



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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March 22, 2010

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

Mr. Gregory P. Schmidt
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: Report on Judicial Administration Standards and Measures as Required by Government
Code Section 77001.5

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

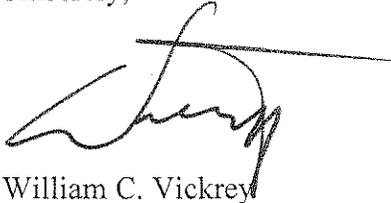
As required by Government Code section 77001.5, enclosed is the Judicial Council's report to the Legislature on judicial administration standards and measures that promote the fair and efficient administration of justice. This is the second of the annual reports to be submitted under this code section and reports on two major milestones since the first report was submitted: (1) the judicial and staff workload models update; and (2) the formation of the SB 56 Working Group to

Ms. Diane F. Boyer-Vine
Mr. Gregory P. Schmidt
Mr. E. Dotson Wilson
March 22, 2010
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advise the Administrative Office of the Courts (AOC) on the development and monitoring of trial court performance measures to be considered by the Judicial Council.

If you have any questions related to this report, please contact Leah Rose-Goodwin, Senior Research Analyst, AOC Office of Court Research, at 415-865-7708 or leah.rose-goodwin@jud.ca.gov.

Sincerely,



William C. Vickrey
Administrative Director of the Courts

WCV/LRG

Enclosures

cc: Members of the Judicial Council
Ronald G. Overholt, AOC Chief Deputy Director
Saskia I. Kim, Chief Counsel, Senate Judiciary Committee
Michael L. Petersen, Counsel, Senate Republican Office of Policy
Drew Liebert, Chief Counsel, Assembly Judiciary Committee
Mark Redmond, Counsel, Assembly Republican Office of Policy
Curtis L. Child, Director, AOC Office of Governmental Affairs
Kenneth Kann, Director, AOC Executive Office Programs Division
Judicial Administration Library



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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Director, Executive Office Programs Division

March 22, 2010

Title of Report: Judicial Administration Standards and Measures Promoting the Fair and Efficient Administration of Justice

Statutory Citation: Government Code section 77001.5

Date of Report: March 22, 2010

The Administrative Office of the Courts has submitted a report to the Legislature in accordance with Government Code section 77001.5. The following summary of the report is provided under the requirements of Government Code section 9795.

Government Code Section 77001.5 (Sen. Bill 56 [Dunn]; Stats. 2006, ch. 390) requires that the Judicial Council adopt and report on “judicial administration standards and measures that promote the fair and efficient administration of justice, including, but not limited to, the following: (1) providing equal access to courts and respectful treatment for all court participants; (2) case processing, including the efficient use of judicial resources; and (3) general court administration.” (Gov. Code § 77001.5.)

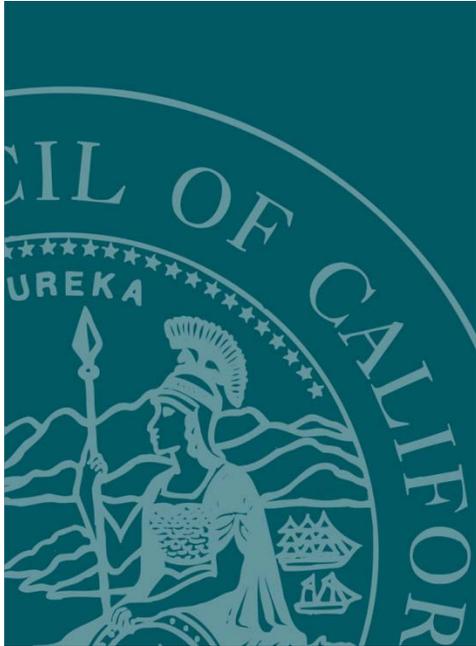
The report provides an overview of the work that is currently being done to update the judicial and staff workload studies to create more prescriptive models, specifically:

- The interconnection between workload and performance and the need to link the judicial and staff workload models to performance levels;
- A discussion of “service level” performance and the need to capture more detailed data related to case processing;
- A discussion of a new methodology that the Office of Court Research is piloting to capture the detail related to case processing needed to evaluate “service level” performance;
- The formation and role of the SB 56 Working Group in providing input and support for these efforts.

The full report can be accessed on the following Web site:

www.courtinfo.ca.gov/reference/legislaturereports.htm

A printed copy of the report may be obtained by calling 415-865-7530. For more information on this report, please contact Leah Rose-Goodwin at 415-865-7708 or leah.rose-goodwin@jud.ca.gov.



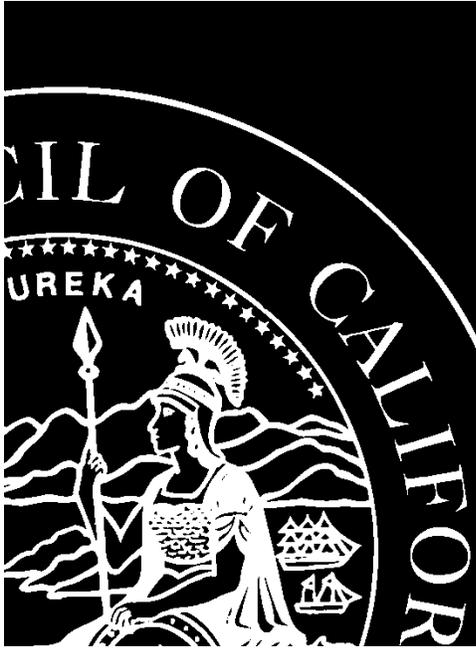
Judicial Administration
Standards and Measures
Promoting the Fair and
Efficient Administration
of Justice

ANNUAL REPORT TO THE CALIFORNIA
LEGISLATURE AS REQUIRED BY
GOVERNMENT CODE SECTION 77001.5



ADMINISTRATIVE OFFICE
OF THE COURTS

OFFICE OF COURT RESEARCH



Judicial Administration
Standards and Measures
Promoting the Fair and
Efficient Administration
of Justice

ANNUAL REPORT TO THE CALIFORNIA
LEGISLATURE AS REQUIRED BY
GOVERNMENT CODE SECTION 77001.5

MARCH 22, 2010



ADMINISTRATIVE OFFICE
OF THE COURTS

OFFICE OF COURT RESEARCH

This report has been prepared and submitted to the California Legislature as required by Government Code section 77001.5.

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2009-2010**

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**ADMINISTRATIVE OFFICE OF THE
COURTS**

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Administrative Director of the Courts
and Secretary of the Judicial Council

**Judicial Council of California
Administrative Office of the Courts**

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Annual Report on Judicial Administration Standards and Measures Promoting the Fair and Efficient Administration of Justice

Government Code section 77001.5 (Sen. Bill 56 [Dunn]; Stats. 2006, ch. 390) requires the Judicial Council to adopt and annually report on “judicial administration standards and measures that promote the fair and efficient administration of justice, including, but not limited to, the following subjects: (1) providing equal access to courts and respectful treatment for all court participants; (2) case processing, including the efficient use of judicial resources; and (3) general court administration.”

The first of the annual reports under section 77001.5 was submitted in May 2009. That report established the analytic framework for developing and reporting on standards and measures adopted by the Judicial Council, documenting major milestones in the development of branch infrastructure, and adopting programs and policies that advance the fair and efficient administration of justice. Because so little time has elapsed since that report was submitted, the present report focuses on only two milestones achieved since May 2009: (1) the initiation of a project to update the judicial and staff workload models to incorporate standards and measures for improving trial court efficiency and effectiveness; and (2) the formation of the SB 56 Working Group to recommend and advise the Administrative Office of the Courts (AOC) on trial court performance measures to be considered by the Judicial Council.

While this report will not update all the data and metrics submitted in the May 2009 report, figure 2 from the first report (Decline in Number of Underfunded Courts FY 2004–2005 to FY 2007–2008) has been updated and is included in this report to show how the relative funding of the trial courts has shifted since the Resource Allocation Study model was first approved in fiscal year 2004–2005.

Workload Models Revision

As enshrined in article VI of the state Constitution, improving the administration of justice is one of the key functions and goals of the Judicial Council. Since the advent of state funding of the trial courts, the Judicial Council has adopted standards and measures that allow for the equitable allocation of resources across courts and prioritize the allocation of those resources.

Two essential tools approved by the Judicial Council for these purposes are the Judicial Workload Assessment and the Resource Allocation Study (RAS) model. The Judicial Workload Assessment was approved by the council in 2001 and incorporated into statute

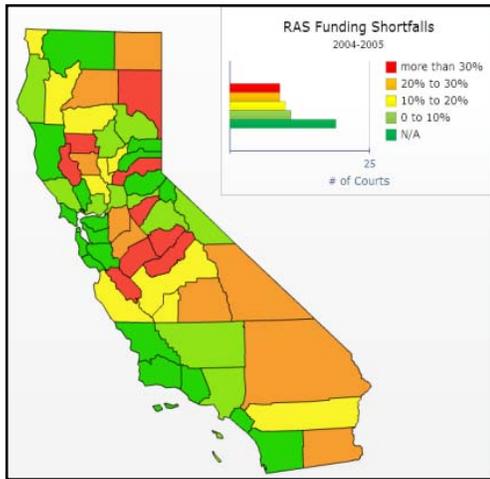
(Gov. Code § 69614). Since 2006, the Legislature has authorized 100 new judgeships¹ using the judicial workload model to estimate the number of new judgeships needed by the courts and to prioritize where new judgeships were most urgently needed.

The RAS model was approved by the council in 2005 for use in the budget allocation process. It is updated annually to identify the courts with the most acute case processing resource needs and to supplement their budgets to adjust for historic underfunding. In FY 2005–2006 through FY 2007–2008, the AOC Finance Division used workload estimates derived from the RAS model to allocate approximately \$31 million in workload growth and equity funding to the baseline budgets of the most severely underfunded courts (courts that were more than 20% underfunded relative to other courts).

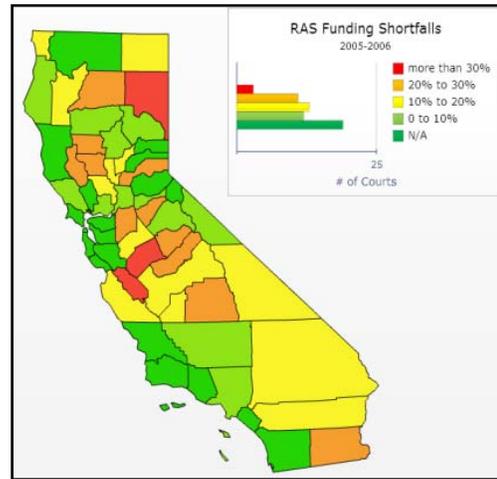
This supplemental funding to historically underfunded courts was made possible without adversely affecting other courts because the Legislature applied the State Appropriations Limit (SAL) funding to the trial court budget during these three fiscal years. The funding appeared to reduce the number of the most severely underfunded courts through FY 2006–2007. However, in FY 2007–2008, the Legislature redirected one-half of the supplemental funding intended for the underfunded courts, and in 2008–2009 and 2009–2010, SAL funding was not provided by the Legislature and thus no supplemental funding was available. As a result of the lack of continued supplemental funding, coupled with continued workload growth, the progress that had been achieved was reversed. Figure 1 shows the relative funding level of each court for the last five fiscal years. Red shading represents courts that are more than 30% relatively underfunded; orange, 20–30%; yellow 10–20% and light and dark green shows courts that are funded at or near (within 10% of) the proper level based on their case processing workload.

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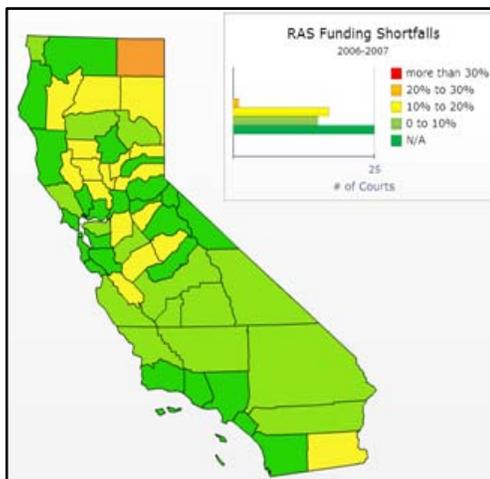
¹ SB 56 (Stats. 2006, ch. 390) and AB 159 (Stats. 2007, ch. 722).



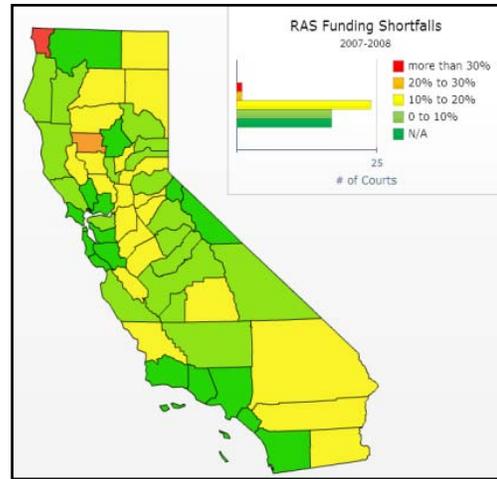
FY 2004–2005



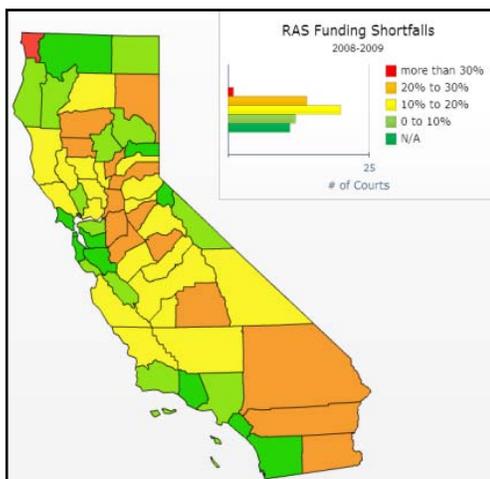
FY 2005–2006



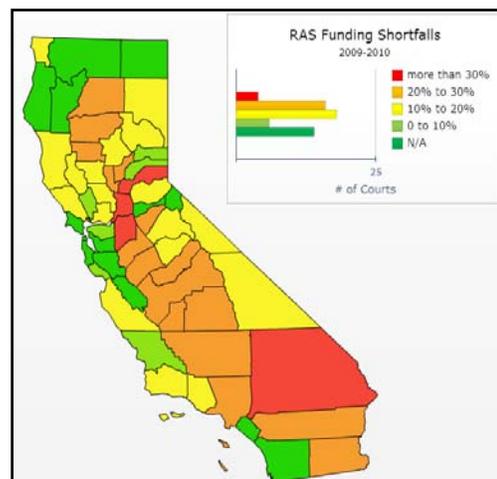
FY 2006–2007



FY 2007–2008



FY 2008–2009



FY 2009–2010

Figure 1: Impact of Workload Growth and Equity Funding, FY 2004–2005 through FY 2009–2010

From a Descriptive to Prescriptive Workload Model

Both the judicial workload model and the RAS model employed the same basic methodology to estimate the number of full-time equivalent (FTE) judicial officers and court case processing staff needed to manage the courts' workload. Case weights were developed for major case types to estimate the aggregate number of minutes required to process a case from filing through disposition, including any applicable post disposition activity. To derive the projected FTE need for case processing work, the case weights are multiplied by the most recent three-year average of filings in each case type, then divided by the annual available minutes of judicial or staff case processing time.

Over time, the assumptions used to establish case weights need to be revisited to account for changes in case processing practices, technological advances, or legislative mandates. For example, if a court starts to require electronic filing for a certain case type, the number of counter staff needed to process in-person filings might decrease, while the workload for the back office staff who receive and calendar electronically filed cases would increase. Another example is the mandate for new and expanded investigations and reviews contained in the Omnibus Conservatorship and Guardianship Reform Act of 2006. The new workload created by this statutory responsibility is not incorporated into the presently used RAS model because the model was finalized before 2006.

In addition to updating the basic assumptions of the workload models, the AOC is developing a different approach to measuring and assessing court workload in order to report on performance measures as required by Government Code section 77001.5. The statute directs the Judicial Council to adopt "standards and measures that promote the fair and efficient administration of justice ... including ... the efficient use of judicial resources." Measuring and reporting on performance in the courts, however, require a reformulation of the workload models—to move from descriptive measures of the amount of time that courts currently devote to case processing to *prescriptive* measures of how much time courts *should* devote to case processing—and the development of a methodology capable of capturing the data that will inform such a model.

Historically, workload models in the courts have taken a descriptive approach—estimating case weights based on average reported time expended in various case types—in large part because of both conceptual and methodological limitations. Differences in case processing were documented across courts, case types, and functional areas, but the data collected could not provide sufficient detail to understand the reasons and implications of the differences. To illustrate, consider two courts that process juvenile dependency cases; one court (Court A) averaging 500 minutes per filing, and the other (Court B) taking approximately 300 minutes

per filing. Without the benefit of additional information, we cannot determine the reasons for the difference in case processing time (e.g., greater efficiency, more automation, fewer continuances, more time spent deliberating) nor where the case weight should be set. The goal of the new workload study is to use better data and more empirical evidence to establish case weights that reflect the case processing work that should be done to provide effective and efficient service to the courts.

The new conceptual model and the methodology that will be used to capture this information are described below. First we discuss *service level performance*, a foundational concept that clarifies the relationship between inputs and more traditional types of *outcome performance*. We then describe the methodology that will be employed to measure service level performance in the courts participating in the new workload and performance study.

Service Level Performance as a Prerequisite to Evaluating Outcome Performance

Service level performance refers to the outputs, or the services that a court provides in processing its caseload. Focusing on this type of performance represents a departure from much of the conventional wisdom on performance measurement and so requires a brief explication.

Ever since the publication of *Reinventing Government*,² the idea that performance in the public sector should be evaluated on the basis of *outcomes*, rather than on the basis of *outputs*, or what we refer to as the service level, has been generally accepted. Indeed, a great deal of work has been done in the judicial branch to identify outcomes against which to evaluate the work of the trial courts. For example, the Blue Ribbon Commission on Children in Foster Care identified outcome measures related to the safety of children in the child welfare system and permanence of placement among other goals of juvenile dependency reform. Similarly, CourTools, a series of outcome performance measures developed by the National Center for State Courts, seeks to measure such things as user satisfaction in the courts and the timeliness of case processing.

Achieving these types of outcomes remains the ultimate goal of the courts and of our study. Yet the procedures that different courts follow, the amount of time that courts spend on those procedures, and the frequency with which they occur vary considerably from one jurisdiction to another. As a result, it is impossible to state with any certainty what amount of resources are needed to achieve any particular outcome in a given case type. Because of the vast differences in the service levels across different courts, the only way to establish a link between inputs—resources—and outcomes—the larger goals of the branch—is first to clarify the nature of the outputs—the *service level*. Figure 2 illustrates the relationship between

² See especially chapter 5 in David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector* (Penguin Books, 1993).

inputs, outputs—service level—and outcomes in the court workload model, where service is the primary output.

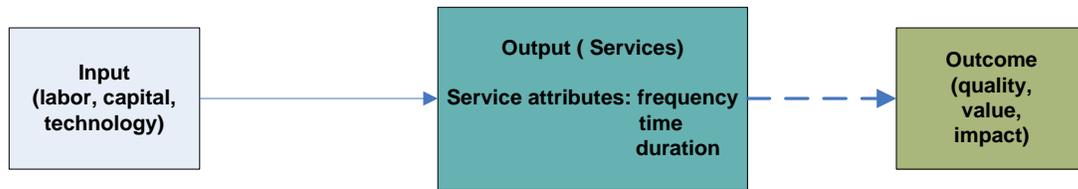


Figure 2: Court Workload Model, Where Service Is the Primary Output

What constitutes the correct, or appropriate, service level varies from one case type to another. In conservatorship cases, for example, statutory requirements define in some detail the number and frequency of hearings and the breadth of investigations to protect the rights of the incapacitated elderly. Most civil law, in contrast, is much less specific in guiding the appropriate service level. Thus, each case type must be examined with an eye toward constitutional rights and principles, legal doctrines, legislative mandates, rules of court, administrative standards and protocols, and professional norms that govern case processing practices. In circumstances where a standard has not been specified by these, the SB 56 Working Group and case processing subject-matter experts will provide AOC staff with guidance to help determine what constitutes efficient and effective use of resources.

Under this definition of service level performance, the case weights developed in the workload study will be set at values that allow for the procedural requirements of case processing to be met—including the extent to which the courts are meeting legislatively mandated requirements of case processing. This definition is also sufficiently broad to allow for variation resulting from local rules and practices. New case weights based on an appropriate level of service must be established before we can determine either the impact of these services or the most efficient manner of providing them.

Methodological Challenges to Measuring Service Level Performance

The challenge of establishing the conceptual parameters of service level performance is matched by the methodological challenge of capturing data on the service level in different courts. Data collection in the courts has historically focused on higher level data elements for at least two reasons: first, data at the level of detail required to evaluate service level performance is usually prohibitively expensive to capture; and, second, when evaluating institutions that may operate very differently, comparisons at the most aggregated level generally make the most sense. This is not so different from workload indicators in other settings where broad measures serve a useful function even while they obscure important details—for example, nurse-patient ratios and teacher-student ratios.

The AOC is conducting a pilot test of a new methodology to determine whether data on service level performance can be captured. The Random Moment Time Study (RMTS) is a federally approved statistical sampling technique that has been effectively used in documenting claims for administrative funding in various social service areas, such as departments of child and family services and Medicaid reimbursement.³

In contrast to the time diary method of data collection, the RMTS does not attempt to capture *all* of the time that staff spend on case processing over the period of the study. Instead, a complete profile of the work day is constructed out of random samples of staff work on tasks. By eliminating the requirement that all staff report on their entire day for an extended period of time, the RMTS allows for more detailed data to be collected at specified intervals. This information on the discreet tasks performed by court staff during the period of the time study is then combined with more detailed data from the courts' case management system to reconstruct a detailed profile of the service level in the sample courts.⁴

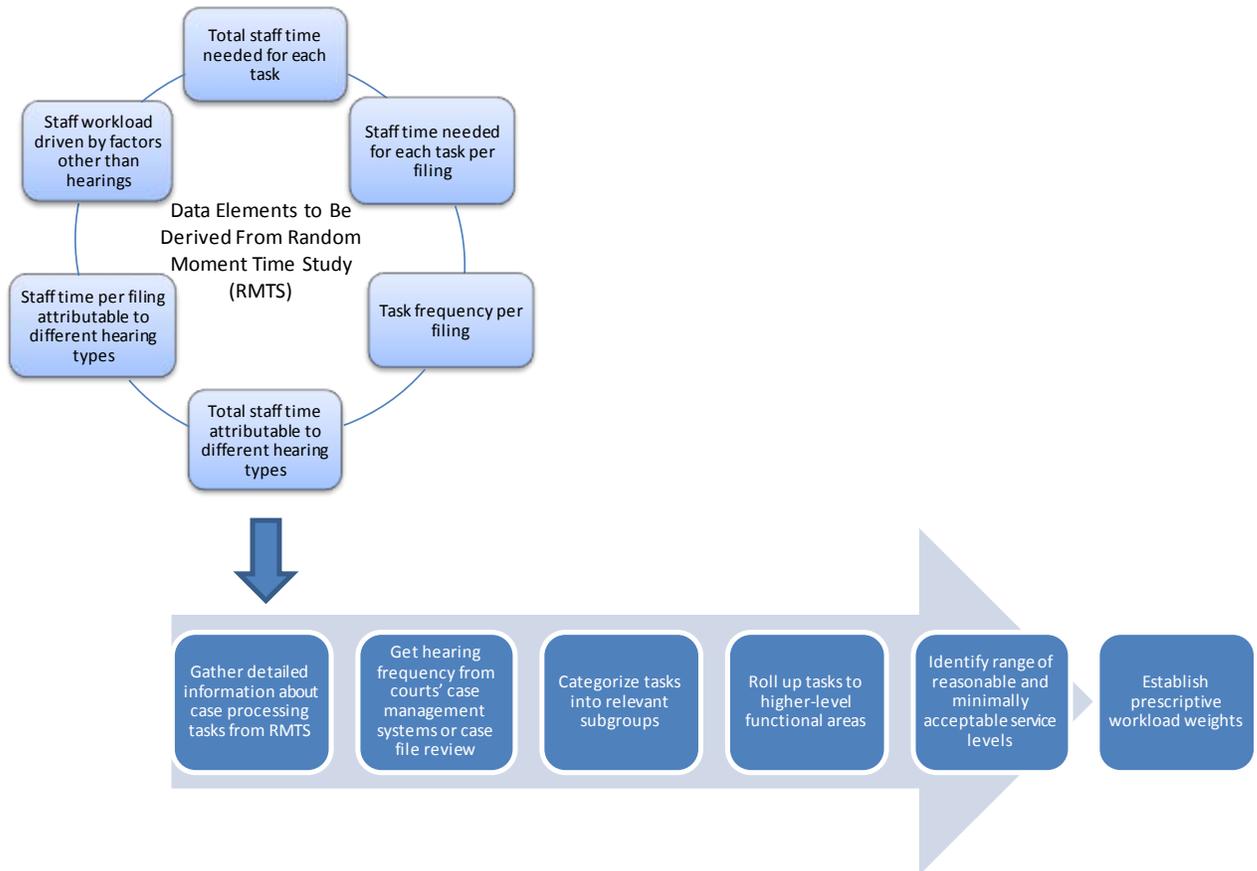


Figure 3: Integrating RMTS Data With Other Sources to Generate Case Weights

³ See 8h(4) on page 20 at www.whitehouse.gov/omb/circulars/a087/a87_2004.pdf.

⁴ As a result, courts that wish to participate in data collection must be able to extract basic case data from their case management systems.

In March 2010, three courts will participate in a pilot test of the methodology, focusing on criminal case processing. The results from this pilot test will be evaluated and the RMTS method revised where necessary. In fall 2010 the data collection instrument will be rolled out in 5–10 study courts to collect data on approximately 16 different case types.

Focusing on service level performance at this phase of the research will lay the foundation by which future research can begin to establish the link between inputs, outputs, and outcomes. Only by opening up the black box of court processes and identifying what is being done can we hope to establish a clear link between the resources that courts use to provide services and the benefits of those services to the public. Moreover, by looking more closely at court processes we will also be in a position to evaluate those processes that are the most efficient and effective.

Establishment of the SB 56 Working Group

In response to the mandate established by SB 56, the AOC has established a working group to advise the AOC on the development and monitoring of trial court performance measures to be considered by the Judicial Council.⁵ Specifically, the SB 56 Working Group is responsible for

responding to proposed performance measures and implementation plans and modifications to the Judicial Workload Assessment and the Resource Allocation Study Model by providing advice and suggestions to improve and to effectively implement the plans and models. Specifically, the *SB 56 Working Group* will review and provide advice to the OCR [AOC Office of Court Research] on proposals for instituting performance measures and implementation plans in areas such as:

- Processes, study design, and methodologies that should be used to measure and report on court administration; and
- Amendments to the Judicial Workload Assessment and the Resource Allocation Study models as they relate to standards and measures of court administration.

(SB 56 Working Group Charter.)

⁵ The SB 56 Working Group Charter is attached as Appendix A.

The working group was formed in spring 2009 and consists of representatives from 16 trial courts. Since the working group oversees both the judicial needs and staff workload models, both judicial officers and court executive officers were invited to serve. Representation is balanced among small, medium, and large courts, and the three AOC regions (Bay Area/Northern Coastal, Northern/Central, and Southern). Judicial officer members were selected partly on the basis of their primary caseloads, so that the working group will benefit from their subject-matter expertise across the various case types. For purposes of continuity, several previous members of the Resource Allocation Study Working Group, the precursor to the SB 56 Working Group, and participants in the first Judicial Workload Assessment were asked to serve in the working group. To introduce a fresh perspective, some courts that had not previously participated in any workload study were also asked to join.

The working group convened for the first time in September 2009 to officially launch the workload study update and to hear and advise AOC staff about the proposed study design and data collection methodology.

Next Steps

Data collection for the workload studies update is slated for late spring or early fall 2010, with the project estimated to be completed by November 2011. The SB 56 Working Group will meet periodically throughout the duration of the project to advise AOC staff on methodological and data collection matters related to performance.

The next Report to the Legislature will be published in November 2010.

SB 56 WORKING GROUP CHARTER

In 2006, the California State Legislature passed Senate Bill 56 (SB 56) directing the Judicial Council to adopt and report to the Legislature concerning “judicial administration standards and measures that promote the fair and efficient administration of justice.” Improving the administration of justice is one of the founding purposes of the Judicial Council enshrined in article VI of the California State Constitution. Since the advent of state funding of the trial courts, the Judicial Council has adopted standards and measures that allow for the equitable allocation of resources across courts and prioritize the allocation of those resources.

The Judicial Council has approved two essential tools for these purposes: the Judicial Workload Assessment and the Resource Allocation Study (RAS) model. The Judicial Workload Assessment was approved by the council in 2001 and updated in 2004, 2007, and 2008. In 2006, the basic parameters of the model were incorporated into statute under SB 56, which mandates that the trial court workload estimates be updated every two years. Since 2006, 100 new judgeships have been created by the legislature in SB 56 and Assembly Bill 159 (AB 159) using the judicial workload model to estimate the number of new judgeships needed by the courts and to prioritize where new judgeships are most urgently needed.

The RAS model was approved by the council in 2005 to use in the budget allocation process and is updated annually to identify the most underfunded courts and supplement their budgets to adjust for historic underfunding. Since 2005, using workload estimates derived from the RAS model, the AOC Finance division has allocated approximately \$31 million to the baseline budgets of the most severely underfunded courts in the state using a portion of State Appropriations Limit (SAL) funding.

The *SB 56 Working Group* is established to ensure that these models are regularly revised to adequately capture standards and measures that promote the fair and efficient administration of justice and to provide input from the trial courts on these and other measures and standards of trial court performance.

Charge

The AOC Office of Court Research (OCR) is responsible for developing a comprehensive model for a discreet number of performance measures for court systems and developing an implementation plan for performance measurement in a timely, efficient manner. OCR is also responsible for preparing amendments to the Judicial Workload Assessment and the Resource Allocation Study models as they relate to standards and measures of court administration. The AOC will present final proposals in these areas to the Judicial Council.

The *SB 56 Working Group* is responsible for responding to proposed performance measures and implementation plans and modifications to the Judicial Workload Assessment and the Resource

Appendix A

Allocation Study Model by providing advice and suggestions to improve and to effectively implement the plans and models. Specifically, the *SB 56 Working Group* will review and provide advice to the OCR on proposals for instituting performance measures and implementation plans in areas such as:

- Processes, study design, and methodologies that should be used to measure and report on court administration; and
- Amendments to the Judicial Workload Assessment and the Resource Allocation Study models as they relate to standards and measures of court administration.

Members will also advise the AOC on studies and analyses undertaken to update and amend case weights through time studies, focus groups, or other methods.

In addition to the working group, OCR may employ other means of gathering information, analyses, and perspectives through interviews with national or state experts on relevant topics or roundtables of judges, lawyers, and court staff with experience in specific subject matters, as needed.

Membership

Accounting for the dual focus of the working group, addressing both judicial workload and court staff workload issues, membership in the *SB 56 Working Group* consists of both judicial officers and court executive officers (CEOs). The working group will have sixteen members, with approximately half of the membership consisting of judicial officers and half CEOs. The membership will include both representatives from courts that have participated in previous workload studies and members from courts that have not previously participated.

SB 56 Working Group members will serve for staggered renewable four-year terms. The length of the term is slightly longer than that of other AOC working groups to allow for a member to serve through an entire workload model update cycle.

The judicial and court-executive membership of the *SB 56 Working Group* will broadly reflect the diversity of the Superior Courts, taking into account:

- Participation of urban, suburban, and rural courts;
- Diversity in size and adequacy of court resources;
- Participation of both small and large courts, expressed by the number of judgeships;
- For judicial officer members, diversity of case-type experience; and

- Recent service on the Civil and Small Claims, Collaborative Justice Courts, Family and Juvenile Law, Criminal Law, Probate and Mental Health, and/or Traffic Advisory committee.

No fewer than four courts will represent each of the AOC's three regional groupings.

Membership may include a judge and court executive from the same court.

SB56 Working Group membership also includes AOC staff from the Center for Families, Children & the Courts, the Civil and Small Claims Advisory Committee, the Criminal Law Advisory Committee, and others with knowledge of and experience with standards and measures of court performance.

The Manager of the Administrative Office of the Courts' (AOC) Office of Court Research will serve as the chair of the working group. In addition to the sixteen rotating members discussed above, the Regional Administrative Director of the Northern Coastal Regional Office is a permanent member of the working group.

Appointment

Members will be appointed by the Administrative Director.

Frequency of Meetings

The working group shall meet twice a year as a full body, with at least one meeting annually to be held in person.