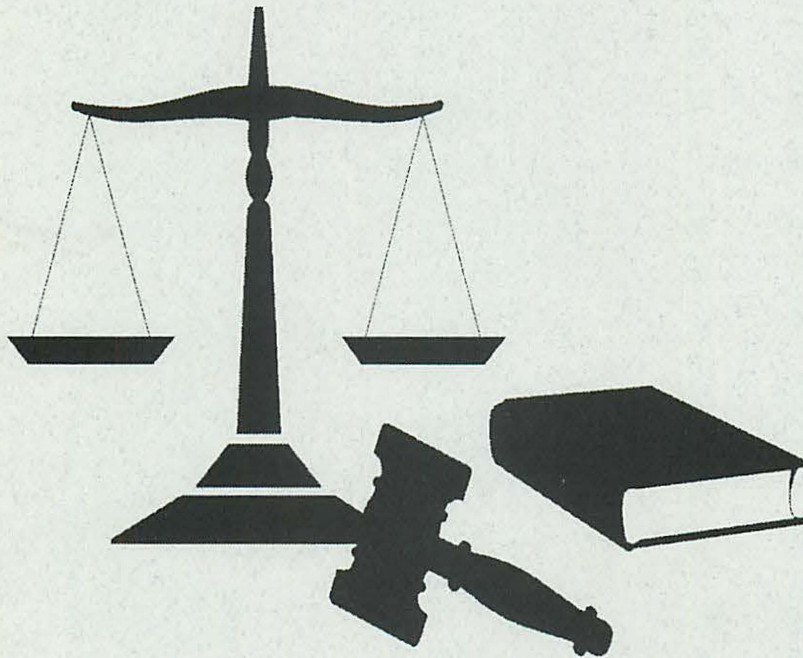


NORTH DAKOTA COURTS



**ANNUAL REPORT
1994**



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STATE COURT ADMINISTRATOR

State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

May 22, 1995

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TO THE HONORABLE CHIEF JUSTICE
AND JUSTICES OF THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA:

TO THE HONORABLE MEMBERS OF THE
NORTH DAKOTA JUDICIAL CONFERENCE:

I am pleased to submit to you the Annual Report of the North Dakota judicial system. This report highlights the activities of the North Dakota judicial system during calendar year 1994. It provides statistical information on our courts and reports on other developments and activities which are shaping our judicial system. It should prove valuable as a reference source for anyone wishing to learn about the operation of the judicial system in North Dakota.

I take this opportunity to publicly acknowledge the valuable assistance and cooperation extended to me by the judges and court personnel whose reports provided the information contained in the Annual Report. Particular thanks go to the staff of the State Court Administrator's office for their diligent work in compiling the statistics and designing the format for this work.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Keith E. Nelson".

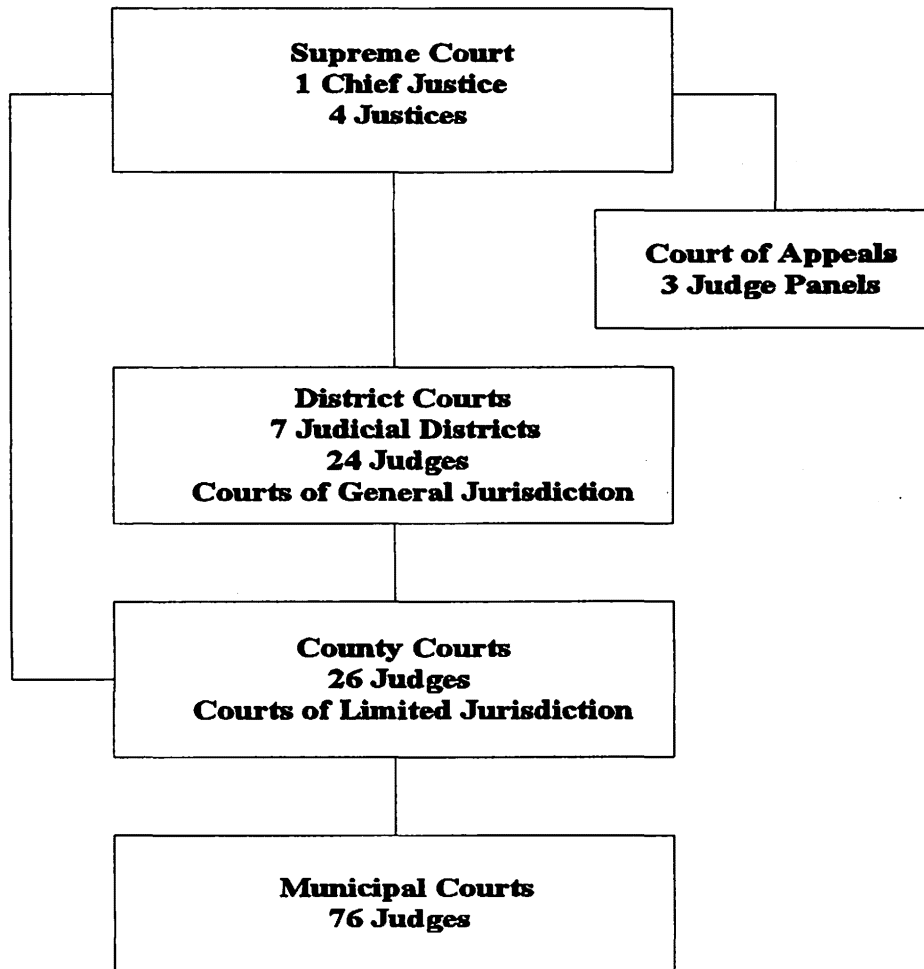
KEITHE E. NELSON
State Court Administrator and
Judicial Conference Executive
Secretary

KEN/cs

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THE STRUCTURE OF THE NORTH DAKOTA JUDICIAL SYSTEM



Profile of the North Dakota Judicial System

Structure of the Court System

The original constitution of the state of North Dakota created a judicial system consisting of the Supreme Court, district courts, justice of the peace courts, and such municipal courts as provided by the law. This judicial structure remained intact until 1959 when the Legislative Assembly abolished the justice of peace courts in the state.

The adoption of a new judicial article to the state constitution in 1976 significantly modified the constitutional structure of the judicial system. The new judicial article vested the judicial powers of the state in a unified judicial system consisting of a Supreme Court, district courts, and such other courts as provided by law. Thus, under the new judicial article, only the Supreme Court and the district courts have retained their status as constitutional courts. All other courts in the state are statutory courts.

In 1981 the Legislative Assembly further altered the structure of the judicial system by enacting legislation that replaced the multi-level county court structure with a uniform system of county courts throughout the state. This new county court structure became effective on January 1, 1983.

With the county court system in place, the judicial system of the state consists of the Supreme Court, district courts, county courts, and municipal courts.

This will change once again as 1991 House Bill No. 1517 is implemented between July 1, 1991, and final implementation on January 2, 2001. Briefly stated, this legislation will abolish county courts on January 1, 1995, with the jurisdictional workload transferring to an expanded number of district judges. The current number of 26 county judges and 24 district judges will, by the year 2001, be reduced to a total of 42 district judges with no county judges. Several advisory committees of the Supreme Court are studying implementation with the goal of providing recommendations to the Supreme Court.

Administrative Authority

The 1981 Legislative Assembly clarified the administrative responsibilities of the Supreme Court by designating the chief justice as the administrative head of the judicial system and by granting the chief justice the authority

to assign judges for temporary duty in any non-federal court in the state. It also acknowledged the Supreme Court's rulemaking authority in such areas as court procedure and attorney supervision.

Selection and Removal of Judges

All judges in North Dakota are elected in nonpartisan elections. Justices of the Supreme Court are elected for ten-year terms; district court judges for six-year terms; and all other judges for four-year terms.

Vacancies in the Supreme Court and the district courts can be filled either by a special election called by the governor or by gubernatorial appointment. However, before a vacancy can be filled by gubernatorial appointment, the Judicial Nominating Committee must first submit a list of nominees to the governor from which the governor makes an appointment. Whether the vacancy is filled by a special election or by appointment, the person filling the judicial vacancy serves only until the next general election. The person elected to the office at the general election serves for the remainder of the unexpired term.

Vacancies in the various county courts are filled by the board of county commissioners of the county where the vacancy occurs or by a special election called by the board of county commissioners. If the county commissioners choose to fill the vacancy by appointment, they must select from a list of nominees submitted by the Judicial Nominating Committee.

If a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

Under the North Dakota Constitution only Supreme Court justices and district court judges can be removed from office by impeachment. All judges, however, are subject to removal, censure, suspension, retirement or other disciplinary action for misconduct by the Supreme Court upon the recommendation of the Judicial Conduct Commission. Other methods for the retirement, removal and discipline of judges can be established by the Legislative Assembly.

North Dakota Supreme Court



Left to right: (Sitting) Justice Herbert L. Meschke; Chief Justice Gerald W. VandeWalle; Justice Beryl J. Levine;
(Standing) Justice William A. Neumann; Justice Dale V. Sandstrom

The North Dakota Supreme Court has five justices. Each justice is elected for a ten-year term in a nonpartisan election. The terms of the justices are staggered so that only one judgeship is scheduled for election every two years. Each justice must be a licensed attorney and a citizen of the United States and North Dakota.

One member of the Supreme Court is selected as chief justice by the justices of the Supreme Court and the district court judges. The chief justice's term is for five years or until the justice's elected term on the court expires. The chief justice's duties include presiding over Supreme Court conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court is the highest court for the State of North Dakota. It has two major types of responsibilities: (1) adjudicative and (2) administrative.

In its adjudicative capacity, the Supreme Court is primarily an appellate court with jurisdiction to hear appeals from decisions of the district courts and the county courts. All appeals from these courts must be accepted for review by the court. In addition, the court also has original jurisdiction authority and can issue such original and remedial writs as are necessary to exercise this authority.

The state constitution requires that a quorum, composed of a majority of the justices, is necessary before the court can conduct its judicial business. It also stipulates that the court cannot declare a legislative enactment unconstitutional unless four of the justices so decide. When the court decides an appeal, it is required to issue a written opinion stating the rationale for its decision. Any justice disagreeing with the majority opinion may issue a dissenting opinion which explains the reasons for the disagreement with the majority.

In its administrative capacity, the Supreme Court has major responsibilities for ensuring the efficient and effective operation of all nonfederal courts in the state, maintaining

high standards of judicial conduct, supervising the legal profession, and promulgating procedural rules which allow for the orderly and efficient transaction of judicial business. Within each area of administrative responsibility the court has general rulemaking authority.

The court carries out its administrative responsibilities with the assistance of various committees and boards. It exercises its authority to admit and license attorneys through the State Bar Board. Its supervision of legal ethics is exercised through the Disciplinary Board of the Supreme Court and its supervision of judicial conduct is exercised through the Judicial Conduct Commission. Continuing review and study of specific subject areas within its administrative jurisdiction is provided through five advisory committees - the Joint Procedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee, the Court Services Administration Committee, and the Judicial Planning Committee. Other committees, such as, the Continuing Judicial Education Commission, Personnel Advisory Boards, and the Legal Counsel for Indigents Commission, also provide valuable assistance to the Supreme Court in important administrative areas.

Administrative personnel of the Supreme Court also play a vital role in helping the court fulfill its administrative functions. The clerk of the Supreme Court supervises the calendaring and assignment of cases, oversees the distribution and publication of Supreme Court opinions and administrative rules and orders, and decides certain procedural motions filed with the court. The state court administrator prepares statistical reports on the workload of the state's courts, provides judicial educational services, and performs such other administrative duties that are assigned by the Supreme Court. The state law librarian supervises the operation of the state law library.

NORTH DAKOTA SUPREME COURT

After review and analysis, the phrase "increased administrative burden" best describes the Supreme Court in 1994.

While the court effectively managed its traditional workload by filing opinions disposing of 292 cases, the need for effective administration was thrust upon the court with a record number of motions, over 720, to dispose of and pro se litigants filing 23% of the cases. The chief justice and clerk of court handled many of the motions and requests using their respective authority, however, the court met in conference every Wednesday morning to dispose of matters needing discussion and action by a majority.

The proactive case management system established in 1993 became a necessity in 1994. The clerk of court's office continued to screen cases for appealability and timeliness. Cases were identified for oral argument early in the process in an effort to discourage extensions of time and distribute the workload more evenly throughout the terms.

The pace of the court's caseload can also be described as heavy, especially in comparison to their colleagues from other states. Each justice wrote an average of 53 majority opinions, while 118 separate concurrences and dissents were written and filed. Two hundred fifty-three cases were calendared for oral argument in 1994 requiring over 63 days to be set aside for bench time. Add to this caseload the already mentioned motions, admission ceremonies, speeches, seminars, visits with students and other groups, and assorted official activities, and it is quite evident the North Dakota Supreme Court was hard at work in 1994.

A caseload synopsis follows. The nature of the cases is not, however, reflected in these statistics. Appeals in domestic relations cases, administrative agency appeals, and driving under the influence/suspension cases accounted for approximately 33% of the filings. As in previous years, the highest number of appeals came from the South Central Judicial District followed by the East Central Judicial District.

While the number of new filings in 1994 decreased from 1993, it is expected that the number of appeals will remain constant, if not rise, due to trial court unification.

CASELOAD SYNOPSIS OF THE SUPREME COURT FOR THE 1994 AND 1993 CALENDAR YEARS

| | 1994 | 1993 | Percent Difference |
|--|------|------|-----------------------|
| New Filings | 385 | 403 | -4.5 |
| Civil | 287 | 290 | -1.3 |
| Criminal | 98 | 113 | -13.3 |
| Transferred to Court of Appeals | 0 | 6 | -100.0 |
| Civil | 0 | 4 | -100.0 |
| Criminal | 0 | 2 | -100.0 |
| New Filings Balance | 385 | 397 | -3.0 |
| Civil | 287 | 286 | +.3 |
| Criminal | 98 | 111 | -11.7 |
| Filings Carried Over From Previous Calendar Year | 223 | 208 | +7.2 |
| Civil | 168 | 166 | +1.2 |
| Criminal | 55 | 42 | +30.9 |
| Total Cases Docketed | 608 | 605 | +.5 |
| Civil | 455 | 452 | +.66 |
| Criminal | 153 | 153 | .0 |
| Dispositions | 408 | 382 | +6.8 |
| Civil | 299 | 286 | +4.5 |
| Criminal | 109 | 96 | +13.5 |
| Cases Pending as of December 31 | 200 | 223 | -10.3 |
| Civil | 156 | 166 | -5.9 |
| Criminal | 44 | 57 | -22.8 |

DISPOSITIONS - 1994

| | Civil | Criminal |
|---|--------------|-----------------|
| BY OPINION: | | |
| Affirmed; Modified & Affirmed | 116 | 36 |
| Reversed; Reversed & Remanded; Reversed & Modified | 46 | 22 |
| Affirmed in Part & Reversed in Part | 13 | 0 |
| Affirmed by Summary Disposition | 25 | 4 |
| Dismissed | 8 | 7 |
| Discipline Imposed | 9 | 0 |
| Reinstatement Ordered | 1 | 0 |
| Original Jurisdiction--Granted | 1 | 0 |
| Certified Question Answered | 4 | 0 |
| Dispositions by Opinion | 223 | 69 |
| BY ORDER: | | |
| Dismissed | 42 | 18 |
| Dismissed After Conference | 18 | 17 |
| Original Jurisdiction--Granted | 3 | 0 |
| Original Jurisdiction--Denied | 12 | 5 |
| No Action Required | 1 | 0 |
| Dispositions by Order | 76 | 40 |
| Total Dispositions for 1994 | 299 | 109 |

**CASELOAD OVERVIEW OF NORTH DAKOTA COURTS
FOR 1994 AND 1993**

| Level of Court | Fllings | | Dispositlons | | Pendings at Year's End | |
|-----------------------|----------------|----------------|---------------------|----------------|-------------------------------|---------------|
| | 1994 | 1993 | 1994 | 1993 | 1994 | 1993 |
| Supreme Court | 385 | 403 | 408 | 382 | 200 | 223 |
| District Courts* | 24,941 | 23,970 | 23,807 | 23,323 | 12,765 | 11,631 |
| County Courts* | 100,974 | 98,075 | 99,011 | 97,696 | 32,000 | 28,383 |
| TOTAL | 126,300 | 124,448 | 123,226 | 121,401 | 44,965 | 40,237 |

*As of January 1, 1995, the county courts were combined into the district courts. Statistics for 1995 and years following will combine the above numbers under the district courts.

NORTH DAKOTA COURT OF APPEALS

The Court of Appeals was established in 1987 to assist the Supreme Court in managing its workload. Two panels of the Court of Appeals, hearing 6 cases, were called in 1994.

Judges serving on the panels were:

January 24, 1994

Surrogate Judge Ralph J. Erickstad, Chief Judge
 Surrogate Judge Jon R. Kerian
 Surrogate Judge Kirk Smith

February 4, 1994

Surrogate Judge Ralph J. Erickstad, Chief Justice
 Surrogate Judge Gordon O. Hoberg
 District Judge Lee A. Christofferson

Cases assigned to the Court of Appeals under Administrative Rule 27 included family law issues, appeals from administrative agency decisions, appeals from orders on motions for summary judgment, and misdemeanor convictions. During 1994, two petitions for rehearing were denied by the Court of Appeals and the Supreme Court denied three petitions for review.

Statistical summaries of the Court of Appeals case assignments and dispositions follow.

CASELOAD SYNOPSIS OF THE COURT OF APPEALS FOR THE 1994 AND 1993 CALENDAR YEARS

| | 1994 | 1993 |
|--|------|------|
| Cases transferred to Court of Appeals from Supreme Court | 0 | 6 |
| Civil | 0 | 4 |
| Criminal | 0 | 2 |
| Filings Carried Over From Previous Calendar Year | 6 | 7 |
| Civil | 4 | 3 |
| Criminal | 2 | 4 |
| Total Cases Docketed | 6 | 13 |
| Civil | 4 | 7 |
| Criminal | 2 | 6 |
| Dispositions | 6 | 7 |
| Civil | 4 | 3 |
| Criminal | 2 | 4 |
| Cases Pending as of December 31 | 0 | 6 |
| Civil | 0 | 4 |
| Criminal | 0 | 2 |

DISPOSITIONS - 1994 COURT OF APPEALS

| | Civil | Criminal |
|--|----------|----------|
| Affirmed; Modified & Affirmed | 2 | 1 |
| Reversed; Reversed & Remanded; Reversed & Modified | 1 | 0 |
| Affirmed in Part & Reversed in Part | 1 | 0 |
| Judgment Vacated & Remanded | 0 | 0 |
| Remanded | 0 | 1 |
| Dismissed | 0 | 0 |
| Total Dispositions for 1994 | 4 | 2 |

DISTRICT COURTS

There are district court services in each of the state's fifty-three counties. The district courts are funded by the state of North Dakota. The district courts have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal felony cases and have general jurisdiction for civil cases.

The district courts also serve as the juvenile courts in the state and have exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived. This jurisdiction includes cases in which a female minor is seeking judicial authorization to obtain an abortion without parental consent. Unlike a majority of other states, the responsibility for supervising and counseling juveniles who have been brought into court lies with the judicial branch of government in North Dakota. To meet these responsibilities, the presiding judge, in consultation with the district court judges of each judicial district, has the authority to employ appropriate juvenile court personnel. In addition to these personnel, the presiding judge, on behalf of the district court judges of the judicial district, may also appoint judicial referees to preside over juvenile proceedings, judgment enforcement proceedings, and domestic relations proceedings other than contested divorces.

The district courts are also the appellate courts of first instance for appeals from the decisions of many administrative agencies. Acting in this appellate capacity, district courts do not conduct a retrial of the case. Their decisions are based on a review of the record of the administrative proceeding conducted by the administrative agency under review.

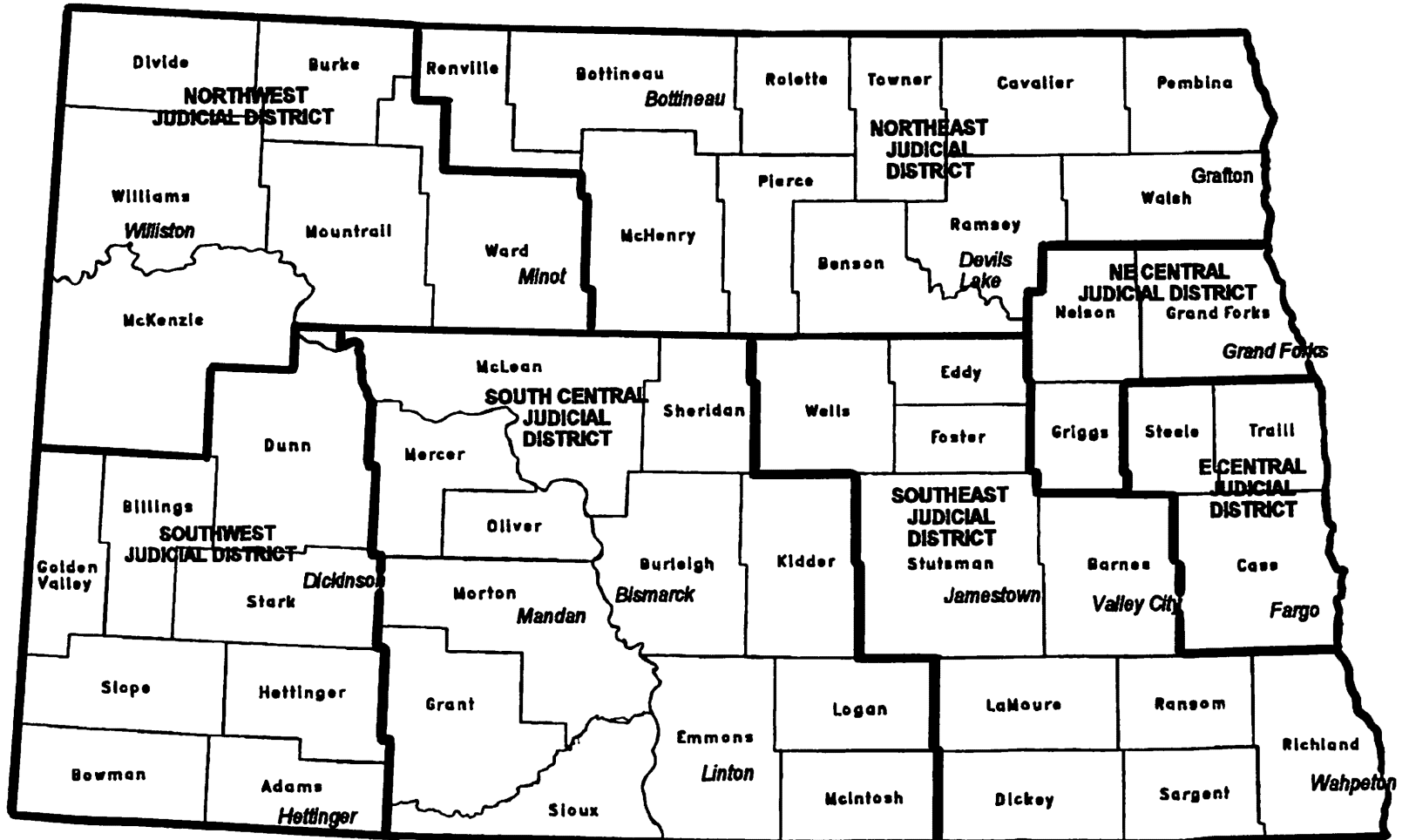
In 1979 the Supreme Court divided the state into seven judicial districts. In each judicial district there is a presiding judge who supervises all court services of all courts in the geographical area of the judicial district. The duties of the presiding judge, as established by the Supreme Court, include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases

among the judges of the district, and assigning judges within the judicial district in cases of demand for change of judge. All of the judicial districts are served by a court administrator or administrative assistant, who has the administrative responsibility for liaison with governmental agencies, budget, facilities, records management, personnel, and contract administration.

There are, as of the end of 1994, twenty-four district judges in the state. Four judges in two chamber city locations serve the South Central Judicial District, the largest geographically and most populous district in the state. There are also four judges in the Northwest Judicial District serving in two chamber locations. Four judges serve the East Central Judicial District in one chamber city location, and four judges serve the Northeast Central Judicial District in one chamber city location. Two judges serve the Northeast Judicial District in separate chamber cities. Three judges serve in each of the two remaining judicial districts, each in a different chamber city location, except in the Southwest Judicial District where two judges are chambered in one city. All district court judges are required by the state constitution to be licensed North Dakota attorneys, citizens of the United States, and residents of North Dakota.

The office of district court judge is an elected position which is filled every six years in a nonpartisan election held in the district in which the judge will serve. Following the enactment in 1991 of House Bill 1517, if a vacancy in the office of district judge occurs, the Supreme Court must determine whether the vacancy should be filled or whether the vacant office should be abolished or transferred. If the vacancy is to be filled, the governor may either fill the vacancy by appointing a candidate from a list of nominees submitted by the Judicial Nominating Committee or by calling a special election to fill the vacancy. If the vacancy is filled by the nomination process, the appointed judge serves until the next general election, at which time the office is filled by election for the remainder of the term.

**NORTH DAKOTA'S JUDICIAL DISTRICTS
AND 1994 CHAMBER CITIES**



District Court Caseload

As indicated in the charts below, there was nearly a 4% increase in district court filings in 1994. This increase is reflective of the steady growth of court cases over the last several years, with the exception of 1993 which has shown a slight (.08%) decrease.

Special caution must be noted in reviewing the 1994 statistics. In anticipation of court unification, a number of counties combined their county and district court filing systems. Thus, cases which could be filed in either county or district court (i.e., contract collection cases) might not be counted in the same manner as previous years. However, a comparison of total county court cases plus district court cases for the year may be made.

Even with some differences in counting, the relative breakdown of types of cases and distribution within categories remain steady from year to year. The civil component remains the largest category of cases making up 83% of the caseload. Civil and juvenile contributed 8% and 9% respectively.

Both juvenile and criminal cases showed decreases in 1994. However, because these numbers are relatively small, they are subject to what appears to be significant percentage changes from years to year. Any comparison of numbers should be made using a multi-year trend.

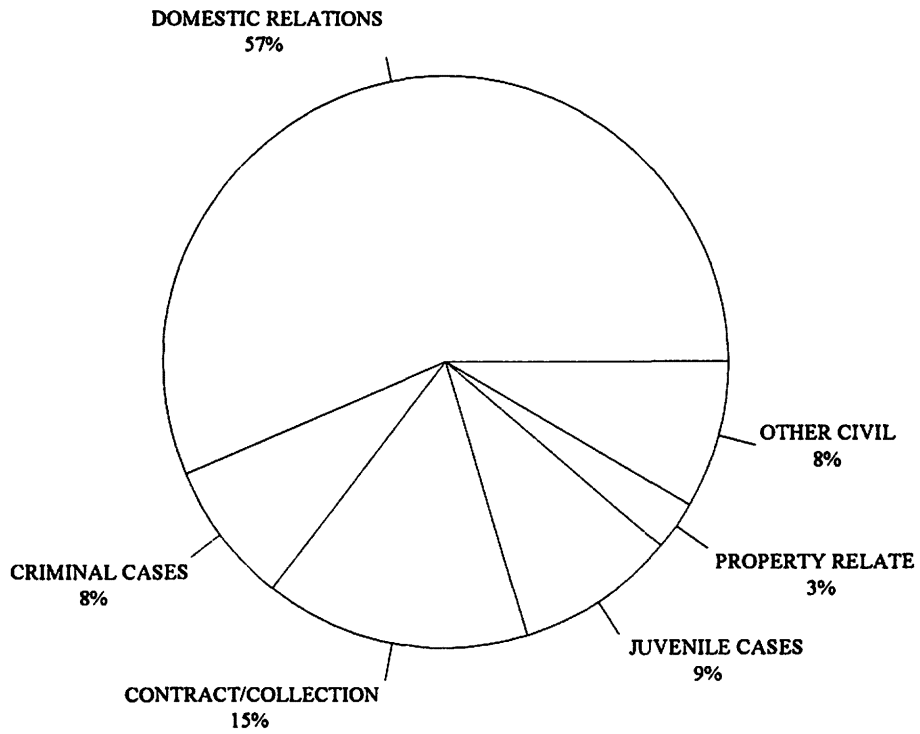
DISTRICT COURT CASELOAD FOR CALENDAR YEAR 1994 AND 1993

| | 1994 | 1993 | Percent Difference |
|--|-------|-------|--------------------|
| New Filings | | | |
| Civil | 24941 | 23970 | +3.8 |
| Criminal | 20770 | 19380 | +7.1 |
| Juvenile | 1971 | 2239 | -12.0 |
| Total | 2200 | 2351 | -6.4 |
| Cases Carried Over From Previous Year | | | |
| Civil | 11631 | 10984 | +5.8 |
| Criminal | 10236 | 9821 | +4.2 |
| Juvenile | 1395 | 1163 | +19.9 |
| Total | --- | --- | --- |
| Total Cases Docketed | | | |
| Civil | 36572 | 34954 | +4.6 |
| Criminal | 31006 | 29201 | +6.1 |
| Juvenile | 3312 | 3402 | -2.6 |
| Total | 2200 | 2351 | -6.4 |
| Dispositions | | | |
| Civil | 23807 | 23323 | +2.0 |
| Criminal | 19622 | 18965 | +3.4 |
| Juvenile | 1985 | 2007 | -1.1 |
| Total | 2200 | 2351 | -6.4 |
| Cases Pending as of December 31 | | | |
| Civil | 12765 | 11631 | +9.7 |
| Criminal | 11384 | 10236 | +11.2 |
| Juvenile | 1327 | 1395 | -4.8 |
| Total | --- | --- | --- |

DISTRICT COURT CASE TYPE FILING - 1994

| CIVIL | | CRIMINAL | |
|--------------------------------|---------|----------------|---------|
| Case Type | Filings | Case Type | Filings |
| Property Damage | 119 | Felony | 1840 |
| Persona Injury | 379 | Misdemeanor | 57 |
| Malpractice | 37 | Special Remedy | 8 |
| Divorce | 3239 | Appeal | 7 |
| Adult Abuse | 720 | Other | 5 |
| Custody | 65 | State Total | 1971 |
| Support Proceedings | 8278 | | |
| Adoption | 327 | | |
| Paternity | 1278 | | |
| Termination of Parental Rights | 25 | | |
| Administrative Appeal | 352 | | |
| Appeal Other | 27 | | |
| Contract/Collect | 4131 | | |
| Quiet Title | 120 | | |
| Condemnation | 22 | | |
| Forcible Detain | 182 | | |
| Foreclosure | 260 | | |
| Change of Name | 184 | | |
| Special Proceedings | 48 | | |
| Trust | 70 | | |
| Foreign Judgment | 264 | | |
| Other | 643 | | |
| State Total | 20,770 | | |

TYPES OF CASES FILED IN THE DISTRICT COURT DURING 1994



Civil Caseload

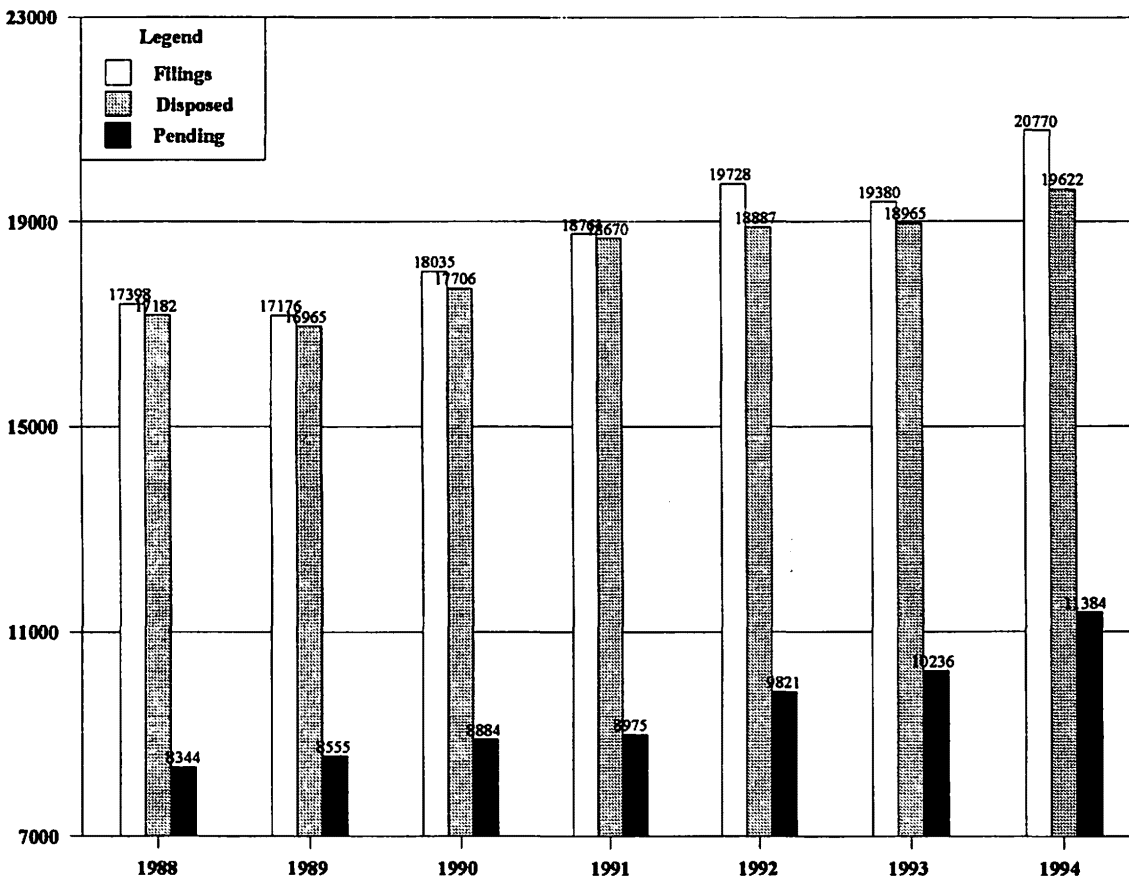
The data indicates a substantial increase (7%) in civil filings in 1994. As noted in the analysis of the overall district court caseload, some of this increase may be attributed to how cases are counted under the combined offices of the clerk of court.

Most types of cases remain relatively stable. However, the number of support actions decreased by nearly 10%. This is the second consecutive year that this type of filing decreased and may reflect the more common use of administrative actions such as income withholding of child support payments automatically at the time of divorce.

Filings in the domestic relations area remained virtually the same as last year. Non-domestic relations cases increased by 18%, with the majority of that increase in contract and collection filings. Within the domestic relations category, child support actions make up 60% of the cases, divorce - 23%, paternity - 9%, adult abuse - 5%, and custody and adoption 3%.

Adult abuse filings increased significantly again in 1994 to 720 cases compared with 620 filings in 1993, and 479 filings in 1992. Divorce filings increased slightly in 1994 with 3,239 filings compared to 3,177 in 1993.

ND CIVIL CASELOAD COMPARISONS FOR DISTRICT COURT FOR 1988 - 1994



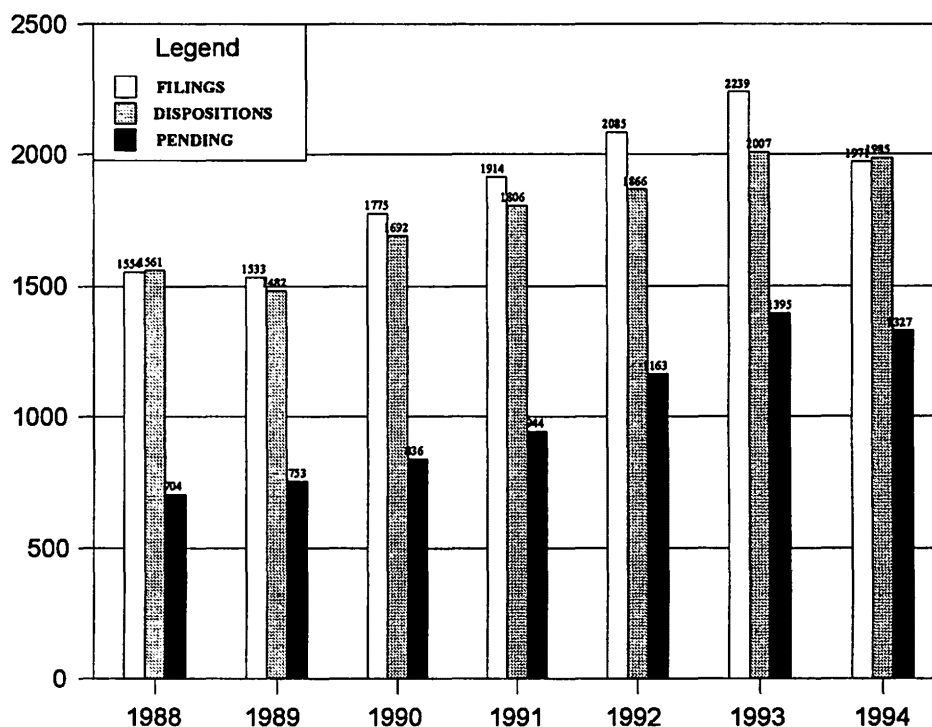
Criminal Caseload

North Dakota continued its traditional low rate of crime during 1994; with the number of criminal filings decreasing by 12%. This should not be viewed as a trend. The filings were up 9% in 1993. The low numbers result in large percentage variations in any one year. Overall, criminal cases have shown a slight upward trend. Again, numbers may be affected by consolidation of clerk of court offices and the method of filing a case. (Criminal filings in county court were up 12%.)

Of the criminal cases filed in district court, 96% were felonies; 4% were misdemeanors or other criminal filings.

As with civil cases, docket currency standards have been established for criminal cases. Standards call for these cases to be decided within 120 days of the filing of the information or indictment in the district court. The presiding judge of the district or chief justice of the Supreme Court can waive the standards for specific cases if good cause is demonstrated.

ND CRIMINAL CASELOAD COMPARISON FOR DISTRICT COURT FOR 1988 -1994



Juvenile Caseload

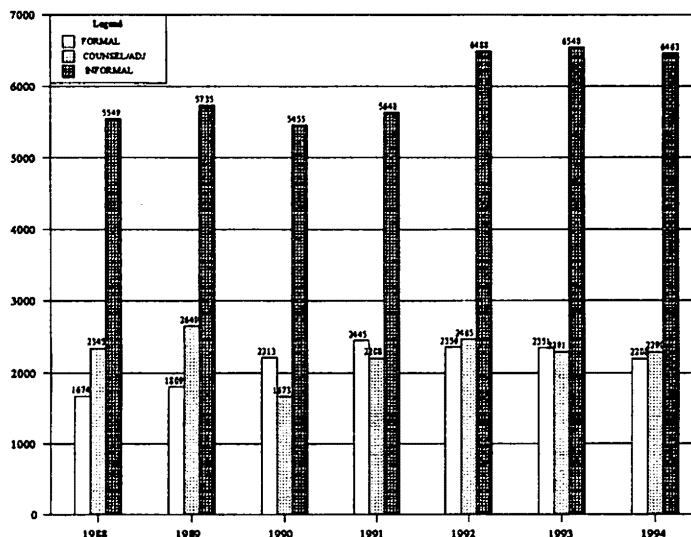
As with the criminal caseload, the low violent crime rate in North Dakota is reflected in its juvenile court statistics. Offenses against persons made up 5% of the juvenile court caseload. Meanwhile, status offenses (offenses which only a child can commit) made up 19% of the caseload. Offenses against property - 31%, traffic offense - 4%, deprivation - 17%, and other filings 24%.

The method by which cases were disposed showed an increase in the use of informal supervision. Of the cases heard, 59% were disposed of through informal adjustments in 1994, compared with 58% in 1993 and 57% in 1992.

Additionally, 21% of the cases were counsel adjusted, and 21% were handled formally.

Overall, the juvenile court caseload was down slightly after leveling off in 1993. This may indicate a reversal of the generally upward trend that has been present for the last several years. The table on the adjacent page compares the reason for referral for the juvenile court in 1993 and 1994. As in previous years, the illegal possession or purchase of alcoholic beverages continues to be the most common single reason for referral to the juvenile court. Deprivation ranks second, while misdemeanor theft ranks third.

COMPARISON OF JUVENILE DISPOSITIONS FOR 1988-1994



TYPES OF JUVENILE COURT DISPOSITIONS FOR 1994 AND 1993

| Judicial District | Formal | | Informal | | Counsel/Adjusted | | Total Dispositions | | Percent Diff. |
|-------------------|-------------|-------------|-------------|-------------|------------------|-------------|--------------------|---------------|---------------|
| | 1994 | 1993 | 1994 | 1993 | 1994 | 1993 | 1994 | 1993 | |
| Northwest | 293 | 266 | 1291 | 1392 | 156 | 147 | 1740 | 1805 | -3.6 |
| Northeast | 279 | 289 | 533 | 490 | 691 | 730 | 1503 | 1509 | -.3 |
| NE Central | 300 | 291 | 940 | 1024 | 316 | 290 | 1556 | 1605 | -3.0 |
| East Central | 569 | 682 | 951 | 918 | 263 | 278 | 1783 | 1878 | -5.0 |
| Southeast | 209 | 201 | 682 | 726 | 401 | 414 | 1292 | 1341 | -3.6 |
| South Central | 481 | 565 | 1768 | 1689 | 235 | 217 | 2484 | 2471 | +7 |
| Southwest | 69 | 57 | 298 | 301 | 228 | 215 | 595 | 573 | +3.8 |
| TOTAL | 2200 | 2351 | 6463 | 6540 | 2290 | 2291 | 10,958 | 11,182 | -2.0 |

**REASONS FOR REFERRAL TO JUVENILE COURT SERVICES
IN 1994 AND 1993**

| | 1994 | 1993 | Percent Difference |
|---|--------|--------|-----------------------|
| UNRULY | 2072 | 2083 | -.5 |
| Runaway-Instate | 641 | 649 | -1.2 |
| Runaway-Out-of-State | 134 | 119 | +12.6 |
| Truancy | 216 | 272 | -20.6 |
| Ungovernable Behavior | 420 | 405 | +3.7 |
| Conduct/Control Violation | 89 | 84 | +6.0 |
| Curfew Violation | 278 | 318 | -12.6 |
| Other | 294 | 243 | +21.0 |
| DELINQUENCY | 6931 | 6865 | +1.0 |
| Offense Against Person | 550 | 554 | -.7 |
| Assault | 341 | 359 | -5.0 |
| Homicide | 0 | 1 | -100.0 |
| Kidnapping | 0 | 1 | -100.0 |
| Sex Offense | 57 | 54 | +5.6 |
| Other | 152 | 139 | +9.4 |
| Offense Against Property | 3381 | 3340 | +1.2 |
| Arson | 12 | 15 | -20.0 |
| Burglary | 241 | 228 | +5.7 |
| Criminal Mischief | 637 | 612 | +4.1 |
| Criminal Trespass | 137 | 154 | -11.0 |
| Forgery | 78 | 63 | +23.8 |
| Robbery | 7 | 13 | -46.2 |
| Theft-Misdemeanor | 1296 | 1249 | +3.8 |
| Theft-Felony | 620 | 635 | -2.4 |
| Unauthorized Use of Vehicle | 126 | 135 | -6.7 |
| Other | 227 | 236 | -3.8 |
| Traffic Offenses | 453 | 434 | +4.4 |
| Driving w/o License | 317 | 311 | +1.9 |
| Negligent Homicide | 1 | 1 | 0.0 |
| Other | 135 | 122 | +10.7 |
| Other Offenses | 2547 | 2537 | +.4 |
| Disorderly Conduct | 403 | 372 | +8.3 |
| Firearms | 77 | 78 | -1.3 |
| Game & Fish Violation | 56 | 47 | +19.2 |
| Obstruction of Law | 23 | 34 | -32.4 |
| Possession or Purchase of Alcohol Beverage | 1684 | 1695 | -.7 |
| Controlled Substance Violation | 72 | 96 | -25.0 |
| Other | 232 | 215 | +7.9 |
| DEPRIVATION | 1874 | 1946 | -3.7 |
| Abandoned | 1 | 5 | -80.0 |
| Abuse/Neglect | 1279 | 1367 | -6.4 |
| Deprived | 523 | 498 | +5.0 |
| Other | 71 | 76 | -6.6 |
| SPECIAL PROCEEDINGS | 76 | 61 | +24.6 |
| Involuntary Termination of Parental Rights | 15 | 12 | +25.0 |
| Voluntary Termination of Parental Rights | 61 | 49 | +24.5 |
| Other | 0 | 0 | 0.0 |
| TOTAL | 10,953 | 11,182 | -2.1 |

Report of the Northwest Judicial District

The Honorable Everett Nels Olson, Presiding Judge
William Blore, Court Administrator

District Court Judges: Everett Nels Olson, Presiding Judge; Wallace D. Berning; Gary Holum; and Gerald Rustad.
County Court Judges: Glenn Dill III; Gordon C. Thompson; Robert W. Holte; and William W. McLees, Jr.
Number of Counties in District: 6
District Court Chambers: Minot and Williston.

Unification Planning Continues

Calendar year 1994 witnessed the continuation of comprehensive planning efforts for court unification. Two outside consulting services were utilized in this process. The National Center for State Courts sent out consultant Tim Fautsko to assist in record management and staff merger issues. The Rural Justice Center provided consultants Katie Fahnestock and Maurice Geiger to help with case assignment issues.

The implementation of computer hardware and software in the Williston judges and clerks offices helped to connect the western half of the district for record management functions. Rural chambers are scheduled to be brought on line in 1995.

Once computer technology has been installed, requests for staff training will escalate. Comprehensive "hands on" training has been given a high priority.

Community Service Program Implemented

After months of planning and coordination, a community service program for youthful offenders has been implemented. In cooperation with the adult community service program, juveniles placed under supervision now have community service as an integral part of probation responsibility. The community service program for youthful offenders has enjoyed widespread support.

Restitution Emphasis Brings Results

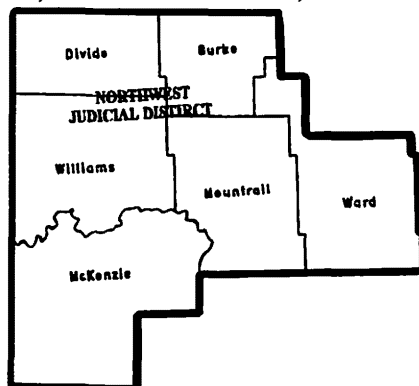
The juvenile staff has placed high priority on restitution to victims. The program, which includes strict written policies, has resulted in a 60% increase in restitution during 1994. Over \$20,000 was collected and disbursed to victims.

Formal Juvenile Hearings on the Rise

High profile gang activity and public awareness of juvenile offenders helped to bring about a review of existing policy on intake procedures. A new policy was adopted which automatically required a formal hearing for any offense by a juvenile which would be classified as a felony for an adult. The policy change resulted in a 30% increase in delinquent filings and an overall 10% increase in juvenile filings. Out-of-home placements also increased as a result.

Court Merger Committees Meet

Court merger committees continue to meet in both Minot and Williston to prepare for unification. Final emphasis has been placed on the technology issue as each office awaits hookup to the computer network. Cross-training of court clerks will permit the broadest possible utilization of staff as the two offices merge.



Child Support and Restitution Collection

The collection of child support and restitution once again saw an increase as each category received emphasis districtwide. Child support collections of \$9,338,496 were recovered (an increase of over \$880,000), while restitution collections increased to \$177,877 (an increase of over \$100,000).

NORTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1994 AND 1993

| | 1994 | 1993 | Percent Difference |
|---------------------------------------|------|------|--------------------|
| New Filings | 4419 | 3727 | +18.6 |
| Civil | 3848 | 3189 | +20.7 |
| Criminal | 278 | 272 | +2.2 |
| Juvenile | 293 | 266 | +10.2 |
| Cases Carried Over from Previous Year | 1098 | 1401 | -21.6 |
| Civil | 991 | 1281 | -22.6 |
| Criminal | 107 | 120 | -10.8 |
| Juvenile | --- | --- | --- |
| Total Cases Docketed | 5517 | 5128 | +7.6 |
| Civil | 4839 | 4470 | +8.3 |
| Criminal | 385 | 392 | -1.8 |
| Juvenile | 293 | 266 | +10.2 |
| Dispositions | 4312 | 3640 | +18.5 |
| Civil | 3733 | 3110 | +20.0 |
| Criminal | 286 | 264 | +8.3 |
| Juvenile | 293 | 266 | +10.2 |
| Cases Pending as of December 31 | 1205 | 1488 | -19.0 |
| Civil | 1106 | 991 | +11.6 |
| Criminal | 99 | 107 | -7.5 |
| Juvenile | --- | --- | --- |

Report of the Northeast Judicial District

The Honorable James H. O'Keefe, Presiding Judge
Scott K. Johnson, Administrative Assistant

District Court Judges: James H. O'Keefe, Presiding Judge; and Lee A. Christofferson

County Court Judges: Donovan Foughty, M. Richard Geiger, Lester S. Ketterling, John C. McClintock Sr., and Thomas K. Metelmann.

Number of Counties: 11

Chambered Locations: Devils Lake and Grafton.

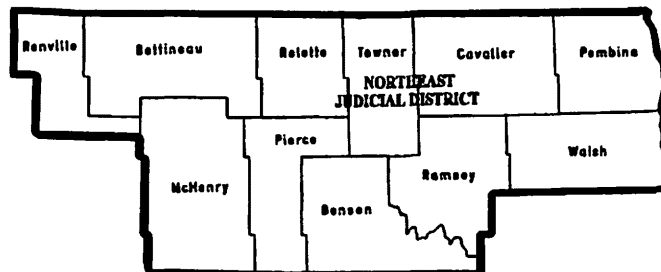
District Court:

The onset of trial court unification brought with it the need for changes in the way the Northeast Judicial District operates. In May county judges were assigned district court caseloads. This allowed county judges the opportunity to train for the future as well as alleviate some of the district court caseload.

Juvenile and Judicial Referee Activities:

The juvenile court operation consists of three primary regions: Bottineau, Devils Lake and Grafton. Dale Thompson serves as judicial referee for the entire district.

Intensive in-home services were initiated in the Bottineau region during 1994. Juvenile court staff worked closely with county social service agencies in referring families in crisis to this program thereby reducing the frequency of out-of-home placements. There were 1,436 community service hours completed with \$6,251 in restitution collected on behalf of crime victims. The Devils Lake region continues to offer alcohol education services through the CARE program and the Early Court Intervention Program. They are also involved with the ART program for violent and aggressive offenders. Restitution was collected on behalf of crime victims in the amount of \$9,335 with 3,075 community service hours completed. The Grafton region participated in several community programs during 1994. Among the programs were the Oasis Retreat, Hooked on Families Program, Red Flag/Green Flag program and the juvenile staff is now sponsoring an Anger Management Program. Additionally, 2,189 community service hours were completed with restitution in the amount of \$10,502 collected on behalf of crime victims.



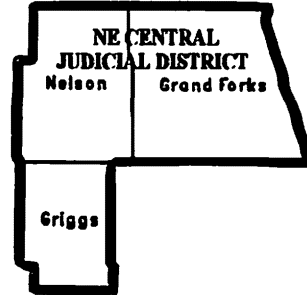
**NORTHEAST JUDICIAL DISTRICT CASELOAD
FOR CALENDAR YEARS 1994 AND 1993**

| | 1994 | 1993 | Percent Difference |
|--|------|------|-----------------------|
| New Filings | 2169 | 2208 | -1.7 |
| Civil | 1653 | 1693 | -2.3 |
| Criminal | 237 | 226 | +4.8 |
| Juvenile | 279 | 289 | -3.4 |
| Cases Carried Over from Previous Year | 779 | 933 | -16.1 |
| Civil | 589 | 757 | -22.2 |
| Criminal | 190 | 176 | +8.0 |
| Juvenile | --- | --- | --- |
| Total Cases Docketed | 2948 | 3141 | -6.1 |
| Civil | 2242 | 2450 | -8.5 |
| Criminal | 427 | 402 | +6.2 |
| Juvenile | 279 | 289 | -3.4 |
| Dispositions | 2109 | 2117 | -.1 |
| Civil | 1609 | 1662 | -3.2 |
| Criminal | 221 | 166 | +3.3 |
| Juvenile | 279 | 289 | -3.4 |
| Cases Pending as of December 31 | 635 | 779 | -18.5 |
| Civil | 456 | 569 | -22.5 |
| Criminal | 179 | 190 | +5.8 |
| Juvenile | --- | --- | --- |

Report of the Northeast Central Judicial District

The Honorable Joel D. Medd, Presiding Judge
Patricia Thompson, Court Administrator

District Court Judges: Joel D. Medd, Presiding Judge; Kirk Smith; Bruce E. Bohlman; and Lawrence E. Jahnke
County Court Judges: Debbie Kleven
Number of Counties in District: 3
District Court Chambers: Grand Forks



District Court:

In preparation for court unification the judges implemented a rotation schedule with the district judges handling the county court calendar and the county judge rotating in to hear district court cases. This provided valuable experience in preparation for unification in 1995.

The court administrative staff and a scheduling subcommittee developed a five week rotation schedule.

The district continues to upgrade computers and technical capabilities. The staff continues to become familiar with the UCIS system, which proved to be an invaluable tool for the county court clerk's office when implementing court consolidation.

Juvenile Court:

Calendar year 1994 was another busy year for juvenile court in the Northeast Central Judicial District. The computer pilot project came closer to reality when the juvenile court staff were equipped with hardware that will serve the state developed software program which will be tested in early 1995. Hopefully, this will put the juvenile court closer to a unified information system in the future.

There was also an expansion of the community adolescent network to include anger management awareness. This program was accomplished by community agency representatives. The final year of this program will include expansion to elementary school-age children.

Juvenile court continues its drug and alcohol program of testing and accountability. This program is successful in tracking and deterring juvenile drug abuse.

Juvenile court will be implementing a theft program in early 1995. This program will earmark first offender shoplifters for a self-study program that looks very encouraging.

**NORTHEAST CENTRAL
JUDICIAL DISTRICT CASELOAD
FOR CALENDAR YEARS 1994 AND 1993**

| | 1994 | 1993 | Percent Difference |
|---------------------------------------|------|------|--------------------|
| New Filings | 3965 | 4042 | -1.9 |
| Civil | 3443 | 3372 | +2.1 |
| Criminal | 222 | 379 | -41.4 |
| Juvenile | 300 | 291 | +3.1 |
| Cases Carried Over from Previous Year | 2094 | 1787 | +16.6 |
| Civil | 1829 | 1571 | +16.4 |
| Criminal | 265 | 226 | +17.3 |
| Juvenile | --- | --- | --- |
| Total Cases Docketed | 6059 | 5839 | +3.8 |
| Civil | 5272 | 4943 | +6.7 |
| Criminal | 487 | 605 | -19.5 |
| Juvenile | 300 | 291 | +3.1 |
| Dispositions | 3911 | 4010 | -2.5 |
| Civil | 3264 | 3379 | -3.4 |
| Criminal | 347 | 340 | +2.1 |
| Juvenile | 300 | 291 | +3.1 |
| Cases Pending as of December 31 | 2148 | 1829 | +17.4 |
| Civil | 2008 | 1564 | +28.4 |
| Criminal | 140 | 265 | -47.2 |
| Juvenile | --- | --- | --- |

Report of the East Central Judicial District

The Honorable Norman J. Backes, Presiding Judge
Eloise M. Haaland, Administrative Assistant

District Court Judges: Norman J. Backes, Presiding Judge; Lawrence A. Leclerc; Michael O. McGuire; and Cynthia A. Rothe-Seeger.

District Court Referees: John A. Dietz and Janice Benson Johnson.

County Court Judges: Georgia Dawson, Frank Racek, and Ralph Erickson who replaced Jonal Uglem.

Number of Counties in District: 3

District Court Chambers: Fargo

District Court:

New civil filings increased 6% over last year and criminal filings decreased 36%. Motion practice increased 5% with 2,169 motion hearings.

Seventy-five certificates of readiness for jury trials were filed with disposal of 60 jury cases through trial or settlement in 1994. One hundred fifty-two certificates of readiness were filed for bench trials with disposal of 124 cases through trial or settlement.

The judicial referees heard 3,097 matters which included formal juvenile proceedings, child support, and pre and post divorce motions. This is an increase of 14% over the previous year. Formal juvenile filings decreased 16.6%.

Juvenile Court:

Approximately 2,700 cases were referred to the East Central Judicial District juvenile court.

The court continues to deal with referrals in the least restrictive manner available, commensurate with the charge, felony versus misdemeanor.

Juvenile court has been instrumental in developing the truancy program which has received further funding through the office of Juvenile Justice and Delinquency Prevention Program.

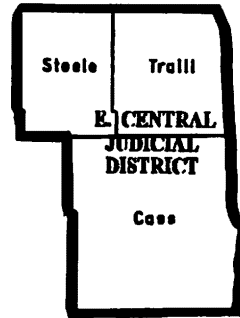
Juvenile court probation officers have been involved in the Children's Services Coordinating Committee and have actively participated in the preparation of a community plan to better serve the juveniles referred to the court.

Approximately \$13,000 in monetary restitution was collected in 1994 and approximately 3,000 hours were performed in community service.

Child Support:

The Southeast Regional Child Support Unit, serving the counties of Cass, Ransom, Richland, Sargent, Steele, and Traill, continues to grow in staff size and caseload. At this time, open files number nearly 7,000. IV-D collections in 1994 totalled \$6,748,655, which is an increase of 17% over 1993.

The new child support guidelines become effective on January 1, 1995. Amendments related to imputing income and multiple family situations have significantly increased the amount of time spent by the assistant state's attorneys in calculating child support obligations.



**EAST CENTRAL
JUDICIAL DISTRICT CASELOAD
FOR CALENDAR YEARS 1994 AND 1993**

| | 1994 | 1993 | Percent Difference |
|---------------------------------------|------|------|--------------------|
| New Filings | 5388 | 5472 | -1.5 |
| Civil | 4414 | 4157 | +6.0 |
| Criminal | 405 | 633 | -36.0 |
| Juvenile | 569 | 682 | -16.6 |
| Cases Carried Over from Previous Year | 3965 | 3679 | +7.7 |
| Civil | 3689 | 3414 | +8.1 |
| Criminal | 276 | 265 | +4.2 |
| Juvenile | --- | --- | --- |
| Total Cases Docketed | 9353 | 9151 | +2.2 |
| Civil | 8103 | 7571 | +4.2 |
| Criminal | 681 | 898 | -24.2 |
| Juvenile | 569 | 682 | -16.6 |
| Dispositions | 5196 | 5109 | +1.7 |
| Civil | 4210 | 3873 | +8.7 |
| Criminal | 417 | 554 | -24.7 |
| Juvenile | 569 | 682 | -16.6 |
| Cases Pending as of December 31 | 4157 | 3965 | +4.8 |
| Civil | 3893 | 3689 | +5.5 |
| Criminal | 264 | 276 | -4.4 |
| Juvenile | --- | --- | --- |

Report of the Southeast Judicial District

The Honorable Robert L. Eckert, Presiding Judge
Margaret Smith, Administrative Assistant

District Court Judge: Robert L. Eckert, Presiding Judge; James A. Wright; and John T. Paulson
County Court Judges: James M. Bekken, Mikal Simonson, Harold B. Herseth, Ronald E. Goodman, and Lowell O. Tjon
Number of Counties in District: 9
District Court Chambers: Wahpeton, Jamestown, and Valley City

District Court Caseload:

The total number of cases docketed in district court increased only 4.2% from 2,913 cases in 1993 to 3,036 cases in 1994. Civil filings increased by 19%, criminal filings increased by 24%, civil dispositions increased by 24.9%, and criminal dispositions decreased by 2.5%. The number of cases pending at the end of 1994 increased from 427 at the end of 1993 to 434 at the end of 1994, a 2% increase.

The disposition rate per judge was 840 and the average caseload per judge was approximately 982.

County Court Caseload:

Despite a 43.6% decrease in civil filings in county courts, the total caseload in the Southeast Judicial District increased by 7.9% from 1993 to 1994. Criminal filings increased 16.9%, civil dispositions decreased 42.8%, and criminal dispositions increased 11.2%. The number of cases pending at the end of 1994 increased 22.4% from 620 at the end of 1993 to 759 at the end of 1994.

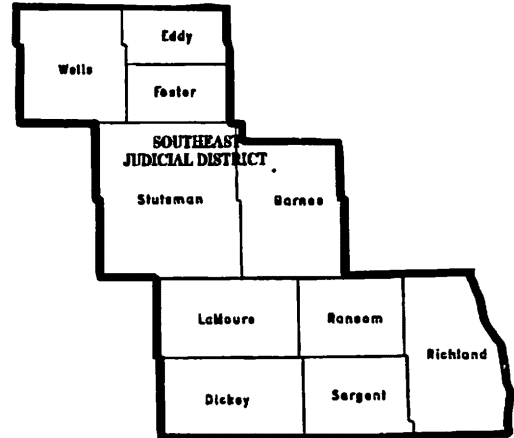
The disposition rate per judge was 742 and the average caseload per judge was approximately 855.

Judicial Elections:

The 1994 general election will bring two new judges to the Southeast Judicial District. Richard Grosz defeated Hal Stutsman for district court judgeship #8 in Wahpeton, and Randall Hoffman edged out Laura Loberg for district court judgeship #9 in Jamestown. James Bekken and Mikal Simonson, who were serving as county judges at the time of the election, ran unopposed for the New Rockford and Valley City positions, respectively, and Ronald Goodman, the county judge for Dickey and LaMoire Counties, defeated opponent Gary Neuharth for the Ellendale position.

Elimination of Lisbon Judgeship:

Early in the year Judge Lowell Tjon announced his retirement effective January 1, 1995, resulting in the abolishment of the Lisbon judgeship by the Supreme Court. Through the years, Judge Tjon has effectively served Ransom and Sargent Counties from his chambers in Lisbon, and our district will continue providing quality services to those two counties in 1995. Judge Goodman will travel from his chambers in Ellendale to serve Sargent County, and Judge Paulson and Judge Simonson will schedule regular visits to Ransom County from their chambers in Valley City.



SOUTHEAST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1994 AND 1993

| | 1994 | 1993 | Percent Difference |
|---------------------------------------|------|------|--------------------|
| New Filings | 2609 | 2191 | +19.0 |
| Civil | 2164 | 1800 | +20.0 |
| Criminal | 236 | 190 | +24.0 |
| Juvenile | 209 | 201 | +3.9 |
| Cases Carried Over from Previous Year | 427 | 722 | -40.0 |
| Civil | 380 | 608 | -37.0 |
| Criminal | 47 | 114 | -58.7 |
| Juvenile | --- | --- | --- |
| Total Cases Docketed | 3036 | 2913 | +4.2 |
| Civil | 2544 | 2408 | +5.6 |
| Criminal | 283 | 304 | -6.9 |
| Juvenile | 209 | 201 | +3.9 |
| Dispositions | 2602 | 2160 | +20.4 |
| Civil | 2196 | 1757 | +24.9 |
| Criminal | 197 | 202 | -2.5 |
| Juvenile | 209 | 201 | +3.9 |
| Cases Pending as of December 31 | 434 | 427 | +2.0 |
| Civil | 348 | 380 | -8.0 |
| Criminal | 86 | 47 | +83.0 |
| Juvenile | --- | --- | --- |

Report of the South Central Judicial District

The Honorable Benny A. Graff, Presiding Judge
Douglas H. Johnson, Trial Court Administrator

District Court Judges: Benny A. Graff, Presiding Judge; Gerald G. Glaser was succeeded by Warren H. Albrecht, Jr.; William F. Hodny; and Dennis A. Schneider.

County Court Judges: Donavin L. Grenz; Gail Hagerty; Burt L. Riskedahl; Thomas J. Schneider; and O.A. Schulz

Number of Counties in District: 12

District Court Chambers: Bismarck and Mandan

District Court:

Calendar year 1994 began with District Judge Gerald Glaser announced his retirement effective April, 1994. The Governor appointed Warren "Duke" Albrecht to fill the unexpired term of Judgeship No. 4. Judge O.A. Schulz chambered in Washburn also retired at the end of 1994.

The UCIS computer system was enhanced to allow all chambered cities to be connected to the mainframe in Bismarck. This will allow employees in the district "real-time" access to court calendars and the creation of uniform scheduling policies, procedures, and standardization of forms districtwide.

Court Unification:

The judges decided to become equally integrated into the workload whereby they each take rotations on the master calendar in Burleigh and Morton Counties. The two rural chambered judges continue to handle the master and individual case work in their geographic area, in addition to a share of the Burleigh/Morton individual cases. In December, Presiding Judge Graff promulgated an emergency local rule relating to limiting demands for change of judges for hearings scheduled on the master calendar.

Juvenile Division and Judicial Referee Activities:

In 1994, 3,301 referrals were made to juvenile court. The 1994 total of 3,301 referrals is very similar to the 1993 total of 3,306 referrals. Of the 3,301 children referred, 798 were diverted to the Bismarck-Mandan Police Youth Bureau for disposition. Children returned from the Police Youth Bureau are primarily those who are first-time offenders, those who have committed minor violations, or children of a very young age.

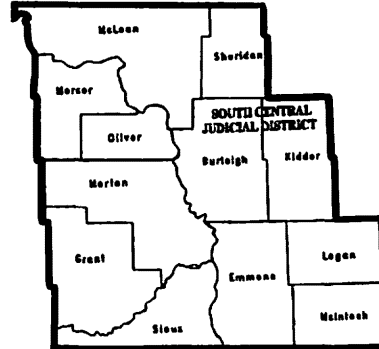
There were 2,503 children retained in the juvenile court and handled either informally or formally through the petitioning process. There were 838 formal matters heard in juvenile court during 1994, which included detention/shelter care hearings on temporary custody orders issued by the court service officers. Referees conducted 383 formal hearings.

Detention and temporary custody orders were issued for 350 children who were placed in temporary alternative environments outside the parental home.

In addition to the formal juvenile proceedings, the judicial referee heard 346 orders to show cause, 56 foster care support matters, and 127 review and modifications.

ACT:

The Alternative Choice Training (ACT) program continued to operate in conjunction with Bismarck State College and the National Corrective Training Institute. Once



again the program remains self-sufficient since it is funded by those referred to it. In 1994, 169 people completed the minor in possession of alcohol class and 87 completed the adult misdemeanor class. The domestic violence class had 41 participants who completed the course. Approximately 70% of those referred to the ACT program complete the class.

**SOUTH CENTRAL
JUDICIAL DISTRICT CASELOAD
FOR CALENDAR YEARS 1994 AND 1993**

| | 1994 | 1993 | Percent Difference |
|--|------|------|--------------------|
| New Filings | | | |
| Civil | 4927 | 4819 | +2.0 |
| Criminal | 3937 | 3808 | +3.0 |
| Juvenile | 509 | 446 | +14.0 |
| Total | 481 | 565 | -15.0 |
| Cases Carried Over from Previous Year | | | |
| Civil | 1963 | 1927 | +1.8 |
| Criminal | 1676 | 1702 | -1.5 |
| Juvenile | 287 | 225 | +28.0 |
| Total | --- | --- | --- |
| Total Cases Docketed | | | |
| Civil | 6890 | 6746 | +2.1 |
| Criminal | 5613 | 5510 | +1.9 |
| Juvenile | 796 | 671 | +19.0 |
| Total | 481 | 565 | -15.0 |
| Dispositions | | | |
| Civil | 4176 | 4783 | -13.0 |
| Criminal | 3267 | 3834 | -15.0 |
| Juvenile | 428 | 384 | +11.0 |
| Total | 481 | 565 | -15.0 |
| Cases Pending as of December 31 | | | |
| Civil | 2716 | 1963 | +38.0 |
| Criminal | 2346 | 1676 | +20.0 |
| Juvenile | 368 | 287 | +28.0 |
| Total | --- | --- | --- |

Report of the Southwest Judicial District

The Honorable Allan L. Schmalenberger, Presiding Judge
Ardean Ouellette, Trial Court Administrator

District Court Judges: Allan L. Schmalenberger, Presiding Judge; Maurice R. Hunke; and Donald L. Jorgensen
County Court Judges: William McLees; Ronald L. Hilden; and Zane Anderson
Number of Counties in District: 8
District Court Chambers: Dickinson and Hettinger

Caseload:

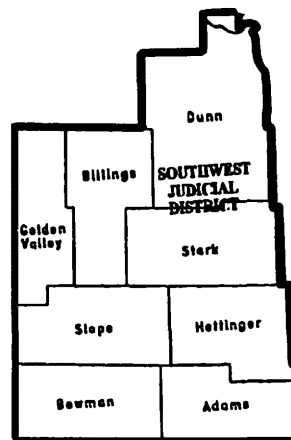
Previous reports have noted the stability of the caseload in the Southwest Judicial District. The accompanying statistics point to a continuation of the past stability.

Docket Currency:

Past reports noted a pride in the district for bringing cases to trial in a reasonable, prompt fashion. This has continued through 1994, and again, this is attributable to an adequate number of judges.

Trial Court Consolidation:

With the passage of House Bill 1517 and the impending unification, the judges and clerks met throughout 1994 to get ready for unification. A facilities and staff review was made to determine the best method to unify the clerks of court offices and handle the consolidated cases. After meeting with the rural justice center, a master and individual calendaring plan was developed to meet the needs of the district for delivery of judicial services in each county.



**SOUTHWEST JUDICIAL DISTRICT CASELOAD
FOR CALENDAR YEARS 1994 AND 1993**

| | 1994 | 1993 | Percent Difference |
|--|------|------|--------------------|
| New Filings | 1464 | 1493 | -2.1 |
| Civil | 1311 | 1361 | -7.2 |
| Criminal | 84 | 93 | -9.6 |
| Juvenile | 69 | 57 | +21.1 |
| Cases Carried Over from Previous Year | 542 | 535 | +1.3 |
| Civil | 499 | 488 | +2.2 |
| Criminal | 43 | 47 | -8.5 |
| Juvenile | --- | --- | --- |
| Total Cases Docketed | 2006 | 2028 | -1.1 |
| Civil | 1810 | 1849 | -2.1 |
| Criminal | 127 | 140 | -9.3 |
| Juvenile | 69 | 57 | +21.1 |
| Dispositions | 1475 | 1504 | -1.9 |
| Civil | 1343 | 1350 | -.1 |
| Criminal | 89 | 97 | -8.2 |
| Juvenile | 43 | 57 | -24.6 |
| Cases Pending as of December 31 | 505 | 524 | -3.6 |
| Civil | 467 | 499 | -6.4 |
| Criminal | 38 | 43 | -11.6 |
| Juvenile | --- | --- | --- |

COUNTY COURTS

County courts in North Dakota are funded by the counties. They are courts of record, served by full-time county judges who must be legally trained. County courts will be abolished on January 1, 1995 with the workload and the positions absorbed into the district court structure. The unification of the court structure will occur as a result of HB 1517 as discussed at the beginning of this annual report in the Profile of the North Dakota Judicial System.

There are twenty-six county judges in North Dakota. Most of these judges serve more than one county. Counties are authorized to enter into multi-county agreements with one another for the services of one or more county judges. These agreements are negotiated every four years among the counties. Most of these multi-county courts operate within the boundaries of a single judicial district.

Many counties are also served by magistrates. Because many county judges serve more than one county, they cannot always be in each county when they are needed. To assure continuity of judicial services in the judge's absence, the judge may appoint a magistrate to handle preliminary matters in the county until the judge returns. Through an administrative rule, the Supreme Court has established the qualifications, authority, mandatory training, and procedures governing magistrates. The county judge may delegate authority to magistrates to issue search warrants, preside at initial appearances in criminal cases, and other duties. In several counties, the county judge has appointed the clerk of the district court as the magistrate for that county.

The county courts are limited jurisdiction courts. They have original and exclusive jurisdiction in probate, testamentary, guardianship, and mental health commitment cases. They have concurrent jurisdiction with municipal courts in traffic cases and concurrent jurisdiction with the district courts in trust and civil cases where the amount in controversy does not exceed \$10,000. County judges also preside at preliminary hearings in criminal felony cases before the case is turned over to the district court. The presiding judge of each judicial district may also assign a county judge to hear any district court case filed in the district.

County courts act as small claims courts in North Dakota. The jurisdictional limit for a small claims case is \$3,000. There is no appeal from a decision of the county court when it is acting in its capacity as a small claims court. All decisions of the county courts in such instances are final.

County court judges have the same general power and authority as district court judges. Moreover, the rules of practice and procedure governing district court proceedings also apply to county court proceedings.

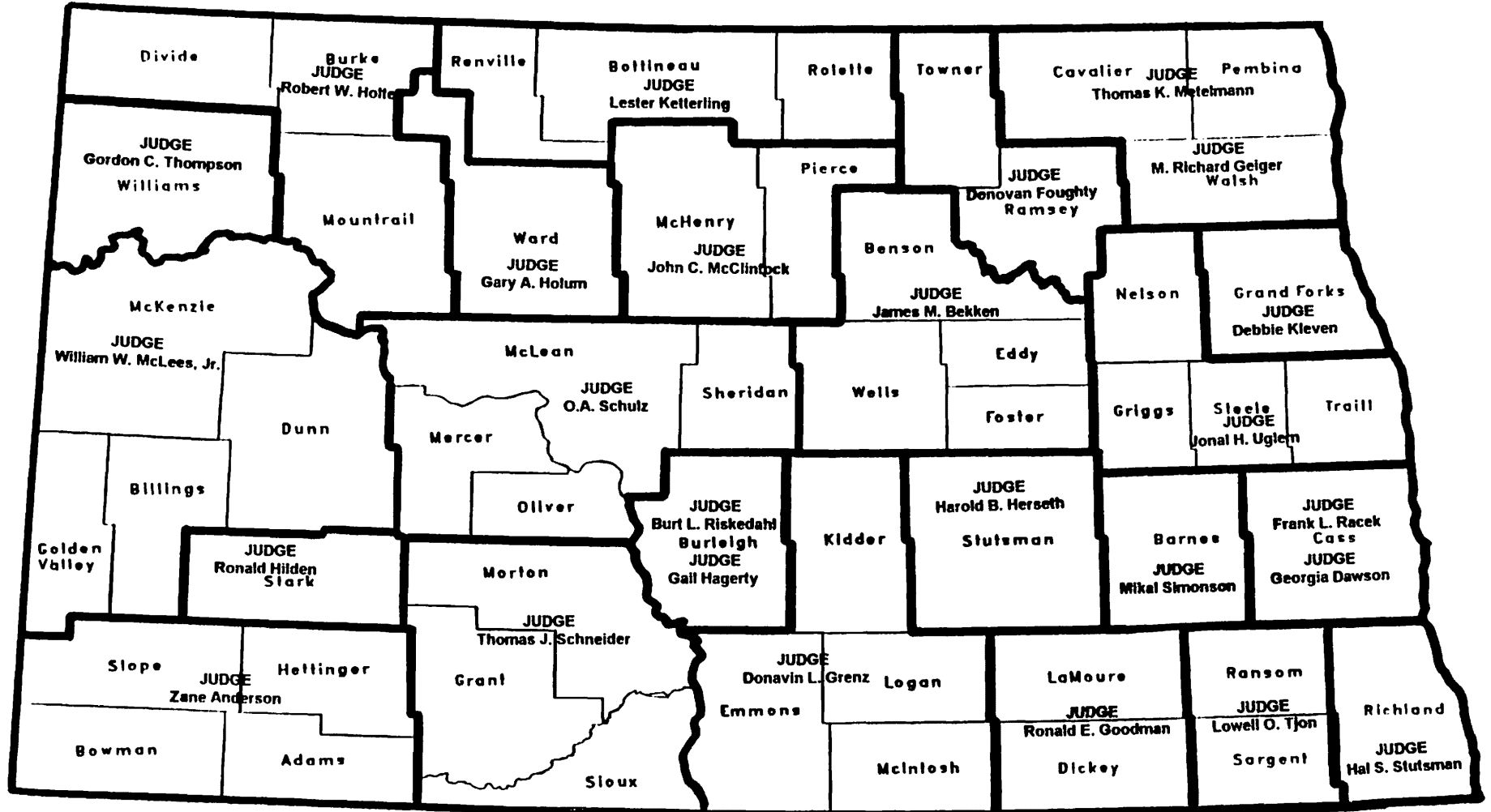
In addition to its trial court duties, county courts also serve as the appellate courts for appeals from municipal courts. All appeals from municipal courts to county courts are trial de novo appeals. In other words, when a municipal court case is appealed to the county court, a new trial is held in the county court. New trials are required in county courts because municipal courts do not maintain an official record of their proceedings. Appeals from the county court go directly to the Supreme Court.

In counties with a population over 25,000, the county judge has the authority to appoint a clerk of county court. In counties with a population less than 25,000, the clerk of district court also serves as the clerk of the county court.

In 1987, the Legislative Assembly provided that cities and counties could agree that the county court would hear all municipal ordinance violation cases of the city and that all municipal court cases in which the defendant fails to waive the right to a jury trial shall be heard in county court.

The office of county judge is an elected position, filled every four years in a nonpartisan election. Following the enactment in 1991 of HB 1517, if a vacancy occurs in the office of county judge, the Supreme Court is required to determine whether the vacant office is to be filled or abolished. If the office is to be abolished, the affected boards of county commissioners may either enter into an agreement with the Supreme Court for the provision of judicial services by the state judicial system or enter into an agreement with another county that has an office of county court judge for the provision of county court services until January 1, 1995. After that date, the offices of county court judge are abolished pursuant to HB 1517. If a vacancy is to be filled, the county commissioners can either fill the vacancy by selecting a candidate from a list of nominees submitted by the Judicial Nominating Committee or by calling a special election to fill the vacancy. If the vacancy is filled by the nomination process, the appointed judge only serves until the next general election, at which time the office is filled by election for the remainder of the term. As an alternative to this traditional method of filling a vacancy, the affected county may enter into an agreement with another county that has an office of county court judge for the provision of county court services or may enter into an agreement with the Supreme Court for provision of judicial services by the state judicial system. In those counties which share the services of a county judge, the judge is elected by the eligible voters of the participating counties. The appointment of a county judge to serve a multi-county area must be approved by a majority vote of each board of county commissioners of the counties involved.

**COUNTY JUDGES AND COUNTY COURT MULTI-COUNTY AGREEMENT AREAS
1994**



County Court Caseload

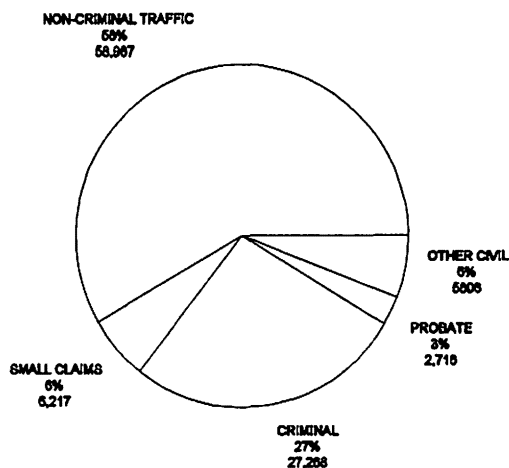
The breakdown of the county court caseload indicates a moderate increase in the filings. As with district court, consolidation of clerk of court offices with consolidated filing of cases may be affecting how cases are counted. For example, county court civil filings are down 12%, but up 7% in district court. Criminal filings are up 12% in county court and down 12% in district court. The county court caseload continues to be predominantly noncriminal traffic followed by

criminal, small claims, and other civil and probate. For the first time in several years, the non-criminal traffic caseload increased (only .1%) reversing a significant downward trend over the last several years. Filings in small claims court showed a slight increase in 1994 following a slight decrease in each of the preceding three years.

**COUNTY COURT CASELOAD
FOR 1994 AND 1993**

| | 1994 | 1993 | Percent Difference |
|--|---------|---------|--------------------|
| New Filings | | | |
| Civil | 14,739 | 16,793 | -12.2 |
| Criminal | 27,268 | 24,420 | +11.6 |
| Non-Criminal Traffic | 58,967 | 58,515 | +1 |
| Cases Carried Over from Previous Year | | | |
| Civil | 30,037 | 28,004 | +7.1 |
| Criminal | 26,436 | 24,322 | +8.7 |
| Non-Criminal Traffic | 3,601 | 3,682 | -2.2 |
| Non-Criminal Traffic | --- | --- | --- |
| Total Cases Docketed | | | |
| Civil | 131,011 | 127,732 | +2.5 |
| Criminal | 41,175 | 41,115 | --- |
| Non-Criminal Traffic | 30,869 | 28,102 | +9.9 |
| Non-Criminal Traffic | 58,967 | 58,515 | +1 |
| Dispositions | | | |
| Civil | 99,001 | 97,696 | +1.3 |
| Criminal | 14,017 | 14,680 | -3.6 |
| Non-Criminal Traffic | 26,027 | 24,501 | +6.2 |
| Non-Criminal Traffic | 58,967 | 58,515 | +1 |
| Cases Pending as of December 31 | | | |
| Civil | 32,000 | 30,036 | +5.5 |
| Criminal | 27,158 | 26,436 | +2.6 |
| Non-Criminal Traffic | 4,842 | 3,601 | +3.3 |
| Non-Criminal Traffic | --- | --- | --- |

**TYPES OF CASES FILED IN
COUNTY COURT DURING 1994**



County Court Filings and Dispositions for 1994

| | Felony | | Misdemeanor | | Total Non- Crim. Traf. | Small Claims | | Probate | | Guard./ Conserv. | | Other Civil | | Mental Health & Emerg. Commit. |
|---------------|--------|-----|-------------|------|---------------------------------|--------------|------|---------|-----|---------------------|-----|-------------|------|---|
| | (F) | (D) | (F) | (D) | | (F) | (D) | (F) | (D) | (F) | (D) | (F) | (D) | |
| Adams | 7 | 9 | 122 | 132 | 170 | 75 | 80 | 31 | 33 | 4 | 2 | 54 | 53 | 10 |
| Barnes | 40 | 38 | 474 | 487 | 2180 | 152 | 152 | 57 | 29 | 2 | 0 | 19 | 19 | 50 |
| Benson | 9 | 11 | 156 | 156 | 701 | 17 | 17 | 23 | 13 | 1 | 0 | 32 | 32 | 7 |
| Billings | 0 | 0 | 23 | 36 | 218 | 6 | 7 | 5 | 5 | 0 | 0 | 3 | 3 | 0 |
| Bottineau | 10 | 9 | 309 | 285 | 442 | 47 | 45 | 78 | 21 | 1 | 0 | 60 | 61 | 14 |
| Bowman | 0 | 2 | 68 | 82 | 174 | 28 | 28 | 34 | 33 | 0 | 0 | 6 | 11 | 0 |
| Burke | 4 | 4 | 75 | 67 | 183 | 15 | 12 | 41 | 20 | 4 | 0 | 27 | 20 | 1 |
| Burleigh | 372 | 347 | 2017 | 2057 | 5764 | 378 | 371 | 161 | 37 | 44 | 5 | 379 | 695 | 55 |
| Cass | 405 | 385 | 4664 | 4304 | 5270 | 1743 | 1614 | 103 | 47 | 0 | 0 | 953 | 1194 | 112 |
| Cavalier | 8 | 10 | 116 | 140 | 562 | 63 | 62 | 55 | 23 | 5 | 1 | 49 | 49 | 5 |
| Dickey | 19 | 14 | 157 | 155 | 551 | 70 | 75 | 35 | 24 | 11 | 1 | 39 | 44 | 12 |
| Divide | 2 | 3 | 67 | 59 | 165 | 21 | 20 | 39 | 38 | 1 | 1 | 16 | 16 | 6 |
| Dunn | 11 | 16 | 204 | 213 | 1001 | 19 | 19 | 27 | 20 | 1 | 2 | 18 | 18 | 6 |
| Eddy | 18 | 17 | 110 | 108 | 178 | 13 | 11 | 22 | 5 | 1 | 0 | 12 | 11 | 12 |
| Emmons | 1 | 2 | 137 | 133 | 832 | 43 | 50 | 24 | 29 | 4 | 4 | 41 | 37 | 5 |
| Foster | 8 | 7 | 286 | 273 | 615 | 52 | 38 | 12 | 9 | 0 | 0 | 24 | 23 | 8 |
| Golden Valley | 1 | 1 | 57 | 77 | 108 | 9 | 7 | 14 | 33 | 0 | 0 | 9 | 8 | 0 |
| Grand Forks | 222 | 217 | 3922 | 3843 | 6634 | 587 | 587 | 160 | 7 | 12 | 5 | 390 | 667 | 89 |
| Grant | 15 | 17 | 85 | 90 | 293 | 14 | 17 | 19 | 13 | 0 | 0 | 18 | 15 | 2 |
| Griggs | 9 | 10 | 167 | 156 | 418 | 38 | 38 | 17 | 10 | 3 | 0 | 11 | 12 | 1 |
| Hettinger | 5 | 5 | 56 | 53 | 225 | 12 | 11 | 31 | 6 | 2 | 1 | 3 | 5 | 0 |
| Kidder | 3 | 8 | 62 | 87 | 388 | 25 | 23 | 23 | 11 | 0 | 0 | 40 | 37 | 8 |
| LaMoure | 5 | 9 | 72 | 67 | 425 | 41 | 41 | 41 | 28 | 0 | 0 | 20 | 20 | 0 |
| Logan | 3 | 3 | 33 | 36 | 181 | 20 | 16 | 22 | 27 | 3 | 2 | 10 | 10 | 0 |
| McHenry | 3 | 4 | 144 | 138 | 779 | 38 | 43 | 36 | 30 | 3 | 0 | 33 | 31 | 12 |
| McIntosh | 4 | 5 | 36 | 40 | 290 | 21 | 19 | 26 | 74 | 1 | 5 | 22 | 25 | 4 |
| McKenzie | 12 | 14 | 242 | 243 | 800 | 42 | 40 | 48 | 47 | 0 | 4 | 34 | 34 | 5 |
| McLean | 14 | 18 | 332 | 382 | 2372 | 43 | 37 | 66 | 42 | 7 | 5 | 91 | 88 | 17 |

| | Felony | | Misdemeanor | | Total Non- Crim. Traf. | Small Claims | | Probate | | Guard./ Conserv. | | Other Civil | | Mental Health & Emerg. Commit. |
|--------------|-------------|-------------|---------------|---------------|---------------------------------|--------------|-------------|-------------|-------------|---------------------|-----------|-------------|-------------|---|
| | | | | | | | | | | | | | | |
| Mercer | 26 | 26 | 269 | 290 | 924 | 63 | 65 | 39 | 16 | 4 | 0 | 105 | 103 | 12 |
| Morton | 118 | 117 | 981 | 738 | 3426 | 210 | 218 | 81 | 15 | 4 | 0 | 364 | 356 | 98 |
| Mountrail | 9 | 6 | 207 | 136 | 427 | 80 | 83 | 53 | 41 | 1 | 4 | 38 | 35 | 6 |
| Nelson | 24 | 20 | 122 | 112 | 682 | 40 | 51 | 37 | 15 | 0 | 0 | 21 | 20 | 6 |
| Oliver | 5 | 3 | 20 | 23 | 383 | 12 | 13 | 8 | 2 | 1 | 0 | 11 | 12 | 0 |
| Pembina | 23 | 20 | 334 | 323 | 1017 | 71 | 71 | 53 | 42 | 4 | 2 | 79 | 65 | 16 |
| Pierce | 13 | 16 | 150 | 218 | 482 | 120 | 114 | 43 | 17 | 3 | 2 | 33 | 36 | 18 |
| Ramsey | 73 | 79 | 728 | 637 | 2137 | 202 | 207 | 59 | 61 | 7 | 2 | 110 | 110 | 21 |
| Ransom | 19 | 7 | 214 | 194 | 603 | 79 | 73 | 39 | 10 | 1 | 0 | 23 | 20 | 7 |
| Renville | 0 | 1 | 6 | 8 | 260 | 27 | 27 | 24 | 28 | 3 | 0 | 11 | 12 | 4 |
| Richland | 77 | 78 | 926 | 937 | 2517 | 285 | 338 | 91 | 58 | 8 | 1 | 144 | 142 | 85 |
| Rolette | 10 | 12 | 343 | 330 | 386 | 101 | 89 | 39 | 14 | 4 | 1 | 51 | 44 | 12 |
| Sargent | 0 | 3 | 92 | 83 | 460 | 36 | 36 | 23 | 11 | 1 | 0 | 21 | 25 | 10 |
| Sheridan | 3 | 4 | 16 | 16 | 59 | 2 | 2 | 3 | 3 | 1 | 1 | 6 | 4 | 3 |
| Sioux | 2 | 0 | 19 | 20 | 91 | 5 | 3 | 1 | 0 | 0 | 0 | 9 | 8 | 0 |
| Slope | 0 | 0 | 18 | 21 | 165 | 1 | 1 | 5 | 2 | 0 | 0 | 0 | 0 | 2 |
| Stark | 58 | 60 | 1205 | 1141 | 1613 | 219 | 233 | 87 | 82 | 27 | 12 | 181 | 163 | 60 |
| Steele | 1 | 1 | 81 | 67 | 586 | 5 | 5 | 11 | 10 | 0 | 0 | 0 | 0 | 2 |
| Stutsman | 49 | 42 | 1505 | 1459 | 3053 | 150 | 137 | 89 | 40 | 5 | 0 | 0 | 1 | 286 |
| Towner | 11 | 16 | 165 | 174 | 280 | 55 | 52 | 34 | 27 | 4 | 1 | 17 | 16 | 8 |
| Traill | 8 | 6 | 401 | 387 | 699 | 79 | 82 | 63 | 24 | 0 | 0 | 358 | 360 | 7 |
| Walsh | 43 | 38 | 645 | 499 | 1602 | 105 | 91 | 83 | 64 | 1 | 1 | 148 | 139 | 30 |
| Ward | 180 | 163 | 1654 | 1483 | 3343 | 412 | 387 | 254 | 12 | 0 | 0 | 0 | 11 | 96 |
| Wells | 0 | 2 | 69 | 67 | 379 | 64 | 56 | 46 | 43 | 6 | 0 | 32 | 28 | 0 |
| Williams | 158 | 109 | 785 | 751 | 1474 | 162 | 162 | 125 | 81 | 8 | 7 | 208 | 195 | 50 |
| TOTAL | 2120 | 2014 | 25,148 | 24,013 | 58,967 | 6217 | 6076 | 2640 | 1432 | 210 | 76 | 4393 | 5154 | 1279 |

MUNICIPAL COURTS

There are approximately 363 incorporated cities in North Dakota. Of the total municipalities, approximately 85 cities have municipal courts. There are approximately 76 judges serving in these 85 municipalities. State law permits an individual to serve more than one city as a municipal judge.

In 1981, the Legislative Assembly amended the state law pertaining to municipalities to allow each municipality the option of deciding whether or not to have a municipal judge. Before this amendment, all incorporated municipalities were required to establish a municipal court.

In 1987, state law was amended to permit county court judges to hear municipal ordinance violation cases and to permit cities to contract with counties to provide municipal ordinance violation court services.

Municipal judges have jurisdiction over all violations of municipal ordinances, except certain violations involving juveniles. Violations of state law are not within the jurisdiction of the municipal courts.

A municipal judge is elected for a four-year term. The judge must be a qualified elector of the city, except in cities with a population below 5,000. In cities with a population of 5,000 or more, the municipal judge is required to be a licensed attorney, unless an attorney is unavailable or not interested in serving. At present, there are approximately 18 legally-trained and 58 lay municipal judges in the state. Vacancies that occur between elections are filled by appointment by the municipality's governing body.

State law requires that each municipal judge attend at least two educational seminars conducted by the Supreme Court in each calendar year. If a municipal judge fails to meet this requirement without an excused absence from the Continuing Judicial Education Commission, the judge's name is referred to the Judicial Conduct Commission for disciplinary action.

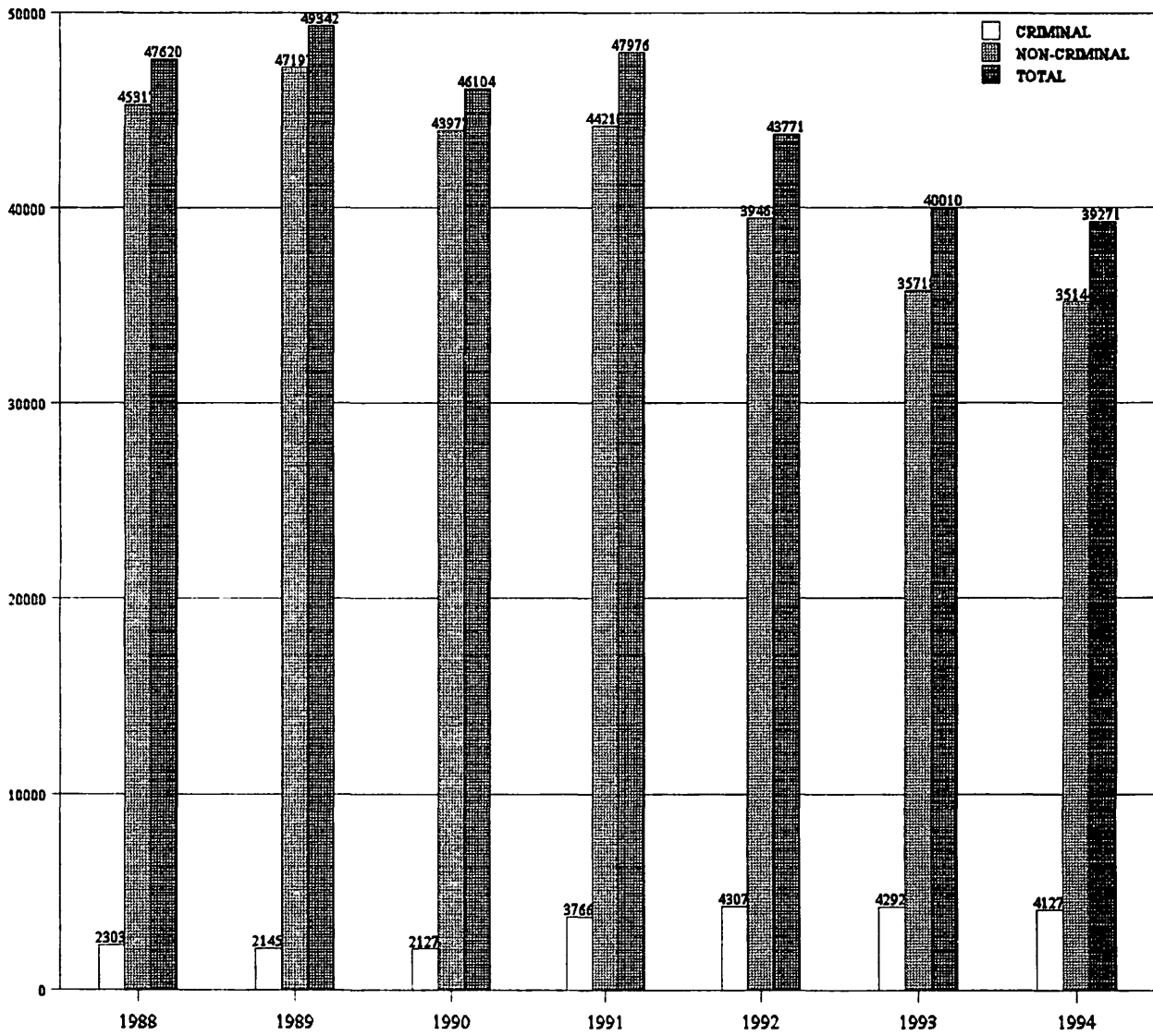
Most of the traffic caseload of the municipal courts consists of noncriminal or administrative traffic cases. While these cases greatly outnumber the criminal traffic cases, they generally take much less time to process. There is a lesser burden of proof in noncriminal traffic cases than in criminal cases and most noncriminal traffic cases are disposed of by bond forfeitures. While judges are not needed to process bond forfeitures, support personnel in the clerk's office must account for every citation received by the court.

Although criminal traffic cases compose only a small percent of the caseload in municipal courts, they require more time and resources for their disposition than noncriminal traffic cases. Litigants are more likely to demand a trial in criminal traffic cases since the penalties for violation of criminal traffic laws are more severe than penalties for violation of noncriminal traffic laws. Moreover, the prosecutor also has a greater burden of proof in criminal traffic cases than in noncriminal traffic cases. In noncriminal traffic cases, the prosecutor must only prove each element of the offense by a preponderance of the evidence for conviction. In criminal traffic cases, the prosecutor must prove each element of the offense beyond a reasonable doubt.

COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR CALENDAR YEARS 1994 AND 1993

| Nine Municipalities With Highest Case Volume | Criminal Traffic Dispositions | | Noncriminal Traffic Dispositions | | Total Traffic Dispositions | | % Diff. |
|---|-------------------------------------|--------------|--|---------------|-------------------------------|---------------|------------|
| | 1994 | 1993 | 1994 | 1993 | 1994 | 1993 | |
| Bismarck | 638 | 645 | 8917 | 8276 | 9555 | 8921 | +7 |
| Dickinson | 118 | 124 | 2124 | 1454 | 2242 | 1578 | +42 |
| Fargo | 869 | 759 | 4612 | 4161 | 5481 | 4920 | +11 |
| Grand Forks | 489 | 618 | 1838 | 2194 | 2327 | 2812 | -17 |
| Jamestown | 215 | 211 | 2274 | 2088 | 2489 | 2299 | 8 |
| Mandan | 446 | 454 | 2342 | 2582 | 2788 | 3036 | -8 |
| Minot | 466 | 505 | 4571 | 5991 | 5037 | 6496 | -22 |
| West Fargo | 155 | 136 | 849 | 701 | 1004 | 837 | +20 |
| Williston | 191 | 215 | 1606 | 1824 | 1797 | 2039 | -12 |
| TOTAL | 3,587 | 3,667 | 29,133 | 29,271 | 32,720 | 32,938 | -1 |

COMPARISON OF MUNICIPAL COURT DISPOSITIONS FOR 1988-1994



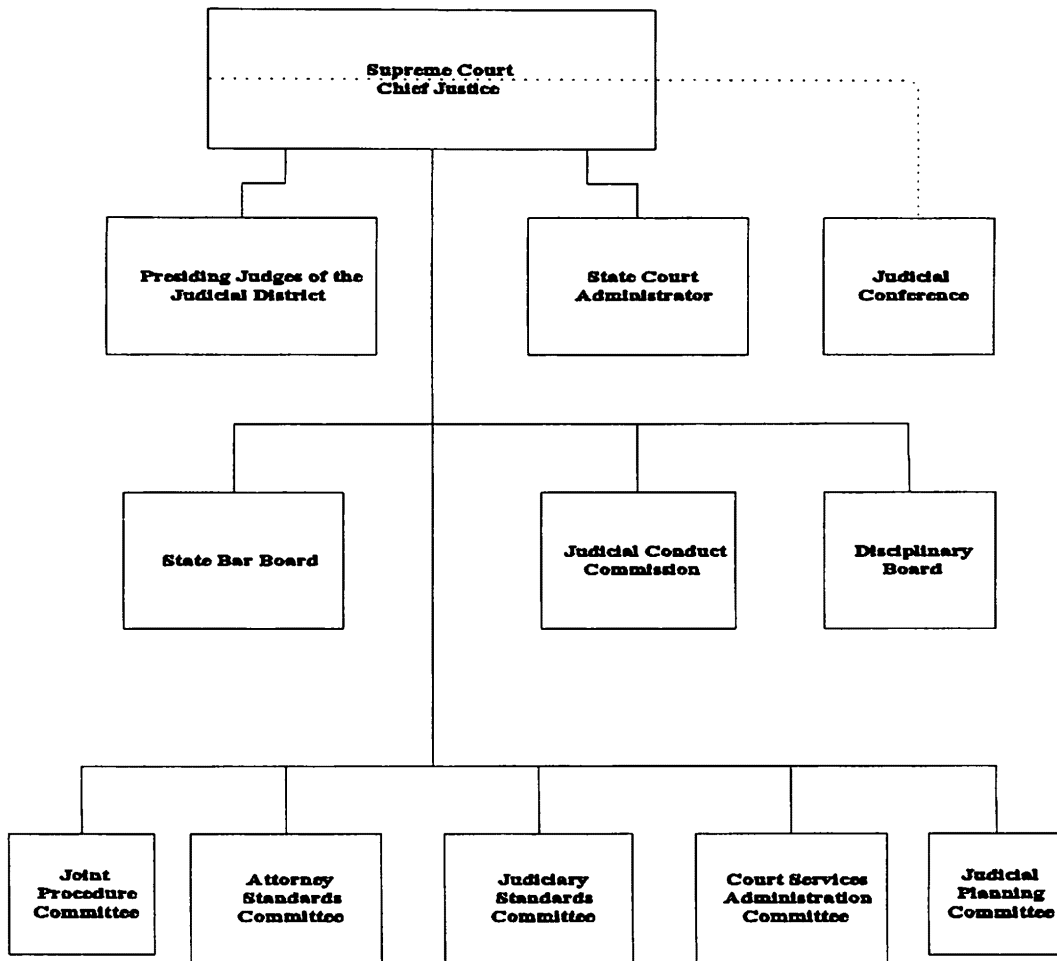
Administration of the Judicial System

Ultimate responsibility for the efficient and effective operation of the judicial system resides with the Supreme Court. The Constitution establishes the Supreme Court's administrative responsibility for the judicial system by designating the chief justice as the administrative head of the judicial system. In addition, the state constitution also grants the Supreme Court supervisory authority over the legal profession. Article VI, Section 3, states that the Supreme Court shall have the authority, "unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarment of attorneys at law."

To help it fulfill these administrative and supervisory responsibilities, the Supreme Court relies upon the state court administrator, presiding judges, and various advisory committees, commissions and boards. The functions and activities of these various bodies during 1994 are described in the subsequent pages of this report.

A diagram of the administrative organizations of the North Dakota judicial system is provided below.

ADMINISTRATIVE ORGANIZATION OF THE NORTH DAKOTA JUDICIAL SYSTEM



Office of State Court Administrator

Article VI, Section 3, of the North Dakota Constitution authorizes the chief justice of the Supreme Court to appoint a court administrator for the unified judicial system. Pursuant to this constitutional authority, the Supreme Court has outlined the powers, duties, qualifications, and term of the state court administrator in an administrative rule. The duties delegated to the state court administrator include assisting the Supreme Court in the preparation of the judicial budget, providing for judicial education services, coordinating technical assistance to all levels of courts, planning for statewide judicial needs, and administering a personnel system.

Judicial Education:

The office of state court administrator, under the guidance and supervision of the Continuing Judicial Education Commission and through the director of judicial education, develops and implements education programs for all judicial and non-judicial personnel. To supplement the education programs presently being offered, an audio and video library has been established and is housed in the office of the state court administrator. To complement this library, the University of North Dakota Law School provides additional materials upon request. The library has access to a large selection of legal and professional audio and video tapes.

Further activities of the Commission are described in greater detail in the second part of this report which discusses the activities of the Commission.

Research and Planning:

Staff services are provided to the Judicial Planning Committee and other advisory committees of the Supreme Court by staff in the office of state court administrator. The duties of these staff personnel include research, bill drafting, rule drafting, arrangement of committee meetings, and any other tasks assigned by various other committees. Specific activities and projects of the Supreme Court standing committees are provided in a latter section of this report.

Personnel Management:

To ensure uniformity in personnel administration across districts, personnel policies and a pay and classification plan for district court employees were developed under the direction of the state court administrator. This program is administered by the director of personnel.

Fiscal Responsibilities:

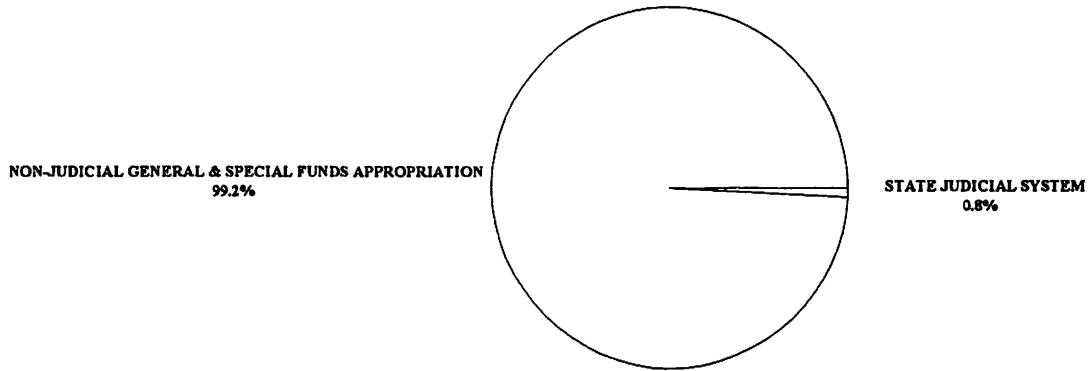
One of the primary functions of the office of state court administrator is to obtain adequate financial resources for judicial operations and to manage these resources. These functions are met with fiscal personnel consisting of a director of finance, supervisor of accounting, and technical staff. With the assistance of fiscal staff, the various judicial budgets are developed for funding consideration by the legislature. The Supreme Court budget request is developed with input from Supreme Court department heads. The Judicial Conduct Commission and Disciplinary Board budget request is developed by their staff. The district court budget is coordinated by fiscal staff and prepared by each of the seven judicial districts with a joint recommendation of approval from the Council of Presiding Judges.

The monitoring function is carried out on a monthly basis with an analysis of the budget and preparation of status reports after the monthly payroll and other expenditures have been processed. Guidance for approval of various expenditures is found in budgetary policies.

In viewing the judicial budget, it should be noted that as of January, 1995, the state will be funding Supreme Court, Judicial Conduct Commission and Disciplinary Board, and district court expenses with the exception of expenses for the office of district court clerks. The clerks offices are funded by the counties. Municipal courts are funded by the municipalities they serve.

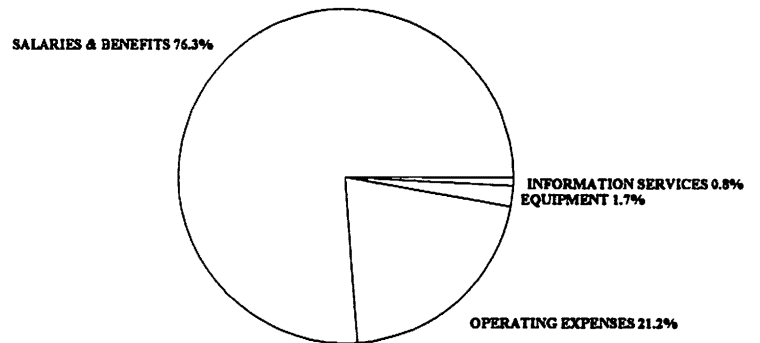
**JUDICIAL PORTION OF THE STATE'S BUDGET
1993-95 BIENNIUM**

Total General and Special Funds Appropriation
\$3,411,654,260 (99.2%)
Judicial System General and Special Funds Appropriation
\$ 26,670,916 (0.8%)



**STATE JUDICIAL SYSTEM APPROPRIATION
BY APPROPRIATED LINE ITEM
1993-95 BIENNIUM**

Total Judicial System General and Special
Funds Appropriation \$26,670,916
Salaries and Benefits \$20,348,964 (76.3%)
Operating Expenses \$ 5,646,115 (21.2%)
Information Services \$ 226,750 (.8%)
Equipment \$ 449,087 (1.7%)

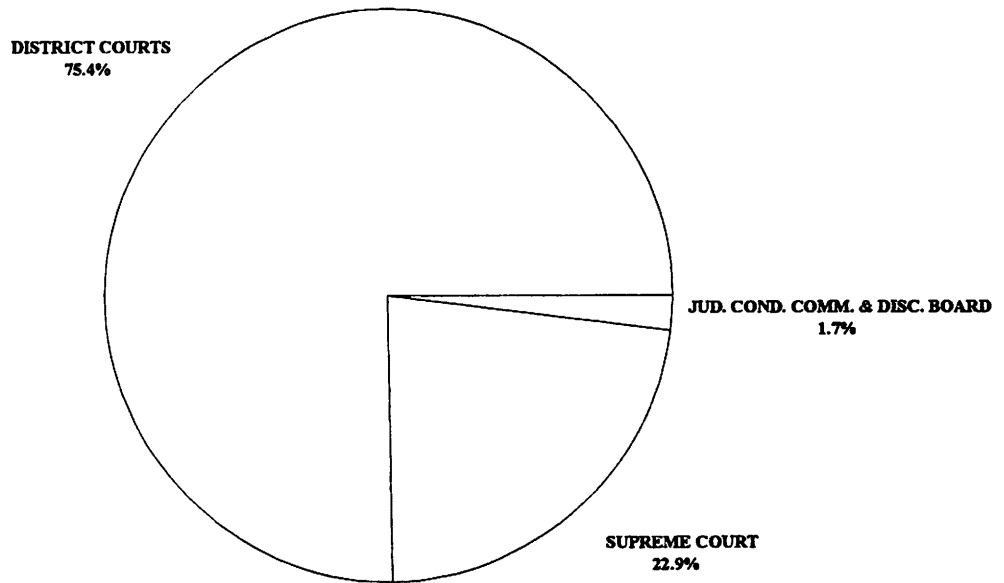


**STATE JUDICIAL SYSTEM APPROPRIATION
BY TYPE OF ACTIVITY
1993-95 BIENNIUM**

| | | | |
|----------------------|---------------|---------------------|----------------|
| Supreme Court | | | |
| | General Fund | \$ 6,058,648 | |
| | Special Funds | <u>46,639</u> | |
| | TOTAL | \$ 6,105,287 | (22.9%) |

| | | | |
|------------------------|---------------|---------------------|----------------|
| District Courts | | | |
| | General Fund | \$19,912,703 | |
| | Special Funds | <u>185,258</u> | |
| | TOTAL | \$20,097,961 | (75.4%) |

| | | | |
|---|---------------|-------------------|---------------|
| Judicial Conduct Commission & Disciplinary Board | | | |
| | General Fund | \$ 395,668 | |
| | Special Funds | <u>72,000</u> | |
| | TOTAL | \$ 467,668 | (1.7%) |



Advisory Committees of the North Dakota Judicial System

In the North Dakota judicial system, a system of committees has been established to develop new ideas and evaluate proposals for improving public services. These advisory committees include citizen members, legislators, lawyers, and judges. The activities of these advisory committees are summarized here:

Judicial Planning Committee

The Judicial Planning Committee chaired by Justice Herbert L. Meschke identifies, describes, and clarifies problem areas that are then referred to judicial leaders and other standing committees for resolution.

Joint Procedure Committee

The Joint Procedure Committee is responsible for continued study, review, and improvement of North Dakota's rules of pleading, practice, and procedure, including rules of civil procedure, rules of criminal procedure, rules of appellate procedure, rules of evidence, and rules of court. The Joint Procedure Committee is chaired by Justice Beryl J. Levine. The committee is composed of 10 judges and 10 attorneys, who are appointed by the Supreme Court.

Joint Attorney Standards Committee

The Joint Attorney Standards Committee was established following adoption of Administrative Rule 38 by the Supreme Court. The committee is comprised of members appointed by the chief justice and the Board of Governors of the State Bar Association. Formation of the joint committee was recommended by the Joint Commission on Lawyer Discipline and Admissions, a special task force assembled to review North Dakota's lawyer discipline system. The Committee replaces the previously existing separate attorney standards committees of the Supreme Court and the State Bar Association and is intended to provide a single vehicle for the coordinated and complementary study of the range of issues concerning attorney standards and supervision. The Joint Committee is chaired by Christine Hogan of Bismarck and held its organizational meeting in December, 1994.

Judiciary Standards Committee

The Judiciary Standards Committee, chaired by Brian Neugebauer of West Fargo, studies and reviews all rules relating to the supervision of the judiciary, including judicial discipline, judicial ethics, and the judicial nominating process. There were no substantive proposals under review by the committee during 1994.

Court Services Administration Committee

The Court Services Administration Committee, chaired by William A. Strutz of Bismarck, continues its study of the implementation of H. B. No. 1517. During 1994, the committee, through a subcommittee chaired by Judge Frank Racek, developed several legislative initiatives designed to enable more efficient use of judge time and provision of judicial services. The proposals were reviewed and approved by the Supreme Court for introduction during the 1995 legislative session.

Committee on Tribal and State Court Affairs

The Committee on Tribal and State Court Affairs was established following adoption of Administrative Rule 37 by the Supreme Court. The Committee is chaired by former Chief Justice Ralph J. Erickstad. Formation of the committee was recommended to the Supreme Court by the North Dakota Tribal/State Court Forum. The Forum, chaired by Judge Donovan Foughty, was a one-year project funded by the Supreme Court and the State Justice Institute to initiate a discussion of common issues encountered by tribal and state judicial systems. The Committee on Tribal and State Court Affairs is comprised of tribal and state court judges, tribal and state court support services representatives, and public members. It is intended to provide a vehicle for expanding awareness about the operation of tribal and state court systems; identifying and discussing issues regarding court practices, procedures, and administration which are of common concern to members of the two court systems; and for cultivating mutual respect for and cooperation between tribal and state courts. The committee held its first two meetings in late 1994.

Commission on Judicial Education

The Continuing Judicial Education Commission is chaired by Judge Bruce E. Bohlman of Grand Forks. The primary responsibility of the commission is to develop quality judicial training and continuing judicial education programs.

The commission was instrumental in developing and institutionalizing the Judicial Institute, an annual 4-day education program for Supreme Court, federal, district, and tribal court judges. The institute implements a 5-year curriculum which focuses on criminal law and procedures; family law; evidence, judicial writing, and judicial decisionmaking. The institute has been in existence since 1990.

Other projects of the commission include the development and implementation of the new judge orientation program for trial and municipal court judges and the drafting and publication of the trial and municipal court benchbooks.

Personnel Advisory Boards

The District Court and Supreme Court Personnel Advisory Boards, chaired by Judge Allan Schmalenberger and L. David Gunkel respectively, continued to refine the personnel system which was adopted in 1991.

One of the major accomplishments of the boards has been the implementation of a systemwide salary administration plan which has assured consistent hiring procedures and has addressed many existing pay issues.

Through the work of these boards, the Supreme Court also adopted policies relating to veteran's preference, a service award program, benefits and employee preference under reduction in force, and procedures for filling vacancies under court unification. The district court board also dealt with work hours and overtime pay of court reporters, under rulings of the department of labor which requires counting transcript work as work hours. The board recommended and the Supreme Court passed Administrative Rule 39 to deal

with this issue as well as the efficient use of reporters as a valuable resource.

The work of the boards was complemented by a series of educational programs for supervisors established by the director of judicial education. Subjects for those seminars ranged from dealing with sexual harassment to work hours under the fair labor standards act.

North Dakota Legal Counsel for Indigents Commission

The Legal Counsel for Indigents Commission, established by Supreme Court Administrative Rule 18, identifies and reviews areas of concern regarding indigent defense. The commission, chaired by Michael Hoffman of Bismarck, develops and revises procedures and guidelines concerning the provision of appointed and contract counsel services for indigent persons in criminal, mental health, and juvenile proceedings. During 1994, the commission reviewed alternatives to the present method of administering the indigent defense contract system. Concerns about the existing operation of the contract system, along with possible solutions, were submitted by the commission to the Council of Presiding Judges for review and discussion.

Juvenile Policy Board

The Juvenile Policy Board, chaired by Judge Norman Backes, recommended and the Supreme Court adopted policies relating to access to, retention of, and expungement of juvenile court records; restitution and community service; and timeframes for detention hearings.

Additionally, Judge Backes represented the board on the Governor's Juvenile Justice Task Force. That task force, which focused primarily on violent and repetitive offenders, made a number of recommendations which were adopted by the legislature, including changes in how juveniles are transferred to adult court, increasing liability of parents for acts of their children, allowing restitution owed by juveniles to be entered as money judgments when the child turns 18, and increased involvement of victims. These legislative changes will likely result in significant work for the board in the next year.

Additionally, under the auspices of the board, a statewide planning meeting was held with the involvement of several executive branch entities including the governor's office, the attorney general's office, and the department of corrections. The meeting was designed to find common ground and direction for the juvenile court within the overall juvenile justice system.

Juvenile Procedures Committee

Since the establishment of the Juvenile Policy Board, the role of the Juvenile Procedures Committee has been shifted from dealing with issues relating to delinquency to more "family" related matters, such as child support and deprivation.

The committee, chaired by Judge Norman Backes, continued to work with the Department of Human Services on the many issues relating to child support. The committee also made progress with the department in establishing policies which will allow parents to receive financial assistance for mental health services without giving up custody of the child as deprived or unruly.

Finally, the committee was also successful in writing a grant to conduct a review of how cases involving foster care are handled and what improvements might be made to ensure substantive compliance with federal permanency planning guidelines.

Council of Presiding Judges

The Council of Presiding Judges consists of the presiding judge of each of the seven judicial districts with the chairman being named by the chief justice.

The Council of Presiding Judges works primarily with budgets and caseloads. Its charter is to ensure that the business of the courts is handled with dispatch and efficiency. The council meets at the call of the chair.

Major issues to come before the presiding judges were a new personnel program providing for step increases and the unified court information system (UCIS), providing for a statewide state of the art, case tracking system.

Questions concerning the functions of any of these committees may be directed to the office of the state court administrator.

Court Technology Committee

The Court Technology Committee, chaired by Judge Allan Schmalenberger, dealt with numerous issues over the last year, ranging from videorecording of trial to installation of a distributed computerized case management system.

The committee oversaw major revisions to the current unified court information system (UCIS), which is installed in Burleigh, Grand Forks, Morton, Mountrail, Stark, and Ward Counties. That software was modified from a single county system to a district system allowing access to cases in a district on "real time" status. This eliminates the need to send case information on paper to the state court administrator's office.

At the same time, the committee, recognizing advancements in computer technology, has undertaken a rewrite of UCIS to allow it to be run on a client-server platform. This step will allow best utilization of equipment advances and will enhance user friendliness through Window-type screens.

With improvements in statewide communications by the executive branch's information services division, the judiciary should be able to take advantage of point-to-point capabilities in the near future. In other words, e-mail and the ability of a judge to check on the status of a case from a remote site is not far off.

A subcommittee, chaired by Judge Everett Nels Olson, also made its first report on issues faced in moving to a statewide computer aided transcript system. That subcommittee is charged with establishing hardware and software standards to implement such a system.

Disciplinary Board

The Disciplinary Board was established to provide a procedure for investigating, evaluating and acting upon complaints alleging unethical conduct by attorneys licensed in North Dakota. The Rules of Professional Conduct are the primary guide for lawyer conduct. In 1994, the North Dakota Procedural Rules for Lawyer Disability and Discipline provided the procedural framework for the handling and disposition of complaints.

The disciplinary system was under review in 1994 by the Joint Commission on Lawyer Discipline and Admissions which was established by the Supreme Court at the request of the State Bar Association. Proposed rule amendments to the North Dakota Procedural Rules for Lawyer Disability and Discipline were forwarded to the court. At the end of 1994, the Supreme Court adopted a number of amendments, and made the North Dakota Rules for Lawyer Discipline effective January 1, 1995.

When a written complaint alleging attorney misconduct is received, it is filed by the board's secretary and referred to either the District Inquiry Committee East or West of the State Bar Association. The chair of the respective committee reviews the complaint and, if appropriate, assigns the complaint for investigation to a member of the committee or staff counsel. If the Complaint, on its face, does not indicate misconduct, an investigation will not be initiated and the matter will be referred to the committee for summary dismissal. Action available to district inquiry committees is dismissal, issuing a private reprimand, also known as an admonition, probation with the consent of the respondent attorney, or directing that formal proceedings be instituted.

Formal proceedings are instituted when there is probable cause to believe that misconduct has occurred. When a matter goes formal, a petition for discipline is filed and a hearing body is appointed by the chair of the board to make findings and a recommendation to the disciplinary board. Present and past members of the board may serve as hearing body members. The board may dismiss the petition, issue a reprimand, impose probation or recommend other appropriate sanctions. In 1994, if a public reprimand, suspension, or disbarment was recommended, a report was forwarded to the supreme court for review and action.

Members of the Disciplinary Board and the District Inquiry Committees are volunteers and are, at times, asked to review very time-consuming matters. The number of new complaint files opened increased by 25% in 1994. While approximately 50% of the complaints are dismissed because they are groundless, the amount of volunteer time needed to run the system is significant.

Following is a summary of complaint files under consideration in 1994.

Disciplinary Board Summary - 1994

| | |
|---|-------------|
| New Complaint Files Opened in 1994 | 200 |
| General Nature of Complaints: | |
| Client Funds & Property | 12 |
| Conflict of Interest | 22 |
| Excessive Fees | 14 |
| Failure to Communicate/Cooperate with Client | 2 |
| Improper Conduct | 80 |
| Incompetent Representation | 47 |
| Misappropriation/Fraud | 4 |
| Neglect/Delay | 14 |
| Petition for Reinstatement | 2 |
| Unauthorized Practice of Law | 3 |
| TOTAL | 200 |
| Formal Proceedings Pending From Prior Years | 38 |
| Other Complaint Files Pending From Prior Years | 52 |
| Appeals Under Consideration in 1994 | 17 |
| Total Files for Consideration in 1994 | 303 |
| Disposition of Complaint Files: | |
| Dismissed by Inquiry Committee (IC) | 100 |
| Summary Dismissals by Inquiry Committees | 43 |
| Dismissed by Disciplinary Board | 9 |
| Private Reprimands Issued by Inquiry Committee | 10 |
| Private Reprimands Issued by Disciplinary Board | 9 |
| Probation by Consent | 3 |
| Disciplinary Board Approves IC Dismissal | 19 |
| Disciplinary Board Disapproves IC Dismissal | 1 |
| Disciplinary Board Took No Action | 2 |
| Public Reprimands Issued by Supreme Court | 2 |
| Suspensions by Supreme Court | *1 |
| Disbarments by Supreme Court | **2 |
| Resignation Accepted by Supreme Court | ***2 |
| Reinstatement by Supreme Court | 1 |
| Formal Proceedings Pending 12/31/94 | 46 |
| Other Complaint Files Pending 12/31/94 | 58 |
| TOTAL | *308 |

*A public reprimand, with conditions, issued in 1993 resulted in suspension in 1994.

**2 complaint files resulted in the disbarment of 1 attorney.

***2 complaint files resulted in the resignation of 1 attorney.

NOTE: Not reflected in the above statistics are two petitions filed in the Supreme Court for interim suspensions. As of 12/31/94, 1 interim suspension remains in effect while the Disciplinary Board proceeds with an investigation and formal proceedings.

Judicial Conduct Commission

The Judicial Conduct Commission was established in 1975 to receive, investigate, and evaluate complaints against any judge in the state and, when necessary, conduct hearings concerning the discipline, removal or retirement of any judge.

Written complaints alleging judicial misconduct are received and filed with the secretary of the commission and referred to staff counsel for investigation. The Code of Judicial Conduct, which defines the standard of conduct for judges, is reviewed when the commission considers allegations of judicial misconduct. In responding to a complaint, judges are given the opportunity to present any information the judge may choose. If there is substantial misconduct, formal proceedings will be instituted and a hearing will be held. The procedures of the commission are set forth in the North Dakota Rules of Judicial Conduct Commission. The Supreme Court must take final action on public censure, removal, suspension, retirement, or other public discipline against a judge.

In 1994, complaints against judges almost doubled over those filed in 1993. However, the majority were dismissed by the commission as being without merit because complainants frequently believe the commission has the authority to change a judge's decision or influence trial proceedings in some way.

The table which follows include a summary of the nature and the disposition of complaints filed with the Judicial Conduct Commission 1994.

Judicial Conduct Commission - Summary of 1994

| New Complaint Files Opened in 1994 | 48 |
|--|-----------|
| General Nature of Complaints: | |
| Biased Decision | 4 |
| Conflict of Interest | 2 |
| Delay in Decision | 4 |
| Failure to Comply with Law | 4 |
| Failure to Afford Complainant Due Process | 3 |
| Improper Judicial Conduct | 31 |
| TOTAL | 48 |
| Complaint Files Carried Over from 1993 | 10 |
| Total Files Pending Consideration in 1993 | 58 |
| Disposition of Complaints: | |
| Dismissed | 17 |
| Commission Took No Action | 1 |
| Total 1994 Dispositions | 18 |
| Complaint Files Pending as of 12/31/94 | 40 |

Of the New Complaints Filed in 1994:
 23 were against County Court Judges
 22 were against District Court Judges
 2 were against Municipal Judges
 1 was against a Supreme Court Justice

State Bar Board Annual Report - 1994

The State Bar Board was created by statute to assist the Supreme Court in its constitutional responsibility to regulate the admission to practice. The Bar Board's three members must all be licensed members of the North Dakota bar.

Admission to practice in North Dakota can be based on the results of the written bar examination; five years of admission and at least four years of practice in another jurisdiction; and, within two years of application, achieving a score of 150 on the multistate bar examination (MBE), admission in another jurisdiction. However, every applicant for admission must be at least 18 years old, of good moral character, fit to practice law, and been awarded a juris doctor or equivalent degree from a law school approved, or provisionally approved, for accreditation by the ABA.

By conducting an investigation into each applicant's background, the bar board is able to verify, follow-up and screen information provided by applicants. The National Conference of Bar Examiners is contracted with to assist the board in this investigation. The Character and Fitness Committee, which was established by the Supreme Court in 1993, also provides the board with invaluable assistance when questions arise concerning an applicant's character and fitness to practice law.

Effective with the class entering law school in the fall of 1993, law students planning to sit for the North Dakota bar examination upon graduation, must file a law student registration application with the bar board. This allows the board to begin the character and fitness investigation, and possibly identify areas of concern that could result in a negative recommendation for admission. This allows a student to take rehabilitative or corrective measures before completing three years of law school, or reconsider his or her career choice.

In 1994, the bar board administered a two-day bar examination in February and July. Due to a decrease in the number of individuals interested in writing the February bar exam, and the increasing impracticability of giving and administering this exam, beginning in 1996, the board will no longer administer a February bar exam.

Passage rates for the 1994 examinations were:

| Exam | #Apps. | # Pass/ % Pass | # UND Grads | # Pass/ % Pass |
|-------|--------|-------------------|----------------|-------------------|
| 02/94 | 13 | 9/69% | 9 | 5/56% |
| 07/94 | 68 | 54/79% | 60 | 46/77% |

In 1994, 89 individuals, 38 women and 51 men, were admitted to the North Dakota bar. Sixty-nine of these individuals were admitted after sitting for the bar examination.

Over the past year, the bar board has continued to review examination and character and fitness issues for continued fairness in the application and examination process and to maintain the integrity and competence of the bar. As a part of this review and to educate law students, the Board annually travels to the University of North Dakota School of Law to meet with first and third-year law students. The board members explain the purpose and function of the board, and answer questions regarding the character and fitness investigation and bar examination. During this visit, the Board also meets with the law school faculty to discuss mutual issues of concern. Issues which the board is presently reviewing are the use of a performance or skills examination; a multistate essay examination; conditional admission; and the types of questions asked on the application.

The State Bar Board is also responsible for collecting annual license fees. In 1994, 1,791 lawyers and judges, 343 of whom were women, were licensed.

North Dakota Judicial Conference

The North Dakota Judicial Conference was originally established as an arm of the judicial branch of state government in 1927. At that time, the organization was known as the North Dakota Judicial Council. Present statutory language covering the Judicial Conference is found in Chapter 27-15, NDCC.

There are currently seventy-five members of the Judicial Conference. The conference consists of all Supreme Court justices, district court judges, and county court judges. Other members are the attorney general; the dean of the University of North Dakota School of Law; the clerk of the Supreme Court; two judges of the municipal courts, as appointed by the Municipal Judges Association; and five members of the North Dakota Bar Association who are appointed by the Bar Association. All surrogate judges, as appointed by the Supreme Court under section 27-17-03, NDCC, are also conference members.

The members of the conference serve during the time they occupy their respective official positions. The term of office of the two municipal judges is two years. The term of office for the five members of the bar is five years. Vacancies on the Judicial Conference are filled by the authority originally selecting the members.

The state court administrator serves as the executive secretary of the Judicial Conference.

The officers of the Judicial Conference consist of the chair and chair-elect, who are selected for a term of two years by the members of the conference. In addition, there is an executive committee consisting of the chair, chair-elect, a justice of the Supreme Court elected by the Supreme Court, a district judge elected by the Association of District Judges, and a county judge elected by the Association of County Judges.

Under North Dakota law, the Judicial Conference is required to meet twice each year. These meetings are usually held in June and November. Special meetings, however, may be called by the chair. While members of the Judicial Conference are not compensated for their services, they are reimbursed for their expenses while discharging their conference duties.

The Judicial Conference has four major duties:

1. Solicit, receive, and evaluate suggestions relating to the improvement of the administration of justice.
2. Consider and make recommendations to the Supreme Court for changes in rules, procedures, or any matter pertaining to the judicial system.
3. Coordinate continuing judicial education efforts for judges and support staff.
4. Establish methods for review of proposed legislation which may affect the operation of the judicial branch.

To support the activities of the full conference, there has been created by conference bylaws several standing committees. The committees and respective committee chairs during 1994 are as follows:

1. Program Planning Committee, Judge Bruce E. Bohlman, Chair.
2. Committee on Legislation, Justice Herbert L. Meschke, Chair.
3. Committee on Judicial Compensation, Judge Lawrence A. Leclerc, Chair.
4. Committee on Courts with Limited Jurisdiction, Judge William McLees, Chair.

Special committees are as follows:

1. Judicial Immunity Committee, Judge Kirk Smith, Chair.
2. Jury Management Committee, Judge Jon Kerian, Chair.

Committee membership results from appointment by the chair after consultation with the executive committee of the Judicial Conference. The bylaws provide that non-conference members can serve on either standing or special committees.

The officers and executive committee of the Judicial Conference during 1994 were as follows:

Judge Bruce E. Bohlman, Chair
Judge Gail Hagerty, Chair-elect
Justice Herbert L. Meschke, Executive Committee
Judge John T. Paulson, Executive Committee
Judge Mikal Simonson, Executive Committee

NORTH DAKOTA JUDICIAL CONFERENCE

Justices of the Supreme Court

Gerald W. VandeWalle
Beryl J. Levine
Herbert L. Meschke

Dale V. Sandstrom
William A. Neumann

Judges of the District Court

South Central District

*Benny A. Graff
Warren H. Albrecht
Dennis A. Schneider
Wm. F. Hodny

Northeast District
*James H. O'Keefe
Lee A. Christofferson

Southwest District

*Allan L. Schmalenberger
Maurice R. Hunke
Donald L. Jorgensen

Northeast Central District

*Joel D. Medd
Bruce E. Bohlman
Lawrence E. Jahnke
Kirk Smith

Northwest District

*Everett Nels Olson
Wallace D. Berning
Gary A. Holum
Gerald H. Rustad

East Central District

*Norman J. Backes
Lawrence A. Leclerc
Michael O. McGuire
Cynthia A. Rothe

Southeast District

*Robert L. Eckert
John T. Paulson
James A. Wright

Zane Anderson
James M. Bekken
Georgia Dawson
Glenn Dill, III
Donovan Foughty
Ralph R. Erickson
M. Richard Geiger
Ronald E. Goodman
Donavin L. Grenz
Gail Hagerty

Judges of the County Court

Harold B. Herseth
Ronald L. Hilden
Robert W. Holte
Lester Ketterling
Debbie Kleven
John C. McClintock
William W. McLees
Thomas K. Metelmann
Frank L. Racek
Burt L. Riskedahl

Thomas J. Schneider
O.A. Schulz
Mikal Simonson
Hal S. Stutsman
Gordon C. Thompson
Lowell O. Tjon

Kathleen Cunningham

Judges of the Municipal Court

Robert Keogh

Wm. M. Beede
Eugene A. Burdick
Ralph J. Erickstad
John O. Garaas

Surrogate Judges of the Supreme Court

Gordon O. Hoberg
Jon R. Kerian
Ralph B. Maxwell

Wm. L. Paulson
Vernon R. Pederson
Bert L. Wilson

Attorney General Heidi Heitkamp
Clerk of the Supreme Court Penny Miller
Dean of the UND School of Law Jeremy Davis

Members of the Bar

Kermit Edward Bye
James S. Hill
Carol Ronning Kapsner

Dwight C.H. Kautzmann
Paul G. Kloster

Executive Secretary

Keith E. Nelson

*Denotes Presiding Judge

74 Members