

deceased members. In 1970-71, the system earned \$85,079 on investments having a book value at \$1,221,401, for an earnings rate of 7 percent. Table 1 summarizes selected items of the system's most recent five-year growth pattern.

JUDICIAL

Items 17-18 from the General
Fund and Item 18 from the
Motor Vehicle Fund

Budget p. 4 Program p. 9

Requested 1972-73.....	\$9,159,741
Estimated 1971-72	8,682,702
Actual 1970-71	8,158,003
Requested increase \$477,039 (5.5 percent)	
Total recommended reduction	None

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

*Analysis
page*

1. Trial Court Coordinator. Recommend approval of one proposed Senior Attorney (\$16,044) on condition that the federal government funds the position.

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GENERAL PROGRAM STATEMENT

Section 1, Article VI of the California Constitution vests the judicial power of the state in the Supreme Court, courts of appeal, superior, municipal, and justice courts. The Supreme Court and courts of appeal are wholly state supported. Except for the major portion of the superior court judges' salaries and employer contributions to the Judges' Retirement Fund for superior and municipal court judges, the remaining courts are supported by the counties and by fees and costs collected by the courts.

Section 6, Article VI of the State Constitution created the Judicial Council and provided for its membership and duties. The objective of the council is to improve the administration of justice by surveying judicial workload and making appropriate recommendations; adopting rules for court administration, practice and procedure not inconsistent with statutory provisions; and performing other duties as prescribed by statute.

The state-supported courts hear appeals alleging errors in procedure or interpretation of law in the trial courts; resolve conflicting interpretations of law between trial courts; interpret the provisions of the State Constitution when appropriate constitutional issues are raised on appeal; hold hearings on and grant or deny writs of habeas corpus, mandamus, etc.; and process other motions and orders author-

JUDICIAL—Continued

ized by law. The law also provides for appeals from decisions of the justice and municipal courts to the superior court.

The state-supported portion of the court system consists of five courts of appeal, each of which serves a distinct geographic area and hears appeals from superior courts within its district, and a Supreme Court, which is the final arbiter on the interpretation and application of state law except in cases involving the U.S. Constitution and federal laws, in which case the final decision is made by the U.S. Supreme Court.

The total state judicial budget request for 1972-73 is \$9,238,490, an increase of \$81,564 or 0.9 percent over estimated current-year expenditures. This expenditure program is proposed to be funded as follows:

<i>Item No.</i>	<i>Amount</i>	<i>Source</i>
17	\$9,141,844	General Fund
18	17,897	Motor Vehicle Fund
	<u>78,749</u>	Federal funds
Total.....	\$9,238,490	

ANALYSIS AND RECOMMENDATION**I. SUPREME COURT****Program Description**

As California's court of final appeal, the Supreme Court is responsible for deciding important questions of law and maintaining uniformity of decisions. Its specific functions and powers include the following:

1. Holds hearings on writs of habeas corpus, mandamus, prohibition, and certiorari.

2. Hears appeals in all cases involving death sentences.

3. Hears appeals from decisions of the courts of appeal in civil and criminal cases involving interpretation of state law.

4. Transfers cases to the courts of appeal to relieve its workload pressures.

5. Hears executive clemency applications of persons who have had two or more felony convictions.

6. Admits qualified applicants to the practice of law.

7. Passes on disciplinary recommendations of the Board of Governors of the State Bar.

8. Appoints counsel for indigent criminal appellants.

9. Provides for the filing of cases and preparation of case records.

10. Ascertains, through its office of "reporter of decisions," that its decisions (and those of the courts of appeal and superior courts deemed of sufficient importance to be published) have been accurately printed. The decisions are published by a private printer.

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ount	Source
41,844	General Fund
17,897	Motor Vehicle Fund
78,749	Federal funds
38,490	

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Organization and Program

The Supreme Court, consisting of the Chief Justice and six associate justices, is assisted by a clerk of the court and 70 staff members including attorneys, deputy court clerks, a reporter of decisions and various technical and clerical personnel.

The court's workload is measured by the number of cases and other matters which are filed with it for review and disposition. Table 1 summarizes this workload experience for the most recent five-year period.

Table 1
California Supreme Court
Summary of Filings
Fiscal Years 1966-67 Through 1970-71

Detail	Fiscal year				
	1966-67	1967-68	1968-69	1969-70	1970-71
Total filings	2,716	2,959	3,322	3,400	3,179
Appeals					
Civil	189	19	0	0	0
Criminal	22	30	15	17	38
Original proceedings					
Civil	91	83	84	84	108
Criminal	1,026	1,057	1,349	1,235	835
Petitions to review cases decided					
by courts of appeal	1,379	1,769	1,874	2,064	2,198
Other	9	1	0	0	0

Source: Annual report of the Judicial Council.

As shown in Table 1, there were 3,179 separate matters filed in the Supreme Court during 1970-71. This represents the first decline in total filings in the last two decades. The reduction results from the filing of 400 fewer original criminal proceedings (writs) than were filed in 1969-70 partially offset by an increase of 134 in filings of petitions to review cases decided by the courts of appeal. However, the filing level for 1970-71 was still substantially above total filings for 1967-68 (2,959 filings) and prior fiscal years. The Administrative Office of the Courts believes the downturn in filings of original criminal proceedings is temporary and estimates such filings will total approximately 1,200 in 1972-73.

Budget Request

To support its operations in the budget year, the Supreme Court is requesting a General Fund appropriation of \$1,946,586, which represents an increase of \$105,941 or 5.8 percent over estimated current-year expenditures of \$1,840,645. The increase consists of judicial and merit salary increases, added costs for rent and staff benefits such as social security, and normal increases in operating expenditures. The budget proposes continuation of the court's currently authorized staff of 78 positions.

Table 2 shows a downturn in total business transacted by the court in 1970-71. This decline is attributable primarily to the reduction in

JUDICIAL

Items 17-18

JUDICIAL—Continued

Table 2
California Supreme Court
Business Transacted

Detail	Fiscal years				
	1966-67	1967-68	1968-69	1969-70	1970-71
Total actions	4,135	4,296	4,124	4,772	4,637
Appeals	148	124	142	114	127
Original proceedings (including habeas corpus)					
Written opinion	58	56	66	91	86
Nonwritten opinion	1,028	1,048	1,180	1,121	911
Hearings					
Granted	157	168	158	191	204
Denied	1,222	1,601	1,716	1,873	1,994
Rehearings					
Granted	1	1	5	0	1
Denied	106	66	93	95	87
Orders					
Transfers and retransfers	749	452	157	177	169
Miscellaneous	608	717	551	997	948
Other actions	58	63	56	113	110

Source: Annual report of the Judicial Council.

the filing of original criminal proceedings, including writs of habeas corpus, as discussed in relation to Table 1.

II. COURTS OF APPEAL

Program Description

Each of the five courts of appeal has appellate jurisdiction over all cases filed in the trial courts within its district. Subject to final appeal to the Supreme Court, each has original jurisdiction (i.e., cases may be initiated in these courts without prior adjudication in the superior, municipal and justice courts) over certain criminal matters (writs of habeas corpus) and civil causes (writs of mandamus, prohibition, and administrative-review). Mandamus is an order directing performance of a generally affirmative nature, whereas prohibition is usually negative in form.

Organization and Workload

Each court of appeal consists of one or more divisions. Except for one division which has five judges, each division has three or four judges who sit as a single court to hear cases and issue opinions. While the cases are heard and decided en banc (that is, by the full court), the opinions are usually written by one judge with the concurrence of the remaining judges or a majority of them. There may be written dissenting opinions when the decision of the court is not unanimous.

Each judge is assisted by a research attorney and a secretary. Centralized staffs of research attorneys have been provided all appellate districts, except the fifth, to provide an initial screening of matters

Items 17-18

brought before the courts. This act as a means of handling the increased efficiency of these courts.

The workload of the courts of appeal is based on the number of cases filed on a weighted unit

California Court
Filings on a Weighted Unit

Filings per district	1970-71
First District	
Weighted units	1,769
Average per judge	1,769
Second District	
Weighted units	1,769
Average per judge	1,769
Third District	
Weighted units	1,769
Average per judge	1,769
Fourth District	
Weighted units	1,769
Average per judge	1,769
Fifth District	
Weighted units	1,769
Average per judge	1,769
Totals all districts	
Weighted units	1,769
Average per judge	1,769

Estimated
Source: Administrative Office of the Courts

The weighted-unit approach is used in Table 3, which involves the assignment of a weight to each filing based on the complexity required to complete it, providing a means of evaluating workload and assigning judges to handle filings for the last completed fiscal year and budget increases in these courts. The estimated weighted units in 1972-73 compare to 79,600 in 1970-71. Average workload per judge is an estimated 1,769 units in 1972-73 and 1,554 units in 1970-71.

The workload growth reflects recent years by increasing the number of operating procedures rather than the case previously.

Supreme Court
transacted

	Fiscal years			
	1967-68	1968-69	1969-70	1970-71
1967	4,296	4,124	4,772	4,637
1968	124	142	114	127
1969	56	66	91	86
1970	1,048	1,180	1,121	911
1971	168	158	191	204
1972	1,601	1,716	1,873	1,994
1973	1	5	0	1
1974	66	93	95	87
1975	452	157	177	169
1976	717	551	997	948
1977	63	56	113	110

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brought before the courts. This added staffing was authorized in 1970 as a means of handling the increasing workload and improving the efficiency of these courts.

The workload of the courts of appeal, represented by the number of cases filed on a weighted unit basis, is shown in Table 3.

Table 3
California Courts of Appeal
Filings on a Weighted-Unit Basis

	Fiscal Years				
	1968-69	1969-70	1970-71	1971-72	1972-73 ¹
<i>Filings per district</i>					
First District					
Weighted units	17,077	19,172	19,973	21,600	23,300
Average per judge	1,423	1,598	1,664	1,800	1,942
Second District					
Weighted units	24,744	30,819	33,418	35,500	37,600
Average per judge	1,237	1,541	1,671	1,775	1,880
Third District					
Weighted units	5,966	6,244	6,196	6,800	7,480
Average per judge	1,492	1,561	1,549	1,700	1,870
Fourth District					
Weighted units	9,705	11,058	11,253	11,800	12,400
Average per judge	1,618	1,229	1,250	1,311	1,378
Fifth District					
Weighted units	2,995	3,305	3,751	3,900	4,100
Average per judge	998	1,102	1,250	1,300	1,367
Totals all districts					
Weighted units	60,487	70,598	74,591	79,600	84,900
Average per judge	1,344	1,471	1,554	1,658	1,769

¹ Estimated

Source: Administrative Office of the Courts

The weighted-unit approach to workload measurement shown in Table 3, which involves the assigning of a weight factor to each court filing based on the complexity of the case and the time normally required to complete it, provides a more meaningful basis for comparing and evaluating workload among the courts of appeal. Both the filings for the last completed fiscal year (1970-71) and the estimated filings for the current and budget years reflect continuing workload increases in these courts. The estimated total filings of 84,900 weighted units in 1972-73 compare to 79,600 units in 1971-72 and 74,591 units in 1970-71. Average workload per individual judge also is increasing to an estimated 1,769 units in 1972-73 compared to 1,658 units in 1971-72 and 1,554 units in 1970-71.

The workload growth reflected in Table 3 has been handled in recent years by increasing the legal research staff and improving operating procedures rather than by creating new judgeships as was the case previously.

JUDICIAL

Items 17-18

JUDICIAL—Continued

Budget Request (Courts of Appeal)

The courts of appeal propose a budget year expenditure of \$6,197,636, which is an increase of \$311,908 or 5.3 percent over 1971-72 estimated expenditure. The increase consists of judicial and merit salary increases, increases in staff benefits and higher operating costs caused by price increases. The amount requested provides for continuation of the currently authorized program level. Twenty-five new positions, 13 of which were attorneys, were approved by the Legislature last year.

The accomplishments of the courts of appeal are summarized in Table 4.

Table 4
California Courts of Appeal
Business Transacted

Detail	Fiscal years				
	1966-67	1967-68	1968-69	1969-70	1970-71
Total (all causes)	10,293	13,403	12,808	14,500	15,891
Appeals	3,258	3,885	4,386	4,834	5,310
Original proceedings (writs of habeas corpus, mandamus, prohibition, etc.)	1,762	2,279	2,674	3,118	3,244
Motions (miscellaneous)	223	302	324	317	382
Orders (miscellaneous)	4,346	6,134	4,647	5,446	6,090
Rehearings	704	803	827	785	862

Table 4 shows that the courts of appeal handled a total of 15,891 matters in 1970-71, which was a significant increase over the levels of previous years. The largest increase occurred in the number of appeals disposed of, which rose from 4,834 in 1969-70 to 5,310 in 1970-71. On a per-judge basis (including assigned judges), the courts disposed of an average of 308.6 matters in 1970-71 compared to 290 in 1969-70 and 260.6 in 1966-67.

III. JUDICIAL COUNCIL

Program Description

The Judicial Council consists of the Chief Justice as chairman; one other judge of the Supreme Court; five superior, three municipal, and two justice court judges; four members of the State Bar; and one member of each house of the Legislature. The purpose of the council, as set forth in Section 6, Article VI, of the California Constitution is as follows:

"To improve the administration of justice, the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and the Legislature, adopt rules for court administration, practice and procedure, not inconsistent with statute, and perform other functions prescribed by statute."

Items 17-18

Section 6 provides that the chair expedite judicial business and equal assign judges from one court to another without the consent of the judge. It retired judges to temporary judicial

The council appoints the Administrative Office of the Judicial Council. The Administrative Office provides the staff to carry out the Judicial Council engages in the

1. Conducts continuous statistical determine court needs.

2. Publishes an annual report containing improvement of court administration and load and accomplishments.

3. Reports to the Legislature on the specific courts.

4. Conducts studies relating to the Rules of Court to improve court operation.

5. Conducts institutes and workshops providing continuous education and improvement.

6. Conducts studies and develops ment in the organization of county

7. Administers qualifying examination court judgeships.

8. Conducts studies of court and federal funds.

9. Improves workflow of the court active or retired judges to courts has caseload burden of the court.

To carry out its program, the Judicial Council man-years in the Administrative Office director of that office.

Budget Request (Judicial Council)

The Judicial Council is proposing \$1,083,201, which is \$337,606 or 23.8 percent expenditures for the current year. The \$395,475 in federal funds partially offset higher operating costs. The expenditure one new attorney position (discussed continuation of the existing program fee of the Courts, expenses of judges' program. The reduction in funding of federally supported studies, in the lower courts which recommend and justice courts. The Judicial Council another federally funded study on the

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Courts of Appeal Transacted

	Fiscal years			
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1,293	13,403	12,808	14,500	15,891
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JUDICIAL COUNCIL

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Section 6 provides that the chairman of the council shall seek to expedite judicial business and equalize the work of judges. He may assign judges from one court to another, but not to a lower court without the consent of the judge. He may also appoint consenting retired judges to temporary judicial duties.

The council appoints the Administrative Director of the Courts who heads the Administrative Office of the Courts. This administrative office provides the staff to carry out the functions of the council.

The Judicial Council engages in the following activities:

1. Conducts continuous statistical surveys of court operations to determine court needs.
2. Publishes an annual report containing recommendations for improvement of court administration and statistical data on court workload and accomplishments.
3. Reports to the Legislature on the need for additional judges in specific courts.
4. Conducts studies relating to changes in statutes or the California Rules of Court to improve court operations and administration.
5. Conducts institutes and workshops for judges as a means of providing continuous education and improvement.
6. Conducts studies and develops recommendations for improvement in the organization of county courts.
7. Administers qualifying examinations to candidates for justice court judgeships.
8. Conducts studies of court and court-related problems utilizing federal funds.
9. Improves workflow of the courts by temporary assignments of active or retired judges to courts having a vacancy or to relieve the caseload burden of the court.

To carry out its program, the Judicial Council employs a staff of 35.8 man-years in the Administrative Office of the Courts in addition to the director of that office.

Budget Request (Judicial Council)

The Judicial Council is proposing a total expenditure program of \$1,083,201, which is \$337,606 or 23.8 percent less than estimated expenditures for the current year. The reduction reflects a decrease of \$395,475 in federal funds partially offset by merit salary increases and higher operating costs. The expenditure request includes funding for one new attorney position (discussed below) but otherwise represents continuation of the existing program level for the Administrative Office of the Courts, expenses of judges' institutes and costs of assigned judges' program. The reduction in federal funds reflects the completion of federally supported studies, including a study on the organization of the lower courts which recommended merger of the municipal and justice courts. The Judicial Council advises that this study, plus another federally funded study on the feasibility of providing a single

JUDICIAL

Items 17-18

JUDICIAL—Continued

trial court system, may result in the introduction of court consolidation legislation during the 1972 legislative session.

New Attorney Position to Coordinate Trial Court Grant Applications

We recommend approval of one senior attorney at a salary of \$16,044 to act as trial court coordinator provided that the position is supported by federal funds.

The Judicial Council is requesting an attorney position to formulate and coordinate trial court proposals for obtaining federal funds which may be available to trial courts under the federal law Enforcement Assistance Act. To date, no federal grants have been made to trial courts under this program, and the potential workload implications of developing and coordinating grant proposals are not known. For these reasons and because the need for this position is largely attributable to the existence of a federal program, we recommend that the position be approved with the understanding that its costs will be funded by the federal government. Federal funding for the position would be available only on a year-to-year basis and subject to approval by federal authorities.

IV. COMMISSION ON JUDICIAL QUALIFICATIONS

Program Description

The Commission on Judicial Qualifications is authorized by Section 8, Article VI, of the State Constitution and consists of nine members: five judges appointed by the Supreme Court, two attorneys appointed by the State Bar, and two public members appointed by the Governor. The commission's duties, set forth in Section 18 of Article VI, include receiving, investigating, and hearing complaints concerning the qualifications and conduct of the judiciary. It may recommend to the Supreme Court that a judge be retired for disability, censured, or removed from office for any of the causes set forth in Section 18.

During 1971, the commission received 217 complaints concerning the judiciary. Most of these complaints were disposed of as being unfounded or involving matters not within the jurisdiction of the commission. In 54 instances, however, the complaint required a formal inquiry or investigation, 42 of which involved discussions and communication with the accused judge. Two of these investigations resulted in the retirement of the judges involved.

Budget Request

The \$44,607 requested for this function in 1972-73 is an increase of \$607 over estimated current-year expenditures. The amount requested is to continue the previously authorized program and expenditure level adjusted for price increases and increased social security payments.

Item 19

SALARIES OF SUPERIOR COURT JUDGES

Item 19 from the General Fund

Requested 1972-73.....	
Estimated 1971-72	
Actual 1970-71	
Requested increase \$292,215	
Total recommended reduction	

GENERAL PROGRAM STATEMENT

Under the provisions of Government Code Section 20500 and the counties share the salaries of the superior court judges in the following proportions determined by county population:

County Population	State
250,000 or more.....	100%
40,000 to 250,000	75%
40,000 or less	50%

ANALYSIS AND RECOMMENDATION

The \$11,493,016 requested for salaries of the 471 superior court judges is an increase of \$292,215 or 2.6 percent over the 1971-72 salary level. This increase is attributable to the full-year salary increase for the current and budget year. The increase in judges' salaries is authorized by Government Code Section 20500.

The salary increase became effective January 1, 1971, as a result of the Phase II wage and price regulation of 1970. Salary increase funds were allocated to the General Fund but the increase is being paid by the General Fund. Subsequently, additional funds will be required for the increase in salaries which will be provided by deficiency appropriation from the General Fund.

A limitation in this item is that the salary increase is in effect on January 1, 1971, and the salary level, and we therefore recommend clarification of the purpose of the increase.

Judicial**SALARIES OF SUPERIOR COURT JUDGES**

Item 19 from the General

Fund

Budget p. L-7 Program p. 11

Requested 1972-73	\$11,493,016
Estimated 1971-72	11,200,801
Actual 1970-71	10,380,352
Requested increase \$292,215 (2.6 percent)	
Total recommended reduction	Pending

GENERAL PROGRAM STATEMENT

Under the provisions of Government Code Section 28206, the state and the counties share the salary cost of each superior court judge in the following proportions determined by county population.

<i>County Population</i>	<i>State Share</i>	<i>County Share</i>	<i>Total Salary</i>
250,000 or more	\$25,580	\$9,500	\$35,080
40,000 to 250,000	27,580	7,500	35,080
40,000 or less	29,580	5,500	35,080

ANALYSIS AND RECOMMENDATIONS

The \$11,493,016 requested in this item is the state's share of the salaries of the 471 superior court judges authorized for 1972-73. The increase of \$292,215 or 2.6 percent over 1971-72 expenditures is attributable to the full-year salary costs of additional judges authorized for the current and budget year and a 5.0427 percent automatic salary increase in judges' salaries authorized by Section 68203 of the Government Code.

The salary increase became effective November 14, 1971, under the Phase II wage and price regulations of the Economic Stabilization Act of 1970. Salary increase funds were not included in the 1971-72 budget, but the increase is being paid following a ruling by the Attorney General that the increase is mandatory under Section 68203. Consequently, additional funds will be required in the current year either by deficiency appropriation or authorization from the Emergency Fund.

A limitation in this item that the salary paid shall not exceed that in effect on January 1, 1971, casts doubt on the funding of the current salary level, and we therefore make no recommendation pending clarification of the purpose and effect of the proposed language.