



TEXAS JUDICIAL COUNCIL

Committee on District Courts

Assessing Judicial Workload in Texas' District Courts

I. Introduction

In May of 2001, the 77th Legislature attached a rider to SB 1 (the Appropriations Act) that required the Texas Judicial Council (Council) to “prepare a report on current district court locations, populations served, docket activity and other appropriate variables that would inform a legislative determination on the need for creating additional district courts.” The rider further instructed the Council to collect statistics regarding the use of visiting judges and the efficiency of the current district court system. In order to comply with this legislative charge, the Council formed the Committee on District Courts (Committee) in June 2001. The Committee, chaired by Representative Pete Gallego, was comprised of the following members: Mr. Joseph Callier, Ms. Delia Martinez Carian, Judge Orlinda Naranjo, Judge Jim Parsons, Presiding Judge Dean Rucker, and Senator Royce West. The non-Council advisory members included Presiding Judge Kelly Moore, Presiding Judge David Peeples, and Presiding Judge Olen Underwood.

Recognizing that both the judiciary and the legislature need an objective and reliable methodology to accurately assess the efficiency of Texas' district courts and to determine the need for and the location of any additional district courts in Texas, the Committee focused on developing appropriate criteria that can be used to assess the efficiency of the existing district courts and to identify those counties that are in need of additional judicial resources. This document: (1) outlines the general objectives of the Committee; (2) describes Texas' current trial court structure; (3) documents other judicial reform efforts in Texas; (4) discusses criteria identified by the National Center for State Courts to assess judicial workload; (5) presents an overview of the weighted caseload model; (6) addresses unique judicial workload and data collection considerations in Texas; (7) notes those factors considered by the Judicial Districts Board; and (8) presents several key recommendations.

II. Objectives

- Promote the quality and efficiency of the administration of justice in Texas’ district court system.
- Present accurate and complete data regarding the current structure and judicial workload of Texas’ district court system.
- Identify objective criteria and/or subjective factors that allow the judiciary and the legislature to evaluate the efficiency of the district courts and to assess the need for any additional judicial resources.
- Identify alternative procedures to ensure that future requests for additional trial courts are granted or denied based on a thorough quantitative and qualitative review.

III. Texas’ Current Trial Court Structure

As noted by the Citizens’ Commission on the Texas Judicial System, “the Texas trial court system, complex from its inception, has become ever more confusing as ad hoc responses are devised to meet the needs of an urban, industrialized society. No one person understands or can hope to understand all the nuances and intricacies of Texas’ thousands of trial courts.”¹ The multi-tiered trial court system consists of municipal courts, justice courts, constitutional county courts, statutory county courts, statutory probate courts, and district courts. A single district court judge is present in each of the 418 judicial districts, which are located among the 254 Texas counties. In addition to the district courts, there are currently 254 constitutional county courts, 195 statutory county courts, 16 statutory probate courts – including statutory probate and county courts, 835 justice of the peace courts, and 869 municipal courts.

To better understand the *geographical* jurisdiction of each judicial district or district court, six geographical patterns are illustrated below.²

Jurisdictional Overlap Patterns	Number of Counties	Number of Courts
Single County / Multiple Courts / Identical Jurisdiction	22	237
Single County / Single Court	18	18
Multiple Counties / Multiple Courts/Identical Jurisdiction	25	15
Multiple Counties / Single Court	75	26
Multiple Counties / Multiple Courts / One Separate Jurisdiction	41	47
Multiple Counties / Multiple Courts / Many Separate Jurisdictions	73	75
TOTAL	254	418

¹ *Citizens’ Commission on the Texas Judicial System, Report and Recommendations – Into the Twenty-First Century* (1993).

² See Appendix A for more detailed information.

While a majority of the judicial districts overlap one another, “overlapping districts are not entirely without justification, particularly when clustered counties do not have sufficient population, case filings, eligible judicial candidates or financial resources to support their own district courts. However... [t]hey also decrease judicial accountability by inhibiting the gathering of accurate data as to the workload and productivity of individual courts and the judicial needs of particular counties.”³ The obstacles associated with this extremely complex judicial system greatly complicate the legislature’s decision-making process regarding the efficiency of the existing district courts as well as the creation and location of any additional district courts.

IV. Structural Reform Efforts in Texas

In response to the 1989 request of Chief Justice Thomas R. Phillips, the Texas Research League (League) began a detailed and extensive examination of the Texas judiciary. As documented in a series of published reports, the League identified major structural and functional issues and made numerous recommendations for the overall improvement of Texas’ complicated trial court system.⁴ Among the League’s recommendations was a rewrite of Article V of the Texas Constitution with a focus on brevity and clarity. As part of that rewrite, the League envisioned a two-tiered trial court structure with state funding. “The top rung would be occupied by the district court, and the bottom by the justice and municipal courts. The constitutional and statutory county courts would be abolished.”⁵ The League also recommended that geographical judicial districts should consist of “only one district court with one or more judges in each district,”⁶ and that jurisdictions would be clear cut and well defined with statewide uniform jurisdictions for courts at the same level.

In 1991, the Texas Supreme Court established the *Citizens’ Commission on the Texas Judicial System* (Commission), and directed the Commission to “study and recommend any necessary or desirable improvements in the courts of Texas, including: the jurisdiction and title of the trial and appellate courts of Texas, the authority of sitting retired and former justices and judges, and the administration of dockets, personnel, and resources; budgeting for and financing of the court system; and staffing, housing, and

³ *Statement of Thomas R. Phillips and William E. Moody*, Judicial Districts Board Final Report, August 25, 1993.

⁴ *Texas Courts: Report 1, The Texas Judiciary: A Structural-Functional Overview*, Texas Research League (1990). The report provides an overview of the development of Texas’ court system. *Texas Courts: Report 2, The Texas Judiciary: A Proposal for Structural-Functional Reform*, Texas Research League (1991). The report makes several recommendations including the abolishment of all constitutional and statutory county courts. *Texas Courts, Report 3, The Texas Judiciary: Caseflow Management in the Urban Courts*, Texas Research League (1992). The report discusses and makes recommendations regarding judicial administration after exploring and examining six urban docket management practices.

⁵ *Texas Courts: Report 2, The Texas Judiciary: A Proposal for Structural-Functional Reform*, Texas Research League (1991).

⁶ *Id.*

equipping the court system.”⁷ Regarding the structural organization of the trial courts, the Commission recommended, in part, that “one level of general jurisdiction court w[ould] enhance efficient judicial administration and increase public confidence in the Texas court system.” While the functions currently performed by the statutory county courts would be transferred to the district court, the functions of the current constitutional county courts would be transferred to the justice of the peace courts. The Commission suggested that the transition could be accomplished by constitutional amendment or through transitional statutory provisions for renaming and consolidating jurisdiction.

Other reform efforts, as noted by the Commission, have included the Task Force for Court Improvement in 1973, the Constitutional Revision Commission in 1973, the Constitutional Convention of 1974, the House Judiciary Committee’s 1976 interim study, and the Select Committee’s 1985 interim study.

Despite these efforts, “court reform in Texas has been accomplished on an ad hoc basis. That is, more often than not reform occurred during a time when a specific crisis had to be resolved... the fact that much of the heart of the judiciary is fixed in the constitution makes innovation difficult to achieve. In fact, any changes that are made are apt, at best, to be layered and piecemeal.”⁸ For example, comprehensive judicial redistricting was last undertaken in 1883; since then, nearly 400 new district courts have been created in an irregular manner to alleviate judicial burdens as the need arose.

While the 78th Legislature has been charged with the task of reapportioning Texas’ judicial districts, this Committee has focused on developing meaningful criteria to evaluate the efficiency of the existing district court system and to ensure that subsequent to judicial redistricting the future requests for additional trial courts are granted or denied based upon uniform reliable factors that clearly demonstrate the level of judicial need.

Lastly, the Senate Jurisprudence Committee is currently addressing an interim charge to “study and make recommendations for improving the structure of the state’s trial court system, including, but not limited to: improving the quality, cost-effectiveness, and uniformity of the visiting judge program; devising objective criteria to be used by the legislature to determine when and where additional trial courts should be created; and clarifying jurisdictional conflicts between courts.” A report must be submitted to the legislature no later than November 15, 2002.

⁷ *Report and Recommendations, Into the Twenty-First Century*, Citizens’ Commission on the Texas Judicial System, (1993).

⁸ *Texas Courts: Report 1, The Texas Judiciary: A Structural-Functional Overview*, Texas Research League (1990).

V. Assessing the Need for Additional Judicial Resources

The methods and criteria used to assess the need for judges and court staff vary widely across the country.⁹ Yet, with “tightening budgets at all levels of government, requests for additional judges or other court staff come under increasing scrutiny. ‘Gut Feelings’ or rising caseloads in and of themselves are not sufficient to address issues such as: What are the best factors for determining whether a new judge or more court support staff are needed? Is weighted caseload necessary? Will less staff be needed if court procedures are streamlined or technology added? Questions like these fuel the search for objective, independent procedures – that will be understood and accepted by decision makers in all three branches of government – for determining the need for court personnel.”¹⁰ Fortunately, the National Center for State Courts (NCSC) has examined and developed several criteria and approaches that allow the courts and legislative bodies to assess the need for court judges and court support staff. Current measures of judicial need include:¹¹

1. Case Related Indicators

Case Filings. Almost all the states use this indicator in some form or another: raw case filings/ filings per judges/ filings per population.

Active Pending Cases. Cases that are *actively* pending and require judicial attention should be the criterion as opposed to the total pending caseload. Variations on this measure include: cases pending per judge, cases filed and pending per judge, and cases filed and pending per population. Case backlog (the difference in the number of cases pending at the beginning and at the end of each reporting period) used alone or in conjunction with cases pending is another common factor.

Number of Dispositions. Due to many ambiguities, the NCSC indicates that dispositions do not offer clear guidance on the need for judgeships (e.g., increases in dispositions may result from docket cleaning by staff or an increase in settlements, while decreases in dispositions may result from a change in procedures or an influx of complex cases). Nevertheless, many states use this criteria in conjunction with other indicators to determine the relative need for judges within the state.

Manner of Disposition. Consideration might be given to jury trials or jury trials per judge.

Case Processing Time. The time between the filing of a case and its disposition

⁹ See Appendix B, *Assessing the Need for New Trial Courts/Judgeships: National Survey of States*, Office of Court Administration (1999).

¹⁰ See Appendix C, *Assessing the Need for Judges and Court Support Staff*, National Center for State Courts (1996).

¹¹ *Id.*

may also indicate judicial need. Some states use the number of cases exceeding established standards as a measure of delay and as a manifest indicator that more judges are required.

2. Non-Case Related Criteria

Use of Outside Judicial Assistance. The regular use of visiting judges is a possible indicator of the need for judges.

Population Size or Growth. While this criteria is objective and easy to apply, it may lack precision. Population growth, density, and/or size can be used in conjunction with case filings.

Number of Attorneys. Correlates highly with both population and total case filings to serve as another indicator of need for new judgeships.

Travel Time. Consideration might be given to the amount of time it takes to travel from one court to another to hear cases.

County Attributes. Consideration might be given to the jurisdiction, the available staff, and equipment and facilities of a particular district, as well as the economic condition of the district, the existence and jurisdiction of county courts at law in the district, the presence of state facilities and institutions in the district, and the law enforcement activities in the district, including any substantial commitment of additional resources for prosecutors and local law enforcement.

In spite of the abovementioned criteria, the NCSC nevertheless recommends the weighted caseload model for assessing judicial need.¹² Weighted caseload systems provide an objective and practical measure of the number of judges that are necessary to dispose of cases efficiently and effectively. Such a methodology would provide the judiciary with a tool to conduct internal self-evaluations and would enable the legislature to equitably and systematically allocate judicial resources across the State of Texas.

VI. The Weighted Caseload Model

In order to create an objective and statistically reliable method for determining the need for additional courts, the legislature might consider seeking the assistance of the NCSC or some other outside entity to conduct a scientific weighted caseload study of Texas' district courts.

[While] caseloads are important for determining the demands made on our state judicial systems, they are silent about the judicial resources needed to effectively process

¹² See Appendix C, *Assessing the Need for Judges and Court Support Staff*, National Center for State Courts (1996).

this vast array of cases. That is, raw, unadjusted case filing numbers offer only minimal guidance as to the amount of judicial *work* generated by those case filings. Not all cases are the same. Different types of cases require different amounts of time from judges and court staff.

Consequently, there is a real need to shift the focus of what courts do from caseload measures to workload measures.

This reorientation will offer firmer ground on which courts can seek to gain a sufficient number of judges, judicial officers, and staff and appropriately allocate those resources to areas where they are most needed.¹³

Simply put, the weighted caseload model translates a court's caseload into workload (i.e., the number of hours it should reasonably take to dispose of the cases on the docket). This technique of measuring the need for additional judges accounts for the complexity of cases and understands that different case types require different amounts of time and attention from judges and support staff. While weighted caseload studies do provide a more objective way to analyze judicial need and judicial resources, implementation of this technique will require extensive cooperation from the sample courts. Nevertheless, the weighted caseload approach can be achieved for a reasonable cost and the weights kept current if a well-conceived audit and update strategy is in place. Used in conjunction with other unique or qualitative factors (e.g., travel, court staffing levels, overlapping jurisdiction, local funding, court facilities and equipment), the weighted caseload assessment will ultimately provide the legislature with reliable information with which to properly assess the need for and location of any additional Texas trial courts. Currently, at least twenty-five states have implemented or are in the process of implementing the weighted caseload methodology to assess the need for judicial resources.¹⁴

VII. Judicial Workload in Texas: Unique Considerations

1. Court Data Collection and Reporting

The implementation of a successful judicial workload study is dependent, in part, on the availability of relevant and accurate caseload data. Currently, the Office of Court Administration (OCA) collects and reports an abundance of detailed caseload statistics for Texas' appellate and trial courts. Due in part to the difficulties associated with Texas' complex trial court system, the OCA has routinely collected and reported the district court data on a *countywide* basis. As indicated in a rider attached to SB 1 (the Appropriations Bill), the 77th Legislature recently confirmed this reporting practice by expressing its intent that the OCA continue to "report data for the district courts on a countywide basis and that the data measure countywide clearance rates for criminal, civil, and juvenile cases and measure age of cases disposed and the backlog index for criminal

¹³ *Examining the Work of State Courts*, A National Perspective from the Court Statistics Project (1997).

¹⁴ See Appendix D for a list of states using a weighted caseload methodology.

and civil cases.” That rider is also consistent with the recommendations contained in a report that was submitted by the Council to the 77th Legislature in December 2000.¹⁵

After conducting extensive research, analyzing comprehensive judicial surveys, and holding numerous public hearings, the Council’s *Subcommittee on District Court Performance Measures* ultimately determined that it is infeasible to implement statistically accurate and reliable data for *individual* district courts because of the complex structure and the geographic and funding diversity of Texas’s trial court system.¹⁶ As a result, in assessing the efficiency of the district court system and the need for any additional district courts, the data from which appropriate criteria can be extracted is currently collected and reported on a countywide basis, rather than by the individual court.

To comply with its charge, the Committee also reviewed and examined the array of detailed court information published in the Annual Report of the Texas Judicial System in an effort to analyze the productivity of Texas’ district courts. This resource generally provides the location of the 418 district courts and provides an annual update of the populations served, cases added, cases disposed, cases pending, age of cases disposed, jury activity, and other areas of interest concerning Texas’ civil, criminal, and juvenile district court cases.¹⁷ Although the detailed data may be helpful for use in a weighted caseload model or statistical formula, the raw data fails to provide the judiciary and the legislature with any concrete objective information with which to draw conclusions about judicial need and efficiency.

2. Local Attributes

While the weighted caseload methodology or some other statistical technique would provide a *quantitative* baseline from which to assess the need for additional judicial resources, “no set of statistical criteria will be so complete that it encompasses all

¹⁵ *Performance Measures: Texas District Courts (A Pilot Project Pursuant to H.B. 1, The General Appropriations Act, 76 R.S.)* Texas Judicial Council (2000). The Council made the “countywide data collection” recommendation to the legislature with the following two caveats: (1) special notice should be given to several enumerated factors including the differences between urban and rural counties, subject matter jurisdiction, the use of the exchange of the benches system, the use of the master calendar system, the presence of multi-county districts, any overlapping jurisdiction with statutory county courts and district courts, and case complexity; and (2) there are numerous qualitative measures (e.g., knowledge and application of the law, judicial temperament, and impartiality) that deserve equal, if not greater, consideration in evaluating judicial performance.

¹⁶ For example, the presence of the statutory county courts, which may share jurisdiction with the district courts, the constitutional county courts, and other statutory county courts, can significantly impact some of the current data being reported by the counties (i.e., the filing and disposition rates).

¹⁷ See Appendix E. Summary of Reported Activity for the Year Ended August 31, 2001 (Counties Listed in Alphabetical Order) and Summary of Reported Activity for the Year Ended August 31, 2001 (Counties Listed in Population Order). Also see, *Annual Report of the Texas Judicial Council FY 2001* to review: Age of Cases Disposed; District Court Summary of Jury Activity; Death Sentences and Life sentences Imposed in Criminal Cases; District Court Other Proceedings Conducted; Reported Activity September 1, 2000 through August 31, 2001; and other detailed data.

contingencies.”¹⁸ Each of Texas’ 418 judicial districts experiences some distinct peculiarities or practices that directly impact the court’s ability to process cases. The varying administrative responsibilities of the judges, the location of correctional facilities, the different case management procedures, the location of state institutions, and the attitudes of local judges and jurors towards large or aggregated civil claims are all legitimate factors that could be considered when examining judicial need. Thus, in addition to a quantitative review of the countywide caseload statistics, a qualitative assessment of the locality that is seeking a new judicial district or additional judicial resources must be conducted with special consideration given to the unique attributes discussed below.

Multi-County Districts. Multi-county districts were established in part due to the population distributions and large geographic size of Texas. Several factors that may need to be examined include:¹⁹

- i. the judge’s travel time within the district²⁰;
- ii. the availability and sharing of court staff;
- iii. whether there is another district court or statutory county court that has overlapping jurisdiction;
- iv. the time and resources that are available to each clerk in each county of the judicial district; and
- v. whether the district court exchanges benches with other courts.

Overlapping Jurisdiction. A majority of the district courts have overlapping geographic jurisdiction and often have concurrent subject matter jurisdiction. In addition, the existence and impact of any statutory county courts, which often share jurisdiction with the district courts, constitutional county courts, or probate courts, may need to be examined.

Exchange of Bench Systems. The exchange of bench system is widely used by judges who serve in rural areas or in multi-county districts. The system allows judges to sit for each other without a formal order.²¹ Such a system directly affects the statistics reported by a county in that a case may be filed in one court, motions may be heard in another court, and the trial may be held and the case disposed in yet another court.

Court Staff. In assessing a counties need for additional district courts, the number

¹⁸ Examining the Work of State Courts, 1997.

¹⁹ *Performance Measures: Texas District Courts (A Pilot Project Pursuant to H.B. 1, The General Appropriations Act, 76 R.S.)* Texas Judicial Council (2000).

²⁰ *Id.* Of the 166 judges responding to a recent Council survey, 31 percent indicated that they spend anywhere from two to 50 hours each month traveling to hear cases in each of the counties in their judicial district. For those judges with travel requirements, an average of 16 hours were spent each month traveling to the various counties in the judicial district to hear cases. But note that, sixty-nine percent of the judges who travel indicated that the travel time had no impact on the rate at which cases were disposed in their courts. Twenty-five percent noted that travel time had a ‘moderate negative impact’ on case disposition rates in their courts.

²¹ See Texas Gov’t Code § 24.303 (1985). See also Texas Rules of Civil Procedure 330.

and type of personnel will need to be considered (e.g., Do the court(s) in the county have a court coordinator, court reporter, bailiff, law clerk, or staff attorney?).

Court Budget. The Legislature appropriates state funds to cover the base salary and fringe benefits of the district court judges. However, the district courts must rely on the respective counties to fund the daily operations of the court and court staff. Disparate amounts of local funding among the counties may or may not contribute to the need for additional judicial resources.²²

Court Facilities and Equipment. During the 1999 pilot project conducted by the Council, survey respondents indicated that the “facilities (i.e., the courtroom) available to a district court can play a critical role in how efficiently a court operates.”²³ Likewise, the study found that “having the proper technology available can have a significant impact on how efficiently courts handle their caseloads.”²⁴ To assess the need for new courts, a county’s court facilities, computer hardware, and case management software may need to be examined.

3. Visiting Judge Data

As part of its charge, the Committee examined the available visiting judge data to assess the efficiency of Texas’ district courts. The visiting judge program provides the judiciary with a flexible resource that satisfies a number of critical judicial needs (e.g., to cover the bench while the regular judge is on vacation, ill, using leave time, or attending a conference; to keep the docket moving while the sitting judge is involved in a lengthy trial; to assist with the court’s backlog of cases; and to hear cases in which the regular judge has been recused or has a conflict of interest.)²⁵ As previously mentioned, the regular use of outside judicial assistance may also indicate a need for additional judicial resources.²⁶

The Office of Court Administration currently collects and reports the total number of visiting judge assignments made to the trial courts by administrative region only. With this information, the OCA is able to provide statewide summary data. For example, in FY 2001, a total of 8,945 assignments were made to the district and county courts of the state and 24,538 days were served by assigned judges. Making the assumption that there are 250 working days per year, the OCA determined that for FY 2001, the equivalent of

²² *Performance Measures: Texas District Courts (A Pilot Project Pursuant to H.B. 1, The General Appropriations Act, 76 R.S.)* Texas Judicial Council (2000).

²³ *Performance Measures: Texas District Courts (A Pilot Project Pursuant to H.B. 1, The General Appropriations Act, 76 R.S.)* Texas Judicial Council (2000). While eighty-seven of the survey respondents indicated that they had a dedicated courtroom, three percent noted the courtroom was available for only a portion of the year and four percent indicated that they had a dedicated courtroom in some, but not all, of the counties they served. The remaining six percent indicated that they did not have a dedicated courtroom.

²⁴ *Id.*

²⁵ *Performance Measures: Texas District Courts (A Pilot Project Pursuant to H.B. 1, The General Appropriations Act, 76 R.S.)* (2000).

²⁶ See Appendix C, *Assessing the Need for Judges and Court Support Staff*, National Center for State Courts (1996).

98 full-time judges were added to the Texas trial courts. Yet, for assessment purposes, the use of visiting judge days by court or by county is not available to the OCA.

Nevertheless, the Judiciary Section of the Office of the State Comptroller maintains a reliable log of the total number of days that a visiting judge was assigned to a given court.²⁷ A cursory review of this data demonstrates some interesting results. For example, five district courts used a visiting judge for more than 250 days during the year.²⁸ Also, a number of courts used visiting judges for more than 100 days during the fiscal year.²⁹ So, why did some courts have such a large number of days served by visiting judges? While some courts explained that their relatively higher uses of visiting judges was due, in part, to some extraordinarily lengthy cases or the extended absence of the regular judge for medical care, the assignment practices identified below account for many of these anomalies:

- i. in some regions, visiting judges are formally assigned to the local administrative judge who then re-assigns the visiting judges among the other courts in that locality;
- ii. although a visiting judge may be assigned to and may sit in one district court, that visiting judge may actually hear cases from other district or county courts; and
- iii. many of the specialty courts (e.g., drug courts, cluster courts, impact courts etc.) rely heavily or exclusively upon the use of visiting judges to manage the dockets.³⁰ Such judges are formally assigned to another court in the locality.

Note also the following factors that may in part keep the number of visiting judge days for a particular court relatively low:

- i. the availability of visiting judges, especially in rural areas;
- ii. the availability and use of associate judges, masters, and referees;³¹
- iii. the reluctance of some courts to request visiting judge assignments regardless of the need for additional judicial resources due in part to local politics or individual preference; and

²⁷ Such data is derived from claims for compensation as submitted by each visiting judge for services rendered.

²⁸ Those district courts include the 11th, 34th, 139th, 252nd, and 284th. However, note that the 11th, 252nd and 284th assignments represent those made to the administrative judge for assistance with *all* the courts in the county, as well as for impact courts and special dockets. Likewise, the 34th district court was designated as the drug impact court and received the corresponding assignments, while the 139th district court received all the assignments for the counties' auxiliary courts. Also note that visiting judge assignments are generally made to supplement, not supplant, the current judicial resources.

²⁹ See Appendix F for a compilation of the visiting judge assignments made in FY 2001 to each district court and to the 30 most populous counties.

³⁰ See Appendix G for a complete list of the specialized courts.

³¹ See Appendix H for a complete list of the associate judges, magistrates, masters, and referees by region.

- iv. the exchange of benches process, which allows a regular judge from one district court to hear cases in another district court without a formal assignment.

Given all of the obstacles that negatively impact the usefulness of the visiting judge data by court, the Committee requested and reviewed a compilation of the data by county. As demonstrated in the table below, the summary data simply does not provide the level of detail needed to evaluate the efficiency of the current district court system, nor does it allow for a meaningful assessment of judicial need.

Visiting Judge Use in Texas' Ten Most Populous Counties

County	Population	District Courts	Visiting Judge-Days	Cases Added	Cases Pending (9/1/2000)	Per Court*		
						Visiting Judge-Days	Cases Added	Cases Pending (9/1/2000)
Harris	3,400,578	59	1,948.8	135,888	126,367	33.0	2,303	2,142
Dallas	2,218,899	37	2183.0	83,409	68,290	59.3	2,254	1,846
Tarrant	1,446,219	26	1178.5	45,598	33,131	45.3	1,754	1,274
Bexar	1,392,931	24	916.5	60,840	41,681	38.2	2,535	1,737
Travis	812,280	15	597.0	32,252	55,293	39.8	2,150	3,686
El Paso**	679,622	15	1,447.7	29,428	21,890	96.5	1,962	1,459
Hidalgo	569,463	9	575.0	15,661	27,583	63.9	1,740	3,065
Collin	491,675	6	519.0	11,779	5,934	86.5	1,963	989
Denton	432,976	6	163.0	9,347	5,685	27.2	1,558	948
Fort Bend	354,452	5	91.9	8,360	5,485	18.4	1,672	1,097

*The "Per Court" figures represent *averages* given the visiting judge days *by county*, the numbers do not reflect the *actual* visiting judge days, cases added, or cases pending for each of the district courts in a given county.

**Shares the 205th court with Culberson & Hudspeth Counties.

Source: Judiciary Section of the State Comptroller's Office.

VIII. The Judicial Districts Board

Since many of the issues associated with judicial redistricting are also directly relevant to assessing the need for additional judicial resources, it should be noted that in both 1993 and 2001, the Judicial Districts Board (Board) discussed, examined, and recommended several useful and objective factors that are relevant to the assessment of judicial need.³² While addressing the reapportionment of the judicial districts in Texas, the Board's mandatory statutory considerations included:³³

- i. the numbers and types of cases filed;
- ii. the numbers and types of cases disposed;
- iii. the numbers and types of cases pending;
- iv. the number of district courts in those counties;
- v. the population of the counties;
- vi. the area covered by the judicial district; and
- vii. population growth.

³² *Statement of Thomas R. Phillips and William E. Moody*, Judicial Districts Board Final Report, August 25, 1993.

³³ See, Gov't Code § 24.945 (1987).

Further relevant “presumptive guidelines” included:

- i. that caseload should be more evenly distributed;
- ii. that caseload growth trends should be examined;
- iii. that judicial districts with a single judge and more than four counties should be avoided unless there is good cause; and
- iv. that overlapping judicial districts should be avoided unless there is good cause.

Other factors considered by the Board included:

- i. the growth, age, nature, and projections of population;
- ii. the number of attorneys in the district;
- iii. the availability of retired judges to serve in the district;
- iv. the existence and jurisdiction of county courts at law in the district;
- v. the geographic size of the district, including travel times between courthouses;
- vi. the presence of state facilities and institutions in the counties of the districts;
- vii. the law enforcement activities in the district, including any substantial commitment of additional resources for prosecutors and local law enforcement;
- viii. the nature and complexity of cases; and
- ix. the conditions of the economy of a district.

In November 2001, at the request of Senator West, Chair of the Senate Jurisprudence Committee, the Board submitted the following seven recommendations to that committee:

- (1) Population and case filings for the past three years are the two most important criteria to be considered for the reapportionment of the judicial districts;
- (2) No single-member judicial district should be larger than five counties;
- (3) Due to travel time and additional administrative burdens, multi-county judicial districts should have fewer cases and less population than single-county judicial districts;
- (4) Where it is geographically feasible, somewhat larger judicial districts with more judges are preferable to smaller judicial districts with only one judge;
- (5) Additional judicial resources that must also be considered include: the jurisdiction of the district court; the existence, jurisdiction, and caseload of the statutory county courts; the use and availability of associate judges, masters, and visiting judges; and the court’s staff, equipment, facilities, and county budget;
- (6) The creation of additional non-coterminous overlapping judicial districts should be avoided; and

(7) The number of cases disposed of and the number of cases pending in the district courts are not accurate indicators of future judicial need and therefore should not be considered.

IX. Conclusion and Recommendations

“Because the courts are so decentralized and because individually they are quite independent, it is difficult to call the Texas judiciary a system.”³⁴

Over the past year, this Committee has examined, considered, and discussed the current structure and efficiency of Texas’ district courts. With an overwhelming 753,254 cases added to the dockets of the 418 district courts in FY 2001, the productivity and accountability of Texas’ trial courts continues to emerge as an ongoing concern for the judiciary, the legislature, and the public. As a result, this Committee focused on identifying appropriate judicial assessment criteria and providing detailed visiting judge data for Texas’ district courts. With a goal of improving the administration of justice in the trial courts, the Committee is pleased to submit to the Council the following recommendations:

1. The 78th Legislature should strive to fulfill its constitutional duty to equitably distribute judicial districts across the state.

Comments: *While Article 5, Section 7a of the Texas Constitution requires the Texas Legislature to enact a “statewide reapportionment of the judicial districts following each federal decennial census,” comprehensive judicial redistricting in this state has not occurred since 1876. In that time, nearly 400 new district courts have been created on an ad hoc basis with varying jurisdiction to alleviate the judicial burdens across the state. This piecemeal approach has led to the formation of an extremely complex trial court system with duplicate and disparate levels of judicial resources. “Perhaps there are enough judges, but maybe they just are not in the right places, doing the right things... It would seem that a simple reallocation of manpower with a concomitant revision in jurisdictions could alleviate some of the courts’ problems, but a multitude of constitutional, legal, and practical considerations and constraints militate against this common sense approach.”³⁵ As part of an effort to simplify and improve the efficiency of Texas’ trial court system, the Legislature should fulfill this critical constitutional mandate.*

2. The Texas Legislature should consider the implementation of statewide uniform jurisdiction for courts at the same level.

³⁴ *Texas Courts: Report 1, The Texas Judiciary: A Structural-Functional Overview*, Texas Research League (1990).

³⁵ *Texas Courts: Report 2, The Texas Judiciary: A Proposal for Structural-Functional Reform*, Texas Research League (1991).

Comments: *As noted earlier, the Texas Research League recommended the implementation of a clear-cut and well-defined uniform statewide jurisdiction for courts at the same level. Likewise, the American Bar Association recommends that all of the courts in each level of the trial court system have identical jurisdiction with no overlap among other kinds or other levels of court.³⁶ Such jurisdictions simplify the otherwise complex trial court structure and expedite judicial matters by eliminating duplicative case processing.*

3. The 78th Legislature should appropriate the necessary funding to the Office of Court Administration and the Texas Judicial Council, for the implementation of a judicial workload assessment (weighted caseload study) for Texas’ judicial districts to be conducted by the National Center for State Courts (NCSC) or some other comparable entity. The Legislature should also consider appropriating the necessary funding for a judicial workload assessment of Texas’ entire trial court system.³⁷

Comments: *Both the judiciary and the legislature need an objective and accurate methodology to properly evaluate the judicial workload of Texas’ district courts. Used in conjunction with other qualitative factors, the weighted caseload assessment will provide the legislature with reliable data to properly assess the need for and the location of any new district courts. In addition, the judiciary will be provided with a tool with which to conduct internal assessments for self-improvement. Currently, twenty-five states have chosen to implement the weighted caseload methodology to assess the need for judicial resources.³⁸*

4. The 78th Legislature should consider the implementation of a standardized procedure that would allow for the establishment of any additional district courts only as they are needed and only after a quantitative and qualitative review.

Comments: *Currently, legislators are faced with a number of requests for additional trial courts during each regular legislative session. This patchwork approach of creating new courts has contributed to the confusion and disparity of Texas’ district courts. In order to make well-informed accurate decisions, legislators must have the proper tools to evaluate when, where, and why a new court may or may not be necessary for the efficient administration of justice in Texas. While the implementation of a weighted caseload methodology will alleviate most of these concerns, the legislature might also consider enacting a systematic process that allows for a quality review of the existing judicial*

³⁶ *Standards Relating to Court Organization: Standards of Judicial Administration Volume 1*, American Bar Association, Judicial Administration Division (1990). Note that while the ABA recommends one level of trial court with divisions and departments as needed, if that is not possible, uniform statewide jurisdiction at each level of court is suggested.

³⁷ See Appendix I for a detailed proposal by the National Center for State Courts to conduct a judicial workload assessment in Texas.

³⁸ See Appendix D for a list of states using a weighted caseload methodology.

resources and the judicial need of a particular area prior to the enactment of a new court. For example, the Supreme Court of Florida is responsible for conducting an analyses and certifying its findings and recommendations regarding the need for an additional judge or judges for the respective courts. The Florida Legislature can accept, amend, or deny the certification. Likewise, in Louisiana, all requests for new judgeships are submitted to the Louisiana Judicial Council's Committee to Evaluate Requests for the Creation of New District Judgeships prior to each legislative session. A two-member subcommittee makes a site visit to review docket books and interview judges. Subcommittee recommendations are presented to the committee for approval and for submission to the council. After a public hearing, the Louisiana Judicial Council makes recommendations to the Louisiana Supreme Court which is charged with making the final decision.³⁹

Without the implementation of a systematic approach for analyzing the need for new trial courts, Texas' court system will likely become increasingly complex and confusing. The current practice of filing separate bills each legislative session for the purpose of creating a new district or county court should be modified to ensure that such courts are implemented only when they are needed and where they are supported by the affected community. Several options that should be considered include the following:

- the Legislature could adopt a rule for the house and senate that would require members to publish notification of their intention to file legislation creating a new district or county court in the same manner that is currently required for local bills;*
- the Legislature could require that for those bills creating a new district or county court, a judicial impact statement be prepared by the Office of Court Administration and the Texas Judicial Council prior to any legislative committee hearings; or*
- the Legislature could require that any request for a new district or county court be submitted prior to session with a certification of need and supporting documentation to the Office of Court Administration for analysis and on-site visits. The OCA would submit its recommendations and findings to the Texas Judicial Council. The Council would vote to approve or deny the request after a public hearing. Without the Council's certification, a bill relating to the implementation of an additional district court would not become effective without a 2/3 vote in both the house and the senate.*

³⁹ Note that in the majority of states, including Texas, the legislature determines whether new trial courts or judgeships should be created with such assessments being made on an "as needed" basis by request. In Florida, Kansas, Kentucky, Louisiana, Maryland, and South Dakota, the state's supreme court makes the determination as to when and where additional courts or judgeships should be established. In a minority of states, the governor, judicial council, or some other governmental entity contributes to or is charged with the decision-making process.

5. The Presiding Judges of Texas' nine administrative regions should develop and implement a Visiting Judge Reporting Form to be submitted to the Office of Court Administration (OCA) at least annually for inclusion in the Annual Report of the Texas Judicial System.

Comments: Because visiting judge data is not available by court, the presiding judges of the nine administrative regions, who are charged with making the visiting judge assignments for their region, are the most appropriate individuals to coordinate the collection of meaningful visiting judge data. Such data will aid the legislature when assessing judicial need and efficiency. Likewise, the judiciary will find the data to be useful for internal self-assessment purposes. At a minimum the data reported for each assignment should include the following: the name of the visiting judge, the date of the assignment, the reason for the assignment, the number of days served, and the court or courts that actually received the benefit of the visiting judge's services. Such data should be made available to the OCA for inclusion in the FY 2004 annual report.

6. In an effort to improve the administration of and accessibility to Texas' district courts, judges and court personnel should continually strive to implement improvements in case management strategies, technology, and administrative procedures.

Comments: The district courts should be encouraged to conduct periodic self-assessments that evaluate productivity and efficiency within the court. The courts should continually pursue improved case management systems, technology, and procedures that might alleviate some administrative burdens of the court and expedite case processing. The courts should communicate their successful endeavors to other courts throughout the state to help increase the overall statewide productivity level of the district courts.

7. The Judicial Committee on Information Technology (JCIT) should continue its ongoing efforts to improve the technology that is available to the trial courts to promote internal efficiency.

Comments: The JCIT should continue to provide improved case management options for the trial courts with increased functionality such as electronic filing, imaging, increased data transmission, and the ability to support collections activities. The JCIT should also continue to promote and pursue those projects that may potentially raise trial court productivity levels (e.g., courthouse telecommunications connectivity for those courts that do not currently have Internet access). Such efforts should facilitate case processing and enhance the administration of justice.

8. The Office of Court Administration (OCA) should continue its ongoing efforts to simplify the Annual Report of the Texas Judicial System by developing an automated reporting system, monitoring the quality of the data, improving court compliance, and streamlining the analysis of statewide trends and key statistical factors.

Comments: *The OCA should continue its ongoing efforts to improve the quality and compliance of court data reporting. The data collected by the OCA will prove to be of great importance to any weighted caseload model. Additionally, the judiciary needs an accurate and reliable resource with which to conduct self-assessments for the purpose of self-improvement.*

The Committee believes that the implementation of these eight recommendations will enhance and facilitate the quality and efficiency of the administration of justice in Texas' district court system. With the enactment of jurisdictional improvements, a weighted caseload study, and a systematic procedure for creating additional trial courts, the citizens of Texas will be provided with a simpler, faster, and more accessible trial court system. Likewise, the public's perception of the judiciary and confidence in the courts will be greatly enhanced.