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Finding Data and Statistics on Judges

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Increasingly, both scholars and practitioners are seeking statistical information about individual judges for a variety of purposes. Practitioners seek information to prepare courtroom strategies, while scholars seek statistical information for empirical inquiry regarding judicial decision-making. Until recently, finding data by individual judge was no easy task. Data reported by the Bureau of Justice Statistics (Department of Justice) generally is aggregated by court, state, or other jurisdiction.¹

At least one prior article addressed sources of statistical information for courts more generally.² However, increasingly it has become possible to isolate data by individual judge and no longer rely on more general information about the jurisdiction in which the judge practices. Aggregated data lacks utility when comparing judges to each other or giving practitioners the ability to prepare courtroom strategies. This article will address a few resources, both freely available and available as a subscription, for finding data on the practices of particular judges.

Types of statistical information sought by researchers vary. Practitioners may be interested in learning about the relative caseloads of the courtrooms in which they practice, the average time a judge takes to rule on a particular type of

motion, or data on how a particular judge has ruled on a motion in the past. A scholar may be interested in data regarding how frequently a judge is overruled by a higher court or indicators of decision-making. These uses may require a range of data, from looking at relative caseloads, to looking at appellate reversal rates, to looking at types of cases heard in courtrooms. Fortunately, the number of tools available to researchers looking for judicial data and statistics has proliferated in recent years. Unfortunately, the ability to derive information about individual judges varies widely depending on the jurisdiction in which the judge is situated.

Federal Judges

Finding data broken down by individual judge is a difficult task in the public domain. One source for individual level judicial data is the Civil Justice Reform Act Reports, required to be filed under the Civil Justice Reform Act of 1990 (CJRA). Under the act, federal courts are required to file semi-annual reports broken down by individual judge or magistrate on all motions pending more than six months, all bench trials that have remained undecided more than six months, and all civil cases pending more than three years. In September 2009, judges voted to make these reports freely available in the public domain via the US Courts website beginning with the period ending March 31, 2010.³

continued on page 3

¹For example, the U.S. Courts website publishes annually *Federal Judicial Caseload Statistics* (available at <http://www.uscourts.gov/caseload2009/contents.html>) which aggregates caseload data by jurisdiction.

²Julie Jones, *Just the Facts, Your Honor: Finding Judicial Statistics*, 15 PERSPECTIVES: TEACHING LEGAL RESEARCH AND WRITING 31 (2006) (addressing sources of statistical information for federal courts, state court, and subject based statistics).

³News Release, *Judiciary Approves Free Access to Judges' Workload Reports; Courtroom Sharing for Magistrate Judges*, available at http://www.uscourts.gov/Press_Release/2009/judicialConferenceSept2009.cfm (September 15, 2009).

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Finding Data and Statistics on Judges

continued from page 1

However, as of May 4, 2010, these reports are only available for download via subscription to PACER at \$.08 cents per page. Past reports are also available via PACER.

TRACfed, a subscription database offered by Syracuse University, includes a variety of statistical datasets and is a go to source when looking for data on individual federal judges. By selecting the “People” function, users are able to view data ranging from a judge’s caseload with regard to a particular type of case for a given year to data showing the average sentence length for criminal cases heard by a particular judge for a given year. The advantages of this database are that it offers a variety of statistical data in an easy to use format where the user determines desired variables in viewing a particular data table. Users are able to compare judges from the same or different circuits against each other based on a variety of variables. Unfortunately, the database is not up to date and data is delayed by at least two years in some instances. Also, the data variables are pre-determined and while working under the “People” tab, only simplistic table creation is permitted, so one cannot create tables controlling or filtering for the other available variables. In spite of these shortcomings, TRACfed is a tremendously useful tool for deriving data on individual federal judges.

State Judges

Finding judge-level data for state courts is a difficult task using either freely available or subscription based sources. Most state judiciaries offer some statistical information on their court websites. Unfortunately, most of these websites only offer aggregated information, generally in the form of the annual report of that particular

state’s court system. Annual reports offer aggregated information on caseloads, decisions, and other large scale data measures. Individual states vary (See Appendix I for a fifty state listing of state court statistical websites), but most offer data and statistics only broken down to the jurisdictional level. Nebraska is a rare example of a state that offers specific judge-level data regarding caseloads on its website.

We can be optimistic that finding judge-level state court data may improve in the future, thanks to the work of the National Center for State Courts (NCSC). On their website (http://www.ncsconline.org/D_Research/csp/CSP_Main_Page.html), the NCSC offers aggregation of state court statistics and data, although not broken down by judge level. The NCSC developed “CourTools,” a set of ten trial court performance measures that look at court performance with measures specific to individual judges.⁴ Some states, like California, are implementing these performance measures, and with these measures, we can hope for a better reporting of judge level data in the future.

Another source for aggregated state court data is the Justice Research and Statistics Association, which provides a directory of state statistical agency websites (<http://www.jrsa.org/sac/index.html>). Their links include statistical information on courts and the administration of justice as well as statistical information on law enforcement and the criminal justice system more broadly. The data that this organization provides can be useful, but is less likely to provide statistical information on judges themselves.

continued on page 4

⁴ See website http://www.ncsconline.org/D_Research/CourTools/tcmp_courttools.htm for a complete explanation of CourTools. Measures include time to disposition and age of active pending cases.

The good news for finding judicial statistics and data is that in recent years, the availability of information has increased dramatically.

Finding Data and Statistics on Judges

continued from page 3

Westlaw Judicial Reports Features

Westlaw now offers a number of data and statistical features that offer specific information on federal judges and some state judges. Westlaw features three types of reports: judicial reversal reports, judicial motion reports, and litigation history reports. In fact, these reports on Westlaw can be one of the few (albeit expensive) databases where judge-level data is readily available.

Judicial Reversal Reports analyze a judge's appellate record by looking at both a judge's record in deciding appeals from lower courts (for appellate judges) and a judge's record of reversal and other dispositions on appeal (for lower court judges). The reports break down data by variables like the types of cases heard/decided, the appellate judges who have reviewed a trial court's decision, and attorneys and law firms who have argued the cases. These reports are a quick way to look for the reversal rate of a particular judge and then isolate it based on type of case, etc.

The Litigation History Report offers data on the caseload of a particular judge. It allows you to isolate cases by case type, clients, industries, law firms, or other variables. You can filter caseload totals by case type to isolate for more specific information.

Judicial Motion reports may be of considerable use in that they analyze a judge's motion history. They contain data based on the type of motion that is considered (including motions for summary judgment or temporary restraining orders) and allows you to filter that information by the type of case in which that motion is being made. Additionally, they allow users to look at data on the time it takes a judge to rule on a motion and what the result or ruling on the motion is.

The type information available varies by the court on which a particular judge sits. For federal judges a greater variety of statistical information is available. For federal district court and circuit court judges, all three types of reports can be located. The reports are more limited for state judges. For example, in looking at litigation history report coverage, while data for most federal dockets begins with 1990, for state dockets data coverage does not begin

until 2000, and even then only for limited state jurisdictions.⁵

The advantage of using the Westlaw reports is that the data has already been compiled for you. It is a user friendly interface that quickly allows users to observe compilations of several basic variables. Of course, the drawback is the large cost of accessing these reports. While the reports may be free for many academic users based on their contract, the cost of downloading a report for users who may not have unlimited access in their contract can be quite large. However, if this data is essential to a practice or research question, the time savings of using the report can be quite substantial. Other drawbacks include the limited variables included in the reports (one cannot isolate for every type of motion in the motion reports, for example) and the substantial limitation that the reports only account for cases and filings contained in the Westlaw database. This means that the data is skewed to not account for cases that may not be included within the larger Westlaw database.

Conclusion

The good news for finding judicial statistics and data is that in recent years, the availability of information has increased dramatically. Presently, it is possible to find a variety of statistical information for federal judges, in particular. The downside is that most of this information is made available in a useable format in databases that require a paid subscription. Hopefully, this will change in the future as more information, like Civil Justice Reform Act reports are made available through the Federal Administrative Office of the Courts. Arguably, law librarians and other members of the legal community could additionally advocate for more judge-level data to be released through open government efforts like www.data.gov. State judge-level data is still difficult to obtain. If attorneys, researchers, and others are unable to presently derive this information from publically available sources, then greater advocacy on the state level is also needed to encourage the release of this information.

⁵ For a list of states covered, Westlaw users can click on "about" by the type of report name to ensure that their particular jurisdiction is covered.