



2006 Family Law Judicial Officer Survey: Judicial Officer Background, Judicial Resource Needs, and Challenges

The Family Law Judicial Officer Survey (FLJOS) was the family law court's first omnibus survey that covers topics on the backgrounds of family law judicial officers; case management; case coordination; and issues related to court administration of cases involving domestic violence, child custody and visitation, and drug and alcohol testing. The survey was conducted between November 2005 and January 2006 with all 255 judicial officers hearing family law matters in California at the time.¹ Seventy-eight percent of judicial officers from 55 of the 58 California counties responded to the survey.

This research update is divided into two parts. The first part describes judicial officers' professional experience, tenure in the field, and length of assignment in family law proceedings. The second part presents current challenges and resource needs as identified by judicial officers.

The findings in this report indicate that most judicial officers begin their assignments with prior professional experience in family law or related areas and that their length of tenure suggests a commitment and dedication to the field. High judicial workloads are considered to be the foremost challenge facing family law judicial officers. As the number of self-represented litigants in family law courts continues to grow statewide, the key challenges for judicial officers are resource needs such as designated calendars for self-represented litigants, support services, and personnel, as well as coordination among court divisions and with other governmental and community agencies.

Part I: Judicial Officers' Background, Tenure, and Judicial Assignment

The key to an effective family court process is judicial officers who are experienced in family law proceedings, have manageable caseloads, and have access to needed resources.² This section describes judicial officers' background, experience in the field, and time commitment in hearing family law matters.

¹ Temporary judges were not included in this survey.

² See standard 5.30 of the California Rules of Court, Standards of Judicial Administration.

Types of Judicial Officers

A 2001 study estimated that subordinate judicial officers (SJOs) made up 43 percent of the state’s family law bench.³ This percentage is quite high relative to other areas of law. For example, SJOs make up only 7 percent of the civil bench and only 9 percent of the criminal bench. Family law proceedings have two types of SJOs: designated title IV-D child support commissioners and general court commissioners. Also referred to as “child support commissioners,” IV-D commissioners are part of a larger system implemented in 1997 by Assembly Bill 1058 (Stats. 1996, ch. 957). These cases are called “IV-D cases” because title IV-D of the Social Security Act (42 U.S.C. § 601 et seq.) requires that each state establish and enforce support orders when a child has received public assistance. Federal funding provided to the states to adjudicate these cases cannot be used to pay for judges or their salaries, but it can be used for SJOs. Hence, IV-D actions brought by a local child support agency for an order to modify or enforce child or spousal support, including actions to establish paternity, are referred to a IV-D commissioner. A total of 446,637 cases required a support order in fiscal year 2006 as reported by the Department of Child Support Services.⁴

Like IV-D commissioners, court commissioners have the authority to hear child support matters in addition to preliminary family court matters as provided in Code of Civil Procedure section 259(f). In addition to the power to hear and determine ex parte motions and all uncontested actions,⁵ court commissioners have the power to act as a temporary judge upon the stipulation of the parties, and often are responsible for all aspects of family law cases.

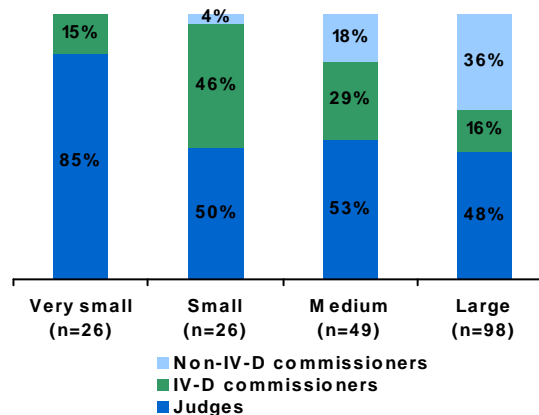


Figure 1. Type of judicial officer by size of county.

Among 199 judicial officers who responded to the 2006 Family Law Judicial Officer Survey, 106 (54%) were judges, 46 (23%) were IV-D commissioners, and 45 (23%) were non-IV-D commissioners. Among the 46 IV-D commissioners who responded to the survey, 15 also heard other non-IV-D family law matters. Figure 1 shows the distribution of judicial officer types by county size.⁶ Eighty-five percent of the judicial officers serving in the smallest counties were judges. By contrast, SJOs accounted for about 50 percent of the judicial officers in larger counties.

³ Judicial Council of California, *Survey of Proceedings Involving Children and Families* (March 2001).

⁴ California Department of Child Support Services, *Comparative Data for Managing Program Performance: Federal Fiscal Year 2006*, Table 3.5 (February 2007).

⁵ Code of Civ. Proc., § 259(a) and (g).

⁶ Size per 2000 census: very small (population less than 100,000); small (less than 300,000); medium (less than 1 million); large (more than 1 million).

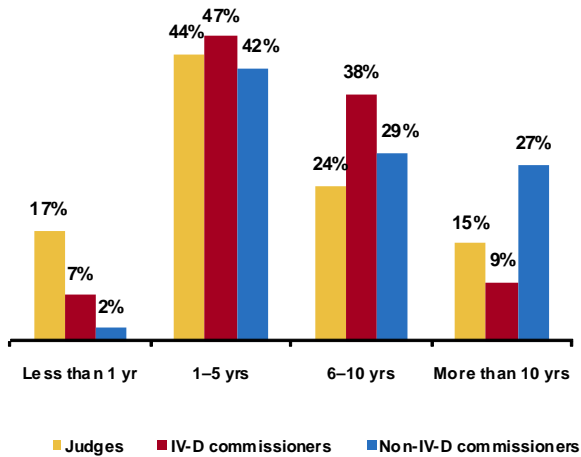


Figure 2. Total time in family law assignment over career by judicial officer types.

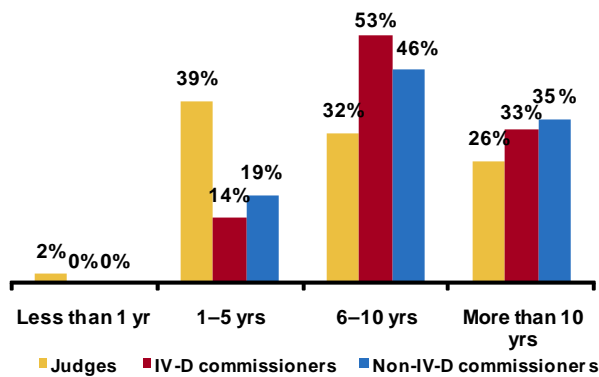


Figure 3. Length of current family law assignment by judicial officer type.

Tenure and Prior Experience

The median length (the midpoint of all responses arranged from least to greatest) of prior experience in family law cases was six years for all survey respondents. Figure 2 shows that 17 percent of judges, as opposed to only 7 percent of the IV-D commissioners and 2 percent of non-IV-D commissioners, had less than one year of experience in family law cases. On the other hand, a total of 56 percent of non-IV-D commissioners and 47 percent of the IV-D commissioners, as opposed to 39 percent of judges, had six or more years of experience in family law cases.

The judicial officers were also asked to report the start and end dates of their current family law assignments. The median length of a current family law assignment was seven years. Figure 3 shows that very few judicial officers had current family law assignments of less than one year. Most SJOs had current assignments extending more than five years. Specifically, 86 percent of IV-D commissioners and 81 percent of non-IV-D commissioners, as opposed to 58 percent of judges, have current assignments extending more than five years.

Most judicial officers (67 percent) had experience in family law proceedings prior to joining the bench. However, figure 4 shows that 45 percent of judges had no prior family law experience. If they had family law experience, it was part of a mixed practice. Only 19 percent reported that they practiced family law mainly or full time. In comparison, 39 percent of IV-D commissioners reported that they practiced family law mainly or full time and 30 percent reported experience in family law as part of mixed practice. On the other hand, 49 percent of non-IV-D commissioners had experience in family law practice either mainly or full time.

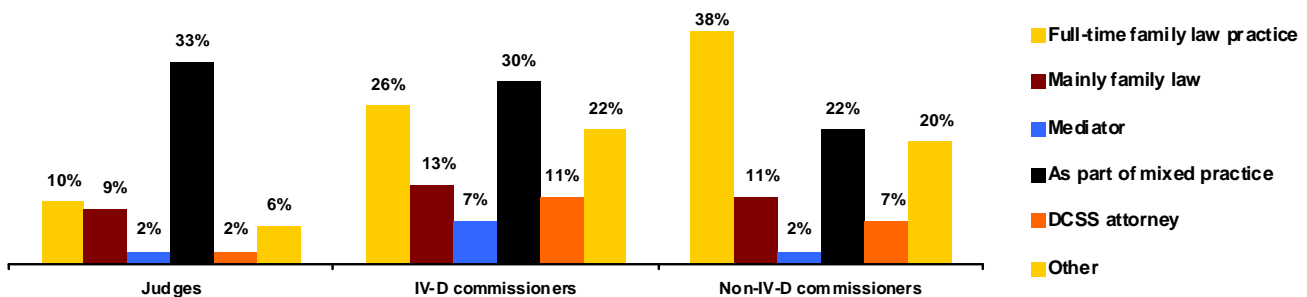


Figure 4. Prior experience in family law proceedings by judicial officer type.

Judicial Assignment and Judicial Caseload in Family Law

Sixty-six percent of the judicial officers assigned to family law or child support cases were dedicated full time to family law. Compared to IV-D commissioners and non-IV-D commissioners, judges are less likely to have full-time assignments in family law cases, in part because they are proportionately more likely to be located in smaller courts, where it is typical to be responsible for more than one department. Figure 5 shows that 60 percent of judges had full-time assignments, as compared to 70 and 76 percent of IV-D commissioners and non-IV-D commissioners, respectively.

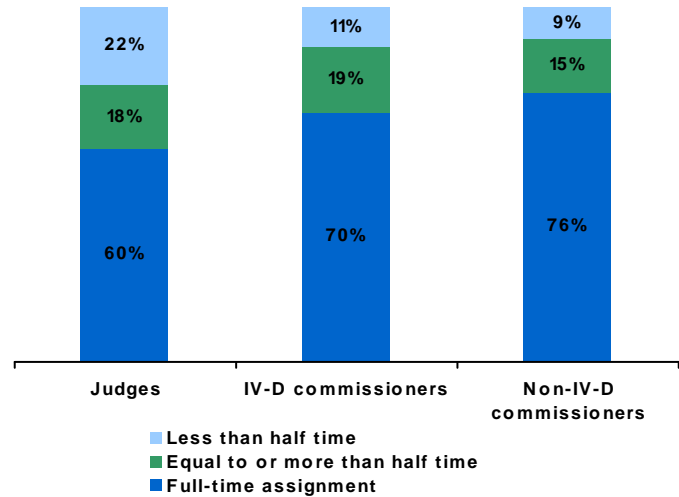


Figure 5. Full-time status by judicial officer type.

While the Administrative Office of the Courts (AOC) keeps records on the number of judgeships authorized for each superior court and the number of commissioners and referees a court employs, it does not account for the types of cases assigned to judicial officers. To generate an estimate of this number, CFCC researchers used data from the FLJOS question that asks what percentage of time respondents report working on family law cases, encompassing such duties as attending hearings, trials and settlement conferences, preparing for hearings and trials, writing decisions, reviewing ex parte orders, and conducting administrative tasks. For survey nonrespondents, CFCC researchers made phone calls to the courts to gather this information. Based on this report, CFCC researchers estimate that approximately 175 full-time equivalent (FTE) positions are dedicated to hearing family law cases.⁷ The Judicial Branch Statistical Information System (JBSIS) reported that statewide filings for family law cases totaled 439,056 in calendar year 2005.⁸ The estimate of 175 FTE judicial officer positions suggests a caseload of about 2,509 cases per full-time judicial position. In contrast, the estimate in juvenile dependency proceedings was about 1,100 cases per full-time judicial position in a 2005 study.⁹ While family law filings vary in complexity and different types of cases require different amounts of attention, the data suggests that, overall, there is not enough time for family law judicial officers to process their cases. In fact, “heavy and huge caseloads” was the most frequent response when family law judicial officers were asked to identify their main challenges.

⁷ FTEs were estimated by multiplying the midpoints of responses to the survey item that queried full-time/part-time status (e.g., the category “less than one-half time and more than one-quarter time” is coded as 37.5% time) by the frequency distribution of that survey item.

⁸ Total family law filings include all case types: dissolution with minor child, legal separation with minor child, nullity with minor child, dissolution without minor child, legal separation without minor child, dissolution without minor child, establishing parental relationship, domestic violence prevention with minor child, domestic violence prevention without minor child, IV-D family support, IV-D-UIFSA, adoption, and other family law.

⁹ Administrative Office of the Courts, Center for Families, Children & the Courts, *Research Update: Background of Judicial Officers in Juvenile Dependency* (December 2005).

Part II: Judicial Resource Needs and Challenges

While case counts can help measure the demand placed on state judicial systems, they are silent about the judicial resources needed to effectively process such a large number of cases. The second part of this report identifies challenges and resource needs in the area of family law. In responding to an open-ended question on the FLJOS, judicial officers were able to indicate what they considered to be the greatest resource needs facing family law courts. This section discusses two major areas of concern: (1) resource needs for increasing numbers of self-represented litigants, and (2) coordination within courts and with partner agencies.

Resource Needs for Increasing Numbers of Self-Represented Litigants

California's population has increased dramatically over the past 30 years. Currently, the state is adding a half-million people annually.¹⁰ In addition to the challenge of increasing population, a growing number of litigants do not have attorneys to represent them in court proceedings. "The growing number of self-represented litigants and the shortage of resources to deal with this new reality" was listed among the most frequently mentioned challenges facing family law according to judicial officers. To confirm this growing impact on the court system, the survey asked judicial officers to estimate the percentage breakdown of the family law cases that they hear, requesting that they differentiate between cases that have one side represented and the other side self-represented, both sides self-represented, and both sides represented.

Overall, judicial officers reported that about 75 percent of the family law cases they see involve at least one self-represented litigant. More specifically, about 89 percent of Domestic Violence Prevention Act (DVPA) hearings and 93 percent of child support hearings have either one side or both sides self-represented. Since fewer judicial officers from small counties participated in the survey, these numbers are likely to be underestimated. Figure 6 shows the estimates of the proportion of cases involving a self-represented litigant by county size. Litigants appeared to be self-represented at a higher rate in the smallest counties, with population of less than 100,000, possibly because of the lack of legal services organizations and lawyer referral services. However, the rate of self-represented litigants by type of hearing was consistent in counties of different sizes; that is, the rate of self-represented litigants was highest in IV-D hearings.

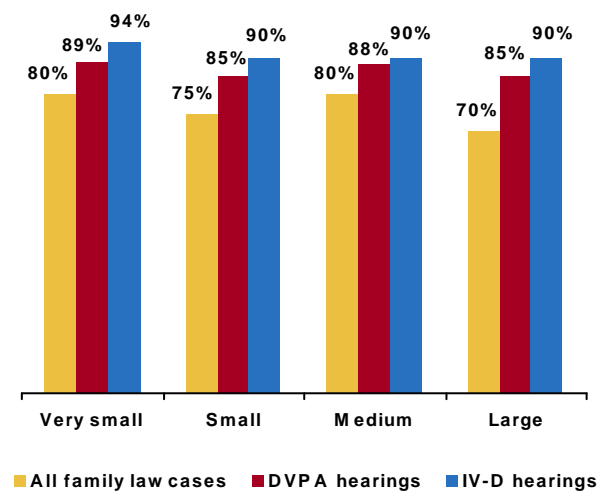


Figure 6. Percentage of cases involving at least one self-represented party by county size.

¹⁰ Legislative Analyst's Office, *2000 Cal Facts, California's Demographics*, www.lao.ca.gov/2000/calfacts/2000_calfacts_demographics.html (accessed Feb. 20, 2008).

When asked in an open-ended question in the survey to list strategies that have proven effective in their calendars, judicial officers commented that having a dedicated calendar for self-represented litigants with appropriate support services is one of the most effective techniques used in their courts. However, such designated calendars were not commonly used as a strategy to facilitate case management. Figure 7 shows that 65 to 80 percent of judicial officers across

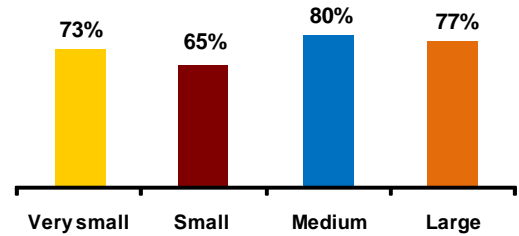


Figure 7. Percentage of judicial officers who do not preside over a designated self-represented litigant calendar by county size.

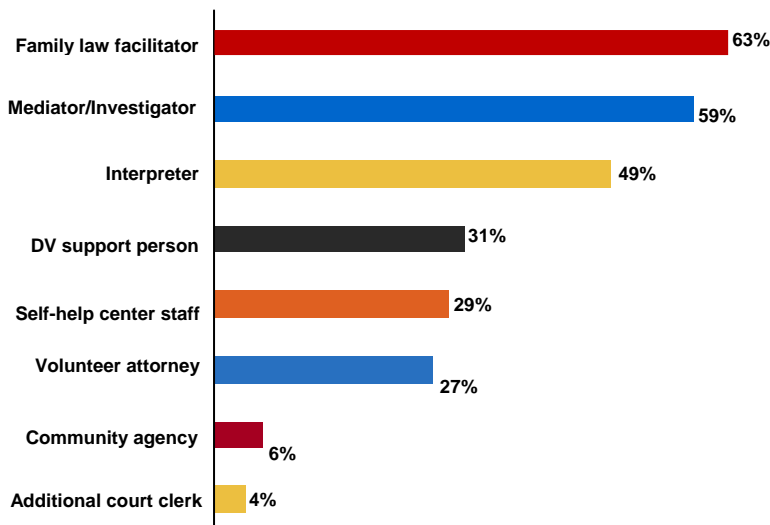


Figure 8. Available support services for designated pro per calendars.

different court sizes reported that they do not preside over a designated calendar for self-represented litigants. Unfortunately, judicial officers also reported that support services such as family law facilitators and mediators were insufficient in their courtrooms. Figure 8 shows the percentage of the 49 judicial officers who reported the services available to their self-represented litigant calendars. Figure 9 presents the percentage of the 56 judicial officers who reported the various services available to their designated domestic violence (DV) calendars. Aside from a DV support

person/advocate and DV program representatives for either petitioners or respondents, there were very few services specialized to serve self-represented or DV litigants. The shortage of various support services was cited by all the judicial officers who responded to the open-ended question concerning resource needs. Thus, among the frequently mentioned resource needs facing family law courts are “more mediators,” “more family law facilitators,” “recruitment of bilingual mediators,” “access to evaluators/ investigators,” “more self-help center staff,” “access to interpreters for non-DV cases,” “more volunteer attorneys,” “access to low/no-cost supervised visitation,” and “more research assistance.” It should

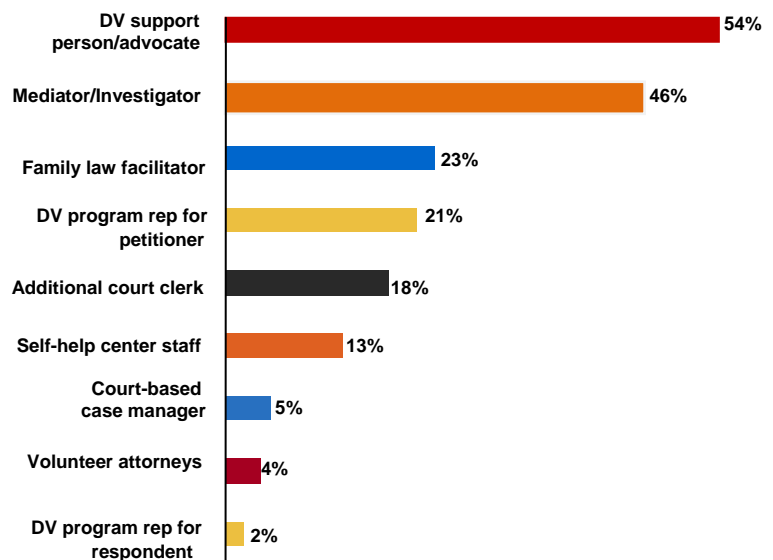


Figure 9. Available support services for designated domestic violence calendars.

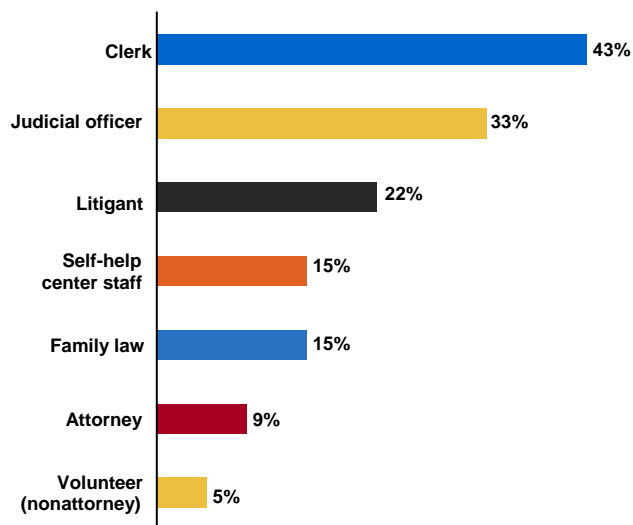


Figure 10. Person who usually prepares the orders after hearing in DVPA cases.

best for self-represented litigants to have an immediate decision cast in writing by the end of the hearing. This makes it easier for the parties to accept finality and obtain the services they may need for the next steps.¹³ In the FLJOS, concerning the question of whether self-represented litigants were provided with orders after hearing before they leave the courtroom in DVPA cases, 62 percent of the judicial officers reported “yes,” 16 percent reported “sometimes,” and 22 percent reported “no” (not shown). Figure 10 shows the percentage of judicial officers who indicated the personnel charged with preparing such orders. Consistent with the above finding on the scarcity of support personnel, the use of support services staff to help prepare orders was sporadic, particularly the use of self-help center staff, family law facilitators, and volunteers (whether attorney or nonattorney). However, the proportion of self-help services has very likely increased pursuant to the implementation of the 2004 self-help center expansion action plan.

To assess the extent to which there is a shortage of research assistance, judicial officers were asked how often research attorneys are available when needed. Figure 11 shows that 85 percent of judicial officers from the smallest counties reported that research attorneys were never or rarely available.

be noted that there have been substantial changes since the conclusion of this survey administration in 2006. In 2004, the Judicial Council adopted its *Statewide Action Plan for Serving Self-Represented Litigants*,¹¹ a comprehensive action plan aimed at addressing the legal needs of the growing numbers of self-represented Californians. Since 2005, the Judicial Council has allocated millions of dollars to start or expand self-help centers across the state. The funding allows courts to expand their services for family law and domestic violence cases and to improve language services.¹²

Support services also can be of help in preparing orders after hearing. An emerging consensus holds that whenever possible it is

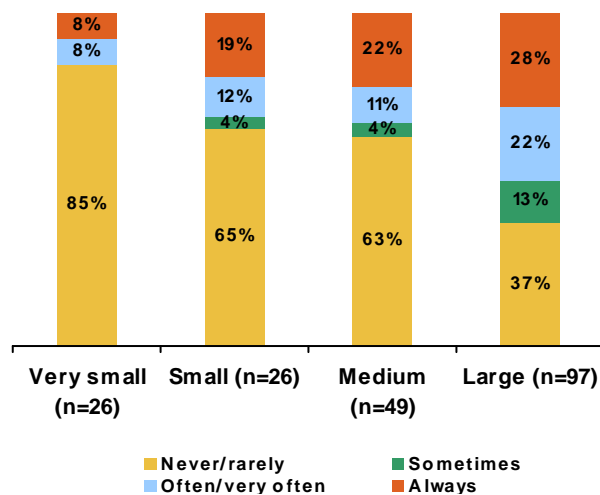


Figure 11. Research attorney availability by county size.

¹¹ Judicial Council of California, Task Force on Self-Represented Litigants, *Statewide Action Plan for Serving Self-Represented Litigants* (February 2004), available at www.courtinfo.ca.gov/reference/documents/selfreplitsrept.pdf.

¹² Judicial Council of California, *California Courts Self-Help Centers: Report to the California Legislature* (June 2007).

¹³ National Center for State Courts, *The Future of Self-Represented Litigants: Report From the March 2005 Summit* (2006).

Coordination within Courts and with Partner Agencies

A significant number of domestic cases involve litigants with multiple cases being handled in family, juvenile, probate, or criminal court. In light of high caseloads and the complexity of family law matters that have multiple cases involving the same family, judicial officers cite case coordination as another of their biggest challenges.

The American Bar Association notes that family-related issues have a mix of social, medical, emotional, and legal matters that demand approaches and resolutions that are often different from those in many other legal arenas.¹⁴ Courts around the nation and throughout California have implemented various approaches to improve coordination among courts and between parties and community services. One major trend that is encouraged at the state level is to develop unified courts for families. Among its principal goals, a unified court for families program would provide information on all relevant cases to judicial officers and facilitate access to community services for court users. The final evaluation report of the Unified Courts for Families Program in California demonstrated that judicial officers with access to better, more accurate information, and who can more effectively coordinate with other judicial officers and court staff, may find greater satisfaction in handling these difficult and often protracted cases. In turn, litigants who receive more responsive court- and community-based services and who come to better understand the court process may be more likely to feel confidence in the judicial system.¹⁵ In this way courts can provide access to services that protect children and families and resolve cases in a timely and efficient manner.

The survey asked whether procedures and resources are available for judicial officers to address conflicting court orders, duplication of services, and gaps in communication between court divisions. Jurisdictions take different approaches to sharing relevant information between different court divisions and across executive branch agencies, as well as among community agencies. Such varied approaches range from formal to informal and may involve, for example, establishing local rules and procedures for the unified family courts,¹⁶ relaying information on all related cases, and verbally inquiring of the parties or their counsels about existing orders. Pursuit of the information-sharing goals raises issues about confidentiality. The *Unified Courts for Families Deskbook* and *Unified Courts for Families: Improving Coordination of Cases Involving Families and Children*, two AOC publications, present various approaches to address information-sharing and its complexities, including the development of local rules, protocols, and forms, so that confidentiality can be respected while the necessary information is exchanged.¹⁷

¹⁴ Garcia, P. What Is a Unified Family Court? (Chicago: American Bar Association, 2001).

¹⁵ Administrative Office of the Courts, Center for Families, Children & the Courts, *Unified Courts for Families Program: Mentor Courts Project. Final Evaluation Report* (2007).

¹⁶ Unified Courts for Families models encompass different approaches that focus on unification or coordination of family, juvenile, criminal, or probate matters.

¹⁷ Judicial Council of California, *Unified Courts for Families Deskbook: A Guide for California Courts on Unifying and Coordinating Family and Juvenile Law Matters* (2004), www.courtinfo.ca.gov/programs/cfcc/pdf/files/UCFdeskbook.pdf and *Unified Courts for Families: Improving Coordination of Cases Involving Families and Children*.

While most respondents (nearly 81 percent) reported that they have some process in place to inform them of the existence of related court cases, most respondents indicated that such a process is informal. For example, only 26 percent of respondents reported that they preside over a unified family court calendar. When asked how they receive information about existing orders, 85 percent reported that they use informal means such as hearing about related cases from litigants or their attorneys (see Figure 12). Judicial officers from different-size counties varied in how they use formal methods to learn about existing orders.

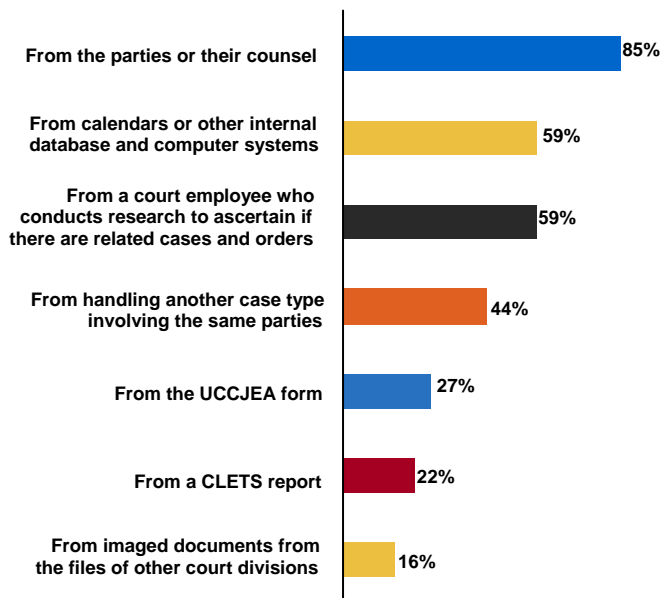


Figure 12. How judicial officers learn about existing orders in related cases.

Table 1 shows that while few judicial officers reported receiving imaged documents in related cases from other court divisions, judicial officers from large counties were more likely to learn about existing orders this way. Respondents from Los Angeles County were separated out from the large county group in this analysis because of their unique response pattern. For example, only 3 percent of Los Angeles County judicial officers reported that they have access to imaged documents from other court divisions. Compare this to the 34 percent of judicial officers from other large counties who did have access to imaged documents.

Table 1. Formal access to existing orders by county size.

	County Size				
	Very small (n=26)	Small (n=26)	Medium (n=49)	Large (excluding Los Angeles, n=61)	Los Angeles County (n=37)
Imaged documents from other divisions	4%	4%	14%	34%	3%
UCCJEA form	35%	27%	20%	25%	35%
Court staff research	81%	69%	69%	51%	35%
Internal calendars/database	69%	69%	53%	64%	46%

The low usage of formal methods to identify related cases, such as accessing UCCJEA forms (FL-105),¹⁸ CLETS reports,¹⁹ and imaged documents from other court divisions, might result from technological difficulties facing the courts. Figure 13 indicates that while most judicial officers have access to CLETS, either directly or through court staff, using CLETS reports to identify existing orders or crossover cases²⁰ was rare. It is important to note that this data collection pre-dates the development of guidelines and practices in improving entry and access to CLETS information by the Domestic Violence Practice and Procedure Task Force over the past three years.²¹ However, at the time of this data collection in 2005 and 2006, only 30 percent of judicial officers from Los Angeles County, versus 95 percent of judicial officers from other large counties, reported that they had access to CLETS information. When it comes to learning about existing orders through a CLETS report, only 5 percent of the Los Angeles judicial officers, versus 34 percent of their counterparts from large counties, reported that they received information this way. While the lack of a standard case management system has been an issue for courts of different sizes, for the largest courts such as the Superior Court of Los Angeles County, which serves approximately one-third of the state's entire population, researching a single case in the system has proven to be a tremendous challenge. Nonetheless, the Superior Court of Los Angeles County has been able to address some of the technology deficiencies by implementing the newly developed Children's Index, which is able to identify children involved in multiple court cases.²² The California Courts Case Management System, currently under development, should also make it much easier to research and coordinate cases, families, and existing orders.

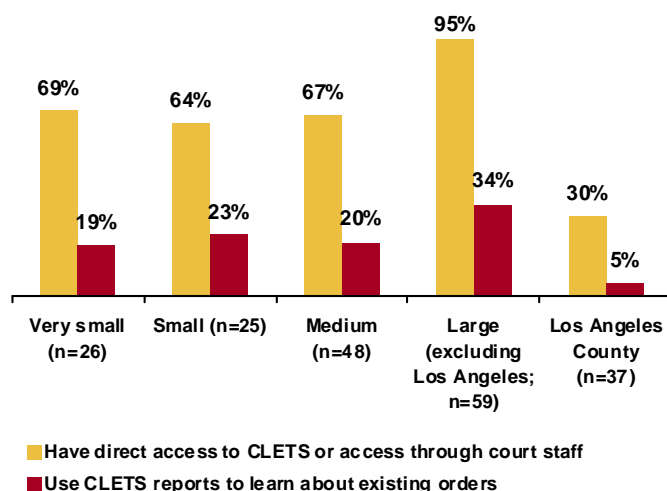


Figure 13. Comparison between access to CLETS report and use of reports by county size.

Bench officers overwhelmingly agreed that having information about existing orders and case activity can help reduce the number of conflicting orders, improve the coordination of court proceedings and hearings, and more importantly, enhance the safety of litigants. Say, for example, that a dissolution case with child custody issues is filed in the family law department, and that one of the parents in the case is a restrained person in a Domestic Violence Prevention Act case with a former spouse. If there is no method for identifying the related case, the judicial officer hearing the child custody matter may not have access to important information that could affect the decision as well as the safety of the

¹⁸ Uniform Child Custody Jurisdiction and Enforcement Act.

¹⁹ The California Law Enforcement Telecommunications System (CLETS) is used for checking criminal backgrounds as well as for protective and restraining order information.

²⁰ Cases in which family members are involved in proceedings on more than one calendar.

²¹ Judicial Council of California, *Recommended Guidelines and Practices for Improving the Administration of Justice in Domestic Violence Cases: Final Report of the Domestic Violence Practice and Procedure Task Force* (2008), www.courtinfo.ca.gov/jc/documents/com/dvpp_rec_guidelines.pdf.

²² *Ibid.*

parties and children. In the survey, bench officers were asked if they receive criminal background information on litigants involved in domestic violence or child abuse cases from state or local databases other than CLETS.

Figure 14 shows that most judicial officers, except those in Los Angeles County, reported receiving criminal background information from other local databases on litigants involved in domestic violence

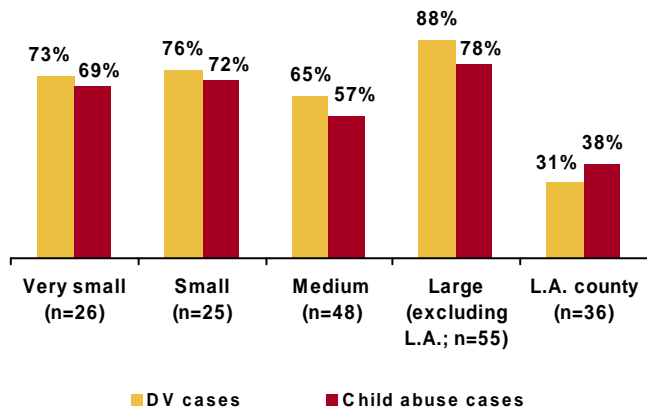


Figure 14. Access to criminal background information from state or local databases (not including CLETS) by county size.

or child abuse cases. On the other hand, in terms of coordinating with criminal law courts that hear domestic violence cases involving children, these same respondents reported that cross-communication between divisions is sporadic. Figure 15 indicates that 42 percent of judicial officers reported that there was no coordination between the two divisions. About one-third of the respondents indicated that both divisions were responsible for researching related cases and existing orders. Judicial officers (JOs) from smaller counties were more likely than those from larger counties to report that certain forms of

information sharing existed, methods such as hearing both the family law and criminal matters or calling the criminal law judicial officers. Family law judicial officers may benefit from having relevant information about related criminal law proceedings so as to avoid conflicting orders and allow for coordination of services. Identifying available services and coordinating them across courts and agencies are among the main challenges cited by judicial offers in family law. Navigating the complex range of programs offered and different program components available, not to mention various eligibility requirements and fee schedules, can cause confusion when trying to identifying appropriate services for an individual.

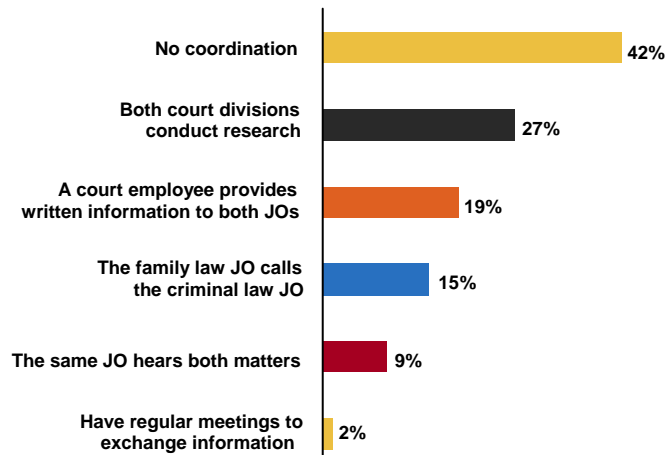


Figure 15. Coordination between family law and criminal courts on DV matters involving children.

This need is well illustrated by Rubin and Flango (1992) in the context of family cases:

As important as the procedural coordination of family cases may be, and it is important, it pales in significance to the importance of the effective coordination of substantive services ordered by the court. The fragmentation and unplanned duplication of child and family services for family members who are the subject of

a court order is a bottomless, pervasive, and polymorphous pit.²³

From the closed-ended responses, it is difficult to learn how courts and service agencies are sharing responsibilities across jurisdictions and whether problems may stem from differences in local legal and service cultures or differences in available resources. With the advent of various collaborative justice courts, which are particularly practiced in collaboration and service coordination (e.g., family dependency drug courts and domestic violence courts), data may soon be available to help identify promising components that can serve as effective service coordination strategies for family law courts.

Conclusion

The 2006 Family Law Judicial Officer Survey shows that the prior in-field professional experience of judicial officers is significant, with two-thirds having had experience in family law proceedings prior to joining the bench. Furthermore, their tenure, at seven years for a typical family law bench officer, suggests a commitment and dedication to the field. It should be noted, however, that this study indicates that judges tend to be less experienced than subordinate judicial officers, both in experience in family law proceedings before joining the bench and in years on the bench.

The high judicial caseloads in family law continue to be an area of concern. Additionally, the number of self-represented litigants in family law courts grows statewide and poses new challenges for the court system. The findings show that counties vary considerably in terms of judicial resources and practices. Lack of support personnel and a dearth of low-cost community services to assist litigants are common subjects of concern expressed by judicial officers. Since the conclusion of this research, the self-help funds over the past three years have allowed many courts to expand to services in family law that were previously unavailable, including more in-person assistance provided by attorneys, more self-help center staff, and language assistance. The AOC is also in the process of conducting a comprehensive judicial officer and court staff workload assessment, which will provide comparative data on workload in the courts.

Most respondents noted the benefits of improving case coordination and intracourt communication, indicating several possible positive results, such as improved consistency from the courts and greater information sharing between agencies. The implementation of the California Courts Case Management System is expected to provide courts with needed assistance in the areas of case management and information sharing. Improved coordination, through this and other measures, will lead to better decision making, more convenience and resources for victims, and improvements in court efficiency.

²³ Rubin, T. and Flango, V. *Court Coordination of Family Cases* (Williamsburg, VA: National Center for State Courts, 1992), p. 72.

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