



JAIBG

BULLETIN

Juvenile Accountability Incentive
Block Grants Program

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From the Administrator

In 1997, U.S. law enforcement agencies made some 2.8 million arrests of persons under age 18. With the growth of referrals for serious and violent offenses, the demands on the limited resources of juvenile courts are greater than ever. To help States meet those demands, the Juvenile Accountability Incentive Block Grants (JAIBG) program provides Federal funds to increase the number of juvenile court personnel and enhance the quality of the court's pretrial services. To establish appropriate hiring priorities and make the most effective use of such funds, States and local jurisdictions need to be able to analyze current workloads and forecast future needs.

This Bulletin, one in an OJJDP series featuring JAIBG Best Practices, describes workload measurements for judges, court-appointed defenders, probation officers, and pretrial service staff, which should prove helpful in that process.

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OJJDP

Workload Measurement for Juvenile Justice System Personnel: Practices and Needs

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This Bulletin is part of OJJDP's Juvenile Accountability Incentive Block Grants (JAIBG) Best Practices Series. The basic premise underlying the JAIBG program, initially funded in fiscal year 1998, is that young people who violate the law need to be held accountable for their offenses if society is to improve the quality of life in the Nation's communities. Holding a juvenile offender "accountable" in the juvenile justice system means that once the juvenile is determined to have committed law-violating behavior, by admission or adjudication, he or she is held responsible for the act through consequences or sanctions, imposed pursuant to law, that are proportionate to the offense. Consequences or sanctions that are applied swiftly, surely, and consistently, and are graduated to provide appropriate and effective responses to varying levels of offense seriousness and offender chronicity, work best in preventing, controlling, and reducing further law violations.

In an effort to help States and units of local government develop programs in the 12 purpose areas established for JAIBG funding, Bulletins in this series are designed to present the most up-to-date knowledge to juvenile justice policymakers, researchers, and practitioners about programs and approaches that

hold juvenile offenders accountable for their behavior. An indepth description of the JAIBG program and a list of the 12 program purpose areas appear in the overview Bulletin for this series.

Background

Between 1987 and 1996, total referrals to juvenile courts for homicide, rape, armed robbery, and aggravated assault increased by 106 percent; referrals for drug law and weapons law violations increased by 144 percent and 109 percent, respectively; and overall referrals for all offense categories increased by 49 percent, reaching a total of 1,757,000 cases in 1996 (Stahl et al., 1999). Cases involving serious and violent offenses, because of their complexity, the threat posed to public safety, and the individual freedoms at stake, require a substantial share of the juvenile court's resources. Because such cases have been the driving force behind the overall increase in court caseloads, the demand for personnel resources in the courts has reached unprecedented levels.

To ensure the smooth and expeditious administration of the juvenile justice system, the Juvenile Accountability

Incentive Block Grants (JAIBG) legislation explicitly authorized making Federal funds available for the purpose of hiring additional judges, probation officers, and court-appointed defenders and funding pretrial services for juveniles (U.S. Congress, 1998). This funding provision is part of a larger effort to increase juvenile accountability by increasing the system resources available to respond to juvenile delinquency.

If State and local jurisdictions are to assess their hiring priorities thoughtfully and make the most efficient use of available JAIBG funds, they need to know something about the best methods of measuring and analyzing current workload burdens of various juvenile justice system participants and forecasting future personnel needs for the system. Accordingly, this Bulletin provides perspective on workload measurement for judges, court-appointed defenders, probation officers, and pretrial services employees and, to the extent possible, identifies "Best Practices."

Current Approaches to Measuring Workload

Judges

An unhurried hearing before an unhurried judge was originally thought to be an indispensable requirement for individualized justice in the juvenile court. In fact, a major part of the original rationale for creating specialized juvenile courts was the assumption that such courts would not be too burdened with work to respond promptly to individual needs in individual cases. Prompt response was desirable, not just because justice required it, but because it was an essential ingredient of effective intervention with children.

In practice, however, the resources available to juvenile courts have not always justified this assumption, as shown in an assessment performed

35 years ago of the world's first juvenile court, in Cook County, IL (National Council on Crime and Delinquency, 1963). Consultant Edgar W. Brewer found that each Cook County juvenile case would, on average, require 1.5 hours of judicial time per year. Using this finding, and assuming the normal 220 judicial person-days per year and 6.5 hours per day of "bench time," Brewer concluded that a judge dedicated exclusively to hearing cases could handle 1,000 cases per year. Brewer then looked at official case dispositions for the Cook County juvenile court for the year 1961 (a total of 10,164) and concluded that the court needed 10 judges to do justice to that volume of cases; at the time, the court had only 5 judges.

Addressing resource issues requires information about workloads. What is the best means of determining a reasonable workload for the judiciary? There is no solid consensus on this question. The three dominant approaches, however, are the weighted caseload method, the Delphi method, and the normative method.

Weighted Caseload Method

Because court cases vary in complexity, the amount of time that judges and other court staff must spend to dispose of cases also varies. Uncontested juvenile traffic cases may require no judicial hearing time at all and only a limited amount of time for a cashier or clerk to receive and record a fine. Conversely, an aggravated felony in a State such as Texas—which makes provision for juvenile jury trials in such cases—could require a week or more of judicial hearing time; an equivalent amount of time from a bailiff, a court clerk, and a court reporter; and significant time from the judge's law clerk and secretary. A contested termination of parental rights case in Texas could take even longer—such cases involve more parties with legal standing than most juvenile cases and Texas law

also provides for a jury trial in these matters. This variance in case complexity has generated considerable support for the use of weighted caseloads as a measurement tool.

In its most straightforward form, weighted caseload measurement involves attempting to determine the amount of judicial time needed for a "typical" case by taking the following steps:

- Identifying the events that occur in a particular case type.
- Documenting the frequency with which these events occur.
- Recording how much of a judge's time each event requires. (The total time spent, measured in minutes, becomes the case weight.)

Weighted caseload analysis begins by tracking the events that occur in given case types. In delinquency cases, such events will include, at a minimum, an arraignment and/or a detention hearing, an adjudication hearing, and a disposition hearing. If a juvenile is detained, some States require a detention hearing every 7 days for the duration of the pretrial detention. In dependency cases, there may be as many as 35 discrete case events. (Steelman, Rubin, and Arnold, 1993; Halemba, Hurst, and Gable, 1997).

Event frequency for particular types of cases is then established by reviewing case records. The time that a judge spends on each event in each case, including bench and nonbench time, is recorded in minutes. The sum of all these times becomes the case weight. The case weights are an average—derived by examining a sample of cases of a particular type—but are thought to represent the amount of time needed to process a typical case.

In a recent study, the State of Colorado documented a 69-minute case weight for juvenile cases. Using this case weight, a 220-day work year, and an average of 6.5 hours per day of

available case-hearing time for urban judges, the study concluded that an urban judge should be able to hear 1,212 cases per year. This same study found that a rural juvenile court judge, with slightly less than 5 hours of available hearing time per day (because multicounty circuits in Colorado make it necessary for judges to travel an hour or more per day) should be able to hear 941 cases per year (Ostrom and Kauder, 1996).

In a 1993 study of courts in Cook County, IL, the National Center for State Courts determined case weights for specific types of juvenile court cases (Steelman, Rubin, and Arnold, 1993). The case weights were 299.74 minutes for dependency (child in custody) cases, 352.54 minutes for dependency (child in home) cases, 140.76 minutes for juvenile delinquency (child detained) cases, and 111.40 minutes for delinquency (child not detained) cases. These weights are grossly different from those developed for urban communities in Colorado, Michigan, and West Virginia using a similar method. There is no information available on the reasons for these variations, but the differences are most likely the result of different legal procedures and different case goals.

Delphi Method

The Delphi Research Method is one technique for arriving at "the truth" by sampling expert opinion. The technique has been used frequently as a source of external validation in weighted caseload studies but has seldom been used as a stand-alone process to determine the workload of the judiciary. The technique, however, is probably used far more frequently than can be documented, because most such studies are proprietary and difficult to access.

The State of Arkansas has had occasion to make extensive use of the Delphi technique. In 1988, following

an Arkansas Supreme Court decision invalidating the State's existing court of juvenile jurisdiction as unconstitutional, Arkansas was called upon to establish an entirely new statewide juvenile court. The National Center for Juvenile Justice was retained to assist in estimating workload and determining staffing patterns for the new court. Since the existing juvenile court had been invalidated, its existing case records could not be used to determine the events necessary to initiate and dispose of juvenile cases. Consequently, the entire estimation process depended on the Delphi technique. Judges and their support staff were asked to identify the events required for case initiation, adjudication, disposition, and review and to estimate the time required to accomplish each event. Case weights based on these estimates were then applied to the caseload to determine the number of judges that would be needed to staff the statewide juvenile court. This procedure resulted in an estimate of 180 minutes, or 3 hours, of judicial time to handle a typical juvenile case from initiation through closure. Using a 6-hour case hearing day and a 220-day work year, Arkansas concluded that a judge could hear an average of 440 cases per year. The State used the results of the study to staff its new courts of juvenile jurisdiction and, from all accounts, participants have been quite satisfied with the results.

Normative Method

Another frequently used approach to measuring judicial workload involves comparative analysis across analogous jurisdictions. The jurisdictions must be similar in demographics and their courts comparable in jurisdiction and procedure. Once these parameters are established and the jurisdictions are selected, it is simply a matter of selecting a stable measure (such as eligible child population and/or annual case dispositions) and dividing this measure into the

number of judges available. The result is usually expressed in a case rate of judicial officers per 1,000 eligible children or judicial officers per 1,000 cases.

The simplicity of the normative/workload comparison approach makes it appealing to those involved in the appropriations process, but the method's usefulness is widely questioned among researchers. The normative method can be easy to implement, and most jurisdictions already regularly collect the data it requires. Nevertheless, the prevailing skepticism among researchers is such that studies documenting the approach are difficult to find (National Center for Juvenile Justice, 1998). The skepticism stems from two sources. First, such studies assume that the norm is a worthy goal. That may not be the case when courts are chosen on the basis of demographics, because all of the courts may face similar resource limitations. Moreover, the temptation to choose demographically similar but more affluent and/or progressive jurisdictions is difficult to resist when it is essential to present a convincing message to appropriating bodies.

Defense Attorneys

In a national assessment of defense counsel for juveniles, high caseloads were found to be the single most important barrier to effective representation (Puritz et al., 1995). According to that study, attorneys with heavy caseload burdens find it difficult to provide many of the components of effective representation:

- Meet with young clients to explain the proceedings before the clients appear at their detention hearings.
- Investigate the circumstances of the alleged offenses.
- Learn about the youth's ties to their families and communities.
- Research and write individualized pretrial motions.

- Keep informed on community-based alternatives to secure detention.
- Develop dispositional plans that may be preferable to institutional confinement.
- Follow up with clients during dispositional reviews.
- Monitor placement problems that may arise regarding needed services or conditions of confinement.

Despite the practical importance of ensuring reasonable caseloads for defense attorneys in juvenile court, the literature addressing approaches to measuring and assessing defense attorneys' workload burdens is sparse to nonexistent. According to a caseload standard presented in *Report on the Courts* (National Advisory Commission on Criminal Justice Standards and Goals, 1973), the "caseload of a public defender . . . should not exceed . . . more than two hundred . . . juvenile court cases per attorney per year." The Commission defined a case as a single charge or set of charges concerning a defendant in one court in one proceeding and cautioned that particular conditions, such as longer travel times, may dictate lower limits in some localities.

The Commission's report reveals little regarding the process by which the 200-case standard was derived. It is reasonable to assume that, as so often is the case in matters of jurisprudence, it reflects the "wisdom of the elders" or, in the language of social scientists, the preponderance of professional opinion. Nevertheless, even after 25 years, the standard is apparently still accepted by the legal profession as a useful guide in assessing the workload of court-appointed defense attorneys for juveniles (Puritz, 1995).

Probation Officers and Pretrial Services Personnel

A review of the literature suggests that probation professionals have been more concerned than most other

juvenile justice professionals about the issue of caseload standards. The literature on the topic of caseload standards for probation officers is extensive and, by one account, dates to at least 1917, when a consensus of probation administrators is said to have established a probation caseload standard of 50 offenders per officer. That remained the accepted figure until 1967, when the President's Commission on Law Enforcement and Administration of Justice lowered the ideal caseload to an average of 35 offenders per officer. Both of these numbers bore the stamp of "professional consensus": the National Probation Association, the American Correctional Association, the National Council on Crime and Delinquency, the U.S. Children's Bureau, and the National Council of Juvenile and Family Court Judges all endorsed both the original 50-case standard and its successor, the 35-case standard.

To be sure, there was interest—especially from so-called operations researchers—in alternatives to professional consensus as an approach to measuring probation workloads. With the advent of automation, ambitious projects were undertaken in an attempt to simulate probation decisionmaking, in juvenile delinquency cases in particular. But the unitary standard remained the rule until the fiscal austerity of the late 1970's and early 1980's brought renewed urgency to the effort to "provide data for budget justification and support" (Bemus, Arling, and Quigley, 1983). At that time, efforts began in earnest to move from measures based on number of cases to measures based on units of work.

Classification Systems

Like weighted caseload measures for the judiciary, workload management and measurement efforts in probation have proceeded from the assumption that cases vary in their supervision requirements. Proceeding from such

an assumption, case classification becomes necessary for probation workload measurement regardless of whether the ultimate goal is the economical use of probation personnel, improved outcomes for probationers, or both.

Over the past 20 years, the dominant approach to case classification in probation has been that of risk classification, wherein risk-scaling instruments are administered to classify an offending population's propensity for reoffending. Once reoffending probabilities have been established, differing levels of supervision are arbitrarily set. (Setting levels of supervision—deciding, for example, what probability of reoffending constitutes the threshold for incarceration— involves political decisions.) Ideally, these levels are then validated through research, to take the guesswork out of determining the level of supervision that an offender may require for optimum achievement of goals. This approach will generate unitary caseload measures for a given level of supervision but will not generate an average number of cases per probation officer. The alternative approach to classification, that of needs assessment or needs classification, is favored by practicing probation officers as a way to establish effective workload measures. Nevertheless, the needs-based approach to classification has been relatively neglected within the past 20 years. The main reason may be the lack of consensus regarding theories of human development, which has precluded agreement on a screening instrument for classifying need. Also, political necessity has dictated that risk-scaling instruments take precedence over needs-based approaches.

While classification systems for use in the supervision function of probation have proliferated, they have been of

limited value in establishing standards relating to the intake and pretrial services functions of probation. Most juvenile probation departments in the United States do not have a unit identified as pretrial services. Many of the larger departments have intake departments, some have intake and investigation departments combined, and others have separate intake and investigation and/or predisposition study divisions. Often, these functions are statutorily mandated. They may have little or nothing to do with the risk of reoffending but much to do with the assurance of offender rights and the legal responsibilities of the probation agency. Consequently, the caseload approach is still preferred in developing workload measures for intake and predisposition study (Kurz et al., 1988).

In addition to intake screening, juvenile probation departments commonly perform other functions that do not lend themselves easily to risk classification (Kurz et al., 1988). These functions include diversion, presentation of cases in court as a specialization, representation of the interests of the probation department in pretrial negotiation processes between prosecuting and defense attorneys, out-of-State or out-of-county courtesy supervision, and placement unit and home detention supervision. More research is needed on workload measurement for these additional functions.

Limitations of Current Practice

The difficulty of developing meaningful and broadly applicable workload standards should not be underestimated. An instructive illustration of the problems inherent in such an effort is provided in a recent study by the Criminal Justice Center of Minnesota Planning (Erickson et al., 1997). The study attempted to fulfill a legislative mandate to develop a

weighted workload formula for use in distributing funding, with the aim of reducing probation officer caseloads statewide. The authors identified the following stumbling blocks:

- Current standards were lacking definitions, and statutes failed to provide them.
- Different probation agencies had different mission statements and goals.
- Wide variations in local community tolerance for crime caused comparable variations in the type of offenders received for probation services in different communities.
- There was no common risk assessment instrument in use, and no followup attempts had been made to validate the various classification instruments that were used.
- Many probation agencies feared that statewide standards would limit local autonomy, innovation, and creativity; ignore local differences; forfeit the advantages of pluralism and decentralization; and otherwise be less effective than locally generated standards.

The authors concluded that even if these and other barriers could be overcome, the data that would be needed to identify workload management methods and establish a validation process for assessment instruments did not exist. Establishing a process for collecting uniform data would take significant time and money, and even more resources would be needed to regulate, record, and compile the data.

While the foregoing study pertained only to probation, the limitations it suggests—the formidable documentation requirements, the differing community standards, and so on—apply to efforts to develop workload measures for the judiciary and defense counsel. It is, therefore, perhaps understandable that simplistic,

generalized measures of caseload have been used and that no attempt has been made to perfect broadly applicable workload measures.

Developing a Framework for the Future

Indicators of Need

There currently is no better indicator of need for juvenile court judges, defense counsel, probation officers, and pretrial service personnel than the court's eligible child population. The child population is the best and most stable basis for predicting levels of juvenile offending and child victimization (Sickmund et al., 1998). Because juvenile offenders and child victims make up the preponderance of the juvenile court workload, it seems reasonable to use eligible child population as the best general indicator of need for court personnel. Child population, however, is not a predictor of a community's tolerance for crime and victimization. Nor is it a predictor of law and procedure. Both of these variables have a significant impact on the workload and resource requirements of the justice system. In the future, a better indicator of need for juvenile court personnel may have to be developed.

A Template for Workload Measurement

A review of the literature makes it apparent that no unitary approach to caseload measurement or workload measurement is likely to emerge soon as the preferred method of documenting personnel requirements in juvenile justice. On the other hand, the literature supports the belief that it might be possible to develop a flexible, affordable template for measuring workload. In fact, pieces of that template already exist in the form of weighted caseload measures, risk classification, Delphi procedures, and needs assessment techniques.

Although these pieces exist, an important part of the total picture is missing. There are no practice templates available that include clearly articulated practice guidelines for conducting the total business of the juvenile court. The Resource Guidelines project, a recent OJJDP-funded research effort focused on the abuse/neglect-related activities of the juvenile court, could eventually serve as one approach to developing such a practice template for the entire range of the juvenile court jurisdiction. The procedures for dependency and delinquency cases are directly analogous.

The Resource Guidelines project was developed under the auspices of the National Council of Juvenile and Family Court Judges and was endorsed by the Conference of Chief Justices of the United States and the American Bar Association. In the project's initial phases, the National Center for Juvenile Justice first documented the events required to achieve given performance standards in the management of abuse/neglect cases and then determined related workload requirements for judges, hearing officers, administrative support staff, protective service case-workers, prosecutors, defense counsel, and guardians ad litem. The initial demonstration was conducted in Hamilton County, OH. Replication is now under way in 12 urban communities, and interest has been expressed by many others.

A workload measurement demonstration project building on the Resource Guidelines template—by incorporating the best approaches to calculating workloads for the entire range of the juvenile court jurisdiction—perhaps could serve as a crucible for forging a far better understanding of applied workload measurement. The Resource Guidelines project began by establishing clear procedural and temporal standards for case processing and then systematically documented the resources required to achieve

these standards, which were chosen through professional consensus. Although the standards have no demonstrable relationship to long-range case outcomes, their efficacy in improving the efficiency of procedures and reducing case delay has been demonstrated in Pima County, AZ, and evaluations are currently being conducted in Hennepin County, MN, and Philadelphia, PA.

In the absence of such a comprehensive demonstration project, those seeking to become familiar with the current state of the art in juvenile court workload measurement may want to review the publications listed at the end of this Bulletin, especially Steelman, Rubin, and Arnold (1993); Halemba, Hurst, and Gable (1997); Kurz et al. (1988); and Cooper, Puritz, and Shang (1998).

Conclusion

As reflected by the discussion above, workload measurement skills need to be sharpened to maximize society's return on its investment in juvenile court resources, but prior experience teaches that this is neither a short road nor one without abrupt turns. New Federal and State mandates are sprouting daily. Any approach used to measure workload must—above all—be flexible.

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