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Benchmarking the **BENCH**

**Are Public Dollars Being Wasted on
Excess Judgeships in Orleans Parish?**

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EXECUTIVE SUMMARY

The City of New Orleans and the State of Louisiana are under financial strain. Both entities are having difficulty balancing their budgets. Both have serious needs that go unmet. Every dollar counts. Every opportunity to streamline operations must be explored.

One such opportunity is sitting right before policymakers' eyes: rightsizing the courts.

The Judicial Council of the Louisiana Supreme Court, the high court's research arm, has produced compelling data that suggest numerous courts have too many judges. Under a formula the council developed to estimate judicial workloads, the courts in Louisiana outside of Orleans Parish have 24% more judges than they need.

As remarkable as that figure may seem, it is small in comparison to what the formula indicates for Orleans: a 125% surplus of judges. The parish's seven courts have 45 judges but need only 20, according to the formula's estimates, and six of the courts have more than twice the number of judges they need.

The Judicial Council's workload formula is not the only metric pointing to an excessive number of judges in Orleans Parish. Case filings at several Orleans courts have been on a general downward trajectory for many years, even as the number of judges in the parish has increased. Filings at Civil District Court, Juvenile Court, First City Court and Second City Court have dropped by 55% to 88% since peaking in the 1980s.

Neither the Judicial Council's workload formula nor case filing trends are definitive. The workload formula lacks nuance in certain areas and can underestimate the workloads of courts that handle a disproportionate share of complex cases. Raw case filing data also fails to distinguish between simple and complex cases. As the Judicial Council emphasizes, its estimates are the first step in an analytical process that includes site visits to courts with apparent surpluses.

In effect, the formula serves as an indicator light, letting officials know where a closer examination of apparent judicial surpluses is needed. The light is flashing in several spots across Louisiana. And it is blinking furiously in New Orleans.

Excess judgeships have serious financial repercussions for the public. The public pays an average of \$570,000 per year in personnel costs alone for each judgeship in New Orleans. A large portion of those expenses fall on state and local government. Both levels of government, and the citizens they serve, have a significant stake in preventing the waste of public money on unnecessary judgeships.

It is critical that the Legislature address Orleans Parish's apparent surplus before the judicial election in November 2014. At that time, 80% of the parish's judgeships will be at stake. If the Legislature does not take action to eliminate unneeded judgeships before then, a constitutional prohibition against shortening a sitting judge's term will forestall any meaningful reform until 2020. With an average cost of \$3.4 million per judgeship over a six-year term, such a delay could cost the public tens of millions of dollars for positions that the Judicial Council's metrics strongly suggest are unnecessary.

Table 1: Estimated Judicial Surpluses at Orleans Parish Courts, Average for 2010-12

Court	Actual judges	Estimated Judges Needed	Estimated Surplus Judges
Civil District Court	14	6.8	7.2
Criminal District Court	13	6.3	6.7
Orleans Parish Juvenile Court	6	0.8	5.2
Traffic Court	4	1.2	2.8
First City Court	3	0.7	2.3
Second City Court	1	0.1	0.9
Municipal Court	4	4.0	0.0
TOTAL	45	20.0	25.0

Note: In assessing judicial workloads, the Judicial Council relies on multi-year trends, rather than a single year's statistics. BGR used three-year averages for its workload calculations. Numbers may not add up due to rounding.

Sources: State statutes and BGR calculations using the Judicial Council's workload formula and data from the council and its reports.

Clearly, if the Legislature does not act in time, it will have squandered a golden opportunity to streamline government.

When dealing with issues of court size, the Legislature relies heavily on the analysis provided by the Judicial Council. To facilitate action by the Legislature, it is important that the Judicial Council complete an analysis of Orleans Parish and other jurisdictions with large estimated judicial surpluses and make recommendations to the Legislature before its spring 2014 session.

There is no excuse for inaction or delay beyond the upcoming session. Both the Judicial Council and the Legislature are well positioned to act in a timely manner. The Judicial Council has been studying judicial surpluses throughout the state since 2006 and is currently preparing a report on the state's district and city courts requested by the Legislature more than two years ago. The report is due in mid-February, a month before the Legislative session begins. There is ample time between now and then for the council to complete its analysis of the jurisdictions with the largest estimated surpluses and to make recommendations to the Legislature for the elimination of unnecessary judgeships.

RECOMMENDATIONS

BGR makes the following recommendations.

Before the 2014 legislative session:

- The Judicial Council should promptly take all steps, including site visits and supplemental research, necessary to identify and recommend the elimination of excess judgeships in Orleans Parish. It should do the same for any other jurisdiction that the council's workload formula suggests has a large number of excess judges. It should provide the Legislature with its analysis and any recommendations to eliminate judgeships well in advance of the session, and no later than the February 14, 2014, deadline for its report on the state's district and city courts.

During the 2014 legislative session:

- The Legislature should take action to eliminate unnecessary judgeships in Orleans Parish and other districts with excessive numbers of judges. The elimination should take effect as of the expiration of the current officeholder's term.

After the 2014 legislative session:

- The Supreme Court and the Legislature should develop a process to regularly reassess whether existing judgeships at the state's trial courts are still needed. The process should include annual estimates of the judges needed at each court based on the Judicial Council's workload formula. When the formula indicates that a court has too many judges, the Judicial Council should follow up with site visits and any other research needed to reach a conclusion as to the appropriate number of judges. It should present its analysis and a recommendation on the appropriate number of judges well in advance of the legislative session preceding the next election for that court.

INTRODUCTION

Since 2007, the Judicial Council of the Louisiana Supreme Court has released annual reports estimating the number of judges needed at each of the state's trial courts. The reports, which apply a weighted formula to the courts' case filing data, suggest that the Orleans Parish court system has far more judges than are necessary. According to the formula, the parish's seven courts need 20 judges, or less than half of the 45 they have.¹

The Judicial Council, the high court's research arm, has emphasized that its estimates of surplus judgeships are not conclusive. The council states that further analysis, including a site visit to the court in question, is necessary to determine the optimal number of judges. However, despite indications that some courts have far too many judges, it has not conducted such follow-up work since 2007 or recommended eliminating any judgeships.

That is unfortunate. Surplus judgeships carry substantial costs for the public. In addition to the judge's compensation, there are expenses for the judge's staff and other support personnel. While some of these costs are covered by court fees and fines, the state and the City of New Orleans pay substantial portions of the bill. An over-sized judiciary is a waste of the public's money.

The Judicial Council's estimates clearly establish a need for further analysis. It is critical that the council complete that work and report to the state Legislature (which sets the number of judges at each court) before its spring 2014 session. It is equally important that lawmakers act to eliminate unnecessary judgeships during that session. It is the last one before the November 2014 election, when 80% of Orleans judgeships will be at stake. If the Legislature does not act before the election, a constitutional prohibition against shortening a sitting judge's term will foreclose the possibility of a meaningful reduction in judgeships until 2020.² In a cash-strapped city that too often struggles to provide basic services and a state that has faced mid-year budget cuts in recent years, that is too long to wait. (For more information on judges' terms, see Appendix A.)

In this report, BGR uses the Judicial Council's formula to estimate how many judges the courts need and reviews other metrics for assessing judicial need. It then exam-

METHODOLOGY

In preparing this study, BGR reviewed numerous reports and studies on courts and judicial workloads prepared by the Judicial Council, the National Center for State Courts and others. In addition, it collected data and information from the various courts and clerks' offices in New Orleans and comparable jurisdictions.

BGR interviewed professionals, including officials at the courts and clerks' offices in Orleans Parish and comparable judicial districts, and experts in court-workload assessments.

BGR provided the Judicial Council, the Supreme Court, the City of New Orleans and each of the Orleans Parish courts with an opportunity to review a draft of the report and provide comments and corrections. The Judicial Council and the Supreme Court declined to comment on the draft.

ines the costs associated with unnecessary judgeships. Finally, it recommends steps for rightsizing the courts.

The report does not analyze the efficiency of the courts' operations or the extent to which inefficiencies might contribute to the apparent judicial surplus. Nor does it analyze the extent to which the fragmented court structure in Orleans Parish is contributing to inefficiencies and the need for judges.

BACKGROUND

Orleans Parish has seven trial courts with a total of 45 elected judges. It has two district courts that specialize in either civil or criminal matters, Civil District Court and Criminal District Court. The parish also has a separate district-level court for cases involving juveniles, Orleans Parish Juvenile Court.

In addition, the parish has four city-level courts that specialize in various types of civil or criminal cases. On the criminal side, Municipal Court handles violations of city ordinances and misdemeanors, while Traffic Court covers traffic tickets and DWI cases. On the civil side, First City Court handles evictions, lawsuits under \$25,000 and small-claims cases on the east bank, while Second City Court has jurisdiction over such cases on the west bank.

Each of the seven courts has its own clerk to handle court documents. Four of the clerks are elected, and three are appointed by the judges.

The Orleans Parish judicial system is unusual in several respects. It is the only judicial district in the state with separate district courts for civil and criminal matters. In the other 41 judicial districts, one court handles both. Orleans is one of only four parishes with a separate court to handle cases involving juveniles. And it is the only city with more than one city-level court. Unlike other jurisdictions, it has no mayor's court or justices of the peace. (For additional background information on the Orleans courts, see the chart in Appendix B.)

Overall, the state has 100 district, parish and city courts, which are commonly known as trial courts. It also has approximately 250 mayor's courts and 390 justice of the peace courts.

The Judicial Council's Reports

The number of judges at each of Louisiana's trial courts is established by state law. The state constitution allows the Legislature, with two-thirds approval, to increase or decrease the number of judges in a judicial district.³ However, a judgeship cannot be eliminated during a sitting judge's term.⁴

State law requires the Judicial Council to analyze any proposal to create a new judgeship before the Legislature votes on it. Lawmakers are not required to follow the council's recommendations.⁵ No Judicial Council review is required before a judgeship can be eliminated.

The Judicial Council was created in 1950 to serve as the Supreme Court's research arm. Its 17 members consist of citizens and representatives of the judiciary and various legal and criminal justice associations. The Supreme Court's chief justice chairs the council.⁶

Prior to Hurricane Katrina, the Judicial Council conducted analyses of court size only when a court requested a new judgeship. That changed after the disaster wreaked havoc on court systems across southeastern Louisiana. In 2006, the Legislature for the first time asked the Supreme Court to make recommendations about the appropriate number of judges for each of the

state's trial courts. It gave the high court wide latitude to recommend the elimination of judgeships, the merger of courts and revisions to statutory or constitutional requirements for judgeships.⁷

The Judicial Council established a committee to conduct the analysis. Using the workload formula discussed below, the committee identified 11 district courts that appeared to have too many judges. These included the three district-level courts in Orleans Parish. After visiting each of the courts, the council concluded in early 2007 that it was premature to eliminate judgeships, in part because the population and case filing data in the disaster-ravaged parishes remained in flux. If the Legislature nonetheless decided to reduce the number of judges, the council recommended limiting the cuts to three judgeships each at Civil District Court and Orleans Parish Juvenile Court. The Legislature did not eliminate any judgeships.

During the 2007 legislative session, the Senate passed a resolution asking the Judicial Council to issue annual reports assessing how many judges each of the state's 100 trial courts needed.⁸ The council issued five reports in response to the resolution. The reports gave the results of the workload formula for each court, but the council did not follow up with site visits to courts that appear to have too many judges. Nor did it make any recommendations to eliminate judgeships.

Currently, the council is conducting another study in response to a 2011 House resolution calling on the Supreme Court to review caseload data and the number of judges at each appellate and trial court "to determine changes necessary to the existing structure of the judiciary to provide the most efficient use of judicial resources."⁹

The study has been divided into three reports. The first report, on the state's three parish courts, was issued in February 2012. The second report, on the state's five appellate courts, was scheduled to be released last year, but it has been delayed. The third report, on the state's 97 district and city courts, is due no later than February 14, 2014.

The Supreme Court has declined to release the work plan for the 2014 report on the district and city courts, including all seven Orleans courts. Thus, it is unclear whether the report will identify and recommend the elimination of unneeded judgeships. The first report in the series did not.¹⁰

CALCULATING JUDICIAL WORKLOADS

Since 1980, the Judicial Council has used a formula based on case filing data to estimate the number of judges a court needs. The formula assigns work points to different types of cases depending on how much time they typically take to adjudicate. The work points for a given court are then totaled and divided by the workload of an average judge to estimate the number of judges the court needs.

The work points assigned to cases are based on estimates of the average amount of time that judges spend on various types of cases, ranging from traffic tickets to misdemeanors to felonies. It is important to note that these are averages. Because of that, some cases within a category will take more time while others will take less.

The case weights have been adjusted over the years, most recently in 2008, to reflect changes in adjudication times. Table 2 gives the current work point values.

Under the formula, the workload of an average judge is 3,167 work points. That average is based on the expectation that judges will work 209 days a year. The workload formula sets aside 25 of those days for administrative duties, leaving 184 days for judges to handle cases.*

To calculate the workload for a given court, the number of filings for each case type is multiplied by the corresponding work point value. The total number of work points is then divided by 3,167 (the workload of an average judge) to determine how many judges the court needs. For example, a city court with 20,000 misdemeanor filings worth 0.4 points each and 10,000 civil filings worth 0.25 points each would receive 10,500 work

Table 2: Case Weights for the Judicial Council’s Workload Formula

Case type	Work Points*	Judge’s Time (In Minutes)
Felony	3.9	88.4
Misdemeanor	0.4	9.1
Juvenile, delinquency	2.6	58.9
Juvenile, Child In Need of Care	2.6**	58.9
Juvenile, other	0.76	17.2
Traffic ticket	0.02	0.5
Civil, domestic (district court)	2.44	55.3
Civil, non-domestic (district court)	1.51	34.2
Civil (parish or city court)	0.25	5.7

* A work point equals 22.7 minutes.

**The work points can be increased to 6.5 or 9.5 points depending on the extent to which courts have adopted Model Court standards for handling child abuse and neglect cases.

Source: Judicial Council of the Louisiana Supreme Court, *Report of the Judicial Council in Response to Senate Concurrent Resolution #91 of the 2007 Regular Session of the Legislature Regarding the Determination of Judgeships*, May 3 2011, Attachment 1.

points. Dividing this figure by 3,167 indicates the court needs an estimated 3.3 judges.

* Judicial Council, *Final Report of the Judicial Council to Review the Need for Judgeships*, February 2007, Appendix 1, p. 5. The 209-day judicial year was determined by subtracting weekends (104 days), court holidays (15 days), vacation time (20 days), sick leave (10 days) and continuing legal education (seven days) from the 365-day calendar year. The formula also subtracts 90 minutes from each 8-hour day for prep time and lunch, reducing the amount of case time to 1,196 hours per year, or 71,760 minutes.

The Judicial Council’s Evaluation Process

In assessing court size, the Judicial Council begins with a formula based on case filing data. The formula assigns work points to different types of cases depending upon how much time it typically takes to adjudicate them. The work points for a given court are then totaled and divided by the workload of an average judge to estimate the number of judges the court needs. For more details on the workload formula, see the sidebar.

Before drawing a conclusion as to the number of judges needed at a court, the Judicial Council performs a more in-depth analysis of the court. It conducts a site visit

to evaluate qualitative factors that are not reflected in the workload formula. Examples include judges’ travel time in multi-parish districts; extraordinary administrative duties or post-conviction work; complex litigation; and high volumes of jury trials or drug court work. The site visit includes interviews with judges and other court officials. The judges and court administrators are given the opportunity to identify and document factors that they believe are not adequately accounted for by the workload formula.

The Judicial Council follows formal guidelines for evaluating requests for new judgeships. A court seeking a new judgeship must demonstrate that its judges are engaged in

judicial activities an average of 209 days per year. It must employ efficient docket management techniques but still have an over-sized backlog of cases. The court’s per-judge workload should exceed the workload of an average judge by at least 15% in order to receive a positive recommendation. Finally, the court must meet any other requirements the Judicial Council deems appropriate.¹¹

While the Judicial Council does not have formally adopted guidelines for determining whether a court has too many judges, it has followed the guidelines for assessing new judgeships.

The Judicial Council has indicated that any recommendation to add or eliminate a judgeship should be based on multi-year trends, and the analysis should include an assessment of judicial surpluses or deficits at other courts in the same geographic jurisdiction.¹²

The Formula’s Strengths and Weaknesses

The Judicial Council’s methodology meets many of the guidelines set by the National Center for State Courts (NCSC) for assessing how many judges a court needs. It utilizes weighted case filings, which the NCSC has called a singularly valid method for determining the appropriate number of judges.¹³ In addition, the council uses site visits, as the NCSC recommends, to assess qualitative factors that are not captured by case filing data.¹⁴

However, the Judicial Council’s formula has a couple of shortcomings. The case weights are based on judges’ estimates of how long it takes to handle different types of cases, rather than on a study of how much time the various types of cases actually take. Although the NCSC occasionally uses time estimates, it recommends conducting a time study.¹⁵

A more significant weakness is the small number of case types that the Judicial Council uses. The council bases its analysis on nine. In a review of judicial workload formulas developed by the NCSC for various states, BGR found that the average number of case types was 25.¹⁶ Because of the relatively low number used by the Judicial Council, the formula does not capture enough detail to accurately

assess workloads at certain courts.

For instance, the Judicial Council’s formula divides criminal cases into only four categories: felony, misdemeanor, juvenile delinquency and traffic citations. Because all felonies are grouped together, an aggravated battery case that ends with a quick plea agreement receives the same number of work points as a murder case that results in a multi-day trial.

The mismatch between the number of work points awarded and the actual amount of work involved should balance out for courts that handle an average mix of cases. But that’s not the case for a court like Criminal District Court, which handles a disproportionately large number of violent felonies that are more likely to result in time-consuming jury trials. The Judicial Council experimented with awarding bonus work points for courts with an above-average number of jury trials, but it never adopted the points as part of the formula.¹⁷

The council has acknowledged the formula’s limitations when applied to Criminal District Court’s caseload. It maintains, however, that the method is reliable for the vast majority of courts.¹⁸ Its contention is supported by the fact that the formula’s estimate of the number of judges needed at district courts outside of New Orleans falls within 13% of the actual number of judges in those

Table 3: Estimated Judicial Surpluses at Orleans Parish Courts, Average for 2010-12

Court	Actual Judges	Estimated Judges Needed	Estimated Surplus Judges
Civil District Court	14	6.8	7.2
Criminal District Court	13	6.3	6.7
Orleans Parish Juvenile Court	6	0.8	5.2
Traffic Court	4	1.2	2.8
First City Court	3	0.7	2.3
Second City Court	1	0.1	0.9
Municipal Court	4	4.0	0.0
TOTAL	45	20.0	25.0

Note: Numbers may not add up due to rounding.

Sources: State statutes and BGR calculations using the Judicial Council’s workload formula and data from the council and its reports.

courts.¹⁹ While the variance is not negligible, it shows that the formula's weights are generally aligned with how long it takes the vast majority of the state's full-time district judges to handle cases.

Despite its limitations, the council's formula serves as a useful indicator for identifying courts that warrant further study.

ASSESSING JUDICIAL SURPLUSES

In this section BGR reviews the results of the Judicial Council's formula for the courts in Orleans Parish. All estimates of the number of judges needed in a court and judicial surpluses are based on the three-year average for 2010 to 2012.²⁰ (For a breakdown of estimates by year, see Appendix C.)

This section also analyzes trends in case filings at individual courts and provides comparisons to other courts in the state. Like the Judicial Council's formula, the number

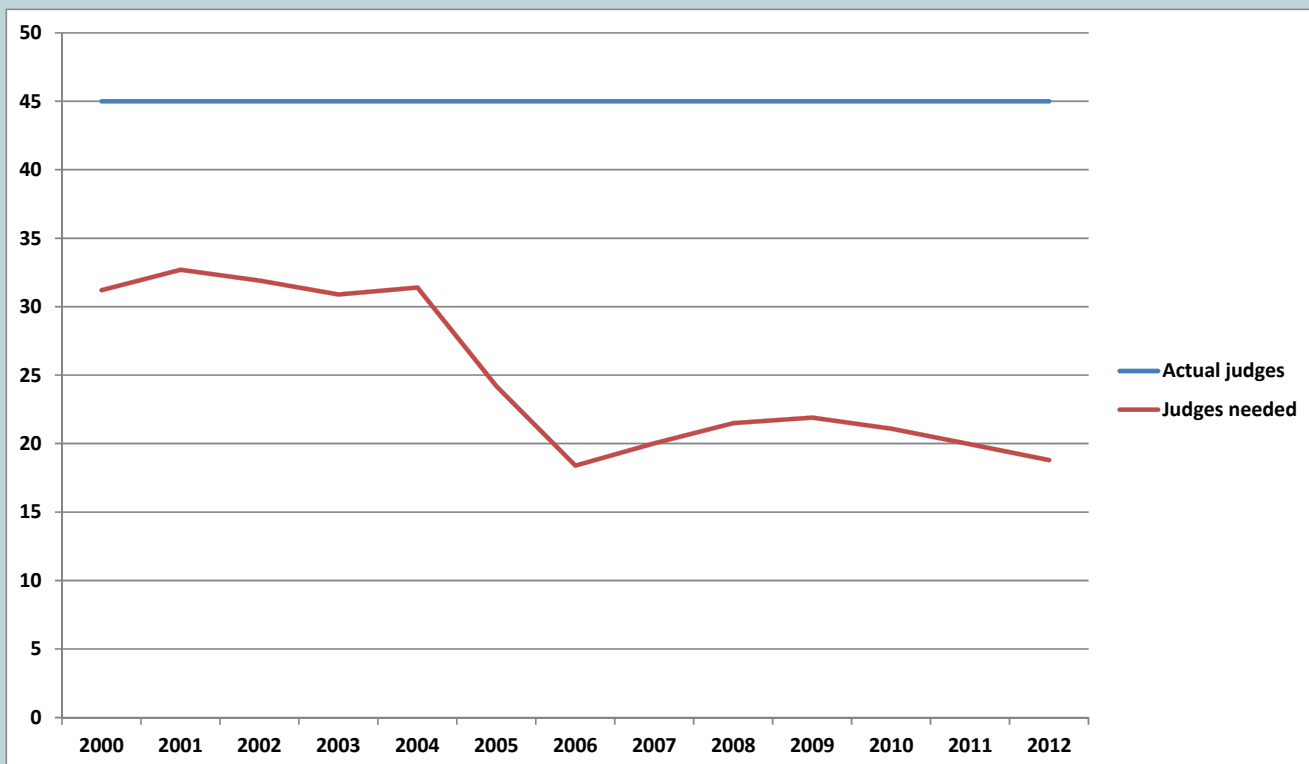
of case filings does not provide a definitive picture of a court's needs. This metric does, however, provide useful insight into a court's workload when viewed over time.

The Judicial Council's formula indicates that Orleans Parish has significantly more judges than it needs. The formula suggests that the parish's seven courts should have a total of 20 judges. That's 25 fewer than the 45 judges the courts currently have. (See Table 3 on p. 6.)

Six of the courts have at least twice as many judges as the formula estimates they need. Civil District Court, with 14 judges, needs seven. Criminal District Court, with 13, needs 6.3. Orleans Parish Juvenile Court, which has six judges, needs one. The parish's smallest court, Second City Court, has a workload that warrants just 0.12 of a judge. The only court that does not have a judicial surplus as measured by the council's formula is Municipal Court.

The council's workload formula indicates that Orleans Parish had too many judges pre-Katrina and that the

Chart A: Estimated Number of Judges Needed in Orleans Parish Trial Courts, 2000-12



Source: Prepared by BGR using data from the Judicial Council and its reports.

surplus has grown since then. According to the formula, the parish needed 31.4 judges before Katrina.²¹ Since Katrina, the number has hovered in the range of 19 to 22. Moreover, it has dropped in each of the last three years, even as the parish's population has continued to rebound. Chart A illustrates the post-disaster decline in the number of judges needed.

From a statewide perspective, Orleans Parish is clearly an outlier. According to the Judicial Council's formula, the parish as a whole has 125% more judges than it needs. For the rest of the state, the formula indicates a 24% surplus.

The number of surplus judges in Orleans Parish, 25, is far greater than in any other individual judicial district. Jefferson Parish, the district with the next highest estimated surplus, has six.

Orleans Parish also dominates the list of courts with excessive surpluses. Across the state, there are eight multi-judge courts that have at least twice as many judges as they need. Five of the eight are in Orleans Parish. (For more information on those courts, see Appendix D.)

Table 4 provides information on surpluses in the state's 10 largest judicial districts. (For the estimated judicial surpluses or shortages in all 42 judicial districts, see Appendix E.)

While Orleans Parish is an outlier, it is not the only judicial district in the state for which the Judicial Council's formula indicates a significant surplus. Among the 10 largest judicial districts in the state, Jefferson, Ouachita/Morehouse and Iberia/St. Martin/St. Mary have estimated surpluses of more than 20%.

Table 4: Estimated Judicial Surpluses at Trial Courts in the 10 Largest Judicial Districts, Average for 2010-12

Judicial District--Parishes	Actual Judges	Estimated Judges Needed	Estimated Surplus or (Deficit)	Surplus or (Deficit) %
41st--Orleans	45	20.0	25.0	125%
24th--Jefferson	23	16.7	6.3	38%
4th--Ouachita/Morehouse	16	10.9	5.1	46%
16th--Iberia/St. Martin/St. Mary	13	8.3	4.7	56%
15th--Acadia/Lafayette/Vermillion	19	16.1	2.9	18%
19th--East Baton Rouge	28	25.5	2.5	10%
22nd--St. Tammany/Washington	14	11.8	2.2	19%
1st--Caddo	18	17.8	0.2	1%
14th--Calcasieu	12	12.9	(0.9)	(7%)
21st--Livingston/Tangipahoa/St. Helena	11	12.3	(1.3)	(10%)
Statewide, excluding Orleans	264	213.7	50.3	24%

Notes: This analysis does not include justice of the peace and mayors' courts. The judicial districts listed are the largest both in terms of the number of judges and population.

Sources: State statutes and BGR calculations using the Judicial Council's workload formula and data from the council and its reports.

Nor is Orleans the only judicial district where the number of surplus judgeships has grown. The estimated surplus for the rest of the state has also increased in recent years. According to the Judicial Council's formula, there was one surplus judge in the district courts outside of Orleans in 2004. In 2012, there were 34.

The findings under the Judicial Council's workload formula are not the only indicators of a declining workload and growing judicial surplus in Orleans Parish. Raw case filing data also point to a declining workload. The combined number of annual filings, excluding traffic citations, has dropped 57% from its peak in 2002.²² (The trends for individual courts are discussed below.)

A declining workload and an increasing judicial surplus are not surprising in light of the population decline in Orleans Parish. Since 1980, the population has declined from approximately 560,000 to 370,000. As a result of the population decline and the addition of five judgeships during that time, the ratio of judges per

100,000 residents has risen from 7.2 to 12.2. While socio-economic variables among communities make the ratio a very imprecise indicator of judicial need, a rising ratio within a single jurisdiction warrants further investigation.

In the remainder of this section, BGR examines the workloads at individual courts.

Civil District Court

The Judicial Council’s formula indicates that Civil District Court needs about seven judges. That is half the actual total of 14.

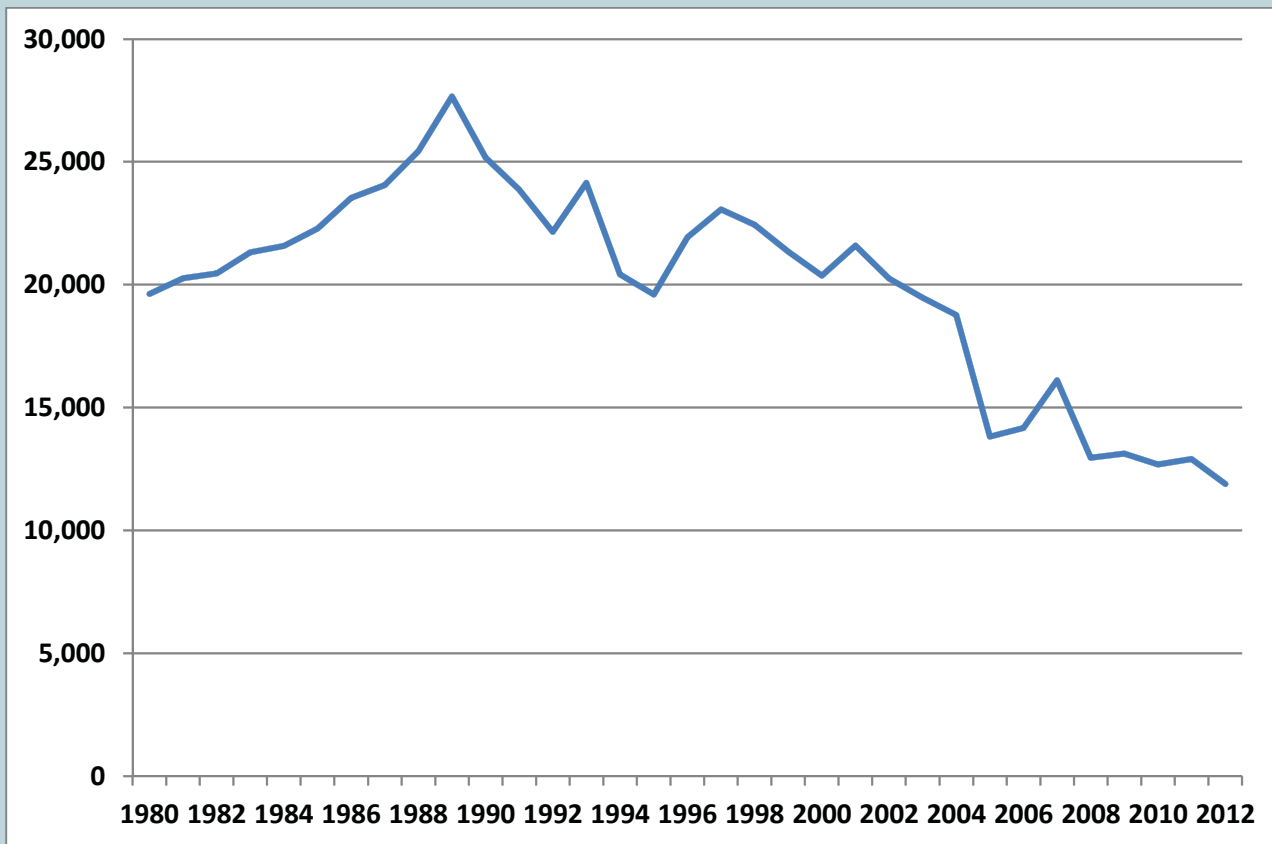
Three of the court’s judges are assigned to domestic cases while the rest handle general civil matters. The

Judicial Council’s formula indicates that the workload is not evenly distributed among them. Over the past three years, the 11 judges assigned to general civil cases handled an average workload suitable for 4.5 judges, while the three judges handling domestic matters managed a load for 2.3.

Civil District Court’s workload has been declining since 1989, according to the formula. At that time, the formula indicated a need for 16 judges.²³ The decrease was gradual until 2004 and sharp after Katrina. The 2012 workload estimate showing a need for 6.5 judges is the lowest in at least 25 years.

Raw case filing data also suggest a declining workload at Civil District Court. Filings have dropped 57% from their peak in 1989. (See Chart B.) Last year’s total was

Chart B: Civil District Court Filings, 1980-2012



Source: Prepared by BGR using data from Supreme Court annual reports and the Judicial Council.

JUSTICE OF THE PEACE AND MAYOR'S COURTS

The Judicial Council's analysis of judicial surpluses has focused on the state's 100 trial courts. The council has not developed a methodology for assessing workloads at mayor's courts and justice of the peace courts, which exist in all parishes outside Orleans.

The mayor's courts, which are run by a mayor or an appointed magistrate, handle violations of municipal ordinances, traffic tickets and misdemeanor arrests in municipalities that do not have city courts. Justices of the peace are elected and handle minor civil cases, litter violations and can serve as committing magistrates for misdemeanors.

Were the Judicial Council to study the workloads at these lower courts, its findings could increase the estimated judicial surpluses for court systems in other parishes. But this would have no bearing on the large estimated judicial surplus in Orleans Parish.

the lowest since 1964, when the court had six fewer judges than it has today.²⁴

The decline in civil filings at district courts outside Orleans Parish has been far less dramatic. Civil filings at those courts have dropped only 17% since 1989.

Court officials assert that the Judicial Council's formula and raw filing data provide an inaccurate picture of the court's workload. They claim that the formula fails to account for the high number of jury trials and complex litigation, such as class action and asbestos cases, handled by the court.

Civil District Court did have more civil jury trials from 2010 to 2012 than any other district court in the state. However, the number of jury trials per judge was below the average for district court judges outside of Orleans. Civil District Court judges averaged 3.1 jury trials per year, while the district court judges in other judicial districts averaged 4.2 jury trials. (The jury trials in these other district courts were a mix of civil and criminal matters. Judges averaged 1.1 civil trials and 3.1 criminal trials.²⁵)

The number of jury trials at Civil District Court has fallen even more sharply than case filings. They de-

clined from 226 in 1981 to 43 last year.²⁶

In its 2007 site visit report for the court, the Judicial Council noted that the court handled an inordinately high number of class action suits, averaging 24 per year between 2002 and 2006. The council acknowledged that such suits are among the most difficult and time-consuming of civil cases and that revisions to the workload formula might be necessary to reflect the time involved in such cases. It also noted that the court could request ad hoc judges to help with complex litigation and that the Supreme Court had approved 15 such requests from the court in the previous five years.

When BGR requested current numbers on class action, asbestos and other complex cases, the court responded that it did not have the data.

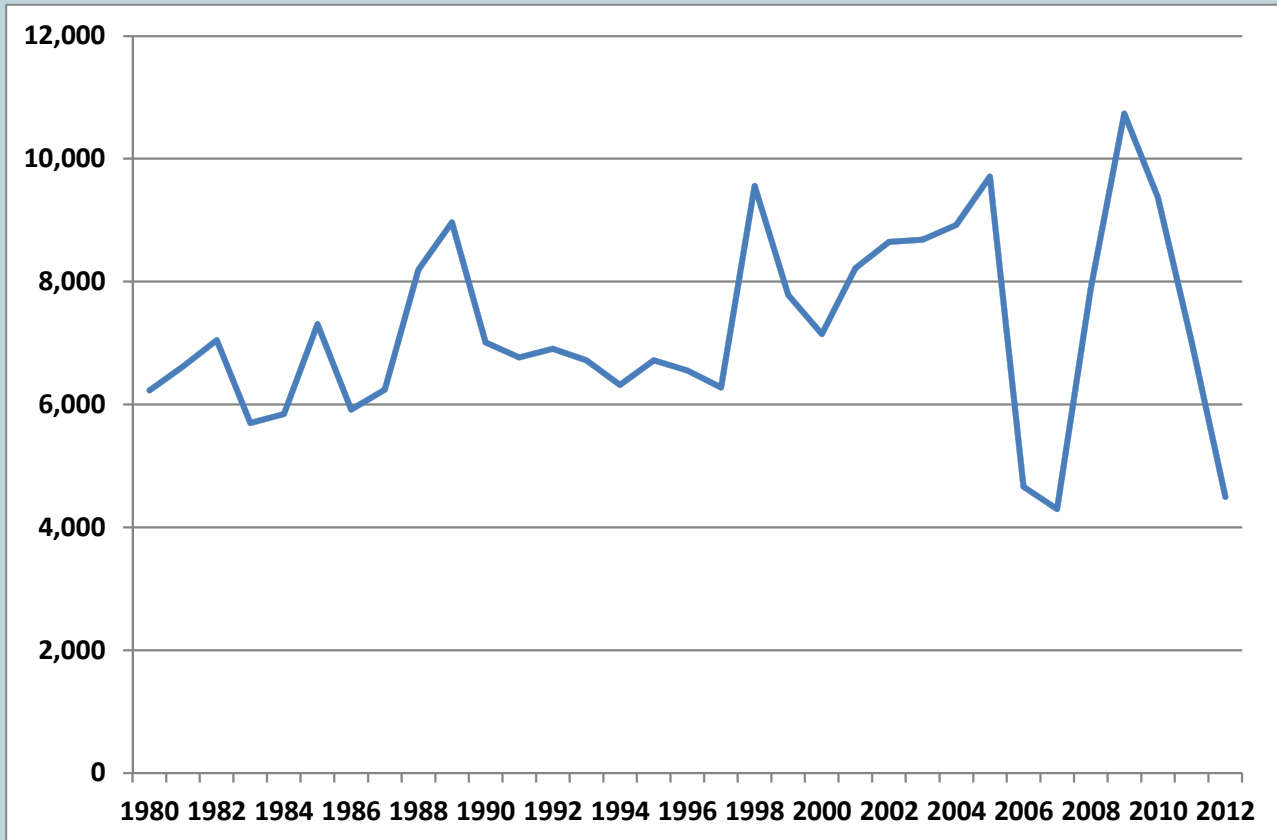
As noted earlier, the Judicial Council advised against cutting judgeships in 2007 because of the continuing turmoil from Hurricanes Katrina and Rita. It did, however, identify six judgeships that could be cut if the Legislature nonetheless wanted to proceed. Three were at Civil District Court. Since then, the workload indicators for the court have shown a continuing decline.

Criminal District Court

The Judicial Council's formula estimates that Criminal District Court, which has 13 judges, needs 6.3, the same number the formula indicated pre-Katrina.

The Judicial Council has indicated that its formula does not accurately measure the workload of Criminal District Court. As noted earlier, the formula gives all felonies the same weight. As a result, it fails to take into account the complexity of the court's caseload, particularly the disproportionately high number of time-consuming murder cases and jury trials. Criminal District Court has averaged 20.5 jury trials per judge over the last three years. That is nearly five times the average of 4.2 jury trials per judge for district courts in other parishes.²⁷ (As noted earlier, the average includes 1.1 civil trial and 3.1 criminal trials.) The disparity is even higher for the most serious cases. The rate of murder trials per judge at Criminal District Court is eight times the average for the rest of the state.

Chart C: Criminal District Court Filings, 1980-2012



Source: Prepared by BGR using data from Supreme Court annual reports and the Judicial Council.

The Judicial Council has in the past made adjustments for the disproportionately high number of serious felonies handled by Criminal District Court. In evaluating the court's 1995 request for three new judgeships, a council site visit team said that a purely statistical evaluation indicated that the court, which had 11 judges at the time, needed just seven. However, based on the court's high number of jury trials and other factors, the site team recommended two new judgeships.²⁸ The Legislature created them, raising the total to the current 13.

The Judicial Council revisited the court in 2007 as part of its study to determine the number of judges needed at each district court. Citing uncertainty about the pace of the city's recovery from Katrina and the high crime rate, the council made a recommendation to "maintain the court as is but continue to monitor and study."²⁹

Since then, the court's workload has declined in one noteworthy respect. In mid-2011, the Orleans Parish District Attorney began prosecuting most misdemeanors

in Municipal Court. As a result, the number of misdemeanors at Criminal District Court plunged from 3,619 in 2010 to just 216 last year.

The steep decline in misdemeanor filings had a relatively modest effect on the court's workload as measured by the Judicial Council's formula, reducing the number of judges needed by 0.4 of a judge.³⁰ However, Criminal District Court's own workload calculations suggest that the decline in misdemeanor cases reduced the number of judges needed by a larger number. In its 2007 response to the Judicial Council's findings on its workload, the court indicated that misdemeanors took the equivalent of nearly three judges.³¹ If its analysis was accurate, the transfer of the misdemeanor cases eliminated the need for those judges.

In contrast to the downward trajectory of case filings at Civil District Court, filings at Criminal District Court have fluctuated since 1980. As Chart C indicates, the ups and downs have become much more pronounced

THE COMMISSIONERS

Criminal District Court, like most of the state's larger district courts, has commissioners. Along with the court's elected magistrate judge, the four appointed commissioners conduct first appearance hearings, set bonds, issue search warrants and hold preliminary hearings for misdemeanor and felony cases. The commissioners also held misdemeanor trials and accepted guilty pleas until a 2010 decision by the Louisiana Supreme Court declared the practice unconstitutional.* The commissioners work part time and are paid 55% of the salary of a judge.

Although commissioners perform duties that would otherwise be handled by an elected judge, they are not counted as judges in the Judicial Council's annual court workload assessments. However, the council takes commissioners into account during site visits to evaluate whether requested new judgeships are warranted.

The commissioners' workload has been significantly reduced by the Supreme Court ruling and the transfer of most misdemeanor cases to the Municipal Court. Yet there have been no reductions. This is another matter that should be considered by the Judicial Council and Legislature.

* *State v. Smalls*, 48 So. 3d 212 (La. 2010).

since Katrina. In 2006, case filings plunged more than 50%. But by 2009, filings had reached the highest level in at least four decades. That peak was followed by another steep decline of nearly 60% over the past three years. The most recent decline in filings is largely attributable to the District Attorney's decision to try most misdemeanors in Municipal Court.

Orleans Parish Juvenile Court

The Judicial Council's formula indicates that Juvenile Court's caseload could be handled by one judge. The court has six.

The court had nearly four surplus judges even before Katrina, according to the formula.³² Since then, the court's workload has dropped by 50%.

The court's estimated surplus is so large that it prompted the Judicial Council team that visited the court in 2007 to review whether the filing data had been under-report-

ed. The team revised the figures slightly after learning of problems with the court's computer system, but the change did little to shrink the estimated surplus.³³ After completing its analysis, the Judicial Council indicated that the number of judges could be cut to three, but it recommended waiting to give the court and community more time to recover from Katrina.

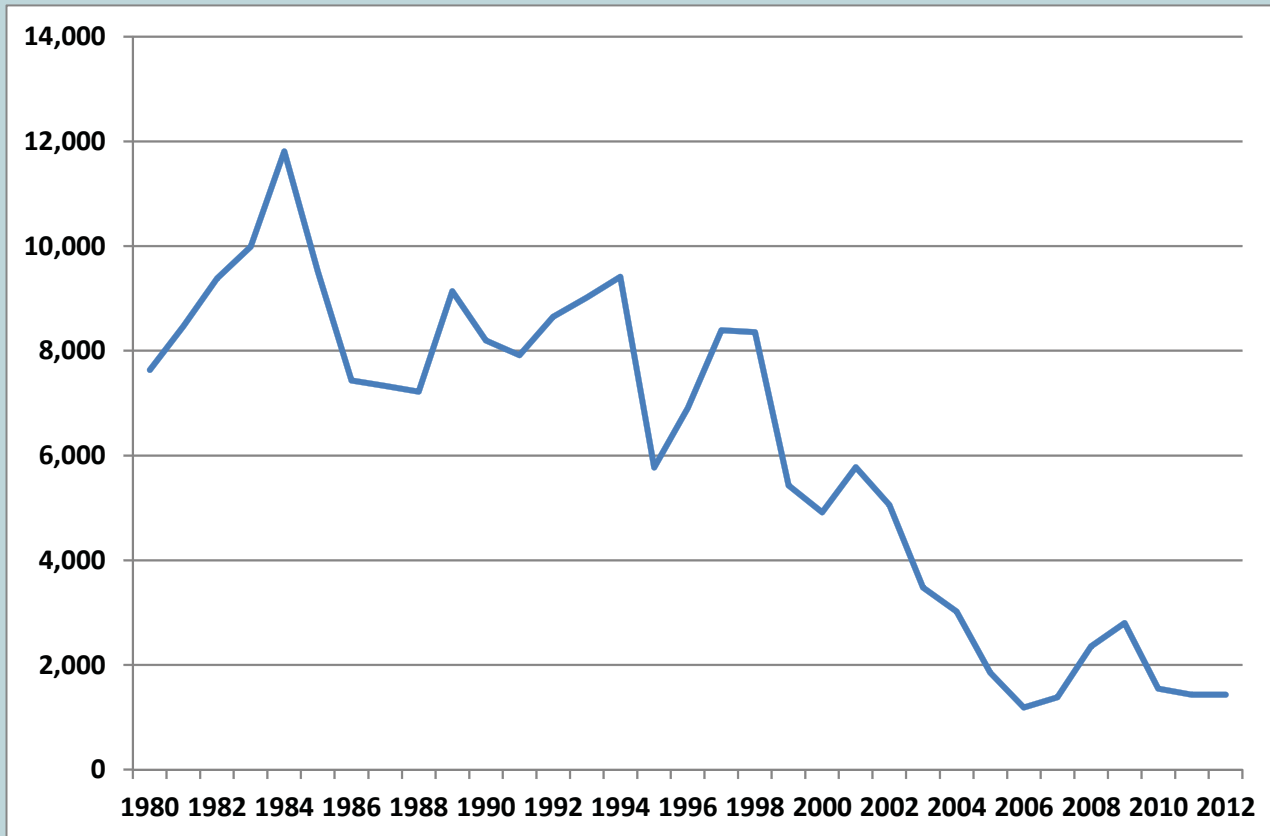
Juvenile Court's chief judge asserts that the Judicial Council's workload formula fails to account for time-consuming juvenile justice reform initiatives, including the court's participation in the Model Court program for handling child abuse and neglect cases. The Judicial Council's guidelines allow it to increase the number of work points that can be given to child abuse and neglect cases more than three-fold, depending on the extent to which the court has implemented best practices for such Child in Need of Care (CINC) cases. However, it awards the extra work points only if it verifies through a site visit that the court meets the criteria.

BGR calculated the impact that the extra weights for CINC cases might have on the need for judges in Orleans Parish. For purposes of the calculation, it assumed that all CINC cases merited the formula's highest case weighting. It found that the number of judges needed would increase from 0.8 to 1.2 judges.

A review of Juvenile Court's case filing data indicates the court's workload has been on a general downward trajectory for nearly three decades. As Chart D illustrates, the court's filings have plunged 88% from their peak in 1984. Filings have held steady over the past few years, suggesting the court's workload has reached a new post-Katrina normal that is significantly lower than before the disaster. The average number of filings from 2010 to 2012 was down more than 60% from the three full years before Katrina.³⁴

The steep drop in case filings at Orleans Parish Juvenile Court since 1984 is more pronounced than the declines at the three juvenile courts in other parishes. Combined filings at the juvenile courts in Caddo and Jefferson parishes dropped just 1% from 1984 to 2012. Case filings at East Baton Rouge Parish Juvenile Court, which began operations in 1991, dropped 29% from 1991 to 2012.

Chart D: Orleans Parish Juvenile Court Filings, 1980-2012



Source: Prepared by BGR using data from Supreme Court annual reports and the Judicial Council.

Part of the precipitous drop in filings at Orleans Parish Juvenile Court is related to a mid-1990s decision by the District Attorney's Office to file child support cases in Civil District Court, instead of Juvenile Court. Before the change, Juvenile Court had an average of nearly 1,700 such cases a year. It took the equivalent of two judgeships to handle the child support cases.³⁵ The removal of those cases eliminated a sizable portion of the court's workload, but there was no corresponding reduction in the number of judgeships. According to the court's chief judge, it is unclear what other factors contributed to the sharp decline in filings.

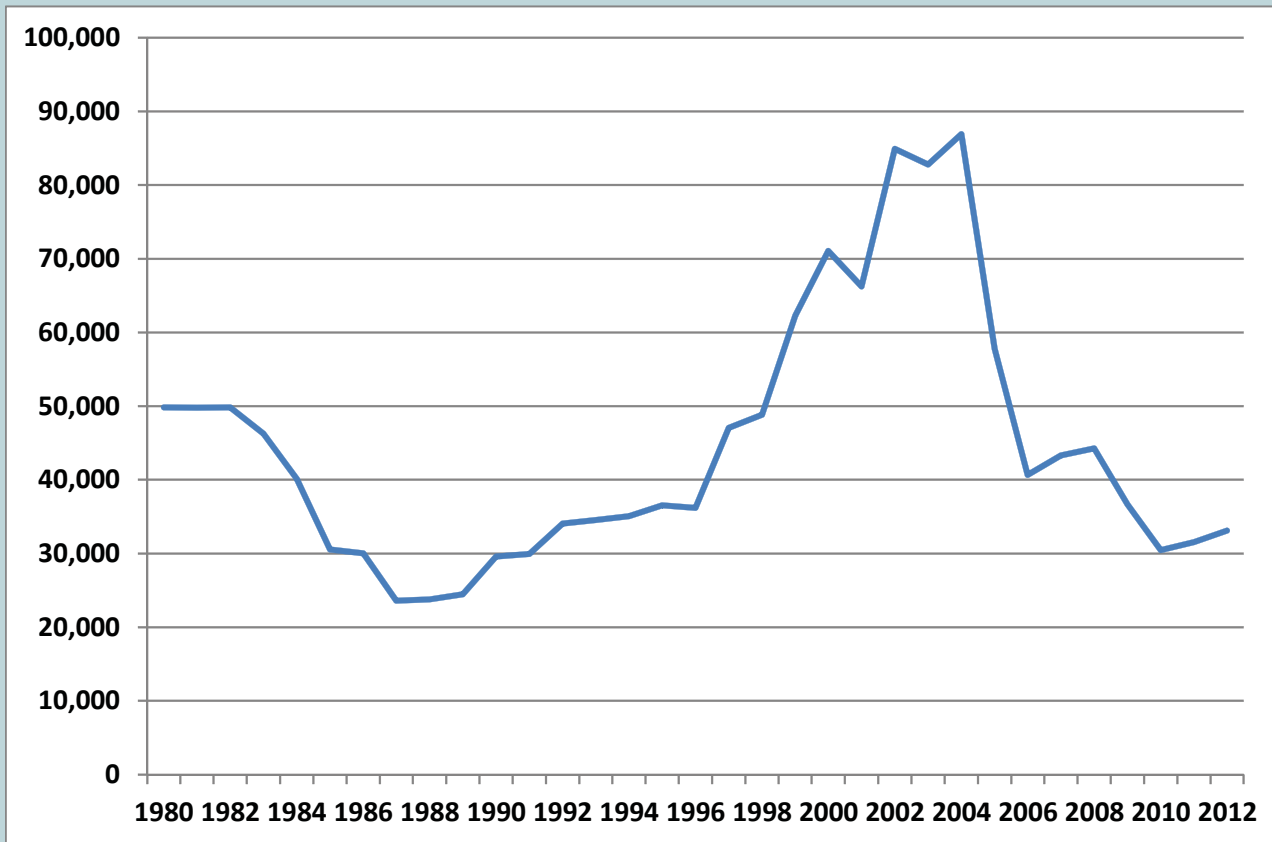
As noted above, three other parishes in the state – Caddo, East Baton Rouge and Jefferson – have courts that exclusively handle juvenile matters. The courts in Caddo and Jefferson parishes have three judges each, while the one in East Baton Rouge Parish has two. Unlike Orleans Parish, the juvenile courts in Caddo and Jefferson parishes have hearing officers who handle child

support cases. The East Baton Rouge juvenile court had a hearing officer until 2011, when child support cases were transferred to the parish's family court. In order to make a fair comparison of the work performed by judges at the four juvenile courts, BGR excluded cases handled by hearing officers from its calculations.³⁶

Although Orleans Parish Juvenile Court has two or three times more judges than the other juvenile courts, it handled less than half their average workloads from 2010-12. The average caseload of a juvenile judge in the other parishes was four to eight times larger than that of a juvenile judge in Orleans. (For a comparison of the workloads of juvenile courts, see Appendix F.)

The comparison indicates that the Orleans court is an outlier, and an extreme one at that. Indeed, Orleans Parish Juvenile Court's estimated 660% judicial surplus is easily the highest of any court in the state with more than one judge.

Chart E: Municipal Court Filings, 1980-2012



Source: Prepared by BGR using data from Supreme Court annual reports and the Judicial Council.

Municipal Court

Municipal Court is the only Orleans court that does not have an estimated judicial surplus. The Judicial Council’s formula indicates that Municipal Court has a caseload suitable for four judges. The court has a full-time chief judge and three “part-time” division judges. (See the sidebar for a discussion of part-time judges.)

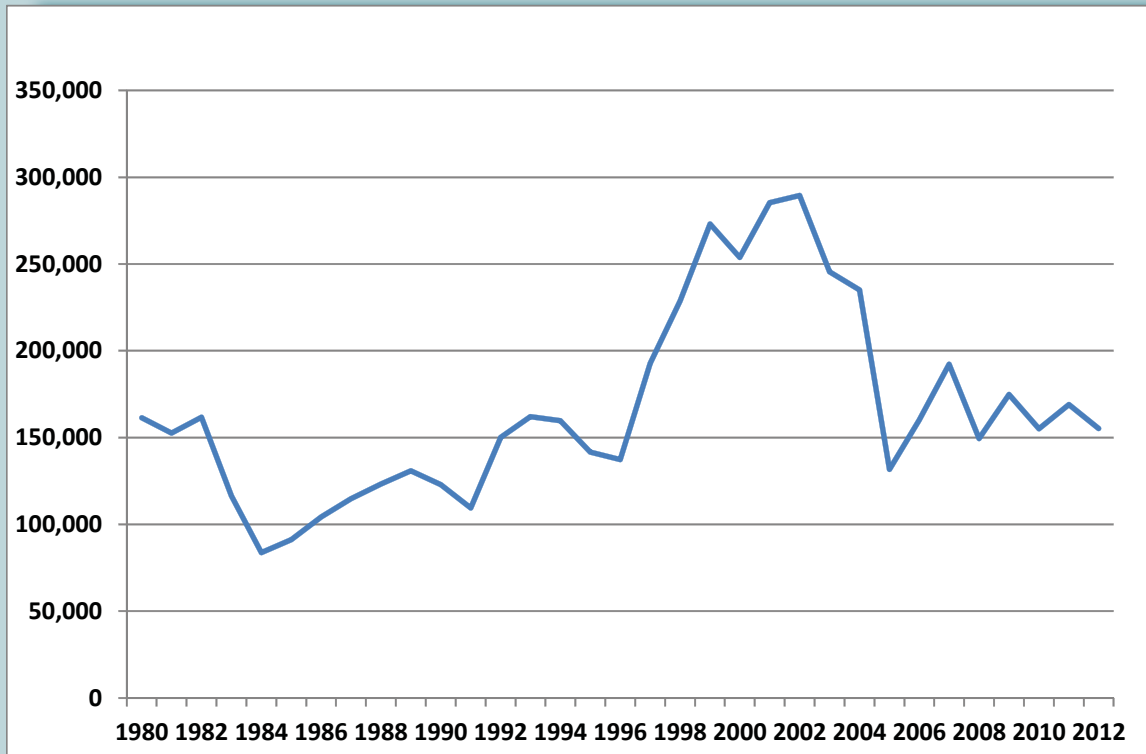
The formula indicated that Municipal Court needed six judges prior to Katrina. Since then, its workload has declined. The drop in workload is also reflected in case filings, which are down more than 60% from pre-Katrina levels as shown in Chart E.³⁷

As noted earlier, in 2011 the District Attorney began prosecuting the vast majority of state misdemeanor cases in Municipal Court. The court’s chief judge asserts

that the Judicial Council’s formula does not adequately account for the time involved in those cases, which include domestic abuse and drug possession charges. The judge points out that they are more complex than the misdemeanors the court was previously handling. However, she said the court has so far been able to keep up with its workload with the current allotment of four judges. This is the same number that the formula indicates the court needs.

The part-time judgeships at Municipal and Traffic courts complicate efforts to assess how many judges these courts need. Because the Judicial Council’s formula assumes that all judges work full time, the workload calculations can overstate the surplus for courts with part-time judges. However, Municipal Court’s chief judge indicated that the part-time judges carry the same caseloads and work the same half-day court

Chart F: Traffic Court Filings, 1980-2012



Source: Prepared by BGR using data from Supreme Court annual reports and the Judicial Council.

sessions as the full-time judge, who serves as the chief judge and has greater administrative duties. All of the court's judges also work one Saturday a month setting bonds and performing other due-process duties that are handled by the magistrate and commissioners at Criminal District Court.

Traffic Court

The Judicial Council's formula indicates that Traffic Court needs 1.2 judges. It has four, three of whom hold "part time" positions.

As Chart F illustrates, filings at Traffic Court, the state's only court specializing in traffic cases, are down sharply from the pre-Katrina level. Filings have dropped 46% since peaking in 2002.

Traffic Court's chief judge indicated that the court could handle its caseload with three judges instead of four. However, a one-judge reduction would still leave the court with an estimated surplus of nearly two judges.

The court's judicial administrator said the council's workload formula does not award enough points to DWI cases. Even if the weights were adjusted to the extent that the court deems appropriate, the court would need only two judges. Ultimately, this is the type of issue that the Judicial Council would consider during a site visit.

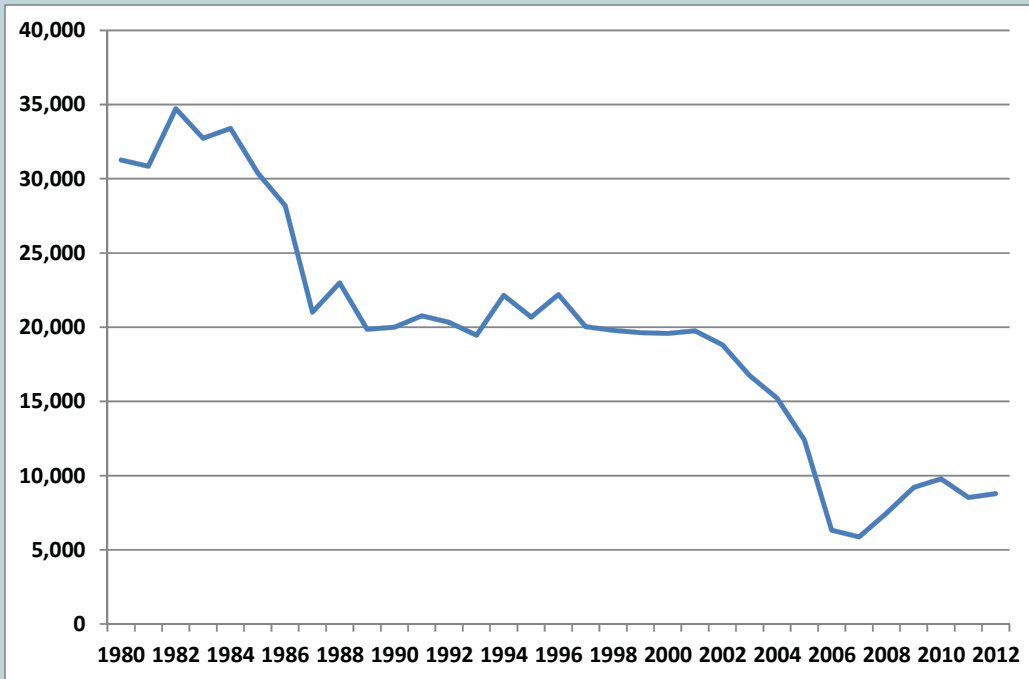
First and Second City Courts

The Judicial Council's formula indicates that First City Court on the city's east bank needs 0.7 of a judge. It has three.

The formula indicates that Second City Court in Algiers, which has one judge, needs 0.12 of a judge.

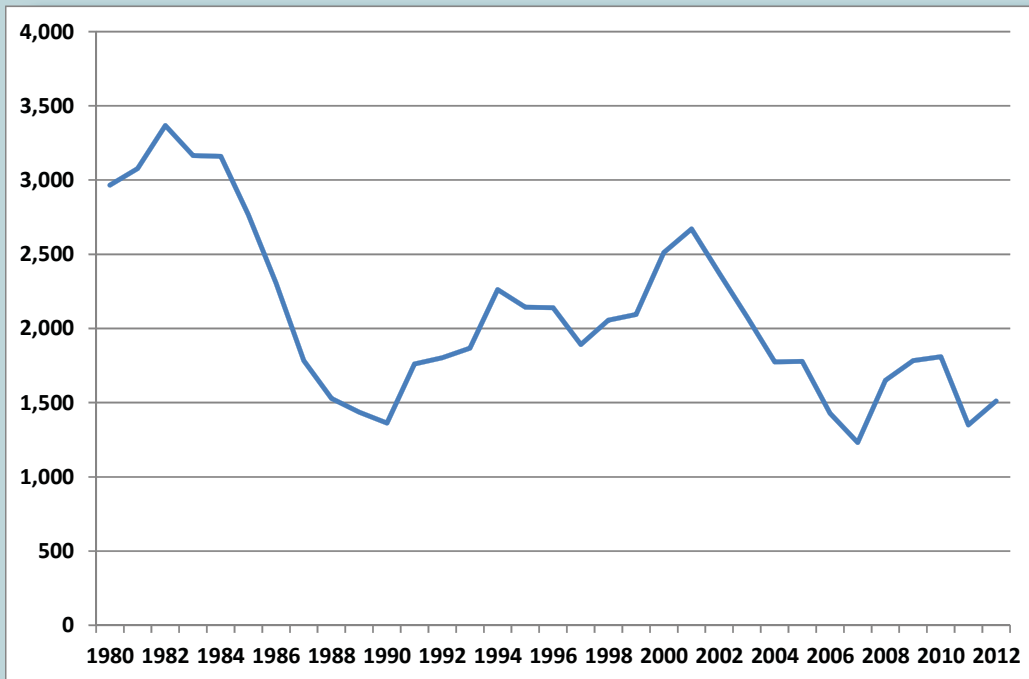
State law allows the Supreme Court to transfer judges and clerks between the two courts "whenever the business of either court requires it."³⁸ It also directs the Second City Court judge to act as a judge at First City Court. The judge currently spends one day a week there

Chart G: First City Court Filings, 1980-2012



Source: Prepared by BGR using data from Supreme Court annual reports and the Judicial Council.

Chart H: Second City Court Filings, 1980-2012



Source: Prepared by BGR using data from Supreme Court annual reports and the Judicial Council.

handling small-claims cases. Given the interchangeable nature of the two courts, it is useful to analyze their collective caseloads.

Applying the Judicial Council’s formula to the combined caseloads of First City and Second City courts yields a need for 0.8 of a judge. This indicates the courts have an estimated surplus of three judgeships. Because the courts handle a mix of small-claims and eviction cases that require little judge time,³⁹ there do not appear to be any factors that would call the formula’s estimates into question.

As Charts G and H indicate, case filings at both courts have fallen precipitously during the past three decades. From a peak of nearly 35,000 in 1982, filings at First City Court dropped 75% to 8,794 last year. Case filings at Second City Court have dropped about 50% since 1980.

In its 1989 study of the Orleans Parish court system, the National Center for State Courts recommended eliminating Second City Court and its judgeship. “It is generally conceded that there is no current need for the Second City Court. It should be eliminated,” the report stated.⁴⁰ The court’s case filings are at approximately the same level today as when that report was written.

Comparisons to Other Parishes: Orleans Parish’s Four City-Level Courts

The city courts in other parishes do not specialize in traffic, civil or criminal matters as the Orleans courts do. As a result, there are no suitable individual comparisons for Orleans Parish’s four city-level courts. However, grouping the four courts together allows for apples-to-apples comparisons with other city courts. This section compares the collective workload of the 12 judges at Municipal, Traffic, First City and Second City courts with that of the five full-time judges at Baton Rouge City Court.

Like Municipal Court, Baton Rouge City Court handles misdemeanors and violations of city ordinances. Like First City and Second City courts, the Baton Rouge court handles minor civil cases. And like Traffic Court, it has jurisdiction over traffic tickets and DWI cases.

The per-judge workload in the Orleans courts was just

PART-TIME JUDGES

Across the state, 50 trial court judges hold part-time positions, all at city-level courts. The vast majority of them are in single-judge courts that have relatively light caseloads that do not warrant a full-time judge. The only courts in Louisiana with more than one part-time judge are Municipal and Traffic courts, each of which has three, and Lake Charles City Court, which has two.

There are no statutory requirements for how many hours part-time judges must work. The designation simply allows them to maintain a private law practice while serving on the bench, in contrast to full-time judges, who are prohibited from doing so.

In its 1989 study of the Orleans Parish court system, the National Center for State Courts recommended converting the parish’s part-time judgeships to full time. The report said permitting judges to have outside law practices poses conflict problems.* The city’s Office of Inspector General made a similar recommendation in a 2011 report on Municipal and Traffic courts.**

While the parish’s six part-time judges are paid approximately 20% less than their two full-time counterparts, they have support staff costs similar to those of their full-time counterparts. As a result, the average personnel cost for the six part-time judges and their staffs was just 8% below the average cost for the two full-time judges and their staffs. The lack of substantial savings eliminates the primary benefit of part-time judgeships and supports the idea of converting them to full-time positions.

* National Center for State Courts, *A Study of the Administration and Financing of the Orleans Parish Trial Courts*, October 1989, p. 120.

** City of New Orleans Office of Inspector General, *Assessment of New Orleans’ System of City Courts and Performance Review of New Orleans Traffic Court*, November 2011, p. 58.

40% of the per-judge workload in the Baton Rouge court from 2010-12. The workload disparity was most pronounced with civil and traffic cases. The per-judge workload for the Orleans judges handling them was approximately one-third that of their Baton Rouge counterparts. This reinforces earlier indications that Orleans has too many judges at Traffic Court and the small-claims courts.

(For more details of the workload comparison between Baton Rouge City Court and Orleans Parish’s four city-

level courts, see Appendix G.)

Summary of Findings

The Judicial Council’s court workload formula indicates that the Orleans Parish court system has significantly more judges than it needs. The formula estimates the parish needs 20 judges – 25 fewer than the 45 it has. It also indicates that six of the parish’s seven courts have at least twice as many judges as needed.

Trends in case filings provide additional evidence of a declining workload at most of the courts. Filings at Civil District Court, Juvenile Court, First City Court and Second City Court have dropped by 55% to 88% since peaking in the 1980s. Despite the significant drops in case filings at these courts, no judgeships have been eliminated. In fact, the number of judges in Orleans Parish has increased by five since 1991.

Although the Orleans Parish court system’s unique structure limits comparisons to courts in other parishes, the limited comparisons that can be made suggest that Orleans has more judges than it needs. The five judges at Baton Rouge City Court handle a workload that is very similar to that of the 12 judges at Orleans Parish’s four city-level courts. Meanwhile, the three other juvenile courts in the state manage a workload that is more than double that of Orleans Parish Juvenile Court with half or one-third of the number of judges.

While each of the metrics for assessing judicial need has limitations, they serve as indicator lights, letting officials know where they need to make a closer examination of excess judgeships. The lights are flashing in several spots across Louisiana. And they are blinking furiously in New Orleans.

THE COST OF SURPLUS JUDGESHIPS

Staffing Levels and Budgets for Orleans Courts

An oversized judiciary can waste significant amounts of public money. In this section, BGR analyzes staffing levels and budgets for the Orleans courts. It then estimates the costs associated with surplus judges, as well as potential savings associated with rightsizing the courts.

Each Orleans Parish judge, like the vast majority of judges across the state, has a personal staff. These positions typically include court reporters, minute clerks, law clerks and secretaries or administrative assistants. The number of personal staff per judge ranges from three for the Second City Court judge to an average of 7.8 for the Municipal Court judges.⁴¹ The average for the parish’s judges was 4.9 in 2012.

The courts also have administrative, accounting and clerical employees who serve the court as a whole. Table 5 provides information on staffing levels for the Orleans courts.

Table 5: Orleans Parish Courts 2012 Staffing Levels

Court	Judges	Total Personal Staff Members	Average Staff Size Per Judge	Other Court Employees	Total Court Employees	Total Court Employees Per Judge
Criminal District Court	13	68	5.2	60	128	9.8
Traffic Court	4	24	6.0	48	72	18.0
Civil District Court	14	56	4.0	15	71	5.1
Municipal Court	4	31	7.8	18	49	12.3
Juvenile Court	6	25	4.2	23	48	8.0
First City Court	3	12	4.0	16	28	9.3
Second City Court	1	3	3.0	2	5	5.0
TOTAL	45	219	4.9	182	401	8.9

Note: In addition to the employees above, the clerk of Civil District Court employed 137 and the clerk of Criminal District Court employed 86.5.
Source: Prepared by BGR using information provided by courts.

Table 6: Orleans Parish Court System Expenditures, 2011

	Judges	Salaries and Benefits*	Other Expenses	Total
Criminal District Court	13	\$8,594,963	\$3,616,159	\$12,211,122
Clerk of Civil District Court**		\$6,533,104	\$2,675,300	\$9,208,404
Civil District Court	14	\$7,402,534	\$880,197	\$8,282,731
Orleans Parish Juvenile Court	6	\$5,526,219	\$789,147	\$6,315,366
Traffic Court	4	\$4,173,625	\$1,229,460	\$5,403,085
Clerk of Criminal District Court		\$3,998,632	\$612,753	\$4,611,385
Municipal Court	4	\$2,993,196	\$498,897	\$3,492,093
First City Court	3	\$2,432,195	\$392,194	\$2,824,389
Second City Court	1	\$587,838	\$73,455	\$661,293
TOTAL	45	\$42,242,306	\$10,767,562	\$53,009,868

* Includes state's share of judges' salaries and benefits.

** Figures are for the 2011-12 fiscal year.

Sources: State statutes, audited financial statements for the courts and clerks' offices, and BGR calculations based on those statements and information provided by the Judicial Council.

According to NCSC officials, courts across the country typically average between eight and 10 employees per judge. The Orleans courts fall in the middle of that range, with an average of 8.9 employees per judge. That's lower than the staffing ratios for the court systems in Jefferson Parish and East Baton Rouge Parish, which had 9.7 and 11.7 employees per judge, respectively, in 2012.

Personnel and operating expenses for the seven Orleans Parish courts and two clerk's offices in Orleans Parish totaled \$53 million in 2011, the most recent year for which audited financial statements were available when BGR prepared this report. As shown in Table 6, Criminal District Court had the highest costs, at \$12.2 million, followed by the Clerk of Civil District Court, at \$9.2 million, and Civil District Court, at \$8.3 million. The expenses do not include the cost of maintaining the court buildings, which is the city's responsibility.

The Cost of a Judgeship

In this section, BGR estimates the average cost of a judgeship at each of the courts and the savings from

eliminating a judgeship. The cost per judge includes salaries and benefits for the judge, the judge's personal staff and, where applicable, clerk of court employees and security personnel assigned to the judge's section.

As Table 7 (p. 20) indicates, the estimated savings from eliminating a judgeship range from \$715,242 for a Criminal District Court judgeship to \$412,152 for a judge at First City Court. The average annual cost of the parish's 45 judgeships is \$571,485.⁴²

As noted earlier, the Judicial Council has not taken the steps necessary to make a finding as to the number of excess judges in Orleans Parish or elsewhere in the state. This makes it impossible to predict the savings that would accrue if all unnecessary judgeships were eliminated. BGR notes that reducing the surplus judgeships in Orleans to the same level as in the rest of the state (*i.e.*, to 24% of the number needed) would decrease personnel costs alone by approximately \$11 million a year.⁴³

Table 7: Estimated Savings from Eliminating a Judgeship at Each Orleans Parish Court

Court	Judge's Compensation	Judge's Staff		Clerk of Court		Courtroom Security****		Total Savings
		Positions Eliminated	Salaries and Benefits	Positions Eliminated	Salaries and Benefits	Positions Eliminated	Salaries and Benefits	
Criminal Court	\$202,894	5.2	\$348,345	2.5**	\$91,916	2	\$72,086	\$715,242
Second City Court	\$190,792	4	\$285,083	2***	\$147,521	0	\$0	\$623,397
Municipal – Chief judge	\$170,772	8	\$379,532	0	\$0	1	\$53,858	\$604,163
Municipal – Division judge*	\$145,334	7.7	\$371,869	0	\$0	1	\$53,643	\$570,846
Civil Court	\$202,894	4	\$274,583	2	\$74,019	0	\$0	\$551,496
Juvenile Court	\$202,894	4.2	\$219,801	0	\$0	1	\$47,701	\$470,396
Traffic Court – Chief judge	\$170,711	6	\$277,178	0	\$0	0	\$0	\$447,889
Traffic – Division judge*	\$139,763	6	\$277,210	0	0	0	0	\$416,973
First City Court	\$190,792	3	\$221,360	0	\$0	0	\$0	\$412,152

Note: Numbers may not add up due to rounding.

* “Part-time” judgeship.

** This includes two employees assigned by the Clerk of Criminal District Court to each section of the court and an additional half-time position in the clerk’s central office that the clerk said would no longer be needed.

*** Eliminating the sole judge at Second City Court would effectively abolish that court, rendering the court’s clerk and deputy clerk unnecessary.

**** The New Orleans Police Department provides courtroom security at Municipal Court and Orleans Parish Juvenile Court. The Orleans Parish Sheriff’s Office provides courtroom security at Criminal District Court.

Source: BGR calculations using data for fiscal 2012 provided by the courts, clerks’ offices, the City of New Orleans, the Orleans Parish Sheriff’s Office and the Judicial Council.

Which Entities Would Reap the Savings?

Louisiana’s courts are primarily funded by a mix of state, local and self-generated revenues.⁴⁴ The state pays the full cost of salaries and benefits and certain other expenses for all district-level judges. Those costs totaled nearly \$203,000 per judge in 2012.⁴⁵ The state provides additional funding to a handful of district courts, including the Criminal District Court, for the salaries of some court employees and office expenses.⁴⁶ The state also pays a portion of the salaries and benefits for most city and parish court judges. This amounts to nearly \$69,000 for each of the parish’s 12 city court judgeships.⁴⁷

The city is required by statute to fund certain positions at the three criminal courts and Juvenile Court,

as well as the Clerk of Criminal District Court’s Office. The city provided these entities a total of \$14 million in 2011, the last year for which audited financial statements were available when this report was prepared. Total city funding for these entities decreased to \$12.6 million in the 2012 budget and dropped further to \$10.1 million in the city’s 2013 budget. The city’s 2013 budget allocates \$3.7 million for the Clerk of Criminal District Court, \$2.6 million for Juvenile Court, \$1.9 million for Municipal Court, \$1.5 million for Criminal District Court and \$390,000 for Traffic Court.

The courts in Orleans Parish also use revenues collected from fines and fees to meet certain court expenses. The courts deposit the revenues into judicial expense funds. The parish’s three civil courts – Civil District

Table 8: Allocation of Estimated Savings from Eliminating a Judgeship

Court	State	Local	Judicial Expense Fund	Total
Criminal District Court	\$344,451	\$370,791	\$0	\$715,242
Second City Court	\$68,929	\$0	\$554,468	\$623,397
Municipal Court -- Chief judge	\$68,929	\$535,233	\$0	\$604,163
Municipal Court -- Division judge*	\$68,929	\$501,917	\$0	\$570,846
Civil District Court	\$202,894	\$1,029	\$347,573**	\$551,496
Orleans Parish Juvenile Court	\$202,894	\$267,502	\$0	\$470,396
Traffic Court -- Chief judge	\$68,929	\$378,960	\$0	\$447,889
Traffic Court -- Division judge*	\$68,929	\$348,044	\$0	\$416,973
First City Court	\$68,929	\$2,000	\$341,223	\$412,152

Note: Numbers may not add up due to rounding.

* "Part-time" judgeship.

** \$74,019 of this amount would accrue to the Clerk of Civil District Court's Clerk's Salary Fund, instead of Civil District Court's Judicial Expense Fund.

Source: BGR calculations using 2012 data provided by the courts, clerks' offices, the City of New Orleans, the Orleans Parish Sheriff's Office and the Judicial Council.

Court, First City Court and Second City Court – share a judicial expense fund that covers virtually all expenses (other than judges' compensation paid by the state) with self-generated revenue. The Clerk of Civil District Court's office also is self-funded by the fees it charges for filing court documents as well as mortgage and conveyance records. The civil court system receives a negligible amount of funding from the city.⁴⁸

Table 8 shows the amount that entities supporting the courts would save from eliminating a judgeship. For courts that receive revenue from the City of New Orleans, BGR assumed that all non-state savings would accrue first to the city, rather than the court's judicial expense fund.

The savings in the chart are for single judgeships. Total savings would increase arithmetically as additional judgeships were eliminated (*e.g.*, the total savings for a court would double if two judges were eliminated). However, in some cases the allocation of savings between the local and the judicial expense fund categories

would change as the number of eliminated judgeships increased. That is because the city's savings can reach a limit.⁴⁹

Under current law, savings accruing to a court's judicial expense fund would benefit that court. However, with changes to the law, these savings could be redirected to other entities. For example, savings that accrue to Traffic Court's judicial expense fund could be redirected to the city. Savings that accrue to the civil courts' judicial expense fund could be redeployed to subsidize the criminal courts. That type of subsidization already occurs in other parishes, where one district court handles both civil and criminal cases. Implementing such an arrangement would require legislative action.

Ultimately, rightsizing the courts is about more than re-allocating funds among government entities. Funding unnecessary judgeships and court staff consumes substantial resources that could be deployed to meet pressing needs in the justice system, the city and the state.

RECONFIGURING THE COURTS

Eliminating judgeships at individual courts would be the simplest and most direct way to address the parish's apparent judicial surplus. However, various structural changes, such as court mergers, offer the possibility of achieving additional efficiencies and savings.

After Katrina, the Legislature passed a bill to merge Civil District Court, Criminal District Court and Juvenile Court by 2010. The merger, which would not have resulted in the elimination of any judgeships, was later pushed back to 2014 and then killed.

While the merger of the three district-level courts appears to be dead for the time being, there are other opportunities to create greater efficiencies through structural changes. Possibilities include merging Municipal and Traffic courts; combining First City and Second City courts; and merging the four courts at the city level into one. A full analysis of these changes is beyond the scope of this report, but some observations can be made about the merits of the various options.

Municipal and Traffic Courts. In 2011, the city's Office of Inspector General (OIG) recommended merging Municipal and Traffic courts; reducing the combined number of judges from eight to five; and making all of the judgeships full time. The OIG estimated that consolidating the court and reducing the number of judges would save \$2.5 million a year.* This is significantly larger than the amount that could be saved by simply eliminating surplus judgeships at the two courts.

First City and Second City Courts. As noted earlier, Second City Court in Algiers has a caseload suitable for one-tenth of a judge. Eliminating that judgeship would, of course, eliminate the need for that court.

One option for handling that court's caseload is to consolidate First City and Second City courts into a court with citywide jurisdiction over minor civil cases. This would allow for the elimination of three judgeships and a clerk's office and reduce personnel costs by at least \$1.4 million.

Another possibility is to eliminate both First City and Second City courts and transfer their caseloads to Civil District Court, which has concurrent jurisdiction over the cases they handle. This would allow for the elimination of both clerk's offices.

Merging All City-Level Courts. Another option worthy of consideration is the consolidation of Municipal, Traffic, First City and Second City courts into a single city court with both criminal and civil jurisdiction. That merger would allow for the elimination of the two elected clerkships at First City and Second City courts, the elimination of one of the two appointed clerkships at Traffic and Municipal Court, and the restructuring of clerks' personnel and systems.

The Process. The Louisiana constitution grants the Legislature the power to establish, merge or abolish courts of limited or specialized jurisdiction.** State law requires the Judicial Council to evaluate proposals to split or merge courts. Under the Judicial Council's rules, any proposal to split or merge courts in the 2014 legislative session would have to be submitted to it in writing by October 1, 2013. A proposal can be made by a legislator, the chief judge or a majority of the judges at the court or courts involved.***

The Judicial Council's guidelines specify that its review committee will conduct a site visit to the court or courts involved in the proposed merger or split. The criteria for evaluating the proposal include the effect on the efficiency and effectiveness of the administration of justice; whether judgeships would be created or eliminated; the fiscal impact; and how the proposal would affect local stakeholders, including district attorneys, public defenders, law enforcement offices and local government entities.****

* City of New Orleans Office of Inspector General, *Assessment of New Orleans' System of City Courts and Performance Review of New Orleans Traffic Court*, November 2011, p. 20.

** La. Const. Art. V, Sec 15(A).

*** Judicial Council, *Guidelines Relating to the Combination and Splitting of Judicial District or Other District Courts*, www.lasc.org/la_judicial_entities/Judicial_Council/Combination_and_Splitting_Guidelines.pdf.

**** Ibid.

ELIMINATING UNNECESSARY JUDGESHIPS

The metrics for measuring judicial need suggest that Orleans Parish has significantly more judges than necessary. The Judicial Council's workload formula indicates that the parish has more than twice the number of judges it needs. Other metrics, including trends in case filing data for individual courts and comparisons to courts with similar workloads, also suggest that the current number of judges is far too large.

None of these indicators is definitive. The Judicial Council's workload formula lacks nuance in certain areas and can underestimate the workloads of courts that handle a disproportionate share of complex cases. Raw case filing data fails to distinguish between simple and complex cases.

All the metrics, however, point to a need for further investigation and conclusive action on the part of the Judicial Council and the Legislature. In legal parlance, they establish a prima facie case that there are too many judges in Orleans Parish. The burden of proof has switched to those who want to maintain the judiciary at its current level.

It is critical that the Legislature take action to address Orleans Parish's judicial surplus before the November 2014 election, when 80% of the parish's judgeships will be at stake. If unneeded judgeships are not eliminated before then, the constitutional prohibition against shortening a sitting judge's term will forestall meaningful reforms until the next major judicial election in 2020. The Judicial Council itself has recommended eliminating unnecessary judgeships prior to judicial elections starting with the 2014 election.⁵⁰

To facilitate action by the Legislature, it is important that the Judicial Council complete an analysis of Orleans Parish and other jurisdictions with large estimated judicial surpluses and make recommendations to the Legislature before its 2014 session.

There is no excuse for inaction or delay beyond the upcoming session. Both the Judicial Council and the Legislature are well positioned to act in a timely manner. The Judicial Council has been studying judicial surpluses throughout the state since 2006 and is cur-

AN EVER-EXPANDING JUDICIARY

Any effort to eliminate surplus judgeships in Louisiana would venture into uncharted territory, at least in terms of recent history. Judicial Council officials have no record of any judgeships being eliminated.* A bill backed by the City of New Orleans to eliminate two judgeships at Orleans Parish Juvenile Court died in a Senate committee in the 2013 legislative session.

The state has added judgeships at a rate of more than two per year in the past three decades. Since 1980, the Legislature has created 71 trial court judgeships, increasing the number of judges by 30% from 238 to 309.** The last time Louisiana added a trial court judgeship was in 2008, when the Legislature created five judgeships.***

Nationally, just two states have eliminated judgeships in the past four years, and in both cases a single judgeship was cut, according to an annual survey conducted by the National Center for State Courts.

Although few judgeships have been eliminated nationally, budget crunches have prompted 17 states to delay filling vacant judgeships, according to the NCSC survey. Five states have furloughed judges.**** In Michigan, the legislature approved a plan in 2012 to eliminate 36 of the state's nearly 600 trial court judgeships. The cuts will be made in the coming years as judges retire or resign.*****

* The DeRidder City Court was abolished in 1996, which technically eliminated the court's lone judgeship. However, the decision to abolish the court was contingent upon adding a judgeship at the 36th Judicial District Court to help it absorb the defunct court's caseload. Thus, it effectively amounted to the transfer of a judgeship.

** Louisiana Supreme Court annual reports, 1980-2012.

*** Louisiana Supreme Court Annual Reports 2008-2012.

**** "The 2012 Budget Survey of State Court Administrators," National Center for State Courts.

***** Mich. Acts 2012, Reg. Sess., Nos. 16 to 23 and 33 to 38.

rently preparing a report on all district and city courts as requested by the Legislature in a 2011 House resolution. The report is due in mid-February, a month before the Legislative session begins.

Although the 2011 resolution does not explicitly call on the Judicial Council to identify and recommend the elimination of unnecessary judgeships, such recommendations are implicit in the resolution's directive "to determine the changes necessary to the existing struc-

Given that most judges serve six-year terms and that the average cost of an Orleans judgeship is about \$570,000 a year, delaying the elimination of a single surplus judgeship by just one election cycle would waste \$3.4 million.

ture of the judiciary to provide the most efficient use of judicial resources.” BGR also notes that, regardless of the scope of the resolution, the Judicial Council can make such recommendations.

Thanks to its work over the past seven years, the Judicial Council already has in place a process for evaluating whether a court has too many judges. Pursuant to the 2011 resolution, it is already collecting the data and analyzing court workloads. The council has ample time to complete its analysis of the jurisdictions with the largest estimated surpluses and to make recommendations to the Legislature for the elimination of unnecessary judgeships.

The Judicial Council should publish the results and recommendations for high-priority districts at the earliest possible time, without waiting for the results of districts with less alarming estimated surpluses. Focusing first on those courts flagged by the workload formula will ensure that the Legislature receives information on the jurisdictions that offer the greatest opportunity for reform.

The Judicial Council has taken the position that judgeships should be eliminated “primarily by attrition, that is, by the death, resignation, removal, or retirement of judges.”⁵¹ Under this approach, a judgeship cannot be eliminated if a sitting judge chooses to seek re-election. The Judicial Council claims that reliance on attrition is necessary to avoid the “potential disruption to the bench” caused by having incumbent judges running against one another for the court’s diminished number of seats.⁵² Another argument in favor of relying on attrition is that veteran judges who are nearing retirement could be forced from office and may have difficulty transitioning to a private law practice.

Neither justification is persuasive. The number of pub-

lic offices should be determined by the public’s need for services, not the officeholder’s personal circumstances. Relying on attrition would severely delay the elimination of unneeded judgeships and waste public money. It could take multiple election cycles for an incumbent to vacate a seat. Meanwhile, the public would have to continue paying for the judgeship and support positions long after they had been declared unnecessary.

The waste could be quite significant. Given that most judges serve six-year terms and that the average cost of an Orleans judgeship is about \$570,000 a year, delaying the elimination of a single surplus judgeship by just one election cycle would waste \$3.4 million. A better approach would be to eliminate unnecessary seats when the current officeholder’s term expires.

The situation in New Orleans is time sensitive and should be addressed without delay. Ultimately, however, the Supreme Court and the Legislature should establish a process to regularly review and make recommendations on the appropriate number of judgeships for each of the state’s trial courts.

The process should begin with the Judicial Council using its workload formula each year to assess the number of judgeships needed at each court. Where the numbers indicate surpluses, the council should make a site visit and take the necessary steps to reach a conclusion as to the appropriate number of judges. It should present its findings and recommendations to the Legislature in advance of the legislative session that precedes the next judicial election. In determining where to send site visit teams, priority should be given to courts whose judges are coming up for election at that time.

The Judicial Council itself has stated that a regular review process is essential to weed out the waste caused by surplus judgeships. In its 2007 report, the council stated that it “explicitly recognizes” the need to develop “an ongoing process of periodically reviewing and recommending to the Legislature the elimination of unneeded judgeships.”⁵³ It observed that surplus judgeships create inequities and inefficiencies that snowball throughout the judicial system, driving up costs for support personnel.

CONCLUSION

In many ways, the Katrina disaster was a catalyst for streamlining and consolidating duplicative and balkanized government entities in Orleans Parish and the region. The area's parochial levee boards were replaced by regional flood-protection districts. Orleans Parish's two sheriff's offices merged. The parish's seven assessors were reduced to one. And the Clerk of Civil District Court absorbed three smaller offices.

However, the post-Katrina focus on surplus judgeships has yet to result in reforms despite strong indications from the Judicial Council that some courts have far more judges than they need. The Judicial Council's reports were meant to guide the elimination of unneeded judgeships. But so far, they have served only as an academic exercise. That should change.

The Judicial Council rightly concluded in its 2007 report that it was premature to eliminate judgeships in areas that were still reeling from the Katrina disaster. Now, eight years after the disaster, it is time to draw some conclusions. The collective workload at the Orleans courts has stabilized at levels well below the pre-Katrina level, and the public cannot afford to wait any longer.

Delaying efforts to right-size the Orleans courts until 2020 could cost the public tens of millions of dollars for judgeships and support personnel that the Judicial Council's metrics strongly suggest are unnecessary. The high court's research arm should finish the work it started more than seven years ago by determining how many judgeships the Orleans courts need. The Legislature should eliminate those that are unnecessary.

RECOMMENDATIONS

BGR makes the following recommendations.

Before the 2014 legislative session:

- The Judicial Council should promptly take all steps, including site visits and supplemental research, necessary to identify and recommend the elimination of excess judgeships in Orleans Parish. It should do the same for any other jurisdiction that the council's workload formula suggests has a large number of excess judges. It should provide the Legislature with its analysis and any recommendations to eliminate judgeships well in advance of the session, and no later than the February 14, 2014, deadline for its report on the state's district and city courts.

During the 2014 legislative session:

- The Legislature should take action to eliminate unnecessary judgeships in Orleans Parish and other districts with excessive numbers of judges. The elimination should take effect as of the expiration of the current officeholder's term.

After the 2014 legislative session:

- The Supreme Court and the Legislature should develop a process to regularly reassess whether existing judgeships at the state's trial courts are still needed. The process should include annual estimates of the judges needed at each court based on the Judicial Council's workload formula. When the formula indicates that a court has too many judges, the Judicial Council should follow up with site visits and any other research needed to reach a conclusion as to the appropriate number of judges. It should present its analysis and a recommendation on the appropriate number of judges well in advance of the legislative session preceding the next election for that court.

APPENDIX A: WHEN ORLEANS PARISH JUDGES' TERMS EXPIRE

Court	Judges	Length of term in years	Terms expire
Civil District Court	14	6	2014
Criminal District Court	13	6	2014
Juvenile Court	6	6	2014
Municipal Court – A*	1	8	2020
Municipal Court – B*	1	8	2014
Municipal Court – C	1	8	2016
Municipal Court – D*	1	8	2018
Traffic Court – A*	1	8	2020
Traffic Court – B	1	8	2018
Traffic Court – C*	1	8	2014
Traffic Court – D*	1	8	2014
First City Court	3	6	2016
Second City Court	1	6	2018

*Part-time judgeship.

Sources: State statutes and the Louisiana Secretary of State website, www.sos.la.gov.

APPENDIX B: OVERVIEW OF COURTS IN ORLEANS PARISH

Court	Judges	Jurisdiction	Clerk of Court	Location
Criminal District Court	13 judges, including 12 trial judges and one magistrate judge who handles preliminary hearings and sets bonds with help from four appointed commissioners.	All state criminal cases not involving juveniles. Shares jurisdiction over misdemeanors with Municipal Court and traffic violations with Traffic Court.	Elected	Has own courthouse.
Civil District Court	14 judges, three of whom exclusively handle domestic cases.	All civil cases not involving juveniles. Shares jurisdiction over small-claims cases with First City and Second City courts.	Elected	Shares courthouse with Juvenile and First City courts.
Juvenile Court	6 judges, four of whom handle juvenile delinquency cases while the other two handle child abuse and neglect cases.	All cases involving juveniles.	Appointed	Shares courthouse with Civil District and First City courts. Separate building for Juvenile Court is under construction.
Municipal Court	4 judges, including a full-time chief judge and three part-time division judges.	All violations of City of New Orleans ordinances and some state misdemeanors. No jury trials.	Appointed	Shares courthouse with Traffic Court.
Traffic Court	4 judges, including a full-time chief judge and three part-time division judges.	All traffic violations and DWI cases in Orleans Parish. No jury trials.	Appointed	Shares courthouse with Municipal Court.
First City Court	3 judges.	East bank civil cases in which the amount in dispute is less than \$25,000, small-claims suits up to \$5,000 and evictions with monthly rents up to \$3,000.	Elected	Shares courthouse with Civil District and Juvenile courts.
Second City Court	1 judge who also handles cases at First City Court.	West bank civil cases in which the amount in dispute is less than \$25,000, small-claims suits up to \$5,000 and evictions with monthly rents up to \$3,000.	Elected	Has own courthouse in Algiers Point.

Source: State statutes.

APPENDIX C: ESTIMATED NUMBER OF JUDGES NEEDED AT ORLEANS PARISH COURTS, 2010-12

Court	2010	2011	2012	Average	Actual Judges
Civil District Court	6.9	7.1	6.5	6.8	14
Criminal District Court	7.5	6.0	5.3	6.3	13
Orleans Parish Juvenile Court	0.8	0.8	0.8	0.8	6
Traffic Court	1.2	1.3	1.2	1.2	4
First City Court	0.8	0.7	0.7	0.7	3
Second City Court	0.1	0.1	0.1	0.1	1
Municipal Court	3.9	4.0	4.2	4.0	4
TOTAL	21.1	20.0	18.8	20.0	45

Sources: State statutes and BGR calculations using the Judicial Council's workload formula and data from the council and its reports.

APPENDIX D: MULTI-JUDGE TRIAL COURTS IN LOUISIANA WITH THE HIGHEST PERCENTAGES OF SURPLUS JUDGES, AVERAGE FOR 2010-12

Court	Parish	Actual Judges	Estimated Judges Needed	Estimated Surplus	Surplus %
Juvenile Court	Orleans	6	0.79	5.21	660%
First City Court	Orleans	3	0.71	2.29	321%
Traffic Court	Orleans	4	1.21	2.79	230%
Monroe City Court	Ouachita	3	1.30	1.70	131%
33rd Judicial District Court	Allen	2	0.96	1.04	109%
Criminal District Court	Orleans	13	6.28	6.72	107%
Civil District Court	Orleans	14	6.85	7.15	105%
Lake Charles City Court	Calcasieu	2	0.98	1.02	104%

Sources: State statutes and BGR calculations using the Judicial Council's workload formula and data from the council and the council's reports.

**APPENDIX E: ESTIMATED SURPLUS TRIAL COURT JUDGES
IN EACH JUDICIAL DISTRICT, AVERAGE FOR 2010-12**

Judicial District	Parish	Judges	Estimated Judges Needed	Estimated Surplus or (Deficit)	Surplus or (Deficit) %
1	Caddo	18	17.8	0.2	1%
2	Claiborne/Bienville/Jackson	3	1.9	1.1	61%
3	Union/Lincoln	4	2.7	1.3	48%
4	Ouachita/Morehouse	16	10.9	5.1	46%
5	West Carroll/Richland/Franklin	4	2.2	1.8	81%
6	East Carroll/Madison/Tensas	2	1.5	0.5	35%
7	Catahoula/Concordia	3	1.9	1.1	57%
8	Winn	2	0.8	1.2	147%
9	Rapides	9	6.9	2.1	30%
10	Natchitoches	3	2.5	0.5	18%
11	Sabine	1	1.1	(0.1)	(9%)
12	Avoyelles	4	3.0	1.0	34%
13	Evangeline	3	2.0	1.0	48%
14	Calcasieu	12	12.9	(0.9)	(7%)
15	Acadia/Lafayette/Vermilion	19	16.1	2.9	18%
16	Iberia/St. Martin/St. Mary	13	8.3	4.7	56%
17	Lafourche	6	4.6	1.4	32%
18	Pointe Coupee/West Baton Rouge/Iberville	6	3.8	2.2	57%
19	East Baton Rouge	28	25.5	2.5	10%
20	West Feliciana/East Feliciana	2	1.3	0.7	49%
21	Livingston/Tangipahoa/St. Helena	11	12.3	(1.3)	(10%)
22	St. Tammany/Washington	14	11.8	2.2	19%
23	Ascension/Assumption/St. James	6	7.2	(1.2)	(16%)
24	Jefferson	23	16.7	6.3	38%
25	Plaquemines	2	1.0	1.0	99%
26	Bossier/Webster	9	9.0	0.0	0%
27	St. Landry	6	5.2	0.8	15%
28	La Salle	1	0.5	0.5	113%
29	St. Charles	3	2.0	1.0	53%
30	Vernon	4	2.1	1.9	91%
31	Jefferson Davis	2	1.4	0.6	42%
32	Terrebonne	6	6.0	0.0	0%
33	Allen	3	1.1	1.9	170%
34	St. Bernard	5	3.2	1.8	55%
35	Grant	1	0.8	0.2	21%
36	Beauregard	2	1.0	1.0	95%
37	Caldwell	1	0.5	0.5	113%
38	Cameron	1	0.4	0.6	150%
39	Red River	1	0.4	0.6	123%
40	St. John the Baptist	3	2.1	0.9	40%
41	Orleans	45	20.0	25.0	125%
42	De Soto	2	1.2	0.8	71%

Sources: State statutes and BGR calculations using the Judicial Council's workload formula and data from the council and its reports.

APPENDIX F: WORKLOAD COMPARISON OF ORLEANS PARISH JUVENILE COURT AND OTHER JUVENILE COURTS, AVERAGE FOR 2010-12

Location	Filings	Work Points	Judges	Work points per judge
Caddo Parish	3,022*	6,265	3	2,088
East Baton Rouge	3,810**	6,765	2	3,382
Jefferson Parish	3,208***	5,892	3	1,964
Orleans Parish	1,469	2,500	6	417

Note: The annual workload of an average judge is 3,167 work points.

* Excludes child support and traffic cases that were not handled by judges.

** Excludes 2010 child support cases that were not handled by judges.

*** Excludes child support cases that were not handled by judges.

Source: State statutes and BGR calculations using the Judicial Council's workload formula and data from the council and its reports.

APPENDIX G: WORKLOAD COMPARISON BETWEEN ORLEANS PARISH'S FOUR CITY-LEVEL COURTS AND BATON ROUGE CITY COURT, AVERAGE FOR 2010-12

		Orleans City-Level Courts	Baton Rouge City Court
Criminal cases	Work points	12,682	13,569
	Judges	4	2.5
	Work points per judge	3,170	5,428
Civil cases	Work points	2,647	2,983
	Judges	4	1.5
	Work points per judge	662	1,989
Traffic cases	Work points	3,837	3,238
	Judges	4	1
	Work points per judge	959	3,238
Total	Work points	19,166	19,790
	Judges	12*	5
	Work points per judge	1,597	3,958

Note: The annual workload of an average judge is 3,167 work points. Baton Rouge City Court assigns the equivalent of 2.5 judges to criminal cases, 1.5 judges to civil cases and one judge to traffic cases, according to the court's judicial administrator.

*Six of the Orleans judges are part-time.

Sources: State statutes and BGR calculations using the Judicial Council's workload formula and data from the council and its reports.

ENDNOTES

- 1 BGR calculation using the Judicial Council's workload formula and data from the Judicial Council and its annual reports. Unless otherwise noted, when calculating workloads, BGR used a three-year average for the years 2010-12.
- 2 The judgeships at stake in the 2014 election have terms of six or eight years, which means those seats will not come up for election again until 2020 or 2022.
- 3 La. Const. Art. V, Sec. 15(D).
- 4 La. Const. Art. V, Sec. 21.
- 5 La. R.S. Sec. 13:61(B)(1) and La. R.S. Sec. 13:61(C).
- 6 Louisiana Supreme Court website: www.lasc.org/la_judicial_entities/judicial_council.asp.
- 7 La. Acts 2006, 1st Ex. Sess., No. 16.
- 8 La. Senate Concurrent Resolution No. 91, Reg. Sess. 2007.
- 9 La. House Concurrent Resolution No. 143, Reg. Sess. 2011.
- 10 The report, which covered Ascension Parish Court and First Parish and Second Parish courts in Jefferson Parish, profiled the courts and applied the workload formula to their filing data. Judicial Council, *Supreme Court of Louisiana Report to the Louisiana State Legislature in Response to House Concurrent Resolution No. 143 of the 2011 Regular Legislative Session*, February 14, 2012.
- 11 Judicial Council, *General Guidelines for New Judgeships*, www.lasc.org/la_judicial_entities/Judicial_Council/NewJudgeshipGuidelines.pdf, pp. 4-7.
- 12 Judicial Council, *Final Report of the Judicial Council to Review the Need for Judgeships*, February 2007, p. 3 and Judicial Council, *Report of the Judicial Council in Response to Senate Concurrent Resolution #91 of the 2007 Regular Session of the Legislature Regarding the Determination of Judgeships*, March 2008, p. 5.
- 13 National Center for State Courts, *Assessing the Need for Judges and Court Support Staff*, 1996, p. 20.
- 14 *Ibid.*, p. 122.
- 15 BGR interview with an NCSC official. Time estimates, which are primarily used to avoid costs associated with a time study, were used in NCSC to develop court workload formulas in Massachusetts and West Virginia in 2005 and 2006, respectively. National Center for State Courts, *Commonwealth of Massachusetts Administrative Office of the Trial Courts Staffing Study*, February 2005. National Center for State Courts, *West Virginia Circuit Court Judicial Workload Assessment*, November 2006.
- 16 BGR reviewed 15 formulas the NCSC has developed since 2000.
- 17 BGR interview with a Louisiana Supreme Court administrator.
- 18 Judicial Council, *Final Report of the Judicial Council to Review the Need for Judgeships*, February 2007, p. 2.
- 19 The calculation is based on the average number of judges needed from 2010-12. BGR focused on district-level courts because all of the judges are full-time, whereas most judges at city-level courts are considered part-time. Because the Judicial Council's formula assumes all judges work full-time, it can overestimate surpluses at courts with part-time judges.
- 20 To calculate the estimated number of judges needed for 2010 and 2011, BGR used the Judicial Council's work point totals for each court as published in the council's reports for those years. For 2012, BGR calculated the work points using the council's formula and filing data provided by the council.
- BGR used the data underlying the Judicial Council's estimates, rather than the estimates themselves. Because of inconsistent rounding practices in the council's reports, there are slight differences in the two sets of numbers. Had BGR used the council's rounded estimates, the effect on the estimated judicial surplus in Orleans Parish would have been negligible. It would have declined from 25.0 judges to 24.8.
- 21 The number is the average for 2002 to 2004.
- 22 BGR excluded non-DWI traffic citations because they distort the results. While such cases represent a small fraction of the total judicial workload, the sheer volume of tickets dwarfs the number of filings for all other types of cases combined.
- 23 Judicial Council, *Request by the Civil District Court for the Creation of Two New Judgeships*, March 1990, p. 2.
- 24 Civil District Court had 11,883 filings in 2012, 27,665 filing in 1989, and 10,966 filings in 1964. Filing data provided by the Judicial Council and from the Supreme Court of Louisiana Annual Report, 1965.
- 25 This excludes 12 district-level judges at juvenile and family courts who do not conduct jury trials. If those judges were included, the average number of jury trials per judge in districts outside Orleans Parish would be 4.0. BGR calculation using data in Supreme Court annual reports and provided by the Judicial Council.
- 26 Supreme Court of Louisiana Annual Reports from 1981 to 2012 and data provided by the Judicial Council.
- 27 This excludes 12 district-level judges at juvenile and family courts who do not conduct jury trials. If those judges were included, the average number of jury trials per judge in districts outside Orleans Parish would be 4.0.
- 28 Judicial Council, *Request By the Judges of Orleans Parish Criminal District Court for the Creation of Three (3) Additional Judgeships*, February 1995, p. 3.
- 29 Judicial Council, *Final Report of the Judicial Council to Review the Need for Judgeships*, February 2007, p. 10.
- 30 BGR calculation based on the difference in the number of misdemeanors the court handled in 2012 compared to 2010.
- 31 GCR & Associates, *Orleans Parish Criminal District Court: Analysis of Judicial Activity*, prepared for Criminal District Court, January 19, 2007, p. 3.32. BGR calculations using the Judicial

Council's formula and filing data in Supreme Court annual reports.

33 Judicial Council, *Final Report of the Judicial Council to Review the Need for Judgeships*, February 2007, p. 229.

34 Filings averaged 3,853 from 2002-04 compared to 1,469 from 2010-12. BGR calculations using data provided by the Judicial Council and from the council's reports.

35 A 1991 report by a Judicial Council site visit team indicated that the courts' five judges at the time each spent two full days a week on child-support cases. That amounted to 40% of the judges' combined time, or the equivalent of two judgeships. Judicial Council, *Request By Orleans Parish Juvenile Court for the Creation of Two (2) New Judgeships*, March 1991, p. 3.

36 For Caddo Parish Juvenile Court, BGR also excluded traffic cases handled by the court's judicial administrator.

37 Filings averaged 31,704 a year from 2010-12 compared to an average of 84,866 from 2002-04.

38 La. R.S. 13:2151.1 and 13:2151.4 (C).

39 Judicial Council, *First City Court of the City of New Orleans Evaluation Report*, March 1994, p. 2.

40 National Center for State Courts, *A Study of the Administration and Financing of the Orleans Parish Trial Courts*, October 1989, p. 119.

41 According to Municipal Court's chief judge, this includes staff members who handle duties performed by clerk's office workers at other courts.

42 The average was calculated by multiplying the number of judges at each court by the cost of a judgeship for that court. The figures for the seven courts were totaled and divided by the total number of judges.

43 With an estimated need for 20 judges in Orleans, a 24% surplus equates to 24.8 judges. That is 20.2 fewer than the actual total of 45 judges. For the savings calculation, BGR rounded off the number of judgeships to be eliminated to 20. It assumed that no judgeships would be eliminated at Municipal Court and attributed the judgeships to be eliminated to the other courts in proportion to their estimated surplus as measured by the council's formula. BGR then used its estimates of the cost of a judgeship at the various courts to calculate the savings.

44 Some courts also receive federal grants, but the vast majority of the funding comes from local, state and self-generated funds.

45 For fiscal 2012-13, the state's cost for a district-level judgeship was \$202,895. This included \$137,744 in salary; \$47,935 in pension contributions; \$9,469 for insurance; \$5,750 for office and travel expenses; and \$1,997 for employer Medicare contributions. Not all judges sign up for insurance. Information provided by the Judicial Council.

46 For the 2013 fiscal year, the state budgeted \$3.6 million for the Criminal District Court and \$1.4 million for the other courts. La. Acts 2012, Reg. Sess., No. 63.

47 Information provided by the Judicial Council.

48 In 2013, the City of New Orleans budgeted \$20,400 to pay a portion of the salaries for criers at Civil District Court and First City Court as required by state statutes.

49 The potential direct savings to the city are limited to the amount it contributes to a court. In some cases, the city's maximum savings would be lower because of state funding mandates or other laws. To reach the maximum potential savings, those laws would have to be amended.

50 Judicial Council of the Louisiana Supreme Court, *Report of the Judicial Council in Response to Senate Concurrent Resolution #91 of the 2007 Regular Session of the Legislature Regarding the Determination of Judgeships*, March 2008, p. 9.

51 Judicial Council of the Louisiana Supreme Court, *Final Report of the Judicial Council to Review the Need for Judgeships*, February 2007, p. 2.

52 *Ibid.*, p. 225.

53 *Ibid.*, p. 18.



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