

Appendix X

Review of Preliminary Weights Material Presented to the Judge Advisory Group

Included items:

1. Review of Preliminary Case Weights from the Event-Based 2003–2004 District Court Case-Weighting Study Memorandum
2. Preliminary Case-Weight Values (Table 1)
3. Comparison of New and Existing District Court Case-Weight Values (Table 2)
4. Comparison of Total Weighted Filings Per Judgeship: Calculations Using 1993 and Preliminary 2004 Case Weights (Table 3)
5. Computation of Case Weights by Case Type (Table 4)

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memorandum

DATE: Wednesday, May 19, 2004
TO: Statistics Subcommittee, and Chair and District Judge Members of the
Judicial Resources Committee
FROM: Carol Krafka and Pat Lombard
SUBJECT: Review of Preliminary Case Weights from the Event-Based 2003-2004
District Court Case Weighting Study

The case weighting project team has completed work on preliminary district court case weights derived from the event-based study. The weights are based on data from 297,029 calendar year 2002 terminations (245,666 civil cases and 51,363 criminal defendants). These data were provided by 87 of the 91 non-territorial district courts.¹ To arrive at the preliminary weights, we combined (a) frequency information obtained from the terminations data with (b) time estimates that were either determined by participants at the National Consensus Meeting or calculated from objective statistical reports submitted by the courts.

We met with Judge Wiley Y. Daniel, the chair of the Statistics Subcommittee, on Monday to brief him on the results of the study. Judge Daniel asked us to initiate the formal review of the weights by arranging for a conference call on Thursday, May 27 at 10 a.m. (Eastern Daylight Time). All members of the Statistics Subcommittee, as well as the chair and district judge members of the Judicial Resources Committee are invited to participate in this review. The conference call is likely to run an hour or a little longer. Please advise us of your availability to participate by responding to an e-mail announcement with coordination information that we will send you on Friday.

Review Materials for the May 27 Conference Call

Four tables are enclosed that summarize the results of the study. To ensure that the May 27 conference call focuses on substantive discussion, it is important to understand the contents of the tables in advance of the meeting. Some of the information in the tables is complex, so we invite you to call or send e-mail if you have questions about how to interpret the data, how the figures were derived, or what the numbers mean. Please call on us as well if you would like a refresher on how the event-based approach uses time estimates in combination with database information to determine the weights. Although the time available to answer questions about specific case types and calculations will be

¹ Data were not requested from the three territorial courts of Guam, the Virgin Islands, and the Northern Mariana Islands.

limited on May 27, we'll have plenty of time to consult with you on questions that are posed before that date (contact Pat Lombard at 202-502-4083 (plombard@fjc.gov) or Carol Krafka at 202-502-4068 (ckrafka@fjc.gov)).

The following is provided to assist your review of the tables:

Reviewer s Guide to Enclosed Tables 1 - 4

TABLE 1. PRELIMINARY CASE WEIGHT VALUES

Description: This table provides an ordered list of preliminary case weight values for civil and criminal case types.

- The case types are listed in separate columns to make it easier to see the relative ranking of civil and criminal case types separately, as well as intermixed.
- The first column of numerical data indicates the number of cases terminated during calendar 2002 that were included in the calculation of the case weight for a particular case type. These range from a low of 12 Espionage and Terrorism cases to more than 22,000 §2254 Habeas Corpus cases.
- The second column of numerical data is the computed estimate of the average number of judge minutes consumed per case for the events included in the case weighting system. It s important to keep in mind that the estimates in this column are *averages*. They take account of not only those cases that judges spend significant time on, but also the numerous cases that are disposed of without extensive judicial involvement. Please remember as well that these event-based weights include (a) only district judge time and (2) only the time spent on the events defined in the computations.
- The median value of the second column is 442 minutes, which means that half of the case type estimates are above 442 minutes and half are below (the dividing line is at Firearms, on page 2 of the table).
- The final column of numerical data shows the conversion of the raw weight presented in the second column to scaled preliminary case weights. The weights listed in this column are determined by dividing the number of raw computation minutes by the median value of 442 minutes. Thus, the scaled preliminary weight for a Death Penalty Habeas Corpus case is found by dividing 442 into 5685 for a weight of 12.86. This conversion forces half of the scaled preliminary weights to be less than 1.00 and half to be greater than 1.00. Categories with values set to a base weight of 1.00 ($\pm .01$) are All Other Felonies (2194 cases), Firearms (5470 cases) and All Other (civil) Actions (12,008 cases).
- The scaled weights present the relative relationship among the case types more clearly than do the raw weights. We can easily see from the scaled weights, for

example, that Death Penalty Habeas Corpus cases are estimated to consume roughly 13 times more judge time on average than the case types All Other Felonies, Firearms, and All Other (civil) Actions. This relative relationship is more useful for case weighting purposes than the raw weight.

Notable Features:

- The weight for Espionage and Terrorism, which carries a relatively low value at 1.08, is based on only 12 terminated cases, none of which went to trial.
- Only single defendant cases were included from the ICMS courts; all defendants were included from the CM/ECF courts.
- All adjustments were applied as part of the calculation of the weight rather than just the single highest adjustment.
- The adjustment for multiple criminal defendants, which would have the general effect of slightly lowering some criminal weights, was not applied.
- Class action allegations rather than certified class actions were used for the class action adjustment.

Cross References to Other Tables:

- To review the nature of suit and offense codes that define the case type categories, refer to Table 2.
- To review the components of the event-based computations, refer to Table 4. (Table 4 is intended to convey detail on the how weights were constructed, but it also provides a visual display of the component parts.)

TABLE 2. COMPARISON OF NEW AND EXISTING DISTRICT COURT CASE WEIGHT VALUES

Description: This table compares the preliminary weights to weights computed from the 1987-1993 time study.

- The layout of this table is straightforward. Along the left side of the table is a list of the case type categories established for the event-based study and beside each category is a list of included case types. Next to the case types are entries showing the case weight values from the current study and comparison values from the 1993 study.
- Case categories were redefined for the current study, so direct comparison of the 1993 and 2004 weights is not always possible.

Notable features:

- Weights for a number of civil case categories increase considerably in the new study. Categories with weights that more than doubled include Death Penalty

- Habeas Corpus, Environmental Matters, Patent, Civil Rights Voting, Antitrust, and FOIA.
- Weights for the largest criminal case type categories Immigration Offenses, All Other Felonies, and the various drug offenses (with the exception of Continuing Criminal Enterprise) are smaller than the corresponding weights from the 1993 time study. In addition, many criminal case types that received a default weight of 1.43 in 1993 receive a lower weight in the case weight system presented here. This decrease can have a substantial impact on the weighted caseload of courts with a high proportion of criminal cases, especially if they have a disproportionate number of the noted case types. The effect would be to lower the number of weighted filings per judgeship.

TABLE 3. COMPARISON OF TOTAL WEIGHTED FILINGS PER JUDGESHIP

Description: This table compares the weighted filings per judgeship for each district court under the 1993 and new 2004 weighting systems. Data are presented for each of the past 3 calendar years.

- The layout of this table is straightforward. Under the headings for calendar years 2001, 2002, and 2003 are separate columns showing the weighted filings per judgeship calculated using 1993 and 2004 weights. An additional column calculates the percentage change in caseloads found when applying 2004 weights relative to 1993 weights. Information on total filings from all of the district courts appears in the top row of the table with information on the individual districts arrayed below.²
- The total weighted caseload across all courts remains essentially unchanged with the application of the preliminary weights.
- The difference between caseloads weighted with 1993 and 2004 values is less than 10% in either direction for the majority of courts across the years. A substantial minority of courts experience differences of greater magnitude, however, and in a few instances, the difference within a given year exceeds 20%. This outcome is to be expected if, as assumed, the 1993 case weights no longer correspond well to the time demands of many case types. The magnitude and direction of the difference seen in particular courts depends on the number and type of cases filed in the court.

² The 1993 weighted caseloads and the 2004 weighted caseloads were computed on the same population of cases in order to provide for a valid, direct comparison of the two weighting systems. Due to slight differences in defining the underlying population, however, the numbers presented here may not match exactly other caseload numbers provided in previous statistical reports.

TABLE 4. COMPUTATION OF CASE WEIGHTS BY CASE TYPE

Description: Table 4 shows how the preliminary case weights were derived from their component parts. This table is somewhat more complex than the others we present, but it reveals how an individual case type earns its case weight, and it is worth the effort it takes to understand the information it presents. Please remember when reviewing this information that the event-based case weight is our best guess estimate of the amount of judge time that will be required to process a typical case of a particular type. The case-event profile presents averages based on event activity in numerous cases in the past and describes the likelihood that a particular event will occur in a newly filed case. It is not intended to describe the reality of events occurring in any actual individual case.

- The table can be understood best by looking at a specific example. Consider the Patent matrix found on page 13. We determined by looking at the 2455 terminated patent cases sent to us by the district courts that 62 of them went to jury trial and another 56 of them were tried before a district judge. These figures correspond to trial rates, or to use the terminology of the event-based approach, frequencies, of 0.025 and 0.023, respectively. Looking at the top row of the Patent matrix you will see column headings for jury trial and non-jury trial events, with the trial rate entries of 0.025 and 0.023 listed below in a row labeled Frequency. If you follow the frequency row across the page, you will find similar information on other events found in the Patent cases. District judges held 79 settlement conferences in these cases, which translates to a frequency of 0.032. The number of motions for summary judgment that were ruled on translates to a frequency of 0.438, and so on.
- Look next at the row labeled Estimated Event Time. The numbers located in blue boxes are objective time estimates calculated from 7 years of data on trial times that the courts have reported to the Administrative Office on the JS-10 form. The numbers in the orange, green, and yellow boxes are the consensus time estimates developed by participants of the National Consensus Meeting.³
- Now look at the bottom row of the matrix labeled Calculated Case Time. The figures listed in the cells of the row are obtained by multiplying the frequency estimate and the time estimate listed directly above for each event. If a jury trial were held in a Patent case, we would estimate that a judge spends 2826 minutes (just over 47 hours) conducting the trial. But a jury trial is held in only 25 out of 1000 Patent cases. Consequently, to arrive at an estimate of the time a judge will spend processing a newly filed Patent case, we don't add in the full time of a jury trial, we instead add a portion of that time that would be accounted for by a single case. To be concrete, we add the full trial time multiplied by the likelihood that the trial will occur. Thus, the judge time attributable to jury trial averages to 70.7 minutes in Patent cases ($70.7 = 0.025 \times 2826$) and the estimated time for non-jury

³ Yellow boxes represent a variation on the straightforward time estimate. They indicate that 5% of time should be added to the calculated case weight to adjust for the proportion of Patent cases characterized as having 5 or more parties or including a class action allegation.

- trials is 36.8 minutes. The same calculation is applied to the remaining events (non-jury trials, settlement conferences, orders on motions for summary judgment, etc.) to determine the time component attributable to each.
- Finally, look at the Total Time figure of 2080 minutes. This figure is obtained by adding together all of the Calculated Case Times. A Scaled Weight value of 4.71 appears opposite the Total Time figure.⁴ Both figures are listed in the columns of Table 1.
 - We can see from the bottom row of the Patent matrix that two events contribute heavily to the high case weight determined for this case type. The time associated with preparing orders on substantive motions, averaged across all Patent cases, is estimated to consume more than 900 minutes, and orders on motions for summary judgment consume more than 500 minutes. These event categories stand out both because the time estimate is substantial and because there is a relatively high likelihood that a newly filed patent case will include a ruling on one of these types of motions.
 - The average frequencies across all civil and all criminal cases are found at pages 17 and 25, respectively. No Total Time estimate can be calculated, because there are no estimated event times assigned to cases in the aggregate. They are presented for comparison purposes only.

One Additional Consideration

If the Subcommittee elects to adopt the new case weighting system, the members will need to decide what threshold value the Subcommittee will use in conjunction with the weights for determining district court needs for new judgeships. The Subcommittee may want to consider setting a new threshold value, however, as currently scaled, the event-based weights do not require a change from the current threshold.

Enclosures

cc: Hon. Barbara Rothstein, Director, FJC
Russell Wheeler, Deputy Director, FJC
James Eaglin, Research Division Director, FJC

⁴ Recall from Table 1 that the Scaled Weight is simply the Total Time divided by the median value (i.e., 442) of all the Total Time calculations.

TABLE 1. PRELIMINARY CASE WEIGHT VALUES

<u>Civil Case Type</u>	<u>Criminal Case Type</u>	<u>Number of Cases</u>	<u>Raw Weight (Total time) (min)</u>	<u>Scaled Weight (no units)¹</u>
Death Penalty Habeas Corpus		201	5685	12.86
Environmental Matters		1198	2113	4.78
Civil RICO		730	2108	4.77
Patent		2455	2080	4.71
	Drug Offense -- Continuing Crim Enterprise	36	1997	4.52
Civil Rights -- Voting		209	1702	3.85
Antitrust		751	1520	3.44
Freedom of Information Act		272	1351	3.06
Copyright and Trademark		5144	935	2.11
SEC, CFTC, Similar Enfrcmt Actn (US Plaintiff)		274	916	2.07
	Murder, Manslaughter, Homicide	281	872	1.97
	All Extortion, Threats, and RICO	657	856	1.94
SEC, Commodts, Stkhldr Suits (non-US Plaintiff)		2905	849	1.92
Civil Rights -- Other		18462	845	1.91
Other Fraud		1555	748	1.69
Civil Rights -- Employment		20079	735	1.66
Assault, Libel, and Slander		645	650	1.47
Insurance Contracts		7459	622	1.41
Medical Malpractice		1309	616	1.39
	Aggravated or Felonious Assault, Kidnapping	401	595	1.35
Federal Tax Suits		1018	570	1.29
Other Contract Actions		16849	537	1.21

¹ The scaled weight of a case type is computed by dividing the raw weight for the case type by the median raw weight value for all case types. The median raw weight value for all case types is 442.

TABLE 1. (continued)

<u>Civil Case Type</u>	<u>Criminal Case Type</u>	<u>Number of Cases</u>	<u>Raw Weight (min)</u>	<u>Scaled Weight (no units)</u>
Banking and Finance		1316	518	1.17
Other Property Actions (real or personal)		2300	517	1.17
	Drug Offense -- Manufacture	628	513	1.16
	Sexual Offenses and Pornography	968	485	1.10
	Drug Offense -- Sell or Distribute	10339	478	1.08
	Espionage and Terrorism	12	477	1.08
All Other Labor		5782	452	1.02
	All Other Felonies	2194	445	1.01
	Firearms	5470	442	1.00
All Other Actions		12008	438	0.99
	All Fraud	7038	431	0.98
Personal Injury (excluding Admiralty)		12026	399	0.90
	Larceny and Theft	1449	387	0.88
Admiralty		4103	386	0.87
	Drug Offense -- Possession	1186	380	0.86
Interstate Commerce		603	372	0.84
ERISA		10206	369	0.84
Federal Employer's Liability		970	336	0.76
Land Condemnation		615	335	0.76
Prisoner Civil Rights / Prison Conditions (Federal)		1020	332	0.75
	Embezzlement, Forgery, and Counterfeiting	1892	330	0.75
Bankruptcy Withdrawal		970	325	0.74
	Robbery and Burglary	1245	313	0.71
Prisoner Civil Rights / Prison Conditions (State)		21838	293	0.66
Social Security		16432	277	0.63
	Drug Offense -- Import / Export	2473	272	0.61
Product Liability (excluding Admiralty)		12740	267	0.60
	Alien Smuggling	1146	252	0.57
Bankruptcy Appeal		2579	251	0.57
§2254 Habeas Corpus		22162	240	0.54

TABLE 1. (continued)

<u>Civil Case Type</u>	<u>Criminal Case Type</u>	<u>Number of Cases</u>	<u>Raw Weight (min)</u>	<u>Scaled Weight (no units)</u>
Mandamus		1236	215	0.49
	Other Immigration	10091	208	0.47
Deportation / Immigration		332	193	0.44
Forfeiture and Penalty		1898	184	0.42
Foreclosure		5240	142	0.32
§2255 Habeas Corpus		6743	141	0.32
	All Misdemeanor and Petty Offenses	3857	81	0.18
Asbestos		13402	54	0.12
Overpayment and Recovery		7630	44	0.10
	Supervised Release and Probation -- Evidentiary Revocation Hearing		96	0.22
	Supervised Release and Probation -- Non-Evidentiary Revocation Hearing		60	0.14

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TABLE 2.
COMPARISON OF NEW AND EXISTING
DISTRICT COURT CASE WEIGHT VALUES

