Basic Data Every Defender Program Needs to Track

A Toolkit for Defender Leaders

NLADA
National Legal Aid &
Defender Association

Why do defender leaders need to track data?

What data do they need to track?

How should they do it?

What should they do with it?

Toolkit Contents

Introduction

In today's environment of big data and performance-based budgeting, it is an incontrovertible reality that data drives decision-making. Within the criminal justice context, indigent defense providers have been relatively late to the practice of employing data to inform and improve performance. Since the 1990s, law enforcement agencies, for example, have been employing Compstat practices to better identify patterns of criminal activity, allowing them to concentrate resources in hotspot areas for greatest impact.[1] Similarly, policy makers are increasingly relying on empirical evidence about what does and does not work in driving down recidivism, and are funding programs in accordance with those findings.

Today, data-informed decision-making is a fundamental component of smart defender management. Failing to use data will handicap efforts to do the most you can for your clients.

The goal of this paper is to answer basic questions of why defender leaders should collect data and what type of information should they collect. It also offers suggestions for how to collect and utilize that information. The intended audience includes managers of all types of indigent defense programs, including public defender offices, assigned counsel programs, and contract counsel programs. The paper recognizes the wide variety in size, resources and administrative capacity among defender organizations across the country. Depending on an organization's capacity, the answers to what data and how to collect them will vary somewhat. But all organizations, regardless of size, should prioritize core data collection.

This paper was prepared as part of the Justice Standards, Evaluation and Research Initiative (JSERI). JSERI is an effort by the National Legal Aid & Defender Association (NLADA), in conjunction with the North Carolina Office of Indigent Defense Services, to build the capacity of public defense agencies across the country to conduct in-house research and data analysis to improve their programs. JSERI's work includes development of defender tools and resources, provision of training and technical assistance, and developing and testing methodologies in pilot sites.

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1   CompStat, or Comstat (short for computer statistics, or comparative statistics), is a strategic management philosophy used by police to approach crime reduction. First used in New York City and replicated in jurisdictions throughout the country, CompStat is not a software package but rather a methodology for collecting, analyzing, and mapping crime data and other essential police performance measures on a regular basis.

Why Track Data?

Data Collection and Use Will Make You a Better Manager and a More Effective Advocate

Data make a defender manager's job easier by adding certainty and reducing guesswork. Data-informed decision-making is based on empirical information, not hunches. Regularized data collection and analysis is a practice that will help defender managers carry out their core managerial functions more effectively, assess progress in meeting organizational goals and objectives and, in turn, help improve their program's effectiveness. The collection and use of data can help defenders be more responsive to staffing issues, advocate more persuasively for budgets and resources, and produce better outcomes for clients. Performance indicators provide feedback on how well you are achieving your organizational goals. The data, or performance indicators, you track should be quantifiable measurements that reflect the critical success factors of your organization.

At their core, defenders are advocates. Data can support advocacy efforts on multiple fronts, including individual client advocacy, advocacy for your program and advocacy for criminal justice policy that is fair, just and cost-effective.

Client Advocacy
Objective information about case activities and outcomes enhances defender managers' abilities to supervise staff and evaluate performance in order to improve client representation. Examples include case activity information, such as the nature and frequency of client contact, investigator and social worker usage, or motion practice considered in conjunction with case outcomes.

Program Advocacy
There are many applications of data for program advocacy, chief among them budget and resource justifications. Whether making a convincing case that you serve your clients well or that you are overloaded and need more resources, you can substantiate your argument with data. Coupled with performance standards for your own program, or nationally accepted standards and principles, data on workload levels for your office are objective information that funders are better able to understand than anecdotes alone. And any effort to secure supplemental funding, such as from a foundation, will require substantiation of need. Beyond resource advocacy, data are also essential to evaluate effectiveness of any internal changes to practice, such as a pilot project.

Policy Advocacy
Many public defenders practice in climates that are far from just or effective, and their voices are essential to the call for smarter policies. Data, coupled with first-hand observations, are necessary when advocating for changes to criminal justice system practice or policy.

What is Data Tracking?

Data tracking is documentation: documentation of what you do for clients, and how you do it. Data tracking and analysis allow you to quantitatively measure things rather than rely on intuition to know how things are going.

What documentation should defenders collect? Defender programs should collect multiple points of information about their cases and clients. When considered with other bits of information, through comparison or statistical analysis techniques, these data points, or indicators, help paint a picture or tell a story.[2]

Consider the following data points about a defender program:
1. case type, caseload, case outcome

Or these:
2. client age, client gender, client race

And how about this one:
3. number of attorneys.

Any one of these data points on its own fails to tell much of a story about a defender program yet, if collected over time and viewed comparatively, can tell quite a dramatic story. Consider a fictional example of the Acme Defender Program:

> *In 2012, three attorneys at the Acme Defender Program were assigned 590 juvenile delinquency cases, a workload considered acceptable according to the program's caseload standards. Late in the fiscal year, new legislation was enacted requiring defenders to represent all juveniles, whether indigent or not, at first appearance. No new resources were provided to the Acme Defenders. At a hearing for the law, the Chief Defender testified that the change would put an unmanageable burden on her office but, as one legislator said, "This body is not going to be cajoled into appropriating funds over opportunistic and unsubstantiated whining."*

> *In 2013, the three juvenile defenders were assigned 740 cases. The average amount of time to dispose cases within the unit has increased to 12 weeks compared to nine weeks. One of the three defenders, who has 10 years of experience and carries a disproportionate number of cases compared to the other two, less experienced attorneys, is threatening to leave unless her workload moderates.*

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2   When reading about research practices or study results, you often see the terms "indicator," "metric," and "measure" used interchangeably. To avoid any potential confusion in this toolkit, we will be referring to the data you need to collect (e.g., charge type, number of client phone conversations) as "data points" or "indicators." If you come across the term "Key Performance Indicators" or "KPIs" in other toolkits or research reports, keep in mind that KPIs are simply referring to a list of the most important indicators that can be used to track performance. They are usually presented in the form of averages or percentages.

The next step, of course, would be for Acme's Chief Defender to return to the legislature and advocate again for additional resources. This time though, armed with empirical information about consequences to clients, to the overall justice system's efficiency and to program staffing stability, she could not be characterized as being opportunistic or whining.

How are these Indicators Tracked?

Data points are tracked by counting, *consistently and over time,* the same information about every case you touch. To count, and make sense of those counts, you need an electronic case-tracking platform.

Today, there are commercial case management systems available for every budget, and it is not the purpose of this paper to recommend one system or another.[3] Invest in the best system you can afford, but keep in mind that the system is only as good as the data you actually enter and use. Avoid selecting a system that requires staff or technical support you do not have.

What to Measure?
A Suggested, Uniform Approach

To guide the JSERI work, the NLADA established a national Research and Data Analysis Advisory Committee (RDA Committee) consisting of defenders, researchers, policy experts and others who support the creation of a strong foundation for indigent defense research.[4] One goal of JSERI is to provide tools that increase capacity of defender agencies across the country to assess and make improvements to their programs. As part of that work, RDA Committee members set out to develop a list of key indicators, or data points, that every defender program should track. The list that follows (Figure 1) was the result of much discussion. The list is supplemented with collection rationale for each category.

The RDA Committee considers the items on the list to be essential, fundamental data points that every defender agency should track. Data on a common set of indicators will give defender agencies a reliable set of data from which they can review and assess performance over time. Another rationale for uniform data collection is the creation of a powerful source of material from which to compare performance among divisions, across offices, and from state to state. The list is not intended to be exhaustive; there are always additional data points that can be considered depending on your program's needs.

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3   For information on what type of CMS to select, see the section, "Ways to Track, Your Case Management System," p. 6, in Using Data to Sustain and Improve Public Defense Programs, by Marea Beeman, prepared for the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (August 2012).

4   See Appendix A for a list of RDA Committee members.

DATA POINTS EVERY DEFENDER AGENCY SHOULD TRACK
NLADA Research and Data Analysis Advisory Committee

Variable	Category	Rationale

Cases Handled by the Office	a. Number of charges
	   i. Opened
	   ii. Closed
	b. Charge Type
	   i. Felony
	   ii. Misdemeanor
	   iii. Juvenile
	   iv. Dependency
	   v. Other
		Creates separate counts of cases handled according to type

Defendant Characteristics	a. Sex b. Race c. Age	Creates separate counts of clients according to distinguishing characteristics

The Process of Case Management/Case Events	a. Was client detained or released
	b. Bail
	   i. Bail amount
	   ii. Type of bail
	c. Motions filed
	   i. Number of motions filed
	   ii. What stage in the process filed
	   iii. Was there a hearing for the motion
	     1. Motion argument upheld/denied
	d. Client Contact
	   i. In Person (number of visits and total time spent)
	     1. While detained
	     2. Office visits
	       a. Court
	   ii. Phone conversations (number of times)
	     1. While detained
	     2. When released
	   iii. Email conversations (number of times
	     1. While detained
	     2. When released
		Identifies the nature and quantity of case-related activities undertaken

Variable	Category	Rationale

The Process of Case Management/Case Events	e. The use of investigators
	    i. Requests made
	      a. Granted
	      b. Denied
	    ii. Time spent on investigation
	    iii. Number of witnesses contacted/interviewed
	      1. Number of times canvassed for witnesses
	    iv. Photographs taken
	    v. Did the investigator testify
	f. The use of social workers
	    i. Request Made
	      1. Granted
	      2. Denied
	    ii. Time Spent on Social Work
	    iii. Did the social worker testify
	g. The use of other experts	

Case Disposition and Sentence	a. Plea
	b. Dismissal
	    i. Type of dismissal
	c. Probation
	    i. Length of probation
	d. Sentence length
	    i. Local sanctions or prison
	    ii. Was client detained during time of conviction
	      1. Length of time prior to conviction
	e. Restitution
		Identifies client outcomes

Who Handled Case	a. Attorney b. Years of experience	Identifies attorney experience level

Figure 1. Data Points Every Defender Agency Should Track List

The data collected should be disaggregated[5] in the following categories:

1. Statewide
2. By Jurisdiction
3. By Office
4. By Attorney Type
   a. Public Defender
   b. Appointed Counsel
   c. Contractor
5. By Attorney
6. By Year
7. By Quarter
8. By Month

Data from the RDA Committee's recommended list will equip defender programs to do significant work (see "How Do I Use It" below). Ultimately, deciding exactly which data points you want to track depends on the goals and capacity of your local program. Prioritize capturing accurate data on all cases. Your office, for example, may find it does not have the capacity to record the amount of time spent by investigators or social workers on a case, but you can capture whether an investigator or social worker was engaged.

Create a plan! It is needlessly burdensome to collect data that are not utilized, or if there is no rationale for collecting them. Understand what you are trying to accomplish. Are you seeking to monitor attorney workload? Evaluate performance? Substantiate budget requests? Evaluate client charges or outcomes across demographics? Answering these basic questions informs the selection of which indicators you are going to need to track.

> *Practice Point*
>
> Select indicators that provide feedback on how well you are achieving your organizational goals. The data, or performance indicators, you track should be quantifiable measurements that reflect the critical success factors of your organization. The mission and goals for your program are the starting point for selecting what factors you will measure.
>
> Keep in mind: you can't improve what you can't measure. If one day you want to break out your data to look at how non-citizen clients fare compared to U.S. citizens, but you do not record citizenship in your database, you will not be able to do that analysis. So, as daunting as it seems, try and think big when you are first setting up your system, and record everything you practically can.

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5   Aggregating refers to combining things (e.g., data points) into categories whereas disaggregating refers to separating things out into categories. "Disaggregating data" refers to the capacity to break out data for analysis using multiple variables. For example, perhaps you want to look at bail practice across a statewide indigent defense system. By tracking disaggregated data, you can determine, by region, by type of counsel and by attorney's level of experience, the number and percentage of felony cases where the client was released pre-trial and, of those, how many and what percentage were the result of a bail hearing. To be able to disaggregate data, be sure that, for each item being counted, your case management system contains separate fields to enter each of the desired measures. See the later section on "Cross Tabulation" for visual examples of disaggregated data.

Defenders Need to Know: How are Things Going?

Andrew Davies, Director of Research for the New York Office of Indigent Legal Services, explains that data collection, at its simplest, helps answer the most basic of queries for defender mangers: how are things going for my program? Davies breaks this query into three key, interconnected areas that data will help you assess: program resources, case activity, and client outcomes.

1. **What resources exist, and are they adequate?** Basic resources that can be expressed through data include overall funding, expenditures, staff size and composition, and attorney experience level. These data should be considered in context with other important resources that speak to capacity, such as training, office equipment and tools of the trade, such as on-line legal research.

2. **Attorney activities: what work is performed?** Case-related work activities include client contact, legal research, motion practice, investigation and in-court advocacy. Again, measurements of these case-related activities can be considered in context with non-case-related activities, such as training and professional development.

3. **Client outcomes: what do you do for your clients?** Basic client outcomes include case disposition (guilt or acquittal/dismissal) while more nuanced understandings consider life outcomes, client satisfaction, or whether clients plead to charges less severe than originally charged.

Information about program resources, case activities and client outcomes, taken together, enables defender managers to manage effectively and deploy resources appropriately. Just as important, it empowers defender leaders to take action when things are not going as well as expected.

The following figure sets out a basic approach, with suggested measurement options, to compile information that will help you assess the adequacy of program resources, attorney activities and case outcomes, or the "how are things going" query. Most of the items appear on the RDA Committee's list, but there are some differences.

Area	Measurement Options	Extras
Resources		
Budget and Expenditure	• Annual budget, by category, by funding source(s) • Attorney and expert voucher payments	
Workload	• Cases assigned, cases closed, cases open (by attorney and by case type/division) • Number of attorneys (by case type/division) • Experience level of attorneys (by case type/division) NOTE: Count cases in the same way the local prosecutor does.	• Develop overall cost per case or by dividing budget by cases. • Develop overall attorney workload by dividing cases by number of attorneys.

Area	Measurement Options	Extras
Attorney Activity	**Track all information by case and by attorney**	
Client Contact	• Number of client visits: jail, non-jail? • Number of phone conversations • Number of family visits	
Legal Research	• Westlaw/Lexis time records	
Motion Practice	• Number and type of motions filed	
Social Worker	• Requested? • Granted/Used?	
Investigator	• Requested? • Granted/Used?	
Expert	• Requested? • Granted/Used? • Type of expert	
Procedure	• Trial, Plea, Deferred Sentence	
Case Outcomes	**Track all information by case and by attorney**	
Pre-trial Status	• Detained • Released	
Disposition	• Guilty, Not Guilty, Nolle Prosse, Deferral	
Sentencing	• Incarceration, probation, fines • Plea to reduced charge vs. sentence for original top charge	• Sentence specifics (length, fine amount) • Drug or specialty court?
Client Outcome	• Employment before & after case; housing situation; recidivism within 3 years	

Figure 2. "How are Things Going?" Data Elements

A Special Point about Counting Cases

It is important that you develop and apply a standard definition of a "case" to your case tracking system. This will enable you to accurately analyze the volume of work handled and outcomes across and among case types without artificially inflating or under-counting effort. The North Carolina Systems Evaluation Project (NCSEP) Toolkit on Defining a Case and Assigning a CaseID explains that, "In order to identify what happened to the defendant, we need to identify 'cases,' e.g., the number and type of charges the defendant faced, the number and type of charges he was convicted of, and the sentence he received for those convictions."[6] Keep in mind, however, that in order to do meaningful, comparative justice system

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6   See p. 3, North Carolina Office of Indigent Defense Services Systems Evaluation Project Toolkit, "Defining a Case and Assigning a CaseID." Is there a cite for this? How to access it?

workload analysis of your particular jurisdiction, it is important that the local courts, public defender and prosecutor count cases uniformly.

If the prosecutor tracks cases by the number of charges in a single case filing, and your office just counts a filing - regardless of the number of charges it contains - as one case, your case counts will appear artificially low in a side-by-side comparison of cases handled. Similarly, some courts assign unique docket numbers to each charge that arises from a single incident. You need to be aware of the counting methods used by the court and prosecutor in your jurisdiction. Depending on the different approaches used, you may well want to record several identifiers for each case, such as your office's case identifier number, court docket number(s), and indictment number.

Which definition of "case" should you use? Ultimately, this will depend on various factors such as local practice and your CMS capabilities. The NCSEP toolkit contains a detailed method of identifying and tracking a case. A benefit of using that method is the ability to compare public defender office workload and outcomes with any office in the country that also uses the NCSEP method. However, the method may be impossible to adopt in jurisdictions lacking comparable information from the court or if the public defender's CMS program cannot accommodate the data sought.[7] In that case, the definition of "case" used by the National Center for State Courts, "all charges against an individual defendant arising out of a single incident," is a good model to consider.[8]

Tracking Time

One significant item should be added to the list of key data points identified by the RDA Committee. All indigent defense providers, including public defenders, should track their time.

Every public defender has heard some version of, "I became a public defender because I care deeply about representing my clients. I may earn less than attorneys in private practice but I get to do what I love and I don't have to be bothered with tracking my time."

Unfortunately, public defenders who do not track their time are putting at risk their ability to effectively represent their clients. Being uninformed about a) how much time they put into handling cases and b) whether that time is adequate is potentially very damaging for a defender agency. Defenders are often asked to do more with no additional resources and, without time records that tie into caseload standards, they have no substantiation of how the inevitable corner cutting impacts their clients.

National standards on the amount of time it takes to effectively handle particular case types do not exist. However, a number of public defender agencies have participated in time studies to develop workload standards for their programs. One recent study in Missouri used a two-part methodology that combined defender time tracking with a "Delphi method" review of time study findings.[9] As of March 1, 2013, daily time entry of all case and non-case-related activity became a mandatory requirement for all Missouri State

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7   For example, NCSEP's case tracking method is able to identify criminal cases that have an associated probation violation case because the North Carolina court system's database adds subsequent probation violation charges under the docket number of the original criminal charge. That is also the approach used by the North Carolina indigent defense system CMS.

8   See p. 13, "State Court Guide to Statistical Reporting, v.2.0", National Center for State Courts (March 2014), http:// www.courtstatistics.org/other-pages/publications/~/media/microsites/files/csp/state%20court%20guide%20to%20statisti-cal%20reporting%20v.%202.ashx

9   The Delphi method is a structured communication technique, originally developed as a systematic, interactive forecast-ing method relying on a panel of experts. The name "Delphi" derives from the Oracle of Delphi. The technique was developed during the Cold War to forecast the impact of technology on warfare. For more explanation see http://en.wikipedia.org/wiki/Del-phi_method

Public Defender (MSPD) practitioners. The study collected 25 weeks of those time entries and produced a baseline reflecting the average amount of time defenders put into various types of cases. Researchers then surveyed MSPD practitioners to identify which case-related tasks they felt they often had insufficient time to perform, based on current practices and staffing levels. A panel of experienced private practitioners and public defenders, through a professionally facilitated Delphi method process, then determined the amount of time that should be allotted for those tasks that MSPD attorneys identified as getting short shrift. That time was added to the baseline data to establish final workload standards for the Missouri system.[10]

The resulting study has been an important tool used by the Missouri State Public Defender, which has struggled with inadequate resources for many years. In 2008, the Public Defender Commission enacted an administrative rule requiring that it "maintain a caseload standards protocol identifying the maximum caseload each district office can be assigned without compromising effective representation."[11] If any district office exceeds that maximum caseload level for three consecutive months, the rule allows the State Public Defender to restrict that district office's availability to accept additional cases by filing a certification of limited availability with the presiding circuit judge or chief appellate judge of the affected court. The legislature has yet to fully staff the public defender system in line with the workload standards but a Missouri Supreme Court opinion endorsed the use of the case limitation process.[12]

Director of the Missouri State Public Defender, Cat Kelly, says that despite discouraging budget results, she still believes defender time-keeping is necessary. "The arc of criminal justice policy is bending toward evidence-based decision-making and public defenders aren't exempt from that. Even as we argue for its use in other areas, we have to be prepared to produce the evidence to back up our own workload anecdotes as well."

The caseload standards from the time study help substantiate the need for periodic caseload limitation requests and for continued budget advocacy.

How Do I Collect Data?

In order to know what is happening to your clients in your cases, you need information on every single case. This is called 'case-level' data. It needs to be organized electronically. There is no shortcut to this – even though your ultimate analysis will involve aggregating these data, you must have this case-level info to do the analysis. You need:

- A computer
- Case management system (CMS)
- Training
- Administrative support
- IT support

Explore the possibility of data integration with local systems – for example, will the courts allow you to upload case data from them, in order to populate your CMS? This can save you time on case entry but requires a big investment in infrastructure.

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10   See "The Missouri Project: A Study of the Missouri Defender System and Attorney Workload Standards," January 2014, http://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/2014/ls_sclaid_5c_the_missouri_proj-ect_report.authcheckdam.pdf
11   https://www.sos.mo.gov/adrules/csr/current/18csr/18c10-4.pdf
12   STATE EX REL. MISSOURI PUBLIC DEFENDER COMM'N. v. Pratte, 298 S.W.3d 870 (Mo. 2009)

The primary source for case information is individual case files. For assigned counsel, vouchers will contain additional key information on time and billing. The CMS you use - whether it is a sophisticated software package custom-made made for your office, or a series of Excel spreadsheets – is only as good as the data you capture.

Data are most valuable when they are in the aggregate, are complete and accurate, and span a period of time in which patterns can be detected, such as a year.

Collecting the same information for each case is crucial. Most defender offices are accustomed to capturing client name and demographic information to perform a conflict check, and noting attorney assignment. Over the life of a case, there can be less fidelity to capturing complete data points. A harried public defender who is responsible for entering information on case activities and final disposition may not remember to do so for each case. Defender leaders must develop a system where clear expectations of data management are set and understood to be factors in performance assessment. In the case of contract or assigned counsel, payment can be made contingent on receipt of data.

How Do I Use Data?

The payoff for your efforts to faithfully and accurately collect data is the rich source of information you can now tap. You can use data in many ways and for many purposes once you have them. As "Using Data to Sustain and Improve Public Defense Programs" noted, there are internal and external uses of defender agency data. Some of the internal uses of data include:

- Conduct intake and perform conflict checks
- Continuously monitor and manage workload across staff
- Track outcomes: acquittals, sentences, deferrals, etc.
- Document exactly what is done for clients – contacts made, motions filed, use of experts, etc. – to protect the record in case of appeal
- Develop and apply workload standards and case weights
- Track attorney time, as well as that of other case-handlers, including investigators and social workers
- Manage with clear expectations and performance measures.

Externally, defense agencies need data to demonstrate the need for and value of their services to funders and to respond to legislation or other proposed initiatives that could affect the quality or availability of representation.[13]

More concrete examples include:

- If you have data on bail amounts and believe that a reform in a certain court has had the impact of increasing offers of personal recognizance or partially secured bail bonds– **cross tabulate** bail amounts by cases before the reform and cases after. For instance, select five of the most common felony case types and examine bail results (personal recognizance, partially secured bail bond, bail, no bail) in the cases before and after a jurisdiction introduces the practice of conducting pre-trial risk assessments prior to determination of bail.

- If you have data on time spent in jail and believe that cases where you meet clients earlier result in fewer pretrial incarceration days, divide cases into categories based on how early you meet the client, and

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13   Beeman supra note 3.

cross-tabulate with time spent in jail.

• If you have time data on attorney-client contact, and are concerned that certain attorneys are doing less than others, simply run the averages for attorney-client contact by attorney name. See Table 1 for a simple example.

Attorney-Client Contact Analysis

	Average Time Per Case of Client Contact (in hours)			
Attorney	In-Person Meetings	Phone Conversations	Email Conversations	TOTAL
Jane	1	1	0.5	2.5
Bill	2	1	1	4
Raj	3	1	0.5	4.5
Janet	4	1.5	1	6.5
Tom	1	0.5	0.5	2
Average Hours	2.2	1	0.7	3.9

Table 1. Attorney-Client Contact Analysis

Assuming all five attorneys handle the same workload and case types, with an overall client contact average of 3.9 hours per case, a supervisor may want to speak with Tom, Jane and Janet to understand more about their client contact practice, as all three stray from the average.

The basic method to any analysis is:
  • Aggregate the relevant factor across all cases.
  • Think about how to cross-tabulate them.

Cross Tabulation

What is cross tabulation? Cross tabulation is a tool that allows you to compare the relationship between two or more categorical variables. A categorical variable is a measure whose values are non-numerical and mutually exclusive. Gender is a categorical variable with the categories male and female. Other examples of categorical variables include primary color (with categories red, yellow, blue) or case type (with categories felony, misdemeanor, juvenile delinquency).

A cross-tabulation (or cross-tab for short) is a display of data that shows how many instances each category of one variable are divided among the categories of one or more additional variables. In a cross-tab, a cell is a combination of two or more characteristics, one from each variable.[14]

The follow examples illustrate two views of the same (completely fictitious) data set, entered into an Excel workbook. Table 2 displays raw data on defendants, including their home state, month of arrest and length of pre-trial detention. Table 3 compiles the data into a cross-tab pivot table. The table disaggregates the raw data by state and by month and calculates average length of stay for each.

The following examples illustrate two views of the same (completely fictitious) data set, entered into an Excel workbook. Table 2 displays raw data on defendants, including their home state, month of arrest and length of pre-trial detention. Table 3 compiles the data into a cross-tab pivot table. The table disaggregates

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14   See http://sociology.about.com/od/C_Index/g/Cross-tabulation.htm

the raw data by state and by month and calculates average length of stay for each.

Raw Data on Defendants by State, Month of Arrest and Length of Pre-Trial Detention

Defendant	State	Arrest Month	Length of Stay (Days)
1011	Alabama	June	10
1012	Texas	June	8
1013	Texas	June	12
1014	Idaho	June	18
1015	Virginia	June	20
1016	Virginia	June	19
1017	Texas	June	10
1018	Virginia	June	25
1019	Virginia	June	4
1020	Texas	June	21
1021	Alabama	June	32
1022	Alabama	July	11
1023	Virginia	July	17
1024	Texas	July	17
1025	Texas	August	10
1026	Alabama	August	22
1027	Virginia	August	11
1028	Texas	August	9
1029	Virginia	August	9
1030	Idaho	August	8

Table 2. Raw Data on Defendants by State, Month of Arrest and Length of Pre-Trial Detention

Average Length of Defendant Stay Pre-Trial, by State and Month

Row Labels	Average of Length of Stay (Days)
Alabama	18.75
June	21.00
July	11.00
August	22.00
Idaho	13.00
June	18.00
August	8.00
Texas	12.43
June	12.75
July	17.00
August	9.50

Row Labels	Average of Length of Stay (Days)
Virginia	15.00
June	17.00
July	17.00
August	10.00
Overall Average	**14.65**

Table 3. Pivot Table, Average Length of Defendant Stay Pre-Trial, by State and Month

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Practice Point

After you determine which measures to track based on your program's needs, you should systematize your processes for collecting them and for producing the reports you want. You will likely need a combination of weekly, monthly, quarterly and annual runs of your data, depending on their various uses. For example, line supervisors need more frequent reports on open caseload to monitor workload, while the chief defender needs annual figures to support budget requests.

Keep Your Staff Plugged In

It is important to communicate your metrics to employees. Metrics related to performance evaluations, such as the number of trials conducted before promotion to another division is permitted, of course must be shared. But other information is good to share, too. The analysis you present to the legislature about workload trends, or about findings from special projects, concerns the entire staff. Sharing it with them helps build a culture that data matter. And when the metrics show improvement, share that success with everyone.

Make it Visual

Any CMS, including an Excel workbook, will offer ways to display your aggregate data in tables, charts or graphs. Take time to consider the most effective way to convey data to your target audience(s). Legislators appreciate simple graphics that tell a story without having to wade through columns of numbers. RDA Committee members joke that, "Every picture is worth a thousand data points." Use pie charts, line charts, and other graphs to quickly, easily, and visually communicate your metrics. The following example (Figure 3) shows how different formats – two types of bar graphs and a pie chart – displaying aspects of public defender caseload in South Carolina make it easy to digest data.
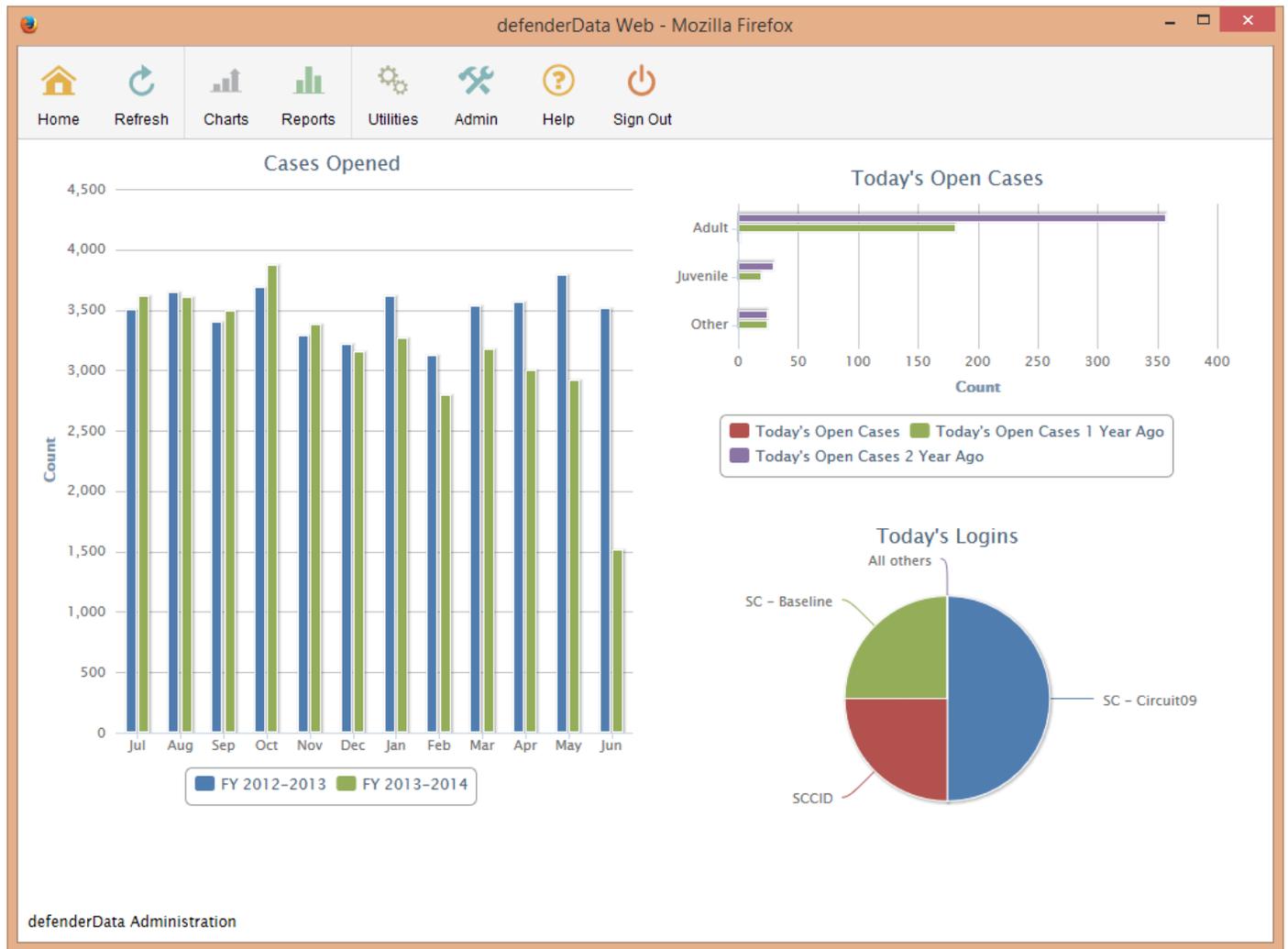
Figure 3. Examples of public defender activity from the South Carolina Office of Indigent Defense's defenderData ® case management system

Consider Engaging Professional Researchers

Occasionally what you want to know can out-strip your in-house research capacity. For instance, if you are doing any kind of comparison (for example, results before and after a program was introduced, or comparing outcomes for clients who received a service to those who did not), are you sure the comparison is fair? That is, is there anything else different between the two groups that might account for the differences you think you are seeing? If so – consult a researcher. You may need to use statistical controls.

Researchers, particularly those at university doctoral programs, are thirsty for data sets where they can put their skills to work. Reach out to a university to see if, in exchange for sharing your data, they will conduct more advanced analysis than you are capable of in-house.

Another scenario when consulting a researcher might be of benefit is if you are arguing that two things are related but you cannot be entirely sure. For example, if you see that when your attorneys investigate more, clients get better outcomes, ask yourself if you have thought of all the other possible explanations for why that apparent relationship might exist. If you suspect there might be something else going on but you are not sure how to tell, contact a researcher. Finally, are you wondering if a program saves money? Economic researchers can help think through all the costs and benefits the program produces, and quantify them.

One Program's Story

In South Carolina, lawmakers in 2007 created a unified, statewide public defender system, which replaced a disparate, county-based system of nonprofit defender agencies. Funding comes from a combination of state and county funds. Instead of 39 individual county programs providing trial level representation, there are now 16 circuit defenders. Policy is set by the South Carolina Commission on Indigent Defense, and administrative oversight is provided by the Office of Indigent Defense (OID). Among other things, OID, which is led by Executive Director Patton Adams, oversees a central reporting system for the accurate compilation of statistical data in the delivery of indigent defense services. Since shifting to a uniform system, overall state funding has increased dramatically, largely because of improved documentation of resource needs.

Prior to the shift to a unified system, Adams began implementing a CMS that would be used by all indigent defense providers in the state, but until 2007 he had no authority to enforce data collection efforts. He struggled to get accurate data from individual defender agencies and assigned counsel. Some defender agencies did not track data at all, while others had manual systems; one system consisted of 3" x 5" index cards. Some counties flat out failed to respond to requests for data; others supplied guesstimates. This completely unreliable picture of defender activity was a major issue in annual budget requests. With a budget process that is based on the number of cases handled, Adams admits, they lost funding over the inability to provide accurate data.

The Chief Justice understood the need for complete data, and issued a Supreme Court Administrative Order that mandates two things: all indigent defense attorneys, whether assigned counsel or public defender programs, must enter new cases into the CMS within 15 days from appointment and they must report final case outcomes.[15] For assigned counsel, payment will not be made without this information. Acknowledging there is a cost involved with careful data collection, Adams reimbursed providers who submitted data in the uniform fashion he sought on a per-case basis.

Meanwhile, work continued to refine the case management systems used by defender programs and assigned counsel. Today, public defenders enter data into a cloud-based case management system called defenderData®, created by the Salt Lake City, Utah-based company, Justice Works. Assigned counsel enter data into a system called Voucher Data, developed by indigent defense data systems consultant David Newhouse. South Carolina now has a statewide, web-based case management system tailored to its practice. It collects case activity information favored by Circuit Defenders to manage local practice, plus data that are needed to assess and report on statewide activity, including caseload, cost per case, cost per capita, use and cost of experts, and case outcome data, all broken out by county, circuit or statewide and between public defenders and assigned counsel. Appendix B contains screen shots from the Voucher Data and defenderData® programs.

Adams found that as all reporting on indigent defense activities and expenses migrated from dozens of disparate reports to the two case management systems, legislators went from having no confidence in South Carolina's public defender operation to "absolute confidence." Centralized collection of uniform data enabled the OID to:

- Monitor assigned counsel, investigator and expert witness billing for accuracy and abuses
- Facilitate payment on vouchers within 48 hours rather than the previous two–three months' average
- Track average expert witness costs by type of expert
- Identify concentration of crimes by area (much like CompStat for policing).

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15   http://www.judicial.state.sc.us/whatsnew/displaywhatsnew.cfm?indexID=350

Benefits to public defender programs from the defenderData® program include:

- Access to an office-wide, shared calendar
- Automated document assembly
- Ability to communicate with colleagues through a secure system, rather than through email
- Easier case management and work allocation for supervisors.

As one who went from having no reliable data to having a very capable data collection system, Adams is sympathetic to those just starting out. Still, he encourages defenders to make the investment in time and effort. It does not have to cost an arm and a leg to start tracking the basics: type of case, numbers of cases and charges, number of attorneys and funding.

Adams says "the human element" is the biggest challenge to collecting complete and accurate data. Running up to the close of the fiscal year, there is still an annual push from OID to get local offices to enter all of their cases into the system. All public defender trainings reinforce the need to enter complete and consistent data. Adams says, "It's taken a while, but most defenders are pretty much getting it."

Conclusion

The benefits of data collection outweigh the burdens. If you do not already have a data tracking system in place, get started. Even the most basic data sets, such as caseload and client contact, are most valuable considered in the aggregate, over a period of time. The longer you put it off, the farther away you remain from having that tool. Some things to keep in mind:

- To make informed analysis of their program, public defender, assigned counsel and contract counsel agencies should collect as much information as possible. Shoot for the sky, but do what you can.
- Be systematic: collect accurate, complete data.
- Budget for data collection and analysis: both staff and equipment.
- Use a carrot and stick approach: make assigned counsel or contract defender funding contingent on reporting or insist that defender time tracking is an expected attorney responsibility.
- Offer initial and ongoing training to staff to ensure uniformity in data collection.

If you have questions about how to get started, reach out for advice. Contact information for resources mentioned in this paper, such as the Justice Standards, Evaluation and Research Initiative (JSERI), appear in the following section of the paper.

Resources Mentioned

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Justice Standards, Evaluation and Research Initiative (JSERI)
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"The Missouri Project: A Study of the Missouri Defender System and Attorney Workload Standards," prepared by Rubin Brown on behalf of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (January 2014)

"Using Data to Sustain and Improve Public Defense Programs," prepared by Marea Beeman on behalf of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (August 2012)

Appendix A

National Research & Data Analysis Advisory Committee Members

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Appendix B

Examples from South Carolina Office of Indigent Defense's Case Management Systems for Assigned Counsel and Public Defenders

The first three images below are examples of entry screens for assigned counsel when registering a case using the Voucher Data case management system. The fourth image, also from Voucher Data, is an example of a report showing the total amounts paid per fiscal year for both assigned counsel and public defenders. The fifth and final image is a screen shot from the public defender office case management system, defenderData®.

Your Case Information View Tutorial

Case Name*	[ ]
Case Type*	Select Case Type ▾
608 Contract Case*	No ▾
County of Indictment*	Select County ▾
Court Type*	▾

List all Docket, Indictment, Warrant, and Ticket numbers.

Note: You must enter a correct docket, indictment, warrant, or ticket number with it's associated CDR number to register this case.

Docket number example: 2006-GS-34-00056(A)

Docket #	[ ]-[ ]-[ ]-[ ] [ ]
Indictment #	[ ]-[ ]-[ ]-[ ] [ ]
Warrant #	[ ]
Ticket #	[ ]
CDR #	[ ]

The offense CDR code section has been upgraded. You will now be able to search using any part of the offense's text. All **Active** charges are now available. If your offense is not available, please e-mail Ryan Cole at rcole@sccid.sc.gov.

[See full CDR list]   If you do not find your CDR# in the list above, click here to see the entire CDR list of offenses.

If you have multiple case numbers, Click Here to add them.

[Add Another Case Number]

Your Client's Information View Tutorial

Client's First Name*	[ ]
Middle Initial	[ ]
Last Name*	[ ]
Date of Birth*	01 ▾ 01 ▾ 2014 ▾
Gender*	○ Male ○ Female
Defendant Race	Select ▾
Victim Race	Select ▾
Permament Residential Address*	[ ]
Add. Address Info.	[ ]
City*	[ ]
State*	South Carolina ▾
Zip Code*	[ ]

[Add Another Client]

[**Register the Case**]   You must register the case to submit a Voucher

[**Return to My Cases**]   Any changes will be discarded. If you wish to save your changes, click Register the Case above.

Sum of VoucherTotalPaid		FYPaid					
userTYPE	case_type2	2010	2011	2012	2013	2014	Pending
Attorney	Civil	$ 1,487,748.32	$ 50,169.07	$ 1,677,068.69	$ 2,256,859.23	$ 3,487,531.29	$ 21,200.00
	Criminal	$ 1,794,928.68	$ 1,769,122.85	$ 2,019,080.45	$ 3,243,760.14	$ 4,509,183.40	$ 900.00
	(A) Felony (Capital) Conviction	$ 4,970.00	$ 5,440.00	$ 3,459.00			
	(A) Juvenile Conviction (JU)				$ 70.00		
	(A) Misdemeanor Conviction				$ 900.00		
	Capital	$ 1,694,465.42	$ 1,679,051.42	$ 2,003,823.50	$ 2,004,239.14	$ 1,130,601.90	
	PCR	$ 398,825.58	$ 37,462.59	$ 377,148.03	$ 491,310.48	$ 754,925.83	$ -
	(A) SVP	$ 1,323.55					
	GAL	$ 58,448.35	$ 257.50	$ 11,218.00	$ 2,205.00		
	Probate Commitment			$ 2,055.00			
Attorney Total		$ 5,440,709.90	$ 3,541,503.43	$ 6,093,852.67	$ 7,999,343.99	$ 9,882,242.42	$ 22,100.00
Public Defender	Criminal	$ 680,577.12	$ 629,232.74	$ 480,808.45	$ 855,167.62	$ 847,523.04	
	(A) Adult Probation Violation - Misdemeanor				$ 900.00		
	Capital	$ 219,632.99	$ 147,011.61	$ 144,780.18	$ 115,921.85	$ 111,929.35	
	PCR					$ 35.75	
Public Defender Total		$ 900,210.11	$ 776,244.35	$ 625,588.63	$ 971,989.47	$ 959,488.14	
Grand Total		$ 6,340,920.01	$ 4,317,747.78	$ 6,719,441.30	$ 8,971,333.46	$ 10,841,730.56	$ 22,100.00

(tooltip: Attorney (userTYPE) — Row: Attorney)

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defenderData Web - Mozilla Firefox

Home | Refresh | Search | New Case | Save/Exit | Save | Add | Copy | Delete | Print | Help

Katrina Antonio Cardenas
06/09/1992 (22)
999-01-2033

All (5) | Open (0) | Closed (5)

99A11-00001110
Assault — 07/22/2011
General Sessions — I204085
Lawson, Jodonnah — Mayberry
Plea/Charged - Bargain

99A11-00000212
Malicious — 02/08/2011
General Sessions — I203875
Lawson, Jodonnah — Mayberry
Plea/Charged - Bargain

99A11-00001140
Burglary — 09/12/2011
General Sessions — I204150
Lawson, Jodonnah — Mayberry
Plea/Lesser

99J08-00000009
Assault — 01/16/2008
Juvenile/Family — 08-JU-32-13
Lawson, Jodonnah — Mayberry
Closed Case

99J07-00000195
Probation — 12/03/2007
Juvenile/Family — 07-JU-32-156
Lawson, Jodonnah — Mayberry
Closed Case

#	Charge	Ticket	Indictment
2)	Malicious / Malicious injury, personal, real prop., more than $200 (no longer used)(see 0416, 0		
	110 (16-11-0520)	I203892	Indictment #

99A11-00001140
| 1) | Burglary / Burglary (After June 20, 1985) - First degree | | |
| | 79 (16-11-0311) | I204150 | Indictment # |

99J08-00000009
| 1) | Assault / Simple common law assault, no battery | | |
| | 658 (00-00-0000; 22-05-0150; 22-...) | 08-JU-32-13 | Indictment # |

99J07-00000195
| 1) | Probation / violation of terms of probation, parole or other supervisory program (not used for [| | |
| | 3329 (24-21-0450; 24-21-0680; 24-...) | 07-JU-32-156 | Indictment # |

Indictment Date: ____ Appeal: [ ]
Subseq. Arrest: ____ Capital: [ ]
Appointed By: Clerk LWOP: [ ]
Appointed As: ____ Disposition Charge:
Appointed Date: ____ CDR, Code or Description
Incident Date: ____ Disposition: ____
In Custody: [ ] Sentence: ____
Bond Type: ____ Sentence Note: ____

Add Notes

Case | Charges | Schedule | Time | Ticklers | People | Notes | Documents