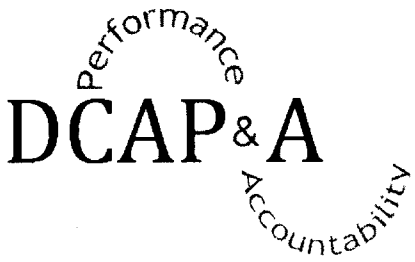
Vance E. Salter
Chair
Anthony K. Black
Mary Cay Blanks



Jay P. Cohen
Jacinda Haynes
Simone Marstiller
Martha C. Warner

February 25, 2015

The Honorable Jorge Labarga
Chief Justice, Supreme Court of Florida
Supreme Court Building
500 South Duval Street
Tallahassee, Florida 32399-1925

Re: Commission on District Court of Appeal Performance and Accountability
Review of Relative Case Weights for District Court of Appeal Judges

Dear Chief Justice Labarga:

As directed in Administrative Order SC14-41, this Commission has reviewed the relative case weights for district court judges. These relative weights, initially established in 2005, are to be reviewed by the Commission every four years. The relative weights assigned to the various categories of appellate cases are one part of the annual workload review established in Florida Rule of Judicial Administration 2.240(2)(b).

Our report is enclosed, including three recommendations for the adoption of revised relative case weights, the elimination of a modifier adopted in 2009 for one of the five district courts, and a further direction by the Supreme Court to review the weighted case disposition threshold of 280 per district court judge presently embodied in Rule 2.240(2)(b).

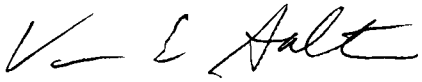
We also discussed an alternative to the methodology the Commission developed and has used since 2005. That alternative—an independent consultant's time study, used in some state appellate courts for assessing workload—would require consideration of the available vendors and costs, among other factors.

Our Commission was, as in prior years, ably supported by a highly capable and responsive team within the Office of the State Courts Administrator: Maggie

Evans, Arlene Johnson, Greg Youchock, and Patty Harris. On behalf of the Commission, I express our sincere thanks to them for their assistance.

Thank you for the opportunity to present this analysis and report to the Court. We stand ready to undertake any further analysis the Court may require, and to address any questions you may have.

Respectfully submitted,



Judge Vance E. Salter
Chair, DCAP&A Commission

Commission on District Court of Appeal Performance & Accountability

Review of Relative Case Weights for District Court of Appeal Judges

February 2015

Table of Contents

Executive Summary 2

Background and Objective 4

Methodology and Analysis 6

Concerns 13

Conclusion 14

Appendix A – Survey Instructions and Instrument 15

Executive Summary

In September of 2014, the Commission on District Court of Appeal Performance and Accountability began the process of reviewing relative case weights for district court judges, as directed in Administrative Order SC14-41. The Supreme Court charged the Commission with reviewing "workload trends of the district courts, specifically relative case weights for judicial workload as required by rule 2.240(b)(2)(B)(ii), Florida Rules of Judicial Administration." Previous reviews by the Commission occurred initially in 2006, and subsequently in 2009. The 2009 review resulted in a modifier for the First DCA to address workload issues in the category of "NOA – Administrative (Other)."

For the 2014 study, the relative weight of cases disposed on the merits was determined by surveying a representative sample of judges on the relative degree of judicial effort put into each category of appellate cases based upon an agreed typical case having a value of 100. Each category was assigned a relative weight based upon the statewide average of the weight calculated through a survey. These weights were then applied to each court's dispositions on the merits to determine the weighted caseload value and divided by 100.

The Commission used the collective input of the district court of appeal judges to determine a relative weight for each case type group, via an online survey. To reduce the number of case types that needed to be weighed, the Commission grouped cases together in instances where they agreed the cases represented similar judge "workload." There are 15 case groups. The survey occurred from September 22, 2014, through October 10, 2014.

As charged in AOSC14-41, the Commission on District Court of Appeal Performance and Accountability provides the following recommendations regarding relative case weights for judicial workload in the district courts:

Recommendation 1 – Revise the Relative Case Weights.
The Commission on District Court of Appeal Performance and Accountability recommends that the relative case weights determined in the 2014 review, shown on Table 1, be approved for future assessment of judicial need.

Recommendation 2 – Remove Modifier for First DCA.
The Commission on District Court of Appeal Performance and Accountability recommends removing the modifier for the First DCA for "NOA – Administrative (Other)," as the Commission's review indicated it is no longer needed.

Recommendation 3 – Direct the Commission on District Court of Appeal Performance and Accountability to Review the Weighted Case Disposition Threshold of 280 per Judge to Determine if it is Still an Accurate Benchmark for the Certification Process.

The Commission on District Court of Appeal Performance and Accountability recommends reviewing the weighted case disposition threshold of 280. Pursuant to rule 2.240, Florida Rules of Judicial Administration, where the weighted dispositions on the merits per judge exceed 280 after application of the proposed additional judge(s), there will be a presumption of need. The weighted disposition threshold is based on a weighted disposition level of 28,000, reduced in scale by a factor of 100. A review of the weighted disposition threshold may be appropriate following adoption of the revised relative case weights.

Background and Objective

In 2005, the Commission on District Court of Appeal Performance and Accountability (Commission) established uniform criteria to be applied by the Supreme Court of Florida in determining whether to certify the need for increasing or decreasing the number of judges on a district court of appeal.[1] The Commission developed two processes to examine the uniform criteria:

- The first process involves an annual review of the need for new judges by each district court of appeal, the District Court of Appeal Budget Commission, and if approved, a request to the Supreme Court for the certification of additional judgeships.

- The second process is a review, every four years, of the workload trends of the district courts of appeal and consideration of adjustments to the relative workload weights by the Commission.

Relative case weights are based on Delphi principles of consensus determination and provide an alternative to conducting a full weighted caseload study.[2] This approach allows judges to estimate the amount of time various cases take, without directly measuring time spent on each case activity. The relative case weights provide information regarding the judicial workload involved in each type of case, show how a court's judicial workload has increased or decreased over time, and allow for a comparative assessment of the distribution of judicial workload between the districts.

The process for establishing the relative case weights adopted in 2005 began with the acknowledgement that case mix was a relevant factor in determining judicial workload. The Commission first established categories of similar cases and ranked them to identify a mid-ranked case. Then representative samples of judges from each court were asked to approximate the relative weight of each case category in relation to the mid-ranked case. Judges were instructed to assign the relative weights based on a "typical," "average," or "normal" version of each case type. Based on the consistency of the judges' responses, Commission staff was able to statistically determine that this methodology adequately represented judicial perceptions of the proportional relationship between case type categories.

---

[1] *Commission on District Court of Appeal Performance & Accountability, DCA Workload Report to the Supreme Court*, (September 2005).

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

In 2006, the Supreme Court adopted Florida Rule of Judicial Administration 2.240, which outlines the process whereby a district court may request certification of the need for increasing or decreasing the number of judges in a district:

- The Court will presume that there is a need for an additional appellate court judgeship in any district for which a request is made and where the relative weight of cases disposed on the merits per judge would have exceeded 280 after application of the proposed additional judge(s).
- The relative weight of cases disposed on the merits shall be determined based upon case disposition statistics supplied to the state courts administrator by the clerks of the district courts of appeal, multiplied by the relative case weights established pursuant to subdivision (b)(2)(B)(ii), and divided by 100.
- The Commission on District Court of Appeal Performance and Accountability shall review the workload trends of the district courts of appeal and consider adjustments in the relative case weights every four years.

The relative weighted caseload is determined by surveying a representative sample of judges on the relative degree of judicial effort put into each category of cases based upon an agreed typical case having a value of 100. Each category is assigned a relative weight number based upon the statewide average of the weight calculated through a survey. These weights are then applied to each court's dispositions on the merits to determine the weighted caseload value and divided by 100.

This approach accommodates the important distinction between the number of cases filed and the judicial effort required to dispose of those cases. The weighted caseload approach takes into account the differences in types of cases by measuring their relative workload demands for judges. Work performed by legal support staff is not included in the weight assigned by the responding judge. The relative case weights are then used to determine the need for additional district court judges. Pursuant to Rule 2.240, where the weighted dispositions on the merits per judge exceed 280 after application of the proposed additional judge(s), there will be a presumption of need. The weighted case threshold is based on a weighted caseload of 28,000, reduced in scale by a factor of 100.[3]

In 2009, as directed by Administrative Order SC08-84, the Commission conducted a review of workload trends of the district courts and considered adjustments in the relative case weights used for the determination of need for additional judges. Confident the

[3] *Commission on District Court of Appeal Performance & Accountability, Weighted Case Threshold Report,* (January 2006).

current relative case weights accurately reflected judicial workload for each type of case, the Commission did not conduct a full study of the weights. Instead, the review focused on two unresolved issues outlined in the 2005 Commission Report.

- The first concerned the area of administrative appeals in the First DCA. In the 2005 study, the relative weights identified by judges in the First DCA for administrative appeals were substantially greater than other courts due to the number of complex rule challenges filed in Tallahassee. The First DCA reported an average relative weight of 250 while the average relative weight of the other districts ranged from 95 to 156.

- The second issue related to the increased judicial workload in the Third DCA caused by the lack of central staff. In other courts, central staff conducts the initial legal review and case preparation of various categories of cases, including petitions and summary post-conviction relief matters. Without central staff in the Third DCA, these cases demand more judicial effort which is reflected in the relative weights assigned by judges in the Third DCA.

As a result of the review by the Commission in 2009[4], modifiers were proposed for the First and Third DCAs to dispositions on the merits to more accurately ascertain the future need for additional district court judges in Florida. The Supreme Court approved the modifier for the First DCA, and after obtaining further information regarding the Third DCA, declined to approve a modifier for that district.

In Administrative Order SC14-41, the Supreme Court charged the Commission with reviewing "workload trends of the district courts, specifically relative case weights for judicial workload as required by rule 2.240(b)(2)(B)(ii), Florida Rules of Judicial Administration." The Commission began the process of review in September of 2014.

Methodology and Analysis

As noted previously, relative case weights are based on the Delphi principles of consensus determination. This consensus was achieved through the use of an online survey. The purpose of the survey was to assist the Commission in determining a consensus relative weight for each case type grouping. The Commission used the collective input of the district court of appeal judges to determine a relative weight for each case type group. To reduce the number of case types to be weighed, the Commission

[4] *Commission on District Court of Appeal Performance & Accountability, Review of Relative Case Weights for the Determination of Need for Additional Judges* (October 2009).

grouped cases together in instances where they agreed the cases represented similar judge "workload." There are 15 case groups.[5] The survey occurred from September 22, 2014, through October 10, 2014. See Appendix A for the survey instructions and instrument.

Judges were instructed that each case considered in the survey would be disposed on the merits and the judicial work required would be representative of the average work required for that case group. This means that for the cases in each group, the briefs (or petitions and responses) and record are of average length, that the preparation for oral argument or conference is of average duration, and an average opinion for that case is written. Based on personal experience with cases in each group, judges were instructed to assign each a relative weight that reflected their estimation of the judicial work required to dispose a case in that case group. They were not to include staff time in the estimation.

To insure that all judges ranked the case groups relative to a common base line, the Commission assigned the Criminal Judgment and Sentence case group a relative weight of 100 points. The Commission believed that each judge surveyed has sufficient understanding of the judicial work required by this case group. Judges would then assign a relative weight to the other 14 case groups based on how much more or less work is required to dispose a "typical," "average," or "normal" version of each case group.

The Commission determined that district court judges with a minimum of two years of experience on the bench would be eligible to participate. Optimal sample size for this project was determined by using the percent of total judges eligible, distributed by district court. Therefore, the optimal sample size was calculated at 48 eligible judges participating and provided a confidence of level of 95 percent. In comparison, the 2006 Relative Case Weight survey used a minimum sample size with a 90 percent confidence level. Of the 55 district court of appeal judges eligible to participate in the 2014 survey, 49 responded. The Second and Third DCAs exceeded their sample size requirement and provided more responses than the study design required for a high confidence level. By keeping those responses, the statistical confidence level in the results increased from 95 to 99 percent.

As in the 2006 study, a few workload responses from individual judges in individual case categories were classified as statistical "outliers" by Commission staff. Staff's statistical analysis considers any low-end or high-end response that is three standard deviations or more from the mean to be an outlier. Such outliers were excluded from the case weight computations.

[5] One category, "NOA – Workers' Compensation," is only addressed by the First DCA as the other district courts do not consider such appeals.

It should be noted that, for the current study, one judge declined to participate on the grounds that the judge believes the appropriate way to compute revised case weights is with an independent consultant's time study measuring how DCA judges actually account for their daily and annual workload. According to statistical principles, Commission staff determined that the absence of response from this judge did not affect the reliability or confidence level of the survey results.

Additionally, the responses did not vary significantly based on the number of years of experience of the responding judge. Based on the similarity and consistency of the judges' responses, Commission staff was able to statistically determine that this methodology adequately represented judicial perceptions of the proportional relationship between case type categories. These weights were then applied to each court's dispositions on the merits to determine the weighted caseload value.

The following table provides the current relative case weight for each case type group, along with the recommended relative case weight by case type, based on the results of the district judge survey.

Table 1. Relative Case Weights by Case Type Group

Case Type Group	Current Relative Case Weight	2015 Recommended Relative Case Weight
Petitions – Certiorari (includes administrative, civil, criminal, family, guardianship, juvenile, probate, workers' compensation)	115	133
Petitions – All Other Petitions	66	99
NOA – Administrative Other	152	122
NOA- Administrative (unemployment compensation)	51	60
NOA – Prisoner Litigation	67	67
NOA – Civil Final (includes foreclosure, adoption, child, probate, guardianship, other)	204	177
NOA – Civil Non Final (includes foreclosure, adoption, child, probate, guardianship, other)	140	134
NOA – Criminal Judgment and Sentence	100	100
NOA – Criminal Postconviction Summary (includes 3.800, 3.801, 3.850, 3.853)	55	64
NOA – Postconviction Nonsummary (includes 3.800, 3.801, 3.850, 3.853)	70	84
NOA – Criminal State Appeals	105	105

NOA – Criminal Habeas Corpus and Other	66	70
NOA – Juvenile (includes delinquency, dependency, termination of parental rights, other)	99	109
NOA – Workers' Compensation	190	118
NOA – Criminal Anders	45	55

Of the fourteen case type groups considered, eight weights increased from the currently-assigned value, while four decreased and two stayed the same (the fifteenth category shown above, "NOA – Criminal Judgment and Sentence," stayed unchanged by design, as it is the baseline for comparison with other appellate case types).

The following tables show, by district and statewide, the application of the current relative case weight on FY 2013-14 dispositions on the merits by case group; the application of the recommended relative case weight on the same dispositions on the merits; and the difference in weighted dispositions between the two. The net effect of the recommended increased and decreased weights in the various case type categories is an increase in total weighted dispositions on the merits of 7.2% for all five DCAs, with the difference for each DCA and all five DCAs shown in Tables 2 through 7 below.

Table 2. Application of Current & Recommended Case Weights – First DCA

First District Court of Appeal

Case Group	2013-14 Disposed on the Merits	Current Relative Case Weight	Current Weighted Disposed on the Merits	Recommended Relative Case Weight	Recommended Weighted Disposed on the Merits	Difference in Weighted Dispositions (Recommended minus Current)
Petitions - Certiorari	273	115	31,395	133	36,309	4,914
Petitions - All Other	1,170	66	77,220	99	115,830	38,610
NOA - Administrative (Other)	106	152	26,504	122	12,932	-13,572
NOA - Administrative (Unemployment Comp)	128	51	6,528	60	7,680	1,152
NOA - Civil Prisoner Litigation	173	67	11,591	67	11,591	0
NOA - Civil Final	423	204	86,292	177	74,871	-11,421
NOA - Civil Non-Final	61	140	8,540	134	8,174	-366
NOA - Criminal Post Conviction Summary	880	55	48,400	64	56,320	7,920
NOA - Criminal Post Conviction Non-Summary	109	70	7,630	84	9,156	1,526
NOA - Criminal State Appeals	28	105	2,940	105	2,940	0
NOA - Habeas Corpus and Other	93	66	6,138	70	6,510	372
NOA - Juvenile	89	99	8,811	109	9,701	890
NOA - Workers' Compensation	156	190	29,640	118	18,408	-11,232
NOA - Criminal Anders	406	45	18,270	55	22,330	4,060
NOA - Criminal Judgment and Sentence	570	100	57,000	100	57,000	0
Totals	**4,665**		**426,899**		**449,752**	**22,853**

Note: Current weighted disposed on the merits for NOA - Administrative (Other) includes the approved relative weight modifier. The modifier increases disposed on the merits by 64.5%

Percentage increase resulting from application of the recommended case weights: 5.4%.

As mentioned previously, in 2009, a modifier was proposed and approved for the First DCA based upon issues identified in the 2005 study by the Commission. The relative case weights identified by the judges, at the time, indicated that the administrative appeals in the First were substantially greater than the other courts due to a number of complex rule challenges filed in Tallahassee. It was determined that the relative case weight for administrative appeals were 64.5% higher in the First DCA compared to the statewide average. The modifier, or percent difference of 64.5%, identified the additional workload expended by the First DCA for that category of cases, and has been applied in subsequent years.

In this most recent review of the relative case weights, the Commission determined that the modifier for the First DCA was no longer needed, as the recommended relative case weight for "NOA – Administrative (Other)" was comparable to the other districts. The Commission, therefore, recommends removing the modifier from the calculations for future case weight analyses.

Table 3. Application of Current and Recommended Case Weights – Second DCA

Second District Court of Appeal

Case Group	2013-14 Disposed on the Merits	Current Relative Case Weight	Current Weighted Disposed on the Merits	Recommended Relative Case Weight	Recommended Weighted Disposed on the Merits	Difference in Weighted Dispositions (Recommended minus Current)
Petitions - Certiorari	244	115	28,060	133	32,452	4,392
Petitions - All Other	1,014	66	66,924	99	100,386	33,462
NOA - Administrative (Other)	25	152	3,800	122	3,050	-750
NOA - Administrative (Unemployment Comp)	12	51	612	60	720	108
NOA - Civil Prisoner Litigation	1	67	67	67	67	0
NOA - Civil Final	614	204	125,256	177	108,678	-16,578
NOA - Civil Non-Final	144	140	20,160	134	19,296	-864
NOA - Criminal Post Conviction Summary	1,317	55	72,435	64	84,288	11,853
NOA - Criminal Post Conviction Non-Summary	192	70	13,440	84	16,128	2,688
NOA - Criminal State Appeals	42	105	4,410	105	4,410	0
NOA - Habeas Corpus and Other	18	66	1,188	70	1,260	72
NOA - Juvenile	172	99	17,028	109	18,748	1,720
NOA - Workers' Compensation	0	190	0	118	0	0
NOA - Criminal Anders	690	45	31,050	55	37,950	6,900
NOA - Criminal Judgment and Sentence	694	100	69,400	100	69,400	0
Totals	**5,179**		**453,830**		**496,833**	**43,003**

Percentage increase resulting from application of the recommended case weights: 9.5%.

Table 4. Application of Current and Recommended Case Weights – Third DCA

Third District Court of Appeal

Case Group	2013-14 Disposed on the Merits	Current Relative Case Weight	Current Weighted Disposed on the Merits	Recommended Relative Case Weight	Recommended Weighted Disposed on the Merits	Difference in Weighted Dispositions (Recommended minus Current)
Petitions - Certiorari	179	115	20,585	133	23,807	3,222
Petitions - All Other	397	66	26,202	99	39,303	13,101
NOA - Administrative (Other)	16	152	2,432	122	1,952	-480
NOA - Administrative (Unemployment Comp)	26	51	1,326	60	1,560	234
NOA - Civil Prisoner Litigation	0	67	0	67	0	0
NOA - Civil Final	562	204	114,648	177	99,474	-15,174
NOA - Civil Non-Final	111	140	15,540	134	14,874	-666
NOA - Criminal Post Conviction Summary	531	55	29,205	64	33,984	4,779
NOA - Criminal Post Conviction Non-Summary	34	70	2,380	84	2,856	476
NOA - Criminal State Appeals	18	105	1,890	105	1,890	0
NOA - Habeas Corpus and Other	121	66	7,986	70	8,470	484
NOA - Juvenile	131	99	12,969	109	14,279	1,310
NOA - Workers' Compensation	0	190	0	118	0	0
NOA - Criminal Anders	170	45	7,650	55	9,350	1,700
NOA - Criminal Judgment and Sentence	132	100	13,200	100	13,200	0
Totals	**2,428**		**256,013**		**264,999**	**8,986**

Percentage increase resulting from application of the recommended case weights: 3.5%.

Table 5. Application of Current and Recommended Case Weights – Fourth DCA

Fourth District Court of Appeal

Case Group	2013-14 Disposed on the Merits	Current Relative Case Weight	Current Weighted Disposed on the Merits	Recommended Relative Case Weight	Recommended Weighted Disposed on the Merits	Difference in Weighted Dispositions (Recommended minus Current)
Petitions - Certiorari	211	115	24,265	133	28,063	3,798
Petitions - All Other	607	66	40,062	99	60,093	20,031
NOA - Administrative (Other)	26	152	3,952	122	3,172	-780
NOA - Administrative (Unemployment Comp)	11	51	561	60	660	99
NOA - Civil Prisoner Litigation	5	67	335	67	335	0
NOA - Civil Final	537	204	109,548	177	95,049	-14,499
NOA - Civil Non-Final	168	140	23,520	134	22,512	-1,008
NOA - Criminal Post Conviction Summary	804	55	44,220	64	51,456	7,236
NOA - Criminal Post Conviction Non-Summary	74	70	5,180	84	6,216	1,036
NOA - Criminal State Appeals	33	105	3,465	105	3,465	0
NOA - Habeas Corpus and Other	51	66	3,366	70	3,570	204
NOA - Juvenile	104	99	10,296	109	11,336	1,040
NOA - Workers' Compensation	0	190	0	118	0	0
NOA - Criminal Anders	217	45	9,765	55	11,935	2,170
NOA - Criminal Judgment and Sentence	425	100	42,500	100	42,500	0
Totals	**3,273**		**321,035**		**340,362**	**19,327**

Percentage increase resulting from application of the recommended case weights: 6.0%.

Table 6. Application of Current and Recommended Case Weights – Fifth DCA

Fifth District Court of Appeal

Case Group	2013-14 Disposed on the Merits	Current Relative Case Weight	Current Weighted Disposed on the Merits	Recommended Relative Case Weight	Recommended Weighted Disposed on the Merits	Difference in Weighted Dispositions (Recommended minus Current)
Petitions - Certiorari	174	115	20,010	133	23,142	3,132
Petitions - All Other	805	66	53,130	99	79,695	26,565
NOA - Administrative (Other)	20	152	3,040	122	2,440	-600
NOA - Administrative (Unemployment Comp)	10	51	510	60	600	90
NOA - Civil Prisoner Litigation	0	67	0	67	0	0
NOA - Civil Final	366	204	74,664	177	64,782	-9,882
NOA - Civil Non-Final	119	140	16,660	134	15,946	-714
NOA - Criminal Post Conviction Summary	644	55	35,420	64	41,216	5,796
NOA - Criminal Post Conviction Non-Summary	94	70	6,580	84	7,896	1,316
NOA - Criminal State Appeals	30	105	3,150	105	3,150	0
NOA - Habeas Corpus and Other	108	66	7,128	70	7,560	432
NOA - Juvenile	72	99	7,128	109	7,848	720
NOA - Workers' Compensation	0	190	0	118	0	0
NOA - Criminal Anders	541	45	24,345	55	29,755	5,410
NOA - Criminal Judgment and Sentence	469	100	46,900	100	46,900	0
Totals	**3,452**		**298,665**		**330,930**	**32,265**

Percentage increase resulting from application of the recommended case weights: 10.8%.

Table 7. Application of Current and Recommended Case Weights – All Districts

All Districts

Case Group	2013-14 Disposed on the Merits	Current Relative Case Weight	Current Weighted Disposed on the Merits	Recommended Relative Case Weight	Recommended Weighted Disposed on the Merits	Difference in Weighted Dispositions (Recommended minus Current)
Petitions - Certiorari	1,081	115	124,315	133	143,773	19,458
Petitions - All Other	3,993	66	263,538	99	395,307	131,769
NOA - Administrative (Other)	193	152	39,728	122	23,546	-16,182
NOA - Administrative (Unemployment Comp)	187	51	9,537	60	11,220	1,683
NOA - Civil Prisoner Litigation	179	67	11,993	67	11,993	0
NOA - Civil Final	2,502	204	510,408	177	442,854	-67,554
NOA - Civil Non-Final	603	140	84,420	134	80,802	-3,618
NOA - Criminal Post Conviction Summary	4,176	55	229,680	64	267,264	37,584
NOA - Criminal Post Conviction Non-Summary	503	70	35,210	84	42,252	7,042
NOA - Criminal State Appeals	151	105	15,855	105	15,855	0
NOA - Habeas Corpus and Other	391	66	25,806	70	27,370	1,564
NOA - Juvenile	568	99	56,232	109	61,912	5,680
NOA - Workers' Compensation	156	190	29,640	118	18,408	-11,232
NOA - Criminal Anders	2,024	45	91,080	55	111,320	20,240
NOA - Criminal Judgment and Sentence	2,290	100	229,000	100	229,000	0
Totals	**18,997**		**1,756,442**		**1,882,876**	**126,434**

Percentage increase resulting from application of the recommended case weights: 7.2%.

The application of the recommended relative case weights to the 2013-14 actual dispositions on the merits would have resulted in a presumption of need for one additional appellate court judgeship at each of the First and Second DCAs upon application of Florida Rule of Judicial Administration 2.240(b)(2)(B), beyond those already certified by the Supreme Court and funded by the Legislature. The Commission does not suggest that any such additional judgeships are appropriate, and only includes this information so that the practical effects of the recommended increases can be considered.

The Commission also concluded that this result supports its recommendation to review the 280 per judge weighted case threshold presently applied pursuant to Rule 2.240(b)(2)(B).

Concerns

In conducting the review of relative case weights, the Commission raised some concerns about the subjective nature of a relative case weight review, without an accompanying time study, and were apprised of similar concerns of some district court judges. As discussed previously, one judge declined to participate in the survey, expressing the opinion that the appropriate way to compute revised case weights is with an independent consultant's time study measuring how district judges actually account for their daily and annual workload. Similar sentiments were echoed by others during the completion of this project.

The Commission agrees that a time study may provide a level of objectivity to the review, and thus a higher level of confidence in determining judicial need. On the other hand, a time study led by an independent consultant may not yield the participation level achieved with the recent survey and may not be cost effective. Commission staff reported that, according to the National Center for State Courts, several comparable state appellate courts use the Delphi methodology, while others use a consultant's time study or a combination of both methodologies. The Commission and staff stand ready to investigate and evaluate time study methodologies, vendors, and costs if the Supreme Court determines it is appropriate. An alternative to conducting a time study in the district courts may be to review again the weighted case threshold of 280, as formulated in 2006 and as described in Rule 2.240, Florida Rules of Judicial Administration.

Conclusion

As charged in AOSC14-41, the Commission on District Court of Appeal Performance and Accountability provides the following recommendations regarding relative case weights for judicial workload in the district courts:

Recommendation 1 – Revise the Relative Case Weights.
The Commission on District Court of Appeal Performance and Accountability recommends that the relative case weights determined in the 2014 review, shown on Table 1, be approved for future assessment of judicial need.

Recommendation 2 – Remove Modifier for First DCA.
The Commission on District Court of Appeal Performance and Accountability recommends removing the modifier for the First DCA for "NOA – Administrative (Other)" as the Commission's review indicated it is no longer needed.

Recommendation 3 – Direct the Commission on District Court of Appeal Performance and Accountability to Review the Weighted Case Disposition Threshold of 280 per Judge to Determine if it is Still an Accurate Benchmark for the Certification Process.
The Commission on District Court of Appeal Performance and Accountability recommends reviewing the weighted case disposition threshold of 280. Pursuant to rule 2.240, Florida Rules of Judicial Administration, where the weighted dispositions on the merits per judge exceed 280 after application of the proposed additional judge(s), there will be a presumption of need. The weighted case disposition threshold is based on a weighted disposition level of 28,000, reduced in scale by a factor of 100. A review of the weighted disposition threshold may be appropriate following adoption of the revised relative case weights.

Appendix A – Survey Instructions and Instrument

Judicial Relative Weighted Workload Study Instructions

Case Type Groups

To reduce the number of case types to be weighed, the Commission has grouped cases together in instances where they agreed the cases represented similar judge "workload." There are 15 case groups.

Survey Scenario

Imagine that you are assigned 15 cases representing each of these 15 case groups. **Each case will be disposed on the merits and the judicial work required will be representative of the average work required for that case group.** Based on your personal experience with cases in each group, you should assign each a relative weight that reflects your estimation of the judicial work required to dispose a case in that case group. **Do not include staff time in your estimation.**

It is critical that you assume each of these cases will require the average judicial workload involved in disposing of a case in that group. This means that for the cases in each group, the briefs (or petitions and responses) and record are of average length, that your preparation for OA or conference is of average duration, and an average opinion for that case is written.

It is important to note that the volume of a particular case group in your court is not directly relevant to its relative weight. **In addition, do not consider the efforts of your staff in disposing of the case.**

Assigning weights from Base Line

Criminal Judgment and Sentence = 100 point case group

To insure that everyone ranks the case groups relative to a common base line, the Commission has assigned the *Criminal Judgment and Sentence* case group a relative weight of 100 points. The Commission believes that each judge has sufficient understanding of the judicial work required by this case group. Please assign a relative weight to the other 14 case groups based on how much more or less work is required to dispose a "typical", "average", or "normal" version of each case group. Please note the following:

- the lowest relative weight you can assign to a case group is "1"
- there is no limit to the highest relative weight that you can assign relative to the 100 point case group
- the same relative weight may be assigned to more than one case group

Examples

If you think the work required by a case group represents one-fifth of the work required by the 100 point case group, assign a relative weight of 20.

If you think a case group requires 50% more work, assign a relative weight of 150.

If you think a case group requires the same work as the Criminal Judgment and Sentence case group, assign a relative weight of 100. If you do not have experience with a case group, enter N/A for not applicable.

Survey Time Frame

The Judicial Relative Weighted Workload Study will be available for completion from September 22, 2014 through October 10, 2014. If you experience any problems, please contact Arlene Johnson with the Office of the State Courts Administrator at (850) 922-5103 or johnsona@flcourts.org.

District Courts of Appeal
Type of Case and Current Workload Case Group

Type of Case	Current Workload Case Group
Petition - Certiorari (administrative, civil, criminal, family, guardianship, juvenile, probate, workers' compensation)	1. Petition - Certiorari
Petition - Coram Nobis (criminal)	2. Petitions - All Other
Petition - Habeas Corpus (civil, criminal, family, guardianship, juvenile)	
Petition - Mandamus (administrative, civil, criminal, family, guardianship, juvenile, probate, workers' compensation)	
Petition - Other Original Proceedings (administrative, civil, criminal, family, guardianship, juvenile, probate, workers' compensation)	
Petition - Ineffective Assistance of Counsel (criminal)	
Petition - Petition for Belated Appeal (criminal)	
Petition - Petition to Review Non-Final Agency Action (administrative)	
Petition - Petition to Review Orders Excluding the Press or Public (administrative, civil, criminal, family, probate)	
Petition - Prohibition (administrative, civil, criminal, family, guardianship, juvenile, probate, workers' compensation)	
Petition - Quo Warranto (civil)	
NOA - Administrative (other, unemployment compensation)	3. NOA - Administrative (other) 4. NOA - Administrative (unemployment compensation)
NOA - Civil (foreclosure, other, prisoner litigation)	5. NOA - Prisoner Litigation 6. NOA - Civil Final 7. NOA - Civil Non Final
NOA - Family (adoption, child, other)	
NOA - Probate (probate, guardianship)	
NOA - Criminal (3.800, 3.801, 3.850, 3.853, habeas corpus, judgment and sentence, other, state appeals)	8. NOA - Criminal Postconviction Summary 9. NOA - Criminal Postconviction Nonsummary 10. NOA - Criminal Judgment and Sentence 11. NOA - Criminal State Appeals 12. NOA - Criminal Habeas Corpus and Other
NOA - Juvenile (delinquency, dependency, other, termination of parental rights)	13. NOA - Juvenile
NOA - Workers' Compensation	14. NOA - Workers' Compensation
NOA - Criminal Anders (trial, plea)	15. NOA - Criminal Anders

District Court of Appeal
2014 Judicial Relative Weighted Workload Survey

Relative case weights are based on the Delphi principle of consensus determination. The purpose of this survey is to assist the Commission on District Court of Appeal Performance and Accountability in determining a consensus relative weight for each case type group listed below. The Commission will use your collective input to determine a consensus relative weight for each case type group.

Please submit your completed survey using the Submit Completed Survey button located at the bottom of page 2 no later than close of business **Friday, October 10, 2014**. If you experience any problem with the survey, please contact Arlene Johnson with the Office of the State Courts Administrator at (850) 922-5103 or johnsona@flcourts.org.

Based on the relative weight of the mid-ranked case, please assign relative weights to the following 14 case type groups based on how much more or less work is required to process a "typical", "average", or "normal" case. **A response is required for each case type group. If you do not have experience with a case type group, please enter N/A in the column labeled Relative Weight.**

Mid-Ranked Case = Criminal Judgment and Sentence = Relative Weight of 100

Relative Weight (A response is required)	Case Type Group
	1. Petitions - Certiorari (Includes administrative, civil, criminal, family, guardianship, juvenile, probate, workers' compensation)
	2. Petitions - All other petitions
	3. NOA - Administrative (Other)
	4. NOA - Administrative (Unemployment Compensation)
	5. NOA - Prisoner Litigation
	6. NOA - Civil Final (Includes foreclosure, adoption, child, probate, guardianship, other)
	7. NOA - Civil Non Final (Includes foreclosure, adoption, child, probate, guardianship, other)
	8. NOA - Criminal Postconviction Summary (Includes 3.800, 3.801, 3.850, 3.853)
	9. NOA - Criminal Postconviction Nonsummary (Includes 3.800, 3.801, 3.850, 3.853)
	10. NOA - Criminal State Appeals
	11. NOA - Criminal Habeas Corpus and Other
	12. NOA - Juvenile (Includes delinquency, dependency, termination of parental rights, other)
	13. NOA - Workers' Compensation
	14. NOA - Criminal Anders

Page 2 of 2

District Court of Appeal
2014 Judicial Relative Weighted Workload Survey

The Commission on District Court of Appeal Performance and Accountability would like to thank you for completing this survey.

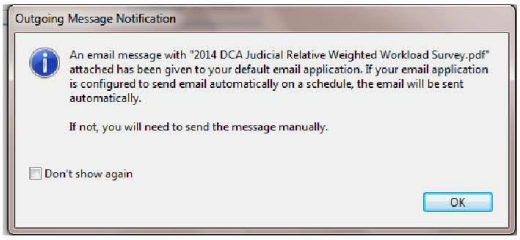
Please Note:

After you click the Submit Completed Survey button at the bottom of this page, the following 2 dialog boxes may appear. Please click the "OK" button in each box. In addition, your survey will be submitted via e-mail. Please click the e-mail "SEND" button.

If the dialog boxes or e-mail does not appear, please review your survey responses. One or more of the case type groups was not assigned a relative weight. If you experience any problems with the survey, please contact Arlene Johnson with the Office of the State Courts Administrator at (850) 922-5103 or johnsona@flcourts.org.

First Dialog Box

Second Dialog Box



Submit Completed Survey