

Virginia Commonwealth's Attorney Workload Assessment



Virginia Compensation Board
May 25, 2023



Workload Assessment Questions

- How many Compensation Board funded ACA positions are required in each office to handle felony prosecutions?
- How many ACAs would be required in each office to prosecute misdemeanors?
- How much time do ACAs require for duties not related to specific cases?



Current Staffing Standards

- Formula based on 3-year average of Circuit Court felony defendants and felony sentencing events
- Adjusted for economies of scale
- Felony prosecutions only
- FY 2022 alternate formula
 - Combination of magistrate-issued warrants, felony defendants, and sentencing events



Innovations

- Defendant-based filings
- Felony cases filed in district OR circuit court
- Juvenile felonies
- Civil responsibilities
- Non-case-related time
- Based on empirical time study with quality adjustments
- Factors in time for footage review (BWC, etc.)



Introduction to Weighted Caseload



Weighted Caseload in Virginia

- Circuit Court, GDC, and J&DR judges (2017)
- Magistrates (2008)
- Pretrial and probation officers (2022)
- Public defenders and staff (2010)



Calculating Attorney Need

Three elements

- Cases (filings)
- Case weights
- Year value



Calculating Attorney Need

An Example

Filings

Case Type A	1,000
Case Type B	3,000
Case Type C	500
<hr/>	
Total	4,500



Calculating Attorney Need

An Example

	Filings	x	Case Weight (minutes)
Case Type A	1,000	x	240
Case Type B	3,000	x	60
Case Type C	500	x	120
Total	4,500		



Calculating Attorney Need

An Example

	Filings	x	Case Weight (minutes)	=	Workload (minutes)
Case Type A	1,000	x	240	=	240,000
Case Type B	3,000	x	60	=	180,000
Case Type C	500	x	120	=	60,000
Total	4,500				



Calculating Attorney Need

An Example

	Filings	x	Case Weight (minutes)	=	Workload (minutes)
Case Type A	1,000	x	240	=	240,000
Case Type B	3,000	x	60	=	180,000
Case Type C	500	x	120	=	60,000
Total	4,500				480,000



Calculating Attorney Need

An Example

Total
Workload
(minutes)

480,000



Calculating Attorney Need

An Example

Total Workload (minutes)	÷	Year Value (minutes)
480,000	÷	86,265



Attorney Work Year (days)

Total days per year		365
Minus		
Weekends	-	104
Holidays	-	13
Vacation	-	15
Sick leave	-	15
Conferences and training	-	5
<hr/>		
Total case-related days per year	=	213



Attorney Day Value

Total working hours per day		8.00
Minus		
Non-case-related time	-	1.25
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Day value (case-related)	=	6.75



Calculating Attorney Need

An Example

Work Year (days)	x	Case-Related Hours per Day	x	Minutes per Hour	=	Year Value (minutes)
213	x	6.75	x	60	=	86,265



Calculating Attorney Need

An Example

Total Workload (minutes)	÷	Year Value (minutes)	=	Resource Need (FTE)
480,000	÷	86,265	=	5.6



Workload Assessment Process



Workload Assessment Process

Current Practice
“What is”

**Advisory
Committee**

Focus Groups

Time Study

Quality Adjustment
“What should be”

Sufficiency
Survey

Delphi
Adjustments

Role of Advisory Committee

- Advise on study design
- Encourage statewide participation
- Review results of each phase of study
- Make policy decisions



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Focus Groups

- Learn how policies and practices vary among localities
- Develop time study training scenarios
- Identify activities that may require additional time



Workload Assessment Process

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Time Study

- Attorneys record all working time
 - Case-related
 - Non-case-related
 - Evenings and weekends
- February 28 – May 29, 2022
- Source of preliminary case weights
- Informs selection of day value(s) and administrative adjustments



Daily Time Log

Current Practice
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VIRGINIA PROSECUTOR WORKLOAD ASSESSMENT 2022 DAILY TIME LOG											
Date _____											
CASE TYPE CODES					ACTIVITY CODES						
FELONY	F-M	Murder and Manslaughter	CASE-RELATED ACTIVITIES	1	Case Screening (Including direct indictment review)						
	F-S	Sex Crimes		2	Arraignments						
	F-DV	Domestic Violence		3	Body-Worn Camera Footage						
	F-V	Other Violent Crimes		4	Dashcam/In-Car Footage - State Police						
	F-P	Property Crimes		5	Dashcam/In-Car Footage - Local Law Enforcement						
	F-DUI	DUI		6	Other Footage						
	F-DIST	Drug Distribution		7	Court Preparation						
	F-POSS	Drug Possession		8	In-Court - Pretrial						
	F-NV	Other Nonviolent Crimes		9	In-Court - Guilty Plea and Sentencing						
	F-PSC	Problem-Solving Courts		10	In-Court - Bench Trial						
	F-PV	Probation Violation		11	In-court - Jury Trial						
MISDEMEANOR	M-S	Sex Crimes		12	In-court - Post-Trial						
	M-DV	Domestic Violence		13	Case Review Committees						
	M-DUI	DUI		14	FOIA						
	M-OTH	Other Misdemeanors	NON-CASE RELATED ACTIVITIES	a	Professional Development/CLE						
	M-T	Traffic		b	Mentoring and Supervision						
	M-PSC	Problem-Solving Courts		c	FOIA						
	M-PV	Probation Violation		d	Public and Community Outreach						
CIVIL	C-EXP	Expungements		e	Law Enforcement Training and Assistance						
	C-F	Asset Forfeitures		f	Committees and Task Forces						
	C-R	Restoration of Rights (gun)/firearm petitions		g	Administrative and Personnel Tasks						
	C-C	Civil Statutory Responsibilities	h	Lunch and Breaks							
NCR	Non-Case-Related		i	Leave and Vacation							
			j	NCSC Time Study							
RECORD DATA BELOW											
CASE TYPE CODE	JUV.	SPEC. PROS.	ACTIVITY CODE	MULTITASKING—Footage Review				TIME		TOTAL TIME	
				Body-worn	Car - State	Car - local	Other	HOURS	MINUTES		
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Time Study Website

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Quality Adjustment “What should be”

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National Center for State Courts


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Solving your staffing needs
How many people do you need to run your court?

NCSC Workload Assessment


HOW MANY PEOPLE DO YOU NEED TO RUN YOUR COURT?


USE DATA TO MANAGE YOUR UNIQUE STAFFING NEEDS.


WORKING TOGETHER: GUIDANCE AND OVERSIGHT.
The NCSC will work with your Advisory Committee, formed to

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Time Study Participation

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Time Study

- 95% overall participation
- Average daily participation
 - Weekdays: 89%
 - Weekends: 17%
- Average 6 minutes/day

Quality Adjustment “What should be”

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Day Value: Case-related v. non-case-related work



Average non-case-related time per day, minutes Assistant Commonwealth's Attorneys

Minutes per day	2 - 8 attorneys	9 - 16 attorneys	17+ attorneys	All offices
Professional Development	10	10	10	10
Mentoring and Supervision	6	6	10	8
Non-case-related FOIA	0	0	1	1
Public and Community Outreach	6	5	3	4
Law Enforcement Training and Assistance	6	7	5	6
Committees and Task Forces	3	3	2	2
Administrative and Personnel Tasks	26	28	29	28
NCSC Time Study	8	6	5	6
Total Non-Case-Related	64	65	66	65

Advisory Committee decision: 75 minutes/day



Average non-case-related time per day, minutes Elected Commonwealth's Attorneys

Minutes per day	1 attorney	2 - 4 attorneys	5 - 8 attorneys	9 - 16 attorneys		17+ attorneys	All offices
Professional Development	8	7	7	10		13	8
Mentoring and Supervision	6	14	30	45		35	25
Non-case-related FOIA	0	1	2	3		2	2
Public and Community Outreach	15	24	25	63		72	34
Law Enforcement Training and Assistance	9	10	16	19		14	14
Committees and Task Forces	7	10	10	23		57	17
Administrative and Personnel Tasks	34	62	72	90		190	81
NCSC Time Study	6	6	8	6		5	7
Total Non-Case-Related	86	135	168	259		388	185
Advisory Committee decisions	1 attorney	2 - 4 attorneys	5 - 8 attorneys	9 - 12 attorneys	13 - 16 attorneys	17+ attorneys	
Non-Case-Related time: % of day	25%	35%	45%	60%	75%	90%	
Non-Case-Related time: minutes	120	168	216	288	360	432	



Preliminary Case Weights: Felony

	Adult Felony	Juvenile Felony
Murder and manslaughter	11,373	8,342
Sex crimes	2,767	2,242
DV	2,641	2,641
Other violent crimes	834	855
Property crimes	552	669
DUI	1,201	669
Drug distribution	1,255	669
Drug possession	464	669
Other nonviolent crimes	1,101	669
Problem-solving courts	1,778	1,778
Probation violation	361	361



Preliminary Case Weights: Misdemeanor

	Adult Misdemeanor	Juvenile Misdemeanor
Sex crimes	233	439
DV	366	485
DUI	275	204
Other misdemeanors	147	204
Misdemeanor traffic	18	100
Problem-solving courts	1,778	1,778
Probation violation	262	150



Quality Adjustment Process

“What is” → “What should be”



Workload Assessment Process

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Sufficiency of Time Survey

- Web-based survey
- Statewide input
- Used by Delphi groups to identify areas of perceived resource constraints
- Standards-based
- Prioritize case types and activities requiring additional time for quality performance



Sufficiency of Time Results: Adult Felony

- Interview victim prior to filing of charges
- Visit crime scene
- Review BWC, dashcam/in-car, and other recordings
- Refer and monitor cases in diversion programs
- Prisoner correspondence
- Case-related FOIA



Sufficiency of Time Results: Adult Misdemeanor

- Interview victim prior to filing of charges
- Screen cases prior to filing
- Review BWC, dashcam/in-car, and other recordings
- Obtain and review expert reports
- Refer and monitor cases in diversion programs
- Case-related FOIA



Sufficiency of Time Results: Juvenile

- Interview victim prior to filing of charges
- Visit crime scene
- Review BWC, dashcam/in-car, and other recordings
- Case-related FOIA



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Adjustments**

Quality Adjustment Sessions (Delphi)

- Structured, consensus-based method for assessing reasonableness of case weights
- Panels of seasoned ACAs
- Review sufficiency of time survey results and focus group themes
- Think explicitly about how specific types of cases are handled
- Taking current practice as a baseline, recommend adjustments to case weights to ensure quality performance
- Provide specific rationales for adjustments



Delphi Example

A	B	C	D	E	F	G
Activity category	Specific activity	Rationale	Frequency (% of cases)	Average time (minutes)	Adjustment (minutes)	FTE adjustment
Investigation and discovery	Visit scene	Identify contextual factors--lighting, road markings, etc.--to improve understanding of facts	10%	60.00	6	0.9
					0	0.0

60-minute adjustment in 10% of cases adds 6 minutes to case weight,
.9 additional FTE attorneys statewide



Quality-Adjusted Case Weights: Felony

	Adult Felony		Juvenile Felony	
	Preliminary (Time Study)	Quality- Adjusted	Preliminary (Time Study)	Quality- Adjusted
Murder and manslaughter	11,373	11,681	8,342	8,357
Sex crimes	2,767	2,971	2,242	2,444
DV	2,641	2,667	2,641	2,667
Other violent crimes	834	1,091	855	1,003
Property crimes	552	584	669	747
DUI	1,201	1,336	669	691
Drug distribution	1,255	1,377	669	691
Drug possession	464	479	669	691
Other nonviolent crimes	1,101	1,101	669	691
Problem-solving courts	1,778	1,778	1,778	1,778
Probation violation	361	363	361	363



Quality-Adjusted Case Weights: Misdemeanor

	Adult Misdemeanor		Juvenile Misdemeanor	
	Preliminary (Time Study)	Quality- Adjusted	Preliminary (Time Study)	Quality- Adjusted
Sex crimes	233	362	439	641
DV	366	493	485	602
DUI	275	420	204	211
Other misdemeanors	147	155	204	226
Misdemeanor traffic	18	31	100	107
Problem-solving courts	1,778	1,778	1,778	1,778
Probation violation	262	262	150	150



Attorney Need



Attorney Need: Mandatory and Discretionary Prosecutions

Jurisdiction	Current Resources		Attorney Need for Felony Prosecutions (FTE)			Attorney Need for Misdemeanor Prosecutions
	2023 funded (FTE)	Total attorneys (number)	Total need (CA + ACAs)	Net positions	Net positions under current standard	
Total	729.0	1,026	841.7	112.7	73.0	391.9



Body-Worn Camera and Other Footage



Footage Review: Adult Felony

Minutes per case (time study)

	Body-worn camera	Dashcam/ in-car--state	Dashcam/ in-car--local	Other footage	Total footage	Total time	Footage as % of total
Murder and manslaughter	292	10	28	288	618	11,373	5%
Sex crimes	36	0	1	76	113	2,767	4
DV	149	1	5	57	212	2,641	8
Other violent crimes	36	1	2	11	50	834	6
Property crimes	19	0	1	5	25	552	5
DUI	88	9	36	3	136	1,201	11
Drug distribution	36	1	3	27	67	1,255	5
Drug possession	31	0	2	1	34	464	7
Other nonviolent crimes	37	2	4	7	50	1,101	5
Problem-solving courts	1	0	0	13	14	1,322	1
Probation violation	0	0	0	0	0	361	0



Footage Review: Juvenile Felony

Minutes per case (time study)

	Body-worn camera	Dashcam/ in-car--state	Dashcam/ in-car--local	Other footage	Total footage	Total time	Footage as % of total
Murder and manslaughter	195	0	0	165	360	8,342	4%
Sex crimes	16	0	0	103	119	2,242	5
Other violent crimes	41	0	4	8	53	855	6
Nonviolent crimes	41	1	1	3	46	669	7



Footage Review: Adult Misdemeanor

	Minutes per case (time study)					Total time	Footage as % of total
	Body-worn camera	Dashcam/ in-car--state	Dashcam/ in-car--local	Other footage	Total footage		
Sex crimes	4	0	0	2	6	233	3%
DV	26	0	1	2	29	366	8
DUI	38	3	6	1	48	275	17
Other misdemeanors	9	0	0	1	10	147	7
Misdemeanor traffic	0	0	0	0	0	18	0
Probation violation	0	0	0	0	0	262	0



Footage Review: Juvenile Misdemeanor

	Minutes per case (time study)				Total footage	Total time	Footage as % of total
	Body-worn camera	Dashcam/ in-car--state	Dashcam/ in-car--local	Other footage			
Sex crimes	13	0	0	35	48	439	11%
DV	102	0	3	0	105	485	22
DUI and other misdemeanors	10	0	0	2	12	204	6
Misdemeanor traffic	0	0	0	0	0	100	0
Probation violation	0	0	0	0	0	150	0



Annual Footage Review Reported, Statewide

	FTE reported		Days per attorney per year
	Felony	Misdemeanor	
Body-worn camera footage	24.9	17.9	9.2
Dashcam/in-car footage--state police	0.6	1.0	0.3
Dashcam/in-car footage--local law enforcement	2.0	1.9	0.8
Other footage	11.1	1.6	2.7
Total	38.6	22.4	13.1



Multitasking: Footage Review

Multitasking function	Percentage of total time
Body-worn camera	3.19%
Dashcam state	0.06
Dashcam local	0.22
Other	0.85
All multitasking	4.33%



Jurisdictions Reporting Body-Worn Camera Review

Annual hours	# of jurisdictions
0	11
< 20	6
20 - 40	7
40 - 100	7
100 - 1000	56
>1,000	29
No data	4



Conclusions and Recommendations

C1. The Commonwealth of Virginia should continue and expand its efforts to ensure consistent, person-based counting of criminal cases.

C2. Single-attorney offices face unique logistical challenges that may not be fully reflected in calculations of workload.

R1. The Compensation Board should maintain its practice of using a three-year moving average of caseloads to calculate the number of Assistant Commonwealth's Attorney positions needed.

R2. The Compensation Board should update the staffing formula for Assistant Commonwealth's Attorneys in response to changes in factors other than caseloads that affect prosecutor workload.

