Director
Judicial Council of California

MH/RL/pj
Attachment

cc: Shaun Naidu, Policy Consultant, Office of Senate President pro Tempore Kevin de León
Alf Brandt, Senior Counsel, Office of Speaker Anthony Rendon
Anita Lee, Senior Fiscal and Policy Analyst, Legislative Analyst's Office
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The Need for New Judgeships in the Superior Courts: 2016 Update of the Judicial Needs Assessment

REPORT TO THE LEGISLATURE UNDER
GOVERNMENT CODE SECTION
69614(C)(1) & (3)

NOVEMBER 2016



JUDICIAL COUNCIL
OF CALIFORNIA

WORKLOAD ASSESSMENT
ADVISORY COMMITTEE

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Access to Justice Requires Having Sufficient Judicial Resources

Government Code section 69614(c)(1) requires the Judicial Council to report to the Legislature and the Governor on or before November 1 of every even-numbered year on the need for new judgeships in each superior court, using the uniform criteria for the allocation of judgeships described in Government Code section 69614(b). Government Code section 69614(c)(3) requires the Judicial Council to report on the status of the conversion of additional subordinate judicial officer (SJO) positions to family or juvenile assignments.

The public's right to timely access to justice is contingent on having adequate judicial resources in every jurisdiction. The number of judgeships authorized and funded by the Legislature has not kept pace with workload, leaving many courts with serious shortfalls—as high as over 60 percent—between the number of judgeships needed and the number that have been authorized and filled.

Securing resources to meet the workload-based need for new judgeships has been a top priority for the Judicial Council for many years.

Quantifying the Need for New Judgeships in the Superior Courts

California is a pioneer in the measurement of judicial workload-based need, having been the first state to use a weighted caseload methodology to assess the need for judicial officers, beginning in 1963.¹ Since then, weighted caseload has become a nationally accepted methodology for measuring judicial workload. The current methodology used to assess the need for judicial officers in the superior courts is based on a time study conducted in 2010, in which over 500 judicial officers in 15 courts participated. The time study findings resulted in the development of a set of caseweights that quantify the amount of case processing time needed for different case types, taking into account the full range of possible case processing outcomes and their relative probability of occurrence. The caseweights that resulted from the 2010 time study were approved by the Judicial Council in December 2011.

The caseweights are used to estimate judicial officer need by multiplying each caseweight by a three-year rolling average of filings for that case type and dividing by the available time in minutes that judicial officers have to hear cases. The result is expressed in full-time equivalent judicial positions (FTEs).

It should be noted that despite the finding that California continues to have a critical need for judges, particularly in the Inland Empire which has shown a need for new judgeships for a sustained period of time, the figures in this report may not accurately represent the current degree of judicial need. Because the caseweights used in the current iteration of the judicial needs assessment are based on data collected in 2010, they may not reflect new judicial workload resulting from legislative and other policy changes that have occurred since then, including criminal justice realignment (AB 109), Proposition 47, implementation of the recommendations

¹ Henry O. Lawson and Barbara J. Gletne, *Workload Measures in the Court* (National Center for State Courts, 1980).

of the Elkins Family Law Task Force, the extension of foster care services to age 21 (AB 12/212), and the like. Such changes may also impact the practices of the court’s justice partners, which can, in turn, have unintended consequences for court workload. Although filings have been declining, the workload associated with some types of filings may have increased—due to, for example, the need to hold more hearings, more complex cases coming before the court (e.g., increasing mental health and substance abuse issues, larger numbers of defendants with multiple cases), or staff shortages causing some workload to fall on judicial officers. On the other hand, judicial workload in other areas not affected by such law and policy changes may have declined since 2010. The net impact of workload increases vs. decreases is unknown, and may vary by jurisdiction depending on each court’s unique mix of cases. An update to the judicial workload study, intended to capture the impact of the changes mentioned above, is planned for 2017 and updated caseweights will be used in the next iteration of this report in 2018.

2016 Statewide Judicial Need Shows a Critical Need for New Judgeships

Consistent with reports submitted in previous years, the 2016 Judicial Needs Assessment shows that there is a critical shortage of judges relative to the workload needs in California’s trial courts. Table 1 summarizes the statewide judicial need compared to available resources based on a three-year average of filings from fiscal years 2012–2013 through 2014–2015, showing that 2,048.6 FTE judicial officers are needed statewide, compared to 1,960.1 FTE authorized and funded positions. There are separate columns showing the number of authorized judicial positions and those that are both authorized and funded. While Assembly Bill 159 (Stats. 2007, ch. 722) authorized 50 new judgeships for the superior courts, those positions have neither been funded nor filled.

Table 1 shows the total assessed statewide need for judicial officers has declined by 122.7, or 6 percent, since the 2014 Judicial Needs Assessment. Lower overall filings counts in recent years account for the slight decline in statewide assessed judicial need.

Table 1: Statewide Need for Judicial Officers, 2014 and 2016 Judicial Needs Assessments

Year	Authorized Judicial Positions (AJP)²	Authorized and Funded Judgeships and Authorized SJO Positions	Assessed Judicial Need (AJN)
2014	2,013.2	1,963.2	2,171.3
2016³	2,010.1	1,960.1	2,048.6
Change (2014 to 2016)	-3.1	-3.1	-122.7

² Includes the 50 judgeships that were authorized by AB 159 (Stats. 2007, ch. 722) but never funded or filled.

³ AJP changed since the last assessment because the Superior Court of Contra Costa County applied for a reduction of 3.0 FTE SJOs in August 2016 and as a result of fractional changes in other courts.

Nearly 189 Judicial Officers Needed Statewide to Meet Workload Demand

Judicial need is calculated by taking the difference between the assessed judicial need in each court and the number of authorized/funded positions in each court. The assessed judicial need in each court compared to the number of authorized and filled positions is shown in Appendix A. Calculating the *statewide* need for judgeships is not as simple as subtracting the statewide number of authorized and funded positions from the statewide assessed judicial need; net statewide calculations of judicial need do not accurately identify the branch's need for new judgeships because judgeships are not allocated at the statewide level but are allocated to individual trial courts.

By way of illustration, the branch's smallest courts are statutorily provided with a minimum of two judgeships and are authorized to have at least 0.3 FTE of a federally funded child support commissioner, for a total of 2.3 FTE judicial officers. This statutory minimum applies even though the workload need in those courts may translate to a much smaller number of judge FTEs. As Appendix A shows, under a pure workload analysis, two of California's two-judge courts—Alpine and Sierra Counties—would need only 0.2 FTE judicial officers, but have 2.3 FTE authorized positions. These courts thus show a negative number in the need for new judicial officers. This negative number does not and should not offset the 47 judicial officers that Riverside County needs to meet its workload-based need. In other words, the fact that some courts may have more authorized positions than assessed judicial need under a pure application of the weighted caseload methodology does not take away from the needs in other courts. As a result, a net calculation of need, adding these positives and negatives, would provide an artificially low estimate of judicial need in California courts.

The actual statewide need for new judgeships is calculated by adding the judicial need among only the courts that have fewer judgeships than their workload demands. Based on the 2016 Judicial Needs Assessment, 31 courts need new judgeships, for a total need of 188.5 FTEs (Table 2). The need estimate does not include judicial vacancies resulting from retirements, elevations, or other changes that have not yet been filled.⁴

⁴ Judicial vacancies are reported monthly at <http://www.courts.ca.gov/15893.htm>

Table 2: Need for New Judgeships, by Court

	A	B	C	D
County	Authorized and Funded Judicial Positions ¹	2016 Assessed Judicial Need	AJP-AJN (B-A)	% need over AJP (C/A)
Amador	2.3	2.8	0.5	22%
Butte	13.0	14.6	1.6	12%
Calaveras	2.3	2.7	0.4	19%
Del Norte	2.8	3.0	0.2	7%
El Dorado	9.0	9.1	0.1	1%
Fresno	49.0	61.8	12.8	26%
Humboldt	8.0	10.4	2.4	30%
Imperial	11.3	12.9	1.6	14%
Kern	43.0	56.8	13.8	32%
Kings	8.6	11.7	3.1	36%
Lake	4.7	5.5	0.8	16%
Lassen	2.3	2.6	0.3	13%
Madera	9.3	10.3	1.0	11%
Merced	12.0	15.0	3.0	25%
Napa	8.0	8.0	0.05	1%
Placer	14.5	19.2	4.7	33%
Riverside	76.0	122.8	46.8	62%
Sacramento	72.5	82.9	10.4	14%
San Benito	2.3	2.6	0.3	12%
San Bernardino	86.0	134.1	48.1	56%
San Joaquin	33.5	42.2	8.7	26%
San Luis Obispo	15.0	16.9	1.9	13%
Santa Cruz	13.5	13.6	0.1	0%
Shasta	12.0	16.7	4.7	39%
Sonoma	23.0	23.8	0.8	3%
Stanislaus	24.0	31.5	7.5	31%
Sutter	5.3	6.8	1.5	28%
Tehama	4.3	5.8	1.5	34%
Tulare	23.0	27.5	4.5	19%
Ventura	33.0	38.0	5.0	15%
Yuba	5.3	5.9	0.5	10%
Total need:			188.5	

¹ Authorized judicial positions, not including judgeships that were authorized under AB 159.

Status of Conversion of Additional SJO Positions to Family and Juvenile Assignments

As directed by Government Code section 69614(c)(3), this report also addresses the implementation of conversions of additional SJO positions (above the 16 authorized per year) that result in judges being posted to family or juvenile assignments previously held by SJOs.⁵

Conversions of additional positions were authorized for fiscal year 2011–2012 (Gov. Code, § 69616), and under this authority four SJO positions were converted to judgeships—one each in

⁵ As authorized by Gov. Code, § 69615(c)(1)(C).

the superior courts of Alameda (June 2012), Los Angeles (January 2012), Orange (January 2012), and Sacramento (March 2012) Counties. The courts that converted those positions have confirmed that those family and juvenile calendars are now presided over by judges.

Conversions of 10 additional positions were authorized for fiscal years 2013–2014 (Gov. Code, § 69617), 2014–2015 (Gov. Code, § 69618), and 2015–2016 (Gov. Code, § 69619), but no additional SJO positions above the 16 authorized per year have been converted under this authority.

Lack of Adequate Judicial Resources Is a Barrier to Access to Justice

The public’s right to timely access to justice should not be contingent on the resource levels in the county in which they reside or bring their legal disputes. All Californians deserve to have the proper number of judicial officers for the workload in their jurisdiction. This report highlights the critical and ongoing need for new judgeships in the superior courts.

Appendix A: Assessed Judicial Need Compared to Authorized Positions

County	A Authorized and funded Judicial Positions ¹	B 2016 Assessed Judicial Need	C AJN-AJP (B-A)	D % need over AJP (C/A)
Alameda	85.0	67.7	-17.3	n/a
Alpine	2.3	0.2	-2.1	n/a
Amador	2.3	2.8	0.5	22%
Butte	13.0	14.6	1.6	12%
Calaveras	2.3	2.7	0.4	19%
Colusa	2.3	1.6	-0.7	n/a
Contra Costa	43.0	40.9	-2.1	n/a
Del Norte	2.8	3.0	0.2	7%
El Dorado	9.0	9.1	0.1	1%
Fresno	49.0	61.8	12.8	26%
Glenn	2.3	1.6	-0.7	n/a
Humboldt	8.0	10.4	2.4	30%
Imperial	11.3	12.9	1.6	14%
Inyo	2.3	1.5	-0.8	n/a
Kern	43.0	56.8	13.8	32%
Kings	8.6	11.7	3.1	36%
Lake	4.7	5.5	0.8	16%
Lassen	2.3	2.6	0.3	13%
Los Angeles	585.3	573.3	-12.0	n/a
Madera	9.3	10.3	1.0	11%
Marin	12.7	10.6	-2.1	n/a
Mariposa	2.3	1.0	-1.3	n/a
Mendocino	8.4	7.5	-0.9	n/a
Merced	12.0	15.0	3.0	25%
Modoc	2.3	0.9	-1.4	n/a
Mono	2.3	1.0	-1.3	n/a
Monterey	21.2	20.5	-0.7	n/a
Napa	8.0	8.0	0.0	1%
Nevada	7.6	4.9	-2.7	n/a
Orange	144.0	144.0	0.0	n/a
Placer	14.5	19.2	4.7	33%
Plumas	2.3	1.2	-1.1	n/a
Riverside	76.0	122.8	46.8	62%
Sacramento	72.5	82.9	10.4	14%
San Benito	2.3	2.6	0.3	12%
San Bernardino	86.0	134.1	48.1	56%
San Diego	154.0	142.9	-11.1	n/a
San Francisco	55.9	48.4	-7.5	n/a
San Joaquin	33.5	42.2	8.7	26%
San Luis Obispo	15.0	16.9	1.9	13%
San Mateo	33.0	29.1	-3.9	n/a
Santa Barbara	24.0	22.4	-1.6	n/a
Santa Clara	89.0	66.9	-22.1	n/a
Santa Cruz	13.5	13.6	0.1	0%
Shasta	12.0	16.7	4.7	39%
Sierra	2.3	0.2	-2.1	n/a
Siskiyou	5.0	3.2	-1.8	n/a
Solano	23.0	22.6	-0.4	n/a
Sonoma	23.0	23.8	0.8	3%
Stanislaus	24.0	31.5	7.5	31%
Sutter	5.3	6.8	1.5	28%
Tehama	4.3	5.8	1.5	34%
Trinity	2.3	1.5	-0.8	n/a
Tulare	23.0	27.5	4.5	19%
Tuolumne	4.8	4.5	-0.2	n/a
Ventura	33.0	38.0	5.0	15%
Yolo	12.4	11.0	-1.4	n/a
Yuba	5.3	5.9	0.5	10%

¹ Authorized judicial positions include both judgeships and subordinate judicial officer positions. Authorized judgeships consist of those codified in Gov. Code, §§ 69580–69611 plus the 50 judgeships that were authorized and funded with SB 56 (Stats. 2006, ch. 390), but not the 50 judgeships that were authorized with AB 159 but never funded.

Please address inquiries to:

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