



JUDICIAL COUNCIL
OF CALIFORNIA

WORKLOAD ASSESSMENT
ADVISORY COMMITTEE

www.courts.ca.gov/waac.htm
waac@jud.ca.gov

WORKLOAD ASSESSMENT ADVISORY COMMITTEE

MATERIALS FOR MARCH 26, 2020

Meeting Contents

Notice 1

Action Item

Item 1 Action by Email Between Meetings: Vote on Proposed Interim Caseweight for
Certification Hearings Performed Under Welfare and Institutions Code
Sections 5256 et seq 2

Attachment 1. Superior Courts of *Los Angeles & San Diego Superior Counties*
Adjustment Request Process 7

Attachment 2. FY 2018-19 5250 Filings 12



**Notice of Action by E-mail Between Meetings for
Workload Assessment Advisory Committee**

In accordance with California Rules of Court, rule 10.75(o)(1)(A), public notice is hereby given that the Workload Assessment Advisory Committee proposes to act by email between meetings on March 26, 2020. The proposed action was previously discussed at a meeting open to the public on March 3, 2020, 10:00 a.m. to 2:00 p.m.. A copy of the agenda for the meeting and a copy of the proposed action are available on the advisory body web page on the California Courts website listed above.

Written Comment

In accordance with California Rules of Court, rule 10.75(o)(2), written comments pertaining to the proposed action may be submitted before the Workload Assessment Advisory Committee acts on the proposal. For this specific meeting, comments should be e-mailed to waac@jud.ca.gov or delivered to Judicial Council of California, 455 Golden Gate Avenue, 5th Floor, San Francisco, California 94102, attention: Ms. Kristin Greenaway. Only written comments received by March 25, 2020, at 10:00 a.m. will be provided to advisory body members.

Posted on: March 19, 2020

JUDICIAL COUNCIL OF CALIFORNIA
Business Management Services
Report to the Workload Assessment Advisory Committee

(Action Item)

Title: Action by Email: Vote on Proposed Interim Caseweight for Certification Hearings Performed Under Welfare and Institutions Code Sections 5256 et seq

Date: 3/19/2020

Contact: Kristin Greenaway, Supervising Research Analyst
415-865-7832 | kristin.greenaway@jud.ca.gov

Issue

On March 3, 2020, the Workload Assessment Advisory Committee (WAAC) discussed a joint adjustment request process (ARP)submittal by the Superior Courts of Los Angeles County and San Diego County, seeking to adopt a new Resource Assessment Study (RAS) model caseweight for, and to include in the Workload Formula, certification hearings performed under Welfare and Institutions Code sections 5256 et seq (*see Attachment 1*). Specifically, the committee gave the following directions to staff:

1. To measure the referenced workload as part of the RAS Model;
2. To develop an interim solution to capture this workload until the next RAS update scheduled in approximately FY 2021-22;
3. To study the workload associated with this filing type and develop a new and separate caseweight in the next RAS update scheduled in approximately FY 2021-22 for the committee's consideration; and
4. To work with the Audit Services team to ensure these filings are being reported correctly by the courts.

This memo addresses the second item, that Judicial Council (JC) staff develop an interim caseweight to capture the workload until the next RAS update scheduled in approximately FY 2021-22. Since there is limited time to complete this work prior to release of the RAS full-time equivalents (FTE) update for 2020-21 budget allocations, the committee is being asked to vote on the interim caseweight as an action by email.

Background

The Welfare and Institutions Code requires hearing officers for the purpose of conducting hospital-based hearings under section 5256.1 and other sections. In certain counties, the Superior Court funds the costs of these hearing officers per California Rule of Court 10.810(d), which includes as allowable costs "mental health hearing officer" under Program 10. As stated in the request, the workload involved in these hearings is not currently captured by RAS/ WF and therefore is not currently funded because prior to 2018, certifications hearings under this code

JUDICIAL COUNCIL OF CALIFORNIA
Business Management Services
Report to the Workload Assessment Advisory Committee

were not reported in JBSIS 2.3, which is the version that was effective prior to July 1, 2018. The Judicial Council approved new JBSIS reporting standards, called JBSIS 3.0, that became effective on July 1, 2018.

Under JBSIS 2.3, these matters were reported as hearings, but not under Row 200, which is the reporting row for filings used for measurement of workload. It was captured in row 2700 as Certification Filed under workload but did not count as a filing defined by row 200. However, the workload associated with these matters was more like a new filing. Recognizing this gap, the CEAC JBSIS Subcommittee recommended, and the Judicial Council adopted, changes to JBSIS that allow courts to report certification hearings on Row 200 as new filings. Revisions were made to JBSIS in January 2018 (JBSIS v2.3 was replaced by v3.0) which allowed for reporting of these hearings effective July 1, 2018. Because there are differences across the state in how certification hearings are held, the JBSIS Manual (v3.0) includes a definition for how courts should report this workload:

A certification filing should only be counted if the certification hearing is handled by a judge, subordinate judicial officer (SJO), mental health hearing officer of the court, or other court- employed personnel. A certification filing should not be counted if the certification hearing is handled by county personnel not employed by the court. [Judicial Branch: Revisions to the Judicial Branch Statistical Information System (JBSIS), Report to the Judicial Council of December 18, 2017, p. 52]

Relevant Branch Policies

The RAS model is a weighted caseload model used to estimate resource need in the trial courts. It measures case complexity through the development of caseweights--the amount of time, in minutes, needed to process a case from filing through disposition, including any post-disposition activity. These weights are applied to filings (workload driver) to estimate each court unique workload. Currently the RAS Model includes caseweights for 22 separate case types.

The RAS model is updated periodically (every 5 years) to capture changes in workload or improved data availability. Updates over the years have included expanded case type categories. The RAS model update was last approved in 2017 by the Judicial Council. The next update will be conducted in approximately 2021-22.

The RAS model policies state that all case processing work is to be included in the estimate of full-time equivalent (FTE) need. If there is dedicated funding for an area of case processing workload (e.g. Court Interpreters), that workload is not included in the calculation of FTE need and incorporated elsewhere in the trial court funding models. Because the workload referenced in the request does not have dedicated funding and the workload, in some courts, is conducted by case processing staff, the workload should be captured in the RAS model.

JUDICIAL COUNCIL OF CALIFORNIA
Business Management Services
Report to the Workload Assessment Advisory Committee

Per policy, the committee has also acknowledged the need for interim adjustments that fall outside of the scope of the periodic RAS model updates. Additionally, the model incorporates caseweights that recognize workload that is specific to a court (EDD filings) or to a smaller set of courts (Asbestos filings).

Analysis

Since the inception of the RAS model in FY 2004-05, the filings categories have expanded. As data gathering and data reporting improves and, as more detailed filings data become available, the ability to further refine the RAS model and expand the number of caseweights is considered. Additionally, as noted in the *Policies* section above, interim adjustments to the model may be necessary if important changes impacting workload happen outside the periodic RAS Model updates.

Beginning in FY 2018-19, certification hearings are now reported as a separate filing category in JBSIS and Portal under Report 10A Mental Health. At the time this report was being drafted, courts were still submitting FY 2018-19 filings data to JBSIS. To date, twelve courts have reported approximately 54,000 certification hearing filings have been reported for FY 2018-19. The number of certification hearings filings reported is significantly higher than the number of mental health filings reported. To give an idea of scale, the Superior Court of Los Angeles County reported 10,000 mental health filings in FY 2017-18 but is reporting about 40,000 certification hearings for FY 2018-19.

Interim Caseweight

The short amount of time available to develop a caseweight prevented staff from conducting a time study or doing onsite data collection. However, the courts who proposed the adjustment provided enough data about the costs to hold the hearings that could be utilized to create an interim weight. To develop an interim caseweight, Judicial Council staff utilized key data points including FY 2017-18 cost information provided by the two courts that submitted the ARP (Los Angeles and San Diego), FY 2018-19 filings data, each courts' FY 2019-20 FTE Workload Formula (WF) cost (using 2015-2018 data)¹, and the RAS work year value (*see Table 1*). Using these data points, the caseweight was then weighted to the volume of filings reported for each court. The proposed interim caseweight is 48.5 minutes per filing. The fiscal impact of the proposed caseweight is estimated to be approximately \$3.8 million dollars for FY 2020-21.

¹ The per FTE Workload Formula (WF) cost is each courts' total WF need divided by their total RAS FTE need.

JUDICIAL COUNCIL OF CALIFORNIA
Business Management Services
Report to the Workload Assessment Advisory Committee

Table 1. Data Points

Court	Cost	Filings	WF Cost per FTE	Minutes
Los Angeles	\$2,700,000	40,789	\$155,460	98,550
San Diego	\$652,040	3,696	\$144,714	
Total		44,485		

Interim Caseweight Calculation

Using the data points in Table 1, the proposed caseweight was calculated as follows:

Step 1. Calculate estimated FTE per court

$$\text{Program Cost} / \text{Workload Formula Cost per FTE} = \text{FTE}$$

$$\text{Los Angeles: } \$2,700,000 / 155,460 = \mathbf{17.4 \text{ FTE}}$$

$$\text{San Diego: } \$652,040 / 144,714 = \mathbf{4.5 \text{ FTE}}$$

Step 2. Calculate each courts' caseweight

$$(\text{FTE} * \text{Workyear Value (in minutes)}) / \text{Filings}$$

$$\text{Los Angeles: } 17.4 * 98,550 / 40,789 = \mathbf{42.0}$$

$$\text{San Diego: } 4.5 * 98,550 / 3,696 = \mathbf{120.1}$$

Step 3. Calculate weighted caseweight

$$(\text{Court Filings} / \text{Total Filings}) * \text{Court Caseweight}$$

$$\text{Los Angeles: } (40,789/44,485) * 42.0 = 38.5$$

$$\text{San Diego: } (3,696/44,485) * 120.1 = 10.0$$

$$\text{Weighted Caseweight: } 38.5 + 10.0 = \mathbf{48.5^2}$$

² The caseweight of 48.5 is based only on two courts and may be different when the workload associated with this filing is studied more extensively during the next RAS Model update in approximately FY 2021-22. For FY 2020-21, the interim caseweight will be applied to all courts that submitted data in this new filing category (data submitted for FY 2018-19). However, further work will be done, in consultation with our Audit Services team, to ensure that moving forward the weight is only applied to courts whose workload meets the JBSIS definition.

JUDICIAL COUNCIL OF CALIFORNIA
Business Management Services
Report to the Workload Assessment Advisory Committee

Action by Email

The action requested of this committee is to vote on the interim weighted caseweight of 48.5 to be applied to all courts that reported certification hearings performed under Welfare and Institutions Code sections 5256 et seq for FY 2018-19, to be applied to 12 courts (see Attachment 2). The voting options are:

- Vote YES for the interim caseweight of 48.5 to be applied to reported certification hearings performed under Welfare and Institutions Code sections 5256 et seq for FY 2018-19.
- Vote NO for the interim caseweight of 48.5 to be applied to reported certification hearings performed under Welfare and Institutions Code sections 5256 et seq for FY 2018-19.

Attachments

Attachment 1: 12-14-2018 WAFM Adjustment Request LA SD

Attachment 2: FY2018-19 5250 Filings



December 14, 2018

Martin Hoshino
Administrative Director
Judicial Council of California
455 Golden Gate Ave.
San Francisco, CA

Re: Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request

Dear Mr. Hoshino,

Please accept the attached WAFM Adjustment Request, jointly proposed by the Superior Courts of Los Angeles and San Diego, to include in the RAS and WAFM models the workload from certification hospital hearings under Welfare and Institutions Code 5256 and other sections, as proposed in the attached request.

Sincerely,

Handwritten signature of Sherri R. Carter in blue ink.

Sherri R. Carter
Executive Officer/Clerk of Court
Los Angeles Superior Court

Handwritten signature of Michael M. Roddy in blue ink.

Michael M. Roddy
Executive Officer
San Diego Superior Court

c: Hon. Jonathan B. Conklin, Trial Court Budget Advisory Committee Chair
tcbac@jud.ca.gov

Proposal to adopt a new RAS case weight for, and to include in WAFM, certification hearings performed under Welfare and Institutions Code sections 5256 et seq.

Jointly proposed by the Los Angeles Superior Court and the San Diego Superior Court.

1. A description of how the factor is not currently accounted for in WAFM.

The Welfare and Institutions Code requires hearing officers for the purpose of conducting hospital-based hearings under section 5256.1 and other sections (see below for more detail). In certain counties, the Superior Court funds the costs of these hearing officers per California Rule of Court 10.810(d), which includes as allowable costs "mental health hearing officer" under Function 10. The workload involved in these hearings is not captured by RAS/WAFM.

First, the workload of the certification hearings is not picked up through any existing workload categories in RAS/WAFM. Certification hearings are done after a "5150 hold" is placed upon an individual, and the hospital holding the individual desires to extend the hold. The hearings are not "subsequent" hearings related to any other type of filing measured by RAS. They do not typically arise pursuant to an LPS Conservatorship, a question of competence to stand trial, or other mental health proceeding; the court is not involved in a 5150 hold. This is orphaned workload; RAS does not capture this workload in any case category and thus WAFM does not fund it.

Second, JCC staff does not include certification as new filings under RAS/WAFM. In fact, until revisions were made to the JBSIS Manual in January, 2018, JBSIS was not able to capture these hearings as workload. JBSIS Manual v2.3 (replaced by v3.0 as of FY18-19) allowed for reporting of these hearings – but not under JBSIS Row 200, which captures new filings used for measurement of workload.¹ Recognizing this gap, the CEAC JBSIS Subcommittee recommended, and the Judicial Council adopted, changes to the JBSIS Manual v3.0 that allow courts to report certification hearings on Row 200 as new filings.

Recognizing differences across the state in how the certification hearings are held, JBSIS Manual v3.0 includes the following definition of reportable workload:

A certification filing should only be counted if the certification hearing is handled by a judge, subordinate judicial officer (SJO), mental health hearing officer of the court, or other court- employed personnel. A certification filing should not be

¹ Technical note: In the Data Matrix under JBSIS v2.3, the JBSIS column in which they were captured, Column 10, did not map onto Row 200, which captures workload. JBSIS Manual v3.0 allows Column 10 filings to be reported on Row 200.

counted if the certification hearing is handled by county personnel not employed by the court. [Judicial Branch: Revisions to the Judicial Branch Statistical Information System (JBSIS), Report to the Judicial Council of December 18, 2017, p. 52.

As noted in the *Report to the Judicial Council* from December 18, 2017, recommending the above revisions to the JBSIS Manual (among other changes), CEAC suggests:

Because of the significant changes to the Mental Health case type categories, the Workload Assessment Advisory Committee (WAAC) will need to evaluate which filings data to use in RAS. [Judicial Branch: Revisions to the Judicial Branch Statistical Information System (JBSIS), Report to the Judicial Council of December 18, 2017, p. 60.

A first step, however, is to determine that this workload belongs in RAS/WAFM. If it is decided that the certification hearings captured by JBSIS should count as workload in RAS, a case weight can be assigned to them and JBSIS-reported workload data can be incorporated in RAS/WAFM.

2. Identification and description of the basis for which adjustment is requested.

The Welfare and Institutions Code requires hearing officers for the purpose of conducting hospital-based hearings as cited below (i.e., "certification review hearings" following involuntary hospitalization under section 5250).

WIC 5256: When a person is certified for intensive treatment pursuant to Sections 5250 and 5270.15, a certification review hearing shall be held unless judicial review has been requested as provided in Sections 5275 and 5276. The certification review hearing shall be within four days of the date on which the person is certified for a period of intensive treatment unless postponed by request of the person or his or her attorney or advocate. Hearings may be postponed for 48 hours or, in counties with a population of 100,000 or less, until the next regularly scheduled hearing date.

WIC 5256.1: The certification review hearing shall be conducted by either a court-appointed commissioner or a referee, or a certification review hearing officer.[...]

WIC 5270.15: (a) Upon the completion of a 14-day period of intensive treatment pursuant to Section 5250, the person may be certified for an additional period of not more than 30 days of intensive treatment[...] (b) A person certified for an additional 30 days pursuant to this article shall be provided a certification review hearing in accordance with Section 5256 unless a judicial review is requested pursuant to Article 5 (commencing with Section 5275).

And see Doe v. Gallinot, 486 F.Supp. 983 (1979), which requires a due process hearing for patients certified for involuntary psychiatric treatment.

In certain counties, the Superior Court funds the costs of these hearing officers per California Rule of Court 10.810(d), which includes as allowable costs "mental health hearing officer" under Function 10. However, RAS does not capture this workload and therefore WAFM does not fund it (see next section).

3. A detailed analysis of why the adjustment is necessary.

No other funding is available for this mandated work. These certification hearings are a statutory mandate.

In both the Los Angeles and San Diego courts, significant court resources are spent on this work (authorized under CRC 10.810):

- In FY17-18, the Los Angeles Superior Court spent \$2.7 million on court-employed hearing referees and support staff dedicated solely to certification hearings.
- In FY17-18, the San Diego Superior court spent \$652,040 on court-employed hearing referees and support staff dedicated solely to certification hearings. *Note: This does not include \$55,537 in employee costs for Riese hearings, which is reimbursed by the County of San Diego.*

These funds are available only from the Courts' WAFM-related allocation; no other funding sources are available. The lack of inclusion in the RAS/WAFM model means that those funds must be reallocated from other areas, reducing each Court's ability to adequately meet other obligations.

4. A description of whether the unaccounted for factor is unique to the applicant court(s) or has broader application.

Any Court that meets the JBSIS definition of court-provided hearing officer in JBSIS Manual 3.0 would be able to report certification hearings and receive RAS/WAFM workload credit for them.

5. Detailed description of staffing need(s) and/or costs required to support the unaccounted for factor. *Employee compensation must be based on WAFM compensation levels, not the requesting court's actual cost.

The RAS case weight is yet to be determined. In FY17-18, the Los Angeles Superior Court spent \$2.7 million on compensation for 15 Mental Health Hearing Officers and four support staff. San

Diego spent \$652,040 on compensation for 2.9 FTEs Mental Health Hearing Officers and 1.4 FTEs support staff.

6. Description of the consequence to the public and access to justice without the funding.

Because RAS/WAFM does not cover this mandated work, the work must be funded from other areas of the Court. Given the fact that all California trial courts are under-resourced, filling this funding gap means that other important services – window clerks, courtroom clerks, or clerical employees processing documents, for instance – are not available to serve the public.

7. Description of the consequences to the requesting court(s) of not receiving the funding.

Because these hearings are statutorily mandated, they must be conducted. The consequences of not receiving the funding to support this work results in funding being taken from other areas of the Court.

8. Any additional information requested by the Fiscal Services Office, Funding Methodology sub-committee or TCBCAC deemed necessary to fully evaluate the request.

The people who are the subjects of certification hearings are among society's most vulnerable. Their liberty is at stake in deep and profound ways. The statutory protections offered by the Welfare and Institutions Code are among the most important duties of a Court. This work is obviously core workload; it deserves RAS/WAFM funding.

	210 Certification	205 Certification (W&I 5250) (Portal)
Alameda		4,513
Amador		0
Butte	0	
Calaveras	0	
Contra Costa		0
Del Norte		1
El Dorado		0
Fresno	0	
Imperial	0	
Inyo		0
Kern		0
Kings	0	
Lake		0
Lassen	0	
Los Angeles		40,789
Madera	0	
Marin		0
Mariposa		0
Mendocino		0
Merced	0	
Modoc		0
Mono		0
Monterey	0	
Nevada		0
Orange		0
Placer		0
Riverside		8
Sacramento		2,502
San Benito		0
San Diego		3,696
San Francisco		2,273
San Joaquin		0
San Luis Obispo	64	
San Mateo	0	
Santa Barbara	199	
Santa Cruz	0	
Shasta		0
Sierra		0
Siskiyou	0	
Solano		0
Sonoma	0	
Stanislaus	0	
Sutter	0	
Tehama	1	
Trinity		0
Tulare	0	
Tuolumne		0
Ventura	488	
Yolo	64	
Yuba	0	
Total	816	53,782
Grand Total		54,598