

FINAL REPORT OF THE JUDICIAL COUNCIL TO REVIEW THE NEED FOR JUDGESHIPS

FEBRUARY 15, 2007

Executive Summary

The Council believes that it is premature to attempt to reduce the number of judgeships in time for the 2008 election.

- The districts impacted by the hurricanes, in terms of gains and losses in population and cases filed, have not yet reached a level of stability that would enable us to determine the number of judgeships needed.
- We cannot and should not attempt to determine the number of district court judgeships needed without looking at the entire judicial system, including the city and parish courts,¹ and, perhaps, the mayor's courts, and justice of the peace courts as well.
- The Louisiana Council of Juvenile and Family Court Judges has asked that additional factors, other than new filings, be considered in determining the need for judges in juvenile and family courts; and this appears to be a reasonable request.
- The quality of the data is still not where it should be. The data received from the clerks this year has, in large part, been accurate and the clerks of court as a whole have made a commendable effort to improve the data as requested. However, more work needs to be done with the clerks, the district attorneys and the courts to make the data more uniform and accurate. Those courts or clerks producing incomplete or inaccurate data can cause unreliable outcomes in the Council's study and analysis which may result in recommendations which are unfair to either the particular court under consideration or other courts.
- Act 621 of the Regular 2006 Legislative Session -- the Orleans Court Consolidation Act -- provides that, if the Judicial Council recommends reductions in the total number of judges in the Orleans courts, the reductions "shall be done by attrition, unless otherwise provided by law".

- Act 621 also extended the terms of office of the judges of the Orleans Parish Juvenile Court until December 31, 2014, another indication of the legislature's intent not to have reductions in judgeships, at least in Orleans Parish and at least with respect to juvenile court judgeships, effectuated through the 2008 elections. Apart from the issue of intent, the extension of terms of office in the Orleans Parish Juvenile Court makes it difficult to reduce judgeships in other Orleans courts.
- The issue of reducing judgeships for the 2008 elections is further complicated by the consent decree authorizing the creation of minority sub-districts (see list of sub-districts in Exhibit 1 of Appendix 4).

The Council believes that it is important for the Judicial Council and the Supreme Court to develop a permanent process for determining the appropriate number of judgeships, including reducing judgeships when necessary. However, the Council also believes that any reduction in the number of judgeships should be accomplished primarily by attrition, that is, by the death, resignation, removal, or retirement of judges.

The Council recommends that legislation be enacted as soon as possible to authorize the activation or deactivation of judicial seats as designated by the Supreme Court, perhaps through the Judicial Council. Through the activation/deactivation process, the Supreme Court would, at the time of a vacancy in any judicial office, inform the governor and the legislature as to whether that seat should be deactivated, that is temporarily eliminated. If the legislature, by a two-thirds vote, agrees with the need to deactivate the seat, the Supreme Court would not appoint a person to fill the vacant seat and the governor would not call an election to fill the vacancy. The seat would be deactivated until, perhaps, reactivated on the basis of a similar process by which the Supreme Court, after careful analysis and the application of established criteria, would determine that the affected court's workload is such to warrant re-establishing the seat. The process of activation and deactivation would also be used to determine the number of judgeships needed in each election cycle, beginning in 2014.

The Council finds that the methodology employed in its determination of the appropriate number of judgeships is generally valid and reliable, although some aspects of the methodology, especially with respect to family and juvenile cases, may need further refinement. The objective or quantitative aspect of the methodology uses "work points" based on new case filings, a methodology that is widely used throughout the nation. The Council recommends that the specific work points for district courts be changed as presented below and that further work be done to improve the work-point system. The Council finds that population is not a reliable predictor of the need for judgeships, except in the broadest and most general sense that jurisdictions with large populations have more judges than

jurisdictions with smaller populations. The Council finds that the determination of the number of judgeships should be based on multi-year trends rather than a single year's statistics. The Council also finds that the use of site visits is a useful and necessary tool for determining the need for judgeships, especially with respect to the analysis and understanding of qualitative factors and the unusual or unique circumstances existing in a particular court.

The Council recommends that the legislature authorize the Judicial Council to complete, before the end of 2009, a complete study of all courts or, at least all trial courts. The study should further evaluate the current work point system and should consider supplementing it with a statistical analysis of other factors such as violent crime, bench trials, post conviction activity, complex litigation, and other special factors. The study should also consider and include in its scope the issues raised by the Louisiana Council of Juvenile and Family Court Judges.

The Council recommends that the legislature also request the Supreme Court to create a committee of judges, clerks of court, and district attorneys, to improve the quality of data currently being collected and to define new data elements that may be needed to support the study and investigation of the need for judgeships.

The Council recommends that the moratorium on new judgeships called for in its Interim Report to the Judicial Council be rescinded and that new judgeships be created with the 2008 election in the 4th JDC, the 21st JDC, and the 22nd JDC as recommended below.

¹The reference to "city and parish courts" includes the traffic and municipal courts in Orleans Parish.

1. Background

At the First Extraordinary Session of the Legislature in 2006, Senator Art Lentini introduced SB 42, later enacted as Act 16 and codified in the Revised Statutes as R.S. 13:61(E), to urge the Judicial Council of the Supreme Court to conduct a review of judicial districts and, not later than March 1, 2007, to provide information to the legislature on the appropriate number of district court judgeships¹ within each district based on caseload, population, or other pertinent factors. The Act further provided that the recommendations of the Judicial Council might include proposed revisions to specific constitutional or statutory language addressing the number of such judges in each district, the need for district merger or other actions, and the filling of judicial office vacancies in such districts. For the language of the Act, see Exhibit 1 of Appendix 1.

¹ District court judgeships are those associated with the 40 judicial district courts and the Orleans Parish Civil District Court (OPCrDC), the Orleans Parish Civil District Court (OPCDC), the East Baton Rouge Family Court (EBRFC), the Caddo Parish Juvenile Court (CPJC), the East Baton Rouge Parish Juvenile Court (EBRJC), the Jefferson Parish Juvenile Court (JPJC), and the Orleans Parish Juvenile Court (OPJC). For a list of the district courts within Louisiana, see Exhibit 2 in Appendix 1.

In response to this legislative act, the Judicial Council, at its meeting of March 6, 2006, passed a motion requesting the Supreme Court to create a task force or committee to assist the Council in responding to Act 16. In response to the request of the Judicial Council, the Supreme Court re-established the Standing Committee to Evaluate Requests for the Creation of New Trial Court Judgeships by appointing new members and by reauthorizing the Committee to continue its existing work with respect to new judgeships and to address the new issues authorized by Act 16. In its new form, the task force was re-named the "Trial Court Committee to Review the Need for Judgeships," and consists of the following officers and members:

Judge Robert Morrison, III, **Chair** – 21st JDC
 Judge Robert Murphy, **Vice-Chair** – 24th JDC
 Chief Judge David Bell – Orleans Parish Juvenile Court
 Judge Paul Bonin – N.O. Traffic Court
 Judge Sylvia Cooks – 3rd Circuit Court of Appeal
 Judge William Dupont – 18th JDC
 Judge James Genovese – 3rd Circuit Court of Appeal
 Judge George Giacobbe – 1st Parish Court of Jefferson
 Charles Jagneaux, Clerk of Court, - 27th JDC
 Chief Judge Calvin Johnson – Criminal District Court
 Retired Judge Graydon Kitchens – 26th JDC
 Judge Scott Leehy – Monroe City Court
 Senator Art Lentini – Louisiana Senator, District 10
 Bob Levy, District Attorney – 3rd JDC
 Retired Judge Arthur Planchard – 14th JDC
 Judge Kern Reese – Orleans Civil District Court
 Retired Judge Anne Simon – 16th JDC
 Judge Kirk Vaughn – 34th JDC
 Judge Jewel “Duke” Welch, Jr. – 1st Circuit Court of Appeal
 Judge Felicia T. Williams – 2nd Circuit Court of Appeal
 Judge H. Stephens Winters – 4th JDC

An organizational meeting of the Committee was held on April 5, 2006 in Lafayette. At this meeting, the Committee discussed and approved a scope of work, a basic process, general procedures, methods of analysis, a definition of the Judicial Year, and a schedule. The Committee also agreed to divide itself into three subcommittees, consisting of the following chairs and members:

- *Subcommittee on the Reverse New Judgeship Method* –
 Chair, Judge Calvin Johnson; Vice-Chair, Judge Paul Bonin; Members: Senator Art Lentini, Judge Sylvia Cooks, Judge A.J. Planchard, Judge H. Stephens Winters.
- *Subcommittee on Comparative Filings per Judge Method* –
 Chair, Judge Anne Simon; Vice-Chair, Judge George Giacobbe; Members: Clerk of Court Charles Jagneaux; Judge David Bell; Judge William Dupont.
- *Subcommittee on Standards Method* –
 Chair, Judge Graydon Kitchens; Vice-Chair, Judge Scott Leehy; Members: District Attorney Bob Levy, Judge James Genovese; Judge Kern Reese; Judge Jewel Welch; Judge Felicia T. Williams.

The outline of the basic process, the statement of general procedures, the definition and calculation of the Judicial Year, the general schedule, and an organizational chart are provided in Exhibits 3-7 of Appendix 1 of this Report.

At the request of Senator Lentini, the Committee also agreed to include the city and parish courts in its analysis of the need for judgeships. Except for data used for comparative purposes, the information on the city and parish courts is provided in Exhibits 1 and 2 of Appendix 5 of this Report.

Each subcommittee met four times throughout the spring and summer of 2006. Each subcommittee adopted a similar mission statement which generally read as follows:

The mission of the Subcommittee is:

- to develop and apply a reasonable “threshold” formula for indicating the number of judges needed in each jurisdiction;
- to compare the results of this formula to the formulas developed by the other subcommittees and to make recommendations thereto;
- to obtain more accurate data for the development of the “threshold” formula;
- to define the filing information needed for obtaining more accurate, consistent, and differentiated filing data from each jurisdiction; and
- to analyze various other methods for determining the requisite number of judgeships needed in each jurisdiction including the consolidation and merger of jurisdictions, improved case management techniques, and other methods.

As may be clear from the subcommittee names, each of the subcommittees used a different method and then compared its methods with other methods to develop the findings stated in the next section of this Report. These methods were:

- **The Reverse New Judgeship Method.** The reverse new judgeship method is essentially the method generally used in the past to analyze requests for the creation of new judgeships. The method involves several steps: (1) the determination of the Judicial Year, i.e. the average amount of time a judge has available to work on cases (See Exhibit 5 of Appendix 1); (2) a survey to determine the average amount of time judges typically spend on each type of case; (3) the translation of the amount of case time derived from the survey into a weighted system of points per case type; (4) the multiplication of the case weights for each case type by the number of annual filings for each case type; (5) the division of the total work points for each case type in each jurisdiction by a threshold base number of work points to obtain an initial estimate of the approximate number of judges needed (this should be viewed as an indicator or triggering device for the determination of site visits); (6) the division of work points for each case type at a 10-20% higher base

number of work points to determine the number of new judgeships needed; (7) the use of site visits by teams of judges and administrators to determine and make recommendations regarding the need for judges in each jurisdiction where the threshold analysis and the higher base analyses have indicated there may be too many or too few judges²; (8) the review of the site visit results by the Committee with each affected court; (9) the recommendation of the Committee to the Judicial Council as to the number of judges needed in the affected jurisdictions; (10) the review of the Committee's findings and recommendations by the Judicial Council; and (11) the Council's submission of its findings and recommendations to the Legislature.

² The purpose of the site visits is to investigate the need for judgeships in more detail. The site visit teams analyze additional data, meet with local judges and other officials, and take into account special conditions and circumstances before submitting a consensus recommendation to the Committee.

Until the revisions adopted in this Report, the case weights used in the determination of the threshold formula for new district court judgeships had remained constant over the past 10 years at the following levels:

Felony Filings	3.7
Juvenile Filings	2.1
Civil Filings	1.79
Misdemeanor Filings	1.2
Traffic Filings	.1

The base of work points for the threshold analysis also remained constant at 3,167 work points and the general range of work points needed to justify a new judgeship also remained constant at between 10 to 20% higher than the base of 3,167 work points.

Copies of the new judgeship district court criteria, existing before the revisions adopted in this Report, are provided in Exhibit 9 of Appendix 1.

- The Comparative Filings per Judge Methods.** The comparative filings per judge methods involve the comparison of total filings per judge and filings per case type per judge. Filings per judge methods divide the number of filings by the number of judges to create an average benchmark³ that is then used to determine the number of judges needed in each jurisdiction. A major benefit of this method is that it enables analysts to spot data anomalies more easily than other methods and to understand workloads more clearly. Another benefit is that it serves to correct, inform, and enhance the Reverse

New Judgeship Method. The methods can also be used as benchmarks to encourage faster processing of cases.

³ As used in this Report, the term “benchmark” means a practice or standard that is used for purposes of comparison or measurement. For example, average or median work points, the work point bases, filings per judge, standard processing times for the state as a whole or for certain selected jurisdictions may be used as benchmarks to compare with the numbers found in other districts.

- **The Standards Method.** The standards method uses the Delphi technique and involves experts, in this case judges and other committee members familiar with court processes, in developing the following information for each case type: (1) the general events in a case type; (2) the number of filings being added or eliminated at each event stage; (3) the amount of time (expressed in minutes per event) spent by a judge at each event; (4) the total number of minutes needed at each event to address all available filings; and (5) the number of judges or the amount of judge time per judge needed to address the available filings. The major benefit of the standards method is that it also pushes the system to perform beyond an average case processing level. Another benefit is its ability to convert all processes easily to minutes and thus to correct, inform, and enhance the Reverse New Judgeship Method, especially with respect to the differentiation and assignment of work points to new case types.

On October 3, 2006, the Trial Court Committee to Review the Need for Judgeships presented the Judicial Council with an interim report providing information on the actions of the Subcommittees and Committee up to that date regarding their statistical analyses, revised work points recommendations, proposed methodologies, and interim implementation recommendations. After the presentation and the discussion that ensued, the Judicial Council authorized the Trial Court Committee to continue its study, its evaluation of work points and criteria, and its evaluation of 2004, 2005, and 2006 statistics. The Council also authorized the Committee to identify the judicial districts where site team visits might be warranted, to conduct site visits, and to finalize its findings and recommendations for consideration at the next Judicial Council meeting.

On the basis of the Judicial Council's authorization, the Committee met on November 9, 2006 to review the 2004, 2005, and 2006 statistical data developed by staff on each district court and to apply the formula recommended in the Interim Report. As a result of this review and the application of the recommended formula, several district courts were identified as targets for site visits. The criteria used for selection were one of the following: (1) at least two years of work points indicating a potential surplus of judges; (2) a district having been devastated by the hurricanes; (3) a district requesting new judgeships; and (4) three “wild card” districts randomly selected on the basis of size and certain questions about the quality of their data. Included in each of these categories were the following districts:

Jurisdictions Having a Potential Surplus of Judgeships or Experiencing Severe Hurricane Devastation:

13th JDC (Evangeline) – Potential Surplus
24th JDC (Jefferson) – Potential Surplus and Hurricane Devastation
25th JDC (Plaquemines) – Hurricane Devastation
33rd JDC (Allen) – Potential Surplus
34th JDC (St. Bernard) – Potential Surplus
38th JDC (Cameron) – Hurricane Devastation and Potential Surplus
East Baton Rouge Family Court – Potential Surplus
Caddo Juvenile Court – Potential Surplus
Orleans Criminal District Court – Potential Surplus and Hurricane Devastation
Orleans Civil District Court – Potential Surplus and Hurricane Devastation
Orleans Parish Juvenile Court – Potential Surplus and Hurricane Devastation

Jurisdictions Formally Requesting New Judgeships:

4th JDC (Morehouse and Ouachita) – 2 new judgeships
21st JDC (Livingston, St. Helena, Tangipahoa) – 1 new judgeship
22nd JDC (St. Tammany, Washington) – 2 new judgeships

“Wild Card” Jurisdictions:

1st JDC (Caddo)
10th JDC (Natchitoches)
39th JDC (Red River)

*Also the 11th JDC was previously studied through a site visit in terms of whether or not to split the district.

As a result of the decision regarding the districts to be visited, teams were organized (see Exhibit 10 of Appendix 1) to conduct site visits between November 9, 2006 and January 19, 2007. Each site team prepared a report which was sent to each affected court and to Committee members during the week of January 22, 2007 (see Appendix 6 – Site Team Reports).

The Committee met on January 27, 2006 to receive oral testimony from the site teams and from the affected district courts. At the meeting, the following recommendations relating to each site were adopted by the Committee:

13th JDC – Recommendation: Based on the revised numbers received from the court, the clerk, the district attorney, and OCS for 2004, 2005, and 2006, the Court’s two judgeships should be maintained.

24th JDC – Recommendation: Because of the increase in filings and resulting work points in 2006, the Court’s current 16 judgeships should be maintained but the

district's future filings and work points should be carefully monitored to determine whether the 2006 increase was simply a hurricane anomaly.

25th JDC – Recommendation: Based on the pace of recovery and the current work points, the two judgeships in the district should be retained but the district's future filings and work points should be carefully monitored.

33rd JDC – Recommendation: Based on an analysis of filings and work points, the two judgeships of the district court should be maintained but a study of the viability of the City Court of Oakdale should be conducted.

34th JDC – Recommendation: The backlog of cases is such that the number of judgeships should remain as it is pending future study.

38th JDC – Recommendation: The workload of the district warrants approximately one judge. Consolidation with the 14th JDC would not appear to be efficient. Therefore, the existing judgeship should be maintained.

EBR Family Court – Recommendation: Because of the Court's current high performance and the parish's growth in population, the current four judgeships should be maintained but further study of the parish's population growth and the workload of other courts in the district should be done.

Caddo Juvenile Court – Recommendation: Because of the Court's inability to produce complete and accurate filing data and given the recommendations of the Louisiana Council of Juvenile and Family Court Judges, more study is needed in 2007 and 2008 to determine whether a judgeship should be eliminated.

Orleans Criminal District Court – Recommendation: Because of the increase in crime and the continued uncertainty regarding the pace of recovery, maintain the court as is but continue to monitor and study.

Orleans Civil District Court – Recommendation: (1) Further study is needed before any final recommendation about the number of judges is made; (2) the pace of recovery in Orleans Parish is not clear; (3) we need to study the whole system before making a decision about the number of judgeships; (4) any reductions in the number of judgeships should be done by attrition; and (5) if reductions are made at this time, they should be no more than 3 and should be accomplished through attrition.

Orleans Parish Juvenile Court – Recommendation: (1) Before any final recommendation is made, the National Council of Juvenile and Family Court Judges should be consulted, especially with respect to the maintenance of the Court's Model Court status; (2) if reductions need to be made, they should be limited to 3 judges and should be accomplished by attrition.

4th JDC – Recommendation: Based on the number of work points and the overall performance of the court, the creation of two judgeships is recommended.

21st JDC – Recommendation: Based on the number of work points and the need of the Court to create a juvenile section, the site team recommends the creation of one additional judgeship.

22nd JDC – Recommendation: Based on the number of work points and the expected continued growth in St. Tammany’s population, the site team recommends the creation of two new judgeships to be legislatively designated as family court divisions as authorized by the Constitution.

1st JDC – Recommendation: No change.

10th JDC – Recommendation: No change.

39th JDC – Recommendation: No change.

II. General Findings

The following general findings were made and reported by the Committee to the Judicial Council:

1. Number of Louisiana District Court Judges. At the end of 2004, the number of district court judges in Louisiana were as follows:

Total Number of District Court Judges	232
General Jurisdiction District Courts (JDCs).....	187
Orleans Civil District Court.....	14
Orleans Criminal District Court.....	13*
East Baton Rouge Family Court.....	4
Specialized Juvenile Courts.....	14

* includes the elected magistrate judge but not the commissioners

For a list of district courts and a count of district court judges by jurisdiction, see Exhibit 1 in Appendix 2. For a list of city and parish courts and a count of the number of judges in each court, see Exhibit 2 of Appendix 2.

2. Change in the Number of Louisiana District Court Judges and District Court Filings, 1992-2004. During the period from 1992 to 2004, the number of district court judges increased from 208 to 232, a rate of change of 11.54%.

Between 1992 and 2004, the number of filings in Louisiana's trial courts changed as follows:

<u>Court Type</u>	<u>Filing Type</u>	<u>1992</u>	<u>2004</u>	<u>% Change</u>
District	Civil	159,737	166,568	4.3%
EBR Fam.	Domestic	4,971	3,643	-36.5%
District	Criminal	158,337	178,670	12.8%
District	Juvenile	24,449	27,765	13.6%
Specialized	Juvenile	29,183	16,373	-78.2%
District	Traffic	187,531	368,177	96.3%
Total	All	530,054	741,180	39.8%

A Table showing the changes in filings by type of court from 1992 to 2004 is provided as Exhibit 3 in Appendix 2.

During the same period, the population of Louisiana grew from an estimated 4,287,195 persons in 1992 to an estimated 4,515,770 persons in 2004, a rate of change of 5.3%.

- 3. Data Problems.** The annual data reported by the clerks of court to the Supreme Court have many problems. Filing data are problematic and inconsistently gathered from court to court because of the different ways or the different times in which clerks of court assign docket numbers and because of the different ways in which district attorneys file bills of information, indictments, and petitions. For example, in criminal cases, some clerks of court begin a case or assign a number to a criminal filing upon receipt of information from law enforcement; others only begin a case when the district attorney files a bill of information or indictment. Some district attorneys file a single bill of information for each criminal charge arising out of a single event or set of events; some file a single bill of information containing multiple charges, perhaps felony and misdemeanor charges arising out of single event or set of events; others file a separate bill of information for the felony charges and a separate bill of information for the misdemeanor charges arising out of a single event or set of events. Some clerks, because of the lack or nature of their automation, cannot separate traffic cases from criminal cases; others cannot differentiate felony from misdemeanor cases. In addition, there are numerous inconsistencies in the way in which cases are defined, counted, and assigned to case types.

Because of these problems, the Committee directed its staff to meet with various clerks of court to discuss the problems. The Committee also requested staff to develop data definitions and new forms for capturing needed 2006 data. The Committee also requested Chief Justice Pascal Calogero, Jr. to send a cover memorandum with the new definitions and forms to each clerk. The Chief Justice agreed with the need and had the cover memorandum and materials sent to each clerk on July 20, 2006. A copy of this material is provided in Exhibit 4 of Appendix 2.

- 4. Formula Development and Data Usage.** The Committee used 2004 data as the basis for the development of its formulas and as an initial and preliminary indicator of the need for judgeships throughout Louisiana. The 2005 data were negatively affected by the hurricanes and were deemed to be too flawed to be used in the hurricane-devastated areas. The Committee applied its formulas to partial 2006 data (January –October 2006) and took 2004 and pre-storm 2005 filing data into account to determine where to send site teams. In analyzing the need for additional judgeships, the site teams continued to analyze three years of data as part of its study and recommendations. In analyzing the need for eliminating or deactivating judgeships, the site teams relied on final 2006 data as the primary basis of its findings and recommendations to the Judicial Council. However, the site teams also took into account 2004 data and, when appropriate, pre-storm 2005 data.
- 5. Factors Relating to the Need for Judgeships.** There are numerous factors that may influence the need for judgeships. Among these factors are: number of cases; types of cases; complexity of cases; travel time; courtroom availability; judicial culture and philosophy; forms of staffing assistance; availability and quality of automated case management systems; the extent of informal processing and diversion; the extent of alternative dispute resolution techniques; forms of docket management; pre-trial settlement patterns; judicial bench time; and, to some extent, population.

Of these factors, the Committee finds that residential population is not an accurate factor that can be reliably used in determining the need for judgeships. Filings per 1,000 persons, as shown in Exhibit 5 of Appendix 2 vary considerably from district to district and show no clear pattern of relevancy. For example, if we take the low and high range of filings per 1,000 persons for each population quartile and for each case type, the variances are rather large as shown below.

<u>Quartile</u>	<u>Case Type</u>	<u>Low</u>	<u>High</u>	<u>Average</u>	<u>Median</u>
1 st	Civil	29	46	36	36
2 nd	Civil	23	51	36	35
3 rd	Civil	14	54	37	36
4 th	Civil	25	53	37	38
1 st	Felony	2	24	14	14
2 nd	Felony	3	25	13	12
3 rd	Felony	3	28	13	13
4 th	Felony	9	54	19	17

<u>Quartile</u>	<u>Case Type</u>	<u>Low</u>	<u>High</u>	<u>Average</u>	<u>Median</u>
1 st	Misdem	3	54	22	22
2 nd	Misdem.	8	87	29	23
3 rd	Misdem	17	167	46	38
4 th	Misdem	16	181	46	32
1 st	Traffic	2	215	96	90
2 nd	Traffic	22	362	138	131
3 rd	Traffic	11	374	139	119
4 th	Traffic	44	469	154	130
1 st	Juvenile	3	16	7	6
2 nd	Juvenile	3	36	11	10
3 rd	Juvenile	3	22	9	9
4 th	Juvenile	2	21	10	9

*For further confirmation of the inappropriateness of using residential population as a predictor of judicial workloads, see Exhibit 6 of Appendix 2.

Many of the other factors, such as forms of staffing assistance, use of automated case management systems, diversion, etc., are relevant but are difficult to quantify into a formula and can only be addressed on a case-by-case basis through site visits. For these reasons, the Committee concentrated on the number, type, and complexity of cases as the bases for the development of a “threshold formula” and used other factors as considerations to be addressed through site visits.

6. General Jurisdiction District Courts and Large Specialized District Courts.

General jurisdiction courts may be defined, for purposes of this Report, as those trial courts that hear civil, felony, misdemeanor, traffic, and juvenile cases (e.g., the 2nd, 3rd, 4th, 5th, and other judicial courts). The specialized jurisdiction district courts are those, such as the 1st JDC, the 19th JDC, the 24th JDC, and the district courts in Orleans Parish that specialize in hearing either one case type or that hear some but not all of the case types heard by general jurisdiction courts.

The data indicate that general jurisdiction district courts, in general, are able to handle more filings per judge than are the specialized district courts. For example, the average and median filings per judge, excluding traffic filings, in the general jurisdiction courts in 2004 were 1,788 and 1,771 respectively. The average and median filings per judge, excluding traffic cases, in 2004 in the specialized jurisdiction courts were 1,428 and 1,416 respectively.

There may be many reasons for this disparity in processing. The large specialized courts may handle more complex cases that require more processing time. Another factor may be the complexity of the overall docket

which makes scheduling more difficult in the larger, more specialized courts. The legal culture may also be a factor. In smaller jurisdictions, where everyone knows one another, the process may be less formal and more routine than in the larger courts. Perhaps, also, the larger, more specialized courts do not manage their dockets as efficiently as the smaller courts. While these are all possible explanations, the Committee finds that it does not have, at this time, enough information to draw any definitive conclusions regarding the issue and recommends that the matter be studied more intensely.

7. City Court/Parish Court and District Court Processing Times. As mentioned earlier, the inclusion of city and parish courts in this analysis was approved by the Committee at its first meeting at the request of Senator Art Lentini. In analyzing city and parish court data through the various methods described above, the Committee noted a major disparity in processing times between city and parish courts and district courts. City and parish courts, for example, process, on average, misdemeanor and traffic filings much faster (i.e., in terms of minutes per filing) and, consequently, have higher filings per judge than do the district courts. What accounts for the disparity - greater complexity in cases or docketing; more resources at the city/parish court level; or less formal procedures? Should district court and city/parish court work points be the same for similar types of cases? If so, how should the work points be adjusted?

8. Changes in the Threshold Formula. The Committee reports the following findings regarding the district court threshold formula:

The threshold formula for the initial determination of the need for new district court judgeships should be amended as follows:

- Clerks' suits (C.C.P. Art. 284) should not be counted and assigned any work points.
- Juvenile traffic should be counted as part of adult traffic and assigned the work points set for traffic cases.
- Separate work points should be developed for and used in Child-in-Need-of-Care cases, delinquency/formal FINS cases, and other juvenile cases. The recommended work points are provided below.
- Bonus work points should be assigned to civil jury trials, 1st degree murder trials, and all other criminal jury trials. The recommended work points are provided in Exhibit 7 of Appendix 2.
- Bonus work points should be assigned for drug court work as provided in Exhibit 8 of Appendix 2.
- The work points to be applied to 2006 filing data should be:

Civil	1.79
Felony	3.7
Misdemeanor	1.04
Traffic	.05

Juvenile*	
CINC	6.5
Delinquency	2.6
Other	.76

* To simplify the calculation of juvenile work points, multiply total juvenile filings by 2.25. Use the differentiated method for more detailed analysis.

9. Work Point Bases and the Time Available for Handling Cases. The work point bases for creating new judgeships in the district courts should continue to be 10% to 20% higher than the initial, threshold work point basis of 3,167 work points. The basis of the range is largely determined by the number of judges in the district court capable of absorbing additional case loads but other considerations, such as travel time and other factors, may also be used to determine the range. The work point bases for eliminating existing judgeships should be the threshold work point basis of 3,167. The judicial time available for handling administrative matters and cases should continue to be defined as 209 days which includes 25 eight-hour days for administration (i.e. 13,440 minutes) 184 days for handling cases with each day allowing for 6.5 hours of adjudicative time (i.e. 390 minutes per day or 71760 minutes for the 184 days), ½ hour for morning preparation, ½ hour for lunch, and ½ hour of close-out at the end of the day (or some other combination of the available time). (See Exhibit 5 of Appendix 1, Definition of Judicial Year). The various levels of work point bases and their relevancy in minutes per work point and work points per minute are shown below:

<u>Work Point Basis</u>	<u>Minutes per Work Point</u>	<u>Work Points per Minute</u>
3,167 (Threshold)	22.66	.044
3,484 (10% Higher)	20.60	.049
3,642 (15% Higher)	19.70	.051
3,800 (20% Higher)	18.88	.053

In 2004, the average work points per judge in the district courts were 3,387, not counting bonus points, and 3,436, counting bonus points.

10. Domestic Filings. The Committee finds considerable merit in the concept of differentiating domestic from general civil filings. Two of the subcommittees – the Comparative Filings and the Standards Subcommittees – have analyzed domestic filings separately from general civil filings, and the clerks of court have been requested to provide 2006 filing data on domestic cases. However, given the very tight timetable under which the Committee as a whole and the Judicial Council are working, the Committee considers the differentiation of these case types at this time to be too complex for the Council’s mission and recommends

against the concept. The Committee believes that the differentiation should be made for next year and every year thereafter.

11. Non-Felony DWI Filings. Several members of the Committee felt strongly that non-felony DWI filings in district courts should be differentiated from general misdemeanor filings and given a higher work point value than that given to misdemeanors, as they are in the city and parish court work points. Those advocating this position argue that non-felony DWI cases are significantly more complex and time-consuming than general misdemeanor cases. Those advocating against this position either dispute the point regarding greater complexity and time or argue that differentiating among misdemeanors simply makes analysis more difficult and may get the Committee into an endless cycle of differentiation, especially with respect to other relatively complex misdemeanor cases such as marijuana cases and other cases requiring boykins and indigent defense. After much discussion, the Committee, at this time, recommends against differentiating non-felony DWI filings from misdemeanor filings.

12. Bonus Points for Jury Trials. As mentioned above, the Committee finds great merit in providing bonus points to jurisdictions that have a higher than average number of civil, criminal and 1st degree murder jury trials. The methodology for calculating such bonus points is provided in Exhibit 7 of Appendix 2. One aspect of the methodology is the application of the difference in time between a jury trial and a bench trial converted into work points. Because this type of data is not currently collected in any systematic manner, the Committee has had to rely on a sample of opinions from approximately 22 judges and court administrators throughout the state along with the judges and others on the Committee to establish a benchmark time difference between jury and bench trials. The Committee recommends that such data should be collected each year from all courts and permanently incorporated into the Judicial Council's methodology.

13. Combined Analysis of District and City/Parish Courts. The subcommittees analyzed district court data in comparison with city/parish court data. The analyses suggest that the determination of the number of judges needed in district courts should **not be** made without a thorough consideration of both city and parish court data. The Committee finds that it does not make much sense to recommend the creation of new judgeships for a district court when the filing data and work points of other district, city, or parish courts in the same parishes or districts are indicating a surplus of judgeships. The Committee strongly recommends that a combined analysis be used by the site teams in their analysis, findings, and recommendations regarding new and surplus judgeships. The Committee also recommends that some form of combined analysis be routinely performed by the staff of the Judicial Council and perhaps, at some point, incorporated into the work point threshold formula.

III. Recommendations

A. General Policy. The Council to Review the Need for Judgeships recommends that the Louisiana Legislature establish the number of judgeships at the trial court level of the judiciary, statewide and in each jurisdiction, to the number needed to assure proper access to justice, timely and efficient case processing and resolution, random allotment, and a reasonable caseload per judge. In addressing this policy, the Council explicitly recognizes the need not only to continue the current procedures for carefully reviewing and legislating the creation of new judgeships but also the need to develop an ongoing process of periodically reviewing and recommending to the legislature the elimination of unneeded judgeships. The Council believes that unneeded judgeships create inequities and inefficiencies within the judiciary and among judicial branch agencies serving the judiciary with respect to caseloads and other workload criteria. Unneeded judgeships not only involve the compensation and operational expenses of judges but also the compensation and operational expenses of the judges' staffs, the assistant district attorneys, indigent defenders, and others serving or supporting the judges. For these reasons, the Council recommends the procedures provided below for creating, eliminating, and controlling the number of trial court judgeships.

This policy is only a partial step toward better control of the number of judgeships. More extensive reform is needed to better address this issue in Louisiana.

B. Prematurity of Reductions in Judgeships in 2008. The Council believes that it is premature to attempt to reduce the number of judgeships in time for the 2008 election.

- The districts impacted by the hurricanes, in terms of gains and losses in population and cases filed, have not yet reached a level of stability that would enable us to determine the number of judgeships needed.
- We cannot and should not attempt to determine the number of district court judgeships needed without looking at the entire judicial system, including the city and parish courts,¹ and, perhaps, the mayor's courts, and justice of the peace courts as well.
- The Louisiana Council of Juvenile and Family Court Judges has asked that additional factors, other than new filings, be considered in determining the need for judges in juvenile and family courts; and this appears to be a reasonable request.
- The quality of the data is still not where it should be. The data received from the clerks this year has, in large part, been accurate and the clerks

of court as a whole have made a commendable effort to improve the data as requested. However, more work needs to be done with the clerks, the district attorneys and the courts to make the data more uniform and accurate. Those courts or clerks producing incomplete or inaccurate data can cause unreliable outcomes in the Council's study and analysis which may result in recommendations which are unfair to either a particular court under consideration or other courts.

- Act 621 of the Regular 2006 Legislative Session -- the Orleans Court Consolidation Act --provides that, if the Judicial Council recommends reductions in the total number of judges in the Orleans courts, the reductions "shall be done by attrition, unless otherwise provided by law".
- Act 621 also extended the terms of office of the judges of the Orleans Parish Juvenile Court until December 31, 2014, another indication of the legislature's intent not to have reductions in judgeships, at least in Orleans Parish and at least with respect to juvenile court judgeships, effectuated through the 2008 elections. Apart from the issue of intent, the extension of terms of office in the Orleans Parish Juvenile Court makes it difficult to reduce judgeships in other Orleans courts.
- The issue of reducing judgeships for the 2008 elections is further complicated by the consent decree authorizing the creation of minority sub-districts (see list of sub-districts in Exhibit 1 of Appendix 4).

¹The reference to "city and parish courts" includes the traffic and municipal courts in Orleans Parish.

C. Need for a Permanent Process. The Council believes that it is important for the Judicial Council and the Supreme Court to develop a permanent process for determining the appropriate number of judgeships, including reducing judgeships when necessary. However, the Council also believes that any reduction in the number of judgeships should be accomplished primarily by attrition, that is, by the death, resignation, removal, or retirement of judges.

The Council recommends that legislation be enacted as soon as possible to authorize the activation or deactivation of judicial seats as designated by the Supreme Court, perhaps through the Judicial Council. Through the activation/deactivation process, the Supreme Court would, at the time of a vacancy in any judicial office, inform the governor and the legislature as to whether that seat should be deactivated, that is temporarily eliminated. If the legislature, by a two-thirds vote, agrees with the need to deactivate the seat, the Supreme Court would not appoint a person to fill the vacant seat and the governor would not call an election to fill the vacancy. The seat would be deactivated until, perhaps, reactivated on the basis of a similar process by which the Supreme Court, after careful analysis and the application of established

criteria, would determine that the affected court's workload is such to warrant re-establishing the seat. The process of activation and deactivation would also be used to determine the number of judgeships needed in each election cycle, beginning in 2014.

- D. Methodology.** The Council finds that the methodology employed in its determination of the appropriate number of judgeships is generally valid and reliable, although some aspects of the methodology, especially with respect to family and juvenile cases, may need further refinement. The objective or quantitative aspect of the methodology uses "work points" based on new case filings, a methodology that is widely used throughout the nation. The Council recommends that the specific work points for district courts be changed as presented below and that further work be done to improve the work-point system. The Council finds that population is not a reliable predictor of the need for judgeships, except in the broadest and most general sense that jurisdictions with large populations have more judges than jurisdictions with smaller populations. The Council finds that the determination of the number of judgeships should be based on multi-year trends rather than a single year's statistics. The Council also finds that the use of site visits is a useful and necessary tool for determining the need for judgeships, especially with respect to the analysis and understanding of qualitative factors and the unusual or unique circumstances existing in a particular court.
- D. Need for Further Study.** The Council recommends that the legislature authorize the Judicial Council to complete, before the end of 2009, a complete study of all courts or at least all trial courts. The study should further evaluate the current work point system and should consider supplementing it with more statistical consideration of other factors such as violent crime, bench trials, post conviction activity, complex litigation, and other special factors. The study should also consider and include in its scope the issues raised by the Louisiana Council of Juvenile and Family Court Judges.
- E. Need for Improving Quality of Filing Data.** The Council recommends that the legislature also request the Supreme Court to create a committee of judges, clerks of court, and district attorneys, to improve the quality of data currently being collected and to define new data elements that may be needed to support the study and investigation of the need for judgeships.
- F. New Judgeships.** The Council recommends that the moratorium on new judgeships called for in its Interim Report to the Judicial Council be rescinded and that new judgeships be created with the 2008 election in the 4th JDC, the 21st JDC, and the 22nd JDC as recommended below:

4th JDC – two new judgeships;

21st JDC – one new judgeship to be assigned to the new juvenile section of the Court;

22nd JDC – two new judgeships to be legislatively designated as family court divisions pursuant to recent constitutional provisions.