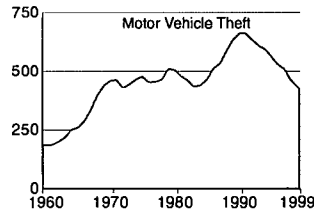
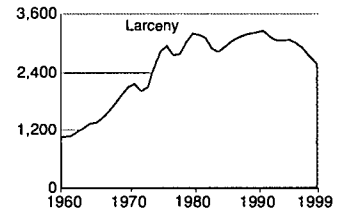
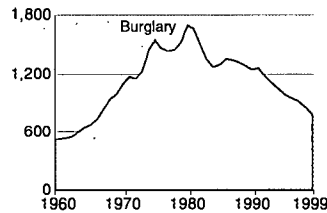
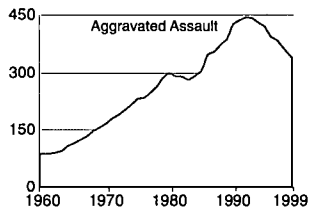
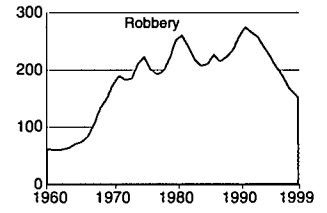
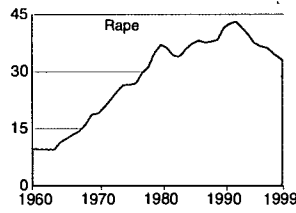
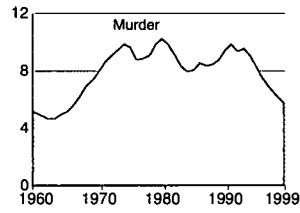




# Examining the Work of State Courts, 1999-2000

## A National Perspective from the Court Statistics Project

Crimes per 100,000 persons



KF  
180  
.C74A  
1999-  
2000

PERIODICAL

KF  
186  
C 74a  
1999-2000  
c. 2

*Examining the Work of State Courts, 1999-2000*  
*A National Perspective from the Court Statistics Project*

Edited by  
Brian J. Ostrom  
Neal B. Kauder  
Robert C. LaFountain

Court Statistics Project Staff and Contributors

Brian J. Ostrom, Director  
Fred Cheesman, Court Research Associate  
Thomas H. Cohen, Court Research Associate  
Carol R. Flango, Senior Court Research Associate  
Ann M. Jones, Senior Court Research Associate  
Neal B. Kauder, Consultant, VisualResearch, Inc.  
Robert C. LaFountain, Court Research Analyst  
Nicole L. Mott, Court Research Associate  
Karen Gillions Way, Court Research Analyst  
Melissa T. Cantrell, Program Specialist

A joint project of the Conference of State Court Administrators, the State Justice Institute, the Bureau of Justice Statistics, and the National Center for State Courts' Court Statistics Project.



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rec'd 3-28-01

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ISBN 0-89656-208-5

Suggested Citation:

B. Ostrom, N. Kauder & R. LaFountain  
*Examining the Work of State Courts, 1999-2000:  
A National Perspective from the Court Statistics Project*  
(National Center for State Courts 2000)

This report was developed under Grant SJI-91-N-007-000-1 from the State Justice Institute and the Bureau of Justice Statistics. Points of view are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute or the Bureau of Justice Statistics.

## *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 most of the information included in *Examining the Work of State Courts, 1999-2000 and State Court Caseload Statistics, 1999-2000*. 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.

The content and design of all products produced by the CSP benefit greatly from the guidance of the 17 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 Pamela Bulloch and Sandra Thurston, the project monitors at the State Justice Institute, and Marika Litras, the project monitor at the Bureau of Justice Statistics. 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 the advice and editorial skills of our colleagues Victor E. Flango and Roger A. Hanson, who offered a range of valuable input that considerably improved the final product. This publication benefited greatly from the careful editing of Ann L. Keith. Judith Ann Sullivan skillfully managed page design and coordinated the printing of this publication.

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Robert Wessels, Court Manager, County Criminal Courts at Law, Houston, Texas

# Table of Contents

|   |    |
|---|----|
| <b>Foreword</b> .....   | 8  |
| <b>Overview of State Trial Court Caseloads</b> .....  | 9  |
| 91.5 million state court filings were reported in 1999—unchanged from 1998 .....  | 10 |
| There are 16,185 state trial courts in the U.S. ....  | 11 |
| 29,000 judicial officers work in the state trial courts.....  | 11 |
| Most states have two to six judges per 100,000 persons .....  | 13 |
| Criminal and civil caseloads decreased in state courts and increased in federal courts in 1999 .....  | 13 |
| <b>Civil Caseloads in State Trial Courts</b> .....  | 15 |
| Civil caseloads dropped by nearly 1/2 million cases in 1999 .....   | 16 |
| Which states have the most civil litigation? .....  | 17 |
| How states count cases is an important factor in understanding overall filing numbers .....   | 19 |
| Most states cleared 90 percent or more of their civil caseloads .....   | 20 |
| <b>Tort and Contract Caseloads in State Trial Courts</b> .....  | 23 |
| Tort and contract cases make up the largest share of nondomestic civil caseloads .....  | 24 |
| The number of tort filings shows little change since 1990 .....   | 25 |
| Contract filings have fallen since 1984 in 15 comparable states .....   | 25 |
| Tort filings per 100,000 population declined in 19 of 29 states examined .....  | 26 |
| Contract filings per 100,000 population declined in 21 of 24 states examined .....  | 27 |
| <b>General Civil Cases Resolved by Trial</b> .....  | 29 |
| Civil trials are rare .....   | 29 |
| Two-thirds of general civil trials involve tort cases; half of tort trials involve autos .....  | 30 |
| How common is pro se representation in civil trials? .....  | 32 |
| Medical and professional malpractice cases account for 13 percent of tort trials .....  | 32 |
| Few civil trials involve product liability claims .....   | 33 |
| Who wins tort and contract trials? .....  | 33 |
| Awards in jury and bench trials .....   | 35 |
| Punitive damage awards occur in 3.3 percent of tort and in 6.3 percent of contract cases .....  | 36 |
| Case processing time is shortest for automobile accident trials and longest for asbestos cases .....  | 38 |
| Contract jury trials involving rental/lease agreements have the shortest case processing time<br>and fraud cases are among the longest..... | 39 |
| Time to disposition in contract and tort bench trials is less than in jury trials .....   | 40 |

*Table of Contents continued*

|  |    |
|--|----|
| <b>Domestic Relations Caseloads in State Trial Courts</b> .....  | 41 |
| Federal and state legislative mandates have helped improve domestic relations data .....   | 42 |
| Domestic relations filings increased slightly between 1998 and 1999 .....  | 43 |
| Divorce cases are the largest part of domestic relations caseloads .....   | 44 |
| There is considerable variation in domestic relations caseload composition by state .....  | 44 |
| Domestic violence filings have increased 10 percent over the last five years .....   | 46 |
| <br>   |    |
| <b>Juvenile Caseloads in State Trial Courts</b> .....  | 49 |
| Juvenile filings declined 3 percent from 1998 to 1999 .....  | 50 |
| <br>   |    |
| <b>Juveniles Held in Detention</b> .....   | 52 |
| An estimated 326,800 delinquent youth were detained pre-adjudication in 1997 .....   | 52 |
| 39 percent of detained youth committed property offenses, but only 14 percent of<br>juvenile property offenders were held in detention pre-trial ..... | 52 |
| The number of juveniles receiving pre-trial detention rose by 90,000 between 1987 and 1996 .....   | 53 |
| The probability of detention increases if one is older, male, or African-American .....  | 55 |
| The impact of using detention for delinquent juveniles .....   | 56 |
| <br>   |    |
| <b>Criminal Caseloads in State Trial Courts</b> .....  | 59 |
| Criminal filings and arrests are down in 1999 .....  | 60 |
| Felonies are typically handled in general jurisdiction courts and misdemeanors in<br>limited jurisdiction courts .....                                 | 60 |
| DWI filings rose 9 percent between 1997 and 1999 .....   | 62 |
| Fifteen states account for 73 percent of total criminal filings .....  | 62 |
| Clearance rates show if courts are reducing their pending caseload .....   | 65 |
| 15 states had three-year clearance rates of 100 percent or more .....  | 65 |
| Very few criminal cases are resolved at trial .....  | 67 |
| <br>   |    |
| <b>Felony Caseloads in State Trial Courts</b> .....  | 69 |
| Felony filings fell by 2 percent between 1998 and 1999 .....   | 70 |
| Felony filing rates varied from a high of 1,753 in Arkansas to a low of 100 in Connecticut .....   | 72 |
| Clearance rates improved in most general jurisdiction courts between 1997 and 1999 .....   | 72 |
| 6.2 million people were under U.S. correctional control in 1999 .....  | 74 |

|   |    |
|---|----|
| <b>Appellate Caseloads in State Courts</b> .....  | 75 |
| State appellate court caseloads have changed dramatically over the last forty years .....                                       | 76 |
| The 50 states, DC, and Puerto Rico, reported close to 300,000 appellate filings in 1999 .....                                   | 76 |
| Mandatory appeals in IACs comprise the largest share of state appellate caseloads .....   | 78 |
| Criminal and civil cases account for roughly 8 of every 10 appeals filed .....  | 78 |
| The majority of IACs are successful in keeping up with their caseloads .....  | 79 |
| Criminal appeals are increasing at faster rates than other types of appeals .....   | 80 |
| Eleven of 16 COLRs recorded faster growth in criminal petitions than in civil petitions .....                                   | 81 |
| Criminal appellate trends vary widely—from a decrease of 77 percent in Michigan to<br>an increase of 151 percent in Idaho ..... | 82 |
| Civil appellate caseloads have been relatively stable compared to criminal appeals .....  | 83 |
| Original proceedings in the appellate courts .....  | 84 |
| State courts of last resort grant 10 percent of discretionary petitions considered .....  | 86 |
| How are appellate court cases resolved? .....   | 87 |

**Part II**

|   |    |
|---|----|
| <b>The Effects of Jurisdictional Change on Appellate Courts</b> .....         | 90 |
| Introduction .....  | 90 |
| Jurisdictional Change: Transferring Case Hearing Authority .....              | 92 |
| Arkansas .....  | 92 |
| New Mexico .....  | 94 |
| Restrictions on Criminal Appeals Resulting from Guilty Plea Convictions ..... | 95 |
| Arizona .....   | 95 |
| Michigan .....  | 96 |
| Establishing Appellate Review of Sentences .....                              | 97 |
| Kansas .....  | 97 |
| Conclusion .....  | 98 |

|  |     |
|--|-----|
| <b>Appendices</b> .....                          | 99  |
| Index of States Included in Graphics .....       | 100 |
| Court Statistics Project Methodology .....       | 102 |
| State Court Caseload Statistics, 1999-2000 ..... | 103 |
| The NCSC Court Statistics Project .....          | 104 |



## Foreword

*"The aim of science is not to open the door to everlasting wisdom, but to set a limit on everlasting error."*

– Bertolt Brecht

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, 1999-2000*, 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, 1999-2000*, 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.

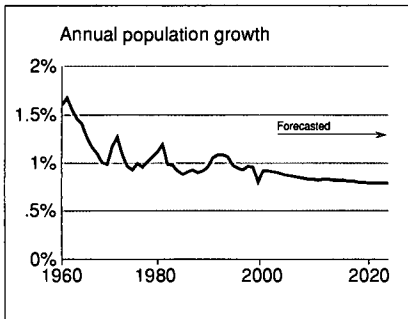
A third series, *Caseload Highlights*, recognizes that informed judges and court managers want comparative information on a range of policy-relevant topics, but they want it in a timely fashion and in a condensed readable format. Whereas other project publications take a comprehensive look at caseload statistics, *Caseload Highlights* targets specific and significant issues and disseminates the findings in short reports. 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 matter 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.

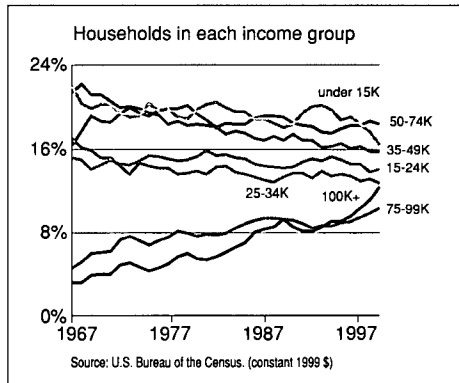
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# OVERVIEW

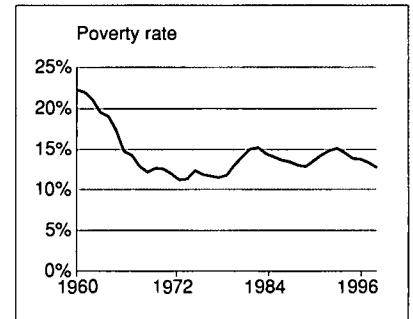
State judiciaries handle the work of 270 million people—processing over 90 million cases in 1999.



The annual population growth rate has slowed...



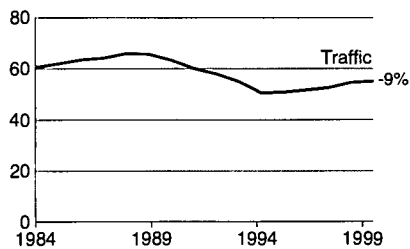
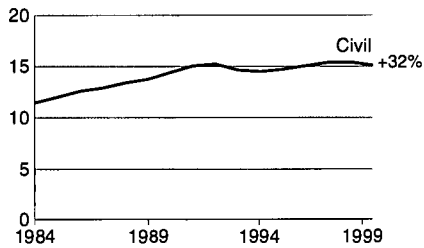
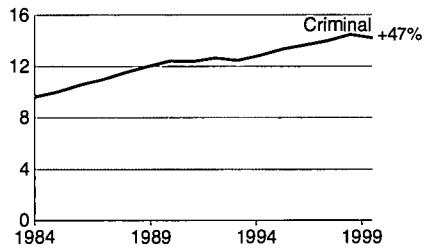
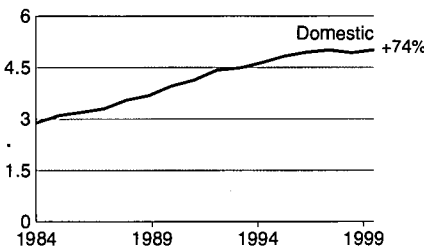
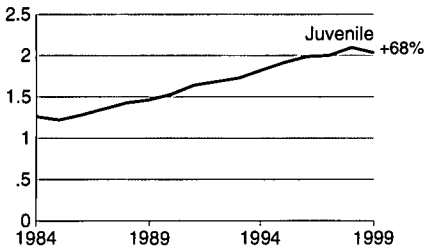
while the percent of the population in higher income groups has risen and



poverty rates have stabilized.

# Overview of State Trial Court Caseloads

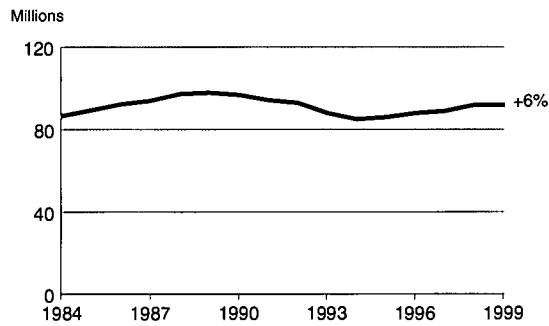
**Cases Filed in State Courts, 1984-1999 (in millions)**



91.5 million state court filings were reported in 1999—unchanged from 1998

The 50 states, the District of Columbia, and Puerto Rico reported 91.5 million new cases filed in our nation's state courts in 1999—almost the exact same number filed in 1998. Increases in traffic and domestic caseloads were offset by uncharacteristic decreases in juvenile, criminal, and civil filings. Juvenile filings dropped 3 percent between 1998 and 1999, while criminal and civil filings each dropped 2 percent. Although the total caseload trend shown below comprises all the case types, it is driven by the number of traffic cases reported each year.

**Total State Court Caseloads, 1984-1999**



State trial court systems are traditionally organized into courts of general and limited jurisdiction. All states have at least one court of general jurisdiction, the highest trial court in the state, which handles the most serious criminal and civil cases. Filings in general jurisdiction courts accounted for 34 percent of state court caseloads in 1999. Criminal caseloads in limited jurisdiction courts typically are comprised of misdemeanor filings and preliminary hearings in felony cases, whereas the civil docket is primarily small claims cases. In 1999, two-thirds of state court filings were processed in limited jurisdiction courts.

**Types of Cases Filed in State Courts, 1999 (in millions)**

| Case Type    | Total Number | Jurisdiction |             |
|--------------|--------------|--------------|-------------|
|              |              | General      | Limited     |
| Traffic      | 55.1         | 14.5         | 40.5        |
| Civil        | 15.1         | 7.2          | 8.0         |
| Criminal     | 14.2         | 5.0          | 9.3         |
| Domestic     | 5.0          | 3.5          | 1.5         |
| Juvenile     | 2.0          | 1.3          | 0.7         |
| <b>Total</b> | <b>91.5</b>  | <b>31.5</b>  | <b>60.0</b> |

Note: Total may not sum due to rounding.

*There are 16,185 state trial courts in the U.S.*

The 91.5 million cases filed in 1999 were processed through 16,185 state trial courts. Limited jurisdiction courts outnumber their general jurisdiction counterparts five to one.

13,684 limited jurisdiction courts  
2,501 general jurisdiction courts

Changes in the total number of limited and general jurisdiction courts in the U.S. often occur as a result of changes in court system classification rather than from actually creating or closing courts. For example, California completed its process of court unification in 1999, so that all limited jurisdiction courts are now classified as general jurisdiction courts.

*29,000 judicial officers work in the state trial courts*

In 1999, there were 29,023 trial judges and quasi-judicial officers (e.g., commissioners, magistrates, and referees) in the nation's state trial courts. Since 1990, the number of state court judges has increased an average of about 1 percent each year. Although there were shifts in court classifications that affect how judges are counted under each court type, a net increase of 230 judicial officers occurred between 1998 and 1999 nationwide.

**Judicial Officers in State Trial Courts by Court Jurisdiction, 1990-99**

| Year  | Number of Judicial Officers |                      | Total  | Growth Rate |
|-------|-----------------------------|----------------------|--------|-------------|
|       | General Jurisdiction        | Limited Jurisdiction |        |             |
| 1990  | 9,325                       | 18,234               | 27,559 |             |
| 1991  | 9,502                       | 18,289               | 27,791 | 0.8%        |
| 1992  | 9,602                       | 18,272               | 27,874 | 0.3         |
| 1993  | 9,751                       | 18,316               | 28,067 | 0.7         |
| 1994  | 9,793                       | 18,317               | 28,110 | 0.2         |
| 1995  | 10,153                      | 17,974               | 28,127 | 0.1         |
| 1996  | 10,114                      | 18,301               | 28,415 | 1.0         |
| 1997  | 10,007                      | 18,553               | 28,560 | 0.5         |
| 1998  | 10,163                      | 18,630               | 28,793 | 0.8         |
| 1999* | 11,118                      | 17,905               | 29,023 | 0.8         |

\* Most of the shift between the general and limited jurisdiction courts was caused by the unification of the California trial courts in 1999.

The table on the following page shows the number of general jurisdiction court judges in the states. The number of judges does not include quasi-judicial officers such as magistrates or referees. Twelve states (including the District of Columbia and Puerto Rico) have a unified court structure in which trial courts are consolidated into a single general jurisdiction court level. Because there is no distinction between trial levels in these states, it often appears that these states have more general jurisdiction court judges than states with multilevel court systems.

**Number and Rate of Judges in Unified and General Jurisdiction Courts in 49 States, 1999**

| State                              | Number of Judges | Judges per 100,000 Population | Filings per Judge |
|------------------------------------|------------------|-------------------------------|-------------------|
| <b>Unified Courts</b>              |                  |                               |                   |
| California                         | 1,479            | 4.5                           | 1,665             |
| Illinois                           | 864              | 7.1                           | 1,438             |
| Puerto Rico                        | 315              | 8.1                           | 761               |
| Missouri                           | 314              | 5.7                           | 1,497             |
| Minnesota                          | 254              | 5.3                           | 1,902             |
| Wisconsin                          | 240              | 4.6                           | 1,682             |
| Iowa                               | 189              | 6.6                           | 1,426             |
| Connecticut                        | 170              | 5.2                           | 1,753             |
| Kansas                             | 159              | 6.0                           | 1,675             |
| District of Columbia               | 59               | 11.4                          | 2,504             |
| North Dakota                       | 43               | 6.8                           | 1,730             |
| South Dakota                       | 37               | 5.0                           | 2,659             |
| <b>General Jurisdiction Courts</b> |                  |                               |                   |
| New York                           | 546              | 3.0                           | 876               |
| Florida                            | 468              | 3.1                           | 2,122             |
| Texas                              | 396              | 2.0                           | 1,703             |
| Pennsylvania*                      | 385              | 3.2                           | 1,315             |
| New Jersey                         | 383              | 4.7                           | 2,749             |
| Ohio                               | 372              | 3.3                           | 1,312             |
| Indiana                            | 280              | 4.7                           | 2,058             |
| Louisiana                          | 224              | 5.1                           | 1,495             |
| Michigan                           | 210              | 2.1                           | 1,295             |
| Georgia                            | 177              | 2.3                           | 1,713             |
| Washington                         | 171              | 3.0                           | 1,130             |
| Oregon                             | 164              | 5.0                           | 1,801             |
| Virginia                           | 148              | 2.2                           | 1,756             |
| Maryland                           | 143              | 2.8                           | 1,679             |
| Alabama                            | 139              | 3.2                           | 1,285             |
| Arizona                            | 135              | 2.8                           | 1,181             |
| Colorado                           | 118              | 2.9                           | 1,166             |
| Tennessee                          | 118              | 2.2                           | 1,991             |
| Arkansas                           | 110              | 4.3                           | 1,357             |
| North Carolina                     | 105              | 1.4                           | 2,760             |
| Kentucky                           | 104              | 2.6                           | 930               |
| Massachusetts                      | 80               | 1.3                           | 475               |
| New Mexico                         | 72               | 4.1                           | 1,163             |
| Utah                               | 70               | 3.3                           | 3,055             |
| West Virginia                      | 62               | 3.4                           | 875               |
| Nebraska                           | 53               | 3.2                           | 715               |
| South Carolina                     | 46               | 1.2                           | 3,643             |
| Montana                            | 45               | 5.1                           | 695               |
| Hawaii                             | 42               | 3.5                           | 781               |
| Idaho                              | 39               | 3.1                           | 449               |
| Alaska                             | 32               | 5.2                           | 458               |
| New Hampshire                      | 29               | 2.4                           | 1,858             |
| Vermont                            | 29               | 4.9                           | 2,030             |
| Rhode Island                       | 22               | 2.2                           | 654               |
| Delaware                           | 19               | 2.5                           | 1,117             |
| Wyoming                            | 17               | 3.5                           | 698               |
| Maine                              | 16               | 1.3                           | 793               |

\*This figure is based upon preliminary figures supplied to the CSP by the Pennsylvania Administrative Office of the Courts.

Mississippi and Nevada are not included because criminal data were not available. No data were available for Oklahoma for 1999.

*Most states have two to six judges per 100,000 persons*

The middle column in the adjacent table, 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 11.4 in D.C.). In fact, over 70 percent of the states with non-unified courts have between two and six judges per 100,000 population. Unified courts have an average of six judges per 100,000 population.

The last column shows the number of civil (including domestic relations) and criminal filings per general jurisdiction judge. More than half (57 percent) of the states report between 1,000 and 2,000 filings per judge.

*Criminal and civil caseloads decreased in state courts and increased in federal courts in 1999*

The table below compares caseload sizes across the state and federal court systems. Criminal and civil caseloads each decreased 1.9 percent in state courts and increased 3.9 percent and 1.4 percent, respectively, in federal courts.

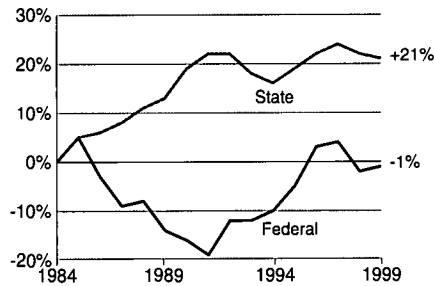
**Federal and State Court Filings, 1999**

|   | Filings           | Percent Change Since 1998 |
|---|-------------------|---------------------------|
| <b>Federal Courts (94 U.S. District Courts)</b> |                   |                           |
| Criminal  | 59,923            | 3.9%                      |
| Civil   | 260,271           | 1.4                       |
| Bankruptcy                                      | 1,354,376         | -5.7                      |
| Magistrates                                     | 647,970           | 5.8                       |
| <b>Total</b>                                    | <b>2,322,540</b>  | <b>-2.4</b>               |
| <b>State Courts (16,185 Trial Courts)</b>       |                   |                           |
| Criminal  | 14,203,822        | -1.9                      |
| Civil   | 15,122,009        | -1.9                      |
| Domestic  | 5,021,013         | 1.7                       |
| Juvenile  | 2,033,581         | -3.0                      |
| Traffic   | 55,113,689        | 1.0                       |
| <b>Total</b>                                    | <b>91,494,114</b> | <b>0.0</b>                |

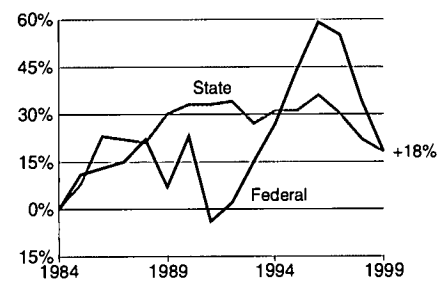
Source: Judicial Business of the United States, Annual Report of the Director, 1999

**Caseload Growth Rates of U.S. District and State General Jurisdiction Courts, 1984-1999**

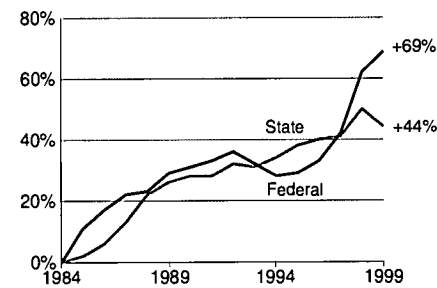
**Civil**



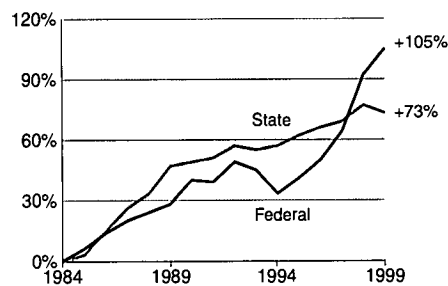
**Tort**



**Criminal**



**Felony**



A comparison of the yearly growth in state and federal trial court filing rates is 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 between the two systems. With respect to criminal cases, both the U.S. District Courts and the state trial courts of general jurisdiction primarily handle felonies; on the civil side, the dollar limits and case types of the state trial courts of general jurisdiction resemble the \$50,000 jurisdictional limit 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.

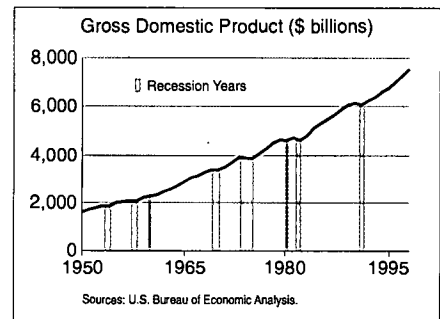
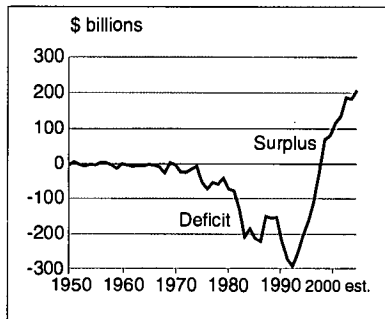
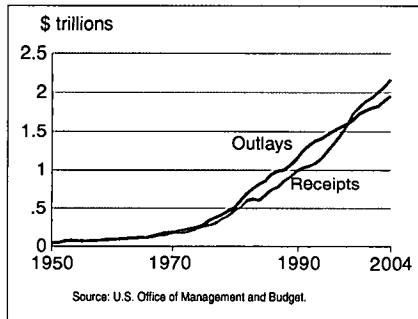
Civil filings in state trial courts of general jurisdiction have grown by 21 percent since 1984, while civil filings in the U.S. District Courts have decreased 1 percent over the same period. At the state level, most of the growth in tort filings occurred in the mid-1980s; on the federal side, growth occurred in the early 1990s followed by a sharp decline since 1996.

Criminal caseloads have increased steadily in both federal (69 percent) and state (44 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. Beginning in the mid-1990s, however, growth rates in federal felony caseloads began climbing at a much faster pace than state caseloads.

# CIVIL

An expanding economy creates new opportunities while potentially affecting civil litigation in the courts.

Federal budget



Economic performance remains strong through the 1990s.

Following 20 years of federal deficits...

the surplus is expected to reach \$207 billion by 2004.

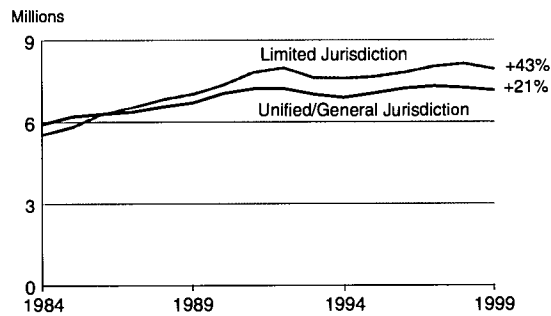


# Civil Caseloads in State Trial Courts

## Civil caseloads dropped by nearly 1/2 million cases in 1999

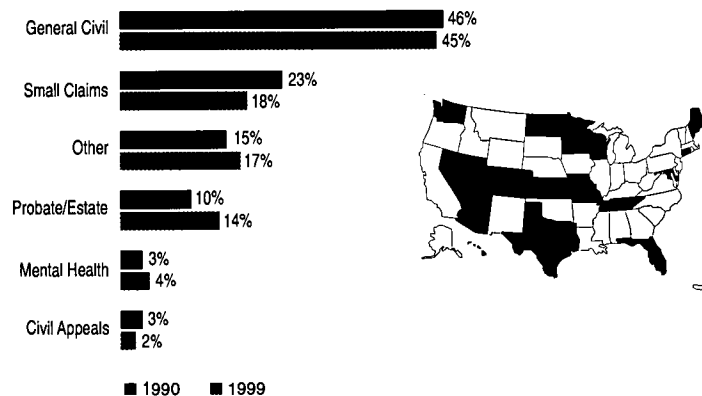
Civil case filings decreased from nearly 15.5 to 15.1 million filings between 1998 and 1999. This decline is a break in the recent trend; civil filings in the state courts had been on the increase for the past four years. In 1999, limited jurisdiction courts handled 53 percent of the state court civil caseload, or 7.9 million cases. In comparison, general jurisdiction courts reported 7.1 million new cases filed in 1999. Overall, since 1984 civil filings increased by 43 percent in the limited jurisdiction courts and by 21 percent in the general jurisdiction courts.

### Civil Cases Filed in State Trial Courts by Jurisdiction, 1984-1999



Based on data from 17 states, only modest changes have occurred in the composition of the general jurisdiction court caseload between 1990 and 1999. General civil filings (tort, contract, and real property) represent the largest category of civil cases, and their proportion is essentially unchanged. The largest changes in civil composition were recorded in the small claims and probate/estate cases. Between 1990 and 1999, small claims cases decreased from 23 to 18 percent, while probate/estate increased from 10 to 14 percent. The increase in probate cases might reflect the aging population in the U.S.

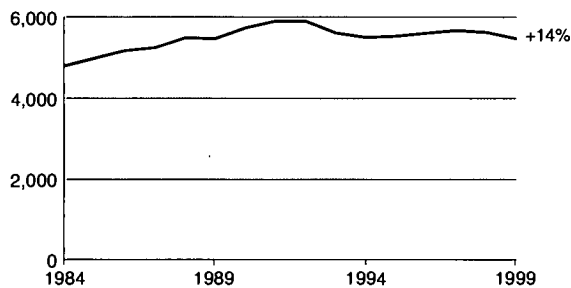
### Civil Caseload Composition in Unified and General Jurisdiction Courts in 17 States, 1990 vs. 1999



### *Which states have the most civil litigation?*

Examining a state's aggregate filing data is one way to answer this question, but more populous states naturally tend to have more filings than less populous states. A more meaningful answer requires controlling for the effect of population size. The national trend, displayed in the chart below, shows that total civil filings (in both limited and general jurisdiction courts) per 100,000 population have increased 14 percent since 1984. The peak occurred in 1991 and 1992, when there were about 5,900 state court civil filings per 100,000 population. In 1999, there were 5,467 civil filings per 100,000 population.

**Total Civil Filings (Excluding Domestic Relations Filings) per 100,000 Population, 1984-1999**



The following table 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. For states with complete data, civil litigation per 100,000 population ranges from a low of 2,672 in Maine to a high of 19,039 in the District of Columbia. The median is 4,818 civil cases per 100,000 population. (Note: The median is the middle value - half of the states have higher rates than the median and half have lower rates).

## Total Civil Filings (Excluding Domestic Relations Filings), 1999

| State                 | Filings per 100,000 Population |                      |                      | Filings   |                      |                      | Population Rank |
|-----------------------|--------------------------------|----------------------|----------------------|-----------|----------------------|----------------------|-----------------|
|                       | Total                          | General Jurisdiction | Limited Jurisdiction | Total     | General Jurisdiction | Limited Jurisdiction |                 |
| District of Columbia* | 19,039                         | 19,039               | —                    | 98,813    | 98,813               | —                    | 51              |
| Maryland              | 17,163                         | 1,497                | 15,666               | 887,596   | 77,426               | 810,170              | 19              |
| Virginia              | 14,599                         | 1,036                | 13,562               | 1,003,350 | 71,220               | 932,130              | 12              |
| New Jersey            | 8,832                          | 8,754                | 78                   | 719,247   | 712,891              | 6,356                | 9               |
| South Carolina        | 7,750                          | 1,397                | 6,353                | 301,153   | 54,293               | 246,860              | 27              |
| New York              | 7,412                          | 1,978                | 5,434                | 1,348,722 | 359,930              | 988,792              | 3               |
| North Carolina        | 7,061                          | 1,949                | 5,112                | 540,212   | 149,106              | 391,106              | 11              |
| Indiana               | 6,986                          | 5,034                | 1,952                | 415,196   | 299,183              | 116,013              | 14              |
| South Dakota*         | 6,797                          | 6,797                | —                    | 49,832    | 49,832               | —                    | 47              |
| Delaware              | 6,726                          | 1,795                | 4,931                | 50,685    | 13,527               | 37,158               | 46              |
| Kansas*               | 6,636                          | 6,636                | —                    | 176,130   | 176,130              | —                    | 33              |
| Georgia               | 6,460                          | 770                  | 5,690                | 503,117   | 60,001               | 443,116              | 10              |
| Connecticut*          | 6,393                          | 4,332                | 2,060                | 209,810   | 142,186              | 67,624               | 30              |
| Utah                  | 6,143                          | 5,859                | 283                  | 130,831   | 124,796              | 6,035                | 35              |
| Massachusetts         | 6,106                          | 472                  | 5,633                | 377,027   | 29,160               | 347,867              | 13              |
| Michigan              | 5,948                          | 756                  | 5,192                | 586,669   | 74,591               | 512,078              | 8               |
| Louisiana             | 5,626                          | 3,712                | 1,913                | 245,968   | 162,310              | 83,658               | 22              |
| Ohio                  | 5,401                          | 1,790                | 3,611                | 607,931   | 201,451              | 406,480              | 7               |
| Colorado              | 5,264                          | 1,380                | 3,884                | 213,514   | 55,974               | 157,540              | 24              |
| Florida               | 5,091                          | 2,453                | 2,638                | 769,342   | 370,712              | 398,630              | 4               |
| New Hampshire         | 5,019                          | 859                  | 4,160                | 60,286    | 10,317               | 49,969               | 42              |
| Kentucky              | 4,954                          | 972                  | 3,982                | 196,239   | 38,516               | 157,723              | 25              |
| Idaho                 | 4,953                          | 490                  | 4,463                | 61,997    | 6,137                | 55,860               | 41              |
| Rhode Island          | 4,920                          | 880                  | 4,040                | 48,749    | 8,715                | 40,034               | 44              |
| Arkansas              | 4,839                          | 1,593                | 3,246                | 123,458   | 40,631               | 82,827               | 34              |
| Iowa*                 | 4,798                          | 4,798                | —                    | 137,671   | 137,671              | —                    | 31              |
| Nebraska              | 4,744                          | 444                  | 4,300                | 79,043    | 7,405                | 71,638               | 39              |
| Wyoming               | 4,682                          | 937                  | 3,745                | 22,453    | 4,494                | 17,959               | 52              |
| Alabama               | 4,459                          | 1,051                | 3,407                | 194,836   | 45,941               | 148,895              | 23              |
| California*           | 4,380                          | 4,380                | —                    | 1,451,623 | 1,451,623            | —                    | 1               |
| Arizona               | 4,352                          | 1,318                | 3,034                | 207,955   | 62,992               | 144,963              | 20              |
| Montana               | 4,348                          | 1,941                | 2,408                | 38,386    | 17,132               | 21,254               | 45              |
| Illinois*             | 4,332                          | 4,332                | —                    | 525,460   | 525,460              | —                    | 5               |
| Oregon                | 4,292                          | 4,292                | n/a                  | 142,327   | 142,327              | n/a                  | 29              |
| Alaska                | 4,257                          | 954                  | 3,303                | 26,372    | 5,909                | 20,463               | 49              |
| Wisconsin*            | 4,104                          | 4,104                | —                    | 215,463   | 215,463              | —                    | 18              |
| West Virginia         | 4,016                          | 1,481                | 2,535                | 72,570    | 26,767               | 45,803               | 37              |
| Washington            | 3,819                          | 1,493                | 2,326                | 219,845   | 85,938               | 133,907              | 15              |
| New Mexico            | 3,727                          | 2,090                | 1,637                | 64,838    | 36,355               | 28,483               | 38              |
| Vermont               | 3,567                          | 2,779                | 788                  | 21,179    | 16,502               | 4,677                | 50              |
| Pennsylvania**        | 3,455                          | 389                  | 3,066                | 414,437   | 46,641               | 367,796              | 6               |
| Missouri*             | 3,429                          | 3,429                | —                    | 187,529   | 187,529              | —                    | 17              |
| North Dakota*         | 3,361                          | 3,361                | —                    | 21,297    | 21,297               | —                    | 48              |
| Hawaii                | 2,994                          | 967                  | 2,027                | 35,494    | 11,462               | 24,032               | 43              |
| Minnesota*            | 2,949                          | 2,949                | —                    | 140,853   | 140,853              | —                    | 21              |
| Texas                 | 2,929                          | 772                  | 2,157                | 587,055   | 154,677              | 432,378              | 2               |
| Puerto Rico*          | 2,863                          | 2,863                | —                    | 111,366   | 111,366              | —                    | 26              |
| Mississippi           | 2,675                          | 821                  | 1,854                | 74,064    | 22,722               | 51,342               | 32              |
| Maine                 | 2,672                          | 316                  | 2,356                | 33,478    | 3,960                | 29,518               | 40              |
| Nevada                | 1,393                          | 1,393                | n/a                  | 25,203    | 25,203               | n/a                  | 36              |
| Tennessee             | 1,234                          | 1,234                | n/a                  | 67,656    | 67,656               | n/a                  | 16              |

\* These states have a unified court system (others have a two-tiered 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 Oklahoma for 1999.

*How states count cases is an important factor in understanding overall filing numbers*

The District of Columbia stands out with the largest number of civil filings per 100,000 population. However, almost 85 percent of the over 98,813 civil filings, from which the population-adjusted rate is derived, 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 involved 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 partly because of the way these states count their cases. A very large proportion of Virginia's and Maryland's civil filings consists of small-claims-type cases and postjudgment actions including attachments, mechanic's liens, and garnishments in the limited jurisdiction court. Virginia counts each petition filed relating to a single case as a new filing. In Maryland, 69 percent of its civil caseload consists of landlord/tenant cases. In most states, petitions and postjudgment collection actions are not counted as new filings and the percentage of landlord/tenant cases is not as high. Thus, Virginia's and Maryland's statistics are not fully comparable with most other states.

In addition, New Jersey reports a significantly higher rate of civil case filings per 100,000 in its general jurisdiction court (8,754) than most states. Moreover, New Jersey's population-adjusted rate of civil filings exceeds the rates for 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. The state's high population density and its proximity to New York City and Philadelphia may also contribute to the disproportionately large volume of civil cases.

The previous table should be read carefully to identify states that are missing data from their limited jurisdiction courts. Tennessee and Nevada, the states with the lowest rates of total civil case filings per 100,000 population, could not report data from their limited jurisdiction courts, so their total filings statistics 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 at that court level. In some states, the minimum jurisdiction amount is small (\$0-\$1,000), while in others, such as Florida, it can be quite high (\$15,001). 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) typically report all of their case filings under the general jurisdiction court category, so they often have more cases per 100,000 population filed in the general jurisdiction court than similar states with two-tiered court systems. For example, South Dakota and Kansas are states with unified court systems and both states reported high filing rates in their general jurisdiction courts, 6,797 and 6,636 per 100,000 population, respectively.

### *Most states cleared 90 percent or more of their civil caseloads*

One basic measure of court performance is 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 is keeping up with its workload. 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. A court with a clearance rate greater than 100 percent has disposed of as many cases as were filed in that year as well as disposing of some of its pending caseload. Clearance rates are influenced by two factors: (1) the efficiency with which courts process cases and (2) the rate of civil case growth.

The three-year clearance rates shown in the adjacent table reveal that between 1997 and 1999, clearance rates of 95 percent or more were found in nine of 10 states with unified trial court systems and 20 of 32 states with general jurisdiction courts. Only five states cleared less than 90 percent of their cases over the past three years, while 15 states disposed of at least 100 percent of their cases. Michigan led the nation with a three-year clearance rate of 111 percent.

A decline in the civil filings might explain the high clearance rates being reported. The table shows that in 23 of the 42 states, civil filings either remained constant or decreased over the past three years. Among these 23 states, 18 reported clearance rates at or above 95 percent. Only two states (Delaware and Maryland) recorded increases in their civil caseloads exceeding 10 percent and the clearance rates for both states, 93 percent and 75 percent, respectively, were fairly low. Caseload decline, however, does not always correlate with high civil clearance rates. Some states that recorded declines in their civil caseloads (e.g., South Dakota, Tennessee, and Virginia) also had clearance rates below 95 percent.

## Civil Caseload Clearance and Growth Rates in General Jurisdiction Courts in 42 States, 1997-1999

| State                              | Clearance Rates |      |      |      | Caseload Growth<br>1997-1999 |
|------------------------------------|-----------------|------|------|------|------------------------------|
|                                    | 1997-1999       | 1997 | 1998 | 1999 |                              |
| <b>Unified Courts</b>              |                 |      |      |      |                              |
| North Dakota                       | 104%            | 110% | 101% | 102% | 5%                           |
| Illinois                           | 103             | 96   | 111  | 102  | 1                            |
| District of Columbia               | 101             | 102  | 99   | 100  | -5                           |
| Iowa                               | 100             | 105  | 99   | 95   | 5                            |
| Kansas                             | 97              | 96   | 99   | 96   | 6                            |
| Missouri                           | 97              | 96   | 100  | 96   | -1                           |
| Puerto Rico                        | 95              | 96   | 94   | 97   | 7                            |
| Minnesota                          | 95              | 95   | 92   | 99   | -12                          |
| California                         | 95              | 92   | 99   | 94   | -13                          |
| South Dakota                       | 87              | 74   | 94   | 94   | -10                          |
| <b>General Jurisdiction Courts</b> |                 |      |      |      |                              |
| Michigan                           | 111             | 115  | 114  | 103  | 0                            |
| Maine                              | 106             | 105  | 107  | 106  | -13                          |
| Texas                              | 106             | 108  | 107  | 102  | -5                           |
| Massachusetts                      | 106             | 106  | 106  | 105  | -12                          |
| New York                           | 105             | 104  | 106  | 106  | 7                            |
| New Hampshire                      | 105             | 106  | 106  | 102  | -3                           |
| Vermont                            | 104             | 103  | 106  | 101  | -13                          |
| Pennsylvania*                      | 103             | 90   | 118  | 101  | -28                          |
| Utah                               | 102             | 103  | 109  | 94   | 0                            |
| Arizona                            | 102             | 101  | 103  | 101  | 2                            |
| New Jersey                         | 101             | 101  | 102  | 102  | 5                            |
| Ohio                               | 99              | 96   | 103  | 98   | -5                           |
| Colorado                           | 99              | 100  | 102  | 95   | 9                            |
| Oregon                             | 98              | 98   | 99   | 98   | -10                          |
| Arkansas                           | 97              | 95   | 100  | 98   | -9                           |
| Alabama                            | 97              | 96   | 97   | 98   | 6                            |
| Montana                            | 96              | 95   | 95   | 98   | -8                           |
| Alaska                             | 96              | 92   | 94   | 101  | 0                            |
| Indiana                            | 95              | 94   | 96   | 95   | 2                            |
| West Virginia                      | 95              | 98   | 94   | 93   | -1                           |
| South Carolina                     | 94              | 88   | 97   | 98   | 8                            |
| Washington                         | 94              | 90   | 96   | 96   | 3                            |
| Georgia                            | 94              | 90   | 97   | 95   | -5                           |
| Hawaii                             | 94              | 80   | 108  | 95   | -10                          |
| Idaho                              | 93              | 87   | 97   | 97   | 4                            |
| Delaware                           | 93              | 96   | 91   | 92   | 12                           |
| Tennessee                          | 92              | 91   | 91   | 94   | -7                           |
| New Mexico                         | 90              | 90   | 90   | 91   | 9                            |
| Kentucky                           | 87              | 86   | 86   | 88   | 7                            |
| Virginia                           | 86              | 86   | 85   | 88   | -2                           |
| Rhode Island                       | 83              | 86   | 85   | 79   | 2                            |
| Maryland                           | 75              | 71   | 73   | 81   | 11                           |

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

# TORT AND CONTRACT

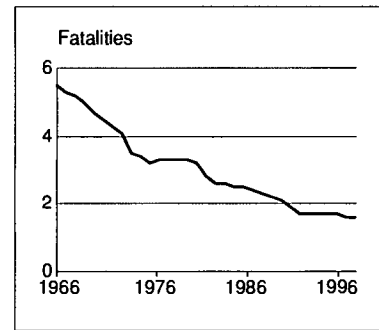
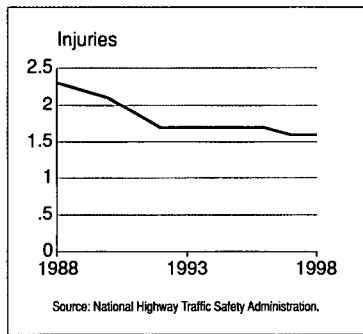
The majority of tort cases processed in the state courts resulted from automobile accidents.

Per 100 million miles traveled

Unintentional injuries, 1998 (in thousands)

|   |        |
|---|--------|
| Other transportation .....              | 174    |
| Motor vehicle, nontraffic .....         | 391    |
| Machinery .....                         | 411    |
| Bicycle .....                           | 496    |
| Fire & flames .....                     | 531    |
| Poisoning .....                         | 754    |
| Natural or environmental .....          | 1,238  |
| Overexertion & strains .....            | 1,456  |
| Drowning, suffocate, guns & other ..... | 2,171  |
| Cutting or piercing .....               | 3,142  |
| Motor vehicle traffic .....             | 4,259  |
| Struck by objects or persons .....      | 4,717  |
| Falls .....                             | 7,712  |
| Unintentional injuries .....            | 27,452 |

Source: Centers for Disease Control and Prevention.



Over 4.2 million people were injured in motor vehicle accidents in 1998...

but the trends in injuries and

fatalities are down.

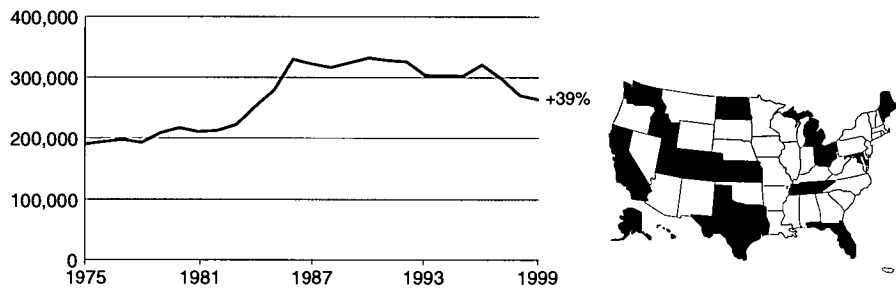
# Tort and Contract Caseloads in State Trial Courts

*Tort and contract cases make up the largest share of nondomestic civil caseloads*

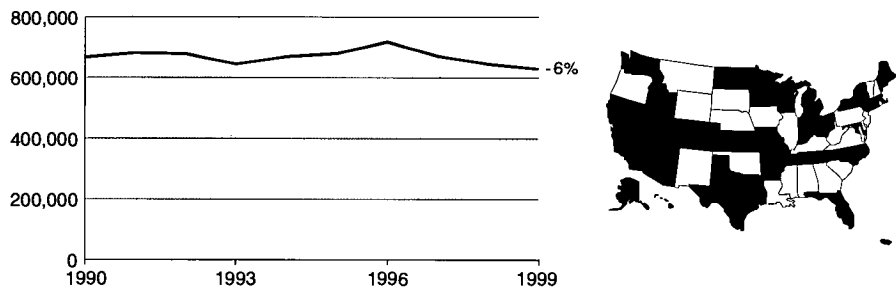
The resolution of general civil cases (i.e., tort, contract, and real property cases) radiates far from the courthouses and law offices affecting the operational and strategic business decisions made by corporate executives, small business owners, healthcare providers, and government employees. The law, and the law as experienced in practice, provides the framework within which contracts are drafted, new products are developed, and services and goods are marketed. Consequently, trends in the types of general civil cases being litigated, as well as their outcomes, provide an important context for legislative reform efforts. For example, proposed legislation in several states seeks to revamp the role of the civil jury and expand the use of alternative dispute resolution in deciding tort and contract cases. In addition, all state legislatures have experimented with tort reform during the last two decades, and tort reform continued to be the focus of legislative bills in the 1990's.

National trends on the number and types of general civil filings are not compiled comprehensively, but extrapolating from data available in selected states and courts can provide accurate national estimates. Hence, we examine aggregate tort and contract data from a variety of courts in order to assess the different types of national trends occurring in these types of cases. Data from these courts also enhance our understanding of the impact of various reforms on national tort and contract trends.

**Tort Filings in General Jurisdiction Courts in 16 States, 1975-1999**



**Tort Filings in General and Limited Jurisdiction Courts in 28 States, 1990-1999**





*The number of tort filings shows little change since 1990*

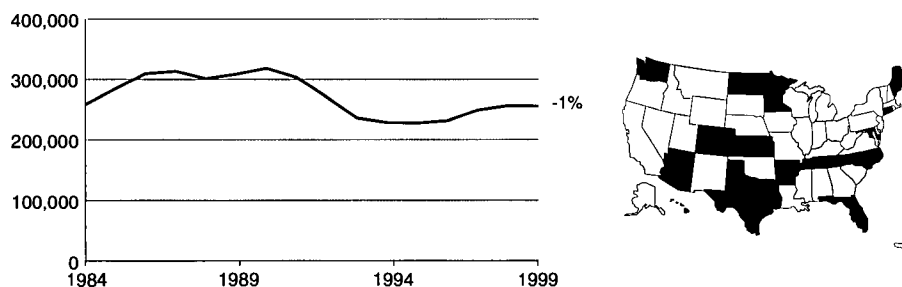
The chart on the previous page shows that total tort filings rose 39 percent for the 24 years between 1975 and 1999 in the 16 states for which data were available. After increasing rapidly between 1975 and 1986, tort filings changed minimally until 1996. Since that year, the number of tort filings decreased by 18 percent. One possible explanation for this flattening and decline of the tort-filing trend is widespread tort reform among the states.

Limiting our focus to the past ten years (1990-1999), we can expand the number of states in our analysis to 28. The addition of twelve states mollified the decline seen between 1996 and 1998 in the long-term trend and yielded a net decrease of 6 percent. In these 28 states, representing over 68 percent of the nation's total population, there has been little change in the number of torts filed since 1990.

*Contract filings have fallen since 1984 in 15 comparable states*

Based on data available from general jurisdiction courts in 15 states, the chart below shows that contract filings have decreased slightly (1 percent) between 1984 and 1999. Recent increases in contract filings (12 percent between 1996 and 1999) partially offset the sharp decline between 1990 and 1993.

**Contract Filings in General Jurisdiction Courts in 15 States, 1984-1999**



*Tort filings per 100,000 population declined in 19 of 29 states examined*

The following two tables rank the states according to the percentage change in tort and contract filings per 100,000 population between 1990 and 1999. Both tort and contract filing trends reached a peak in 1990, so choosing 1990 as the base year in this comparison allows one to examine whether the national decline is representative of changes occurring across all states or is being driven by some set of large courts.

The table below reveals that tort filings per 100,000 population declined in 19 of the 29 states over the past nine years. Filings dropped 20 percent or more in nine of these states, including California, where tort filings decreased 49 percent, and in Michigan where there was a 45 percent decrease. The reduction in Michigan's tort caseload was primarily caused by a change in the minimum dollar limit in the general jurisdiction court from \$10,000 to \$25,000. Of the ten states experiencing increases, three saw the rate rise by more than 20 percent, including Indiana, where filings increased 75 percent.

**Growth Rates of Tort Filings in 29 States, 1990 vs. 1999**

| State                              | Filings per 100,000 Population |      | Percent Change |
|------------------------------------|--------------------------------|------|----------------|
|                                    | 1990                           | 1999 |                |
| <b>Unified Courts</b>              |                                |      |                |
| Kansas                             | 162                            | 217  | 34%            |
| Puerto Rico                        | 244                            | 253  | 4              |
| Connecticut                        | 501                            | 575  | 15             |
| North Dakota                       | 116                            | 101  | -14            |
| Missouri                           | 424                            | 347  | -18            |
| Wisconsin                          | 198                            | 158  | -20            |
| Minnesota                          | 163                            | 127  | -22            |
| California                         | 410                            | 210  | -49            |
| <b>General Jurisdiction Courts</b> |                                |      |                |
| Indiana                            | 122                            | 213  | 75             |
| New York                           | 361                            | 444  | 23             |
| Utah                               | 95                             | 112  | 18             |
| Idaho                              | 112                            | 128  | 14             |
| North Carolina                     | 123                            | 132  | 7              |
| Alaska                             | 150                            | 159  | 6              |
| New Jersey                         | 937                            | 972  | 4              |
| Florida                            | 315                            | 311  | -1             |
| Washington                         | 208                            | 203  | -3             |
| Nevada                             | 441                            | 416  | -6             |
| Ohio                               | 318                            | 283  | -11            |
| Maryland                           | 312                            | 260  | -17            |
| Hawaii                             | 186                            | 154  | -17            |
| Massachusetts                      | 223                            | 180  | -19            |
| Tennessee                          | 276                            | 222  | -19            |
| Arkansas                           | 215                            | 167  | -22            |
| Texas                              | 233                            | 178  | -24            |
| Colorado                           | 179                            | 120  | -33            |
| Arizona                            | 421                            | 282  | -33            |
| Maine                              | 153                            | 101  | -34            |
| Michigan                           | 417                            | 228  | -45            |

*Contract filings per 100,000 population declined in 21 of 24 states examined*

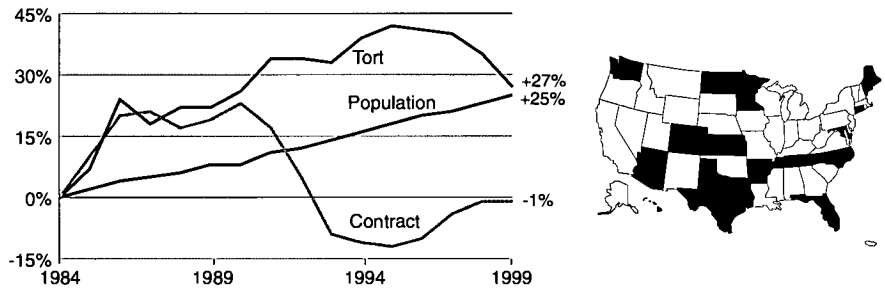
The next table presents contract filings per 100,000 population. For the 24 states listed, all but three experienced declines in contract filings between 1990 and 1999. Seventeen of the 24 states experienced declines of more than 25 percent, including eight where contract filings decreased more than 50 percent. Only Kansas (50 percent), North Dakota (8 percent), and Washington (6 percent) witnessed an increase in contract cases between 1990 and 1999. Overall, of the states listed, Kansas, New Jersey, Missouri, and North Dakota had the largest number of contract filings per 100,000 population in 1999 (3,860, 2,642, 1,348, and 1,157, respectively). The states with the smallest number of population-adjusted filings in 1999 were Maine (48), Massachusetts (68), and Hawaii (68).

**Growth Rates of Contract Filings in 24 States, 1990 vs. 1999**

| State                              | Filings per 100,000 Population |       | Percent Change |
|------------------------------------|--------------------------------|-------|----------------|
|                                    | 1990                           | 1999  |                |
| <b>Unified Courts</b>              |                                |       |                |
| Kansas                             | 2,577                          | 3,860 | 50%            |
| North Dakota                       | 1,067                          | 1,157 | 8              |
| Missouri                           | 1,380                          | 1,348 | -2             |
| California                         | 341                            | 326   | -4             |
| Connecticut                        | 912                            | 556   | -39            |
| Minnesota                          | 184                            | 108   | -41            |
| Wisconsin                          | 412                            | 201   | -51            |
| Puerto Rico                        | 1,648                          | 763   | -54            |
| <b>General Jurisdiction Courts</b> |                                |       |                |
| Washington                         | 290                            | 306   | 6              |
| New Jersey                         | 3,100                          | 2,642 | -15            |
| New York                           | 129                            | 101   | -21            |
| Massachusetts                      | 94                             | 68    | -28            |
| North Carolina                     | 107                            | 74    | -31            |
| Tennessee                          | 196                            | 119   | -39            |
| Arkansas                           | 585                            | 336   | -42            |
| Alaska                             | 127                            | 72    | -43            |
| Texas                              | 183                            | 103   | -43            |
| Nevada                             | 477                            | 268   | -44            |
| Florida                            | 555                            | 236   | -57            |
| Hawaii                             | 161                            | 68    | -58            |
| Colorado                           | 486                            | 191   | -61            |
| Maine                              | 125                            | 48    | -61            |
| Arizona                            | 721                            | 274   | -62            |
| Maryland                           | 344                            | 105   | -70            |

The following graphic depicts the annual percentage change in tort filings, contract filings, and population for each year between 1984 and 1999 in 15 states. Since 1984, tort filings have grown 27 percent, but have been on the decline since 1995. Overall, total contract filings in 1999 were only 1 percent lower than they were in 1984, but between 1990 and 1994 there was a sharp decline in contract filings. Contract filings increased 9 percent between 1996 and 1998, but have leveled off in the last year.

**Percent Change in Tort Filings, Contract Filings, and Population in 15 States, 1984-1999**



## General Civil Cases Resolved by Trial

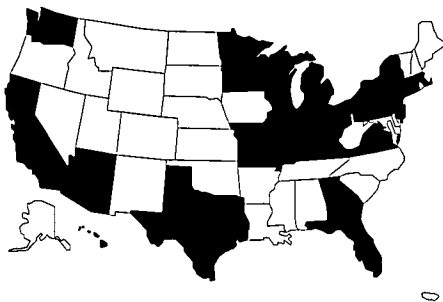
### *Civil trials are rare*

Trials capture the public eye even though the vast majority of general civil (tort, contract, and real property) cases are resolved outside the courtroom. A good deal of this attention focuses on jury verdicts and the effect that money damages have on the function of businesses in this country and around the world. Many argue for placing monetary caps on damages to keep jury awards in check, and indeed some state legislatures have adopted tort reforms that limit the jury's ability to compensate injured plaintiffs.

Understanding the characteristics of general civil trials helps inform the debates over jury awards, punitive damages, tort reform, and civil trials. In 1996, the National Center for State Courts and the Bureau of Justice Statistics collected data from over 15,000 bench and jury trials representative of 75 of the nation's largest counties to enhance our knowledge of general civil trials. In this analysis, jury trials include directed verdicts, judgments notwithstanding the verdict, and jury trials for defaulted defendants, and a case is defined as a trial only if a judgment or jury verdict has been reached. Because our focus in this study is on cases that were tried to completion, cases that settled during a trial are not included.

The Court Statistics Project has estimated, based upon a similar study of civil cases resolved in any manner in 1992, that 3.7 percent of tort cases and 2.8 percent of contract cases were resolved by trial.

### **21 States with Counties Participating in the Civil Trial Court Network**

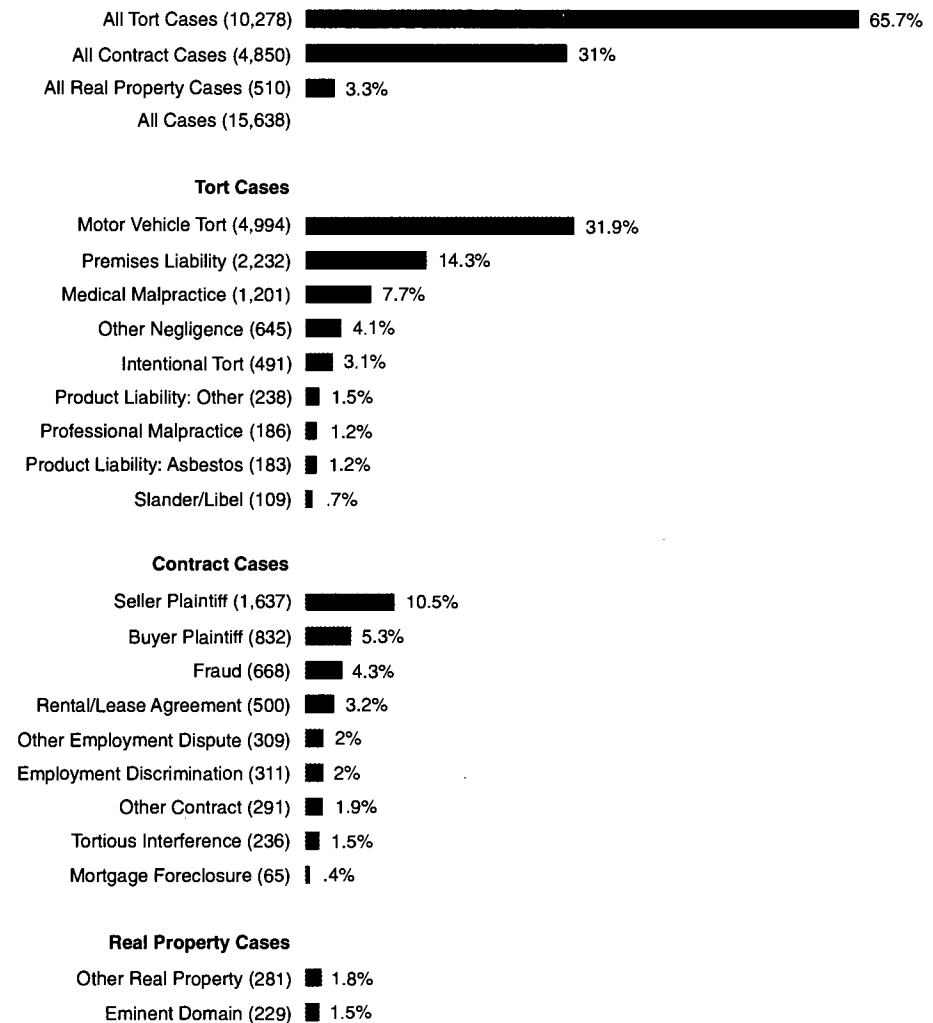




*Two-thirds of general civil trials involve tort cases; half of tort trials involve autos*

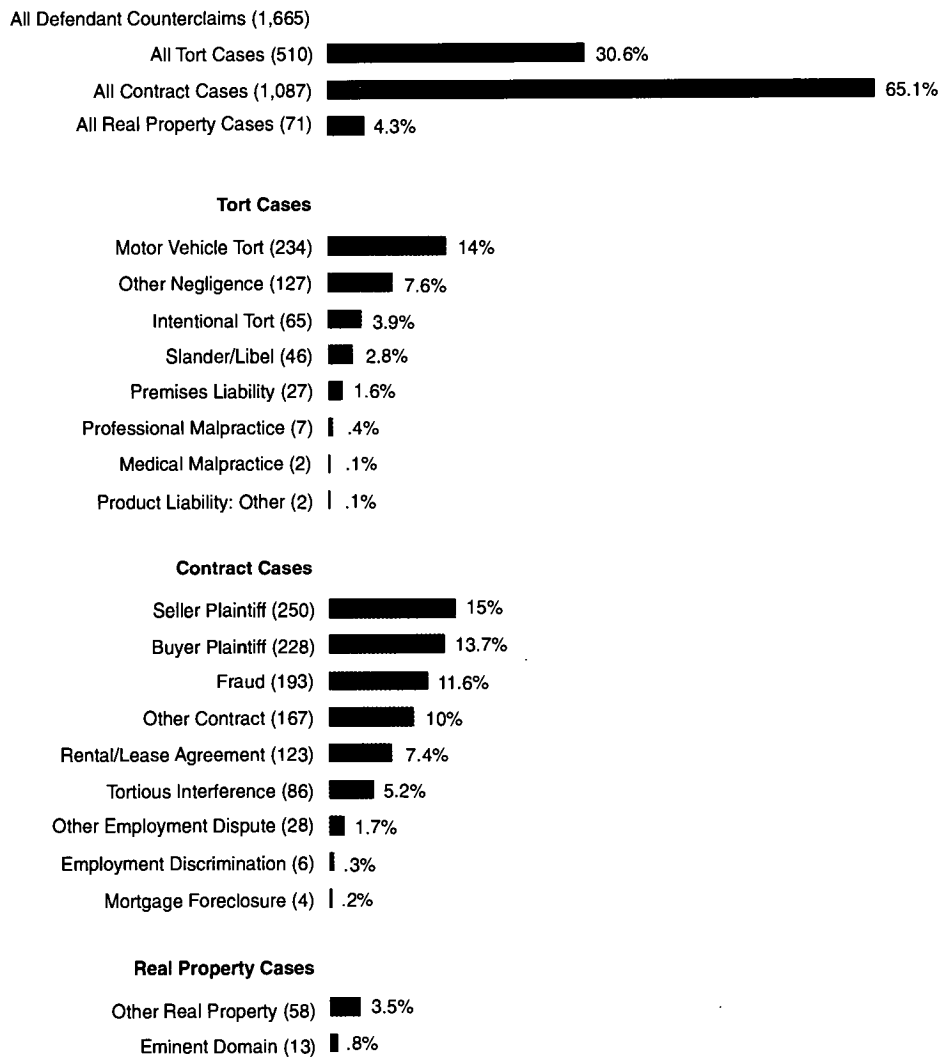
Of the general civil cases disposed of by a jury or bench trial in 1996, nearly two-thirds (65.7 percent) involved tort claims. Contract disputes accounted for all but 3 percent of the remaining trial caseload. As the bar chart below indicates, automobile liability claims constituted the largest segment of general civil trials—almost one-third of all trials and one-half of all tort trials. About one in 13 trials involved medical malpractice. Perhaps most surprising, given their notoriety, is the relatively small number of trials involving product liability claims (2.7 percent). Cases involving a dispute over the collection of a debt (seller plaintiff) or the failure of a seller to make good on a promise of delivery (buyer plaintiff) together constituted one-half of all contract disputes.

**Composition of Plaintiff Claims in 75 of the Nation's Largest Counties, 1996**



When sued, a defendant can respond to a plaintiff in several ways. One approach is to countersue the plaintiff. Countersuits or counterclaims are claims “presented by the defendant in opposition to” the plaintiff’s claim (Blacks, 1990). The majority of defendant counterclaims (65.1 percent) involved a contract issue, primarily buyer or seller disputes. In comparison, only 31 percent of counterclaims were tort claims. Motor vehicle suits again comprised almost one-half of all counterclaims involving a tort issue.

**Composition of Defendant Counterclaims in Trials in 75 of the Nation’s Largest Counties, 1996**



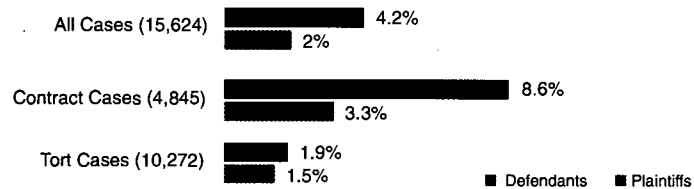


### How common is pro se representation in civil trials?

More people want to handle their cases without legal representation (pro se). This is particularly true for cases such as divorce or small claims. However, in general civil cases resolved by trial, 4 percent involved a pro se defendant and 2 percent involved a pro se plaintiff. The largest numbers of pro se litigants are found in contract cases, where almost 9 percent of defendants were unrepresented.

Attorneys often represent plaintiffs in tort cases on a contingency basis, meaning they collect no fee unless they successfully litigate the case. Moreover, most people and businesses carry some type of liability insurance (e.g., automobile or business insurance) that covers the cost of legal counsel, partially explaining the relative scarcity of pro se litigants in tort cases. In contrast, many contract cases involve disputes between a buyer and seller where there is no insurance company or third party willing to pay the attorney fees. These factors likely contribute to the greater proportion of pro se litigants in contract disputes.

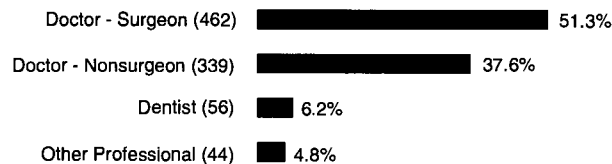
#### Percent of General Civil Trials with Pro Se Litigants in 75 of the Nation's Largest Counties, 1996



### Medical and professional malpractice cases account for 13 percent of tort trials

Malpractice cases are brought against members of professional occupations (e.g., lawyers, doctors) and comprise 13 percent of tort trials. In this study, these cases have been divided into two distinct categories: medical malpractice and professional malpractice. Medical doctors account for nearly 90 percent of all medical

#### Known Defendants in Medical Malpractice Trials in 75 of the Nation's Largest Counties, 1996



Note: Data for type of defendant were available for 74.9% of the 1,201 medical malpractice trials.

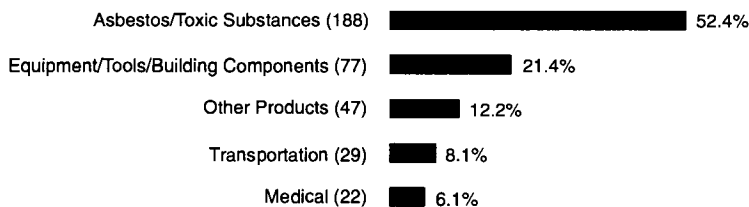


malpractice defendants. The remaining defendants are dentists and other medical professionals (e.g., nurses). Surgeons make up the largest proportion of doctors (58 percent) sued for medical malpractice. Among professional malpractice cases, two-thirds of all known defendants were attorneys (not shown on a table).

### *Few civil trials involve product liability claims*

Product liability suits involve claims of injury resulting from the use of defective products. Slightly more than half (52.4 percent) of the product liability cases culminating in a trial involved either asbestos or “other” toxic substance issues (e.g., lead paint). Asbestos litigation cases represented 183 of the 188 toxic product liability suits. Suits stemming from faulty equipment, tools, or building components were the second most frequent product liability case, accounting for 21.4 percent of all product liability trials. Product liability suits resulting from injuries caused by defective transportation (e.g., automobiles, airplanes, motorcycles) and medical products (e.g., implants, drugs, and medical devices) comprised 8.1 and 6.1 percent of these trial types, respectively.

#### **Known Defective Products in Product Liability Trials in 75 of the Nation’s Largest Counties, 1996**



Note: Data for type of defective product were available for 85.4% of the 421 product liability trials. “Other products” include clothing, food, furniture, appliances, audio equipment, toys, other home products, and other unclassified products.

### *Who wins tort and contract trials?*

Central to the discussion of civil trials, and a piece of information that is crucial to whether a litigant decides to seek a trial, is the likelihood of prevailing. The following table shows how well plaintiffs fared in tort and contract cases in both jury and bench trials. Overall, plaintiffs won just over half the time (52.7 percent). Plaintiffs fared less well in tort cases (48.2 percent) than they did in contract cases, where the rate of success was about 62 percent.

Individual case type categories on this table are sorted according to plaintiff win rates. The win rate for plaintiffs in tort cases ranged from a high of 57.5 percent in motor vehicle trials to a low of 23.4 percent in medical malpractice cases. Plaintiff success rates in contract cases ranged from 80 percent in mortgage foreclosure cases to 41 percent in employment discrimination cases.

**Plaintiff Win Rates in Tort and Contract Trials in 75 of the Nation's Largest Counties, 1996**

|                             | Plaintiff win rates |            |                 |              |                 |              |
|-----------------------------|---------------------|------------|-----------------|--------------|-----------------|--------------|
|                             | Number of cases     | All trials | Number of cases | Jury trials* | Number of cases | Bench trials |
| All tort and contract cases | 15,103              | 52.7%      | 10,877          | 48.1%        | 4,226           | 64.5%        |
| <b>Tort cases</b>           | 10,259              | 48.2       | 8,988           | 46.9         | 1,271           | 56.9         |
| Motor vehicle               | 4,994               | 57.5       | 4,515           | 56.9         | 479             | 62.9         |
| Intentional tort            | 491                 | 57.0       | 363             | 54.9         | 128             | 62.9         |
| Product liability: Asbestos | 174                 | 55.6       | 174             | 55.6         | 0               | n/a          |
| Other negligence            | 645                 | 50.8       | 513             | 50.7         | 132             | 50.9         |
| Professional malpractice    | 185                 | 42.6       | 117             | 35.8         | 68              | 54.3         |
| Premises liability          | 2,229               | 39.6       | 1,877           | 37.2         | 352             | 52.4         |
| Product liability: Other    | 238                 | 37.1       | 204             | 31.6         | 34              | 70.3         |
| Slander/libel               | 109                 | 34.2       | 84              | 33.7         | 25              | 35.9         |
| Medical malpractice         | 1,195               | 23.4       | 1,142           | 22.7         | 53              | 38.2         |
| <b>Contract cases</b>       | 4,844               | 62.4       | 1,889           | 53.9         | 2,955           | 67.8         |
| Mortgage foreclosure        | 65                  | 80.1       | 11              | 53.7         | 54              | 85.5         |
| Seller plaintiff            | 1,636               | 75.7       | 382             | 63.7         | 1,254           | 79.3         |
| Rental/lease agreement      | 500                 | 62.7       | 141             | 46.9         | 359             | 68.9         |
| Fraud                       | 668                 | 57.7       | 315             | 56.2         | 352             | 59.1         |
| Tortious interference       | 236                 | 56.9       | 123             | 66.1         | 113             | 46.8         |
| Buyer plaintiff             | 829                 | 55.7       | 432             | 47.0         | 398             | 65.2         |
| Other contract dispute      | 290                 | 52.4       | 105             | 57.0         | 185             | 49.9         |
| Other employment dispute    | 309                 | 50.4       | 156             | 48.5         | 153             | 52.3         |
| Employment discrimination   | 311                 | 41.1       | 224             | 47.0         | 87              | 26.0         |

\* Jury trials include directed verdicts, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

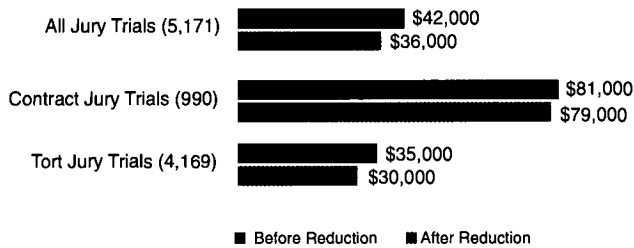
*Awards in jury and bench trials*

Nearly 5,200 jury trials ended with an award to a successful plaintiff in the nation's 75 largest counties in 1996 and 81 percent of those successful plaintiffs were involved in tort trials. Median jury awards (the amount at which half of the awards are higher and half are lower) provide a benchmark for examining civil trial compensation. The following graphic shows median jury awards to prevailing plaintiffs in tort and contract jury trials before and after reductions.

Jury awards may be reduced for a number of reasons. In tort cases, the primary reason is contributory negligence on the part of the plaintiff. Most states allow an award reduction by the court if the plaintiffs have in any way contributed to their injury. Contract cases, where reductions are rare, are most often reduced because the parties settled some part of the dispute prior to trial. The overall reduction rate for all cases was about 15 percent. This figure was clearly driven by a reduction rate of 14 percent among tort cases.

The post-reduction median award for all jury trials (including real property trials) was \$36,000. The median award in tort jury trials was \$30,000 and the median award in contract cases was just in excess of \$79,000.

**Median Jury Awards (Before and After Reductions) in 75 of the Nation's Largest Counties, 1996**



Note: Jury trials include directed verdicts, judgments notwithstanding the verdict, and jury trials for defaulted defendants.



It is interesting to compare the difference between damages awarded by juries and those awarded by judges, but it should be noted that jury trials and bench trials are not necessarily comparable events. The decision to request a jury trial or bench trial is a strategic one that attorneys make based upon a number of different factors including beliefs about how trial evidence is likely to be interpreted by a judge versus a jury.

In stark contrast to the landscape of jury trials described above, there were nearly three times as many awards for plaintiffs in contract bench trials as there were in tort bench trials. The median award for all bench trials in the nation's 75 largest counties in 1996 was over \$27,000. Although motor vehicle trials again dominated the tort caseload with 42 percent of the cases and a median award of over \$20,000 (not shown on a table), the median award for all tort bench trials was \$33,500.

**Median Awards to Plaintiffs in Bench Trials in 75 of the Nation's Largest Counties, 1996**

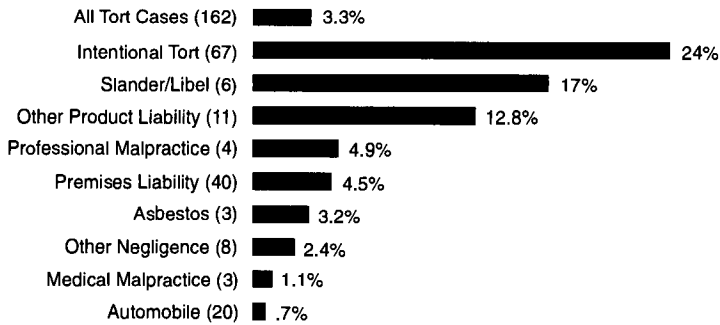
|                         |  |          |
|-------------------------|--|----------|
| All Trials (2,725)      |  | \$27,585 |
| Contract Trials (1,963) |  | \$25,199 |
| Tort Trials (713)       |  | \$33,500 |

*Punitive damage awards occur in 3.3 percent of tort and in 6.3 percent of contract cases*

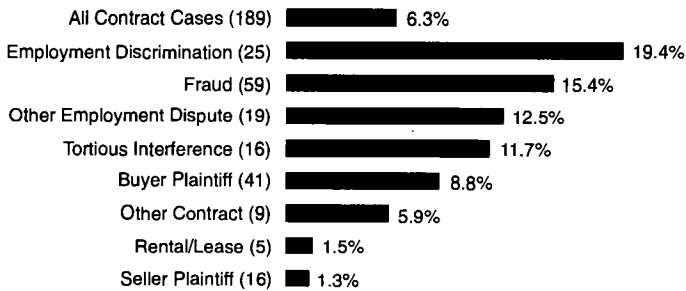
Punitive damages generally result from tort claims alleging that the defendant's conduct was intentional or grossly negligent. When punitive damages are awarded in a contract case, the principal claim is breach of contract, but there is typically an additional claim of fraud or intent. Punitive awards occurred in only 3.3 percent of tort trials. The most common type of tort trials (automobile, premises liability, and medical malpractice) produced few punitive awards. Punitive damages were awarded most frequently in intentional tort (24 percent) and slander/libel (17 percent) trials. Asbestos cases, the most common type of product liability suit, produced relatively few punitive awards compared to other product liability cases.

Fewer than one in 16 contract disputes resulted in a punitive award. Employment discrimination cases, which almost always include an associated tort claim (e.g., discrimination, harassment), produced the largest percentage of punitive verdicts among contract trials at 19.4 percent. Fraud, which in civil cases is a tort that arises almost exclusively in contract/commercial relations, resulted in the second highest percentage of contract trials with a punitive award. Seller plaintiff cases, the most common type of contract trial, generated a relatively small number of punitive awards.

**Percent of Tort Claims with a Punitive Award for Plaintiff Winners in 75 of the Nation's Largest Counties, 1996**



**Percent of Contract Claims with a Punitive Award for Plaintiff Winners in 75 of the Nation's Largest Counties, 1996**

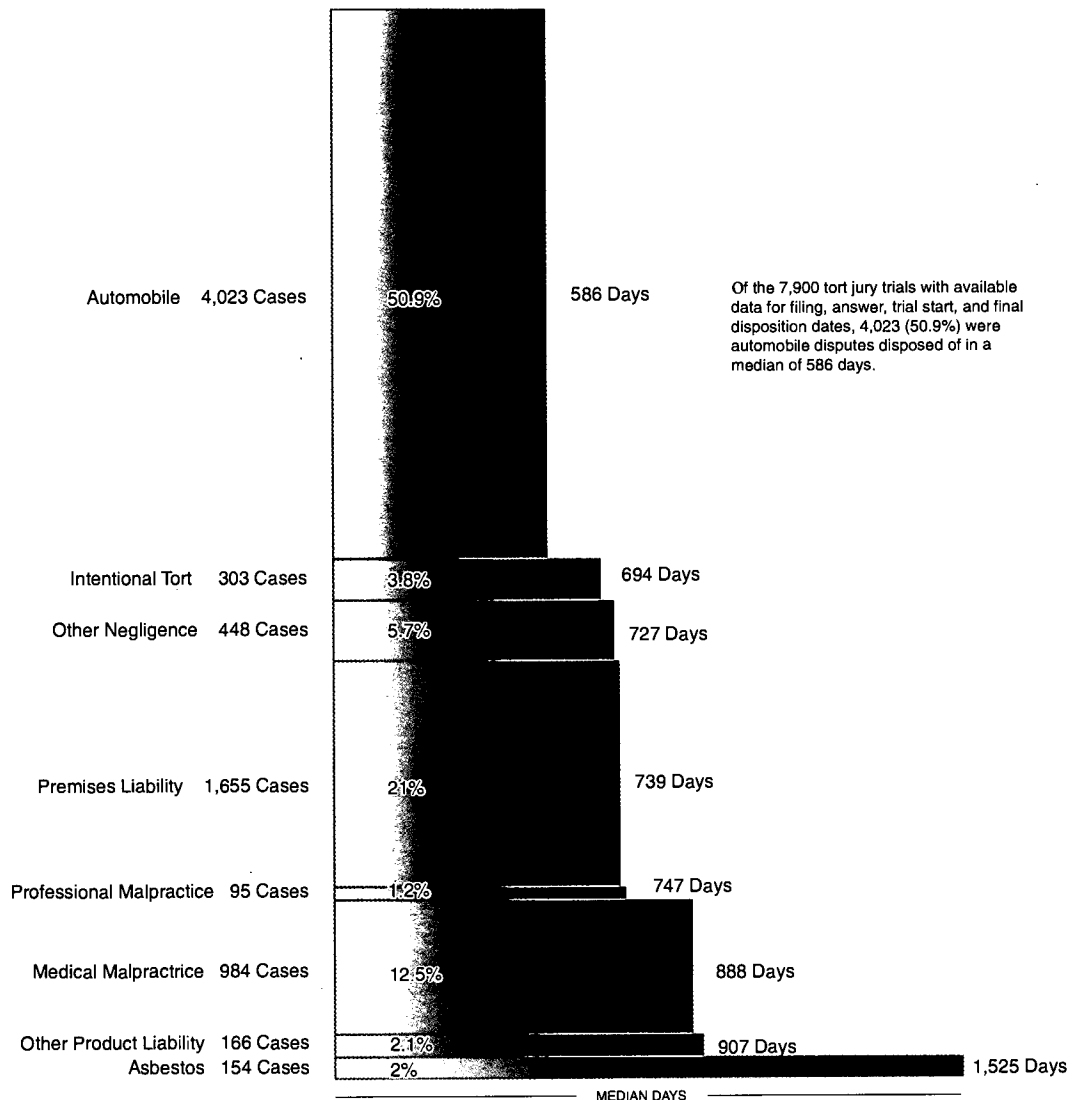




*Case processing time is shortest for automobile accident trials and longest for asbestos cases*

Delay can often increase the cost of litigation, threaten the quality of evidence, and erode public confidence in the courts. The following two figures show the median number of days from filing to verdict for tort and contract jury trials in addition to the proportion of the trial caseload accounted for by each case type. Among tort jury trials, automobile cases reached a verdict in the shortest amount of time (586 days). Asbestos and other product liability cases, two types of torts that typically involve more complicated legal matters and a greater number of litigants, took a median of 1,525 and 907 days, respectively, to reach disposition, but together comprised 4.1 percent of the tort caseload.

**Time from Filing to Jury Verdict by Type of Tort in 75 of the Nation's Largest Counties, 1996**

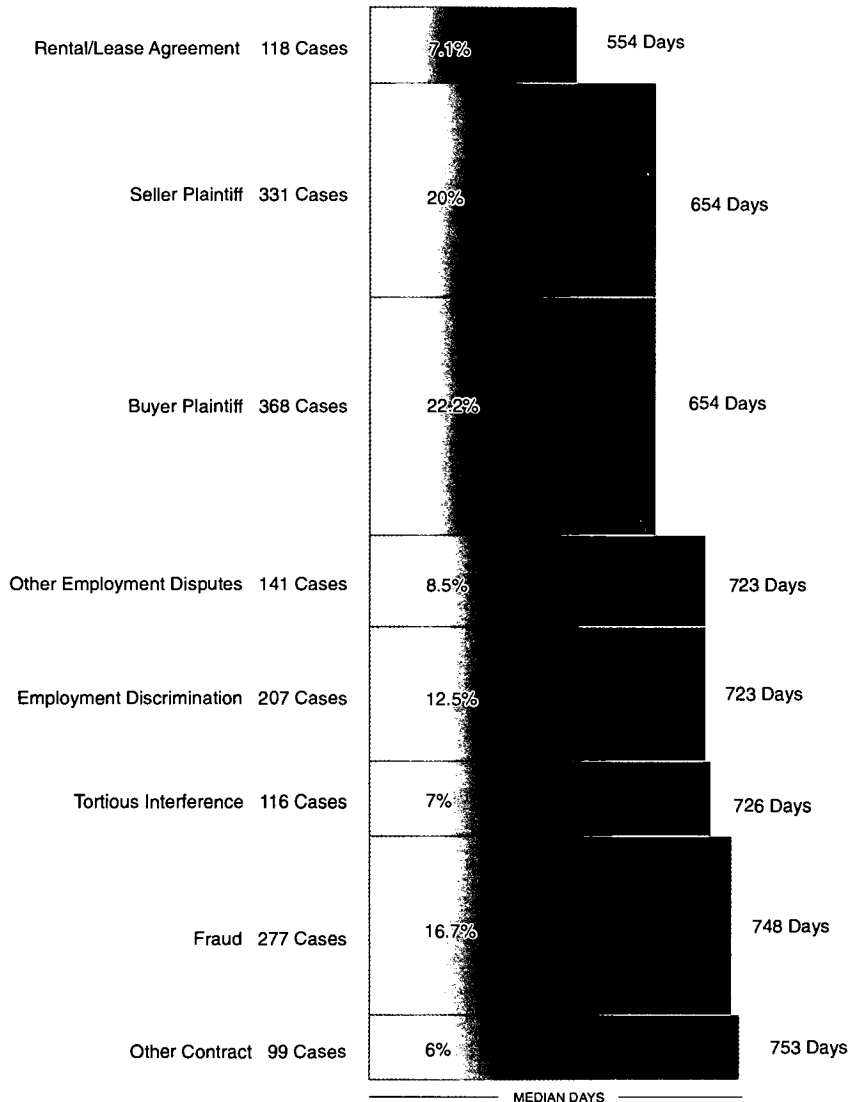


Note: Jury trials include directed verdicts, judgments notwithstanding the verdict, and jury trials for defaulted defendants.

*Contract jury trials involving rental/lease agreements have the shortest case processing time and fraud cases are among the longest*

In contrast to the staircase image of tort jury trials, time to disposition in contract jury trials does not vary as widely by case type. In fact, only 199 days separate the shortest average contract trials from the longest as opposed to a difference of 939 days in tort trials. The median number of days from filing to verdict ranged from 554 in rental/lease agreements to about 750, or just over two years, in fraud and other contract cases. The two most common contract trials were seller and buyer plaintiff cases, together comprising 42.2 percent of the contract jury trial caseload, and each taking slightly more than 650 days to reach a verdict.

**Time from Filing to Jury Verdict by Type of Contract in 75 of the Nation's Largest Counties, 1996**



Note: Jury trials include directed verdicts, judgments notwithstanding the verdict, and jury trials for defaulted defendants. In order to be included in this analysis, each case had to have valid data for filing, answer, trial start, and disposition dates.

*Time to disposition in contract and tort bench trials is less than in jury trials*

Consistent with jury trials, automobile disputes disposed of by bench trial comprised the most common type of tort (38.5 percent) and were disposed of in the fewest number of days (523). Also similar to jury trials, premises liability cases were the second most frequent type of tort bench trial at 29.1 percent. The longest bench trials, other negligence and product liability cases, required a median of 721 and 728 days to reach a judgment, respectively. However, those two case types combined to make up only 12.1 percent of the tort bench trial caseload.

Overall, contract bench trials took the shortest time to resolve. The time to disposition ranged from a median of 461 days in rental/lease agreement trials to 621 days in other employment disputes.

**Median Days from Filing to Final Judgment in Bench Trials by Case Type in 75 of the Nation's Largest Counties, 1996**

| Case Type                 | Number of Cases | Percent of Case Type | Median Number of Days |
|---------------------------|-----------------|----------------------|-----------------------|
| <b>All Tort Cases</b>     | <b>1,112</b>    | <b>100%</b>          | <b>582</b>            |
| Intentional Tort          | 99              | 8.9                  | 508                   |
| Automobile                | 428             | 38.5                 | 523                   |
| Medical Malpractice       | 47              | 4.2                  | 571                   |
| Slander/libel             | 20              | 1.8                  | 575                   |
| Professional Malpractice  | 58              | 5.2                  | 627                   |
| Premises Liability        | 324             | 29.1                 | 650                   |
| Other Negligence          | 107             | 9.6                  | 721                   |
| Other Product Liability   | 28              | 2.5                  | 728                   |
| <br>                      |                 |                      |                       |
| <b>All Contract Cases</b> | <b>2,350</b>    | <b>100%</b>          | <b>513</b>            |
| Rental/Lease              | 298             | 12.7                 | 461                   |
| Tortious Interference     | 94              | 4.0                  | 485                   |
| Seller Plaintiff          | 937             | 39.9                 | 497                   |
| Other Contract            | 202             | 8.6                  | 508                   |
| Employment Discrimination | 81              | 3.4                  | 526                   |
| Fraud                     | 313             | 13.3                 | 538                   |
| Buyer Plaintiff           | 297             | 12.6                 | 541                   |
| Other Employment Dispute  | 127             | 5.4                  | 621                   |

Note: Median days to disposition were based upon the 3,462 bench trial cases with valid data for filing, answer, trial start, and final disposition date.



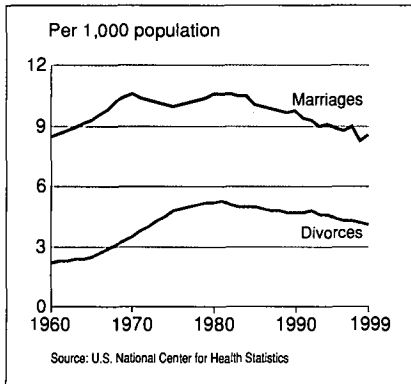
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# DOMESTIC RELATIONS

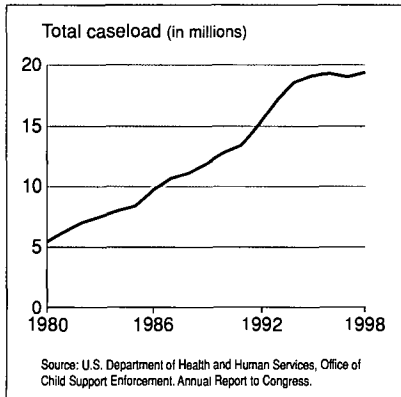
Divorce and child custody proceedings make up the largest share of the domestic caseload.

## Child Support Enforcement Cases

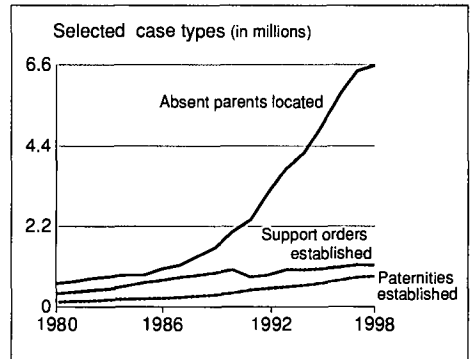
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Both marriage and divorce rates are down from the 1980s...



while child support enforcement



and concern with locating absent parents is on the rise.

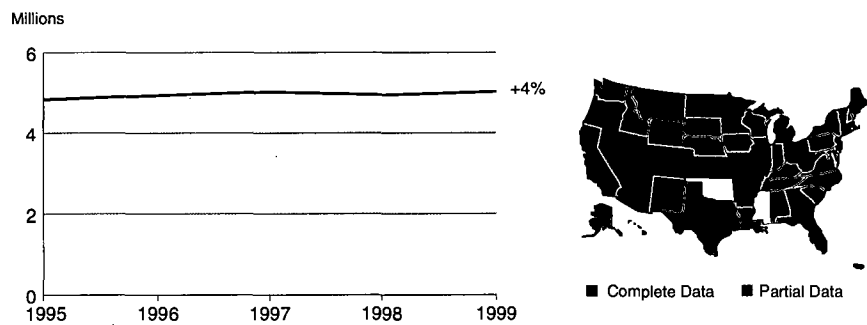
# Domestic Relations Caseloads in State Trial Courts

## *Federal and state legislative mandates have helped improve domestic relations data*

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), better known as the Welfare Reform Act, and the Adoption and Safe Families Act of 1997, have had a direct effect on state administrative offices and the judiciary. Also, nonfederal reporting requirements have led many state courts to reexamine data collection practices in the area of domestic relations and to implement policies and procedures designed to promote the collection of accurate and timely data. As a direct result, the accuracy of domestic relations data continues to improve. Thus, we restrict our analysis in this section to the most recent five years.

Data reported by 48 states, the District of Columbia, and Puerto Rico, revealed a 4 percent rise in domestic relations case filings between 1995 and 1999. Specifically, domestic relations cases increased 4 percent between 1995 and 1997. There was a slight decline in the total number of domestic relations filings in 1998 (2 percent) that was offset by a 2 percent increase in domestic relations filings in 1999.

**Domestic Relations Filings in General and Limited Jurisdiction Courts, 1995-1999**

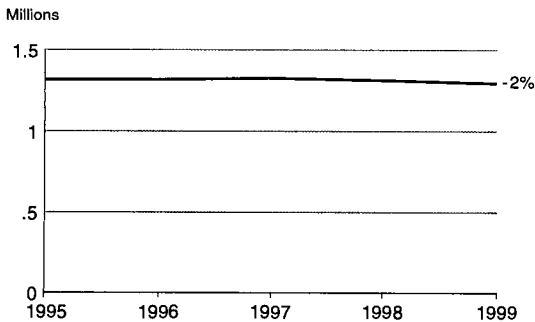


*Domestic relations filings increased slightly between 1998 and 1999*

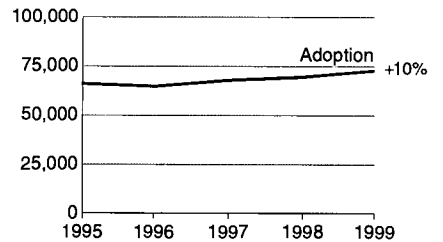
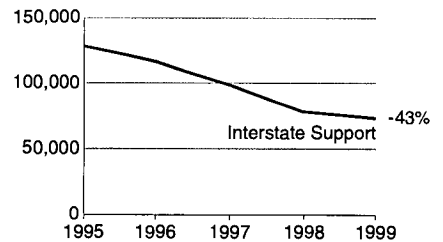
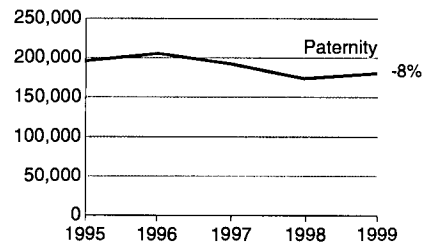
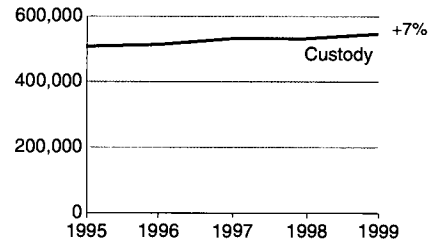
The trend lines here track recent changes in domestic relations caseloads for each case type except domestic violence, which will be examined separately. Between 1995 and 1999, caseloads grew in two of the five case type categories in the states represented, while filings in the other three case types declined.

In contrast to what appeared to be a slow down of domestic relations filings between 1997 and 1998, overall filings increased in 1999. Specifically, between 1998 and 1999 there was a slight increase in the number of custody, paternity, and adoption filings (3 percent, 4 percent, and 5 percent, respectively). Divorce filings decreased by 2 percent and interstate support filings decreased by 7 percent. The steady decrease in interstate filings can be attributed in part to the enactment of the Welfare Reform Act and the Uniform Interstate Family Support Act (UIFSA). These acts reduced the need to involve the state courts in processing routine interstate support, intrastate support, and paternity cases.

**Divorce Filings, 1995-1999**



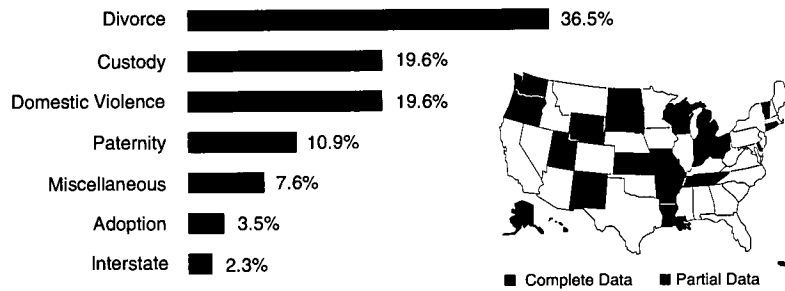
**Domestic Relations Cases by Type, 1995-1999**



*Divorce cases are the largest part of domestic relations caseloads*

The chart below presents the overall 1999 domestic relations caseload composition in the 24 states providing complete information on case types. In these states, divorce cases comprise the largest portion of domestic relations caseloads (36.5 percent). Custody and domestic violence filings were the second and third largest categories constituting 19.6 percent each. Paternity filings accounted for 10.9 percent of the total, while miscellaneous (7.6 percent), adoption (3.5 percent), and interstate support (2.3 percent) made up the smallest portion of the domestic relations caseload.

**Domestic Relations Caseload Composition in 24 States, 1999**



*There is considerable variation in domestic relations caseload composition by state*

The following table offers more information concerning domestic relations caseload composition at the individual state level. As one might expect, there is considerable variation in the percentage breakdown of the various domestic relations case types; divorce filings comprise anywhere from 7 to 58 percent of the total domestic relations caseload while there is much less variation in the size of adoption filings (<1 percent to 7 percent). Some variation in composition is due to the different ways states classify domestic case types. For example, the variation in divorce and custody filings may result from some states classifying part of their custody proceedings with divorce filings, while other states consistently distinguish the two case types. The domestic violence category clearly illustrates different counting strategies used. Specifically, Puerto Rico reports domestic violence with felony filings and Wisconsin counts domestic violence filings with misdemeanor filings. As efforts to refine domestic relations case type definitions and reporting strategies continue, state court data will present a clearer picture of domestic relations caseload.

## Domestic Relations Caseload Composition in 25 States, 1999

| State                     | Total DR Filings per 100,000 Population | Total DR Filings | Divorce | Adoption | Paternity | Custody | Domestic Violence | Interstate Support | Misc. |
|---------------------------|---|------------------|---------|----------|-----------|---------|-------------------|--------------------|-------|
| Delaware <sup>1</sup>     | 6,958                                   | 39,735           | 13%     | 0.5%     | 1%        | 62%     | 8%                | 0%                 | 15%   |
| Vermont <sup>1</sup>      | 4,754                                   | 21,603           | 34      | 2        | 5         | 37      | 19                |                    | 2     |
| New York                  | 4,640                                   | 638,892          | 10      | 1        | 16        | 59      | 9                 | 2                  | 4     |
| North Dakota <sup>1</sup> | 3,827                                   | 18,124           | 22      | 2        | 7         | 61      | 7                 |                    | <1    |
| District of Columbia      | 3,804                                   | 16,119           | 17      | 3        | 14        | 7       | 54                | 5                  | 0     |
| New Mexico <sup>9</sup>   | 3,090                                   | 38,445           | 34      | 2        | 1         | 5       | 51                |                    | 8     |
| Arkansas                  | 2,850                                   | 53,895           | 42      | 4        | 11        | 19      | 15                | 2                  | 8     |
| Alaska <sup>2</sup>       | 2,720                                   | 11,496           | 33      | 4        | 8         |         | 51                | <1                 | 3     |
| Ohio                      | 2,614                                   | 219,933          | 27      | 3        | 8         | 46      | 5                 | 2                  | 9     |
| Missouri <sup>3</sup>     | 2,425                                   | 98,665           | 32      | 3        | 8         | 1       | 39                | 2                  | 16    |
| Wyoming                   | 2,218                                   | 7,826            | 37      | 5        | 12        | 9       | 27                | 6                  | 5     |
| Oregon                    | 2,117                                   | 52,684           | 36      | 4        | 5         | 7       | 27                | 1                  | 21    |
| Kansas <sup>2</sup>       | 2,066                                   | 40,406           | 44      | 6        | 13        |         | 19                | 4                  | 16    |
| South Dakota <sup>5</sup> | 1,994                                   | 10,672           | 39      | 4        |           | 23      | 21                | 11                 | 2     |
| Rhode Island              | 1,989                                   | 14,910           | 32      | 4        | 12        |         | 24                | 27                 | 2     |
| Tennessee <sup>10</sup>   | 1,986                                   | 82,254           | 46      | 3        | 3         | 30      | 9                 | 4                  | 5     |
| Indiana <sup>4</sup>      | 1,945                                   | 85,840           | 49      | 4        | 17        |         | 25                | 3                  | 2     |
| Washington <sup>11</sup>  | 1,893                                   | 80,823           | 41      | 4        | 12        | 3       | 36                | <1                 | 3     |
| Michigan                  | 1,856                                   | 135,516          | 39      | 5        | 16        | 10      | 23                | 2                  | 4     |
| Connecticut <sup>6</sup>  | 1,700                                   | 41,712           | 33      | 3        | 33        | 12      | 13                | <1                 | 5     |
| Utah                      | 1,574                                   | 22,386           | 54      | 7        | 5         | 5       | 28                | 1                  | <1    |
| Hawaii <sup>2</sup>       | 1,407                                   | 12,609           | 44      | 6        | 16        |         | 24                | 3                  | 7     |
| Wisconsin <sup>8</sup>    | 1,279                                   | 49,914           | 44      | 5        | 30        | 14      |                   | 4                  | 5     |
| Puerto Rico <sup>7</sup>  | 1,240                                   | 34,205           | 58      | 1        | 1         | 31      |                   | <1                 | 10    |
| Louisiana <sup>12</sup>   | 860                                     | 27,308           | 7       | 6        | 26        | 52      | 3                 | 3                  | 4     |

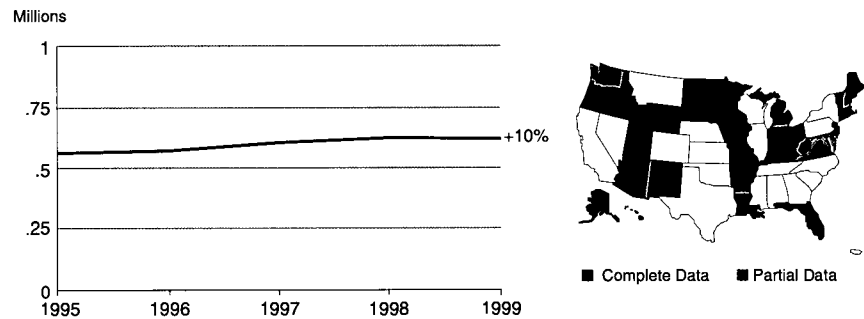
<sup>1</sup> Interstate support counted in custody.<sup>2</sup> Custody counted in divorce.<sup>3</sup> Custody filings are under represented.<sup>4</sup> Custody counted in miscellaneous juvenile.<sup>5</sup> Paternity counted in unclassified civil.<sup>6</sup> Interstate support filings are under represented.<sup>7</sup> Domestic violence counted in felony.<sup>8</sup> Domestic violence counted in misdemeanor.<sup>9</sup> Missing DV filings from Municipal Courts.<sup>10</sup> Missing custody, divorce, DV, interstate support and misc. filings from General Sessions Courts.<sup>11</sup> Some interstate support filings counted in paternity.<sup>12</sup> Reflects filings from Family and Juvenile courts only.

Note: Totals may not sum due to rounding.

*Domestic violence filings have increased 10 percent over the last five years*

By 1993, nearly all states had enacted statutes that greatly improve availability and accessibility of protection orders. Since that time, courts have turned more attention to improving data collection and reporting procedures for domestic and family violence cases. As a result, a more accurate picture of the trend in domestic violence case filings can be presented by examining the five years between 1995 and 1999 in selected states. During this period, domestic violence filings increased 10 percent and a greater number of states reported data that more accurately represented the entire state. Consistent with other domestic relations case types, the increase in domestic violence filings has slowed to an annual growth rate of less than 1 percent in 1999.

**Domestic Violence Filings, 1995-1999**



The 40 states able to provide three years of comparable domestic violence data are ranked in the adjacent table by their filing rate per 100,000 population in 1999. 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 from 1997 to 1999.

What accounts for the wide variation in both the number of domestic violence filings per 100,000 and the percentage change in filings from 1997 to 1999? Some of this variation is attributable to differences in how states define, identify, and collect domestic violence data. 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 cases can originate in several different jurisdictions or divisions of a state's court system, such as civil, criminal, juvenile, or family jurisdictions. This lack of consistency can lead to inflated filing data (e.g., a protection order could be counted both as a filing for a temporary order and a filing for a final 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 Caseloads in 40 States, 1997-1999

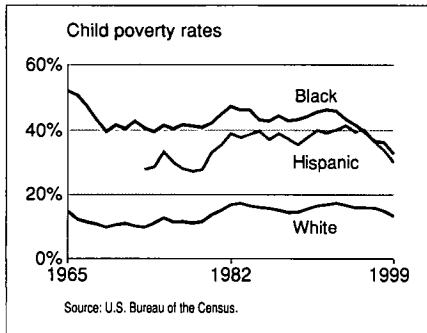
| State                              | Filings per<br>100,000 Pop. | Number of filings |        |        | Percent Growth<br>1997-99 | Population<br>Rank | Total 1999<br>Population |
|------------------------------------|-----------------------------|-------------------|--------|--------|---------------------------|--------------------|--------------------------|
|                                    |                             | 1997              | 1998   | 1999   |                           |                    |                          |
| <b>Unified Courts</b>              |                             |                   |        |        |                           |                    |                          |
| District of Columbia               | 2,070                       | 8,816             | 9,481  | 8,771  | -0.5%                     | 51                 | 423,710                  |
| Missouri                           | 940                         | 37,911            | 39,574 | 38,264 | 0.9                       | 17                 | 4,068,846                |
| Minnesota                          | 812                         | 30,656            | 29,785 | 28,438 | -7.2                      | 21                 | 3,503,658                |
| Illinois                           | 530                         | 44,082            | 41,549 | 47,450 | 7.6                       | 5                  | 8,947,032                |
| South Dakota                       | 412                         | 1,604             | 1,911  | 2,204  | 37.4                      | 47                 | 535,096                  |
| Kansas                             | 383                         | 7,716             | 8,503  | 7,488  | -3.0                      | 33                 | 1,955,415                |
| North Dakota                       | 275                         | 1,174             | 1,164  | 1,300  | 10.7                      | 48                 | 473,574                  |
| Iowa                               | 239                         | 5,518             | 5,638  | 5,137  | -6.9                      | 31                 | 2,149,728                |
| Connecticut                        | 224                         | 5,256             | 5,328  | 5,502  | 4.7                       | 30                 | 2,453,771                |
| <b>General Jurisdiction Courts</b> |                             |                   |        |        |                           |                    |                          |
| New Mexico                         | 1,575                       | 17,133            | 18,912 | 19,601 | 14.4                      | 38                 | 1,244,232                |
| Alaska                             | 1,385                       | 5,357             | 5,750  | 5,856  | 9.3                       | 49                 | 422,675                  |
| New Jersey                         | 1,167                       | 72,861            | 71,518 | 71,647 | -1.7                      | 9                  | 6,140,208                |
| West Virginia                      | 1,019                       | 15,570            | 14,774 | 14,307 | -8.1                      | 37                 | 1,403,447                |
| Massachusetts                      | 946                         | 49,353            | 46,609 | 44,516 | -9.8                      | 13                 | 4,706,615                |
| Vermont                            | 920                         | 4,224             | 4,091  | 4,182  | -1.0                      | 50                 | 454,394                  |
| Kentucky                           | 917                         | 27,907            | 28,732 | 27,452 | -1.6                      | 25                 | 2,995,297                |
| Colorado                           | 885                         | 26,242            | 27,573 | 26,463 | 0.8                       | 24                 | 2,990,623                |
| New Hampshire                      | 860                         | 7,721             | 8,184  | 7,715  | -0.1                      | 42                 | 896,698                  |
| Montana                            | 820                         | 5,530             | 5,729  | 5,405  | -2.3                      | 45                 | 658,960                  |
| Florida                            | 753                         | 83,347            | 86,442 | 86,944 | 4.3                       | 4                  | 11,541,366               |
| Maine                              | 725                         | 6,600             | 7,062  | 6,980  | 5.8                       | 40                 | 962,601                  |
| Washington                         | 685                         | 31,454            | 29,715 | 29,233 | -7.1                      | 15                 | 4,270,021                |
| Arizona                            | 660                         | 22,268            | 22,371 | 22,721 | 2.0                       | 20                 | 3,443,768                |
| Virginia                           | 652                         | 19,677            | 29,659 | 33,978 | 72.7                      | 12                 | 5,208,102                |
| Idaho                              | 632                         | 6,980             | 6,286  | 5,700  | -18.3                     | 41                 | 901,236                  |
| Wyoming                            | 592                         | 1,445             | 1,343  | 2,088  | 44.5                      | 52                 | 352,795                  |
| Delaware                           | 589                         | 3,477             | 3,327  | 3,362  | -3.3                      | 46                 | 571,088                  |
| Oregon                             | 562                         | 15,650            | 14,598 | 13,995 | -10.6                     | 29                 | 2,488,653                |
| Maryland                           | 555                         | 20,489            | 21,685 | 21,420 | 4.5                       | 19                 | 3,862,202                |
| Indiana                            | 479                         | 19,505            | 20,228 | 21,131 | 8.3                       | 14                 | 4,413,910                |
| Rhode Island                       | 476                         | 4,066             | 3,779  | 3,565  | -12.3                     | 44                 | 749,639                  |
| Utah                               | 440                         | 7,493             | 7,370  | 6,254  | -16.5                     | 35                 | 1,422,470                |
| Michigan                           | 436                         | n/a               | 30,411 | 31,812 | n/a                       | 8                  | 7,302,636                |
| Arkansas                           | 426                         | 7,587             | 8,001  | 8,052  | 6.1                       | 34                 | 1,891,149                |
| New York                           | 408                         | 50,799            | 58,958 | 56,073 | 10.4                      | 3                  | 13,755,677               |
| Hawaii                             | 341                         | 2,859             | 3,275  | 3,055  | 6.9                       | 43                 | 896,157                  |
| Tennessee                          | 172                         | n/a               | 6,493  | 7,112  | n/a                       | 16                 | 4,142,605                |
| Ohio                               | 138                         | 8,292             | 10,495 | 11,649 | 40.5                      | 7                  | 8,412,583                |
| Louisiana                          | 24                          | 459               | 510    | 759    | 65.4                      | 22                 | 3,182,034                |
| Mississippi                        | 4                           | 80                | 95     | 75     | n/a                       | 32                 | 2,015,753                |

Note: n/a signifies not available

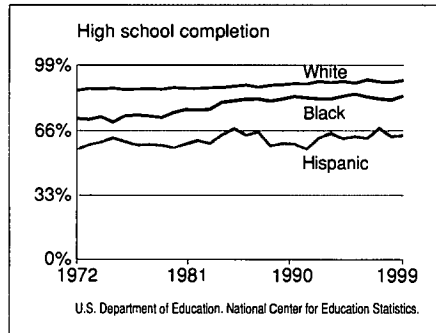
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# JUVENILE

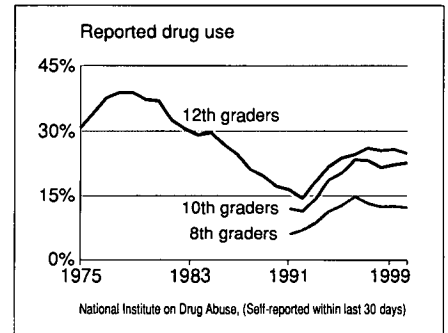
At the end of the 20th century, young people  
are coming of age in a society where...



child poverty rates are  
falling...



more young people are  
completing high school and



...reported drug use among  
their peers has flattened.



## Juvenile Caseloads in State Trial Courts

Forces promoting change in the juvenile court remain active. Several factors known to influence juvenile court filing rates (in particular, juvenile crime rates and jurisdictional changes) are moving in ways that may lead to a decline in filing rates. Between its peak in 1994 and the latest data available (1998), the juvenile arrest rate for Violent Crime Index offenses dropped 30 percent to a level of 370 arrests for every 100,000 persons ages 10-17 (*Uniform Crime Report*, Federal Bureau of Investigation, 1998). The juvenile Property Crime Index arrest rate also declined steadily since 1994, with an especially large decrease (14 percent) between 1997 and 1998 that dropped the rate to its lowest level in a generation.

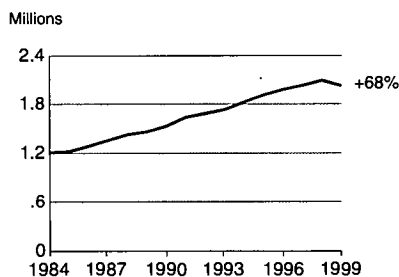
Jurisdictional changes during the past two decades have acted to limit the coverage of the juvenile court. States continue to modify statutes governing transfer so that an increasing number of serious and violent juveniles are now being prosecuted in an adult criminal court by such means as judicial waiver, direct filing by the prosecutor, and statutory exclusion. In addition, there has been a significant increase in the number of crimes eligible for criminal prosecution and, in many states, the age at which certain juveniles could be tried in criminal court has been lowered. Between 1992 and 1997, all but six states expanded their statutory provisions to make it easier to transfer juveniles to adult court.

This section examines the volume, composition, trends, and outcomes of juvenile cases in the state courts. We also examine trends in juvenile detention, a necessary though highly controversial aspect of the work of juvenile courts.

### *Juvenile filings declined 3 percent from 1998 to 1999*

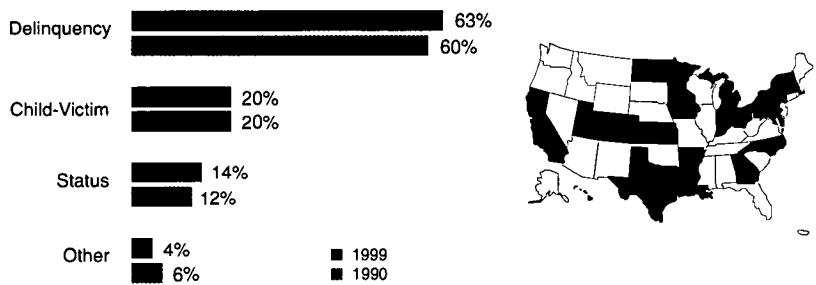
Juvenile filings in state courts declined by 3 percent from their historic high of nearly 2.1 million in 1998, to 2 million in 1999. This decline breaks an uninterrupted string of annual increases stretching back to 1984. The number of juvenile filings in 1999, though smaller than the number for either 1998 or 1997, was the third highest on record and represents a 68 percent increase over the number of cases filed in 1984. It appears that the decline in juvenile crime rates and the narrowing of the jurisdictional authority of the juvenile court are finally being reflected in juvenile court filing rates.

**Juvenile Filings in State Courts, 1984-1999**



The majority (63 percent) of juvenile cases in 1999 were for some type of delinquent act. Delinquency cases involve offenses that are considered crimes if committed by an adult. Increasingly, these cases are processed like those in adult court, with the presence of a prosecutor and defense attorney and the use of evidentiary and disposition hearings. Though juveniles, like adults, are subject to a range of sentences from community service to secure confinement, their adjudication may also involve special conditions not typically granted to adults (e.g., special placements, living arrangements, or victim compensation).

**Juvenile Caseload Composition in 24 States, 1990 vs. 1999**



Another 14 percent of juvenile filings were for status offenses, which are non-criminal misbehaviors that are illegal only for juveniles (e.g., truancy, runaway). 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, in which the court provides protection to children who are allegedly abused or neglected, accounted for 20 percent of the caseload. Child-victim cases may be handled by removing the child from the home or by prosecuting the accused parent or adult in criminal proceedings.

The composition of juvenile court filings has changed somewhat during the 1990s. Comparing the case composition of 1990 with 1999 shows an increase in the share of delinquency and status offender cases while cases classified as “other” have diminished. The share of child-victim cases has remained unchanged.

## Juveniles Held in Detention

Juveniles can be placed in detention facilities pre-adjudication (i.e., when the youth is taken in by the police or when intake personnel review the case) or post-adjudication as part of their disposition. According to standards promulgated by the American Bar Association and other groups, juveniles should only be detained prior to adjudication to ensure their appearance in court, if they are perceived as a threat to the community or themselves, or if they are being held temporarily for another jurisdiction.

Information on the number of youth detained is available from the National Center for Juvenile Justice. These data describe the characteristics of cases likely to involve detention and show the trend in juvenile detentions.

### *An estimated 326,800 delinquent youth were detained pre-adjudication in 1997*

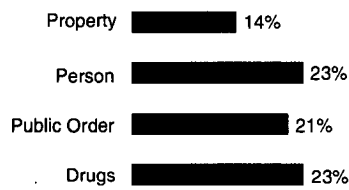
An estimated 326,800 delinquent youth were detained pre-adjudication in 1997, an increase of 2 percent from the 320,900 detained in 1996. Juveniles were detained between the referral and adjudication in 19 percent of all delinquency cases processed during 1997. A census of all juvenile residential facilities in 1997 revealed that detained juveniles represented 26 percent of the one-day count of all juveniles in residential placement (Snyder and Sickmund, 1999). Nearly 70 percent of children in detention centers are in facilities (ranging from adult jails to dedicated facilities) operating above their design capacity (Rust, 1999).

### *39 percent of detained youth committed property offenses, but only 14 percent of juvenile property offenders were held in detention pre-trial*

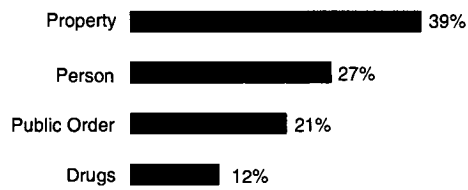
The adjacent bar chart shows the type of offenses committed by juveniles that result in pre-trial detention. Thirty-nine percent of all cases involving pre-trial detention were property offenders in 1996. Property offenders make up the largest share of detained juveniles because property offenses are by far the most common type of criminal case processed by the juvenile court (50 percent in 1996). In comparison, drug offenders make up 12 percent of the juveniles in pre-trial detention.

Looked at a different way, a smaller *proportion* of property offenders end up in pre-trial detention compared to other types of offenses. The likelihood is small (14 percent) that a juvenile accused of a property offense will be placed in pre-trial detention. On the other hand, while the total number of drug offenders in pre-trial detention is small, the likelihood is one-in-four (23 percent) that the accused juvenile will be detained prior to adjudication.

**Percent of Juveniles Held in Detention Before Their Court Hearing, 1996**



**Of All Detention Cases, Percent Involving Each Case Type, 1996**

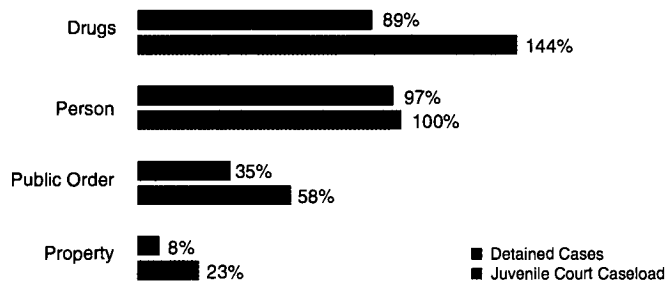


Source: Juvenile Offenders and Victims: 1999 National Report

*The number of juveniles receiving pre-trial detention rose by 90,000 between 1987 and 1996*

Between 1987 and 1996, the number of delinquency cases involving pre-adjudication detention increased by 38 percent, from 231,900 to 320,900 (Snyder and Sickmund, 1999). However, between 1987 and 1996, the number of cases disposed in juvenile courts increased 49 percent. In sum, the growth in the use of pre-trial detention has been smaller than the growth in juvenile caseloads.

**Percent Change in Juvenile Court and Pre-Trial Detention Caseloads, 1987-1996**

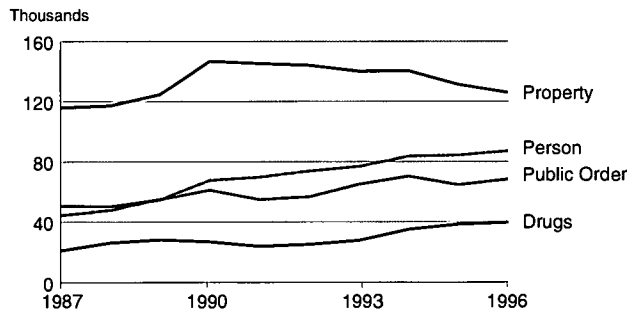


Source: Juvenile Offenders and Victims: 1999 National Report



The greater use of pre-trial detention was primarily caused by increases in person cases, and to a lesser extent, increases in drug and public order cases. Person and drug cases involving detention peaked in 1996 (at 87,200 and 39,700 cases, respectively) while public order offenses peaked in 1994 at 70,300. The number of person cases involving detention increased every year, while the trend in public order and drug offenses shows a general increase characterized by year-to-year fluctuations. The number of property cases involving detention has declined almost every year since peaking in 1990.

**Number of Cases Involving Pre-trial Detention by Type of Case, 1987-1996**



Source: Juvenile Offenders and Victims: 1999 National Report

Although the percentage of all delinquency cases involving pre-trial detention changed minimally when comparing 1987 to 1996 (20 and 18 percent, respectively), there was considerable variation in the intervening years, especially when the results are disaggregated by case type. Across all offense types, the percent of cases involving pre-trial detention peaked in 1990 and reached a minimum in the last year examined, 1996. For example, the table shows the decline in detention was more than twice as large for drug cases than for the other case types when comparing 1990 to 1996. Drug cases were consistently associated with the highest probability of detention while property cases were consistently associated with the lowest.

**Percent of Delinquency Cases Involving Pre-Trial Detention**

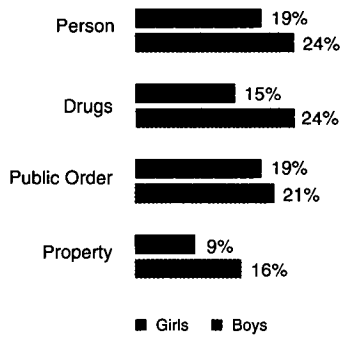
| Year               | Total | Most Serious Offense |              |        |          |
|--------------------|-------|----------------------|--------------|--------|----------|
|                    |       | Drugs                | Public Order | Person | Property |
| 1987               | 20%   | 29%                  | 25%          | 23%    | 16%      |
| 1988               | 20    | 32                   | 25           | 24     | 17       |
| 1989               | 21    | 36                   | 26           | 25     | 17       |
| 1990               | 23    | 38                   | 27           | 27     | 19       |
| 1991               | 21    | 37                   | 25           | 25     | 17       |
| 1992               | 20    | 35                   | 23           | 24     | 17       |
| 1993               | 20    | 31                   | 25           | 24     | 17       |
| 1994               | 21    | 28                   | 24           | 24     | 17       |
| 1995               | 19    | 24                   | 21           | 23     | 15       |
| 1996               | 18    | 23                   | 21           | 23     | 14       |
| Decrease 1990-1996 | 5     | 15                   | 6            | 4      | 5        |

Source: Juvenile Offenders and Victims: 1999 National Report

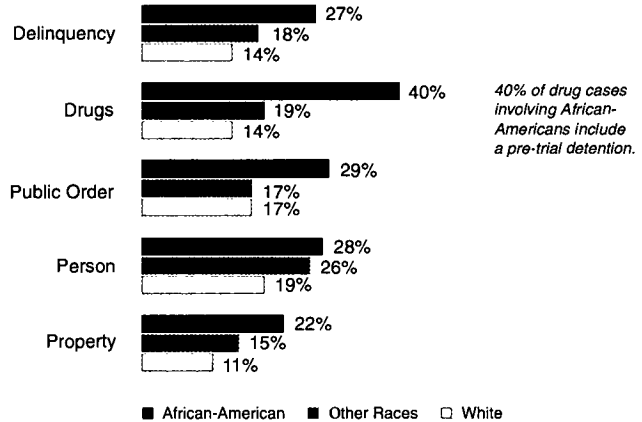
*The probability of detention increases if one is older, male, or African-American*

- **Age:** Generally, the probability of detention increases with age. The likelihood of detention was twice as great for cases involving 15-, 16-, and 17-year olds than 11-year olds in 1996.
- **Gender:** Regardless of offense, boys were more likely to be detained than girls in 1996—boys accounted for 83 percent of the cases involving pre-trial detention in 1996. However, between 1987 and 1996, there was a surge in the number of girls entering pre-trial detention—a 76 percent increase compared to a 42 percent increase for boys.
- **Race:** White youth were underrepresented in the detained population of 1997. While white youth comprised 66 percent of all youth referred to juvenile court, they accounted for only 53 percent of all youth detained prior to adjudication. In contrast, African-American youth accounted for only 31 percent of the referral population but 44 percent of the detention population (Poe-Yamagata and Jones, 2000).

**Percent of Boys and Girls Receiving Pre-trial Detention, 1996**



**Percent of Cases that Involved Detention by Race, 1996**



Source: Juvenile Offenders and Victims: 1999 National Report

### *The impact of using detention for delinquent juveniles*

Many feel the impact of sending a juvenile into a detention setting extends beyond the loss of individual freedom. A growing body of research (Frazier and Bishop, 1985; Feld, 1995) reports that a youth detained pre-trial often receives a more severe disposition than a non-detained youth. In addition, some have found that detention is not a strong deterrent, but is associated with higher levels of re-offending and a greater likelihood of being placed outside the home.

In many jurisdictions, detention is compounded by an absence of adjudication options that fall somewhere between full confinement and outright release. Moreover, delay is often a problem. According to the Office of Juvenile Justice and Delinquency Prevention's *Delays in Juvenile Justice Sanctions Project*, almost half of the nation's large jurisdictions require more than 90 days to dispose of cases—the maximum time suggested by professional standards of juvenile justice.

#### **Factors Associated with the Detention Decision**

Research conducted in the early 1990s (Simonsen, 1991) showed that, aside from public safety reasons, several organizational and structural factors play a role in the courts' decision to place a youth in a detention facility:

1. the further the detention unit from the police units, the lower the rate of placement;
2. juveniles apprehended after court hours are more likely to be held in detention;
3. youth are more likely to be detained if apprehended on the street or in public buildings where parents or concerned adults are less likely to be available to intervene;
4. when intake personnel are available for thorough screening and for detention hearings, juveniles are less frequently held in detention;
5. the higher the credibility of the referring source with court personnel, the greater the likelihood a juvenile will be detained;
6. time of year, especially as related to the school calendar, public attitudes, and interorganization relations of the court with other community agencies, also affect how detention policies are implemented.

Detention is also expensive. Juvenile facilities that include a full complement of education and recreation areas, as well as administrative, admissions, food service, and other support spaces cost an average of \$140 to \$160 per square foot (Roush and McMillen, 2000). Between 1985 and 1995, the operating expenses for detention facilities more than doubled to nearly \$820 million—not including capital costs and future debt service.

Although the costs are high and the prospects for rehabilitation questionable, many juvenile delinquents will continue to be placed in secure confinement. The challenge for decision makers and funding officials is to effectively balance the need to ensure public safety with the desire to place juveniles in an appropriate and rehabilitative setting.

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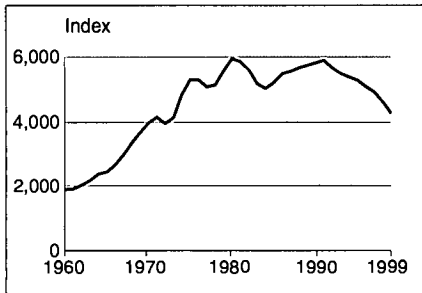
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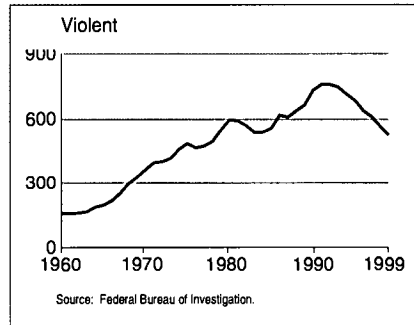
# CRIMINAL

After increasing for three decades, U.S. Crime rates have shown a sustained drop through the 1990s.

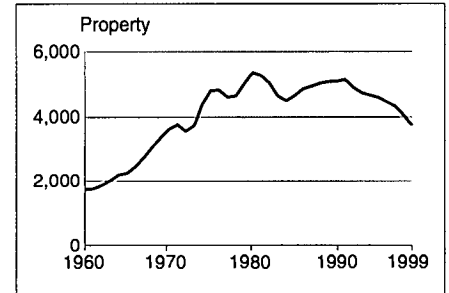
Crime rates per 100,000 persons



The overall crime rate has decreased 28% since 1991...



while violent crime is now at its lowest rate since 1978.

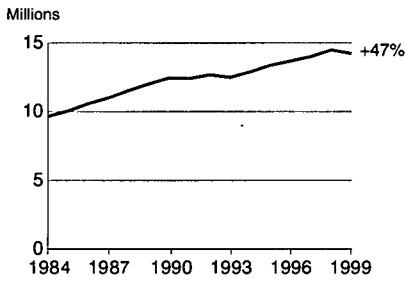


Property crime is at its lowest rate since 1973.

# Criminal Caseloads in State Trial Courts

## *Criminal filings and arrests are down in 1999*

**Criminal Cases Filed in State Courts, 1984-1999**



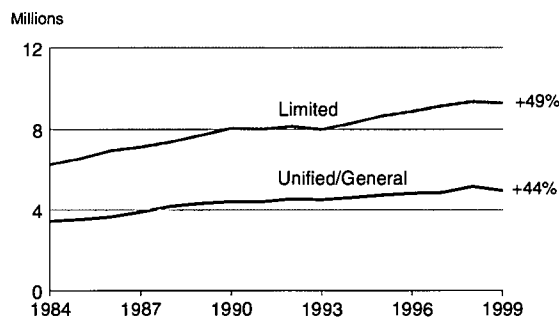
Most criminal cases are processed in state courts. Criminal case filings in the state courts fell from their all-time high of 14.5 million in 1998 to 14.2 million in 1999. This decline of 2 percent interrupts an almost unbroken period of annual increases in criminal case filings dating back to 1984. Despite the decrease, 1999 still had the second highest number of criminal filings between 1984 and 1999. The trend line at left shows that the number of criminal filings rose by 47 percent from 1984 to 1999.

A decrease in criminal filings was expected because arrests, which are predictive of criminal case filings, have been declining. Arrests for violent index crimes and property index crimes declined by 14 percent and 20 percent, respectively, between 1995 and 1999.

## *Felonies are typically handled in general jurisdiction courts and misdemeanors in limited jurisdiction courts*

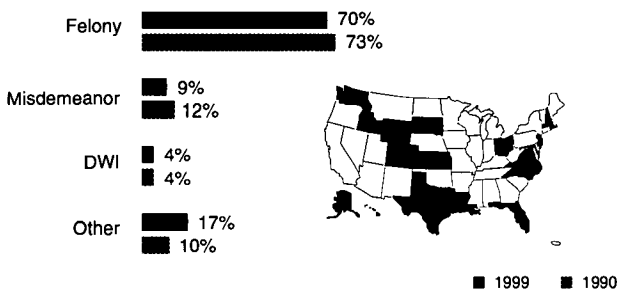
The graph below compares criminal case filings by type of court jurisdiction. Felonies are typically filed in general jurisdiction courts, while misdemeanors are usually handled in limited jurisdiction courts. Criminal caseloads in both types of courts declined in 1999 from all-time highs in 1998. Since 1984, criminal caseloads have increased 44 percent in general jurisdiction courts and 49 percent in limited jurisdiction courts.

**Criminal Cases Filed in State Courts by Court Jurisdiction, 1984-1999**

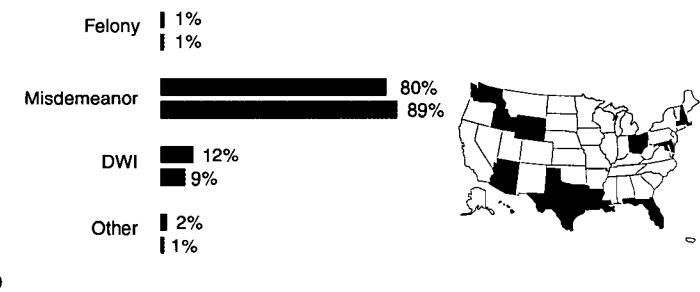


In 1999, 73 percent of the criminal cases filed in unified and general jurisdiction courts were felony cases, while another 12 percent involved misdemeanors. An additional 10 percent were “other” offenses, including appeals and miscellaneous offenses (e.g., extradition), while the remaining cases (4 percent) involved Driving While Intoxicated (DWI) offenses. In contrast, misdemeanor, DWI/DUI, and “other” cases represented 99 percent of the criminal caseload of limited jurisdiction courts, while felonies accounted for only 1 percent.

**Criminal Caseload Composition in 20 Unified/General Jurisdiction Courts, 1990 vs. 1999**

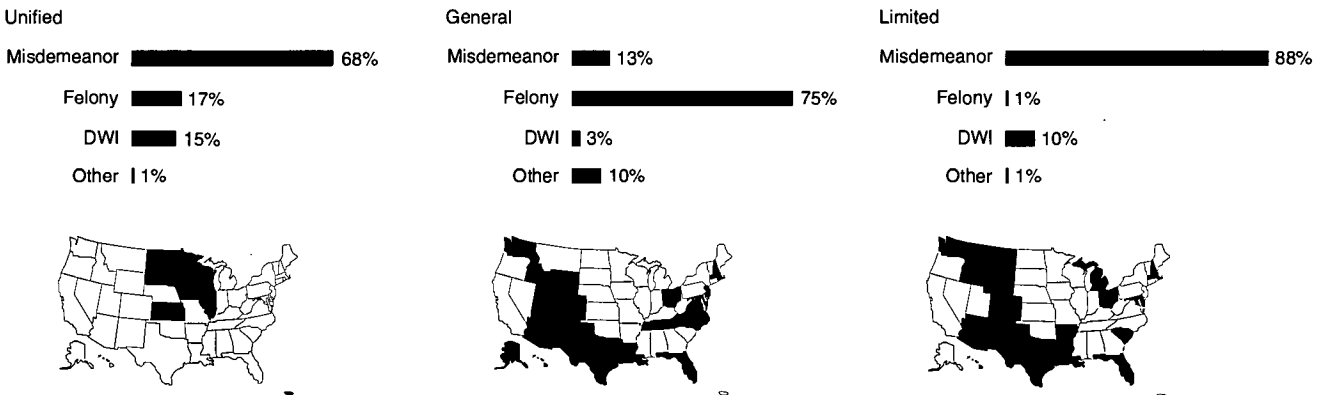


**Criminal Caseload Composition in 21 Limited Jurisdiction Courts, 1990 vs. 1999**



Judges in unified courts hear all cases regardless of offense type. In 1999, misdemeanor cases represented 68 percent of the criminal caseload in unified courts, while felony and DWI/DUI cases together accounted for 32 percent of criminal filings.

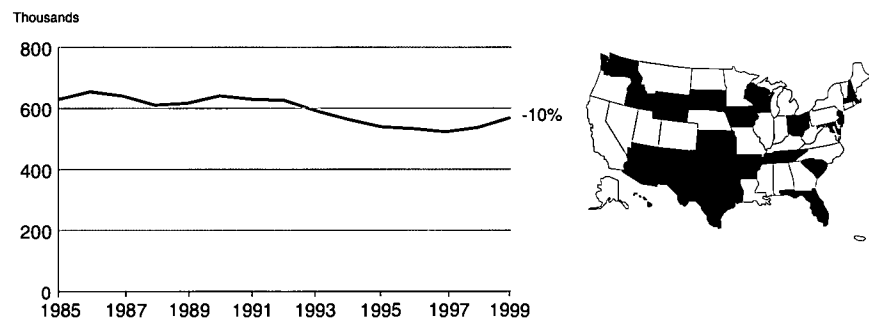
**Criminal Caseload Composition by Court Jurisdiction, 1999**



*DWI filings rose 9 percent between 1997 and 1999*

Between 1985 and 1997, DWI filings in state courts decreased 15 percent, reaching their lowest level in 13 years. However, DWI filings increased during both 1998 and 1999 to their highest levels since 1993. The long-term trend may reflect the impact of stricter law enforcement, media attention, and alcohol awareness programs on the incidence of drunk driving, but more recent trends emphasize that the fight against drunk driving is far from over.

**DWI Filings in 21 States, 1985-1999**



*Fifteen states account for 73 percent of total criminal filings*

The table on the following page compares criminal filings for unified and general jurisdiction courts in 1999. The range of criminal filings was broad: California reported the largest number of filings (854,923) while Wyoming reported the smallest, just over 1,600 filings. Fifteen states each reported over 100,000 criminal filings in unified and general jurisdiction courts, collectively accounting for 73 percent of total 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. Maryland's filing rate of 1,380 per 100,000 population is the median for the nation. Note that states reporting the largest numbers of criminal case filings are not necessarily states reporting the largest population-adjusted rates of criminal case filings. In fact, the number of criminal case filings is only mildly correlated with the rate of criminal case filings ( $r=.35$ ). The District of Columbia reports the highest rate of criminal filings (6,326 per 100,000 population) but ranks 34th among the states with regard to number of criminal filings. Massachusetts reported the lowest rate of criminal filings (143 per 100,000 population), ranking 49th among the states, but ranked 40th among the states in number of criminal filings.

**Criminal Filing Rates in Unified and General Jurisdiction Courts in 49 States, 1999**

| State                              | Criminal Filings | Criminal Filings per<br>100,000 Population | Population Rank |
|------------------------------------|------------------|--|-----------------|
| <b>Unified Courts</b>              |                  |  |                 |
| California                         | 854,923          | 2,579                                      | 1               |
| Illinois                           | 580,565          | 4,787                                      | 5               |
| Minnesota                          | 278,760          | 5,837                                      | 21              |
| Missouri                           | 183,982          | 3,364                                      | 17              |
| Wisconsin                          | 138,375          | 2,635                                      | 18              |
| Connecticut                        | 117,782          | 3,589                                      | 30              |
| Puerto Rico                        | 94,288           | 2,424                                      | 26              |
| Iowa                               | 92,465           | 3,222                                      | 31              |
| Kansas                             | 49,806           | 1,877                                      | 33              |
| South Dakota                       | 37,884           | 5,167                                      | 47              |
| North Dakota                       | 34,953           | 5,516                                      | 48              |
| District of Columbia               | 32,831           | 6,326                                      | 51              |
| <b>General Jurisdiction Courts</b> |                  |  |                 |
| Florida                            | 197,938          | 1,310                                      | 4               |
| Indiana                            | 191,843          | 3,228                                      | 14              |
| Texas                              | 160,088          | 799  | 2               |
| Pennsylvania*                      | 155,089          | 1,293                                      | 6               |
| Virginia                           | 148,378          | 2,159                                      | 12              |
| Louisiana                          | 145,443          | 3,327                                      | 22              |
| North Carolina                     | 140,648          | 1,838                                      | 11              |
| South Carolina                     | 113,278          | 2,915                                      | 27              |
| Oregon                             | 100,303          | 3,025                                      | 29              |
| Tennessee                          | 98,585           | 1,798                                      | 16              |
| Georgia                            | 97,664           | 1,254                                      | 10              |
| Maryland                           | 71,357           | 1,380                                      | 19              |
| Alabama                            | 67,887           | 1,554                                      | 23              |
| Utah                               | 66,697           | 3,132                                      | 35              |
| Ohio                               | 66,689           | 592  | 7               |
| Michigan                           | 62,123           | 630  | 8               |
| New York                           | 55,425           | 305  | 3               |
| Arkansas                           | 54,787           | 2,147                                      | 34              |
| New Jersey                         | 50,983           | 626  | 9               |
| Arizona                            | 40,788           | 854  | 20              |
| Washington                         | 39,241           | 682  | 15              |
| Colorado                           | 37,538           | 925  | 24              |
| Kentucky                           | 22,147           | 559  | 25              |
| Vermont                            | 21,427           | 3,609                                      | 50              |
| New Hampshire                      | 18,998           | 1,582                                      | 42              |
| New Mexico                         | 17,176           | 987  | 38              |
| Idaho                              | 11,357           | 907  | 41              |
| Massachusetts                      | 8,840            | 143  | 13              |
| Hawaii                             | 8,741            | 737  | 43              |
| Maine                              | 8,476            | 676  | 40              |
| Nebraska                           | 8,339            | 501  | 39              |
| Delaware                           | 7,691            | 1,021                                      | 46              |
| West Virginia                      | 7,552            | 418  | 37              |
| Montana                            | 5,917            | 670  | 45              |
| Rhode Island                       | 5,670            | 572  | 44              |
| Alaska                             | 3,429            | 554  | 49              |
| Wyoming                            | 1,629            | 340  | 52              |

Note: Mississippi, Oklahoma, and Nevada are not included because data were not available for 1999.

\* The data for Pennsylvania are preliminary.

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 of 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, Illinois, and Minnesota) have the highest numbers of population-adjusted filings, while states that have one or more limited jurisdiction courts with concurrent criminal jurisdiction (e.g., Texas) have much smaller population-adjusted filings.

The composition of the criminal caseload in courts of general jurisdiction tends to be quite similar across states, although some differences exist. For example, criminal filings in Connecticut, Illinois, and Minnesota include ordinance violation cases, which typically are reported in traffic caseloads in other states. Composition also relates to court structure: New York's criminal caseload consists solely of felony and DWI cases, since various limited jurisdiction courts process all misdemeanor cases, 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 some states (e.g., New York, Wyoming, and Montana) count one or more defendants involved in a single incident as one case. This results in smaller numbers of population-adjusted criminal filings in those states.

### *Clearance rates show if courts are reducing their pending caseload*

The success of states in disposing criminal cases reflects, in part, the adequacy of court resources and has implications for the pace of both criminal and civil 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.

### *15 states had three-year clearance rates of 100 percent or more*

The following table shows that 15 states cleared 100 percent or more of their criminal caseload for the period from 1997 to 1999. Hawaii topped the list with high clearance rates for all three years. At the other end of the scale, two states (California and Tennessee) reported the lowest clearance rate of 92 percent, indicating that their courts are continuing to add to an inventory of pending cases.

Statewide clearance rates not only reflect a range of management initiatives at the trial court level, but also are influenced by factors such as caseload growth, time standards, and the consistency with which filings and dispositions are measured. Of the 15 states that cleared 100 percent or more of their criminal caseload for the 1997-1999 period, eight experienced a decline in the number of cases filed. All of the 15 states with three-year clearance rates of 100 percent or better have adopted time standards for criminal case processing. Three of the states with high clearance rates (New York, Rhode Island, and West Virginia) have adopted the COSCA/ABA-recommended goal of disposing all felony cases within 180 days from the time of arrest. Time standards for West Virginia and Massachusetts are mandatory, while others are advisory. Finally, it is also important to note whether the filings and dispositions within a state are comparable. Only states that use the same methodology to count filings and dispositions are included in the table.

**Criminal Caseload Clearance and Growth Rates for Unified and General Jurisdiction Courts  
in 44 States, 1997-1999**

| State                              | Clearance Rates |      |      |      | Caseload Growth 1997-1999 |
|------------------------------------|-----------------|------|------|------|---------------------------|
|                                    | 1997-1999       | 1997 | 1998 | 1999 |                           |
| <b>Unified Courts</b>              |                 |      |      |      |                           |
| Illinois                           | 104%            | 109% | 100% | 105% | 8%                        |
| Kansas                             | 104             | 104  | 109  | 101  | 7                         |
| District of Columbia               | 102             | 102  | 102  | 102  | -14                       |
| Minnesota                          | 100             | 101  | 103  | 98   | 9                         |
| Connecticut                        | 100             | 100  | 98   | 101  | -9                        |
| North Dakota                       | 99              | 97   | 103  | 98   | 13                        |
| Puerto Rico                        | 97              | 98   | 95   | 97   | 2                         |
| Iowa                               | 96              | 92   | 94   | 103  | -9                        |
| Missouri                           | 93              | 93   | 90   | 96   | 3                         |
| California                         | 92              | 92   | 93   | 92   | -14                       |
| <b>General Jurisdiction Courts</b> |                 |      |      |      |                           |
| Hawaii                             | 109             | 111  | 111  | 105  | -9                        |
| Massachusetts                      | 108             | 100  | 120  | 105  | 10                        |
| New York                           | 108             | 109  | 106  | 108  | -12                       |
| Rhode Island                       | 107             | 104  | 101  | 117  | -9                        |
| Colorado                           | 106             | 123  | 94   | 104  | 11                        |
| New Jersey                         | 102             | 100  | 100  | 105  | 1                         |
| Texas                              | 101             | 101  | 101  | 101  | -1                        |
| West Virginia                      | 100             | 100  | 100  | 100  | -5                        |
| Michigan                           | 100             | 97   | 101  | 101  | -13                       |
| Alabama                            | 100             | 99   | 94   | 106  | 13                        |
| Indiana                            | 99              | 98   | 98   | 100  | 24                        |
| Ohio                               | 99              | 98   | 101  | 98   | 7                         |
| South Carolina                     | 99              | 99   | 95   | 103  | 1                         |
| Pennsylvania*                      | 98              | 99   | 97   | 98   | 4                         |
| Montana                            | 98              | 93   | 97   | 103  | 5                         |
| Wyoming                            | 98              | 92   | 98   | 105  | -25                       |
| Virginia                           | 98              | 98   | 96   | 99   | 7                         |
| Vermont                            | 97              | 98   | 98   | 97   | 18                        |
| New Mexico                         | 97              | 92   | 108  | 90   | -1                        |
| Arizona                            | 96              | 93   | 96   | 100  | 10                        |
| Maine                              | 96              | 98   | 95   | 96   | -7                        |
| Delaware                           | 96              | 92   | 96   | 101  | -5                        |
| Idaho                              | 96              | 95   | 96   | 97   | 6                         |
| North Carolina                     | 96              | 95   | 97   | 96   | 5                         |
| Maryland                           | 96              | 94   | 94   | 98   | 5                         |
| Alaska                             | 96              | 98   | 96   | 94   | 2                         |
| New Hampshire                      | 96              | 99   | 95   | 93   | 31                        |
| Washington                         | 96              | 91   | 97   | 98   | 10                        |
| Kentucky                           | 95              | 94   | 96   | 94   | 7                         |
| Georgia                            | 95              | 92   | 95   | 96   | -2                        |
| Oregon                             | 94              | 89   | 94   | 99   | 1                         |
| Utah                               | 94              | 95   | 97   | 89   | 4                         |
| Arkansas                           | 93              | 94   | 87   | 97   | 12                        |
| Tennessee                          | 92              | 88   | 90   | 97   | 1                         |

\*The 1999 data for Pennsylvania are preliminary.

Clearance rates of over 100 percent indicate that state disposed of more cases than were filed in that year.



*Very few criminal cases are resolved at trial*

Approximately 3 percent of criminal cases were resolved by trial in 1999. Trial rates ranged from about 0.2 percent in South Dakota to 9.1 percent in Puerto Rico. Nationally, jury trials account for about 52 percent of all trials. Guilty pleas disposed of about 65 percent of criminal cases. About one criminal case in five is resolved when the prosecutor decides not to continue (*nolle prosequi*) or all charges are dropped (dismissal). The table on the following page shows manner of disposition data for 28 court systems.

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. 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 right to trial 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 Cases Filed in 28 Unified and General Jurisdiction Courts, 1999

| State                              | Total Disposed   | Percentage of Cases Disposed by: |                |            |             |             |                         |             |
|------------------------------------|------------------|----------------------------------|----------------|------------|-------------|-------------|-------------------------|-------------|
|                                    |                  | Total                            | Trial<br>Bench | Jury       | Total       | Pleas       | Non-trial<br>Dism/Nolle | Other       |
| <b>Unified Courts</b>              |                  |                                  |                |            |             |             |                         |             |
| California                         | 776,359          | 2.0%                             | 0.6%           | 1.4%       | 98.0%       | 79.1%       | 18.7%                   | 0.3%        |
| South Dakota                       | 162,359          | 0.2                              | 0.0            | 0.2        | 99.8        | 84.9        | 14.5                    | 0.4         |
| Missouri                           | 149,169          | 1.6                              | 1.1            | 0.5        | 98.4        | 68.6        | 27.0                    | 2.8         |
| Iowa                               | 95,295           | 2.2                              | 0.6            | 0.4        | 97.8        | 70.7        | 27.1                    | 0.0         |
| Puerto Rico                        | 83,801           | 9.1                              | 8.7            | 0.3        | 90.9        | 48.3        | 32.4                    | 10.1        |
| District of Columbia               | 41,594           | 3.2                              | 2.0            | 1.2        | 96.8        | 20.8        | 20.9                    | 55.0        |
| Kansas                             | 39,100           | 3.9                              | 2.1            | 1.8        | 96.1        | 55.3        | 24.7                    | 16.1        |
| <b>General Jurisdiction Courts</b> |                  |                                  |                |            |             |             |                         |             |
| Texas                              | 206,746          | 2.5                              | 0.6            | 1.9        | 97.5        | 39.0        | 14.4                    | 44.1        |
| Indiana                            | 182,217          | 4.4                              | 3.6            | 0.8        | 95.6        | 57.8        | 33.8                    | 4.0         |
| Florida                            | 164,159          | 3.1                              | 0.3            | 2.7        | 96.9        | 78.1        | 13.7                    | 5.2         |
| Pennsylvania*                      | 152,656          | 4.9                              | 3.2            | 1.7        | 95.1        | 57.1        | 7.5                     | 30.5        |
| North Carolina                     | 134,838          | 2.5                              | 0.0            | 2.5        | 97.5        | 50.9        | 33.3                    | 13.3        |
| Tennessee                          | 127,470          | 3.4                              | 1.9            | 1.4        | 96.6        | 50.9        | 28.4                    | 17.3        |
| Michigan                           | 72,859           | 4.6                              | 2.0            | 2.5        | 95.4        | 57.9        | 9.1                     | 28.5        |
| Alabama                            | 72,006           | 2.9                              | 0.3            | 2.5        | 97.1        | 43.0        | 26.9                    | 27.3        |
| Arkansas                           | 66,749           | 8.4                              | 6.9            | 1.5        | 91.6        | 55.3        | 31.7                    | 4.6         |
| Ohio                               | 65,382           | 3.7                              | 1.1            | 2.6        | 96.3        | 71.0        | 7.4                     | 17.9        |
| New York                           | 59,899           | 5.7                              | 1.1            | 4.6        | 94.3        | 86.6        | 6.4                     | 1.4         |
| New Jersey                         | 51,694           | 3.6                              | 0.5            | 3.1        | 96.4        | 69.5        | 15.5                    | 11.5        |
| Washington                         | 40,580           | 6.2                              | 2.0            | 4.2        | 93.8        | 70.6        | 14.8                    | 8.4         |
| Vermont                            | 20,731           | 0.8                              | 0.1            | 0.7        | 99.2        | 69.9        | 18.4                    | 10.9        |
| Maine                              | 16,172           | 2.4                              | 0.2            | 2.2        | 97.6        | 35.3        | 12.3                    | 50.0        |
| New Mexico                         | 14,777           | 6.5                              | 4.4            | 2.1        | 93.5        | 45.9        | 15.3                    | 32.3        |
| Delaware                           | 7,767            | 2.8                              | 0.2            | 2.8        | 97.2        | 66.5        | 18.1                    | 12.5        |
| Idaho                              | 6,531            | 4.3                              | 0.1            | 4.2        | 95.7        | 60.7        | 12.7                    | 22.3        |
| West Virginia                      | 5,479            | 7.8                              | 3.6            | 4.3        | 92.2        | 0.0         | 0.0                     | 92.2        |
| Hawaii                             | 4,388            | 7.2                              | 1.2            | 6.0        | 92.8        | 65.7        | 16.0                    | 11.0        |
| Alaska                             | 3,209            | 5.8                              | 0.5            | 5.4        | 94.2        | 70.4        | 23.4                    | 0.4         |
| <b>Total</b>                       | <b>2,823,986</b> | <b>3.1</b>                       | <b>1.4</b>     | <b>1.6</b> | <b>96.9</b> | <b>65.2</b> | <b>20.1</b>             | <b>11.6</b> |

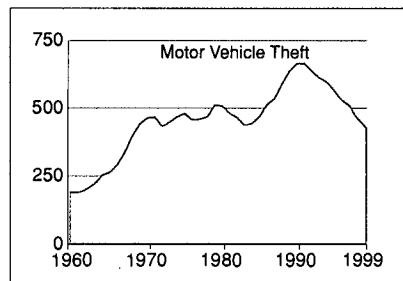
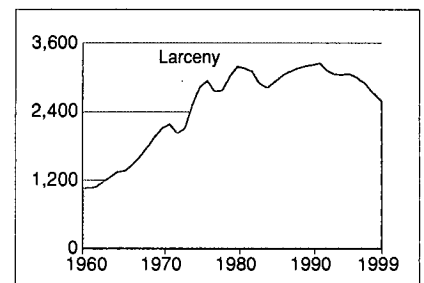
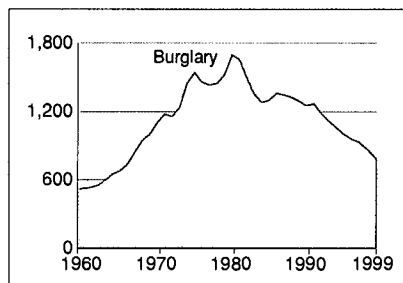
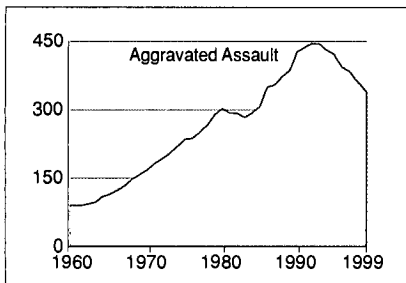
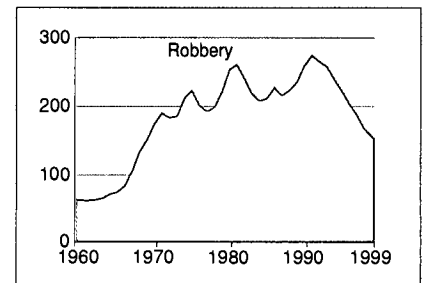
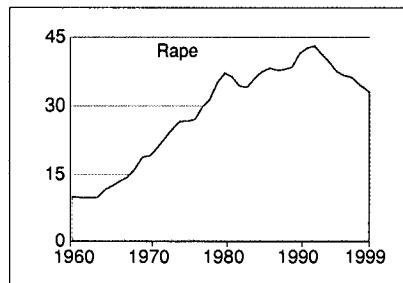
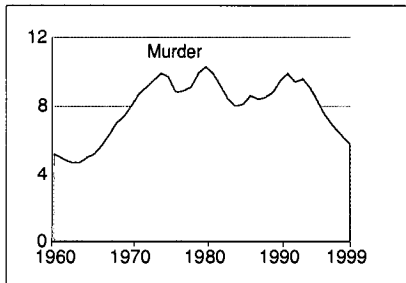
\*The 1999 data for Pennsylvania are preliminary.

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# FELONY

Crime rates are down for felony offenses—the steepest drops have been for violent crimes.

Crimes per 100,000 persons



Source: Federal Bureau of Investigation.

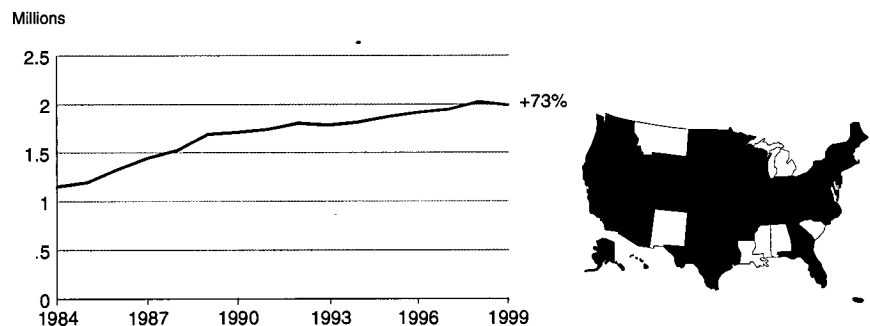
# Felony Caseloads in State Trial Courts

## *Felony filings fell by 2 percent between 1998 and 1999*

Felonies are the most serious kind of criminal offense, typically punishable by incarceration for a year or more. Felony crime commands a great deal of attention from the general public, imposes tremendous burdens on victims (both physical and emotional), and generates 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.

Felony filings fell by 2 percent between 1998 and 1999. This result comes from the general jurisdiction trial court systems of 43 states able to report comparable felony filing data for the period 1984 to 1999. Felony filings grew steadily until 1992, and after a brief dip in 1993, they resumed an uninterrupted increase to an all-time high of 2.02 million in 1998. The total growth in felony filings (73 percent) outpaced the growth of all other filings in the courts. As was the case with juvenile and criminal filings, the decline in felony filings during 1999 was not unexpected given the sustained decline in arrest rates.

### **Felony Filings in Unified and General Jurisdiction Courts in 43 states, 1984-1999**



## Felony Filing Rates in Unified and General Jurisdiction Courts in 45 States, 1997-1999

| State                              | Filings per 100,000 Population |       |       | Percent Growth<br>1997-1999 |
|------------------------------------|--------------------------------|-------|-------|-----------------------------|
|                                    | 1997                           | 1998  | 1999  |                             |
| <b>Unified Courts</b>              |                                |       |       |                             |
| California                         | 780                            | 797   | 743   | -5%                         |
| Connecticut                        | 103                            | 94    | 100   | -3                          |
| District of Columbia               | 2,529                          | 2,407 | 2,288 | -10                         |
| Illinois                           | 822                            | 842   | 751   | -9                          |
| Iowa                               | 626                            | 657   | 657   | 5                           |
| Kansas                             | 687                            | 671   | 716   | 4                           |
| Minnesota                          | 433                            | 456   | 449   | 4                           |
| Missouri                           | 1,102                          | 1,134 | 1,043 | -5                          |
| North Dakota                       | 503                            | 623   | 653   | 30                          |
| Puerto Rico                        | 869                            | 982   | 956   | 10                          |
| South Dakota                       | 737                            | 688   | 636   | -14                         |
| Wisconsin                          | 563                            | 541   | 504   | -11                         |
| <b>General Jurisdiction Courts</b> |                                |       |       |                             |
| Alabama                            | 1,009                          | 1,100 | 992   | -2                          |
| Alaska                             | 499                            | 531   | 502   | 1                           |
| Arizona                            | 761                            | 846   | 801   | 5                           |
| Arkansas                           | 1,560                          | 1,809 | 1,753 | 12                          |
| Colorado                           | 834                            | 967   | 916   | 10                          |
| Florida                            | 1,362                          | 1,281 | 1,304 | -4                          |
| Georgia                            | 975                            | 980   | 943   | -3                          |
| Hawaii                             | 397                            | 422   | 368   | -7                          |
| Idaho                              | 793                            | 853   | 802   | 1                           |
| Indiana                            | 740                            | 865   | 918   | 24                          |
| Kentucky                           | 514                            | 527   | 550   | 7                           |
| Louisiana                          | 1,058                          | 1,253 | 1,102 | 4                           |
| Maine                              | 286                            | 283   | 281   | -2                          |
| Maryland                           | 1,221                          | 1,272 | 1,272 | 4                           |
| Massachusetts                      | 132                            | 136   | 143   | 9                           |
| Nebraska                           | 406                            | 438   | 426   | 5                           |
| New Hampshire                      | 546                            | 509   | 558   | 2                           |
| New Jersey                         | 599                            | 614   | 603   | 1                           |
| New Mexico                         | 743                            | 784   | 841   | 13                          |
| New York                           | 349                            | 348   | 305   | -13                         |
| North Carolina                     | 1,190                          | 1,228 | 1,235 | 4                           |
| Ohio                               | 559                            | 573   | 592   | 6                           |
| Oregon                             | 1,040                          | 1,206 | 1,130 | 9                           |
| Pennsylvania*                      | 1,241                          | 1,295 | 1,293 | 4                           |
| Rhode Island                       | 577                            | 577   | 499   | -14                         |
| Tennessee                          | 1,106                          | 1,151 | 1,128 | 2                           |
| Texas                              | 705                            | 710   | 677   | -4                          |
| Utah                               | 886                            | 1,010 | 1,019 | 15                          |
| Vermont                            | 584                            | 570   | 558   | -4                          |
| Virginia                           | 1,311                          | 1,411 | 1,405 | 7                           |
| Washington                         | 608                            | 661   | 660   | 9                           |
| West Virginia                      | 265                            | 262   | 263   | -1                          |
| Wyoming                            | 413                            | 414   | 302   | -27                         |

\* Pennsylvania general jurisdiction caseload is based upon preliminary figures supplied by the PA AOC.

*Felony filing rates varied from a high of 1,753 in Arkansas to a low of 100 in Connecticut*

The previous table displays felony filings per 100,000 population as well as the growth in felony filings from 1997 to 1999. Felony filing rates increased in 27 states; by 10 percent or more in seven states. Increases of 15 percent or more occurred in Utah, Indiana, and North Dakota, which had the largest increase (30 percent). At the other end of the spectrum, 18 states have experienced a decrease in the number of felony filings per 100,000 population since 1997. States experiencing declines of 10 percent or more include the District of Columbia, Wisconsin, New York, Rhode Island, South Dakota, and Wyoming, which reported the largest decline (27 percent).

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., Hawaii and Maine) report much smaller numbers of 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. Lower population-adjusted felony filing rates are also evident for 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.

*Clearance rates improved in most general jurisdiction courts between 1997 and 1999*

The adjacent table shows clearance rates in general jurisdiction courts in 35 states for the period 1997 to 1999. The three-year measure smoothes yearly fluctuations and provides a more representative clearance rate. The majority of courts appear to have reduced their pending caseload because their 1999 clearance rates are higher than their 1997 clearance rates.

Statewide clearance rates not only reflect a range of management initiatives for trial courts, but are also influenced by caseload growth and time standards. For example, Arkansas, which had one of the lowest three-year clearance rates, experienced the fifth highest growth in caseload. On the other hand, New York, with the second highest three-year clearance rate, experienced one of the largest declines in population-adjusted filings. Of the remaining eight states with three-year clearance rates of 100 percent or more, Rhode Island, the District of Columbia, Texas, Connecticut, and Alabama also witnessed declines in felony filing rates.

## Felony Clearance Rates in Unified and General Jurisdiction Courts in 35 States, 1997-1999

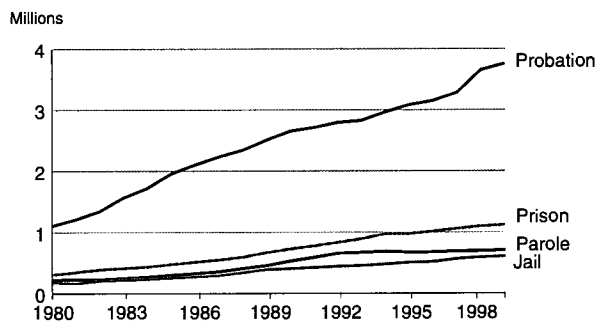
| State                              | Clearance Rates |      |      |           |
|------------------------------------|-----------------|------|------|-----------|
|                                    | 1997            | 1998 | 1999 | 1997-1999 |
| <b>Unified Courts</b>              |                 |      |      |           |
| District of Columbia               | 106%            | 104% | 102% | 104%      |
| Connecticut                        | 96              | 112  | 101  | 103       |
| Puerto Rico                        | 100             | 93   | 96   | 96        |
| North Dakota                       | 97              | 99   | 92   | 96        |
| Minnesota                          | 96              | 99   | 90   | 95        |
| Missouri                           | 93              | 91   | 98   | 94        |
| Illinois                           | 98              | 88   | 94   | 93        |
| Iowa                               | 93              | 93   | 93   | 93        |
| California                         | 84              | 82   | 85   | 83        |
| <b>General Jurisdiction Courts</b> |                 |      |      |           |
| Massachusetts                      | 100             | 120  | 105  | 108       |
| New York                           | 109             | 106  | 108  | 108       |
| Rhode Island                       | 104             | 103  | 117  | 107       |
| Texas                              | 102             | 101  | 103  | 102       |
| New Jersey                         | 100             | 100  | 105  | 102       |
| Indiana                            | 100             | 96   | 104  | 100       |
| Alabama                            | 100             | 94   | 108  | 100       |
| New Mexico                         | 90              | 115  | 91   | 99        |
| Ohio                               | 98              | 101  | 98   | 99        |
| West Virginia                      | 97              | 99   | 100  | 99        |
| Pennsylvania*                      | 99              | 97   | 98   | 98        |
| Virginia                           | 98              | 95   | 99   | 97        |
| Vermont                            | 89              | 101  | 102  | 97        |
| Maryland                           | 95              | 95   | 100  | 97        |
| Idaho                              | 95              | 96   | 98   | 96        |
| Arizona                            | 92              | 97   | 100  | 96        |
| North Carolina                     | 94              | 96   | 96   | 95        |
| New Hampshire                      | 100             | 99   | 86   | 95        |
| Kentucky                           | 93              | 96   | 94   | 95        |
| Maine                              | 93              | 93   | 94   | 93        |
| Georgia                            | 89              | 94   | 96   | 93        |
| Oregon                             | 87              | 88   | 101  | 92        |
| Arkansas                           | 93              | 85   | 97   | 92        |
| Hawaii                             | 85              | 92   | 97   | 91        |
| Tennessee                          | 87              | 88   | 98   | 91        |
| Washington                         | 92              | 90   | 90   | 90        |

\* Pennsylvania general jurisdiction caseload is based upon preliminary figures supplied by the PA AOC.

*6.2 million people were under U.S. correctional control in 1999*

Offenders found guilty and sentenced for a felony become the responsibility of local and state correctional agencies. The U.S. correctional population numbered 6.2 million people in 1999, with the largest share being people sentenced to probation. Of the four sanction types shown, the number of people in prison has increased most rapidly since 1980 (+256 percent). Prison population reached a record high of 1,137,544 in 1999. The number of persons on parole has grown slowly since 1992, most likely a result 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., 1980-1999**



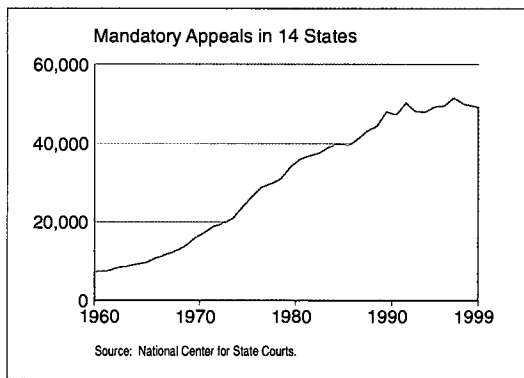
Source: Corrections Populations in the United States, 1993 and 1995; Prisoners in 1999; Sunday, July 23, 2000 Press Release, Bureau of Justice Statistics.



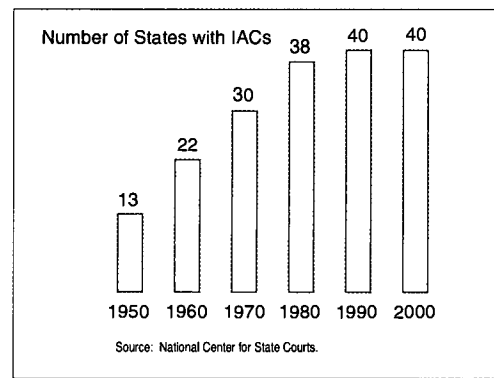
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# APPELLATE

Appellate filings have increased substantially over the second half of the 20th century.



As appellate caseloads increased substantially. . .



many states responded by creating Intermediate Appellate Courts—the number of IACs has since tripled.

## *Appellate Caseloads in State Courts*

*State appellate court caseloads have changed dramatically over the last forty years*

Starting in the 1960s, and continuing through the 70s and 80s, the number of appeals increased substantially, doubling every ten years in some instances. Appellate courts had two basic responses to these large caseload increases. One response was to expand discretionary jurisdiction in courts of last resort (COLR). A second response, primarily from the late 60s to the early 80s, was the creation of intermediate appellate courts (IAC). The rapid growth in appellate cases subsided by the early 1990s, and filing levels have remained relatively stable since then. Although the overall volume of appeals has stabilized, trends vary by the type of appeal. In many states, criminal appeals have increased sharply. Civil appeals, by comparison, have grown only modestly during the last decade. Currently, the substance of appellate caseloads is shifting toward a greater focus on criminal appeals.

*The 50 states, DC, and Puerto Rico, reported close to 300,000 appellate filings in 1999*

The adjacent table ranks the states according to their filings per 100,000 population, gives total appellate filings, and separates caseloads into mandatory and discretionary categories. Taking population into account considerably reduces the variation in the number of appellate cases per capita. Heavily populated states with very large caseloads, such as California, New York, Illinois, and Michigan, actually have filings near the median (Washington and Arkansas). However, Alaska, the District of Columbia, West Virginia, and Louisiana have high appeal rates, while Indiana's and Georgia's rates are low.

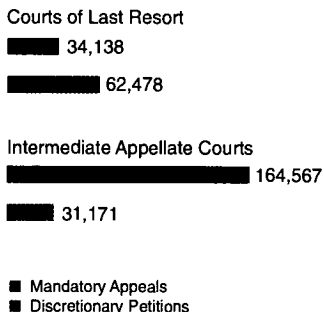
Nine states with a relatively small number of appellate cases (fewer than 1,000 appeals, most of which come to the courts as a matter of right) resolve their caseloads without an intermediate appellate court. Some states without an IAC, however, have a relatively high filing rate. The District of Columbia, West Virginia, and Nevada, for example, receive more appeals in their one level appellate court than some states with two-tiered appellate court systems.

## Total Appellate Court Filings, 1999

|   | Appeals per<br>100,000 Population | Total Filings  | Type of Filing       |                          | Population Rank |
|---|-----------------------------------|----------------|----------------------|--------------------------|-----------------|
|   |                                   |                | Percent<br>Mandatory | Percent<br>Discretionary |                 |
| <b>States with an Intermediate Appellate Court</b>    |                                   |                |                      |                          |                 |
| Louisiana   | 338                               | 14,773         | 30%                  | 70%                      | 22              |
| Oregon  | 160                               | 5,309          | 80                   | 20                       | 29              |
| <b>Florida</b>  | 159                               | 23,958         | 73                   | 27                       | 4               |
| Alabama   | 134                               | 5,841          | 81                   | 19                       | 23              |
| <b>New Jersey</b>                                     | 133                               | 10,852         | 73                   | 27                       | 9               |
| Alaska  | 132                               | 818            | 72                   | 28                       | 49              |
| <b>Pennsylvania</b>                                   | 132                               | 15,792         | 78                   | 22                       | 6               |
| <b>Texas</b>  | 124                               | 24,942         | 84                   | 16                       | 2               |
| Puerto Rico   | 120                               | 4,662          | 33                   | 67                       | 26              |
| <b>Ohio</b>   | 119                               | 13,406         | 88                   | 12                       | 7               |
| Oklahoma*   | 117                               | 3,921          | 87                   | 13                       | 28              |
| Kansas  | 116                               | 3,078          | 68                   | 32                       | 33              |
| Kentucky  | 111                               | 4,385          | 80                   | 20                       | 25              |
| Nebraska  | 106                               | 1,772          | 83                   | 17                       | 39              |
| Arizona   | 104                               | 4,992          | 73                   | 27                       | 20              |
| Colorado  | 103                               | 4,172          | 67                   | 33                       | 24              |
| <b>Illinois</b>                                       | 103                               | 12,438         | 82                   | 18                       | 5               |
| <b>New York</b>                                       | 103                               | 18,665         | 77                   | 23                       | 3               |
| South Carolina  | 101                               | 3,935          | 75                   | 25                       | 27              |
| <b>Michigan</b>                                       | 101                               | 9,977          | 42                   | 58                       | 8               |
| <b>California</b>                                     | 101                               | 33,411         | 49                   | 51                       | 1               |
| Washington  | 94                                | 5,391          | 68                   | 32                       | 15              |
| Arkansas  | 90                                | 2,284          | 73                   | 27                       | 34              |
| Virginia  | 89                                | 6,141          | 14                   | 86                       | 12              |
| New Mexico  | 88                                | 1,538          | 63                   | 37                       | 38              |
| Hawaii  | 87                                | 1,037          | 92                   | 8                        | 43              |
| Wisconsin   | 83                                | 4,380          | 75                   | 25                       | 18              |
| Missouri  | 82                                | 4,478          | 87                   | 13                       | 17              |
| Tennessee   | 75                                | 4,092          | 67                   | 33                       | 16              |
| Iowa  | 72                                | 2,067          | 100                  | 0                        | 31              |
| Idaho   | 68                                | 851            | 90                   | 10                       | 41              |
| Massachusetts   | 68                                | 4,188          | 62                   | 38                       | 13              |
| Utah  | 66                                | 1,410          | 100                  | 0                        | 35              |
| <b>Georgia</b>  | 65                                | 5,084          | 69                   | 31                       | 10              |
| Maryland  | 65                                | 3,336          | 67                   | 33                       | 19              |
| Mississippi   | 64                                | 1,784          | 100                  | 0                        | 32              |
| Indiana   | 58                                | 3,422          | 76                   | 24                       | 14              |
| Minnesota   | 57                                | 2,706          | 74                   | 26                       | 21              |
| Connecticut   | 48                                | 1,576          | 77                   | 23                       | 30              |
| North Carolina  | 40                                | 3,039          | 59                   | 41                       | 11              |
| <b>States without an Intermediate Appellate Court</b> |                                   |                |                      |                          |                 |
| District of Columbia                                  | 344                               | 1,783          | 99                   | 1                        | 51              |
| West Virginia   | 196                               | 3,539          | 0                    | 100                      | 37              |
| Nevada  | 105                               | 1,894          | 100                  | 0                        | 36              |
| Vermont   | 98                                | 584            | 95                   | 5                        | 50              |
| Montana   | 80                                | 706            | 92                   | 8                        | 45              |
| Delaware  | 74                                | 558            | 100                  | 0                        | 46              |
| Wyoming   | 74                                | 355            | 100                  | 0                        | 52              |
| New Hampshire   | 69                                | 826            | 0                    | 100                      | 42              |
| South Dakota  | 68                                | 498            | 88                   | 12                       | 47              |
| North Dakota  | 60                                | 382            | 97                   | 3                        | 48              |
| Maine   | 60                                | 752            | 100                  | 0                        | 40              |
| Rhode Island  | 58                                | 574            | 67                   | 33                       | 44              |
| <b>Total</b>  |                                   | <b>292,354</b> | <b>68%</b>           | <b>32%</b>               |                 |

States in bold are among the 10 most populous. \* Oklahoma data are from 1998.

**Total Appellate Caseloads, 1999**



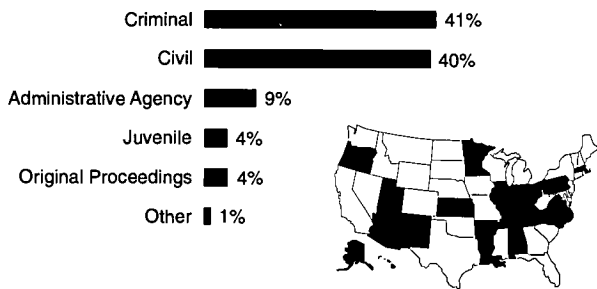
*Mandatory appeals in IACs comprise the largest share of state appellate caseloads*

The majority of cases filed with the nation’s state appellate courts in 1999 were appeals of right. Specifically, 68 percent of the national appellate caseload consisted of mandatory appeals while 32 percent of the total caseload were discretionary petitions. The volume of mandatory appeals in IACs composed 56 percent of the total appellate case filings, while discretionary petitions, the most frequent kind of case with COLRs, composed 21 percent of the cases filed in 1999.

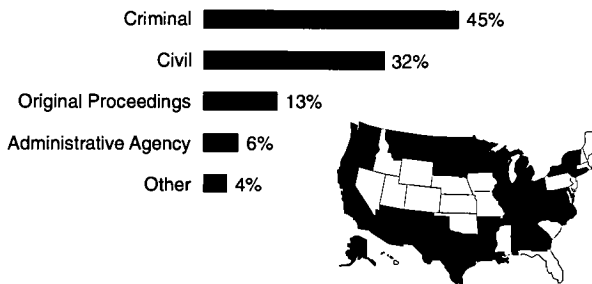
*Criminal and civil cases account for roughly 8 of every 10 appeals filed*

Criminal and civil cases that challenge trial court judgments are a more frequent kind of appellate case than challenges to administrative agency hearings, applications for writs or other original proceedings, and other matters (e.g., bar and judicial disciplinary cases, and certified questions). Convicted defendants bring criminal appeals frequently alleging some type of trial court error (e.g., insufficiency of the evidence), ineffective assistance of counsel, or incorrect sentencing. Individuals filing civil appeals also allege trial court error, such as improper jury instructions or misapplication of the law. Many of the civil appeals arise from cases resolved on motions (e.g., summary judgments) and, to a lesser extent, from jury or bench trials.

**Composition of Mandatory Appeals in 23 IACs, 1999**



**Composition of Discretionary Petitions in 31 COLRs, 1999**



*The majority of IACs are successful in keeping up with their caseloads*

One measure of whether an appellate court is keeping up with its caseload is its clearance rate. A clearance rate is the number of appeals disposed in a given year divided by the number of filings in the same year. A rate below 100 percent indicates that fewer cases were disposed of than were filed in that year. The table below includes clearance rates for intermediate appellate courts in 1999 and distinguishes between civil and criminal appeals. It also gives the number of appeals per judge for these courts.

Of the 21 represented courts, 12 have a total clearance rate of 100 percent or higher. Yet, these states show variation in their civil and criminal clearance rates. Only nine states show clearance rates above 100 percent for both their civil and criminal appeals.

Clearance rates may be related to the number of cases filed per judge. However, the considerable variation around the median value of 131 appeals per judge (Connecticut) means that the link to clearance rates is not straightforward. Five states with total civil and criminal clearance rates of 100 are above the median levels of appeals per judge and seven are below. Of the nine states not clearing 100 percent of their civil and criminal cases, three are above the median (Illinois, Maryland, Massachusetts) and five are below.

**Civil and Criminal Clearance Rates in Mandatory Appeals in 21 IACs, 1999**

| State         | Clearance Rates |          |          | Total Appeals<br>per Judge |
|---------------|-----------------|----------|----------|----------------------------|
|               | Civil           | Criminal | Combined |                            |
| California    | 134%            | 109%     | 122%     | 148                        |
| Washington    | 114             | 121      | 117      | 135                        |
| Texas         | 106             | 128      | 117      | 139                        |
| Missouri      | 103             | 128      | 116      | 101                        |
| Puerto Rico   | 111             | 109      | 110      | 41                         |
| Indiana       | 109             | 107      | 108      | 115                        |
| Kentucky      | 101             | 107      | 104      | 185                        |
| Ohio          | 99              | 108      | 104      | 121                        |
| Wisconsin     | 110             | 96       | 103      | 205                        |
| Arkansas      | 101             | 104      | 103      | 87                         |
| Georgia       | 100             | 100      | 100      | 251                        |
| Alabama       | 101             | 98       | 100      | 347                        |
| Louisiana     | 104             | 95       | 99       | 71                         |
| Illinois      | 96              | 102      | 99       | 174                        |
| Arizona       | 107             | 86       | 96       | 94                         |
| Connecticut   | 90              | 101      | 96       | 131                        |
| Maryland      | 96              | 89       | 92       | 151                        |
| Minnesota     | 87              | 86       | 86       | 97                         |
| Iowa          | 91              | 80       | 85       | 97                         |
| Idaho         | 75              | 81       | 78       | 115                        |
| Massachusetts | 59              | 69       | 64       | 156                        |

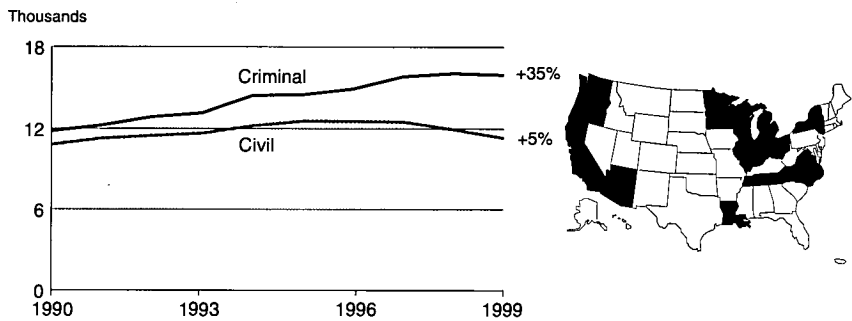
*Criminal appeals are increasing at faster rates than other types of appeals*

One reason criminal appeals have risen more quickly than other case types may be that felony filings have grown more rapidly than civil filings at the trial court level. Another question is whether both discretionary criminal petitions and mandatory criminal appeals are on the rise.

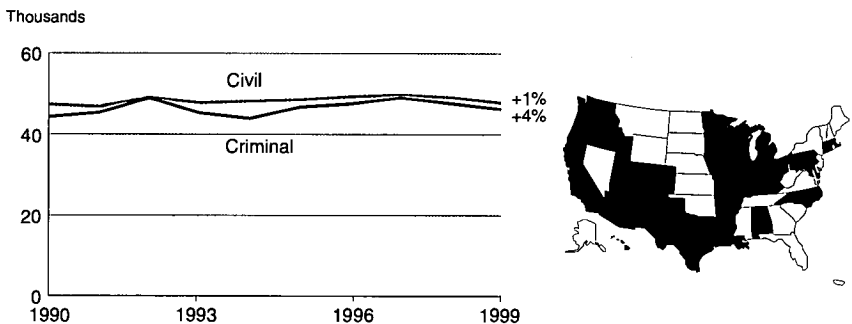
Sixteen states reported the number of discretionary petitions filed in their state COLRs from 1990 to 1999. For these courts, the discretionary criminal and civil petitions grew at substantially different rates with criminal petitions increasing by 35 percent, and civil petitions growing only 5 percent.

In comparison, an examination of trends in civil and criminal appeals among a combination of 27 IACs shows that neither mandatory civil nor mandatory criminal appeals increased during the last decade.

**Discretionary Civil and Criminal Petitions in 16 Courts of Last Resort, 1990-1999**



**Mandatory Civil and Criminal Appeals in 27 Intermediate Appellate Courts, 1990-1999**



*Eleven of 16 COLRs recorded faster growth in criminal petitions than in civil petitions*

When appellate trends for individual COLRs are analyzed, substantial growth in discretionary criminal petitions becomes apparent in specific states. Eleven of the 16 COLRs recorded faster growth in their criminal petitions compared to their civil petitions. Discretionary criminal petitions increased sharply, especially in Virginia (128 percent), California (101 percent), Idaho (84 percent), Wisconsin (76 percent), and North Carolina (62 percent). In comparison, discretionary civil petitions are marked by steady growth rates and decreases in several courts. Only the COLRs in Louisiana and Washington registered growth rates in discretionary civil petitions exceeding 25 percent.

**Percent Changes in Discretionary Criminal and Civil Petitions in 16 Courts of Last Resort, 1990 vs. 1999**

|                | Percent Change 1990-99' |                 |
|----------------|-------------------------|-----------------|
|                | Criminal Petitions      | Civil Petitions |
| Virginia       | 128%                    | 11%             |
| California     | 101                     | 10              |
| Idaho          | 84                      | 25              |
| Wisconsin      | 76                      | 18              |
| North Carolina | 62                      | -25             |
| Oregon         | 57                      | -47             |
| Washington     | 52                      | 30              |
| Tennessee      | 48                      | 14              |
| Arizona        | 45                      | 23              |
| Michigan       | 44                      | -20             |
| Illinois       | 44                      | -3              |
| Louisiana      | 32                      | 36              |
| West Virginia  | 21                      | 24              |
| Minnesota      | -2                      | -18             |
| New York       | -8                      | 6               |
| Ohio           | -14                     | -14             |

*Criminal appellate trends vary widely—from a decrease of 77 percent in Michigan to an increase of 151 percent in Idaho*

An examination of individual IACs shows that the overall trend masks many differences between the growth rates of mandatory civil and criminal appeals in different states. Criminal appellate trends vary widely, from a decrease of 77 percent in Michigan to an increase of 151 percent in Idaho. Criminal appeals, however, grew at higher rates than civil appeals in almost two-thirds of the 27 IACs. In some IACs, notably Idaho, Hawaii, Massachusetts, Colorado, Iowa, Wisconsin, and Texas, the growth rate in criminal appeals exceeded 50 percent.

The growth rate for criminal appeals among individual states stands in marked contrast to the relatively constant, aggregate criminal trend. Individual IAC data suggest that two factors contribute to the discrepancy between the flat aggregate trend and the substantial growth rates evident in some states. First, the courts reporting substantial growth in their criminal appeals (with the exception of Texas) handle fewer cases compared to courts with relatively stable or declining criminal appellate rates. For example, Idaho and Hawaii, two IACs with growth rates exceeding 100 percent, reported 289 and 128 appellate filings, respectively, in 1999. In comparison, a relatively steady growth rate characterized the California Court of Appeals, yet that court's volume of appeals was 7,611 in 1999. Secondly, two courts with sizable caseloads, Arizona and Michigan, experienced substantial declines in their criminal appeals. If Michigan and Arizona are excluded from the aggregate trend, the growth rate for criminal appeals would be a 22 percent increase.

Michigan and Arizona experienced significant decreases in their criminal caseloads as a result of jurisdictional changes. These changes, which can have substantial impacts on appellate caseloads, is an issue explored in more detail in Part II of *Examining the Work of State Courts, 1999-2000*.



*Civil appellate caseloads have been relatively stable compared to criminal appeals*

In comparison to criminal appeals, the civil appellate growth rate, even among a variety of individual states, is relatively stable. Alabama, which had a change in its jurisdiction, is an exception with its civil appeals increasing by 121 percent. Among the remaining intermediate courts, 17 experienced relatively flat growth rates in their mandatory civil appeals. These rates varied from a 15 percent increase in Missouri to a 14 percent decrease in Michigan.

**Percent Change in Mandatory Civil and Criminal Appeals in 27 Intermediate Appellate Courts, 1990 vs. 1999**

|                | Percent Change 1990-99 |               |
|----------------|------------------------|---------------|
|                | Criminal Appeals       | Civil Appeals |
| Idaho          | 151%                   | -34%          |
| Hawaii         | 110                    | 45            |
| Massachusetts  | 98                     | 8             |
| Colorado       | 87                     | -21           |
| Iowa           | 68                     | 6             |
| Wisconsin      | 53                     | -4            |
| Texas          | 51                     | 25            |
| North Carolina | 36                     | 8             |
| Minnesota      | 35                     | -37           |
| Connecticut    | 33                     | 2             |
| Pennsylvania   | 30                     | 2             |
| Oregon         | 29                     | 11            |
| Kentucky       | 29                     | 0             |
| New Mexico     | 27                     | 28            |
| Louisiana      | 21                     | -10           |
| Ohio           | 16                     | -19           |
| California     | 16                     | -4            |
| Illinois       | 11                     | 14            |
| Utah           | 10                     | 1             |
| Arkansas       | 6                      | 27            |
| Alabama        | 1                      | 121           |
| Washington     | -1                     | -9            |
| Indiana        | -13                    | -12           |
| Missouri       | -20                    | 15            |
| Maryland       | -29                    | 26            |
| Arizona        | -50                    | -10           |
| Michigan       | -77                    | -14           |

### *Original proceedings in the appellate courts*

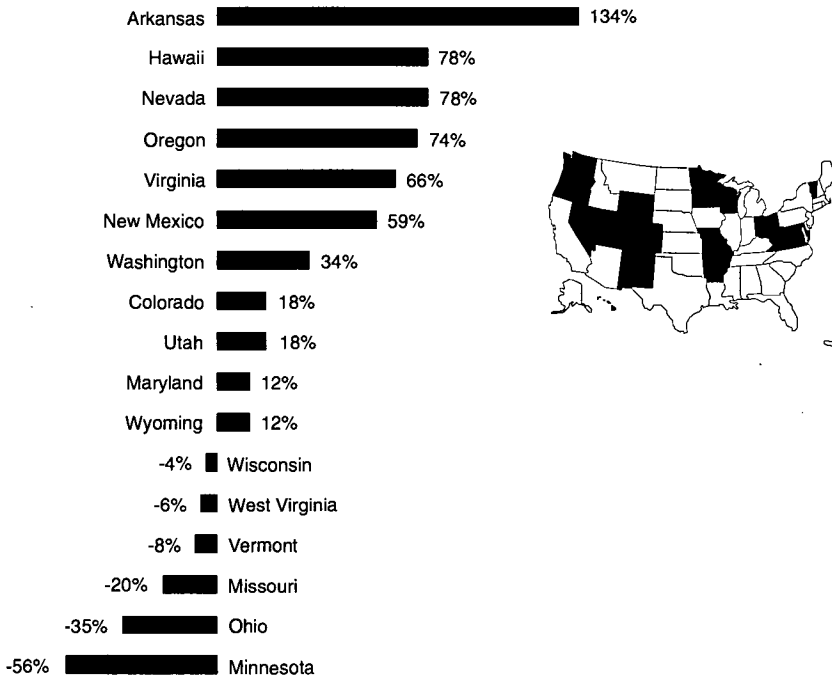
Discretionary petitions and mandatory appeals that challenge final trial court judgments are only part of the work of appellate courts. In some instances, appellate courts exercise original jurisdiction and act upon a case in the first instance. Most original proceedings involve criminal matters including applications for writs (e.g., habeas corpus, mandamus, prohibition). Original proceedings can also include civil applications for writs, involving election disputes and tax review, judicial and bar disciplinary issues, and certified questions.

Original proceedings data are available for 17 COLRs and nine IACs for the years 1990 through 1999. The data indicate that these cases are expanding in most appellate courts. Among COLRs, original proceedings have increased by at least 70 percent in Arkansas, Hawaii, Nevada, and Oregon. Of the nine IACs that track original proceedings, three (Maryland, Pennsylvania, and Utah) recorded growth exceeding 90 percent.

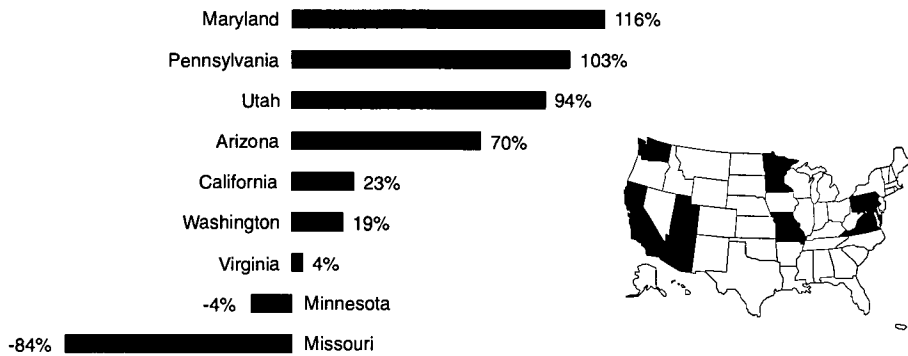
Among the COLRs and IACs where the original proceedings have increased, data show that most of these proceedings stem from criminal matters. Original proceedings data are available in greater detail for the Arkansas and Oregon COLRs. Post-conviction cases constitute the majority of original proceedings in Arkansas's COLR, and habeas corpus and post-conviction cases make up a sizable portion of Oregon's original proceedings. Post-conviction remedies and challenges to probation revocations compose the largest proportion of original proceedings for Pennsylvania's and Maryland's IACs with both courts showing substantial increases.

Not all courts, however, have seen their original proceedings expand. Original proceedings have remained relatively constant in several COLRs and have decreased in the Minnesota and Ohio COLRs. Among the IACs, original proceedings have only decreased substantially in Minnesota's Court of Appeals.

**Percent Change in Original Proceedings in 17 Courts of Last Resort, 1990 vs. 1999**



**Percent Change in Original Proceedings in 9 Intermediate Appellate Courts, 1990 vs. 1999**



*State courts of last resort grant 10 percent of discretionary petitions considered*

The percentage of discretionary petitions granted in 1999 and the number of justices needed to grant review are shown in the table below. State COLRs granted, on average, 10 percent of the discretionary petitions considered in 1999. This selection process is shown by comparing the number of discretionary petitions considered to the number of petitions granted. In states that require a majority of justices to grant certiorari, courts grant a median of 9 percent of the petitions. In states that allow a minority of the court to accept a petition for review, courts grant a median of 10 percent of the petitions.

**Discretionary Petitions Granted in 22 Courts of Last Resort, 1999**

| State                           | Number of Petitions Filed | Number of Petitions Granted | Percent of Petitions Granted | Number of Justices Needed to Grant Review |
|---------------------------------|---------------------------|-----------------------------|------------------------------|---|
| <b>Majority</b>                 |                           |                             |                              |   |
| Hawaii                          | 78                        | 31                          | 40%                          | 3 of 5                                    |
| Ohio                            | 1,653                     | 222                         | 13                           | 4 of 7                                    |
| Idaho                           | 82                        | 8                           | 10                           | 3 of 5                                    |
| Louisiana                       | 3,457                     | 337                         | 10                           | 4 of 7                                    |
| Missouri                        | 577                       | 52                          | 9                            | 4 of 7                                    |
| Alaska                          | 187                       | 16                          | 9                            | 3 of 5                                    |
| Georgia                         | 1,148                     | 56                          | 5                            | 4 of 7                                    |
| Illinois                        | 2,195                     | 92                          | 4                            | 4 of 7                                    |
| New Jersey                      | 2,969                     | 112                         | 4                            | 3 of 5                                    |
| Michigan                        | 2,242                     | 56                          | 2                            | 4 of 7                                    |
|                                 |                           |                             | Median = 9%                  |   |
| <b>Minority</b>                 |                           |                             |                              |   |
| Connecticut                     | 365                       | 61                          | 17                           | 3 of 7                                    |
| North Carolina                  | 609                       | 86                          | 14                           | 3 of 7                                    |
| Maryland                        | 702                       | 98                          | 14                           | 3 of 7                                    |
| Minnesota                       | 656                       | 74                          | 11                           | 3 of 7                                    |
| South Carolina                  | 977                       | 100                         | 10                           | 2 of 5                                    |
| Massachusetts                   | 781                       | 79                          | 10                           | 3 of 7                                    |
| Tennessee                       | 1,001                     | 100                         | 10                           | 2 of 5                                    |
| Texas Court of Criminal Appeals | 2,060                     | 163                         | 8                            | 4 of 9                                    |
| Virginia                        | 2,881                     | 223                         | 8                            | 1 of 3                                    |
| Texas Supreme Court             | 1,818                     | 115                         | 6                            | 4 of 9                                    |
| Rhode Island                    | 191                       | 5                           | 3                            | 1 of 5                                    |
| Kansas                          | 981                       | 17                          | 2                            | 3 of 7                                    |
|                                 |                           |                             | Median = 10%                 |   |

### *How are appellate court cases resolved?*

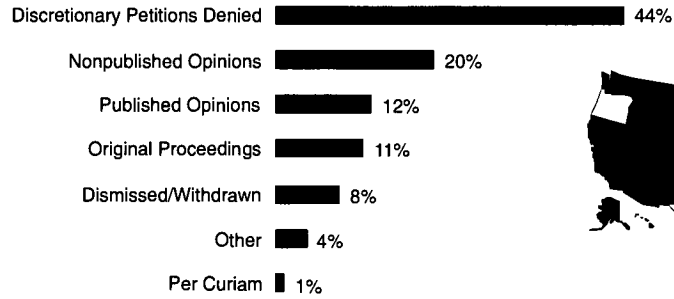
The manner in which cases are resolved is an important element in understanding how appellate courts do their work. For the past several years, the National Center's Court Statistics Project has collected disposition data on appellate courts. The information is collected in seven basic categories: (1) full written, signed, published opinions; (2) per curiam opinions, unsigned published opinions; (3) non-published opinions, memorandum decisions, and summary dispositions; (4) denial of discretionary petitions; (5) dismissals/withdrawals; (6) resolution of original proceedings and disciplinary matters; and, (7) other types of decisions (e.g., transfers to other courts).

The following graphic shows the composition of dispositions in appellate courts for 1999 and compares disposition data for COLRs and IACs. Among COLRs, denials of discretionary petitions constitute the largest disposition type (44 percent). This is not surprising because so many COLRs have discretionary authority over sizable proportions of their caseloads. For the IACs, published opinions and non-published opinions, such as memoranda decisions and summary dispositions, account for almost 60 percent of the dispositions. In IACs, the opinions represent a large proportion of dispositions because cases brought to these courts must be heard unless they are withdrawn, abandoned, settled, or dismissed on procedural grounds by the court.

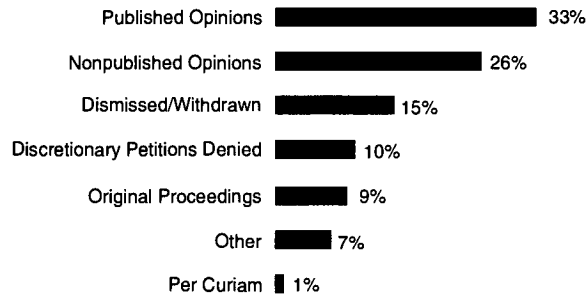
The generation of opinions constitutes one of the most important activities of appellate courts. Table 6 in *State Court Caseload Statistics, 1999-2000*, provides information on opinion workload by presenting the number of signed opinions per justice. Among COLRs, the number of opinions ranges from 49 in Arizona to 420 in Mississippi. IACs vary considerably in the number of signed opinions issued during 1999. The highest number of opinions reported was 13,233 by the California Courts of Appeal, where the state constitution and state statutes require a written opinion in every case decided on the merits. The IACs in Louisiana, Missouri, and Ohio reported more than 2,000 signed opinions, where there are similar policies and practices governing the form of the decision.

### Manner of Disposition in Courts of Last Resort and Intermediate Appellate Courts, 1999

#### COLRs (44)



#### IACs (37)



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# PART II

The Effects of Jurisdictional  
Change on Appellate Courts

# *The Effects of Jurisdictional Change on Appellate Courts*

## *Introduction*

Appellate courts have undergone important organizational changes during the last fifty years. As late as 1957, only 13 states had an intermediate appellate court. In the other states, courts of last resort, as the only courts of appeal, had broad and mandatory jurisdiction. They had to accept any appeal from a final judgment by a trial court or administrative agency. Because cases in states with only one appellate court could not be shifted to other venues, the jurisdiction of these courts remained relatively fixed.

As long as appellate caseloads grew at a moderate pace, the one-tier system was adequate. This situation changed, beginning in the 1960s and 1970s, when appellate filings rose substantially in the courts of last resort in many states (Marvell, 1983). Most states sought to alleviate the growing caseload pressures on their highest courts through greater use of discretionary jurisdiction, and by creating an intermediate court of appeal to handle the bulk of the mandatory appeals. By 1989, the two-tiered system was so widespread that only nine states and the District of Columbia functioned without them.

Establishing a first level of review, in addition to a court of last resort, represented a substantial change in the structure of state appellate court systems.

Three assumptions ultimately underlie these two-tiered systems:

1. State supreme courts are able to control their own dockets by denying petitions for review filed after the case is decided by an intermediate appellate court. Intermediate appellate courts have the primary responsibility for correcting trial court errors.
2. Very few cases are expected to bypass an intermediate appellate court and proceed directly to the state supreme court. As a result of this jurisdictional and appellate structure, these courts were considered to be the “workhorses,” and courts of last resort were the legal policy-making bodies in two-tiered systems (Gabrys, 1998).
3. Many observers believe that the jurisdictional structure of a two-tiered system, once created, remains relatively fixed. From this point of view, when appellate court caseloads rise, courts of last resort exercise their discretionary authority and intermediate appellate courts respond by adding judges, dividing themselves into regional districts, and continuing to conduct a first level review over virtually all mandatory appeals.



Despite their prevalence, these underlying assumptions offer only a partial picture of contemporary appellate court systems. State legislatures have the authority to alter the jurisdictional scope of intermediate appellate courts and courts of last resort in a variety of ways.

This part will examine how jurisdictional changes in several states over the last decade affect the number of cases filed in courts of last resort and their corresponding intermediate appellate courts. It will focus on different types of jurisdictional changes and the consequences these changes have on state appellate systems. The kinds of jurisdictional changes that will be considered are:

- Transferring cases from a court of last resort to an intermediate appellate court. Cases are transferred through two methods: (1) the state's court of last resort is given authority by the legislature to transfer certain cases to its intermediate appellate court; and, (2) the legislature transfers the initial review of a certain case type from a court of last resort to an intermediate appellate court.
- Restricting the conditions under which a convicted defendant can appeal guilty plea convictions and sentences as a matter of right.
- Establishing appellate review of sentences. Some states with sentencing guidelines allow appellate review of sentences for the first time.

The consequences of changes in jurisdiction will be examined in terms of the number of cases per justice to capture a sense of the impact of change on judicial workload.

### *Jurisdictional Change: Transferring Case Hearing Authority*

Several states changed jurisdictional rules to reduce state supreme court caseloads. In some states (e.g., Arkansas), the legislature enacted laws granting the courts of last resort authority to shift cases to the intermediate appellate courts. Among other states (such as New Mexico), the legislature redirected the number of cases that can be appealed directly from the trial court to the state's highest court, so that the intermediate court serves as the court where these cases are directly appealed.

#### *Arkansas*

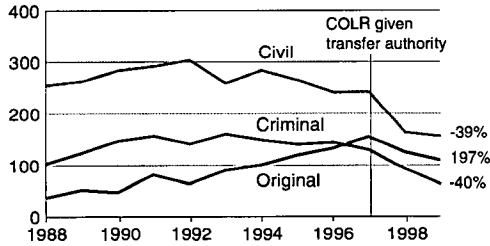
The Arkansas state legislature authorized the court of last resort to transfer selected cases to the intermediate appellate court in 1997. Using its independent rule-making authority, the state's highest court sought to equalize the workload between the two levels of appellate courts. This change was codified in the state's court rules, which specifically stated that cases "may be assigned and transferred between the courts by Supreme Court order to achieve a fair allocation of the appellate workload between the Supreme Court and the Court of Appeals" (Arkansas Court Rules Rule 1-2).

Before 1997, the number of mandatory civil appeals in the court of last resort remained fairly stable, increasing slightly until the early 1990s, then decreasing modestly. Following the jurisdictional change, mandatory civil appeals dropped by 35 percent between 1997 and 1999. Decreases also occurred for original proceedings (29 percent) and mandatory criminal appeals (51 percent) in this three-year period.

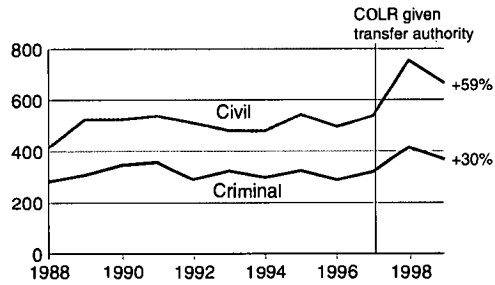
The jurisdictional change had significant consequences on Arkansas's intermediate appellate court. Between 1997 and 1999, the volume of civil filings increased 24 percent and the number of criminal appeals increased 14 percent. This resulted in the number of mandatory criminal appeals per judge increasing from 27 to 31 and the number of mandatory civil appeals per judge rising from 45 to 56 in the intermediate court between 1997 and 1999. In sum, the total number of appeals per judge increased from 72 to 87 in the Arkansas Court of Appeals.

The jurisdictional changes, however, do not serve as the sole explanation for changes within this intermediate court. For example, Arkansas's trial courts had substantial increases in felony filings, although the civil filings remained relatively stable. Therefore, both changes in jurisdiction and increased felony court filings contributed to increases in the appellate workloads of Arkansas's intermediate court.

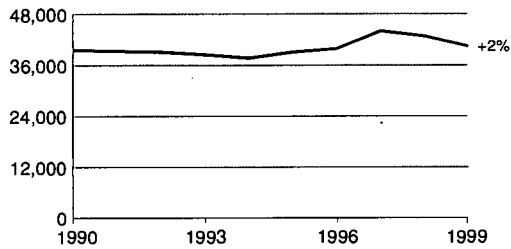
**Mandatory Civil, Criminal, and Original Appeals in the Arkansas Supreme Court, 1988-1999**



**Mandatory Civil and Criminal Appeals in the Arkansas Court of Appeals, 1988-1999**

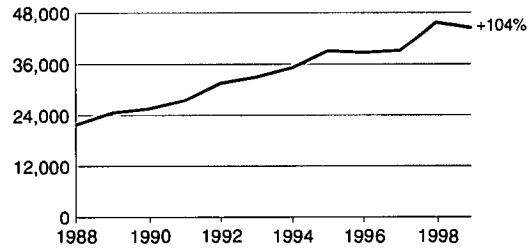


**Civil (Excluding Domestic Relations) Filings in the Arkansas General Jurisdiction Courts, 1990-1999**



Data for 1988 and 1989 are not available.

**Felony Filings in the Arkansas Trial Courts, 1988-1999**

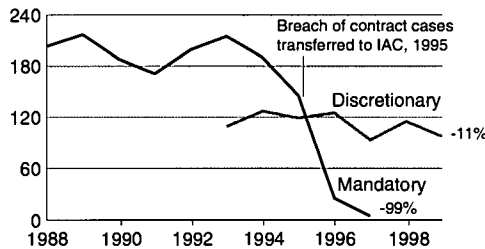


### New Mexico

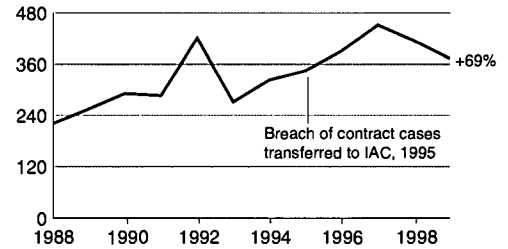
In 1995, the New Mexico state legislature altered the appellate system's jurisdictional structure by transferring certain kinds of civil cases from the court of last resort to the intermediate appellate court. Previously, parties could appeal breach of contract cases directly from the trial court to the state's highest court. This route was changed in 1995 so that contract claims first had to go through New Mexico's intermediate appellate court before they could be heard by the state's highest court (New Mexico Rules Annotated, Rules of Appellate Procedure, 12-201). Before 1995, mandatory civil appeals, which are primarily breach of contract appeals, fluctuated slightly in New Mexico's Supreme Court. Following the jurisdictional changes, the number of mandatory civil appeals dropped 98 percent between 1995 and 1997. The declines were so total and absolute that by 1998, there were no mandatory civil cases being filed in New Mexico's court of last resort.

Prior to the transfer, mandatory civil appeals in New Mexico's Court of Appeals increased. The increase sharpened after the 1995 transfer when the volume of mandatory civil appeals rose by 31 percent between 1995 and 1997. The shift produced an increase in the number of mandatory civil appeals filed per judge from 34 to 45 filings in the New Mexico Court of Appeals during the 1995 to 1997 period.

**Civil Appeals in the New Mexico Supreme Court, 1988-1999**



**Mandatory Civil Appeals in the New Mexico Court of Appeals, 1988-1999**



### Restrictions on Criminal Appeals Resulting from Guilty Plea Convictions

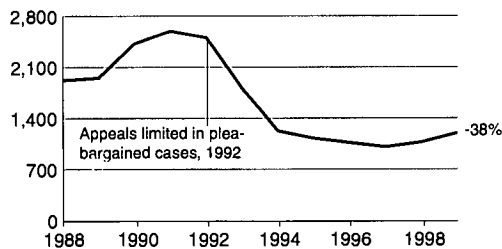
Two states implementing this particular change, Arizona and Michigan, are examined below.

#### Arizona

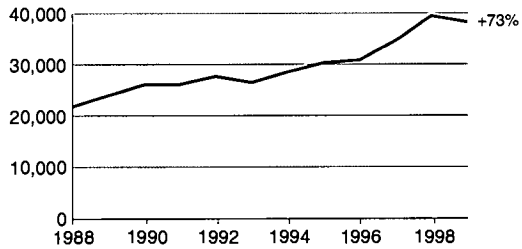
In 1992, the Arizona state legislature amended the state's Rules of Criminal Procedure to read "by pleading guilty or no contest in a non-capital case the defendant will waive the right to have the appellate courts review the proceedings by way of direct appeal, and may seek review only by filing a petition for post-conviction relief pursuant to Rule 32, and, if denied, a petition for review" (Arizona Rules of Criminal Procedure, Rule 17.2).

After years of steady increases, between 1992 and 1994, the number of mandatory criminal appeals in Arizona's intermediate appellate court declined from 2,502 to 1,226 filings, a 51 percent decrease. This resulted in a reduction from 199 to 58 mandatory criminal appeals filed per judge in the Arizona Court of Appeals during that three-year period. After 1994, there were only negligible changes in the number of criminal appeals filed in the state's intermediate appellate court despite a steady increase in the number of felony filings at the trial court level. This suggests that, after an initial decrease, the change resulted in a continuing lower level of mandatory criminal cases being appealed to the state's intermediate appellate court.

**Mandatory Criminal Appeals in the Arizona Court of Appeals, 1988-1999**



**Felony Filings in the Arizona Trial Courts, 1988-1999**



### Michigan

Under Michigan’s jurisdictional reform, the state’s intermediate court no longer had to accept appeals from offenders convicted through guilty pleas. As stated in the Michigan Rules of Criminal Procedure “all appeals from final orders and judgments based upon pleas of guilty or nolo contendere shall be by application for leave to appeal” (Michigan Code of Criminal Procedure, Section 770.3(e)). In other words, guilty plea cases would only be heard at the discretion of Michigan’s intermediate appellate court.

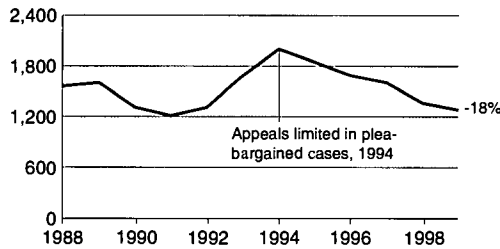
This reform served to accelerate the decreases in the Court of Appeal’s mandatory criminal caseload. The number of mandatory criminal appeals decreased from 6,583 in 1992 to 4,962 in 1994. These declines sharpened after the 1994 reform. In contrast, the volume of discretionary petitions increased substantially since the jurisdictional change. The amendment appears to have successfully restricted the automatic right of appeal for offenders convicted by plea bargain.

The workload of the Michigan Court of Appeal’s has also changed. Between 1994 and 1996, the number of mandatory criminal appeals per judge declined from 207 to 84 and the number of discretionary criminal appeals per judge increased from 50 to 58.<sup>1</sup> The total number of criminal appeals per justice decreased from 257 to 142 in the 1994 to 1996 period.

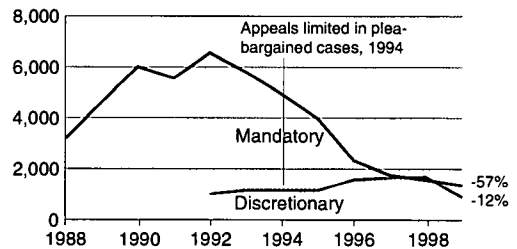
<sup>1</sup> Michigan increased the number of judges in its intermediate appellate court from 24 to 28 between 1994 and 1996.

Even though Michigan’s appellate limitation was aimed at the intermediate court’s mandatory criminal appeals, the state’s Supreme Court caseload was also affected because petitions denied by the intermediate appellate court could not be appealed to the state’s highest court. The appeal restriction had a significant impact on the Supreme Court’s discretionary criminal petitions.

**Discretionary Criminal Appeals in the Michigan Supreme Court, 1988-1999**



**Criminal Appeals in the Michigan Court of Appeals, 1988-1999**



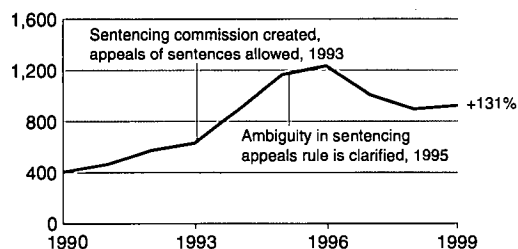
## Establishing Appellate Review of Sentences

### Kansas

Kansas made substantial changes to its criminal justice system by instituting sentencing guidelines in 1993. The statute creating these guidelines also gave offenders the right to appeal their sentences. Offenders, however, did not have an absolute right to contest their sentences on appeal. According to the statute, sentences could be appealed only if they departed from the guideline recommendations (Kansas Statutes Annotated, Volume 2A, Section 21-4721(a)). The guidelines went on to further state that the appellate court could not review (1) "any sentence that is within the presumptive [guideline]," and (2) "any sentence resulting in an agreement between the state and the defendant which the sentencing court approves on the record" (Kansas Statutes Annotated, Volume 2A, Section 21-4721(c)). Despite these express statements, the statute had a provision that seemed to allow appellate review of any sentence. According to this section, "in any appeal, the appellate court may review a claim that: (1) the sentence resulted from partiality, prejudice, oppression, or corrupt motive." It could be argued, and probably was, that this section opened the door to unrestricted sentence appeals. These potentially conflicting provisions were reconciled in 1995 when the legislature determined that only sentences that departed from the guidelines were appealable. (Session Laws of Kansas, 1212, Sec 17 K.S.A. 1994 Supp. 21-4721) (Kansas Statutes Annotated, Volume 2A, Section 21-4721(e)(1)).

As in Michigan, these changes were directed at appeals that went to the intermediate appellate court. Between 1993 and 1995, when the conflicting provisions were reconciled, the volume of mandatory criminal appeals rose 85 percent. After the 1995 amendment, mandatory criminal appeals leveled off and began to decline. The 1995-1999 period saw a 21 percent decrease in mandatory criminal appeals. Overall, the 1993 to 1999 rise in mandatory criminal filings resulted in the number of criminal filings per judge increasing from 63 to 92 in Kansas's intermediate court.

### Mandatory Criminal Appeals in the Kansas Court of Appeals, 1988-1999



### *Conclusion*

Approximately fifty years ago, the system of appellate review began to change in a profound manner as systems moved from one-two-tiered levels of review. Leading scholars chronicled this transformation, but most of them seem to assume that once adopted, the two-tiered system would undergo few significant additional changes. The current section, however, shows that appellate court systems have continued to change throughout the 1990s. These jurisdictional changes include the transfer of cases from the court of last resort to the intermediate appellate court, the shifting of initial appellate review authority from the court of last resort to the intermediate court, the restriction of appeals for plea-bargained offenders, and the establishment of appellate sentencing guidelines review. A goal of this research is to restore jurisdiction as a key variable in understanding the operation of appellate courts in the past decade and to suggest that parallel changes are likely to occur in the future.

### *References*

- Gabrys, Matthew. 1998. "A Shift in the Bottleneck: The Appellate Caseload Problem Twenty Years After the Creation of Wisconsin Court of Appeals," 1998 *Wisconsin Law Review*, 1547.
- Marvell, Thomas. 1983. *Appellate Court Caseloads: Historical Trends*. Williamsburg: The National Center for State Courts.



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# APPENDICES





## *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, 1999-2000* and *State Court Caseload Statistics, 1999-2000* 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 1999 caseload statistics are provided in the companion volume to this report, *State Court Caseload Statistics, 1999-2000*.

## *State Court Caseload Statistics, 1999-2000*

The analysis presented in *Examining the Work of State Courts, 1999-2000* is derived in part from the data found in *State Court Caseload Statistics, 1999-2000*. 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, 1999-2000* 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 1999, 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.

**1999 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 1990-1999. 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.

## *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, 1999-2000*) 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](http://NCSC.DNI.US) on the World Wide Web. From the NCSC home page click on "NCSC Divisions" and then "Research" and then "Projects" to learn more.

Comments, suggestions, and corrections from users of *Examining the Work of State Courts, 1999-2000*, *State Court Caseload Statistics, 1999-2000* and the *Caseload Highlights* series are encouraged, and can be sent to:

Director, Court Statistics Project  
National Center for State Courts  
300 Newport Avenue (Zip 23185)  
P.O. Box 8798  
Williamsburg, VA 23187-8798  
Phone: (757) 253-2000  
Fax: (757) 564-2056  
E-mail: [mcantrell@ncsc.dni.us](mailto:mcantrell@ncsc.dni.us)

# The Caseload Highlights Series

**CASELOAD HIGHLIGHTS**  
Examining the Ways in Which State Courts

**National State Court Caseload Trends, 1984-1993**

This report examines the trends in state court caseloads from 1984 to 1993. It includes a line graph showing the overall caseload and a table of state-specific caseload data. The text discusses the factors influencing caseload growth and the impact on state courts.

Vol. 1 No. 1: National State Court Caseload Trends, 1984-1993

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**National Criminal Justice Measures Affecting State Courts**

This report examines the impact of national criminal justice measures on state court caseloads. It includes a line graph showing the trend and a table of state-specific data. The text discusses how federal policies and programs have affected state court workloads.

Vol. 2 No. 1: National Criminal Justice Measures Affecting State Courts

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**Findings From the National Trial Court Network**

This report presents findings from the National Trial Court Network. It includes a detailed table with columns for state, caseload, judges, and other metrics. The text provides an overview of the network's findings and their implications for state courts.

Vol. 2 No. 2: Findings From the National Trial Court Network

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**A Taxonomy of Appellate Court Organization**

This report provides a taxonomy of appellate court organization. It includes a diagram showing the structure of appellate courts in different states. The text discusses the various organizational models and their characteristics.

Vol. 3 No. 1: A Taxonomy of Appellate Court Organization

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**Welfare Reform and the Domestic Relations Caseload**

This report examines the relationship between welfare reform and the domestic relations caseload. It includes a line graph showing the trend and a table of state-specific data. The text discusses how changes in welfare policy have affected family law caseloads.

Vol. 4 No. 1: Welfare Reform and the Domestic Relations Caseload

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**Prisoner Litigation in Relation to Prisoner Population**

This report examines the relationship between prisoner litigation and the prisoner population. It includes a line graph showing the trend and a table of state-specific data. The text discusses how the size of the prison population has influenced the volume of litigation.

Vol. 4 No. 2: Prisoner Litigation in Relation to Prisoner Population

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**Drug Crime: The Impact on State Courts**

This report examines the impact of drug crime on state court caseloads. It includes a line graph showing the trend and a table of state-specific data. The text discusses how the rise in drug-related offenses has affected state court workloads.

Vol. 5 No. 1: Drug Crime: The Impact on State Courts

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**Tracking and Understanding Family Violence Caseloads**

This report provides a taxonomy of family violence caseloads. It includes a diagram showing the structure of family violence caseloads. The text discusses the various types of family violence cases and their impact on state courts.

Vol. 5 No. 2: Tracking and Understanding Family Violence Caseloads

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**Trends in Juvenile Violent Crime**

This report examines trends in juvenile violent crime. It includes a line graph showing the trend and a table of state-specific data. The text discusses the factors contributing to the increase in juvenile violence and its impact on state courts.

Vol. 6 No. 1: Trends in Juvenile Violent Crime

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**A Renewed Interest in Low-Level Crime**

This report examines a renewed interest in low-level crime. It includes a line graph showing the trend and a table of state-specific data. The text discusses how changes in law enforcement and prosecution have affected state court caseloads.

Vol. 6 No. 2: A Renewed Interest in Low-Level Crime

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# The National Center for State Courts



## MAIN OFFICE

300 Newport Avenue (23185)

P. O. Box 8798

Williamsburg, VA 23187-8798

Phone: 757-253-2000

Fax: 757-220-0449

TTY: 757-259-1846

## DENVER OFFICE

1331 Seventeenth Street, Suite 402

Denver, CO 80202-1554

Phone: 303-293-3063

Fax: 303-296-9007

## WASHINGTON AREA OFFICE

2425 Wilson Boulevard, Suite 350

Arlington, VA 22201

Phone: 703-841-0200

Fax: 703-841-0206

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