



## JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688  
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

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# MEMORANDUM

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**Date**

April 23, 2015

**Action Requested**

Approve Staff Recommendation for Change  
in the Time Base of an SJO Position

**To**

Members of the Executive and Planning  
Committee

**Deadline**

May 4, 2015

**From**

Donna Hershkowitz, Director  
Judicial Council Court Operations Services

**Contact**

David A. Smith  
415-865-7696 phone  
david.smith@jud.ca.gov

Leah Rose-Goodwin, Manager, Office of  
Court Research  
Judicial Council Court Operations Services

**Subject**

Status of a Subordinate Judicial Officer (SJO)  
Position in the Superior Court of Lake County

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### Executive Summary

Judicial Council staff recommend that the Judicial Council's Executive and Planning Committee (E&P) approve a fractional increase in the workload of an SJO position in the Superior Court of Lake County. The court has notified Judicial Council staff of its intention to make this change and has forwarded a letter describing its plans to E&P.<sup>1</sup>

### Recommendation

Judicial Council staff recommend that E&P approve a fractional increase in the workload allocation for an SJO position in the Superior Court of Lake County, to be funded by the court. The change involves increasing the time base associated with one commissioner's position from 0.6 full-time equivalent (FTE) to 0.7 FTE and reflects the court's need to address an increase in

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<sup>1</sup> See Attachment B, Letters of Intent From the Superior Court of Lake County.

judicial workload that is associated with the creation of a veteran's court. The court's intention is to make the foregoing change permanent should the court's request be approved by E&P.

### **Previous Council Action**

In 2007, the Judicial Council adopted a policy for the review and approval of requests from trial courts to change the number or time base of subordinate judicial officer positions and delegated approval authority to its Executive and Planning Committee. Government Code section 71622(a) grants authority to the council to determine the number and type of subordinate judicial officer positions in each trial court.

More specifically, the Judicial Council adopted the following policy regarding changes in the number and status of SJO positions.

1. To establish a new SJO position, permanently eliminate an SJO position or change the time base of an existing SJO position, a court must request and obtain approval from E&P. The requesting court must fund and bear all costs associated with an additional or augmented SJO position.
2. If an increase in the number of SJO positions is sought, the court must submit a request in writing to the appropriate Judicial Council regional administrative director.<sup>2</sup> A request must contain a certification by the presiding judge that the court has sufficient funds in its ongoing budget to cover the cost of any additional or augmented position. Judicial Council staff must provide E&P with (a) an estimate of the requesting court's ability to fund one-time and ongoing costs resulting from the establishment of a new position or augmentation of an existing position, and (b) a confirmation of need, both SJO workload and overall judicial need, based on the most recent council-approved judicial needs assessment.
3. E&P will authorize new or augmented SJO positions only if (a) the court can continuously cover the associated increased costs associated with those positions, and (b) the most recent council-approved Judicial Needs Assessment demonstrates that the requesting court's SJO workload justifies additional SJO positions and cannot be handled with existing judicial resources. E&P's decision to change the number or type of SJO positions must be in writing and contain an analysis of the factors underlying the decision.
4. E&P will eliminate or decrease the time base of an SJO position on the request of a trial court.

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<sup>2</sup> The position of regional administrative director was eliminated in 2012 as a result of the restructuring of the Judicial Council.

5. Judicial Council staff members are directed to work with all trial courts to establish an official baseline number of authorized SJO positions in each court and to report this information to E&P. Once a court's baseline is established, E&P may confirm the court's request to approve currently unauthorized SJO positions that have been added since January 1, 2001, in accordance with the criteria described above.
6. This policy applies to SJO positions authorized under section 22 of article VI of the California Constitution and paid from a trial court's budget. Court commissioner and court referee positions are subject to this policy. The following positions are not covered by this policy: mental health hearing officers serving under Welfare and Institutions Code sections 5256.1 or 5334(c), referees appointed under Code of Civil Procedure sections 638 and 639, and child support commissioners supported by Assembly Bill 1058 funding.<sup>3</sup>

### **Rationale for Recommendation**

The Superior Court of Lake County is seeking to expand the caseload of one SJO position by making a workload allocation adjustment. The adjustment takes the form of an increase in the SJO time base from 0.6 FTE to 0.7 FTE, which will allow the court to address an increase in workload associated with the creation of a new veteran's court. The development of this problem-solving court was made possible through a grant from the council's Recidivism Reduction Fund (RRF).<sup>4</sup> Although the augmentation requested by the Superior Court of Lake County is quite small, the court has relatively few judicial officers and even a fractional increase represents a measureable change in judicial resources for this court.

The most recent Judicial Needs Assessment shows that the Superior Court of Lake County has a judicial need of 5.2 FTE. The number of authorized judicial positions, however, is 4.6 FTE. While the judicial needs assessment does not speak to the need specifically for subordinate judicial officers; a recent update of the SJO conversion allocations using updated judicial officer caseweights and filings data suggests that Lake currently has sufficient SJO resources. Nevertheless, the court is in a unique position to create a veteran's court, but can only do so with this small increase in the time base of the SJO position. Staff therefore believe it is appropriate that the court seek to assign this grant-funded workload to a subordinate judicial officer and for E&P to make an exception to the portion of the policy that speaks to the workload need for SJOs and approve this request.

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<sup>3</sup> The Judicial Council determines the number of AB 1058 child support commissioners under somewhat different criteria in accordance with caseload, case processing, and staffing standards specifically for child support commissioners.

<sup>4</sup> The RRF was authorized under the Budget Act of 2014 (Sen. Bill 851) and is administered by the Judicial Council of California. The funds are designated for courts to use in the administration and operation of programs and practices known to reduce offender recidivism and enhance public safety.

Approving a fractional increase in time base for an SJO position is within the scope of the Judicial Council's responsibilities under Government Code section 71622(a),<sup>5</sup> which delegated authority to E&P for review and approval of courts' requests to adjust the workload or number of SJOs serving in a court.<sup>6</sup> Approving this adjustment to SJO FTE will allow the requesting court reasonable certainty and clarity concerning judicial staffing over the next few years, carry out their intent as described above, and once again communicate E&P's role in these matters to the courts.

### **Comments, Alternatives Considered, and Policy Implications**

This proposal was not circulated for comment. It complies with the council policy on the status of SJO positions. Supporting the proposed modifications in SJO FTE would be consistent with well-established council policy in this area.

### **Implementation Requirements, Costs, and Operational Impacts**

The policy regarding changes in the status of SJO positions requires that courts be able to fund the costs associated with additional or augmented positions. The RRF grant that the court has been awarded will fund the cost of this fractional increase through fiscal year 2016–2017. The court's intention is to continue to fund the SJO position, as well as the other costs associated with this problem-solving court going into the future, and believes it has the resources to do so. Based on data from the most recent Schedule 7A submitted by Lake, the annual cost of funding the fractional salary increase is \$15,988.

### **Attachments**

1. Attachment A: Government Code section 71622
2. Attachment B: Letters of Intent From the Superior Court of Lake County

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<sup>5</sup> “Each trial court may establish and may appoint any subordinate judicial officers that are deemed necessary for the performance of subordinate judicial duties, as authorized by law to be performed by subordinate judicial officers. However, the number and type of subordinate judicial officers in a trial court shall be subject to approval by the Judicial Council. Subordinate judicial officers shall serve at the pleasure of the trial court.” (Gov. Code, § 71622(a).)

<sup>6</sup> Judicial Council of Cal., mins. (Feb. 23, 2007), Item 10, *Subordinate Judicial Officers: Policy for Approval of Number of Subordinate Judicial Officers in Trial Courts*, pp. 15–16, [www.courts.ca.gov/documents/min0207.pdf](http://www.courts.ca.gov/documents/min0207.pdf).

**Government Code Section 71622**

- (a) Each trial court may establish and may appoint any subordinate judicial officers that are deemed necessary for the performance of subordinate judicial duties, as authorized by law to be performed by subordinate judicial officers. However, the number and type of subordinate judicial officers in a trial court shall be subject to approval by the Judicial Council. Subordinate judicial officers shall serve at the pleasure of the trial court.
- (b) The appointment or termination of a subordinate judicial officer shall be made by order of the presiding judge or another judge or a committee to whom appointment or termination authority is delegated by the court, and shall be entered in the minutes of the court.
- (c) The Judicial Council shall promulgate rules establishing the minimum qualifications and training requirements for subordinate judicial officers.
- (d) The presiding judge of a superior court may cross-assign one type of subordinate judicial officer to exercise all the powers and perform all the duties authorized by law to be performed by another type of subordinate judicial officer, but only if the person cross-assigned satisfies the minimum qualifications and training requirements for the new assignment established by the Judicial Council pursuant to subdivision (c).
- (e) The superior courts of two or more counties may appoint the same person as court commissioner.
- (f) As of the implementation date of this chapter, all persons who were authorized to serve as subordinate judicial officers pursuant to other provisions of law shall be authorized by this section to serve as subordinate judicial officers at their existing salary rate, which may be a percentage of the salary of a judicial officer.
- (g) A subordinate judicial officer who has been duly appointed and has thereafter retired from service may be assigned by a presiding judge to perform subordinate judicial duties consistent with subdivision (a). The retired subordinate judicial officer shall be subject to the limits, if any, on postretirement service prescribed by the Public Employees' Retirement System, the county defined-benefit retirement system, as defined in subdivision (f) of Section 71624, or any other defined-benefit retirement plan from which the retired officer is receiving benefits. The retired subordinate judicial officer shall be compensated by the assigning court at a rate not to exceed 85 percent of the compensation of a retired judge assigned to a superior court.

Members of the Executive and Planning Committee  
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**Attachment B**

**Letter of Intent From the Superior Court of Lake County**



*Superior Court*  
State of California  
County of Lake  
255 N. Forbes Street  
Lakeport, California 95453  
707-263-2374

STEPHEN O. HEDSTROM

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PRESIDING JUDGE  
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KRISTA D. LeVIER

—  
COURT EXECUTIVE/CLERK  
JURY COMMISSIONER  
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March 24, 2015

Hon. Douglas P. Miller, Chair  
Executive & Planning Committee  
Judicial Council of California  
455 Golden Gate Avenue  
San Francisco, CA 94102

Re: Increase in Subordinate Judicial Officer Position Time Base

Dear Justice Miller and members of Executive and Planning:

The Superior Court of California, County of Lake hereby requests approval to increase the Subordinate Judicial Officer position time base from .6 FTE to .7 FTE. This increase is the result of being awarded a Recidivism Reduction Fund Grant for the purpose of creating a Veteran's Court. The Subordinate Judicial Officer will be assigned this task. The increase of .1FTE in the SJO time base including salary and benefits, will be funded through this grant.

Feel free to contact our Court Executive Officer, Krista LeVier at (707) 263-2575 or [krista.levier@lake.courts.ca.gov](mailto:krista.levier@lake.courts.ca.gov), should you or any member have any questions.  
Thank you.

Sincerely,

Stephen O. Hedstrom