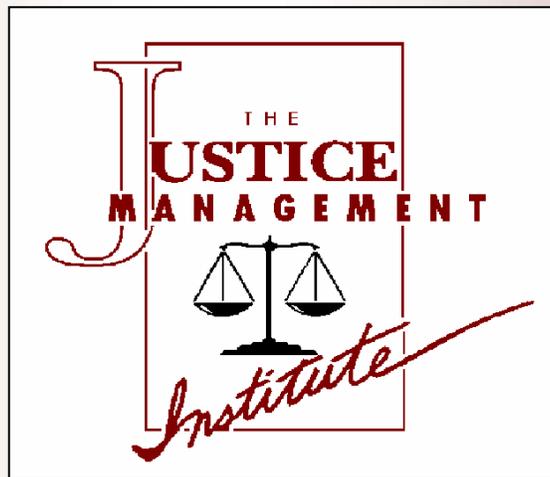


TENNESSEE JUDICIAL REDISTRICTING STUDY

Conclusions & Recommendations



April 2009

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INTRODUCTION

Since the mid-1990s, the State of Tennessee has been exploring the structure of the courts, how judicial resources are allocated, and whether or not there is a need to reapportion judicial districts. The various committees and commissions that have dealt with these issues cite a need for a more even distribution of workload across the state and a desire to maximize the allocation of judicial resources as the basis for examining the state's existing judicial district boundaries.

In 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. 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. The study included five 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 district boundaries
- ❖ 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

OVERVIEW OF THE STUDY APPROACH

The JMI/CJLS approach combines 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.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion #1: Few, if any states, have articulated specific criteria for judicial redistricting.

An extensive review of the criteria used by other states to determine judicial district boundaries resulted in the identification of 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.

Conclusion #2: There is significant variation in local practice among and within districts as to where cases are heard. The determination of district boundaries must take these local practices into consideration.

At the recommendation of justice stakeholders, JMI conducted a statewide survey to collect information about the local factors that could affect the feasibility of redistricting. In terms of local variation in practice, the survey found that there is no uniformity as to where civil cases are heard across the state, and possibly even within districts. Concurrent jurisdiction has also been given over to General Sessions Courts in many counties for a variety of cases including guardian/conservatorship, probate, mental health, juvenile appeals, domestic relations, and workers' compensation cases. Without uniformity in case processing across the state, any attempt at redistricting would be fatally flawed.

Conclusion #3: There is substantial local opposition to re-drawing district lines.

During the summer of 2008, the JMI/CJLS team held a series of ten focus groups throughout the state to solicit input on what the appropriate caseload per judge, average case processing time, and population to judge ratios should be in Tennessee. The main theme that emerged from the focus groups was a significant resistance to the idea of redistricting. As part of the focus groups, participants raised several issues relevant to the question of whether redistricting is feasible, let alone desirable:

- ❖ No clear understanding of what the perceived problems are in the state that could be resolved by redistricting
- ❖ Inability to define criteria of what is effective or efficient with regard to the administration of justice
- ❖ Adoption of a variety of local practices among districts and within districts that make the administration of justice inherently local and to some extent unique from district to district
- ❖ Concerns about how the work of General Sessions Courts and other courts of limited jurisdiction, along with the clerks, district attorneys, and public defenders, would be taken into consideration particularly in the absence of any data to document the work of limited jurisdiction courts

JMI's survey of local practices also asked respondents to comment on the pros and cons of redistricting. All the respondents noted a 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.

Conclusion #4: Based on the data collected for this study and our analysis of it, JMI does not recommend that judicial redistricting occur at this time.

A review of relevant literature and state information found that in the states for which there was information on redistricting, the criteria were not actually used exclusively to assess district boundaries but rather to apportion judicial resources. These criteria included caseload per judge, weighted caseload, and population as the key factors used in other states to determine judicial district boundaries. In lieu of criteria established by the state of Tennessee, JMI nonetheless used the criteria noted above to assess the boundaries of the judicial districts. Using these criteria, JMI found slight differences in a handful of districts, but none of significant magnitude to warrant redistricting. Additional information related to case processing times and pending caseloads were also examined and although differences were observed, changes in district boundaries are unlikely to address these differences. Moreover, the observed differences were again not of major significance.

Conclusion #5: Workload equalization and access to courts can be achieved without redrawing district boundaries through the use of the weighted caseload methodology to allocate judicial resources.

The JMI team conducted an array of analysis to assess the reliability of the current weighted caseload study methodology used in Tennessee. In particular, the project team explored differences in case processing times across the districts and the impact on resource needs; use of dispositions to make projections; and the application of jurisdiction type (e.g., rural,

transitional, urban) weights to filings and dispositions. The analyses revealed similar projections and any observed differences were of little or no statistical significance.

Other methods for projecting and allocating resource needs, including average caseloads and population-based methods, were also explored. Again, the results of those analyses did not reveal statistical significant differences between these methods and the current weighted caseload method. With regard to the use of population-based methods or weighted caseload methods to project resource needs, there are several key points that merit consideration. First, population increases or decreases are not necessarily directly correlated with fluctuations in crime rates (and subsequently case filings). For example, increases in property crime could be linked to increased unemployment, increased substance abuse, or any number of other factors that are unrelated to changes in a district's population. Second, changes in state legislation that creates new criminal offense categories or changes the civil code can impact the workload of the courts regardless of a district's population. Finally, the nature and seriousness of cases that may enter the system can not be predicted by changes in population. The weighted caseload method takes these factors into consideration, which results in a more accurate understanding of the workload of judges. As such the population based method is not deemed to be as reliable or valid as the weighted caseload method.

Based on these analyses, JMI believes that the weighted caseload method used by Tennessee to determine the need for judicial resources is the most appropriate, objective method for allocating resources.

In conducting the redistricting study, the JMI team also identified two items for the State's consideration to ensure continued workload equalization and access to courts. Any future discussions about the judicial districts would be significantly informed by addressing these recommendations.

Recommendation #1: The state needs to establish a mechanism for documenting the work of limited jurisdiction courts, and General Sessions Courts in particular.

A major difficulty in understanding the work and workload of the courts is a lack of data on the number of cases filed and disposed in the General Sessions Courts and Municipal Courts with General Sessions jurisdiction. Of particular concern is the ability to document the volume of cases handled by these limited jurisdiction courts that would otherwise be handled in Circuit or Chancery Court. Because these courts have been given concurrent jurisdiction over several types of cases, the counties and the courts within them will be significantly impacted by any redistricting. In addition, without these data, the work of Districts Attorneys General and Public Defenders in jurisdictions where concurrent jurisdiction has been given over to the limited jurisdiction courts is largely unaccounted for in weighted caseload studies and in any attempt to change judicial district boundaries.

Recommendation #2: A plan should be developed to collect and maintain case data at the county and judge levels.

Although the AOC has a tremendous data set, there are key pieces of information that are not available that preclude analyses to determine whether moving counties from one district to another will create parity on certain types of factors. Among the most critical are filings and disposition per judge. Judges and Chancellors are largely not “assigned” to work in specific counties in their districts but rather tend to hear cases district-wide. As a result, it is not possible at the current time to determine average caseload per judge by county. The same is true for determining population to judge ratios at the county level.