

NORTH DAKOTA COURTS



ANNUAL REPORT
1992



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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 1992. 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 blue ink, appearing to read "Keith E. Nelson".

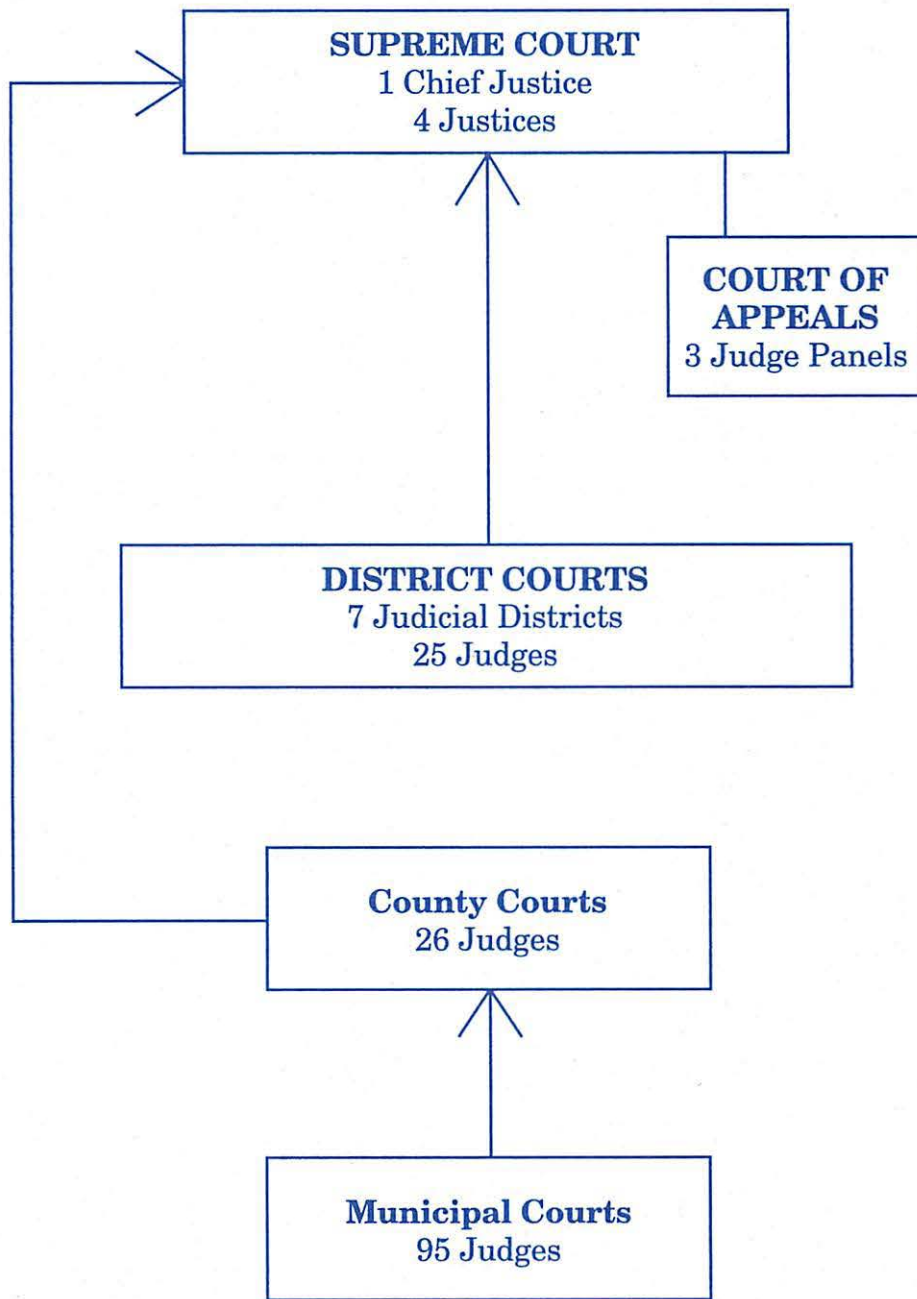
KEITHE E. NELSON
State Court Administrator and
Judicial Conference Executive
Secretary

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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 25 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.

The procedure for filling vacancies in the office of district and county court judge was modified by 1991 House Bill 1517 and is discussed in the District Court and County Court sections of this report.

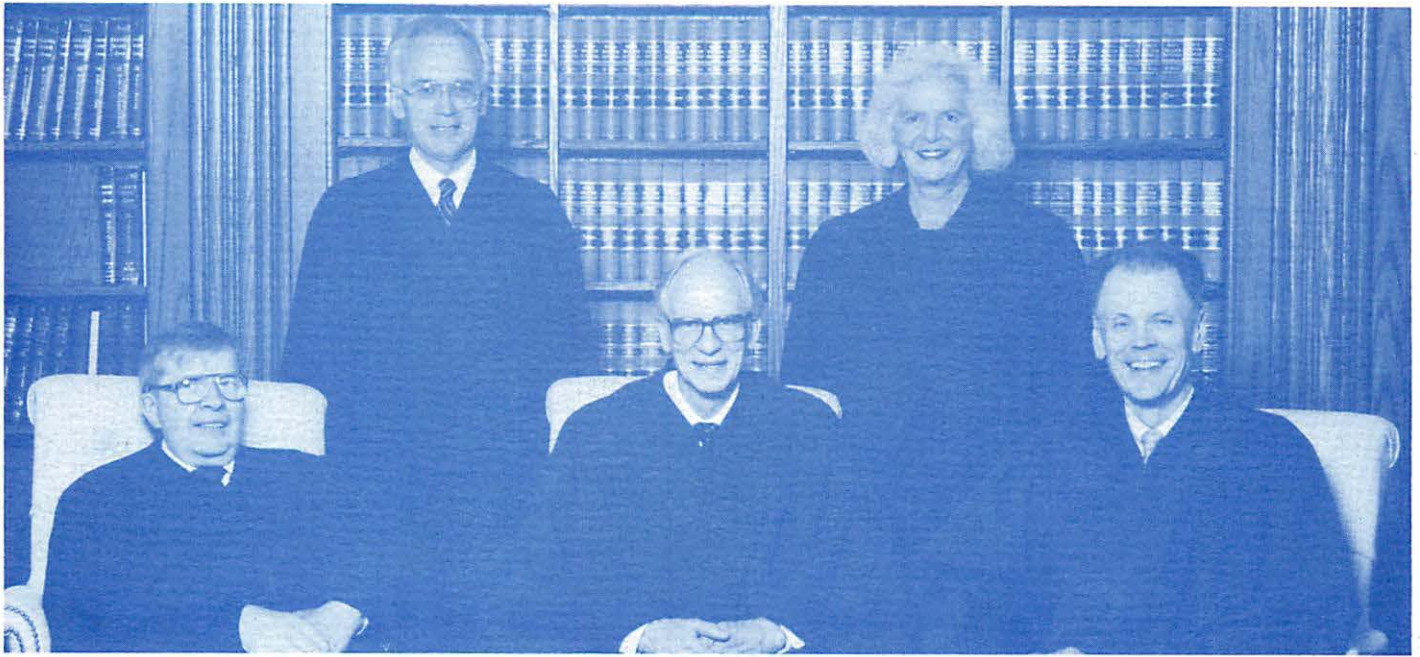
If a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

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.

**CASELOAD OVERVIEW OF NORTH DAKOTA COURTS
FOR 1992 AND 1991**

Level of Court	Filings		Dispositions		Pending at Year's End	
	1992	1991	1992	1991	1992	1991
Supreme Courts	392	456	414	408	208	245
District Courts	24,169	23,120	23,109	22,921	10,984	9,919
County Courts	100,146	102,545	101,646	101,316	28,004	29,504
TOTAL	124,707	126,121	125,169	124,645	39,196	39,668

North Dakota Supreme Court



Left to right: (Sitting) Justice Herbert L. Meschke; Chief Justice Ralph J. Erickstad; and Justice Gerald W. VandeWalle; (Standing) Justice J. Philip Johnson and Justice Beryl J. Levine.

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 Judicial Training Committee, 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 assists the court in the preparation of the judicial budget. 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 to him by the supreme court. The state law librarian supervises the operation of the state law library and serves as court bailiff when the court is in session.

North Dakota Supreme Court

Penny Miller
Clerk of the Supreme Court

"Change" and "transition" were the operative words for calendar year 1992 in the North Dakota Supreme Court.

The year started with a vacancy on the Court created by the November 1991 resignation of H. F. "Sparky" Gierke. J. Philip Johnson filled that vacancy in March after his appointment by Governor George Sinner.

Chief Justice Ralph J. Erickstad also announced his intention to retire effective January 1, 1993, the end of his term. Throughout the year, many organizations and groups honored Chief Justice Erickstad for his 30 years of service, among them were the Lake Region Bar Association and the State Bar Association. In December, 500 people from across the state and nation gathered to pay tribute to "the Chief."

Longtime Clerk of Court, Luella Dunn, retired July 1, after serving the Court for over 44 years, 28 years as Clerk. In June, many family members, friends and members of the state's bench and bar honored Lu for her dedicated years as the third clerk and the first woman clerk of court in the history of the state. Penny Miller, Chief Deputy Clerk since February 1988 was appointed Clerk. On August 1, 1992, Colette Bruggman was appointed Chief Deputy Clerk.

State Court Administrator, William Bohn, retired effective January 1, 1992, and Keith Nelson, after serving as acting State Court Administrator, was appointed to the permanent position in the spring.

Despite what many thought might be tumultuous times, the Court persevered. Credit must be given to the individual members of the Court for their dedication, hard work and, at times, patience. The Court remained well within the docket currency guidelines recommended by the American Bar Association. Of those cases disposed of in 1992, it took an average of 213 days from the time the notice of appeal was filed to the entry of an order or opinion disposing of the appeal. This is well below the suggested 284 to 328 days. For those cases disposed of by opinion, it took the Court an average of 67.5 days from the time the case was argued to file an opinion. This is also well below the 90 to 120 day average suggested by the ABA.

The tables appearing on this page summarize the caseload and dispositions of the Court. However, not reflected in these statistics is an ever-increasing part of the Court's administrative responsibility, the motions practice. Motions filed in pending cases were at an all time high, with 663 motions filed. Many of the motions or petitions filed are considered by one or more justices in weekly conferences.

Time spent in oral argument is also not reflected. In 1992, 235 cases were calendared, or set for oral argument; 94.89% of those cases were argued. Pre-argument research, 50 to 60 minutes argument time per case, and post-argument conferences, add many hours to the Justices' calendars.

Appeals involving administrative proceedings, family law issues, contracts, DUI/DUS, drugs/contraband, torts, and probate, wills and trusts were frequent. Disciplinary proceedings and requests for the Court to exercise its original and supervisory jurisdiction increased in 1992. The highest number of appeals came from the South Central Judicial District followed respectively by the East Central, Northwest, Southeast, Southwest, Northeast Central, and Northeast Judicial Districts.

As 1992 closed, the era of "change" and "transition" continued as the Court prepared for new Justices, William A. Neumann and Dale V. Sandstrom; and a new Chief Justice, Gerald W. VandeWalle, who was elected by the state's district judges and the Supreme Court Justices.

CASELOAD SYNOPSIS OF THE SUPREME COURT FOR THE 1991 AND 1992 CALENDAR YEARS

	1992	1991	Percent Difference
New Filings	392	456	-14.0
Civil	293	289	1.4
Criminal	99	167	-40.7
Transferred to Court of Appeals	15	0	100.0
Civil	8	0	100.0
Criminal	7	0	100.0
New Filings Balance	377	456	-17.3
Civil	285	289	-1.4
Criminal	92	167	-44.9
Filings Carried over from Previous Calendar Year	245*	201	21.9
Civil	164	158	3.8
Criminal	81	43	88.4
Total Cases Docketed	622	657	-5.3
Civil	449	447	0.5
Criminal	173	210	-17.6
Dispositions	414	408	1.5
Civil	282	280	0.7
Criminal	132	128	3.1
Cases Pending as of December 31	208	245*	-15.1
Civil	167	164	1.8
Criminal	41	81	-49.4

*Note: The 1991 Annual Report indicates 249 cases were pending as of December 31, 1991. However, dispositions in four cases were entered after the 1991 statistics were compiled.

DISPOSITIONS - 1992

	Civil	Criminal
BY OPINION:		
Affirmed; Modified and Affirmed	128	50
Reversed; Reversed and Remanded;		
Reversed and Modified	45	10
Affirmed in Part and Reversed in Part	15	0
Judgment Vacated and Remanded	1	0
Remanded	0	0
Dismissed	8	1
Discipline Imposed	17	0
Original Jurisdiction—Granted	2	1
Original Jurisdiction—Denied	2	0
Original Jurisdiction—Denied in Part and Granted in Part	0	0
Certified Question Answered	2	0
Certified Question Not Answered	0	0
Dispositions by Opinion	220	62
BY ORDER:		
Dismissed	43	50
Dismissed After Conference	12	6
No Court Action Required	0	1
Discipline Inactive Status	0	0
Original Jurisdiction—Granted	1	0
Original Jurisdiction—Denied	6	13
Dispositions by Order	62	70
Total Dispositions for 1992	282	132

North Dakota Court of Appeals

Penny Miller
Clerk of the Court of Appeals

The Court of Appeals was established in 1987 to assist the Supreme Court in managing its workload.

Five panels of the Court of Appeals, hearing 12 cases, were called in 1991 and 1992. Another three cases were transferred to the Court of Appeals in 1992.

Judges serving on the panels were:

- Jan. 9, 1991 Surrogate Judge Vernon R. Pederson, Chief Judge
District Judge William F. Hodny
District Judge Allan L. Schmalenberger
- July 8, 1992 Surrogate Judge Douglas B. Heen, Chief Judge
District Judge Donald L. Jorgensen
District Judge Kirk Smith
- July 8, 1992 Surrogate Judge Vernon R. Pederson, Chief Judge
District Judge Donald L. Jorgensen
District Judge Kirk Smith
- Nov. 25, 1992 Surrogate Judge Douglas B. Heen, Chief Judge
District Judge Wallace D. Berning
District Judge John T. Paulson
- Dec. 2, 1992 Surrogate Vernon R. Pederson, Chief Judge
District Judge Maurice R. Hunke
District Judge James H. O'Keefe

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 1992, two Petitions for Rehearing were denied by the Court of Appeals. One Petition for Review was denied by the Supreme Court in 1991 and one in 1992. As of December 31, 1992, one Petition for Review was pending before the Supreme Court.

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

CASELOAD SYNOPSIS OF THE COURT OF APPEALS FOR THE 1991 AND 1992 CALENDAR YEARS

	1992	1991
Cases transferred to Court of Appeals from Supreme Court	14	1
Civil	7	1
Criminal	7	0
Filings Carried over from Previous Calendar Year	1	6
Civil	1	3
Criminal	0	3
Total Cases Docketed	15	7
Civil	8	4
Criminal	7	3
Dispositions	8	6
Civil	5	3
Criminal	3	3
Cases Pending as of December 31	7	1
Civil	3	1
Criminal	4	0

DISPOSITIONS - 1991 COURT OF APPEALS

	Civil	Criminal
Affirmed; Modified and Affirmed	3	3
Reversed; Reversed and Remanded; Reversed and Modified	0	0
Affirmed in Part and Reversed in Part	0	0
Judgment Vacated and Remanded	0	0
Remanded	0	0
Dismissed	0	0
Total Dispositions for 1991	3	3

DISPOSITIONS - 1992 COURT OF APPEALS

	Civil	Criminal
Affirmed; Modified and Affirmed	3	3
Reversed; Reversed and Remanded; Reversed and Modified	1	0
Affirmed in Part and Reversed in Part	1	0
Judgment Vacated and Remanded	0	0
Remanded	0	0
Dismissed	0	0
Total Dispositions for 1992	5	3

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 the 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.

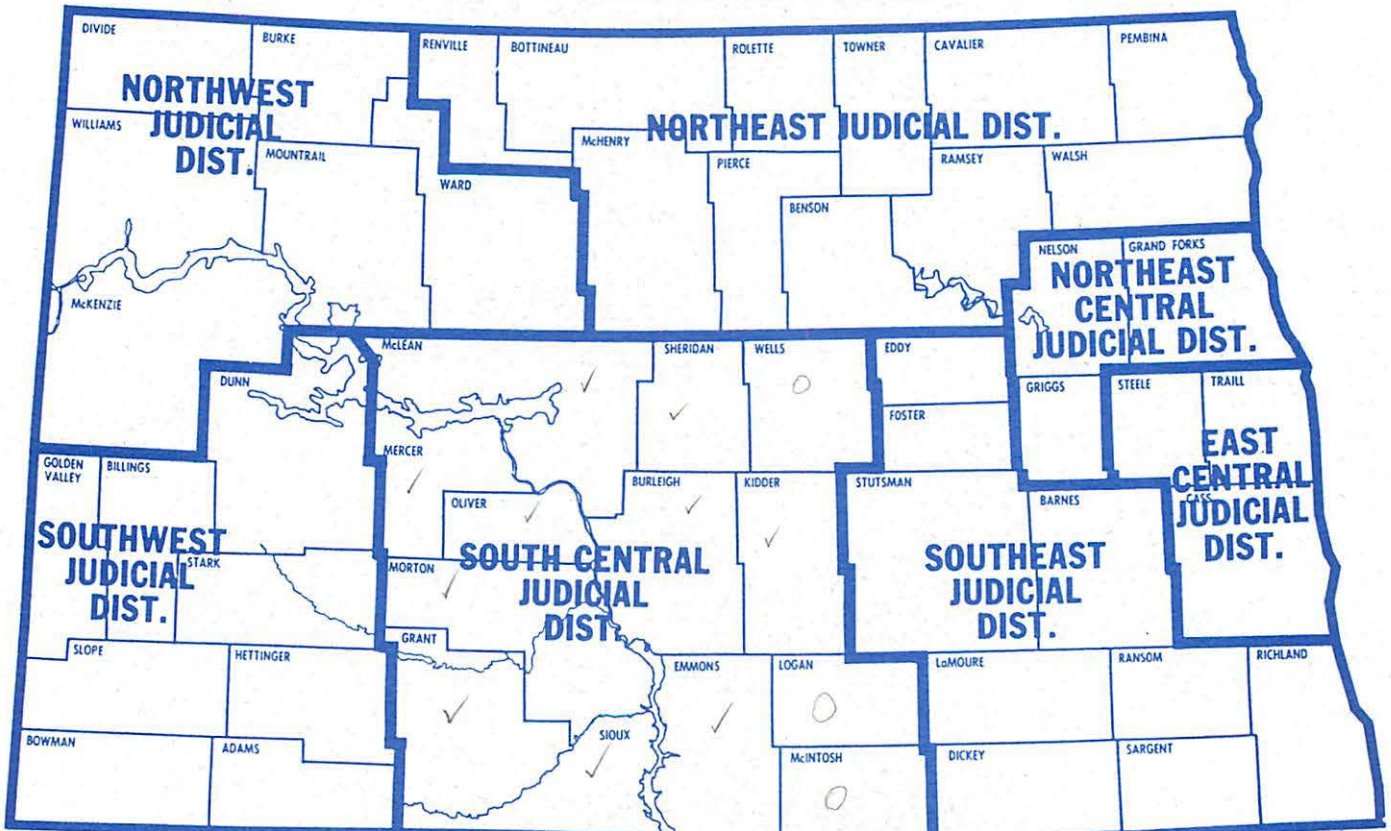
In 1979 the supreme court divided the state into seven judicial districts. In each judicial district there is a presiding judge who supervises all court services of all courts in the geographical area of the judicial district. The duties of the presiding judge, as established by the supreme court, include 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. Six of the seven 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 1992, twenty-five 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. Three judges serve in each of the three 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 a 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 JUDICIAL DISTRICTS



District Court Caseload

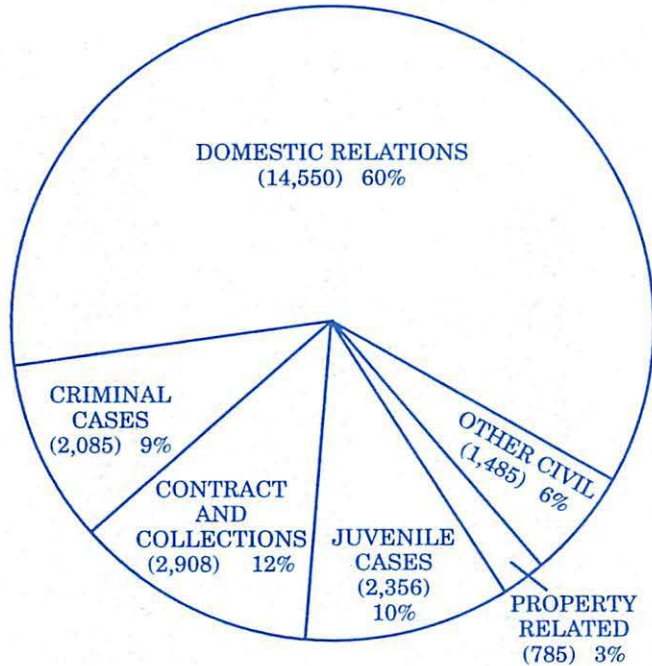
As indicated in the charts below, there was a slight increase in the caseload of district courts in 1992. This increase was consistent with the fairly steady increase in filings which has been evident since 1983.

The three major components of the district court caseload have remained stable in comparison with previous years. The civil component continues to be the largest category of cases, making up 82% of the district court filings. Criminal and juvenile filings each contribute approximately 9% and 10% of the district

court caseload respectively. The increase was fairly steady statewide, with five districts showing consistent increases.

The percentage of criminal filings within each district varies greatly from year to year, caused in part by the relatively small number of cases. The criminal cases showed an increase in filings in 1992 of 9%. However, two districts showed a continued decline in criminal filings seen for the past several years. At the end of 1992, there were 1,163 criminal cases pending compared with 944 cases pending at the end of 1991.

TYPES OF CASES FILED IN THE DISTRICT COURT DURING 1992



DISTRICT COURT CASELOAD FOR CALENDAR YEARS 1992 AND 1991

	1992	1991	Percent Difference
New Filings	24,169	23,120	+4.5
Civil	19,728	18,761	+5.2
Criminal	2,085	1,914	+8.9
Juvenile	2,356	2,445	-3.6
Cases Carried Over From			
Previous Year	9,924	9,720	+2.1
Civil	8,980	8,884	+1.1
Criminal	944	836	+12.9
Juvenile	—	—	—
Total Cases Docketed	34,093	32,840	+3.9
Civil	28,708	27,645	+3.8
Criminal	3,029	2,750	+10.1
Juvenile	2,356	2,445	-3.6
Dispositions	23,109	22,921	+0.8
Civil	18,887	18,670	+1.2
Criminal	1,866	1,806	+3.3
Juvenile	2,356	2,445	-3.6
Cases Pending As Of			
December 31	10,984	9,919	+10.7
Civil	9,821	8,975	+9.4
Criminal	1,163	944	+23.2
Juvenile	—	—	—

DISTRICT COURT CASE TYPE FILING — 1992

CIVIL		CRIMINAL	
Case Type	Filings	Case Type	Filings
Property Damage	54	Felony A	71
Personal Injury	323	Felony B	387
Malpractice	34	Felony C	1,493
Divorce	3,177	Misdemeanor A	77
Adult Abuse	479	Misdemeanor B	38
Custody	60	Infraction	1
Support Proceed	9,388	Special Remedy	4
Adoption	313	Appeal	—
Paternity	1,003	Other	14
Admin. Appeal	322	State Total	2,085
Appeal Other	21		
Contract/Collect	2,908		
Quiet Title	103		
Condemnation	20		
Forcible Detain	7		
Foreclosure	608		
Change of Name	130		
Special Proceed	65		
Trust	38		
Foreign Judgment	310		
Other	365		
State Total	19,728		

Civil Caseload

As indicated in the narrative dealing with the district court caseload in general, the civil caseload increased in the past year.

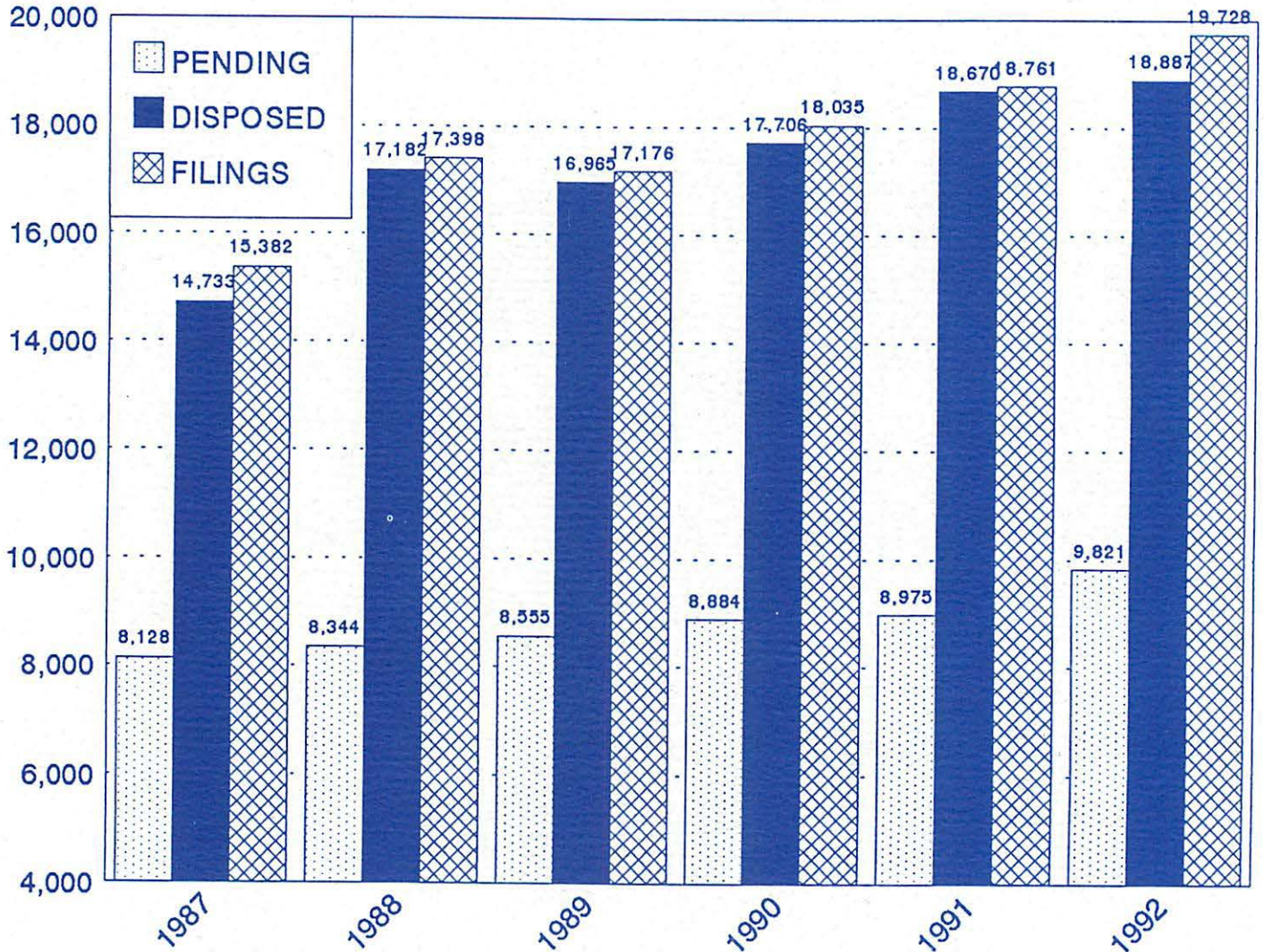
For the fourth consecutive year, the filings of child support related filings showed a substantial increase (12%). Filings in the non-domestic relations area decreased by 7% compared with average increases of 2% for each of the previous ten years. Domestic relations cases increased by approximately 11%, with the majority of that increase in paternity and support proceedings. Contract and collection filings decreased by less than 1%, property related filings decreased by 1%, and other civil filings decreased

by 1%. Within the domestic relations category, child support actions make up 64.5% of the cases, adoption - 2%, paternity - 7%, adult abuse - 3%, and custody less than 1%.

Adult abuse filings decreased slightly in 1992. In 1984 there were 156 adult abuse cases compared with 503 filings in 1991 and 479 filings in 1992. Divorce filings increased by nearly 5% in 1992 with 3,177 cases filed in 1992, compared with 3,035 cases filed in 1991.

The number of pending civil cases increased by approximately 9% over 1991.

ND CIVIL CASELOAD COMPARISONS FOR DISTRICT COURT FOR 1987 - 1992



Criminal Caseload

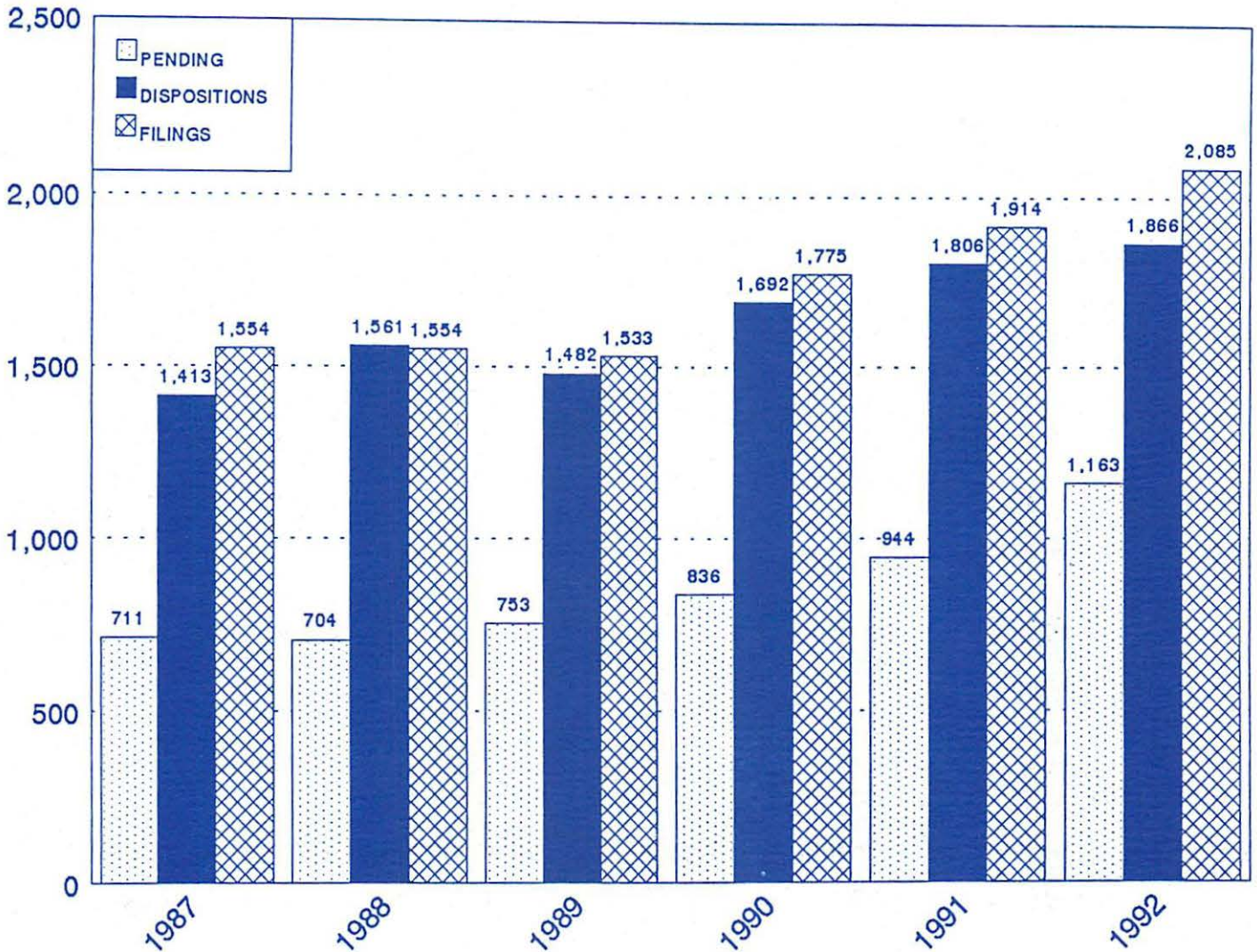
North Dakota continued its traditional low rate of crime during 1992; although the number of criminal filings increased by 9%. The types of cases remained relatively stable.

Of the criminal cases filed in district court, 3% were Class A felonies, 18.5% were Class B felonies, 72% were Class C felonies, while 6% were misdemeanors or other criminal filings. In 1991 the breakdown was 5% for Class A felonies, 19% for Class B

felonies, and 72% for Class C felonies.

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.

**CRIMINAL CASELOAD COMPARISON FOR DISTRICT COURT
FOR 1987 - 1992**



Juvenile Caseload

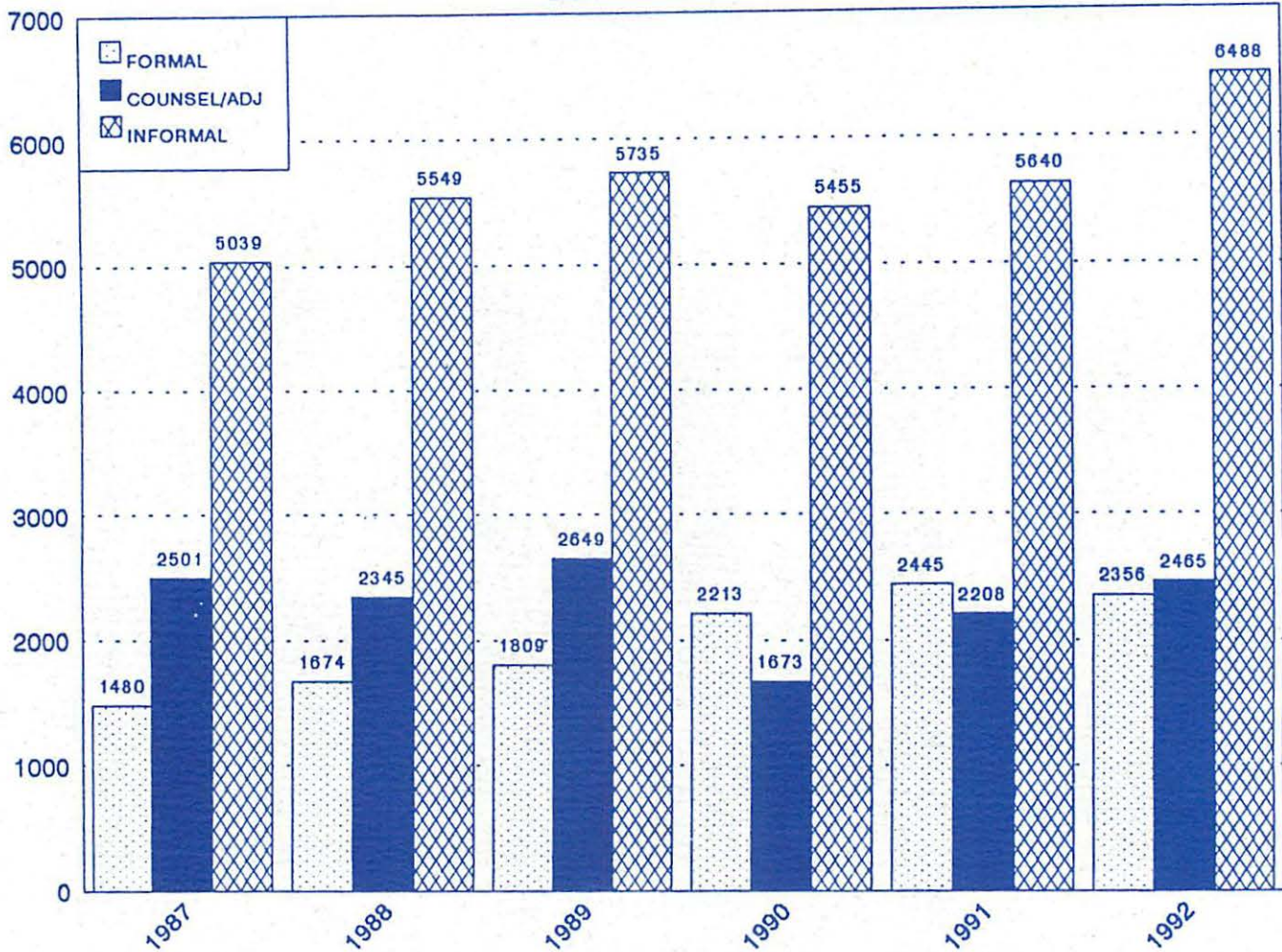
As with the criminal caseload, the low violent crime rate in North Dakota is reflected in its juvenile court statistics. Offenses against persons made up 5% of the juvenile court caseload. Meanwhile, status offenses (offenses which only a child can commit) made up 20% of the caseload. Offenses against property - 31%, traffic offense - 5%, deprivation - 13%, and other filings 24%.

The method by which cases were disposed showed an increase in the use of informal supervision. Of the cases heard, 57% were disposed of through informal adjustments in 1992, compared with 55% in 1991. Additionally, 22% of the cases were counsel

adjusted, and 21% were handled formally. This compares with 23% counsel adjusted and 21% handled formally in 1991.

Overall, the juvenile court caseload increased by 8%, continuing a 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 1992 and 1991. 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 1987 - 1992**



**TYPES OF JUVENILE COURT DISPOSITIONS
FOR 1992 AND 1991**

Judicial District	Formal		Informal		Counsel/ Adjusted		Total Dispositions		% Difference For Total Dispositions
	1992	1991	1992	1991	1992	1991	1992	1991	
Northwest	240	214	1,256	1,085	165	144	1,661	1,443	+15.1
Northeast	277	262	478	391	840	681	1,595	1,334	+19.6
Northeast Central	310	311	898	918	301	160	1,509	1,389	+8.6
East Central	728	892	875	768	316	375	1,919	2,035	-5.7
Southeast	238	204	791	567	317	345	1,346	1,116	+20.6
South Central	480	484	1,953	1,699	306	318	2,739	2,501	+9.5
Southwest	83	78	237	212	220	185	540	475	+13.7
TOTAL	2,356	2,445	6,488	5,640	2,465	2,208	11,309	10,293	+9.8

**REASONS FOR REFERRAL TO JUVENILE COURT SERVICES
IN 1992 AND 1991**

	1992	1991	Percent Difference
UNRULY	2,248	1,951	+15.2
Runaway-Instate	653	558	+17.0
Runaway-out-of-state	168	149	+12.8
Truancy	235	198	+18.7
Ungovernable Behavior	435	537	-19.0
Conduct/Control Violation	73	70	+4.3
Curfew Violation	356	335	+6.3
Other	328	104	+215.4
DELINQUENCY	7,349	7,103	+3.5
Offense Against Person	554	446	+24.2
Assault	327	269	+21.6
Homicide	2	2	0
Kidnapping	3	0	+300.0
Sex Offense	64	65	-1.5
Other	158	110	+43.6
Offense Against Property	3,481	3,396	+2.5
Arson	27	36	-25.0
Burglary	219	173	+26.6
Criminal Mischief	685	684	+.1
Criminal Trespass	160	166	-3.6
Forgery	83	60	+38.3
Robbery	4	2	+100.0
Theft-Misdemeanor	1,263	1,288	-1.9
Theft-Felony	643	592	+8.6
Unauthorized Use of Vehicle	154	143	+7.7
Other	243	252	-3.6
Traffic Offenses	560	574	-2.4
Driving w/o license	402	371	+8.4
Negligent Homicide	0	1	-100.0
Other	158	202	-21.8
Other Offenses	2,754	2,687	+2.5
Disorderly Conduct	321	312	+2.9
Firearms	61	37	+64.9
Game & Fish Violation	32	59	-45.8
Obstruction of Law	53	41	+29.3
Possession or Purchase of Alcohol Beverage	2,028	2,010	+.9
Controlled Substance Violation	45	46	-2.2
Other	214	182	+17.6
DEPRIVATION	1,493	1,837	-18.7
Abandoned	0	0	—
Abuse/Neglect	661	956	-30.9
Deprived	726	650	+11.7
Other	106	231	-54.1
SPECIAL PROCEEDINGS	93	93	—
Involuntary Termination of Parental Rights	19	17	+11.8
Voluntary Termination of Parental Rights	74	76	-2.6
Other	0	0	—
TOTAL	11,183	10,984	+1.8

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; Jon R. Kerian; Wallace D. Berning; William M. Beede.

County Court Judges: Gary A. Holum; Gordon C. Thompson; Robert W. Holte; and William W. McLees, Jr.

Number of Counties in District: 6

District Court Chambers: Minot and Williston

Personnel:

District Judges William Beede and Jon Kerian retired at the end of 1992. Judge Gerald Rustad, in the Williston chambers, and Judge Gary Holum, in the Minot chambers, began their judicial service in 1993.

Judges Berning, Olson, and Holum will have primary responsibility for cases in Ward, Burke, and Mountrail Counties. Judge Rustad will have primary responsibility for Williams, Divide, and McKenzie Counties.

The retirement of part-time referee Phil Stenehjem in Williston, and the termination of part-time referee duty for Bill Blore in Minot, who will devote full-time to court administration, brought about the hiring of Claudette Abel as a judicial referee. A growing caseload in child support, domestic violence, and formal juvenile hearings required filling the vacant position.

In Ward County, the election of Judge Holum to the district court preceded the appointment of Glenn Dill as the new judge in Ward County. Both will assume their new offices in 1993. Judge McLees continues to serve three additional counties in the southwest district. Judge Holte continues to serve Burke, Mountrail, and Divide counties.

Personnel changes also are occurring in the juvenile office at Minot. Wendy Traeger, a part-time secretary, moved to full-time, while the resignation of Maureen Slorby left a vacancy in the probation department.

Marilyn Selland resigned from her position as deputy clerk of court after 10 years of service. Christine Davis, a part-time employee of Ward County Court, was hired for the position left open by that resignation.

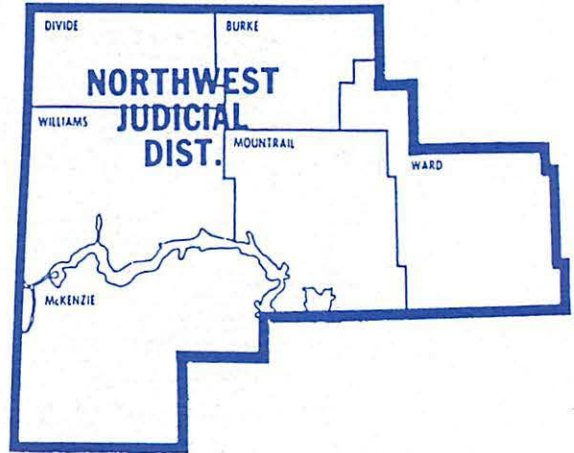
The additional volume of cases for the judicial referee and case assignments to surrogate judges has increased the demand for court reporting services. In Minot, Selma Bachmeier and Linda McEown have added electronic court recording training to their extensive secretarial responsibilities.

Technology Implementation:

Personal computers were provided to the calendar control clerk and court administrator to enhance communication, calendaring, and budget data. The juvenile divisions in Minot and Williston are anticipating their computer hardware installation to further modernize the system. The clerks of court for both the county and district court are loading their records into the program, utilizing the mainframe computer shared by the city of Minot and Ward County. A goal of computerizing the entire district in the coming biennium has been established.

The child support division, district-wide, increased their collections, once again by over a half-million dollars. In excess of seven million, seven hundred fifty thousand dollars was collected. These payments come in small monthly amounts, which represents a growing burden on the clerk of district court staff.

The installation of computer equipment throughout the district to process this growing area of responsibility will increase as a priority as funds become available.



Security and Facility Training:

Judicial advisory committees at both Minot and Williston devoted considerable time and effort to security issues that effect not only judicial employees, but the public and other public officials as well. These community representatives have sent recommendations to the board of county commissioners for consideration throughout the district.

The growing demand for increased office space has created a new challenge for the advisory committee members. Preparing for a truly unified system will occupy much of the agenda topics for future meetings as well.

NORTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1992 AND 1991

	1992	1991	Percent Difference
New Filings	3,986	3,574	+11.5
Civil	3,487	3,129	+11.4
Criminal	259	231	+12.1
Juvenile	240	214	+12.1
Cases Carried Over From			
Previous Year	1,255	1,249	+5
Civil	1,171	1,175	-3
Criminal	84	74	+13.5
Juvenile	—	—	—
Total Cases Docketed	5,241	4,823	+8.7
Civil	4,658	4,304	+8.2
Criminal	343	305	+12.5
Juvenile	240	214	+12.1
Dispositions	3,840	3,568	+7.6
Civil	3,377	3,133	+7.8
Criminal	223	221	+9
Juvenile	240	214	+12.1
Cases Pending As Of			
December 31	1,401	1,255	+11.6
Civil	1,281	1,171	+9.4
Criminal	120	84	+42.9
Juvenile	—	—	—

Report of the Northeast Judicial District

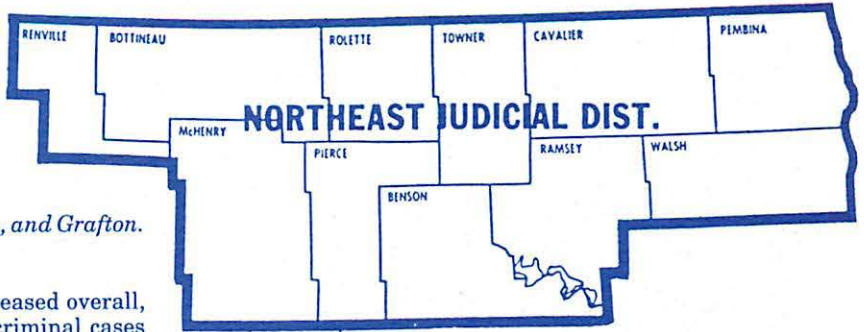
The Honorable James O'Keefe, Presiding Judge
Lisa McEvers, Administrative Assistant

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

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

Number of Counties in District: 11

District Court Chambers: Bottineau, Devils Lake, and Grafton.



Caseload:

The caseload in the Northeast district has increased overall, with civil cases increasing by just over 4% and criminal cases increasing by around 25%. The number of contested cases has decreased, with approximately one in five cases going to trial. Paternity, support proceedings, divorces, and contract collections make up the bulk of the caseload. On an optimistic note, the number of foreclosures has declined.

Case Assignments:

The district continues to be subdivided into three areas, with each judge primarily serving an identified area. In general, Judge O'Keefe serves Walsh, Pembina, and Cavalier Counties; Judge Christofferson serves Benson, Ramsey, Towner, and Rolette Counties; and Judge Neumann serves Pierce, McHenry, Bottineau, and Renville Counties. Dale Thompson serves as judicial referee in the western eight counties of the district and County Judges Geiger and Metelmann continue to serve as referees in the eastern three counties of the district, handling mostly juvenile cases and domestic matters. With the election of Judge Neumann to the Supreme Court, the district has begun assigning district court cases to the county judges by blanket order in the four westernmost counties and on a case-by-case basis in the rest of the district. District court judges have also seen limited duty in county court in an effort to facilitate the coming of court unification.

Personnel:

Dan Howard was hired in April as a juvenile court officer in Devils Lake, filling the void left in probationary services when Karen Olson was promoted to court officer III. Margaret La Plante, long time court reporter for Judge O'Keefe in Grafton, retired in September after 17 years of outstanding service. Margaret's dedication to the judiciary and valued experience will be truly missed. We wish her well in her retirement. On the threshold of Margaret's leaving, we welcome Rena DeSautel as Judge O'Keefe's new court reporter. Rena comes to us with outstanding credentials and we look forward to working with her. We will soon be losing the services of the Judge William A. Neumann who was elected to the North Dakota Supreme Court in the November, 1992, general election. Judge Neumann has served us well for over 14 years and his knowledge and experience will be hard to replace.

Training:

Little out-of-state training was attended this year by either judges or staff. Judge O'Keefe attended the Five-State Judicial Conference in Cheyenne, Wyoming, and Judge Christofferson

attended the National Conference on Judicial Ethics in Baltimore, Maryland. The only staff attending out-of-state training was Karen Olson, juvenile court officer III, from Devils Lake, who attended the National Association of Family Based Services Conference in St. Louis. The cost for this training was shared by the judiciary and the Department of Human Services. Numerous in-state training programs were attended by all judges and staff.

Technology Implementation:

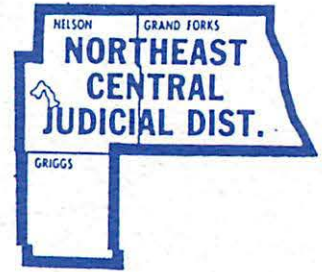
The district is continuing its efforts in moving toward computerization, adding two microcomputers in Grafton and one in Cavalier. This long-term project will take from two to five years, depending on budgetary considerations.

NORTHEAST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1992 AND 1991

	1992	1991	Percent Difference
New Filings	2,185	2,038	+7.2
Civil	1,680	1,607	+4.5
Criminal	228	169	+34.9
Juvenile	277	262	+5.7
Cases Carried Over From			
Previous Year	898	995	-9.7
Civil	748	873	-14.3
Criminal	150	122	+23.0
Juvenile	—	—	—
Total Cases Docketed	3,083	3,033	+1.6
Civil	2,428	2,480	-2.1
Criminal	378	291	+29.9
Juvenile	277	262	+5.7
Dispositions	2,150	2,135	+7
Civil	1,671	1,732	-3.5
Criminal	202	141	+43.3
Juvenile	277	262	+5.7
Cases Pending As Of			
December 31	933	898	+3.9
Civil	757	748	+1.2
Criminal	176	150	+17.3
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 and Jonal H. Uglem

Number of Counties in District: 3

District Court Chambers: Grand Forks

On May 5, 1992, Judge Lawrence Jahnke was shot while presiding over a child support proceeding. This prompted the forming of a security committee at the request of the county commissioners and chaired by Judge Medd. Security was increased in the Grand Forks County Courthouse by the use of a full-time sheriff's deputy assigned to courthouse security. Work began on a security plan for Grand Forks and eventually will include the other two counties in the district.

For the convenience of parties and judicial efficiency, Judge Jonal Uglem was assigned all cases in Griggs and Nelson Counties.

Despite increased efficiency and hard work by County Judge Kleven, the Grand Forks county court continues to be overloaded and a solution to this problem is being sought. There has been a blanket assignment of district judges into county court as time permits. The district court reporters have agreed to fill in at county court as time permits. Work continues to improve the use of the court management package on the computer system.

The Unified Court Information System (UCIS) program was implemented by the clerk of the district court and the court administrative office to facilitate the handling and monitoring of cases.

The reception and case scheduling area was moved into a larger room and partitions added for better efficiency. The district court library was moved to the second floor and consolidated with the county court library.

The Grand Forks county commissioners continue to review space needs and have obtained estimates for remodeling existing facilities or building new facilities.

We continue to explore ways to settle cases by mediation in civil cases and domestic relations cases. We have managed to maintain docket currency only by extra work.

We continue to use the law clerk program with the UND Law School which is of great benefit, although the students are only available 160 hours per semester and the summer.

We continue to use LEXIS and plans are underway to have another phone line installed in Grand Forks to enable more than one user to use LEXIS at any time.

After the supreme court adopted the new pay and classification plan, several employee pay adjustments were able to be made. Employees seem generally satisfied with the new personnel system.

Indigent defense services have been maintained although there have been changes in contracting attorneys because of attorneys discontinuing contract service.

Judge Bohlman was selected as the North Dakota Director for the American Judicature Society to replace attorney Nicholas Spaeth. Judges Smith and Medd have previously served as AJS directors.

Juvenile Court:

Juvenile court developed two very successful programs in 1992. The first is the drug and alcohol testing program. This is a cooperative effort with the Grand Forks Public Schools and United Recovery Center. This has proved highly successful and is the first program in which technology has given probation

officers the opportunity to determine if an offender on probation is using drugs or alcohol.

The second program is our "in house" license suspension for alcohol offenders. Any juvenile who admits to or is adjudicated for alcohol related offenses loses their license for thirty (30) days on a first offense, sixty (60) days on the second offense, and ninety (90) days for the third offense. This suspension is for local purposes only and does not affect insurance or points from DOT.

Both of these programs have provided better accountability and have given juvenile court the opportunity to intervene on a more timely basis. We are optimistic that we will see a reduction in alcohol related offenses in the district when the statistics are in.

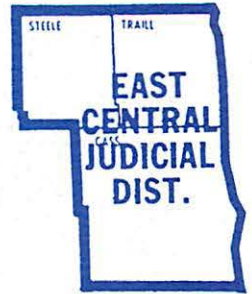
The Grand Forks county juvenile detention center received approval to hold delinquents for up to ninety (90) days. This is in contrast to the 96 hour hold that was allowed prior to the change. Cooperative efforts from juvenile court, county officials, and the department of corrections, made this change possible. The primary beneficiaries are the detained youth, their families, and attorneys. There was also a substantial monetary saving by the county. The northeast central judicial district has a continuum of detention that includes attendant care, shelter care, and secure detention.

NORTHEAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1992 AND 1991

	1992	1991	Percent Difference
New Filings	3,865	3,667	+6.4
Civil	3,191	3,027	+5.4
Criminal	364	329	+10.6
Juvenile	310	311	-3
Cases Carried Over From			
Previous Year	1,601	1,322	+21.1
Civil	1,436	1,202	+19.5
Criminal	165	120	+37.5
Juvenile	—	—	—
Total Cases Docketed	5,466	4,989	+9.6
Civil	4,627	4,229	+9.4
Criminal	529	449	+17.8
Juvenile	310	311	-3
Dispositions	3,679	3,388	+8.6
Civil	3,056	2,793	+9.4
Criminal	313	284	+10.2
Juvenile	310	311	-3
Cases Pending As Of			
December 31	1,787	1,601	+11.6
Civil	1,571	1,436	+9.4
Criminal	226	165	+37.0
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

County Court Judges: Georgia Dawson, Frank Racek, and Jonal Uglem

Number of Counties in District: 3

District Court Chambers: Fargo

District Court:

New civil filings decreased over last year and criminal filings decreased 3%. The motion practice increased 4%.

Forty-five certificates of readiness for jury trials were filed with disposal of thirty-eight jury cases through trial or settlement in 1992. One hundred thirty certificates of readiness were filed for bench trials with disposal of one hundred fourteen cases through trial or settlement.

Court security implementation in Cass county consists of a walk through metal detector at access points to county and district courts. The detector is staffed by deputies from the sheriff's department. A security window and security buzzer alarm system are being installed at the receptionist area of district court.

Juvenile Court:

The year of 1992 saw the implementation of the truancy program that involved all agencies currently serving that population. The truancy program consisted of approximately 15 students participating on Friday evenings and Saturday mornings in a program that lasted six weeks. The parents were a part of this program and were presented with parenting information while the juveniles met with tutors. The program has been successful and is continuing at this time.

The youthful sexual offenders group continues to meet on a monthly basis to improve the services provided for youthful sexual offenders.

A total of \$18,053.39 was collected in monetary restitution during 1992.

Intern Program:

A law clerk internship of a first year law student at UND will be utilized this summer for Cass county district court.

Child Support:

The regional child support enforcement office's caseload has grown to 5,500 cases as of January 1, 1993. Medical assistance cases and the periodic review and adjustment process have substantially increased the volume of hearings in the district.

County Court:

Cass county court had over 15,000 new case filings in 1992. Slightly over one-half of these filings were traffic cases. There were over 4,100 criminal cases filed in the last year. Thirty-seven jury trials were conducted in county court in 1992.

EAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1992 AND 1991

	1992	1991	Percent Difference
New Filings	5,268	5,524	-4.6
Civil	3,995	4,104	-2.7
Criminal	545	528	-3.2
Juvenile	728	892	-18.4
Cases Carried Over From			
Previous Year	3,340	3,210	+4.0
Civil	3,121	3,019	+3.4
Criminal	219	191	+14.7
Juvenile	—	—	—
Total Cases Docketed	8,608	8,734	-1.4
Civil	7,116	7,123	-.1
Criminal	764	719	+6.2
Juvenile	728	892	-18.4
Dispositions	4,929	5,394	-8.6
Civil	3,702	4,002	-7.5
Criminal	499	500	-.2
Juvenile	728	892	-18.4
Cases Pending As Of			
December 31	3,679	3,340	+10.1
Civil	3,414	3,121	+9.4
Criminal	265	219	+21.0
Juvenile	—	—	—

Report of the Southeast Judicial District

The Honorable Robert L. Eckert, Presiding Judge
Marguerite Aldrich, Trial Court Administrator

District Court Judges: 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

Personnel:

Many personnel changes took place in 1992. Marguerite Aldrich, the court administrator since 1985, resigned in March, 1992, due to poor health. She was temporarily replaced by Valerie DeJong, a former secretary for the Wahpeton juvenile office. Margaret Smith was hired as a calendar control clerk in May, 1992, to continue the court administrative duties. Margaret graduated from Moorhead State University in November of 1991 with a B.A. in accounting.

Edward Erickson continued for a second year as a full-time law clerk. Although he works out of the Stutsman county courthouse, his services are valuable to all the judges in the district.

Judge James A. Wright was appointed to fill the Jamestown judgeship left vacant by Judge Hoberg's retirement. Judge Wright graduated from North Dakota State University with a B.S. in science in 1969 and went on to earn his juris doctorate degree from Hamline Law School in 1976. He practiced law with the Jamestown law firm of Weiss, Wright, Paulson & Merrick until his appointment to the district judgeship in May, 1992.

District and Juvenile Court Caseload:

The number of civil filings and dispositions in district court increased from last year. Criminal filings also increased 15% and dispositions increased by 13%. The total district court caseload increased by nearly 13% over 1991. The disposition rate per judge for both civil and criminal cases was approximately 622.

The total number of juvenile dispositions increased by almost 17% from last year.

County Court Caseload:

The number of civil filings increased 5.8% and the number of dispositions increased 8.5% over last year. The number of criminal filings increased 15% and the number of dispositions increased 12% over last year. The total county court caseload increased 11% over last year.

The disposition rate per judge for both civil and criminal cases was approximately 662.

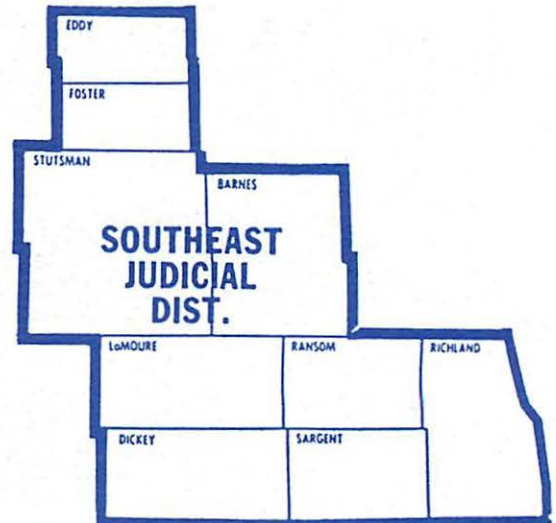
Indigent Defense:

The southeast judicial district is covered by three different contracts for indigent defense services. One contract covers Richland, Ransom, and Sargent Counties; the second contract covers Barnes, Dickey, and LaMoure Counties; and the third contract covers Stutsman, Eddy, and Foster counties.

The contracts have worked out well and we will be continuing them through the next biennium.

County Judges Handling District Court Case:

Since the passage of House Bill 1517, district court cases filed in the six smallest counties of the district have been assigned to



county court judges. This has reduced travel expenses for the district court judges and has resulted in faster service for the rural counties. This valuable experience will prepare the county court judges for trial court unification, which becomes effective on January 1, 1995.

EAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1992 AND 1991

	1992	1991	Percent Difference
New Filings	2,310	2,052	+12.6
Civil	1,869	1,672	+11.8
Criminal	203	176	+15.3
Juvenile	238	204	+16.7
Cases Carried Over From			
Previous Year	749	789	-5.1
Civil	637	676	-5.8
Criminal	112	113	-.9
Juvenile	—	—	—
Total Cases Docketed	3,059	2,841	+7.7
Civil	2,506	2,348	+6.7
Criminal	315	289	+9.0
Juvenile	238	204	+16.7
Dispositions	2,337	2,092	+11.7
Civil	1,898	1,711	+10.9
Criminal	201	177	+13.6
Juvenile	238	204	+16.7
Cases Pending As Of			
December 31	722	749	-3.6
Civil	608	637	-4.6
Criminal	114	112	+1.8
Juvenile	—	—	—

Report of the South Central Judicial District

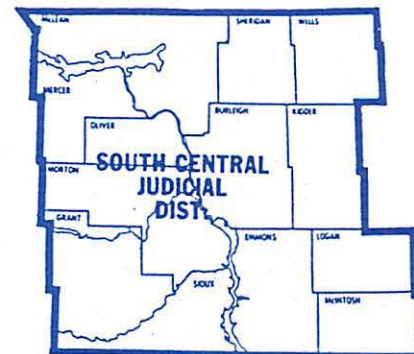
The Honorable Benny A. Graff, Presiding Judge
Douglas H. Johnson, Trial Court Administrator

District Court Judges: Benny A. Graff, Presiding Judge; Gerald G. Glaser; William F. Hodny; and Dennis A. Schneider

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

Number of Counties in District: 13

District Court Chambers: Bismarck and Mandan



District Court:

The south central judicial district is the state's largest district, both geographically and by population. 1992 could best be categorized as a transition year. It was the first complete year that the district handled its caseload with only four district court judges.

In March, the district court converted from a master to an individual calendaring system. This was a major change in the scheduling process, since all pretrial motions must generally be heard before the assigned judge.

In April, Judge Graff issued an administrative order providing County Judges Grenz, Bekken, and Schulz the authority to handle district court matters. This practice was not entirely new since they previously handled all uncontested adoptions, stipulated divorces, and default civil matters.

Ted Gladden, south central judicial district court administrator for 11 years, left North Dakota to accept a court administrative position in Duluth, Minnesota. Ted's contributions to court administration over the years were many and he will be missed. We wish him well in his new position. Doug Johnson was hired to fill the district court administrator position and assumed his duties April 1. Doug is a North Dakota native, holding a B.S. degree in criminal justice from Minot State University and a M.S. degree in judicial administration from the University of Denver College of Law. Prior to returning to North Dakota, he worked for three years in the Maricopa County (Phoenix, AZ) Supreme Court System. Other personnel additions to the district include Sandy Ermantraut, hired in August as court reporter to replace Paula Gerhardt, who resigned to pursue other interests.

The following chart compares the number of jury trials versus the number of bench trials which have a certificate of readiness filed as of the first of the year.

CASES READY FOR TRIAL

Date	Total Ready for Trial	Criminal Trials	Civil Jury Trial	Bench Trials	Jury Trials %
01/01/93	106	31	42	33	69
01/01/92	100	20	39	41	59
01/01/91	62	13	21	28	55
01/01/90	48	9	19	20	58
01/01/89	91	26	22	43	52
01/01/88	115	13	31	71	37

As of January 1, 1993, jury trials comprised 69% of the total cases ready for trial in the south central judicial district. With the exception of 1991, this trend of more jury cases has continued for the past six years.

1992 proved to be the first year all south central district court case information was entered onto the uniform court information system (UCIS) software. Burleigh county completed its second year on the automated system. Another milestone was the first full year of having consolidated clerks offices in Burleigh county. Deb Huntley, clerk of district court for Burleigh county, managed both clerks' offices with the assistance of chief deputy Loralee Heiser. The consolidation was the first of its kind in North Dakota and was an important step in the court unification process.

Juvenile Division and Judicial Referee Activities:

In 1992, 3190 children were referred to juvenile court. This was an increase from 2887 referrals in 1991. Of that total number, slightly over 850 were referred back to the Bismarck/Mandan Police Youth Bureau for informal disposition. Of the

2429 children who were in juvenile court, 480 cases of the total referrals were disposed of formally. This number included detention and shelter care hearings and temporary custody orders. There continues to be a slight decrease in the referrals from rural counties of the district. Burleigh and Morton counties have over 2500 of the referrals, which equates to 83% of the district total. In addition to the formal juvenile proceedings, judicial referees heard 298 order to show cause cases and 56 foster support matters.

In June, the juvenile court staff entered all case information onto an automated program. The software was developed locally and continued enhancements are planned for the mainframe system, which runs on the same IBM AS/400 platform as the UCIS software.

County Court:

The Alternative Choice Training Program (ACT) also completed its first full year of operations. Although the program began in March of 1991 through a grant from the attorney general's office, it is now fully funded by those referred to it. Currently, the county courts of Burleigh, Morton, McLean, Grant, Mercer, Sioux, as well as the municipal courts of Bismarck, Mandan, and Hazen, participate in the program.

In 1992, a total of 221 people were referred to the unlawful possession of alcohol class and 167 were referred to the adult misdemeanor class. The domestic violence class had over 70 referrals for the past year.

ACT project coordinator Larry Otterson has organized the program through Bismarck State College and the National Corrective Training Institute. The program has proved to be of great benefit to the community and provides judges with another sentencing option otherwise not available.

SOUTH CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1992 AND 1991

	1992	1991	Percent Difference
New Filings	4,970	4,591	+8.3
Civil	4,104	3,731	+10.0
Criminal	386	376	+2.7
Juvenile	480	484	-8.3
Cases Carried Over From			
Previous Year	1,532	1,599	-4.2
Civil	1,381	1,451	-4.8
Criminal	151	148	+2.0
Juvenile	—	—	—
Total Cases Docketed	6,502	6,190	+5.1
Civil	5,485	5,182	+5.8
Criminal	537	524	+2.5
Juvenile	480	484	-8.3
Dispositions	4,575	4,658	-1.8
Civil	3,783	3,801	-5
Criminal	312	373	-16.4
Juvenile	480	484	-8
Cases Pending As Of			
December 31	1,927	1,532	+25.8
Civil	1,702	1,381	+23.2
Criminal	225	151	+49.0
Juvenile	—	—	—

Report of the Southwest Judicial District

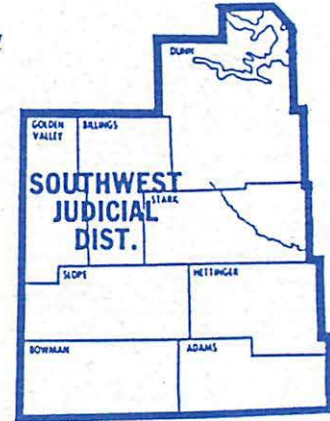
The Honorable Maurice R. Hunke, Presiding Judge
Ardean Ouellette, Trial Court Administrator

District Court Judges: Maurice R. Hunke, Presiding Judge; Allan L. Schmalenberger; 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 in both county and district courts. With the exception of a slight decline in some county court filing categories, workload in the southwest judicial district has remained relatively constant since 1987.

Although the accompanying chart reveals some minor variations from the year 1991, combined new filings in civil, criminal, and juvenile court cases have continued that trend of consistency observed for the past six years. All indicators point to a continuation of that stability.

Docket Currency:

At the time funding was first provided for modern court administration and personnel in 1981, the emphasis was on achieving docket currency. It required unrelenting effort to reduce the number of older or seemingly unattended cases while at the same time providing appropriate attention to current filings.

In more recent years after finally having achieved what seems an acceptable level of docket currency, it still requires a regular effort to maintain that level! We exhibit some local pride in letting the public we serve know that all cases in our district — criminal and civil — are brought on for trial in a reasonably prompt fashion. That we are able to do so is attributable both to an adequate number of judges and the efforts of our administrative and clerical staff.

Personnel:

During June of 1992, our juvenile court secretary, Nancy Schmidt, left our employ to marry and move to the state of Texas. While we were reluctant to see Nancy leave, we have been delighted with the services provided by her replacement, Angel Amsbaugh, who came to us from Minot, North Dakota. We welcome Angel to our staff and hope she will be with us for a long while.

Trial Court Consolidation:

The writer of this report has been criticized on recent occasions for not being sufficiently supportive of the type of new trial court structure provided to us by the 1991 and 1993 Legislative Assemblies. While we have had honest and healthy differences of opinion regarding the best direction to take for the 21st century, we hope it will lead to a better understanding of trial court consolidation. The following are quotes from the reports prepared for this space in the preceding three years:

From the year 1991: "We have consistently urged and supported a form of court consolidation that would best utilize our limited resources in a manner that would allow access to reasonable judicial services to all our citizens without compromise of present quality."

From the report for 1990: (After acknowledging passage of House Bill 1517) "All of us in the judiciary will now need to work together to bring about the adjustments and refinements that will be necessary to provide adequate judicial services to all citizens of North Dakota."

From the year 1989: "Efficient utilization of the limited resources available suggests that consolidation of the district and county courts into a single trial court jurisdiction, or some modified form of consolidation, may be the solution for the future."

SOUTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1992 AND 1991

	1992	1991	Percent Difference
New Filings	1,585	1,674	-5.3
Civil	1,402	1,491	-6.0
Criminal	100	105	-4.8
Juvenile	83	78	+6.4
Cases Carried Over From			
Previous Year	549	561	-2.1
Civil	486	493	-1.4
Criminal	63	68	-7.4
Juvenile	—	—	—
Total Cases Docketed	2,134	2,235	-4.5
Civil	1,888	1,984	-4.8
Criminal	163	173	-5.8
Juvenile	83	78	+6.4
Dispositions	1,599	1,686	-5.2
Civil	1,400	1,498	-6.5
Criminal	116	110	+5.5
Juvenile	83	78	+6.4
Cases Pending As Of			
December 31	535	549	-2.6
Civil	488	486	+4
Criminal	47	63	-25.4
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.

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 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

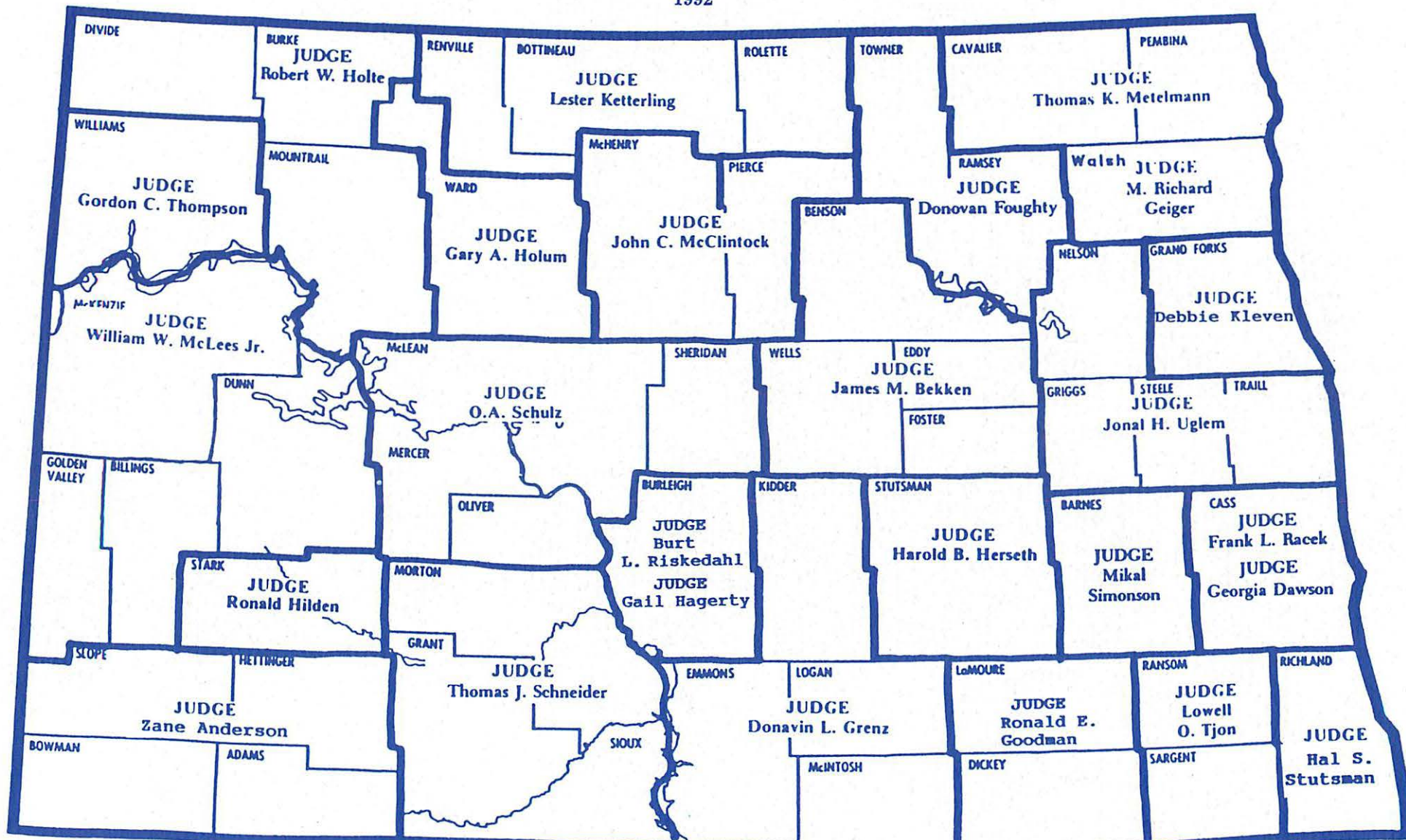
the appellate courts for appeals from municipal courts. All appeals from municipal courts to county courts are trial *de novo* appeals. In other words, when a municipal court case is appealed to the county court, a new trial is held in the county court. New trials are required in county courts because 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 a 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, pursuant to HB 1517, may negotiate the same types of agreements that could be entered into if the office of county judge were abolished. 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
1992



County Court Caseload

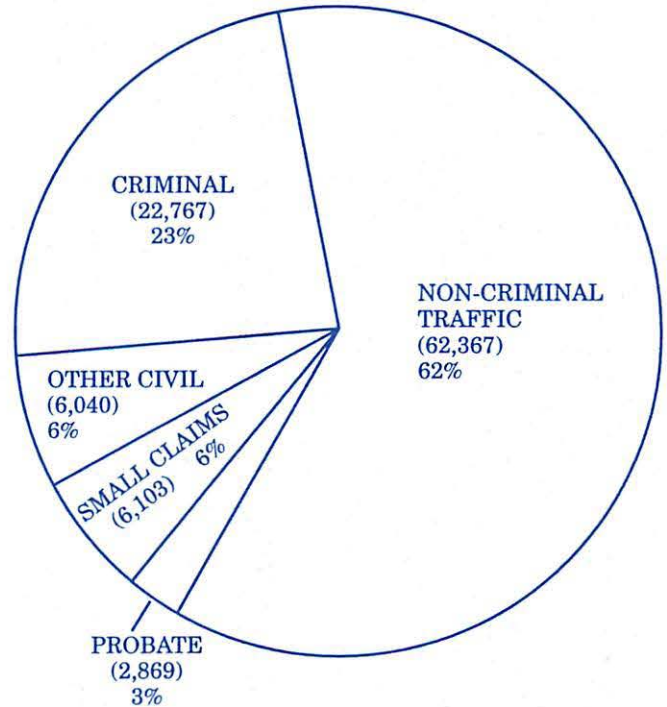
The breakdown of the county court caseload indicates a moderate decrease (-2%) in the filing of cases in county court. The caseload continues to be predominately noncriminal traffic followed by criminal, small claims, and other civil and probate.

Civil filings decreased 3.4% while criminal cases decreased 3.8%. Filings in small claims court decreased slightly in 1992 following a 2.5% decrease in 1991 and a 6% decrease in 1990.

SYNOPSIS OF COUNTY COURTS CASELOAD FOR 1992 AND 1991

	1992	1991	Percent Difference
New Filings	100,146	102,545	-2.3
Civil	15,012	15,536	-3.4
Criminal	22,767	23,666	-3.8
Noncriminal Traffic	62,367	63,343	-1.5
Cases Carried Over From			
Previous Year	29,504	28,275	+4.3
Civil	23,686	22,987	+3.0
Criminal	5,818	5,288	+10.0
Noncriminal Traffic	—	—	—
Total Cases Docketed	129,650	130,820	-0.9
Civil	38,698	38,523	+0.4
Criminal	28,585	28,954	-1.3
Noncriminal Traffic	62,367	63,343	-1.5
Dispositions	101,646	101,316	+3
Civil	14,376	14,837	-3.1
Criminal	24,903	23,136	+7.6
Noncriminal Traffic	62,367	63,343	-1.5
Cases Pending As Of			
December 31	28,004	29,504	-5.1
Civil	24,322	23,686	+2.7
Criminal	3,682	5,818	-36.7
Noncriminal Traffic	—	—	—

TYPES OF CASES FILED IN THE COUNTY COURT DURING 1992



**COUNTY COURT FILINGS AND DISPOSITIONS
FOR 1992**

County	Felony		Misdemeanor		Total Non-Criminal Traffic	Small Claims		Probate		Guardianship/Conservatorship		Other Civil		Mental Health & Emerg. Commit.
	(F)	(D)	(F)	(D)		(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	
Adams	5	6	116	149	284	33	35	35	28	6	8	38	37	11
Barnes	31	32	386	399	2,127	204	194	53	25	4	0	56	54	57
Benson	12	9	138	135	900	37	37	36	17	4	0	23	21	2
Billings	0	2	59	45	303	1	1	10	9	1	0	4	4	0
Bottineau	11	10	232	269	549	76	85	71	32	6	0	40	40	26
Bowman	3	3	70	102	224	33	35	26	27	5	0	19	19	0
Burke	5	4	95	115	245	21	23	38	26	0	1	23	22	2
Burleigh	54	93	319	903	5,149	336	327	148	173	43	46	0	37	134
Cass	446	419	3,192	3,646	5,869	1,654	1,674	305	403	107	109	1,064	1,122	459
Cavalier	11	26	147	240	716	54	53	50	40	3	2	49	50	2
Dickey	9	10	127	117	459	93	75	24	37	5	7	30	30	8
Divide	5	4	63	60	253	13	12	43	40	2	4	10	7	0
Dunn	20	19	163	151	941	22	24	27	23	3	0	16	12	2
Eddy	5	3	87	84	162	15	19	24	12	5	1	13	13	0
Emmons	3	4	174	163	599	38	40	39	79	8	20	27	26	9
Foster	2	1	163	142	516	44	46	23	16	3	1	22	20	1
Golden Valley	0	0	68	71	123	19	11	27	8	2	6	11	12	0
Grand Forks	271	290	3,814	3,309	6,112	550	571	164	106	33	5	196	207	112
Grant	2	0	35	37	301	22	31	25	12	0	0	14	14	1
Griggs	8	4	153	150	623	26	27	18	2	3	2	17	17	7
Hettinger	4	5	57	54	299	21	17	28	10	3	1	14	15	0
Kidder	0	0	81	90	579	21	21	17	18	4	6	11	12	9
LaMoure	6	7	94	91	741	63	65	30	25	1	0	14	12	1
Logan	6	5	52	41	219	7	9	20	19	4	2	7	8	1
McHenry	17	14	177	155	838	19	18	44	34	5	3	33	34	22
McIntosh	2	1	35	40	203	10	12	23	10	8	0	20	14	6
McKenzie	8	9	250	265	821	56	44	56	54	9	8	27	27	6
McLean	14	13	421	433	2,940	60	64	63	23	8	3	81	82	4
Mercer	17	24	248	243	1,072	91	102	49	26	12	0	55	47	14
Morton	55	66	883	774	3,090	179	205	74	11	15	1	237	240	96
Mountrail	6	4	180	158	587	75	75	56	35	8	5	25	27	19
Nelson	4	5	114	122	637	21	25	40	23	1	0	11	10	4
Oliver	0	0	15	17	281	10	15	7	6	2	1	4	4	4
Pembina	21	19	359	405	799	56	49	65	57	7	0	91	90	14
Pierce	12	17	201	256	438	82	72	48	30	11	3	26	24	8
Ramsey	51	57	590	605	2,775	187	193	60	40	13	7	67	68	39
Ransom	10	12	181	161	785	41	41	36	8	4	0	20	17	10
Renville	3	4	13	29	267	38	35	26	30	0	0	12	11	7
Richland	71	74	1,010	993	2,588	264	262	85	62	14	14	127	126	34
Rolette	20	32	308	335	293	23	30	34	9	8	2	39	38	16
Sargent	35	12	135	127	515	47	48	30	12	0	0	12	11	8
Sheridan	0	1	15	17	43	4	4	26	5	3	0	8	7	0
Sioux	1	0	22	12	24	5	5	6	6	0	0	8	6	0
Slope	0	0	29	19	153	6	6	9	5	1	0	2	1	0
Stark	55	76	1,218	1,978	2,857	247	252	89	69	27	7	142	156	77
Steele	0	0	0	0	0	6	6	22	20	0	0	5	5	0
Stutsman	94	104	1,603	1,658	3,205	140	147	83	58	25	144	196	193	89
Towner	12	10	148	142	314	64	60	37	17	8	6	22	23	2
Traill	17	16	301	328	1,102	107	114	56	24	5	1	53	47	4
Walsh	40	41	749	725	1,686	120	120	102	63	10	16	178	179	32
Ward	157	179	1,080	1,447	3,411	490	505	191	69	36	49	328	304	290
Wells	1	1	152	156	564	70	73	48	44	10	0	17	21	7
Williams	77	72	726	921	1,786	182	176	131	94	23	2	237	228	55
TOTAL	1,719	1,819	21,048	23,084	62,367	6,103	6,190	2,869	2,131	528	493	3,801	3,851	1,711

Municipal Courts

There are approximately 360 incorporated cities in North Dakota. Of the total municipalities, approximately 150 cities have municipal courts. There are approximately 90 judges serving in these 150 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 20 legally-trained and 70 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 Supreme Court, the judge's name is referred to the Judicial Conduct Commission for disciplinary action.

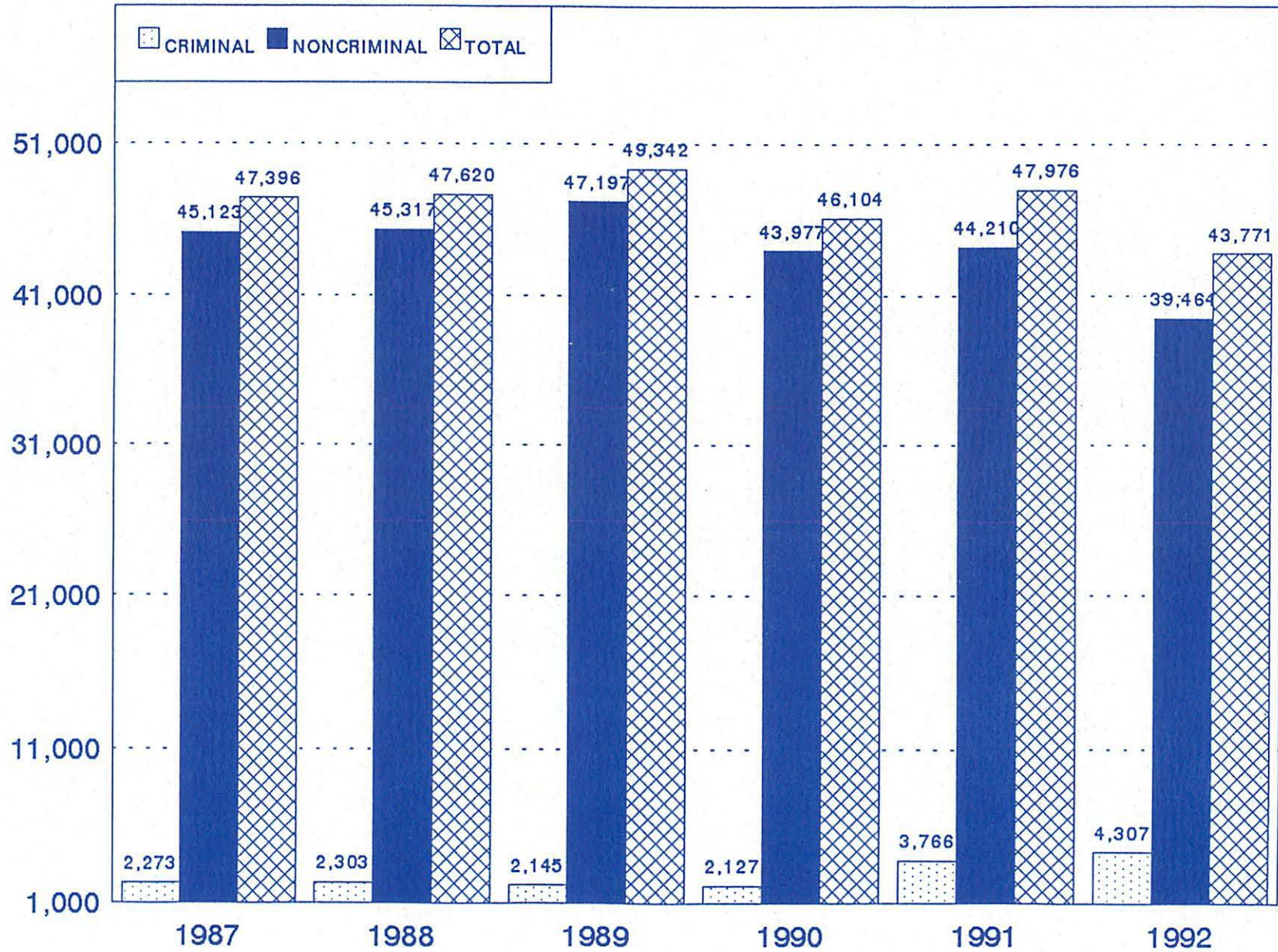
Most of the traffic caseload of the municipal courts consists of noncriminal or administrative traffic cases. While these cases greatly outnumber the criminal traffic cases, they generally take much less time to process. There is a lesser burden of proof in noncriminal traffic cases than in criminal 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 1992 AND 1991

Ten Municipalities With Highest Case Volume	Criminal Traffic Dispositions		Noncriminal Traffic Dispositions		Total Traffic Dispositions		Percent Difference
	1992	1991	1992	1991	1992	1991	
Bismarck	641	507	7,807	8,662	8,448	9,169	-7.9
Dickinson	133	113	1,547	1,972	1,608	2,085	-19.4
Fargo	773	658	4,911	5,319	5,684	5,977	-4.9
Grand Forks	660	484	3,090	3,856	3,750	4,340	-13.6
Jamestown	236	214	3,397	3,931	3,633	4,145	-12.4
Mandan	332	279	2,766	3,276	3,098	3,555	-12.9
Minot	475	404	6,197	7,515	6,672	7,919	-15.7
Wahpeton	17	46	1	88	18	134	-86.6
West Fargo	137	170	721	938	1,075	1,108	-3.0
Williston	199	232	1,954	1,826	2,153	2,058	+4.6
TOTAL	3,603	3,107	32,391	37,383	35,994	40,490	-11.1

COMPARISON OF MUNICIPAL COURT TRAFFIC
DISPOSITIONS FOR 1987-1992



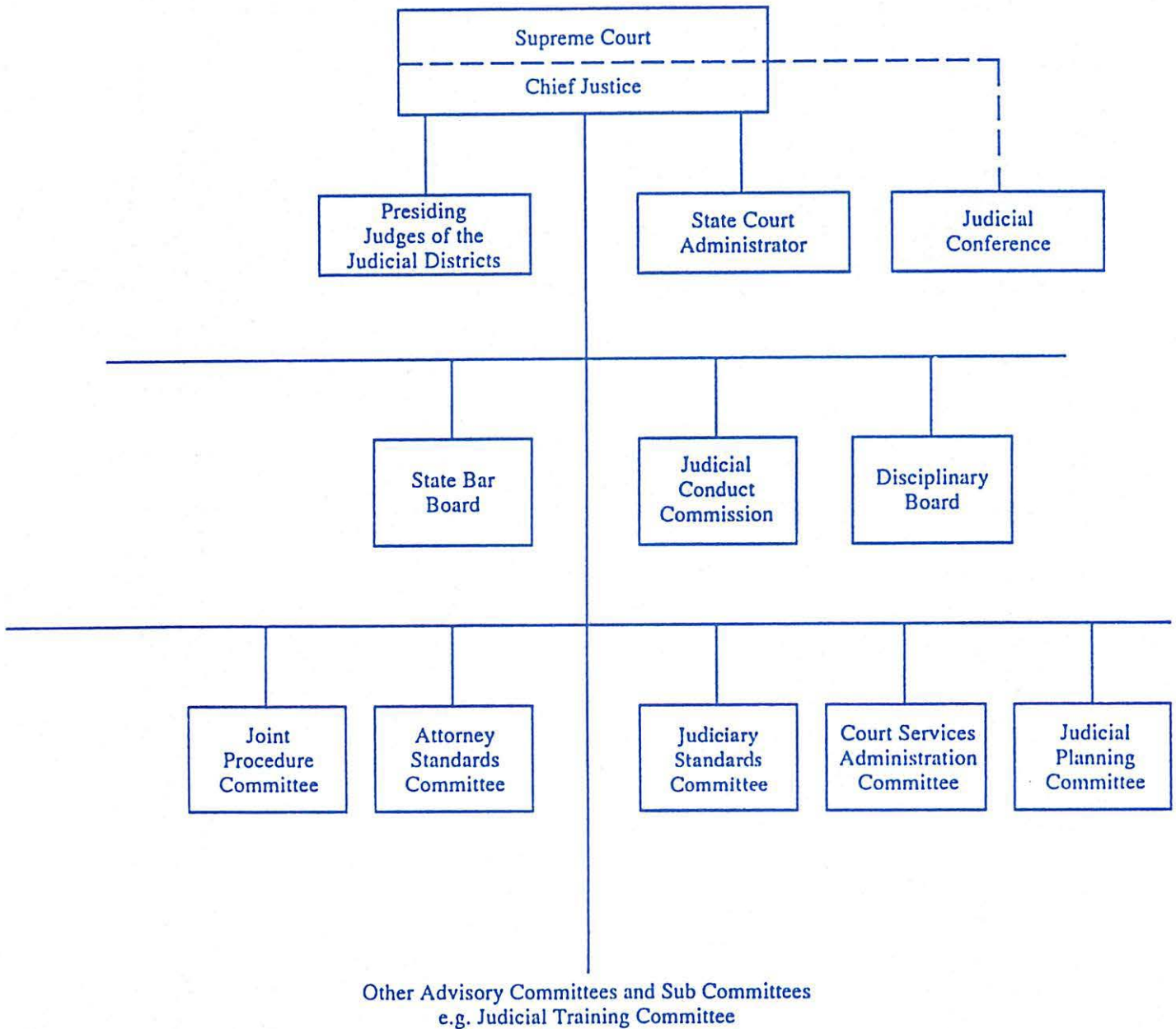
Administration of the Judicial System

Ultimate responsibility for the efficient and effective operation of the judicial system resides with the Supreme Court. The constitution has emphasized 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 1991 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 Judicial Conference Committee on Judicial Training and through the Director of Judicial Education, develops and coordinates training programs for all levels of judicial and court support personnel. In addition, a number of other professional development and information activities are coordinated and conducted under the auspices of the office of state court administrator. These activities are described in greater detail in the section of this report which discusses the activities of the committee.

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:

The state funding of most district court employees in 1981 significantly increased the personnel management responsibilities of the State Court Administrator. 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.

Fiscal Responsibilities:

One of the state court administrator's primary administrative responsibilities is the management of the judicial budget. As the budget director for the judicial system, the state court administrator is responsible for the coordination and preparation of the Supreme Court and District Court budgets, preparation and analysis of monthly budget status reports, the development of budgetary policies for the judiciary, and the maintenance of payroll records for judges and court personnel.

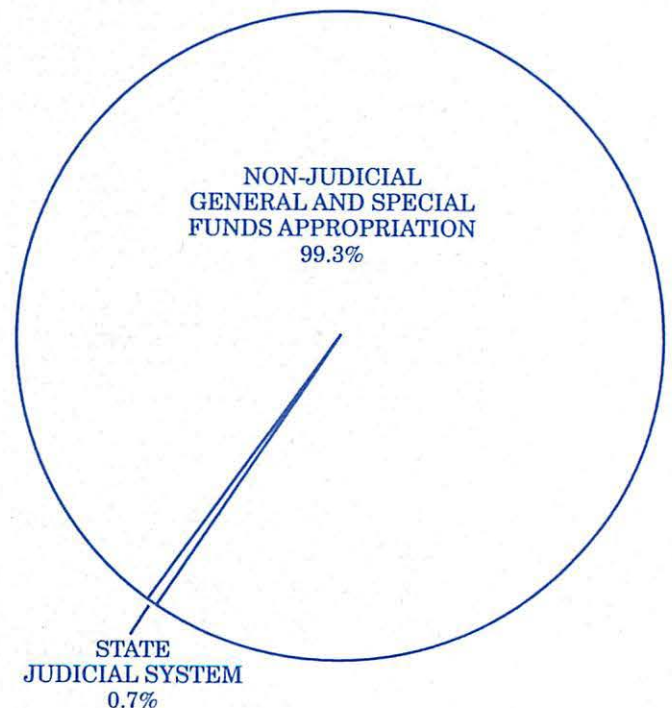
Even with the addition of most district court expenses to the judicial budget, the judicial budget constitutes only a small portion of the state's total budget for 1991-93 biennium. However, this is not to say that the budgetary impact of the additional expenses has been minimal. Since the absorption of most district court expenses by the state in 1981, the judicial portion of the state's budget has doubled.

The impact of the state's funding of nearly all district court expenses can also be seen in the way in which the judicial budget is allocated. Whereas the Supreme Court portion of the judicial budget at one time was over 40%, it is now less than 23%.

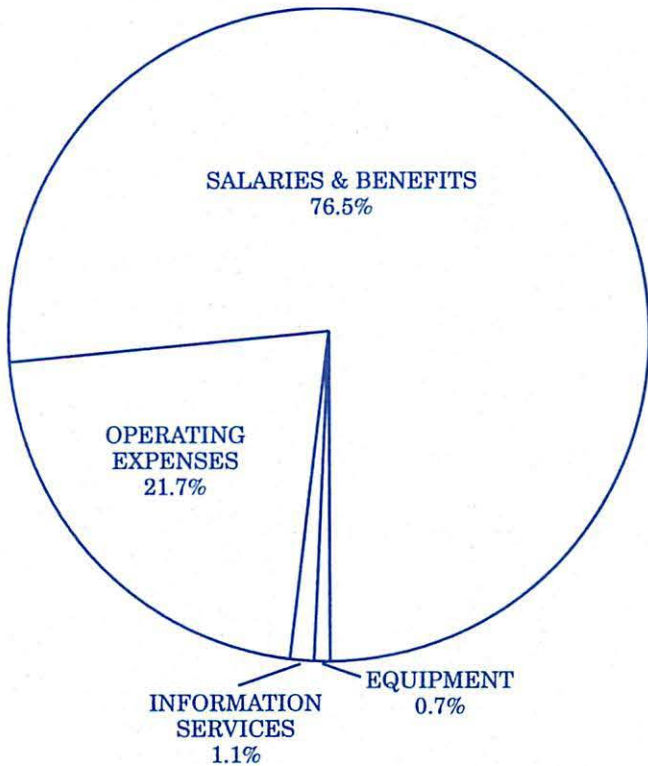
In viewing the judicial budget, it should be noted that it does not include the salaries of district court clerks and deputy clerks or any county court or municipal court expenditures. District court clerk expenses and county court expenses are funded by county government in North Dakota. Likewise, municipal courts are funded by the particular municipalities they serve.

JUDICIAL PORTION OF THE STATE'S BUDGET 1991-93 BIENNIUM

Total General and Special Funds Appropriation
\$3,223,134,537
Judicial System General and Special Funds Appropriation
\$23,610,023



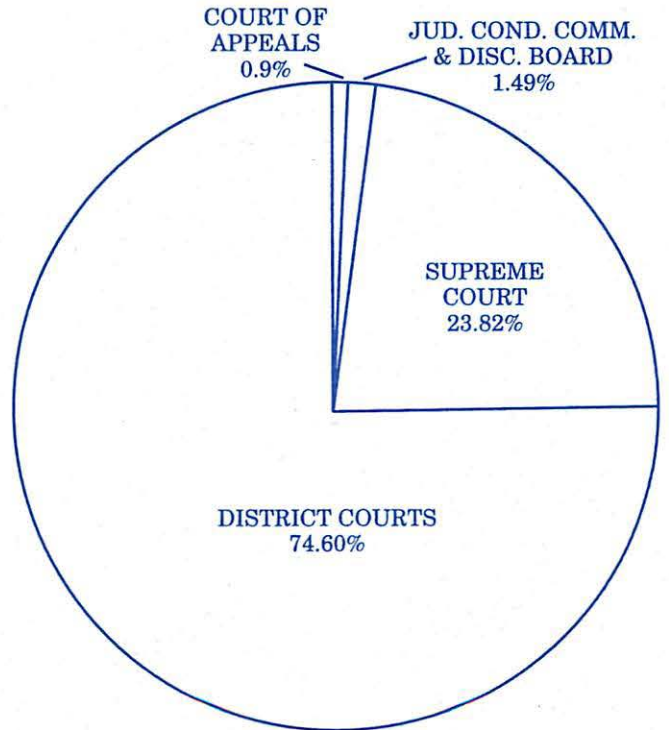
**STATE JUDICIAL SYSTEM APPROPRIATION
BY APPROPRIATED LINE ITEM
1991-93 BIENNIUM**



Total Judicial System General and Special Funds Appropriation	\$23,610,023
Salaries and Benefits	\$18,071,860
Operating Expenses	5,112,215
Information Services	264,224
Equipment	161,724

**STATE JUDICIAL SYSTEM APPROPRIATION
BY TYPE OF ACTIVITY
1991-93 BIENNIUM**

Supreme Court		
General Fund	\$5,409,347	
Special Funds	213,828	
TOTAL	<u>\$5,623,175</u>	
District Courts		
General Fund	\$17,031,208	
Special Funds	101,942	
TOTAL	<u>\$17,614,122</u>	
Court of Appeals		
General Fund	\$22,000	
Special Funds	---	
TOTAL	<u>\$22,000</u>	
Judicial Conduct Commission & Disciplinary Board		
General Fund	\$278,726	
Special Funds	72,000	
TOTAL	<u>\$350,726</u>	



Advisory Committees of the North Dakota Judicial System

In the North Dakota Judicial System, a system of committees has been established to develop creative new ideas and evaluate proposals for improving public services. Representative of the people of North Dakota, these advisory committees include citizen members, legislators, lawyers, district court judges, county court judges, municipal court judges, and members of the Supreme Court.

The activities of these advisory committees during 1992 are summarized here:

Judicial Planning Committee:

The Judicial Planning Committee, formerly chaired by Justice Beryl J. Levine and now 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.

After completion of the "North Dakota Judicial System Agenda for the Decade: 1991-2001", the Committee has regrouped and staff has focused more on implementation of existing plans. This approach was a result of personnel turnover in the Court Administrator's Office and demands for time in other areas.

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 committee is chaired by Justice Beryl Levine, and staffed by Gerhard Raedeke. The Committee is composed of 10 judges and 10 attorneys, who are appointed by the Supreme Court.

During 1992, the Committee conducted an intensive study of contempt of court. Ultimately, the Supreme Court forwarded to the Legislative Assembly a bill on contempt prepared by the Committee. The Committee also began review of amendments to Rules 5, 15, 24, 34, 35, 41, 44, 45, 47, 48, 50, 52, 53, 63, 72, and 77 of the Federal Rules of Civil Procedure, Rules 16 and 35 of the Federal Rules of Criminal Procedure, Rules 4, 25, 28, 30, and 34 of the Federal Rules of Appellate Procedure, and Rule 404 of the Federal Rules of Evidence, which became effective December 1, 1991.

Attorney Standards Committee:

The Attorney Standards Committee was chaired until March 18, 1992, by Vern C. Neff of Williston. On that date Vern Neff resigned his position after a long and very productive tenure as Committee chair. The Supreme Court subsequently appointed Christine Hogan of Bismarck as Committee chair.

During 1992, the Attorney Standards Committee continued a review of the ABA Model Rules for Lawyer Disciplinary Enforcement, which propose changes for North Dakota's equivalent rules, and the report and recommendations of the ABA Commission on Evaluation of Disciplinary Enforcement (the "McKay Report"). The Committee, through a Subcommittee on Lawyer Discipline, began preparation for a major review of North Dakota's procedures and rules governing lawyer discipline. The Subcommittee is joined in this significant undertaking by the Attorney Standards Committee of the State Bar Association of North Dakota.

Judiciary Standards Committee:

The Judiciary Standards Committee, ably chaired by Jane Voglewede of Fargo until her resignation on December 31, 1992, studies and reviews all rules relating to the supervision of the judiciary, including judicial discipline, judicial ethics, and the judicial nominating process.

The Committee completed a study of the ABA Model Code of Judicial Conduct with amendments as adopted by the House of Delegates of the ABA in late 1989. The Committee had the significant assistance in this study of a special study subcommittee, chaired by Judge Ronald L. Hilden of Dickinson. The Subcommittee reviewed the proposed model code and made recommendations to the full Committee regarding adoption of

the model code. The Judiciary Standards Committee submitted the proposed code to judges and other interested parties for comment and thereafter recommended the proposed code to the supreme court.

Court Services Administration Committee:

The Court Services Administration Committee, chaired by William A. Strutz of Bismarck, was established to study and review rules and orders relating to the administrative supervision of the North Dakota Judicial System. The Supreme Court, in April, 1991, requested that the Committee study and analyze 1991 House Bill No. 1517 (court unification) and make the necessary recommendations for the legislation's orderly implementation. During 1992, the Committee reviewed proposed legislative amendments to House Bill No. 1517. The Committee recommended legislation to the Supreme Court which would allow the Court to transfer a judgeship to any location where judicial services are needed. The legislation would also establish as bases for a vacancy in the office of district judge the announcement by a judge of the intention not to seek reelection and the failure of a judge to timely file a petition for candidacy. The Supreme Court approved this legislation for introduction during the 1993 legislative session.

Judicial Education Committee:

The Judicial Education Committee is a Committee of the Judicial Conference and is chaired by the Honorable Bruce E. Bohlman, Grand Forks.

The primary responsibilities of the Committee are to develop a biennial training budget for in-state and out-of-state education programs, review and approve in-state training programs for judges and court personnel, draft and review legislation and court rules relating to judicial education, review grant requests to fund educational programs, and perform other duties assigned by the Judicial Conference or its Executive Committee.

During 1992, the Judicial Education Committee conducted the Judicial Institute at the University of North Dakota Law School, Judicial Conference, Supervisors Seminar, Municipal Judges Seminar, Magistrates Seminar, Clerks of Court Seminar, and a Faculty Development and Group Leader Seminar. The 1992 programs were supplemented by funds made available to district court and county court judges for attendance at out-of-state educational programs sponsored by the National Judicial College, American Academy for Judicial Education, National College of Juvenile and Family Law, Harvard Law School, and the Institute for Court Management.

With the assistance of the Curriculum Subcommittee of the Judicial Education Committee and the University of North Dakota Law School, the judicial system successfully conducted its second annual Judicial Institute, dedicated to family law issues, in 1992. Over 40 participants representing federal, state, and tribal judges and federal magistrates from North Dakota attended this intensive four-day program. The Institute provides structured opportunities for judges to learn from interaction with other judges and to be challenged by the points of view of their judicial colleagues. Funding for the Institute was provided, in part, by the State Justice Institute and the North Dakota Supreme Court. The 1993 Judicial Institute is scheduled for late June. The program agenda is Trial Skills and Practices.

The Benchbook Task Force, a working group of the Judicial Education Committee chaired by County Judge M. Richard Geiger, was given the responsibility of developing a trial court benchbook. The benchbook is one component of the new judge orientation program, which is scheduled for implementation in January of 1993.

Personnel Advisory Boards:

Effective January 1, 1991, the Supreme Court approved the creation of a new classification plan for judicial employees and the creation of a District Court Personnel Advisory Board, chaired by Judge Norman Backes, and a Supreme Court Personnel Advisory Board, chaired by L. David Gunkel. Together the Boards have developed a biennial pay plan designed to promote

pay consistency among employees and reviewed and updated several personnel policies, in light of federal and state requirements. As a result the old system has been replaced with procedures that place more responsibility in the hands of the hiring authority. Therefore, the Boards are able to focus their energies on recommending policy issues to the Supreme Court.

North Dakota Legal Counsel for Indigents Commission:

The North Dakota Legal Counsel for Indigents Commission, chaired by Michael R. Hoffman, Bismarck, reviews and identifies areas of concern regarding indigent defense. The Commission completed its review of data regarding cost and caseload of counsel services for indigents in all courts of the state and solicited information and comments from indigent defense counsel regarding operation of the indigent defense contract system. The Commission recommended legislation to the Supreme Court to establish procedures for reimbursement of indigent defense costs and also recommended an amendment to Administrative Rule 18 to expand the membership of the Commission.

Juvenile Policy Board

As a result of a study on the location of probation services, the Supreme Court established a Juvenile Policy Board pursuant to its administrative rulemaking process. That Board, consisting of five judges, a judicial referee, and a representative of the juvenile court association, is charged with developing a five-year plan for

the delivery of juvenile court services, recommending policies concerning juvenile court services to the supreme court, and adopting procedures to implement those policies. The Board, which was created in June of 1992, has just begun its work.

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. Two new presiding judges took office on January 1, 1992, as a result of a change in the law which now provides for the election of presiding judges by the county and district judges in each district. Present members of the Council are: Benny A. Graff, Chairman; Maurice R. Hunke; Everett Nels Olson; James H. O'Keefe; Joel D. Medd; Norman J. Backes; and Robert L. Eckert.

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 chairman. In attendance at each of the meetings is the Chief Justice, the State Court Administrator, the trial court administrators, and selected administrative office staff members.

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.

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. The North Dakota Procedural Rules for Lawyer Disability and Discipline provide the procedural framework for the handling and disposition of complaints.

The members serving on the Board in 1992 were: Michel W. Stefonowicz, a Crosby attorney, Chairman; Karen K. Braaten, a Grand Forks attorney, Vice Chair; Robert C. Heinley, a Carrington attorney; Robert L. Hoss, a citizen member from Fargo; Duane H. Ilvedson, a Fargo attorney; Bishop Robert Lynne, a citizen member from Bismarck; Mary E. Nordsvan, a Dickinson attorney; Rauleigh D. Robinson, a Bismarck attorney; Roger Schell, a Bottineau attorney; and Louise Sherman, a citizen member from Dickinson. The Clerk of the Supreme Court, Penny Miller, serves as secretary to the Board. Vivian E. Berg, Bismarck, serves as staff counsel.

Written complaints are received and filed by the Board's secretary and referred to either the Inquiry Committee East or West of the State Bar Association. The chairman of the respective committee assigns a file for investigation to either a member of the committee or staff counsel. Inquiry Committees may dismiss a complaint file, issue a private reprimand, impose probation with the consent of the respondent attorney, or a combination of both, or direct that formal proceedings be instituted.

If a complainant is dissatisfied with the disposition entered by the Inquiry Committee, an appeal may be filed with the Disciplinary Board. The attorney issued a private reprimand by the Inquiry Committee may demand that formal proceedings be instituted to ascertain the validity of the reprimand.

When formal proceedings are instituted, a petition for discipline is filed and a hearing body is appointed by the chairman of the Board to make a recommendation to the Board relative to the discipline that should be imposed. Members of the Disciplinary Board serve as hearing body members. If the Board elects to impose a public reprimand, suspension or disbarment, a report and recommendation is forwarded to the Supreme Court. On the de novo review before the Supreme Court, the standard of proof is clear and convincing evidence. In 1984, 12 formal proceedings were pending at the end of the year; in 1992, 55 formal proceedings were pending at the beginning of the year and 38 were pending at the end of the year. Formal proceedings are time consuming and costly, as they most often lead to hearings involving witnesses and the presentation of other evidence. Therefore, they demand more staff time and the resources of the system as a whole.

Members of the Inquiry Committee East as of December 31, 1992, are: Daniel Crothers, Chairman; Ronald Fischer, Richard E. T. Smith, Howard Swanson, and Thomas Rutten, attorney members; and Joan Flynn, Curt Cornelius, and Tom Gabrielson, citizen members. Members of the Inquiry Committee West as of December 31, 1992, are: Ronald Reichert, Chairman; Gary

Sorenson, Robert Udland, William Schmidt, Paul Jacobson, and Marilyn Foss, attorney members; and John Bridgford, Walter Meyer, and Ken Twist, citizen members. Rebecca Thiem is a Special Prosecutor for the Committee.

Following is a summary of complaint files under consideration in 1992.

SUMMARY OF DISCIPLINARY BOARD COMPLAINTS FOR THE YEAR 1992

New Complaints filed for the year 1992	*168
General Nature of new complaints filed:	
Criminal Conviction	1
Client Funds and Property	5
Conflict of Interest	10
Excessive Fees	11
Improper Conduct	87
Incompetent Representation	40
Misappropriation/Fraud	2
Neglect/Delay	8
Unauthorized Practice of Law	4
TOTAL	<u>168</u>
Formal Proceedings Pending From Prior Years	**55
Other Complaint Files Pending From Prior Years ...	**71
Appeals Under Consideration in 1992	28
Total Complaint Files For Consideration in 1992	<u>322</u>
* 132 attorneys or law firms involved in the disciplinary process.	
** 1991 statistics did not reflect the number of separate files opened and pending based on one or more complaints.	
Disposition of Complaint Files:	
Dismissed by Inquiry Committee (IC)	151
Dismissed by Disciplinary Board	17
Private Reprimands Issued By Inquiry Committee	4
Probation by Consent	1
Withdrawal by Complainant	1
Disciplinary Board Approves IC Dismissal	31
Disciplinary Board Approves IC Private Reprimand	2
Suspensions by Supreme Court	*9
Disbarments by Supreme Court	**13
Formal Proceedings Pending 12/31/92	38
Other Complaint Files Pending 12/31/92	55
TOTAL	<u>322</u>
* 9 complaint files resulted in the suspension of 5 attorneys	
**13 complaint files resulted in the disbarment of 3 attorneys	

Judicial Conduct Commission

The Judicial Conduct Commission has the power to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal or retirement of any judge.

Members serving on the Commission in 1992 were: Janet Maxson, a citizen member from Minot, Chair; District Judge William F. Hodny of Mandan, Vice Chair; Robert C. Heinley, a Carrington attorney; Dorreen Yellow Bird, a citizen member from New Town; Rick Maixner, a citizen member from East Grand Forks; Clifton Odegard, a citizen member from Grand Forks; and County Judge James M. Bekken of New Rockford. The Clerk of the Supreme Court, Penny Miller, serves as secretary to the Commission. Vivian E. Berg, Bismarck, serves as staff counsel.

Written complaints are received and filed with the secretary of the Commission and referred to staff counsel for investigation. The Rules of Judicial Conduct serve as the bench mark when the Commission considers allegations of judicial misconduct. The procedures of the Commission are set forth in the North Dakota Rules of Judicial Conduct Commission. Judges, in responding to a complaint, are afforded due process and given the opportunity to present such information as the judge may choose. If there is substantial misconduct, formal proceedings will be instituted and a hearing will be held.

The number of complaints received in 1992 decreased from last year. A majority of the files considered by the Commission were dismissed as being without merit. This includes complaints expressing unhappiness with the outcome of litigation.

The table which follows this narrative includes a summary of the nature and the disposition of complaints filed with the Judicial Conduct Commission in 1992.

SUMMARY OF JUDICIAL CONDUCT COMMISSION COMPLAINTS FOR THE YEAR 1992

New Complaints File Opened in 1992	24
General Nature of Complaints:	
Biased Decision	6
Conflict of Interest	2
Delay in Decision	1
Failure to Comply with Law	3
Failure to Afford Complainant Due Process	3
Improper Judicial Conduct	9
TOTAL	<u>24</u>
Complaint Files Carried Over From 1991	4
TOTAL Files Pending Consideration in 1992	<u>28</u>
Disposition of Complaints:	
Dismissed	21
Private Censure	3
Formal Proceedings Instituted	0
TOTAL 1992 Dispositions	<u>24</u>
Complaint Files Pending as of 12/31/92	4
Of the New Complaints Filed in 1992:	
12 were against County Court Judges	
<u>12</u> were against District Court Judges	
24	

State Bar Board Annual Report - 1992

The State Bar Board (Board) is responsible for evaluating the legal ability, moral character and fitness to practice law of those individuals applying for admission to the legal profession in North Dakota. The Board, as the licensing agency, also collects the annual licensure fees and maintains a record of licensed judges and attorneys.

Malcolm H. Brown of the Mandan firm of Bair, Brown and Kautzmann; Gerald D. Galloway of the Dickinson firm of Howe, Hardy, Galloway and Maus; and Rebecca S. Thiem of the Bismarck firm of Zuger Kirmis and Smith served as Board members for 1992. On December 31, 1992, Mr. Brown ended his second six-year term on the Board and did not seek reappointment. Mark L. Stenehjem of the Williston firm of Winkjer, McKennett, Stenehjem, Reierson, and Forsberg was appointed by the Supreme Court to a six-year term beginning January 1, 1993. Mr. Galloway and Ms. Thiem will continue to serve as Board members in 1993.

Substantial time is spent by the Board reviewing the moral character and fitness of applicants. In order to assist the Board with their investigation, the North Dakota Supreme Court was requested to adopt amendments to the Admission to Practice Rules allowing the Board to establish a Character and Fitness Committee to review applications assigned by the Board and make recommendations relative to the character, fitness and moral qualifications of an applicant. The amendments also require law students to register with the Board no later than six months after completion of two semesters of law school. Upon receipt of the registration, the moral character investigation will begin. During the third year of law school, the students will then apply to write the exam having had the time to address or remedy any concerns raised by the early investigation. Finally, the amendments set forth inappropriate conduct and other factors the Board will consider in making a recommendation to the Supreme Court relative to admission.

The Supreme Court adopted these amendments on October 7, 1992, as emergency amendments, and on December 16, 1992, after a public hearing, readopted them as permanent amendments to the Admission to Practice Rules.

The State Bar Board administered a two-day bar examination in February and July. The Multistate Bar Examination (MBE) administered the first day, is a six-hour multiple-choice exam consisting of 200 questions covering Constitutional Law,

Contracts, Criminal Law, Evidence, Torts, and Real Property. The essay exam, administered the second day, is a six-hour written exam covering any six of the following subject areas: Administrative Law; Business Associations; Commercial Transactions; Creditor/Debtor Relationships; Equity; Family Law; Practice and Procedure; Real Property; and Wills, Estates and Trusts.

Passage rates for the 1992 examinations are:

Exam	#Apps.	# Success % Success	#UND Grads.	# Success % Success
2-92	12	9/75%	4	3/75%
7-92	64	59/92%	49	44/89%

Written examination is not the only procedure for admission to the Bar of North Dakota. Attorneys admitted in another jurisdiction may be eligible for admission based on five years' admission and the practice of law for four of the last five years in another jurisdiction, or if they have achieved a scaled score of 150 or more on the MBE and they are in good standing in the jurisdiction where they wrote the exam. An application based on a MBE scaled score of 150 or more must be filed within two years from the date the exam was written in the jurisdiction where the applicant is admitted.

Every applicant for admission must be 18 years old, of good moral character, fit to practice law, and have been awarded a juris doctor or equivalent degree from a law school approved, or provisionally approved for accreditation, by the American Bar Association. A sufficient score on the Multistate Professional Responsibility Examination, (MPRE), a national exam on legal ethics administered at the law schools, is also required for applicants seeking admission by written examination or based on a MBE scaled score of 150 or more.

Of the 95 individuals admitted to the Bar in 1992, 28 were women. Fourteen of the 95 were admitted based on the requisite years of admission and practice in another jurisdiction, seven based on a MBE scaled score of 150 or more, and 74 based on examination.

In 1992, the State Bar Board licensed 1,702 lawyers and judges, 289 of whom were women.

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-four 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 1991 were 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.
4. Committee on Courts with Limited Jurisdiction, Judge William McLees, Chair.
5. Committee on Judicial Training, Judge Bruce E. Bohlman, Chair.

Special committee are as follows:

1. Judiciary 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 1992 were as follows:

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

North Dakota Judicial Conference

Justices of the Supreme Court

Ralph J. Erickstad
Gerald W. VandeWalle

Beryl J. Levine
Herbert L. Meschke
H.F. "Sparky" Gierke

Judges of the District Courts

South Central District

*Benny A. Graff
Gerald G. Glaser
Dennis A. Schneider
Wm. F. Hodny

Southwest District

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

Northwest District

*Wallace D. Berning
Everett Nels Olson
Jon R. Kerian
Wm. M. Beede

Northeast District

*James H. O'Keefe
William A. Neumann
Lee A. Christofferson

Northeast Central District

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

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
Donavan Foughty
M. Richard Geiger
Ronald L. Goodman
Donavin L. Grenz
Gail Hagerty
Harold B. Herseth

Judges of the County Courts

Ronald L. Hilden
Robert W. Holte
Gary A. Holum
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
Jonal H. Uglem

Kathleen Cunningham

Judges of the Municipal Courts

Robert Keogh

Wm. L. Paulson
Vernon R. Pederson
Gordon O. Hoberg

Surrogate Judges of the Supreme & District Courts

Eugene A. Burdick
Roy A. Ilvedson
Bert L. Wilson

John O. Garaas
Douglas B. Heen

Attorney General Nicholas J. Spaeth
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