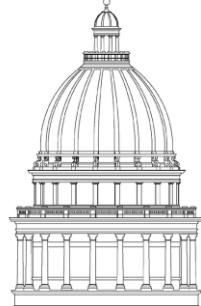


Office of
LEGISLATIVE AUDITOR GENERAL
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**A Limited Review of
Workload in the Second District Court
and the Fifth District Juvenile Court**

Facing a difficult budgetary outlook and looking for ways to more efficiently use judicial resources, the Judicial Council has recommended that the Legislature transfer a vacant judge position from the Second District Court (Weber, Davis, and Morgan Counties) to the Fifth District Juvenile Court (Beaver, Iron, and Washington Counties). Senate Bill 116, currently pending in the 2010 Legislative General Session, would change statute and reallocate the judgeship.

We were asked by the Audit Subcommittee to review the evidence supporting the recommended judgeship transfer. To accomplish this, we spoke with most members of the Judicial Council and other interested parties, listened to a recording of the November 2009 Judicial Council meeting where the decision was made, and reviewed the judicial weighted caseload data, which is the court's objective workload measure for judges.

It appears to us that the recommendation of the Judicial Council is reasonable. Available evidence indicates a much more acute need for judicial resources in the Fifth District Juvenile than in the Second District. However, weighted caseload data from the district court should be updated to provide more reliable information in the future.

The Judicial Council has recommended that the Legislature transfer a vacant judge position from the Second District to the Fifth District juvenile.

The recommendation of the Judicial Council appears reasonable.

Judicial Council Narrowly Voted to Recommend Transfer of Judgeship

In an effort to efficiently reallocate judicial resources to satisfy a longstanding need in the Fifth District Juvenile, the Judicial Council voted to recommend that the Legislature transfer a vacant judge position from the Second District. To make their decision, the council heard arguments and testimony from representatives of both the district and juvenile courts.

The Judicial Council was split on the issue; seven members voted for and six voted against.

The Judicial Council was split on this issue; seven members voted for the transfer and six voted against it. The decision was particularly controversial not only because the proposed transfer moves a judgeship from one area of the state to another, but also because it shifts resources from the district court level to the juvenile court level. In her State of the Judiciary speech, the Chief Justice of the Utah Supreme Court, who is also the chair of the Judicial Council, told the Legislature:

The decision to make this request to you has not been an easy one for the council, but we see it as our responsibility to identify for you a way to put scarce judicial resources to the most effective use.

Arguments raised to the Judicial Council in favor of the proposal include the following:

- There is a longstanding and increasingly acute need for another judge in the Fifth Juvenile Court.
- Given existing economic conditions, the Legislature is unlikely to be able to fund a new judgeship for several years, so the need can only be met by transferring resources.
- The opening of the Ogden Justice Court reduced the workload in the Second District Court, so fewer judges are needed there. (A similar transfer of a judge to the juvenile system occurred in 2002 after the opening of the Salt Lake City Justice Court.)

Arguments raised to the Judicial Council against the proposal include the following:

- The district court's weighted caseload data is inaccurate and out-of-date and cannot be compared to recently updated juvenile court weighted caseload data.
- The Judicial Council should not pit levels of the court system against each other and foster competition for resources.
- Because Davis County has supported the courts through funding prosecutors and facilities, resources should not now be withdrawn from Davis County.

After considering the arguments, the council ultimately decided by a narrow margin to recommend the judgeship transfer. Individuals who opposed the decision told us they nonetheless accept the outcome.

Available Workload Data Supports Judicial Council's Recommendation

We believe the Judicial Council's recommendation to shift judicial resources is reasonable. First, despite limitations in the weighted caseload studies, the studies are the best available objective measures of workload capacity. Second, a trend analysis of workload in the two courts shows an increase in the Fifth Juvenile Court's workload and a decrease in the Second District Court's workload since resources were last adjusted.

Weighted Caseload Studies Indicate Greater Need in the Fifth District Juvenile Court than in the Second District Court

The weighted caseload studies are the best available information for comparing judicial workload among court districts. The caseload studies show a few potential areas where resources could be leveled. However, the Judicial Council believes that the most acute need currently exists in the Fifth District Juvenile.

The weighted caseload comprises two independent studies: one for the district court developed by the Board of District Court Judges, and one for the juvenile court developed by the Board of Juvenile Court Judges. Each study calculates workload based on case filings and the estimated time needed (weights) for each type of case. This workload, in terms of total judge time needed, is then compared to the judge time available in each district after factoring in the amount of travel

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Caseload studies show a need in the Fifth District Juvenile and some extra capacity in the Second District. Sharing agreements between other districts help level some other resources issues.

time needed by district. While each study identifies how many judges are needed, no mechanism is in place to ensure consistency between the two studies.

The studies have been used for many years as the basis for allocating resources and for requesting new judges. For example, the 2004 Legislature created a new judgeship in the Second District because the study showed too few judges for the workload. Now, the weighted caseload studies show excess capacity in the Second District and great need in the Fifth District Juvenile. Figure 1 shows the district and juvenile courts' weighted caseload results.

Figure 1. FY 2009 Weighted Caseload Information. According to the weighted caseload data, reallocating a judge from the Second District to the Fifth District Juvenile would move both courts closer to the 100% standard.

District	Positions Needed for Workload	Authorized Positions*	Percent Workload of Authorized Positions	Impact of Transfer
District Court				
1	3.94	4	99%	
2	15.72	17	92	98%
3	38.61	33	117	
4	17.12	14.5	118	
5	6.43	5	129	
6	2.15	2	108	
7	1.74	3	58	
8	2.86	2	143	
Total	88.57	80.5	110%	111%
Juvenile Court				
1	1.88	2	94%	
2	6.80	6	113	
3	12.10	11	110	
4	5.65	4.5	126	
5	2.75	2	138	92%
6	0.75	1	75	
7	2.25	2	113	
8	1.47	1	147	
Total	33.65	29.5	114%	110%

* Authorized positions include judges and commissioners.

According to the weighted caseload illustrated in the above figure, the Second District has 1.3 judicial positions more than needed, while the Fifth District Juvenile has 0.75 positions less than needed. In percentage terms, the Second District workload only justifies 92

percent of its existing 17 judicial positions while the Fifth District Juvenile workload justifies 138 percent of the two authorized judges. Removing a judgeship from the Second District and placing it in the Fifth District Juvenile helps equalize workload and judicial resources by bringing both districts closer to the 100 percent standard.

The figure also shows that other shifts of judicial resources should be considered. For example, the data indicate that the Seventh District has some excess capacity and could shift a judge to the Eighth District. Even factoring in travel time, the Seventh District has had a full judge more than needed for at least the past five years. In contrast, the workload in the Eighth District has grown steadily and now justifies an additional judge. Although the Judicial Council has not recommended that a judge be moved, the council has requested that the Seventh District judges provide routine assistance to help with the workload burden in the Eighth District. Scheduled, regular assistance is now being provided.

Also as seen in Figure 1, the Eighth District Juvenile shows workload at 147 percent, though the judicial need is only at .47 compared with .75 for Fifth District Juvenile. The difference is due to the amount of work being spread across one judge in the eighth and two judges in the fifth. In other words, there is a relatively greater need in the Fifth District Juvenile.

Although the weighted caseload studies seem to clearly show inconsistent allocation of judicial resources, other factors should be considered. For example, some courts include traffic referees who handle cases but are not included in the data. Senior judges may be used in some courts to help meet resource needs. Also, some courts may have sharing arrangements where judges help outside their own districts or else help the other court level in their own district.

Trend Analysis Shows Workload Shifts

Several concerns were raised in the Judicial Council meeting about comparing the district and juvenile court weighted caseload studies. These concerns, discussed more in the next section, deal largely with the outdated nature of the district court's study. In this section, we avoid comparing the juvenile and district court studies by only considering the trends within separate court systems. Thus, even if the juvenile court workload study were exaggerated compared to the

Sharing agreements, use of traffic referees and senior judges are not reflected in the weighted caseload studies.

Trend analysis avoids comparing the district and juvenile court systems, and instead looks at the relative increase or decrease in workload year to year.

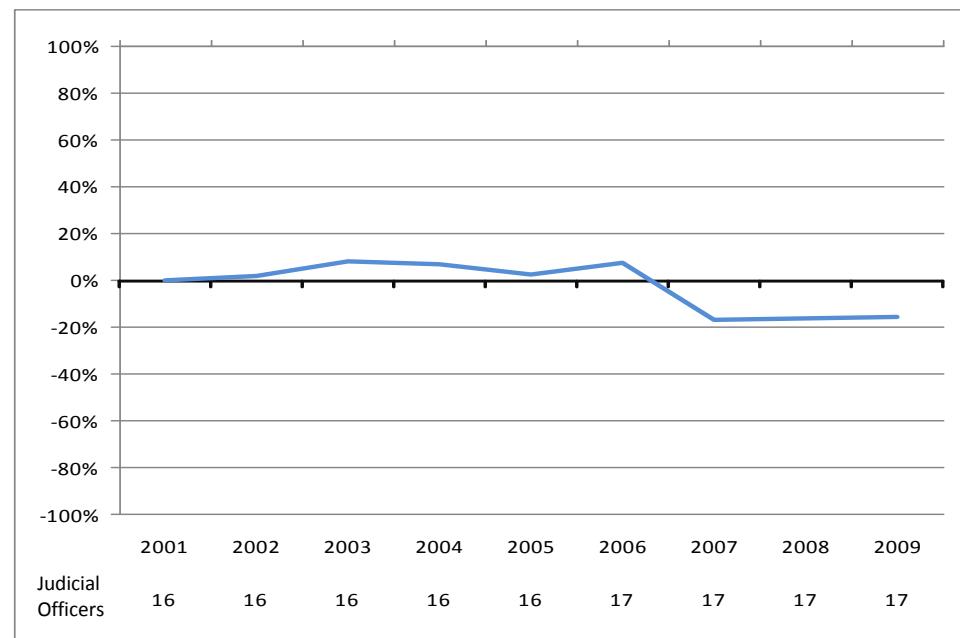
district court study, as was claimed to the Judicial Council, the trend within courts should not be affected. The trend analysis within each system is simply comparing the relative increase or decrease in workload from year to year.

Second District Workload Has Decreased Since 2001.

According to the district court weighted caseload study, the judicial workload in the Second District was about 16 percent less in 2009 than it was in 2001. During that same period the judicial officers increased from 16 to 17 after the Legislature added a judge to the Second District in the 2004 Legislative General Session. Currently, there are 17 judicial officers in the Second District (14 judges and 3 commissioners). However, one of the commissioners also works in the First District under a sharing arrangement. Figure 2 shows the workload trend over the past eight years.

Figure 2 Percent Change in Workload for the Second District Court, FY01-FY09. The Second District Court's workload has experienced an overall decrease, much of which is due to the opening of the Ogden Justice Court in 2007. The current workload is shared among 17 judicial officers.

The Second District experienced a drop in workload when the Ogden Justice Court opened in 2007.



The workload in the Second District decreased in 2007 with the opening of the Ogden Justice Court. Since that time, about 22,000 cases per year that would have been heard by Second District judges have instead been heard by the Ogden Justice Court. Based on the

district court workload analysis, the workload shift amounted to the work of three judges. This workload shift changed the Second District judicial workload percent of standard from 118 percent to 92 percent.

Fifth District Juvenile Workload Has Increased Since 2001.

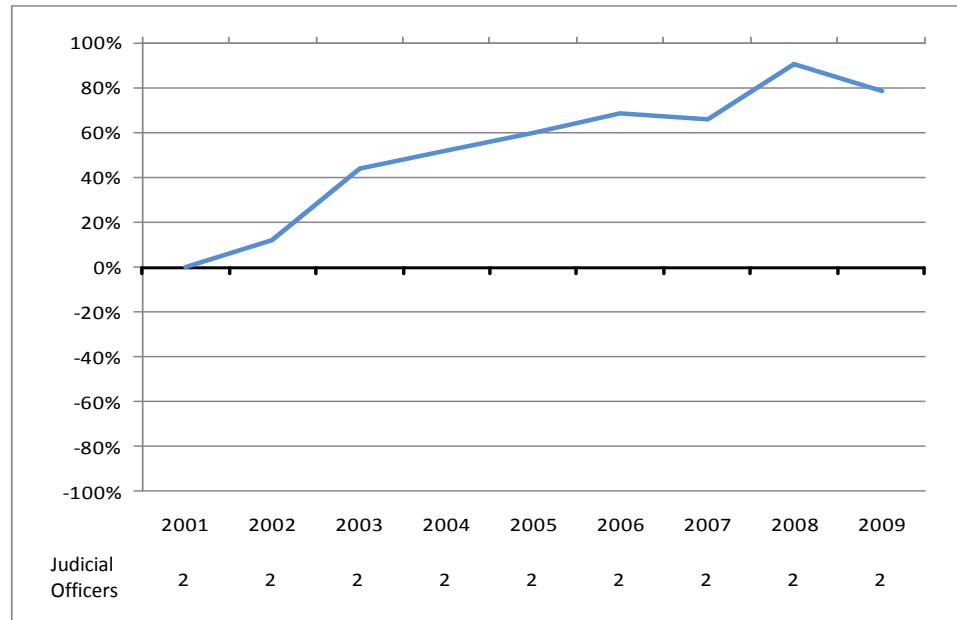
According to the juvenile court weighted caseload study, the judicial workload in the Fifth District Juvenile was about 78 percent more in 2009 than it was in 2001. However, no additional judicial officers were received during that time period. In fact, the last additional judicial resource added to the Fifth District Juvenile was in 1995 when the district received an additional judge. The Fifth District Juvenile currently has two judges.

Workload in the Fifth District Juvenile appears to have dropped 7 percent in fiscal year 2009. However, we believe the apparent drop in workload is due to the application of new workload weights in the juvenile court's newly updated caseload analysis. Although the weighted caseload indicates a reduction in workload from the prior year, the caseload study still shows a significant need for an additional judge in the Fifth District Juvenile.

The Fifth District Juvenile Court received its last judicial resource in 1995.

Figure 3 Percent Change in Workload for the Fifth District Juvenile Court, 2001-2009. The Fifth District Juvenile Court's workload has experienced a significant increase in recent years. The current workload is shared by 2 judges.

Workload in the Fifth District Juvenile was about 78 percent more in 2009 than it was in 2001.



*Data in the figure is based on calendar year data for years 2001 through 2006 and fiscal year data for fiscal years 2007 through 2009. Fiscal year 2009 data is based on a revised weighted caseload study.

Those we spoke with on the Judicial Council, regardless of their opinion of the accuracy of the weighted caseload, believe that a genuine need exists in the Fifth District Juvenile court. Some believe that possible due process concerns might begin to arise in the Fifth District Juvenile as caseloads and calendars continue to mount.

District Court Weighted Caseload Study Should Be Updated

There appear to be some limitations to the district court weighted caseload study.

There appear to be some limitations to the data in the district court weighted caseload study. These limitations relate primarily to the outdated nature of the study. The district court has not updated its study since 1997. The juvenile court updated its caseload study last year. To make future comparisons between district and juvenile court more accurate, the district court should update its weighted caseload study.

Officials in the Second District believe the outdated workload data has underrepresented their true workload. They believe that their

workload should be measured at 96 percent instead of the 92 percent shown in the district court's weighted caseload study. Due to the limited nature of our review, we were not able to validate the Second District's claim. However, it is commonly accepted by many on the Judicial Council that the district court weighted caseload study has data weaknesses. Following is a brief description of some of these data weaknesses:

- **Contempt Cases.** Districts have unique processes for recording case types. For example, contempt cases in the Second District for fiscal year 2009 were 1,017, but in the larger Third District only one was reported. This substantial difference might be due to unique case filing processes in each of the districts.
- **Drug Court.** The emergence of drug court came after the district court's 1997 caseload update; therefore, it appears as if the drug court has not been given the proper weighted time in the district court's study. The juvenile court has reportedly accounted for these courts in its 2009 updated caseload study.
- **Protective Orders.** In district court, little distinction in caseload has been made between a protective order hearing and an administrative ex-parte protective order review. However, time for these two types of reviews reportedly varies greatly.
- **Judge Time.** Part of the weighted caseload calculation deals with the availability of a judge or the time a judge has to hear and process cases. As part of normal business practice, judges and commissioners share time between districts. Several of these arrangements currently exist and need to be noted alongside the weighted caseload study.

To help ensure that future comparisons between the district and juvenile courts are comparable, the Judicial Council should require the boards of district and juvenile judges to regularly review and update their weighted caseload studies. Further, the Judicial Council should consider ways of making the district and juvenile weighted caseload studies as comparable as possible.

Officials in the Second District believe their workload is underrepresented in the district court weighted caseload study.

The Judicial Council should require the board of district and juvenile judges to regularly review and update their weighted caseload studies.

Recommendations

1. We recommend that the Judicial Council require the Board of District Court Judges and the Board of Juvenile Court Judges to regularly review and update their weighted caseload studies.
2. We recommend that the Judicial Council consider ways of making the district and juvenile weighted caseload studies as comparable as possible.