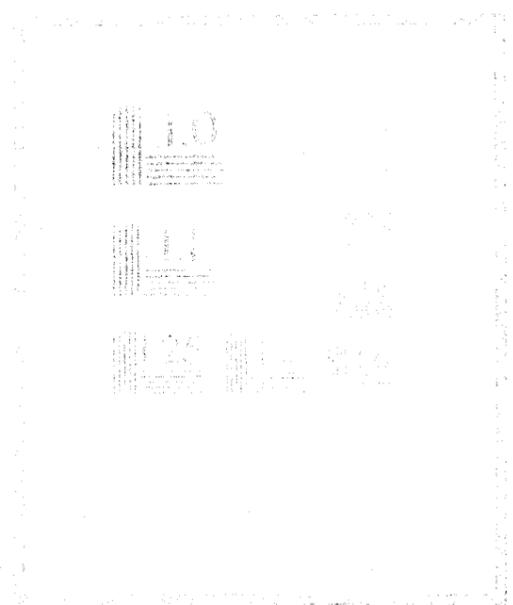


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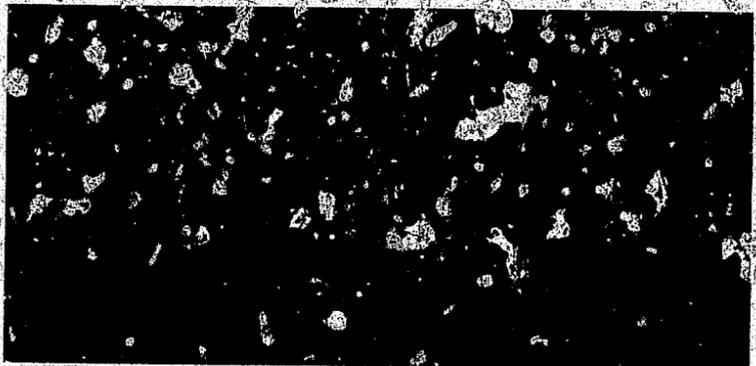
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STUDY DESIGN AND METHODOLOGY FOR A
 STUDY OF JUDICIAL MANAGEMENT AND STYLE IN THE
 FEDERAL JUDICIAL SYSTEM



THE AMERICAN UNIVERSITY
 Criminal Courts Technical Assistance Project
 Institute for Advanced Studies in Justice
 The American University Law School
 Washington, D.C.



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STUDY DESIGN AND METHODOLOGY FOR A
SURVEY OF JUDICIAL MANPOWER AND SPACE IN THE
MASSACHUSETTS JUDICIAL SYSTEM

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I. INTRODUCTION

In January, 1976, the Governor of Massachusetts created the Select Committee on Judicial Needs to analyze the problems of backlog and delay in the Massachusetts court system and to make recommendations for legislative and administrative action to improve court operations. The committee, chaired by Archibald Cox, is composed of twenty representatives from the legal, financial and academic community.

A major concern of the Committee has been the operations of the Superior Courts of the state, which appear to have the most serious problems of backlog and delay. One suggested means of relieving the workload of these courts is to increase the jurisdiction of the State's District Courts, by granting them:

- Exclusive jurisdiction of civil damage cases up to \$10,000.
- Power to conduct jury trials on the record in civil cases with right of direct appeal to an appellate court.
- Exclusive jurisdiction of de novo criminal appeals on the record before a six-person jury, with right of direct appeal to an appellate court.

To determine the feasibility of this alternative, the Committee has planned a study of the State's judicial system to ascertain the extent to which the District Courts might be able to absorb an increased workload. In this regard, Brownlow Speer, Executive Director of the Committee, requested LEAA's Criminal Courts Technical Assistance Project at The American University to provide assistance in developing a methodology to be used in the study and in gathering the necessary data. In response to this request, Mr. Robert Tobin of Resource Planning Corporation was assigned by the project to work with the Committee in this task. Mr. Tobin was on site July 28-29, 1976, during which time he met with Mr. Speer and Ms. Jayne Tyrrell, Associate Director of the Committee. In order to increase his understanding of the existing District Court operations, Mr. Tobin visited three courts: the Taunton District Court, a

suburban/rural court, the Quincy District Court, a busy urban court, and the Boston Municipal Court. While at the Courts, Mr. Tobin interviewed judges, clerical staff and other relevant court personnel.

II. ISSUES BEARING ON THE STUDY

A. Factors to be Considered in Assessing Unused Judicial Capacity in District Courts

Two major resources in assessing unused capacity in a trial court are judicial time and courtroom facilities. These are by no means the only factors, but they are crucial.

The measurement of judicial time utilization must take into account bench time, chamber time and administrative time. In the District Court, the nature of the jurisdiction requires very little chamber time and a relatively modest expenditure of administrative time for presiding judges. It would appear safe to state that 80-90% of District judge time is bench time.

Another measure of capacity is courtroom utilization. Idle courtrooms are an indication of ability to accommodate additional caseload.

1. Measures of Judicial Time Utilization

In lower-tier courts, there is no reliable correlation between case filings and judicial time since so many civil cases and criminal cases are not contested. Thus, it is difficult to derive reliable bench time statistics from gross workload statistics. More reliable measures of bench time are:

- Actual recording of hours in session.
- Estimate of bench time derived from count of contested cases and application of a time factor for each type of case; thus, for example, if 400 civil trials occur in a District Court in a year, it is possible to estimate that 400-600 hours were spent in disposing of those cases; a comparable number of contested small claims cases might take 200 hours.

Clearly, actual recording of bench time is the best measure of judicial time utilization. This may occur in several ways:

- The judge, pursuant to administrative regulations, records his daily bench time, or the hours his court is in session (which probably includes recesses and is not strictly speaking bench time); such records are, in fact, kept by some district judges since there is an administrative directive requiring such records.

- The judge, or his secretary or clerk, keeps records of bench time over a brief period to provide a data base; this could be done upon request as part of a study.
- A court observer records judicial bench time, but obtains balancing interpretive comments to insure validity of the observations.

The computation of bench time from contested cases is much more complex since it requires actual or derived statistics on contested cases and ability to apply an average time factor to each category of case. Moreover, some allowances must be made for the many miscellaneous matters which consume bench time, e.g., calendar call, arraignments, etc. Below are listed the typical proceedings in a District Court, the source of data on number of contested cases and time factors:

<u>Civil</u>	<u>Type of Proceeding</u>	<u>Source *</u>	<u>Estimated Time Factor</u>
	Civil Trials	Report to Administrative Office	1-1 1/2 hours per case
	Summary Process Tried	Report to Administrative Office	1/2 - 1 hour per case
	Civil Commitments	Use filing figure in report to Administrative Office	1 - 1 1/2 hours per case
	Remands Tried	Report to Administrative Office**	1 - 1 1/2 hours per case
	Small Claims Tried	Would have to be derived from gross filing reports to administrative office; this derivation would be based upon actual bench time and a number of trials in a selected number of courts, followed by translation of this actual data into a formula applicable to gross filings.	1/4 to 1/2 hour per case

* It is possible to obtain some idea of contested cases from old trial calendars, but this is not too reliable.

** May be redundant with civil trial figure.

<u>Type of Proceeding</u>	<u>Source</u>	<u>Estimated Time Factor</u>
Miscellaneous Civil Proceedings Handled in Court (e.g., supplementary process, URESA)	Same as above.	1/6 hour per case
<u>Criminal</u> Criminal Cases Tried	Possibly can be estimated from reports filed with Department of Corrections*, but may have to be based on above-described derivations from reports to Administrative Office	1/2 - 1 hour per case
Traffic Cases Tried	Same as above	1/4 - 1/2 hour per case
Non-Support	Same as small claims, URESA <u>supra</u>	
Miscellaneous Court proceedings (arraignments, sentence violations, etc.)	Derived from administrative office statistics by using actual judge time on these proceedings in sample courts	
<u>Juvenile **</u> Petitions Heard	Derived from administrative office statistics reduced to give number of defendants rather than complaints (ratio of complaint to defendants is 1.6-1); derived by taking actual judge time on juvenile cases in sample courts and developing a formula for general applications.	1 hour per case

As the above list indicates, there are numerous variables and statistical elements involved in "guesstimating" bench time. The guess work is less on the civil side, since actual trial data is reported to the Administrative Office for certain types of cases.

* Statistics appear to indicate contested cases but may include admissions.
 ** Separate juvenile courts exist in some districts, but most district courts handle juvenile cases.

2. Courtroom Utilization

A corollary of judicial utilization is courtroom utilization. Analysis of courtroom utilization may indicate:

- That jury courtrooms exist to handle increased load*.
- Unused district court capacity and a rough measure of time.
- How bench time is distributed by type of proceeding.

Courtroom utilization can best be determined by on-site observation. Such observation should include:

- Actual use by day of week.
- Jury and non-jury facilities.
- Types of proceedings heard during period of use.

B. Data Collection Methodology

The Cox Commission has fairly narrow constraints in terms of time and resources to analyze unused judicial capacity in District Courts. This automatically rules out anything but brief periods of data collection and observation in a few district courts. Use of general questionnaires seemed also to be eliminated.

Moreover, it doesn't seem appropriate to use non-lawyer collectors for analysis of dockets and old trial calendars, both prime sources of data on judicial activity. The alternatives reduce themselves to:

- Relying heavily on existing statistical reports (e.g., report to Administrative Office) and existing records of bench time kept by judges.
- Using on-site observation to gather simple and easily quantifiable data on courtroom use and judicial bench time by type of proceeding and day of week.
- Using on-site data gathering as a means to intelligently estimate bench time in courts not visited.

* This technical assistance did not address such matters as juror pools, jury attendance and recording of testimony, which are important concerns.

- Restricting on-site observations to one week in eight courts.
- Eliminating from the eight-court sample:
 - courts with part-time judges since they have excess capacity by definition;
 - Boston Municipal Court which is sui generis;
 - courts in Bristol County, where there is a juvenile court.
- Including in the eight-county sample:
 - either the Springfield or Worcester District Court, although there are separate juvenile courts;
 - seven other courts in different counties chosen on a population and caseload scale, i.e., one for each of seven cells grouping courts with similar population and caseload ranges;
 - picking a back-up court in each cell in the event cooperation problems arise.

Limited on-site observation and data collection is a fairly fragile basis for wholesale extrapolation and would have to be used with care. It is probably preferable to draw the eight-court sample carefully and to rely on it as a microcosm of the district court system.

III. RECOMMENDATIONS

A. Data Sources

1. Rely primarily on existing judicial reports

No more acceptable source of data on bench time exists than the records kept by judges themselves. While such data would tend to be self-serving, it would be easily accepted as an indicator of bench time.

It is recommended that an attempt be made to obtain a copy of the administrative regulation to keep such records, to ascertain whether such data is centrally collected and available, or as an alternative, whether a number of cooperative judges would supply the records they keep.

The value of these records, even if inflated, is that they mark the absolute upper limit of judicial bench activity.

2. Rely secondarily on on-site observation

On-site observation of bench time will be helpful, but by no means conclusive, since it will be based on a very short period.

It is recommended that observation of bench time be two weeks per court, if possible, and that it be used as a supplement to the collected records obtained from judges. It is further recommended that local court officials be asked to comment on whether the bench time for the period is typical or atypical.

3. Consider using special records kept by judges

A possible tactic is to request 15-20 judges to record their time for a month. This would have acceptability and would provide a reasonably long period.

It is recommended that this be used if the first two alternatives fail.

B. Elements of a Staff Analysis

It is recommended that there be a staff paper with the following contents:

- Problem definition expanding on the issues raised in Section II of this report.

- Description of the methodology used, and explanation of the sampling techniques employed.
- Charts and analysis of hours in session for a cross section of district court judges and distribution of bench time of district court judges in eight selected courts (See Appendix A).
- Charts and analysis showing weekly distribution of bench time in eight district courts (See Appendix B).
- Charts and analysis of major civil, juvenile, and criminal cases. (see Appendices C, D, and E).
- Charts and analysis of courtroom utilization in eight district courts, by district and by type of proceeding. (See Appendix F)
- Summary statements on unused capacity, judicial and courtroom, in the district courts.

C. On-Site Observation Methodology

It is recommended that on-site data collectors spend a minimum of one week in each of the eight sample courts*. It may be preferable to have them split this time between two courts on a revolving day-to-day basis for two weeks. By this method, they may be able to get a two week time span for each court by simply reconstructing the previous day's activity when they come back after a one-day absence. The same principle applies when there are two judges in the same district, since the observer can't be in two locations at once. However, straight one-week stints in each court are acceptable. It is recommended that the data collectors gather data such as that contained in the following daily activity sheet.

* The sample is discussed in a previous section.

DAILY ACTIVITY SHEET

District No. _____ Court Location _____

Date: _____ Courtroom #: _____ Judge: _____

Collection source: On-Site Reconstruction Judicial Record

Name of Data Collector: _____

Bench Activity Classification	Morning 9 - 1		Afternoon 1 - 5		Evening 5 - +	
	Hrs.	# Matters	Hrs.	# Matters	Hrs.	# Matters
1. Civil Trial						
2. Summary process tried						
3. Supplement-ary process heard						
4. Small claims tried						
5. Civil com-mitment						
6. URESA						
7. Misc. Civil		--		--		--
8. Juvenile						
9. Criminal trials						
10. Traffic cases heard						
11. Arraignment						
12. Misc. Crim.		--		--		--
13. Off Bench		--		--		--

APPENDICES

Suggested Charts for Data Compilation and Analysis

- APPENDIX A Weekly Hours in Session Recorded by
a Cross-Section of District Court
Judges

Weekly Bench Time of District Court
Judges in Eight Selected Courts
- APPENDIX B Weekly Distribution of Bench Time in
Eight District Courts
- APPENDIX C Estimate of Civil Bench Time for Major
Litigated Matters 1974-1975
- APPENDIX D Estimated Juvenile Bench Time Per District
1974-1975
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- APPENDIX F Weekly Hours of Courtroom Utilization in Eight
District Courts

Courtroom Utilization by Type of Proceeding in
Eight District Courts

APPENDIX A

Weekly Hours In Session Recorded By
A Cross-Section of District Court Judges

<u>Judge*</u>	<u>District</u>	<u>Hours In Session</u>						
		<u>M</u>	<u>T</u>	<u>W</u>	<u>TH</u>	<u>FR</u>	<u>SAT</u>	<u>TOTAL</u>
1	7							
2	7							
3	12							

Average Bench Time per judge

Weekly Bench Time Of
District Court Judges In
8 Selected Courts

<u>Judge</u>	<u>District</u>	<u>Hours</u>						
		<u>M</u>	<u>T</u>	<u>W</u>	<u>TH</u>	<u>FR</u>	<u>SAT</u>	<u>TOTAL</u>

Average Bench Time per judge.

* Numbers used rather than names.

APPENDIX B

Weekly Distribution Of Bench Time
In Eight District Courts*

Proceeding	Dist 1 %	Dist 2 %	Dist 3 %	Dist 4 %	Dist 5 %	Dist 6 %	Dist 7 %	Dist 8 %	Total %
<u>Civil</u>									
Civil trials									
Summary proc. Tried									
Supp. proc. Tried									
Small claims Tried									
Other Civil Bench time									
<u>Criminal</u>									
Criminal trials									
Traffic cases Tried									
Other criminal bench time									
<u>Juvenile</u>									
Contested Hear- ings/Admissions									
Other juvenile bench time									
<u>Time Off</u>									
<u>Bench</u>									

* Based on average of judicial bench time if more than one judge in district.

END