

# California Judicial Workload Assessment

## Final Report

Submitted by the National Center for State Courts

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## Executive Summary

Providing a reasonable level of judicial services to the people of California is directly related to the number of judicial officers available to handle the nearly 9 million cases filed in the California courts each year. Over the last decade, few additional judges have been authorized by the California Legislature. Over this time, California has accommodated a growing caseload primarily through additional subordinate judicial officers and using pro tem and retired judges.

The California Administrative Office of the Courts (AOC) contracted with the National Center for State Courts (NCSC) to help measure the workload in the California courts and to recommend a reasonable set of workload standards that would allow judges<sup>1</sup> the necessary time to resolve disputes in a quality fashion. The goal is to accurately determine the amount of time required by judges to resolve different types of cases in an efficient and effective manner. The methodology used in this study is being adopted by an increasing number of states to determine the need for judges and other resources.

Like other state courts, California's caseload varies in complexity. Different types of cases require different amounts of time and attention from judges, other judicial officers, and court support staff. For example, a serious felony case has greater impact on judicial resources than a typical divorce case. Therefore, a comprehensive and cost-effective workload assessment strategy was developed using multiple methods that

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<sup>1</sup> Throughout this report, the term "judges", unless otherwise indicated, refers to all judicial officers: judges, subordinate judicial officers, and pro tem judges.

accommodate different case types, to determine judge needs. Workload standards were constructed from current practices (as measured by a time study) and adjusted for quality of justice where needed through a rigorous Delphi decision-making process. This final set of quality adjusted workload standards can be applied statewide.

### **Final Workload Standards and the Implications for Judge Need**

The Workload Assessment Policy Committee (WAPC) directed the project through two phases. Phase I involved four courts—Butte, San Mateo, Sacramento, and Los Angeles. These courts participated in a state-of-the-art time study to capture the time currently spent resolving disputes; engaged in multiple Delphi exercises to garner the expert opinions of judges and court administrators with respect to the workload; and responded to three “quality of justice” surveys to identify where judges needed more time to do a better job for California court users. Phase I resulted in an initial set of quality-adjusted workload standards.

Phase II reviewed and validated these initial workload standards through a structured Delphi process in seven additional courts—Del Norte, Merced, Orange, San Bernardino, Santa Clara, Sutter, and Ventura. Representatives from both Phase I and Phase II courts met in July 2001 to reach consensus and recommend a final set of workload standards. These workload standards can serve as the foundation for use by the California Judicial Council as it assesses judicial workload and requests and allocates judges in California. The final adjusted workload standards are shown in Exhibit 1. For example, a typical Family case requires an average of 84

minutes of judicial officer time from filing to resolution, including post judgment activity.

**Exhibit 1: Recommended Workload Standards (minutes)**

<u>Case Type</u>	<u>Workload Standard</u>
Probate	52
Family (divorce and dissolution)	84
Juv. Dependency	224
Juv. Delinquency	60
Mental Health	148
Other Civil Petition	70
Motor Vehicle Torts	79
Oth. Personal Injury Torts	390
Other Civil Complaints	70
Appeals from Lower Courts	95
Criminal Habeas Corpus	37
Other Civil (<\$25k)	21
Unlawful Detainer	16
Small Claims	15
Felony	197
Class A & C Misdemeanor	43
Class B & D Misdemeanor	5
Infractions	1.06

Workload assessment is essentially a study of supply and demand.

How does the workload demand generated by different types of cases compare to the supply of judge time available to do the work? Three fundamental pieces of information are needed to answer this question:

1) case filings; 2) the judge year value; and 3) individual case workload standards.

- 1) Filings data was collected and compiled by the AOC for all 58 counties. FY 1999-2000 filing data was used to determine filings for the different case types.
- 2) The case-related judge year value of 77,400 minutes is an estimate of the average amount of time a judge has available each year to process his or her workload. This

value is reached after careful consideration of the typical number of days per year and hours per day that a judge should be available for case related work. First, WAPC determined that judges have available, on average, 215 days per year for case resolution, which was reached by removing weekends and applying a standard deduction for vacation, sick leave, and participation in judicial conference and education programs from the calendar year. Second, a distinction is made between case related and non-case related work during the eight-hour workday. Like other states, California judges are assumed to spend an average of 6 hours a day on case specific responsibilities and 2 hours per day on non-case related administration, community activities, travel, etc. These standards (215 days per year and 8 hours per day) result in a total work year of 103,200 minutes, which breaks down into a case-related judge year value of 77,400 minutes (215 days, 6 hours per day) and a non-case-related judge year value of 25,800 minutes (215 days, 2 hours per day).

- 3) Individual case workload standards, shown in Exhibit 1, represent the average amount of time sufficient for judges to resolve each type of case in an efficient and effective manner.

The number of judges need to process a particular type of case in a reasonable way is derived by combining information on the number of case filings, the specific workload standard, and the judge year value. For example, assume there were 10,020 juvenile dependency cases filed in California. Judge need is determined by applying the juvenile dependency standard to the filing total (224 x 10,020) and dividing by the case-related judge year standard (77,400 minutes per year). The calculation  $((224 \times 10,020) / 77,400) = 29$  judges) shows that 29 judges are needed to resolve 10,020 juvenile dependency cases.

Each workload standard is constructed by compiling information on three distinct case event categories: pretrial time, trial time, and post judgment time. It is possible to assess the validity and reasonableness of

each workload standard by examining this event-level information. Exhibit 2 shows how the family workload standards are broken into these various categories of work. Similar tables for civil and criminal case types are shown in the full report. For example, the typical juvenile dependency case takes 224 minutes of judge time. This can be broken down as follows. Pre-trial work takes 85 minutes and happens in 100% of the cases. Trials, jurisdictional, and dispositional hearings in dependency cases take 240 minutes, but they only occur in 23% of the cases. Finally, post-judgment work takes 88 minutes, on average, and occurs in 95% of the cases. The overall workload standard of 224 minutes is a “weighted average” of the separate event time and event occurrence measures. That is,  $((85 \times 1) + (240 \times .23) + (88 \times .95)) = 224$  minutes.

**Exhibit 2: Family Workload Standards—Pre-trial, Trial, and Post Trial Work (minutes)**

<u>Event</u>	<u>Probate</u>	<u>Family</u>	<u>Juvenile Dependency</u>	<u>Juvenile Delinquency</u>	<u>Mental Health</u>
<b>Occurrence rate</b>					
Pre-trial	100%	100%	100%	100%	100%
Trial	8%	5%	23%	5%	10%
Post	7%	25%	95%	10%	10%
<b>Time in minutes</b>					
Pre-trial	41	54	85	45	43
Trial	110	360	240	63	1,000
Post	30	51	88	117	50
<hr/>					
<b>Judge Day (case-related hours)</b>	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>	215	215	215	215	215
<hr/>					
<b>Workload Standard</b>	52	84	224	60	148

The final workload standards displayed in Exhibit 1 and the event-level detail shown in Exhibit 2 are grounded in current practice as measured by a

time study. Participants in Phase I and Phase II used the time study results as a starting point for their quality of justice discussions. Exhibit 3 compares current practice (as measured by the time study) with the final workload standards and their implication for judge need in California. In fiscal year 1999/2000, there were approximately 2,000 Judicial Position Equivalents (JPE) actually processing cases in California. The time study results measure how much time, on average, these JPE currently spend resolving each type of case. For example, juvenile dependency cases are currently resolved, on average, in about 128 minutes. Of the total JPE currently available, about 67 JPE are being used to process the juvenile dependency workload.

The participants in Phase I and Phase II made adjustments to the time study-based workload standards when current practice was deemed to provide less than adequate time for the effective resolution of cases. In other words, although judges were getting the cases disposed, WAPC members believe ample time, attention, and service as demanded by the public was not being provided. Adjustments made to current practice (as measured by time study workload standards) reflect changes required to comply with court rules, mandated legislation, and effective case processing strategies so as to improve the quality of justice in California courts. For example, in the case of juvenile dependency, WAPC felt that the standards relating to the time for pre-trial activity and trials should be increased in these very important cases. In addition, WAPC decided that the standards generated from current practice relating to post judgment were inadequate. The committee felt that the occurrence rate and time for post judgment

should be increased to accommodate mandated conferences and allow sufficient time to conduct them. As such, the final workload standard for juvenile dependency increased from 128 to 224. The final standards adjusted for quality suggest a need for 2,254 judges statewide.

### Exhibit 3: Implications For Statewide Judge Need

<u>Case Type</u>	<u>1999/2000 Filings</u>	<u>Time Study (Adjusted)</u>		<u>Final Standards (Adjusted)</u>	
		<u>Workload Standard (minutes)</u>	<u>Implied Judge Need</u>	<u>Workload Standard (minutes)</u>	<u>Implied Judge Need</u>
Probate	50,750	47	31	52	34
Family (divorce and dissolution)	156,078	84	170	84	169
Juv. Dependency	40,672	128	67	224	118
Juv. Delinquency	93,649	50	60	60	73
Mental Health	7,671	285	28	148	15
Other Civil Petition	327,337	70	296	70	296
<b>Sub-Total, Family Case Types</b>			<b>653</b>		<b>704</b>
Motor Vehicle Torts	45,782	62	37	79	47
Oth. Personal Injury Torts	25,359	351	115	390	128
Other Civil Complaints	129,557	70	117	70	117
Appeals from Lower Courts	14,562	69	13	95	18
Criminal Habeas Corpus	5,509	10	1	37	3
Other Civil (<\$25k)	272,083	14	48	21	74
Unlawful Detainer	198,685	9	24	16	41
Small Claims	320,650	10	39	15	62
<b>Sub-Total, Civil Case Types</b>			<b>394</b>		<b>489</b>
Felony	238,685	174	535	197	608
Class A & C Misdemeanor	609,611	36	286	43	339
Class B & D Misdemeanor	624,053	4	33	5	40
Infractions	5,373,713	1.40	97	1.06	74
<b>Sub-Total, Criminal Case Types</b>			<b>953</b>		<b>1,060</b>
<b>Total</b>	<b>8,534,406</b>		<b>2,000</b>		<b>2,254</b>

WAPC believes that these recommended workload standards are an accurate representation of the amount of work required of judges to provide reasonable judicial services to the citizens of California.

### Maintaining the Integrity of the System

The workload standards adopted by WAPC represent the initial step in establishing a judicial need assessment system for California. From this

starting point, California needs to move forward on two tracks. First, it is necessary to design a process to oversee the application of the standards to county level filing data and ensure equitable cross-county comparisons. Second, AOC staff must develop a process to periodically review and update the judicial workload standards so that they continue to accurately represent judicial workload. Each track is discussed below:

1. The NCSC recommends the following steps for applying the standards to county level data in a fair and accurate fashion:
  - *Review current filings data:* AOC staff will review current filings data to ensure that they are a valid and accurate representation of a court's caseload.
  - *Determination of statewide judicial need:* The judicial workload standards will be applied to the adjusted filings data, which will provide an estimate of the total number of judges necessary to handle the workload of the courts.
  - *Develop prioritized list for current year:* Courts showing a need for additional judicial resources will be ranked based on their priority in order to develop a preliminary list of new judgeships for the current year. This will ensure that additional judicial officers will be allocated to those courts whose need is the greatest.
  - *Send results to courts and provide opportunity to comment:* AOC Staff will provide the courts a summary of the current assessment of statewide judicial need, as well as the prioritized list described above. This will allow the courts to verify the accuracy of the filings numbers used in the methodology, and provide any feedback that could affect their placement on the prioritized list for the current year.
  - *Review comments and develop final list of new judgeships for approval by the Judicial Council:* Staff will review the courts' feedback and revise the preliminary list, as necessary. This final list of new judgeships for the current year will be presented to the Judicial Council for their approval.
2. For the workload standards to remain reliable and accurate over time, the NCSC and AOC recommend the following:

- *Annual review of factors impacting workload standards for specific types of cases.* We recommend that a working group be convened within the next six months, and meet on an annual basis to review the impact of new legislation or other contextual factors on the judicial workload standards. This review process will serve to identify areas in which specific research may be needed to quantify the impact of new laws, policy, or court procedures on the standards for specific types of cases. Because this process will target for review only those standards where there is evidence of recent change, it will be more cost effective than updating the entire set of workload standards.
- *Periodic update of entire set of workload standards.* We also recommend that that AOC conduct a systematic update of the entire set of workload standards approximately every five years (with the actual timing being determined by the working group). The NCSC recommends a process similar to the one discussed in the body of this report.

## Chapter 1: Introduction

The Research and Planning (R&P) Unit of the California Administrative Office of the Courts (AOC) contracted with the National Center for State Courts (NCSC) to help develop a means to measure judicial workload in the California courts. A clear measure of court workload is central to determining how many judges and judicial officers are needed to resolve all cases coming before the court. Adequate resources are essential if the California judiciary is to effectively manage and resolve court business without delay while also delivering quality service to the public. Meeting these challenges involves assessing objectively the number of judges required to handle the caseload and whether judicial resources are being allocated and used prudently. In response, judicial leaders are increasingly turning to sophisticated techniques to provide a strong empirical foundation of judicial resource need in the state trial courts.

State court caseloads vary in complexity, and different types of cases require different amounts of time and attention from judges, other judicial officers, and court support staff. While case counts have a role in determining the demands placed on our state judicial systems, they are silent about the judicial resources needed to effectively process this vast array of cases. That is, raw, unadjusted case filing numbers offer only minimal guidance as to the amount of judicial *work* generated by those case filings. Moreover, the inability to differentiate the work associated with each case type creates the potential for the misperception that equal numbers of cases filed for two different case types result in equivalent workloads. For

example, a “typical” serious felony case has a greater impact on judicial resources than the “typical” uncontested divorce case. For this reason, the NCSC believes that a comprehensive program of judicial workload assessment is the *best* method for measuring case complexity and determining the need for judges.<sup>2</sup>

The NCSC worked closely with the AOC staff to develop a comprehensive and cost-effective workload assessment strategy to:

- Design and implement a multi-method approach for determining judicial need based on judicial workload.
- Construct a set of judicial workload standards that incorporate current practice (as measured by a time study).
- Develop a method to assess and, where needed to improve the quality of justice, revise the time study standards based on expert judicial opinion (the Delphi decision-making process).
- Validate the workload standards.
- Produce a final set of quality-adjusted workload standards that can be applied statewide.

To meet the above project goals, the NCSC, in close collaboration with the R&P and the Workload Assessment Policy Committee (WAPC), designed the process to be straightforward and easy to understand; to make extensive use of existing data sources; to minimize the impact on the judiciary and the need for original data collection; to produce a measure of judicial workload that is clear; to be grounded in experience and easy to update; to include the participation of many judges; and to lead to the support and “ownership” by legislators and judges. Based on the results of this project, the Judicial Council of California will be able to assess the need for judges based on

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<sup>2</sup> V. Flango and B. Ostrom, *Assessing the Need for Judges and Court Support Staff* (National Center for State Courts, 1996).

judicial workload, with differences in workload tied to differences in case complexity.

Defining case complexity is neither easy nor obvious. One basic issue is that the study of complexity remains in its infancy—there is no previous research that actually measures this concept. Undoubtedly, many judges know that some cases are more “complex” than others. However, several unanswered questions must be addressed if our understanding of case complexity is to move beyond the simple assertion “I know it when I see it.” What are possible measures of complexity? Are some measures more closely related to the variation in case processing time than others?

One can distinguish between at least three dimensions of case complexity:

- *Substantive complexity.* This emerges from the substantive law that creates, defines, and regulates the rights and duties of the parties. These rights and duties vary across the substantive areas of law such as criminal law, tort law, and the law of wills.
- *Procedural complexity.* This aspect of complexity refers to the proceedings by which a legal right is enforced: the formal steps or events that a court is to administer (e.g., arraignment in a criminal case). The machinery is distinguished from the product of the law.
- *Individual case complexity.* This dimension of complexity refers to the idiosyncratic flow and/or treatment of specific cases. Within the context of substantive and procedural law, each individual case will proceed faster or slower depending on court organization and management as well as the goals and personalities of the litigants and court personnel involved.

Measuring judicial workload with reference to case complexity means that a study must focus on different areas of law, distinguish the different types of

procedural events involved, and monitor the variation in how cases are actually processed in practice. The study design adopted by the AOC and WAPC took all three dimensions of case complexity into account explicitly. Fundamentally, the rationale for moving the determination of judicial need from a focus on court *caseload* to court *workload* is based upon case complexity.

The NCSC and AOC approached this project in nine phases:

1. Establishment of an advisory committee of judges, judicial officers, and court administrators to oversee and guide all aspects of the study design, implementation, and interpretation. This group was called the Workload Assessment Policy Committee (WAPC).
2. Obtaining the cooperation of four counties—Butte, San Mateo, Sacramento, and Los Angeles—to participate in the full study (called Phase I) during 2000.
3. A comprehensive orientation workshop for the Workload Assessment Policy Committee on the Delphi and time study methodology and validation techniques for assessing judicial workload, including: (a) the roles and responsibilities of participating California judges; (b) benefits and shortcomings of the Delphi and time study methodologies; and (c) identification and resolution of preliminary issues related to the project plan.
4. A two-day Delphi decision-making exercise to obtain subjective judicial estimates of case-related workload. Participants included the members of WAPC augmented by additional members from the four Phase I courts.
5. Two-month time study that measured objectively the workload (distinguishing between substantive areas of law and key procedural events) of a representative sample of judges and judicial officers from the four Phase I courts.
6. The design of three “quality of justice” survey instruments that were completed by a large number of participants in each of the four Phase I courts. Project

staff analyzed all survey results and reported the findings to court staff in separate site visits to the four Phase I courts.

7. Phase I concluded with a final meeting of WAPC designed to review and adopt a set of “reasonable” workload standards based on a review of the time study, Delphi, and quality of justice results.
8. During Phase II, held in May, 2001, seven additional counties—Del Norte, Merced, Orange, San Bernardino, Santa Clara, Sutter, and Ventura—validated the Phase I results.
9. Representatives from both Phase I and Phase II met in July 2001 to recommend a final set of workload standards that will serve as the foundation for use by the California Judicial Council in assessing judicial workload and the allocation of judges in California.

The plan of this report is as follows. Chapter 2, Project Overview, discusses the basic steps and assumptions of the model. Chapter 3, Delphi, reviews the purpose and structure of the Delphi decision-making process used during the study. Chapter 4, The Time Study, outlines the approach used to gather objective data. Chapter 5, Quality Adjustment, discusses how quality was assessed in the participating courts and incorporated into the workload standards. Chapter 6, Final Workload Standards, covers the process used to reconcile the Delphi and Time Study results through quality adjustments and shows the judicial need based on the final recommended standards. Chapter 7, Future Considerations, offers a set of recommendations for keeping the standards reliable and concomitant resource and staffing needs and implications.

## Chapter 2: Project Overview

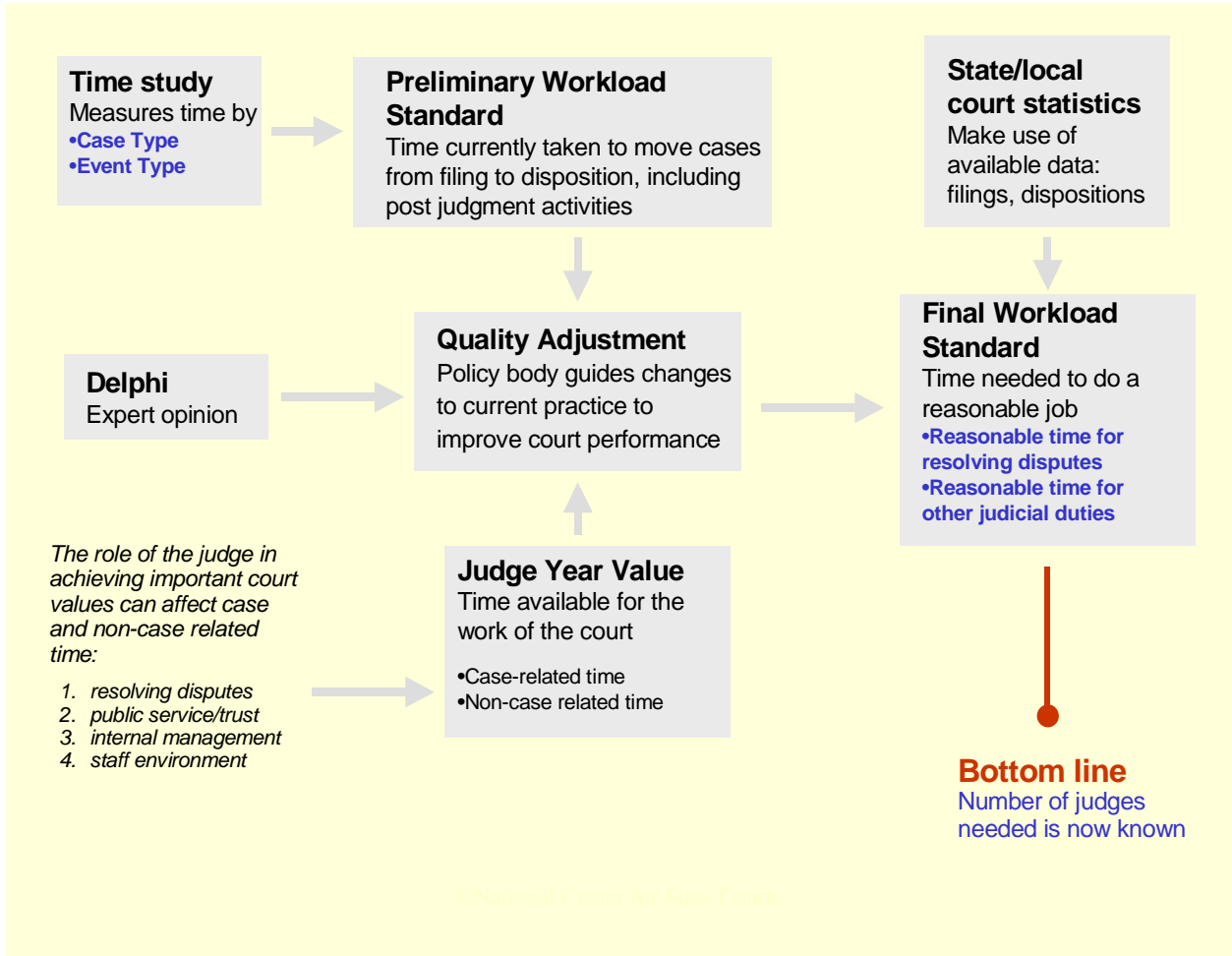
### Introduction

Judicial Workload Assessment is a resource assessment methodology that is being adopted by an increasing number of states to determine the need for judges and other judicial officers. The goal is to accurately determine the amount of time required by judges to resolve different types of cases in an efficient and effective manner. The judicial workload approach is a structured process that allows judges, judicial officers, and court managers to assess the reasonableness of current case processing practices. Over time, it is often the case that workload rises more quickly than judicial resources so that the judicial branch is increasingly being asked to do more with less. As a result, the average amount of time judges currently have to spend may or may not be sufficient to provide fair and equitable service to the public. Developing workload standards offers the judicial branch the opportunity to engage in a systematic and structured process to assess the reasonableness of current practice; that is, do judges and judicial officers have sufficient time to resolve cases in a satisfactory and timely manner? Moreover, workload-based models have the advantage of providing objective and standardized assessments of judicial resource needs among jurisdictions that vary in population and caseload.

Workload assessment is essentially a study of supply and demand. How does the workload demand generated by the different types of cases entering the court compare to the supply of judge time available to do the work? Exhibit 2-1 shows that the answer is based on three fundamental

factors: case filings, individual case workload standards, and the average judge year.

### Exhibit 2-1: Project Overview



Workload standards are developed for each type of case examined (e.g., probate, juvenile dependency, motor vehicle tort). The workload standard represents the average bench and non-bench time (in minutes) required to resolve each case type (from filing through disposition and any post-judgment activity). In a nutshell, the number of raw case filings is combined with the workload standards (time required to handle cases) to arrive at workload. Total workload entering a particular court is then divided

by the “standard” amount of time each judge has available to complete case-related work per year to determine an estimate of the number of judges needed to resolve the cases. This approach, which involves few complicated procedures, is sufficiently rigorous to measure resource needs and evaluate resource allocations.

Issues related to participation, case filing data, and the average judge year are discussed below. Separate chapters discuss the multi-method approach to constructing workload standards: a structured Delphi exercise (Chapter 3), event-based time study (Chapter 4), quality assessment (Chapter 5), and the development of final workload standards (Chapter 6).

**Judicial participation.** This study is designed to measure the statewide need for “judges” in California. Because both judges and judicial officers (i.e., commissioners, referees, pro tems, assigned judges, and hearing officers) hear a wide variety of cases in California, both types of decision maker are included in the study. For expositional purposes in this report, we often use the term “judges” to mean both judges and judicial officers.

**Filing data.** Nearly 9 million cases were filed during fiscal year 1998-1999 in California’s 58 counties. Case filing data is gathered and compiled annually for the Judicial Council of California by the AOC. All filing data used in this report comes from this official source.

The confidence in conclusions drawn from this study of judicial workload depends on the completeness and accuracy of the data collected. For example, different courts across the state may count filings and

dispositions differently. One court may count all charges against one defendant filed on the same day as one filing (and hence one disposition), while another court may count each charge as a separate filing (and hence separate dispositions). The AOC should seek to ensure that case counting procedures are uniform throughout the state. As the NCSC recommends in a later section, the AOC should seek resources sufficient to audit the filing data—in its entirety—on a regular basis.

**The judge year value.** The judge year value is an estimate of the average amount of time a judge has available to process his or her workload. It is a subset of the amount of time that the average judge works. The judge year value reflects how much time is available to each judge to process the case-related events (both in court activities and in chambers case-related activities) that are accounted for in the workload standards.

Calculating available judge time requires answering the question: How much time do judges have available each day for (1) case-related work and (2) non-case-related work? This is a two-stage process that entails calculating how many days per year are available to judges to hear cases and then determining how the business hours of each day are divided between case-related and non-case-related work. Multiplying the number of available workdays by the number of available case-related hours in a day gives the "judge year value." The judge year value is an estimate of the amount of time the "average" judge has to process cases during the year.

In establishing the "average" judge year, one must accurately describe the various factors that reduce the days available for a judge to hear cases.

To correctly portray a judge year, the number of days available to hear cases must take into account factors such as weekends, holidays, and time related to illness, vacation, and judicial education. This calculation is not straightforward because judges are not allotted a set amount of days for vacation and illness, or even told how long a day they should work, as are other state employees. Instead the amount of time a judge has must be estimated. *WAPC determined that judges have an average of 215 days available each year to hear cases.*

The judge day is separated into two parts: the amount of judge time devoted to (a) case-related matters and (b) non-case-related matters. A judge may work a nine-hour day, but only part of the day is devoted to hearing cases. Although judicial time available to process cases will vary daily, the typical day will include the number of hours in the workday minus deductions for the basic non-case-related events, including:

- Non-case-related administration
- Community activities and education
- Travel time
- Other non-case-related activities not covered in the above categories

WAPC adopted a 6-hour judge day (on specified case-related work) for California judges and judicial officers. It is important to note that the formula utilized reflects time actually spent on the bench or in chambers presiding over specific cases. It does not include other time spent by judges and judicial officers to handle administrative duties, management responsibilities, and non-case specific functions.

The calculation started with an average 9 hour work day, and by

extension, total available time of 116,100 minutes (9 hours x 215 days x 60 minutes). *Case related* time is calculated by subtracting:

- 1 hour for lunch
- 2 hours of administrative time (includes requisite travel time)

The nine-hour day does not take into account judges who work extra evening hours because of crowded dockets or spend weekends handling responsibilities related to domestic violence, criminal, or other cases. Exhibit 2-2 shows how the *case-related judge year value* of 77,400 minutes was calculated.

**Exhibit 2-2: Determining Case-Related Time**

Workday	Lunch	Non-case-related time	Case-related time	Judge year	Total case-related time for one year
<u>(hours)</u>		<u>(hours)</u>	<u>(hours)</u>	<u>(days)</u>	<u>(minutes)</u>
9	1	2	6.0	x 215	= 77,400

*Non- case-related* time is 25,800 (2 hours x 215 days x 60 minutes).

As can be seen in Exhibit 2-3, California’s choice of a 215-day judge year places the state at the average point of the 25 states that have established an “official judge year.” The adoption of an 8-hour workday by WAPC (9 hours less an hour for lunch), split into 77,400 minutes of case related time and 25,800 minutes of non-case related time, establishes an ambitious standard for California judges. As seen in Exhibit 2-4, the assumption that each judge in California has 77,400 minutes available each year explicitly for resolving cases is above the national norm.

Exhibit 2-3  
Comparison of Judge Years in Selected States

<u>State</u>	Judge Year (in days)	<u>State</u>	Judge Year (in days)
Kansas	224	Michigan	215
Missouri	224	New Mexico	214
Delaware	222	Washington	214
New York	221	Connecticut	213
Colorado	220	Wisconsin	213
Georgia	220	Nebraska	211
Oregon	220	Utah	211
Rhode Island	220	Louisiana	209
Arkansas	218	West Virginia	209
Hawaii	218	North Dakota	205
South Dakota	216	Minnesota	202
Florida	215	Alabama	200
California	215		
		<b>25 state average</b>	<b>215</b>

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Exhibit 2-4  
Comparing Available Judge Time

		Working day (hours)	Non-case- related time (hours)	Case-related time (hours)		Judge year (days)		Total case-related time for one year (minutes)
Colorado	County	8	1.4	6.6	x	220	=	87,240
(District)	Urban	8	1.66	6.33	x	220	=	83,640
	Rural	8	2.5	5.5	x	220	=	72,480
Nebraska	Metro	7	1.33	5.67	x	211	=	71,740
(District)	Low Travel	7	1.5	5.5	x	211	=	69,630
	Hi Travel	7	2.5	4.5	x	211	=	56,970
Wisconsin	Milwaukee	7.5	2.2	5.3	x	213	=	67,655
(Circuit)	Dist. 2-10	7.5	3	4.5	x	213	=	57,325
Washington	8+ judge	6.67	1.27	5.4	x	214	=	69,486
(Superior)	2-7 judge	6.67	1.57	5.1	x	214	=	65,838
	Single	6.67	2.67	4	x	214	=	51,754
Florida	Circuit	7.50	1.50	6.0	x	215	=	77,400
	County	7.50	2.00	5.5	x	215	=	70,950

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It is important to remember that even the most widely used and accepted resource assessment techniques, including the judicial workload assessment, will not objectively determine the *exact* number of judges

needed to stay current with caseloads. No quantitative resource assessment *model* by itself can accomplish that goal. Instead, a quantitative model can only *approximate* the need for judicial resources and provide a benchmark for comparison among judicial jurisdictions. The results can then be used in concert with other considerations, including budget constraints, population trends, and other more qualitative, court-specific factors that may differentially affect the need for judicial resources statewide. For example, based on the number of case filings the model may indicate that a rural, less densely settled district needs fewer judicial FTE than are currently there. This quantitative estimate must be tempered with the knowledge that a rural court has more scheduling gaps than an urban court for a variety of reasons. Workload standards should be viewed as a planning tool—not a straightjacket—for resource assessment.

### Chapter 3: Scenario-Based Delphi Workload Standards

There are two important attributes that any workload standard must possess. First, it must be firmly based in the reality of the court. By doing so, the workload standard builds on current practice – the average amount of time judges currently spend processing all cases of a particular type. Second, the standards must be credible in the eyes of the judges and the AOC. In other words, the workload standards should allow judges sufficient time to resolve cases in a reasonable manner. While the importance of these two attributes is clear, the challenge is developing a strategy for judges to assess whether current practice allows sufficient time for equitable case resolution.

The assessment problem arises because “current practice” is an average time calculated using *all* filings entering the court; regardless of how the case is resolved. On the other hand, judges only see a subset of all cases filed and these cases tend to have greater procedural complexity. That is, judges spend little time with the cases that are resolved quickly and more time with cases that require the most judicial attention. As a consequence, their perception of the “average” case tends to be skewed toward the more complex end of the case spectrum simply because they neither see nor remember all instances of a particular type of case. This phenomenon is not unique to the world of courts.<sup>3</sup> Given these likely limitations, an important

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<sup>3</sup> Tversky and Kahneman (1982, 1) – in their landmark study of decision-making under uncertainty – note that “many decisions are based on beliefs concerning the likelihood of uncertain events.” Their research (1982, 3) shows that “people rely on a limited number of heuristic principles which reduce the complex tasks of assessing probabilities and predicting values to simpler judgmental operations.” They go on to assert (1982, 3) that “...judgments are based on data of limited validity, which are processed according to heuristic rules.”

question arises: how do you structure a process for judges to assess the reasonableness of current practice? Our strategy builds on a three-step process. First, as discussed in this chapter, we use a structured Delphi process designed to gather judicial perception on what is the average amount of judge time actually spent in resolving all cases of a particular type. Second, as discussed in chapter 4, we conduct a time study to obtain (as closely as possible) an objective measure of what current practice actually is. Third, as discussed in chapters 5 and 6, the quality adjustment process allows judges to identify the case types where current practice does not allow sufficient time to resolve cases in a reasonable way.

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Sometimes these rules lead to incorrect judgments; other times they lead to correct judgments. The three most-frequently used heuristic rules are availability, representativeness, and anchoring.

The basic strategy underlying representativeness is captured in the following proposition:

Many of the probabilistic questions with which people are concerned belong to one of the following types: what is the probability that object A belongs to class B? What is the probability that event A originates from process B? What is the probability that process B will generate event A? In answering these questions, people generally rely on the representativeness heuristic, in which probabilities are evaluated by the degree to which A resembles B.

In the context of workload standards, judges, lacking other information, are likely to rely on the prior experience in the courtroom. However, they only focus on the prior experience that is easily available. To Tversky and Kahneman, availability refers to "...situations in which people assess the frequency of a class or the probability of an event by the *ease* with which instances or occurrences can be brought to mind (emphasis added, p.11) The cases that were the most complex are likely to be the cases that are remembered with more clarity than the run-of-the-mill cases handled in a wholesale fashion. The most important of the heuristics is anchoring. Tversky and Kahneman (1982, 14) note that "...[i]n many situations, people make estimates by starting from an initial value that is adjusted to yield the final answer.... Different starting points yield different estimates, which are biased toward the initial values." It is our contention that starting from the anchor of those cases that are most memorable, makes it likely that judges will over-estimate the length of time the typical case will take. We anticipate that this phenomenon will be pervasive because as Karl Weick (1995, 57) notes, "people need ... to separate signal from noise ... if they are not to be overwhelmed with data." Each judge's remembered cases provide a relatively straightforward way to separate the signal from the noise. Weick (1995, 60-61) goes on to argue that making sense requires ... something that preserves plausibility and coherence, something that is reasonable and memorable, something that embodies past experience and expectations, something that resonates with other people, something that can be constructed retrospectively but can also be used prospectively, something that captures both feeling and thought, something that allows for embellishment to fit current oddities, something that is fun to construct.

But why ask judges to estimate the length of time a typical case requires from filing to completion when we also plan to measure time through a time study? There are at least three reasons for the Delphi exercise. First, the Delphi experience gives judges an in-depth understanding of all that is involved in the process of judicial workload assessment and the opportunity to discuss and potentially resolve any issues of concern. Second, the Delphi process provides each judge with a court-wide perspective on the total volume of cases entering the court so that those with specialized dockets are reminded of the full range of court business. Third, because judges tend to remember the more complex (and thus memorable) cases, the Delphi process is a chance to review disposition data and show that many cases are resolved with little or no judicial involvement. The bottom line is that the Delphi process is critical to making the final workload standards plausible to all who will be affected by them and their implications. To reach something that is both representative of reality and plausible leads us to use an iterative, scenario-based Delphi process that is captured in the following five steps.

**1. Develop scenarios for typical classes of each case type.**

Particular types of cases (e.g., motor vehicle tort) vary in procedural complexity (e.g., some are default judgments and some go to a jury trial). The idea is for judges and court managers to engage in a structured discussion of how the amount of judge time and attention required to resolve cases will vary by the manner of disposition. Basic variation in the complexity of a particular type of case is illustrated through the use of

multiple scenarios. Each scenario is designed to represent a “class” of cases with a different level of procedural complexity. The purpose of the scenarios is to help ground the participant discussion of complexity by providing concrete examples of how procedural complexity can vary within a given case type. The scenarios also attempt to insure that the judges consider the non-memorable cases.

The number of scenarios varies according to the data available to estimate the percentage of all dispositions that are similar to the particular class. The typical structure was as follows:

**Case Scenario #1:** The typical “run-of-the-mill” case, requiring the least amount of judicial time. For example, a motor vehicle tort that is settled.

**Case Scenario #2:** This was an example of a somewhat more complex case, requiring a moderate amount of judicial time but is settled prior to trial. For example, a motor vehicle tort that has a number of hearings and motions, is set on the trial calendar, but settled just prior to jury selection.

**Case Scenario #3:** This was an example of the most complex version of a particular type of case, requiring a large amount of judge time as evidenced by the occurrence of a trial. For example, a motor vehicle tort that is disposed by jury trial.

The design and content of the scenarios were overseen by the judges participating in the Workload Assessment Policy Committee meeting in March 2000.

**2. Round 1—Filling out the scenarios individually.** Each respondent was asked to complete a set of scenarios within each of three major groupings of case types: Criminal, Civil, and Family. The scenarios were sent via mail and each respondent was asked to complete the scenarios

and mail them to the AOC. Each of the Delphi participants was asked to estimate the total amount of case-related time required to perform the various judicial functions in one of these three categories of case types. Each case scenario provided a brief description of the case and a list of the judicial events that *might* be part of such a case. The case scenarios varied in complexity depending on the number of tasks and the amount of time required to complete each of the tasks. We asked that each participant read through each case scenario, imagine that they have been assigned a case that is typical of that level of complexity, and then estimate the total judge time required to complete the case. The instructions also encouraged each participant to read the descriptions of all of the case scenarios for that type to develop an understanding of the differences among the scenarios prior to completing the scenarios.

As each participant completed the scenarios, they were asked to keep the following in mind:

- Each case scenario is designed to illustrate a “class” or “set” of cases that will vary, on average, in the amount of judge time required to resolve the case. We ask you to think of a *typical* version of a case from within each class of cases—while recognizing that some cases will take more time and some cases less time than the average or typical case.
- Each scenario asks you to estimate the *Total Time* required to process the case. The specific event information is shown simply as a reminder of what *might* occur in a case like the one described in the scenario. You are not being asked to estimate time for each separate event.
- The time entered on a case scenario should reflect how much time you *actually* spend over the life of a case like the one described in the scenario. At the April meeting of the Delphi Committee, you will have

the opportunity to distinguish between the time you actually spend and the amount of time you would like to spend if time and resource constraints were reduced.

- The various events that might occur in the case scenario may take place over a short period of time or they may take place over several months or even years (depending on the life of the case).
- Please record your total time estimate for each case scenario in *minutes*.

Finally, each participant was encouraged to use the “comments” section on each scenario if they would like to clarify the rationale for their time estimate or to note issues/questions about the content of the scenario. Comments were addressed when WAPC met together in person.

The AOC then passed the completed forms on to the NCSC. After receiving all of the Delphi surveys, we calculated the median amount of time for each of the scenarios. Since we know the percentage of disposed cases that fall into each of scenario types, we can weight the scenario median by its overall percentage of cases of that type.

Exhibit 3-1  
How are Delphi Times Calculated?

<u>Scenario</u>	<u>Time</u>		<u>Percent</u>		<u>Total</u>
1	50	x	.6	=	30
2	90	x	.3	=	30
3	100	x	.1	=	<u>10</u>
Overall Estimate					70

Exhibit 3-1 shows that the “Delphi workload standard” is a weighted average of the median time estimates for a particular class of cases and the percent that each class of cases makes up of total dispositions.

**3. Round 2—the Delphi Meeting.** The Delphi process proceeds in stages and incorporates several design features to encourage informed decision-making. The first of the design features is that we view the process as iterative. We expect that the Round 1 estimate will be somewhat skewed – drawing as it does on the most memorable cases of a particular type. In order to evaluate the workload standards from Round 1, we calculate the implications of those standards for judge need. The judge need is given both statewide and broken down for each county. In this way, each Delphi participant sees not only the composite workload standard, but also its implications for the number of judges statewide and in their own court. The more extreme the Round 1 workload standards, the greater the gap between the implied number of judges and the actual number of judges that have been processing the cases. On the basis of this information, Round 2 asks the participants to come together into a group and discuss the Round 1 estimates.

All who completed Delphi forms were invited to a two-day meeting in San Francisco. After a short presentation of the “logic” of the Delphi process, the participants were given the composite weights along with the judicial need implications for all of the counties in California. The participants were then divided into three groups – Criminal, Civil, and Family. The task of Round 2 was to discuss the Round 1 composite workload standards. They

are encouraged to change any of the workload standards they choose.

Round 2 results are used to recalculate the composite workload standards and their judicial need implications. In addition, we provide the participants with a “forced workload standard”.<sup>4</sup>

**4. Round 3.** The Delphi participants are asked to reconvene in their Delphi working groups and discuss the Round 2 estimates and workload implications. Their charge is to insure that the resulting standards are “reasonable.”

**5. Completion.** Once Round 3 is completed, a revised composite standard is calculated. If the difference between Rounds 2 and 3 is small, the process is terminated. If the differences are substantial, the staff puts together the material for Round 4. This iterative process continues until there is convergence between rounds.

### **The WAPC Delphi Process**

Table 3-1 presents an overview of the results from the Delphi process in California. Prior to discussing the results, we will provide a short overview of what is contained in each column of the table.

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<sup>4</sup> The forced workload standard is calculated as follows. At the end of Round 2, we multiply the Round 2 Delphi workload standard by the number of filings during the previous year. While dispositions would be preferable, our experience shows that dispositions are often not reliable and even when reliable tend to lag behind the collection of filings. Taking all of the workload numbers together, we add them together to determine the overall judicial workload for the State of California implied by the Round 2 workload standards. Using this overall total, we determine the percentage of the overall total that comes from each of the case types. This percentage is then multiplied by the existing complement of judges to determine the number of judges statewide that would be required to handle the case type workload. Finally, the number of implied judges for each case type is multiplied by the number of minutes in the judge year and then divided by the number of filings in the particular case type. While complicated, this forced standard provides the Delphi committees with a “target” based on the conjunction of the Round 2 estimates and the existing complement of judges.

Table 3-1

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Case Types	Total Filings	% Filings	Delphi Workload Standards			Based Upon Round 1 Delphi Standards				Based Upon Round 3 Delphi Standards			
			Round 1	Round 2	Round 3	Total Workload	% Workload	# Judge Years	Forced Weight	Total Workload	% Workload	# Judge Years	Forced Standard
Probate	50,452	0.59%	65	37	37	3,277,042	0.80%	42	25	1,866,724	1.00%	24	31
Family	155,920	1.81%	108	79	103	16,802,068	4.11%	217	42	16,059,760	8.58%	207	88
Juvenile Dependency	41,890	0.49%	146	132	168	6,115,940	1.49%	79	57	7,037,520	3.76%	91	143
Juvenile Delinquency	100,560	1.17%	97	50	63	9,771,684	2.39%	126	38	6,335,280	3.38%	82	54
Mental Health	6,602	0.08%	78	78	80	512,907	0.13%	7	30	528,160	0.28%	7	68
Other Civil Petition	345,257	4.00%	51	21	21	17,638,800	4.31%	228	20	7,250,397	3.87%	94	18
<b>Family Subtotal</b>	<b>700,681</b>	<b>8.13%</b>	<b>77</b>	<b>46</b>	<b>56</b>	<b>54,118,441</b>	<b>13.23%</b>	<b>699</b>	<b>30</b>	<b>39,077,841</b>	<b>20.87%</b>	<b>505</b>	<b>47</b>
Motor Vehicle Torts	44,576	0.52%	161	73	73	7,185,651	1.76%	93	63	3,254,048	1.74%	42	62
Other Personal Injury Torts	25,090	0.29%	214	194	194	5,357,719	1.31%	69	83	4,867,460	2.60%	63	165
Other Civil Complaints	108,017	1.25%	341	327	327	36,788,430	8.99%	475	133	35,321,559	18.86%	456	278
Appeals from Lower Courts	16,179	0.19%	106	72	72	1,720,214	0.42%	22	41	1,164,888	0.62%	15	61
Criminal Habeas corpus	5,049	0.06%	62	80	80	312,125	0.08%	4	24	403,920	0.22%	5	68
<b>Gen Juris Civil Subtotal</b>	<b>198,911</b>	<b>2.31%</b>	<b>258</b>	<b>226</b>	<b>226</b>	<b>51,364,138</b>	<b>12.55%</b>	<b>664</b>	<b>101</b>	<b>45,011,875</b>	<b>24.04%</b>	<b>582</b>	<b>193</b>
Other civil (<\$25k)	295,558	3.43%	113	59	59	33,468,988	8.18%	432	44	17,437,922	9.31%	225	50
Unlawful Detainers	213,350	2.47%	100	17	17	21,288,063	5.20%	275	39	3,626,950	1.94%	47	14
Small Claims	352,748	4.09%	30	17	17	10,443,824	2.55%	135	12	5,996,716	3.20%	77	14
<b>Municipal Civil Subtotal</b>	<b>861,656</b>	<b>9.99%</b>	<b>76</b>	<b>31</b>	<b>31</b>	<b>65,200,875</b>	<b>15.93%</b>	<b>842</b>	<b>29</b>	<b>27,061,588</b>	<b>14.45%</b>	<b>350</b>	<b>27</b>
<b>Total Civil Workload</b>	<b>1,060,567</b>	<b>12.3%</b>	<b>110</b>	<b>68</b>	<b>68</b>	<b>116,565,014</b>	<b>28.5%</b>	<b>1,506</b>	<b>43</b>	<b>72,073,463</b>	<b>38.5%</b>	<b>931</b>	<b>58</b>
Capital Murder	246	0.003%	4,179	10,253	10,253	1,029,313	0.25%	13	1,628	2,525,375	1.35%	33	8,725
Homicide	2,463	0.03%	1,281	637	678	3,155,180	0.77%	41	499	1,669,955	0.89%	22	577
Felony Against Person	58,867	0.68%	390	360	360	22,958,182	5.61%	297	152	21,192,168	11.32%	274	306
Property Crimes	59,335	0.69%	179	117	117	10,620,986	2.60%	137	70	6,942,209	3.71%	90	100
Drug	96,749	1.12%	158	107	107	15,286,341	3.74%	197	62	10,352,143	5.53%	134	91
Other Felony	28,842	0.33%	159	117	117	4,585,947	1.12%	59	62	3,374,565	1.80%	44	100
<b>General Jurisdiction Felony</b>	<b>246,503</b>	<b>2.86%</b>	<b>234</b>	<b>186</b>	<b>187</b>	<b>57,635,949</b>	<b>14.08%</b>	<b>745</b>	<b>91</b>	<b>46,056,414</b>	<b>24.59%</b>	<b>595</b>	<b>159</b>
Class A and C Misdemeanors	656,624	7.62%	68	28	18	44,433,746	10.86%	574	26	11,819,232	6.31%	153	15
Class B and D Misdemeanors	682,245	7.91%	64	19	19	43,643,213	10.67%	564	25	12,962,655	6.92%	167	16
Infractions	5,276,025	61.19%	18	3	1	92,805,280	22.68%	1199	7	5,276,025	2.82%	68	1
<b>Misdemeanors and Infractions</b>	<b>6,614,894</b>	<b>76.72%</b>	<b>27</b>	<b>7</b>	<b>5</b>	<b>180,882,238</b>	<b>44.20%</b>	<b>2337</b>	<b>11</b>	<b>30,057,912</b>	<b>16.05%</b>	<b>388</b>	<b>4</b>
<b>Total Criminal Workload</b>	<b>6,861,397</b>	<b>79.6%</b>	<b>35</b>	<b>14</b>	<b>11</b>	<b>238,518,187</b>	<b>58.29%</b>	<b>3082</b>	<b>14</b>	<b>76,114,326</b>	<b>40.65%</b>	<b>983</b>	<b>9</b>
<b>Total All Case Types</b>	<b>8,622,645</b>	<b>100.0%</b>	<b>47</b>	<b>23</b>	<b>22</b>	<b>409,201,642</b>	<b>100.0%</b>	<b>5,287</b>	<b>18</b>	<b>187,265,630</b>	<b>100.0%</b>	<b>2,419</b>	<b>18</b>
Total JPE								2,059				2,059	
Difference--Surplus (Deficit)								3,228				360	

- (1) Case Types – this column contains all of the case types used in the California workload study.
- (2) Total Filings – this column contains the total filings for the fiscal year 1998/1999
- (3) % Filings – this column calculates the percentage of the total number of filings contributed by each of the case types
- (4) Round 1 – this column contains the Round 1 composite workload standard
- (5) Round 2 – this column contains the Round 2 composite workload standard
- (6) Round 3 – this column contains the Round 3 composite workload standard
- (7) Total Workload – this column contains an estimate of the total workload for the particular case type based on Round 1 the Delphi workload standard – it is obtained by multiplying (2) and (4)
- (8) % of Workload – this column calculates the percentage of the total workload in column (7) contributed by the case type based on Round 1 the Delphi workload standard.
- (9) # Judge Years – this column calculates the number of judges – statewide – required to handle all of the filings based on Round 1 the Delphi workload standard. It is obtained by dividing column (7) by 77,400 minutes (which is the number of minutes that judges have to handle case-related matters)
- (10) Forced Weight – this column calculates a workload standard that multiplies column (8) by 2,059 – which is the number of judicial officers handling cases in California in 1999 – and divides by 77,400 – which is the agreed upon judge year divided by column (2).
- (11) Total Workload – this column contains an estimate of the total workload for the particular case type based on Round 3 the Delphi workload standard – it is obtained by multiplying (2) and (6)
- (12) % of Workload – this column calculates the percentage of the total workload in column (11) contributed by the case type based on the Round 3 Delphi workload standard.
- (13) # Judge Years – this column calculates the number of judges – statewide – required to handle all of the filings based on the Round 3 Delphi workload standard. It is obtained by dividing column (11) by 77,400 minutes

(which is the number of minutes that judges have to handle case-related matters)

- (14) **Forced Weight** – this column calculates a workload standard that multiplies column (12) by 2059 – which is the number of judicial officers handling cases in California in 1999 – and by 77,400 – which is the agreed upon judge year divided by column (2). This forced workload standard based on the percentages obtained from Round 3.

Having described the contents of Table 3-1, we now turn to a discussion of the results. At a very general level, it can be seen that the Delphi workload standards move in the predicted direction from Round 1 to Round 3.

**Family Case Types.** There are six case types in the Family grouping. As can be seen, they account for 8.13% of all filings in 1999. The Round 1 estimates suggest that on average Family cases take 77 minutes and that this results in about 54 million minutes of work. Thus a group of cases that constitutes 8% of the filings constitutes 13% of the workload. On the basis of the Round 1 feedback, the Family group substantially lowered the workload standards in Round 2 – moving the average from 77 to 46 minutes. However, in Round 3, the group moved to a point midway between the first two rounds.

Looking at the Delphi process in the Family case types, we see two advantages of the Delphi process. First, the multiple rounds of the process allow the group to reach a plausible standard. Second, the process also allows the participants to include an element of how much time should be allocated to a particular case type.

**Civil Case Types.** There are eight case types in the Civil grouping. As can be seen, they account for 12.3% of all filings in 1999. Turning first to

the five case types that were previously adjudicated in the Superior Court, we find that the Round 1 estimates suggest that an average General Jurisdiction Civil case takes 258 minutes which results in about 51 million minutes of work. Thus this group of cases that constitutes 2.31% of the 1999 filings, constitutes 12.55% of the total workload. On the basis of the Round 1 feedback, the group reduced the average workload standard from 258 to 226 in Round 2. As can be seen, in four of the five case types, the Round 1 estimates were reduced in Round 2 and then Round 3 is identical to Round 2. There is convergence.

Turning to the Limited Jurisdiction Civil cases, we find a similar pattern – a reduction from Round 1 to Round 2 and then convergence in Round 3. The implied average in Round 3 is 68 minutes a case.

**Criminal Case Types.** There are six case types that make up the General Jurisdiction Felony group. With the exception of Capital Murder, we see that the Round 1 estimates fall in Round 2 and then remain nearly identical in Round 3. In capital murder, the Delphi group was not satisfied with the Round 1 estimate and doubled it after discussing all of the ins and outs of a Capital case. Together these six case types – which make up 2.86% of the total filings – are estimated to account for 14.08% of the total workload.

Turning to the three case types in the Limited Jurisdiction Felony category, we find the biggest changes in the Delphi process. In Round 1 the average standard was 27 minutes that implied that Limited Jurisdiction Felonies account for 44.2% of the entire workload. As can be seen, the

Criminal group lowered the average to 5 minutes that, in turn, implies that these offences account for 16% of the workload.

**Overall.** The bottom line of the Delphi process is quite interesting. After the Round 1 process was completed, the “average” case was estimated to require 47 minutes of judge time and resulted in 409 million minutes of judicial work or – based on a judge year of 77,400 minutes – the need for 5,287 judges. After Round 3, the average case was estimated to require 22 minutes of judge time that results in 187 million minutes of judge work or the need for 2,419 judicial officers.

### **Validity**

The final Delphi-based workload shows an estimated need for an additional 360 judicial officers statewide (from 1999 JPE). This result raises the question of why the Delphi-based weights show such a sizeable need for judges. The NCSC speculates that the Delphi process tends to produce an overestimate of judge need for four related reasons: (1) judges may use the Delphi process as a chance to express their views on how much time *should* be spent rather than how much time is *actually* spent on cases, (2) judges tend to remember cases that are relatively more time consuming, (3) judges see only a subset of all cases disposed by the court, and (4) assumptions made about measuring the time spent by quasi-judicial hearing officers.

Delphi is a way to substitute subjective opinion for objective measurement. Naturally, the reliability and validity of opinion is always constrained by the depth and breadth of experience of the opinion holder and her reasoning ability, and perhaps colored by her biases. To mitigate these

limitations, the Scenario-based Delphi process employed in California used various strategies to both inform and constrain the time estimates, including:

- gathering the opinions of many people, not just one, so that breadth and depth of experience is increased and biases offset each other;
- garnering and offering appropriate caseload data to reason from;
- calculating the implications of tentative conclusions so that their plausibility could be tested;
- repeating the opinion gathering process several times so that implications of earlier estimates can be considered by the group in framing later ones.

Regardless of how effective the foregoing devices turn out to be, the reliability and validity of the Delphi process is constrained by how well the judges recall the set of cases that come before them. First, even though judges are asked to estimate the actual amount of time spent on specific types of cases, they may blend their estimates of “what is” with “what ought to be.” Second, and related, is that the most memorable cases will be the ones that stand out from the rest due to an extra measure of contentiousness, unusual or interesting issues, frequency of hearings and duration of hearings. It is apparent that all of these characteristics will be more common to cases that require more judge time than the average case. Thus, there is a built-in tendency for the Delphi process to overestimate the *overall average* amount of time judges spend on cases because the judges are focusing on a subset of the more unusual cases.

A third factor that may inflate the Delphi estimates is that many cases flow through the court with little judicial involvement. This includes cases where appearances of the parties are pro forma and entirely for the record; it

includes matters where quasi-judicial officers oversee the appearances and judges merely ratify decisions or don't see them at all. Signing agreed orders and even signing orders of dismissal in cases dismissed for want of prosecution comprise all of the "judge-time" in some cases.

Although the Delphi-derived workload standards may be somewhat inflated relative to current practice, the process has given WAPC a broader perspective on (1) the full spectrum of cases entering the court, (2) the fact that many cases are disposed with little or no judicial involvement, and (3) the likelihood that the *actual* judge time per case, on average when *all* cases are considered, will be lower than their initial expectation. This perspective paves the way for the time study discussed in the next chapter.

## Chapter 4: The Event-Based Time Study

### The Time Study Approach

The time study measures case complexity in terms of the average amount of judicial time actually spent processing different types of cases from the initial filing to disposition to post-judgment activity (if any). The steps involved in calculating and applying the *Event-Based Time Study Methodology* used in this project are stated below:

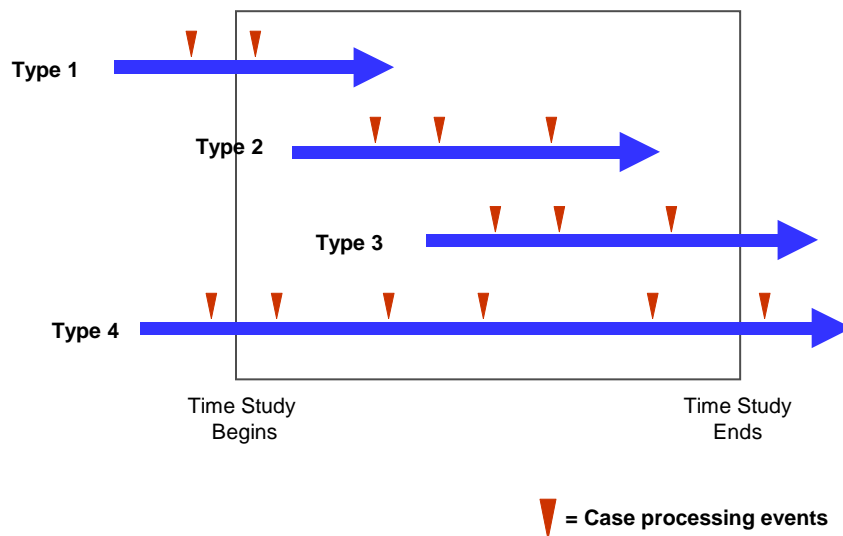
- (1) Choose a set of representative courts to participate in the study;
- (2) Select the set of case types and events to be used in the construction of the workload standards;
- (3) In each of the participating courts, record the total amount of judge time spent on each of the selected events within each of the case types for a period of two months;
- (4) In each of the participating courts, calculate the average number of each type of case during the data collection period;
- (5) Calculate the workload standards by dividing the total amount of judge time expended during the study period on each of the selected case types by the monthly average of the corresponding filings for each case type.

The Event-Based Methodology is designed to take a snapshot of court activity and compare the judge time spent on primary case events to the number of cases entering the court. As such, the study measures the total amount of judicial time in an average month devoted to processing each particular type of case for which standards will be developed (e.g., capital murder, motor vehicle tort, small claims). Because it is a snapshot, few cases will actually complete the journey from filing to final resolution during the study period.

However, each participating court will be processing a number of each type of case in varying *stages* of the case lifecycle (i.e., some particular types of cases will be in the pre-trial phase, other similar types of cases will be in the trial phase, while still others of the same type of case will be in the post-trial stage). For example, during a given month, a court will handle the initiation of a number of new dissolution cases, while the same court will also have other dissolution cases (perhaps filed months earlier) on the trial docket, and still other dissolution cases in the post-judgment phase. Moreover, if the sample period is representative, the mix of new, trial, and post-judgment activities conducted for each type of case as well as the time devoted to each type of activity will be representative of the type of work entering the court throughout the year. Therefore, data collected during the study period will provide a direct measure of the amount of judicial time devoted to the full range of key case processing events.

The average number of cases filed and disposed each month in each participating court is also compiled. For example, if a court spent 400 hours processing serious felony cases during the two months and there was an average of 100 felony cases filed during the same two months, this would be an average of four hours per felony (400 hours / 100 felony filings). This four-hour "workload standard" would be interpreted as the average time to process a felony case from filing to final resolution—even though no individual case is tracked from start to finish. Rather, the workload standard is a composite of separate (though likely similar) cases observed at various points in the case life cycle. Exhibit 4-1 illustrates this concept:

**Exhibit 4-1: Building Time Study Case Weights**



Assume the chart shows the progress of four separate cases of a similar type through a given court during the period of the time study (June 1 to July 30). It is not necessary that cases be tracked from start to finish. Instead, for each type of case examined, the study tracks the time spent on key case processing events during each case's life cycle. When the time spent on each event for these four cases is summed up for the two-month period, the result is an estimate of the total amount of time needed to process a case from start to finish—even though no particular case is tracked from start to finish. Type 1 contributes time required to process the closing segment of case life; Type 2 provides the time required to complete an entire case of minimal complexity; Type 3 focuses on the beginning segment of case life; and Type 4 provides the time required to process the middle segment of case life.

To estimate the average amount of time required to process a given

type of case, the total time is divided by the average number of filings during the study period. If the sample of cases is large enough and the study period is representative of the year, the results from this event-based methodology will provide a reasonable estimate of the time needed to process each type of case. In the California study, the time estimates were based on observations from thousands of individual case events for each case type and, therefore, have a great deal of reliability.

### **The Process**

The following sections contain a detailed description of the five major tasks needed to complete the *Event-Based Methodology*.

***Step 1: Choose a set of representative courts to participate in the study.*** The California AOC chose the four sites for the time study – Butte, Los Angeles Central, Sacramento, and San Mateo courts. Exhibit 4-2 presents a complete list of California counties along with the population in 1998 and 1999. The 58 counties have been divided into six similarity groupings using a host of demographic information. The four counties in the present study all come from different clusters. We believe that Los Angeles provides an excellent representative for the three largest counties in the state (i.e., clusters 1 and 2). Sacramento represents the third cluster while San Mateo represents the fourth cluster. Butte, which sits right on the edge between clusters 5 and 6 represents the smaller counties of California. As a consequence, we believe that the four counties included in the time study provide an adequate representation of the state as a whole.

**Exhibit 4-2: California Counties and Population**

County/Court	1999 Population	1998 Population	Change 1998-1999	% Change
<b>Los Angeles</b>	<b>9,329,989</b>	<b>9,223,807</b>	<b>106,182</b>	<b>1.2%</b>
San Diego	2,820,844	2,766,123	54,721	2.0%
Orange	2,760,948	2,723,782	37,166	1.4%
San Bernardino	1,669,934	1,635,967	33,967	2.1%
Santa Clara	1,647,419	1,641,848	5,571	0.3%
Riverside	1,530,653	1,480,708	49,945	3.4%
Alameda	1,415,582	1,397,050	18,532	1.3%
<b>Sacramento</b>	<b>1,184,586</b>	<b>1,166,699</b>	<b>17,887</b>	<b>1.5%</b>
Contra Costa	933,141	917,970	15,171	1.7%
Fresno	763,069	755,051	8,018	1.1%
San Francisco	746,777	745,756	1,021	0.1%
Ventura	745,063	732,143	12,920	1.8%
<b>San Mateo</b>	<b>702,102</b>	<b>701,080</b>	<b>1,022</b>	<b>0.1%</b>
Kern	642,495	631,615	10,880	1.7%
San Joaquin	563,183	549,684	13,499	2.5%
Sonoma	439,970	433,777	6,193	1.4%
Stanislaus	436,790	426,872	9,918	2.3%
Santa Barbara	391,071	389,472	1,599	0.4%
Solano	385,723	376,748	8,975	2.4%
Monterey	371,756	366,631	5,125	1.4%
Tulare	358,470	354,527	3,943	1.1%
Santa Cruz	245,201	243,200	2,001	0.8%
Placer	239,485	229,216	10,269	4.5%
San Luis Obispo	236,953	234,074	2,879	1.2%
Marin	236,768	236,377	391	0.2%
Merced	200,746	197,261	3,485	1.8%
<b>Butte</b>	<b>195,220</b>	<b>194,347</b>	<b>873</b>	<b>0.4%</b>
Shasta	164,530	164,156	374	0.2%
El Dorado	161,358	158,322	3,036	1.9%
Yolo	155,573	153,293	2,280	1.5%
Imperial	145,287	143,735	1,552	1.1%
Kings	123,241	118,667	4,574	3.9%
Humboldt	121,358	122,163	(805)	-0.7%
Napa	120,962	119,540	1,422	1.2%
Madera	116,760	114,523	2,237	2.0%
Nevada	92,014	91,114	900	1.0%
Mendocino	84,085	83,754	331	0.4%
Sutter	78,423	77,069	1,354	1.8%
Yuba	59,607	59,953	(346)	-0.6%
Lake	55,405	55,076	329	0.6%
Tehama	54,012	54,016	(4)	0.0%
Tuolumne	53,764	53,029	735	1.4%
San Benito	51,276	48,984	2,292	4.7%
Siskiyou	43,570	44,024	(454)	-1.0%
Calaveras	40,051	39,642	409	1.0%
Amador	34,153	33,415	738	2.2%
Lassen	33,028	33,281	(253)	-0.8%
Del Norte	26,477	27,006	(529)	-2.0%
Glenn	26,328	26,176	152	0.6%
Plumas	20,370	20,362	8	0.0%
Colusa	18,844	18,596	248	1.3%
Inyo	17,958	18,071	(113)	-0.6%
Mariposa	15,605	15,786	(181)	-1.1%
Trinity	12,927	13,043	(116)	-0.9%
Mono	10,512	10,307	205	2.0%
Modoc	9,210	9,338	(128)	-1.4%
Sierra	3,334	3,376	(42)	-1.2%
Alpine	1,161	1,192	(31)	-2.6%
<b>Total</b>	<b>33,145,121</b>	<b>32,682,794</b>	<b>462,327</b>	<b>1.4%</b>

[http://www.census.gov/population/estimates/county/co-99-1/99C1\\_06.txt](http://www.census.gov/population/estimates/county/co-99-1/99C1_06.txt)

Once the clusters were identified, project staff developed a recommendation for the actual number of judges to be asked to participate in the time study. The selection was based on factors such as differences in judicial calendaring, the number of judges working in each court, as well as the pragmatic issue of cost. We asked all judges and judicial officers in Butte, Sacramento, and San Mateo to participate in the time study. In Los Angeles, we restricted our attention to a sample of LA Central judges along with all of the judges working at the countywide dependency facility. Exhibit 4-3 presents the number of judges who participated in the two-month time study.

**Exhibit 4-3: Number of Judges Participating in 2 Month Time Study**

County	Judges	Commis- sioners	Referees	Lawyer/ Judge pro tems	Assigned Judges	Hearing Officers	Total
Butte	10	6	0	12	4	1	33
Los Angeles	47	26	47	2	1	1	124
Sacramento	48	9	7	5	17	0	86
San Mateo	34	6	1	49	4	0	94
Total	139	47	55	68	26	2	337

***Step 2: Select the set of case types and events to be used in building the standards.*** Selecting the number of case types and case events to be used in a weighted caseload study involves a tradeoff between having enough information to ensure the accuracy of the workload standards and minimizing the data collection burden on the participating judges and judicial officers. The more case types and events that are included in a weighted caseload study, the larger the data samples need to be to guarantee statistical accuracy. As determined by the WAPC, time study data were

collected on 23 case types for both case-related and non-case-related events.

## **Exhibit 4-4: Case Types**

### **Family Case Types**

- Probate
- Family (divorce and dissolution)
- Juv. Dependency
- Juv. Delinquency
- Mental Health
- Other Civil Petition

### **Civil Case Types**

- Motor Vehicle Torts
- Oth. Personal Injury Torts
- Other Civil Complaints
- Appeals from Lower Courts
- Criminal Habeas Corpus
- Other Civil (<\$25k)
- Unlawful Detainer
- Small Claims

### **Criminal Case Types**

- Capital Murder
- Homicide
- Felony Against Person
- Property Crimes
- Drug
- Other Felony
- Class A & C Misdemeanor
- Class B & D Misdemeanor
- Infractions

*Case types.* Determining the appropriate types of cases to be weighted was particularly important because the workload standards must eventually be attached to readily available case filing and disposition data to determine workload. That is, the standards must correspond to the specificity of filing and disposition data available from every court throughout

the state. For this reason, the WAPC voted to develop workload standards based on the major case type reporting categories currently used by the AOC—with one exception. The felony category was expanded to provide more specificity and move toward the felony distinctions that will be made under JBSIS. Exhibit 4-4 shows the 23 case types for which workload standards were developed.

*Event Codes.* The workload standards were constructed from the total time spent on seven case-related events. Again, the goal was to gather enough information to account for all judicial activity without so finely delineating events as to make data collection unnecessarily burdensome. The case-related events studied are shown in Exhibit 4-5:

#### **Exhibit 4-5: Event Types**

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Preliminary Proceedings, Arraignments, Pleas, etc  
Bench Trial  
Contested Jurisdictional/Dispositional hearing (juvenile)  
Jury Trial  
Sentencing  
Post-judgment Activity  
Case-Related Administration

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***Step 3: Record the total amount of judge and judicial officer time spent on each of the selected events within each of the case types for each of the two study months.*** The data collection took place during June and July 2000 in the four participating circuits. Following approval by the WAPC on the types of cases and case events to be involved in the workload standard process, data collection materials were designed by

the NCSC project team. Forms for both judicial case-related activity and for non-case-related activity were constructed as were a set of instructions to clearly explain the data collection process for all judges and judicial officers engaged in the study. A complete set of time study data collection materials is available from the AOC on request.

The NCSC project staff worked together with the AOC staff to develop a training program for all individuals involved in the time study data collection. All participating courts were visited by the AOC staff (in LA, NCSC staff visited in conjunction with AOC staff) to acquaint the judges and judicial officers with the workload assessment concept, the proposed project design, and the data collection requirements, and to answer any questions related to the study and its implications.

The two-month data collection effort was very successful. The level of participation throughout the time study corresponded almost identically to the parameters set in the sampling plan. During the two months of study, participants recorded 108,808 separate lines of information related to case-related activity corresponding to over two million minutes of case-related work.

***Step 4: Compile the total number of each type of case filed during each month of the two-month data collection period.*** The event-based methodology employed by the NCSC divides the total amount of time recorded for each case type by the number of cases filed during the time study period. Given the tight project time frame, the NCSC made the decision to use average monthly filings (during the period January 1999 to

December 1999) in calculating the workload standards.

***Step 5: Calculate the individual workload standards.*** The time study workload standards are calculated by dividing the total amount of case-related judge time expended during the study period on each of the selected case types by the corresponding average number of filings for each case type. The time study workload standards are displayed and discussed in the following section.

### **Results of the Time Study**

The time study provided the *raw* number of *case-related* minutes that judges spent on each of the 23 case types. Exhibit 4-6 shows the total minutes of case-related time collected from those judges that participated in the two-month study. As can be seen in Exhibit 4-6, there are 2,222,792 raw case-related minutes in the sample.

**Exhibit 4-6: Total Minutes of Case-Related Time**

Crime Type	June/July Unweighted Minutes				Total
	Butte	Los Angeles	Sacramento	San Mateo	
Probate	4,092	35,292	10,164	8,874	58,422
Family (divorce and dissolution)	17,740	51,733	53,382	47,951	170,806
Juv. Dependency	6,848	118,514	65,196	3,856	194,414
Juv. Delinquency	8,247	60,949	72,975	18,789	160,960
Mental Health	749	140,047	8,885	816	150,497
Other Civil Petition	5,269	27,332	22,497	14,478	69,576
Motor Vehicle Torts	2,855	8,239	20,072	3,765	34,931
Oth. Personal Injury Torts	8,173	38,815	28,190	7,991	83,169
Other Civil Complaints	11,918	143,944	80,499	70,282	306,643
Appeals from Lower Courts	1,131	14,160	4,354	317	19,962
Criminal Habeas Corpus	58	347	3,162	89	3,656
Other Civil (<\$25k)	623	17,258	7,203	5,286	30,370
Unlawful Detainer	1,312	8,664	15,357	3,369	28,702
Small Claims	3,702	14,731	25,683	13,772	57,888
Capital Murder	78	20,164	20,160	6,868	47,270
Homicide	8,464	18,691	25,663	1,779	54,597
Felony Against Person	10,220	43,228	99,679	21,021	174,148
Property Crimes	5,866	25,048	30,434	9,722	71,070
Drug	11,213	24,757	51,655	25,545	113,170
Other Felony	6,235	14,972	23,946	12,034	57,187
<b>Felony Subtotal</b>	<b>42,076</b>	<b>146,860</b>	<b>251,537</b>	<b>76,969</b>	<b>517,442</b>
Class A & C Misdemeanor	25,352	44,854	90,273	51,827	212,306
Class B & D Misdemeanor	2,822	5,691	20,341	17,188	46,042
Infractions	10,362	7,330	36,202	23,112	77,006
<b>Total</b>	<b>153,329</b>	<b>884,760</b>	<b>815,972</b>	<b>368,731</b>	<b>2,222,792</b>

The minutes for each case type in each court were then weighted to obtain an estimate of the number of minutes statewide for the two months in the sample period. The weighting involves the following two-step procedure. First, it was necessary to weight the minutes in each court where less than the full bench participated. For example, recorded minutes would be doubled if only 50% of the judges in a court participated. Second, it was necessary to weight the data to reflect the fact that some judges in LA Central only participated for a single month (by design).

Applying the calculated weights to the raw minutes for each of the months yields a set of weighted minutes. The total weighted minutes are presented in Exhibit 4-7. When weighted, the 2.2 million raw case-related minutes become 4.6 million minutes for the four courts for two months.

**Exhibit 4-7: Weighted Minutes**

Case Type	June/July Weighted Minutes				
	Butte	LA	Sac	SM	Total
Probate	4,710	48,534	12,990	10,928	77,162
Family (divorce and dissolution)	20,417	290,226	69,829	60,114	440,586
Juv. Dependency	7,882	347,309	85,522	4,731	445,444
Juv. Delinquency	9,496	93,056	94,886	22,981	220,419
Mental Health	862	163,458	11,504	947	176,771
Other Civil Petition	6,065	77,144	29,646	17,984	130,839
Motor Vehicle Torts	3,285	43,166	25,701	4,490	76,642
Oth. Personal Injury Torts	9,412	212,422	37,625	9,331	268,790
Other Civil Complaints	13,718	756,602	104,439	86,947	961,706
Appeals from Lower Courts	1,301	16,482	5,707	379	23,869
Criminal Habeas Corpus	67	835	4,161	112	5,175
Other Civil (<\$25k)	717	120,041	9,489	6,277	136,524
Unlawful Detainer	1,510	27,271	20,376	4,113	53,270
Small Claims	4,261	18,387	33,718	16,842	73,208
Capital Murder	90	22,664	26,059	8,418	57,231
Homicide	9,726	41,217	35,272	2,272	88,487
Felony Against Person	11,764	201,302	127,351	25,936	366,353
Property Crimes	6,753	72,630	40,215	11,940	131,538
Drug	12,907	136,625	67,546	30,625	247,703
Other Felony	7,179	113,901	31,356	14,655	167,091
<b>Felony Subtotal</b>	<b>48,329</b>	<b>565,675</b>	<b>301,740</b>	<b>85,428</b>	<b>1,001,172</b>
Class A & C Misdemeanor	29,183	233,525	117,258	63,423	443,389
Class B & D Misdemeanor	3,248	25,492	26,706	21,173	76,619
Infractions	11,930	82,864	47,114	28,544	170,452
<b>Total</b>	<b>176,393</b>	<b>3,122,489</b>	<b>1,038,411</b>	<b>444,744</b>	<b>4,782,037</b>
<b>Total (minus infractions)</b>	<b>164,463</b>	<b>3,039,625</b>	<b>991,297</b>	<b>416,200</b>	<b>4,611,585</b>

Having determined the appropriate number of weighted case-related minutes, the next step is obtaining data on the number of filings in each court for 1999. With the assistance of the AOC staff, data were obtained on the *total* number of filings in each case type for each court in the sample. These data are presented in Exhibit 4-8. As can be seen, there are 1,211,974 filings in these courts during the year – we divided the total number by 6 to obtain a two-month average.

**Exhibit 4-8: Total Number of Filings**

Case Type	1999 Filings				
	Butte	LA Central	Sac	SM	Total
Probate	590	5,676	1,642	1,279	9,187
Family (divorce and dissolution)	1,253	17,314	7,906	2,832	29,305
Juv. Dependency	443	16,584	1,999	436	19,462
Juv. Delinquency	1,248	15,381	3,931	4,341	24,901
Mental Health	46	3,124	141	183	3,494
Other Civil Petition	4,283	81,927	16,355	2,512	105,077
Motor Vehicle Torts	268	2,737	3,128	842	6,975
Oth. Personal Injury Torts	131	2,469	1,285	414	4,299
Other Civil Complaints	505	16,290	3,875	2,768	23,438
Appeals from Lower Courts	56	1,335	361	180	1,932
Criminal Habeas Corpus	18	2,404	425	58	2,905
Other Civil (<\$25k)	1,641	23,737	26,377	4,455	56,210
Unlawful Detainer	923	28,257	233	1,739	31,152
Small Claims	1,320	22,403	13,178	4,679	41,580
Capital Murder					
Homicide	5	194	123	27	349
Felony Against Person	380	3,477	3,020	653	7,530
Property Crimes	424	3,692	2,808	682	7,606
Drug	511	6,061	4,655	1,548	12,775
Other Felony	210	2,626	1,058	227	4,121
<b>Felony Subtotal</b>	<b>1,530</b>	<b>16,050</b>	<b>11,664</b>	<b>3,137</b>	<b>32,381</b>
Class A & C Misdemeanor	4,407	30,454	23,096	10,552	68,509
Class B & D Misdemeanor	1,088	70,357	28,609	3,664	103,718
Infractions	26,391	356,050	137,948	127,060	647,449
<b>Total</b>	<b>46,141</b>	<b>712,549</b>	<b>282,153</b>	<b>171,131</b>	<b>1,211,974</b>
<b>Total (minus infractions)</b>	<b>19,750</b>	<b>356,499</b>	<b>144,205</b>	<b>44,071</b>	<b>564,525</b>

To obtain the workload standards, we divide the number of weighted case-related minutes (see Exhibit 4-7) by the number of filings for that case type (see Exhibit 4-8). The resulting workload standards are displayed in Exhibit 4-9.

## Exhibit 4-9: Workload Standards

<u>Case Type</u>	<u>Workload Standard (in minutes)</u>
Probate	50
Family (divorce and dissolution)	90
Juv. Dependency	137
Juv. Delinquency	53
Mental Health	304
Other Civil Petition	7
Motor Vehicle Torts	66
Oth. Personal Injury Torts	375
Other Civil Complaints	246
Appeals from Lower Courts	74
Criminal Habeas Corpus	11
Other Civil (<\$25k)	15
Unlawful Detainer	10
Small Claims	11
Capital Murder	
Homicide	1,522
Felony Against Person	292
Property Crimes	104
Drug	116
Other Felony	243
<b>Felony Combined</b>	<b>186</b>
Class A & C Misdemeanor	39
Class B & D Misdemeanor	4
Infractions	2
<b>Overall (including infractions)</b>	<b>24</b>
<b>Overall (excluding infractions)</b>	<b>49</b>

### Assessing the Validity of the Workload Standards

To assess the validity of the time study workload standards, we propose three types of considerations. First, we compare the time study standards to those coming from the Delphi study. While we expect some differences, they should be highly correlated if the two processes of estimating workload have been done in a valid fashion. Second, we apply the time study standards to the 1999 data in each of four sites to see

whether the standards imply that the work actually completed could have been completed with the judges currently in place. Third, we break down each of the workload standards into event components – pre-trial, trial, post-trial – to determine if the standards make sense when we go “inside the numbers.”

**Delphi Comparison.** Exhibit 4-10 presents the Delphi and Time Study workload standards in a side-by-side comparison. Looking first at the six Family case types, we find that the Delphi standards are higher for Family, Dependency, Delinquency, and Other Civil Petitions while the Time Study standards are higher for Probate and Mental Health. Since we believe that data problems are responsible for the rather high mental health time study workload standard, it seems clear that the Delphi process – as expected – generated somewhat higher workload standards. Ignoring the Mental Health standard, the two sets of standards are correlated at .98. In addition, all are of the same order of magnitude. With respect to the family workload standards, the time study and Delphi processes have led to very similar results.

**Exhibit 4-10: A Comparison of Delphi and  
Time Study Workload Standards**

<b>Case Type</b>	<b>Delphi</b>	<b>Time Study</b>
Probate	37	50
Family (divorce and dissolution)	103	90
Juv. Dependency	168	137
Juv. Delinquency	63	53
Mental Health	80	304
Other Civil Petition	21	7
<hr/>		
Motor Vehicle Torts	73	66
Oth. Personal Injury Torts	194	375
Other Civil Complaints	327	246
Appeals from Lower Courts	17	74
Criminal Habeas Corpus	59	11
Other Civil (<\$25k)	72	15
Unlawful Detainer	80	10
Small Claims	17	11
<hr/>		
Capital Murder	10,253	
Homicide	678	1,522
Felony Against Person	360	292
Property Crimes	117	104
Drug	107	116
Other Felony	117	243
Felony	187	186
<hr/>		
Class A & C Misdemeanor	18	39
Class B & D Misdemeanor	19	4
Infractions	1.30	1.58
<hr/>		

Turning to the Civil case types, we find that the Delphi process led to higher standards in Motor Vehicle torts, Other Civil Complaints, Habeas, Other Civil, Civil < \$25,000, and Unlawful Detainers. Only in Other Personal Injury Torts and Lower Court Appeals does the time study process lead to higher workload standards. The two sets of standards are correlated at .80. Unlike the Family case types, however, there are some rather substantial order of magnitude differences between the two sets of standards. Most notable are Other Personal Injury Torts (Delphi = 194, Time Study = 375) and Civil under \$25K (Delphi = 72, Time Study = 15). In a later chapter we discuss some approaches to reconciling these differences.

In the criminal category for General Jurisdiction Felonies, the first thing to note is the absence of a Capital Murder time study standard and the large difference between the time study and Delphi standards in Homicide. It is imperative to note that the Homicide time study standard is a composite of both Homicide and Capital Murder and hence is not comparable to the Delphi standard. The other dissimilarity of note occurs in Other Felony where the Delphi standard is much smaller than the time study standard (177 to 243). The remaining General Jurisdiction Felony case types are remarkably similar between the two processes. In the three types of Limited Jurisdiction criminal, we find differences in the two misdemeanor types and great similarity in the infraction type.

All told, the two processes have led WAPC to two sets of standards that have more similarities than differences. The two sets of standards are correlated at approximately .90.

**Could the Courts Have Done the Work?** As a second approach to assess the validity of the workload standards, the individual workload standards were applied to the 1999 data in each of the courts in the sample to see whether the work could have been accomplished with the judges currently in place. The crucial question is: could all of the cases filed and disposed in 1999 have been processed according to the workload standards assigned? If the answer is affirmative, this lends considerable credence to the resulting standards. If, however, the answer is negative, the workload standards may need further revision.

With the assistance of the AOC and the local court administrators, project staff compiled data on the number of judges in the four participating courts. For purposes of this validity check, the average judge year adopted by the WAPC was used: it was assumed that judges devote approximately 77,400 minutes to case-related activity. Having determined how much judge time was available to work on case-related matters, the number of 1999 filings in each case type (for each court) were multiplied by their Time Study workload standard.

Exhibit 4-11 presents the workload estimates for each of the four courts. As can be seen, the time study workload standards fit the participating courts well. In Butte County, the workload standards imply that there is enough work for 12.9 judges – they have 13.7 JPE. In Los Angeles Central, the workload standards imply the need for 227.6 judges – they have 230 JPE. In San Mateo, the workload standards imply the need for 37.9 judges – they have 36. Applying the workload standards to Sacramento

County shows a need for 91.1 judges. Internal communication with the Sacramento courts shows they have a JPE of 80 (although the JPE reported in state documents is 67.8).

### Exhibit 4-11: Workload Estimates for Circuit and County Courts

<u>Case Type</u>	<b>Workload</b>	<b>Estimated Judge Need</b>			
	<u>Standards</u>	<u>Butte</u>	<u>LA Central</u>	<u>Sacramento</u>	<u>San Mateo</u>
Probate	<b>50</b>	0.4	3.7	1.1	0.8
Family (divorce and dissolution)	<b>90</b>	1.5	20.2	9.2	3.3
Juv. Dependency	<b>137</b>	0.8	29.4	3.5	0.8
Juv. Delinquency	<b>53</b>	0.9	10.5	2.7	3.0
Mental Health	<b>304</b>	0.2	12.3	0.6	0.7
Other Civil Petition	<b>7</b>	0.4	7.4	1.5	0.2
Motor Vehicle Torts	<b>66</b>	0.2	2.3	2.7	0.7
Oth. Personal Injury Torts	<b>375</b>	0.6	12.0	6.2	2.0
Other Civil Complaints	<b>246</b>	1.6	51.8	12.3	8.8
Appeals from Lower Courts	<b>74</b>	0.1	1.3	0.3	0.2
Criminal Habeas Corpus	<b>11</b>	0.0	0.3	0.1	0.0
Other Civil (<\$25k)	<b>15</b>	0.3	4.5	5.0	0.8
Unlawful Detainer	<b>10</b>	0.1	3.7	0.0	0.2
Small Claims	<b>11</b>	0.2	3.2	1.9	0.7
Felony	<b>186</b>	3.7	38.6	28.0	7.5
Class A & C Misdemeanor	<b>39</b>	2.2	15.3	11.6	5.3
Class B & D Misdemeanor	<b>4</b>	0.1	4.0	1.6	0.2
Infractions	<b>1.58</b>	<u>0.5</u>	<u>7.3</u>	<u>2.8</u>	<u>2.6</u>
<b>Estimated Need</b>		<b>13.7</b>	<b>227.6</b>	<b>91.1</b>	<b>37.9</b>
<b>Actual JPE 1999/2000</b>		<b>12.9</b>	<b>230</b>	<b>80</b>	<b>36</b>
<b>Actual - Estimated</b>		<b>-0.8</b>	<b>2.4</b>	<b>-11.1</b>	<b>-1.9</b>

On the whole, it seems clear that the Time Study Workload Standards pass the plausibility test—they appear to be an accurate representation of the time judges are actually spending in current practice.

**Inside the Numbers.** As a final validity check, we propose looking “inside” each of the workload standards to understand what its implications are for pre-trial, trial, and post-trial times in each of the case types. Exhibit 4-12 provides an illustration of the process using results from the felony against person standard.

As noted earlier, during the time study, participating judges recorded their time spent on one of seven distinct case-processing events (see Exhibit 4-5). For this analysis, the seven events are collapsed into 3 basic events: pretrial, trial, and post-trial. Column (a) in Exhibit 4-12 shows the three event categories used to describe the type of judicial activity. Column (b) shows the percentage of all of the case-related minutes collected during the time study that fall into the three categories. In Column (c), we multiply the percentage from Column (b) by the time study workload standard to determine the contribution of each event type to the final standard; as can be seen, 158 of the minutes are a function of pre-trial events, 118 minutes are associated with trial events, and 16 minutes are associated with post-judgment activities. The workload standard for felony against person is 292 minutes, with 158 minutes coming from pre-trial, 118 from trial, and 16 from post-trial.

These numbers do not imply that a typical trial in a felony against person case takes 118 minutes. Rather, to get an estimate of the average

trial time it is necessary to factor in data on the frequency with which trials actually occur. As shown in Column (e), a perusal of manner of disposition data for felony against person cases shows that 100% of all such filings have some pre-trial activity, 6% of the cases are resolved at trial (94% reach an initial disposition prior to trial), and 20% have some form of post-trial activity. To obtain an estimate of the amount of time each event takes – when it occurs – we divide the Column (d) by Column (e). This leads to the conclusion that each felony against person filing requires 158 minutes of pre-trial time on average. A typical trial takes 1,971 minutes (5.4 days) when it occurs. Finally, post-trial activity takes an average of 78 minutes when it occurs.

Exhibit 4-12: Illustration of "Inside the Numbers"

(a) Case Type	(b) Total Case-Related Minutes from Time Study	(c) Percent of Total Case-Related Time	(d) Event's Contribution to Workload Standard (in minutes)	(e) % Time an Event Occurs in Typical Case	(f) Average Event time When Event Occurs (in minutes)
<b>Felony Against Person</b>					
<i>Pre-trial</i>	<b>199,591</b>	54.1%	158	100%	158
<i>Trial</i>	<b>149,297</b>	40.5%	118	6%	1,955
<i>Post</i>	<b>19,780</b>	5.4%	16	20%	78
<b>Total minutes</b>	<b>368,668</b>				
<b>Annual filings</b>	<b>7,530</b>				
<b>Case Weight</b>	<b>292</b>				

The advantage of going “inside the numbers” is that it gives an idea of how long particular phases of a case take when they occur. In the example in Exhibit 4-12, when we say that a typical Felony Against a Person takes 292 minutes it would be easy to think about cases that take a lot longer – especially those requiring a trial. Going inside the numbers shows that a weight of 292 minutes accommodates an average trial of 5.4 days – when it occurs. Since it occurs in only 6% of the filings, it only adds 118 minutes to the overall average for each case. Looking at the results in Exhibit 4-12, the plausibility of the workload standard can be evaluated by thinking about the implied event times.

Exhibits 4-13 through 4-15 provide the inside the numbers information for the cases types in Family, Civil, and Criminal respectively. We will return to these tables when we describe the quality adjustment process in the next chapter.

**Exhibit 4-13: Inside the Numbers in Family Case Types**

<b>Event</b>	<b>Probate</b>	<b>Family</b>	<b>Juvenile Dependency</b>	<b>Juvenile Delinquency</b>	<b>Mental Health</b>	<b>Other Civil</b>
<b>Occurrence rate</b>						
Pre-trial	100%	100%	100%	100%	100%	100%
Trial	8%	5%	23%	11%	17%	5%
Post	5%	25%	70%	10%	10%	10%
<b>Time in minutes</b>						
Pre-trial	41	54	68	35	92	4
Trial	110	477	87	63	1,208	29
Post	8	51	69	117	64	13
<b>Judge Day</b>	6.0	6.0	6.0	6.0	6.0	6.0
<b>Workload Standard</b>	<b>50</b>	<b>90</b>	<b>137</b>	<b>53</b>	<b>304</b>	<b>7</b>
<b>Cases/Judge each year</b>	1,549	857	567	1,452	255	11,467

**Exhibit 4-14: Inside the Numbers in Civil Case Types**

<u>Event</u>	<u>Motor Vehicle</u>	<u>Other Personal Injury</u>	<u>Other Civil Complaint</u>	<u>Lower Court Appeals</u>	<u>Habeas Corpus</u>	<u>Civil Under \$25K</u>	<u>Unlawful Detainer</u>	<u>Small Claims</u>
<b>Occurrence rate</b>								
Pre-trial	100%	100%	100%	100%	100%	100%	100%	100%
Trial	3%	4%	5%	15%	26%	7%	15%	30%
Post	5%	5%	5%	20%	20%	5%	10%	20%
<b>Time in minutes</b>								
Pre-trial	40	221	161	63	7	9	3	2
Trial	1,027	3,756	1,582	36	1	78	39	27
Post	14	83	126	30	19	8	15	2
<b>Judge Day</b>	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
<b>Workload Standard</b>	<b>66</b>	<b>375</b>	<b>246</b>	<b>74</b>	<b>11</b>	<b>15</b>	<b>10</b>	<b>11</b>
<b>Cases/Judge each year</b>	1,166	206	314	1,040	6,998	5,209	7,478	7,200

**Exhibit 4-15: Inside the Numbers in Criminal Case Types**

<u>Event</u>	<u>Homicide</u>	<u>Felony Against Person</u>	<u>Property</u>	<u>Drug</u>	<u>Other Felony</u>	<u>Class A &amp; C</u>	<u>Class B &amp; D</u>	<u>Infractions</u>
<b>Occurrence rate</b>								
Pre-trial	100%	100%	100%	100%	100%	100%	100%	100%
Trial	17%	6%	3%	2%	3%	3%	3%	6%
Post	20%	20%	20%	20%	20%	10%	10%	10%
<b>Time in minutes</b>								
Pre-trial	607	158	74	82	152	18	3	1.05
Trial	5,211	1,955	685	899	2,375	465	25	8.34
Post	144	78	45	81	97	74	3	0.45
<b>Judge Day</b>	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
<b>Workload Standard</b>	<b>1,522</b>	<b>292</b>	<b>104</b>	<b>116</b>	<b>243</b>	<b>39</b>	<b>4</b>	<b>1.58</b>
<b>Cases/Judge each year</b>	51	265	747	666	318	1,967	19,111	49,007

Taken together, these results provide strong support for the validity of the time study workload standards as an accurate measure of current practice. The time study workload standards are highly valid and reliable. By a number of measures, these results indicate that the two-month time study is sufficient to reach correct conclusions about the average time currently being spent by California judges on key events across all the case types examined. The sampling procedures and the subsequent responses from each of the various courts suggest that if the study were repeated similar results would occur.

## **Chapter 5: Quality and Court Performance**

Webster's Dictionary suggests that quality has two aspects. First, quality refers to a distinguishing attribute or characteristic. Second, quality refers to a degree of excellence. Any discussion of quality in the courts needs to consider both aspects of quality. To accomplish this, we offer a two-pronged approach. First we consider which attributes or characteristics of court performance should be considered. Second, we develop a set of methods designed to determine if these characteristics are being performed with a degree of excellence.

### **Characteristics of Performance**

Courts are legal institutions. Administering the law is their business and the law consists of a set of rules. Despite similar rules, there is a tremendous amount of variation in the way that legal professionals undertake their tasks. To understand why courts differ it is important to realize that courts are also organizations. The primary role of courts is to settle disputes in an impartial fashion after presentation of evidence by contending parties with the decisions being based upon pre-existing rules. Organizations use human effort and other resources to produce an identified product. In the case of the courts, the "product" of courts is the effective resolution of cases – hence a court is an organization. Consequently, when detailing the characteristics that are germane to court performance, it is necessary to consider both the settling of disputes as well as the organizational processes that lead to and support such resolution. In terms of managing toward results, we look to the Trial Court Performance

Standards. In terms of managing by process, we look to the literature on organizational effectiveness. From the available sources on performance criteria, we isolated in excess of 100 possible factors. Since there was substantial overlap between them, there was considerable redundancy. Eliminating redundancy and covering both the process and outcome aspects of performance, we reduced the set of 100 to 16 performance factors. For each of the 16 performance factors, we developed definitions/examples that tie the attribute to a court context. The sixteen concepts and definitions are displayed in Exhibit 5-1.

### **Exhibit 5-1: Court Performance Attributes**

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- Accessibility**—usable, easy to access, obtainable; open by location, physical structure, procedures, and responsiveness of personnel
- Accountability**—explainable, responsible, answerable; control proper functions; responsibly uses and accounts for its public resources
- Clarity**—the nature of and reasons for decisions are clear; orders unambiguously specify consequences; how compliance can be measured is apparent
- Communication**—all relevant information is transmitted either verbally or in writing
- Continuous Improvement**—anticipate new conditions or emergent events and adjust operations as necessary
- Efficiency**—productive without waste; obtaining the most of what you value out of the available resources
- Equality**—people are treated alike in status before the court without regard for race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation
- Fairness**—process is marked by impartiality; procedures faithfully adhere to laws and procedural rules
- Human Resource Development**—priority is given to maximizing the potentialities of those who work in the court; there is adequate training

**Independence**—maintain distinctiveness as separate branch of government through the use of appropriate boundaries

**Integrity**—adherence to a code of values; adhere to obligations imposed or ethical standards

**Morale**—sense of common purpose, confidence in the future

**Public Trust and Confidence**—to rely on the truth or accuracy of the court; recognized by the public as meeting or exceeding all performance standards

**Resource Acquisition**—success in acquiring staff and other resources when requested or perceived as needed

Teamwork—the work is done by a number of associates each doing a part but all subordinating personal prominence to the efficiency of the whole

**Timeliness**—appropriate to articulated time standards; operates according to required schedules

The next step is to determine whether these values provide a way to elucidate alternative facets of court performance. To accomplish this, we asked each respondent to tell us the extent to which the sixteen values, concerning court performance/quality, are related one to the other.

**Exhibit 5-2: An Example of the Data Collection Form**

<b>Timeliness</b>								
<b>compared to:</b>		Very Dissimilar	←—————→					Very Similar
1	Communication	1	2	3	4	5	6	7
2	Public Trust	1	2	3	4	5	6	7
3	Equality	1	2	3	4	5	6	7
4	Accessibility	1	2	3	4	5	6	7
5	Efficiency	1	2	3	4	5	6	7
6	Clarity	1	2	3	4	5	6	7
7	Resource Acquisition	1	2	3	4	5	6	7
8	Continuous Improvement	1	2	3	4	5	6	7
9	Human Resource Development	1	2	3	4	5	6	7
10	Integrity	1	2	3	4	5	6	7
11	Independence	1	2	3	4	5	6	7
12	Fairness	1	2	3	4	5	6	7
13	Morale	1	2	3	4	5	6	7
14	Accountability	1	2	3	4	5	6	7
15	Teamwork	1	2	3	4	5	6	7

The exercise asks each respondent to judge how each of the sixteen values either complements or competes with the other values. In this context, each

respondent was asked to make the 120 pair-wise comparisons. As can be seen in Exhibit 5-1, we provided short definitions for each of the sixteen performance attributes. For this exercise, we asked the respondents to accept our definitions. We recognize that a trial court might very well pursue many of these performance goals.

On the enclosed data collection sheet, we asked each respondent to circle the number that corresponds to the degree of similarity (i.e., 1 = very dissimilar and 7 = very similar) between the performance attributes listed in bold at the top of the column and the alternative attributes listed directly below. For example, in the sample data collection form, we asked each respondent how similar is the attribute of "Timeliness" to the attribute of "Teamwork?" While making the paired comparisons, we asked each respondent to conduct their own "thought experiment." Our discussions with judges and other court personnel underscore the conclusion that different attributes of quality are valued differently among different individuals and among different local legal cultures. Consequently, we asked each respondent to evaluate the different attributes based solely on the conceptual similarity or dissimilarity of the criteria. In making the comparisons, we provide the following definitions of similar and dissimilar: (a) Are the two quality attributes **similar** in that they emphasize related or analogous aspects of quality court performance? That is, do some quality attributes appear to be tapping into the same basic dimension of quality? (b) Are the two quality attributes **dissimilar** in that they emphasize contradictory or divergent aspects of quality court performance? That is, do some

performance attributes appear to be competing or in conflict with one another?<sup>5</sup>

In an effort to illustrate how one might assess conceptual similarity, we offered the following examples. When comparing *Morale* and *Teamwork*, one might conclude that the two attributes of performance are quite similar to one another in that both have something to do with working together. This would lead one to look at the high end of the similarity scale and give this a "5", "6", or "7." When comparing *Fairness* and *Efficiency*, one might conclude that these are quite different attributes of quality since fairness is an attribute of an outcome and efficiency is an attribute of process. In addition, one might conceivably view efforts to improve efficiency to be in conflict with the perceived fairness of the court. This would lead one to look at the lower end of the similarity scale and give this comparison a "1", "2" or "3."

We targeted 25 individuals (including all members of WAPC) with considerable experience in courts; of these, twenty-two individuals returned the completed questionnaire. Respondents were drawn from four counties in California – Butte, Los Angeles, Sacramento, and San Mateo. The

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<sup>5</sup> In addition, we offered the following advice: In some instances, two attributes may seem similar in the sense that one attribute supports the attainment of another although they are not conceptually similar. If the attributes often co-exist even though they are not conceptually similar, we ask that you consider the two attributes to be conceptually dissimilar. As an example of co-existing without conceptual similarity, consider the attributes of *Teamwork* and *Accessibility*. At first blush, you may feel that these two attributes occur together since a court with a high degree of teamwork will often have a high degree of accessibility. Table 6 defines *Accessibility*, in part, as being open by location, physical structure, procedures, and responsiveness of personnel." Table 6 defines *Teamwork* as situations where "the work is done by a number of associates each doing a part but all subordinating personal prominence to the efficiency of the whole." Only part of the attribute of accessibility concerns the responsiveness of personnel, the rest focuses on location, structure and procedures. You will have to decide how much conceptual similarity there is due to the personnel piece. In doing so, we ask that you explicitly ignore the fact that a well-performing court will likely exhibit both effective teamwork and accessibility.

questionnaire was filled out under conditions of anonymity – all we know is that approximately 10-12 of the individuals were trial court judges or commissioners and the remaining 10-12 were court executives/administrators. We received responses from each of these individuals and used the resulting proximity matrices as the primary data input into our analysis. Each element of the proximity matrix is an ordinal measure of how similar/dissimilar two performance factors are perceived to be by the respondent.

### **Scaling Results**

To analyze the paired comparison data, we used the SPSS ALSCAL multidimensional scaling algorithm. We computed two, three, and four-dimensional solutions and found the two-dimensional solution to be quite good: the squared correlation coefficient between the scaled distances and the input dissimilarities is .82 and the Kruskal Stress<sub>1</sub> measure is .19. We employ the two-dimensional solution in our work.<sup>6</sup>

- Dimensions one taps an *internal versus external* orientation on the part of the court—at one end are many of the basic attributes of the TCPS (e.g., Equality, Accessibility, Fairness, Integrity, Clarity, Public Trust, Independence, and Accountability) while at the other are attributes oriented toward the internal management of the court (e.g., Resource Acquisition, Teamwork, HRD, Continuous Improvement, Efficiency, and Morale).
- Dimension two is oriented toward the structure of the court, with values related to flexibility and discretion on one end (e.g., Independence, Morale, Fairness, HRD, Integrity, Resources, and Equality) and values related to stability and control at the other end (e.g., Timeliness, Efficiency, Clarity, Communication, Accountability and Accessibility).

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<sup>6</sup> We also compared our WMDS solution to the straightforward MDS solution (i.e., not allowing individual judge weights). The WMDS solution is preferable on both statistical and substantive grounds.

Taking the two dimensions together creates four quadrants each consisting of four performance attributes. Exhibit 5-3 presents a visual display of the four quadrants. As can be seen in Exhibit 5-3, the four quadrants are characterized as follows:

- Quadrant 1: External/Control—Public Trust, Accountability, Accessibility, Clarity
- Quadrant 2: Internal/Control—Timeliness, Efficiency, Communication, Teamwork
- Quadrant 3: Internal/Discretion—Resource Acquisition, HRD, Continuous Improvement, Morale
- Quadrant 4: External/Discretion—Integrity, Equality, Independence, Fairness

**Exhibit 5-3: Four Quadrants**

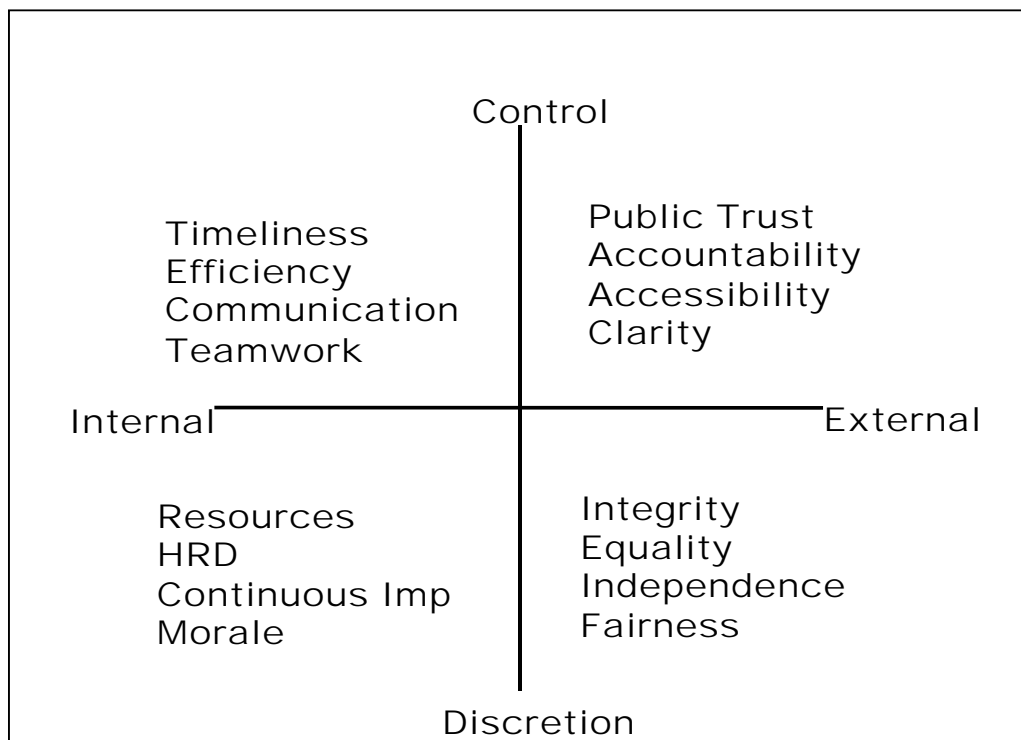
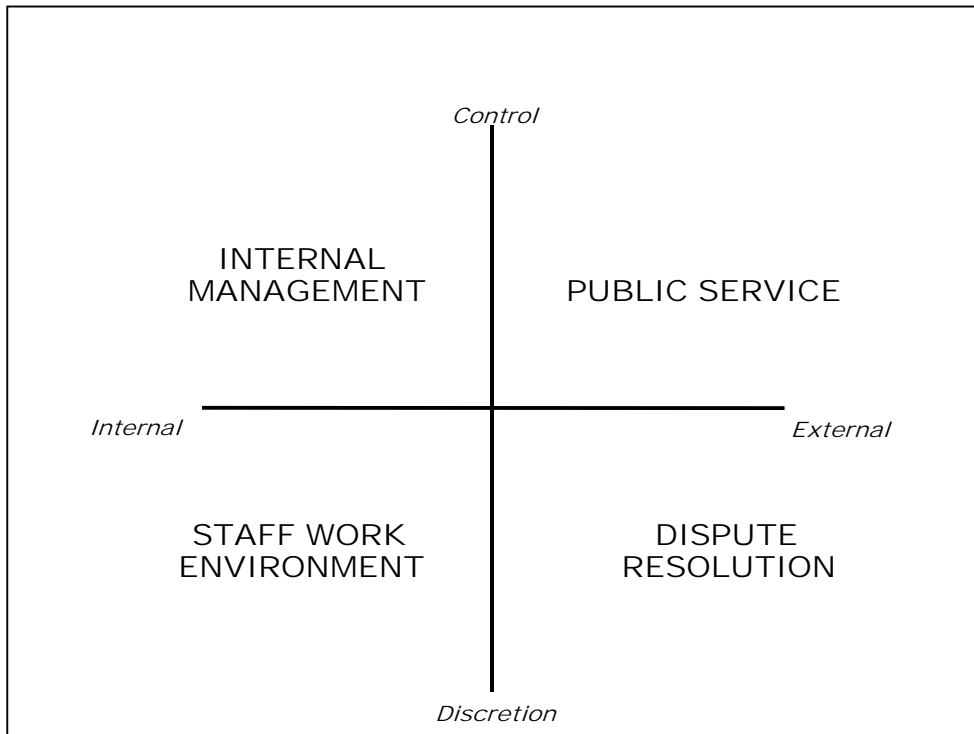


Exhibit 5-4 presents a general thematic descriptor for each of the four quadrants.

### Exhibit 5-4: Four Quadrants – General



On the basis of our analysis of performance characteristics, we created a court performance construct highlighting four primary types of performance—Dispute Resolution, Public Service, Internal Management, and Staff Work Environment. It is our contention that each of these four aspects represents a cluster of related performance values:

Dispute Resolution – emphasizing effective judicial case processing and individual attention to cases

Public Service – emphasizing public access, accountability, clarity, and public trust

Internal Management – emphasizing teamwork, organization, and efficiency

Staff Work Environment – emphasizing a productive and supportive work environment

It is our interpretation that these four sets of values underlying performance are captured by the four quadrants. While all four value sets are likely to be

on each court's radar screen, it will be a rare court that pays equal attention to all four. Most courts are likely to give a preponderance of their attention to emphasizing the resolution of disputes. A more complete view of performance, however, acknowledges that the "behind the scenes" work in management and staff work environment are also important considerations.

To assess an organization's performance emphasis, we build on the work of Quinn and his associates who have developed an Organization Culture Assessment Instrument (OCAI). The format of OCAI has been used numerous times and its validity and reliability have been established (Quinn and Spreicher, 1991, Kalliath, 1999). The OCAI consists of a series of tables like the following presented as Exhibit 5-5:

**Exhibit 5-5: An Example of an Organization Culture Assessment Instrument**

<b>1. Key Content Dimension #1</b>		<b>Now</b>
<b>Culture Type A</b>	Description of the way in which Content Dimension #1 is handled in Culture Type A	
<b>Culture Type B</b>	Description of the way in which Content Dimension #1 is handled in Culture Type B	
<b>Culture Type C</b>	Description of the way in which Content Dimension #1 is handled in Culture Type C	
<b>Culture Type D</b>	Description of the way in which Content Dimension #1 is handled in Culture Type D	
<b>Total</b>		<b>100</b>

Each question has four alternatives – one for each culture type. The respondents are asked to divide 100 points among the four alternatives depending on the extent to which each of the alternatives is similar to their organization. Each respondent will be instructed to give a higher number of points to the alternative that is most similar to their organization. For example, in the above table, if a respondent thinks that C is most similar to their organization, s/he might assign 50 points to alternative C. If A is hardly

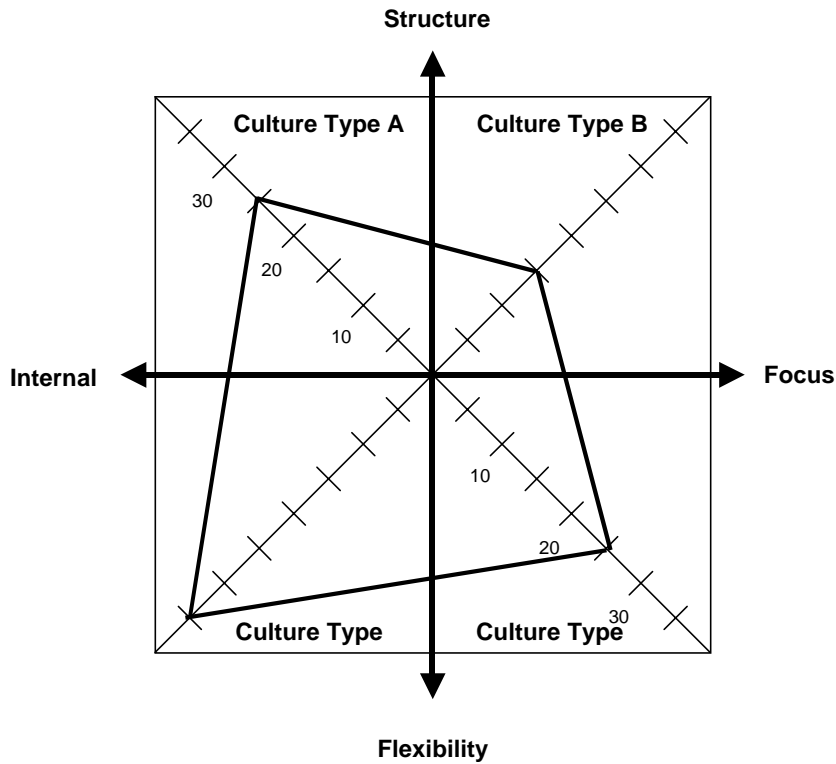
similar it may get 5 points. If B is the second most similar it may get 25 points. The remaining 20 points would go to D. No matter how the points are distributed, it is essential that the total is 100.<sup>7</sup>

On the basis of the responses to the OCAI, a researcher has a set of data from each member of a given organization. Cameron and Quinn (1999, 55) note – drawing upon the work of John Tukey – that “insight and understanding is best created, not by submitting data to statistical tests, but by creating pictures of the data.... It is possible to see more relationships, do more comparisons, and identify more interesting patterns by analyzing images and representations than by simply looking at the results of numerical analyses.” It is important to realize that the gains in insight and understanding from creating the pictures comes at the cost of having any mechanical way (e.g., statistical significance) of interpreting them.

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<sup>7</sup>One question that needs to be addressed concerns the validity of this type of scale. In a statistical appendix, Cameron and Quinn (1999) indicate that the type of scale we propose is an ipsative rating scale. The most frequently used alternative is the Likert scale. In comparing these two scale types, the ipsative scale has two advantages and one disadvantage (Cameron and Quinn, 1999). The ipsative scale provides an ideal way to differentiate between courts of different culture types. The primary disadvantage of the proposed scale is that it does not produce independent responses—the response to alternative A in question 1 are related to the response to alternative B and so on. Consequently, normal correlational analyses are not usually appropriate. There are several sources that provide alternative statistical techniques for use with this kind of data (Cameron and Freeman, 1991; Zammuto and Krakower, 1991). In the policy field, McIver and Ostrom (1976) use a similar type of ipsative scale in their analysis of police services. They provide a detailed appendix illustrating appropriate ways of using correlation between ipsative scale ratings and an independent variable. Our decision to use the ipsative ratings from the OCAI does not pose a problem for our research. First, we are interested in highlighting cultural differences between courts. Second, we recognize that courts—due to resource limitations—have to make trade-offs concerning which performance measures are most important. We feel the proposed OCAI will make this possible.

### Exhibit 56: Culture Diagram



While the validity of the methodology and instruments that will be used in this study have been established by Quinn and his colleagues, the development and labeling of actual organizations is not an exact science. To get some idea of what we have in mind, consider the hypothetical profile in Exhibit 5-6.

We do not anticipate that courts will fall exclusively into one quadrant, but rather that they will show a relative emphasis toward one or more of the quadrants. In the above figure, the primary emphasis falls into the Culture Type D quadrant. However, aspects of both Culture Types A and C are also represented in the court. While one might be tempted to identify this hypothetical court as having Culture Type D, it is important to remember

both that each court will take something from each of the culture types and that there will be many different versions of a Type D court.

As part of the quality assessment process, we developed a Court Performance Assessment Instrument (CCAI) based on the model offered by Cameron and Quinn (1999). The CCAI consist of four questions. For each question, we asked the respondents to divide 100 points across each of the court performance emphases. For example, the dominant characteristic is 60% like performance type A (hence A receives 60 points), 20% like D, 10% like B, and 10% like C. In addition, we asked each participant to formulate two sets of responses—(a) how would you describe the court as of today? and (b) how would you like the court to be in five years? Exhibit 5-7 illustrates the basic structure of the questionnaire. Appendix 5-A presents the CCAI questionnaire in its entirety.

### Exhibit 5-7: Court Performance Assessment Instrument

Organizational Values		Relative degree of emphasis
A	Employees work together to accomplish operational requirements and the court's mission	
B	Court operations are controlled responsibly and court management publicly accounts for the court's performance	
C	People who come to the court are treated alike in status regardless of race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation	
D	Court leaders and staff introduce new ideas and methods to adjust and improve operations	
<b>Total</b>		<b>100</b>

Organizational Values		Relative degree of emphasis
A	Relevant information court personnel need to know is transmitted effectively either verbally or in writing	
B	The court removes barriers to use of its services, including physical and procedural ones	
C	The court is organizationally free of external pressure or bias that improperly influences judicial decision making	
D	The court acquires staff and other resources as needed	
<b>Total</b>		<b>100</b>

Organizational Values		Relative degree of emphasis
A	The court is productive and avoids waste; it gets the most it can out of the available resources	
B	The court's decisions and orders are clear and understandable	
C	The court impartially adheres to laws and rules in all its procedures and processes	
D	The potential of those who work in the court is maximized through training and other job enrichment activities	
<b>Total</b>		<b>100</b>

Organizational Values		Relative degree of emphasis
A	The court resolves disputes according to articulated time standards; adheres to schedules; acts without unnecessary delay	
B	The public has confidence that the court efficiently and fairly resolves disputes	
C	The court adheres to obligations imposed by law and ethical standards	
D	Court staff have a common sense of purpose and job satisfaction	
<b>Total</b>		<b>100</b>

The CCAI was administered to judges, subordinate judicial officers, court executives and managers, courtroom staff, and operations/clerical staff in each of the four sites – Butte, Los Angeles, Sacramento, and San Mateo.

Specific county level results have been kept confidential at the request of WAPC. However, it is possible to summarize the primary findings. Not surprisingly, judges in all four counties emphasize dispute resolution over the other areas of court performance. However, most judges would also prefer more emphasis on work environment and public service, while many subordinate judicial officers would prefer a balance between the four performance areas.

Management and court executives show a similar pattern to judges in their perception that the primary emphasis of courts is on dispute resolution. However, unlike judges, most court managers would like to see the court increase its emphasis on internal elements of management and work environment. Similarly, judicial and courtroom staff see the primary emphasis on dispute resolution and would prefer the court to emphasize a balance between the performance areas. Finally, clerical staff and other court staff members also see the primary emphasis being placed on dispute resolution and would prefer a greater balance across performance areas.

A word of caution in interpreting the calls for greater “balance” between performance areas. Effective dispute resolution is the primary reason courts exist and it is not surprising to see that this is the primary area of emphasis. When results indicate that a particular set of court employees would “prefer” a greater emphasis on public service, management, or work environment, this does not imply that they want to see less emphasis on dispute resolution. Rather, our interpretation is that all agree on the primacy of judicial attention to dispute resolution, but that the effectiveness of

dispute resolution can be enhanced by paying attention to the other three areas of court performance. That is, many court employees see greater attention to staff morale and teamwork in conjunction with effective court management practices and a willingness to listen to the courts' customers as a means to continuously improve the dispute resolution process.

In summary, it can be seen that most actors in the four courts feel that the current emphasis of the court is directed towards dispute resolution—as it should be. But when individuals from throughout the court are asked, in affect, how overall court performance can be improved, they tend to emphasize the need to pay attention to multiple attributes of performance. Therefore, many court managers and executives, judicial and courtroom staff, clerical staff and other staff would prefer a more balanced approach that increases the emphasis on aspects internal to courts such as management and the work environment. While definitely a challenge, the results appear to ask court leaders to adopt a more expansive notion of performance as the path to overall improvement in dispute resolution.

### **Connecting Performance and Quality**

From research and years of experience, W. Edwards Deming developed fourteen principles that he believed would result in both quality and effectiveness in education. These factors emphasize the internal management of an organization and they include<sup>8</sup>:

1. Create constancy of purpose toward improvement of product and service, with the aim to become competitive and to stay in business, and to provide jobs.

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<sup>8</sup> <http://www.goalqpc.com/RESEARCH/deming.html>.

2. Adopt the new philosophy. We are in a new economic age. Western management must awaken to the challenge, must learn their responsibilities, and take on leadership for change.
3. Cease dependence on inspection to achieve quality. Eliminate the need for inspection on a mass basis by building quality into the product in the first place.
4. End the practice of awarding business on the basis of price tag. Instead, minimize total cost. Move toward a single supplier for any one item, on a long-term relationship of loyalty and trust.
5. Improve constantly and forever the system of production and service, to improve quality and productivity, and thus constantly decrease costs.
6. Institute training on the job.
7. Institute leadership (see Point 12). The aim of supervision should be to help people and machines and gadgets to do a better job. Supervision of management is in need of overhaul as well as supervision of production workers.
8. Drive out fear, so that everyone may work effectively for the company.
9. Break down barriers between departments. People in research, design, sales, and production must work as a team, to foresee problems of production and in use that may be encountered with the product or service.
10. Eliminate slogans, exhortations, and targets for the work force asking for zero defects and new levels of productivity. Such exhortations only create adversarial relationships, as the bulk of the causes of low quality and low productivity belong to the system and thus lie beyond the power of the work force.
11. a. Eliminate work standards (quotas) on the factory floor. Substitute leadership. b. Eliminate management by objective. Eliminate management by numbers, numerical goals. Substitute leadership.
12. a. Remove barriers that rob the hourly worker of his right to pride of workmanship. The responsibility of supervisors must be changed from sheer numbers to quality. b. Remove barriers that rob people in management and in engineering of their right to pride of workmanship. This means, *inter alia*, abolishment of

the annual merit rating and of management by objective.

13. Institute a vigorous program of education and self-improvement.
14. Put everybody in the company to work to accomplish the transformation. The transformation is everybody's job.

In Exhibit 5-8, we provide a comparison of see how Deming's fourteen points mesh with the sixteen attributes of performance:

**Exhibit 5-8: Comparing the Performance Attributes to Deming's Quality Attributes**

<b>Quadrant</b>	<b>Deming Concept</b>	<b>Performance Attribute</b>
Internal Management	Remove barriers and work as a team	Teamwork
	Improve supervision	Communication
	Minimize total cost	Efficiency
	Eliminate quotas	Timeliness
	Emphasize leadership	
Staff Environment	Continous innovation and improvement	Resource Acquisition
	Do not accept old mistakes and defects	Continuous Improvement
	Use modern methods of training and re-training	HRD
	Drive out fear	Morale
	Create trust	
Dispute Resolution	Do what is right	Equality
	Avoid numerical quotas	Fairness
	Building quality into the product	Integrity
		Independence
Public Service	Improve service	Accountability
	Eliminate slogans	Accessibility
		Public Trust
		Clarity

As can be seen, Deming's quality attributes correlate nicely with the performance aspects. Consequently, the quest for excellence in each of the four primary aspects of performance is synonymous with quality.

Keeping in mind our concept of multi-attribute of court performance, quality is doing the right thing, at the right time, in the right way for the

right person, while maintaining positive working conditions. Using this definition it is possible to pursue excellence in each of the four quadrants of performance:

Resolving Disputes – doing the right thing

Internal Management – at the right time (or in the right amount of time)

Public Service – for the right person in the right way

Staff Environment – maintain positive working conditions

### **Assessing Quality**

To introduce quality into the formulation of workload standards, we developed an instrument that was given to judges, administrators, and staff in each of the four counties. The purpose of the instrument was to provide cues – tied to the sixteen performance attributes – that would enable judges and court staff to evaluate their court's performance on each of the sixteen attributes.<sup>9</sup> The instrument is structured so that it presents a statement and asks each respondent to respond using a 7-point scale where 1 is Never and 7 is Always. The instrument is presented in its entirety in Appendix 5-B.

Exhibit 5-9 presents the quality survey results from the four participating counties. The primary features of the Exhibit are as follows:

1. Question ID – refers to the question number on the instrument in Appendix 5-B.
2. Quality Prompt – is an abridged version of the prompt given in the instrument. At the bottom of the column are the four performance quadrants.
3. Mean – the arithmetic average of responses on the seven-point scale for each of the questions.

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<sup>9</sup> The instrument has seventeen rather than sixteen statements. WAPC and the AOC recommended splitting HRD into two aspects—"In general, our court provides education and training opportunities" and "In general, our court provides effective performance evaluations."

4. N – the number of respondents answering the question.
5. Std. Dev. – provides an indication of how varied the responses to the question are – the smaller the standard deviation, the more inter-person agreement there is in the responses.

### Exhibit 5-9

#### Current Court Performance Inventory -- Results from Four Counties

Question ID	Quality Prompt	4 County Total		
		Mean	N	Std. Dev
a	Our court uses resources efficiently and does not waste \$	4.9	649	1.4
b	Our court receives a level of funding that is needed	4.1	576	1.7
c	Our court achieves teamwork and cooperatino among crt staff	5.1	668	1.4
d	Judges in our court give individual attention to cases	6.1	611	1.0
e	Our court resolves disputes in a timely manner	5.4	639	1.2
f	Our management conduct regular reviews of court policies	4.4	653	1.7
g	Our court uses effective record keeping and mgmt info tools	5.0	637	1.5
h	Our court attains a high level of public trust	5.1	633	1.4
l	Our court provides education and training opportunities	5.0	666	1.7
j	Our staff are responsive to everyone who comes to court	6.0	646	1.1
k	Our personnel adhere to the law and maintain ethical stdrds	5.9	660	1.1
l	Our court is free of outside pressure or bias	5.9	605	1.1
m	Our court is free of barriers to the use of court services	5.5	648	1.3
n	Our court effectively communicates relevant info among judges	4.9	663	1.6
o	Personnel in our court exhibit a sense of common purpose	4.6	663	1.5
p	Our court provides effective performance evaluation	3.9	651	1.8
q	Judges in our court produce decisions that are clear	5.5	638	1.0
a, c, e, n	Management Outcomes	5.1	655	1.4
g, h, m, q	Service Outcomes	5.3	639	1.3
d, j, k, l	Justice Outcomes	6.0	631	1.1
b, f, l, o, p	Working Conditions Outcomes	4.4	642	1.7

**Quality perspective.** Most respondents are satisfied with the level of quality in three of the four performance areas – Resolving Disputes, Public Service, and Internal Management (See bottom of Exhibit 5.9). Each of the questions in these areas shows that most judges and court staff report that “most of the time” or “always” they perform effectively in these areas. It is in the area of Staff Environment where the greatest differences of opinion lie. When looked at by the breakdown of responses by the position of the respondent it is found that judges are quite satisfied with working conditions in the court, individuals from the remaining job types are less satisfied. One interpretation of this finding is that resource constraints within the court do not allow sufficient time for judges and court managers to effectively train, evaluate, and communicate with staff.

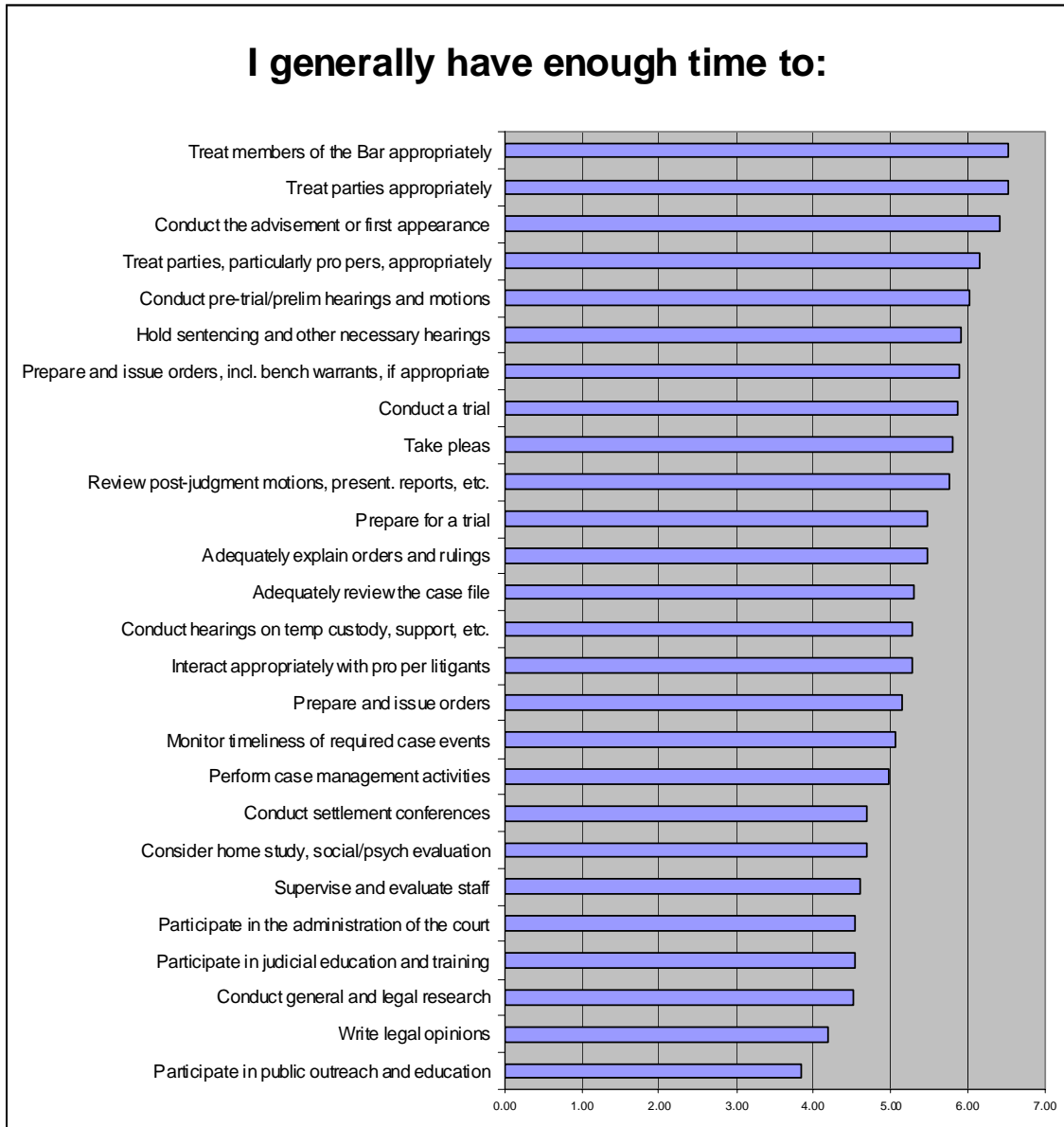
### **Quality and Time**

The goal of this project is the development of a set of workload standards for California courts. As noted earlier, the workload standards are enumerated in the average time it takes to handle a given type of case from start to finish. Having developed a quality construct and conducted a quality assessment in each of the four courts, it makes sense to connect quality and time. The focus of Chapter 6 will be on the process of quality adjustments to the workload standards. The focus of this section is to determine whether individuals in each of the four courts feel they have sufficient time to handle their current caseload.

To assess the connection between quality and time, the NCSC staff prepared a sufficiency of time questionnaire for Family, Civil, and Criminal

case types. Appendix 5-C contains the Civil questionnaire. While filling out the questionnaire, we asked each respondent to assess whether they currently have adequate time to perform the necessary functions of their office. There are three parts of the assessment. In the first part they are asked to assess whether they need more or less time in the three phases of civil case resolution (pre-trial, trial, and post-trial) to do a reasonable job. In the second part, we asked them to assess if adequate time is available for them to perform the non-case related aspects of the work of the court. In the third part the respondents have the opportunity to note if there are other areas where more or less judicial time is needed to do a reasonable job. The results from the survey are displayed in Exhibit 5-10.

### Exhibit 5-10: Sufficiency of Time



It is noteworthy that among the 75 respondents to the survey there is a remarkable consensus with respect to having enough time to: treat members of the bar/parties/pro pers appropriately, conduct first appearances, conduct pre-trial hearings, sentence, prepare and issue orders, conduct trials, take please, review post-judgment motions, and review case files. In short, the

responding judges report that they have adequate time for the Dispute Resolution type of court performance.

When it comes to the internal management of the court – supervise and evaluate staff, participate in the administration of the court, participate in judicial education, conduct legal research, write opinions, and participate in outreach – judges report not having enough time. It would appear that judges have sufficient time to conduct the “legal” part of their jobs while having insufficient time to manage the organization that supports the administration of justice. This finding supports the interpretation from the last section that discontent among court staff over the work environment may rest largely on resource constraints and the lack of time for effective staff management.

## Conclusions

The overall conclusions are as follows:

- Performance has four facets.
- Quality refers to excellence in performance.
- Quality in the context of courts can be defined as doing the right thing, for the right person in the right way, at the right time, and maintaining positive working conditions.
- Each of the four courts in the sample report that they place heavy emphasis on the Dispute Resolution facet of court performance.
- Other than the judges and judicial officers, all remaining court staff would like to see the overall emphasis expanded to include the management and working conditions aspects of performance.
- This desire for change in emphasis is supported by the results from the Quality Attribute Questionnaire. All personnel believe that courts are doing a quality job in Dispute Resolution and Public Service. Fewer personnel are as satisfied with Court Management. Finally, very few personnel – outside of judges – are satisfied with the job the court is doing in maintaining a positive working environment.
- Courts appear to have sufficient time to do the “external” part of their job (i.e., Dispute Resolution, Public Service). Less than sufficient time is available to handle the “internal” part of the job.

## **Chapter 6: The Adjustment Process**

In early January 2001, WAPC convened to first review the results of the Delphi Process, Time Study, and Quality Assessment and then to develop a set of final workload standards. To be sure, the focus of the meeting was on arriving at a set of 23 workload standards – one for each case type – to recommend to the California Judicial Council. The implicit assumption was that the Time Study workload standards were the default or baseline standards. If the group decides that an adjustment is necessary, the logical question is how much of an adjustment. As noted in Chapter 4, each workload standard is a composite indicator that incorporates a wide range of judicial activity over an extended period of time. As a consequence of having collected event data during the time study, WAPC has at its disposal information about the occurrence of specific types of events as well as the average amount of time such events take.

The committee was divided into three groups – Family, Civil, Criminal – and was given the task of evaluating the Time Study workload standards. Their charge was to determine if the Time Study workload standards made sense and if they allowed the judges to do a reasonable job with the typical case. Each group was given an expanded version of Exhibits 4-13, 4-14, 4-15. The expansion was to include a row with the agreed upon judge year of 215 days.

The evaluation/adjustment process was structured so that the committee was able to make adjustments to specific components of a workload standard (for specific reasons) – rather than simply adjust the

bottom line. In evaluating each workload standard, WAPC members were able to examine the following eight components of a workload standard:

- a) Occurrence rate of Pre-trial
- b) Occurrence rate of Trial
- c) Occurrence rate of Post-Trial
- d) Time (in minutes) of Pre-trial activity for the typical case
- e) Time (in minutes) of Trial activities for the typical case
- f) Time (in minutes) of Post-Trial activities for the typical case
- g) Judge day of six hours of case-related work
- h) Judge year of 215 days (average of 18 days per month in which judge worked the typical judge day)

The committee was able to adjust any and all of the above factors in their effort to obtain a plausible and reasonable workload standard.

To get an idea of the range of options open to the committee consider the example of juvenile dependency in Exhibit 6-1. The first column of the table includes all of the adjustable factors of a workload standard. The second column contains the Time Study information for the Juvenile Dependency workload standard along with their implications – the workload standard, the number of filings that a judge could be expected to handle, and the implications for judge need per 1,000 filings.

**Exhibit 6-1: Example of Adjustment Process--Juvenile Dependency**

<b>Adjustable Factors</b>	<b>Time Study Standard</b>	<b>Scenarios</b>			
		<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>
<b>Occurrence rate</b>					
Pre-trial	100%	100%	100%	100%	100%
Trial	23%	<b>25%</b>	25%	25%	25%
Post	70%	<b>100%</b>	100%	100%	100%
<b>Time in minutes</b>					
Pre-trial	68	68	68	<b>90</b>	90
Trial	87	87	87	<b>120</b>	120
Post	69	69	<b>180</b>	180	180
<b>Judge Day (case-related hours)</b>					
	6.0	6.0	6.0	6.0	<b>5.5</b>
<b>Judge Year</b>					
	215.0	215	215	215	<b>210</b>
<b>Workload Standard (minutes)</b>					
	137	159	270	300	300
<b>Filings/Judge each year</b>					
	567	488	287	258	231
<b>Implied Judge Need 1000 Filings</b>					
	2	2	3	4	4

The third column (scenario (a)) contains two hypothetical changes to the occurrence rate of specific events—a small increase in the number of juveniles who have a trial (i.e., hearing) and a substantial increase in the number of juveniles requiring post-judgment attention from the judge. All else remains constant. The implications are that the workload standard increases from 137 to 159 while the number of cases a judge could handle in a typical year falls from 567 to 488. The number of judges required to handle 1,000 juvenile dependency filings remains constant at 2.

The fourth column (scenario (b)) incorporates the changes from the previous column and makes one change to the total post-judgment time required in juvenile dependency cases – from 69 minutes to 180 minutes – to

accommodate three required six-month hearings. The implications are that the workload standard increases from 159 to 270 while the number of cases a judge could handle in a typical year falls from 488 to 287. The addition of this change to those in scenario (a) is to increase judge need – for 1,000 juvenile dependency filings – from 2 to 3.

The fifth column incorporates the changes from the previous two columns and changes the time of pre-trial – from 68 to 90 minutes – and of Trial/Hearing – from 87 to 120 minutes. The implications are that the workload standard increases from 270 to 300 while the number of cases a judge could handle in a typical year falls from 287 to 258. The addition of this change to those in scenarios (a) and (b) is to increase judge need – for 1,000 juvenile dependency filings – from 3 to 4.

The final column incorporates the changes from the previous three columns and changes the case-related hours – from 6 to 5.5 per day – and the judge year – from 215 to 210 – to accommodate additional continuing education. As can be seen, these changes have no effect on the workload standard. They do, however, decrease the number of filings per judge. The number of required judges remains steady at 4. This latter scenario suggests that some accommodations can be made in judge day and year to facilitate judicial education in this complex aspect of the justice system.

With this introduction and set of tools, the three groups met to evaluate and, if necessary, adjust the time study workload standards for the case types that fall into their groups. The groups were given Exhibits 4-13, 4-14, 4-15 along with Exhibit 4-10 that contains the comparison of the time

study and Delphi workload standards. We turn now to a review of the final results from each of the three groups.

### **Family Case Types**

The results from the Family group are presented in Exhibit 6-2. As can be seen, this subgroup made changes to four of the six workload standards under their review. A short discussion of their changes follows.

## Exhibit 6-2: Workload Standard Adjustment -- Family Case Types

<u>Event</u>	<u>Probate</u>	<u>Family</u>	<u>Juvenile Dependency</u>	<u>Juvenile Delinquency</u>	<u>Mental Health</u>	<u>Other Civil</u>
<b>Occurrence rate</b>						
Pre-trial	100%	100%	100%	100%	100%	100%
Trial	8%	5%	23%	11%	17%	5%
Post	5%	25%	70%	10%	10%	<u>25%</u>
<b>Time in minutes</b>						
Pre-trial	41	54	<u>85</u>	<u>45</u>	<u>41</u>	<u>5</u>
Trial	110	477	<u>93</u>	63	<u>1,000</u>	<u>31</u>
Post	8	51	<u>88</u>	117	<u>50</u>	<u>14</u>
<hr/>						
<b>Judge Day (case-related hours)</b>	6.0	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>	215	215	215	215	215	215
<b>Workload Standard</b>	<b>50</b>	<b>90</b>	<b><u>168</u></b>	<b><u>63</u></b>	<b><u>216</u></b>	<b><u>10</u></b>
<b>Cases/Judge each year</b>	1,549	857	461	1,222	358	7,701

As noted earlier, four of the six Family case type workload standards were altered during the adjustment process. In juvenile dependency, the committee made changes in all three of the event times with the net result of raising the standard from 137 to 168 minutes. The committee made one change in the event time for Juvenile Delinquency—setting the average pre-trial time to 45 minutes. The net result is an increase from 53 to 63 in the Delinquency workload standard. Changes were also made to all three of the Mental Health event times with a net result of changing the standard from 304 to 216. Finally, the committee changed the occurrence rate for post-trial activities as well as the three event times for Other Civil. The net result is that the workload standard moves from 7 to 10 minutes.

To ascertain the net impact of these changes, we have calculated the change in implied judge need using the 1999/2000 filing data recently made available to us by the California AOC. The changes for all case types are presented in Exhibit 6-3. As can be seen, the changes in the Family set of cases types is to add 32 judge years to the statewide total moving from 410 to 442 – a 7.8% increase in workload.

**Exhibit 6-3: Implied Judge Need—A Comparison of Time Study and Adjusted Workload Standards**

Case Type			Implied Judge Need (1999/2000 data)		
	Time Study	Adjusted	Time Study	Adjusted	Change
Probate	50	50	33	33	0
Family (divorce and dissolution)	90	90	181	181	0
Juv. Dependency	137	168	72	88	16
Juv. Delinquency	53	63	64	76	12
Mental Health	304	216	30	21	-9
Other Civil Petition	7	10	30	42	13
			410	442	32
Motor Vehicle Torts	66	69	39	41	2
Oth. Personal Injury Torts	375	390	123	128	5
Other Civil Complaints	246	254	412	425	13
Appeals from Lower Courts	74	75	14	14	0
Criminal Habeas Corpus	11	22	1	2	1
Other Civil (<\$25k)	15	15	53	53	0
Unlawful Detainer	10	16	26	41	15
Small Claims	11	15	46	62	17
			712	765	53
Capital Murder					
Homicide	1,522	2,250			
Felony Against Person	292	292			
Property Crimes	104	104			
Drug	116	120			
Other Felony	243	216			
Felony	186	191	574	589	15
Class A & C Misdemeanor	39	39	299	299	0
Class B & D Misdemeanor	4	4	32	32	0
Infractions	1.58	1.58	110	110	0
			441	441	0
Total			2,137	2,238	101

## **Civil Case Types**

On the basis of their deliberations, the committee evaluating the Civil Case Types made changes that led to the adjustment of seven of the eight workload standards. The logic underlying these adjustments is presented in Exhibit 6-4. In four of the case types – Motor Vehicle, Other Personal Injury Tort, Other Civil Complaint, and Lower Court Appeals – the only change was to the Trial time. These changes led to marginal increases in the resulting workload standards. The committee made changes to all three of the occurrence times in Habeas Corpus leading to a doubling of the Time Study standard from 11 to 22. In Unlawful Detainer and Small Claims, the committee made changes to the trial rate; these changes led to small increases in the workload standards. The judge need consequences of these changes lead to increasing the need from 712 to 756 or a net increase of 53 judge years – an increase of 6.2%.

**Exhibit 6-4: Workload Standard Adjustment—Civil Case Types**

<b>Event</b>	<b><u>Motor Vehicle</u></b>	<b><u>Other Personal Injury</u></b>	<b><u>Other Civil Complaint</u></b>	<b><u>Lower Court Appeals</u></b>	<b><u>Habeas Corpus</u></b>	<b><u>Civil Under \$25K</u></b>	<b><u>Unlawful Detainer</u></b>	<b><u>Small Claims</u></b>
<b>Occurrence rate</b>								
Pre-trial	100%	100%	100%	100%	100%	100%	100%	100%
Trial	3%	4%	5%	15%	26%	7%	<b><u>30%</u></b>	<b><u>40%</u></b>
Post	5%	5%	5%	20%	20%	5%	10%	20%
<b>Time in minutes</b>								
Pre-trial	40	221	161	63	<b><u>10</u></b>	9	3	<b><u>4</u></b>
Trial	<b><u>1,130</u></b>	<b><u>4,132</u></b>	<b><u>1,740</u></b>	<b><u>40</u></b>	<b><u>30</u></b>	78	39	26
Post	14	83	126	30	<b><u>19</u></b>	8	15	2
<hr/>								
<b>Judge Day (case-related hours)</b>	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>	215	215	215	215	215	215	215	215
<b>Workload Standard</b>	<b><u>69</u></b>	<b><u>390</u></b>	<b><u>254</u></b>	<b><u>75</u></b>	<b><u>22</u></b>	<b><u>15</u></b>	<b><u>16</u></b>	<b><u>15</u></b>
<b>Cases/Judge each year</b>	1,123	198	304	1,033	3,583	5,209	4,778	5,230

## **Criminal Case Types**

The Criminal committee reviewed the eight workload standards under their purview and made adjustments to three—Homicide, Drug, and Other Felony. The results are presented in Exhibit 6-5. In Homicide the committee increased the trial rate and the length of time for the average trial. This leads to an increase in the standard from 1,522 to 2,250. In Drug, the committee made changes to the trial and post-trial rates as well as the amount of time required for post-judgment attention. The result is an increase in the standard from 116 to 120. Finally, the committee made a change in the length of time for a trial in the Felony Against Person case type; the result drops the standard from 243 to 216. The judge need consequences of these changes lead to increasing the need from 574 to 589 or a net increase of 15 judge years – an increase of 2.6%.

**Exhibit 6-5: Workload Standard Adjustment—Criminal Case Types**

<u>Event</u>	<u>Homicide</u>	<u>Felony Against Person</u>	<u>Property</u>	<u>Drug</u>	<u>Other Felony</u>	<u>Class A &amp; C</u>	<u>Class B &amp; D</u>	<u>Infractions</u>
<b>Occurrence rate</b>								
Pre-trial	100%	100%	100%	100%	100%	100%	100%	100%
Trial	<u>50%</u>	6%	3%	<u>2%</u>	3%	3%	3%	6%
Post	20%	20%	20%	<u>50%</u>	20%	10%	10%	10%
<b>Time in minutes</b>								
Pre-trial	713	159	74	82	153	18	3	1.04
Trial	<u>3,000</u>	1,983	684	902	<u>1,440</u>	465	25	8.33
Post	186	70	45	<u>40</u>	97	74	3	0.52
<hr/>								
<b>Judge Day (case-related hours)</b>	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>	215	215	215	215	215	215	215	215
<b>Workload Standard</b>	<u>2,250</u>	<b>292</b>	<b>104</b>	<u>120</u>	<u>216</u>	<b>39</b>	<b>4</b>	<b>1.58</b>
<b>Cases/Judge each year</b>	34	265	748	645	358	1,967	19,111	49,138

### **Another Look at Judge Need**

Having evaluated and adjusted – where necessary – the twenty-three workload standards, we then applied them to the four Phase I courts on a case type – by – case type basis. The results are shown in Exhibit 6-6. As can be seen, the Phase I workload standards provide a solid fit for the four courts who participated in the Time Study. All four courts show evidence of need based upon these standards.

## Exhibit 6-6: Judge Need Implications in Four Phase I Courts

<u>Case Type</u>	<b>Phase I Adjusted Standards</b>	<b>Estimated Judge Need (using 1999/2000 Filings)</b>			
		<u>Butte</u>	<u>LA Central</u>	<u>Sacramento</u>	<u>San Mateo</u>
Probate	<b>50</b>	0.4	3.7	1.1	0.8
Family (divorce and dissolution)	<b>90</b>	1.4	20.2	8.7	3.6
Juv. Dependency	<b>168</b>	0.9	36.0	4.4	1.2
Juv. Delinquency	<b>63</b>	0.9	12.5	3.3	3.7
Mental Health	<b>216</b>	0.1	8.7	0.3	0.4
Other Civil Petition	<b>10</b>	0.3	10.6	1.5	0.4
<b>Sub-Total, Family Case Types</b>		<b>4.0</b>	<b>91.7</b>	<b>19.2</b>	<b>10.1</b>
Motor Vehicle Torts	<b>69</b>	0.2	2.4	2.9	0.8
Oth. Personal Injury Torts	<b>390</b>	0.6	12.4	7.1	1.9
Other Civil Complaints	<b>254</b>	1.6	53.5	11.0	7.6
Appeals from Lower Courts	<b>75</b>	0.1	1.3	0.5	0.1
Criminal Habeas Corpus	<b>22</b>	0.0	0.7	0.1	0.0
Other Civil (<\$25k)	<b>15</b>	0.3	4.5	4.2	0.4
Unlawful Detainer	<b>16</b>	0.2	5.8	0.0	0.2
Small Claims	<b>15</b>	0.3	4.3	2.2	0.8
<b>Sub-Total, Civil Case Types</b>		<b>3.3</b>	<b>85.0</b>	<b>28.1</b>	<b>11.8</b>
Felony	<b>191</b>	3.9	39.6	27.6	7.3
Class A & C Misdemeanor	<b>39</b>	2.5	15.3	4.6	5.1
Class B & D Misdemeanor	<b>4</b>	0.1	4.0	0.7	0.2
Infractions	<b>1.58</b>	0.5	7.3	1.3	2.4
<b>Sub-Total, Criminal Case Types</b>		<b>6.9</b>	<b>66.2</b>	<b>34.2</b>	<b>15.0</b>
<b>Total Implied Judge Need</b>		<b>14.3</b>	<b>242.8</b>	<b>81.6</b>	<b>36.9</b>
<b>1999/2000 JPE</b>		<b>12.9</b>	<b>230.0</b>	<b>80.0</b>	<b>36.0</b>

### Statewide Judge Need

Exhibit 6-7 applies the Phase I workload standards to all of California's courts. The bottom line is that the workload standards imply a need for 2,238 judges while the current JPE is 1996. To meet the need would require a 12% increase in the number of judgeships. The increase is likely to be somewhat higher since it is unlikely that judges will be taken away from a court. Looking only at positive need we find a need of 298 as opposed to the 242 that results from adding the pluses and minuses.

Exhibit 6-7 arrays the court in descending order of need – with those courts showing the largest implied need at the top. As can be seen, there are several counties – Riverside, San Bernardino, Fresno, San Joaquin, Sonoma, Sacramento, and Contra Costa – that appear to need at least a 20% increase in judges. Before drawing any conclusions about judge need, however, it is imperative that one assess the quality of the data being used to generate these predictions.

## Exhibit 6-7: Implied Judge Need (Phase I Standards)

County/Court	Actual JPE 1999/2000	Final Phase I Standards		
		Implied Judges	Implied Minus Actual	Implied % Change
Riverside	70.8	138.4	67.6	95%
San Bernardino	79.7	119.1	39.4	49%
Fresno	45.0	81.1	36.1	80%
San Joaquin	30.4	57.2	26.8	88%
Sonoma	20.3	36.7	16.4	81%
Sacramento	67.8	81.5	13.7	20%
Contra Costa	47.2	58.9	11.7	25%
Orange	153.2	163.4	10.2	7%
Stanislaus	21.9	31.0	9.1	42%
Alameda	91.5	100.1	8.6	9%
Madera	7.1	15.0	7.9	111%
Monterey	18.6	26.2	7.6	41%
Merced	10.2	16.1	5.9	58%
Tulare	21.1	25.6	4.5	21%
Kern	41.8	46.3	4.5	11%
Solano	22.3	26.7	4.4	20%
Humboldt	8.6	11.7	3.1	36%
San Luis Obispo	15.0	18.1	3.1	20%
Shasta	12.4	15.2	2.8	22%
Santa Clara	90.7	93.4	2.7	3%
Placer	13.6	15.9	2.3	17%
Santa Cruz	13.5	15.5	2.0	15%
Yolo	10.7	12.3	1.6	15%
Butte	12.9	14.3	1.4	11%
Sutter	5.5	6.8	1.3	23%
San Diego	159.7	160.8	1.1	1%
San Benito	2.0	2.9	0.9	46%
San Mateo	36.0	36.8	0.8	2%
Del Norte	2.5	3.2	0.7	29%
Yuba	5.2	5.6	0.4	8%
Tehama	4.6	4.8	0.2	5%
Kings	8.5	8.7	0.2	2%
Lake	4.8	4.7	(0.1)	-3%
Napa	8.7	8.5	(0.2)	-2%
Colusa	2.3	1.9	(0.4)	-19%
Amador	3.2	2.7	(0.5)	-14%
Modoc	2.2	1.5	(0.7)	-32%
Lassen	3.1	2.4	(0.7)	-23%
Santa Barbara	24.9	24.0	(0.9)	-4%
Tuolumne	4.3	3.3	(1.0)	-22%
Calaveras	3.0	1.9	(1.1)	-35%
Marin	16.0	14.9	(1.1)	-7%
Ventura	37.2	36.1	(1.1)	-3%
Mariposa	2.1	1.0	(1.1)	-52%
Mono	2.3	1.2	(1.1)	-48%
Plumas	2.8	1.7	(1.1)	-40%
Alpine	1.8	0.4	(1.4)	-80%
El Dorado	9.2	7.7	(1.5)	-16%
Inyo	3.5	1.8	(1.7)	-49%
Siskiyou	5.6	3.9	(1.7)	-31%
Nevada	7.4	5.6	(1.8)	-24%
Sierra	2.2	0.4	(1.8)	-82%
Glenn	2.3	0.3	(2.0)	-85%
Trinity	2.3	0.0	(2.3)	-100%
Imperial	12.7	9.6	(3.1)	-25%
Mendocino	9.0	3.8	(5.2)	-58%
San Francisco	68.1	60.1	(8.0)	-12%
Los Angeles	604.9	589.7	(15.2)	-3%
<b>Total</b>	<b>1996.2</b>	<b>2238.1</b>	<b>241.9</b>	<b>12%</b>

## **Phase II**

In May 2001, the California AOC convened a group of representatives from seven additional courts to evaluate and – if possible – validate the Phase I workload standards. The seven Phase II courts are Del Norte, Merced, Orange, San Bernardino, Santa Clara, Sutter, and Ventura. We engaged the Phase II participants in a shortened Delphi process in order to acquaint them with the case types, event types, and workload standards. After two rounds, we gave them the Phase I workload standards – in the form of Exhibits 6-2, 6-4, and 6-5. As can be seen, the members of the Phase II committees made changes – most of them minor – to each of the twenty-three workload standards.

### **Family Case Types**

As noted earlier, all of the six Family case type workload standards were altered during the Phase II adjustment process. What follows is a summary of the changes – shown in Exhibit 6-8 – by case type:

- Probate – Post-Trial occurrence rate, Post-Trial time
- Family – Trial time
- Juvenile Dependency – Post-Trial occurrence rate, Trial time
- Juvenile Delinquency – Trial occurrence rate, Trial time
- Mental Health – Pre-Trial and Trial times
- Other Civil – Trial time

**Exhibit 6-8: Phase II Workload Standard Adjustment -- Family Case Types**

<u>Event</u>	<u>Probate</u>	<u>Family</u>	<u>Juvenile Dependency</u>	<u>Juvenile Delinquency</u>	<u>Mental Health</u>	<u>Other Civil</u>
<b>Occurrence rate</b>						
Pre-trial	100%	100%	100%	100%	100%	100%
Trial	8%	5%	23%	<u>8%</u>	17%	5%
Post	<u>7%</u>	25%	<u>95%</u>	10%	10%	25%
<b>Time in minutes</b>						
Pre-trial	41	54	85	45	<u>43</u>	5
Trial	110	<u>360</u>	<u>220</u>	<u>120</u>	<u>187</u>	<u>40</u>
Post	<u>30</u>	51	88	117	50	14
<hr/>						
<b>Judge Day (case-related hours)</b>	6.0	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>	215	215	215	215	215	215
<b>Workload Standard</b>	<u>52</u>	<u>84</u>	<u>219</u>	<u>66</u>	<u>80</u>	<u>10.5</u>
<b>Cases/Judge each year</b>	1,498	916	353	1,167	970	7,371

## **Civil Case Types**

Exhibit 6-9 provides a detailed overview of the changes made by the Phase II Civil committee. What follows is a summary of the changes made to the components of the eight Civil case types:

- Motor Vehicle – Pre-Trial time
- Other Personal Injury – Pre-trial and Trial times
- Other Civil Complaints – Pre-trial, Trial, and Post-trial times
- Lower Court Appeals – Pre-trial and Trial times
- Habeas Corpus – Pre-trial time
- Civil under \$25,000 – Pre-trial time
- Unlawful Detainer – Pre-trial, Trial, and Post-trial times
- Small Claims – Pre-trial

**Exhibit 6-9: Phase II Workload Standard Adjustment -- Civil Case Types**

<b>Event</b>	<b><u>Motor Vehicle</u></b>	<b><u>Other Personal Injury</u></b>	<b><u>Other Civil Complaint</u></b>	<b><u>Lower Court Appeals</u></b>	<b><u>Habeas Corpus</u></b>	<b><u>Civil Under \$25K</u></b>	<b><u>Unlawful Detainer</u></b>	<b><u>Small Claims</u></b>
<b>Occurrence rate</b>								
Pre-trial	100%	100%	100%	100%	100%	100%	100%	100%
Trial	3%	4%	5%	15%	26%	7%	30%	40%
Post	5%	5%	10%	20%	20%	5%	10%	20%
<b>Time in minutes</b>								
Pre-trial	<u>90</u>	<u>140</u>	<u>220</u>	<u>165</u>	<u>39</u>	<u>30</u>	<u>2</u>	<u>6</u>
Trial	1,130	<u>2,260</u>	<u>2,260</u>	<u>90</u>	30	78	<u>15</u>	26
Post	14	83	<u>90</u>	30	19	8	<u>10</u>	2
<hr/>								
Judge Day (case-related hours)	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Judge Year	215	215	215	215	215	215	215	215
Workload Standard	<u>119</u>	<u>235</u>	<u>342</u>	<u>185</u>	<u>51</u>	<u>36</u>	<u>8</u>	<u>17</u>
<b>Cases/Judge each year</b>	651	330	226	420	1,530	2,158	10,320	4,607

## **Criminal Case Types**

Exhibit 6-10 provides a detailed overview of the changes made by the Phase II Criminal committee. What follows is a summary of the changes made to the components of the nine Criminal case types:

- Capital Murder – Pre-trial, Trial, and Post-trial times
- Homicide – Pre-trial and Trial times
- Felony Against Person – Pre-trial and Trial times
- Property – Pre-trial and Trial times
- Drug – Pre-trial time
- Other Felony – Pre-trial and Trial times
- Class A & C Misdemeanors – Pre-trial, Trial, and Post-trial times
- Class B & D Misdemeanors – Pre-trial and Trial occurrence rates, Trial time
- Infractions – Pre-trial, Trial, and Post-trial occurrence rates, Trial time.

**Exhibit 6-10: Phase II Workload Standard Adjustment -- Criminal Case Types**

<u>Event</u>	<u>Capital Murder</u>	<u>Homicide</u>	<u>Felony Against Person</u>	<u>Property</u>	<u>Drug</u>	<u>Other Felony</u>	<u>Class A &amp; C</u>	<u>Class B &amp; D</u>	<u>Infractions</u>
<b>Occurrence rate</b>									
Pre-trial	100%	100%	100%	100%	100%	100%	100%	81%	27%
Trial	64%	50%	6%	3%	2%	3%	3%	0.7%	4%
Post	50%	20%	20%	20%	50%	20%	10%	10%	0%
<b>Time in minutes</b>									
Pre-trial	<u>3,479</u>	<u>616</u>	<u>141</u>	<u>66</u>	<u>87</u>	<u>100</u>	<u>10</u>	3	1.04
Trial	<u>6,000</u>	<u>1,800</u>	<u>1,500</u>	<u>600</u>	902	<u>1,200</u>	<u>720</u>	<u>360</u>	<u>15.00</u>
Post	<u>1,000</u>	186	70	45	40	<u>60</u>	<u>30</u>	3	0.52
<hr/>									
<b>Judge Day (case-related hours)</b>	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>		215	215	215	215	215	215	215	215
<b>Workload Standard</b>	<u>7,819</u>	<u>1,553</u>	<u>246</u>	<u>93</u>	<u>125</u>	<u>149</u>	<u>35</u>	<u>5</u>	<u>0.82</u>
<b>Cases/Judge each year</b>	10	50	315	832	619	521	2,237	14,709	94,418

## Comparing Phase I and Phase II

Exhibit 6-11 presents a side-by-side comparison of the Phase I and Phase II workload standards. The case types with differences in excess of 30% in either direction are as follows:

- Juvenile Dependency (+30%)
- Mental Health (-63%)
- Motor Vehicle Tort (+72%)
- Other Personal Injury Tort (-40%)
- Other Civil Complaints (+35%)
- Appeals from Lower Courts (+147%)
- Criminal Habeas Corpus (+132%)
- Civil Under \$25,000 (+140%)
- Unlawful Detainers (-50%)
- Homicide (-31%)
- Other Felony (-31%)
- Infractions (-48%)

While there are a number of differences between the two groups, it is noteworthy that sometimes the Phase I group is higher and sometimes it is lower. In fact, half of the differences are positive and half are negative.

**Exhibit 6-11: Comparing Phase I and Phase II  
Workload Standards**

<b>Case Type</b>	<b>Phase I</b>	<b>Phase II</b>
Probate	50	52
Family	90	84
Juvenile Dependency	168	219
Juvenile Delinquency	63	66
Mental Health	216	80
Other Civil Petition	10	10.5
<b>Family Overall Average</b>	<b>51</b>	<b>52</b>
Motor Vehicle Tort	69	119
Other Personal Injury Tort	390	235
Other Civil Complaints	254	342
Appeals from Lower Courts	75	185
Criminal Habeas Corpus	22	51
<b>Gen. Jurisdiction Civil Overall Average</b>	<b>214</b>	<b>266</b>
Other Civil (<\$25k)	15	36
Unlawful Detainers	16	8
Small Claims	15	17
<b>Lim. Jurisdiction Civil Overall Average</b>	<b>15</b>	<b>21</b>
Capital Murder		7819
Homicide	2250	1553
Felony Against Person	292	246
Property Crimes	104	93
Drug	120	125
Other Felony	216	149
<b>Gen. Jurisdiction Felony Overall Average</b>	<b>191</b>	<b>171</b>
Class A and Class C Misdemeanors	38	35
Class B and Class D Misdemeanors	4	5
Infractions	1.58	0.82
<b>Lim. Jurisdiction Criminal Overall Average</b>	<b>5</b>	<b>4</b>

**Comparing Judicial Need**

Exhibit 6-12 displays the judicial need implications for all counties in California using both the Phase I and Phase II workload standards. As can be seen, at the aggregate level there are few significant differences between the overall estimated judge need for any of the 58 counties. In the next

section, we use the workload standards to estimate judicial need for each case type in each of the Phase I and Phase II courts.

**Exhibit 6-12: Comparing Judge Need -- Phase I and II**  
(using 1999/2000 data)

<b>County/Court</b>	<b>Phase I</b>	<b>Phase II</b>	<b>Difference</b>
Alameda	100.1	107.4	7.3
Alpine	0.4	0.4	0.0
Amador	2.7	3.0	0.3
Butte	14.3	14.7	0.4
Calaveras	1.9	2.0	0.1
Colusa	1.9	1.7	-0.1
Contra Costa	58.9	64.0	5.1
Del Norte	3.2	3.4	0.2
El Dorado	7.7	7.7	0.0
Fresno	81.1	87.4	6.4
Glenn	0.3	0.3	0.0
Humboldt	11.7	12.9	1.1
Imperial	9.6	9.4	-0.2
Inyo	1.8	1.7	-0.1
Kern	46.3	46.0	-0.2
Kings	8.7	8.7	0.0
Lake	4.7	4.6	0.0
Lassen	2.4	2.3	0.0
Los Angeles	589.7	610.1	20.4
Madera	15.0	16.4	1.5
Marin	14.9	15.8	0.8
Mariposa	1.0	1.0	0.0
Mendocino	3.8	3.7	-0.1
Merced	16.1	15.9	-0.2
Modoc	1.5	1.7	0.2
Mono	1.2	1.1	-0.1
Monterey	26.2	28.0	1.8
Napa	8.5	9.1	0.5
Nevada	5.6	5.6	0.0
Orange	163.4	166.9	3.6
Placer	15.9	16.2	0.3
Plumas	1.7	1.6	0.0
Riverside	138.4	153.6	15.2
Sacramento	81.5	88.9	7.4
San Benito	2.9	2.9	0.0
San Bernardino	119.1	120.2	1.1
San Diego	160.8	164.8	4.0
San Francisco	60.1	61.8	1.7
San Joaquin	57.2	63.8	6.7
San Luis Obispo	18.1	18.0	-0.1
San Mateo	36.8	37.9	1.1
Santa Barbara	24.0	23.7	-0.4
Santa Clara	93.4	95.1	1.7
Santa Cruz	15.5	15.7	0.1
Shasta	15.2	15.1	-0.1
Sierra	0.4	0.4	0.1
Siskiyou	3.9	3.6	-0.3
Solano	26.7	25.8	-0.9
Sonoma	36.7	38.6	2.0
Stanislaus	31.0	31.4	0.3
Sutter	6.8	6.7	0.0
Tehama	4.8	4.7	-0.1
Trinity	0.0	0.0	0.0
Tulare	25.6	26.0	0.3
Tuolumne	3.3	3.3	0.0
Ventura	36.1	36.8	0.7
Yolo	12.3	11.8	-0.5
Yuba	5.6	5.5	-0.1
<b>Total</b>	<b>2238.1</b>	<b>2326.8</b>	<b>88.7</b>

## **Final Resolution**

On July 17, 2001 a subset of WAPC members who had previously participated in the Phase I or Phase II meetings assembled to finalize the workload standards. The members, who included judges and court managers, were divided into three groups relating to family, civil, and criminal case types based on their experience and expertise. Using a Delphi process, the three groups were asked to review the workload standards generated from (1) the time study, (2) the Phase I results, and (3) the Phase II results. The groups were asked to review the three sets of alternative standards and reach consensus on a final set of 'reasonable' workload standards that take into account quality and accommodate resource constraints. Members of the NCSC team and staff from the California AOC facilitated this process. Changes that were made to the workload standards were presented to the WAPC committee as a whole and were accepted as the final standards. These changes are outlined below.

### **Family Cases:**

The family case group used the Phase I standards as a baseline and made several modifications to these preexisting standards. The changes that were made to the Phase I standards can be seen in Exhibit 6-13. For probate cases the higher Phase II standards were accepted for the time of post judgment activity and the post judgment occurrence rate to allow for quality enhancements in this phase of the judicial process. Similarly, the reduction in the amount of trial time in family cases was based on the Phase II standards. For juvenile dependency cases the family group felt that the

time study standard of 84 minutes for a trial was inadequate for ‘this very important case type that deserves more judicial attention.’ As such, the trial time was increased to 240 minutes. Finally, for juvenile delinquency cases and mental health cases the family group felt that these case types were often settled before trial and, as a result, the trial occurrence rate was reduced for both types of cases.

### Exhibit 6-13: Workload Standards—Family

<u>Event</u>	<u>Probate</u>	<u>Family</u>	<u>Juvenile Dependency</u>	<u>Juvenile Delinquency</u>	<u>Mental Health</u>
<b>Occurrence rate</b>					
Pre-trial	100%	100%	100%	100%	100%
Trial	8%	5%	23%	5%	10%
Post	7%	25%	95%	10%	10%
<b>Time in minutes</b>					
Pre-trial	41	54	85	45	43
Trial	110	360	240	63	1,000
Post	30	51	88	117	50
<b>Judge Day (case-related hours)</b>					
	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>					
	215	215	215	215	215
<b>Workload Standard</b>					
	52	84	224	60	148

#### Civil Cases:

All of the changes made to the workload standards relating to civil case types occurred in the amount of time necessary for pre-trial activity. When making these adjustments the civil group primarily relied on the Phase I standards and current practice as reflected in the time study as baselines. In several cases the civil group felt that the Phase II standards were too high in comparison to the time study results. As such, a compromise was made

between the Phase I and Phase II standards to reflect quality adjustments. For example, the time study listed pre-trial activity for motor vehicle cases as 38 minutes. Previous quality adjustments made in Phase I and Phase II increased this time to 40 minutes and 90 minutes respectively. The group felt that 90 minutes was excessive for what are often routine cases with little judge attention, so a final time of 50 minutes was settled on. All of the changes that were made in the civil group to the Phase I adjustments can be seen in Exhibit 6-14. In addition to motor vehicle cases, changes were made to cases pertaining to lower court appeals, habeas corpus, and civil under \$25,000. For lower court appeals and habeas corpus cases, adjustments were made to Phase I standards to accommodate for the time needed by judges for pre-trial activity in courts that do not have research attorneys.

**Exhibit 6-14: Workload Standards—Civil Case Types**

<b>Event</b>	<b>Motor Vehicle</b>	<b>Other Personal Injury</b>	<b>Lower Court Appeals</b>	<b>Habeas Corpus</b>	<b>Civil Under \$25K</b>	<b>Unlawful Detainer</b>	<b>Small Claims</b>
<b>Occurrence rate</b>							
Pre-trial	100%	100%	100%	100%	100%	100%	100%
Trial	3%	4%	15%	26%	7%	30%	40%
Post	5%	5%	20%	20%	5%	10%	20%
<b>Time in minutes</b>							
Pre-trial	50	221	83	25	15	3	4
Trial	1,130	4,132	40	30	78	39	26
Post	14	83	30	19	8	15	2
<b>Judge Day (case-related hours)</b>							
	6.0	6.0	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>							
	215	215	215	215	215	215	215
<b>Workload Standard</b>							
	79	390	95	37	21	16	15

**Criminal Cases:**

Changes to the criminal case standards were made to more accurately reflect current practice and to account for quality (see Exhibit 6-15). For

example, in felony against person cases the Phase I trial time was lowered to the time study standard to reflect current practice. For infractions, the pre-trial time was increased from 1.04 minutes (Phase I) to 2 minutes as a quality adjustment to allow more time for people before the judge to state their reasons for the situation. Additional changes were made to times and occurrence rates for drug cases, class A and C misdemeanors, class B and D misdemeanors, and infractions to reflect quality-of-justice considerations.

**Exhibit 6-15: Workload Standards—Criminal Case Types**

Event	Felony					Class A & C	Class B & D	Infractions
	Homicide	Against Person	Property	Drug	Other Felony			
<b>Occurrence rate</b>								
Pre-trial	100%	100%	100%	100%	100%	100%	81%	27%
Trial	50%	6%	3%	2%	3%	3%	0.50%	4%
Post	20%	20%	20%	50%	20%	10%	10%	0.50%
<b>Time in minutes</b>								
Pre-trial	713	159	74	82	153	18	3	2.00
Trial	3,000	1,829	684	902	1,440	720	360	13.00
Post	186	70	45	76	97	30	3	0.52
<b>Judge Day</b> (case-related hours)								
	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
<b>Judge Year</b>								
	215	215	215	215	215	215	215	215
<b>Workload Standard</b>								
	2,250	284	104	138	216	43	5	1.06

**Impact of Final Adjustments:**

The impact of the final adjustments can be seen in Exhibit 6-16. This exhibit compares current resource levels with the need implied by the final workload standards. The column labeled Time Study (adjusted) represents the NCSC’s best estimate, based on the time study, of how the current complement of California judges is deployed. The column labeled Final shows the WAPC final workload standards and overall judge need based on these final standards. Overall the final adjustment suggests the need for an

additional 254 judges. This represents an increase of 13% from the current JPE and 19% from the AJP. As can be seen, the final WAPC workload standards represent an 8% increase in Family, 24% in Civil, and 11% in Criminal over the time study standards. These results suggest that California requires across-the-board marginal adjustments to provide a reasonable level of service to the people of California.

**Exhibit 6-16: Implications for Statewide Judge Need**

Case Type	1999/2000 Filings	Time Study (Adjusted)		FINAL	
		Workload Standard	Implied Judge Need	Workload Standard	Implied Judge Need
Probate	50,750	47	31	52	34
Family (divorce and dissolution)	156,078	84	170	84	169
Juv. Dependency	40,672	128	67	224	118
Juv. Delinquency	93,649	50	60	60	73
Mental Health	7,671	285	28	148	15
Other Civil Petitioner	327,337	70	296	70	296
<b>Sub-Total, Family Case Types</b>			<b>653</b>		<b>704</b>
Motor Vehicle Torts	45,782	62	37	79	47
Oth. Personal Injury Torts	25,359	351	115	390	128
Other Civil Complaints	129,557	70	117	70	117
Appeals from Lower Courts	14,562	69	13	95	18
Criminal Habeas Corpus	5,509	10	1	37	3
Other Civil (<\$25k)	272,083	14	48	21	74
Unlawful Detainer	198,685	9	24	16	41
Small Claims	320,650	10	39	15	62
<b>Sub-Total, Civil Case Types</b>			<b>394</b>		<b>489</b>
Felony	238,685	174	535	197	608
Class A & C Misdemeanor	609,611	36	286	43	339
Class B & D Misdemeanor	624,053	4	33	5	40
Infractions	5,373,713	1.40	97	1.06	74
<b>Sub-Total, Criminal Case Types</b>			<b>953</b>		<b>1,060</b>
<b>Total</b>	<b>8,534,406</b>		<b>2,000</b>		<b>2,254</b>

The impact of the final adjustments on each of the counties is shown in Exhibit 6-17. For each county the implied judge need based on the final adjustment, the number of actual judicial positions (AJP), the number of judicial position equivalents (JPE), and the percent change in the population from 1990 to 1999 are displayed. The number of AJP's and JPE's are subtracted from the implied judge need to reflect how many judges are needed over the present allocation in each county. The counties with the

greatest need for additional judges are Fresno, Los Angeles, Riverside, Sacramento, San Bernardino, and San Joaquin. All of these counties, with the exception of Los Angeles, have large percentage increases in their populations over the last decade. Los Angeles, although having a small percentage change in population over the last decade (5%), actually had the highest population increase (466,937). Overall, approximately 60% of the 58 counties show a need for additional judges when both need minus AJP and need minus JPE are examined.

Exhibit 6-17: Implications for Statewide Judge Need—County Projections

<u>County/Court</u>	Final Adjustment Implied					<u>% Change in Population 1990-1999</u>
	<u>Judge Need</u>	<u>AJP</u>	<u>JPE</u>	<u>Need - AJP</u>	<u>Need-JPE</u>	
Alameda	88.8	84	91.5	5	-3	8.5
Alpine	0.3	3	1.8	-3	-2	4.3
Amador	2.2	3	3.2	-1	-1	13.7
Butte	15.7	11	12.9	5	3	7.2
Calaveras	2.2	3	3	-1	-1	25.2
Colusa	2.0	3	2.3	-1	0	15.8
Contra Costa	48.7	44	47.2	5	1	16.1
Del Norte	3.3	3	2.5	0	1	12.9
El Dorado	8.3	8	9.2	0	-1	28.1
Fresno	68.9	43	45	26	24	14.3
Glenn	0.4	3	2.3	-3	-2	6.2
Humboldt	9.6	8	8.6	2	1	1.9
Imperial	11.0	12	12.7	-1	-2	32.9
Inyo	1.8	2	3.5	0	-2	-1.8
Kern	51.7	40	41.8	12	10	17.9
Kings	10.4	9	8.5	1	2	21.5
Lake	5.6	5	4.8	1	1	9.4
Lassen	2.7	3	3.1	0	0	19.7
Los Angeles	633.7	578	604.9	56	29	5.3
Madera	12.9	8	7.1	5	6	32.5
Marin	12.9	16	16	-3	-3	2.9
Mariposa	1.1	3	2.1	-2	-1	9.1
Mendocino	3.7	11	9	-7	-5	4.7
Merced	18.5	10	10.2	9	8	12.5
Modoc	1.1	2	2.2	-1	-1	-4.8
Mono	1.1	2	2.3	-1	-1	5.6
Monterey	23.7	20	18.6	4	5	4.5
Napa	7.4	8	8.7	-1	-1	9.2
Nevada	6.0	7	7.4	-1	-1	17.2
Orange	159.9	141	153.2	19	7	14.5
Placer	16.9	12	13.6	5	3	38.6
Plumas	1.9	2	2.8	0	-1	3.2
Riverside	110.6	69	70.8	42	40	30.8
Sacramento	86.6	63	67.8	24	19	11
San Benito	3.2	3	2	0	1	39.7
San Bernardino	135.8	70	79.7	66	56	17.7
San Diego	166.8	151	159.7	16	7	12.9
San Francisco	56.7	63	68.1	-6	-11	3.2
San Joaquin	55.4	28	30.4	27	25	17.2
San Luis Obispo	15.5	14	15	2	1	9.1
San Mateo	33.9	33	36	1	-2	8.1
Santa Barbara	24.9	25	24.9	0	0	5.8
Santa Clara	94.2	89	90.7	5	3	10
Santa Cruz	15.9	14	13.5	2	2	6.7
Shasta	17.2	11	12.4	6	5	11.9
Sierra	0.3	3	2.2	-3	-2	0.5
Siskiyou	4.4	5	5.6	-1	-1	0.1
Solano	27.9	22	22.3	6	6	13.6
Sonoma	30.0	21	20.3	9	10	13.3
Stanislaus	33.2	22	21.9	11	11	17.9
Sutter	7.8	6	5.5	2	2	21.8
Tehama	5.5	5	4.6	1	1	8.8
Trinity	0.0	3	2.3	-3	-2	-1
Tulare	31.7	20	21.1	12	11	14.9
Tuolumne	3.8	5	4.3	-1	0	11
Ventura	38.1	31	37.2	7	1	11.4
Yolo	13.6	11	10.7	3	3	10.2
Yuba	6.5	6	5.2	1	1	2.4
<b>Total</b>	<b>2,254</b>	<b>1,900</b>	<b>1996.2</b>	<b>354</b>	<b>258</b>	

[http://www.census.gov/population/estimates/county/co-99-2/99C2\\_06.txt](http://www.census.gov/population/estimates/county/co-99-2/99C2_06.txt)

## **Chapter 7: Future Considerations**

The workload standards adopted by WAPC represent the initial step in establishing a judicial need assessment system for California. These standards are grounded in current practice (as measured by the time study) and adjusted for quality through a structured Delphi process. The workload standards developed during the course of this study should be accurate for many years. But periodic updating is necessary to ensure that the standards continue to accurately represent judicial workload. Five recommendations are made below that identify a course of action to be taken by the AOC to maintain the integrity of the workload standards through ongoing and structured oversight as well as appropriate case auditing practices.

Over time, the integrity of workload standards are affected by multiple influences, including changes in legislation, court rules, legal practice, technology and administrative factors. Examples of such factors include legislative mandates that increase the number of required hearings (e.g., additional review hearings in dependency cases), the development of specialized courts (e.g., drug courts), and the introduction of more efficient case management practices. In addition, of critical importance to the effective use of workload standards is complete and accurate case filing and disposition data collected in comparable fashion from all 58 California counties. California should develop a procedure to periodically review and update the workload standards and data collection system so as to preserve the validity of the proposed judicial needs assessment process.

The AOC has primary responsibility for maintaining the judicial needs

model and should make sufficient staff resources available to keep up-to-date on factors (such as those discussed above) that may affect the accuracy of the standards. The following two strategies address the periodic review process and resources needed to keep the workload standards valid.

**Recommendation 1:**

The AOC should calculate costs and provide in its budget for the convening of a Working Group charged with assessing the likely impact of new legislation or other contextual factors on the judicial needs assessment system. The annual review also will serve to identify areas in which specific research may be needed to quantify the implications of new laws, policy or social trends on workload standards for specific types of cases.

An annual review of this kind will require AOC research staff commitment to gathering and analyzing relevant data and estimating the likely impact of change within state's justice system. There should be no reason to redo the study or to undertake a complete, statewide sampling of time-study data on an annual basis. Instead, efforts should be made to identify only those case types for which time data may have changed significantly from the initial study results. Relatively small-scale samples then can be taken to assess whether any adjustments to selected workload standards are warranted.

However, over time, there will be sufficient changes in legislation, case processing, court structure, and/or jurisdiction to justify a complete study.

**Recommendation 2:**

The AOC should plan to conduct a systematic update of the workload standards approximately every five years, depending on the judgment of the Working Group. Funding for this should be part of the regular legislative agenda related to the process of assessing the need for new judgeships.

Integrity of the workload standards depends also on maintaining the

quality of record keeping and statistical reporting. In simplest terms, the calculation of workload standards requires knowing both how much time typical cases take and how many cases of each type there are. Specifically, accurate calculation of judicial workload requires knowing 1) how many cases of each type are filed; 2) the manner of disposition of each case (e.g., was the case disposed after a trial, or was the case dismissed or settled?); and, finally, 3) how many cases involved post-judgment activity. If the records of case filings and manner of disposition include significant variations in event classification from county to county, or if misclassifications or over- or under-counts regularly occur in some counties, then the estimate of judge need will be unreliable and inaccurate. Regular and thorough auditing and feedback for correcting data collection problems is critical for achieving reliability in reporting across the courts.

**Recommendation 3:**

The AOC should institute a process to conduct county-level audits of the data collected and reported that are the source for California's case statistics. A multi-year audit scheme could be developed and integrated with the planned multi-year rollout of JBSIS. The funding of additional AOC staff is critical to increasing the validity of the data and ensuring the maintenance of the accuracy promised by the judicial workload assessment project.

Post-judgment activity is a substantial part of judges' workload and needs to be captured accurately. Unfortunately, data on post-judgment activity is not currently available. There is general agreement among judges, the AOC, and NCSC staff that accurate identification and reporting of relevant post-judgment activity (activity that has workload significance for judges) requires a degree of experience and judgment that the majority of record-

processing clerks do not have. This may require additional clerk training.

**Recommendation 4:**

As the implementation of JBSIS progresses, accurate gathering of post-judgment data should be made a priority. One method would be to assess the feasibility of defining post-judgment litigation in a way that parallels case reporting for “new” case filings. A careful auditing of current practice (Recommendation 3, above) will be central to this inquiry.

**Recommendation 5:**

The AOC should review its data entry training procedures and incorporate the proper processes to capture accurate post-judgment activity. Again, this has staff implications for the AOC and will require a requisite increase in funding.

It is important to realize that the Judicial Needs Assessment system will require additional funding to use and maintain. Reliance on filing and disposition data collected at the county level requires a commitment to case counting audits by the AOC. The additional staffing and expense related to the audit process will not be inexpensive, but is essential to ensure the success of this judicial needs methodology.

These recommendations reflect the need to maintain accurate statistics, provide for a process to validate those statistics, and recognize that resources are required to maintain a valid judicial need process for the State of California.