
West Virginia Magistrate Court Workload Assessment

*Final Report to the
Joint Committee on Government and Finance
West Virginia Legislature*

Cynthia G. Lee, J.D.
Matthew Kleiman, Ph.D.
Brian J. Ostrom, Ph.D.

Research Division
National Center for State Courts
December 1, 2014



Acknowledgements

The authors gratefully acknowledge the invaluable contributions of West Virginia's magistrates and magistrate court staff, whose participation and input were vital to the success of this workload assessment. We extend a special note of thanks to the staff of the West Virginia Supreme Court of Appeals, particularly Autumn Johnson, Tabetha Blevins, and Tayna Wiggins, who provided caseload data; Caroline Stoker, who assisted in defining the tasks and functions of magistrate court staff; and Melody Jordan, who provided logistical support. We are also grateful to our NCSC colleagues Diana McSpadden, Richard Schaufler, Kathryn Holt, and Shannon Roth for their assistance and insights.

The West Virginia Magistrate Court Workload Assessment Advisory Committee was instrumental in refining the study methodology and guiding policy decisions. We thank the committee members for their support and leadership throughout the course of the workload assessment.

Workload Assessment Advisory Committee

West Virginia Supreme Court of Appeals

Janie Moore
Director of Magistrate Court Services

Kirk Brandfass
General Counsel

Tina Sevy
Director of Legislative Analysis

Caroline Stoker
Computer Field Coordinator

Brenda Magann
Paralegal

Magistrates and Magistrate Court Staff

Riley Barb, Magistrate
Tucker County

Gail Boober, Magistrate
Jefferson County

Jeffrey Boggs, Magistrate
Clay County

David Buzzard, Magistrate
Marshall County

Angel Cincinnati, Magistrate Court Clerk
Kanawha County

Michele Cook, Deputy Magistrate Court Clerk
Kanawha County

Michael Flanigan, Magistrate
Mercer County

Deborah Kaizer, Magistrate Court Clerk
Greenbrier County

Richard Postalwait, Magistrate
Calhoun County

Mike Woelfel, Magistrate
Cabell County

Legislative Staff

Joe Altizer, Counsel
Committee on the Judiciary
West Virginia House of Delegates

Kevin Baker, Counsel
Committee on the Judiciary
West Virginia State Senate

Robert Williams, Counsel
Committee on the Judiciary
West Virginia House of Delegates

TABLE OF CONTENTS

- I. Introduction 1
- II. Magistrate Court Structure and Staffing 2
 - A. Jurisdiction..... 2
 - B. Magistrates 2
 - C. Magistrate Assistants 2
 - D. Magistrate Court Clerks and Deputy Clerks 3
- III. Project Overview 4
 - A. The Weighted Caseload Formula..... 4
 - B. Workload Assessment Advisory Committee 4
 - C. Research Design..... 5
 - D. Case Type Categories 5
 - E. Case-Related and Non-Case-Related Events 6
- IV. Time Study..... 8
 - A. Data Collection 8
 - 1. Time Study 8
 - 2. Caseload Data 8
 - B. Preliminary Case Weights..... 9
 - C. Day and Year Values 11
 - D. After-Hours Work..... 12
- V. Quality Adjustments: Moving from “What Is” to “What Should Be” 14
 - A. Sufficiency of Time Survey and Site Visits..... 14
 - 1. Sufficiency of Time Survey..... 14
 - 2. Site Visits..... 14
 - 3. Themes from the Site Visits and Sufficiency of Time Survey 14
 - B. Delphi Groups 20
- VI. Resource Allocation..... 22
 - A. Principles for Resource Allocation Analysis 22
 - B. Options for Resource Allocation: Magistrates 23
 - 1. County-Based Plan 23
 - 2. Resource Sharing Within Judicial Circuits..... 26
 - 3. Resource Sharing Within Jail Regions 32
 - 4. Recommendation of Workload Assessment Advisory Committee 35
 - C. Resource Allocation: Magistrate Assistants..... 35
 - D. Resource Allocation: Magistrate Court Clerks and Deputy Clerks 37
- VII. Recommendations 38
- Appendices..... 40

I. INTRODUCTION

In May of 2013, Governor Earl Ray Tomblin signed a statutory amendment to equalize salaries for all West Virginia magistrates and magistrate court staff, whose pay had previously been determined by the size of the population they served. In conjunction with this equalization of salaries, the West Virginia Legislature instructed its Joint Committee on Government and Finance (the Committee) to:

“request a study by the National Center for State Courts, working in conjunction with the Administrative Office of the Supreme Court of Appeals of West Virginia, to review the weighted case loads in each of the magistrate courts in this state, and present recommendations as to how the present resources and personnel in the magistrate court system could be better apportioned to equitably and timely meet the collective needs of the magistrate court system in West Virginia.”¹

Accordingly, the Committee contracted with the National Center for State Courts (NCSC) to conduct a comprehensive workload assessment for the West Virginia magistrate courts. The Committee and the Administrative Office of the Supreme Court of Appeals of West Virginia (AOC) also entered into a Memorandum of Understanding to provide support for the workload assessment.

A clear measure of workload is central to determining how many magistrates and staff are needed to resolve all cases coming before the magistrate courts, and to allocating these resources effectively and efficiently throughout the state. Methods of resource allocation that are based on population or raw, unweighted caseloads ignore the impact of geographic and

social factors—such as the presence of a state park, university, or interstate highway, differences in policing, and variations in crime rates—on court workloads. By *weighting* different types of cases to account for variations in complexity, the weighted caseload method of workload assessment accurately translates the number of cases that come before each court into the total amount of judicial officer and staff work required to dispose of those cases. The adoption of a weighted caseload model will bring West Virginia’s magistrate courts in line with workload-based resource allocation practices already well established in the state’s circuit and family courts.

NCSC’s comprehensive workload assessment strategy was grounded in a statewide time study, in which magistrates and staff recorded case-related and non-case-related work to provide an accurate empirical understanding of the time devoted to processing various types of cases and the division of magistrate and staff workdays between case-related and non-case-related work. A structured quality adjustment process examined how much time should be allotted to various case types and events for efficient and effective case resolution. Through a statewide survey and site visits to several courts, project staff also gained insight into the potential impact of resource-sharing across county lines on the magistrate courts. Throughout the project, an advisory committee of magistrates, magistrate court staff, AOC personnel, and legislative staff provided oversight and guidance on matters of policy. The resulting recommendations for allocating magistrates and magistrate court staff are based upon an empirical understanding of the workload in each magistrate court as well as public policy considerations, and reflect the input of magistrates and staff from across the state of West Virginia.

¹ S.B. 1003, 81st Leg., 1st Spec. Sess. (W. Va. 2013).

II. MAGISTRATE COURT STRUCTURE AND STAFFING

A. Jurisdiction

The magistrate courts of West Virginia are most citizens' first point of contact with the state judicial system. Each of West Virginia's fifty-five counties has its own magistrate court. In criminal cases, magistrates issue search and arrest warrants and conduct initial appearances and bail hearings, misdemeanor trials, and felony preliminary examinations. Magistrates issue personal safety orders and temporary protective orders in domestic violence cases, and have jurisdiction over civil cases in which the amount in controversy is less than five thousand dollars. Magistrates also conduct juvenile detention hearings, emergency hearings in child abuse and neglect cases, and, in some counties, probable cause involuntary hospitalization proceedings in mental hygiene cases.

B. Magistrates

Magistrates are elected to four-year terms and must reside in the county in which they serve. Under the West Virginia Constitution, magistrates cannot be required to be licensed to practice law.² The chief judge of each circuit court has administrative authority over the magistrate courts within the circuit, including responsibility for establishing magistrate court hours and on-call schedules for magistrates.³

To handle initial appearances, warrants, and emergency matters such as domestic violence protective orders, juvenile detention hearings, child abuse and neglect cases, and mental hygiene cases, one magistrate in each county must be on call at all times outside of regular magistrate court hours.⁴ At specified times each night and on weekends, the on-call magistrate telephones the regional jail to inquire whether

any defendants arrested within the county are awaiting initial appearances. If there are newly arrested defendants, the magistrate goes to his or her office to conduct the initial appearances and bail hearings through a two-way video link to the jail. All other after-hours matters are handled in person.

To maintain adequate coverage of on-call hours, each county is assigned a minimum of two magistrates, with a total of 158 magistrates currently serving statewide. Short-term absences are frequently covered by the county's other magistrate(s). Absences may also be covered by senior status magistrates (retired magistrates assigned by the Administrative Office of the Courts), or by temporary reassignment of a magistrate from another county within the judicial circuit.⁵

C. Magistrate Assistants

Each magistrate is supported by one magistrate assistant. The magistrate assistant is appointed and supervised by the magistrate.⁶ The assistant's duties include maintaining and updating case files, scheduling hearings, assisting litigants with questions and paperwork, and providing direct support to the magistrate during court sessions. In counties without central cashiering, the assistant also accepts payments of fines and fees. For cashiering and certain clerical duties, the assistant is accountable to the clerk of the magistrate court.⁷ Each magistrate assistant is required to work a 40-hour week during regular court hours, whether or not the magistrate is scheduled to be in the office during business hours. After their own work is completed, magistrate assistants are directed to

² W.VA. CONST. art. VIII, § 8-10.

³ W.VA. CONST. art. VIII, §§ 8-6, 8-10.

⁴ ADMIN. R. FOR MAGISTRATE CTS. OF W.VA. 1(b).

⁵ W.VA.CODE § 50-1-13(b) (2014).

⁶ W.VA.CODE § 50-1-9(a) (2014).

⁷ See W.VA.CODE § 50-1-9(b) (2014).

help in the clerk's office.⁸ Some, but not all, magistrates will ask their assistants to come into the office after hours to handle matters that arise while the magistrate is on call. An assistant who works after hours is permitted to take an equivalent amount of time off during the following work week.⁹

D. Magistrate Court Clerks and Deputy Clerks

The chief judge of the circuit court appoints a magistrate court clerk for each magistrate court.¹⁰ Larger magistrate courts may also have one or more deputy clerks.¹¹ The magistrate court clerk maintains the court's dockets and records, assigns cases to magistrates, scans case documents, assists litigants in person and over the telephone, maintains office equipment, orders supplies, manages juries, and maintains the court's financial records. In counties with central cashiering, the clerk or a deputy clerk also accepts payments of fines and fees.¹²

⁸ ADMIN. R. FOR MAGISTRATE CTS. OF W.VA. 1C.

⁹ *Id.*

¹⁰ *See* W.VA.CODE § 50-1-8(a) (2014).

¹¹ W.VA.CODE § 50-1-9a(a) (2014).

¹² W.VA.CODE § 50-1-9a(c) (2014); ADMIN. R. FOR MAGISTRATE CTS. OF W.VA. 2(b), 4, 6.

III. PROJECT OVERVIEW

A. The Weighted Caseload Formula

The weighted caseload model of workload analysis is grounded in the understanding that different types of court cases vary in complexity, and consequently in the amount of work they generate for judicial officers and court staff. For example, a typical felony creates a greater need for judicial resources than the average traffic case. The weighted caseload method calculates magistrate and staff need based on each court's total workload. The weighted caseload formula consists of three critical elements:

1. *Case filings*, or the number of new cases of each type opened each year;
2. *Case weights*, which represent the average amount of magistrate or staff time required to handle cases of each type over the life of the case; and
3. The *year value*, or the amount of time each magistrate or staff member has available for case-related work in one year.

Total annual workload is calculated by multiplying the annual filings for each case type by the corresponding case weight, then summing the workload across all case types. Each court's workload is then divided by the year value to determine the total number of full-time equivalent magistrates or staff members needed to handle the workload.

B. Workload Assessment Advisory Committee

To provide policy oversight and guidance throughout the course of the project, the AOC appointed a Workload Assessment Advisory Committee (WAAC). Members included seven magistrates from a variety of large and small counties across West Virginia, two magistrate court clerks, one deputy magistrate court clerk, the general counsel to the West Virginia

Supreme Court of Appeals, the director of legislative analysis for the Supreme Court of Appeals, the AOC's director of magistrate court services, the magistrate court computer field coordinator, and counsel for the West Virginia House Judiciary Committee and Senate Judiciary Committee. WAAC's responsibilities included

- Advising the project team on the case type categories for the weighted caseload model and the event definitions for the time study;
- Making policy decisions regarding the amount of time magistrates and staff should devote to case-related and non-case-related work on a daily and an annual basis;
- Reviewing and approving the results of the time study and the quality adjustment process; and
- Making policy recommendations regarding the allocation of magistrates and staff, including recommendations regarding the sharing of magistrate court resources across county lines.

The full committee met in August 2013 to define the parameters for the time study and in September 2014 to review the recommended quality adjustments to the weighted caseload model and to formulate final recommendations for the allocation of magistrates and staff. A Working Group, consisting of all WAAC members other than legislative staff, also met in March 2013 to review the results of the time study and to establish day and year values for case-related work.

C. Research Design

Three separate weighted caseload models were developed for magistrates, magistrate assistants, and magistrate court clerks and deputy clerks. The workload assessment proceeded in three phases:

1. A *time study* in which all magistrates and staff recorded all case-related and non-case-related work. The time study provided an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A *quality adjustment* process that ensured that the final weighted caseload models incorporated sufficient time for efficient and effective case processing. During the quality adjustment process, project staff also gathered qualitative data on the potential impact of sharing magistrates and/or magistrate court staff across county lines. The quality adjustment process included a

statewide *sufficiency of time survey* asking magistrates and staff about the amount of time currently available to perform various case-related and non-case-related tasks, a structured review of the case weights by a set of *Delphi groups* consisting of magistrates and staff, and *site visits* by NCSC staff to four courts.

3. An analysis of *resource allocation* based upon the workload of each magistrate court, along with public policy considerations such as efficiency and access to justice.

D. Case Type Categories

During its first meeting, WAAC defined the case type categories to be used as the basis for all three weighted caseload formulas. The goal was to identify a manageable number of case type categories that were legally and logically distinct, were associated with different amounts of magistrate and staff work, and covered the full range of cases handled by the magistrate courts. Exhibit 1 lists the nine magistrate court case type categories.¹³

Exhibit 1. Case Type Categories

Civil
Domestic Violence
Personal Safety
Worthless Check
Citation (Motor Vehicle and Division of Natural Resources)
Other Misdemeanor
Felony
Juvenile and Abuse/Neglect
Mental Health

¹³ Juvenile and Abuse/Neglect were originally designated as separate categories, but were combined due to the small number of cases filed in the Abuse/Neglect category.

To avoid discrepancies in workload calculations resulting from to variation in prosecutorial charging practices, NCSC recommends a defendant-based method of counting criminal cases in which all charges against a single defendant arising from a single course of conduct are counted as one case. Because West Virginia is in the process of phasing out a case management system that uses a charge-based method of counting criminal cases in which each charge is counted as a separate case, the filings counts and case weights presented in this report are charge-based rather than defendant-based. Once the United Judicial Application (UJA) system is fully implemented and defendant-based caseload statistics are available, NCSC recommends that the magistrate court case weights be converted to a defendant-based system.

E. Case-Related and Non-Case-Related Events

To cover the full range of magistrate and staff activities, project staff consulted by telephone with focus groups of magistrates and staff to develop definitions of case-related and non-case-related events. Case-related events include all activities directly associated with the resolution of individual cases, from pre-filing activity such as the review of search warrants through post-disposition matters such as probation violations. Exhibit 2 lists the case-related event categories for magistrates and staff; Appendices A through C provide detailed definitions and examples of activities that fall into each case-related event category.

Exhibit 2. Case-Related Events

Magistrates

Pre-Disposition

Non-Trial Disposition

Trial

Post-Judgment/Post-Disposition

Magistrate Assistants

Records Management

Litigant Support

Cashiering

Courtroom Support

Judicial Support

Clerks/Deputy Clerks

Records Management

Case Processing

Cashiering

Courtroom Support

Jury Management

Some activities and responsibilities, such as training and office management, are not directly related to a particular case. These activities were defined as non-case-related events. To simplify data collection during the time study, sick leave and vacation time, lunch and breaks, and time

spent filling out time study forms were also defined as non-case-related events. Exhibit 3 shows the case-related event categories; Appendices A through C provide specific examples of activities that fall into each category.

Exhibit 3. Non-Case-Related Events

Magistrates

Non-Case-Related Administration
Public Contact and Community Affairs
General Legal Reading
Training and Conferences
Travel
Vacation and Other Leave
Lunch and Breaks
NCSC Time Study

Magistrate Assistants and Clerks/Deputy Clerks

Customer Service
Office Management
Bookkeeping/Financial Management
Training and Conferences
Travel
Vacation and Other Leave
Lunch and Breaks
NCSC Time Study

IV. TIME STUDY

To establish a baseline of current practice, project staff conducted a statewide time study to measure the amount of time magistrates and magistrate court staff currently devote to each case type category, as well as to non-case-related work. Separately, the AOC provided counts of filings by case type category and county. Following data collection, NCSC used the time study results and caseload data to calculate the average number of minutes currently spent resolving cases within each case type category (case weights). Informed by the time study data, WAAC specified the amount of time that magistrates and staff have available for case-related work during a typical year (magistrate and staff year values).

A. Data Collection

1. Time Study

During a four-week period running from October 21 through November 17, 2013, all magistrates, magistrate assistants, and magistrate court clerks and deputy clerks were asked to track all of their working time by case type category and case-related event (for case-related activities), or by non-case-related event (for non-case-related activities). To facilitate analysis of the dynamics of on-call and after hours work, magistrates were also asked to indicate whether each work activity was performed outside of regular business hours.

Magistrates and staff were asked to track their time in five-minute increments using a Web-based form. To maximize data quality, all time study participants were asked to view a training video explaining how to categorize and record their time. Project staff also provided an

overview of the workload assessment process, including the time study requirements, during the fall magistrate training conference in September 2013. In addition to the training videos, magistrates and staff were provided with written reference materials, and NCSC staff were available to answer questions by telephone and e-mail. To assist in the identification of missing data, each magistrate was asked to describe his or her on-call rotation schedule.

Across the state, 97 percent of magistrates, 99 percent of magistrate assistants, and 100 percent of magistrate court clerks and deputy clerks participated in the time study. These extremely high participation rates ensured sufficient data to develop an accurate and reliable profile of current practice in the magistrate courts.

2. Caseload Data

To translate the time study data into the average amount of time expended on each type of case (preliminary case weights), it was first necessary to determine how many individual cases from each category were filed statewide. The AOC provided filings data for the years 2010 through 2012. The caseload data for all three years were then averaged to provide an annual count of filings within each case type category. The use of an annual average rather than the caseload data for one particular year minimizes the potential for any temporary fluctuations in caseloads to influence the case weights.¹⁴ The average annual filings for each case type are shown in Exhibit 4.

¹⁴ Because the Personal Safety case type was established by statute effective July 1, 2012, a single year's worth of filings data spanning the period July 1, 2012 – June 30, 2013 were used for this case type.

B. Preliminary Case Weights

Following the four-week data collection period, the time study and caseload data were used to calculate preliminary case weights for magistrates, magistrate assistants, and magistrate court clerks/deputy clerks. A preliminary case weight represents the average amount of time magistrates or staff currently spend to process a case of a particular type, from pre-filing activity to all post-judgment matters. The use of separate case weights for each case type category accounts for the fact that cases of varying levels of complexity require different amounts of time for effective resolution. For example, the case weight for misdemeanor offenses should be larger than the case weight for citations because misdemeanor cases tend to be more complex and require more magistrate and staff involvement than the typical citation.

NCSC and WAAC were concerned that the statutory requirement for magistrate assistants to work a 40-hour week, even in courts with very small caseloads, might lead assistants in small

counties to spend more time than necessary on their cases. For this reason, the magistrate assistant case weights for all case types other than Domestic Violence and Personal Safety were calculated using only the time and filings data for assistants from counties with more than two magistrates. Because WAAC felt that the case weights calculated in this manner understated the time required for assistants to process Domestic Violence and Personal Safety cases, these two case weights were calculated using the time and filings data from all counties. Because magistrates have no statutory minimum requirement for work hours, and because the magistrate court clerk's office is not subject to the two-per-county minimum used to allocate magistrates and their assistants, there were no serious concerns about time inflation for magistrates or clerks/deputy clerks. The case weights for these positions were therefore calculated using the time and filings data for all counties. Exhibit 4 shows the preliminary case weights for magistrates, magistrate assistants, and magistrate court clerks and deputy clerks.

Exhibit 4. Preliminary Case Weights

| Magistrates | Time Study (minutes) | ÷ | Filings (average) | = | Case Weight (minutes) |
|----------------------------|---------------------------------|----------|------------------------------|----------|----------------------------------|
| Civil | 874,814 | ÷ | 44,227 | = | 20 |
| Domestic Violence | 772,336 | ÷ | 17,041 | = | 45 |
| Personal Safety | 141,279 | ÷ | 1,772 | = | 80 |
| Worthless Check | 70,705 | ÷ | 14,471 | = | 5 |
| Citation | 573,949 | ÷ | 134,446 | = | 4 |
| Other Misdemeanor | 4,176,868 | ÷ | 79,345 | = | 53 |
| Felony | 1,170,396 | ÷ | 30,412 | = | 38 |
| Juvenile and Abuse/Neglect | 205,705 | ÷ | 2,269 | = | 91 |
| Mental Health | 42,786 | ÷ | 201 | = | 213 |

| Magistrate Assistants | Time Study (minutes) | ÷ | Filings (average) | = | Case Weight (minutes) |
|------------------------------|---------------------------------|----------|------------------------------|----------|----------------------------------|
| Civil | 846,765 | ÷ | 35,685 | = | 24 |
| Domestic Violence | 641,903 | ÷ | 17,041 | = | 38 |
| Personal Safety | 97,346 | ÷ | 1,772 | = | 55 |
| Worthless Check | 55,879 | ÷ | 9,216 | = | 6 |
| Citation | 662,185 | ÷ | 97,762 | = | 7 |
| Other Misdemeanor | 3,579,843 | ÷ | 61,942 | = | 58 |
| Felony | 793,928 | ÷ | 24,246 | = | 33 |
| Juvenile and Abuse/Neglect | 53,222 | ÷ | 1,527 | = | 35 |
| Mental Health | 8,510 | ÷ | 129 | = | 66 |

| Clerks and Deputy Clerks | Time Study (minutes) | ÷ | Filings (average) | = | Case Weight (minutes) |
|---------------------------------|---------------------------------|----------|------------------------------|----------|----------------------------------|
| Civil | 1,985,159 | ÷ | 44,227 | = | 45 |
| Domestic Violence | 283,966 | ÷ | 17,041 | = | 17 |
| Personal Safety | 59,721 | ÷ | 1,772 | = | 34 |
| Worthless Check | 196,483 | ÷ | 14,471 | = | 14 |
| Citation | 1,745,935 | ÷ | 134,446 | = | 13 |
| Other Misdemeanor | 2,421,588 | ÷ | 79,345 | = | 31 |
| Felony | 711,735 | ÷ | 30,412 | = | 23 |
| Juvenile and Abuse/Neglect | 20,438 | ÷ | 2,269 | = | 9 |
| Mental Health | 261 | ÷ | 201 | = | 1 |

Notes: Filings for case types other than Personal Safety are the annual average for 2010 through 2012. Personal Safety filings are for July 1, 2012 through June 30, 2013. For magistrate assistants, time and filings data for all case types other than Domestic Violence and Personal Safety are for counties with more than two magistrates. All time and filings data for magistrates and clerks/deputy clerks, along with time and filings data for Domestic Violence and Personal Safety for magistrate assistants, include counties of all sizes.

C. Day and Year Values

In any weighted caseload model, three factors contribute to the calculation of judicial officer or staff need: caseload data (filings), case weights, and the year value. The year value is equal to the amount of time each full-time magistrate or staff member has available for case-related work on an annual basis. The relationship among the filings, case weights, and year value is expressed as follows:

$$\frac{\text{Filings} \times \text{Case Weights (minutes)}}{\text{Year Value (minutes)}} = \text{Resource Need (FTE)}$$

Multiplying the filings by the corresponding case weights calculates the total annual workload in minutes. Dividing the workload by the year value yields the total number of full-time equivalent (FTE) magistrates or staff needed to handle the workload.

To develop the year value, it was necessary to determine the number of days magistrates and staff have available for case-related work in each year (magistrate and staff year), as well as how to divide the work day between case-related and non-case-related work (magistrate and staff day values). To compute the magistrate and staff year, NCSC and the AOC subtracted weekends, court holidays, and typical allotments for full-day training sessions and conferences, vacation, and sick leave from the number of days in a calendar year. The result was a year consisting of 217 case-related workdays for magistrates and staff.

The day values, which represent the amount of time available for case-related work each day, were based upon the time study data. Although the nature of the position means that magistrates do not typically work a traditional five-day week of eight-hour days during regular court hours, the weighted caseload model is based on the assumption that total work hours for each magistrate and staff member should average out to the equivalent of an 8-hour workday for 217 working days per year—in other words, a full-time equivalent position. The day values for magistrates and staff were therefore developed by calculating the percentage of total working hours devoted to case-related work during the time study, then applying that percentage to a standard 8-hour workday. The remaining portion of the workday is dedicated to non-case-related work. Separate day values were calculated for magistrates, magistrate assistants, and magistrate court clerks/deputy clerks. Exhibit 5 shows the division of the workday between case-related and non-case-related work for magistrates and staff. The case-related day value for magistrate court clerks/deputy clerks is smaller than the case-related day values for magistrates and magistrate assistants, as the duties of the clerk’s office include a larger share of work that is unrelated to a particular case before the court (e.g. general public contract).

Exhibit 5. Magistrate and Staff Day Values

| Time per day (hours) | Magistrates | Magistrate Assistants | Clerks and Deputy Clerks |
|-----------------------------|--------------------|------------------------------|---------------------------------|
| Case-related day value | 6.0 | 6.0 | 4.9 |
| Non-case-related time | 2.0 | 2.0 | 3.1 |
| Total working hours | 8.0 | 8.0 | 8.0 |

To calculate the final year values for case-related work, the number of days in the working year was multiplied by the day value for case-related work. This figure was then expressed in terms of minutes per year. Exhibit 6 details the calculation of the magistrate and staff year values.

D. After-Hours Work

The time study also provided an empirical profile of the amount of time magistrates devote to on-call work, after-hours public contact, and other work that takes place outside of regular court hours. Across the state, magistrates performed 12 percent of their case-related work

and 15 percent of their non-case-related work outside of court hours. Case-related after-hours work typically consists of on-call matters such as initial appearances and domestic violence protective orders. For each county, Exhibit 7 shows the average amount of case-related work performed by on-call magistrates on a weekly basis, along with an estimate of the average number of after-hours petitions for domestic violence protective orders heard each week. A large share of the non-case-related work magistrates perform outside of regular court hours consists of contact initiated directly by members of the public, which may occur whether or not the magistrate is officially on call.

Exhibit 6. Magistrate and Staff Year Values

| | Days per year | x | Case-related hours per day | x | Minutes per hour | = | Year value (minutes) |
|--------------------------|----------------------|----------|-----------------------------------|----------|-------------------------|----------|-----------------------------|
| Magistrates | 217 | x | 6.0 | x | 60 | = | 78,120 |
| Magistrate Assistants | 217 | x | 6.0 | x | 60 | = | 78,120 |
| Clerks and Deputy Clerks | 217 | x | 4.9 | x | 60 | = | 63,798 |

Exhibit 7. Weekly After-Hours Case-Related Work by County

| County | Current Magistrates | Domestic violence | | County | Current Magistrates | Domestic violence | |
|------------|---------------------|---------------------------------|--------------------------|--------------|---------------------|---------------------------------|--------------------------|
| | | Total case-related work (hours) | case filings (estimated) | | | Total case-related work (hours) | case filings (estimated) |
| Barbour | 2 | 1.9 | 0.5 | Monongalia | 4 | 11.9 | 2.9 |
| Berkeley | 5 | 18.0 | 5.0 | Monroe | 2 | 2.1 | 0.7 |
| Boone | 2 | 6.8 | 1.2 | Morgan | 2 | 3.3 | 0.5 |
| Braxton | 2 | 3.2 | 0.3 | Nicholas | 3 | 5.5 | 1.3 |
| Brooke | 2 | 3.2 | 0.5 | Ohio | 4 | 6.9 | 1.1 |
| Cabell | 7 | 17.6 | 4.6 | Pendleton | 2 | 0.7 | 0.1 |
| Calhoun | 2 | 1.5 | 0.2 | Pleasants | 2 | 1.3 | 0.2 |
| Clay | 2 | 2.2 | 0.4 | Pocahontas | 2 | 1.9 | 0.3 |
| Doddridge | 2 | 1.2 | 0.2 | Preston | 3 | 3.3 | 1.2 |
| Fayette | 4 | 6.5 | 1.8 | Putnam | 3 | 5.4 | 1.9 |
| Gilmer | 2 | 1.3 | 0.2 | Raleigh | 5 | 17.0 | 3.4 |
| Grant | 2 | 2.6 | 0.4 | Randolph | 3 | 4.0 | 1.6 |
| Greenbrier | 3 | 4.1 | 1.4 | Ritchie | 2 | 1.5 | 0.3 |
| Hampshire | 2 | 4.9 | 0.3 | Roane | 2 | 4.3 | 0.5 |
| Hancock | 3 | 4.1 | 0.8 | Summers | 2 | 2.1 | 0.3 |
| Hardy | 2 | 3.2 | 0.3 | Taylor | 2 | 2.0 | 0.3 |
| Harrison | 5 | 11.0 | 3.3 | Tucker | 2 | 0.9 | 0.1 |
| Jackson | 2 | 5.7 | 1.0 | Tyler | 2 | 1.2 | 0.2 |
| Jefferson | 3 | 10.5 | 1.4 | Upshur | 2 | 4.8 | 0.6 |
| Kanawha | 10 | 31.9 | 9.1 | Wayne | 3 | 4.0 | 0.7 |
| Lewis | 2 | 2.8 | 0.3 | Webster | 2 | 1.9 | 0.3 |
| Lincoln | 2 | 6.4 | 1.0 | Wetzel | 2 | 1.9 | 0.5 |
| Logan | 3 | 8.8 | 2.0 | Wirt | 2 | 0.8 | 0.2 |
| Marion | 4 | 6.0 | 1.8 | Wood | 4 | 11.3 | 4.3 |
| Marshall | 3 | 4.1 | 1.0 | Wyoming | 3 | 4.6 | 1.6 |
| Mason | 2 | 4.4 | 1.1 | Total | 158 | 310.1 | 72.1 |
| McDowell | 3 | 7.6 | 0.9 | | | | |
| Mercer | 5 | 14.0 | 3.3 | | | | |
| Mineral | 2 | 4.4 | 0.6 | | | | |
| Mingo | 3 | 5.6 | 2.0 | | | | |

V. QUALITY ADJUSTMENTS: MOVING FROM “WHAT IS” TO “WHAT SHOULD BE”

The preliminary case weights generated during the time study measure the amount of time magistrates and staff *currently* spend handling various types of cases, but do not necessarily indicate whether this is the amount of time magistrates and staff *should* spend. To provide a qualitative assessment of whether current practice allows adequate time for quality performance, project staff administered a Web-based survey to magistrates and staff throughout the state. Project staff also conducted site visits to magistrate courts in four counties to observe magistrate court operations and gather the opinions of magistrates and staff regarding the potential for sharing magistrate court resources across county lines. Three expert panels of experienced magistrates and magistrate court staff reviewed the case weights to ensure that they provided sufficient time for effective case processing.

A. Sufficiency of Time Survey and Site Visits

1. Sufficiency of Time Survey

To provide a statewide perspective on any areas of concern related to current practice, all magistrates, magistrate assistants, and magistrate court clerks and deputy clerks were asked to complete a Web-based survey in February 2014. Magistrates and staff were asked to identify particular tasks, if any, where additional time would allow them to handle their cases more effectively. The survey also asked magistrates and staff to identify their courts’ strengths and challenges, and included space for respondents to comment freely on their workload.

Sixty-three percent of magistrates, 68 percent of magistrate assistants, and 75 percent of clerks and deputy clerks completed the survey. Both magistrates and staff identified providing in-person and telephone support to litigants,

addressing the issues surrounding self-represented litigants, and ensuring that parties feel their questions and concerns have been addressed as important and time-consuming aspects of their jobs. Appendices D, E, and F present the results of the sufficiency of time survey in detail.

2. Site Visits

To provide additional perspective on the workload of the magistrate courts and the potential for resource-sharing across county lines, project staff made site visits to magistrate courts in four counties. Counties were selected to represent varying levels of magistrate court workload. NCSC staff visited Kanawha County in March and May of 2014, and Logan, Lincoln, and Summers Counties in August of 2014. During the site visits, project staff observed magistrate court operations in courtrooms and magistrate offices and conducted qualitative interviews with magistrates and magistrate court staff.

3. Themes from the Site Visits and Sufficiency of Time Survey

Taken together, the site visit interviews and observations and the comments from the sufficiency of time survey reveal several key insights about the work of West Virginia’s magistrate courts.

a. Magistrates and staff strive to provide a high degree of access to justice, to promote procedural justice, and to ensure that self-represented litigants understand the legal process.

The sufficiency of time survey, site visits, WAAC meetings, and Delphi sessions all made it clear that West Virginia’s magistrates and

their staff are dedicated to ensuring that every citizen has access to a magistrate when needed and fully understands the magistrate court process. Magistrates, assistants, and clerk's office staff repeatedly cited explaining court forms and procedures to litigants, particularly self-represented parties, as one of the most important parts of their jobs. A number of magistrates and staff also mentioned the importance of assisting litigants who have difficulty in reading and writing. During the site visits, project staff observed magistrates sitting with criminal defendants to review disposition forms in detail, taking special care to make sure that each defendant understood the details of his or her obligations to the court (e.g., paying fines by a certain date) and the consequences of noncompliance (e.g., suspension of driving privileges).

Social science research has consistently demonstrated that when litigants perceive the court's decision-making process to be fair, they are more likely to accept the court's decisions and comply with court orders. Procedural justice is present when litigants feel that the decision-maker has treated them with respect and dignity, has made an impartial decision based upon the facts, has allowed each party to express its viewpoint, and has demonstrated genuine concern for the parties' well-being.¹⁵ Without explicitly naming the concept of procedural justice, magistrates and staff across the state demonstrated a commitment to its principles. On the sufficiency of time survey, a number of staff members remarked on the importance of letting each litigant "tell the whole story." On the bench, magistrates were observed taking time to

chat with defendants about their families, express sympathy for defendants' difficult circumstances, and encourage defendants to take advantage of "second chances" obtained through plea bargains and alternative dispositions. During interviews, magistrates drew connections between their own treatment of litigants—particularly criminal defendants—and litigants' responses to case outcomes.

"My assistant and I take pride in speaking with, listening to, and attempting to help people with the problems that bring them to magistrate court. Where else but in America can someone come to court and be able to walk up to the counter and speak with a magistrate or judge to seek direction or advice?"

"I operate on the theory that I'm a servant to the public. I try to be polite and helpful to all I come in contact with, both on duty and off duty."

"I think our court's greatest strength is the effort we make to explain procedures to the public. Most people who come into our office, particularly for civil matters, are completely unaware of what the process actually involves. I believe most of our staff take a great deal of time speaking with the public in this regard."

"The public comes first. Everything else comes after that."

¹⁵ See generally TOM TYLER, WHY PEOPLE OBEY THE LAW (2006).

Scenes from a magistrate court: Lincoln County

The magistrate on duty in Lincoln County has just arrived at the courthouse for a busy “criminal day.” Men and women, many with children in tow, are already lined up in the narrow hallway outside the magistrate’s office, where the magistrate conducts hearings because no courtroom is available. In the outer office sits the magistrate’s assistant, who is busy preparing case files and documents for each case on the day’s calendar, scheduling upcoming case events, and collecting fines and fees. The magistrate sits behind an L-shaped desk in the inner office. Across the desk from the magistrate are five chairs for the defendant, family members, the prosecutor, defense counsel, and law enforcement.

The first case on the morning docket is a deferral plea on DUI charges, in which the defendant agrees to participate in an ignition interlock program through the Department of Motor Vehicles. The magistrate takes great care to ensure that the defendant understands the terms of the plea agreement and what will happen if the defendant does not complete the program or pay the assessed fines and fees. Within five minutes, the hearing is over. The magistrate picks up the next case file in the stack and calls in the defendant, who is accompanied by his wife and a prosecutor. This defendant faces several traffic charges, including a citation for expired registration and inspection stickers. The defendant explains to the magistrate that he has recently obtained a new job after being out of work for an extended period and has lost five family members over the past six months. To ensure the defendant’s continued employment, the prosecutor outlines an agreement to drop those charges that would result in the suspension of the defendant’s driver’s license. In exchange, the defendant pleads guilty to the remaining minor charges. Before approving the plea bargain, the magistrate expresses sympathy for the defendant’s hard times and mentions that she knew the defendant’s parents. After assessing the lowest possible fine, the magistrate makes sure that the defendant has written down the exact amount of the fine and the due date and tells him how to set up a payment plan if necessary.

The morning continues with a steady stream of defendants, family members, attorneys, and law enforcement officers entering and exiting the magistrate’s office. The magistrate works efficiently down the docket, frequently pausing to review warrants and to answer phone calls from citizens. As a lifelong resident of Lincoln County, the magistrate has an obvious connection with the people who appear before her, some of whom call her “Ms. Mona.” She is often aware of the defendant’s family history and prior interactions with the criminal justice system. Perhaps the best emblem of the magistrate’s commitment to make herself available to the people she serves is the fact that her home telephone number is listed on her business card.

b. After-hours and on-call work is a significant component of the magistrate’s role.

Magistrates from across the state stressed the importance of after-hours and on-call work as a component of their jobs. Although magistrates do not spend every moment of each on-call shift conducting judicial business, on-call work places significant demands on magistrates, especially those in small counties who must

spend as much as twenty-six weeks out of each year on call. While on call, a magistrate must remain within the county’s borders and be available to drive to court on a moment’s notice. Magistrates also noted that whether or not they are on call, members of the public will telephone them at home or approach them in public to ask questions about specific cases or how to address a problem. Although magistrates accept out-of-court contact with the public as a necessary

function of their role, they expressed a desire to have these after-hours interactions recognized as a significant part of their workload.

“I am required to be on call 24 hours a day for six months out of the year. After hours, I am and have always been available to the public year-round because I am an elected servant of the people.”

“I am on call every other week. If I have to come out a lot at night, I am very tired by the end of my on-call week, and it affects my performance during regular hours.”

“Members of the public often have general questions about happenings in the county and state, as well as issues involving themselves or family. Most times you go to the grocery store to pick up a few things and spend an extra 30 to 45 minutes answering questions ranging from the cost of traffic citations to what to do about filing civil or criminal complaints and who to talk to. Members of the public seem less intimidated by our office and feel they can find out from us what they need to do about their specific situations before they speak to law enforcement.”

c. Magistrates have strong ties to their local communities.

Across West Virginia, magistrates are closely connected to the communities they serve. Many magistrates have spent their entire lives in their home counties, and in some cases have succeeded their own parents in the office of magistrate. Magistrates frequently know the

names, faces, and histories of the people appearing before them and assert that this contextual knowledge helps them to make better decisions, particularly with regard to pretrial release. Magistrates are also well acquainted with local domestic violence shelters and other services available to assist litigants in the community. The selection of magistrates through county-based elections further cements the bond between each county and its magistrates. When asked about the potential consequences of sharing magistrates across county lines, several magistrates predicted that citizens would prefer to have their own locally elected magistrates making the decisions that would affect their lives.

“I participate in community programs directed at improving the care and treatment of persons suffering in our society with mental illness and participate in volunteer activities to improve the social and economic status of the poor and elderly in our community.”

“In a small county, you have a lot of familiarity with the people.”

d. Multi-tasking is a challenge for magistrate court staff.

Magistrate assistants and clerk’s office staff frequently identified multi-tasking as their greatest challenge. Clerks, deputy clerks, and magistrate assistants are often responsible for answering phones, assisting walk-in customers, and processing paperwork all at the same time. Staff can find it difficult to perform their work effectively when tasks are constantly interrupted by other tasks. In many counties, interruptions are made more frequent by outdated telephone systems that lack interactive voice menus to route callers to the correct location.

Larger counties report that measures such as central cashiering and designating a single deputy clerk to answer telephones or cover the walk-up counter can make it much easier for all staff members to get their work done.

“Our greatest challenge is multi-tasking. We have to switch between activities on a regular basis—for example, answering phones, helping customers at the window, typing and updating cases on the computer, processing warrants, etc.”

“There is too much multi-tasking. I can be cashiering for one person, then answering questions about a civil case while assisting the magistrate on an upcoming hearing.”

“My biggest challenge is providing good customer service while still trying to process citations, assign cases, prepare post-judgments, collect funds, and process mail.”

“It would help our office if we were able to have someone focus only on cashier duties and walk-in traffic. This would enable the rest of us to focus on phone calls, managing new case files, closing out files, filing, processing citations, and any other office work that needs to be completed.”

“All of the staff’s direct numbers are published, including the number for the phone in the magistrate courtroom. People think it’s a public information line and will call asking what time the fireworks are.”

Scenes from a magistrate court: Kanawha County

Kanawha County is home to the largest magistrate court in West Virginia, where ten magistrates handle nearly 35,000 cases each year, including more than 2,000 domestic violence cases. Hearings are held in the “day courtroom”, which resembles a crowded office dominated by the magistrate’s low bench in the center of the room. A few plastic chairs against the rear wall provide public seating.

From behind the bench, the magistrate on duty moves steadily down a busy docket, talks with the parties, and makes rapid-fire decisions, frequently working the phone to gain additional background information on the case or to coordinate the next steps with other agencies. The magistrate’s assistant sits in a cramped space behind the magistrate. Her job is to manage the vast amount of paperwork generated by the magistrate’s decisions, collect fees and fines, handle the fax and copy machines, and answer a steady stream of phone calls. The setting is noisy and hectic, with frequent interruptions from court staff, law enforcement, and confused members of the public trying to figure out where to go.

While a visitor to the court may see only chaos, the magistrate herself is clearly accustomed to the environment and handles all that comes before her with equanimity. As litigants waiting for their cases to be heard queue up in the hallway outside the courtroom, the magistrate greets each person who steps up to the bench with courtesy and respect. The magistrate seamlessly switches gears from traffic cases to misdemeanor plea agreements, reviews search warrants and arrest warrants brought in by law enforcement officers, and resolves minor civil cases.

Perhaps the most critical role played by the magistrate in the day courtroom is to respond quickly in cases of domestic violence. When a woman with bruises clearly visible on her face enters the courtroom to request a protective order, the magistrate tactfully probes the details of her story, looks up the available information on the respondent’s history, and arranges an immediate appointment for the petitioner with the local domestic violence resource center.

In an even smaller room adjacent to the day courtroom, a second magistrate turns on the two-way video equipment to establish a link with the regional jail. On the screen, a steady stream of defendants is brought before the magistrate for initial appearances. The magistrate efficiently informs each defendant of his or her rights, sets bail, and explains to the defendant what will happen next, as a parade of brightly colored case files make their way across the magistrate’s desk from one pile to the next.

e. Teamwork is essential to the effective functioning of the magistrate court.

A strong working relationship among magistrates, magistrate assistants, and the office of the magistrate court clerk enables a magistrate court to function efficiently and effectively. In many courts, magistrates work together to balance caseloads and cover each other’s

absences. In the courtroom and in chambers, magistrates and their assistants work in partnership to prepare and resolve cases. In well-functioning magistrate courts, paperwork is exchanged between the magistrate assistant and the clerk’s office on a timely basis, and magistrate assistants and deputy clerks are cross-trained to assist each other as the need arises.

In some courts, however, the clerk’s office and the magistrates’ offices operate as separate units. Case files and documents may not be promptly handed off, delaying case processing. Pending case files may be locked in magistrates’ offices, preventing the clerk’s office from accessing the files when litigants call with questions. Magistrate assistants and clerk’s office staff may not be trained to assist each other in times of need, or may be unwilling to do so. These conditions compromise the court’s ability to process cases efficiently and serve the public effectively. A statewide effort to encourage cooperation and coordination among staff in every magistrate court—for example, mandatory cross-training for magistrate assistants and clerk’s office personnel—could improve both efficiency and staff morale in courts that currently lack a collaborative culture.¹⁶

“An excellent assistant is my court’s greatest strength.”

“We have good people, and everyone works together to make everything run smoothly.”

“Our offices work very well together. We all help when needed, so no one is too overwhelmed.”

“Our greatest strength is that we all work well together. We may not always agree, but we work together to figure out what is best for our court.”

¹⁶ One WAAC member suggested that placing magistrate assistants under the authority of the magistrate court clerk would increase collaboration between magistrate assistants and the clerk’s office. Magistrate assistants would be hired by the magistrate court clerk as deputy clerks, then selected by magistrates to serve as assistants. The magistrate would supervise the assistant’s day-to-day work on behalf of the magistrate, but assistants would ultimately report to the magistrate court clerk and would assist in the clerk’s office as needed. This arrangement would be similar to the supervisory structure for judicial assistants in West Virginia’s circuit courts.

B. Delphi Groups

To provide a qualitative review of the preliminary case weights, project staff facilitated a series of three separate quality adjustment sessions with Delphi groups of magistrates, magistrate assistants, and magistrate court clerks and deputy clerks. Delphi group members were selected from a representative variety of large and small counties across the state. During each Delphi session, NCSC staff provided group members with a brief overview of the process used to develop the preliminary case weights, followed by a review of the sufficiency of time survey results.

Using a variant on the Delphi method—a structured, iterative process for decision-making by a panel of experts—each group engaged in a systematic review of the preliminary case weights. Group members drew on current practice (as measured by the time study), the perspective of magistrates and staff (as expressed by the sufficiency of time survey), and their personal experience to make recommendations regarding the content of the final case weights. Each group was asked to:

1. Review each preliminary case weight by case type and event and identify specific case types and activities where additional time would allow for more effective case processing, as well as areas where efficiency might be gained;

2. Within particular case types, recommend adjustments to the time allotted to specific case-related functions;
3. Provide an explicit rationale to support any proposed increase or reduction in magistrate or staff time; and
4. Review and revise the recommended adjustments until a consensus was reached that all adjustments were necessary and reasonable.

This process ensured that the statewide perspective gained from the sufficiency of time survey, along with the input of all Delphi group members, was incorporated into the final workload model. The Delphi groups also engaged in a general discussion of the advantages, disadvantages, and potential impact of sharing magistrates and staff across county lines.

After reviewing the preliminary case weights and the results of the sufficiency of time survey, the magistrate assistant and clerk/deputy clerk Delphi groups concluded that current practice provides sufficient time for staff to process their cases effectively, and that no adjustments to the magistrate assistant and clerk/deputy case weights were needed. The magistrate Delphi group recommended a single adjustment: the addition of three minutes in one-third of Citation cases, resulting in a net increase to the Citation case weight of one minute. This adjustment was recommended to allow time for magistrates to accept all pleas of guilty entered by telephone. Although magistrates in some counties delegate this function to their assistants, statute requires the plea to be accepted by the magistrate. The Workload Assessment Advisory Committee voted to accept the Delphi groups' recommendations and incorporate the one-minute addition to the Citation case weight for magistrates. Exhibit 8 shows the quality-adjusted case weights as finalized by WAAC.

Exhibit 8. Quality-Adjusted Case Weights

| | Case Weights (minutes) | | |
|----------------------------|------------------------|-----------------------|-----------------------|
| | Magistrates | Magistrate Assistants | Clerks/ Deputy Clerks |
| Civil | 20 | 24 | 45 |
| Domestic Violence | 45 | 38 | 17 |
| Personal Safety | 80 | 55 | 34 |
| Worthless Check | 5 | 6 | 14 |
| Citation | 5 | 7 | 13 |
| Other Misdemeanor | 53 | 58 | 31 |
| Felony | 38 | 33 | 23 |
| Juvenile and Abuse/Neglect | 91 | 35 | 9 |
| Mental Health | 213 | 66 | 1 |

VI. RESOURCE ALLOCATION

As part of the magistrate court workload assessment, the West Virginia Legislature requested that NCSC

“make recommendations as to the equitable redistribution of personnel and resources, by temporary or permanent reassignment, to better meet the needs and weighted [case]loads that are demonstrated to exist in the various magistrate courts in this state.... This study shall ... include a plan to continue the efficient delivery of justice by the magistrate court system and the justification for equalization of pay for all magistrates. As a part of the submitted study, the plan shall consider the reassignment of magistrates or the extension of their duties and jurisdiction to include holding court or delivering services to adjacent counties with higher caseloads, as a part of their regular duties, or being on call as needed to serve other needs in other adjacent counties or within the same judicial circuit.”¹⁷

In response to this request, NCSC developed three alternative plans for allocating magistrates based on workload, which were then reviewed by WAAC. NCSC also analyzed the need for magistrate assistants and magistrate court clerks and deputy clerks in each county, along with the implications of resource-sharing across county lines for magistrate assistant and clerk/deputy clerk need.

A. Principles for Resource Allocation Analysis

In formulating the suggested plans for magistrate court resource allocation, NCSC was

guided by the following principles derived from the statutory authorization for the study, as well as from the qualitative data gathered during the quality adjustment process:

- *Equitable allocation of resources based on workload.* The weighted caseload formulas developed during the course of the workload assessment provide valid, empirically grounded estimates of magistrate court workload in each county, as well as the numbers of magistrates and magistrate court staff required to handle that workload. To ensure an equitable distribution of resources among counties, any plan for resource allocation must be based upon the weighted caseload models.
- *Efficiency.* In order to make efficient use of public resources, each magistrate and staff member’s capacity to process cases should be utilized as fully as possible. Any plan for the allocation of magistrate court resources should also take into account the potential resource impact on other components of the justice system, such as law enforcement and jails.
- *Access to justice.* As the “people’s court,” West Virginia’s magistrate courts serve as citizens’ initial point of contact with the judicial system in the majority of cases. Every citizen of West Virginia currently has access to a magistrate to handle protective orders and other emergency matters 24 hours per day, 365 days per year. Initial appearances and bail hearings are typically held within hours after an arrest. Numerous magistrates and other court system officials identified access to justice, especially in domestic violence cases, as a critical public policy priority for the West Virginia judicial

¹⁷ S.B. 1003, 81st Leg., 1st Spec. Sess. (W. Va. 2013).

system. Any plan for resource allocation should maintain or improve upon current levels of access to justice. This will require consideration of the distance magistrates and/or litigants are required to travel, as well as roadways and topographical factors such as mountainous terrain.

- *Maintenance of existing administrative divisions.* The chief judge of each of West Virginia's thirty-one judicial circuits currently has administrative authority over all of the magistrate courts in the circuit, including responsibility for magistrate schedules and the power to promulgate local court rules. Many judicial circuits overlap more than one jail region, and all jail regions serve counties from multiple circuits. For administrative efficiency, and to promote uniformity in practice among courts that share magistrates, any plan for sharing magistrate court resources across county lines should be based upon the boundaries of either the current judicial circuits or the current jail regions.
- *Preservation of community ties.* Throughout the course of the project, magistrates' close ties to their communities were evident. In contemplating the potential for serving across county lines, a number of magistrates pointed out that they were familiar with many of their communities' frequent arrestees and had a good sense of who was likely to show up for trial if released on a personal recognizance bond. During the site visits, project staff observed longstanding personal relationships among magistrates, prosecutors, defense attorneys, and defendants, with some of these relationships spanning multiple generations. Citizens in each county know who their magistrates are, and will often contact them directly to ask questions or initiate court proceedings. Magistrates' intimate connections to their communities appear to aid in promoting

perceptions of procedural fairness among litigants. Magistrates' knowledge of local resources such as domestic violence agencies and drug treatment programs can also assist in effective case disposition. Any plan for sharing magistrate court resources across county lines should therefore seek to maximize magistrates' opportunity to serve within their own counties. Such a plan should also provide schedule stability for any magistrates who regularly serve across county lines in order to allow these magistrates to build strong ties with each community they serve.

B. Options for Resource Allocation: Magistrates

Based upon the principles outlined above, project staff used the weighted caseload formulas to construct three alternative plans for allocating magistrates throughout the state of West Virginia: a county-based plan, a plan based on the existing judicial circuits, and a plan based on the existing jail regions. The Workload Assessment Advisory Committee reviewed each plan and identified each plan's advantages, disadvantages, and practical implications. Owing primarily to concerns about access to justice, WAAC voted to endorse the county-based plan.

1. County-Based Plan

a. Design Parameters for the County-Based Plan

Like the current system for allocating magistrates, the first of the three proposed allocation plans calls for magistrates to serve exclusively within their own counties unless they are assigned to temporary service elsewhere by the chief circuit court judge. Unlike the current system, however, the county-based plan allocates magistrates to each county based on workload. To ensure that at least one magistrate

is available to hear emergency matters at any time, the plan requires a minimum of two magistrates in each county, regardless of workload. In counties with a fractional magistrate need of .25 FTE or greater, need is rounded up to the nearest whole number; for instance, a county with need of 2.3 magistrates would be allocated 3 FTE magistrates. This rounding rule was established due to the fact that many West Virginia counties have a small number of magistrates. For example, if a county with a need for 2.4 magistrates had its need rounded down to 2 FTE magistrates instead of up to 3 FTE magistrates, the county would have .4 FTE of excess workload to be absorbed by only two magistrates

b. Magistrate Need Under the County-Based Plan

For each county, Exhibit 9 compares the current allocation of magistrates (“Current magistrates”) with the unrounded workload-based need for magistrates (“Minimum to handle workload”) and the number to be allocated under the county-based plan (“Rounded, minimum 2 per county”). On a statewide basis, 150 magistrates are required to handle the work of the magistrate courts under a county-based system. This represents an overall reduction of eight magistrate positions in comparison with the current allocation. Seven additional positions are reassigned to other counties.

Parameters of County-Based Plan for Magistrate Allocation

- Each magistrate serves in county where elected
- Magistrates allocated to counties based on workload
- Minimum two elected magistrates per county
- Fractional need of .25 FTE or higher rounded up

Exhibit 9. Magistrate Need, County-Based Plan

| FTE Magistrates | | | | | FTE Magistrates | | | | |
|-----------------|---------------------|----------------------------|-------------------------------|--------------------------------|-----------------|---------------------|----------------------------|-------------------------------|--------------------------------|
| County | Current Magistrates | Minimum to handle workload | Rounded, minimum 2 per county | Difference (Rounded - Current) | County | Current Magistrates | Minimum to handle workload | Rounded, minimum 2 per county | Difference (Rounded - Current) |
| Barbour | 2 | 0.5 | 2 | 0 | Monongalia | 4 | 4.3 | 5 | 1 |
| Berkeley | 5 | 6.5 | 7 | 2 | Monroe | 2 | 0.6 | 2 | 0 |
| Boone | 2 | 1.8 | 2 | 0 | Morgan | 2 | 0.9 | 2 | 0 |
| Braxton | 2 | 0.8 | 2 | 0 | Nicholas | 3 | 2.0 | 2 | - 1 |
| Brooke | 2 | 0.9 | 2 | 0 | Ohio | 4 | 2.5 | 3 | - 1 |
| Cabell | 7 | 6.4 | 7 | 0 | Pendleton | 2 | 0.2 | 2 | 0 |
| Calhoun | 2 | 0.4 | 2 | 0 | Pleasants | 2 | 0.3 | 2 | 0 |
| Clay | 2 | 0.6 | 2 | 0 | Pocahontas | 2 | 0.5 | 2 | 0 |
| Doddridge | 2 | 0.3 | 2 | 0 | Preston | 3 | 1.2 | 2 | - 1 |
| Fayette | 4 | 2.4 | 3 | - 1 | Putnam | 3 | 2.0 | 2 | - 1 |
| Gilmer | 2 | 0.3 | 2 | 0 | Raleigh | 5 | 6.2 | 6 | 1 |
| Grant | 2 | 0.7 | 2 | 0 | Randolph | 3 | 1.4 | 2 | - 1 |
| Greenbrier | 3 | 1.5 | 2 | - 1 | Ritchie | 2 | 0.4 | 2 | 0 |
| Hampshire | 2 | 1.3 | 2 | 0 | Roane | 2 | 1.2 | 2 | 0 |
| Hancock | 3 | 1.5 | 2 | - 1 | Summers | 2 | 0.6 | 2 | 0 |
| Hardy | 2 | 0.8 | 2 | 0 | Taylor | 2 | 0.5 | 2 | 0 |
| Harrison | 5 | 4.0 | 4 | - 1 | Tucker | 2 | 0.3 | 2 | 0 |
| Jackson | 2 | 1.5 | 2 | 0 | Tyler | 2 | 0.3 | 2 | 0 |
| Jefferson | 3 | 3.8 | 4 | 1 | Upshur | 2 | 1.3 | 2 | 0 |
| Kanawha | 10 | 11.6 | 12 | 2 | Wayne | 3 | 1.4 | 2 | - 1 |
| Lewis | 2 | 0.8 | 2 | 0 | Webster | 2 | 0.5 | 2 | 0 |
| Lincoln | 2 | 1.7 | 2 | 0 | Wetzel | 2 | 0.5 | 2 | 0 |
| Logan | 3 | 3.2 | 3 | 0 | Wirt | 2 | 0.2 | 2 | 0 |
| Marion | 4 | 2.2 | 2 | - 2 | Wood | 4 | 4.1 | 4 | 0 |
| Marshall | 3 | 1.5 | 2 | - 1 | Wyoming | 3 | 1.7 | 2 | - 1 |
| Mason | 2 | 1.2 | 2 | 0 | Total | 158 | 104.4 | 150 | - 8 |
| McDowell | 3 | 2.8 | 3 | 0 | | | | | |
| Mercer | 5 | 5.1 | 5 | 0 | | | | | |
| Mineral | 2 | 1.2 | 2 | 0 | | | | | |
| Mingo | 3 | 2.0 | 2 | - 1 | | | | | |

Note: "Rounded" values are rounded up if fractional magistrate need is .25 FTE or greater.

c. Advantages and Disadvantages of the County-Based Plan

From a logistical standpoint, a county-based system of magistrate allocation is the simplest way to provide 24-hour access to a magistrate in every county for all types of proceedings. Although the two-way video system magistrates use to conduct remote initial appearances at the regional jail functions smoothly and is well regarded by magistrates, the use of this system is not currently authorized for other types of proceedings, including warrants, juvenile detention hearings, mental hygiene proceedings, emergency abuse and neglect hearings, and domestic violence protective orders. Maintaining an on-call magistrate physically located within each county at all times eliminates the need for magistrates and/or litigants to travel among counties for these types of proceedings, or for the state to establish a means of conducting these proceedings remotely. A county-based plan for resource allocation also preserves the personal connection between each magistrate and the community.

Moving to a workload-based model for magistrate allocation increases both efficiency and equity in comparison with the current population-based model. A plan in which magistrates continue to work in a single county, however, is less efficient than a plan in which

resources are shared across county lines: although the actual workload in a number of counties could theoretically be handled by a single full-time magistrate, each of these counties requires an additional magistrate to provide adequate on-call coverage. At the same time, on-call duty under the county-based plan represents a significant burden to magistrates in two-magistrate counties, who must remain present within the county borders and ready to drive to the office at any hour of the day or night for one-half of each year.

2. Resource-Sharing Within Judicial Circuits

a. Design Parameters for the Circuit-Based Plan

One alternative to a county-based system of magistrate allocation would be to allow for the sharing of magistrates across county lines within a judicial circuit. To preserve access to justice and community ties, the circuit-based plan calls for at least one magistrate to be present in each county's magistrate court during regular court hours. Outside of regular court hours, a single magistrate would be on call to handle initial appearances, domestic violence protective orders, and other emergency matters throughout the circuit. During regular court hours, counties with fractional magistrate need could share magistrates.

Parameters of Circuit-Based Plan for Magistrate Allocation

- Magistrates allocated to counties based on workload
- Fractional need of .25 FTE or higher rounded up within each county
- At least one magistrate on duty in each county during business hours
- Magistrates may be shared across county lines within a judicial circuit
- On-call work pooled among all magistrates in judicial circuit
- Minimum one elected magistrate per county
- Minimum allocation of magistrates to circuit equals number of counties in circuit plus one

For example, in the Fifth Circuit, one of Jackson County's two magistrates could sit a few days per month in Mason and Roane Counties, each of which would otherwise have a single elected magistrate to cover 1.2 FTE worth of magistrate work.

To maintain each community's connection to its magistrate court, the circuit-based plan provides at least one elected magistrate in each county. To ensure sufficient coverage for sick leave and vacation time, the minimum allocation of magistrates to each circuit is equal to the number of counties in the circuit plus one.

b. Magistrate Need Under the Circuit-Based Plan

Exhibit 10 compares unrounded magistrate need ("Minimum to handle workload"), magistrate need under the circuit-based resource allocation plan ("Rounded, minimum one per county"), and magistrate need under a two-magistrate per county minimum ("Rounded, minimum two per county"; equivalent to the county-based plan) for each judicial circuit. Statewide need under the circuit-based plan is 129 magistrates, a reduction of 21 magistrates in comparison with the county-based plan.

Exhibit 10. Magistrate Need, Circuit-Based Plan

| County | Magistrate Need (FTE) | | | |
|-------------------------|-----------------------|----------------------------|-------------------------------|-------------------------------|
| | Current Magistrates | Minimum to handle workload | Rounded, minimum 1 per county | Rounded, minimum 2 per county |
| Brooke | 2 | .9 | 1 | 2 |
| Hancock | 3 | 1.5 | 2 | 2 |
| Ohio | 4 | 2.5 | 3 | 3 |
| Circuit 1 total | 9 | 4.9 | 6 | 7 |
| Marshall | 3 | 1.5 | 2 | 2 |
| Tyler | 2 | .3 | 1 | 2 |
| Wetzel | 2 | .5 | 1 | 2 |
| Circuit 2 total | 7 | 2.3 | 4 | 6 |
| Doddridge | 2 | .3 | 1 | 2 |
| Pleasants | 2 | .3 | 1 | 2 |
| Ritchie | 2 | .4 | 1 | 2 |
| Circuit 3 total | 6 | 1.0 | 4 | 6 |
| Wirt | 2 | .2 | 1 | 2 |
| Wood | 4 | 4.1 | 4 | 4 |
| Circuit 4 total | 6 | 4.3 | 5 | 6 |
| Calhoun | 2 | .4 | 1 | 2 |
| Jackson | 2 | 1.5 | 2 | 2 |
| Mason | 2 | 1.2 | 1 | 2 |
| Roane | 2 | 1.2 | 1 | 2 |
| Circuit 5 total | 8 | 4.3 | 5 | 8 |
| Cabell | 7 | 6.4 | 7 | 7 |
| Circuit 6 total | 7 | 6.4 | 7 | 7 |
| Logan | 3 | 3.2 | 3 | 3 |
| Circuit 7 total | 3 | 3.2 | 3 | 3 |
| McDowell | 3 | 2.8 | 3 | 3 |
| Circuit 8 total | 3 | 2.8 | 3 | 3 |
| Mercer | 5 | 5.1 | 5 | 5 |
| Circuit 9 total | 5 | 5.1 | 5 | 5 |
| Raleigh | 5 | 6.2 | 6 | 6 |
| Circuit 10 total | 5 | 6.2 | 6 | 6 |
| Greenbrier | 3 | 1.5 | 2 | 2 |
| Pocahontas | 2 | .5 | 1 | 2 |
| Circuit 11 total | 5 | 2.0 | 3 | 4 |
| Fayette | 4 | 2.4 | 3 | 3 |
| Circuit 12 total | 4 | 2.4 | 3 | 3 |
| Kanawha | 10 | 11.6 | 12 | 12 |
| Circuit 13 total | 10 | 11.6 | 12 | 12 |
| Braxton | 2 | .8 | 1 | 2 |
| Clay | 2 | .6 | 1 | 2 |
| Gilmer | 2 | .3 | 1 | 2 |
| Webster | 2 | .5 | 1 | 2 |
| Circuit 14 total | 8 | 2.2 | 5 | 8 |
| Harrison | 5 | 4.0 | 4 | 4 |
| Circuit 15 total | 5 | 4.0 | 4 | 4 |
| Marion | 4 | 2.2 | 2 | 2 |
| Circuit 16 total | 4 | 2.2 | 2 | 2 |

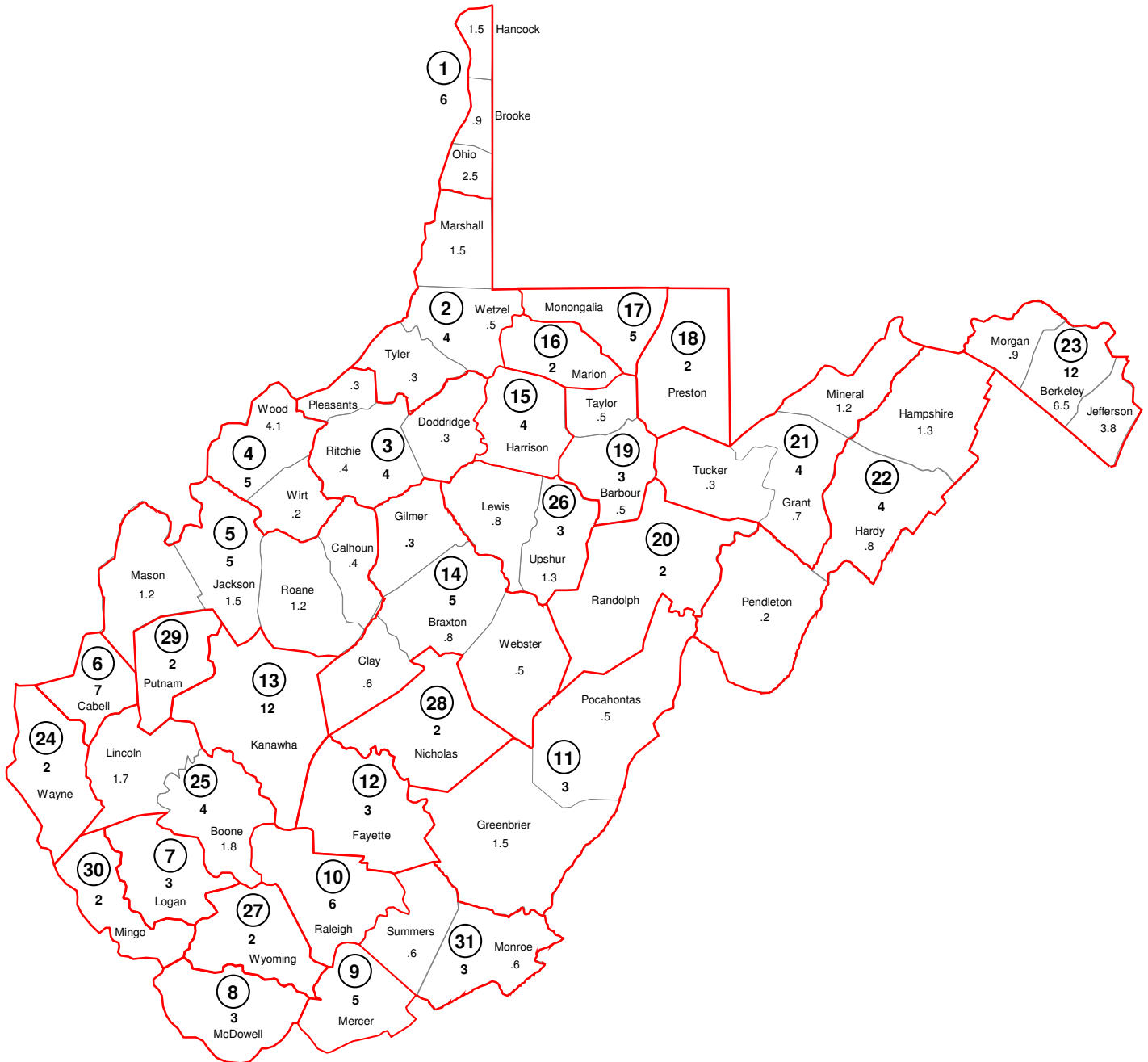
| County | Magistrate Need (FTE) | | | |
|-------------------------|-----------------------|----------------------------|-------------------------------|-------------------------------|
| | Current Magistrates | Minimum to handle workload | Rounded, minimum 1 per county | Rounded, minimum 2 per county |
| Monongalia | 4 | 4.3 | 5 | 5 |
| Circuit 17 total | 4 | 4.3 | 5 | 5 |
| Preston | 3 | 1.2 | 1 | 2 |
| Circuit 18 total | 3 | 1.2 | 2 | 2 |
| Barbour | 2 | .5 | 1 | 2 |
| Taylor | 2 | .5 | 1 | 2 |
| Circuit 19 total | 4 | 1.0 | 3 | 4 |
| Randolph | 3 | 1.4 | 2 | 2 |
| Circuit 20 total | 3 | 1.4 | 2 | 2 |
| Grant | 2 | .7 | 1 | 2 |
| Mineral | 2 | 1.2 | 1 | 2 |
| Tucker | 2 | .3 | 1 | 2 |
| Circuit 21 total | 6 | 2.2 | 4 | 6 |
| Hampshire | 2 | 1.3 | 2 | 2 |
| Hardy | 2 | .8 | 1 | 2 |
| Pendleton | 2 | .2 | 1 | 2 |
| Circuit 22 total | 6 | 2.3 | 4 | 6 |
| Berkeley | 5 | 6.5 | 7 | 7 |
| Jefferson | 3 | 3.8 | 4 | 4 |
| Morgan | 2 | .9 | 1 | 2 |
| Circuit 23 total | 10 | 11.2 | 12 | 13 |
| Wayne | 3 | 1.4 | 2 | 2 |
| Circuit 24 total | 3 | 1.4 | 2 | 2 |
| Boone | 2 | 1.8 | 2 | 2 |
| Lincoln | 2 | 1.7 | 2 | 2 |
| Circuit 25 total | 4 | 3.5 | 4 | 4 |
| Lewis | 2 | .8 | 1 | 2 |
| Upshur | 2 | 1.3 | 2 | 2 |
| Circuit 26 total | 4 | 2.1 | 3 | 4 |
| Wyoming | 3 | 1.7 | 2 | 2 |
| Circuit 27 total | 3 | 1.7 | 2 | 2 |
| Nicholas | 3 | 2.0 | 2 | 2 |
| Circuit 28 total | 3 | 2.0 | 2 | 2 |
| Putnam | 3 | 2.0 | 2 | 2 |
| Circuit 29 total | 3 | 2.0 | 2 | 2 |
| Mingo | 3 | 2.0 | 2 | 2 |
| Circuit 30 total | 3 | 2.0 | 2 | 2 |
| Monroe | 2 | .6 | 1 | 2 |
| Summers | 2 | .6 | 1 | 2 |
| Circuit 31 Total | 4 | 1.2 | 3 | 4 |
| Statewide total | 158 | 104.4 | 129 | 150 |

Note: "Rounded" values are rounded up if fractional magistrate need is .25 FTE or higher. Circuit totals include minimum of one magistrate per county plus one additional magistrate per circuit.

Exhibit 11 presents the circuit-based resource allocation plan in the form of a map. Circuit numbers appear in circles; total magistrate need

for each circuit is shown in bold-face type below the circuit number. Unrounded magistrate need for each county appears below the county name.

Exhibit 11. Magistrate Need (FTE), Circuit-Based Plan



c. Advantages and Disadvantages of the Circuit-Based Plan

Like all three of the resource allocation plans presented in this report, the circuit-based plan increases efficiency and equity by allocating magistrates according to workload rather than population. The circuit-based plan would also require significantly fewer magistrates than the county-based plan, and would reduce the number of weeks magistrates in multi-county circuits would be required to spend on call each year. Scheduling would be facilitated by the fact that each group of counties sharing resources would fall under the authority of the same chief circuit court judge. These advantages, however, would be offset by significant challenges to implementation related to the sharing of on-call duty across county lines.

Although the existing two-way video system can be used to connect any regional jail with any magistrate court for initial appearances and bail hearings, this technology is not currently authorized for use in domestic violence cases, juvenile detention hearings, emergency abuse and neglect hearings, or emergency mental hygiene proceedings. Magistrates currently conduct these after-hours proceedings in person at the magistrate court. Even if a statute or court rule were enacted to enable these proceedings to be conducted remotely, the logistics would remain problematic. Two-way video technology is currently available only in magistrate offices and at the regional jails. To enable the petitioner in a protective order case to communicate remotely with a magistrate in another county, law enforcement in the petitioner's home county would be required to accompany the petitioner to the magistrate court and operate the equipment; alternatively, the equipment could be installed in law enforcement offices. In many

counties, law enforcement officers are not routinely involved with protective order petitions; instead, petitioners are referred by officers or dispatchers directly to the magistrate, and security is not provided for the ex parte hearing at the magistrate's office unless the magistrate specifically requests it.¹⁸ Requiring law enforcement officers to operate two-way video equipment in domestic violence cases would present a significant challenge to law enforcement agencies in smaller counties, which may have just one officer on duty at night. The two-way video technology would also be cumbersome for magistrates and petitioners to use in domestic violence cases. These cases require the exchange of significant amounts of paperwork, which would take place via fax. Of particular concern to magistrates is the fact that during ex parte hearings magistrates frequently assist petitioners in revising their petitions to add relevant facts; this process would likely be cumbersome and confusing to petitioners if conducted remotely.

On the other hand, if protective order hearings were conducted in person rather than by two-way video, either the magistrate or the petitioner would frequently be required to travel to another county in the circuit—a journey of an hour or more in some rural areas, involving the potential for hazardous road conditions during the winter months. If petitioners were required to travel, some would have difficulty finding transportation; if magistrates were required to travel, the state would incur costs for travel reimbursement, and a magistrate who was busy traveling to another county to hear a domestic violence case would be unavailable to address other emergency matters. Either way, the wait to obtain a protective order would be longer, and access to justice would decrease. All of the implementation issues related to after-hours

¹⁸ Although these practices reduce the amount of time law enforcement officers spend on domestic violence cases, it must be noted that they present significant safety issues for both petitioners and magistrates.

domestic violence protective orders in a circuit-based system apply equally to juvenile detention hearings, emergency abuse and neglect hearings, and emergency mental hygiene proceedings.

Another challenge to the implementation of a circuit-based system would be the means of electing magistrates not clearly belonging to a particular county based on workload. For example, the three counties in the Third Circuit have approximately equal magistrate workloads. To keep all three courts open during regular court hours on every business day, the circuit would require a fourth magistrate, but the workload does not provide clear guidance on which should be the magistrate's home county. In such situations, the legislature would need to provide a mechanism for electing the additional magistrate. This would mean assigning the extra magistrate to one county, creating inequities among counties within the circuit, or electing the additional magistrate (or even all magistrates) at the circuit level, increasing the complexity of the electoral process and attenuating the magistrate's connection to the community.

Magistrates also expressed concern that under a circuit-based system, a lack of familiarity with the local population and community resources would reduce the effectiveness of their decision-making, particularly with regard to pretrial release. Magistrates in larger counties and judicial officers in many other states are certainly able to make pretrial release decisions without relying on a personal knowledge of the defendant's character and habits, and it is reasonable to expect that magistrates in a circuit-based system would soon become familiar with all of the counties in their circuit. Nevertheless, this concern is worthy of note. Finally, on-call magistrates in many circuits would be required to conduct remote appearances at multiple regional jails each night and weekend day, increasing the volume of work for the on-call magistrate. This, however, would likely pose only a minor inconvenience, which would be offset by the reduction in the amount of on-call duty.

3. Resource-Sharing Within Jail Regions

a. Design Parameters for the Regional Plan

Further efficiencies might be gained by pooling magistrates within jail regions, which are larger than judicial circuits. Like the circuit-based plan, the regional plan would maintain in-person availability of a magistrate in each county during regular court hours while pooling on-call duty across the region, with one or two magistrates on call to serve each region. Each county would elect a minimum of one magistrate. To ensure adequate coverage for absences, the minimum allocation of magistrates for each jail region would be equal to the number of counties in the region plus two.

b. Magistrate Need Under the Regional Plan

Exhibit 12 compares unrounded magistrate need, magistrate need under the regional allocation plan, and magistrate need under a two-magistrate per county minimum (equivalent to the county-based plan) for each jail region. Statewide need under the regional plan is 125 magistrates, as compared with 129 magistrates under the circuit-based plan and 150 under the county-based plan.

Parameters of Regional Plan for Magistrate Allocation

- Magistrates allocated to counties based on workload
- Fractional need of .25 FTE or higher rounded up within each county
- At least one magistrate on duty in each county during business hours
- Magistrates may be shared across county lines within a jail region
- On-call work pooled among all magistrates in jail region
- Minimum one elected magistrate per county
- Minimum allocation of magistrates to region equals number of counties in region plus two

Exhibit 12. Magistrate Need, Regional Plan

| County | Magistrate Need (FTE) | | | |
|--------------------------------|-----------------------|----------------------------|-------------------------------|-------------------------------|
| | Current Magistrates | Minimum to handle workload | Rounded, minimum 1 per county | Rounded, minimum 2 per county |
| Braxton | 2 | .8 | 1 | 2 |
| Calhoun | 2 | .4 | 1 | 2 |
| Clay | 2 | .6 | 1 | 2 |
| Gilmer | 2 | .3 | 1 | 2 |
| Lewis | 2 | .8 | 1 | 2 |
| Nicholas | 3 | 2.0 | 2 | 2 |
| Roane | 2 | 1.2 | 1 | 2 |
| Webster | 2 | .5 | 1 | 2 |
| Central total | 17 | 6.6 | 10 | 16 |
| Berkeley | 5 | 6.5 | 7 | 7 |
| Jefferson | 3 | 3.8 | 4 | 4 |
| Morgan | 2 | .9 | 1 | 2 |
| Eastern total | 10 | 11.2 | 12 | 13 |
| Doddridge | 2 | .3 | 1 | 2 |
| Harrison | 5 | 4.0 | 4 | 4 |
| Marion | 4 | 2.2 | 2 | 2 |
| Monongalia | 4 | 4.3 | 5 | 5 |
| Pleasants | 2 | .3 | 1 | 2 |
| Ritchie | 2 | .4 | 1 | 2 |
| Tyler | 2 | .3 | 1 | 2 |
| Wirt | 2 | .2 | 1 | 2 |
| Wood | 4 | 4.1 | 4 | 4 |
| North Central total | 27 | 16.1 | 20 | 25 |
| Brooke | 2 | .9 | 1 | 2 |
| Hancock | 3 | 1.5 | 2 | 2 |
| Marshall | 3 | 1.5 | 2 | 2 |
| Ohio | 4 | 2.5 | 3 | 3 |
| Wetzel | 2 | .5 | 1 | 2 |
| Northern total | 14 | 6.9 | 9 | 11 |
| Grant | 2 | .7 | 1 | 2 |
| Hampshire | 2 | 1.3 | 2 | 2 |
| Hardy | 2 | .8 | 1 | 2 |
| Mineral | 2 | 1.2 | 1 | 2 |
| Pendleton | 2 | .2 | 1 | 2 |
| Potomac Highlands total | 10 | 4.2 | 7 | 10 |

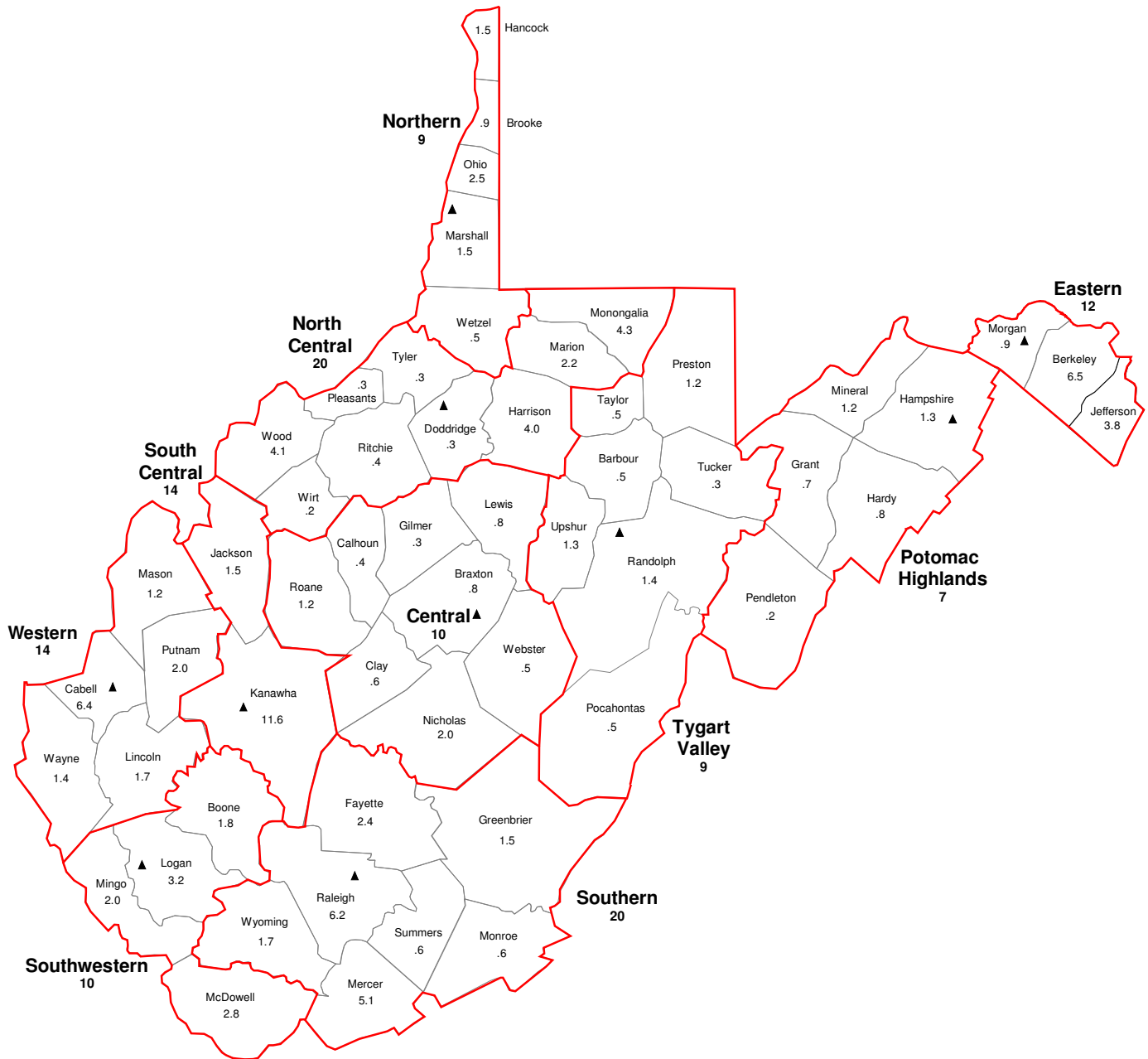
| County | Magistrate Need (FTE) | | | |
|----------------------------|-----------------------|----------------------------|-------------------------------|-------------------------------|
| | Current Magistrates | Minimum to handle workload | Rounded, minimum 1 per county | Rounded, minimum 2 per county |
| Jackson | 2 | 1.5 | 2 | 2 |
| Kanawha | 10 | 11.6 | 12 | 12 |
| South Central total | 12 | 13.1 | 14 | 14 |
| Boone | 2 | 1.8 | 2 | 2 |
| Logan | 3 | 3.2 | 3 | 3 |
| McDowell | 3 | 2.8 | 3 | 3 |
| Mingo | 3 | 2.0 | 2 | 2 |
| Southwestern total | 11 | 9.8 | 10 | 10 |
| Fayette | 4 | 2.4 | 3 | 3 |
| Greenbrier | 3 | 1.5 | 2 | 2 |
| Mercer | 5 | 5.1 | 5 | 5 |
| Monroe | 2 | .6 | 1 | 2 |
| Raleigh | 5 | 6.2 | 6 | 6 |
| Summers | 2 | .6 | 1 | 2 |
| Wyoming | 3 | 1.7 | 2 | 2 |
| Southern total | 24 | 18.1 | 20 | 22 |
| Barbour | 2 | .5 | 1 | 2 |
| Pocahontas | 2 | .5 | 1 | 2 |
| Preston | 3 | 1.2 | 1 | 2 |
| Randolph | 3 | 1.4 | 2 | 2 |
| Taylor | 2 | .5 | 1 | 2 |
| Tucker | 2 | .3 | 1 | 2 |
| Upshur | 2 | 1.3 | 2 | 2 |
| Tygart Valley total | 16 | 5.7 | 9 | 14 |
| Cabell | 7 | 6.4 | 7 | 7 |
| Lincoln | 2 | 1.7 | 2 | 2 |
| Mason | 2 | 1.2 | 1 | 2 |
| Putnam | 3 | 2.0 | 2 | 2 |
| Wayne | 3 | 1.4 | 2 | 2 |
| Western total | 17 | 12.7 | 14 | 15 |
| Statewide total | 158 | 104.4 | 125 | 150 |

Note: "Rounded" values are rounded up if fractional magistrate need is .25 FTE or greater. Region totals include minimum of one magistrate per county plus two additional magistrates per region.

Exhibit 13 shows the regional allocation plan using a map. Total magistrate need for each region appears in bold-face type below the region name number. Unrounded magistrate

need for each county is shown below the county name. A triangle indicates the location of each regional jail.

Exhibit 13. Magistrate Need (FTE), Regional Plan



c. Advantages and Disadvantages of the Regional Plan

The advantages and disadvantages of the regional plan are virtually identical to those of the circuit-based plan. The access to justice issues related to after-hours domestic violence protective orders and other emergency matters would be magnified as a result of the regions' larger sizes. Chief circuit court judges would also be required to coordinate the scheduling of magistrates across multiple circuits within each region.

4. Recommendation of Workload Assessment Advisory Committee

After reviewing all three plans for the allocation of magistrates, WAAC determined that the issues surrounding after-hours domestic violence protective orders, juvenile detention hearings, emergency child abuse and neglect proceedings, and emergency mental hygiene proceedings would render the pooling of on-call resources across county lines impracticable. Conducting these hearings remotely would require a degree of support that local law enforcement agencies currently appear unable to provide and could

erode the quality of service to litigants, and requiring magistrates and/or litigants to travel to neighboring counties would pose obstacles to access to justice that WAAC deemed to be unacceptable. The Workload Assessment Advisory Committee voted unanimously to recommend the county-based plan, which allocates magistrates to individual counties based upon workload and calls for a total of 150 magistrates statewide.

C. Resource Allocation: Magistrate Assistants

By statute, magistrate assistants are currently allocated to counties in a 1:1 ratio with magistrates.¹⁹ Exhibit 14 compares the need for magistrate assistants, as calculated using the weighted caseload model, with the need for magistrates in each county. Both rounded and unrounded magistrate assistant need track very closely with the need for magistrates. Because the workload-based model validates the current statutory ratio between magistrates and magistrate assistants, NCSC and WAAC recommend maintaining this ratio. If magistrates are allocated based on workload, the 1:1 ratio will automatically result in a workload-based allocation of magistrate assistants as well.

¹⁹ W.VA.CODE § 50-1-9(a) (2014).

Exhibit 14. Magistrate Assistant and Magistrate Need by County

| County | Assistant Need (FTE) | | Magistrate Need (FTE) | | County | Assistant Need (FTE) | | Magistrate Need (FTE) | |
|------------|----------------------------|--------------------------------|----------------------------|--------------------------------|--------------|----------------------------|--------------------------------|----------------------------|--------------------------------|
| | Minimum to handle workload | Rounded, minimum 2 per county* | Minimum to handle workload | Rounded, minimum 2 per county* | | Minimum to handle workload | Rounded, minimum 2 per county* | Minimum to handle workload | Rounded, minimum 2 per county* |
| Barbour | 0.5 | 2 | 0.5 | 2 | Monongalia | 4.7 | 5 | 4.3 | 5 |
| Berkeley | 6.7 | 7 | 6.5 | 7 | Monroe | 0.6 | 2 | 0.6 | 2 |
| Boone | 1.9 | 2 | 1.8 | 2 | Morgan | 0.9 | 2 | 0.9 | 2 |
| Braxton | 0.9 | 2 | 0.8 | 2 | Nicholas | 2.0 | 2 | 2.0 | 2 |
| Brooke | 0.9 | 2 | 0.9 | 2 | Ohio | 2.7 | 3 | 2.5 | 3 |
| Cabell | 6.8 | 7 | 6.4 | 7 | Pendleton | 0.2 | 2 | 0.2 | 2 |
| Calhoun | 0.4 | 2 | 0.4 | 2 | Pleasants | 0.3 | 2 | 0.3 | 2 |
| Clay | 0.6 | 2 | 0.6 | 2 | Pocahontas | 0.5 | 2 | 0.5 | 2 |
| Doddridge | 0.3 | 2 | 0.3 | 2 | Preston | 1.3 | 2 | 1.2 | 2 |
| Fayette | 2.5 | 3 | 2.4 | 3 | Putnam | 2.1 | 2 | 2.0 | 2 |
| Gilmer | 0.4 | 2 | 0.3 | 2 | Raleigh | 6.2 | 6 | 6.2 | 6 |
| Grant | 0.6 | 2 | 0.7 | 2 | Randolph | 1.6 | 2 | 1.4 | 2 |
| Greenbrier | 1.6 | 2 | 1.5 | 2 | Ritchie | 0.5 | 2 | 0.4 | 2 |
| Hampshire | 1.5 | 2 | 1.3 | 2 | Roane | 1.2 | 2 | 1.2 | 2 |
| Hancock | 1.6 | 2 | 1.5 | 2 | Summers | 0.6 | 2 | 0.6 | 2 |
| Hardy | 0.9 | 2 | 0.8 | 2 | Taylor | 0.5 | 2 | 0.5 | 2 |
| Harrison | 4.2 | 4 | 4.0 | 4 | Tucker | 0.3 | 2 | 0.3 | 2 |
| Jackson | 1.6 | 2 | 1.5 | 2 | Tyler | 0.3 | 2 | 0.3 | 2 |
| Jefferson | 4.0 | 4 | 3.8 | 4 | Upshur | 1.4 | 2 | 1.3 | 2 |
| Kanawha | 12.3 | 13 | 11.6 | 12 | Wayne | 1.5 | 2 | 1.4 | 2 |
| Lewis | 0.9 | 2 | 0.8 | 2 | Webster | 0.5 | 2 | 0.5 | 2 |
| Lincoln | 1.7 | 2 | 1.7 | 2 | Wetzel | 0.5 | 2 | 0.5 | 2 |
| Logan | 3.3 | 4 | 3.2 | 3 | Wirt | 0.2 | 2 | 0.2 | 2 |
| Marion | 2.3 | 3 | 2.2 | 2 | Wood | 4.3 | 5 | 4.1 | 4 |
| Marshall | 1.6 | 2 | 1.5 | 2 | Wyoming | 1.6 | 2 | 1.7 | 2 |
| Mason | 1.2 | 2 | 1.2 | 2 | Total | 109.3 | 155 | 104.4 | 150 |
| McDowell | 2.8 | 3 | 2.8 | 3 | | | | | |
| Mercer | 5.4 | 6 | 5.1 | 5 | | | | | |
| Mineral | 1.3 | 2 | 1.2 | 2 | | | | | |
| Mingo | 2.1 | 2 | 2.0 | 2 | | | | | |

*Rounded up where fractional need is .25 or greater.

D. Resource Allocation: Magistrate Court Clerks and Deputy Clerks

Because magistrate court files are maintained in the county of venue, the consensus among magistrate court clerks interviewed during the course of the workload assessment was that magistrate court clerks and deputy clerks should not be pooled across county lines.²⁰ Concurring in this opinion, WAAC and NCSC recommend

that personnel be allocated to the magistrate court clerk's office in each county on the basis of workload. Exhibit 15 compares the current allocation of magistrate court clerks and deputy clerks with the need for clerks and deputy clerks in each county as calculated using the weighted caseload formula. Total clerk and deputy clerk need is 135 FTE, which includes an increase of 8 state-funded positions and the reallocation of 8.5 FTE positions among counties.

Exhibit 15. Magistrate Court Clerk and Deputy Clerk Need by County

| FTE Clerks and Deputy Clerks | | | | | FTE Clerks and Deputy Clerks | | | | |
|------------------------------|---------|-------------------|---------|--------------------------------|------------------------------|---------|-------------------|---------|--------------------------------|
| County | Current | Minimum to handle | | Difference (Rounded - Current) | County | Current | Minimum to handle | | Difference (Rounded - Current) |
| | | workload | Rounded | | | | workload | Rounded | |
| Barbour | 1.0 | 0.6 | 1.0 | 0.0 | Monongalia | 5.0 | 5.6 | 6.0 | 1.0 |
| Berkeley | 5.0 | 8.1 | 8.0 | 3.0 | Monroe | 1.0 | 0.6 | 1.0 | 0.0 |
| Boone | 2.0 | 1.7 | 2.0 | 0.0 | Morgan | 1.0 | 1.2 | 1.0 | 0.0 |
| Braxton | 2.0 | 1.0 | 1.0 | - 1.0 | Nicholas | 2.0 | 2.0 | 2.0 | 0.0 |
| Brooke | 1.5 | 1.0 | 1.0 | - 0.5 | Ohio | 4.0 | 2.9 | 3.0 | - 1.0 |
| Cabell | 5.0 | 7.2 | 7.0 | 2.0 | Pendleton | 1.0 | 0.3 | 1.0 | 0.0 |
| Calhoun | 1.0 | 0.4 | 1.0 | 0.0 | Pleasants | 1.0 | 0.4 | 1.0 | 0.0 |
| Clay | 1.0 | 0.7 | 1.0 | 0.0 | Pocahontas | 1.0 | 0.6 | 1.0 | 0.0 |
| Doddridge | 1.0 | 0.4 | 1.0 | 0.0 | Preston | 2.0 | 1.7 | 2.0 | 0.0 |
| Fayette | 3.0 | 2.7 | 3.0 | 0.0 | Putnam | 3.0 | 2.3 | 3.0 | 0.0 |
| Gilmer | 1.0 | 0.4 | 1.0 | 0.0 | Raleigh | 5.0 | 6.0 | 6.0 | 1.0 |
| Grant | 1.0 | 0.7 | 1.0 | 0.0 | Randolph | 2.0 | 2.2 | 2.0 | 0.0 |
| Greenbrier | 3.0 | 1.8 | 2.0 | - 1.0 | Ritchie | 1.0 | 0.6 | 1.0 | 0.0 |
| Hampshire | 2.0 | 1.8 | 2.0 | 0.0 | Roane | 2.0 | 1.0 | 1.0 | - 1.0 |
| Hancock | 1.5 | 1.5 | 2.0 | 0.5 | Summers | 1.0 | 0.6 | 1.0 | 0.0 |
| Hardy | 1.0 | 1.1 | 1.0 | 0.0 | Taylor | 1.0 | 0.7 | 1.0 | 0.0 |
| Harrison | 4.0 | 4.5 | 5.0 | 1.0 | Tucker | 1.0 | 0.4 | 1.0 | 0.0 |
| Jackson | 2.0 | 1.6 | 2.0 | 0.0 | Tyler | 1.0 | 0.4 | 1.0 | 0.0 |
| Jefferson | 3.0 | 3.9 | 4.0 | 1.0 | Upshur | 2.0 | 1.8 | 2.0 | 0.0 |
| Kanawha | 10.0 | 12.4 | 13.0 | 3.0 | Wayne | 2.0 | 1.8 | 2.0 | 0.0 |
| Lewis | 2.0 | 1.3 | 2.0 | 0.0 | Webster | 1.0 | 0.5 | 1.0 | 0.0 |
| Lincoln | 1.0 | 1.4 | 2.0 | 1.0 | Wetzel | 1.0 | 0.6 | 1.0 | 0.0 |
| Logan | 4.0 | 3.1 | 3.0 | - 1.0 | Wirt | 1.0 | 0.3 | 1.0 | 0.0 |
| Marion | 3.0 | 2.7 | 3.0 | 0.0 | Wood | 5.0 | 4.7 | 5.0 | 0.0 |
| Marshall | 3.0 | 1.7 | 2.0 | - 1.0 | Wyoming | 3.0 | 1.4 | 2.0 | - 1.0 |
| Mason | 2.0 | 1.3 | 2.0 | 0.0 | Total | 127.0 | | 135.0 | 8.0 |
| McDowell | 2.0 | 2.1 | 2.0 | 0.0 | | | | | |
| Mercer | 5.0 | 6.3 | 7.0 | 2.0 | | | | | |
| Mineral | 1.0 | 1.4 | 2.0 | 1.0 | | | | | |
| Mingo | 3.0 | 1.9 | 2.0 | - 1.0 | | | | | |

Notes: "Rounded" values are rounded up where total need is less than 1 and where fractional need is .25 or greater. Current clerk allocation does not include county-funded worthless check deputy clerk positions.

²⁰ It has, however, proven feasible to split an individual deputy clerk position to cover fractional FTE need in multiple counties. Under this arrangement, the deputy clerk works part-time in each county. Such an arrangement requires coordination between the courts in

question, along with a deputy clerk who is hired with the understanding that travel is an essential requirement of the position. Alternatively, courts with fractional FTE need could hire part-time deputy clerks.

VII. RECOMMENDATIONS

The final weighted caseload models adopted by the Workload Assessment Advisory Committee provide an empirically grounded basis for analyzing the workload of West Virginia's magistrates, magistrate assistants, and magistrate court clerks and deputy clerks. To ensure the effective use of the weighted caseload models, the National Center for State Courts recommends the following steps to the West Virginia Legislature and the Supreme Court of Appeals of West Virginia. These recommendations are based upon the qualitative and quantitative data gathered during the course of the workload assessment, as well as the policy decisions of the Workload Assessment Advisory Committee.

Recommendation 1

The Legislature and Supreme Court of Appeals of West Virginia should allocate magistrates and magistrate court clerks and deputy clerks to each county on the basis of workload as calculated using the appropriate weighted caseload formulas. In accordance with existing statutory policy, each magistrate should be provided with one magistrate assistant.

Because the pooling of on-call duty across multiple counties would present significant barriers to access to justice in domestic violence cases and other emergency matters, implementing a systematic plan of resource-sharing across county lines is not advisable at the present time. Should the Legislature and the Supreme Court of Appeals wish to implement such a system in the future, careful attention must be given to the mechanics of conducting remote appearances in these cases, as well as to

the role of law enforcement in ensuring that litigants have access to a magistrate.

To ensure sufficient capacity to handle the workload effectively, provide continuous on-call coverage outside of regular court hours, and cover absences, each county should be allocated a minimum of two magistrates and one magistrate court clerk, and the need for magistrates and deputy magistrate court clerks in each county should be rounded up where fractional full-time equivalent (FTE) need is greater than .25. As shown in exhibits 9 and 15, a total of 150 FTE magistrates and 135 FTE magistrate court clerks and deputy clerks are currently needed in the state of West Virginia. Effectively meeting this need will require the reallocation of some magistrate and deputy clerk positions among counties, as well as changes to the total numbers of state-funded positions.

During the final meeting of the Workload Assessment Advisory Committee, some WAAC members expressed concerns about the consequences of removing magistrate and deputy clerk positions from counties that appear over-resourced according to the weighted caseload model. Although NCSC and WAAC are confident that the quality-adjusted weighted caseload models provide a valid and accurate estimate of magistrate and staff need in each county, West Virginia may wish to conduct a secondary analysis of magistrate and deputy clerk need in each affected county before implementing any changes to staffing levels. This extended analysis should examine court-specific contextual factors not included in the weighted caseload model.²¹ Because West Virginia currently uses a charge-based method of counting criminal cases, variation in

²¹ The practice of secondary or extended analysis is well established in the state of Michigan, which has relied on weighted caseload for calculating judicial officer need in its trial courts for nearly two decades.

prosecutorial charging practices is one example of a factor that might be considered in an extended analysis of magistrate and deputy clerk need.

Recommendation 2

At regular intervals, the Legislature and the Supreme Court of Appeals should update the calculations of magistrate and magistrate court clerk/deputy clerk need and reallocate magistrate and deputy clerk positions accordingly. Magistrate allocations should be updated in advance of each election; deputy clerk allocations should be updated concurrently or at another interval selected by the Legislature and the Supreme Court of Appeals. To minimize the impact of short-term fluctuations in caseloads, the need calculations should be based upon a three-year moving average of case filings.

Recommendation 3

The weighted caseload models presented in this report rely upon a charge-based method of counting criminal cases, in which each charge is counted as a separate case. A defendant-based method of counting, in which all charges against a single defendant arising out of a single course of conduct are counted as a single case, minimizes any distortion of workload calculations caused by variations in prosecutorial charging practices. The Supreme Court of Appeals is currently in the process of implementing the Uniform Judicial Application (UJA), a computerized case management system that calculates criminal caseloads on the basis of defendants rather than charges. Once this system is fully implemented and at least one year's worth of defendant-based criminal caseload statistics are available, NCSC recommends that the criminal case weights be converted to defendant-based weights.

Recommendation 4

Over time, the integrity of a weighted caseload model may be affected by changes in legislation, case law, court procedures, legal practice, and technology. For instance, full implementation of the Uniform Judicial Application, including the scanning of case documents, is expected to change the amount of time magistrate court clerks and deputy clerks devote to case processing, and may also have an impact on case processing time for magistrates and magistrate assistants. For this reason, the National Center for State Courts recommends that a systematic update of the weighted caseload models for magistrates and magistrate court staff, including a new time study, be conducted approximately every five to seven years. When an event likely to have a major impact on magistrate and staff workload, such as the implementation of the UJA, occurs between updates, interim adjustments can be made to the weighted caseload models using a process similar to the Delphi quality adjustment process employed during the current workload assessment.

Recommendation 5

Because each chief circuit court judge establishes work schedules for magistrates in his or her circuit, scheduling practices for magistrates currently vary across the state. In some counties, magistrates work both in the office and on call during the same week, then are off duty for a week; in other counties, magistrates work during business hours during some weeks and on call during other weeks. To maximize efficiency and equity across counties, the Supreme Court of Appeals should consider conducting a comprehensive study of magistrate scheduling to establish a set of standards or recommendations for the effective scheduling of magistrates, and provide technical assistance and/or oversight to chief circuit court judges in establishing magistrate schedules.

APPENDICES

APPENDIX A. EVENT CATEGORIES: MAGISTRATES

Case-Related Events

1. Pre-Disposition

Includes all on-bench and off-bench activity related to proceedings that occur prior to the trial or other dispositional proceeding.

Includes pre-filing activity. Includes all off-bench research and preparation related to pre-disposition activities. Some examples of pre-disposition activity include:

- Responding to citizen inquiry about how to file a case
- Initial appearance
- Pretrial motion that does not fully dispose of the case (e.g., motion for discovery)
- Pretrial conference
- Search warrant
- Temporary protective order
- Preparation of findings and orders related to pretrial matters

2. Non-Trial Disposition

Includes all on-bench and off-bench activity related to any non-trial proceeding that disposes of the entire case. Includes all off-bench research and preparation related to non-trial dispositions. Some examples of non-trial dispositions include:

- Entry of guilty plea and sentencing
- Motion to dismiss that disposes of all issues
- Evidentiary hearing on default judgment
- Preparation of findings and orders related to non-trial dispositions

3. Trial

Includes all on-bench and off-bench activity related to a bench or jury trial. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activity include:

- Bench trial
- Jury selection
- Jury trial
- Sentencing after conviction at trial
- Preparation of findings and orders related to bench and jury trials

4. Post-Judgment/Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment. Some examples of post-judgment/post-disposition activity include:

- Post-trial motion (e.g., motion to set aside, motion for new trial)
- Probation violation
- Preparation of findings and orders related to post-judgment/post-disposition matters

Non-Case-Related Events

1. Non-Case-Related Administration

Includes all non-case-related administrative work, such as:

- Staff meetings
- Personnel matters
- Staff supervision and mentoring
- Coordinating with law enforcement and other local partners
- Serving on court-related committees

2. Public Contact and Community Affairs

Includes direct interaction with individual members of the public that is **not** related to a particular case, as well as all community and public outreach activities performed in your official capacity as a magistrate. Does not include direct interaction with individual members of the public that is related to a specific case or may generate a case filing; record this activity as case-related work under the appropriate case type and case-related event. Do not record election-related activities, personal or non-judicial community service work, or activities for which you are compensated by an outside source. Examples of public contact and community affairs activities to be reported in this category include:

- Handling general inquiries from the public unrelated to a particular case
- Speaking at schools or community organizations about the legal system or law-related careers
- Judging mock trials

3. General Legal Reading

Includes all legal reading and research that is **not** related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

4. Training and Conferences

Includes all work-related educational and training activities such as:

- Continuing education
- Conferences
- Teaching continuing education courses, including preparation

5. Travel

Includes all reimbursable case-related and non-case-related travel to work in a location other than your primary courthouse. Does not include your regular commute from your home to your primary courthouse.

6. Vacation and Other Leave

Includes vacation, sick leave, holidays, personal time, and military leave.

7. Lunch and Breaks

8. NCSC Time Study

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

APPENDIX B. EVENT CATEGORIES: MAGISTRATE ASSISTANTS

Case-Related Events

1. Records Management

Includes time spent maintaining and updating case files. Examples of records management include:

- Entering new cases into the computer system
- Setting up new case files
- Closing out completed cases

2. Litigant Support

Includes time spent directly assisting litigants over the telephone or in person with matters related to a particular case. Examples of litigant support include:

- Helping litigants to locate and fill out forms
- Explaining court processes and procedures
- Answering questions about a specific case

3. Cashiering

Includes time spent accepting, processing, and issuing receipts for individual payments. Examples of cashiering activities include:

- Processing filing fees, including associated paperwork
- Processing fine payments, including associated paperwork
- Issuing receipts

4. Courtroom Support

Includes all time spent providing direct support to a magistrate in the courtroom. Examples of courtroom support include:

- Filling out forms during court sessions
- Preparing case files for magistrate's use on the bench
- Entering data into the computer system during court sessions
- Setting new hearings during court sessions

5. Judicial Support

Includes time spent on case processing or providing other direct assistance to the magistrate outside of the courtroom. Examples of judicial support include:

- Typing and copying orders
- Processing warrants

Non-Case-Related Events

1. Customer Service

Includes direct interaction with the public that is **not** related to a particular case. Does not include direct interaction with individual members of the public that is related to a specific case or may generate a case filing; record this activity as case-related work under the appropriate case type and case-related event. Examples of customer service activities to be reported in this category include:

- Providing general information (e.g., court hours, location, parking)
- Answering telephones
- Assisting customers at the counter with matters unrelated to a particular case

2. Office Management

Includes managerial and clerical functions not related to a particular case, such as:

- Staff meetings
- Secretarial work unrelated to a particular case

3. Bookkeeping/Financial Management

Includes time spent maintaining financial records, such as:

- Preparing the daily financial accounting

4. Training and Conferences

Includes all work-related educational and training activities, such as:

- Continuing education
- Conferences

5. Travel

Includes all case-related and non-case-related travel to work in a location other than your primary courthouse. Includes local errands performed in the course of your daily business (e.g., making bank deposits). Does not include your regular commute from your home to your primary courthouse.

6. Vacation and Other Leave

Includes vacation, sick leave, holidays, personal time, and military leave.

7. Lunch and Breaks

8. NCSC Time Study

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

APPENDIX C. EVENT CATEGORIES: MAGISTRATE COURT CLERKS AND DEPUTY CLERKS

Case-Related Events

1. Records Management

Includes time spent maintaining and updating case files. Examples of records management include:

- Creating paper case files
- Updating case files
- Assigning cases to magistrates
- Scanning case documents
- Archiving completed cases

2. Case Processing

Includes time spent preparing and processing court documents. Examples of case processing include:

- Preparing documents to enforce civil judgments
- Preparing and issuing notices and records
- Processing traffic tickets

3. Cashiering

Includes time spent accepting, processing, and issuing receipts for individual payments. Examples of cashiering activities include:

- Processing filing fees, including associated paperwork
- Processing fine payments, including associated paperwork
- Issuing receipts

4. Courtroom Support

Includes all time spent providing direct support to a magistrate in the courtroom. Examples of courtroom support include:

- Entering data into the computer system during court sessions
- Operating the voice recording system
- Swearing in jurors

5. Jury Management

Includes time spent outside the courtroom on jury-related activities. Examples of jury management include:

- Notifying circuit court of upcoming jury trials
- Filling out jury sheets
- Empanelling and orienting jurors
- Processing juror payments

Non-Case-Related Events

1. Customer Service

Includes direct interaction with the public that is **not** related to a particular case. Does not include direct interaction with individual members of the public that is related to a specific case or may generate a case filing; record this activity as case-related work under the appropriate case type and case-related event. Examples of customer service activities to be reported in this category include:

- Providing general information (e.g., court hours, location, parking)
- Answering telephones
- Assisting customers at the counter with matters unrelated to a particular case

2. Office Management

Includes managerial and clerical functions not related to a particular case, such as:

- Staff meetings
- Maintaining office equipment
- Ordering forms and supplies
- Preparing caseload statistics and reports

3. Bookkeeping/Financial Management

Includes time spent maintaining financial records, such as:

- Maintaining the master control ledger
- Disbursing monies
- Reconciling bank records
- Preparing and filing financial reports

4. Training and Conferences

Includes all work-related educational and training activities, such as:

- Continuing education
- Conferences

5. Travel

Includes all case-related and non-case-related travel to work in a location other than your primary courthouse. Includes local errands performed in the course of your daily business (e.g., retrieving files from remote storage). Does not include your regular commute from your home to your primary courthouse.

6. Vacation and Other Leave

Includes vacation, sick leave, holidays, personal time, and military leave.

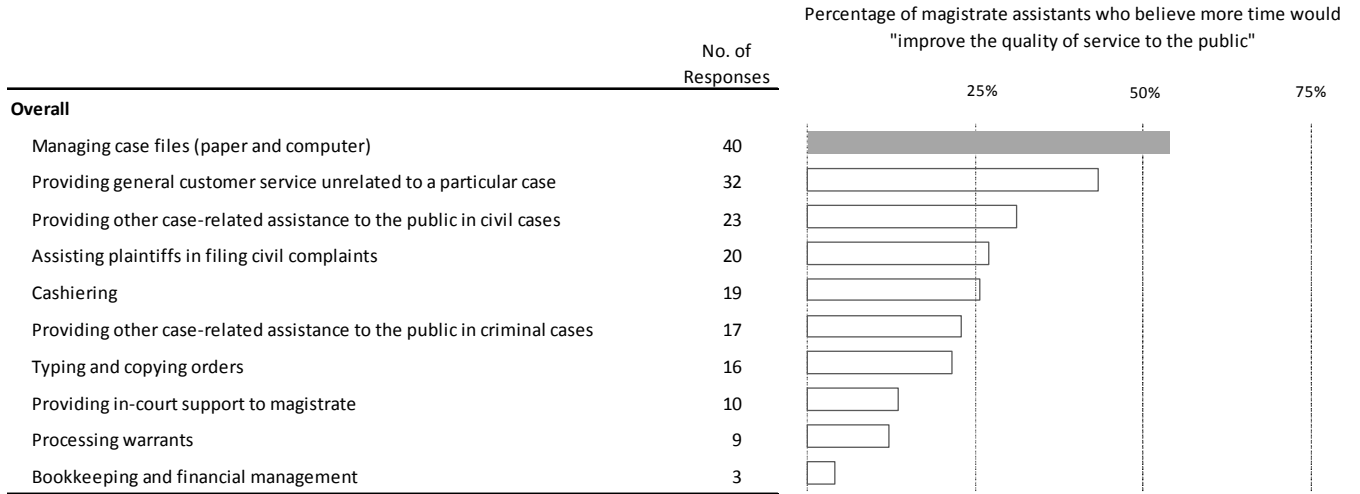
7. Lunch and Breaks

8. NCSC Time Study

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

APPENDIX E. SUFFICIENCY OF TIME SURVEY RESULTS, MAGISTRATE ASSISTANTS

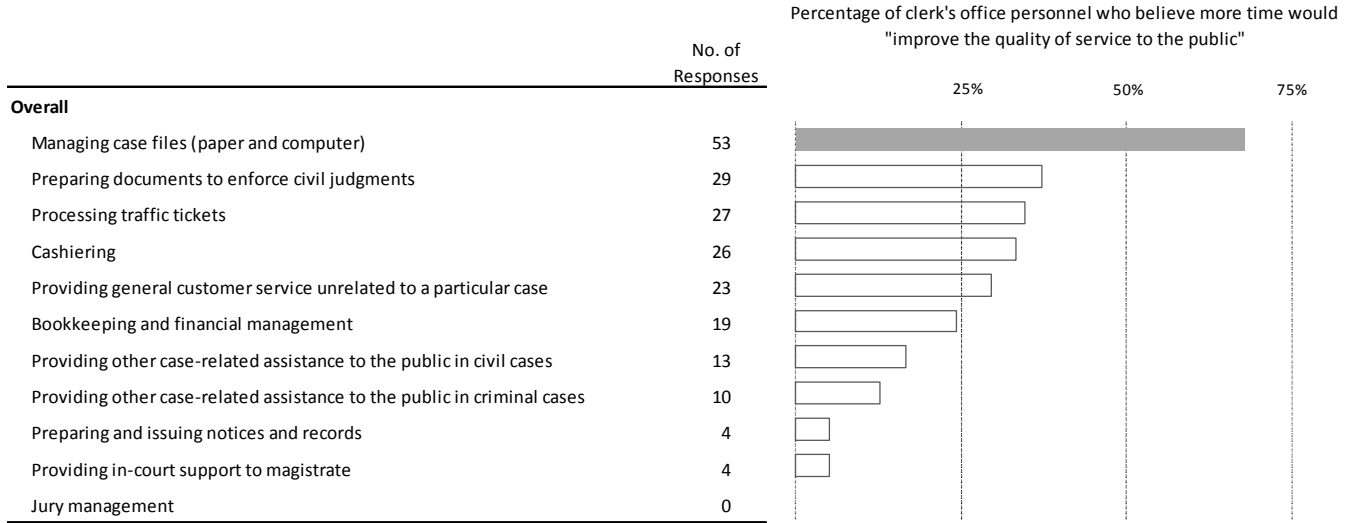
Please select up to 3 activities for which more time would improve the quality of service to the public.



Note: Percentages are based on 74 overall respondents

APPENDIX F. SUFFICIENCY OF TIME SURVEY RESULTS, MAGISTRATE COURT CLERKS AND DEPUTY CLERKS

Please select up to 3 activities for which more time would improve the quality of service to the public.



Note: Percentages are based on 78 overall respondents