JUDICIAL COUNCIL
OF CALIFORNIA
WORKLOAD ASSESSMENT
ADVISORY COMMITTEE

WORKLOAD ASSESSMENT ADVISORY COMMITTEE

MATERIALS FOR DECEMBER 9, 2020
ACTION BY EMAIL BETWEEN MEETINGS

Meeting Contents

JUDICIAL COUNCIL
OF CALIFORNIA

WORKLOAD ASSESSMENT
ADVISORY COMMITTEE

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

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 December 9, 2020, 10:00 a.m. The proposed action was previously discussed at a meeting open to the public on September 9, 2020, 12:10 p.m. (Electronic). 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 455 Golden Gate Avenue, 5th Floor, San Francisco, California 94102, attention: Ms. Kristin Greenaway. Only written comments received by December 8, 2020, 10:00 a.m., will be provided to advisory body members.

Posted on: **December 1, 2020**

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JUDICIAL COUNCIL OF CALIFORNIA

Business Management Services

Report to the Workload Assessment Advisory Committee

(Action Item)

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Title:	Superior Court of San Francisco and Contra Costa ARP Action by Email
Date:	12/1/2020
Contact:	Nicholas Armstrong, Senior Research Analyst
	415-865-7829 | Nicholas.Armstrong@jud.ca.gov

Issue

On January 13, 2020 an Adjustment Request Proposal (ARP) was jointly submitted by the Superior Courts of San Francisco County and Contra Costa County. This ARP requests the modification of the workload models to address unaccounted for misdemeanor jury trial workload. The ARP specifically states courts with higher rates of misdemeanor jury trials have more workload burden than courts with lower rates. Furthermore, it claims an increase in a courts misdemeanor jury trial rate actually results in fewer misdemeanor filings in a court. The proposal suggests this penalizes these courts on two fronts because not only is a higher jury trial rate more resource-intensive--which the model does not differentiate on--but higher jury trial rates also depress the filings that drive the workload need estimates.

Description

The ARP identifies two areas of concern: aggregated filings that do not specifically account for misdemeanor jury trial workload; and an inverse relationship between misdemeanor jury trials and misdemeanor filings.

Jury trial workload
Currently, the RAS model is a filings-driven model in which the method of disposition is not taken directly into account when calculating workload need. However, time spent on jury trial activities is collected during the time study portion of the RAS and is therefore captured in the final casetype caseweights. Also note, both San Francisco and Contra Costa Superior Courts participated in the 2016 RAS time study. Therefore, data from these courts is incorporated in the current caseweights. The ARP, however, requests that misdemeanor jury trials be specifically differentiated when calculating the workload need in each court instead of using the aggregated caseweights.

Inverse relationship
The second issue in the proposal highlights an inverse relationship between misdemeanor filings and misdemeanor jury trials. More precisely, courts with higher rates of misdemeanor jury trials tend to have fewer total misdemeanor cases filed. Consequently, courts with a high jury trial rate will have fewer filings than if the rate was closer to the state average. This dampening of the

filings coupled with the increase in average minutes per case filing via higher jury trial rate creates unassessed workload according to the ARP.

Analysis

Judicial Council (JC) staff presented the ARP to the Workload Assessment Advisory Committee (WAAC) at its September 9, 2020 meeting, and the committee discussed the request at that time. Staff highlighted the issues raised in the ARP and also underscored some of the guiding principles of the workload models.

One principle of particular importance noted in the discussion is that the model is designed to be statewide in scope. The RAS model captures differences in workload by applying caseweights to over twenty different case categories, recognizing how casemix impacts workload in the trial courts. However, the model is not designed to address distinct court practices which could lead to a patchwork approach of adjustments and therefore run counter to this guiding principle of a statewide model. Additionally, the model is currently a filings-driven model. Although the workload associated with jury trials is captured in the time studies and incorporated as part of the RAS caseweights, the model currently relies on weighted filings to assess workload. Based on these factors, the committee recommends that requested adjustments not be made.

Action by Email

Approve the recommended action to deny the request that an adjustment be made to the workload models based on misdemeanor jury trials.

 The voting options are:

- Vote YES to approve the recommended action.
- Vote NO to reject the recommended action.

Attachments

Attachment A: Adjustment Request Proposal – Misdemeanor Trials – Final.pdf

SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA
725 Court Street
Martinez, CA 94553-1201

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
400 McAllister Street, Room 205
San Francisco, CA 94102-4512

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COURT EXECUTIVE OFFICER

T. MICHEL YUEN
COURT EXECUTIVE OFFICER

January 13, 2020

Mr. Martin Hoshino
Administrative Director
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102

     Re: Workload Formula Adjustment Request

Dear Mr. Hoshino:

The Superior Courts of California, Counties of Contra Costa and San Francisco submit the attached work.load formula adjustment request, which seeks to account for misdemeanor jury trial work.load that is currently unaccounted for both the resources allocation study and the work.load formula. The courts respectfully request the Judicial Council and the Trial Court Budget Advisory Committee give due consideration to this request.

Sincerely,

Kate Bieker
Court Executive Officer
Contra Costa Superior Court

T. Michael Yuen
Court Executive Officer
San Francisco Superior Court

cc: Trial Court Budget Advisory Committee

Proposal to Adjust RAS/Workload Formula Methodology to Provide Adequate Funding for Misdemeanor Jury Trial Workload Unidentified by Either Model

Proposed Jointly by the Contra Costa Superior Court and the San Francisco Superior Court

1. Description of How the Factor Is Not Currently Accounted for in the Workload Formula

RAS and the workload formula are based upon the premise that workload increases in direct proportion to the number and complexity of filings. However, this assumption fails to account for a unique dynamic in the criminal courts wherein an increase in workload actually correlates with a *decrease* in new case filings.

JBSIS data show that jury trials, which are not a variable in either RAS or the workload formula, adversely impact the filing rate of misdemeanors while contributing heavily to workload. Indeed, jury trials are among the heaviest of all workload events. Yet, as jury trial workload increases, the rate of misdemeanor case filings (and thus the workload formula need) is driven downward.

A comparison of misdemeanor jury trial-to-filing ratios[1] with misdemeanor filings per capita (i.e. filings per 1,000 county population) indicates a statistically strong inverse relationship between these variables. This is illustrated by the clustering of courts around the trend lines in the graphs below.

CHART 1. County Non-Traffic Misdemeanor Jury Trial Rates by Population-Adjusted Non-Traffic Misdemeanor Case Filings: FY 2017-18
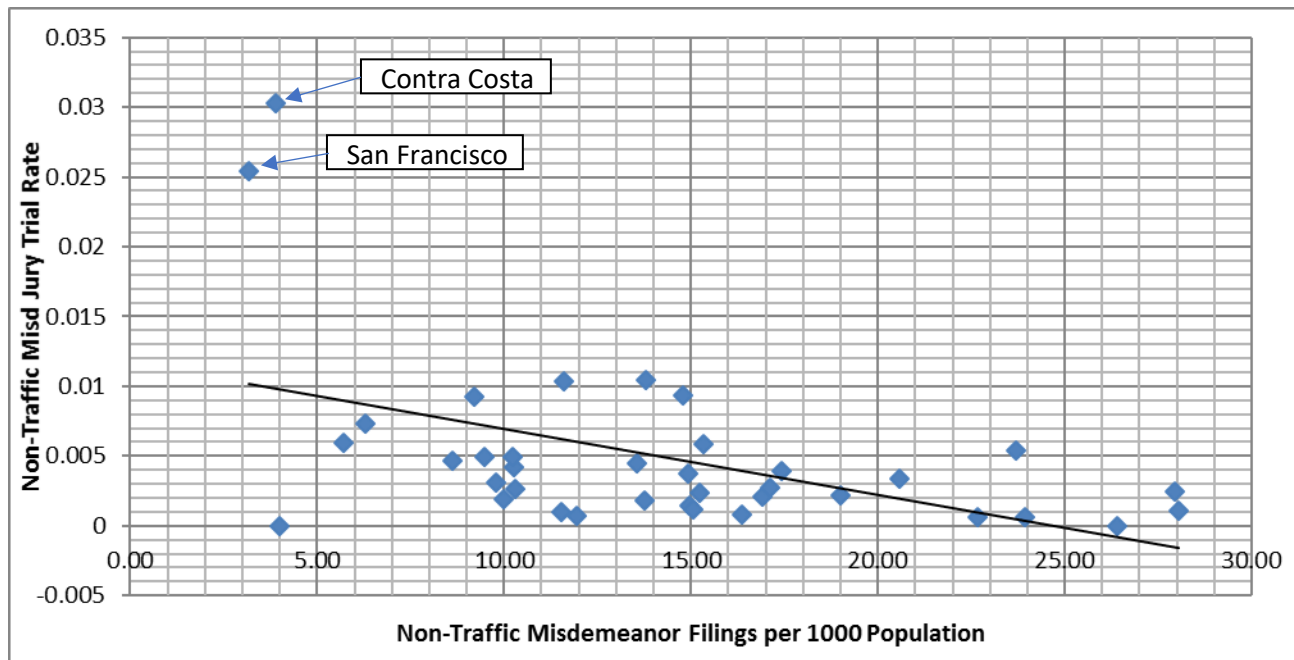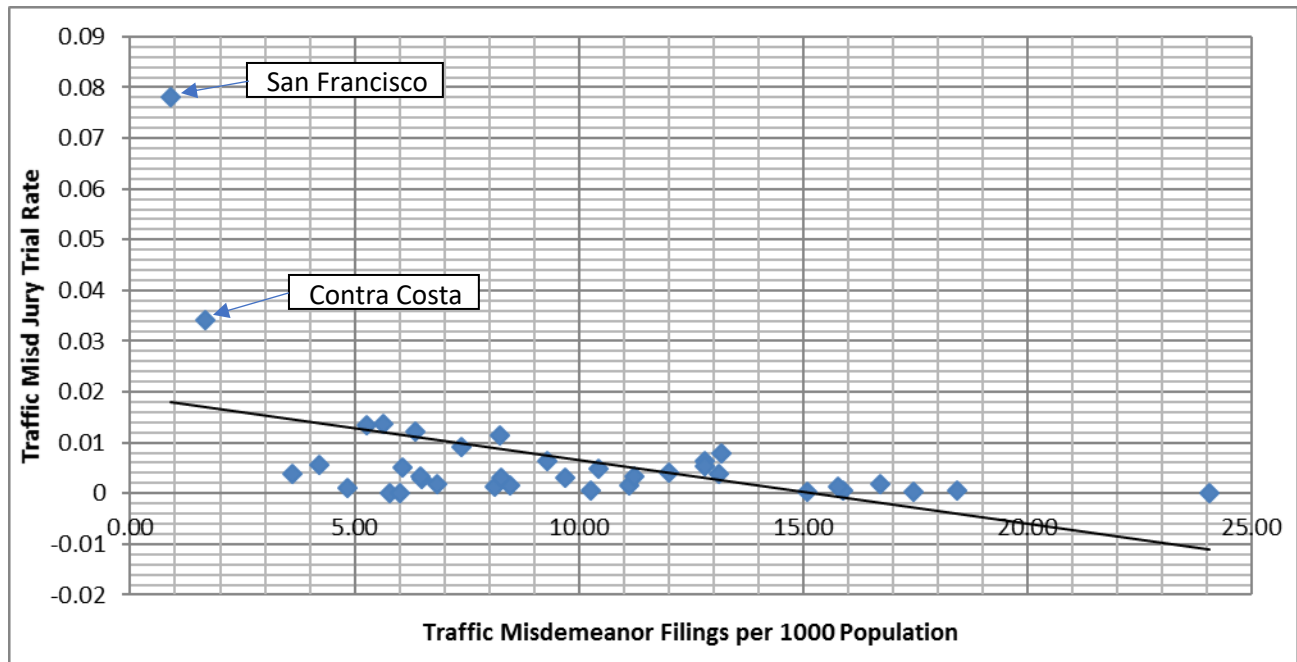

Notes: Jury trial rate calculated as ratio of non-traffic misdemeanor jury trial dispositions to non-traffic misdemeanor filings. Cluster 1 courts excluded from chart due to small sample sizes. Additionally, five courts (Napa, Orange, Placer, Sacramento, and San Bernardino) reported incomplete jury trial data for FY 2017-18 and are also excluded. (Pearson correlation = -.504, Sig. = .002)

Sources: FY 2017-18 JBSIS and U.S. Census data.

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[1] Misdemeanor jury trial disposition rates (jury trial dispositions divided by total dispositions) also show a statistically significant inverse relationship to population-adjusted filings. However, total dispositions are not as consistently reported by the courts, introducing a level of uncertainty, so the jury trials-to-filings ratio is used in these analyses instead.

CHART 2. County Traffic Misdemeanor Jury Trial Rates by Population-Adjusted Traffic Misdemeanor Case Filings: FY 2017-18

Notes: Jury trial rate calculated as ratio of traffic misdemeanor jury trial dispositions to traffic misdemeanor filings. Cluster 1 courts excluded from chart due to small sample sizes. Additionally, five courts (Napa, Orange, Placer, Sacramento, and San Bernardino) reported incomplete jury trial data for FY 2017-18 and are also excluded. (Pearson correlation = -.459, Sig. = .005)

Sources: FY 2017-18 JBSIS and U.S. Census data.

Finite resources of justice partners necessitate limits on the total amount of case processing work they can perform. If jury trial workload increases the average minutes per case filing, DAs may be forced to limit the number of cases they can file. Consequently, the workload burden of an increase in jury trials goes uncaptured, doubly so because the workload burden actually **depresses** the driver by which the models assess need (i.e. filings). Moreover, less complex misdemeanors (i.e. those requiring fewer minutes per case to process) are more likely to be assigned a lower priority or diverted to community courts by DAs facing this situation, thus increasing the average case weight of the remaining misdemeanors in that jurisdiction even further. As a result, **the workload formula significantly underestimates the additional workload burden** created by higher misdemeanor jury trial rates.

2.   Identification and Description of the Basis for Which Adjustment Is Requested

The right to a misdemeanor jury trial in California is guaranteed by the Sixth and Fourteenth Amendments to the U.S. Constitution; Article 1, sections 16 and 24 of the California Constitution; and various California statutory provisions. The courts are obligated to provide a venue for these trials. The workload formula significantly underestimates the additional workload burden posed by a higher rate of misdemeanor trials because the additional workload strongly correlates with fewer filings, the driver of workload assessment and budget allocation under both RAS and the workload formula. Based upon its RAS III time study data, **San Francisco estimates that it spends more than $5.5M annually** to address this short-fall. Adjustments to the models will ensure adequate funding to meet these constitutional mandates.

3. Analysis of Adjustment Necessity

No other funding is available for this statutorily-mandated work. The courts must provide jury trials to criminal defendants who request them. In order to meet the unfunded workload imposed by above-average jury trial rates, courts are presently forced to drain resources from other divisions and programs to meet the need. Contra Costa has two entire courthouses designated to handling misdemeanor matters. These two locations require 8-9 Judges to perform the trials and other related items. To provide the necessary staffing for these courtrooms, Contra Costa has only 9 staff members in the two clerk's offices and a courtroom clerk for each courtroom.

4. Unique or Broad Application

Any court experiencing above-average misdemeanor jury trial activity would be able to report this through JBSIS and receive RAS/Workload Formula credit for this workload. The methodologies set forth in this proposal can be applied to all courts cluster 2 and above that have supplied basic JBSIS data to the JCC.

5. Detailed Description of Staffing Needs and or Costs Required to Support the Unaccounted for Factor (*Employee compensation must be based on workload formula compensation levels, not the requesting court's actual cost.)

Various methods of assessing the impact of the elevated misdemeanor jury trial rate in San Francisco indicate that it depresses the number of misdemeanor filings by the workload equivalent of **30-35 FTEs**.[2] In Contra Costa County, the impact is in the range of **32-45 FTEs** of workload uncaptured by the model because increased jury trial workload has driven down filings in this amount.

Two distinct methodologies for assessing this unfunded workload are explained below.

Method 1: Regression-Adjusted Filings

Because of the strong correlation between misdemeanor jury trial rates and population-adjusted misdemeanor case filings, it is possible to construct an equation through linear regression that describes the relationship between these values. This equation can be used to predict the number of misdemeanor filings a court would have received had its misdemeanor jury trial rate mirrored the state average. The difference between this prediction and filings at a court's actual jury trial rate allows for the calculation of unfunded workload need.

As arrest rates correlate strongly with filing rates, population-adjusted arrests were also entered into the regression equations to control for their effects. The resulting equations that describe the relationship between these variables produce a model that accounts for up to 56 percent of the variability in misdemeanor filing rates observed between the courts, a high degree of explanatory power for just two independent variables.[3]

Non-Traffic Misdemeanor Equation:

(Predicted filings per 1000 population) = 0.428 x (Arrests per 1000 pop) - 270.006 x (Jury Trial Rate) + 4.827

Traffic Misdemeanor Equation:

(Predicted filings per 1000 population) = 0.115 x (Arrests per 1000 pop) - 142.141 x (Jury Trial Rate) + 7.659

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[2] RAS III Time Study data from 2016 indicate that San Francisco expended nearly 25 FTEs more that year on misdemeanor case processing than the average court would have spent on an identical number of filings.

[3] The R-squared value for the non-traffic misdemeanor regression is .562; for traffic misdemeanors it is .252. All variables entered into the regressions were statistically significant. Durbin-Watson is 1.693 for nontraffic and 2.305 for traffic, indicating low autocorrelation.

The difference in predicted filings at the state average jury trial rate and a county's actual jury trial rate represents the unfunded workload impact of increased jury trial activity.

Assuming that the regression adjustment is only applied where a county has a below-average misdemeanor filing rate and an above-average misdemeanor jury trial rate[4] (so as not to penalize counties that have devised efficiencies enabling them to process more trials without impacting filings), the two most significant outliers on Charts 1 and 2 (Contra Costa and San Francisco), see their program 10 staffing needs increase by 45.94 FTEs and 35.42 FTEs, respectively. Other notable increases include Los Angeles (10.95), San Diego (7.24), Alameda (6.02), Stanislaus (5.33), Monterey (4.24), Ventura (4.09), and Solano (3.60).

Method 2: Jury Trial Weighting

Similar to the way in which weights are calculated for various case types under RAS, a separate "event" weight can easily be developed for misdemeanor jury trials. Because jury trials are part of the existing misdemeanor case weights, the development of a jury trial weight also necessitates backing out the jury trial minutes from the existing case weights for non-traffic and traffic misdemeanors.

Staff time consumed by jury trials extends beyond the court room, so it is necessary to identify the impact of jury trials on all staff. It is also necessary to determine an average trial length to place into the calculation.

Since jury trials occupy an entire department for the duration of the trial, a convenient measure for the number of staff impacted is the average staff per judge (calculated as the total number of RAS III program 10 FTEs divided by the Assessed Judicial Need). Statewide for the FY 2017-18 budget year, this value equals 7.26 FTEs.

Based upon an average trial time of three days per misdemeanor trial,[5] 450 minutes per day, and 7.26 FTEs per department, an event weight of 9,801 minutes is derived. Multiplying this value by each county's three-year average number of misdemeanor jury trials reported through JBSIS and backing the total out of the state's non-traffic and traffic misdemeanor case weights,[6] this methodology identifies unfunded workload of 16.94 program 10 FTEs for Contra Costa and 16.59 program 10 FTEs for San Francisco. Other notable increases include San Diego (10.21), Ventura (8.48), Stanislaus (4.25), Riverside (4.24), Santa Cruz (3.65), and Yolo (2.86).

It is important to note, however, that larger counties appear to have longer misdemeanor trial times. For example, San Francisco's average misdemeanor trial lasts 5.7 court days. Entering this value into the weighting yields an increase of 31.52 FTEs, much closer to the value determined by regression (35.42). It is also important to note that the jury trial weighting methodology only calculates the workload value of the increased trial activity itself. Any increase in average misdemeanor case weights experienced in a jurisdiction in which a DA diverts simpler misdemeanors to community courts or does not file them at all is not accounted for by jury trial weighting (whereas it is accounted for in the regression).

6. Public Access Consequence

Without workload formula funding to cover the workload burden of above-average misdemeanor jury trial activity, the courts must divert funding from other under-resourced areas, including service to the public. Availability of window clerks and case-processing times suffer from the funding short-fall. All clerks' offices

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[4] Eighteen counties meet these criteria.

[5] An informal survey of nine counties found an average misdemeanor jury trial time of 2.72 days (3.07 days excluding cluster 1 courts). However, it is unclear whether all counties included jury selection in this time estimate. Also, it was observed that the length of jury trials increased steadily with the size of the court, suggesting the possibility of more complex (or contentious) cases in the larger counties.

[6] The non-traffic misdemeanor case weight reduces to 443.12 minutes per filing, and the traffic misdemeanor case weight declines to 71.80 minutes per filing.

in San Francisco currently close at 2:00 pm each day, and the Public Viewing Room closes at 1:00 pm. All clerk's offices in Contra Costa, with the exception of traffic, close at 3:00 pm.

7.   Consequences of Not Receiving Funding

Criminal defendants have a constitutional right to a jury trial, and the courts must provide them. Unfunded workload created by above-average misdemeanor jury trial activity forces affected courts to divert funding from other areas, impacting services overall. A worst case scenario is for a Presiding Judge to be forced to dismiss cases due to lack of timing of due process.

8.   Additional Information

Because the workload formula was phased in without consideration of increased jury trial activity driving down the predictor of workload need, it is essential that the workload formula base be recalculated in order to ensure that courts receive appropriate funding for their misdemeanor jury trial workload. Adopting the methodologies described herein without recalculating the workload formula base will only affect the determination of need and the allocation of any new money (if and when appropriated).