

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

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SUBJECT: A New Process for Assessing Judicial Needs in California (Action Required)

Issue Statement

The Research and Planning Unit of the Administrative Office of the Courts was directed to develop a new method for determining judicial needs in California to replace the “peer review” process used over the past ten years that relied on the needs assessments by the members of the Court Profiles Advisory Committee. This “peer review” process was intended to be an interim one until a more objective and effective method for determining judgeship needs could be developed to replace the weighted caseload methodology used from 1966 to 1990.

The Research and Planning Unit in consultation with the National Center for State Courts (NCSC) has recently completed the California Judicial Needs Assessment Project, and in doing so has developed a new method for determining judicial needs in California. Through the participation of 11 project courts, four courts in Phase I of the project and seven courts in Phase II, this new method has established a set of judicial workload standards for 22 specific case types that can be used to assess the statewide need for additional judges on an annual basis based on filings data. AOC staff with input from representatives of the 11 project courts also developed a preliminary strategy for implementing these judicial workload standards as part of an annual judicial needs assessment process, and a plan to periodically review and update the standards to ensure that they continue to accurately represent judicial workload.

The information contained in this report is based in large part on a draft version of an extensive report on the California Judicial Needs Assessment Project prepared by the NCSC. Copies of the final report on the California Judicial Needs

Assessment Project will be distributed to each member of the Judicial Council at the August 2001 Judicial Council meeting.

Recommendation

AOC Research and Planning staff recommends that the Judicial Council:

1. Approve the final set of judicial workload standards developed from the California Judicial Needs Assessment Project;
2. Direct AOC staff to conduct a statewide assessment of judicial needs using these workload standards, and present the following at the October 2001 Judicial Council meeting:
 - A. Recommendations for an initial 3-year plan and subsequent 2-year plans for obtaining additional judgeships needed statewide as implied by the judicial workload standards;
 - B. Recommendations for ranking courts showing a need for additional judicial resources in order to develop a list of new judgeships for which the Judicial Council will seek funding for in the current year, allowing for review by the trial courts; and
 - C. Recommendations for a process to reassess judicial needs on an annual basis.
3. Direct the Executive Office of the AOC to notify the Department of Finance of the Judicial Council's intent to submit a request for new judgeships effective January 2003; and
4. Direct AOC staff to develop a process to periodically review and update the judicial workload standards so that they continue to accurately represent judicial workload.

Rationale for Recommendations

Recommendation 1

A clear measure of court workload is central to determining how many judges and judicial officers are needed to resolve all cases coming before the court. State court caseloads vary in complexity, and different types of cases require different amounts of time and attention from judicial officers. While case filings have a role in determining the demands placed on our state judicial systems, they are silent about the judicial resources needed to effectively process this vast array of cases. That is, raw, unadjusted case filing numbers offer only minimal guidance

as to the amount of judicial work generated by those case filings. Moreover, the inability to differentiate the work associated with each case type creates the potential for the misperception that equal numbers of cases filed for two different case types result in equivalent workloads. For this reason, we believe that a comprehensive program of judicial workload assessment is the best method for measuring case complexity and determining the need for judges.

- The Research and Planning Unit contracted with the NCSC to help measure the workload in the California courts and to recommend a reasonable set of workload standards that would allow judges the necessary time to resolve disputes in a quality fashion.
- The goal of this study, the California Judicial Needs Assessment Project, was to accurately determine the amount of time required by judges to resolve different types of cases in an efficient and effective manner.
- The NCSC has used the methodology in this study in conducting judicial workload assessments with over 10 states over the past several years.
- This methodology continues to be adopted by an increasing number of other states to determine the need for judges and other resources.
- Workload standards were developed for each of the 22 types of cases examined (e.g., probate, juvenile dependency, motor vehicle tort).
- The workload standards represent the average bench and non-bench time (in minutes) required to resolve each case type (from filing through disposition and any post-judgment activity).
- The number of raw case filings is combined with the workload standards (time required to handle cases) to arrive at workload.
- Total workload entering a particular court is then divided by the “standard” amount of time each judge has available to complete case-related work per year.
- This calculation provides an estimate of the number of judges needed to resolve the number of cases filed.
- This approach is designed to be straightforward and easy to understand, make extensive use of existing data sources, minimize the impact on the judiciary and the need for original data collection, produce a measure of judicial workload that is clear, grounded in experience and easy to update, and include the participation of judicial officers and court managers across the state.

California Judicial Needs Assessment Project

Staff from the Research and Planning Unit and the NCSC approached this project in nine stages:

1. Establish an advisory committee, the Workload Assessment Policy Committee (WAPC), of judges, judicial officers, and court administrators to oversee and guide all aspects of the study design, implementation, and interpretation.
2. Obtain the cooperation of four counties—Butte, San Mateo, Sacramento, and Los Angeles—to participate in the full study (called Phase I).
3. Conduct a comprehensive orientation workshop for the Workload Assessment Policy Committee on the Delphi and time study methodology and validation techniques for assessing judicial workload, including: (a) the roles and responsibilities of participating California judges; (b) benefits and shortcomings of the Delphi and time study methodologies; and (c) identification and resolution of preliminary issues related to the project plan.
4. Host a two-day Delphi decision-making exercise to obtain subjective judicial estimates of case-related workload. Participants included the members of WAPC augmented by additional members from the four Phase I courts.
5. Conduct a two-month time study that measured objectively the workload (distinguishing between substantive areas of law and key procedural events) of a representative sample of judges and judicial officers from the four Phase I courts.
6. Design three “quality of justice” survey instruments that were completed by a large number of participants in each of the four Phase I courts. Project staff analyzed all survey results and reported the findings to court staff in separate site visits to the four Phase I courts.
7. Conclude Phase I with a final meeting of WAPC designed to review and adopt a set of reasonable workload standards based on a review of the time study, Delphi, and quality of justice results.
8. Validate the Phase I results during Phase II of the project with seven additional counties—Del Norte, Merced, Orange, San Bernardino, Santa Clara, Sutter, and Ventura.
9. Convene a meeting of representatives from both Phase I and Phase II

in July 2001 to recommend a final set of workload standards that will serve as the foundation for use by the California Judicial Council in assessing judicial workload and the allocation of judges in California.

In sum, the process provided continuous and intensive involvement of a wide range of courts in the development, validation, and implementation of the judicial workload standards, which will serve as the foundation for a new judicial needs assessment process in California.

Final set of workload standards

The final set of judicial workload standards are shown in Exhibit 1 on the following page. The workload standards are grounded in current practices (as measured by the time study) and adjusted for quality of justice through a rigorous Delphi decision-making process. These workload standards were approved by WAPC and representatives from the Phase II courts at the final project meeting in July.

- As a reminder, the workload standards represent the average bench and non-bench time (in minutes) required to resolve each case type (from filing through disposition and any post-judgment activity).
- For example, a typical Probate case (line 1 in the chart below) requires an average of 52 minutes of judicial officer time from filing to resolution, including post judgment activity.
- It should be noted that workload standards were developed for the different types of felony cases (Homicide, Crimes Against Persons, Property Crimes, Drug Offenses, and Other Felonies) that JBSIS will capture, even though Exhibit 1 only lists an overall felony workload standard.
- At this time, we can only use an overall felony workload standard since courts currently report filings for all felonies in aggregate.
- However, when courts begin reporting their felony caseload according to JBSIS, we will be able to use these individual felony workload standards, which will only increase our accuracy in estimating court workload and subsequently judicial need.

Exhibit 1: Recommended Workload Standards (minutes)

<u>Case Type</u>	<u>Workload Standard</u>
Probate	52
Family (divorce and dissolution)	84
Juv. Dependency	224
Juv. Delinquency	60
Mental Health	148
Other Civil Petition	70
Motor Vehicle Torts	79
Oth. Personal Injury Torts	390
Other Civil Complaints	70
Appeals from Lower Courts	95
Criminal Habeas Corpus	37
Other Civil (<\$25k)	21
Unlawful Detainer	16
Small Claims	15
Felony	197
Class A & C Misdemeanor	43
Class B & D Misdemeanor	5
Infractions	1.06

Workload assessment is essentially a study of supply and demand. How does the workload demand generated by different types of cases compare to the supply of judge time available to do the work? Three fundamental pieces of information are needed to answer this question: 1) case filings; 2) the judge year value; and 3) individual case workload standards.

1. Filings data was collected and compiled by the AOC for all 58 counties. FY 1999-2000 filing data was used to determine filings for the different case types.
2. The case-related judge year value is an estimate of the average amount of time a judge has available each year to process his or her workload. This value is reached after careful consideration of the typical number of days per year and hours per day that a judge should be available for case related work.

First, WAPC determined that judges have available, on average, 215 days per year for case resolution, which was reached by removing weekends and applying a standard deduction for vacation, sick leave, and participation in judicial conference and education programs from the calendar year. California's choice of a 215-day judge year places the state at the average point of the 25 states that have established an "official judge year."

Second, a distinction is made between case related and non-case related work during the eight-hour workday (nine hours less an hour for lunch). Like other states, California judicial officers are assumed to spend an average of six hours a day on case specific responsibilities and two hours per day on non-case related administration, community activities, travel, etc.

These standards (215 days per year and 8 hours per day) result in a total work year of 103,200 minutes, which breaks down into a case-related judge year value of 77,400 minutes (215 days, 6 hours per day) and a non-case-related judge year value of 25,800 minutes (215 days, 2 hours per day). The case-related judge year value of 77,400 minutes establishes a standard for each judicial officer in California that is above the national norm, but within the range of other states' case-related judge year value.

3. Individual case workload standards, shown above in Exhibit 1, represent the average amount of time sufficient for judges to resolve each type of case in an efficient and effective manner.

The number of judges needed to process a particular type of case in a reasonable way is derived by combining information on the number of case filings, the specific workload standard, and the judge year value. For example, assume there were 14,880 probate cases filed in California. Judge need is determined by applying the probate workload standard to the filing total ($52 \times 14,880$) and dividing by the case-related judge year standard (77,400 minutes per year). The calculation $((52 \times 14,880)/77,400) = 10$ judges) shows that 10 judicial officers are needed to resolve 14,880 probate cases.

Each workload standard is constructed by compiling information on three distinct case event categories: pretrial time, trial time, and post-trial time. It is possible to assess the validity and reasonableness of each workload standard by examining this event-level information. Exhibit 2 on the following page, for example, shows how the probate workload standard is broken into these various categories of work. Similar tables for the remaining case types are shown in the full report prepared by the NCSC.

- The typical probate case takes 52 minutes of judge time, from filing through disposition and any post-judgment activity.
- This can be broken down as follows:
 - Pre-trial work takes 41 minutes and happens in 100% of the cases.
 - Trials take 110 minutes, but they only occur in 8% of the cases.
 - Finally, post-judgment work takes 30 minutes, on average, and occurs in 7% of the cases.
 - The overall workload standard of 52 minutes is a “weighted average” of the separate event time and event occurrence measures. That is, $((41 \times 1.00) + (110 \times .08) + (30 \times .07)) = 52$ minutes.
- Information on the occurrence rate for the three case event categories (pretrial events, trial events, and post-trial events) was obtained from disposition data reported to the AOC by the trial courts, and represents a statewide average.
- These values were reviewed by WAPC and by representatives from the Phase II courts, who made some adjustments to current practice to reflect quality of justice issues.

Exhibit 2: Probate Workload Standard--Pre-trial, Trial and Post Trial Work (minutes)

<u>Event</u>	<u>Probate</u>
Occurrence rate	
Pre-trial	100%
Trial	8%
Post	7%
Time in minutes	
Pre-trial	41
Trial	110
Post	30
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Judge Day	
(case-related hours)	6.0
Judge Year	
(days)	215
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Workload Standard	
(minutes)	52

This same procedure can be followed using the workload standards for each of the other case types to arrive at the total judicial need for each court. The intent is not to dictate to a court how judicial assignments should be made, but to measure the overall workload of a court. Within that workload, courts would continue to find the best practices for calendar management and assignments according to their local needs.

Implications for statewide judicial need

The implications of the final set of workload standards on the statewide need for judicial officers can be seen in Exhibit 3 on the following page. This exhibit compares current resource levels with the need implied by the final workload standards. The column labeled “Time Study (adjusted)” represents the NCSC’s best estimate, based on the time study, of how the current complement of California judicial officers is deployed. The column labeled “Final” shows the final workload standards and overall judge need based on these final standards.

- Overall, the final adjustment suggests the statewide need for 2,254 judicial officers to resolve cases in an efficient and effective manner.
- This represents an increase of 13% from the current number of judicial positions used statewide (as measured by Judicial Position Equivalent, or JPE) and 17% from the current number of authorized judicial officers (as measured by Authorized Judicial Positions, or AJP).
- As can be seen, the final workload standards represent an 8% increase in Family, 24% in Civil, and 11% in Criminal over the time study standards.
- These results suggest that California requires across-the-board marginal adjustments to achieve a level of judicial resources necessary to serve the public in a quality manner, and provide equal access to justice throughout the state.

Exhibit 3: Implications for Statewide Judicial Need

<u>Case Type</u>	<u>1999/2000 Filings</u>	<u>Time Study (Adjusted)</u>		<u>FINAL</u>	
		<u>Workload Standard</u>	<u>Implied Statewide Judge Need</u>	<u>Workload Standard</u>	<u>Implied Statewide Judge Need</u>
Probate	50,750	47	31	52	34
Family (divorce and dissolution)	156,078	84	170	84	169
Juv. Dependency	40,672	128	67	224	118
Juv. Delinquency	93,649	50	60	60	73
Mental Health	7,671	285	28	148	15
Other Civil Petition	327,337	70	296	70	296
Sub-Total, Family Case Types			653		704
Motor Vehicle Torts	45,782	62	37	79	47
Oth. Personal Injury Torts	25,359	351	115	390	128
Other Civil Complaints	129,557	70	117	70	117
Appeals from Lower Courts	14,562	69	13	95	18
Criminal Habeas Corpus	5,509	10	1	37	3
Other Civil (<\$25k)	272,083	14	48	21	74
Unlawful Detainer	198,685	9	24	16	41
Small Claims	320,650	10	39	15	62
Sub-Total, Civil Case Types			394		489
Felony	238,685	174	535	197	608
Class A & C Misdemeanor	609,611	36	286	43	339
Class B & D Misdemeanor	624,053	4	33	5	40
Infractions	5,373,713	1.40	97	1.06	74
Sub-Total, Criminal Case Types			953		1,060
Total	8,534,406		2,000		2,254
	Actual JPE (FY 1999-00)		1,996		

Recommendation 2

Upon approval of the judicial workload standards by the Judicial Council, staff will conduct an assessment of judicial needs that will provide an estimate of the number of judicial officers needed in every county and the state as a whole. It is important to remember that even the most widely used and accepted resource assessment techniques, including the judicial workload assessment, will not objectively determine the exact number of judges needed to stay current with caseloads. Instead, these judicial workload standards provide a presumptive measure of judicial need, which offer a benchmark for comparison among judicial districts.

It is possible that scarce fiscal resources will prohibit obtaining the number of additional judges that the workload standards indicate are necessary, especially if the number of additional judges needed is significant.

- Staff recommends that the Judicial Council implement an incremental approach for requesting additional judgeships over time, which would be synchronized with the two-year legislative cycle for purposes of continuity.
- Because we are already one-year into the current legislative cycle, we recommend an initial 3-year plan for obtaining additional judgeships followed by subsequent 2-year plans.
- This strategy will allow the AOC to reassess the need for judgeships in subsequent years to account for changes in judicial workload in the courts.
- Staff will rank the courts that show a need for additional judicial officers using the method recommended by the NCSC as the most effective way to allocate judges across different jurisdictions.
- Based on feedback from the trial courts and input from the Executive Office and the Finance Department of the AOC, staff will present a prioritized list of new judgeships for FY 2002-03 at the October 2001 Judicial Council meeting.
- This incremental approach for addressing the need for additional judgeships has been successfully used in other states as part of their judicial needs assessment process.

Annual Judicial Needs Assessment Process

The following bullets provide a brief description of each step of our recommended annual process for reassessing the need for additional judicial officers. A final recommendation will be developed and presented at the October 2001 Judicial Council meeting following additional consultation with the trial courts.

- *Review current filings data:* AOC staff will review current filings data to ensure that they are a valid and accurate representation of a court's caseload.
- *Determination of statewide judicial need:* The judicial workload standards will be applied to the adjusted filings data, which will provide an estimate of the total number of judges necessary to handle the workload of the courts.
- *Develop prioritized list for current year:* Courts showing a need for additional judicial resources will be ranked based on their priority in order to develop a preliminary list of new judgeships for the current year. This will ensure that additional judicial officers will be allocated to those courts where the greatest impact will be felt.

- *Send results to courts and provide opportunity to comment:* Staff will provide the courts a summary of the current assessment of statewide judicial need, as well as the prioritized list described above. This will allow the courts to verify the accuracy of the filings numbers used in the methodology, and provide any feedback that could affect their placement on the prioritized list for the current year. Because of time constraints, this process for the current year will be limited but will be expanded and refined in future years.
- *Review comments and develop final list of new judgeships for JC approval:* Staff will review the courts' feedback and revise the preliminary list, as necessary. This final list of new judgeships for the current year will be presented to the Judicial Council for their approval.

Recommendation 3

The results from the current judicial needs assessment including the prioritized list of new judgeships for FY 2002-03 will not be completed in time to meet the September deadline for submitting the budget to the Department of Finance. In order to ensure that these additional judgeships are considered in the FY 2002-03 budget process, we recommend that the Executive Office of the AOC notify the Department of Finance of the Judicial Council's intent to submit a request for new judgeships effective January 2003.

Recommendation 4

California needs a process to periodically review and update the judicial workload standards so that they continue to accurately represent judicial workload. Over time, these workload standards will be influenced by complex and dynamic factors, including changes in legislation, new court rules and procedures, changes in caseflow management, and administrative factors.

For these workload standards to remain reliable and accurate over time, we recommend the following:

1. Periodic review of factors impacting workload standards for specific types of cases

We recommend that a working group be convened within the next six months, and meet on an annual basis to review the impact of new legislation or other contextual factors on the judicial workload standards. This review process will serve to identify areas in which specific research may be needed to quantify the impact of new laws, policy, or court procedures on the standards for specific types of cases. Since this process will target for review only those standards that might be affected by recent changes, it will be much more efficient and cost effective than updating the

entire set of workload standards where it is likely that many of the standards will remain unchanged.

2. Systematic update of entire set of workload standards

We also recommend that that AOC conduct a systematic update of the entire set of workload standards every 5-7 years, depending on the judgment of the working group. This will be achieved using a representative sample of judicial officers across the state to recommend revisions to the standards to reflect changes in legislation, new court rules and procedures, changes in caseload management, and administrative factors.

Alternative Actions Considered

AOC staff considered alternative approaches to replace the “peer review” process used by the members of the Court Profiles Advisory Committee. To assist in the development of a new process, R&P staff consulted with NewPoint Group Management Consultants who were initially retained to assess the computer simulation approach for evaluating judicial needs. NewPoint Group determined that the simulation approach could not be successfully implemented on a statewide basis because organizational, technical and validation factors were not present to enable a successful project outcome.

In addition, National Center for State Courts (NCSC) staff was invited to visit the AOC to provide a briefing on developments in judicial needs assessment conducted by the NCSC in other states and to comment on work underway in the California AOC. Based in part on the recommendations of the NewPoint Group and the NCSC, Research and Planning staff is confident that the judicial workload assessment strategy used to develop the judicial workload standards is the best method for determining the need for judges in California.

Comments From Interested Parties

Beyond the input and participation of the 11 project courts, no additional comments were requested.

Implementation Requirements and Costs

The short-term cost of implementing these recommendations is minimal. In the long term, there will be small costs associated with convening the working group to periodically review and update the judicial workload standards so that they continue to accurately represent judicial workload. This cost, however, will not differ significantly from the administrative cost for the “peer review” process used by the Court Profiles Advisory Committee.