

IN THE SUPREME COURT STATE OF NORTH DAKOTA

In The Matter of the Judicial Vacancy in Judgeship No. 3 in the Northwest Judicial District.

[1] This report, pertaining to the upcoming vacancy in the Northwest Judicial District Judgeship No. 3, with chambers in Williston, North Dakota, currently held by Honorable Paul W. Jacobson, is submitted pursuant to North Dakota Supreme Court Administrative Rule 7.2, Section 4 and is in response to Supreme Court Notice of Consultation No. 20230068.

Population

[2] The Northwest Judicial District, Unit 4, is comprised of Divide, McKenzie, and Williams Counties. These counties have and continue to experience increased growth in population.

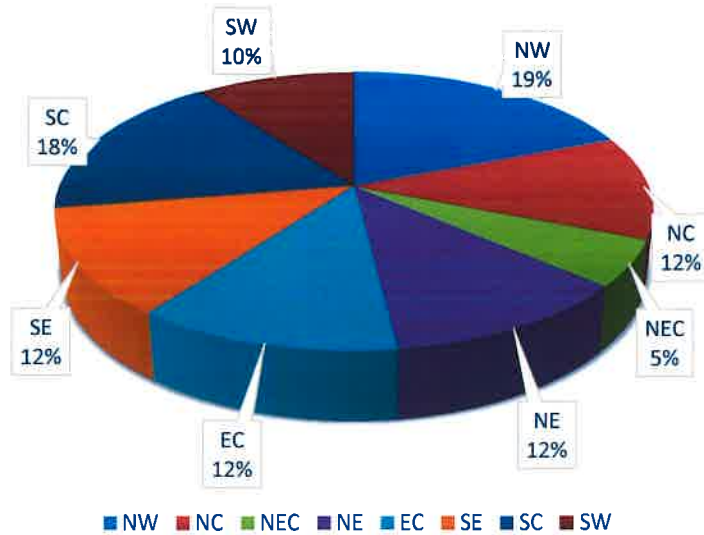
Caseloads and Unusual Case Types

[3] State Court Administration data and the weighted caseload study currently reflect a judicial officer need of 5.22. This demonstrates a 13% overage for the district. This information is summarized in attachment 1.

- A. Judgeship No. 3 is chambered in Williston, North Dakota. There are currently four (4) judges chambered in Williston, who share an even responsibility for the cases originating there. There are also currently two (2) judges chambered in Watford City, North Dakota, who are responsible for the cases originating there. All six (6) judges chambered in both cities are responsible for an equal share of all cases originating in Divide County and travel on a rotating basis to Crosby.
- B. The number of probate cases the courts are being called upon to decide continue to be highest in the Northwest Judicial District. Although these cases are officially classified as probate matters, the contested cases tend to be more time consuming and labor intensive than regular probate matters due to extensive mineral rights issues. As can be seen in the chart below, nineteen percent (19%) of the total number of probate cases filed in the North Dakota Court system in 2022 originated in the Northwest Judicial District¹:

¹ State of North Dakota Judge's Weighted Caseload Reports

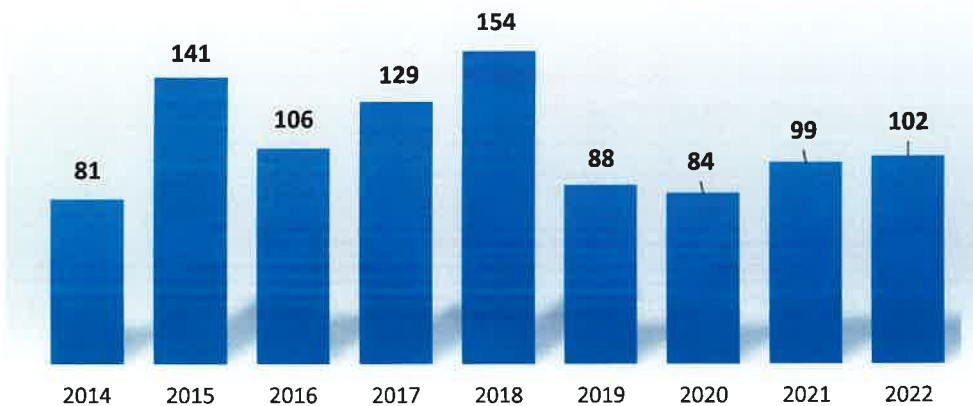
2022 Statewide Probate



NW	NC	NEC	NE	EC	SE	SC	SW	Total
721	452	201	438	458	463	654	385	3,772

C. Trends demonstrate a steady increase once again in juvenile dependency cases². Juvenile dependency cases carry a case weight of 239.18 based on the weighted caseload study. These cases are often more time intensive and require additional resources to address.

Juvenile Dependency



2014	2015	2016	2017	2018	2019	2020	2021	2022
81	141	106	129	154	88	84	99	102

² IBID

Juvenile Drug Court was expanded to Williston in June of 2020. Judge Benjamin Johnson has taken this program on in Williston and works in conjunction with Judge Todd Cresap in Minot. Drug Court meetings are held with both counties on a weekly basis. Both judges attend in-person, in their own perspective counties and participate with the judge and youth in the remaining county via Zoom. Both judges build a rapport with the students and rotate taking the lead. There are currently three participants from Williston in the drug court program. There have been nine participants since the program's inception from Williston.

Trends in Population and Caseloads

[4] Current population trends demonstrate continued increases in Divide, McKenzie, and Williams Counties. The World Population Review reflects a population of 65,952 for the NWJD this year. This is a difference of over 7,800 from 2020 and two times the total population of 2010.

The population figures set forth in the table below from Texas A&M University reflect 2010 thru 2020³. The World Population Review provides population figures reflected in 2023⁴:

County	2010	2015	2020	2023
Divide	2,071	2,457	2,198	2,231
McKenzie	6,360	12,817	14,744	17,206
Williams	22,398	35,379	41,149	46,515

Williams County has had the second highest growth statewide since 2010, growing by 56.5%. Second to the highest growing McKenzie County which has experienced a 112.63% increase in residents since 2010 both of which are in the NWJD.

The 2022 case filings demonstrate slight decreases in specific case types; however reflect much of the same continued patterns as previous years.

- A. The following tables demonstrate a slight decrease in overall filings in the NWJD; however, trends continue to be consistent overall. The annual combined civil, criminal, and formal juvenile caseload in the NWJD, listing the number of cases filed for the most recent ten-year period, is shown in the table below⁵:

³ <https://www.recenter.tamu.edu/data/population/>

⁴ <https://worldpopulationreview.com/states/north-dakota/counties>

⁵ Ibid

Total Case Filings Northwest

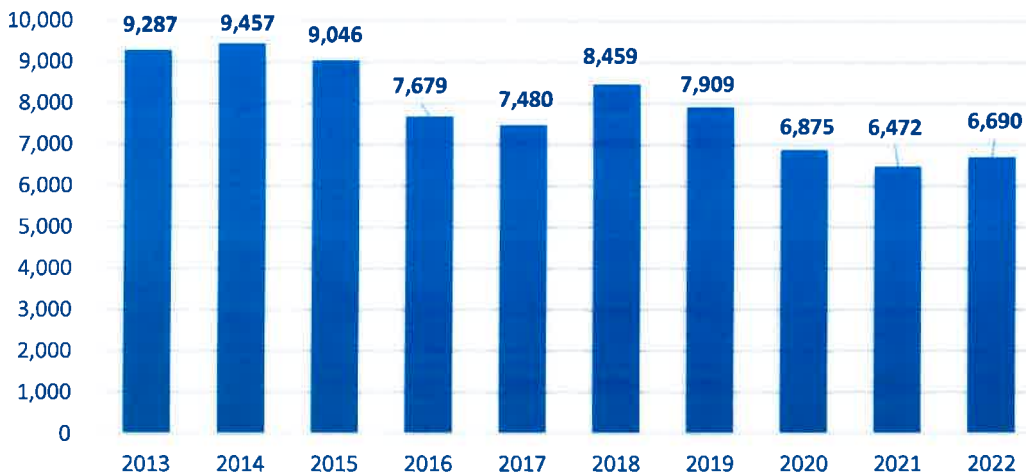


Table excludes Administrative Game & Fish, Administrative Traffic and E-Citation Traffic filings.

B. A notable increase in criminal cases is demonstrated in the table below⁶:

Criminal	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Felony	867	1,163	1,037	773	678	785	753	718	601	593
Misdemeanor	3,586	3,505	3,316	2,668	2,758	3,002	2,881	2,397	2,162	2,444
Infraction	338	162	142	87	86	105	139	196	185	217
Total Criminal Cases	4,791	4,830	4,495	3,528	3,522	3,892	3,773	3,311	2,948	3,254

C. Civil cases demonstrate an overall decrease in cases, however juvenile cases remain consistent and probate cases continue to rise once again⁷.

Civil	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Divorce	161	168	203	219	213	229	217	189	203	186
Child Support	305	270	263	218	175	149	206	85	137	107
Domestic - other	297	370	332	352	342	361	406	365	404	374
Small Claims	232	247	310	319	265	232	230	257	171	154
Probate and Trust	1,557	1,567	1,176	825	765	867	778	785	678	756
Mental Health	109	132	122	73	99	116	128	98	98	90
Administrative Appeal	31	31	27	38	34	22	29	23	26	14
Other Civil	1,605	1,698	1,916	1,950	1,879	2,394	1,996	1,631	1,680	1,629
Juvenile	199	144	202	157	186	197	146	131	127	126
Total Civil Cases	4,496	4,627	4,551	4,151	3,958	4,567	4,136	3,564	3,524	3,436

⁶ Ibid

⁷ Ibid

Impact on Travel Requirements

[6] The Northwest Judicial District is comprised of three counties. There are four (4) judges chambered in Williston and two (2) judges chambered in Watford City. It is approximately forty-seven (47) miles between the two cities. All six (6) judges travel to Crosby, which is approximately sixty-seven (67) miles from Williston and one hundred-fourteen (114) miles from Watford City⁸. Maintaining a regular judicial presence in Crosby is essential to ensure all citizens of the district have equal access to justice.

[7] The elimination or relocations of Judgeship No. 3 would adversely affect the delivery of judicial services to the citizens of the Northwest Judicial District. The 2013 North Dakota Legislature recognized there was a need for additional judicial resources in Unit 4 when it authorized two (2) new judgeships to be chambered in Watford City and Williston. Again, the 2015 North Dakota Legislature recognized the continued increased need for judicial resources authorizing an additional two (2) judgeships in Watford City and Williston. The current judge caseload in the Northwest Judicial District is 1,108 cases per judge⁹. This is the third highest district caseload per judge out of the eight (8) districts making up the state. Losing a judicial officer would increase each judge's caseload to 1,330, far above any current judge caseload in the state.

[8] This judgeship is critical in managing the current caseload, and in providing timely and effective judicial services throughout the district. Elimination of Judgeship No. 3 would raise the Judge's caseload to the highest district caseload per judge in the state and would adversely affect timely case disposition and timely access to justice. It would also result in requiring the two judges chambered in Watford City to travel the 55 miles to Williston to assist with the caseload. The distance between the two cities impact the amount of time available each day a judge would have to address their cases, but more alarming would be the impact on local caseload need as it is. This increased caseload and required travel would inevitably affect each judge and their current workload challenges resulting in the very situation they were experiencing prior to gaining these judgeships.

Age or Possible Retirement of Remaining Judges

[9] There are no further judges expressing plans of retirement in the near future following the retirement of Judge Paul W. Jacobson¹⁰.

Judgeship #	Name	Month/Year of Birth	Year Turn 65
1	Joshua B. Rustad	11/1972	2037
2	Benjamin J. Johnson	07/1982	2047
3	Paul W. Jacobson	09/1948	2013
4	Robin A. Schmidt	07/1976	2041
5	Daniel S. El-Dweek	03/1981	2046
6	Kirsten M. Sjue	04/1981	2046

⁸ Google.com/maps

⁹State of North Dakota Judge's Weighted Caseload Reports

¹⁰ North Dakota Supreme Court Website

Availability of Facilities

[10] There are local law enforcement officers in each chambered city in addition to Highway Patrol officers.

[11] There is a combination of jails and juvenile services throughout the district.

- A. Divide County contracts with the Williams County Sheriff's office. Inmates are immediately transferred to Williams County Jail for housing. Juvenile services are contracted through the Northwest Youth Assessment Center in Williston. Secure detention is obtained through Ward County Juvenile Detention Center in Minot¹¹.
- B. Williams County has a modern Grade I Correctional Center with 246 beds for adults. Law enforcement typically utilizes non-secure means to hold juveniles at the Northwest Youth Assessment Center located a short distance from the courthouse. Juveniles requiring secure detention are transported to the Ward County Juvenile Detention in Minot¹².
- C. McKenzie County currently has a Grade 1 Correctional Facility with 135 beds for adults. MCCF houses male and female inmates up to one (1) year or until an inmate's court cases are completed. MCCF is comprised of two (2) units; each unit is individually contained with smaller pods. McKenzie County does not have a facility to house juvenile offenders. If detention of a juvenile is required, McKenzie County law enforcement officials transport the juvenile either to the Ward County Juvenile Detention Center in Minot or to the Northwest Youth Assessment Center in Williston for non-secure, short term holds of low-level offenders¹³.

[12] Divide, McKenzie, and Williams Counties have all invested resources and utilized the Court Facilities Improvement Fund to make security, space, and functional improvements throughout their courthouses.

- A. Divide County has renovated the courthouse to include the clerk's office to provide a larger space that will be more secure. An entirely new judge's chamber, court recorder workspace, and jury room was built to enhance juror seclusion and security, as well as to enhance security and the functionality of space for judges and judicial staff. The sheriff's department has relocated to a new building, which provides a more secure, larger, and more functional space for law enforcement.
- B. The McKenzie County Courthouse is a modern, air conditioned facility, with two (2) nicely furnished judge's chambers, adequate space for two (2) judicial staff workstations, two (2) jury capable courtrooms, and one (1) jury room. Both courtrooms are equipped with the latest technology, including QSC systems.

¹¹ Divide County Sheriff's Office

¹² Williams County Sheriff's Office

¹³ McKenzie County Sheriff's Office

Although the McKenzie County Courthouse does not have front-door security, law enforcement is present and staffs a walk-through magna-scanner outside the courtrooms for all individuals to be screened prior to entering.

- C. The Williams County Courthouse is a modern, air-conditioned, recently renovated facility. The chambers and staff work areas on the third floor have been renovated with enhanced security and two (2) hearing rooms have been completed on the second floor. The first floor renovations included moving the clerk's office to the first floor and the completion of an additional courtroom for Municipal Court cases. The additional courtroom has freed-up the jury capable courtroom on the third floor, which had been shared by District and Municipal Court. This has increased scheduling opportunities for district court judges.
- D. The County Commissioners in each county have been supportive of the courts and have continued to provide additional resources to accommodate the court's needs.

Conclusion

[13] The elimination or relocation of the Judgeship No. 3 in the Northwest Judicial District would result in an increased caseload and increased travel responsibilities for each of the remaining five judges with an already challenging caseload. The judges have experienced an exponential increase in caseload for years. Added judicial resources have definitely assisted in their ability to gain some success in addressing backlog and current workload. However, the slight decline in overall caseload has not been significant enough to warrant fewer resources. Additionally, the judges currently carry one of the highest caseloads per judge in the state. Any further loss of judicial FTE's would place the district back in the same position it was prior to appointing added judicial officers in the Northwest Judicial District. Fewer resources will result in increased backlog and extensive delays in justice.

[14] Presiding Judge Robin A. Schmidt has consulted with all of the judges in the Northwest Judicial District in relation to the judicial vacancy created by Judge Paul W. Jacobson's upcoming retirement. All of these judicial officers agree that the elimination or relocation of Judgeship No. 3 would have a profound adverse effect on the district. Accordingly, Presiding Judge Robin A. Schmidt recommends that Judgeship No. 3 not only be retained, but that the same continue to be chambered in Williston to ensure the effective delivery of judicial service to the people of the Northwest Judicial District.

Respectfully Submitted:



Carolyn Probst
Court Administrator
State of North Dakota – Administrative Unit 4