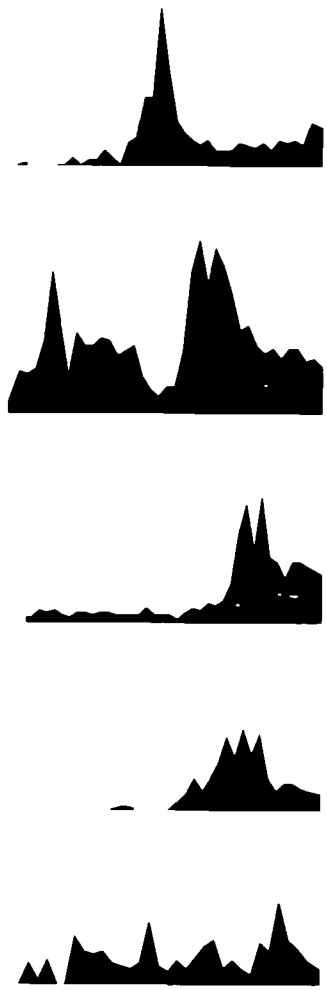
Examining the Work of State Courts, 1996

A National Perspective from the Court Statistics Project

Drug Crime: The Impact on State Courts



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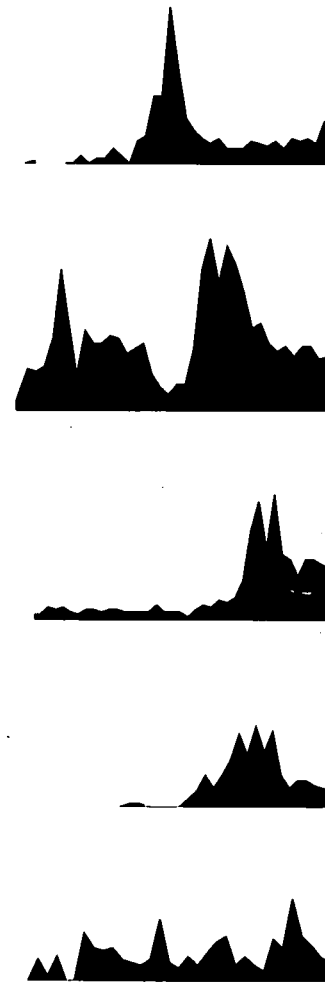

Examining the Work of State Courts, 1996

A National Perspective from the Court Statistics Project

Edited by

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Acknowledgments

The members of the Court Statistics Project (CSP) gratefully acknowledge assistance and guidance from throughout the state court community. At the heart of this national effort is the strong and continuing support of the state and trial court administrators, the appellate court clerks, and their staffs who have provided the bulk of the information included in *Examining the Work of State Courts, 1996* and *State Court Caseload Statistics, 1996.* They have been consistently patient and helpful in answering written and telephone inquiries for more data or for explanations of the data provided. We owe a special debt of gratitude to the staff members of the administrative offices of the courts and of the appellate courts who serve as contact persons between their offices and the Court Statistics Project.

Over the past couple of years, the CSP and the National Association for Court Management have been cooperating to build the "NACM" Trial Court Network. The purpose of this network is to create a practical method for individual trial courts to compare their work to other courts of similar size and structure. CSP staff wish to express our gratitude to the many trial court administrators around the country who are helping build the network into a timely and workable means of information exchange.

The content and design of all products produced by the CSP benefit greatly from the guidance of the 12 members of the Court Statistics Committee of the Conference of State Court Administrators. The committee members have given generously of their time, talent, and experience, and their participation has been invaluable to project staff.

The Court Statistics Project is funded through the generous support of the State Justice Institute and the Bureau of Justice Statistics. The authors wish to acknowledge the guidance and constructive advice provided by Janice Munsterman, the project monitor at the State Justice Institute. Nevertheless, the points of view stated in this document are those of the authors and do not necessarily represent the policies of either agency. The more general responsibility for developing the CSP products and promoting improvements to court statistics is shared with the National Center for State Courts management, working under the policy direction of the COSCA Court Statistics Committee.

A special debt is owed to our colleagues Roger A. Hanson and Susan L. Keilitz, whose advice, editorial skills and other valuable input considerably improved the final product. The publications of the Court Statistics Project benefit greatly from the careful editing of Dawn Spinozza. Project staff also wish to thank Pam Petrakis for her administrative support and unfailing good cheer. Judith Ann Sullivan skillfully managed design and layout and coordinated the printing of this publication.

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Table of Contents

Foreword

Wrong opinions and practices gradually yield to fact and argument; but facts and arguments, to produce any effect on the mind, must be brought before it.

- John Stuart Mill (1859)

This report offers a full and clear portrait of the work of the nation's state courts. Reading the litigation landscape requires an understanding of the current business of state trial and appellate courts, as well as how it is changing over time. Although our primary audience is the state court community, the information presented in this report is also valuable to legislative and executive branch policymakers.

Publications produced and disseminated by the Court Statistics Project (CSP) are the prime source of information on the work and organization of the state courts.

Examining the Work of State Courts, 1996 provides a comprehensive analysis of the business of state trial and appellate courts in a nontechnical fashion. Accurate, objective, and comparable data across states provide a relative yardstick against which states can consider their performance, identify emerging trends, and measure the possible impact of legislation. Without baseline data from each state, many of the most important questions facing the state courts will go unanswered. This volume facilitates a better understanding of the state courts by making use of closely integrated text and graphics to describe plainly and succinctly the work of state trial and appellate courts.

A second volume, *State Court Caseload Statistics, 1996,* is a basic reference that contains detailed information and descriptions of state court systems. Individuals requiring more complete information, such as state-specific information on the organization of the courts, total filings and dispositions, the number of judges, factors affecting comparability between states, and a host of other jurisdictional and structural issues, will find this volume useful.

A third series, *Caseload Highlights,* recognizes that informed judges and court managers want comparative information on a range of policy-relevant topics, but they want it in a timely fashion and in a condensed readable format. Whereas other project publications take a comprehensive look at caseload statistics, *Caseload Highlights* targets specific and significant findings in short policy reports no longer than four pages. Because they fill the gaps in distribution cycles between the two annual reports, *Caseload Highlights* are also timely in terms of the data and subject matters covered.

Taken together, these publications constitute the most complete research and reference source available on the work of the nation's state courts. The publications are a joint project of the Conference of State Court Administrators (COSCA) and the National Center for State Courts. COSCA, through the work of the Court Statistics Committee, hopes this information will better inform local, state, and national discussions about the operation of state courts.

Executive Summary

Between 1984 and 1996, civil filings increased by 31 percent, criminal filings by 41 percent, juvenile filings by 64 percent, and domestic relations filings by 74 percent.

This annual report represents the most comprehensive effort to collect and analyze data relating to the work of our nation's state courts. The task requires not only compiling data and information from over 16,000 state trial courts, but also examining data obtained from other components of the justice system. A central role of the Court Statistics Project is to translate both the state court caseload statistics and these supporting data into a common framework in order to identify and analyze national trends in court activities. As in the past, we have incorporated data from a variety of sources to help place the work of the state courts within the context of the entire justice system. The use of multiple data sources is most clearly seen in Part II, "Drug Crime: The Impact on State Courts." Unless otherwise noted on the data displays, all information comes from CSP national databases. Some of the more important findings include the following:

◇ Approximately 87.5 million new cases were filed in state courts in 1996. The caseload comprised over 20 million civil and domestic relations cases, over 13 million criminal cases, two million juvenile cases, and approximately 52 million traffic and ordinance violations.

◇ Between 1984 and 1996, civil filings increased by 31 percent, criminal filings by 41 percent, juvenile filings by 64 percent, and domestic relations filings by 74 percent. Traffic filings dropped 15 percent during this period. Overall caseload growth during the 12-year period significantly exceeded the growth of the U.S. population, which was 12 percent.

◇ Federal court cases increased 17 percent between 1995 and 1996 to a total of 1.9 million. The growth in federal caseloads was in large part due to a 26 percent increase in bankruptcy filings.

◇ The state courts report adding 900 judges and judicial officers in courts of general jurisdiction and 327 judges and judicial officers in limited jurisdiction courts since 1995. However, most of this expansion represents the addition of quasi-judicial positions rather than full-time judgeships.

◇ Roughly two-thirds of the states could not keep up with the flow of criminal and civil filings, as evidenced by 1994-1996 average clearance rates below 100 percent. Because courts typically must give criminal cases priority on the docket, courts sometimes shift resources from the civil side to the criminal side. Therefore, maintaining high criminal clearance rates is necessary to ensure timely civil case dispositions as well.

After increasing over 200 percent since 1985, domestic violence filings leveled off for the first time in 1996.

- Although Congress and many state legislatures continue to debate tort reform, there is no evidence that the number of tort cases is increasing. Total tort filings decreased 9 percent from 1990 to 1993, stabilized for two years, and then moved upward 6 percent in 1996. The 1996 total remains well below the record high set in 1990.

- Between 1990 and 1996, contract filings decreased in all but one of the 21 states that provided data on contract cases.

- The most recent 50-state estimate (1992) indicates that of the more than 55,000 general civil (tort, contract, and real property) trials held nationwide, nearly 30,000 were jury trials. Although the mean jury award was $408,000 for torts and $620,000 for contract cases, the median jury award for both types of cases was $52,000.

- The most rapid growth in domestic relations cases has occurred in the area of domestic violence. After increasing over 200 percent since 1985, domestic violence filings leveled off for the first time in 1996.

- The number of juvenile filings in state courts continues to increase and appears to be strongly related to the size of the at-risk population (youth between age 10 and the highest age at which each state still considers an individual to be a juvenile). There is no evidence based on self-report and victimization surveys that juvenile crime is increasing.

- Property offenses account for a smaller proportion and person-related offenses a larger proportion of delinquency cases than they did in 1985. Despite this change in caseload composition, the composition of juvenile court dispositions has remained remarkably consistent.

- Felony filings have increased 75 percent since 1984 and reached an all-time high in 1996. Despite increasing criminal and felony case filings, data from victimization surveys and arrest rates suggest a long-term decrease in both violent and property crime.

- In 1994, males comprised 85 percent of convicted felons compared to 48 percent of the adult population. Whites were 85 percent of the adult population and 51 percent of convicted felons (blacks were 11 percent of the adult population and 48 percent of convicted felons). Roughly 19 percent of felony convictions were for a violent offense, 32 percent for a property offense, and 31 percent for a drug offense.

More appeals were filed in the state appellate courts in 1996 than in any preceding year.

◇ More appeals were filed in the state appellate courts in 1996 than in any preceding year. The total number of appellate filings (286,732) represents a 3 percent increase over the previous year. In 1996, ten states (California, Florida, New York, Texas, Pennsylvania, Ohio, Illinois, Louisiana, Michigan, and New Jersey) accounted for 61 percent of the nation's appellate filings.

◇ The states' intermediate appellate courts handle most of the appellate caseload. Between 1995 and 1996, mandatory appeals filed in IACs grew 3 percent, and discretionary petitions, which constitute the bulk of the work of courts of last resort, grew 1 percent.

◇ Caseload pressure continues to confront state appellate courts, and many continue to have difficulty keeping up with the flow of cases. Only one-third of the intermediate appellate courts were able to clear their dockets in 1996 by resolving as many cases as were filed.

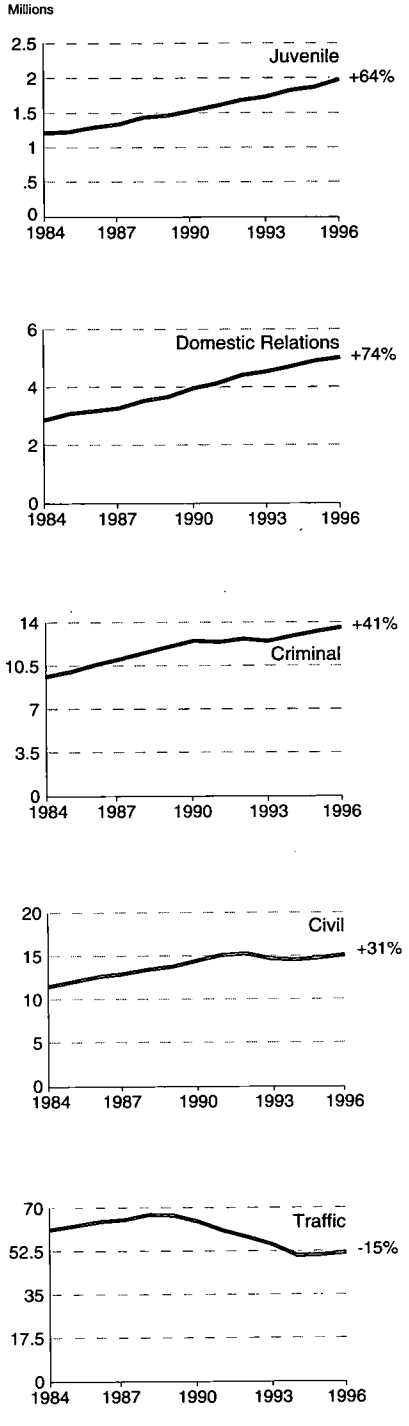
◇ The "drug war" of the 1980s, characterized by shifts in our national drug control policies and the unprecedented rise in drug arrests, has clearly changed the workload of the state courts. Of the nine states that were able to provide comparable data, all reported significant rises in drug caseloads and four states reported increases of more than 200 percent since 1986.

◇ Drug trafficking convictions comprised the largest proportion of felony convictions in 1994, and larceny and felony drug possession convictions ranked second and third. In addition, the most recent estimates (1994) indicate that drug arrests are more likely to result in drug convictions in the 1990s than they were in the 1980s.

◇ Several measures describing the drug war in the latter half of the 1980s – drug arrests, court caseloads, drug control budgets, and correctional populations – were down in the early 1990s. In recent years, however, these measures have turned upward again – often to record levels.

Overview of State Trial Court Caseloads

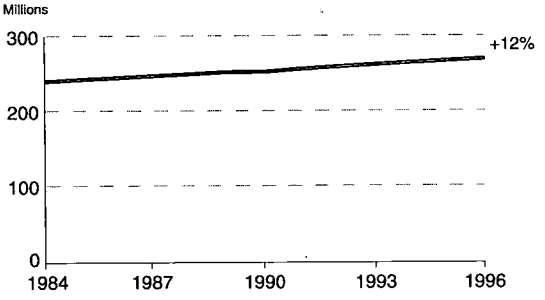
Cases Filed in State Courts, 1984-1996



The state courts reported the filing of 87.5 million new cases in 1996, with increases in every major case type since 1994. After a leveling or decrease in filings during the early 1990s for the largest segments of the courts workload (criminal, civil, and traffic caseloads) our nation's state judiciaries are once again experiencing sustained rises.

The filing trend lines show that cases are increasing at least 2.5 times as fast as our nation's population. Given that the resources necessary to process these cases in a timely fashion, such as judges, court support staff, and automation, seldom keep pace, courts must constantly search for more efficient ways to conduct business. Moreover, federal and state governments have adopted or proposed significant changes in our criminal, juvenile, domestic, and civil justice systems over the past five to ten years. In many instances, these changes are not adequately funded to cover any additional or unintended burdens placed on the state courts.

United States Population, 1984-1996



Source: United States Bureau of the Census.

Unlike any other segment of the courts' caseload, parking filings continue to decrease. The table below shows that parking cases have dropped to less than one-third of their 1989 level. Though they represent the least serious traffic offense, parking cases account for a large proportion of traffic caseloads. Most of the downturn is due to ongoing efforts to decriminalize less serious traffic cases and to shift much of the traffic caseload to an executive branch agency. With the latter option, fines for minor traffic offenses are paid to a traffic bureau or agency rather than to the court. In other states, the judiciary has retained jurisdiction over traffic offenses, but now classifies them as civil rather than criminal infractions.

Number of Parking Filings in 13 States, 1989-1996

Year	Number (in millions)
1989	20.6
1990	16.8
1991	13.7
1992	13.2
1993	12.0
1994	8.1
1995	6.7
1996	6.5

State trial court systems are traditionally organized into courts of general and limited jurisdiction. (Note: This Report may refer to the District of Columbia and Puerto Rico as states for the sole purposes of simplifying the text and titling of tables and figures.) All states have at least one court of general jurisdiction, the highest trial court in the state, where the most serious criminal and civil cases are handled. In addition, general jurisdiction courts may handle appeals arising from cases heard at the limited jurisdiction level or from administrative agencies. Filings in general jurisdiction courts accounted for almost 29 percent of state court caseloads in 1996.

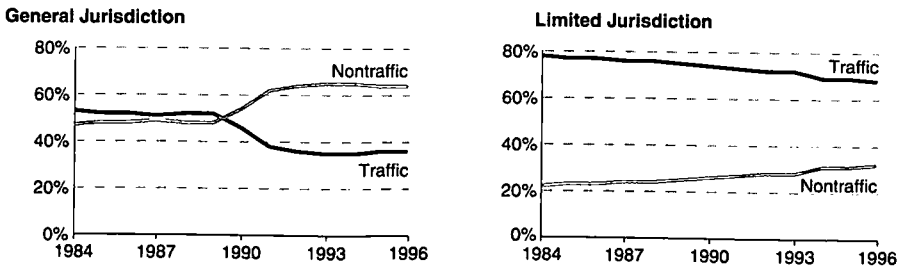
Types of Cases Filed in State Courts, 1996 (in millions)

Case Type	Total Number	Jurisdiction	
		General	Limited
Traffic	51.8	9.0	42.8
Civil	15.0	6.5	8.5
Criminal	13.6	4.4	9.2
Domestic	5.1	3.8	1.3
Juvenile	2.0	1.3	0.7
Total	**87.5**	**25.0**	**62.5**

While 71 percent of state court caseloads were filed at the limited jurisdiction level, these courts usually hear a narrower range of matters, often only one particular type of case. Criminal caseloads are typically limited to misdemeanor filings and to preliminary hearings in felony cases, while civil caseloads are usually restricted to small claims cases in which damages do not exceed some fixed amount. A number of states have special jurisdiction courts that handle only certain types of cases. These may include "family courts" to coordinate and integrate the handling of family-related cases, and "drug courts" to more effectively process drug offense cases.

State courts are affected by the proportion of their caseload that is devoted to traffic cases vs. nontraffic cases. The percentage of nontraffic filings in courts of general jurisdiction jumped from half of the caseload in 1990 to about two-thirds in 1996. The change toward smaller traffic caseloads has been steady, but more gradual in limited jurisdiction courts. In 1996, traffic filings comprised 68 percent of state court caseloads in limited jurisdiction courts and 36 percent in courts of general jurisdiction.

State Trial Court Caseloads - Traffic vs. Nontraffic, 1984-1996



State Courts and Trial Judges

The 87.5 million cases filed in 1996 were processed through 16,236 state trial courts. Limited jurisdiction courts outnumber their general jurisdiction counterparts five to one.

13,662 limited jurisdiction courts
2,574 general jurisdiction courts

In 1996, there were 28,415 trial judges and quasi-judicial officers in the nation's state trial courts. General jurisdiction courts have added 900 judges and quasi-judicial officers since 1995, while limited jurisdiction courts have gained 327 such officials. Most of this 4.5 percent increase is due to the addition of quasi-judicial personnel rather than new full-time judgeships.

Judges in State Trial Courts by Court Jurisdiction, 1990-1996

	Number of Judicial Officers		
Year	General Jurisdiction	Limited Jurisdiction	Total
1990	8,586	18,234	26,820
1991	8,649	18,289	26,938
1992	8,700	18,272	26,972
1993	8,859	18,316	27,175
1994	8,877	18,317	27,194
1995	9,214	17,974	27,188
1996	10,114	18,301	28,415

The table to the right shows the number of general jurisdiction court judges in the states. It is important to note that the number of judges does not include quasi-judicial personnel such as magistrates or referees. Thirteen states have a unified court structure in which trial courts are consolidated into a single general jurisdiction court level. These consolidated courts have jurisdiction over all cases and procedures. Because there is no distinction between trial levels in these states, these states will appear to have more general jurisdiction court judges per 100,000 population than states with multilevel court systems. Two alternative measures of judicial staffing levels are also provided in the table. The first measure, judges per 100,000 population, standardizes the number of judges across the states by adjusting for differences in population. The result is a dramatic narrowing in the range of judges (1.2 in South Carolina to 10.9 in D.C.). In fact, almost 70 percent of the states with non-unified courts have between two and four judges per 100,000 population. Unified states have an average of 6.2 judges per 100,000 population.

The third column shows the number of civil (including domestic relations) and criminal filings per general jurisdiction judge. Roughly three out of five states report between 1,000 and 2,000 filings per judge. Ten states report more than 2,000, and ten states report less than 1,000.

Number and Rate of Judges in Unified and General Jurisdiction Courts in 49 States, 1996

State	Number of Judges	Judges per 100,000 Population	Filings per Judge
Unified Courts			
Illinois	874	7.4	1,397
Massachusetts	341	5.6	2,674
Missouri	309	5.8	1,449
Puerto Rico	295	7.9	791
Minnesota	252	5.4	1,853
Wisconsin	233	4.5	1,698
Iowa	205	7.2	1,345
Connecticut	174	5.3	1,789
Kansas	149	5.8	1,617
District of Columbia	59	10.9	2,944
North Dakota	46	7.1	1,379
Idaho	37	3.1	434
South Dakota	36	4.9	2,372
General Jurisdiction Courts			
California	789	2.5	1,300
New York	597	3.3	740
Florida	455	3.2	2,052
Texas	395	2.1	1,574
New Jersey	372	4.7	2,984
Ohio	369	3.3	1,352
Pennsylvania	366	3.0	1,281*
Indiana	273	4.7	1,944
Louisiana	214	4.9	1,464
Michigan	210	2.2	1,414
Washington	161	2.9	1,158
Oklahoma	148	4.5	2,068
Virginia	144	2.2	1,660
Arizona	132	3.0	1,140
Maryland	132	2.6	1,720
Alabama	131	3.1	1,225
Colorado	111	2.9	1,044
Tennessee	109	2.0	2,069
Arkansas	104	4.1	1,510
North Carolina	95	1.3	2,696
Oregon	94	2.9	1,420
Kentucky	93	2.4	949
New Mexico	69	4.0	1,152
Utah	68	3.4	3,199
West Virginia	62	3.4	851
Nebraska	51	3.1	1,109
Montana	45	5.1	713
South Carolina	43	1.2	3,669
Hawaii	42	3.5	1,055
Alaska	32	5.3	584
Vermont	31	5.3	1,848
New Hampshire	29	2.5	1,539
Rhode Island	22	2.2	723
Delaware	17	2.3	1,115
Wyoming	17	3.5	745
Maine	16	1.3	875

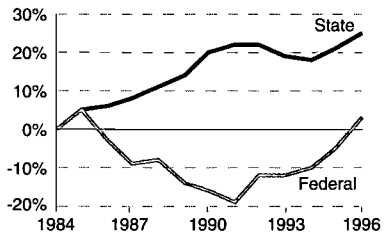
*This figure is based upon preliminary caseload figures supplied by the PA AOC.

Note: Georgia, Mississippi, and Nevada are not included because criminal data were not available.

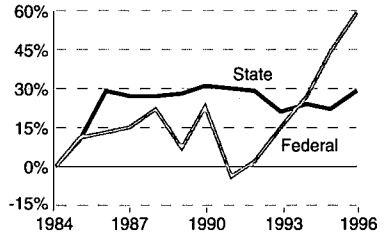
State and Federal Trial Court Trends

Caseload Growth Rates of U.S. District and State General Jurisdiction Courts, 1984-1996

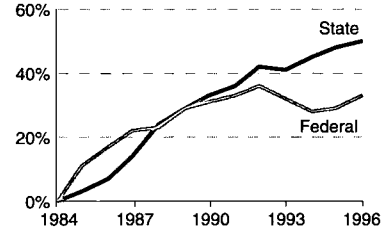
Civil Filings



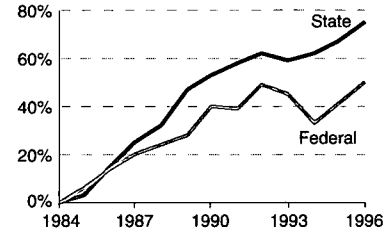
Tort Filings



Criminal Filings



Felony Filings



A basic comparison of growth rates in state and federal trial court caseloads are shown in the adjacent charts. The cases included in this comparison come from courts of general jurisdiction on the state side and from the U.S. District Courts on the federal side in order to maximize comparability among the state and federal systems. With respect to criminal cases, both the U.S. District Courts and the state trial courts of general jurisdiction handle primarily felonies; on the civil side, the dollar limits and case types of the state trial courts of general jurisdiction resemble those of private civil suits faced by the U.S. District Courts. With 1984 as the base year, the charts show the growth rates in total civil, tort, total criminal, and felony filings.

Civil filings (excluding domestic relations filings) in state trial courts of general jurisdiction have grown by 25 percent since 1984, while civil filings in the U.S. District Courts increased 3 percent over the same period. At the state level, most of the growth in tort filings occurred in the mid-1980s, increasing 29 percent overall. The change in tort filings shows an erratic pattern in the federal courts during the late 1980s followed by substantial growth from 1991 to 1996. Federal tort filings increased 59 percent overall.

Criminal caseloads have increased steadily in both federal (33 percent) and state (50 percent) court systems since 1984. The most dramatic increases in filings occurred in felony caseloads. Similar growth rates in the mid-1980s diverged in 1987, as state felony filing rates began to outpace federal filing rates. The 1992-93 decline in state felony filings, and to a lesser extent criminal filings, was not sustained. Federal and state criminal and felony filings experienced upswings again for 1996.

Federal and State Court Filings, 1996

	Filings	Percent change since 1995
Federal Courts		
Criminal	47,146	3.0%
Civil	269,132	8.4
Bankruptcy	1,111,000	25.8
Magistrates	554,041	8.1
Total	**1,981,319**	**17.2**
State Courts		
Criminal	13,593,916	2.4
Civil	15,081,735	2.2
Domestic	5,017,865	2.3
Juvenile	1,979,811	5.9
Traffic	51,764,224	1.7
Total	**87,437,551**	**2.0**

Source: Report of the Proceedings of the Judicial Conference of the United States, Administrative Office of the United States Courts, 1996.

Historical Civil Litigation Rates: An International Perspective

Contributed by Christian J. Wollschlaeger, Universitaet Bielefeld, Bielefeld, Germany

U.S. state and federal courts have experienced a steady rise in civil filings over the past several decades. The historical trend analysis, first illustrated in last year's issue of *Examining the Work of State Courts*, is now expanded to include both the U.S. (illustrated by Massachusetts and Rhode Island) and several other countries – New Zealand, Sweden, Germany, and Japan. This international perspective helps answer the question whether litigation patterns in the American courts are unique.

The overall demand for civil justice, as measured by litigation rates (filings in trial courts per 1,000 population), differs widely among nations. Analyzing the following graphs over time enables us to trace present trends back to their historical origins. Are the causes of the long-term rise in civil caseloads specific to the U.S.? Or do they reflect broader societal changes in operation throughout the world? Is the U.S. really "the most litigious nation in the world" as has been alleged?

The answer depends on the unit of count. According to the most recent figures, the U.S. would indeed rank on top of an international scale, if "civil cases" are restricted to include only general civil cases (i.e., tort, contract, and real property rights). These "regular lawsuits," however, are not the appropriate unit because they exclude "summary debt collections," which are used extensively in many European nations and Japan to dispose of millions of cases quickly and inexpensively. In American jurisdictions, these uncontested money claims are typically handled as small claims procedures.

When all civil cases are counted, Germany rises to the top. The impact of including summary debt collection in the count is seen most clearly, though, in Sweden. In the course of Swedish legislative history, jurisdiction over these matters has repeatedly shifted back and forth between courts and law enforcement agencies similar to U.S. marshals. Failing to account for debt collection cases gives the impression that the litigation rate in Sweden parallels Japan – a nation well known for its avoidance of litigation. Even if debt collection is included in the count, Japan has the lowest litigation rate of the countries examined.

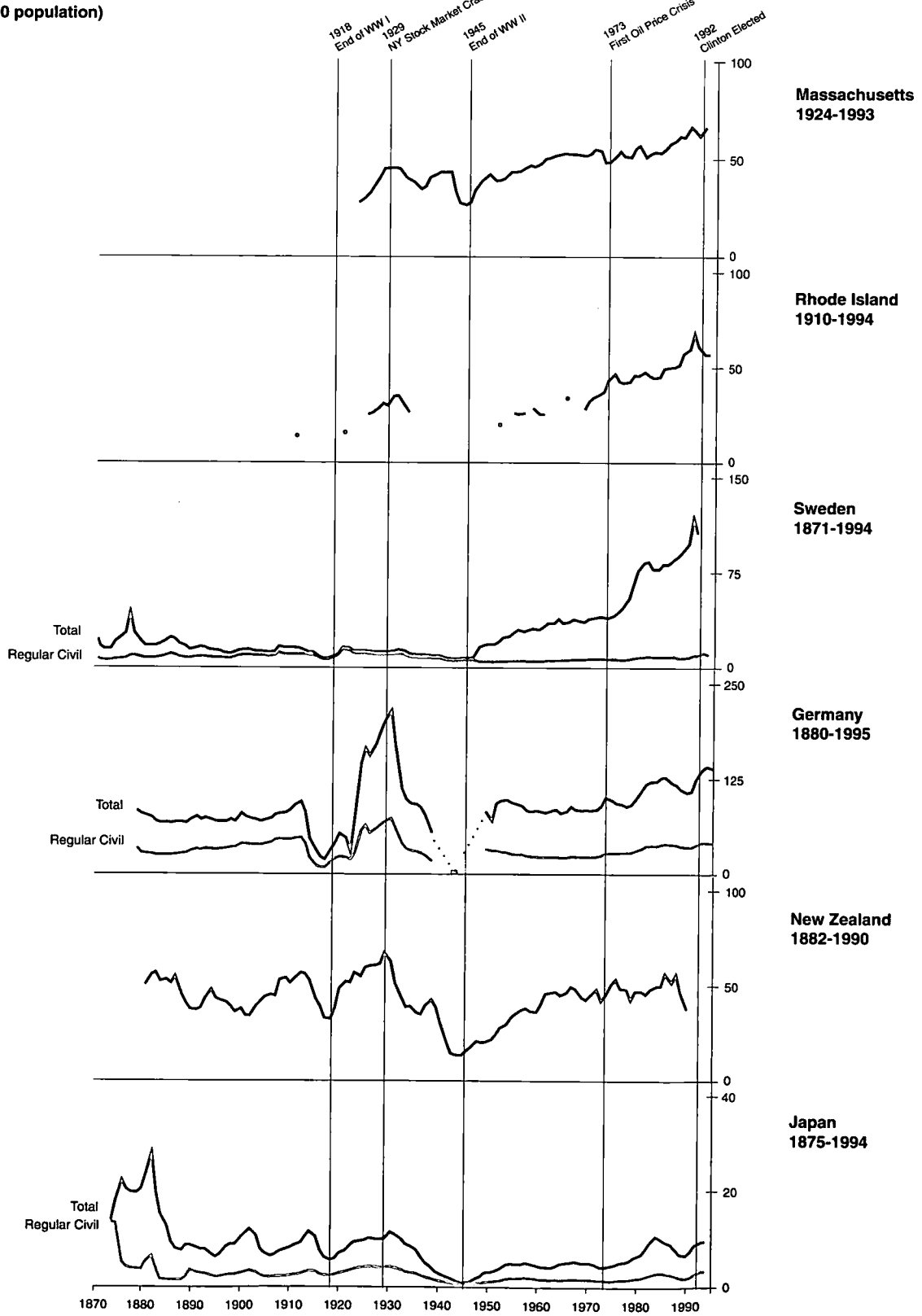
Litigation rates in Massachusetts and Rhode Island rank in the middle of the industrial nations presented here (and rank 15th and 20th, respectively, among all U.S. states). These two states currently have litigation rates roughly similar to that of New Zealand – and, by extension, Great Britain and France, where litigation rates are of the same order of magnitude as New Zealand. The states with the highest civil filing rates in 1996 (e.g., Virginia or New Jersey) approach the highest rates found internationally in countries such as Germany, Austria, and Israel.

Looking closer at the details reveals common features among the diverse trends. The cyclical movement of litigation rates and their relation to war, business, and politics is most obvious. Litigation rates dropped dramatically during both world wars as well as during the Great Depression that followed the crash of the New York stock market in 1929. Economic prosperity for much of the world during the 1920s was accompanied by rising civil lawsuits, while the economic chaos in Germany during this period appears to have driven litigation rates to a historical maximum.

In the post-WWII period, a consistent upward trend is observed in civil caseloads throughout the world. Moreover, evidence from Sweden, Germany, Japan, and the U.S. suggests that litigation rates may have accelerated internationally since the 1970s. One possible trigger in the industrial countries is rising resource and production costs, exemplified by the oil price crisis in the mid-1970s. New Zealand's litigation rate, which does not follow the recent international trend, may reflect the primarily agrarian nature of the country's economy. Nevertheless, rising civil caseloads are the norm both domestically and abroad. The upward trend provides a clear signal to all concerned with the proper functioning of courts that it is reasonable to expect the further expansion of civil caseloads.

Notes: Probate matters in U.S. state courts have been omitted since they are not included in foreign statistics. Statistical reporting of court caseloads began in Europe during the 18th century and results have been published since the 19th century. Compiling judicial statistics began in other parts of the world with the introduction of European legal systems, usually through the process of colonization (e.g., in New Zealand). A few independent nations, such as Japan, more or less voluntarily introduced European law. German data have been computed for the territory of the Federal Republic before unification in 1990.

Historical Civil Litigation Rates:
An International Perspective
(per 1,000 population)

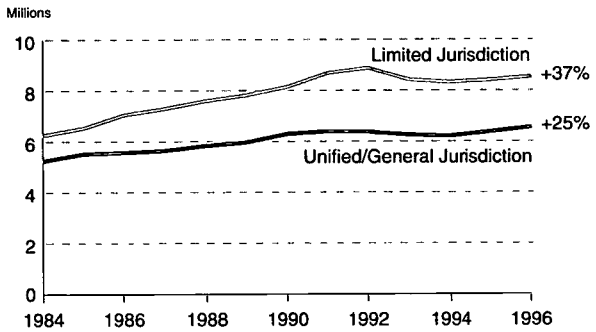


Total includes summary debt collection and regular civil.

Civil Filing Trends and Caseload Composition

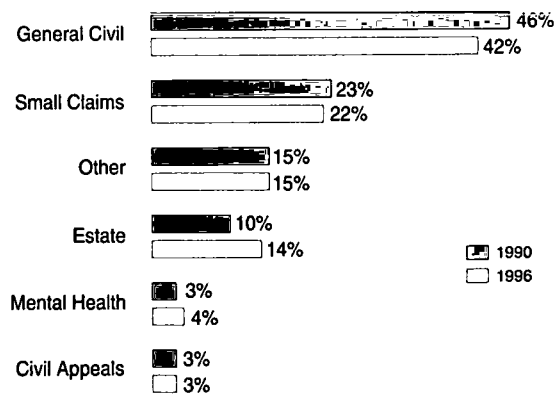
Just over 15 million civil (non-domestic relations) cases were filed in state courts in 1996. Following a two-year decline in filings in 1993 and 1994, this is the second consecutive year in which civil filings have again been on the increase in state courts. In 1996, limited jurisdiction courts accounted for about 57 percent of the state court caseload, or 8.5 million cases. The remaining 6.5 million new cases were filed in general jurisdiction courts and represent an all-time high. Overall, since 1984 civil filings increased by 37 percent in limited jurisdiction state courts and by 25 percent in general jurisdiction courts. During this time period, the U.S. population increased by 12.4 percent.

Civil Cases Filed in State Trial Courts by Jurisdiction, 1984-1996



Only modest changes have occurred in the composition of the general jurisdiction court caseload between 1990 and 1996. Based on data from 17 states, general civil (tort, contract, and real property) filings have declined from 46 to 42 percent of all civil filings, while probate/estate cases have increased from 10 to 14 percent. The latter trend may be a reflection of the aging population in the U.S.

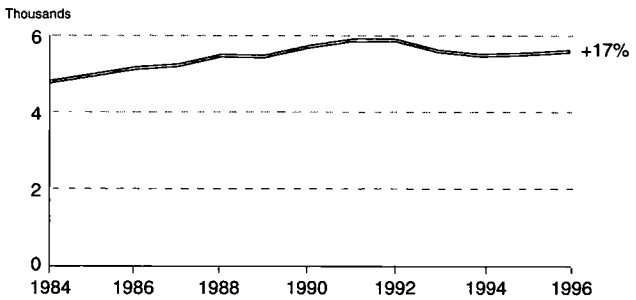
Civil Caseload Composition in Unified and General Jurisdiction Courts in 17 States, 1990-1996



Civil Case Filing Rates Among States

One of the most frequently asked questions is: Which states have the most civil litigation? Examining the aggregate filing data is one way to answer this question, but more populous states naturally will tend to have more filings than less populous states. A more meaningful answer requires controlling for the effect of population. The small chart below shows that since 1984, total civil filings (in both limited and general jurisdiction courts) per 100,000 population have increased by 17 percent, or by an average of 1.4 percent per year. The peak occurred in 1991 and 1992, when there were about 5,900 state court civil filings per 100,000 population. In 1996, there were 5,606 civil filings per 100,000 population.

Total Civil Filings (Excluding Domestic Relations Cases) per 100,000 Population, 1984-1996



As one would expect, however, the volume of civil cases per 100,000 varies substantially across the states. The table which follows ranks 49 states, the District of Columbia, and Puerto Rico according to the total number of civil filings (in both limited and general jurisdiction courts) per 100,000 population. (Note: This report may refer to the District of Columbia and Puerto Rico as states for the sole purpose of simplifying the text and titling of tables and figures.) Civil litigation per 100,000 population ranges from a low of 2,524 in Maine to a high of 20,667 in the District of Columbia (Nevada and Tennessee appear to have fewer filings, but their totals do not include data from limited jurisdiction courts). The median is 4,849 civil cases per 100,000 population. (Note: The median is the middle score – half of the states have higher rates than the median and half have lower rates.)

The District of Columbia stands out with the largest number of civil filings per 100,000 population. Almost 90 percent of the 112,000 civil filings, however, stem from either small claims or landlord-tenant disputes. Also, D.C. is somewhat unusual in that its population increases substantially during the day as it is inundated with commuters from Virginia and Maryland. These suburban, out-of-District residents are frequently embroiled in some of the civil litigation in D.C., but they are not included in the underlying population that produces the population-based statistic.

Virginia and Maryland also rank high on this measure of litigiousness. A very large proportion of Virginia's and Maryland's civil filings, however, consist of small claims-type cases and post-judgment actions including attachments, mechanics liens, and garnishments in the limited jurisdiction court. In most states, post-judgment collection actions are not counted as new filings. Thus, it is very likely that Virginia's and Maryland's statistics greatly overstate the number of new civil "cases."

There is essentially no relationship between the size of a state's population and filings per 100,000 population. For example, Texas, the second most populous state, ranks very low both in terms of the total number of civil filings (3,020) and in terms of the total number of civil filings in the general jurisdiction court per 100,000 population (867). California is the most populous state, but ranks only 19th. On the other hand, Delaware is the 47th most populous state, but it ranks in the top 10. Because of its especially attractive incorporation laws, Delaware is the corporate headquarters for thousands of corporations that do business throughout the U.S. This situation probably attracts a disproportionate amount of civil litigation to Delaware.

Examining data on filings in the general jurisdiction courts reveals that among the two-tiered court systems, New Jersey reports a significantly higher rate of civil case filings per 100,000 (9,769) than any other state. Moreover, New Jersey's population-adjusted rate of civil filings exceeds that of states with unified court systems (excluding D.C.). The superior court in New Jersey has a nearly unified civil jurisdiction, including no minimum jurisdiction amount. It is the most densely populated state in the U.S., which may contribute to the proportionately larger volume of civil cases.

This table should be read carefully to identify states that have missing data for their limited jurisdiction courts. Tennessee and Nevada, for example, are the states with the lowest rate of total civil case filings per 100,000 population. However, data from their limited jurisdiction courts were not available, so their total filings statistics greatly underrepresent their actual total filings. Every state reports statistics on filings in its general jurisdiction court, but states vary on the minimum dollar amount required to obtain jurisdiction in the general jurisdiction court. In some states, the minimum jurisdiction amount is relatively small (e.g., $1,000), while in others it is $25,000 (e.g., California). Courts with lower minimum jurisdiction limits are likely to have a larger number of civil cases in the general jurisdiction court. States that have unified trial courts (noted with an asterisk in the table) report all of their case filings under the general jurisdiction court category, so they typically have more cases filed in the general jurisdiction court than similar states with two-tiered court systems.

Civil Filings and Population
The *number* of state civil filings during 1996 was highly correlated with the size of the adult population (Pearson's $r = .8721$, $p < .000$), while the correlation between the civil filing *rate* and population was almost nonexistent (Pearson's $r = .0007$, $p < .996$). The closer the correlation is to +1 or -1, the stronger the association between the two variables. The smaller the probability value (p), the greater the likelihood that the correlation is significantly different from zero. Correlation does not indicate that two variables are necessarily *causally* related but that they are related in some fashion.

Total Civil Filings (Excluding Domestic Relations Filings), 1996

State	Filings per 100,000 Population			Filings			Population Rank
	Total	General Jurisdiction	Limited Jurisdiction	Total	General Jurisdiction	Limited Jurisdiction	
District of Columbia*	20,667	20,667	—	112,265	112,265	—	51
Maryland	17,490	1,237	16,252	887,010	62,755	824,255	19
Virginia	15,463	1,093	14,369	1,032,196	72,996	959,200	12
New Jersey	9,887	9,769	118	789,754	780,344	9,410	9
South Carolina	7,521	1,250	6,271	278,184	46,242	231,942	27
New York	7,203	1,696	5,508	1,309,912	308,339	1,001,573	3
North Carolina	6,873	1,772	5,101	503,280	129,736	373,544	11
Indiana	6,718	4,577	2,141	392,386	267,319	125,067	14
Delaware	6,500	1,564	4,936	47,113	11,338	35,775	47
South Dakota*	6,480	6,480	—	47,457	47,457	—	46
Utah	6,358	6,180	178	127,194	123,634	3,560	35
Connecticut*	6,325	4,440	1,885	207,091	145,367	61,724	29
Michigan	6,057	999	5,057	581,125	95,891	485,234	8
Kansas*	6,038	6,038	—	155,298	155,298	—	33
Massachusetts*	5,957	5,957	—	362,902	362,902	—	13
Nebraska	5,859	1,641	4,217	96,789	27,113	69,676	38
Louisiana	5,600	3,606	1,994	243,636	156,880	86,756	22
Colorado	5,442	1,093	4,348	208,013	41,798	166,215	25
California	5,246	2,195	3,050	1,672,184	699,842	972,342	1
Rhode Island	5,046	911	4,135	49,964	9,021	40,943	44
New Hampshire	4,963	894	4,070	57,696	10,387	47,309	43
Ohio	4,946	1,757	3,189	552,606	196,342	356,264	7
Wyoming	4,897	1,058	3,839	23,574	5,095	18,479	52
Florida	4,864	2,265	2,599	700,458	326,156	374,302	4
Kentucky	4,849	839	4,010	188,317	32,595	155,722	24
Oklahoma	4,815	4,815	n/a	158,927	158,927	n/a	28
Mississippi	4,803	824	3,978	130,451	22,391	108,060	32
Idaho*	4,695	471	4,224	55,836	5,606	50,230	41
Iowa*	4,682	4,682	—	133,519	133,519	—	31
Oregon	4,677	1,509	3,168	149,828	48,349	101,479	30
Alabama	4,462	1,002	3,460	190,664	42,823	147,841	23
Arkansas	4,441	1,596	2,845	111,464	40,054	71,410	34
Arizona	4,438	1,344	3,094	196,516	59,501	137,015	21
Montana	4,429	2,007	2,423	38,949	17,646	21,303	45
Illinois*	4,389	4,389	—	520,003	520,003	—	6
Alaska	4,118	1,072	3,047	24,999	6,505	18,494	49
Wisconsin*	4,030	4,030	—	207,957	207,957	—	18
Vermont	3,969	3,218	751	23,363	18,944	4,419	50
Washington	3,937	1,467	2,470	217,846	81,169	136,677	15
New Mexico	3,930	1,995	1,935	67,329	34,175	33,154	37
West Virginia	3,774	1,314	2,460	68,901	23,996	44,905	36
Pennsylvania**	3,490	396	3,093	420,708	47,775	372,933	5
Minnesota*	3,374	3,374	—	157,137	157,137	—	20
Missouri*	3,321	3,321	—	177,953	177,953	—	16
Hawaii	3,142	1,065	2,077	37,188	12,605	24,583	42
Texas	3,020	867	2,153	577,737	165,937	411,800	2
North Dakota*	2,969	2,969	—	19,104	19,104	—	48
Puerto Rico*	2,776	2,776	—	103,625	103,625	—	26
Maine	2,524	364	2,161	31,387	4,523	26,864	40
Nevada	1,501	1,501	n/a	24,063	24,063	n/a	39
Tennessee	1,456	1,456	n/a	77,473	77,473	n/a	17

* This state has a unified trial court system (others have a two-tiered court system).
** Pennsylvania general jurisdiction caseload is based upon preliminary figures supplied by the PA AOC.
Notes: n/a signifies not available. No data were available for Georgia for 1996.

Civil Case Clearance and Growth Rates

One very basic measure of court performance is the clearance rate, which is the total number of cases disposed divided by the number filed during a given time period. This measure provides an assessment of whether the court was able to keep up with the incoming caseload during the stated time period. For example, a clearance rate of 100 percent indicates that the court disposed of as many cases as were filed during the time period. A clearance rate of less than 100 indicates that the court did not dispose of as many cases as were filed, suggesting that the pending caseload grew during the period.

The 3-year clearance rate reveals that between 1994 and 1996, clearance rates of 100 percent or more characterized two of 11 states with unified trial court systems and ten of the other 31 states with general jurisdiction courts. A total of seven states had clearance rates of less than 90 percent for the past three years (1994 through 1996). Conversely, Pennsylvania led the nation with a clearance rate of 112 percent. This notable accomplishment may be due in part to the successful civil case delay reduction program that was initiated in Philadelphia in 1992 and 1993. Through this program, the Court of Common Pleas dramatically decreased its pending caseload by disposing of more civil cases than were filed each year since 1992.

California and Florida are among three states that had three-year clearance rates of less than 80 percent. Part of the reason for the low rate in California may be that the state's mandatory "three strikes" law for certain repeat offenders became effective in March 1994. This law increased pressure on the state's courts to transfer judicial resources from civil to felony cases to handle the increase in trials arising from the new sentencing law. The Florida legislature also has increased the severity of mandatory sentences for violent offenders; a similar transfer of judicial resources from civil to felony cases might help explain Florida's very low civil case clearance rate.

As suggested above, one reason why state courts might not be able to keep up with incoming civil filings is that their civil caseloads have grown significantly during the period. The table shows that in 10 of the 42 states, civil filings actually decreased over the past three years. Only six states experienced a civil case filing growth rate of 10 percent or more. Florida (26 percent), Tennessee (24 percent), Michigan (21 percent) and California (20 percent) had the most dramatic three-year growth rates among the 42 states. The rapid growth in filings in Florida and California probably contributed to their clearance rate problems. In contrast, Maryland experienced a 14 percent decrease in civil case filings, yet still had a clearance rate of only 76 percent.

Civil Caseload Clearance and Growth Rates for General Jurisdiction Courts in 42 States, 1994-1996

State	Clearance Rates 1994-96	1996	1995	1994	Caseload Growth 1994-1996
Unified Courts					
Missouri	102%	94%	104%	109%	9%
Connecticut	100	92	101	106	4
District of Columbia	99	99	102	97	
Kansas	98	98	99	98	8
Iowa	98	98	96	99	2
Minnesota	97	97	97	98	-1
Puerto Rico	96	95	96	99	2
Idaho	96	97	97	95	4
Illinois	96	95	96	95	6
South Dakota	91	92	92	90	8
Massachusetts	85	83	83	88	-2
General Jurisdiction Courts					
Pennsylvania*	112	119	110	108	0
Maine	109	108	107	112	-7
West Virginia	108	103	103	117	-14
New York	103	104	104	101	5
Delaware	102	95	109	102	8
New Jersey	102	102	102	101	3
Vermont	101	98	100	106	4
Texas	100	105	94	103	-4
Colorado	100	107	107	87	3
Oklahoma	100	94	107	98	4
Ohio	99	97	100	100	6
Alaska	98	98	101	95	-3
Oregon	98	100	95	98	7
Alabama	97	101	93	96	0
South Carolina	96	94	95	100	2
Utah	96	91	102	96	-6
Nebraska	96	95	103	89	5
Hawaii	96	127	74	84	8
New Mexico	95	94	95	97	7
Arizona	95	98	96	92	-7
Washington	95	100	94	91	3
North Carolina	94	95	93	95	7
Michigan	94	83	106	96	21
Indiana	94	92	96	93	14
Arkansas	92	90	93	94	6
Kentucky	87	83	87	92	14
Tennessee	86	88	83	89	24
Virginia	84	83	85	84	-9
California	77	69	77	85	20
Maryland	76	71	74	81	-14
Florida	74	66	78	81	26

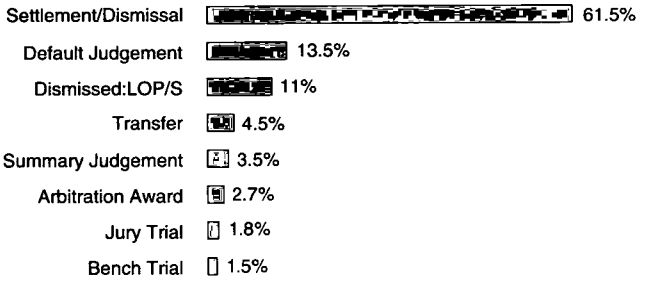
Note: Pennsylvania's general jurisdiction caseload is based upon preliminary figures supplied by the PA AOC.

Civil Case Resolution in State General Jurisdiction Courts

How are civil cases resolved or concluded in state courts? Do judges actually have to handle or manage all these civil cases? No national aggregate data from state courts is available to help answer these questions. Accurate estimates of how cases are disposed, however, can be derived from the NCSC's Civil Trial Court Network (CTCN) Project. The CTCN Project examined tort, contract, and real property cases disposed in state general jurisdiction trial courts in 45 of the 75 largest counties in the U.S. in 1992. The chart below indicates that more than six out of ten civil cases are disposed by a settlement or voluntary dismissal. About a quarter of all civil litigation is concluded by a default judgment or dismissal for lack of prosecution or service. Many cases that settle require little judicial intervention, although some settlements occur only after significant judicial effort. Default judgments require very little judge time, and dismissals for lack of prosecution or lack of service may require no judicial time. Trials, which occupy as much as half of a judge's time, account for a total of just 3.3 percent of all dispositions.

Alternative dispute resolution is becoming increasingly common as state courts try to encourage resolution of more cases without resorting to trial or otherwise imposing on judicial time. Thus, in the past 15 years, arbitration or mediation programs have become regular features of the civil case process in many jurisdictions. Data indicate that only about 3 percent of all civil cases are concluded by an arbitration award, but many litigants who appeal the arbitrator's decisions eventually settle, and the settlement often is strongly influenced by the arbitrator's decision. Mediation programs, which are not captured in the CTCN data, also assist many other litigants in achieving a settlement.

General Civil Dispositions in 45 Large Urban General Jurisdiction Courts, 1992



Note: General civil excludes domestic, small claims, probate, and most equity cases.

Source: Civil Trial Court Network, NCSC.

Although trials account for a small proportion of all dispositions, they receive much public attention because they are the tip of the litigation pyramid and because awards at trial set general parameters for attorneys in settlement negotiations. Which types of cases are most likely to go to trial? Overall, torts are more likely than contract cases to go to a jury trial (2.9 percent versus 0.7 percent). Tort cases rarely are resolved by a bench (non-jury) trial (0.8 percent), while contract cases are somewhat more likely to be disposed in this manner (2.1 percent).

Medical malpractice cases are more likely to be disposed via jury trial (8.2 percent) than any other type of general civil case. Although automobile torts are the most common case type, only 2 percent go to a jury trial. Four percent of employment-related cases go to a jury trial. Employment-related cases are the only commercial-type cases in which jury trials dispose of more than 1.2 percent of the cases.

From the base of CTCN data, it is possible to estimate the total number of general civil jury and bench trials concluded nationally. NCSC staff estimate that over 55,000 tort, contract, and real property trials were held in 1992 throughout the country. Of these, nearly 30,000 were jury trials. Tort cases accounted for over 78 percent (23,340) of all jury trials but only 26 percent of the 25,000 bench trials held. Real property cases comprise less than 6 percent of all trials.

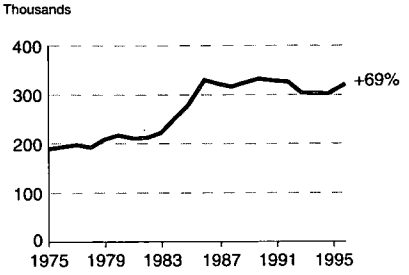
Estimates of the Total Number of Civil Trials in State General Jurisdiction Courts, 1992

	Estimated Cases	% of All Cases	Disposition Types: % Jury Trial	% Bench Trial	% Other	Estimated Total: Jury Trials	Bench Trials
All Torts	815,229	49.6%	2.9%	.8%	96.3%	23,340	6,659
Auto	490,508	29.8	1.9	.7	97.4	9,327	3,213
Medical malpractice	39,735	2.4	8.2	.5	91.4	3,241	197
Product liability	27,568	1.7	2.9	.7	96.4	804	193
Toxic	13,057	.8	6.5	.8	92.8	843	102
Other	244,361	14.8	3.7	1.2	95.1	9,125	2,954
All Contracts	788,968	47.9	.7	2.1	97.2	5,551	16,466
Seller plaintiff	407,724	24.7	.5	1.8	97.7	2,128	7,375
Buyer plaintiff	96,319	5.8	1.2	2.5	96.2	1,196	2,422
Employment	17,418	1.1	4.0	1.8	94.2	700	310
Other	267,507	16.2	.6	2.4	97.1	1,527	6,359
All Real Property	41,548	2.5	2.3	5.1	92.6	970	2,104
All Civil Cases	**1,645,745**	**100.0**	**1.8**	**1.5**	**96.6**	**29,861**	**25,229**

Notes: Accurate national estimates of the general civil caseload can be made by extrapolating the data gathered in the CTCN. The 75 counties represented in the CTCN include about 33 percent of the U.S. population. Estimating the national totals in this table, however, is not as simple as tripling the numbers from the CTCN because of the variation in litigation rates based on population. CSP data on tort filings from 27 states (which account for 69 percent of the U.S. population) suggest that there were 320 tort cases per 100,000 population in 1992. Using this number and 255 million as the total U.S. population, we estimate that there were 816,000 tort filings in state general jurisdiction courts in 1992. Based on the data from the 45 sampled counties, we estimate that there were 378,000 tort dispositions in the 75 counties. Dividing 816,000 by 378,000 yields a multiplier of 2.16. CTCN numbers are thus multiplied by 2.16 to arrive at the national estimates. Detail may not sum due to rounding.

State Trends in Tort and Contract Litigation

Tort Filing Trends in General Jurisdiction Courts in 16 States, 1975-1996

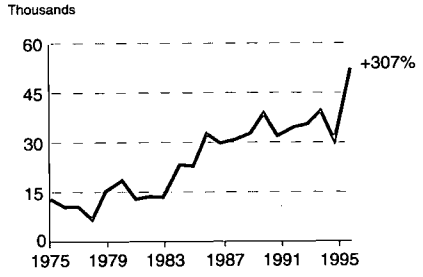


Debates over the need for tort litigation reform have heated up periodically over the past 20 years. Businesses and insurance companies have expressed concern that a dramatic increase in litigiousness, especially in the area of personal injury law, will continue to drive up the cost of products, services, and insurance. Responding to demands for change, many state legislatures implemented reforms in tort laws in the 1970s and 1980s.

Trends in Tort Filings

The bottom line is that there is no evidence of a tort litigation "explosion." The adjacent chart indicates that between 1975 and 1996, total tort filings in 16 states rose 69 percent, or an average of 3.3 percent per year. The trend, however, has not been steadily upward. There was a dramatic increase in tort filings between 1982 and 1986, which intensified fears that there was indeed a tort litigation explosion. Through the mid-1980s, most states passed some form of tort litigation reform. (*Examining the Work of State Courts, 1995* documents trends in tort filings in 16 individual states from 1975 through 1995 and illustrates the impact that state tort reforms have had on tort filings.) Since 1986, after the period of significant tort reform among the states, tort filings have been relatively steady. Filings declined in 1987 and 1988, rose to an all-time high in 1990, and then declined from 1991 through 1995. Despite an increase in 1996, the total volume of tort cases in the 16 states still has not returned to the record high set in 1990.

Tort Filing Trends in Michigan Circuit (General Jurisdiction) Courts, 1975-1996



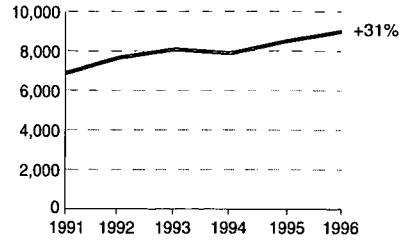
As one of the most populous of the 16 states included, Michigan has a significant impact on the overall trend. Michigan has experienced an unusually steep rise in the volume of tort cases from 1975 to 1996 – an increase of 307 percent. The dramatic spike in 1996 is largely attributable to a rush to file before the implementation of new legislation that, among other things, places a cap on awards for products liability cases. The new law became effective March 31, 1996. If Michigan is excluded from the trend line, tort filings in the remaining 15 states increased 52 percent (rather than 69 percent) over the past 21 years.

Trends in Medical Malpractice Filings

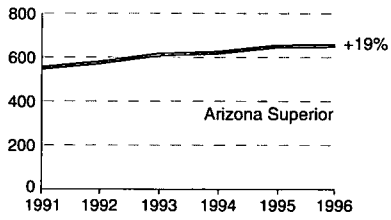
Many observers assert that a steady increase in medical malpractice claims has contributed significantly to a dramatic increase in the cost of medical insurance in the past two decades. This belief was a major issue in the recent debate over the need for health care reform and sparked renewed interest in the trends in medical malpractice litigation in the U.S. Examining data from the eight states that provide the number of medical malpractice complaints filed in their general jurisdiction courts reveals an overall increase of 31 percent since 1991.

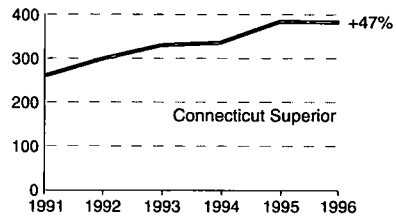
Data from each of the eight states are displayed in separate charts below. Seven of the eight states experienced an increase in medical malpractice filings in the past five years. The most dramatic increases occurred in Nevada, Connecticut, and Florida. These eight states provide just a glimpse at the trend in medical malpractice filings. If these states are representative of the nation as a whole, filings appear to be increasing at an average rate of about 6 percent per year.

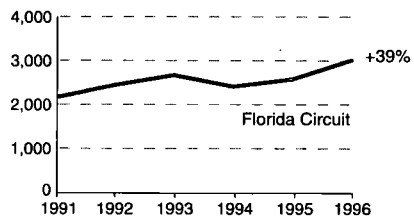
Medical Malpractice Filings in Eight States, 1991-1996

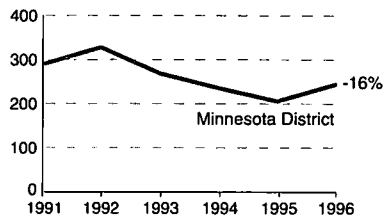


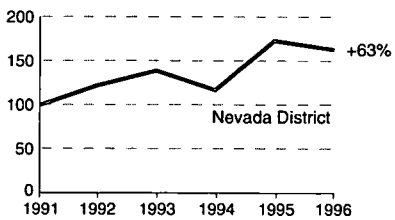
Medical Malpractice Filings in Eight States by State, 1991-1996

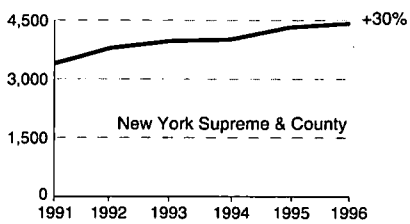


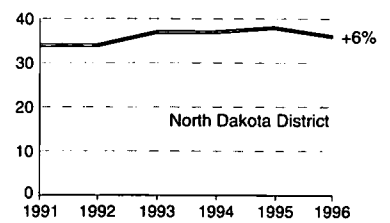


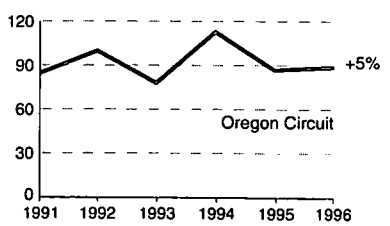












State Trends in Tort and Contract Filings per 100,000 Population

Unadjusted caseload data are useful for examining trends, but data adjusted for state population help further our understanding of the relative level of litigation in each state. The following two tables rank the states according to the percentage change in tort and contract filing rates per 100,000 population between 1990 and 1996.

The first table reveals that tort filings per 100,000 population have declined in 12 of the 26 states over the past six years. Four of these states experienced declines of more than 20 percent. Of the 14 states that experienced increases, five saw the rate rise by more than 20 percent.

In 1996, Connecticut led the 26 states with 587 torts filed per 100,000 population; Nevada was second at 556. Connecticut is a unified trial court, so both limited and general jurisdiction cases are included in its statistics. The only other state with more than 500 tort cases filed per 100,000 population is Michigan. North Dakota stands out as the only state with less than 100 filings per 100,000 population.

Growth Rates of Tort Filings in 26 States, 1990 vs. 1996

State	Filings per 100,000 Population 1990	1996	Percent Change
Unified Courts			
Kansas	162	219	36%
Connecticut	501	587	17
Puerto Rico	244	269	10
Idaho	141	131	-7
Minnesota	163	148	-9
Missouri	424	364	-14
North Dakota	116	83	-29
Wisconsin	198	122	-38
General Jurisdiction Courts			
Indiana	122	223	83
Michigan	417	545	31
New York	361	463	28
Nevada	441	556	26
North Carolina	123	144	17
Hawaii	186	208	12
Washington	208	231	11
Alaska	150	166	10
Texas	233	243	4
Ohio	318	330	4
Florida	315	321	2
Maryland	312	306	-2
Arkansas	215	206	-4
Tennessee	276	264	-4
Maine	153	133	-13
Arizona	421	341	-19
Colorado	179	125	-30
California	410	243	-41

Given the great concern about a litigation explosion in the U.S., it may be surprising to find that contract filing rates have declined in 20 of the 21 states. Sixteen states experienced declines of 20 percent or more, and 11 experienced declines of 40 percent or more.

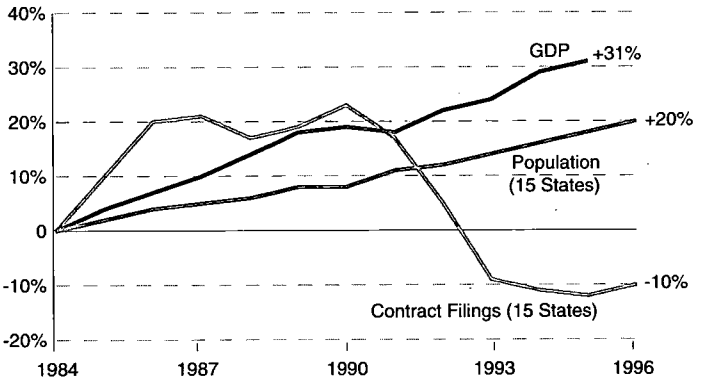
These observations on the contract filing rates are even more remarkable in light of the relatively steady economic growth in the U.S. in the past several years. One might expect that as the economy grows, commercial relations and the creation of contracts – and contract disputes – would increase at about the same rate. The line chart on the following page shows the annual percentage change in contract filings (15 states), population (15 states), and gross domestic product (GDP) for the entire U.S. for the period 1984-1996. Since 1984, population has grown 20 percent and GDP has grown 31 percent, but contract filings have declined by 10 percent. Having moved upward with the growth in GDP between 1984 and 1989, the growth in contract filings reached a high in 1990. Since 1990, however, contract filings have plummeted, reaching a low in 1995. The slight increase in contract filings in 1996 reversed the trend of the previous five years.

Growth Rates of Contract Filings in 21 States, 1990 vs.1996

State	Filings per 100,000 Population 1990	1996	Percent Change
Unified Courts			
Kansas	2,577	3,207	24%
Missouri	1,380	1,223	-11
North Dakota	1,067	867	-19
Massachusetts	94	65	-31
Minnesota	184	124	-33
Connecticut	912	549	-40
Wisconsin	412	200	-51
General Jurisdiction Courts			
Washington	290	273	-6
Arkansas	585	537	-8
Hawaii	161	126	-22
North Carolina	107	79	-26
New York	129	92	-29
Tennessee	196	118	-40
Texas	183	103	-44
Alaska	127	71	-44
Nevada	477	234	-51
Maine	125	59	-53
Florida	555	230	-59
Maryland	344	140	-59
Colorado	486	187	-61
Arizona	721	229	-68

What explains this dramatic decline in contract filings? There is no single or simple answer. Some states have increased the minimum jurisdiction amount to qualify for filing in their general jurisdiction courts in the past decade, which has restricted the number of contract cases in the general jurisdiction courts. In addition, there is a movement among businesses to include mandatory arbitration clauses in their contracts to compel businesses and individuals who enter into contracts with them to resolve their disputes outside the regular court process. There is also growth in private mediation services and in the use of private judges (usually retired judges) to resolve commercial disputes.

Percentage Change in Contract Filings, Population, and Gross Domestic Product, 1984-1996



Jury Trials and Awards in State Courts

Although jury trials are among the most unusual means for resolving civil disputes in general jurisdiction courts, they remain a focus of public and legislators' attention for several reasons. First, judges spend an estimated one-third to one-half of their work time conducting jury trials. Second, the length of time required to get a case to jury trial often has a profound impact on the length of time before attorneys reach a settlement, because many cases settle only when a jury trial is imminent. Third, the plaintiff win rates and average awards from juries become important factors in attorneys' calculations and strategies during their settlement negotiations.

Comparing State and Federal Courts

The table below displays 1992 data on case processing times and plaintiff win rates for jury trials in the 75 largest state courts and all federal district courts. Urban state trial courts are believed to have more crowded dockets than the federal courts. Federal courts, however, require plaintiffs to assert more than $50,000 in damages to obtain jurisdiction, so the amount at stake is generally greater in the typical federal case. The data support the belief that state courts resolve civil cases more slowly than federal courts. The median number of days from filing to verdict is longer in state courts than federal courts in every case category except toxic torts (which are primarily asbestos cases). For some case categories, the federal courts get their civil cases to a jury verdict about 200 days faster than state courts. Overall, in tort cases, federal courts are 139 days faster; in contract cases, federal courts are 210 days faster.

One of the common misconceptions among the public and some legislators is that juries almost always give awards to personal injury plaintiffs. It is noteworthy, therefore, that plaintiffs win personal injury cases in just 49 percent of the jury trials in state courts and 55 percent in federal courts. Medical malpractice and product liability cases are the most difficult cases for plaintiffs to win at jury trial. In medical malpractice cases, plaintiffs win damages in only 30 percent of jury trials in state courts and in only 26 percent of jury trials in federal courts. The win rates for products liability cases (excluding toxic torts) are 40 percent in state courts and 37 percent in federal courts. Plaintiffs are much more likely to win awards in contract cases: the win rate is about 60 percent in both state and federal courts.

In general, plaintiffs are somewhat more likely to win in federal courts. The difference is most notable in toxic tort cases (plaintiffs win in 87 percent of federal court cases and in 73 percent of state court cases) and automobile negligence cases (68 percent versus 60 percent). For most of the other specific case categories, however, there is not much difference in the plaintiff win rate between state and federal courts.

Plaintiff Win Rates and Median Days to Disposition for Jury Trials in State and Federal Courts, 1992

	State Court Trials			Federal Court Trials		
Case Type	Number of Trials	Days to Verdict	Percent Plaintiff Winners	Number of Trials	Days to Verdict	Percent Plaintiff Winners
All Tort	7,606	748	49%	1,248	609	55%
Motor Vehicle	3,381	660	60	270	486	68
Other Tort	667	787	45	329	513	46
Medical Malpractice	999	1,021	30	85	588	26
Products Liability	301	874	40	244	664	37
Toxic Torts (asbestos)	55	1,097	73	232	1,526	87
All Contract	1,927	753	62	519	543	60
All Cases	9,745	751	51	1,790	588	56

Notes: State court data were derived from case samples from state courts in 75 large counties in the Civil Trial Court Network (CTCN); federal data consist of all federal diversity cases. See Eisenberg et al. (1996), "Litigation Outcomes in State and Federal Courts: A Statistical Portrait," 19 (3) *Seattle University Law Review*, p.449.

One of the issues that piques the public's and legislators' interest is the magnitude of jury awards, especially in personal injury cases. How one measures the "average" award has a substantial impact on the findings. The next table displays data from state and federal courts on the arithmetic mean and median awards in jury trial cases. The mean is calculated by adding all the awards and dividing by the number of cases with an award. The median is the middle award: half the awards are larger and half are smaller. The mean can be driven upward dramatically by a few extremely large awards. The median is unaffected by extremely large awards.

The data show dramatic differences between the mean and median awards in both state and federal courts. For all tort cases, the mean state court award is $408,000, but the median is just $51,000. The mean award for all torts in federal courts is $2.29 million, and the median is $881,000. The larger awards in federal courts are due in part to the $50,000 minimum required for diversity jurisdiction. Most state general jurisdiction courts have minimums in the $5,000 range.

The largest mean and median awards in state courts are in the high-stakes categories of medical malpractice, toxic torts, and other products liability cases. The mean award in medical malpractice cases is $1.48 million, while the median is $201,000. In the federal courts, the largest awards are in toxic tort cases: the mean is $4.27 million and the median is $3.87 million. This mean award is more than eight times greater than the mean award for toxic torts in state courts, and the median award is more than 38 times greater. Even in auto tort cases, which are typically less complex and have lower stakes than toxic torts, the mean jury award is almost six times larger in federal courts than in state courts ($1.28 million versus $220,000).

Jury Trial Awards in State and Federal Courts, 1992

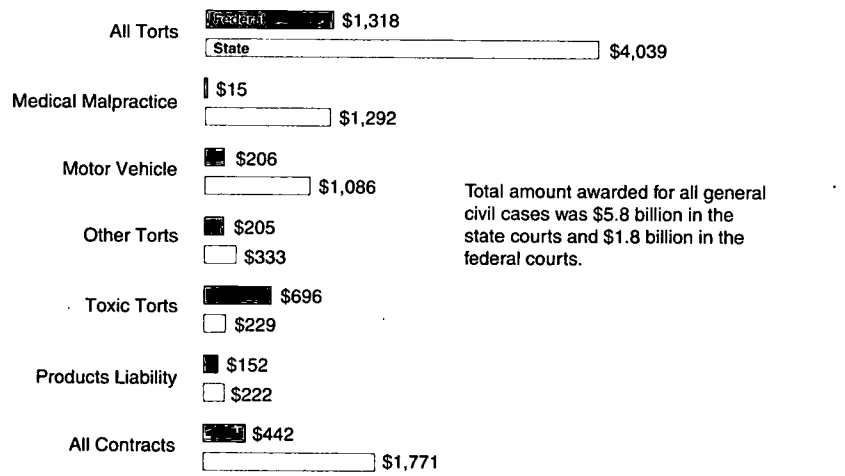
	— 50-State Estimate —		——— Federal ———	
Case Type	Mean	Median	Mean	Median
All Tort	$408,000	$51,000	$2,288,000	$881,000
Motor Vehicle	220,000	29,000	1,280,000	206,000
Other Tort	391,000	65,000	1,552,000	219,000
Medical Malpractice	1,484,000	201,000	809,000	264,000
Products Liability	727,000	260,000	2,332,000	668,000
Toxic Torts (asbestos)	526,000	101,000	4,269,000	3,873,000
All Contract	620,000	56,000	1,849,000	237,000
All Cases	455,000	52,000	2,157,000	515,000

Notes: State estimates were extrapolated from case samples from state courts in 75 large counties in the Civil Trial Court Network (CTCN); federal data consist of all federal diversity cases with awards for plaintiffs. See Eisenberg et al. (1996) "Litigation Outcomes in State and Federal Courts: A Statistical Portrait," 19 (3) *Seattle University Law Review*, p. 439.

Federal court jury trials clearly result in larger awards than jury trials in similar case categories in state courts. However, state courts handle a much larger proportion of the civil litigation in the U.S. than federal courts. State courts, therefore, are the source of a much larger proportion of the total dollars awarded by juries.

As the next chart indicates, in 1992 state courts accounted for three-quarters of the total amount of damages awarded by juries in all cases ($5.8 billion in state courts versus $1.8 billion in federal courts). In tort cases alone, state court juries awarded over $4 billion to plaintiffs; federal court juries awarded $1.3 billion. State courts handle a vast majority of medical malpractice cases, which is reflected in the huge proportion of awards coming from state courts. Similarly, in contract cases, jury awards amounted to almost $1.8 billion in state courts compared to $442 million in federal courts. Toxic tort litigation is the only category in which federal courts dominate: federal juries award more than three times as much as state court juries.

Total Jury Awards in State and Federal Courts (in Millions of 1992 Dollars)



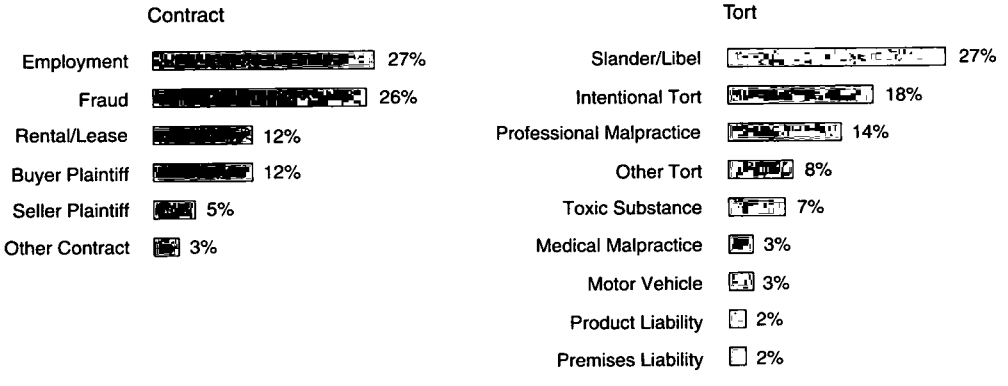
Punitive Damages in State Courts

In 1992, juries in the state courts in the 75 largest counties awarded approximately $327 million in punitive damages. The median punitive damage award was $38,000 for tort cases and $56,000 for contract cases. The mean punitive damage award for tort cases was $590,000 and $1,130,000 for commercial cases. Eleven percent of all punitive damage awards exceeded $1 million.

Few issues surrounding civil juries raise the ire of critics more than punitive damages. Juries in most states are allowed to award punitive damages in civil cases in which they find that the defendant's actions were willful, malicious, or grossly negligent. Critics argue, however, that juries are too willing to award punitive damages and, when they do, the punitive damages often are excessive and bear no relationship to the underlying compensatory damages. Many supporters of limits on punitive damages argue that the fear of punitive damages often deters manufacturers from making valuable products.

Which types of civil cases are most likely to result in punitive damage awards? The next chart displays the percentage of winning plaintiffs awarded punitive damages. Overall, only 6 percent of winning plaintiffs receive punitive damages. It also might surprise some observers that punitive damages are most likely to be awarded in commercial rather than tort cases. Twenty-seven percent of employment-related cases and 26 percent of fraud cases produced punitive damages. In the tort category, slander/libel cases are the most likely to result in punitive damages, followed by intentional torts. Toxic tort (primarily asbestos) cases are about average: 7 percent of winning plaintiffs are awarded punitive damages. Other high-stakes cases that most critics are concerned about are among the least likely to result in punitive damages. Only 2 percent of winning plaintiffs in other product liability cases and 3 percent of winning plaintiffs in medical malpractice cases win punitive damages.

Percentage of Winning Plaintiffs Who Were Awarded Punitive Damages in State Courts, 1992

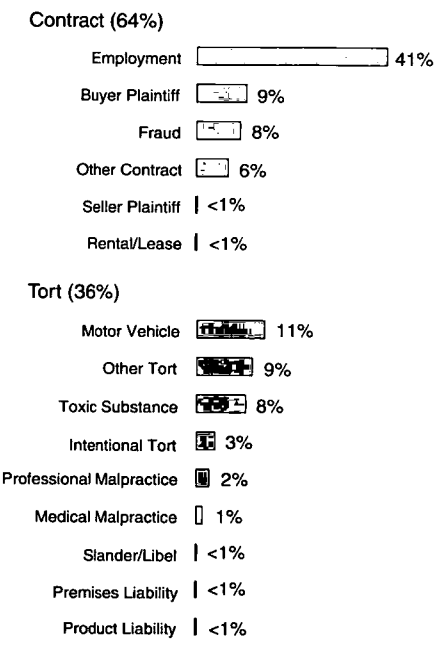


Source: Civil Trial Court Network (NCSC).

Even if commercial cases are more likely than tort cases to result in punitive damages, it may be that punitive damages are substantially larger in tort cases, so they actually account for a larger proportion of the total punitive damages awarded in state courts. The data, however, show that commercial cases produce a total of 64 percent of all punitive damages awarded in state courts. As seen to the right, employment-related cases alone account for an astonishing 41 percent of all punitive damages, which is more than all tort cases combined (36 percent). Toxic tort (asbestos) cases produce a notable 8 percent of all punitive damages, but other product liability cases account for less than 1 percent of all punitive awards. Only 1 percent of punitive damages are a result of medical malpractice cases.

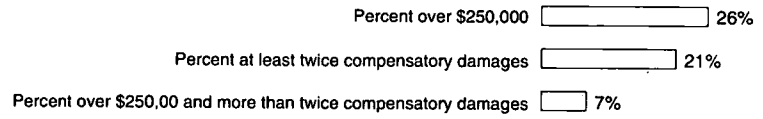
Limits on punitive damages have already been adopted in some states, and the U.S. Congress is currently considering punitive damage limits as part of a more comprehensive tort reform effort. Most limits are calculated as a ratio of punitive to compensatory damages; a ratio of 2 or 3 to 1 is the most common. The current proposal in the U.S. Senate would limit punitive damages to $250,000 or twice the compensatory damages awarded in the case, whichever is greater. The chart below reveals that in 1992, 26 percent of all punitive damages exceeded $250,000 and 21 percent were at least twice the amount of the compensatory award. However, only 7 percent were over $250,000 *and* more than twice the compensatory award. If the proposed cap had been applied to these cases in 1992, the total amount of punitive damages would have been reduced by $31 million, which is almost 10 percent of the total amount of estimated punitive damages in the 75 largest counties that year. Experience and research suggest, however, that even without legislative caps on punitive damages, many of these very large punitive damage awards would be reduced substantially by trial or appellate judges through the normal process of post-trial motions and appeals.

Percentage of Total Punitive Damages Awarded by Case Type in State Courts, 1992



Source: Civil Trial Court Network (NCSC).

Percentage of Punitive Awards in State Courts Exceeding Proposed Congressional Caps, 1992



Source: Civil Trial Court Network (NCSC).

Domestic Violence Cases

Over the last decade, the most rapid growth in domestic relations caseloads has occurred in the area of domestic violence. States able to provide three years of comparable data were ranked by their domestic violence filing rate per 100,000 population in 1996 in the following table. The table also includes a population rank and a three-year growth index, which is the percentage change in the number of domestic violence filings between 1994 and 1996.

Domestic Violence Caseloads in 31 States, 1994-1996

State	Filings per 100,000 Population	Number of Filings 1996	1995	1994	Percent Growth 1994-96	Population Rank
Unified Courts						
District of Columbia	914	4,967	3,906	3,496	42%	51
Massachusetts	825	50,261	54,694	54,618	-8	13
Minnesota	679	31,646	31,484	29,898	6	20
Missouri	663	35,502	33,407	28,647	24	16
Idaho	561	6,677	7,833	7,197	-7	41
Kansas	268	6,895	11,830	10,160	-32	33
Iowa	175	4,979	5,379	4,288	16	31
North Dakota	171	1,100	1,055	720	53	48
Connecticut	162	5,289	5,450	5,147	3	29
General Jurisdiction Courts						
New Jersey	913	72,907	75,650	65,508	11	9
New Mexico	791	13,547	12,994	11,721	16	37
West Virginia	777	14,178	13,992	12,889	10	36
Alaska	762	4,627	4,497	4,459	4	49
Vermont	760	4,473	4,633	4,114	9	50
Kentucky	687	26,684	27,002	23,419	14	24
New Hampshire	654	7,604	7,459	5,651	35	43
Florida	554	79,723	69,175	63,284	26	4
Washington	552	30,555	31,555	30,099	2	15
Maine	537	6,680	7,026	6,346	5	40
Arizona	519	22,967	24,784	21,094	9	21
Oregon	451	14,451	16,785	17,122	-16	30
Delaware	431	3,124	2,575	860	263	47
Rhode Island	418	4,137	4,519	4,166	-1	44
Maryland	371	18,805	16,537	14,513	30	19
Utah	342	6,833	4,980	3,590	90	35
Indiana	286	16,676	14,955	15,897	5	14
New York	285	51,818	50,717	49,802	4	3
Arkansas	278	6,988	5,833	4,790	46	34
Wyoming	272	1,310	1,212	1,258	4	52
Hawaii	216	2,553	2,928	2,732	-7	42
Ohio	67	7,444	6,573	5,506	35	7

Domestic violence is a problem common to all states, not just those that are urban and populous. For example, population-adjusted filing rates in Alaska and Vermont greatly exceed the rates in Florida and New York. States experiencing the greatest increase in domestic violence filings include Delaware, Utah, Arkansas, and North Dakota. Overall, ten of the 31 states had an increase of 20 percent or more over the three-year period. The states reporting a decrease in the number of domestic violence filings include Massachusetts, Idaho, Oregon, Rhode Island, Kansas, and Hawaii.

What accounts for the wide variation in both the number of domestic violence filings per 100,000 population and in the percentage change in filings from 1994 to 1996? Some of this variation is attributable to differences in statutory definitions of domestic violence, police arrest policies, and access to protection orders. Further, recent legislative action to extend and toughen penalties in cases of domestic violence contributes to the large increases in caseloads since 1993. Fourteen states and the District of Columbia currently have laws mandating arrests in crimes of domestic violence. Warrantless probable-cause arrests in cases of domestic violence are authorized in 47 states and the District of Columbia.

The variation in domestic violence filings across the states will not be fully understood, however, until more consistent ways are developed to define and count domestic violence cases. For example, some states include civil protection orders in the domestic violence category, while others do not. Some states report child abuse separately, while others include these cases in a general category of family violence. A further complicating factor is that domestic violence filings can be found in several different jurisdictions or divisions of a state's court system, such as civil, criminal, juvenile, and family jurisdictions. This lack of consistency can lead to inflated filing data (e.g., a single incident could be counted as both a criminal filing and as a civil filing for a protection order). Without common definitions of case categories and methods for counting cases, courts will have difficulty providing comparable and accurate measures of domestic violence filings.

Domestic Violence and Custody Dispute Cases

The desire to obtain accurate domestic and/or family violence data is growing among state court leaders and public policy makers. Although many states are making an effort to improve their data collection and report generation procedures in this area, at this point in time, collection of precise information at the state level is minimal. As a result, domestic violence data are currently most reliable when collected through special surveys. This section examines the results of one relevant study.

In 1995, the National Center for State Courts (NCSC) began a study of court practices in screening, processing, and adjudicating custody and visitation disputes when the possibility of domestic violence exists.[1] One component of this study was a survey of approximately 150 courts with domestic relations jurisdiction to identify and catalogue the state of current practices, innovative approaches, and the types of services available to families. The survey also asked the courts to estimate the incidence of domestic violence in custody disputes.

Estimated Percent of Custody Cases Involving Domestic Violence
(based on 124 cases)

Number of Cases	Percent
Less than 1/4 of cases	57%
1/4 to 1/2 of cases	37%
More than 1/2 of cases	6%

Source: Domestic Violence and Child Custody Disputes: A Resource Handbook for Judges and Court Managers, (Forthcoming), National Center for State Courts.

Incidence of Domestic Violence in Custody Cases

It is difficult to determine how often domestic violence is an issue in custody and visitation cases. Courts are just beginning to systematically identify domestic violence in custody cases and to develop data systems that accurately compile these cases. For example, the vast majority of the courts surveyed in this study (93 percent) did not formally collect statistics on domestic violence allegations in custody dispute cases.

In anticipation of this finding, the NCSC survey asked court staff to estimate the proportion of custody cases that involve domestic violence. Based on the survey results, the majority of courts (57 percent) estimated that less than one-fourth of custody cases involve domestic violence, but nearly 40 percent placed the proportion between a quarter and a half.

To deepen understanding of the incidence of domestic violence in custody cases, the NCSC study also examined court records in disputed custody or visitation cases in three study sites: Baltimore, Maryland; Louisville, Kentucky; and Las Vegas, Nevada. In both Baltimore and Louisville, the proportion of cases having some evidence of domestic violence was about 25 percent, whereas the incidence of domestic violence was more than twice this rate in Las Vegas.[2]

[1] For the purposes of this study, domestic violence was defined as the occurrence of one or more acts of violence, coercion, or intimidation by a family or household member against another family or household member. Also, this study defined a custody case as a case or claim involving the custody or visitation of children whose parents may be divorced/divorcing, separated/separating, unwed, or filing a petition for an order of protection from abuse.

[2] Evidence of domestic violence included civil protection orders, documents from criminal cases, self-reports in questionnaires and interviews, allegations in the pleadings, and other evidence in the case record.

The differences among the three sites in rates of domestic violence in contested custody cases underscore a critical problem in measuring domestic violence in court cases: the source and quality of the data.[3] In each of the study sites, the primary source of data analyzed was case records, augmented in two sites by additional sources of data. For example, in Las Vegas, electronic court case records were supplemented by the corresponding case files in the Family Mediation and Assessment Center (FMAC). In just over 75 percent of the Las Vegas cases with evidence of domestic violence, the evidence consisted of self-reports of violence on the questionnaire. In contrast, Baltimore had only court cases available for examination. The primary types of domestic violence evidence in the files came from allegations in the case pleadings and copies of civil protection orders. Finally, among the three jurisdictions, Louisville had the least amount of domestic violence evidence in the case files. However, court staff checked the names of all the parties in the study sample against the court's civil protection order database and found protection orders in 20 percent of the cases. (In Louisville, these cases accounted for 82 percent of all the cases in which there was evidence of domestic violence).

Percent of Dispute Cases in Which Evidence of Domestic Violence Was Found

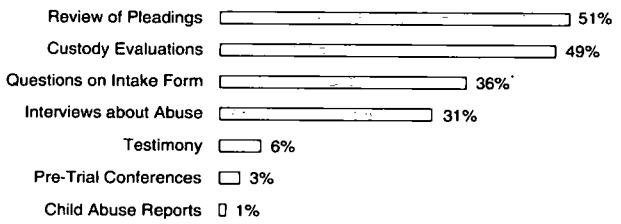
Site	Number of Cases Examined	Percent with Dom. Violence
Las Vegas, NV	251	55%
Louisville, KY	184	24%
Baltimore, MD	212	27%

Source: Domestic Violence and Child Custody Disputes: A Resource Handbook for Judges and Court Managers, (Forthcoming), National Center for State Courts.

Screening for Domestic Violence

In order to gain a better understanding of how courts determine the existence of domestic violence, the NCSC survey included questions focusing on case screening practices. Specifically, the survey found that courts use a variety of methods to identify domestic violence in custody cases. The most common screening methods employ routine reviews of pleadings for allegations of domestic abuse and professional custody evaluations. Less common screening methods include questions on intake forms and interviews about abuse.

Court Procedures for Identifying Domestic Violence in Custody Cases
(based on 157 cases)



Source: Domestic Violence and Child Custody Disputes: A Resource Handbook for Judges and Court Managers, (Forthcoming), National Center for State Courts.

[3] Few court data systems can identify cases in which custody is a disputed issue, and the study sites were no exception. In each of the sites, different methods were used to identify the cases in the study samples. In Baltimore, the court identifies 212 cases as likely to have a contested custody or visitation claim based on the number of hearings set. In Las Vegas, 251 cases were selected from the cases referred to the Family Mediation and Assessment Center in 1994-95. In Louisville the sample included 184 cases referred to mediation in 1994-95.

The vast majority (68 percent) of juvenile cases reported by the states involve a filing for some type of delinquent act. Delinquency cases involve offenses that are considered crimes if committed by an adult. In many instances, these cases are processed similarly to those in adult court, with a prosecutor and defense attorney present and the use of evidentiary and disposition hearings. Though juveniles are subject to a wide range of sentences, ranging from community service to secure confinement, their adjudication may involve other special conditions not typically granted to adults (e.g., special placements or living arrangements).

Another 27 percent of juvenile filings involve status offenses or child-victim cases. Status offenses are acts that are not considered crimes if committed by an adult (e.g., truancy, runaway). Child-victim cases may involve neglect, physical abuse, and, in some jurisdictions, sex offense cases. Cases involving status offenders can be disposed of in a number of ways, including custody changes or foster care placement, counseling, and probation or community service referral. Child-victim cases may also be handled by removing the child from the home or by sentencing the accused parent or adult to a criminal sanction.

Given the rate of growth in both delinquency and status offense caseloads, policy makers interested in managing this segment of court workload should understand the factors that influence caseload size. Several influential factors can be identified, including the size of the at-risk population, juvenile crime rates, juvenile arrest rates and law enforcement policies, and the policies and practices of the juvenile court itself.

At-Risk Population

There has been much speculation about the influence of the size of the juvenile population on crime rates and, consequently, on the juvenile justice system. This speculation has been fueled by recent forecasts of 15- to 17-year-old juveniles, with the Bureau of the Census expecting this group to increase by 31 percent from 1991 to 2010. Added to the concern about this expected demographic bulge is the speculation that it may contain a large number of youth with a high propensity toward crime and violence or, in the words of James Alan Fox, "temporary sociopaths," also referred to as "superpredators" by John J. DiIulio Jr. Other scholars such as Zimring and Tonry seriously dispute these conclusions and view such speculation as "alarmist."

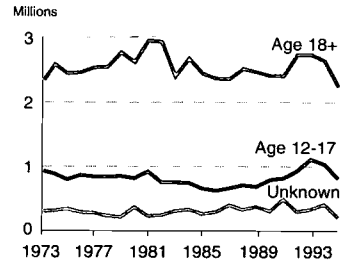
Juvenile Crime Victimization Rates

Another factor that may influence juvenile court case flow is the level of juvenile crime. There are three primary means to measure juvenile crime: (1) official arrest statistics (Uniform Crime Report or UCR data); (2) victimization surveys; and (3) self-report surveys. Each of these measures has advantages and disadvantages. While UCR data provide a good measure of the number of juveniles arrested, they are unable to measure total juvenile crime. Further, arrest data are influenced by police practices as well as crime levels. Results from the UCR data are discussed below.

Regarding victimization, one of the chief sources of data is the National Crime Victimization Survey (NCVS). The NCVS collects data from residents living throughout the United States. Individuals age 12 and older are eligible to be interviewed. The figure shows that the number of offenders perceived by victims of violent crime to be between 12 and 17 years old has remained relatively stable from 1973 to 1995, with sharp decreases occurring during 1994 and 1995. Other data from the NCVS and the National Center for Juvenile Justice, however, indicate that the risk of juveniles being victims of violent crime has increased in recent years, stemming largely from an increase in simple assault rates.

A source for self-reported delinquency is the *Monitoring the Future Project* (Institute for Social Research, University of Michigan, 1982-1994). Designed to provide an accurate cross-section of high school seniors throughout the United States, the basic research involves annual data collections from high school seniors during the spring of each year, starting with the class of 1975. Generally, the self-report data indicate a high degree of consistency during the 1983-1995 interval. The table below shows the stability in response rates.

Perceived Age of the Offender in Serious Violent Crime, 1973-1995



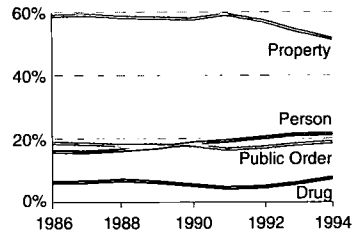
Source: The serious violent crimes included are rape, robbery, aggravated assault, and homicide. The data for these offenses are from the National Crime Victimization Survey. The homicide data are collected by the FBI Uniform Crime Reports (UCR).

Questions posed in surveys from 1983-1995	Highest and lowest percentages reporting "not at all"	
	Highest (year)	Lowest (year)
Hurt someone badly enough to need bandages or a doctor?	89.4% (1984)	86.6 % (1994)
Used a knife or gun or some other thing (like a club) to get something from a person?	97.2% (1988)	95.2% (1994)

Source: *Monitoring the Future Project*, Institute for Social Research, University of Michigan, 1982-1994.

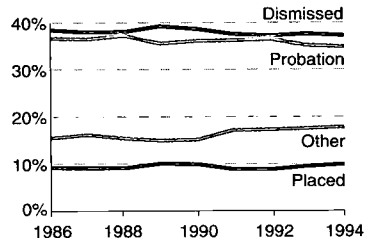
State Court Delinquency and Status Offenders

Percentage Distribution of Delinquency Cases by Offense Type, 1986-1994



Source: Juvenile Court Statistics, 1986-1994, National Center for Juvenile Justice.

Percentage Estimates of Juvenile Court Dispositions for Delinquency Cases in the United States, 1986-1994



Source: Juvenile Court Statistics, 1986-1994, National Center for Juvenile Justice.

The figure shows that the offense composition of the delinquency caseload has changed considerably between 1986 and 1994. The fastest percentage growth is occurring in crimes against the person, which has grown from 16 percent in 1986 to almost 22 percent in 1994. Still, the majority of delinquency cases processed in state courts still involve property offenses (although the percentage has decreased from about 59 percent of the delinquency cases in 1986 to about 52 percent in 1994). The percentage of juveniles processed for drug offenses has fluctuated between about 5 and 8 percent over the nine-year period, with drug cases dipping to their lowest level in 1991 and increasing to their highest level in 1994. Public order offenses accounted for between 17 and 19 percent of the delinquency caseload during the time period examined.

Despite the changes in the mix of cases, the composition of juvenile court dispositions has remained fairly consistent. As shown at left, most delinquency cases result in dismissals or probation sanctions. In some instances, the dismissal is contingent upon the juvenile successfully completing some form of court instruction. A relatively small number of delinquency dispositions (only 10 percent in 1994) result in a formal placement. "Other" types of dispositions increased most rapidly since 1990, indicating that the juvenile courts are making greater use of alternative sanctions. Some of the less traditional dispositions included in this category include fines, restitution, community service, and various types of referrals to treatment or social service providers.

One of the most controversial topics in juvenile justice is juvenile transfer (also referred to as waiver) to adult court. Policies aimed at reducing the age of transfer eligibility are hotly debated in state legislatures, and many states have lowered the age of transfer or have increased the number of offense types that trigger a transfer hearing. As shown in the figure below, the number of delinquency cases that result in a transfer to the adult system has increased every year between 1986 and 1994; however, transfers have never comprised more than 1 percent of the overall caseload.

Estimates of Delinquency Cases Transferred by Judicial Discretion to Criminal Court in the United States, 1986-1994

Year	Delinquency Cases	Judicial Transfer to Adult Court	Tranfers as % of Delinquency Cases
1986	1,148,000	5,400	0.5%
1987	1,145,000	5,900	0.5
1988	1,170,400	7,000	0.6
1989	1,212,400	8,400	0.7
1990	1,299,700	8,700	0.7
1991	1,373,600	10,900	0.8
1992	1,471,200	11,700	0.8
1993	1,489,700	11,800	0.8
1994	1,555,200	12,300	0.8

Source: Juvenile Court Statistics, 1986-1994, National Center for Juvenile Justice

Juvenile Status Offenses

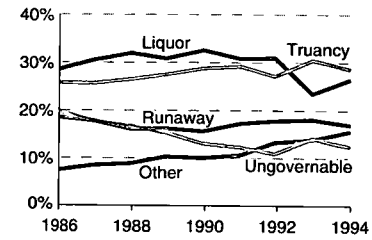
Status offenses are acts that are not considered crimes if committed by an adult. Although the offense is usually not as serious as delinquency, the status offender still may be required to appear before a juvenile court judge or quasi-judicial officer.

The National Center for Juvenile Justice (NCJJ) collects data on petitioned status offenses, that is, cases that appear on the court calendar in response to a petition or other legal instrument requesting the court to adjudicate the youth. Petitioned status offense cases increased roughly 50 percent between 1986 and 1994, as shown earlier.

Status offenses typically include liquor, truancy, runaway, ungovernable, and 'other' case types. As shown in the figure, liquor law violations were the most common petitioned status offense from 1986-1992, although truancy cases became the most prevalent type of case in 1993 and 1994, accounting for 29 percent of the status offense caseload during 1994. The percentage of the status offense caseload that ungovernable cases comprise consistently declined between 1986 and 1992, increased slightly in 1993, and declined again in 1994.

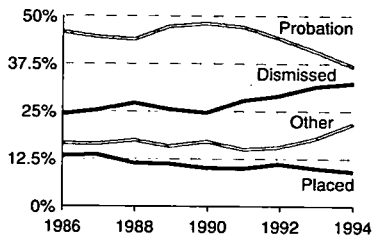
Status offenders can be placed on probation, be moved to a setting outside the home, or have their case dismissed. Unlike adults, youths may be placed on probation even if their case is dismissed. This blend of outcomes arises because juvenile courts have traditionally focused on recommending the best possible treatment for the individual rather than searching for a finding of guilt or innocence. The percentage of petitioned status offenses whose disposition was probation declined sharply from 46 percent in 1986 to 37 percent in 1994, as shown in the figure to the right. Similarly, the percentage of petitioned status offenders who were "placed" (out of the home) has declined from about 13 percent in 1986 to 9 percent in 1994. The percentage of petitioned status offenders whose cases were dismissed or who received an "other" disposition increased from 1986 to 1994. These results appear to reflect states' continuing efforts to decriminalize status offenses. The increase in "other" dispositions for petitioned status offenders may reflect juvenile courts' increased reliance on intermediate sanctions to deal with status offenders. Using such sanctions enables the court to provide services to status offenders and to monitor their progress while avoiding placement out of the home or formal probation.

Percentage Estimates of Petitioned Status Offenses in State Juvenile Courts, 1986-1994



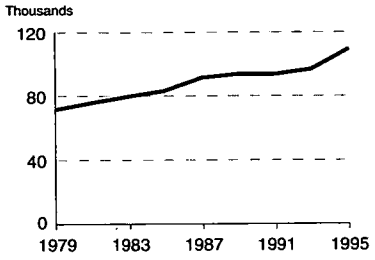
Source: Juvenile Court Statistics, 1986-1994, National Center for Juvenile Justice.

Percentage Estimates of Juvenile Court Dispositions for Petitioned Status Offenses in the United States, 1986-1994



Source: Juvenile Court Statistics, 1986-1994, National Center for Juvenile Justice.

One-Day Counts of Juveniles in Public and Private Correctional Facilities, 1979-1995



Source: Juveniles Taken Into Custody, Fiscal Year 1993, Office of Juvenile Justice and Delinquency Prevention (OJJDP); 1994-1995 data also obtained from OJJDP.

Impact on Juvenile Corrections

As shown in the trend line, there has been a consistent increase in the number of juveniles in correctional facilities (public and private) since 1979. One-day counts represent the results of a census of juvenile correctional facilities taken on a specific day in February during each year examined. The consistent increase in juvenile correctional population corresponds to the previously noted increase in juvenile court filings.

The increase in juvenile correctional populations contributes to the overcrowding experienced by many facilities. Research conducted by Abt Associates, Inc. in 1994 on the conditions of confinement in juvenile detention and correctional facilities revealed that the percentage of all confined juveniles who were confined in facilities that exceeded their design population capacity had increased from 36 to 47 percent between 1987 and 1991.

Although the number of youth committed by juvenile courts is not the only determinant of juvenile correctional populations (length of stay is also important), it is probably the most critical. Consequently, it is clear that the growth in the number of juvenile court filings has fueled the increase in juvenile correctional populations.

Conclusions

Clearly, there has been a remarkably consistent increase in the number of juvenile court filings since 1984. This increase is often at odds with trends in the at-risk population and juvenile crime. At-risk population declined between 1984 and 1990, although the number of juvenile court filings steadily increased during this period. Self-report and victimization data suggest that juvenile crime either has declined or has remained the same. The only category that seems to have grown is the violent crime category, but this category accounts for only a small proportion of the total number of reported juvenile crimes.

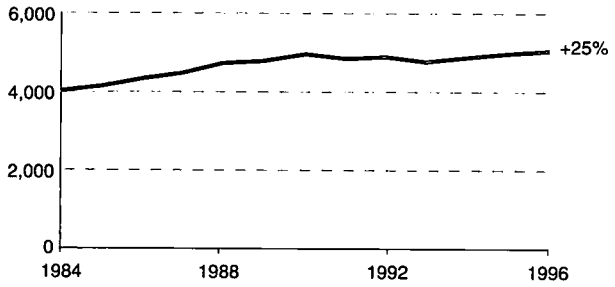
The composition of juvenile court caseloads has changed over the years, with person-related cases on the increase and property-related cases on the decline. Despite this change in caseload, the composition of juvenile court dispositions remained remarkably consistent between 1986 and 1994. Some courts are adjusting to the new realities of their caseloads by increasing their use of "alternative dispositions," such as restitution, bootcamps, wilderness programs, house arrest, etc. One result of this policy has been an increase in juvenile correctional populations. Such a policy should also act to reduce the population pressure on juvenile corrections. Unless current law enforcement and court intake practices change, juvenile court filings can be expected to continue increasing into the next century.

Criminal Caseloads in State Trial Courts

Criminal Caseload Filing Trends

Criminal caseloads in the state courts reached an all-time high of 13.5 million filings in 1996. The trend below shows the rate of criminal case filings (per 100,000 population) increased 25 percent from 1984 to 1996. Many factors external to the judicial branch can influence the number of criminal cases filed in state trial courts. Criminal filings can be readily compared to other specific criminal justice measures which are routinely collected by other justice system agencies. In this sense, changes in state court criminal caseloads can be viewed in relation to changes in victimizations, reported crime, and arrests.

Criminal Cases Filed in State Courts, 1984-1996 (Rate per 100,000 population)

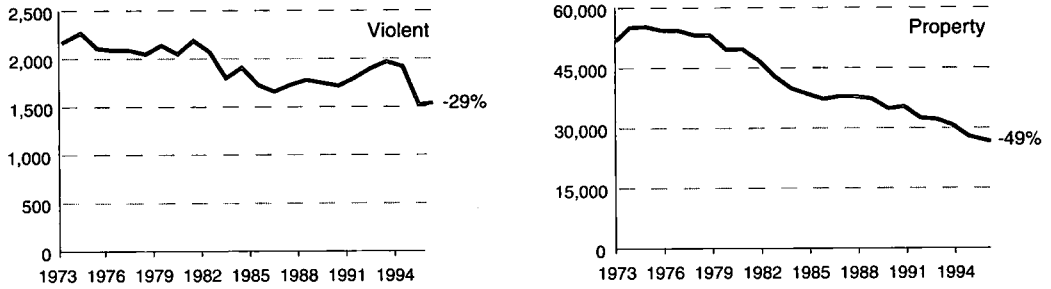


One way to measure crime levels is to use surveys to estimate how often people report being victimized. The *National Crime Victimization Survey* (NCVS), sponsored by the Bureau of Justice Statistics, is the largest and most established crime survey in the United States. Based on a broad representative sample, citizens are asked whether they have been victims of crime over a specified period of time. The NCVS collects data from residents age 12 and older throughout the country. Two other measures of crime, offenses reported to the police and arrests made by law enforcement, are derived from the Federal Bureau of Investigation's *Uniform Crime Reports* (UCR). The trend lines on the next page show that self-reported victimization rates for violent and property offenses have declined since the early 1970s whereas the number of violent crimes reported to police have increased and property crimes reported to police have remained stable. The trend in arrests tracks offenses reported to the police closely, except in the early 1990s, when the violent crime arrest rate increased while reported violent crime dropped.

The relationship between case filing rates and reported crime rates and arrest rates appears to be fairly straightforward. All of these measures have increased between 1984 and 1996. The 25 percent increase in criminal filing rates was accompanied by increases in *reported* crime (52 percent for violent and 19 percent for property) and the number of *arrests* (54 percent for violent and 13 percent for property).

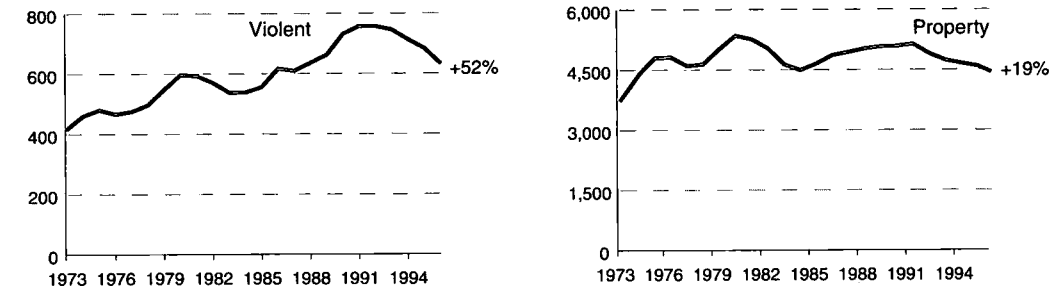
On the other hand, the relationship between crime as measured by *victimization* data and criminal caseload is more complex. Violent crime and property crime victimizations have both declined dramatically since 1973: by 29% for violent offenses and by 49% for property offenses. These decreases are in contrast to the previously noted increase in criminal case filings. Many factors including victims' willingness to report crime, arrest practices, and prosecutorial discretion, moderate and influence the relationship between these two variables.

Victimization Rates in the United States, 1973-1996 (per 100,000 population age 12 and older)



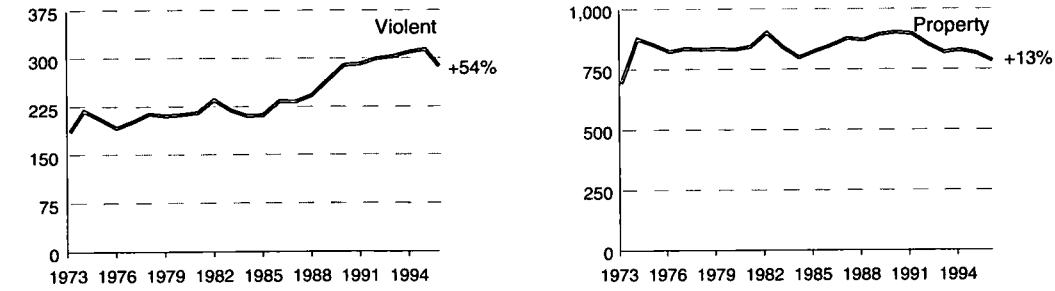
Source: National Crime Victimization Survey (NCVS), 1973-1996, Bureau of Justice Statistics

Reported Crime Rates in the United States, 1973-1996 (per 100,000 population)



Source: Uniform Crime Reports, Federal Bureau of Investigation.

Arrest Rates in the United States, 1973-1996 (per 100,000 population)



Source: Uniform Crime Reports, Federal Bureau of Investigation.

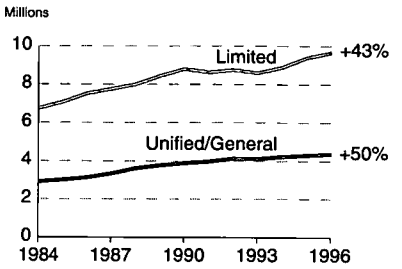
Criminal Caseload Composition: General, Limited, and Unified Courts

The graph to the right compares criminal case filings by type of court jurisdiction. Criminal cases filed in general jurisdiction courts (primarily felonies) and in the limited jurisdiction courts (primarily misdemeanors) both reached all time highs in 1996. Since 1984, criminal caseloads increased 50 percent and 43 percent in general jurisdiction and limited jurisdiction courts, respectively.

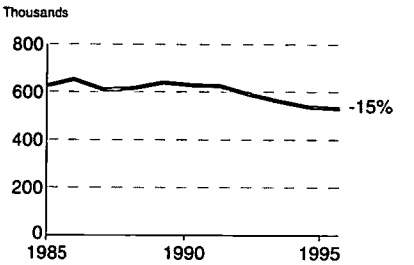
In general jurisdiction courts during 1996, 56 percent of the criminal cases involved felony-level offenses, while another 31 percent involved misdemeanors. An additional 9 percent were "other" offenses, including appeals and miscellaneous offenses (e.g., extradition), while the remaining cases involved DWI offenses. Between 1985 and 1996, DWI filings in state courts decreased 15 percent, and reached their lowest level in the 11-year period during 1996. This trend may reflect the impact of stricter law enforcement, media attention, and alcohol awareness programs on the incidence of drunk driving.

Judges in unified courts hear all cases regardless of offense type. In these court systems during 1996, 71 percent of the cases involved misdemeanor offenses, while felony and DWI/DUI cases accounted for 29 percent of the filings. Misdemeanor and DWI/DUI cases represented 96 percent of the caseload of limited jurisdiction courts during 1996, while felonies accounted for only 3 percent.

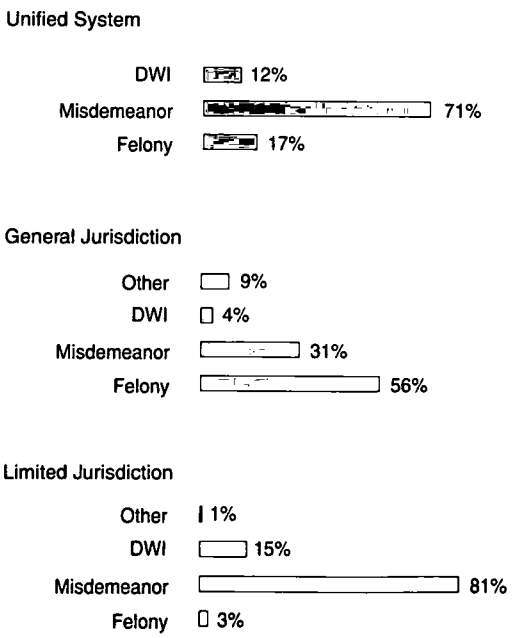
Criminal Cases Filed in State Courts by Court Jurisdiction, 1984-1996



DWI Filings in 21 States, 1985-1996



Criminal Caseload Composition by Court Jurisdiction, 1996



Criminal Filing Rates in Unified and General Jurisdiction Courts in 49 States, 1996

State	Criminal Filings	Criminal Filings per 100,000 Population	Population Rank
Unified Courts			
Illinois	563,310	4,755	6
Massachusetts	324,120	5,320	13
Minnesota	244,136	5,241	20
Missouri	170,383	3,180	16
Wisconsin	140,868	2,730	18
Connecticut	134,677	4,113	29
Iowa	102,161	3,582	31
Puerto Rico	96,719	2,591	26
Idaho	10,459	879	41
Kansas	45,333	1,762	33
District of Columbia	36,468	6,713	51
North Dakota	31,309	4,865	48
South Dakota	28,069	3,832	46
General Jurisdiction Courts			
Florida	198,309	1,377	4
Indiana	180,528	3,091	14
California	156,949	492	1
Texas	154,828	809	2
Pennsylvania	144,251	1,196	5
Virginia	127,764	1,914	12
Louisiana	127,724	2,936	22
North Carolina	126,397	1,726	11
South Carolina	111,528	3,015	27
Oklahoma	88,986	2,696	28
Tennessee	88,057	1,655	17
Michigan	72,420	755	8
Utah	70,324	3,515	35
Maryland	69,118	1,363	19
New York	68,067	374	3
Ohio	66,850	598	7
Alabama	58,280	1,364	23
New Jersey	48,940	613	9
Arkansas	48,092	1,916	34
Arizona	33,388	754	21
Washington	32,581	589	15
Oregon	31,819	993	30
Colorado	30,613	801	25
Kentucky	19,604	505	24
Vermont	17,387	2,954	50
New Mexico	16,859	984	37
New Hampshire	14,320	1,232	43
Hawaii	9,191	776	42
Maine	9,091	731	40
Delaware	7,620	1,051	47
West Virginia	7,619	417	36
Nebraska	7,585	459	38
Rhode Island	6,868	694	44
Montana	5,284	601	45
Alaska	3,228	532	49
Wyoming	1,998	415	52

Note: Georgia, Misssissippi, and Nevada are not included because data were not available for 1996. The 1996 data for Pennsylvania are preliminary.

State Criminal Caseloads

By listing the reported criminal filings for unified and general jurisdiction courts for each state in 1996, the adjacent table enables one to compare criminal caseloads among the states. The range of criminal filings was broad: Illinois reported roughly 563,000 and Wyoming reported just under 2,000 filings in courts of general jurisdiction. Sixteen states (33 percent) each report over 100,000 criminal filings in unified and general jurisdiction courts, while the remaining 33 states report 100,000 or fewer criminal filings.

Criminal caseloads in a state are closely associated with the size of the state's population and can be expected to rise simply as a result of population growth. The table shows the number of criminal filings per 100,000 population and each state's total population rank. The median filing rate of 1,363 per 100,000 population is represented by Maryland.

Criminal Filings and Population
The *number* of state criminal filings during 1996 was moderately correlated with the size of the adult population (Pearson's $r = .4508$, $p < .001$), while the correlation between the criminal filing *rate* and population was negative and small (Pearson's $r = -.1843$, $p < .205$). The closer the correlation is to +1 or −1, the stronger the association between the two variables. The smaller the probability value *(p)*, the greater the likelihood that the correlation is significantly different from zero. Correlation does not indicate that two variables are necessarily causally related but only that they are related in some fashion.

Factors other than population size also significantly influence the size of criminal caseloads. These factors include the continuing trend in legislatures to criminalize more behaviors, differences in the prosecutorial charging procedures, and differences in the underlying crime rates. Cross-state comparisons in criminal caseloads also require a working knowledge of differences in state court structure, composition of criminal data, and unit of count. States in which the general jurisdiction court handles all or most of the criminal caseload (e.g., the District of Columbia, Massachusetts, Illinois, and Connecticut) have the highest numbers of population-adjusted filings, while states that have one or more limited jurisdiction courts with concurrent criminal jurisdiction (e.g., California and Texas) have much smaller criminal filings per 100,000 population. California's limited jurisdiction court processes all misdemeanor cases, some felony cases and some DWI/DUI cases. Similarly, in Texas, three different statewide limited jurisdiction courts with criminal jurisdiction take much of the burden from the general jurisdiction court.

Although the composition of the criminal caseload in courts of general jurisdiction tends to be quite similar, some differences exist. Criminal filings in Connecticut, Illinois, Minnesota, and Oklahoma include ordinance violation cases that are typically reported in the traffic caseload in other states. Composition also relates to court structure: New York's criminal caseload consists solely of felony and DWI, since various limited jurisdiction courts process all misdemeanors, some DWI cases, some felony cases, and miscellaneous criminal cases.

Unit of count also affects the size of the caseload. States that count a case at arraignment (e.g., Ohio), rather than at filing of information/indictment, have smaller criminal caseloads. Most states count each defendant as a case, but those states that count one or more defendants involved in a single incident as one case (e.g., New York, Wyoming, Utah, and Montana) have smaller population-adjusted criminal filings.

Criminal Caseload Clearance and Growth Rates for Unified and General Jurisdiction Courts in 41 States

State	1994-96	1996	1995	1994	Caseload Growth Rate
Unified Courts					
Kansas	105%	106%	106%	101%	5%
North Dakota	102	101	108	96	16
Minnesota	101	101	103	100	14
District of Columbia	101	100	101	101	-8
Puerto Rico	100	99	98	101	-5
Iowa	94	93	89	100	28
Missouri	92	91	90	94	18
Idaho	95	102	92	91	13
South Dakota	75	67	75	83	-7
General Jurisdiction Courts					
Hawaii	107	116	130	72	-4
New York	106	106	107	104	-5
West Virginia	105	104	108	103	-13
New Jersey	102	100	105	103	-1
Wyoming	102	110	103	95	3
New Hampshire	101	95	100	109	1
South Carolina	101	99	99	104	8
Pennsylvania	100	101	100	99	3
Nebraska	100	104	96	100	10
Texas	100	99	102	98	-8
North Carolina	99	99	104	95	2
Ohio	99	99	100	98	3
Rhode Island	99	101	92	103	11
Indiana	98	101	99	94	12
Virginia	98	98	96	100	10
Kentucky	98	97	99	97	7
California	97	100	96	96	-1
Michigan	97	96	98	97	7
Maine	97	101	91	98	-4
Vermont	96	95	96	99	10
Washington	96	97	95	96	7
Arkansas	96	103	94	91	9
Alabama	94	94	93	95	11
Maryland	94	96	92	93	1
Delaware	93	91	93	95	5
Arizona	92	95	91	90	8
Oregon	92	109	101	74	-41
New Mexico	91	87	93	95	20
Alaska	90	89	93	89	20
Tennessee	89	86	95	88	28
Oklahoma	86	90	84	85	3
Florida	82	80	81	85	11

Note: The 1996 data for Pennsylvania are preliminary.

The Intersection of Resources and Caseloads: Clearance Rates for Criminal Cases

The success of states in disposing criminal cases reflects the adequacy of court resources and has implications for the pace of civil, as well as criminal, litigation. Criminal cases consume a disproportionately large chunk of court resources compared to their overall contribution to the total caseload. Constitutional requirements covering the right to counsel ensure that attorneys, judges, and other court personnel will be involved at all stages in the processing of criminal cases. In addition, criminal cases must be disposed under tighter time standards than other types of cases. Finally, courts are often required by constitution, statute, and court rule to give priority to criminal cases. This mandatory attention to criminal cases may result in slower processing of other types of cases.

The adjacent table shows only 15 states cleared 100 percent or more of their criminal caseload for the three-year period. Hawaii topped the list with its high clearance rates in 1996 and 1995. At the other end of the scale, five states had clearance rates of 90 percent or less, indicating that these states were rapidly adding to an inventory of pending cases.

Statewide clearance rates reflect a range of management initiatives at the trial court level, but are also influenced by factors such as caseload growth, time standards, and the consistency with which filings and dispositions are measured. To begin with, half of the eight states with the highest three-year clearance rates (Hawaii, New York, West Virginia, and New Jersey) experienced a decline in caseload growth. In addition, of the 15 states with three-year clearance rates of 100 percent or better, only New Hampshire has not adopted time standards for criminal case processing. Although New Hampshire does not have formal time standards, there is a superior court policy regarding speedy trial issues, with ongoing monitoring. Three of the states with the top 13 clearance rates (New York, South Carolina, and West Virginia) have adopted the COSCA/ABA-recommended 180-day goal from arrest to termination of felony cases. West Virginia's time standards are mandatory, while others are advisory. Finally, it is also important to note whether the filings and dispositions within a state are comparable. The filings and dispositions in Illinois (data for Illinois are not reported in the table this year) are not precisely comparable: filings do not include some DWI cases, but dispositions do not include any DWI.

Criminal Case Dispositions: The Impact of Plea Bargaining

Approximately 4 percent of criminal cases were disposed by trial in 1996, with trial rates ranging from about 1.3 percent in Vermont to 9.3 percent in Arkansas. Nationally, jury trials account for about two-thirds of all trials.

Guilty pleas dispose about two-thirds of criminal cases in most states. About one criminal case in five is resolved by a decision by the prosecutor not to continue (nolle prosequi) or by the court to drop all charges (dismissal). The plea process is certainly swifter than the formal trial process, and given the growth in criminal caseloads, it has become an integral part of the administration of justice.

National Criminal Trial Estimate for the State Courts

An estimate of the number of criminal trials in the U.S. provides an indicator of the criminal workload of state courts and has implications for other components of the justice system (e.g., corrections). To develop the estimate, it was first necessary to calculate the ratio of trials to dispositions based on the sample of states contained in the following table. Data on both the number of trials and dispositions for these states were complete and accurate. Next, an estimate of the total number of dispositions in state courts was obtained. These data were almost complete, as 51 states and jurisdictions were represented. Finally, the total number of criminal trials during 1996 was estimated by multiplying the total number of dispositions by the sample ratio of trials to dispositions.

The Court Statistics Project **estimates that there were 169,065 criminal trials in the U.S. during 1996**. With 95 percent confidence, the true number is between 166,265 and 171,864.

Those who are in favor of plea bargaining argue that the overwhelming prevalence of guilty pleas provides some evidence that the plea process is more desirable to both sides. Prosecutors benefit by securing high conviction rates without incurring the cost and uncertainty of trial. Defendants presumably prefer the outcome of the negotiation to the exercise of their trial right or the deal would not be struck. On the other hand, opponents argue that plea bargaining places pressure on defendants to waive their constitutional rights, which results in inconsistent sentencing outcomes and the possibility that innocent people plead guilty rather than risk the chance of a more severe sentence after conviction at trial. Regardless of one's views, it is unlikely that the prevalence of plea bargaining will change in the near future.

Manner of Disposition for Criminal Filings in 25 Unified and General Jurisdiction Courts, 1996

		Percentage of Cases Disposed by:						
		Trial			Non-Trial			
State	Total Disposed	Total	Bench Trial	Jury Trial	Total	Pleas	Dism/Nolle	Other
Unified Courts								
D.C.	39,004	8.2%	6.5%	1.7%	91.8%	25.0%	46.9%	19.8%
Kansas	48,044	4.6	2.8	1.8	95.4	52.0	26.5	16.8
Iowa	95,043	2.8	2.0	0.8	97.2	70.0	27.2	0.0
Missouri	129,084	2.2	1.5	0.7	97.8	68.5	26.0	3.3
Wisconsin*	82,435	2.0	0.4	1.6	98.0	77.4	19.9	0.6
General Jurisdiction Courts								
Arkansas	55,521	9.3	7.2	2.1	90.7	50.2	35.9	4.6
Hawaii	4,437	8.1	0.8	7.3	91.9	55.9	6.5	29.5
Wyoming	2,140	7.9	4.4	3.6	92.1	65.1	21.4	5.6
Washington	32,390	6.8	1.7	5.1	93.2	75.1	13.5	4.6
New York	72,113	6.3	0.8	6.3	93.7	84.6	7.9	1.1
Alaska	2,878	6.3	0.2	6.1	93.7	71.9	21.4	0.5
New Mexico	13,460	6.2	3.7	2.5	93.8	54.6	12.5	26.8
Michigan	69,035	5.8	2.8	3.0	94.2	57.1	9.2	27.9
Pennsylvania*	145,205	5.4	3.2	2.2	94.6	56.7	8.4	29.5
California	154,063	5.0	0.9	4.2	95.0	88.5	5.5	0.9
New Jersey	46,453	4.2	0.3	3.9	95.8	71.6	14.9	9.4
Kentucky	22,669	4.0	0.1	3.8	96.0	60.3	11.7	24.1
Delaware	6,922	3.9	0.2	3.7	96.1	73.7	15.3	7.2
Ohio	66,174	3.8	1.1	3.8	96.2	70.0	8.8	17.5
Maine	11,883	3.6	0.4	3.2	96.4	52.1	24.4	19.9
Utah	73,495	2.9	2.2	0.7	97.1	50.1	42.2	4.8
Florida	159,347	3.1	0.3	2.7	96.9	78.2	11.2	7.6
North Carolina	125,269	2.6	0.0	2.6	97.4	51.9	32.3	13.3
Texas	196,662	2.4	0.3	2.1	97.6	37.7	16.5	43.3
Vermont	16,504	1.3	0.3	1.0	98.7	68.4	21.2	9.1
Total	**1,670,230**	**4.0**	**1.5**	**2.5**	**96.0**	**63.1**	**18.7**	**14.2**

Notes: The 1996 data for Pennsylvania are preliminary. Wisconsin does not include Milwaukee.

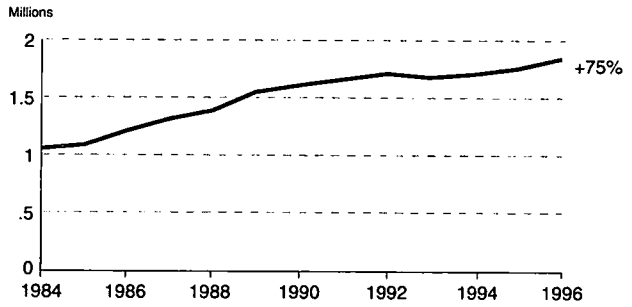
Felony Caseloads in State Trial Courts

Felony Caseload Filing Trends

The most serious criminal offenses processed through the state courts are felonies – offenses typically involving violent, property, or drug crime and punishable by incarceration for a year or more. These types of cases command a great deal of attention from the general public, impose tremendous burdens on victims (both physical and emotional), and generate substantial costs for taxpayers. In addition, those who work within the criminal justice system know that fluctuations in felony caseloads can have a significant impact on the overall pace of both criminal and civil litigation.

The general jurisdiction trial court systems of 43 states reported comparable felony filing data for the period 1984 to 1996. Felony filings grew steadily until 1992, dipped in 1993, then began rising again through the mid 1990s. The total growth in felony filings (75 percent) outpaced all other case types in the courts except for domestic violence filings.

Felony Filings in Unified and General Jurisdiction Courts in 43 States, 1984-1996

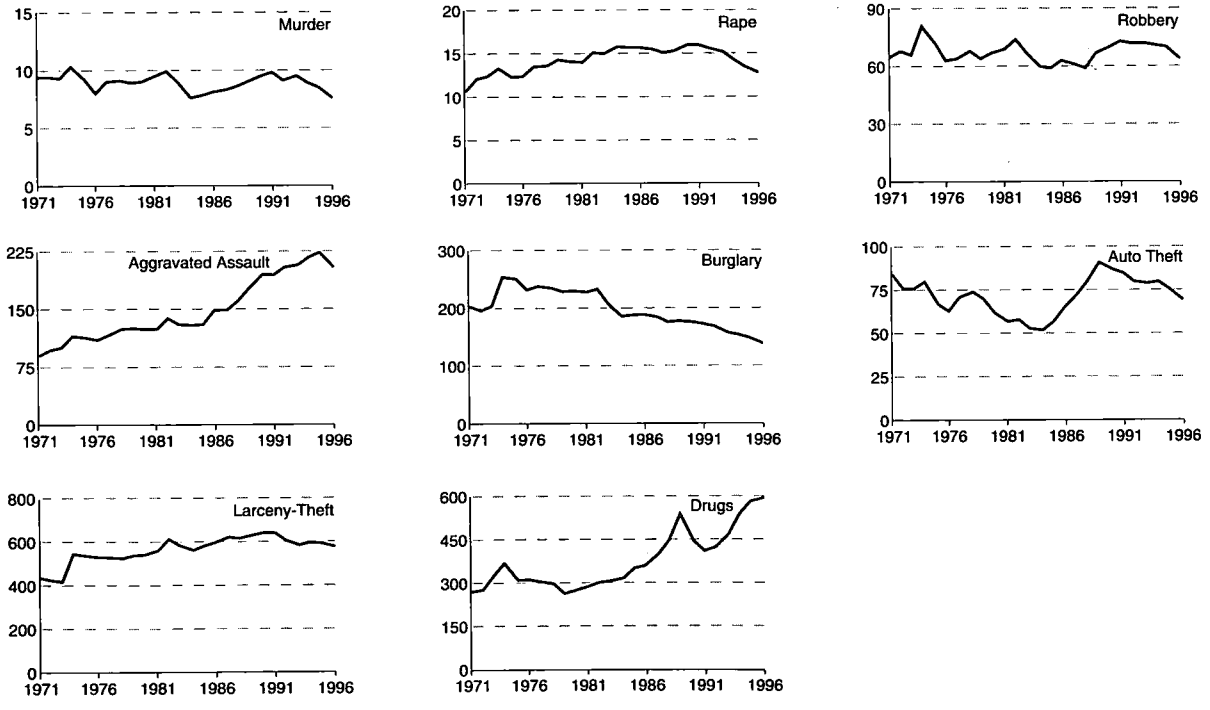


Arrest Rate Trends

Arrest rates provide a firm indication of the type and volume of felony cases that will be entering the state courts. The following graphs present the arrest rates for the most serious and most often reported crimes monitored by the FBI's Uniform Crime Reporting Center. These crimes include murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny, and motor-vehicle theft. Although drug abuse violations are not a reportable offense (because drug violations cannot be officially reported until an arrest is made), the drug arrest rate is also shown since drug filings contribute significantly to the felony workload of the courts. By viewing such detailed arrest information, court managers who are considering policy or procedural improvements may be able to more narrowly define diversion strategies or more accurately target specific types of cases or defendants.

Arrest rates have declined over the time period shown for murder (-19 percent), burglary (-31 percent), auto theft (-17 percent), and robbery (-1 percent). More recently, the highest arrest rates are for larceny (577 per 100,000 population in 1996), and drug abuse violations (594 per 100,000 population in 1996), both of which contribute heavily to state court felony caseloads. Arrest rates for aggravated assault are also comparatively high and have increased more rapidly (+127 percent) than arrest rates for any other type of crime since 1971. Drug arrests dipped sharply in the early 1990s before reaching an all-time high in 1996 (594 per 100,000 population).

Arrest Rates for Selected Offenses per 100,000 Population, 1971-1996



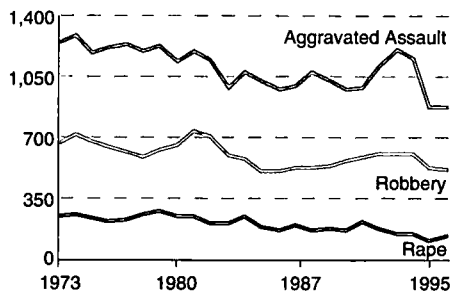
Source: Uniform Crime Reports, 1971-1996, Federal Bureau of Investigation.

Crime Victimization

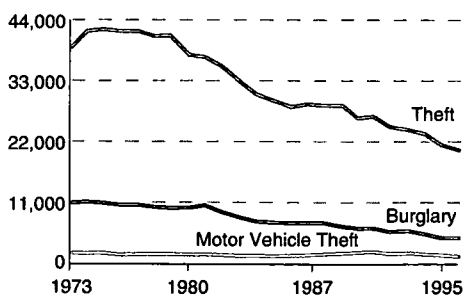
Although arrest rates greatly influence the workload of the state judiciaries the state courts have little direct control over them. Arrest rates for some offense types, can be driven by increased police resources or presence. For example, new drug law enforcement policies can increase arrest rates by targeting well-known or high-profile drug trafficking areas of a city or jurisdiction. Other offenses, such as robbery or rape, are not as susceptible to changes in tactical enforcement strategies or additional police resources. Examining the patterns in citizen victimization rates adds another perspective to the discussion of felony crime levels that are less influenced by shifts in law enforcement polices. The graphics below show data from the *National Crime Victimization Survey (NCVS)*, sponsored by the Bureau of Justice Statistics that asks a representative sample of U.S. citizens age 12 and older whether they have been victims of crime over a specified period of time.

Violent crime victimization rates per 100,000 persons show that reports of aggravated assault, robbery, and rape have all decreased more than 20 percent since 1973, with reports of rape falling most significantly (-44 percent). Property crime victimizations have also decreased, with burglary victimizations decreasing 57 percent, theft 47 percent, and motor vehicle theft 29 percent. Of all categories shown, burglary and motor vehicle theft track most closely with the arrest rates on the previous page. Citizens are more likely to be victimized by a theft than all other property and violent crimes combined, although many of these thefts involve less serious larceny offenses that are not considered felonies under most state laws.

Violent Crime Victimization Rates in the United States, 1973-1996 (per 100,000 population)



Property Crime Victimization Rates in the United States, 1973-1996 (per 100,000 population)



Source: National Crime Victimization Survey (NCVS), Bureau of Justice Statistics.

Felony Filing Rates

The following table displays felony filings per 100,000 population and ranks the states by the change in population-adjusted filing rates from 1994 to 1996. Felony filings increased more than 10 percent in 12 states, and increases of 18 percent or more occurred in North Dakota, Wisconsin, Iowa, Missouri, Kansas, Utah, Tennessee, New Mexico, and Colorado. At the other end of the spectrum, only 14 states have experienced a decrease in the number of felonies filed per 100,000 population since 1994. In 1996, the difference in magnitude between the states' felony filing rates varied by a factor of 14 when comparing the state with the highest rate (Arkansas at 1,548) to the state with the lowest rate (Connecticut at 110).

States in which all or most of the felony caseload is handled in the general jurisdiction court (e.g., Arkansas and Maryland) report the highest numbers of population-adjusted filings, while states that have one or more limited jurisdiction courts with concurrent felony jurisdiction (e.g., California, Hawaii, and Maine) report much smaller felony filings per 100,000 population. The manner in which felony cases are counted also affects the size of the caseload. States that count a case at arraignment (e.g., Vermont and Ohio), rather than at filing of information/indictment, report a smaller felony caseload. Smaller population-adjusted felony filings are also evident for those states that count one or more defendants involved in a single incident as one case (e.g., New York and Wyoming) rather than counting each defendant as a case. At the other extreme, states that count each charge as a case, such as Virginia, have higher population-adjusted felony filing rates.

Felony Filing Rates in Unified and General Jurisdiction Courts in 44 States, 1994-1996

State	Filings per 100,000 Population 1996	1995	1994	Growth 1994-1996
Unified Courts				
North Dakota	561	378	288	95%
Wisconsin	550	473	369	49
Iowa	610	544	480	27
Missouri	1,088	1,021	919	18
Kansas	666	595	564	18
Illinois	767	750	694	10
South Dakota	694	702	634	10
Idaho	768	839	732	5
Minnesota	406	400	398	2
Massachusetts	132	131	133	-1
Connecticut	110	116	117	-6
District of Columbia	2,842	2,749	3,017	-6
Puerto Rico	950	960	1,025	-7
General Jurisdiction Courts				
Utah	1,041	794	600	74
Tennessee	1,504	1,045	1,181	27
New Mexico	752	662	603	25
Colorado	784	716	642	22
Indiana	812	761	712	14
Nebraska	377	356	331	14
Alabama	995	945	893	11
Alaska	486	460	444	9
Rhode Island	620	610	570	9
Florida	1,369	1,321	1,271	8
Arkansas	1,548	1,581	1,444	7
Kentucky	492	485	466	6
Wyoming	381	372	364	5
Vermont	511	516	489	4
Washington	560	594	537	4
Oklahoma	1,051	1,132	1,008	4
Virginia	1,225	1,228	1,176	4
Hawaii	359	374	346	4
Pennsylvania	1,196	1,189	1,161	3
Ohio	598	603	583	3
New Hampshire	542	525	537	1
Arizona	695	718	699	-1
Maryland	1,246	1,237	1,254	-1
California	481	502	492	-2
New Jersey	581	587	597	-3
Oregon	961	1,065	995	-3
West Virginia	242	227	252	-4
North Carolina	1,136	1,159	1,185	-4
Maine	279	291	292	-5
New York	374	376	393	-5
Texas	683	699	784	-13

Note: The 1996 data for Pennsylvania are preliminary.

Felony Clearance Rates in Unified and General Jurisdiction Courts in 35 States, 1994-1996

State	Clearance Rates 1996	1995	1994	1994-1996
Unified Courts				
Connecticut	103%	109%	105%	105%
Minnesota	102	100	98	100
Puerto Rico	98	103	98	99
Dist. of Columbia	97	100	100	99
Illinois	94	95	98	95
Idaho	100	93	91	95
Massachusetts	98	92	91	94
Iowa	91	93	94	93
Missouri	90	89	88	89
General Jurisdiction Courts				
New Hampshire	92	112	124	109
New York	105	106	104	105
New Jersey	100	105	102	102
West Virginia	99	108	98	102
Texas	100	104	99	101
North Carolina	99	104	95	100
Pennsylvania	100	99	99	99
Ohio	99	100	98	99
Kentucky	96	99	97	97
Rhode Island	98	92	103	97
California	100	95	95	97
Virginia	96	94	99	96
Nebraska	94	98	95	95
Arkansas	102	93	89	95
Maine	100	86	98	95
Maryland	97	92	94	94
Indiana	94	96	92	94
Vermont	93	96	92	94
Alabama	95	91	95	93
Alaska	97	93	88	93
Arizona	95	90	90	91
Oregon	98	90	87	91
New Mexico	83	95	93	90
Hawaii	92	84	86	87
Tennessee	86	95	77	86
Oklahoma	90	78	83	84

Note: The 1996 data for Pennsylvania are preliminary.

Felony Clearance Rates

The accompanying table presents clearance rates in general jurisdiction courts in 35 states for 1994 to 1996. Clearance rates over the three years were similar in some courts, but varied widely in others. The three-year measure smooths yearly fluctuations and provides a more representative clearance rate given the possibility of yearly aberrations. In short, felony cases continue to pose considerable problems for courts since the majority of states had the same or lower clearance rates in 1996 as they did in 1994.

Statewide clearance rates reflect a range of management initiatives for trial courts but also are influenced by caseload growth and time standards. For example, Tennessee had one of the lowest three-year clearance rates, and experienced the fourth highest growth in caseloads. On the other hand, Texas with one of the highest three-year clearance rates, experienced the largest decline in caseload growth. Of the remaining seven states with three-year clearance rates over 100 percent, Connecticut, New York, New Jersey, West Virginia, and North Carolina witnessed declines in caseload growth. In addition, of the eight states with three-year clearance rates of 100 percent or more, only New Hampshire and North Carolina have not adopted formal time standards for criminal case processing, although both states do have local standards and policies regarding speedy trial issues.

Given that arrest rates and felony filings have risen in the last decade, the expectation is that felony cases will continue to be a significant portion of general jurisdiction court caseloads in the future.

NACM Network

Since 1995, the National Center for State Courts' Court Statistics Project (CSP) and the National Association for Court Management (NACM) have been cooperating to build the "NACM" Trial Court Network. The purpose of this project is to create a uniform and practical method for permitting the nation's larger state trial courts to compare their work to other courts of similar size and structure.

Beyond traditional caseload measures such as filings, dispositions, and pending caseload trends, the NACM Network will develop the potential of participating courts to generate comparable data on caseflow and workload. Such court performance measures, never before available in a comparable context, will help the trial court community (1) assess and respond to a range of national policy initiatives directed at the state courts, (2) obtain and allocate resources by making valid, cross-court comparisons possible, (3) improve communication and information exchange between courts, and (4) create a source of public information on the business of the courts.

The table on the left shows the range in filings among NACM Network courts. Growth in felony filings from 1994 to 1996 varied considerably across sites, with an increase of 61 percent in Kansas City and Lawrenceville and a decrease of 27 percent in San Francisco. The table on the right shows three-year average clearance rates for the period 1994-1996 and filings, dispositions, and year-end pending caseloads for 1996. Overall, 18 of 20 sites cleared at least 90 percent of their caseload over the past three years.

Felony Filings in Large Urban Courts, 1994-1996

	% Growth 1994-1996	Felony Filings 1994	1995	1996
Kansas City, MO	61%	3,703	3,747	5,969
Lawrenceville, GA	61	2,175	2,809	3,492
Ft. Lauderdale, FL	24	15,055	16,400	18,650
Orange County, FL	19	11,386	12,072	13,559
Tallahassee, FL	18	4,312	4,617	5,087
Phoenix, AZ	17	16,244	16,912	19,074
Santa Ana, CA	15	8,653	9,277	9,954
Salt Lake City, UT	14	1,813	2,131	2,065
Albuquerque, NM	11	6,430	7,040	7,135
Houston, TX	4	36,686	36,458	38,277
Kingman, AZ	3	1,425	1,553	1,471
Seattle, WA	3	7,825	8,239	8,047
Los Angeles, CA	2	47,944	50,197	48,761
San Jose, CA	2	8,627	8,315	8,757
Savannah, GA	1	2,418	2,449	2,444
Newark, NJ	1	7,593	7,508	7,656
Dallas, TX	-5	28,382	25,978	26,844
Washington, DC	-12	8,730	7,508	7,666
Ventura, CA	-19	2,386	2,081	1,922
San Francisco, CA	-27	5,052	4,129	3,679

Felony Clearance Rates in Large Urban Courts, 1994-1996

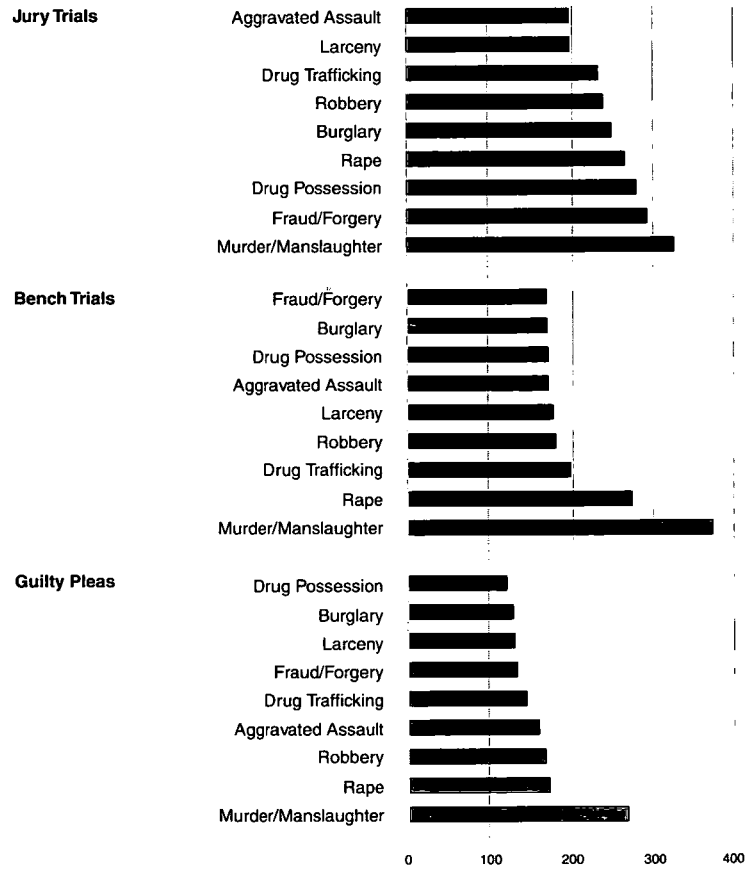
	Three-Year Clearance Rate 1994-1996	Filings 1996	Dispositions 1996	Year-End Pending 1996
San Francisco, CA	117%	3,679	4,156	818
Lawrenceville, GA	103	3,492	3,677	1,256
Ventura, CA	103	1,922	1,718	611
Newark, NJ	102	7,656	7,262	2,294
Dallas, TX	102	26,844	26,472	14,930
Houston, TX	101	38,277	38,450	23,472
Santa Ana, CA	100	9,954	9,915	931
Washington, DC	99	7,666	7,290	3,471
Salt Lake City, UT	97	2,065	2,006	707
Seattle, WA	97	8,047	7,906	6,012
Savannah, GA	96	2,444	2,240	897
San Jose, CA	96	8,757	8,332	2,659
Orange County, FL	95	13,559	12,601	3,792
Kansas City, MO	94	5,969	4,873	3,053
Ft. Lauderdale, FL	93	18,650	16,865	6,791
Los Angeles, CA	92	48,761	45,189	6,638
Phoenix, AZ	90	19,074	16,992	15,259
Tallahassee, FL	90	5,087	4,364	2,629
Kingman, AZ	89	1,471	1,519	1,734
Albuquerque, NM	89	7,135	6,459	7,112

Source: Trial Court Network, National Center for State Courts.

The state courts are continuously fighting a battle to stay on top of their mounting felony caseloads. Many factors affect the time that elapses between an arrest and sentencing, including existing case backlogs, insufficient court resources and staffing levels, defense and prosecutorial continuances, and preparation of court documents such as pre-sentence investigation reports. The method of disposition by trial vs. guilty plea, also has a significant impact on case processing time.

The bars below show which conviction offenses take longest to process from arrest to sentencing while comparing jury and bench trials to guilty pleas. Regardless of disposition method, murder cases always take longest to process. Murder convictions resulting from bench trials take approximately one and a half months longer from arrest to sentencing as compared to a jury trial. Rape cases also require longer periods of time to process, and fraud/forgery cases take a relatively long time in jury trial cases. One possible reason for lengthy jury trials for fraud cases is that they include a number of more complex embezzlement cases that

Median Number of Days Between Arrest and Sentencing for Felony Cases Disposed by State Courts, 1994



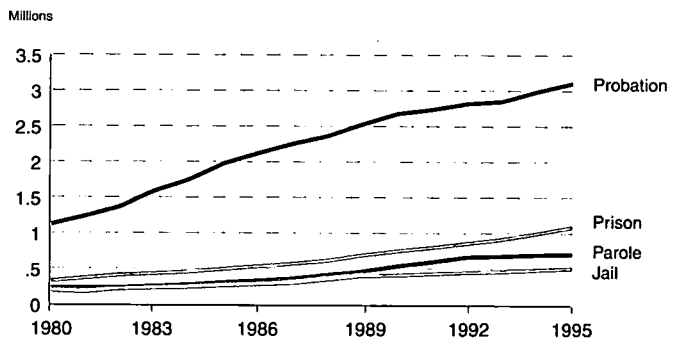
Note: Data on type of conviction (trial vs. guilty plea) were available for 676,809 cases.
Source: Felony Sentences in State Courts, 1994, U.S. Department of Justice, Bureau of Justice Statistics.

involve large sums of money, have occurred over long periods of time, or may have affected multiple victims or parties. Fraud cases that go to trial take less time to move through the system when a bench trial occurs.

Dispositions in felony cases can also be described in terms of the court sanction handed down to the defendant. Judges (and on rare occasions juries) have the option of sentencing offenders to probation or community supervision, placing them in secure confinement, or choosing some combination in between. From the public's viewpoint, and from the perspective of the defendant, it is easily arguable that this decision may be the most important outcome of the trial. The graphic below shows the cumulative effect of how offenders have been sentenced by the state courts from 1980-1995.

The U.S. correctional population consisted mostly of people sentenced to probation – this group numbered 3 million in 1995. Of the four sanction types shown, the number of people in prison has increased most rapidly since 1980 (+237 percent), and the total prison population surpassed the one million mark for the first time in 1995. The number of persons on parole has remained steady since 1992, possibly reflecting the impact of changes in parole laws that many states passed during the early and mid-1990s.

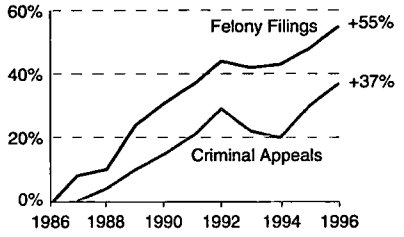
Adults in Jail, on Probation, in Prison, or on Parole in the U.S., 1980-1995



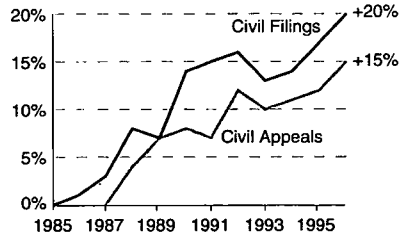
Source: Bureau of Justice Statistics.

Comparing Caseload Growth in State Trial and Appellate Courts

Growth Rates of Felony Filings and Criminal Appeals



Growth Rates of Civil Filings and Civil Appeals



The volume of appeals directly affects the capacity of appellate courts to correct lower-court errors. Even in the best managed appellate courts, the number of cases per judge can reach the point where either the quality of decisions or the ability to keep up with the number of incoming cases is diminished. Hence, it is essential for appellate courts to know their past, current, and estimated future caseload volumes and the impact of the volume of appeals on the time to decision and the ability of judges to give adequate attention to individual appeals.

Estimating the growth rate of civil and criminal appeals requires an understanding of the factors causing appellate caseload growth. Decisions in the trial courts are, of course, the basic source of appeals. The top graph displays the percentage change in felony filings in state trial courts and the percentage change in criminal appeals entering intermediate appellate courts. While state-to-state differences exist, overall increases in the number of criminal appeals track the trends in the number of felony trial court filings very closely.

The second graph offers a similar comparison between the annual percentage change in civil filings in trial courts and the annual percentage change in the number of civil appeals filed in intermediate appellate courts. There appears to be a relationship over time between civil filings in the trial courts and the number of civil appeals, but with a lag of two years. That is, trial court filing rates of two years ago are driving appellate filing rates today.

State Appellate Court Caseloads

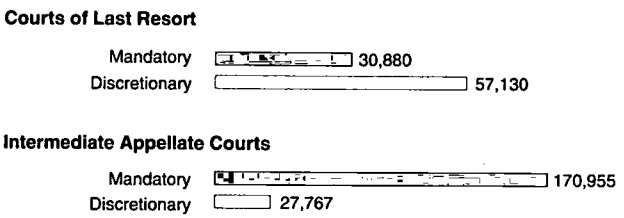
Appeals offer litigants the opportunity to modify an unfavorable trial court decision by convincing an appellate court that the lower-court judgment was based on a reversible error. The party bringing the appeal might contend that the trial court erred when it allowed inadmissible testimony, the jury was given improper instructions, or the trial court misinterpreted the correct meaning of a statute or constitutional provision.

More appeals were filed in the state appellate courts in 1996 than in any preceding year. The total number of appellate filings was 286,732, representing an increase of 3 percent over the previous year. In those courts where the number of cases is rising but the size of the judiciary and court staff is not, appellate judges have less time to review the record, read the briefs, hear oral argument, discuss the case, and prepare an order or opinion resolving the case. Increased demands on the available work time mean that judicial and court support staffing levels must be assessed and the search continued for more efficient and productive ways of handling cases.

Most of the appeals were filed in intermediate appellate courts (IAC) and fall within their mandatory jurisdiction. Mandatory appeals are cases that appellate courts must hear as a matter of right. For every discretionary petition that an IAC is asked to review, there are more than six appeals of right that IACs must accept.

Discretionary appeals are the largest segment of caseload in most courts of last resort (COLR). In 1996, COLRs reviewed 57,130 discretionary appeals, representing a 1 percent increase over the level in 1995.

Total Appellate Caseloads, 1996



A Taxonomy of Appellate Court Organization

The states have used four common organizational changes to structure appellate courts' response to increasing appellate caseloads: (1) increasing the size of the court of last resort, (2) creating intermediate appellate courts, or adding more courts to cover geographic areas, (3) establishing discretionary jurisdiction, and (4) using panels. These four responses can be combined to form seven different structural patterns of response to increasing caseload pressure. The most common pattern, used by 25 states, is a COLR with mostly discretionary jurisdiction over an IAC with mostly mandatory jurisdiction. Seven states have additional courts, either two intermediate appellate courts (Indiana, New York, and Pennsylvania); two courts of last resort (Texas and Oklahoma); or one intermediate appellate court for civil and one for criminal appeals (Tennessee and Alabama). In five states (Hawaii, Idaho, Iowa, Mississippi, and South Carolina), all appeals initially are filed in the COLR, which then retains some appeals and transfers others to the IAC. States with discretionary jurisdiction but no IAC (New Hampshire and West Virginia) are in transition toward adding an IAC. Currently, New Hampshire uses a refereed appellate panel, composed of three retired judges, as an additional resource. States with small populations have just a COLR and have not identified the need for an IAC. The type of pattern used by each state is related to the number of appeals, which is related to trial court dispositions and state population (Flango and Flango, 1997).

Ten states (California, Florida, New York, Texas, Pennsylvania, Ohio, Illinois, Louisiana, Michigan, and New Jersey) account for a sizable majority (173,958 appeals, 61 percent) of the nation's appellate filings. Fluctuations in the volume of appeals in these states affect the national picture significantly.

At the other end of the spectrum, 13 states had fewer than 1,400 appeals (5 percent) filed in their appellate courts in 1996. In nine of these states, the COLR is the only court of review.

COLRs without an IAC tend to process primarily mandatory appeals. In this respect, first-level appellate courts, whether they are IACs or COLRs without an IAC, are similar in caseload composition: they tend to have virtually all mandatory jurisdiction and to handle the bulk of their respective state's appeals. The size of appellate caseloads varies dramatically across the states; Wyoming reports as few as 357 and California as many as 30,548 appeals for 1996. The adjacent table ranks the states according to their number of filings and separates caseloads into mandatory and discretionary categories. Because appellate caseloads are highly correlated with population, this table also shows the volume of appeals per 100,000 population.

Taking population into account reduces the variation in appellate filing rates considerably: rates fall between 61 and 173 appeals per 100,000 in most states. Florida, Pennsylvania, Kansas, West Virginia, and the District of Columbia have an unusually high rate of appeals, while the Carolinas have unusually low rates of appeal. On the other hand, despite their large numbers of appeals larger states, such as California and Texas, actually have filing rates near the median (California has 96 filings per 100,000 population). Eight of 12 states with a COLR but no IAC have appellate filing rates below the median.

Total Appellate Court Filings, 1996

	Total Filings	Type of Filing: Percent Mandatory	Type of Filing: Percent Discretionary	Population Rank	Appeals per 100,000 Population
States with an IAC					
California	30,548	51%	49%	1	96
Florida	24,649	76	24	4	171
New York	18,928	76	24	3	104
Texas	18,901	83	17	2	99
Pennsylvania	16,968	82	18	5	141
Ohio	15,343	87	13	7	137
Illinois	12,667	81	19	6	107
Louisiana	12,619	34	66	22	290
Michigan	11,877	49	51	8	124
New Jersey	11,458	73	27	9	143
Virginia	5,852	16	84	12	83
Alabama	5,639	84	16	23	132
Oregon	5,531	87	13	30	173
Arizona	5,469	67	33	21	124
Missouri	5,457	87	13	16	102
Washington	5,428	70	30	15	98
Georgia	5,382	68	32	10	73
Wisconsin	4,845	75	25	18	94
Kentucky	4,723	83	17	24	122
Oklahoma	4,549	89	11	28	138
Tennessee	4,231	69	31	17	80
Massachusetts	3,933	57	43	13	65
Colorado	3,690	67	33	25	97
Indiana	3,413	76	24	14	58
Maryland	3,411	67	33	19	67
Puerto Rico	3,410	53	47	26	91
Minnesota	3,366	76	24	20	72
Kansas	3,187	81	19	33	124
North Carolina	2,536	62	38	11	35
Iowa	2,300	100		31	81
Mississippi	1,802	100		32	66
New Mexico	1,723	59	41	37	101
Arkansas	1,625	100		34	65
Connecticut	1,572	77	23	29	49
Nebraska	1,579	85	15	38	96
Utah	1,400	100		35	70
South Carolina	1,228	84	16	27	33
Idaho	988	87	13	41	83
Alaska	950	75	25	49	157
Hawaii	910	96	4	42	77
States without an IAC					
West Virginia	3,099		100	36	170
District of Columbia	2,036	99	1	51	375
Nevada	1,911	100		39	119
New Hampshire	850		100	43	95
Maine	841	100		40	68
Montana	832	88	12	45	95
Rhode Island	674	60	40	44	68
Vermont	653	97	3	50	111
Delaware	532	100	0	47	68
South Dakota	465	89	11	46	63
North Dakota	395	93	7	48	61
Wyoming	357	100		52	74
Total	**286,732**	**70%**	**30%**		

Note: Data are for all appellate courts.

Composition of Appellate Caseloads

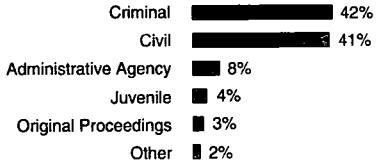
The charts below show the composition of appeals. Criminal and civil appeals dominate the workload of both IACs and COLRs. Criminal appeals are usually brought by defendants convicted at trial. These individuals most often allege trial court error, ineffective assistance of counsel, or incorrect sentencing. About one-quarter to one-third of criminal appeals stem from nontrial proceedings (e.g., guilty pleas and probation revocation hearings).

Individuals filing civil appeals also allege trial court error, such as improper jury instructions, admission of inadmissible evidence, and misinterpretation, and hence misapplication, of the law. These appeals generally arise from dispositions on motions (e.g., summary judgment) and, in a smaller number of cases, from jury and bench trials.

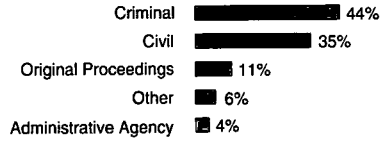
Focusing strictly on appeals does not provide a comprehensive picture of the work of appellate courts. Of course the review of lower-court decisions is central, but in some instances, appellate courts exercise original jurisdiction and act upon a case from its beginning. Examples of original proceedings are cases such as post-conviction remedy, sentence review, and disputes over elections that are brought originally to the appellate court. The adjacent table shows how the more than 30,000 original proceedings were spread across states in 1996.

Another category of appellate cases involves the supervisory jurisdiction of appellate courts over any conduct of judges or attorneys that affects their official duties. The table also shows disciplinary filings that were reported from 32 states. Florida heads this list with its 556 disciplinary cases, and the District of Columbia is notably high (126 filings) in comparison to other states listed.

Composition of Mandatory Appeals in 21 Intermediate Appellate Courts, 1996



Composition of Discretionary Petitions in 28 Courts of Last Resort, 1996



Original Proceedings and Disciplinary Matters in Appellate Courts, 1996

State	Original Proceedings
California	9,872
Texas	4,784
Florida	3,214
Illinois	1,597
Pennsylvania	1,785
Missouri	782
Arizona	1,023
Alabama	701
Oregon	765
Virginia	761
Washington	656
Colorado	432
Maryland	327
Ohio	366
Georgia	398
Kentucky	238
Tennessee	425
Indiana	240
Kansas	155
New Mexico	141
Arkansas	132
Wisconsin	80
Hawaii	65
Minnesota	89
Louisiana	53
Idaho	62
North Dakota	45
Puerto Rico	10
Utah	36
South Carolina	31
States without an IAC	
West Virginia	592
Nevada	313
Montana	234
South Dakota	78
D.C.	53
Wyoming	48
Delaware	23
Vermont	13
Total	**30,619**

State	Disciplinary Matters
Florida	556
California	315
New Jersey	282
Georgia	158
Colorado	107
Ohio	125
Kentucky	106
Indiana	92
Oregon	65
Michigan	61
Louisiana	57
Maryland	54
Puerto Rico	52
Missouri	43
Minnesota	40
Wisconsin	31
Idaho	31
New Mexico	29
North Dakota	27
Alaska	23
Kansas	18
South Carolina	14
Washington	13
Texas	8
Utah	7
Alabama	4
Illinois	1
States without an IAC	
D.C.	126
Nevada	57
West Virginia	33
Delaware	16
Vermont	10
Total	**2,561**

Clearance Rates in Intermediate Appellate Courts, 1994-1996

State	1994-1996	1994	1995	1996
Mandatory Appeals				
Michigan	169%	159%	166%	188%
New York	146	120	160	155
Arizona	108	114	104	106
Illinois	107	107	109	105
New Mexico	106	125	101	95
Oklahoma	105	109	104	102
Georgia	104	102	105	107
Louisiana	103	105	106	100
Ohio	102	105	101	100
North Carolina	101	111	96	97
Utah	101	113	101	89
Florida	100	104	97	101
Oregon	100	103	100	97
Minnesota	100	100	98	102
Washington	100	101	97	101
Iowa	99	107	96	97
Maryland	99	100	99	98
Colorado	99	96	99	101
Wisconsin	99	98	98	100
Texas	99	103	99	95
Virginia	98	96	94	104
California	98	101	97	96
New Jersey	98	98	101	95
Idaho	97	125	71	105
Missouri	96	96	97	96
Pennsylvania	96	94	98	96
Indiana	96	92	108	89
Alaska	95	96	96	95
Connecticut	94	87	97	98
Kentucky	94	92	94	95
South Carolina	91	112	77	92
Tennessee	91	86	105	83
Arkansas	90	91	82	97
Alabama	90	92	84	94
Nebraska	83	76	82	92
Kansas	82	89	77	82
Massachusetts	77	83	88	61
Hawaii	70	43	72	115
Discretionary Petitions				
Alaska	110	110	106	109
Virginia	110	111	103	108
California	102	102	101	102
Massachusetts	100	100	100	100
Minnesota	99	106	100	101
Louisiana	98	99	101	100
North Carolina	97	88	87	90
Kentucky	95	115	114	111
Washington	92	85	91	89
Georgia	91	142	104	109
Arizona	91	129	103	108
Florida	88	96	94	93
Tennessee	74	74	69	72
Maryland	73	100	100	92

Intermediate Appellate Court Clearance Rates

One measure of whether an appellate court is keeping up with its caseload is the court's clearance rate. A rate below 100 percent indicates that fewer cases were disposed than were accepted for review in that year. The adjacent table includes clearance rates for intermediate appellate courts and distinguishes between mandatory appeals and discretionary petitions.

IACs are having moderate success in keeping up with their mandatory caseloads: 15 of the 38 states have three-year clearance rates of 100 percent or greater, and an additional 13 states clear 95 percent or more of their cases. Michigan and New York have very high three-year clearance rates (169 percent and 146 percent, respectively) and apparently are starting to cut into their backlog of cases. Michigan's IAC has used several innovative techniques to accomplish its high clearance rates, including: increasing the number of central staff attorneys, using visiting trial court judges or retired appellate judges to increase the number of available panels, and amending the state constitution to restrict appeals by defendants who have pled guilty. The remaining ten states, however, have backlogs that are growing by at least 3 percent each year. This backlog is cause for concern because the bulk of the nation's appeals are mandatory cases handled by IACs. These intermediate appellate courts are experiencing some difficulties in disposing of their discretionary petitions. Only four of the 14 states for which discretionary data are available achieved three-year clearance rates of 100 percent or more.

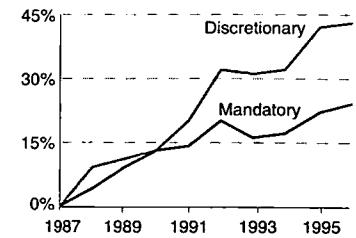
Growth Rates in Total Appellate Caseloads

Mandatory appeals in IACs have grown at an average rate of nearly 3 percent per year between 1987 and 1996. IAC discretionary caseloads, while smaller in number, have grown at an even faster rate. The IAC discretionary filing trend is strongly influenced by the dramatic increases in Louisiana's court of appeals. In 1982, Louisiana's IAC had a change in its jurisdiction whereby mandatory criminal appeals go to the IAC instead of directly to the COLR. In 1996, 72 percent of the discretionary appeals filed in Louisiana's IACs were pro se prisoner petitions.

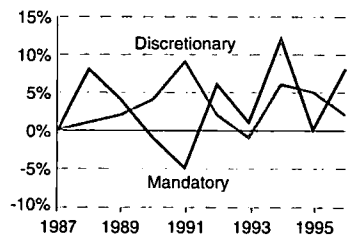
COLR caseloads have grown steadily over the past decade. This rising tide of appeals causes unique problems for COLRs because the number of justices remains relatively fixed. The growth rate graph indicates that as the mandatory caseload of COLRs increases, the number of discretionary petitions decreases. For example, in 1990 and 1991, when the mandatory caseloads for these courts dropped, they handled more discretionary petitions.

Undoubtedly, there are many reasons why the volume of appeals has grown over time. These reasons include the opportunity for indigent criminal defendants to file appeals with the support of publicly appointed counsel and the effects of changing economic conditions (e.g., economic growth may stimulate particular types of litigation). Continued growth has led to two key developments in appellate courts. A central staff of lawyers on a career track within the court, as opposed to a one- or two-year clerkship with a specific judge or justice, is one mechanism used by appellate courts to cope with rising caseload volume. This central staff screens incoming appeals, prepares memoranda, and sometimes drafts proposed opinions. A second development, exercised primarily in IACs, is the use of expedited procedures for selected cases. Expedited procedures typically involve routing less complex appeals through a shortened process that may involve, for example, preargument settlement conferences, advance queue or fast tracking, or the elimination of oral argument. Some appellate courts have made rule changes that reduce the length of briefs. Still other changes include the adoption of criteria for granting review in discretionary jurisdiction cases that clearly identify the reasons for granting an appeal.

Caseload Growth Rates for Intermediate Appellate Courts, 1987-1996



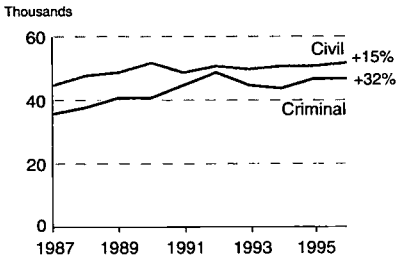
Caseload Growth Rates for Courts of Last Resort, 1987-1996



Trends in Civil and Criminal Appeals

This analysis focuses on the growth in civil and criminal appeals in COLRs and IACs for the largest portions of their respective caseloads—discretionary petitions for COLRs and mandatory appeals for IACs. The growth and complexity of cases demand that each court examine its structures, practices, and procedures.

Mandatory Appeals in 29 IACs, 1987-1996



Mandatory Appeals in Intermediate Appellate Courts

In state intermediate appellate courts, the volume of mandatory civil appeals increased by 15 percent and the volume of criminal appeals by 32 percent between 1987 and 1996. A more complete understanding of these aggregate growth patterns emerges by examining the connection between the national patterns and the patterns in individual states.

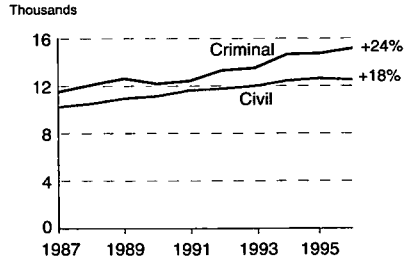
Time on Appeal

The number of days it takes IACs to resolve mandatory civil and criminal appeals depends on their resources, structure and jurisdiction, and procedures (Hanson, 1997). The reasons some of these courts take more time than other IACs to resolve their mandatory civil and criminal appeals include:

- Relatively large numbers of appeals filed per law clerk;
- Regional jurisdiction rather than statewide jurisdiction;
- Failure to place limitations on oral argument in criminal cases; and
- The transfer of appeals initially filed in the COLR to an IAC (Hawaii, Idaho, Iowa, Mississippi, and South Carolina).

Minnesota, which takes 222 days to handle 75 percent of its criminal and civil caseloads, and Georgia which takes 297 days, have the most expeditious courts in the Hanson study.

Discretionary Petitions in COLRs in 14 States, 1987-1996



Discretionary Petitions in Courts of Last Resort

For the period 1987 to 1996, 14 states were able to provide statistics on the number of discretionary civil petitions filed in their state supreme courts and 14 courts provided similar information for discretionary criminal appeals. For these courts, criminal petitions increased 24 percent and civil petitions 18 percent.

As appeals of right increase in intermediate appellate courts, the petitions for review of COLRs also increase. To manage workload, COLRs may reduce the proportion of petitions granted or rely more on staff to screen petitions and conduct background research. Rising workload is a critical issue for courts of last resort in that they are fixed in size by state constitution; additional justices are rarely added to these courts.

Discretionary Review in Courts of Last Resort

State COLRs granted relief, on average, in 11 percent of the discretionary petitions considered in 1996. This selection process is shown by comparing the number of petitions considered with the number granted for the COLRs of 22 states.

The number of justices needed to grant review and the percentage of petitions granted are shown in the table below. In states that require a majority of justices to grant certiorari, courts grant a median of 9 percent of petitions; in states that allow a minority of the court to accept a petition for review, courts grant a median of 14 percent. In other words, if a greater proportion of COLR justices are needed to accept a case for review, fewer petitions tend to be granted.

Discretionary Petitions Granted in 22 Courts of Last Resort, 1996

	Number of Petitions Filed	Number of Petitions Granted	Percentage of Petitions Granted	Justices Needed to Grant Review
Majority				
Nebraska	240	55	23%	4 of 7
West Virginia	3,099	705	23	3 of 5
Louisiana	2,955	583	20	4 of 7
Montana	101	16	16	4 of 7
Alaska	185	22	12	3 of 5
South Dakota	53	5	9	3 of 5
Georgia	1,257	108	9	3 of 5
Ohio	1,945	153	8	4 of 7
Missouri	690	54	8	4 of 7
Illinois	2,374	102	4	4 of 7
Michigan	2,768	105	4	4 of 7
California	6,808	77	1	4 of 7
Minority				
Massachusetts	728	150	21	3 of 7
Texas	3,187	406	13	4 of 9
Tennessee	859	109	13	2 of 5
Minnesota	743	109	15	3 of 7
Maryland	745	108	14	3 of 7
North Carolina	502	70	14	3 of 7
Oregon	736	81	11	3 of 7
Connecticut	363	38	10	2 of 7
Kansas	604	32	5	3 of 7
Rhode Island	268	9	3	1 of 5

The median rate of petitions granted is 9% for courts requiring a majority of justices to grant certiorari; 14% for courts allowing a minority to accept a petition for review.

Manner of Disposition in Appellate Courts

Information on appellate court dispositions is difficult to obtain. Yet, the manner in which cases are disposed is an indication of how appellate courts do their work. What is the relative frequency of alternative types of dispositions in appellate courts? What are the similarities and differences between the way appellate courts dispose of their cases? Is there a wide variation between courts of last resort, courts of last resort with and without an intermediate appellate court, and intermediate appellate courts? The objective of this section is to explore these questions by discussing the results of an appellate court survey on manner of disposition.

This survey separated appellate courts' dispositions into seven basic categories: (1) full written, published opinions; (2) published per curiam opinions; (3) nonpublished opinions, memorandum decisions, and summary dispositions; (4) denial of discretionary petitions; (5) dismissals/withdrawals; (6) dispositions of original proceedings and disciplinary matters; and (7) other types of decisions (e.g., transfers to other courts).

Courts of Last Resort – Manner of Disposition, 1996

States	Number of Justices	Appeals Decided on the Merits: Total Number of Dispositions	Full Written Published Opinions	Published Per Curiams	Memorandum Decisions	Other Appellate Decisions: Denial of Discretionary Petitions	Dismissals/ Withdrawals	Original Proceedings/ Disciplinary Matters	Other
States With IAC									
Georgia	7	2,109	456		26	1,064	185	168	210
Ohio	7	2,702	408		165	1,647		482	
Iowa	9	1,483	407			217	699		160
Arkansas	7	1,037	339	52	219	182	105	122	18
Alabama	9	1,712	333		949				430
Nebraska	7	305	262		43				
North Dakota	5	415	259		37	21	106		13
Mississippi	9	797	225		275		297		
Massachusetts	7	867	212	50		578	27		
Pennsylvania	7	3,407	204	0	79	2,380	95	364	285
Connecticut	7	226	178				21		27
Florida	7	2,542	175	206	2,161				
Kansas	7	861	173		652		15	21	
South Carolina	5	2,007	169		267	356	468		747
North Carolina	7	462	152	72			7		231
Minnesota	7	951	151	8	81	660	7		44
Idaho	5	606	141	2		94	260	83	26
Texas—Criminal	9	9,830	140	425		182	1,527	5,825	1,731
New York	7	3,878	139	3	93	3,614	15	14	
Louisiana	8	3,540	126	111	249	2,720	75		259
Indiana	5	1,079	124	7	3	741		163	41
Virginia	7	2,537	122	1		83	1,545	781	5
Illinois	7	3,400	116		57	1,659		222	1,346
Utah	5	604	116	3	63	120	112		190
Hawaii	5	683	93		167	39	298	72	14
Wisconsin	7	1,174	86	22	90	976			
New Mexico	5	2,076	86	7	59	477	17	164	4
Kentucky	7	1,262	83		238	685		144	112
New Jersey	7	1,696	77	23		1,281	46	269	
Arizona	5	1,646	67			1,578			1
Oregon	7	495	66	24	21	20	185		179
Puerto Rico	7	828	64	49	241	305	109	14	46
States Without IAC									
Montana	7	679	372			91	216		
D.C.	9	1,807	368		609	24	806		
West Virginia	5	2,583	272		224	1,253	129		705
North Dakota	5	415	259		37	21	85		13
South Dakota	5	461	183		114	35	97	32	
Nevada	5	1,370	169		1,201				
New Hampshire	5	862	134	4	208	33	409	3	71
Rhode Island	5	688	123	88	83	160	205	17	12
Vermont	5	642	111	1	300		193	37	
Delaware	5	535	70	13	398		54		

How Do Appellate Courts Dispose of Their Caseloads?

Full written, **published opinions,** the first dispositional category, set forth the issues in a case and indicate how the court resolved these issues. These decisions can almost always be cited as precedent in future litigation; clarify the meaning of new laws; achieve uniformity in the law by resolving conflicting opinions among lower tribunals; and address legal disputes of important policy significance. Although this category places substantial demand on the courts' resources, it is not the most frequent type of disposition. Differences in the number of opinions reflect differences in the size and jurisdiction of the appellate courts. Five-member courts (e.g., Arizona, Hawaii, and New Mexico) understandably produce fewer opinions than seven- or nine-member courts (e.g., Georgia, Iowa, and Ohio). Also, courts with extensive mandatory jurisdiction (e.g., North Dakota and Arkansas) are likely to produce more opinions than courts with predominantly discretionary jurisdiction (e.g., Louisiana). The ten reporting states without an IAC have more opinions per judge (median 37) than the states with an IAC (median 23).

Intermediate Appellate Courts – Manner of Disposition, 1996

		Appeals Decided on the Merits				Other Appellate Decisions			
States	Number of Justices	Total Number of Dispositions	Full Written Published Opinions	Published Per Curiams	Memorandum Decisions	Denial of Discretionary Petitions	Dismissals/ Withdrawals	Original Proceedings/ Disciplinary Matters	Other
Louisiana	54	9,797	3,743		1,491	3,914	495		154
Florida	61	13,075	2,230	2,606	8,239				
Missouri	32	3,744	1,958		430		1,206		150
Kentucky	14	3,348	1,796		158	88	1,060	228	18
Kansas	10	1,891	1,396		368		69		58
Georgia	10	3,663	1,258	15	1,999	305	80		6
Illinois	52	9,397	1,098		5,523		2,776		
Wisconsin	16	3,638	963	799	1,876				
Iowa	6	788	777		11				
Arkansas	9	1,037	679	2	68	84	110		267
Nebraska	6	1,376	553		619				204
Pennsylvania	15	7,693	503		4,478		2,712		
Connecticut	9	1,179	549			26	523		81
Oregon	10	4,321	499	121	1,364	297	1,800	6	234
Indiana	15	2,190	492		1442		162	94	
New Jersey	32	7,530	449		4,738		2,343		
Alabama-Civil	5	1,348	440		482		254		172
Michigan	28	10,842	344	3,432	2,086	1,983	2,997		
Minnesota	16	2,456	335		1,320	189	599		13
Alabama-Criminal	5	2,331	325		1,240		428		338
Massachusetts	14	2,239	243		1,009	699			288
Virginia	10	3,336	190		746	1,418	747	32	203
South Carolina	6	694	166		495		23		10
Utah	7	748	115	243	143	18	150		79
Idaho	3	370	94	141	129		6		
Hawaii	4	187	76		62		14	35	
Arizona-(Div 2)	16	1,361	57		1,304				
Indiana-Tax	1	121	15		10		96		
Mississippi	10	840	0		654	184	2		

Per curiam dispositions are published but unsigned opinions. Courts use per curiams for sensitive social issues that the court regards as better left unsigned, such as death penalty cases, or for short opinions when the court is in agreement. Michigan's court of appeals has the highest use of this disposition, while many other courts do not report using this disposition at all.

Courts dispose of cases in summary fashion using a variety of different methods (e.g., **memorandum decisions, summary dispositions, and orders without opinion**). The courts have examined the cases on their merits, but they believe that the cases do not warrant expansive and detailed statements of the issues, the law, and the facts. A more abbreviated manner of disposition is sufficient to inform the parties of the court's decision. These may or may not be published. Since they require the court to review the record, read the briefs, and articulate a clear and understandable decision, these cases need to be factored into the measures of the courts' productivity. The IACs use this manner of disposition in 35 percent of their cases while COLRs dispose of only about 10 percent of their cases in this way. The ten reporting COLRs without an intermediate appellate court use this manner of disposition three times more frequently than the other COLRs do.

Cases also are disposed early in the process by **denying a petition for review**. In most instances of petitions for review, the courts examine the petition but deny the request for full appellate case processing. For many courts, especially the COLRs, this disposition category is their largest (50 percent). Because litigants already had one review at the IAC level, what is denied is a second appeal. Yet, neither the respective roles of justices and staff in this process nor the amount of time taken to achieve these dispositions is readily available.

Dismissal/withdrawal is another appellate disposition category. These dispositions might occur because the parties have voluntarily settled the case, the case has been abandoned, or one party failed to comply with court procedures. These cases are part of each appellate court's workload, and although they do not require a court decision, they require the attention of the judges and court staff. The courts may have encouraged dismissal by conducting settlement conferences, and certainly the clerks' offices spend time handling the initial stages of the appeal. Intermediate appellate courts use this manner of disposition more frequently than courts of last resort.

To encompass all categories of appellate disposition, the survey requested information about the **disposition of original proceedings and disciplinary matters.** Original proceedings are special actions brought in the first instance in an appellate court. Examples include: original writs, special types of habeas corpus applications, postconviction remedies, and sentence reviews. Disciplinary matters are cases related to the conduct of judges or attorneys that affect the performance of their official or professional duties. This disposition category consumed 11 percent of the COLRs' caseload, whereas most reporting IACs do not have jurisdiction for these cases.

Finally, the **other** category applies to dispositions that could not be classified in the above categories. Examples include cases that have been transferred to another appellate court. Transfers occur most frequently in courts of last resort that receive all appeals and then transfer some of them to intermediate appellate courts for review.

Despite the wide differences in the structure and function of COLRs and IACs, they are strikingly similar in their use of published and per curiam opinions. On the other hand, IACs use nonpublished opinions most frequently and COLRs use denials of discretionary petitions most often. These initial findings, however, remain tentative. To eventually interpret appellate workload will require comparable data on three main characteristics of appellate opinions: whether the opinion is published or not, the length of the opinion, and in what "form" the opinion appears (e.g., signed, reasoned). The CSP continues to seek clarification and guidance from the appellate court community in devising a more coherent "language" of disposition and in understanding the resource requirements associated with alternative disposition types.

Drug Crime: The Impact on State Courts

Over the last decade, drug abuse and its link to crime and other societal issues has been a major concern for citizens of the United States. Federal, state, and local governments have responded by spending billions of dollars to develop various law enforcement, treatment, and prevention strategies. Rapid increases in drug caseloads not only have had a profound impact on state judiciaries, but also underscore the necessity for viable probation and diversion alternatives and the need for judges and court staff to be far more cognizant of a range of therapeutic services for drug offenders.

The issue of illicit drug use can be viewed from a criminal justice, social, medical, or mental health context. How drug cases affect the state courts requires an understanding of how our drug control strategies are developed and initiated and what impact these strategies have on justice systems at all jurisdictional levels. Understanding this complex interaction requires an examination of drug use and arrests, budget and resource allocation decisions, correctional policies, and societal attitudes. The analysis which follows centers on felony-level drug offenses and caseloads, since the emphasis of our national drug control policies has been toward the more serious types of illegal drug involvement.

There are several purposes for examining the state courts in the broader context of our federal and state drug control strategies. First, this analysis adds to previous editions of *Examining the Work of State Courts* by describing a number of criminal justice responses to drug crime. It examines how many drug arrests police make, what type of drugs are involved in these arrests, and where these incidents are most likely to occur. The report also provides an overview of how drug offenders are handled by the courts, how they are sentenced, how much time they serve, and how they affect our prison systems. Second, it draws on data from outside the criminal justice system, allowing the issues of drug abuse, drug crime, and drug caseloads to be assessed using broader measures, such as public opinion polls and drug use among the general population. Taken together with information on federal drug control spending, these additional measures help frame the current conditions facing our courts. Third, the information presented here spans three decades and has been extracted from more than ten state and federal databases or reports. Bringing together longitudinal information from various data sources provides an extensive yet concise summary in an easily accessible format. This examination is designed to provide the state court community with the most recent data and information available in the area of drug crime and, in some instances, to present analyses uniquely suited to court policy and management purposes. In this sense, our previous awareness and understanding of the connection between drug crime and the courts are being expanded and clarified.

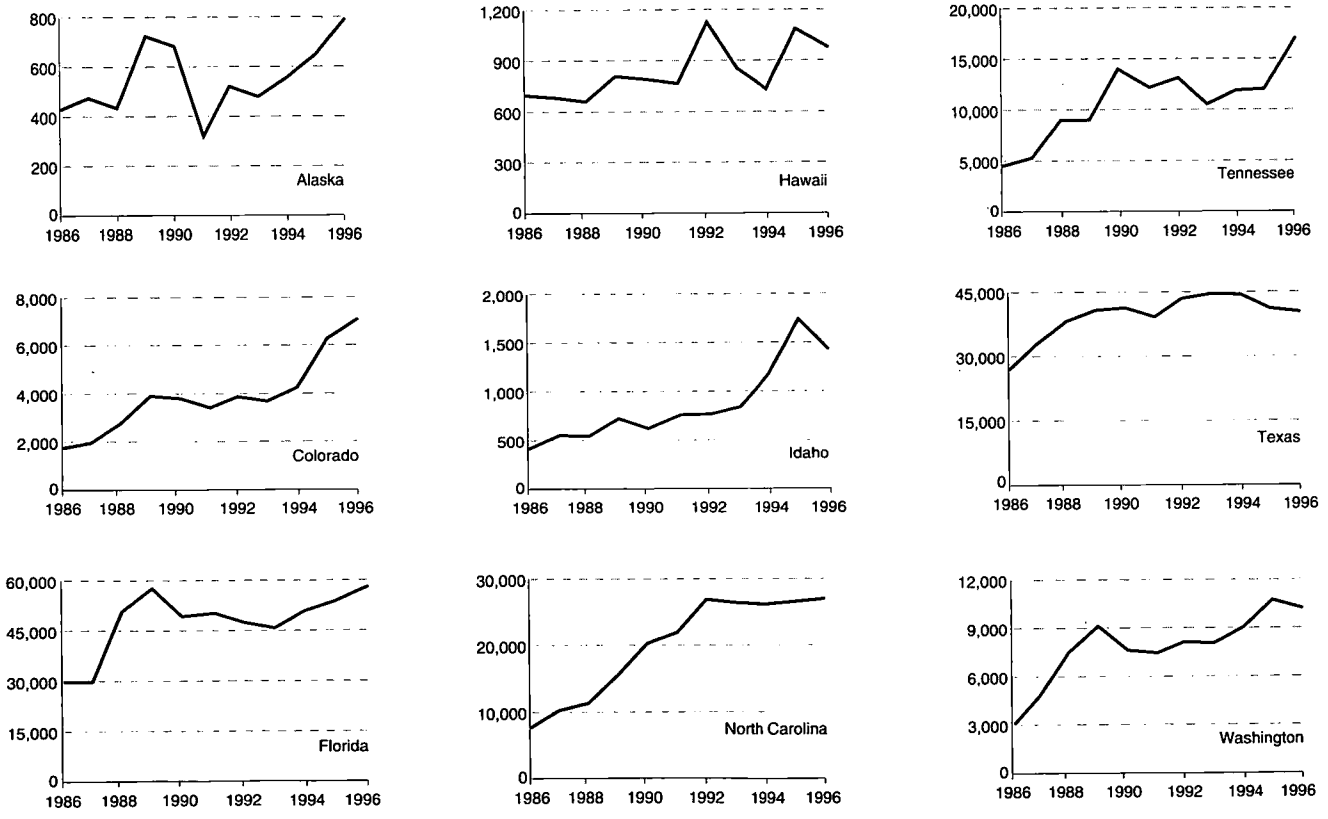
Felony Drug Caseloads in the State Courts

Among the most basic measures of trial court performance is effective case processing. Case management is enhanced by knowing something about the *types* of cases that are entering the court. Some of the more serious criminal case types, such as murder, often require numerous pretrial conferences and motions, jury trials, and lengthy posttrial proceedings. In contrast, the less serious cases, such as simple drug possession, often are disposed quickly through a plea agreement.

Even though drug cases may be processed quickly, their sheer volume is a challenge for court managers. Judges must rule on motions, approve each plea agreement, and set sentences. Large and rising case volume often leads to crowded or overflowing dockets and a swelling of a court's pending caseload. A related concern is the slowing of *civil* case processing, often the result of reassigning judges to the criminal docket in order to satisfy speedy trial requirements.

Only a fifth of the states compile and make available data that describe drug case filings in a manner that allows for cross-state comparisons. The 11-year trend is clear, however: all states experienced significant increases in their number of felony drug

Felony Drug Filings in Selected States, 1986-1996



filings. Of the nine states shown, four have seen more than a 200 percent increase since 1986. Although filings decreased from 1995 to 1996 for Hawaii, Idaho, and Washington, only Texas has experienced a sustained period of leveling.

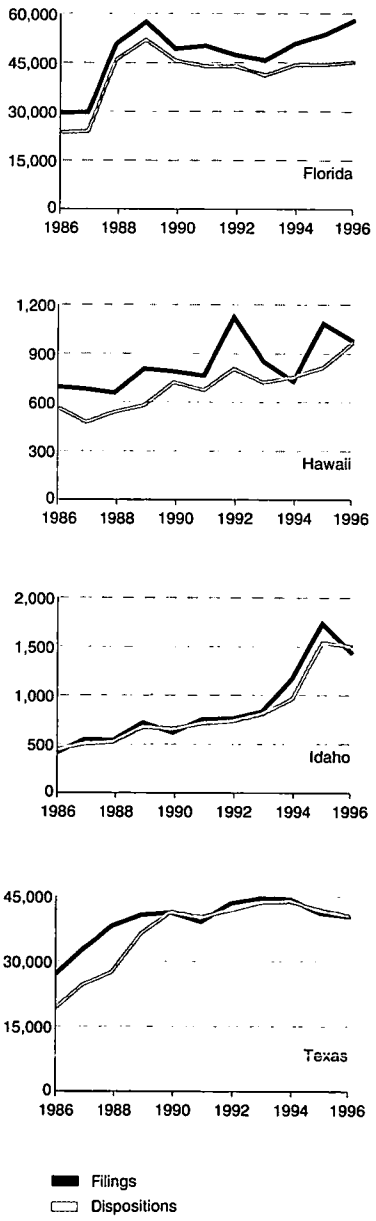
Knowing how to respond effectively to rising felony drug filings is a chief concern for state trial judges and court managers. One bottom-line outcome measure is tied to a court's ability to dispose and clear its pending drug caseload in a timely manner. Comparing the trend in drug filings to the trend in drug cases disposed allows for a clear picture of this relationship.

Four states (Florida, Hawaii, Idaho, and Texas) can readily provide comparable counts of felony drug filings and felony drug cases disposed. Calculating a clearance rate (disposed cases divided by filings) shows the percentage of cases disposed relative to the number of cases filed. Hawaii has improved its felony drug caseload clearance rate, disposing 99 percent of filings in 1996 versus 81 percent in 1986. Similar improvements are seen in Texas (the clearance rate moved from 71 percent in 1986 to 100 percent in 1996). Disposed cases exceeded filings in Idaho for several of the years shown, resulting in clearance rates of 108 percent in 1986, 107 percent in 1990, and 105 percent in 1996. The Florida courts have had trouble keeping pace with the large number of felony drug filings they receive (their clearance rate was 79 percent in 1986 and 78 percent in 1996).

The ability to clear drug caseloads effectively depends on a number of conditions both internal and external to the court system. Some court systems have been able to improve clearance rates by establishing alternative or new caseflow management strategies. Some of these include shifting resources from civil and family courts, encouraging greater cooperation between prosecutors and judges, expanding the capacity of drug testing laboratories, or establishing special drug courts.

Developing ways to anticipate and deal more effectively with felony drug caseloads depends on the availability of specific information about the types of drug cases handled by the courts. Knowing if drug cases are felonies or misdemeanors, sale or possession cases, or Schedule I or II (including cocaine and heroin) or marijuana cases provides decision makers with some important information. Differentiating cases based on these types of factors enables managers to refine and focus strategies according to court jurisdiction, the potential for plea negotiation, or the availability of diversion or treatment programs.

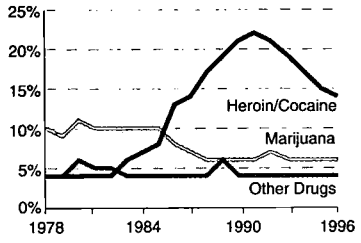
Felony Drug Filings and Disposed Cases in Selected States, 1986-1996



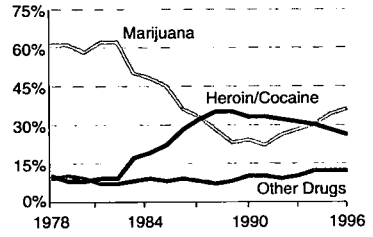
Drug Arrests by State and Local Law Enforcement Agencies

Proportion of Drug Arrests, 1978 vs. 1996

Selling/Manufacturing



Possession

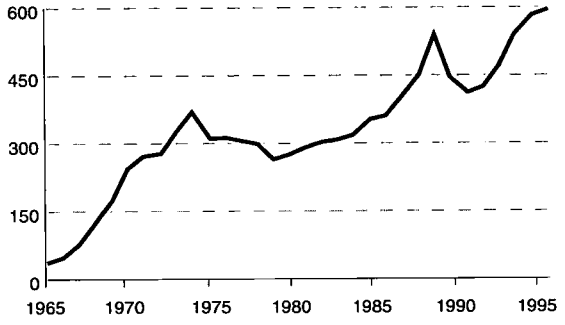


Source: Uniform Crime Reports, 1965-1996, Federal Bureau of Investigation

It is impossible to gauge the total number of drug crimes committed in the United States because these offenses only come to light when an arrest is made. This is unlike violent or property crimes in which offenses are reported by victims and later counted separately if police make an arrest. Consequently, drug *arrest* data – the number of accused drug offenders who have been detected and apprehended – do not measure all illegal drug *activity* in a given period. For this reason, using drug arrest data as a means to estimate overall drug activity tends to be more speculative than the use of victimization or reported offense data for estimating other criminal activity.

The Federal Bureau of Investigation (FBI) is responsible for maintaining drug arrest statistics collected by state and local law enforcement agencies across the country. The data displayed below track total drug arrests as a rate per 100,000 population for the period 1965-1996. The trend line first shows the arrest rate increasing rapidly from the mid-1960s until the mid-1970s, then declining somewhat and stabilizing until the early 1980s. The rate quickly rises again until the late 1980s, decreases sharply from 1989 to 1991, then increases rapidly through 1996.

U.S. Drug Arrest Rate, 1965-1996 (per 100,000 population)



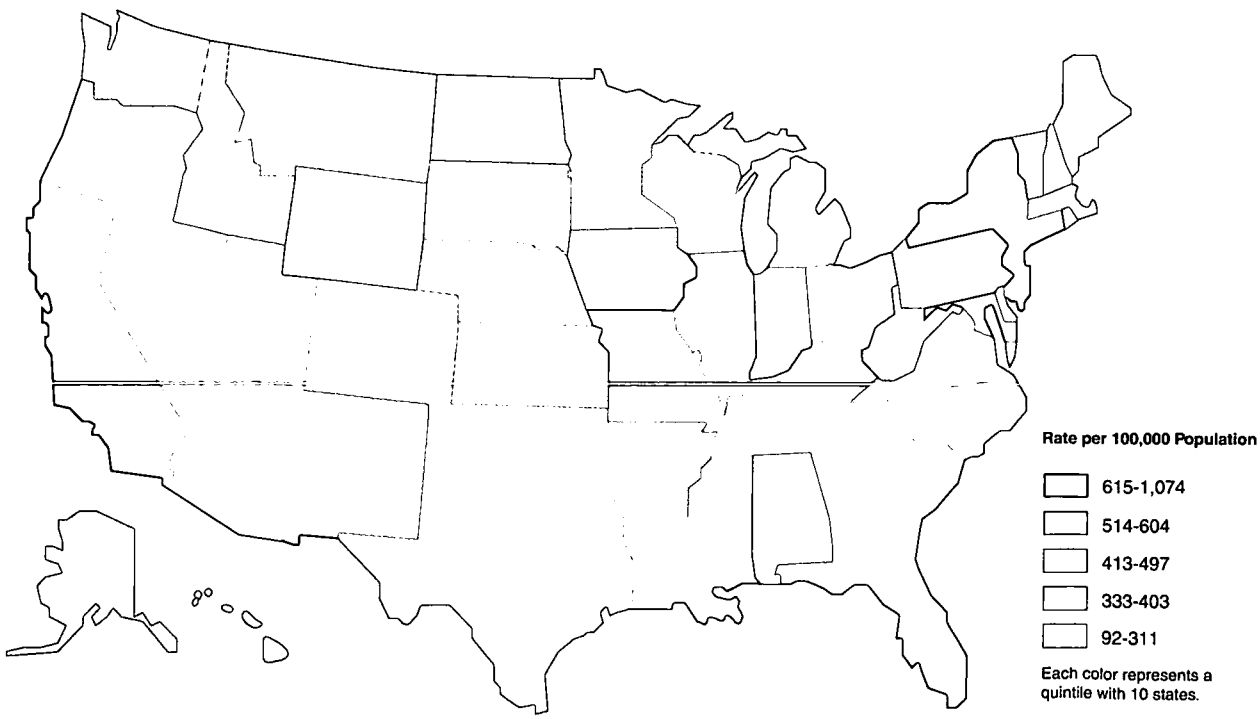
Source: Uniform Crime Reports, 1965-1996, Federal Bureau of Investigation

The two graphs to the left show more precisely which crimes (sale vs. possession) and drug types (heroin/cocaine vs. marijuana) have characterized arrests since 1978. Over most of the 1980s, arrests for drug crimes moved away from offenses involving marijuana and turned to those involving heroin/cocaine (largely powder cocaine and "crack"). In recent years, though, the proportion of arrests involving marijuana has increased and marijuana-related arrests now account for the majority of arrests for drug possession.

The map illustrates the total drug arrest rate for each state for 1996. The five colored categories represent the 50 states separated into equal quintiles (each color category contains ten states). The darker colors represent states with higher arrest rates. Generally, the most populous states with large urban centers, such as California, New York, and Illinois, have higher rates, and the more rural states, such as North Dakota, Wyoming, and Iowa, report lower rates. There are exceptions, however, such as Pennsylvania, which reports a low arrest rate despite its high degree of urbanization. Likewise, Kentucky and Mississippi have populations below one million yet rank among the top ten states for drug arrests.

Stepped-up enforcement of drug laws since the onset of the "war on drugs" produced rising drug arrest rates in the latter half of the 1980s in addition to recent increases in the mid-1990s. Increases in drug arrests, like arrests for prostitution and gambling, can occur by allocating more law enforcement resources to investigate and apprehend persons engaged in such activities. An increase in drug arrest rates also may imply a rise in drug use, a change in the way drugs are marketed and sold, or a shift in public attitudes toward further reducing drug-related crime. In the next section, we take a closer look at drug use trends and public opinion polling results.

Drug Arrest Rate per 100,000 Population Across the United States, 1996

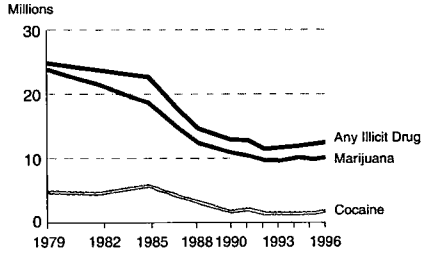


Note: Rate calculation includes population coverage and arrests only for agencies reporting data. 1996 data were unavailable for five states. The following data were substitiuted: Kansas (1994), Illinois, Florida, Montana, Vermont (1995).

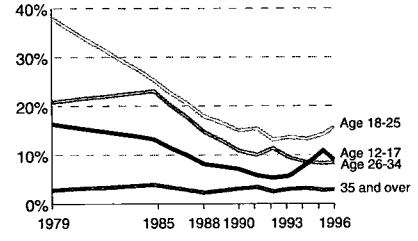
Source: Crime in the United States, 1995. Uniform Crime Reporting Section, Federal Bureau of Investigation.

Drug Use Trends

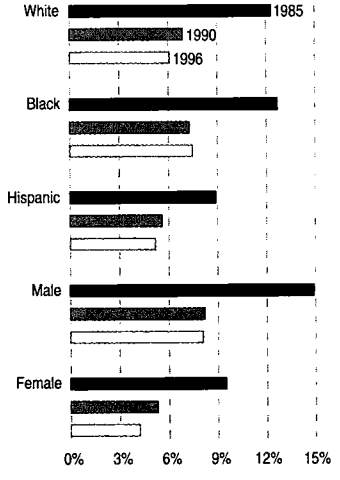
Estimated Number of Persons Age 12 and Older Using Drugs in the Past Month, 1979-1996



Percent of Population Using Any Illicit Drug in the Past Month, by Age Group 1979-1996



Percent of Population Using Any Illicit Drug in the Past Month, by Race and Gender, 1985, 1990, and 1996



Source: National Household Survey on Drug Abuse, National Institute on Drug Abuse (NIDA).

Estimates of the prevalence and type of illicit drug use are other measures that can clarify our nation's drug problems. Criminal justice and health and human services officials can consider these indicators when trying to develop more focused drug control strategies. For example, increases in drug use among young people can suggest a need to enhance drug education programs in the schools. One of the most widely used sources for estimating drug use comes from the National Institute of Drug Abuse (NIDA) and the Substance Abuse and Mental Health Services Administration (SAMHSA). These groups jointly sponsor the National Household Survey on Drug Abuse, which interviews individuals age 12 and older about their drug use habits. According to the latest survey conducted in June 1997, an estimated 13 million people reported using an illicit drug within the past month, down from the roughly 25 million who reported usage in 1979.

The trend lines to the left show that monthly usage has declined for both cocaine and marijuana, although the cocaine decrease occurred during the mid- and late 1980s, sometime after the period when marijuana began declining. During the last five years, monthly drug use edged up slightly, largely as a result of use by 12- to 17-year-olds, and to a lesser extent by 18- to 25-year-olds. These latest increases also are more connected with marijuana use than cocaine or other drug use. These findings among young people are consistent with the *Monitoring the Future Study*, a nationwide independent survey of 8th graders, 10th graders, and high school seniors. The bar chart shows that from 1985 to 1996 declining rates of reported drug use within the past month is consistent across racial and gender categories. In 1996, males reported the highest rate of monthly drug use at 8.1 percent. Blacks reported 7.5 percent, whites 6.1 percent, and Hispanics 5.2 percent; females reported the lowest rate at 4.2 percent.

Understanding drug use surveys in the context of our drug control policies can be difficult because it is possible to draw different conclusions from the same survey data. When comparing available drug use data to arrest statistics, one observes that monthly drug use declined fastest at a time when arrest rates increased rapidly for cocaine/heroin offenses. However, arrest rates also decreased during the mid- and late 1970s, when the number of people reporting monthly marijuana use was comparatively high, and the number of people reporting monthly cocaine use was fairly stable.

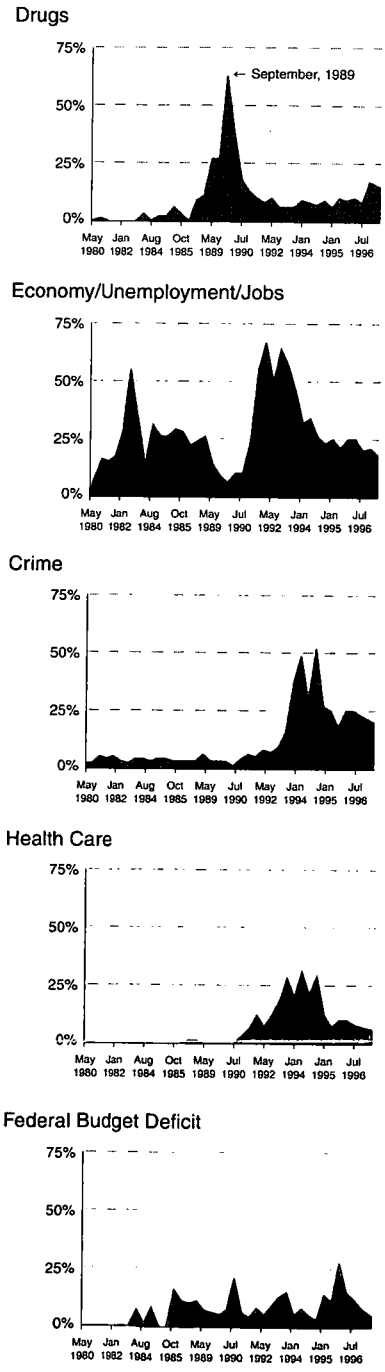
Public Opinion

The "war on drugs" is clearly intended to increase the amount of public resources directed at reducing illicit drug use, enforcing criminal sanctions, and punishing convicted offenders. Lawmakers keep a close eye on public attitudes when developing legislative agendas – and the focus on drugs and crime is no exception. One method for assessing public sentiment objectively is to conduct public opinion surveys or polls, although it is difficult to gauge the exact degree with which public opinion guides the development of public policy. Most would agree however, that both public and private sector organizations have become more reliant on surveys to help gain insight into the attitudes and preferences of their constituents and clients.

Over the past 17 years, the Gallup organization has polled citizens in an attempt to determine "what problems facing the nation were perceived to be most important." The charts to the right represent the more common problems cited over time, including drugs, the economy, crime, health care, and the federal deficit. The most visible peak, during September 1989, represents the point at which 63 percent of the public responded that drugs were the most important problem facing the nation. This peak was accompanied by low percentages for other "problems" that could have been offered as answers (noting, for example, the valley in the economy chart). The peak also shows that the public perceives drugs as a specific and distinct problem, separate from the general response of "crime." As the percentages of people who perceived drugs as the number one problem began to fall during the early 1990s, concerns over the economy began to take precedence. By the mid-1990s, the most important problems cited were the economy, crime, and, to a lesser extent, health care and the federal deficit.

The most intense period of the public's concern over drugs coincides with the period in which the "war on drugs" was at its height. In the 1990s, concerns about crime have risen at a time when mandatory sentencing, increased incarceration rates, three-strikes provisions, and gun control laws have been proposed or passed. Some observers note, however, that public opinion can be swayed through media reporting or political attention. Regardless of how beliefs are formed, opinion polls do seem to reflect the attitudes, feelings, and experiences of citizens for a specific period in time. As seen here, specific concern with "drugs" was consistently low through the first half of the 1990s, though polling results from the past year show that concern is again edging upward.

Public Perception of the Most Important Problems Facing the Nation, 1980-1997

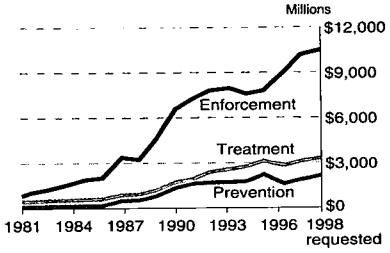


Note: Data are for 38 polls requested by CNN or *USA Today* regardless of the polling dates. For this reason, the date scale does not represent exact increments over time.

Source: The Gallup Polls, 1980-1997.

National Drug Control Budget

Federal Drug Control Budget, 1981-1996



Source: "National Drug Control Strategy Budget Summary," The White House. Office of National Drug Control Policy (ONDCP), 1994. Drug Control Funding tables 1996-1998 requested, ONDCP's WEB site.

Our government has responded to the drug abuse problem by allocating billions of dollars in the area of law enforcement, treatment, and prevention. Since 1981, the level of funding has risen dramatically. More specifically, the share of the federal budget earmarked for law enforcement has increased 1,121 percent; for treatment, 581 percent; and for prevention, 1,759 percent. As with other measures examined previously, drug control expenditures increased most rapidly during the "drug war" years of the late 1980s. Moreover, law enforcement's share of the spending now comprises a full two-thirds of the total budget.

There exists a clear connection between increases in the federal drug control budget and increases in drug arrests and state court drug caseloads. The state judiciaries have felt the direct results of the increased spending on law enforcement activity. While police can measure performance in terms of arrest statistics, court performance is judged by how the courts respond to law enforcement's achievements. This has become a great challenge because state and local courts seldom receive drug control expenditures directly.

Most money intended for state and local spending flows through federal agencies such as the Department of Justice. These agencies in turn make federal assistance grants based on priorities established by Congress or the federal executive branch. Given the past and current set of priorities, dollars are functionally allocated using a "drug supply" (domestic law enforcement, interdiction, and international aid) and "drug demand" (prevention, treatment, and research) emphasis. With a total federal drug budget of $16 billion requested in fiscal year 1998, direct aid to the courts tends to be limited to drug court initiatives.

The fiscal year 1998 budget request includes $75 million for state and local grants to support drug court funding, an increase of $45 million over fiscal year 1997 (*The National Drug Control Strategy, 1997,* Office of National Drug Control Policy). The courts also benefit by increases in treatment spending, making additional drug programs and alternative sanctions available for drug-involved offenders who are ultimately sentenced by the courts. In many instances, jurisdictions are forced to use state and local monies to fund additional judgeships, establish drug offender diversion programs, or fund other programs to handle the continuous influx of drug offenders.

Drug Convictions and Dispositions in State Courts

Estimated Number of Felony Drug Convictions, 1994 (most serious offense at conviction)

	Possession	Sale/Trafficking
1990	106,253	168,360
1992	109,426	170,806
1994	108,815	165,430
Change 1990-94:	2.4%	-1.7%

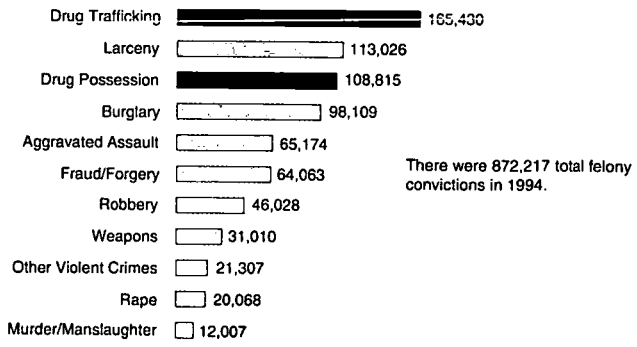
Source: Felony Sentences in State Courts, 1994. U.S. Department of Justice, Bureau of Justice Statistics.

It is estimated that roughly 870,000 felony convictions occurred in state trial courts in 1994, the latest year for which data are available. Thirty-one percent of these convictions were for felony drug trafficking (including sale and manufacturing) or possession offenses. Drug trafficking comprised the single largest conviction category, while convictions for felony possession ranked third behind larceny. The bar chart below shows the number of felony drug convictions versus other felony offense types, while the table to the left shows trafficking and possession convictions since 1990.

Although the state courts are affected by all felony drug cases filed, the number of convictions has further implications for judicial workload. After a finding of guilt, drug offenders proceed to the sentencing phase. At this point, the court may hear arguments from the defense and prosecution as to the appropriate punishment or may hear testimony from character or expert witnesses. The court also may request background investigations or order presentence reports, which can add weeks or months to the time between conviction and sentencing. Further pressure is placed on the courts when dealing with post-disposition matters; judges must deal with probation violators or finish processing defendants placed in early diversion programs.

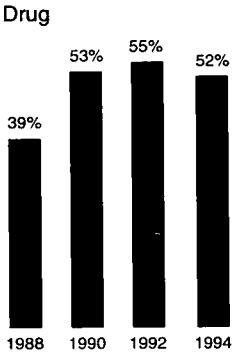
The rise in felony drug caseloads (and the subsequent increase in convictions) has forced the courts to look for alternative means of case resolution. In this regard, prosecutors and defense counsel work together, either with assigned treatment providers or other third parties, to develop a pretrial diversion plan. Eligible offenders (often first-time offenders or low-level dealers or drug addicts) are placed under strict supervision and often participate in treatment and/or counseling programs. These early diversion programs not only can alleviate the workload pressures associated with traditional forms of case processing, but also provide treatment in the earliest stages of a case.

Estimated Number of Felony Convictions in State Courts, 1994 (most serious offense at conviction)



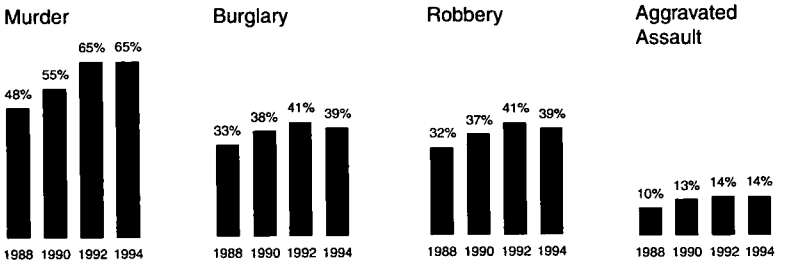
Note: An estimated 127,180 convictions classified as "other offenses" are not assigned a bar in this graphic.
Source: Felony Sentences in State Courts, 1994. U.S. Department of Justice, Bureau of Justice Statistics.

Percent of Felony Arrests Resulting in Felony Convictions, 1988-1994



According to BJS and FBI figures, the likelihood that a felony drug arrest will result in a felony conviction is relatively high. This likelihood has increased during the 1990s: an estimated 50 percent of arrests result in conviction. The conviction rate is also up for other felony offense types (murder, burglary, robbery, and aggravated assault) during the same time period, but to a lesser degree. The likelihood that arrests will result in convictions for felony drug offenses is second only to the likelihood that individuals arrested on murder charges will be convicted.

Percent of Felony Arrests Resulting in Felony Convictions for Other Offenses



Method of Case Disposal, 1994

	Guilty Plea	Trial — Jury	Trial — Bench
Drug Possession	**94%**	**1%**	**5%**
Fraud/Forgery	91	5	4
Weapons	90	5	5
Drug Trafficking	**90**	**4**	**6**
Larceny	90	4	6
Burglary	89	6	5
Robbery	85	10	5
Aggravated Assault	82	11	7
Other Violent	78	15	7
Rape	75	19	6
Murder/Manslaughter	58	35	7
All Offenses	89%	6%	5%

Given the heavy caseload and high conviction rate for felony drug crimes, the mode of conviction is a critical factor relating to the ability of courts to clear drug cases. The percentage of guilty pleas in felony cases is the highest for drug possession cases (94 percent), but guilty pleas also occur in the vast majority of drug trafficking cases (90 percent). Trials are seldom conducted in drug cases — jury trials comprise only 1 percent of the drug possession cases and 4 percent of the drug trafficking cases.

In 1994, defendants convicted of a felony drug offense were most likely to receive a period of incarceration (69 percent) rather than straight probation (31 percent). Distinguishing between drug trafficking and possession affected this split only slightly, although trafficking convictions were more likely to result in prison sentences than possession convictions.

Sentence Types in Felony Drug Conviction Cases, 1994

	Incarceration — Total	Prison	Jail	Probation
Drug Trafficking	71%	48%	23%	29%
Drug Possession	66	34	32	34
All Drug Offenses	69	42	27	31
All Felony Offenses	71%	45%	26%	29%

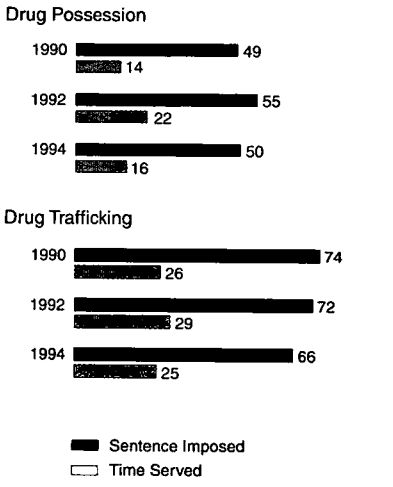
Source: Felony Sentences in State Courts, 1994, U.S. Department of Justice, Bureau of Justice Statistics. (all four displays)

Sentencing and Time Served

Since the late 1980s, much attention has been focused on the length of prison sentences and the amount of time an offender actually serves. The responsibility of fixing sentences resides with a judge or jury, while the responsibility of administering the sentence usually rests with a correctional or other supervising authority. This situation is changing for a growing number of states that have adopted truth-in-sentencing policies. In these states, early release on parole or the accrual of good-time credit has been substantially limited. This trend has important consequences for state trial court judges: judges may now be required to adjust their past sentencing practices to account for the changes in time served, some must now consider a set of structured sentencing guidelines or follow newly prescribed statutory sentencing ranges, and others may have their discretion limited by the passing of mandatory sentencing provisions.

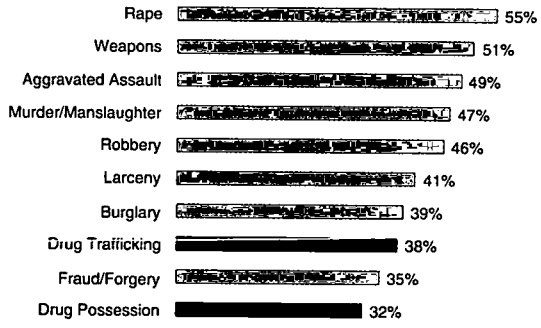
The bar chart to the right shows imposed sentences and time served amounts for felony drug offenses in 1990, 1992, and 1994. After increasing in 1992, both sentencing and time served amounts returned to 1990 levels for drug possession cases. Imposed sentences have decreased for drug trafficking, about 8 months on average, while time served for trafficking in 1994 is roughly the same as in 1990. Another measure related to truth-in-sentencing is the amount of time served calculated as a proportion of the sentence imposed. The graph below shows the estimated percentages of time served for offenders sentenced in 1994. Along with individuals convicted of fraud, sentenced drug offenders serve the smallest percentage of their court-imposed sentence.

Average Prison Sentences and Estimated Time to be Served in State Prison, 1990-1994 (in months)



Source: Felony Sentences in the United States, 1990, 1992, 1994, U.S. Department of Justice, Bureau of Justice Statistics.

Percent of Sentence Expected to be Served for Offenders Sentenced in 1994*

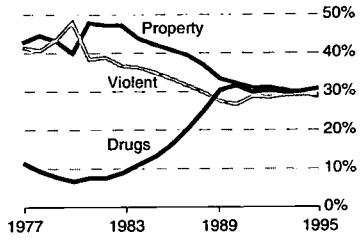


* Figures are based on the assumption that felons sentenced in 1994 will serve about the same percentage of their sentence as prisoners released in 1994. Inmates with life sentences are excluded from this analysis.

Source: Felony Sentences in State Courts, 1994, U.S. Department of Justice, Bureau of Justice Statistics.

Court Commitments and Corrections

New Court Commitments to State Prisons as Percent of All Commitments, 1977-1995



Source: *Corrections Populations in The United States, 1992, 1995,* National Corrections Reporting Program, 1977-1995. U.S. Department of Justice, Bureau of Justice Statistics.

Perhaps the most profound impact of the increased attention to drug crime during the late 1980s and early 1990s has been felt in the area of corrections. In the early 1980s, less than 10 percent of new court commitments to prison were for a drug offense. From 1989 to 1995, drug offenders comprised about one-third of all new commitments. The percentage of commitments peaked in 1990, the same time the proportion of drug arrests was highest for offenses involving cocaine/heroin.

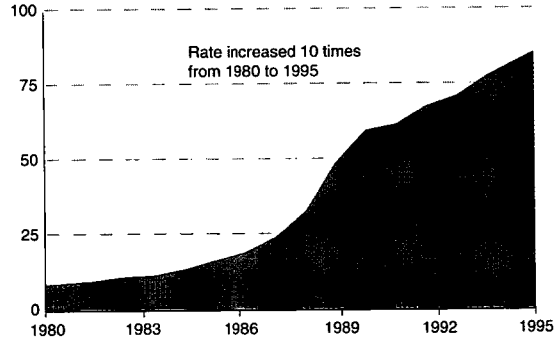
Another measure that clearly shows the impact of the "drug war" is the number of state prisoners serving sentences for drug offenses. The percentage of prisoners per 100,000 population sentenced for drug offenses increased from a rate of 8.4 percent in 1980 to 85.6 percent in 1995. The table shows how the number of incarcerated drug offenders grew from 19,000 to 225,000 over the same time period. The most dramatic increase occurred between 1988 and 1989.

Number of Prisoners in State Custody for Drug Offenses, 1980-1995

	Prisoners	Yearly Increase
1980	19,000	
1981	21,700	14%
1982	25,300	17
1983	26,600	5
1984	31,700	19
1985	38,900	23
1986	45,400	17
1987	57,900	28
1988	79,100	37
1989	120,100	52
1990	148,600	24
1991	155,200	4
1992	172,300	11
1993	183,200	6
1994	202,600	11
1995	225,000	11

Source: *Corrections Populations in The United States, 1992, 1995,* National Corrections Reporting Program, 1980-1995. U.S. Department of Justice, Bureau of Justice Statistics.

Prisoners in State Custody Sentenced for Drug Offenses, 1980-1995 (rate per 100,000 persons)



Source: *Corrections Populations in The United States, 1992, 1995,* National Corrections Reporting Program, 1980-1995. U.S. Department of Justice, Bureau of Justice Statistics.

Almost all drug offenders sentenced to prison eventually will be released, and in most cases, they will have served less than two years. The courts will see many of these offenders again, some as probation or parole violators and others for a new offense. It has become widely accepted that those who come into contact with the criminal justice system use or abuse drugs at a much higher rate than the general population. Data on arrestees indicate that those charged with a drug offense test positive for drugs in more than 75 percent of the cases (National Institute of Justice, *Drug Use Forecasting*, 1996). Many argue that providing treatment services to drug-involved inmates is critical for increasing the chances that released offenders will remain crime-free for longer periods of time.

Conclusion

The workload of the state courts clearly has changed as a result of our nation's shifting and stepped-up drug control policies. The interaction of law enforcement, the courts, and corrections has been illuminated here by examining key criminal justice system indicators in the context of our national drug control policies over the last two decades. Moreover, how budget and policy changes in one area of the justice system affect other components of the system is illustrated. The key criminal justice measures available – drug arrests, court caseloads, drug control budgets, and correctional populations – all confirm steep rises during the 1980s, followed by a short subsidence in the early 1990s. The most important finding, however, is that all of these measures have turned upward again and, in most instances, to a level that surpasses the previous "drug war" surge of the mid- and late 1980s. These trends are the result of both previous and more recent policy changes at both federal and state levels.

The preceding pages are limited to describing and assessing the nation's drug problem from a criminal justice, and even more specifically, from the courts' perspective. Data from non-criminal justice sources, such as drug-related emergency room incidents, the incidence of drug-exposed infants and drug-related AIDS cases, and drug-related vehicular accidents all provide different perspectives concerning illicit drug use within society. Evaluation and research that hopes to explain the impact of our drug control strategies ultimately must be concerned with both justice and non-justice system measures. In this sense, much work still needs to be done. However, regardless of the analytical perspectives and methods used to study illicit drugs, the judicial branch will continue to play a critical role in administering our broader drug and crime control policies. Given that these policies will have direct implications for state court workloads, the state judiciaries should carefully monitor how these policies are defined and initiated over the next several years.

Appendices

Annotations and Sources

Overview Section

Page 10 **Cases Filed in State Courts, 1984-1996**
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

Number of Parking Filings in 13 States, 1989-1996
States included: AL, CA, HI, IL, MD, MN, NJ, NM, NY, SD, TX, UT, WA

11 **Types of Cases Filed in State Courts, 1996**
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

State Trial Court Caseloads - Traffic vs. Nontraffic, 1984-1996
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

12 **Judges in State Trial Courts by Court Jurisdiction, 1990-1996**
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

13 **Number and Rate of Judges in Unified and General Jurisdiction Courts in 49 States, 1996**
States excluded: GA, MS, NV

14 **Caseload Growth Rates of U.S. District and State General Jurisdiction Courts, 1984-1996**
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

Civil Section

Page 18 **Civil Cases Filed in State Trial Courts by Jurisdiction, 1984-1996**
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

Civil Caseload Composition in Unified and General Jurisdiction Courts in 17 States, 1990 vs. 1996
States included: AZ, CO, CT, FL, HI, KS, ME, MD, MN, MO, NV, ND, TN, TX, UT, WA, WI

19 **Total Civil Filings per 100,000 Population (Excluding Domestic Relations Cases), 1984-1996**
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

21 **Total Civil Filings (Excluding Domestic Relations) and Filings per 100,000 Population in 51 States, 1996**
State excluded: GA

23 **Civil Caseload Clearance and Growth Rates for Unified and General Jurisdiction Courts in 42 States, 1994-1996**
States excluded: GA, LA, MS, MT, NV, NH, ND, RI, WI, WY

24 **General Civil Dispositions in 45 Large Urban General Jurisdiction Courts, 1992**
The data for this table were derived from the Civil Trial Court Network (CTCN), a Bureau of Justice Statistics-sponsored project that includes data from 45 of the 75 largest counties.

25 **Estimates of the Total Number of Trials in State General Jurisdiction Courts, 1992***
The data for this table were derived from the Civil Trial Court Network (CTCN), a Bureau of Justice Statistics-sponsored project that includes data from 45 of the 75 largest counties.

Tort/Contract Section

Domestic Relations Section

Page 36 **Domestic Relations Filings in General and Limited Jurisdiction Courts, 1985-1996**
States included: AK, AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, MT, NC, ND, NE, NH, NJ, NM, NY, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, VT, WA, WI, WV, WY

37 **Domestic Relations Cases by Type, 1985-1996**
Divorce
States included: AK, AR, CA, CO, CT, DC, DE, FL, HI, IA, ID, IN, KS, MA, MD, ME, MI, MN, MO, MT, NC, ND, NJ, NY, OH, OK, PA, PR, RI, SD, TN, TX, UT, VA, VT, WI, WV

Custody
States included: AR, CO, DC, DE, FL, ID, MA, MD, MI, NC, ND, NJ, NY, OH, PA, VA, WI

Domestic Violence
States included: AK, AZ, DE, FL, IA, KS, KY, MA, MD, ME, MI, MN, ND, NH, NJ, NY, OH, RI, VT, WA, WY

Paternity
States included: AK, AR, CO, CT, DC, HI, IN, KS, MD, MI, ND, NY, OH, WI

Interstate Support
States included: AK, AR, CO, DC, FL, HI, IA, KS, MA, ME, MI, MN, NC, NY, OH, OK, TN, TX, VT

Adoption
States included: AK, AR, AZ, CO, CT, DC, DE, HI, ID, IN, KS, KY, MA, MD, MI, MN, MO, MT, ND, NE, NH, NJ, NY, OH, OR, PA, SD, TN, VT, WA, WI, WV

Domestic Relations Caseload Composition in 29 States, 1996
States included: AK, AR, CO, CT, DE, DC, FL, HI, ID, IN, KS, MI, MN, MO, NJ, NM, NY, ND, OH, OR, PR, RI, SD, TN, UT, VT, WA, WI, WY

38 **Domestic Violence Caseloads in 31 States, 1994-1996**
States included: AK, AR, AZ, CT, DC, DE, FL, HI, IA, ID, IN, KS, KY, MA, MD, ME, MN, MO, ND, NH, NJ, NM, NY, OH, OR, RI, UT, VT, WA, WV, WY

Juvenile Section

Page 43 **Juvenile Court Filings and At-Risk Population, 1984-1996**
Court filing data were available from all 50 states, Puerto Rico, and the District of Columbia.

Juvenile Caseload Composition in 37 State Courts, 1996
States excluded: AK, AZ, CT, FL, ID, KY, ME, MS, MO, MT, NE, NV, OR, PR, RI, SC, SD, VA, WV, WI
(five states have two courts reporting juvenile caseload composition)

Criminal Section

Felony Section

Appellate Section

Page 70 **Growth Rates of Felony Filings and Criminal Appeals**
States included: AK, AZ, AR, CA, CT, HI, ID, IL, IN, IA, KY, MD, MA, MN, MO, NC, OH, OR, PA, TX, UT, WA, WI

Growth Rates of Civil Filings and Civil Appeals
States included: AL, AZ, AR, CA, CO, CT, HI, ID, IL, IN, IA, KY, LA, MD, MA, MI, MN, MO, NM, NC, OH, OR, PA, SC, TX, UT, VA, WA, WI

71 **Total Appellate Caseloads, 1996**
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

73 **Total Appellate Court Filings, 1996**
Data were available from all 50 states, Puerto Rico, and the District of Columbia.

74 **Composition of Mandatory Appeals in 21 Intermediate Appellate Courts, 1996**
States included: AL, AK, AZ, AR, HI, IL, IN, KS, KY, LA, MN, NM, NY, NC, OH, OR, PA, PR, TX, UT, VA

Composition of Discretionary Petitions in 28 Courts of Last Resort, 1996
States included: AL, AK, AZ, CA, CT, GA, IL, IN, KY, LA, MI, MN, MS, NV, NM, NY, NC, ND, OH, OK, OR, RI, SD, TN, TX, VT, VA, WA,WV, WI, WY

75 **Original Proceedings and Disciplinary Matters in Appellate Courts, 1996**
Original proceedings in 38 states. States excluded: AK, CT, IA, ME, MA, MI, MS, NE, NH, NJ, NY, NC, OK, TX
Disciplinary matters in 32 States. States excluded: AR, AZ, CT, FL, HI, IL, IA, ME, MA, MS, MT, NE, NH, NC, OK, PA, RI, SD, TN, VA

76 **Clearance Rates in Intermediate Appellate Courts, 1994-1996**
All states with an IAC except Puerto Rico and Mississippi.

77 **Caseload Growth Rates for Intermediate Appellate Courts, 1987-1996**
All 41 states that have an IAC are represented. Note: some states did not have an IAC for all of the 12 years represented, but newly-created IACs are included from the year they were established.

Caseload Growth Rates for Courts of Last Resort, 1987-1996
Data were available from all 50 states, the District of Columbia, and Puerto Rico.

78 **Mandatory Appeals in 29 IACs, 1987-1996**
Includes 29 states: AL, AK, AR, AZ, CA, CT, HI, IA, ID, IL, IN, KY, LA, MA, MD, MI, MN, MO, NC, NM, OH, OR, PA, SC, TX, UT, VA, WA, WI

Discretionary Petitions in COLRs in 14 States, 1987-1996
States included: CA, IL, LA, MI, MN, NY, NC, OH, OR, TX, VA, WA, WV, WI

79 **Discretionary Petitions Granted in 22 Courts of Last Resort, 1996**
States excluded: AL, AK, AZ, AR, CA, CO, DE, DC, FL, ID, IA, KY, ME, MT, NV, NH, NJ, NM, NY, ND, OK, PA, PR, SC, UT, VT, VA, WA, WI, WY

81 **Courts of Last Resort – Manner of Disposition, 1996**
States excluded: AK, CA, CO, MD, ME, MI, MO, OK, TN, WA, WY

82 **Intermediate Appellate Courts – Manner of Disposition, 1996**
States included: AL, AR, AZ, CT, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MI, MN, MO, MS, NE, NJ, OR, PA, SC, UT, VA, WI

Court Statistics Project Methodology

Information for the CSP's national caseload databases comes from published and unpublished sources supplied by state court administrators and appellate court clerks. Published data are typically taken from official state court annual reports, so they take many forms and vary greatly in detail. Data from published sources are often supplemented by unpublished data received from the state courts in many formats, including internal management memoranda and computer-generated output.

The CSP data collection effort to build a comprehensive statistical profile of the work of state appellate and trial courts nationally is underway throughout the year. Extensive telephone contacts and follow-up correspondence are used to collect missing data, confirm the accuracy of available data, and determine the legal jurisdiction of each court. Information is also collected on the number of judges per court or court system (from annual reports, offices of state court administrators, and appellate court clerks); the state population (based on U.S. Bureau of the Census revised estimates); and special characteristics regarding subject matter jurisdiction and court structure.

Examining the Work of State Courts, 1996 and *State Court Caseload Statistics, 1996* are intended to enhance the potential for meaningful state court caseload comparisons. Because there are 50 states and thus 50 different state court systems, the biggest challenge is to organize the data for valid state-to-state comparison among states and over time. The COSCA/NCSC approach also highlights some aspects that remain problematic for collecting comparable state court caseload data.

A discussion of how to use state court caseload statistics, a complete review of the data collection procedures, and the sources of each state's 1996 caseload statistics are provided in the companion volume to this report, *State Court Caseload Statistics, 1996*.

The NCSC Court Statistics Project

The Court Statistics Project can provide advice and clarification on the use of the statistics from this and previous caseload reports. Project staff can also provide the full range of information available from each state. The prototype data spreadsheets used by project staff (displayed in the appendix of *State Court Caseload Statistics, 1996*) reflect the full range of information sought from the states. Most states provide far more detailed caseload information than can be presented in project publications. Information from the CSP is also available at HTTP://NCSC.DNI.US on the World Wide Web. From the NCSC home page click on "Research" Division and then "Research Division Projects" to learn more. Comments, suggestions, and corrections from users of *Examining the Work of State Courts, 1996, State Court Caseload Statistics, 1996* and the *Caseload Highlights* series are encouraged, and can be sent to:

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State Court Caseload Statistics, 1996

The analysis presented in *Examining the Work of State Courts, 1996* is derived in part from the data found in *State Court Caseload Statistics, 1996*. The information and tables found in this latter volume are intended to serve as a detailed reference on the work of the nation's state courts. *State Court Caseload Statistics, 1996* is organized in the following manner:

State Court Structure Charts display the overall structure of each state court system on a one-page chart. Each state's chart identifies all the courts in operation in that state during 1996, describes their geographic and subject matter jurisdiction, notes the number of authorized judicial positions, indicates whether funding is primarily local or state, and outlines the routes of appeal between courts.

Jurisdiction and State Court Reporting Practices review basic information that affects the comparability of caseload information reports by the courts. For example, the dollar amount jurisdiction for civil cases, the method by which cases are counted in appellate courts and in criminal, civil, and juvenile trial courts; and trial courts that have the authority to hear appeals are all discussed. Information is also provided that defines what constitutes a case in each court, making it possible to determine which appellate and trial courts compile caseload statistics on a similar basis. Finally, the numbers of judges and justices working in state trial and appellate courts are displayed.

1996 State Court Caseload Tables contain detailed information from the nation's state courts. Six tables detail information on appellate courts, and an additional six tables contain data on trial courts (Tables 1-12). Tables 13-16 describe trends in the volume of case filings and dispositions for the period 1987-1996. These displays include trend data on mandatory and discretionary cases in state appellate courts and felony and tort filings in state trial courts over the past ten years. The tables also indicate the extent of standardization in the data for each state. The factors that most strongly affect the comparability of caseload information across the states (for example, the unit of count) are incorporated into the tables. Footnotes explain how a court system's reported caseloads conform to the standard categories for reporting such information recommended in the *State Court Model Statistical Dictionary, 1989*. Caseload numbers are noted as incomplete in the types of cases represented, as overinclusive, or both. Statistics without footnotes are in compliance with the *Dictionary*'s standard definitions.

A joint project of the Conference of State Court Administrators,
the State Justice Institute, the Bureau of Justice Statistics, and NCSC.

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TITLE OF REPORT

New Jersey Court Improvement Project Annual Report, October 1996, 11 pages. Extensive appendices include: the *Court Assessment Project Final Report* drafted by the Association for Children of New Jersey, July 1996; *Court Improvement Oversight Committee Recommendations for Improvement*, July 31, 1996; *Preliminary Plan for Family Court Report*, September 15, 1995; and *Involuntary Placement Hearing Officer Pilot Project Stage One Report,* drafted by the New Jersey Administrative Office of the Courts, Family Division, March 1, 1996.

ASSESSMENT CONDUCTED BY

The Supreme Court appointed an Oversight Committee composed of nine judges, two representatives from the Division of Youth and Family Services (DYFS), a Deputy Attorney General representative, statewide coordinator of the Law Guardians, attorneys for parents, court staff, court volunteers, child advocates, and a grant liaison. The Committee hired the New Jersey child advocacy organization, the Association for Children of New Jersey (ACNJ), to conduct the assessment.

RECOMMENDATIONS

The New Jersey Court Improvement Project Annual Report provides a unique approach to the recommendations for improved court practice. The authors drafted overarching goals and listed objectives and tasks to be completed. Their work reflects an implementation plan more than a list of possible recommendations for review.

Appendix

A "Plan for Improvement" is included in the *New Jersey Court Improvement Project Annual Report*, dated October 3, 1996, at page 6. The following five goals are stated:

1. To integrate child welfare case handling within the judiciary, promoting better communication and coordination among all those involved in the process, and to encourage standardization of procedures.
2. To improve communication and coordination between the Judiciary and the Department of Human Services.
3. To improve the quality of the system, especially regarding fairness and due process.
4. To expedite case processing.
5. To insure adequate resources.

Ten objectives with specific tasks to be accomplished follow the stated goals:

1. Objective (addresses Goals 1, 3, 4)

   Titles 9 and 30 will be reviewed to identify overlap, conflicts, and duplication of efforts and recommendations will be made to change the legislation to improve standards and provide for speedier resolution of cases. All critical representatives of the system, such as attorneys for children, for parents, and the state will be involved in the process.

   Tasks
   - The Administrative Office of the Courts (AOC) will form a Legislation/Legal Issues workgroup to study the legislation and write a draft of new state laws.
   - The AOC will hire a contractor to complete the Part One (legal analysis) section of the assessment to provide the committee with the appropriate data for this objective.

2. Objective (addresses Goals 1, 2 3, 4)

   The AOC will modify and improve the case tracking system so that pertinent information about all facets of court involvement are integrated. The following issue will be addressed: the ability to share information electronically, made available to all parties, subject to security and confidentiality requirements. The FC (children in placement) case type will be put on the Family Automated Case Tracking (FACTS) system.

Task

- The AOC will hire technical staff to work within the AOC Family Division for the duration of the grant period. These individuals will work solely on modifying and upgrading FACTS (Family Automated Case Tracking System), as recommended by the results of the efforts of various workgroups studying FC, (children in placement), FN (child abuse/neglect), and FG (termination of parental rights) case processing and procedures.

3. Objective (addresses Goals 1, 2 4)

   Develop and implement uniform organizational structure, procedures, and forms for FC, FN, and FG case types.

   Task

   - The AOC will form a Case Processing workgroup to study and make recommendations on this issue. The details of the Oversight Committee recommendations, which are addressed in more than one recommendation of the committee's document, will be the starting point.

4. Objective (addresses Goals 1, 2, 3, 4)

   Develop and provide regular mandated training for judges, court staff, and court volunteers.

   Tasks

   - The AOC will form a training workgroup to plan a training curriculum. The details of the Oversight Committee recommendations on this issue will be the starting point.
   - The AOC will sponsor training programs, for Year Two of the grant, on a regional basis, addressing the need for improvements and the steps necessary to make a successful transition to new policies and procedures.

5. Objectives (addresses Goals 1, 3, 4, 5)

   - The creation of permanent funded positions for full-time attorneys to represent parents/guardians in child welfare actions, throughout the life of the case, will be addressed.

- A law guardian will be assigned for each child with an active involvement throughout the life of the case.

Task

- The AOC Legislation/Legal Issues workgroup will study these issues and make specific recommendations for implementation. The details of the Oversight Committee recommendations on this issue will be the starting point.

6. Objective (addresses Goals 1, 2, 3, 4, 5)

   Explore and evaluate the programs of other states and jurisdictions which represent best practices.

   Task

   - The AOC will coordinate the work of several workgroups in specific areas and study best practices in other states, including but not limited to the following topics: computerized case tracking systems, the integration of CASA and child placement review (CPR), and the transition from recommended improvements to implementation of reforms.

7. Objective (addresses Goal 2)

   The AOC will begin regular interagency meetings with court staff and child welfare professionals at the state and county level.

   Task

   - The meetings will include but not be limited to, continuation of the DYFS/CPR Forums (both regional and statewide), regional trainings, and one-on-one meetings between agency and court leadership.

8. Objective (addresses Goal 3)

   The AOC will evaluate the two volunteer programs affecting child welfare cases, CASA and CPR.

   Task

   - The AOC will hire research specialists to conduct an evaluation of the programs, to study the program structure, functions, and effects on the cases of children in placement.

9. Objective (addresses Goal 3)
   Provide legal representation to parents who sign voluntary placement agreements, until full time positions are in place.

   Task
   - The AOC will for a Legislation/Legal Issues workgroup which will review this issue.

10. Objective (addresses Goal 3)
    Improvement of the flow of information between the court and parents/guardians and attorneys will be studied and improvements implemented.

    Task
    - The issue will be studied by an AOC Legislation/Legal Issues workgroup. The details of the Oversight Committee recommendations will be the starting point.

In Appendix C of the *Oversight Committee Recommendations to Improve the Handling of Child Welfare Cases in New Jersey Family Court*, the committee presents the overall goals of its recommendations:

To promote permanent resolution of each child's case and a secure and safe home for every child in a timely manner.

- To integrate child welfare case handling within the Judiciary (better communication, coordination, standardization).
- To improve communication and coordination between the Judiciary and Department of Human Services.
- To improve the quality of the system (fairness, due process).
- To expedite case processing.
- To highlight the need for increased resources.

The Committee then reviews the four categories of case practice, systemic support, legal representation, and external issues and states a principle for each category. Case practice contains 14 major recommendations and time frames for each. Systemic support has six recommendations and time frames for completion. Legal representation contains four major recommendations and time frames. External issues has six recommendations.

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TITLE OF REPORT

Child Protection Proceedings in North Carolina Juvenile Courts, July 1996, 50 pages

ASSESSMENT CONDUCTED BY

Research Triangle Institute (RTI), 3040 Cornwallis Road, Research Triangle Park, North Carolina 27709, Linda Powers, M.A., Dr. Susan Wells, Emily Coleman

The North Carolina Administrative Office of the Courts (AOC) convened a multidisciplinary Advisory Committee including district court judges, foster parents, parent and child advocates, court clerks, attorneys and representatives from the AOC, Guardian *ad Litem* (GAL) and Juvenile Services Divisions, Division of Social Services (DSS), and the Institute of Government. The AOC prepared the required analysis of state statutes and contracted with the Research Triangle Institute to conduct a comprehensive survey of juvenile justice system users and to prepare an appraisal of the information that is available to court and child welfare officials with regard to foster care and adoption cases.

RECOMMENDATIONS

This report was a unique format and included recommendations from the various stakeholders in the system and their ranking of various ways to improve the system. Also included are recommendations by foster parents. The authors provide general categories of recommendations and their own list of six specific ways to improve the effectiveness and efficiency of child protection proceedings (see pages 43-50).

During site visits to four counties, several stakeholders (district court judges, DSS attorneys, GAL program staff, DSS caseworkers and supervisors, juvenile court clerks, attorneys representing parents, and foster parents) were asked to discuss their recommendations for improving the court system. Information from these discussions was combined with information and options for improvements provided by the American Bar Association Center for Children and the Law, in order to develop a list of recommendations relevant to North Carolina District courts.

Mail survey respondents were asked to rate their level of support for each recommendation on a five-point scale. A large number and a wide variety of suggestions were made–addressing issues at every level of the system. The authors noted several clusters or types of recommendations:

- Provide more services to assist families to resolve their problems.
- Make clear to parents the consequences of failing to comply with court orders and case plans.
- Sharpen the focus on the child's perspective of the situation.
- Raise the priority of juvenile court or create a family court.
- Increase the speed of the process.

The top five recommendations to improve child protection proceedings were:

- Provide training to caseworkers in the preparation of court reports, procedures, and evidentiary requirements for adjudication and termination hearings–95% Supporting.
- Provide more information to the parents about court procedures and the consequences of not complying with judicial orders–91% Supporting.
- Prepare a judicial guidebook, with standards and procedures for these types of cases–89% Supporting.
- Provide additional training for judges–88% Supporting.
- Provide training for parents' attorney–82% Supporting.

The authors interviewed foster parents who provided a number of specific recommendations for changes in the system:

- Foster parents should have a recognized role as advocates for the child in court hearings.
- The GAL program should be strengthened, and the volunteers should be more uniformly active in their roles.
- The quality of representation for parents should be improved.

- There should be more pre-trial meetings to help the attorneys, GALs, and DSS be better prepared for court hearings.
- The hearings should be better organized.

At the conclusion of the assessment, the authors indicated that there are many options for improving court performance which merit the consideration of the Advisory Committee. They compiled the following six suggestions stating they are within reasonable resource constraints, provide benefits to more than one agency, can be implemented incrementally, and can promote collaboration among stakeholders.

1. Develop a performance-oriented court management information system which will enable individual cases to be tracked and generate the information needed to evaluate progress toward goals of efficient court operations and permanency for children. This could be done by developing short- and long-range plans, and/or by choosing one or more counties to pilot a model program to collect information necessary to measure key performance indicators and integrate the information into a single data base.
2. Support the development of local rules by disseminating model rules and providing technical assistance to conduct a process in which DSS staff, GAL staff, court clerks, judges, and attorneys negotiate local strategies to improve the efficiency and effectiveness of court operations.
3. Consider options to expand the current training initiatives, continue cross training, and provide additional training and informational materials to participants at the local level.
4. Explore methods to increase support for and accountability of attorneys who represent parents. These might include: 1) developing a system of master attorneys/mentors; 2) creating an association of attorneys who handle these cases; 3) providing training, written guidelines for experience and standards for payment; and 4) placing attorneys under contract.
5. Formalize use of pre-trial conferences and settlement procedures, including mediation, that can reduce the number of cases that are heard in open court and reduce the use of "pre-hearing hallway consent settlements." This would require clarification of the types of cases appropriate for this diversion, and the establishment of due process protections for parents.
6. Increase the priority of juvenile child protection cases within the court system by proposing changes to the statutes and administrative policies that affect these cases.

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TITLE OF REPORT

Ohio Family Court Feasibility Study Final Report, May 4, 1997, 129 pages plus extensive appendices, *Chapter 7: Ohio Court Improvement Project Findings*, pages 93-117

ASSESSMENT CONDUCTED BY

National Center for Juvenile Justice, 710 Fifth Avenue, Pittsburgh, Pennsylvania 15219-3000, (412) 227-6950, Fax (412) 227-6955

The *Ohio Family Court Feasibility Study Final Report (Feasibility Study)* was prepared by the National Center for Juvenile Justice (NCJJ), the research division of the National Council of Juvenile and Family Court Judges. The *Feasibility Study* was sponsored by the Supreme Court of Ohio, the Governor's Task Force on the Investigation and Prosecution of Child Abuse and Child Sexual Abuse Cases (Governor's Task Force), and the Ohio Department of Human Services (DHS). As part of the *Feasibility Study*, the NCJJ was asked to conduct an assessment of Ohio's juvenile court system handling of child abuse, neglect and dependency cases.

RECOMMENDATIONS

The following seven recommendations were listed on page 128 of the *Feasibility Study*:

Appendix

1. Assist local courts in developing software to track and closely monitor child abuse, neglect and dependency cases. The Hamilton County Juvenile Court has arguably the most sophisticated and efficient case tracking system for these types of cases and can be used as a prototype for the development of similar automated systems in other Ohio counties. We would, however, encourage local courts to install one automated system that will track all juvenile court case types (including delinquency and unruly cases, child abuse, neglect and dependency cases, and child custody cases).
2. To identify local juvenile courts that are having difficulties in routinely meeting time frames for completion of adjudication and initial disposition on child abuse, neglect and dependency cases and to work with these courts to address these concerns.
3. Encourage courts to initiate the necessary calendaring and case flow management steps necessary to reduce time spent waiting for hearings to commence, including limiting the stacking of multiple hearings in the same time slot and to establish and enforce firm policies on the granting of continuances.
4. Assist local efforts to expand their foster care networks to ensure that sufficient foster care options exists to provide a safe, stable and supportive foster home for all victimized children in need of such a placement.
5. Assist local efforts to identify and recruit adoptive homes for all children for whom placement on permanent custody status is appropriate, including children who are currently placed on long-term foster care status because of the unavailability of adoptive homes.
6. Expand the use of Court Appointed Special Advocates (CASAs) to all 88 Ohio counties. This may include examining the feasibility of providing statewide funding and logistical support for local CASA organizations, including at least partial state funding for local program start-up and ongoing operations.
7. Conduct a comprehensive study in selected counties, possibly in conjunction with the family court pilot sites, to determine the unmet resource needs of the juvenile court to effectively handle its child abuse, neglect and dependency caseload. This study should include an examination of the resources necessary to effectively prosecute these cases, for child protective services to serve these children and their families, and to ensure adequate representation/advocacy for all parties to these proceedings. Lastly, this study should include an examination of the service needs and the availability of services to victimized/maltreated children and their families.

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TITLE OF REPORT

Oklahoma Court Assessment Project Final Report, December 16, 1996, 81 pages

ASSESSMENT CONDUCTED BY

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RECOMMENDATIONS

Chapter 5 of the *Final Report* is the Summary of Court Assessment Project Recommendations (pages 62-67).

> *Fundamental principles underlying the recommendations include the need for courts to take a more active role in decision-making and oversight of child welfare cases and secondly, that comprehensive and timely judicial intervention is critical in assuring safe and permanent homes for Oklahoma's abused and neglected children* (page 62).

Legislative Recommendations

1. Clarify conditions for which the extension of a pre-adjudicatory custody order beyond 90 days is considered "in the best interests of the child."
2. Establishing time frames for the completion of the disposition hearing, specifically, that district courts conduct a disposition hearing on deprived cases within 30 days of adjudication at which time the court

is to closely scrutinize and approve (with modifications if necessary) the treatment and service plan.

3. Requiring the court to conduct a permanency planning hearing instead of the currently required predisposition hearing and to require that a permanent plan for the child be developed and approved at this hearing.
4. Establishing time frames for the completion of termination proceedings (no longer than 180 days with very limited provisions for extensions).
5. Possibly establishing time limits on the use of temporary foster care and to limit the use of long-term foster care as a permanent plan option.
6. Encouraging courts to more closely scrutinize Department of Human Services (DHS) case planning and service delivery. This appears to be primarily a training issue but may ultimately also require some statutory clarification of the authority of the court to specify a specific type of placement, to modify treatment and service plans, to order services other than those offered or made available by DHS, and to order a comprehensive range of interim services to children and families prior to an adjudicated finding of deprived.

Recommendations to Improve Court Handling of Deprived and Termination of Parental Rights (TPR) Cases

1. To identify district courts that are having difficulties in routinely meeting time frames for completion of the show cause hearing, filing of the deprived petition and for adjudication and to work with these courts to address these issues.
2. To encourage courts to dedicate sufficient time at the emergency show cause hearing to adequately address a range of issues related to reasonable efforts, placement options, visitation, early initiation of services, notification to parties, and any court orders that may be required (including orders for court-ordered evaluations, child support, and removal of the perpetrator from the home).
3. To make court-appointed counsel available prior to the start of the show cause and initial appearance hearings to confer with their clients and other critical parties.
4. At disposition, to encourage courts to more closely review provision of treatment and service plans including placement options, needed services, how services are to be provided, provisions for visitation,

time frames for the completion of services to correct conditions, and, as necessary, to modify the plan prior to court approval.

5. To encourage courts to take more time in review hearings to conduct an in-depth review of case progress, the continuing need for placement, placement alternatives, reasonable efforts, and any adjustments that may be necessary to the treatment and service plan.
6. To conduct thorough permanency planning hearings at which a permanency plan for the child is decided upon. To conduct a continued permanency planning hearing at two-month intervals as long as temporary placement continues with the goal of family reunification as the permanent plan.
7. To encourage courts to take the time to conduct thorough and systematic reviews of reasonable efforts at all hearing stages.
8. That the court generate comprehensive minute entries which address reasonable efforts issues, specific services to be provided to the family, how service provision is to be accomplished with specific time lines, what is required/expected of parents to remain in compliance with the treatment and service plan, and to include in these entries specific reference as to how much (or how little) case progress has been made to date. Court automation (e.g., Juvenile On-Line Tracking System [JOLTS]) may ultimately be able to assist in this regard, but this recommendation assumes that the court will take additional time at the conclusion of a hearing to verbally construct these entries.
9. To encourage courts that are experiencing delays in the completion of TPR proceedings to consider establishing procedures for the early screening of termination petitions to determine the amount of time needed to accomplish proper service/notification, to early identify if a petition is likely to be contested, and to adjust initial hearing dates and projected case flow accordingly.
10. That the Court Assessment Project (CAP) Advisory Workgroup and Administrative Office of the Courts (AOC) consider development of checklists for each hearing type to identify key decisions that the court should make, individuals who should always be present, and any additional issues that should be covered or addressed at these hearings.

Recommendations Related to Case Flow Management, Calendaring and Continuances

1. Encourage courts to calendar all hearings in a time-certain fashion and to limit the stacking of multiple hearings in the same time slot.

2. Establish and enforce firm policies on the granting of continuances.
3. Assist district courts in developing software to track and closely monitor deprived and termination case progress. Modifying the JOLTS system currently used to track delinquency cases may be feasible for counties that are currently utilizing the system.

Establishment of Training Requirements for Judges and Attorneys

1. Establish mandatory minimum initial and ongoing training requirements and a comprehensive training program for judges handling deprived and termination of parental rights cases.
2. Establish minimum qualifications and minimum initial and ongoing training requirements for attorneys appointed to represent children and parents.
3. Develop specific county-based performance requirements for court-appointed counsel similar to those in place in Davidson County (Nashville), Tennessee.
4. Conduct an assessment of and/or closely monitor the impact of recent legislation that no longer provides for the legal representation of indigent children in deprived cases through the Oklahoma Indigent Defense System and advocacy provided by these attorneys. If it appears that the quality of indigent defense in deprived cases is being eroded, to work closely with the state legislature to establish a mechanism to specifically fund such representation.
5. Establish mandatory minimum initial and ongoing training requirements for assistant district attorneys responsible for the handling of deprived and termination cases and to work with the District Attorneys' Council to establish a comprehensive set of education and training courses in juvenile law and child abuse and neglect.

CASA and PARB Recommendations

1. Examine the feasibility of providing additional statewide funding and logistical support for local CASA organizations including at least partial state funding for local program start-up and on-going operations.
2. Develop mandatory training requirements for CASA volunteers and establish a state-sponsored training and orientation program that all volunteers are required to attend.

3. Encourage closer coordination and communication between the court and local PARBs including encouraging judges to regularly meet with their local boards to discuss the reporting needs of the court and for the court to provide board members with specific feedback regarding the utility of their recommendations.

Comprehensive Assessment of the Resource Needs of the Improved System

1. Use selected pilot sites to determine resource needs of the court, DHS, District Attorney's Office, court-appointed counsel, Post-Adjudication Review Board (PARB), and Court Appointed Special Advocates (CASA).
2. Also, include in this analysis an examination of the service needs and availability of services to deprived children and their families.

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TITLE OF REPORT

Juvenile Court Improvement Project: An Assessment of the Oregon State Court System's Compliance with P.L. 96-272 and Related Laws, May 1997, 140 pages

ASSESSMENT CONDUCTED BY

Juvenile Rights Project, Inc., 123 N.E. Third St., Suite 310, Portland, Oregon 97232, (503) 232-2540, Principal Investigators: Janet Lahti, Ph.D., Angela Sherbo, Yuko Spofford, and Lynn Travis

RECOMMENDATIONS

The following summary of recommendations is found at pages vii-ix of the Executive Summary:

1. Party Presence at Juvenile Court Proceedings
   - Courts, juvenile departments, and State Offices for Services to Children and Families (SCF) should increase inquiries into the whereabouts of missing parents and better coordinate existing information regarding location of family members.
   - Courts, juvenile departments, and SCF should gain access to data from other state computer information networks through the Support Enforcement Division (SED) and law enforcement to expedite early notice for family members.
   - Courts should improve docketing procedures to allow for scheduling future appearances while parties are present in court.

- Courts, juvenile departments, and SCF should notify and encourage the attendance at hearings of all persons with knowledge about the child, including relatives, foster parents, and treatment providers.

2. Timeliness of Proceedings
   - Oregon should develop model protocols for juvenile court dependency and termination of parental rights cases, including timeliness for all stages of the process, to ensure maximum access to discovery and to promote early, negotiated settlement in all appropriate cases.
   - Local courts should develop internal processes for tracking the status of dependency and termination of parental rights petitions.
   - Access to mediation services in dependency and termination of parental rights cases should be expanded to promote pretrial resolution.

3. Completeness and Depth of Hearings
   - Methods to better inform families about SCF and juvenile court should be developed.
   - The legislature should increase judge and court resources to accommodate the need to thoroughly address all critical issues.
   - In consultation with other system participants, the courts should develop model orders that prompt judicial inquiry into important issues.
   - Courts should expand use of the Citizen Review Board (CRB) review process, particularly CRB Findings and Recommendations which inform the court of special circumstances or request particular action.
   - SCF and other agencies providing services to children and families should seek, and the legislature should fund, a core of services to be made available as appropriate for each child and family involved in abuse and neglect proceedings. Individualized services, where the core services are not appropriate or sufficient, should also be developed and funded.

4. Representation
   - Attorneys and Court Appointed Special Advocates (CASAs) should be available and appointed at the earliest possible time.
   - All parties, including the state and SCF, should be adequately represented at all stages of dependency proceedings and funding for this representation should be provided.
   - The Legislative Assembly should appropriate to the Indigent Defense Account sufficient funds to ensure compensation adequate to cover

representation at both court proceedings and CRB reviews consistent with the Oregon State Bar standards, including caseload standards.

- Retained and appointed counsel should be trained in all aspects of dependency practice.
- The CASA system should be refined, supported, expanded, and funded; the goal is full implementation of ORS 419A.170, which provides that a CASA volunteer shall be appointed in every juvenile court case involving an abused or neglected child.

5. The Juvenile Bench
   - Courts should give juvenile dependency cases highest priority in assigning current resources and in requesting additional judicial resources.
   - The Legislative Assembly should reward courts implementing "best practices" or "model courts" by providing necessary funding to continue the programs, including funds for additional judicial officers and staff if necessary.
   - Courts need technical assistance on scheduling, deployment of resources, and education of court staff. The Legislative Assembly should appropriate funds for these ongoing needs.
   - Courts should ensure continuity of judicial review by assigning a specific judge to each dependency case at the adjudication who will be responsible for review up to final disposition.
   - Increased training for judges and referees should be provided, as well as resource materials such as a Bench Book and Form Book.

The following 64 specific recommendations were made by the Juvenile Rights Project at pages 129-140 of the *Assessment*. Also in the *Assessment* is an implementation strategy designating the lead agency and resources available to meet the goals.

General

1. A joint planning group should be convened to develop a model process for providing notice and docketing dependency cases, including policy regarding identification and notification of parties, particularly fathers and tribes, and documenting notification and summons.

Identification of Parties

1. Police, SCF workers, and the courts should ask about the identity and whereabouts of absent parents early and often throughout the investigation and court proceedings and document their findings.

2. Courts should inquire of SCF, the district attorney, and other parties about efforts to identify and locate parties before proceeding.
3. Forms such as petition worksheets, reports to the court, and order templates which prompt inquiry about all potential parties (fathers and tribes, in particular) should be developed.
4. All petitions must state the name and location of every person who has legal standing as the parent or guardian of the child.

Location of Parties and Service of Initial Summons

1. Parents should sign a form containing their current addresses, contact person, and commit to notify the party who sends notice (SCF or JCT staff or Juvenile Departments) if they move. The affidavit could also acknowledge that the parents understand that the court may proceed against them by default if they fail to appear (see recommendations regarding default procedures).
2. The court and CRB should make an inquiry about any change of parents' address at each hearing or review, whether the parents are present or not.
3. Amendments to the confidentiality statutes to permit access by SCF, law enforcement agencies (LEA), Attorney General (AG), District Attorney (DA), juvenile courts, counsel, and CASAs for purpose of identification and location of parents should be considered, particularly those statutes governing the information of Law Enforcement Data System (LEDS) and Oregon Judicial Information Network (OJIN).
4. Local courts, juvenile departments and SCF should develop procedures for sharing parent location.

Notice of Subsequent Hearings

1. The court and CRB should adopt a policy and practice of setting the next hearing in open court at the close of each hearing while attorneys and parties are still present.

Default Procedures

1. Clarification of the law about the juvenile court's ability to proceed by default or in the parents' absence is needed.
2. All parents involved in juvenile court proceedings should be specifically advised of the consequences of failing to appear when summoned to court and when further proceedings are set.

Appendix

Preadjudication and Adjudication

1. Local rules for all stages of the dependency process should be developed to serve as models for other courts and for possible adoption as a court rule. Among the subjects to be covered by such model local rules are:
   a. Policies requiring formal continuance or dismissal of dependency petitions where parties agree that families will be offered services without adjudication.
   b. Policies requiring that service agreements accompany requests for dismissal or continuance that are premised on voluntary compliance with services.
   c. Policies requiring that orders dismissing cases prior to adjudication should reflect the specific reason for the dismissal rather than simply reciting that dismissal is "in the best interest of the child."
   d. Policies requiring time lines for discovery, first appearance and time for adjudication.
2. Mechanisms, including tickler systems, should be adopted to ensure that cases are heard in a timely fashion, including cases which have not been adjudicated.
3. Orders dismissing cases or adjudicating children should contain a statement of the reasons for the action and, if premised on an agreement between the parties, should incorporate the agreement.
4. A joint planning group should be convened to develop model settlement devices and procedures which could become part of the practice in each county. Among issues to be addressed are drafting petitions and stipulations which: a) are sufficient for jurisdictional purposes; b) permit the court and agency necessary latitude under ORS 419–to design case plan; and c) acknowledge SCF's strength/needs-based service planning. Settlement procedure could become part of the Bench Book.
5. A cross-disciplinary group should be convened to develop protocols for handling juvenile and criminal cases involving the same family, including expediting the criminal cases, using immunity, assigning the same deputy district attorney to both cases and other mechanisms to assure that the child's need for safety and permanency is considered.

Termination of Parental Rights Proceedings

1. SCF and other agencies providing services to children and families should seek and the legislature should fund core services and sufficient

resources to create individualized services where the core services are not appropriate or sufficient, which will be available for children and families involved in dependency proceedings.

2. Early pre-trial conferences should be established in every termination of parental rights case.
3. The court and SCF should work together to establish and expand the availability of mediation in termination of parental rights cases.
4. To decrease the amount of time spent between the termination of parental rights decision and order, the Attorney General's office, working with the State Court Administrator, should standardize the procedure for drafting and circulating orders.
5. ORS 419B.521(3) should be amended to require termination of parental rights hearings to be held within four months after the petition is filed.

Early Proceedings

1. Judicial resources should be increased to accommodate preliminary hearings in which all critical issues are thoroughly addressed. The issues include:
   -the child's placement
   (Can he or she safely be placed at home, with relatives or with someone else known to the child or must the child be placed in foster care or other state placement?);
   -visitation with parents and, where applicable, with siblings
   (Has the state made reasonable efforts to avoid placement or to facilitate return? Does or might the Indian Child Welfare Act apply? Has everyone entitled to notice been notified and specifically, who is the legal father of each child?);
   -whether any treatment or evaluations are needed immediately; and
   -is each person entitled to counsel represented?
2. Model preliminary hearing orders should be developed which prompt judicial inquiry into the recommended issues described above.
3. There should be increased use of the rehearing or motion process to bring current information to the court's attention after the preliminary hearing.
4. Settlement proceedings should be scheduled at the shelter hearing in virtually every case.

Appendix

CRB Reviews

1. Court and CRB in each county should continue a dialogue about the frequency of review and the division of responsibility for reviews. Written protocols or memoranda of understanding should be fully implemented.
2. SCF workers, CRB coordinators, and volunteers should participate in joint training and other activities to increase cooperation and understanding of their respective roles and responsibilities.
3. CRB should increase the use of information available to it (including information on prior uninvestigated referrals) to affect systems change at a policy/legislative level.
4. There should be expanded use of the portion of the CRB Findings and Recommendations which informs the court of special circumstances or requests particular action.

Training

1. Training should be provided to all participants in juvenile dependency matters and should be adapted to the needs of each group. Opportunities for interdisciplinary training within counties should also be provided. Among the topics which might be considered are:
   -substance abuse and resources for substance abusing families;
   -cultural and ethnic differences as they relate to child rearing;
   -government benefits available in dependency cases;
   -independent living programs;
   -emancipation laws and programs;
   -family preservation services;
   -resources for the diagnosis and treatment of sexual abuse, physical abuse, and emotional abuse;
   -patterns of child growth as related to neglect; resources for the treatment and recognition of non-organic failure to thrive;
   -educational, mental health, and other resources for special needs children;
   -the use and appropriateness of psychotropic drugs for children;
   -domestic violence, its effect on children, and appropriate resources;
   -immigration law issues in juvenile court;
   -transitional aspects of placement and the child's return home;
   -the importance of placing siblings together when appropriate;
   -the appropriateness of various types of placement;
   -the effect of the placement on the service needs of the child;
   -accessing private insurance for services;

-consolidated cases in the family court;
-the Indian Child Welfare Act, Native American families, and appropriate resources;
-the Uniform Child Custody Jurisdiction Act (UCCJA);
-the Parental Kidnaping Protection Act;
-the Interstate Compact for the Placement of Children;
-the Interstate Compact on Juveniles;
-guardianships;
-adoption placement preferences;
-the identification, location, and notification of necessary parties (especially fathers and tribes) to juvenile dependency proceedings;
-extraordinary expenses and division of responsibility and funding between SCF and Indigent Defense Service Account for evaluation and treatment;
-extreme conduct;
-explanation of the proceedings;
-concurrent planning; and
-availability and effectiveness of services.

2. Training for para-professionals assisting attorneys in dependency cases should be developed.
3. Practical training opportunities for lawyers and judges including bench exchanges and mentoring should be encouraged.

Adoption Assistance & Child Welfare Act of 1980

1. Juvenile judges should have "checklist" style reference materials to ensure that adequate inquiry into reasonable efforts occurs at each stage of the proceeding.
2. Form orders should be reformatted to include clear, thorough direction for making a meaningful reasonable efforts inquiry at each stage of the proceeding.
3. SCF workers should provide the court with a report documenting specific reasonable efforts at each stage of proceeding.
4. Training and consultation on reasonable efforts should be provided statewide.
5. SCF and other agencies providing services to children and families should seek and the legislature should fund the core services and sufficient resources to create individualized services where the core services are not appropriate or sufficient which will be available for each parent before the court.

Appendix

Indian Child Welfare Act (ICWA)

1. There should be clarification of treatment of cases where ICWA applicability is pending.
2. Form orders should be reformatted to include clear, thorough direction for making a meaningful ICWA inquiry at each stage of the proceeding.
3. Juvenile judges should have clear "checklist" reference materials to ensure that adequate inquiry into ICWA issues occur at each stage of the proceeding.
4. Training and consultation on ICWA issues should be provided statewide.

Notice of Rights, Including Right to Counsel

1. A variety of methods for informing families about the SCF and juvenile court process should be developed. These might include an 800 telephone line, advice of rights brochures distributed to parents and guardians by SCF and law enforcement whenever a child is taken into custody. Each of these methods should be tailored to local circumstance and contain information about court times, agency phone numbers, etc. Information about right to counsel, rehearings, ICWA, and reasonable efforts should be included.

Attorney and CASA Availability at Preliminary Hearings

1. Attorneys should be available and appointed for all eligible parties at the earliest possible time (usually the preliminary hearing).
2. CASAs should be available and appointed at preliminary hearings to the extent that resources allow, based on priorities set at local level.
3. Courts should coordinate with court-appointed attorneys to ensure presence at preliminary hearings.

Attorney Activities

1. Attorney compensation should be adequate to cover both court and CRB attendance and the out-of-court activities identified in national and state standards as necessary for adequate representation of parents and children in dependency cases.
2. Attorneys should adhere to Oregon State Bar standards.
3. Counsel should not accept caseloads that by reason of excessive size and/or complexity interfere with the provision of quality representation.
4. Attorneys should be trained about all aspects of dependency practice.

5. The Indigent Defense Fund should be adequately funded to implement these recommendations.
6. The roles of the District Attorney and Attorney General in dependency cases must be clarified and protocols for SCF/DA/AG relationship and representation on a county by county basis should be developed.
7. Representation for the prosecution function in dependency cases (whether provided by the Attorney General's office or the District Attorney's) should be adequately funded. SCF needs adequate General Counsel time to effectively represent the agency's position, consistent with the clarification of roles discussed above.
8. There should be some representation for the state at post-adjudicatory proceedings.
9. The Oregon Commission on Children and Families (OCCF) should seek adequate funding in order that the statewide CASA system be refined, supported, expanded, and funded with the goal of full implementation of ORS 419A.170 which provides that a CASA shall be appointed in every juvenile court case involving an abused or neglected child.
10. CASA program staff and volunteers should be trained about all aspects of dependency practice.

Judicial Resources

1. Juvenile dependency cases should be given highest priority and their number appropriately weighted when decisions are made about additional judicial resources.
2. Courts implementing "best practices" or "model courts" should be provided adequate funding, including funds for additional judicial officers, if necessary.
3. Each county should receive technical assistance and advice on establishing a priority for juvenile cases. This will involve scheduling and docketing practices, deployment of judicial and support resources, and education of the court and staff.
4. Each county should strive to ensure continuity of judicial review by assigning a specific judge to each dependency case at the adjudication. This judge will be responsible for review (including review of the CRB report) up to the point of final disposition, except termination of parental rights cases where there is objection. The issue of family courts should be referred to the HJR55 committee.

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TITLE OF REPORT

Child Protection Cases in the Rhode Island Family Court, copyright 1995, American Bar Association (ABA), 66 pages

In 1994, the Family Court asked the National Center for State Courts to evaluate its operations. The study received support from the judicial, legislative, and executive branches of government. The results of the study were published in the *Rhode Island Family Court Assessment Final Report* in September 1995. "Child Protection Cases in the Rhode Island Family Court," included in the *Final Report* as Chapter 7, contains the necessary requirements of the Federal Court Improvement Program assessment of child dependency, abuse and neglect, and adoption cases.

ASSESSMENT CONDUCTED BY

Mark Hardin, ABA Center on Children and the Law, Washington, D.C.

RECOMMENDATIONS

Specific recommendations follow each topic area. The following is a summary list of recommendations found at page 65.

1. Convert the court to strict individual calendars for child protection cases.
2. Make judicial assignments to the child protection calendar last for at least two years and allow assignment to be extended.
3. Assign clerical staff to help manage the individual calendars.
4. Schedule hearings for more specific times and impose strict caseflow management techniques.
5. Develop court rules and practice guidelines to redefine how court hearings are to be conducted using the *RESOURCE GUIDELINES* and the ABA Court Rules to Achieve Permanency for Foster Children.
6. When children are removed from home during emergencies, consolidate early hearings and set them earlier.
7. Provide more time for arraignments, and ensure that parents are consistently represented.
8. Provide at least two public defenders for each judge handling child protection cases.
9. Make changes in the Office of the Court Appointed Special Advocate, including major expansion of the recruitment and use of volunteers, with a goal of a volunteer advocate for each child.
10. Review hiring practices for Department attorneys, strengthen training for Department attorneys, and improve their clerical, paralegal and computer supports.
11. Increase judge time throughout the system to the extent needed to provide more effective hearings, particularly for reviews and dispositions, and to ensure that contested matters are disposed of within reasonable time periods.
12. Create regular administrative contacts between the Family Court and the Department at all administrative levels.
13. Enforce stricter obligations for the filing of Department case plans and reports in advance of court hearings.
14. Enforce the rights of foster parents by requiring proof of written notice to foster parents of hearing dates, asking whether foster parents are present, and inviting foster parents to speak at court hearings (particularly review and dispositional hearings).
15. Strengthen grievance procedures for foster parents, including protection from retaliation.
16. Provide intensive training for judges in the handling of child protection proceedings.
17. Make the routine assessment and collection of child support a regular part of child protection proceedings.

TEXAS

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TITLE OF REPORT

Texas Supreme Court Task Force on Foster Care Court Assessment Final Report, November 9, 1996, 75 pages

ASSESSMENT CONDUCTED BY

Deloitte & Touche Consulting Group

RECOMMENDATIONS

Recommendations for improving the process are at pages 40-52 of the above-cited report. A summary of proposed recommendations is located on page 42.

> *To create real and lasting change in the judicial process requires changes affecting people, infrastructure, and technology.* Page 41

Technology

(1) Expand use of information technology in court by installing software and updated hardware to assist courts in effectively managing cases.

People

(1) Expand utilization of associate and visiting judges.
(2) Improve judicial training in child protective system (CPS) cases, including associate and visiting judges.

(3) Improve quality of legal representation, prosecuting attorneys, and guardians *ad litem*.
(4) Expand use of Court Appointed Special Advocates (CASA) and other advocacy organizations.

Infrastructure

(1) Statutorily limit the time a child can spend in temporary foster care
  (A) Amend the statute to require the first six-month judicial review hearing to be a permanency hearing.
  (B) Amend statute to limit the time a child can remain in temporary managing conservatorship with goal of reunification.
  (C) Amend statute to establish 12-month time limit on temporary managing conservatorship, with allowance for three-month extension for good cause.
(2) Improve judicial control and commitment to managing cases to timely and effective resolution.
(3) Implement caseflow management principles in all courts.
(4) Promote stronger internal and external communications.
(5) Expand use of programs to encourage settlement without contested litigation.

The implementation planning process, including prioritized recommendations with Task Force assignments and funding requirements is contained on pages 53-67. Year One Implementation Priorities include:

1. Accelerate permanency through the introduction of a 6 month permanency planning hearing and a 12 month limit on temporary managing conservatorship.
  1a. Recommend amending statute to require the first six month judicial review hearing to be a permanency planning hearing.
  1b. Recommend amending statute to limit the time a child can remain in temporary foster custody with goal of reunification.
  1c. Recommend amending statute to establish 12-month time limit on temporary managing conservatorship, with allowance for three-month extensions upon good cause.

The Task Force will build support among the: Department of Protective and Regulatory Services (DPRS), State Bar Child Abuse Committee, Sunset Advisory

Commission, Texas Performance Review, Governor's Adoption Committee, Texans Care for Children, Foster Parent Association, Texas Council of Child Welfare Boards, and others.

2. Improve judicial training for judges and associate judges in CPS cases. The Task Force will:
    - Request the Texas Center for the Judiciary to submit a cost estimate and work plan for the development and delivery of training and provision of subsequent technical assistance.
    - Assign a committee to work with the Texas Center for the Judiciary to develop a training plan.
    - Recommend amending appointment statute to require associate judges to participate in training related to CPS cases.

3. Expand use of associate and visiting judges presiding over CPS cases. The Task Force will:
    - Request administrative judges on Task Force to facilitate discussion with administrative judges across the state to identify interest level.
    - Develop criteria to determine the need for associate and visiting judges.
    - Develop materials for supporting courts in establishing associate or visiting judge positions.
    - Develop a request for proposals process (RFP) requesting proposals from interested administrative judges.

4. Expand the use of technology in the court system. The Task Force will:
    - Work with DPRS to coordinate data requirements and share relevant DPRS data with courts.
    - Contact the Texas Commission on Judicial Efficiency Technology Task Force and coordinate activities, when applicable, in order to prevent duplication of existing technology efforts.
    - Research court technology initiatives implemented nationally and alternative software programs available to improve the effectiveness of courts in handling CPS cases.
    - Develop a request for information to identify preliminary interest in technology-related initiatives by courts hearing CPS cases.
    - Based on the research of the Task Force and the interests of courts, identify technology funding priorities and RFP criteria.

5. Implement case flow management principles in all courts. The Task Force will:
    - Identify "best case management practices" relevant to alternative size and type of court jurisdiction.
    - Solicit requests for proposals to provide financial assistance to courts in order to assist in the implementation of best or innovative practices.

The following activities were to be implemented as feasible in Year One:

- Develop listing of all judges and associate judges that currently hear CPS cases, and identify method to update and maintain listing.
- Promote internal and external communications through newsletter, judicial exchange programs, recognition programs, routine meetings, and training opportunities.
- Educate courts and county and district attorneys regarding potential opportunities to draw down Title IV-E federal funds to reimburse attorneys representing DPRS.
- Establish a recommended orientation agenda for courts to use to train new prosecuting and *ad litem* attorneys handling CPS cases.
- Provide courts with guidelines for improving the appointment practices and performance of attorneys *ad litem* and promote implementation.
- Conduct a study of selected courts to evaluate the fiscal impact of the CASA program on court costs.

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TITLE OF REPORT

The Vermont State Initiative on Protecting Abused and Neglected Children, submitted to the Vermont Supreme Court August, 1997, 40 pages

ASSESSMENT CONDUCTED BY

The Vermont Supreme Court formed an Advisory Committee chaired by Associate Justice James L. Morse. The Committee included representatives of the court, the legislature, the Governor's Office, the Department of Social and Rehabilitative Services (SRS), private provider agencies, State's Attorneys and Public Defenders, the Attorney General and Defender General, attorneys who regularly practice in the area of child abuse and neglect, representatives of child advocacy organizations, medical professionals, members of the academic community, foster parents, guardians *ad litem*, community members, and parents and children involved in child abuse and neglect hearings. A representative of the Office of the Court Administrator acted as Project Director.

The Committee contracted with the National Center for State Courts (NCSC), to conduct the initial assessment and to make recommendations for reform. The NCSC subcontracted with the University of Southern Maine, Edmund S. Muskie Institute of Public Affairs to perform the technical aspects of the assessment. An Executive Steering Committee formed from the larger Committee worked with the contractors and maintained oversight of the project.

RECOMMENDATIONS

While the Advisory Committee acknowledged the work of the NCSC and the Muskie Institute on the *Vermont State Initiative,* the committee retained leadership and ownership of the recommendations. In the Introduction at page 8, Committee members state their overarching goal:

> *For children who cannot return home, it is exceptional for the process to result in permanence within two years after a child comes into the custody of the State. Our goal is to make it exceptional for the wait to be more than two years.*

Five key changes were identified that make the goal possible:

- Shorter times from State custody to permanency;
- Exploration and possible creation of alternative permanency planning; options;
- Increased professional competency;
- Adequate staffing;
- Ongoing measurement of performance and progress.

Each section of the Recommendations sets out a key change, the goal to be achieved, a rationale for the goal and steps to take to achieve the goal. Each section also contains a time frame for the steps.

Timeliness/Recommendations 1-18

Goal: The Vermont court system will make decisions for abused and neglected children in a timely fashion, with decisions concerning permanent placement made as soon as the particular facts of a case permit. Changes in the law will be made to expedite the decision-making process. The time it takes to bring abused or neglected children from initial entry into State custody to permanency will be significantly reduced.

Alternatives to Termination of Parental Rights Litigation and Alternative Permanency Options/Recommendations 19 and 20

Goal: Vermont law will allow the Family Court to use a wider variety of options of permanent placement of children, such options to be used as may be appropriate to meet the special needs of special cases. Alternative dispute resolution and social work methods of case resolution will be explored.

Appendix

Professional Competency/Recommendations 21-25
Goal: All professionals involved in child abuse and neglect proceedings will be competent and diligent in their pursuit of permanency for children.

Staffing/Recommendations 26-29
Goal: Optimal staff levels will be explored and achieved.

Performance and Progress/Recommendations 30-36
Goal: Performance regarding timeliness, progress and quality will be accurately measured and monitored.

The Summary of Recommendations (pages 10-13) contains the following 36 items:

1. The judiciary should manage and provide adequate judicial resources in child abuse-neglect cases.
2. Those responsible for enforcing the timeliness set by statute and by court-approved case plan should be accountable.
3. The courts should utilize assignment methods that allow for a single judge to hear all stages of child abuse and neglect proceedings, through initial disposition.
4. Time certain scheduling should be conducted in all child abuse and neglect cases to allow for full and complete hearings at a known and predictable time. Adequate time should be allotted to make findings and decisions immediately following the hearing.
5. Continuances should only be granted upon a finding that the continuance is in the best interest of the child.
6. The confidentiality of proceedings should be maintained which, in many courthouses, may mean discontinuing the practice of block scheduling child abuse and neglect matters.
7. The Court Administrator and the Secretary of the Agency of Human Services should advocate for additional resources where needed. This may include, but is not limited to, intervention and treatment services, ad hoc counsel, and staffing.
8. The Family Court and the Department of SRS should jointly develop clear and specific diligent-search procedures for missing or absent biological and legal parents. The Court and the Department should also jointly develop procedures to ensure that the Indian Child Welfare Act is properly addressed.
9. Vermont Rule of Family Procedure 2 (the preliminary hearing) should be expanded to address case management issues concerning the future of the case and to explore alternatives to litigation. Vermont Rule of Family Procedure 2 should be expanded to include the recommendations of the *RESOURCE*

GUIDELINES and a standard judicial checklist should be developed for these hearings.

10. Time goals for completion of certain events in the court process should be established and should be specific.
11. At the dispositional hearing, where the case plan is reunification, emphasis should be on laying out strategies and expectations of parents and other parties to achieve reunification.
12. The provisions for earlier initial review detailed in 33 V.S.A. Section 5531 should be used in situations where the child is young and adequate progress has not been made.
13. The statute requiring eighteen-month review hearings should be amended to require an initial permanency planning hearing, as described in the National Council of Juvenile and Family Court Judges' *RESOURCE GUIDELINES*, within twelve months of the child coming into custody. Subsequent reviews should be held every twelve months thereafter until permanency is achieved.
14. The purposes and content of permanency planning hearings should be clearly outlined by the Vermont Supreme Court.
15. Concurrent planning as a means of expediting the permanency process should be explored. Further recommendations as to the feasibility, desirability, and methodology of implementing this approach should be investigated.
16. The provisions for earlier filing of termination of parental rights (TPR) petitions detailed in 33 V.S.A. Section 5532(a) should be used in situations where the child is young and adequate progress has not been made.
17. The judge should conduct a pre-trial conference for every TPR case.
18. The overall appeals process should be shortened so that the time from notice of appeal to decision should be no greater than four months in 95% of the cases.
19. A variety of alternative dispute resolution options in child abuse-neglect and TPR cases should be explored and implemented on an experimental basis.
20. Options of cooperative adoption and guardianship, including subsidized guardianship, should be explored and implemented on a pilot basis, and evaluated to determine whether they accelerate early decisions, post-adoption litigation, and beneficial post-adoption contact.
21. The Vermont Supreme Court, in collaboration with the Bar, the Department of SRS, and service providers, should develop an abuse-neglect curriculum.
22. Judges, attorneys, guardians *ad litem*, and SRS social workers should be trained in permanency and related issues before appointment to child abuse and neglect cases.

23. The Vermont Supreme Court should develop an orientation guide/training (videotape, audiotape, pamphlets) for parents and children to better understand permanency and the court process.
24. Attorneys representing parents should train and orient parents to the court process upon assignment.
25. While it is acknowledged that every attorney has an ethical obligation to his/her client, every attempt should be made to reach resolution in a nonadversarial way.
26. Data collected in the Vermont courts by the National Center for State Courts should be reviewed and additional data collected as needed to determine current levels of staffing in child abuse and neglect matters.
27. The Supreme Court should explore the creation of a case manager position, similar to the case manager positions which have been implemented in the divorce and child support dockets to enhance caseflow.
28. All parties should be represented by attorneys with specialized interest and training in child in need of care and supervision matters.
29. Alternatives for representation of SRS must be instituted to insure that a partnership between the social worker and their representative exists from before the case is filed until the conclusion of the case.
30. Enhanced models of technology (management information systems) should be explored.
31. In the interim, full use should be made of existing court technology capability, and protocols should be developed to ensure that all the useful fields in the data base are kept up to date for every abuse and neglect case.
32. In concert with court improvement programs in adjoining states, a tri-state analysis should be conducted with the sister states of Maine and New Hampshire to identify areas of common experience, to share information, and to establish common efforts in the area of permanency planning.
33. The Vermont Supreme Court and the Department of SRS, working with an advisory panel of experts, should establish a joint outcome study for follow-up on all abused and neglected children who were discharged from custody in the last five years.
34. A multi-court model court project should be instituted on both the trial court and appellate levels to initially implement many of the recommendations outlined in this report. An outcome study should be implemented to measure the success of the project.
35. A part-time Project Coordinator should be hired to work on the implementation phase of the project. The Committee also recommends that an Implementation Committee be formed.
36. The Court Administrator's Office should coordinate a detailed, inter-agency cost benefit analysis of the implementation of all recommendations.

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TITLE OF REPORT

Report of the Advisory Committee for the Virginia Court Improvement Program-Foster Care and Adoption, 1995-1996 Assessment, December 1966, 66 pages, plus extensive appendices

ASSESSMENT CONDUCTED BY

Advisory Committee for the Court Improvement Program - Foster Care and Adoption. This 16-member group included judges and a clerk from juvenile and domestic relations district courts, directors of a juvenile court service unit and of a Court Appointed Special Advocates (CASA) program, personnel from local social services agencies and from the Virginia Department of Social Services, representative of a private non-profit child welfare agency, a foster parent, guardian *ad litem*, Senior Assistant Attorney General, and a law professor with expertise in child welfare law.

RECOMMENDATIONS

A statement of the Program Goal is found at page ii of the *Report*:

> *It is the goal of the Court Improvement Program to improve the court's processing of child abuse and neglect and foster care cases. The objective of this improvement is to reduce the amount of time children spend in foster care and to achieve permanency for every child who enters the foster care system as early as possible, but no later than two years from the child's initial placement in foster care.*

Appendix

The following seven major recommendations are set out at pages 60-66 of the *Report*.

1. The *Virginia District Courts Manual* should be amended to include uniform, specific procedures to govern and guide the processing and disposition of child abuse and neglect and foster care cases in juvenile and domestic relations district courts. These procedures should address at a minimum the following:
   A. Duties of the Juvenile Court Clerk's Office upon the filing of a child abuse and neglect petition and for the subsequently required proceedings, particularly with reference to notification of parties, legal counsel, and CASA, and the docketing and monitoring of timely hearings.
   B. Key decisions the court should make at each stage of the proceedings, including what is expected of the lawyers for the children and other parties before the court in arriving at these decisions and guidance for the content and issuance of the court's orders in these cases.
   C. References to the appropriate forms, *Rules of the Supreme Court of Virginia*, and statutory authority governing the various stages of the proceedings.

2. The statutes governing the filings of petitions concerning abused and neglected children, their subsequent placement in foster care, the court's monitoring of all children in the foster care system, and termination of residual parental rights and responsibilities should be reviewed to clarify and strengthen the following legal requirements:
   A. Provisions for notice, legal representation and involvement of parents in the court process.
   B. Adjudicatory process governing child abuse and neglect petitions.
   C. Dispositions available to the court in a proceeding for a preliminary removal order and preliminary protective order.
   D. Provision for a specifically designated permanency planning hearing apart from foster care review hearings.
   E. Time lines applicable to termination of parental rights proceedings.

   These and other statutory proposals necessary to promote the goal of this program and the development of uniform procedures should be recommended to the Judicial Council of Virginia and the General Assembly of Virginia.

3. Improved calendar management and docketing procedures should be implemented in juvenile and domestic relations district courts to facilitate

handling of child abuse and neglect and foster care cases in a timely, efficient and effective manner and to achieve permanency for children before the courts.

4. The court's management information system should be revised to track child abuse and neglect and foster care cases and interface with information being collected by the Virginia Department of Social Services in order to support the development of judicial policy and overall case decision-making.

5. Training should be provided to juvenile court judges and clerks, guardian *ad litem* and social service personnel on the law, procedures, court management and philosophy governing the effective handling of child abuse and neglect and foster care cases. This training should include regional conferences throughout the Commonwealth during 1997 and the development of ongoing training opportunities for future years.

6. The availability and competency of legal representation for children, parents and local departments of social services who are before the juvenile courts in child abuse and neglect and foster care cases should be improved through the timing of appointments of counsel by the court, training programs for lawyers and the allocation of additional resources to fund adequate legal services, especially for local social services agencies.

7. The placement with relatives by local social services agencies of children who are suspected of being abused or neglected without the oversight of the juvenile court should be reviewed to determine if court monitoring of these placements would promote achieving better safety and permanence for these at-risk children.

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TITLE OF REPORT

Washington Juvenile Court Improvement Project Final Report, June 1996, 49 pages plus appendices

ASSESSMENT CONDUCTED BY

National Center for State Courts, Court Services Division, 1331 Seventeenth Street, Suite 402, Denver, Colorado 80202, (303) 293-3063

The Washington Supreme Court delegated authority to conduct the assessment to the Office of the Administrator for the Courts (OAC). An advisory committee including representatives of the courts, the Division of Child and Family Services, Court Appointed Special Advocates (CASA), citizen review boards, Guardian *ad Litem* (GAL) programs, and other groups was appointed to oversee the assessment and improvement planning. The National Center for State Courts was hired by the OAC to perform technical aspects of the assessment.

RECOMMENDATIONS

The following 16 recommendations are listed on pages 5-7 of the *Final Report*. Throughout the report, recommendations are listed after pertinent topic areas.

Judicial Assignment, Calendars, Selection and Training
- Judicial Assignment and Calendar Methods/Recommendations 1, 2 and 3
- Judicial Selection and Training/Recommendations 4 and 5
- Clerical Staff and Physical Court Resources/Recommendation 6

Scheduling and Hearing Characteristics
- Wait Time/Recommendations 7, 8 and 9
- Continuances/Recommendation 10

Non-Court Reviews
- Recommendation 11

Case Processing Times, Permanency Planning, Termination of Parental Rights, Alternative Dispute Resolution (ADR) and Differentiated Caseflow Management (DCM)
- Recommendations 12 and 13

Advocacy in Child Protection Actions, Compliance with the Indian Child Welfare Act (ICWA), and Court and Agency Relations
- Advocacy/Recommendation 14
- Compliance with ICWA/Recommendation 15
- Court and Division of Child and Family Services (DCFS) Relationship and Cooperation/Recommendation 16

1. In accordance with the *RESOURCE GUIDELINES* and American Bar Association recommendations, the Superior Courts should strive for a case assignment system that would allow the same judge to hear all phases of a case. In courts where judges rotate to other assignments, judge assignments should be for a minimum of two years, and preferably three years before rotation of assignments.
2. The OAC should conduct a further examination of the adequacy of judicial resources, including calculation of current caseload levels for judges handling the dependency caseload.
3. In determining appropriate judicial staffing levels, the OAC should consider any modifications based on recommendations by the advisory committee for this court improvement project.
4. The judicial selection process should seek out specialists for cases involving family and children's issues and the law. The court should make prior experience in child protective or other closely related actions a critical selection criterion for juvenile court commissioners.

5. In addition to initial training at the time that judges are first assigned a dependency caseload, the court should provide ongoing training in dependency issues for all judges hearing such cases.
6. Continuous upgrades and improvements are being made to the courts' automated information systems by staff at the OAC. If the OAC is not already working on improved caseflow management reports for dependency cases, priority in improvement planning should be given to the development of data entry and reporting protocols for these cases. The goal should be a system capable of accurate, timely, and useful automated reporting for the caseload.
7. All longer contested hearings and trials should be set for times certain. Shorter hearings and those likely to settle should be scheduled for times certain or short block settings. A standard time allocation should be established for review.
8. All courts should have a consistent policy requiring counsel to discuss settlement and exchange trial related information shortly before the hearing date, either informally or through a formal pretrial conference.
9. Courts should develop and vigorously enforce a rule requiring the advance filing of all hearing related documents.
10. Courts should adopt rules and procedures for granting and denying continuances. Further study of the reasons for continuances of dependency actions should be conducted.
11. Careful coordination of the court, citizen review board and administrative review processes should be undertaken.
12. The early stages of dependency case processing should be reviewed to eliminate any unnecessary time in the case process.
13. Increased ethnic and diversity awareness should be incorporated into improvements in alternative resolution techniques.
14. High quality representation for all parties by well-trained and experienced advocates should be a priority goal.
15. Juvenile court should be ensuring the Department is following ICWA requirement.
16. Joint training, along with regular meetings between judges, court staff, agency personnel, and members of the bar should be instituted under court leadership.

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TITLE OF REPORT

Court Performance in Child Abuse and Neglect Cases: Assessment Report and Improvement Plan, July 18, 1996, 77 pages plus appendices–total 97 pages

ASSESSMENT CONDUCTED BY

The Court Improvement Oversight Board itself with the assistance of West Virginia University Research Center, four law student research assistants, and the Oversight Board reporter

RECOMMENDATIONS

Recommendations for improvement are found throughout the text of the *Improvement Plan* following assessment areas.

Recommendations for Improvement in Leadership, Management and Review:

- A statewide set of rules is needed for all aspects of abuse and neglect cases, including rules for court reviews, to promote uniform and effective use of judicial oversight and the Multidisciplinary Team (MDT) process.
- Clear guides for each stage and each role in abuse and neglect cases, together with time frames for completion, should be provided to judges, as well as other participants, in order to encourage active court leadership and direction, as well as appropriate coordination of efforts.
- Training should be provided to all judges specifically addressing: a) goals and law in abuse and neglect cases; b) caseflow management

techniques; and c) effective active case inquiry (rather than passive control) and appropriate use of the MDT review process.

- A state Oversight Committee should be established to provide a monitoring, referral and enforcement mechanism for local MDTs.
- Assistance should be provided to judges and support staff regarding the recently adopted "Protocol for Reporting and Monitoring the Status of Child Abuse and Neglect Cases," and for monitoring/enforcement of its requirements.
- Supplementary to the protocol efforts, as part of follow-up assessment, the Oversight Board should conduct periodic case file audits of active and closed cases to monitor whether orders are being entered and whether cases are being removed from dockets only once the child(ren)'s permanency is achieved.

Recommendations for Improvement in Case Plans:

- Judicial training should emphasize: a) the need to implement case management techniques to assure that case plans are timely filed in all cases where required; b) the essential need for MDT participation (as required by statute) in case plan development; and c) what to look for in case plans.
- Standard form orders setting case time frames should include a provision directing the filing of the child case plan at least five days prior to the dispositional hearing; and standard form orders granting improvement periods should direct the agency to convene an MDT within 20 days to assist in formulating the family case plan and to file the family case plan within 30 days following the entry of the order.
- Training should be provided to Department of Health and Human Resources (DHHR) caseworkers regarding proper development and appropriate use of case plans. Thereafter, follow-up assessments in a subsequent period of the Court Improvement Program should include case file reviews to ascertain whether filing, timeliness, format and content problems have been remedied by the new DHHR case plan policy and forms (and other measures outlined above which are intended to remedy these problems).
- Included in the DHHR policy and forms should be either a required standard certificate of mailing or form letter to be filed with every case plan, which indicates who received copies of the case plan.

Recommended Improvements in Advocacy:

- By statute, court decision or procedural rule the representation role of prosecutors in abuse and neglect cases should be defined, as well as the right of the petitioner to be represented by counsel and, if so, by whom.
- Training for lawyers in the law of child maltreatment and unique requirements for advocacy in abuse and neglect cases should be developed and made available statewide.
- Law school courses and pro-bono clinic programs relating to abuse and neglect cases should be developed and offered.
- To increase the "pool" of attorneys willing to accept abuse and neglect appointments, incentives should be created (e.g., trade-offs by excusing from criminal appointments).
- Expansion of the attorney "pool" as well as proficiency could also be encouraged through development of peer support lists and mentoring programs.
- To encourage and facilitate expansion of the Court Appointed Special Advocates (CASA) program statewide, a) judges and attorneys should be offered training in accepting and effectively working with CASA volunteers and assisting CASA programs; b) the Supreme Court should promulgate a set of uniform rules for CASA, which will recognize and legitimate standing for CASA; c) legislation establishing the development of CASA programs across the state, including funding, should be encouraged; d) the West Virginia CASA Network should be encouraged to develop its own strong state organization with state CASA standards and monitoring for quality assurance; and e) CASA volunteers and program staff should be offered an annual training conference to improve their ability to be effective advocates.

Recommendations for Improvement of Court Orders:

- Provide training on the preparation and use of standard form orders with individualized findings -- particularly to prosecutors, who typically prepare most of the court orders in abuse and neglect cases.
- Comprehensively expand the set of standard form orders for distribution in both printed form and on computer diskette, to all: a) judges; b) prosecutors; c) attorneys; and d) circuit clerks, as well as for training.
- Since what (and how much) constitutes "reasonable efforts" is not specifically defined under federal or state law, training for judges in particular (but also for other participants) should provide commonly accepted definitions and examples.

For additional copies of this *Technical Assistance Bulletin*, please contact the Technical Assistance Group at the Permanency Planning for Children Project, National Council of Juvenile and Family Court Judges: (702) 327-5300; FAX (702) 327-5306; tadesk@pppncjfcj.org Overhead transparencies of the tables and charts contained in this publication are available at a nominal cost.

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