



# JUDICIAL COUNCIL OF CALIFORNIA

WORKLOAD ASSESSMENT  
ADVISORY COMMITTEE

## WORKLOAD ASSESSMENT ADVISORY COMMITTEE

### MATERIALS FOR OCTOBER 22, 2018

#### Meeting Contents

<b>Agenda</b> .....	1
<b>Minutes</b>	
Draft minutes from the September 19, 2018 Meeting .....	4
<b>Discussion and Possible Action Items</b>	
Item 1 – Proposed Methodology for Assembly Bill 1058 (Action Item) .....	6
Item 2 – Proposed Methodology for Assessing the Need for Court Reporters in Family Law per the 2018 Budget Act and in Civil Cases per Jameson v. Desta (Action Item) .....	20
<b>Information Only Items</b>	
Info 1 – WAAC Annual Agenda	
Info 2 – Report to the Legislature: 2018 Judicial Needs Assessment .....	23
Info 3 – Report to the Legislature: Standards and Measures of Judicial Administration .....	35



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Draft minutes from the September 19, 2018 Meeting .....	4
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Item 1 – Proposed Methodology for Assembly Bill 1058 (Action Item) Assessment	
Item 2 – Proposed Methodology for Assessing the Need for Court Reporters in Family Law	6
per the 2018 Budget Act and in Civil Cases per Jameson v. Desta	
(Action Item) .....	20
<b>Information Only Items</b>	
Info 1 – WAAC Annual Agenda	
Info 2 – Report to the Legislature: 2018 Judicial Needs Assessment .....	23
Info 3 – Report to the Legislature: Standards and Measures of Judicial Administration .....	35



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[www.courts.ca.gov/waac.htm](http://www.courts.ca.gov/waac.htm)  
[waac@jud.ca.gov](mailto:waac@jud.ca.gov)

## WORKLOAD ASSESSMENT ADVISORY COMMITTEE OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))  
THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS  
THIS MEETING IS BEING RECORDED

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**Date:** October 22, 2018  
**Time:** 12:00 p.m. – 1:00 p.m.  
**Public Call-in Number:** 1-877-820-7831; passcode 3826880 (Listen Only)

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Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

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### **I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))**

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#### **Call to Order and Roll Call**

#### **Approval of Minutes**

Approve minutes of the September 19, 2018, Workload Assessment Advisory Committee meeting(s).

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### **II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1))**

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#### **Written Comment**

This meeting will be conducted by electronic means with a listen only conference line available for the public. As such, the public may submit comments for this meeting in writing. In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to [waac@jud.ca.gov](mailto:waac@jud.ca.gov) or mailed or delivered to Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Rose Butler. Only written comments received by 12:00 p.m. on October 19, 2018, will be provided to advisory body members prior to the start of the meeting.

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**III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-2)**

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**Item 1**

**Proposed Methodology for Assembly Bill 1058 (Action Required)**

Review the final report of the joint subcommittee established to renew the funding methodology for the AB 1058 program.

Presenter(s)/Facilitator(s): Hon. Joyce Hinrichs, Presiding Judge, Humboldt Superior Court  
Ms. Anna Maves, Supervising Attorney/AB 1058 Program Manager, Center for Families, Children and the Courts, Judicial Council

**Item 2**

**Proposed Methodology for Assessing the Need for Court Reporters in Family Law per the 2018 Budget Act and In Civil Cases per Jameson v. Desta (Action Required)**

Review and approve the proposed methodology.

Presenter(s)/Facilitator(s): Ms. Leah Rose-Goodwin, Manager, Budget Services, Judicial Council

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**IV. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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**Info 1**

**WAAC Annual Agenda**

Receive an overview of the 2018 annual agenda; discuss pending items that should be added to the 2019 plan; suggest any new items for the 2019 plan. The annual agenda must be approved by the committee in late 2018.

Presenter(s)/Facilitator(s): Hon. Lorna A. Alksne, Chair  
Ms. Leah Rose-Goodwin, Manager, Budget Services, Judicial Council

**Info 2**

**Report to the Legislature: 2018 Judicial Needs Assessment**

The Judicial Council must report to the Legislature on or before November 1 of even-numbered years on the Need for New Judgeships in Superior Courts. The 2018 study will be reissued once the new judicial workload study caseweights have been finalized in the fall of 2019.

Presenter(s)/Facilitator(s): Ms. Leah Rose-Goodwin, Manager, Budget Services, Judicial Council  
Ms. Khulan Erdenebaatar, Analyst, Budget Services, Judicial Council

**Info 3**

**Report to the Legislature: Standards and Measures of Judicial Administration**

The Judicial Council must report to the Legislature on or before November 1 on standards and measures of judicial performance. This report fulfills the council's mandate under Government Code section 77001.5.

Presenter(s)/Facilitator(s): Ms. Leah Rose-Goodwin, Manager, Budget Services,  
Judicial Council

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**V. ADJOURNMENT**

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**Adjourn**



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## WORKLOAD ASSESSMENT ADVISORY COMMITTEE

### MINUTES OF OPEN MEETING

September 19, 2018

12:00 p.m.

Via Teleconference

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**Advisory Body Members Present:** Hon. Lorna A. Alksne, Hon. Charles Brehmer, Hon. Kirk H. Nakamura, Hon. Lawrence Riff, Hon. Jennifer Rockwell, Hon. Garrett L. Wong, Ms. Sherri Carter, Ms. Stephanie Cameron, Ms. Arlene Junior, Mr. Michael Planet, Ms. Bonnie Sloan, Ms. Kim Turner

**Advisory Body Members Absent:** Mr. James Kim

**Others Present:** Ms. Leah Rose—Goodwin, Mr. Christopher Belloli, Ms. Savet Hong, Ms. Lucy Fogarty, Mr. Zlatko Theodorovic,

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#### OPEN MEETING

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##### **Call to Order and Roll Call**

The chair called the meeting to order at 12:03 p.m., and took roll call.

##### **Approval of Minutes**

The advisory body reviewed and approved the minutes of the April 23, 2018, Workload Assessment Advisory Committee meeting.

The chair welcomed new members.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 1–3)

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##### **Item 3 (taken out of order)**

Jake Chatters discussed a proposal by the JBSIS Subcommittee of the Court Executive Advisory Committee in which the Workload Assessment Advisory Committee has been designated the committee to which any disputes concerning JBSIS definitions would be brought if agreement could not be reached between the court and the JBSIS Subcommittee of CEAC. Mr. Chatters explained that the Workload Assessment Advisory Committee had both the technical expertise as well as the appropriate committee makeup, being comprised of both judges and court executives.

**Action:**

The committee discussed the recommendation from CEAC and had no opposition to the referral. The item will be heard by the Judicial Council at its November meeting.

**Item 1: Update on Judicial Workload Study**

Ms. Hong gave an update on the current status of the judicial workload study, including participating courts, the pilot study conducted in two courts in the spring, the training sessions, and the data collection taking place in October/November. Ms. Hong mentioned that staff would be convening the committee in earl 2019 to discuss preliminary findings.

**Action:** Informational only

**Item 2: Referral from the Trial Court Budget Advisory Committee on Court Reporters in Family Law**

Ms. Rose-Goodwin discussed the new language in the 2018 Budget Act regarding provision of court reporters in Family Law and the Jameson v. Desta Supreme Court decision regarding provision of court reporters in civil to litigants eligible for fee waivers. The committee directed staff to return to the committee with a recommendation for how to include a calculation of the need for additional reporters based on these two issues.

**Action:**

No action taken at this meeting. Staff directed to return with a proposal at a subsequent meeting.

**Item 4: Update on AB 1058 Joint Subcommittee**

Judge Hinrichs gave an update on recent progress by the AB 1058 joint subcommittee. The joint subcommittee is proposing using a workload-based model based on JBSIS filings to establish a need calculation. The final report by the joint subcommittee will be sent to the Judicial Council in January 2019

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**A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 12:40 p.m..

Approved by the advisory body on enter date.



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 14-15, 2019

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Title

Child Support: AB 1058 Child Support  
Commissioner and Family Law Facilitator  
Program Funding Allocation

Agenda Item Type

Action Required

Date of Report

October 18, 2018

Submitted by

AB 1058 Funding Allocation Joint  
Subcommittee  
Hon. Mark Ashton Cope, Cochair  
Hon. Joyce D. Hinrichs, Cochair  
Hon. Mark A. Juhas, Cochair

Contact

Anna L. Maves, Supervising Attorney  
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### Executive Summary

At its meeting on April 17, 2015, the Judicial Council approved the recommendation of the Family and Juvenile Law Advisory Committee that the AB1058 Funding Allocation Joint Subcommittee be established to reconsider the allocation methodology developed in 1997 for the AB1058 Child Support Commissioner and Family Law Facilitator Program. The joint subcommittee, which included representatives from the Family and Juvenile Law Advisory Committee, the Trial Court Budget Advisory Committee, the Workload Assessment Advisory Committee, and the California Department of Child Support Services, was charged to reconsider the allocation methodology developed in 1997 and report back at the February 2016 Judicial Council meeting.

At the February 2016 council meeting, the council reconstituted the joint subcommittee, directed that funding should be allocated for fiscal year 2016-2017 using the historical funding methodology, and directed the joint subcommittee to develop a workload-based funding methodology to begin implementation for fiscal year 2018-2019, and then to delay making that recommendation until fiscal year 2019-2020 to incorporate the work on the Workload-based Allocation and Funding Methodology (WAFM) completed in 2018, and to coordinate with



California Department of Child Support Services (DCSS) on their current review of funding allocations for local child support agencies.

The joint subcommittee reformed and began meeting to discuss an allocation methodology based on workload and consistent with the established programmatic guiding principles. The joint subcommittee completed its work in September 2018 after extensive discussions and review of relevant information.

The joint subcommittee was asked to report back to the Family and Juvenile Law Advisory Committee, the Trial Court Budget Advisory Committee, and the Workload Assessment Advisory Committee the recommendation of the joint subcommittee. This report is being provided in response to the directive and includes the recommendations of the joint subcommittee as well as the report back from the three respective advisory committees.

### **Recommendation**

The AB 1058 Funding Allocation Joint Subcommittee recommends that the Judicial Council take the following actions related to the allocation of funding for the AB1058 Child Support Commissioner and Family Law Facilitator Funding:

1. Approve a new funding methodology for the AB 1058 child support commissioner program base funding that is workload based and employs the same workload and cost structures as WAFM as described below and set forth in Attachment A.
2. Begin reallocating AB1058 child support commissioner program base grant funds based upon that methodology in fiscal year 2019-2020 as set forth in Attachment B and described below to ensure that funding changes are capped at 5 percent and smaller courts can continue to operate their programs.
3. Direct the Family and Juvenile Law Advisory Committee to review the implementation of the AB 1058 funding methodology, including its impact on the performance of the program as federally mandated.
4. Direct the Family and Juvenile Law Advisory Committee to make a recommendation for AB 1058 funding a minimum service level for smaller courts for fiscal year 2021-2022.
5. Continue reallocation of funds every two years beginning with fiscal year 2021-2022 considering the recommendations of the Family and Juvenile Law Advisory Committee as presented to the Trial Court Budget Advisory Committee (TCBAC).
6. Maintain the current funding methodology for the Family Law Facilitator program until fiscal year 2021-2022.
7. Direct the Family and Juvenile Law Advisory Committee to gather information and make recommendations to TCBAC for fiscal year 2021-2022 on a funding methodology for Family Law Facilitators.
8. Direct the Family and Juvenile Law Advisory Committee to make recommendations concerning allocation of federal title IV-D draw down funds (to be matched by the trial courts) beginning in fiscal year 2019-2020 that allocate each court its proportion of the total funds up to the amount the court requests and is prepared to match.

## **Previous Council Action**

The Judicial Council is required annually to allocate non-Trial Court Trust Funds to the Child Support Commissioner and Family Law Facilitator Program and has done so since 1997. The council receives recommendations on these allocations annually from the Family and Juvenile Law Advisory Committee. Funds for this program are provided through a cooperative agreement between the DCSS and the Judicial Council. The agreement requires the council to annually approve the funding allocation for each court for the child support commissioners and family law facilitators. Two-thirds of the funds are provided from the U.S. Department of Health and Human Services Administration for Children and Families, Office of Child Support Enforcement, through the 1996 Federal Personal Responsibility and Work Opportunity Recovery Act (PRWORA) and one-third of the funds come from the state General Fund (non-Trial Court Trust Fund court funding). This funding is commonly referred to as “base funding.” Any funds left unspent during the fiscal year revert to the state General Fund and cannot be used in subsequent years.

## **Historical Funding Methodology**

The initial allocation of funds for fiscal year 1997-1998 used the active child support cases<sup>1</sup> at each county’s district attorney’s office<sup>2</sup> as the measure of workload. Each court was guaranteed a minimum level of funding regardless of the funding it would otherwise receive based on the workload measure. In subsequent years, the Family and Juvenile Law Advisory Committee made recommendations for adjustments to courts’ allocations based on their responses to annual questionnaires regarding their funding needs.

Since 2008, due to the state budget crisis, the title IV-D program has been flat-funded. Because there are no additional funds available for the program, the Judicial Council has allocated funds to the courts at the same level the court received in the prior fiscal year, less any amount a court indicated they did not need, for both the Child Support Commissioner Program and Family Law Facilitator Program. Further, as a temporary stop-gap measure to ensure that courts could maintain services levels, starting in 2008, courts who were able to contribute trial court funds to provide matching funds, previously provided by DCSS to the Judicial Council, were provided a mechanism for the courts to participate in the federal drawdown option. This option allows courts to receive two-thirds of additional program funding by paying one-third of program costs from local trial court funds and receiving two-thirds federal matching funds.

## **Formation of the Joint Subcommittee**

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<sup>1</sup> Active child support cases were defined as those cases in which the noncustodial parent had been located and a child order was established or reserved.

<sup>2</sup> In 1997, the district attorney’s offices handled child support matters, which continued until the transition of this caseload to the newly-formed Department of Child Support Services and each county’s local child support agency in 2000.

Since 1997, significant demographic shifts have led to changes in counties' proportional share of the statewide child support caseload. The resulting shift in workload raised concerns about the utility of the current historical model in allocating program funds equitably.

At its meeting on April 17, 2015, the council approved the recommendation from the Family and Juvenile Law Advisory Committee that the AB 1058 Funding Allocation Joint Subcommittee (joint subcommittee) be established to review the allocation methodology developed in 1997 for the AB 1058 Child Support Commissioner (CSC) and Family Law Facilitator (FLF) programs. After three open meetings, the joint subcommittee, at its February 26, 2016 meeting, presented to the council its recommendations and the separate recommendations of the Family and Juvenile Law, Trial Court Budget, and Workload Assessment Advisory Committees. At that meeting, the council approved the following actions:

- Adopt the recommendation of the joint subcommittee for revising the process of how funds are moved from one court to another during a fiscal year to maximize program resources.
- Reappoint the joint subcommittee for at least fiscal year (FY) 2016–2017 to continue consideration of the allocation of the Assembly Bill 1058 funds.
- Continue to allocate funding using the historical model for fiscal years 2016–2017 and 2017–2018, develop a workload-based funding methodology to begin implementation in FY 2018–2019, and coordinate with the California Department of Child Support Services (DCSS) on its current review of funding allocations for local child support agencies.
- Instruct the joint subcommittee to continue its work to determine accurate and complete workload numbers to include in a funding methodology for both child support commissioners and family law facilitators.
- When developing a funding methodology, determine whether the family law facilitator methodology should use different underlying data than the child support commissioner methodology, and identify what data should be used, given that different factors drive commissioner and facilitator workloads.
- As part of the joint subcommittee's funding methodology determination, establish subject-matter-expert (SME) groups comprising both child support commissioners and family law facilitators to provide input and expertise to the joint subcommittee.
- Instruct the joint subcommittee to report back to the council at its December 2016 meeting after providing a report to the Family and Juvenile Law, Trial Court Budget, and Workload Assessment Advisory Committees to ensure statewide input.

At its December 16, 2016 meeting, the Council received the joint subcommittee's interim report which noted that the development of a workload-based funding methodology is ongoing and a

final recommendation on a proposed model is anticipated for the January or February 2018 Council.

In October of 2017, the joint subcommittee was directed to delay making a recommendation for implementation of a new funding methodology until at least fiscal year 2019-2020 following the Judicial Council's reconsideration of the Workload-based Allocation and Funding Methodology (WAFM) that was discussed at the council's meeting in January 2018.

## **Rationale for Recommendation**

### **Methodology and Process**

Since its reconstitution by the Council in February of 2016, the joint subcommittee has held ten open meetings<sup>3</sup> to develop guiding principles for a funding model, discuss data available to measure workload for child support commissioners and family law facilitators, and review federal and state law and contractual requirements to meet the requirements of the AB 1058 grant. Following the council's directive, the joint subcommittee additionally created two SME groups—one composed of child support commissioners (CSCs) and another of family law facilitators (FLFs)—to provide input and expertise to the joint subcommittee. The SME groups met 1-2 times per month from June of 2016 to April of 2017 to identify factors that might impact workload in the AB 1058 courts and provided their final reports to the joint subcommittee at its May 11, 2017 meeting.

The joint subcommittee spent several meetings developing principles for a funding methodology for the AB 1058 program, starting with its January 19, 2018 meeting. The members began by identifying the aspects of the historical funding methodology which worked and those which did not work. To draw from the expertise of the SME groups, the joint subcommittee invited representatives from each subject-matter-expert group to serve as advisory members to the joint subcommittee during these discussions. Systematically, the members went through each positive and negative factor of the current methodology and developed principles that would underlie a new funding methodology to address these factors.

In discussing the principles for a methodology, the members emphasized the importance of maintaining the predictability, stability, and transparency of the program, while still having a model that could be flexible to changes in workload. The discussions reinforced the need to develop a workload-based methodology that would work statewide, and that would not threaten the current performance nor adversely impact a court's compliance with the federal grant requirements. The joint subcommittee wanted to preserve local court decision-making and judicial independence, while also seeking to maximize the utility of Title IV-D court resources statewide and supporting collaboration with DCSS to be responsive to changes in policies and

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<sup>3</sup> The joint subcommittee held open meetings on the following dates: August 8, 2016; September 22, 2016; May 11, 2017; July 31, 2017; January 19, 2018; March 12, 2018; April 18, 2018; June 19, 2018; August 20, 2018; and September 10, 2018.

practices. Lastly, the members stressed the need to work towards obtaining quality data generated and managed by the court to ensure transparency and accountability within the branch.

At its September 10, 2018 meeting, the joint subcommittee approved the following principles to follow in developing a new funding methodology:

- Equitable allocation/credibility
- Maintain statewide federal performance measures
- Establish consistent and reliable data reporting
- Consistent access to justice
- Funding allocation methodology will support advocacy and new funding, including replacement of federal drawdown funds with permanent funds
- Fund every court at minimum level of service
- Maximize all funds, including reallocation

With these principles in mind, the joint subcommittee established a basic framework for a proposed CSC base funding model. At the onset, it was anticipated that further modifications would be made to this base model to ensure all courts had sufficient funding to maintain minimum services.<sup>4</sup>

The base funding model estimates the workload-based need for child support commissioners and the staff to support those commissioners, excluding the family law facilitator, using the same principles and model parameters as the Resource Assessment Study (RAS) model and the WAFM. Child support commissioner (CSC) need is estimated by taking a three-year average of governmental child support filings<sup>5</sup> (fiscal years 2014-15 through 2016-17) and multiplying those filings by the caseweight in the family law-other petitions category (46 minutes)<sup>6</sup>. The product is then divided by the judicial workload year value. The result is an estimate of the full-time equivalents (FTE) needed for the workload. To convert the FTE estimate into dollars, the subcommittee directed staff to use an average salary for commissioners equivalent to 85% of a judges' salary. Statewide average estimates for salary-driven and non-salary driven benefits,

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<sup>4</sup> Family Code 4251(a) requires, "...each superior court [to] provide sufficient commissioners to hear Title IV-D child support cases filed by the local child support agency."

<sup>5</sup> Prior to FY 2018-2019, the definition for title IV-D governmental child support cases in the Judicial Branch Statistical Information System (JBSIS) did not include all cases with involvement by the local child support agencies, which the joint subcommittee decided should be included to appropriately measure workload. Starting with the current fiscal year, courts are directed to include all cases in which the local child support agency intervenes, including family law cases in which the local child support agency is entered to establish, enforce, or modify a child support order. It is anticipated that it will take several months for courts to adjust their case management systems to the new definition, meaning complete case counts for title IV-D governmental child support cases may not be available until 2019.

<sup>6</sup> As the latest Judicial Needs Study did not determine case weights for title IV-D governmental child support cases specifically, the case weights for the "Family Law-Other Petitions" case type was used to assess CSC staffing need for each court. Future Judicial Needs Study will determine a separate case weight for title IV-D governmental child support cases that can be applied to the CSC funding model.

from WAFM, were applied, as was a multiplier for operating expenses and equipment (OE&E), using the same parameters as the WAFM model.

A similar approach was taken to estimate the workload-based need for staff support. Again, the family law facilitator FTE was omitted from the calculation because of the separate funding stream for that program, and the committee's decision to address that funding on a separate timeline. For non-CSC staff, the three-year average of filings was multiplied by a modified RAS caseweight used to measure child support workload. The original version of that caseweight includes the facilitator workload, but program staff were able to use other workload analyses to back out that time and use the remaining modified weight of 253.4 minutes to assess the need for non-facilitator program staff. In addition to line staff, estimates for managers/supervisors and administrative staff (HR, IT, finance) were made using the same ratios as the RAS model. The subcommittee also approved using a ratio of 1.25 courts reporters to each judicial officer needed, consistent with RAS. The RAS estimates for the staff year value and the WAFM parameters for salary, benefits, and labor costs were used to convert the FTE need to dollars. The OE&E factor used in WAFM was also applied on the staff side.

The joint subcommittee reviewed this base model and two variants of it during its August 20, 2018 conference call. Members made suggestions for additional modifications, which were presented at the September 10, 2018 in-person meeting, during which the joint subcommittee made its final recommendations.

### **Child Support Commissioner Base Funding Methodology and Implementation of Reallocation**

The subcommittee recommends that the council adopt a methodology for assessing the workload-driven need for child support commissioners and related staff in the AB 1058 program that is consistent with the WAFM and RAS models as described above. However, because this methodology would result in dramatic funding cuts or increases in most courts which would impact the courts' ability to provide the services required to meet federal and state law and contractual provisions associated with the funding (see Attachment A), the subcommittee is also recommending that the initial reallocation cap the total amount that each court's program can be cut or increased at five percent. In addition, the joint subcommittee recognizes that the allocation of funds for small courts must be adjusted to take into account the reality that they cannot hire a child support commissioner, who is barred from doing other legal work, from the very small allocations that would be provided to them based on workload alone. To address these challenges under the existing funding allocation, a number of courts have entered into intra-branch agreement in which they share a child support commissioner and thus are able to meet federal, state and contractual requirements while attracting qualified attorneys to serve as commissioners.<sup>7</sup> To ensure that these programs can continue to fulfill their statutory and

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<sup>7</sup> The courts that share a Child Support Commissioner and whose funding would be maintained at current levels if the recommendation noted above is adopted are the following: 1) Alpine and El Dorado, 2) Nevada and Sierra, 3)

contractual obligations, the joint subcommittee is recommending that those courts (cluster 1 courts and any courts with an existing intra-branch agreement with another court for AB 1058 services) be funded at no less than their current levels for fiscal year 2019-2020 and 2020-2021 (see Attachment B for proposed FY 2019-2020 and 2020-2021 allocations).

### **Review of Future Child Support Commissioner Base Funding Needs and Allocation**

While the joint subcommittee is recommending that the council move towards a funding allocation that is based upon each court's workload, it also recognizes that there is work to be done to refine and revise the allocations to take into account improved workload data collection that is currently underway as a result of improved data definitions in JBSIS implemented beginning in the current fiscal year, as well as a need to reexamine the appropriate minimum level of funding needed to ensure that each court can fulfill its AB 1058 obligations and maintain or improve program performance as measured by federal performance standards on establishing and enforcing child support orders. Thus, the joint subcommittee is recommending that the Family and Juvenile Law Advisory Committee be directed to undertake a review of the funding model using the updated workload data from JBSIS and the forthcoming time studies and to develop recommendations to be submitted to TCBAC on:

- Reallocation of funds in FY 2021-2022 and every two years thereafter; and
- The minimum funding level for each court to meet its statutory and contractual obligations.

TCBAC would then be responsible for making recommendations to the council on the continued implementation and revision of the methodology as well as the allocation of funds.

### **FLF Funding Model Recommendation**

In considering options for allocating FLF funding, the joint subcommittee discussed various metrics for measuring workload. The joint subcommittee recognized that the work performed by the FLF is not easily measured based on the current available data. FLFs routinely provide services that do not result in court filings and provide support for individuals where the jurisdiction of the case resides in a different court. As most FLFs are incorporated into court's Self-Help Centers, the joint subcommittee reviewed the methodology used for allocating self-help funding. The self-help funding model gives each court a base level of funding of \$34,000 and then allocates the remaining funds based on population.

The governor's budget for FY 2018–2019 budget included \$19.1 million in new funds for the self-help program, which would be allocated following the same model. These new funds are intended to be used to expand self-help services in the court and the Judicial Council is required to report back to the Legislature on the impact of the new funds on self-help programs statewide. The joint subcommittee was concerned that changing the FLF historic funding allocation may result in the inability to accurately measure the impact of the increase in self-help funds and could threaten the success of the implementation of new self-help program funding. The joint

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Shasta and Trinity, 4) Monterey and San Benito, 5) Colusa, Glenn, Plumas, and Tehama, 6) Mariposa and Tuolumne, 7) Sutter, Yolo, and Yuba, and 8) Inyo and Mono.

subcommittee considered whether the best option would be to defer the development of a new FLF funding model until after the analysis of the implementation of the new self-help program funding was complete.

The joint subcommittee recommends that FLF base and federal drawdown funding be allocated using the existing funding allocation methodology until at least fiscal year 2021-2022 when a review of the impact of the self-help funding can be undertaken and better workload data for FLF offices can be gathered. The joint subcommittee is recommending that the Family and Juvenile Law Advisory Committee be directed to gather the data and information needed to make recommendations to TCBAC on a method and timeframe for allocating FLF base and drawdown funds on a workload basis that conforms with the principles established by the joint subcommittee to inform future FLF funding allocations.

### **Federal Drawdown Funds Recommendation**

In 2008, due to a statewide budget crisis, funding for the AB1058 program was reduced. In order to maintain service levels, some courts elected to contribute trial court funds to uses as a match to drawdown federal title IV-D funds. Courts were able to receive 2 federal dollars for every dollar courts were able to contribute, up to a maximum amount negotiated with the Department of Child Support Services. This was intended to be a stop gap measure to maintain service levels until funding could be restored. Because trial courts are required to contribute their own funds to drawdown federal funds, the joint subcommittee determined that the federal drawdown funds should be allocated following a different methodology than what would be used for the base funds.

Currently, the process for allocating these funds is based on courts indicating whether they have sufficient trial court funds to participate in this funding and identifying the amount that they are able to contribute as matching funds. An annual questionnaire is completed by each court, in which the court indicates if they want to increase, decrease, or keep the same level of federal drawdown funds as for the prior year. If the requested increases exceed the total federal drawdown funds available to the program, the requested increases are prorated down to available funds based on the allocation of the base funding.

The joint subcommittee recommends that federal drawdown funds be allocated proportionally to each court based on the new funding allocations up to the amount that a court requests and can match. If the request for federal drawdown funds exceed the amount available to allocate, these funds should be allocated in proportion to court's base funding. This proportional allocation should be continued until all drawdown funds are allocated to those courts who are willing and able to provide the matching funds. The joint subcommittee also recommends that the council seek to have these funds restored to the base funding of the program so that courts are no longer required to provide matching funds.

### **Advisory committees**



The joint subcommittee approved with modifications the draft of this report on October \_\_\_\_, 2018. Thereafter, under the council's directive, the report was provided to the three advisory committees to ensure statewide input.

On \_\_\_\_\_, the Family and Juvenile Advisory Committee (F&J) \_\_\_\_\_

On \_\_\_\_\_, the Trial Court Budget Advisory Committee (TCBAC) \_\_\_\_\_

On \_\_\_\_\_, the Workload Assessment Advisory Committee (WAAC) \_\_\_\_\_

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

The joint subcommittee made a concerted effort to garner as much public input as possible. As noted above, at the direction of the council, the joint subcommittee created two SME groups – one composed of CSCs and one composed of FLF – who met 1-2 times per month from June of 2016 to April of 2017 to identify factors that might impact workload in the AB 1058 courts. The SME groups provided their final reports to the joint subcommittee at its May 11, 2017 meeting. The joint subcommittee also invited a representative from each SME group to serve as advisory members for three of the joint subcommittee's meetings.

Prior to each of its ten open meetings, the joint subcommittee notified all CSCs and FLFs, the stakeholders most directly impacted by the funding methodology, requesting their written public comments or oral public comments at the meetings themselves. Collectively, the joint subcommittee received seven written public comments and seven oral public comments. The commentators include a CSC, three FLFs (including the President of the California Family Law Facilitator Association, who spoke on the association's behalf), a superior court, and the Child Support Directors Association.

Some of the main concerns expressed included the following:

- the need to maintain a minimum level of funding so that all courts can provide adequate services to fulfill their contractual and statutory requirements, particularly since the failure of any one court to meet these requirements can jeopardize the funding for the program as a whole,
- the belief that AB 1058 workload for CSCs is best measured by counting motions since it is a motion-based practice and the same number of case filings in two different counties can lead to very different levels of workload based on the practices of the LCSAs in each county,
- the importance of not relying on filings for measuring FLF workload as the work of FLFs often does not lead to actual filings in the court and when they do the filings often occur in counties other than the one in which the FLF provides services,
- the reality that a drastic change in funding for courts will impact the ability of the LCSAs to complete their work within the federally-mandated timeframes, and

- the need to gradually phase-in any new funding methodology to allow courts time to adjust and to plan accordingly.

In addition to the input given directly to the joint subcommittee, DCSS hired an outside consultant, MAXIMUS, to conduct an extensive analysis on the available workload data and options for workload-based funding models. MAXIMUS presented its recommendations for a funding model to the joint subcommittee for its consideration.

All of this feedback and commentary was taken into consideration during the joint subcommittee's discussions, during which it considered various approaches to developing a funding methodology for child support commissioner, family law facilitator and federal drawdown funds for FY 2019-2020. What follows is a description of the alternative approaches to a funding methodology considered by the joint subcommittee and the rationale for rejecting these approaches and moving forward with the proposal recommended above.

### **Child Support Commissioner**

#### **Alternative 1**

**Use workload data from the Department of Child Support Services.** The joint subcommittee considered using data from DCSS's case management system to measure the workload of CSCs. This data is entered into the statewide system by the local child support agencies (LCSAs) and is reported annually to the federal government. Based on local policies and practices, LCSAs may enforce child support orders in counties where the court within that county does not have jurisdiction. Concerns were raised that the data tracked by the LCSA that shows its workload may not be consistent with the workload of the court located within the same county. The joint subcommittee additionally raised concerns about the building a judicial branch funding methodology using data collected by parties to a case<sup>8</sup> to measure the workload of judicial officers. Consistent with the stated guideline of having a methodology that relies on data generated and managed by the branch, the joint subcommittee elected to recommend use of the JBSIS filings data instead.

#### **Alternative 2**

**Use motions data rather than case filings data.** Responding to the concern raised by commentators and specifically by the CSC SME group that the AB 1058 is a motion-based practice whose workload is best measured by counts of motions, the joint subcommittee spent substantial time discussing the possible use of motions as a workload measure. It was determined that there were no reliable measures of motions statewide, and the best proxy for motions was hearings. Members voiced concerns about the ability to manipulate hearing totals, even if unintentional. Moreover, if hearings were to be used as the measure, the joint subcommittee noted that about one-third of courts, including some of the largest, do not enter motions or hearings data into JBSIS, which would leave the DCSS hearings data as the only option for

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<sup>8</sup> While DCSS itself is not a litigant in the superior court cases that would be impacted by this funding methodology, the LCSAs who collect the caseload data are parties to the all governmental title IV-D child support cases.

obtaining these counts in every jurisdiction. Recognizing the joint subcommittee's aim to use data generated and managed by the court, and not by an outside party, the joint subcommittee rejected this option. Rather, after many discussions over the course of several meetings, the joint subcommittee concluded that RAS takes into account the number of hearings on average that are set in the life of a case, making the case filing count via JBSIS the best available workload measure for CSCs based on the criteria set by the joint subcommittee.

### **Alternative 3**

**Use a 1-to-1 ratio for court reporters to child support commissioners.** The joint subcommittee recognized the need to include court reporters in the child support commissioner base funds funding model and considered using a 1-to-1 ratio. The joint subcommittee discussed the unique nature of court reporter work and that court reporters are not interchangeable with other court staff. The joint subcommittee recognized that WAFM uses a 1-to-1.25 ratio for judicial officer to court reporter ratio. The joint subcommittee rejected using a 1-to-1 ratio so that the funding model would be aligned with WAFM and more accurately identify actual funding need for the courts.

### **Alternative 4**

**Limit only decreases in funding to no more than 5 percent from what the court received in funding from the prior fiscal year.** The proposed methodology attempts to balance the competing goals of allocating funding based on the workload of each court and the ability of each court to continue to provide a minimum level of services. The court considered placing a cap only on any decrease in funding any court could receive from the prior fiscal year. The joint subcommittee acknowledged the discrete nature of the program and the challenges that the courts face in making adjustments to maximize the use of funding when additional funding is made available as well as when funding is reduced. Therefore, the joint subcommittee recommended that a reallocation in funding should be capped for courts who would receive a decrease in funding as well as courts who would receive an increase.

### **Alternative 5**

**Include minimum funding for cluster 1 courts only.** The joint subcommittee recognized the need to provide a minimum amount of funding for the smallest courts in order for those courts to continue to meet the statutory and contractual requirements of the child support program. The joint subcommittee further recognized that some of these courts have reached intra-branch agreements with other cluster 1 courts or with larger courts in their area to meet the federal and state requirements of the program and the needs of the communities. The joint subcommittee was concerned that not maintaining existing funding to courts who have an existing agreement would create a gap in necessary funding to meet the obligations of the agreement. In addition, the joint subcommittee concluded that there was insufficient information to determine the amount of minimum funding necessary for the smallest courts and reducing funding could have unintended consequences.

### **Alternative 6**

**Include cluster 1 courts and courts who have an intra-branch agreement for shared services in the model variance that limits any increase or decrease in funding to 5 percent.**

The joint subcommittee considered including cluster 1 courts and courts with an intra-branch agreement, in the recommended variance of limiting any increase or decrease in funding by no more than 5 percent. In balancing the competing goals of developing a funding methodology that has simplicity and transparency with the need to ensure the federal, state and contractual requirements of the program are met, the joint subcommittee concluded that there was insufficient information to make this recommendation, but that this issue could be reexamined after the Family and Juvenile Law Advisory Committee evaluates the minimum services levels necessary to ensure compliance with federal, state, and contractual requirements and make recommendations to the Trial Court Budget Advisory Committee.

**Family Law Facilitator Funding**

The joint subcommittee considered identifying data to measure the workload of the family law facilitator's office and developing a funding methodology based on workload consistent with other trial court funding allocation methods. However, as most family law facilitator offices are located within courts' self-help centers, the joint subcommittee was concerned that any reallocation of family law facilitator funding could have unintended consequences on measuring the impact and expansion of services that result from the \$19.1 million in increased self-help funds. Ultimately, the joint subcommittee determined that the current funding methodology, for both base funds and federal drawdown funds should be left in place until the courts can expand self-help services with the additional funds and complete the required cost/benefit analysis due to the Legislature on the impacts of the new funds.

**Federal Drawdown Funding**

The joint subcommittee considered including the federal drawdown funds with the base funds and allocating both types of funds consistent with the recommended allocation methodology for child support commissioners. However, as these funds require the courts to provide a one-third match of trial court funds to drawdown two-thirds federal title IV-D funds, the joint subcommittee concluded that local court decision making should be maintained as to whether courts have the desire or ability to participate in this program and drawdown these additional funds. Also, consistent with the goal of maintaining stability within the program and meeting minimum service levels, the joint subcommittee concluded that it was critical that the courts make their decisions whether to participate and at what level before the Judicial Council makes the allocations so that courts have a clear understanding of the funding available and can make informed decisions on how to use the available funds.

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

The committee does not anticipate that these recommendations will result in any costs to the branch, but the reallocation of funds will decrease funds available for some courts which may impact their ability to meet program objectives.

## **Attachments**

1. Attachment A: Child Support Commissioner Base Funding Model Allocations
2. Attachment B: Recommended Child Support Commissioner Funding Model Allocations

DRAFT



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date	Action Requested
October 15, 2018	Review and approve proposed methodology
To	Deadline
Workload Assessment Advisory Committee	October 22, 2018
From	Contact
Leah Rose-Goodwin, Manager	Leah Rose-Goodwin (415) 865-7708 phone leah.rose-goodwin@jud.ca.gov
Subject	
Court Reporter FTE need	

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#### **Issue**

The Workload Assessment Advisory Committee should consider a recommendation for how to quantify the workload need for court reporters in family law and civil cases based on two recent events that now require courts to provide court reporters in more casetypes. Currently, the Resource Assessment Study (RAS) model accounts for the workload need for court reporters in mandated casetypes and for all casetypes in fifteen courts where court reporter services are required per the Government Code.<sup>1</sup> Based on the direction given by the Legislature, the RAS model needs to be adjusted to properly reflect the workload need.

#### **Background**

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<sup>1</sup> . An exception exists for a small group of courts (fifteen) that are governed by a set of county-specific statutes regarding court reporters (See, e.g., §§ 70040–70064.) These were enacted prior to trial court unification, when courts were primarily funded by and considered a county function. These courts are: Butte, El Dorado, Lake, Mendocino, Merced, Modoc, Mono, Monterey, Nevada, San Luis Obispo, Shasta, Solano, Tehama, Trinity, and Tuolumne.

The RAS model measures the need for court reporters by applying a ratio of 1.25 for every judicial position needed in the corresponding casetype. For example, if the judicial need in family law cases in a particular court were 10 judicial officers, then the court reporter need in that court would be estimated at 12.50 FTE (full-time equivalents). The ratio presumes that a reporter should be available to every judicial officer needed; an additional “pad” of 0.25 is added to cover any vacation, sick, or other leave time because court reporters cannot be interchanged with other court staff in the case of an absence.

The 2018 Budget Act called for designating \$10 million of the \$75 million allocated to the judicial branch to provide court reporters in family law matters. Specifically, SB 840 states: “It is the intent of the Legislature that \$10,000,000 be utilized to increase the level of court reporters in family law cases. Further, it is the intent of the Legislature that the \$10,000,000 not supplant existing trial court expenditures on court reporters in family law cases.”

Also related to court reporter need, on July 5, 2018, the Supreme Court issued a decision in *Jameson v. Desta* (*Jameson*) that requires a court to provide a waiver of the costs of providing court reporters in civil cases<sup>2</sup> to litigants who are deemed eligible for fee waivers.

## Analysis

Outlining an approach for the first issue—providing court reporters in all family law cases—is relatively simple. WAAC could approve a modification to the RAS model adjusted so that the court reporter need in family law matters could be calculated by applying the same ratio of 1.25 to 1 for every judicial officer needed to hear the family law casetypes. The Trial Court Budget Advisory Committee will address the expenditure and supplanting issues on the allocation side of the branch’s trial court funding model. However, estimating the workload need to implement *Jameson* is more challenging because it applies to only a subset of cases—those in which a litigant who is eligible for a fee waiver has requested a written record.

Setting aside for a moment the workload-based need for court reporters in family law, the *Jameson* ruling would apply to civil unlimited cases and probate cases, since the statute allows for electronic reporting in limited civil matters. Using the same approach as would be applied to family law cases could result in an overestimate of court reporter need. There is only a subset of cases that are eligible for fee waivers, and data reported in JBSIS suggests that a fee waiver is issued in about 30% of all civil cases. Furthermore, the *Jameson* ruling might encourage more people to apply for fee waivers in order to be eligible for a court reporter without cost. On the other hand, courts have indicated that efficiencies might be realized by pooling court reporters to serve a number of different courtrooms. Courts could also use efficient scheduling practices to

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<sup>2</sup> While the decision referenced “civil,” it is understood that civil includes family law, probate, and mental health.

consolidate reporter need so that resources can be used effectively. However, in courts with multiple locations, where civil matters might be heard in a number of different courtrooms, opportunities for pooling might be constrained. All of these competing factors make it difficult to assess the need for court reporters with any measure of precision.

### **Recommendation**

Because the 2018 Budget Act provisions take effect immediately and *Jameson* became effective August 6, 2018, WAAC should take action immediately so that the workload measures can be adjusted for the coming budget year (2019-20). Given the uncertainties concerning workload measurement related to *Jameson*, a phased in approach is recommended

The staff recommendation is that WAAC:

1. Starting with the 2019-20 workload estimates, approve applying the 1.25 to 1 ratio of court reporters to judicial officers needed in family law cases to quantify the workload estimate for court reporters in family law.
2. Starting with 2019-20, approve a 1.25 to 1 ratio for court reporters in civil unlimited and probate cases, discounted by 50% to account for the smaller pool of eligible litigants, efficiencies realized through pooling, and efficiencies offset by the need to have reporters available in multiple locations simultaneously. Re-evaluate this workload model annually to see whether additional data can be used to increase the precision of the estimate.





# The Need for New Judgeships in the Superior Courts: 2018 Update of the Judicial Needs Assessment

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

NOVEMBER 2018



JUDICIAL COUNCIL  
OF CALIFORNIA

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WORKLOAD ASSESSMENT  
ADVISORY COMMITTEE

## **JUDICIAL COUNCIL OF CALIFORNIA**

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*Chief Justice of California and  
Chair of the Judicial Council*

**Martin Hoshino**  
*Administrative Director,  
Judicial Council*

### **ADMINISTRATIVE DIVISION**

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*Manager, Office of Court Research*

**Kristin Greenaway**  
*Supervising Research Analyst, Office of Court Research*

**Khulan Erdenebaatar**  
*Research Analyst, Office of Court Research  
Primary Author of Report*

## 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 in all California trial courts, leaving some with serious shortfalls—as high as over 45 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.<sup>1</sup> 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 (FTE) judicial positions.

## Judicial Workload Measures Must be Updated to Reflect Current Case Processing Need

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

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<sup>1</sup> Harry O. Lawson and Barbara J. Gletne, *Workload Measures in the Court* (National Center for State Courts, 1980).

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. Some of the issues identified by judicial officers that have affected judicial workload since 2010 include, but are not limited to, the following:

- AB 109: criminal justice realignment (effective October 2011): judicial officers now have probation oversight of certain offenders, resulting in increased hearings and supervision;
- Proposition 47 (effective November 2014): changes the weights of the felony and misdemeanor workload; many jurisdictions have reported that changes in the law have eliminated incentives to complete misdemeanor drug treatment programs. With fewer people getting treatment, more are cycling rapidly through the system. A companion issue reported is that more defendants have trailing cases or multiple cases
- Increase in the number of identified mentally-ill offenders, use of diversion programs and collaborative-type courts. While these measures improve outcomes, they require more judicial supervision and court monitoring.
- Increased use of juvenile diversion programs which have resulted in lower filings, but leave behind in the system the juveniles hardest to reach and who have committed the most egregious crimes.
- New protections for non-minor dependents, which have increased the number of juveniles in the social services and court system (AB 12/212- effective 2012), as well as more juveniles receiving court supervision under special immigrant juvenile status (effective 2012).

Expanded use of court interpreters covering more casetypes, resulting in better outcomes for litigants, but more time required in the courtroom.

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 currently in progress and will result in new caseweights and other model parameters that will reflect current case processing practices. An interim update to this 2018 report will be issued once the model has been updated and the workload need for judges can be computed on the basis of the updated weights and other model parameters.

## 2018 Statewide Judicial Need Shows a Critical Need for New Judgeships

Consistent with reports submitted in previous years, the 2018 Judicial Needs Assessment shows a shortage of judges relative to the workload needs in California’s trial courts. Table 1, which summarizes the statewide judicial need compared to available resources based on a three-year average of filings from fiscal years 2014–15 through 2016–17, shows that 1,929.9 FTE judicial officers are needed statewide. Although the statewide assessed judicial need has been declining in recent years, many courts, particularly in the Inland Empire, continue to experience chronic judicial officer shortage (see Appendix A). In 2018, two highly impacted courts, San Bernardino and Riverside Counties, received two judgeships each, which were reallocated from the superior courts of Alameda and Santa Clara Counties.<sup>2</sup> In addition, the Budget Act of 2018 gave the Superior Court of the County of Riverside two newly funded judgeships.<sup>3</sup> Despite these changes, Riverside and San Bernardino courts continue to have a large unmet need for new judgeships.

Table 1 shows the total assessed statewide need for judicial officers has declined by 118.7, or 6 percent, since the 2016 Judicial Needs Assessment.

**Table 1. Statewide Need for Judicial Officers, 2016 and 2018 Judicial Needs Assessments**

Year	Authorized Judicial Positions (AJP) <sup>a</sup>	Authorized and Funded Judgeships and Authorized SJO Positions	Assessed Judicial Need (AJN)
2016	2,010.1	1,960.1	2,048.6
2018 <sup>b</sup>	2,004.1	1,956.1	1,929.9
<b>Change (2016 to 2018)</b>	<b>-6.0</b>	<b>-4.0</b>	<b>-118.7</b>

<sup>a</sup> Includes the 48 judgeships that were authorized by AB 159 (Stats. 2007, ch. 722) but never funded or filled. AB 159 originally authorized 50 judgeships, but 2 were funded in 2018 and allocated to the Superior Court of Riverside County. See Stats. 2018, ch. 45, § 6.

<sup>b</sup> AJP changed since the last assessment because, in 2016–17, the Superior Court of Santa Clara County had 5 FTE SJO reductions. In addition, the 2018 assessment includes a correction in the number of authorized positions; the 2016 AJN assessment had reported only 3 of the 4 SJO reductions at the Superior Court of Contra Costa County.

<sup>2</sup> Assem. Bill 103; Stats. 2017, ch. 17, § 22.

<sup>3</sup> Stats. 2018, ch. 45, § 6. These two judgeships are part of the 50 unfunded judgeships authorized by AB 159 (Stats. 2007, ch. 722).

## 127 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 B. 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. This is because the net statewide calculations of judicial need do not accurately identify the court'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 36 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.

Therefore, 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. Judicial officer FTE need—the difference between the assessed judicial need and the authorized judicial positions—is rounded down to the nearest whole number to arrive at the number of judgeships needed for each court.<sup>4</sup> For example, Tulare County has a judicial officer FTE need of 2.6, which rounds down to 2 new judgeships needed based on workload.

Based on the 2018 Judicial Needs Assessment, 17 courts need new judgeships, for a total need of 127 judges (Table 2). The need estimate does not include judicial vacancies resulting from retirements, elevations, or other changes that have not yet been filled.<sup>5</sup>

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<sup>4</sup> Per the Judicial Council policy adopted in 2014, an exception is made for courts with judicial FTE need of more than 0.8, but less than 1. For such courts, their actual judicial officer FTE need is reported without any rounding down. In 2018, there were no courts with judicial officer FTEs in the range of 0.8 and 1. See Judicial Council of Cal., Advisory Com. Rep., *Judicial Workload Assessment: 2014 Update of Judicial Needs Assessment and Proposed Revision to Methodology Used to Prioritize New Judgeships* (Nov. 7, 2014), [www.courts.ca.gov/documents/jc-20141212-itemT.pdf](http://www.courts.ca.gov/documents/jc-20141212-itemT.pdf).

<sup>5</sup> Judicial vacancies are reported monthly at [www.courts.ca.gov/15893.htm](http://www.courts.ca.gov/15893.htm).

**Table 2. Need for New Judgeships, by Court**

	A	B	C	D
Court	Authorized and Funded Judicial Positions	2018 Assessed Judicial Need	Number of Judgeships Needed* AJN – AJP (B – A)	% Judicial Need over AJP (C / A)
Imperial	11.3	12.3	1.0	9
Tehama	4.3	5.4	1.0	23
Merced	12.0	13.2	1.0	8
Sutter	5.3	6.6	1.0	19
Humboldt	8.0	9.4	1.0	13
Shasta	12.0	14.4	2.0	17
Kings	8.6	11.0	2.0	23
Tulare	23.0	25.6	2.0	9
Placer	14.5	17.4	2.0	14
Ventura	33.0	36.3	3.0	9
Stanislaus	24.0	28.2	4.0	17
San Joaquin	33.5	38.6	5.0	15
Fresno	49.0	56.9	7.0	14
Kern	43.0	53.5	10.0	23
Sacramento	72.5	84.3	11.0	15
Riverside	80.0	116.2	36.0	45
San Bernardino	88.0	126.2	38.0	43
			<b>127.0</b>	

\* Rounded down to the nearest whole number.

### 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.<sup>6</sup>

Conversions of additional positions were authorized for fiscal year 2011–12 (Gov. Code, § 69616), and under this authority four SJO positions were converted to judgeships—one each in 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.

<sup>6</sup> As authorized by Gov. Code, § 69615(c)(1)(C).

Conversions of 10 additional positions have been authorized since fiscal year 2013–14 (Gov. Code, §§ 69617–69619.6), but no additional SJO positions above the 16 authorized per year have been converted under this authority.

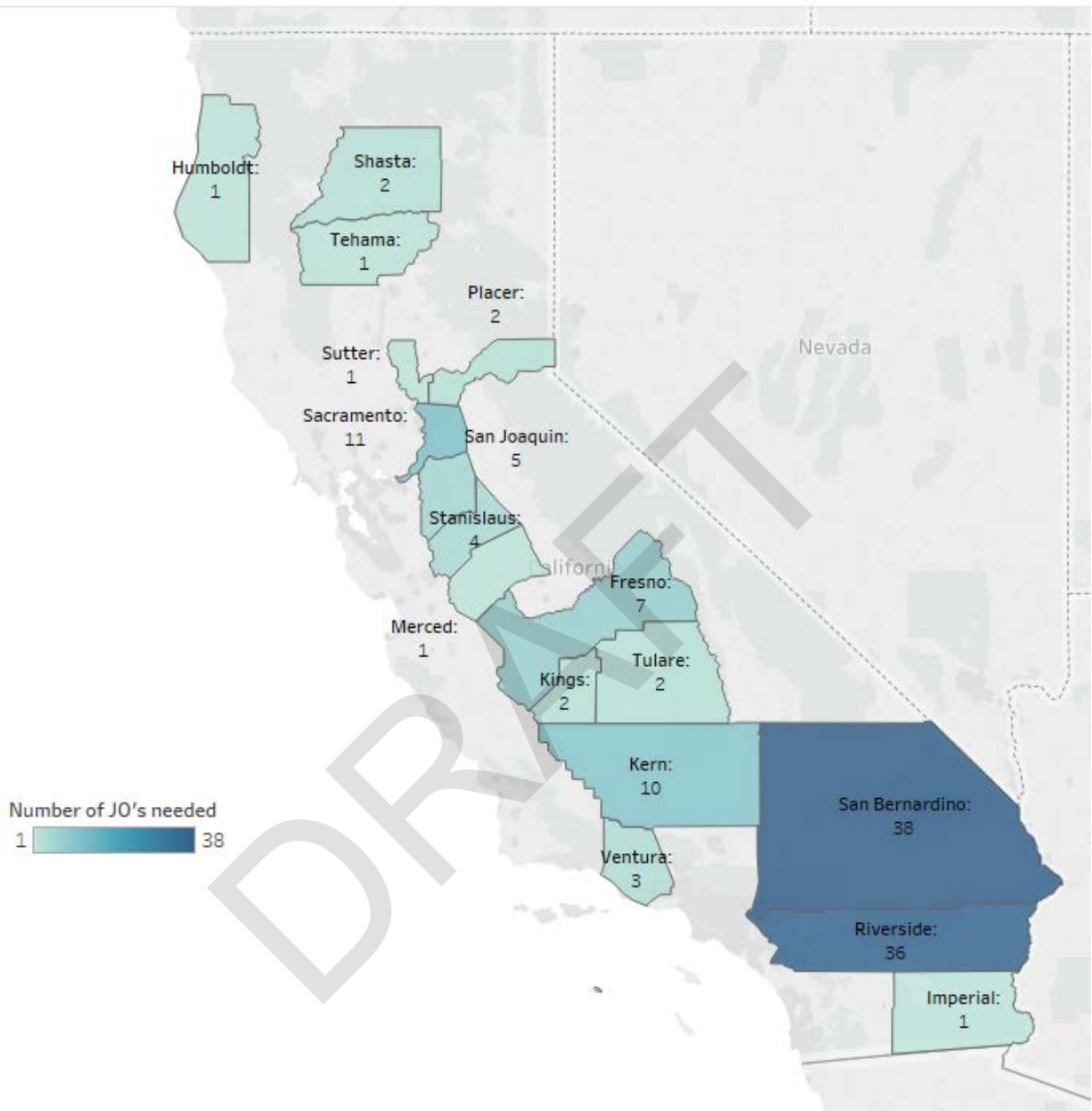
### Lack of Adequate Judicial Resources Is a Barrier to Access to Justice

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.

DRAFT



# Appendix A. Judicial Need Map



## Appendix B. Assessed Judicial Need Compared to Authorized Positions

<b>Court</b>	<b>A</b> <b>Authorized and Funded Judicial Positions<sup>a</sup></b>	<b>B</b> <b>2018 Assessed Judicial Need</b>	<b>C</b> <b>AJN – AJP (B – A)</b>	<b>D</b> <b>% Judicial Need over AJP (C / A)<sup>b</sup></b>
Riverside	80	116.2	36.2	45
San Bernardino	88	126.2	38.2	43
Kings	8.6	11.0	2.4	28
Tehama	4.33	5.4	1.1	25
Kern	43	53.5	10.5	24
Sutter	5.3	6.6	1.3	24
Shasta	12	14.4	2.4	20
Placer	14.5	17.4	2.9	20
Stanislaus	24	28.2	4.2	18
Humboldt	8	9.4	1.4	17
Sacramento	72.5	84.3	11.8	16
Fresno	49	56.9	7.9	16
San Joaquin	33.5	38.6	5.1	15
Amador	2.3	2.6	0.3	14
Lake	4.7	5.3	0.6	14
San Benito	2.3	2.6	0.3	13
Tulare	23	25.6	2.6	11
Ventura	33	36.3	3.3	10
Merced	12	13.2	1.2	10
Imperial	11.3	12.3	1.0	9
Calaveras	2.3	2.4	0.1	5
Yuba	5.33	5.4	0.1	2
Madera	9.3	9.4	0.1	1
Butte	13	13.0	0.0	0
San Luis Obispo	15	14.6	-0.4	-2
Sonoma	23	22.4	-0.6	-3
Lassen	2.3	2.2	-0.1	-3
Tuolumne	4.75	4.6	-0.2	-3
Contra Costa	42	39.6	-2.4	-6
Orange	144	135.0	-9.0	-6
Solano	23	21.5	-1.5	-6
Alameda	83	77.1	-5.9	-7
Los Angeles	585.25	533.3	-52.0	-9
Santa Barbara	24	21.8	-2.2	-9
Santa Cruz	13.5	12.2	-1.3	-9
Monterey	21.2	19.1	-2.1	-10
Yolo	12.4	10.9	-1.5	-12
Napa	8	7.0	-1.0	-12
El Dorado	9	7.8	-1.2	-13
San Mateo	33	28.6	-4.4	-13
San Diego	154	132.3	-21.7	-14
Mendocino	8.4	7.0	-1.4	-16
Del Norte	2.8	2.3	-0.5	-18
Marin	12.7	10.1	-2.6	-21
San Francisco	55.9	43.8	-12.1	-22
Glenn	2.3	1.8	-0.5	-22
Santa Clara	82	62.2	-19.8	-24
Colusa	2.3	1.5	-0.8	-34

	A	B	C	D
Court	Authorized and Funded Judicial Positions <sup>a</sup>	2018 Assessed Judicial Need	AJN – AJP (B – A)	% Judicial Need over AJP (C / A) <sup>b</sup>
Siskiyou	5	3.1	-1.9	-37
Trinity	2.3	1.4	-0.9	-39
Nevada	7.6	4.5	-3.1	-40
Inyo	2.3	1.4	-0.9	-41
Plumas	2.3	1.2	-1.1	-50
Mono	2.3	0.9	-1.4	-59
Mariposa	2.3	0.9	-1.4	-61
Modoc	2.3	0.8	-1.5	-66
Sierra	2.3	0.2	-2.1	-90
Alpine	2.3	0.2	-2.1	-93

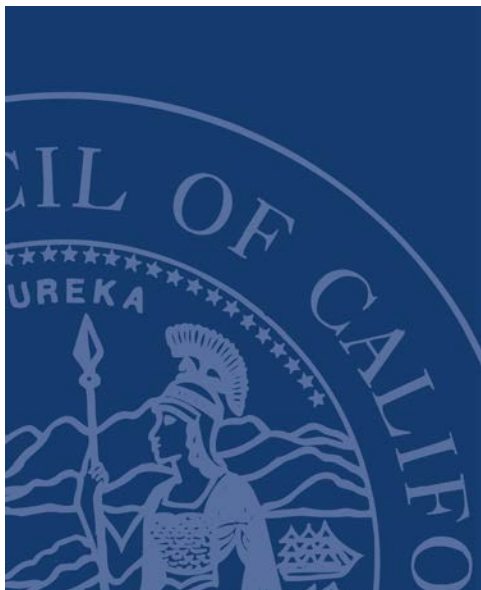
<sup>a</sup> Authorized judicial positions include both judgeships and subordinate judicial officer positions. Authorized judgeships consist of those codified in Government Code sections 69580–69611 plus the 50 judgeships that were authorized and funded with SB 56 (Stats. 2006, ch. 390), but not the 48 judgeships that were authorized with AB 159 but never funded.

<sup>b</sup> Percentages shown here slightly differ from the percentages shown in Table 2, Need for New Judgeships. Percentages in Appendix B are calculated based on the actual differences between AJN and AJP, whereas the percentages in Table 2 are based on rounded-down differences between AJN and AJP, as explained on pages 4–5.

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# Standards and Measures That Promote the Fair and Efficient Administration of Justice

REPORT TO THE LEGISLATURE UNDER  
GOVERNMENT CODE SECTION 77001.5

NOVEMBER 2018

DRAFT



JUDICIAL COUNCIL  
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION  
COURT OPERATIONS SERVICES

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## Introduction

Government Code section 77001.5 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.
- (3) General court administration.”

This annual report to the Legislature focuses the analysis on four key quantitative measures of trial court performance:

- Caseload clearance rates;
- Time to disposition;
- Stage of case at disposition; and
- Trials by type of proceeding.

In addition to these measures, this report also provides information on the availability of branch resources that contribute toward the fair and efficient administration of justice, including:

- Assessed need for new judgeships (Gov. Code, § 69614), and
- Status of the conversion of subordinate judicial officer positions to judgeships (Gov. Code, § 69615).<sup>1</sup>

Finally, this report provides a brief narrative describing work conducted since the last reporting period to improve the standards and measures of judicial administration.

## Quantitative Measures of Court Performance

The National Center for State Courts (NCSC) developed *CourTools* in an effort to provide trial courts with “a set of balanced and realistic performance measures that are practical to implement and use.”<sup>2</sup> *CourTools* draws on previous work conducted on trial court performance—primarily the Trial Court Performance Standards developed by the NCSC and published in 1997—but also on relevant measures from other successful public and private organizations. Courts in California use the

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<sup>1</sup> For more information on the rationale for selecting these quantitative measures and how they align with the legislative mandate contained in Government Code section 77001.5, see the 2012 report to the Legislature on judicial administration standards at [www.courts.ca.gov/documents/lr-Jud-Admin-Stand-and-measures-122712.pdf](http://www.courts.ca.gov/documents/lr-Jud-Admin-Stand-and-measures-122712.pdf).

<sup>2</sup> See “CourTools: Giving the Courts the Tools to Measure Success” (National Center for State Courts, 2005), [www.courttools.org](http://www.courttools.org).

*CalCourTools* program, which builds on the *CourTools* measures developed by the NCSC and endorsed by the Conference of Chief Justices and the Conference of State Court Administrators.

California courts are able to report on some, but not all of the *CourTools* performance measures. Data is shown on the two measures for which data in the California trial courts is available: clearance rates and time to disposition (see Table 1).

<b>NCSC's CourTools</b>	<b>Table 1: Status of <i>CourTools</i> Data in California Trial Courts</b>			
	<b>Availability</b>	<b>Scope</b>	<b>Data Quality</b>	<b>Location in This Report</b>
Clearance Rates	Monthly Reports	All courts	Good	Appendix B
Time to Disposition	Monthly Reports	Missing data from some courts on some case types	Fair	Appendix C

### **Clearance Rates**

Caseload clearance is a measure of the number of cases cleared (disposed of) as a percentage of the number of cases filed during a given time period. Since clearance rates provide only a snapshot at a point in time, they are an indirect measure of whether a court is disposing of cases in a timely fashion or whether a backlog of cases is growing. A court should aim to dispose of as many cases as were filed over a selected time period, thus maintaining a clearance rate of around 1.0, or 100 percent. Monitoring clearance rates by case type helps a court identify those areas needing the most attention.

### **Time to Disposition**

Time to disposition is measured by counting the number of initial filings that reach disposition within established time frames. Trial court case disposition time goals can serve as a starting point for monitoring court performance.

These measures of court operations were adopted by the Judicial Council as standard 2.2 of the Standards of Judicial Administration. This standard establishes caseload clearance in civil case processing as a judicial administration goal and sets time-to-disposition goals for six civil and criminal case types: felony, misdemeanor, unlimited civil, limited civil, small claims, and unlawful detainer (see Appendix A).

### **Other Caseload Management Data**

In addition to the *CourTools* data, additional information reported by the trial courts can also be used as diagnostic measures of a court's calendar management practices. How cases move through and out of the system—in other words, the stage of cases at disposition—can be useful indicators of effective case-processing practices and court operational efficiency. Efficient and effective case management can improve not only the timeliness of case disposition but also the quality of justice in resolution of these cases.



### **Stage of Case at Disposition**

The stage of a case and the manner in which it is disposed of (i.e., how and at what point in a case’s life cycle it is disposed of) can be a useful diagnostic measure of a court’s case management practices and the timeliness and quality of case resolution.<sup>3</sup> It can also help courts assess the level of resources required to get cases to disposition.

### **Trials by Type of Proceeding**

The number and type of trials is an important data element to break out separately from the data on the stage of case at disposition. Given the significance of trials on a court’s operations and resources, it is important to consider this measure in conjunction with other court performance data.

Table 2 below describes the quality of the data on these additional measures of court operations.

<b>Caseflow Management Data</b>	<b>Table 2: Status of Data in California Trial Courts</b>			
	<b>Availability</b>	<b>Scope</b>	<b>Data Quality</b>	<b>Location in This Report</b>
Stage of Case at Disposition	Monthly Reports	All courts	Good	Appendix D
Trials by Type of Proceeding	Monthly Reports	All courts	Good	Appendix E

## **Findings<sup>4</sup>**

### **Caseload Clearance Rates:**

- In fiscal year 2015–16, the most recent year for which data are available<sup>5</sup>, clearance rates decreased for most case types, with few exceptions (see Appendix B).
  - **Civil.** Civil unlimited clearance rates decreased overall (93 percent to 91 percent), with increases in only three case types: the motor vehicle unlimited clearance rate increased from 87 percent to 93 percent; “other” personal injury unlimited increased from 88 percent to 93 percent; and small claims appeals increased from 70 percent to 71 percent. The limited civil and small claims clearance rates both decreased, from 108 percent to 97 percent and from 105 percent to 95 percent, respectively.

<sup>3</sup> The stage of a case at disposition is not entirely under the control of the court. For example, if the district attorney and public defender are unable or unwilling to reach a mutually agreeable plea, or if parties do not settle civil cases, despite the courts’ best efforts, the stage and manner of disposition may be beyond the power of the court to affect substantially.

<sup>4</sup> All of the findings reported here refer to trial court data submitted through June 30, 2016. These data are reported in more detail in the 2017 Court Statistics Report available at [www.courts.ca.gov/13421.htm](http://www.courts.ca.gov/13421.htm).

<sup>5</sup> The 2018 Court Statistics Report, containing data from fiscal year 2016-17, will not be finalized until after November 1, 2018. As a result, this report contains data from 2015-16—the most recent year for which the data are available.

- **Criminal.** Criminal clearance rates for all casetypes decreased. The felony clearance rate decreased from 103 percent to 92 percent; traffic misdemeanors decreased from 84 percent to 79 percent; and traffic infractions from 95 percent to 92 percent.
- **Family and juvenile.** Family and juvenile case clearance rates mostly decreased. The one exception dependency subsequent filings, which remained at 27 percent. The rate for family law petitions decreased from 85 percent to 76 percent. The clearance rate for delinquency cases decreased from 94 percent to 86 percent; the dependency clearance rate decreased from 72 percent to 70 percent.

**Time to Disposition:**

The Standards of Judicial Administration establish “time to disposition” goals for processing various case types (see Appendix A). These goals are intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts.

- **Civil.** In 2015–16, the percentage of civil cases disposed of within the recommended time remained unchanged for civil unlimited, but decreased one percent for each time standard for limited civil cases. Both unlawful detainer and small claims cases also experienced increases (see Appendix C).
  - The goals for civil unlimited cases are: 100 percent of cases disposed of within 24 months, 85 percent of cases disposed of within 18 months, and 75 percent of cases disposed of within 12 months. In 2015–16, the percentage of civil unlimited cases disposed of within 24 months remained at 83 percent; the percentage of cases disposed of within 18 months remained at 76 percent; and the percentage of cases disposed of within 12 months remained at 64 percent.
  - The goals for limited civil cases are: 100 percent of cases disposed of within 24 months, 98 percent of cases disposed of within 18 months, and 90 percent of cases disposed of within 12 months. In 2015–16, the time to disposition for limited civil cases decreased 1 percent for each time standard. The percentage of limited civil cases disposed of within 24 months decreased by one percentage point to 93 percent; the percentage of cases disposed of within 18 months declined by two percentage points to 90 percent; and the percentage of cases disposed of within 12 months declined by three percentage points to 82 percent.
  - The goals for unlawful detainer cases are: 100 percent of cases to be disposed of within 45 days after filing and 90 percent of cases to be disposed of within 30 days after filing. In 2015–16, the percentage of cases disposed of within 45 days increased by three percentage points to 73 percent; the percentage of cases disposed of within 30 days increased by four percentage points to 55 percent.
  - The goals for small claims cases are: 90 percent of cases disposed of within 75 days of filing and 100 percent of cases disposed of within 95 days of filing.<sup>6</sup> In 2015–16, the percentage of

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<sup>6</sup> There is a discrepancy between the small claims goals listed in the Standards of Judicial Administration—which ask for the percentage of cases disposed of within 75 and 95 days of filing—and the small claims goals as reported in the 2017 Court Statistics Report—which report the percentage of cases disposed of within 70 and 90 days of filing. This issue will

cases disposed of within 70 days increased by one percentage point to 59 percent; the percentage of cases disposed of in less than 90 days likewise increased by one percentage point to 72 percent.

- **Criminal.** In 2015–16, the percentage of criminal cases disposed of within the recommended time standards declined or remained constant (see Appendix C).
  - The goals for felony cases are the following: All cases (except for capital cases) are disposed of within 12 months (from the defendant’s first arraignment). Regarding cases resulting in bindover or certified pleas, 90 percent are to be disposed of within 30 days, 98 percent are to be disposed of within 45 days, and 100 percent are to be disposed of within 90 days. In 2015–16, the percentage of felonies disposed of in less than 12 months decreased from 88 percent to 85 percent. The percentage of felony cases resulting in bindovers or certified pleas disposed of within 30 days declined two percentage points to 43 percent; the percentage of such cases disposed of within 45 days declined one percentage point to 54 percent; and the percentage of cases disposed of within 90 days remained at 71 percent of cases.
  - The goals for misdemeanors are: 90 percent of cases disposed of within 30 days, 98 percent of cases disposed of within 90 days, and 100 percent of cases disposed of within 120 days. In 2015–16, the percentage of cases disposed of within 30 days decreased by four percentage points to 57 percent, the percentage of cases disposed of at the 90-day mark declined three percentage points to 74 percent, and the percentage of cases disposed of in less than 120 days declined three percentage points to 80 percent.
- **Family and juvenile.** Time standards for family law cases are set forth in rule 5.83 of the California Rules of Court, and time standards for juvenile dependency cases can be found in rule 5.505. However, at this time, courts are not able to consistently and accurately report on these measures. Future reports will include this data as collection using these measures improves.

**Stage of Case at Disposition (See Appendix D):**

- **Civil:**
  - 80 percent of civil unlimited cases are disposed of before trial.
  - Of the remaining unlimited civil cases disposed of by a trial, the vast majority—88 percent—are bench trials. Only 3 percent of unlimited civil trials are jury trials. The remaining dispositions of unlimited civil cases are small claims appeals.
  - In limited civil cases, only 8 percent of filings are disposed of by trial and 99 percent of those are bench trials.
  - In small claims, the majority (58 percent) of dispositions are after trial.
- **Criminal:**
  - Nearly all felony cases (97 percent) are disposed of before trial.

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be addressed when the JBSIS subcommittee of the Court Executives’ Advisory Committee reviews disposition data standards in the coming year.

- Of the felonies disposed of after trial, 94 percent are jury trials.
- In felonies disposed of before trial, 65 percent result in felony convictions. In felonies disposed of after jury trial, 77 percent result in a felony conviction.
- The vast majority of nontraffic misdemeanors (99 percent) and traffic misdemeanors (98 percent) are disposed of before trial.
- Of the misdemeanors disposed of after trial, 35 percent of nontraffic cases and 68 percent of traffic cases are disposed of by bench trial, with the remainder disposed of by jury trial.

***Trials by Type of Proceeding (See Appendix E):***

- ***Jury trials.*** The total number of jury trials decreased 2 percent from 9,452 in 2014–15 to 9,279 in 2015–16. The number of felony jury trials increased by 1 percent to 4,822 trials. The number of probate and mental health trials decreased 40 percent from 45 to 27. During the same period, there were 3,056 misdemeanor jury trials, a 5 percent increase from the year prior. The number of personal injury civil unlimited jury trials decreased 4 percent to 682 trials; other civil unlimited jury trials decreased 11 percent to 460 trials; and civil limited jury trials decreased 53 percent to 232 trials.
- ***Court trials.*** The total number of court trials decreased by 11 percent to 427,276 trials across all case types. A total of 317 felony court trials were reported in 2015–16, an increase of 13 percent. The number of court misdemeanor and infractions trials decreased by 12 percent to 335,984 trials. The number of personal injury/property damage civil unlimited trials decreased by 25 percent to 571. Other civil unlimited court trials decreased by 5 percent to 32,339. Civil limited decreased 20 percent to 25,233 court trials. Probate and mental health trials increased in 2015-16 by 6 percent to 32,832 court trials.

***Judicial Workload and Resources:***

- The actual 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 FTE judicial officers (see Appendix F).<sup>7</sup>
- Although the conversion of subordinate judicial officers (SJOs) does not provide much-needed *new* resources to the courts, it does provide the courts with greater flexibility in the assignment of judicial officers. Moreover, it begins to restore the proper balance between judges and SJOs in

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<sup>7</sup> It should be noted that 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. On the other hand, judicial workload in other areas not affected by such law and policy changes may have declined since 2010. An update to the judicial workload study, intended to capture the impact of these changes, is underway at present and a new needs assessment, based on updated workload measures, will be published soon after.

the court, enabling constitutionally empowered judges who are held accountable by standing for election before their communities to hear cases that are appropriate to their rank.

- In 2016–17 a total of 6 conversions of SJO positions to judgeships were completed; 6 additional conversions were completed in 2017–18 (see Appendix G).
- A total of 140 SJO positions have been converted to judgeships since 2007–08 (see Appendix G).

## Workload Models Update

Weighted caseload has been the national standard for evaluating the workload of judges and court staff for almost two decades.<sup>8</sup> The number and types of cases that come before the court—the court’s caseload—is the starting point for any evaluation of workload. However, without using weighted case data, it is impossible to make meaningful calculations about the differences in the amount of work required. For example, while a felony and infraction case each represent one filing for the court, they have very different impacts on the court’s workload. Weighted caseload is therefore required to account for the types of cases coming before the court and to translate that information into effective and usable workload data.

The Judicial Council has approved workload models that utilize weighted caseload to assess where new judgeships and additional non-judicial resources are most urgently needed and will have the biggest impact. The relative weight applied to different types of cases, however, requires periodic review due to changes in the law, rules of court, technology, and practice, which all affect the average amount of time required for case processing. Periodic review and, where necessary, revision of caseweights, ensures that the allocation formulas reported to the Legislature and the Governor accurately reflect the current amount of time required to resolve cases.

The Judicial Council’s Workload Assessment Advisory Committee has recommended that the judicial and staff workload models be updated every five years to ensure that the models used to measure workload and to allocate resources are using the most up-to-date information possible. The staff workload model was updated and new weights were finalized in 2017. The update of the judicial workload model is currently underway and is expected to be finalized in mid-2019.

In addition to updates to these two models, the Judicial Council also recently adopted a recommendation to refresh the model that is used to allocate SJO conversions.<sup>9</sup> Under Government Code section 69615, a total of 162 SJO positions were identified as being in need of conversion in order to ensure that there were sufficient judicial officers of each type. The positions were identified on the basis of a 2007 workload analysis, using caseweights from the 2001 Judicial Officer Study and filings data from 2002–03 through 2004–05. Since filings and the underlying weights used to measure workload have changed since that initial analysis was completed in 2007, the update to that analysis

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<sup>8</sup> See Victor E. Flango, *Assessing the Need for Judges and Court Support Staff* (National Center for State Courts, 1996).

<sup>9</sup> Judicial Council of Cal., Internal Com. Rep., *Subordinate Judicial Officers: Update of Conversions Using More Current Workload Data* (Aug. 11, 2015), [www.courts.ca.gov/documents/jc-20150821-itemL.pdf](http://www.courts.ca.gov/documents/jc-20150821-itemL.pdf).

with more current workload data ensures that the remaining conversions be allocated in the most effective manner.

## **Conclusion**

This report has summarized *quantitative* measures of trial court performance and provides information on updates to the Resource Assessment Study model. Future reports will continue to provide updated and comparative information on these measures to permit an analysis of the courts' ability to provide fair and efficient administration of justice.

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## Appendix A: Standards of Judicial Administration, Standard 2.2

### Trial Court Case Disposition Time Goals

#### (a) Trial Court Delay Reduction Act

The recommended goals for case disposition time in the trial courts in this standard are adopted under Government Code sections 68603 and 68620.

*(Subd (a) amended effective January 1, 2007; adopted effective July 1, 1987; relettered effective January 1, 1989; previously amended effective January 1, 2004.)*

#### (b) Statement of purpose

The recommended time goals are intended to guide the trial courts in applying the policies and principles of standard 2.1. They are administrative, justice-oriented guidelines to be used in the management of the courts. They are intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts. The goals apply to all cases filed and are not meant to create deadlines for individual cases. Through its case management practices, a court may achieve or exceed the goals stated in this standard for the overall disposition of cases. The goals should be applied in a fair, practical, and flexible manner. They are not to be used as the basis for sanctions against any court or judge.

*(Subd (b) amended effective January 1, 2007; adopted effective July 1, 1987, as (1); relettered effective January 1, 1989; previously amended effective January 1, 2004.)*

#### (c) Definition

The definition of “general civil case” in rule 1.6 applies to this section. It includes both unlimited and limited civil cases.

*(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2004.)*

#### (d) Civil cases—processing time goals

The goal of each trial court should be to process general civil cases so that all cases are disposed of within two years of filing.

*(Subd (d) amended and relettered effective January 1, 2004; adopted effective July 1, 1987, as (2); previously amended effective July 1, 1988; amended and relettered as subd (c) effective January 1, 1989.)*

#### (e) Civil cases—rate of disposition

Each trial court should dispose of at least as many civil cases as are filed each year and, if necessary to meet the case-processing goal in (d), dispose of more cases than are filed. As the court disposes of inactive cases, it should identify active cases that may require judicial attention.

*(Subd (e) amended effective January 1, 2007; adopted effective July 1, 1987, as (3); previously amended effective July 1, 1988; previously amended and relettered as subd (d) effective January 1, 1989, and as subd (e) effective January 1, 2004.)*

## Appendix A: Standards of Judicial Administration, Standard 2.2

### (f) General civil cases—case disposition time goals

The goal of each trial court should be to manage general civil cases, except those exempt under (g), so that they meet the following case disposition time goals:

(1) *Unlimited civil cases:*

The goal of each trial court should be to manage unlimited civil cases from filing so that:

- (A) 75 percent are disposed of within 12 months;
- (B) 85 percent are disposed of within 18 months; and
- (C) 100 percent are disposed of within 24 months.

(2) *Limited civil cases:*

The goal of each trial court should be to manage limited civil cases from filing so that:

- (A) 90 percent are disposed of within 12 months;
- (B) 98 percent are disposed of within 18 months; and
- (C) 100 percent are disposed of within 24 months.

(3) *Individualized case management*

The goals in (1) and (2) are guidelines for the court's disposition of all unlimited and limited civil cases filed in that court. In managing individual civil cases, the court must consider each case on its merits. To enable the fair and efficient resolution of civil cases, each case should be set for trial as soon as appropriate for that individual case consistent with rule 3.729.

*(Subd (f) amended effective January 1, 2007; adopted as subd (g) effective July 1, 1987; relettered as subd (h) effective January 1, 1989; amended effective July 1, 1991; previously amended and relettered as subd (f) effective January 1, 2004.)*

### (g) Exceptional civil cases

A general civil case that meets the criteria in rules 3.715 and 3.400 and that involves exceptional circumstances or will require continuing review is exempt from the time goals in (d) and (f). Every exceptional case should be monitored to ensure its timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within three years.

*(Subd (g) amended effective January 1, 2007; adopted effective January 1, 2004.)*



## **Appendix A: Standards of Judicial Administration, Standard 2.2**

### **(h) Small claims cases**

The goals for small claims cases are:

- (1) 90 percent disposed of within 75 days after filing; and
- (2) 100 percent disposed of within 95 days after filing.

*(Subd (h) adopted effective January 1, 2004.)*

### **(i) Unlawful detainer cases**

The goals for unlawful detainer cases are:

- (1) 90 percent disposed of within 30 days after filing; and
- (2) 100 percent disposed of within 45 days after filing.

*(Subd (i) adopted effective January 1, 2004.)*

### **(j) Felony cases—processing time goals**

Except for capital cases, all felony cases disposed of should have a total elapsed processing time of no more than one year from the defendant's first arraignment to disposition.

*(Subd (j) amended effective January 1, 2007; adopted effective January 1, 2004.)*

### **(k) Misdemeanor cases**

The goals for misdemeanor cases are:

- (1) 90 percent disposed of within 30 days after the defendant's first arraignment on the complaint;
- (2) 98 percent disposed of within 90 days after the defendant's first arraignment on the complaint; and
- (3) 100 percent disposed of within 120 days after the defendant's first arraignment on the complaint.

*(Subd (k) adopted effective January 1, 2004.)*

### **(l) Felony preliminary examinations**

The goal for felony cases at the time of the preliminary examination (excluding murder cases in which the prosecution seeks the death penalty) should be disposition by dismissal, by interim disposition by certified plea of guilty, or by finding of probable cause, so that:

## Appendix A: Standards of Judicial Administration, Standard 2.2

- (1) 90 percent of cases are disposed of within 30 days after the defendant's first arraignment on the complaint;
- (2) 98 percent of cases are disposed of within 45 days after the defendant's first arraignment on the complaint; and
- (3) 100 percent of cases are disposed of within 90 days after the defendant's first arraignment on the complaint.

*(Subd (l) adopted effective January 1, 2004.)*

### **(m) Exceptional criminal cases**

An exceptional criminal case is not exempt from the time goal in (j), but case progress should be separately reported under the Judicial Branch Statistical Information System (JBSIS) regulations.

*(Subd (m) amended effective January 1, 2007; adopted effective January 1, 2004.)*

### **(n) Cases removed from court's control excluded from computation of time**

If a case is removed from the court's control, the period of time until the case is restored to court control should be excluded from the case disposition time goals. The matters that remove a case from the court's control for the purposes of this section include:

- (1) Civil cases:
  - (A) The filing of a notice of conditional settlement under rule 3.1385;
  - (B) An automatic stay resulting from the filing of an action in a federal bankruptcy court;
  - (C) The removal of the case to federal court;
  - (D) An order of a federal court or higher state court staying the case;
  - (E) An order staying the case based on proceedings in a court of equal standing in another jurisdiction;
  - (F) The pendency of contractual arbitration under Code of Civil Procedure section 1281.4;
  - (G) The pendency of attorney fee arbitration under Business and Professions Code section 6201;
  - (H) A stay by the reporting court for active military duty or incarceration; and
  - (I) For 180 days, the exemption for uninsured motorist cases under rule 3.712(b).

## Appendix A: Standards of Judicial Administration, Standard 2.2

(2) Felony or misdemeanor cases:

- (A) Issuance of warrant;
- (B) Imposition of a civil assessment under Penal Code section 1214.1;
- (C) Pendency of completion of diversion under Penal Code section 1000 et seq.;
- (D) Evaluation of mental competence under Penal Code section 1368;
- (E) Evaluation as a narcotics addict under Welfare and Institutions Code sections 3050 and 3051;
- (F) 90-day diagnostic and treatment program under Penal Code section 1203.3;
- (G) 90-day evaluation period for a juvenile under Welfare and Institutions Code section 707.2;
- (H) Stay by a higher court or by a federal court for proceedings in another jurisdiction;
- (I) Stay by the reporting court for active military duty or incarceration; and
- (J) Time granted by the court to secure counsel if the defendant is not represented at the first appearance.

*(Subd (n) amended effective January 1, 2007; adopted effective January 1, 2004.)*

### **(o) Problems**

A court that finds its ability to comply with these goals impeded by a rule of court or statute should notify the Judicial Council.

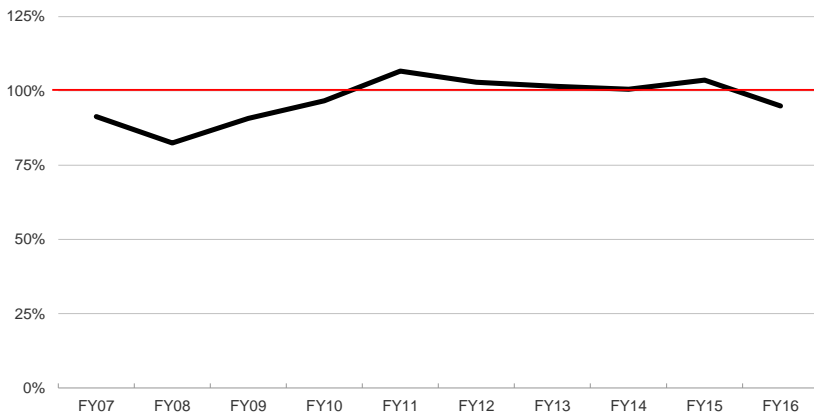
*(Subd (o) amended effective January 1, 2007; adopted effective January 1, 2004.)*

*Standard 2.2 amended and renumbered effective January 1, 2007; adopted as sec. 2.1 effective July 1, 1987; previously amended effective January 1, 1988, July 1, 1988, January 1, 1989, January 1, 1990, July 1, 1991, and January 1, 2004.*

**Appendix B: CalCourTools: Caseload Clearance Rates**  
**Civil Unlimited, Civil Limited, Small Claims**  
 Fiscal Years 2007–08 through 2015–16

**Superior Courts**  
**Figures 1–7**

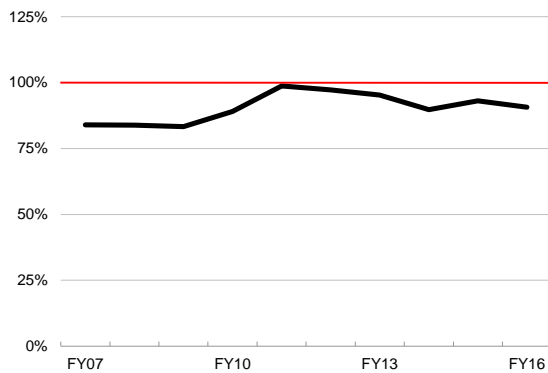
**Figure 1: Total Civil**



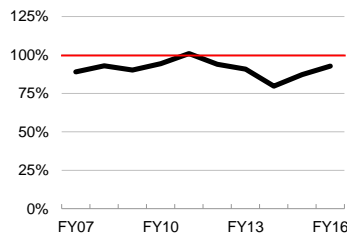
Clearance Rate equals the number of outgoing cases as a percentage of the number of incoming cases. A clearance rate of 100% indicates that the number of cases disposed of in any given year equals the number of cases filed.

$$\text{Clearance Rate} = \frac{\text{Dispositions}}{\text{Filings}}$$

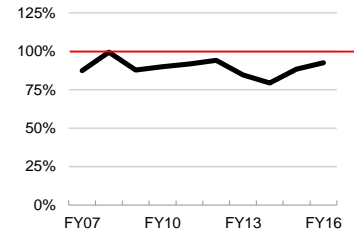
**Figure 2: Civil Unlimited**



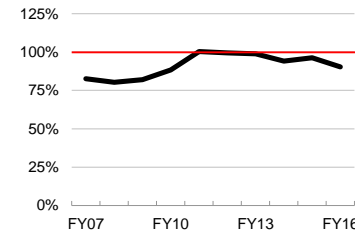
**Figure 3: Motor Vehicle PI/PD/WD**



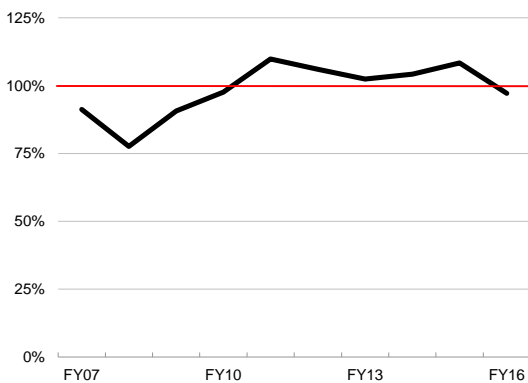
**Figure 4: Other PI/PD/WD**



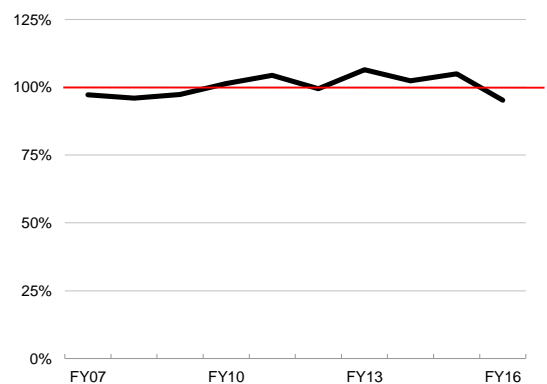
**Figure 5: Civil Complaints**



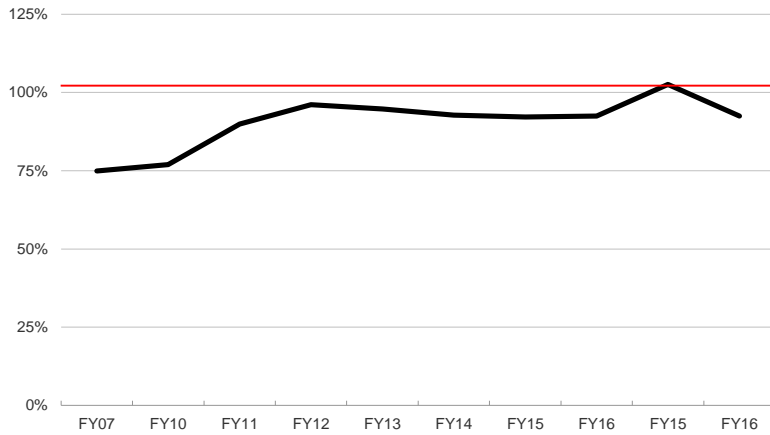
**Figure 6: Civil Limited**



**Figure 7: Small Claims**



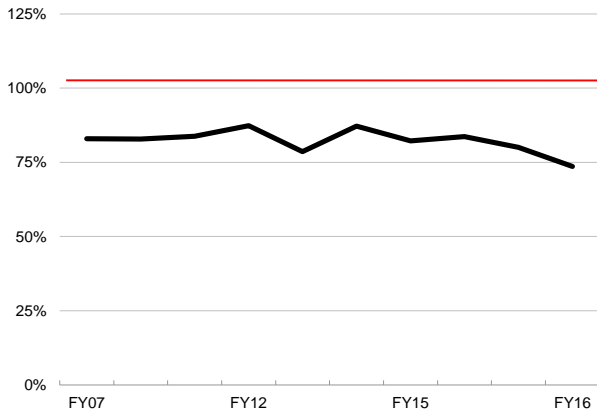
**Figure 8: Felony**



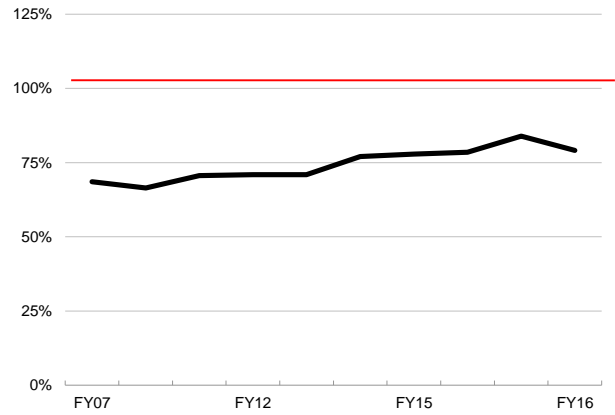
Clearance Rate equals the number of outgoing cases as a percentage of the number of incoming cases. A clearance rate of 100% indicates that the number of cases disposed of in any given year equals the number of cases filed.

$$\text{Clearance Rate} = \frac{\text{Dispositions}}{\text{Filings}}$$

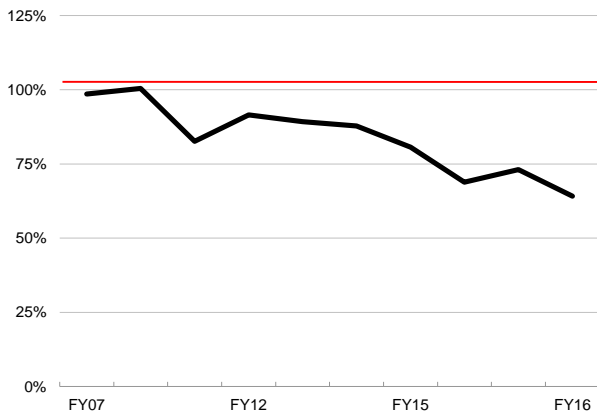
**Figure 9: Nontraffic Misdemeanor**



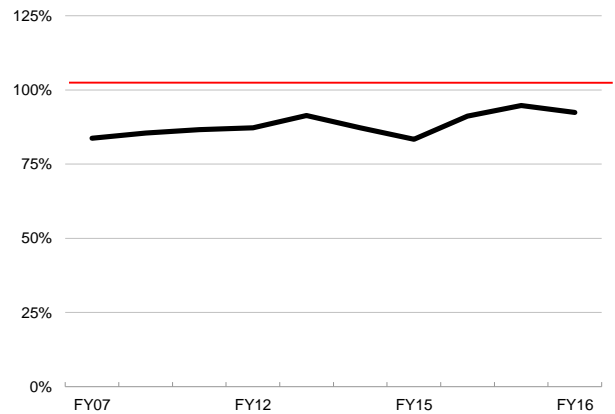
**Figure 10: Traffic Misdemeanor**



**Figure 11: Nontraffic Infraction**



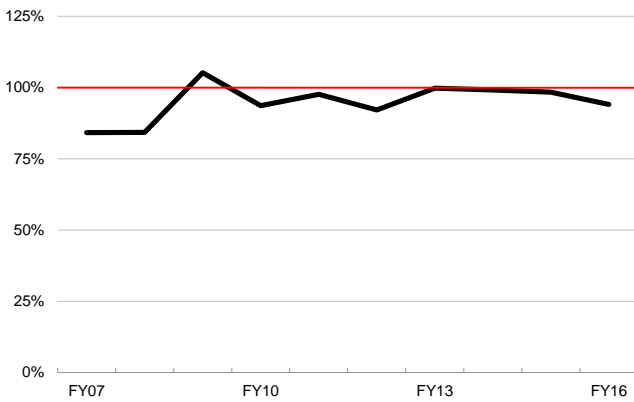
**Figure 12: Traffic Infraction**



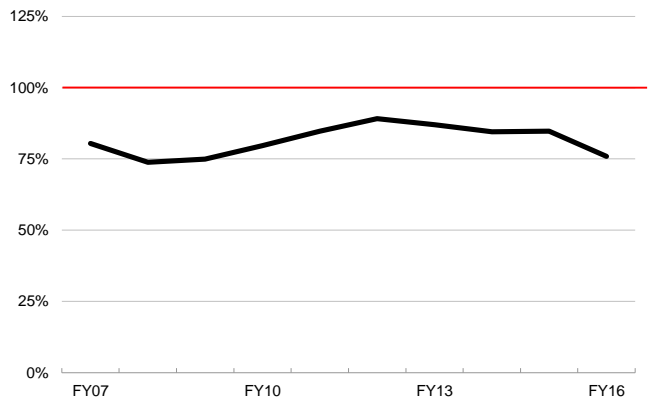
Clearance Rate equals the number of outgoing cases as a percentage of the number of incoming cases. A clearance rate of 100% indicates that the number of cases disposed of in any given year equals the number of cases filed.

$$\text{Clearance Rate} = \frac{\text{Dispositions}}{\text{Filings}}$$

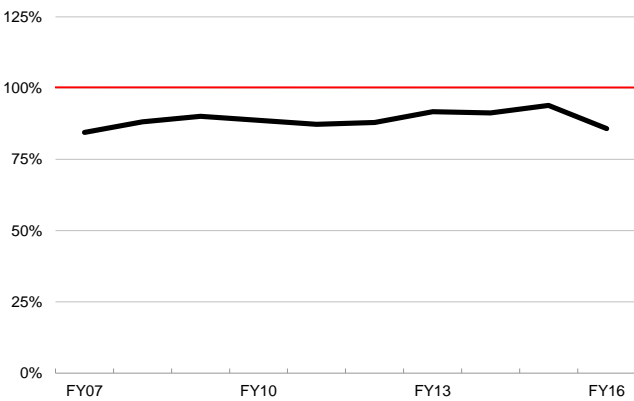
**Figure 13: Family Law — Marital**



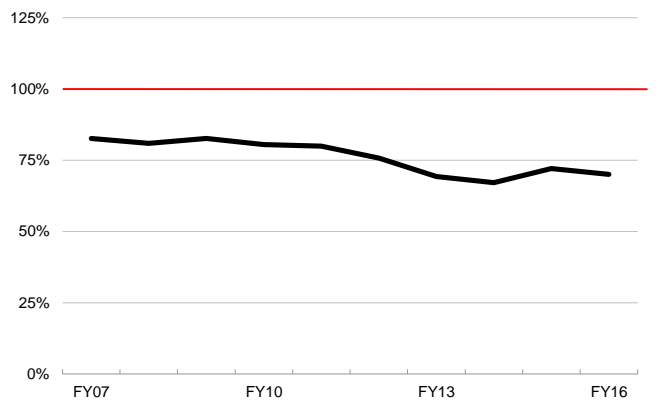
**Figure 14: Family Law Petitions**



**Figure 15: Juvenile Delinquency**



**Figure 16: Juvenile Dependency**



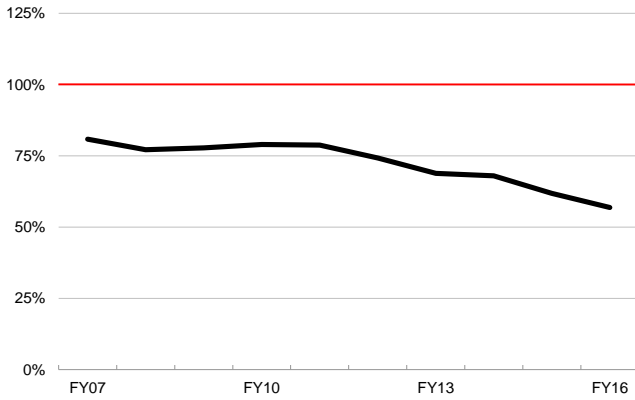
**Appendix B (continued): CalCourTools: Caseload Clearance Rates**  
**Probate, Mental Health, Appeals, Habeas Corpus**  
**Fiscal Years 2007–08 through 2015–16**

**Superior Courts**  
**Figures 17–20**

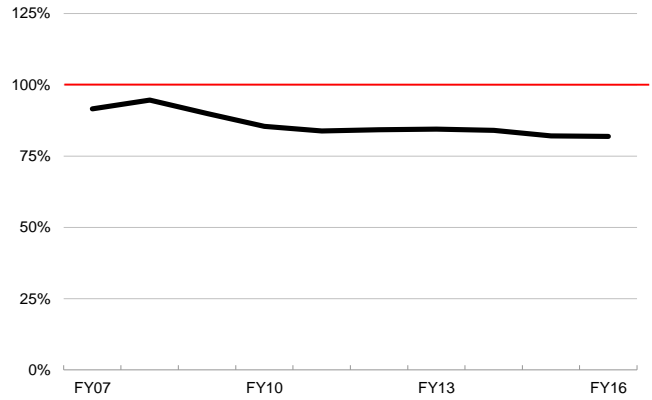
Clearance Rate equals the number of outgoing cases as a percentage of the number of incoming cases. A clearance rate of 100% indicates that the number of cases disposed of in any given year equals the number of cases filed.

$$\text{Clearance Rate} = \frac{\text{Dispositions}}{\text{Filings}}$$

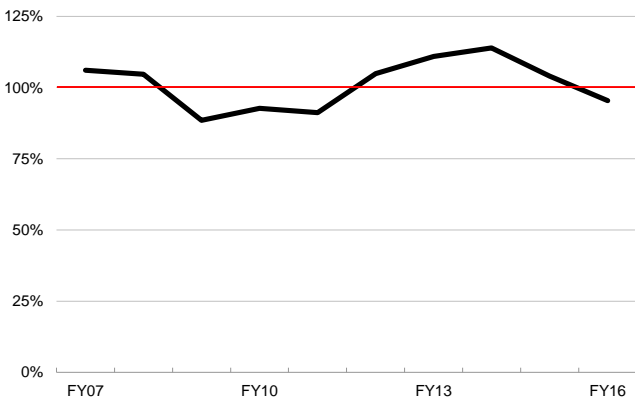
**Figure 17: Probate**



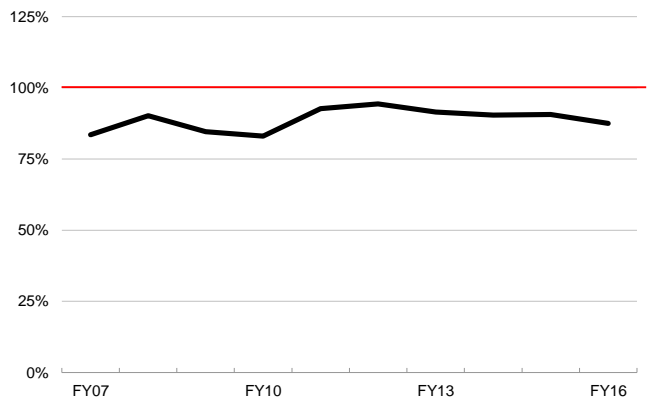
**Figure 18: Mental Health**



**Figure 19: Appeals**



**Figure 20: Criminal Habeas Corpus**



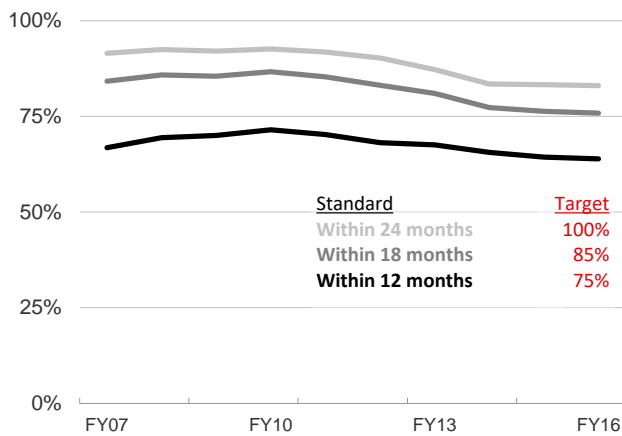
Fiscal Years 2007–08 through 2015–16

**Civil Case Processing Time** (percent of cases disposed within specified periods)

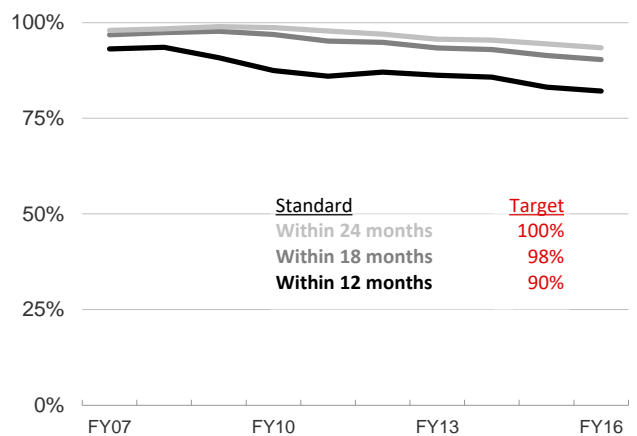
The Standards of Judicial Administration establishes case processing time to disposition goals for different types of civil cases, which are presented below with the specific time standards and target performance level.

Standard                      Target  
Time standard                      Goal

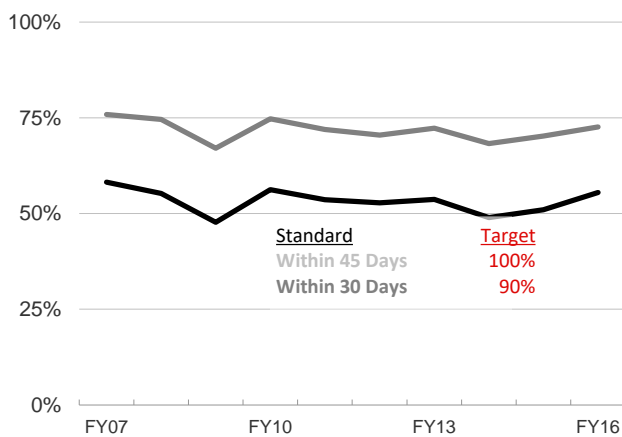
**Figure 21: Civil Unlimited**



**Figure 22: Limited Civil**



**Figure 23: Unlawful Detainer**



**Figure 24: Small Claims**

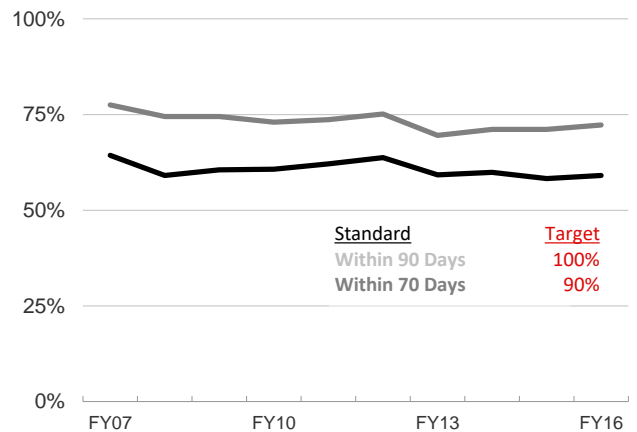
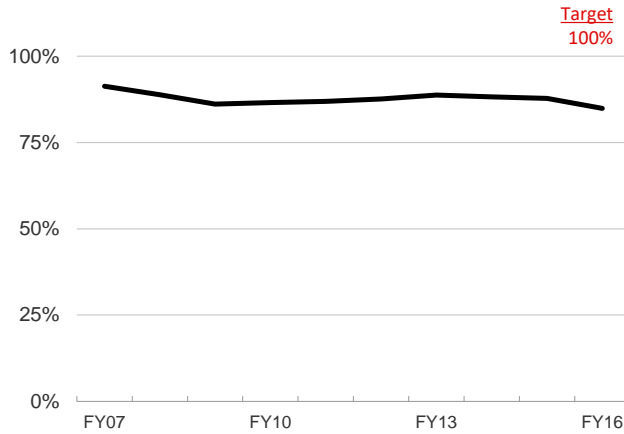




Figure 25: Felonies disposed within 12 months



**Criminal Case Processing Time**

(percent of cases disposed within specified periods)

The Standards of Judicial Administration establishes case processing time to disposition goals for different types of criminal cases, which are presented below with the specific time standards and target performance level.

Figure 26: Felonies resulting in bindover or certified pleas

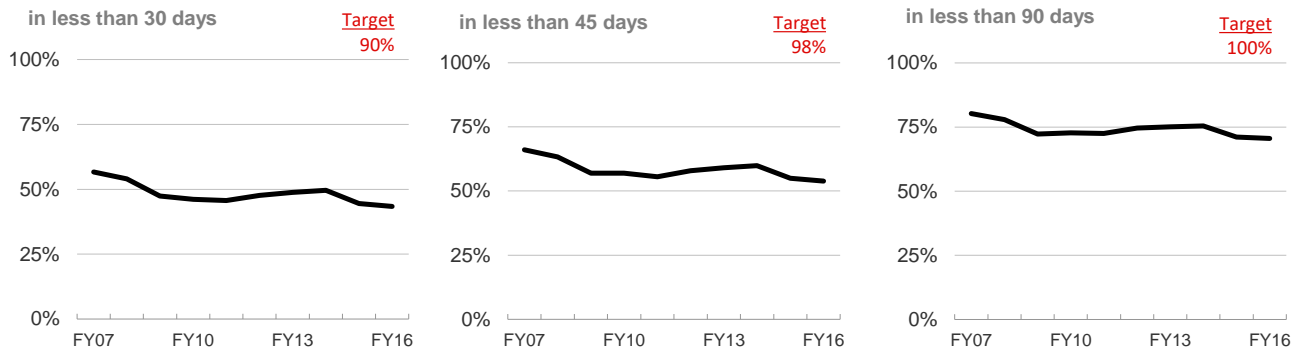
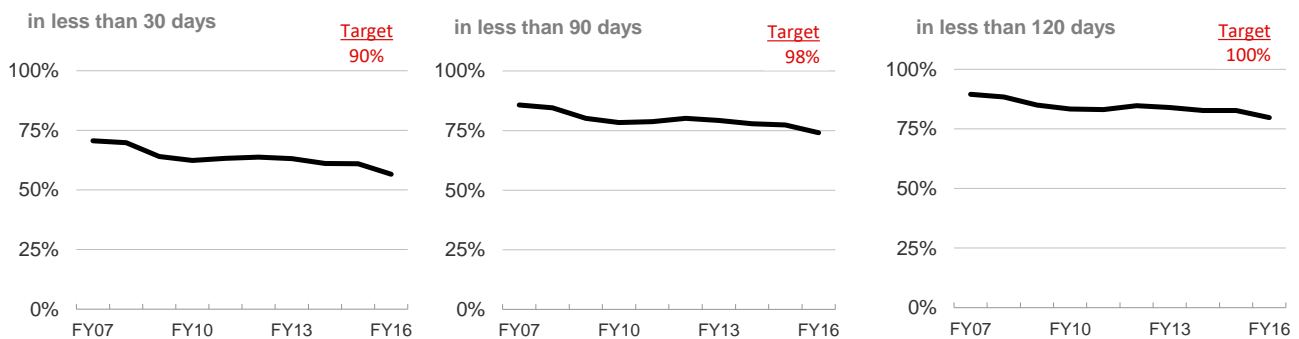


Figure 27: Misdemeanors disposed



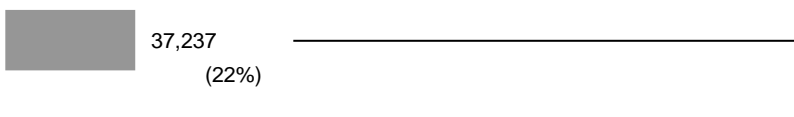
**Figure 28: How and at what stage are civil cases resolved?**

**Unlimited Civil**

Number disposed before trial



Number disposed after trial

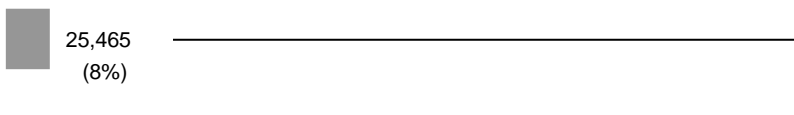


**Limited Civil**

Number disposed before trial



Number disposed after trial



**Small Claims**

Number disposed before trial

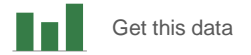


Number disposed after trial



**Appendix D (continued): Caseflow Management Data  
Stage of Case at Disposition — Felony**

Fiscal Year 2015–16

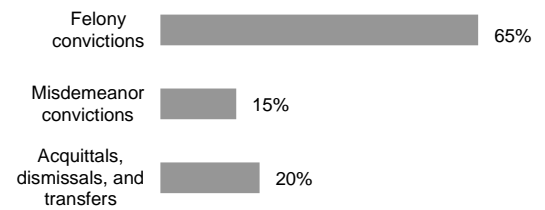


**Figure 29: How and at what stage are felony cases resolved?**

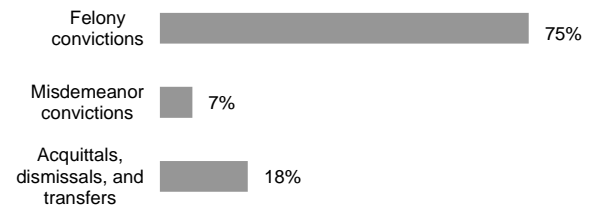
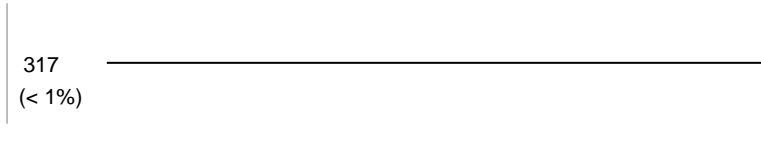
**Total felony dispositions (not including felony petitions)**



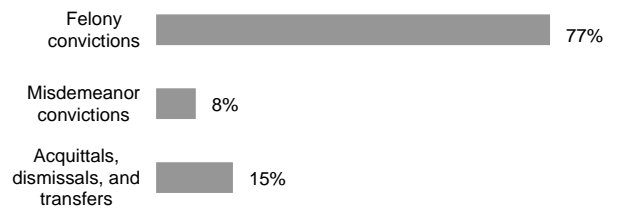
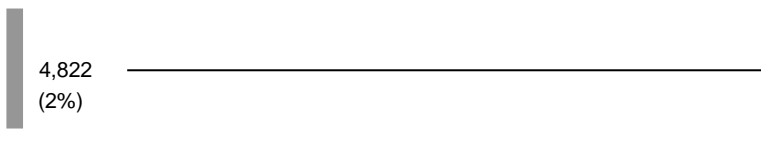
**Number disposed before trial**



**Court trials**

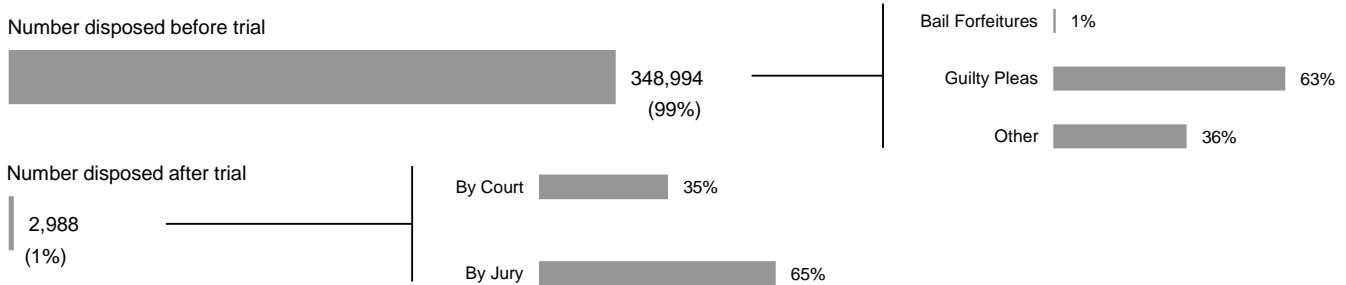


**Jury trials**

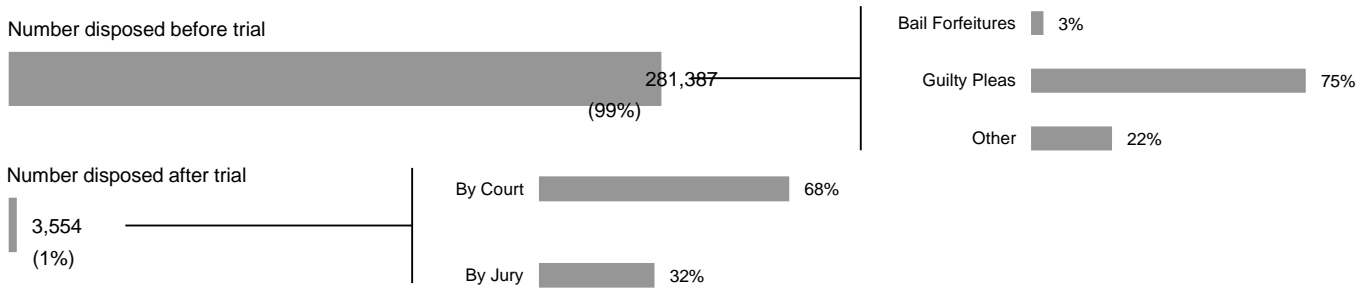


**Figure 30: How and at what stage are misdemeanor and infraction cases resolved?**

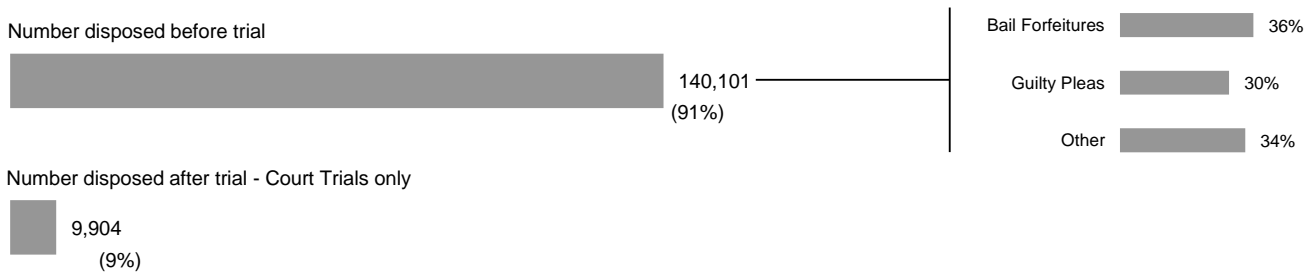
**Nontraffic Misdemeanors**



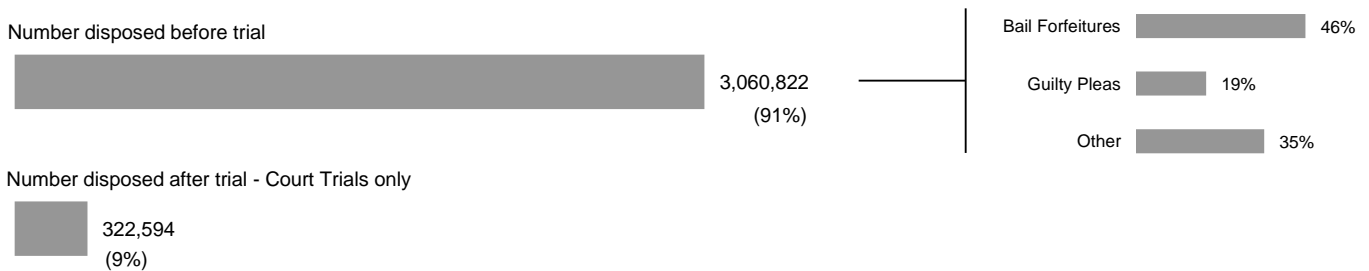
**Traffic Misdemeanors**



**Nontraffic Infractions**

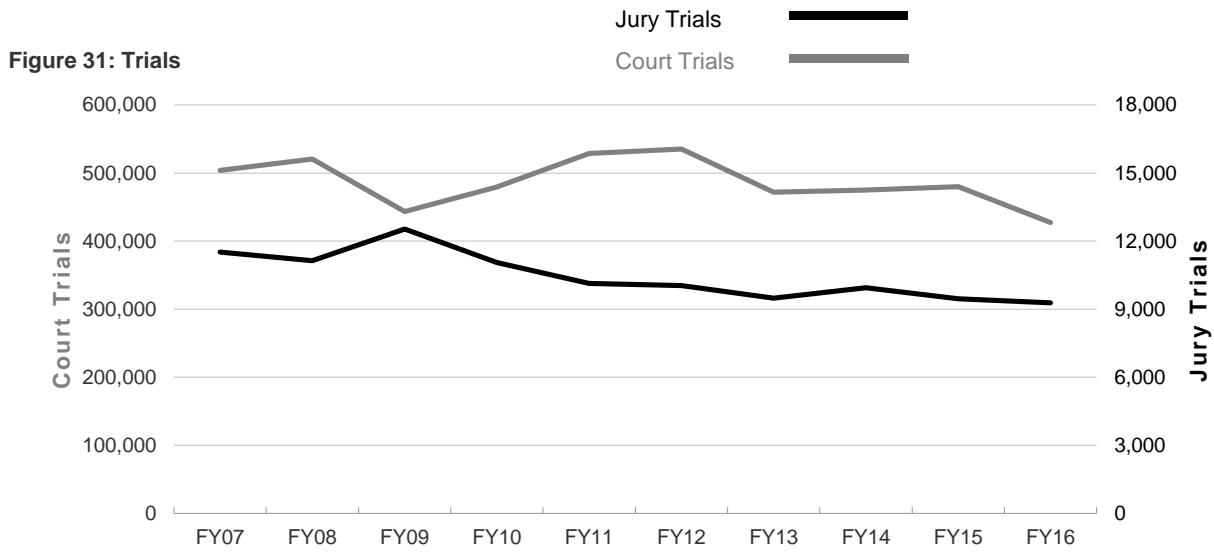


**Traffic Infractions**



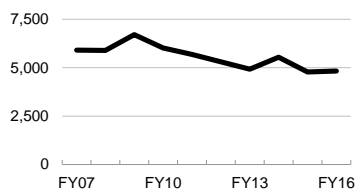
**Appendix E: Caseflow Management Data**  
**Trials By Type of Proceeding**  
 Fiscal Years 2007–08 through 2015–16

**Superior Courts**  
 Figures 31–43

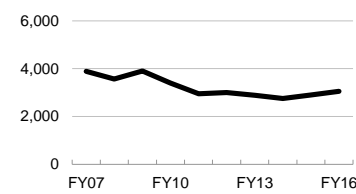


**Jury Trials**

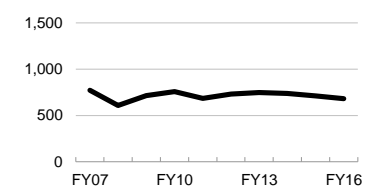
**Figure 32: Felony**



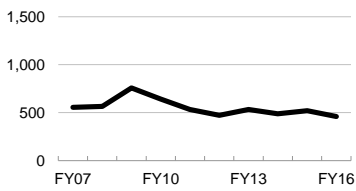
**Figure 33: Misdemeanor**



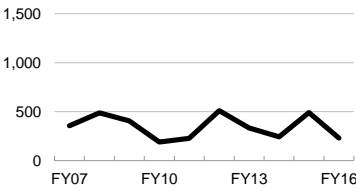
**Figure 34: PI/PD/WD Civil Unlimited**



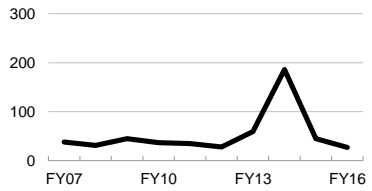
**Figure 35: Other Civil Unlimited**



**Figure 36: Civil Limited**

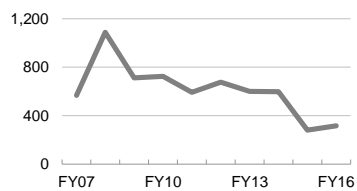


**Figure 37: Probate and Mental Health**

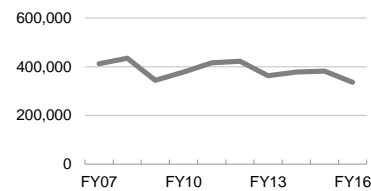


**Court Trials**

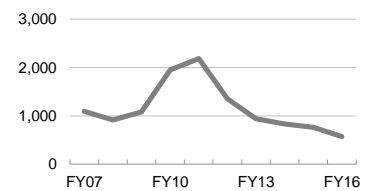
**Figure 38: Felony**



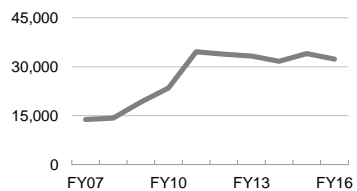
**Figure 39: Misdemeanor and Infractions**



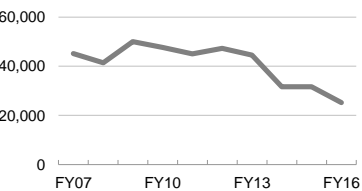
**Figure 40: PI/PD/WD Civil Unlimited**



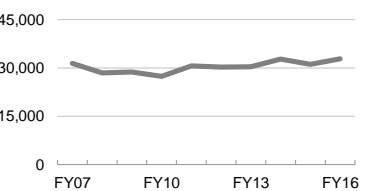
**Figure 41: Other Civil Unlimited**



**Figure 42: Civil Limited**



**Figure 43: Probate and Mental Health**



Appendix F: Assessed Judicial Need, 2016 Update

	<b>A</b>	<b>B</b>	<b>C</b>
<b>County</b>	<b>Authorized and funded Judicial Positions<sup>1</sup></b>	<b>2016 Assessed Judicial Need</b>	<b>Funded AJN-AJP (B-A)</b>
Amador	2.3	2.8	0.5
Butte	13.0	14.6	1.6
Calaveras	2.3	2.7	0.4
Del Norte	2.8	3.0	0.2
El Dorado	9.0	9.1	0.1
Fresno	49.0	61.8	12.8
Humboldt	8.0	10.4	2.4
Imperial	11.3	12.9	1.6
Kern	43.0	56.8	13.8
Kings	8.6	11.7	3.1
Lake	4.7	5.5	0.8
Lassen	2.3	2.6	0.3
Madera	9.3	10.3	1.0
Merced	12.0	15.0	3.0
Napa	8.0	8.0	0.0
Placer	14.5	19.2	4.7
Riverside	76.0	122.8	46.8
Sacramento	72.5	82.9	10.4
San Benito	2.3	2.6	0.3
San Bernardino	86.0	134.1	48.1
San Joaquin	33.5	42.2	8.7
San Luis Obispo	15.0	16.9	1.9
Santa Cruz	13.5	13.6	0.1
Shasta	12.0	16.7	4.7
Sonoma	23.0	23.8	0.8
Stanislaus	24.0	31.5	7.5
Sutter	5.3	6.8	1.5
Tehama	4.3	5.8	1.5
Tulare	23.0	27.5	4.5
Ventura	33.0	38.0	5.0
Yuba	5.3	5.9	0.5
<b>Total need:</b>			<b>188.5</b>
<sup>1</sup> Authorized judicial positions, not including judgeships that were authorized under AB 159.			

## Appendix G: Subordinate Judicial Officer Conversions

Fiscal Years 2007–08 through 2017-18

### Background

Rule 10.700 of the California Rules of Court provides for the use of subordinate judicial officers (SJOs) to perform subordinate judicial duties. A presiding judge may also assign an SJO to act as a temporary judge where lawful if the presiding judge determines that it is necessary for the effective administration of justice because of a shortage of judges.

During the 1980s and 1990s, the shortage of judicial positions across the state led many trial courts to create SJO positions to manage their caseloads. The stagnation in the number of new judgeships combined with the growth in the number of SJO positions created an imbalance in many courts, with SJOs spending much of their time working as temporary judges.

To restore the appropriate balance between judges and SJOs in the trial courts, in 2007 the Legislature passed Assembly Bill 159 which authorized the conversion of 162 SJO positions to judgeships in 25 courts where the judicial workload assessment determined that the number of SJOs exceeded the workload appropriate to SJOs.

**Table 1: Subordinate Judicial Officer Conversions**

	Positions Eligible for Conversion	SJO Conversions											Total Conversions to Date	Positions Remaining to Convert
		07-08	08-09	09-10	10-11	11-12*	12-13	13-14	14-15	15-16	16-17	17-18		
<b>Courts Still Eligible for SJO Conversions</b>														
Los Angeles	79	4	5	7	7	8	6	7	7	7	5	5	68	11
Napa	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Placer	2	0	0	0	0	0	0	0	0	0	0	0	0	2
San Mateo	2	0	0	0	0	0	0	0	0	0	0	0	0	2
<b>Unallocated SJO Conversion Positions**</b>														
	3													3
<b>Courts That Have Completed Their SJO Conversions</b>														
Alameda	6	0	0	1	2	3	0	0	0	0	0	0	6	0
Contra Costa	4	3	0	1	0	0	0	0	0	0	0	0	4	0
El Dorado	2	0	1	0	1	0	0	0	0	0	0	0	2	0
Fresno	3	0	1	0	1	0	0	1	0	0	0	0	3	0
Imperial	1	0	0	0	1	0	0	0	0	0	0	0	1	0
Kern	1	0	1	0	0	0	0	0	0	0	0	0	1	0
Marin	2	0	0	0	0	1	1	0	0	0	0	0	2	0
Merced	2	0	1	0	0	1	0	0	0	0	0	0	2	0
Orange	17	1	2	2	2	3	2	2	0	0	0	0	14	3
Riverside	6	1	1	0	0	1	3	0	0	0	0	0	6	0
Sacramento	6	1	2	0	0	2	0	0	0	0	1	0	6	0
San Diego	7	2	0	0	0	0	1	1	0	2	0	1	7	0
San Francisco	2	1	0	1	0	0	0	0	0	0	0	0	2	0
San Luis Obispo	2	1	0	0	0	0	0	0	0	1	0	0	2	0
Santa Barbara	2	0	0	2	0	0	0	0	0	0	0	0	2	0
Santa Cruz	2	0	0	0	0	1	0	0	0	1	0	0	2	0
Solano	3	1	2	0	0	0	0	0	0	0	0	0	3	0
Sonoma	2	0	0	1	1	0	0	0	0	0	0	0	2	0
Stanislaus	1	0	0	0	1	0	0	0	0	0	0	0	1	0
Tulare	2	0	0	1	0	0	0	0	1	0	0	0	2	0
Yolo	2	1	0	0	0	0	0	0	1	0	0	0	2	0
<b>Total</b>	<b>162</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>20</b>	<b>13</b>	<b>11</b>	<b>9</b>	<b>11</b>	<b>6</b>	<b>6</b>	<b>140</b>	<b>22</b>

Last Updated: June 2018

\* Total conversions in 2011-12 exceed 16 because of the enactment of Senate Bill 405, which increased the number of allowable conversions in specific circumstances for this fiscal year.

Note: A total of 162 SJO conversions to judgeships are possible under AB 159.

Shaded rows represent courts that have completed all of the conversions for which they are eligible.