

August 1999

D.C. COURTS

Staffing Level Determination Could Be More Rigorous





G A O

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, D.C. 20548

General Government Division

B-282696

August 27, 1999

The Honorable Ernest J. Istook Jr.
Chairman, Subcommittee on the District of Columbia
Committee on Appropriations
House of Representatives

The Honorable Tom Davis
Chairman, Subcommittee on the District of Columbia
Committee on Government Reform
House of Representatives

The Honorable James P. Moran
Ranking Minority Member
Subcommittee on the District of Columbia
Committee on Appropriations
House of Representatives

This report responds in part to your request for information concerning personnel management in the District of Columbia courts. Specifically, this report provides information about staffing and workload levels for the courts from 1989 through 1998, assesses how the courts evaluate the sufficiency of the levels of nonjudicial staff who work on processing and disposition of cases, and compares the D.C. courts' staffing methodology to other available methodologies. We will respond to the other parts of your request in a future report.

Results in Brief

Overall staffing levels in the D.C. courts increased between 1989 and 1990, declined slightly with some fluctuations through 1997, and then decreased below the 1989 level in 1998. Cases available for disposition increased slightly during this time in the D.C. Superior Court, the largest part of the courts, while its backlog increased substantially. The cases available for disposition, and the backlog, of the far smaller D.C. Court of Appeals increased steadily over this period. In both courts, the mix of different types of cases has changed over this period.

District of Columbia court officials said that they consider caseload data, along with other data, in judging whether staffing levels are appropriate. For example, the Chief Judge of the Superior Court said that if the number of filings and case dispositions increased in a given branch, while the case backlog decreased, the implication is that the staffing level is appropriate.

According to court officials, staffing decisions are made on a year-by-year basis and are made individually for each division of the Superior Court and Court of Appeals.

The courts' methodology does not provide a comprehensive review of what staffing levels should be because it does not consider the amount of staff time and resources that are needed for case processing. Caseload trends alone do not show whether a unit is overstaffed or understaffed because they do not account for how much time is needed to process differing types of cases or for productivity improvements. For example, if a court's caseload remained constant, but the types of cases shifted from those taking relatively smaller amounts of time to cases requiring much more time, the court could be understaffed for the amount of work required to process the cases.

Methodologies that consider the amount of staff time and resources required to process different types of cases in determining the sufficiency of staffing levels do exist. The National Center for State Courts (NCSC) has devised a databased system to determine staffing levels needed for a given workload, and the Administrative Office of the U.S. Courts (AOUSC) uses a databased system to distribute resources among the federal courts. We make a recommendation in this report that the D.C. courts review the amount of time needed to process cases to determine what staffing levels are sufficient to process the courts' caseload.

Background

The District of Columbia Court Reform and Criminal Procedure Act of 1970 established the D.C. courts in their present form. The courts consist of the D.C. Superior Court, the D.C. Court of Appeals, and the D.C. Court System. Judges of the D.C. courts are appointed by the President and are subject to confirmation by the Senate.

The D.C. Superior Court has general jurisdiction over virtually all local legal matters. It consists of 59 active full-time judges, several senior judges who work part-time, and 15 hearing commissioners who exercise limited judicial functions. The D.C. Superior Court has several divisions that process and dispose of cases, including divisions for civil, criminal, probate, and family cases. The court also has divisions that do not process cases but provide alternative dispute resolution services and handle the juvenile probation function. There are also divisions that perform support functions for the court, such as the personnel division.

The D.C. Court of Appeals is the highest court in the District of Columbia. It has nine active full-time judges, and several senior judges serving part-

time, who usually sit in three-judge panels. Appeals from the D.C. Court of Appeals are taken to the U.S. Supreme Court.

The D.C. Court System does not process cases but provides administrative services to the Superior Court and Court of Appeals, including fiscal services, education and training, data processing, personnel management, and court reporting.

A Joint Committee on Judicial Administration governs the D.C. Courts. The Chief Judges of the D.C. Superior Court and D.C. Court of Appeals (both designated by the D.C. Judicial Nominations Commission from among the active judges for a 4-year term) serve on this committee, with the Chief Judge of the Court of Appeals serving as committee chair. In addition, another Court of Appeals judge elected by the Court of Appeals judges, and two Superior Court judges elected by their colleagues, serve on the Joint Committee.

The Joint Committee appoints an executive officer who serves at the pleasure of the Joint Committee. The executive officer is responsible for the administration of the courts and can appoint and remove, with the consent of the Joint Committee, all D.C. court personnel (including the Clerks of the Superior Court and Court of Appeals) except for the judges' law clerks and secretaries and the D.C. Register of Wills.

Until fiscal year 1998, the D.C. courts' budget was submitted by the Joint Committee on Judicial Administration, through the D.C. Mayor and Council, to the President and Congress. The budget was forwarded by the Mayor and Council without revision but subject to recommendations. The D.C. Revitalization Act of 1997 (P.L. 105-33) changed this process so that the Joint Committee now submits its budget directly to the Office of Management and Budget, and the Courts' estimates are included in the President's budget submission to Congress, without revision but subject to the President's recommendations.

Objectives, Scope, and Methodology

Our objectives were to provide information on staffing and workload levels for the D.C. courts from 1989 through 1998, assess how the D.C. courts evaluate the sufficiency of their nonjudicial case processing staff levels, and compare the D.C. courts' methodologies to other available methodologies. For the purpose of this review, we defined staff as personnel who perform case processing and disposition functions for the D.C. Superior Court and the D.C. Court of Appeals, such as clerks, bailiffs, court reporters, administrators, and so on. This definition does not include judges or their law clerks and secretaries.

To achieve the first objective, we obtained from the courts copies of their annual reports from 1989 through 1998, which contain workload data. We obtained staffing level data for 1989 through 1998 from the Executive Office of the D.C. Courts. We did not independently verify data obtained from the courts.

To achieve the second objective, we obtained relevant reports and documents from the D.C. courts and interviewed the clerks of the Superior Court and the Court of Appeals and the acting personnel director for the D.C. courts. We subsequently sent a letter to the Chief Judges of the Superior Court and Court of Appeals, asking for a statement of how staff levels were determined and for a statement of the courts' position concerning the possibility of a databased study of staffing levels. We received separate replies from the Chief Judges of the Superior Court and Court of Appeals, the contents of which are discussed in this report. We also surveyed a representative sample of D.C. court employees in February 1999 on their perceptions of personnel management in the D.C. courts; several of the questions in the survey referred to staffing.

To achieve the third objective, we held discussions with officials of AOUSC and reviewed documents provided by these officials. We also discussed state court staffing with officials of NCSC, which is a clearinghouse for state court information and which provides consulting, conference, and educational services to the state courts. We obtained documents from NCSC concerning its methodology for state court staffing reviews and information on actual reviews done in several states.

We did our work from January through June 1999 in accordance with generally accepted government auditing standards. We requested comments from the Joint Committee on Judicial Administration of the D.C. courts. The comments are discussed near the end of this letter and reprinted in appendix I.

Trends in D.C. Courts' Staffing and Workload

As shown in table 1, staffing levels in the D.C. courts, excluding judges and their law clerks and secretaries, as measured by full-time equivalents (FTE), were 5.7 percent lower in fiscal year 1998 than in fiscal year 1989. There was about a 10 percent increase in FTE levels for 1990 compared with 1989. FTE levels fluctuated between 1,231 and 1,187 during the period from fiscal year 1990 through fiscal year 1997. There was a decrease of about 11 percent in FTE levels in fiscal year 1998.

Table 1: D.C. Court FTEs, Fiscal Years 1989 Through 1998

	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998
Superior Court ^a	1,005	1,100	1,090	1,063	1,082	1,071	1,057	1,058	1,032	889
Court of Appeals ^a	34	41	41	41	43	47	43	42	44	47
Court System	77	90	93	98	93	103	106	102	111	116
Total	1,116	1,231	1,224	1,202	1,218	1,221	1,206	1,202	1,187	1,052

^aExcludes judges and their law clerks and secretaries.

Source: Executive Office of the D.C. Courts.

FTEs in the Superior Court increased by approximately 10 percent between fiscal years 1989 and 1990; declined, with some fluctuations, by about 6 percent through fiscal year 1997; then decreased by about 14 percent in fiscal year 1998. According to a court official, most of the increase in FTEs in 1990 was due to staff associated with eight additional judgeships that were filled in that year. Much of the 1998 decrease in FTEs was attributed to the removal from the courts of the responsibility for adult probation by the D.C. Revitalization Act of 1997.¹

The FTEs for the Court of Appeals increased by approximately 21 percent between fiscal years 1989 and 1990 and then remained relatively constant thereafter. The stability in FTEs after 1990 was associated with the institution of a case management system in 1990 that was aimed at enhancing the efficiency of processing appeals.

The Court System, although not directly involved in case processing or disposition, was the only part of the courts to show FTE increases during almost all of this period, with the fiscal year 1998 FTE level 50.6 percent above that of 1989. The rise in staffing levels in the Court System, according to the Executive Officer of the D.C. courts, was due to an increase from 51 to 59 Superior Court judges in 1990, the assumption by the courts (from the D.C. Department of Administrative Services) of responsibility for janitorial services in court buildings in 1993, and the assumption by the courts (from the D.C. Department of Public Works) of responsibility for all maintenance of court buildings in 1996.

Table 2 shows the workload of the Superior Court during the calendar year period from 1989 through 1998. Cases available for disposition in the

¹According to a D.C. courts official, the decrease in the Superior Court's FTEs from 1,032 in fiscal year 1997 to 889 in fiscal year 1998 resulted from the Superior Court's transferring 163 filled positions to the Court Services and Offender Supervision Trustee for the District of Columbia, created by the D.C. Revitalization Act, and the normal fluctuation in staffing (i.e., filling vacant authorized positions). This resulted in a net loss of approximately 140 FTEs between fiscal year 1997 and fiscal year 1998.

Superior Court decreased 2.8 percent during this period, while cases pending increased 36.5 percent.

Table 2: Superior Court Workload, 1989 Through 1998

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Cases available for disposition ^a	244,405	241,204	248,752	255,194	247,186	243,141	242,885	241,131	241,201	237,612
Percent change	N/A ^b	(1.3)	3.1	2.6	(3.1)	(1.6)	(0.1)	(0.7)	0.0	(1.5)
Cases pending (year end)	39,925	39,509	49,501	47,896	45,229	52,219	43,834	52,087	53,786	54,513
Percent change	5.6	(0.7)	25.1	(2.4)	(5.1)	15.5	(16.1)	17.7	3.3	1.4

^aIncludes cases pending at the beginning of the year, cases filed in current year, and cases filed in previous years that were reactivated or became "at issue" during the year.

^bN/A represents not applicable.

Sources: Annual Reports of the D.C. Courts and Executive Office of the D.C. Courts.

The overall workload statistics shown in table 2 are combinations of different types of cases, and the mix of case types in the workload can vary over time. For example, of cases filed in 1989, 13.0 percent were felony cases, and 15.9 percent were misdemeanor or traffic cases. In 1998, 5.8 percent of filings were felony cases, and 19.9 percent were misdemeanor or traffic cases. Court officials pointed out several factors that have the potential of affecting their pending caseload, in addition to changes in the mix of cases over time. For example, the use of therapeutic case processing alternatives, such as those used in drug court or with domestic violence cases, may extend the life of a case on a pending caseload while they also result in the rehabilitation of the offender.

The caseload of the D.C. Court of Appeals significantly increased during this same period, as shown in table 3.

Table 3: D. C. Court of Appeals Workload, 1989 Through 1998

	1989 ^a	1990	1991	1992	1993	1994	1995	1996	1997	1998
Cases available for disposition ^b	3,881	3,887	3,616	3,463	3,646	3,680	3,925	4,454	4,763	4,592
Percent change	(2.3)	0.0	(7.0)	(4.2)	5.3	0.1	6.7	13.5	6.9	(3.6)
Cases pending (year-end)	2,283	2,089	1,853	1,945	1,991	2,093	2,443	2,671	2,634	2,694
Percent change	(2.7)	(8.5)	(11.3)	5.0	2.4	5.1	16.7	9.3	(1.4)	2.3

^a In 1994 the Court of Appeals revised its data reporting to exclude rehearings from its case totals. The Court made this revision for prior year data, from 1990 through 1993 but not for 1989 data. There were 19 rehearings granted in 1989, 27 in 1990, 40 in 1991, 33 in 1992, and 23 in 1993.

^bIncludes cases pending at the beginning of the year, cases filed during the year, and cases reinstated.

Sources: Annual Reports of the D.C. Courts and Executive Office of the D.C. Courts.

The total number of Court of Appeals cases available for disposition in 1998 was 18.3 percent greater than in 1989, and the number of pending cases at year-end was 18.0 percent greater. In 1989, 42.3 percent of the court's new filings were criminal cases, and 32.1 percent were civil cases; of 1998 filings, 39.4 percent were criminal, and 23.2 percent were civil. In both years, the balance of the cases fell into a number of categories, including family or agency proceedings. Overall appeal filings were 28 percent higher in 1998 than in 1989.

How the D. C. Courts Evaluate Sufficiency of Staffing Levels

In three reports issued from 1980 through 1990,² we recommended to certain federal agencies increased emphasis on workforce planning and set forth the basic elements of such planning. Among these elements was that of identifying the number of employees needed to accomplish agency goals. We specifically identified collecting and analyzing data on staff time required to fulfill agency goals as an important element of workforce planning.

We asked D.C. court officials how they evaluate staffing needs. Officials of the D.C. courts said that workload data are used to assess the staffing needs of the courts. The Chief Judge of the Superior Court said that he monitors the court's case inventory and case processing and relies on actual observation of service delivery and review of customer complaints and compliments. According to the chief judge, if customers are being "courteously, fairly, accurately, and expeditiously serviced," the court's workforce is considered appropriate for its needs.

The chief judge gave several examples of such assessments. One example referred to the Felony Branch of the Criminal Division, for which filings and dispositions had declined from 1994 through 1998, and cases pending and the backlog had decreased in the same period. According to the chief judge, this implied that case processing is within acceptable limits and that therefore the branch's workforce is appropriate. The chief judge also noted, however, that other branches' backlogs have increased, indicating that their staffing was not sufficient. He cited as an example the Misdemeanor and Traffic Branch of the Criminal Division, for which the backlog increased substantially, from 1996 through 1998, although case filings and dispositions went up and down in volume from year to year.

²Federal Work Force Planning: Time for Renewed Emphasis (FPCD-81-4, Dec. 30, 1980); Managing Human Resources: Greater OPM Leadership Needed to Address Critical Challenges (GAO/GGD-89-19, Jan. 19, 1989); U.S. Department of Agriculture: Need for Improved Workforce Planning (GAO/RCED-90-97, Mar. 6, 1990).

The Clerk of the Superior Court told us that decisions on changes in staffing from the previous year are made separately for each division of the court. If a division director indicates more staff is needed, the clerk will try to meet those needs by moving members of the workforce around between working units while maintaining the same overall workforce numbers.³ The clerk said that he will usually approve new hiring only for a new function or program. The clerk is to send staffing recommendations to the executive officer and the Joint Committee on Judicial Administration for inclusion in the budget.

Similar to the Chief Judge of the Superior Court, the Chief Judge of the Court of Appeals also said that the court uses indicators such as case filings, number and types of dispositions, cases pending, time involved in various stages of the process, and general mix of cases. With these data, according to the chief judge, the clerk and staff of the court identify staffing needs and possible management efficiencies.

The Clerk of the Court of Appeals said that, as with the Superior Court, staffing decisions are made on a functional basis for each division of the court, rather than for the court as a whole.

We also obtained the perspective of D.C. court employees concerning court staffing. As part of our overall review of personnel practices in the D.C. courts, we mailed out a questionnaire in February 1999 to a random, representative sample of court employees to get their views on the courts' personnel practices. More than 70 percent of those employees in the sample who were working for the courts answered our questionnaire. In addition to their perceptions regarding selected personnel practices, we asked for their views on the adequacy of staffing levels. We estimated that about 40 percent of the courts' employees would agree or strongly agree that their work unit had a sufficient number of employees to do its job and about 49 percent would disagree or strongly disagree, while the remaining percentage would neither agree nor disagree, not be sure, or have no basis to judge. A similar question was asked of federal employees in a 1996 governmentwide survey. About 43 percent said their work unit had a sufficient number of employees, while about 47 percent disagreed or strongly disagreed and the remaining percentage neither agreed nor disagreed.

³According to the Executive Office of the D.C. courts, transfers of personnel between the Superior Court, Court of Appeals, and Court System are possible, but rarely happen in practice.

Methods Used by Other Courts

The federal court system and some state court systems use formulas based on court workload data to determine satisfactory levels of staffing and resources. The federal court system uses a databased system to distribute resources to the U.S. Appellate, District, and Bankruptcy Courts, and the Probation and Pretrial Services Offices. Prior to the adoption of this system, these courts had received resources on the basis of total number of people employed and cases heard in a given year. However, court administrators came to realize that this system did not distribute resources efficiently because it did not take into account that certain types of court activities will take more time and resources than other types of activities. The system is based on a large number of various workload statistics, which are fed into “work measurement formulas.” Based on the statistics and the formulas, a specific number of “work units” are allocated to each federal judicial district and circuit. Such work units consider tasks associated with the nature and types of cases, given a standard rate of efficiency (how much time and resources such cases should take). Each work unit is equal to a certain amount of money, the exact amount depending on overall budget levels. The managers of each court can use their allocation to hire or retain staff or to make capital purchases to improve court productivity.

NCSC has developed and promulgated a “weighted caseload” system. Under this system, officials determine how much time is taken up by different types of cases in the court or courts under study. The officials then determine how much judge or staff time is taken up by the court’s caseload as “weighted” by the time factor and compare total judge or staff years, as calculated, with the actual judges or staff available. How much time is taken up by a certain type of case can be determined by actual measurement of cases in court or by the “Delphi” method of getting judges, staff, or outside experts to estimate the length of time certain cases would take. For example, if a court had five full-time staff members (and thus 5 staff years), and it was determined that the court’s annual workload would take 7 staff years to complete, there would be a need for two additional staff members. However, it could also be found that the court’s workload required only 4 staff years, in which case there would be one more staff member than needed.

This system was developed to give state government decisionmakers an independent, objective way to evaluate the need for court personnel, based on the actual amount of time and resources different court activities should take. It has been used in at least 11 states, in most instances to determine how many judges are needed in a state. However, the method has been used to determine appropriate levels of court staff in New Jersey,

Colorado, and Kentucky. In Colorado, a weighted caseload study led to the addition of 30 to 40 court staffers statewide. In Kentucky, NCSC found that the level of case processing staff was appropriate in rural counties but that urban areas may need more staff.

In promulgating this method and advocating its use, NCSC acknowledges that decisions on the size of a court or court staff cannot, and should not, be based solely on results obtained by a statistical model. Data from the model, according to NCSC, must be interpreted in a social, cultural, and political context, and factors peculiar to each court and court circuit should be considered.

We asked the D.C. courts for their views on having a databased analysis done on the staffing of the courts, what advantages or disadvantages there would be in such an analysis, and whether there were features and qualities of the D.C. courts that would preclude such an analysis. The Chief Judge of the Superior Court had no objection to databased analysis of the court's support staff, based on the work protocols used in the federal courts, provided that the actual instrument used was developed under the court's supervision. He believed such an analysis could be helpful to more accurately measure the appropriate workforce for divisions that did not process cases and to check the present case processing measurement used in the clerk's office.

The Chief Judge of the Court of Appeals, in her response, indicated that NCSC has had a great deal of experience with methodologies that might be effectively used for such a study and, therefore, is in a better position to identify the advantages and disadvantages of each. According to the chief judge, the primary determinants for a court system in doing such studies are resource related, and such studies seem to address discrete components of the court. The chief judge pointed out that the D.C. courts were a two-tiered system as opposed to the three-tiered system that exists in most states.⁴ She said that whether there are unique features that would impede such an analysis in the D.C. courts might depend upon which area of the courts is selected for study. The chief judge added that, given the small size of the Court of Appeals, the cost of any study of it would likely outweigh the benefits.

⁴The D.C. courts have two levels—the Superior Court and the Court of Appeals. Eleven state systems also have two levels; the remaining state systems have a lower court, an intermediate court, and a court of final appeal.

Conclusion

While D.C. court officials apparently consider caseload data in judging whether staffing levels are adequate, they have not measured the amount of time required by case processing staff to process differing types of cases nor used such data to determine whether the size of the courts' workforce is inadequate, adequate, or excessive for the work of the courts. Workload and formula-based methods of assessing the adequacy of case processing staffing levels do exist and are in use in the federal and state courts. Whether the D.C. courts have too many or too few case processing staff for their caseload is a question that cannot be answered without a systematic study.

The Chief Judge of the Superior Court believed that such a study employing the work measurement protocol used in the federal judiciary could be helpful. The Chief Judge of the Court of Appeals questioned whether the small size of the appeals court would make a study of the court cost-beneficial. While we believe that the results of such a study could serve as a baseline for the courts and Congress to evaluate court staffing in the future, we recognize that in planning such a project the D.C. courts should weigh potential costs and benefits in determining the project's scope, including the components that should or should not be covered.

Recommendation

We recommend that the D.C. courts review the amount of time required to process different types of cases and analyze other elements of the courts' workload to determine what staffing levels are sufficient to process the D.C. courts' caseload. We recommend that, before planning or implementing such a review (including selecting components to be covered and balancing costs and benefits), the courts consult with others who have used workload-based methodologies to evaluate court case processing staffing levels.

D.C. Courts' Comments and Our Evaluation

The Chair of the Joint Committee on Judicial Administration of the D.C. Courts provided the courts' written comments on a draft of this report. The courts said that they had no objection to conducting a study of staffing levels using a workload-based methodology, provided that funds are available. They asked that we include a request for such funds in our recommendation. The courts also pointed out that the methodology employed by NCSC, as explained in the draft, has been used in only three states and suggested that we make clear that the courts use a number of factors in assessing the need for staff, most of which are used in other jurisdictions.

We recognize that the determinants for doing such a study include resource issues. Once the necessary planning for such a study is completed, including determining its scope, we believe it would be appropriate for the courts to consult with Congress on the matter of funding. To the best of our knowledge and that of NCSC, only three states have done such a study. However, this is not to say that other jurisdictions have not conducted databased studies to assess the adequacy of their staffing levels using similar methodologies. We did not examine that issue. Our objective was to point out that workload-based methodologies exist.

The courts said that our description of its methodology for determining staffing needs was inaccurate, apparently because we did not refer to internal budget requests that are prepared by court divisions. We did not do so because the budget requests dealt with staffing needs only in an incremental manner. Where division managers requested individual staff, they did so to meet an increase in workload from the previous year, such as when the court took on a new statutory responsibility; in these cases, there was no attempt to review whether a division's staffing level was appropriate for its overall workload. Our depiction of the courts' methodology for assessing the adequacy of staffing levels was based on descriptions provided by officials of the Superior Court and Court of Appeals.

The courts took exception to our reference in the draft report to previous reports issued by GAO recommending increased emphasis on workload planning by federal agencies. The courts believed that our reference to these reports is misleading and gives the impression that the courts were mandated to follow these earlier recommendations. The courts were not mandated to follow these earlier recommendations. We believe these reports provide useful context for our recommendations, and we specifically point out in the text of this report that the recommendations were made to certain federal agencies.

The courts elaborated on the staffing and workload data provided in the draft report. They also provided technical clarifications as well as suggestions for the report's presentation. We incorporated these as appropriate.

We are providing a copy of this report to Representatives C.W. Bill Young, Chairman, and David Obey, Ranking Minority Member, Committee on Appropriations; Delegate Eleanor Holmes Norton, Ranking Minority Member, Subcommittee on the District of Columbia, Committee on Government Reform; Senators Kay Bailey Hutchison, Chairwoman, and Richard Durbin, Ranking Minority Member, Subcommittee on the District of Columbia, Committee on Appropriations; Senator George Voinovich, Chairman, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, Committee on Governmental Affairs; and Representative Julian Dixon. We are also providing copies to the District of Columbia courts, the National Center for State Courts, and the Administrative Office of the U.S. Courts. We will make copies available to others on request.

If you have any questions, please call me at (202) 512-8676. Key contributors to the report included Richard W. Caradine, Domingo D. Nieves, and Steven J. Berke.



Michael Brostek
Associate Director, Federal Management
and Workforce Issues

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Abbreviations

AOUSC	Administrative Office of the United States Courts
FTE	full-time equivalent
NCSC	National Center for State Courts

Comments From the D.C. Courts

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



**District of Columbia Courts
Joint Committee on Judicial Administration
Washington, D. C. 20001**



August 17, 1999

Mr. Michael Brostek
Associate Director
Federal Management Workforce Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Brostek:

In accordance with your request of August 5, 1999 and our telephone conversation of yesterday, I enclose for your consideration comments on behalf of the District of Columbia Courts. Please let us know if we can provide further clarification of the matters addressed.

Sincerely,

A handwritten signature in black ink, appearing to read "Annice Wagner".

Annice Wagner
Chair, Joint Committee on Judicial
Administration

**SUBMISSION TO THE GENERAL ACCOUNTING OFFICE IN RESPONSE TO
DRAFT REPORT ON THE D.C. COURTS STAFFING LEVELS**

Summary

This submission responds to a draft report of the General Accounting Office (GAO), now entitled, "D. C. Courts Staffing Level Determination Could Be More Rigorous." The draft report outlines the methodologies currently utilized by the District of Columbia Courts to determine support staffing levels and recommends that the Courts conduct a study using workload-based methodologies. The Courts have no objection to conducting such studies, provided funds are made available for this purpose.¹ However, the report should make clear that the courts presently use methods and indicators for assessing staff needs which are relied upon in many other jurisdictions.² As you point out in the report, the methodology which GAO recommends that the D.C. Courts utilize in the study has been used for this specific purpose in only three states: New Jersey, Colorado, and Kentucky.³

See p. 12.

The Courts respectfully recommend that the title be changed to convey more fairly and accurately the contents, conclusions and recommendations in the draft report. We suggest for your consideration, D.C. Courts: Assessing the Needs for Support Staff. Such a title is more in keeping with the objective presentation GAO has made in the draft report.

See comment 1.

Specific Responses

The following comments address specific points in the different sections of the Draft Report.

A. Results in Brief

* On page 2, paragraph 1 of the report, GAO states that the cases available for disposition at the D.C. Superior Court, the largest part of the courts, increased slightly during this time, while its backlog increased substantially. See the Courts' response under Trends in the D.C. Courts' Staffing and Workload for clarification as to why the Superior Court pending

Now p. 1.

¹ The primary determinants for doing such a study are resource related (i.e. availability of baseline data, automated access to such data, staff availability, time and/or funds to employ a contractor to conduct the study). The National Center for State Courts has advised that a typical study may exceed \$150,000, depending on its scope.

² Currently, the courts track case filings, monitor case inventory, case processing, number and types of dispositions, cases pending, time involved in various stages of the process, and other factors to determine the appropriate staffing levels in the Courts. Using this data, the Executive Officer, Clerks of the Courts and Division Directors identify areas that are overstaffed or understaffed and adjust staffing levels accordingly.

³ See Draft Report, pp. 18-19.

Appendix I
Comments From the D.C. Courts

caseload increased during this period.

Now p. 1.
See comment 2.

* On page 2, line 6, the draft reports states that the caseload of the D.C. Court of Appeals decreased steadily over this period. In fact, the draft report correctly states at page 11, line 8, "The caseload of the D.C. Court of Appeals significantly increased, as shown in Table 3."

* See Courts' response under Trends in D.C. Courts' Staffing and Workload for clarification as to why the Superior Court's backlog increased substantially, while available cases for disposition increased only slightly.

Now pp. 1-2.

* The last paragraph beginning on page 2 and ending on page 3, which seeks to describe the Courts' methodology for determining staffing needs, is inaccurate. The GAO was provided the budget requests of all the Court divisions for several fiscal years which contained comprehensive reviews of each division's staffing needs, as well as justification for any requested increase in staffing. In addition, reports were submitted from the Research and Development Division on determining staffing needs in other Court programs, i.e. Urban Services Program. To assure that a complete picture is presented on the courts' current methodologies for assessing staffing needs, it should be stated at a minimum, in this part of the report, as indicated in earlier responses from the courts, that the Courts use a number of factors in assessing the need for staff, most of which are used in other jurisdictions. Specifically, the Courts track case filings, number and types of dispositions, cases pending, time involved in various stages of the process, types of cases pending, and other factors. Using this information, the Clerks of the Courts and management staff identify the need for staff sufficient to process cases fairly and promptly.

See p. 12.

In the second paragraph on page 2, line 6, there should be inserted before the final sentence in the paragraph, the sentence which begins on page 14 in the last paragraph of the draft report. That sentence reads in pertinent part: "the Chief Judge of the Court of Appeals said that the court uses indicators such as case filings, number and types of dispositions, cases pending, time involved in various stages of the process, and the general mix of cases" to determine the appropriate level of staffing.

See comment 3.

See comment 4.

B. Background

* The D.C. Superior Court consists of 59 active judges; several senior judges who work part-time; and 15 hearing commissioners who exercise limited judicial functions. (Report Page 4: 2nd paragraph)

Now p. 2.

Now p. 2.

* The Probate Division should be added to the sentence that reads "the D.C. Superior Court has several divisions...including divisions for civil, criminal, and family cases." The next sentence should mention those divisions of the Court that do not handle traditional case processing, for example, "The Superior Court also has divisions which provide alternative dispute resolution services (the Multi-Door Dispute Resolution Division, and handle the juvenile probation function for the District of Columbia (Social Services Division). There are also divisions that do not process cases but perform..." (Report Page 4: 2nd paragraph)

Now pp. 2-3.

* The D.C. Court of Appeals has nine judges, *and several senior judges*, who usually sit in three-judge panels. The senior judges of the Court of Appeals serve part-time. (Report Page 4: 3rd paragraph)

Now p. 3.

* *Administrative Services* should be added to the first sentence on page 5, which list the functions of the D.C. Court System.

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Now p. 3.

* Page 5, paragraph 2, line 3, strike "President," and insert in lieu thereof "Judicial Nominations Commission." The Chief Judge of the D.C. Court of Appeals and the D.C. Superior Court are *designated by the Judicial Nomination Commission* from the active associate judges for a for a 4-year term. (Report Page 5: 2nd paragraph)

Now p. 3.

* On the bottom of page 5 of the Report, last line from the bottom, strike the word personal and insert *law*, (...except for the judges' law clerks and secretaries and the D.C. Register of Wills).

Now p. 3.

* Replace the first paragraph on page 6, with the following paragraph, which more accurately describes the Courts' budget process. [Until fiscal year 1998, the budget of the D.C. Courts was submitted by the Joint Committee on Judicial Administration, through the Mayor and the Council of the District of Columbia, to the President and the United States Congress. The budget was forwarded by the Mayor and the Council of the District, without revision, but subject to recommendations. Subsequent to enactment of the Revitalization Act, the Joint Committee submits its budget estimates directly to the Office of Management and Budget, and the Courts' estimates are included in the federal budget submitted to Congress, without revision, but subject to the President's recommendations.]

C. Trends in D.C. Courts' Staffing and Workload

Now p. 5.

* Replace Table 1 on page 9, with Attachment 1. Since GAO has noted in the report that its definition of staff does not include judges or their law clerks, secretaries, and personal assistants, we have excluded them in Attachment 1 from the FTE levels of the Courts for the review period. (Report Page 6)

See comment 5.

See p. 5.

* Page 10, line 1 - Change the year to read "1990."

Now p. 6.

* The GAO reports that cases available for disposition in the Superior Court decreased 2.8 percent from calendar year 1989 through 1998, while cases pending increased 36.5 percent during this period. (Report Page 10: 2nd paragraph) The Report presents data provided by the Courts without interpretation. Conclusions have been drawn from the data that are not warranted given the information provided in correspondence to GAO dated July 19, 1999. In that correspondence we noted that at Superior Court, the pending caseload for any given year is dependent on the addition and subtraction of the types of cases available to be processed during a reporting period (or "active cases") and the dispositions which occurred during the period. That is, the cases at issue are added to the reactivated and currently pending cases to obtain cases "available for disposition." Subtracted from the cases "available for disposition" are the dispositions that occur within the calendar year to obtain the cases pending at the end of the calendar year. Trial courts reduce their pending cases if dispositions exceed active cases. An increase in the pending caseload occurs when the number of cases disposed of falls short of the number of filings, at issue, reactivated and other cases, which are active during the period. As observed by the National Center for State Courts (in its publication titled "Examining the Work of State Courts, 1997"), even if monthly filings exceed dispositions by a relatively small margin, the cumulative impact of these differences can be a sustained increase in the pending caseload.

See comment 6.

A number of additional factors have the potential of impacting the pending caseload, including case management initiatives (many of which are in place at Superior Court, including civil delay reduction and alternative dispute resolution), the availability and deployment of staff and judicial resources, the mix of case types over time, the complexity of cases, and the use of therapeutic case processing alternatives, such as those used in drug court or with domestic violence cases, which may, in fact, extend the life of a case on a pending

caseload, while also succeeding in the rehabilitation of the offender. In recent years, the Court has experienced an increase in drug, domestic violence and child abuse and neglect cases, which represent a new hybrid type of case the resolution of which often crosses traditional operational lines. For example, a domestic violence case frequently contains criminal, civil and family case processing components and may even include an additional treatment requirement which must be met before the case is disposed. While in recent years, the Superior Court has developed a unified intake process for these cases, managing the volume and complexity of this new type of case has been challenging. In traditional criminal case processing, to effectively process (or "clear") a felony case requires adherence to tight time standards, while ensuring that the constitutional rights of defendants are being met. As also noted by the National Center for State Courts, criminal cases consume a disproportionately large amount of court resources compared to their overall contribution to the total caseload. Constitutional requirements concerning the right to counsel ensure that attorneys, judges and other court personnel will be involved at all stages in the processing of criminal cases. In addition, criminal cases must be disposed under tighter time standards than other types of cases, thereby necessitating additional court resources. The mandatory attention to criminal cases may result in slower processing of other types of cases. Additionally, with respect to case type, the composition of juvenile cases has changed over the years, with the Superior Court experiencing an increase in more complex and labor intensive, person-related juvenile crimes compared to status (or non-criminal) and property crimes.

Also in recent years, the processing of many criminal and juvenile cases requires providing treatment to a victim, defendant or both before the disposition phase of case processing can be completed. Under these conditions of therapeutic justice, a defendant may be placed on a special case processing track (such as adult or juvenile drug court) to be treated and rehabilitated before adjudication is completed and the case disposed of. Also, in child-victim cases, the Court is required to provide protection to children who are allegedly abused or neglected. Under these circumstances, a case may be carried for an extended period of time on the Court's workload as pending.

Key to effective and efficient case processing is the availability of judicial resources. During the review period of 1989-1998, the Superior Court maintained an average judicial vacancy rate of 4%. Not incidental to understanding the impact of judicial resources on cases processing is the fact that the Superior Court, in 1997, the most recent years in which national rankings are available from the National Center, had the third highest number of cases filings per judge (2,844), exceeded only slightly by Massachusetts (at 2,946) and New Jersey (2,859).

Now p. 6.

See comment 7.

* Page 12 - Table 3 in the draft report includes statistics that reflect the increase in the D.C. Court of Appeals workload, specifically "cases available for disposition," and "cases pending (year end)." These statistics reflect the results of significant increases in appeal filings that occurred during 1989 through 1998. In fact appeal filings in 1997 were 37% higher than in 1989, and appeal filings in 1998 were 28% higher than in 1989. We recommend that an additional table be included in the report to provide statistical support to the statement in the draft report that "...the caseload of the D.C. Court of Appeals significantly increased during this same period." Attached for your consideration is a table reflecting these statistics.

D. How the D.C. Courts Evaluate Sufficiency of Staff

Now p. 7.

* Discussions and comments regarding reports issued by GAO from 1980 through 1990, recommending increased emphasis on workforce planning for federal government agencies should be excluded from this report. These comments are misleading and give the impression

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See p. 12.

that the D.C. Courts were mandated to follow the reports and therefore are in violation of a GAO directive for not doing so. (Report Page 12: paragraph 2).

E. Recommendation

See comment 8.

* The recommendation should include a request that funds be appropriated to cover the cost of a contractor to perform the databased work analysis. As noted above, the National Center for State Courts has advised that a typical study may exceed \$150,000, depending on its scope.

COMMENTS ON DRAFT GAO REPORT ON STAFF LEVELS
OF THE D. C. COURTS
(D. C. COURT OF APPEALS)

1. Page 2, line 6, states: "The caseload of the D.C. Court of Appeals decreased steadily over this period." In fact, the draft GAO report correctly states at page 11, line 8: "The caseload of the D.C. Court of Appeals significantly increased during this same period, as shown in Table 3."

2. Table 3 in the draft report includes statistics that reflect the increase in the D.C. Court of Appeals workload, specifically "cases available for disposition," and "cases pending (year end)." These statistics reflect the results of significant increases in appeal filings that occurred during 1989 through 1998. In fact, appeal filings in 1997 were 37% higher than in 1989, and appeal filings in 1998 were 28% higher than in 1989. We recommend that an additional table be included in the report to provide statistical support to the statement in the draft report that "... the caseload of the D.C. Court of Appeals significantly increased during this same period." The appeal filings and disposition statistics for those years that we recommend be included were as follows:

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Appeal Filings	1515	1623	1527	1610	1701	1689	1832	2008	2076	1943
Total Disposition	1579	1798	1763	1518	1655	1587	1482	1783	2129	1901
Ratio of Dispositions to Filings	104.2%	110.8%	115.5%	94.3%	97.3%	94%	80.9%	88.8%	102.5%	97.8%

ATTACHMENT 1

It should be noted the FTE totals in Table 1 (Page 9) of the GAO staffing level determination draft for the Superior Court and the Court of Appeals include judges, law clerks, and judicial secretaries. These positions would not be considered in determining caseload to processing staff ratios.

Following is a FTE table minus judges and judicial chamber staff.

Table : D.C. Court FTEs, Fiscal years 1989 to 1998										
	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998
Superior Court	1,005	1,100	1,090	1,063	1,082	1,071	1,057	1,058	1,032	889
Court of Appeals	34	41	41	41	43	47	43	42	44	47
Court Systems	77	90	93	98	93	103	106	102	111	116
Total	1,116	1,231	1,224	1,202	1,218	1,221	1,206	1,202	1,187	1,052

GAO Comments

The following are GAO's comments on the letter from the Chair of the Joint Committee on Judicial Administration of the D.C. Courts, dated August 17, 1999:

1. The courts recommended a change in the title of our report. We believe that the title is objective and accurately reflects our conclusions and recommendation.
2. The courts noted an inconsistency between our characterization of the D.C. Court of Appeals caseload on page 1 and elsewhere in the body of the report. We have corrected page 1.
3. The courts suggested that wording used in the body of the report to discuss Court of Appeals staffing methodology be reproduced in the Results in Brief. The purpose of Results in Brief is to summarize the discussion in the body of the report; replicating the entire discussion in the body would be redundant.
4. The courts made a number of suggestions for technical revisions in the Background section of our report. We have made these revisions in the Background section of our report where appropriate.
5. The courts provided FTE data exclusive of judges and their law clerks and secretaries. We have adjusted table 1 on page 5 to reflect this data.
6. The courts commented that our presentation of workload data did not present a complete picture in that it did not reflect the causal factors that account for increased backlog. We included some of the courts' explanation on page 6.
7. The courts suggested we include data on appeal filings in our presentation of Court of Appeals caseload data. We have done so in the text on page 7.
8. The Courts said that our recommendation should include a request that funds be appropriated to cover the cost of a databased study. We address this issue on page 12.

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