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>> Good afternoon. This is the public business meeting of the Judicial Council of California for Thursday, October 27, 2016. This meeting is now in session. This is the first day of a two day meeting and we plan to adjourn later this afternoon at approximately 2:55 PM. I believe councilmember assistant presiding Judge Gary Nadler from the Superior Court in Sonoma County is on the line. Are you there judge another?

>> I am. Thank you chief.

>> Thank you for joining us. As I said earlier, this is the first day of a two day special outreach but it is of course here in San Diego. I want to express my appreciation to presiding Judge Jeffrey Barton court executive officer Mike Roddy and your staff for your support in accommodating our meeting here in the Hall of Justice in Downtown San Diego. Thank you.

>> Is our privilege to have you here.

>> The rules policies and programs that are approved by Council every day implemented in court houses like this, like yours throughout the state of California. Equal access to justice is provided in the court rooms, clerks offices and self-help centers in this courthouse every day. In this way, the rule of law becomes a reality in court houses for the majority of Californians. Under the leadership of Justice Miller, our Executive and Planning Committee has sought to expand the Council's efforts to be more transparent and accessible to the public we all serve. We have expanded public comment, added live webcast and provided liaison reports from individual superior courts throughout the state. All of these actions are designed to enable the public to better understand our role. Our role as an independent coequal branch of government and the challenges we face and the innovations we support. These special outreach Judicial Council meetings will provide us with another opportunity to connect with local constituents in what is the most diverse state, diverse racially, geographically, socially and economically in the union. Also, it will assist council members to better understand the shared and unique challenges that exist in courts throughout California and to experience firsthand the innovation, dedication and public service values that judges and court staff make real on a daily basis in court houses like this one for justice users. Thank you Justice Miller and thank you San Diego County Superior Court.

>> My first task here today is to swear in our new and reappointed council members for the Judicial Council role. The Judicial Council this year is 90 years young. During those nine decades of improving the administration of justice in our state, 504 judges, court administrators, legislators and attorneys have served on the council itself. Many more as you know have served on the council's internal committee is advisory committees, task forces and other working groups. In recent years, more than 400 dedicated professional volunteer their time every year to serve on our advisory bodies that inform the Judicial Council. They serve all the public, not a particular constituency in order to share their knowledge, skills, expertise and experience to enrich our fact-finding and our decision-making processes. The Judicial Council is not a tribunal, cannot intervene on behalf of a party in a pending case or offer legal advice. The Council of California is about policy. It is about governance of the judicial branch and the statewide administration of justice. It is about identifying issues, responding to the concerns of stakeholders, advocating for change when necessary and creating effective and efficient solutions to problems and challenges. It is about the rule of law and protecting and fostering equal access to justice for all Californians. We will begin our ceremonial swearing-in. I will ask our three new council members beginning their terms of office and our four reappointed council members to join me for their ceremonial swearing-in. Let me first name them and then have you all rise and raise your right hand to take the oath. Our three new council members are presiding Judge Jeffrey Barton from the Superior Court of San Diego County, and incoming chair of the Judicial Council trial court presiding judges advisory committee. Judge Todd Bucky, president of the California Judges Association and from the Superior Court of Tehama County. We have Audrey Ybarra, attorney and State Farm California appointee. Our four council members reappointed to new terms of service are justice Doug Miller, court of appeals, fourth Appellate District division two Riverside. Judge David Rubin, Superior Court of San Diego County, judge can so, Superior Court of San Diego County and judge Dean Stout, Superior Court of Inyo County. Under article 20 of the California Constitution, the executive legislative and judicial branches all share this very same oath. We all swear or affirm that we will support and defend the Constitution. I believe that represents the core values of service, loyalty and professional performance. Please repeat after me and raise your right hand.

>> It, state your name, do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the state of California against all enemies foreign and domestic, that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the state of California. That I take this obligation freely, without any mental reservation or purpose of evasion and that I will well and faithfully discharge the duties upon which I am about to enter. Thank you.

>> [ applause ]

>> I have administered that oath many times and it is always with great solemnity and also in a fair amount of sobering monotone. As many times as I have administered that oath, notwithstanding hands raised and the tone of voice, the look on the faces and eyes and the smiles, really symbolize to me the commitment and the passion of taking this oath and following

through on it. Sometimes I think that oath should be yelled and screamed but it is always been delivered in a very sobering tone, notwithstanding the basis. I think it is because of this solemn duty we all agree to take on. For this Mark and -- for this work and many of our professional works.

>> Before we move on to our discussion agenda, I want to acknowledge another group of individuals helped the Council effectively manage our workload. They are the chairs of our various committees. While being a Council member is definitely a second job, the chairs of our committee's work time and a half preparing annual agendas, identifying issues, organizing meetings and developing recommendations for Council review. They enable the Council to be more efficient with our time to ensure that work gets done between Council meetings refining these issues. Much of the work that takes place in the background is with Judicial Council staff but as you know, with 34 consent agenda items alone at this meeting, we can see how productive these committees really are and the chairs really are. I want to publicly acknowledge the committee chairs whose terms have ended. Presiding Judge Stephen Austin, Superior Court of Contra Costa County. Judge Austin was chair and a member of the court interpreters advisory panel from 2010 to 2016. Justice Terrence prayers, court of appeals first Appellate District division five, San Francisco. Justice premieres was chair of the information technology advisory committee from 2012 to 2016 and is still a member of that committee. Mr. Rick Feldstein, court executive officer of the Superior Court of Napa County. Request court -- chair of the court executive committee in 2016 and he is still a member of that committee and also a Judicial Council member. Judge Robert Friedman, Superior Court of Alameda County. Judge Friedman was vice chair of the information technology advisory committee, 2014 through 2016 and is still a current member. Justice Raymond I., Court of Appeal for the district of Santa Ana. From 2013 to the -- the 2016, he was chair and a member of the appellate advisory committee and presiding Judge Bryan McCabe, Superior Court of Merced County. Judge McCabe was chair of the trial court presiding judges advisory committee 2015 to 16. We will now start with our discussion agenda. As you know, this is not an action item. It is an overview of our 2016 core statistics report. We welcome Ms. Leah Rose-Goodwin, Judicial Council office of research and Mr. Chris Belloli, Judicial Council office of court research. Welcome.

>> Thank you. Thank you chief and members of the Judicial Council. Today's presentation about the core statistics report is in some respects a continuation of the educational session given at the August Council meeting concerning the resource assessment study and the branches funding model of workload based allocation and funding methodology. One of the key components of the RAS model based on workload is the filing data. You will be hearing a presentation about that shortly. In both models, filings are a measure of the volume and mix of cases that are important to the 58 trials courts. They are the most complete, consistently measured data elements that we collect from courts. Filings and other indicators of workload are reported annually in core statistics report. I wanted to talk just a minute about the process that we take to compile the data. Chris will go into this in more detail. Really, the minute that we publish each year's report, we start the process for validating the data for the subsequent CSR. This process was particularly difficult this year because many courts have moved on to new case management system. That

required remapping the data to the reporting categories. In addition to submitting the data, our trial court and appellate court partners are asked to review and validate the data in various stages to ensure the accuracy and completeness of the submissions. With the linkage between data and funding firmly established by WAFM and another context, data validation has become even more important. At the direction of the court executive advisory committee, we are working to develop articles -- protocols to ensure consistent counts of filings across the different file types. Now, I am going to turn it over to Chris to discuss the 2016 report, tenure trends and talk a little bit about California in the context of nationwide trends.

>> Thank you. I am going to start the presentation with reviewing some of the 10 year statewide caseload trends that are contained in the 2016 core statistics report. Then, as Leah mentioned, we will look at these trends in the context of some of the national caseload trends as well as some of the statewide and local factors that might be influencing these trends in California. I am a little background on the court statistics report. The court statistics report is an annual report that fulfills provisions of article 6, section 6 of the California Constitution. It requires the Judicial Council to survey the condition and the business of the courts. The 2016 report will have data through fiscal year 14-15 as well as the tenure caseload trends. I will be focusing on statewide islands for the Superior Court but the court statistics report also has data for the Supreme Court, Court of Appeal and more detailed data for each one of the individual Superior Court's.

>> The sources of the data in the court statistics report are the AC CMS and tips us. AC CMS is the appellate court case management system and it is the single system used by the courts of appeal and the Supreme Court. We are able to extract or pull the data for the court statistics report from this single system based upon the categories that are in the report. Judicial Branch statistical information system it is the source of the data for the superior trial court. JBSIS is different that we are not able to pull the data from a single system but courts push the data to us from each one of their individual case management systems. JBSIS does contain rules, definitions, technical specifications that ensure that we get comparable and consistent data across the different courts. This first slide shows total filings reported by the 58 Superior Court's through JBSIS. In 14-15, there were slightly more than 6.8 million filings statewide which represents about a 9% decline over last year's filings and over the past 10 years about a 26% decline. I will take you through the different types of cases that make up this total. We will also see later in the presentation that this trend for California statewide data, the increasing trend over the first four or five years since about 2008, sort of a slow decline. Is consistent with the national trend.

>> This slide shows total civil filings as well as the three main categories that we collect civil filings for. Unlimited civil which represents cases over \$25,000. Limited civil cases for those that are under 25,000 and small claims and matters that have a jurisdictional limit of \$10,000. You will see that there are different caseload trends for the three categories and that the overall civil caseload trend is really driven by the limited civil cases which represents about half of all civil cases. You can see that fairly significant increase over the first four or five years up until about 2008 which is when we had our recession and then a slow and steady decline since that

period. The Unlimited civil cases which tend to be the most complex types of civil cases have been fairly flat over the 10 year period. There has been a leveling off in the last several years and about an 11% increase over the 10 years.

>> Small claims have had a slow and steady decline over the past 10 years. Also in the last couple of years, it has leveled out and it was a relatively small decrease in 14-15. This next slide shows criminal filings as well as the three main categories of cases. Felony caseload, misdemeanor and infraction. You can see that felony filings are also fairly steady over the 10 year period in terms of the caseload trend. It had been increasing over the last several years though and 14-15, we did see a decrease for the first time in the last couple of years and I think we can all assume that that is due to prop 47 which we will get into a little bit later in the presentation. The misdemeanor caseload has had a one third decline over the 10 year period but if you look at the last couple of years, it has leveled off. We did see an increase of about 1% in our misdemeanor caseload and 14-15. Infractions, most of which are traffic, have had a similar trend as our overall cases which is the increase up until 2008 and then a decline in the infraction caseload up to the current point where we had about a 10% decline in 14-15.

>> For family and juvenile, the two family law case categories, marital and other. Other represents child-support, domestic violence, elder abuse and other types of family petitions. They have been fairly stable or steady over the 10 year period. Each with a relatively small declines in 14-15. You can see in delinquency, a really dramatic decline in delinquency caseload which you will see later in the presentation is consistent with the national trend. There has been an expanded use in diversion programs before these delinquency petitions are filed in juvenile court.

>> The dependency caseload has been fairly flat over the 10 year period. A small decline in 14-15 but it really has been showing a slight increase over the past four or five years. The last two case categories, probate and mental health, there is a relatively low volume of cases but they can have a high impact on court workload based upon their complexity. Probate, although there has been a small decline over the ten-year period, probate caseload has been fairly flat in the last several years. Mental health, you will see that there is a dramatic increase in mental health caseload over the 10 year period. We think this is due to greater public awareness and understanding and treatment of mental health issues as well as some legislative and funding changes that have occurred for mental health services. There was also a recent report from the mental health issues in fermentation task force in 2015 that highlighted the importance of early prevention and intervention for mental health cases.

>> We have gone through some data on the number of filings or trial court caseloads. This is not necessarily a reflection of trial court workload as we a mention. On this first bullet, caseload not equal to workload really underscores the idea that not all cases or filings are the same in terms of workload. In limited civil cases is much different than a small claims matter and a felony cases much different than a traffic infraction. In the complexity workload and court resources required to process these cases. This is why the workload models used by the branch uses the resource assessment study. They do not use a single workload standard based upon total filings. There are

many individual workload standards for the different case types to account for the different workload for each one of these cases. In a simple example of this is if we classify all types of cases, all 6.8 million filings in the two groups. The limited civil and unlimited civil cases. The limited jurisdiction cases would be misdemeanors, infractions and all traffic cases. The Unlimited jurisdiction cases are generally much more complex and would represent felonies, unlimited civil, juvenile, probate and mental health. What we find is that the decrease in statewide filings this past year is due almost exclusively to these limited jurisdiction cases. These limited jurisdiction case types account for over 90% of the decline in cases that we found over the past year.

>> It is really important to consider not just what the changes in caseload have been but where the changes have occurred. The final part of the presentation will put some of the caseload trends in California in the context of some of the national caseload trends as well as some of the statewide and local factors that may be influencing these trends in California.

>> The National Center for State Courts selects caseload data from the state court system for their court statistics project. In this first slide, it looks at total trial court filings for California compared to the national figures from the National Center for State Courts. There are a couple of quick points to make. The first one is hopefully obvious and that is the California and the national data are displayed on different scales. The national figures though from a high of about 105 million cases to a low of about 90 million cases. There is somewhere between about 10 to 13 times the number of filings as we have hearing health when you. In terms of interpreting these next series of graphics, it is not a matter of which line is higher or lower. The national caseload is higher but it is really the comparison of the trends or those changes over time between the national and the California figures. Over the first several years, California caseload actually grew at a slightly faster rate than the national caseload. You can see that by the gap between the two trendlines narrowing. Since 2008 or since that moment of the recession, there has been a decrease in both the national and the California caseloads. The California caseload decline has been at a faster rate than the national decline. The national Center has not been able to attribute any main causes for these national trends so there is no consensus about why national trial court caseload has been declining. For civil filings, you can see again a very similar trends and increasing civil caseload over the first four or five years until about 2008. California's increase has been at a slightly higher or faster rate than the national trend. Since 2008, the decline in California has been slightly higher or faster in terms of civil caseload than the national trend as evidenced by the slightly growing gap between the two trendlines. For criminal filings, a fairly similar trend decreasing over the ten-year period generally. The decreasing trend in California has been at a little bit faster rate three 2008 through fiscal year 13-14. The new last several years, you will see California's criminal filings flatten out at a little bit more of a rate than the national criminal filings which has declined over the last year.

>> The family of the domestic filings, the national versus the California trends are very similar. Relatively unchanged over the ten-year period. The rate of change with the small decline over the last couple of years looks to be pretty consistent with the national figures versus California's figures.

>> For juvenile filings, you see here that the trend in California versus the national trend and how the declining juvenile caseload is really consistent with what the national center is finding in terms of the juvenile caseload nationwide, the last several years, California juvenile caseload, although it has been declining, it has been declining at a slightly slower rate than the national caseload for juvenile cases. The last case category, traffic filings. Again, an increase over the first four or five years, slightly higher in California and much like and some of the other areas, the decline in traffic filings for California has been at a slightly higher rate than what we have seen in the national trend.

>> We will transition back to California where there can be some statewide factors like legislative changes that can impact the caseload trends for California. A really clear example that we saw in the felony caseload is proposition 47 which was implemented in November 2000 is proposition 47 which was implemented in November 2018. Even though prop 47 was implemented in the middle of 14-15, you can really see the clear impact on felony filings for 14-15 in the trend line where we had a decline of almost 21% or 58,000 cases. In the drug and property offenses reclassified under prop 47, which are reported in the nontraffic misdemeanor category, you can see for 14-15 that corresponding increase in cases. You are seeing that prop 47 effect in the felony caseload as well as the nontraffic misdemeanor caseload. If you isolate the felony filings by month, you can really see the dramatic impact in felony filings in November 2014 one prop 47 wasn't lamented. You see a significant drop in felony filings from 20,000 to 25,000 filings per month to about 15,000 filings. Although felony caseload has increased since that initial drop in November 2014, we do only have six months of data. One of the things we will be looking at is the 15-16 data to see what the longer trend in felony cases will be after prop 47.

>> When we look back at the last 10 years of caseload data, we really need to account for remember the impact of the recession in the statewide budget cuts. Not just on the branch, but our justice system partners. There was a recent article in the Sacramento bee about the reduced number of statewide police officers compared to the number before the recession. We looked at some of the same data from the Department of Justice on the number of sworn law enforcement officers statewide which includes police, sheriff departments and Highway Patrol. We compared the trend in the number of law enforcement personnel to the number of filings in two different case categories. Traffic misdemeanors and traffic infractions. Again, the trends are on different scales so the comparison is not in the height of which is higher. The trend over time. You can see that the law enforcement staffing and traffic filings do appear to track with one another and there may be a similar relationship between other case types and different justice system partners staffing levels. The law enforcement staffing did increase the last year for the first time since 2008 and so it will be interesting to look at future data in these case types and other case types to see if and how there is an impact on our filings based upon the increased staffing in law enforcement and other agencies.

>> There has been a lot of attention on the issue of fines and fees, especially in the criminal area. The Council was awarded a DOJ grant on the defendant's ability to pay fines and fees. I know the Council is also aware of the national task force on fines, fees and Bill practices. These court fees have also increased in the civil areas with several increases between 2008 and 2013 depending on the case type. It does coincide with the period of declining statewide filings. We have some limited aggregate data in JBSIS on fee waivers filed in civil, family and probate cases. Based on this aggregate data, there has been a significant increase over the past 10 years and the proportion of these cases with the request for fee waiver. What is not known is if there is a relationship between these increasing fees and the decline in civil caseload for the extent that these fines or fees may be serving as a type of disincentive or barrier to the public in using the courts to resolve their disputes.

>> This last slide with the local factors is an important reminder that the statewide caseload trends are made up of data from the 58 superior courts that vary by size, demographic, economic activity and many other local factors. There also could be many justice system partners at the local and county level that can influence the number and type of cases Beckett filed in the court. The office of court research has been site visits for a workload study and heard about some of these local factors that have impacted filings. This sharing a couple of examples of what we have heard. In plaster for traffic, there has been a drop in infraction filings due to an increased focus in training on community relations for law enforcement. That meant that they were giving more warnings and issuing fewer citations for traffic. In orange, we heard that many jurisdictions were discontinuing the use of photo enforcement or read by cameras. That was driving a declining traffic caseload. In San Francisco, they mentioned some demographic changes with fewer children and the growing elder population. It seems to be influencing the number of juvenile filings and also driving an increase in their probate workload. This issue of aging population will certainly be a statewide factor for all of the courts. It is highlighted by [name indiscernible] from Department of finance in her Judicial Council presentation back in August. Celano mentioned during the site visit their self-help center for family law observed at the decline in family filings may be due to a lack of affordable legal services for family law outside of the Metro areas and the self-help center had seen an increasing demand for self-help services in their County. Lake County observed a recent increase in unlawful detainer filings as a result of the significant fires in the last several years which reduced the housing stock and created disputes between landlords and tenants. We have a really clear understanding of what the caseload changes have been and where they have occurred and the question of why is a very complex issue. In part, because of all the different potential factors and the impact of these factors is often not clearly shown in the data like with what we found in prop 47.

>> That is all for my presentation. I would be happy to open up the floor.

>> Judge Gordon.

>> When you talked about differentiating between case types, not measuring the felonies, within the actual case types, is there further differentiation of one count felony or capital case? Is a felony a felony?



>> A felony is the most -- it is the level at which all courts can report. We can't get more detailed data on a statewide basis.

>> So the workload standards in our models are based upon the data that we can consistently get from all the courts and that is why we use a simple standard.

>> Chris, where does [indiscernible] fit in?

>> Complex would be in the Unlimited civil territory. There is a multitude of different cases. Personal industry contract, employment and the conflict cases.

>> There is no separate stack for complex, just lumped into limited civil?

>> On the workload side, the RAS model has the case wait.

>> Thank you.

>> First, thank you for presenting statistics. It is never an easy thing to do. You did an excellent job with it. The other questions bring back to the national data. I think you said about 10% of the national number is revisited by California. You have a chance to look up or capital at all?

>> We did. California's population tends to be about 12% of the national population. Our filings averaged about 9%. If you standardize about population or do a per capita, the filing rates in California are slightly lower than the national rates.

>> Is there any understanding of why the national rates are lowering?

>> The national Center is looking into that. I believe that they are convening a panel at the next conference where they hope to bring together different courts to look at what might be driving both the court caseload trends as well as the national caseload trends. That is something that they have not been able to identify. They are interested in trying to look into that.

>> Thank you. We appreciate your presentation and it was clear and concerning. We appreciate seeing the national level as well. We look forward to further information. Thank you Leah and Chris.

>> Thank you.

>> [indiscernible - low volume]

>> This is an action item on our agenda. The judicial workload assessment 2016. The update of the judicial needs assessment. We welcome Hon. Lorna A. Alksne, chair of the Judicial Council workload assessment advisory committee, Ms. Deana Farole, Judicial Council office of court

research and Mr. Peter James , Judicial Council office of court research. Thank you for being here.

>> Thank you.

>> Chief Justice and members of the Council, thank you for coming to San Diego. It makes it so much easier for me to do a presentation when I only have to walk down for my chambers. [ laughter ] I chair the workload group for you guys and it is always helpful to take back and remember what we do here. There are a judges on this committee and there are eight CEOs. Every judge can bring their CEO and every CEO can bring the judge. We end up with 32 people. We do a lot of things and ever since we became an advisory committee to the Council, we are doing more and more. We started off with two big tasks which is the judicial needs study which I will talk about today. You heard in the previous presentation a lot of talk about the workload study. Don't worry. I will be back. We are going to be back in May with the workload numbers. We are working hard, fast and furious to try to get that ready for the fiscal year. I promise you we will have a. They are interconnected but they are separate. I got a call yesterday from the daily Journal and I had to thoroughly explain what the differences between the two are. They kept thinking that work them and judicial needs were eligible to together. These are separate analyses that we do. With that, I will tell you that we do this twice a year -- every two years for the legislature to give it to you all to send it up to the legislature. It is based on the filing data from the last three years. We are looking at 12-13, 13-14 of 14-15. It requires by statute a three-year average. We can't do five years. We can't do one year or two years, we have to do three.

>> The last report was completed in 2014 and we will be working -- when a workload study ends and we presented to you all, we will take those new numbers and put them into the report for 2016 so the numbers we are using now, the workload numbers were completed in 2010. So why don't we just do more?

>> It takes a lot of time to do the workload study and we had to burden 20 counties with doing random time and moment studies. We can't afford it. It is not cost effective and it would be too burdensome on the court to do the workload study is frequently as I would like. With that, I will turn it over to the people who know the statistics.

>> I just wanted to mention that we do have plans underway to update the judicial workload study. We had decided to prioritize the staff workload study because that has a more direct link to funding at this point. We continue to have reports every couple of years that say we need more judges than we have and we don't get more judges. In terms of our staff capacity, because we have taken both of these studies in house now, we're prioritized the staff workload study which creates the RAS model and on the heels of that, we voted within the past few years to have each of the studies of dated every five years. We are trying to get on the cycle at this point.

>> Let's review the methodology that we used to populate the initial need. Essentially, the judicial needs formula calculates whether the number of existing judgeships in each court meets the current need. We subtract from the current need that we estimate, which I will ask Lane in

the next bullet point from the number of existing judgeships in each court. If we have the assessed need for a court was for 12 judgeships and they currently had 10, then they would have a judicial need of +2. Conversely, if their need was 10 and their existing judgeships were 12, their judicial need would be measured as -2. Both of these situations occur as you will see in the report.

>> How do we calculate the current need for judgeships in anyone court? That is calculated by multiplying a three-year average of the annual filings in each of 19 different case types by a case wait. That is an average of the amounts of bench and non-bench time required in a case. As Dena mentioned, those case weights were estimated in a study conducted in 2010. Once we have that number, that is then divided by the total judicial time available for one judicial position in a year. Just to illustrate this, if a quartet a three-year average filing for felony, we would multiply it by the case wait for felony which is 177 minutes and then we would divide that by 77,400 minutes which is what we used for one judge position. That would come up with 2.3. For each of the case types, we then add them together and that is where it comes from for anyone court. There are two really important things to bear in mind about this model. The first point is that it is driven entirely by filing. The only difference between this report in 2016 on the 2014 report is the filing data that was put into the model. The second point, which we have already alluded to is that the case weights will last updated in 2010 so they may not reflect any changes in policy that have occurred since then.

>> Moving on to the key findings from the report. The headline finding is that 189 more judgeships are needed statewide. Those judgeships each spread across 31 quarts. The majority of courts in the state require additional judgeships. The graph that you see here, the top bar is the number of judicial positions across all the superior courts. The bottom bar is the net judicial need. That is the judicial need which includes all of the needs that is positive. The courts who need more judges and all of the need that is negative. You will notice that the difference between these bars is 88.5 or 89, which is not the same as 199. The reason for that is that there are 100 judges in the negative category. Because there isn't a policy of reallocating judges, the real, practical need at the moment is a grace value of 189 more judges. How does that compare to what we reported in 2014? As you heard from Chris, filings have been declining in general. When we started on this report, our expectation was that there would be a corresponding reduction in judicial need and that is what we have seen. There is a 6% decline in the total yellow bar that you saw in the previous slide. That decline is a decline in the weighted caseload so it is not as sharp as it would be if we just used the raw filings data and then adjusted for the workload associated with different types of cases. It avoids the model essentially being effected by high-volume by substantial declines in high volumes, low workload filings.

>> The graph that you see there compares the judicial need as measured in the 2014 report with the judicial need measured in 2016. It is important to note that there is a level of aggregate need and that since 2014, that need has declined slightly. That is simply the sum of what is happening at the level of individual case types. They are all slightly different persons depending on the case type. I have just given some examples here of case types were typically, if you look across the 88

board, we are seeing either increases or decreases. We have seen some increases since the 2014 reports in mental health, probate and unlimited judicial need. We have seen decreasing need in unlimited other. That was in the unlimited case of the employment contract. Juvenile delinquency, family law, limited civil and misdemeanor and infractions.

>> Judicial need is not evenly distributed across states. We have a map here to display this graphic. The map, if any court does not have -- has a negative need, it is white. When the shading gets darker, that means that the percentage judicial need, and by that we mean the judicial need as a percent of the number of judicial positions they have at the moment is higher. The reason we use the measure is that it helps us to give a way of comparing courts. What you hopefully can see from this map is a fairly clear geographical concentration moving down the Central Valley and then peeking in the inland Empire with San Bernardino and Riverside both with percentage of judicial need above 50%. What that means is that they would need to meet their need, it would meaning increasing the number of judicial positions by half.

>> Thank you for all of your hard work on this.

>> Looking ahead, what do I need? Our team needs people to for the spate in the judicial -- to participate in the judicial need study next year 2017. We have not always had a lot of participation. You can see where it really matters that we have good numbers. I know that I made a pitch at the PJ CEO meeting last January to participate in the workload study. That was very fruitful for our committee and I thank you all that decided to participate. We are going to be looking for courts to participate in 2017 after we finish the workload study. Just one example of where workload might be different that will bring it home to some of the judges is there was a legislative bill that was proposed that was going to make us all family law judges had to propose their order and submit it and give it to the litigants the same day as the hearing. That is something that would change the workload of every family law judge. Some courts that are very technological are able to do that right now, maybe just sentimental. The rest of the judges and counties were very alarmed that every judge instead of going back and reading their files for the next day would have to be preparing orders and submitting them. There are all sorts of things that could change the workload and we need to capture that workload by having as much participation as possible. We will be back in 2017. This committee will be back in 2017 to give you the workload models and we will be back in 2018 to give you another report on judicial knees. Thank you. Any question?

>> Can we go back to the first slide works -- slide? The 1000 case filings.

>> Yes.

>> I am a little concerned about the 1000 felonies. Every felony is different. A murder trial versus a burglary trial. The minutes are very misleading.

>> Let me finish. If you can explain that to me, I will let you know how you get the 177 minutes.

>> That is part of the workload study. We surveyed 20 different courts and we took random time and moment studies from different clerks and different processes in different parts of the court. Deana and Peter can give you all the nitty-gritty details on a. I can just give you the global overview. We take those minutes, we figure out what the average is, how long it takes to process a felony. If you think about the majority of the felonies, a lot of them please write out. Some take a long time. You can figure out how many minutes it takes to process a felony in the state of California, it is right now 177 minutes. That is a statistical analysis that I did not do. I can promise you. We have a very competent team to do these and there is also a study that goes on afterwards where they take a look at it for some of those things that Leah gave you at the last visitation about why there would be certain traffic patterns that would impact filings. Those kind of things are looked at to make sure that one court is not [indiscernible]. We can show you those when I present at the workload. We will show you how we got there. If you are interested, we can also talk about it to show you the data.

>> You indicated that misdemeanors are going down. Was that done pre-prop 47?

>> Those numbers are not valid anymore then, right?

>> It is a three-year average. [indiscernible - low volume] so the more accurate number would be the next cycle because that is when you have the full indication of prop 47. Right now, you only have part of it. Prop 47 did not exist before. Now we have the burden.

>> We also have to update measuring the workload. It is not just filings. We will have new workload standards that will capture the impact on judicial officers of California.

>> It is a tough job. Numbercrunching is one of the hardest things to do. For mathematicians, numbers are logical. When you put human beings and cases and you put numbers, for us judges, it is hard.

>> I agree.

>> Different counties have different cultures. In my County, you could have a 459 second and it could last year three weeks because of the nature of the culture of the attorney. I know it is a hard job.

>> When we did the workload study this year, we used small counties, large counties, inland counties, coastal counties, Northern and Southern. We took every volunteer that wanted to participate to try to get the most capture of what everybody's culture is to find out what the mean is. It is not a best practice analysis. It is just how long it takes in the state of California. We haven't come up with any other way to capture a. One thing about the filings, to let you know why we don't look at a finer, more granular breakdown of the felonies, it is an issue of courts being able to consistently report at that level across the state. That is not happening at this point.

>> Thank you.

>> With the rates increase in postconviction work because of new legislation in prop 47, some of the stuff is going to possibly come down. I know this is [indiscernible - low volume] is that going to be Incorporated in a sense, it is getting to the point where it becomes a weighted filing.

>> We capture all of the workload from initial filings through disposition and including any post disposition activity.

>> That is not what I'm asking.

>> We also collect the data from the judges and we asked them whether it is predisposed, post disposed.

>> That is not what I'm asking. I am talking about prop 47 [indiscernible - low volume] that is different than a linear analysis of felonies being from arraignment --

>> We are taking a snapshot of the judicial workload from a point in time. We are not following cases linearly. It is just an aggregate of how much time you are spending doing these things. It seems like I am not --

>> You are unit -- your unit measurement is certain that. Whether it is civil or felony.

>> I am saying we need to have a new type of workload introduced into the process. A prop 47 petition is not a filing.

>> All of the workload is loaded onto the filing.

>> Scott, if when we do the time study and someone's that I'm working on a prop 47 decision, that would be captured.

>> That is what I am asking. We have prop 47 petitions going back to 1960.

>> Remember, as soon as we get current on our case way, prop 47 comes in and new legislation comes in. We are going to be chasing our analysis for the rest of the time that I am here. I am going to call on Justice Humes, Justice Chin, and the Mr. Feldstein and judge stopped. -- Judge stopped

>> I understand what you are saying is that we need 189 judges. If we could distribute the current judges that we have where we think we need them now, we would not need 189. We would only need 89.

>> Correct.

>> I don't think we could to 80.5. I'm not quite sure anyone is willing to do that.

>> In a sense, we have a distribution problem as well as a number of judges problem.

>> Yes.

>> Thank you.

>> Justice Chin ?

>> You give us a figure of 122 as a drop from 2014 to 16. In the prior presentation, we saw a dramatic drop from 2008 to 2016. Can you tell me the amount of reduction from 2008?

>> No. Specters approximately?

>> We can't.

>> It was over 300. When I started on this committee in 2006, it was over 300.

>> Rick Feldstein, Judge Stout and [name indiscernible].

>> It sounds like that because of the fluid nature, it is impossible to capture an ongoing estimate. If we did try to, our numbers would constantly changing. What you have to do is capture a picture in time so to speak which is what you have done. To go into the question about changes in laws and culture or whatever, had those things changed, that is what you do an update, correct?

>> Correct.

>> Looking at the example we got with prop 47, those 177 minutes that you put on a felony for example might impact that particular case with by increasing the number of minutes and that is why you are doing the update?

>> Exactly. We have done this staff workload study and we have found that there has been a huge increase in the misdemeanor workload. It is actually inconsistent whether it is an increase or decrease in felony but that was a direct reflection of prop 47. We found that a lot more defendants were having multiple misdemeanors which increased the workload per filing. We actually do a series of site visits to all of the courts to understand what is going on behind the numbers and what is driving the workload. That provides more numbers. When we bring the subject matter experts in to evaluate the case weights and make adjustments to them, we sort of pass along some of that information about what is increasing, what is decreasing, what is going

on behind the scenes. The [indiscernible] is also an opportunity to anticipate any workload changes that may be coming up. Maybe we couldn't capture the [indiscernible] recommendations when we were doing the workload study the last time but we did have some subject matter experts in our family session saying this is going to be the likely impact. We need to make some adjustments the cause we will be taking more live testimony. It is not the perfect way to go but at least it does allow us to anticipate when there will be increases and not have to wait another five years to actually directly measure them.

>> Judge Stout?

>> Thank you. I think to really address some of the concerns of the local culture, I really think the answers were that all courts participate in the study.

>> Thank you. [ laughter ]

>> It is not going to be popular what I am saying here at all. To use up all my good favor with the court execs this morning, I recall back in 2010, one of the criticisms of the numbers was that we did not have representatives number of courts participating in the study. At the time, some of the courts participating maybe did not fully participate the significance of what they were doing and did not take it as seriously as they should have. Again, we are all overwhelmed so we are doing our day jobs and this is very important. I think getting everybody to participate is really helpful.

>> I think you raise what I believe is an excellent point. There is some reticent for judges to take time. We need to get over that and just say we need to have this information so that we have information that we can give the legislature that is accurate. Somehow, we need to get over that hurdle. We are not lawyers taking 10 minutes to show what we did or did not do. We are trying to capture what our need is.

>> The issue of postconviction work at a small County like Dell North for example, not dealing with homeport felonies regarding syntheses and whatnot on habeas corpus they are getting petitions every day regarding the food being the wrong kind etc. How do you take into account those sort of anomalies in those counties where there are enormous number of hideous petitions being filed at that level that don't fit into the regular model?

>> Let me ask one question are you talking about judicial need or workload?

>> I am talking about workload.

>> Staff workload?

>> Correct. The judicial need part of it as well.



>> I'm going to try to answer the staff one. I think that there are a couple of things. One is that we are never going to have a model that accounts for every exception and everything that is unique about the court. It is 58 different courts doing 50 different ways. Is difficult. The thing I would say is get the Dell North to for the spate in the study so that it is --

>> They are too busy with the Haiti is filing. [ laughter ]

>> Having a variety of courts that have these different situations and have them weighing in on what the workload should look like will really go a long way helping to address that. Even if the original filing was in a different court, they still get the credit for that workload, even though they did not have backed filings.

>> Justice Slough and Judge Buckley.

>> [indiscernible - low volume]

>> There are two recommendations. That is to approve the attached report and to approve the proposed priority ranking. Are you moving those?

>> That would be my motion.

>> Thank you. Seconded by Justice Slough. Judge Buckley?

>> I do want to talk to you afterwards as to what do our difficult, preparing the report or reporting on the report? [ laughter ] In reference to the report on the bottom of page 1 in the top of page 2, where you address the fact that the study goes back to 2002 and obviously dependent on that, we all can read A.B. 109. I appreciate the context and the work involved. We can read prop 47. Given that this audience is ultimately the legislature, was thought given to an addendum or the body of the report really giving qualitative examples of what kind of work is entailed in these items that is not reflected in the study that you did?

>> I don't think that had been contemplated. I think one of the difficulties is it would be very speculative.

>> I am not even saying supported by numbers. Again, what A.B. 109, what does that entail? It is adding court. Prop 47 is thousands of petitions. Is not asking for numbers but the description for the layperson and what we do is qualitatively with that could entail. It may be too late. I support the motion but I think either in this report or subsequent reports, it would help better explain that there is a lot more there than what we can give you given the reality of a five-year study.

>> I think that there was a pretty robust discussion about what happened when we saw this. I think the purpose of our committee is to stay neutral and to give you guys the facts and the

statistics and to send them on the way they come out and not speculate or have conjecture about why we think this is an true. We just don't know.

>> I understand.

>> That was the reason why I don't want to write a report and have it go to the legislature where they say it was misled.

>> I am not suggesting the advocacy position. I'm just throwing out but if you give a short definition or a description of what 8109 is, it would help the reader to understand.

>> What you are suggesting as we tell the legislature about the legislation? [ laughter ] I agree with you. That might be appropriate.

>> Judge Ruben?

>> I just want to follow-up on what Judge Buckley said. I agree with Buckley on this. We are pretty well-versed on this and we understand what is being said. Two new legislators, especially new classes of legislators who may not have been there for ever had any experience with the court, is there where a paragraph or two says this legislation did this. This is what it means to the court. When you look at these numbers, it is the context of how the work goes. Is that how you consider advocacy team?

>> I think it will be very helpful.

>> The concern is that we don't know what A.B. 109 has onto our statistics. We have not capture them. We are going to capture them in this workload study in 2017 and that is what I was trying to say. We just don't know what the statistics are.

>> I understand. Is there a way to have a paragraph or two about saying that it was going to realign the justice system and reclassify these folks or whatever it was so people who are not been experienced with A.B. 109 would know what it is. And then, the practical impact on the court's meaning is required more hearings than this, this and this. In that context, we can approach [indiscernible]. Is there room for that is that to advocacy?

>> I will put in it whatever you guys want. It is your report. If you guys really feel you need that -- I feel like we don't know what the effective A.B. 109 is. Because there is less felonies, the statistics might not bear out that we need more judges. Judge Anderson?

>> If I am understanding everyone's comments correctly, it is a comment on statistics. If you look at that last area that they are referring to when it references one of the cases used in the current iteration of the judicial needs assessment are based on data collected in 2010, they may not reflect new judicial workload results from legislative and other policy changes that have occurred since then including criminal justice realignment and prop 47, which created post relief

available which was not previously done. Adding something like that, which created postconviction relief not previously available. Then, after Elkin, which created an enhanced level of hearing that was not previously available. Those are just a few words that you add to it that lets them know there is something that has been added that was not previously available and we make no comment or we are not referencing our statistics.

>> Justice Miller?

>> I guess all of that is true but I am not sure that is what we have been asked by the legislature to do, which was to give statistics based on a moment in time. We have done that and provided that to them. We would be better served by when we are asked about this sitting with the legislature to advocate at that particular time. It seems likely would be creating a report that is undermining what are we are -- what we are asking them to do an consider when we advocate for more judgeships. This is just a statistical report. That is what we ask you to do and that is what you did. I agree with all of those things I am just not sure it is relevant to the report that the legislature asked you and that we are voting.

>> Let me say here that we have a completed report that is required by the legislature. 100 ways to write it. At this point, we have a completed report the recommendations that has been moved by judge slow and seconded by justice allow. I will call for a vote. All in favor of the recommendations,? Any know? Any abstention? Matter carries. I want to personally thank all of you for this hard work that goes into trying to encourage courts to participate in order to provide the data knowing that it is statistical analysis and knowing the difficulties as Judge Buckley said, writing it and then trying to report it and thank you for this work. We appreciate it and in our own way, we look forward to the next one. Now, I get to answer your question Judge Buckley. It is harder to reported. [ laughter ]

>> I am not surprised.

>> Thank you. [ applause ]

>> We're going to stand in adjournment now until tomorrow morning when we will start the second part of our meeting, Friday at 8:30 AM. Thank you.

>> [Event Concluded]