

# Special Assessment of the Need for New Judgeships in Family and Juvenile Law

---

REPORT TO THE LEGISLATURE AS  
REQUIRED BY GOVERNMENT CODE  
SECTION 69614



ADMINISTRATIVE OFFICE  
OF THE COURTS





# Special Assessment of the Need for New Judgeships in Family and Juvenile Law Assignments

---

Report to the Legislature as required by Government Code section 69614

December 2011



JUDICIAL COUNCIL  
OF CALIFORNIA

---

ADMINISTRATIVE OFFICE  
OF THE COURTS

This report is also available on the California Courts Web site:

<http://www.courts.ca.gov/7466.htm>

For additional copies or more information about this report, please call the Center for Families, Children & the Courts at 415-865-7739, or write to:

Judicial Council of California  
Administrative Office of the Courts  
Center for Families, Children & the Courts  
455 Golden Gate Avenue  
San Francisco, California 94102-3688  
cfcc@jud.ca.gov  
www.courts.ca.gov

*Printed on recycled and recyclable paper.*

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

**Hon. Tani Cantil-Sakauye**  
*Chief Justice of California and  
Chair of the Judicial Council*

**Ronald G. Overholt**  
*Interim Administrative Director of the Courts*

**Christine Patton**  
*Interim Chief Deputy Director*

**CENTER FOR FAMILIES, CHILDREN & THE COURTS**

**Diane Nunn**  
*Director*

**Don Will**  
*Manager*

**Deana Piazza**  
*Primary Author of Report*



## Judicial Council Members

**Hon. Tani Cantil-Sakauye**  
Chief Justice of California and  
Chair of the Judicial Council

**Hon. Teri L. Jackson**  
Judge of the Superior Court of California,  
County of San Francisco

**Hon. Judith Ashmann-Gerst**  
Associate Justice of the Court of Appeal  
Second Appellate District, Division Two

**Hon. Ira R. Kaufman**  
Assistant Presiding Judge of the  
Superior Court of California,  
County of Plumas

**Hon. Stephen H. Baker**  
Judge of the Superior Court of California,  
County of Shasta

**Ms. Miriam Aroni Krinsky**  
UCLA School of Public Affairs  
(Lecturer)

**Hon. Marvin R. Baxter**  
Associate Justice of the Supreme Court

**Ms. Edith R. Matthai**  
Attorney at Law

**Ms. Angela J. Davis**  
Assistant United States Attorney

**Hon. Douglas P. Miller**  
Associate Justice of the Court of Appeal  
Fourth Appellate District, Division Two

**Hon. Noreen Evans**  
Member of the California State Senate

**Hon. Mary Ann O'Malley**  
Judge of the Superior Court of California,  
County of Contra Costa

**Hon. Mike Feuer**  
Member of the California State Assembly

**Hon. Burt Pines**  
Judge of the Superior Court of California,  
County of Los Angeles

**Hon. James E. Herman**  
Judge of the Superior Court of California,  
County of Santa Barbara

**Mr. Mark P. Robinson, Jr.**  
Attorney at Law

**Hon. Harry E. Hull, Jr.**  
Associate Justice of the Court of Appeal  
Third Appellate District

## **Judicial Council Members**

**Hon. Kenneth K. So**

Judge of the Superior Court of California,  
County of San Diego

**Hon. Robert James Moss**

Judge of the Superior Court of California,  
County of Orange

**Hon. Sharon J. Waters**

Judge of the Superior Court of California,  
County of Riverside

**Mr. Frederick K. Ohlrich**

Clerk of the California Supreme Court

**Hon. David S. Wesley**

Assistant Presiding Judge of the  
Superior Court of California,  
County of Los Angeles

**Hon. David Rosenberg**

Presiding Judge of the  
Superior Court of California,  
County of Yolo

**Hon. Erica R. Yew**

Judge of the Superior Court of California,  
County of Santa Clara

**Hon. David M. Rubin**

Judge of the Superior Court of California,  
County of San Diego

**Ms. Kim Turner**

Court Executive Officer  
Superior Court of California,  
County of Marin

### **ADVISORY MEMBERS**

**Hon. Sue Alexander**

Commissioner of the  
Superior Court of California,  
County of Alameda

**Mr. David H. Yamasaki**

Court Executive Officer  
Superior Court of California,  
County of Santa Clara

**Mr. Alan Carlson**

Chief Executive Officer  
Superior Court of California,  
County of Orange

### **ADMINISTRATIVE OFFICE OF THE COURTS**

**Hon. David F. De Alba**

Judge of the Superior Court of California,  
County of Sacramento

**Mr. Ronald G. Overholt**

Interim Administrative Director of the Courts  
and Secretary of the Judicial Council

**Hon. Terry B. Friedman (Ret.)**

Superior Court of California, County of Los  
Angeles



# **Special Assessment of the Need for New Judgeships in Family and Juvenile Law Assignments**

Report to the Legislature as required by Government Code section 69614

December 13, 2011

## **Introduction**

This report is submitted to the Legislature as required by California Government Code section 69614, as amended by chapter 690 of the Statutes of 2010, which requires the Judicial Council to prepare a special assessment of the need for new judgeships in family and juvenile law assignments for each superior court. The Administrative Office of the Courts (AOC), Center for Families, Children & the Courts (CFCC) partnered with the AOC's Office of Court Research (OCR) and the National Center for State Courts (NCSC) to conduct the judicial needs assessment. In order to make the most efficient use of available resources and ongoing data collection efforts, the work of the special assessment was integrated into the 2011 Judicial Workload Study, with the special assessment becoming one section of that study. The AOC collaborated extensively with judicial officers and court administrators experienced in family and juvenile law to design, implement, and review the results of the study.

The results of the judicial workload assessment reflect the continuing trend of insufficient judicial officers in family and juvenile courts to appropriately handle current caseloads. This is compounded by the fact that, as the assessment found, the time required to process family and juvenile law cases has increased since the last judicial workload study in 2001. Family and juvenile law represent 28 percent of judicial workload, yet only 21 percent of judicial resources are assigned to these case types. The total statewide deficit in judicial positions for family and juvenile law is 262, as detailed further below:

- 239 judicial FTEs are devoted to family law. An additional 58 percent, or 378 FTEs, would be needed to handle the caseload;
- 83 judicial FTEs are devoted to juvenile dependency. An additional 81 percent, or 150 FTEs, would be needed to handle the caseload; and
- 96 judicial FTEs are devoted to juvenile delinquency. An additional 58 percent, or 152 FTEs, would be needed to handle the caseload.

Juvenile and family law judicial officers who participated in the study indicated they needed more time to address critical tasks such as:

- Reviewing files and preparing for hearings;
- Conducting both short and long cause hearings;
- Preparing findings and orders;

- Ensuring that parties feel their concerns have been addressed;
- Conducting settlement conferences; and
- Encouraging all interested parties to participate in the proceedings.

It is important to note that there is an overall shortage in the number of judicial officers needed to handle the current caseload and that courts may need additional resources in case types other than family and juvenile law. The current study found a need for 2,367 judicial officers, as compared to 2,022 authorized judicial positions.<sup>1</sup>

The updated judicial workload assessment underscores the lack of judicial resources for family and juvenile courts that was recognized by the Legislature in enacting Government Code section 69614(c)(2) and the Judicial Council when receiving the findings and recommendations of the Blue Ribbon Commission on Children in Foster Care and the Elkins Family Law Task Force, and other advisory bodies. These entities have all recommended the use of workload studies that take into account the unique nature of cases involving children and families and the courts' evolving role in resolving them, to assist courts in assigning appropriate resources to family and juvenile departments.

### **Overview of This Reporting Requirement and Related Provisions**

As part of the ongoing effort to create new judgeships and in recognition of the importance of having sufficient and appropriate judicial resources in the critical case types of family and juvenile law, Government Code section 69614 was amended in 2010 to require the Judicial Council to provide the Legislature with a special assessment of the need for new judgeships in family and juvenile law assignments for each superior court (Stats. 2010, ch. 690). The special needs assessment was requested in response to concerns that the past judicial officer time studies undercounted the time it takes to properly handle family and juvenile law matters, in turn understating resource needs in these areas.

### **Methodology**

This section details the activities undertaken to assess the need for new judgeships in family and juvenile law. The overall description of the study process and data collected will be described in NCSC's final report on the Judicial Workload Assessment, to be completed in late 2011. As a result of the special focus on family and juvenile law as part of the overall judicial workload assessment, we have established a more accurate measurement of family and juvenile case processing.

### **Time study data collection**

The NCSC used a time diary data collection method, in which judicial officers were asked to record their daily activities using a web-based, password-protected interface. Both case-related and non-case related time was captured over a four-week data collection period. Case-related time was documented by 23 case types and according to different phases of case processing.

---

<sup>1</sup> Includes the 50 judgeships that were authorized by AB 159, but not yet funded.

Non-case-related time included various activities such as administrative duties, education, sick leave, or community outreach.

### **Quality adjustment phase**

Time studies invariably measure actual resource levels. As a result, the initial estimates of time per case derived from a time study must be evaluated carefully to avoid inferring that actual resource levels are appropriate. Many participants in the time study expressed concern that the time study methodology would capture only what they currently do under existing resource constraints without allowing them to indicate where more or less time might be needed for effective case processing.

To overcome this inherent limitation in the time study methodology, a second phase of work is required to adjust the caseweights to ensure that they represent effective and efficient case processing. Consistent with the previous study of judicial workload and with nationally recognized standards for the evaluation of judicial workload, this phase of the study consisted of two quality adjustment steps:

- *Supplemental survey*: Judicial officers in all of the study courts were given the opportunity to indicate particular case-processing steps or functions where they believed additional time would allow them to improve the quality of justice or quality of service to the public. Anonymous responses from 175 judicial officers were received.
- *Delphi sessions*: Time study data and supplemental survey results were used to inform a series of “Delphi” sessions. Judicial officers reviewed the time study results and recommended some adjustments to the caseweights. Forty-four judicial officers from 19 courts participated in the sessions, which were facilitated by NCSC staff and subject matter experts at the AOC.

### **Wider participation by family and juvenile courts**

The number of courts participating in the 2011 judicial workload study was substantially larger than the number participating in the original study in 2001, which also increased the participation of family and juvenile law judges. The previous workload study, in which 337 judicial officers participated, collected data from four counties representing small, medium, and large courts: Butte, Los Angeles, Sacramento, and San Mateo. The present study included 533 judicial officers from a much larger array of courts in 14 counties, again covering small medium, and large courts: Alameda, Butte, El Dorado, Fresno, Glenn, Imperial, Inyo, Lake, Merced, San Benito, San Bernardino, San Francisco, Santa Clara, Siskiyou, and Sonoma. This larger sample also included a more diverse set of courts in terms of the characteristics of the populations they serve and local issues and practices.

The increased focus on family and juvenile proceedings, along with the inclusion of many more courts in the study, allowed for the measurement and examination of a wider range of practices

in family and juvenile cases. In addition to filing, taking evidence, holding hearings, and issuing decisions, family and juvenile courts employ a range of other dispute resolution methodologies such as mediation, arbitration, and collaborative or problem-solving court models. These were more thoroughly accounted for in this data than in the prior study. The inclusion of a broader range of courts also allowed us to examine the use and impact of nontraditional practices on judicial need. These practices include the use of case managers in family law, the flexible assignment of judges and court staff across case types when needed to address fluctuations in workload, the integration of court databases in juvenile cases with justice partners such as the local probation department, effective use of technology to deliver self-help assistance in family cases, and the formation and maintenance of strong working relationships between the court and justice partners in family and juvenile cases.

### **Involvement of family and juvenile law subject matter experts**

In order to ensure accurate measurement of judicial workload in family and juvenile law, subject matter experts with extensive knowledge of current court operations and policy and practice directions were involved in the study, from designing the data collection instruments to participating in the quality adjustment process to reviewing the study results. Subject matter experts included members of task forces, advisory committees, and working groups focused on family and juvenile law issues—the Elkins Family Law Task Force, the Blue Ribbon Commission on Children in Foster Care, the Juvenile Delinquency Court Assessment Working Group, and the Family and Juvenile Law Advisory Committee—as well as judicial officers with extensive family and juvenile law experience and AOC staff who specialize in family and juvenile law issues.

### **Development of time study reporting categories that better reflect the work of family and juvenile court judges**

The majority of cases in court, primarily criminal and general civil, proceed using a traditional, adversarial litigation model in which each side is represented by an attorney and a complaint and answer are followed by preliminary motions, discovery, stipulations, and negotiations leading either to an out-of-court settlement or trial. After judgment, the court's limited role centers on sentencing, collections, or other forms of postjudgment enforcement of its order. While some vestiges of this trajectory remain in family and juvenile cases, it is far from the norm. Most litigants in family law matters, and many interested parties in juvenile cases, are not represented by counsel. Myriad procedures, including collaborative court models, child custody and other forms of mediation and alternative dispute resolution, and various evaluative services are employed to assist parties in reaching an agreement and/or help the court monitor the party's ongoing behavior. In addition, the majority of work on these cases often happens after judgment if children under 18 years of age are the subject of court orders. Consequently, data collection instruments designed to capture the workload of courts following a traditional, adversarial model of litigation are not well-suited to capturing the full range of court activities in family and juvenile law cases.

As a result of the increased focus on family and juvenile law cases in this judicial workload analysis, changes were made in the data collection categories that more accurately reflected the work of family and juvenile law judges. The case types under which family law judicial officers were asked to record their time were expanded from dissolution/separation/nullity and other family law to dissolution/separation/nullity, child support, Domestic Violence Prevention Act, or other family law.

Judicial officers who participated in the time study were asked to record the phase the case was in. Case phase names were expanded to better reflect the nomenclature used in family and juvenile cases, and to account for nontraditional litigation trajectories that do not involve “trials,” “pretrial,” or “posttrial” activities—which were the only categories available in previous studies. The phase of the case was recorded according to one of four choices: (1) pre-disposition; (2) nontrial/uncontested disposition; (3) trial/contested disposition; or (4) post-disposition. Special case characteristics were also recorded if the case was in one of three “alternative” types of court: (1) collaborative court; (2) drug court; or (3) complex litigation. Taken together, these categories more accurately captured the types of work done in family and juvenile law cases.

### **Supplemental survey addressed areas in which family and juvenile judges may need more time**

Following the time study, a survey was sent to judicial officers who participated in the study asking them to identify areas in which they felt they needed more time to perform certain key tasks in cases. Family and juvenile law judicial officers were specifically included in this survey, and tasks in those case types were identified among the list of tasks judicial officer could report as requiring more time than they currently devote to such tasks. Important areas in family and juvenile case processing such as whether judicial officers had enough time to review case files, hear from all interested parties, and/or explain rulings and orders to often unrepresented litigants or minors were included in large part due to the focus on family and juvenile cases.

### **Caseweights**

The average number of minutes per filing a judicial officer spends on case-related work is referred to as the judicial caseweight.<sup>2</sup> The caseweight does not include the minutes spent on a case by other court staff. A common concern or misconception about the judicial needs assessment is that it only counts time spent on the initial filing and therefore underestimates the time needed to process family and juvenile cases, which involve a lot of post-disposition or postjudgment activity. In fact, initial filings are simply an anchor for the model because they’re the only number that can be reliably produced on a consistent, statewide basis. The time study asked judicial officers to record—and the caseweights incorporate—not only time spent on the initial filing, but all subsequent activity associated with that filing, including post-judgment motions.

---

<sup>2</sup> While the caseweights can be thought of as the average number of minutes spent per filing, this does not mean that the judicial officer averages that number of minutes on each case. Many cases will take less time, but some will take much more time because of their complexity, longevity, and the need to have trial-like long cause hearings.

Caseweights for family law (dissolution and other), juvenile dependency, and juvenile delinquency are set out below. Comparisons between the 2001 and 2011 caseweights should be interpreted with caution due to the improvements in methodology, sample size, and filings data used to build the model in the 2011 study.

### **Family law: Dissolution**

For dissolution cases, the minutes per filing as measured strictly through the time study decreased slightly, from 84 to 77 minutes. However, after adding time to account for tasks for which judicial officers reported not having sufficient time (also referred to as a quality adjustment), the minutes per filing increased from 77 to 100 minutes, and the “quality-adjusted” caseweights actually increased 19 percent from 2001 to 2011.

The areas in which judicial officers reported needing more time, which contributed to the upward adjustment in the 2011 caseweights, were largely consistent with the recommendations of the Elkins Family Law Task Force and recent related legislation and included:

- Needing more courtroom time for contested custody matters;
- Allowing time for greater participation of the parties and more explanation of the proceedings;
- Allowing more time for settlement discussions and active case management;
- Adding more time to review files and generally prepare for hearings and trials;
- Adding more time to interview children; and
- Allowing more time to make findings and orders.

The majority (15 minutes) of the 23-minute upward adjustment in the caseweight came in the pre-disposition phase.

### **Family law: Other**

For family law–other (i.e., non-dissolution) cases, the minutes per filing as measured strictly through the time study increased from 7 to 34 minutes. The quality-adjusted caseweight, on the other hand, decreased from 70 to 46 minutes. These changes, however, are due solely to technical issues with the filings data in 2001. At the time of the 2001 study, “other civil petitions” filings (which includes family law–other) were sometimes reported under the “other civil complaints” category, and vice-versa. As a result of the inability to disentangle the two categories, both were assigned the “other civil complaints” quality-adjusted caseweight of 70 and the filings were split evenly between the two case types. This resulted in artificially inflating the time needed to process family law–other cases, which had a quality-adjusted caseweight of only 10. Therefore, while it appears that the family law–other case weight has declined, it is an artifact of issues with the underlying filings data; in fact, the original quality-adjusted case weight shows a substantial increase from 2001 to 2011, from 10 to 46 minutes per filing.

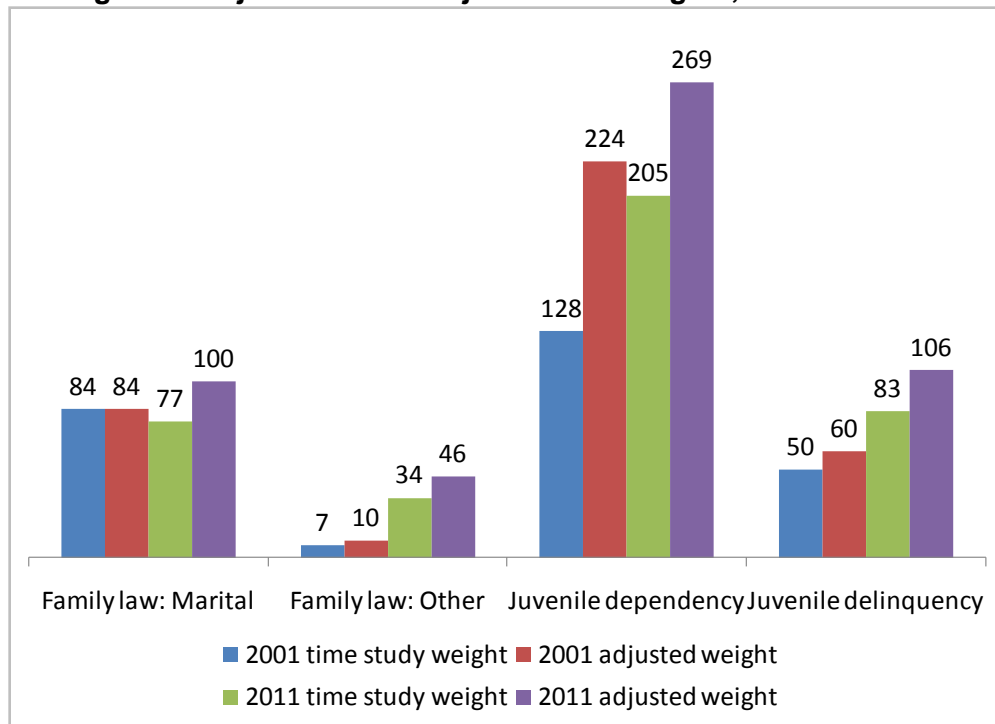
The areas in which judicial officers reported needing more time, which contributed to the upward adjustment in the 2011 caseweights, were, again, largely consistent with the recommendations of the Elkins Family Law Task Force and recent related legislation and included:

- More courtroom time for contested custody matters;
- More time for greater participation of the parties and more explanation of the proceedings;
- More time for settlement discussions and active case management;
- More time to interview children; and
- More time to make findings and orders.

As was the case with family law–dissolution, the majority (9 minutes) of the 12-minute upward adjustment in the caseweight came in the pre-disposition phase. The additional 23 minutes in the family law–dissolution subcategory, combined with the additional 12 minutes in the family law–other subcategory, results in the need for 92 more judgeships statewide hearing family law cases.

Many of the areas in which Delphi group participants reported needing more time, in both dissolution and nondissolution cases, are closely related not only to the recommendations of the Elkins Family Law Task Force, but also to the enactment of Assembly Bill 939 (Assembly Committee on Judiciary; Stats. 2010, ch. 352) and Assembly Bill 1050 (Assembly Committee on Judiciary; Stats. 2010, ch. 187). AB 939 requires courts to receive all live, competent, and relevant testimony on orders to show cause and motions, absent a good cause finding to refuse to hear the testimony. AB 1050 requires courts “to consider . . . the wishes of a child in making an order granting or modifying custody or visitation, if the child is of sufficient age and capacity to form an intelligent preference as to custody or visitation,” and requires courts “to permit a child who is 14 years of age or older to address the court regarding custody or visitation, unless the court determines that doing so is not in the child’s best interests.”

**Figure 1. Adjusted and unadjusted caseweights, 2001 and 2011**



Note: Figures represent what the family law–other caseweight would have been if it were possible to disaggregate the “other civil petitions” and “other civil complaints” filings.

### Juvenile dependency

For juvenile dependency, both the time study and the quality-adjusted caseweights rose from 2001 to 2011. The time study caseweight increased from 128 to 205, while the quality-adjusted caseweight increased from 224 to 269 (20 percent). The quality adjustment in 2001 was proportionally much higher than in 2011, but that is at least in part because the time study caseweight significantly increased.

The areas in which judicial officers reported needing more time, which contributed to the upward adjustment in the 2011 caseweights, were largely consistent with the recommendations of the Blue Ribbon Commission on Children in Foster Care and included:

- More time to deal with removal requests;
- More time to deal with probable cause showings for interview requests;
- More time to read and review reports and case plans;
- More time for initial hearings;
- More time to review jurisdiction notices; and
- More time to make findings and orders pursuant to AB 12.<sup>3</sup>

<sup>3</sup> Assembly Bill 12 (Assembly Committee on Human Services; Stats. 2010, ch. 559) extends foster care benefits to eligible young adults between the ages of 18 and 21.



The majority (59 minutes) of the 64-minute upward adjustment came in the pre-disposition phase. The adjustment results in the need for 36 additional judgeships statewide hearing dependency cases.

### **Juvenile delinquency**

Similar to juvenile dependency, juvenile delinquency time study and quality-adjusted case-weights rose from 2001 to 2011. The time study caseweight increased from 50 to 83, while the quality-adjusted caseweight increased from 60 to 106 (77 percent). The quality adjustments in both 2001 and 2011 were in the 20 to 30 percent range.

The areas in which judicial officers reported needing more time, which contributed to the upward adjustment in the 2011 caseweights, were largely consistent with the recommendations of the Juvenile Delinquency Court Assessment and included:

- More time to inquire about services;
- More time to explain the process to parents and minors;
- More time to explain expectations and consequences;
- More time to promote resolution and settlement conferences;
- More time to review conditions of probation;
- More time to discuss and track education issues; and
- More time for findings and orders in title IV-E cases.

The majority (19 minutes) of the 23-minute upward adjustment came in the pre-disposition phase. The adjustment results in the need for 30 additional judgeships statewide hearing juvenile delinquency cases.

### **Implied Judicial Need and Current Allocation of Judicial Time**

Applying the caseweights to court filings allows for an estimate of judicial need by case type, expressed in terms of full-time equivalent (FTE) judicial positions. To supplement the judicial needs assessment, the AOC conducted a census of judicial officer allocation (herein referred to as “judge census”), which asked courts to outline how many judicial FTEs<sup>4</sup> are currently devoted to each of the major case types.<sup>5</sup> This allows for a comparison of how the judicial officer time was actually being allocated to what the model estimates will be needed.<sup>6</sup>

---

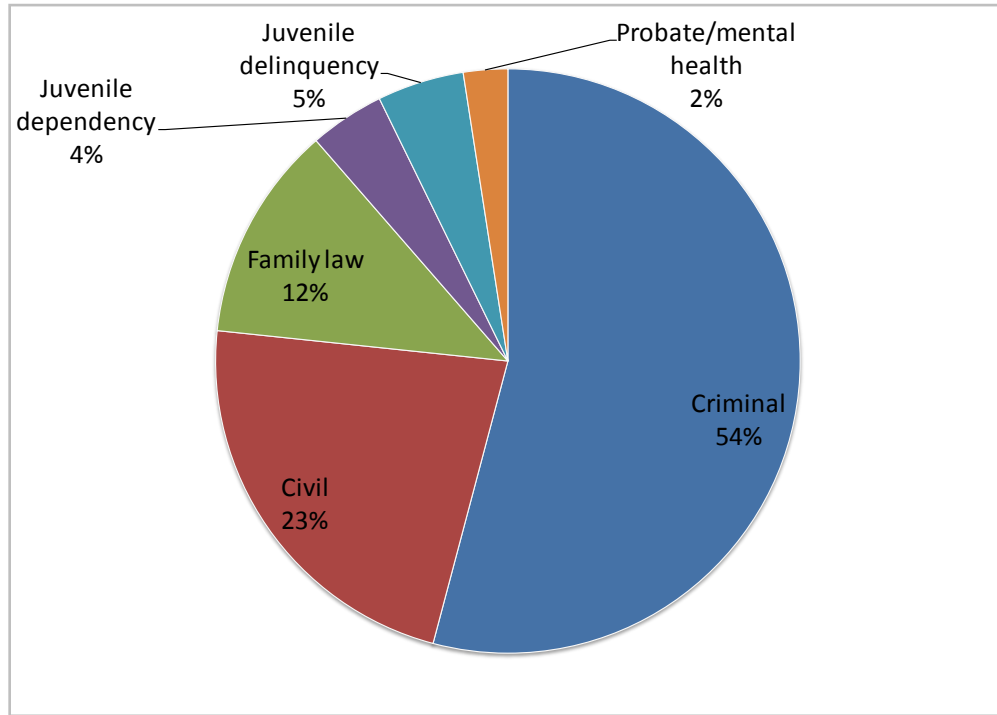
<sup>4</sup> The census asked courts to report all judges, subordinate judicial officers, and long-term assigned judges. It did not include pro tems.

<sup>5</sup> It is important to note that judicial assignments may have changed since the judge census was conducted in 2010. The AOC expects to update the census in 2012.

<sup>6</sup> Although the caseweights are expected to remain the same, the implied judicial need will change, as the model will be updated with more recent court filings for the 2012 report to the Legislature. To the extent that family and juvenile filings change, judicial need will be somewhat different relative to the figures presented in this report.

According to the 2010 judge census, approximately three-quarters of judicial time is devoted to hearing criminal and civil cases (54 percent and 23 percent, respectively). Family and juvenile cases account for 21 percent of judicial time—12 percent for family, 4 percent for juvenile dependency, and 5 percent for juvenile delinquency. As explained in more detail below, family law, juvenile dependency, and juvenile delinquency are under-resourced, in terms of both absolute numbers and the proportional allocation of judicial time.

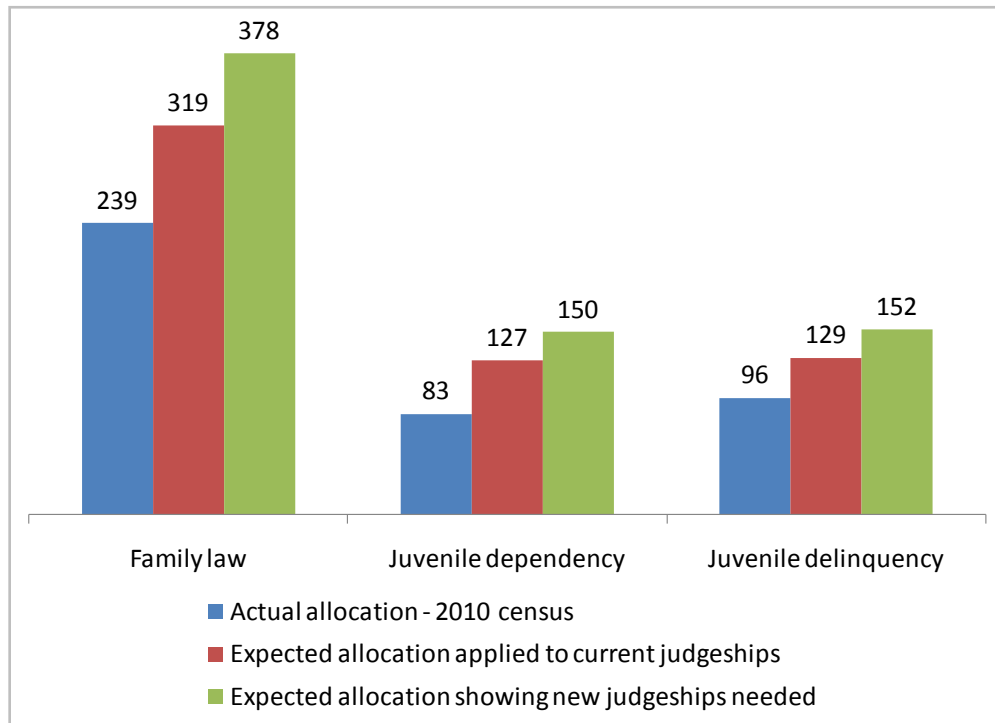
**Figure 2. Actual allocation of judicial time, 2010 judge census**



### **Family law**

According to the new caseweights, statewide, 378 judicial officers are needed to handle family law cases (both dissolution and other). Currently, 239 judicial FTEs are hearing family law cases, reflecting a need for 58 percent more judicial officers to handle the current caseload. Proportionally, the judicial needs assessment estimates that 16 percent of total judicial officer time is needed to handle family law cases. According to the judge census, currently 12 percent of judicial officer time is devoted to family law cases. If we were to apply the 16 percent to the total number of judicial officers reported in the census—i.e., without increasing the total number of judicial officers in the state—one would expect 319 judicial FTEs to be hearing family law cases—80 additional judicial positions, or 33 percent more than are currently hearing family law cases.

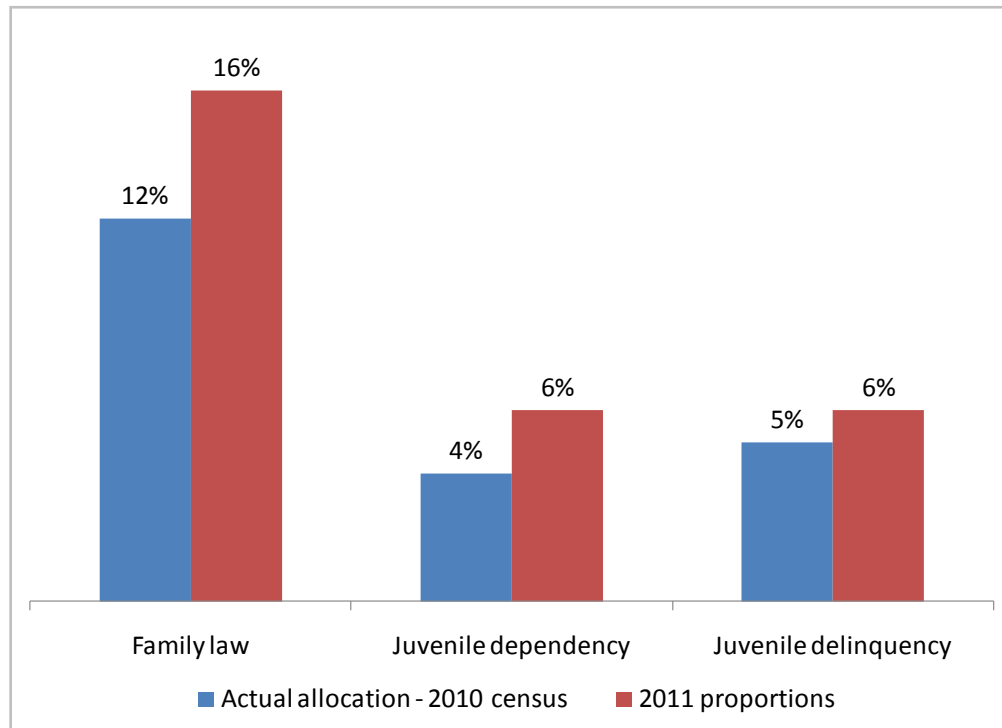
**Figure 3. Actual allocation of judicial time compared to implied need (number of judicial FTEs)**



### **Juvenile dependency**

Statewide, 150 judicial officers are needed to handle juvenile dependency cases. Currently, 83 judicial FTEs are hearing juvenile dependency cases, reflecting a need for 81 percent more judicial officers to handle the current caseload. Proportionally, the judicial needs assessment estimates that 6 percent of total judicial officer time is needed to handle juvenile dependency cases. According to the judge census, 4 percent of judicial officer time is devoted to juvenile dependency cases. If we were to apply the 6 percent to the total number of judicial officers reported in the census—i.e., without increasing the total number of judicial officers in the state—one would expect 127 judicial FTEs to be hearing juvenile dependency cases—44 additional judicial positions, or 53 percent more than are currently hearing juvenile dependency cases.

**Figure 4. Actual allocation of judicial time compared to implied need (proportion of judicial FTEs)**



### **Juvenile delinquency**

Statewide, 152 judicial officers are needed to handle juvenile delinquency cases. Currently, 96 judicial FTEs are hearing juvenile delinquency cases, reflecting a need for 58 percent more judicial officers to handle the current caseload. Proportionally, the judicial needs assessment estimates that 6 percent of total judicial officer time is needed to handle juvenile delinquency cases. According to the judge census, 5 percent of judicial officer time is devoted to juvenile delinquency cases. If we were to apply the 6 percent to the total number of judicial officers reported in the census—i.e., without increasing the total number of judicial officers in the state—one would expect 129 judicial FTEs to be hearing juvenile delinquency cases—33 additional judicial positions, or 34 percent more than are currently hearing juvenile delinquency cases.

### **Trends That May Impact Judicial Time**

#### **Caseload/filing trends**

The most recent data available regarding caseload (filings and dispositions) filings comes from the *2010 Court Statistics Report* and covers fiscal year 2008–2009. For that year, filings across all case types totaled approximately 10.2 million. Of these, about 5 percent (458,814) were family law filings. Just under 3 percent (137,960) were juvenile filings.

Over the past 10 years, family marital<sup>7</sup> filings have remained fairly flat at around 150,000 filings per year. Recent years have shown a slight decline in this area but there is no evidence that this is a trend as opposed to part of the normal fluctuations from year to year. Family law petitions<sup>8</sup> have shown a slight decline overall and have hovered around 300,000 per year since 2005–2006. Juvenile delinquency<sup>9</sup> filings have fluctuated around 100,000 per year over the past decade with a slight decline early on, an upward trend from about 2004–2005 through 2007–2008, and more recently a downward trend with the 2008–2009 filings just under 100,000. Juvenile dependency<sup>10</sup> filings fluctuated around 40,000 per year from 1999–2000 and started an upward trend in 2003–2004, peaking at 45,000 in 2006–2007 and trending downward since then to the most recent year available at just under 40,000.

### **Case-processing trends**

Despite the relatively even, or slightly declining, number of family and juvenile cases being filed each year, going forward, several factors drive the finding of increased need for judicial time for these cases.

#### ***Judicial officers in family and juvenile case types have been historically underresourced.***

Historically, family and juvenile courts have not had an adequate number of judicial officers to appropriately handle their caseloads. The 2006 CFCC Family Law Judicial Officer Survey<sup>11</sup> estimated that there were 175 judicial FTEs devoted to family law, while the judicial workload study reflected a need for 459. The 2005 *California Juvenile Dependency Court Improvement Program Reassessment*<sup>12</sup> estimated that there were 81 judicial FTEs hearing juvenile dependency cases, while the judicial workload study reflected a need for 119. Although there appeared to be more judicial positions assigned to juvenile delinquency (95) than needed (75), the 2008 *Juvenile Delinquency Court Assessment*<sup>13</sup> found that only about one-half of the judicial officers reported always or almost always getting through their juvenile delinquency calendars and hearing each case to their satisfaction.

---

<sup>7</sup> Family marital filings are defined as proceedings in which a petition has been filed for dissolution or voiding of a marriage or for legal separation.

<sup>8</sup> Family law petitions are defined as family law cases other than marital cases, such as domestic violence petitions and petitions filed by the Department of Child Support Services (DCSS) for reimbursement of child support.

<sup>9</sup> Juvenile delinquency proceedings are defined as petitions filed under Welfare and Institutions Code section 602, alleging violation of a criminal statute, and petitions filed under Welfare and Institutions Code section 601, alleging that a minor is beyond the control of parents or guardians but has not violated any law. An *original petition* begins a delinquency proceeding. A *subsequent petition* adds allegations against a minor child who is already subject to the court's jurisdiction.

<sup>10</sup> Juvenile dependency proceedings are defined as petitions filed under Welfare and Institutions Code section 300, seeking to make a minor child a ward of the court because of abuse or neglect. An *original petition* begins a dependency proceeding. A *subsequent petition* adds allegations regarding a minor child who is already subject to the court's jurisdiction.

<sup>11</sup> [http://www.courts.ca.gov/documents/FLJOResearchUpdate\\_Final10-6-09.pdf](http://www.courts.ca.gov/documents/FLJOResearchUpdate_Final10-6-09.pdf)

<sup>12</sup> <http://www.courts.ca.gov/documents/CIPReassessmentRpt.pdf>

<sup>13</sup> <http://www.courts.ca.gov/documents/JDCA2008CombinedV1V2.pdf>

***Judicial officers in family and juvenile case types do not have adequate time to hear cases.*** In large part due to the historical underresourcing of the family and juvenile courts, judicial officers hearing these case types consistently report not having adequate time to hear their cases, as reflected in research conducted to support the development of recommendations by the Blue Ribbon Commission on Children in Foster Care and the Elkins Family Law Task Force. Juvenile dependency and delinquency courts are not meeting statutory hearing timelines.<sup>14</sup> Family courts are reporting large backlogs and active pending caseloads.<sup>15</sup>

As previously noted, most judicial officers who responded to the supplemental survey or participated in the Delphi groups indicated they needed more time to address exactly those kinds of tasks that the evolving case-processing standards in family and juvenile cases are suggesting they spend even more time on. These include:

- Reviewing files and preparing for hearings;
- Conducting both short and long cause hearings;
- Preparing findings and orders;
- Ensuring that parties feel their concerns have been addressed;
- Conducting settlement conferences; and
- Encouraging all interested parties to participate in the proceedings.

The importance of judges having more time to become familiar with individual family and juvenile cases early in the process, review, consider, rule on preliminary and other pre-disposition matters, and hear from all interested parties not only at disposition hearings but also at temporary custody or placement hearings and post-placement review hearings is underscored by research such as the Public Trust and Confidence Study (the findings of which are themselves supported by independent empirical research on procedural fairness), that public perceptions of fair court processes are driven in no small part by whether litigants feel they had adequate time to present their cases to judges who are paying attention to them. While this is in some measure driven by judicial attitude and temperament, it is also strongly influenced by the amount of time and attention the court has to devote to hearing cases.

***The impact of new legislation on judicial workload is unknown.*** Because the time study was conducted in mid-2010, it was unable to capture the anticipated increased judicial workload associated with new legislation, including the aforementioned AB 12 in juvenile dependency, and AB 939 and AB 1050 in family law. Although the Delphi groups took them into account in making quality adjustments to the caseweights, their true impacts will not be known until they are fully implemented. Such trends will continue to be monitored and considered in interim or full updates to the judicial workload model.

---

<sup>14</sup> <http://www.courts.ca.gov/documents/CIPReassessmentRpt.pdf>

<sup>15</sup> <http://www.courts.ca.gov/documents/elkins-finalreport.pdf>

***Cases are becoming more complex.*** At the same time that new laws, rules, and standards have contributed to an increase in the amount of time and attention that must or should be devoted to many of the cases, there is evidence that the cases themselves are becoming more complex and perhaps difficult to resolve. Rising numbers of self-represented litigants, need for interpreter or bilingual services, changing demographics and family structures, a wider range of cultural and linguistic backgrounds, economic stress, and increasing understanding of the many issues that should be considered in family and juvenile cases all add to the workload of the court.

***There is widespread recognition of the deficit of judicial officers in family and juvenile law.*** The Legislature, in enacting Government Code section 69614(c)(2), and the Judicial Council, through the work of the Blue Ribbon Commission on Children in Foster Care and the Elkins Family Law Task Force, among other advisory bodies, have formally recognized that there is not a sufficient number of juvenile and family law judicial officers to satisfactorily handle current caseloads. These entities have all recommended the use of workload studies—that take into account the unique nature of cases involving children and families and the courts’ evolving role in resolving them—to assist courts in assigning appropriate resources to family and juvenile departments. The current judicial workload assessment underscores the lack of judicial resources for family and juvenile courts.

## **References**

California Blue Ribbon Commission on Children in Foster Care, *Fostering a New Future for California’s Children: Final Report and Action Plan* (May 2009), <http://www.courts.ca.gov/documents/brc-finalreport.pdf>

Center for Families, Children & the Courts, Admin. Off. of Cts., “2006 Family Law Judicial Officer (FLJO) Survey: Judicial Officer Background, Judicial Resource Needs, and Challenges,” *Research Update* (Oct. 2009), [http://courts.ca.gov/documents/FLJOResearchUpdate\\_Final10-6-09.pdf](http://courts.ca.gov/documents/FLJOResearchUpdate_Final10-6-09.pdf)

Center for Families, Children & the Courts, Admin. Off. of Cts., *California Juvenile Dependency Court Improvement Program Reassessment* (Full Report, Nov. 2005), <http://courts.ca.gov/documents/CIPReassessmentRpt.pdf>

Center for Families, Children & the Courts, Admin. Off. of Cts., *Juvenile Delinquency Court Assessment* (2008), <http://courts.ca.gov/documents/JDCA2008CombinedV1V2.pdf>

Greacen Associates, LLC, *Developing Effective Practices in Juvenile Delinquency Caseload Management* (2006), <http://courts.ca.gov/documents/DevelopingEffective--JDCM.pdf>

Judicial Council of Cal., *2010 Court Statistics Report: Statewide Caseload Trends 1999–2000 Through 2008–2009*, <http://courts.ca.gov/documents/csr2010.pdf>

Judicial Council of Cal., *Access to Justice in Times of Fiscal Crisis: Report of the California Courts July 1, 2008–June 30, 2010*, <http://courts.ca.gov/documents/2010ar.pdf>

Judicial Council of Cal., *Elkins Family Law Task Force: Final Report and Recommendations* (Apr. 2010), <http://www.courts.ca.gov/documents/elkins-finalreport.pdf>

Judicial Council of Cal., Admin. Off. of Cts., *Handling Cases Involving Self-Represented Litigants: A Benchguide for Judicial Officers* (Jan. 2007), [http://courts.ca.gov/documents/benchguide\\_self\\_rep\\_litigants.pdf](http://courts.ca.gov/documents/benchguide_self_rep_litigants.pdf)