

Florida Delphi-based Weighted Caseload Project

Final Report

Submitted by the National Center for State Courts

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Executive Summary

At the request of the Florida Legislature, the Office of the State Courts Administrator (OSCA) of Florida contracted with the National Center for State Courts (NCSC) to develop and validate a Delphi-based Weighted Caseload System. A weighted caseload system is a method to determine the need for judges based on the complexity of the various kinds of cases that are filed with the courts and how much time is needed for judges to handle these cases. This report proposes a procedure to assist the Supreme Court of Florida in determining the need for circuit and county judges that can be used in its annual certification to the Florida Legislature.

In 1998, the Florida State Legislature, through House Bill 4201, directed the judicial branch to develop a Delphi-based weighting system to determine the optimum caseloads for circuit and county judges and, in conjunction with other factors, to determine the need for additional judges. The Supreme Court established the Delphi Policy Committee (DPC) made up of 41 circuit and county judges to direct the study. The DPC adopted the following “reasonableness” standard to define “optimum caseloads:”

A reasonable caseload is the number of Delphi weighted cases that allow sufficient time for a judge to deal with the average case in a satisfactory and timely manner.

Three products were produced by the study to assist the DPC in determining reasonable caseloads:

- First, at its initial meeting the DPC determined a set of relative weights through a Delphi process to identify how cases of varying complexity relate to each other.

- Second, 100 judges participated in a series of Delphi exercises to determine specific Delphi weights which identified the time they believed should be spent by judges to handle various types of cases; and
- Third, a two-month time study involving nearly 120 judges (118 the first month and 115 the second) produced a set of case weights that showed the amount of time judges actually were spending on various types of cases.

The task of the DPC was to reconcile these three sources of information to determine a set of “reasonable” case weights.

In order to compare the results of the time study and the reconciled weights with the current certification process, the case weights were converted to a single caseload number. The table below compares the current and implied certification standards as well as the number of minutes per case allowed by each alternative.

**Actual and Implied Certification Standards
And the Average Time Per Case**

Certification	Time Study Case Weights	Reasonable Case Weights
<i>Cases Per Judge:</i>		
Circuit: 1,865	1,683	1,548
County: 6,114	5,458	5,068
<i>Minutes Per Case:</i>		
Circuit: 41.5	46	50
County: 11.5	13	14

In 1998, Florida had 468 circuit court judges and 263 county court judges. Applying the actual minutes per case derived from the time study (i.e., the time study case weights) to FY 1998 filing data gives an idea of the amount of work completed by judges. Based strictly on workload (and assuming the urban average judge year for all circuit judges), there was an implied need for

496 circuit judges in 1998. For the county court, the time study case weights (including the work associated with civil traffic infractions) showed an implied need for 245 county judges. When the constitutional requirement that each county must have a full-time county judge is taken into consideration, there is a need for 258 county judges with this workload. Utilizing the “reasonable” case weights implies that 532 circuit court judges and 262 county judges would be required to handle the workload generated by the number of cases filed with the courts in 1998.

The time study case weights are valid and reliable. The primary assumptions underlying the weighted caseload model are listed in Appendix E. By a number of measures the study shows that correct conclusions have been made about judicial activities in Florida. The sampling procedures and the subsequent responses from each of the various circuits suggest that if the study were repeated similar results would occur. The validity of the time study can be measured in three ways.

- First, sufficient data were collected to view time study weights as a reliable measure of current practice.
- Second, both circuit court and county court judges are working at caseload standards established by the DPC.
- Third, the relationship between implied need and the actual number of judges show that case weights reflect current practice.

Time study results indicate that the current certification standards for circuit and county court judges are too high. Through the reconciliation process, the DPC recommended modifications that increased some of the time study case weights. These modifications reflect the

views of the DPC that the Florida judicial system needs more judges to handle the system's workload in a reasonable fashion.

Some modifications made to the time study case weights appear to be reasonable while the changes made to other case types need further study. The modifications made to the certain case types (capital murder, less serious felonies, professional malpractice and product liability, eminent domain, simplified dissolution, trusts and guardianships and small claims) were well-justified based on current practices and have minor impact on the total number of judges required.

However, changes to other case types require further study to assess whether the modifications recommended by the DPC are warranted. The time study did not capture data on all aspects of certain case types. The adjustments recommended by the DPC to some case types increased the implied judge need in circuit court by 28 and in county court by 21. While the process is intended to capture this expert assessment, the study is limited in offering quantitative support in these areas where major changes have been made. The NCSC recommends further study of these case types before using the revised and "reasonable" case weights. These case types include drugs, dissolution (particularly postjudgment activity), dependency, evictions and traffic cases.

Over time, case weights are influenced by complex and dynamic factors, including changes in legislation, court rules, legal practice, technology and administrative factors. Examples of such factors include the availability of supplemental judicial officers, such as magistrates and senior judges, to various courts and the development of specialized courts, such as drug courts. In addition the accuracy and availability of the data also can affect the quality of these weights. Florida needs a process to periodically review and update the case weights, as necessary, to preserve the validity of the proposed Judge Certification process. For these case weights to

remain reliable and accurate over time a number of actions need to be taken on the part of the Office of the State Courts Administrator. The recommendations listed in Chapter Six fall into two categories: (1) those intended to identify the processes and resources needed to maintain the integrity of the case weights through appropriate audit and forecasting techniques; and, (2) those intended to identify procedures necessary to maintain the integrity of the statistical reporting system needed to arrive at the appropriate case counts.

Maintaining the model is a new activity for the OSCA and requires additional resources to keep the model current. Moreover, a review of the entire system is needed periodically so that the weights maintain an accurate relation to each other. Individual case weights should be examined as the factors in the previous paragraph arise. However, the joint recommendation of the DPC and the NCSC is that the entire set of weights should be evaluated every five years.

The Florida Legislature allocated \$155,000 for the Delphi project over the last two fiscal years, while the OSCA contributed an additional \$48,969 from its own general revenue funds. Total Delphi project cost was \$203,969. Consultant fees were \$171,423, or 84% of the Delphi project costs.

Chapter 1: Introduction

At the request of the Florida Legislature, the Office of the State Courts Administrator (OSCA) of Florida contracted with the National Center for State Courts (NCSC) to develop and validate a Delphi-based Weighted Caseload System. State judicial leaders face continual challenges of effectively managing rising caseloads, resolving court business without delay, and efficiently delivering quality service to the public. Meeting these challenges involves assessing objectively the number of judges required to handle the current and future caseloads and whether judicial resources are being allocated and used prudently. In response, judicial leaders are increasingly turning to sophisticated techniques to provide a strong empirical foundation of judicial resource need in the state trial courts.

State court caseloads vary in complexity, and different types of cases require different amounts of time and attention from judges, other judicial officers, and court support staff. In *Assessing the Need for Judges and Court Support Staff*,¹ the NCSC states that the weighted caseload technique is the *best* method for measuring case complexity and determining the need for judges. Focusing on raw case counts without understanding the differences in work associated with each case type creates the potential for the misperception that equal numbers of cases filed for two different case types result in equivalent workloads. For example, a “typical” serious felony case has a greater impact on judicial resources than the “typical” uncontested divorce case.

The NCSC worked closely with the OSCA staff to meet the legislative mandate of determining (a) the need for additional circuit and county judges through the use of a Delphi-based weighted caseload system and (b) the optimum workload for circuit and county judges. To meet these goals, the NCSC strategy was designed to provide the State of Florida with a

¹ V. Flango and B. Ostrom, *Assessing the Need for Judges and Court Support Staff* (National Center for State Courts, 1996)

workable, cost-effective procedure to:

- Design and implement an appropriate methodology for building a Delphi-based weighted caseload system in the circuit and county courts;
- Construct a set of “reasonable” case weights that measures the judicial workload associated with each type of case;
- Apply the weights to the caseloads of the Circuit and County Courts;
- Validate the case weights;
- Design an update strategy to keep the weights current and valid.

Based on the results of this project, the Supreme Court of Florida will be able to assess the need for judges based on judicial workload and case complexity.

Defining case complexity is neither easy nor obvious. One basic issue is that the study of complexity remains in its infancy—there is no previous research that actually measures this concept. Undoubtedly, many judges know that some cases are more “complex” than others. However, several unanswered questions must be addressed if our understanding of case complexity is to move beyond the simple assertion “I know it when I see it.” What are possible measures of complexity? Are some measures more closely related to the variation in case processing time than others?

One can distinguish between at least three dimensions of case complexity:

- *Substantive complexity.* This emerges from the substantive law that creates, defines, and regulates the rights and duties of the parties. These rights and duties vary across the substantive areas of law such as criminal law, tort law, and the law of wills.
- *Procedural complexity.* This aspect of complexity refers to the proceedings by which a legal right is enforced: the formal steps or events that a court is to administer (e.g., arraignment in a criminal case). The machinery is distinguished from the product of the law.

- *Individual case complexity.* This dimension of complexity refers to the idiosyncratic flow and/or treatment of specific cases. Within the context of substantive and procedural law, each individual case will proceed faster or slower depending on court organization and management as well as the goals and personalities of the litigants and court personnel involved.

To build a measure of case complexity, then, a study must focus on different areas of law, distinguish the different types of procedural events involved, and monitor the variation in how cases are actually processed in practice. The study design adopted by the OSCA took all three dimensions of case complexity into account explicitly.

The NCSC believes that the most efficient way to measure the impact of complexity on case processing is to measure how different types of cases impact judicial workload. The NCSC interprets the Legislative mandate in Florida as a call for a better understanding of the judicial work associated with those case filings. That is, raw, unadjusted case filing numbers offer only limited guidance as to the amount of judicial *work* generated by those case filings. Different types of cases consume different amounts of time from judges as well as judicial officers such as referees and magistrates. Fundamentally, the rationale for moving funding decisions from the historical focus on court *caseload* to court *workload* is based upon case complexity.

The NCSC approached this project in four phases.

1. A comprehensive orientation workshop for the Delphi Policy Committee on Delphi and time study methodology and validation techniques for assessing judicial workload, including: (a) the roles and responsibilities of participating Florida judges; (b) benefits and shortcomings of the Delphi and time study methodologies; and (c) identification and resolution of preliminary issues related to the project plan.
2. Seven Delphi Judges Committee meetings to obtain subjective judicial estimates of case-related workload.

3. Two-month time study that measured objectively the workload of a statewide, representative sample of judges distinguishing between substantive areas of law and key procedural events.
4. A final meeting of the Delphi Policy Committee designed to validate and adopt a set of “reasonable” case weights that will serve as the foundation for use by the Supreme Court of Florida in assessing judicial workload and the allocation of judges in Florida.

This report is divided into six chapters, with chapters 1, 3, 4, 5, and 6 written by the NCSC consultants and chapter 2 written by the OSCA staff. The specific content includes: Chapter I, Introduction. Chapter II, Project History, provides background on the genesis of the Delphi project as well as information on judicial participation and actions. Chapter III, The Process of Judicial Workload Assessment in Florida, discusses the SRS case filing data, the average judge year, and the two approaches to Delphi estimation used in the project. Chapter IV, The Time Study, outlines the approach used to gather objective data. Chapter V, Reconciling the Weights, discusses the process used to reconcile the Delphi and Time Study weights and shows the judicial need based on the final recommended weights. Chapter VI, Future Considerations, offers a set of recommendations for keeping the weights reliable and concomitant resource and staffing needs and implications.

The NCSC worked closely with the State Courts Administrator and staff of the OSCA during all phases of this project.

Chapter 2: Project History

Prepared by the Office of the State Courts Administrator

The Beginning

The genesis of this Delphi-based weighted caseload system emanates from the 1997 Florida Legislature. Chapter 97-257, Laws of Florida, while authorizing ten additional trial court judgeships for Fiscal Year 1997-98, nonetheless directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the two-tiered trial court system, the state case reporting system (Summary Reporting System or SRS), and the method used "...to determine judicial workload." The study was due no later than January 31, 1998. The OPPAGA is a legislative oversight body charged with conducting program audits and policy analysis.

OPPAGA's report, titled *Review of the Efficiency of the Two-Tiered Trial Court System and the Process for Certifying Judges*, was completed in January 1998. This report provided a summary overview of the current certification of additional judgeships methodology. The report found that, "The process used to establish the need for additional judges does not accurately identify where and when they are needed." The report further recommended the development of a weighted caseload system to replace and improve upon the current methodology.

The State Courts Administrator's response to this report, dated January 27, 1998, commented primarily on OPPAGA's findings and conclusions concerning certification of need for additional judges. The OSCA disagreed with the contention by OPPAGA that the process used to establish the need for additional judges does not accurately identify where and when they are needed. On the contrary, historical trends of filings per judge show consistent adjustment to, and balance in, overall judicial workload. Furthermore, the thresholds found in rule 2.035, Florida Rules of Judicial Administration, are not the sole basis for determining workload needs. The Supreme Court of

Florida also carefully considers a range of secondary factors as noted in the aforementioned rule.

OPPAGA's *Information Brief on Weighted Caseload Methods of Assessing Judicial Workload and Certifying the Need for Additional Judges* summarized the recommendations of Gryphon Consulting Services, LLC. Gryphon recommended that the Supreme Court of Florida adopt a weighted caseload system for assessing judicial workload and certifying the need for additional judges. They further estimated that implementing a weighted caseload system could cost within an approximate range of \$14,000 to \$344,275.

The State Courts Administrator's response to this report, dated March 20, 1998, noted concerns with the Gryphon recommendations and subsequent recommendations made by OPPAGA to the Florida Legislature. In this response, the State Courts Administrator agreed that the state of Florida should use the Delphi process to develop weights for different types of case filings as a possible enhancement to the judicial certification process. Further, the response stated that if the methodology proved sound, the resultant case weights could be used to augment the current criteria for certifying the need for additional judgeships.

Requirements of the Delphi Project

During the 1998 Florida Legislature, the judicial certification bill (which codified the request by the Supreme Court of Florida for additional judges) did not pass in the final hour of the final session, despite approval by all of the relevant substantive committees and fiscal authorization by the appropriations committees. Although the judicial branch received no additional judges for Fiscal Year 1998-99, proviso language attached to the certification bill in April 1998 stated that, "\$75,000 shall be used to contract for the development of a Delphi-based caseload weighting system to determine the optimum caseloads for circuit and county judges and, in conjunction with other factors, to determine the need for additional circuit and county court

judges.” Furthermore, the judicial branch was directed to, “consult with the OPPAGA on defining the scope of the work, selecting a consultant, and choosing a methodology for developing case weights and determining available judge time.”

The Supreme Court of Florida made a good faith effort to satisfy the language found in the budget proviso. This was done to foster a spirit of cooperation with the Florida Legislature, lay the groundwork for Article V funding issues, develop meaningful workload measures in anticipation of performance-based program budgeting (PB²) requirements, and enhance public trust and confidence in the judiciary. The OSCA was tasked with accomplishing these goals and conducting a Delphi study. The time line was to complete the project by February 1, 1999, as noted in the proviso language.

Selecting a Consultant

The original request for proposal (RFP) to identify and secure the services of a consultant was issued in July 1998. Besides advertising the RFP in appropriate places, bids were actively solicited from fourteen national individuals or organizations with experience in this rather unique and specialized field. Only one organization responded, the National Center for State Courts (NCSC). It is also interesting to note that the original OPPAGA consultants, Gryphon, did not bid on the project reportedly because of time, funding, and staffing constraints. The NCSC is a national not-for-profit organization funded by the state courts, consulting contracts, and federal grant funds. They are recognized leaders in consulting on this and similar projects. The NCSC has conducted these kinds of studies in the following states:

<u>State</u>	<u>Delphi Weights</u>	<u>Time Study Weights</u>	<u>Current Number of Trial Court Judges</u>
Michigan	X	X	582
Hawaii	X		64
Minnesota	X		254
West Virginia	X		184

<u>State</u>	<u>Delphi Weights</u>	<u>Time Study Weights</u>	<u>Current Number of Trial Court Judges</u>
Wisconsin		X	450
Colorado		X	479
Tennessee		X	496
New Mexico		X	261
Nebraska		X	124
North Dakota		X	123
South Dakota		X	52

First Professional Services Agreement

Because the original proposal submitted by the NCSC did not utilize the Delphi methodology, the OSCA declared the original NCSC bid to be non-responsive and then entered into negotiations with the NCSC to determine if they could satisfy the intent of the legislative proviso language at a reasonable cost. It was mutually determined that the time frame needed to be extended and the monetary amount increased for the NCSC to be able to perform to the expectations of the OSCA. Accordingly, the State Courts Administrator initiated contact with the staff leadership of the relevant legislative committees to seek their support and advice. Although unable to speak on behalf of members, the staff consulted did reach consensus that the request of the OSCA was both reasonable and necessary. Therefore, the OSCA entered into a professional services agreement with the NCSC for the development and validation of the Delphi-based weighted caseload system on January 15, 1999. This formal agreement required the NCSC to:

- (1) facilitate the initial meeting of the Delphi Policy Committee (DPC);
- (2) facilitate meetings of the seven Delphi Judges Committees (DJC);
- (3) lead the design and first month's execution of a two-month time study; and
- (4) be prepared to execute Phase II of the study (July 1, 1999 until completion).

Because of the increased amount of work required, as well as the time lost in negotiating after receipt of only one non-responsive bid, the project time line was extended. The new time line allowed for a project completion date of February 1, 2000. This was exactly one year beyond

the date found in the proviso language, and generally accepted by all interested parties as reasonable and necessary.

Delphi Methodology

The key to the success of this project was to couple the development of Delphi estimates with quantitative validation through a time study in an expedited and resource-constrained environment. The Delphi methodology was developed by the RAND corporation under contract to the United States Air Force in the 1940s to identify consensus on nuclear targeting policy and technology forecasting. Since then, Delphi methodology has been extensively used by both government and the private sector, resulting in a very developed understanding of advantages and limitations. Delphi methodology, whose name derives from the oracle of Delphi, utilizes a gathering of experts to voice opinions in successive iterations. The experts review the opinion of their peers after each iteration, and then may modify their individual estimates based upon the results for the group estimates. In this project, the experts on judicial workload were determined to be judges.

The Delphi process, although specified in the original proviso language, has both strengths and weaknesses. The strengths of the Delphi methodology are that it uses expert opinion, achieves consensus, narrows a previously broad range of individual perceptions, is effective for use with large groups, is more inclusive, can be completed relatively quickly, and is less expensive than traditional quantitative statistical methods. The weaknesses of the Delphi methodology are that the responses to specific questions are somewhat subject to the question design, it relies upon snap opinion, it forces consensus, it can be unreliable based upon human perception errors, and it creates the illusion of precision despite being based on personal estimates. To overcome these inherent weaknesses, validation must be conducted. A constrained time study was the solution to

the validation dilemma.

OSCA's Role

To minimize project costs, the OSCA agreed to provide SRS data and essential information to the consultant, to develop a proposal for membership in the DPC and DJCs (described more fully below), to provide substantial staff for all committee meetings, to provide and operate OptionFinder™ consensus building software and hardware, to staff a central clearinghouse for judges' time study questions, and to fund all judges and OSCA staff travel expenses and meeting costs. The assumption of these costs by the OSCA was funded from existing general revenue sources and significantly reduced additional expense required specifically for this project. A total of \$75,000 appropriated by the Florida Legislature and an additional \$20,123 in internal funds were eventually allocated to pay for the NCSC services, for a total of \$95,123 from January 15, 1999 through June 30, 1999. The OSCA also allocated \$21,946 for travel and other expenses in Fiscal Year 1998-99 as required by the professional services agreement.

These expenditures were evidently supported by OPPAGA. OPPAGA's *Information Brief on the State Courts System's Development of a Delphi-based Weighted Caseload System*, dated January 15, 1999, recommended that, "...the Legislature fund the proposed second phase of the weighted caseload system." They stated that, "Completing and adopting a weighted caseload system for Fiscal Year 2000-01 would significantly improve the court's assessment of workload and the need for new judges." They further noted that the Supreme Court, "...has implemented changes to the judicial certification process to obtain information from judicial circuits that request additional judges..." which, "...should improve the process of certifying the need for additional judges to the Legislature." Finally, after noting that the OSCA estimated that contract

and travel costs would total approximately \$252,000, stated that this, "...cost appears reasonable for the proposed scope of work."

Judicial Leadership Input and Guidance

Prior to the signing of the professional services agreement, the OSCA sought the advice and guidance of the judicial leadership at a special and combined meeting of the Judicial Administration Section of the Florida Conference of Circuit Judges (FCCJ) and the Court Statistics and Workload Committee (CSWC). The FCCJ comprises the twenty chief judges of the judicial circuits, or trial courts in Florida. The CSWC comprises twelve members, of which six are trial court judges. The resultant consensus was for large judicial input in every stage of the process. For example the combined membership expressed a desire for an extremely large policy-making body, a desire that eventually resulted in the forty-one member Delphi Policy Committee, described below. Their recommendation to include trial judges from all twenty judicial circuits later proved instrumental in maintaining the support and credibility among Florida's trial court judges. Both of these bodies were consulted and involved as the project continued, with the CSWC serving as a steering committee for the project.

First Delphi Policy Committee Meeting

The Delphi Policy Committee (DPC) met on February 3-5, 1999 in Orlando, Florida. The members had been nominated by each of the twenty chief judges in October and November 1998. The chief judges were tasked with nominating judge members who had experience in multiple divisions, were administrative judges of their current division and/or former chief judges, and utilized "best practices" in the efficient conduct of their courtroom activity. From the nearly one hundred judges nominated, forty-one judges were selected to provide proportionate representation to each circuit, to each division, between circuit and county judges; and

demographic criteria were also utilized to ensure appropriate racial, ethnic, and gender representation. The NCSC fully supported the recommendation by the OSCA as to the membership of the DPC.

The DPC developed thirty Delphi case types (later reduced to twenty-eight), devised relative case weights for these case types utilizing the Delphi process, agreed upon an average judge year and judge day, validated the concept of the seven Delphi Judges Committees, decided which circuits were represented for inclusion in the time study, and discussed and resolved several policy issues. These results are described in more detail later in the report.

Delphi Judges Committee Meetings

The meetings of seven Delphi Judges Committees (DJC) were held on April 21-23 1999 in Orlando, Florida. Each committee work day comprised a plenary session and then individual committee breakouts. The DJCs reflected the major court divisions present in each circuit and county in Florida. The DJCs comprised 100 judges in seven different committees:

Circuit criminal	12 judges
County criminal	24 judges
Circuit civil	16 judges
County civil	16 judges
Domestic relations	14 judges
Juvenile	11 judges
Probate	7 judges

The seven DJCs developed both scenarios for measuring the time spent on each case and time-based weights, described in more detail elsewhere in the report. The DJC also validated the draft time logs for both case-related and non-case-related events to be used by the judges in the time study.

Time Study

The time study was conducted over a two month period in June and September of 1999 in

nine different judicial circuits. These circuits had been designated by the DPC, and participation confirmed by the appropriate chief judge. These nine judicial circuits represented jurisdictions from each of the six statistically stratified grouping of trial courts by population and overall caseload. The first month of the time study had 118 judge participants, while the second month had 115 judge participants. Each of the time study judges recorded the actual time for each event by Delphi case type for every case in that time period. They also recorded non-case-related time (such as administrative duties, illness, etc.) to identify the additional work required by Florida's judges and to validate the average judge year and judge day as developed by the DPC. These times were recorded on two sets of concurrent time logs and submitted to the OSCA weekly by each judge. The OSCA verified the time logs for clarity and completeness, and then forwarded them to the NCSC for data entry and analysis.

Second Professional Services Agreement

A second professional services agreement was executed between the OSCA and the NCSC in July 1999 to continue and complete the Delphi project. The contract required the NCSC to continue the time study for September, facilitate a second meeting of the DPC, analyze the time study data, complete a report by specified deadlines, and assist the OSCA in applying the results to the 2000 judicial certification process. Again, the OSCA agreed to provide staff and other resources necessary to defray costs. Legislative appropriations of \$80,000 were sufficient to provide \$76,300 to the NCSC for services rendered as well as \$3,700 for the OSCA. As of December 31, 1999 the OSCA allocated an estimated additional \$6,900 in general revenue for its share of the project costs for Fiscal Year 1999-2000.

Second Delphi Policy Committee Meeting

The second meeting of the Delphi Policy Committee comprised 35 judges and was held on

November 18-19, 1999 in Orlando, Florida. At this meeting, members adopted a definition of “reasonable caseload” and reconciled the three sets of weights developed during the Delphi project. The recommendations are noted elsewhere in this report.

Judicial Participation

A total of 218 trial court judges participated in some phase of the Delphi project. This is nearly thirty percent of all trial court judges. Judge participation is as follows:

Judicial Administration Section (JAS)	20 judges
Court Statistics and Workload Committee	8 judges
Delphi Policy Committee -February	41 judges
Delphi Judges Committees - April	100 judges
Time study participants - June	118 judges
Time study participants - September	115 judges
Delphi Policy Committee - November	35 judges
	218 judges total*

*Total does not equal 437 judges because many judges participated in multiple phases of the Delphi project.

Judicial participation was vital in the development of the Delphi weights and in creating grass roots support for the project and its eventual application throughout the trial courts. Moreover, additional efforts to foster inclusion and consensus building is demonstrated by soliciting the active participation by OPPAGA throughout the project. This attempt to involve as many of the judges and other parties as possible was made in the spirit of the original language found in the budget proviso and under the guidance given by the JAS and CSWC.

Implications for the Future

As to the future, the Supreme Court of Florida will be cognizant of both this report and the analysis derived from it in preparation for the year 2000 certification of need for additional judges. Based on past experience and practice, the OSCA anticipates the critical decisions to be made in February 2000 with release of the Supreme Court opinion prior to March 1, 2000. In

preparing background materials for the Supreme Court, the OSCA has developed revised Delphi workload estimates for the trial courts based on caseload forecasts for calendar year 2000. The original Delphi workload estimates were based upon 1998 data. These data are still preliminary and subject to revision, as staff conducts further analysis in consultation with the NCSC. Finally, decisions by the Supreme Court of Florida as to how they will apply the time study or reasonable case weights and action on the other recommendations found in the report remain pending.

Chapter 3: The Process of Judicial Workload Assessment in Florida

Introduction

The proviso language adopted by the Florida Legislature called for “...the development of a Delphi-based caseload weighting system to determine the optimum caseloads for circuit and county judges and, in conjunction with other factors, to determine the need for additional circuit and county judges.” A key policy issue facing the Delphi Policy Committee (DPC) was defining “optimum.” After considerable discussion, the DPC voted to substitute the word “reasonable” for “optimal.” In addition, they adopted the following preliminary definition of “reasonable caseload:”

A reasonable caseload is the number of Delphi weighted cases that allow sufficient time for a judge to deal with the average case in a satisfactory and timely manner.

The primary goal of the Florida Delphi-based Weighted Caseload project was to establish the basic parameters needed to measure judicial workload as a means for determining the need for circuit and county court judges.

Workload assessment is essentially a study of supply and demand. How does the workload demand generated by the different types of cases entering the court compare to the supply of judge time available to do the work? The answer is based on three fundamental factors: case filings, case weights, and the average judge year. In a nutshell, the number of raw case filings are combined with the case weights (time required to handle cases) to arrive at workload. Total workload entering a particular court is then divided by the “standard” amount of time each judge has available to complete case-related work per year to determine an estimate of the number of judges needed to resolve the cases. Case filing data, the average judge year, and the

approaches to constructing case weights are discussed below. Case weights derived through the Delphi process are covered in this chapter and case weights determined through the two-month time study are discussed in the next chapter.

Case filing data and the current certification standard

The Summary Reporting System (SRS) provides the OSCA with filing and disposition data from all circuits on a monthly basis. SRS data are compiled in seven major categories: circuit criminal, domestic relations, other circuit civil, probate, juvenile delinquency and dependency, county criminal, and county civil. From these seven categories, the DPC selected 22 specific Circuit court case types and eight specific County court case types to be weighted during the project. These case types are shown in Table 3-1.

Table 3-1

Circuit Case Types	County Case Types
Capital Murder	Misdemeanor and Criminal Traffic
Serious Felony	Municipal and County Ordinances
Less Serious Felony	DUI
Property Crime	Small Claims
Drug Crime	Civil less than \$15,000
Medical Malpractice/Product Liability	Other County Civil
Auto Negligence/Other Negligence	Eviction
Contracts, Real Property	Civil Traffic
Eminent Domain	
Other Circuit Civil	
Simplified Dissolution	
Dissolution	
Domestic Postjudgment ¹	
Child Support	
Domestic Violence	
Other Domestic	
Probate	
Guardianship	
Trust	
Other Probate	
Delinquency	
Dependency	

At this time, one of the most important purposes of SRS data is for the certification of need for additional judgeships. The Supreme Court of Florida is responsible for determining the

need for additional judges and has relied on the current certification process since 1984. The current certification standards for circuit and county judges are 1,865 and 6,114 case filings per year, respectively. These certification standards are presumptive thresholds. Circuits and counties above these thresholds have established a prima facie case for the need for additional judges, as stated in rule 2.035, Florida Rules of Judicial Administration (see Appendix A).² Using the judge year standard adopted by the DPC (discussed below), these standards assume that each circuit judge spends about 40 minutes on each circuit case and that each county judge spends about 11.5 minutes on each county court case.

While the Supreme Court and Florida Legislature have been generally satisfied with the current certification criteria and process, consensus has developed for a more comprehensive system of measuring workload. Not all cases are the same. Different types of cases require different amounts of time from judges. Consequently, there is a real need to shift the focus of what courts do from caseload measures to workload measures. This reorientation offers firmer ground on which courts can document the need for appropriate and reasonable resources.

Whether a filings-based certification process is used or a more comprehensive process based on workload, the need for complete and accurate case filing and disposition data is paramount. SRS data are used throughout this report and, as the NCSC recommends in a later

² Other factors, as stated in the rule, are relevant and utilized as either mitigating or aggravating circumstances in determining the need for additional judges. These other factors are: (a) county judge availability to serve and county judge service in circuit court; (b) the use and availability of senior judges to serve on a particular court; (c) the availability and use of supplemental hearing officers; (d) the extent of use of alternative dispute resolution; (e) the number of jury trials; (f) foreign language interpretations; (g) the geographic size of a circuit, including travel times between courthouses in a particular jurisdiction; (h) law enforcement activities in the court's jurisdiction, including any substantial commitment of additional resources for state attorneys, public defenders, and local law enforcement; (i) the availability and use of case-related support staff and case management policies and practices; (j) the nature and complexity of cases coming before the courts in the jurisdiction; and (k) caseload trends. The other factors are subjective, but nonetheless give the current certification methodology the flexibility to take into account and be responsive to the customs, practices, and differential funding levels available to local courts.

section, the OSCA should seek resources sufficient to audit the SRS data—in its entirety—on a regular basis.

The Judge Year and Judge Day

Calculating available judge time requires answering the question: How much time do judges have available each day for (1) case-related work and (2) non-case-related work? This is a two-stage process that entails calculating how many days per year are available to judges to hear cases and then determining how the business hours of each day are divided between case-related and non-case-related work. Multiplying the number of available workdays by the number of available case-related hours in a day gives the "judge year." The judge year is an estimate of the amount of time the "average" judge has to process cases during the year.

In establishing the "average" judge year, one must accurately describe the various factors that reduce the days available for a judge to hear cases. To correctly portray a judge year, the number of days available to hear cases must take into account factors such as weekends, holidays, and time related to illness, vacation, and judicial education. *During the February meeting of the DPC, the Committee determined that judges have an average of 215 days available each year to hear cases.*

The judge day is separated into two parts: the amount of judge time devoted to (a) case-related matters and (b) non-case-related matters. A judge may work a nine-hour day, but only part of the day is devoted to hearing cases. Although judicial time available to process cases will vary daily, the typical day will include the number of hours in the workday minus deductions for the basic non-case-related events, including:

- Non-case-related administration
- Community activities and education
- Travel time

- Other non-case-related activities not covered in the above categories

The 215 day judge year adopted by the DPC was derived by beginning with a standard 365 days per year and then subtracting:

- Weekends 104 days
- Legal holidays 11 days
- Vacation 20 days
- Illness 5 days
- Continuing judicial education and committee work 10 days

This calculus does not take into account work on weekends due to “duty judge” responsibilities in domestic violence, criminal, and other cases.

The DPC also adopted three different judge days:

- 6 hour judge day (on specified case-related work) for circuit judges in urban jurisdictions;
 - 5.5 hour judge day (on specific case-related work) for circuit judges in rural jurisdictions;
- and
- 5.5 hour judge day (on case specific case-related work) for all county judges in both urban and rural jurisdictions.

It is important to note that the formula utilized reflects time actually spent on the bench or in chambers presiding over specific cases. It does not include other time spent by circuit and county judges to handle administrative duties, management responsibilities, and non-case specific functions. The calculus started with an average 8.5 hour work day, and then subtracted:

- 1 hour for lunch
- 1.5 hours of administrative time for circuit judges in urban courts
- 2 hours of administrative time for circuit judges in rural courts (includes requisite travel time from one court location to another)

- 1.5 hours of administrative time for county judges in both urban and rural courts
- 0.5 hours of time spent conducting Constitutionally and statutorily required duties by county judges

This calculus does not take into account judges who work in the evenings because of crowded dockets, jury trials in deliberations, or “duty judge” responsibilities for domestic violence, criminal, or other cases.

Table 3-2 shows how the judge year was calculated for circuit and county courts.

Table 3-2: Determining Case-Related Time

		Workday	Lunch	Non-case-related time	Case-related time	Judge year	Total case-related time for one year
		(hours)		(hours)	(hours)	(days)	(minutes)
Circuit	Urban	8.5	1	1.5	6.0	x 215	= 77,400
	Rural	8.5	1	2.0	5.5	x 215	= 70,950
County		8.5	1	2.0	5.5	x 215	= 70,950

Total case-related time per year (or the judge year) is calculated by multiplying the number of judge days available by the number of case-related hours in the day. It is important to note that all Florida judges in all courts are assumed to work an 8.5-hour day. What varies around the state is the number of hours that the judges devote to case-related as opposed to non-case-related work.

Delphi case weights

Arriving at the final set of recommended case weights was accomplished through a comprehensive four-phase study approved by the DPC. Alternative processes were used to produce weights that give varying perspectives on the workload facing Florida judges. These translate into four distinct phases:

- Phase 1: A Relative Delphi Weighting exercise used to identify basic differences in case complexity.
- Phase 2: A Scenario-based Delphi Weighting process designed to gather subjective

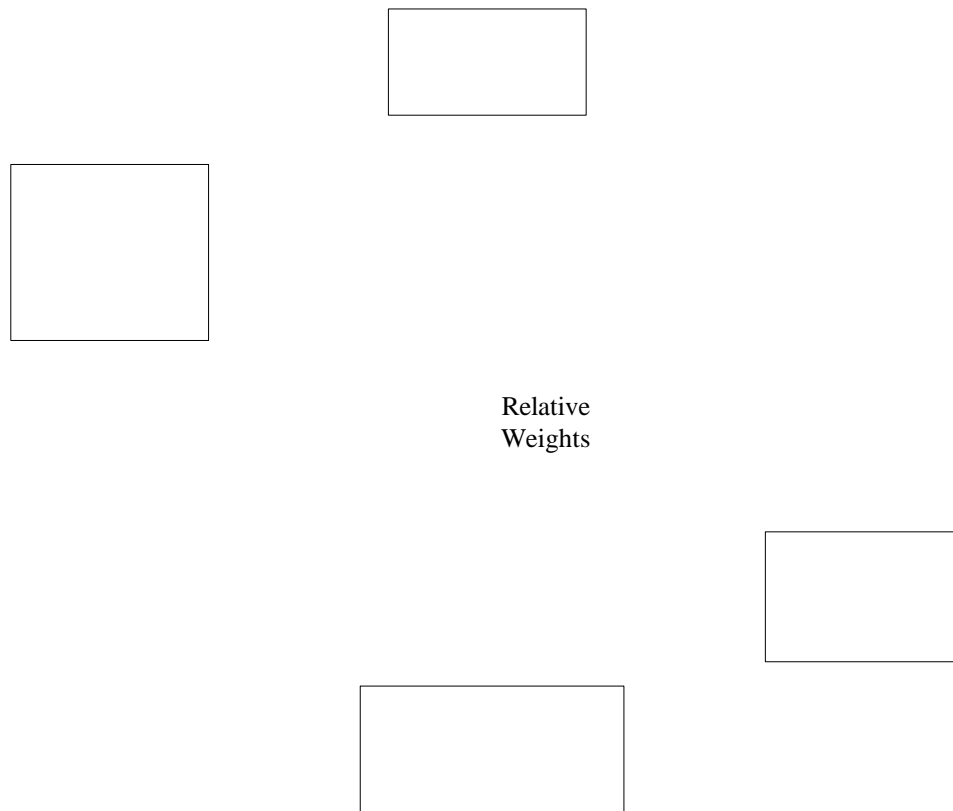
judicial opinion on workload through a structured, informed, and iterative method.

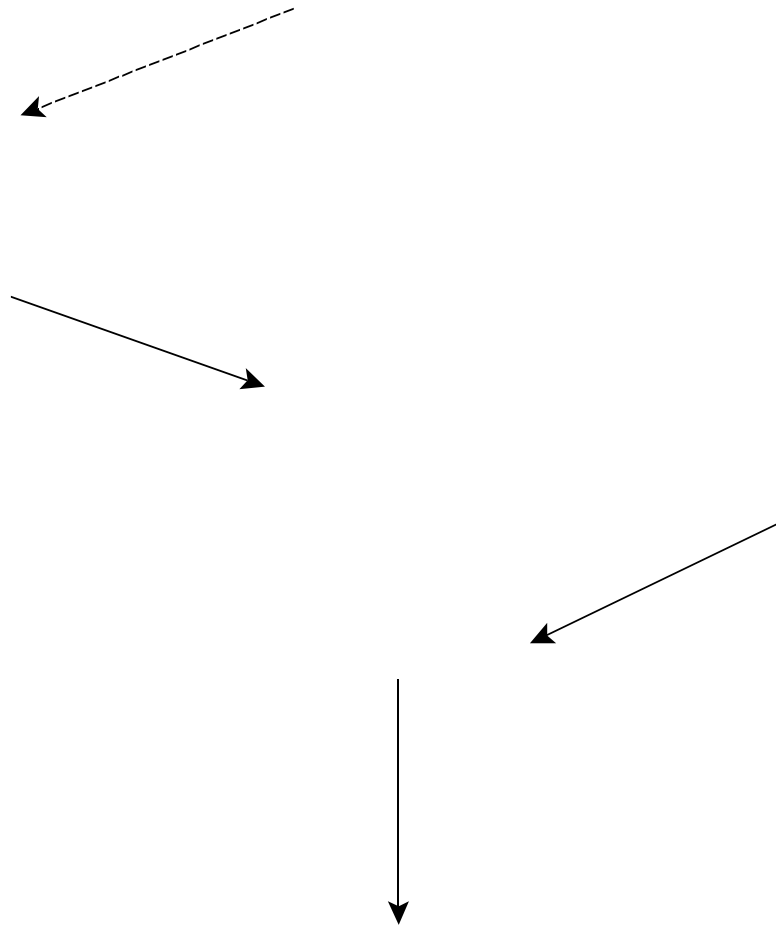
- Phase 3: A representative Time Study used to measure judicial workload through an objective, empirical process.
- Phase 4: A comprehensive process used to develop “reasonable” case weights.

During Phase 4, it became the responsibility of the DPC to recommend a final set of case weights drawing on the results from the previous three phases and “triangulating” for accuracy, validity and “reasonableness.”

Figure 3-1

The Triangulation Strategy





The discussion below shows how the Relative Weights and the Scenario-based Delphi Weights were derived; the level of participation by judges; the staffing implications; and an assessment of the validity of the results.

Phase One: Relative Delphi Weights. Relative weights establish initial judicial perception on the proportional relationship between cases in terms of complexity. The participating judges were not asked to estimate complexity in terms of time, but rather just to think “proportionately” about the relative relationship between cases. That is, a baseline case is set to “100” and other cases are weighted relative to the baseline. For example, a relative weight of “300” means that the case requires, on average, three times as much judge time as the baseline case with a weight of “100.” However, the judges were not asked to estimate explicitly how to

translate the base of “100” into minutes.

The DPC, at its inaugural meeting in February 1999, used a Delphi-style process to develop a set of relative case weights. The purpose of this exercise was to encourage the members of the DPC to begin thinking about an alternative certification strategy that takes differences in “case complexity” or, in other words, differences in the amount of judicial time required to process different types of cases, explicitly into account. The method asked the 41 participating judges on the DPC to provide a quick scan of their initial perception of differences in case complexity.

A four-step Delphi technique was used to achieve group consensus. The first step was to break the case types into two groups requiring more or less time based on experience from other states. Using Option Finder™, which allowed each judge to vote in a structured decision making format, the group ranked the 22 circuit court case types and eight county court case types by complexity. The following directions were given to the judges:

- Consider the “typical,” “average,” “normal” version of each case type;
- Rank the case types from “least time consuming” to “most time consuming”

NCSC staff presented the DPC with an initial grouping of the 22 circuit court case types and the eight county court case types as the starting point of the ranking exercise. The objective of the first step of the exercise was to review and confirm the groupings.

Step two of the exercise asked the DPC to review, discuss, and re-vote on the rank order. The DPC reached convergence and consensus on the rank ordering of cases during step three (the third iteration). The final results of the ranking activity are displayed in Figures 3-2 and 3-3.

Figure 3-2

Circuit Court Case Type Groupings

Group I

(More time than average)

- Capital Murder
- Serious Crimes Against Person
- Drug Crimes
- Dissolution
- Prof Malprac & Prod Lia
- Auto Neg & Other Neg
- Contract and Real Prop
- Eminent Domain
- Domestic Postjudgment
- Guardianship
- Juvenile Dependency
- Domestic Violence

Group II

(Less time than average)

- Less Serious Felony
- Property Crimes
- Simplified Dissolution
- Other Domestic Relations
- Child Support
- Other Circuit Civil
- Probate
- Trust
- Other—Probate
- Juvenile Delinquency

Figure 3-3

County Court Case Types

- DUI
- Misdemeanor & Criminal Traffic
- Muni and County Ordinance
- Small Claims
- Civil under \$15,000
- Eviction
- Civil Traffic Infractions
- Other County Civil

The fourth step of the exercise assigned a relative weight of 100 to the mid-ranked case type of

less serious felony in circuit court and small claims in county court. Using Option Finder™, the DPC determined:

- The approximate magnitude of each case type in relation to the mid-ranked case; and
- A numerical value or “weight” for each case.

Table 3-3 shows the resulting relative weights in the first column. These relative weights are unit free. That is, they are not measured in minutes or any other specific unit of time. For example, the relative weight of 500 for Dissolution implies that Dissolution cases are about five times as complex as a less serious felony (base weight of 100). The relative weight of 2000 on capital murder implies that capital murder cases are about four times as complex as a dissolution case and 20 times as complex as a less serious felony.

To assess the impact that the relative weights would have on estimated judicial need NCSC staff strategically assigned units of time to the base weight. In this exercise, the base weight of “100” was assumed to equal either 60, 45, 30, or 25 minutes. All other relative weights were then converted to minutes maintaining their relative relationship (e.g., if “100” was assumed to be 60 minutes, then “300” was assumed to be 180 minutes) as shown in the four right hand columns of Table 3-3. Total statewide judicial workload was estimated by multiplying 1998 case filings by the corresponding relative weights denominated in minutes. Judicial need was then calculated by dividing total estimated workload by the judge year standards adopted by the DPC (see Table 3-2).

As seen in Table 3-3, assuming that the base weight of “100” for less serious felony is equal to 60 minutes and maintaining the relative relationship between the remaining cases (e.g., the dissolution relative weight of “500” equals 300 minutes), shows an implied judicial need of 1,236 judges in the circuit court. This information was presented to the DPC at the November meeting with the intent to give the group additional information to judge the validity of the relative weights.

Table 3-3

Relative Case Weight and Hypothetical Staffing Implications

Circuit and County Court

Circuit Court					
Crime Type	Relative Weights	Relative Weights			
		(100=60 mins.)	(100=45 mins.)	(100=30 mins.)	(100=25 mins.)
Capital Murder	2000	1200	900	600	500
Serious Felony	800	480	360	240	200
Less Serious Felony	100	60	45	30	25
Property Crime	100	60	45	30	25
Drug	200	120	90	60	50
Prof Malprac & Prod Lia	725	435	326	218	181
Auto neg & other neg	400	240	180	120	100
Contracts, real prop	300	180	135	90	75
Eminent Domain	250	150	113	75	63
Other Circuit Civil	90	54	41	27	23
Simplified Dissolution	20	12	9	6	5
Dissolution	500	300	225	150	125
Domestic Post Judge	600	360	270	180	150
Child Support	40	24	18	12	10
Domestic Violence	200	120	90	60	50
Other Domestic	75	45	34	23	19
Probate	75	45	34	23	19
Guardianship	250	150	113	75	63
Trust	30	18	14	9	8
Other Probate	90	54	41	27	23
Delinquency	90	54	41	27	23
Dependency	400	240	180	120	100
Implied Circuit Judge Need		1,236	927	618	515

County Court					
Crime Type	Relative Weights	Relative Weights			
		(100=25 mins.)	(100=20 mins.)	(100=15 mins.)	(100=10 mins.)
Misdem. Crim Traffic	500	125	100	75	50
Muni & County Ord	200	50	40	30	20
DUI	995	249	199	149	100
Small Claims	100	25	20	15	10
Civil < \$15,000	450	113	90	68	45
Other County Civil	90	23	18	14	9
Eviction	95	24	19	14	10
Civil Traffic	35	9	7	5	4
Implied County Judge Need		2,272	1,818	1,363	909

The relative weighting exercise, designed to open the discussion of case complexity, probably did

not produce an accurate estimate of judicial workload. As can be seen on the rows labeled Implied Circuit Judge Need and Implied County Judge Need in Table 3-3, the resulting need for judges does not conform to the “reasonableness” criteria developed by the DPC. However, this should not be surprising because the relative weights were determined by a quick scan of expert opinion. The relative weighting process is primarily useful in that it provided a means to begin discussing and conceptualizing how to measure the differences in judicial time requirements among cases.

Phase Two: Scenario-Based Delphi Weights

The Relative Delphi Weighting process encouraged judges to begin thinking about the parameters of case complexity and the role played by differences in the substantive area of law and the procedural events that occur in a case. The differences in structural and procedural complexity were made explicit in constructing the Scenario-Based Delphi weights. That is, the judges were asked to consider differences by case type (e.g., serious felony, dissolution) and the way in which the case was disposed (e.g., settlement, trial). A structured, iterative process informed by 1998 data was used to gather expert opinion from the participating judges for all 22 circuit and eight county case types (see Table 3-1).

The Scenario-Based Delphi weights were constructed drawing on the expert opinion of 100 judges divided into seven Delphi Judges Committees (DJC) of between seven and 24 judges. The seven DJC groups, corresponding to the seven general case types (e.g., circuit criminal, county civil, etc.) being weighted, were asked to estimate the judicial time required to process the specific case types within their general category (e.g., the DJC assigned to juvenile estimated judge time for delinquency and dependency cases).

Inherent in the development of case weights is the issue of “What is” versus “What ought to be.” In other words, the relationship between measuring current case processing practice (“what is”) and assessing when current practice requires judges to take too little (or too much) time to handle cases in a

satisfactory manner (“what ought to be”). One purpose of the Delphi case weights was to give the DPC a *moderated* picture of “What ought to be” that can then be contrasted with the Time Study weights, which provide an accurate and objective picture of “What is.” The melding of the Scenario-based Delphi results with the time study results provide a means for judges to compare their perception of workload with actual current practice.

Methodology. The Delphi process used in Florida was structured to provide each DJC participant with clear distinctions between substantive and procedural complexity for the types of cases they were examining. A set of “case scenarios” was designed by the DPC (with assistance from the NCSC and the OSCA project staff) to encourage each Delphi group to consider and discuss how varying levels of case complexity will affect the time needed to process each type of case. At the February meeting of the DPC, members broke into case type groups. Their task was to finalize the Delphi Scenario instruments to be used to solicit the expert opinion of the 100 judges on the DJC committees. The DJC was created to expand the pool of expert opinion, give expertise in specific case types and, at the April meeting, finalize the Delphi case weights through rounds two and three of the interactive and iterative process.

Each case scenario provided a brief description of the case and a list of the judicial events (e.g., arraignment, motions, trial, postjudgment activity) that might be part of such a case. Different scenarios reflected variation in case complexity primarily by distinguishing between the manner in which cases are disposed: dismissed, transferred, pled, jury trial, bench trial, and postjudgment work. The number of scenarios ranged from only one scenario for some case types to five, with the average being two or three. The typical structure was as follows:

Case Scenario #1: The typical “run-of-the-mill” case, requiring the least amount of judicial time. For example, an automobile and other negligence case that ends in a plea agreement.

Case Scenario #2: This was an example of a somewhat more complex case, requiring a moderate

amount of judicial time. For example, an automobile and other negligence case that includes a bench trial.

Case Scenario #3: This was an example of the most complex version of a particular type of case, requiring a large amount of judge time. For example, an automobile and other negligence case that is disposed by jury trial.

The purpose of the scenarios was to help ground the participant discussion of complexity by providing concrete examples of how procedural complexity can vary within a given case type. Each scenario was designed to represent a “class” of cases with a different level of complexity. A general example of a scenario is shown in Figure 3-4. A set of criminal scenarios used in the study is contained in Appendix B. A complete set of the Delphi scenarios is available from the OSCA.

Figure 3-4

Scenario Example

FLORIDA WEIGHTED CASELOAD STUDY
Delphi Survey
Circuit Criminal--Crimes Against Persons
(1 of 2 Scenarios)

Scenario 1 is an uncontested *crime against a person*¹ with one defendant, which is disposed of at pretrial.

The type of events that might, but not necessarily be conducted in a case of this complexity include:

ARRAIGNMENT

This includes arraignment on a warrant or complaint.

SENTENCING HEARING

This includes PSI reviews.

CASE-RELATED ADMINISTRATION

This is case-related working time that includes calendar preparation, case correspondence, docket management, reviewing and signing of documents, and responding to correspondence. Also includes ex parte requests.

POST-JUDGMENT ACTIVITY

This includes motions to amend the judgment, request for attorney fees and costs, and/or sanctions, proof of compliance, or motions to set aside.

TOTAL TIME

What is your estimate of the typical amount of judicial time needed to process a case of this complexity? Please make three estimates: one for a case that were dismissed, transferred or plead.

Total
Case Time
Dismissed

Total
Case Time
Transferred

Total
Case Time
Plead

The scenarios were mailed in February to all judges participating in the DJCs. Each judge completed the appropriate surveys and returned them to NCSC in March for analysis. These results were the first of three rounds of an iterative process used to finalize the expert opinion of the judges. An

iterative process is used because experience has shown that the initial tendency of judges is to overestimate the time it takes to process a case. This is not unexpected since judges tend to remember the longer, more complex cases. These become “anchors” in the estimation process. The second and third rounds, conducted at the DJC meeting in April, involved the judges reviewing and discussing the results, examining relevant data, and modifying their earlier estimates.

Case Weights and Staffing Implications. The time estimates from the scenarios were used to calculate the Delphi case weights. If more than one scenario was completed, a weighted average was calculated. For example, if case A had two scenarios the following formula would be used to derive the total minutes per case:

Table 3-4

Calculation of Time Sample Case Type A (minutes)³

Two Scenarios

³ The “Time per Disposition” was obtained by multiplying the “Survey Time” by the “Percent Dispositions” In other words, the Time per Disposition is a weighted average calculated by weighting the time different types of dispositions take by the frequency with which they occur. For example in Scenario 1, the Dismissed cases took 40 minutes and they constitute 30% of case type A dispositions so that they contribute 12 minutes to the overall average (i.e., $40 \times .30 = 12$ minutes per case). In Scenario 2, we see that Jury Trials take considerably longer (i.e., 1,800 minutes on average), but are rare (i.e., 1.5% of dispositions). Jury trials contribute 27 minutes to the overall weight ($1,800 \times .015 = 27$ minutes per case). The overall average time for case type A is calculated by adding up the contribution from the average time and frequency of all disposition types.

<u>Scenario 1. Disposed at Pre-trial:</u>	Survey Time	Percent Dispositions	Time per Disposition
Dismissed	40	30.0%	12
Transferred	50	30.0%	15
Pled	70	35.0%	24.5
<u>Scenario 2. Disposed at trial:</u>			
Jury Trial	1800	1.5%	27
Bench Trial	1500	3.5%	52.5
Total Time		100.0%	131

Table 3-5 shows the final case weights emerging from the DJC Delphi exercise in April. See Appendix C for a complete set of DJC Delphi results.

Table 3-5

Delphi Case Weights and Judge Need

Crime Type	DJC Delphi Weights
Capital Murder	3,150
Serious Felony	227
Less Serious Felony	77
Property Crime	59
Drug	51
Prof Malprac & Prod Lia	509
Auto neg & other neg	117
Contracts, real prop	89
Eminent Domain	81
Other Circuit Civil	39
Simplified Dissolution	10
Dissolution	88
Domestic Post Judge	29
Child Support	83
Domestic Violence	30
Other Domestic	23
Probate	55
Guardianship	77
Trust	36
Other Probate	60

Delinquency	46
Dependency	281
Case-Related Minutes	56,030,000
Implied Circuit Judge Years	724

DJC Delphi	
Crime Type	Weights
Misdem. Crim Traffic	19
Muni & County Ord	13
DUI	47
Small Claims	13
Civil < \$15,000	25
Other County Civil	19
Eviction	12
Civil Traffic	8
Implied Case-Related Minutes	49,980,000
Implied County Judge Years	705

Validity. The final Delphi-based case weights showed an estimated need of 724 circuit judges and 705 county judges—considerably more than the Fiscal Year 1998-99 complement of 468 circuit judges and 263 county judges. This result raises the question of why the Delphi-based weights show such a sizeable need for judges. The NCSC speculates that the Delphi process tends to produce an overestimate of judge need for three related reasons: (1) judges may use the Delphi process as a chance to express their views on how much time *should* be spent rather than how much time is *actually* spent on cases, (2) judges tend to remember cases that are relatively more time consuming, (3) judges see only a subset of all cases disposed by the court, and (4) assumptions made about measuring the time spent by quasi-judicial hearing officers.

Delphi is a way to substitute opinion for observation. Naturally, the reliability and validity of opinion is always constrained by the depth and breadth of experience of the opinion holder and her reasoning ability, and perhaps colored by her biases. To mitigate these limitations, the Scenario-based Delphi process employed in Florida used various strategies to both inform and constrain the time estimates, including:

- gathering the opinions of many people, not just one, so that breadth and depth of experience is increased, biases offset each other, and those with limited reasoning ability are helped by those with more ability;
- garnering and offering appropriate caseload data to reason from;
- calculating the implications of tentative conclusions so that their plausibility could be tested;
- repeating the opinion gathering process several times so that implications of earlier estimates can be considered by the group in framing later ones.

Regardless of how effective the foregoing devices turn out to be, the reliability and validity of the Delphi process is constrained by how well the judges recall the set of cases that come before them. First, even though judges are asked to estimate the actual amount of time spent on specific types of cases, they may blend their estimates of “what is” with “what ought to be.” Second, and related, is that the most memorable cases will be the ones that stand out from the rest due to an extra measure of contentiousness, unusual or interesting issues, frequency of hearings and duration of hearings. It is apparent that all of these characteristics will be more common to cases that require more judge time than the average case. Thus, there is a built-in tendency for the Delphi process to overestimate the *overall average* amount of time judges spend on cases because the judges are focusing on a subset of the more unusual cases.

A third factor that inflates the Delphi relative and time-based weights is that many cases flow through the court with little judicial involvement. This includes cases where appearances of the parties are pro forma and entirely for the record; it includes matters where quasi-judicial officers oversee the appearances and judges merely ratify decisions or don’t see them at all. Signing agreed orders and even signing orders of dismissal in cases dismissed for want of prosecution comprise all of the “judge-time” associated with some of the cases that appear in the set of cases that is averaged when case weight is

calculated.

The fourth factor are policy decisions and assumptions made by the DPC at the beginning of the process. The DPC decided to not include quasi-judicial officers (in Florida they are officially known as general masters, child support enforcement hearing officers, and traffic hearing officers, but many other titles are utilized locally) in the estimates of judge time conducted by the DJC. In fact, at the DJC meetings, the judge members decided to identify the time necessary as if there were not quasi-judicial officers being utilized, clearly inflating the eventual numerical results. The time study however, as noted below, did capture the actual time spent by judges on cases while relying upon these quasi-judicial officers. It may be reasonably presumed that judges would have spent more time on these cases without the use of quasi-judicial officers to assist them in processing cases. Therefore, the indirect inclusion of this resource in the time study could deflate the numerical results when compared to the two sets of Delphi estimates.

Because the Delphi case weights may not be an accurate estimate of the time associated with *all* cases entering the court, the Florida Weighted Caseload study incorporated a time study component as a validation tool. The results of the time study are discussed in the next chapter.

Chapter 4: The Time Study

The Approach

The time study weighted caseload technique is a method to measure case complexity in terms of the amount of judicial time needed to process a case from the initial filing to disposition to postjudgment activity (if any). The steps involved in calculating and applying the *Event-Based Weighted Caseload*

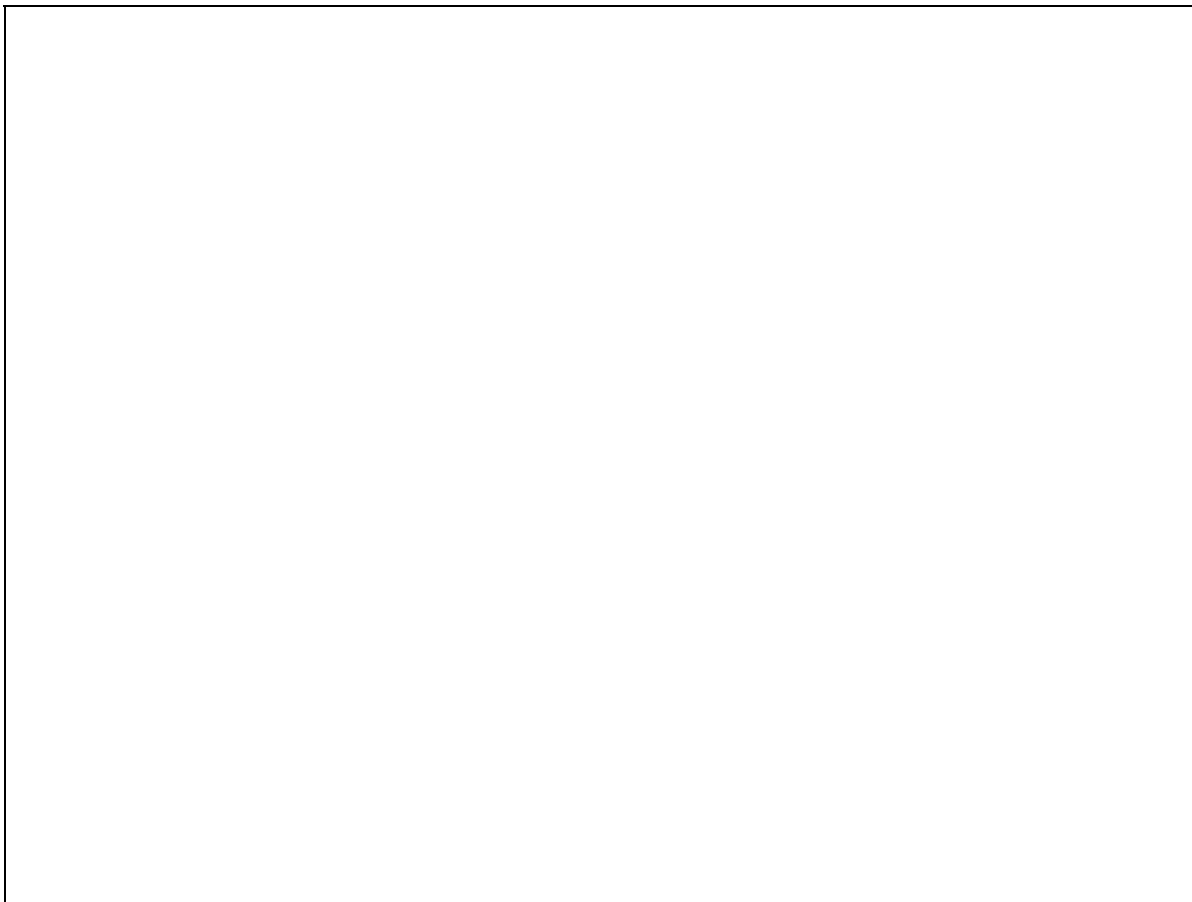
Methodology used in this project are stated below:

1. Choose a set of representative courts to participate in the study;
2. Select the set of case types and events to be used in the construction of the weights;
3. In each of the participating courts, record the total amount of judge time spent on each of the selected events within each of the case types for a period of two months;
4. In each of the participating courts, calculate the average number of each type of case filed per month;
5. Calculate the weights by dividing the total amount of judge time expended during the study period on each of the selected case types by the monthly average of the corresponding filings for each case type.

The Event-Based Methodology is designed to take a snapshot of court activity and compare the judge time spent on primary case events to the number of cases entering the court. As such, the study measures the total amount of judicial time in an average month devoted to processing each particular type of case to be weighted (e.g., capital murder, medical malpractice, small claims). Because it is a snapshot, few cases will actually complete the journey from filing to final resolution during the study period. However, each participating court will be processing a number of each type of case in varying *stages* of the case life-cycle (i.e., some particular types of cases will be in the pre-trial phase, other similar types of cases will be in the trial phase, while still others of the same type of case will be in the post-trial stage). For example, during a given month, a circuit court will handle the initiation of a number of new dissolution cases, while the same court will also have other dissolution cases (perhaps filed months earlier) on the trial docket, and still other dissolution cases in the postjudgment phase. Moreover, if the sample period is

representative, the mix of new, trial, and postjudgment activities conducted for each type of case as well as the time devoted to each type of activity will be representative of the type of work entering the court throughout the year. Therefore, data collected during the study period will provide a direct measure of the amount of judicial time devoted to the full range of key case processing events.

The average number of cases filed and disposed each month in each participating court is also compiled. For example, if a court spent 400 hours processing serious felony cases during the two months and there was an average of 100 felony cases filed during the same two months, this would be an average of four hours per felony (400 hours / 100 felony filings). This four-hour "case weight" would be interpreted as the average time to process a felony case from filing to final resolution—even though no individual case is tracked from start to finish. Rather, the case weight is a composite of separate (though likely similar) cases observed at various points in the case life cycle. Figure 4-1 illustrates this concept:



Assume the chart shows the progress of four separate cases of a similar type through a given court during the period of the time study (June 1 to June 30 or September 1 to September 30). It is not necessary that cases be tracked from start to finish. Instead, for each type of case examined, the study tracks the time spent on key case processing events during each case's life cycle. When the time spent on each event for these four cases is summed up for the one-month period, the result is an estimate of the total amount of time needed to process a case from start to finish—even though no particular case is tracked from start to finish. Type 1 provides the time required to process the closing segment of case life; Type 2 provides the time required to complete an entire case; Type 3 focuses on the beginning segment of case life; and Type 4 provides the time required to process the middle segment of case life.

To estimate the average amount of time required to process a given type of case, the total time is divided by the average number of filings during the study period. If the sample of cases is large enough and the study period is representative of the year, the results from this event-based methodology will provide a reasonable estimate of the time needed to process each type of case. In the Florida study, the time estimates were based on observations from thousands of individual case events for each case type and, therefore, have a great deal of reliability.

The Process

The following sections contain a detailed description of the five major tasks needed to complete the *Event-Based Methodology*.

Step 1: Choose a set of representative courts to participate in the study.

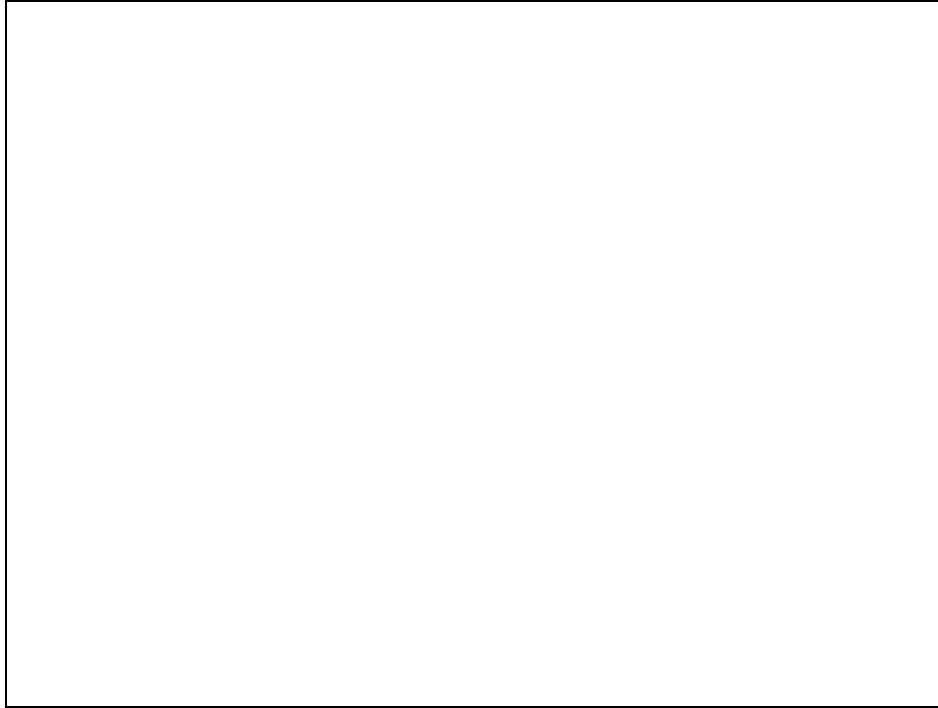
A two-stage sampling design was used to select courts to participate in the constrained time study.

- First, drawing on the expertise of the OSCA, project staff classified circuits into six similarity groupings or strata.
- Second, from each similarity grouping or strata, one or more circuits along with the corresponding county courts were recommended to participate in the time study.

The study's sampling goal was to obtain information from a representative set of circuit and county courts. If carefully selected, this information can be generalized to all of the remaining trial courts in Florida. Site selection criteria were designed to assure that data collected for the study were accurate and appropriate for application to all courts in the state. The nine counties selected from among the six clusters to participate in the time study are shown in italics in Table 4-1.



Once the clusters were identified, project staff developed a recommendation for the actual number of judges to be asked to participate in the time study. The selection was based on factors such as differences in judicial calendaring, the number of judges working in each court, as well as the pragmatic issue of cost. Table 4-2 summarizes the number of participating judges by court type for each stratum. Within each of the strata, the following sampling targets were set for circuit and county judges: Strata 1 – 100%; Strata 2 – 75%; Strata 3 – 50%; Strata 4 – 33%; and Strata 4 and 5 – 25%. As can be seen in Table 4-2, we came quite close to reaching these goals:



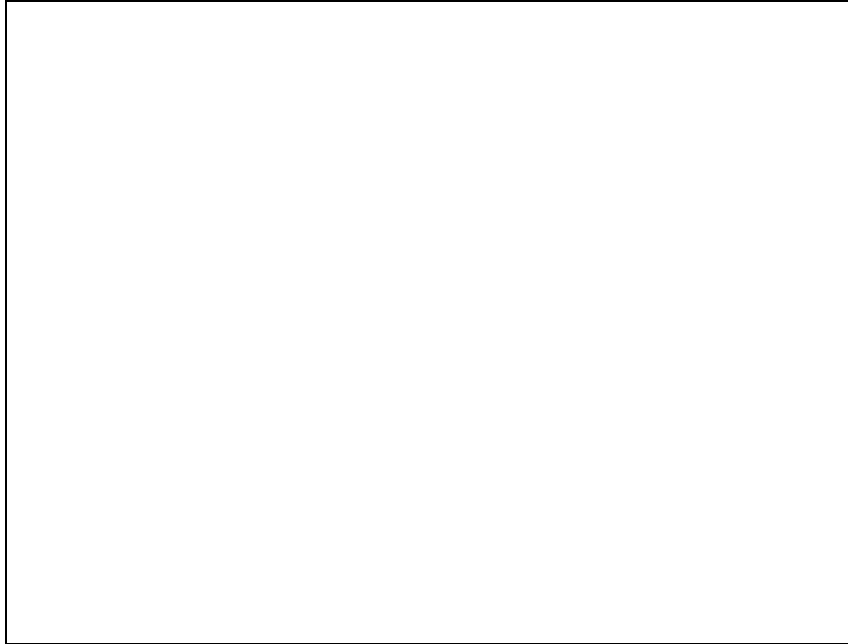
Florida judges took the time study exercise seriously. During June, 117 of 118 judges provided complete time logs for the month and, during September, 112 of 115 judges provided complete time logs for the month.

Step 2: Select the set of case types and events to be used in building the weights.

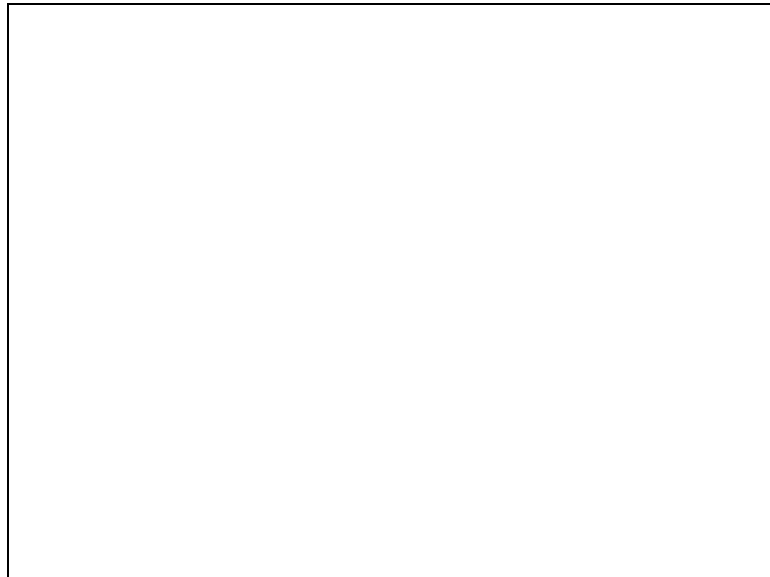
Selecting the number of case types and case events to be used in a weighted caseload study involves a tradeoff between having enough information to ensure the accuracy of the case weights and minimizing the data collection burden on the participating judges and judicial officers. The more case types and events that are included in a weighted caseload study, the larger the data samples need to be to guarantee statistical accuracy. Sample size was controlled by the number of counties selected in each of the similarity groupings. As determined by the DPC, time study data were collected on 22 circuit case types and eight county case types for both case-related and non-case-related events.

Case types. The Florida courts monitor and report case type information through the SRS process. Determining the appropriate types of cases to be weighted was particularly important because the case weights must eventually be attached to readily available case filing and disposition data to determine workload. That is, the weights must correspond to the specificity of filing and disposition data available from every court throughout the state. For this reason, the DPC voted to develop case weights based on the major case type reporting categories currently used by the OSCA. Table 3-1 shows the 22 circuit court and eight county court case types for which weights were developed.

Event Codes. The case weights were constructed from the total time spent on up to eight case-related events and six non-case-related events. Again, the goal was to gather enough information to account for all judicial activity without so finely delineating events as to make data collection unnecessarily burdensome. The case-related events studied are shown in Table 4-3:



In addition, six non-case-related event categories were studied. While these events were not used to calculate the case weights, they provided valuable information on judicial time available to hear case-related matters. The non-case-related events studied are displayed in Table 4-4:



Step 3: Record the total amount of judge and judicial officer time spent on each of the selected events within each of the case types for each of the two study months.

The data collection took place during June and September 1999 in the nine participating circuits. Following approval by the DPC on the types of cases and case events to be involved in the weighting process, data collection materials were designed by the NCSC project team. Forms for both judicial case-related activity and for non-case-related activity were constructed as were a set of instructions to clearly explain the data collection process for all judges and judicial officers engaged in the study. A complete set of time study data collection materials are available from the OSCA on request.

The NCSC project staff worked together with the OSCA staff to develop a training program for all individuals involved in the time study data collection. All participating courts were visited by the OSCA staff to acquaint the judges and judicial officers with the weighted caseload concept, the proposed project design, the data collection requirements, and to answer any questions related to the study and its implications.

The two-month data collection effort was very successful. The level of participation throughout the time study corresponded almost identically to the parameters set in the sampling plan. During the two months of study, participants recorded 60,000 separate lines of information related to case-related activity corresponding to nearly one million minutes of Circuit work and one-half million minutes of County work. In addition, we collected approximately 30,000 separate entries of non-case-related activity.

Step 4: Compile the total number of each type of case filed during each month of the two month data collection period.

The event-based methodology employed by the NCSC divides the total amount of time recorded for each case type by the number of cases filed during the time study period. Given the tight project time

frame, it was not possible to compile monthly filing data for September 1999. As a consequence, the NCSC made the decision to use average monthly filings (during the period January 1998 to June 1999) in calculating the case weights for both the circuit and county case types.

Step 5: Calculate the individual case weights

The time study case weights are calculated by dividing the total amount of Circuit and County judge time expended during the study period on each of the selected case types by the corresponding average number of filings for each case type. The weights are displayed and discussed in the following section.

Results of the Weighted Caseload Study

The time study provided the *raw* number of *case-related* minutes that judges spent on each of the 22 case types in Circuit Court and the eight case types in County Court. Table 4-5 shows the total minutes of case-related time collected from those judges that participated in the two month study. As can be seen in Table 4-5, there are 980,000 raw circuit minutes and 437,000 raw county minutes in the sample.

Table 4-5

Type Number	Crime Type	Actual Reported Time Participating Circuits in June/September Time Study									Actual Minutes Total
		1	3	4	6	9	11	16	17	19	
0	Multiple Case Types	634	2,107	3,233	3,973	2,817	5,526	3,966	3,989	4,285	30,530
1	Capital Murder	1,657	97	488	876	1,786	15,012	201	4,737	4,663	29,517
2	Serious Felony	4,889	3,967	2,773	4,668	4,798	9,621	1,022	4,036	5,822	41,596
3	Less Serious Felony	5,157	6,444	3,738	5,197	8,121	14,453	4,853	25,795	6,722	80,480
4	Property Crime	11,556	15,233	9,042	11,016	13,841	19,511	8,584	14,252	10,306	113,341
5	Drug	3,949	5,171	4,250	7,312	10,956	6,286	6,460	11,353	5,817	61,554
6	Prof Malprac & Prod Lia	607	711	525	4,270	1,218	5,159	185	1,908	82	14,665
7	Auto neg & other neg	3,498	7,746	5,015	16,349	10,662	10,268	2,242	9,482	5,927	71,189
8	Contracts, real prop	5,285	4,715	5,410	6,316	13,014	8,747	1,883	6,052	8,086	59,508
9	Eminent Domain	26	1,532	65	150	2,387	27		44		4,231
10	Other Circuit Civil	3,086	2,251	3,575	5,587	7,683	6,427	1,477	4,189	3,682	37,957
11	Simplified Dissolution	87	654	347	30	1,123	853	263	412	40	3,809
12	Dissolution	2,576	10,305	7,502	8,426	14,922	6,900	2,493	19,668	13,351	86,143
13	Domestic Post Judge	2,597	5,629	7,085	5,698	1,105	740	1,693	1,332	3,769	29,648
14	Child Support	819	6,065	1,206	1,426	391		780	1,906	1,202	13,795
15	Domestic Violence	1,042	4,879	1,698	7,125	3,208	13,530	3,667	5,747	3,687	44,583
16	Other Domestic	255	1,551	5,759	2,129	9,846	1,722	317	3,682	776	26,037
17	Probate	2,924	2,821	1,325	10,259	10	4,257	782	3,498	1,344	27,220
18	Guardianship	1,334	646	460	3,663		3,365	415	2,447	1,290	13,620
19	Trust								140		140

20	Other Probate	1,778	1,955	210		15	8,482	252	2,539	1,250	16,481
21	Delinquency	15,593	4,630	4,364	9,066	14,082	10,960	2,873	12,872	12,030	86,470
22	Dependency	7,476	7,749	1,307	13,206	14,858	11,363	3,254	19,713	9,135	88,061
	Circuit Total	76,825	96,858	69,377	126,742	136,843	163,209	47,662	159,793	103,266	980,575
23	Misdem. Crim Traffic	13,671	25,520	13,778	28,367	32,643	38,702	10,540	20,683	17,198	201,102
24	Muni & County Ord	209	181	250	415	654	211	695	2,179	269	5,063
25	DUI	5,414	3,330	10,174	7,633	9,042	18,020	10,437	14,361	6,357	84,768
26	Small Claims	3,754	5,072	2,603	2,636	5,537	8,351	4,303	12,988	4,989	50,233
27	Civil < \$15,000	2,822	2,807	1,539	7,570	4,869	11,243	1,133	16,060	2,403	50,446
28	Other County Civil	374	796		4,511	686	2,458	6	3,214	269	12,314
29	Eviction	490	885	1,537	1,651	1,561	998	1,489	7,893	1,121	17,625
30	Civil Traffic	790	4,097	1,373	269	2,594	2,925	370	1,656	1,904	15,978
	County Total	27,524	42,688	31,254	53,052	57,586	82,908	28,973	79,034	34,510	437,529
	Overall Total	104,349	139,546	100,631	179,794	194,429	246,117	76,635	238,827	137,776	1,418,104

The minutes for each case type in each court were then weighted in order to obtain an estimate of the number of minutes statewide for the two months in the sample period. The weighting involves the following two-step procedure. First, it was necessary to weight the minutes in each circuit where less than 100% of the judges participated up to the estimated total for the entire bench in that circuit. For example, recorded minutes would be doubled if 50% of the judges in a circuit participated. Second, remembering that in several cases not all circuits in a particular strata participated in the study, it was necessary to weight each of the participating circuits in these stratum back to the strata as a whole. For example, if the participating circuits in a given strata represent 33% of all judges in the strata, then all recorded time would be weighted by 3.0. The weighting procedures outlined in the two stages are complicated by the fact that the weighting also takes into account the type of docket each of the sample judges has. For example, if there are four judges hearing domestic relations cases and one of those judges is included in the sample, then we would weight that judge's minutes by 4.0. Given the slightly different participation rates for the two months, different weights were generated for June and September. The sample weights for June and September are presented in Appendices D and E, respectively.

Applying the weights to the raw minutes for each of the months, yields a set of weighted minutes. The total weighted minutes are presented in Table 4-6. When weighted, the 980,000 raw circuit minutes

become 6.2 million minutes statewide. The 440,000 county minutes become 3.1 million minutes statewide.

Table 4-6

TOTAL WEIGHTED MINUTES JUNE AND SEPTEMBER—INITIAL VERSION

CASE TYPE	1	3	4	6	9	11	16	17	19	Total
mixed bag	14,372	2,107	35,339	24,196	15,301	32,217	5,287	16,682	26,935	172,436
capmur	37,563	97	3,930	4,441	11,759	73,559	268	18,356	30,590	180,563
ncmsex	110,831	3,967	22,979	23,665	31,590	47,143	1,362	15,640	38,193	295,369
lesser	116,906	6,444	35,059	26,347	53,469	70,820	6,469	99,956	44,097	459,567
prop	261,967	15,233	77,050	55,848	91,129	95,604	11,442	55,227	67,609	731,109
drug	89,521	5,171	36,984	37,070	72,134	30,801	8,611	43,993	38,160	362,446
prof mal prod lia	13,760	711	5,131	39,535	6,014	35,442	247	14,310	633	115,784
auto neg	79,298	7,746	46,101	151,371	52,649	70,541	2,989	71,115	45,763	527,573
contract real pro	119,808	4,715	55,875	58,478	64,263	60,092	2,510	45,390	62,434	473,565
eminent domain	589	1,532	776	1,389	11,787	185		330		16,588
other cir civil	69,958	2,251	33,989	51,729	37,939	44,153	1,734	31,418	25,248	298,419
sim dis	7,162	654	2,967	185	5,545	9,810	351	1,648	192	28,514
dissolution	212,049	10,305	73,882	52,009	73,685	79,350	3,323	78,672	64,174	647,449
post judge	213,777	5,629	64,211	35,171	5,456	8,510	2,257	5,328	18,116	358,456
child support	67,418	6,065	10,091	8,802	1,931		1,040	7,624	5,778	108,748
dom violence	85,774	4,879	15,569	43,979	15,841	155,595	4,888	22,988	17,722	367,235
other	20,991	1,551	50,210	13,141	48,620	19,803	423	9,205	6,042	169,984
probate	66,285	2,821	13,743	67,545	55	17,028	1,042	8,745		177,265
guardian	30,241	646	4,893	24,117		13,460	553	6,118	10,043	90,071
trust								350		350
other probate	40,306	1,955	1,909		83	33,928	336	6,348	9,732	94,596
delinquency	139,518	4,630	45,708	29,845	57,947	38,360	3,830	32,180	57,825	409,844
dependency	66,892	7,749	13,508	43,474	61,141	39,771	4,338	49,283	43,909	330,064
mis crim traffic	492,156	25,520	137,307	182,910	149,074	176,326	14,018	92,544	120,386	1,390,242
muni county ord	7,524	181	2,536	2,676	2,987	961	924	9,879	1,883	29,551
DUI	194,904	3,330	103,096	49,218	41,293	82,099	13,881	65,352	44,499	597,671
small claims	135,144	5,072	27,046	16,997	25,286	35,358	5,723	58,737	34,923	344,287
civ \$15000	101,592	2,807	14,821	48,811	22,236	47,603	1,741	72,671	19,705	331,987
other civ	13,464	796		29,087	3,133	10,407	8	15,441	1,883	74,219
eviction	17,640	885	16,132	10,646	7,129	4,226	1,980	35,672	7,847	102,156
civ traf	28,440	4,097	13,691	1,735	11,846	12,384	492	7,163	13,328	93,176
Total	2,855,850	139,546	964,536	1,134,418	981,322	1,345,537	102,067	998,362	857,650	9,379,287

Approximately 2% of all *weighted* case-related minutes were not tied to a specific case type—almost all of these minutes occurred in circuit court. Rather than ignore these minutes, the research staff made a decision to allocate those non-specific case minutes to the circuit case types in proportion to the occurrence of each case type. For example, in Circuit 4, there were 35,339 minutes (approximately 4% of the total) that were not tied to a specific case type. These non-specific minutes were distributed among the circuit case types in proportion to their contribution to the overall percentage of circuit minutes. Therefore, in Circuit 4, because property crimes account for 10% of the total case-related minutes for which there was a specified case type; 10% of the 35,339 minutes were reallocated to property offenses. This procedure was followed for each of the remaining Circuit case types.

In addition to dividing up the non-specific minutes, it was also necessary to divide up the postjudgment minutes in the Domestic Relations area. This is necessary because there is no count of the

number of postjudgment “filings” that can be tied directly to the postjudgment minutes. Following a similar procedure to that used to divide the non-specific minutes, we divided the postjudgment minutes in proportion to the overall number of minutes in each of the Domestic Relations case types. The results of both these procedures are presented in Table 4-7. The remainder of the Delphi case types included postjudgment as part of the total time captured for the original case filing, and therefore did not require a calculation to apportion this time.

Table 4-7

TOTAL WEIGHTED MINUTES JUNE AND SEPTEMBER—FINAL VERSION										
CASE TYPE	Participating Circuits									Total
	1	3	4	6	9	11	16	17	19	
capmur	37,855	99	4,156	4,581	12,015	76,069	292	18,846	31,995	185,909
ncmsex	111,691	4,055	24,300	24,411	32,278	48,752	1,486	16,057	39,948	302,978
lesser	117,814	6,587	37,075	27,177	54,632	73,237	7,059	102,627	46,123	472,331
prop	264,002	15,572	81,481	57,607	93,113	98,867	12,485	56,702	70,715	750,543
drug	90,217	5,286	39,111	38,237	73,704	31,853	9,396	45,169	39,914	372,885
prof mal prod lia	13,867	727	5,426	40,780	6,145	36,652	269	14,692	662	119,222
auto neg	79,913	7,918	48,752	156,139	53,795	72,949	3,261	73,016	47,866	543,609
contract real pro	120,738	4,820	59,088	60,320	65,662	62,143	2,739	46,603	65,302	487,415
eminent domain	594	1,566	820	1,433	12,044	192	0	339	0	16,987
other cir civil	70,501	2,301	35,944	53,358	38,764	45,660	1,892	32,257	26,408	307,086
sim dis	11,139	829	4,457	248	5,878	10,471	469	1,767	240	35,498
dissolution	329,822	13,062	110,981	69,622	78,110	84,698	4,442	84,357	80,072	855,165
post judge										
child support	104,862	7,688	15,158	11,783	2,047	0	1,390	8,175	7,209	158,311
dom violence	133,414	6,185	23,386	58,872	16,792	166,081	6,534	24,649	22,113	458,026
other	32,649	1,966	75,422	17,591	51,539	21,138	565	9,870	7,538	218,278
probate	66,800	2,884	14,533	69,673	56	17,609	1,137	8,979	0	181,672
guardian	30,476	660	5,174	24,877	0	13,919	604	6,281	10,505	92,496
trust	0	0	0	0	0	0	0	359	0	359
other probate	40,619	1,998	2,019	0	85	35,086	367	6,517	10,179	96,870
delinquency	140,602	4,733	48,337	30,785	59,209	39,669	4,179	33,040	60,481	421,035
dependency	67,411	7,921	14,285	44,844	62,471	41,128	4,733	50,600	45,927	339,319
Total	1,864,986	96,858	649,906	792,339	718,339	976,172	63,299	640,902	613,196	6,415,996
mis crim traffic	492,156	25,520	137,307	182,910	149,074	176,326	14,018	92,544	120,386	1,390,242
muni county ord	7,524	181	2,536	2,676	2,987	961	924	9,879	1,883	29,551
DUI	194,904	3,330	103,096	49,218	41,293	82,099	13,881	65,352	44,499	597,671
small claims	135,144	5,072	27,046	16,997	25,286	35,358	5,723	58,737	34,923	344,287
civ \$15000	101,592	2,807	14,821	48,811	22,236	47,603	1,741	72,671	19,705	331,987
other civ	13,464	796	0	29,087	3,133	10,407	8	15,441	1,883	74,219
eviction	17,640	885	16,132	10,646	7,129	4,226	1,980	35,672	7,847	102,156
civ traf	28,440	4,097	13,691	1,735	11,846	12,384	492	7,163	13,328	93,176
Total	990,864	42,688	314,630	342,079	262,984	369,365	38,768	357,459	244,454	2,963,291
Total	2,855,850	139,546	964,536	1,134,418	981,322	1,345,537	102,067	998,362	857,650	9,379,287

The weighting procedure was designed to provide an accurate estimate of total judicial case-related minutes both by strata and statewide. The weighted minutes by strata are presented in Table 4-8.

Table 4-8

STATEWIDE WEIGHTED MINUTES CIRCUIT COURT								
Type Number	Crime Type	STRATA						Total
		I	II	III	IV	V	VI	
1	Capital Murder	392	31,995	37,855	20,752	18,846	76,069	185,909
2	Serious Felony	5,542	39,948	111,691	80,988	16,057	48,752	302,978
3	Less Serious Felony	13,646	46,123	117,814	118,885	102,627	73,237	472,331
4	Property Crime	28,057	70,715	264,002	232,200	56,702	98,867	750,543
5	Drug	14,682	39,914	90,217	151,052	45,169	31,853	372,885
6	Prof Malprac & Prod Lia	996	662	13,867	52,352	14,692	36,652	119,222
7	Auto neg & other neg	11,179	47,866	79,913	258,686	73,016	72,949	543,609
8	Contracts, real prop	7,559	65,302	120,738	185,070	46,603	62,143	487,415
9	Eminent Domain	1,566	0	594	14,296	339	192	16,987
10	Other Circuit Civil	4,193	26,408	70,501	128,066	32,257	45,660	307,086
11	Simplified Dissolution	1,298	240	11,139	10,584	1,767	10,471	35,498
12	Dissolution	17,505	80,072	329,822	258,713	84,357	84,698	855,165
13	Domestic Post Judge	(distributed to other domestic types)						
14	Child Support	9,078	7,209	104,862	28,988	8,175	0	158,311
15	Domestic Violence	12,719	22,113	133,414	99,051	24,649	166,081	458,026
16	Other Domestic	2,531	7,538	32,649	144,552	9,870	21,138	218,278
17	Probate	4,021	0	66,800	84,263	8,979	17,609	181,672
18	Guardianship	1,264	10,505	30,476	30,051	6,281	13,919	92,496
19	Trust	0	0	0	0	359	0	359
20	Other Probate	2,365	10,179	40,619	2,104	6,517	85	96,870
21	Delinquency	8,912	60,481	140,602	138,331	33,040	39,669	421,035
22	Dependency	12,654	45,927	67,411	121,600	50,600	41,128	339,319
Circuit Total Minutes		160,157	613,196	1,864,986	2,160,583	640,902	941,170	6,415,996

STATEWIDE WEIGHTED MINUTES COUNTY COURT								
Type Number	Crime Type	STRATA						Total
		I	II	III	IV	V	VI	
23	Misdem. Crim Traffic	39,538	120,386	492,156	469,292	92,544	149,074	1,390,242
24	Muni & County Ord	1,105	1,883	7,524	8,199	9,879	2,987	29,551
25	DUI	17,211	44,499	194,904	193,606	65,352	41,293	597,671
26	Small Claims	10,795	34,923	135,144	69,330	58,737	25,286	344,287
27	Civil < \$15,000	4,548	19,705	101,592	85,868	72,671	22,236	331,987
28	Other County Civil	804	1,883	13,464	32,220	15,441	3,133	36,240
29	Eviction	2,865	7,847	17,640	33,907	35,672	7,129	102,156
30	Civil Traffic	4,589	13,328	28,440	27,272	7,163	11,846	93,176
County Total Minutes		81,456	244,454	990,864	919,693	357,459	262,984	2,963,291

Having determined the appropriate number of weighted case-related minutes, it was necessary to obtain data on the number of filings in each court for 1998. With the assistance of the OSCA staff, data were obtained on the *total* number of filings in each case type for each court in the sample. These filings were averaged to come up with the total average number of filings in each strata for the two-month sample period. These data are presented in Table 4-9. As can be seen, there are 832,000 filings in the circuit court (nb. This excludes juvenile delinquency petitions).

Table 4-9

TOTAL FILINGS FY 1998							
Crime Type	I	II	III	IV	V	VI	Total
Capital Murder	4	27	94	170	46	104	445
Serious Felony	75	611	1,655	1,694	276	772	5,083
Less Serious Felony	831	3,926	11,274	12,959	3,421	6,268	38,679
Property Crime	1,921	9,442	22,590	30,880	6,279	9,631	80,743
Drug	886	4,966	14,317	21,185	8,902	7,869	58,125
Prof Malprac & Prod Lia	51	209	1,124	1,349	852	636	4,221
Auto neg & other neg	410	1,837	7,304	12,322	4,064	6,407	32,344
Contracts, real prop	924	5,221	22,135	31,149	12,251	18,382	90,062
Eminent Domain	7	105	1,036	529	44	0	1,721
Other Circuit Civil	762	4,090	6,862	7,566	3,415	4,549	27,244
Simplified Dissolution	307	891	3,002	1,783	533	920	7,436
Dissolution	1,509	7,446	25,708	29,938	8,497	11,991	85,089
Domestic Post Judge							
Child Support	816	3,347	10,963	8,180	1,295	1,917	26,518
Domestic Violence	1,803	6,905	22,960	26,824	6,343	8,902	73,737
Other Domestic	1,033	5,398	14,938	14,751	3,223	5,570	44,913
Probate	936	4,590	19,475	17,707	5,673	4,346	52,727
Guardianship	117	746	2,771	2,723	769	1,034	8,160
Trust	3	66	554	435	93	59	1,210
Other Probate	481	3,053	8,306	10,304	2,138	4,587	28,869
Delinquency	2,944	15,020	48,535	56,347	14,826	17,611	155,283
Dependency	243	932	2,905	3,373	1,224	702	9,379
Total	16,063	78,828	248,508	292,168	84,164	112,257	831,988

	I	II	III	IV	V	VI	Total
Misdem. Crim Traffic	32,402	85,432	234,220	282,081	86,328	123,312	843,775
Muni & County Ord	890	4,758	13,909	25,397	14,718	51,971	111,643
DUI	787	5,181	12,649	16,077	4,460	1,426	40,580
Small Claims	2,961	24,656	43,870	46,827	15,794	26,452	160,560
Civil < \$15,000	596	4,048	14,832	19,956	8,385	12,774	60,591
Other County Civil	286	987	2,558	2,301	1,817	1,491	9,440
Eviction	939	7,839	22,815	43,384	15,788	23,781	114,546
Civil Traffic	70,108	261,310	737,806	948,983	464,208	797,486	3,279,901
	108,969	394,211	1,082,659	1,385,006	611,498	1,038,693	4,621,036

To obtain the case weights, we divide the number of weighted case-related minutes (see Table 4-8) by the number of filings for that case type (see Table 4-9). The resulting case weights are displayed in Table 4-10.

Table 4-10

Type Number	Crime Type	Case Weights
1	Capital Murder	2507
2	Serious Felony	358
3	Less Serious Felony	73
4	Property Crime	56
5	Drug	38
6	Prof Malprac & Prod Lia	169
7	Auto neg & other neg	101
8	Contracts, real prop	32
9	Eminent Domain	59
10	Other Circuit Civil	68
11	Simplified Dissolution	29
12	Dissolution	60
13	Domestic Post Judge	
14	Child Support	36
15	Domestic Violence	37
16	Other Domestic	29
17	Probate	21
18	Guardianship	68
19	Trust	2
20	Other Probate	20
21	Delinquency	16
22	Dependency	217
Overall Average		46
23	Misdem. Crim Traffic	10
24	Muni & County Ord	2
25	DUI	88
26	Small Claims	13
27	Civil < \$15,000	33
28	Other County Civil	23
29	Eviction	5
30	Civil Traffic	0.17
Overall Average		13

Assessing the Validity of the Case Weights

A case weight represents the average number of minutes needed to process a case from filing to final resolution. The case weight is the number of case-related minutes for each case type normed by the number of filings in that case type. It is important to recognize that some of the time reflected in a case weight is time spent on postjudgment activity over the life of a case. For example, the case weight for a Dissolution case is 60 minutes. For each disposition, a judge spends an average of 60 minutes; however, some of the 60 minutes is time spent on postjudgment activity for cases that may have been disposed in previous years. Consequently, the case weight represents the amount of time needed to reach the initial disposition as well as time spent on postjudgment activity.

To assess their validity, the overall case weights were applied to the 1998 data in each of

the courts in the sample to see whether the work could have been accomplished with the judges currently in place. The crucial question is: could all of the cases filed and disposed in 1998 have been processed according to the weights assigned? If the answer is affirmative, this lends considerable credence to the resulting weights. If, however, the answer is negative, the case weights may need further revision.

With the assistance of the OSCA, project staff compiled data on the number of judges in each county in Florida. For purposes of this validity check, the average judge year adopted by the DPC was used: it was assumed that urban circuit judges devote approximately 77,400 minutes to case-related activity while rural circuit judges and all county judges devote approximately 70,950 minutes each year to case-related matters. Having determined how much judge time was available to work on case-related matters, the number of 1998 filings in each case type (for each court) was multiplied by the Time Study case weight.

Table 4-11 presents the workload estimates for circuit and county courts in each of Florida's twenty judicial circuits. As can be seen, using the time study case weights, there are 38,000,000 minutes of work in circuit court and approximately 17,000,000 minutes of work in county court. Looking first at circuit court, it is clear that there is more work in every circuit (except the 16th) than can be handled by the current complement of circuit judges. Two circuits have a projected shortfall of five judges (9th and 17th). Overall, the time study shows a need for 510 circuit judges while there were only 468 allocated during Fiscal Year 1998-99. There is, in other words, a need for approximately 42 more circuit judges.

Table 4-11

Circuit		CIRCUIT COURT			COUNTY COURT			
		Total Workload Time Study (minutes)	Total FTE Judges Time Study	Actual Judges	Total Workload Time Study (minutes)	Total FTE Judges Time Study	Constitutional FTE Judges Time Study	Actual Judges
1	rural	1,587,662	22	19	575,795	8	9	10
2	rural	997,526	14	12	443,017	6	10	9
3	rural	460,940	6	5	182,374	3	7	7
4	urban	2,391,682	31	29	1,236,274	18	18	16
5	rural	1,682,768	24	20	574,222	8	9	8
6	urban	2,947,025	38	37	1,264,456	18	18	16
7	rural	1,642,146	23	21	750,671	11	11	13
8	rural	762,784	11	10	373,087	5	9	10
9	urban	2,978,267	38	33	1,006,597	14	14	17
10	rural	1,516,424	21	18	673,240	10	10	8
11	urban	5,478,775	71	70	2,381,166	34	34	41
12	urban	1,355,574	18	17	509,678	7	8	8
13	urban	2,743,834	35	33	1,147,412	16	17	13
14	rural	706,991	10	9	338,021	5	8	8
15	urban	2,427,309	31	31	1,168,783	17	16	17
16	rural	272,231	4	4	106,966	2	2	4
17	urban	3,952,313	51	46	1,887,954	27	27	25
18	urban	1,708,650	22	21	892,738	13	13	12
19	rural	1,151,421	16	13	579,272	8	9	8
20	rural	1,609,236	23	20	739,461	11	12	13
		38,373,558	510	468	16,831,184	239	258	263

Could this shortfall have been handled with existing resources or does it mean that the time study weights are not valid? Based upon our analysis of the time study data, we found that 7% of all circuit work was done by county judges—this translates into approximately 38 judge years of work. When coupled with senior judges, it is clear that not only could the workload have been handled but that there is a definite need for more circuit judges.

Turning to the county courts, in approximately one-half of all circuits, there are more than enough county judges to handle the county workload. Overall, the time study shows a need for 239 county judges while there were 263 judges allocated during Fiscal Year 1998-99. Clearly, the fact that there are 24 more judges than necessary to do county work is offset by the fact that, for various reasons, it is an efficient use of judicial resources for county judges to occasionally perform some circuit work.

With very few exceptions, most circuits encompass more than one county. Given that there is a constitutional requirement in Florida that each county has at least one county judge, it is important to

take this into account when assessing the overall validity of the model. When the constitutional requirements are taken into account, there is a need for 258 county judges to satisfy both the workload and constitutionally-based need.

Taken together, these results provide strong support for the validity of the time study case weights and the resulting computation of judicial need.

Case Weights and Resource Implications. The time study case weights are the building blocks for constructing the “Reasonable” case weight mandated by Florida legislature. The time study weights are useful in assessing the accuracy of the judicial time available and the validity of the Delphi and Relative weights. Table 4-10 lists the time study case weights and Table 4-11 shows the judge need implications of those weights.

The time study case weights are highly valid and reliable. By a number of measures the study shows that correct conclusions have been made about judicial activities in Florida. The sampling procedures and the subsequent responses from each of the various circuits suggest that if the study were repeated similar results would occur.

The resource implications of the time study can be measured in three ways. First, sufficient data were collected to view time study weights as a reliable measure of current practice. The time study captured 1.4 million minutes of judicial work in two months for the sample courts. The current contingent of 468 circuit judges each has available 77,400 minutes in urban courts and 70,900 minutes per year in rural courts to do case-related work. In two months, these judges would be expected to perform 6.04 million minutes of work. Using the empirical data from the time study to estimate how much work was done statewide during the two month period shows that 6.2 million minutes of work was done. Similarly, the 263 county judges who have available 70,900 minutes per year would expect to perform 3.11 million minutes of work over two months. The time study shows that 3.2 million minutes of work was done.

Second, both circuit court and county court judges are working at DPC standards. Time study

results validate the judge year estimates made by the DPC at the February meeting. Table 4-12 shows the anticipated minutes for case-related work available to judges on a yearly and daily basis. Table 4-13 shows the actual minutes spent according to the time study. Overall, the number of case-related and non-case-related hours spent by circuit and county judges per day in the time study met or exceeded the expected standard. Similarly, according to the standards adopted by the DPC, Florida judges are expected to average 18 days per month of case-related work. The time study indicates that this standard was met during the two months of the study.

Table 4-12

Anticipated Minutes For Case-Related Work

	<u>Urban</u>	<u>Rural</u>
Anticipated Minutes per Year		
Circuit	77,400	70,900
County	70,900	70,900
Anticipated Minutes per Day		
Circuit	360	330
County	330	330

Table 4-13

Actual Minutes for Case-Related Work

	<u>Overall</u>
Actual Minutes per Year	
Circuit	79,335
County	68,370
Actual Minutes per Day	
Circuit	369
County	318

Third, the relationship between implied need and actual number of judges shows that case weights reflect current practice. Applying the time study case weights to 1998 filings indicates that the number of available circuit and county judges could have done the work that was reported.

Comparing Actual Time to Preferred Time

The time study was designed to measure how much time is *actually* spent by judges on all facets of case processing. During the design of the time study, some judges noted that workload pressure may cause them to spend less time than they desire on processing particular case events. Consequently, NCSC staff included a column on the data collection instrument that asked each judge to tell us, in addition to how much time they *actually* spent, how much more time they would have *preferred* to spend on the specific case event to ensure that it was handled in an appropriate and “reasonable” manner.

During the two months of the time study, project staff received 50,401 separate lines of case-related data from participating judges. It is noteworthy that these 50,000 lines of data reflect over 250,000 separate case events since each data line could contain similar events for multiple individual cases. The two-month time study provides a comprehensive and complete set of data related to case related matters. In only

2.7% of all the entries did the responding judge indicate that s/he needed more time to handle the particular case. As can be seen Table 4-14, simplified dissolution, domestic violence, probate, and guardianship cases were those identified in more than 6% of all instances. The remaining case types show very little indication of the need for more time. Table 4-14 also provides the number of additional minutes requested for those cases where there was a need for more time. As can be seen, the overall average is 27 minutes. A great deal of the demand for minutes can be traced to the Domestic case types.

Remember, however, that these requests for additional time occur in a small number of instances.

It is the judgment of the NCSC that the time study shows that judges believe they are spending a *reasonable* amount of time on the work that comes before them in the vast majority of cases. There is no need to adjust the case weights in light of the findings from the preferred time data collection. Given the small number of instances in which more time is needed, it seems unwise to allot all cases of a given type more time. The system has enough flexibility to accommodate the small number of cases that require additional time.

Table 4-14

Preferred Time When Different Than Actual Time

Case Type	Percent of all Entries Needing More Time	All Sample Cases		More Time Cases	
		Average Amount of Time Needed	Number of Individual Time Study Entries	Average Amount of Time Needed	Number of Individual Time Study Entries
Mixed Case Types	7.1%	2.10	662	29.53	47
Capital Murder	1.2%	0.05	409	4.00	5
Serious Felony	1.7%	0.45	1273	26.14	22
Less Serious Felony	1.1%	0.16	3034	15.25	32
Property Crime	1.2%	0.33	5166	26.94	64
Drug	0.7%	0.10	3357	13.54	24
Prof Malprac & Prod Lia	1.4%	0.22	296	16.00	4
Auto neg & other neg	2.9%	0.49	1553	16.89	45
Contracts, real prop	4.0%	0.55	1971	13.72	79
Eminent Domain	4.7%	0.26	43	5.50	2
Other Circuit Civil	0.8%	0.75	1012	20.39	36
Simplified Dissolution	6.7%	1.09	119	16.25	8
Dissolution	3.1%	1.23	1999	39.76	62
Domestic Post Judge	2.0%	1.23	986	60.50	20
Child Support	3.0%	0.85	501	28.53	15
Domestic Violence	6.6%	2.80	1192	42.25	79
Other Domestic	4.6%	1.37	719	29.85	33
Probate	10.4%	1.66	676	16.07	70
Guardianship	7.7%	1.30	391	16.97	30
Trust	0.0%	0.00	1	0.00	0
Other Probate	2.8%	0.42	356	15.10	10
Delinquency	1.5%	0.17	2266	12.00	33
Dependency	3.3%	1.02	2061	31.33	67
COUNTY COURT JUDGES					
Misdem. Crim Traffic	4.0%	1.11	9463	28.10	374
Muni & County Ord	1.4%	0.51	367	37.80	5
DUI	1.6%	0.56	3822	34.73	62
Small Claims	2.7%	0.95	2208	35.10	60
Civil < \$15,000	1.5%	0.76	2292	44.67	39
Other County Civil	0.3%	0.05	299	15.00	1
Eviction	2.2%	0.46	1247	20.43	28
Civil Traffic	4.1%	0.83	660	20.37	27
Circuit and County Total	2.7%	0.75	50401	27.36	1383

Chapter 5: Reconciling the Weights

The mandate to the Supreme Court of Florida from the state Legislature was to “determine the optimum caseloads for circuit and county judges.” In fulfilling this mandate, the DPC had three primary goals for their final meeting:

1. Compare and contrast the results obtained from the relative weighting process, the Scenario-based Delphi process, and the Time study;
2. Determine the final set of case types to be included in the Florida Weighted Caseload Model;
3. Develop a working definition of “optimum” and apply that definition in determining a final set of case weights for recommendation to the Supreme Court of Florida.

The final DPC meeting involved a multi-faceted decision making process conducted over two days. The DPC response to the three goals is discussed below.

1. Compare and contrast the alternative weights.

During the first day, the DPC reviewed the methodologies and results obtained from the relative weighting process, the Scenario-based Delphi process, and the time study. The DPC discussion covered the material presented in chapters 3 and 4. An important area of discussion concerned the relationship between Scenario-based Delphi weights and time study case weights. Though the weights tend to be different, is there a sense that both sets of weights could be “right?”

As discussed in Chapter 3, the Delphi weights may be “correct” if we acknowledge that they actually tend to describe a *subset* of all case filings, which is the subset of cases that judges “work” in a meaningful way. However, when these weights are then multiplied by *all* of the case filings, the estimated total number of workload minutes—and therefore the estimated number of judges required to do the work—is inflated.

The Time Study Weights, in contrast, arrive at the case weights by a technique that takes into

account all cases entering the Florida courts. Included among *all* case filings are many cases that require essentially no judge time. That is, in a measured 15-minute interval a judge may “process” many cases—acknowledging appearances and signing orders. The judicial work time per cases is calculated then to be 15 minutes divided by, say, ten cases, or 1.5 minutes per case. Because the vast majority of cases are those which are disposed with *no* trial time and no postjudgment time, and often with virtually no “pre-trial” time, the calculated time study case weight more closely measures the average time per all cases than does the Delphi weight. The NCSC staff conclusion is that the time study case weight is the “correct” case weight to use as an estimate of the average amount of time that judges typically spend processing all cases filed in the clerk’s office.

Following this overview, there was general agreement among the DPC that:

- The relative weights produced through a quick scan had limited validity as a measure of judicial workload;
- The scenario-based Delphi weights may reflect the work associated with the *subset* of cases actually seen by judges, but are not a completely valid measure of the current workload associated with *all* cases entering the Florida courts.
- The time study case weights are the most valid and reliable measure of the average amount of judge time currently being spent to process cases in Florida.

Consequently, the DPC determined that the time study case weights should serve as the baseline for further discussions of optimality and reasonableness.

The DPC next broke into case-specific groups that were charged with the following tasks: (a) assess which case types could be combined because of insufficient data or insignificant differences between time study case weights; and (b) make a recommendation to the entire group with respect to a

“Reasonable” case weight for each case type. Table 5-1 contains the comparison of the circuit court case weights that were used by the small groups as the basis to make further modifications. Table 5-2 shows the comparative weights for county court.

Table 5-1

Circuit Court Case Weight Comparisons

<u>Circuit Court</u>	<u>DPC Relative Weights</u>	<u>DJC Delphi</u>	<u>Time Study</u>
Criminal			
Capital Murder	2000	3150	2,507
Serious Felony	800	227	358
Less Serious Felony	100	77	73
Property Crime	100	59	56
Drug	200	51	38
Civil			
Prof Malprac & Prod Lia	725	509	169
Auto neg & other neg	400	117	101
Contracts, real prop	300	89	32
Eminent Domain	250	81	59
Other Circuit Civil	90	39	68
Domestic			
Simplified Dissolution	20	10	29
Dissolution	500	88	60
Domestic Postjudge	600	29	
Child Support	40	83	36
Domestic Violence	200	30	37
Other Domestic	75	23	29
Probate			
Probate	75	55	21
Guardianship	250	77	68
Trust	30	36	2
Other Probate	90	60	20
Juvenile			
Delinquency	90	46	16
Dependency	400	281	217
- Relative Weight Correlation		0.90	0.92
- Case Related Minutes		56,030,000	38,500,000
- Circuit Judge Years		724	497

Table 5-2

County Court Case Weight Comparisons

<u>County Court</u>	<u>DPC Relative Weights</u>	<u>DJC Delphi</u>	<u>Time Study</u>
Criminal			
Misdem. Crim Traffic	500	19	10
Muni & County Ord	200	13	2
DUI	995	47	88
Civil			
Small Claims	100	13	13
Civil < \$15,000	450	25	33
Other County Civil	90	19	23
Eviction	95	12	5
Civil Traffic	35	8	0.17
- Relative Weight Correlation		0.94	0.87
- Case Related Minutes		49,980,000	16,800,000
- Circuit Judge Years		705	238

Specific criteria were agreed to by the DPC to reconcile the case weights. There was a presumptive acceptance of the current practice, as measured by the time study case weights, unless there was a compelling reason to change. If the group thought there was a legitimate reason to revise the time study weight, they were asked to identify a specific reason as to why the case weight should be modified. Each group then turned in their recommended “Reasonable Case Weight” to NCSC staff for recalculation of the implied judge need.

4. Determine the final set of case types

The DPC agreed to combine a number of case types. Eminent Domain was combined with Other Circuit Civil; Probate and Other Probate were combined; and Guardianships and Trusts were combined. In each instance, the two case types that were combined now have the same case weight as is shown in Table 5-3.

While the DPC, as a policy, would like Domestic Relations postjudgment activity to be treated as a separate case type, the SRS does not currently collect reliable information on postjudgment activities.

Therefore, the group agreed to include the postjudgment activity as part of the five Domestic Relations case weights (i.e., simplified dissolution, dissolution, child support, domestic violence, and other domestic relations).

Finally, Civil Traffic cases have not been considered in past county court certifications. The DPC would like these case types to be included in future certifications for county judges, but recognizes that more work needs to be done in auditing these numbers before this can be accomplished.

5. Determine the final case weights

The DPC adopted a “reasonableness” standard in determining how to define “optimum caseloads.” The DPC voted to accept the following preliminary definition of “reasonable caseload:”

A reasonable caseload is the number of Delphi weighted cases that allows sufficient time for a judge to deal with the average case in a satisfactory and timely manner.

The DPC crafted the final set of reasonable weights drawing on expert opinion from the Delphi process and objective time study results.

On the second day of the DPC meeting, NCSC staff reported the judicial need impact of the case weight changes recommended by each DPC subcommittee. In addition, a representative from each DPC group reported to the Committee of the Whole on the case weight recommendations. The DPC voted using OptionFinder™ to reach consensus on the final set of Reasonable Case Weights. The Reasonable Case Weights are presented in Table 5-3.

Table 5-3

Circuit Court Reasonable Case Weights and Implied Judge Need

<i>Crime Type</i>	Reasonable Weights	Reasonable Judge Need	Time Study Judge Need
<i>Capital Murder</i>	3150	18	14
<i>Serious Felony</i>	358	24	24
<i>Less Serious Felony</i>	75	37	36
<i>Property Crime</i>	56	58	58
<i>Drug</i>	51	38	29
<i>Prof Malpractice & Prod</i>			
<i>Liability</i>	200	11	9
<i>Auto neg & other neg</i>	101	42	42
<i>Contracts, real prop</i>	32	37	37
<i>Eminent Domain</i>	68	2	1
<i>Other Circuit Civil</i>	68	24	24
<i>Simplified Dissolution</i>	25	2	3
<i>Dissolution</i>	70	77	66
<i>Domestic Post Judge</i>		0	0
<i>Child Support</i>	36	12	12
<i>Domestic Violence</i>	37	35	35
<i>Other Domestic</i>	29	17	17
<i>Probate</i>	21	14	14
<i>Guardianship</i>	68	7	7
<i>Trust</i>	68	1	0
<i>Other Probate</i>	21	8	7
<i>Delinquency</i>	16	32	32
<i>Dependency</i>	281	34	26
<i>Implied Circuit Judge Years</i>		532	496
<i>Implied Case-Related Minutes</i>		41,169,147	38,373,558
<i>Average time per case</i>		50	46
<i>Implied Certification Standard</i>		1,548	1,683
<i>Crime Type</i>	Reasonable Weights	Reasonable Judge Need	Time Study Judge Need
<i>Misdem. Crim Traffic</i>	10	116	116
<i>Muni & County Ord</i>	2	3	3
<i>DUI</i>	88	50	50
<i>Small Claims</i>	15	32	28
<i>Civil < \$15,000</i>	33	28	28
<i>Other County Civil</i>	23	3	3
<i>Eviction</i>	8	13	8
<i>Civil Traffic</i>	0.34	16	8
<i>Implied Circuit Judge Years</i>		262	245
<i>Implied Case-Related Minutes</i>		18,595,358	16,831,184
<i>Average time per case</i>		14	13
<i>Implied Certification Standard</i>		5,068	5,458

Comparing the Time Study and Reasonable Case Weights to the Current Certification Standard

Time study results indicate that the current certification standards for circuit and county court judges are too high. Modifications made to the time study case weights through the reconciliation process indicate even more judges are needed to handle the workload in a reasonable fashion.

In order to compare the results of the time study and the reconciled weights with the current certification process, the case weights were converted to a single caseload number. Table 5-4 compares the current and implied certification standards as well as the number of minutes per case allowed by each alternative. The implied certification standards were calculated by dividing the average judge year by the average minutes per case. For example, as shown in Table 3-2, the urban circuit court judge year is 77,400 minutes and, as shown in Table 5-3, the overall weighted average *time study* case weight was 46 minutes per case. Dividing the judge year by the average minutes per case yields an implied certification standard (i.e., $77,400 / 46 = 1,683$). Similarly, using the overall weighted average *reasonable* circuit case weight (50 minutes per case) in the calculation yields an implied certification standard of 1,548 (i.e., $77,400 / 50 = 1,548$). Comparable calculations can be made for county court using the overall average time study and reasonable case weights and the county court judge year of 70,950 minutes per year. *Please note that both the time study case weights and the reasonable case weights imply that the current certification standards are too high.*

Table 5-4

**Actual and Implied Certification Standards
And the Average Time Per Case**

Certification	Time Study Case Weights	Reasonable Case Weights
Cases Per Judge:		
Circuit: 1,865	1,683	1,548
County: 6,114	5,458	5,068
Minutes per case:		
Circuit: 41.5	46	50
County: 11.5	13	14

Conclusions and Limitations of the Study. Some modifications made to the time study case weights appear to be reasonable while the changes made to other case types need further study. The modifications made to the following case types were well justified based on current practices and have minor impact on the total number of judges required.

- Capital Murder
- Less Serious Felony
- Profession Malpractice and Product Liability
- Eminent Domain
- Simplified Dissolution
- Trusts and Guardianships
- Small Claims

Changes to other case types require further study to assess whether the modifications recommended by the DPC are warranted. The time study did not capture data on all aspects of certain

case types. The adjustments recommended by the DPC to some case types increased the implied judge need in circuit court by 28 and by 21 in county court. While the process is intended to capture this expert assessment, the study is limited in offering quantitative support in these areas where major changes have been made. *The NCSC recommends further study of these case types before adopting the “reasonable” case weights.* A list of those case types and the reasons for the modifications are shown below:

- **Drug Cases.** The changes suggested to the drug case weight increased the implied judge need by nine. The modifications were made by the DPC because of drug courts in metropolitan areas and because of expected changes in legislation. There is no information currently available to accurately assess the variable impact of these factors on the trial courts.
- **Dissolution.** The changes suggested to these cases increases the implied judge need by eleven. The DPC believes that the postjudgment activity in these cases is greater than the amount shown in the time study and, consequently, needs a higher case weight. In the past, legislative changes have increased the judge time required in this area. More legislative changes are expected to occur in the future. In addition, as the judicial branch endeavors to improve court processes in this area, more information will be needed to determine the impact of such initiatives. The DPC believes that a separate case weight is needed for postjudgment activity. Moreover, the increasing number of litigants who are not represented by lawyers presents challenges to the courts as the judge takes on broader responsibility as case manager as well as the adjudicator in these matters. The increase in mediation and other forms of alternative dispute resolution is also an important consideration. More study is needed before the change should be incorporated.
- **Dependency.** The DPC believes the changes to abuse and neglect cases brought on by the

new federal and state mandates will increase the time necessary to handle these cases.

Courts are mandated to handle these cases more expeditiously. The changes suggested by the DPC would increase the implied judge need by eight judges. There is no quantitative data to substantiate these changes at this time. Further study is needed to assess the impact of the new requirements on the need for judges.

- Evictions. The DPC did believe adequate time for pre-trial work was captured by the time study for this case type. They recommended increasing the number of minutes in this category from two to five. No quantitative information is available to assess the “reasonableness” of this recommendation which results in the need for five additional county judges, although mandatory mediation may be a mitigating factor.
- Civil Traffic. The single largest impact is the change suggested to the civil traffic case weight. Currently, this case type is not part of the certification process. It was recommended by the DPC that the workload associated with civil traffic be incorporated into certification. Based on the time study, civil traffic generates the need for approximately eight county judges. The DPC recommended that the time study weight be doubled, which results in the need for an additional eight judges. At this point in time, it is not possible to measure what part of the work in these cases is done by magistrates and what part by judges. NCSC recommends that further study be conducted before incorporating this case weight into the certification process.

Chapter 6: Future Considerations

The case weights recommended by the DPC in this report represent the initial step in establishing a weighted caseload system for Florida. These weights were deemed by the DPC to be a “reasonable” estimation of the work required by judges to serve the citizens of Florida. However, for these case weights to remain reliable and accurate over time a number of actions need to be taken on the part of the OSCA. The recommendations made below fall into two categories: (1) those intended to identify the processes and resources needed to maintain the integrity of the case weights through appropriate audit and forecasting techniques; and, (2) identify procedures necessary to maintain the integrity of the statistical reporting system needed to arrive at the appropriate case counts.

Over time, case weights are influenced by complex and dynamic factors, including changes in legislation, court rules, legal practice, technology and administrative factors. Examples of such factors include the availability of supplemental judicial officers, such as magistrates and senior judges, to various courts and the development of specialized courts, such as drug courts. In addition the accuracy and availability of the data can also affect the quality of these weights. Florida needs a process to periodically review and update the case weights, as necessary, to preserve the validity of the proposed judicial certification process.

Maintaining the model is a new activity for the OSCA and requires additional resources to keep the model current. Moreover, a review of the entire system is needed periodically so that the weights maintain an accurate relation to each other. Individual case weights should be examined as the factors in the previous paragraph arise. However, a review of the entire set of weights should be periodically undertaken. The following two strategies address the processes and resource issues needed to keep the case weights valid.

Recommendation 1:

The OSCA should calculate costs and provide in its budget for an annual review by the Supreme Court of Florida's Court Statistics and Workload Committee of the likely impact of new legislation or other contextual factors on the case weighting system. The annual review also will serve to identify areas in which specific research may be needed to quantify the implications of new laws, policy or social trends on case weights for specific types of cases.

An annual review of this kind would increase the intensity of the committee's regularly scheduled activities and likely require an increase in the level of staff support and research activity provided by the OSCA Court Services staff.

Recommendation 2:

The OSCA should plan to conduct a systematic update of the case weights approximately every five years, depending on the judgement of the Court Statistics and Workload Committee. Funding for this should be part of the regular legislative agenda related to the process of certification of the need for new judgeships.

Integrity of the case weights depends also on maintaining the quality of record keeping and statistical reporting. In simplest terms, the calculation of case weights requires knowing both how much time typical cases take and how many cases of each type there are. Specifically, accurate calculation of the weights requires knowing 1) how many circuit and county court cases of each type are filed; 2) the manner of disposition of each case (e.g., was the case disposed after a trial, or was the case dismissed or settled?); and, finally, 3) how many cases involved postjudgment activity. Florida's SRS is the source for this information and originates with a monthly caseload report prepared by the circuit court clerks in each of Florida's counties. If the records of case filings and manner of disposition include significant variations in event classification from county to county, or if misclassifications or over- or under-counts regularly occur in some counties, then the estimate of judge need will be unreliable and inaccurate. Regular and thorough auditing and feedback for correcting data collection problems is critical for achieving reliability

in reporting across the many independent local clerks offices.

Recommendation 3:

The OSCA should continue to conduct county-level audits of the data collected and reported by the circuit court clerks that are the source for Florida’s case statistics. While it is probably advisable to audit the data over a three-year period, because of resource constraints the OSCA has only been able to audit courts every three to five years. The funding of additional staff is critical to increasing the validity of the data and ensuring the maintenance of the accuracy promised by the Delphi project.

Postjudgment activity is a substantial part of judges’ workload and needs to be captured accurately. Unfortunately, the case counts for postjudgment are not accurate at this time. The DPC recommends that such a case weight be developed in the future. In order to establish a case weight for postjudgment activity the SRS system needs to be modified to capture the necessary data.

While the SRS currently endeavors to document this activity under a reporting category for “reopened cases,” the data in this category are not now included in the auditing protocol. There is general agreement among judges, the OSCA personnel and NCSC staff that accurate identification and reporting of relevant postjudgment activity (activity that has workload significance for judges) requires a degree of experience and judgment that the majority of record-processing clerks do not have. This may require additional clerk training.

Recommendation 4:

The SRS reporting system needs to be modified to allow for the accurate reporting of postjudgment activities. One method would be to assess the feasibility of defining postjudgment litigation in a way that parallels case reporting for “new” case filings. Data secured through the reopened case audits (Recommendation 3, above) will be central to this inquiry.

Recommendation 5:

The OSCA should review its SRS data entry training procedures and incorporate the proper processes to capture accurate postjudgment activity. Again, this has staff implications for the OSCA and will require a requisite increase in funding.

It is important to realize that the Delphi-based weighted caseload system will require significantly enhanced funding than the current methodology to use and maintain. The number of caseload forecasts required by the new methodology will increase about three-fold because of the increase in case types utilized (from an average of 576 individual forecasts per year to 1666 forecasts per year). More sophisticated analysis is required to reach the end result. These factors will require more sophisticated automation support and/or more statisticians to conduct this work. Furthermore, reliance on reopened case types and other disposition data requires an increase in the number and frequency of SRS audits to be conducted. These audits will need to review more cases than at present, as a larger number of case types results in more cases to be reviewed while ensuring statistically valid sample sizes. An increase in the number of audits and/or the number of cases audited will require additional staff and expense funds. The additional staffing and expense requirements will not be inexpensive, but are essential to ensure the success of this more complex but accurate methodology.

These recommendations reflect the need to maintain accurate statistics, provide for a process to validate those statistics, and recognize that resources are required to maintain a valid certification process for the State of Florida.

³ *This circuit case type was omitted from the final result, with the time factored back into the appropriate case types, due to limitations in the existing SRS data set.*