

Report To

# The Mississippi Legislature



AN ANALYSIS OF OPTIONS FOR ALLOCATING LEGAL ASSISTANTS  
TO DISTRICT ATTORNEYS

January 17, 1989

In response to a legislative request, PEER developed four options which could be used for allocating legal assistants to the state's district attorneys. Option One would allocate legal assistants on the basis of district population. Option Two would require the Legislature to equalize the per-attorney caseload throughout the state. Option Three would require that a case-weighted system of allocation be developed. Option Four involves developing a point system for allocating legal assistants. PEER recommends that the Legislature consider adopting Option Three since it would assess actual need of each district on the same basis.

**The PEER Committee**

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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TO DISTRICT ATTORNEYS**

January 17, 1989

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At its meeting of January 17, 1989, the PEER Committee authorized release of its report entitled An Analysis of Options for Allocating Legal Assistants to District Attorneys.

  
REPRESENTATIVE J. P. COMPRETTE, CHAIRMAN

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# AN ANALYSIS OF OPTIONS FOR ALLOCATING LEGAL ASSISTANTS TO DISTRICT ATTORNEYS

## EXECUTIVE SUMMARY

### **Background**

Legal assistants are attorneys, licensed to practice law in Mississippi, who provide full-time assistance to the twenty district attorneys of Mississippi. Under MISS. CODE ANN. 25-31-5 (1972), these positions are allocated to the district attorneys; however, the CODE does not describe a methodology to govern the assessment of need for legal assistants and assignment of positions on the same basis.

### **Standards and State Practices**

PEER determined that no national professional organization has devised a quantifiable model for assessing district attorneys' need for additional legal assistants, and that practices of needs assessment vary considerably from state to state. Some states, such as Arkansas and Alabama, have no established methodology for allocating legal assistants. Some states, such as Kentucky, have devised a set of criteria to consider when making position allocation decisions, but have not reduced the criteria to an equation. Louisiana, through its District Attorney's Association, has devised a set of staffing standards based on the population of court districts. The latter is simple to apply but does not take into account unique characteristics of certain demographic groups which may have an impact on the occurrence of crime in a given district.

### **Options**

PEER developed four options which could be used for allocating legal assistants to the state's district attorneys.

*Option One* would allocate legal assistants on the basis of district population. While simple to apply,

these models fail to consider a broad range of factors which contribute to district attorneys' workloads.

*Option Two* would require the Legislature to equalize the per attorney caseload throughout the state so as to insure that no legal assistants are overworked in relation to their counterparts in other districts. While this option would insure some equity in assigning legal assistants, it would not assess actual needs of each district.

*Option Three* would require that a caseweighted system of allocation be developed based on a study to be conducted through the auspices of the Court Education Program of the University of Mississippi. The method developed from this study would assign positions to district attorneys' offices on the basis of workload and the time legal assistants and district attorneys require to carry out their prosecutorial and support duties.

*Option Four* would allocate legal assistants through a point system which reflects the difficulty of certain case types. An expert group would set the annual maximum point workload, and staffing would thus be determined.

### **Recommended Option**

PEER recommends that the Legislature consider adopting *Option Three*, since it is the only option which would assess actual need of each district on the same basis and is not dependent on the use of a single predictor variable, such as population, which might not accurately project the workload for each district. *Option Three* would require further study on the part of the Court Education Program of the University of Mississippi and would not be ready for implementation until next year at the earliest.

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AN ANALYSIS OF OPTIONS FOR ALLOCATING LEGAL ASSISTANTS  
TO DISTRICT ATTORNEYS

INTRODUCTION

Authority

At its meeting of June 16, 1988, the PEER Committee authorized an analysis of options for allocating legal assistants to the state's district attorneys. The committee acted in accordance with MISS CODE ANN. 5-3-57 (1972).

Scope and Purpose

PEER focused on options for determining need for legal assistants in the district attorneys' offices of the state.

Methodology

In conducting the review, PEER:

1. Reviewed technical and scholarly literature on the allocation of prosecutorial and judicial personnel;
2. Surveyed other states to determine how they allocate legal assistants to their district attorneys;
3. Surveyed Mississippi district attorneys to determine their workload;
4. Interviewed appropriate personnel of the Legislative Budget Office, Fiscal Management Board, Senate Judiciary, and House Judiciary staffs;
5. Interviewed personnel of the National District Attorneys' Association, the American Bar Association, the National College of District Attorneys, and the National Center for State Courts; and,
6. Reviewed relevant provisions of the MISSISSIPPI CODE OF 1972.



## LEGAL STAFFING OF DISTRICT ATTORNEYS' OFFICES

Each of Mississippi's twenty circuit court districts employs a district attorney and at least one legal assistant. MISS. CODE ANN. Sections 25-31-1 through 25-31-31 create and define the duties of the district attorneys of Mississippi. Briefly, these officers are responsible for prosecuting persons indicted in their circuit court districts, appearing before grand juries called in their circuit court districts, representing counties and the state in civil actions filed in their districts, giving legal opinions, and prosecuting public debtors.

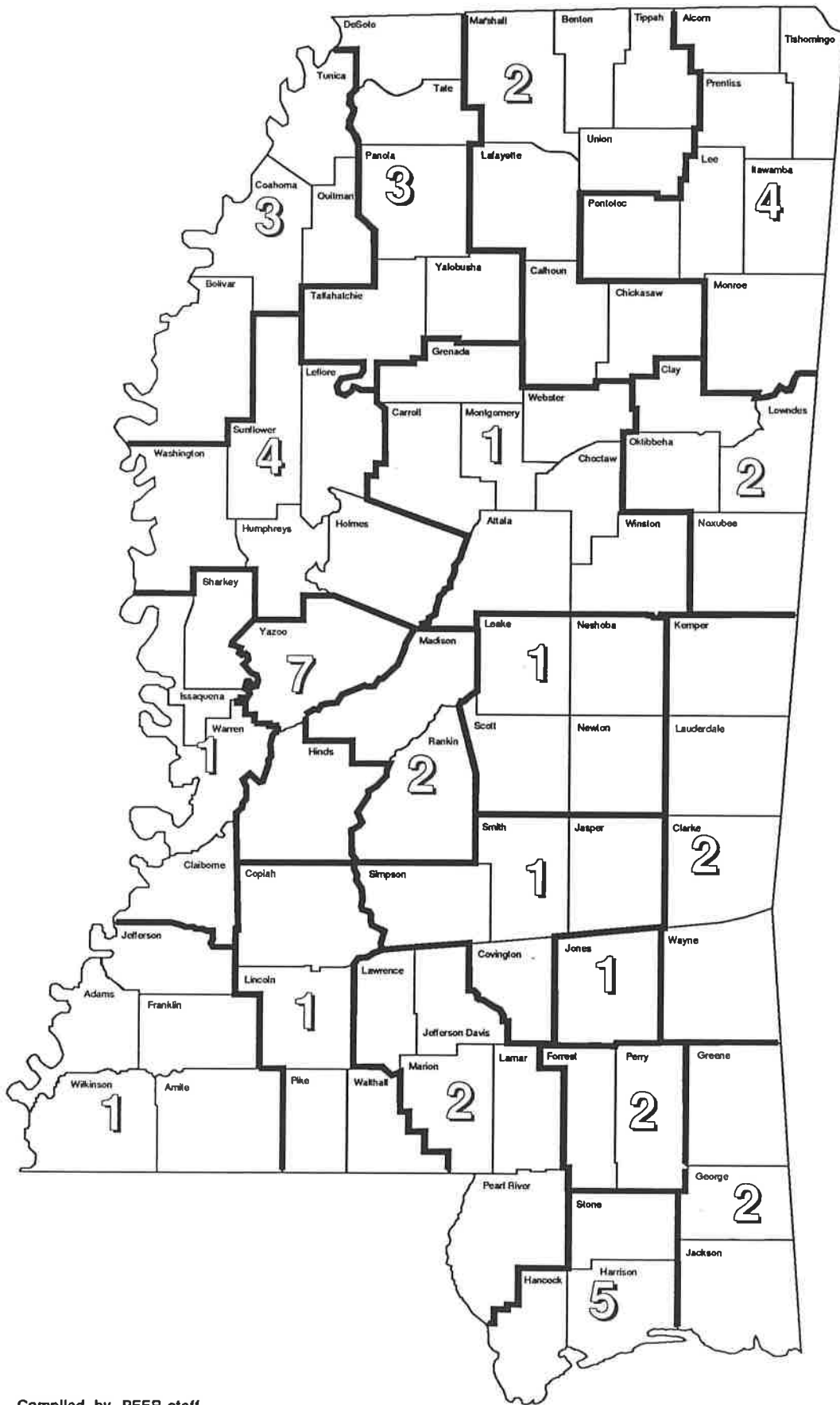
Section 31-31-5 authorizes the hiring of legal assistants, also known as assistant district attorneys. These assistants are attorneys who are licensed to practice law and have authority to perform all duties of the district attorney. At present, MISS. CODE ANN. Section 25-31-5 specifically states how many legal assistants each district attorney may hire. The maximum number authorized for the districts ranges from a high of seven in the seventh district (Hinds and Yazoo counties) to a low of one in the fifth, sixth, eighth, ninth, tenth, thirteenth, fourteenth, and eighteenth districts. Also, this section authorizes an additional legal assistant for all districts except for the eighteenth (Jones County) if state funds are available or if the boards of supervisors of one or more counties in the district agree to pay the salaries and fringe benefits for the legal assistant. (See Exhibit 1, page 3, for a map showing the current geographic distribution of mandated legal assistants).

### Assessment of Need for Additional District Attorneys

Neither MISS. CODE ANN. Section 25-31-5 nor any other CODE section provides any criterion for determining whether a district should be allocated an additional legal assistant. No specific statutory or regulatory guideline is in place to govern decisions to assign a new legal assistant's position to a district. In lieu of a methodology for determining how new legal assistant positions will be allocated, district attorneys prepare their own requests, often tailored to the unique characteristics of their districts, such as caseload, number of counties, or number of offices, in an attempt to justify the allocation of an additional legal assistant. Under such a deluge of information, legislators are left without any approach to consistently and uniformly assess the needs of the entire district attorney system.

EXHIBIT 1

District Attorney Legal Assistants by Circuit Court Districts



SOURCE: Compiled by PEER staff.

National Recommended Standards for Legal  
Staffing of District Attorneys' Offices

At this time, no general legal or prosecutorial association or society has devised quantifiable standards to assist decisionmakers in the allocation of additional assistant district attorneys. The National District Attorneys' Association (NDAA) has developed standards which can assist in determining what factors a measurable, quantifiable allocation model should include. According to the NDAA, position funding for district attorneys' offices should reflect:

1. the number of criminal cases the office must deal with;
2. the amount and types of non-criminal responsibilities vested with the prosecutor's office;
3. the number of specific crime-oriented programs being conducted in the office;
4. the geographic size of the district;
5. the number of courts the office must serve;
6. the number of branch offices in the jurisdiction;
7. the legal requirements for appearances by members of the prosecutor's staff;
8. stages of the legal process;
9. local speedy trial rules;
10. the size and complexity of the staff and the need for intermediate supervisory positions; and,
11. population of the jurisdiction, including seasonal fluctuations, correctional institutional populations, and other relevant considerations.

While these standards are not quantified by the NDAA, it is possible to effectively devise a quantifiable system which addresses the concerns raised in these standards. Such a system is addressed in Option Three, discussed on page 8.

## OPTIONS FOR ALLOCATING LEGAL ASSISTANTS

### Survey of State Practices

Many states, like Mississippi, have no methodology for determining need for additional legal assistants. In some of these states, such as Pennsylvania and New Jersey, the selection and compensation of legal assistants or assistant district attorneys is a responsibility of local counties and cities with no significant state involvement. In other states, such as Arkansas and Alabama, the state government is involved in the compensation of district attorneys but has not devised criteria for allocating positions to the district attorney districts.

A few states, such as Louisiana, Kentucky, and Tennessee, have devised population-based criteria for the allocation of legal assistants. Under the Louisiana system, each district has at least one legal assistant for each district judge. In addition, in all districts with a population over 50,000, an additional legal assistant is provided to assist in litigation and administrative functions. In all districts with a population in excess of 100,000, one legal assistant is provided for every 14,000 residents.

Tennessee has devised a system by which an assistant district attorney is assigned to each district upon the addition of a district judge. District judges are assigned to districts on a ratio of one for every 40,000 persons.

Kentucky uses a system whereby legislators review needs for assistant district attorneys on the basis of:

1. available funding;
2. caseload per prosecutor;
3. number of counties in judicial circuit;
4. county area and population;
5. number of judges in circuit; and,
6. special considerations, such as recreational facilities and major highways.

Kentucky has not assigned quantitative weights to any of these factors, thus rendering formulaic decision-making with these criteria impossible. However, these criteria are helpful in alerting legislators to inequities between districts in numbers of assistant district attorneys, and can help legislators spot unique problems which may justify the addition of new assistant district attorneys.

## The State Interest In Legal Staffing of District Attorney's Offices

By assuming the responsibility of funding the twenty district attorneys' offices, Mississippi has given evidence of its strong interest in insuring that sufficient prosecutorial resources exist to provide its citizens and visitors with the protection they require from those who would commit crimes against persons and property. Any funding option should advance this interest by insuring that legal assistants are allocated to the district attorneys' offices in a manner which bears a rational relationship to the workload needs of the district, and which evaluates the needs of all districts uniformly.

### Legislative Options

Presented below are three options the Legislature could consider for allocating legal assistants to the district attorneys of the state. These options consider the use of district population as a means of allocating legal assistants, the use of statewide average caseload as a means of allocating legal assistants, and the use of expertly created caseweights for the allocation of legal assistants.

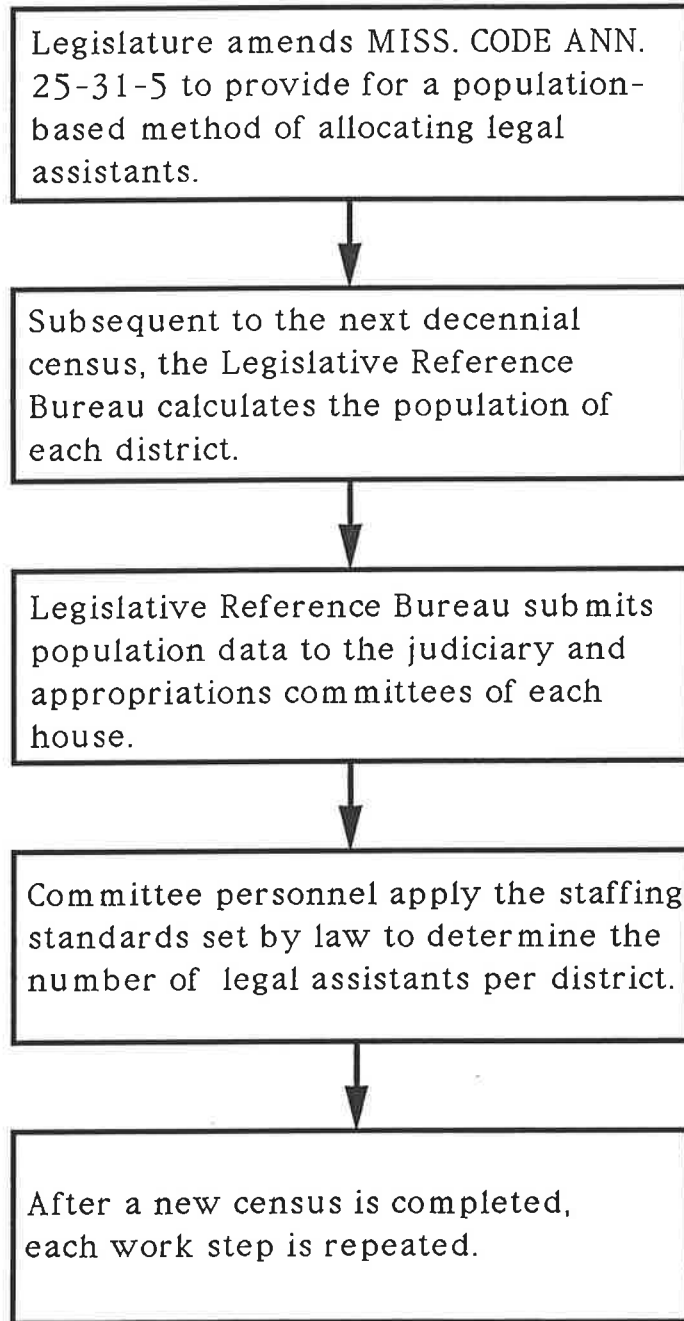
#### Option One. Employ a population-based model for allocating legal assistants.

The states of Iowa and Tennessee use population-based models to allocate judicial resources, and the state of Louisiana has devised and implemented a population-based model for allocating assistant district attorneys. (See page 5 for standards of the Louisiana model.) These standards were developed by the Louisiana District Attorneys' Association based on the expert opinion of the association's membership.

This option, while simple to apply inexpensively, equally, and fairly, is not without its defects. Population-based models have often been criticized for their inability to reflect the unique conditions found in some districts which may not be found in others. Examples of unique conditions would be the presence of a state correctional facility in a district, a geographically expansive district, or a district with a large metropolitan area. Because of these problems, some states have shied away from using population-based models for resource allocation. Kentucky officials informed PEER that their state gave up on an attempt to develop a population-based model because each of its districts had unique factors contributing to workload. A similar finding led Louisiana to terminate the use of a population-based model for the allocation of judicial resources. (See Exhibit 2, page 7, for a flowchart of procedural steps necessary to the implementation of Option One.

EXHIBIT 2

Flowchart for Option 1



**Option Two. Equalize the allocation of legal assistants on the basis of workload.**

Under current practices of allocation, caseload is not considered as a basis for allocating legal assistants. The Legislature could choose to review the caseload per legal assistant by having district attorneys submit caseload data for the most recently completed fiscal year and determine the average caseload for a legal assistant. This average could be used as a standard for determining the minimum number of cases a legal assistant should be required to handle in a given year. By then dividing the average number of cases handled by a legal assistant into the total number of cases handled by a district attorney's office, the Legislature could establish a number of legal assistants each district should be allotted.

The weaknesses of this system are obvious, since such an option does not seek to determine the level of resources actually needed to adequately perform the prosecutorial function. This option simply insures that a uniform standard will be applied to all districts without variation. Such a system would be simple to implement, since it would require only readily available statistics from the district attorneys and basic arithmetic computations. (See Exhibit 3, page 9, for a flowchart of procedural steps necessary to the implementation of Option Two.)

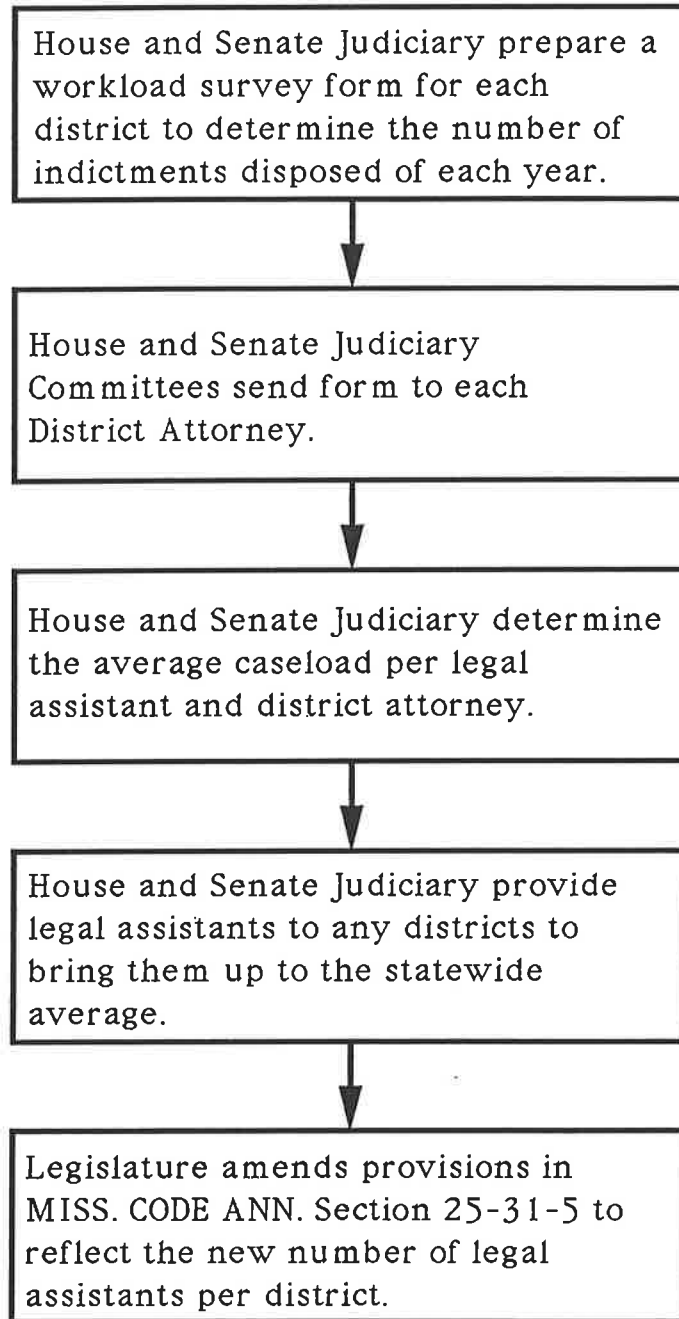
**Option Three. Require the Court Education Program to develop caseweights based on time required to perform prosecutorial duties as a basis for allocating legal assistants.**

The Court Education Program, the court education and judicial research division of the University of Mississippi, could produce a study which would determine need for additional legal assistants by performing three discrete process steps:

1. the collection of case data from each of the twenty district attorney's offices;
2. the selection and polling of an expert group of district attorneys, circuit judges, and defense attorneys on the amount of time legal assistants should be able to spend on prosecutorial and support work in order to produce a quality product; and,
3. a computation of the disparity, district by district, between the amount of time required to prosecute cases and carry out support functions, and the amount of time a legal assistant can reasonably be expected to work in a year.

EXHIBIT 3

**Flowchart for Option 2**





### Case Information

The Court Education Program could collect from each district attorney's office caseload data for each case assigned to a legal assistant or to the district attorney himself. This information could be collected on a case form of the type found in Exhibit 4, page 11. Each district attorney could submit copies of a completed case form for each case assigned to a legal assistant or district attorney to the Court Education Program at the end of every month. In subsequent months, district attorneys would submit copies of case forms for any previously unreported case to the Court Education Program.

A separate support work sheet would also be devised to determine how much support work legal assistants spend on non-case-related activities. Such activities would include advising police departments on changes in law, continuing legal education, office support, and other activities which are not discrete elements of a pending case.

Alternatively, the Court Education Program could, funding permitting, hire and dispatch field workers to each District Attorney's office. These workers could review files and collect the needed statistical data.

The Court Education Program could tabulate caseload and support work data, district by district, for a period of at least six months annually to provide a clear picture of how many cases legal assistants and district attorneys prosecute. If data is collected for a six-month period only, the caseload figure generated would be annualized by multiplying it by two. Ideally, caseload data should be collected for a complete year.

### Expert Group Evaluation

Through the services of an expert group consisting of five district attorneys, five circuit judges, and five other members of the bar, the Court Education Program could develop a set of reasonable time standards which would show how much time a legal assistant or district attorney should have to prosecute each type of case which comes through his office. This expert group should use the same types of cases which district attorneys actually report on their case forms.

To guide the process, the Court Education Program should use the "Delphi Method" to govern the discussions. (For a discussion of the "Delphi Method," see Appendix A, page 17.) In addition to the determination of reasonable amounts of time spent on various aspects of prosecution and support, the expert group should also come to some conclusion as to what is the maximum amount of time a legal assistant should spend per month on all activities. Such would provide a benchmark to determine reasonable expectations as to how much time a legal assistant



could be expected to work in a year. Both components of the study should take no more than one month to conduct. (See Appendix A, page 17, for a more detailed overview of the method discussed herein.)

### Evaluation

After completion of the first two steps, the Court Education Program would be able to determine which districts are overworked by determining the disparity in the amount of time experts believe is needed to perform the prosecutorial and support duties of the district attorneys' offices, and the maximum amount of time legal assistants and district attorneys can be expected to work in a year. When the amount of time experts believe is necessary to perform prosecutorial duties exceeds the maximum amount of time that could be reasonably expected of legal assistants and the district attorney in each district, it could be said that a district attorney's office is having to compress too much work into too little time. The same analysis could also be applied to support time functions such as advising law enforcement agencies and attending legal seminars. When the disparity noted above is equal to, or greater than, one-half the maximum a legal assistant can reasonably be expected to work, then a need would exist for an additional legal assistant(s).

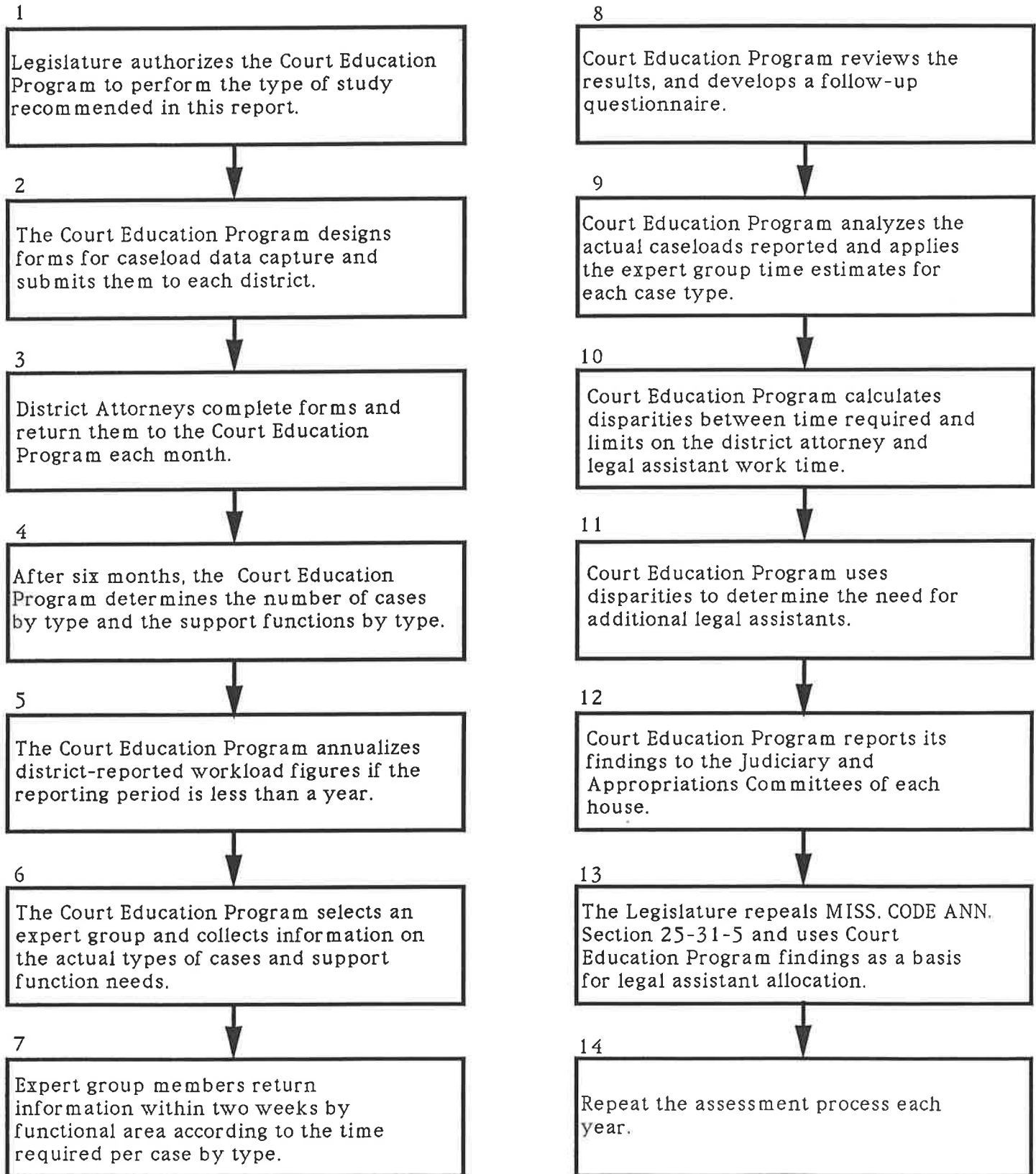
This option suffers from at least three flaws. The first is that sufficient additional study is required to prevent this option from providing answers immediately. Should the Legislature choose this option, this option could produce usable information by the 1990 legislative session.

The second problem is that this option relies on data derived from district attorneys' offices. District attorneys might be rather liberal in their timekeeping and reporting in order to obtain additional assistants. This matter could be overcome through proper oversight of the data collection process (see page 13.)

A third problem is that this system is more costly than other options in that it requires that a complete data collection be designed and put into place. This system, while more expensive than other options, would provide the Legislature with more precise information for decisionmaking than other options considered in this report. (See Exhibit 5, page 13, for a flowchart of procedural steps necessary to the implementation of this option. See Appendix B, page 21, for legislation necessary to the implementation of this option).

In early years, legislators would have to operate under the assumption that the number of prosecutions in each district would remain constant. After collection of case data for three or more years, it would be possible to perform trend analysis on prosecutions which would help predict caseloads in the future and further refine the process by which the Legislature determines the need for additional legal assistants.

EXHIBIT 5  
Flowchart for Option 3



Option Four. Develop a "point system" for allocating legal assistants.

The Legislature could allocate legal assistants through the use of a point system which reflects the difficulty of certain case types. Under such a system, a capital indictment could carry a point value of three and a non-capital felony indictment could carry a value of one. Using the same methodology as in Option Three, an expert group of judges and attorneys could determine the maximum number of points that a legal assistant could reasonably be expected to carry in a year. Whenever the maximum number of points in excess of the reasonable workload figure for a legal assistant exceeds one-half of the total number of points a legal assistant can reasonably be expected to carry in a year, then a need for a new legal assistant exists.

For example, if the reasonable number of points a legal assistant can be expected to carry in a year is eighty, and the number of points that the legal assistant carried in the year was 120, a need for a new legal assistant exists. If no legal assistant in a district attorney's office carried more than ninety points, but the excess above the reasonable number of points carried for all legal assistants in the office exceeded one-half of what a single legal assistant could reasonably be expected to work, then a need for a new legal assistant exists.

Recommended Option

When viewed in light of the state's interest, the option which would provide the most reasonable allocation of resources is Option Three. Unique among the three is this option's capacity to assess need on the basis of actual work performed, eliminating the need to find a single or multiple set of variables to predict workload. Option One relies on population as a predictor variable and operates from the assumption that certain levels of population will generate equal levels of workload regardless of the demographic characteristics of the district. This assumption may not be true in all districts such as the fourth, which contains Parchman, and the larger urban areas with their larger unemployed/underemployed populations. Option Two does not evaluate need at all, but simply insures that resources are allocated on an equal basis throughout the twenty districts.

Option Three's weaknesses are its inability to generate an immediate answer to the problem, its reliance on the district attorneys to report the data which will drive it, and its costs. While an immediate and economical answer would be desirable, the quality of a solution based on actual work time compared to an expertly generated ideal greatly outweighs any weakness derived from cost or a lack of an immediately generated answer. (See Exhibit 6, page 16, for an analysis of options' costs).

Option Three's dependence on data reported by district attorney could be eliminated if the Court Education Program were authorized to spot-audit

records of the district attorney to insure the accurate reporting of caseloads and worktime.

Use of Option Three would provide the Legislature with a complete data base for making allocation decisions. This database would provide accurate information on actual resource needs in the district attorney's offices and would effectively address the concerns reflected in NDAA standards (page 4), since those standards are primarily directed toward factors which influence the workload of district attorneys.

EXHIBIT 6

COST OF OPTIONS

Option One and Option Two could be implemented with no additional costs, since sufficient resources currently exist in district attorneys' offices and legislative staffs to carry out responsibilities required under.

Option Three costs for the first year should equal roughly \$40,000 in special funds, broken down by major object as follows:

Personal Services	
Salaries wages and fringes.....	\$23,000
Travel.....	\$ 2,000
Contractual Services.....	\$13,000
Commodities.....	\$ 2,000
Equipment.....	\$ 0
Subsidies, Loans, and Grants.....	\$ 0

Funds in the personal services category reflect funds necessary to pay for travel by expert groups and other personnel of the Court Education Program. Salary funds reflect program costs for current Court Education Program personnel who will be working on this project.

Funds in contractual services shall fund the development of any computer software and forms design necessary to accomplish the project. Commodities funds of \$2,000.00 are required to finance the preparation of forms necessary to the completion of this project.

Succeeding years' costs should consist of the following:

A total of \$20,000 in special funds would be required to fund the project in succeeding years. This funding shall be expended by major object as follows:

Personal Services	
Salaries, Wages, and Fringes.....	\$17,000
Travel.....	\$ 1,000
Contractual Services.....	\$ 0
Commodities.....	\$ 2,000
Equipment.....	\$ 0
Subsidies, Loans, and Grants.....	\$ 0

Should the Legislature choose to require the Court Education Program to collect data, the cost of two analysts would be:

Positions		Salary		Fringes		Total
2	x	\$20,000	x	1.22	=	\$48,800

Travel funds for these positions would total approximately \$28,800.

SOURCE: PEER Staff Analysis (Option Three cost data derived from interviews with Court Education Program personnel).

NOTE: Should the Legislature wish the Court Education Program to produce an analysis of legal assistant need by the 1990 session, funds for such should be made available to the Court Education Program as soon as feasible and prior to July 1, 1989.

## APPENDIX A

### A NOTE ON THE METHODOLOGY FOR IMPLEMENTING OPTION THREE

As recommended in Option Three, page 10, the Legislature should direct the Court Education Program to conduct an extensive study of district attorneys' need for additional legal assistants. This study should consist of collection of actual workload data from district attorney's offices, an expert determination of how much time it should take for legal assistants to perform the same tasks, and an expert determination of how much time in a year a legal assistant and a district attorney could reasonably be expected to work on office matters.

#### The Actual Workload Study

The Legislature should direct the Court Education Program to implement a data collection program which would require district attorneys and their legal assistants to complete standardized work forms for each case they open. An example of the type of form to be used is included in Exhibit 5. A copy of each form should be submitted to the Court Education Program each month so that workload by case can be determined. Additionally, a support function workload form should also be submitted each month for all district attorneys and legal assistants. After a minimum six-month period, the Court Education Program will have a caseload database to which expert group time estimates for required time can be applied. Should the Court Education Program collect information for no more than six months, the caseload figure should be annualized by multiplying by two.

#### Development of Expert Standards

Workload should be reviewed in light of expertly generated, uniform estimates of how much time is required to perform prosecutorial and support tasks. In Option Three, PEER proposes that ideals be established through the use of the "Delphi Method."

Delphi is a decision science method developed by the RAND corporation which permits experts to devise a consensus opinion on matters such as resource needs and other problems relative to organization management. In this setting Delphi participants would review the types of cases district attorneys' offices prosecute and other functions, and determine how much time they require to prosecute the cases and provide general office support.

Two approaches to Delphi could be used by the Court Education Program. One method relies on written answers submitted to the Court Education Program showing how much time is required to prosecute each type of case with which district attorneys' offices become involved. To determine the set of work activities district attorneys' offices engage in, Court



Education Program should use data derived from the district attorney's office reporting phase of the project. The Court Education Program should select a group of experts as provided for in Option Three and devise a form containing all work activities reported by district attorneys. Forms showing each activity and providing a space for an expert time estimate should be mailed to all participants with instructions as to how the form should be completed, and when it is due. After all questionnaires are received, the Court Education Program should examine the answers and prepare a second questionnaire for participants showing the average amount of time required as reported by the participants, extremes high and low, and the standard deviation of all answers. This process would enable participants to reconsider the reasonableness of their answers in light of the answers other participants have provided. Following the return of the second questionnaire, time estimates should converge and low standard deviations should be present for all times reported.

Another method could be used which brings all participants together to discuss the amount of time required to prosecute each type of case and carry out support duties. The written method discussed above would be preferred as it gives participants more time to consider their answers prior to submitting them. A process similar to that which PEER proposes is described in Graham MacDonald and Clifford Kirsch, "Use of the Delphi Method as a Means of Assessing Judicial Manpower Needs, Justice System Journal, vol. 3, Spring 1978.

#### Example

The following hypotheticals are contingent on two assumptions. The first is that a group of experts as discussed above would conclude that a legal assistant could not reasonably be expected to work more than 2200 hours per year. The second assumption is that a showing of an aggregated amount of hours in excess of half of what could be reasonably be expected of a legal assistant justifies an additional legal assistant. To further simplify the example, it is also assumed that each district attorney carries a workload appropriate under the standards experts have set. Actual figures and assumptions proposed by the expert group may vary from PEER assumptions.

Assume that in a hypothetical district, the only legal assistant worked on 300 cases in a year. Further assume that the same legal assistant spent an additional 400 hours on support functions such as training, office administration, and advising law enforcement officers.

The group of experts determine that on average the legal assistant should have spent 10.5 hours for each case he/she worked on during the year, that 400 is a reasonable amount of time for the support activities reported, and that it is not reasonable to expect the legal assistant to work more than 2200 hours in a year.

Based on these figures, the amount of time needed to prosecute the 300 cases and perform the support functions is:

3150 hours on prosecutions (300 x 10.5)  
400 hours on support  
3550 hours total

The disparity between the amount of time which should have been spent on the work, and the maximum amount of time the legal assistant could reasonably be expected to work in a year is:

3550 hours which should have been worked  
2200 maximum  
1350 difference

Because the difference between what should have been worked and the maximum a legal assistant can reasonably be expected to work is greater than one half the number of hours a legal assistant can reasonably be expected to work, a need for an additional legal assistant exists.

In another situation the following condition exists in a hypothetical district. Three legal assistants work on 200 cases each. Additionally, each legal assistant spends 200 hours on support time activities. The expert group contends that on average the amount of time each legal assistant should have spent on each prosecution should have been eleven hours and the 200 hours spent on support functions is reasonable. In this case each legal assistant should have had the following amount of time to perform his/her duties:

2200 hours on prosecution  
200 hours for support  
2400 total

The difference between what should have been spent and the maximum amount of time a legal assistant can reasonably be expected to work totals:

2400 hours which should have been spent  
2200 maximum hours which can be spent  
200 difference

Because the three legal assistants combined must spend only 600 hours more on work than can reasonably be expected of the three, no need exists for the addition of a new legal assistant.

#### Optional Work Step

Under PEER proposals, all district attorneys and legal assistants must provide to Court Education Program is a listing of the number and types of cases they work on in each month. Should the Legislature desire that each

district attorney's office provide information on actual time spent on each case, such information could be used for an extended review of the correctness of ideal standards proposed by the expert group. Such additional effort could be collected with minimal effort by all parties concerned.

APPENDIX B

PROPOSED LEGISLATION TO REQUIRE THE COURT EDUCATION PROGRAM  
TO CONDUCT A DISTRICT ATTORNEYS' WORKLOAD STUDY  
(OPTION THREE)

Mississippi Legislature

Regular Session, 1989

BY:

BILL

AN ACT TO REQUIRE THE COURT EDUCATION PROGRAM OF THE UNIVERSITY OF MISSISSIPPI TO CONDUCT A WORKLOAD STUDY OF THE TWENTY DISTRICT ATTORNEYS' OFFICES AND REPORT FINDINGS AND RECOMMENDATIONS TO THE LEGISLATURE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

Section 1. The Court Education Program of the University of Mississippi shall conduct annually a study of actual caseloads of the twenty district attorneys' offices of the state, and prepare recommendations to the legislature regarding the number of legal assistants required to effectively staff each district.

Section 2. The annual study shall consist of:

- (1) a compilation of district attorneys' active cases by district, for a period of not less than six months. The compilation shall include the style of the case and the charge or charges filed. The Court Education Program may at its discretion collect information on the actual amount of time spent by each district attorney and legal assistant on each case.
- (2) an expert group analysis of the amount of time required to carry out all the prosecution and support functions of the district attorneys' offices. This expert group shall consist of five (5) district attorneys, five (5) circuit judges, and five (5) other members of the bar to be selected by the Director of the Court Education Program. This group should also determine the maximum reasonable amount of time a district attorney or legal assistant should be expected to work in a year.
- (3) a set of staffing recommendations based on how many legal assistants each district attorney's office should have in order to prosecute and carry out support functions reported by district attorneys within the time frames determined by the expert group.

Section 3. The Director of the Court Education Program is authorized to promulgate regulations and prescribe all forms necessary to conduct the

annual study, and shall have the authority to field audit any records of any district attorney's office.

Section 4. It is the intention of the legislature that sections 1, 2, and 3 of this act be codified in Title 37, Chapter 26, Mississippi Code of 1972.

Section 5. This act shall take effect and be in force from and after July 1, 1989.