



SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Executive Office

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THOMAS J. NIXON  
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January 15, 2025

Michelle Curran, Judicial Council Administrative Director  
Judicial Council of California  
2850 Gateway Oaks Drive  
Sacramento, CA 95833

SENT VIA EMAIL

Re: Workload Formula Adjustment Request

Dear Ms. Curran:

On behalf of the Superior Court of Alameda County, we are submitting this Workload Formula ("WF") adjustment request pursuant to the Adjustment Request Process ("ARP") distributed via email to trial court leadership on December 16, 2024. Our request is that the Trial Court Budget Advisory Committee consider adding a "minimum staff-to-judge ratio" factor to the WF as a supplemental/alternative way of measuring each court's staffing-based financial need. Specifically, we believe that in addition to using a court's three-year filings average to determine staffing/funding need, the WF should also factor in each court's number of authorized, funded judgeships, ensuring that every court is funded to allow for some minimum ratio of support staff to judges.<sup>1</sup> In our view, assessing staff need (and the funding associated therewith) via two different measures and funding each court by whichever measure is higher is necessary to ensure an efficient and effective use of judicial resources throughout the state, as required under rule 10.603 of the California Rules of Court, specifically subdivisions (a)(1) and (c)(1)(C).

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<sup>1</sup> This request could, in the alternative, be construed as a request to amend the Resource Assessment Study ("RAS") model to assess a court's staffing need not just in relation to its filings, but also by using a minimum staff-to-judge ratio and basing need on whichever approach yields the highest full-time equivalent ("FTE") count. However, in the absence of a formal process for submitting RAS change proposals to the Data Analytics Advisory Committee ("DAAC"), we are submitting this request for consideration through the ARP.

## **DESCRIPTION OF HOW THE FACTOR IS NOT CURRENTLY ACCOUNTED FOR IN THE WORKLOAD FORMULA**

As described in a July 25, 2019, report to the Council, “The branch’s workload formula computes the total resources needed for trial court workload using the Resource Assessment Study (RAS) model and compares that to the total funding allocated for the same purpose.”<sup>2</sup> In other words, the primary driver that feeds the current iteration of the WF is data from RAS.<sup>3</sup>

In turn, the stated goal of RAS is “to estimate the number of staff needed to handle the volume of filings coming before the courts.”<sup>4</sup> To do so, RAS looks at each court’s filings over a three-year period. Weighing those filings, RAS then estimates the number of Program 10 staff (including supervisors and managers) that each court needs and applies a multiplier to determine how many Program 90 staff the court needs on top of that, producing an overall total FTE count needed to process each court’s average number of filings.<sup>5</sup>

In short, neither RAS nor the WF currently account for a court’s number of authorized, funded judgeships in determining that court’s staffing need or resulting funding need.

## **IDENTIFICATION AND DESCRIPTION OF THE BASIS FOR WHICH THE ADJUSTMENT IS REQUESTED**

Please see detailed analysis below.

## **DETAILED ANALYSIS AS TO WHY THIS FACTOR IS NECESSARY**

While we understand why the WF was developed to rely on RAS’s filings-based FTE estimates as the primary measure of a court’s funding needs, our concern is that as funding and staffing levels have evolved over time, that approach has produced untenable outcomes that leave many courts without sufficient funding to ensure that all of their judges are supported by staff at a level that will allow them to perform the work expected of them. Put another way, divorcing a court’s funding needs entirely from its number of funded, statutorily authorized judgeships has resulted in many courts, including ours, being funded at a level that results in an untenably low staff-to-judge ratio.

To illustrate, based on our most recent filings data, RAS estimates that Alameda needs 506 FTEs to handle our current level of filings. By statute, Alameda has 73 funded, authorized judgeships.<sup>6</sup> This

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<sup>2</sup> <https://jcc.legistar.com/View.ashx?M=F&ID=7338800&GUID=9284F0B3-BCAE-4C0C-A110-49AA99D8A139>

<sup>3</sup> See also <https://www.courts.ca.gov/documents/RAS.pdf>, at p. 2: “The full-time equivalent staff need produced by RAS is translated into dollars using average salary costs, adjusting for cost-of-labor differentials using Bureau of Labor Statistics data, and including actual retirement and health care costs. Non-personnel costs and other elements are factored into WF to project the total funding need for each court.”

<sup>4</sup> <https://www.courts.ca.gov/documents/RAS.pdf>

<sup>5</sup> We are aware that RAS does not account for all classifications; exclusions include, among other things, interpreters, court attendants, subordinate judicial officers, and the Court Executive Officer.

<sup>6</sup> It bears noting that the number of funded, authorized, and filled judgeships that each court has is entirely outside of its control. The overall number of authorized judgeships in each county is set by the Legislature via statute.

means that we are effectively funded at a level that will allow a ratio of 6.917 RAS-covered staff per authorized judgeship.<sup>7</sup>

By contrast, we understand that when the Judicial Council seeks funding for new judgeships, the Council requests funding for the judgeship itself plus funding for 9 staff members (which is inclusive of all of the categories covered by RAS, i.e., Program 10 employees and supervisors, plus Program 90 support staff). Thus, there appears to be at least some acknowledgement by the Council that each judge in the state requires 9 staff members in order to do their job effectively.

We believe that there is a disconnect between a model that funds a staffing level based solely on filings versus one—like the one we are advocating for—that establishes an alternative minimum funding “need” based on actual number of funded judgeships. Once again using Alameda as an example, if a ratio of 9 staff per judge were applied, Alameda would need to be funded sufficiently to hire 657 FTEs (73 judges times 9 staff per judge), not the 506 that RAS says we need based on filings alone.

If one were to perform a court-by-court analysis like the one provided for Alameda above, the results would show that there is little consistency among the courts in terms of the ratio of funding for staff and the number of judges. The two are, unfortunately, completely decoupled from one another, which does not reflect the operational realities of running a court.

#### **DESCRIPTION OF WHETHER THE UNACCOUNTED-FOR FACTOR IS UNIQUE TO THE APPLICANT COURT OR HAS BROADER APPLICATIONS**

This issue is not unique to Alameda. Rather, it would appear to affect any court in which the number of funded, authorized judgeships is higher than its judicial need as measured by filings. Put another way, this issue would be faced by any court that has reduced its staffing level over time due to a lower number of filings resulting in decreased funding, but where the number of funded, authorized judgeships has not changed over that same period of time.

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Whether those judgeships are funded is determined through the state budget process. And whether a funded, authorized judgeship is filled is determined by the Governor, working with their Appointments Secretary.

<sup>7</sup> For purposes of this request, we are only including judgeships, i.e., we are not including authorized subordinate judicial officer (“SJO”) positions. We make the distinction because the decision whether or not to fill an SJO position lies with the local court whereas—as discussed above in footnote 6—the decision whether to fill a judgeship is entirely outside of the local court’s control.

#### **DETAILED DESCRIPTION OF STAFFING NEEDS AND/OR COSTS REQUIRED TO SUPPORT THE FACTOR THAT IS UNACCOUNTED FOR BY THE WORKLOAD FORMULA**

Without a threshold determination as to what the minimum staff-to-judge ratio should be to ensure that each judge is adequately staffed, it is impossible to estimate the cost and staffing need, although certainly there would be additional costs driven solely by the need to fund those additional staff.<sup>8</sup>

Using Alameda as an example, and using a hypothetical 9:1 staff-to-judge ratio, Alameda's staffing need would increase from the current filings-based, RAS level of 506 FTEs to 657 FTEs, an increase of 151 FTEs. Assuming for the sake of illustration a per-FTE cost of \$100,000, the increased funding need for Alameda to be funded at a minimum staff-per-judge level, versus on a strictly per-filings level, would be \$15,100,000. We assume that a corresponding funding need could likewise be calculated for all similarly situated courts once an appropriate ratio and FTE cost is established.

#### **DESCRIPTION OF THE CONSEQUENCES TO THE PUBLIC AND ACCESS TO JUSTICE WITHOUT THE FUNDING**

Courts that are not funded at a level sufficient to ensure some adequate level of staffing for each judge are placed in a difficult position. At a fundamental level, it might appear that the solution to this issue is simply to have judges either sit idle or work far below their capacity, i.e., to whatever extent is permitted by the level of staffing the court can afford. We note, however, that Government Code section 69841 is clear that a "clerk of the superior court shall attend each session of the superior court in the county and upon the judges of the court in chambers when required." (Emphasis added.) In other words, judges are limited by law in terms of the types of official work they can do without a clerk present.

Further, as the Commission on Judicial Performance has recently made clear, "[the t]axpayers of the State of California have a right to expect that judges are available to provide the services for which they are paid." (*Severe Public Censure of Judge Howard H. Shore* (2023) p.5.) Having judges sit idly in a courthouse due to lack of sufficient support staff runs the risk of putting those judges in an intractable ethical position, to say nothing of frustrating the expectations of the taxpayers.

To mitigate this concern, a court with more judges than it has staff to support them might make a business decision to use its limited funding to prioritize hiring courtroom clerks and other judicial support staff over other classifications that might be needed.<sup>9</sup> While this might solve the immediate

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<sup>8</sup> We take no position on what that ratio should be. As noted, the Judicial Council appears to rely on a ratio of 9 staff per judge when seeking funding for a new judgeship, and thus that may be the appropriate ratio to use for the recommended "floor" in the WF and/or RAS as well.

<sup>9</sup> One might suggest that judges could, in the alternative, share staff. While this might be possible to some extent, it is also not necessarily a solution that would be available to all courts. Many courts have multiple case management systems with staff that are not cross-trained across each. Labor agreements may limit the ability to which a court can readily transfer staff between locations. Further, the number, size, and geographic distance between courthouses in a county may limit the extent to which staff can be shared among judges. On the latter point, we note that in the past other courts have submitted ARPs requesting that "number of courthouses" be

issue of properly staffing each judge, it would also result in other undesirable consequences to the public, including:

- Limiting the hours a clerk's office is open to the public (if courtroom staff were prioritized over office staff);
- Under-resourcing the court in critical infrastructure areas such as information technology; and/or
- Cutting funding to non-mandatory areas that nonetheless improve access to justice, such as Self-Help Centers and Family Law Facilitators Offices.

#### **DESCRIPTION OF THE CONSEQUENCES TO THE REQUESTING COURT(S) WITHOUT THE FUNDING**

As noted above, in theory a court could simply decide not to hire sufficient staff to support each judge, effectively leaving some number of judges without clerks and other necessary courtroom staff. While this would solve the immediate funding issue, it would also—as detailed above—potentially create significant ethical issues for those judges who both do not have the staff needed to take the bench and who do not have a necessary level of chambers work in the absence of calendar work to keep them working at capacity.

Alternatively, a court may decide not to prioritize courtroom staff over any other staff, but rather to hire courtroom staff at levels above what RAS says it needs based on its filings, i.e., in excess of the staffing level it is funded for under the WF. The issue with that approach is that, on an annual basis, trial court funding is a zero-sum game, meaning that a court that chooses to hire more staff than RAS says it needs—i.e., more than it is funded for under the WF—has only one way to pay for those “excess” staff members, and that is to reduce other costs. Because the vast majority of trial court expenses are personnel salary and benefits, this means that in actual practice if a court wants to hire more personnel than RAS says it needs, the primary way to do so on an ongoing basis is to keep its salaries artificially low.<sup>10</sup> Put another way, a court in this situation must decide between (a) having the number of staff that RAS says it needs, paid at the proper scale but in insufficient numbers to staff its judges, or (b) having more staff than RAS says it needs who are paid under market and who do not receive the level of annual cost increases that may be available in other courts. Unfortunately, the latter option, which ensures that the judges are staffed to perform their work, is also highly likely to lead to labor unrest, including work stoppages, as well as to impede significantly the court's efforts at recruitment and retention of knowledgeable staff.

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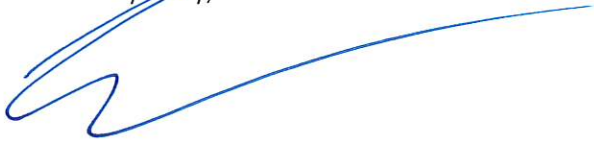
factored into the WF, and we would support and join in such requests. (See, e.g., <https://courts.ca.gov/system/files/file/tcbac-20190617-fms-materials.pdf> at p. 13.)

<sup>10</sup> We acknowledge that courts can also control costs through the reduction of OE&E, but such non-personnel costs can only be reduced so far without eliminating mandatory expenses such as janitorial services, software licenses, necessary supplies, and the like.

## CONCLUSION

In summary, we ask that TCBAC (or, as may be appropriate, DAAC) explore whether a minimal “staff to judge” ratio should be included in RAS and/or the WF as an alternative way to measure each court’s funding needs. A part of that examination could include the extent to which such an alternative approach would be appropriate to use for purposes of expressing funding needs to the other branches of government versus being used as a way to reallocate funding among the courts. By looking at both filings-based staffing needs and judge-based staffing need and working to fund each court to whichever level is higher, the system will ensure that all judges are able to perform the functions required of them by law and expected of them by the public, and that every court has the ability to recruit, retain, and pay a fair wage to qualified staff.

Yours Very Truly,



Chad Finke  
Court Executive Officer

cc: Members of the Trial Court Budget Advisory Committee  
Hon. Thomas J. Nixon, Presiding Judge