

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

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Administrative Office of the Courts
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DATE: April 14, 2009

SUBJECT: Subordinate Judicial Officers: Extension of Authorization for Temporary
SJOs in Superior Court of Riverside County Through June 30, 2010
(Action Required)

Issue Statement

Effective August 24, 2007, the Judicial Council approved two temporary positions for subordinate judicial officers (SJOs) at the Superior Court of California, County of Riverside in accordance with Government Code section 71622(a).¹ Authorization was to terminate four months later, on December 31, 2007. Upon request from the court, the council extended those positions twice by circulating orders that extended those positions until June 30, 2008 and June 30, 2009. In the last order, the council authorized a third temporary position, with the same June 30, 2009, termination date.

The court recently has determined that an extension of the authorization of these SJO positions through the end of the next fiscal year, through June 30, 2010, is desirable for providing public access and for continuation of the efforts to reduce the criminal case backlog. The court will pay for the cost of hiring retired commissioners for these positions.

¹ “Each trial court may establish and may appoint any subordinate judicial officers that are deemed necessary for the performance of subordinate judicial duties, as authorized by law to be performed by subordinate judicial officers. *However, the number and type of subordinate judicial officers in a trial court shall be subject to approval by the Judicial Council.* Subordinate judicial officers shall serve at the pleasure of the trial court.” (Gov. Code, § 71622(a), emphasis supplied.)

These temporary SJO positions were one element in a plan to ease a case backlog caused by rapid population growth and a shortage of judges to handle the Superior Court of Riverside County increased caseload.

Recommendation

The Administrative Office of the Courts (AOC) recommends that the Judicial Council extend, in accordance with Government Code section 71622(a), through June 30, 2010, the authorization of the three positions for subordinate judicial officers at the Superior Court of California, County of Riverside. These positions commenced in 2007 following the creation of the Strike Force, at the request of the Chief Justice, for the purpose of reducing the criminal case backlog in the Riverside court. Without the extension of the authorization for these three positions, the delivery of justice in Riverside would be even more severely affected.

Rationale for Recommendation

In June 2007, Chief Justice Ronald M. George assigned a team of active and retired judges on a temporary basis to the Superior Court of Riverside County to respond to significant delays in criminal case processing that threaten to adversely affect the administration of justice. The recent growth in new judgeships in Riverside County has not kept pace with the substantial growth in the number of cases brought to that court. (See the June 12, 2007, letter from Chief Justice Ronald M. George to Presiding Judge Richard T. Fields and District Attorney Rod Pacheco, attached.)

This assistance has reduced the criminal case backlog in Riverside County, which, in turn, has helped promote public safety and maintain access to civil justice. The large backlog of cases had contributed to a significant number of “last day” criminal cases that must go to trial or risk dismissal. These “last day” cases had the potential for compromising public safety. The backlog also had threatened the ability of the county’s families to resolve on a timely basis child custody disputes and juvenile dependency matters.

The Chief Justice outlined a plan to address these problems in his June 12, 2007, letter. One of the elements of the plan was the temporary assignment of a team of both active and retired judges to diminish the Riverside County criminal case backlog. A second element was the formation of a task force, led by Justice Richard D. Huffman, to identify and foster the most effective criminal case management practices for the court and its justice system partners.

At the Chief Justice’s request and with the need confirmed by Justice Huffman, the Judicial Council authorized by circulating order on August 24, 2007, two subordinate judicial officer positions for the court through December 31, 2007. The presiding judge requested and the Judicial Council authorized, on December 4, 2007, the extension of

those positions through June 30, 2008. In June 2008, the presiding judge requested and the council authorized by circulating order an additional extension of those two positions and the addition of a third, through June 30, 2009. The presiding judge has recently requested that the Judicial Council authorize the continuation of these three SJO positions through June 30, 2010. This additional extension of the authorization period would allow sitting Riverside County judges to continue to hear criminal cases in support of the effort to reduce the criminal case backlog. The continuing need is confirmed by Justice Huffman.

The Presiding Judge states that the current inventory of felony cases has been reduced by 1057 since March 2008 due largely to improved case management practices. Yet there still remains a weekly risk of “last day” case dismissal because of the severe need for judicial officers.

The increase of SJOs in the Superior Court of Riverside County must be done with Judicial Council approval under Government Code section 71622(a). On February 23, 2007, the council delegated to its Executive and Planning Committee (E&P) the authority to authorize SJO positions, funded by the requesting court, if the most recent council-approved judicial needs assessment demonstrates that the requesting court’s SJO workload justifies additional SJO positions and cannot be handled with existing judicial resources. (See Judicial Council of Cal./Admin. Off. of Cts., *Subordinate Judicial Officers: Policy for Approval of Number of Subordinate Judicial Officers in Trial Courts* (Feb. 1, 2007), attached.) Thus, E&P may authorize new SJO positions if both overall judicial need and SJO workload at the requesting court are demonstrated.

The most recent update to the Judicial Workload Assessment was approved by the Judicial Council at its October, 2008 business meeting. According to that update (a copy of Table 2 to that update is attached), and the upcoming *2009 Court Statistics Report* (a copy of table 12a to that report is attached), the Superior Court of Riverside County has a severe overall judicial need. It currently has 83 authorized judicial positions.² Of these 83 positions, the Judicial Vacancy Report (8011) shows five positions that are vacant, pending appointment by the Governor, and 7 others are authorized by Assembly Bill 159, but not yet funded. Thus, there are only 71 judges and SJOs filling these 83 positions in Riverside. The total estimated need in Riverside under the 2008 update on the judicial workload assessment is 142.5 judicial officers. This means that the Superior Court of Riverside has a need of 59.5 judicial officers over the number of authorized positions, and a need of 71.5 judicial officers over the number of currently filled positions. The delay in funding for the authorized judges under AB 159 has exacerbated the court’s workload.

² A copy of the authorized judicial positions and judicial position equivalents by county as of June 30, 2008, (Table 12a from the upcoming *2009 Court Statistics Report*, in the final stages of completion) is attached. Riverside is authorized to have 64 judicial and 19 SJO positions, totaling 83 positions.

The Superior Court of Riverside County does not, however, have net SJO workload above the complement of authorized SJOs in the court, the second element under the need criterion in the 2007 Judicial Council policy. The Riverside court's SJO workload, under the 2008 update, is 15 SJO positions. Since it currently has 19 authorized SJO positions, E&P is not able to authorize and extend the authorization of these 3 requested SJO positions under the authority delegated by the Judicial Council.

Accordingly, this request is directed to the Judicial Council. Because of the circumstances and the extraordinary need of the Riverside court, the AOC makes this recommendation as a temporary exception to the council's policy approved on February 23, 2007.

Alternative Actions Considered

This request for temporary SJOs for the Superior Court of Riverside County is one element in the Chief Justice's plan to address the backlog of cases in that court. Staff has not identified alternatives.

Comments From Interested Parties

Staff has not requested comments from interested parties to support this request. The Chief Justice's plan addressing the Riverside case backlog, however, was developed through collaboration with the court, its district attorney, and other justice system partners.

Implementation Requirements and Costs

The Superior Court of Riverside County will bear the costs related to these three subordinate judicial officers. Attached is the March 19, 2009, letter from Presiding Judge Thomas H. Cahraman stating that the court is able to fund these positions for the next fiscal year.

Attachments:

- June 12, 2007, letter from Chief Justice Ronald M. George to Presiding Judge Richard T. Fields and Riverside County District Attorney Rod Pacheco.
- Judicial Council of Cal./Admin. Off. of the Cts., *Subordinate Judicial Officers: Policy for Approval of Number of Subordinate Judicial Officers in Trial Courts* (Feb. 1, 2007).
- Table 12a, from upcoming *2009 Court Statistics Report*.
- Table 2, Judicial Workload Assessment, October, 2008. From *The Need for New Judgeships in the Superior Courts, Report to the Legislature under Government Code Section 69614(C)*, approved by the council, October 24, 2008.
- March 19, 2009, letter to the Judicial Council from Presiding Judge Thomas H. Cahraman.



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

June 12, 2007

Hon. Richard Todd Fields
Presiding Judge
Superior Court of California,
County of Riverside
4075 Main Street, Suite 310
Riverside, California 92501

Hon. Rod Pacheco
District Attorney
County of Riverside
4075 Main Street
Riverside, California 92501

Dear Presiding Judge Fields and District Attorney Pacheco:

Thank you for your respective responses to my April 25, 2007, letter regarding the Riverside County criminal justice system. I am following up on the separate recommendations that each of you has made.

I recognize and appreciate the tremendous dedication of all the Riverside judges and criminal justice partners in their tireless efforts to handle the severe backlog of cases. This backlog has developed over the past twenty years as the population and caseload in Riverside County have grown at a tremendous rate. Between 1989 and 2006 when the legislature passed SB 56, California's population grew by more than 30 percent, while Riverside County's population grew by over 76 percent. During that same period of time, only 41 new judgeships were created in the trial courts, with Riverside receiving three judgeships, only a 6.5 percent increase. I note that in 2006, more than 800 criminal jury trials were completed in Riverside, a record number. It is not realistic to expect that we are going to resolve this issue by continuing to increase the number of

jury trials each year, and without additional resources it may not be possible to sustain the current pace without risking an adverse effect on the justice system and public.

Recognizing this serious situation, the leadership of the Riverside Superior Court initiated a study of calendar management practices to address the current backlog. Unfortunately, the sheer volume of the backlog has proved to be an insurmountable obstacle to implementing the recommendations from the study. As we begin to add seven new judgeships in Riverside this summer, and hopefully continue to add more judges over the next two years, I believe this is a good time to step back and thoughtfully work together to improve the justice system in Riverside.

As we have discussed in past correspondence and recent conversations, I appreciate your willingness to collaborate in good faith to resolve the current situation in Riverside County. The large backlog of cases contributes to the recurrence of "last day" cases and possible dismissals, which may compromise the public's safety. In addition, the resolution of important matters affecting the county's families, such as child custody disputes in dissolution of marriage cases and juvenile dependency matters is threatened by the backlog. The denial of the public's right to timely access to justice in these and other civil cases is unjust to the parties and may exacerbate the already very difficult public safety problems.

As a result of your suggestions and those of other community leaders, I am taking the steps outlined below to address these serious issues and am seeking your support and cooperation to do all you can in your respective positions to ensure the success of this endeavor. There are three parts to this plan. The first is aimed at immediately addressing the large backlog of cases pending in the court; the second concentrates on implementing policies and procedures that, going forward, will result in a manageable caseload for the court; and the third focuses on advocating in the Legislature for the resources to address both current and future judicial needs in Riverside County and throughout the state.

First, to immediately address the large backlog of cases:

- I have assigned a team of both active and retired judges who are very experienced in handling criminal cases to serve in the Superior Court of Riverside County for the next four months and concentrate their efforts solely on disposing of the criminal case backlog;
- I have assigned Los Angeles County Superior Court Judge David S. Wesley to serve as the supervising judge of this team, responsible for the assignment of the cases among the judges and for other operational matters that will ensure the most effective use of the team. Judge Wesley rendered outstanding service as Supervising Judge of the Los Angeles courts criminal division in effectively managing very heavy caseloads. He will be in contact with Riverside Supervising Criminal Judge Helios Hernandez to be briefed on the current inventory of backlog cases and to establish the appropriate channels of communication so that Judge Wesley can work effectively to establish assignment processes and priorities for the team; and
- I am requesting that the Judicial Council authorize the Superior Court of Riverside County to temporarily hire two to three retired commissioners to hear matters appropriate for

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subordinate judicial officers in situations where judges currently may be hearing such cases. I also have directed staff of the Assigned Judges Program to identify retired commissioners willing to serve in the Riverside County Superior Court whom the court may consider for these temporary appointments.

It is my belief that during this four-month period, these judges and commissioners can assist the Riverside bench by resolving a substantial number of the backlogged criminal cases so that, going forward, the criminal caseload will be more manageable.

I recognize that there may be many hurdles to overcome to attack the backlog of cases in this manner. I am pleased to learn that Judge Fields and the court Executive Officer, Inga E. McElyea, have committed to providing the necessary courtrooms and support staff for the backlog team beginning in mid-July. The Administrative Office of the Courts' (AOC) Office of Court Construction and Management is also prepared to offer assistance as requested by the Presiding Judge.

Identifying staff to support the incoming team of judges also may be a problem. Temporary staff may be required. Retired court staff may be a resource for this purpose. Again, I encourage you to work together with the other justice system partners to craft solutions to these issues. The Judicial Council and AOC are prepared to assist you in reviewing your local reserves which may be directed to support these temporary costs (e.g., staff, commissioners, court space) and, if necessary, they also will examine additional funding options. I am pleased that Presiding Judge Fields has identified this issue as his court's number one priority for available funding.

I strongly urge all justice system partners to carry out their important responsibilities by cooperating together and by appropriately exercising their respective discretion to significantly resolve the backlog for the benefit of the public.

Second, to help the court manage its caseload on an ongoing basis:

- I have asked Fourth District Court of Appeal Associate Justice Richard D. Huffman, who chairs the Judicial Council's Executive and Planning Committee, to convene an initial meeting with yourselves, Assistant Presiding Judge Thomas H. Cahraman, Supervising Criminal Judge Helios Hernandez, Judge David S. Wesley, an assistant district attorney designated by Mr. Pacheco, Public Defender Gary Windom, attorney Steven L. Harmon of Criminal Defense Lawyers, Sheriff Bob Doyle, Chief Probation Officer Alan Crogan, and Riverside Bar Association President David Bristow as a task force dedicated to cooperatively developing a plan to improve the management of incoming cases. The purpose of this meeting is to begin a dialogue among you and the other participants to identify ways to improve criminal case management, including implementing the recommendations made in the AOC's 2006 Greacen Report on Developing Effective Practices in Criminal Caseflow Management for the Superior Court of Riverside County. Justice Huffman may include additional participants whom you identify as important to developing and implementing positive solutions for the Riverside justice system.

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- The Judicial Council and the AOC will provide additional technical assistance (staff and consultants) as needed with respect to the recommendations in the Greacen Report. Professional and logistical support for this task force will be coordinated by Regional Administrative Director Sheila Calabro (818) 558-3020, through the AOC's Southern Regional Office.

The success of this part of the plan depends on the ability of the court, the District Attorney's Office, the Public Defender and private defense bar, law enforcement, and the other local justice partners to work together toward the common goal of increasing access to the courts. Toward this end, before the initial meeting is convened, Justice Huffman will call both of you to arrange separate private individual meetings in June. Thereafter, the participants noted above are invited to join you and Justice Huffman at the initial meeting, which will take place in a Riverside location to be determined.

I ask both of you and the justice system partners above to please e-mail Mr. Scott Burritt (scott.burritt@jud.ca.gov) and let him know your availability from 10 a.m. to 3 p.m. for the first task force meeting on the following possible dates: **July 5, 6, 16, 18, 19 and 20**. The AOC will notify all participants of the selected date and location of the first meeting. I anticipate that the task force will need to meet a minimum of four to six times over the next few months to develop a mutually agreeable comprehensive plan that will achieve your goals for improving the Riverside justice system.

I look forward to receiving a report by November 1 on the actions that will implement meaningful and sustainable progress in the Riverside court system.

Finally, I am asking you and other local government officials to work with the Legislature to secure funding for the second group of 50 statewide judgeships in fiscal year 2007-2008, and the third group of 50 in fiscal year 2008-2009. As you know, the 150 judgeships being sought fall far short of the 350 needed, based on the study conducted by the National Center for State Courts several years ago. As the population continues to grow in the Inland Empire, the need for judicial officers also continues to grow. We must remain vigilant in our efforts to continually identify judicial needs in California and secure the funding to address these needs.

We all understand that this problem, which has developed over the past 20 years, is not going to be fully resolved in the next 2 or 3 years. A solution will only be reached through mutual persistence and cooperative efforts over the next 5 to 10 years. The recent addition of seven judgeships in Riverside reflects the commitment of the Executive and Legislative branches to provide some of the resources needed for substantial improvement. All of us are collectively responsible for establishing case management processes and procedures for the benefit of all Californians. Today, the ideal solution may not be within our grasp, but I believe we can and must take steps toward making meaningful improvements in the system. The combination of aggressively attacking the court's backlog and establishing effective case management processes and procedures will be a major step forward in improving the Riverside justice system.

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While no one person or entity is responsible for the current problems, all the justice partners can work to solve them. The effort needed to resolve the current situation and set a new course for the future will be very difficult. Our goals can be accomplished only by working together for the benefit of the public that we all serve. Accomplishment of these goals will require a high level of commitment and resolve by all the involved parties. I have confidence in the leadership abilities of both of you to achieve these goals and produce a more responsive court system that allows all of Riverside's litigants the ability to participate in court proceedings in a timely manner.

Thank you again for your efforts to address the current difficulties in the Riverside County court system. I look forward to assisting those efforts in any way possible.

Sincerely,



RONALD M. GEORGE
Chief Justice of California and
Chair of the Judicial Council

RMG/MMT/sp

cc: Hon. Thomas H. Cahraman, Assistant Presiding Judge, Superior Court of Riverside
County
Hon. Helios Hernandez, Criminal Supervising Judge, Superior Court of Riverside County
Ms. Inga E. McElyea, Executive Officer, Superior Court of Riverside County
Mr. Gary Windom, Riverside County Public Defender
Mr. David Bristow, President, Riverside Bar Association
Mr. Steven L. Harmon, Harmon & Harmon
Hon. Bob Doyle, Sheriff, Riverside County
Mr. Alan Crogan, Chief Probation Officer, Riverside County
Hon. Judith D. McConnell, Administrative Presiding Justice, Court of Appeal, Fourth
Appellate District
Hon. Manuel A. Ramirez, Presiding Justice, Court of Appeal, Fourth Appellate District,
Division Two

Hon. Richard D. Huffman, Associate Justice, Fourth Appellate District, Division One
Hon. David S. Wesley, Judge, Superior Court of Los Angeles County
Mr. William C. Vickrey, Administrative Director of the Courts
Mr. Ronald G. Overholt, AOC Chief Deputy Director
Ms. Sheila Calabro, Regional Administrative Director, Southern Region, AOC
Ms. Marcia M. Taylor, Director, Appellate and Trial Court Judicial Services Division,
Assigned Judges Program, AOC

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Report

TO: Members of the Judicial Council

FROM: Administrative Office of the Courts
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415-865-7661, kenneth.kann@jud.ca.gov
Nancy E. Spero, Senior Attorney, Executive Office Programs Division
415-865-7915, nancy.spero@jud.ca.gov

DATE: February 1, 2007

SUBJECT: Subordinate Judicial Officers: Policy for Approval of Number of
Subordinate Judicial Officers in Trial Courts (Action Required)

Issue Statement

In December 2000, the Judicial Council recognized that subordinate judicial officers are a valued part of the California court system because of the expertise they bring to the bench and the flexibility they allow local courts. Trial courts have the authority to appoint subordinate judicial officers (SJOs) to meet specified workload demands, but the number and type of SJO positions in each trial court have been subject to Judicial Council approval under Government Code section 71622(a)¹ since January 1, 2001.

To ensure a consistent statewide approach to creation of new SJO positions, AOC staff recommend that the council adopt a policy setting forth the specific, limited criteria for approving trial court requests for changes in the number of authorized SJO positions. The Executive and Planning Committee, on behalf of the council, in 2005 established a policy and procedures regarding changes in the type of existing SJO positions.² Staff further recommends that the council delegate to the Executive and Planning Committee the responsibility for approving trial court requests for additional SJO positions subject to the criteria set forth below.

¹ “Each trial court may establish and may appoint any subordinate judicial officers that are deemed necessary for the performance of subordinate judicial duties, as authorized by law to be performed by subordinate judicial officers. *However, the number and type of subordinate judicial officers in a trial court shall be subject to approval by the Judicial Council.* Subordinate judicial officers shall serve at the pleasure of the trial court.” Gov. Code, §71622(a), emphasis supplied.

² The Executive and Planning Committee’s action is explained at page 3, below. See the attached memoranda of February 23 and May 5, 2005, attached at pages 6–9.

Recommendation

Consistent with council policy on the case types and proceedings that should be presided over by judges and the appropriate use of subordinate judicial officers, AOC staff recommend that the council adopt the following policy regarding review and approval of trial court requests for changes in the authorized number of SJO positions under Government Code section 71622(a), and delegate its authority to its Executive and Planning Committee (E&P) as follows:

1. To establish a new SJO position, eliminate an SJO position, or change the time base of an existing SJO position, a court must request and obtain approval from E&P. The requesting court must fund and bear all costs associated with an additional or augmented SJO position.
2. Courts must submit their requests in writing to the appropriate AOC Regional Administrative Director. A request must contain a certification by the presiding judge that the court has sufficient funds in its ongoing budget to cover the cost of any additional or augmented position. AOC staff must provide E&P with (a) an estimation of the requesting court's ability to fund one-time and ongoing costs resulting from the establishment or augmentation of a new position and (b) a confirmation of need, both SJO workload and overall judicial need, based on the most recent council-approved Judicial Needs Assessment.
3. E&P will authorize new or augmented SJO positions only if (a) the court can continually fund the associated increased costs, and (b) the most recent council-approved Judicial Needs Assessment demonstrates that the requesting court's SJO workload justifies additional SJO positions and cannot be handled with existing judicial resources. E&P's decision to change the number or type of SJO positions must be in writing and contain an analysis of the factors underlying the decision.
4. E&P will eliminate or decrease the time base of an SJO position upon the request of a trial court.
5. AOC staff is directed to work with all trial courts to establish an official baseline number of authorized SJO positions in each court and to report this information to E&P. Once a court's baseline is established, E&P may consider and approve according to these criteria that court's request to approve currently unauthorized SJO positions which have been added since January 1, 2001.
6. This policy applies to subordinate judicial officer positions authorized under section 22 of article VI of the California Constitution and that are paid from a trial court's budget. Court commissioner and court referee positions are subject to this policy. The following positions are not covered by this policy: mental health hearing officers serving under Welfare and Institutions Code sections 5256.1 or 5334(c), referees

appointed under Code of Civil Procedure sections 638 and 639, and child support commissioners supported by Assembly Bill 1058 funding.³

Rationale for Recommendation

This proposed policy limits new SJO positions to courts with (1) funding for the positions and (2) a demonstrated need—both SJO workload and overall judicial need. This policy retains the council’s authority to approve additional SJO positions and establishes some basic criteria against which requests would be measured. E&P will grant a trial court’s request to decrease authorized SJO positions.

Council interim policy to create SJO positions

At its December 15, 2000, meeting, the Judicial Council established the policy that the primary role of subordinate judicial officers is to perform subordinate judicial duties, but a subordinate judicial officer may sit as a temporary judge where lawful if his or her presiding judge determines that, because of a shortage of judges, it is necessary for the effective administration of justice. The council also created an interim process, through June 30, 2001, by which courts could apply to the council for the creation of a new subordinate judicial officer position if they documented the availability of continuing funding.⁴

Since that time, the Executive and Planning Committee has acted on behalf of the council between council meetings when presented with applications from specific courts to add a new SJO position. In March 2002, the council also delegated to the Administrative Director authority to approve “temporary” SJO positions or the increase of hours of part-time positions when those positions were established with appropriate statutory authority prior to January 1, 2001, and the court had contracted with individuals prior to January 1, 2001, to fill those positions.⁵ In January 2005, the Executive and Planning Committee adopted a policy, on behalf of the council, allowing the change of type⁶ of one or more SJO positions so long as any additional costs are absorbed by the court.

³ The council determines the number of AB 1058 child support commissioners under somewhat different criteria: in accordance with caseload, case processing, and staffing standards specifically for child support commissioners. Family Code sections 4252(a) & 4252(b)(3).

⁴ The council, also at that meeting, asked the Policy Coordination and Liaison Committee to develop legislation for council sponsorship for the conversion of vacant SJO positions to judgeships to be appointed by the Governor. It, further, made explicit that no subordinate judicial officer would lose his or her employment solely as a result of the policies, rules, and legislation proposed by the council’s actions and established a working group charged with making recommendations on other issues pertaining to SJOs.

⁵ Approval of those positions or the increase of hours for a part-time position required a demonstration of sufficient workload and sufficient funding.

⁶ A typical change of type would be from referee to commissioner or vice versa. This policy did not apply to child support commissioner positions funded by AB 1058 or to hearing officers. See the attached February 23 and May 5, 2005, memoranda.

SJO workload and judicial need

Two council goals bear on the proposed policy, which requires a demonstration of both SJO workload and overall judicial need: 1) improving access to justice by providing sufficient numbers of SJOs to perform subordinate judicial duties in trial courts where needed and 2) improving access to constitutionally empowered judges, who are accountable to the electorate in matters that are more appropriately handled by judges. In a court with a demonstrated need for judicial officers, and insufficient SJO positions to perform the identified subordinate judicial workload, increasing the number of SJO positions to perform SJO duties will serve both goals.

The demonstration of only one of these need factors would be inadequate to justify a new SJO position. A court with adequate judicial resources as demonstrated by the most recent Judicial Needs Assessment would be able to assign SJO duties to its existing judges or SJOs. Adding SJO positions to courts in excess of their SJO workload, even for courts which may assign some judicial duties to their SJOs, undercuts the council's goal of securing sufficient judgeships to meet judicial need.

Reporting and data collection requirements

The proposed policy would require that AOC staff work with the trial courts to establish baseline numbers of authorized SJO positions for each court. Research indicates that there may be a few courts that have added or augmented SJO positions without authorization subsequent to January 1, 2001. Once a court's baseline is established, all changes to the number of its authorized SJO positions will be made according to the policy established by the Judicial Council.

Alternative Actions Considered

In developing the proposed policy, AOC staff considered alternatives, as described below:

Either judicial need or SJO workload would be a sufficient basis for a new SJO position

Overall judicial need, it could be argued, is irrelevant to the establishment of SJO positions as long as the court demonstrates unfilled SJO workload. However, a court with adequate judicial resources as shown by the most recent Judicial Needs Assessment is able to assign SJO duties to its existing judges or SJOs. On the other hand, establishing SJOs on the basis of judicial need and without any demonstration of SJO workload undercuts the council's policy of SJOs performing defined subordinate judicial duties, not performing the work of judges.

Council could retain authority or delegate to the Administrative Director

The council could retain the authority to determine the number and type of SJO positions for trial courts as requested in the coming years. However, responding to regular requests from the trial courts to exercise this statutory authority may detract from the council's attention to policymaking for the branch. Tasks that the Legislature assigns to the council

may, at the council's discretion, be delegated to the council's Executive and Planning Committee, which acts on behalf of the council between its regular meetings.

Delegation to E&P is not the only option, however. The council could delegate its authority under this statute to the Administrative Director. The argument could be made that decisions to increase the number and type of SJO positions could be made by the council's staff within policies and procedures set by the council. However, the council may prefer that E&P, comprising a portion of the council membership, act on its behalf so that discretion, if requested or needed, can be applied.

Comments From Interested Parties

None; the proposal was not circulated for comment.

Implementation Requirements and Costs

The trial courts must fund any additional SJO positions from their existing and future budgets. Trial courts maintain autonomy over how to spend their funds, and as a result, have leeway to identify funds for the requested SJO positions out of their local budgets.

Attachments

Government Code section 71622(a)

Each trial court may establish and may appoint any subordinate judicial officers that are deemed necessary for the performance of subordinate judicial duties, as authorized by law to be performed by subordinate judicial officers. However, the number and type of subordinate judicial officers in a trial court shall be subject to approval by the Judicial Council. Subordinate judicial officers shall serve at the pleasure of the trial court.



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MEMORANDUM

Date	Action Requested
February 23, 2005	Please Review
To	Deadline
Presiding Judges of the Superior Courts Executive Officers of the Superior Courts	N/A
From	Contact
William C. Vickrey Administrative Director of the Courts	Pat Sweeten, Director Executive Office Programs Division 415-865-7560 phone 415-865-4332 fax pat.sweeten@jud.ca.gov
Subject	
New Judicial Council Policy on Reclassification of SJO Positions	

I am writing to announce a new policy regarding the authority of presiding judges of the trial courts to determine the type of subordinate judicial officers (SJOs) employed by each court (e.g., referees and commissioners). On January 28, 2005, on behalf of the Judicial Council, the Executive and Planning Committee (E&P) adopted the following policy regarding the authority over the type of SJO positions in the trial courts:

1. The presiding judge of a trial court may change the type of one or more of the court's subordinate judicial officer (SJO) positions, except for child support commissioner positions supported by Assembly Bill (AB) 1058 funding. The court may not change AB 1058 commissioner positions to other types of SJO positions.
2. If a change in SJO type entails additional salary costs, the court must be able to absorb those costs within its existing budget. The Judicial Council and the Finance Division of the Administrative Office of the Courts (AOC) will not be able to consider trial court requests for additional budget allocations that are requested for the purpose of changing the type of one or more SJO positions.

3. When a trial court changes the type of its SJOs, court staff must notify the appropriate AOC regional administrative director, who will in turn notify E&P of the change at its next regular meeting. Courts must also report such changes as part of their regular reports on judicial positions.

This new policy further clarifies the roles of the Judicial Council and of presiding judges with regard to authority over the number and type of SJOs employed by each court (as outlined in Gov. Code, § 71622(a)) and is effective as of January 28, 2005.

The AOC's Finance Division and Office of the General Counsel are available to serve as resources for your court should you need assistance in evaluating whether to change the type of one or more positions. Please contact your regional administrative director if you would like such assistance.

Thank you.

WCV/PS/new



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date	Action Requested
May 5, 2005	Please Review
To	Deadline
Presiding Judges of the Superior Courts Executive Officers of the Superior Courts	N/A
From	Contact
William C. Vickrey Administrative Director of the Courts	Pat Sweeten, Director Executive Office Programs Division 415-865-7560 phone 415-865-4332 fax pat.sweeten@jud.ca.gov
Subject	
CLARIFICATION: New Judicial Council Policy on Reclassification of SJO Positions	

In response to questions from the courts, I am writing to clarify a policy that was adopted by the Judicial Council's Executive and Planning Committee (E&P) on January 28, 2005. On February 23, 2005, I sent you a memorandum reporting that E&P granted authority to presiding judges to determine the type of subordinate judicial officers (SJOs) employed by each court.

This policy applies *only* to the reclassification of regular employees of the court who serve as referees or commissioners. It does *not* apply to any other type of subordinate judicial officer, such as hearing officers.

As explained in my initial correspondence on this matter, child support commissioners supported by Assembly Bill 1058 funding are excluded and may not be reclassified. Also as referenced in the February 23 memorandum, if a change in SJO type entails additional salary costs, the court must be able to absorb those costs within its existing budget. I have attached the original memorandum for your reference.

Presiding Judges of the Superior Courts
Executive Officers of the Superior Courts
May 5, 2005
Page 2

Please contact Pat Sweeten, Director of the AOC's Executive Office Programs Division, if you have any further questions regarding this policy. Thank you.

WCV/PS/new
Attachment

**Authorized Judicial Positions and Judicial Position
Equivalents by County
Fiscal Year 2007–08**

**Superior Courts
Table 12a**

COUNTY	Judicial Positions as of June 30, 2008					Judicial Position Equivalents (F)
	Total (A)	Judges (B)	Subordinate Judicial Officers			
			Total (C)	Commissioners (D)	Referees (E)	
STATEWIDE	2,022.0	1,614.0	408.0	380.8	27.3	2,127.2
ALAMEDA	85.0	69.00	16.0	16.0		88.4
ALPINE	2.3	2.00	0.3	0.3		2.0
AMADOR	2.3	2.00	0.3	0.3		3.3
BUTTE	14.0	12.00	2.0	2.0		14.8
CALAVERAS	2.3	2.00	0.3	0.3		3.0
COLUSA	2.3	2.00	0.3	0.3		2.4
CONTRA COSTA	47.0	38.00	9.0	9.0		48.4
DEL NORTE	3.8	3.00	0.8	0.8		4.2
EL DORADO	9.0	6.00	3.0	3.0		9.9
FRESNO	53.0	44.00	9.0	9.0		55.1
GLENN	2.3	2.00	0.3	0.3		2.4
HUMBOLDT	8.0	7.00	1.0	1.0		9.0
IMPERIAL	11.4	9.00	2.4	1.4	1.0	12.5
INYO	2.3	2.00	0.3	0.3		3.0
KERN	46.0	38.00	8.0	7.0	1.0	44.8
KINGS	9.5	8.00	1.5	1.5		10.4
LAKE	4.8	4.00	0.8	0.8		5.6
LASSEN	2.3	2.00	0.3	0.3		3.2
LOS ANGELES	586.3	436.00	150.3	136.0	14.3	603.8
MADERA	10.3	10.00	0.3	0.3		9.3
MARIN	14.5	10.00	4.5	4.0	0.5	14.5
MARIPOSA	2.3	2.00	0.3	0.3		2.7
MENDOCINO	8.4	8.00	0.4	0.4		8.5
MERCED	14.0	10.00	4.0	4.0		13.7
MODOC	2.3	2.00	0.3	0.3		2.1
MONO	2.3	2.00	0.3	0.3		2.6
MONTEREY	22.0	20.00	2.0	2.0		22.3
NAPA	8.0	6.00	2.0	2.0		8.4
NEVADA	7.6	6.00	1.6	1.6		7.9
ORANGE	145.0	112.00	33.0	33.0		152.2
PLACER	16.5	12.00	4.5	4.0	0.5	18.4
PLUMAS	2.3	2.00	0.3	0.3		2.6
RIVERSIDE	83.0	64.00	19.0	19.0		99.6
SACRAMENTO	78.5	64.00	14.5	8.0	6.5	85.8
SAN BENITO	2.5	2.00	0.5	0.5		3.0
SAN BERNARDINO	91.0	78.00	13.0	13.0		99.4
SAN DIEGO	154.0	130.00	24.0	24.0		160.2
SAN FRANCISCO	65.0	51.00	14.0	14.0		67.5
SAN JOAQUIN	36.5	32.00	4.5	4.0	0.5	40.9
SAN LUIS OBISPO	15.0	12.00	3.0	3.0		15.6
SAN MATEO	33.0	26.00	7.0	7.0		34.6
SANTA BARBARA	24.0	19.00	5.0	5.0		25.0
SANTA CLARA	89.0	79.00	10.0	10.0		92.9
SANTA CRUZ	13.5	10.00	3.5	2.5	1.0	14.1
SHASTA	13.0	11.00	2.0	2.0		14.5
SIERRA	2.3	2.00	0.3	0.3		2.4
SISKIYOU	5.0	4.00	1.0	1.0		5.3
SOLANO	24.0	19.00	5.0	5.0		26.2

**Authorized Judicial Positions and Judicial Position
Equivalents by County
Fiscal Year 2007–08**

**Superior Courts
Table 12a**

COUNTY	Judicial Positions as of June 30, 2008					Judicial Position Equivalents (F)
	Total (A)	Judges (B)	Subordinate Judicial Officers			
			Total (C)	Commissioners (D)	Referees (E)	
STATEWIDE	2,022.0	1,614.0	408.0	380.8	27.3	2,127.2
SONOMA	24.0	19.00	5.0	5.0		27.1
STANISLAUS	26.0	22.00	4.0	4.0		23.9
SUTTER	5.3	5.00	0.3	0.3		5.8
TEHAMA	4.3	4.00	0.3	0.3		4.6
TRINITY	2.3	2.00	0.3	0.3		2.3
TULARE	25.0	20.00	5.0	4.0	1.0	26.3
TUOLUMNE	4.8	4.00	0.8	0.8		4.9
VENTURA	33.0	29.00	4.0	4.0		33.9
YOLO	13.4	11.00	2.4	1.4	1.0	14.2
YUBA	5.3	5.00	0.3	0.3		5.8

Column Key:

- (A) Column A reflects 50 authorized judicial positions that were approved by the California State Legislature in 2007 but that have not yet been funded.
- (C) Sum of D + E. Total may not match exactly because of rounding caused by fractional commissioner and referee positions.
- (F) Reflects authorized judicial positions adjusted for vacancies, assistance rendered by the court, and assistance received by the court from assigned judges, temporary judges, commissioners, and referees.

Table 2: Judicial Workload Assessment Update, Approved October, 24, 2008

	Assessed Judicial Need (AJN) ³	Authorized Judicial Positions (AJP) ⁴	Net Need (AJN Minus AJP)	Need as a Percentage
Alameda	80.5	85	-4.5	-5.6%
Alpine	0.2	2	-1.8	-900.0%
Amador	2.9	2.3	0.6	20.7%
Butte	15.7	14	1.7	10.8%
Calaveras	2.9	2.3	0.6	20.7%
Colusa	1.8	2	-0.2	-11.1%
Contra Costa	45.7	47	-1.3	-2.8%
Del Norte	4.0	3.8	0.2	5.0%
El Dorado	10.8	9	1.8	16.7%
Fresno	78.3	53	25.3	32.3%
Glenn	2.5	2.3	0.2	8.0%
Humboldt	10.1	8	2.1	20.8%
Imperial	12.1	11.38	0.7	5.8%
Inyo	1.8	2.07	-0.3	-16.7%
Kern	59.8	46	13.8	23.1%
Kings	12.3	9.5	2.8	22.8%
Lake	5.8	4.8	1.0	17.2%
Lassen	3.3	2.3	1.0	30.3%
Los Angeles	621.1	586.25	34.8	5.6%
Madera	13.2	10.3	2.9	22.0%
Marin	12.0	14.5	-2.5	-20.8%
Mariposa	1.4	2.1	-0.7	-50.0%
Mendocino	7.6	8.4	-0.8	-10.5%
Merced	21.7	14	7.7	35.5%
Modoc	1.0	2	-1.0	-100.0%
Mono	1.1	2.25	-1.1	-100.0%
Monterey	25.3	22	3.3	13.0%
Napa	8.6	8	0.6	7.0%
Nevada	5.9	7.6	-1.7	-28.8%
Orange	157.8	145	12.8	8.1%
Placer	28.4	16.5	11.9	41.9%
Plumas	1.9	2	-0.1	-5.3%
Riverside	142.5	83	59.5	41.8%
Sacramento	119.6	78.5	41.1	34.4%
San Benito	3.3	2.5	0.8	24.2%
San Bernardino	147.7	91	56.7	38.4%
San Diego	160.3	154	6.3	3.9%
San Francisco	53.0	66	-13.0	-24.5%
San Joaquin	55.1	36.5	18.6	33.8%
San Luis Obispo	17.5	15	2.5	14.3%
San Mateo	32.2	33	-0.8	-2.5%
Santa Barbara	27.4	24	3.4	12.4%
Santa Clara	84.5	89	-4.5	-5.3%
Santa Cruz	14.6	13.5	1.1	7.5%
Shasta	17.2	13	4.2	24.4%
Sierra	0.4	2.05	-1.6	-400.0%
Siskiyou	4.0	5	-1.0	-25.0%
Solano	32.1	24	8.1	25.2%
Sonoma	28.2	24	4.2	14.9%
Stanislaus	39.1	26	13.1	33.5%
Sutter	6.8	5.3	1.5	22.1%
Tehama	5.9	4.33	1.6	27.1%
Trinity	0.7	2.3	-1.6	-228.6%
Tulare	34.4	25	9.4	27.3%
Tuolumne	4.8	4.75	0.1	2.1%
Ventura	37.7	33	4.7	12.5%
Yolo	14.8	13.3	1.5	10.1%
Yuba	6.4	5	1.4	21.9%
Total	2,348	2,021	327	13.9%

³ Workload measured by three-year average filings from FY 2004 - 2005 to FY 2006-2007.

⁴ AJP includes 50 new judges approved by AB 159 but not yet funded.



Shane go
Council
Nancy Spero

Chambers of
THOMAS H. CAHRAMAN
Presiding Judge

4050 Main Street
Riverside, CA 92501

Superior Court of California
County of Riverside

March 19, 2009

Honorable Ronald George
Chief Justice of California
Chairman, California Judicial Council
455 Golden Gate Avenue
San Francisco, California 94102

Re: Extension of Retired Commissioners Program

Dear Chief Justice George:

I am writing to request that the Judicial Council extend the authorization for our court to hire retired commissioners referred by the Assigned Judges Program until June 30, 2010. Our current authorization expires on June 30, 2009.

This program has really helped us provide access to justice in Riverside County, in the face of a serious judicial shortage. I am requesting that the number of authorized positions remain at three. In addition I would request that the Judicial Council continue to provide retired commissioners for the two positions that are converting to judgeships, until those judges are appointed.

Without the assistance of these experienced commissioners, we would need to assign active sitting judges to cover for commissioners who are absent for vacation or illness; and we would also need to cover the two conversion spots with sitting judges. To do so would frustrate our efforts to keep current with the criminal caseload. The need is even more critical in light of the delay in the funding for the AB 159 judges.

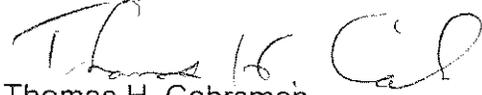
The Assigned Judges Program has done a good job of screening the retired commissioners for subject matter expertise. This has resulted in an excellent partnership between the courts and the Assigned Judges Program. The program provides the candidates and we fund their services.

Honorable Ronald George
Chief Justice of California
Page Two
March 19, 2009

I hereby certify that our court is able to fund these positions for the next fiscal year.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Thomas H. Cahraman".

Thomas H. Cahraman
Presiding Judge

THC:js

Attachment

cc: Marcia Taylor, Division Director
Appellate and Trial Court Judicial Services

✓ Brad Campbell, Supervisor
Assigned Judges Program