

---

# North Carolina Superior Court Judicial Workload Assessment *Final Report*

Cynthia G. Lee, J.D.  
Matthew Kleiman, Ph.D.

Research Division  
National Center for State Courts  
November 30, 2011



## **ACKNOWLEDGMENTS**

The authors wish to thank the judges of the North Carolina Superior Court for their invaluable contributions to this workload assessment. An undertaking of this nature would not have been possible without the leadership and guidance of the Judicial Needs Assessment Committee, the thoughtful analysis of the Delphi groups, and the participation of the entire Superior Court bench in the data collection process.

We extend a special note of thanks to the staff of the North Carolina Administrative Office of the Courts for their hard work and dedication in steering this project to a successful completion. In particular, we thank Brad Fowler, Danielle Seale, and Patrick Tamer for their close collaboration and responsiveness.

We are also extremely grateful to our NCSC colleagues Neil LaFountain, Kathryn Holt, Shannon Roth, Brian Ostrom, and Richard Schauffler for their assistance and thoughtful insights.

### **Judicial Needs Assessment Committee**

Honorable Allen Cobb, Senior Resident Superior Court Judge, District 5, Second Division

Honorable Lindsay Davis, Senior Resident Superior Court Judge, District 18, Fifth Division

Honorable Yvonne Mims Evans, Superior Court Judge, District 26, Seventh Division

Honorable Frank Floyd, Senior Resident Superior Court Judge, District 16B, Fourth Division

Honorable Phil Ginn, Senior Resident Superior Court Judge, District 24, Eighth Division

Honorable Robert Hobgood, Senior Resident Superior Court Judge, District 9, Third Division

Honorable Orlando Hudson, Senior Resident Superior Court Judge, District 14, Third Division

Honorable Lucy Inman, Special Superior Court Judge

Honorable Ola Lewis, Senior Resident Superior Court Judge, District 13B, Fourth Division

Honorable W. Erwin Spainhour, Senior Resident Superior Court Judge, District 19A, Sixth Division

Honorable Quentin Sumner, Senior Resident Superior Court Judge, District 7A, First Division

Honorable Gregory Weeks, Senior Resident Superior Court Judge, District 12, Fourth Division

Honorable William Z. Wood, Jr., Superior Court Judge, District 21, Fifth Division

### **Civil Delphi Group**

Honorable Linwood Foust, Superior Court Judge, District 26, Seventh Division

Honorable Lucy Inman, Special Superior Court Judge

Honorable Ola Lewis, Senior Resident Superior Court Judge, District 13B, Fourth Division

Honorable Osmond Smith, Senior Resident Superior Court Judge, District, 9A, Third Division

Honorable Phil Ginn, Senior Resident Superior Court Judge, District 24, Eighth Division

### **Criminal Delphi Group**

Honorable Frank Floyd, Senior Resident Superior Court Judge, District 16B, Fourth Division

Honorable Carl Fox, Senior Resident Superior Court Judge, District 15B, Third Division

Honorable Jim Hardin, Superior Court Judge, District 14, Third Division

Honorable Alma Hinton, Senior Resident Superior Court Judge, District 6A, First Division

Honorable Orlando Hudson, Senior Resident Superior Court Judge, District 14, Third Division

Honorable Quentin Sumner, Senior Resident Superior Court Judge, District 7A, First Division

## **I. INTRODUCTION**

In the Appropriations Act of 2011, the North Carolina General Assembly instructed the North Carolina Administrative Office of the Courts “to contract with the National Center for State Courts to develop a workload formula for superior court judges” and to submit “[t]he results of this formula ... to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by December 1, 2011.”<sup>1</sup> This report describes the methodology and results of the North Carolina Superior Court Judicial Workload Assessment, conducted by the National Center for State Courts (NCSC) to assist the North Carolina Administrative Office of the Courts (AOC) in fulfilling this mandate.

A clear and accurate measure of judicial workload is essential to the determination of how many judicial officers are needed to resolve all cases coming before the Superior Court, as well as to the efficient allocation of judicial resources within the Superior Court. This workload assessment employs a weighted caseload methodology that accommodates the varying complexity of different types of criminal and civil cases. North Carolina is a national leader in the use of weighted caseload to analyze staffing needs across multiple segments of the justice system. The establishment of an empirically based workload formula for Superior Court judges brings the Superior Court in line with resource allocation practices already well established for North Carolina District Court judges, magistrates, clerks of court, assistant district attorneys, and victim witness legal assistants.

The workload assessment is founded upon a statewide time study that provided a detailed empirical profile of the amount of time Superior Court judges currently spend handling cases of various types—including both on-bench and off-bench work—as well as other essential judicial

---

<sup>1</sup> N.C. SESS. LAWS 2011-145 § 15.6.(a).

functions such as travel and administrative work. It also incorporates a quality adjustment process designed to ensure that the weighted caseload formula allows sufficient time for efficient and effective case resolution. An advisory committee of Superior Court judges, comprising representatives from all eight Superior Court divisions as well as a special Superior Court judge, provided oversight and guidance in matters of policy throughout the workload assessment process. The final workload formula reveals that, given current caseloads, the North Carolina Superior Court has an adequate number of judges to handle its total judicial workload effectively.

## **II. SUPERIOR COURT STRUCTURE**

The North Carolina Superior Court is divided into 50 judicial districts, which are grouped into eight larger divisions. Each district has one or more elected resident judges, one of whom serves as senior resident judge. As specified in the state constitution, resident judges rotate among the districts within each division.<sup>2</sup>

In addition to its 97 elected resident judges, the Superior Court has 15 appointed special judges. Twelve of the special judges are available to serve in any district as needed. The three remaining special judges serve in the Business Court, which hears cases involving complex issues of corporate and commercial law.

---

<sup>2</sup> N.C. CONST. art. IV, § 11.

### **III. ELEMENTS OF THE WORKLOAD FORMULA**

The weighted caseload methodology employed in this workload assessment is designed to allow for variation in the amount of judge time required to handle different types of cases effectively. For example, a typical felony assault case generates a larger volume of judicial work than a typical misdemeanor case. By weighting case filings to account for the differences in judicial workload associated with each case type, the weighted caseload formula provides an accurate assessment of judicial need that accommodates variations in caseload composition, both over time and across jurisdictions. For instance, if total caseloads remain constant over time but the proportion of felony assault cases increases, a weighted caseload model will show a need for additional judges to handle the increase in felony assault cases, whereas a model based on unweighted case filings will not reflect the increase in judicial activity associated with the change in caseload composition.

#### **A. The Workload Equation**

In the weighted caseload formula, three elements contribute to the calculation of judge need: caseload data, case weights, and the judge year value. Caseloads are defined in terms of new case filings, and are broken down by case type. Each case weight represents the average amount of judge time required to process one case of a particular case type, from filing through post-disposition activity. The year value is defined as the amount of time one judge has available for case-related work on an annual basis. The relationship among filings, case weights, and year value is expressed as follows:

$$\frac{\text{Filings x Case Weights (minutes)}}{\text{Judge Year Value (minutes)}} = \text{Judge Need (FTE)}$$

Multiplying annual filings by the corresponding case weights calculates the total annual judicial workload in minutes. Dividing the workload by the judge year value yields the total number of full-time equivalent (FTE) judges needed to handle the workload.

## **B. Judicial Needs Assessment Committee**

The president of the North Carolina Conference of Superior Court Judges established the Judicial Needs Assessment Committee (JNAC) to provide oversight and guidance throughout the workload assessment process. The committee's thirteen members included representatives from all eight Superior Court divisions, along with a special Superior Court judge. JNAC met three times during the course of the project to provide advice on project design, review data, and make policy decisions.

## **C. Caseload Data**

For purposes of the workload assessment, the Superior Court caseload was broken down into twelve distinct case type categories, including seven criminal categories and five civil categories (see Exhibit 1). The categories were designed by JNAC to be legally and logically distinct, to be associated with meaningful differences in judicial workload, and to cover the full range of case types handled by the Superior Court.<sup>3</sup>

---

<sup>3</sup> Because the existing case management system is incapable of identifying cases designated as Complex Business Cases, these cases were counted under the case type category under which they were originally filed.

### Exhibit 1. Superior Court Case Type Categories

<i>Criminal</i>	<i>Civil</i>
Homicide	Contract
Sex Offender List Offense (felony and misdemeanor)	Collect on Accounts
Habitual Offender	Negligence
Felony Assault/Robbery With Dangerous Weapon	Real Property
Felony Controlled Substance	Administrative Appeal/Other
Other Felony	
Misdemeanor/Other	

The AOC provided counts of Superior Court filings in each case type category for the fiscal years 2008/2009, 2009/2010, and 2010/2011. For criminal matters, a case was defined as all charges being prosecuted together against a single defendant, consistent with the defendant-based method of counting criminal cases that North Carolina has recently adopted as part of other justice system workload formulas. Each criminal case was classified according to the most serious charge filed. To minimize the impact of short-term fluctuations in caseloads, the caseload data for all three fiscal years were averaged to produce a count of cases filed in the North Carolina Superior Court on an annual basis. Exhibit 2 breaks down the average annual Superior Court caseload by case type category.

**Exhibit 2. Average Annual Superior Court Case Filings, FY 2008/2009, 2009/2010, 2010/2011**

<i>Case Type</i>	<i>Annual Filings</i>
Homicide	947
Sex Offender List Offense (felony and misdemeanor)	3,210
Habitual Offender	3,337
Felony Assault/Robbery With Dangerous Weapon	4,811
Felony Controlled Substance	16,846
Other Felony	31,517
Misdemeanor/Other	17,832
Contract	6,766
Collect on Accounts	2,860
Negligence	8,345
Real Property	1,524
Administrative Appeal/Other	8,535
Total	106,530

#### **IV. CASE WEIGHTS**

A case weight represents the average amount of time required by a judge to process one case of a particular case type throughout the life of the case. The North Carolina Superior Court case weights were developed on the basis of an empirical study of current case processing practices, then adjusted to ensure sufficient time for the efficient and effective adjudication of cases.

##### **A. Time Study: “What Is”**

To provide an empirical profile of how much time judges currently spend processing cases of each type, as well as the amount of time judges devote to non-case-related work such as administration, judicial education, and travel, NCSC staff conducted a four-week statewide time study. From September 12, 2011, through October 9, 2011, *all* North Carolina Superior Court judges, including resident and special judges, were asked to record *all* of their working time in five-minute increments using a Web-based form. For both on-bench and off-bench case-related work, judges tracked their time by case type category and case-related event. For judicial activities not related to individual cases, such as administration and travel, judges tracked their time by non-case-related event. Exhibit 3 lists the case-related and non-case-related event categories as defined by JNAC and used during the time study. Detailed definitions of the event categories are available in Appendix A.

### Exhibit 3. Case-Related and Non-Case-Related Event Categories

<i>Case-Related</i>	<i>Non-Case-Related</i>
Pretrial	Non-Case-Related Administration
Non-Trial Disposition	Judicial Education and Conferences
Trial	General Legal Reading
Post-Judgment/Post-Disposition	Public Outreach
	Travel
	Vacation, Sick Leave, and Holidays
	Lunch and Breaks
	Time Study

On a statewide basis, 95 percent of Superior Court judges participated in the time study. This extremely high participation rate ensured sufficient data to develop a valid and reliable profile of current practice that encompasses the full range of judicial work, including on-bench and off-bench case-related work as well as non-case-related judicial activities.

The time study data were used to calculate preliminary case weights, which represent the average amount of time North Carolina Superior Court judges *currently* spend processing cases of each case type. To calculate the preliminary case weight for each case type category, all judge time associated with the case type during the time study was summed and weighted to the equivalent of one full year's worth of time, then divided by the corresponding number of annual case filings. For example, the time study data reveal that Superior Court judges currently spend a total of 560,215 minutes per year handling Felony Assault/Robbery With Dangerous Weapon cases. Dividing the total time by the annual average filings for this case type (4,811) yields a preliminary case weight of 116 minutes. This indicates that North Carolina Superior Court judges spend an average of nearly two hours on each Felony Assault/Robbery With Dangerous Weapon case, from filing through all post-disposition activity. Exhibit 4 shows the calculation of

the preliminary case weights for all case type categories.<sup>4</sup> JNAC reviewed and approved the preliminary case weights as an accurate representation of current practice in the North Carolina Superior Court.

**Exhibit 4. Preliminary (Time Study) Case Weights**

<i>Case Type</i>	<i>Time Study (minutes)</i>	<i>÷</i>	<i>Filings</i>	<i>=</i>	<i>Case Weight (minutes)</i>
Homicide	888,899	÷	947	=	939
Sex Offender List Offense (felony and misdemeanor)	384,879	÷	3,210	=	120
Habitual Offender	302,726	÷	3,337	=	91
Felony Assault/Robbery With Dangerous Weapon	560,215	÷	4,811	=	116
Felony Controlled Substance	619,903	÷	16,846	=	37
Other Felony	1,223,025	÷	31,517	=	39
Misdemeanor/Other	516,312	÷	17,832	=	29
Contract	498,103	÷	6,766	=	74
Collect on Accounts	71,235	÷	2,860	=	25
Negligence	826,420	÷	8,345	=	99
Real Property	251,216	÷	1,524	=	165
Administrative Appeal/Other	238,766	÷	8,535	=	28

<sup>4</sup> Because cases designated as Complex Business Cases are not currently counted, a separate case weight could not be calculated for cases handled in Business Court. Time associated with the processing of these cases before they are transferred to Business Court is incorporated into the case weights for the standard case types.

## **B. Quality Adjustments: “What Should Be”**

The preliminary case weights generated from the time study data measure the amount of time North Carolina Superior Court judges *currently* spend adjudicating cases, but do not necessarily indicate how much time judges *should* spend. To ensure that the case weights included adequate time for efficient and effective case processing, the workload assessment incorporated a comprehensive quality adjustment process. First, project staff administered a Web-based survey to all Superior Court judges statewide to identify areas of perceived resource constraints as well as potential efficiency gains. Informed by the survey results, two expert panels of judges then reviewed and adjusted the preliminary case weights as needed.

### *1. Sufficiency of Time Survey*

To provide a statewide perspective on whether current practice allows adequate time for quality performance, all Superior Court judges were asked to complete the Web-based sufficiency of time survey. In the areas of criminal case processing, civil case processing, and non-case-related administration, judges were asked to prioritize those specific activities for which additional time would most improve the quality of justice. Space was also provided for respondents to comment freely on their workload.

A total of 77 Superior Court judges completed the sufficiency of time survey. Exhibit 5 lists the activities for which judges most frequently indicated that additional time would improve the quality of justice. In both criminal and civil cases, judges indicated that it would be useful to spend more time reviewing and hearing pretrial motions, preparing findings and orders, and conducting pretrial or settlement conferences. In criminal cases, judges also identified a need for more time to review and consider post-conviction motions for appropriate relief. Complete

results of the sufficiency of time survey are available in Appendix B (criminal) and Appendix C (civil).

**Exhibit 5. Activities for Which Additional Time Would Most Improve the Quality of Justice,  
Sufficiency of Time Survey**

<i>Criminal</i>	<i>Civil</i>
Prepare findings and orders	Review and consider pretrial motions
Review and consider motions for appropriate relief	Prepare findings and orders
Review and consider pretrial motions	Hold hearings on pretrial motions
Discuss pleas/hold pretrial conferences	Review the case file
Hear pretrial motions	Conduct settlement conferences

Judges' comments on the sufficiency of time survey were consistent with the survey's quantitative results, indicating that judges would like to spend more time reviewing and preparing orders, reviewing and considering pretrial motions, holding various types of pretrial conferences, and preparing for sentencing hearings. The comments also reveal that many of the challenges judges face are attributable to external factors—such as Superior Court calendaring practices, the timing and scope of sentencing services reports, and the absence of law clerks in North Carolina's trial courts—rather than to a lack of judicial resources. Key insights from the comments include:

- **Judges feel a need to spend more time drafting their own orders and reviewing orders prepared by attorneys, court clerks, and probation officers.** Closer judicial scrutiny of orders prepared by non-judges would reduce the possibility of error. In some cases, judges would prefer to draft their own orders in order to ensure completeness and clarity, but time constraints often lead them to rely on the orders submitted by the parties.

*“Additional time for the preparation of findings and orders could lead to a more complete understanding of trial court rulings, a more thorough written record, and more reasoned factual and legal analysis in these orders.”*

- **Pretrial conferences can increase efficiency.** Various types of pretrial conferences, including plea discussions, settlement conferences, scheduling conferences, and status conferences, facilitate settlement and help to narrow the issues for trial. Plea discussions help to ensure that the judge has sufficient information about the factors influencing the terms of the plea agreement, and that counsel has clearly communicated the terms of the plea offer to the defendant. Periodic status conferences, especially in more complex civil cases and in criminal cases involving incarcerated defendants, can also help to keep cases on track towards a timely resolution.

*“Meeting with the attorneys on both sides is critical to moving cases.”*

- **Established calendaring practices, such as judicial rotation, district attorney control over criminal calendars, and the use of one-week court sessions, create challenges for judges.** So that motions will be heard by the judge who will preside at trial, hearings on pretrial evidentiary and dispositive motions are often held immediately before the trial begins. A number of judges noted that this practice leaves them with little time to review motions in advance of the hearing, consider rulings, or prepare written orders. Parties, witnesses, and jurors are kept waiting during these motion hearings. Furthermore, a ruling on a pretrial motion may prompt a plea bargain or settlement on the day of the scheduled trial. Such last-minute settlements may leave holes in the trial calendar, and can force the parties to prepare unnecessarily for trials that never occur.

*“Frequently, pretrial motions are presented at the time the case is called for trial, with jurors standing by waiting. It significantly delays the orderly progress of the trial. Trial motions should be presented earlier with supporting material.”*

Many judges expressed frustration with their lack of control over the criminal calendar.

Several also mentioned that due to the difficulty of carrying over trials from week to week, it is often impractical to start a new trial partway through the week, causing judges to scramble to fill their schedules with other matters.

*“The public tends to blame the judge for breakdowns in the efficient handling of the dockets when many times we have no control.”*

- **Despite some challenges, many judges feel they currently have enough time to perform their judicial duties effectively.** Although judges believe that control over their dockets and more time for certain off-bench activities would improve efficiency and effectiveness, many of the survey responses indicate that judges generally have sufficient time for quality performance.

## *2. Delphi Groups*

To provide a qualitative review of the preliminary case weights, NCSC staff facilitated quality adjustment sessions with two panels of seasoned judges nominated by JNAC. One group examined the criminal case weights, while the second focused on the civil case weights. During each session, NCSC staff provided group members with a brief overview of the process used to prepare the preliminary case weights, followed by a review of the sufficiency of time survey results.

Using a variant of the Delphi method—a structured, iterative process for decision-making by a panel of experts—judges then engaged in a systematic review of the preliminary case

weights. Group members drew on current practice as measured by the time study, statewide judicial attitudes as measured by the sufficiency of time survey, and their personal experience on the bench to make recommendations regarding the content of the final case weights. Each group was asked to:

1. Review each preliminary case weight by event and identify specific case types and case-related activities requiring additional time for quality performance, as well as areas where efficiency might be gained;
2. Within particular case types, recommend adjustments to the time allotted to specific case-related functions;
3. Provide an explicit rationale to support any proposed increase or reduction in judicial time; and
4. Review and revise the recommended adjustments until a consensus was reached that all adjustments were necessary and reasonable.

In evaluating the case weights, the Delphi groups focused on four distinct events within each case type category: pre-disposition activity, non-trial disposition, trial/contested disposition, and post-disposition activity. For each adjustment, the group was asked to specify both the amount of time to be added or subtracted and the percentage of cases in which this adjustment was required (frequency of adjustment). For example, the criminal Delphi group recommended adding 10 minutes to the pretrial event in 25 percent of Felony Controlled Substance cases in order to allow judges to hold more plea discussions. The additional plea discussions were intended to facilitate plea bargains, eliminating the need for trials in some cases. Judges also expected plea discussions to help ensure that defense counsel had made the defendant fully aware of the terms of the plea bargain, and to help judges understand the circumstances surrounding the plea bargain, reducing the likelihood of the plea agreement being rejected on the

bench. To compensate for the anticipated reduction in the number of trials, the Delphi group made an offsetting reduction to the trial event in the Felony Controlled Substance case weight.

Before being incorporated into the appropriate case weight, each adjustment was multiplied by the corresponding frequency. For example, the 10-minute adjustment for pretrial activity in Felony Controlled Substance cases was multiplied by 25 percent to yield a net case weight adjustment of 2.5 minutes per case. Exhibit 6 details the calculation of the adjusted case weight for Felony Controlled Substance cases.

**Exhibit 6. Delphi Adjustments to Other Felony Case Weight**

<i>Event/Rationale</i>	<i>Quality Adjustment (minutes)</i>	<i>x</i>	<i>Frequency of Adjustment</i>	<i>=</i>	<i>Net Adjustment (minutes)</i>
<i>Pre-Disposition</i>					
More plea discussions	10	x	25.0%	=	2.50
Additional officer testimony on motions to suppress	10	x	15.0%	=	1.50
<i>Non-Trial Disposition</i>					
No adjustment	--	x	--	=	--
<i>Trial/Contested Disposition</i>					
Fewer trials due to plea discussions	- 480	x	.3%	=	- 1.44
<i>Post-Disposition Activity</i>					
No adjustment	--	x	--	=	--
Total Adjustment (minutes)					3
Preliminary Case Weight (minutes)					37
Quality-Adjusted Case Weight (minutes)					40

In both criminal and civil cases, many of the Delphi groups' recommended adjustments focused on additional time for plea discussions and settlement conferences, with corresponding reductions in trial time. For three case types, the criminal Delphi group added time to research and consider motions for appropriate relief. The civil Delphi group also recommended incorporating more time to review case files, prepare for and hold motion hearings, and review and prepare orders.

Following the Delphi sessions, JNAC reviewed and approved the Delphi groups' recommendations. Exhibit 7 shows the preliminary and adjusted case weights for all case type categories; Appendix D summarizes the rationales for all of the quality adjustments.

**Exhibit 7. Preliminary and Quality-Adjusted Case Weights**

<i>Case Type</i>	<i>Case Weight (minutes)</i>	
	<i>Time Study</i>	<i>Delphi</i>
Homicide	939	946
Sex Offender List Offense (felony and misdemeanor)	120	131
Habitual Offender	91	91
Felony Assault/Robbery With Dangerous Weapon	116	117
Felony Controlled Substance	37	40
Other Felony	39	40
Misdemeanor/Other	29	32
Contract	74	86
Collect on Accounts	25	27
Negligence	99	104
Real Property	165	183
Administrative Appeal/Other	28	31

## **V. JUDGE YEAR VALUE**

After the case weights are used to translate case filings into total judicial workload, the judge year value is used to determine the number of judges needed to handle that workload. The judge year value represents the amount of time available in one year for a full-time equivalent (FTE) judge to work directly on cases. JNAC established the Superior Court year value as a matter of policy, informed by empirical data from the time study and with reference to year values currently in use in the North Carolina District Court as well as in other states throughout the nation.

### **A. Judge Year**

The judge year value consists of two components: the judge year, or the number of days available for case-related work in one year, and the judge day value, or the amount of time available for case-related work each day. Taking into account weekends, holidays, vacation days, and sick time, JNAC adopted a judge year of 217 days. A judge year of 217 days is consistent with the value currently used for District Court judges in North Carolina. As shown in Exhibit 8, the 217-day judge year is also in line with the values used in many other states.

### Exhibit 8. Judge Year by State

<i>State</i>	<i>Study Year</i>	<i>Judge Year (days)</i>
Puerto Rico	2003	193
Nebraska	2006	206
Maryland—Circuit	2001	207
Oregon	2000	208
Wisconsin	2006	208.6
Maryland—District	2001	209
Iowa	2002	212
Michigan	1998	215
Alabama	2008	215
California	2002	215
Florida	2005	215
Minnesota	2010	215
New Mexico	2007	215
Texas	2008	215
Tennessee	1999	217
North Carolina District Court	2007	217
<b>North Carolina Superior Court</b>	<b>2011</b>	<b>217</b>
Maine	2005	219
New Hampshire	2005	219
West Virginia	2001	220
Georgia	2001	220

### B. Judge Day Value

The judge day value equals the amount of time each Superior Court judge has available for case-related work each day. The remainder of the day is allotted to non-case-related judicial responsibilities, such as administration and travel.

JNAC determined that the existing District Court judge day value of 6.4 hours of case-related work per day would be used as a baseline in setting the Superior Court judge day value. JNAC then compared the allocation of non-case-related time in the District Court workload

formula with data from the Superior Court time study, as shown in Exhibit 9. The time study data reveal that Superior Court judges require additional time for travel necessitated by the judicial rotation system (an average of one hour per day) and to keep abreast of changes in statutory and case law applicable to the Superior Court. After factoring in the additional non-case-related time required for these duties, JNAC adopted a day value of 5 hours of case-related work per day for Superior Court judges.<sup>5</sup>

**Exhibit 9. Calculation of Judge Day Value<sup>6</sup>**

<i>Non-Case-Related Time (minutes)</i>	<i>Time Study</i>	<i>Workload Formula</i>	
		<i>District Court</i>	<i>Superior Court</i>
Non-case-related administration	55	48	48
Judicial education and conferences	8		5
General legal reading	23		20
Public outreach	15	18	18
Travel	60		60
Time study	9		
Total (minutes)	169	66	151
Total (hours)	2.8	1.1	2.5
Total working time per day (hours)		7.5	7.5
Non-case-related time (hours)		- 1.1	- 2.5
Judge day value (hours)		6.4	5.0

<sup>5</sup> JNAC explored the possibility that, due to variations in the travel or administrative responsibilities, the day value might vary among Superior Court divisions. Based upon the time study data, JNAC concluded that any differences between divisions were negligible and that it was appropriate to use a uniform day value for all divisions. The time study data also show that, although special Superior Court judges require more time for travel than resident judges, this additional travel is offset by fewer administrative responsibilities. Because the total amount of non-case-related work performed by resident judges and special judges is nearly identical, JNAC adopted a single day value for both resident and special judges.

<sup>6</sup> The total work day for Superior Court judges is nine hours. 1.5 hours are deducted for lunch and breaks, leaving 7.5 hours of working time per day.

The final Superior Court judge year value was calculated by multiplying the number of days available for case-related work (217 days) by the day value (5.0 hours, or 300 minutes, per day). The result is a judge year value of 65,100 minutes.

### **C. Senior Resident Adjustment**

In addition to hearing cases and performing the standard non-case-related duties of a Superior Court judge, senior resident judges have administrative responsibilities unique to their position. These duties include coordinating with local law enforcement, preparing the civil calendar, establishing the local case management plan, and supervising personnel. During the time study, senior resident judges reported spending an average of 30 more minutes per day on non-case-related matters than other resident judges. To accommodate the special responsibilities of senior resident judges, JNAC chose to incorporate an administrative adjustment of 0.1 FTE per senior resident judge into the workload formula.<sup>7</sup> For each senior resident judge, an additional 0.1 FTE is added to the total Superior Court judge need.

---

<sup>7</sup> The 0.1 FTE administrative adjustment was calculated by dividing the 30 minutes senior resident judges spend each day on additional administrative duties by the judge day value of 5 hours (300 minutes).

## **VI. TOTAL JUDGE NEED**

To calculate the number of judges needed to handle the caseload of the North Carolina Superior Court, annual case filings were first multiplied by the quality-adjusted case weights to yield the court's total annual workload. The total workload was then divided by the judge year value, revealing the number of judges needed to handle the workload. Finally, the administrative adjustment of 0.1 FTE per senior resident judge was applied in order to allow time for the extra administrative responsibilities associated with this position. Exhibit 10 calculates judge need in the North Carolina Superior Court on a statewide basis. In the aggregate, the workload formula reveals a need for 111.8 FTE Superior Court Judges, or 0.2 FTE judge less than currently allocated.<sup>8</sup>

---

<sup>8</sup> Because cases designated as Complex Business Cases are not currently counted, a separate case weight could not be calculated for cases handled in Business Court. These cases are counted in the district of original filing under their original case type, and the time associated with the processing of these cases before their transfer to Business Court is incorporated into the case weights. To reflect the additional work performed by Business Court judges, 3.0 FTE is added to total Superior Court judge need.

**Exhibit 10. Statewide Judge Need, North Carolina Superior Court**

<i>Case Type</i>	<i>Filings</i>	<i>x</i>	<i>Case Weight (minutes)</i>	<i>=</i>	<i>Workload (minutes)</i>
Homicide	947	x	946	=	895,862
Sex Offender List Offense (felony and misdemeanor)	3,210	x	131	=	420,510
Habitual Offender	3,337	x	91	=	303,667
Felony Assault/Robbery With Dangerous Weapon	4,811	x	117	=	562,887
Felony Controlled Substance	16,846	x	40	=	673,840
Other Felony	31,517	x	40	=	1,260,680
Misdemeanor/Other	17,832	x	32	=	570,624
Contract	6,766	x	86	=	581,876
Collect on Accounts	2,860	x	27	=	77,220
Negligence	8,345	x	104	=	867,880
Real Property	1,524	x	183	=	278,892
Administrative Appeal/Other	8,535	x	31	=	264,585
Total Workload (minutes)					6,758,523
Year Value (minutes)					÷ 65,100
Total Division Judge Need (FTE)					103.8
Senior Resident Adjustment					+ 5.0
Business Court Judge Need					+ 3.0
Total Superior Court Judge Need (FTE)					= 111.8
Resident Judges					- 97.0
Special Judges					- 15.0
Net Judge Need (FTE)					- 0.2

## **VII. CONCLUSION AND RECOMMENDATIONS**

The workload formula adopted by the North Carolina Superior Court Judicial Needs Assessment Committee is grounded in current practice as measured by a statewide time study, and underwent a thorough quality review by experienced Superior Court judges. The following recommendations will aid the Administrative Office of the Courts in maintaining the integrity and utility of the Superior Court judicial workload formula into the future.

### ***Recommendation 1***

NCSC recommends that Superior Court judge need be recalculated on an annual basis using an updated three-year average of case filings. The application of the workload formula to the most recent filings data available will reveal the impact of any changes in caseloads or caseload composition on judicial workload and judge need.

### ***Recommendation 2***

The AOC should use the workload formula to inform judicial assignments, including the rotation of resident judges and the assignment of special judges. A system of assignment based on workload will allow for the most efficient and cost-effective distribution of judicial resources within the Superior Court. To facilitate this analysis, Appendix E displays judge need for individual Superior Court districts and divisions.

### ***Recommendation 3***

Over time, the integrity of any workload formula may be affected by external factors such as changes in legislation, case law, legal practice, technology, and administrative policies. NCSC recommends that the AOC implement procedures that allow for interim adjustments to the workload formula in response to these changes, as well as systematic review of the workload formula at regular intervals.

- a. A standing committee should be established that meets on an annual basis to review the impact of new legislation, changes in case law, and other factors on the workload formula. Using a method similar to the quality adjustment process conducted during the workload assessment, the committee can make targeted adjustments to individual case weights at the event level (pretrial, non-trial disposition, trial, post-disposition) to respond to these changes.
- b. The North Carolina Administrative Office of the Courts should conduct a systematic update of the workload formula approximately every five years. This process should be grounded in a new time study and undertaken under the supervision of an advisory board similar to the Judicial Needs Assessment Committee.

#### ***Recommendation 4***

The AOC should establish a method of identifying Complex Business Cases handled in Business Court. An accurate count of these cases, including the original case type and filing district of each case, will allow for the development of a separate case weight for Business Court cases that can be used to analyze the impact of changes in the Business Court caseload.

#### ***Recommendation 5***

The availability of support staff can have a profound impact on judicial workload. For this reason, NCSC recommends that North Carolina conduct a comprehensive assessment of Superior Court support staff need. A workload formula should be developed for Judicial Assistants, Trial Court Coordinators, and Trial Court Administrators.

## **APPENDIX A. GLOSSARY OF CASE TYPES AND EVENTS**

### **CASE TYPES**

#### **Criminal**

1. Homicide
2. Sex offender list offense (felony and misdemeanor)
3. Habitual offender  
Includes all cases in which the defendant has been indicted as any type of habitual offender, regardless of the underlying charge.
4. Felony assault/robbery with dangerous weapon
5. Felony controlled substance
6. Other felony
7. Misdemeanor/other

#### **Civil**

1. Contract
2. Collect on accounts
3. Negligence
4. Real property
5. Administrative appeal/other

## **CASE-RELATED EVENTS**

### **1. Pretrial**

Includes all on-bench and off-bench activity related to proceedings that occur prior to the trial or other dispositional proceeding. Includes all off-bench research and preparation related to pretrial activities. Some examples of pretrial activities include:

- Initial appearance in Superior Court
- Pretrial motion that does not fully dispose of the case (e.g., evidentiary motion, motion for change of venue, motion to suppress)
- Settlement conference
- Pretrial conference
- Attorney status meeting
- Search warrant
- Temporary restraining order
- Preparation of findings and orders related to pretrial matters

### **2. Non-Trial Disposition**

Includes all on-bench and off-bench activity related to any non-trial proceeding that disposes of the entire case. Includes all off-bench research and preparation related to non-trial dispositions. Some examples of non-trial dispositions include:

- Entry of guilty plea and sentencing
- Motion to dismiss that disposes of all issues
- Motion for summary judgment that disposes of all issues
- Preparation of findings and orders related to non-trial dispositions

### **3. Trial**

Includes all on-bench and off-bench activity related to a bench or jury trial. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activity include:

- Bench trial
- Jury selection
- Jury trial
- Sentencing after conviction at trial
- Preparation of findings and orders related to bench and jury trials

#### 4. Post-Judgment/Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment in Superior Court. Some examples of post-judgment/post-disposition activity include:

- Post-trial motion (e.g., JNOV, new trial)
- Probation violation
- Motion for Appropriate Relief
- Post-adjudication juvenile delinquency review
- Responding to prisoner mail
- Preparation of findings and orders related to post-judgment/post-disposition matters

### **NON-CASE-RELATED EVENTS**

#### 1. Non-Case-Related Administration

Includes all non-case-related administrative work such as:

- Staff meetings
- Personnel matters
- Staff supervision and mentoring
- Preparing the civil calendar
- Establishing local rules and policies (e.g., case management plan)
- Addressing grand jury issues
- Coordinating with law enforcement and other local partners
- Serving on bar or state government boards and committees

#### 2. Judicial Education and Conferences

Includes all educational and training activities such as:

- Judicial education
- Conferences
- Teaching judicial education courses, including preparation

#### 3. General Legal Reading

Includes all legal reading and research that is not related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

#### 4. Public Outreach

Includes all community and public outreach activities performed in your official capacity as a judge. Does not include election-related activities, personal or non-judicial community service work, or activities for which you are compensated by an outside source (e.g., teaching law school courses). Examples of community activities and public outreach to be reported include:

- Speaking at schools or community organizations about the legal system or law-related careers
- Judging law school mock trials
- Writing journal articles

#### 5. Travel

Includes all reimbursable case-related and non-case-related travel to work in a location other than the courthouse in which your chambers are located. Does not include your regular commute from your home to your office of record.

#### 6. Vacation, Sick Leave, and Holidays

Includes vacation, sick leave, holidays, personal time, and military leave.

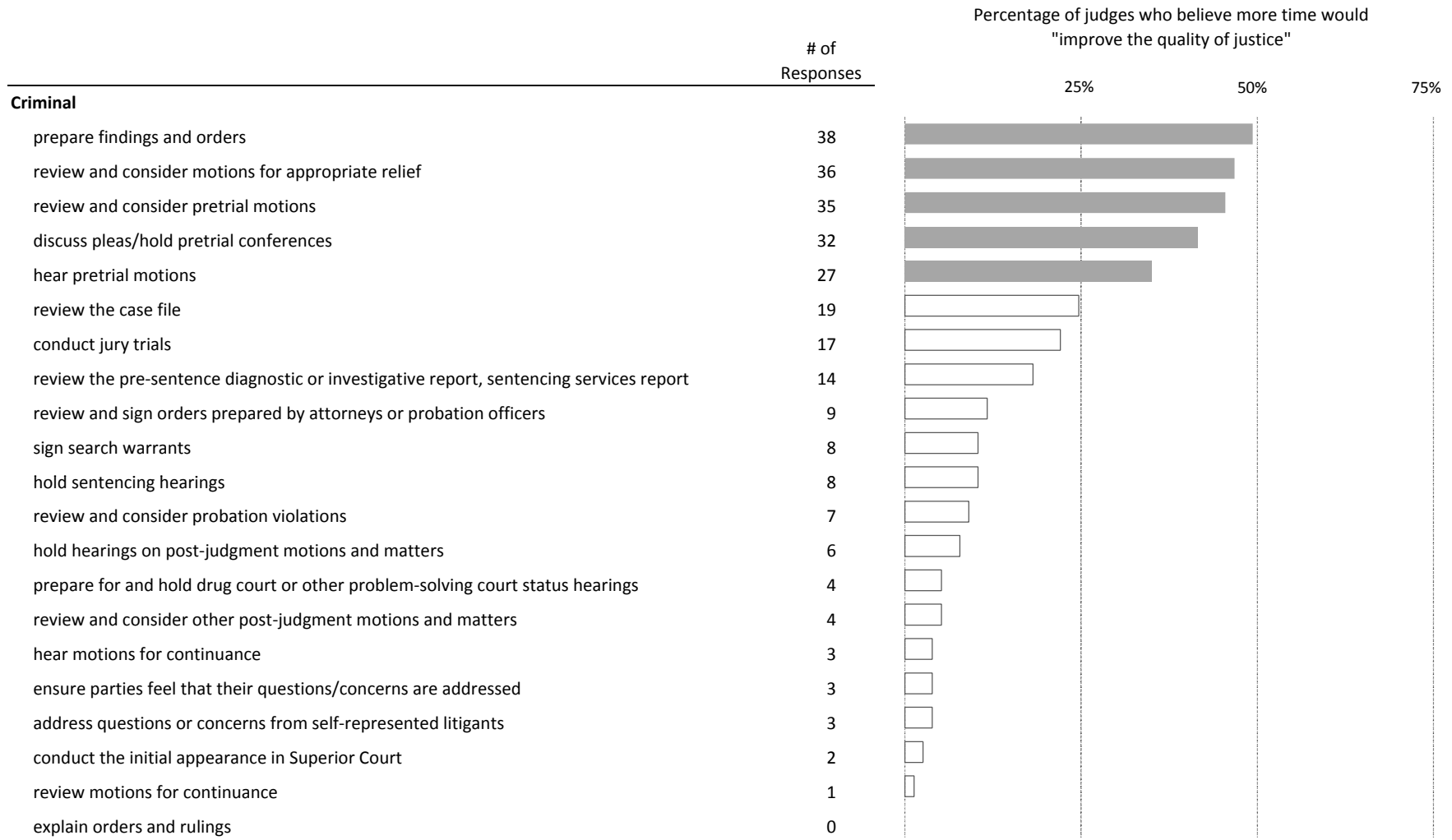
#### 7. Lunch and Breaks

#### 8. Time Study

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## APPENDIX B. SUFFICIENCY OF TIME SURVEY RESULTS, CRIMINAL CASES

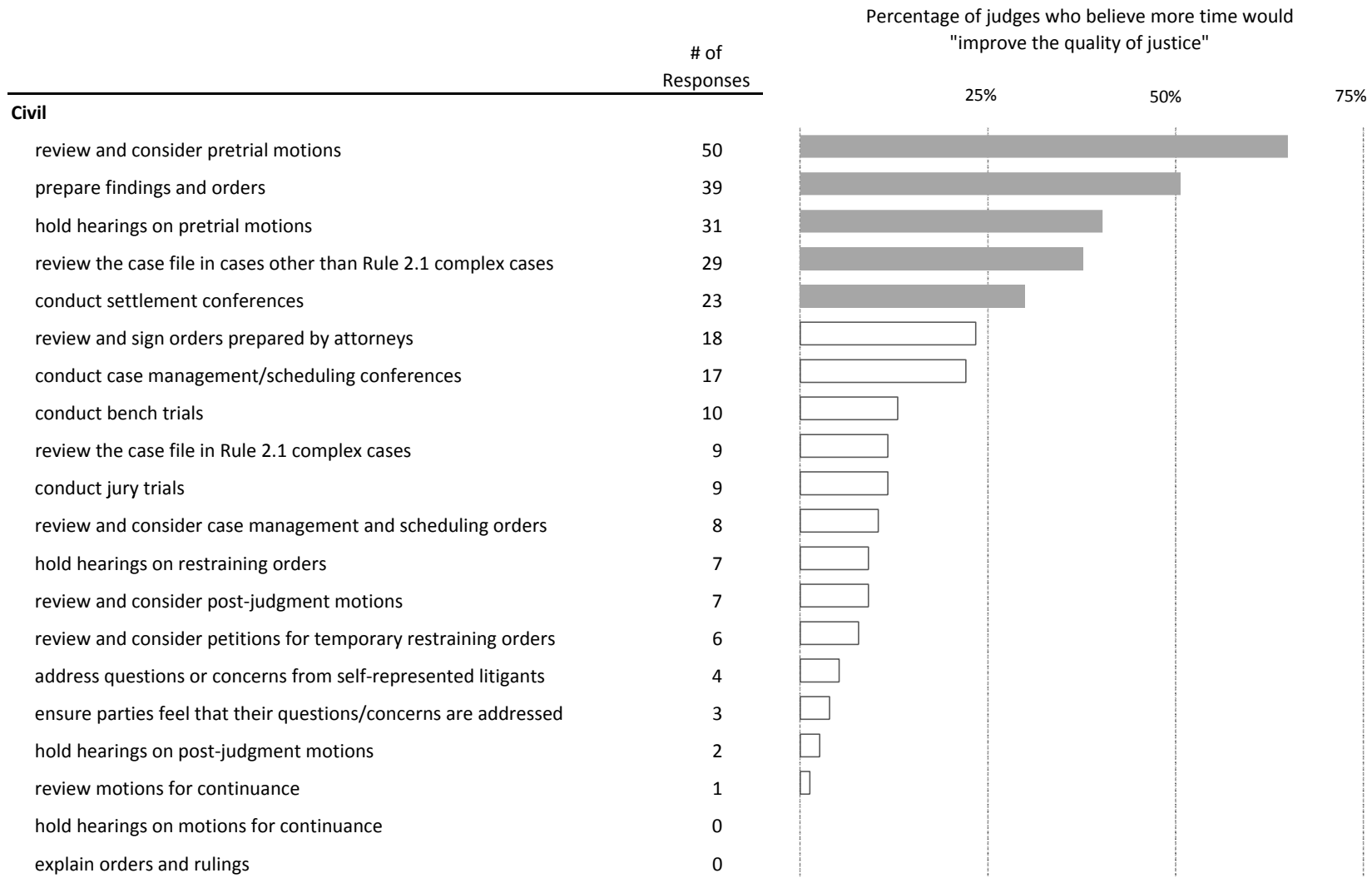
*Please select the activities for which you believe additional time would most improve the quality of justice.*



Note: Percentages are based on 77 respondents for criminal matters

## APPENDIX C. SUFFICIENCY OF TIME SURVEY RESULTS, CIVIL CASES

*Please select the activities for which you believe additional time would most improve the quality of justice.*



Note: Percentages are based on 77 respondents for civil matters

## **APPENDIX D. RATIONALES FOR DELPHI ADJUSTMENTS**

### **Criminal**

#### ***All Case Types***

##### *Pretrial*

- Additional time for plea discussions to resolve more cases by plea, allow judges to understand circumstances surrounding plea agreement, reduce the number of plea agreements rejected from the bench, and ensure that defendants understand terms of plea agreements

##### *Trial*

- Fewer trials due to plea discussions

#### ***Homicide***

##### *Pretrial*

- Additional time to research and consider competency motions
- Time to read all cases cited in pretrial motions rather than relying on headnotes

##### *Post-judgment*

- Additional time for research on motions for appropriate relief, especially pro se motions in manslaughter cases

#### ***Sex Offender List Offense (felony and misdemeanor)***

##### *Non-trial disposition*

- Time to ensure that decisions regarding satellite-based monitoring are made at sentencing

##### *Post-judgment*

- Additional time for research on motions for appropriate relief

#### ***Felony Assault/Robbery With Dangerous Weapon***

##### *Non-trial disposition*

- Additional time for victim impact statements at sentencing

##### *Post-judgment*

- Additional time for research on motions for appropriate relief

## ***Felony Controlled Substance***

### *Pretrial*

- On motions to suppress evidence in cases involving possession of controlled substances for sale/delivery, additional in-court time for law enforcement testimony regarding circumstances of seizure

## **Civil**

### ***All Case Types***

#### *Pretrial*

- Additional time to prepare for and conduct motion hearings, including reviewing case files, conducting legal research, and explaining decisions to pro se litigants
- Additional time for settlement conferences to settle more cases, to narrow the issues for trial in cases that do not settle, to reduce the number of post-trial motions and appeals, and to improve litigant satisfaction

#### *Non-trial disposition*

- Additional time to review and prepare orders on motions for summary disposition, in order to reduce delay and ensure that orders accurately reflect judicial intent

#### *Trial*

- Fewer trials due to settlement conferences
- Reduction in length of trials due to narrowing of issues through settlement conferences (all case types but Collect on Accounts)

## APPENDIX E. JUDGE NEED BY DISTRICT AND DIVISION

To inform decisions regarding the rotation of resident judges and the assignment of special judges, the tables below show judge need as well as the number of resident judges for each Superior Court district and division. For each division, the need for special judges is calculated by subtracting the number of resident judges from total judge need.

### Division 1

<i>District</i>	<i>Judge Need (FTE)</i>	-	<i>Resident Judges</i>	=	<i>Special Judge Need (FTE)</i>
1	2.4		2.0		
2	1.6		1.0		
3A	2.1		2.0		
6A	1.1		1.0		
6B	1.2		1.0		
7A	1.4		1.0		
7B	2.4		2.0		
Division Total	12.2	-	10.0	=	2.2

### Division 2

<i>District</i>	<i>Judge Need (FTE)</i>	-	<i>Resident Judges</i>	=	<i>Special Judge Need (FTE)</i>
3B	1.9		3.0		
4A	1.7		1.0		
4B	1.7		1.0		
5	3.2		3.0		
8A	1.2		1.0		
8B	1.6		1.0		
Division Total	11.2	-	10.0	=	1.2

### Division 3

<i>District</i>	<i>Judge Need (FTE)</i>	-	<i>Resident Judges</i>	=	<i>Special Judge Need (FTE)</i>
9	2.5		2.0		
9A	0.9		1.0		
10	8.3		6.0		
14	3.1		4.0		
15A	1.5		2.0		
15B	1.3		2.0		
Division Total	17.5	-	17.0	=	0.5

### Division 4

<i>District</i>	<i>Judge Need (FTE)</i>	-	<i>Resident Judges</i>	=	<i>Special Judge Need (FTE)</i>
11A	1.4		1.0		
11B	1.4		1.0		
12	3.9		4.0		
13A	1.5		1.0		
13B	1.5		1.0		
16A	1.1		1.0		
16B	2.2		2.0		
Division Total	12.9	-	11.0	=	1.9

### Division 5

<i>District</i>	<i>Judge Need (FTE)</i>	-	<i>Resident Judges</i>	=	<i>Special Judge Need (FTE)</i>
17A	1.1		2.0		
17B	1.3		2.0		
18	7.0		5.0		
19B	1.5		1.0		
19D	1.0		1.0		
21	2.7		4.0		
23	1.2		1.0		
Division Total	15.8	-	16.0	=	-0.2

### Division 6

<i>District</i>	<i>Judge Need (FTE)</i>	-	<i>Resident Judges</i>	=	<i>Special Judge Need (FTE)</i>
19A	1.9		1.0		
19C	1.6		1.0		
20A	2.3		2.0		
20B	2.1		2.0		
22A	2.0		2.0		
22B	1.7		2.0		
Division Total	11.6	-	10.0	=	1.6

### Division 7

<i>District</i>	<i>Judge Need (FTE)</i>	-	<i>Resident Judges</i>	=	<i>Special Judge Need (FTE)</i>
25A	1.7		2.0		
25B	1.6		2.0		
26	11.1		7.0		
27A	3.0		2.0		
27B	2.1		2.0		
Division Total	19.4	-	15.0	=	4.4

### Division 8

<i>District</i>	<i>Judge Need (FTE)</i>	-	<i>Resident Judges</i>	=	<i>Special Judge Need (FTE)</i>
24	1.3		2.0		
28	2.3		2.0		
29A	1.3		1.0		
29B	1.2		1.0		
30A	1.0		1.0		
30B	1.0		1.0		
Division Total	8.1	-	8.0	=	0.1