

TENNESSEE JUDICIAL REDISTRICTING STUDY

Staff Report



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TABLE OF CONTENTS

Table of Contents	i
Introduction	1
Study Goals and Objectives	2
Study Approach	3
Criteria for Determining Judicial District Boundaries	5
An Examination of the Current Judicial Districts.....	8
Analysis of Caseload	8
Analysis of Population.....	13
Socio-economic Indicators	15
Judicial Weighted Caseload Study.....	16
Weighted Caseload Analyses	17
Population-Based Analyses	18
Focus Group Findings.....	21
Variation in Local Practice.....	23
Conclusion and Recommendations	28

List of Exhibits

- Exhibit 1: Maps of 2006-2007 Criminal and Civil Filings
- Exhibit 2: Caseload per District
- Exhibit 3: Combined Criminal & Civil Filing Trends (FY2002-2003 to FY2006-2007)
- Exhibit 4: Average Elapsed Time to Disposition in Criminal Cases
- Exhibit 5: Median Elapsed Time to Disposition in Civil Cases
- Exhibit 6: Map of Districts Falling Above/Below the Average Population Range
- Exhibit 7: Map of Districts Falling Above/Below the Average Population Density
- Exhibit 8: Maps of Median Income and Percent of Population Living in Poverty
- Exhibit 9: Population per Judge, 2007
- Exhibit 10: Rank Ordered List of Districts by Population to Judge Ratio
- Exhibit 11: Where Cases are Routinely Heard
- Exhibit 12: Adequacy of Resources
- Exhibit 13: Event Frequency

INTRODUCTION

In the past 15 years, the State of Tennessee has been examining how its courts are structured, how judicial resources are allocated, and whether or not there is a need to reapportion judicial districts. The issue of judicial districts and resource allocation in Tennessee is complicated by a bifurcated court system, concurrent jurisdiction between some courts, resource sharing between the State and the counties, the local elective status of judges, and disparity in local practice not only among the judges but also among district attorneys general and public defenders.

In 1994, the Commission on the Future of the Tennessee Judicial System undertook an effort to plan for how the courts would operate in 2036. Of note is that after two years of study and deliberation, a key recommendation was to consolidate the 31 existing judicial districts into 8 to 12, including a consolidation of the clerks' offices. Among the major reasons for considering a consolidation was the desire to ensure a more even distribution of workload and to maximize the allocation of judicial resources. The Commission concluded that although there was significant resistance to the notion of consolidation, such an act would help to eliminate "the multiple statutory provisions for the patchwork of courts, often done through locally initiated private acts of the General Assembly."¹

The 2003 Study Committee on Judicial Redistricting further examined whether efficiencies could be achieved through a reorganization of the trial courts. Ultimately, the Study Committee recommended no change to the existing judicial districts but did call for a committee to convene regularly to continue to examine the issues and discuss future changes to the judicial district lines.

According to a 2004 report from the Comptroller of the Treasury, the problems identified by both the Commission on the Future of the Tennessee Judiciary and the Study Committee continue to plague the court system. Specifically, the report cited the following problems:

- Lack of compliance by local courts with the Supreme Court's rules and the policies of the Administrative Office of the Courts
- Lack of equity in General Sessions and Juvenile Courts
- Variation across the state in how court costs are assessed and apportioned
- Misuse of state and local funds for judicial initiatives
- Lack of a statewide court information system
- Difficulty auditing the state and local courts

¹ Commission on the Future of the Tennessee Judicial System. *Report of the commission on the future of the Tennessee judicial system*. <http://www.tsc.state.tn.us/geninfo/futures.pdf>, accessed December 16, 2007.

- Conflicting data on court revenue between counties and the state Department of Revenue²

To better understand the distribution of caseloads in the state and to assess resource needs in the trial courts, the State initiated a weighted caseload study in 1997 of judges, district attorneys general, and public defenders. The weighted caseload study not only showed the resource needs but also provided a significant amount of insight into a number of problems with court administration and management. Specifically, these problems included differences in judicial jurisdiction between counties, accurate counts of filings and dispositions, and uniformity and consistency in judicial practice.

Subsequent updates of the weighted caseload study found that total number of judges statewide is generally sufficient, although in the past 2 years, the updates show a slight excess of judges in most districts, although in the districts for which excesses shown, it is generally less than a full- or half-time equivalent position.³ However, over the past 8 years, the need for judicial resources has been greatest in some of the geographically larger and more rural districts than in the urban districts (with the exception of Davidson County, the 20th District, which had a deficit of three positions until those positions were authorized by the legislature in FY2004).

Clearly, this is but one indication that the distribution of judiciary's work is changing, particularly when paired with issues of fairness, efficiency, and consistency in the handling of cases. Added to these issues is the need for accountability and performance measures. Economic considerations of how best to maximize existing resources and even out workload, combined with changes in population, are also important. Any effort to assess the desirability and feasibility of judicial redistricting must take all of these factors into account.

In February 2007, the Comptroller's Office awarded a contract to the Justice Management Institute (JMI) and the Center for Justice, Law, and Society (CJLS) at George Mason University, to conduct a study of potential judicial redistricting in the state of Tennessee.

Study Goals and Objectives

The JMI/CJLS study was designed to provide an in-depth analysis of factors related to redistricting as well as an application of other state models to the Tennessee system. A key component of the study was the mapping of various factors to determine if disparities exist between districts or within districts, and how changes in district boundaries would

² Morgan, J.G. (2004). Tennessee's court system: Is reform needed? Office of Research, Comptroller of the Treasury, p. 1.

³ Morgan, J.G. (2005). FY 2007-2008 Tennessee weighted caseload study update, <http://www.comptroller1.state.tn.us/Repository/RE/Judges2008.pdf>, accessed March 12, 2009.

affect any observed disparities. Specifically, the study focused on the following objectives:

- ❖ Analyzing available research on factors commonly used to determine judicial district size and how other states determine district size
- ❖ Applying accepted criteria and models to the Tennessee system for analysis
- ❖ Providing recommendations on alternatives to reapportion judicial districts and distribution of judicial resources, including maps of potential distributions and the advantages and disadvantages of changing current districts
- ❖ Analyzing methods and providing recommendations to better manage workloads between elections of judges and among judges within a judicial district and to allow more flexibility to deal with changing caseloads
- ❖ Analyzing and providing recommendations on Tennessee's current weighted caseload methodology that is used to determine the distribution and need for additional judges

Study Approach

The JMI/CJLS approach combined statistical analyses of available data with modeling, mapping, a survey, and focus groups. To inform the project scope, JMI convened a study advisory committee consisting of representatives of each of the trial courts and the courts of limited jurisdiction, the Administrative Office of the Courts, the Comptroller's Office, court clerks, the District Attorneys' General Conference, the Public Defenders' Conference, and representatives of the state legislature.

Specifically, the methodology focused on the collection of available district and county level information such as criminal and civil case data, current judicial staffing levels, case processing times, socioeconomic data, and population. Additional information on judicial resource needs, how other states' define criteria for redistricting, and the quantitative data discussed above were used as the foundation for assessing the need for changes to the judicial district boundaries.

The study consisted of four primary tasks:

1. Collect available quantitative data
2. Analyze data and build models
3. Analyze management of workloads and distribution of resources
4. Develop alternative district boundaries and deliver final recommendations.

To identify which quantitative data should be included in the redistricting models, the JMI/CJLS team conducted legislation searches and interviews with court administrators and legislative staff to identify how states with similar court structures determine judicial

district boundaries.⁴ The review yielded little detailed information about the criteria used by other states for redistricting. Of those states for which criteria could be identified, caseload and population were the primary basis for determining district boundaries and allocating judicial resources.

Using this as the starting point for the study, JMI/CJLS obtained several years of civil and criminal case data from the Administrative Office of the Courts (AOC) by county and by district. Information on the average case processing time for civil and criminal cases was also provided by the AOC for analyses. Specific data that were analyzed included:

- ❖ Civil case information
 - Civil filings by county, district, and court (FY2002-2007)
 - Civil dispositions by county, district, and court (FY2002-2007)
 - Civil dispositions by bench/jury trial by county, district, and court (FY2002-2007)
 - Civil dispositions by type, county, district, and court (FY2002-2007)
 - Average elapsed time from filing to disposition by district

- ❖ Criminal case information
 - Criminal filings and dispositions by county and district (FY2002-2007)
 - Criminal case dispositions by type, county, and district (FY2002-2007)
 - Criminal case dispositions by bench/jury trial by county, district, and court (FY2002-2007)
 - Average elapsed time from filing to disposition by district

- ❖ Number of judges by district and county

In addition to these data, JMI analyzed the data collected by the National Center for State Courts (NCSC) for the 2007 judicial weighted caseload study. The project team also gathered information from the U.S. Census data on state, district, and county population and income levels.

JMI and CJLS used ArcView 9.1, a spatial analysis and mapping software, to create different maps of the districts using the data described above. The maps were used as the basis for focus group discussions held throughout the state during the summer of 2008. Ten focus groups⁵ were held with judges, chancellors, district attorneys, public defenders, clerks, and other interested persons.

As originally conceived, the project was to include a survey of practitioners throughout the state to gather input on proposed new districts that were created based on the quantitative

⁴ The states reviewed included Colorado, Wisconsin, Missouri, Arizona, Mississippi, Washington, Indiana, and Massachusetts.

⁵ Three focus groups were in Central Tennessee, three in Western Tennessee, and four in Eastern Tennessee.

analyses and the focus group results. Two different events resulted in a change to this survey. First, the analysis of the data showed very little variation in caseload and population across the districts. Second, a main theme that emerged from the comments of participants at the meetings was their sense that a redistricting study was unnecessary and that JMI/CJLS needed to understand the variation in local practice across the districts.

As a result of the focus groups, JMI's recommended to the Comptroller's Office that the survey to collect input on proposed new district boundaries be modified. The Comptroller's Office approved the modification to allow JMI to use the survey to collect district and county-specific information about how criminal and civil cases are handled as well as information about the various factors identified in the focus groups. The survey was administered in September-October 2008. A total of 246 people from across the state completed the survey, with at least one respondent from every judicial district. The type and number of respondent by job classification is as follows:

- ❖ Chancellors, n=4 (6%)
- ❖ Circuit Court Judges, n=43 (18%)
- ❖ Limited Jurisdiction Court Judges (including General Sessions, Municipal, and Family/Juvenile Courts), n=27 (11%)
- ❖ Trial Court Clerks and Masters, n=47 (19%)
- ❖ General Sessions Court Clerks, n=9 (4%)
- ❖ Prosecutors, n=29 (11%)
- ❖ Public Defenders, n=22 (9%)
- ❖ Defense Counsel/Private Bar, n=56 (23%)⁶

Finally, JMI conducted several analyses of the judicial weighted caseload data to determine if the current method used for determining judicial resource needs is the best method for Tennessee to adopt. These analyses included the application of a disposition-based method to the NCSC data; assessment of differences in average case processing times and resource needs based on the type of district (e.g., small, medium, and large); and projection of resource needs based on population.

CRITERIA FOR DETERMINING JUDICIAL DISTRICT BOUNDARIES

A major focus of the study was an examination of how other states that have similar court structures to Tennessee determine their judicial district boundaries. An extensive review of Lexis-Nexis revealed no detailed information about how various states determine judicial districts. The team expanded the search to include all states and identified seven states that articulated their criteria for establishing judicial districts and allocating judicial resources: Iowa, Minnesota, Mississippi, Montana, Nebraska, South Dakota, and Wisconsin. The criteria used in these states are as follows:

⁶ Total does not add to 100% due to rounding.

- ❖ In Iowa, judicial district boundaries are established to ensure the equitable apportionment of judges among the districts, based on caseload in relationship to population trends.⁷
- ❖ Judicial districts in Minnesota are used for administrative purposes and judgeships are allocated using a weighted caseload formula.⁸
- ❖ Mississippi commissioned a study of redistricting in 2002 in an attempt to balance caseload and the distribution of the state's population among districts.⁹
- ❖ Judicial district boundaries in Montana are based on an equal distribution of caseload per judge.¹⁰
- ❖ Nebraska established a Judicial Resources Commission that meets annually to review current caseload statistics, adequacy of access to the courts for litigants, district population, and other unspecified factors to determine district boundaries and allocation of judicial resources.¹¹
- ❖ Specific criteria for South Dakota's determination of judicial district boundaries are not explicitly articulated, but the state uses a weighted caseload methodology to allocate judicial resources.¹²
- ❖ The Wisconsin General Assembly determines judicial district boundaries based on county lines. The boundaries define administrative areas of the court rather than judicial areas in which cases are heard.¹³

⁷ Judicial District and Judicial Resources Study Committee. (2004). Final Report. Available online at <http://www.legis.state.ia.us/GA/80GA/Interim/2003/comminfo/judredist/final.htm>, accessed 12/29/2008.

⁸ Synopsis of Judicial Redistricting in States Surrounding Iowa. Available online at <http://www.legis.state.ia.us/GA/80GA/Interim/2003/comminfo/judredist/WIMNSDsynopsis.pdf>, accessed 9/22/08.

⁹ Judicial Study Advisory Committee. (1999). Annual Report of the Mississippi Judicial Advisory Study Committee. Available online at <http://www.mssc.state.ms.us/reports/JASC99.html>, accessed 12/29/08.

¹⁰ Fox, Susan B. (2000). House Bill No. 339 Study on the Necessity of Judicial Redistricting Draft Study Plan. Available online at <http://leg.mt.gov/content/Committees/Administration/Legislative%20Council/1999-2000/Staff%20Reports/jrstudpl.pdf>, accessed 1/13/09.

¹¹ Synopsis of Judicial Redistricting in States Surrounding Iowa. Available online at <http://www.legis.state.ia.us/GA/80GA/Interim/2003/comminfo/judredist/WIMNSDsynopsis.pdf>, accessed 9/22/08.

¹² Ibid, p. 2.

¹³ Ibid, p. 1.

It should be noted that the criteria identified in these states were not actually used to determine judicial district boundaries. Rather, these criteria were used to examine the need for judicial resources or the need for new courts.

The team also conducted telephone interviews with eight states that are similar to Tennessee in court structure: Arizona, Colorado, Indiana, Massachusetts, Mississippi, Washington, and Wisconsin. Interviewers called the state AOC and were referred to legislative librarians, historians, or employees who had been employed at the AOC for some time. Interviewers asked when the last time judicial districts were modified and why the changes were made (e.g., what variables influenced their decision to modify the district). In most of the interviews, participants were referred to another person thought to be able to provide such information. On average, interviewers spoke to three people in each state, and each interview lasted approximately 20-30 minutes. Unfortunately, there was no interviewee who was able to provide detailed information on the last time districts were modified or the reasons for the modification. In more than half the states interviewed, judicial districts include a single county and the concept of redistricting was an unfamiliar topic.

The final state source on redistricting criteria that the team identified was a 1999 survey conducted by the Texas Judicial Council. The Council conducted a national survey on the factors used for determining the need for new trial courts and judgeships. The survey found that the majority of states (71%) used caseload data and 56% used weighted caseload analysis or some other unspecified statistical method.¹⁴ The primary factors identified by more than two-thirds of the states were number of cases filed, number of cases filed per judge, and population size. More than half of the states reported using backlogged cases per judge, number of active pending cases, number of cases disposed, number of cases disposed per judge, case types, population growth, and travel time. Ultimately, the Texas Judicial Council concluded that a weighted caseload method seemed to be the appropriate first step in determining the need for new courts. It is important to note, however, that the study did not specifically address redistricting but rather whether or not new courts were needed.

JMI also conducted a review of the literature related to judicial redistricting. Not surprisingly, the review yielded no empirical assessment of redistricting as it relates specifically to the determination of judicial district boundaries. The majority of the literature focused on legislative redistricting, although a few articles did focus on educational district boundaries. Determination of school district boundaries are often based on a geo-spatial analysis that incorporates changes in population levels and

¹⁴ Assessing the Need for New Trial Courts/Judgeships, available online at <http://www.courts.state.tx.us/tjc/ar99/report.htm>, accessed 12/29/2008.

demographics with spatial distribution (distance from school) and other factors like transportation.¹⁵

The findings of the review point to caseload per judge, weighted caseload, and population as key factors for determining judicial resources and/or the need for new courts but not necessarily district boundaries. Of note is the fact that the JMI/CJLS review did not identify details about the criteria, i.e., what other states deem as appropriate thresholds for caseload, population, etc. Nonetheless, in lieu of any other criteria identified in the review or by practitioners in the state of Tennessee to assess district boundaries, JMI applied these factors to the districts in Tennessee to determine if there was any significant variation. Because the determination of what is an appropriate caseload per judge, for example, is a normative process, the project team first focused on understanding how caseload and population were distributed among the districts in Tennessee.

AN EXAMINATION OF THE CURRENT JUDICIAL DISTRICTS

Using the criteria identified from the project team's review of other states, along with other socio-economic criteria, JMI/CJLS created maps showing how the current districts differ on such factors as caseload per judge, criminal and civil filing and disposition trends, average case processing time, and population.

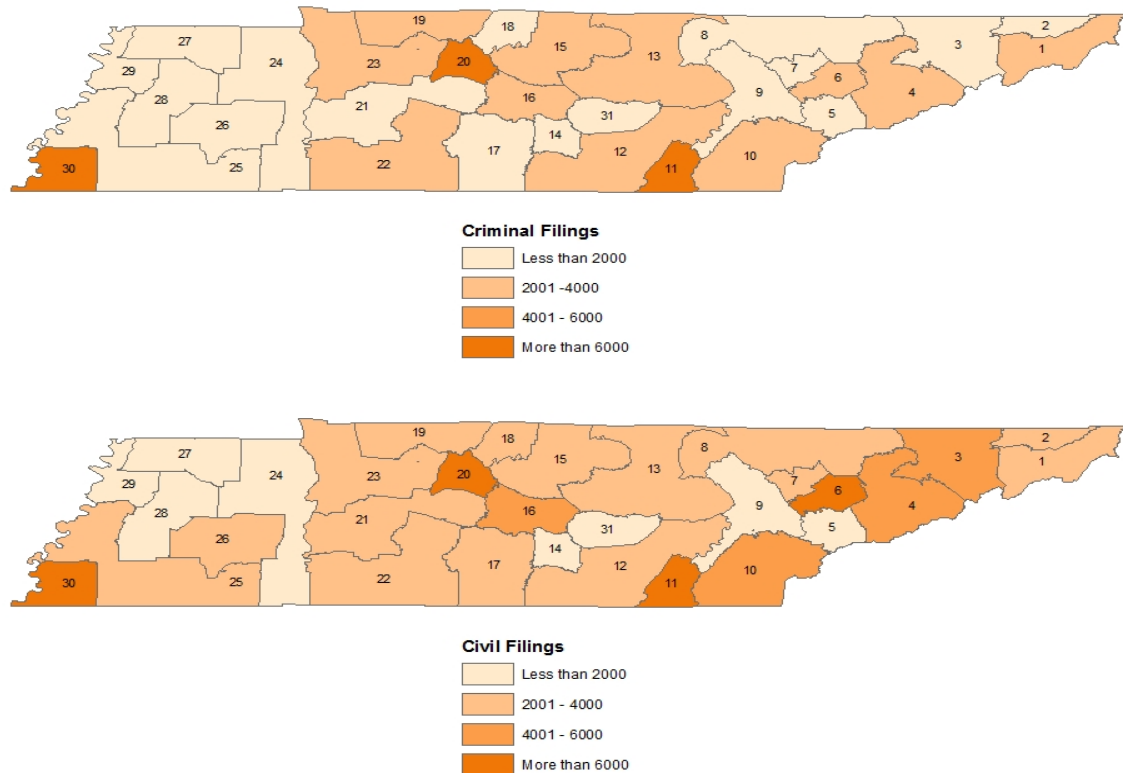
Analysis of Caseload

There are a number of different ways to explore the distribution of caseload across the state, including annual criminal and civil filings, average caseload per judge, and average elapsed time between filing and disposition. The other method for examining caseload is the use of a weighted caseload methodology, which is discussed later in this report.

The first step in analyzing the caseload is understanding the volume of cases entering the system. A snapshot of criminal and civil filings in FY 2006-2007 shows that rural areas of the state generally have the fewest criminal case filings, and the urban districts and surrounding districts generally have the most criminal case filings (see Exhibit 1). The map for civil filings shows a slightly different perspective in that there is less variation across districts. Most of the districts had between 2,001 and 4,000 civil filings in FY2006-07, including many of the rural districts.

¹⁵ Armstrong, M.P, Lonlonis, P., & Honey, R. (1993). "A Spatial Decision Support System for School Redistricting." *Urisa Journal*. <https://www.urisa.org/files/Armstrongvol5no1-3.pdf>, accessed on September 9, 2008.

Exhibit 1: Maps of 2006-2007 Criminal and Civil Filings

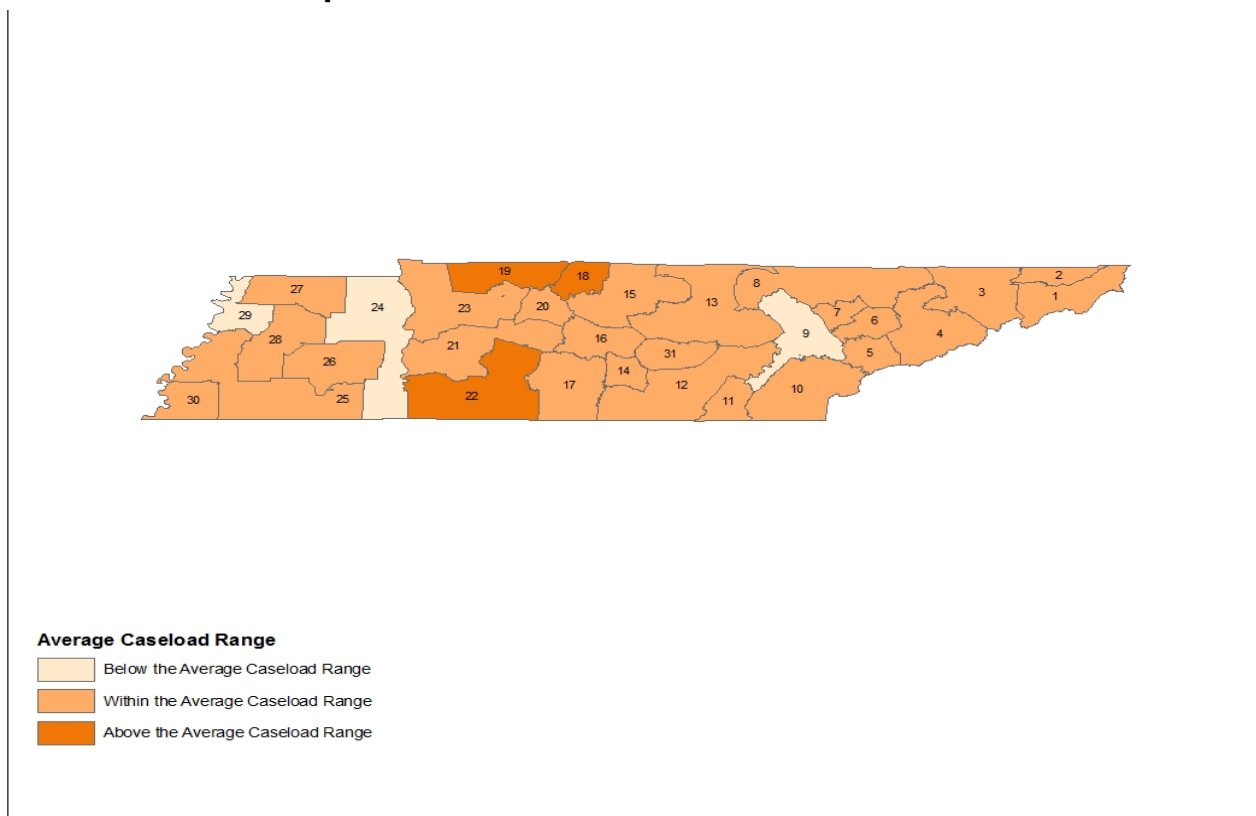


Using a combined total of civil and criminal filings, the project team then calculated the average caseload per judge in FY 2006-07.¹⁶ Exhibit 2 shows that there is some slight variation across the state in terms of the average caseload per judge (defined as the total number of civil and criminal filings divided by the total number of judges). The average caseload range in the majority of the state falls between 1,043 and 1,685 cases per judge.¹⁷

¹⁶ Because the number of cases filed with or disposed by individual judge was not available, an approximate measure of total filings divided by the total number of judges in the district was used.

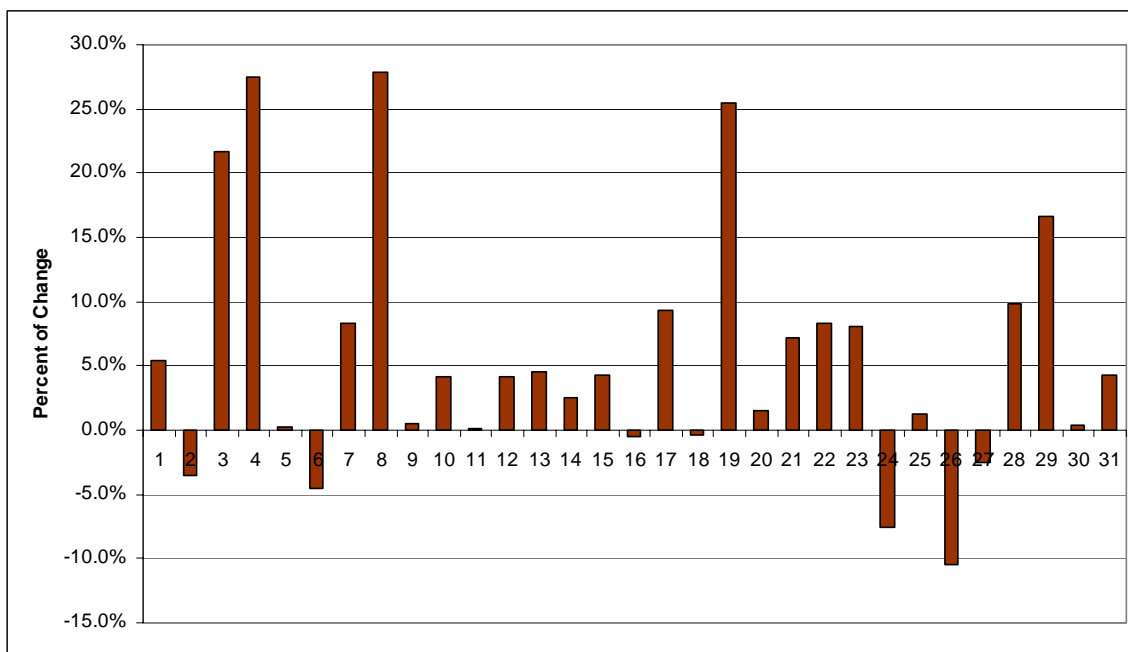
¹⁷ The high volume of cases in the four urban districts (6, 11, 20, and 30) skewed the mean caseload calculation. Thus, the average reported represents the mean without these districts. The average range, without districts 6, 11, 20, and 30, is 1,043 to 1,685 cases.

Exhibit 2: Caseload per District



When rank-ordered, Districts 18 and 19 had the highest average caseload in FY 2006-2007 at 1,734 and 1,735 cases per judge respectively. Districts 9 and 24 have the lowest average caseload at 712 and 876 cases per judge. Of note is that the number of judges has remained constant between FY2002-03 and FY 2006-07 (except for a small increase in District 20), yet the number of criminal and civil cases entering the system has increased statewide by 4%. As shown in Exhibit 3, on the following page, District 8 experienced the greatest increase in filings (27.9%), followed by District 4 (27.5%), and District 19 (25.5%). District 26 and 24 experienced the greatest decrease (-10.5% and -7.6% respectively) during the same time period.

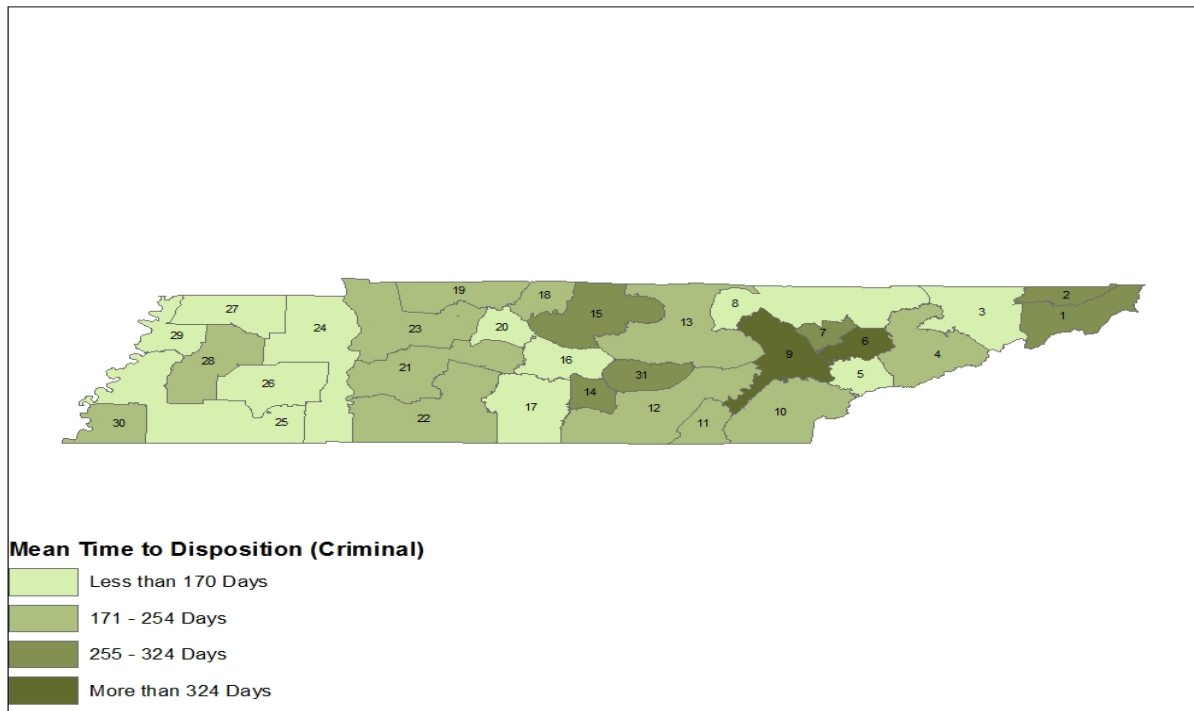
Exhibit 3: Combined Criminal & Civil Filing Trends (FY2002-2003 to FY2006-2007)



One would expect that the districts with the highest average caseload per judge would have experienced the greatest increase in filings and dispositions. However, of the two districts with the highest average caseload, only District 19 experienced a significant increase in filings between FY2002-03 and FY2006-07. District 18 showed a slight decrease. For Districts 9 and 24, which have the lowest average caseload per judge, District 9 experienced a slight increase whereas District 24 experienced the second greatest decrease in the state. Having a lower than average caseload per judge in lieu of decreased filings might be indicative of longer than average case processing times in those districts (e.g., District 9 and 24). Conversely, having a higher than average caseload per judge would seem to suggest that there may be a growing backlog of pending cases.

Another interpretation of the differences in the average caseload size is that cases are processed more quickly in some districts than in others. Exhibit 4 shows the average time elapsed from filing to disposition for criminal cases. It is important to note that the average time does not include cases involving judicial diversion, retired/unapprehended cases, and cases that are filed and disposed on the same day. In addition, 3,303 cases statewide were excluded from this analysis because the time from filing to disposition was more than 5 years.

Exhibit 4: Average Elapsed Time to Disposition in Criminal Cases

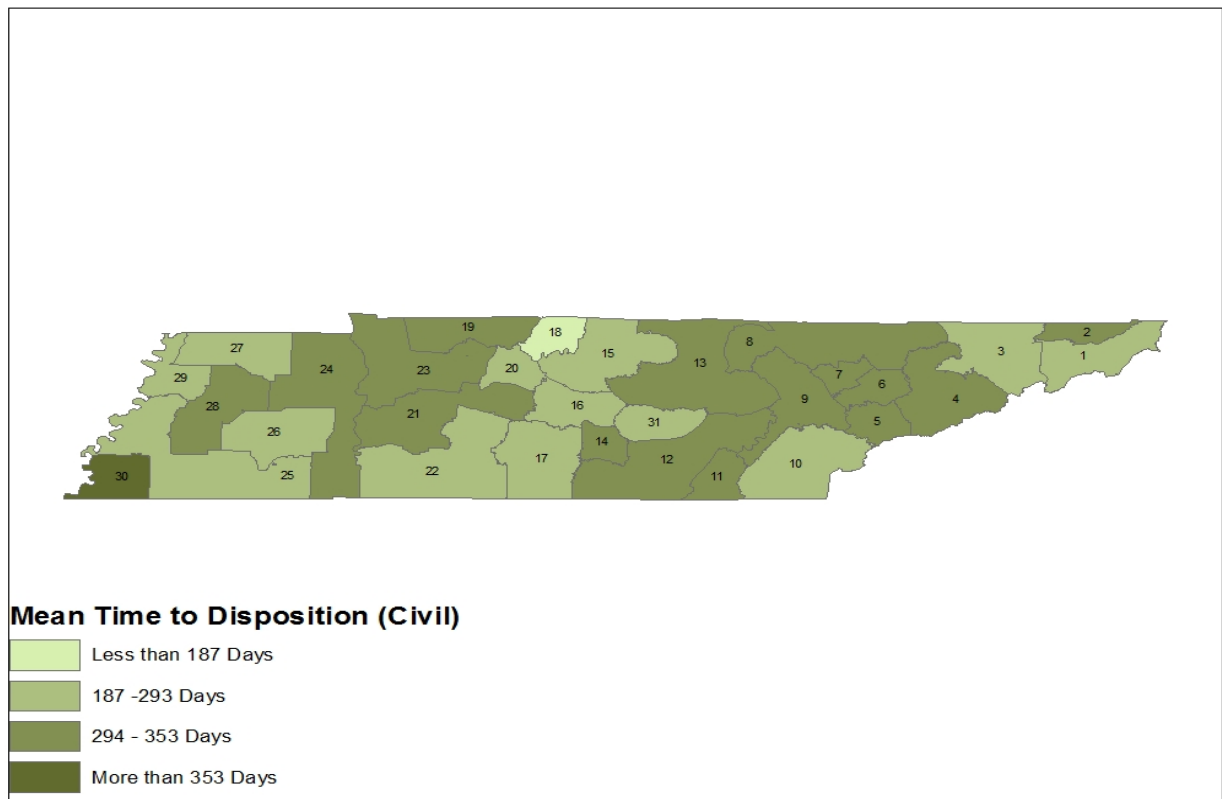


Statewide, the average elapsed time to disposition for criminal cases is 245 days (median of 148 days). More than half of the districts statewide have processing times that are at or below the statewide average. There are, however, several districts that fall significantly above the average—districts 6 and 9 in particular, as well as districts 1, 2, 14, 15, and 31.

There are many possible explanations for the variation in case processing times: case flow management, severity and volume of filed cases, case event scheduling throughout the district, timely access to forensic information, district attorney and public defender case processing, and so forth. Further assessment would need to be undertaken to better understand the factors that contribute to the differences in case processing times. However, it is unlikely that redistricting would significantly affect case processing times.

For civil cases (shown in Exhibit 5), the data showed an average elapsed time to disposition of 308 days statewide (median=153 days). Unlike the average time in criminal cases, civil case processing times are much more comparable across the districts with all but one—District 18—showing an average elapsed time between 187 and 353 days.

Exhibit 5: Median Elapsed Time to Disposition in Civil Cases

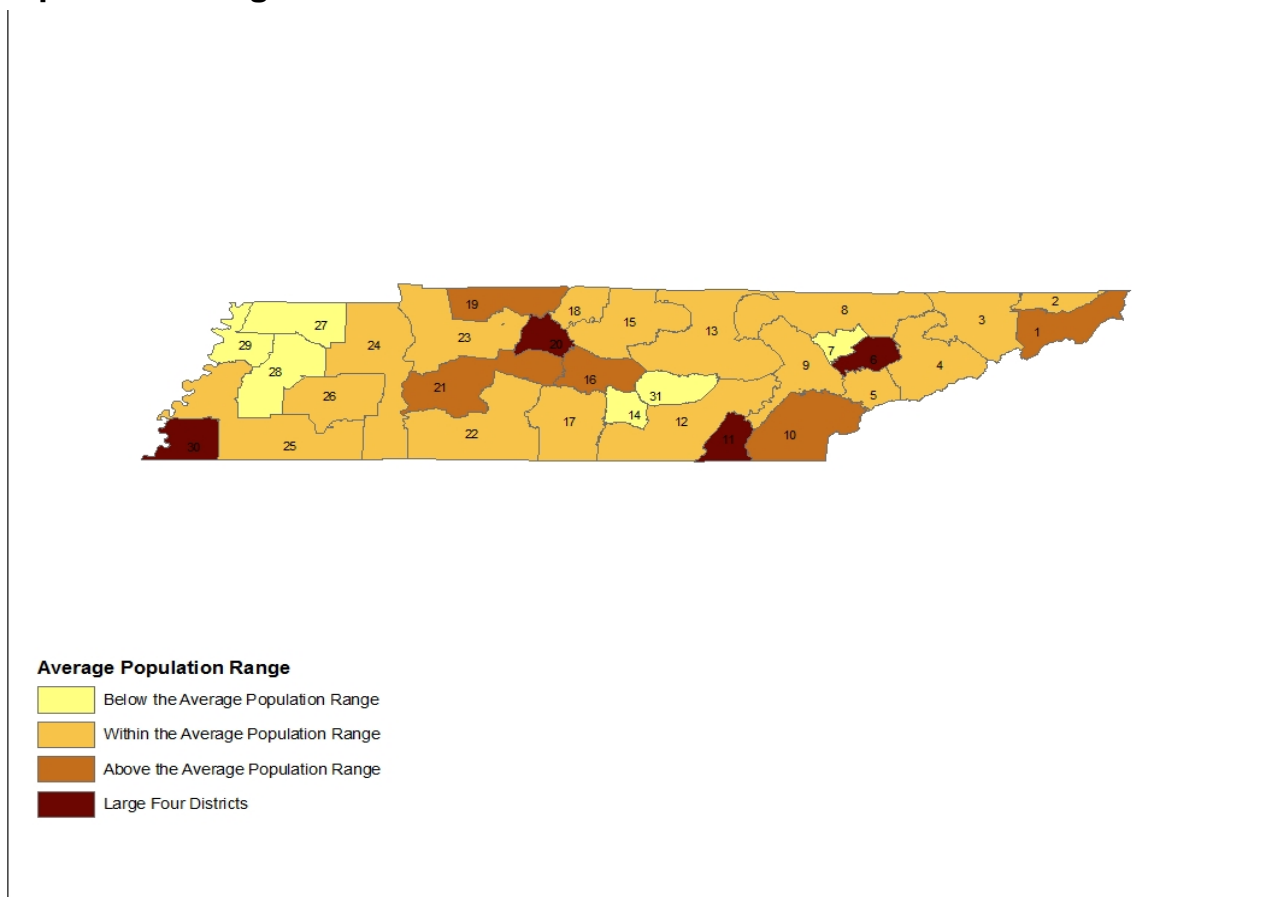


Although there is variation in the elapsed time to disposition across the districts, particularly in criminal cases, redistricting based on case processing time would require the State to establish the case weights as time standards. Certainly time standards for case processing help to ensure an efficient justice system, they are not sufficient in and of themselves for determining judicial boundaries.

Analysis of Population

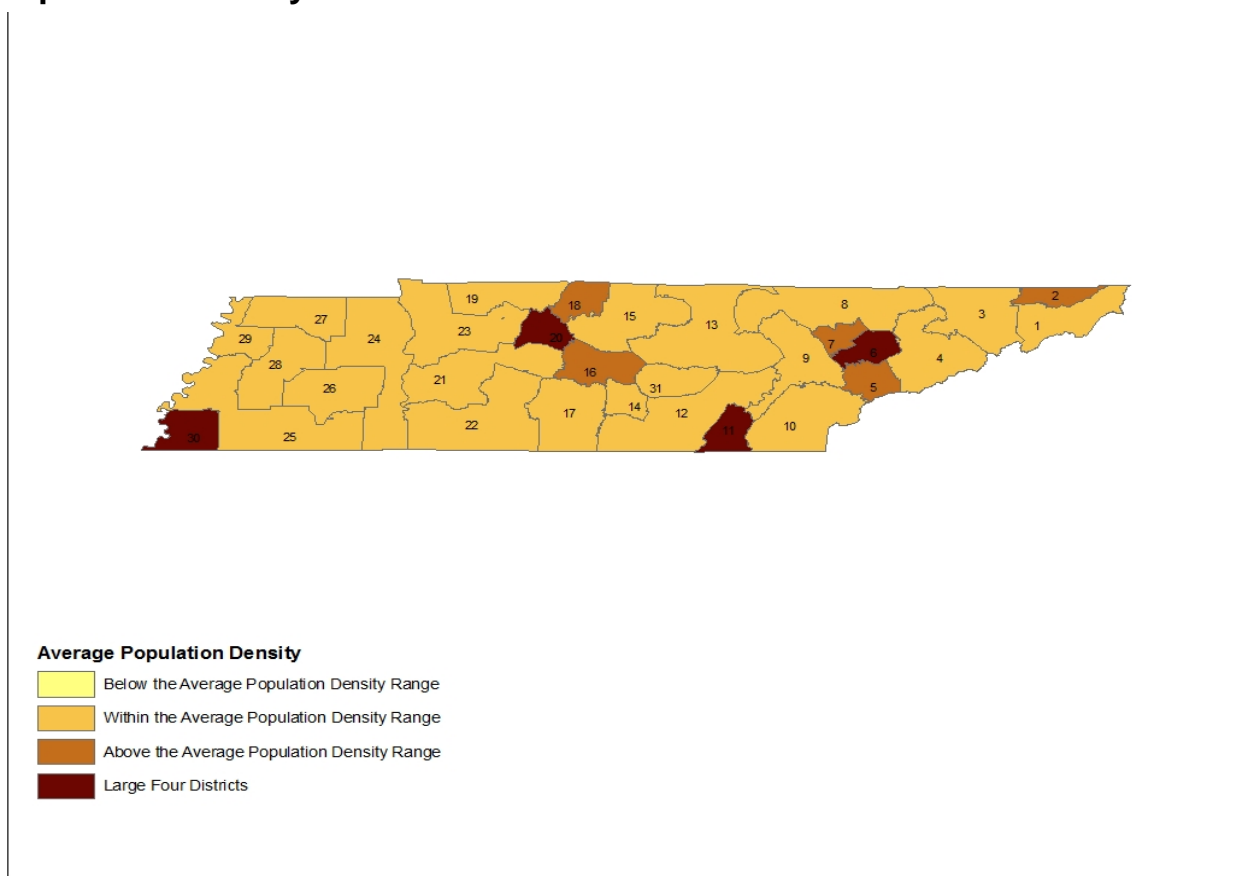
The next factor taken into consideration was population. The JMI/CJLS team examined both the raw population by county and district, as well as the population density. Not surprisingly, mapping the raw population showed some variation across the districts, as shown in Exhibit 6.

Exhibit 6: Map of Districts Falling Above/Below the Average Population Range



Most of the districts (excluding the four large districts—6, 11, 20, and 30) fell in the average range (between 85,977 and 197,267 population). The districts surrounding some of the large urban districts, such as the 10th, 16th, 21st, and 19th were above the average population. A more telling metric of the distribution of the state’s population across the judicial districts is the population density, as shown in Exhibit 7. When the population is normalized per 100,000, only five districts (2, 5, 7, 16, and 18), apart from the 4 large urban districts, fell above the average population density range. All but the 16th District are single county districts, which could not be redistricted to adjust the population distribution. Moreover, as discussed later in the report, using population as the basis for allocating judicial resources or determining district boundaries is not the best method based on the JMI/CJLS assessment of reliability and validity.

Exhibit 7: Map of Districts Falling Above/Below the Average Population Density

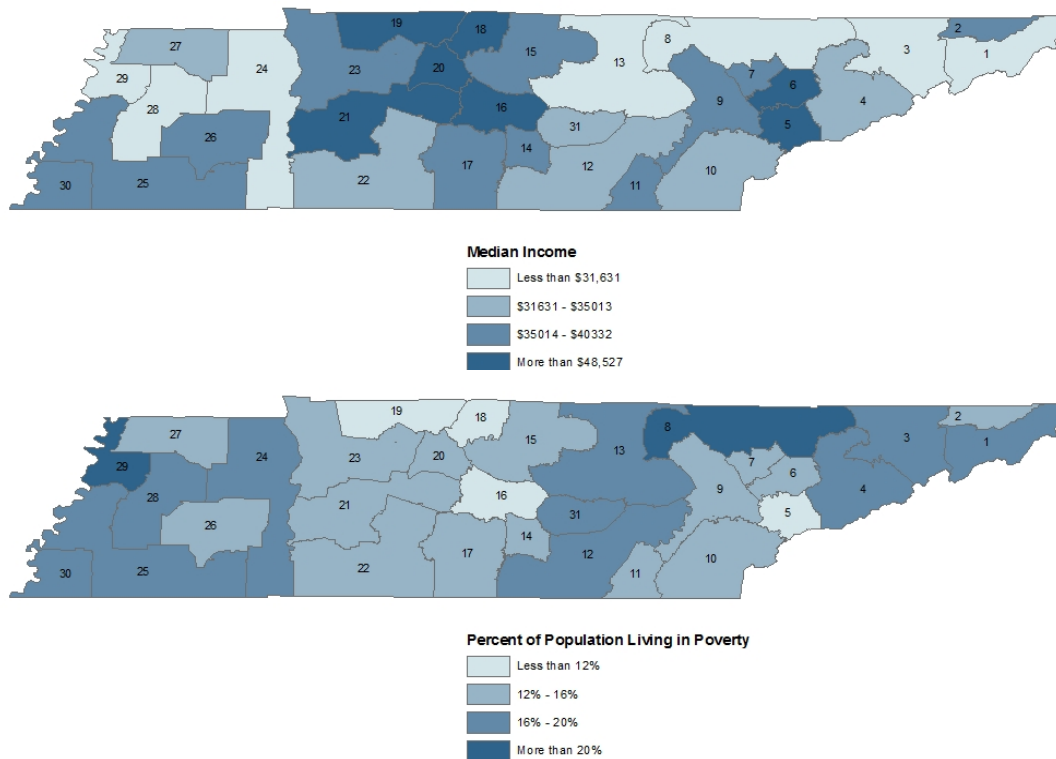


Socio-economic Indicators

Although not traditionally used in assessments of judicial resource needs or the need for new trial courts, socio-economic indicators are often key factors used in determining where to locate businesses and services. In addition, one of the issues raised by the Commission on the Future of the Tennessee Judicial System was the concern that justice is “tilted in favor of those with financial resources.”¹⁸ Thus, the project team examined the income levels among the districts to determine if there were any patterns between caseload, case processing time, and income. Exhibit 8 shows maps of two indicators—median income level and percent of the population living in poverty—by district.

¹⁸ Commission on the Future of the Tennessee Judicial System. *Report of the commission on the future of the Tennessee judicial system.*, p. 9. <http://www.tsc.state.tn.us/geninfo/futures.pdf>, accessed December 16, 2007.

Exhibit 8: Maps of Median Income and Percent of Population Living in Poverty



Generally speaking, none of the criteria examined above (i.e., caseload related factors, population, or socio-economic indicators) provide clear evidence that redistricting is desirable in Tennessee. With the exception of some slight variation in caseload per judge, volume of criminal and civil filings, and elapsed time from filing to disposition in criminal cases, there is not significant disparity across the state. Even for the socio-economic factors, only a handful of districts vary from the rest of the state. It is important to note, however, that redistricting would not be likely to significantly change the median income levels or poverty levels in the districts.

JUDICIAL WEIGHTED CASELOAD STUDY

The primary criteria identified in JMI/CJLS's research about how other states determine the allocation of judicial resources was by caseload or by weighted caseload. Since FY1999, Tennessee has used the results of a weighted caseload study to project judicial resource needs. Clearly, when large increases (or decreases) in judicial resources are identified in a district, it is an indication that work in that district is changing. Continued increased (or decreased) demand in a district over time could suggest that there is a need to reapportion judicial resources statewide and review district boundaries. However, in

Tennessee, the number of needed judicial resources over the past seven years has remained relatively stable.

There are a number of different weighted caseload study methodologies that can be used to explore the distribution of resources. The most rigorous from an objective and empirical standpoint are those that base resource projections on the following variables:

- ❖ The amount of actual time spent handling different types of cases
- ❖ The number of hours available in a year to conduct business
- ❖ The volume of cases entering the system or that have been disposed by the system

A variation of the weighted caseload study is an event-based method in which the average time per case is based on the time spent conducting different events and the average number of events in each case. These methods, referred to as weighted caseload or workload assessment, have been widely used in the justice system to project the need for judges, prosecutors, and public defenders. The other primary method used for assessing judicial resource needs, although used far less frequently than the weighted caseload method, is a population-based assessment.

Weighted Caseload Analyses

As part of the assessment of judicial redistricting, the JMI/CJLS team conducted several different analyses of the weighted caseload study data collected in Tennessee by the National Center for State Courts (NCSC). These analyses included the following:

- ❖ Calculation of average case processing times and workload measures by type of district (i.e., rural districts, transitional districts, and urban districts)¹⁹
- ❖ Comparative analysis of the average case processing times found in the NCSC study with the results of the analyses listed above

The purpose of these analyses was to assess the reliability of the case weights developed in the Tennessee Judicial Weighted Caseload study. To determine the extent to which a single set of statewide average case processing times differs from a set of weights tailored for the size of the district and for individual districts, the JMI/CJLS conducted two sets analyses. First, the team created a statewide average case processing time that uses a single case weight for each type of case, which is applied to the dispositions for each district (as opposed to weights created for each individual district). The team also created three sets of case weights –one each for rural, transitional, and urban districts. As one might expect, urban districts tend to process cases more quickly than transitional or rural

¹⁹ District size was based on population. Included in the rural districts category are districts 5, 7, 14, 17, 27, 28, 29, and 31; transitional districts—1, 2, 3, 4, 8, 9, 10, 12, 13, 15, 16, 18, 19, 21, 22, 23, 24, 25, and 26; urban districts—6, 11, 20, and 30.

districts but this is related more to economies of scale than it is to actual substantive differences in case processing. Moreover, the differences between weights developed based on type of districts and with the NCSC statewide case weights were not statistically significant. In other words, the case weights were generally comparable regardless of the type of method used for calculating the weights. Likewise, different methods do not produce statistically significant differences in the number of resources needed.

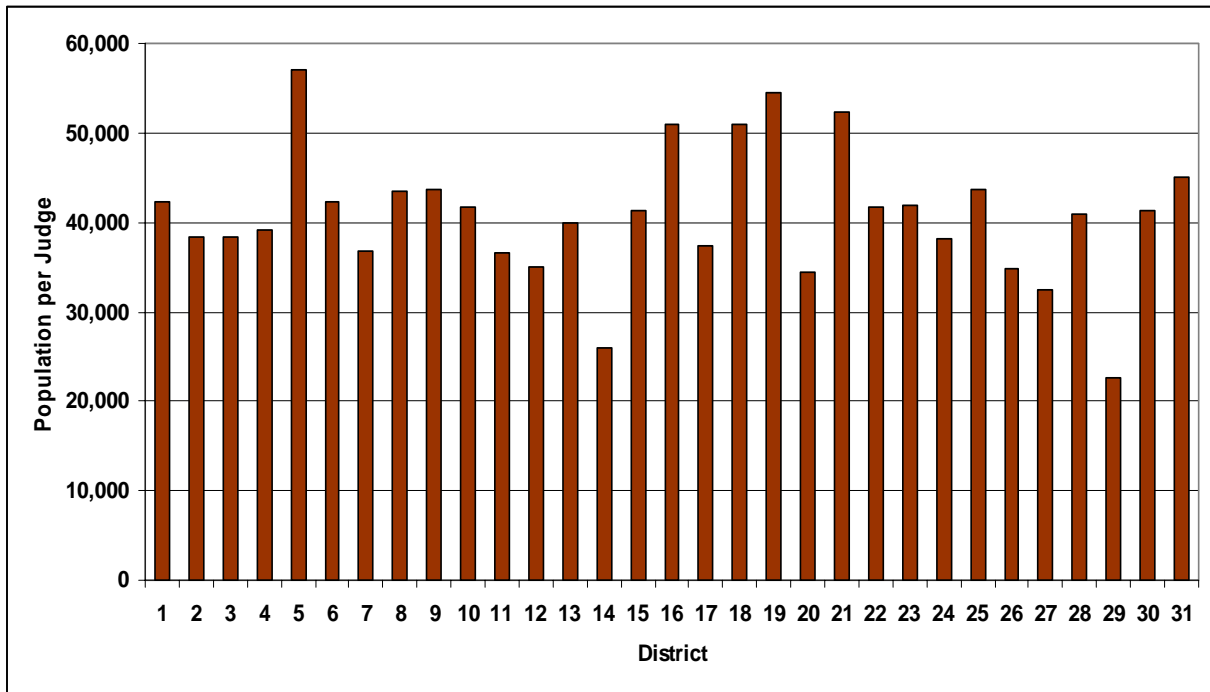
Population-Based Analyses

Another method for determining judicial resource needs and district boundaries is through a population-based method. This method is more commonly used in determining legislative districts but as discussed later in this report, is not necessarily an appropriate method for allocating judicial resources or shifting district boundaries. In general, the population-based method examines the ratio of judges to the district population or vice versa. Like the weighted caseload study method, there are no national standards against which states are able to compare themselves. A 2004 Bureau of Justice Statistics report on state court organization, reported a national ratio of 9.1 judges per 100,000 persons.²⁰ It is important to note, however, that this ratio includes both general and limited jurisdiction court judges. A 2001 report from the National Center for State Courts showed that in non-unified court systems, the ratio of general jurisdiction court judges per 100,000 population ranged from 2.1 to 5.3.²¹ In Tennessee, the statewide ratio of judges per 100,000 is 2.47 which is comparable to the figure reported by NCSC. Statewide, the average population per judge in Tennessee is 40,486. Looking at the ratio of population to judges in 2007, Exhibit 9 shows that several districts (5, 16, 18, 19, and 21) have more than 50,000 persons per judge, whereas Districts 14 and 29 have less than 25,000 persons per judge.

²⁰ Langston, L & Cohen, T.H. (2007). *State Court Organization, 1987-2004*. Bureau of Justice Statistics Special Report. (NCJ 217996). Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice: Washington, DC.

²¹ National Center for State Courts. (2001). Overview of State Trial Court Caseloads. http://www.ncsconline.org/D_Research/csp/2001_Files/2001_%20Overview.pdf, accessed March 31, 2009.

Exhibit 9: Population per Judge, 2007



A ranking of the districts from lowest to highest population per judge shows that District 29 and 14 rank the lowest in the state, as shown in Exhibit 10. Districts 5 and 19 have the highest population to judge ratio in the state. Interestingly, one would expect that there would be a relationship between the average caseload per judge, case filings, and the population to judge ratio. However, such a relationship does not appear to exist. Districts 9 and 24 with the lowest average caseloads and stable or decreasing filings rank 24th and 10th respectively on population per judge. District 19, with one of the highest average caseloads and a significant increase in case filings between 2002 and 2007, has one of the highest judge to population ratios, ranking 30th.

Exhibit 10: Rank Ordered List of Districts by Population to Judge Ratio

Rank Order of Districts by Population per Judge	Population to Judge Ratio
29	22,548
14	25,871
27	32,430
20	34,424
26	34,852
12	35,100
11	36,685
7	36,736
17	37,364
24	38,072
3	38,317
2	38,380
4	39,108
13	39,979
28	40,956
15	41,320
30	41,368
10	41,620
22	41,634
23	41,938
1	42,332
6	42,387
8	43,437
9	43,623
25	43,752
31	45,127
18	50,907
16	50,979
21	52,290
19	54,448
5	57,074

In a population based assessment, resource projections are made to bring parity among the districts, based on the population to judge ratio. Normalizing the population to judge ratio to the statewide ratio of approximately 40,486 persons per judge, shows that 151.86 judges are needed statewide, which is similar to the weighted caseload study. Using the population based method yields similar resource needs as those calculated in the weighted caseload. The population-based method shows a statewide need of 151.86, and the weighted caseload method shows a statewide need of 150.41 (FY2007) and 148.97 (FY2008). The major differences between the projections are in districts 9, 20, and 22. In both districts 9 and 30, the population-based method results in more

judicial resource needs than the weighted caseload study; whereas in district 20, the population-based method projections show a need for fewer judicial resources than the weighted caseload method.

There are several major downfalls to the population based method. First, variation in local practice is not accounted for in population-based methods. Such is the case in District 20, where the difference in projected needs between the population-based method and the weighted caseload method can likely be attributed to the handling of administrative hearings in Davidson County, which does not occur elsewhere in the state.

Second, fluctuations in crime rates, in particular, (and subsequently case filings) do not necessarily correlate with population increases or decreases. For example, increases in property crime could be linked to increased unemployment, increased substance abuse, or any number of other factors which are unrelated to an increase or decrease in a district's population. Similarly, passage of state legislation that creates a new offense category or changes the civil code can impact the workload of the courts regardless of the districts' population.

Finally, the nature and seriousness of cases that may enter the system can not be predicted by changes in population. The weighted caseload study takes these factors into consideration, which results in a more accurate understanding of judicial workload and resource needs. As such, the population-based method is not deemed to be as reliable or valid as the weighted caseload method. The same is true for the work of District Attorneys General and Public Defenders in that a population-based method would not accurately capture their work and could produce inaccurate estimates of resource needs.

FOCUS GROUP FINDINGS

On July 30-31 and August 2, 2008, the JMI/CJLS team held a series of ten focus groups throughout the state: three in Central Tennessee, three in Western Tennessee, and four in Eastern Tennessee. The purpose of the focus groups was to obtain input from practitioners and stakeholders in the justice community about the criteria to be considered as part of the redistricting assessment. The focus group discussions were framed around the caseload and population maps initially but evolved into discussions about the local administration of justice and reasons for opposing the redistricting study. The focus groups were well-attended, with many of the meetings exceeding the number of expected participants.

A main theme that emerged from the comments of participants at the meetings was their sense that a redistricting study is unnecessary for a variety of reasons. First, there did not seem to be an understanding about what the perceived problems are that could be addressed by redistricting. The JMI/JLS analysis of district population and caseload, as well as a few other criteria, did not reveal any major disparities statewide, but rather minor variation in population and caseload in a handful of districts. Although a number of participants took exception to the data that were provided by the AOC as being

incorrect, none articulated an optimum “threshold” for how large or small a district’s population or caseload should be. The overwhelming majority of participants at the meetings felt strongly about redistricting, indicating that they thought it was an attempt to avoid funding the judiciary adequately. Many participants, including representatives of the AOC, noted that the more appropriate issue is the need for judicial, DA, and PD resources. However, a small number of people approached JMI staff following the meetings to say that there may in fact be a need to consider new judicial district boundaries in a small number of areas, but not statewide, and no one that approached the focus group facilitators offered specific details.

Second, most of the participants were adamant that the current system works efficiently and effectively as it is—with several saying, “If it ain’t broke, don’t fix it.” Most participants, however, could not articulate the basis for their determination that the system works well except for broad criteria such as cases are processed efficiently [note that no one could define quantitatively, or even qualitatively what determines efficiency], there have been no complaints from citizens, the people in each judicial district work well together, and they have adopted local practices to allow them to handle the workload.

Third, participants in nearly all the groups raised the issue of variation in local practices among the districts and even within districts. The variety of local practices that have been adopted across the state or implemented by private act include everything from how judges share the workload across their districts to overlapping jurisdiction with General Sessions Court. This local variation, seen by most participants as a positive influence on their work, creates numerous challenges to any attempt to examine the feasibility of redistricting.

Fourth, the participants were understandably concerned about how a redistricting study could be conducted without taking into consideration General Sessions Courts. Participants cited differences between the districts and counties in terms of jurisdiction over state cases, with some such cases being handled in General Sessions Courts. This is of particular concern if the intent is to build models that equalize caseload because there is no information about what or how many cases are being handled in General Sessions Courts.

As a result of the focus groups, the JMI’s recommendation to the Comptroller’s Office was a modification in one of the project activities (a survey to collect input on proposed new district boundaries). The Comptroller’s Office approved the modification to allow JMI to use the survey to collect district and county-specific information about how criminal and civil cases are handled as well as information about the various factors identified in the focus groups.

VARIATION IN LOCAL PRACTICE

In the focus groups, there was substantial discussion about how the judicial districts, and counties within those districts, had adopted many practices to improve the administration of justice at the local level. The variation in these practices was cited as a major reason for not redistricting. As a result, the JMI/CJLS team developed an on-line survey to better understand how each district operates and what “performance” criteria it values. The survey was administered to Chancellors, Circuit Court Judges, limited jurisdiction court judges, Trial Court Clerks and Masters, General Sessions Court Clerks, Prosecutors, Public Defenders, and defense counsel/private bar. The survey covered several main topic areas to document variations in practice that could affect the feasibility of judicial redistricting:

- ❖ Introduction and background including the circuit/county name and court in which respondent primarily works
- ❖ Importance of various factors as indicators of court’s performance in the administration of justice
- ❖ Travel in the district, including type of travel and frequency of travel
- ❖ Adequacy of judicial, prosecutorial, and defense resources in the district
- ❖ Organization of the trial courts in the district, including division of labor and judicial assignments
- ❖ Types of local practices that are operational in the district and/or county including in which court various case types are routinely heard and whether or not concurrent jurisdiction has been given over to General Sessions Court for specific offenses and in which counties in the district
- ❖ Frequency of court events in each county in the district and whether or not the frequency is adequate
- ❖ Perceptions about the impact, both positive and negative, that redistricting could have in terms of allocation and equity of workload/caseload, resource availability, travel, and so forth.

Analysis of the survey revealed three major findings of interest. First, there tends to be agreement across all types of justice professionals about what factors are most important in determining the performance of a judicial district. In fact, for 9 of the 11 factors listed in the survey, 59 percent or more of all respondents ranked the factor as important or very important:

1. Timely resolution of cases (96.3%)
2. Cases resolved within accepted time standards (93.6%)

3. No significant backlog of pending cases (90.6%)
4. No complaints from people who access the justice system (66.6%)
5. Workload evenly distributed among judges (66.2%)
6. Low continuance rate (65.4%)
7. Low recidivism rate among convicted offenders in criminal cases (64.1%)
8. Workload distributed evenly among court staff (62.8%)
9. Even ratio of judges to the population (59.9%)

Second, in response to an open-ended question about the pros and cons of any redistricting, all the respondents noted negative impact, citing specifically disruption in systems that currently “work,” creation of resource shortages, and increased caseload burdens for all justice professionals. Only a few people provided any thoughts about potential benefits, namely the creation of more time available to justice professionals to process cases, lower caseloads, and reduced travel time.

Third, responses to the questions about variation in local case processing practices showed that there is in fact great variation in where cases are heard and by whom. In terms of court organization (i.e., which courts hear which types of cases), most criminal cases are heard in Circuit Court. However, as shown in Exhibit 11, there is a significant amount of overlap between Chancery and Circuit Court for civil cases. It is important to note that respondents could report that cases are heard in both courts. For example, for contract/debt/specific performance cases, 84.4% of respondents reported that these cases are heard in Chancery Court and 53.3% of respondents reported they are also heard in Circuit Court.

Exhibit 11: Where Cases are Routinely Heard*

Case Type	Heard in Chancery Court	Heard in Circuit Court
Contract/Debt/Specific Performance	84.4%	53.3%
Damages/Tort	4.5%	100.0%
Medical Malpractice	4.5%	100.0%
Real Estate	86.4%	54.5%
Worker's Compensation	75.6%	66.7%
Probate/Trust	90.2%	14.6%
Guardianship/Conservatorship	88.4%	27.9%
Other General Civil	48.9%	95.6%
Judicial Hospitalization	61.1%	55.6%
Administrative Hearings (Appeals)	80.5%	46.3%
Divorce with Children	82.2%	71.1%
Divorce without Children	82.2%	71.1%
Child Support (outside divorce)	83.7%	67.4%
Protection of Children (paternity, adoption, legitimation)	67.6%	64.9%
Orders of Protection	80.0%	68.9%
Juvenile Court Appeal (civil)	0.0%	100.0%
Other Domestic Relations	84.4%	64.4%
Criminal: Major Felony (A, B, capital cases)	0.0%	100.0%
Criminal Other Felony (C, D, E)	0.0%	100.0%
DUI	2.6%	100.0%
Drug Court	0.0%	100.0%
Criminal Appeals (incl. juvenile delinquency)	0.0%	100.0%
Other Misdemeanor	0.0%	100.0%
Probation Violations*	0.0%	100.0%

* Note that rows do not add to 100% because respondents could indicate cases are heard in both courts.

In addition to overlapping jurisdiction between the Chancery and Circuit Courts, several districts responded that concurrent jurisdiction had been given over to the General Sessions Court. In the districts where this occurs, jurisdiction is given most often for guardian/conservatorship, probate, mental health, juvenile, domestic relations, and workers compensation cases. In one district, concurrent jurisdiction over juvenile cases has been given over to a Municipal Court with General Sessions jurisdiction. It is important to note that within a district concurrent jurisdiction may be given over to General Sessions Court in some but not all of the counties within that district. Although few respondents provided details about private acts that have been passed, which allows

certain types of offenses to be heard in General Sessions Court, some respondents did provide the names of the counties in which this occurs:²²

- ❖ Anderson
- ❖ Bledsoe
- ❖ Blount
- ❖ Clay
- ❖ Claiborne
- ❖ Cumberland
- ❖ DeKalb
- ❖ Dickson
- ❖ Gibson
- ❖ Henry
- ❖ Humphreys
- ❖ Jackson
- ❖ Lauderdale
- ❖ Madison
- ❖ Marion
- ❖ Morgan
- ❖ McNairy
- ❖ Overton
- ❖ Putnam
- ❖ Rhea
- ❖ Rutherford
- ❖ Sequatchie
- ❖ Tipton
- ❖ White
- ❖ Wilson

In addition to the major findings from the survey, there were some other results that JMI had expected to be of more significance than were found in the survey. In particular, JMI expected to find several hours, on average, of travel per week. In fact, judges, who spent the most time traveling of all respondents, average 3 hours and 52 minutes of travel ***per week***. The average number of miles traveled per week by Chancellors and Judges was 149.6 miles per week, which was also lower than expected. Most Chancellors and Judges reported that their travel is done primarily on interstates or major highways (46.8%), although a significant number (42.6%) reported traveling mostly on secondary or “country” roads.

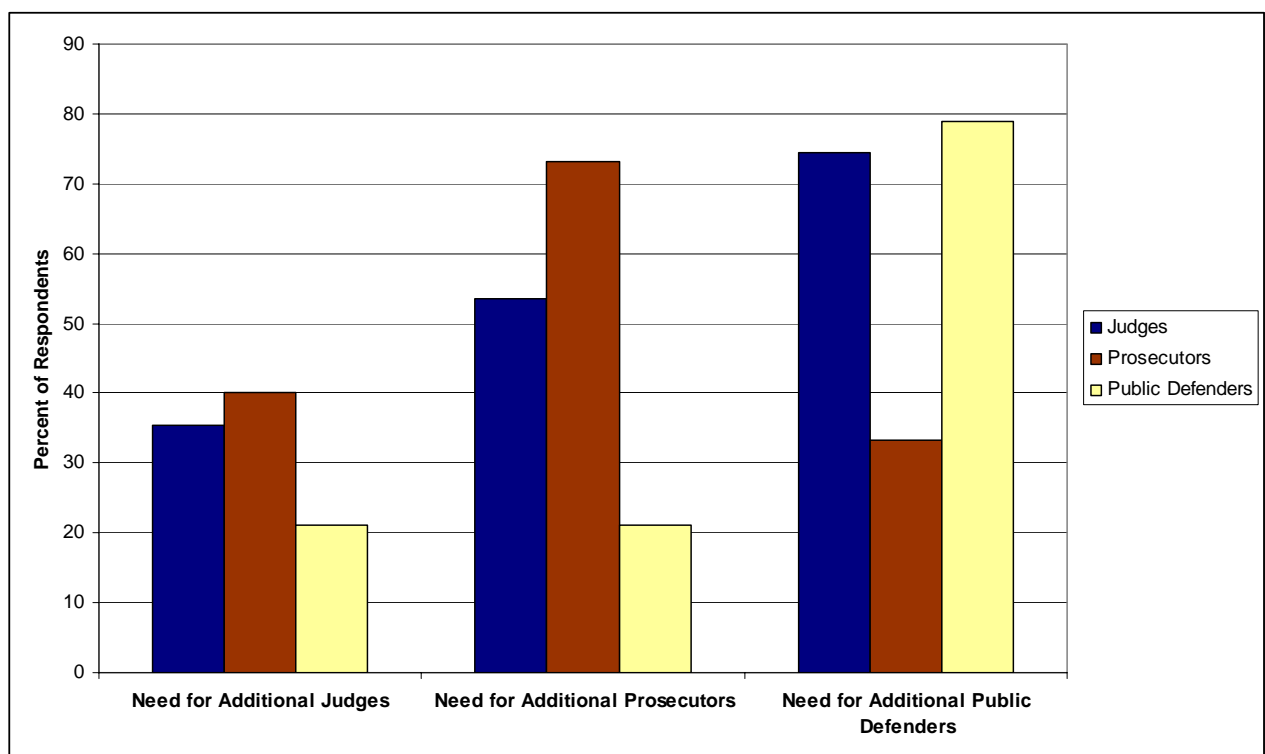
The amount of time spent traveling per week was lower than anticipated given how the division of labor is reportedly split among judges. Almost 80% of the respondents in multi-

²² Not all respondents who indicated that there had been private acts passed provided the name(s) of the county in which the act was passed. Thus, this list is not deemed to cover the entire state.

county districts reported that all judges (including Chancellors) travel to all counties in the district, the majority of which do so two to three times per week. In multi-county districts, only 2 percent of judges sit primarily in one county.

JMI also expected a majority of respondents to report that their districts needed more judicial, prosecutorial, and defender resources. Most justice professionals felt the judicial resources were adequate in their district (see Exhibit 12). Respondents were split fairly evenly in terms of need for prosecutorial resources, with about half reporting that more prosecutors were needed and half reporting that there were enough prosecutors in the district. With regard to public defenders, however, most respondents felt more public defenders were needed, citing public defender caseloads as the primary reason.

Exhibit 12: Adequacy of Resources



Finally, JMI asked the justice professionals in the state to assess whether or not there were enough of certain events in their district or county. As shown in Exhibit 13, the results were quite mixed. Generally speaking, most respondents felt there were enough Grand Juries, preliminary hearings, motion days, and trial days in a month. However, a small percentage of respondents did not feel there were enough motion days or trial days in their district. In addition, some clerks, prosecutors, and public defenders felt there were not enough preliminary hearings in their district. Interestingly, JMI expected that any “shortage” of events noted by participants would be only in a few counties within a

district. However, this was not the case. Respondents either reported that the shortage did not exist district-wide, or that it did exist district-wide.

Exhibit 13: Event Frequency

Respondent	Judges	Clerks	Prosecutors & Public Defenders	Private Attorney/Defense Counsel
Type of Event				
Are there enough Grand Juries per month?				
Yes	100.0%	88.0%	90.2%	90.9%
Yes, but only in some counties	0.0%	0.0%	4.9%	0.0%
No	0.0%	12.0%	9.8%	9.1%
Are there enough Preliminary Hearings per month?				
Yes	86.4%	86.2%	90.2%	79.2%
Yes, but only in some counties	13.6%	0.0%	0.0%	12.5%
No	0.0%	13.8%	14.6%	8.3%
Are there enough Motion Days per month?				
Yes	78.9%	87.8%	83.8%	51.4%
Yes, but only in some counties	5.3%	0.0%	0.0%	8.6%
No	15.8%	12.2%	21.4%	40.0%
Are there enough Trial Days per month?				
Yes	60.5%	79.1%	64.9%	51.4%
Yes, but only in some counties	1.2%	0.0%	5.4%	2.9%
No	26.3%	20.9%	35.1%	45.7%

Interestingly, a number of respondents cited adoption of various practices to ensure that there was sufficient access to justice district-wide. The most frequently cited of these practices included allowing motions from all counties to be heard in any court, allowing out-of-county hearings by agreement of the parties, and use of mediation for certain types of cases.

CONCLUSION AND RECOMMENDATIONS

A major challenge to determining the desirability and feasibility of redistricting in the state of Tennessee is identifying the criteria upon which judicial district boundaries should be based. The state needs to be clear on what the problems are that redistricting is intended to address. From the outset of the project, it was clear that there was no consensus on the purpose of redistricting. Ambiguous reasons such as the state will not consider adding new judgeships until a redistricting study is done, judicial district boundaries should be based on the one person/one vote theory, or there should be equal opportunity for judges to be elected from less populous areas in the state, are not a sufficient starting point. Firm

criteria that articulate what the problem is and what the appropriate “standard” is that is expected as a result of redistricting must be at the foundation of any decisions about reapportioning the judicial boundaries.

In an effort to help define what criteria should be used to determine judicial district boundaries, the JMI/CJLS team conducted an extensive review of criteria used by other states. The review identified only seven states that have published information on the establishment of judicial districts—Iowa, Minnesota, Mississippi, Montana, Nebraska, South Dakota, and Wisconsin. In addition, the Texas Judicial Council conducted a survey of states on the topic of judicial resource allocation and judicial redistricting. The review clearly pointed to caseload per judge, weighted caseload, and population as the key factors used in other states to determine judicial district boundaries. Of note is the fact that these criteria were not actually used by any of the states to assess judicial district boundaries but rather to apportion judicial resources. Moreover, there were no details about how states use these criteria to determine what the district boundaries should be. In other words, there were no specifics about what other states deem as appropriate thresholds for caseload, population, etc.

Using these criteria, the JMI/CJLS team explored the differences between the districts to assess whether or not changes in judicial district boundaries could create parity in any areas where differences were observed. These analyses showed slight differences in a handful of districts, but none of significant magnitude to warrant redistricting. Additional information related to case processing and times and pending caseloads were also examined and although differences were observed, changes in district boundaries are unlikely to address these differences. Moreover, the differences were not of major significance.

After extensive analyses to assess the reliability of the weighted caseload study method currently used in Tennessee to allocate judicial resources, the JMI/CJLS team concludes that workload equalization and access to the courts can be achieved without redrawing district boundaries through the use of the weighted caseload study methodology. The use of an alternative method to projecting resource needs—the population-based method—was also explored by the JMI/CJLS team. The results did not show significant differences overall but did highlight areas in which population-based methods will not accurately capture the work of Judges, Chancellors, District Attorneys General, or Public Defenders. Based on this assessment, the project team concluded that the weighted caseload method is a more appropriate, reliable, and valid method for allocating resources throughout the state.

Moreover, using the weighted caseload study results in and of themselves to determine judicial district boundaries fails to take into consideration the extreme variation in local practice that occurs in Tennessee. Simply redistricting on the basis of case processing times and judicial resource needs will not necessarily address why some districts have slower or faster case processing times than others. As previously noted, the court structure

in Tennessee is complex with multiple layers of Courts and concurrent jurisdiction over civil and criminal matters. Further complicating this fact is that districts and counties within districts have adopted a variety of local practices and passed a number of private acts that are a) still largely undocumented and b) negate any attempt to bring uniformity in the processing of cases statewide. This is a major area to be addressed. Any attempt at redistricting will be fatally flawed if these issues are not documented and accounted for fully.

Although no redistricting is being recommended by the JMI/CJLS team at this time, there are two suggestions for the state to consider. First, the state should consider establishing a mechanism for documenting the work of the limited jurisdiction courts. The work of General Sessions Court judges and Municipal Court judges who have General Sessions Court jurisdiction must be taken into account as part of any redistricting effort. Much of the local practice and private acts that are in place across the state involve giving over of jurisdiction for certain types of cases to General Sessions Courts (or Municipal Courts). However, the AOC does not have a reliable source of data (or mechanism for collecting these data) about the work of General Sessions Courts or the Municipal Courts that can be used to assess the extent of state work being handled in these Courts or what the impact has been on either the Circuit/Chancery Court or the General Sessions/Municipal Court.

Second, determining the need for judicial redistricting requires substantial data at the county and judge level. Although the AOC has a tremendous data set, there are key pieces of information that were not available that preclude additional analysis to determine whether moving counties from one district to another helps bring parity on various factors. Among the most critical is filings and disposition per judge. Judges and chancellors are largely not “assigned” to work in specific counties in their district but rather tend to hear cases district-wide. Thus, analysis of the filings and disposition per judge can only be conducted at the district level. Similarly, the population per judge can only be determined at the district level. These three factors (filings per judge, disposition per judge, and population) are critical for assessing how changes in district boundaries will affect the work of the court and access to justice for the people of the state.

It is the JMI/CJLS project team’s conclusion that based on its analyses, it is neither desirable nor feasible to reapportioning the judicial district boundaries at this time. Moreover, use of the weighted caseload study method should be continued to determine how resources should be allocated across the state.