

Appellate Court Structures

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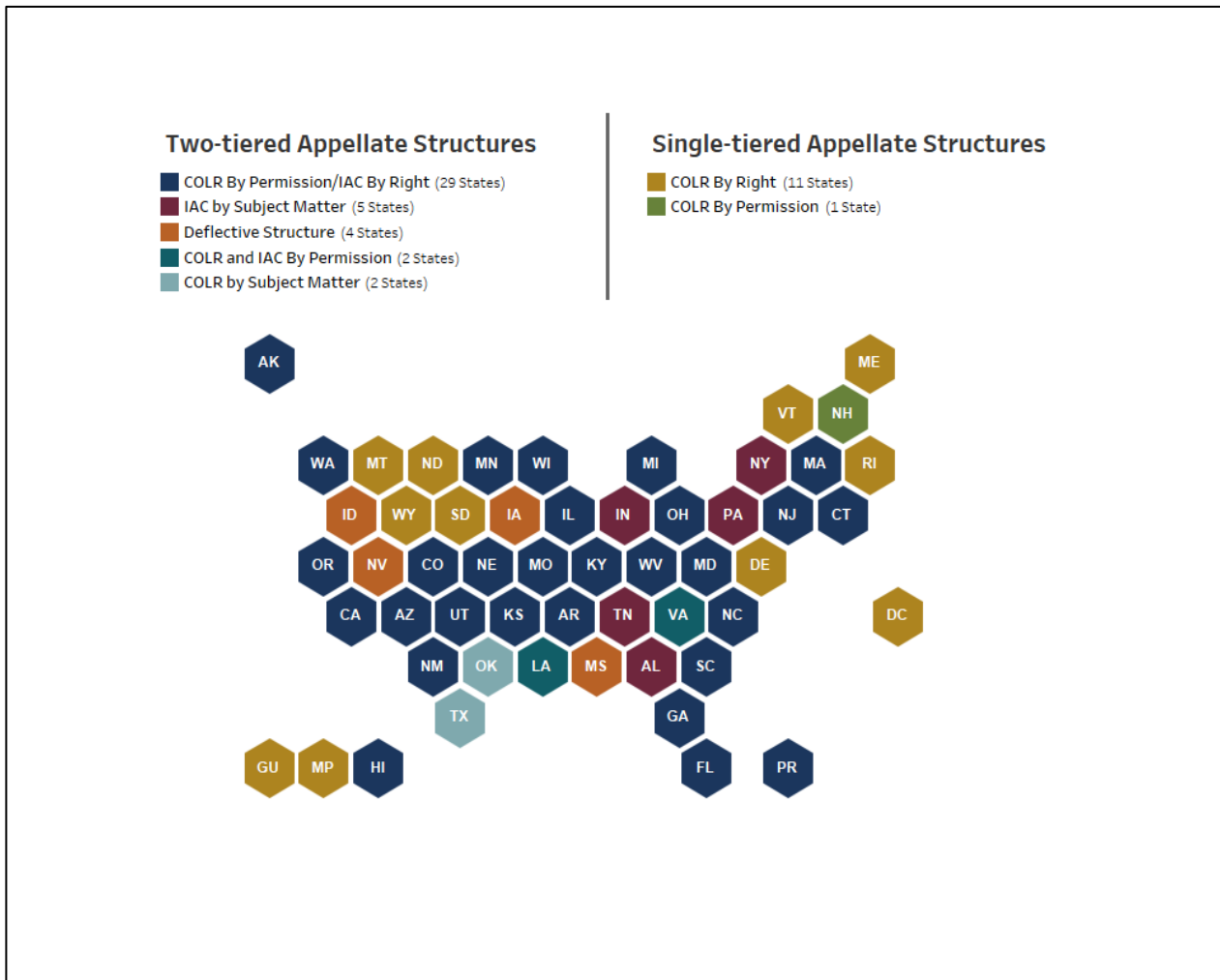
Appellate courts serve a crucial role in the judicial system, ensuring that justice is administered fairly and consistently. This issue of Caseload Highlights focuses on appellate court structures and their impact on caseload reporting to the Court Statistics Project (CSP).

When making caseload comparisons across states, the organizational structure must be considered. The organizational structure impacts how appeals are counted for national caseload reporting purposes and reveal important differences about the way in which an appeal moves through the appellate process. To illustrate one process that impacts counts of appeal, the defective appellate court structure is examined in further detail.

Appellate courts operate within the broader state court system with one-tier or two-tier structures. States with one-tier systems have one appellate court—a court of last resort (COLR) which represents the highest level of judicial authority within the state. States with 2-tier systems have at least one intermediate appellate court (IAC) in addition to one or more COLRs. Appellate courts can hear appeals by right (mandatory review required by statutory provisions or constitutional guarantees) or by permission (discretionary review) and can also have original jurisdiction over applications for writ and other appellate proceedings.

Appellate structures vary by state, with seven distinct appellate structures. Figures 1 and 2 display the state court structures and the different types of appellate structures, respectively.

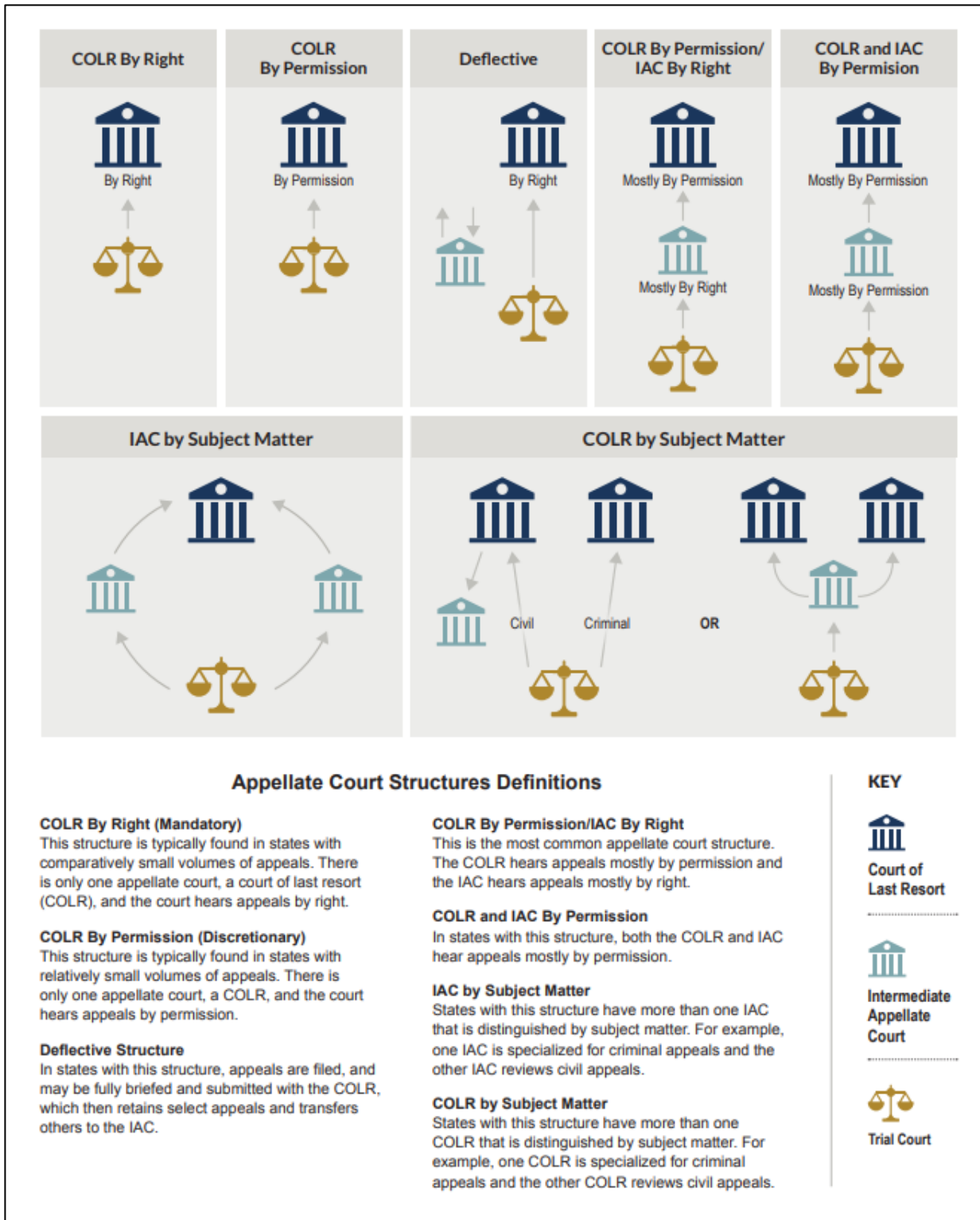
Figure 1. Appellate Court Structures By State¹



The most common appellate structure is COLR By Permission/IAC By Right. Within this structure, the COLR has discretionary review (by permission) and the IAC has mandatory review (by right).

¹ Appellate structure categorizations are from the state court structure charts available here: <https://cspbr.azurewebsites.net/>

Figure 2. Appellate Court Structures²



² Oklahoma is classified as a COLR by Subject Matter; however, it is a hybrid of both COLR by Subject Matter and Deflective Structure. The Oklahoma Supreme Court (COLR) assigns civil appeals to the Court of Civil Appeals (IAC).

Deflective Structure

Four states (Idaho, Iowa, Mississippi, and Nevada) have a deflective structure. Within this structure, appeals are filed in the COLR, which then retains some cases and transfers others to the IAC. Although these four states share a similar structure, there is variation in how the deflective model operates in each state. States vary in assignment of case types to the IAC by the COLR, and there is also variation of original jurisdiction of the IAC.

In terms of a court case moving through the courts in deflective appellate structure states, a case is heard in the trial court and then appealed to the COLR. The COLR then reviews the case to determine whether to retain the case or assign the case to the IAC. If a case is retained by the COLR, it is heard and decided at this court. If a case is assigned to the IAC, the case is heard there and can potentially be appealed back to the COLR.

Nevada is the most recent state to implement this appellate court structure. In 2014, Nevada approved an amendment that allowed the creation of an IAC. Because the appellate structure in Nevada operates as a deflective model, the COLR assigns appellate cases to the IAC.

Why is Appellate Structure Important?

Collectively, the organizational structures of appellate courts provide essential context when examining caseload data and making comparisons across jurisdictions. For national reporting purposes for the CSP, appellate courts count all incoming appeals as an *appeal by right* or an *appeal by permission* which leads to, in some cases, counting cases twice. However, although the courts do not capture the number of unique appeals, CSP employs this approach to the counts as it more accurately reflects the work of the appellate courts.

As described in the text box, deflective appellate structures require all appeals to be filed with the COLR where permission to appeal is either denied or granted and assigned to the IAC.³ As a result, an appeal is reported as filed with the COLR and reported as an outgoing appeal with a

disposition of “disposed prior to decision.” The same appeal is then reported as an incoming appeal by right, since permission to appeal was granted by the COLR, and the appropriate disposition category is reported for the IAC. Therefore, it is important when examining the CSP dashboard for appellate caseloads to consider all data analysis of incoming and disposed caseloads in light of the different appellate structures.

The Court Statistics Project is the only source for comparable annual state court caseload data, with court data published at www.courtstatistics.org/. For more information about 2012-2022 court data, please see our website at www.courtstatistics.org/court-statistics/interactive-caseload-data-displays/csp-stat. NCSC is available to provide training or assistance! Contact CSP Staff at csp@ncsc.org for more information.

³ Supreme Court of Nevada. About the Court of Appeals.

https://nvcourts.gov/supreme/court_information/court_of_appeals; Nevada Rules of Appellate Procedure. <https://www.leg.state.nv.us/courtrules/nrap.html>; Iowa Legislature. Rules of Appellate Procedure Chapter 6. <https://www.legis.iowa.gov/docs/ACO/CourtRulesChapter/6.pdf>; State of Idaho Judicial Branch. Supreme Court. Idaho Appellate Rule 108. <https://isc.idaho.gov/iar108>; Mississippi Rules of Appellate Procedure.

<https://courts.ms.gov/research/rules/msrulesofcourt/Rules%20of%20Appellate%20Procedure%20Current.pdf>