

State Court Caseload Statistics

An Analysis of 2007 State Court Caseloads

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Preface

The Court Statistics Project (CSP) provides the most comprehensive, up-to-date information regarding the nation's state courts through its annual print publication, *Examining the Work of State Courts*, and on-line publication, *State Court Caseload Statistics*. These reference works are supplemented by the *Caseload Highlights* and *Notes from the Field* series. All of these publications are available at the Court Statistics Project's Web site, www.courtstatistics.org.

State Court Caseload Statistics is a discrete on-line reference volume designed to provide specific information about particular court systems. This volume offers all interested parties high-quality, baseline information on state court structure, jurisdiction, reporting practices, and caseload volume and trends. The information assembled in this product will be especially helpful to people interested in doing their own cross-state comparisons or in examining the implications of caseload volume on the work and resource needs of specific state courts. For those wishing to brush up on the uses of these data, the Introduction provides an overview of applications, ingredients, and interpretation of state court caseload statistics. Data collected for this volume is also available through the Inter-University Consortium at <http://www.icpsr.umich.edu/ICPSR/index.html>.

Examining the Work of State Courts is a concise, graphically oriented volume that makes state court caseload statistics highly accessible. Accurate, objective, and comparable data across states provide a yardstick against which states can consider their caseload, identify emerging trends, and measure the possible impact of legislation. Without baseline data from each state, many of the most important questions facing state courts will go unanswered. *Examining the Work of State Courts* has been designed to be interactive, giving the reader, within its interactive PDF version, on-line access to information that cannot reasonably be included in the text of the document. The links provided in this format encourage the use of the Web and provide the reader with additional resources that help to facilitate the understanding of the work of state courts.

The *Caseload Highlights* series continues to provide short, periodic reports on specific, significant, and timely issues. The CSP recognizes that informed judges and court managers want comparative information on a range of policy-relevant topics, but they want it in a timely fashion and in a condensed, readable format. *Notes from the Field* is a platform for use by practitioners from the state courts from which they can share their experiences and knowledge of court statistics and the implementation of data systems.

These publications are developed through a cooperative agreement with and generous support from the Bureau of Justice Statistics (BJS), part of the Office of Justice Planning at the U.S. Department of Justice.

Detailed descriptive information on court structure is provided by another National Center for State Courts (NCSC) and BJS joint project, *State Court Organization*. Topics covered include: the number of courts and judges; judicial selection; and jury qualifications and verdict rules. *State Court Organization* complements and extends the information on court jurisdiction and reporting practices provided here. The most recent edition is available through BJS and at www.ojp.usdoj.gov/bjs/abstract/sco04.htm.

Finally, the CSP continues to promote the implementation and use of the *State Court Guide to Statistical Reporting* (hereafter referred to as the *Guide*). Developed with support from the State Justice Institute and with close guidance from the Conference of State Court Administrators' Court Statistics Committee, the *Guide* is a tool for improving court administration by providing a national model for data reporting with concise descriptions and definitions of case types and disposition types, as well as a standardized framework in which to report these categories. The recently revised version of the *Guide* is available in PDF on the NCSC Web site at www.courtstatistics.org.

Taken together, these publications constitute the most complete research and reference sources available on the work of the nation's state courts. The Court Statistics Project produces this information and analysis in the hope that it will inform local, state, and national policy and management discussions.

Introduction

Using State Court Caseload Statistics

This introduction provides an overview of the uses, ingredients, and interpretation of state court caseload statistics. This examination is offered at a time of significant improvements in the quality of court statistics in general and in the comparability of those statistics across the states in particular. To help realize the potential of caseload statistics, this document considers three main questions: Why are caseload statistics useful? What are their ingredients? How can they address practical problems?

This is not a “technical” document. Although it is assumed that the reader has an interest in what courts are doing, there is no expectation of statistical expertise. Moreover, virtually all courts and states currently possess the information required to use caseload statistics. A count of the number of incoming and outgoing cases by month, quarter, or year is all that is needed to get started. Part of the message, however, is that with a small additional investment in effort, the potential exists to appreciably enhance a court’s capacity to identify and solve emerging problems and to present the case for the court system’s achievements and resource needs authoritatively.

Why Are Caseload Statistics Useful?

Argued in abstract, caseload statistics are important because they are analogous to the financial information business firms use to organize their operations. Because a court case is the one common unit of measurement available to all court managers, caseload statistics are the single best way to describe what courts are doing currently and to predict what they will do.

The pragmatic justification for caseload statistics is more compelling. Few would argue that the state courts are currently funded at a generous level. State budget offices routinely cast a cold eye on requests for additional judgeships, court support staff, or court facilities. Because the executive and legislative branches of the government are sophisticated producers and consumers of statistics, comparable expertise is needed by the judicial branch. Skillfully deployed caseload statistics provide powerful evidence for justifying claims to needed resources.

In response to perceived difficulties in using caseload statistics, it must be noted that these statistics are simply counts of court activity; they are neither inherently complex nor obscure. The day-to-day activities of most court systems can generate the basic information that translates into caseload statistics. No extraordinary effort is required.

Like other statistics, however, caseload statistics are susceptible to twists and turns that can mislead or distort. Those twists and turns become particularly troublesome when comparisons are made across courts in any one state or among states. Yet, valid comparisons are potentially powerful tools for managing a court system, for determining and justifying the need for additional resources, and for planning.

Frequent reference is made throughout this report to a model approach for collecting and using caseload information.¹ The Conference of State Court Administrators (COSCA) and the National Center for State Courts (NCSC) have jointly developed that approach for more than 30 years. The key to the approach is comparison: comparison among states and comparison over time. The COSCA/NCSC approach makes comparison possible, although at times it highlights some aspects that remain problematic when building a comprehensive statistical profile of the work of state appellate and trial courts nationally.

¹ The current approach is elaborated in the *State Court Guide to Statistical Reporting*.

What Are the Ingredients of Caseload Statistics?

The *State Court Guide to Statistical Reporting* has necessitated a change in some of the terminology used in this volume. Caseloads formerly referred to as "filed" and "disposed" will hereafter be called "incoming" and "outgoing," respectively, but these terms are not necessarily synonymous. Incoming cases in the trial courts are the sum of the three *Guide* "Caseload Summary" categories of *newly filed* (comparable to *filed* in previous volumes), *reopened*, and *reactivated*. Outgoing trial court caseloads are the sum of *entries of judgment* (comparable to *disposed* in previous volumes), *reopened dispositions*, and cases that were *placed on inactive status*. For the appellate courts, incoming caseloads are the sum of cases *filed* and *reactivated* and outgoing caseloads are the sum of cases *disposed* and *placed on inactive status*.

Although every state was asked to report caseloads in each of these status categories (as well as additional categories of *pending* caseloads), many states were understandably unable to do so. For these states, the caseloads reported in this volume are generally comparable to those reported previously. However, caseloads for states able to report in three or more of these new categories are likely less comparable (but more representative of court workload) than those previously reported to the Court Statistics Project (CSP).

Five types of information are required for efficient caseload statistics:

(1) counts of pending, incoming, and outgoing cases; (2) the method by which the count is taken (i.e., the unit of count that constitutes a case and the point at which the count is taken); (3) the composition of the counting categories (the specific case types that are included); (4) court structure and jurisdiction to decide cases; and (5) statistical adjustments that enhance the comparability and usefulness of case counts.

Counts are taken of the number of cases that are pending at the start of a reporting period, the number of incoming cases during the period, the number of outgoing cases during the period, and the number of cases left pending at the end of the period. Counts of caseloads are typically organized according to the major case categories (civil, domestic relations, criminal, juvenile, traffic/other violations for the trial courts and appeal by right, appeal by permission, death penalty, and original proceedings for the appellate courts). However, there is still only limited uniformity among the states in the degree of detail or the specific case types used despite the direction offered by the *State Court Guide to Statistical Reporting*.

Methods for taking counts vary. The greatest variation occurs in what, precisely, a court counts as a case. Some courts actually count the number of a particular kind of document, such as an indictment in a criminal case. There is also variation in the point in the litigation process when the count is taken. For example, some appellate courts count cases when the notice of appeal is filed, others when the trial court record is filed, and still others when both the trial record and briefs are filed with the court.

Composition refers to the construction of caseload reporting categories that contain similar case types for which counts are taken of pending, incoming, or outgoing cases. Once a standard is defined for the types of cases that belong in a category, it becomes possible to compare court caseloads. The standard adopted by the Court Statistics Project is defined in the *State Court Guide to Statistical Reporting*. A count can be complete, meaning that it includes all of the case types in the definition; incomplete in that it omits some case types that should be included; overinclusive in that it includes some case types that should not be included; or both incomplete and overinclusive. For instance, the model approach treats an accusation of driving while intoxicated (DWI/DUI) as part of a court's criminal caseload. If a state includes such offenses with traffic cases rather than criminal cases, the criminal caseload statistics will be incomplete and the traffic caseload statistics will be overinclusive.

Court structure and jurisdiction to decide cases indicate whether a count includes all of the relevant cases for a given locality or state. Two or more courts in a jurisdiction may share the authority to decide a particular type of case. Thus, in many states, both a court of general jurisdiction and a court of limited jurisdiction may hear misdemeanor cases. Similarly, complaints in torts or contracts below a set maximum dollar amount can often be filed in either court.

In some courts, jurisdiction is restricted to specific proceedings. An example is a preliminary hearing in a lower court to determine whether a defendant should be bound over for trial in the court of general jurisdiction.

Information on court structure and jurisdiction is therefore essential to the use of any state's caseload statistics. Each state has established various levels and types of courts. The lack of uniformity in court structure and jurisdiction even extends to the names given to the courts of various levels. The supreme court in most states is the court of last resort, the appellate court with final jurisdiction over all appeals within the state. In New York, however, the title supreme court denotes the main general jurisdiction trial court. A knowledge of court structure and jurisdiction is necessary before one can determine whether like is being compared to like.

Adjustments help make counts of cases more interpretable. Incoming cases per 100,000 population provide a standard measure of caseload levels that adjusts for differences in population among the states. The number of outgoing cases as a percentage of incoming cases in a given time period offers a clearance rate, a summary measure of whether a court or state is keeping up with its incoming caseload. The number of incoming or outgoing cases per judge is a useful expression of the workload confronting a court.

Such simple adjustments transform counts of cases into comparable measures of court activity. It is also possible to make adjustments to counts of cases to estimate the impact of missing information or to make allowances for differences in methods of count used by state courts. Other calculations reveal important aspects of court activity. For example, the percentage of cases decided by an appellate court indicates how many were heard on the merits, which required briefing and oral arguments or other steps that create substantial demands on court time and resources.

How Should Caseload Statistics Be Used to Solve Problems?

Caseload statistics can form a response to certain types of problems that courts face. One set of problems relates to the volume of cases that a court must hear and to the composition of that caseload. Drug cases offer an example. Have incoming drug cases risen more rapidly than other types of criminal cases? Are drug cases more likely to be disposed at trial than other felonies? Do they take longer to resolve in the trial court? How common is it for drug cases to be appealed? How does the trend in incoming drug cases in one section of the country compare with trends in other regions?

A related set of problems revolves around the adequacy of court resources. How many cases are typically handled by a judge in the state courts? As caseloads continue to rise, have judicial resources kept pace? Is the provision of judicial support staff in one state adequate when compared to the staff in another state with comparable incoming or outgoing cases per judge?

A third set of problems relates to the pace of litigation. Are there more incoming than outgoing cases annually, thus increasing the size of the pending caseload? How long do cases take to be resolved in the trial court? In the appellate court? What proportion of the outgoing caseload is disposed of within the court's or American Bar Association's time standards?

The model approach developed by COSCA and the NCSC provides the foundation for answering such questions. Virtually all states, as well as many individual trial courts, publish their caseload statistics in annual reports. Yet the diverse methods that states employ to collect information on caseloads restrict the usefulness of the resulting information. It may seem as if courts in one state use the euro, others the yen, and still others the dollar. This approach looks at how caseload information can be organized nationally to address problems facing state court systems and individual courts.

Comparability

The caseload statistics from each state are collated into a coherent, comprehensive summary of all state court activity and published annually by the CSP. The report contains tables, charts, and figures that are often lengthy

and crowded with symbols and explanatory matter. This does not negate the underlying simplicity or usefulness of caseload statistics as counts of court activity.

The available statistics reflect the varied responses individual trial courts and states have made to practical problems such as what constitutes a case, whether to count a reopened case as a new filing, and whether a preliminary hearing binding a defendant over to a court of general jurisdiction is a case or merely an event equivalent to a motion.

Comparability is a more substantial issue than completeness. Nine reporting categories are used by the Court Statistics Project. Appellate caseloads are divided into appeal by right, appeal by permission, death penalty, and original proceeding matters. Trial court caseloads are divided into civil, domestic relations, criminal, juvenile, and traffic/other violations cases.

Abbreviated definitions of the CSP's reporting categories appear below.

APPELLATE COURT

appeal by right: appeals that the court must hear and decide on the merits

appeal by permission: appeals that the court can choose to review; if review is granted, the appeal will be heard and decided on its merits

death penalty: an appeal or other action that has been taken from a capital case in which the death penalty has been imposed

original proceeding: an action that comes to the court in the first instance (examples include writ applications, bar matters, and certified questions)

TRIAL COURT

civil: requests for an enforcement or protection of a right or the redress or prevention of a wrong (examples include medical malpractice, fraud, eminent domain, and small claims cases)

domestic relations: cases involving actions between family members (or others considered to be involved in a domestic relationship) such as adoption, divorce, custody, paternity, and support

criminal: charges of a state law violation

juvenile: cases processed through the special procedures that a state established to handle matters relating to individuals defined as juvenile

traffic/other violation: charges that a traffic ordinance or city, town, or village ordinance was violated

These categories represent the lowest common denominator: what one can reasonably expect most states to provide.

The advent of automated information systems means that states increasingly collect more detailed information, distinguishing, for example, tort cases from other civil cases and medical malpractice cases from other tort cases. Similarly, some states distinguish between various types of felonies and misdemeanors within their criminal caseloads, including the separation of drug cases from others.

Another aspect of comparability is whether the caseload count from a particular court includes all the relevant cases for a given locality or state. In some states, one court may have complete jurisdiction over a particular type of case, while in others the jurisdiction is shared between two or more courts. For example, to get a complete

count of incoming appeal by permission cases at the appellate level, one may have to check the count only in the court of last resort (COLR) (states without an intermediate appellate court [IAC] or states where the IAC has only appeal by right jurisdiction), or it may be necessary to examine both the COLR and the IAC (states that allocate appeal by permission jurisdiction to both the COLR and IAC). Therefore, when making comparisons with state court caseload statistics, one must have an awareness of the variation in court structure and jurisdiction.

The court structure charts summarize, in one-page diagrams, the key features of each state's court organization. The format meets two objectives: (1) it is comprehensive, indicating all court systems in the state and their interrelationship, and (2) it describes the jurisdiction of the court systems using a comparable set of terminology and symbols. The court structure charts employ the common terminology developed by the Court Statistics Project for reporting court statistics.

The charts identify all of the state courts in operation during the year and describe each court system's geographic and subject matter jurisdiction. The charts also provide basic descriptive information, such as the number of authorized judicial posts and whether funding is primarily local or state. Routes of appeal are indicated by lines, with an arrow showing which court receives the appeal.

Conclusion

Caseload statistics are less complex and more practical than often imagined. By following relatively simple steps, courts, state court administrative offices, trial court administrative offices, appellate court clerks, and others can more effectively use the statistics that they currently produce. A useful point of reference when considering an upgrade to the quality and quantity of information currently being collected is the *State Court Guide to Statistical Reporting*.

The flexibility and power of automated record systems mean that the information compiled nationally to describe state court caseloads is becoming more comparable year by year. Caseload data available in the new millennium will be significantly more comparable across the states than what has been published in the past. Differences among states in the criminal and juvenile unit of count will continue to make comparisons tentative for those cases. Still, those differences do not affect comparisons of clearance rates or of trends.

What can be done to realize the potential that caseload statistics offer for planning and policymaking? There are three priorities. First, reliable statistics on the size of the active pending caseload are needed. Unless courts routinely review their records to identify inactive cases, an accurate picture of their backlogs is not possible. Second, information on the number of cases that reach key stages in the adjudication process would be an important addition. How many "trial notes of issue" are filed in civil cases? In what proportion of civil cases is no answer ever filed by the defendant? Third, revisions to court record systems should consider the feasibility of including information on the workload burden being imposed on the court through pretrial conferences, hearings, and trial settings.

Accurate and comprehensive statistics are ultimately important because they form part of the currency when public policy is debated and decided in a "fact-minded culture." Those organizations and interests that master the statistics that describe their work and output are at an advantage in the competition for scarce public resources. The Court Statistics Project offers the state court community a resource for both examining itself and representing its case to the larger commonwealth.