

Workload Assessment: A Data-driven Management Tool for the Judicial Branch

By Matthew Kleiman, Cynthia G. Lee and Brian J. Ostrom

In this difficult fiscal climate, every branch of state government feels the pressure of tightening budgets. State court systems are no exception.¹ For the judiciary to manage caseloads effectively, dispose of court business without delay and deliver quality service to the public, adequate resources are essential.² Meeting this challenge requires states to assess objectively the number of judges required to handle caseloads, as well as whether judicial resources are being allocated equitably and used prudently. State court systems are increasingly using the weighted caseload method of judicial workload assessment as a best practice. This article describes the basic mechanics of workload assessment and illustrates how it is being used in several states facing a variety of budgetary and judicial staffing issues.

States have historically lacked an objective and empirically based method for determining the need for court resources. Budget negotiations with funding authorities were based primarily on personal relationships and anecdotal accounts of the need for judicial resources. In most states, the byproduct of this strategy was an under-resourced judiciary, along with the inequitable distribution of judicial resources among jurisdictions. These conditions sometimes compromised access to justice and the quality of case resolution for certain segments of the population.

In an era of heightened governmental accountability and demands for evidence-based decision-making, state courts are frequently turning to data-driven management strategies.³ At the forefront of this movement is the use of workload assessment—also known as weighted caseload or needs assessment—to determine the need for judicial resources. By weighting different types of cases to account for variations in complexity and the need for judicial attention, workload assessment translates the number of cases that come before the court into the total amount of judicial work required to dispose of those cases. The result is an objective and standardized measure of judicial workload that provides an effective tool for negotiating with funding authorities, appropriately targeting reductions in judgeships necessitated by budget shortfalls and changing demographics, and redrawing jurisdictional boundaries to use existing resources more effectively and enhance access to justice.

The Weighted Caseload Model: Translating Case Filings Into Workload

State court caseloads vary in complexity, with different types of cases requiring different amounts of judicial time and attention. Although case counts have a role in understanding the demands placed on a state's judicial system, raw case filings offer only minimal guidance regarding the amount of judicial work generated by the vast array of cases processed by the courts. For example, a typical serious felony creates a greater need for judicial resources than a typical misdemeanor.

The weighted caseload method calculates judicial need based on total judicial workload. The weighted caseload formula consists of three critical elements:

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

Total annual judicial workload is calculated by multiplying the annual filings for each case type by the corresponding case weight, then summing the workload across all case types. The workload is then divided by the year value to determine the total number of full-time equivalent judges needed to handle the workload. Finally, the result is compared with the actual number of judges on the bench to

determine whether changes to the size of the judiciary are warranted. This comparison can also be conducted at the circuit or district level to evaluate the allocation of judicial resources within the state.

By weighting cases to account for the differences in judicial workload associated with each case type, the weighted caseload formula provides an accurate assessment of judicial need that accommodates variations in caseload composition, both over time and across jurisdictions. For example, if total caseloads remain constant over time but the proportion of felony cases increases, a weighted caseload model will show a need for additional judges to handle the increased workload, whereas a model based on unweighted case filings will not reflect the increase in judicial activity associated with the change in caseload composition.

The weighted caseload approach is also capable of accommodating other factors that impact judicial resources, such as the amount of time available for each judge to hear cases, which may vary among courts within a state. For example, judges in rural districts that span several counties may spend an hour or more per day traveling among court-houses, which reduces the amount of time available for case-related work. Judges in large urban courts, on the other hand, may spend a larger amount of time on administrative responsibilities, resulting in less time for processing cases.

The Workload Assessment Process

A weighted caseload model is constructed through an iterative, participatory process known as a workload assessment. Judges and senior court administrative staff are directly involved at every stage of the process, helping to ensure both the accuracy and the legitimacy of the results.

Advisory Committee

A critical first step in any workload assessment is the formation of an advisory committee to oversee the project and provide guidance on policy matters, such as the definitions of case types and the division of the workday between case-related and non-case-related work. For a judicial workload assessment, the advisory committee should consist of experienced judges representing both urban and rural courts, as well as all geographic regions of the state. It may also be advantageous to include court clerks, court administrators or state-level administrators on the advisory committee.

In addition to making policy decisions, the advisory committee can provide valuable information

on unique features of the court system and its caseload, and can help to secure support from the remainder of the judiciary for the data collection process as well as the final results of the study.

Time Study

The empirical foundation of the workload assessment is a time study, during which judges track all of their working time by case type and activity. The time study includes all time spent working on cases both on and off the bench, as well as work that is not related to specific cases before the court, such as administrative work, committee meetings, and judicial education and training. The results of the time study are used to calculate a preliminary set of case weights that represent the average amount of time judges *currently* spend handling cases of each type.

The time study data also guide the advisory committee in selecting the day value, or the amount of time each judge spends working on cases on a daily basis. The day value is then translated into a year value, which represents the total amount of time one judge has available for case-related work over the course of one year.

Quality Adjustments

The preliminary case weights generated from the time study measure the amount of time judges currently spend handling various types of cases, but do not necessarily indicate whether this is the amount of time judges *should* spend. To ensure that the final weighted caseload model incorporates sufficient time for effective case processing, the workload assessment should include a systematic process for reviewing and adjusting the case weights. Quality adjustments are typically made by a panel of experienced judges using a variant on the Delphi process, a structured method for decision-making by a group of experts. The panel's decisions may also be informed by data gathered from a larger group of judges through interviews, focus groups and/or surveys.

Workload Assessment in Practice

More than 25 states currently use workload assessment to analyze the need for judicial resources. In some states, the method is also used to calculate the need for other types of personnel involved in processing cases, including court clerks and other court staff, prosecutors, public defenders and attorney support staff. In addition to providing empirical support for funding requests, workload

assessment has been used to inform reductions in the size of the judiciary, as well as in the redrawing of jurisdictional boundaries.

Weighted Caseload and Funding Requests: California and Wisconsin

Although empirical data alone will not guarantee a favorable legislative response to funding requests, without strong, empirically based documentation of need, courts struggle to obtain the judges and staff necessary to process cases. Examples from California and Wisconsin highlight the efficacy of workload assessment in securing the resources necessary for courts to carry out their constitutional duties and to ensure the effective resolution of disputes.

In the late 1980s, increases in California's population, caseloads and judicial workloads began to threaten the ability of the state's judiciary to dispose of cases in a high-quality and timely manner and to provide for procedural fairness. Over the course of more than a decade, the state legislature funded very few additional judgeships. A judicial workload assessment conducted in 2001⁴ concluded that California needed more than 300 additional judges to handle its total judicial workload—an increase of approximately 15 percent. Based on these recommendations, the California Judicial Council approved a proposal to request the legislature to establish the 150 new judgeships that were most urgently needed. In 2006, Senate Bill 56⁵ authorized the creation of 50 new judgeships to address the serious shortfall of judges;⁶ these positions were funded in the 2006–07 fiscal year.⁷

Similarly, a 2006 judicial needs assessment in Wisconsin⁸ served as the foundation for a successful bill to add trial judges, with the Wisconsin legislature and governor approving five new judgeships in 2008 and three more during the next two years. This represented the first time since 2000 that the Wisconsin legislature had created new circuit court branches. The legislative liaison for the Wisconsin Office of the Director of the State Courts cited the workload assessment as an important factor behind the legislature's swift action, noting, "many legislators commended the Director's office for the objective and comprehensive analysis of the Judicial Needs Assessment Study."⁹

Managing Reductions in the Judiciary: Michigan

The Michigan State Court Administrative Office has relied on judicial workload assessment since 1998. Since the development of the first weighted caseload model, the State Court Administrative Office

has used the model primarily to support increases in the size of the judiciary. In 1995, a total of 548 circuit, probate and district court judicial positions existed across the state. The number of authorized judgeships rose to 575 in 2000, 581 in 2005 and 581.5 in 2010, despite decreasing court caseloads, a declining population, large shortfalls in the state budget and State Court Administrative Office recommendations for limited reductions in the number of judges.

Between 2002 and 2011, the number of annual district and municipal court case filings decreased from roughly 3.3 million to 2.6 million.¹⁰ Similarly, filings in circuit and probate court declined from roughly 417,000 in 2002 to 344,000 in 2011.¹¹ According to Chief Justice Robert P. Young Jr., the "Legislature—while often adding judgeships where recommended by [the State Court Administrative Office]—did not act on any of these proposed reductions, so we have a state judiciary that has grown even as Michigan's judicial caseloads, population, and economy shrank. The result is an unnecessary burden on the taxpayers—on the state level, since the cost of judicial salaries is borne by the state, and even more on local funding units, which pay for the much larger costs of judges' benefits and other associated costs, such as staff salaries and benefits. Simply put, the taxpayers are paying for more judges than they need. That is not good government."¹²

As budgetary shortfalls continued to plague Michigan, the judiciary was finally faced with the real possibility that the governor and the legislature would reduce the judicial budget and eliminate a number of judgeships.¹³ To ensure that any cuts would be appropriately targeted, the judiciary began updating its weighted caseload model in 2010, resulting in a proactive recommendation for judicial reductions based on a set of objective criteria.¹⁴ A committee comprising judges, referees, magistrates and court administrators from the circuit, district, and probate courts oversaw the workload assessment update, which was based on data collected from more than 98 percent of Michigan trial court judges.

Based on the updated weighted caseload model, the State Court Administrative Office's 2011 Judicial Resources Recommendations report called for a 7.7 percent reduction in the number of judgeships.¹⁵ The Michigan Supreme Court unanimously supported this recommendation, which was endorsed by the Court of Appeals, the Michigan Judges Association, the Michigan Probate Judges Association and the Michigan District Judges Association. The

final legislation eliminated 36 trial court judgeships through attrition, leading to an ultimate cost savings of approximately \$6.3 million annually.¹⁶ According to Deputy State Court Administrator Dawn Monk, the highly participatory and transparent workload assessment methodology provided an important foundation for the consensus surrounding the difficult decision to reduce the number of judgeships. “People do expect data,” she said. “The high level of data and the extensive involvement of the judges ensured that the recommendations were sound and made this possible.”¹⁷

Judicial Boundary Realignment: Virginia

As state governments seek new ways to trim their budgets, several states have begun to consider the possibility of judicial redistricting and/or court re-engineering as a way to reduce expenses and improve efficiency. By combining jurisdictions with small caseloads, creating concurrent jurisdiction plans and assigning judges to multiple jurisdictions or court levels, these states hope to reduce waste and to target judicial resources on the areas of greatest need. For any such plan to be effective, it must be based upon an accurate assessment of judicial workload.

The state of Virginia has recognized the utility of workload assessment in redrawing jurisdictional boundaries. Bills were introduced in both the Virginia Senate and House of Delegates during the 2011 legislative session to reduce Virginia’s 31 judicial circuits and 32 judicial districts to 19 circuits and 19 districts, and reduce the total number of authorized circuit and district judgeships from 402 to 382. Although both bills died in committee, the chair of the Senate Courts of Justice Committee requested the Supreme Court of Virginia to review the realignment plan proposed in the bills and make its own recommendations for changes in the circuit and district boundaries, as well as the number of judges assigned to each circuit and district.

The chief justice of the Supreme Court of Virginia formed a study committee, which concluded that any boundary realignment should be grounded in an accurate assessment of judicial workload. The committee recommended that “no changes should be made to judicial boundaries until the Judiciary completes a comprehensive study of judicial caseloads and workloads, including development of a ‘weighted caseload’ system to more precisely measure and compare judicial caseloads.”¹⁸ It noted that “[t]he lack of these measures constituted the most fundamental challenge to ... efforts to redraw

Virginia’s judicial boundaries to ensure more efficient allocation and utilization of judicial resources.”¹⁹

In 2012, the Virginia Supreme Court contracted with the National Center for State Courts to perform a workload assessment for all of the state’s trial courts. The weighted caseload model will be used in conjunction with court performance measures to recommend changes to circuit and district boundaries that increase both equity and efficiency. As the study committee notes, factors other than judicial workloads will also be considered in the redrawing of jurisdictional boundaries to ensure that the quality of case resolutions and access to justice are not compromised. These factors include geographic and topographical barriers and traffic that may impede travel for judges and litigants, existing partnerships with community agencies and local funding agreements.²⁰

Conclusion

Concern with financial and resource accountability at all levels of government is a strong incentive to develop systematic methods of assessing the need for judges. Weighted caseload has proved to be a practical and flexible approach to determining resource need that is credible and persuasive to funding bodies.

Given the ever-changing nature of the court environment, however, it is critical that case weights be monitored to ensure they continue to accurately represent workload. There is no faster way for a weighted caseload system to lose credibility than for the weights to be perceived as obsolete. Periodic updates are necessary to keep pace with changes that may have reduced the time necessary to process cases (e.g., increased efficiency from improved case management techniques) or expanded the time that judges are required to spend on cases (e.g., legislative changes that have increased the number and/or frequency of review hearings).

Moreover, periodic review of the weighted caseload model offers the judicial branch the opportunity to engage in a logical and structured process to assess the reasonableness of current practice. That is, do judges have sufficient time to resolve cases in a satisfactory and timely manner? Such a process allows for the identification of more effective practices that will make better use of existing judicial resources.

A robust judicial workload model supports a state court’s efforts to make the best use of existing judicial resources, while also helping ensure a fair balancing of resources throughout the state. This

increases the likelihood that there will be sufficient judges to hear cases in a just and timely way, ultimately improving public trust and confidence in the judiciary.

Notes

¹ Schauffler, Richard Y. and Matthew Kleiman. "State Courts and the Budget Crisis: Rethinking Court Services." in *The Book of the States*, Vol. 42. The Council of State Governments, Lexington, KY. (2010).

² John Voelker, State Court Administrator stated, "As caseloads increase, our challenge is to continue to provide the level of service that the people expect. ... [E]nsuring that the courts are appropriately staffed is an important part of meeting that challenge." (*Wisconsin Lawyer*, February 2007, Vol. 80, No. 2.)

³ See Brian J. Ostrom et al., *CourTools*. Williamsburg, Va: National Center for State Courts (2005). Matthew Kleiman and Richard Schauffler. "Measuring Court Performance: Access and Fairness in State Courts." in *The Book of the States*, Vol. 41. The Council of State Governments, Lexington, KY. (2009). Brian J. Ostrom, et al. "The High Performance Court Framework." *Future Trends in State Courts*. Williamsburg, Va: National Center for State Courts (2011).

⁴ Ostrom, Brian J., Charles W. Ostrom, Daniel J. Hall, William E. Hewitt, Robert C. LaFountain, Matthew Kleiman Melissa T. Cantrell. "California Judicial Workload Assessment: Final Report," (2001).

⁵ Stats. 2006, Ch. 390.

⁶ California Administrative Office of the Courts. Fact Sheet: The California Judicial Workload Assessment, August 2007. <http://www.courts.ca.gov/documents/cjwa.pdf>.

⁷ Another 50 new judicial positions were authorized in 2007, but never funded. The third set of 50 judgeships has never been authorized.

⁸ Ostrom, Brian J. and Matthew Kleiman. "Wisconsin Director of State Courts Office Judicial Needs Assessment, 2006" (2006).

⁹ Rottier, Nancy. "Eight New Judgeships Created." *The Third Branch*, vol 15, no. 4, p. 1 (Fall 2007).

¹⁰ Michigan Supreme Court. *Annual Report 2011*, p.30 (2011) at <http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Statistics/2011/2011%20Michigan%20Supreme%20Court%20Annual%20Report.pdf>.

¹¹ Ibid p. 31.

¹² Michigan Supreme Court. *Annual Report 2010*. (2010) at <http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Statistics/2010/2010%20Michigan%20Supreme%20Court%20Annual%20Report.pdf>.

¹³ The former director of the Michigan Senate Fiscal Agency stated, "2011 is likely to be the year in which the scope and purpose of Michigan state government is adjusted to reflect the new realities in this state." Ibid, p 1.

¹⁴ The Michigan Judicial Crossroads Task Force recommended that "[t]he Supreme Court should make its determinations about when and whether to add or eliminate a judgeship using the best available data and a weighted caseload methodology, as modified or improved with the

assistance of the National Center for State Courts." Judicial Task Force, State Bar of Michigan, *Report and Recommendations*, p. 9 (2011).

¹⁵ Michigan State Court Administrative Office. *Judicial Resources Recommendations*, (August 2011) at <http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Reports/Judicial-Resources/JRRSummary2011.pdf>.

¹⁶ As of February 2013, 10 of these positions had already been eliminated.

¹⁷ Phone interview with Dawn Monk, February 2013.

¹⁸ Supreme Court of Virginia Office of the Executive Secretary. *2011 Judicial Boundary Realignment Study Report* (2011), p.1 at http://www.courts.state.va.us/courts/jbr_study/2011_1102_final_report.pdf.

¹⁹ Ibid, p. 9.

²⁰ Ibid, p. 30.

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