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"How exactly does it get done here?" Conducting cross-jurisdictional research with judges and court staff

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Abstract

The legal, political, and organizational environment in which judges and court staff work affects their performance in significant ways. To ensure that researchers control for these effects, it is critical that they take sufficient time in the research design phase to identify relevant factors that might complicate their analyses or distort the interpretation of research findings. This article highlights common challenges of multijurisdictional research, including inconsistent use of terminology, differing organizational structures and procedures, and exogenous factors such as court governance, policymaking authority, funding, and local court culture. It also offers guidance to researchers on identifying and integrating these factors into their analyses to enhance the validity and utility of research findings.

Key words

Multijurisdictional research; court organization; court governance; data quality

Resumen

El entorno legal, político y organizativo en el que trabajan los jueces y el personal de los tribunales afecta a su desempeño de manera significativa. Para garantizar que los investigadores controlen estos efectos, es fundamental que dediquen tiempo suficiente en la fase de diseño de la investigación a identificar los factores relevantes que podrían complicar sus análisis o distorsionar la interpretación de los resultados de la

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investigación. Este artículo destaca los retos comunes de la investigación multijurisdiccional, incluido el uso incoherente de la terminología, las diferentes estructuras y procedimientos organizativos, y factores exógenos como la gobernanza de los tribunales, la autoridad normativa, la financiación y la cultura de los tribunales locales. También ofrece orientación a los investigadores sobre cómo identificar e integrar estos factores en sus análisis para mejorar la validez y la utilidad de los resultados de la investigación.

Palabras clave

Investigación multijurisdiccional; organización de los tribunales; gobernanza de los tribunales; calidad de los datos

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1. Introduction

Marshall McLuhan famously observed that fish did not discover water (1968). Because they are immersed it in, they live unaware of its existence. McLuhan was referencing the subliminal impact of media on how individuals, societies and cultures perceive and understand the world. The analogy is also useful for conducting research with courts, judges and court staff. The legal, political, and organizational environment in which judges and court staff work significantly affects how they manage and decide cases. Because these factors tend to operate in the background, judges and court staff are rarely conscious of their effects, but it is critical that researchers understand and control for their effects as much as possible. This is important even in studies focused on a single jurisdiction; it is essential for multijurisdictional research.

To some extent, researchers focused on courts and the law can look to well-documented formal constraints on judges and court staff to understand their assigned roles and authority to make decisions. Depending on the jurisdiction, legal requirements may be documented in constitutions, statutes, regulations, court rules, common law, or some combination thereof. These laws prescribe the decision-making authority of judges and court staff, the procedures they follow as they undertake their work, and the criteria they use to decide cases (e.g., the admissibility and appropriate weight to ascribe to different types of evidence, the burden of proof required for validating claims). Researchers focus on the extent to which judicial decisions and case outcomes are consistent with the jurisdiction's legal framework and seek to identify factors that cause, or at least are correlated with, deviations from this framework. In many jurisdictions, however, the body of formal laws that describes and guides court operations and decisions is purposefully broad or ambiguous, allowing local court professionals to use individual discretion in operationalizing the law to suit local or even individual needs. Over time informal business practices and decision-making criteria become entrenched as workplace culture, passed down to new judges and court employees by their predecessors. The original justifications for those practices often fade into obscurity. They simply become "the way it gets done here." This combination of formal and informal systems is often a powerful determinant of court performance and outcomes.

It has been my privilege for the past 30 years to study state and local trial courts in the United States at the National Center for State Courts (NCSC).[1] My colleagues and I frequently joke that every table we publish about court operations has at least 50 footnotes, with each footnote explaining how the referenced state differs from the other 49 states on the relevant data element. This diversity in legal taxonomy, institutional and organizational structure, and associated differences in the source of legal authority, local legal culture, and other factors affecting court performance and decision-making is both the most frustrating and the most intellectually satisfying aspect of our work. The

[1] The National Center for State Courts (NCSC) is an independent non-profit corporation with the mission to improve the administration of justice through leadership and service to state courts and to justice systems around the world. NCSC has provided research, education, information, technology, and direct consulting services to state and local court systems for more than 50 years. NCSC brings a broad range of resources to justice system studies, including an expert staff, a history of work with diverse jurisdictions nationally and internationally, and institutional links to other national court-related organizations. NCSC's familiarity with the unique nature of courts and justice systems enhances its ability to work effectively and efficiently with judicial officers, administrators, court personnel, and representatives of court-related agencies.

frustration stems from not knowing which of these formal and informal factors might be relevant to our work early enough in the research design phase of our work to include a plan to collect relevant data. The satisfaction comes from producing rich and nuanced research findings that tease out and identify factors that might otherwise be dismissed as "white noise" in studies of court performance.

In this article, I draw on my NCSC experience to describe the kinds of institutional and organizational factors of which researchers should be acutely aware before initiating a new study. My research has primarily involved analysis of multijurisdictional data of jury systems, jury trials, bench trials (cases decided by a single judge sitting alone), and civil litigation in state courts.[2] Sometimes the geographic diversity is court data collected from multiple counties within states, but more often it is drawn from multiple counties across different states, or even multiple states from the entire country of the United States.

Specific research challenges involve differences in the terminology employed to describe court cases and processes, in court organizational structures and jurisdictional authority, and in court governance, rulemaking authority, financing and culture. The examples described in this article are ones that I and my NCSC colleagues regularly encounter in collecting, analyzing, and interpreting state court data in the United States, but conceptually they are likely to arise in some form in virtually every multijurisdictional study of the judicial branch within or across countries. Identifying and understanding the potential effects of these types of factors at the outset of the research process can prevent erroneous interpretations of research findings and yield a far more nuanced understanding of the research questions.

2. Mapping the Legal Lexicon

The validity of multijurisdictional research necessarily requires that investigators employ an apples-to-apples approach – that is, studying the same thing in same way in each of the study sites. A major complicating factor in multijurisdictional court research is often the lack of a common terminology and definitions to help researchers know whether they are, in fact, studying apples or some other type of fruit or something else entirely (maybe household furniture). Even something as simple as the name of the court can increase the risk of inadvertently comparing disparate data. In New York State, for example, the general jurisdiction trial court is called the Supreme Court while in most other states that name refers to highest level of appellate court within the state.[3] In the federal court system and in 15 state court systems, the District Court is the general jurisdiction trial court, but the name refers to *limited* jurisdiction courts in 16 states. In

[2] The judicial branch in the United States reflects the nation's long tradition of federalism in other branches of government. A federal court system exists to adjudicate disputes under federal law, including disputes between states or, in limited circumstances, between residents of different states. Each state, however, has its own judicial branch that is separate and independent of the federal system. State and federal courts have a very thin layer of shared subject matter jurisdiction in which a case can be adjudicated in either system, and federal courts have appellate jurisdiction to review state court decisions to ensure compliance with applicable federal law. But 98% of court cases in the United States are filed and ultimately resolved by state courts.

[3] For names and descriptions of state trial and appellate courts in the United States, see Understanding State Courts at https://www.courtstatistics.org/state-courts.

most states, the term "court" refers alternately to the actual courthouse facility (of which there may be several located in the jurisdiction) or to the collective judicial branch as an institution serving a given geographic area. Texas has a third definition: each individual judge is their own "court." Other countries use equally unique terms that designate the institution and individuals authorized to adjudicate civil and criminal cases, including the judiciary, the tribunal, judges, magistrates, jurists, and arbiters.

Another aspect of terminology that researchers often face when conducting multijurisdictional studies includes confusion about case types. In some states, the term "civil case" refers to any non-criminal case, including domestic relations, probate, mental health, and even traffic cases; in other states, civil is specifically used as a category primarily encompassing tort, contract, and real property cases. Figure 1 provides a detailed taxonomy of civil cases filed in state courts in the United States.

FIGURE 1

Case Category	Case Subcategory	Type Category	Case Types (non-exhaustive)
Civil	General Civil	Tort	Automobile Tort, Premises Liability, Medical Malpractice, Other Professional Malpractice, Product Liability, Assault/Battery, Slander/Libel/Defamation, Other Tort
		Contract	Seller Plaintiff (debt collection), Buyer Plaintiff, Partnership Dissolution, Securities, Landlord/Tenant, Employment Dispute, Other Contract
		Real Property	Boundary Dispute, Eminent Domain, Other Real Property
		Other Civil	
	Domestic Relations		
	Probate		
	Mental Health		
	Traffic		

Figure 1. A taxonomy of civil cases.

More difficult problems arise in sorting cases into the correct category for courts that characterize cases based on the cause of action or legal theory of their claims (e.g., "negligence," "breach of contract," or "intentional tort") or on the nature of the injury alleged by the plaintiff (e.g., "personal injury", "property damage", "wrongful death" or "wrongful termination") or on the monetary value of the case (e.g., "small claims"). Occasionally the researcher will encounter case type descriptions that reference statutory or regulatory claims that are unique to the state. In Texas, for example, a "suit on sworn account" is a procedural tool, but not a legal claim, used in debt collection

cases. Case types that do not neatly fit these descriptions are often lumped together in the ubiquitous "other civil" category.

Disposition types can be even more problematic, especially in courts that record the procedural or legal significance of the disposition rather than the actual manner of disposition. For example, a case may be recorded as "dismissed" for a variety of reasons, including an administrative dismissal for failure to prosecute, an adjudicative decision that the plaintiff failed to articulate a legally cognizable claim, upon motion by a litigant for withdrawal or non-suit, or upon notice that the parties have settled the case. In each instance, the fact that the case was dismissed indicates that the case resolved without a formal court decision on the merits, which potentially keeps the courthouse doors open for the parties to refile the same case in the future. Similarly, a case disposed by "judgment," indicating a legally enforceable decision has been entered by the court, might be recorded for a case in which the defendant failed to respond or appear (default judgment) or reached a settlement with the plaintiff (agreed judgment) or was adjudicated on the merits (summary judgment, judgment on the pleadings, or bench or jury trial). Although the legal significance may be the same, these are all dramatically different types of disposition that signal different postures on the part of the parties and different expenditures of attention and resources on the part of the judge and court staff.

For more than four decades, the NCSC has been at the forefront of a concerted effort to nudge state courts toward a standardized framework for reporting court data. The *State Court Model Statistical Dictionary* (1980) was the first effort to provide a uniform set of data definitions. The *Dictionary* was revised in 1984 and again in 1989. It was replaced by the *State Court Guide to Statistical Reporting* (*Guide*) in 2003, which offers guidance and data definitions for case types, manner of disposition, case status, and other characteristics to allow researchers to make more accurate comparisons across jurisdictions (Court Statistics Project, 2020b).[4] In 2021, NCSC developed and published the *National Open Court Data Standards* (NODS) as a detailed resource to make case-level court data available to researchers, policymakers, the media, and the public to provide greater transparency about court operations. NODS contains a significantly expanded set of data elements and definitions compared to the *Guide*, not only about the case-level data, but also about the parties, their legal representation, and case events including motions and filings, court orders, hearings, and case outcomes. Fully implementing NODS in state courts is likely to take many years as it necessarily involves considerable effort to embed these data elements in court case management systems and train court staff on their proper usage. However, the NCSC is currently working with four state court systems to develop strategic plans for adopting NODS, helping them map their data to the standards, and create programs that enable consistent data extracts. The knowledge gained from these efforts will be used to create implementation case studies. Another seven states are independently working on NODS implementation.

Unless the researcher is prepared to read every document in the court file to be able to classify cases in a manner that facilitates accurate sorting for purposes of data analysis (a lengthy and tedious process), they must employ some method of translating the court's terminology into meaningful research equivalents. To the extent that they align with the researcher's focus, employing the *Guide* or NODS data definitions may simplify

[4] As of 2021, 39 states had fully implemented the *Guide* definitions.

and expedite this task. For example, if the researcher plans to rely on administrative data (Opeskin 2023) or data extracted from the court's case management system (CMS), they should obtain a copy of the CMS data dictionary, which should contain the names of all data elements collected, their format (text, date, numerical), and the values of all existing codes. To control for variation within jurisdictions as well as variation between jurisdictions, it is also important to confirm with knowledgeable court staff how the codes are used, especially concerning the quality and consistency of data entry practices for each code. E.g., who is responsible for entering the data? How are they trained on the system? Is use of the data codes mandatory or optional? Finally, the researcher should document how the court's codes map onto the researcher's framework, paying particular attention to instances in which the need to aggregate codes to account for different classification systems across jurisdictions may distort or obscure research findings.

Challenges posed by disparate terminology across jurisdictions often becomes apparent relatively early in the research process because they typically involve data elements that are explicitly identified as variables of interest in the research design. What researchers are more likely to miss are exogenous variables, such as organization structures, procedures, staffing models or other factors that might not be immediately recognized as important, but in fact are highly germane. Failure to account for their differences across jurisdictions can undermine the validity of analyses and lead to erroneous conclusions. The next two sections of this article describe factors that are often overlooked as potentially relevant to the research design. It may not be necessary to collect detailed data about each of these factors, but a thorough environmental scan of them in each of the research sites will help researchers become aware of their potential impact as the research gets underway.

3. Organizational Structure and Procedures

An important first step in studying courts is to understand the organizational structure of the court. This often has upstream and downstream effects on how the court is funded; how judges are recruited, selected, and trained; how the court is staffed and how independently they operate from judges and from other government and community actors; and how resources are allocated to support its operations. In the United States, court organizational structures are the culmination of each state's unique legal history. Accordingly, they can be as unique as the diverse constituencies they serve.

The basic court structure in the United States can be characterized as trial or appellate courts. Trial courts are typically the first stop for litigants in any court process. Cases are first filed in trial courts, evidence vetted and submitted for consideration, court orders issued, and decisions delivered orally or in writing, including findings of fact and conclusions of law to document the basis for those decisions. As the name implies, trial courts are the exclusive venue for bench and jury trials, which are the most formal type of adjudicative proceeding.

The second type of courts are appellate courts, which review the work of the trial courts.[5] Upon request of one or both parties, the appellate court determines whether the trial court complied with procedural and substantive law in rendering a decision. If it finds that the trial court erred in a way that materially harmed the legal interests of a party, it can send the case back to the trial court with instructions to correct the error, to retry the case from the beginning, or to substitute a different outcome entirely.

3.1. Appellate Courts

At the appellate level, most states have both an intermediate appellate court (IAC), to which litigants can seek review of alleged trial court errors as a matter of right; and a court of last resort (COLR), which typically has discretion to grant or deny litigant requests to review IAC decisions. Figure 2 compares the state court structures in Vermont and California (State Court Organization 2022). The judicial branch in Vermont consists of a single trial court (Superior Court) that is directly overseen by the COLR (Supreme Court) whereas California includes an IAC between the trial court (Superior Court) and the COLR (Supreme Court). Including Vermont, seven states have only a COLR as the sole appellate court. The eight states without IACs are Delaware, Maine, Montana, New Hampshire, court Rhode Island, South Dakota, Vermont, and Wyoming.

FIGURE 2

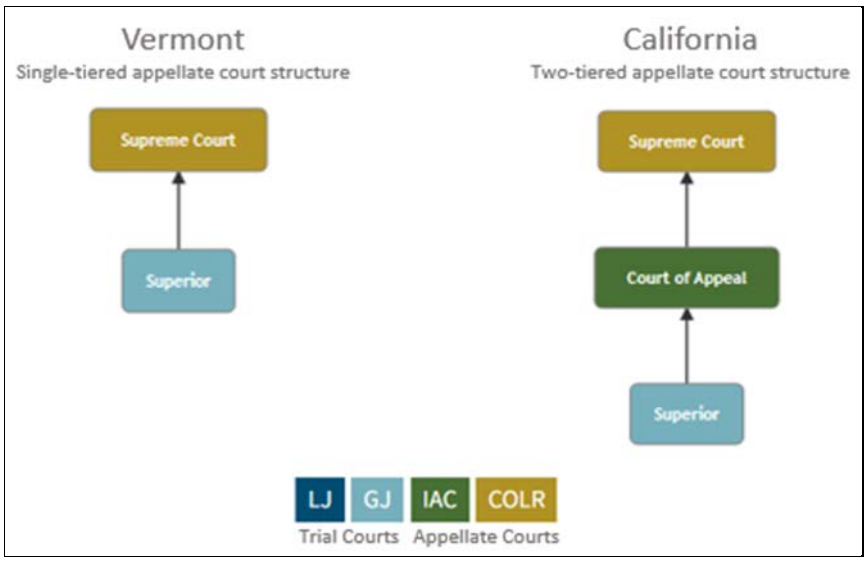

Figure 2. Appellate Court Structure in Vermont and California.

Court structure and procedure at the appellate level affects the volume of work for which each court is responsible and how it views its primary purpose. Forty-seven states reported detailed data on appellate caseloads to the NCSC Court Statistics Project in 2021. Incoming IACs caseloads in 2021 had 102,937 cases, more than twice the size of

[5] The standard of review by the appellate court depends on the type of ruling (procedural, evidentiary, factual, legal) and the identity of the decisionmaker (trial court judge, jury, administrative agency). Standards of review range across a continuum from de novo (no deference to the decisionmaker) to no review (complete deference). In the United States, the state constitution and statutes set forth the jurisdictional authority of each state's appellate court(s), including matters that are appealable by right, at the discretion of the appellate court, and over which they have original jurisdiction. For a summary of appellate court structures, see CSP STAT at Court Statistics Project 2023.

incoming COLR caseloads (49,682) (CSP STAT Appeals). The procedure for how those cases arrived at the respective courts also differs with respect to the types of cases that each court must review as a matter of right (mandatory review) versus cases that the court has discretion to grant or deny review (discretionary review) versus cases over which they have original jurisdiction. Because there is no IAC available to conduct a preliminary review, the caseloads in single-tier appellate courts are dominated by appeals by right (68%) and original jurisdiction cases (25%); only 7% of cases were accepted for discretionary review. See Figure 3. This breakdown more closely resembles the breakdown for IAC caseloads in two-tier appellate systems (68% appeal by right, 23% appealed by permission). In contrast, the majority of cases filed in COLRs in two-tier systems are discretionary appeals (58%), most of which were already reviewed by right in the IAC. Only 28% are cases requiring mandatory review and 14% are original jurisdiction cases.

FIGURE 3

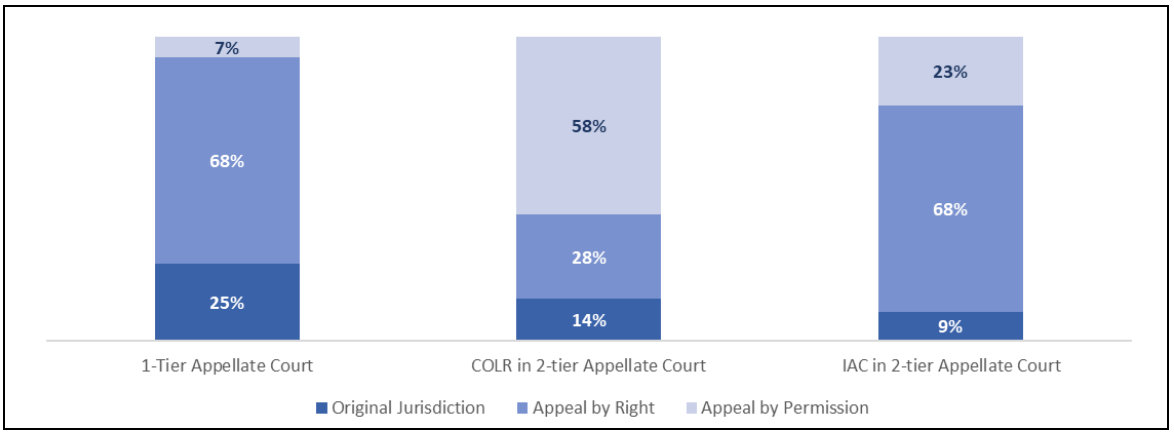

Figure 3. Composition of appellate caseloads by court structure (2021).

This difference is important to how appellate judges understand their role (Soltoff 2015). In caseloads dominated by appeals by right, appellate judges focus primarily on quality control. They are legally mandated to review the trial court proceedings to ensure compliance with existing procedural and substantive law; when they find error, their written opinions serve to educate trial judges on the correct interpretation and application of the law. Absent a need to interpret or clarify ambiguous constitutional or statutory provisions, their review provides little discretion to opine on what the law should be. Indeed, the sheer volume of appeals by right may crowd out opportunities to accept discretionary appeals. In contrast, COLR caseloads in two-tiered appellate systems are dominated by discretionary appeals. COLR judges rely on IAC judges for quality control at the trial court level and instead use their discretion to focus on areas of law they perceive as needing greater development, refinement, or clarification.

One consequence of this difference is its impact on the manner of disposition, both with respect to whether the appellate court decides the case on its merits and whether it affirms or overturns the lower court decision. Because single-tier COLR and IAC caseloads are dominated by appeals by right, the majority of those cases are decided on the merits (68% and 67%, respectively), most often by affirmance (64% and 73%, respectively; see Court Statistics Project 2021. In two-tier appellate structures, the COLR decided only 20% of cases on the merits; 56% of cases were denied review. Reversal rates were similar across each court structure (17% by IACs and COLRs in single-tier

structures, 21% by COLRs in two-tier structures). However, "other outcomes" by COLRs in two-tier structures were 74% higher than COLRs in single-tier structures and 300% higher than IACs, suggesting that many of these outcomes may have included remands to the trial court with instructions to reconsider its previous judgment in light of any clarifications of law propounded in the opinion.

These differences in appellate court structure have important implications for researchers studying appellate court decision-making, even if their investigations focus narrowly on decisions in particular types of cases (e.g., criminal, civil, domestic relations). Constitutional or statutory provisions necessarily restrict the procedural or substantive issues that can be raised on appeal as a matter of right, making differences across jurisdictions highly relevant when interpreting case outcomes. The relative volume of cases is similarly important, both on a per judge basis and proportionately to the overall caseload, because this perspective may indicate how much intellectual bandwidth each appellate judge can reasonably devote to each case.

3.2. Trial Courts

These types of nuances multiply dramatically at the trial court level. In the United States, trial courts can be subdivided into different categories describing the types of cases over which they are authorized to hear. As the name implies, limited jurisdiction courts are restricted by constitution or statute to hearing only certain types of cases defined by case type (e.g., traffic, misdemeanor, landlord/tenant, municipal ordinance violations), amount-in-controversy (e.g., civil cases up to $5,000), or geographic location (e.g., municipal courts). In contrast, general jurisdiction courts are those that are authorized to hear any type of case that is not exclusively vested in another court. Similar to appellate court structure, trial courts in the United States come in two flavors: single-tier courts comprised exclusively of general jurisdiction courts authorized to hear all case types; and multiple-tiered courts with one or more general jurisdiction courts and one or more limited jurisdiction courts.

Figure 4 shows four different examples of trial court structures (Court Statistics Project 2020). Illinois is an example of a single-tier general jurisdiction court, the most straightforward trial court structure, with a single circuit court located in each county that is responsible for adjudicating all case types. Other states with single-tier trial court system are California, Iowa, Minnesota, and Vermont as well as U.S. territories in the District of Columbia, Guam, Puerto Rico, and the Northern Mariana Islands.

FIGURE 4

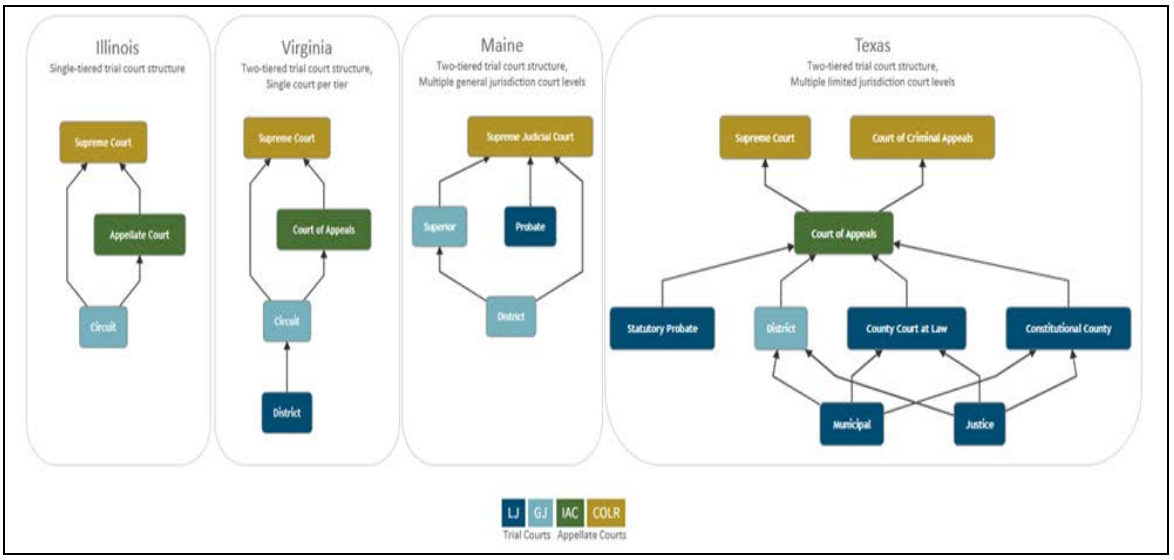

Figure 4. Trial Court Structure in Illinois, Virginia, Maine, and Texas.

Virginia is an example of a two-tiered system with a single general jurisdiction court and a single limited jurisdiction court (Virginia's Judicial System 2021). Virginia's limited jurisdiction court (District Court) hears all civil cases up to $25,000, including exclusive jurisdiction over small claims (civil cases up to $5,000); child custody and support cases; all misdemeanor cases and preliminary hearings for criminal cases; juvenile offenses, including status offenses; and all traffic, ordinance, and parking violations. The general jurisdiction court (Circuit Court) has appellate jurisdiction over appeals from the District Court, which are heard de novo as if there had been no prior decision. It also has concurrent jurisdiction with the District Court over civil cases between $4,500 and $25,0000; exclusive jurisdiction over civil cases $25,000 and over; exclusive jurisdiction over divorce and probate cases, all felonies, misdemeanor cases that were originally filed in the District Court, and juvenile cases in which the defendant was charged as an adult. Only the Circuit Court is authorized to conduct jury trials; cases in District Court are tried to the bench.

A somewhat more complicated court structure exists in Maine, which has two general jurisdiction courts (the Superior Court and the District Court) and a single limited jurisdiction court (Probate Court). Other examples of states with multiple general jurisdiction trial courts are Alabama, Arizona, Colorado, Delaware, Hawaii, Indiana, Kentucky, Louisiana, Michigan, Montana, New York, Oregon, and Tennessee. Finally, Texas is an example of a more complex trial court system comprised of a single general jurisdiction court (District Court) and multiple levels of limited jurisdiction courts (County Court of Law, Justice of the Peace Court, Probate Court, and Municipal Court).

These differences in subject matter jurisdiction at the trial court level introduce multiple factors that can affect patterns of case processing or outcomes. Differences in the composition of caseloads is the most obvious factor. As the name implies, limited jurisdiction courts tend to be more specialized with a higher concentration of less complex matters governed by streamlined procedures. There is a great deal of variation from state to state concerning the threshold differentiating more complex from less complex matters. In a 2015 study of civil litigation in state courts (*Civil Landscape Study*),

for example, the research team had to contend with a wide range of amount-in-controversy maximums for litigants filing in limited jurisdiction courts from as little as $10,000 in the Arizona Justice Court to $200,000 in the Texas Civil Court of Law (Hannaford-Agor *et al.* 2015).

These differences greatly complicated efforts to analyze cases on an apples-to-apples basis. Consider, for example, the multiplicity of courts in which a $6,000 consumer debt collection case might be filed depending on the state in which the case arose (Hannaford-Agor 2019). In Florida, the case can only be filed as a contract case in the limited jurisdiction court (jurisdiction for civil cases $5,001 to $15,000). In Kentucky, it would be filed as a contract case in the general jurisdiction court (exclusive jurisdiction for cases $4,001 and over). In Texas, the same case could be filed in three different types of courts: as a contract case in the general jurisdiction court (jurisdiction for cases $201 and over); as a contract case in one of two limited jurisdiction courts (concurrent jurisdiction with the general jurisdiction court for cases up to $200,000); or as either a contract or a small claims cases in the other limited jurisdiction court (exclusive jurisdiction over small claims up to $10,000 and concurrent jurisdiction with the general jurisdiction court and the other limited jurisdiction court for cases up to $10,000). Finally, in Montana, the case could be filed as a contract case in the general jurisdiction court (no monetary limit) or in any of three limited jurisdiction courts (justice court, city court, or municipal court, all with jurisdiction over cases up to $7,000). Before undertaking a multijurisdictional study of consumer debt litigation, a researcher would first have to identify all of the courts in which such cases could be filed to ensure comparable samples of cases for analysis.

The research findings from the Civil Landscape Study highlighted the extent to which previous studies of civil litigation in general jurisdiction courts missed important trends occurring in limited jurisdiction courts (e.g., increase rates of self-representation, increased default judgment rates). More importantly, excluding comparable cases from analyses because they had been filed in limited jurisdiction courts skewed important findings about civil litigation more broadly. In the 2015 study, for example, small claims cases made up 16% of the total civil caseload, but because they were filed exclusively in limited jurisdiction courts, they were never considered in previous studies of civil litigation (Hannaford-Agor 2022). The remaining limited jurisdiction caseloads were comprised mainly of contract cases, often involving consumer debt collection or landlord/tenant cases, which differ markedly in terms of case processing and outcomes from the tort, commercial contract, and real property cases filed in general jurisdiction courts (Hannaford-Agor 2019).

4. Judicial Experience, Data Quality, and Case Processing

Researchers studying operations and decision-making in trial courts across jurisdictions must be careful to control for differences in caseload compositions and associated differences in procedures and case outcome patterns. The availability and quality of data may also differ based on court structure. For example, the volume of cases in limited jurisdiction courts is typically quite high on a per judge basis, leading to their characterization as "high-volume dockets." Almost 33 million cases were filed in limited jurisdiction state courts in 2020 compared to 10.2 million in general jurisdiction courts (Court Statistics Project 2023). Many of the decisions in these courts are given orally during a single court hearing. The written record for these cases can be quite sparse, with

court orders consisting of one or two sentences. In general jurisdiction courts, however, cases may have multiple court hearings, including case management conferences, status conferences, evidentiary hearings, and trial proceedings. Court orders are entered in response to written motions, often accompanied by lengthy written legal arguments highlighting important factual and legal considerations. Orders disposing the case or denying one or more of a party's proposed claims typically include a lengthy opinion, especially for cases resolved by bench trial.

Another implication of limited and general jurisdiction trial courts is in the professional background and experience of trial judges. For example, assignments to limited jurisdiction courts are sometimes viewed as a judicial training ground for higher-level courts, but due to the inherent specialization of caseloads, limited jurisdiction court judges often become highly knowledgeable about the law and procedure for those cases compared to judges assigned to general jurisdiction courts.

Procedural requirements can also contribute to variation in key performance measures for courts. Take, for example, the amount of time from filing to disposition. Many states mandate a "waiting period" for divorce/dissolution cases – ostensibly to give litigants an opportunity to reconcile – before the court can issue a final decree granting their divorce. Waiting periods range from 30 days to six months after filing (or after legal separation). States with longer waiting periods would necessarily have longer average times to disposition. Similar effects on time to disposition include the amount of time a litigant has to serve the opposing party with legal notices and the amount of time the opposing party has to respond. Finally, internal operational practices are often overlooked as a source of variation in analyses of time-to-disposition. After a case is filed, for example, how many days typically pass before it is assigned to a judge? How many days or weeks in advance are hearings or trials scheduled? How quickly are court orders issued following those hearings? Unless these procedural and operational differences are explicitly taken into account in analysis, they might obscure the impact of other factors (e.g., existence of minor children, substantial property distribution disputes) more germane to time-to-disposition. Researchers may need to employ a variety of data collection methods (e.g., review court records; observations of court proceedings; process mapping; and surveys, focus groups, or interviews with judges, court staff, lawyers, and litigants) to fully understand court operations and decision-making.

5. Court Governance, Rule-making Authority, Financing, and Court Culture

Governance, rule-making authority, and funding are other factors to consider in research designs about court operations and outcome patterns. In some states, governance over the state judicial branch is exclusively vested in the COLR or in its chief justice, which necessarily implicates judicial selection methods as possible influences on court performance and policymaking. If so, researchers should consider documenting how judges are selected (election versus appointment), the length of the judicial term of service, the length of the judges' tenure on the bench, their previous judicial experience (length and type), their previous legal experience (criminal, civil, family), and their formal education (Nagel 1973, Van Zyl Smit 2015). In other states, however, governance vests in a judicial council comprised of judges selected from the entire judicial branch. In these states, the impact of individual judicial selection variables on statewide court

policymaking is more diffused, but the need to develop consensus on statewide policies and budgetary priorities often makes it more difficult to launch innovative responses to emerging problems.

Similar factors may play a role in the extent to which local trial courts are either vertically integrated into a unified organizational structure or operate autonomously with respect to both adjudicative and administrative responsibilities, which can affect how effectively courts can implement and enforce new policies. Specific data elements related to these factors include selection methods for judicial officers and court staff. In many states, for example, document management, facilities, and often fiscal management for the court is the responsibility of a locally elected Clerk of Court, who is independent of the judges assigned to that location. In most cases, the judges and Clerk develop an effective working relationship in which they each understand and respect their obligations to each other as well as to the broader community. But notable battles occur periodically, especially concerning policy decisions affecting the other's domain. In one such dispute, the judges brought a lawsuit against the locally elected Clerk of Court for his decision to discontinue maintenance of paper files after the state implemented an electronic filing system. Ultimately, the state COLR ruled that the judges had the right to file the lawsuit, but they could only finance the lawsuit using personal funds, not local taxpayer funds (Weiss 2019).

The extent to which the judicial branch controls internal operations by drafting and promulgating administrative and procedural rules can also shed light on judicial policymaking. Some state constitutions explicitly reserve this power to the judicial branch while others have established a shared responsibility between the judicial and legislative branches. In either system, judicial and legislative policymakers have typically arrived at some mutually agreeable consensus about how the branches should interact when the need arises while protecting their respective branches' prerogatives. In some states, these accommodations result in rules and policies that are intentionally broad to allow maximum flexibility over time while others are extremely detailed. The divisions of authority may also shift depending on whether the focus is procedural, substantive, or budgetary. For example, the legislature may happily cede policymaking responsibility to the judicial branch for procedural matters but insist on strict control over substantive law. The judicial branch, in turn, may agree to implement the legislature's policies, but only if they are funded at a level that permits the court to pursue at least some of its own priorities. The same dynamic can also play out at the local court level. Mark (2023), for example, describes the degree to which local courts complied with state judicial branch directives concerning public health and safety during the global covid pandemic in 2022. Court researchers should have enough understanding of the dynamics at play in this arena to account for how they might affect the subject matter being examined.

The amount and source(s) of funding for the judicial branch can affect court operations and case outcome patterns in subtle ways. "Follow the money" is always good advice for court researchers. Are salaries for judicial officers and court staff funded at the state or the local level? What about support for facilities and infrastructure? Does the court exercise exclusive control over facilities and infrastructure? Or are they controlled and operated by the state or local executive branch on behalf of the judiciary? How much of

the court's budget comes from general operating funds versus court-generated fines and fees? Answers to these types of questions can and should inform researchers' conclusions about the ability of the judicial branch to recruit and retain competent judges and court staff as well as their independence from and accountability to other branches of government at both the state and local level.

All of these factors can combine to affect and characterize "the established expectations, practices, and informal rules of behavior of judges and attorneys," or what has come to be known as "local court culture" (Church *et al.* 1978). In the early 2000s, Ostrom *et al.* (2005) developed tools to quantify different aspects of court culture and use those metrics to study trial court performance, particularly related to timeliness and expedition in felony case management. Their classification scheme identified the views of judges and lawyers across two dimensions: Sociability (the degree to which they get along and the importance of cooperative social relations) and Solidarity (the degree to which they pursue shared goals, common tasks, and agreed upon procedures). Juxtaposing the two dimensions (see Figure 5) created a framework comprised of four quadrants, which they described as Communal, Networked, Autonomous, and Hierarchical Cultures with common characteristics related to case management styles, relationships between judges and court staff, approach to change management, courthouse leadership styles, and internal organization. In their study of 12 trial courts in three states they found that the dominant culture significantly predicted court performance with respect to timeliness as well as other performance areas, but not necessarily the same culture for each performance measure. For example, cultures emphasizing solidarity were more likely to resolve case more expeditiously than those with less solidarity (communal and autonomous). With respect to criminal case processing, however, prosecutors viewed network cultures as the most managerial effective environments, but criminal defense counsel viewed communal cultures as most effective.

FIGURE 5

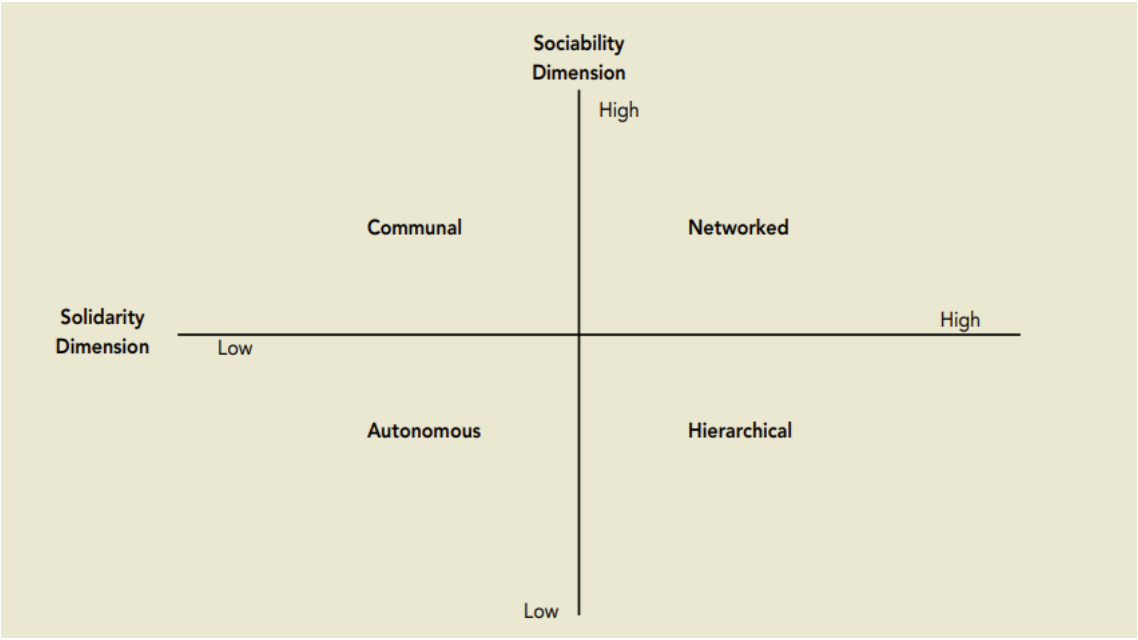

Figure 5. Court Culture Classification.

6. Conclusions and Recommendations for Court Researchers

Conducting applied research about the judicial branch can be quite challenging, especially working with multiple research sites. It often takes time to identify appropriate research sites and solicit their agreement to participate, including providing access to data (Elek 2022). Depending on the focus of the research, data collection may require travel to the participating sites to review case files, observe court procedures, or conduct interviews or focus groups with judges, court staff, and other justice system stakeholders. The most obvious challenge involving multijurisdictional research is that of collecting comparable data across sites. Differences in terminology should be expected, so researchers should take sufficient time to thoroughly document how data elements are defined in each jurisdiction before beginning the task of recoding or aggregating variables for analysis. In some instances, it may be impossible to control for disparate data definitions, in which case the researcher must at the very least acknowledge the limitations of conclusions based on imperfect comparisons. It is likely that data for some variables of interest may not be easily collected, if they even exist, but knowledgeable judges or court staff may be able to suggest reasonable proxies.

In studies about courts, judges, and justice system actors, the unit of analysis can include cases, or judges, or parties, or entire courts as organizations. Whatever the unit of analysis, it may be useful to conceptualize its place within a larger hierarchy to tease out possible exogenous factors to consider for analysis. Cases may be nested within judges, who are nested within courts, which are nested within defined geographical areas (counties, states, countries). At each of those levels, the organizational structure of the court, the procedures the court employs to process cases, and the culture that permeates interactions among judges, court staff, and lawyers can affect the unit of analysis in subtle and not-so-subtle ways. Accurate information about which organizational, procedural, and cultural factors are associated with each level of the hierarchy can help researchers differentiate factors that are essential to the research from those for which it would simply be nice to know.

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