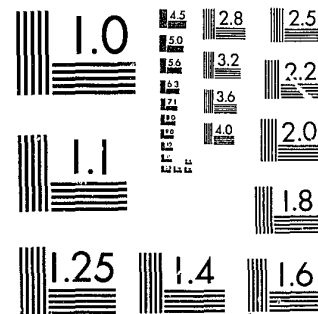


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COURTS TECHNICAL ASSISTANCE MONOGRAPH NO. FOUR

DETERMINATION AND JUSTIFICATION OF
JUDGESHIP NEEDS IN THE STATE COURTS

Beatrice Hoffman



THE AMERICAN UNIVERSITY

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
Institute for Advanced Studies in Justice
The American University Law School
Washington, D.C.

A Program of the
Adjudication Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
U.S. Department of Justice

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Determination and Justification of Judgeship Needs in the State Courts

U.S. Department of Justice
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by Beatrice Hoffman

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FOREWORD

The task of determining the number of judges needed in a given jurisdiction has always been a difficult and delicate one, requiring the translation of legal procedure, judicial process, and economic, social and demographic factors into quantitative manpower terms. In an era of diminished public resources -- which appears will be a characteristic of the 80's -- the ability to accurately assess judgeship needs and to document them in a manner which is meaningful to funding bodies will be all the more critical.

Determination and Justification of Judgeship Needs in the State Courts synthesizes the various approaches state judicial systems have used to assess and document judicial manpower needs. Four specific methodologies are discussed and analysed: (1) methodologies using population measures; (2) methodologies using caseload measures; (3) methodologies using combined measures (caseload, population and other variables) and (4) methodologies using weighted caseload formulae. Each methodology is discussed in terms of its application in states with established judgeship standards, e.g., officially adopted measures for determining judgeship needs, and in states without established standards. In addition, Chapter Four of the monograph provides a discussion of the various environmental factors which are important to the decision regarding the appropriateness of one methodology vs. another in a given jurisdiction.

The monograph is an outgrowth of a Courts Technical Assistance Project assignment involving two jurisdictions -- the state of Oregon and Florida's 12th Judicial Circuit, seated in Sarasota. The markedly different situations which these jurisdictions presented made it apparent that a variety of workload measurement approaches would have to be explored in an effort to provide meaningful alternatives for the jurisdictions to consider.

Oregon was in the midst of an economic recession and resources were severely limited. The Legislature had asked the Chief Justice for documentation of judicial resource needs which could be used to evaluate requests for additional judgeships. Initially, it was thought that development of comparative caseload "profiles", comparing each court against a state average, might be appropriate but the advantages of such a design as well as how it would be accepted were not certain.

Both Sarasota and the state of Florida, on the other hand, had been experiencing an economic boom and resources were not a problem.

This report was prepared in conjunction with The American University Law School Criminal Courts Technical Assistance Project, under a contract with the Law Enforcement Assistance Administration of the U.S. Department of Justice.

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However, population, along with caseload, had increased, requiring the circuit court administrator to develop measures of judicial workload which would help him distinguish between workload needs that could be relieved by management or other system improvements, and those which required additional judicial resources. It was thought that a weighted caseload system might be useful for some purposes, e.g., judge assignment, evaluation of procedural changes, assessment of technological innovations, etc., but might not be adequate to determine overall judgeship needs, because of the absence of statewide standards.

The problems represented in these two technical assistance requests mirrored the concerns of many of the state court system officials who have requested guidance from the Courts Technical Assistance Project in evaluating and justifying judgeship needs. Knowing what information to provide, how to gather it, and how and in what quantity to present it, is a decision that, generally, must be made on the basis of numerous factors, the significance of which is peculiar to each jurisdiction. The relationship between the judicial, legislative and executive branches in the jurisdiction, the decision-making process of the funding body, the extent of accurate caseload information available, and the time, funds, expertise and other resources that can be tapped to determine judgeship needs -- are but a few of the issues that each court system must assess before adopting a methodology for measuring judicial workload.

In addressing these issues, however, the experiences of other jurisdictions can be useful, and it is with this perspective that this monograph was commissioned. Readers are encouraged to communicate with the Courts Technical Assistance Project or directly with officials in the jurisdictions noted regarding the various methodologies described and experiences with implementation. Through such communication, it is hoped that the experience, expertise and resources that have developed in the various states to deal with this specialized topic will provide a foundation upon which others can build.

Joseph A. Trotter, Jr.
Director
Courts Technical Assistance Project
The American University

Gregory C. Brady
Project Monitor
Adjudication Division
Office of Criminal Justice Programs
Law Enforcement Assistance
Administration

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In addition, I am deeply grateful for the time and help which the officials in each of the fifty state court systems provided to me during the course of my state-by-state survey. Their patience and willingness to discuss the various legal provisions and measurement methodologies which related to judgeship need determination in their states made this publication possible. The names of these individuals are listed at the conclusion of the final chapter.

Finally, I want to express my appreciation to the Adjudication Division of LEAA's Office of Criminal Justice Programs whose encouragement and financial support made this effort possible. I am also grateful to the staff of the Courts Technical Assistance Project for their interest, encouragement and helpful suggestions. A special note of thanks goes to Ms. Beverly Peterson for her patience and perseverance in typing the various drafts of this manuscript and for developing its graphics and final layout.

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CHAPTER I INTRODUCTION

In all the states, judgeships on the appellate level, and, in most states, judgeships on the trial court level, are created by state legislatures. There are exceptions: some judgeships are created by county units of government, as in Arizona; some judiciaries, as in Kansas and South Dakota, have the authority to create judgeships. In these situations, the legislature retains approval power through its funding function.

Consequently, the granting of new judgeships historically has been, and remains today, a political matter. The kind of relationship and amount of rapport established between the legislative body and the judiciary influences the degree of difficulty encountered when new judgeships are requested.

As Carl Baar points out in his characterization of legislative-judicial relations in the budget process,¹ the amount of information justifying budget requests sought by or provided to the legislature is probably independent of its willingness to commit resources. The strength of political relationships, the overall wealth or financial condition of the funding body, the amount of pressure toward frugality, and the intensity of competition among the public agencies are more important variables affecting legislative decision-making than the quantity or quality of support documentation.² This may explain, in part, why some states have been able to establish judgeships without extensive statistical justification, and why others face refusals despite detailed background information. The political considerations must not be forgotten when it appears that some states, such as California, have had success with mathematical methods such as a weighted caseload system.

¹Carl Baar, *Separate but Subservient, Court Budgeting in the States. A Project of the National Center for State Courts.* (Lexington, Mass.: D.C. Heath & Co., 1975).

² *Ibid.*, p. 61.

Regardless of the reasons for past achievements or failures in obtaining needed judgeships, increasingly, court officials have been examining methodologies for evaluating judge needs. This is true because of two developments on the political scene: court reform and fiscal conservatism.

First, over the past decade, the number of court systems funded wholly or substantially by state government has grown from ten to 27. More than half the states now support at least one level of trial court or trial court expense (such as nonjudicial personnel) or have made statutory commitments to do so within the next few years.³

As the state's share of a judicial budget grows, there is more legislative scrutiny of resource allocations. Words such as "efficiency" and "productivity" begin to be heard. Not only are state-funded systems more likely to have statewide data-collection systems and analytical staff able to produce information regarding the operation of the courts, state funding takeover raises the level of expectation of accountability.

Court reform, even without the inclusion of state funding, has instituted such improvements as single-tier trial courts, simplification of jurisdictional divisions, and consolidation of courts. Because these reforms are intended to produce an effective court system, the efficient allocation of judges is a central theme. The need for a competent methodology to determine judgeship needs based on accurate data becomes evident.

The second factor is the more recent trend toward budget tightening at all levels of government. Legislative bodies are faced with a scarcity of resources caused by inflationary rises in costs, conservative fiscal policies, and a decrease in revenues due to taxpayer-revolt laws and (in some locations) economic declines. In an era of fierce competition for insufficient dollars, documentation of need would appear to be critical.

The intent of this monograph is to provide information on the methodologies currently being used in the 50 states to determine and justify the need for new judgeships. Analysis of the relative success

³Using the criteria established by Lawson *et al.*, in *State Funding of Court Systems: An Initial Examination*, American University, 1979, these states are: Alabama, Alaska, Colorado, Connecticut, Delaware, Hawaii, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, and Wyoming.

of each methodology in obtaining judgeships was not within the scope of this examination. Because of this limited focus, a number of peripheral issues were excluded from the study although they merit investigation at some point. These include an analysis of various forecasting methods by which estimates of future needs are generated; and backlog reduction programs, whereby temporary manpower or procedural changes are used to alleviate specific backlog situations.

Also of research interest are the differences found among states in the level of state versus local involvement when new judgeships are proposed. Some state administrative offices initiate the process of determining whether new judgeships are needed; in some states the Supreme Court or Judicial Council will respond with data and testimony when requested by the Legislature or a Study Commission; in still others no comment occurs from the state level other than an impact statement required by a specific bill, or provision of specific caseload data in answer to a request. Some of the variation is due to structural reasons, e.g., statutory responsibility for equitable judgeship allocation placed with the state administrative office. More often, however, it is the result of a policy decision by the Supreme Court or Judicial Council.

Chapter II presents a table of the judgeship criteria used by the states today. States have been classified according to whether they have established standards for determining the need for judgeships, i.e. judgeship standards. A judgeship standard is defined as a statute or rule officially adopted by an authoritative legislative or judicial body or authorized by the chief justice and designed to be used as a measure by which the number of judges needed can be determined. The standard may involve caseload, as in Maryland's rule of 1,200 filings per judge of an urban court of general jurisdiction, or judicial time, as in Georgia's weight of 12 hours of judge time per felony case that goes to jury trial.

It should be stressed that almost all states use multiple methods. States are listed under the methods they particularly emphasized or felt to be most important for determining judgeship needs. These included caseload variables; population size or growth; time requirements for cases to proceed through the court process; case weights (numerically differentiating type of cases according to difficulty and time involved); weighted caseload formulae (a calculation of judge need derived from the judicial time required to dispose of various type of cases); as well as combinations of these factors.

The information on practices in the states was obtained by the author through personal interviews with seven state court administrators, and telephone interviews with state court administrators or staff in the remaining states during the period of May-September 1981. In addition, documentation from eleven of the states was examined.

Care was taken to assure that the information in this monograph is accurate and current. Since time constraints did not permit examination of methodology documentation or written materials from all states, the author takes responsibility for misinterpretations or omissions that may have occurred through telephone conversations.

Chapter III undertakes a general description of each methodology type listed previously. Examples from several of the states are given, separated according to whether judgeship standards have been established. The author's assessment of each method type presents their advantages and limitations.

No attempt is made to give detailed instructions for applying the measures; this is not a textbook for practitioners. The purpose is to provide enough explanation to enable the reader to recognize and understand the various methods that have been used and to determine their potential transferability to other jurisdictions.

Chapter IV lists factors which are important to consider when the choice of a methodology is to be made. Because, in a majority of cases, the issue of judgeship needs is of statewide interest, the discussion is written from a state level perspective. It is aimed at those most likely to be involved in a methodology decision: State Court Administrators, Supreme Court Justices, Judicial Council members, State Legislators, and their staffs. This should not preclude it from being of interest to other judges, court administrators, attorneys, and others interested in an equitable and efficient justice system.

Chapter V summarizes the findings of the study and reviews the commentaries made in the previous chapters.

CHAPTER II

Criteria for Determining Judgeship Needs in the State Courts

A literature search uncovered only one published study of criteria used for evaluating judgeship needs: the 1973 Manning study sponsored by the American Judicature Society (AJS).⁴ This monograph is believed to be the first attempt since Manning to survey states and appraise the methodologies employed.⁵

Manning asked states to report "established guidelines which are prime indicators of the need for additional judges".⁶ He received 34 replies to his questionnaire, which contained questions concerning the provisions states had for a continuing evaluation of their judicial needs.

For this 1981 investigation, a representative from the judicial branch was contacted in every state, either in person or by telephone. The questions focused on the criteria used when there is an examination of the need for general jurisdiction trial court judges. Whether the judicial branch makes the analysis itself or provides information to others for that purpose was not enumerated; the methodology employed was the objective.

⁴Christopher A. Manning, *Judgeship Criteria Standards for Evaluating the Need for Additional Judgeships* (Chicago, Illinois: American Judicature Society, 1973).

⁵A simple tabulation of criteria used by all the states was done in 1980 for a seminar on court statistics. See National Center for State Courts. *Proceedings of the Seminar on Information Systems and Court Statistics*. Sept. 16-18, 1980.

⁶Manning, *op. cit.*, p. 2.

In 1973, only California had a weighted caseload system, although Florida indicated it intended to conduct a similar study. Eighteen states had no set criteria. The rest used population, filings, caseload or growth variables or, more commonly, a combination of two or more of these. Today, all of the 50 states have some form of judicial administrative office at the state level and most of these offices have provided information that was intended to assist decision-makers in making judgeship creation or funding choices.⁷ Population has been virtually abandoned as a sole criterion; and caseload, in some form, is universally used.

Table I and the map on the following page present the states according to the criteria they use. It was difficult to categorize the states because all states use caseload variables, and most use multiple measures. The categorizations in Table I and the accompanying map, therefore, represent the methods that were particularly emphasized by each state's judicial administrative staff as being most important for determining judgeship needs.

Those states that have established judgeship standards are listed separately. A state was considered to have judgeship standards if an authoritative body, within the judicial or legislative branch, had officially adopted a measure by which judgeship needs could be determined or if such a standard had been authorized by the Chief Justice. Informal rules used by judicial administrative offices, not formally approved by a judicial body (such as the Supreme Court or Judicial Council), were not considered standards.

In spite of an obvious demand by legislators for more precise management information, with increasing response from the judiciary, the majority of states have not established judgeship standards. Nine states have developed weighting standards. Georgia and Louisiana use estimates of judicial time; the other seven states use time measurement information.

Four states use standards involving population or caseload, or, as in Iowa's case, both. While Colorado and Maryland have similar caseload standards, Colorado's are the result of a study of the cost of court operation.

Very few states indicated a desire to adopt standards. While some states said they continue to explore new methods of determining judgeship needs, apparently most would prefer not to be committed to a statute or judicial rule.

⁷Mississippi has an Office of Court Statistics placed in the Executive branch.

TABLE I

Criteria Used by the States for Determination and Justification of Judgeship Needs

STATES WITH NO JUDGESHIP STANDARDS

<u>Caseload</u>	<u>Caseload & Population/ Other Variables</u>	<u>Time Measurement</u>	<u>Case Weights</u>
Arkansas	Florida	Hawaii	Pennsylvania
Connecticut	Kansas		
Delaware	Illinois		
Kentucky	Indiana		
Idaho	Maine		
Massachusetts	Michigan		
Mississippi	Montana		
Missouri	Nevada		
Nebraska	New Hampshire		
New Mexico	New York		
North Dakota	North Carolina		
Ohio	Oklahoma		
Oregon	South Dakota		
Rhode Island	Tennessee		
South Carolina	Texas		
Utah	West Virginia		
Vermont			
Wyoming			

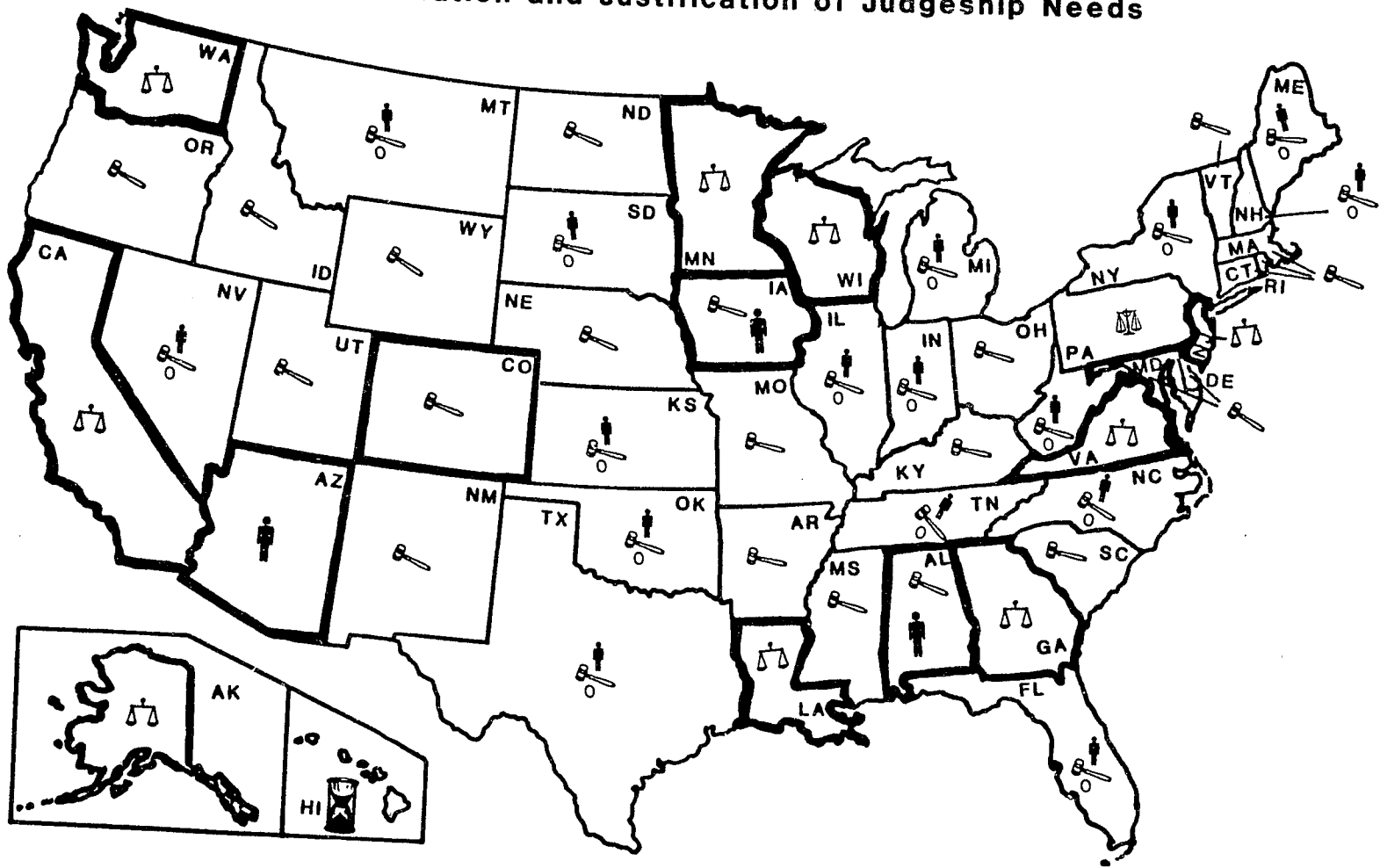
STATES WITH JUDGESHIP STANDARDS

<u>Caseload</u>	<u>Population</u>	<u>Caseload and Population</u>	<u>Weighted Caseload Formula</u>
Colorado	Arizona	Alabama	Alaska
Maryland		Iowa	California
			Georgia
			Louisiana
			Minnesota
			New Jersey
			Virginia
			Wisconsin
			Washington

MAP I

Criterion Used by the States for
Determination and Justification of Judgeship Needs

00



STATES WITH JUDGESHIP STANDARDS —
STATES WITH NO JUDGESHIP STANDARDS —

CASELOAD —
POPULATION —
CASE WEIGHTS —
OTHER VARIABLES —
TIME MEASUREMENT —
WEIGHTED CASELOAD FORMULA —

The states without judgeship standards are about equally divided between those which rely solely or principally on caseload measures, and those that reported that they felt population and other factors were of equal importance to caseload. The most often mentioned variable, other than caseload and population, was travel, i.e., a measure of the amount or difficulty of judicial traveling required.

Hawaii and Pennsylvania, which also use caseload, population and other variables, are named separately because each relies heavily on yet another factor. In Hawaii's case, it is civil case-time-to-trial; in Pennsylvania, it is case weights. Pennsylvania was not considered to have a weighted caseload formula, since its case weights are not tied to judicial time nor were standards adopted.

Throughout the study, most state court administrators and their staffs emphasized that creation of new judgeships depended as much on political considerations as on the methods used to justify them but, when pressed for methodological details, they were generous with both time and information.

From the many discussions, it was discovered that few court systems rely on any one measure. A good example is Wisconsin, which developed a caseweighting system, plus two alternative methods based on population and caseload. A comparison of the estimates each formula provided, using 1978 data, is shown in Appendix A. Although the consultants who conducted the study felt the weighted caseload method provided the most accurate estimates, the court administrator stated that all three methods will be calculated and compared.

The use of multiple measures was echoed by almost every administrator or analyst. Repeatedly, descriptions of the measures states use included a variety of caseload statistics, or caseload measures plus population growth data. Workload measures, it was generally agreed, must be examined in conjunction with social and economic trends, legislative and procedural impact, and evaluated with the special knowledge that only close identification with the data and the judges can bring.

Special mention is made here of the courts that use case weighting systems, because some people assume that such a system should be accurate enough so that no other validation is necessary. In fact, few of the states using them rely on them solely. Georgia names case weights as its most important criteria, but adds more than 20 other caseload measures, including the total number of days spent on the bench by a senior judge (retired judges who assist with cases), plus three population measures.

Virginia makes a statistical evaluation which includes descriptive caseload figures, weighted caseload statistics, and prediction of the volume of civil and criminal caseload. Besides caseload weights, Washington uses disposition-to-trial ratios, plus the ratio between jury and nonjury trials, as useful indicators.

Louisiana and Virginia use a technique which would please every judge (and there are many) who has said, "Come down and see for yourself; you'll find out why I need help!" In addition to a weighted caseload analysis, Louisiana selects two of its most respected trial court judges to make site visits. Courts which appear to need assistance are validated by these senior judges who inspect the court and its procedures to determine the actual state of the docket. A similar documentation process is conducted in Virginia by the Executive Secretary of the Supreme Court who conducts formal interviews with judges, clerks, and lawyers in each location that appears to need a judge. The combination of weighted caseload formula plus validation has proved to be a wise strategy, satisfying both the judiciary and the legislature.

Although the number of states using weighted formulae has increased from one to nine since the time of Manning's study, simple caseload measures have continued to be an overwhelming favorite. A major finding of this study, then, is that, while documentation of judgeship need has grown more extensive and sophisticated since 1973, there is no discernible trend toward the use of any single measure for determining need.

CHAPTER III

Methodologies Used to Determine Judgeship Needs

This chapter further describes the various criteria and methods of measuring judge workload and determining judge need that were listed in Table I. It is organized according to type of methodology classification used in the table, with examples from states according to whether judgeship standards have been adopted. Each methodology is discussed as to its strengths and disadvantages, providing the reader with an evaluation of its utility.

A. Population Measures

1. States With Judgeship Standards

It is not unusual to find, in early state constitutions or in older statutes, provision for increasing the number of judges according to the size of a state's or jurisdiction's population. In more recent times, financial uncertainties have tended to block passage of legislation that would mandate additional judicial personnel according to an established standard.

Even when existent, there is no guarantee that population formulae will be used. In Arizona, whose constitution limits the number of superior court judges to one per 30,000 inhabitants, the formula appears to have been followed in most of the counties; however, in Maricopa County, the state's largest population centers, growth has been so extensive and rapid that county government has had difficulty matching services to needs. According to the ratio, the Maricopa County Superior Court would be allowed ten more judges than it has been authorized, indicating the formula has not been followed by the county's Board of Supervisors for some time.

Statisticians attempting to design more sophisticated population formulae have met with varying degrees of success. Resource Planning Corporation (RPC), a private consulting firm, recently completed a study of judicial workload for the Wisconsin circuit courts.⁸ Three different

⁸Resource Planning Corporation, for the Wisconsin Legislative Council Committee on Courts. A Study of the Judicial Workload in Wisconsin Circuit Courts and the Manner of Collecting, Reporting, and Analyzing Workload Statistics of the Circuit Courts: Final Report, March 7, 1980.

prediction methods were contrasted, one of which was population based.

RPC's examination of the factors of county population, county size in square miles, population of urban centers, and county population density indicated that the best relationship, statistically, was between court caseload and county population. Using these in a linear regression model,⁹ and by equating court caseload with judicial workload, the following mathematical equation was then developed:

$$\text{No. of Judges} = .46 + .000033(\text{County Population})$$

Essentially, the formula provides one judge for counties with populations of 18,000 persons or less and one additional judge for each additional 33,333 persons over 18,000.

What may work for Wisconsin will not necessarily work in another state with a differently distributed population. Attempts by others to produce a straight-line projection that would fit their state's caseload and population data have not been as satisfactory.¹⁰ This is particularly true for states that have large metropolitan areas with commuting populations crossing county lines daily, or those that contain large recreational or tourist centers.

Also, because the formula was developed from Wisconsin data, it is not readily transferable to other states. Administrators interested in a population formula are cautioned to calculate one from their own state caseload and population data.

2. States With No Judgeship Standards

Although population has been abandoned by most courts or court systems as the sole criteria for demonstrating judicial needs, population measures are frequently used to supplement caseload measures. The most common population measures appear to be: total population per judge, density of population per judge, number of attorneys per judge or jurisdiction, and the rate of increase in the number of attorneys.

⁹It is assumed that statistical techniques mentioned in this report are familiar to the reader. For further detail, any textbook on statistical methods will provide information regarding the application of statistical measures.

¹⁰An attempt by this author, in 1976, working with Colorado data, showed a relationship that predicted the caseload of a large urban court and many small courts, but failed to discriminate between middle and large-size suburban courts.

3. Commentary

Population measures are not widely used because they appear too simplistic; do not account for non-residential court business, such as traffic cases; and are based either on estimates (between census periods) or on census data open to challenge. The biggest limitation is that they are usually presented without evidence that they bear a predictable relationship to court workload.

The advantages of these measures are that they are easy to compute, are based on a variable outside the control of the court, and have a common-sense rationale easy for anyone to understand. It may be the only measure possible in states that do not have a case-reporting system that accurately compares courts.

Generally, population standards are much less acceptable to judges than to legislators, who are accustomed to allocating resources according to population-based formulae. The judiciary does not consider population standards accurate enough, insisting that there are variations in the amount of court workload which cannot be explained by population size. These variations can result from a number of factors including differences in local court procedures, the local attorney "culture", and tourism rates.

B. Caseload Measures

1. States With Judgeship Standards

a. Filing Standards Plus Balancing Test. Even a formal standard that sets the number of cases a judge can handle is rarely a rigid rule. Recognizing that the number is merely a mathematical tool, often without an empirical base, the courts are flexible about their application of the estimates. The standard may be modified, according to the intricacy of the method used, or overruled in special situations.

Maryland is a good example of a state that begins a judge need analysis by using a formal standard: 1,000 filings for non-urban or rural courts of general jurisdiction (three judges or less), 1,200 filings for urban courts, and 1,600 filings for Baltimore City. These numbers are divided into an estimate of filings for each jurisdiction to determine the number of judges needed. The forecast, for two years into the future, is produced through a linear regression analysis. The formula is supplemented by a balancing test, composed of predictive factors (filings, number of attorneys per judge, etc.) and performance factors (time involved to dispose of various types of cases, etc.). Jurisdictions are ranked according to the predictive and performance factors.

Even if the formula does not calculate a full-time additional judge, high rankings on either predictive or performance factors will signal the need for further investigation. The use of performance factors, in particular, which can indicate large numbers of time-consuming cases, recognizes the possibility of specialized situations. If need is substantiated, high rankings can override the formula.

Results of the statistical analysis are distributed to administrative judges in the state, allowing a 30-day response period. This review period permits judges to suggest other factors, characteristic to individual courts, which will be taken into consideration before the final decision is made.

b. Filing Standards From a Unit Cost Model. Colorado has set a standard of filings for judges and referees: 930 filings for urban and 775 for rural district courts; 4,065 for county courts with one judge or more and 2,860 for county courts with less than one judge. As far as could be determined, the unit cost methodology used to develop the standards is unique among state court systems. It was derived as follows:

First, the number of filings per judge in each trial court was obtained. Next, an average unit cost per termination for each court was calculated by dividing the court's total budget by the number of terminations. Analysis of the costs demonstrated that similarities were due to known differences in court size and operation, i.e., the four categories listed above.

A scattergram was created for each grouping, by plotting the distribution of the termination-cost values (Y axis) for successive judge/referee-filing values (X axis). The example in Appendix B shows clearly that productivity (measured by reduction in cost per case) increases as filings increase until a certain point is reached at which productivity will level off. It is assumed in the model that the leveling point represents maximum workload beyond which productivity cannot increase, thereby becoming the obvious judicial workload standard.

The model has been used in Colorado for the past two years. Its purpose was not primarily for judge need determination, but as a standard against which to evaluate alternatives for improving administration of the courts.

Lawson and Gletne, in Workload in the Courts,¹¹ provide an excellent evaluation of the model. They list as disadvantages the assumption

¹¹ Harry O. Lawson and Barbara Gletne, Workload Measures in the Court, A Monograph of the State Court Financing Project (National Center for State Courts, 1980).

that all judges handle all case types, the measurement of performance as it exists rather than what it should be, and the use of averages within a jurisdiction rather than specific performance of any given judge. In contrast, they focus on the model's advantages of low cost and simplicity of calculation. No special data collection is needed to supplement the filing, termination and cost data which most jurisdictions maintain. Although Colorado's graphs were computer generated, the data can be plotted manually very easily.

There is good reason to believe that Colorado's experience is not an anomaly. Its finding of a strong positive relationship between an increase in demand per judge and output per judge duplicates the results of Robert Gillespie obtained with data from U.S. District Courts.¹² Gillespie stresses the role of demand pressure, rather than economies of scale, in explaining the relationship. Two theories are postulated: 1) increase in caseload forces judges to increase case-related time, possibly even to the point of longer working days, or 2) heavy demand pressure encourages judges to use case-related time more productively.

One caution is in order. The model might not work as successfully in a state court system substantially funded by local governments. Since personnel costs are the bulk of a court's costs, differences between counties or cities in salary schedules might distort the relationship between termination cost and filings per judge. Other court expenditures might also make the costs impossible or difficult to compare.

Information provided by Arthur Young and Co. validates both the model and the caveat regarding its use.

In its study of trial court organization in California, the Arthur Young Company compared the cost per disposition in each county's Superior Court. Results showed that cost per disposition decreased as total dispositions increased (greater efficiency through larger volume) but only up to a certain point. The larger jurisdictions had a higher cost per disposition than many of the smaller jurisdictions. Further analysis of the data indicated, however, that the study was not able to validate this proposition about organizational efficiency. What happened in California was that the highest counties had courthouse buildings separate from other county offices, so that building expenses were included in those budgets and not in the budgets of smaller Superior Courts.¹³

¹² Robert W. Gillespie, "Economic Modeling of Court Services, Work Loads, and Productivity", Modeling the Criminal Justice System, Stuart S. Nagel, ed., (Sage Publications, 1977).

¹³ Cited by Baar, op. cit., p. 11.

For jurisdictions that can resolve the stated disadvantages and which wish to apply judgeship standards, the Cost Model offers an interesting method of calculating the workload standards.

c. Caseload Equation. A careful analysis of caseload factors was completed for Wisconsin's workload study. Although no formal standards were stated, the intention was to produce a formula which would duplicate at low cost and effort the results obtained previously by a costly weighted caseload study. Therefore, the calculations of the weighted caseload study became the implicit standards by which the success of the caseload equation was measured.

Some of the variables examined were: dispositions per judge by case type; filings per judge by case type; filings by case type in each county; pending cases by case type in each county; dispositions to filings by case type; trial rate by case type; and trials per disposition by case type in each county. After analysis of these variables, indications were that the most reliable method was the consideration of all case filings as well as contested dispositions during the year. Because Wisconsin does not routinely collect data on contested dispositions, an equation was developed from more easily obtainable data almost as powerful.

A multiple regression analysis was performed and a mathematical equation computed from felony, civil, divorce, and juvenile case data. As the researchers state:

This is not to say that the other cases do not affect judicial workload. It merely says that these four types of cases are most indicative of judicial workload and that the other matters tend to be highly related to these four. For example, the felony caseload is generally indicative of criminal caseload as a whole (i.e., felony, misdemeanor, traffic, and forfeiture). Counties with relatively high felony caseloads also have relatively high misdemeanor, traffic and forfeiture caseloads. Therefore, no additional accuracy is gained in the prediction of judicial manpower requirements by including these other matters.¹⁴

¹⁴ Resource Planning Corporation, *op. cit.*, p. E-1.

The mathematical equation developed is:

$$\text{No. of Judges} = .70 + .00049(X1) + .00027(X2) + .00120(X3) + .00097(X4)$$

where: X1 = annual felony dispositions and end pending filings
 X2 = annual civil dispositions and end pending filings
 X3 = annual divorce dispositions and end pending filings
 X4 = annual juvenile dispositions and end pending filings.

Because the equation, compared to the weighted caseload method, produces less accurate results in the state's larger counties, it was not considered to have enough precision to be used as a sole means of estimating judicial manpower. It is presented here as an example of how a multiple regression technique may be attempted if a court has access to automated statistical resources, caseload data, and some previously accepted judgeship standards by which to measure the success of the equation.

2. States With No Judgeship Standards

A majority of courts or state court systems use caseload measures, either solely or in conjunction with population factors, to demonstrate the need for additional judgeships. Even without an established standard, caseload analysis can distinguish the courts which are heavily overburdened and those at the other end of the scale.

a. The Court Profile. A good example of how a carefully selected group of caseload measures can be effective is Oregon's method. A statistical profile of each circuit court is contrasted with that of the circuit courts as a whole. In its 1980 circuit court review, the following data were enumerated:

1. Total number of judges
2. Total days of temporary help (retired judges, etc.)
3. Annual growth of total filings (five-year average)
4. 1980 growth rate of total filings
5. 1980 total number of filings
6. 1980 percent change in civil filings, over 1979
7. 1980 percent change in dissolution filings, over 1979
8. 1980 percent change in criminal filings, over 1979
9. 1980 number of cases filed per judge
10. 1980 number of cases terminated per judge
11. 1980 number of cases pending per judge
12. 1980 backlog in working days

The last statistic, "backlog in working days," is computed by taking the ratio of cases pending to cases terminated and multiplying it by the number of working days in a judge-year. The statistic provides the number of judge days required to eliminate the backlog of work. Although the statistic is a disposition rate, a type of efficiency measure, Oregon has adopted no pre-developed efficiency standards against which it is measured. Just a look at each court's profile in comparison with the state profile, particularly if presented in a matrix format, makes it easy to determine which courts are distinctly above the state averages. Taking a more scientific approach, the analyst also calculated Z-scores¹⁵ for the values in measures 3 through 12, providing a method of listing the courts according to the priority of need of judicial assistance.

b. Other Caseload Measures. Some states simply list filing, disposition and pending case counts per judge.¹⁶ Those which separate data by type of case categories (criminal, civil, juvenile, etc.) recognize the fact that there are substantial differences in the number of cases, consumption of judicial time, and priority demands of case types. It is rare to find further breakdowns than type of case. Only a small minority of the states collect statistics by sub-categories of case types, such as auto torts, contract, and property rights, within "civil".

In addition to the practically universal use of filing and disposition case counts, other variables used by analysts include type of disposition (number of jury trials, non-jury trials, etc.), time measurement (age of pending cases, percent of pending cases over one year, etc.), or trend information (growth of filings as a percentage of a base year, average yearly increase in backlog, etc.).

Techniques of comparison vary. All states use historical data, comparing the most recent year against the previous one or two, or making a graphic presentation of five or more years. A sizable number, but not a majority, of states do short-term forecasting.

There is little to be gained in listing a state-by-state account of specific caseload measures used. There are as many variations as there are analysts, and the choice is as dependent upon data availability and accuracy as on the persuasiveness of the various measures.

¹⁵The Z-score provides a statistical test of significance, whereby values are changed to standard scores, making it easier to accurately compare the various courts.

¹⁶No state provides actual number of cases per judge; all states use an average number, dividing total number of filings, etc. per circuit or court by the number of judges serving the circuit or court.

c. Case Weights. Pennsylvania has attempted to refine its gross caseload figures by applying weights to the various methods of case disposition, e.g., criminal jury trial, civil settlement, appeals. A panel of 24 Common Pleas judges assigned the weights, basing their estimates on a scale of one to ten, according to assumed degree of difficulty and complexity.

The weights are multiplied by each court's annual volume of disposition type, totalled, and then divided by the number of judges to produce the court's activity value. The weights are also used to provide a court's inventory value. To calculate the inventory value, the percentage distribution of disposition types is determined for each court, multiplied by the corresponding weights, and then applied to the coming year's total inventory of pending cases. The courts are then ranked according to their activity values and their inventory values.

Since the weights are not time differentials, the method is not the classic case weighting design, which requires workload measurement by units of time. No standards are employed, although a state mean (with standard deviation) and a median invite obvious comparison.

It should be noted, however, that the case weighting technique, as applied in Pennsylvania, suffers from a methodological error that affects its reliability. Judges were asked only to rank cases. By using the resulting ranking numbers as weights, what had been a mere estimate of relative time became translated into a statistic of absolute time. A Trial by Jury case, for instance, was defined as over seven times as complex as a Nolle Prosequi. Whether such is true is not known; it is doubtful, however, that all the judges understood this implication when doing their rankings. This problem can be avoided by those interested in a case weighting technique, by requesting the judicial estimates in increments of time rather than as rankings.

d. Informal Standards. Some states have no formal judgeship standards but have informal criteria that are used as indicators, rather than justification, of possible judge need. Utah uses a rule of thumb that if the number of cases exceeds 1,000 per judge per year in a general jurisdiction court, then the administrative office will consider temporary help for the judge. If the overload continues, investigation will be made into the need for an additional judgeship.

Coincidentally, a similar rule of thumb was used by Colorado in the early and mid-seventies, when it was observed that the number of pending cases and time to disposition increased when filings in urban courts of general jurisdiction exceeded 1,000 per year per judge. As previously noted, Colorado now uses a much more rigorous and sophisticated model which sets formal standards or performance goals.

An informal standard based on the time it takes for a case to reach disposition at trial is used by Hawaii. Notice is taken when civil calendars fall behind six months from statement of readiness to disposition in a Hawaiian court; if the time goes to nine months, the possibility of creating an additional judgeship is considered. Since criminal cases are given priority, the status of the civil calendar is related to the number (and the time it takes to dispose) of both criminal and civil cases. Civil time-to-trial statistics, therefore, are considered a good barometer of judgeship need.

3. Commentary

The advantage of using caseload statistics is self-evident; cases are the court's business. Since almost all courts collect gross statistics on case volume, the figures are readily available.

The National Court Statistics Project, conducted by National Center for State Courts, found that, in 1975, 43 of the 50 state administrative offices reported criminal and civil filings and dispositions, with about two-thirds reporting beginning or end of year pending.¹⁷ Since that time, states have improved data accuracy and increased the number of courts included in their caseload reporting systems. While all 50 states still do not publish statewide court statistics, caseload information can be obtained from the individual courts.

As has been indicated above, summary statistics are useful for a number of techniques which, combined, provide a description of court workload. They can be computed easily, at little expense. Using many variables, however, means a surfeit of data, which poses the problem of how to present them simply and convincingly.

A more common and compelling reason against the use of gross statistics is that they do not distinguish between the differences in judicial time that various cases can take. Lumping all types of cases together means that civil, criminal, and juvenile cases, for instance, are considered statistically equal. Even the separation by case type ignores the time and complication factors between, say, an uncontested dissolution and a contested custody case, or a wrongful death suit and a request for an injunction. Weights not derived from measurable workload units are little improvement, since they are unverifiable and open to methodological criticism.

¹⁷ U.S. Department of Justice, Law Enforcement Assistance Administration, State Court Caseload Statistics: The State of the Art, August 1978.

Judges, acutely aware of case time differentiation, tend to be dissatisfied with the results of simple caseload analysis, claiming that it cannot accurately delineate judicial workload. Legislators are more likely to point to the fact that the enumeration of caseload statistics describes a situation as it exists, not "how it should be," providing a measure of status rather than productivity. Judicial administrative offices are concerned that the method might reward inefficiency by recommending judicial assistance when technological or procedural solutions might be more effective.

C. Combined Measures - Caseload, Population, and Other Variables

1. States With Judgeship Standards

For years, the state of Iowa has used a judgeship formula combining both population and case filings to provide an even distribution of district court judges. As described in Manning's survey,¹⁸ Iowa's statutory formula provided two methods of calculating judgeships: 1) dividing a three-year average of filings by 550 filings per judge, if the district contained a major city of 50,000 or more, or by 450 filings per judge, if the district had no major city; and 2) dividing total population by 40,000 per judge. The two results were then averaged to provide a compromise figure.

The present formula, adopted in 1976, also uses two calculations: 1) dividing a three-year average of filings by the following numbers based on the population of the largest county in the election district, i.e.,

- a) 200,000 or more, one judge per 725 filings
- b) 85,000-199,999, one judge per 625 filings
- c) 45,000-84,999, one judge per 525 filings and
- d) 44,999 or less, one judge per 475 filings;

or 2) one judge for each 40,000 or major fraction of population of entire district. After both calculations are done, the largest number is selected.

Iowa had relative success with the formula until a statutory limitation of 92 judgeships, passed in the 1977 Iowa General Assembly, prohibited new judgeships despite the formula which indicates need for more. This is a prime example of the way financial and political considerations can override established standards, even those previously accepted by the legislature. In 1981, Iowa finally added three new judgeships by amending the statute to permit a maximum of ninety-five judges.

¹⁸ Manning, *op. cit.*, p. 10.

In 1975, in accord with the requirements of its new judicial article, Alabama's Supreme Court established criteria for determining the number and boundaries of judicial circuits and districts and the number of judges in each. They instituted as judgeship standards the state average in each of seven caseload and population measures:

1. population per judge
2. population density per circuit or district
3. square miles per judge
4. case filings per judge
5. case disposition per judge
6. cases pending per judge and
7. attorneys per judge.

Both the mean and the deviation from the mean is computed. In addition to the specified measures, the Court ordered that other factors "subjective or otherwise" might be considered.

2. States With No Judgeship Standards

There are a number of courts and state court systems that do not specify any single criterion as being the most important, but instead deem caseload, population and other factors as being equally of value in determining the need for additional judgeships.

Idaho, for instance, uses the number of practicing attorneys in the district, population, number of pending cases, number of case filings, number of dispositions by jurisdiction and by judge, the amount of travel time required per judge, the number of appeals filed from magistrate to district court, and the average disposition rate of judges in the district. The last measure is identical to Oregon's disposition rate, but it is calculated slightly differently: by dividing the total number of pending cases by the average monthly dispositions.

Both South Dakota and Florida add geographic size of the jurisdiction to the caseload and population factors they use. Even though South Dakota does not assign a mathematical weight to the number of juvenile petitions, contested matters, and trials, it considers these statistics particularly important because of the assumption that they involve longer time.

Many states make an attempt to look at structural and social variables, such as the existence or plans for new industry in a jurisdiction, the amount of time since new judgeships were created, the use of judge aid (referees, commissioners, senior judges, and pro tems), and the impact of recent legislation. Florida looks at the presence of a state institution within a jurisdiction and the effect of plea bargaining policies on the number of jury trials, as well.

3. Commentary

There is an important distinction between the consideration of population, caseload, and social factors for determination of judge need, and the presentation of a multitude of measures as justification for the decision. A conclusion that is the result of the converging of results from different measures is a powerful one. The difficulty is to present it so as to give an impression of careful scrutiny and overwhelming proof. Too often, using many variables depicts a covering-all-bases approach, defeating its purpose with too much information which bores or confuses the reader or listener.

Where possible, statistical analysis to determine high relationships between variables can help to prevent redundancy. Visual presentation techniques such as graphs, bar charts, maps, and tables are excellent ways to summarize data. The essential point is not to avoid using a variety of measures, but to choose them discriminately and to present them simply and effectively.

D. Weighted Caseload Formulae

The caseload measures discussed previously equate filing or disposition totals with workload; little or no statistical recognition is made of the fact that certain cases take more time than others. Giving equal weight to all kinds of cases has been criticized as an assumption that results in inaccurate estimates of judicial need. The charge has led to a method which assigns different weights according to the amount of judicial time required to dispose of various types of court cases.

The technique of using case weights for calculating judicial need was pioneered by the federal court system as far back as the late forties. In the sixties, the California Administrative Office of the Courts (AOC) commenced the development of a weighted caseload system, in response to a legislative request for a dependable way to assess new judicial position bills. The first, and for about ten years the only, state to use a weighted caseload system, California refined its original efforts through a judicial time study conducted in 1971 by the consulting firm of Arthur Young.

That 1971 design has become something of a classic. Through subsequent updates and changes, it has maintained the following procedural framework: 1) average judicial times necessary to process cases to disposition are determined; 2) filing volumes in each case category are multiplied by the corresponding time values and totalled to provide a workload value; 3) a judge year value, the amount of time an average judge can spend on case disposition, is determined; and 4) the workload value is then divided by the judge year value to determine the number of judges required.

In the past five years, eight other states have used weighted caseload systems to help determine judge need. (Two additional states, Kentucky and Florida, developed case weights, but quickly abandoned them.) The classic model was used in conjunction with time studies for Washington and Virginia in 1977. New Jersey and Alaska developed caseload weights by using established recording procedures within their respective courts. New Jersey used its case reporting system; Alaska used log notes from court tape recorders. Georgia and Louisiana obtained case weights by substituting judge estimates for actual measurements of time (the Delphi method). Both Minnesota and Wisconsin made time studies in 1980, with approval of weights in March, 1981.

Variations in the size and selection of the sample, the number of categories, and the method of determining case weights or calculating available judge time have not altered the basic concept of accounting mathematically for differences in the time it takes to dispose of cases. Because the distinctions in methodology are of interest to those considering the use of caseload weights, they are explained and contrasted below.

1. The California Model

In the early years, 1963 to 1967, California based its weights on expert estimates of trial time. In 1967, the first time measurements were taken. The 1971 study, and the 1973 update, both financed by large federal grants, were extensive efforts that measured case-related activities within case type, e.g., motions, hearings, calendar calls. The average time per activity was first multiplied by the frequency of that activity, with all activity results then totalled to provide a filing weight per type of case.

The 1971 study measured bench activities only; the 1973 study measured bench and chamber activities. Together, they became the classic model for weighted caseload studies. Separate weights were calculated for Los Angeles and for the rest of the state. There was one judge year value for all municipal courts; however, different superior court judge year values were used, depending on court size. Court size was differentiated as follows: 1-2 judges, 3-10 judges, and 11 or more judges.

Case-related indicators are numerous, to say the least, in the classic model, with 36 activities, 29 workload measures, and ten case types used for municipal court; and with 64 activities, 76 workload measures, and 11 case types used for superior court (see Appendix C.) The magnitude of this information gathering could not be duplicated by in-house resources. When, in 1976 and 1977, updates were made by the AOC, the staff greatly simplified the survey. The resulting case weights and judge year values were accepted by the Judicial Council and are currently being used for judgeship need calculations.

In 1979, the AOC again conducted a superior court survey with a still further simplified form. In the modified California model, all time spent on each of 12 types of cases is reported (not counted by activity), plus time spent on five categories of non-case activities (see Appendix D). The staff of the AOC believes it is unnecessary to measure each court activity in order to develop meaningful weights.

The Judicial Council has not yet approved the weights and judge year values developed in 1979. Criticism directed against the system culminated in the naming of a special committee of judges, charged with the evaluation of both the concept and methodology. Results of committee deliberations are not available; a published report is expected in early 1982.

In its 14 years of using some kind of weighted caseload system, California has been remarkably successful in obtaining the judges it felt were needed. In more recent years, complaints about the model have come, not from the legislature, but from the executive and judicial branches. The Governor's office has called for more emphasis on efficiency, and some judges have questioned both the concept and the method of determining the judge year value.

2. Washington and Virginia

In 1977, NCSC conducted separate weighted caseload studies in Washington and Virginia. Both were similar in design, close copies of California's detailed measurement of activity.

In Washington, all judges were invited to participate. Fully 90 percent of superior court and over 60 percent of district court judges complied. Even with these high percentages, not enough data were available in all activity categories to develop statistically reliable weights. Consequently, a more simplified approach, akin to California's more recent surveys, was used.

Bench and non-bench time was gathered for 13 superior court case types, six district court case types, and five categories for non-case related time (see Appendix E). Analysis of the data revealed that judge year values for superior court had to be calculated separately according to size of court and amount of travel, distinguished by authorized judicial positions of 1-2, 3-5, or 6 or more, and single or multi-county courts. District court judge year values are different for courts with 1-2 or 3-5 judges.

The different judge year values reflect a finding that the smaller the court the less time available for case related activities, and the higher percent of time allocated to court administration, general legal research, workshops, etc. The finding replicates California's experience, evident in courts of both general and limited jurisdiction.

Both Virginia and Washington realize that their case weights need updating and use other caseload measures to supplement estimates made through the weighted approach. Although still in the discussion stage, Washington hopes to update its study soon to include possible methodological adaptations which would take into account the dynamic nature of court workload.

3. New Jersey and Alaska

It was not necessary to design expensive time studies for Alaska and New Jersey to develop case weights. Each took advantage of previously established procedures in operation within the courts to obtain information on judge time.

For years, New Jersey has required its judges to report weekly the number of hours spent on cases, by type. From these reports and weekly counts of dispositions, simple case weights representing the average number of hours per disposition were determined.

Unlike the other systems described, a judge year value is not calculated to use as a denominator in an equation. Instead, available judge time is incorporated into the calculation of a case disposition standard. All divisions, regardless of trial court level, are expected to dispose of 1,150 weighted cases per judge per year.

In Alaska, the state uses tape recorders in all its courts to record official courtroom business. Tapes include log notes of the exact time each court session begins and ends, the purpose of the session, and the type of case. Information on judicial benchtime is captured automatically.

Using the raw data from two of its courts, Alaska has been able to calculate the case weights and judge year values that it applies to all its courts. The weights are updated every two years or so.

4. Wisconsin and Minnesota

In 1977, court reorganization in two mid-western states became the impetus for weighted caseload studies. In Wisconsin, the difficulty of allocating judges without reliable workload data was soon apparent to the legislature, and it embarked on a joint effort with the judiciary to obtain the workload figures. In Minnesota, the state office was faced with statutory mandates to divide the workload equitably, and the need to convince the legislature that it lacked the judicial manpower to carry these mandates out.

A constitutional amendment approved by the Wisconsin voters in 1977, followed by implementing legislation, merged circuit and county courts into a single level trial court. The new circuit courts, one to each county (with three exceptions of one court to two counties) were organized into ten districts. Judicial allocations in 1978 were based primarily on population, with each district assigned approximately one judge for each 25,000 residents. The chief judge of each district was given authority to assign judges within the district wherever needed.

A weighted caseload study was authorized by the legislature, with the expectation that a statutory formula would be recommended for the creation and elimination of courts, and to use for direction in budgetary matters. The study was overseen by the Legislative Council's Committee on Courts with a grant from the Law Enforcement Assistance Administration (LEAA) and contracted to RPC.

Using the classic model, time data were collected on 21 activity variables, as well as 11 case types (see Appendix F). Since the legislature had decided that, regardless of workload, almost every county should have at least one judge, the workload survey was limited to multi-judge courts.

One of the strongest arguments against weighted caseload systems is that they are based on averages, thereby allowing time measurements based on possible inefficiencies to potentially bias the weights. To counteract that problem, the ten most efficient courts were selected, as determined by shortest case processing time from filing to disposition. Choosing courts with over-average disposition times was designed to build-in an efficiency standard by which all courts would be measured. An eleventh court, in Milwaukee, was added. Because of its large size and unique operating structure, separate case weights and a separate judge year value were calculated for Milwaukee county.

Minnesota's Court Reorganization Act of 1977 mandated courts of maximum efficiency, with authority to the Chief Justice to manage the workload so it could be equitably distributed. The State Court Administrator was made responsible for recommending assignment of judges to courts in need of assistance. These mandates require judges sufficient in number and location to meet workload demands. Because the legislature had been reluctant over the past decade to create additional judgeships despite claims of increasing caseloads, accurate and persuasive information was vital.

The State Court Administrator used LEAA financial assistance to hire a project manager and two research analysts to conduct an in-house study. In the most comprehensive sample survey to date, fully 98 percent of all judges and parajudicial personnel logged their time daily for 15 weeks. Caseweights were calculated for 30 case-type categories, for both district and county/municipal courts (see Appendix G). Because

of jurisdictional differences, an adequate sample of certain types of civil cases was not available in county/municipal courts, resulting in a general civil weight for those courts. Jurisdictional differences were also discovered in the criminal/traffic/parking category. Five urban counties had such a high ratio of parking cases, which take very little court time, that a much smaller weight was computed for those courts, as compared to the county/municipal courts in the rest of the state.

The amount of time available for non-case related work was found to vary according to amount of the caseload and case demand, and according to type of court organization. For county/municipal courts, the types of organization were classified as follows: multiple judge, single county; multiple judge, multiple county; and single judge, single county. In district courts, they are: multiple judge, single county; and multiple judge, multiple county.

Different judge year values were calculated for each of the five types, based both on empirical data and a policy decision by the 1978 State Conference of Judges and Administrators as to the time a judge should have available for case-related and non-case-related work.

5. The Delphi Technique

One of the biggest drawbacks of the weighted caseload system is its expense. To capture enough data to be statistically reliable, both the number of judges and the number of reporting days must be large. Most of the studies that used the classic model collected at least two months of data, but took about a year for design, collection, analysis, recommendations, and reports to be completed.

To solve the time and cost problem, some states chose to have time dimensions estimated by a panel of judges, permitting the endeavor to be supervised in-house with existing staff. Louisiana and Georgia have developed case weights in this manner, adopting a technique known as the Delphi Method, developed by the Rand Corporation, to reach a group consensus from a panel of experts.

The basic technique is this: a panel of judges, representative of courts handling specific types of cases, is invited to participate. Separately, each judge completes a form, estimating the actual or relative amount of time certain judicial activities or cases take. The estimates are totalled and averaged.

A second survey instrument, on which are printed the averages for each category, is then sent to the same judges. Respondents are asked to repeat their estimates, readjusting the times as they feel appropriate. The rounds are repeated until a general consensus (measured by a mathematical proof of reliability) on each variable is reached. Judicial agreement on case time is usually so close that two or three rounds are the norm. The agreed-upon time estimates become the caseweights. The panel usually decides on a judge year value as well, although not necessarily through the same method.

In both Louisiana and Georgia, judge dissatisfaction with the typical caseload measures prompted Judicial Councils to authorize caseweighting studies. The methodologies of the two states differ slightly. Louisiana's is the simplest, utilizing a 20-person committee of judges selected carefully on the basis of experience and representativeness. Judges are asked to weight district court case types by estimating the relative percentage of time each case type takes for disposition.

Georgia invited statewide participation from its superior court judges and received a response of about 65 percent. The weights were median estimates expressed in hours (or fractions thereof) for dispositions by type of case and disposition method (see Appendix H).

Both states report general legislative and judicial satisfaction with the workload system, exemplified by relative success in obtaining new judgeships. Updates are easy to do, usually made on an annual basis.

6. Commentary

Because of the use of time measurement of judicial activities, case weighting formulae appear to be the most accurate, quantitative method available to date of estimating judgeship needs. If the design includes a valid sample, clear definitions, instructions, and training, and good data monitoring, reliable measures should result. A big advantage is that the weights serve many other purposes besides the determination of judge need. They provide a resource for forecasting the impact of proposed legislation and evaluating the impact of new legislation and efficiency procedures. They improve court administration by aiding the Chief Justice in assigning less busy judges to help reduce backlogs in other courts, by helping presiding judges make assignments to different divisions, and by alerting some courts to technical or procedural efficiencies in other jurisdictions.

The most obvious disadvantage of this methodology is the high cost of obtaining data. One hundred thousand dollars is not an uncommon cost for such a study, not including the hidden cost of judge and clerk time filling out timesheets. All states which have completed these studies have done so with the assistance of LEAA grants. The amount of judge effort that is required should not be underestimated; the study burdens the very people whom it is designed to assist.

The time and money outlay is very expensive for data that becomes outdated quickly. It should be noted, however, that once the first study has been done, computer programs written and in-house staff trained, updates can be done at very reduced cost. It is estimated that updating can be done every two years for the cost of the printed forms.

and computer runs, two months of minimal record-keeping by a sample group of judges and clerks, and approximately four months of part-time work by two people: one analyst to supervise, and one clerical person to check and enter the data. Some states could provide these resources within their regular budgets.

One large problem with a weighted caseload study is that it is merely a sophisticated tool for estimating judgepower. Unfortunately, judges and legislators often get the impression that it is a magic formula. Having faithfully performed the tedious task of recording their worktime, judges are disappointed to find that the so-called scientific method is just another imperfect measure, which fits some courts better than others, and averages out the very differences they hoped would be highlighted. The larger the sample and the amount of data, the closer to a normal curve the results will be. What occurs is a smoothing-out effect that fails to discern smaller but possibly important differences and emphasizes the extremes at each end of the bell-shaped curve.

Some of the problems can be mitigated. The sample courts can be selectively, rather than randomly, chosen to build-in efficiency standards, as was attempted in Wisconsin, or to eliminate courts where intensive efforts to clear backlogs are distorting the usual work pattern. Differences among courts can be handled by separate weights and judge year values. Judge participation at all levels can prevent unrealistic expectations on their part.

The Delphi process has the great advantage of being economical and capable of providing caseweights within a relatively short time. It can be accomplished without extensive consultant help and with in-house staff. One of its biggest assets is the acceptance, even enthusiastic defense, it has received from judges who feel a strong sense of proprietorship because of their participation in its development.

One drawback to this technique, however, may be the uncertainty of acceptance by the funding body. Since the case weights are not objective time measurements but represent rather, judicial opinion, they may be suspected of being self-serving. A large sample of opinion and validation through short time studies can help alleviate acceptance problems.

CHAPTER IV

Deciding What Method Fits

The previous chapter has listed various methods of measuring judge workload and determining judge need with those states using them. There is no agreement as to any one 'best' method, from the standpoint of successfully obtaining the number of judgeships a system needs to handle cases efficiently.

Choosing which measure(s) to use is a matter of considering a number of environmental factors, while keeping in mind that the goal is to have the most credible judge workload estimates one needs and can afford. These factors are listed below. They are not in any particular order, because their relative importance depends on circumstances in the jurisdiction at the time of decision. They include:

- 1) The Political Climate - relations between the judicial, legislative and executive branches;
- 2) The Funding Body - its operating mode, requirements for documentation, etc.;
- 3) The Court System - the type of structure, the expectations and interest of the judiciary, etc.;
- 4) The Resources - realistically, what time, funds and expertise are available;
- 5) The Caseload Information System - the extent of its accuracy, uniformity and completeness; and
- 6) The Objective - the purpose of the endeavor (specific? multi-purpose? prescriptive? validating?, etc.).

A court or court system can describe its situation at any point in time by assessing these factors. Using the general guidelines of credibility (how believable will it be?), need (how necessary is it?), and cost (how expensive will it be?), the selection of appropriate workload measures can be made for specific jurisdictions. The local condition almost dictates the decision. To illustrate how situational elements can influence choice of methodology, more detailed discussion of the situational factors follows.

A. The Political Climate

A variety of historical, structural and political factors can affect judicial relationships with the other branches of government. Such elements as a tradition of cooperation, the method of judicial selection (elected or appointed), the number of personal friendships or political alliances ... these are but a few. How the branch that controls the amount of appropriations views the judiciary influences the choice of strategy to be used.

This is not to suggest that the court system that enjoys good relations with the funding agency will get its requests filled without proof of need. Evidence of need is required even when decisions are made on grounds primarily political, rather than rational; however, the proof to justify a potentially favorable decision need not be as rigorous and detailed as that which attempts to reverse opinion. Arguments must be compelling to sway a legislator predisposed to be negative.

As an example, it would seem a waste of money for a court system to embark upon an expensive weighted caseload study if judgeships have always been granted upon presentation of less costly workload measures. As Baar points out, in some states, trust replaces hard data in exchanges between the branches. In contrast, where a reverse situation prevails, describing the lack of judicial resources through a costly time study may be money well spent, if it is the only way to convince critical legislators.

The political climate must be assessed carefully. The level of sophistication for justifying judgeships may be irrelevant in states where legislators are seeking to create judgeships for themselves or as political favors. South Carolina and Oregon are examples of states where decisions to create judgeships ignored both revenue problems and judicial department recommendations.

B. The Funding Body

One of the most important considerations in making a decision about the method of determining judgeship needs is the pattern established by the funding body as to the amount of information it expects of the judiciary. Baar offers an interesting analysis of legislative-judicial interaction. He presents different models of legislative response to judicial budget requests, dependent upon the political climate of cooperation or conflict existing in the jurisdiction, and the amount of information possessed or requested by the legislature.

California is the prime example of a legislature supportive of the judiciary in its requests for state funds, but only after reviewing detailed justification. A specialized and sophisticated legislative staff demand that quantitative data support requests for funds. It is no accident that a state judicial weighted caseload system first emerged in California. The reason for its success must be viewed in its political context. Besides satisfying the demand for hard data, it is presented to a generally sympathetic legislature by Judicial Council staff who are highly skilled in dealing with the legislators and their staff. Baar names Ohio as the example of a state that generally supports judicial budget requests, but does not require extensive justification. Others might include Florida, Missouri and South Carolina.

Colorado is named as the example of a state where high levels of quantitative information are demanded by a legislature generally resistant to judicial system requests. In the past, Colorado had been successful in its bids for judgeships, but it had been accomplished with ever-increasing sophistication of judge-needs documentation. More recently, new judgeships have been refused. Judiciaries that face suspicious legislatures find that methods accepted one year may not be approved the next. Such funding bodies continue to apply pressure for even more quality and detailed information.

Baar discusses states in which the judicial system faces a critical legislature which lacks a high level of information about judicial requests. Some of these he names, such as Oregon and Missouri, seem to be working in a less adversarial atmosphere today than was true in 1971. This exemplifies the dynamic nature of legislative-judicial relations. Not only do alliances change with every election and retirement, but accelerating expenses unmatched by tax income have made funding agencies revise their mode of operation. Not only state, but city and county, agencies have become more insistent on justification. This is particularly true where they are aware that new court information systems have been installed, some with the financial aid of the funding source.

Although most of Baar's analysis concerns relations between state legislatures and state court systems, the models could apply equally well to individual courts and local funding agencies.

C. The Court System

The structure of the court system may make some measures more appropriate than others. A court system that has been state funded for a number of years is more likely to have established uniformity in staffing, procedures, and equipment than one which has just recently undergone reorganization, or another that is substantially locally funded. Colorado's Judicial Cost Model, used to calculate its caseload standards, may not work well in the latter two cases.

Other elements to pay attention to include: the amount of variation or uniformity in court size, jurisdiction levels, the relative urbanity of its locations, and the economic and social variables in the populations it serves.

Gauging the judicial reaction to specific methodologies requires an appraisal of the level of dissatisfaction with present methods and the degree of willingness to be involved in creating new ones. Any method of determining judicial needs must not only be credible to the funding source, but it also must satisfy the judiciary. This is often difficult; people trained to make careful decisions on a case-by-case basis by weighing evidence according to broad guidelines frequently are not comfortable with mathematical averages or standards of productivity. Yet the subject is of importance to judges. The more involvement they have in determining the methodology to be used, or in specifying the weights that determine a weighted caseload formula, the more satisfied they will be with the results.

D. The Resources

A methodology decision must be the result of a careful balancing of the costs against resources. All the methods listed in the previous chapter require a bare minimum of one person with analytical skills. Statistical expertise is valuable, for engendering even the simplest caseload models and critical for the more complex caseweighting surveys.

Weighted caseload formulae are expensive, particularly if time studies are involved, requiring the cooperation of judges and their staffs, plus the manipulation of large amounts of data. Some states have done these studies in-house with staff from the administrative office; others have found it expedient to use consulting firms.

Availability of a computer with statistical software capability is a requirement for some methods and an asset for others. With the advent of minicomputers and programmable calculators, even small court systems and medium-sized courts can afford this resource. The big difficulty is freeing the time of a regular staff person who has the expertise to work with the data.

If no one is available to do statistical analysis, it is not an insurmountable problem. A simple caseload profile can be done by a clerical worker supervised by a court administrator or administrative judge. Presentation of such data in an easy-to-read tabular format involves only the use of a simple calculator and the availability of the data.

As an aid to those who must estimate resource requirements, the method descriptions in Chapter III include references to costs and an indication of the relative simplicity or complexity of the various method types.

E. The Caseload Information System

In the zeal to make the right choice of measures for determining judge needs, it is easy to overlook what should be the first requirement: the accuracy of the regular statistical reporting system. Whether one uses simple caseload counts or a weighted caseload system, if the reporting is not consistent and complete, the results will be poor. This is true whether reporting is done manually or entered on a terminal. Constant monitoring is essential to assure that neither carelessness nor different interpretations of instructions are causing errors.

A comprehensive statistical reporting system will influence the choice of methodology. While a wide availability of data presents more options, the accuracy of any method is dependent upon the accuracy and uniformity of the data input.

F. The Objective

The weighted caseload system is a good example of one type of measurement system which satisfies somewhat different objectives. In California, the study was designed for one purpose only, to give the legislative and executive branches information upon which to evaluate the merits of judgeship bills submitted by state representatives. In Wisconsin, the purpose was to provide information for the fair allocation of judges. The intent there was prescriptive, not reactive.

Because assignment of judges is one of the goals of Wisconsin's workload study results, reliance on one method is far riskier than it would be for California. Therefore, Wisconsin's objective dictated development of caseload and population formulae in addition to the weighted caseload system.

Colorado's cost model, on the other hand, is the outcome of plans for a revised management and budget system which would establish workload and performance standards. Oregon's purpose in developing its court profiles was to satisfy the legislature's requirement for a priority list of courts needing additional judges.

Knowing the primary objective of the workload measures, together with any other possible uses, will help narrow the choice of which methodology to adopt.

G. Summary

Six general factors have been suggested for making an analysis of the environment surrounding any individual court or court system. The analysis should provide information necessary for deciding what measures to use for the evaluation of judge needs.

During the deliberations, it should be remembered that no perfect formula has yet been designed that will precisely define judgeship needs. Rather, the selection is that of tools to assist decision-makers in their deliberations, to prevent them from error. Measures of judicial need are merely indicators which predict with a high degree of probability that certain courts need judge assistance and others do not. However accurate they appear, they need to be validated by other, more subjective, narrative testimony that will add color to the stark black and white of the numbers.

CHAPTER V

SUMMARY

Interest in methods of determining and justifying new judgeships has increased in recent years. This is a result, primarily, of two factors: 1) the rising expectations among legislators that court reform would bring about equitable and efficient allocation of judges, and 2) state budget tightening that is causing close scrutiny of proposed expenditures.

An investigation of the 50 states indicates that the sophistication and the amount of information documenting judgeship needs has increased over the past decade. Nevertheless, officials in most states feel that creation of new judgeships depends as much on political factors as on documentation.

The majority of states have not established judgeship standards, that is, officially adopted measures by which judgeship needs can be determined, such as the number of filings or size of population per judge. Of the fourteen states which have, nine of them have adopted weighted caseload formulae. Of the states that have not adopted judgeship standards, approximately half use caseload variables primarily; and the other half use population and other factors which they feel are of equal importance to caseload measures.

Most states, even those that feature weighted caseload formulae, use multiple measures. While caseload factors are universally used, social and economic variables are often examined, and validation techniques are employed. There is no obvious trend toward any single criterion of determining judge need.

With the recognition that there is no one best or popular method, the choice of measures becomes a matter of selecting the most credible judge workload estimates one needs and can afford. A court or court system can choose the method that fits its own condition best by assessing a number of environmental factors including the requirements of the funding body and the availability of resources. Analysis of such issues is a necessary prerequisite to the selection of workload measures that will produce accurate and convincing estimates of judgeship need.

IDAHO	Kit Furry, Staff Attorney and Judicial Education Officer, Administrative Office of the Courts.
ILLINOIS	Roy Gulley, Director, Administrative Office of the Courts.
INDIANA	Lillian Judson, Assistant State Court Administrator.
IOWA	Jerry Beatty, Deputy State Court Administrator.
KANSAS	R. G. Henley, Trial Court Specialist, State Judicial Administrator's Office.
KENTUCKY	Charles Cole, Director, Administrative Office of the Courts.
LOUISIANA	Eugene Murret, State Judicial Administrator, and Hugh Collins, Deputy State Judicial Administrator.
MAINE	Dana R. Bagget, State Court Administrator.
MARYLAND	William Atkins, State Court Administrator.
MASSACHUSETTS	Henry Barr, Executive Secretary, Trial Courts of Massachusetts.
MICHIGAN	Doris Jarrell, Director of Information Services, State Court Administrator's Office.
MINNESOTA	Lawrence C. Harmon, State Court Administrator. Also, Information Systems Office, State Court Administrator, <u>1980 Minnesota Weighted Caseload Analysis, March 16, 1981.</u>
MISSISSIPPI	Martin McClendon, Executive Assistant, Supreme Court.
MISSOURI	Jane Hess, State Courts Administrator.
MONTANA	Michael Abley, State Court Administrator.
NEBRASKA	Joseph Steele, State Court Administrator.
NEVADA	Michael Brown, Director, Administrative Office of the Courts.
NEW HAMPSHIRE	Jeffrey Leidinger, Director of Administrative Services, Supreme Court.

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HAWAII Lester Cingcade, Administrative Director of the Courts.

NEW JERSEY Alan Campi, Chief of Statistics, Administrative Office of the Courts.

NEW MEXICO Edward J. Baca, Director, Administrative Office of the Courts.

NEW YORK Frederick Miller, Legislative Analyst, Office of Court Administration.

NORTH CAROLINA Dallas Cameron, Assistant Director, Administrative Office of the Courts and Administrative Assistant to the Chief Justice.

NORTH DAKOTA Larry Spears, Deputy State Court Administrator.

OHIO Coit Gilbert, Administrative Director of the Courts.

OREGON Elizabeth Belshaw, State Court Administrator, and Douglas Bray, Administrative Analyst, State Court Administrator's Office. Also, unpublished document prepared by Douglas Bray, updated.

PENNSYLVANIA Douglas C. Dodge, Director of Planning and Development, Administrative Office of the Courts.

RHODE ISLAND Walter Kane, State Court Administrator.

SOUTH CAROLINA L. Edmund Atwater, Director, Court Administration. Also, Memorandum from Andy Surles, Assistant Director, to Chief Justice J. Woodrow Lewis and L. Edmund Atwater, September 29, 1978.

SOUTH DAKOTA Mark G. Geddes, State Court Administrator.

TENNESSEE Juanita Boyce, Administrative Assistant to the Executive Secretary, Supreme Court.

TEXAS C. Ray Judice, Administrative Director of the Courts.

UTAH Richard Peay, State Court Administrator.

VERMONT Michael Krell, State Court Administrator.

VIRGINIA Robert N. Baldwin, Executive Secretary, Supreme Court. National Center for State Courts, Virginia Circuit Court Caseload Reporting Study, 1977. Also, Lawyers' Interview Guide, Judges' Interview Guide, and Clerks' Interview Guide.

WASHINGTON

Bruce Freeland, Chief of Statistics and Analysis,
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WEST VIRGINIA

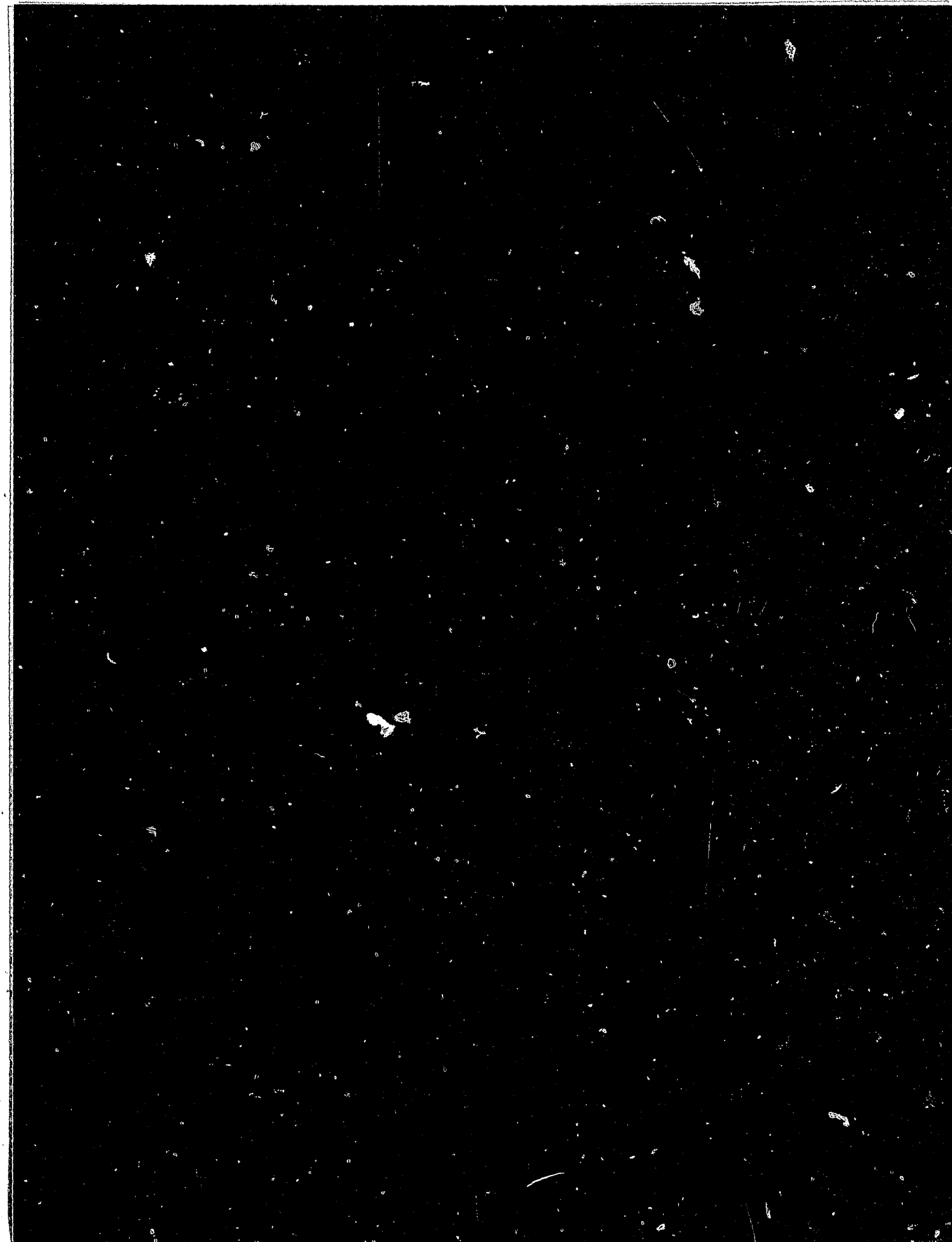
Paul Crabtree, Administrative Director of the
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WISCONSIN

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WYOMING

Theodore J. Fetter, State Court Administrator.



APPENDIX A

**Estimates of Required Judgeships
For Wisconsin Through
Three Different Methods**

ESTIMATES OF REQUIRED JUDGESHIPS FOR WISCONSIN THROUGH THREE DIFFERENT METHODS

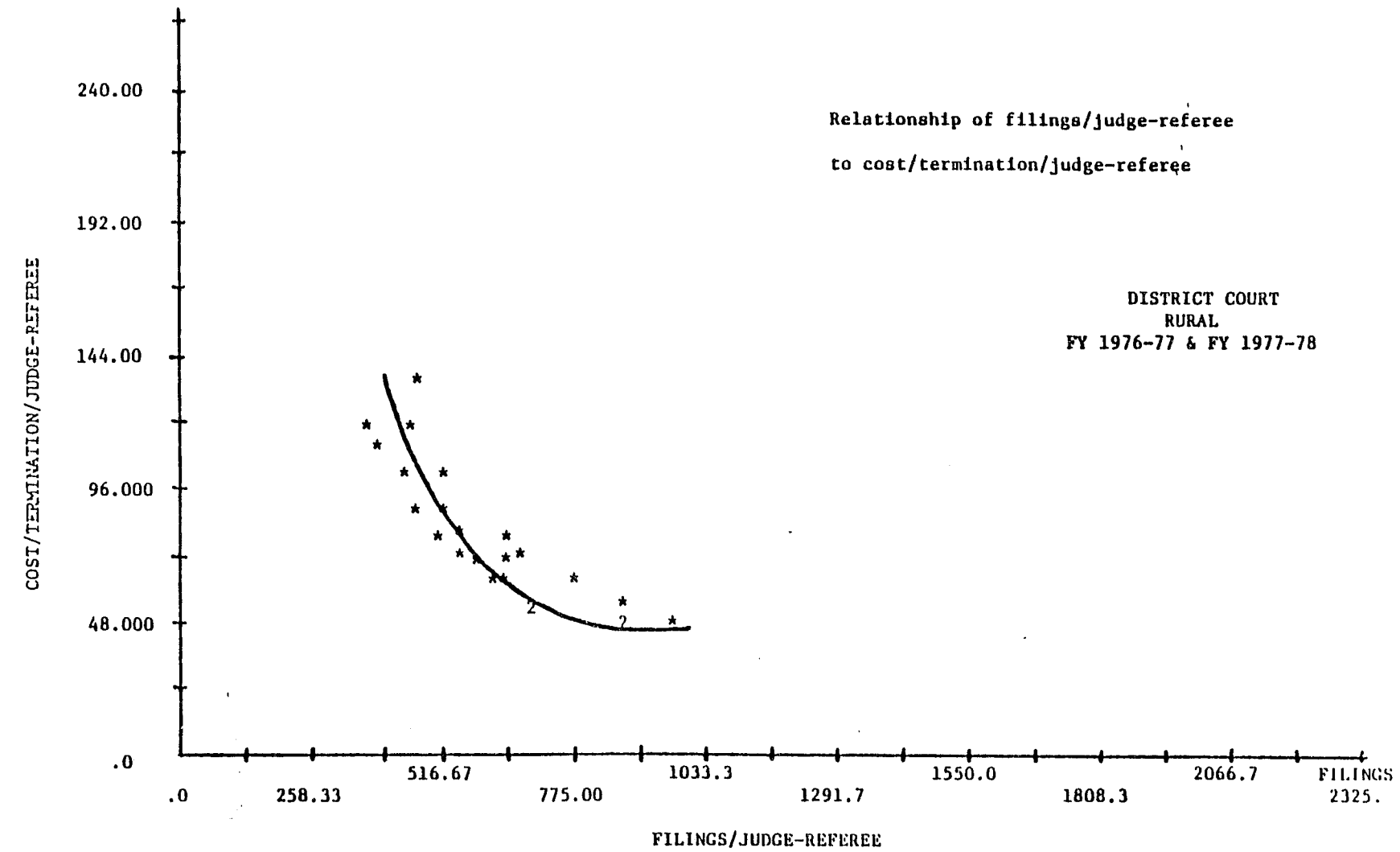
Counties	1978 No. of Judges	Case Weights	Caseload Formula	Population Formula	Counties	1978 No. of Judges	Case Weights	Caseload Formula	Population Formula
Adams	1	.6	1.0	.77	Marathon	3	3.3	3.3	3.8
Ashland	1	.5	1.1	1.01	Marquette	2	1.1	1.8	1.6
Barron	1	1.0	1.4	1.57	Marquette	1	.4	.96	.74
Bayfield	1	.4	1.0	.83	Milwaukee	33	35.8	29.9	35.4
Brown	7	5.4	6.1	6.04	Monroe	1	.4	1.1	1.5
Buffalo	.5	.3	.94	.91	Oconto	1	.6	1.3	1.3
Burnett	1	.6	1.0	.82	Oneida	1	1.3	1.7	1.2
Calumet	1	.6	1.1	1.37	Outagamie	4	3.8	3.2	4.5
Chippewa	2	1.6	1.8	2.02	Ozaukee	2	2.1	1.9	2.2
Clark	2	.5	1.2	1.51	Pepin	.5	.2	.8	.69
Columbia	3	1.0	1.4	1.8	Pierce	1	.8	1.1	1.3
Crawford	1	.5	.98	.96	Polk	1	1.0	1.3	1.3
Dane	10	16.8	11.8	10.8	Portage	2	1.5	1.9	2.0
Dodge	3	2.0	2.3	2.7	Price	1	.4	.98	.93
Door	1	.9	1.4	1.1	Racine	8	7.6	7.5	6.0
Douglas	3	2.3	2.9	1.9	Richland	1	.5	1.2	1.0
Dunn	1	.9	1.4	1.4	Rock	5	6.2	6.3	4.9
Eau Claire	3	3.3	2.6	2.7	Rusk	1	.5	1.0	.95
Florence	.5	.1	.81	.57	St. Croix	2	1.2	1.7	1.6
Fond du Lac	4	3.6	3.1	3.3	Sauk	2	1.4	1.6	1.7
Forrest	.5	.3	.9	.74	Sawyer	1	.4	1.0	.82
Grant	2	1.3	2.0	2.1	Shawano/Menom.	2	1.3	1.5	1.5
Green	1	.9	1.1	1.3	Sheboygan	3	3.3	3.1	3.7
Greenlake	1	.6	1.0	1.0	Taylor	1	.4	.93	1.0
Iowa	1	.4	1.1	1.1	Trempealeau	1	.7	1.1	1.2
Iron	1	.2	.82	.69	Vernon	1	.6	1.1	1.2
Jackson	1	.5	1.05	.96	Vilas	1	.7	1.1	.82
Jefferson	2	1.9	2.2	2.4	Walworth	3	3.1	3.4	2.7
Juneau	1	.7	1.1	1.0	Washburn	1	.6	1.1	.81
Kenosha	5	5.6	6.2	4.4	Washington	3	2.5	2.4	2.5
Kewaunee	1	.2	.87	1.1	Waukesha	7	9.0	7.2	7.9
Lacrosse	3	3.2	2.9	3.1	Waupaca	2	1.1	1.5	1.7
Lafayette	1	.3	.91	1.0	Waushara	1	.4	1.0	.93
Langlade	1	.7	1.3	1.1	Winnebago	5	3.4	3.7	4.7
Lincoln	1	.9	1.3	1.2	Wood	2	2.3	2.4	2.6
Manitowoc	3	1.9	2.3	3.1					

Source: Resource Planning Corporation, A Study of the Judicial Workload in Wisconsin Circuit Courts and the Manner of Collecting, Reporting, and Analyzing Workload Statistics of the Circuit Courts: Final Report, March 7, 1980.

APPENDIX B

**Scatterplot Showing Relationship of
Filings/Judge-Referee to
Cost/Termination/Judge-Referee
For Colorado Rural District Courts**

SCATTER PLOT STRAT=DISTRICT:3,5-7,9,11-16,22
N = 24 OUT OF 24 41.JR\$/C VS. 5. FILE/JR



Colorado Judicial Department
State Court Administrator
10/15/78

APPENDIX C

**Activity and Case Types and
Workload Indicators Used in
California's 1973
Weighted Caseload Study of
Superior and Municipal Courts**

California's 1973 Weighted Caseload Study

SUPERIOR COURT CASE TYPES

- Criminal
- Juvenile Delinquency
- Juvenile Dependency
- Mental Health
- Family Law
- Probate
- Personal Injury, Death and Property Damage
- Eminent Domain
- Civil Complaints
- Civil Petitions
- Appeals

SUPERIOR COURT ACTIVITIES
JUDICIAL WEIGHTED CASELOAD STUDY

Criminal

001 Arraignment, Plea, Calendar Call, Sentencing Hearing, Diversion Hearings, and Other Short Term Matters Combined on a Single Calendar
002 Hearings Under Penal Code Sec. 995
003 Hearings Under Penal Code Sec. 1538.5
004 Hearings on Other Pre-trial or Post-trial Motions
005 Pre-trial (Plea Bargaining) Conference
006 Court-trial - On Transcript Only
007 Court Trial - On Transcript and Testimony
008 Court Trial - Testimony and Evidence from People and/or Defendant
009 Select and Swear Jury
010 Jury Trial
011 Initial Sentencing Hearings (Including Review of Pre-Sentence Report)
012 Subsequent Sentencing Hearings or Probation Modification (Including Review of Pre-sentence Report)
013 Trial Confirmation
014 Habeas Corpus Hearings (Includes In re Young motions)

Juvenile Delinquency

020 Detention/Arraignment Hearings - Uncontested
021 Detention/Arraignment Hearings - Contested
022 Adjudication Hearings - Uncontested
023 Adjudication Hearings - Contested
024 Dispositional Hearings - Uncontested
025 Dispositional Hearings - Contested
026 Combination Adjudication/Dispositional Hearings - Uncontested
027 "Dennis H." Hearing
028 Miscellaneous Matters and Other Hearings on Motions (Including Calendar Call, Continuances, Habeas Corpus, etc.)

Juvenile Dependency

030 Detention Hearings - Uncontested
031 Detention Hearings - Contested
032 Adjudication Hearings - Uncontested
033 Adjudication Hearings - Contested
034 Dispositional Hearings - Uncontested
035 Dispositional Hearings - Contested
036 Combined Adjudication/Dispositional Hearings - Uncontested
037 Annual Review of Dependent Child
038 Miscellaneous Matters and Other Hearings on Motions (Including Continuances, Calendar Call, Habeas Corpus, etc.)

Mental Health (Includes LPS Conservatorship, NARCO, MDSO, and Sanity Referrals)

040 Uncontested Hearings and Motions (Includes Habeas Corpus)
041 Contested Hearings and Court Trials (Includes Habeas Corpus)
042 Select and Swear Jury
043 Jury Trial

Family Law

050 Hearings on Order to Show Cause, Modification of Judgment and Other Pre-trial or Post-trial Hearings
051 Uncontested Default Dissolution Hearings
052 Contested Dissolution Hearings

Probate, Guardianship and Conservatorship (Non-LPS)

060 Hearings on Uncontested Petitions, Supervisory Orders, and Other Pre-trial or Post-trial Motions
061 Contested Hearing or Court Trial
062 Select and Swear Jury
063 Jury Trial

Other Civil - General

070 Pre-trial and Post-trial Law and Motion Hearings
071 Writs and Receivers

Personal Injury, Property Damage

Eminent Domain

Other Civil Complaints (Includes Paternity Suits)

080	090	100	Pre-trial Conference
081	091	101	Trial Setting Conference
082	092	102	Settlement Conference
083	093	103	Uncontested Court Trials and Defaults
084	094	104	Contested Court Trials
085	095	105	Select and Swear Jury
086	096	106	Jury Trials

Other Civil Petitions (Includes RESL's, Adoptions, Name Changes, etc.)

110 Hearings on Uncontested Petitions
111 Hearings on Contested Petitions

Appeals from Lower Courts

120 Appellate Department - Criminal
121 Appellate Department - Civil
122 Trial de Novo - Small Claims

Supplemental Activities (Non-case related)

930 Court Administration
931 Judicial Conferences
932 Travel Time
933 Other Judicial Activities
934 Assignment to Another Court by Judicial Council
935 Illness
936 Vacation

SUPERIOR COURT WORK LOAD INDICATORS
JUDICIAL WEIGHTED CASELOAD SYSTEM

CRIMINAL DEFENDANTS

No.	Description
01	Bench Warrant
02	Plead Not Guilty
03	Plead Guilty or Nolo (Sentence Not Pronounced)
04	Sentence Hearing - Original
05	Defendant Diverted Prior to Adjudication
06	Probation or Sentence Modification
07	Dismissal
08	Continuance (Excludes Trials Recessed for Day)
09	Off Calendar
10	Assign to Another Department
11	Transfer to Another Court
12	Contested Court Trial
13	Jury Sworn
14	Jury Trial Completed (Defendants)
*15	Hung Jury
*16	Section 995 Motion Hearing
*17	Section 1538.5 Motion Hearing
*18	Court Trial - Preliminary Hearing Transcript Only
*19	Court Trial - Preliminary Hearing Transcript Plus Testimony
*20	Trial Confirmation Conferences
*21	Pre Trial Conference (Plea Bargain)
*22	Post Trial Motions
*23	Habeas Corpus Hearing (Includes In re Young)
24	Total Defendants
25	Jury Verdicts (Cases)
26	Total Cases
27	Plead Guilty or Nolo (Sentence Pronounced)
<u>DELINQUENCY/DEPENDENCY PETITIONS-INITIAL AND SUBSEQUENT</u>	
30	Detention/Arraignment Hearing - Contested
31	Detention/Arraignment Hearing - Uncontested
32	Adjudication Hearing - Contested
33	Adjudication Hearing - Uncontested
34	Disposition Hearing - Contested
35	Disposition Hearing - Uncontested
36	Combined Adjudication/Disposition Hearing - Uncontested
37	"Dennis H." Hearing
38	Continuance
39	Dismissal
40	Annual Review
41	Other Motions and Other Supplemental Hearings
42	Total Initial Petitions Only

FAMILY LAW - PROBATE - CIVIL - COMPLAINTS AND PETITIONS - SMALL CLAIMS APPEAL

No.	Description
50	Dismissal
51	Continuance (Excludes Trials Recessed for Day)
52	Off Calendar
53	Assign to Another Department (Calendar Call)
54	Other Pre Trial Motion
55	Trial Setting Conference
56	Pre Trial Conference
57	Settlement Conference
58	Uncontested Trial/Hearing
59	Contested Trial/Hearing
60	Jury Sworn
61	Jury Trials Completed
62	Post Trial Motions
63	Order to Show Cause
64	Modification of Judgment
65	Supervisory Orders
66	Writs and Receivers
67	Transfer to Another Court
68	Total Cases
69	Total Parcels (Eminent Domain)

MENTAL HEALTH

*80	LPS Conservatorship - Initial Hearings
*81	LPS Conservatorship - Hearing or Petition
*82	LPS Conservatorship - Annual Review
*83	NARCO - Arraignment Hearings
*84	NARCO - Hearing on Commitment Petition
*85	MDSO - Arraignment Hearings
*86	MDSO - Hearing on Certification Order
*87	MDSO - Subsequent Hearings
*88	Sanity Referral - Arraignment Hearing
*89	Sanity Referral - Hearing on Certification Order
*90	Jury Sworn
*91	Jury Trial
*92	Habeas Corpus Hearing

APPELLATE DEPARTMENT

*93	Criminal Disposition Prior to Hearing
*94	Criminal Disposition After Hearing
*95	Civil Disposition Prior to Hearing
*96	Civil Disposition After Hearing

* When actions occur on these work load indicators, they must be posted to back side of the time and activity reporting form.

MUNICIPAL COURT CASE TYPES

Felony Preliminary

Felony Reduction

Selected Traffic

Other Traffic

Intoxication

Other Misdemeanors

Civil

Small Claims

Juvenile Traffic

Illegal Parking

1000 24 1000

STATE OF NEW YORK
 COUNTY OF ...
 ...

NO.	DESCRIPTION	IN COURT / COURT'S DISPOSITION						CITY - CASE	
		10-1000	10-1001	10-1002	10-1003	10-1004	10-1005	10-1006	10-1007
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JURY LIST	
NO.	DESCRIPTION
10	UNTESTED HEARING
11	TESTED HEARING
12	OTHER NOTION

FILING	
NO.	DESCRIPTION
10	ARRAIGNMENTS (PROTEST APPL)

THESE THREE SHOULD BE TOTAL CRIMINAL ARRAIGNMENTS OR CIVIL CASES APPEARING IN COURT OR SCHEDULED TO APPEAR FOR THE DAY.

APPENDIX D

Superior Court Time Reporting Form
Showing Case Types and
Non-Case Related Activities Used in
California's 1979
Weighted Caseload Study

JUDICIAL COUNCIL OF CALIFORNIA

SUPERIOR COURT TIME REPORTING FORM

(INSTRUCTIONS ON REVERSE)

A Court No. ¹

B Sheet No. ²

C Judicial Position ³

1

2

3

4

5

FULL
TIME
JUDGE

ASSIGNED
JUDGE

ATTY.
AS TEMP.
JUDGE

COMM.

REFeree

D Reporting Week (check one) ⁷

<input type="checkbox"/> Sept. 24-30	<input type="checkbox"/> Oct. 29-Nov. 4
<input type="checkbox"/> Oct. 1-7	<input type="checkbox"/> Nov. 5-11
<input type="checkbox"/> Oct. 8-14	<input type="checkbox"/> Nov. 12-18
<input type="checkbox"/> Oct. 15-21	<input type="checkbox"/> Nov. 19-25
<input type="checkbox"/> Oct. 22-28	<input type="checkbox"/> Nov. 26-30

CATEGORIES	DAY OF WEEK													
	MONDAY		TUESDAY		WEDNESDAY		THURSDAY		FRIDAY		SATURDAY		SUNDAY	
	HRS	MIN	HRS	MIN	HRS	MIN	HRS	MIN	HRS	MIN	HRS	MIN	HRS	MIN

E Case Related Hours and Minutes														
01	Probate and Guardianship													
02	Family Law													
03	Personal Injury, Death & Property Damage													
04	Eminent Domain													
05	Other Civil Complaints													
06	Petitions													
07	Mental Health													
08	Juvenile Delinquency													
09	Dependency													
10	Criminal													
11	Appeals													
12	Habeas Corpus													

F Non Case Related Hours and Minutes														
13	Court Administration													
14	Conferences, Research, Continuing Education, Civic Activities													
15	Sick Leave													
16	Vacation													
17	Assigned to Another Court													

G Comments:

H

DATE JUDGE, COMMISSIONER OR REFEREE DEPARTMENT CLERK

(INSTRUCTIONS ON REVERSE)

INSTRUCTIONS

GENERAL INSTRUCTIONS Report all time worked, whether on or off the bench, including work performed at night and on weekends. No recess or lunch time should be reported.

A column should be completed for each day the court is in session for each full-time judicial position (i.e., judge, commissioner or referee) even if he or she is ill, on vacation, or on assignment to another court out of the county. Assigned or temporary judges and part-time commissioners or referees should also have a form completed for each week, or part of a week, worked. Work performed on a Saturday, Sunday or holiday should be reported for the appropriate day.

REPORT ACCURATELY! This weighted caseload study measures the present judicial workload and time expenditures in order to establish weights and judge year values which will be utilized as standards for future judicial needs. Therefore overreporting or underreporting will not provide an accurate standard for depicting the needs of the bench in subsequent years. Overreporting time worked will cause both the new weights and the judge year values to be higher than they should be. Underreporting time will cause both weights and judge year values to be too low. Because accuracy in reporting time is very important the time should be completed each day and not at the end of the week. The time may be recorded on daily worksheets and posted to this form at the end of the day. Do not round time to units greater than five minutes. Completed forms should be NEAT and LEGIBLE.

A COURT NUMBER Each court is assigned a two-digit identification number which must be placed in the space provided on each Time Reporting Form. Please find your court identification number in the list and always use this number.

01 Alameda	34 Sacramento
04 Butte	35 San Benito
07 Contra Costa	36 San Bernardino
08 Del Norte	37 San Diego
09 El Dorado	38 San Francisco
10 Fresno	39 San Joaquin
12 Humboldt	40 San Luis Obispo
13 Imperial	41 San Mateo
15 Kern	42 Santa Barbara
16 Kings	43 Santa Clara
17 Lake	44 Santa Cruz
19 Los Angeles	45 Shasta
20 Madera	47 Siskiyou
21 Marin	48 Solano
23 Mendocino	49 Sonoma
24 Merced	50 Stanislaus
27 Monterey	51 Sutter
28 Napa	52 Tehama
29 Nevada	54 Tulare
30 Orange	55 Tuolumne
31 Placer	56 Ventura
32 Plumas	57 Yolo
33 Riverside	58 Yuba

B SHEET NUMBER Each study coordinator will assign a sheet number to each judicial position (permanent or temporary) for which he is responsible. The assigned sheet number will remain the same for each judicial position throughout the study. The sheet number will remain with the same judicial officer throughout the study and will appear on each Time Reporting Form submitted for him.

C JUDICIAL POSITION Check the box which reflects the permanent position held by the judicial officer regardless of the temporary capacity he may occupy on a particular case. A **FULL TIME JUDGE** is one who fills a statutorily authorized judicial position in the court, not a retired judge who sits full time. **ASSIGNED JUDGE** is a judge assigned from another county, or he may be a retired judge or a judge from outside the superior court system. **COMMISSIONER** includes court commissioners per se and commissioners acting as temporary judges but does not include court administrative positions such as jury commissioner.

Arbitrators (whether attorney or retired judge) and Juvenile Traffic Hearing Officers should not turn in a Time Reporting Form. Probate Examiners should not turn in a form unless they perform judicial functions by signing orders and deciding issues normally performed by a judge.

D REPORTING WEEK Place a check next to the week being reported. Do not allow check mark to stray into adjacent week space. If the form is not completed for the entire work week, explain why in the Comments Section.

E CASE RELATED HOURS AND MINUTES The main body of the form has seven columns across, one for each day of the week. The column for each day is further divided into **HOURS** and **MINUTES**. Report the total time spent daily on specific cases by case category. The 12 case categories are given with a brief description of each. For clarification of case categories see Regulations On Superior Court Reports to Judicial Council.

PROBATE AND GUARDIANSHIP includes ordinary probate proceedings, will contests, guardianship and conservatorship proceedings and petitions to compromise minors' claims when not part of a pending action. **FAMILY LAW** are matters to dissolve or void a marriage, **PERSONAL INJURY, DEATH AND PROPERTY DAMAGE** are actions for damages for physical injury to persons and property and for wrongful death resulting from negligence or breach of warranty. **EMINENT DOMAIN** are condemnation actions for parcels. **OTHER CIVIL COMPLAINTS** are actions not covered by the above categories that involve a prayer for a money amount. **OTHER CIVIL PETITIONS** include adoption, change of name, to establish the fact of birth or death (if not part of a pending probate proceeding), writs of review, mandate or prohibition, petitions for conciliation (when not part of a pending family law action), petitions filed under the Reciprocal Support Act and other special proceedings. **MENTAL HEALTH** includes actions to detain a person under the Lanterman-Petris-Short Act to examine or detain a person as a mentally disordered sex offender, mentally retarded, or a narcotic addict or to determine the present sanity of a criminal defendant. **JUVENILE DELINQUENCY** includes petitions filed under Welfare & Institutions Code Sections 601 and 602 which seek to make the minor a ward of the court or allege violation of some criminal statute. **JUVENILE DEPENDENCY** includes petitions filed under W & I Code Section 300 seeking to make the minor a dependent child of the court.

CRIMINAL includes cases whereby indictments, informations or certifications have been filed against a defendant. **APPEALS** include appeals from inferior courts, including small claims courts, for which a record on appeal was filed in the reporting court. **HABEAS CORPUS** includes petitions filed for writs of habeas corpus and writs of coram nobis. Petitions of criminal defendants seeking judicial release from illegal restraints under Section 1473 of the Penal Code and those of persons involuntarily detained for intensive treatment under the Lanterman-Petris-Short Act should be reported under **HABEAS CORPUS**.

F NON CASE RELATED HOURS AND MINUTES This time is divided into five categories. Report the total time spent in each category each day by the judicial officer. **COURT ADMINISTRATION** includes all time spent in the administration of the superior court. It includes the time spent travelling between branches of the same superior court. **CONFERENCES, RESEARCH, CONTINUING EDUCATION & CIVIC ACTIVITIES** includes time in conferences, reviewing decisions not related to a specific case before the judicial officer, reading and responding to correspondence, continuing education and civic functions performed or any other judicial functions not reported elsewhere. **SICK LEAVE**—Report no more than eight hours a day for this although less time may be reported. **VACATION**—Report no more than eight hours a day for this although less time may be reported. **ASSIGNED TO ANOTHER COURT**—Report no more than eight hours a day when a judicial officer is assigned to a superior court in another county or to a higher or lower court within the county.

G COMMENTS Use this space to explain unusual reporting. For example, a form with only two days completed because the judicial officer just took office should be explained in the comments section. Or a form with only a few days completed because the judicial officer works part time should be explained.

H IDENTIFICATION ITEMS The data at the bottom of the form is necessary to assist the coordinator and informs him who has or has not given him their Time Reporting Forms. The coordinator will remove the perforated part of the form before it is sent to the Judicial Council. Complete the date the form is sent to the coordinator or, if there is no coordinator, the date the form is mailed to the Judicial Council. Print the name of the judicial officer and the corresponding department. The clerk should also print his own name in the space provided so the coordinator knows whom to contact about missing or questionable information.

This completed form must be received by the Court's Study Coordinator at the close of business Monday following the week reported.

Judicial Council of California
601 McAllister Street
San Francisco, California 94102

APPENDIX E

Case Types for Superior and District Courts Used in Washington's Weighted Caseload Study

Washington's Weighted Caseload Study

57

SUPERIOR COURT CASE TYPES

Case Related, Bench and Non-Bench Time

Civil
Tort
Commercial
Property Rights and Condemnation
Domestic Relations
Appeals from Lower Courts
Writs, Injunctions, Other Petitions and Complaints
Civil Activity - Category Not Specified
Bench Recess¹

Criminal
Felonies
Criminal or Traffic Appeals from Lower Courts
Criminal Activity - Case Category Not Specified
Bench Recess¹

Probate
Adoptions, Guardianships, Estates and Other Probate Cases
Bench Recess¹

Juvenile
Juvenile
Bench Recess¹

Non-Case Related

Court Administration

Judicial Conferences and Workshops

General Legal Research/Education

Travel Time

Other Judicial Activities

¹ Bench Time Only.

58

DISTRICT COURT CASE TYPES

Caseload Related, Bench and Non-Bench Time

Civil
Misdemeanors
Felonies
Traffic
Small Claims
Recess¹

Non-Case Related

Court Administration
Judicial Conference and Workshops
General Legal Research and Education
Travel Time
Other Judicial Activities

¹ Bench Time Only.

Wisconsin's Weighted Caseload Study

TRIAL COURT CASE TYPES	TRIAL COURT ACTIVITY CODES
Felony	Initial Appearance
Misdemeanor	Preliminary Hearing
Traffic	Arraignment
Civil	Pretrial Testimonial Hearings
Small Claims	Pretrial Nontestimonial Hearings
Forfeiture	Pretrial Conference
Divorce	Scheduling Conferencing/Status Conference
Other Family	Default Judgement/Plea Acceptance
Estates	Court Trial
Other Probate	Jury Trial
Juvenile	Post-Judgement Hearing (Testimonial)
	Post-Judgement Hearing (non-Testimonial)
	Disposition/Sentencing Hearing
	Nonappearance
	Detention Hearing
	Appeals
	Research/Opinion Writing/Case Preparation
	State and Local Administrative
	Correspondence
	Public Relations
	Case Related Conversions

APPENDIX F

Case Type Categories For
Trial Courts Used in
Wisconsin's Weighted Caseload Study

APPENDIX G

**Case Types and Weights for
Trial Courts Used in
Minnesota's Weighted Caseload Study**

**MINNESOTA TRIAL COURTS
1980 CASE WEIGHTS¹**

TYPE OF CASE	TYPE OF COURT		
	District Only	Both District and County/ Municipal	County/ Municipal Only
Personal Injury	230.04		*
Contract	290.75		193.40
Wrongful Death	338.65		*
Malpractice	657.56		*
Property Damage	337.12		115.23
Condemnation	446.0		*
Unlawful Detainer		5.76	
Writ/Injunction/Replevin	374.98		*
Combined General Civil in County Court*	N/A		215.0
Other General Civil	182.18		45.50
Transcript		0.15	
Default Judgment		0.91	
Trust		60.07	
Appeal	402.10		
Supervised Administration		39.09	
Unsupervised Administration		24.54	
Guardianship-Conservatorship		135.56	
Commitment		224.96	
Dissolution		76.14	
Support		28.75	
Adoption		25.05	
Other Family		104.27	
Delinquency		42.42	
Dependency/Neglect		124.21	
Termination of Parental Rights		95.70	
Juvenile Traffic		8.71	
Felony (Most serious initial charge)		164.23	
Gross Misdemeanor (Most serious initial charge)		91.07	
Conciliation		5.18	
County/Municipal Criminal-Traffic-Parking	N/A		1.49 ² 4.85 ³

1. Average number of minutes of judge time required to dispose a case.
2. Counties of Hennepin, Ramsey, St. Louis, Olmsted, Blue Earth.
3. Counties other than those listed above in footnote 2.
- * Combined General Civil in County Court includes Personal Injury, Wrongful Death, Condemnation, Malpractice and Writs.

APPENDIX H

**Case Type and Activity Weights for
Superior Courts in
Georgia's Weighted Caseload Study**

To determine if a circuit is in need of additional judicial assistance, under the Delphi Weighted Caseload System caseload, filings projected for FY1980 are grouped according to the percentages of FY1979 cases disposed by different disposition methods. These filings are then multiplied by the appropriate median time estimate. The sum of these values for all case type/dispositions methods is equivalent to the total hours needed to process the circuit caseload. The total hours are then divided by a judge year value. The number of hours in a judge year was based on a 220 day year and ranged from 1,430 to 1,650 hours. This range is set to vary in small amounts by grouping circuits into four categories according to the number of counties and superior court judges in the circuit. The final judge year figure is divided by 1.5 judge years which is the threshold point set by the Judicial Council for considering a circuit for an additional judgeship.

DELPHI WEIGHTED CASELOAD FORMULA WITH
SAMPLE JUDICIAL CIRCUIT AS AN EXAMPLE

FORMULA

Step One:

FY1979 filings by case type X $\frac{\text{\# disposed cases by method for FY1979}}{\text{total \# of dispositions for FY1979}}$
EQUALS
Projected number of filings disposed by method in FY1980

Step Two

Projected number of filings disposed by method X Median number of judge hours spent per case type/disposition method (Delphi time estimates)
EQUALS
Number of hours required for each case type/disposition method.

Step Three

Sum total of the number of hours for each case type/disposition method
EQUALS
Total judge hours required to process projected FY1980 filings.

Step Four

Total judge hours required to process projected FY1980 filings ÷ judge year value
 EQUALS
 Number of judge years necessary for caseload.

Step Five

Number of judge years necessary for caseload ÷ threshold factor for consideration for judgeship recommendation
 EQUALS
 The Delphi Weighted Circuit caseload.

If the Delphi Weighted Caseload System shows a value of greater than one for a one judge circuit, additional judicial resources may be needed. If the Delphi value is one or less, present judicial manpower is sufficient in the circuit. If a two judge circuit has a value of greater than two, judicial assistance may be needed.

It must be noted that Weighted Caseload Systems are useful tools in analysis of caseload, but are subjective systems and are only in experimental stages.

* Judge year value = days worked per year X hours worked per day.

Delphi Weighted Caseload System

Case Types/Disposition Methods
Median Time Estimates

	Hours
1. felony cases, jury trial	<u>12.0</u>
2. felony cases, non-jury trial	<u>4.6</u>
3. felony cases, non-trial	<u>0.5</u>
4. misdemeanor cases, jury trial	<u>5.0</u>
5. misdemeanor cases, non-jury trial	<u>2.5</u>
6. misdemeanor cases, non-trial	<u>0.5</u>
7. traffic cases, jury trial	<u>4.0</u>
8. traffic cases, non-jury trial	<u>2.0</u>
9. traffic cases, non-trial	<u>0.25</u>
10. general civil cases, jury trial	<u>12.0</u>
11. general civil cases, non-jury trial	<u>6.5</u>
12. general civil cases, non-trial	<u>1.0</u>
13. domestic relations cases, jury trial	<u>9.5</u>
14. domestic relations cases, non-jury trial	<u>4.0</u>
15. domestic relations cases, non-trial	<u>0.58</u>
16. independent motions, jury trial	<u>4.0</u>
17. independent motions, non-jury trial	<u>2.0</u>
18. independent motions, non-trial	<u>0.83</u>
19. juvenile cases, petition, trial	<u>2.0</u>
20. juvenile cases, non-trial	<u>1.0</u>
21. juvenile cases, informal adjustment	<u>0.63</u>

EXAMPLE: SAMPLE JUDICIAL CIRCUIT: FY1979

Case type	# Superior Court FY1979 Filings	% Disposed by Jury Trial	Projected # of Filings Disposed by Jury Trial	Delphi Weights (Median # of Judge Hours Spent)	Hours for Jury-trial Dispositions	Hours for Non-trial Dispositions	Hours for Non-jury Trial Dispositions	Total # of Hours
FELONY	458	X 2.5%	11	X 12.0	= 132	+ (447x0.5) 224	+ (0 x 4.6) 0	= 356
MISDEMEANOR	593	X 0.3%	2	X 5.0	= 10	+ (590x0.5) 295	+ (1 x 2.5) 3	= 308
TRAFFIC	107	X 0%	0	X 4.0	= 0	+ (107x0.25) 27	+ (0 x 2.0) 0	= 27
GENERAL CIVIL	572	X 3.4%	19	X 120	= 228	+ (515 x 1.0) 515	+ (38 x 6.5) 247	= 990
DOMESTIC RELATIONS	654	X 1.1%	7	X 9.5	= 67	+ (615x0.58) 357	+ (32 x 4.0) 128	= 552
INDEPENDENT MOTIONS	411	X 0.3%	1	X 4.0	= 4	+ (245x0.83) 203	+ (165 x 2.0) 330	= 537
JUVENILE	0	X 0%	0	X 2.0	= 0	+ (0 x 1.0) 0	+ (0 x 0.63) 0	= 0
Total Judge Hours required to process all cases filed (sum of all case type totals)								2,770

220 (days per year) x 7.5(hrs.per day) = 1,650 hours
1,650 is the Alcovy Judge Year Value

2,770 (Judge hrs required) ÷ 1,650(Judge year value)=1.7

1.5 Judge years per Judge is the threshold for consideration for an additional Judgeship recommendation

1.7 ÷ 1.5 = 1.1 Delphi Weighted Caseload Alcovy Circuit



Institute for Advanced Studies in Justice

Justice is the unifying principle of the democratic existence. While other systems may seek uniformity, democracy seeks ordered diversity - to which justice is the key.

The Institute for Advanced Studies in Justice is a division of the American University Washington College of Law. It was established in 1970 to provide a forum for the law school's efforts to focus the University's interdisciplinary resources on research, professional training, and technical assistance in the fields of legal reform and justice system administration.

In addition to its sponsored research and technical assistance activities, the Institute conducts several training programs and conferences annually for judges, lawyers and government officials on issues of justice system reform, judicial process, and community relations, and publishes a range of monographs, staff papers, research studies, and surveys on various aspects of American jurisprudence. The Institute houses the National Judicial Education Clearinghouse -- an indexed collection of printed and audio-visual materials used in state judicial education programs -- and also serves as a clearinghouse for information on state and local court system activities and developments for state judges and court personnel, researchers, students, and foreign correspondents.

With the 1981-82 academic year, the Institute initiated two new programs: a Judicial System Visitors program, which offers a formal schedule of specially prepared materials, seminars, and "hands on" experiences for foreign judges, lawyers and senior judicial system staff conducting official visits to the United States, and a new program of research and publication on the legal profession. Over the next several years, these activities will be expanded into an integrated program of comparative research and publication on legal and judicial systems.

The Institute's regular publication series, of which the present volume is a part, are commissioned to present in policy and operationally-relevant terms, the findings of the Institute's various research and technical assistance activities.

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