

**IRREDUCIBLE COMPLEXITY:
THE WORKLOAD OF A
ONE-JUDGE COURT**

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Abstract

In any court, time is a precious commodity. Cases require time to reach resolutions. Time is requested by attorneys and self-represented litigants. Judges need time to prepare, hear and decide all that comes before them. And with an ever-growing caseload, administrative duties, and the emergence of specialty courts, time is scarce. This is precisely why court systems must manage time in such a way as to ensure access to justice and a high level of performance.

The demand for time is most noticeable in a judicial district where only one-judge is responsible for handling all five case types (Criminal, Civil, Domestic Relations, Juvenile and Probate). The constant demand of time can make the judge and the trial court manager responsible for scheduling the court's time feel as though they are drowning.

The saving grace, or life preserver, in this instance is the introduction of caseflow management. With caseflow management, all cases are put on a track, with court events being scheduled at meaningful intervals to ensure timely case resolution. However, in a one-judge district with an entire case mix to manage, all time is devoted to 'in court' case processing. Administrative responsibilities, emergency hearings, lengthy hearings or trials requiring time outside of the case management time allotted is more than the life preserver can hold.

The focus of the study is to ascertain if one-judge districts are overworked by addressing the following questions:

1. How much work needs to be done?
2. How much time does it take to complete the work?

3. How much time is available to complete to the work?
4. What is the level of performance?

Methods utilized in attaining workload (caseload) data were obtained from the Arkansas Administrative Office of the Courts website, as well as analyzing the case study court's caseload documentation. Literature was reviewed regarding workload assessment completed in Arkansas, Kansas, Michigan, North Carolina, and Tennessee. The workload assessments reviewed provided insight into case weight values and data necessary in calculating judicial time – year and day values. The National Center for State Courts website provided information regarding the ten performance measures, known as CourTools, to compute productivity and efficiency of the court.

Overall, findings indicate that the case weight study completed by the State of Arkansas is outdated, underestimates the actual time required to complete case-related issues, and is overly generous with the time adjustment allowed for non-case-related matters. Caseload management works by ensuring timely dispositions and clearance rates are being met.

An important goal of the court system is to provide effective and efficient resolution of the disputes brought before them. Caseload management provides an effective way of achieving this goal. However, given the case mix and administrative responsibilities that a lone judge faces, it is too much for one judge to handle. Elimination of one-judge districts is necessary to evenly distribute the workload, eliminate isolation, reduce stress, and lessen political consequences.

Based on these conclusions, the following recommendations are made:

1. Caseload management should be mandated. It has proven to be successful in timely dispositions. Framework is already in place and transition would be relatively seamless.

2. A workload assessment needs to be done to ensure that the workload is equitable between districts and performance measures are being met. Framework is already in place and transition would be relatively effortless.
3. Adding a second circuit judge, law clerk, or virtual judge would lessen the load; decrease stress and burn out, and provide time for 'quality performance' to be achieved.

Introduction

How do we challenge our perceptions of judicial workloads and how do we measure what is real? Perhaps if we visualize our judges holding an empty bucket in each hand and proceed with the task of filling each bucket with that judge's caseload, administrative and extra-judicial tasks, we can then redefine the reality of the burden we ask them to carry. There is a limit to that. The individual judge has a total of 168 hours in a week, no more, no less. When the available portion of that which is devoted to work is used up there is no immediately available remedy for work that remains in the queue. There is no other judicial officer to assist and the assigned support staff has similar limits. Obviously, technology can help. Process reengineering can help. But, there comes a time when the limits of innovation are reached.

At that point, the capacity of the court to do timely, fair, and impartial justice has been achieved. Any reduction in any of the relevant variables would cripple the court's ability to function. In theory, it would no longer be a court. Biochemistry professor Michael Behe had a term for this: irreducible complexity. He defined it as a system, "...composed of several well-matched, interacting parts that contribute to the basic function, wherein the removal of any one of the parts causes the system to effectively cease functioning" (TalkOrigins Archive, 2014). The one-judge courts of Arkansas fit this definition.

As Figure 1 illustrates, there are 23 Judicial Districts; varying in size and in the number of Circuit Judges serving them. As an example, the 6th District, comprised of two counties, has 17 Circuit Judges. While the 2nd District comprised of six counties, has 11 Circuit Judges.

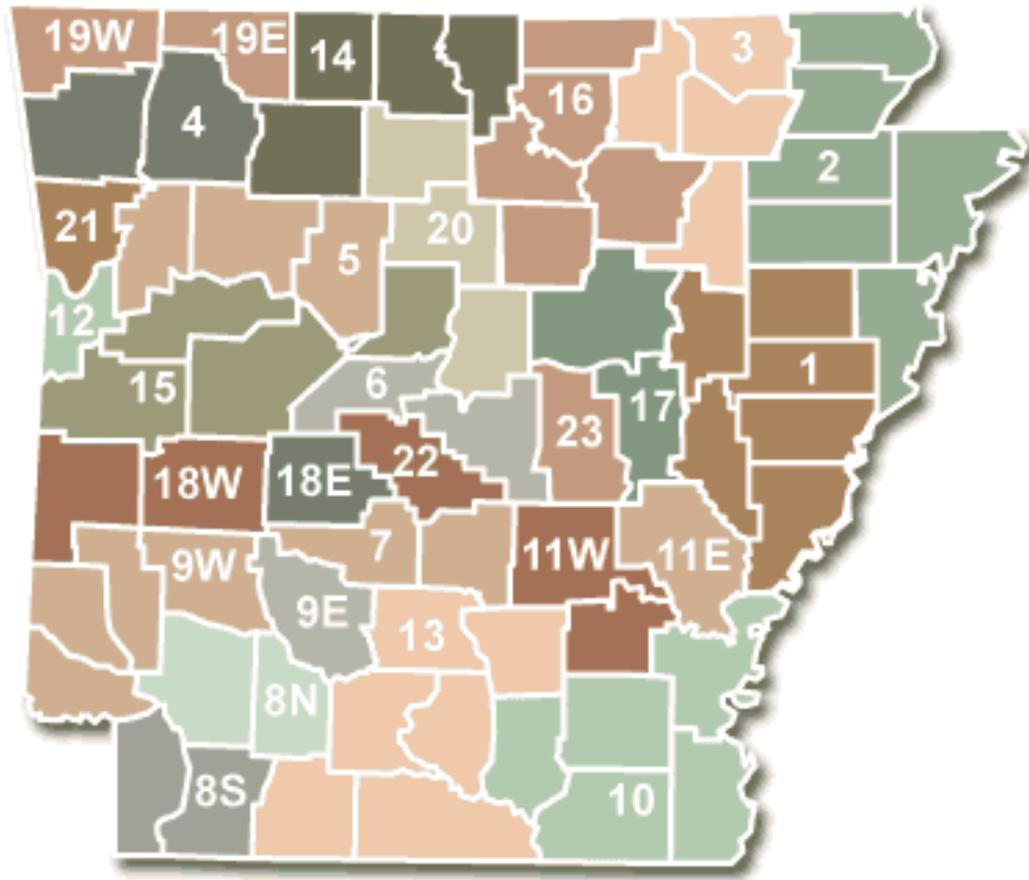
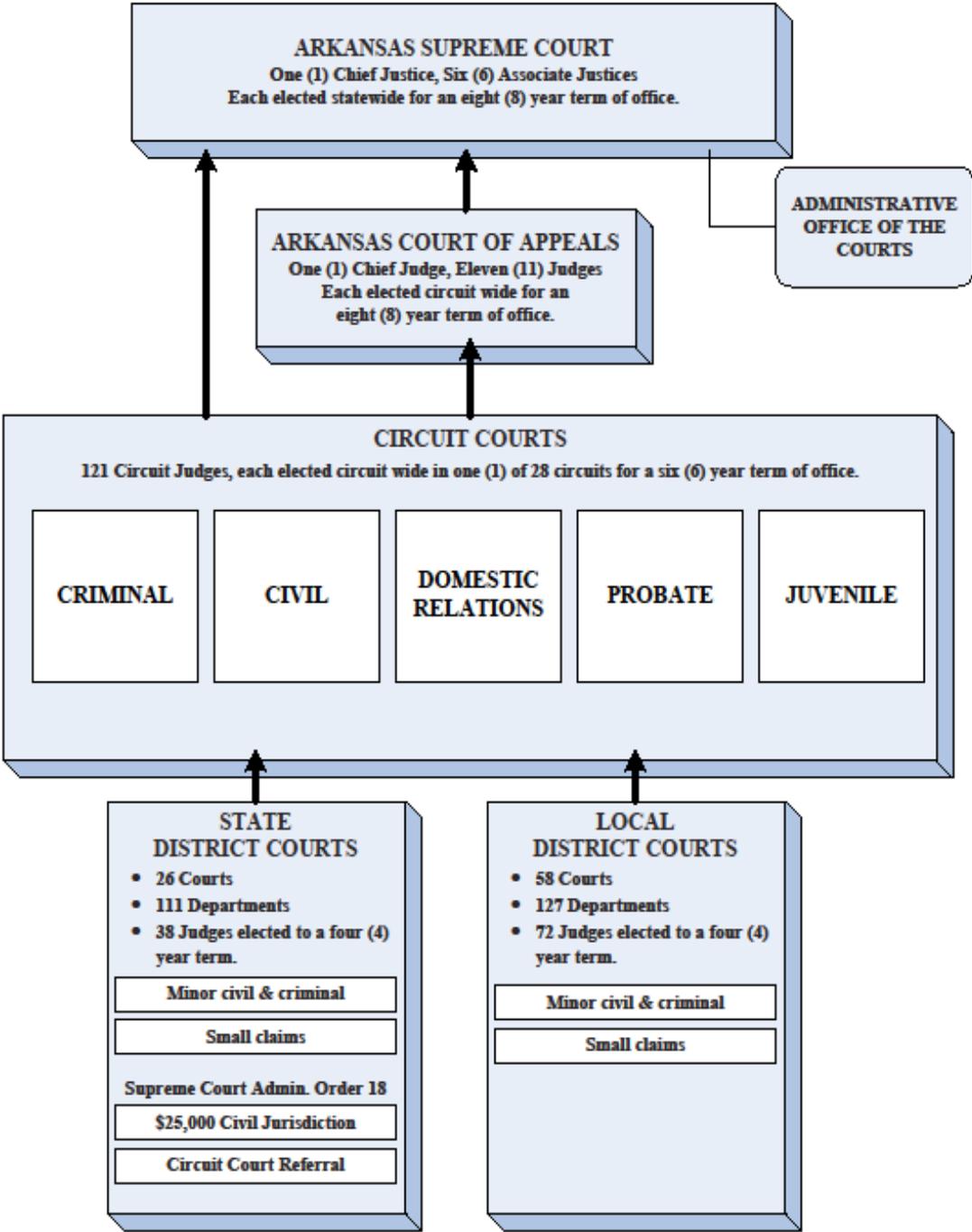


Figure 1

In the State of Arkansas, there are 121 Circuit Court Judges, each elected for a six year term. Circuit courts are general jurisdiction trial courts and consist of five divisions: Criminal, Civil, Domestic Relations, Juvenile, and Probate. Figure 2 below illustrates the overall state court structure:

ARKANSAS COURT STRUCTURE



State District Courts and Local District Courts as of 1/1/2013

Figure 2

Multi-judge districts divide the caseload by case types. For instance, Judge A hears only criminal matters, Judge B hears half civil and half domestic relations matters, Judge C hears only juvenile matters, Judge D hears half civil and half domestic relations while Judge E hears only probate matters. Moreover, multi-judge districts have an Administrative Judge specifically designated to handle administrative duties, such as policies, case type assignments and budget issues. At the other end of the spectrum are four districts that have only one Circuit Judge: the 9th East, 11th East, 18th West and 19th East Divisions. Of these four one-judge districts, one district serves two counties; one district serves one county with two divisions (Eastern and Western), and two districts serve one county each.

In one-judge districts, the Judge is the administrative judge and trial judge for all five case types. They are faced with unique challenges such as proficiency in all case types, scheduling the case mix, recusals/visiting judge necessity and solitude.

These challenges faced by lone judges challenge the public's perception of courts; the public expect their day in court, they expect their matter to be heard in a timely manner, they expect the judge to be proficient with their case type and expect a fair and just decision to be made. It is the responsibility of courts to provide these basic needs – especially access to justice. Public trust and confidence is at stake and the future of the court depends on it.

Time is the greatest challenge in a one-judge district. Providing courtroom time is essential and providing office time is necessary. Balancing these demands makes court calendaring an art. Although the majority of cases follow a routine path to disposition, many require emergency or lengthy hearings that become quite a challenge to schedule. Even though rigid court calendaring is necessary, it does not allow for the unexpected delays that may occur such as illness, inclement weather, and continuances for good cause.

The Situation in the 19th East Judicial District

The 19th East Judicial District was created in 1997. It serves the citizens of Carroll County for all civil, criminal, domestic relations, juvenile and probate matters. Its single judge is supported by a staff of nine, including a Trial Court Manager, two Court Security Officers, Court Reporter, Juvenile Probation, and two Trial Court Assistants.

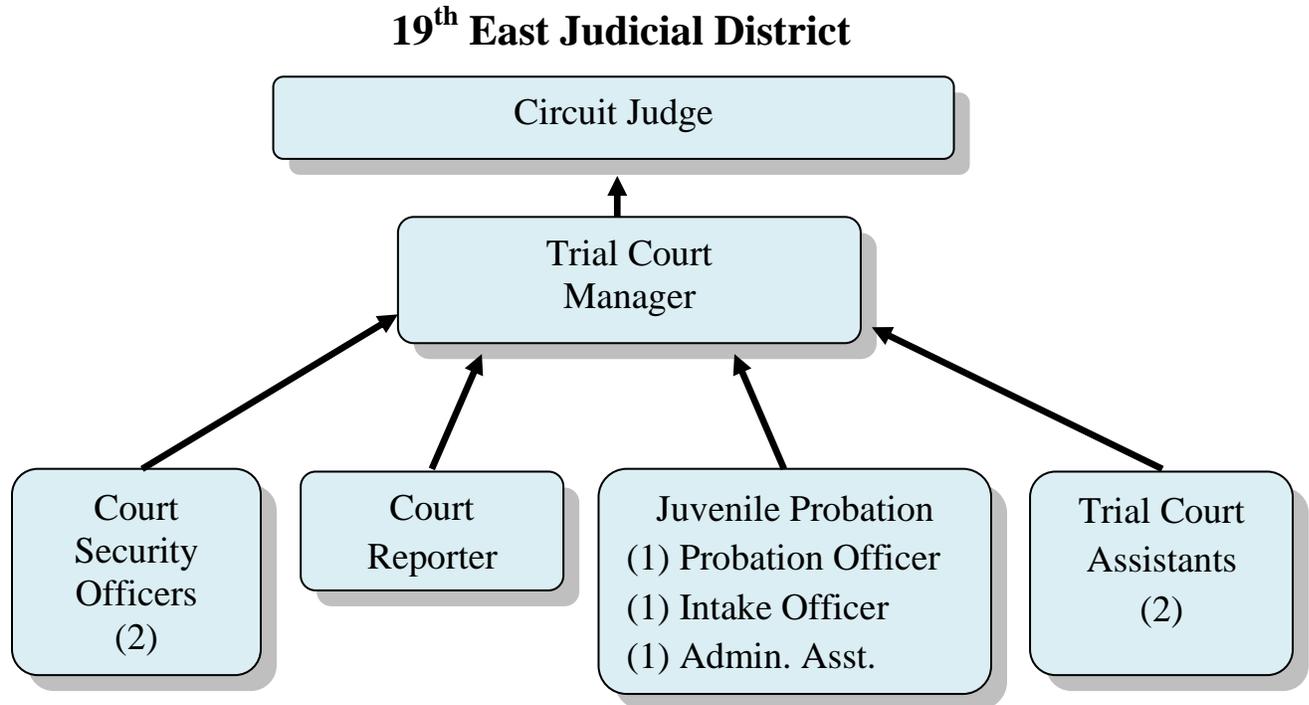


Figure 3

What worked in 1997 does not work any longer. Changes in demographics, legislation, technology, and administrative policies have impacted the current workload.

The population has increased nearly 20% in the last sixteen years and has become more diversified, with 12% of the population unable to speak English. This demographic change has necessitated the need for an interpreter. Currently the 19E provides two dedicated interpreter dates per month to address this need. Another factor associated with a growing population is an increase in caseload. For instance, in 2004, the caseload for the 19E was 1,488 compared to

1,958 in 2009. The average caseload for the years 2009–2012 was 1,731, resulting in an increase of 16% from the caseload in 2004.

The need for specialty courts blossomed as a result of social mores. The emergence of treatment courts such as Veterans Court, Elder Court, Homeless Court, Drug Court and the like, were created as an alternative to incarceration. Indicative of this trend, the 19E implemented a Drug Court in 2006. The success of this endeavor hinges on training, collaborative teamwork, and intense supervision; thus, requiring the court to schedule the necessary staffing and hearings for each participant in the program.

Arkansas implemented the Court Security Improvement Act in 2007 to ensure the safety of the public and courthouse staff. Therefore, a Court Security Committee was created in each county and is responsible for establishing a court security plan for each court facility. As co-chairman, the Circuit Judge is tasked with this additional administrative duty.

Clearly, technology has advanced. It is common-place to see lap-tops, tablets and smart phones being used in the normal course of business today. While the intent of advanced technology is to promote efficiency and instant access, there is an investment of education and training required for the judge and staff to become proficient. Moreover, advances in technology are rapid and constant which creates the need for continuous education and training.

The most significant change since 1997 was shifting from a reactive court to a proactive court. This was accomplished in 2009 with the commitment to aggressive caseload management. To attain the goal of timely dispositions, the court and staff are burdened with the obligation of working longer hours.

This study examines and assesses the workload, time and performance of the 19th East Judicial District, a one-judge district, to determine if the court is or is not successful in providing

the public access to justice. The goal of this study is to determine if the one-judge district has adequate resources in the form of time and personnel to complete the workload.

Literature Review

Customer satisfaction is essential to the success of a business. If the public is not satisfied with the performance of the business, trust and confidence diminishes. The court system is no different.

A major responsibility of the court system is to provide service without delay, while also delivering quality service to the public. “Every person has the right to their day in court and to have their case heard, considered and resolved by an independent and impartial judge” (Ostrom and Hanson, 2010). Judges and Court Managers are responsible for setting policies and procedures to meet the expectations of the public. Courts must be proactive to take the necessary steps to regain the trust and confidence that has diminished over time. Effective time management and efficient case processing is a starting point in regaining the public’s trust and confidence. According to *Achieving High Performance: A Framework for Courts*, Ostrom and Hanson suggest four Administrative Principles providing guidance for Judges and Court Managers to follow when setting policies regarding case processing:

- Giving every case individual attention;
- Treating cases proportionately;
- Demonstrating procedural justice;
- Exercising judicial control over the legal process;

“Today, a well-functioning court is expected to resolve a large volume of work in a high performance manner within demanding time frames” (Ostrom and Hanson, 2010).

Workload Measures

Workload, time management, and performance levels are key factors that courts must focus on to ensure the responsibilities of the court are being met. Further, “these principles set forth what judges and court managers see as their roles and responsibilities in trying to run a

court in a way that appropriately supports the adjudication of disputes. They orient almost all judges and court managers in the same way, but they are not determinative of how their court performs” (Ostrom and Hanson, 2010).

Courts have been interested in measuring workload since at least the early 1970s. One of the first attempts to discuss the subject systematically was a 1980 publication entitled *Workload Measures in the Court* by Harry Lawson and Barbara Gletne. It is a wide-ranging yet thorough examination of the many possible ways to measure judicial and non-judicial workload. Among all methods discussed is the concept of the weighted caseload.

In discussing the applicability and usefulness of workload measures, the first variable cited was, “size, complexity and diversity of the system” (Lawson, p. 146). Specifically regarding the weighted caseload method, examples of workload standards propose a difference between urban and rural courts as Table 1 below illustrates (p. 135).

Workload Standard	
District Court, Urban	255
District Court, Rural	210
County Court, Urban	1,181
County Court, Rural	897

Table 1

These examples of the 1981 budget request of the Colorado courts show an early recognition that smaller rural courts cannot handle the same workload as larger urban courts.

In a 1996 study, Flango found thirteen states with weighted caseload systems for measuring workload. Since then, virtually every state has embraced some variation on the theme of weighted caseload to determine judicial and staff requirements.

In the discussion of weighted caseload methodologies for non-judicial support staff

Flango notes:

The demands on court staff time may vary according to the size of the court. The manner in which a court is organized may vary by size, leading to, for example, differing degrees of consolidation between court administration and the county clerk....In addition, the size of the court may be related to certain economies (or diseconomies) of scale in the use of staff (Flango, p. 58).

It is clear from this discussion that a one-size-fits-all solution to the determination of judgeship and support staff needs is inappropriate. Since that time, courts have been attempting to take the distinction of size into account.

In 2011, the states of Kansas, North Carolina, and Michigan completed studies analyzing judicial workload. They were fairly typical of weighted caseload studies. However, these reports distinguished between large and small, urban and rural courts. After reviewing these studies, it was determined that all studies followed a similar format in determining judicial workload. Each study addressed the caseload (how much work needs to be done), case weight value (how much time it takes to complete the work), and judicial time available (how much time is available to complete the work). But, they differentiated courts of different size in these variables. As such, they can serve an instructive purpose in examining the unique circumstances of the one-judge court.

Like all studies of this kind, each took into account the special nomenclature of the state and its jurisdictions. Therefore, a common case weight for each case type could not be calculated and used in this project due to the fact that there isn't a standard, uniform list of case types within each division. For example, North Carolina (Lee and Kleiman, 2011) breaks out the criminal division into seven different case types while Kansas (Tallarico, Douglas, and Kim,

2011) has four case types within the criminal division and Michigan (Kleiman and Lee, 2011) has two criminal case types for Circuit Court and seven criminal case types for District Court. However, they do provide an interesting comparison for the Arkansas courts, especially regarding the different metrics generated by the smaller, rural courts.

The State of Arkansas completed an independent case weight study in 2002 and determined case weight values for each case type (Mashburn, 2002). The Arkansas case weights identified are applied in this case study.

A major focus of this study involves time management, also known as caseload management, which ensures movement of the cases from filing to disposition. This concept of caseload management is generally not addressed in weighted caseload studies, including any state study reviewed. The inference is always that the case weights generated in each study are the result of the caseload management practices of the particular jurisdiction. Caseload management is intended to improve the efficiency of case processing by court intervention. The commitment to caseload management requires meaningful court events to be held incrementally to ensure a fair and timely disposition (Ostrom and Hanson, 2010). The result of this should show up in a weighted caseload study. For example, a well managed court might require less judicial time for individual case types.

Performance Measures

More recently, courts have added to the weighted caseload approach a broader model for assessing court performance on a number of levels. Based on the comprehensive Trial Court Performance Standards, this approach takes a modified balanced scorecard look at the question, “How well are we doing?” The National Center for State Courts developed a set of ten performance measures known as CourTools for applying this idea to the individual trial court.

These accepted methods of measuring performance are the most accurate way of assessing case-related performance. They include:

- Measure 1: Access to Justice
- Measure 2: Clearance Rates
- Measure 3: Time to Disposition
- Measure 4: Age of Active Pending Caseload
- Measure 5: Trial Date Certainty
- Measure 6: Reliability and Integrity of Case Files
- Measure 7: Collection of Monetary Penalties
- Measure 8: Effective Use of Jurors
- Measure 9: Court Employee Satisfaction
- Measure 10: Cost per Case

The Measures are designed in a ‘user-friendly’ format and provide a step by step method to complete each performance measure. Specifically, four CourTools address the performance of the case processing functions. These are clearance rates, time to disposition, age of active pending caseload and trial date certainty. This study utilizes Measure 2: Clearance Rates and Measure 3: Time to Disposition. Clearance Rate is defined as “the number of outgoing cases as a percentage of the number of incoming cases” (Trial Court Performance Standards). If cases are not disposed of in a timely manner, a backlog develops. Courts should aim for a clearance rate of 100% or higher. Achieving the 100% clearance rate would indicate that the court is keeping up with the incoming caseload and not creating or adding to an existing backlog. Time to Disposition calculates the length of time from date of case filing to case resolution and provides time standards set by the American Bar Association (ABA) and the Conference of State Court Administrators (COSCA) for the court to aim for (Trial Court Performance Standards).

Another factor to consider when analyzing the performance level of a court is judicial stress. Although articles have been written addressing judicial stress, there is no evidence or research that have been located that take this factor into consideration in assessing judicial

performance. The states of Kansas, Michigan, North Carolina and Tennessee contracted with NCSC for weighted caseload studies to be completed. In these reports, 'quality adjustment' was addressed. "The time study is intended to measure the amount of time judges currently spend handling cases, but it does not inform us of the amount of time judges should spend on activities to ensure the quality processing of cases" (Tallarico, Douglas, and Friess, 2013). This author was unable to establish an accurate time allowance or performance indicators regarding quality adjustment due to the fact that the results were inconclusive.

Challenges facing rural courts are easily identified in judicial workload assessments. However, challenges facing one-judge districts such as caseload, case mix, scheduling difficulties, and proficiency levels of all case types are not. Judicial stress and decision fatigue have recently surfaced as potential job related concerns. One way to truly identify 'judicial quality' is when the decision of the judge is appealed. The higher court may overturn the decision, but when will the reality of the pressure a one-judge faces become a consideration?

Methods

The focus of this study is to adequately assess the workload of a one-judge district by providing answers to the following questions:

- 1) How much work needs to be done?
- 2) How much time does it take to complete the work?
- 3) How much time is available to complete the work?
- 4) What is the level of performance?

To accomplish this, the 19th East Judicial District (19E), one of four one-judge districts in Arkansas, was chosen to be the ‘case study’ for a judicial workload assessment to be completed.

1. How much work needs to be done?

The workload of a judge can be categorized into two groups: case-related events, and non-case-related events. Case-related events include pre-trials, hearings, trials, research, review, preparing findings and orders, and any post-disposition/judgment activities. Non-case-related activities include administrative duties for the court and its office, budget issues, personnel issues and community outreach activities.

Case-Related Events

Case-related events develop from the actual number of cases filed. The current caseloads for all judicial districts in Arkansas are available through the Administrative Office of the Courts (AOC) website (courts.arkansas.gov). For this study, data was retrieved from the website which supplied the total number of cases filed and total number of cases filed by case type. Further, data provided by the website ranges from calendar year 2004 to 2012, which is helpful in gaining information regarding trends and comparison studies. For the purposes of this study, the years 2009 through 2012 were chosen to review judicial workload. This is because certain additional court data needed for comparison has only been generated since 2009. While the caseload data

is readily available, the caseload numbers for criminal cases may be misleading. It should be noted that the AOC criminal division caseload is calculated by criminal charge, not by actual case. For example, a criminal defendant may have one criminal case but is charged with twelve counts within that particular case. According to AOC that criminal would have twelve cases rather than one.

Additional caseload data was made available by the one-judge district case study. The 19E district maintains caseload information for all cases filed, by case types, on an Excel spreadsheet. The spreadsheet was generated in 2009 and is maintained by the judge's staff. It should be noted that for purposes of this project, the criminal cases are counted by each case filed and not by each charge the criminal defendant faces. The AOC method for tracking criminal caseload was not realized until 2011 when the 19E district began performance measures.

Non-Case-Related Events

Data for administrative duties such as Jury Orientations, Quorum Court meetings, Budget Committee meetings, Community Outreach meetings, and other office-related tasks came solely from records available at this court, since this information was not documented or made readily available from other judicial districts. Judicial staff provided calendars for the years 2009 through 2012 for review. All meetings, appointments, and other administrative duties account for approximately 10% of judicial time.

2. How much time does it take to complete the work?

The weighted caseload method was utilized to compute the time necessary to complete the case-related work. This method assigns a time value, in minutes, for each type of case that a judge hears. The more complex the case, the more time is assigned to allow for completion of

the case. Moreover, the weighted caseload method is the preferred method of calculating case-related-activity time and is the method commonly used by states assessing judicial needs.

For this study, weighted caseload studies completed in North Carolina, Kansas, Michigan, and Tennessee were reviewed. While this data was, of course, unique to each of these jurisdictions, therefore producing different case weights for each case type, it provided useful comparative information. This is particularly so, given the distinctions made between large and small courts in these studies.

The State of Arkansas completed an independent Judicial Resource Assessment published in the fall of 2002 (Mashburn, 2002). In this assessment, case weight values were established for Criminal, Civil, Domestic Relations, Juvenile and Probate case types. For purposes of this study, the Arkansas case weight values for each case type were utilized to determine the time necessary to complete a case. The following formula indicates how the time required to complete the work was calculated.

Number of Cases Filed x Case Weight Value = Time Required
--

Time values for non-case-related events are not as easily determined. However, data was located through literature available from the National Center for State Courts library concerning non-case-related events, specifically addressing the administrative duties (policies, personnel, budgetary) unique to Chief/Administrative Judges. The Kansas District Court Weighted Caseload Study (Tallarico, Douglas and Kim, 2011) allowed 132 minutes per day for non-case-related activities, while the Michigan Judicial Workload Assessment (Kleiman and Lee, 2011) reported 30 minutes per day for non-case-related activities for Chief/Administrative Judges. Given the extreme variation in the minutes given to complete non-case-related activities, an

accurate number of minutes could not be determined for non-case-related activities using these studies.

According to the Arkansas Judicial Resources Assessment, “all non-case-related time, with the exception of circuit travel, was aggregated and composed 32% of all available judge time. The maximum judge year was then scaled down by 32% to adjust out non-case-related work” (Mashburn, 2002). For this study, the time necessary to complete non-case-related activities was determined after the judge year and judge workday values were established using the Arkansas value of 32% for non-case-related activities.

3. How much time is available to complete the work?

To calculate the time a judge has available to complete case-related and non-case related activities, a judge year needs to be established. The judge year value is determined by beginning with 365 days a year and subtracting weekends, holidays, vacation, training and education. The National Center for State Courts has determined that over the past 10 years the average judge year is 212 days. The judge day value represents the hours that a judge is available for work. For this study, the workday consists of eight hours (8:30 a.m. to 4:30 p.m.). Allowing one hour for lunch, the total judge day value is seven hours. However, for clarity and consistency, time was specified by minute value. To calculate the judicial minutes available in a work day multiply the hours per day by minutes per hour:

$$7 \times 60 = 420 \text{ minutes available in a Judicial Work Day}$$

To calculate the total amount of time available in one year to complete the work, the following formula is applied:

$$\text{Judge Year Value} \times \text{Judge Day Value} = \text{Total Judge Minutes Available per Year}$$

Therefore:

$$212 \times 420 = 89,880 \text{ Total Judge Minutes per Year}$$

Now that the total judge minutes per year has been calculated, the time necessary to complete non-case-related activities can be determined by applying the figure established by the Arkansas Judicial Resources Assessment for non-case-related matters (32%).

$$32\% \times 89,880 = 28,762 \text{ Total Minutes Necessary for Non-Case-Related Activities}$$

Thus,

$$89,880 - 28,762 = 61,118 \text{ Total Judge Minutes Available for Case-Related Activities}$$

Judicial travel time is another factor to include in determining total judge minutes available. For purposes of this study, there are two courthouses in the case study district, an Eastern District Courthouse and a Western District Courthouse. The judge is required to hold court in both courthouses an equal amount of time each year. Travel to the Eastern District is minimal, as the office is located two blocks away from the courthouse. Travel to the Western District courthouse takes twenty (20) minutes one way. Therefore, travelling six months of the year to the Western District Courthouse requires 40 minutes each day round trip. To calculate the travel time necessary, the following formulas were utilized:

#1) Judge Year Value (days) divided by two provides the number of days required for travel to the Western District Courthouse:

$$212 \div 2 = 106 \text{ days required for court to be held in the Western District}$$

#2) Number of days required for travel multiplied by the minutes required (round trip);

$$106 \times 40 = 4,240 \text{ minutes Travel Time}$$

#3) Total Judge Minutes per year minus required travel time (minutes);

61,118 – 4,240 = 56,878 Total Minutes Necessary for Case-Related Activities

To summarize, when applying the predetermined Arkansas values, the time available to complete the work is 85,640 minutes which breaks down to 56,878 minutes for case-related activities and 28,762 minutes for non-case-related activities. It should be noted that this is a low number for a general jurisdiction court. The most common number nationally is 77,400 minutes. Adjusted for small, rural courts is most routinely 71,000 minutes.

4. What is the level of performance?

Performance measures regarding clearance rates, time to disposition, trial date certainty, age of pending caseloads and access to justice (customer satisfaction) are indicators of efficiency in performance. However, consideration must be given to quality of work or the quality of the decision being made. The NCSC studies completed for the states of Michigan (Kleiman and Lee, 2011) and North Carolina (Lee and Kleiman, 2011) allowed an adjustment figure while the states of Kansas (Tallarico, Douglas, and Kim, 2011) and Tennessee (Tallarico, Douglas, and Friess, 2013) did not. However, Kansas and Tennessee both recognized that although “Quality Adjustment” may be a consideration, it could not establish an accurate performance indicator.

Although the customer perspective is certainly relevant and important, the primary focus for assessing the level of performance for this court will be the Internal Operating Perspective, or the manner in which the cases are handled and how the court controls its operations. The National Center for State Courts (NCSC) developed a set of ten performance measures known as ‘CourTools’ described above.

The performance area of Efficiency and Productivity was measured using CourTool #2 – Clearance Rate. Clearance Rate is defined as “the number of outgoing cases as a percentage of

the number of incoming cases”. If cases are not disposed of in a timely manner, a backlog develops. Courts should aim for a clearance rate of 100% or higher. Achieving the 100% clearance rate would indicate that the court is keeping up with the incoming caseload and not creating or adding to an existing backlog. A clearance rate higher than 100% is an indication that the court is reducing a previously accumulated backlog. The calculation utilized in determining clearance rate is as follows:

Total Outgoing Cases ÷ Total Incoming Cases = Clearance Rate

Finding statistics for total number of cases terminated (outgoing cases) for all judicial districts in Arkansas is available through the Administrative Office of the Courts website (courts.arkansas.gov). Data was retrieved from the website which supplied the total number of outgoing (completed) cases and the total number of cases completed by case type.

Another internal operating perspective is the utilization of case management for every case type except Probate matters. Case management processing was the logical solution to process the case mix efficiently, while ensuring adequate court time was being provided to hear all matters in the case mix.

Effective case management requires the court to take ‘control’ of the cases to achieve a timely disposition. More court hearings are necessary, which puts a burden on the court; however, it is a proven method of achieving a timely disposition. Courtool #3, Time to Disposition, calculates the length of time from date of case filing to case resolution and provides processing time standards set by the American Bar Association (ABA) and Conference of State Court Administrators (COSCA). Utilizing the study court’s data, time to disposition was calculated for each case type with the exception of Probate matters.

However, as stated previously, an overall goal of the court is to ensure the quality administration of case processing incorporating the four Administrative Principles listed below:

Giving every case individual attention;

Treating cases proportionately;

Demonstrating procedural justice;

Exercising judicial control over the legal process (Ostrom and Hansen, 2010).

“These principles set forth what judges and court managers see as their roles and responsibilities in trying to run a court in a way that appropriately supports the adjudication of disputes. They orient almost all judges and court managers in the same way, but they are not determinative of how their court performs” (Ostrom and Hanson, 2010).

Given the case mix, caseload, and rigorous court calendar that this one-judge district has, decision fatigue may be an area of concern. The State of Arkansas does not mandate nor suggest how many days a judge should sit on the bench. To ensure quality administration of case processing in a one-judge district, the unique challenges such as proficiency level required for all case types, fatigue, stress and solitude that a lone judge encounters must be a consideration. To adequately assess the performance of a court, all of these issues need to be addressed.

Findings

The findings address the four key questions identified previously to establish the judicial workload for the 19th East Judicial District in each of its five calendars: Criminal, Civil, Domestic Relations, Juvenile and Probate.

How much work needs to be done?

For this analysis the judicial workload was categorized into two groups:

- a) Case-Related Activities
- b) Non-Case-Related Activities

Case-Related Activities develop from the actual number of cases filed. The ‘Total Cases Filed’ data retrieved from the Administrative Office of the Courts (AOC) website for the years 2009 through 2012 are as follows:

<u>TOTAL ANNUAL CASES FILED</u>						
	Criminal¹	Civil	Dom. Rel.	Juvenile²	Probate	Total
2009	946 / 272	372	413	91 / 18	118	1,958
2010	721 / 195	404	452	126 / 23	103	1,828
2011	363 / 164	517	428	161 / 15	126	1,610
2012	281 / 191	578	367	153 / 19	130	1,528

Table 2

¹ In the Criminal Division, AOC calculates total cases filed by each charge the criminal defendant faces (which is represented by the first number). For purposes of this study, criminal cases are counted by each case filed and not by each charge (which is represented by the second number).

² The first number represents the Delinquency and Family in Need of Services cases; the second number represents the Dependency/Neglect cases.

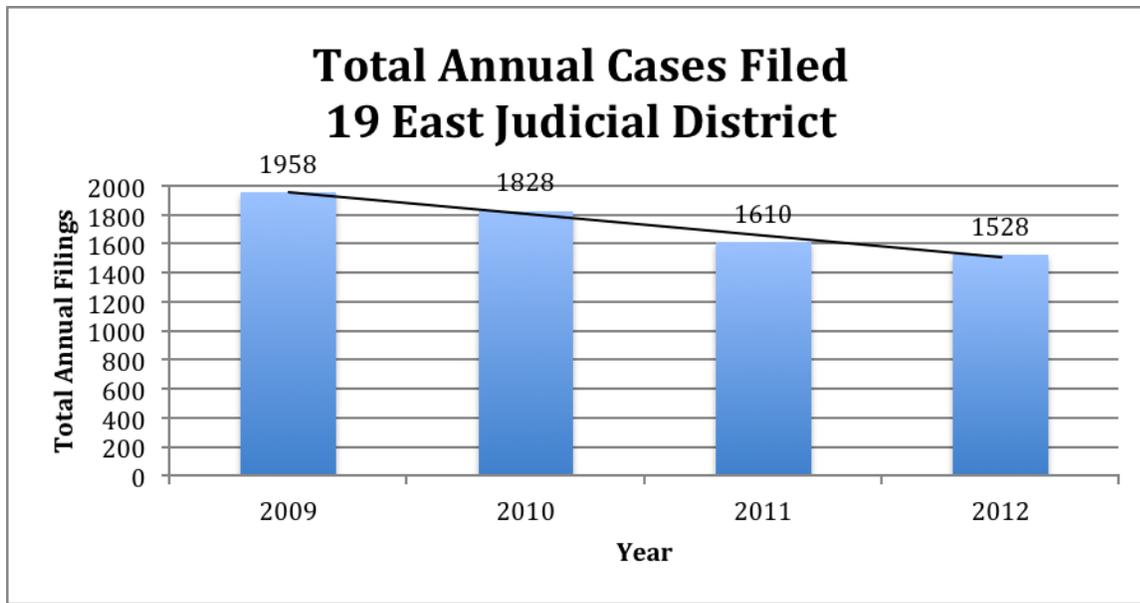


Figure 4

As Figure 4 above shows, although the Civil and Probate calendars have seen filings increase over the most recent four years for which data is available, the overall caseload has gone down by 22%.

Non-Case Related Activities are defined as the administrative functions (policy making, personnel matters, budgetary issues, jury orientations, community outreach meetings, etc.) that must be performed. There is no accurate measure available to calculate how many non-case-related activities exist because it varies from court to court. For example, the states of Kansas and Michigan allow 60 minutes per day for non-case-related work while North Carolina allows 25 minutes per day and Tennessee allows 78 minutes per day. Arkansas did not provide a minute value but rather provides an allowance of 32% of total judicial time for non-case-related activities.

2) How much time does it take to complete the work?

According to the Arkansas Judicial Resources Assessment completed in 2002, the workload case weights determined are as follows:

2002 Arkansas Case Weight Values	
Criminal	19 minutes
Civil	29 minutes
Domestic Relations	20 minutes
Juvenile	34 minutes
Probate	7 minutes

Table 3

Keep in mind that the case weight values listed represent total time required, from filing to disposition. The number of cases filed and the case weight value were placed into the following formula to calculate the time required to complete the work:

Number of Cases x Case Weight Value = Time Required to Complete the Work

<u>TIME REQUIRED TO COMPLETE THE WORK</u>³						
	Criminal	Civil	Dom. Rel.	Juvenile	Probate	Total
2009	5,149	10,788	8,260	3,706	826	28,729
2010	3,705	11,716	9,040	5,032	721	30,214
2011	3,116	14,993	8,560	5,984	882	33,535
2012	3,629	16,762	7,340	5,848	910	34,489

Table 4

According to these figures, the perception is that there is ample time to complete the work. However, in reality, much more time is required from filing to disposition. It should be noted that the study court utilizes aggressive caseload management to ensure timely dispositions in all case types. The total number of cases filed only represents one axis in the case

³ Arkansas Case Weight Values applied (Mashburn, 2002).

management system. The second axis is the number of events (hearings) required to progress the case from opening to disposition. Active oversight by the court is necessary for the progress of all cases filed by setting certain events for each case. Court involvement providing thoughtful, predictable and certain intervals between these events contribute to the prompt resolution of the cases that come before it. Although aggressive caseload management requires more events to be held, it has been proven to be an effective practice for timely dispositions.

Listed below are the typical events required for disposition:

- Criminal routine cases require five events:
Arrest, Discovery/Omnibus, Motions/Suppression, Pre-Trial, Plea
- Civil routine cases require three events:
Scheduling Hearing, Pre-Trial/Status, Final Pre-Trial or Disposition
- Domestic Relations routine cases require three events:
Scheduling Hearing, Pre-Trial, Disposition
- Juvenile Delinquency (DQ) and Family in Need of Services (FINS) cases may require as few as two or as many as five events:
Arrest, Adjudication, Review Hearing⁴
- Juvenile Dependency/Neglect (D/N) cases may require as few as five or as many as nine events:
Probable Cause, Adjudication, Three Review hearings; Permanency Planning, Termination of Parental Rights, Post Termination Review⁵, Adoption
- Probate cases may require as few as one event; more if the matter is contested.

Thus, multiplying the number of cases filed by the total number of events required case management are demonstrated below:

⁴ Juvenile Review Hearings are mandated to be held every six months (at the minimum) until the Juvenile is released from Probation Supervision, or more frequently if necessary.

⁵ Post Termination Review Hearings are mandated to be held every six months until the juvenile is adopted or emancipated.

<u>Total Number of Events Required for Case Management Processing</u>							
	<u>Criminal</u>	<u>Civil</u>	<u>Dom. Rel.</u>	<u>Juvenile</u>		<u>Probate⁶</u>	<u>TOTAL</u>
				<u>DQ & Fins</u>	<u>D/N</u>		
2009	1360	1116	1239	273	144	18	4,150
2010	975	1212	1356	354	150	23	4,070
2011	820	1551	1284	423	175	19	4,272
2012	805	1734	1101	414	170	20	4,244

Table 5

Realizing that aggressive caseflow management significantly impacts case weight values, the case study court reviewed one Juvenile Dependency/Neglect case and tracked the time required for each event:

Probable Cause Hearing	20
Adjudication	30
Review Hearings (3) 20 minutes each	60
Permanency Planning Hearing (4 hours)	240
Termination of Parental Rights Hearing (7 hours)	420
Post Termination Review	15
<u>Adoption</u>	<u>20</u>
Total	805

In this Dependency/Neglect example, the total time required is a drastic difference from the case weight value established for Juvenile matters (34 minutes). It is a difference of **771 minutes** and this is for one Juvenile Dependency/Neglect case. Given this discrepancy, the case study court conducted an independent case weight analysis. The case weights determined, provide a conservative estimate and represent “routine” court events only. Other necessary court

⁶ An accurate number of Probate events were not available. A conservative estimate of one event for 15% of total number of cases filed was applied.

events such as motions hearings, emergency hearings or trials, either to the court or jury trials, were not included in the case weight values.

- Criminal routine events (5) at 18 minutes per hearing = 90 minutes
- Civil routine events (3) at 15 minutes per hearing = 45 minutes
- Domestic Relations events (3) at 15 minutes hearings per hearing = 45 minutes
- Juvenile DQ & FINS events (3) at 15 minutes per hearing = 45 minutes
- Juvenile Dependency Neglect events (8) various minutes required = 805 minutes
- Probate matters (1) case event at 10 minutes per hearing = 10 minutes

Additionally, this court presides over a specialty Drug Court. This specialty court accounts for seven hours of court time per month (420 minutes) in staffings and hearings, resulting in 5,040 minutes per year. It is not uncommon for specialty courts to be very labor intensive for both judiciary and staff. Hearings may be held every two to four weeks for each defendant in the program.

It should also be noted that in May of 2012, the court initiated a collection procedure for Contempt of Court/Failure to Pay violations, and by year end, 139 enforcement hearings were held. Applying a conservative estimate of five minutes per hearing, an additional 695 minutes will be added to the 2012 Total Time Required in the recalculation of the time required to complete the work (Number of Cases x Case Weight Value = Time Required to Complete the Work). The results are listed below:

TIME REQUIRED TO COMPLETE THE WORK⁷								
	Criminal	Civil	Dom. Rel.	DQ/ Fins	D/N	Probate⁸	Drug Court	TOTAL
2009	24,480	16,740	18,585	4,095	14,490	180	5,040	83,610
2010	17,550	18,180	20,340	5,670	18,515	230	5,040	85,525
2011	14,760	23,265	19,260	7,245	12,075	190	5,040	81,835
2012	17,190	26,010	16,515	6,885	15,295	200	5,040	87,830 ⁹

Table 6

In every year, this is a substantially higher number than the Arkansas statewide standard.

3) How much time is available to complete the work?

Calculating the time available to complete the workload consists of two components: the number of days in a work year and the number of minutes in a workday. Once the year and day values are determined, time must be allowed for both case-related and non-case-related activities.

The calculations are listed below:

Total Days in Work Year:	365
Subtract non-working days:	
Weekends	- 104
Holidays	- 12
Vacation/Sick/Other	- 27
Education/Training	- 10
	<u> </u>
	= 212 days available

Work Day:	
Total Hours per Day	8.0
Subtract Lunch Break	- 1.0
Total Hours per day:	7.0
	<u> </u>
	x 60 minutes/hour
	= 420 minutes/day

Work minutes available (days x minutes): **89,880 minutes**

⁷ Independent case weight values applied.

⁸ An accurate number of Probate events were not available. A conservative estimate of one event for 15% of total number of cases filed was applied.

⁹ Includes time required for enforcement hearings.

As stated in *Benchmarks & Bar Charts, Arkansas Court Statistics Research*:

“All non-case related time, with the exception of circuit travel, was aggregated and composed 32% of all available judge time. The maximum judge year was then scaled down by 32% to adjust out non-case-related work” (Mashburn, 2002).

Total Work Minutes		89,880
Time allowed for Non-Case Related		<u>x 32%</u>
		28,762
Total Work Minutes		89,880
Non-Case- Related Time		<u>- 28,762</u>
Total Work Minutes Available per Year	=	61,118
Subtract Travel Time		<u>- 4,240</u>
TOTAL JUDICIAL TIME (minutes)	=	56,878

The time available to complete the work, 56,878 minutes, is significantly lower when compared to the national average of 77,400 minutes or 71,000 minutes for small, rural courts. However, in order to complete the workload, the 19th East Judicial District works an average of three hours more per day.

Average Work Day for the 19th East Judicial District

Total Hours per Day (7:00 a.m. to 5:30 p.m.)		10.5
Subtract Lunch Break		<u>- 0.5</u>
Total Hours per day:		10.0
		x <u>60</u> minutes/hour
	=	600 minutes/day
		x <u>212</u> days/year
<u>Work Minutes Available per Year:</u>	=	<u>127,200 minutes*</u>

*Excludes time for travel and time for non-case-related activities;

4) What is the level of performance?

From strictly a numbers vantage point, case related performance measures are easily determined. It is the quality of performance that isn't so easily determined. Efficiency and productivity, referred to as clearance rate, is measured by the number of outgoing cases (cases closed) divided by the number of incoming cases (cases opened). Time to Disposition calculates the length of time from date of case filing to case resolution. The Clearance Rates for the study court are displayed below:

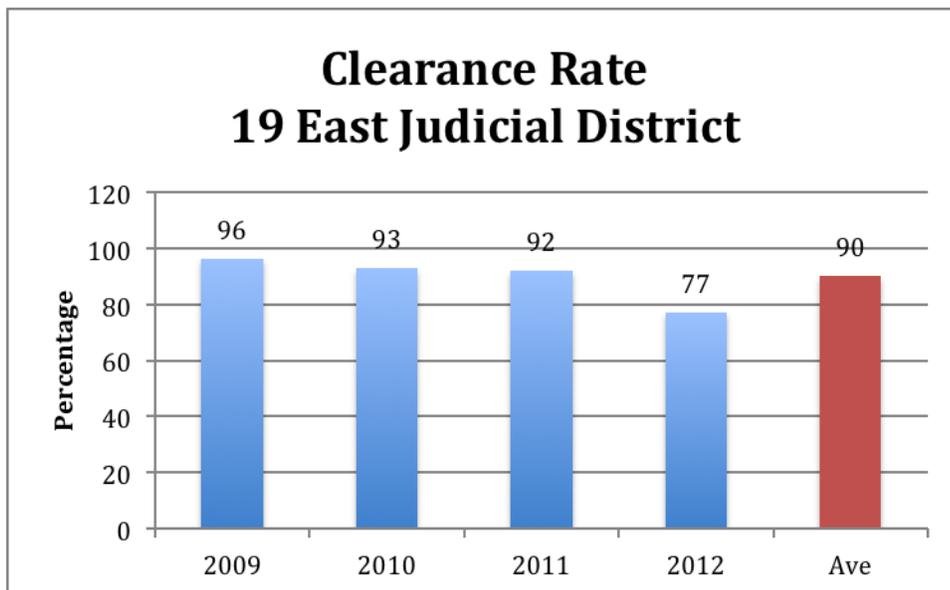


Figure 5

Additional information regarding 19E clearance rates can be found in Appendix B. One factor contributing to the 77% clearance rate may have resulted from the Circuit Judge's five month medical leave. Although special judges were assigned during this time, they did not share the aggressive case management philosophy and it was difficult to keep the cases on track for disposition.

Both Juvenile and Probate have had historically lower clearance rates than the other case types. A factor contributing to the lower percentage of cases closed in probate and juvenile case types is the length of time required for those case types to reach disposition. As an example, probate matters, such as guardianship of an incapacitated person, may remain open until the individual dies. Juvenile delinquency matters take time to reach disposition as the juvenile may be placed on probation/supervision for an extended period of time and the Dependency/Neglect matters generally take 15 to 18 months for a disposition to be reached and may remain open until the juvenile is either adopted or emancipated.

As for time to disposition, the aggressive caseflow management process being utilized by this court ensures that all case types are meeting or exceeding the time standards set by the American Bar Association and the Conference of State Court Administrators. A review of the 19E spread sheets revealed which cases were not meeting the time standards referenced above. Criminal matters not disposed of were attributed to the defendant's failure to appear for a scheduled court event, resulting in a warrant for arrest. The case will resume once the warrant is served. In civil matters, the cases exceeding the time standards were attributed to the complex nature of the case, however, each of these matters are scheduled for future court events ensuring that the case is on track for disposition.

Aggressive caseflow management requires more hearings and therefore more time. However, it has proven to be a success in timely disposition, as demonstrated through performance level findings. It almost seems paradoxical that more hearings and more time result in faster completion of cases, but let the results speak for themselves.

The quality or performance level of a judge is not as easily measured as case statistics. The unique challenges facing single district judges such as caseload, case mix, scheduling

difficulties and proficiency levels of all case types must be a consideration when assessing the performance level of a court. The need to look beyond the 'numbers' is paramount in ensuring quality of service to the public.

Conclusions and Recommendations

The following conclusions and recommendations were deduced after reviewing the data and findings of this project.

Conclusion 1: Aggressive caseload management works. It provides timely dispositions of cases and due process to litigants.

A high performance court is described as being effective, efficient, productive and providing procedural satisfaction. When the court fails to meet these standards within the community, public trust and confidence is lost.

With the implementation of aggressive caseload management, the study court was successful in meeting the standards associated with a high performance court. Successful calendaring allowed the case mix to reach disposition in a timely manner and attain acceptable clearance rates. Not only does caseload management move cases along, it also benefits the litigants. Litigants are advised of all court events, including the trial date, at the onset of their case, thus alleviating anxiety of the unknown. It also may assist in keeping the cost of their litigation down.

Recommendation 1: The enactment of an Administrative Rule by the Supreme Court for Caseload Management is necessary to ensure the disposition of all cases in a manner consistent with fairness to all parties.

Leadership and commitment are essential before any change can be established and maintained. Caseload management provides a timely disposition of cases from filing to disposition. It establishes a fundamental change to the current understanding, policies and operations in the various agencies that make the justice system work.

Training in caseload management has been established in Arkansas. The Judicial Education Division of the Administrative Office of the Courts (AOC) offers the Arkansas

Certified Court Manager Program (CMP) made available through the National Center for State Courts' Institute for Court Management. Launched in 2009, this program provides training specific to trial court management and administration. The program content is divided into six courses including "Fundamental Issues of Caseflow Management". Since inception, 73 participants have successfully completed the course. Of those, 54 were Trial Court Assistants (TCA). Currently another 44 are on track to complete the program (16 are TCA's), and a new class of 24 begins in June of 2014. Simply stated, 70 of the 121 Trial Court Assistants in the State of Arkansas have been trained in the concept of Caseflow Management. Separate training regarding caseflow management is also available for judges through the National Judicial College and may become available through the Arkansas AOC Education Division in the future.

In addition, Arkansas is implementing a statewide Contexte Case Management System. Contexte is a web-based system chosen and adopted by the Arkansas Supreme Court to provide uniform and consistent automation of the courts which will in turn increase efficiencies as well as improve the quality of justice available to the public. As of today, 25 circuit courts are using Contexte. The goal is to have 80% of the state's caseload in Contexte by 2016. The next logical step would be to create uniform caseflow management forms and orders to provide consistency among the 121 Circuit Courts in Arkansas.

Conclusion 2: Given the case mix allocated to a one-judge district, there is not enough time available to complete the workload.

Findings substantiate that the workload outweighs the time available and required to complete the work. The findings reveal that the case study court has acceptable clearance rates. However; the clearance rate is less than 100% for all case types which creates a backlog. Courts should aim for a clearance rate of 100% or higher to dispose of at least as many cases that have been filed, reopened or reactivated. As clearly demonstrated, even though the total annual

caseload has decreased over the past four recorded years, the complexity of that caseload has increased. This renders the statewide standard for case-related activities inadequate for a one-judge court. In fact, the four-year average of 84,700 minutes is some 33% higher than the statewide standard of 56,878 noted previously. There is not enough time to complete the case-related work associated with a one-judge district.

The case study court schedules over 4,000 court events each year requiring the Judge to be in court five days a week. Therefore, no ‘office time’ is allocated requiring administrative functions to be handled before or after court. The Judge and staff regularly work longer hours, through lunch breaks and over weekends. When unexpected or unpredictable delays occur such as sickness, inclement weather closures or hearings that require more time than was allotted, the rigid calendar maintained by this court does not provide an allowance for or any flexibility to accommodate this. These unexpected delays “clog” the pipe from its normal flow and result in rescheduling these matters to an already full court day. Keeping up at the pace required, leads to decision fatigue, burn out and overall quality of work suffers.

The declining clearance rate over the past four years is indicative of this. The backlog is growing even though the annual filings are on the decline.

Recommendation 2: A workload assessment of the courts, including a case weight study, needs to be completed to ensure that workload is equitable and performance measures are being met.

Arkansas is implementing a statewide Contexte Case Management System to increase efficiencies thus, improving the quality of justice to the public. The contexte system could become a significant factor in assessing case weight value by tracking the number of court events held and the length of each event. The Administrative Office of the Courts could use the data to assess the performance of courts.

Administrative Office of the Courts should be consistent in the caseload data by counting criminal matters by case and not by each charge filed. Criminal ‘failure to pay’ enforcement matters requiring judicial time should be factored as a re-opened case for the purposes of time management studies. Moreover, juvenile matters should not be closed after adjudication, as these matters take several months or in some instances, years to complete. Also, an allowance should be made for those courts that have implemented specialty courts, such as Drug Court. Although not “required,” specialty courts do add to the workload.

Obviously, the system developed must take one-judge courts into account. The time required for both case-related and non-case-related matters is significantly different in these courts.

Conclusion 3: One-Judge Districts should be eliminated.

The one-judge courts test the limits of “irreducible complexity”. They do not, by definition, have the requisite components to keep up with caseloads by leveraging the bench with alternatives to a single point of decision making. The findings of this study substantiate the fact that the workload outweighs the time available and required to complete the work. In order to accommodate the workload, one-judge districts often work long hours to keep up with the pace. Judges, like any profession, are expected to be knowledgeable of their line of work. This can become overwhelming for one judge who is expected to be proficient in all case types. The research associated with preparing for cases of all types not only requires time, but also contributes to fatigue.

Lone judges are held to a higher standard than specialized judges regarding proficiency levels and face isolation, political consequences and to some extent a negative public perception. In every case, there is ultimately one side that is not totally happy with the outcome of the case.

Thus, any negative feedback is automatically projected onto the judge, leading to stress and fatigue, possibly affecting the quality of decision making. Judges may feel isolated because they don't have a colleague to collaborate with.

All judges are public servants and must be accountable for cases and time. The adoption of Amendment 80 established 121 general jurisdiction trial judges, however, only four are single district judges tasked with all five dockets. Accountability may be unfeasible when the caseload outweighs the time necessary to complete the work.

Recommendation 3: Add a second judge, a virtual judge or a law clerk.

The addition of a second judge would permit an equal distribution of the case mix, thus adding flexibility to scheduling. There are two courthouses in the study district, an Eastern District and a Western District. The judge is required to hold court in both courthouses an equal amount of time each year. Thus, Judge A could conduct business in the Eastern District while Judge B conducts business in the Western District. Moreover, the cases would be heard in the division where it was filed, eliminating the confusion as to where court business is being held.

The 'Virtual Judge' concept could be easily implemented with technology. Currently, the case study court has agreements in place providing for the temporary exchange of circuits. Through Skype/video capabilities, pre-trial matters for all dockets could be heard by the virtual judge. In recusal matters, the assigned judge would also be able to appear via Skype/video. With cases now integrated into Contexte, the statewide automated system, and the ultimate goal of creating a paperless environment, the virtual judge has the ability to view the case and enter orders electronically. The use of Virtual Judges would promote judicial economy by saving both time and money.

The addition of a law clerk would alleviate the need for the judge to research, prepare orders and read briefs. For example, a summary judgment motion, sometimes hundreds of pages, may take days to read and research. This type of assistance would be invaluable to a one-judge district.

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Appendix A: State Studies Data

Case Weight Values

	Criminal	Civil	Dom. Rel.	Juv	Probate	Drug Court
Kansas	463	42	67	138	56	233
Michigan	388	201	142	144	184	n/a
North Carolina	196	78	n/a	n/a	n/a	n/a
Tennessee	160	248	57	n/a	n/a	n/a

Non Case Related Values

Kansas	60
Michigan	60
North Carolina	25
Tennessee	78

Administrative/Chief Judge Values

Kansas	132
Michigan	n/a
North Carolina	30
Tennessee	n/a

Quality Adjustment Value

Kansas	n/a
Michigan	+1 minute
North Carolina	+4 minutes / criminal; +8 minutes / civil
Tennessee	n/a

Appendix B: Four Year Clearance Rate Details

CLEARANCE RATE

<u>2009</u>	Cases Opened	Cases Closed	% Closed
Criminal	272	270	99%
Civil	376	374	99%
Domestic Relations	358	358	100%
Juvenile/D&N	109	94	96%
Probate	115	75	65%
TOTAL	1219	1171	96%

<u>2010</u>	Cases Opened	Cases Closed	% Closed
Criminal	195	193	99%
Civil	402	390	97%
Domestic Relations	378	371	98%
Juvenile/DHS	100	72	72%
Probate	102	63	61%
TOTAL	1177	1089	93%

<u>2011</u>	Cases Opened	Cases Closed	% Closed
Criminal	164	159	97%
Civil	361	356	98%
Domestic Relations	394	373	95%
Juvenile/DHS	91	85	93%
Probate	127	68	54%
TOTAL	1137	1041	92%

<u>2012</u>	Cases Opened	Cases Closed	% Closed
Criminal	191	168	88%
Civil	289	197	68%
Domestic Relations	339	292	86%
Juvenile/DHS	98	67	68%
Probate	106	67	63%
TOTAL	1023	791	77%

FOUR YEAR TOTAL	4556	4092	90%
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Appendix C: Enforcement Hearings Held

Monday, June 11, 2012:	20 Failure to Pays on the docket
Wednesday, June 13, 2012:	1 Failure to Pay on the docket
Monday, July 23, 2012:	15 Failure to Pays on the docket
Monday, August 13, 2012:	9 Failure to Pays on the docket
Monday, September 10, 2012:	17 Failure to Pays on the docket
Tuesday, September 11, 2012:	1 Failure to Pay on the docket
Monday, October 8, 2012:	11 Failure to Pays on the docket
Friday, October 12, 2012:	3 Failure to Pays on the docket
Tuesday, November 13, 2012:	18 Failure to Pays on the docket
Wednesday, November 14, 2012:	1 Failure to Pay on the docket
Monday, December 10, 2012:	16 Failure to Pays on the docket
2012 TOTAL:	139 HEARINGS HELD