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MEMORANDUM

TO: The Honorable Royce West
State Senator

FROM: Alan Ware
Redistricting Program Director

DATE: April 18, 2002

SUBJECT: Development of Judicial Index For Judicial Redistricting

Pursuant to your request you will find attached to this memorandum a summary report estimating the "judicial index" for each of the state's 418 district courts and maps showing the deviation for each court from the average judicial index. Working with the Office of Court Administration (OCA), council staff calculated the judicial index for each district using nontax case filings from data contained in the 1999, 2000, and 2001 *Annual Report of the Texas Judicial System* and population data from the 2000 census. At your direction, the case filings component of the judicial index was weighted three times greater than the population component.

Since district court case filings are only tabulated by county, not by court, it is problematic to determine case filings for each individual court. In the major urban areas with many courts in the same county, it is not necessary to determine the number of filings for each court to evaluate the appropriate number of courts to be assigned to the county. In counties where courts have overlapping jurisdictions it becomes more important to estimate the amount of judicial burden being handled by each court. OCA surveyed each judge whose court has jurisdiction in multiple counties, asking the judge to estimate the percentage of the court's time that is allocated to each county served. The total judicial index for each county, based on the county's case filings and 2000 population, was allocated to each court in the county based on its proration of the total time allocated to the county by all the courts with jurisdiction in the county.

We realize a judge's estimate of his or her workload in each county may not be totally accurate, but no other method to allocate the case filings among the counties of the multicounty courts is available.

Please note that some missing data had to be estimated. Eight courts did not respond to the OCA survey as of March 26, 2002. Data on time spent in each county for these courts was approximated, based roughly on the 2000 population of each county. In addition, for three counties the caseload data for 2001 was missing. For these counties, 2001 data was estimated by averaging the 1999 and 2000 data. The council will work with OCA to obtain all the required data for any judicial index used by the legislature.

As described in the December 2001 memorandum from the Judicial Districts Board, there are other factors that may be considered in addition to case filings and population when attempting to balance the judicial burden of the state district courts. In 1993, Chief Justice Phillips attempted to quantify two of these factors—the number of counties in a judicial district and the number of courts serving the same area—by creating a matrix that varies the ideal judicial index for each court according to the number of counties served and number of courts serving the same county or counties. The matrix is discussed in the dissenting statement of the chief justice and Judge Moody to the Judicial Districts Board's 1993 apportionment. At that time, the legislative council incorporated the recommended matrix into a report of judicial indexes at the chief justice's request.

However, having examined the development of the 1993 matrix, I am unable to identify an objective basis from which the council can recommend a similar matrix of ideal judicial indexes for use at this time. There appears to be no record of exactly how the 1993 matrix was established, and attaching numerical values to the variables involved (counties served by each court, courts serving the same jurisdiction) is extremely subjective. Similar problems exist for incorporating any of the other relevant factors into a judicial index calculation. Assigning values to each factor and weighing the values against one another would be completely subjective, even arbitrary. Accordingly, we are unable to recommend a single "ideal" judicial index value for all the judicial districts.

We do believe, however, it is helpful to place the districts in categories, calculate an average index for the categories, and evaluate a district's variation from the average index of its category. It may also be enlightening to examine the variations in the averages between categories. The difficulty is to identify appropriate categories and place each district in the appropriate category. Ideally, there would be a category for every meaningful difference in district characteristics but this is not feasible. The Texas Judicial Council (see attached report) identified six "jurisdictional overlap patterns" of geographical complexities. We adopted these categories with one modification. We divided the judicial council's first category, single county/multiple courts/no courts serving another county, into "major urban" and "other" components, creating a total of seven jurisdictional overlap patterns. The average judicial index for the 161 courts in the major urban group was 2,013 compared to 1,526 for the 76 courts in the other group.

We also adopted a second classification system with two categories: (1) the courts in the five major urban counties and (2) all other courts in the state. Since the major urban counties have disproportionate impact on the statewide average index, we thought it would be more useful to

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examine each court's deviation from the average judicial index of each of these two categories.

As an example of the effect of the factors not included in the judicial index, an examination of State District Court 66, which exclusively consists of Hill County, shows that the district has a judicial index deviation of 100%, meaning it has a judicial index that is twice the size of the average index for courts in the single court / single county category. This may be explained by the fact that approximately 75% of the criminal filings in the district court are misdemeanor cases, while statewide, on average, less than 3% of criminal filings are misdemeanor cases.

As all the interested parties continue to examine the issues involved in developing a judicial index, perhaps additional ways of computing and comparing the indexes will be suggested. Council staff will continue to review and refine the data for your use in the coming months.

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Attachment