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*Examining the Work of State Courts, 1995*  
*A National Perspective from the Court Statistics Project*

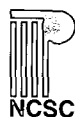
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A joint project of the Conference of State Court Administrators, the State Justice Institute, the Bureau of Justice Statistics, and the National Center for State Courts' Court Statistics Project.



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## *Acknowledgments*

The members of the Court Statistics Project (CSP) gratefully acknowledge assistance and guidance from throughout the state court community. At the heart of this national effort is the strong and continuing support of the state and trial court administrators, the appellate court clerks, and their staffs who have provided the bulk of the information included in *Examining the Work of State Courts, 1995* and *State Court Caseload Statistics, 1995*. They have been consistently patient and helpful in answering written and telephone inquiries for more data or for explanations of the data provided. We owe a special debt of gratitude to the staff members of the administrative offices of the courts and of the appellate courts who serve as contact persons between their offices and the Court Statistics Project.

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

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

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

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## Foreword

Upon this gifted age, in its dark hour,  
Rains from the sky a meteoric shower  
Of facts...They lie unquestioned, uncombined.  
Wisdom enough to leech us of our ill  
Is daily spun, but there exists no loom  
To weave it into fabric...

- Edna St. Vincent Millay

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 are the prime source of information on the work and organization of the state courts.

*Examining the Work of State Courts, 1995* 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 plainly and succinctly describe the work of state trial and appellate courts.

A second volume, *State Court Caseload Statistics, 1995*, 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* target specific and significant findings in short policy reports no longer than four pages. Because they fill the gaps in distribution cycles between the two annual reports, *Caseload Highlights* are also timely in terms of the data and subject matters covered.

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

## *Executive Summary*

It is at the state and local level that notions of law and justice are given meaning to most people, and it is in these courts where most individuals have their first, and perhaps only, interaction with the judicial system. Understanding the business of the state courts not only requires compiling data and information from over 16,000 state trial courts, but also examining data obtained from other components of our justice system. A central role of the Court Statistics Project is to translate both the state court caseload statistics and these supporting data into a common framework in order to identify and analyze national trends in court activities. As in the past, we have incorporated data from a variety of sources to help place the work of the state courts within the context of the entire justice system. Unless otherwise noted on the data displays, all information comes from the CSP national databases. Some of the principal findings to emerge include:

- ◇ 86 million new cases were filed in state courts in 1995. The total includes nearly 20 million civil and domestic relations cases, over 13 million criminal cases, and close to two million juvenile cases. The remaining caseload consists of approximately 51 million traffic and ordinance violations.
- ◇ State courts of general jurisdiction handled 92 times as many criminal and 25 times as many civil cases as the U.S. District Courts, while judges in state general jurisdiction courts processed an average of six times as many criminal cases and 2.5 times as many civil cases as U.S. District Court judges.
- ◇ Growth continued to characterize the more serious segments of state court caseloads. Between 1984 and 1995, civil caseloads rose 28 percent, criminal caseloads rose 38 percent, juvenile caseloads rose 55 percent, and domestic relations caseloads rose 70 percent. In contrast, the U.S. population increased roughly 10 percent over the same time period.
- ◇ Traffic caseloads dropped 20 percent between 1990 and 1994 and have since leveled off. Increasingly, less serious traffic cases are being decriminalized or transferred to an executive branch agency.
- ◇ Roughly two-thirds of the states could not keep up with the flow of criminal and civil filings, as evidenced by clearance rates below 100 percent. Courts must, by state statutes, give criminal caseloads priority. To meet this requirement, courts sometimes shift resources from the civil side to the criminal side; therefore, maintaining high criminal clearance rates is necessary to ensure timely civil case dispositions as well.
- ◇ Although tort reform continues to be hotly debated in Congress and in many state legislatures, there is no evidence that the number of tort cases is increasing. In fact, tort filings decreased 9 percent from 1990 to 1993 and have remained stable for the past two years. All states have enacted some type of tort reform in the past decade, though the impact of these reforms is clearer in some states than in others.

- ◆ The most dramatic change in the civil arena has been the collapse in contract filings. Of 22 states reporting, all but three report decreases in contract filings from 1990 to 1995. There was a 30 percent drop in contract filings between 1990 and 1995 in the 22 states examined.
- ◆ The most recent estimates (1992) show 817,000 tort and 791,000 contract cases filed in state courts of general jurisdiction. Most torts involve automobile accidents, and most contract cases involve seller plaintiffs. High-profile cases such as medical malpractice and products liability account for only 8 percent of all tort claims. The typical tort case is resolved within 14 months of filing; the typical contract case within 8 months.
- ◆ Awards of a million dollars or more occurred in 8 percent of tort cases and 7 percent of contract cases in jury trials won by plaintiffs. These larger awards are most likely to occur in the area of medical malpractice for tort cases and in employment suits for contract cases.
- ◆ Juries awarded punitive damages in 4 percent of tort and in 13 percent of contract-related cases in which the defendant was found liable. In two-thirds of the courts examined, less than 1 percent of the plaintiffs received punitive damage awards. The median punitive damage award for tort and contract cases was \$50,000; the mean was substantially higher at \$590,000 for torts and \$1.1 million for contract cases.
- ◆ The most rapid growth in domestic relations cases occurred in the area of domestic violence, with filings increasing 99 percent since 1989. For the period 1993 to 1995, domestic violence filings increased in all but one of the 32 states reporting such information.
- ◆ The majority (65 percent) of juvenile filings involved an allegation of delinquent behavior. While the majority of delinquency cases involved property offenses, the fastest growth is occurring in crimes against the person and drug crimes. Moreover, increased delinquency filings correspond to recent increases in juvenile arrest rates for drug and person crimes.
- ◆ Law enforcement has become increasingly reliant on the courts to dispose of juvenile cases following arrest. In 1972, 51 percent of cases were referred to the juvenile courts compared to 63 percent in 1994.
- ◆ An estimated 11,800 juveniles were transferred to adult court in 1993, representing less than 1 percent of the delinquency cases handled in the juvenile courts. The rate of transfers has, however, been increasing slowly but steadily since 1986.

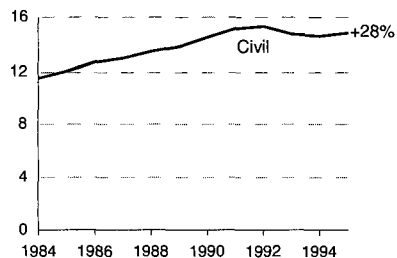
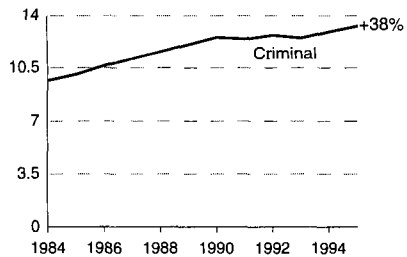
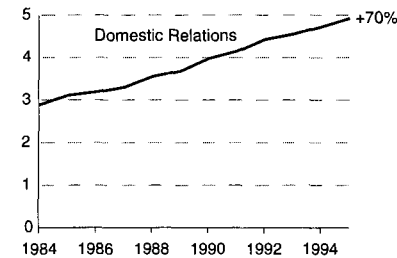
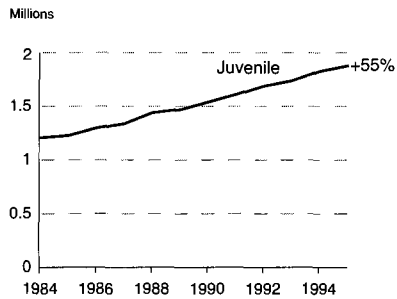


- ◇ Increasing 38 percent since 1984, criminal caseloads reached an all-time high of over 13 million filings in 1995. The heightened criminal caseload in 1995 follows the overall increase in arrests in 1994. The number of DWI filings in state courts has dropped 14 percent since 1985 and now stands at its lowest level in 11 years.
- ◇ Changes in felony filing rates are closely watched because serious crime is never far from the public's main concern. The number of felony filings has increased 64 percent since 1984 to an all-time high in 1995. Arrest rates for certain high-volume crimes (offenses involving drugs, assaults, and larceny) were also up during 1994. Given the delay between arrest and bindover to the upper courts, the trend in arrests appears to be a leading indicator of felony filings.
- ◇ The number of appellate filings increased 5 percent from 1994 to 1995, ending with a record 277,000 appeals. Ten states (California, Florida, New York, Texas, Pennsylvania, Michigan, Ohio, Louisiana, Illinois, and New Jersey) account for a sizable majority (60 percent) of the nation's appellate filings.
- ◇ Many appellate courts continued to have difficulties in keeping up with the steady inflow of cases. Half of the intermediate appellate courts were unable to clear their dockets completely by resolving as many cases as were filed each year.

# Overview of State Trial Court Caseloads

## Caseload Filings and Trends

**Cases Filed in State Courts, 1984-1995**



The state courts are the heart of the administration of justice in America. They are the foundation upon which the rest of the legal system rests. In 1995, the state courts reported the filing of 85.8 million new cases, representing just over 98 percent of our nation's total court caseload. These figures show clearly that our nation's attention, resources, and experiences with the justice system are most likely represented at state judicial levels.

To many judges, court administrators, and others who have more frequent contact with the courts, the critical dimension of caseload is not so much the volume, but how volume is changing over time.

Critical segments of the caseload have shown consistent and significant growth since 1984: criminal filings are up 38 percent; juvenile are up 55 percent; and domestic relations are up 70 percent.

These cases are increasing at least four times faster than the national population.

After the recent dip in civil caseloads from 1992 to 1994, the 1995 figure edged upward again and is now 28 percent higher than the level in 1984.

Given that the resources necessary to process cases in a timely fashion, such as judges, court support staff, and automation, seldom keep pace, courts must constantly search for more efficient ways to conduct business.

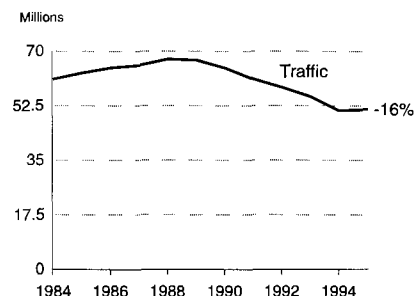
**Types of Cases Filed in State Courts, 1995**

Case Type	Number (in millions)
Traffic	50.9
Civil	14.8
Criminal	13.3
Domestic	4.9
Juvenile	1.9
<b>Total</b>	<b>85.8</b>

Growth characterizes all types of caseloads but traffic. Having declined rapidly since 1989, total traffic caseloads in the state courts are now 16 percent lower than in 1984. The number of traffic filings in 1995 essentially matches that for 1994, pointing to the lowest and most stable traffic caseload figures over the time period shown. Most of the downturn is due to ongoing efforts to decriminalize less serious traffic cases and to shift much of the traffic caseload to an executive branch agency. With the latter option, fines for minor traffic offenses are paid to a traffic bureau or agency rather than to the court. In other states, the judiciary has retained jurisdiction over traffic offenses, but now classifies them as civil rather than criminal infractions. The adjacent table shows parking cases continue to fall steadily and dropped over 20 percent from 1994 to 1995. Though they represent the least serious traffic offense, parking cases account for a large proportion of traffic caseloads.

The main result of decriminalizing minor traffic cases or transferring jurisdiction outside the court is that the mix of cases handled by the courts becomes relatively more serious. The remaining traffic cases now consist largely of criminal traffic offenses, such as hit-and-run and reckless driving. Moreover, as the total number of traffic cases falls, the work of the courts becomes increasingly oriented toward the more serious and time-consuming civil, criminal, and domestic relations cases.

**Traffic Cases Filed in State Courts, 1984-1995**



**Number of Parking Filings in 13 States, 1989-1995**

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

## Caseload Composition

The major distinction at the trial court level is between courts of general and limited jurisdiction. All states have at least one court of general jurisdiction, the highest trial court in the state, where most serious criminal and civil cases are handled. These courts typically handle any type of case, unless prohibited by some specific statutory or constitutional provision. In addition, general jurisdiction courts may handle appeals arising from cases heard at the limited jurisdiction level or administrative agencies.

In 1995, 44 states had courts of limited or special jurisdiction. These courts usually hear a narrower range of matters, often only one particular type of case. Criminal caseloads are typically limited to misdemeanor filings and to preliminary hearings in felony cases, while civil caseloads are usually restricted to small claims, where damages do not exceed some fixed amount. A number of states have special jurisdiction courts that handle only certain types of cases. Several states have instituted “family courts” to coordinate and integrate the handling of family-related cases, while other jurisdictions have developed “drug courts” in an effort to more effectively process those charged with drug offenses.

Though criminal cases sometimes receive significant amounts of press, they do not typically account for the majority of court business. In reality, general jurisdiction court workload is dominated by civil (including domestic relations) cases. The civil side of the docket is nearly two and a half times the size of the criminal caseload.

Limited jurisdiction courts do not necessarily handle small-scale or less important cases. Having processed 19.3 million civil, domestic relations, juvenile, and criminal cases in 1995, limited jurisdiction courts are not merely “traffic courts.”

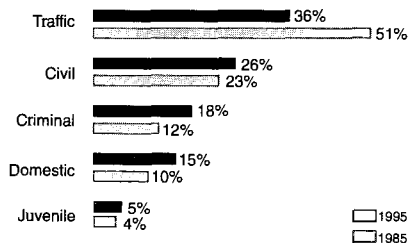
### State Trial Court Filings by Court Jurisdiction, 1995

Case Type	Number of Filings (in millions)	
	General Jurisdiction	Limited Jurisdiction
Traffic	8.6	42.4
Civil	6.3	8.5
Criminal	4.2	9.0
Domestic	3.7	1.2
Juvenile	1.3	0.6
<b>Total</b>	<b>24.1</b>	<b>61.7</b>

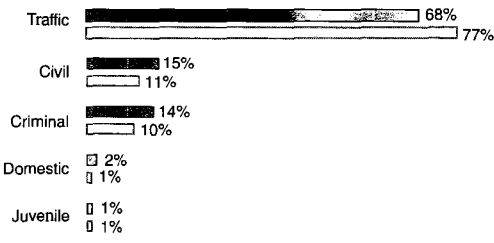
Traffic caseloads have declined as the rest of the state court caseload continues to grow. This trend is most apparent in general jurisdiction courts, where traffic cases fell from 51 percent of total filings in 1985 to 36 percent in 1995.

**Caseload Composition in State Courts, 1985 vs. 1995**

General Jurisdiction



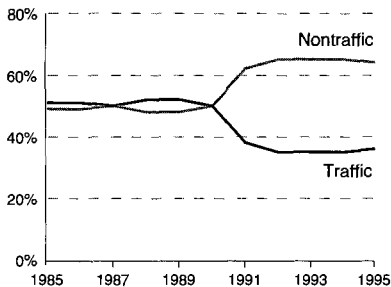
Limited Jurisdiction



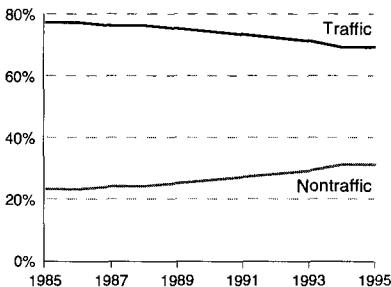
Nontraffic filings jumped substantially in courts of general jurisdiction after 1990, rising from half of the caseload to about two-thirds of the 1994 caseload. The change toward smaller traffic caseloads has been steady, but more gradual in limited jurisdiction courts. In 1995, the proportion of traffic filings leveled at 68 percent in limited jurisdiction courts and increased slightly to 36 percent in courts of general jurisdiction.

**State Trial Court Caseload Composition—Traffic vs. Nontraffic, 1985-1995**

General Jurisdiction



Limited Jurisdiction



## State Courts and Trial Judges

The 85.8 million cases filed in 1995 were processed through nearly 16,400 state trial courts. Limited jurisdiction courts outnumber their general jurisdiction counterparts five to one.

13,748 limited jurisdiction courts  
2,626 general jurisdiction courts

In 1995, there were 27,188 trial judges in the nation's state trial courts. The state trial courts of general jurisdiction picked up an additional 337 judges since 1994, while limited jurisdiction courts report losing 343 judges. This is a result of court restructuring or consolidation in a few states and Puerto Rico. The table below shows the number of judges per year by court jurisdiction.

**Judges in State Trial Courts by Court Jurisdiction, 1990-1995**

Year	General Jurisdiction	Limited Jurisdiction
1990	8,586	18,234
1991	8,649	18,289
1992	8,700	18,272
1993	8,859	18,316
1994	8,877	18,317
1995	9,214	17,974

The table to the right shows the number of general jurisdiction court judges in the states. It is important to note that this table reflects the number of actual judges and does not include quasi-judicial personnel such as magistrates or referees. Eleven states and Puerto Rico report having a unified court structure – one in which trial courts are consolidated into a single general jurisdiction court level. These consolidated courts have jurisdiction over all cases and procedures, thereby abolishing the distinction between two trial levels. Therefore, states at the top of the table will appear to have more general jurisdiction court judges per 100,000 population than states with multilevel court systems. Two alternative measures of judicial staffing levels are also provided in the table. The first measure, judges per 100,000 population, standardizes the number of judges across the states by adjusting for differences in population. The result is a dramatic narrowing in the range of judges (1.1 in South Carolina to 10.6 in D.C.). In fact, all but one of the states with non-unified courts have five or fewer judges per 100,000 population. Unified states report, on average, six judges per 100,000 population.

The third column shows the number of civil (including domestic relations) and criminal filings per general jurisdiction judge. Roughly four out of five states report between 464 and 1,817 filings per judge. State general jurisdiction judges handle, on average, more than three times as many such cases per judge as U.S. District Court judges (1,403 versus 454, respectively).

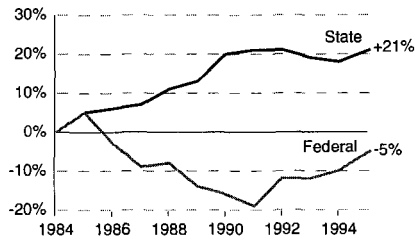
**Number and Rate of Judges in Unified and General Jurisdiction Courts  
in 48 States, 1995**

State	Number of Judges	Judges per 100,000 Population	Filings per Judge
<b>Unified Courts</b>			
Illinois	859	7.3	1,419
Massachusetts	334	5.5	2,846
Missouri	331	6.2	1,277
Puerto Rico	295	7.9	832
Minnesota	252	5.5	1,788
Wisconsin	223	4.4	1,802
Iowa	203	7.1	1,273
Connecticut	174	5.3	1,810
Kansas	149	5.8	1,583
District of Columbia	59	10.6	2,840
Idaho	36	3.1	464
South Dakota	36	4.9	2,284
<b>General Jurisdiction Courts</b>			
California	789	2.5	1,220
New York	597	3.3	717
Florida	442	3.1	1,926
Texas	387	2.1	1,626
New Jersey	372	4.7	2,980
Ohio	369	3.3	1,308
Indiana	255	4.4	1,772
Louisiana	213	4.9	1,408
Michigan	210	2.2	1,250
Washington	158	2.9	1,222
Oklahoma	148	4.5	1,982
Virginia	143	2.2	1,722
Maryland	131	2.6	1,651
Alabama	127	3.0	1,251
Arizona	127	3.0	1,169
Colorado	111	3.0	992
Tennessee	111	2.1	1,817
Arkansas	104	4.2	1,494
Kentucky	93	2.4	930
North Carolina	93	1.3	2,730
Oregon	93	3.0	1,591
New Mexico	69	4.1	1,149
West Virginia	62	3.4	931
Nebraska	51	3.1	1,086
Utah	51	2.6	1,048
North Dakota	46	7.2	1,365
Montana	45	5.2	687
Hawaii	42	3.5	1,082
South Carolina	40	1.1	3,841
Alaska	32	5.3	596
Vermont	31	5.3	1,770
New Hampshire	29	2.5	1,574
Rhode Island	23	2.3	705
Delaware	17	2.4	1,072
Wyoming	17	3.5	740
Maine	16	1.3	951

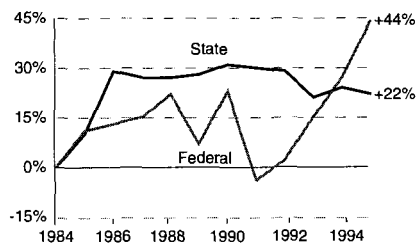
Note: Georgia, Pennsylvania, Mississippi, and Nevada are not included because criminal data were not available.

**Caseload Growth Rates of U.S. District and State General Jurisdiction Courts, 1984-1995**

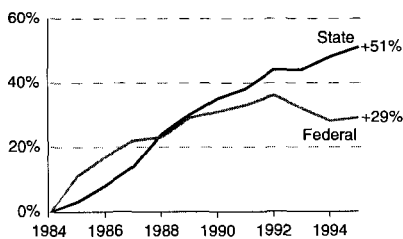
Civil Filings



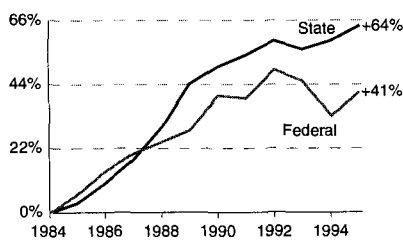
Tort Filings



Criminal Filings



Felony Filings



Source: Annual Report of the Director of the Administrative Office of the U.S. Courts, 1984-1985.

**State and Federal Trial Court Trends**

The adjacent charts compare the growth in total civil, tort, total criminal, and felony filings in state trial courts of general jurisdiction and U.S. District Courts. With 1984 as the base year, the charts show the growth rate in civil and criminal filings for state and federal courts.

Civil filings (excluding domestic relations filings) in state trial courts of general jurisdiction have grown by 21 percent since 1984, while civil filings in the U.S. District Courts declined 5 percent over the same period.

At the state level, the bulk of the growth in tort filings occurred in the mid-1980s. The change in tort filings shows a more erratic pattern in the federal courts, with substantial growth taking place since 1991.

Steep increases characterize criminal caseloads in both federal (29 percent) and state (51 percent) court systems since 1984. The most dramatic increases in filings occur in felony caseloads. Similar growth rates in the mid-1980s diverge in 1987, as state felony filing rates began to outpace federal filing rates. The decline in state felony filings, and to a lesser extent the decline in criminal filings, has not been sustained. Though federal criminal and felony filings continue to fall, the state courts experienced upswings again for 1995.

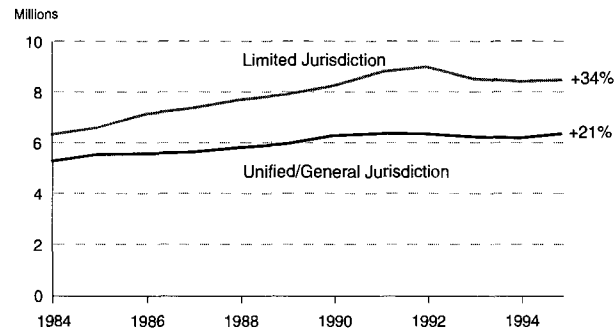


# Civil Caseloads in State Trial Courts

## Civil Filing Trends and Caseload Composition

States report the filing of nearly 15 million civil cases (excluding domestic relations cases) in 1995, of which six million were handled in general jurisdiction courts. The long-term growth in civil caseloads has again turned upward following a two-year period of decline (3 percent increase from 1994 to 1995).

**Civil Cases Filed in State Trial Courts by Jurisdiction, 1984-1995**

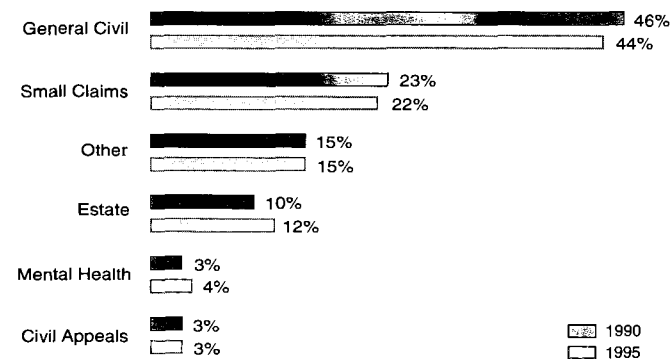


State trial courts of general jurisdiction have also experienced a slight change in the composition of their caseloads. Between 1990 and 1995, the proportion of general civil cases—tort, contract, and real property cases—declined, while estate and mental health cases have shown an increase. Among courts of limited jurisdiction, two-thirds of the civil cases are either small claims or real property rights filings. The composition of limited jurisdiction court caseloads has remained relatively stable throughout the 1990s.

**Civil Caseload Composition in Limited Jurisdiction Courts in 12 States, 1995**

Case Type	Percent of Caseload
Small Claims	32%
Real Property	31
Contract	6
Tort	4
Domestic Relations	3
Estate/Mental Health	2
Other	22

**Civil Caseload Composition in Unified and General Jurisdiction Courts in 17 States, 1990 vs. 1995**



### Civil Case Filing Rates Among States

Two different measures are introduced in the accompanying table to compare civil caseloads handled in courts of general jurisdiction. The table differentiates between states with a unified court system and those with a two-tier system. The first measure, total filings, reveals the size of civil caseloads across states. One immediately notes that the range is wide. General jurisdiction courts in New York report more than 3.5 times as many civil filings as Washington state and nearly 27 times as many as Delaware.

The second measure, filings per 100,000 population, shows whether people tend to file civil cases at similar rates around the country. Controlling for population reduces the variation among states considerably, with 27 of 38 two-tier courts falling between 917 and 2,019 civil filings per 100,000 population. Following up on the earlier example, New York, Washington, and Delaware all have similar population-adjusted filing rates.

Two factors have a great impact on the size of population-adjusted civil filings: state court structure and dollar limits. Unified courts and courts that handle all or most of the civil caseload in the general jurisdiction court (e.g., Illinois and New Jersey) have the highest numbers of population-adjusted filings. Courts that have one or more limited jurisdiction courts with concurrent civil jurisdiction, especially those that limit the dollar amounts of cases that can be filed in the general jurisdiction court (e.g., Michigan and North Carolina), report much smaller civil filings per 100,000 population. Texas, which has more than twice the population of New Jersey, has fewer judges in its general jurisdiction court and reports 950 civil filings per 100,000 population versus New Jersey's 9,865. Texas has three different statewide limited jurisdiction courts with civil jurisdiction that take much of the burden of civil caseload from the general jurisdiction court. In North Carolina, which has a \$10,000 minimum for cases filed in its general jurisdiction court, 42 percent of the general jurisdiction civil caseload consists of estate cases, and in addition to the 93 judges authorized, there are 100 clerks with estate jurisdiction.

## Total Civil Filings (excluding domestic relations filings) in 50 States, 1995

State	General Jurisdiction		Limited Jurisdiction		Population Rank
	Total Cases	Filings per 100,000 Population	Total Cases	Filings per 100,000 Population	
<b>Unified Courts</b>					
Illinois	492,083	4,160			6
Massachusetts	383,233	6,310			13
Wisconsin	223,991	4,372			18
Missouri	169,743	3,189			16
Minnesota	159,299	3,456			20
Kansas	151,107	5,890			33
Connecticut	143,085	4,369	61,435	1,876	29
Iowa	131,828	4,639			31
District of Columbia	116,274	20,978			51
Puerto Rico	106,130	2,853			26
South Dakota	44,528	6,108			46
Idaho	5,345	460	48,649	4,183	42
<b>General/Limited Jurisdiction Courts</b>					
New Jersey	783,766	9,865	12,741	160	9
California	637,898	2,019	1,004,322	3,179	1
New York	293,962	1,621	957,609	5,280	3
Florida	264,845	1,870	349,781	2,469	4
Indiana	239,267	4,123	139,281	2,400	14
Ohio	184,811	1,657	339,158	3,042	7
Texas	177,820	950	401,353	2,144	2
Oklahoma	156,516	4,775			28
Louisiana	149,770	3,449	78,151	1,800	21
North Carolina	130,246	1,810	365,021	5,073	11
Mississippi	86,251	3,198	33,125	1,228	32
Virginia	83,051	1,255	1,023,957	15,471	12
Washington	82,942	1,527	131,603	2,423	15
Tennessee	71,039	1,352			17
Michigan	69,826	731	481,413	5,041	8
Maryland	63,291	1,255	813,919	16,141	19
Arizona	58,560	1,388	132,669	3,145	23
Oregon	46,470	1,480	101,455	3,230	30
Alabama	45,050	1,059	140,630	3,307	22
South Carolina	44,207	1,203	201,389	5,483	27
Colorado	39,342	1,050	167,220	4,463	25
Arkansas	39,263	1,581	76,824	3,093	34
New Mexico	34,079	2,022	26,278	1,559	37
Kentucky	30,863	800	141,791	3,673	24
West Virginia	29,498	1,614	46,542	2,546	36
Nebraska	27,924	1,706	65,949	4,028	38
Nevada	23,018	1,504			39
North Dakota	20,924	3,262			48
Vermont	19,213	3,286	4,427	757	50
Utah	18,899	968	109,800	5,627	35
Montana	17,521	2,013	37,575	4,318	45
Hawaii	12,324	1,038	25,450	2,144	41
Delaware	10,977	1,531	35,054	4,888	47
New Hampshire	10,526	917	45,557	3,968	43
Rhode Island	9,436	953	40,756	4,118	44
Alaska	7,097	1,176	16,719	2,770	49
Wyoming	4,813	1,002	17,579	3,661	52
Maine	4,663	376	28,149	2,268	40

Note: Blank cells indicate that court has no jurisdiction over civil filings or did not report data. Georgia and Pennsylvania civil data were not available for 1995.

### Civil Case Clearance and Growth Rates: Meeting the Demand for Court Services

Whether the trend in civil filings is up or down, a primary concern to judicial administrators is the timely disposition of cases. Courts often measure their performance by examining fluctuations in the size of their pending civil caseload. A reduction in pending caseload occurs when a court disposes more cases than are filed during a given year. Two factors, the clearance rate and the growth rate, influence the ability of a court to dispose of its civil cases efficiently.

The table on the right includes the clearance rates for selected general jurisdiction courts over the last three years and a three-year average for 1993 to 1995. The clearance rate is the number of dispositions divided by the number of filings. If a state court receives 100,000 case filings and disposes 95,000 cases that year, the clearance rate is 95,000/100,000, or 95 percent. While the cases disposed in 1995 were not necessarily filed that same year, the clearance rate is a useful measure of the responsiveness of courts to the demand for court services. Just less than half of the states have three-year clearance rates of 98 percent or above. Only seven states have three-year clearance rates below 90 percent.

The table also indicates the growth rate in civil cases from 1993 to 1995, a statistic that is displayed as a percentage increase or decrease. For example, the value of -5 for Vermont indicates that the civil filings fell by 5 percent between 1993 and 1995. Of the 14 states with three-year clearance rates of 100 or greater, 11 can attribute at least part of this rate to stable or declining civil filings during the period. Negative growth rates for civil filings, however, are not uncommon among states with lower clearance rates. Of the 43 states shown, 18 experienced no change or a drop in their civil caseloads between 1993 and 1995.

In two-thirds of the states shown, the situation seems to be deteriorating in that the clearance rate for 1995 is less than the three-year rate. Because the three-year rate reflects the average success that a particular court has had in disposing of cases over the past three years, only 12 states disposed of a higher percentage of cases in 1995 than is typical over this three-year period.

**Civil Caseload Clearance and Growth Rates for Unified and General Jurisdiction Courts  
in 43 States, 1993-1995**

State	Clearance Rates				Caseload Growth 1993-95
	1993-95	1995	1994	1993	
<b>Unified Courts</b>					
Missouri	109%	104%	109%	113%	0%
Connecticut	106	101	104	110	- 3
District of Columbia	100	102	97	100	- 1
Illinois	99	96	95	106	- 1
Kansas	99	99	98	100	13
Puerto Rico	98	96	99	99	7
Minnesota	98	97	98	98	- 1
Iowa	97	96	99	97	0
Idaho	97	97	95	99	4
South Dakota	92	92	90	93	9
Massachusetts	86	83	88	86	2
<b>General Jurisdiction Courts</b>					
Maine	109	107	112	110	-11
Vermont	106	100	106	112	- 5
New Hampshire	106	92	97	129	- 22
West Virginia	105	103	117	96	- 12
Delaware	103	109	102	97	11
New York	102	104	101	102	0
Oklahoma	102	107	98	101	5
New Jersey	102	102	101	103	2
Michigan	101	106	96	101	-11
Ohio	101	100	100	102	1
Texas	100	94	103	102	- 2
Alaska	99	101	95	102	18
South Carolina	98	95	100	98	- 9
Arizona	97	96	92	105	8
Oregon	97	95	98	98	1
Nebraska	97	103	89	99	- 1
New Mexico	97	95	97	99	13
Alabama	96	93	96	101	7
Colorado	96	107	87	93	- 9
Indiana	94	95	93	95	12
North Carolina	94	93	95	94	8
Arkansas	94	93	94	95	1
Kentucky	93	87	92	102	11
Washington	93	94	91	95	9
Montana	91	93	91	89	14
Utah	91	94	86	93	100
Tennessee	89	83	89	94	19
Virginia	86	85	84	89	8
Hawaii	85	74	84	97	- 1
California	84	77	85	88	16
Florida	81	78	81	84	3
Maryland	81	74	81	87	-21

### The Civil Trial Court Network

The National Center for State Courts (NCSC) recently concluded the Civil Trial Court Network (CTCN) project, a study of general civil litigation (defined here as tort, contract, and real property cases) in 45 of the 75 most populous U.S. counties in fiscal year 1992. It is estimated that about half of all civil cases filed in the state courts are handled in these 75 general jurisdictions. This is the most comprehensive look at civil litigation to date, casting light on such areas as numbers and types of litigants, pro se litigation, how cases are disposed, time to trial or disposition, verdict amounts in cases that were decided by a jury, and the scope of punitive damage awards.

### Trial vs. Nontrial Dispositions: Few Trials, Many Settlements

General civil cases—tort, contract, and real property—handled in general jurisdiction courts involve sums of money above a set minimum. In the popular image of these courts, this is where the litigation process is played out before the judge or jury. Yet, as can be seen in the adjacent table, trials are infrequent in all courts examined.

Overall, 3.3 percent of the general civil filings across the counties are disposed by trial. Of those, 1.5 percent are disposed by bench trial and 1.8 percent by jury. None of the jurisdictions examined here show a bench or jury trial rate above 5.9 percent. The range for combined bench and jury trial rates within any one jurisdiction is .9 to 8.6 percent.

Trials are used infrequently because rising civil caseloads have prompted a shift in resources and decision mechanisms away from formal trial proceedings and toward pretrial settlements. Encouraging settlement, when appropriate, is a principal tool of civil case management in many state trial courts.

Settlement and dismissal are the primary methods of civil case disposition. Despite the large number of cases that are resolved through an out-of-court agreement between the parties, settlement is an area that we know far too little about. Simply to state that “most cases settle” is not very revealing because some settlements involve considerable expense and involvement by the bench, while others are obtained with minimal cost and judicial involvement.

Almost 14 percent of general civil cases are disposed through default judgments. Cases in which the defendant fails to answer the complaint brought by the plaintiff are eligible for this disposition. It is most likely to occur in cases involving a contract/debt collection claim because the defendant is often unable to dispute the failure to pay outstanding debt.

An increasing number of voices are calling for new tools and methods to handle disputes outside the traditional litigation process. Arbitration is the most common form of alternative dispute resolution used in general civil cases, although it accounted for less than 3 percent. Indeed, in a growing number of states, courts require arbitration as a prelude to formal litigation.

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

	Percentage of Cases Disposed by:							
	Jury Trial	Bench Trial	Summary Judgment	Default Judgment	Arbitration Award	Settlement/Dismissal	Dismissed: LOP/S	Transfer
<b>Overall</b>	<b>1.8%</b>	<b>1.5%</b>	<b>3.5%</b>	<b>13.7%</b>	<b>2.7%</b>	<b>61.7%</b>	<b>11.0%</b>	<b>4.5%</b>
Maricopa, AZ	.7	1.0	2.9	20.1	5.6	44.8	23.5	1.1
Pima, AZ	.9	3.4	4.3	7.6		55.0	28.9	
Alameda, CA	1.1	1.5	1.4	7.3	3.2	79.2	2.6	3.7
Contra Costa, CA	1.5	2.6	2.1	6.6	5.6	76.3	2.2	3.1
Fresno, CA	3.0		.4	2.7	1.7	47.5	43.5	1.3
Los Angeles, CA	.9	2.1	.6	5.4	.9	73.3	16.5	.3
Orange, CA	.7	1.8	.4	5.0	2.9	85.5	.4	3.3
San Bernardino, CA	.8	.9	.5	3.9	2.3	63.7	27.7	.1
San Francisco, CA	1.8	1.4	1.2	4.9	2.8	85.1	1.1	1.8
Santa Clara, CA	1.2	1.8	1.8	3.8	5.2	79.9	6.1	.2
Ventura, CA	4.1	2.0	1.5	3.0	2.1	84.1	1.5	1.7
Fairfield, CT	.5	2.6	.7	33.2	1.4	47.0	14.4	.1
Hartford, CT	.6	.4	.8	32.0	.2	45.4	19.8	.9
Dade, FL	1.2	.6	14.0	24.1	.2	43.2	14.6	2.1
Orange, FL	.8		15.2	25.3	.3	45.5	10.9	2.2
Palm Beach, FL	4.3	3.1	9.7	14.3		60.8	5.0	2.7
Fulton, GA	3.9	2.1	3.1	3.4	.3	74.7	6.3	6.3
Honolulu, HI	1.5	1.8	2.7	11.0	2.6	65.0	14.2	1.2
Cook, IL	.8	.5	2.0	7.7		45.5	15.2	28.4
DuPage, IL	4.0	1.3	4.2	10.1	.8	72.7	5.8	.9
Marion, IN	1.0	1.8	3.1	38.5		43.2	12.3	
Jefferson, KY	3.3	.9	5.6	31.8		43.9	12.2	2.2
Essex, MA	3.2	.6	1.9	24.5	.1	60.0	5.0	4.7
Middlesex, MA	4.0	1.5	2.2	10.6		64.8	8.6	8.4
Norfolk, MA	2.8	.7	1.6	14.5	.2	52.4	12.5	15.2
Suffolk, MA	3.1	1.6	1.8	10.2	1.4	57.8	12.4	11.7
Worcester, MA	1.7	1.0	1.5	21.5		54.0	9.0	11.2
Oakland, MI	1.8	.5	4.3	15.9	8.1	54.6	5.2	9.6
Wayne, MI	1.1	.2	4.6	9.9	1.4	66.3	4.4	12.1
Hennepin, MN	3.7	1.7	5.6	10.6	4.1	66.4	5.0	2.8
St. Louis, MO	5.3	3.3	3.0	7.7		69.0	10.9	.8
Bergen, NJ	1.1	.3	4.5	14.8	1.1	60.4	15.5	2.3
Essex, NJ	.7	.3	2.3	17.1	.8	62.4	15.0	1.4
Middlesex, NJ	.8	.1	.9	13.4		73.0	10.3	1.4
New York, NY	2.8		8.6	3.4		80.6	1.1	3.5
Cuyahoga, OH	1.3	.8	2.7	21.2	5.6	61.8	5.5	1.1
Franklin, OH	.3			7.7	.2	86.8	2.7	2.3
Allegheny, PA	.2	5.1	.2	27.2	12.9	47.9	2.9	3.6
Philadelphia, PA	1.2	1.4	1.0	2.6	17.7	64.3	8.2	3.6
Bexar, TX	5.9	1.0	4.3	10.8	.2	55.2	16.7	6.0
Dallas, TX	1.9	1.5	6.1	13.2		63.5	9.7	4.0
Harris, TX	2.9	3.2	3.8	5.3		60.7	20.0	4.1
Fairfax, VA	3.1	4.2	2.7	18.3	.3	60.6	9.9	.9
King, WA	1.8	1.0	3.9	24.1	6.9	59.9	.3	2.1
Milwaukee, WI	1.2	1.2	4.3	41.6		43.6	6.2	1.9

Source: Civil Trial Court Network (CTCN), National Center for State Courts.

# *Tort and Contract Caseloads in State Trial Courts*

## **Tort and Contract Litigation in the State Courts**

With tort reform legislation pending in the U.S. Congress and many state legislatures, civil justice is very much in the news. Indeed, issues that involve civil justice are often more contentious and conspicuous than those issues associated with criminal justice. Proposed legislation at the federal and individual state levels is currently rewriting the ground rules for filing and pursuing tort claims in the courts. Related proposals seek to revamp the role of the civil jury and expand the use of alternative dispute resolution in deciding tort and contract disputes. Combined, these endeavors offer the prospect for a greatly altered system of civil justice by the century's close.

Civil justice reform debates are so contentious because there is much at stake, both in economic terms and in terms of principles. **The Civil Trial Court Network (CTCN) study establishes, for example, that over a recent one-year period state court juries in the 75 largest urban areas awarded \$2.7 billion to plaintiffs, primarily as compensation for damages incurred. An unknown, but vastly more substantial sum, was exchanged in cases that were concluded without a trial.**

The economic reach of tort, contract, and real property verdicts radiates far from the courthouse and law offices to the operational and strategic business decisions made by corporate executives and managers, small-business owners, health care 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.

National totals on the number and type of general civil filings are not compiled comprehensively, but accurate national estimates can be made by extrapolating the data gathered in the CTCN. The CTCN, maintained by the NCSC and representing litigation in the largest 75 counties, is the most ambitious investigation to date of civil justice in America. Taking into account differences in litigation rates across the country, the following table shows estimates of total tort, contract, and real property rights filings and total cases disposed by jury trial in state courts in 1992. Thus, while there were close to 20 million total civil cases



(including domestic relations cases) filed in the state courts in 1992, only about 4 percent were tort cases and 4 percent were contract cases filed in general jurisdiction courts. An examination of the tip of the litigation pyramid reveals that general civil cases resulted in approximately 26,000 jury trials in 1992.

What are often seen as the high-stakes, complex tort cases – medical malpractice (2 percent) and claims against manufacturers for dangerous or defective products (3 percent), including asbestos and other toxic substance cases – constitute just 5 percent of the total. Automobile accident cases (29 percent) and contract cases involving a seller plaintiff (primarily debt collection; 25 percent) are the most prevalent disputes in state general jurisdiction courts.

**Estimates of General Civil Caseloads and Jury Trials in General Jurisdiction State Courts, 1992\***

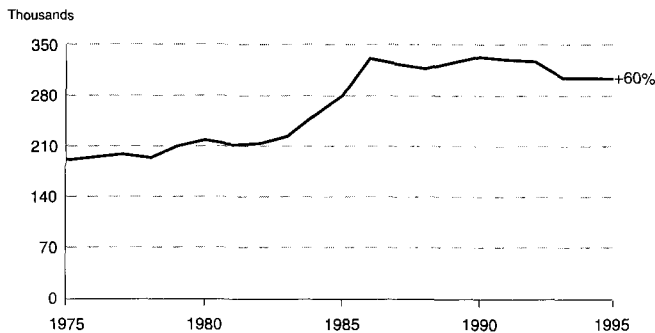
	Caseload Estimate	Caseload Percentage	Jury Trial Estimate
All Torts	817,156	49%	20,589
Auto	491,432	29	8,456
Medical Malpractice	39,856	2	2,959
Product Liability	27,771	2	778
Toxic Torts	13,057	1	620
Other	245,039	15	7,776
All Contracts	790,955	48	4,789
Seller Plaintiff	407,724	25	1,318
Buyer Plaintiff	96,319	6	1,281
Employment	17,418	1	672
Other	269,494	16	1,518
All Real Property	41,798	3	598

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

## State Trends in Tort and Contract Filings: The Slowing Growth Rate

Data on the volume of tort cases filed over the past 21 years are available from 16 states. The bottom line is that there is no evidence of an “explosion” in the volume of tort filings. The graph below shows that tort filings in general jurisdiction courts remained essentially constant during the late 1970s and early 1980s, followed by sustained growth between 1983 and 1986. Growth has slowed since then and may be associated with tort reform legislation that many states enacted in the latter half of the 1980s.

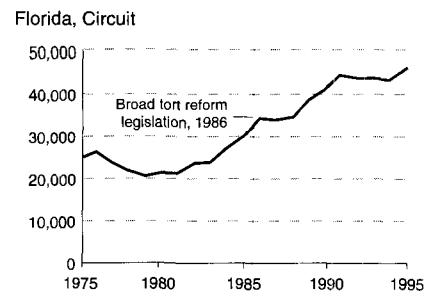
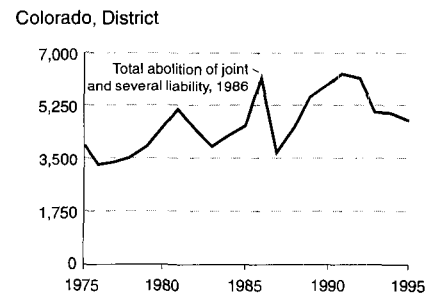
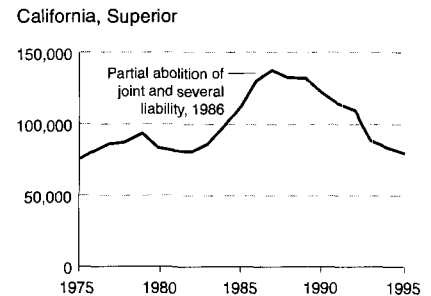
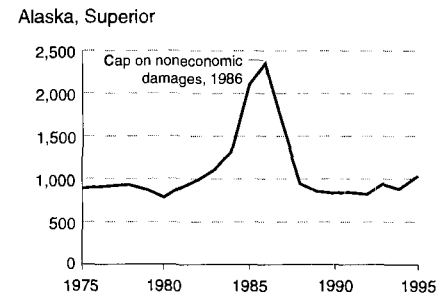
**Tort Filings in General Jurisdiction Courts in 16 States, 1975-1995**



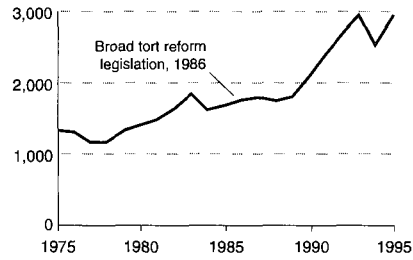
The national trend strongly reflects the trend in California, which accounts for roughly 30 percent of the tort filings in the 16 states examined. In other states such as Alaska and Washington, far-reaching tort reform appears to have caused substantial increases in tort filings in the year before enactment of reform statutes. This trend is especially notable in Washington, where litigants compressed a year of filings into the month preceding the Tort Reform Act of 1986. In 1986, Michigan partially abolished joint and several liability and established a case evaluation panel that screens civil cases to identify and eliminate frivolous suits. These reforms may explain the large number of tort filings in 1986 (the last year before the reforms came into effect) and the subsequent drop in filings in 1987.

While most attention has focused on tort litigation, the most dramatic change in the general civil caseload has occurred in the volume of contract litigation handled in courts of general jurisdiction. Following a consistent rise between 1984 and 1990, contract filings have since declined 16 percent. Contract cases have declined at a faster rate than any other civil case type since 1990. This fall is likely due to increases in alternative dispute resolution and rising dollar amounts required to have the case heard in general jurisdiction courts.

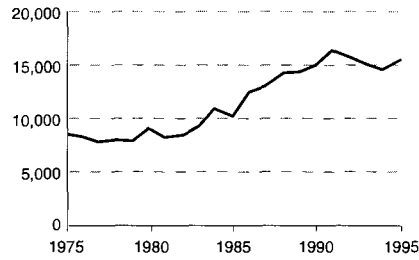
**Tort Filings in General Jurisdiction Courts, 1975-1995**



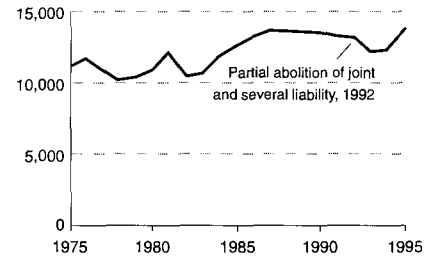
Hawaii, Circuit



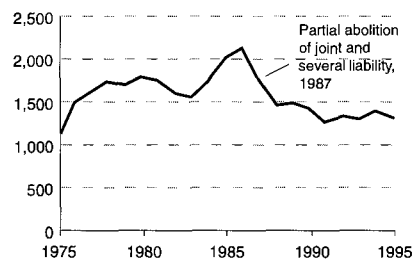
Maryland, Circuit



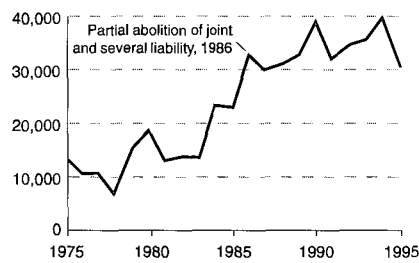
Tennessee, Circuit, Criminal & Chancery



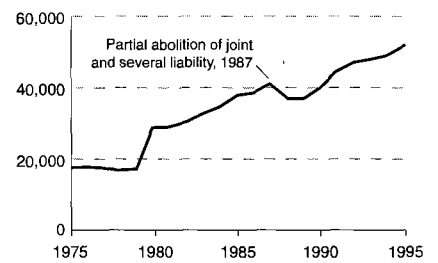
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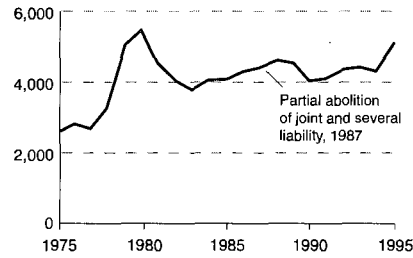
Michigan, Circuit



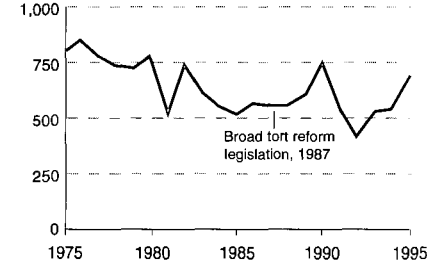
Texas, District



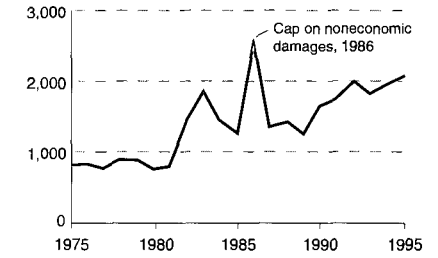
Kansas, District



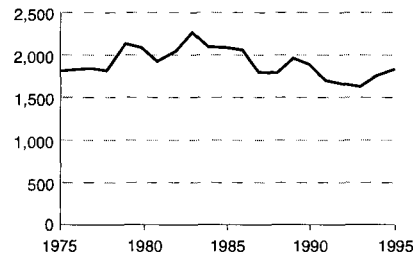
North Dakota, District



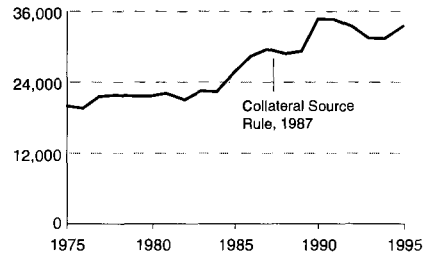
Utah, District



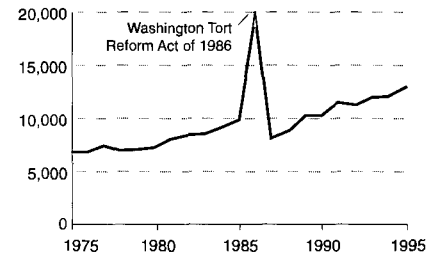
Maine, Superior



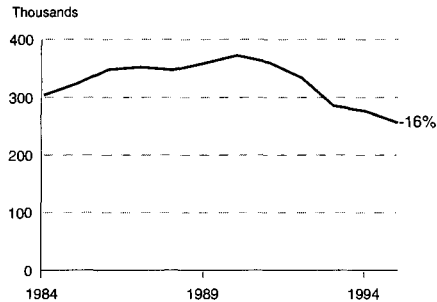
Ohio, Court of Common Pleas



Washington, Superior



### Contract Filings in General Jurisdiction Courts in 17 States, 1984-1995



Moving beyond the raw or unadjusted filing data to examine the frequency of tort and contract litigation against changes in population, the following two tables show the change in the tort and contract filing rate per 100,000 persons between 1990 and 1995. Both tort and contract filing trends reached a peak in 1990 so that 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. Looking first at tort cases, the population-adjusted filing rate has risen in about half the states, though dramatic growth (increases of more than 100 tort filings per 100,000 population) occurred only in Indiana. Downturns in population-adjusted filings since 1990 in large states such as California, Michigan, and Ohio have been influential in shaping the national tort filing trend.

### Tort Filing Growth Rates (per 100,000 population) in 27 States, 1990 vs. 1995

State	Filings per 100,000 Population		Percent Change
	1990	1995	
<b>Unified Courts</b>			
Kansas	162	198	22%
Puerto Rico	244	275	13
Connecticut	501	548	9
Wisconsin	198	206	4
Minnesota	163	150	-8
Idaho	141	112	-21
Missouri	424	329	-22
<b>General Jurisdiction Courts</b>			
Indiana	121	230	90
Hawaii	186	247	33
New York	361	448	24
Texas	233	275	18
Nevada	441	515	17
North Carolina	123	143	16
Washington	208	237	14
Alaska	150	170	13
Utah	95	105	11
Florida	315	325	3
Arkansas	215	212	-1
Maryland	312	306	-2
Maine	153	147	-4
Tennessee	276	261	-5
Ohio	318	299	-6
North Dakota	116	107	-8
Arizona	421	327	-22
Michigan	417	318	-24
Colorado	179	126	-30
California	410	252	-39

Turning to contract cases, the table shows that declines in population-adjusted filing rates are steep and prevalent. In 1995, population-adjusted contract filings in Arizona, Colorado, Florida, Maine, Maryland, and Nevada are less than half the observed level in 1990, and declines of at least one-third occurred in another six states. Only two states – Kansas and Utah – experienced an increase in contract filings per 100,000 population over the period.

An awareness of court structure and dollar limits helps explain the high contract filing rates in Kansas and Missouri. Both states divide their contract caseload into two levels. Missouri has an Associate Division that functions like a limited jurisdiction court. Cases involving less than \$25,000 (known as Chapter 517 cases) are filed in the Associate Division in Missouri Circuit Court and are handled by associate judges. Missouri Circuit Court judges handle all cases involving \$25,000 or more. Kansas District Court distinguishes civil caseload by “regular” (more than \$10,000) and “Chapter 61” (\$10,000 or less). Both states have two categories of judges: Missouri has both circuit judges and associate judges; Kansas has both district judges and district magistrate judges. Chapter 517 and Chapter 61 cases would be filed in the limited jurisdiction courts in states with a different structure.

**Contract Filing Growth Rates (per 100,000 population) in 22 States, 1990 vs. 1995**

State	Filings per 100,000 Population		Percent Change
	1990	1995	
<b>Unified Courts</b>			
Kansas	2,577	3,081	20%
Missouri	1,380	1,194	-13
Massachusetts	94	69	-27
Minnesota	184	123	-33
Connecticut	912	598	-34
Wisconsin	412	232	-44
<b>General Jurisdiction Courts</b>			
Utah	143	243	70
North Dakota	1,067	1,083	1
Washington	290	279	-4
Hawaii	161	147	-9
Arkansas	585	510	-13
New York	129	93	-28
North Carolina	107	75	-30
Alaska	127	80	-37
Texas	183	105	-43
Tennessee	196	111	-43
Nevada	477	231	-52
Maryland	344	148	-57
Maine	125	52	-58
Colorado	486	196	-60
Florida	555	220	-60
Arizona	721	231	-68

## Resolving Tort Cases

### Tort Cases with Self-Represented (Pro se) Litigants by Case Type in 75 Large Urban Courts, 1992

Case Type	Percentage of Torts with Pro se Litigants
Medical malpractice	5.3%
All other torts	4.3
Auto cases	2.4
Product liability	2.0
Toxic torts	1.7
All tort cases	3.1

Source: Civil Trial Court Network (CTCN), National Center for State Courts.

An extraordinary amount of attention is focused on cases disposed by trial, though people familiar with state or federal courts know that the vast majority of tort cases are concluded without a jury or bench trial. Less than three out of every 100 tort cases go to jury trial, and less than 1 percent are resolved by a nonjury trial. Disposition patterns, however, vary by case type. Less than 2 percent of auto accident cases, almost 7 percent of toxic substance cases, and 8 percent of medical malpractice cases go to a jury trial.

If the plaintiff fails to serve the complaint on the defendant or if neither party acts to advance a case in the litigation process, the court can dismiss the case for lack of service or lack of prosecution. Medical malpractice cases are the most likely (13 percent) and toxic substance claims are the least likely (2 percent) to be dismissed for lack of prosecution. As many court observers expect, people litigating cases without legal representation (pro se) are far more likely than cases with no pro se litigants (38 percent vs. 9 percent) to be dismissed for lack of prosecution or lack of effective service of the complaint on the defendant. Currently, however, relatively few tort cases processed in urban courts involve pro se litigants.

In some cases, litigants (usually defendants) fail to respond to the opponent's formal pleadings or scheduled hearings. The court can then enter a default judgment against the party who fails to respond. Default judgments are relatively rare in tort cases (3 percent), and they are least likely to occur in toxic substance cases (less than 0.1 percent). Cases with a pro se defendant are more than twice as likely as cases without pro se litigants to be disposed by default judgments (7 percent v. 3 percent).

### Manner of Disposition in Tort and Contract Cases in 75 Large Urban Courts, 1992

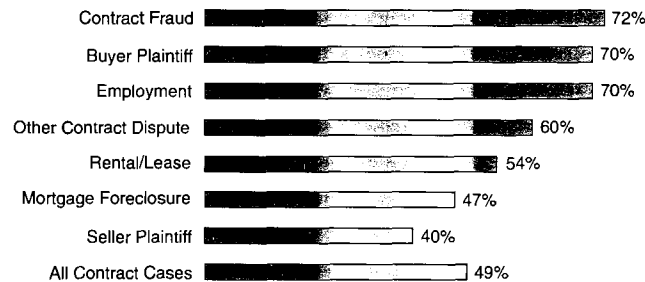
	Number of Cases	Percentage of Cases Disposed by:							
		Jury Trial	Bench Trial	Settlement/Dismissal	Dismissed: LOP/S	Transfer	Arbitration Award	Default Judgment	Summary Judgment
Automobile	227,087	1.9%	.7%	74.6%	9.4%	4.4%	4.0%	4.2%	1.0%
Medical Malpractice	18,396	8.2	.5	69.4	12.9	3.5	1.4	0.8	3.3
Product Liability	12,763	2.9	.7	76.5	6.0	6.1	2.7	0.5	4.5
Toxic Substance	6,045	6.5	.8	83.3	2.3	4.2	0.0	0.0	2.7
Other Torts	113,129	3.7	1.2	71.0	9.7	6.8	3.1	1.9	2.6
All Tort Cases	377,420	2.9	.8	73.4	9.4	5.1	3.5	3.1	1.7
All Contract Cases	365,112	0.7	2.1	49.4	12.0	2.6	1.7	26.0	5.5

Source: Civil Trial Court Network (CTCN), National Center for State Courts.

## How Are Contract Cases Disposed in General Jurisdiction Courts?

A striking characteristic of the overall disposition pattern in contract cases is that more than a quarter (26 percent) end in a default judgment. This finding focuses attention on a basic indicator of the degree to which a case is actually litigated: whether the defendant files an answer to the complaint. One would expect that contract litigation, which is dominated by seller plaintiff/debt collection cases, would involve a substantial proportion of cases that are not formally contested. Fifty-one percent of contract cases do not have an answer filed, which is considerably higher than the percentage of uncontested tort cases (28 percent). The finding also reinforces the conclusion that a substantial proportion of civil cases do not involve much judicial time and are probably disposed at a relatively low litigation cost to parties.

### Percentage of Contract Cases with Answers Filed in 75 Large Urban Courts, 1992



Source: Civil Trial Court Network (CTCN), National Center for State Courts.

Courts expend little time or resources on handling uncontested cases, so these data must be considered in any debate about a caseload “crisis” in the courts. Moreover, it is reasonable to speculate that uncontested cases generally do not produce substantial litigation costs for the parties compared to litigated cases.

Only a small proportion of civil cases go to a jury or bench trial, or even a dispositive summary judgment hearing (one that resolves all claims). This is particularly true for contract cases of which less than 1 percent go to a jury trial and just 2 percent go to a bench trial. About 6 percent have a summary judgment entered that disposes of the case (i.e., based on the pleadings and usually oral arguments, the judge finds no dispute regarding the facts and enters a judgment based on an application of the law to the facts).

## How Long Does It Take to Reach a Disposition in Tort and Contract Cases?

According to opinion surveys, the public considers delay one of the most serious problems in the civil justice system. The extent of delay in a court can only be measured against reasonable estimates of how long cases *should* take to reach fair dispositions. The American Bar Association's civil case disposition time standards suggest that 90 percent of all civil cases should be concluded within one year, 98 percent should be concluded in 18 months, and 100 percent should be disposed within two years.

By the ABA standards, there is substantial delay in tort litigation in large urban courts: 44 percent are disposed within one year, 63 percent within 18 months, and 74 percent within two years. A substantial 14 percent of all tort cases take more than three years to reach a disposition. Even among auto tort cases, which have the shortest median case processing times, more than 20 percent are beyond the two-year case processing time standard at disposition. Not surprisingly, more complex litigation takes longer to resolve, with 55 percent of toxic substance cases and 43 percent of medical malpractice cases taking more than two years to reach a disposition.

In general, typical disposition times for contract cases appear to be reasonable; the typical uncontested case is completed in about five months (median of 155 days) and contested cases are concluded in about one year (median of 373 days). However, if the ABA's disposition time standards are used as a guide for assessing the extent of delay in adjudicating contract cases, there is still considerable delay in the resolution of a substantial proportion of contract cases. Among all contract cases, about 64 percent are disposed within one year, 79 percent in 18 months, and 86 percent in two years.

**Case Processing Times for Tort and Contract Case Types in 75 Large Urban Courts, 1992**

Case Type	— Days to Disposition —		Percentage Disposed Within:				
	Median	Mean	1 year	1.5 years	2 years	3 years	4 years
Auto torts	376	510	48%	69%	79%	90%	95%
All other torts	440	647	42	58	70	82	88
Premises liability	504	671	35	54	66	82	90
Other product liability	527	763	38	53	64	78	83
Medical malpractice	634	805	28	45	57	74	84
Toxic substance	895	1,113	35	41	45	56	67
<b>All torts</b>	<b>416</b>	<b>587</b>	<b>44</b>	<b>63</b>	<b>74</b>	<b>86</b>	<b>92</b>
Contract/fraud	428	624	42	63	74	83	89
Seller plaintiff	234	362	67	82	88	95	97
Buyer plaintiff	345	512	53	70	79	89	94
Mortgage foreclosure	175	295	76	85	93	96	98
Employment	413	617	41	66	73	84	90
Rental/lease	295	424	58	78	85	93	96
Other contracts	378	510	49	67	77	89	94
<b>All contracts</b>	<b>254</b>	<b>396</b>	<b>64</b>	<b>79</b>	<b>86</b>	<b>93</b>	<b>96</b>

Source: Civil Trial Court Network (CTCN), National Center for State Courts.



The 45 jurisdictions in this study vary substantially in their case processing times for both torts and contracts.

Milwaukee, Wisconsin, reports the shortest median time to disposition (217 days) for all torts, and Cook County, Illinois, has the longest median disposition time (861 days). In seven of the 45 jurisdictions, 10 percent or less of the cases were over two years old at disposition, but in 14 of the jurisdictions, a third of their tort cases were more than two years old at disposition. Looking at contract cases, the percentage over two years old at disposition, for example, ranges from 1 percent in Milwaukee, Wisconsin, to 60 percent in the California counties of Fresno and San Bernardino. But again, caution is advised when interpreting these findings. The two California counties “purged” (sent notices, then dismissed) their old, inactive cases during the one-year study period (as part of a delay reduction effort), so these percentages describing time to disposition are probably not representative of the situation in those counties. Reasons for these variations are complex, including differences in legal and case management procedures, case mix, and court resources.

#### Time to Disposition for Tort and Contract Cases in 45 Counties, 1992

County	Torts		Contracts	
	Median Days	% Over 2 Years	Median Days	% Over 2 Years
Maricopa, AZ	344	5.3%	301	3.8%
Pima, AZ	419	18.8	355	19.3
Alameda, CA	430	32.8	287	19.2
Contra Costa, CA	314	14.2	315	16.2
Fresno, CA	729	49.9	1,995	59.7
Los Angeles, CA	373	6.5	343	14.2
Orange, CA	430	32.6	385	24.3
San Bernardino, CA	845	54.4	1,201	60.3
San Francisco, CA	543	37.3	362	24.1
Santa Clara, CA	470	32.7	378	29.6
Ventura, CA	538	38.7	323	31.4
Fairfield, CT	545	37.4	308	9.6
Hartford, CT	479	30.9	222	7.5
Dade, FL	309	13.8	177	6.9
Orange, FL	373	15.9	187	8.3
Palm Beach, FL	364	12.7	234	9.6
Fulton, GA	308	13.6	197	8.7
Honolulu, HI	386	20.8	230	14.6
Cook, IL	861	59.7	417	38.2
DuPage, IL	440	19.1	122	7.3
Marion, IN	323	19.4	153	7.5
Jefferson, KY	367	15.5	133	4.5
Essex, MA	596	39.8	73	14.0
Middlesex, MA	588	39.8	375	27.9
Norfolk, MA	394	24.0	213	16.9
Suffolk, MA	451	27.9	355	12.2
Worcester, MA	553	34.2	234	16.6
Oakland, MI	312	6.1	233	3.0
Wayne, MI	334	7.2	258	2.5
Hennepin, MN	358	10.7	196	6.1
St. Louis, MO	622	38.8	578	33.9
Bergen, NJ	575	34.8	251	11.6
Essex, NJ	541	32.7	268	18.0
Middlesex, NJ	511	30.3	300	7.6
New York, NY	634	43.0	316	18.1
Cuyahoga, OH	272	9.3	263	10.7
Franklin, OH	364	16.5	237	14.1
Allegheny, PA	413	29.9	125	6.0
Philadelphia, PA	396	35.6	265	12.8
Bexar, TX	514	24.2	346	21.6
Dallas, TX	311	12.5	246	8.7
Harris, TX	591	38.3	555	41.0
Fairfax, VA	395	20.6	282	21.0
King, WA	304	8.2	169	4.6
Milwaukee, WI	217	9.9	89	1.3

Source: Civil Trial Court Network (CTCN), National Center for State Courts.

**Plaintiff Win Rates in Tort Jury Trials in 75 Large Urban Courts, 1992**

Case Type	Plaintiff Win Rate
Toxic substance	73%
Automobile	60
Professional malpractice	50
Intentional	46
Premises liability	43
Slander/libel	41
Product liability	40
Medical malpractice	30
All torts	49

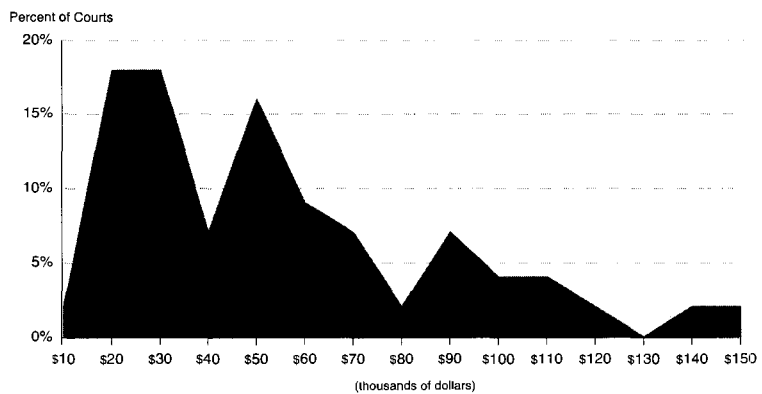
Source: Civil Trial Court Network (CTCN), National Center for State Courts.

**Jury Verdicts**

Overall, plaintiffs are able to convince the jury that defendants are liable in 49 percent of the trials. Among tort cases, plaintiff success is most likely in automobile and toxic substance cases, with 60 percent and 73 percent plaintiff winners, respectively. Plaintiffs are least successful when medical malpractice is alleged: 30 percent of the verdicts are in favor of the plaintiff. Plaintiff success rates are also relatively low in premises liability, product liability, intentional tort, and slander/libel actions.

**The median jury award is \$52,000, a relatively modest sum in light of the estimated legal costs of taking a case through to a jury verdict.** These costs of litigation include legal fees and expenses, the value of the plaintiff's and defendant's time, and associated court costs. When all these transaction costs are taken into account, it is estimated that successful plaintiffs retain about 40 to 50 cents of every dollar awarded in compensation for their injury. Despite the sizable costs of taking a case through to jury trial, a similar picture emerges in most courts with the typical award centered around the \$50,000 mark.

**Median Jury Awards in 75 Large Urban Courts, 1992**  
(in thousands of dollars)



Source: Civil Trial Court Network (CTCN), National Center for State Courts.

How one measures the “average” award, however, has considerable impact on the conclusions one draws. The arithmetic mean award is \$455,000, reflecting the presence of some very high awards at the upper end of the award spectrum. Not only is this value substantially higher than the median award, 85 percent of all jury awards are less than the mean amount. One way to blunt the impact on the “average” award of extreme values is to “trim” the data to exclude values that are far removed from the others. A 5 percent “trimmed mean” (calculated by excluding the top 5 percent and the bottom 5 percent of all awards) results in an average award of \$159,000. Regardless of how you choose to measure the typical award,

the data show that about 8 percent of jury awards are for more than \$1 million and that juries in the 75 most populous counties awarded an estimated \$2.7 billion to plaintiffs in 1992. This sum refers to total damages awarded by the jury. Reductions resulting from posttrial motions, appeals, or settlements between the parties are not taken into consideration.

A quick view of award size by type of tort and contract action is possible in the table below, which shows the median, mean, 5 percent trimmed mean, percentage of awards in excess of \$1 million, and total damages awarded. Median awards for the most common tort actions—automobile accident and premises liability—are \$29,000 and \$57,000. Product liability, medical malpractice, professional malpractice, and toxic substance torts all have median awards of greater than \$100,000. One of every four awards exceeds \$1 million in medical malpractice torts. Employment cases are the form of contract cases with the highest prevalence of \$1 million awards. Because many of these employment cases involve allegations of age, gender, or race discrimination, they actually include an underlying tort claim and often qualify for double or treble damages.

**Final Award Amounts in Jury Trial Cases in 75 Large Urban Courts, 1992**

Case Type	Median	Mean	5% Trim Mean	% Over \$1 Million	Total
All torts	\$ 51,000	\$ 408,000	\$ 160,000	8%	\$ 1,869,699,000
Product liability	260,000	727,000	535,000	15	103,346,000
Medical malpractice	201,000	1,484,000	626,000	24	598,148,000
Professional malpractice	156,000	1,057,000	432,000	13	97,308,000
Toxic substance	101,000	526,000	284,000	13	106,306,000
Other torts	65,000	391,000	211,000	10	154,032,000
Premises liability	57,000	232,000	146,000	5	196,207,000
Intentional	54,000	530,000	152,000	6	105,466,000
Automobile	29,000	220,000	82,000	4	502,600,000
Slander/libel	25,000	229,000	187,000	14	6,284,000
All contracts	56,000	620,000	157,000	6	820,098,000
Employment	141,000	1,462,000	374,000	14	249,206,000
Fraud	70,000	678,000	224,000	9	117,207,000
Lease agreement	71,000	1,881,000	106,000	2	159,734,000
Other contract	49,000	280,000	113,000	5	31,616,000
Buyer plaintiff	45,000	479,000	163,000	7	173,965,000
Seller plaintiff	35,000	212,000	98,000	3	88,368,000
Real property	55,000	325,000	118,000	5	13,886,000
<b>All cases</b>	<b>52,000</b>	<b>455,000</b>	<b>159,000</b>	<b>8</b>	<b>2,703,683,000</b>

Note: Award amounts are rounded to the nearest thousand.

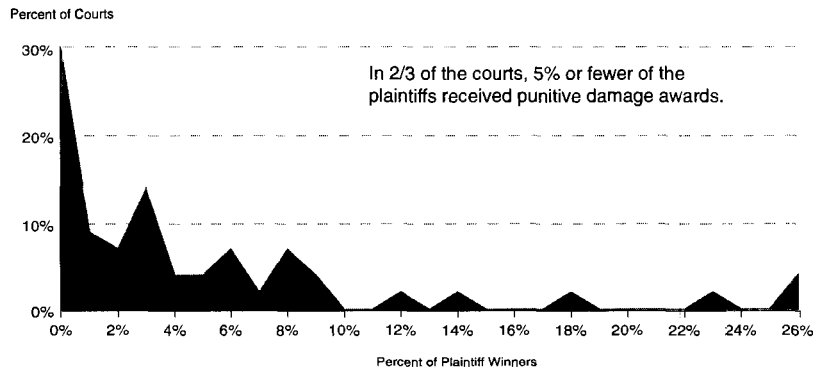
Source: Civil Trial Court Network (CTCN), National Center for State Courts.

Variations in median and mean awards among the 45 counties in the study are significant. Median awards range from \$11,000 to \$150,000; untrimmed mean awards range from \$19,000 to \$1.9 million. Explaining these variations requires an understanding of the differences in the legal and socioeconomic contexts of these jurisdictions. In addition, courts differ in the proportion of serious, complex, and high-stakes cases that appear on their trial dockets. Variations in the nature of the trial docket exist not only among the courts, but also within the courts from one year to the next. Readers should, therefore, be cautious when interpreting the site-based data on awards.

**Punitive damages are infrequent, typically for small sums, and concentrated primarily in contract-related cases.** Punitive damages are reserved for tort claims in which 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 an additional tort claim involved, usually fraud.

Punitive damages are included in 6 percent of all general civil cases with a monetary award. This average appears to adequately portray the incidence of punitive damage awards in jurisdictions throughout the country, with most courts clustering around the 6 percent mark and only a handful above 10 percent. The sampling procedures used to gather these data allow us to generalize to the experience of the largest 75 counties in the United States. In these counties, it is estimated that there were 381 punitive damage awards in 1992.

**Frequency of Punitive Damage Awards to Plaintiffs in 75 Large Urban Courts, 1992**



Source: Civil Trial Court Network (CTCN), National Center for State Courts.

## Award Amounts to Plaintiff Winners in All Jury Cases in 45 Counties, 1992

County	Median Award	Mean Award	5% Trim Mean*	% Over 1 Million
New York, NY	\$ 150,000	\$1,193,985	\$ 431,740	16.7%
Wayne, MI	144,231	573,476	412,028	18.8
Los Angeles, CA	124,922	968,163	501,825	17.8
Contra Costa, CA	110,000	1,117,713	549,974	13.8
San Francisco, CA	109,459	286,631	214,077	6.3
Suffolk, MA	100,000	297,235	161,243	2.6
Philadelphia, PA	100,000	425,446	284,896	12.5
Harris, TX	92,836	1,283,192	339,662	12.1
Oakland, MI	90,330	437,456	193,688	7.8
Alameda, CA	87,300	258,486	156,727	5.0
Worcester, MA	77,000	154,242	133,325	0.0
Santa Clara, CA	67,835	443,182	254,956	10.4
Fulton, GA	67,149	233,540	152,700	4.9
Dallas, TX	65,180	1,914,457	336,026	11.9
Ventura, CA	62,318	188,335	104,137	3.6
Cook, IL	62,000	578,961	217,400	11.2
Dade, FL	60,000	278,271	194,530	9.4
San Bernardino, CA	58,412	314,480	238,244	10.7
Palm Beach, FL	54,431	189,138	118,118	2.5
Honolulu, HI	52,792	133,958	114,667	0.0
Pima, AZ	52,621	153,870	96,183	5.1
Fresno, CA	52,189	146,844	107,714	2.2
Middlesex, MA	50,318	144,291	116,419	0.0
Orange, CA	48,500	323,254	164,943	7.8
King, WA	45,069	104,556	69,428	1.4
Fairfax, VA	44,903	123,501	63,608	2.4
Hennepin, MN	43,016	197,099	97,363	3.1
Essex, MA	40,280	163,223	115,385	0.0
Orange, FL	31,869	234,844	121,722	8.3
Bergen, NJ	31,200	101,013	70,767	2.0
Norfolk, MA	30,750	113,946	59,594	3.7
Maricopa, AZ	30,721	227,581	72,621	3.3
Hartford, CT	27,964	92,613	76,663	0.0
Middlesex, NJ	25,725	154,433	104,929	3.7
Franklin, OH	25,000	345,658	71,265	4.6
Milwaukee, WI	25,000	209,976	76,713	4.1
Fairfield, CT	22,950	92,285	39,620	3.6
Bexar, TX	21,003	95,893	55,602	0.9
Essex, NJ	18,866	220,629	47,530	3.3
Cuyahoga, OH	18,125	169,789	66,199	3.3
Marion, IN	17,734	19,602	19,141	0.0
Allegheny, PA	17,701	113,787	77,676	1.9
DuPage, IL	15,088	108,684	29,110	2.7
St. Louis, MO	15,000	57,375	33,498	0.0
Jefferson, KY	11,300	105,720	37,129	1.7

\*The mean after dropping the largest 5 percent and smallest 5 percent of awards.

Source: Civil Trial Court Network (CTCN), National Center for State Courts.

The proportion of cases with an award of punitive damages varies by area of the common law, with such awards occurring in 13 percent of contract-related cases and in 4 percent of tort cases with an award. Contract-related cases, which account for about 20 percent of all jury trials, produce about half (48 percent) of all cases with punitive damages.

The debate over punitive damage awards shows no signs of weakening, and stories about the magnitude and increasing size of punitive damage awards are a significant stimulus for reform. What, then, is the typical punitive damage award? Not astonishingly, it depends on how you measure it. There is an enormous difference between the mean and median punitive awards for most types of cases. For all cases with a punitive award, the median is \$50,000 but the mean is 17 times larger (\$859,000). Tort cases show a modest median punitive award of \$38,000, but the mean award is dramatically higher (\$590,000). The same pattern holds for contract-related cases: the median is \$55,800, but the mean punitive award is 20 times larger (\$1.1 million). The choice of statistic places a particular slant on the jury award landscape and depiction of the underlying dynamics and economic consequences.

#### Size of Punitive Damage Awards in the 75 Largest Counties, 1992

Case Type	Punitive Awards (n)	Median Award	Mean Award	% of Awards Over \$1 million	Total Punitive Awards	% of Total Punitive Dollars Awarded
All torts	193	\$ 37,967	\$ 589,820	10.5%	\$113,835,260	34.8%
Toxic substance	13	1,692,000	1,993,981	54.7	25,921,753	7.9
Professional malpractice	15	250,000	411,719	8.5	6,175,785	1.9
Medical malpractice	13	198,701	245,079	0.0	3,186,027	1.0
Other torts	31	100,000	940,406	14.5	29,152,586	8.9
Slander/libel	8	46,800	163,906	0.0	1,311,248	0.4
Premises liability	15	40,000	86,952	0.0	1,304,280	0.4
Auto tort	57	25,000	621,066	7.2	35,400,762	10.8
Intentional tort	38	25,000	286,327	8.5	10,880,426	3.3
Product liability	3	9,059	12,298	0.0	36,894	0.0
All contracts	183	55,800	1,130,469	14.6	205,745,358	62.9
Other contract	4	300,000	5,461,429	35.7	21,845,716	6.7
Employment	46	179,250	2,874,199	26.1	132,213,154	40.4
Fraud	51	50,000	499,858	15.8	25,492,758	7.8
Lease agreement	11	50,000	36,673	0.0	403,403	0.1
Buyer plaintiff	47	27,146	580,616	11.1	27,288,952	8.3
Seller plaintiff	24	21,813	50,797	0.0	1,219,128	0.4
Real property	5	85,000	1,374,600	40.0	6,873,000	2.1
All cases	381	50,000	859,006	12.8	327,281,286	100.0

Source: Civil Trial Court Network (CTCN), National Center for State Courts.

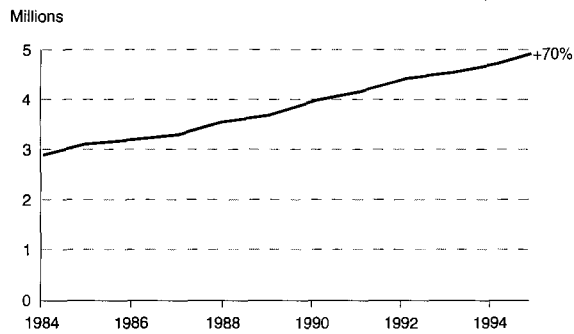
# *Domestic Relations Caseloads in State Trial Courts*

## **Domestic Relations Filing Trends and Caseload Composition**

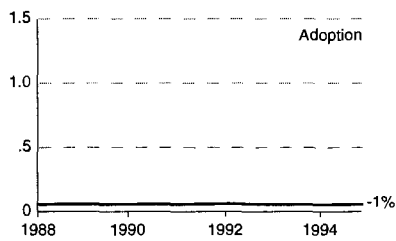
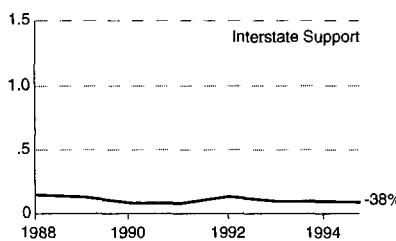
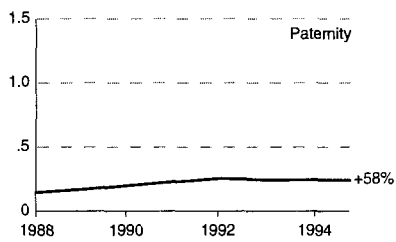
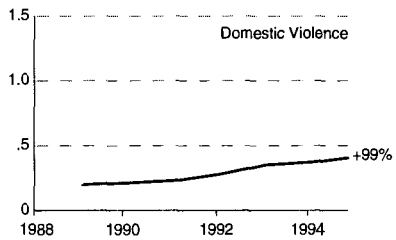
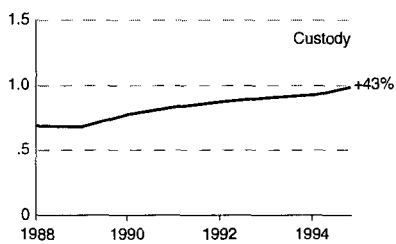
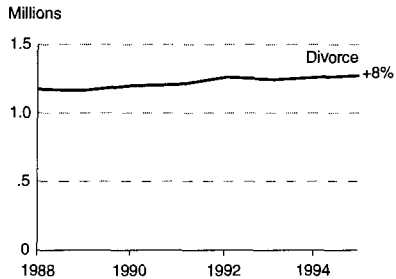
There is currently rejuvenated interest in courts that handle the particular needs of families. Ongoing federal legislation in areas such as child support enforcement, domestic violence, and juvenile crime is expanding the responsibility and workload of state courts. While only seven states have implemented statewide family courts (Delaware, District of Columbia, Hawaii, New Jersey, Rhode Island, South Carolina, and Vermont), the need to better coordinate an array of juvenile and family proceedings is unquestioned. Nowhere is this more apparent than in the area of domestic relations.

Domestic relations cases are the largest and fastest-growing segment of state court civil caseloads. In 1995, 25 percent of total civil filings, over 4.9 million, were domestic relations cases. The total number of domestic relations cases increased 4.1 percent since 1994 and 70 percent since 1984.

### **Domestic Relations Filings in General and Limited Jurisdiction Courts, 1984-1995**



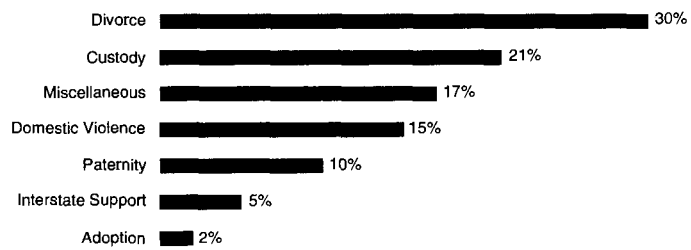
**Domestic Relations Cases by Type, 1988-1995**



Domestic relations filings consist of six types of cases: divorce, support/custody, domestic violence, paternity, interstate child support, and adoption. The trend lines to the left track recent changes in domestic relations caseloads by case type. Between 1988 and 1995, four of these case types show an increase, while interstate support and adoption show declines. Adoption caseloads are almost certainly undercounted, because these cases are often included with other categories of cases (e.g., probate) and thus not identifiable.

The chart below defines the domestic relations caseload composition for 1995. Divorce cases make up the largest portion of domestic relations caseloads (30 percent). Support/custody filings are the second-largest category at 21 percent, and domestic violence cases comprise 15 percent of the filings.

**Domestic Relations Caseload Composition in 29 States, 1995**





## Domestic Violence Cases

The most rapid growth in domestic relations caseloads is occurring in domestic violence filings. States able to provide three years of comparable data are ranked by their domestic violence filing rate per 100,000 population in 1995. The table also includes a population rank and a three-year growth index, which is the percentage change in the number of domestic violence filings between 1993 and 1995.

Domestic violence is a problem common to all states, not just those that are urban and populous. For example, population-adjusted filing rates in Alaska and Vermont greatly exceed the rates in Florida and New York. All states, except Massachusetts, have experienced growth in their domestic violence caseloads since 1993. Of the 32 states that report three-year filing figures, 18 reported an increase of 20 percent or more.

A legislative change in 1994 made civil protection orders (CPO) available in Delaware, which contributes to Delaware's high filing figures in 1994 and 1995. CPOs are now available in all states for domestic violence victims.

What else accounts for the wide variation in both the number of domestic violence filings per 100,000 and in the percentage change in filings from 1993 to 1995? Some of this variation is attributable to differences in statutory definitions of domestic violence, police arrest policies, and access to protection orders.

## Domestic Violence Caseloads in 32 States, 1993-1995

State	Filings per 100,000 Population	Number of Filings			Percent Growth 1993-95	Population Rank
		1995	1994	1993		
<b>Unified Courts</b>						
Massachusetts	901	54,694	54,618	55,601	- 2%	13
District of Columbia	705	3,906	3,496	3,216	21	51
Minnesota	683	31,484	29,898	28,313	11	20
Idaho	673	7,833	7,197	6,069	29	42
Missouri	628	33,407	28,647	24,694	35	16
Iowa	189	5,379	4,288	2,689	100	31
Connecticut	166	5,450	5,147	4,420	23	29
<b>General Jurisdiction Courts</b>						
New Jersey	952	75,650	65,508	62,517	21	9
Vermont	792	4,633	4,114	4,057	14	50
New Mexico	771	12,994	11,721	4,759	173	37
West Virginia	765	13,992	12,889	11,969	17	36
Alaska	745	4,497	4,459	4,255	6	49
Kentucky	699	27,002	23,419	21,115	28	24
New Hampshire	650	7,459	5,651	5,313	40	43
Arizona	588	24,784	21,094	18,378	35	23
Washington	581	31,555	30,099	26,975	17	15
Maine	566	7,026	6,346	6,069	16	40
Oregon	534	16,785	17,122	14,828	13	30
Florida	488	69,175	63,284	57,070	21	4
Rhode Island	457	4,519	4,166	4,097	10	44
Delaware	359	2,575	860	263	879	47
Maryland	328	16,537	14,513	10,113	64	19
New York	280	50,717	49,802	49,448	3	3
Indiana	258	14,955	15,897	13,428	11	14
Utah	255	4,980	3,590	2,704	84	35
Wyoming	252	1,212	1,258	1,055	15	52
Hawaii	247	2,928	2,732	2,812	4	41
Arkansas	235	5,833	4,790	3,676	59	34
North Dakota	164	1,055	720	620	70	48
Virginia	134	8,886	8,115	7,240	23	12
Ohio	59	6,573	5,506	4,983	32	7
Louisiana	16	691	461	603	15	21

## The Effectiveness of Civil Protection Orders

In 1994, the National Center for State Courts initiated a study of the effectiveness of civil protection orders in three jurisdictions: the Family Court in Wilmington, Delaware, the County Court in Denver, Colorado, and the District of Columbia Superior Court. The findings reported here are based on initial telephone interviews with 285 women approximately one month after they received a temporary or permanent protection order, six month follow-up interviews with 177 of the same group of women, and criminal history record checks of men named in the protection orders the women obtained.

The major findings from the study indicate that a protection order can be an effective remedy for domestic violence. The study also suggests, however, that for certain abusers the civil process alone may not be a sufficient deterrent to violence and that criminal sanctions are needed to curb abusive conduct.

Selected other findings are:

- Civil protection orders are valuable for assisting victims regain a sense of well-being. The majority of women indicated that their lives had improved significantly since the protective order was obtained.
- In most cases, civil protection orders deter repeated incidents of physical and psychological abuse, but the respondent violates the order in some way. In follow-up interviews, 8 percent of the participants reported physical abuse and 12 percent said they had experienced psychological abuse.
- The longer a victim stays in a relationship the more likely it is that she will be severely injured by the abuser and the more intense the abusive behavior becomes.
- Sixty-five percent of the respondents in the protection orders had a prior criminal arrest. Respondents with arrest histories for drug- and alcohol-related crimes and for violent crime tended to engage in more intense abuse of their partners than did other respondents.
- The potential for linking victims to services through the court process has not been achieved. Although an array of services is available to victims from both governmental sources and the community, a relatively low proportion of victims makes a connection to these services.
- Women filed contempt motions in only 10 percent of the cases. The low use of the civil contempt process to enforce protection orders indicates that the court should advise victims about the avenues of enforcement, including law enforcement, the court, and courts in other states.

## Full Faith and Credit for Protection Orders

The Violence Against Women Act (VAWA), enacted by Congress in 1994, presents a pivotal opportunity to increase the effectiveness of protection orders through several changes in current practice that will affect access to protection orders and enhance enforcement remedies. A key VAWA provision with significant implications for state courts is the mandate that state and tribal courts afford full faith and credit to protection orders issued by courts in other states if specified due process requirements are met by the issuing state. Victims of domestic violence now will be able to seek safety by moving to another state without taking on the bureaucratic burdens of obtaining another order from the new state or risking that she or he will not be eligible to obtain a protection order there.

Although the VAWA full faith and credit provision is an integral tool for protecting victims from violence, it poses challenges for courts and law enforcement. A major obstacle to achieving full faith and credit results from the significant differences in state laws governing protection orders, including eligibility requirements, allowable duration of orders, and penalties for violations. Furthermore, variation in the format and content of protection orders impedes ready understanding and interpretation of the meaning of terms stated in an order. For example, in the seven states that share a border with Kentucky, over 300 different order forms are used. In Tennessee alone, counties use over 30 different forms. These difficulties are magnified by the lack of data and communication systems that could serve as an accessible means to verify protection orders originating in another state.

Other challenges include:

- effectively determining whether the due process rights of the respondent were honored when the order was issued,
- maintaining confidentiality of the victim's location in the new resident state,
- ensuring that victims are not deterred from enforcing orders by fees for registering orders, obtaining certified copies of orders, or effecting service on the respondent,
- providing the enforcing state's law enforcement and courts with adequate information regarding the remedies and relief available in the issuing state's protection orders, and
- responding to liability concerns of law enforcement in enforcing foreign orders that officers cannot verify.

Several initiatives seeking solutions to these challenges to implementing VAWA's full faith and credit provision are underway. One of these initiatives is a regional experiment led by the Commonwealth of Kentucky. Through the "Interstate Network to Enable Regional Full Faith and Credit Enforcement" program (INTERFACE), Kentucky is creating an integrated approach to enforcing protection orders from other states and model interstate procedures for exchanging protection order information with surrounding states. Nineteen other states have established state-wide registries and 13 others are in the process of establishing registries. Proceeding concurrently is the Federal Bureau of Investigation's National Crime Information Center Protection Order File. In addition, a joint task force of the Conference of Chief Justices and the Conference of State Court Administrators is seeking feasible and mutually acceptable solutions to the challenges of implementing VAWA's full faith and credit provision.

# Juvenile Caseloads in State Trial Courts

## Juvenile Caseloads

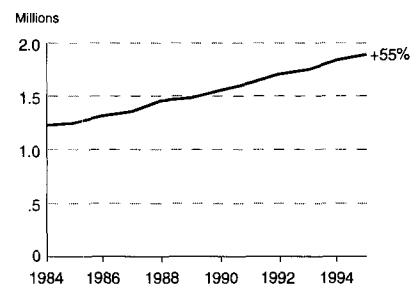
It can be easily argued that the functioning and effectiveness of the juvenile justice system is under more scrutiny than at any other time in recent history. The amount of political attention and the number of special interests concerned with juvenile justice has increased, as has the amount of federal aid and spending levels in the area of delinquency prevention.

Juvenile filings in state courts continue to grow, reaching nearly 1.9 million cases in 1995. This total represents an increase of 55 percent since 1984. Similar to domestic relations caseloads, juvenile court filings have increased much more rapidly than criminal and civil caseloads. As the children of the baby boomers (10- to 17-year-olds) continue to age, there will be continued pressure on juvenile court resources through the year 2000.

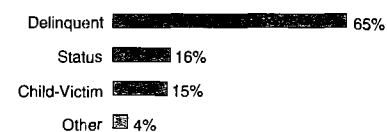
The vast majority (65 percent) of juvenile cases reported by the states involve a filing for some type of delinquent act. Delinquency cases involve offenses that are considered crimes if committed by an adult. In many instances, these cases are processed similarly to those in adult court, with a prosecutor and defense attorney present and the use of evidentiary and disposition hearings. Though juveniles are subject to a wide range of sentences, from community service to secure confinement, their adjudication may involve other special conditions not typically granted to adults (e.g., special placements or living arrangements).

Another 31 percent of juvenile filings involve status offenses or child-victim cases. Status offenses are acts that are not considered crimes if committed by an adult (e.g., truancy, runaway). Child-victim cases may involve neglect, physical abuse, and, in some jurisdictions, sex offense cases. Cases involving status offenders can be disposed of in a number of ways, including custody changes or foster care placement, counseling, and probation or community service referral. Child-victim cases may also be handled by removing the child from the home or by sentencing the accused parent or adult to a criminal sanction.

**Juvenile Filings in State Courts, 1984-1995**

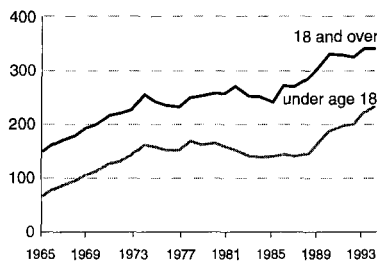


**Juvenile Caseload Composition in 21 State Courts, 1995**

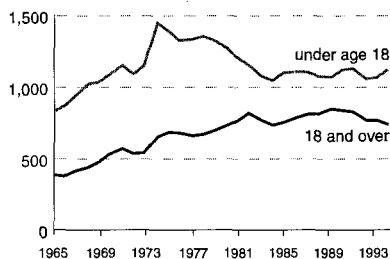


### Juvenile and Adult Arrest Rates per 100,000 Population, 1965-1994

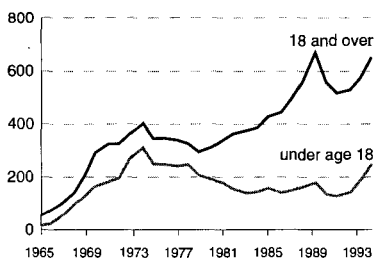
#### Violent Crime



#### Property Crime



#### Drug Crime



Source: Age-Specific Arrest Rates and Race-Specific Arrest Rates for Selected Offenses, 1965-1992, and Uniform Crime Reporting Section for 1993-1994 data, Federal Bureau of Investigation.

## Juvenile Delinquency and Arrest Measures

Perhaps the most important determinant of juvenile delinquency caseload growth is the frequency with which juveniles are arrested. Furthermore, variation in local law enforcement practices and discretionary power contribute heavily to arrest rates in the United States. Longitudinal arrest data from the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting Program (UCR) shows how dramatically juvenile arrest patterns have changed over the last three decades.

The rate of juveniles (per 100,000 juvenile population) arrested for violent crimes (including murder, rape, robbery, and aggravated assault) has increased over 250 percent since 1965, nearly twice that of the adult arrest rate. Similar to the adult arrest rates, most of the growth over the last 20 years has occurred since the late 1980s.

The arrest rate for juveniles involved in property crimes has decreased 30 percent since 1974, while the adult rate has increased 33 percent. Unlike arrests for violent and drug crimes, arrest rates for property offenses are higher for juveniles than adults. Property crimes include burglary, larceny, motor vehicle theft, and arson.

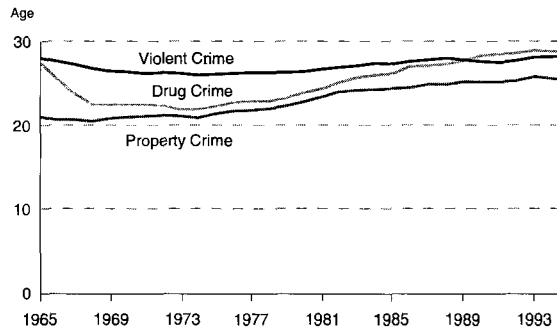
The most notable increase in juvenile arrest rates since 1965 has occurred with drug abuse violations. Over the 30 years shown, juvenile arrest rates increased twentyfold, from 12 to 242 arrests per 100,000 population. The 1994 juvenile rate, however, is still below the record rate of 306 set in 1974. Adult drug arrest rates have increased thirteenfold over the last 30 years, with the most sustained periods of growth occurring since the early 1980s. Although drug arrest rates dipped for juveniles and adults from 1989 to 1991, the United States has witnessed a significant upswing again over the most recent three years. The impact of federal anti-drug abuse funds made available to states and localities in the mid 1980s appears to have had more of an impact on adult perpetrators as compared to their juvenile counterparts.

Another measure that can help describe the case types that are entering the judicial system is the average age of arrestees. Whereas arrest rates describe the volume and types of arrests that are being made, average age at arrest helps clarify whether arrestees are getting older or younger. This can have an impact on the type of courts that are being used to process cases and can affect the types of services available to defendants.

The average age of those arrested for violent crimes has remained relatively stable since 1965, though there has been an increase of about two years when considering arrests made since 1974 (average age was 26 in 1975 and 28.1 in 1994).

The average age of those arrested for property offenses has increased by about four years, from ages 21 to 25, over the 30-year period. Drug arrestees have aged the most since 1973, with the average age at arrest increasing seven years from ages 22 to 29.

**Average Age of Offenders at Arrest, 1965-1994**



Source: Age-Specific Arrest Rates and Race-Specific Arrest Rates for Selected Offenses, 1965-1992, and Uniform Crime Reporting Section for 1993-1994 data, Federal Bureau of Investigation.

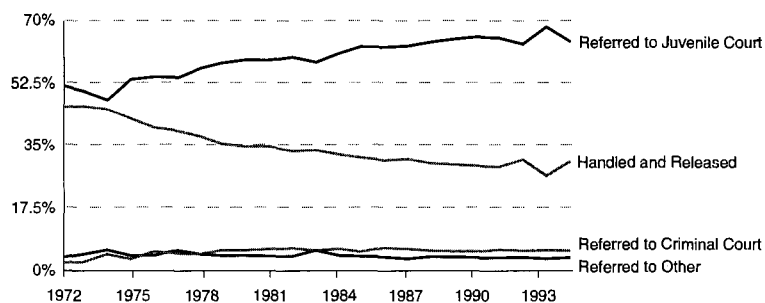
## Law Enforcement Dispositions

The FBI also captures information that describes how police dispose cases once an arrest has been made. These data may be of particular interest to court officials who must manage and plan for changes in juvenile caseloads.

Simply stated, police have become increasingly reliant on the courts to dispose cases following arrest. In 1972, 51 percent of cases were referred to juvenile court, whereas 63 percent were referred to juvenile courts in 1994. Where jurisdictions allow juveniles to be referred to criminal court following arrest, the number has increased from 1.3 to 4.1 percent.

The increase in court referrals reflects law enforcement's shift away from handling cases internally and releasing juveniles through the use of police discretion. In addition, laws or local policies that mandate a court appearance for certain acts (repeated curfew violations, possession of weapons, etc.) have become more commonplace in an effort to impact juvenile crime rates.

**Method of Police Disposition, 1972-1994**



Source: Age-Specific Arrest Rates and Race-Specific Arrest Rates for Selected Offenses, 1965-1992 and Uniform Crime Reporting Section for 1993-1994 data, Federal Bureau of Investigation.



## State Court Delinquency and Status Offenders

While the majority of delinquency cases processed in state courts involve property offenses, the fastest growth is occurring in crimes against the person (73 percent over the period examined). The number of juveniles processed for drug offenses has fluctuated over the seven-year period, with drug cases dipping to their lowest level in 1991 and increasing to their highest level in 1993.

As seen on the bottom right, most delinquency cases result in dismissals or probation sanctions. In some instances, the dismissal is contingent upon the juvenile successfully completing some form of court instruction. A relatively small number of delinquency dispositions (9.5 percent in 1993) result in a formal placement. “Other” types of dispositions increased most rapidly since 1990, indicating that the juvenile courts are making use of alternative sanctions to divert juveniles away from the more traditional sanctions. Some of the dispositions in the “other” category include fines, restitution, community service, and various types of referrals to treatment or social service providers.

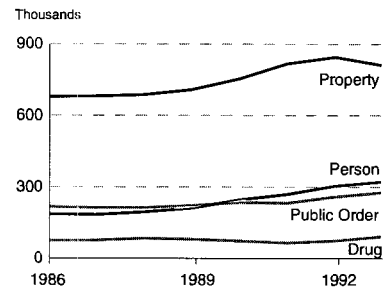
One of the most controversial topics in juvenile justice is juvenile transfer (also referred to as waiver) to adult court. Policies aimed at reducing the age of transfer eligibility are hotly debated in state legislatures, and many states have lowered the age of transfer or have increased the number of offense types that trigger a transfer hearing. The table below indicates the proportion of delinquency cases that result in a transfer to the adult system. Although the overall number of cases transferred is relatively low (less than 1 percent), the number increased steadily from 1986 to 1992 and has leveled off in 1993.

**Estimates of Delinquency Cases Transferred by Judicial Discretion to Criminal Court in the United States, 1986-1993**

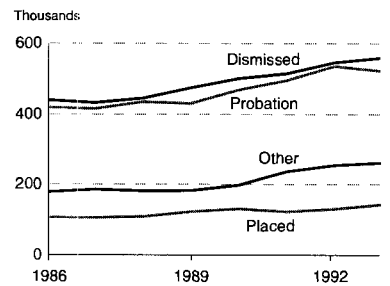
	Delinquency Cases	Judicial Transfer to Adult Court	Transfers as % of Delinquency Cases
1986	1,148,000	5,400	0.5%
1987	1,145,000	5,900	0.5
1988	1,170,400	7,000	0.6
1989	1,212,400	8,400	0.7
1990	1,299,700	8,700	0.7
1991	1,373,600	10,900	0.8
1992	1,471,200	11,700	0.8
1993	1,489,700	11,800	0.8

Source: Juvenile Court Statistics, 1986-1993, National Center for Juvenile Justice.

**Estimates of Delinquency Cases Processed in State Juvenile Courts, 1986-1993**

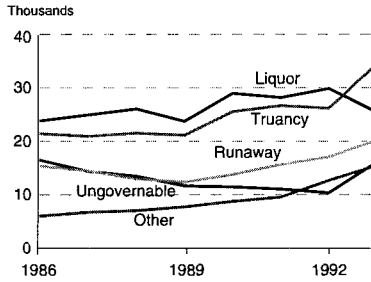


**Estimates of Juvenile Court Dispositions for Delinquency Cases in the United States, 1986-1993**

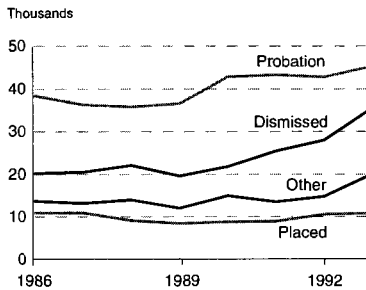


Source: Juvenile Court Statistics, 1986-1993, National Center for Juvenile Justice.

**Estimates of Petitioned Status Offenses in State Juvenile Courts, 1986-1993**



**Estimates of Juvenile Court Dispositions For Petitioned Status Offenses in the United States, 1986-1993**



Source: Juvenile Court Statistics, 1986-1993, National Center for Juvenile Justice.

## Juvenile Status Offenses

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

The National Center for Juvenile Justice (NCJJ) collects data on petitioned status offenses, that is, cases that appear on the court calendar in response to a petition or other legal instrument requesting the court to adjudicate the youth. As seen in the table below, petitioned status offense cases increased roughly 28 percent between 1986 and 1993.

Status offenses typically include liquor, truancy, runaway, ungovernable, and "other" case types. Whereas liquor law violations used to be most common, the number of truancy cases increased 28 percent from 1992 to 1993. Ungovernable cases increased similarly in 1993 after falling from 1986 to 1992.

Status offenders can be placed on probation, be moved to a setting outside the home, or have their case dismissed. Unlike adult probation, a juvenile court judge can place a youth on probation even if the case is dismissed. This blend of outcomes arises because juvenile courts have traditionally focused on recommending the best possible treatment for the individual rather than searching for a finding of guilt or innocence. The number of petitioned status offenses resulting in probation, dismissals, and "other" dispositions have all increased from 1986 to 1993. The number of status offenders placed has leveled off since 1993.

**Estimates of Juvenile State Court Petitioned Status Offenses, 1986-1993**

Petitioned Status Offenses	
1986	86,900
1987	82,700
1988	82,200
1989	77,900
1990	89,700
1991	92,400
1992	97,300
1993	111,200

Source: Juvenile Court Statistics, 1986-1993, National Center for Juvenile Justice.

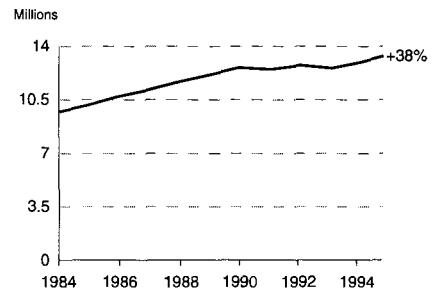
# Criminal Caseloads in State Trial Courts

## Criminal Caseload Filing Trends

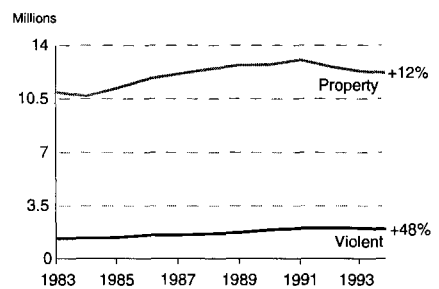
The criminal courts are the center of the loosely organized collection of agencies charged with protecting the public, enforcing the law, determining guilt or innocence, and housing convicted offenders. Cases involving crimes which violate state law are normally processed in the state courts. Criminal caseloads in the state courts reached an all-time high of over 13 million filings in 1995. This represents a 3 percent increase in filings from 1994 and an overall increase in criminal filings of 38 percent since 1984. The adjacent chart also shows that criminal filings are again moving upward, following several years of relative stability (1990 to 1993).

The volume of criminal cases filed in state courts provides one measure of criminal activity in our society and foreshadows what courts can expect in the near future. Statistics from earlier stages of criminal case processing add further insight into the nation's crime problem. Information collected by the Federal Bureau of Investigation on the number and types of crimes reported to the police and the number and types of crimes that result in an arrest reveals that both are up. Over the past 12 years, the number of violent crimes reported increased 48 percent and reported property crimes rose by only 12 percent. The number of arrests, which declined between 1989 and 1993, turned upward in 1994.

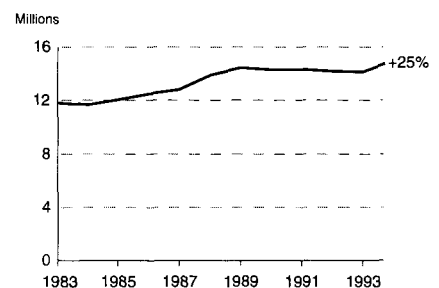
**Criminal Cases Filed in State Courts, 1984-1995**



**Crimes Reported to the Police in the United States, 1983-1994**



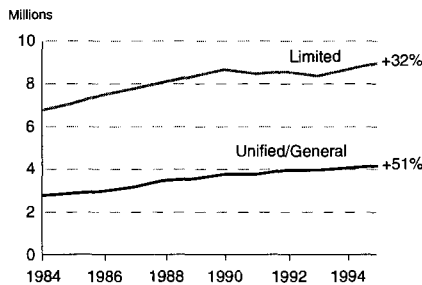
**Estimated Arrests in the United States, 1983-1994**



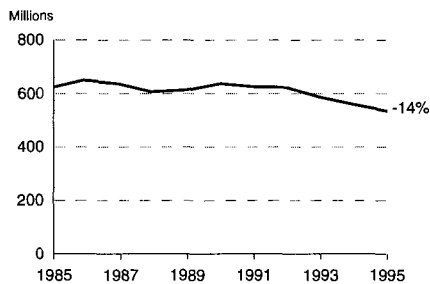
Source: Uniform Crime Reports 1983-1994, Federal Bureau of Investigation.

## Criminal Caseload Composition: General, Limited, and Consolidated Courts

**Criminal Cases Filed in State Courts by Court Jurisdiction, 1984-1995**



**DWI Filings in 23 States, 1985-1995**



The graph below compares criminal case filings by court jurisdiction and identifies more precisely where criminal cases are handled in the states. Criminal cases filed in general jurisdiction courts (primarily felonies) and in the limited jurisdiction courts (primarily misdemeanors) both reached all-time highs in 1995. Since 1984, criminal caseloads increased 51 percent in general jurisdiction courts while filings rose 32 percent in limited jurisdiction courts.

In general jurisdiction courts, 58 percent of the criminal cases involve felony-level offenses, while 28 percent involve misdemeanors. Another 11 percent are “other” offenses, including appeals and miscellaneous offenses (e.g., extradition), while the remaining cases involve DWI offenses. Between 1985 and 1995, DWI filings in state courts decreased 14 percent to their lowest level over the 11-year period. This evidence suggests that stricter law enforcement, media attention, and alcohol awareness programs may be having the intended effect of reducing the incidence of drunk driving.

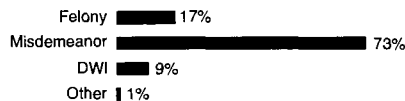
Judges in unified or consolidated courts hear all cases regardless of offense type. In these court systems, 73 percent of the cases involve misdemeanor offenses, while felony and DWI/DUI cases account for 26 percent of the filings. Misdemeanor and DWI/DUI cases represent 95 percent of the caseload of limited jurisdiction courts; felonies account for only 3 percent.

### Criminal Caseload Composition by Court Jurisdiction, 1995

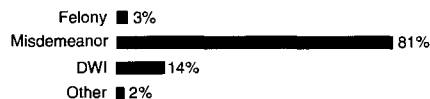
#### General Jurisdiction



#### Unified System



#### Limited Jurisdiction



## State Criminal Caseloads

How do criminal caseloads compare across states? The adjacent table lists the reported criminal filings for unified and general jurisdiction courts for each state in 1995. The range of criminal filings is broad, with Illinois reporting roughly 595,000 and Wyoming reporting just under 2,000 filings in courts of general jurisdiction. Approximately 71 percent of the states report 100,000 or fewer criminal filings in unified and general jurisdiction courts, while 14 states each report over 100,000 criminal filings.

Criminal caseloads are closely associated with a state's population and can be expected to rise simply as a result of population growth. The table ranks states by the number of criminal filings per 100,000 population and shows each state's total population rank. The median filing rate of 1,309 per 100,000 population is represented by Florida and Alabama.

The underlying importance of population as related to criminal caseloads should not, however, obscure other influential factors. Beyond the continuing trend in legislatures to criminalize more behaviors, differences in the prosecutorial charging procedures, and differences in the underlying crime rate, cross-state comparisons in criminal caseloads require a working knowledge of differences in state court structure, composition of criminal data, and unit of count.

**Criminal Filing Rates in Unified and General Jurisdiction Courts in 48 States, 1995**

State	Criminal Filings	Criminal Filings per 100,000 Population	Population Rank
<b>Unified Courts</b>			
Illinois	595,257	5,032	6
Massachusetts	344,561	5,673	13
Minnesota	226,097	4,905	20
Missouri	157,816	2,965	16
Connecticut	139,953	4,274	29
Wisconsin	127,914	2,497	18
Puerto Rico	99,122	2,665	26
Iowa	89,156	3,137	31
Kansas	44,811	1,747	33
District of Columbia	35,183	6,348	51
South Dakota	27,522	3,775	46
Idaho	11,357	976	42
<b>General Jurisdiction Courts</b>			
Florida	188,682	1,332	4
California	162,177	513	1
Texas	155,641	831	2
Indiana	132,252	2,279	14
Virginia	125,234	1,892	12
North Carolina	123,681	1,719	11
Louisiana	121,166	2,790	21
South Carolina	109,419	2,979	27
Oklahoma	91,239	2,784	28
Michigan	69,508	728	8
New York	68,326	377	3
Maryland	68,321	1,355	19
Ohio	67,266	603	7
Tennessee	61,977	1,179	17
Alabama	54,672	1,285	22
New Jersey	49,107	618	9
Arkansas	48,389	1,948	34
Oregon	44,977	1,432	30
Washington	33,965	625	15
Arizona	32,520	771	23
North Dakota	28,555	4,452	48
Colorado	28,172	752	25
Kentucky	19,275	499	24
Vermont	17,633	3,015	50
New Mexico	15,723	933	37
New Hampshire	15,352	1,337	43
Utah	11,076	568	35
Hawaii	10,120	853	41
Maine	9,785	788	40
West Virginia	7,975	436	36
Nebraska	7,943	485	38
Delaware	7,253	1,011	47
Rhode Island	6,779	685	44
Montana	5,025	577	45
Alaska	2,778	460	49
Wyoming	1,958	408	52

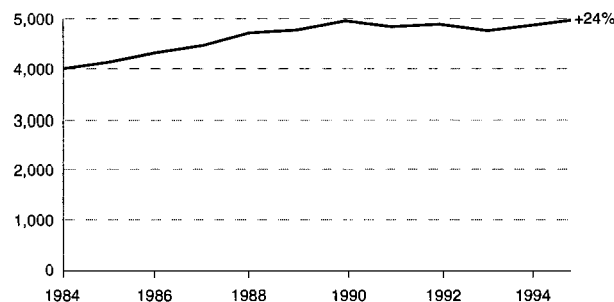
Note: Pennsylvania, Georgia, Mississippi, and Nevada are not included because criminal data were not available for 1995.

Courts that handle all or most of the criminal caseload in the general jurisdiction court (e.g., the District of Columbia, Massachusetts, Illinois, and Connecticut) report the highest numbers of population-adjusted filings, while courts that have one or more limited jurisdiction courts with concurrent criminal jurisdiction (e.g., California and Texas) have much smaller criminal filings per 100,000 population. California's limited jurisdiction court processes all misdemeanor cases, some felony, and some DWI/DUI cases. Similarly in Texas, three different statewide limited jurisdiction courts with criminal jurisdiction take much of the burden from the general jurisdiction court.

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

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

**Total Criminal Filings Per 100,000 Population, 1984-1995**



## Clearance Rates for Criminal Cases

The success of states in disposing criminal cases indicates the sufficiency of court resources and affects the pace of civil litigation as well as criminal. Criminal cases consume a disproportionately large chunk of court resources. 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. Additionally, 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. These factors mean that processing of other types of cases may be slowed.

The adjacent table shows only 14 states cleared 100 percent or more of their criminal caseload for the three-year period. New Hampshire tops the list with its high clearance rates in 1993 and 1994. At the other end of the scale, seven states have clearance rates of 90 percent or less, indicating that these states are rapidly adding to an inventory of pending cases.

Statewide clearance rates reflect a range of management initiatives at the trial court level, but will also be influenced by caseload growth, time standards, and the consistency with which filings and dispositions are measured.

**Criminal Caseload Clearance and Growth Rates for Unified and General Jurisdiction Courts in 43 States, 1993-1995**

State	1993-95	Clearance Rates			Caseload Growth Rate
		1995	1994	1993	
<b>Unified Courts</b>					
Kansas	104%	106%	101%	105%	10%
District of Columbia	101	101	101	102	-16
Minnesota	101	103	100	99	11
Puerto Rico	98	98	101	96	2
Iowa	95	89	100	97	18
Missouri	95	90	94	100	14
Idaho	93	92	91	97	34
Illinois	88	93	83	87	1
South Dakota	82	75	83	89	-3
<b>General Jurisdiction Courts</b>					
New Hampshire	108	100	109	115	16
New York	105	107	104	105	-6
West Virginia	104	108	103	100	-10
New Jersey	103	105	103	102	-3
South Carolina	102	99	104	103	-4
North Dakota	101	108	96	99	17
Nebraska	101	96	100	107	20
Colorado	101	112	94	96	20
Texas	100	102	98	100	-10
Rhode Island	100	92	103	104	7
Ohio	100	100	98	102	6
Vermont	99	96	99	103	11
North Carolina	99	104	95	99	0
Virginia	98	96	100	99	12
Michigan	98	98	97	99	4
Kentucky	97	99	97	95	-3
Maine	96	91	98	98	-3
Washington	96	95	96	96	14
Alabama	96	93	95	99	4
Wyoming	95	103	95	89	7
Indiana	94	95	94	93	11
New Mexico	94	93	95	94	18
Delaware	94	93	95	93	-1
Arizona	94	91	90	100	13
Maryland	93	92	93	95	-2
Arkansas	93	94	91	93	18
Hawaii	92	130	72	73	-6
Tennessee	91	95	88	91	-6
Alaska	91	93	89	90	4
Oregon	90	101	74	94	59
Montana	86	84	84	91	28
Oklahoma	86	84	85	89	13
Florida	85	81	85	89	12
Utah	83	88	95	66	48

To begin with, five of the states with the highest three-year clearance rates (New York, West Virginia, New Jersey, South Carolina, and the District of Columbia) experienced a decline in caseload growth. In addition, of the 15 states with three-year clearance rates of 100 percent or better, only New Hampshire has not adopted time standards for criminal case processing. Although New Hampshire does not have formal time standards, there is a Superior Court policy regarding speedy trial issues, with ongoing monitoring. Each county court location has a supervisory judge who, along with the clerks, ensures that cases move along quickly and that speedy trial rules are complied with. Three of the states with the top seven clearance rates (New York, South Carolina, and West Virginia) have all adopted the COSCA/ABA recommended 180-day goal from arrest to termination of felony cases. West Virginia's time standards are mandatory, while others are advisory. Finally, it is also important to note whether the filings and dispositions within a state are comparable. For example, the filings and dispositions in Illinois are not precisely comparable: filings do not include some DWI cases, but dispositions do not include any DWI.



## Criminal Case Dispositions

Approximately 4 percent of criminal cases were disposed by trial in 1995, with trial rates ranging from about 1.6 percent in Vermont to 9 percent in the District of Columbia. Nationally, jury trials account for close to 60 percent of trials. Guilty pleas dispose about two-thirds of criminal cases in most states. About one criminal case in five is resolved by a decision by the prosecutor not to continue (*nolle prosequi*) or by the court to drop all charges (dismissal). The plea process is certainly swifter than the formal trial process, and given the growth in criminal caseloads, it has become an integral part of the administration of justice. Those who are in favor of plea bargaining argue that the overwhelming prevalence of guilty pleas provides some evidence that the plea process is more desirable to both sides. Prosecutors benefit by securing high conviction rates without incurring the cost and uncertainty of trial. Defendants presumably prefer the outcome of the negotiation to the exercise of their trial right or the deal would not be struck. On the other hand, opponents argue that plea bargaining places pressure on defendants to waive their constitutional rights, which results in inconsistent sentencing outcomes and the possibility that innocent people plead guilty rather than risk the chance of a more severe sentence after conviction at trial.

### Manner of Disposition for Criminal Filings in 23 Unified and General Jurisdiction Courts, 1995

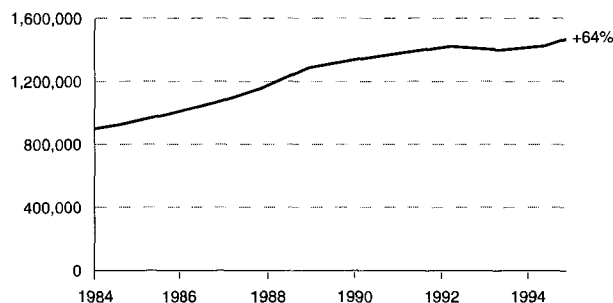
State	Total Disposed	Percentage of Cases Disposed by:						
		Trial	Bench Trials	Jury Trials	Non-Trials	Pleas	Dism/Nolle	Other
<b>Unified Courts</b>								
District of Columbia	35,762	9.0%	6.5%	2.4%	91.0%	17.1%	55.4%	18.5%
Kansas	37,541	5.2	3.2	2.0	94.8	52.1	28.8	13.9
Iowa	79,660	4.1	3.1	1.0	95.9	70.1	25.8	.0
South Dakota	17,741	2.5	1.4	1.0	97.5	75.9	15.2	6.4
Missouri	142,332	2.1	1.4	.7	97.9	62.6	29.4	5.9
<b>General Jurisdiction Courts</b>								
Indiana	125,502	6.8	5.7	1.1	93.2	57.4	33.6	2.3
Alaska	2,593	6.7	.2	6.6	93.3	73.2	19.6	.4
Washington	32,748	6.7	1.5	5.2	93.3	74.9	13.9	4.5
New Mexico	14,637	6.7	3.8	2.9	93.3	55.6	13.2	24.6
New York	72,949	6.5	.8	5.7	93.5	84.8	7.8	.9
Michigan	67,440	6.5	3.3	3.3	93.5	56.6	9.9	27.0
Hawaii	5,874	5.8	.9	5.0	94.2	41.1	12.0	41.1
Arkansas	38,000	5.6	4.5	1.1	94.4	59.7	33.4	1.3
California	151,301	4.9	.8	4.1	95.1	89.1	5.2	.8
New Jersey	48,986	4.4	.4	3.9	95.6	69.7	16.7	9.3
Maine	11,127	4.1	.6	3.5	95.9	50.3	25.1	20.5
Ohio	67,296	4.0	1.4	2.6	96.0	69.0	9.1	17.9
Florida	152,353	3.0	.3	2.7	97.0	80.4	11.0	5.7
Texas	188,620	2.9	.8	2.1	97.1	35.2	18.0	43.9
Oklahoma	235,600	2.7	1.4	1.2	97.3	74.9	22.4	.0
Delaware	6,731	2.6	.2	2.4	97.4	71.2	16.7	9.6
North Carolina	128,368	2.3	.0	2.3	97.7	52.9	32.8	12.0
Vermont	16,871	1.6	.3	1.3	98.4	69.7	21.8	6.9
<b>Total</b>	<b>1,680,032</b>	<b>4.0</b>	<b>1.7</b>	<b>2.3</b>	<b>96.0</b>	<b>64.7</b>	<b>20.6</b>	<b>10.7</b>

# *Felony Caseloads in State Trial Courts*

## **Felony Caseload Filing Trends**

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

**Felony Filings in Unified and General Jurisdiction Courts in 38 States, 1984-1995**



The general jurisdiction trial court systems of 38 states reported comparable felony filing data for the period 1984 to 1995. Felony filings grew rapidly until 1989, then grew more slowly through the early 1990s. Though felony filings decreased slightly from 1992 to 1993, caseloads have begun to increase again, rising 5 percent over the last two years shown.

## **Arrest Rate Trends**

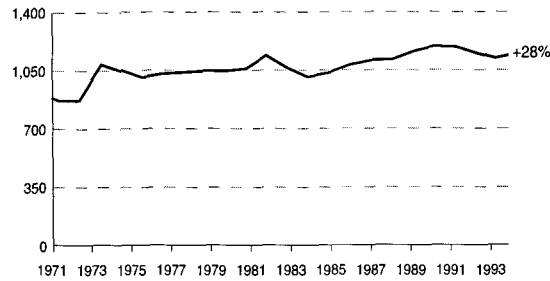
Arrest rates provide a leading indicator of the type and volume of felony cases that will be entering the state courts. An overall picture of arrest rates for the most serious and most often reported offenses is compiled by the FBI and reported as Total Index Crimes. These index crimes include murder/non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny, motor-vehicle theft, and arson. Since 1971, the arrest rate for index crimes has grown by 28 percent, with peak arrest rates in 1974, 1982, and 1990.

Disaggregating the arrest rate for index crimes provides a look at the specific types of crime committed in our society and how each type is changing over time. By viewing such detailed information, court managers who are considering policy or procedural improvements may be able to more narrowly define diversion strategies or more accurately target specific types of cases or defendants.

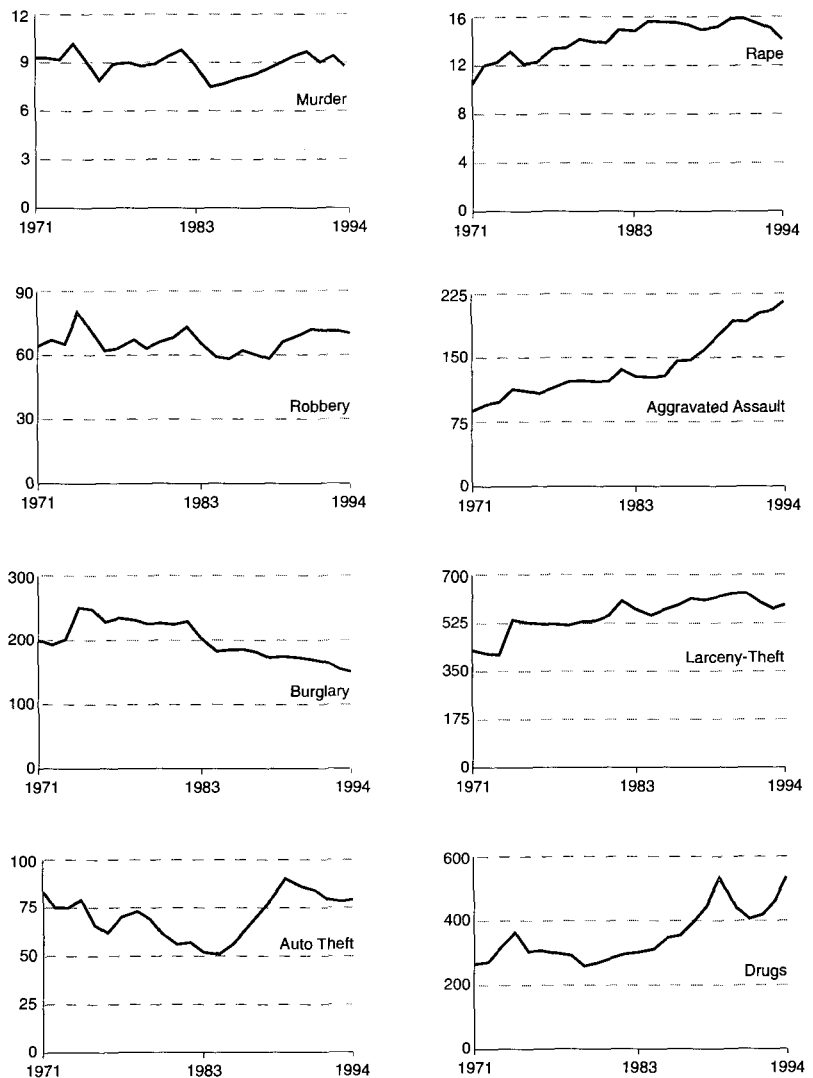
Arrest rates have declined over the time period shown for murder (-5%), burglary (-24%), and auto theft (-5%), while increasing only slightly for robbery (9%). More than any other arrest type shown, the high rate of arrests for larceny (596 per 100,000 population in 1994) helps to define the arrest rate for all index crimes.

Arrest rates for aggravated assault and drug abuse violations have increased most significantly since 1971, increasing 141 and 99 percent respectively. Unlike the rate for drug arrests, aggravated assaults have increased steadily, showing no sustained period of decline or stabilization. Drug arrests were relatively stable through 1984 before jumping 70 percent in the next five years. Drug arrests dipped sharply in the early 1990s before reaching another peak in 1994 (539 per 100,000 population). Although drug abuse violations are not part of the FBI reportable index offenses (because drug violations cannot be officially reported until an arrest is made), their sheer volume makes them a critical factor when considering trends in felony caseloads.

**Arrest Rates for Index Crimes Per 100,000 Population, 1971-1994**



**Arrest Rates for Selected Crimes Per 100,000 Population, 1971-1994**



Source: Uniform Crime Reports 1971-1994, Federal Bureau of Investigation.

## Felony Filing Rates

The table to the right displays felony filings per 100,000 population and ranks the states by the change in population-adjusted filing rates from 1993 to 1995. Reflecting the national upswing in felony filings, 14 states showed an increase of more than 10 percent with Idaho, Missouri, Oklahoma, New Mexico, and Oregon experiencing increases of 18 percent or more. At the other end of the spectrum, only 11 states experienced a decrease in the number of felonies filed per 100,000 population since 1993. In 1995, felony filing rates varied across the states by a factor of fourteen: a high of 1,581 in Arkansas to a low of 117 in Connecticut.

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

### Felony Filing Rates in Unified and General Jurisdiction Courts in 40 States, 1993-1995

State	Filings per 100,000 Population			Growth 1993-1995
	1995	1994	1993	
<b>Unified Courts</b>				
Idaho	839	732	666	26%
Missouri	1,021	919	855	19
Iowa	545	481	478	14
Kansas	595	565	523	14
South Dakota	703	634	620	13
Illinois	750	695	689	9
Connecticut	117	117	110	6
Puerto Rico	960	1,025	911	5
Massachusetts	132	134	126	5
Minnesota	400	398	385	4
<b>General Jurisdiction Courts</b>				
Oklahoma	1,133	1,009	949	19
New Mexico	662	603	558	19
Oregon	1,065	996	901	18
Colorado	717	642	619	16
Arkansas	1,581	1,445	1,369	15
North Dakota	379	288	339	12
Washington	595	538	533	11
Nebraska	356	331	320	11
Indiana	627	578	563	11
Vermont	516	490	472	9
Hawaii	375	347	345	9
Wyoming	373	364	349	7
Arizona	718	700	673	7
Rhode Island	611	570	577	6
Virginia	1,229	1,177	1,169	5
Ohio	603	583	575	5
Alaska	460	445	444	4
Alabama	946	894	926	2
California	502	492	500	1
Utah	390	320	403	-3
New Jersey	587	598	609	-4
West Virginia	228	253	237	-4
Maryland	1,237	1,255	1,285	-4
North Carolina	1,159	1,186	1,209	-4
New York	377	393	395	-5
Kentucky	485	466	514	-6
Maine	292	293	310	-6
Louisiana	691	739	738	-6
Texas	699	784	826	-15
New Hampshire	526	538	662	-21

## Felony Filing Trends in Large Urban Courts

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

Beyond traditional caseload measures such as filings, dispositions, and pending caseload trends, the Network will develop the potential of participating courts to generate comparable data on caseflow and workload. Such court performance measures, never before available in a comparable context, will help the trial court community (1) assess and respond to a range of national policy initiatives directed at the state courts, (2) obtain and allocate resources by making valid, cross-court comparisons possible, (3) improve communication and information exchange between courts, and (4) create a source of public information on the business of the courts. There are currently 26 courts participating in the Network, with these localities reporting populations from 225,000 to 9.3 million. In total, the Network sites comprise roughly 15 percent of the nation's population.

The range in filings is broad: Ventura and Salt Lake City report roughly 2,000 filings and Los Angeles approximately 50,000 filings per year. Growth in felony filings from 1993 to 1995 varied considerably across sites, with an increase of 47 percent in Lawrenceville compared to a decrease of 36 percent in San Francisco.

### Felony Filings, 1993-1995

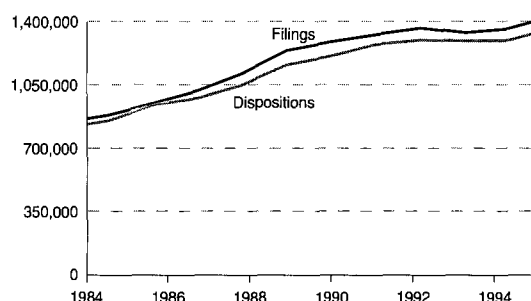
City	Felony Filings			
	% Growth 1993-1995	1993	1994	1995
Lawrenceville, GA	47%	1,861	2,175	2,732
Denver, CO	45	3,762	4,184	5,436
Milwaukee, WI	25	5,577	6,612	6,988
Ventura, CA	25	1,669	2,386	2,081
Orlando, FL	18	10,242	11,386	12,072
Ft. Lauderdale, FL	17	14,056	15,055	16,400
Salt Lake City, UT	15	1,847	1,813	2,131
Tallahassee, FL	13	4,073	4,312	4,617
Albuquerque, NM	13	6,215	6,430	7,026
Phoenix, AZ	12	15,173	16,244	16,912
Kansas City, MO	11	3,361	3,703	3,747
Santa Ana, CA	5	8,826	8,653	9,277
Seattle, WA	5	7,766	7,825	8,129
Newark, NJ	3	7,267	7,593	7,508
Los Angeles, CA	-1	50,476	47,944	50,197
Wilmington, DE	-1	4,079	3,702	4,046
Savannah, GA	-3	2,519	2,418	2,449
Houston, TX	-3	37,680	36,686	36,458
San Jose, CA	-7	8,925	8,627	8,315
Washington, DC	-13	8,661	8,730	7,508
Dallas, TX	-17	31,283	28,382	25,978
Brooklyn, NY	-20	12,928	11,452	10,326
San Francisco, CA	-36	6,453	5,052	4,129

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

## Felony Dispositions and Clearance Rates

Of central importance in assessing the impact of sustained caseload growth is the ability of courts to dispose cases. The trend lines below track felony filings and dispositions for the period 1984 to 1995. The data show that in the aggregate, state courts were reasonably successful in keeping up with the rapid rise in felony filings over the past 12 years. In 1995, the nation's state courts disposed of 95 percent of their total felony filings.

**Felony Filings and Dispositions in Unified and General Jurisdiction Courts in 35 States, 1984 - 1995**



Most general jurisdiction trial courts currently deal with a large number of felony cases, which present a number of challenges to the states. Felony case processing is subject to more stringent time standards than civil case processing. Directing additional resources to the backlog of felony cases is one solution, but it may simply displace the problem by imposing delay on civil litigants who want and are entitled to court adjudication of their disputes. The clearance rate for felony caseloads is a key measure of the sufficiency of court resources for responding to the influx of new felony filings.

The accompanying table presents clearance rates in general jurisdiction courts in 35 states for 1993 to 1995. Clearance rates over the three years are similar in some courts, but vary widely in others. The three-year measure smooths yearly fluctuations and provides a more representative clearance rate given the possibility of yearly aberrations. In short, felony cases continue to pose considerable problems for courts since the majority of states had the same or lower clearance rates in 1995 as they did in 1993.

**Felony Clearance Rates in Unified and General Jurisdiction Courts in 35 States, 1993-1995**

State	Clearance Rates			
	1993-1995	1995	1994	1993
<b>Unified Courts</b>				
Connecticut	105%	109%	105%	100%
District of Columbia	101	101	100	102
Massachusetts	100	93	91	116
Minnesota	99	100	99	99
Puerto Rico	99	103	98	95
Illinois	97	95	98	98
Iowa	94	94	94	94
Idaho	94	94	91	97
Missouri	92	90	89	100
South Dakota	72	70	73	74
<b>General Jurisdiction Courts</b>				
New Hampshire	122	112	125	127
New York	106	107	104	105
New Jersey	103	105	103	103
West Virginia	102	108	99	100
Texas	102	104	99	101
North Carolina	100	105	96	99
Ohio	100	100	98	102
Rhode Island	98	92	103	100
Nebraska	98	98	95	100
Virginia	98	95	99	99
Kentucky	97	99	97	95
Vermont	97	97	93	102
Alabama	95	91	96	99
Maryland	95	93	95	97
Maine	94	86	99	98
Indiana	94	96	93	92
California	93	95	96	89
Arizona	93	90	90	99
New Mexico	93	96	93	88
Arkansas	92	94	89	93
Alaska	91	93	89	90
Oregon	91	90	87	95
Hawaii	83	84	86	79
Oklahoma	83	79	84	88
Utah	81	89	90	66

Statewide clearance rates reflect a range of management initiatives at the trial court level, but will also be influenced by caseload growth and time standards. Oklahoma, with one of the lowest three-year felony clearance rates (83), experienced the second highest growth in felony caseloads (19%). New Hampshire, the state with the highest three-year felony clearance rate (122), experienced the largest decline in caseload growth (-21%). Four of the remaining five states with the highest three-year clearance rates (New York, New Jersey, West Virginia, and Texas) experienced a decline in caseload growth. In addition, of the 10 states with three-year clearance rates of 100% or better, only New Hampshire and North Carolina have not adopted formal time standards for criminal case processing, although both states do have local standards and policies regarding speedy trial issues.

Given the general pattern of rising arrest rates and rising felony filings over the last decade, the expectation is that felony cases will continue to be a significant portion of general jurisdiction court caseloads in the future. This projection has substantial implications for planning and allocating court resources.



## Felony Clearance Rates in Large Urban Courts

The table below shows filing, disposition, and pending case totals for 1995. Trial courts reduce their pending felony caseload if dispositions exceed filings. Overall, 20 of 23 sites cleared at least 95 percent of their caseload over the past three years.

### Selected Felony Caseload Measures

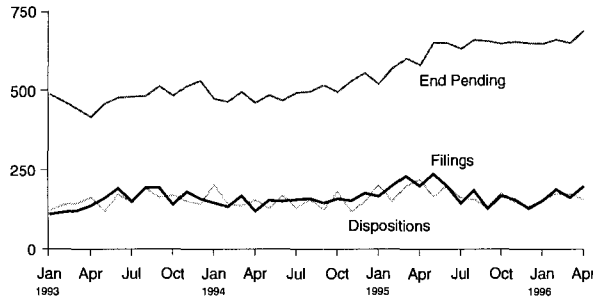
City	Three-Year Clearance Rate, 1993-95	Filings 1995	Dispositions 1995	Year-End Pending 1995
San Francisco, CA	113%	4,129	4,153	883
Brooklyn, NY	109	10,326	11,192	2,698
Ventura, CA	107	2,081	2,237	407
Newark, NJ	105	7,508	8,083	1,813
Milwaukee, WI	104	6,988	7,126	3,892
Washington, DC	102	7,508	7,569	3,095
Lawrenceville, GA	102	2,732	2,907	1,217
Houston, TX	101	30,450	37,395	23,660
Dallas, TX	101	25,978	27,370	14,558
Savannah, GA	101	2,449	2,411	696
Santa Ana, CA	99	9,277	9,149	892
Kansas City, MO	99	3,747	3,857	1,957
Orlando, FL	98	12,072	11,687	4,823
Wilmington, DE	98	4,046	3,757	1,392
Salt Lake City, UT	97	2,131	2,037	649
Seattle, WA	97	8,129	8,075	5,609
Ft. Lauderdale, FL	97	16,400	15,522	5,469
San Jose, CA	97	8,315	7,988	2,234
Tallahassee, FL	96	4,617	4,209	1,906
Phoenix, AZ	95	16,912	15,791	13,176
Los Angeles, CA	94	50,197	47,310	8,393
Denver, CO	90	5,436	4,842	4,709
Albuquerque, NM	89	7,026	5,860	6,414

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

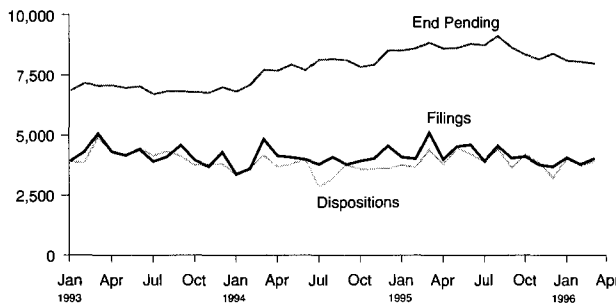
The impact of clearance rates on pending caseloads is clearly seen in the accompanying charts of monthly data on filings, dispositions, and pending caseloads for four sample courts. This monthly trend data (January 1993 to April 1996) shows how the stock of pending cases rises and falls as a result of what are often only slight differences between monthly filings and dispositions. Brooklyn, Los Angeles, and Savannah report only active pending cases, while Salt Lake City also includes inactive pending cases in its count.

**Felony Filings, Dispositions, and Pending Caseloads, 1993-1996**

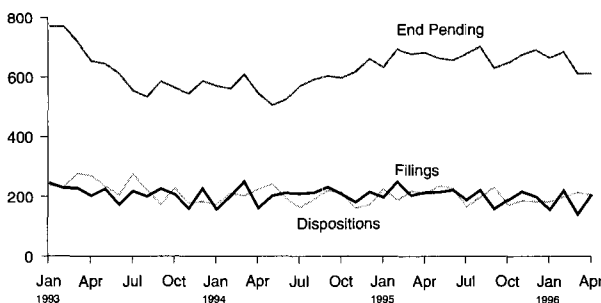
Salt Lake City, UT



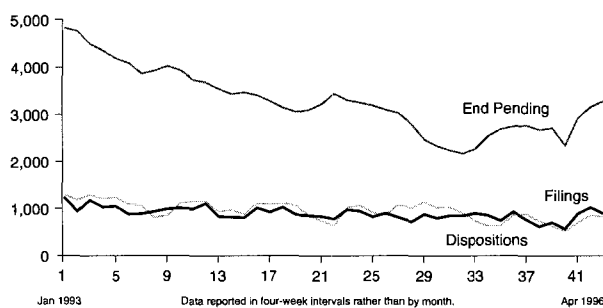
Los Angeles, CA



Savannah, GA



Brooklyn, NY



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

An increase in the pending caseload occurs when the number of cases disposed falls short of the number filed. Even though monthly filings appear to exceed dispositions by a relatively small margin, as in both Savannah and Salt Lake (April 1993 to April 1995), the cumulative impact of these differences is a sustained increase in pending cases.

The growth rate of felony filings is a key factor in understanding changes in pending caseloads. For example, an increase of 15 percent in felony filings between 1993 and 1995 underlies the growth of pending cases in Salt Lake City, while Brooklyn's case management efforts benefited from a drop of 20 percent in felony filings over the same period.

Because the size of the pending caseload reflects the cumulative difference between filings and dispositions over time, a reduction in pending caseloads requires effective, long-term caseload management. For example, ongoing case management efforts in Los Angeles have led to a significant decline in pending cases over the past year.

# Appellate Caseloads in State Courts

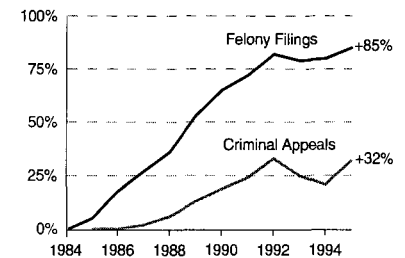
## Comparing State Trial Court Filing Rates and Appeals

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

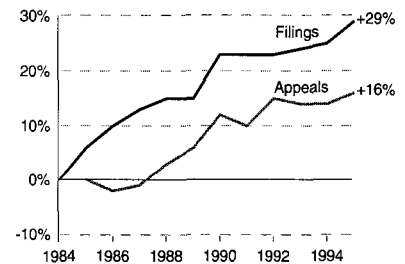
Estimating the growth rate of civil and criminal appeals requires an understanding of the factors causing appellate caseload growth. The basic sources of appeals, of course, are decisions in the trial courts. The top graph displays the percentage change in felony filings in state trial courts and the percentage change in criminal appeals entering intermediate appellate courts for the period 1984 to 1995. While state-to-state differences exist, overall increases in the criminal appeal rate track the felony filing data closely.

The second graph offers a similar comparison between the annual percentage change in civil filings in trial courts and the annual percentage change in the number of civil appeals filed in intermediate appellate courts over 12 years. There appears to be a relationship over time between civil filings in the trial courts and the number of civil appeals, but with a lag of two years. That is, trial court filing rates of two years ago are driving the size of appellate filing rates today.

**Growth Rates of Felony Filings and Criminal Appeals in 18 States, 1984-1995**



**Growth Rates of Civil Filings and Civil Appeals in 25 States, 1984-1995**



## Appellate Caseload Filings and Trends Nationwide

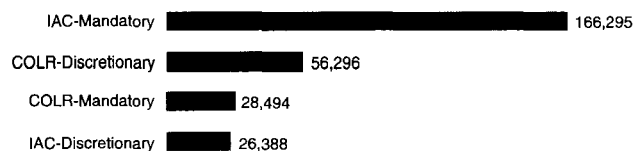
Appeals offer litigants the opportunity to modify an unfavorable trial court decision by convincing an appellate court that the lower-court judgment was based on a reversible error. The party bringing the appeal might contend that the trial court erred when it allowed inadmissible testimony, the jury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

More appeals were filed in the state appellate courts in 1995 than in any preceding year. The total number of appellate filings was 277,473, an increase of 5 percent over the previous year. In those courts where the number of cases is rising but the size of the judiciary or court staff is not, appellate judges have less time to review the record, read the briefs, hear oral argument, discuss the case, and prepare an order or opinion resolving the case. Increased demands on the available work time mean that judicial and court support staffing levels must be assessed and the search continued for more efficient and productive ways of handling cases.

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

Discretionary appeals are the largest segment of caseload in most courts of last resort (COLR). In 1995, COLRs reviewed 56,296 discretionary appeals, an increase of 6 percent since 1994.

### Total Appellate Caseloads, 1995



## Appellate Caseloads in the States

Ten states (California, Florida, New York, Texas, Pennsylvania, Ohio, Michigan, Louisiana, Illinois, and New Jersey) account for a sizable majority (60 percent) of the nation's appellate filings. Fluctuations in the volume of appeals in these states affect the national picture significantly.

At the other end of the spectrum, 14 states had fewer than 1,400 appeals filed in their appellate courts in 1995. In nine of these states, the COLR is the only court of review.

There are three appellate courts reporting data for the first time in 1995. Puerto Rico reported appellate data to the Court Statistics Project for both of its appellate courts and is included on this table. Mississippi's new intermediate appellate court created in January, 1995, also reported data.

COLRs without an IAC tend to process primarily mandatory appeals. In this respect, first-level appellate courts, whether they are IACs or COLRs without an IAC, are similar in caseload composition: they tend to have virtually all mandatory jurisdiction and handle the bulk of their respective state's appeals. The size of appellate caseloads varies dramatically across the states, with Wyoming reporting as few as 345 and California as many as 28,655 appeals in 1995. The adjacent table ranks the states according to their number of filings and separates caseloads into mandatory and discretionary categories. Because appellate caseloads are highly correlated with population, this table also shows the volume of appeals per 100,000 population.

Taking population into account reduces the variation in appellate filing rates considerably. Most states report between 62 and 147 appeals per 100,000 population. Louisiana has an unusually high rate of appeals, and the Carolinas have unusually low rates of appeal. On the other hand, larger states, such as California and Texas, though having large numbers of appeals, actually have filing rates near the median (California has 91 filings per 100,000 population). Eight of 11 states with a COLR but no IAC have appellate filing rates below the median.

**Total Appellate Court Filings, 1995**

	Total Filings	Type of Filing		Population Rank	Appeals per 100,000 Population
		Mandatory	Discretionary		
<b>States with an IAC</b>					
California	28,655	14,953	13,702	1	91
Florida	23,871	18,331	5,540	4	169
New York	18,582	13,721	4,861	3	102
Texas	16,812	13,966	2,846	2	90
Pennsylvania	16,033	12,852	3,181	5	133
Ohio	14,114	12,253	1,861	7	127
Michigan	13,532	7,592	5,940	8	142
Louisiana	12,421	4,048	8,373	21	286
Illinois	12,355	10,234	2,121	6	104
New Jersey	10,557	7,519	3,038	9	133
Alabama	6,025	5,228	797	22	142
Georgia	5,686	3,868	1,818	10	79
Oregon	5,504	4,736	768	30	175
Missouri	5,468	4,677	791	16	103
Virginia	5,375	831	4,544	12	81
Washington	5,302	3,774	1,528	15	98
Arizona	4,894	3,389	1,505	23	116
Kentucky	4,676	3,549	1,127	24	121
Wisconsin	4,655	3,532	1,123	18	91
Oklahoma	4,575	3,997	578	28	140
Massachusetts	3,961	2,220	1,741	13	65
Tennessee	3,905	2,594	1,311	17	74
Puerto Rico	3,748	1,634	2,114	26	101
Maryland	3,625	2,344	1,281	19	72
Colorado	3,537	2,340	1,197	25	94
Minnesota	3,511	2,675	836	20	76
Indiana	2,987	2,169	818	14	51
Kansas	2,974	2,408	566	33	116
North Carolina	2,496	1,597	899	11	35
Iowa	2,248	2,248	NA	31	79
Nebraska	1,750	1,403	347	38	107
Arkansas	1,689	1,689	NA	34	68
Mississippi	1,682	1,598	84	32	62
New Mexico	1,681	1,017	664	37	100
Connecticut	1,551	1,277	274	29	47
Utah	1,422	1,422	NA	35	73
Alaska	1,175	924	251	49	195
South Carolina	1,042	981	61	27	28
Hawaii	964	941	23	41	81
Idaho	899	803	96	42	77
North Dakota	429	403	26	48	67
<b>States without an IAC</b>					
West Virginia	2,691	NJ	2,691	36	147
District of Columbia	1,848	1,832	16	51	333
Nevada	1,350	1,350	NJ	39	88
Maine	988	988	NA	40	80
New Hampshire	892	NJ	892	43	78
Rhode Island	762	477	285	44	77
Vermont	675	640	35	50	115
Montana	599	532	67	45	69
Delaware	530	530	0	47	74
South Dakota	425	358	67	46	58
Wyoming	345	345	NJ	52	72
<b>Total</b>	<b>277,473</b>	<b>194,789</b>	<b>82,684</b>		

Note: Data are for all appellate courts. NJ = No Jurisdiction NA = Not Available

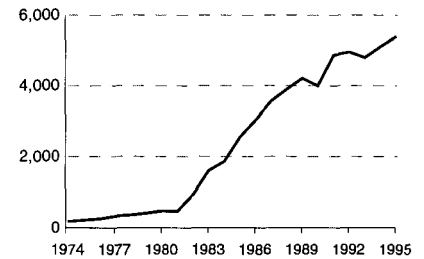
## Appellate Caseload Filing Trends

Mandatory appeals in IACs have grown at an average rate of nearly 5 percent per year between 1984 and 1995. IAC discretionary caseloads, while smaller in number, have grown at an even faster rate. The IAC discretionary filing trend is strongly shaped by the dramatic increases in Louisiana's Court of Appeals.

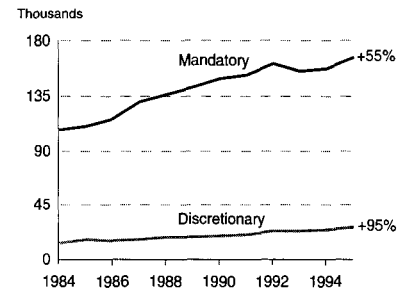
COLR caseloads have grown steadily over the past decade. This rising tide of appeals causes unique problems for COLRs because the number of justices remains fixed.

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

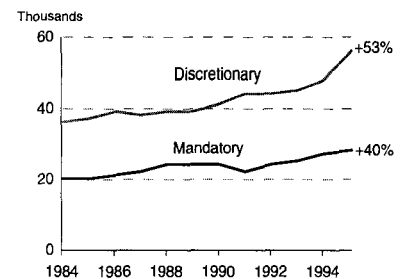
**Louisiana IAC Discretionary Caseload, 1974-1995**



**Intermediate Appellate Court Caseloads, 1984-1995**



**Caseloads in Courts of Last Resort, 1984-1995**

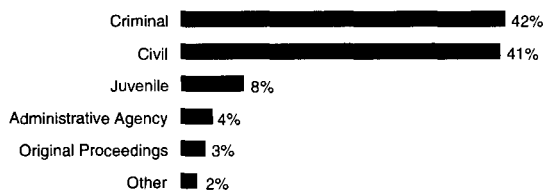


### Composition of Appellate Caseloads

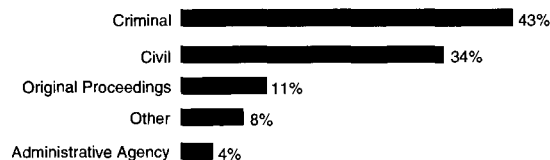
The charts below show the composition of appeals. Criminal and civil appeals dominate the workload of both appellate levels. Criminal appeals are usually brought by a defendant convicted at trial. These individuals most often allege trial court error, ineffective assistance of counsel, or incorrect sentencing.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

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

#### Composition of Mandatory Appeals in 20 Intermediate Appellate Courts, 1995



#### Composition of Discretionary Petitions in 30 COLRs, 1995





Focusing strictly on appeals does not provide a comprehensive picture of the work of appellate courts. Of course the review of lower-court decisions is central, but in some instances appellate courts exercise original jurisdiction and act upon a case from its beginning. Examples of original proceedings include postconviction remedy, sentence review, and disputes over elections that are brought originally to the appellate court. The table here shows how the more than 27,000 original proceedings were spread across 39 states in 1995.

Appellate courts are also responsible for hearing cases about any conduct of judges or attorneys that affects their official duties. The table shows disciplinary filings that were reported from 34 states. Florida heads this list with its 552 disciplinary cases, and the District of Columbia is notably high (126 filings) in comparison to other states listed.

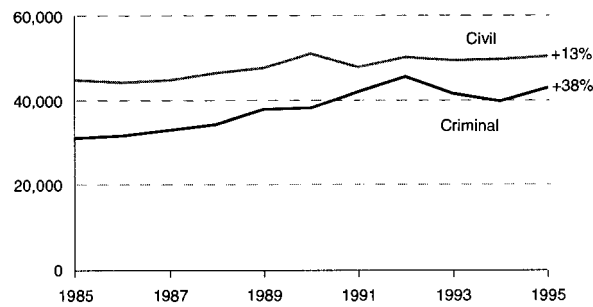
#### Original Proceedings and Disciplinary Matters in Appellate Courts, 1995

State	Original Proceedings	State	Disciplinary Matters
<b>States with an IAC</b>			
California	8,907	Florida	552
Texas	4,373	California	452
Florida	2,750	Oregon	277
Illinois	1,508	New Jersey	226
Pennsylvania	1,095	Georgia	114
Missouri	950	Colorado	103
Arizona	837	Ohio	100
Alabama	670	Kentucky	84
Oregon	621	Indiana	79
Virginia	616	Michigan	78
Washington	587	Arizona	68
Colorado	400	Missouri	63
Maryland	393	Minnesota	48
Ohio	293	Louisiana	47
Georgia	287	Maryland	45
Kentucky	281	New Mexico	29
Tennessee	276	Wisconsin	27
Indiana	234	Idaho	24
Kansas	174	Kansas	24
New Mexico	146	North Dakota	18
Arkansas	119	Alaska	17
Wisconsin	97	New York	14
Hawaii	81	Washington	13
Minnesota	63	Puerto Rico	9
Louisiana	59	South Carolina	8
Idaho	58	Texas	8
North Dakota	40	Utah	7
Puerto Rico	39	Alabama	4
Utah	36		
South Carolina	27		
<b>States without an IAC</b>			
West Virginia	503	D.C.	126
Nevada	203	West Virginia	43
Montana	134	Nevada	41
South Dakota	93	Wyoming	27
D.C.	72	Delaware	14
Wyoming	56	Vermont	8
Delaware	27		
Rhode Island	19	<b>Total</b>	<b>2,797</b>
Vermont	13		
<b>Total</b>	<b>27,137</b>		

### Trends in Civil and Criminal Appeals

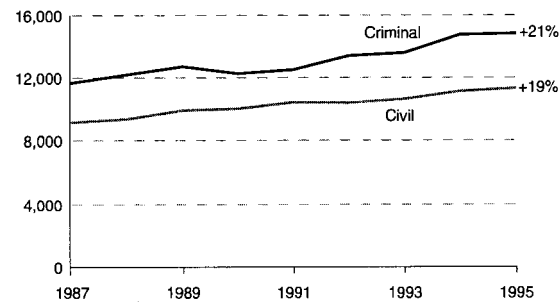
This analysis focuses on the growth in civil and criminal appeals in COLRs and IACs for the largest portions of their respective caseloads: discretionary petitions for COLRs and mandatory appeals for IACs. In state intermediate appellate courts, mandatory civil appeals increased 13 percent and criminal appeals grew 38 percent between 1985 and 1995.

**Mandatory Appeals in IACs, 1985-1995**



In 30 states, the majority of the workload of COLRs is deciding cases brought through discretionary petitions. For the period 1987 to 1995, 13 states were able to provide statistics on the number of discretionary civil petitions filed in their state supreme courts and 14 courts provided similar information for discretionary criminal appeals.

**Discretionary Petitions in COLRs in 14 States, 1987-1995**



As appeals of right increase in intermediate appellate courts, the caseloads of COLRs will likely rise also unless they lower the percentage of petitions granted. Rising workload is a critical issue for courts of last resort as they are fixed in size by state constitution and additional justices are rarely added to these courts.

## Discretionary Review in Courts of Last Resort

State COLRs granted, on average, 11 percent of the discretionary petitions filed in 1995. This selection process is shown by comparing the number of petitions considered with the number granted for the COLRs of 26 states.

The number of justices needed to grant review and the percentage of petitions granted are shown in the adjacent table. In states that require a majority of justices to grant certiorari, courts grant, on average, 8.9 percent of petitions; in states that allow a minority of the court to accept a petition for review, courts grant an average of 10.5 percent. In other words, if a larger proportion of COLR justices is needed to accept a case for review, fewer petitions tend to be granted.

**Discretionary Petitions Granted in 26 Courts of Last Resort, 1995**

	Share of Petitions Granted	Number of Petitions Filed	Number of Petitions Granted	Number Needed to Grant Review
<b>Majority</b>				
Hawaii	43.5%	23	10	3 of 5
West Virginia	22.2	2,691	597	3 of 5
Louisiana	16.1	3,000	484	4 of 7
Nebraska	14.7	347	51	4 of 7
Alaska	13.0	200	26	3 of 5
District of Columbia	12.5	16	2	3 of 3
Indiana	9.3	818	76	3 of 5
Georgia	8.9	1,399	124	4 of 7
Alabama	8.4	797	67	5 of 9
South Dakota	7.5	67	5	3 of 5
Ohio	7.3	1,861	135	4 of 7
Missouri	5.9	791	47	4 of 7
Illinois	5.3	2,121	112	4 of 7
Michigan	3.7	3,172	116	4 of 7
California	1.5	6,299	97	4 of 7
<b>Median</b>	<b>8.9</b>			
<b>Minority</b>				
Massachusetts	26.7	753	201	3 of 7
Connecticut	24.5	274	67	2 of 7
Minnesota	14.5	785	114	3 of 7
Maryland	13.2	772	102	3 of 7
North Carolina	13.0	471	61	3 of 7
Oregon	10.5	768	81	3 of 7
Tennessee	10.9	903	98	2 of 5
Texas	9.9	2,846	282	4 of 9
Kansas	5.3	566	30	3 of 7
Mississippi	4.8	84	4	Varies
Rhode Island	2.1	285	6	1 of 5
<b>Median</b>	<b>10.5</b>			

**Clearance Rates in Intermediate Appellate Courts, 1993-1995**

State	1993-1995	1993	1994	1995
<b>Mandatory Appeals</b>				
Michigan	154%	141%	159%	166%
New York	131	113	120	160
Arizona	116	129	114	104
Oregon	110	128	103	100
Louisiana	106	107	105	106
Utah	105	102	113	101
Illinois	104	96	107	109
Georgia	104	104	102	105
Ohio	103	103	105	101
Texas	101	102	103	99
California	100	102	101	97
Minnesota	100	103	100	98
Maryland	100	101	100	99
Florida	100	100	104	97
Iowa	100	98	107	96
Alaska	100	107	96	96
New Jersey	99	98	98	101
Colorado	99	103	96	99
Washington	99	99	101	97
Oklahoma	98	84	109	104
North Carolina	98	87	111	96
Wisconsin	98	98	98	98
Idaho	97	112	125	71
Pennsylvania	97	101	94	98
Missouri	96	94	96	97
South Carolina	95	103	112	77
Tennessee	95	94	86	105
Indiana	95	85	92	108
Kentucky	94	97	92	94
Connecticut	91	89	87	97
Alabama	90	98	92	84
Arkansas	89	94	91	82
Massachusetts	89	97	83	88
Nebraska	87	105	76	82
Kansas	85	91	89	77
<b>Discretionary Petitions</b>				
Virginia	115	125	110	111
Kentucky	108	104	95	115
Alaska	108	104	110	110
Georgia	106	99	91	142
Arizona	102	86	91	129
California	102	101	102	102
Massachusetts	100	100	100	100
Louisiana	98	98	98	99
Minnesota	94	80	99	106
Washington	93	104	92	85
Florida	93	94	88	96
Maryland	92	100	73	100
North Carolina	90	85	97	88
Tennessee	66	50	74	74

**Intermediate Appellate Court Clearance Rates**

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

IACs are having moderate success in keeping up with their mandatory caseloads: 16 of the 35 states have a three-year clearance rate of 100 percent or greater, with an additional 12 states clearing 95 percent or more. Michigan and New York have very high three-year clearance rates (154 percent and 131 percent, respectively) and apparently are starting to cut into their backlog of cases. The seven states with a three-year clearance rate below 95 percent however, show a backlog that is growing by at least 3 percent each year. This backlog is cause for concern because the bulk of the nation's appeals are mandatory cases handled by IACs.

Intermediate appellate courts are experiencing some difficulties in disposing of their discretionary petitions. Only seven of the 14 states for which discretionary data are available achieved three-year clearance rates of 100 percent or more.

## Manner of Disposition in Appellate Courts

The manner in which cases are resolved is an indication of the kind of work that appellate courts perform. According to the traditional model of the appellate process, the final product is a signed, published opinion that sets forth the court's reasoning for its decision. Yet, this form is actually relatively infrequent and little comparative information exists on how the majority of appellate cases are decided. What are the relative frequencies of alternative types of dispositions in appellate courts? What are the similarities and differences among the way appellate courts dispose of their cases? Is there a wide variation between courts of last resort, courts of last resort without an intermediate appellate court, and intermediate appellate courts? The objective of this section is to explore these questions with findings obtained from a survey sent to the appellate courts.

### Courts of Last Resort—Manner of Disposition, 1995

State - # of Justices	Appeals Decided on the Merits				Other COLR Court Decisions		
	Total	Published Opinions	Per Curiams	Non-Published Opinions	Denial of Discretionary Petitions	Dismissed/Withdrawn	Disposition of Original Proceedings
Alabama - 9	1,346	430		916	53	413	
Kansas - 7	854	183		671	0	4	22
Texas/Criminal - 9	749	130	404	215	1,557	11	4,232
Pennsylvania - 7	705	197	124	384	2,226	50	312
Arkansas - 7	620	372	56	192	38	49	358
Mississippi - 9	565	248	292	25		280	
Iowa - 9	497	371	15	111	220	711	
Louisiana - 9	356	76	9	271	2,168	95	121
Nebraska - 7	300	259		41	248		
New York - 7	282	184	98	0	3,689	125	1
North Dakota - 5	278	254		24	18	90	
Hawaii - 5	263	91		172	35	375	77
Idaho - 5	255	122		133	156	8	
Massachusetts - 7	246	228	18		520	41	
North Carolina - 7	245	137	47	61	395	24	
Illinois - 7	239	147	0	92	1,727		253
Wisconsin - 7	233	87	43	103	920		
Minnesota - 7	230	154	10	66	633	33	
Virginia - 7	230	162	1	67	1,574	81	551
Utah - 5	128	90	0	38	119	118	27
Oregon - 7	104	64	15	25	651	178	
New Jersey - 7	101	74	27	0	1,304	146	216
Arizona - 5	86	67	0	19	1,118		316
<b>States with no IAC</b>							
New Hampshire - 5	661	202		459	33	131	2
West Virginia - 5	499	162	96	241	1,495	103	
Delaware - 5	441	60	1	380	20	142	35
Vermont - 5	374	94	1	279	33	239	17
Rhode Island - 5	352	122	87	143	167	87	10
South Dakota - 5	289	195		94	45	93	31

Blanks indicate no response on survey.

## How Do Appellate Courts Dispose of Their Caseload?

The first dispositional category written, **published opinions** sets forth the issues in a case and indicates how the court resolved these issues. These decisions, which can almost always be cited as precedent in future litigation, clarify the meaning of new laws; achieve uniformity in the law by resolving conflicting opinions among lower tribunals; and address legal disputes of important policy significance. Although this category places substantial demand on the courts' resources, it is not the most frequent type of disposition. The median for this disposition type is 15 percent of the total appellate caseload in COLRs and 11 percent in IACs. Differences in the number of opinions reflect differences in the size and jurisdiction of the appellate courts. Five-member courts (e.g., Arizona, Hawaii) understandably produce fewer opinions than seven- or nine-member courts. Also, courts with extensive mandatory jurisdiction (e.g., North Dakota, and Arkansas) are likely to produce more opinions than courts with predominantly discretionary jurisdiction (e.g., West Virginia, Louisiana).

### Intermediate Appellate Courts—Manner of Disposition, 1995

State - # of Judges	Appeals Decided on the Merits				Other Appellate Court Decisions		
	Total	Published Opinions	Per Curiams	Non-Published Opinions	Denial of Discretionary Petitions	Dismissed/Withdrawn	Disposition of Original Proceedings
Michigan - 28	7,916	371	221	7,324	1,777	2,903	
Illinois - 52	6,757	1,070		5,687	144	1,220	
Louisiana - 54	5,291	2,785	7	2,499	3,843	491	4
New Jersey - 32	5,225	422	0	4,803		2,191	
Pennsylvania, Superior - 15	4,936	644	3	4,289	NA	2,622	NA
Georgia - 9	2,508	1,102	9	1,397	382	622	
Oregon - 10	2,133	493	113	1,527		2,269	
Pennsylvania, Cmnlwth - 9	1,915	578	NA	1,337	35	1,702	533
Minnesota - 16	1,694	394		1,300	190	576	
Alabama/Criminal - 5	1,687	370		1,317		462	341
Maryland - 13	1,644	208		1,436	480	414	
Virginia - 10	1,353	201		1,152	1,371	457	22
Massachusetts - 14	1,215	185	65	965	988	482	NA
Nebraska - 6	854	536		318	3	252	NA
Arkansas - 9	663	586	4	73	NA	96	98
South Carolina - 6	498	157		341		19	
Utah - 7	498	125	4	369		217	
Idaho - 3	372	372	NA		1,588	648	84
Hawaii - 4	97	69		28		23	

NA = Not Applicable  
Blanks indicate no response.

## Appellate Court Dispositions

**Per curiam dispositions** are usually published but unsigned opinions. Courts use per curiam opinions for sensitive social issues, where the issue is solely of significance to the parties, or for short opinions where the court is in agreement. Per curiam opinions are used extensively to correct lower court error. The Texas Court of Criminal Appeals has the highest use of this disposition while several other courts do not report using it at all.

There are several types of **nonpublished opinions** used by appellate courts that use an abbreviated style to inform the parties of the court's decision. Disposition types such as summary dispositions and orders without opinion are typically employed in cases that have been examined on their merits, but may not warrant expansive and detailed statements of the issues, the law, and the facts. A memoranda decision reviews the issues in the case, but is usually less detailed than a published opinion (e.g., a memoranda decision will be sufficient in citations, but likely not exhaustive). Since nonpublished opinions still require the court to review the record, read the briefs, and articulate a clear and understandable decision, these cases need to be factored into the measures of the court's productivity. This style of opinion is the most frequently used by IACs, while COLRs only dispose of about 9 percent of their cases this way. It is interesting to note that the six reporting COLRs without an intermediate court use this manner of disposition at a much higher frequency than the other COLRs to dispose of their cases.

Cases are also disposed early in the process by **denying a petition for review**. In most instances of petitions for review, the courts examine the merits of the petition but deny the request for full appellate case processing. For many courts, especially the COLRs, this is the largest category of their dispositions (50 percent). Yet, neither the respective roles of justices and staff in this process, nor information regarding the amount of time taken to achieve these dispositions is readily available.

Another category of appellate disposition is **dismissed/withdrawn**. These dispositions occur when the parties have voluntarily settled the case, the case has been abandoned, one party failed to comply with court procedures, or the court lacks jurisdiction in the matter. These cases are part of each appellate court's workload, and even though they do not require a court decision, they require the attention of the judges and court staff. The courts may have encouraged dismissal by conducting settlement conferences, and certainly the clerks' offices spend time handling the initial stages of the appeal.

To encompass all categories of appellate disposition, the **disposition of original proceedings and disciplinary matters** were requested on the survey. Original proceedings are special actions brought in the first instance in an appellate court. Examples are: applications for writs, special types of habeas corpus applications, postconviction remedies, and sentence reviews. Disciplinary matters are cases related to the conduct of judges or attorneys that affect the performance of their official or professional duties. This disposition category consumed 7 percent of the COLRs' caseload, with most IACs reporting no jurisdiction.

Finally, **other types of dispositions** captures dispositions that could not be classified in the above categories. Examples include cases that have been transferred to another appellate court. Transfers occur most frequently in courts of last resort that receive all appeals and then transfer some to intermediate appellate courts for review (e.g., Idaho 26%, Utah 16%).

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



*Exploring Workload Measures in the Courts*

# Introduction

The past several decades have witnessed a significant improvement in the quality of court statistics. To help illustrate the potential of these statistics, this part of the report provides some specific examples of their utility. What can be concluded is that *caseload* statistics are the building blocks for assessing *workload* in the courts.

A central concern of court management is translating information on case filings into knowledge about caseload and workload. To this end, the following review shows how skillfully deployed caseload statistics can (1) help courts clarify the dynamics of civil litigation and criminal case processing, (2) show the effects of policy changes or reforms on the judicial system, and (3) provide evidence to justify funding requests and ensure appropriate allocation of existing resources.

The following sections are included in this review:

- A Historical Portrait of Civil Litigation
- South Dakota: Alternative Workload Measures in Trial Courts
- Colorado: Using Judicial Workload Measures in a Weighted Caseload Study
- Missouri: A Focused Look at Case Dispositions
- Time on Appeal: Examining 35 Intermediate Appellate Courts
- Federal Caseloads Since 1950 and Ten Years of Recent Change
- Canada: Measures from the Provincial Courts

The presentation begins by taking a look at the long-term trend in civil litigation in the U.S. While there is a general belief that litigation rates have been increasing over the past several decades, what does the data say? Has the growth rate been consistent over time and between states? Do the trends appear to reflect the larger economic and demographic conditions of our society?

The review next turns to exploring how some selected states have utilized court caseload statistics to clarify and measure workload. This begins by looking at South Dakota's effort to assess workload measures not typically found in the analysis of court caseload data. Colorado's approach to assessing judicial workload using a weighted caseload methodology is examined next, before ending with a detailed analysis of case dispositions in Missouri.

Information is then presented concerning time on appeal in 35 intermediate appellate courts. Results show how long it takes to process an appeal and what factors affect the handling of appellate workload. Information is also presented that helps to identify how court policies and structure might contribute to appellate case processing.

The analysis then turns to a comparison of work between the state and federal courts over time. Examining change in civil and criminal caseloads across state and federal court systems helps define the context in which concerns about the operation of both court systems have arisen. The analysis summarizes trends in aggregated caseloads in the U.S. District Courts between 1950 and 1995 and in the state courts between 1984 and 1995.

The review of caseload statistics uses concludes by examining a set of criminal case processing measures compiled by the Canadian Centre for Justice Statistics. The work associated with adult defendants is clarified by measuring the number of appearances it typically takes to dispose of a criminal case and the relationship between the appearance rate and time to disposition. Some key features of the juvenile justice system are also examined.

Courts that master the statistics that describe their work and output are at an advantage in the competition for scarce public resources. By improving the content and quality of caseload information and by ensuring appropriate analysis of the data, the state court community can more effectively present its state of affairs to various authorities and to the general public.

## A Historical Portrait of Civil Litigation

Civil case processing policies and the need for civil reform are frequently debated among all three branches of government. As policies such as alternative dispute resolution, punitive and compensatory award limits, and other out-of-court settlement practices arise, their effects can be monitored through collecting and analyzing long-term trends in civil litigation rates. Recognizing the nature of fluctuations in the overall litigation rate trend helps us determine whether to consider permanent changes in judicial resources or to reallocate resources temporarily. A historical portrait also allows policymakers to view changes in civil caseloads as they relate to other societal, political, and cultural conditions.

The accompanying state and federal trends show civil litigation rates (filings per 1,000 population) adjusted for changes in population. The trends show data beginning in the early 1900s and ending in 1995. The six states and U.S. District Court figures reflect those judiciaries that could provide the most reliable and comparable data for years prior to 1950.

Three general patterns emerge that result in the ultimate rise in civil litigation rates. First, civil filings increased prior to the Great Depression, as shown clearly by the Rhode Island and Massachusetts trends. This increase, although less visible, also occurred in California and Kansas. Second, a period of stagnation and decline occurred in civil filing rates from the time of the Great Depression until World War II. Finally, state and federal courts experienced a steady rise in civil filings after WWII—sometimes referred to as the “Litigation Explosion” period. Whether or not the “Explosion” term is used, it is clear that the rise in civil justice created a permanent stress on the courts well into the last half of the 20th century. The increase in civil caseloads parallels the growth in the U.S. population and an expanding economy, though civil filings have risen more quickly than population.

Of the states examined, only California experienced a decrease in civil filing rates during the 1980s. This decline may be due, in part, to legislation affecting the access to civil justice. With an increase in its filing rate of more than 200 percent since 1970, New Jersey experienced the steepest rise in civil caseloads. One possible explanation is the suburban migration from the New York and Philadelphia metropolitan areas to New Jersey. In addition, many Fortune 100 companies have located offices and headquarters in northern New Jersey.

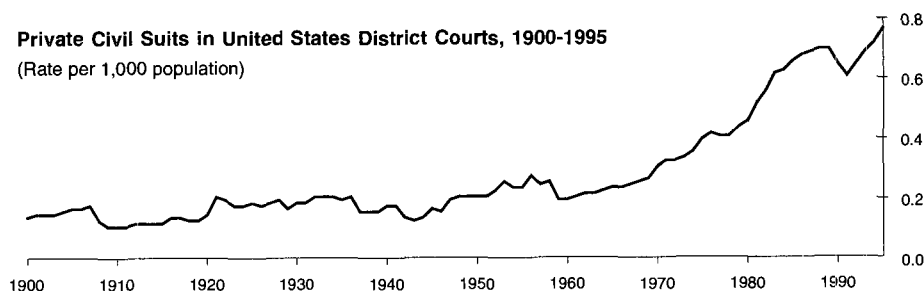
The U.S. District Courts have jurisdiction over two kinds of civil suits, those against or within the government and private civil suits. Government suits most often stem from political decisions about government activity (anti-prohibition suits accounted for many in 1933 and student loan suits for many in 1985). Private civil suits result from interstate commerce and more closely resemble ordinary civil suits heard in state trial courts. For this reason, the trend in private civil suits is shown below.

Perhaps the most important distinction between filing rates in the U.S. District Courts and the state courts is one of caseload volume. In 1995, the state court’s civil caseload was more than 60 times that of the U.S. District Courts. Aside from the matter of caseload volume, the trend in federal civil suits closely corresponds to the trend seen in the state graphs.

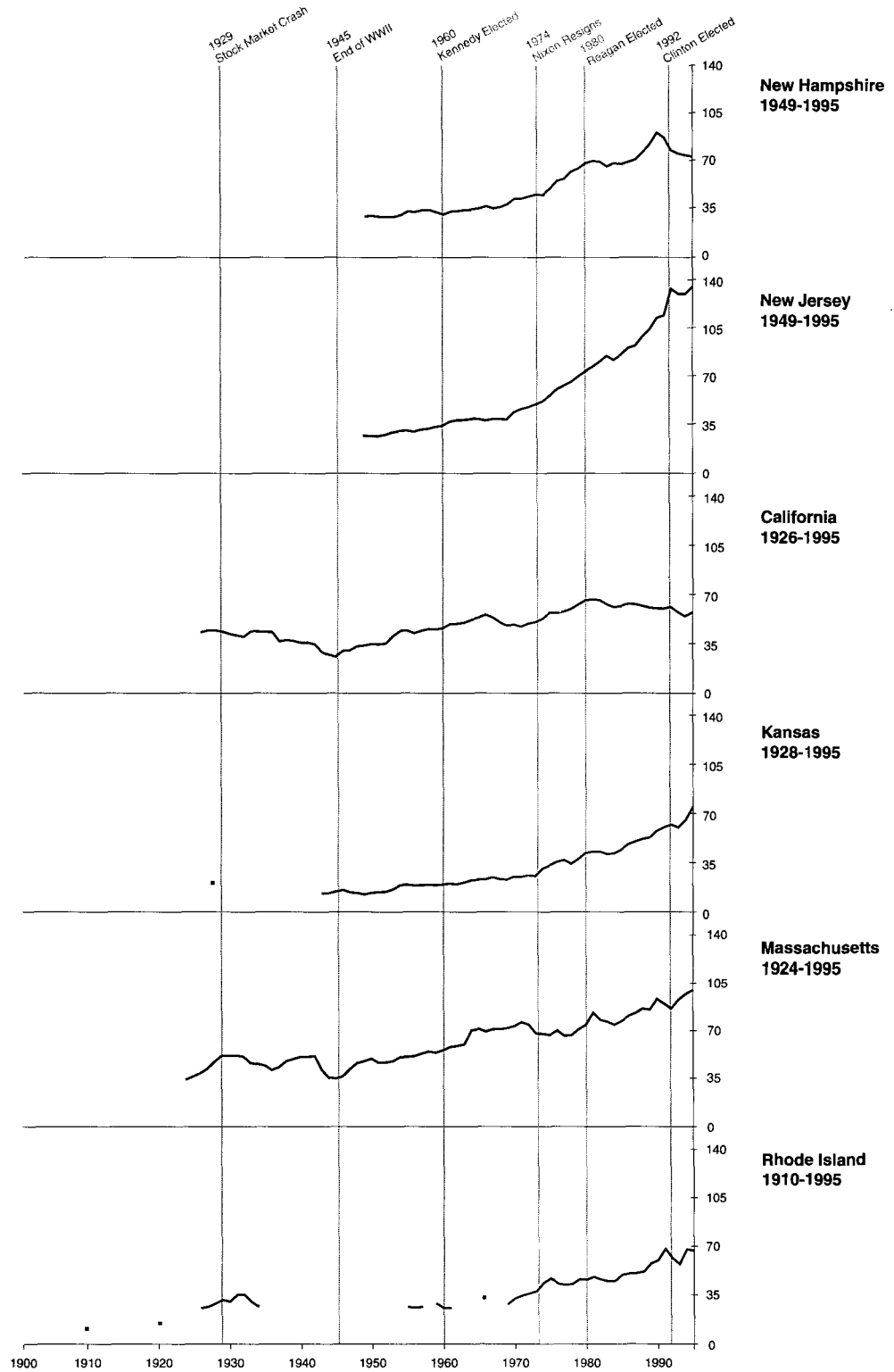
Besides the dip in filings during WWII, private civil suits decreased once again in 1958, when the jurisdictional amount for a suit was raised to \$10,000. This drop occurred once before, in 1911, when the amount increased from \$2,000 to \$3,000.

*Sources: Civil filing information was obtained largely from Christian J. Wollschlaeger, Universitaet Bielefeld, Bielefeld, Germany. NCSC’s CSP databases provided state trend data for the most recent years (1991-1995) and the U. S. Administrative Office of the Courts provided U.S. District Court data.*

**Private Civil Suits in United States District Courts, 1900-1995**  
(Rate per 1,000 population)



**Civil Filings in Selected States**  
(Rate per 1,000 population)



Notes: Data were unavailable for Kansas for 1929-1942 and for Rhode Island for 1911-1919, 1921-1925, 1935-1950, 1952-1954, 1958, 1962-1964, and 1966-1968. Kansas data exclude probate filings. In a few instances, estimations for minor parts of total civil caseloads (e.g., for small courts or special proceedings) were used to obtain more valid and complete graphs.

## South Dakota

### Alternative Workload Measures in Trial Courts

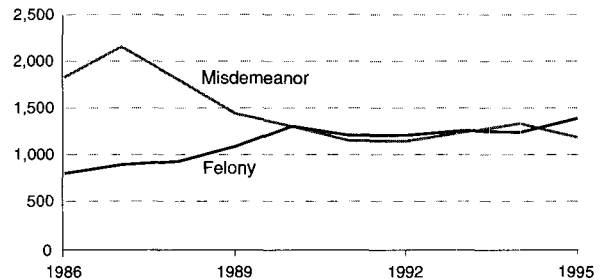
The South Dakota state court administrative office examines a variety of case processing indicators that help assess the operation of its trial courts over time. The graphics here illustrate several factors useful for evaluating the evolution of court services workload in both the adult and juvenile courts. Although judicial workload is the usual focus of criminal justice indicators in the courts, this material highlights the impact of growing criminal caseloads on one critical area of court support staff.

For example, the first graph shows how many cases involve the completion of Pre-Sentence Investigation (PSI) reports – a time-consuming process that helps a judge with the complex task of handing down a sentence. Court services officers spend a significant portion of their time gathering offender background, instant offense, and prior record information that make up these reports, which reduces the time available for supervising offenders. The trend in PSI reports completed for misdemeanor cases has decreased over the period 1986-1995. The time saved, however, has been shifted to felony-level cases: the number of PSI reports completed has increased 73 percent since 1986. This pattern reflects the decline in the number of filings for Class II misdemeanor cases and the increase in felony cases.

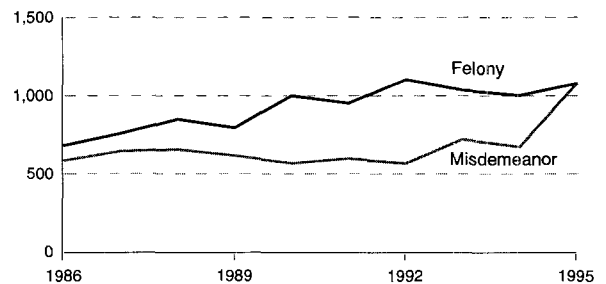
The number of felons placed on probation has increased (57 percent) along with PSI reports completed. In 1995, the 70 court services officers in South Dakota were responsible for roughly 17,000 persons in some type of supervision program—an average of 243 cases each. The increasing number of persons placed on probation has increased the workload to the point where many offenders are seldom seen by the court officer. The largest increases, however, are occurring in the number of juveniles on probation, which has more than tripled in ten years.

### Adult System

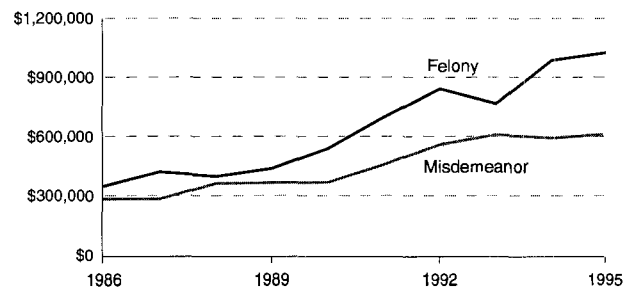
#### Pre-Sentence Investigation Reports Completed



#### Adults Placed on Probation

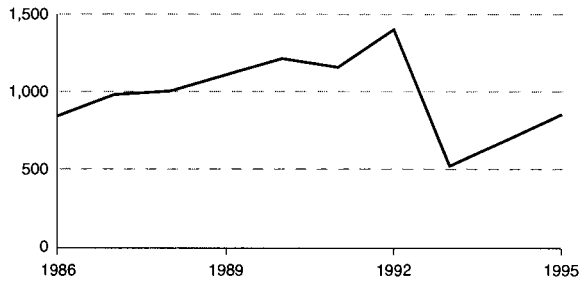


#### Restitution Payment Received

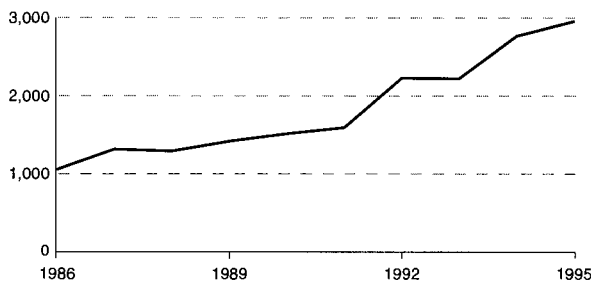


## Juvenile System

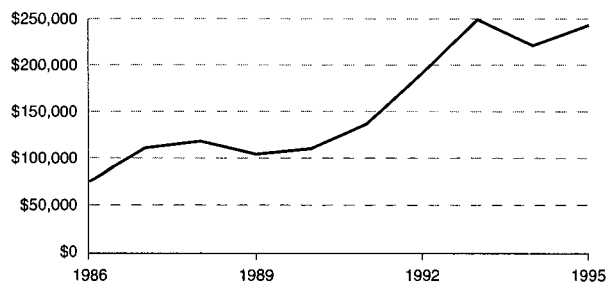
### Pre-Hearing Investigations



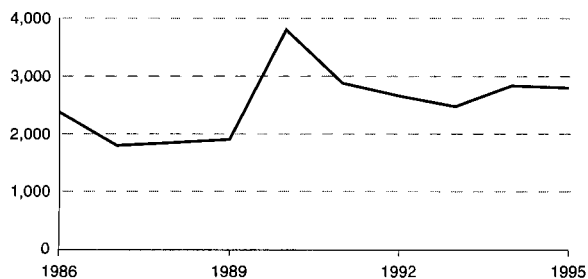
### Juveniles Placed on Probation



### Restitution Payment Received



### Ninety-Day Diversion Services



South Dakota also closely monitors the trend in restitution payments collected. Restitution is the amount of money that the court requires an offender to pay to the victim of the crime. Collecting, tracking, and disbursing restitution is the joint responsibility of the court services officer and the clerk of court.

Restitution receipts in South Dakota have grown steadily over the time period shown. The most significant growth has occurred over the last five years: payments increased 89 percent in felony cases, 65 percent in misdemeanor cases, and 122 percent in juvenile cases.

The bottom graphic shows the trend for 90-Day Diversion Service placements. These cases usually involve the diversion of first-time juvenile offenders away from traditional court appearances. The intent is to ease the burden on the court by diverting at the time of intake juveniles who have been charged with less serious crimes. In addition, the juvenile avoids formal court proceedings, allowing for an opportunity to maintain good behavior and follow mandated court services requirements. Although the use of this program reached a high in 1990, state attorneys soon began processing more juveniles through regular court channels (this drop in program utilization was largely affected by the charging practices in one South Dakota jurisdiction).

Source: *The State of the Judiciary and 1995 Annual Report of the South Dakota Unified Judicial System*, Office of the South Dakota State Court Administrator, January 1996.

## Colorado

### Using Judicial Workload Measures in a Weighted Caseload Study

The need for financial and resource accountability in government is a strong stimulus to develop systematic methods for assessing the need for judges and support staff. The traditional—and arguably most valid—approach for assessing personnel needs is a weighted caseload study. Weighted caseload studies use various workload measures to determine how much time is required to process a given court’s caseload from filing to disposition. Simply stated, weighted caseload is used to translate court caseload into workload. To specifically illustrate how this process occurs, this section briefly reviews Colorado’s approach for conducting a weighted caseload study. The intention is not to provide a comprehensive methodological assessment, but to summarize how one state translates caseload data into workload measures.

Court cases vary in complexity, and different types of cases require different amounts of time and attention from judges and court support staff. Weighted caseload has several advantages over other methods to assess need for resources. First, weighted caseload analyzes the “mix” of case filings rather than the total number of filings. Merely summing the total number of cases filed is not a good indicator of the amount of time it will take to dispose of that caseload. In the absence of explicit case weights, *all* cases, whether uncontested divorces, felonies, product liability suits, or traffic offenses, are counted equally, or, in other words, given a weight of one. Focusing on case counts without assessing the differences in work means that 1,000 uncontested traffic cases are equivalent to 1,000 felony cases. Yet, it is universally acknowledged that some types of cases (e.g., asbestos cases and other mass tort actions) are just more burdensome than other cases. Because unweighted cases are not directly tied to workload, they offer only minimal guidance for estimating the need for judges and court support staff. Therefore, an estimate of the amount of work to be done is a precondition to estimating the need for resources.

A judicial weighted caseload begins by clarifying (1) the individual steps or events involved in processing particular types of cases, (2) the frequency with which these events occur in each type of case, and (3) how much judge time each event requires. Colorado examines four basic event types at the pre-trial stage, two at trial, and two in the post-trial stage.

### Colorado Event Types Used in Weighted Caseload Study

<b>Pretrial</b>	Arraignment Hearings/motions Case conference Signing motions/orders
<b>Trial</b>	Court trials Jury trials
<b>Post-trial</b>	Sentencing evaluation Post activity/trials

It is necessary to determine which events apply to each type of case being weighted because some events may apply to felony cases, for example, but not to divorce cases. After determining the type and number of events that occur for each case type, the next step is to assess how frequently each event occurs, on average, and the typical time actually spent on each event. A case conference, for example, may take an average of 30 minutes, but only occur in 50 percent of divorce cases. Event frequency is determined by a careful review of case records, and time is measured by collecting data through a time study. Judges are asked to monitor their time spent working on cases, both on and off the bench, for a specified period of time for every type of case event. The final product of this study is the “case weight” – a number that equals the average time needed to process a particular type of case from filing to disposition. The following table shows the case weights developed in Colorado.

### Colorado Case Types and Assigned Weights

Case Type	Weight
Criminal	113
Homicide	492
Felony 1	529
Civil	110
Probate	65
Mental Health	41
Rule 120	13
Water Rights	76
Domestic	58
Juvenile	69



Because case weights represent an *average* time, some actual cases will of course require more time and others less time to process. But for a large number of cases, the average weights will reflect the amount of time typically needed to process a case. Once weights are established, the next task involves computing a “judge-year” – that is, the amount of time in a given year a judicial FTE has available to handle cases. Computing a judge-year is accomplished by determining how much time must be subtracted from a year to account for weekends and holidays, sick days, vacation, and judicial education. After considering the amount of days expended for these factors, Colorado established a 220-day judge-year (largely reflective of other states as well).

After establishing the number and type of case processing events, collecting case processing time data, computing case weights, and figuring a judge-year, the Colorado AOC developed a “judge standard” to assess judicial need. The “judge standard” in Colorado incorporates both judges and magistrates and, as shown in the following table, reflects how many cases can reasonably be processed by a given mix of judges and magistrates.

**Judicial Officer Standards in Colorado**

Case Type	Judge Standard		Percent of workload handled by:	
	Urban	Rural	Judge	Magistrate
Domestic Relations	1,442	1,035	40%	60%
Civil	760	630	100	
Rule 120	6,463	5,575	10	90
Probate	1,287	1,115	70	30
Juvenile	1,212	941	30	70
Mental Health	2,040	1,768	70	30
Criminal	740	518	100	
Homicide	170	142	100	
Felony 1	158	133	100	
Water	1,101	954	10	90

Given these standards, it is possible to determine how many judges are required to hear all cases in a particular jurisdiction. For example, in the hypothetical Jurisdiction A:

**1,520 civil cases are heard in Jurisdiction A, thus,**

$$\begin{array}{r}
 1,520 \text{ civil cases} \\
 \div \text{ the 760-judge standard for civil cases} \\
 = 2 \text{ judicial FTEs}
 \end{array}$$

or

**3,636 juvenile cases are heard in Jurisdiction A, thus,**

$$\begin{array}{r}
 3,636 \text{ juvenile cases} \\
 \div \text{ the 1,212-judge standard for juvenile cases} \\
 = 3 \text{ judicial FTEs}
 \end{array}$$

To further specify the number of judges and magistrates required for handling juvenile cases,

	3 judicial FTEs		3 judicial FTEs
x	<u>.30 (30% of workload)</u>	x	<u>.70 (70% of workload)</u>
=	.9 judges	=	2.1 magistrates



While judges can legitimately disagree on the “proper amount of time” that should be spent on a case, weighted caseload figures provide a springboard for identifying practices that affect case processing time. In addition, weighted caseload provides an objective means to measure relative need for judges and magistrates in judicial districts of different sizes. In addition to differences in the mix of cases, the weighted caseload approach can help account for other workload-related factors, such as the amount of time available each day to hear cases, that may vary between courts within a given state. For example, judges in rural, multi-county circuits may have to spend an hour or more per day in travel, which reduces the time available to hear cases. Urban judges may have their case processing time availability reduced by their administrative responsibilities. The size of courts may also affect the types of practices and procedures that economies of scale make possible. Colorado explicitly accounts for such differences by making adjustments to task weights and judge standards.

Weighted caseload studies can also offer a way to integrate measures for assessing the need for decision makers other than “judges.” Results can be used to determine the optimum mix of judges, magistrates, quasi-judicial officers, and court support staff necessary to meet the demands of a jurisdiction’s caseload.

In sum, weighted caseload studies are a valuable means for estimating the need for new judgeships and court support staff. As courts collect more specific and detailed workload measures, the ability to accurately assess judgeship need, as well as other judicial resource needs, will become more achievable.

## Missouri

### A Focused Look at Case Dispositions

Caseload data are fundamental for describing the current situation and recent case processing trends in any state court system. The goal is to provide a picture of the court's business and operating dynamics. With respect to one critical measure of performance, Missouri collects and examines detailed information about disposition methods for a variety of case types. Analyzing a few pieces of aggregate disposition data can help put information on topics such as pending caseloads and age of cases into a broader context. Obviously, jury trials require more judge time than dismissed or settled cases, and overall case management requires an understanding of disposition methods for specific case types.

In general, Missouri data on case dispositions show that trial rates are relatively low compared to the rates of default judgments and dismissals. The most notable exceptions are in small claims cases and, to a lesser extent, domestic relations cases. Bench trials accounted for 33 and 24 percent of these dispositions, respectively.

Most dismissals occur in general civil and chapter 517 cases. Chapter 517 cases are lower-stakes civil cases heard by associate judges. Most of these cases (55 percent) are uncontested. Associate judges also conduct preliminary hearings in criminal cases, just over half of which are bound over to circuit court. Once cases reach the circuit court level, 78 percent of defendants plead guilty. Only traffic cases, local ordinance cases, and cases certified from municipal courts have higher guilty plea rates (89 percent).

The ability of the courts and attorneys to settle cases, negotiate pleas, and otherwise avoid the costly effects of a trial, where appropriate, is important for effective case management. The data here show that the relative use of alternative methods of disposition depends largely on the type of cases being heard and the level of court jurisdiction. Although an increasing number of voices are calling for new tools and methods to handle disputes, a necessary first step is to develop a full picture of current filing and disposition patterns within each state.

Source: *Missouri Judicial Report Supplement, Fiscal Year 1995*, Office of the State Court Administrator.

### Missouri - Methods for Case Disposal

Type of Case	Method of Disposition	Percent of Cases Disposed
<b>General Civil</b> <i>1 in 5 general civil cases result in trial</i>	Dismissed	58%
	Court trial	18
	Uncontested	17
	Other	4
	Jury Trial	2
<b>Domestic Relations</b> <i>About three-quarters of domestic relations cases are uncontested or dismissed</i>	Uncontested	44%
	Dismissed	30
	Court Trial	24
	Other	2
<b>Chapter 517</b> <i>1 in 10 Chapter 517 cases result in a trial</i>	Uncontested	55%
	Dismissed	35
	Trial	9
	Other	1
<b>Small Claims</b> <i>One-third of small claims cases result in a trial</i>	Dismissed	39%
	Court Trial	33
	Uncontested	27
<b>Felony</b> <i>Three-quarters of felony cases are disposed by guilty plea</i>	Guilty Plea	78%
	Dismissed	11
	Other	7
	Trial	4
<b>Felony Preliminary</b> <i>About 1 in 10 felony preliminaries end in guilty pleas and roughly half are bound over</i>	Bound Over	52%
	Dismissed	28
	Guilty Plea	12
	Other	8
<b>Misdemeanor</b> <i>Two-thirds of misdemeanor cases end in guilty pleas and almost one-third are dismissed</i>	Guilty Plea	66%
	Dismissed	29
	Other	3
	Trial	2
<b>Traffic, Ordinance &amp; Muni Cert/TDN</b> <i>9 in 10 traffic, ordinance and muni cert/TDN cases end in guilty pleas</i>	Guilty Plea	89%
	Dismissed	9
	Trial	2

## Time on Appeal

### Examining 35 Intermediate Appellate Courts

A basic standard of state appellate court performance is timeliness. Appellate courts are expected to be expeditious in resolving cases brought before them without impairing the quality of the process or the outcome of appellate review. While timeliness is an important goal, there is currently considerable variation across appellate courts on this dimension of court performance. As part of a larger study to help uncover what accounts for these court-to-court differences, a recently completed NCSC project gathered comparable information on case processing time and a broad range of court characteristics in 35 state intermediate appellate courts (IACs).

The research addresses two fundamental questions concerning timeliness. First, what do the courts look like in comparative perspective? Second, given the differences in court processing times, what measurable features of courts are associated with these differences?

In response to the first of these two questions, the processing time for 75 percent of the cases is presented in the first table. The 75<sup>th</sup> percentile is an appropriate focal point because it includes more than the routine cases, yet avoids the atypical cases with longer processing times. The courts are displayed on the table in terms of speed using the IAC's 75<sup>th</sup> percentile time. The most expeditious court takes 222 days or fewer to resolve 75 percent of its civil and criminal cases, while the least expeditious court takes 811 days or fewer to resolve the same percentage. The average 75<sup>th</sup> percentile is 480 days. The American Bar Association has suggested that IACs consider a 290-day time limit when they set their time goals. This figure is an additional gauge when looking at the courts in comparative perspective.

Interestingly, the five courts at the bottom of the table that have civil or criminal jurisdiction are more closely knit in their processing times. Moreover, they are more expeditious than courts with both civil and criminal jurisdiction, which raises the question of whether the separation of civil from criminal appeals facilitates greater timeliness. That specific question is part of a larger issue – what, if anything, distinguishes the more expeditious courts from the less expeditious courts?

### Number of Days from Filing Notice of Appeal to Resolution of Appeal, Cases Disposed, 1993

State IAC	Mandatory Appeals		
	Number of Days at the 75th Percentile		
	Combined	Criminal	Civil
<b>Criminal and Civil Jurisdiction</b>			
Minnesota	222	286	209
Georgia	297	291	304
Maryland	328	313	343
Texas, 11th District	337	351	282
Pennsylvania	370	351	394
Arkansas	372	307	387
Missouri, South District	411	727	392
California, 3rd District	417	502	384
Missouri, West District	431	517	385
New Mexico	442	378	500
Missouri, East District	447	782	395
Texas, 9th District	463	488	434
California, 6th District	464	460	465
Iowa	485	498	439
California, 1st District	493	546	436
Colorado	511	652	434
Texas, 13th District	533	512	559
Massachusetts	539	532	542
New York, 4th Dept.	549	654	472
Oregon	554	533	677
Kentucky	596	630	571
New York, 1st Dept.	604	954	448
Washington, 3rd Div.	613	666	545
Arizona, 1st Division	627	506	743
Idaho	630	580	654
Texas, 5th District	633	697	390
California, 2nd District	644	693	609
Washington, 1st Div.	657	755	539
Michigan	720	700	800
Washington, 2nd Div.	811	801	817
<b>Criminal or Civil Jurisdiction</b>			
Tennessee, Middle Civil	190		190
Tennessee, East Civil	192		192
Tennessee, West Civil	271		271
Alabama, Criminal	280	280	
Tennessee, Criminal	318	318	

**Time on Appeal – Related Workload Measures and Court Characteristics, 1993**

(Sorted by Days at the 75th Percentile)

State IAC	Days at 75th Percentile	Filings per Law Clerk	Filings per Judge	Filings per Staff Attorney	Statewide Jurisdiction	Limitations on Oral Arguments		Reasoned Opinion Required	Civil Settlement Conferences	Selection of Chief Judge <sup>†</sup>
						Criminal	Civil			
<b>Criminal and Civil Jurisdiction</b>										
Minnesota	222	57	106	134	X	X	X	X		External
Georgia	297	96	289	2601	X	X	X		X	Internal
Maryland	328	77	154	335	X			X	X	External
Texas, 11th District	337	60	60	60		X	X	X		External
Pennsylvania	370	87	348	348	X					Internal
Arkansas	372	94	188	226	X		X			Internal
Missouri, South District	411	74	112	307		X			X	Internal
California, 3rd District	417	96	193	385		X		X	X	External
Missouri, West District	431	54	81	282		X	X		X	Internal
New Mexico	442	78	78	56	X	X	X			Internal
Missouri, East District	447	58	112	1564		X	X		X	Internal
Texas, 9th District	463	117	117	351		X	X	X		External
California, 6th District	464	91	181	362		X	X	X		External
Iowa	485	130	108	*	X	X	X			Internal
California, 1st District	493	77	153	364		X	X	X	X	External
Colorado	511	142	142	142	X	X	X			Internal
Texas, 13th District	533	105	105	211		X	X	X		External
Massachusetts	539	121	130	59	X			X		External
New York, 4th Dept.	549	84	176	220					X	External
Oregon	554	195	391	592	X	X	X			Internal
Kentucky	596	97	193	386	X	X	X	X	X	Internal
New York, 1st Dept.	604	110	229	270					X	External
Washington, 3rd Div.	613	76	153	1220				X		Internal
Arizona, 1st Division	627	76	151	151		X	X	X		Internal
Idaho	630	40	80	239	X	X	X	X		Internal
Texas, 5th District	633	175	175	207		X	X	X		External
California, 2nd District	644	114	227	455				X		External
Washington, 1st Div.	657	84	169	234				X		Internal
Michigan	720	378	336	130	X			X		Internal
Washington, 2nd Div.	811	108	215	287				X		Internal
<b>Criminal or Civil Jurisdiction</b>										
Tennessee, Middle Civil	190	92	92	366		n/a		X		Internal
Tennessee, East Civil	192	82	82	326		n/a		X		Internal
Tennessee, West Civil	271	44	44	174		n/a		X		Internal
Alabama, Criminal	280	116	349	*	X	X	n/a	X	n/a	Internal
Tennessee, Criminal	318	103	103	309	X		n/a	X	n/a	Internal

**Notes:**

\* = Court has no staff attorneys.

† = Internal - made by members of the court, or by the chief judge or seniority. External - made by the governor or through popular election.

X = Yes

n/a = not applicable

In response to the issue of explaining timeliness, the IACs were examined using a number of standard court characteristics. These characteristics are shown on the second table and include workload measures such as filings per law clerk and judge, court structure and jurisdiction, and several other procedural case processing measures. The information displayed is also sorted using the IAC's 75<sup>th</sup> percentile time to help facilitate the comparison of court measures and characteristics to time on appeal.

The connection is complex because expeditious courts share some, but not all, of the characteristics. To begin the process of sorting out the linkage between processing time and court characteristics, the study employed a statistical tool called regression analysis. The statistical results indicate that the court characteristics under study account for a considerable amount of the variation in court processing time. In addition, the analysis reveals which characteristics are most important and to what extent they can affect time on appeal. Influential characteristics include filings per judge, filings per law clerk, and statewide jurisdiction of the courts. Looking at just the resource-related factors, for example, suggests that the more work per judge, the more time it takes the court to resolve cases, and the more work per law clerk, the more time it takes the court to resolve cases.

The ratio of case filings to law clerks actually is a stronger determinant of processing time than the ratio of filings to judges, as might be expected. The responsibilities and duties of law clerks are strikingly similar from court to court and reflect similarities in age, background, and training. As a result, the number of law clerks is more likely to be related to processing time than the number of judges or the number of central staff attorneys, who vary more from court to court in terms of background, experience, and responsibility. The higher value of law clerks as a statistical predictor does not mean, however, that their work is more important than that of judges or staff attorneys.

Looking ahead, the research results have two major implications for IACs. First, they offer a context for all IACs to compare themselves to the 35 courts examined. How do they compare to similarly situated courts? Is there room for improvement? Are they adequately funded? How can the results of this inquiry be used in garnering needed resources?

Second, the setting of individual and national time standards requires a deeper understanding of the relationship between workload and court resources. From this perspective consideration should be given to developing time standards in tandem with resource standards. How many cases per judge is desirable? Given that standard, how expeditious can courts be expected to be? Is that expected degree of timeliness satisfactory? This iterative process will be difficult, but in the end, the results will be more useful for developing reasonable and achievable time standards and for determining resource needs.

Sources: Roger Hanson, *Time on Appeal* (Williamsburg, VA: National Center for State Courts, 1996); National Center for State Courts and the Appellate Court Performance Standards Commission, *Appellate Court Performance Standards* (Williamsburg, VA: 1995); and American Bar Association, *Standards Relating to Appellate Courts* (Chicago, IL: 1995).

## Federal Caseloads Since 1950 and Ten Years of Recent Change

A basic comparison of state and federal trial court caseloads is shown in the table below. The cases included in this comparison come from courts of general and limited jurisdiction on the state side and from U.S. District Courts, U.S. Magistrate Courts, and U.S. Bankruptcy Courts on the federal side. Briefly stated, about 98 percent of the nation's total volume of cases are heard in state courts. This comparison, however, is too simplistic, since state court caseloads are dominated by traffic and local ordinance violation cases that have no counterpart in the federal system.

To maximize comparability among the state and federal systems, we limit the comparison to civil and criminal caseloads in the primary trial courts of each system: the U.S. District Courts and the state trial courts of general jurisdiction. On the criminal side, both court systems handle primarily felonies; on the civil side, the dollar limits and case types of the state trial courts of general jurisdiction somewhat approximate those of private civil suits faced by the U.S. District Courts.

The table to the right shows filings per judge for courts and case types that are more similar than those in the aggregate caseload table. On average, a judge in a state court of general

jurisdiction handles six times as many criminal and three times as many civil cases as a U.S. District Court judge.

Additional perspective comes from comparing the trends in state court caseloads to caseload trends at the federal level. Over the 35 years from 1950 to 1985, the civil caseload in the U.S. District Courts increased fivefold before decreasing through the early 1990s. In contrast, the criminal caseload has remained stable over time: the number of criminal filings in 1995 (44,924) was remarkably close to the number reported in 1972 (42,434).

Unlike federal civil filing data, reliable and comparable civil caseload data in the state trial courts has been obtained only recently. An accompanying chart compares the trend in civil filings for U.S. District and state trial courts restricted to the years 1984-1995. As indicated by the chart's vertical scales (300,000 versus 16 million cases), the state court caseload is much larger than the federal caseload.

### Case Filings per Judge: General Jurisdiction Courts vs. U.S. District Courts, 1990-1995

Year	— General Jurisdiction —			— U.S. District —		
	Total	Criminal	Civil	Total	Criminal	Civil
1990	1,401	407	994	462	81	381
1991	1,401	409	992	398	73	325
1992	1,424	421	1,003	430	75	355
1993	1,396	413	983	426	72	354
1994	1,415	424	991	434	70	364
1995	1,403	416	987	454	71	383

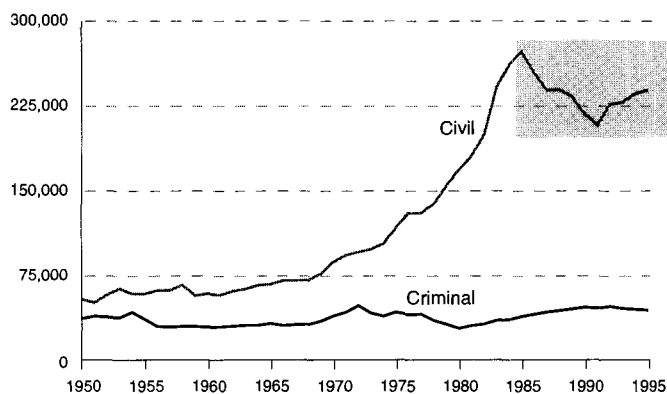
### Aggregate Filings in Federal and State Courts, 1995

	Filings	Percent Change from Previous Year
<b>Federal Courts</b>		
Criminal	45,788	0.7%
Civil	248,335	5.1
Bankruptcy	883,457	5.5
Magistrates	512,741	-0.9
<b>Total</b>	<b>1,690,321</b>	<b>3.3</b>
<b>State Courts</b>		
Criminal	13,264,432	2.9
Civil	14,754,589	1.6
Domestic	4,901,214	4.1
Juvenile	1,871,147	2.6
Traffic	50,926,093	0.6
<b>Total</b>	<b>85,717,475</b>	<b>1.3</b>

Since 1984, federal civil caseloads decreased about 9 percent, although filings have begun to increase slightly since 1991. In contrast, civil filings in the state courts increased 29 percent since 1984 and grew the fastest before 1992. State court civil caseloads dropped about 6 percent from 1992 to 1994 before edging slightly upward again in 1995.

The generally stable federal criminal caseload reached a low in 1980. Since that time, the federal criminal caseload has increased 50 percent.

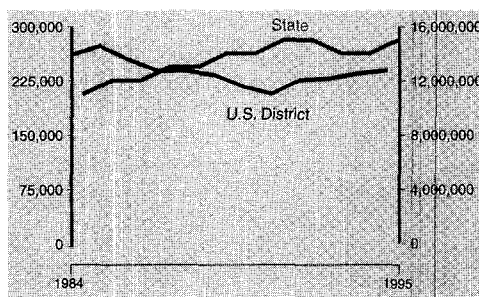
**U.S. District Court Civil and Criminal Cases, 1950-1995**



As seen in the graphic to the right, the number of drug cases has contributed to the upward trend in the criminal caseload. The influx of federal and state dollars dedicated to the War on Drugs during the 1980s heavily impacted judiciaries. Much of these resources were spent to apprehend individuals involved with selling and possessing crack cocaine. The impact of this policy is seen in the narcotics trend line, as the more serious felony drug offense cases are most often counted in the narcotics category.

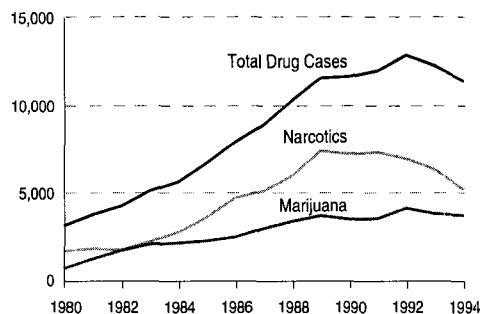
The conviction rate in federal criminal cases has also been increasing. It has grown from 75 percent in 1972 to its current rate of 85 percent. In addition, the number of multi-defendant cases has increased 70 percent since 1980. These factors affect judicial workload in a number of ways. Higher conviction rates create more sentencing hearings and require the completion of more pre-sentence investigation reports even if there is no growth in caseloads. Multi-defendant cases also require more judicial time. According to a recent Federal Judicial Center study, judges spend an average of 5.8 hours per defendant in multi-defendant cases versus 3 hours in single-defendant cases.

**U.S. District and State Court Civil Caseloads**



As the “drug war” entered the 1990s, arrest and prosecution levels began to slow. The trend in the total federal criminal caseload also leveled off, pointing out its sensitivity to changes in the drug offense caseload.

**U.S. District Court Drug Cases, 1980-1994**



Sources: *The Criminal Caseload in U.S. District Courts: A 20 Year Perspective and Judicial Business of the United States Courts*, Administrative Office of the U.S. Courts. Data also obtained directly from the Analysis and Reports Branch and the Analytical Services Office, Statistics Division, Administrative Office of the United States Courts, Washington, D.C.

## Canada

### Measures from the Provincial Courts

Court systems in the United States can benefit by examining how judiciaries in other countries assess case processing and workload. The U.S. trial courts can also compare the results of their workload and case processing analysis with those of courts having similar jurisdiction in other countries. The Canadian Centre for Justice Statistics collects, analyzes, and reports data pertaining to the federal and provincial courts' systems. Reviewing some of their adult and youth criminal court data demonstrates the utility of presenting a selection of case processing measures.

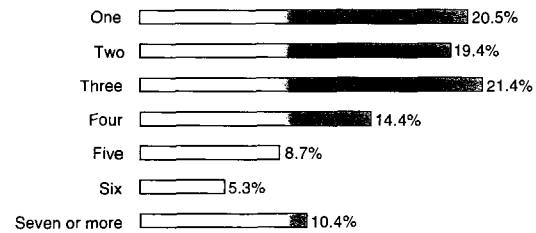
As in the United States, the number of defendant appearances and the amount of time it takes to dispose a case will have an impact on judicial workload. Canadian figures show that, on average, 40 percent of criminal cases required only one or two appearances to reach final disposition and another 39 percent required four or more appearances. Further analysis shows that violent offenses require more court appearances than property and criminal traffic offenses:

	Percent requiring 4 or more appearances
All criminal offenses	39%
Violent offenses	46%
Property offenses	40%
Criminal traffic offenses	32%

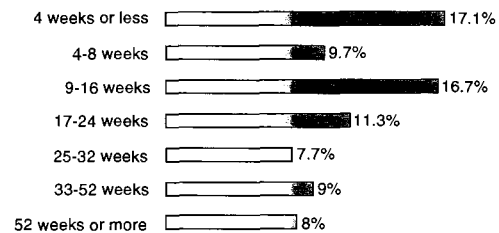
As the amount of time between first appearance and final disposition increases, the potential for future court delays and caseload backlog increases as well. Almost half of the criminal cases in Canada are disposed within eight weeks (including the 20.5 percent requiring only one court appearance). The elapsed time between first appearance and disposition varies geographically in Canada, as is often the case across U.S. localities. For instance, the Prince Edward Island court completed 84 percent of the criminal cases within eight weeks, whereas Quebec courts completed 43 percent of the criminal cases within the same time frame. In some instances, this type of data assessment provides the perspective, and perhaps even the "benchmarks," to assist jurisdictions with comparing and evaluating their caseload management procedures.

### Adult System, 1993

#### Rate of Court Appearances



#### Elapsed Time from First Appearance to Disposition



Note: The above charts represent roughly 30% of national coverage.



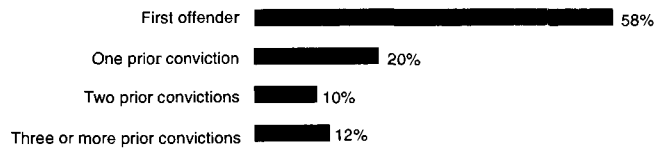
The two adjacent bar graphs represent data collection efforts that help describe the work of the juvenile courts in Canada. On average, 58 percent of the youth who enter the juvenile system are first-time offenders, i.e., they have no convictions from a youth court from the same province or territory. Further analysis shows that those who have prior convictions are not always brought to court for more serious offenses. For example, about 19 percent of the recidivists (those in the bar chart with one or more priors) received a new conviction for a violent offense, whereas 25 percent of first-time offenders were convicted of a violent crime.

The second bar chart shows the 18 most frequently heard criminal case types in the Canadian youth courts. These offenses account for 93 percent of the cases processed through youth courts. Almost half of these cases involve property crimes, commonly including theft, breaking and entering, and possession of stolen goods. About 20 percent involve crimes against the person, most of which involve minor and aggravated assaults (13 percent). Under the Young Offender Act of 1984, cases considered status offenses in the United States are handled outside of the Canadian courts (usually by social service agencies, educational authorities, or the Children's Aid Society).

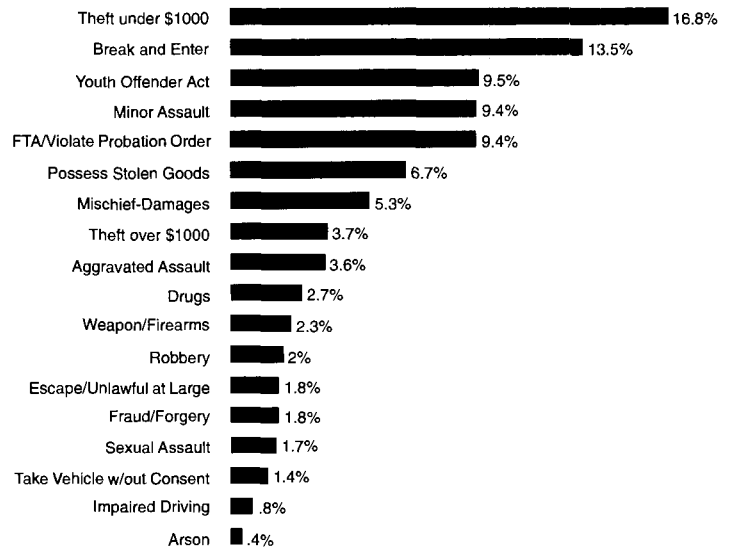
In the juvenile justice system, determining workload and the allocation of judicial resources may mean affording more attention to the ways we measure case processing. Many state and federal data systems are still lacking adequate specificity and reporting capacities, and few jurisdictions have access to detailed data similar to the data presented here.

### Youth System, 1993

#### Prior Record of Youth Offenders, 1993-94



#### Case Types Heard in Youth Court, 1993-94



Note: Data exclude Ontario and Nova Scotia. Prior convictions were those obtained in the same Canadian province/territory.

## *Appendices*

# Annotations and Sources

## Overview

### **Cases Filed in State Courts, 1984-1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **Types of Cases Filed in State Courts, 1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **Traffic Cases Filed in State Courts, 1984-1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **Number of Parking Filings in 13 States, 1989-1995**

States included: AL, CA, HI, IL, MD, MN, NJ, NM, NY, SD, TX, UT, WA

### **State Trial Court Filings by Court Jurisdiction, 1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **Caseload Composition in State Courts, 1985 vs. 1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **State Trial Court Caseload Composition – Traffic vs. Nontraffic, 1985-1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **Number and Rate of Judges in Unified and General Jurisdiction Courts in 48 States, 1995**

States excluded: GA, MS, NV, PA

## Civil

### **Civil Cases Filed in State Trial Courts by Jurisdiction, 1984-1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **Civil Caseload Composition in Unified and General Jurisdiction Courts in 17 States, 1990 vs. 1995**

States included: AZ, CO, CT, FL, HI, KS, ME, MD, MN, MO, NV, ND, TN, TX, UT, WA, WI

### **Civil Caseload Composition in Limited Jurisdiction Courts in 12 States, 1995**

States included: AL, AK, AZ, FL, HI, IN, KY, NH, NY, OH, OR, TX

### **Total Civil Filings (excluding domestic relations filings) in 50 States, 1995**

States excluded: GA, PA

### **Civil Caseload Clearance and Growth Rates for Unified and General Jurisdiction Courts in 43 States, 1993-1995**

States excluded: GA, LA, MS, NV, ND, PA, RI, WI, WY

### **General Civil Dispositions in 45 Large Urban Courts, 1992**

The data for this table were derived from the Civil Trial Court Network (CTCN), a Bureau of Justice Statistics-sponsored project that includes data from 45 of the 75 largest counties.

## Tort/Contract

### **Estimates of General Civil Caseloads and Jury Trials in General Jurisdiction State Courts, 1992**

The data for this table were derived from the Civil Trial Court Network (CTCN), a Bureau of Justice Statistics-sponsored project that includes data from 45 of the 75 largest counties.

### **Tort Filings in General Jurisdiction Courts in 16 States, 1975-1995**

States included: AK, CA, CO, FL, HI, ID, KS, ME, MD, MI, ND, OH, TN, TX, UT, WA

**Contract Filings in General Jurisdiction Courts in 17 States, 1984-1995**

States included: AZ, AR, CO, CT, FL, HI, KS, ME, MD, MN, NC, ND, PR, TN, TX, UT, WA

**Tort Filing Growth Rates (per 100,000 population) in 27 States, 1990 vs. 1995**

States excluded: AL, DE, DC, GA, IL, IA, KY, LA, MA, MS, MT, NE, NH, NJ, NM, OK, OR, PA, RI, SC, SD, VT, VA, WV, WY

**Contract Filing Growth Rates (per 100,000 population) in 22 States, 1990 vs. 1995**

States excluded: AL, CA, DE, DC, GA, ID, IL, IN, IA, KY, LA, MI, MS, MT, NE, NH, NJ, NM, OH, OK, OR, PA, PR, RI, SC, SD, VT, VA, WV, WY

**Tort Cases with Self-Represented (Pro se) Litigants by Case Type in 75 Large Urban Courts, 1992**

**Manner of Disposition in Tort and Contract Cases in 75 Large Urban Courts, 1992**

**Percentage of Contract Cases with Answers Filed in 75 Large Urban Courts, 1992**

**Case Processing Times for Tort and Contract Case Types in 75 Large Urban Courts, 1992**

**Time to Disposition for Tort and Contract Cases in 45 Counties, 1992**

**Plaintiff Win Rates in Tort Jury Trials in 75 Large Urban Courts, 1992**

**Median Jury Awards in 75 Large Urban Courts, 1992**

**Final Award Amounts in Jury Trial Cases in 75 Large Urban Courts, 1992**

**Frequency of Punitive Damage Awards to Plaintiffs in 75 Large Urban Courts, 1992**

**Award Amounts to Plaintiff Winners in All Jury Cases in 45 Counties, 1992**

**Size of Punitive Damage Awards in the 75 Largest Counties, 1992**

The data for the 11 graphics above were derived from the Civil Trial Court Network (CTCN), a Bureau of Justice Statistics sponsored project that includes data from 45 of the 75 largest counties.

## Domestic Relations

**Domestic Relations Filings in General and Limited Jurisdiction Courts, 1984-1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

**Domestic Relations Cases by Type, 1988-1995**

**Divorce**

States included: AK, AR, CA, CO, CT, DE, DC, FL, HI, ID, IN, IA, KS, ME, MD, MA, MI, MN, MT, NV, NJ, NY, NC, ND, OH, OK, PA, PR, RI, SD, TN, TX, UT, VT, VA, WV, WI

**Custody**

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

**Domestic Violence**

States included: AK, AZ, DC, FL, ID, IA, ME, MD, MA, MI, MN, NH, NJ, NY, ND, OH, RI, VT, VA, WA, WY

**Paternity**

States included: AK, CO, CT, DC, HI, IN, KS, LA, MD, MI, MO, NV, NY, ND, OH, OR, UT, WI

**Interstate Support**

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

**Adoption**

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

**Domestic Relations Caseload Composition in 29 States, 1995**

States included: AK, AR, CO, CT, DE, DC, FL, HI, IN, KS, LA, MI, MN, MO, NJ, NM, NY, ND, OH, OR, PR, RI, SD, TN, UT, VT, WA, WI, WY

**Domestic Violence Caseloads in 32 States, 1993-1995**

States excluded: AL, CA, CO, GA, IL, KS, MI, MS, MT, NE, NV, NC, OK, PA, PR, SC, SD, TN, TX, WI

## Juvenile

### Juvenile Filings in State Courts, 1984-1995

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### Juvenile Caseload Composition in 21 State Courts, 1995

States included: AL, AR, CA, DC, HI, LA, MD, MA, MI, MN, NH, NM, NY, NC, ND, OH, OK, TN, UT, WA, WY

## Criminal

### Criminal Cases Filed in State Courts, 1984-1995

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### Criminal Cases Filed in State Courts by Court Jurisdiction, 1984-1995

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### DWI Filings in 23 States, 1985-1995

General jurisdiction courts included: HI, ID, IA, KS, MA, OK, SD, TN, TX, WI

Limited jurisdiction courts included: AZ, AR, FL, HI, MD, NH, NJ, NM, OH, SC, TX, UT, WA, WY

### Criminal Caseload Composition by Court Jurisdiction, 1995

General jurisdiction states included: AZ, AR, IN, LA, ME, NM, NC, ND, OK, OR, TX, UT, VT, VA, WA, WV, WY

Unified states included: CT, DC, IL, ID, IA, KS, MA, MN, MO, PR, SD, WI

Limited jurisdiction states included: AL, AZ, AR, CO, FL, HI, LA, MD, MI, MT, NH, NM, OH, PA, SC, TX, UT, WA, WY

### Criminal Filing Rates in Unified and General Jurisdiction Courts in 48 States, 1995

States excluded: GA, MS, NV, PA

### Total Criminal Filings Per 100,000 Population, 1984-1995

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### Criminal Caseload Clearance and Growth Rates for Unified and General Jurisdiction Courts in 43 States, 1993-1995

States excluded: CA, CT, GA, LA, MA, MS, NV, PA, WI

### Manner of Disposition for Criminal Filings in 23 Unified and General Jurisdiction Courts, 1995

States excluded: AL, AZ, CO, CT, GA, ID, IL, KY, LA, MD, MA, MN, MS, MT, NE, NV, NH, ND, OR, PA, PR, RI, SC, TN, UT, VA, WV, WI, WY

## Felony

### Felony Filings in Unified and General Jurisdiction Courts in 38 States, 1984-1995

States included: AK, AR, AZ, CA, CO, CT, DC, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MO, NE, NH, NJ, NY, NC, ND, OH, OK, OR, PR, RI, SD, TX, UT, VT, VA, WA, WV, WY

### Felony Filing Rates in Unified and General Jurisdiction Courts in 40 States, 1993-1995

States excluded: DE, DC, FL, GA, MI, MS, MT, NV, PA, SC, TN, WI

### Felony Filings and Dispositions in Unified and General Jurisdiction Courts in 35 States, 1984-1995

States included: AK, AZ, CA, CT, DC, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MO, NE, NH, NJ, NY, NC, OH, OK, OR, PR, RI, SD, TX, UT, VT, VA, WA, WV, WY

### Felony Clearance Rates in Unified and General Jurisdiction Courts in 35 States, 1993-1995

States excluded: CO, DE, FL, GA, KS, LA, MI, MS, MT, NV, ND, PA, SC, TN, WA, WI, WY

## Appellate

### **Growth Rates of Felony Filings and Criminal Appeals in 18 States, 1984-1995**

States included: AK, AR, CA, HI, ID, IL, IN, IA, KY, MD, MA, MN, MO, NC, OH, OR, TX, WI

### **Growth Rates of Civil Filings and Civil Appeals in 25 States, 1984-1995**

States included: AL, AZ, AR, CA, HI, ID, IN, IA, KY, LA, MD, MA, MI, MN, MO, NM, NC, OH, OR, PA, SC, TX, VA, WA, WI

### **Total Appellate Caseloads, 1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **Total Appellate Court Filings, 1995**

Data were available from all 50 states, Puerto Rico, and the District of Columbia

### **Intermediate Appellate Court Caseloads, 1984-1995**

All 41 states that have an IAC are represented. Some states did not have an IAC for all of the 12 years represented, but newly created IACs are included from the year they were established.

### **Caseloads in Courts of Last Resort, 1984-1995**

Data were available from all 50 states and the District of Columbia

### **Composition of Mandatory Appeals in 20 Intermediate Appellate Courts, 1995**

States included: AL, AK, AZ, AR, HI, IL, IN, KS, KY, LA, MN, NM, NY, NC, OH, OR, PA, TN, UT, VA

### **Composition of Discretionary Petitions in 30 COLRs, 1995**

States included: AL, AK, AZ, CA, GA, IL, IN, KY, LA, MI, MN, MS, NV, NM, NY, NC, ND, OH, OK, OR, RI, SD, TN, TX, VT, VA, WA, WV, WI, WY

### **Original Proceedings and Disciplinary Matters in Appellate Courts, 1995**

Original proceedings in 39 states. States excluded: AK, CT, IA, ME, MA, MI, MS, NE, NH, NJ, NY, NC, OK

Disciplinary matters in 34 states. States excluded: AR, CT, HI, IL, IA, ME, MA, MS, MT, NE, NH, NC, OK, PA, RI, SD, TN, VA

### **Mandatory Appeals in IACs, 1985-1995**

Civil includes 28 states: AL, AZ, AR, CA, CT, HI, ID, IL, IN (Courts of Appeal and Tax), IA, KY, LA, MD, MA, MI, MN, MO, NM, NC, OH, OR, PA (Superior and Commonwealth), SC, TX, UT, VA, WA, WI

Criminal includes 27 states: AL, AK, AZ, AR, CA, CT, HI, ID, IL, IN, IA, KY, LA, MD, MA, MI, MN, MO, NM, NC, OH, OR, SC, TX, UT, WA, WI

### **Discretionary Petitions in COLRs in 14 States, 1987-1995**

States included: CA, IL, LA, MI, MN, NY, NC, OH, OR, TX, VA, WA, WV, WI

### **Discretionary Petitions Granted in 26 Courts of Last Resort, 1995**

States excluded: AZ, AR, CO, DE, FL, ID, IA, KY, ME, MT, NV, NH, NJ, NM, NY, ND, OK, PA, PR, SC, UT, VT, VA, WA, WI, WY

### **Clearance Rates in Intermediate Appellate Courts, 1993-1995**

States excluded: DE, DC, HI, ME, MS, MT, NV, NH, NM, ND, PR, RI, SD, VT, WV, WY

## *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 (for 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, 1995* and *State Court Caseload Statistics, 1995* 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 1995 caseload statistics is provided in the companion volume to this report, *State Court Caseload Statistics, 1995*.

## *State Court Caseload Statistics, 1995*

The analysis presented in *Examining the Work of State Courts, 1995* is derived in part from the data found in *State Court Caseload Statistics, 1995*. 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, 1995* 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 1995, 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 reported 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 identification of 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.

**1995 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 1986-1995. 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 over-inclusive, 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, 1995*) 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 "Research" Division and then "Research Division Projects" to learn more. Comments, suggestions, and corrections from users of *Examining the Work of State Courts, 1995*, *State Court Caseload Statistics, 1995* and the *Caseload Highlights* series are encouraged, and can be sent to:

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