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A critical shortage of judges

By William C. Vickrey



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"The ordinary administration of criminal and civil justice . . . contributes, more than any other circumstance, to impressing upon the minds of the people, affection, esteem, and reverence towards the government." (Alexander Hamilton, *The Federalist Papers*; *Federalist No. 17*)

When Alexander Hamilton, one of our founding fathers, wrote these words in 1787, he could not have foreseen how relevant they would be to our justice system more than two centuries later.

The California judicial branch, long recognized as a national leader in court administration, is today facing a crisis that is threatening the ability of our courts to provide fair, efficient and accessible justice to Californians. As a result, public trust and confidence in the courts is sure to decline, eroding faith in the rule of law and the very core of our democratic society.

Consider this:

- Throughout the state, civil cases and family law hearings are routinely rescheduled, with some courts reporting delays up to 18 months from filing to trial. This culture of continuation keeps parents, children and victims in limbo, as they await decisions that will affect them for the rest of their lives.
- Delays in general civil matters threaten the stability of the business community as the outcome of cases remain unresolved. Civil litigants are faced with uncertainty and frustration in their attempts to seek justice.
- In Riverside County, for example, the superior court has been forced to completely halt civil trials twice in the past two years while the court focuses all of its resources on incoming criminal cases, which have priority under the law.
- Criminal case backlogs also threaten the safety of the public by delaying decisions in serious criminal matters.
- In Sonoma County, where the prosecution of serious gang crimes has nearly doubled in the past six years, other felony trials must be continued until courtrooms become available. The court is concerned that delays in felony trials put the public at risk, as criminal defendants who have posted bail are out in the community for long periods of time.

How did our judicial system get into this situation?

The number of new judgeships has simply not kept pace with California's population growth and the steady influx of new cases.

Since 1988, the state population has increased by 30 percent. During that same period, only 41 new judgeships were added to the trial courts — an increase of just 3 percent.

Meanwhile, more than 12 million people are parties to 8 million cases filed with the courts each year. A growing number of these cases are complex matters, multi-defendant gang cases and self-represented family cases that require a substantial amount of the courts' limited resources.

Once considered a leader in civil delay reduction programs, California is now ranked near or at the bottom of all state court systems in the nation in its case clearance rate — a measure of cases completed compared to those that are newly filed.

How many judges are needed in California?

In 2004, a detailed statistical study was conducted by the National Center for State Courts, the nation's leader in state court research, consulting and education. The study showed that California courts need 355 new judges statewide.

In consideration of the state's ongoing budget challenges, the Judicial Council of California, the policymaking body for state courts, decided to seek only the most urgently needed 150 judgeships.

What is the solution?

Senate Bill 56, introduced by Sen. Joseph Dunn, has proposed the creation of 150 new judgeships state-wide, with 50 positions to be established in each of the next three years starting June 1, 2007. However, with the state's critical judicial shortages, even that number would not be enough.

Therefore, the bill requires the conversion of 161 eligible subordinate judicial officer positions to judgeships as they become vacant. Eighty percent of the costs for these positions are currently funded; the costs for support staff are totally funded.

Even with the conversion of subordinate judicial officer positions, California will still have fewer judges per 100,000 people than New York, Ohio, New Jersey and other large urban states.

The bill has bipartisan support in the legislature and will help address the critical shortage of judges and the resulting case delays in our courtrooms.

Can more be done to solve this crisis?

The Judicial Council has proposed that it report to the legislature on the number of judges that would be needed statewide each year. This would allow the legislature to consider adding the appropriate number of new judgeships, rather than plunging the courts into the crisis they face today.

The Judicial Council and the State Bar of California have a long and trusted partnership as leaders in the justice system. We invite you to continue to work with us as we seek to restore fair and timely access to justice for all Californians.

- *William C. Vickery is the administrative director of the California courts.*

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