

**A WORKLOAD ASSESSMENT STUDY
FOR THE
NEW MEXICO TRIAL COURT JUDICIARY,
NEW MEXICO DISTRICT ATTORNEYS' OFFICES
AND
NEW MEXICO PUBLIC DEFENDER
DEPARTMENT**

**FINAL REPORT
JUNE 2007**

**WITH THE
NEW MEXICO SENTENCING COMMISSION
2808 Central Avenue, S.E.
Albuquerque, New Mexico 87106**



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Denver, Colorado 80202***

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National Center for State Courts 2007

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PROJECT SUMMARY

How many judges, prosecutors, public defenders, and support staff are needed to provide justice for the citizens of New Mexico without undue delay and within finite public resources? The State of New Mexico had taken steps in the recent past to answer parts of this question by having separate studies done at different times:

- *Weighted caseload study for trial judges* – done by National Center for State Courts (NCSC) in 1995;
- *Weighted caseload update for trial judges* – done by NCSC in 1998;
- *Workload assessment for district attorneys' offices* – done by the American Prosecutors Research Institute of the National District Attorneys Association (NDAA/APRI) in 2001; and
- *Workload study for trial court clerical staff* – done by NCSC in 2004.

No assessment had been done of attorney and staff resource needs for indigent defense in New Mexico, however; and there had been no comprehensive effort in New Mexico (and indeed few, if any, in any other state) to look carefully at personnel resource needs for judges, prosecutors and public defenders at the same time.

Engagement of NCSC and NDAA/APRI

Recognizing the desirability of such a comprehensive effort, the State of New Mexico, through the New Mexico Sentencing Commission (NMSC) entered an agreement with NCSC in early 2006 to undertake a workload assessment for judges and public defender attorneys and staff, with NDAA/ APRI as a subcontractor to do the same for attorneys and staff in district attorneys' offices. The objectives for this effort were not only to determine current personnel resource needs, but also to create a model with case weights that would allow NMSC staff to forecast staffing needs and make annual updates without additional assistance from outside consultants.

Approach and Activities of Workload Assessment Study Participants

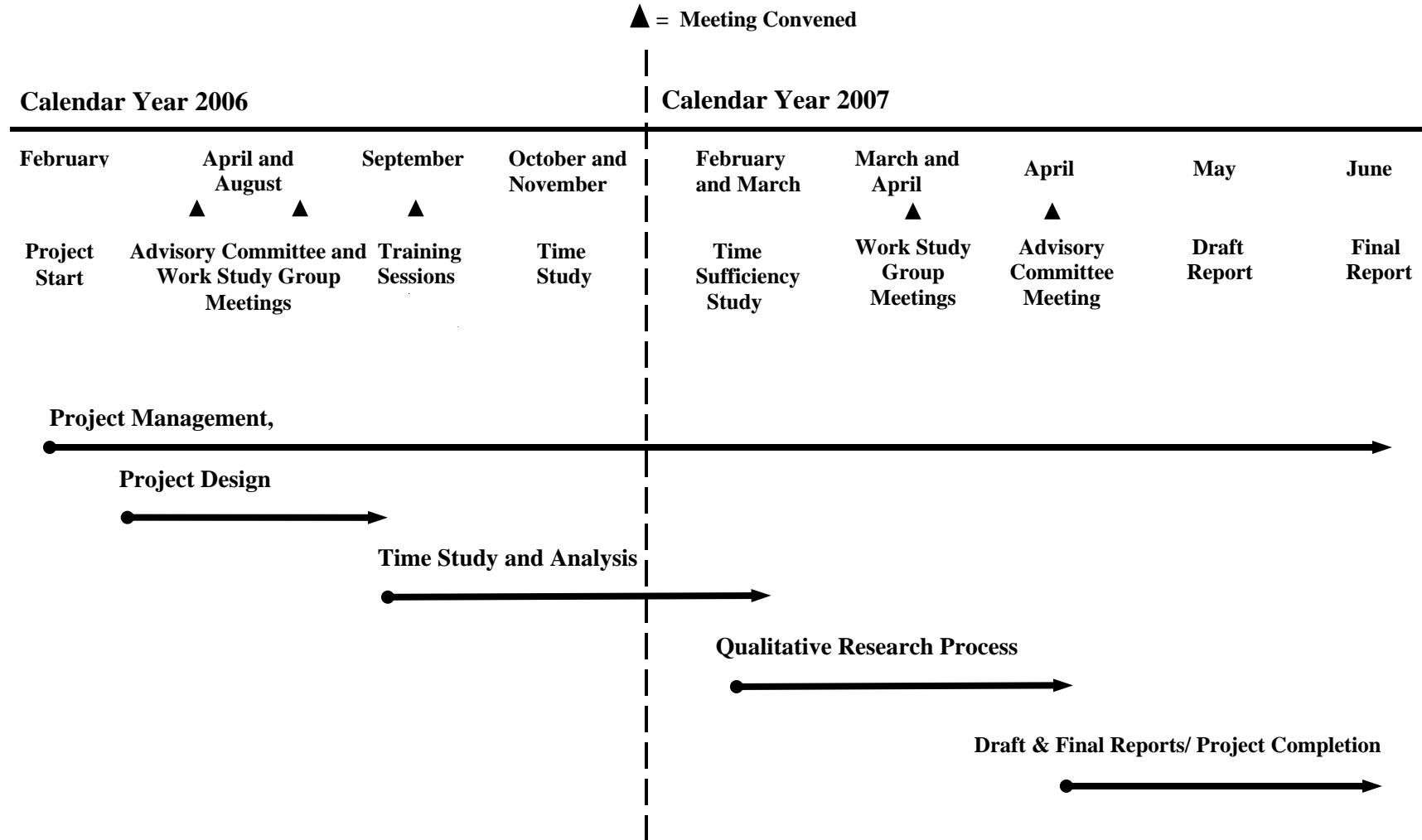
While a comprehensive study of workloads and personnel resource needs like this is a novelty, NCSC and NDAA/APRI have each done many assessments in other states focusing

solely on judges, prosecutors, defenders or support staff. From these studies, each organization has developed the following general orientation:

- Effective use of personnel resources should be tied to workload, not just cases;
- It is therefore necessary to translate “*caseload*” into “*workload*;”
- Different types of cases require different amounts of time and attention from judges, prosecutors, defense attorneys, and their support staff;
- Any assessment must be both credible and understandable not only to judges, prosecutors, and indigent defense attorneys, but also (as a matter of critical importance) to state or local funding authorities; and
- It is necessary to use a careful and credible approach that distinguishes “what is” from “what should be.”

To complete this workload assessment with such an orientation, the project team from NCSC and NDAA/APRI worked closely in 2006 and 2007 with NMSC staff members; with an Advisory Committee of judges, prosecutors and defense attorneys; and with work study groups consisting of judges, attorneys, or support staff members. For a graphic summary of the activities during in this effort, see Figure S-1 on the following page.

Figure S-1. Activities in New Mexico 2006-2007 Workload Assessment Study



Findings on Statewide Resource Needs

As part of the activities summarized above, NMSC and the Advisory Committee for this study approved the project design and oversaw (a) the project team's efforts with work study groups, (b) the conduct of a time study and the analysis of its results; and (c) the completion of a time sufficiency study leading to quality adjustments in the time study results. (For a better understanding, see the explanation of methodology that follows.) At the conclusion of the study process, NMSC and the Advisory Committee approved the findings of NCSC and NDAA/APRI about New Mexico's current resource needs for trial court judges, attorneys and staff in district attorneys' offices, and public defender attorneys and staff.

Total Personnel Needs. As reported by NCSC in Chapter One, this workload assessment leads to statewide findings on total judicial need. Under current circumstances, the State of New Mexico requires (a) 136 District Court judicial officers; (b) 23 judges in the Bernalillo Metropolitan Court; and (c) 56 judges in the Magistrate Courts.

Chapter Two shows the statewide NDAA/APRI workload assessment for district attorneys' offices. To meet today's workload, New Mexico needs (a) 365 prosecuting attorneys; (b) 59 investigators; (c) 63 victim/witness advocates; and (d) 449 support staff members.

The NCSC workload assessment for public defenders is described in Chapter Three. To deal with its current statewide indigent defense workload, New Mexico needs (a) 210 attorneys; and (b) 180 support staff members.

Additional FTE Needs Beyond What is Now Available. How well is the total need for judges, attorneys and support staff now being met, and how many FTE positions must be added to see that the total need is being met? Figure S-2 summarizes the "bottom line" results of this workload assessment. The conclusion of the project team from NCSC and NDAA/APRI, as approved by NMSC and the Advisory Committee, is that it would be desirable for the State of New Mexico to provide additional judges, prosecutors, public defenders, and support staff members at the levels shown in Figure S-2. This will help assure that the State provides justice for its citizens without undue delay with workloads at current levels.

**Figure S-2. Additional FTE Needs for the New Mexico
 Trial Court Judiciary, District Attorneys and Public Defender Department***

Description	Total Need	Available FTE	Additional FTE Needed
<i>Trial Court Judiciary¹</i>			
District Court	136	112 ²	24 ³
Metropolitan Court	23	19	4
Magistrate Court	56	65	7 ⁴
<i>District Attorneys⁵</i>			
Attorneys	365	324	41
Investigators	59	50	9
Victim Witness	63	60	3
Support Staff⁶	449.5	433	16.5
<i>Public Defenders⁷</i>			
Attorneys	210	169	41
Support Staff⁸	180	135	45

* All FTE counts shown here are as provided by agencies and reflect FY 2007 FTE personnel levels. FTE counts do not include new positions authorized in the 2007 legislative session.

¹ Total need for judges is based on FY 2006 cases filings. Filing counts include civil and domestic relations cases.

² Includes judges and hearing officers.

³ This calculation counts hearing officers at their whole FTE. When applied by the Administrative Office of the Courts hearing officers are counted at 66% of their FTE in keeping with a decision by the Chief Judges Council. This results in a judicial need of 32.

⁴ Magistrate judge need is adjusted to reflect statutory judgeships.

⁵ Total need in district attorneys' offices is based on FY 2006 dispositions.

⁶ Excludes FTE counts of financial positions that do not perform case-related work.

⁷ Total need for public defenders is based on FY 2005 open cases. This count reflects only the work of Public Defender Department offices and excludes contract attorneys. (See Appendix 3-A for more on contract attorneys.)

⁸ Excludes FTE counts of financial positions that do not perform case-related work.

Caveat. It is critical to note that these statewide results do not reflect what the need might be in any given judicial district or county. In addition, although the results presented here are based on case totals and case weights, they do not address the amount of time that judges, attorneys or staff must be present each day in any particular court location. The weighted workload model presents the average amount of time required to process cases from beginning to end, and it indicates the average amount of time that judges, attorneys and support staff in New Mexico require to attend to non-case specific matters. How the workload assessment results are actually applied in terms of appropriations for or allocation of personnel resources is based on local and statewide policy decisions regarding access to justice.

Looking to the Future

In addition to determining current personnel resource needs for the New Mexico judiciary, prosecutors and defenders, a further objective of this workload assessment was to create a model with case weights that would allow NMSC staff members to forecast staffing needs and make annual updates of the results presented here without additional assistance from outside consultants. To that end, the project team members from NCSC and NDAA/APRI have worked closely with NMSC staff members throughout this effort. At the completion of this project, NMSC staff members have a detailed understanding of workload assessment, and there is a full appreciation among judges, prosecutors, defenders and support staff of the requirements for a workload assessment.

Yet there were issues encountered during this project that must be given ongoing attention by NMSC and the participating agencies in order to assure continuing rigor and credibility in the future. To address these issues, the project team from NCSC and NDAA/APRI offers the following recommendations for the future:

- ***Accommodating Changes over Time.*** The integrity of workload standards for judges, prosecutors, indigent defenders and support staff can be affected by many influences over time, such as changes in legislation, legal practice, technology, law enforcement priorities, and administrative factors. Consequently, workload standards should be systematically reconsidered at least every few years to account for the changing environment for the trial court process. This reconsideration should be undertaken under the auspices of an advisory committee and with the expert advice of work study groups similar to those involved in this study.

- ***Levels of Support Staffing.*** It is important to keep in mind that any changes in personnel levels need to be considered within the overall context of a court's, district attorney's office, or public defender's office's workload and workforce. Any significant increases in judgeship or attorney positions should be accompanied by related increases in support staff positions to maintain reasonably effective and efficient overall use of available personnel resources. Without such balance, courts or offices run the risk of "sub-optimal" resource use – having higher-paid staff (e.g., judges or attorneys) performing work that can be done as well by staff members with lower salaries, thereby reducing the amount of time available for work that only judges or attorneys can complete.
- ***Ratios of Prosecutor or Defender Positions to Judgeships.*** During this study, the project team was asked whether the addition of resources can be done under a judge-prosecutor ratio or judge-defender ratio. The results offered here show that there is not an easy correlation between the amount of work that different kinds of cases presented for judges and what they present for prosecutors or defenders. Over the next five years, NMSC staff, working in collaboration with representatives of the courts, district attorneys' offices, and the public defender department, should make an empirical inquiry whether there are any correlations that may lead to the development of credible workload-based ratios.
- ***Refined Judge Workload Measures for Particular Case Types.*** The Sentencing Commission and the Administrative Office of the Courts should work with trial judges to develop more refined ways to assess the amount of judge-time needed for "complex" civil cases. In addition, the judge workload demands for such "specialty court" programs as EIP courts and homeless courts should be given further attention in subsequent workload assessments for judges.
- ***Quality of District Attorney Disposition Reporting.*** District attorneys' offices in New Mexico should make a concerted effort to improve their reporting of dispositions. Such improvements will increase the accuracy of the disposition information in the system and allow for more accurate and reliable resource projections. Projections can then be made based on actual dispositions recorded at the end of the year or by estimating the number of dispositions in future years.
- ***Quality of Public Defender Case Counting.*** Calculating attorney and staff need on a yearly basis in the Public Defender Department necessitates that open cases be counted consistently and accurately for all case type categories defined in this chapter. NMSC and NMPDD staff should work together to standardize aspects of the current NMPDD case management system. To ensure accuracy and reliability, a protocol for acquiring data should be developed and regular and thorough auditing and feedback for correcting data collection and reporting problems should be implemented.
- ***Contract Indigent Defense Attorneys.*** While a concerted effort was made to ensure participation in this work assessment by private attorneys who provide indigent defense under contract in areas where there is no public defender office, the data received from

contract attorneys was insufficient to draw valid and reliable conclusions about the way cases are handled by those attorneys (see Appendix 3-A). For success in constructing a profile of the way cases are currently (and should be) handled by contract attorneys, a separate workload assessment study should be undertaken for contract attorneys. A study of this nature might explore not only how much time contract attorneys spend on indigent defense cases, but also the efficacy of contract attorney representation.

METHODOLOGY

To conduct this workload assessment with the New Mexico Sentencing Commission, the National Center for State Courts (NCSC) project team split the work into three parts – the judge workload study (see Chapter One), which was done by consultants from NCSC's Court Consulting Division; the study for district attorney lawyers and staff (see Chapter Two), which was done by researchers from the National District Attorneys Association/American Prosecutors Research Institute (NDAA/APRI); and the study for public defender lawyers and staff (see Chapter Three), which was done by researchers from NCSC's Research Division. The circumstances of judges, prosecutors, defenders and support staff necessarily resulted in some small differences in the approaches to workload assessment that are reported here for each group. Yet all three units of the NCSC/NDAA/APRI project team used the same methodology, and there was a concerted effort by the Sentencing Commission and all the project team members to make sure that any differences were minimal.

The methodology employed for this assessment has been applied, tested and validated in dozens of states.⁹ Moreover, it has been used by NCSC and NDAA/APRI in earlier and similar efforts in New Mexico. What follows is a brief description of the workload assessment model that has been applied to yield the findings presented in this report.

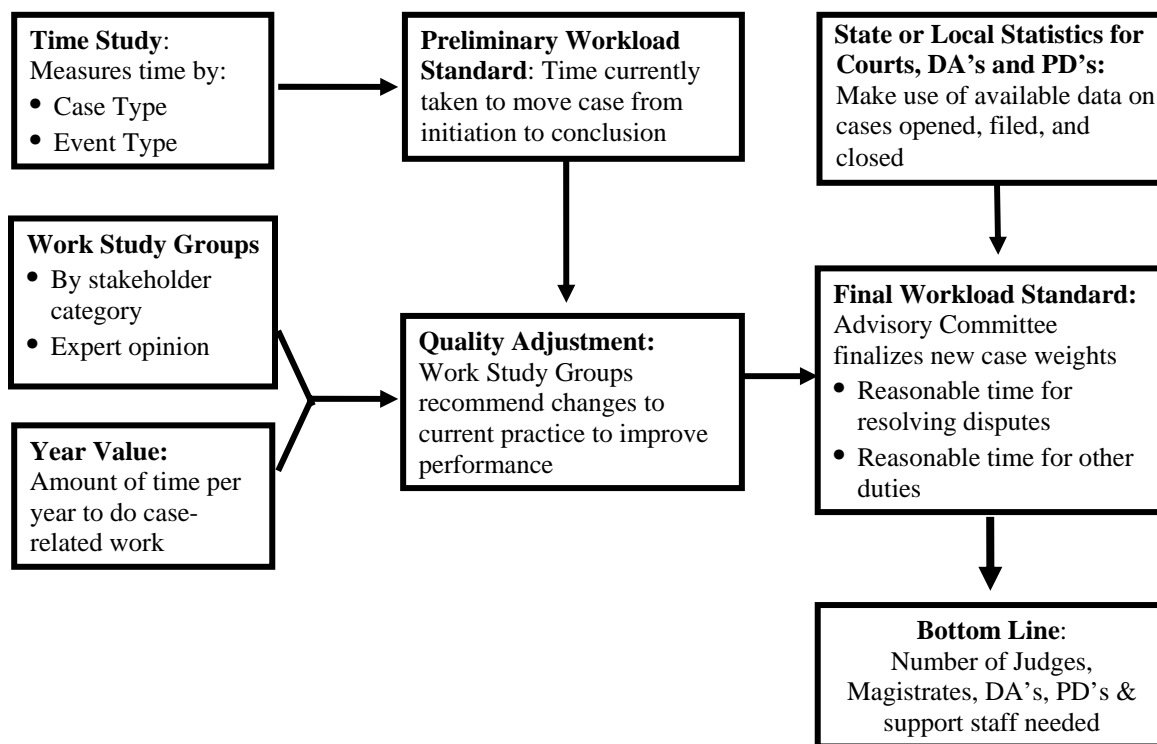
Overview of the Workload Assessment Model

Cases coming before state courts vary in complexity. Different types of cases require different amounts of time and attention from judges, lawyers and support staff. Focusing on raw case counts without allowing for differences in the amount of work associated with each case type creates an opportunity for the misperception that equal numbers of cases filed for two different case types result in an equivalent amount of work for those involved in the court process. An obvious example among criminal cases is that a homicide case has a much greater impact than a misdemeanor case on the resources of a court, a prosecutor's office and a public defender's (or private criminal defense attorney's) office.

⁹ For more extended discussion of issues and methods, see Victor E. Flango and Brian J. Ostrom, *Assessing the Need for Judges and Court Support Staff* (Williamsburg, VA: National Center for State Courts, 1996).

Figure M-1 shows the different facets of the workload methodology applied in this project. The core of the workload assessment model is a time study under which judges, lawyers and staff members keep track of the amount of time they spend on the various case type categories and on non-case-specific responsibilities such as court or office administration and work-related travel time.

Figure M-1.
Facets of New Mexico 2006-2007 Workload Assessment Project Methodology



The combination of the case-related time study data (representing current practices, or “what is”) and the quality adjustment data (representing preferred practices, or “what should be”) creates a “case weight” for each case type category. The case weights represent the average total in-court and in-chambers/in-office time (in minutes) required to provide effective adjudication (judge), prosecution (prosecutor), defense (public defender), and case processing (staff) for each case type category. By applying the case weights to the current or projected number of cases

filed, opened or disposed, a measure of case-specific workload can be computed. Workload divided by the amount of time available per judge, lawyer, or staff member for case-related work provides an estimate of personnel resources required to resolve cases, expressed in terms of full-time equivalents (FTE) for these positions. This approach, which involves few complicated procedures, is sufficiently rigorous to provide a model for measuring resource demands and evaluating resource allocations.

Even the most widely used and accepted resource assessment techniques, including the workload assessment model, do not predict the *exact* number of persons needed to stay current with caseloads or to resolve most cases effectively. No *quantitative* resource assessment model by itself can accomplish that goal. To that end, the project team used supplemental *qualitative* assessment methods, including follow-up “time sufficiency” studies with judges, prosecutors’ offices and the defender department to assess the personnel time resources in the New Mexico Courts. The results of these studies were used to obtain important performance perspectives useful for benchmarking current practice and in forming case weight adjustment decisions.¹⁰

Key Concepts

Two fundamental pieces are necessary to determine personnel resource requirements to handle the total workload demand in New Mexico. These include:

- *Workload*: Workload is generated from two components: (1) the case weights, which are the average time spent on management, adjudication, prosecution, defense, and administration; and (2) the annual number of cases filed, opened or disposed. Multiplying these two values produces the workload estimate expressed as FTE positions.
- *Resource Assessment*: The assessment of available resources by position (judge, prosecutor, public defender, and staff) is based upon: (1) assessment of the year-value for each position (the number of days available for work) and the day-value for each position (the amount of time available each day for case-related work).

Dividing the total estimated workload by the time available for case-related work results in the total resource requirement by position expressed as full-time equivalents.

The primary goal of the study reported here is to provide an accurate picture of the amount of time that trial judges, prosecutors, defenders and support staff need to resolve

¹⁰ These adjustments are discussed below in each chapter of this report.

different types of cases in a manner that gives appropriate recognition to the constitutional provision on access to courts and speedy remedy to justice.

Phases of Workload Assessment

There were four phases to the study, and each phase built upon the results of the previous phase:

Phase I- Time Study: Data were collected on all work done during the study period. This time was categorized into case-related time and non-case-related time, by case type. The result was an estimate of the total amount of time, by position (judge, prosecutor, public defender, and staff) available for case-related work. The end product of this phase was an estimate of how much time was spent, on average, using current practices. It created a picture of “what is” now the situation in New Mexico.

Phase II Sufficiency of Time Study: Based on the results of Phase I, Phase II explored the time study results by asking whether time currently spent was *sufficient* to do a reasonable job. This effort provided the opportunity to state where current practice is acceptable, as well as to identify problem areas. The results provided an important context for interpreting the findings of the time study.

Phase III Quality Adjustment: The third phase built on the results of the previous phases and sought to define “what should be” in New Mexico, using focus groups of judges, prosecutors, public defenders and staff to focus expert opinion on the preliminary case weights and consider the results of the sufficiency of time study. This process provided a structured method to assess the reasonableness of the preliminary case weights. The quality adjustment phase assembled seasoned experts from the respective study groups to analyze each of the preliminary case weights in order to identify any problem areas and make adjustments to those case weights.

Phase IV Final Case Weights and Resource Estimates: The final phase of the study required extensive review and comment by our advisory groups. All of the changes suggested by the work groups were reviewed and either accepted, rejected, or further adjusted by the Advisory Committee. The Committee compared actual staffing patterns to those recommended by the quality adjustment process. The overall goal in this phase was to arrive at a consensus on new workload standards, a consensus that responded to deficiencies in service quality yet maintained a reasonable relationship to current staffing levels and budget constraints.

In order to determine the estimated staffing needs, the final case weights were applied to the case counts for each case type. This created an estimate of total workload, expressed in minutes. This workload was divided by the total currently available time for case-related work by position (judge, prosecutor, public defender, and staff), which created an estimate of total FTE positions required. The difference between the current total FTE and the study’s estimated total FTE represents the

additional personnel resourced needed to handle the current caseload using the agreed upon standards of practice (incorporated in the case weights).

Conclusion

The three chapters in the final report give more details about the application of this workload assessment model in New Mexico. They show more specifically how the project team and study participants proceeded through these four phases to determine New Mexico's personnel needs for trial court judgeships (Chapter One), district attorneys' offices (Chapter Two) and public defender offices (Chapter Three).

CHAPTER ONE: TRIAL COURT JUDICIAL OFFICERS¹¹

I. Introduction

State judicial leaders face continual challenges of effectively managing rising caseloads, disposing of court business without delay, and delivering quality service to the public. Two constant and recurring problems are inherent within these challenges:

- (1) Objectively assessing the number of judges required to handle current and future caseloads.
- (2) Deciding whether judicial resources are being allocated and used appropriately.

In response to the multiple and sometimes conflicting challenges and problems, state judicial leaders are increasingly turning to more sophisticated techniques to provide data that show how many judges the state trial courts need to manage their workload. Assessing judicial workload through a workload assessment (weighted caseload) model is a rational, credible, and practical method for evaluating the need for judges.

Workload assessment is a resource assessment methodology that weights cases to account for the varying complexity and need for judicial attention among court cases. By weighting court cases a more accurate assessment can be made of the amount of judicial time required to resolve the courts' caseload and judge workload. Moreover, workload models have the advantage of providing objective and standardized assessments of need among courts that vary in geography, population and caseload composition.

This chapter details the judicial workload assessment study methodology and presents the workload assessment model for the New Mexico District, Magistrate and Bernalillo Metropolitan Courts. A workload assessment model is a quantitative representation of the interrelated variables, or characteristics, that work together to predict resource needs. A change in one variable will affect other variables in the model and the predicted judicial resource demands.

The project work with judges was organized around the following seven tasks:

¹¹ This chapter and appendices 1A-1D were written by Suzanne Tallarico of NCSC's Court Consulting Services Division.

1. Judges were part of the Advisory Committee formed by the New Mexico Sentencing Commission, which also included representation from the indigent defense bar, and the state's prosecuting attorneys. The judge members of the Advisory Committee provided guidance and oversight during the life of the workload assessment project, including advice and comment on the overall study design, the identification of the case types that were used across all three study groups, the duration of the time study, the approach to measuring sufficiency of time, and reconciled and finalized all aspects of the project.
2. Separate workload study groups of judges were created, with the assistance of the Administrative Office of the Courts (AOC), to more specifically tailor the study's details and interpret the examination of current practice (as measured by the time study). The members of the Work Study Groups are listed in Figures 1.1 through 1.3.
3. A six-week time study of current practice was completed between October 2 and November 10, 2007. During the study, judges kept records of all time spent on case-related and non-case-related activities. The time study results were analyzed on a district and location (for magistrate courts) basis to meet the needs of the AOC.
4. A "Sufficiency of Time Survey" was undertaken with all New Mexico judicial officers. This survey asked judges to provide responses to questions regarding the activities in which they believe they do and do not have an adequate amount of time to complete their expected work in a reasonable amount of time and with a reasonable expectation of quality.
5. The workload study groups were convened to review the draft case weights and make qualitative adjustments to the case weights where deemed appropriate. Quality adjustments were made based upon the Sufficiency of Time Survey results as well as in consideration of recent changes in legislation and established practices, policies, and procedures.
6. The Advisory Committee met one last time to review the quantitative and qualitative results from all phases of the study. At this meeting, the Committee approved the final set of workload standards recommended by the workload study group for the judiciary.
7. The judiciary project study team then produced this chapter as a final report of the judicial workload assessment.

In summary, the workload standards provided in this chapter are based on an integrated understanding of current practice throughout the criminal justice system; identify specific case types and aspects of case processing most in need of additional judicial resources; and provide a set of final workload standards designed to provide a "reasonable" level of quality to the citizens of the state.

II. The New Mexico Judiciary

New Mexico has a unified court system composed of five statewide courts. The five courts include the magistrate court and metropolitan court, which are courts of limited jurisdiction; the district court, which is a court of general jurisdiction; and the Court of Appeals and Supreme Court, which are both appellate courts. The trial courts were the only courts included in the present study.

The state is divided into 13 judicial districts, eleven of which are multi-county. Within these thirteen districts, there are thirty-three district court locations served by full-time elected judges and a mixture of full and part-time quasi-judicial officers (special commissioners, special masters, hearing officers). The district court, in addition to being the trial court of general jurisdiction, has appellate jurisdiction over all cases in inferior courts. It has exclusive jurisdiction in all matters involving juveniles, domestic relations, and all cases not excluded in the Constitution or by law.

There are 54 magistrate court locations throughout the state, which employ elected magistrate judges. All courts operate full-time, and many magistrates are required to travel to different court locations within the county to provide magistrate services. Magistrates have jurisdiction over civil actions with debts or claims of \$7,500 or less, criminal and traffic misdemeanors, petty misdemeanors and county ordinance violations. Preliminary hearings for felonies and probable cause determinations are also conducted in the magistrate courts.

The Bernalillo County Metropolitan Court, which was created in 1979, and consolidated the former Bernalillo County magistrate court, Small Claims Court and Albuquerque Municipal Court. The Metro Court is served by elected judges as well.

The courts in New Mexico range from urban, multi-judge courts, primarily in Albuquerque and Santa Fe, to extremely rural, one-judge judicial districts or counties. Both the magistrate and metropolitan courts handle felony arraignments as well as misdemeanors. The majority of magistrate courts hold preliminary hearings on all felony cases, however, twelve courts use grand juries in the majority of felony cases and eight courts use grand juries in approximately half of the felony cases.

The New Mexico Judiciary has a history of using a weighted caseload methodology for assessing judicial need annually. In 1998, the Administrative Office of the Courts updated the

Weighted Caseload Study for judges in the district, metropolitan and magistrate courts, originally completed by the National Center for State Courts in 1995.

III. Work Study Groups

The NCSC strongly values the input of local experts when conducting workload assessment studies. For this study, an interdisciplinary Advisory Committee, comprised of representatives of the judiciary, the public defender system and New Mexico prosecutors was created to help guide the overall study of the those three criminal justice systems. To further guide the work of the judicial need assessment, three work study groups were created to oversee and provide guidance on the three studies regarding judicial need. The work study groups made key decisions regarding data collection components and data analysis throughout the course of the study. The work study groups met in person three times during the study period; they met via telephone conference several times and reviewed and commented on documents throughout the study. Membership of the three work study groups are listed in Figures 1.1 through 1.3. NCSC project staff met with the working study groups and the Advisory Committee in April and August 2006 to determine the case type categories, case-related, and non-case-related activities to be included in the study. A more detailed description of all of the time study elements is provided in Appendices 1-A and 1-B.

Figure 1.1
District Court Work Study Group

Hearing Officer Susan Alkema, 2nd Judicial District
Judge Grant Foutz, 11th Judicial District
Judge Richard Knowles, 2nd Judicial District
Judge Don Maddox, 5th Judicial District
Judge Eugenio Mathis, 4th Judicial District
Judge Nan Nash, 2nd Judicial District
Judge Camille Olguin, 13th Judicial District
Judge Joe Parker, 9th Judicial District
Judge Ricky Purcell, 10th Judicial District
Judge Henry Quintero, 6th Judicial District
Judge Jerry Ritter, 12th Judicial District
Judge Sam Sanchez, 8th Judicial District
Judge Kevin Sweazea, 7th Judicial District
Judge Jerald Valentine, 3rd Judicial District
Judge Barbara Vigil, 1st Judicial District

Figure 1.2
Bernalillo Metropolitan Court Work Study Group

Judge Benjamin Chavez
Judge Kevin Fitzwater
Judge Cristina Jaramillo
Judge Judith Nakamura
Judge Frank Sedillo

Figure 1.3
Magistrate's Court Work Study Group

Magistrate Clayton Atwood, Catron County
Magistrate Henry Castaneda, Eddy County
Magistrate Pat Casados, Los Alamos County
Magistrate Robert Corn, Chaves County
Magistrate Ron Hall, Grant County
Magistrate Tom Pestak, Sierra County
Magistrate Richard Padilla, Santa Fe County
Karen Janes, NM Administrative Office of the Courts

IV. Case Types and Activities

In defining case type and activity categories, the goal is to have case types of similar kind and complexity in the same group. A major consideration in making these decisions was how New Mexico's automated case management system captured case statistics. If filing statistics were not available, then a case type could not be included. Members of the work study groups developed these categories and the Advisory Committee finalized the case type and activity categories, which are shown in the Figures 1.4 through 1.6.

Figure 1.4
New Mexico Judicial Workload Study Case Type Categories

District Court	Metro Court	Magistrates' Court
Juvenile Delinquency	Parking	Felony w/ Grand Jury
Property	Traffic	Felony w/o Grand Jury
Felony DWI	Felony	DWI
Adult Misdemeanor	Civil	Traffic
Other Felony	EIP Specialty Court	Civil
Other Violent	Homeless Specialty Court	Misdemeanor
Drug Crimes	Misdemeanor	Landlord-Tenant
Sex Offenses	Landlord-Tenant	Extradition
Homicide	DVROP Specialty Court	Domestic Violence
Adult Drug Court	Mental Health Specialty Court	
Mental Health Court	Domestic Violence	
Domestic Violence Court	DWI Specialty Court	
Family Drug Court	DWI	
Civil Contract	Miscellaneous	
Juvenile Civil		
Other Civil		
Civil Tort		
Complex Civil		
Juvenile Mental Health		
Water (stream adjudication)		
Domestic Relations		
Abuse & Neglect		

Case-related activities are the essential functions that judges perform in resolving a case from initial filing to final disposition. As with the case types, the essential functions were categorized into manageable groups for the time survey. Figure 1.5 outlines the case-related activities measured in the time study.

Figure 1.5
Case-Related Activities

District Court	Metro Court	Magistrates' Court
1 st Appearance/Arrest Probable Cause Determination	Felony 1 st Appearance Arrest	1 st Appearance/Arrest Pretrial Conference Probable Cause Determination/ completeness of forms
Hearings/Motions Post-Judgment Hearings/Motions	Pretrial Conference Hearing/Motions Damages hearing (landlord/tenant)	Hearings/Motions Case preparation/research
Case preparation/research Bench Trial (contested adjudication) Jury Trial Disposition/Sentencing Hearing	Restitution (landlord/tenant) Case preparation/research Bench Trial Jury Trial Disposition/Sentencing Hearing	Bench Trial Jury Trial Disposition/Sentencing Hearing Case-Related Administration
Case-Related Administration Warrant	Jury Trial Disposition/Sentencing Hearing	Signing Bench Warrant (includes Failure to Appear and Failure to Comply) Warrant: Search/Arrest
Probation Violation Hearing Case-related Travel Specialty Court: In-Court Activity	Case-Related Administration Warrant/Failure To Appear Post-Judgment/Collections Specialty Court: In-Court Activity	Probation Violation Hearing Post-Judgment Hearing Case-related Travel Specialty Court: In-Court Activity Specialty Court: Staffing
Specialty Court: Staffing	Specialty Court: Staffing	

Activities that do not relate to the resolution of a specific case but must be done by judges are defined as non-case-related activities. The key distinction between case-related and non-case-related activities is whether the activity can be tied to a specific case. Figure 1.6 lists the non-case-related activities measured in this study.

Figure 1.6
Non-Case-Related Activities for All Courts

Education and training
Community activities, speaking engagements
Committee work and meetings
Travel (work-related – but NOT case related)
General legal research
Non-case related administration
Time study project (filling out form and entry)
Conducting Weddings
Other

V. Judicial Officer Year Value

Once we know how much work needs to be done (workload), we need to determine how much time is available to do the work. The judge-year value is the average amount of work time a judge has available to manage *cases*, including both in-court activities and in-chambers case-specific administrative activities that are accounted for in the case weights. Calculating the judge-year value is a two-step process. The first step is to determine how many days per year are available to judges to work (the judge year); the second step is to determine how the business hours of each day are divided between case specific and non-case specific work (the judge day).

A. Judge-Time Available in a Year

Many model assumptions underlie the judge-year value. Weekends, state holidays, and time related to vacations, illness, attending statewide judicial conferences, and professional development are subtracted from the calendar year to determine the number of days available to handle cases. While determining the number of weekend days and state holidays in a year is easy, determining the average time taken (or that is reasonable for judges to take) for vacation, illness, judicial conferences, and other professional development is more difficult. Because a state's study period may not be representative for all factors, the project team relied on the work study groups and the Advisory Committee to estimate the average time taken for vacation, illness, judicial conferences, and professional development.

Development of the judge-year value begins with a baseline of 365 days in the year and subtracts the 104 weekend days and 11 state holidays.¹² With input from the work study groups and the Advisory Committee, the NCSC estimated that on average, 8 days a year are a reasonable amount for education and training (judicial conferences and related travel) and 20 days are a reasonable amount for vacation leave, 3 days for administration leave and 4 days for sick leave.¹³ The number of days available, after subtracting an average amount of time away from the bench, is 215 days per year.

**Figure 1.7
 Judge Working Days in a Year**

Judge Year	Days
Total Days per Year	365
<i>Subtract Non-Working Days:</i>	
Weekends	-104
Holidays	-11
Vacation	-20
Sick Leave	-4
Education/Training	-8
Admin. Leave	-3
Total Working Days per Year	215

B. Hours Available Per Day

To determine the number of average available hours per year, the model must first estimate a reasonable average of available work hours per day. Again, the NCSC project team consulted the work study groups and the Advisory Committee to develop these estimates. The work study groups and Advisory Committee concluded that a reasonable average of available working time is nine hours a day (excluding one hour for breaks, meals, or personal time). Data recorded by judicial officers during the time study period indicated that, for District Court and Metro Court judges, 6 hours per day were dedicated to case-specific work and 2 hours were

¹² Developing a model requires the use of a consistent amount of time available for judges to work. While many judges in New Mexico work more than 40 hours per week, such schedules have been associated with professional and personal burnout. When judges suffer burnout, the quality of justice mandated by the Constitution will not be provided.

¹³ The estimates for vacation leave were based on the state’s average for state employees (15-20 per year) and sick leave were based on the state’s sick leave policy for state employees.

spent on non-case specific activities, including travel;¹⁴ the magistrates' days are separated into 6.5 hours for case-specific work and 1.5 hours for non-case-specific work.

Figure 1.8
Calculating the Judge Day

		District Court	Metro Court	Magistrate's Court
Total Hours per Day		9	9	9
<i>Subtract Lunch and Breaks</i>	-	1	1	1
	=	8	8	8
Total Case-Specific		6	6	6.5
Total Non-Case-Specific	+	2	2	1.5
Total Working Hours per Day	=	8	8	8

C. Judge Year Value

Multiplying the judge year value (215 days) by the number of hours in a day available for case-specific work (6 or 6.5 hours per day) gives you the amount of time available per year for judicial officers in New Mexico to work on cases. Thus, the judge year value in the District and Metro Courts are 77,400 minutes of case-specific time per judge per year (215 days x 6 hours per day x 60 minutes per hour),¹⁵ and 83,850 (215 days x 6.5 hours per day x 60 minutes per hour) for magistrates.

The judge year value represents a reasonable estimate of the amount of time a judge should work in a year. This value is used even though many judges in New Mexico work more than an 8:00 AM to 5:00 PM day and may frequently work on evenings, weekends and holidays.

¹⁴ Travel requirements in the 7th and 8th judicial districts are significantly higher than in other areas. In these districts, the hours available per day are four hours for non-case-specific time requirements and four hours for case-specific activities.

¹⁵ The judge year value in the 7th and 8th judicial districts, based on 4 hours per day of case-specific time is 51,600 minutes per year (215 days x 4 hours x 60 minutes per hour).

VI. Time Study Results and Time-Sufficiency Quality Adjustment

A time study measures case complexity in terms of the average amount of judge time actually spent managing different types of cases, from the initial filing to final resolution, including any post-judgment activity. The essential element in a time study is collecting time data on *all* judge activities. For this study, judges recorded all time spent on various case types on a daily time log and then entered their time on a web-based data collection instrument. Judges' activities include time spent resolving cases, case-specific work, non-case-specific work, and travel time. Non-case-specific activity is a broad category and included activities that cannot be attributed to a specific case, such as work related travel, meetings, general office, and administrative tasks.

The NCSC project team provided training¹⁶ on how study participants should record their time using the web-based data collection tool. The accuracy and validity of the data also depends on the participation rate: the more participants the more reliable the data. The participation rate was 97.6 percent for District Court judges, 100 percent for Metro Court judges and 93.3 percent for Magistrate Court judges. These strong participation rates are sufficiently high to ensure confidence in the accuracy and validity of the resulting case weights.

A. How Much Time Judges Now Spend on Each Type of Case

The case weights for each case type were generated by summing the time recorded for each case type category and dividing by the number of case filings for each case type category during the data collection period (i.e., six weeks of filings extrapolated from annual filings). The weights were provided to the Advisory Committee for review, as were the results of a quality adjustment based on a Sufficiency of Time Survey (discussed below). The final case weights for each court type are presented in Figure 1.9. (The full models can be found in Appendix 1-C.)

¹⁶ Training was provided in two formats. First, a pre-taped training session was available and accessible through the internet two weeks prior to the beginning of data collection (the week of September 18, 2006); second, an NCSC consultant provided on-site training the week prior to data collection (the week of September 25, 2006).

Figure 1.9
Case Weights in Minutes for District Court

Case Type Category	District Case Type	Case Weights (minutes)
<i>Criminal</i>	Homicide	1,773
	Sex Offense	712
	Drug Crimes	150
	Felony DWI	107
	Property	87
	Violent Felony	139
	Other Felony	138
	Adult Misdemeanor	118
	Juvenile Delinquency	74
<i>Specialty Court</i>	Adult Drug Court	94
	Juvenile Drug Court	512
	Family Drug Court	922
	Mental Health Court	94
	Domestic Violence Court	94
<i>Civil</i>	Civil: Contract	28
	Civil: Tort	84
	Civil: Complex	439
	Civil: Other	41
	Civil: Juvenile	37
<i>Other</i>	Protection Order	77
	Domestic Relations	144
	Abuse & Neglect	665
	Juvenile Mental Health	2
	Water (stream adjudication)	6

Figure 1.10
Case Weights in Minutes for Bernalillo Metropolitan Court

Case Type Category	District Case Type	Case Weights (minutes)
<i>Criminal</i>	Felony	6
	Misdemeanor	20
	Domestic Violence	65
	DWI	90
<i>Specialty Court</i>	DVROP	54
	DWI Court	79
	EIP Court	17
	Homeless Court	17
	Mental Health Court	61
<i>Civil</i>	General Civil	17
	Landlord-Tenant	8
<i>Other</i>	Traffic	4
	Parking	1
	Miscellaneous	159

Figure 1.11
Case Weights in Minutes for Magistrate Courts

Case Type Category	District Case Type	Case Weights (minutes)
<i>Criminal</i>	Felony w/ grand jury	31
	Felony w/o grand jury	75
	Misdemeanor	45
	Domestic Violence	69
	DWI	100
<i>Civil</i>	General Civil	30
	Landlord-Tenant	27
<i>Other</i>	Traffic	11
	Extradition	20

B. Sufficiency of Time Survey

In addition to the time study, all judges were invited to complete a web-based Sufficiency of Time Survey. This qualitative element of the assessment study provided the Committee additional information to help evaluate case weights and ensure that the needs assessment model provides adequate time for quality performance. The case weights derived from the time study represent “what is,” or the average amount of time judges currently spend on each case type and the survey data provide information to help determine “what should be.”

The Sufficiency of Time Survey indicated the areas in which judges feel they *do* and *do not* have sufficient time to effectively attend to essential job-related activities. Thus, where survey results demonstrate that judges believe more time is necessary to meet constitutional mandates, case weights should be adjusted to indicate the greater need. Survey respondents were asked to rank four activities pertaining to each case type by responding to the following statement: During the course of a typical 8-hour day, I typically have enough time to complete:

- Pre-trial related activities for [specific activity]
- Trial related activities for [specific activity]
- Post-trial related activities for [specific activity]
- Necessary case-related administration activities for [specific activity]

The corresponding response options were “almost always,” “frequently,” “occasionally,” “seldom,” or “almost never.” An average rating¹⁷ of 3.0 or greater indicates that, as a group, judges reported having adequate time to perform the specified task most of the time. NCSC staff compiled the responses and analyzed results for each court. The results are expressed as the average response for questions in each specific functional area for each case type. Thus, an average rating for activities of less than 3.0 indicated to the committee that weights should be adjusted to provide for more time. Overall, 77.4 percent of the District Court judges¹⁸, 89.5 percent of Metro Court judges and 75 percent of the Magistrate Court judges completed the surveys.

NCSC staff compiled responses and analyzed the results. For each judicial activity an average response score was generated. A summary of the results is provided in Figure 1.12. The

¹⁷ 5=almost always, 4= frequently, 3=occasionally, 2=seldom, 1=almost never.

¹⁸ Hearing officers were also invited to participate in the District Court survey, and 59.5 percent did respond. Responses were from judges and hearing officers were analyzed and reviewed separately for the quality adjustment phase. Responses presented in this report only represent those of the District Court Judges.

scores are bolded for those judicial duties where the average score was less than 3.0. For example, the average score for the pre-trial task of conducting hearings on temporary custody, support, etc. was 2.0 in Metro Court and 2.2 in Magistrate Court, indicating that, for those judges who hold such hearings, sufficient time is not available to ensure the quality handling of cases.

A review of Figure 1.12 indicates that there are a handful of tasks for which District Court judges and Magistrate Court judges feel sufficient time is not available to adequately complete their judicial duties, whereas in the Metro Court 16 of the 24 tasks were rated as lacking in sufficient time to completed within a reasonable and satisfactory manner.

The Sufficiency of Time Survey results were shared with the work study groups and used as a guide when reviewing the preliminary case weights. The quality adjustment meetings took place in February, 2007. In each group, judges were provided with a brief review of the study's activities and process up to that point. This was followed by a review of the Sufficiency of Time Survey results, draft case weights, and the breakdown of activities that make up the case weights. Work study group discussions regarding judicial experience and opinion, knowledge of statutory and policy changes and trends and opinions regarding resource constraints were held to determine whether and how quality adjustments to the draft case weights would be made. Work study group members were asked to consider these case weights in light of the question "*For each case type, is there sufficient time to complete the expected activities to a sufficient level of quality?*" When the answer to this question was "no," case weight adjustments were made.

Figure 1.12
Sufficiency of Time Survey Results

[FOR EACH TASK AREA]: During the course of an 8-hour day, I generally have enough time to...	District Court	Metro Court	Magistrates
WITH RESPECT TO PRE-TRIAL ACTIVITIES...			
Conduct the advisement or first appearance.	4.4	3.6	4.3
Conduct pre-trial/preliminary hearings & motions	3.7	3.3	4.3
Conduct hearings on temporary custody, support, etc.	3.3	2.0	2.2
Interact adequately with litigants	3.4	2.6	3.7
Conduct settlement conferences	2.2	1.7	2.6
Take pleas	4.4	4.1	4.4
Prepare and issue orders	2.9	2.7	4.0
Adequately review case files	3.1	2.5	3.8
Adequately explain rulings & orders	3.3	3.1	4.0
Perform case management activities	3.1	2.6	3.9
Treat parties appropriately	4.3	3.4	4.6
Monitor timeliness of required case events	3.0	2.4	3.9
WITH RESPECT TO TRIAL ACTIVITIES...			
Prepare for a trial (contested hearing).	3.2	2.4	3.7
Conduct a trial.	3.7	2.6	4.1
WITH RESPECT TO POST-TRIAL ACTIVITIES...			
Write legal opinions.	2.3	1.5	1.7
Prepare and issue orders, including bench warrants, if appropriate.	3.3	2.9	4.0
Review post-judgment motions, and other relevant information.	3.2	2.8	3.8
Hold sentencing & other hearings (modifications & probation violations)	4.0	3.2	4.1
Treat parties appropriately	4.4	3.6	4.5
WITH RESPECT TO GENERAL COURT MANAGEMENT ACTIVITIES...			
Participate in the management of the court.	3.1	2.2	3.8
Participate in necessary meetings relevant to my job.	3.4	3.1	3.6
Conduct general legal and legal research/keep current with the law and legal issues.	2.7	2.4	3.7
Participate in judicial education and training (my own continuing education).	3.2	2.6	3.5
Supervise and evaluate staff.	3.3	2.5	3.3
Note: (5=Almost always; 4=Frequently; 3=Usually; 2=Seldom; 1=Almost Never)			

C. Case Weight Adjustments

No quality adjustments were made to the District Court Case Weights. The Metro Court and Magistrate Court work study groups agreed that recent legislative changes and/or the findings from the Sufficiency of Time Study prompted the need to adjust case weights for certain types of cases to better meet mandates for all parties seeking redress in the court system. All case weight adjustments and the rationale for the adjustments are presented in Appendix 1-D.

Metro Court Adjustments. Quality adjustments were made in six of the 14 case types for which case weights were developed in the Metro Court. Adjustments were made to the following case types:

- Misdemeanor
- Civil
- Domestic Violence
- DWI
- EIP Specialty Court and
- Homeless Specialty Court

Generally, adjustments were made based on the Sufficiency of Time Survey results and/or statutory or rule changes for that particular type of case. In the case of specialty courts, the EIP and homeless courts are relatively new programs and the data did not reflect an adequate number of cases, so the weights were adjusted to equate to a reasonable standard.

Magistrate Court Adjustments. Case weights in the Magistrate Court for DWI and civil cases were adjusted based on the Sufficiency of Time Survey findings.

D. Workload Calculation

Applying the case weights to annual filings produces the overall judicial case-related workload for the state. The case related workload value represents the total number of minutes, on an annual basis, of case-related work based upon fiscal year 2006 baseline data and current practices. The challenge is to provide judges with reasonably sufficient time to resolve each case type effectively and efficiently. Three workload models are presented in Appendix 1-C, each representing the different courts (District, Metro and Magistrates). The models indicate the workload value of each court type -- the total number of minutes required annually -- to resolve cases in the New Mexico trial courts.

VII. Judicial Officer Resource Needs

Once the judge year value and case weights have been established, the calculation of the judge demand to manage the workload of the New Mexico trial courts is completed. Judicial case related demand is calculated by dividing the judicial workload value (the annual number of minutes of work required given the number of cases filed and the relative case weights) by the Annual Judge Availability value (77,400 minutes per year for District and Metro Courts and 83,850 minutes per year for Magistrate Courts) and the resulting number represents the judicial case-related full time equivalents (FTE) needed to manage the work of the court. Figure 1.13 displays the steps taken to compute judge demand.

Figure 1.13
Calculation of Total Needs

<i>Step 1:</i>	For each case type calculate the workload $\text{Case Weight} * \text{Case Filings} = \text{Workload}$
<i>Step 2:</i>	Sum the workloads for each case type to obtain total workload for each court
<i>Step 3:</i>	Calculate the Judicial Resource Needs $\text{Total Workload} \div \text{Annual Judge Availability (case-related minutes)} = \text{Judicial Resource Needs}$

Figure 1.14.
District Court Judicial Need

	Case Type	Case Weight (Minutes)	Annual Statewide FY 06 Filings
Criminal	1 Homicide	1,773.00	121
	2 Sex Offense	712.00	437
	3 Drug Crimes	150.00	4,328
	4 Felony DWI	107.00	1,274
	5 Property	87.00	4,626
	6 Other Violent	139.00	3,738
	7 Other Felony	138.00	2,124
	8 Adult Misdemeanor	118.00	1,079
	9 Juvenile Delinquency	74.00	6,065
Civil	10 Civil Contract	28.00	17,786
	11 Civil Tort	84.00	2,915
	12 Civil Complex	539.00	3,576
	13 Other Civil	51.00	10,913
	14 Juvenile	37.00	686
Specialty Court	15 Adult Drug	94.00	501
	16 Juvenile Drug Court	512.00	280
	17 Family Drug	922.00	47
	18 Mental health Court	94.00	79
	19 Domestic Violence Court	94.00	95
Other	20 Abuse & Neglect	665.00	648
	21 Juvenile Mental Health	2.00	2,120
	22 Protection Order	77.00	10,161
	23 Domestic Relations	144.00	16,349
	24 Water (stream adj.)	6.00	12,694
25	Total Filings		102,642
26	Case-Specific Workload (Weights x Filings)		10,252,881
27	Judge Average Annual Availability		125,280
28	State holidays (- 11 days)		5,280
29	Vacation (-20 days)		9,600
30	Personal/Sick Days (- 4 days)		1,920
31	Administrative leave/education (- 11)		5,280
32	Non-case related Time (2.0 hrs)		25,800
33	Availability for Case-Specific Workload		77,400
34	Case Related FTE Demand		135.94
35	Judicial Officer Time: Criminal		3,102,483
36	Judicial Officer Time: Civil		3,252,277
37	Judicial Officer Time: Special Court		250,144
38	Judicial. Officer Time: Other		3,647,977
39	Judicial Officer Need: Criminal		37.58
40	Judicial Officer Need: Civil		39.28
41	Judicial Officer Need: Special Court		2.93
42	Judicial Officer Need: Other		44.11
43	Total District Court Judicial Officer Need		135.94

Figure 1.15
Bernalillo Metropolitan Court Judicial Need

	Case Type	Case weight (Minutes)	Annual Filings
Criminal	1 Felony	6.00	6,012
	2 Misdemeanor	20.00	20,674
	3 Domestic Violence (Misd)	65.00	4,328
	4 DWI	90.00	6,041
Civil	5 Civil – General	17.00	6,623
	6 Landlord Tenant (Restitution)	8.00	9,333
Specialty Court	7 Specialty Court DVROP	54.00	59
	8 Specialty Court DWI	79.00	361
	9 Specialty Court EIP	17.00	244
	10 Specialty Court Homeless	17.00	128
	11 Specialty Court MH	61.00	98
Other	12 Miscellaneous	159.00	0
	13 Traffic	4.00	70,212
	14 Parking	1.00	2,770
	15 Total Filings		126,883
	16 Case-Specific Workload (Weights x Filings)		1,789,442
	17 Judge Average Annual Availability		125,280
	18 State holidays (- 11 days)		5,280
	19 Vacation (-20 days)		9,600
	20 Personal/Sick Days (- 4 days)		1,920
	21 Administrative leave/education (- 11 days)		5,280
	22 Non case related time (2 hrs/day)		25,800
	23 Availability for Case-Specific Workload		77,400
	24 Case Related Judge Demand		23.12
	25 Judge Time: Criminal		1,274,562
	26 Judge Time: Civil		187,255
	27 Judge Time: Specialty Court		44,007
	28 Judge Time: Other		283,618
	29 Judge Need: Criminal		16.47
	30 Judge Need: Civil		2.42
	31 Judge Need: Specialty Court		0.57
	32 Judge Need: Other		3.66
	33 Total Metro Court Judge Need		23.12

Figure 1.16
Magistrate Court Judicial Need

Case Type		Case Weight (Minutes)	Annual Statewide Filings
Criminal	1 Felony w/ grand jury	31.00	3,181
	2 Felony w/o grand jury	75.00	12,754
	3 DWI	100.00	6,944
	6 Misdemeanor	45.00	25,770
	9 Domestic Violence	69.00	5,045
Civil	5 Civil	30.00	15,975
	7 Landlord Tennant	27.00	5,281
Other	4 Traffic	11.00	76,840
	8 Extradition	20.00	941
	10 Total Filings		152,731
	11 Case-Specific Workload (Weights x Filings)		3,786,663
	12 Magistrate Average Annual Availability		125,280
	13 State holidays (- 11 days)		5,280
	14 Vacation (-20 days)		9,600
	15 Personal/Sick Days (- 4 days)		1,920
	16 Administrative leave/education (- 11)		5,280
	17 Non Case Related Time/Travel (1.5 hrs/day)		19,350
	18 Availability for Case-Specific Workload		83,850
	19 Total Magistrate Demand		56.47
	20 Magistrate Time: Criminal		3,250,734
	21 Magistrate Time: Civil		621,099
	22 Magistrate Time: Other		861,699
	23 Magistrate Need: Criminal		38.76
	24 Magistrate Need: Civil		7.41
	25 Magistrate Need: Other		10.30
	Total Magistrate Court Judge Need		56.59

VIII. Conclusion

The statewide judicial need models presented in the body of this chapter indicate that the state requires a total of 135.94 District Court judges, 23.12 Metro Court judges and 56.59 Magistrate Court judges. When the total judge needs are compared with the current level of judgeships, the level of additional judgeship needs can be calculated, as Figure 1.17 shows.

(Note that the determination of need for additional FTE magistrate judges is made more complicated by statutory provisions.)

Figure 1.17.
Additional FTE Needs for the New Mexico Trial Court Judiciary¹⁹

Court Level	Total Need	Available FTE	Additional FTE Needed
District Court	135.94	112 ²⁰	23.94 ²¹
Metropolitan Court	23.12	19	4.12
Magistrate Court	56.59	65	7 ²²

These statewide results do not present the picture of staffing need when specific individual court locations at each level of court are considered. For example, the Magistrate Courts operate in city locations throughout the state. While the need presented here is based upon case filings and case weights, it does not consider the need to have Magistrates present in the court locations daily and during working hours. The weighted workload model presents the average amount of time required to process cases from beginning to end, and presents the average amount of time judicial officers in New Mexico require to attend to non-case specific matters. How the model is used is based upon local and statewide policies regarding access to justice.

The case weights generated in this study are valid and credible due to the techniques employed. The time study provided a quantitative basis for assessing judicial need, and forms the initial case weights. The “Quality/Sufficiency of Time Adjustments” model allowed for qualitative adjustments to the case weights based upon the Sufficiency of Time Survey.

¹⁹ Total need is based on FY 2006 cases filings. Filing counts include civil and domestic relations cases. FTE counts shown here are as provided by the Administrative Office of the Courts, and they reflect FY 2006 FTE judgeship levels. FTE counts do not include new positions authorized in the 2007 legislative session.

²⁰ Includes judges and hearing officers.

²¹ This calculation counts hearing officers at their whole FTE. When applied by the Administrative Office of the Courts hearings officers are counted at 66% of their FTE in keeping with a decision by the Chief Judges Council. This results in a judicial need of 32.

²² Magistrate judge need is adjusted to reflect statutory judgeships.

The FY 2006 case filing data were used to validate this model. The real power of the model lies in its applicability in predicting future judicial resource needs with caseload projection analysis. Projected caseloads can be easily inserted into the model to provide an estimate of future judicial requirements.

Recommendations

As we note above in the Executive Summary, the State of New Mexico intends for the workload assessment models developed in this project to be revised and updated over time as a tool for determining resource needs for courts, prosecutors and public defenders. In view of that expectation, NCSC offers the following recommendations with respect to judicial officer needs in the trial courts.

1. Taking New Developments into Account. Although the case weights generated in this study are valid, periodic updating needs to be conducted to ensure the continued accuracy and integrity of the case weights. Multiple factors may impact the affect of case weights, such as changes in court rules, statutes, jurisdiction, technology and legal practices. Periodic reviews should be conducted to evaluate whether changes have occurred that are impacting the judicial workload.

2. Developing Refined Measures for Particular Case Types. The assessment of need for judicial officers in this study included attention to workloads in civil cases – areas that do not involve district attorneys and public defenders. Of particular concern to District Court judges during the time study was the amount of time needed for such kinds of complex civil cases as class actions, water rights, and civil cases with five or more parties. While progress was made during this workload assessment in defining a “complex” civil case and determining how much time it consumes, there remains further work to do with such case types. NCSC recommends that trial judges work with the Sentencing Commission and the Administrative Office of the Courts to develop more refined ways to assess workload in areas such as this.

Another area that will need further attention in the future has to do with “specialty courts.” The EIP and homeless courts in New Mexico are relatively new programs, and the data did not reflect an adequate number of cases, so that the weights were adjusted to equate to a reasonable standard. The workload demands for such programs as these should be given further attention in subsequent workload assessments for judges.

CHAPTER TWO. DISTRICT ATTORNEYS' OFFICES²³

I. Introduction

To better understand the level of effort required by district attorneys to handle criminal cases, the National Center for State Courts, working in conjunction with the New Mexico Sentencing Commission, hired the National District Attorneys Association/American Prosecutors Research Institute (NDAA/APRI), Office of Research and Evaluation (OR&E) to conduct a comprehensive workload assessment. The workload assessment quantifies the time and activities associated with case processing by New Mexico district attorneys, investigators, victim/witness advocates, and support staff. The assessment also includes a quantified evaluation of all staff non-case related activities. The results of the assessment will allow the New Mexico Sentencing Commission to project resource needs using an empirically-based and objective formula. This chapter describes the workload assessment methodology used by NDAA/APRI's OR&E and key findings from the assessment and guidance on using the formula to project resource needs into the future.

Historically, prosecutors and government agencies have lacked an objective and empirically based method for determining how many various staff persons are needed within a prosecutor's office. Assessments of prosecutor caseload and workload varied widely in method and rigor. Many assessments attempted to establish caseload standards based on changes in population and crime rate. Others examined the frequency with which certain activities occurred, such as number of motions, resolution discussions and trials. Still others employed a "Delphi" method to build consensus among prosecutors on the amount of time needed to process cases. Yet none of these methods, in and of themselves, resulted in reliable and valid standards that could be employed at different levels. One key reason for this is that these methods typically only consider a relatively narrow range of a prosecutor's complete professional responsibilities. As a result, NDAA/APRI developed an objective, systematic method using both

²³ This chapter and appendices 2A-2C were written by a team from the National District Attorneys Association/American Prosecutors Research Institute (NDAA/APRI), Office of Research & Evaluation. The authors were Patricia L. Fanflik, Chuck Rainville, M. Elaine Nugent-Borakove, David Troutman, and Minerva Sanchez.

quantitative and qualitative analyses for assessing workload that can be used as a management tool for making decisions regarding staffing allocations, assigning cases, and identifying resource needs. In addition, the workload assessment produces a formula that can be used to project resource needs into the future.

NDAA/APRI has employed their workload assessment methodology in New Mexico previously in an assessment of staff resource needs in 2001. Though it would be interesting to compare results between the two studies, there are methodological differences that make direct comparisons somewhat unreliable. In the previous study a sample of staff was used for the Time Study components; in the latter study the full population of staff was selected for the study. In the previous study contextual variables affecting case processing time were discovered through office-level surveys on staffing and office resources whereas the latter study included a Time Sufficiency study as well as a Delphi component to assess the effect of contextual variables.

II. Prosecution in New Mexico

There are a total of 33 counties in the State of New Mexico. These counties are divided into 13 Judicial Districts. District Attorneys, elected in each of the 14 prosecutors' offices (the 11th Judicial District has two elected district attorneys), provide prosecution services in New Mexico. NDAA/APRI received data from staff in each of the 14 District Attorneys' offices for this study. Please see below for a complete breakdown of the 13 participating Judicial Districts and the counties within them.

<u>Judicial District</u>	<u>Counties</u>
1 st (A) District	Rio Arriba
1 st (B) District	Santa Fe, Los Alamos
2 nd District	Bernalillo
3 rd District	Dona Ana
4 th District	San Miguel, Mora, & Guadalupe
5 th District	Chaves, Eddy, Lea
6 th District	Grant, Luna, & Hidalgo
7 th District	Socorro, Sierra, Catron & Torrance
8 th District	Taos, Union, & Colfax
9 th District	Curry & Roosevelt
10 th District	Quay, DeBaca & Harding
11 th (A) District	McKinley
11 th (B) District	San Juan
12 th District	Otero & Lincoln
13 th District	Cibola, Sandoval, & Valencia

The populations of the districts vary widely from less than 50,000 persons in 5 districts to more than 500,000 persons in one district, as shown in Figure 2.1 on the following page.

Figure 2.1
Distribution of Judicial District Populations

Population	No. of Judicial Districts
Less than 20,000	1
20,001 to 50,000	3
50,001 to 100,000	4
100,001 to 250,000	4
250,001 to 500,000	0
More than 500,001	1

In terms of population density, the largest district is the 2nd Judicial District (which includes the City of Albuquerque) with a population of significantly more than 500,000, and the least populated district is the 10th with fewer than 20,000 residents.

For the populations in these judicial districts, prosecutors in New Mexico handle felonies, misdemeanors, juvenile cases and a limited number of civil cases (generally related to habeas corpus reviews). Criminal appeals are also handled by the New Mexico Attorney General's Office.

The majority of hearings in which prosecutors are involved are within New Mexico's 13 district courts in which misdemeanor and juvenile cases are heard. The courts of limited jurisdiction (i.e., the Magistrate Courts and the Bernalillo County Metropolitan Court) handle felony preliminary hearings, misdemeanor DWI cases and cases that are tried before a jury.

To facilitate the work of attorneys, three other major categories of staff can be identified by their distinct duties. These include investigators who help prosecutors develop cases by gathering and integrating case-related evidence. Victim/witness advocates also assist prosecutors by providing services to the victims of criminal offenses and working to secure reliable testimony from those (including the victim) with knowledge of a criminal act. Finally, support staff members handle the remainder of duties necessary for the District Attorneys' offices to run effectively.

III. District Attorney Workload Assessment Methodology

Based on input from a national advisory group of prosecutors and an extensive review of case weighting and workload assessment methodologies used by judges and public defenders in the United States, NDAA/APRI developed a disposition-based method for assessing prosecutorial workloads. The method used dispositions as an outcome measure due to the fact that prosecutors spend considerable time initiating cases that may never be filed with the court. To credit this time, dispositions indicating that a case was *screened out* are counted. NDAA/APRI's case weighting and workload assessment methodology takes into account various factors that can influence caseload (the volume of cases and the amount of time needed to handle these cases) and workload (caseload plus time associated with non-case related activities such as office management and community outreach). The disposition-based method used by NDAA/APRI examines the amount of time required, on average, to bring cases to disposition, while considering the array of dispositions and other prosecutorial responsibilities.

In a disposition-based assessment, the average amount of time spent bringing a case to disposition is calculated for different types of cases in order to develop relative weights for each type of case. For example, homicide cases typically require more time and attention from multiple attorneys and support staff for a lengthy period of time. These cases often involve extensive investigations, provision of services to victims and families members, numerous pre-trial hearings and motions, and a jury trial. On average, these cases require more prosecutor time and resources than an average theft case which is often plead out prior to trial. Thus, the only reliable method to capture the differences across case types in level of effort is to measure the amount of time spent by case type and the number/type of dispositions. The amount of time and number of dispositions are then used to calculate the average amount of time taken to process each type of case.

A. Advisory Group and Work Groups

The accuracy and reliability of data collection procedures are essential to any research study in which conclusions are drawn and recommendations are to be made. To increase the reliability of the data, NDAA/APRI solicited input from a study advisory group of three elected district attorneys from districts with different populations and staff sizes to provide oversight and

input to the study. The study advisory group consisted of Henry Valdez (1st Judicial District), Clint Wellborn (7th Judicial District) and Donald Gallegos (8th Judicial District).

Four work study groups (one group for each staff type) assisted in designing the data collection instruments, called the Daily Time & Activity Sheets (DTAS). Timesheets were designed to collect key data elements related to how staff spend their time.²⁴ The basic format and framework for the DTAS was created by NDAA/APRI more than 10 years ago and tested extensively across the United States. In the current study, NDAA/APRI conducted a pilot test of each work group's DTAS to ensure the timesheets would produce valid and reliable information. Staff members participating in the working groups were the following:

Attorneys Work Study Group

Shari Weinstein	1st Judicial District
Garry L. Breeswine	2nd Judicial District
Joseph Holloway	2nd Judicial District
Jan Peterson	3rd Judicial District
Janetta B. Hicks	3rd Judicial District
Francesca Martinez Estevez	6th Judicial District
Tim Hasson	8th Judicial District

Investigators Work Study Group

David Nuckols	2nd Judicial District
Alan Prybyzinski	2nd Judicial District
David A. Oliphant	8th Judicial District
Levi Lovato	7th Judicial District

Victim/Witness Advocates Work Study Group

Deborah Potter	1st Judicial District
Betsi Trujillo von Roemer	2nd Judicial District
Roberta Trujillo	3rd Judicial District
Cheryl Wilguess	6th Judicial District
Herman Romero	7th Judicial District
Tana Gasparck	8th Judicial District

Support Staff Work Study Group

Geri V. Mulligan	1st Judicial District
Elaine Flores	2nd Judicial District
Anice N. Reichback	2nd Judicial District
Maria Onsurez Alaniz	2nd Judicial District
Robin Bruck	3rd Judicial District
Suzanne Valerio	8th Judicial District

²⁴ NDAA/APRI developed four separate Daily Time and Activity Sheets—one each for attorneys, investigators, victim/witness advocates, and support staff—to reflect the differences in types of activities performed.

The timesheets were designed to collect self-reported case-related and non-case related activity from attorneys, investigators, victim/witness advocates and support staff participating in the study. The DTAS was designed to be as simple as possible for staff to use, while at the same time capturing critical information about the work conducted. Specifically, staff members were asked to self-report the following information each day throughout the data collection period.

- Attorneys:
 - The type of activity being performed.
 - The type of case being worked on.
 - Factors that might influence the amount of time spent conducting an activity.
 - The amount of time each activity took.
- Investigators:
 - The type of activity being performed.
 - The type of case being worked on.
 - Factors that might influence the amount of time spent conducting an activity.
 - The amount of time each activity took.
- Victim/witness Advocates:
 - The type of activity being performed.
 - The type of case being worked on.
 - Factors that might influence the amount of time spent conducting an activity.
 - The amount of time each activity took.
- Support Staff:
 - The type of activity being performed.
 - The amount of time spent performing the activity

B. Types of Activities

A key element of the data collection process was to capture all work-related activities performed by attorneys, investigators, victim/witness advocates and support staff. Case-related work often begins prior to the filing of charges and can extend long after the final disposition of a case. These activities may include reviewing police reports, interviewing victims and witnesses, conducting legal research, and post-adjudication activities. In addition, staff members have many other non-case related duties, such as providing training for co-workers or attending staff meetings. Although not specifically case-related, these activities impact the amount of time available for processing cases and are a normal part of an office's operations. Thus, NDAA/APRI's methodology was designed in a manner that would capture all the work of an

office by dividing the types of work into three distinct categories: (1) case-related activities not performed in court; (2) in-court case related activities; and (3) non-case related activities.

The specific activities within each of the major categories were defined in a manner that makes these categories mutually exclusive in order to ensure that staff consistently report the type of activity on which they were working in the same manner. For example, attorneys often interview witnesses as part of the case screening or initiation process, prior to the filing of charges, and again as part of case preparation, after charges have been filed. To make sure the two activities were mutually exclusive, a distinction was made between interviews that occur prior to the filing of charges and those that occur after the filing of charges. The specific activities in each category differ by staff type. (Please refer to Appendix 2-A for code definitions for activities listed below for each work group.)

1. Attorneys. Attorney activities included:

Case related Activities

- Case Screening/Initiation
- Case Preparation
- Post-Adjudication Activities
- Case-related Administration
- Probation Revocation

Non-Case Related Activities

- Non-Case Administration
- Community/Outreach
- Law Enforcement Coordination
- Professional Development
- Travel

In-Court Activities

- | | |
|---|-------------------------|
| •Limited Jurisdiction Court Proceedings | Bench Trial |
| •Juvenile Court Proceedings | Jury Trial |
| •Grand Jury Proceedings | Post-Adjudication Trial |
| •Pre-trial Hearings/motions | In-Court Waiting |

2. Investigators. For investigators these activities included:

Case related Activities

- Case Screening/Investigation
- Case Preparation
- Post-Adjudication Investigation
- General Case-related Administration
- Probation Revocation

Non-Case Related Activities

- Non-Case Administration
- Community Outreach
- Law Enforcement Coordination
- Professional Development
- Travel

In-Court Case related Activities

- | | |
|---|-------------------------|
| •Limited Jurisdiction Court Proceedings | Bench Trial |
| •Juvenile Court Proceedings | Jury Trial |
| •Grand Jury Proceedings | Post-Adjudication Trial |
| •Pre-trial Hearings/motions | In-Court Waiting |

3. Victim/Witness Advocates. For victim/witness advocates these activities included:

Case related Activities

- Case Initiation
- Case-related Written Notification
- Victim/witness Services (Telephone Contact)
- Victim/witness Services (Face-to-Face Contact)
- Post-Adjudication Activities
- Case-related Administration

Non-Case Related Activities

- General Office/Administrative
- Community Outreach
- Law Enforcement Coordination
- Professional Development
- Travel

In-Court Case related Activities

- | | |
|---|--|
| •Grand Jury Proceedings | Sentencing Hearings/Victim Impact Statements |
| •Preliminary/Pre-Trial Hearings/Motions | Post-Adjudication Trials/Hearings |
| •Bench or Jury Trials | In-Court Waiting |

4. Support Staff. For support staff these activities included:

Case related Activities

- File Preparation and Maintenance
- Typing and Document Production
- Case Preparation and Administration
- Scheduling
- Post-Adjudication Activities

Non-Case Related Activities

- Non-Case-related Clerical Activities
- Office Administration
- Administrative Support for Community Outreach
- Professional Development
- Travel

In-Court Case related Activities

- | | |
|--|-------------------|
| •Arraignments | Post-adjudication |
| •Grand Jury Proceedings & Pre-trial hearings | In-Court Waiting |
| •Bench/Jury Trials | |

C. Case Definition and Case Counting

A recurring and fundamental challenge in workload studies is how a “case” is defined. For various entities in the criminal justice system, a case has a set beginning (the decision to proceed with charges) and ending (final disposition or termination from the system). However, in many of the workload studies NDAA/APRI has conducted, the beginning point of a case varies in part because of the complex, intricate role that prosecutors play in the criminal justice system. As a result, offices may have different definitions of what constitutes a case and how cases are counted. In order to address this issue and ensure cases are defined uniformly, staff in New Mexico were given the following working definition of a case: *A “case” is defined as any information on a criminal matter that comes to an office requiring prosecutor activity and the assignment of a unique identifier, regardless of whether or not charges have been filed.*

Related to this conundrum of how cases are defined is the fact that prosecutors’ offices have different policies and practices for how cases are handled and thus counted. Some offices

prefer to “bundle” all charges against a defendant and count it as one case, while others separate the charges and count them as separate cases. Further, cases involving multiple defendants may be grouped together and counted as a single case or separated and counted as multiple cases. However, because there are no standard case counting practices, it makes comparisons of caseloads extremely difficult. To ensure consistency in case counting, NDAA/APRI developed and instructed participants to use the following rules:

- Each case is defined by defendant and by incident.
- Cases that involve multiple defendants are counted and recorded with separate entries for each defendant.
- Cases that involve multiple charges, arising out of the same incident, are recorded with the highest charge as the case type (based on the severity of the sentence for the crime).

D. Case Types

NDAA/APRI worked with the New Mexico Sentencing Commission, NCSC, and various district attorneys to ensure that NDAA/APRI’s case type definitions accurately reflect the State of New Mexico’s Criminal Code. For the purposes of this study, offense types were divided into felony, misdemeanor, juvenile, and civil. (See Appendix 2-B for case type definitions.)

- | | |
|----------------------------|------------------------------|
| ▪ Capital Offense | • Other Miscellaneous Felony |
| • Criminal Homicide | • Felony DWI |
| • Rape/Sexual Offenses | • Misdemeanor DWI |
| • Other Violent Felonies | • Misdemeanor Offenses |
| • Felony Property Offenses | • Juvenile Offenses |
| • Felony Drug Offenses | • Civil |

E. Factors that Affect Case Processing Time

Experienced prosecutors know that certain cases are more difficult to prosecute and require more time and effort than other cases. NDAA/APRI refers to the factors that make cases more complex or time-consuming as “enhancers.” The presence of enhancers and the volume of “enhanced” cases can have a significant impact on the overall average case processing time. As such, it is important to capture any enhancer and their effects during the time study. With the input of the working groups, NDAA/APRI identified 11 enhancers that could affect case processing time: (See Appendix 2-C for case enhancer definitions.)

- Child Victim/Witness
- Senior Victim/Witness
- Victim/Witness with a Disability
- Defense by Reason of Insanity
- Language Barrier/Cultural Diversity
- Habitual/Repeat Offender
- Gang-related
- Complex Evidence/Investigation
- Domestic Violence
- Out-of-State Victim/Witness
- Retained/Private Counsel

Participants in the study were cautioned to use the case enhancers *only* if the enhancer affected the amount of time spent on the activity/case. For example, prosecutors who work on child abuse cases routinely work with young victims and witnesses, and the fact that a child is involved in a given case may not by itself influence the amount of time the prosecutor spends on a case. On the other hand, a prosecutor who does not routinely handle child victims or witnesses and is assigned to a particularly difficult child abuse case may spend significantly more time on the case than usual due to the complexity of the case. For any given activity, attorneys, investigators, and victim/witness advocates could list up to two enhancers as having affected how long the activity took to complete.

F. Elapsed Time

As previously stated, all staff members participating in the study were asked to keep track of and report time spent conducting various activities throughout the workday. Recognizing that a standard 40-hour work week is the exception rather than the norm, attorneys, investigators, victim/witness advocates and support staff were asked to maintain a record of all time spent on work-related activities for the entire 24-hour period in a given day. Thus, for the purposes of the study, NDAA/APRI defined a day as beginning at 12:00 a.m. and ending at 11:59 p.m. Also, a workday was defined as any day on which work is performed and thus included Saturdays and Sundays, if work was conducted on those days. All staff members were asked to record time contemporaneously throughout the day, to the extent possible, and as precisely as they could, in the smallest time increment possible.

During the month of September 2006, NDAA/APRI staff conducted extensive training sessions in New Mexico on the use of the DTAS for attorneys, investigators, victim/witness advocates and support staff participating in the study. The training was designed to ensure that all participants were completing the DTAS in a consistent and uniform manner. Study participants were given detailed instructions outlining how to access, complete, and submit

timesheets using an Internet-based system. Data collection began on September 25, 2006 at which time staff began recording all their work-related activities for the following 6 weeks. The data collection period ended on November 3, 2006.

NDAA/APRI monitored data submissions weekly, to ensure all participating staff were completing and submitting timesheets and to review the data for consistency. This involved a three-person review process in which timesheets submitted were checked by NDAA/APRI research staff for reporting errors, duplications, data omissions, and discrepancies. Upon completion of the weekly data review, NDAA/APRI notified participants who were missing entries and followed-up with participating staff to clarify any reporting errors, omissions, or discrepancies in the entries.

A total sample of 841 employees participated in the workload study. Staff reported a total of 12,094,200 work minutes during the study period. For the purpose of this study, employees were divided into four workgroups: attorneys, investigators, victim/witness advocates, and support staff. Of the 841 employees participating in the study, 35.4 percent were attorneys, 5.6 percent were investigators, 4.9 percent victim/witness advocates, and 54.2 percent support staff personnel.²⁵ Response rates for each staff type are presented in Figure 2.2

Figure 2.2
Response Rates by Staff Type

Staff Type	Response Rate
Attorneys	89%
Investigators	89%
Victim/Witness Advocates	96%
Support Staff	90%

²⁵ The total percentage of participating employees does not equal 100 percent due to rounding.

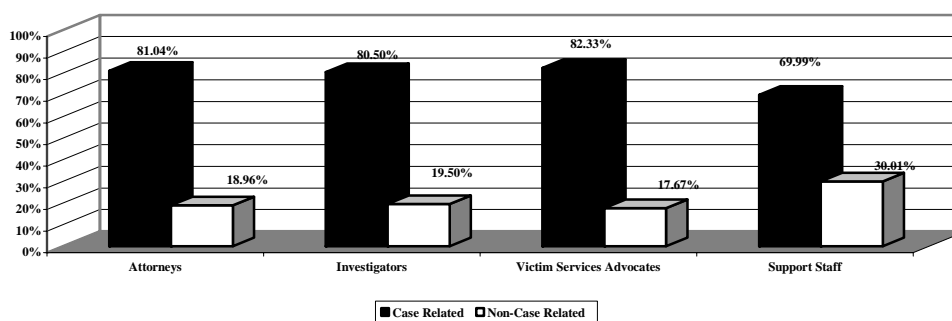
IV. Time Study Results for Attorneys and Staff

NDAAPRI's workload assessments produce five major categories of findings: (1) time spent on different types of activities; (2) types of cases processed; (3) average case processing time (the case weight); (4) adjustments to case processing times, and (5) the number of cases of specific types an individual can handle in a year (the workload measure). The following sections summarize each category of findings.

A. Time Spent on Different Types of Activities

A key component of NDAAPRI's workload assessments is the consideration given to all types of activities that prosecutorial staff may be involved in, not just case related activities. Staff members were involved in a variety of activities throughout the study. Figure 2.3 shows the time spent on case related activities (e.g., case screening, preparation, and in-court activities) and non-case-related activities (e.g., community outreach or professional development). As shown, most of the staff participating in the study spent the majority of their time on case-related activities.

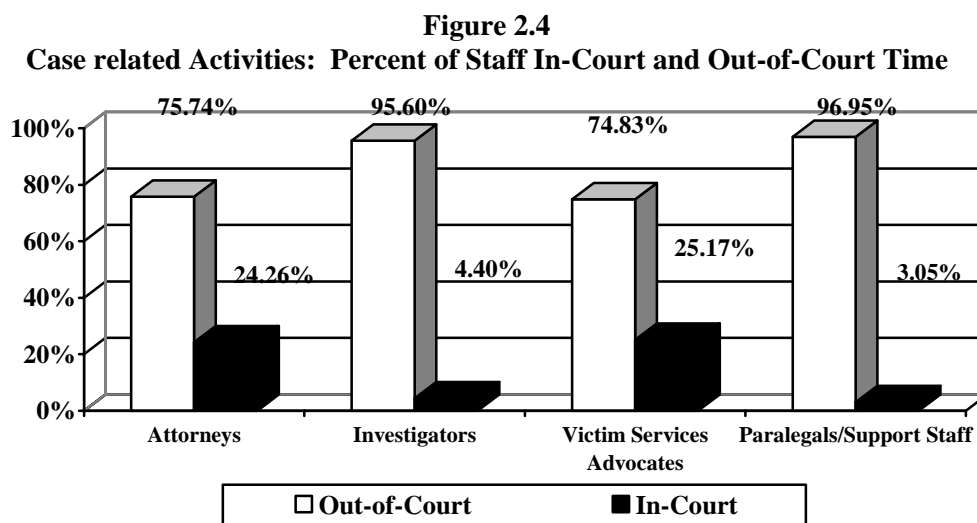
Figure 2.3
Staff Case related and Non-Case Related Time



1. Case-Related Activity Time. NDAAPRI defines case related activities as occurring along a continuum—from initial case screening through final adjudication and post-sentencing activities. These activities can be further sorted into two major categories: (1) activities that occur outside of the courtroom and (2) activities that occur inside the courtroom. For example, attorney out-of-court activities include case screening, preparation, post-

adjudication activities, and case administration. Attorney in-court activities include all court proceedings (hearings, motions, and trials) as well as time spent waiting for cases to be called.

The graph below (Figure 2.4) shows the percentage of time staff members spent involved in out-of-court and in-court activities. For example, attorneys spent nearly three-quarters (75.74 percent) of their case-related time involved in out-of-court activities and a little less than one-quarter (24.26 percent) of their case-related time on in-court activities. As one would expect, attorneys and victim/witness advocates spent more of their time in-court relative to other staff. Although in and out-of-court activities were included on the timesheets for investigators, and support staff, these work groups spent a small percentage of their case related time in court (investigators 4.40 percent, support staff 3.05 percent).



2. Attorneys' Activity Time. As shown in Figure 2.5, on the following page, attorneys spent 75.74 percent of their case-related time (61.83 percent of their total time) involved in out-of-court activities. Among the out-of-court case related activities, case preparation accounted for 41.80 percent of their case-related time, followed by case screening/initiation (activities prior to the filing of charges); and then case-related administration (general case administration activities that occur throughout the day in short blocks of time such as a brief review of multiple files, preparing court assignments, or discussion with a supervisor about a variety of case matters). Overall, less time was spent preparing for probation/revocation hearings or post-adjudication activities.

Similar to out-of-court activities, in-court activities were broken down into discrete categories for the time study. Attorneys were asked to record all time spent in specific courts

and court proceedings (see Figure 2.5 below). Overall, attorneys spent nearly 24.26 percent of their case-related time (19.66 percent of their total time, column 3) in-court. Much of the attorneys' in-court time was spent in limited jurisdiction hearings followed by preliminary hearings and motions for a combined total of 11.99 percent of case-related time. Thereafter, remaining in-court activities ranged from .34 to 4.38 percent of case-related time.

Typically, staff members in prosecutors' offices are tasked with a variety of activities that are not related specifically to the processing of criminal cases but are, nonetheless, essential to the overall operations of the office. In order to measure these activities, NDAA/APRI included non-case-related activities to capture all such work conducted throughout the day. As shown in Figure 2.5 below, attorneys spent slightly more than 61.74 percent of their non-case-related time (11.70 percent of their total time) conducting non-case administration (e.g., responding to public inquiries or managing staff).

3. Investigators' Activity Time. Figure 2.6 on the following page summarizes NDAA/APRI's findings regarding all work-related time reported by investigators. Not surprising, a majority (95.6 percent) of their case related time (76.96 of their total time, column 3) was spent out-of-court. Much of their out-of-court case-related time was spent on case preparation and screening. Investigators spent very little time (3.54 percent of their total time) conducting in-court activities. The greatest amount of time for investigator in-court activities was spent in jury trials. However, it accounted only for 1.74 percent of case-related time. Among non-case related activities, investigators spent little over 60 percent of their non-case related time working on non-case administration activities (e.g., supervising staff, attending staff meetings, completing monthly reports, creating work schedules, and other administrative duties), followed by community outreach.

Figure 2.5
Attorneys' Activity Time

Out-of-Court Activity	Percent of Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Case Screening/Initiation	14.87%	12.05%
Case Preparation	41.80%	33.87%
Post-Adjudication	3.17%	2.57%
Case-Related Administration	14.74%	11.94%
Probation/Revocation	1.17%	0.95%
Out-of-Court Subtotal	75.74%	61.83%
In-Court Activity		
In-Court Activity	Percent of Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Limited Jurisdiction Hearings	6.89%	5.58%
Juvenile Court Hearings	1.43%	1.16%
Grand Jury	1.45%	1.18%
Pretrial Hearings/motions	5.10%	4.13%
Bench Trials	0.34%	0.27%
Jury Trials	3.05%	2.47%
Post-Adjudication Trials	1.62%	1.31%
In-court Waiting	4.38%	3.55%
In-Court Subtotal	24.26%	19.66%
CASE RELATED TOTAL	100.00%	81.04%
Non-Case Related Activity*		
Non-Case Related Activity*	Percent of Non-Case-Related Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Non-Case Administration	61.74%	11.70%
Community Outreach	11.94%	2.26%
Law Enforcement Coordination	6.50%	1.23%
Travel**	19.82%	3.76%
NON-CASE RELATED SUBTOTAL	100.00%	18.96%

*Time spent in activities that are not reflected in the development of case weights (i.e. Professional Development and Personal Time) are excluded from analyses.

**Work-related travel (includes all time spent traveling from the office to court or other work related places (e.g., travel to satellite offices). This category did not include commuting between home and the office.

Figure 2.6
Investigators' Activity Time

Out-of-Court Activity	Percent of Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Case Screening	20.57%	16.56%
Case Preparation	47.21%	38.00%
Post-Adjudication Investigations	1.90%	1.53%
Case-Related Administration	25.76%	20.74%
Probation Revocation	0.16%	0.13%
Out-of-Court Subtotal	95.60%	76.96%
In-Court Activity		
In-Court Activity	Percent of Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Limited Jurisdiction Hearings	0.16%	0.13%
Juvenile Court Hearings	0.04%	0.04%
Grand Jury	0.20%	0.16%
Pre-trial Hearings/Motion	1.20%	0.96%
Bench Trials	0.26%	0.21%
Jury Trial	1.74%	1.40%
Post Adjudication	0.18%	0.14%
In-court waiting	0.63%	0.51%
In-Court Subtotal	4.40%	3.54%
CASE RELATED TOTAL	100.00%	80.50%
Non-Case Related Activity		
Non-Case Related Activity	Percent of Non-Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Non-Case Administration	51.39%	10.02%
Community Outreach	5.93%	1.16%
Law Enforcement Coordination	16.67%	3.25%
Travel (excludes commute)	26.01%	5.07%
NON-CASE RELATED SUBTOTAL	100.00%	19.50%

4. Victim/Witness Advocates' Activity Time. As shown in Figure 2.7 on the following page, victim services advocates spent 74.83 percent of their case-related time (61.61 percent of their total time) on out-of-court case-related activities. More than a quarter of this time was spent making face-to-face or telephone contacts with victims and witnesses. Contact via phone or in person included activities such as explaining upcoming court proceedings, providing referrals to local service providers, conducting domestic violence classes or groups, or providing victims/witnesses with emergency/crisis assistance.

Victim/witness advocates spent more of their case-related time in-court than investigators and support staff although their in-court time accounted for only a quarter of their total time. The majority of victim/witness advocates' in-court time was spent in preliminary hearings and motions, followed by in-court waiting and bench/jury trials. Of their total time reported, victim/witness advocates spent 17.67 percent of their time engaged in non-case-related activities. Specifically, advocates spent 59.40 percent of their non-case-related time conducting general office administration activities. These tasks include preparing victim/witness assistance program brochures, drafting program policies/procedures, or developing lists of service delivery resources for referrals and other activities designed to assist victims in the community.

Figure 2.7
Victim/Witness Advocates' Activity Time

Out-of-Court Activity	Percent of Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Case Initiation	6.37%	5.24%
Case related Written Notification	21.57%	10.35%
V/W Services – Telephone Contact	17.71%	14.58%
V/W Services – Face-to-Face Contact	11.26%	9.27%
Post-Conviction	3.37%	2.77%
Case related Administration	23.56%	19.39%
Out-of-Court Subtotal	74.83%	61.61%
In-Court Activity		
In-Court Activity	Percent of Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Grand Jury Proceedings	3.42%	2.81%
Preliminary Hearings/Motions	7.01%	5.77%
Bench/Jury Trials	5.77%	4.75%
Sentencing Hearings/Victim Impact Statements	2.05%	1.69%
Post-Adjudication Trials/Hearings	0.79%	0.65%
In-Court Waiting	6.14%	5.05%
In-Court Subtotal	25.17%	20.72%
CASE RELATED TOTAL	100.00%	82.33%
Non-case Related Activity		
Non-case Related Activity	Percent of Non-Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
General Office Administration	59.40%	10.50%
Community Outreach	17.90%	3.16%
Law Enforcement Coordination	2.46%	0.43%
Travel (excludes commute)	20.24%	3.58%
NON-CASE RELATED SUBTOTAL	100.00%	17.67%

5. Support Staff Activity Time. As shown in Figure 2.8, support staff spent 96.95 percent of their case-related time on out-of court case-related activities. Support staff reported spending very little time (3.05 percent) in-court, consequently specific breakdowns of in-court case-related activities are not presented in Figure 2.8. Most of support staff's case-related out-of court time was spent conducting case preparation. In addition, support staff spent most of their non-case related time (40.99 percent or 12.30 percent of their total time) on non-case administration and office administration followed by travel, community outreach, and professional development.

Figure 2.8
Support Staff Activity Time

Out-of-Court Activity	Percent of Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
File preparation	29.83%	20.88%
Typing and Document Production	30.59%	21.41%
Case Preparation and Administration	23.33%	16.33%
Scheduling	6.43%	4.50%
Post-Adjudication	6.77%	4.74%
Out-of Court Activity Total	96.95%	67.85%
In-Court Activity	3.05%	2.14%
CASE RELATED TOTAL	100.00%	69.99%
Non-case Related Activity	Percent of Non-Case-Related Activity Time	Percent of Total Time (Case-Related & Non-Case-Related) Reported
Non-Case Administration	40.99%	12.30%
Office Administration	49.70%	14.92%
Administrative Support	3.24%	0.97%
Travel (excludes commute)	6.07%	1.82%
NON-CASE RELATED TOTAL	100.00%	30.01%

In summary, the distribution of staff time across the various out-of-court activities is consistent with other NDAA/APRI studies. As with attorneys in other offices that NDAA/APRI has examined, case preparation, case screening/initiation, and case related administration account for the majority of work outside the courtroom. There are consistencies with other NDAA/APRI studies for support staff as well—with the large amounts of time reported for case administration. In addition, across all staff types (attorneys, investigators, victim/witness advocates, paralegals and support staff), NDAA/APRI has found in 100 percent of its studies that the majority of case-related work takes place outside the courtroom.

B. Types of Cases Processed

Staff members handled a variety of cases during the time study. Figure 2.9 shows case types and the total number of minutes reported by attorneys, investigators, and victim/witness advocates. Due to the nature of the work performed by support staff, this group was not required to report case types. Column 2 of Figure 2.9 shows how many minutes the attorneys dedicated to a specific case type. Attorneys reported a total of 2,759,650 minutes of time. Attorneys spent a considerable amount of time processing other violent felony cases (496,010 minutes or 17.97 percent of their total case-related time). Felony property cases accounted for 382,395 minutes or 13.86 percent followed by felony drug cases and misdemeanor DWI cases, for which attorneys reported 325,385 minutes (11.79 percent) and 319,085 minutes (11.56 percent), respectively. Miscellaneous misdemeanor cases also accounted for a large increment of time (305,375 minutes or 11.07 percent) followed by miscellaneous non-violent felony cases (228,875 minutes or 8.3 percent). The remaining case types represent 25.5 percent of the total case processing time. Of these remaining case types, the percentage of minutes reported ranged from less than 1 percent to 8 percent.

Investigators reported a total of 412,660 minutes of case processing time. These numbers are lower compared to attorneys due to the number of staff in each work group. Investigators spent a considerable amount time processing other violent felony cases (74,885 minutes or 18.14 percent of their total case-related time). This was followed by 68,000 minutes or 16.47 percent of their time investigating felony drug cases and felony DWI cases which accounts for 50,375 minutes or 12.20 percent. This was followed by criminal homicide and felony property cases, to which investigators reported 47,355 minutes (11.47 percent) and 47,075 minutes (11.40 percent),

respectively. The remaining minutes were distributed among the remaining case types, ranging from 0.17 to 10.99 percent of time.

Column 4 in Figure 2.9 represents the total minutes by case type reported by victim/witness advocates. Victim/witness advocates reported a total of 549,520 minutes of case processing time. Victim/witness advocates spent 185,040 minutes or 33.67 percent of their time processing other violent felony cases and 129,885 minutes or 23.64 percent of their time processing miscellaneous misdemeanor cases. This was followed by rape and sexual cases, the percentage of time for which was considerably higher than investigators (13.5 and 8.8 percent, respectively). This is not surprising given the nature of these crimes and the duties of victim/witness advocates to assist victims.

Figure 2.9
Case Processing Minutes Reported by Attorneys, Investigators,
and Victim/witness Advocates

Case Type	Attorneys Total Minutes Worked	Investigators Total Minutes Worked	Victim/witness Advocates Total Minutes Worked
Capital Offense	29,355	7,560	3,320
Criminal Homicide	133,315	47,355	34,420
Rape/Sexual Offenses	209,410	36,365	74,245
Other Violent Felonies	496,010	74,885	185,040
Felony Property Offenses	382,395	47,075	9,510
Felony Drug Offenses	325,385	68,000	1,230
Other Miscellaneous Felony	106,325	12,380	3,260
Felony DWI	228,875	50,375	54,305
Misdemeanor DWI	319,085	15,230	8,265
Misdemeanor Offenses	305,375	45,365	129,885
Juvenile Offenses	212,440	7,365	45,620
Civil	11,680	705	420
Total	2,759,650	412,660	549,520

Simply examining the raw minutes by case type can prove to be misleading. As shown in Figure 2.9, attorneys spent the greatest amount of time on other violent felony and felony property cases. However, the amount of time spent is largely related to the volume of actual

cases being handled. To better understand case processing time, it is important that case disposition be taken into consideration, as case weights, discussed later in this chapter, are based on the average amount of time required to bring cases to disposition.

To collect disposition information, NDAA/APRI relied upon information in the statewide case management system, provided by the New Mexico Administrative Office of the District Attorneys. As many of the initially-presented disposition numbers suggested that office practices led to more cases being closed than was typical during a 6-week period, several disposition counts were smoothed (i.e. adjusted to more closely match disposition counts one would expect to see in any given 6-week period). It is for such reasons that NDAA/APRI often does workload assessments over a greater number of weeks than six. Figure 2.10 shows the disposition counts by each case type.

Figure 2.10
Disposition Counts by Case Type

Case Type	Total Dispositions
Capital Offense	9
Criminal Homicide	19
Rape/Sexual Offenses	49
Other Violent Felonies	1,647
Felony Property Offenses	310
Felony Drug Offenses	254
Other Miscellaneous Felony	65
Felony DWI	900
Misdemeanor DWI	549
Misdemeanor Offenses	2,844
Juvenile Offenses	825
Civil	0
Total	7,470

C. Raw Case Weights: Average Case Processing Time

Case weights represent the average case processing time. Simply stated, case weights are calculated by dividing all time associated with different types of cases by the number of dispositions of each case type. Adjustments are made to initial case weight values to reflect a

number of qualitative factors (examined in the Time Sufficiency Study section). Figure 2.11 shows the initial case weights for each work group before adjustments are made.

As expected, more serious crimes against persons take longer to process, on average, than less serious property crimes. Consistent with other NDAA/APRI studies, criminal homicide cases require more work time for each group to process than any other case type.

Figure 2.11
Raw Case Weights (Average Case Processing Time in Minutes) for Each Work Group

Case Type	Attorney Case Weight	Investigator Case Weight	Victim/Witness Case Weight	Support Staff Case Weight
Capital Offense	4,481	1,201	506	5,064
Criminal Homicide	9,620	3,556	2,478	10,871
Rape/Sexual Offenses	5,909	1,067	2,090	6,677
Other Violent Felonies	412	65	154	466
Felony Property Offenses	1,688	216	42	1,907
Felony Drug Offenses	1,753	381	7	1,981
Other Miscellaneous Felony	2,225	269	68	2,515
Felony DWI	349	80	82	394
Misdemeanor DWI	797	40	20	900
Misdemeanor Offenses	147	23	62	166
Juvenile Offenses	352	13	76	398
Civil*	N/A	N/A	N/A	N/A

* No dispositions counts were available for Civil cases disallowing the development of its case weight. Staff members are credited for the relatively small amount of time spent on Civil cases by distributing this time proportionately across the other case types.

V. Sufficiency of Time and Quality Adjustment

The raw case weights represent the average amount of time that *is* being spent currently processing cases but do not necessarily represent the amount of time that *should* be spent. As such, NDAA/APRI examined a number of factors to determine if the time currently spent is sufficient or if adjustment to case weights were warranted.

First, NDAA/APRI wanted estimates of how much time staff felt it took to process cases of the various types included in the study. Staff were asked to respond to the following item:

How many hours (or parts of an hour) of your time would you estimate it takes to process an average case of each type? (Note: This is not the number of days or weeks a case remains in the office, but the number of hours [e.g., prosecutors] in your office spend engaged in activities related directly to a single, identifiable case [at the point the case comes to the attention of the office to final disposition of case]).

Estimates were provided for each case type and an average was taken to give an independent assessment of average case-processing times. That is, it is a *second* estimate comparable to the raw case weights. These two sets of estimates may give indications of what it currently takes to process a case, however, they fail to address whether the case processing times can be regarded as truly *sufficient* to allow the staff do to their work in a manner that suits their conscience. To assess this concern, NDAA/APRI surveyed staff with the following item:

For the cases you generally handle, please indicate how many additional hours per week you could use to perform each of the followings duties (enter '0' hours if you currently have enough time to perform a duty to the degree you like)?

The “duties” that were listed were the case-related activities associated with each of the four staff types (e.g., Case-screening for all staff except Support; In-court activities for all staff; Scheduling for Support Staff and so on). Again, averages were calculated to determine how much time staff estimated they would need to optimally perform their case-related activities.

Time sufficiency surveys also indicated what case enhancers are associated with each of case types and a conference call with all of the District Attorneys revealed other complicating factors affecting case processing times. Figure 2.12 (on the following page) presents the adjusted case weights for all staff types as well as commonly cited case enhancers/case factors associated with each case type.

Figure 2.12
Adjusted Case Weights (Average Case Processing Time in Minutes) for Each Work Group and
Factors Cited Affecting Average Case Processing Times

Case Type	Attorney Case Weight	Investigator Case Weight	Victim/ Witness Case Weight	Support Staff Case Weight*	Cited Enhancers or Complicating Factors
Capital Offense/Criminal Homicide**	9,989	4,658	2,494	11,962	Additional motions, preliminary hearings, jury selection
Rape/Sexual Offenses	6,115	1,217	2,095	7,729	Child victim, Complex evidence
Other Violent Felonies	507	73	154	700	Restitutions, Language barriers
Felony Property Offenses	1,743	253	42	2,456	Habitual offenders
Felony Drug Offenses	1,811	439	7	2,466	Retained private counsel
Other Miscellaneous Felony	2,301	353	68	2,716	None commonly cited
Felony DWI	746	92	82	481	Retained private counsel
Misdemeanor DWI	823	52	20	1,116	Retained private counsel
Misdemeanor Offenses	152	27	62	218	Domestic violence, language barriers
Juvenile Offenses	364	17	76	462	Child victim/witness

*Because Support Staff do tasks of similar natures for each case type, their case weights are related to specific case types in only the loosest of senses.

**In a communication with study coordinators, it was suggested to combine case weights for capital offenses and homicide into one value (as was done in the public defender and judge components of the study).

VI. Attorney and Staff Resource Needs

Based on the efforts and analysis described above, NDAA/APRI offers conclusions about the current attorney and staff resource needs for district attorneys' offices in New Mexico. This calls for workload measures to be related to annual case dispositions.

A. Workload Measures

A workload measure defines how many cases of a specific type one person can handle in a given year, if he or she only works on that type of case. To obtain the workload measure, NDAA/APRI divided the number of minutes available for work each year (the year value) by the case weight for each type of case. The year value was based on the total number of workdays in a year, minus vacation leave, average sick leave, holidays, and mandatory training time required. For attorneys the year value was 105,180 minutes (or 1,753 work hours) available per year. For all other staff types, the year value was 105,900 minutes (or 1,765 work hours) available per year. The difference between these values is due to the 12 hours of CLE requirements attorneys spend per year.

Figure 2.13 shows the workload measures for each case type for each type of staff. It should be noted that in certain instances, the workload measure (or number of cases that a person can handle) is extraordinarily high (e.g., the victim witness advocates' measures for felony drug offenses, and misdemeanor DWI offenses). These high workload measures demonstrate that victim services advocates spend very little time on these types of cases and is not meant to suggest that they could or should handle this number of cases.

Figure 2.13
Workload Measures: Number of Cases per Person per Year

Case Type	Attorney Workload Measure	Investigator Workload Measure	Victim/Witness Workload Measure	Support Staff Workload Measure
Capital Offense/Criminal Homicide	10.53	22.73	42.46	8.85
Rape/Sexual Offenses	17.20	86.99	50.54	13.70
Other Violent Felonies	207.46	1,458.68	689.81	151.24
Felony Property Offenses	60.34	419.24	2,528.33	43.13
Felony Drug Offenses	58.08	241.45	16,011.05	42.95
Other Miscellaneous Felony	45.71	300.18	1,553.12	39.00
Felony DWI	140.92	1,146.10	1,284.00	220.07
Misdemeanor DWI	127.86	2,046.34	5,144.27	94.88
Misdemeanor Offenses	692.68	3,922.22	1,697.30	486.23
Juvenile Offenses	288.92	6,366.16	1,402.20	229.23

As shown in Figure 2.13, the workload measures vary by case type and by type of staff. This variation is a direct result of the level of effort associated with case processing and the average case processing time. For example, on average an attorney spends approximately 10,000 minutes on a capital offense/homicide case. If an attorney only worked the time mandated (i.e., 105,180 minutes), he or she could handle approximately 10.5 cases of this type per year (see Column 1). On the other hand, misdemeanor offenses take substantially less time to prosecute on average; as a result, an attorney could handle about 692 misdemeanor (no DWI) cases per year. It is important to note, however, that the workload measure assumes that an attorney is handling a specific case type. The workload measures cannot suggest how many cases of different types can be handled by a single person if he or she has a “mixed” caseload. However, the workload measure can be used for allocating office resources. Specifically, these measures can serve as guidelines in the allocation of cases across the various work groups when a mixed caseload is carried.

The workload measures for investigators and victim/witness advocates are naturally higher than those for attorneys because of the nature of their case-related work. As such, investigators and victim/witness advocates spend less time per case, on average, than attorneys, and thus can handle more cases per person.

B. Formula for Determining Resource Needs

The workload assessment produces an objective and quantitative formula that can be used to project resource needs. The formula is based on the workload measures, discussed in the previous section and the annual number of dispositions in New Mexico that were reported to NDAA/APRI for FY 2006. The workload measures are applied to the annual case dispositions to determine the total number of full-time equivalent (FTE) staff needed to handle the yearly workload. The final formula for projecting resource needs is as follows:

$$\text{Annual Case Dispositions} \div [\text{Workload Measure}] = \text{Number of FTE Positions Needed}$$

C. Projected Staffing Needs

To determine the resource needs, the formula is applied to each case type to obtain the FTE positions needed to handle each type of case exclusively. The total resource needs of the office are then calculated by adding the FTEs for each case type. The resource projection table for New Mexico staff is provided in Figures 2.14 and 2.15 on the following page:

Figure 2.14
FTE Projections for Attorneys and Investigators

Case Type	Attorney Workload	Investigator Workload	Annual Dispositions	Attorney FTE	Investigator FTE
Capital Offense/Criminal Homicide	10.53	22.73	243	23.08	10.69
Rape/Sexual Offenses	17.20	86.99	422	24.53	4.85
Other Violent Felonies	207.46	1,458.68	14,318	69.02	9.82
Felony Property Offenses	60.34	419.24	2,698	44.72	6.44
Felony Drug Offenses	58.08	241.45	2,210	38.05	9.15
Other Miscellaneous Felony	45.71	300.18	569	12.45	1.90
Felony DWI	140.92	1,146.10	7,822	55.51	6.82
Misdemeanor DWI	127.86	2,046.34	4,770	37.31	2.33
Misdemeanor Offenses	692.68	3,922.22	24,728	35.70	6.30
Juvenile Offenses	288.92	6,366.16	7,176	24.84	1.13
Total FTE				365.20	59.43

Figure 2.15
FTE Projections for Victim/Witness Advocates and Support Staff

Case Type	Victim/Witness Advocates Workload	Support Staff Workload	Annual Dispositions	Victim/Witness Advocates FTE	Support Staff FTE
Capital Offense/Criminal Homicide	42.46	8.85	243	5.72	27.45
Rape/Sexual Offenses	50.54	13.70	422	8.35	30.80
Other Violent Felonies	689.81	151.24	14,318	20.76	94.67
Felony Property Offenses	2,528.33	43.13	2,698	1.07	62.56
Felony Drug Offenses	16,011.05	42.95	2,210	0.14	51.46
Other Miscellaneous Felony	1,553.12	39.00	569	0.37	14.59
Felony DWI	1,284.00	220.07	7,822	6.09	35.54
Misdemeanor DWI	5,144.27	94.88	4,770	0.93	50.27
Misdemeanor Offenses	1,697.30	486.23	24,728	14.57	50.86
Juvenile Offenses	1,402.20	229.23	7,176	5.12	31.30
Total FTE				63.11	449.50

VII. Conclusion

The total need shown above in Figures 2.14 and 2.15 for attorneys, investigators, victim/witness advocates and support staff in the district attorneys' offices must be compared to the current staffing in those offices. As Figure 2.16 shows, such a comparison indicates that there is a need for additional attorneys and non-attorney staff to meet the prosecution workload demand. More specifically, there is a need for 41 more attorneys; 9 more investigators, 3 more victim/witness advocates, and 16 administrative support staff.

Figure 2.16.
Additional FTE Needs in District Attorneys' Offices in New Mexico²⁶

Staff Type	Total Need	Available FTE	Additional FTE Needed
Attorneys	365.20	324	41.20
Investigators	59.43	50	9.43
Victim/Witness Advocates	63.11	60	3.11
Support Staff ²⁷	449.50	433	16.50

The raw number of staff needed to handle the workload of a prosecutor's office is critically important and directly related to the efficiency and effectiveness of the office.²⁸ Equally important though is the ratio of attorneys to other staff that perform support functions for case processing.

As shown in Figure 2.17, as of April 2004, the ratio of attorneys to other staff positions in the national average (i.e., fewer attorneys per other staff members). It is important that balance be maintained to avoid the potential for more highly paid staff doing tasks more appropriately suited for lower paid staff. While the resource projections for the various counties may show decreases in some staff positions, consideration must be given to the overall ratio of staff in determining the final resource needs of an office. See Appendix 2-D for a proportional allocation of additional staff needs among district attorneys' offices across the state.

²⁶ Total need is based on FY 2006 dispositions. All FTE counts shown here are as provided by district attorneys' offices and reflect FY 2006 FTE personnel levels. FTE counts do not include any new positions authorized in the 2007 legislative session.

²⁷ Excludes FTE counts of financial positions that do not perform case-related work.

²⁸ Nugent, Rainville, Finkey, and Fanflik, "Translating Workload into Resource Needs." In *How Many Cases Should a Prosecutor Handle? Results of the National Workload Assessment Project*. (Alexandria, VA: American Prosecutors Research Institute, 2002).

**Figure 2.17
 Staffing Ratios**

Staff Type	National Ratio*
Investigators	3.6:1
Victim /Witness	5.9:1
Support Staff/Paralegals	1.1:1

*National ratios were developed based on data from DeFrances, *Prosecutors in State Courts, 2001* (Research Bulletin, Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, July 2001, NCJ19344.1).

Recommendations

Based on its experience in this workload study, the NDAA/APRI team has suggestions for improvement that will be necessary for future prosecutor workload updates to succeed in New Mexico. Those suggestions are presented here.

1. Improve Quality of Disposition Reporting. NDAA/APRI recommends that the District Attorneys' offices in New Mexico make a concerted effort to improve their reporting of dispositions. Such improvements will increase the accuracy of the disposition information in the system and allow for more accurate and reliable resource projections. Projections can then be made based on actual dispositions recorded at the end of the year or by estimating the number of dispositions in future years. To project future resource needs, trends in dispositions should be established. The rate of change for each type of case can be used to determine how many cases are likely to be disposed in future years. As an example, consider the following scenario:

No Name County has experienced steady increases in the number of battery cases that are processed by the prosecuting attorney's office. The trends show an average increase between 2000 and 2006 of 14 percent annually (note: this number was used for illustrative purposes only). It takes 16.14 hours (or the equivalency in minutes) to bring a battery case to disposition, and the number of battery cases an attorney can handle in a year is 102. Here are the resource projections for the current and upcoming year:

In 2005, 520 battery cases were disposed, resulting in 5.10 FTE attorneys [520 ÷ 102].

In 2006, battery cases are expected to increase by 14 percent as they have in the past. Therefore, the number of FTE positions needed to process battery cases will be 5.81 FTE attorneys [(520 x 14%) + 520)/102]

Once reliable disposition information is available for all case types and all counties, the use of the resource projection formula should prove to be a useful tool to the District Attorneys in New Mexico. Although the formula is limited in that it assumes a person is handling a specific case type exclusively, the overall projections can provide a reasonable estimation of the office's total resource needs. In addition, the workload measures that resulted from the study can be used to help ensure reasonable distribution of cases across the office.

2. Attorneys and Support Staff. It is important to keep in mind that any changes in staffing levels need to be considered within the overall context of the office's workload. For example, significant increases in attorney positions should result in proportional increases in support staff positions (e.g., investigator, victim/witness, paralegal, etc) to maintain reasonable staffing ratios. Without such balance, offices run the risk of having higher paid staff, such as attorneys, performing the work of staff with lower salaries and subsequently reducing the amount of time they (attorneys) could spend on processing cases.

3. Responding to Change over Time. Finally, the justice system operates in a relatively fluid environment and any number of external changes can have a tremendous impact on prosecutorial workload. Each year there can be significant changes/amendments to state legislation that can impact the justice system and prosecutors. Changing priorities within law enforcement and other parts of the justice system can impact the number and type of cases being referred for prosecution. Creation of new courts designed to handle specific types of offenders, such as drug courts, domestic violence courts, or mental health courts will require the dedication of prosecution resources to staff the court. These types of changes must be taken into consideration when projecting resource needs. Thus, NDAA/APRI recommends that the case weights and workload measures resulting from this study be reconsidered every few years to account for the changing environment in which the prosecuting attorneys operate.

CHAPTER THREE. PUBLIC DEFENDER DEPARTMENT²⁹

I. Introduction

There is a broad perception that a lack of adequate resources severely hampers the ability of the New Mexico Public Defender Department (NMPDD) to carry out its constitutional and statutory mandate to provide effective assistance of counsel in criminal cases.³⁰ Just outcomes in the criminal justice system require capable counsel for both the state and the defendant. Accordingly, the New Mexico Sentencing Commission (NMSC) contracted with the National Center for State Courts (NCSC) to develop a clear measure of the number of attorneys and support staff needed to provide effective and competent defense for all cases.

The challenge for NMPDD is to provide public defenders and support staff sufficient time to meaningfully meet constitutional guarantees by engaging their clients, conducting investigation and discovery activities, and preparing for hearings and trials—features fundamental to public perception of fairness and effective assistance of counsel.

Reaching this goal requires gauging the attorney and staff workload associated with the delivery of quality services to the clients they represent. The anchor of this study is a “weighted caseload” model that directly measures the variations in attorney and staff time required to resolve different types of cases. This approach leads to the development of workload standards that provide uniform and comparable measures of the need for attorneys and support staff while ensuring that budget requests are made on a sound and methodologically consistent basis.³¹

This chapter of the report describes the methods and results of NCSC’s comprehensive program evaluation, conducted over a 15-month period during 2006-07, of NMPDD attorney and support staff workload. The primary goals of the project were to:

²⁹ This chapter and appendices 3A-3F were written by a team from NCSC’s Research Division. The authors were Matthew Kleiman, Scott R. Maggard and Tracy Peters.

³⁰ Chief Justice Richard Bosson stated in his January 20, 2005 State of the Judiciary Address that “the fiscal needs of the Public Defender are so dire, their situation seems so hopeless, that many times prosecutions cannot go forward due to lack of sufficient personnel.” In addition, he stated that “I have been quoted in the newspaper as characterizing the criminal justice system as a three-legged stool... When one leg [NMPDD] is weakened, you know what happens; you end up on the floor. Well, we are not on the floor yet, but we are not far off.”

³¹ For a complete overview of the weighted caseload methodology see Chapter 1 of this report.

- Develop a clear measure of attorney and support staff workload in districts offices and statewide units.
- Establish a transparent formula for NMPDD to use in assessing the appropriate levels of attorney and staff resources necessary to provide effective legal representation.

II. Indigent Defense Services in New Mexico

The New Mexico Public Defender Department provides legal services for indigent adults and juveniles charged with criminal or delinquent acts in the trial, appellate, and post conviction courts. The organization of the public defender's office can be characterized as a mixed system, combining elements of a public defender program with those of a contract system.³² The NMDD provides direct representation for indigent clients in eight of the thirteen judicial districts statewide (First Judicial District, Second, Third, Fifth, Eighth, Ninth, Eleventh, and Twelfth). In areas of the state where the Department does not maintain district office operations, the Department contracts with private lawyers through Contract Counsel Legal Services (CCLS). Additionally, CCLS assigns contract attorneys for conflict cases. Judicial districts completely serviced through Contract Counsel Legal Services' operations are: Fourth Judicial District, Sixth, Seventh, Tenth, and Thirteenth.

In addition, the Department operates four statewide units that offer specialized statewide legal services for Public Defender clients.³³

The *Appellate Division* provides post-conviction representation in Public Defender cases. The Division represents clients who have been convicted at the trial level and whose cases are now on direct appeal before the New Mexico Supreme Court, the Court of Appeals, and the Second Judicial District Court "on record appeals" from the Metropolitan Court.

The *Capital Crime's Unit* defends first-degree murder and death penalty certified cases across the State of New Mexico.

The *Mental Health Unit* provides direct and advisory/support services for a broad range of policy and program issues which impact the mentally ill, the mentally retarded, and the developmentally disabled involved in the criminal and juvenile justice systems.

The *Post-Conviction Conflict Unit (Habeas Corpus)* represents individuals who have completed the direct appeal process, but who challenge their underlying criminal

³² Wice, Paul B. 2005. *Public Defenders and the American Justice System*. Westport, CT: Praeger.

³³ The descriptions of the statewide units are not fully exhaustive of the range of activities performed by attorneys and staff.

conviction on constitutional and other legal grounds. The Unit also represents prison inmates who file habeas corpus petitions.³⁴

As of fall 2006, NMPDD directly employed 169 full-time equivalent (FTE) attorneys and 135 FTE staff, making the Department New Mexico's largest statewide law firm. In addition, the NMPDD contracted with over 100 private lawyers.³⁵ (See Appendix 3-A)

Figure 3.1
Number of NMPDD Full-Time Equivalent Attorneys and Staff

	Attorneys	Staff
Judicial District 1	12	9
Judicial District 2	75	53
Judicial District 3	16	16
Judicial District 5	13	17
Judicial District 8	3	4
Judicial District 9	9	7
Judicial District 11	10	9
Judicial District 12	6	7
Appellate Division	14	4
Capital Crime's Unit	6	5
Habeas Corpus	3	1
Mental Health Unit	2	3
Total	169	135

III. Work Study Groups

The first stage of the workload assessment was to establish a set of policy committees (attorneys and staff) to provide oversight and guidance throughout the life of the project. Specifically, the work study groups were charged with refining the approach and content of the evaluation and resolving important issues affecting data collection, interpretation, and analysis. The attorney work study group consisted of both the Chief and Deputy Chief Public Defender, a select group of seasoned public defenders from district offices, contract attorneys, as well as

³⁴ Information regarding the statewide units comes from the New Mexico Public Defender Strategic Plan, Fiscal Years 2006-2007.

³⁵ During the course of the study, NCSC staff worked directly with NMPDD and NMSC to obtain FTE counts of contract attorneys. To help facilitate this process a Web-based survey was developed that asked all contract attorneys around the state to self-report the portion of a typical work week that is spent on contract cases. Despite repeated efforts to ensure participation, only 37 contract attorneys filled out the survey. A more complete discussion of contract attorneys is included in Appendix 3-A.

representatives from the New Mexico Center on Law and Poverty. The staff work study group was made up of experienced staff members from the Department offices representing a broad range of staff functions (e.g., investigator, social worker, intake, legal research). Both work study groups oversaw the development of our workload assessment methodology, and worked closely with NCSC project staff to identify relevant district-level issues, determine the relevant workload factors and tasks associated with effective representation in each kind of case, and appraise the results of each phase of the study. These bodies ultimately reviewed and finalized all project results. We will return to discuss the work of the work study groups in the context of reporting on the time study and the adoption of the final case weights.

Figure 3.2
NMPDD Work Study Groups

Attorneys	
John Bigelow -- Chief Public Defender, NMPDD	Tom DeMartino -- NMPDD (Metro Court)
David Eisenberg -- Deputy Chief Public Defender	John Stapleton -- NMPDD
Hugh Dangler -- NMPDD (1st Judicial District)	Catherine Zarkus -- NMPDD
Alisa Lauer -- NMPDD (1st Judicial District)	John Stapleton -- NMPDD
Ralph Odenwald -- NMPDD (2nd Judicial District)	Jackie Robins -- Private attorney
Joe Shattuck -- NMPDD (3rd Judicial District)	John Robbenhaar -- Private attorney
Richard Brown -- NMPDD (5th Judicial District)	Gail Evans -- NM Center on Law and Poverty
Brett Carter -- NMPDD (9th Judicial District)	Homer Robinson -- NM Center on Law and Poverty
Christian Hatfield -- NMPDD (11th Judicial District)	
Staff	
John Bigelow -- Chief Public Defender, NMPDD	Annette Devine -- NMPDD (Metro Court)
David Eisenberg -- Deputy Chief Public Defender	John Goeller -- Human Resources
Louella Arrellano -- NMPDD (2nd Judicial District)	Ed Clokey -- IT Office
Eileen Chavez-- NMPDD (2nd Judicial District)	
Gloria Campos -- NMPDD (5th Judicial District)	
William Workman -- NMPDD (11th Judicial District)	

IV. Case Types

Suitable case type categories are important because they are the foundation of measured workload. Knowing the average time different types of cases take allows estimation of attorney and staff need in relation to the number and relative complexity of cases handled. The appropriate choice of case types must reflect the way cases are actually counted in a state. In addition, from a practical perspective, case types should be aggregated into a meaningful but limited number of categories that are likely to remain stable over time. For this reason, the work study groups determined that time study data should be collected on 11 case types for the attorneys and staff in the districts and 4 case types for attorneys and staff in the statewide units. Figure 3.3 shows the case types we used to develop workload standards.³⁶

**Figure 3.3
 Case Types**

Case Types	
Districts	Statewide Units
Murder	Appellate
Violent Felony	Capital
Non-Violent Felony	Habeas
DWI	Mental Health
Misdemeanor	
Juvenile	
Probation Violations	
Drug Court	
Competency/Mental Health	
Extradition	
Metro/Magistrate Appeals	

³⁶ A more detailed description of the case types for attorneys and staff can be found in Appendix 3-B.

V. Attorney and Staff Year Values In this section, we describe the procedure for calculating how much time in a year NMPDD attorneys and staff have to complete their work. Arriving at this value is a two-stage process that entails calculating how many days per year are available to both attorneys and staff to perform work (the *attorney and staff year*) and then determining how many business hours each day are available for case-related work as opposed to non-case-related work (the *attorney and staff day*). Multiplying these two measures gives the *attorney and staff year value*, which is an estimate of the amount of time the "average" NMPDD attorney or staff member, has to handle cases during the year.

A. The Attorney and Staff Work Year

Calculating the "average" attorney and staff year requires determining the number of days per year NMPDD employees have to perform case-related matters. Working closely with the work study groups, we deducted time for weekends, holidays, personal days, vacation/sick leave, and continuing legal education training. After deducting these constants from 365 days it was determined that *both attorneys and staff have an average of 233 days available each year to perform case-related activities* (Figure 3.4).

Figure 3.4
Calculating the Attorney and Staff Year

Attorney and Staff Year	
Total Days per Year	365
Subtract Non-Working Days:	
Weekends	- 104
Holidays	- 10
Personal Days	- 1
Vacation	- 10
Sick Leave	- 5
CLE (training)	- 2
Total Working Days per Year	= 233

B. The Attorney and Staff Day

The attorney and staff day is separated into two parts: the amount of time devoted to (1) case-related activities and (2) non-case-related activities.³⁷

1. Case-related time for attorneys includes all time devoted to:

- Pre-trial activities and preparation (in and out of court)
- Client contact
- Legal research (computer and non-computer based)
- Trial
- Sentencing/Post Trial (in and out of court)
- Staff duties
- Waiting time (at court, jail, and D.A.'s offices)

Case-related time for staff includes all time devoted to:

- Intake and eligibility
- Records management
- Secretarial services
- Investigative services
- Legal research
- Social work
- Interpreter services
- Direct attorney support (including in-court support)
- Waiting time in court, jail, and at D.A.'s offices
- Non case-type specific³⁸

2. Non-case-related time for attorneys and staff includes time devoted to:

- Training and conferences
- Travel
- Staff meetings
- Duty work
- Community outreach
- Administrative/personnel tasks
- Attorney (Staff) supervision
- General public relations
- NCSC project (filling out forms/data entry)

The work study groups established a nine-hour work day as the starting point.

For attorneys, one hour was deducted for lunch and breaks, leaving 8 hours. For staff,

³⁷ A more detailed description of the functional areas and non-case-related activities for attorneys and staff can be found in Appendices 3-C and 3-D.

³⁸ For activities where it was difficult to associate time directly to a specific case type (e.g. court run/mail run; locating files, etc.) NMPDD staff was able to choose "non case-type specific" activity.

1.5 hours were deducted to account for a one hour lunch break and two 15 minute breaks, leaving 7.5 hours. Using these figures as a starting point it was determined during the time study that attorneys spend 6.25 hours on case-related activities each day while support staff currently spend 6.5 hours per day on case-related activities.³⁹ These values were adopted by the work study groups as the attorney and staff day. Figure 3.5 provides an overview of the calculation.

Figure 3.5
Calculating the Attorney and Staff Day

Attorney and Staff Day	Attorney	Staff
Total Hours per Day	9.0	9.0
Subtract Lunch and Breaks:	- 1.0	- 1.5
	= 8.0	= 7.5
Total Case-Related	6.25	6.5
Total Non-Case-Related	1.75	1.0
Total Working Hours per Day	= 8.0	= 7.5

C. Attorney Year Value

Multiplying the attorney year (233 days) by the number of hours in a day available for case-related work (6.25 hours) gives the amount of time available per year for attorneys to work on cases. Thus, the attorney year value in NMPDD district offices is 87,375 minutes of case-related time per attorney per year (233 days x 6.25 hours per day x 60 minutes per hour).⁴⁰

D. Staff Year Value

Multiplying the staff year (233 days) by the number of hours in a day available for case-related work (6.5 hours) gives the amount of time available per year for support staff to perform case-related job functions. Thus, the staff year value in NMPDD district offices is 90,870

³⁹ Due to the uniqueness of the Capital Crime's Unit and the requirements that they perform work statewide, a 5.5 hour workday was utilized for both attorneys and staff in the Capital Crime's Unit. These figures were also confirmed by the time study results.

⁴⁰ The attorney and staff year value for the Capital Crime's Unit is 76,890 minutes (233 days x 5.5 hours per day x 60 minutes per hour).

minutes of case related time per NMPDD support staff per year (233 days x 6.5 hours per day x 60 minutes per hour).

VI. Time Study Results for Attorneys and Staff

In order to establish a baseline of current practice, we utilized a Web-based time study which allowed NMPDD attorneys and support staff to report the time they spend on various activities throughout the day, including both case-related and non-case-related activities. Time study data were sought from *all* NMPDD district office attorneys, attorneys in statewide units, and NMPDD staff in order to ensure accurate representation across the state. In addition, *all* contract attorneys, statewide, were invited to track and record all of their activities (case-related and non-case-related) associated with the handling of contract cases. To be consistent with the judge and prosecutor studies, the work study groups agreed upon a six-week time study data collection period beginning October 10, 2006 and concluding on November 19, 2006.

To assist in tracking time, NCSC staff held separate “train the trainer” sessions for attorneys and staff in September 2006 in Albuquerque. The meetings were designed to orient participants to the overall project design and explain how to properly track and record time during the data collection period. The training sessions were held with representatives from each district office, enabling those present to convey the information to each of their colleagues in their respective offices. Additionally the training sessions were videotaped by NMSC staff and distributed to both NMPDD district offices and contract attorneys.

During the course of the six-week time study over 95 percent of all NMPDD attorneys and staff participated in the time study.⁴¹ The high level of participation and the large amount of data collected, cutting across all of the case types and case-related and non-case-related activities, provided NCSC staff a valid and reliable snapshot from which to develop case weights.

A. Preliminary Case Weights for Attorneys

The time collected during the time study allows us to construct preliminary case weights for the case types defined by the attorney work study group. The preliminary case weights were

⁴¹ In addition, 30 contract attorneys from judicial districts without Department offices submitted at least one day's worth of data. Appendix 3-A provides an overview of contract attorney involvement in the current study.

calculated by summing all time recorded for each case type and dividing by the number of open cases for each case type in FY 2005. This result provides a picture of current practice: the average amount of time attorneys and staff, in NMPDD offices, currently spend handling cases from opening to closing of the case.

For example, during the time study NMPDD attorneys in district offices reported a total of 3,371,430 weighted minutes of case-related time devoted to non-violent felony cases.⁴² Dividing the time by the number of FY 2005 open non-violent felony cases, excluding conflict cases, yields a preliminary case weight of 410 minutes. This indicates that on average, NMPDD attorneys are currently spending almost 7 hours on each non-violent felony case from the time the case is opened to the time it is disposed. It is important to emphasize that the preliminary weights represent current practice and the amount of time attorneys and staff are *currently* spending on the handling of cases. The preliminary weights do not capture the time that may be necessary for attorneys and staff to perform essential tasks and functions effectively—the time they *should* be spending. The process of moving from “what is” to “what ought to be” is documented below in this chapter. Figure 3.6 shows the preliminary case weights for attorneys.

Figure 3.6. Preliminary Case Weights (minutes) for NMPDD Attorneys

District Office Case Type	Time (in Minutes)	÷	FY 2005 Open Cases	=	Preliminary Case Weight (minutes)
Murder	307,325	÷	25	=	12,293
Violent Felony	2,058,840	÷	1,368	=	1,505
Non-Violent Felony	3,371,430	÷	8,285	=	410
DWI	1,419,858	÷	4,686	=	303
Misdemeanor	2,965,252	÷	17,756	=	167
Juvenile	1,456,120	÷	4,936	=	295
Probation Violations	490,050	÷	4,455	=	110
Drug Court	82,398	÷	93	=	886
Competency/Mental Health	127,596	÷	196	=	651
Extradition	23,246	÷	394	=	59
Metro/Magistrate Appeals	446,355	÷	109	=	4,095
Statewide Unit Case Type					
Appellate	1,323,848	÷	254	=	5,212
Capital	564,262	÷	19	=	29,698
Habeas	265,188	÷	77	=	3,444
Mental Health	167,360	÷	2,092	=	80

⁴² All time collected during the time study was weighted up to reflect one year of time in order to ensure consistency with the FY 2005 open cases data.

B. Caseloads per Attorney

In addition to developing preliminary case weights, the time study results make it possible to determine the current caseload handled by attorneys—cases per attorney. Cases per attorney represent the maximum annual number of cases an attorney can carry if that attorney handles only that type of case. The number of cases per attorney is calculated by dividing the attorney year value by the case weight. For example, dividing the attorney year value of 87,375 minutes by the case weight for juvenile (295 minutes), results in a caseload of 296 juvenile cases per attorney.

To place the time study results (current practice) into a meaningful context, the preliminary weights can be translated into the number of cases per attorney and directly compared to the caseload standards developed by the National Advisory Commission on Criminal Justice Standards and Goals, adopted by the American Bar Association (ABA). Since the ABA standards take a different form than the 11 district office case type categories used in the current study, we have combined our case types into three categories: felony, misdemeanor, and juvenile.⁴³ As is clear from Figure 3.7, current caseloads for NMPDD attorneys exceed the caseload goals set by ABA. For example, current practice implies that NMPDD attorneys currently handle, on average, 550 misdemeanor cases, well above the maximum number of 400 established by the ABA. The ABA standards will be referenced again later in this chapter to assess the reasonableness of quality adjustments made to the preliminary case weights.

⁴³ The felony category includes both violent and non-violent felony cases. Since the probation violation category for our time study captured both felony and misdemeanor probation violations, we calculated the proportion of felony and misdemeanor open cases to the total criminal open cases. Misdemeanor cases represented 65 percent of all open criminal cases and felony cases amounted to 35 percent of all open criminal cases. Thus, the felony category includes violent and non-violent felony cases plus 35 percent from probation violations. Likewise, the misdemeanor category represents misdemeanor cases plus 65 percent of the probation violation data.

Figure 3.7
ABA Caseload Standards Compared to NMPDD Current Practice

	Cases Per Attorney	
	ABA Standard Caseloads	Current NMPDD Caseloads (Time Study)
Felony	150	175
Felony (including murder)	150	166
Misdemeanor	400	550
Juvenile	200	296
ABA Standard reflects the maximum cases per year as outlined by the National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, 1973, Standard 13.12		

C. Preliminary Case Weights for Staff Members

Calculating preliminary case weights for support staff members is slightly more complex than the calculation for attorneys. For NMPDD attorneys, preliminary case weights are calculated by dividing the time in minutes by the number of open cases, excluding conflict cases. Staff on the other hand performs work (intake and eligibility functions) on cases that are assigned to contract attorneys, in judicial districts with NMPDD offices, when there is a conflict. Therefore, calculating the preliminary case weights for NMPDD support staff necessitates a three-step process. First, the average amount of staff time for all activities *excluding* intake and eligibility activities is calculated. Second, the average amount of time spent performing intake and eligibility functions is calculated. Finally, summing these two figures yields a total preliminary case weight for each case type. Figure 3.8 provides an example of the process for calculating a preliminary case-weight for juvenile cases.

Figure 3.8
Calculating Preliminary Case Weights for Staff, an Example for Juvenile

Step 1: Calculate preliminary case weight excluding intake and eligibility					
District Office Case Type	Time (in Minutes) Excluding Intake & Eligibility	÷	Open Cases Excluding Conflict Cases	=	Case Weight Excluding Intake & Eligibility
Juvenile	1,456,120	÷	4,936	=	295
Step 2: Calculate preliminary case weight intake and eligibility only					
District Office Case Type	Time (in Minutes) Including Intake & Eligibility	÷	Open Cases Including Conflict Cases	=	Case Weight Intake & Eligibility ONLY
Juvenile	165,594	÷	6,369	=	26
Step 3: Calculate total preliminary case weight					
District Office Case Type	Case Weight Excluding Intake & Eligibility	+	Case Weight Intake & Eligibility ONLY	=	Preliminary Case Weight
Juvenile	295	+	26	=	321

In step one the staff time in minutes for all activities excluding intake and eligibility (1,456,120 minutes) is divided by FY 2005 open cases handled, excluding conflict cases (4,936 cases). In step two, the staff time reported during the time study that is spent on intake and eligibility (165,594 minutes) is divided by the number of FY 2005 open cases, including conflict cases (6,369 cases). Summing the two components (step three) results in a preliminary juvenile case weight of 321 minutes. This suggests that staff currently spend, on average, just over 5 hours handling a juvenile case. The preliminary NMPDD staff case weights are shown in Figure 3.9.

Figure 3.9
Preliminary Case Weights (minutes) for NMPDD Staff

District Office Case Type	Preliminary Case Weight (minutes)
Murder	3,651
Violent Felony	1,053
Non-Violent Felony	418
DWI	121
Misdemeanor	181
Juvenile	321
Probation Violations	99
Drug Court	134
Competency/Mental Health	1,463
Extradition	37
Metro/Magistrate Appeals	148
Statewide Unit Case Type	
Appellate	1,155
Capital	20,559
Habeas	1,380
Mental Health	154

VII. Sufficiency of Time and Quality Adjustment

The quality adjustment process for the NMPDD workload study involved two complementary stages. First, a statewide Web-based *sufficiency of time survey* was administered to all NMPDD attorneys and support staff in order to identify resource barriers or “bottlenecks” which may affect attorneys’ and support staff members’ ability to provide quality representation to indigent clients. Second, the survey results were used as a tool to facilitate targeted discussions among two separate focus groups of attorneys and support staff charged with assessing current NMPDD practices.

A. Sufficiency of Time Survey

During the month of February 2007, approximately 88 percent of attorneys and nearly 100 percent of support staff in NMPDD offices completed the survey. Attorneys and staff were asked to identify whether they had sufficient time to complete a core set of essential case-related and non-case-related tasks. The attorney survey collected information across six functional areas (e.g., pre-trial activities and preparation; client contact; legal research) covering 51 key tasks

fundamental to protecting the constitutional rights of the accused. Staff responded to 69 specific tasks from 14 functional areas.⁴⁴

Specifically, for each of the separate tasks, attorneys and staff were asked to evaluate the statement, “I have sufficient time to ...” complete this task within the confines of a standard work week, on a scale ranging from “Almost Never” to “Almost Always.”⁴⁵ In addition, respondents were given the opportunity to answer “Does not apply” if they did not regularly perform a particular task or if that task did not apply to their position.⁴⁶ An example of the survey question addressing bail activities for attorneys is shown in Figure 3.10 below.

Figure 3.10
Sufficiency of Time Questions Regarding Bail Activities

I have sufficient time . . .		Almost Never	Seldom	Occasionally	Frequently	Almost Always
With Respect to Bail						
1	to prepare for and participate in initial bond or detention hearings	1	2	3	4	5
2	to prepare for and participate in bond reconsideration hearings	1	2	3	4	5

B. Attorney and Staff Focus Groups

Two separate focus groups (attorneys and staff) of seasoned experts from representative NMPDD offices across the state were convened in March 2007 to consider the results from the time study. The preliminary case weights derived from the time study represent “what is,” not “what ought to be.” Accordingly, the preliminary weights may not capture the time that may be necessary for attorneys and staff to perform essential tasks and functions effectively. The focus groups examined current practice as measured by the time study, the sources of concern

⁴⁴ Initial drafts of the survey were vetted by staff from the NMPDD, NMSC, and the New Mexico Center on Law and Poverty. A more complete list of attorney and staff functional areas and tasks can be found in Appendices 3-C and 3-D.

⁴⁵ As outlined in Section V of this report, a standard attorney work week is 40 hours and a standard staff week is 37.5 hours.

⁴⁶ In addition to the structured questions on the survey, attorneys and staff were given the opportunity to provide open-ended responses. For example, one attorney stated: “I do the best I can with the time I have but I really need to have fewer cases if I am to have an appropriate level of client communication, better preparation for sentencing, more time to address probation violation issues, and better preparation for trial in general.”

identified by the time sufficiency survey, as well as personal experiences to make recommendations on the final attorney and staff workload standards.

Since it is often difficult for focus groups to interpret and evaluate the time per case depicted by the time study case weights, the preliminary case weights were disaggregated into their individual event components. This allowed the subject matter experts to look “inside” each of the preliminary case weights to understand where and how attorneys and staff currently spend their time handling cases. When current practice was deemed insufficient, focus groups recommended quality adjustments to specific event times within particular case types to ensure effective representation. For example, during the time study attorneys reported that they spend on average 303 minutes on every DWI case. Of this, 187 minutes is spent on pre-trial/preparation. Based on discussions with the attorney focus group, it was determined that additional pre-trial/preparation time is needed: for brainstorming and discussing DWI cases with colleagues, for conducting investigations and discovery, to visit crime scenes, and to review tapes and interviews. As Figure 3.11 shows, the 187 minutes was increased to 225 minutes. A similar process was followed for each of the 6 activities that occur over the life of a DWI case.⁴⁷

Figure 3.11
Quality Adjustment, an Example for Pre-Trial/Preparation, DWI

DWI	
Time Study (minutes)	Quality Adjusted (minutes)
Pre-Trial/Preparation 187	225

The attorney focus group reviewed 90 distinct events where adjustments were possible (15 case types * 6 events). Of these 90 decision points, quality adjustments were made to 21 events. For staff, there were 150 possible changes (15 case types * 10 activities) and 38

⁴⁷ Activities for attorneys included, Pre-Trial/Preparation, Client Contact, Legal Research, Trial, Post-Judgment/Sentencing, and “Other”. The “Other” category included waiting time at the jail, DA’s office, and court. “Other” also included “staffing duties” for tasks that attorneys perform that may be clerical in nature. The total time reported by NMPDD attorneys performing staff functions totaled more than 300,000 minutes in a year, which translates to approximately 3 FTE attorneys performing staff duties across the state. Since these duties should primarily be performed by support staff, the work study groups agreed to reduce this time by 75 percent for the purposes of calculating the case weights. It was agreed that 25 percent of this time is necessary as there are times (e.g. evenings) when attorneys may be required to perform such tasks as making photocopies.

adjustments were made.⁴⁸ When a quality adjustment to a case weight was recommended, each focus group was asked to provide a rationale and justify any increase in attorney or staff time.⁴⁹ All quality adjustment recommendations were brought back to the work study groups for review, modification, and adoption. The quality adjusted workload standards are displayed in Figure 3.12. The adopted quality adjusted workload standards have a direct impact on total workload and ultimately the overall implied need. This relationship is the focus of section VIII.

Figure 3.12
Final Attorney and Staff Workload Standards (minutes)

District Office Case Type	Quality Adjusted Workload Standards	
	Attorneys	Staff
Murder	12,154	4,632
Violent Felony	1,774	1,415
Non-Violent Felony	509	551
DWI	439	255
Misdemeanor	225	201
Juvenile	348	454
Probation Violations	129	147
Drug Court	861	163
Competency/Mental Health	661	1,391
Extradition	58	103
Metro/Magistrate Appeals	4,061	226
Statewide Unit Case Type		
Appellate	5,174	1,091
Capital	29,544	26,947
Habeas	3,444	1,397
Mental Health	80	225

C. Caseloads per Attorney – Workload Standards

Similar to the process outlined earlier in the chapter, the workload standards can be translated into the number of cases per attorney and directly compared to the ABA caseload standards. During the quality adjustment process some of the preliminary case weights were adjusted resulting in a lowering of the number of cases currently handled by each NMPDD attorney. A comparison to the ABA standards shows that the quality adjustments are reasonable as they bring the number of cases closer in alignment with the ABA caseload standards. For

⁴⁸ For staff these activities included Direct Attorney Support, In-Court Support, Intake & Eligibility, Interpreter Services, Investigative Services, Legal Research, Records Management, Secretarial Services, Social Work, and “Other”. “Other” Included waiting time at the jail, DA’s office, and court.

⁴⁹ A detailed listing of all quality adjustments can be found in Appendices 3-E and 3-F.

example, current practice implies that NMPDD attorneys handle, on average, 550 misdemeanor cases, well above the maximum number of 400 established by the ABA. The quality adjustment suggests that NMPDD attorneys should handle 414 cases per attorney, slightly in excess of the ABA caseload standards. The ABA caseload standards and the current and quality adjusted NMPDD caseloads are reported in Figure 3.13.

Figure 3.13
ABA Caseload Standards Compared to NMPDD Quality-Adjusted Caseloads

	Cases Per Attorney		
	ABA Standard Caseloads	Current NMPDD Caseloads (Time Study)	Quality Adjusted NMPDD Caseloads
Felony	150	175	144
Felony (including murder)	150	166	138
Misdemeanor	400	550	414
Juvenile	200	296	251

ABA Standard reflects the maximum cases per year as outlined by the National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, 1973, Standard 13.12

VIII. Attorney and Staff Resource Needs

In order to determine the implied staffing needs for NMPDD attorneys and support staff, the final workload standards were applied to open cases in FY 2005. Implied need is determined by first calculating the workload by multiplying each case weight by the number of open cases for that case type. The resulting workload is then divided by the attorney or staff year value, which results in the implied number of attorneys or staff needed to handle the total yearly workload. The number of additional attorneys or staff members needed can be determined by subtracting the current number of attorneys and staff from the total implied need.

A. NMPDD Attorney Need

Figure 3.14 contains the implied need calculations for NMPDD attorneys. For example, applying the workload standard of 509 minutes for non-violent felony cases to FY 2005 open cases (8,223) generates a workload of over 4 million minutes. Dividing the non-violent felony workload by the attorney year value (87,375) translates into a need of approximately 48 NMPDD

attorneys, statewide, to handle the non-violent felony caseload. Across the 15 case types there is a need for 209.7 attorneys. Subtracting the current number of NMPDD attorneys (169 FTE) from the implied need shows that New Mexico needs an additional **40.7** FTE attorneys in NMPDD offices and statewide units.

Figure 3.14
Implied Need for NMPDD Attorneys Statewide

Case Types	Workload Standard (Minutes)	x	FY 2005 Open Cases	=	Workload (Minutes)	÷	Attorney Year Value (minutes)	=	Implied Need (FTE)
Murder	12,154	x	25	=	303,850	÷	87,375	=	3.5
Violent Felony	1,774	x	1,368	=	2,426,832	÷	87,375	=	27.8
Non-Violent Felony	509	x	8,223	=	4,185,507	÷	87,375	=	47.9
DWI	439	x	4,686	=	2,057,154	÷	87,375	=	23.5
Misdemeanor	225	x	17,756	=	3,995,100	÷	87,375	=	45.7
Juvenile	348	x	4,936	=	1,717,728	÷	87,375	=	19.7
Probation Violation	129	x	4,455	=	574,695	÷	87,375	=	6.6
Drug Court	861	x	93	=	80,073	÷	87,375	=	.9
Competency/Mental Health	661	x	196	=	129,556	÷	87,375	=	1.5
Extradition	58	x	394	=	22,852	÷	87,375	=	.3
Metro/Magist/Muni. Appeals	4,061	x	109	=	442,649	÷	87,375	=	5.1
Statewide Units									
Appellate	5,174	x	254	=	1,314,196	÷	87,375	=	15.0
Capital	29,544	x	19	=	561,336	÷	76,890	=	7.3
Habeas	3,444	x	77	=	265,188	÷	87,375	=	3.0
Mental Health	80	x	2,092	=	167,360	÷	87,375	=	1.9
									209.7
									18,244,076

B. NMPDD Staff Need

Just as calculating the preliminary case weights for support staff contained additional steps, determining the implied need also involves a multi-step process. First, we calculate the workload excluding intake and eligibility. Next we calculate the workload for intake and eligibility only. In step three these two figures are summed to create the total workload, by case type, which is used to determine implied need. Figure 3.15 provides an illustration of these calculations for juvenile cases.

Figure 3.15
Calculating Juvenile Workload for Support Staff

Step 1: Calculating Workload (minutes) Excluding Intake and Eligibility					
District Office Case Type	Open Cases Excluding Conflict cases	x	Workload Standard Excluding Intake (minutes)	=	Workload Excluding Intake and Eligibility
Juvenile	4,936	x	419	=	2,068,184
Step 2: Calculating Workload (minutes) for Intake and Eligibility Only					
District Office Case Type	Open Cases Including Conflict cases	x	Intake and Eligibility Workload Standard (minutes)	=	Intake and Eligibility Workload
Juvenile	6,369	x	35	=	222,915
Step 3: Summing Intake and Non-Intake Workload (minutes) to Calculate Total Workload					
District Office Case Type	Workload Excluding Intake and Eligibility	+	Intake and Eligibility Workload	=	Total Workload (minutes)
Juvenile	2,068,184	+	222,915	=	2,291,099
Step 4: Calculating Implied Attorney Need (FTE)					
District Office Case Type	Total Workload (minutes)	÷	Staff Year Value (minutes)	=	Implied Need (FTE)
Juvenile	2,291,099	÷	90,870	=	25.2

Figure 3.16 presents the implied staff need for all case types. The total implied need for support staff statewide is 180.4 FTE staff. Subtracting the current number of support staff (135 FTE) from the implied needs results in a need for an additional **45.4 FTE NMPDD** staff.

Figure 3.16
Implied Need for NMPDD Support Staff Statewide

Case Types	Total Workload (minutes)	÷	Staff Year Value (minutes)	=	Implied Need (FTE)
Murder	116,640	÷	90,870	=	1.3
Violent Felony	1,966,205	÷	90,870	=	21.6
Non-Violent Felony	4,669,123	÷	90,870	=	51.4
DWI	1,240,115	÷	90,870	=	13.6
Misdemeanor	3,636,086	÷	90,870	=	40.0
Juvenile	2,291,099	÷	90,870	=	25.2
Probation Violation	656,001	÷	90,870	=	7.2
Drug Court	15,264	÷	90,870	=	.2
Competency/Mental Health	272,986	÷	90,870	=	3.0
Extradition	42,297	÷	90,870	=	.5
Metro/Magist/Muni. Appeals	24,809	÷	90,870	=	.3
Statewide Units					
Appellate	279,074	÷	90,870	=	3.1
Capital	511,993	÷	76,890	=	6.7
Habeas	107,569	÷	90,870	=	1.2
Mental Health	470,700	÷	90,870	=	5.2
	16,299,961				180.4

IX. Conclusion

The workload standards proposed by the work study groups and approved by the Advisory Committee indicate the need for an additional 40.7 FTE attorneys and 45.4 FTE staff to provide effective assistance of counsel in NMPDD offices across the state. See Figure 3.17.

Figure 3.17.
Additional FTE Needs for New Mexico Public Defender Department⁵⁰

Staff Type	Total Need	Available FTE	Additional FTE Needed
Attorneys	209.7	169	40.7
Support Staff ⁵¹	180.4	135	45.4

⁵⁰ Total need is based on FY 2005 open cases (the latest full year for which data were available during this study). FTE counts are as provided by the New Mexico Public Defender Department, and they reflect FY 2006 FTE personnel levels. FTE counts do not include new positions authorized in the 2007 legislative session. This count reflects only the work of Public Defender Department offices and excludes contract attorneys. (See Appendix 3-A for more about the results of contract attorney participation in the time study for this assessment.)

⁵¹ Excludes FTE counts of financial positions that do not perform case-related work.

The workload standards are grounded in current practice (as measured by the time study) and adjusted for quality by members of the work study groups.

Recommendations

Three recommendations are made below that will improve New Mexico's ability to maintain the integrity of the workload standards.

1. Annual Recalculations and Quality of Case Counting. NCSC recommends that NMPDD attorney and staff need be calculated on an annual basis using the most recent open cases data. Calculating need on a yearly basis necessitates that open cases be counted consistently and accurately for all case type categories defined in this chapter. As such, NMSC and NMPDD staff should work together to standardize aspects of the current NMPDD case management system. In addition, to ensure accuracy and reliability a protocol for acquiring data should be developed and regular and thorough auditing and feedback for correcting data collection and reporting problems should be implemented.

2. Accommodating Changes over Time. As we note in Chapters One and Two above with regard to judges and prosecutors' offices, the integrity of workload standards for indigent defenders can be affected by multiple influences over time, including, but not limited to, changes in legislation, legal practice, technology and administrative factors. As such, a systematic update of the workload standards should be conducted approximately every five years. This process should be undertaken under the auspices of work study groups similar to those involved in this study.

3. Contract Attorneys. While the current study was not initially intended to develop workload standards for contract attorneys, there was agreement that contract attorneys should participate. Notwithstanding this, and despite efforts by NCSC, NMSC, NMPDD, NM Center on Law and Poverty staff, and members of the private bar to ensure sufficient contract attorney participation, the data received from contract attorneys was insufficient to draw valid and reliable conclusions about the way cases are handled by contract attorneys (see Appendix 3-A). For success in constructing a profile of the way cases are currently—and should be handled by contract attorneys—a separate, in-depth focused study of contract attorneys should be undertaken. A study of this nature might explore not only how much time contract attorneys spend on indigent defense cases, but also the efficacy of contract attorney representation.

APPENDICES

APPENDIX 1-A
JUDICIARY CASE TYPES:
DISTRICT COURT, BERNALILLO METRO COURT AND
MAGISTRATE'S COURT

District Court Case Types

Case Types:	FACTS Case Types
District Court	
Death Penalty Cases	FH0 Felony homicide
Homicide	FVH Felony vehicular homicide
	FFD Felony – first degree
Sex Offense	FSX Felony sexual offenses
Drug Crimes	FDG Felony drug offense
Felony DWI	FDW Felony DWI/DUI
Property	AMV Adult motor vehicle offenses FPP Felony crimes against property
Other Violent	FDV Felony domestic violence FPE Felony crimes against the person
Other	FHB Felony habitual FMS Felony miscellaneous felony FPS Felony public safety XTD Extradition
Adult Misdemeanor	MDW Misdemeanor DWI/DUI MSD Misdemeanor LCA Lower court appeal LDW Lower court appeals DWI/DUI
Protection Order	DVL Domestic violence
Domestic Relations	DCS Child support * (Find a way to identify these cases w/in DR) DCV Custody and visitation DDC Dissolution with custody DDN Dissolution DKG Domestic kinship/guardianship DMS DM Miscellaneous DPA Parentage (drop box/indicator for CSED)
Civil (may want to disaggregate, if data are available)	ENV Environmental issues HBC Habeas corpus KDM Contract/debt & money due KSL Student loans LCC Lower court competency LRA License revocation appeal

	APP Civil appeals MMS Miscellaneous civil PBE Probate estates PKG Probate/kinship/guardianship PLW Lifetime wills PNF Probate, formal no will PPP Probate protective proceedings PSM Probate miscellaneous RES Real estate SAD Adult adoption SJV Juvenile adoption SMH SQ mental health SMS SQ miscellaneous STD Sexually transmitted diseases TAU Tort auto TAX Tax TMP Tort malpractice, prod. liability TRT Tort VSO Civil violation, statutes, ordinances OTH Other
Abuse & Neglect	JAN Juvenile abuse and neglect
Juvenile Mental Health	JMH Juvenile mental health
Juvenile Delinquency	JDF Juvenile delinquent felony JDG Juvenile drug offenses JDM Juvenile delinquent non felony JDW Juvenile DWI offenses JGF Juvenile graffiti offenses JHO Juvenile homicide JMV Juvenile motor vehicle offenses JPE Juvenile crimes against the person JPP Juvenile crimes against property JPS Juvenile crime against public safety JSC Juvenile substance abuse commit JSX Juvenile sex offenses JTC Juvenile truancy

	JVH Juvenile vehicular homicide YDG youth offender drug offense YDW youth offender DWI YHO youth offender homicide YMS youth offender miscellaneous YPE youth offender person crimes YPP youth offender property crimes YPS youth offender public safety YSX youth offender sex offenses YVH youth offender vehicular homicide
Other Juvenile (civil)	JAD juvenile adoption FTP Juvenile TPR JFN Juvenile CHINS FINS JEM Juvenile emancipation JGM V guardian of a minor JMS Juvenile miscellaneous JEX Juvenile extradition
Water (stream adj.)	WTR Water
Specialty Court: Adult Drug	
Specialty Court: Juvenile Drug	
Specialty Court: Family Drug	
Specialty court: Mental Health	
Specialty Court: Domestic Violence	
Other	

Bernalillo Metro Court Case Types

Case Types: Metro Court
Felony
Misdemeanor
Domestic Violence
DWI
Traffic
Civil
Landlord Tenant
Parking
Violation of City/County Ordinance
Miscellaneous
Specialty Court: Mental Health
Specialty Court: DWI
Specialty Court: Homeless
Specialty Court: DVROP
Specialty Court: EIP
Specialty Court: Competency Program

Magistrate's Court Case Types

Case Types:	FACTS Case Types
Metro Court	
Felony	FR felony IR DWI felony VFR Domestic violence felony
Misdemeanor	MR Misdemeanor
Domestic Violence	VMR Domestic Violence misdemeanor
DWI	DR DWI misdemeanor
Traffic	TR Traffic PR Parking
Civil	ET Erroneous tax intercept FD forcible detainer GC General civil IN Interpleader LV Livestock MP Mobile home park
Landlord Tenant	LT Landlord – tenant
Juvenile	JDH Juvenile detention hearing
Extradition	ER Extradition
Specialty Court: DWI	
Specialty Court: Teen	
Specialty Court: Drug	
Specialty Court: DV	
Miscellaneous	MS Miscellaneous
Other Bail	OJB Other jurisdiction bail
Search Warrant	SW Search warrant

APPENDIX 1-B
JUDICIARY CASE-SPECIFIC AND NON-CASE-SPECIFIC
ACTIVITIES:
DISTRICT COURT, BERNALILLO METRO COURT AND
MAGISTRATE’S COURT

District Court Case-Specific Activities

1. 1st Appearance/arraignment
2. Probable cause determination
3. Hearings/motions
4. Post-judgment hearings/motions
5. Case preparation/research
6. Bench trial (contested adjudication)
7. Jury trial
8. Disposition/sentencing hearing
9. Case related administration
10. Warrant
11. Probation violation hearing
12. Case related travel
13. Specialty court: in court activity
14. Specialty court: staffing

Bernalillo Metro Court Case-Specific Activities

1. Felony 1st Appearance
2. Arraignment
3. Pre-trial conference
4. Hearings/motions
5. Damages hearing (landlord-tenant)
6. Restitution (landlord-tenant)
7. Case preparation/research
8. Bench trial
9. Jury trial
10. Disposition/sentencing hearing
11. Case related administration
12. Warrant : Appear and Comply
13. Warrant: Search/Arrest
14. Warrant: Probation Violation
15. Post-judgment collections
16. Specialty court: in court activity
17. Specialty court: staffing

Magistrate's Court Case-Specific Activities

1. 1st Appearance/arraignment
2. Pre-trial conference
3. Probable cause determination/completeness of forms
4. Hearings/motions
5. Case preparation/research
6. Bench trial
7. Jury trial
8. Disposition/sentencing hearing
9. Case related administration
10. Signing Bench Warrant (includes both Failure to Appear and Failure to Comply)
11. Warrant: Search/Arrest
12. Probation violation hearing
13. Post-judgment hearing
14. Case related travel
15. Specialty court: in court activity
16. Specialty court: staffing

Non-Case-Specific Activities District, Bernalillo Metro, and Magistrate's Courts

1. Education and training
 - Conferences (out of state and local)
 - Continuing education
 - Professional development
 - State-wide judicial meetings
 - On-line courses related to judicial work
 - Local bar-sponsored training events
2. Community activities, education, speaking engagements
 - Speaking at local bar luncheon, high school class or Rotary Club
 - Preparing for and officiating at weddings for which you are not paid
3. Committee and work related meetings
 - State committee work
 - Local committee work
 - Local meetings with agency representatives
4. Travel time (work related – or reimbursable - travel ONLY)
 - Any work related travel that is eligible for reimbursement
5. General legal research
 - Non-case specific legal reading/research
 - Reading law journals, professional literature
 - Research/reading to keep you abreast of legislative changes, legal opinions, etc.
6. Non-case related administration
 - Personnel issues
 - Case assignment
 - Internal staff meetings
7. Leave (vacation, illness)
 - Vacation
 - Sick leave
 - Personal leave
 - Family medical leave
8. NCSC project time
 - Time spent recording activities for the NCSC time study
9. Other
 - Any non-case specific activities that are not included in this list but are required of you in your judicial officer position.
10. Conducting weddings
 - Conducting weddings as part of your official duties as a judicial officer

APPENDIX 1-C
JUDICIAL NEED DETAILS:
DISTRICT COURT, BERNALILLO METRO COURT AND
MAGISTRATE’S COURT

New Mexico District Court Model Detail

	Case Type	Case Weight (Minutes)	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12	District 13	STATE
Criminal	1 Homicide	1,773.00	12	15	4	3	23	6	7	3	8	4	9	3	24	121
	2 Sex Offense	712.00	39	137	38	8	50	11	8	8	23	5	45	23	42	437
	3 Drug Crimes	150.00	195	1,298	426	118	430	295	128	78	289	89	367	323	292	4,328
	4 Felony DWI	107.00	59	296	284	37	46	24	39	22	56	6	291	52	62	1,274
	5 Property	87.00	256	1,855	355	69	507	136	136	109	310	23	440	109	321	4,626
	6 Other Violent	139.00	289	1,145	349	123	284	181	127	103	218	37	281	220	381	3,738
	7 Other Felony	138.00	94	621	129	85	137	86	48	42	154	64	180	226	258	2,124
	8 Adult Misdemeanor	118.00	1	694	91		68	13	1	4	132		39	36		1,079
	9 Juvenile Delinquency	74.00	493	2,189	499	149	589	171	270	207	241	35	506	201	515	6,065
Civil	10 Civil Contract	28.00	1,597	6,792	1,280	451	1,731	477	373	386	484	103	1,416	635	2,061	17,786
	11 Civil Tort	84.00	406	1,367	187	74	179	45	40	85	69	9	168	61	225	2,915
	12 Civil Complex	539.00	424	1,591	181	113	229	70	79	121	83	24	213	138	310	3,576
	13 Civil other	51.00	1,333	3,619	749	575	955	330	289	357	313	119	800	421	1,053	10,913
	14 Other Juvenile (civil)	37.00	82	242	34	23	92	13	9	22	36	12	49	24	48	686
Specialty	15 Adult Drug	94.00	73	234	49				8	24			91		22	501
	16 Juvenile Drug Court	512.00	62	35	31	12		8		23			36	17	56	280
	17 Family Drug	922.00		6	23		18									47
	18 Mental health Court	94.00	27	52												79
	19 Domestic Violence Court	94.00	0	89	0	0	0	0	0	0	0	0	6	0	0	95
Other	20 Protection Order	77.00	1,231	2,277	741	229	1,130	350	291	268	572	100	1,212	606	1,154	10,161
	21 Domestic Relations	144.00	1,562	5,115	1,574	442	1,780	590	271	480	705	116	1,538	738	1,438	16,349
	22 Abuse & Neglect	665.00	60	122	44	33	119	35	23	22	37	11	75	24	43	648
	23 Juvenile Mental Health	2.00	1	1,127	985		6			1						2,120
	24 Water (stream adj.)	6.00	21		10,242		2,409						22			12,694
25 Total Filings		8,317	30,918	18,295	2,544	10,782	2,841	2,147	2,365	3,730	757	7,784	3,857	8,305	102,642	
26 Case-Specific Workload (Weights x Filings)		975,882	3,410,678	879,941	297,827	992,473	339,793	246,622	291,063	443,385	98,018	881,942	463,325	931,932	10,252,881	
27 Judge Average Annual Availability		125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	
28 State holidays (- 11 days)		5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	
29 Vacation (-20 days)		9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	
30 Personal/Sick Days (- 4 days)		1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	
31 Administrative leave/education (- 11 days)		5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	
35 Non-case related Time (2 hrs/day)		25,800	25,800	25,800	25,800	25,800	25,800	25,800	51,600	51,600	25,800	25,800	25,800	25,800	25,800	
32 Availability for Case-Specific Work		77,400	77,400	77,400	77,400	77,400	77,400	51,600	51,600	77,400	77,400	77,400	77,400	77,400	77,400	
34 FTE Judge Demand		12.61	44.07	11.37	3.85	12.82	4.39	4.78	5.64	5.73	1.27	11.39	5.99	12.04	135.94	
35 Judicial Off. Time: Criminal		196,622	1,000,627	273,298	78,530	299,902	128,335	97,687	70,455	191,836	43,210	278,409	166,082	277,490	3,102,483	
36 Jud. Off. Time: Civil		378,373	1,356,076	188,564	109,927	239,044	72,177	71,457	102,188	81,380	23,089	211,180	119,645	299,177	3,252,277	
37 Jud. Off. Time: Spec. Court		41,144	58,702	41,684	6,144	16,596	4,096	752	14,032	0	0	27,550	8,704	30,740	250,144	
38 Jud. Off. Time: Other		359,743	995,273	376,395	103,226	436,931	135,185	76,726	104,388	170,169	31,719	364,803	168,894	324,525	3,647,977	
39 Jud. Off. Demand: Criminal		2.54	12.93	3.53	1.01	3.87	1.66	1.89	1.37	2.48	0.56	3.60	2.15	3.59	37.58	
40 Jud. Off. Demand: Civil		4.89	17.52	2.44	1.42	3.09	0.93	1.38	1.98	1.05	0.30	2.73	1.55	3.87	39.28	
41 Jud. Off. Demand: Spec. Court		0.53	0.76	0.54	0.08	0.21	0.05	0.01	0.27	0.00	0.00	0.36	0.11	0.40	2.93	
42 Jud. Off. Demand: Other		4.65	12.86	4.86	1.33	5.65	1.75	1.49	2.02	2.20	0.41	4.71	2.18	4.19	44.11	
43 Total Jud. Off. Demand		12.61	44.07	11.37	3.85	12.82	4.39	4.78	5.64	5.73	1.27	11.39	5.99	12.04	135.94	

New Mexico Bernalillo Metro Court Model Detail

	Case Type	Case wgt (Minutes)	Annual Filings
Criminal	1 Felony	6.00	6,012
	2 Misdemeanor	20.00	20,674
	3 Domestic Violence (Misd)	65.00	4,328
	4 DWI	90.00	6,041
Civil	5 Civil - General	17.00	6,623
	6 Landlord Tenant (Restitution)	8.00	9,333
Specialty Court	7 Specialty Court DVROP	54.00	59
	8 Specialty Court DWI	79.00	361
	9 Specialty Court EIP	17.00	244
	10 Specialty Court Homeless	17.00	128
	11 Specialty Court MH	61.00	98
Other	12 Miscellaneous	159.00	0
	13 Traffic	4.00	70,212
	14 Parking	1.00	2,770
15	Total Filings		126,883
16	Case-Specific Workload (Weights x Filings)		1,789,442
17	Judge Average Annual Availability		125,280
18	State holidays (- 11 days)		5,280
19	Vacation (-20 days)		9,600
20	Personal/Sick Days (- 4 days)		1,920
21	Administrative leave/education (- 11 days)		5,280
22	Non case related time (2 hrs/day)		25,800
23	Availability for Case-Specific Workload		77,400
24	Case Related Judge Demand		23.12
25	Judge Time: Criminal		1,274,562
26	Judge Time: Civil		187,255
27	Judge Time: Specialty Court		44,007
28	Judge Time: Other		283,618
29	Judge Demand: Criminal		16.47
30	Judge Demand: Civil		2.42
31	Judge Demand: Specialty Court		0.57
32	Judge Demand: Other		3.66

New Mexico Magistrate's Court Model Detail (page 1)

County		Case wgt (Minutes)	Catron	Catron	Chaves	Cibola	Colfax	Colfax	Colfax	Curry	De Baca	Dona Ana
Location			Quemado	Reserve	Roswell	Grants	Cimarron	Raton	Springer	Clovis	Fort Sumner	Anthony
Criminal	1 Felony w/ grand jury	31.00					0	2				0
	2 Felony w/o grand jury	75.00	4	24	715	356			173	909	20	
	3 DWI	100.00	9	30	216	263	0	57	8	314	7	0
	4 Misdemeanor	45.00	51	113	1,014	569	16	467	104	948	93	372
	5 Domestic Violence	69.00	3	8	258	109	1	41	15	184	1	0
Civil	6 Civil	30.00	7	10	1,072	295	5	138	30	815	20	206
	7 Landlord Tenant	27.00	0	0	351	64	1	28	6	374	1	36
Other	8 Traffic	11.00	142	238	2,270	1,658	54	1,092	453	2,607	526	3,286
	9 Extradition	20.00	0	5	48	14	0	11	0	66	2	0
10	Total Filings		216	428	5,944	3,328	77	1,836	789	6,217	670	3,900
11	Case-Specific Workload (Weights x Filings)		5,474	13,455	206,224	115,222	1,560	46,734	25,535	219,476	12,907	60,038
12	Magistrate Average Annual Availability		125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280
13	State holidays (- 11 days)		5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280
14	Vacation (-20 days)		9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600
15	Personal/Sick Days (- 4 days)		1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920
16	Administrative leave/education (- 11 days)		5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280
17	Non Case Related Time/Travel (1.5 hrs/day)		19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350
18	Availability for Case-Specific Workload		83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850
19	Case Related FTE magistrate Demand		0.07	0.16	2.46	1.37	0.02	0.56	0.30	2.62	0.15	0.72
20	FTE Judge Resource Predicted Demand		0.07		2.46	1.37	0.02			2.62	0.15	0.72
21	Magistrate Time: Criminal		3702	10437	138657	86126	789	29606	19490	154931	6454	16740
22	Magistrate Time: Civil		210	300	41637	10578	177	4896	1062	34548	627	7152
23	Magistrate Time: Other		1562	2718	25930	18518	594	12232	4983	29997	5826	36146
24	Magistrate Demand: Criminal		0.04	0.12	1.65	1.03	0.01	0.35	0.23	1.85	0.08	0.2
25	Magistrate Demand: Civil		0	0	0.5	0.13	0	0.06	0.01	0.41	0.01	0.09
26	Magistrate Demand: Other		0.02	0.03	0.31	0.22	0.01	0.15	0.06	0.36	0.07	0.43

New Mexico Magistrate's Court Model Detail (page 2)

County		Dona Ana	Dona Ana	Eddy	Eddy	Grant	Grant	Guadalupe	Guadalupe	Harding	Hidalgo	
Location		Hatch	Las Cruces	Artesia	Carlsbad	Bayard	Silver City	Santa Rosa	Vaughn	Roy	Lordsburg	
Criminal	1 Felony w/ grand jury	31.00	0	1,136								
	2 Felony w/o grand jury	75.00		193	354	38	268	100	0	12	176	
	3 DWI	100.00	0	1,080	30	124	59	80	32	0	3	74
	4 Misdemeanor	45.00	35	2,509	297	679	207	526	274	0	33	487
	5 Domestic Violence	69.00	0	367	73	195	31	198	17	0	6	24
Civil	6 Civil	30.00	16	1,843	248	444	32	547	37	0	3	49
	7 Landlord Tennant	27.00	6	1,215	91	205	12	73	10	0	0	14
Other	8 Traffic	11.00	278	8,889	789	1,627	569	1,123	1,846	7	183	1,986
	9 Extradition	20.00	0	135	12	34	0	10	2	0	1	25
	10 Total Filings	335	17,174	1,733	3,662	948	2,825	2,318	7	241	2,835	
	11 Case-Specific Workload (Weights x Filings)	5,275	470,018	54,693	120,392	27,747	96,366	45,929	77	5,222	68,365	
	12 Magistrate Average Annual Availability	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	
	13 State holidays (- 11 days)	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	
	14 Vacation (-20 days)	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	
	15 Personal/Sick Days (- 4 days)	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	
	16 Administrative leave/education (- 11 days)	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	
	17 Non Case Related Time/Travel (1.5 hrs/day)	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	
	18 Availability for Case-Specific Workload	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	
	19 Case Related FTE magistrate Demand	0.06	5.61	0.65	1.44	0.33	1.15	0.55	0.00	0.06	0.82	
	21 Magistrate Time: Criminal	1575	281444	35877	82960	20204	65432	24203	0	3099	44171	
	22 Magistrate Time: Civil	642	88095	9897	18855	1284	18381	1380	0	90	1848	
	23 Magistrate Time: Other	3058	100479	8919	18577	6259	12553	20346	77	2033	22346	
	24 Magistrate Demand: Criminal	0.02	3.36	0.43	0.99	0.24	0.78	0.29	0	0.04	0.53	
	25 Magistrate Demand: Civil	0.01	1.05	0.12	0.22	0.02	0.22	0.02	0	0	0.02	
	26 Magistrate Demand: Other	0.04	1.2	0.11	0.22	0.07	0.15	0.24	0	0.02	0.27	

New Mexico Magistrate's Court Model Detail (page 3)

County			Lea	Lea	Lea	Lea	Lea	Lincoln	Lincoln	Los Alamos	Luna	McKinley
Location			Eunice	Hobbs	Jal	Lovington	Tatum	Carrizozo	Ruidoso	Los Alamos	Deming	Gallup
Criminal	1 Felony w/ grand jury	31.00								52		
	2 Felony w/o grand jury	75.00	36	793	12	199	6	65	201		498	896
	3 DWI	100.00	18	32	0	57	1	21	175	20	129	742
	4 Misdemeanor	45.00	34	333	3	254	5	246	400	95	680	1,602
	5 Domestic Violence	69.00	8	189	1	55	2	9	60	25	159	410
Civil	6 Civil	30.00	21	938	9	194	5	36	260	47	132	1,448
	7 Landlord Tennant	27.00	4	219	0	51	0	5	118	12	50	110
Other	8 Traffic	11.00	211	1,093	29	508	11	463	1,153	113	1,901	4,561
	9 Extradition	20.00	2	63	3	42	0	12	0	1	80	49
10	Total Filings		334	3,660	57	1,360	30	857	2,367	365	3,629	9,818
11	Case-Specific Workload (Weights x Filings)		9,681	138,037	1,753	49,475	1,184	25,214	78,384	12,609	119,642	339,341
12	Magistrate Average Annual Availability		125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280
13	State holidays (- 11 days)		5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280
14	Vacation (-20 days)		9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600
15	Personal/Sick Days (- 4 days)		1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920
16	Administrative leave/education (- 11 days)		5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280
17	Non Case Related Time/Travel (1.5 hrs/day)		19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350
18	Availability for Case-Specific Workload		83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850
19	Case Related FTE magistrate Demand		0.12	1.65	0.02	0.59	0.01	0.30	0.93	0.15	1.43	4.05
21	Magistrate Time: Criminal		6582	90701	1104	35850	913	18666	54715	9612	91821	241780
22	Magistrate Time: Civil		738	34053	270	7197	150	1215	10986	1734	5310	46410
23	Magistrate Time: Other		2361	13283	379	6428	121	5333	12683	1263	22511	51151
24	Magistrate Demand: Criminal		0.08	1.08	0.01	0.43	0.01	0.22	0.65	0.11	1.1	2.88
25	Magistrate Demand: Civil		0.01	0.41	0	0.09	0	0.01	0.13	0.02	0.06	0.55
26	Magistrate Demand: Other		0.03	0.16	0	0.08	0	0.06	0.15	0.02	0.27	0.61

New Mexico Magistrate's Court Model Detail (page 4)

County		McKinley	Mora	Otero	Quay	Rio Arriba	Rio Arriba	Roosevelt	San Juan	San Juan	
Location		Thoreau	Mora	Alamogordo	Tucumcari	Chama	Espanola	Portales	Aztec	Farmington	
Criminal	1 Felony w/ grand jury	31.00				18	512				
	2 Felony w/o grand jury	75.00	0	80	776	377		179	1,070	1,065	
	3 DWI	100.00	0	20	172	66	31	244	140	192	
	4 Misdemeanor	45.00	0	160	1,217	608	205	471	523	1,464	812
	5 Domestic Violence	69.00	0	16	257	24	20	112	55	266	394
Civil	6 Civil	30.00	0	26	749	254	5	469	225	521	1,939
	7 Landlord Tennant	27.00	0	1	227	29	0	55	62	161	294
Other	8 Traffic	11.00	1	391	2,847	2,453	207	1,482	1,618	2,735	1,907
	9 Extradition	20.00	0	0	49	27	0	9	19	71	44
10	Total Filings	1	694	6,294	3,838	486	3,354	2,821	6,786	6,647	
11	Case-Specific Workload (Weights x Filings)	11	21,412	208,794	99,817	16,690	101,232	81,357	265,766	250,766	
12	Magistrate Average Annual Availability	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	
13	State holidays (- 11 days)	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	
14	Vacation (-20 days)	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	
15	Personal/Sick Days (- 4 days)	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	
16	Administrative leave/education (- 11 days)	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	
17	Non Case Related Time/Travel (1.5 hrs/day)	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	
18	Availability for Case-Specific Workload	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	
19	Case Related FTE magistrate Demand	0.00	0.26	2.49	1.19	0.20	1.21	0.97	3.17	2.99	
21	Magistrate Time: Criminal	0	16304	147898	63891	14263	69195	54755	214284	162801	
22	Magistrate Time: Civil	0	807	28599	8403	150	15555	8424	19977	66108	
23	Magistrate Time: Other	11	4301	32297	27523	2277	16482	18178	31505	21857	
24	Magistrate Demand: Criminal	0	0.19	1.76	0.76	0.17	0.83	0.65	2.56	1.94	
25	Magistrate Demand: Civil	0	0.01	0.34	0.1	0	0.19	0.1	0.24	0.79	
26	Magistrate Demand: Other	0	0.05	0.39	0.33	0.03	0.2	0.22	0.38	0.26	

New Mexico Magistrate's Court Model Detail (page 5)

County		San Miguel	Sandoval	Sandoval	Santa Fe	Santa Fe	Sierra	Socorro	Taos	Taos	Torrance
Location		Las Vegas	Bernalillo	Cuba	Pojoaque	Santa Fe	T or C	Socorro	Questa	Taos	Estancia
Criminal	1 Felony w/ grand jury	31.00			0	1,276			0	185	
	2 Felony w/o grand jury	75.00	752	788	56		148	311			53
	3 DWI	100.00	218	239	71	0	594	80	196	1	167
	4 Misdemeanor	45.00	855	1,072	306	24	1,492	611	1,035	106	578
	5 Domestic Violence	69.00	107	327	11	0	487	51	125	11	88
Civil	6 Civil	30.00	381	292	31	0	937	130	106	21	171
	7 Landlord Tennant	27.00	49	359	6	0	575	41	23	5	64
Other	8 Traffic	11.00	2,199	3,456	1,218	271	5,754	1,349	2,067	348	1,154
	9 Extradition	20.00	5	0	0	0	48	2	3	0	12
10	Total Filings	4,566	6,533	1,699	295	11,163	2,412	3,866	492	2,419	228
11	Case-Specific Workload (Weights x Filings)	161,100	210,272	40,319	4,061	307,588	70,000	124,723	10,222	74,309	10,704
12	Magistrate Average Annual Availability	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280	125,280
13	State holidays (- 11 days)	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280
14	Vacation (-20 days)	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600	9,600
15	Personal/Sick Days (- 4 days)	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920
16	Administrative leave/education (- 11 days)	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280	5,280
17	Non Case Related Time/Travel (1.5 hrs/day)	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350	19,350
18	Availability for Case-Specific Workload	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850	83,850
19	Case Related FTE magistrate Demand	1.92	2.51	0.48	0.05	3.67	0.83	1.49	0.12	0.89	0.13
21	Magistrate Time: Criminal	124058	153803	25829	1080	199699	50114	98125	5629	54517	9761
22	Magistrate Time: Civil	12753	18453	1092	0	43635	5007	3801	765	6858	201
23	Magistrate Time: Other	24289	38016	13398	2981	64254	14879	22797	3828	12934	742
24	Magistrate Demand: Criminal	1.48	1.83	0.31	0.01	2.38	0.6	1.17	0.07	0.65	0.12
25	Magistrate Demand: Civil	0.15	0.22	0.01	0	0.52	0.06	0.05	0.01	0.08	0
26	Magistrate Demand: Other	0.29	0.45	0.16	0.04	0.77	0.18	0.27	0.05	0.15	0.01

New Mexico Magistrate's Court Model Detail (page 6)

		County	Torrance	Union	Valencia	Valencia	STATE	
		Location	Moriarty	Clayton	Belen	Los Lunas		
Criminal	1	Felony w/ grand jury	31.00				3,181	
	2	Felony w/o grand jury	75.00	177	111	491	272	12,718
	3	DWI	100.00	92	33	210	82	6,926
	4	Misdemeanor	45.00	342	70	721	575	25,736
	5	Domestic Violence	69.00	36	20	111	69	5,037
Other Civil	6	Civil	30.00	97	27	431	252	15,954
	7	Landlord Tennant	27.00	74	5	80	112	5,277
	8	Traffic	11.00	1,360	487	1,761	2,047	76,629
	9	Extradition	20.00	15	4	3	10	939
	10	Total Filings		2,193	757	3,808	3,419	152,397
11 Case-Specific Workload (Weights x Filings)			60,517	22,537	132,450	92,537	3,779,682	
12 Magistrate Average Annual Availability			125,280	125,280	125,280	125,280	125,280	
13 State holidays (- 11 days)			5,280	5,280	5,280	5,280	5,280	
14 Vacation (-20 days)			9,600	9,600	9,600	9,600	9,600	
15 Personal/Sick Days (- 4 days)			1,920	1,920	1,920	1,920	1,920	
16 Administrative leave/education (- 11 days)			5,280	5,280	5,280	5,280	5,280	
17 Non Case Related Time/Travel (1.5 hrs/day)			19,350	19,350	19,350	19,350	19,350	
18 Availability for Case-Specific Workload Case Related FTE magistrate Demand			83,850	83,850	83,850	83,850	125,280	
19 Demand			0.72	0.27	1.58	1.10	56.47	
21 Magistrate Time: Criminal			40349	16155	97929	59236	3250734	
22 Magistrate Time: Civil			4908	945	15090	10584	621099	
23 Magistrate Time: Other			15260	5437	19431	22717	861699	
24 Magistrate Demand: Criminal			0.48	0.19	1.17	0.71	39	
25 Magistrate Demand: Civil			0.06	0.01	0.18	0.13	7	
26 Magistrate Demand: Other			0.18	0.06	0.23	0.27	10	

APPENDIX 1-D
JUDICIAL NEED QUALITY ADJUSTMENTS AND RATIONALE

Judicial Need Quality Adjustments and Rationale Bernalillo Metro Court

Case Type	Original Weight (minutes)	Adjusted Weight (minutes)	Comments
Felony	6	6	Case weight was not adjusted.
Misdemeanor	14	20	Misdemeanor cases in Metro Court will be increased by changes in Supreme Court Rule 7504, which will require additional time for pretrial hearings and discovery issues. Time was also added (2 minutes per case) to increase time for case preparation and research, both of which were areas identified as needing more time in the Adequacy of Time Survey.
Civil	13	17	The Adequacy of Time Survey indicated the need for more research and bench trial time for civil cases. To address these needs, 2 minutes were added to each case for each category, increasing the original weight by 4 minutes from 13 to 17 minutes per civil case.
Landlord/Tenant	27	27	Case weight was not adjusted.
Domestic Violence	58	65	The Adequacy of Time Survey indicated the need for more case processing time in Domestic Violence case. Also, Rule 7504, which will require pretrial hearings for these cases, was considered in adjusting the case weight. In total, 7 minutes were added to the original case weight, adjusting it from 58 to 65 minutes.
DWI	77	90	The Adequacy of Time Survey indicated that DWI cases are being tried now more than ever. Also, since cases heard in Metro Court cannot be appealed, and because of increased penalties on misdemeanor DWIs, many more defendants choose to have a trial for these case types. Finally, Rule 7504 will also impact DWIs. For all of these reasons, 13 minutes was added to the DWI case weights, adjusting it from 77 to 90 minutes.
Miscellaneous	159	159	Case weight was not adjusted. This case type includes a variety of things, and the case weight was believed to be accurate.
Traffic	4	4	Case weight was not adjusted.
Parking	1	1	Case weight was not adjusted.
DVROP - Specialty Court	54	54	Case weight was not adjusted.
DWI - Specialty Court	79	79	Case weight was not adjusted.
EIP - Specialty Court	2	17	Case weight was adjusted to equate to Homeless Court. Only 1 activity on one case was reported on during the study period.
Homeless - Specialty Court	14	17	Committee agreed that court time for Homeless Court cases should be at least 4 minutes, as opposed to the 1 minute reported in the time study, the weight was adjusted by 3 minutes to reflect this.
Mental Health - Specialty Court	61	61	Case weight was not adjusted.

Judicial Need Quality Adjustments and Rationale Magistrate's Court

Case Type	Original Weight (minutes)	Adjusted Weight (minutes)	Comments
Felony (with Grand Jury)	49	31	Committee asked NCSC to re-compute felony into two weights: one for counties that use Grand Juries exclusively and one for the counties that do not use Grand Juries and must hold preliminary exams. NMAOC staff provided NCSC with a list of counties in which Grand Juries are conducted (Colfax, Dona Ana, Los Alamos, Rio Arriba, Santa Fe and Taos). Five other counties (Cibola, Otero, Lincoln, Sandoval and Valencia use Grand Juries approximately 35% of the time; these counties were included in the non-Grand Jury weight. These case weight adjustments resulted in two weights: 31 minutes for Grand Jury locations and 75 minutes for preliminary exams locations.
Felony (without Grand Jury)	n/a	75	
DWI	95	100	Committee agreed that, given recent changes in DWI laws and the fact that more defendants are asking for trials, the case weight should be increased to incorporate an additional 5 minutes to all cases, to account for an increase in trials. These concerns were supported by the Adequacy of Time Survey in which many respondents indicated that DWI trials are becoming more time consuming.
Traffic	11	11	No changes were made to the traffic weight. The 11 minute weight will replace the current weight of 17 minutes (from the 1995 workload study).
Civil	27	30	Respondent comments on the Adequacy of Time Survey indicated that civil cases frequently take more time to research and prepare for and that the civil litigation is possibly the most time consuming work for magistrates. Based upon these comments, and the general consensus of the work group, 3 minutes were added to the case weight for all civil cases, to increase research capacity.
Misdemeanor	45	45	No changes were made to the misdemeanor weight. The 45 minute weight will replace the current weight of 32 minutes (from the 1995 workload study).
Landlord Tenant	27	27	No changes were made to the landlord-tenant weight. The 27 minute weight will replace the current weight of 55 minutes (from the 1995 workload study). Much of the decrease in time related to this case type was attributed to better forms and better preparation and expectations by litigants.
Domestic Violence	69	69	No changes were made to the domestic violence weight. The 69 minute weight will replace the current weight of 38 minutes (from the 1995 workload study). The committee agreed that the increase measured through the workload study adequately addresses the changes that have occurred in this case type since the last study.

APPENDIX 2-A
DISTRICT ATTORNEY ACTIVITY CODES FOR EACH STAFF TYPE

District Attorneys' Office Attorneys: General Definitions and Code Definitions for the Daily Time & Activity Sheet

General Definitions

In this study the following **Case Definitions** apply:

- Each case is defined as any information that comes to a prosecutor's office requiring prosecutor activity and the assignment of a unique identifier.
- Cases are counted by individual defendant, by incident, and by the most serious charge or count that is being handled at the time.
- Cases that involve multiple defendants should be counted and recorded with separate entries for each defendant.
- Cases that involve multiple charges/counts associated with a single incident should be recorded with the most serious charge as the case type.

Activity Code Definitions

Case-Related Activities

20. Case Screening/Initiation – includes all time associated with the following activities, *prior to the filing of charges*: responding to a law enforcement/public inquiry whether or not a charge is authorized; working with law enforcement task forces on case development; screening potential cases/warrants; interviewing victim/witnesses; conducting investigations at a crime scene or viewing evidence; preparing and issuing warrants, complaints, or indictments; preparing for direct presentment to the grand jury; collecting, reading, and reviewing preliminary reports; legal research on a specific case; and pre-charge case discussions with law enforcement, prosecution colleagues, defense counsel, etc.

21. Case Preparation – includes time spent on a case *after a warrant has been issued, charge has been filed, or a True Bill has been returned* associated with the following activities: continuing investigation; interviewing victims; preparing witnesses; preparing for pre-trial hearings and motions; conducting legal research for a specific case; plea negotiations/settlements/nolle prosequi; and preparing subpoenas, jury instructions, and trial notebooks.

22. Post-Adjudication Activities – includes time spent responding to victim inquiries and subsequent victim contact, collection of fines and restitution, preparing for post-adjudication trials/hearings and appeals, and responding to parole review board requests.

23. Case-Related Administration – includes time spent on case-related work that cannot be allocated in 10 minute increments to any one case, such as preparing a docket, discussions with a supervisor about the handling of a number of cases, brief conversations with counsel, or a brief review of multiple files, or being on-call.

24. Probation Revocation Technical – includes time spent out of court on a probation revocation for a technical violation of a case that has previously been adjudicated.

In-Court Activities

30. Limited Jurisdiction Court Proceedings – includes time spent in a Court of **Limited** jurisdiction for misdemeanors and felonies, including arraignments, hearings; trial on the merits; and dispositional hearings such as dismissals and guilty pleas. Due to the nature of **Limited Court** activity, this also includes in-court time spent talking to witnesses and attorneys.

31. Juvenile Court Proceedings – includes time spent in Juvenile Court for delinquency and status offense proceedings and dispositional hearings including waiver hearings. Does not include criminal court proceedings involving juveniles who have been waived to adult court.

32. Grand Jury Proceedings – includes time spent making direct presentments to a grand jury, managing or preparing witnesses during grand jury proceedings, conducting or monitoring proceedings, and providing guidance to the grand jury.

33. Pre-Trial Hearings/Motions (General Jurisdiction Court) – includes the time spent in court for bond docket and modification hearings; other administrative docket control activities; arraignments; motions; and dispositional hearings such as dismissals and recording of guilty pleas.

34. Bench Trial (General Jurisdiction Court) – includes the time spent in court from when the judge takes the bench until he/she reaches a decision. A contested motion or hearing is not included.

35. Jury Trial (General Jurisdiction Court) – includes the time spent in court for a jury trial from when the judge takes the bench to the rendering of the verdict. This includes selecting a jury and waiting for the jury to return if waiting time is less than one-half day AND no other chargeable work was performed. If chargeable work is performed during this waiting period, it should be allocated to the appropriate category as a separate entry. If jury waiting time exceeds one-half day, and no other chargeable work is performed, charge time to case-related administration.

36. Post-Adjudication/Trial Hearings – includes time spent in court for sentencing hearings, probation revocation, post-conviction relief, parole hearings, and appeals from lower courts.

37. In-Court Waiting – includes idle time spent in the courtroom or within the courthouse waiting for your case to be called. It does not include time spent waiting for the jury to return. If the waiting time is spent conducting another activity, e.g., conferring

with colleagues on another case, or working on another case, the time should be recorded as a separate case-related activity.

Non-Case Related Activities

40. Non-Case Administration – includes time spent doing legal research that cannot be attributed to a specific case, staff meetings, drafting possible legislation, and general office and administrative tasks.

41. Community/Outreach Activities – includes time spent fielding phone calls from the public (unrelated to the initiation of a case) and making referrals; responding to media inquiries; attending community meetings; conducting liaison activities with community organizations, victims groups, and service providers; crime prevention activities; and other various civic activities performed for work.

42. Law Enforcement Coordination Activities – includes time spent conducting law enforcement in-service training and time spent participating in a general or an administrative capacity in various Federal, state, or local law enforcement task forces; does *not* include working with law enforcement organizations or task forces on case investigation or development.

43. Professional Development – includes time spent attending state and local prosecutor association committee meetings, participating in continuing legal education and training, and attendance at professional conferences or seminars.

44. Travel – the amount of time spent traveling from the office to court or other work-related places (e.g., crime scene). Do not include time spent commuting between home and office.

45. Lunch/Personal Time – includes time spent during normal office hours on break, at lunch, or away from the office on personal business.

District Attorneys' Office Investigators: General Definitions and Code Definitions for the Daily Time & Activity Sheet

General Definitions

In this study, the following **Case Definitions** apply:

- Each case is defined as any information pertaining to a criminal matter that comes to a prosecutor's office requiring investigation, review, or other action.
- Cases are counted by individual defendant, by incident, and by the most serious charge or count that is being handled at the time.
- Cases that involve multiple defendants should be counted and recorded with separate entries for each defendant.
- Cases that involve multiple charges/counts associated with a single incident should be recorded with the most serious charge as the case type.

Activity Code Definitions

Case-Related Activities

20. Case Screening/Initial Investigation – includes all time associated with the following activities, *prior to the filing of charges, an accusation, or indictment*: working with law enforcement on case development; screening potential cases/warrants; investigating citizen complaints; locating and interviewing victims/witnesses; conducting new investigations, investigations at crime scenes, or viewing evidence; collecting, reading, and reviewing preliminary reports; preparing accusations; pre-charge case discussions with law enforcement, prosecutors, etc.; preparing for grand jury and transporting witnesses to grand jury; and preparing paperwork to transfer case to district attorney.

21. Case Preparation – includes time spent on a case *after the filing of charges, an accusation, or indictment* associated with the following activities: reviewing case files; continued investigation; collecting reports and certified copies of prior convictions; processing evidence; preparing and serving subpoenas; conducting background investigations on defendants, victims, jurors, and witnesses; preparing tapes, exhibits, and charts for trial; scheduling hearings; and locating and transporting victims/witnesses for interviews and court appearances.

22. Post-Adjudication Investigation and Other Activities – includes time spent storing/disposing evidence; re-investigation for appealed convictions; and responding to restitution inquiries.

23. General Case-Related Investigative Activities—includes time spent on case-related work that cannot be allocated in 10-minute increments to any one case, such as

maintaining the evidence vault, preparing weekly/monthly reports, conducting records checks on multiple cases, and case-related phone calls on multiple cases.

24. Probation Revocation Technical – includes time spent in or out of court on a probation revocation for a technical violation of a case that has previously been adjudicated.

In-Court Activities

30. Limited Jurisdiction Court Proceedings – includes time spent in courts of limited trial jurisdiction such as Magistrate, Municipal or Metropolitan Court, including appearances in court for arraignments, hearings, trial on the merits, and dispositional hearings such as dismissals and guilty pleas. Due to the nature of limited court activity, this also includes in-court time spent talking to victims/witnesses and attorneys.

31. Juvenile Court Proceedings – includes time spent in juvenile court for delinquency and status offense proceedings and dispositional hearings including waiver hearings. Does not include criminal court proceedings involving juveniles who been waived to adult court, or proceedings in juvenile court on dependency cases.

32. Grand Jury Proceedings – includes time spent testifying before grand juries and coordinating witness appearances during grand jury proceedings.

33. Pre-Trial Hearings/Motions (General Jurisdiction Court) – includes time spent in state or superior court for pre-trial hearings or motions including giving testimony and taking notes and assisting the prosecutor.

34. Bench Trials (General Jurisdiction Court) – includes the time spent in court from when the judge takes the bench until he/she reaches a decisions. A contested motion or hearing is not included.

35. Jury Trials (General Jurisdiction Court) – includes the time spent in court for a jury trial from when the judge takes the bench to the rendering of a verdict. This includes selecting a jury and waiting for the jury to return if waiting time is less than one-half day AND no other chargeable work was performed. If chargeable work is performed during this waiting period, it should be allocated to the appropriate category as a separate entry. If jury waiting time exceeds one-half day and no other chargeable work is performed, charge time to case-related administration.

36. Post-Adjudication Trial/Hearings – includes time spent in court for sentencing hearings, probation revocation, post-conviction relief, parole hearings, and appeals from lower courts.

37. In-Court Waiting – includes idle time spent in the courtroom or within the courthouse waiting for your case to be called. It does not include time spent waiting for the jury to return. If the waiting time is spend conducting another activity, e.g.,

conferring with colleagues on another case, or working on another case, the time should be recorded as a separate activity.

Non-Case Related Activities

40. Non-Case Administration – includes time spent processing mail, attending staff meetings, completing monthly reports, or supervising personnel.

41. Community/Outreach Activities – includes time spent handling general information inquiry phone calls (unrelated to the initiation of a case), attending community meetings, conducting liaison activities with community organizations, conducting crime prevention activities, and other civic activities performed for work.

42. Law Enforcement Coordination Activities – includes time spent conducting law enforcement in-service training and time spent participating in a general or an administrative capacity in various federal, state, or local law enforcement task forces; does *not* include working with law enforcement agencies or task forces on case development.

43. Professional Development – includes time spent attending professional association or committee meetings, participating (attending or serving as a trainer for) training or certification courses.

44. Travel – the amount of time spent traveling for work-related activities such as transporting evidence, collecting reports, court appearances, etc.

45. Lunch/Personal Time – includes time spent during normal office hours on break, at lunch, or away from the office on personal business, as well as time off for vacations, sick leave, and holidays.

District Attorneys' Office Victim/Witness Advocates/Coordinators: General Definitions and Code Definitions for the Daily Time & Activity Sheet

General Definitions

In this study, the following **Case Definitions** apply:

- Each case is defined as any information pertaining to a criminal matter that comes to a prosecutor's office requiring investigation, review, or other action.
- Cases are counted by individual defendant, by incident, and by the most serious charge or count that is being handled at the time.
- Cases that involve multiple defendants should be counted and recorded with separate entries for each defendant.
- Cases that involve multiple charges/counts associated with a single incident should be recorded with the most serious charge as the case type.

Activity Code Definitions

Case-Related Activities

20. Case Initiation – includes all time associated with the following activities, *prior to the filing of charges, an accusation, or indictment*: contacting victims/witnesses by phone or in person shortly after the crime, but before charges are filed; working with investigators to locate and interview victims/witnesses; collecting, reading, and reviewing police reports to identify victims/witnesses and obtaining contact information; reviewing investigator's reports; mailing information to victims, and on-call crime scene assistance activities.

21. Case-Related Written Notification – includes time spent on a case *after the filing of charges, an accusation, or indictment* associated with the following activities: case-related work such as preparing and mailing victim assistance information brochures or notification letters (notification letters include letters that provide information about crime victims' rights and the criminal justice system process, court dates, case disposition); letters confirming case-related meetings, etc.; verifying addresses for such mailings; and supervising interns/volunteers in the performance of these activities.

22. Victim/Witness Assistance Services/Telephone Contact – includes time spent *making telephone contact* on a case *after the filing of charges, an accusation, or indictment* associated with the following activities: case-related *telephone contact* with victims/witnesses and others to provide assistance services, such as discussing a plea agreement with a victim or witness, explaining upcoming court proceedings; explaining how to complete case-related forms (e.g., victim impact statements, crime victims' compensation or restitution documentation); providing referrals to local service

providers; acting as a liaison between the attorneys and the victims/witnesses; responding to requests related to victim/witness protection; providing victims/witnesses with support and counseling; arranging for transportation for victims/witnesses to court proceedings or case-related meetings; contacting agencies and service providers regarding cases; obtaining or verifying phone numbers, reviewing case files, and performing other necessary preparation for such calls; and supervising interns/volunteers in the performance of these activities.

23. Victim/Witness Assistance Services/Face-to-Face Contact – includes time spent *face-to-face* with victims/witnesses or other agencies and service providers on a case *after the filing of charges, an accusation, or indictment* associated with the following activities: meeting with a victim or witness to discuss a plea; conducting an interview; explaining upcoming court proceedings; explaining how to complete case-related forms (such as victim impact statements, crime victims’ compensation or restitution documentation); providing referrals to local service providers; supervising interns/volunteers in the performance of these activities; conducting “Kids’ Court” classes or groups; responding to requests related to victim/witness protection; providing victims/witnesses emergency/crisis assistance; counseling victims; running support groups; transporting victims/witnesses to court proceedings or case-related meetings; meeting with service providers; and time spent reviewing files and preparing for such meetings.

24. Post-Adjudication Activities – includes time spent on post-adjudication activities, whether written notification, phone, or in person including notification (case disposition, sentencing and orders of restitution, information about corrections victim notification procedures); responding to victim inquiries and contacts; preparing and sending victim contact information to corrections agencies; responding to requests related to appealed convictions, and supervising interns/volunteers in the performance of these activities.

25. Case-Related Administration – includes time spent on case-related activities that cannot be allocated in 10 minute increments to any one case, or is associated with the following activities: preparing dockets; responding to discovery requests; updating victims’/witnesses’ addresses and contact information in databases and case files; scheduling interviews with victims/witnesses for prosecutors; and discussing cases with other advocates, supervisors, or attorneys.

In-Court Activities

30. Grand Jury Proceedings – includes time spent coordinating victim/witness appearances during grand jury proceedings and accompanying victims/witnesses to appearances at grand jury proceedings.

31. Pre-Trial Hearings/Motions – includes time spent in court for pre-trial hearings or motions including taking notes and assisting the prosecutor, escorting victims/witnesses to and from court, and attending calendar calls.

32. Bench or Jury Trials – includes the time spent working with victims/witnesses in the courtroom or in close proximity to the courtroom during bench or jury trials from when the judge takes the bench to the rendering of a verdict. This includes time during jury selection and waiting for the jury to return if waiting time is less than one-half day AND no other chargeable work was performed. Victim/witness assistance activities include coordinating the flow of witnesses as directed by the prosecutor, accompanying victims in the courtroom, assisting victims/witnesses in the designated waiting area, or providing information to victims about progress in the trial. If other chargeable work (on cases not in trial) is performed during this waiting period, it should be allocated to the appropriate category as a separate entry. If jury waiting time exceeds one-half day and no other chargeable work is performed, charge time to case-related administration.

33. Sentencing Hearings/Victim Impact Statements – includes time spent in court during victim or community impact statements, either accompanying victims to make impact statements or assisting or delivering impact statements.

34. Post-Adjudication Trial/Hearings – includes time spent in court for probation revocation, post-conviction relief, parole hearings, and appeals from lower courts.

35. In-Court Waiting – includes idle time spent in the courtroom or within the courthouse waiting for your case to be called. **It does not include time spent waiting for the jury to return, if the waiting time is spent conducting another activity, e.g., conferring with colleagues on another case, talking with victims or witnesses about the upcoming events, or working on another case.** Such time should be recorded as a separate activity.

Non-Case Related Activities

40. General Office/Administrative Activities – includes time spent coordinating the placement and initial training/orientation of volunteers; preparing victim/witness assistance program brochures and other written “promotional” or “informational” materials, drafting program policies/procedures, developing lists of service delivery resources for referrals, attending staff meetings, supervising staff (not case-specific), writing grant proposals or preparing grant budgets; conducting administrative activities required by grants or contracts, and producing statistical reports of services provided.

41. Community/Outreach Activities – includes time spent handling general information inquiry phone calls (unrelated to the initiation or conduct of a case); attending community meetings; conducting liaison activities with community organizations; planning and participating in National and local Crime Victims’ Rights Week activities; conducting community presentations on crime victims rights and services, crime prevention activities, and other civic activities performed for work; and participating in state or local multi-disciplinary meetings (not-case related).

42. Law Enforcement Coordination Activities – includes time spent conducting law enforcement in-service training and time spent participating in a general or an

administrative capacity in various federal, state, or local law enforcement task forces; does *not* include working with law enforcement agencies or task forces on case development.

43. Professional Development – includes time spent attending professional association or committee conferences/meetings, participating (attending or serving as a trainer for) training or certification courses.

44. Travel – the amount to time spent traveling for work-related activities such as traveling to meet with a victim or attend a local or state meeting, transporting evidence, collecting reports, court appearances, etc.

45. Lunch/Personal Time – includes time spent during normal office hours on break, at lunch, or away from the office on personal business as well as time off for vacations, sick leave, and holidays.

**District Attorneys' Office Support Staff:
General Definitions and
Code Definitions for the Daily Time & Activity Sheet**

Case-Related Activities

20. File Preparation and Maintenance – includes time spent setting up and maintaining case files; assigning case numbers; obtaining reports for investigator/attorney review (such as warrants and law enforcement reports); locating witnesses; requesting evidence; and entering case information into a case management/tracking system.

21. Typing and Document Production – includes time spent preparing, typing and producing case-related documents such as subpoenas; notices for arraignments, motions, etc.; witness lists; transportation orders; evidence logs; bond hearings and “30-day” lists; dismissal letters; grand jury dockets; accusations/indictments; pre-sentencing orders; and briefs.

22. Case Preparation and Administration – includes time spent filing court document and retrieving court papers from clerks' offices; processing warrants; preparing discovery and copying case materials; compiling or preparing exhibits for trials (videotapes, photographs, pictures, charts, or tables); arranging for special needs such as translators; locating victims/witnesses; case-related phone calls; and general case-related clerical activities not defined in other categories.

23. Scheduling – includes time spent scheduling arraignments, grand juries, hearings/motions, and trials; preparing court calendars; maintaining attorneys' calendars; and scheduling interviews with victims, witnesses, and law enforcement officers.

24. Post-Adjudication Activities – includes time spent closing out cases after adjudication on such tasks as reviewing files for completeness, filing disposition sheets, destroying documents, and copying case materials.

In-Court Activities

30. Arraignments – includes time spent in court for arraignments.

31. Grand Jury Proceedings Preliminary Hearings, and other Pre-trial Hearings/Motions – includes time spent in-court attending or assisting with grand jury proceedings, preliminary hearings, and other pre-trial hearing and motions.

32. Bench/Jury Trial – includes time spent in court for bench or jury trials from the time when the judge takes the bench to the rendering of the verdict. This includes selecting a jury and waiting for the jury to return if waiting time is less than one-half day AND no other chargeable work was performed. If chargeable work is performed during this

waiting period, it should be allocated to the appropriate category as a separate entry. If jury waiting time exceeds one-half day and no other chargeable work is performed, charge time to case preparation and administration.

33. Post-Adjudication – includes time spent in court for post-adjudication activities such as sentencing hearings, probation revocations, and appeals.

34. In-Court Waiting – includes time spent in court idly waiting for cases to be called or during court recess when no other chargeable work is performed.

Non-Case Related Activities

40. Non-Case Related Clerical Activities – includes time spent answering phones, greeting the public and office visitors, processing and delivering in-coming and out-going office mail, and typing and copying of non-case related matters.

41. Office Administration – includes supervising staff, ordering office supplies, maintaining the library, training new staff on policies/procedures and computers, computer and file maintenance/storage, facilities management, preparing grants and budgets, and accounts payable and receivable.

42. Administrative Support for Community Outreach – includes time spent preparing speeches, talking points, and resource materials.

43. Professional Development – includes time spent attending job-related trainings and conferences and certification.

44. Travel – includes time spent traveling by car or foot to and from work-related activities (does not include commuting to and from home).

45. Lunch/Personal Time – includes time away from work on breaks, lunch, or personal leave, as well as time off for vacation, sick leave, or holidays.

APPENDIX 2-B
DISTRICT ATTORNEY CASE TYPE CODES

District Attorney Case Type Code Definitions

1. **Capital Offense** includes any offense in which the state is considering filing a notice of intent to seek the **death penalty** or has filed such notice.
2. **Criminal Homicide** includes **1st and 2nd degree** murder, **attempted 1st and 2nd degree** murder and **manslaughter** homicides.
3. **Rape/Sexual Offenses** includes all felony **rape crimes** including felony **spousal and statutory rape**, felony **sexual assault**, and felony **incest**.
4. **Other Violent Felonies** includes all degrees of felony violent crimes against persons such as **robbery; aggravated assault** or the intentional, felonious threat, show of force or movement that could reasonably make a person feel in danger of physical attack or harmful physical contact in conjunction with the use of a deadly weapon; **kidnapping**, the felonious holding of a person or persons against their will and/or by force; and any other type of **violent felony** criminal charge which does not fit into one of the other categories listed.
5. **Felony Property Offenses** includes all degrees of felony property crimes such as the felonious **breaking and entering** of a dwelling, business, or motor vehicle of another with the intent to commit a felony of theft; the felonious **theft of property** from another, including auto theft and all other felony thefts and forgeries; felonious **larceny of property** from another, including motor vehicles, embezzlement; and all other felonious larcenies. Also includes, **economic crime/major fraud** or the felonious and unlawful conspiracy to relieve another of their funds or property through trick, deceit or economic disadvantage by an individual or organized group of individuals, including home owners or business scams, telemarketing, or other over-the-telephone solicitation, sweepstakes, or other unsolicited offers.
6. **Felony Drug Offenses** includes felony charges related to the possession; procurement; distribution; or conspiracy to distribute, sell, or use any criminally scheduled narcotic.
7. **Felony DWI** includes all felony driving a vehicle while intoxicated offenses.
8. **Other Miscellaneous Felony** includes any other type of felony criminal charge which does not fit into one of the other categories listed above.
9. **Misdemeanor DWI** includes all misdemeanor driving a vehicle while intoxicated offenses.
10. **Misdemeanor Offenses** includes all misdemeanor offenses.
11. **Juvenile Offenses** includes all juvenile cases (status and delinquency offenses) and juvenile waivers before transfer to adult court, and abuse and neglect offenses.
12. **Civil** Includes cases involving Habeas Corpus and Competency/Mental Health hearings

APPENDIX 2-C
DISTRICT ATTORNEY CASE ENHANCER CODES

District Attorney Case Enhancers

Certain factors that affect case complexity and increase the amount of time necessary to process the case are called an “enhancers.” Case enhancers are defined as follows:

- 90. Child Victim/Witness** – includes a victim or witness under the age of 16 years.
- 91. Senior Victim/Witness** – includes a victim or witness over the age of 65 years.
- 92. Victim/Witness with Disability** – includes a victim/witness physically or mentally impaired as defined by the Americans with Disabilities Act.
- 93. Defense by Reason of Insanity** – includes the defense of not guilty due to a defect of reason produced by a disease of the mind which caused an inability to know right from wrong, or to cause an irresistible impulse to act in a criminal manner.
- 94. Language Barriers/Cultural Diversity** – includes the inability to communicate with victims, witnesses, or defendants due to the presence of a language or custom different from that used by a preponderance of society, and which makes assistance difficult or requires additional resources.
- 95. Habitual Offender**– includes cases in which the state is seeking to have a person sentenced as a habitual/repeat offender under the habitual offender statute.
- 96. Gang-Related** – includes cases involving the criminal activities of a known individual gang member acting on the gang’s behalf.
- 97. Complex Evidence** - includes cases that involve complex evidence such as financial records, computer evidence, scientific evidence, DNA evidence, or reluctant/uncooperative victims or witnesses.
- 98. Domestic Violence** - includes cases that involve the commission of a violent person crime between spouses, significant others/partners, or parents and children including stalking and terroristic threats.
- 99. Out-of-State Parties** - includes cases that involve defendants, victims, or witnesses that have fled to or reside in another state.
- 100. Retained/Private Counsel** - includes cases in which the defense counsel is a private attorney that has been retained by the counsel as compared with a public defender.

APPENDIX 2-D

**DISTRICT ATTORNEYS' OFFICES – PROPORTIONAL ALLOCATION OF
ADDITIONAL PERSONNEL NEEDS**

**DISTRICT ATTORNEYS' OFFICES –
PROPORTIONAL ALLOCATION OF ADDITIONAL PERSONNEL NEEDS**

Agency	Current Attorneys	Additional Attorneys	Current Investigators	Additional Investigators	Current Victim Witness	Additional Victim Witness	Current Support Staff	Additional Support Staff	Current Agency Total	Additional FTE
1	29	3.7	2	0.4	6	0.3	29	1.1	66	5.5
2	111	14.1	11	2.1	15	0.75	146	5.5	283	22.5
3	23	2.9	2	0.4	6	0.3	38	1.4	69	5.0
4	12	1.5	3	0.6	2	0.1	20	0.8	37	2.9
5	21	2.7	4	0.8	4	0.2	28	1.1	57	4.7
6	13	1.7	6	1.1	5	0.25	16	0.6	40	3.6
7	12	1.5	3	0.6	1	0.05	16	0.6	32	2.7
8	9	1.1	3	0.6	3	0.15	16	0.6	31	2.5
9	12	1.5	3	0.6	3	0.15	16	0.6	34	2.8
10	4	0.5	1	0.2	1	0.05	5	0.2	11	0.9
11 div 1	22	2.8	4	0.8	7	0.35	29	1.1	62	5.0
11 div 2	10	1.3	2	0.4	1	0.05	25	1.0	38	2.6
12	15	1.9	3	0.6	2	0.1	30	1.1	50	3.7
13	31	3.9	3	0.6	4	0.2	19	0.7	57	5.4
	324	41.1	50	9.4	60	3.0	433	16.5	867	70

APPENDIX 3-A
TIME STUDY RESULTS FOR INDIGENT DEFENSE CONTRACT
ATTORNEYS

Time Study Results for Indigent Defense Contract Attorneys

After the commencement of the current study, an agreement was reached that the NCSC project team should seek to develop case weights for both attorneys in judicial districts with NMPDD offices and for contract attorneys who are sole providers of indigent defense services in judicial districts without NMPDD offices. To accomplish this goal it was necessary for contract attorneys to fully participate in **all** phases of the project. A brief account of the efforts undertaken to ensure participation, contract attorney participation at the different stages of the project, and the consequences associated with low contract attorney participation rates are outlined below.

Obtaining Contract Attorney FTE Status

As a first step, NCSC worked directly with NMPDD and NMSC to obtain an accurate list of all contract attorneys and their FTE status. Without knowing the FTE status of contract attorneys there is no way to estimate how much data should be reported by contract attorneys during the time study.⁵² Absent this information, it is impossible to report response rates, and more importantly, to weight the time study data to accommodate for any ‘missing’ data.⁵³ As a means to obtain this critical information, NCSC developed a Web-based survey that asked all contract attorneys around the state to self-report the portion of a typical work week that they spend on contract cases. Despite repeated efforts to ensure participation, only 37 contract attorneys out of the roughly 100 attorneys with contracts with the NMPDD filled out the FTE survey. Since the efforts to obtain this information spanned the time period extending before, during, and after the time study data collection period, a few contract attorneys did participate in the time study.

⁵² One possibility discussed during the study was to assume that any data we received from contract attorneys during the time study was complete. In this scenario, we would not have to weight the data, since we have full information. However, if this data is off by even a small margin, the model will be unreliable. For example, if there are 100 FTE attorneys and the data is off by 5%, applying the model would suggest that they have 5 fewer attorneys than they need. As such, obtaining an accurate FTE count is a necessary condition to conduct an accurate and valid time study.

⁵³ For example, suppose a hypothetical time study that is 10 days in duration. During the time study NCSC receives 5 days worth of data. If the contract attorney was .5 FTE, we would have a complete record for this attorney. However, if the contract attorney was a full FTE we would need to weight the data to account for 5 missing days. Absent the FTE status we would be unable to assess whether or not we have complete data.

Contract Attorneys and the Time Study

Leading up to the time study, several different strategies were pursued in order to encourage contract attorney participation in the time study. First, as an incentive for participation the Department received approval from the New Mexico Minimum Continuing Legal Education (MCLE) to provide one hour of professionalism credit for lawyers who receive the workload study training. Additionally, an overview of the project and a call for contract attorney participation were placed in the State Bar of New Mexico's *Bar Bulletin*, as well as distributed via the New Mexico Criminal Defense Lawyer's Association email list-serve. Despite these efforts, only 30 contract attorneys participated in the time study. In conjunction with the incomplete FTE status, the low participation rates of contract attorneys make it impossible to develop workload standards for contract attorneys.⁵⁴

Contract Attorney Time Study Results

While it is not possible to develop a detailed profile of the way contract attorneys handle cases, it is possible to use the time study data that was recorded to generate a high-level, descriptive overview of the proportion of time contract attorneys—who submitted time data—spend on different case-related activities and case types. For example, as illustrated in Figure 3-A-1, during the time study contract attorneys reported that 19.5 percent of the time they spend on case-related activities was spent on pre-trial/preparation activities for non-violent felonies. The majority of contract attorney time was spent on pre-trial/preparation and client contact activities handling misdemeanor, non-violent felonies, and violent felonies.

⁵⁴ During our final advisory meeting the WAAC discussed the possibility of using the workload standards developed for NMPDD attorneys as a way to calculate attorney need for contract attorneys. After much deliberation, the WAAC decided against this alternative. It was determined that without an accurate accounting of current practice for contract attorneys, a valid comparison between the way cases are being handled across the state by NMPDD attorneys and contract attorneys could not be made. In addition, insufficient data prevented a full exploration into possible differences that might necessitate the adoption of a distinct attorney year value for contract attorneys (e.g., travel)—a decision that would directly impact attorney need.

Figure 3-A-1
Proportion of Time Spent on Case Types and Activities by Contract Attorneys

Case Type	Pre-Trial	Client Contact	Legal Research	Trial	Sentencing/ Post Trial	Other	Total
Appellate	.6%	.1%	2.2%	.0%	.1%	.0%	3.1%
Competency/Mental Health	.7	.1	.0	.1	.0	.1	1.0%
Drug Court	.0	.0	.0	.1	.0	.0	.1%
Death Penalty	.0	.0	.0	.0	.0	.0	.0%
DWI	3.6	2.7	.5	.2	.4	.9	8.1%
Extradition	.0	.0	.0	.0	.0	.0	.1%
Habeas Corpus	1.5	.2	.0	.2	.0	.0	2.0%
Juvenile	4.1	1.6	.3	.4	.3	.8	7.5%
Metro/Magistrate Appeals	.1	.0	.1	.0	.0	.0	.2%
Misdemeanor	8.0	2.7	.4	.8	.3	1.2	13.4%
Murder	2.7	.1	.3	.1	.1	.2	3.5%
Non-Violent Felony	19.5	7.7	1.8	2.3	2.2	4.4	37.8%
Probation Violations	.6	.2	.1	.1	.3	.1	1.3%
Violent Felony	11.0	3.2	1.8	3.3	.9	1.7	21.9%
Total	52.5%	18.6%	7.3%	7.5%	4.5%	9.4%	100.0%

APPENDIX 3-B

PUBLIC DEFENDER ATTORNEY AND NMPDD STAFF CASE TYPES

Public Defender Attorney and NMPDD Staff Case Types

<u>Districts</u>	<u>Statewide Units</u>
<i>Murder</i>	<i>Appellate</i>
Murder	
<i>Violent Felony</i>	<i>Capital</i>
Child Abuse Resulting in Death	
Child Abuse	<i>Habeas Corpus</i>
Domestic Violence Cases (Felony)	
Sex Offense – 12 and under	<i>Mental Health</i>
Sex Offense – 13 to 18	
Sex Offense – Adult	
Violent Crime	
<i>Non-Violent Felony</i>	
Drug Possession	
Drug Trafficking/Distribution	
Economic Crime	
Property Crime	
Pre-Indictment Plea/Pre-Prosecution Diversion	
Early Plea Program	
Pre-Indictment Plea	
Pre-Prosecution Probation/Diversion	
<i>DWI</i>	
DWI Cases	
<i>Misdemeanor</i>	
Misdemeanors	
<i>Juvenile</i>	
Juvenile	
Serious Youthful Offender	
Youthful Offender	
Juvenile Probation Violation	
<i>Probation Violations</i>	
Probation Violation Felony	
Probation Violation Misdemeanor	
<i>Drug Court</i>	
Drug Court	
Juvenile Drug Court	
<i>Competency/Mental Health</i>	
Competency/Mental Health	
Mental Health/Competency	
<i>Extradition</i>	

APPENDIX 3-C
PUBLIC DEFENDER ATTORNEY CASE-RELATED AND NON-CASE-RELATED ACTIVITIES

Public Defender Attorney Case-Related and Non-Case-Related Activities

Attorney Case-Related Activities

1. Pretrial Activities and Preparation (In Court)

- a. Bail Reviews/Detention Hearings (including preparation)
 1. Bond hearings/Detention Hearings
 2. Bond reconsideration hearings
- b. Pretrial hearings
 1. Arraignment hearings (including preparation)
 2. Preliminary hearing duties
 3. Pretrial conferences
 4. Status conferences
 5. Competency hearings
 6. Habeas Corpus hearings
 7. Pretrial motion hearings
 8. Postponement hearings
 9. Settlement Hearing
- c. Negotiating Plea Alternatives
 1. Plea discussions with state's attorney and judge
 2. Adjudication without trial (diversions, mutual postponements, other negotiated dispositions, nolle pros)
 3. Taking of the plea

2. Pretrial Activities and Preparation (Out of Court)

- a. General Preparation
 1. Pretrial release and other prompt actions
 2. Other client needs
 1. Responding to calls from families
 3. Review of file and charging documents
 4. Co-worker review of cases
 1. Brainstorming,
 2. Moral support,
 3. Informal 2nd chairing
 5. Motion preparation
 6. Conflicts check
- b. Investigation and Discovery Activities
 1. Identifying and conferring with experts (e.g., forensics)
 2. Preparation and submission of expert requests
 3. Preparation and submission of discovery requests
 4. Review of records and physical evidence (e.g. discovery)
 5. Interacting with District Attorney re: discovery
 6. Consult with social workers and other professionals
 7. Direct activities of investigative staff
 8. Crime scene visits

- 9. Review audio and video recordings of hearings
 - 10. Investigate and interview prosecution and defense witnesses
 - 11. Visit the crime scene to take measurements and photographs, and other investigator duties
 - c. Negotiating Plea Alternatives (out of court)
- 3. Client Contact**
- a. Client interviews
 - b. Plea discussions with client
 - c. Sentencing/disposition discussions with client
 - d. Institutional visits (e.g. Jail, Hospital, Detention Center, Shelter Care)
 - e. Phone calls
 - f. Office visit
 - g. Correspondence
 - h. Time spent locating client
- 4. Legal Research (Computer Based)**
- 5. Legal Research (Non-Computer Based)**
- 6. Trial/Contested Adjudication**
- a. Preparation of jury selection
 - b. Jury selection/voire dire
 - c. Opening statement
 - d. Cross examination of prosecution's witnesses
 - e. Motions during the trial
 - f. Stipulations
 - g. Coordinating witness appearances
 - h. Presentation of the defense case
 - i. Closing argument
 - j. Jury instruction
 - k. Protection of defendant's post trial rights
- 7. Sentencing/Post Trial (In-Court)**
- a. Participate in Sentencing
 - b. Argue post-trial motions
 - c. Testifying in post conviction
 - d. Probation violation hearings
 - e. Hearings to extend juvenile commitments
- 8. Sentencing/Post Trial (Out of Court)**
- a. Review Pre-sentence report/sentencing memo
 - b. Determination of restitution
 - c. Finding alternative sanction options and program placements
 - d. Gather medical, educational and family histories
 - e. Arrange for client clothing

- f. Motion for new trial
- g. Motion for bail pending appeal and related motions
- h. Filing of appeal
- i. File motion for reconsideration
- j. Cooperation with appellate counsel
- k. Drug court and juvenile reviews
- l. After care hearings
- m. Attending to client's testimony in other cases
- n. Preparation for probation violation hearings

9. Staff Duties

- a. Creating the file
- b. Intake Functions
- c. Secretarial
- d. Interpreter duties
- e. Filing motions and court documents

10. Waiting Time Court

11. Waiting Time Jail

12. Waiting Time DA's Offices

Attorney Non-Case-Related Activities

1. Training/Conferences/Continuing Legal Education (giving and receiving)

2. Travel – to jail; court

3. Staff Meetings

4. Duty Work –phone availability on evenings and weekends

5. Community Outreach

- a. Serving on committees outside of OPD
- b. Meeting with community groups
- c. Legislative work
- d. Bar association meetings
- e. Consulting with attorneys outside OPD

6. Administrative/Personnel Tasks

- a. Assigning cases/investigators
- b. Resolving Computer Issues
- c. Reviewing cases for conflict
- d. Responding to general letters

- e. FOIA request
- f. Handling public complaints
- g. Closing files
- h. Check phone messages and email
- i. Handling leave requests
- j. Recruiting, interviewing, and hiring new staff
- k. Monitoring use of family medical leave
- l. Processing injured worker claims

7. Attorney Supervision

- a. Review staff performance
- b. General mentoring

8. General Public Relations/Interface

- a. Answer miscellaneous telephone inquiries
- b. Public contact
- c. Response to visitors/other attorneys' clients

9. Leave and Vacations

- a. Vacation
- b. Sick leave
- c. Jury duty
- d. Personal leave
- e. Family medical leave
- f. Military leave
- g. Bereavement leave
- h. Administrative leave
- i. Leave without pay

10. NCSC Project (filling out form and data entry)

- a. Logging time spent on various activities/tasks throughout the day
- b. Entering data on NCSC website

APPENDIX 3-D
NMPDD STAFF CASE-RELATED AND NON-CASE-RELATED
ACTIVITIES

NMPDD Staff Case-Related and Non-Case-Related Activities

Staff Case-Related Events

1. Intake & Eligibility

- a. Scheduling intake appointment
- b. Computer case search
- c. Identify potential conflict cases
- d. File folder preparation
- e. Copying
- f. Jail visits
- g. Take applications
- h. For in-custody clients pull paperwork from court files (e.g., charging documents)
- i. Handle fee paperwork

2. Records Management

- a. Create case in system
- b. Data entry (e.g., case tracking system (CDMS))
- c. Database and statistical work
- d. Archive and retrieve files
- e. Contact with contract attorneys (Appointments, Billing, etc.)

3. Secretarial services

- a. Taking phone messages
- b. Typing (e.g., motions and subpoenas)
- c. Filing documents
- d. Making copies
- e. Faxing information
- f. Make appointments for attorneys
- g. Prepare dockets/calendars for attorneys
- h. Obtain and copy jury panels
- i. Transcribe witness interviews
- j. Prepare expert witness requests
- k. Arrange for and locate interpreters

4. Investigative Services

- a. View and obtain evidence
- b. Review the offense report and discovery package
- c. Interview prosecution and defense witnesses
- d. Visit the crime scene, take measurements and photographs
- e. Prepare summary reports of investigation
- f. Testify in court, if necessary
- g. Serve witness subpoenas

- h. Consult with lawyers
- i. Computer background checks
- j. Locate witnesses and clients

5. Legal Research

- a. Review file to identify legal issues
- b. Perform legal research
- c. Prepare legal memoranda

6. Social Work

- a. Developing mitigation information
- b. Working with probation on pre-sentence investigation and identify sentencing and placement alternatives for clients
- c. Arranging for client placement in appropriate programs
- d. Gathering medical, psychiatric, educational and family histories
- e. Evaluating clients
- f. Developing written evaluations and recommendations for the court including investigations and reports in waiver hearings
- g. Evaluating programs and provide a database of available programs
- h. Performing home visits
- i. Providing assistance with revocation hearings and modifications/sentence reviews
- j. Staff cases
- k. Coordinate emergency responses
- l. Provide testimony in court

7. Interpreter services

- a. Providing direct interpretation

8. Direct Attorney Support

- a. Locating clients (e.g., what jail they are in)
- b. Checking for other client cases in jurisdiction or other jurisdictions
- c. Finding files for attorney

9. In-Court Support

- a. Arraignments
- b. Bail Reviews
- c. Juvenile Detention Hearings
- d. Preliminary Hearings
- e. Regular Dockets
- f. Sentencing

10. Waiting time Court

11. Waiting time Jail

12. Waiting time DA's Offices

Non-Case Specific Tasks

- 1. Court Run/Mail Run (filing papers, distributing mail)**
- 2. Docket Preparation and Management**
 - a. Assign cases
 - b. Track cases
 - c. Prepare the docket, assemble files
 - d. Review the jail list
 - e. Review files for completeness of information
 - f. Obtaining computer printout from court system
- 3. General Public Relations/Interface**
 - a. Phone duties
 - b. Reception duties
 - c. Date stamp and open mail
 - d. Log all visitors/clients
 - e. Public contact
 - f. Checking information in NM Courts (Computer research)
- 4. Assist with Specialty courts (Drug court, Mental Health, etc.)**
 - a. Attend meetings
 - b. Serve on advisory committees, etc.
- 5. Locate files**

Non-Case-Related Tasks

- 1. Training (providing and receiving)**
- 2. Travel** – to jail, courthouse, and other institutions; to serve subpoenas; to conduct interviews
- 3. Committee/Staff Meetings**
 - a. Internal Staff and Committee Meetings
 - b. Serving on External Boards, Committees and Tasks Forces
 - c. Working on Policy Matters
 - d. Legislative Matters
- 4. Administrative/Personnel Tasks**
 - a. Responding to letters
 - b. Public Records request
 - c. Handling public complaints
 - d. Handling leave requests
 - e. Recruiting, interviewing, and hiring new staff
 - f. Monitoring use of family medical leave

- g. Processing injured worker claims
- h. Assist PD offices from other states
- i. Office Management duties
- j. Human Resources
- k. Facilities
- l. IT duties
- m. Prepare travel and other vouchers

5. Staff Supervisor

- a. Review staff performance
- b. Supervise Interns
- c. General Mentoring

6. Leave and Vacations

- a. Vacation
- b. Sick leave
- c. Jury duty
- d. Personal leave
- e. Family medical leave
- f. Military leave
- g. Bereavement leave
- h. Administrative leave
- i. Leave without pay

7. NCSC Project (filling out form and data entry)

- a. Logging time spent on various activities/tasks throughout the day
- b. Entering data on NCSC website

APPENDIX 3-E
RATIONALE FOR NMPDD ATTORNEY QUALITY ADJUSTMENTS

Rationale for NMPDD Attorney Quality Adjustments

Additional Time needed for:

Violent Felony

- *Pre Trial/ Preparation* – interviewing secondary witnesses, interviewing expert witnesses, and conducting follow-up interviews.
- *Client Contact* – developing relationships to generate confidence with clients, having clients evaluated and explaining evaluations to client, and describing polygraph process to clients to help them better comprehend the implications of these procedures.
- *Legal Research* – confrontational cross-examination issues and addressing Crawford confrontations which are complex and occur in approximately 20 to 25% of cases.
- *Sentencing/ Post Trial* – drafting sentencing memoranda, gathering more information from clients, and building/obtaining mitigation information from the client prior to sentencing.

Non-Violent Felony

- *Pre Trial/ Preparation* –researching substantive issues of law, seeking treatment alternatives for clients, better coordination of investigative staff, interviewing witnesses, and drafting/reviewing pre-trial motions.
- *Client Contact* - improving relationships with clients and family members in order to provide more effective representation.
- *Sentencing/ Post Trial* - collecting treatment information from various treatment providers and researching alternative sentencing options for clients.

DWI

- *Pre Trial/ Preparation* – enabling discussions among colleagues relating to motions, brainstorming, additional investigative and discovery time, visiting crime scenes, and reviewing tapes and interviews.
- *Client Contact* – counseling clients and their families, educating clients and their families about repeat offender laws regarding DWI in New Mexico, counseling clients and their families regarding alcoholism and problems associated with it, and more time for supervisors becoming involved.
- *Legal Research* – researching new legislation and staying current with new laws which are always evolving and changing.
- *Sentencing/ Post Trial* – locating treatment programs for clients, communicating with treatment providers on behalf of clients, and attending hearings on behalf of clients.

Misdemeanor

- *Pre Trial/ Preparation* – attending early hearings such as conditions of release hearings, getting clients out of custody, addressing bail and bond issues, and additional time for addressing the increasing caseload of domestic violence cases.
- *Client Contact* – reviewing and meeting with clients and family members for domestic violence cases.
- *Sentencing/ Post Trial* – domestic violence cases and post sentencing motions which often accompany these charges (e.g. illegal sentence).

Juvenile

- *Pre Trial/ Preparation* – attending liaison hearings, attending detention hearings with or on behalf of clients, seeking treatment alternatives which are commonly handled by outside sources, and meeting with clients and families prior to scheduled hearings.
- *Client Contact* – establishing parental contact prior to detention or probable cause hearings, and out of court client and parental contact.
- *Sentencing/ Post Trial* – sufficiently drafting and reviewing pre-sentence memoranda.

Probation Violation

- *Legal Research* - more time for researching updates regarding probation violation statutes and new legislation in order to guarantee up to date representation of client's interests.

Competency/MH

- *Client Contact* – communicating with mentally ill clients and their families.
- *Sentencing/ Post Trial* – working with mentally incompetent clients and better coordinating social worker's and their role in handling mentally ill clients.

Mental Health

- *Client Contact* - talking with psychiatrists about housing, addressing the increased contact which is often characteristic of mentally ill clients (e.g. frequent calls and office visits).

APPENDIX 3-F
RATIONALE FOR NMPDD STAFF QUALITY ADJUSTMENTS

Rationale for NMPDD Staff Quality Adjustments

Additional Time needed for:

Murder

- *Investigative Services* – reviewing police evidence and visiting crime scenes.
- *Records Managements* – indexing files, maintaining files and evidence, and organizing witness statements.
- *Secretarial Services* – transcribing witness requests and expert witness testimony for attorneys.

Violent Felony

- *Direct Attorney Support* – discovery and locating files for attorneys.
- *Investigative Services* – handling the additional complexity of serious cases. Staff felt that in serious cases where long prison sentences are possible, more time is needed to ensure adequate representation and assistance to counsel.
- *Secretarial Services* – providing assistance to the families of clients, and providing additional assistance to social workers, paralegals, and investigators.
- *Social Work* – the increased time in court associated with violent felony cases.

Non-Violent Felony

- *Direct Attorney Support* – discovery and locating and copying files for attorneys.
- *In-Court Support* – alleviate some clerical duties from attorneys, allowing them more time to argue in court rather than performing these functions.
- *Interpreter Services* – handling the increasing population of Spanish speaking clients charged with non-violent felonies in New Mexico.
- *Investigative Services* – addressing the additional complexity of non-violent felony cases and the number of activities required by staff for these types of cases.
- *Legal Research* – researching suppression motions for drug cases.
- *Records Management* – maintaining files and to alleviate attorneys from spending time on these duties.
- *Secretarial Services* – handling the families of clients, and providing additional assistance to social workers, paralegals, and investigators.
- *Social Work* – paying sufficient attention to individual clients and their families, to increase time devoted to assessments, and identify treatment providers.

DWI

- *Direct Attorney Support* – checking prior records in other jurisdictions around the state.
- *In-Court Support* – reviewing conditions for release to aid attorneys in preparation for conditions of release hearings.
- *Interpreter Services* – for handling the increasing population of Spanish speaking clients charged with DWI in New Mexico
- *Legal Research* – supporting attorney and paralegals performing these duties, and providing additional assistance when needed.
- *Records Management* - retrieving files for attorneys, adding information to records, and looking up prior records for attorneys.
- *Secretarial Services* – better preparing attorneys for court, providing them the support that is needed to provide effective representation in court hearings/trials.
- *Social Work* – providing Social Work for repeat offenders and educating clients and their families about alcoholism and treatment alternatives.

Misdemeanor

- *Investigative Services* – interviewing police officers, interviewing multiple witnesses, and to accommodate additional time needed for domestic violence cases.
- *Records Management* – addressing backlogs, archiving files, and processing all files in departmental offices.
- *Social Work* – assessment and write up of client needs/issues, and researching school and family records in order to better prepare attorneys for hearing and trial.

Juvenile

- *Interpreter Services* – handling parents and guardians of increasing proportion of Spanish speaking clients.
- *Social Work* – working more closely with mental health professionals, schools, parents, and Guardians ad Litem.

Drug Court

- *Records Management* – maintaining treatment and service records from treatment providers, drug tests, and other conditions of drug court.

Competency/ MH

- *Interpreter Services* – handling increasing numbers of Spanish speaking mentally ill clients.

Metro Appeals

- *Direct Attorney Support* – assisting attorneys with appeals to district court and appeals to Supreme Court via metro unit.
- *Investigative Services* – following up on matters directly relating to the appeals process.

Capital (death/murder)

- *Investigative Services* – locating and interviewing witnesses across the state and handling the increased volume of witnesses necessary in death penalty cases.
- *Legal Research* – paralegals to perform research and provide extensive assistance to attorneys in order to allow attorneys more time to focus on preparation for hearings and trial.
- *Records Management* – handling the complexity and large number of files and documents involved in death penalty cases.
- *Secretarial Services* – paperwork and large file sizes due to complexity of cases and organizing the larger jury panels involved in death penalty cases.
- *Social Work* – establishing mitigating factors in death penalty case clients in order to better prepare attorneys for hearings and trial.

Mental Health

- *Direct Attorney Support* – performing in depth client contact and interviews with clients and their families.
- *Records Management* – handling the additional paperwork of mental health cases and handling the history of clients with mental health needs, organization of mental health evaluations, maintaining court clinic reports and evaluations, and ensuring compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) (federal standards).