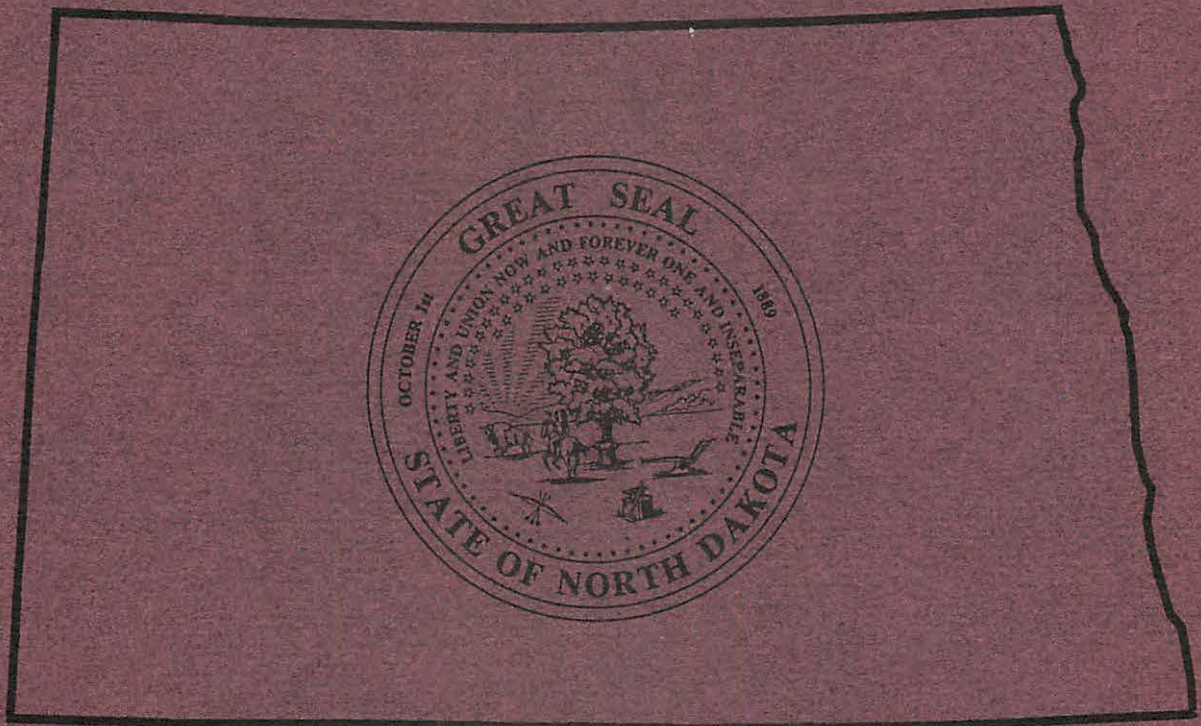


ANNUAL REPORT OF THE
**NORTH DAKOTA
JUDICIAL SYSTEM**

Calendar Year 1991



State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

KEITHE E. NELSON
STATE COURT ADMINISTRATOR

SUPREME COURT
Judicial Wing, 1st Floor
600 East Boulevard Avenue
BISMARCK, ND 58505-0530
(701) 224-4216
(FAX) 701-224-4480

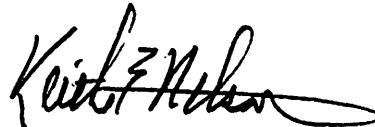
TO THE HONORABLE CHIEF JUSTICE
AND JUSTICES OF THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA:

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 1991. 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,



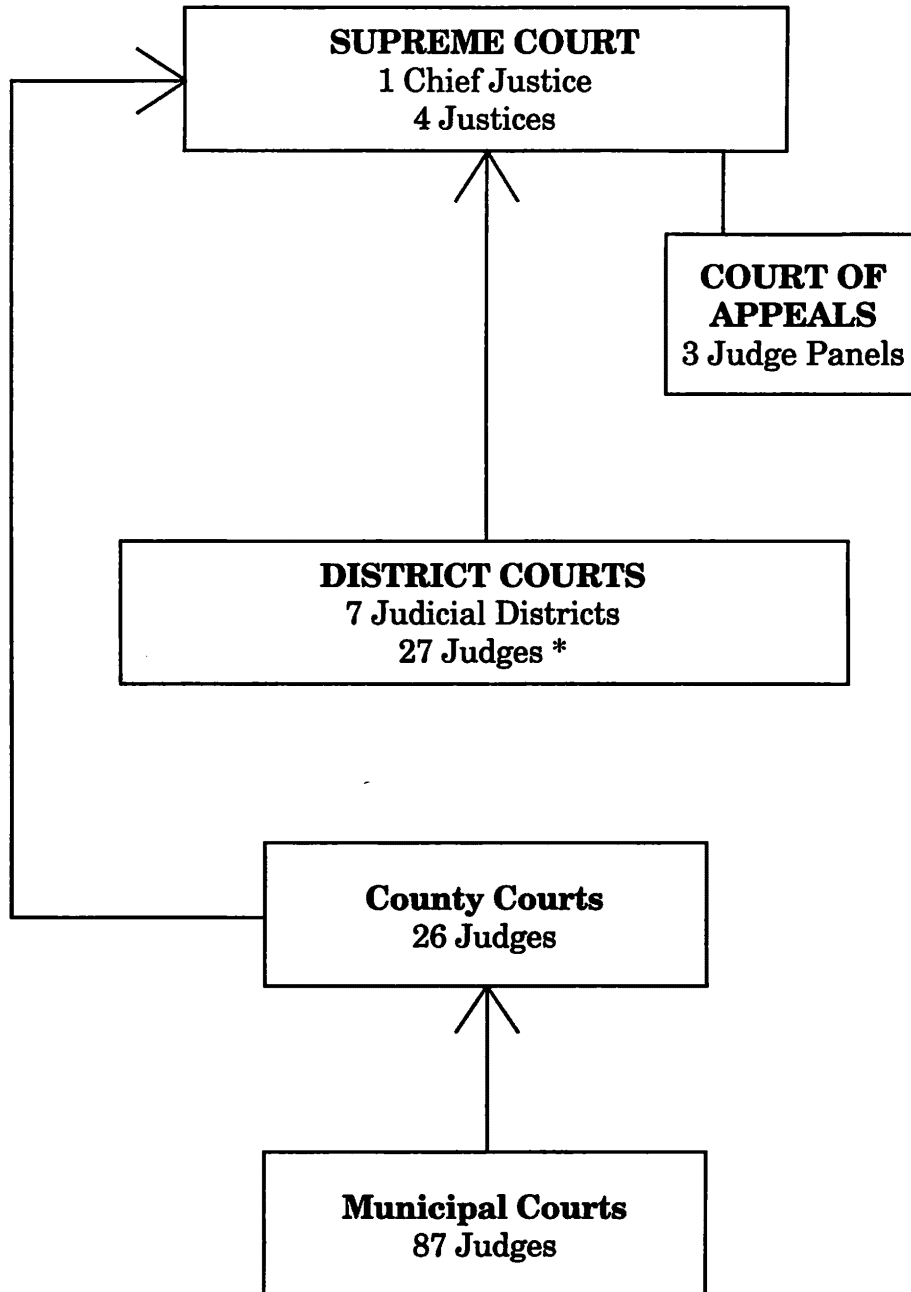
KEITHE E. NELSON
State Court Administrator and
Judicial Conference Executive
Secretary

KEN/cs

Table of Contents

	Page
The Structure of the North Dakota Judicial System	1
Profile of the North Dakota Judicial System	2
The North Dakota Supreme Court	3
The Caseload of the North Dakota Supreme Court	4
District Courts	5
District Court Caseload	6
Civil Caseload	7
Criminal Caseload	8
Juvenile Caseload	9
Report of the Northwest Judicial District.....	11
Report of the Northeast Judicial District	12
Report of the Northeast Central Judicial District.....	13
Report of the East Central Judicial District.....	14
Report of the Southeast Judicial District	15
Report of the South Central Judicial District.....	16
Report of the Southwest Judicial District.....	17
County Courts	18
County Court Caseload	20
Municipal Courts	22
Administration of the Judicial System	24
Office of the State Court Administrator	25
Advisory Committee of the North Dakota Judicial System.....	27
Disciplinary Board	29
Judicial Conduct Commission.....	30
State Bar Board Annual Report - 1991	31
North Dakota Judicial Conference	32

The Structure of the North Dakota Judicial System



*(This chart reflects 27 district judges for 1991 although that number was reduced to 25 during the latter half of 1991 pursuant to the abolition provision contained in 1991 House Bill 1517.)

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.

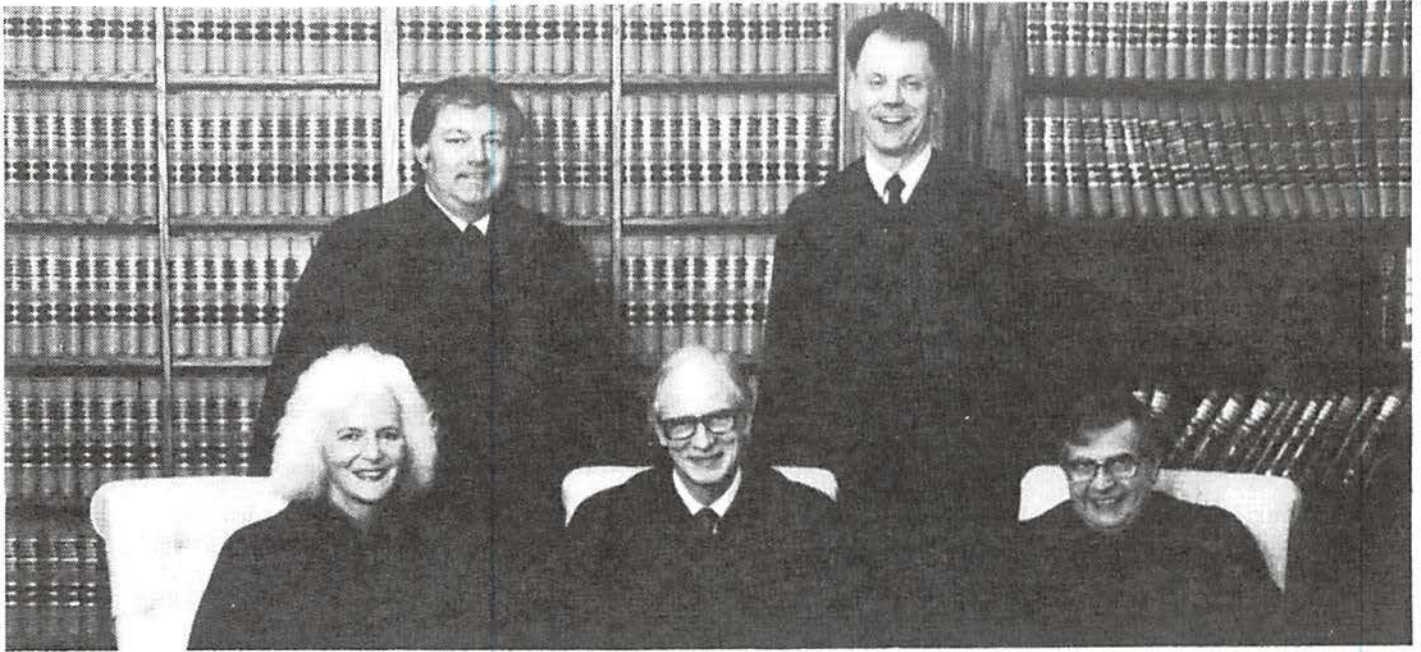
If a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

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 1990 AND 1991

Level of Court	Filings		Dispositions		Pending at Year's End	
	1991	1990	1991	1990	1991	1990
Supreme Courts	456	429	408	439	249	201
District Courts	23,120	22,023	22,921	21,611	9,919	9,720
County Courts	102,545	88,535	101,316	87,300	29,504	28,275
TOTAL	126,121	110,987	124,645	109,350	39,672	38,196

North Dakota Supreme Court



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

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 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 Board 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

Luella Dunn
Clerk of the Supreme Court

During the years 1990 and 1991, the supreme court caseload of new cases filed increased approximately 15%, which continues to place inordinate demands upon the Justices of the supreme court and support staff. The impact of this increase is felt not only in the consideration of an increased number of administrative and procedural matters, but also in the amount of time spent in the courtroom as the court heard oral arguments in 97% of the cases calendared.

At the close of business December 31, 1991, the supreme court's caseload showed an increase of 6.3% in new cases filed despite a report of a leveling off of new cases filed at the trial level. Some of the 6.3% increase was due to appeals originating from multiple litigation involving abortion rights. At the beginning of the year, a total of 201 cases were carried over from the 1990 docket resulting in an all-time high total of 657 active cases on the supreme court docket during calendar year 1991, an increase of 17 cases from 1990.

CASELOAD SYNOPSIS OF THE SUPREME COURT FOR THE 1990 AND 1991 CALENDAR YEARS

	1991	1990	Percent Difference
New Filings	456	429	6.3
Civil	289	282	2.5
Criminal	167	147	13.6
Transferred to Court of			
Appeals	0	13	-100.0
Civil	0	10	-100.0
Criminal	0	3	-100.0
New Filings Balance	456	416	9.6
Civil	289	272	6.3
Criminal	167	144	16.0
Filings Carried over from			
Previous Calendar Year	201	224	-10.3
Civil	158	159	-0.6
Criminal	43	65	-33.9
Total Cases Docketed	657	640	2.7
Civil	447	431	3.7
Criminal	210	209	0.5
Dispositions	408	439	-7.1
Civil	280	273	2.6
Criminal	128	166	-22.9
Cases Pending as of			
December 31	249	201	23.9
Civil	167	158	5.7
Criminal	82	43	90.7

The cases pending as of December 31, 1991, increased from 201 at the end of 1990 to 249, an increase of 23.9%.

The highest number of appeals originated in the east central judicial district followed by the other districts in the following order: south central, southeast, northwest, northeast, southwest, northeast central. The number of appeals per judge ranged from a high of 32 to only 1.

Case dispositions were slightly lower in 1991, 408 dispositions compared with 439 in 1990, a decrease of 7.1%. The total number of cases decided by opinion totaled 278. Of these 278 cases, the supreme court either reversed the trial court or reversed and modified the trial court in 84 cases or 30.2% of the total cases.

Dispositions by Order totaled 130 cases in 1991 compared with 158 in 1990.

DISPOSITIONS - 1991

	Civil	Criminal
BY OPINION:		
Affirmed; Modified and Affirmed	112	33
Reversed; Reversed and Remanded;		
Reversed and Modified	51	33
Affirmed in Part and Reversed in Part	20	2
Judgment Vacated and Remanded	2	0
Remanded	4	0
Dismissed	4	4
Discipline Imposed	7	0
Original Jurisdiction—Granted	0	3
Original Jurisdiction—Denied	0	0
Original Jurisdiction—Denied in		
Part and Granted in Part	0	0
Certified Question Answered	2	0
Certified Question Not Answered	1	0
Dispositions by Opinion	203	75
BY ORDER:		
Dismissed	52	40
Dismissed After Conference	11	3
No Court Action Required	0	0
Discipline Inactive Status	0	0
Original Jurisdiction—Granted	1	0
Original Jurisdiction—Denied	13	10
Dispositions by Order	77	53
Total Dispositions for 1991	280	128

A significant amount of time is spent by the supreme court justices in administration of the judicial system. For example, the 1991 Legislative Assembly enacted House Bill 1517, which requires a downsizing and consolidation of trial courts. Resignations of three trial judges in 1991, in three separate districts, resulted in hearings held in these districts, as well as hearings in the supreme court, to determine whether the judicial vacancies should be filled. In addition, the justices meet once each week to consider pre-argument procedural motions, applications for writs, motions for stay pending appeal, as well as proposed amendments to various procedural and administrative rules. These "administrative" matters require immediate consideration by the court and add to an already overburdened workload. In 1991, there were 188 such motions acted on by the supreme court as compared with 147 in 1990, an increase of 27.89%.

The Honorable H. F. "Sparky" Gierke resigned from the supreme court on November 20, 1991, to accept a Presidential appointment to the United States Court of Military Appeals, Washington, D.C. Justice Gierke had served on the supreme court for eight years. A joint session of the North Dakota supreme court and the U.S. Court of Military Appeals was held in the North Dakota House Chamber on December 11, 1991, to invest Justice Gierke. Military Appeals Court Judges Sullivan and Cox, as well as its Clerk, Tom Granahan, participated with the North Dakota court in the investiture of Justice Gierke.

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.

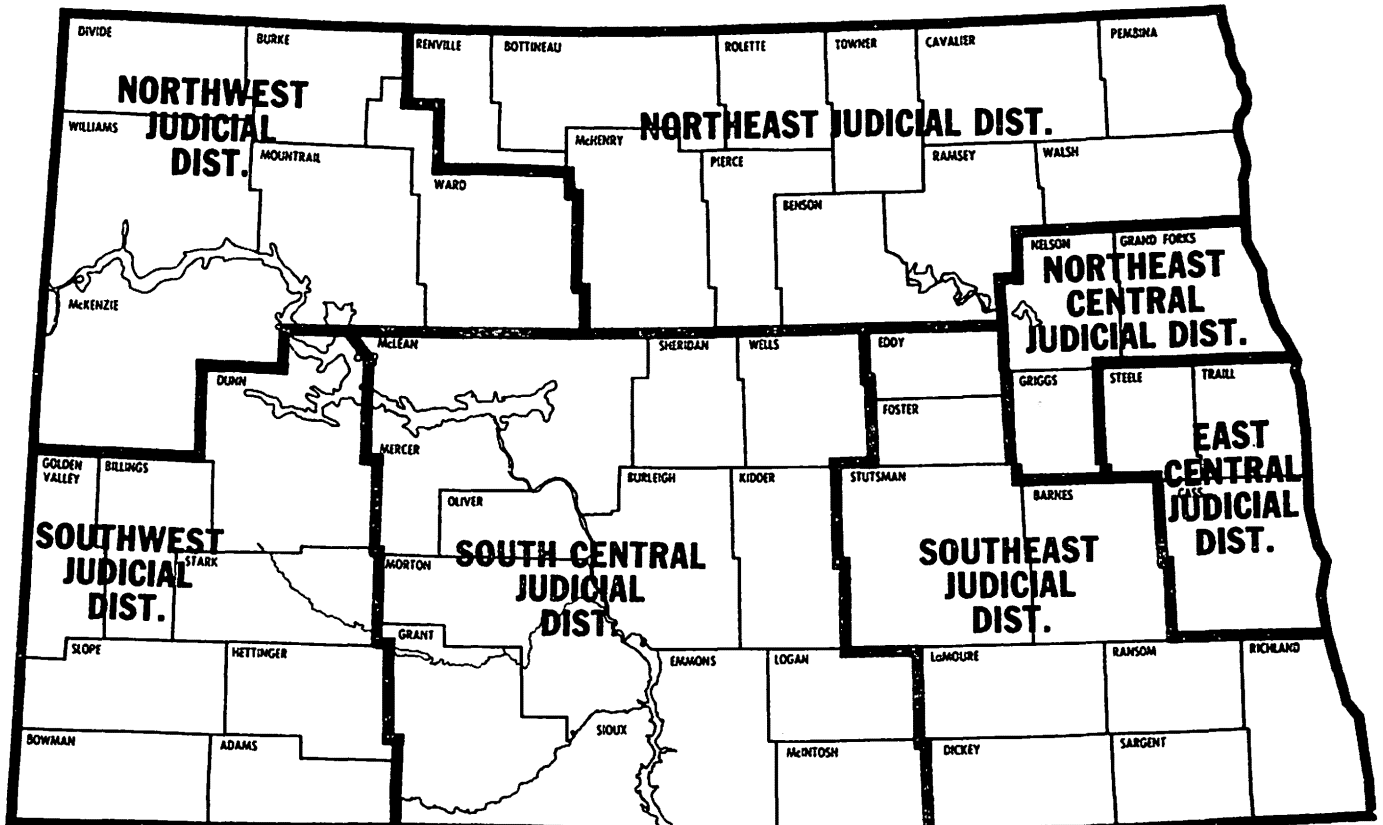
In 1979 the supreme court divided the state into seven judicial districts. In each judicial district there is a presiding judge who supervises all court services of all courts in the geographical area of the judicial district. The duties of the presiding judge, as established by the supreme court, include 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 1991, 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

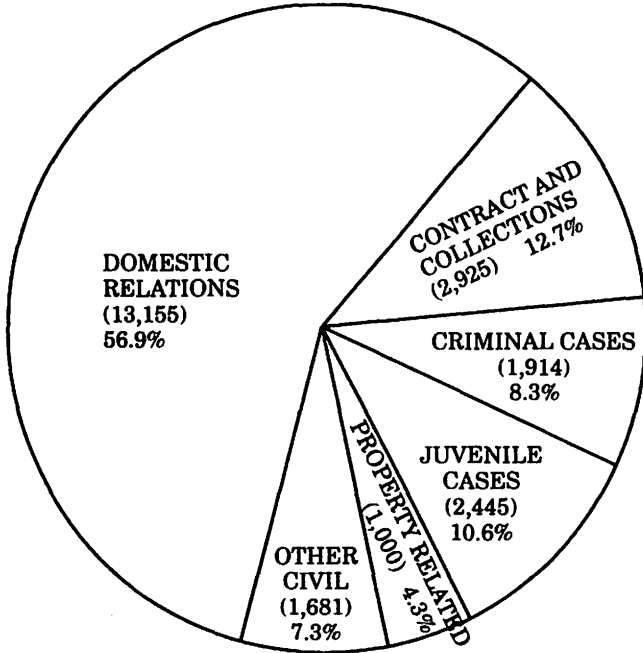
As indicated in the charts below, there was a slight increase in the caseload of district courts in 1991. This increase was consistent with the fairly steady increase in filings which has been evident since 1983.

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 81% of the district court filings. Criminal and juvenile filings each contribute approximately 8% and 11% of the district

court caseload respectively. The increase was fairly steady statewide, with four 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 1991 of 7%. However, two districts showed a continued decline in criminal filings seen for the past several years. At the end of 1991, there were 9,919 criminal cases pending compared with 9,720 cases pending at the end of 1990.

TYPES OF CASES FILED IN THE DISTRICT COURT DURING 1991



DISTRICT COURT CASELOAD FOR CALENDAR YEARS 1990 AND 1991

	1991	1990	Percent Difference
New Filings	23,120	22,023	+5.0
Civil	18,761	18,035	+4.0
Criminal	1,914	1,775	+7.0
Juvenile	2,445	2,213	+10.5
Cases Carried Over From Previous Year	9,720	9,308	+4.4
Civil	8,884	8,555	+3.8
Criminal	836	753	+11.0
Juvenile	—	—	—
Total Cases Docketed	32,840	31,331	+4.8
Civil	27,645	26,590	+4.0
Criminal	2,750	2,528	+8.7
Juvenile	2,445	2,213	+10.5
Dispositions	22,921	21,611	+6.1
Civil	18,670	17,706	+5.4
Criminal	1,806	1,692	+6.7
Juvenile	2,445	2,213	+10.5
Cases Pending As Of December 31	9,919	9,720	+2.0
Civil	8,975	8,884	+1.0
Criminal	944	836	+12.9
Juvenile	—	—	—

DISTRICT COURT CASE TYPE FILING — 1991

CIVIL		CRIMINAL	
Case Type	Filings	Case Type	Filings
Property Damage	146	Felony A	93
Personal Injury	351	Felony B	360
Malpractice	34	Felony C	1,384
Divorce	3,035	Misdemeanor A	40
Adult Abuse	503	Misdemeanor B	14
Custody	48	Infraction	0
Support Proceed	8,337	Special Remedy	7
Adoption	313	Appeal	3
Paternity	777	Other	13
Admin. Appeal	351	State Total	1,914
Appeal Other	24		
Contract/Collect	2,925		
Quiet Title	83		
Condemnation	8		
Forcible Detain	5		
Foreclosure	854		
Change of Name	142		
Special Proceed	63		
Trust	36		
Foreign Judgment	364		
Other	362		
State Total	18,761		

Civil Caseload

As indicated in the narrative dealing with the district court caseload in general, the civil caseload showed a slight increase in the past year.

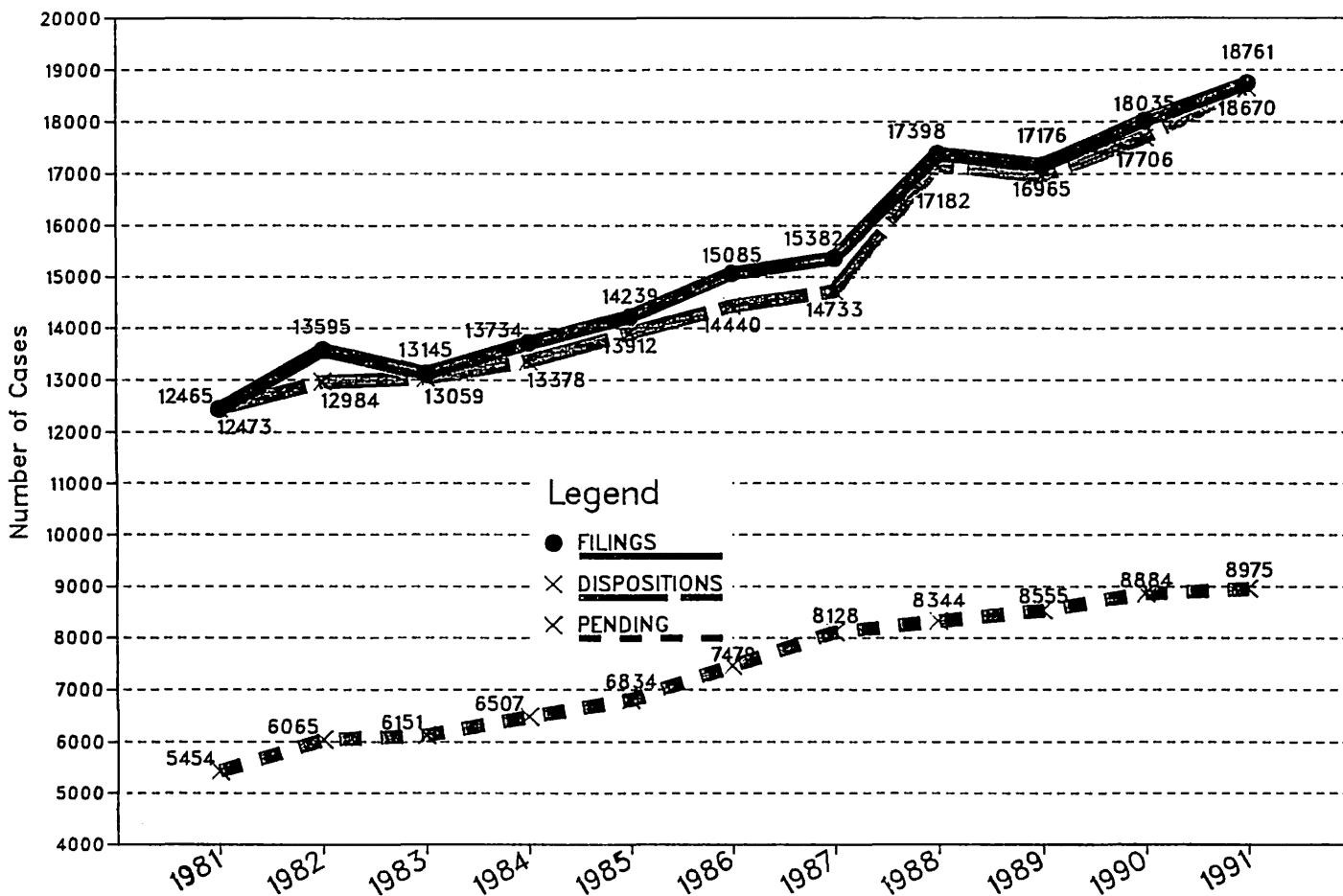
For the fourth consecutive year, the filings of child support related filings showed a substantial increase (+9%). This, however, is the smallest increase in this category since the judiciary entered into a cooperative agreement with the department of human services relating to child support collection. Filings in the non-domestic relations area increased modestly by 1% compared with average increases of 2% for each of the previous ten years. Domestic relations cases increased by approximately 1%, contract and collection filings increased by less than 1%, property related filings decreased by 1%, and other civil filings decreased by less than 1%. Within the domestic relations category, child support actions make up 63% of the

cases, adoption - 2%, paternity - 6%, adult abuse 3%, and custody less than 1%.

Adult abuse filings again showed an increase. In 1984 there were 156 adult abuse cases compared with 503 filings in 1991. Divorce filings showed a slight decrease in 1991 with 3,035 cases filed in 1991, compared with 3,089 cases filed in 1990.

The number of pending civil cases increased by approximately 1% over 1990. Perhaps the best indication of how well district courts are handling civil cases is their compliance with docket currency standards as established by the supreme court. The standards call for the disposition of civil cases within twenty-four months of filing and with 90 days of conclusion of a trial. Of the cases pending at the end of 1991, only 2.5% of the cases exceeded the docket currency standards. This figure has been relatively stable since 1983.

ND CIVIL CASELOAD COMPARISONS FOR DISTRICT COURT FOR 1981 - 1991



Criminal Caseload

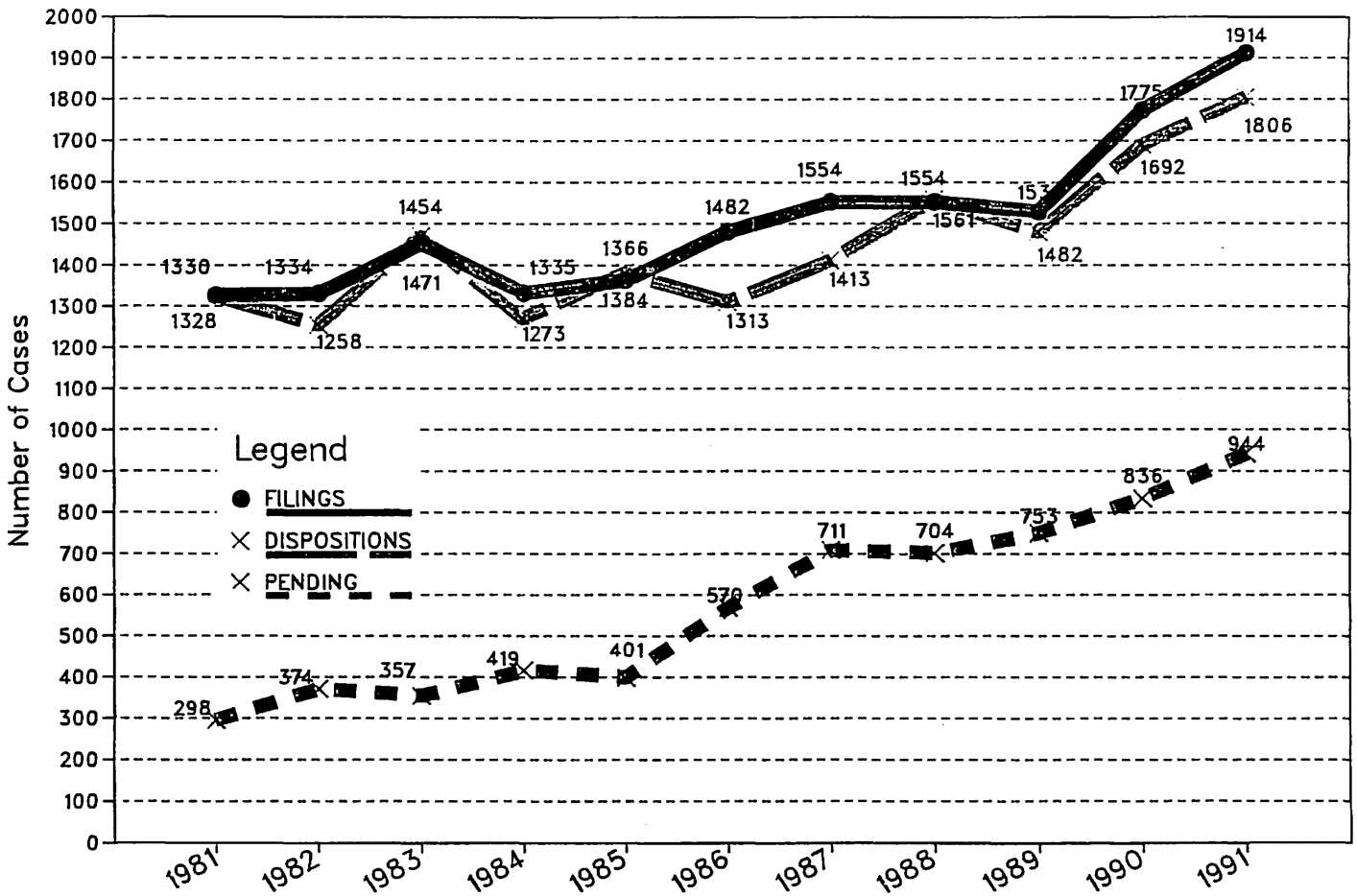
North Dakota continued its traditional low rate of crime during 1991. The number of criminal filings increased by a modest 4%. The types of cases remained relatively stable.

Of the criminal cases filed in district court, 5% were Class A felonies, 19% were Class B felonies, 72% were Class C felonies, while 4% were misdemeanors or other criminal filings. In 1990 the breakdown was 6% for Class A felonies, 21% for Class B felonies, and 65% 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. At the end of 1991, 21% of the pending criminal cases were older than 120 days compared to 28% in 1990 and 27% in 1989. The graph below shows the trend for criminal filings, dispositions, and pending cases.

**CRIMINAL CASELOAD COMPARISON FOR DISTRICT COURT
FOR 1981 - 1991**



Juvenile Caseload

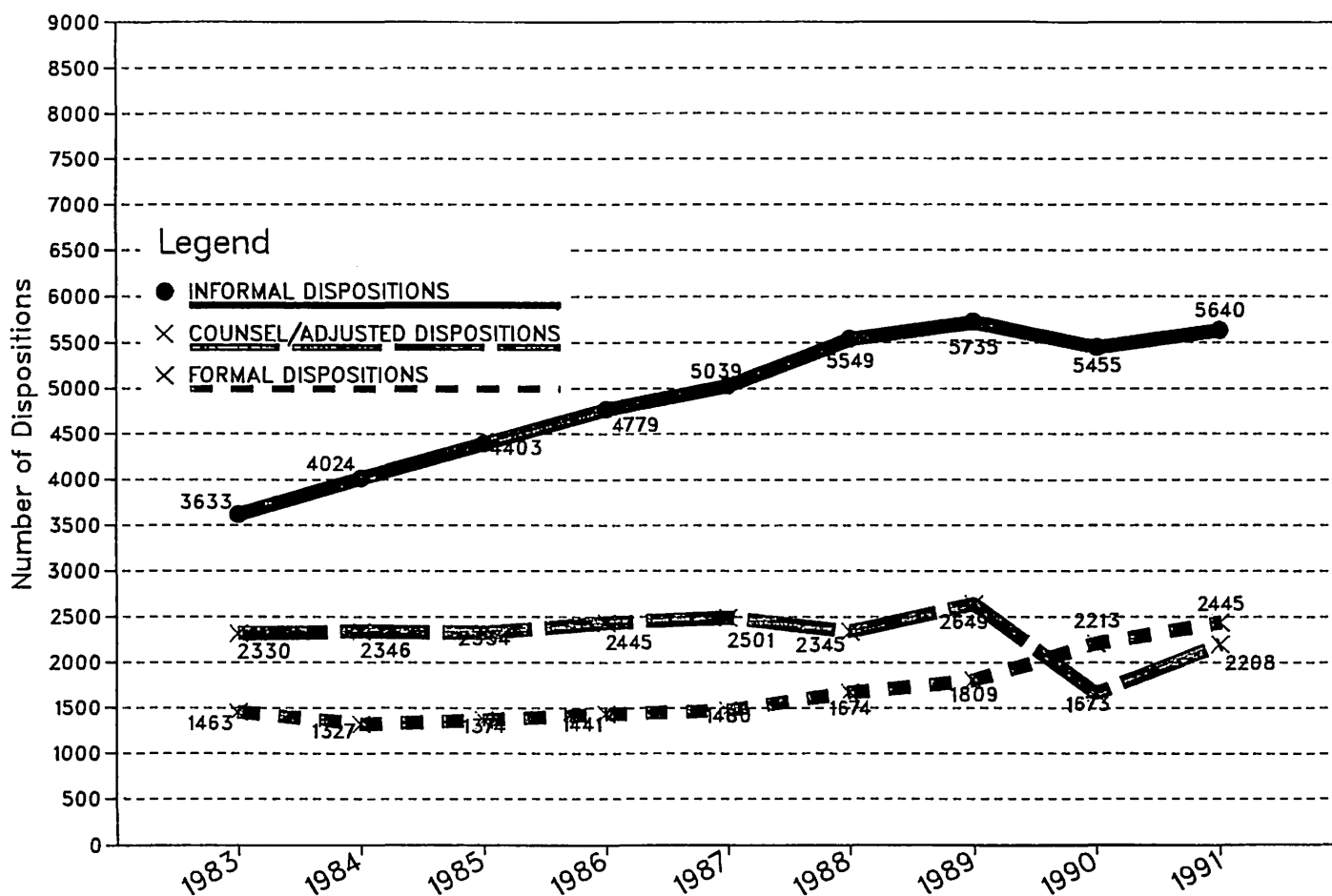
As with the criminal caseload, the low violent crime rate in North Dakota is reflected in its juvenile court statistics. Offenses against persons made up 4% of the juvenile court caseload. Meanwhile, status offenses (offenses which only a child can commit) made up 17% of the caseload. Offenses against property - 30%, traffic offense - 5%, deprivation - 16%, and other filings 24%.

The method by which cases were disposed showed a slight decrease in the use of informal supervision. Of the cases heard, 55% were disposed of through informal adjustments in 1991, compared with 56% in 1990. Additionally, 23% of the cases were

counsel adjusted, and 21% were handled formally. This compares with 18% counsel adjusted and 23% handled formally in 1990.

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 1990 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 1983 - 1991**



**TYPES OF JUVENILE COURT DISPOSITIONS
FOR 1990 AND 1991**

Judicial District	Formal		Informal		Counsel/ Adjusted		Total Dispositions		% Difference For Total Dispositions
	1991	1990	1991	1990	1991	1990	1991	1990	
Northwest	214	169	1,085	1,037	144	169	1,443	1,375	+5.0
Northeast	262	246	391	453	681	500	1,334	1,199	+11.0
Northeast Central	311	286	918	730	160	138	1,389	1,154	+20.0
East Central	892	734	768	807	375	132	2,035	1,673	+22.0
Southeast	204	182	567	608	345	252	1,116	1,042	+7.0
South Central	484	500	1,699	1,606	318	271	2,501	2,377	+5.0
Southwest	78	96	212	214	185	211	475	521	-9.0
TOTAL	2,445	2,213	5,640	5,455	2,208	1,673	10,293	9,341	+10.0

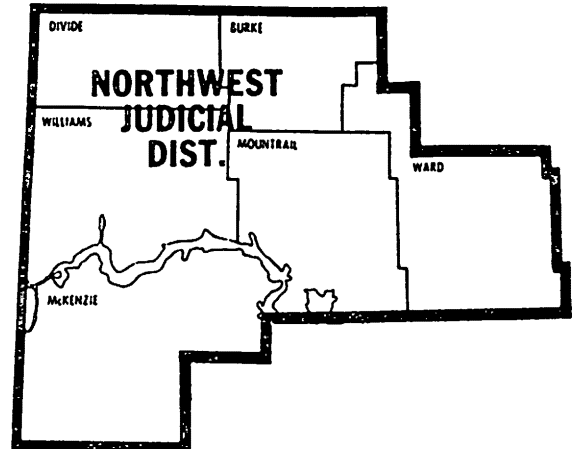
**REASONS FOR REFERRAL TO JUVENILE COURT SERVICES
IN 1990 AND 1991**

	1991	1990	Percent Difference
UNRULY	1,951	1,808	+7.9
Runaway-Instate	558	600	-7.0
Runaway-out-of-state	149	39	+282.1
Truancy	198	184	+7.6
Ungovernable Behavior	537	532	+0.9
Conduct/Control Violation	70	54	+29.6
Curfew Violation	335	314	+6.7
Other	104	85	+22.4
DELINQUENCY	7,103	6,604	+7.6
Offense Against Person	446	353	+26.3
Assault	269	228	+18.0
Homicide	2	2	0
Kidnapping	0	0	—
Sex Offense	65	58	+12.1
Other	110	65	+69.2
Offense Against Property	3,396	3,128	+8.6
Arson	36	24	+50.0
Burglary	173	174	-0.6
Criminal Mischief	684	603	+13.4
Criminal Trespass	166	174	-4.6
Forgery	60	58	+3.4
Robbery	2	16	-87.5
Theft-Misdemeanor	1,288	1,027	+25.4
Theft-Felony	592	741	-20.1
Unauthorized Use of Vehicle	143	138	+3.6
Other	252	173	+45.7
Traffic Offenses	574	539	+6.5
Driving w/o license	371	307	+20.8
Negligent Homicide	1	3	-66.7
Other	202	229	-11.8
Other Offenses	2,687	2,584	+4.0
Disorderly Conduct	312	237	+31.6
Firearms	37	31	+19.4
Game & Fish Violation	59	52	+13.5
Obstruction of Law	41	37	+10.8
Possession or Purchase of			
Alcohol Beverage	2,010	2,046	-1.8
Controlled Substance Violation	46	47	-2.1
Other	182	134	+35.8
DEPRIVATION	1,837	2,261	-19.0
Abandoned	0	2	-100.0
Abuse/Neglect	956	1,541	-38.0
Deprived	650	592	+9.8
Other	231	128	+80.5
SPECIAL PROCEEDINGS	93	96	-3.1
Involuntary Termination of			
Parental Rights	17	15	+13.3
Voluntary Termination of			
Parental Rights	76	81	-6.2
Other	0	0	—
TOTAL	10,984	10,139	+8.0

Report of the Northwest Judicial District

The Honorable Wallace D. Berning, Presiding Judge
William Blore, Court Administrator

District Court Judges: Wallace D. Berning, Presiding Judge; Jon R. Kerian; Everett Nels Olson; William M. Beede; and Bert L. Wilson (retired in 1991).
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 Judge Beede has primary responsibility for cases in Williams, Divide, and McKenzie Counties after the retirement of Judge Bert Wilson in October. Judges Berning, Olson, and Kerian have primary responsibility for cases in Ward, Burke and Mountrail Counties. The departure of Judge Wilson brought about the necessity of some adjustment in the case assignment for both county and remaining district judges. A reduction of 50% of judicial services at the district court level in Williston has required a number of changes to deal with the volume, many of which continue to require adjustments as each month passes.

In Ward County, Judge Gary Holum is continuing to utilize the services of part-time referee Mark Flagstad for small claims cases. Judge McLees continues to serve three additional counties in the Southwest District. Judge Holte continues to serve Burke, Mountrail, and Divide Counties. Bill Blore, court administrator, and Phil Stenehjelm, retired juvenile supervisor, help out as referees on a part-time basis.

Personnel changes have occurred in the Williston office. After Judge Wilson retired, his court reporter, Lori Hauge, also resigned to work as a freelance reporter in the Williston region. In the Minot office, LaVonne Carlson was reclassified to calendar control clerk and will provide district-wide calendaring supervision. The Minot juvenile court staff returned to four full-time employees when Gloria Maragos was put on full-time status in May after working only a three-fifth assignment up to that time.

Technology Implementation:

Child support enforcement recordkeeping is now computerized in the Minot office. Ward County has joined the City of Minot in the joint purchase of a computer that will be processing all the record systems for city and county departments. The mainframe has been installed and a schedule of bringing all departments "on line" has begun. The county and district courts should be phased in prior to the merger of county and district courts and with enough lead time to develop a program that will permit a smooth transition.

The child support division district wide increased its collections by over a half million dollars. In excess of \$7 million was collected. These payments are received in small monthly amounts, which represent a growing burden on the clerk of district court staff. Installing computer equipment throughout the district similar to the Minot office will become a priority as the dollar amount processed by these offices continues to grow.

Responding to the Growing Numbers:

The caseload for juvenile court staff has risen steadily in recent years. In response, each department has attempted to provide new services with unique intervention methods. In Williston a new program called "Kids at Risk" has been added. The Mercy Hospital staff join the juvenile court staff in offering an intense program for youth involved in chemical abuse and their parents.

In the Ward County juvenile office, 8,436 telephone calls were processed, up from 7,024 the previous year. Student interns from Minot State University have been placed with the department to help full-time staff attend to the increased volume of record

management. One student from the legal secretarial program has been retained for one quarter throughout the year.

Public Relations Emphasis:

The judicial staff has made an extra effort this year to cooperate with local media in keeping the public informed about the activity in our courts. A "press day" was declared in May by the Ward County Court with the local media invited to come to the courtroom and hear information regarding a "typical day in county court." Court staff were available to answer all questions. Also, in the spring of the year, "Government Week" was observed by local schools. Area schools were invited to bring classes to the courthouse. More activities are planned.

NORTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1990 AND 1991

	1991	1990	Percent Difference
New Filings	3,574	3,463	+3.2
Civil	3,129	3,078	+1.7
Criminal	231	216	+6.9
Juvenile	214	169	+26.6
Cases Carried Over From			
Previous Year	1,249	1,321	-5.5
Civil	1,175	1,236	-4.9
Criminal	74	85	-12.9
Juvenile	—	—	—
Total Cases Docketed	4,823	4,784	+0.8
Civil	4,304	4,314	-0.2
Criminal	305	301	+1.3
Juvenile	214	169	+26.6
Dispositions	3,568	3,535	+0.9
Civil	3,133	3,139	-0.2
Criminal	221	227	-2.6
Juvenile	214	169	+26.6
Cases Pending As Of			
December 31	1,255	1,249	+0.5
Civil	1,171	1,175	-0.3
Criminal	84	74	+13.5
Juvenile	—	—	—

Report of the Northeast Judicial District

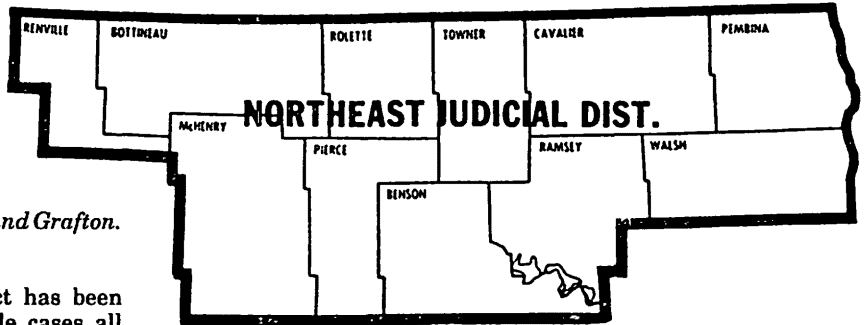
The Honorable James O'Keefe, Presiding Judge
Lisa Anderson, Administrative Assistant

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 Judicial District has been relatively stable, with civil, criminal, and juvenile cases all showing a slight increase over 1990. There appears to be a decrease in cases going to trial, with approximately one in four civil cases being contested in 1991, as compared to one in three in 1990. Support proceedings, divorces, contract collections, and foreclosures continue to increase both in number of cases filed and percentage of total caseload.

Personnel:

Pete Lippert, juvenile court officer from Devils Lake, has left us to take a position with Lake Region Human Service Center. We wish him well in his new job. Karen Olson, who has been a juvenile probation officer since 1986, has been appointed to fill the court officer position. No one has yet been hired to fill the vacancy created by Karen's promotion.

Training:

Judges' training was strongly supported in 1991 with a number of out-of-state conferences being attended, most of these using other than judiciary funding. Judge O'Keefe represented the district at the Six-State Judicial Conference in Helena, Montana. Judges Neumann and Christofferson attended the National College of Juvenile and Family Law Conference in Rapid City, South Dakota. Judge Christofferson also went to Reno, Nevada, to attend Judicial College. Judge Neumann attended a conference in Kansas City on Managing Trials Effectively.

Employees also were encouraged to attend training, with many juvenile employees attending workshops and seminars on the topics of fetal alcohol syndrome, cultural diversity, and child support issues, to name a few. Karen Olson, Probation Officer from Devils Lake, traveled to St. Louis to attend the National Association of Family Based Services Conference. This was paid for as a joint venture between the judiciary and human services.

Other News:

The district held its first employees' meeting in Rugby during September. This meeting was an excellent opportunity for the employees from the different chambers to get acquainted, to update them on the budget and the impact of new legislation, and express themselves on different issues. The response to the meeting was good, and it is likely similar meetings will be held as the budget allows.

Another change has been the filing system in the juvenile court office in Grafton. After an indepth study of the situation, a new filing system using color coding, a new shredder, and lateral filing units has been implemented. It is hoped greater efficiency will be achieved in the areas of record retention, destruction, and maintenance with the addition of this new system.

The Grafton chamber also added its first microcomputer. It is hoped that in the coming year all offices in the Grafton chamber will be computerized, at least to the extent of having word processing, spreadsheets, and databases available to each office.

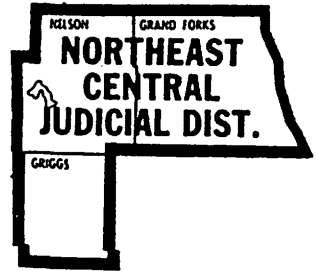
NORTHEAST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1990 AND 1991

	1991	1990	Percent Difference
New Filings	2,038	1,974	+3.2
Civil	1,607	1,565	+2.7
Criminal	169	163	+3.7
Juvenile	262	246	+6.5
Cases Carried Over From			
Previous Year	995	889	+11.9
Civil	873	782	+11.6
Criminal	122	107	+14.0
Juvenile	—	—	—
Total Cases Docketed	3,033	2,863	+5.9
Civil	2,480	2,347	+5.7
Criminal	291	270	+7.8
Juvenile	262	246	+6.5
Dispositions	2,135	1,868	+14.3
Civil	1,732	1,474	+17.5
Criminal	141	148	-4.7
Juvenile	262	246	+6.5
Cases Pending As Of			
December 31	898	995	-9.7
Civil	748	873	-14.3
Criminal	150	122	+23.0
Juvenile	—	—	—

Report of the Northeast Central Judicial District

The Honorable Kirk Smith, Presiding Judge
Patricia Thompson, Court Administrator

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



Judicial Education:

The first annual North Dakota judicial institute was held in Grand Forks at the University of North Dakota Law School in July. District, county, municipal, and tribal court judges from throughout the state, as well as justices of the supreme court, attended. The institute was a 3 1/2 day intensive program on criminal law and procedure. The Grand Forks district and county court judges participated, both as attendees and presenters. Future institutes will also be scheduled for Grand Forks and educational links with Minnesota, South Dakota, and Canadian judges will be expanded.

Case Management Techniques:

The district court judges have established a court sponsored mediation (CSM) program that will result in faster disposition of cases. A mediating judge is appointed by the trial judge to conduct a mediation/settlement conference well before the trial date. The mediating judge uses Rule 16, NDRCivP, to conduct the sessions, which are not of record and remain confidential and inadmissible in any later trial of the action. The technique has resulted in settlement of many tort actions and the practice will be expanded in 1992.

Juvenile Court:

Juvenile court had a very busy year in 1991. Formal filings increased for the third straight year and informal cases disposed were up from 1,511 in 1990 to 2,019 in 1991.

Juvenile court held its annual retreat in February. The primary objective was to determine how to reduce the ever increasing caseload. Currently caseloads run into the 70's per probation officer. It is hoped by change in criteria that caseloads can be reduced to the 40's. The goal is to provide quality service to juveniles with the most need. Increasing our efforts with those with the greatest need may significantly assist in reducing the number of out of home placements in the district.

Also, we are in the first full year of developing a management information system that will better help us plan and manage caseloads. In the future, with the acquisition of additional hardware, we hope to be able to link up and make the probation caseload information much more accessible through this process. Two of our existing programs continue to be successful in that we collected \$15,283.26 in restitution in 1991. Another goal of the juvenile court's annual retreat was to further intensify efforts at

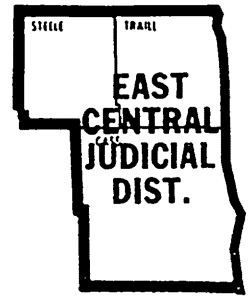
allocation of restitution. Lastly, the joint community service program with the Grand Forks Urban Development is continuing to look good. Many Grand Forks youth have paid their debt to society by cleaning the riverbank and downtown Grand Forks last year. A continuation of this most successful program is planned for 1992. Through the cooperative efforts of the city of Grand Forks and the northeast central judicial district, this program has been highly successful.

NORTHEAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1990 AND 1991

	1991	1990	Percent Difference
New Filings	3,667	3,334	+10.0
Civil	3,027	2,768	+9.4
Criminal	329	280	+17.5
Juvenile	311	286	+8.7
Cases Carried Over From			
Previous Year	1,322	1,232	+7.3
Civil	1,202	1,121	+7.2
Criminal	120	111	+8.1
Juvenile	—	—	—
Total Cases Docketed	4,989	4,566	+9.3
Civil	4,229	3,889	+8.7
Criminal	449	391	+14.8
Juvenile	311	286	+8.7
Dispositions	3,388	3,244	+4.4
Civil	2,793	2,687	+3.9
Criminal	284	271	+4.8
Juvenile	311	286	+8.7
Cases Pending As Of			
December 31	1,601	1,322	+21.1
Civil	1,436	1,202	+19.5
Criminal	165	120	+37.5
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 Uglen

Number of Counties in District: 3

District Court Chambers: Fargo

District Court:

Disposition rate of 1,125 cases per district judge is an increase of 9.4% over last year. New files increased 9.3%. The motion practice increased 9.2%.

Fifty-five certificates of readiness for jury trials were filed in 1991. District judges disposed of 50 jury cases through trial or settlement. One hundred and thirty-nine certificates of readiness were filed for bench trials. The district judges disposed of 154 cases through trial or settlement.

Criminal filings increased 8.8% over 1990. Criminal cases tried increased 30%.

Juvenile Court:

The year 1991 saw an increase of 400 cases processed in the east central judicial district juvenile court. The diversion program, which was implemented in 1991, has handled 250 cases. Approximately \$19,000 has been collected and 2500 hours of community service have been performed in our restitution program. Juvenile court utilizes and develops community based services to relieve pressure on statewide resources.

Two probation officers are currently involved in developing a continuum of care for sexual offenders, which involves all community agencies that are currently serving this population.

Intern Program:

The district's intern program expanded to include North Dakota State University as well as Moorhead State University. Students observe courtroom procedures and work closely with the court and law enforcement personnel.

Community Involvement:

Judges have given numerous lectures to grade schools and junior high and high school students who attend our court as a learning experience.

District judges also participate in moot court and trial advocacy program at UND Law School.

Child Support:

The regional child support enforcement office's caseload continues to grow. In July, 1991, it began providing full child support enforcement services for medical assistance cases referred to it by social services. The periodic review process is well underway. Medical assistance cases and the periodic review

process have increased the volume of hearings in the district.

County Court:

Cass County court's criminal division showed a dramatic increase over last year with 4,200 filings compared to approximately 3,000 in 1990. The traffic division also increased substantially with 38% more filings over the previous year. Small claims remained relatively stable as did the civil caseload in general. Additionally, 23 jury trials were held in 1991.

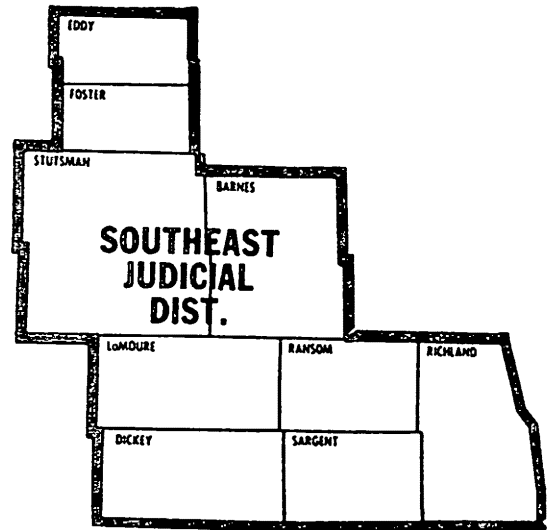
EAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1990 AND 1991

	1991	1990	Percent Difference
New Filings	5,524	5,000	+10.5
Civil	4,104	3,804	+7.9
Criminal	528	462	+14.3
Juvenile	892	734	+21.5
Cases Carried Over From			
Previous Year	3,210	3,144	+2.1
Civil	3,019	2,999	+0.7
Criminal	191	145	+31.7
Juvenile	—	—	—
Total Cases Docketed	8,734	8,144	+7.2
Civil	7,123	6,803	+4.7
Criminal	719	607	+18.5
Juvenile	892	734	+21.5
Dispositions	5,394	4,934	+9.3
Civil	4,002	3,784	+5.8
Criminal	500	416	+20.2
Juvenile	892	734	+21.5
Cases Pending As Of			
December 31	3,340	3,210	+4.0
Civil	3,121	3,019	+3.4
Criminal	219	191	+14.7
Juvenile	—	—	—

Report of the Southeast Judicial District

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

District Court Judge: Robert L. Eckert, Presiding Judge; Gordon O. Hoberg (retired in 1991); 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:

Several changes occurred in the district's personnel in 1991. Starting in January, Angela Handler was hired as a juvenile probation officer in the Wahpeton office. Angela graduated from Moorhead State University in July, 1991, and has a B.A. degree in criminal justice.

The SEJD hired Edward E. Erickson as a full-time law clerk on August 1 for a one year period. Edward will work primarily out of the Stutsman County Courthouse, but will provide his service to all the judges in the district.

Stutsman County District Judge, Gordon O. Hoberg, retired on December 31, 1991.

The district lost the services of its court administrator, Marguerite Aldrich, due to ill health in November, 1991, which was followed by her resignation effective March 2, 1991. Marguerite established a reputation for herself as one of the outstanding court administrators in the state and will be greatly missed by all of her coworkers and friends throughout the district and the state.

Indigent Defense:

The entire Southeast Judicial District is now covered by contracts for indigent defense services. There are three separate contracts - one covers Stutsman, Eddy, and Foster counties; one covers Barnes, Dickey, and LaMoure counties; and the other covers Richland, Ransom, and Sargent counties.

We expect to see further financial effects in our budget from this venture in 1992. All the contracts were effective the last five months of the year (42% of the year's time). During this time only 36% of the total 1991 indigent expense was incurred.

Caseload:

The district's civil caseload increased by 18% from 1990. Child support proceedings encompass 37% of all new civil case filings. The criminal caseload increased by 7%.

The disposition of juvenile matters remained at the same level as last year with the highest number involving possession of alcoholic beverages, abandonment, and theft.

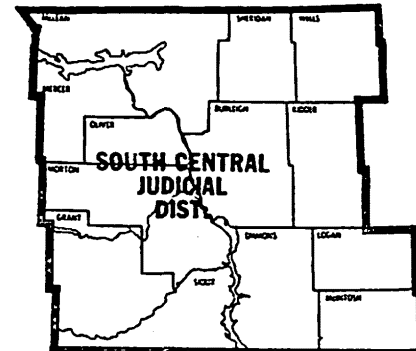
Due to the district judge vacancy in Stutsman County following the retirement of Judge Gordon O. Hoberg, work on assigning cases began in December and will carry on well into 1992.

EAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1990 AND 1991

	1991	1990	Percent Difference
New Filings	2,052	1,902	+7.9
Civil	1,672	1,537	+8.8
Criminal	176	183	-3.8
Juvenile	204	182	+12.1
Cases Carried Over From			
Previous Year	789	768	+2.7
Civil	676	665	+1.7
Criminal	113	103	+9.7
Juvenile	—	—	—
Total Cases Docketed	2,841	2,670	+6.4
Civil	2,348	2,202	+6.6
Criminal	289	286	+1.0
Juvenile	204	182	+12.1
Dispositions	2,092	1,881	+11.2
Civil	1,711	1,526	+12.1
Criminal	177	173	+2.3
Juvenile	204	182	+12.1
Cases Pending As Of			
December 31	749	789	-5.1
Civil	637	676	-5.8
Criminal	112	113	-0.9
Juvenile	—	—	—

Report of the South Central Judicial District

The Honorable Benny A. Graff, Presiding Judge
Ted Gladden, Trial Court Administrator



District Court Judges: Benny A. Graff, Presiding Judge; Gerald G. Glaser; Larry M. Hatch (resigned in 1991); 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, Mandan and Linton

District Court:

The judges of the district court continue to process a very large caseload in the 13 counties of the state's largest judicial district. The motion practice has increased dramatically. This has required increasing the amount of time available for motion hearings, thus reducing available trial time. This is a trend that has occurred over the last decade.

With the elimination of the district court chambers in Linton, a change in scheduling was required. The work of the district court has now been divided between the four remaining district judges. Selected district court assignments have been made to county judges outside Burleigh and Morton counties.

CASES READY FOR TRIAL

Date	Total Ready for Trial	Criminal Trials	Bench Trials	Jury Trials
01/01/92	100	20	41	39
01/01/91	62	13	28	21
01/01/90	48	9	20	19
01/01/89	91	26	43	22
01/01/88	115	13	71	31

The problem reflected in the above table is that the ratio and number of jury cases is increasing. This will have to be monitored closely. This change in caseload may require some modification to the case scheduling procedures or the assignment of additional judicial resources.

With rigorous monitoring of our jury management practices, the size of the jury panels have been reduced resulting in a savings districtwide.

Administrative Activities:

With passage of the court unification bill (HB 1517) during the 1991 Legislative Session, many activities were initiated to respond to the unified trial court system that will become effective January 2, 1995.

All judges of the district have begun meeting monthly to address issues relating to case scheduling and workload distribution.

In all counties but Burleigh and Morton, the county judges handle all uncontested adoptions, stipulated divorces, and default civil matters as well as handling felony matters, if the preliminary hearing is waived. If the preliminary hearing is held, the county judge arraigns the defendant and the matter is bound over to the district court for disposition. This change in the work assignment has resulted in a reduction in the amount of travel for the district judges. District court motion days are scheduled in Washburn and Linton for the more rural parts of the district.

The Unified Court Information System (UCIS) was installed in the district court administrator's office in November. For the first time all of the clerks of court in one county, as well as the district court administrator's office, are tied together to facilitate case management and scheduling activities. Equipment has been installed in the judges' chambers to monitor the status of their calendars on any case activities.

A major undertaking during the year was the consolidation of the clerk of county court and district court in Burleigh county under the administrative direction of Debra Huntley, clerk of district court. The consolidation resulted in improved staff efficiency. There is a public service division for the high volume walk in traffic, as well as most payment activities, and a court services division that focuses on cases that require more judicial involvement. All confidential records and child support activities are in the court services division. The merger was effective January 1, 1992.

Juvenile Division and Judicial Referee Activities:

In 1991, 2,871 children were referred to juvenile court. This was an increase from 2,703 referrals in 1990. Of the total number, slightly over 900 were referred back to the Bismarck/Mandan Police Youth Bureau for informal disposition. Of the 1,977 children who were in juvenile court, 484 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 in rural counties of the district. Burleigh and Morton counties had 2,400 referrals of 83% of the district total.

Judicial referees heard 291 order to show cases and 47 foster support matters, in addition to the formal juvenile proceedings.

During 1991 there was a change of staff duties so that the director of juvenile court services would have more time to handle informal adjustments, the preparation of formal petitions, and oversight of the workload distribution in juvenile court. In the past the director also conducted child support hearings. Changing these responsibilities allowed the director to spend more time on juvenile court services and less time on referee duties.

County Court:

The Alternative Choice Training Program (ACT) was initiated during the year. Through a grant from the attorney general's office, funds were provided for a program to deal with alcohol and drug offenders. The educationally based program is administered by Bismarck State College. Primary referrals for the first year were from the Bismarck and Mandan municipal courts and Burleigh and Morton county courts. During the last quarter of the year, the program was expanded to include a service on controlling anger. This was to aid in addressing domestic violence cases.

To gain the best utilization of scarce judicial resources, selected district court matters continue to be assigned to county judges in the rural areas. This provides timely access to the courts for citizens in the more rural areas and has been supported by the judges involved.

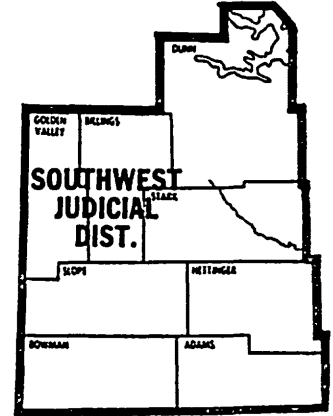
SOUTH CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1990 AND 1991

	1991	1990	Percent Difference
New Filings	4,591	4,630	-0.8
Civil	3,731	3,755	-0.6
Criminal	376	375	-0.2
Juvenile	484	500	-3.2
Cases Carried Over From			
Previous Year	1,599	1,483	+7.8
Civil	1,451	1,328	+9.2
Criminal	148	155	-4.5
Juvenile	—	—	—
Total Cases Docketed	6,190	6,113	+1.2
Civil	5,182	5,083	+1.9
Criminal	524	530	-1.1
Juvenile	484	500	-3.2
Dispositions	4,658	4,514	+3.2
Civil	3,801	3,632	+4.7
Criminal	373	382	-2.3
Juvenile	484	500	-3.2
Cases Pending As Of			
December 31	1,532	1,599	-4.2
Civil	1,381	1,451	-4.8
Criminal	151	148	+2.0
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:

A review of the caseload in previous years to help plan for future years reveals a remarkable stability in the workload of the southwest judicial district for the last five years. Although there are minor variations in the annual statistics as indicated in the accompanying chart on this page, the combined civil, criminal, and formal juvenile cases during the year 1991 reached a total of 1,674. That compares nearly evenly with the total of 1,660 new cases during the year 1987.

Analysis of the "mix" of case types reveals a similar consistency. The improvement in economic conditions generally in southwestern North Dakota resulted in fewer mortgage foreclosures for the district court while, at the same time, new divorce cases increased slightly. The decrease in formal juvenile court cases is actually a return to the approximate average for the previous 4 years.

Docket Currency:

Last year the southwest district was the first in the state to attain complete docket currency to the extent that for the month of November, 1990, there were no civil cases older than 24 months. The district continues to lead the state in the rate of docket currency and is aiming for no cases older than 21 months by the end of 1992. Although the district's record in this regard is largely a tribute to court personnel, it is also evidence that there is a considerable benefit to the public in having an adequate number of judges available to meet the demand for judicial services.

Personnel:

The stability in the district regarding caseload and docket currency has also extended to our personnel staff. That is, for the first time in several years, there has been no loss of employees during 1991.

While enjoying the benefits of experienced personnel throughout our district court and juvenile court operation, we also wish to acknowledge the important event during 1991 of our statewide unified judicial system finally enacting a relatively complete personnel management system. We are grateful to district judge Allan Schmalenberger of our district who served so diligently on the combined committee of the council of presiding judges and supreme court to help bring about that significant contribution to court administration. Reasonable adherence to our new personnel system, while at the same time adding appropriate refinements, should help us to keep the nagging personnel problems of the past in the past!

Continuing Contemplation of Court Consolidation:

This report, for each of the past three years, has concluded with comments regarding the difficult but important prospect of trial court consolidation in North Dakota. 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.

In 1989 this report stated, "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." This report for 1990 acknowledged the passage of House Bill 1517 and urged: "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."

SOUTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1990 AND 1991

	1991	1990	Percent Difference
New Filings	1,674	1,720	-2.7
Civil	1,491	1,528	-2.4
Criminal	105	96	+9.4
Juvenile	78	96	-18.8
Cases Carried Over From			
Previous Year	561	476	+17.9
Civil	493	429	+14.9
Criminal	68	47	+44.7
Juvenile	—	—	—
Total Cases Docketed	2,235	2,196	+1.8
Civil	1,984	1,957	+1.4
Criminal	173	143	+21.0
Juvenile	78	96	-18.8
Dispositions	1,686	1,635	+3.1
Civil	1,498	1,464	+2.3
Criminal	110	75	+46.7
Juvenile	78	96	-18.8
Cases Pending As Of			
December 31	549	561	-2.1
Civil	486	493	-1.4
Criminal	63	68	-7.4
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 solemnize marriages, 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.

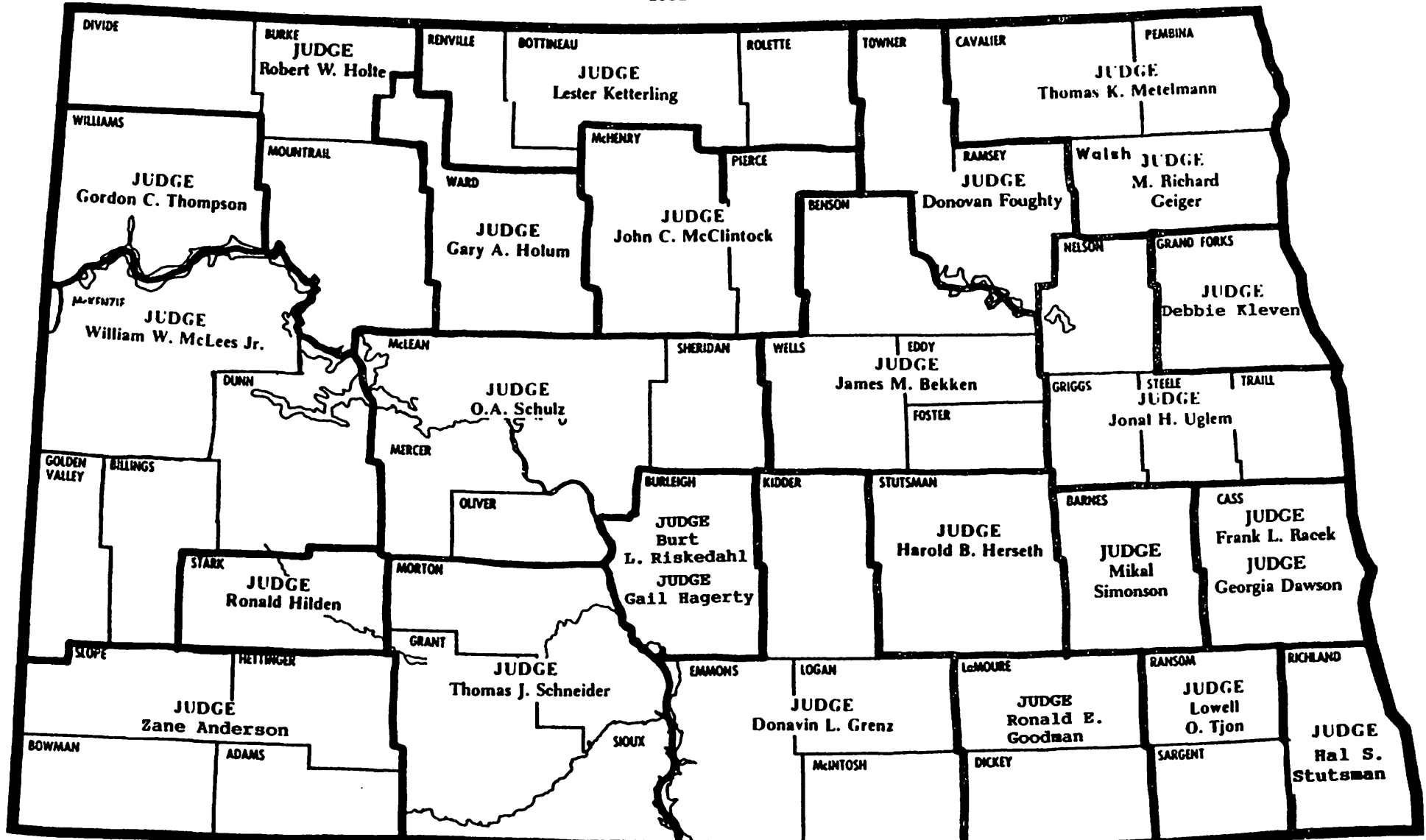
In addition to its trial court duties, county courts also serve as the appellate courts for appeals from municipal courts. All appeals from municipal courts to county courts are trial *de novo* appeals. In other words, when a municipal court case is appealed to the county court, a new trial is held in 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 occurs, 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
1991**



County Court Caseload

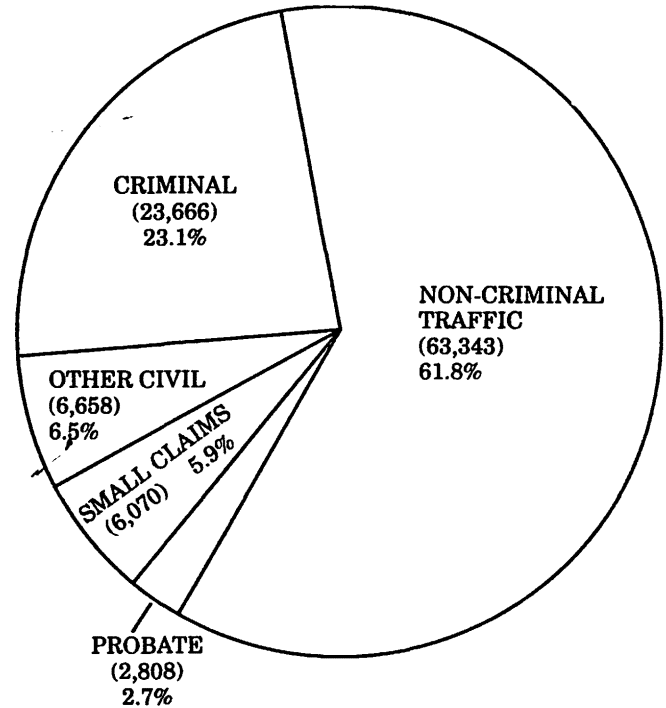
The breakdown of the county court caseload indicates a fairly significant increase (15.8%) in the filing of cases in county court. The caseload continues to be predominately noncriminal traffic followed by criminal, small claims, and other civil and probate. The increase in filings can nearly all be attributed to a 22.5%

increase in the noncriminal traffic category. Civil filings actually decreased 4.5% while criminal cases increased 15.1%. Filings in small claims court decreased by 2.5% following a 6% decrease in 1990 and a 9% decrease in 1989.

SYNOPSIS OF COUNTY COURTS CASELOAD FOR 1990 AND 1991

	1991	1990	Percent Difference
New Filings	102,545	88,535	+15.8
Civil	15,536	16,269	-4.5
Criminal	23,666	20,570	+15.1
Noncriminal Traffic	63,343	51,696	+22.5
Cases Carried Over From			
Previous Year	28,275	27,040	+4.6
Civil	22,987	22,145	+3.8
Criminal	5,288	4,895	+8.0
Noncriminal Traffic	—	—	—
Total Cases Docketed	130,820	115,575	+13.2
Civil	38,523	38,414	+0.3
Criminal	28,954	25,465	+13.7
Noncriminal Traffic	63,343	51,696	+22.5
Dispositions	101,316	87,300	+16.1
Civil	14,837	15,427	-3.8
Criminal	23,136	20,177	+14.7
Noncriminal Traffic	63,343	51,696	+22.5
Cases Pending As Of			
December 31	29,504	28,275	+4.3
Civil	23,686	22,987	+3.0
Criminal	5,818	5,288	+10.0
Noncriminal Traffic	—	—	—

TYPES OF CASES FILED IN THE COUNTY COURT DURING 1991



**COUNTY COURT FILINGS AND DISPOSITIONS
FOR 1991**

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	11	12	148	169	367	62	62	20	30	8	10	41	39	2
Barnes	37	40	445	519	2,072	133	135	76	18	4	3	46	45	54
Benson	6	7	121	149	749	32	36	36	15	1	5	30	31	8
Billings	3	7	28	37	324	2	4	15	6	0	0	3	5	2
Bottineau	27	24	239	284	847	64	63	67	30	6	1	39	40	28
Bowman	0	0	97	93	275	35	44	25	21	26	33	11	18	0
Burke	8	8	103	86	246	45	42	36	40	2	1	10	10	5
Burleigh	202	225	1,488	1,543	5,605	327	329	146	156	43	34	661	639	94
Cass	448	420	3,146	2,870	6,722	1,514	1,567	246	153	91	282	1,316	1,283	358
Cavalier	23	13	208	164	660	51	56	55	34	7	0	57	56	4
Dickey	12	11	121	147	673	68	71	24	30	0	42	20	20	7
Divide	5	7	50	70	194	15	16	38	46	6	3	10	12	1
Dunn	2	4	106	137	1,000	17	20	31	9	0	4	11	15	2
Eddy	3	3	57	51	166	31	27	20	9	4	0	14	14	6
Emmons	4	3	81	79	471	35	34	33	20	5	1	24	27	5
Foster	3	3	163	151	813	38	31	23	19	1	1	20	18	2
Golden Valley	1	6	41	67	184	22	22	25	8	2	1	7	6	0
Grand Forks	260	288	2,921	2,880	7,198	552	562	187	87	48	5	212	216	113
Grant	3	3	32	31	342	60	48	15	5	0	1	12	12	0
Griggs	4	5	126	135	489	26	23	22	5	1	1	10	9	7
Hettinger	0	0	39	35	225	28	28	21	7	7	18	14	20	0
Kidder	0	1	77	75	726	20	19	10	28	1	6	17	19	2
LaMoure	7	7	57	54	722	50	59	38	24	5	1	11	12	2
Logan	1	1	39	34	207	11	9	16	18	2	2	8	9	6
McHenry	9	11	168	144	1,239	38	39	51	64	6	5	42	39	19
McIntosh	3	4	40	44	171	13	11	27	9	5	2	15	15	2
McKenzie	11	10	203	208	686	84	93	47	67	7	11	27	27	9
McLean	5	9	376	406	2,749	41	43	57	21	20	1	58	61	6
Mercer	28	23	244	240	616	110	113	40	27	5	0	57	60	14
Morton	89	86	901	880	3,012	227	209	103	19	23	1	244	247	63
Mountrail	12	14	160	177	651	105	98	45	77	9	1	36	40	15
Nelson	2	1	132	141	873	32	29	38	24	2	1	23	21	4
Oliver	4	5	10	6	202	11	6	8	9	1	0	4	5	2
Pembina	12	13	325	300	857	58	57	77	60	8	4	106	108	19
Pierce	22	18	219	253	429	73	73	50	34	19	9	28	25	10
Ramsey	57	46	492	491	2,245	191	197	59	40	9	5	61	59	42
Ransom	11	13	174	179	719	61	72	23	11	4	0	21	18	5
Renville	4	3	43	35	197	37	43	44	36	3	0	11	10	0
Richland	55	56	920	1,041	2,676	236	229	97	97	16	9	86	84	44
Rolette	23	22	460	527	492	43	42	43	9	2	2	35	35	14
Sargent	6	5	93	87	598	82	76	29	19	0	1	12	12	2
Sheridan	1	0	12	14	69	6	6	16	4	3	0	11	11	5
Sioux	1	1	16	10	21	1	1	4	4	0	0	13	13	0
Slope	0	0	12	28	182	8	8	8	4	3	7	0	1	2
Stark	61	69	1,103	1,058	2,007	200	187	108	98	26	27	180	180	56
Steele	0	0	0	0	0	7	8	28	32	0	0	0	0	0
Stutsman	103	97	1,542	1,633	2,993	149	152	87	53	26	1	202	199	66
Towner	2	4	100	94	245	47	45	22	132	12	2	29	29	3
Trail	20	28	299	329	759	158	160	55	25	3	0	29	33	4
Walsh	31	27	895	911	1,480	118	121	69	81	11	8	153	155	49
Ward	114	128	1,071	1,391	3,491	420	386	169	61	37	55	332	319	246
Wells	2	2	74	76	561	90	89	45	48	5	1	27	26	0
Williams	96	103	619	677	1,846	186	170	134	115	22	9	197	187	49
TOTAL	1,854	1,896	20,636	21,240	63,343	6,070	6,070	2,808	2,098	557	617	4,643	4,594	1,458

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.

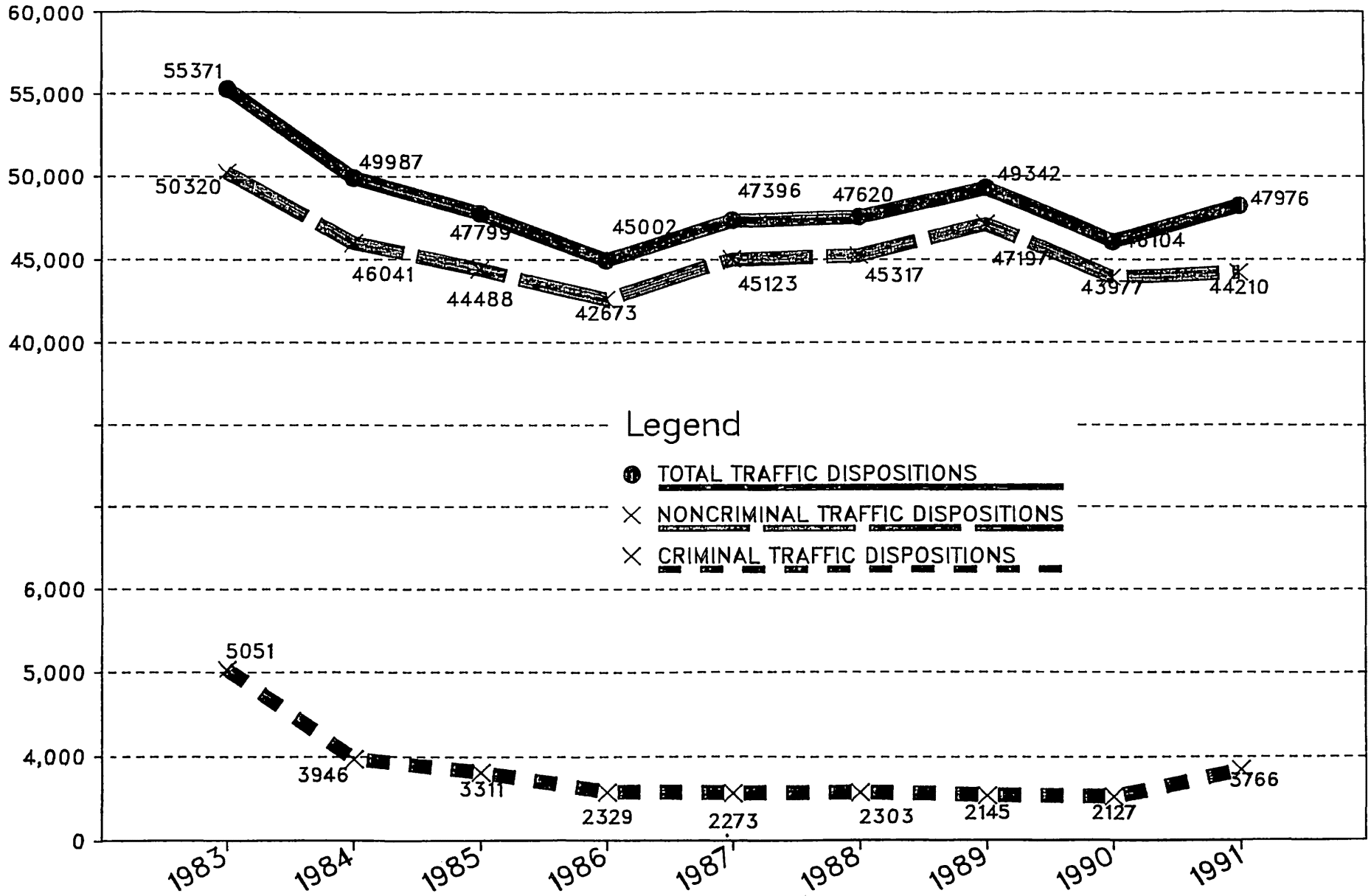
Most of the traffic caseload of the municipal courts consists of noncriminal or administrative traffic cases. While these cases greatly outnumber the criminal traffic cases, they generally take much less time to process. There is a lesser burden of proof in noncriminal traffic cases than in criminal 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 1990 AND 1991

Ten Municipalities With Highest Case Volume	Criminal Traffic Dispositions		Noncriminal Traffic Dispositions		Total Traffic Dispositions		Percent Difference
	1991	1990	1991	1990	1991	1990	
Bismarck	507	254	8,662	7,921	9,169	8,175	+12.2
Dickinson	113	63	1,972	1,853	2,085	1,916	+8.8
Fargo	658	411	5,319	5,009	5,977	5,420	+10.3
Grand Forks	484	339	3,856	4,031	4,340	4,370	-0.7
Jamestown	214	92	3,931	2,859	4,145	2,951	+40.5
Mandan	279	80	3,276	2,395	3,555	2,475	+43.6
Minot	404	247	7,515	8,470	7,919	8,717	-9.2
Wahpeton	46	62	88	810	134	872	-84.6
West Fargo	170	92	938	1,513	1,108	1,605	-31.0
Williston	232	108	1,826	1,938	2,058	2,046	+0.6
TOTAL	3,107	1,748	37,383	36,799	40,490	38,547	+5.0

**COMPARISON OF MUNICIPAL COURT TRAFFIC
DISPOSITIONS FOR 1983-1991**



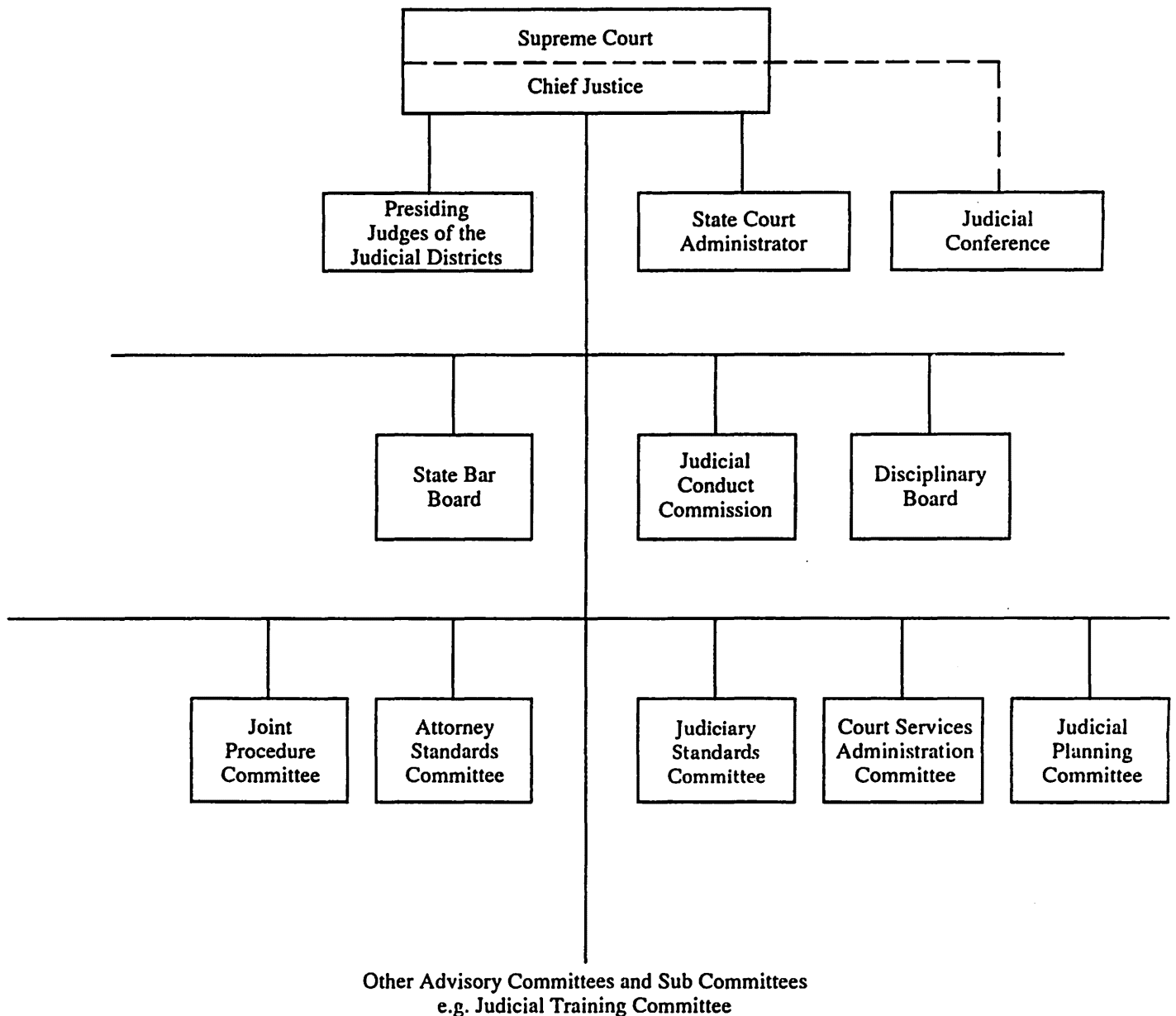
Administration of the Judicial System

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:

Under the guidance and supervision of the Judicial Conference Committee on Judicial Training, the Office of State Court Administrator 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 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 the planning staff in the State Court Administrator's office. 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 different 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.

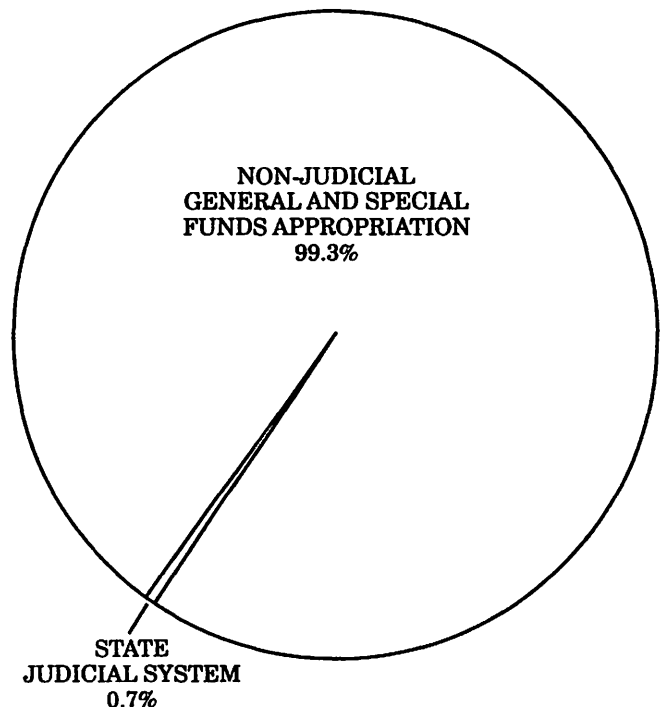
Even with the addition of most district court expenses to the judicial budget, the judicial budget constitutes only a small portion of the state's total budget for 1991-93 biennium. However, this is not to say that the budgetary impact of the additional expenses has been minimal. Since the absorption 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 used to be over 40%, now it is less than 23%.

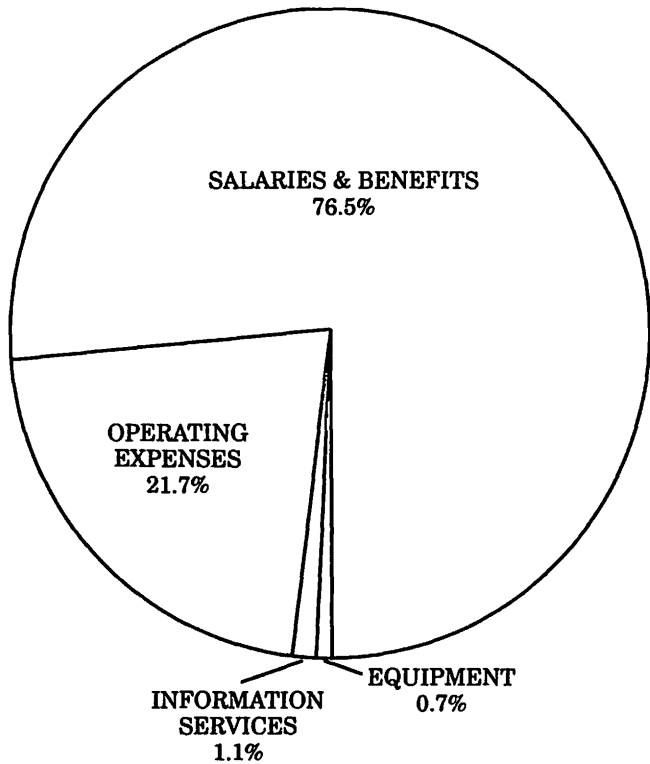
In viewing the judicial budget, it should be noted that it does not include the salaries of district court clerks and deputy clerks or any county court or municipal court expenditures. District court clerk expenses and county court expenses are funded by county government in North Dakota. Likewise, municipal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



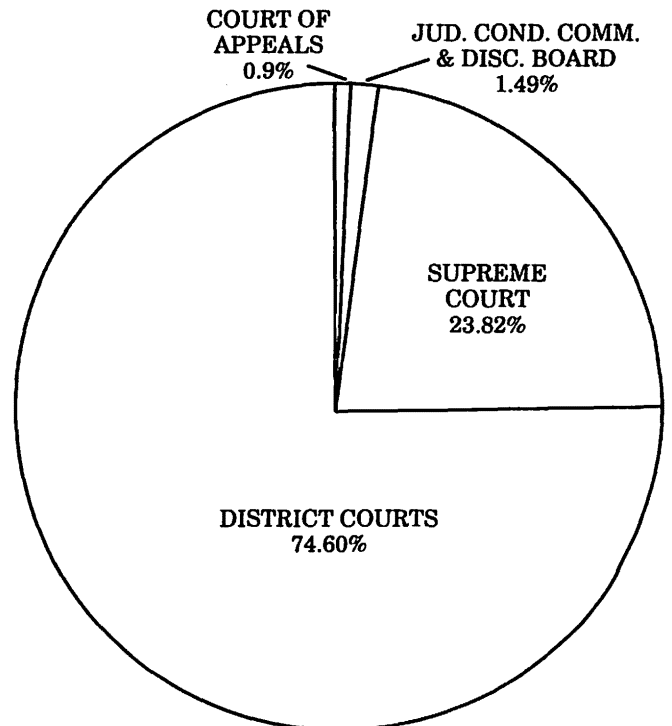
**STATE JUDICIAL SYSTEM APPROPRIATION
BY APPROPRIATED LINE ITEM
1991-93 BIENNIUM**



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



Advisory Committee of the North Dakota Judicial System

To assist in its administrative supervision of the North Dakota judicial system, the Supreme Court utilizes the services of numerous advisory committees. These committees address specific problem areas within their study scope and recommend solutions to the Supreme Court.

Four of these committees - the joint procedure committee, the attorney standards committee, the judiciary standards committee, and the court services administration committee were established by the Supreme Court in 1978 as a part of its rulemaking process within the North Dakota judicial system. One of these committees, the joint procedure committee, existed before the Supreme Court adopted its 1978 rulemaking process.

Other committees of the North Dakota judicial system include the judicial planning committee, the personnel advisory boards, the judicial training committee of the North Dakota judicial conference, the North Dakota legal counsel for indigents commission, and the council of presiding judges.

The activities of these advisory committees during 1991 are summarized here:

Judicial Planning Committee:

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

A resurgence of activity for the Judicial Planning Committee is in store for 1992 as plans proceed for reinstating a North Dakota Judicial System Leadership Retreat and a long planned for Gender Bias Study gets underway.

Joint Procedure Committee:

The Joint Procedure Committee studies and revises the state rules of civil procedure, criminal procedure, appellate procedure, evidence, and other rules of pleading, practice and procedure. The Committee proposes to the Supreme Court amendments to existing rules or, when appropriate, the adoption of new procedural rules.

The committee was chaired by Justice H.F. "Sparky" Gierke until his departure from the Supreme Court in December, 1991. The Supreme Court subsequently appointed Justice Beryl Levine as chair. Committee membership is composed of ten judges representing the judiciary, and ten attorneys representing the State Bar Association of North Dakota. The committee met only once in 1991. Staff turnover and a funding shortfall early in the year precluded additional meetings. A number of rule changes were submitted to the Supreme Court and acted on in 1991. Changes included a rule on FAX filing in trial courts, mental examinations by a psychologist, disclosure of the presentence report at least 10 days prior to sentencing, return of seized property, impeachment modifications, repeating interrogatory questions before answering, and other procedural modifications. The committee is currently studying the following issues: contempt legislation, venue, sealing court records, demand for change of judge, peremptory challenges in multi-party cases, and a class action rule anomaly.

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 1991, the Attorney Standards Committee reviewed a number of issues including "emeritus status" licensure of senior members of the bar; the ABA Model Rules for Lawyer Disciplinary Enforcement, which propose changes for North Dakota's equivalent rules; and the establishment of a disabled lawyer trusteeship service through the State Bar Association of North

Dakota. The Committee also received and briefly reviewed the report and recommendations of the ABA Commission on Evaluation of Disciplinary Enforcement (the "McKay Report"). The primary focus of the Committee's study efforts, however, was directed to a State Bar Association Board of Governors petition requesting that the Supreme Court dissolve the Supreme Court's Standing Committee on Attorney Standards.

The Board of Governors' petition was the result of a study undertaken by the Special Committee on the Unified Bar of the State Bar Association, which was chaired by J. Philip Johnson of Fargo. The Special Committee was given the task of reviewing the structure of the State Bar Association and evaluating the role and function of the unified bar in North Dakota. This study was precipitated by the decision of the United States District Court for Wisconsin in *Levine v. Supreme Court of Wisconsin*, 679 F.Supp. 1478 (W.D. Wis. 1988), which found that the mandatory membership requirement of the State Bar of Wisconsin impermissibly infringed upon individual lawyers' freedom of speech and freedom of association. Although *Levine* was subsequently reversed by the Seventh Circuit Court of Appeals, the district court opinion was the cause of considerable concern within the legal profession.

The Special Committee completed its study and published its recommendations in a report to the 1989 Annual Meeting of the State Bar Association. The report concluded, in part, that the State Bar Association of North Dakota should be the primary vehicle for initiating changes, improvements, or innovations in the area of attorney standards. Consequently, one of several recommendations made in the report was that a State Bar Standing Committee on Attorney Standards should replace the Supreme Court's Standing Committee on Attorney Standards. The report of the Special Committee, including this recommendation, was adopted by the members of the State Bar Association in June of 1989. The Board of Governors subsequently submitted a petition to the Supreme Court proposing the dissolution of the Supreme Court's Standing Committee on Attorney Standards.

The Supreme Court referred the Board of Governors' petition to the Attorney Standards Committee for review, following which former chair Vern Neff appointed the SBAND Attorney Standards Committee Proposal Study Subcommittee, which is chaired by Paul Ebeltoft and the members of which, in addition to the subcommittee chair, are Rebecca Thiem, Joseph Maichel, Duane Liffbrig, and Sen. Wayne Stenehjem.

The study subcommittee was charged with considering the petition submitted by the State Bar Association and making a recommendation regarding the petition to the full Attorney Standards Committee. The subcommittee held several meetings during which it received and reviewed extensive information concerning the development of the Rule on Procedural Rules and the establishment of the Attorney Standards Committee. Following completion of its study, a majority of the subcommittee (3-2) voted to recommend adoption of the SBAND petition for dissolution of the Supreme Court's Attorney Standards Committee. The majority report, submitted by Subcommittee Chair Ebeltoft, regarded the primacy of the SBAND Committee as of paramount importance in light of recent and continuing problems facing the legal profession. The minority report, authored by Joseph Maichel and Duane Liffbrig, underscored that no clear consensus regarding the SBAND petition had arisen from the information received by the subcommittee and consequently found no compelling reason to change the present committee arrangement.

The Attorney Standards Committee, in November, 1991, received the subcommittee's recommendation and after a full discussion of the majority and minority reports voted (10-4) to reject the study subcommittee's recommendation that the SBAND petition be approved. The majority of the committee voting to reject the subcommittee's recommendation concluded that the Supreme Court's Attorney Standards Committee and the SBAND Attorney Standards Committee should operate in a complementary and cooperative fashion and that doing so would be of benefit to the judicial system and the legal profession. The

Attorney Standards Committee also voted unanimously to work with the SBAND Attorney Standards Committee to develop methods of ensuring continued cooperation and communication between the two committees.

Judiciary Standards Committee:

The Judiciary Standards Committee, chaired by Jane Voglewede of Fargo, studies and reviews all rules relating to the supervision of the judiciary, including judicial discipline, judicial ethics, and the judicial nominating process.

The Committee is nearing completion of 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. A special study subcommittee, chaired by Judge Ronald L. Hilden of Dickinson, has concluded its assigned study of the proposed model code and has made recommendations to the full committee regarding adoption of the model code. The Judiciary Standards Committee received the subcommittee recommendations and is preparing the proposed code for submission to judges in the state for comment.

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. The Committee has recommended, and the Supreme Court has subsequently, adopted an administrative rule regarding the disposition of judgeship vacancies (Administrative Rule 7.2). The Committee has also recommended a marginal realignment of judicial district boundaries to include Wells County in the Southeast Judicial District, rather than in the South Central Judicial District. The Committee is presently reviewing proposed legislative amendments to House Bill No. 1517.

Judicial Training Committee:

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

The Judicial Training Committee is comprised of three district court judges, two county court judges, one supreme court justice, one clerk of court, one municipal court judge, two employees of the state-funded judicial system, one faculty member of the law school, one county magistrate, one non-judge member of the State Bar Association of North Dakota, and one surrogate judge.

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 as assigned by the Judicial Conference or its Executive Committee.

During 1991, the Judicial Training Committee conducted the Judicial Institute, Joint Conference of the Judges and Juvenile Court, Magistrate's Seminar, Municipal Judges Institute, Clerk of Court Conference, and a Faculty Development Seminar. The 1991 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, and Harvard Law School.

With the assistance of the Curriculum Subcommittee of the Judicial Training Committee and the University of North Dakota Law School, the judicial system successfully conducted its first annual Judicial Institute in July of 1991. Over 40 participants representing federal, state, and tribal judges and federal magistrates from North Dakota attended the intense four-day program that focused on critical areas in criminal law. 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 1992 Judicial Institute is scheduled for late June. The program agenda is family law.

The Benchbook Task Force, chaired by County Judge M. Richard Geiger, is working diligently to meet its spring 1992 deadline for completion of the trial court benchbook. The benchbook is only one component of the new judge orientation, which is scheduled for implementation the winter of 1992, immediately following the November election.

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 Luella Dunn. 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, much of the bureaucracy of the old system, such as using the reclassification procedure to fill vacancies, has been replaced with procedures that place those decisions in the hands of the hiring authority. As a result, 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, formerly chaired by James T. Odegard, Grand Forks, and now chaired by Michael R. Hoffman, Bismarck, has reviewed and identified areas of concern regarding indigent defense. The Commission recently completed its review and revision of the Indigent Defense Procedures and Guidelines, which were subsequently assembled for distribution to judges and indigent defense counsel. The Commission is presently undertaking a review of data regarding cost and caseload of counsel services for indigents in all courts of the state and is soliciting information and comments from indigent defense counsel regarding operation of the indigent defense contract system.

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. See Senate Bill 2028, 1991 Legislative Session. 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.

A severe budget deficit was the major topic of conversation in early 1991. The district court budgets were scrutinized and cutbacks were discussed in an attempt to meet the appropriation shortfall. The shortfall dissipated after the January meeting and the meetings returned to a more normal format.

The Council of Presiding Judges received briefings on the statewide judicial computer legal research program. Proposals from LEXIS and Westlaw were studied by the District Court and County Court Legal Research Study Subcommittee. The Subcommittee report recommended LEXIS as low bidder. The Council of Presiding Judges recommended that the Supreme Court approved this contract for LEXIS service to all district courts and county courts.

Other major issues to come before the presiding judges were 1) a new personnel program providing for step increases; 2) the Unified Court Information System (UCIS), providing for a statewide, state of the art, case tracking system; and 3) the drafting of a rule regarding the election of presiding judges.

Disciplinary Board

The Disciplinary Board of the Supreme Court, originally known as the Grievance Commission, was established in 1965 to investigate citizen complaints alleging unethical conduct by North Dakota attorneys.

Seven lawyer members and three non-lawyers serve on the Board. Michel W. Stefanowicz, Crosby, Chairman; Karen K. Braaten, Grand Forks, Vice Chairman; Duane H. Ilvedson, Fargo; Mary E. Nordsven, Dickinson; Robert C. Heinley, Carrington; Lewis C. Jorgenson, Devils Lake; Bishop Robert Lynne, Bismarck; Louise Sherman, Dickinson; Robert L. Hoss, Fargo. Luella Dunn, Clerk of the Supreme Court, serves as the secretary for the Board. Disciplinary Counsel is Vivian E. Berg.

Complaints against attorneys are docketed by the secretary and forwarded either to the Chairman of Inquiry Committee East or Inquiry Committee West of the State Bar Association. An investigation is then conducted by a member of the respective committees or disciplinary counsel, with opportunity to appear before the Inquiry Committee for both the attorney and complainant as provided in the rules.

Inquiry Committees may dismiss complaints, issue a private reprimand, consent probation, or both, or direct formal proceedings. The attorney issued a private reprimand may demand, as of right, that formal proceedings be instituted to ascertain the validity of the reprimand.

If the complainant is dissatisfied with the disposition of the Inquiry Committee, an appeal may be filed with the Disciplinary Board for review. This action must be taken within 30 days of receipt of notice of the disposition of the initial complaint.

Formal proceedings are instituted by Disciplinary Board counsel upon the direction of the Inquiry Committee through a petition for discipline, heard by a hearing body appointed by the chairman of the Board and which reports to the Board. The Board makes its recommendation to the Supreme Court for public reprimand, suspension or disbarment. The matter is briefed and argued to the Court. Review is de novo on the record and the standard of proof is clear and convincing evidence.

Following is a summary of complaints handled by the Disciplinary Board in 1991.

SUMMARY OF DISCIPLINARY BOARD COMPLAINTS FOR THE YEAR 1991

New Complaints filed for the year 1991	*141
General Nature of new complaints filed:	
Client Funds and Property	2
Conflict of Interest	11
Excessive Fees	5
Failure to Communicate/Cooperate With Client	1
Improper Conduct	71
Incompetent Representation	40
Misappropriation/Fraud	2
Neglect/Delay	15
Unauthorized Practice of Law	3
TOTAL	*150
Disciplinary Proceedings pending from prior years	60
Complaints carried over from previous year	38
Total Complaints for consideration in 1991	248
*Nine complaints involve allegations of misconduct concerning two attorneys.	
Disposition of Complaints:	
Dismissed by Inquiry Committee	94
Dismissed by Disciplinary Board	6
One-year Probation by Consent	8
Private Reprimands issued	11
Public Reprimands issued	1
Suspensions	1
Disbarments	*12
Withdrawal by Complainant	1
Disciplinary proceedings instituted and pending	50
Complaints pending 12/31/91	60
TOTAL	**244

Not reflected in the above statistics are two petitions filed in the Supreme Court for interim suspensions. That is, two attorneys were suspended by the Court upon a showing of sufficient evidence that the lawyer had committed misconduct, posed a substantial threat of irreparable harm to the public, or was disabled. The interim suspension is in effect while the Disciplinary Board proceeds with an investigation and formal proceedings which concludes with a recommendation to the Supreme Court.

*Eleven separate complaints resulting in disbarment involved one attorney.

**There were five complaints that had two dispositions. One complaint resulted in a dismissal against one attorney and formal proceedings instituted against the other attorney; one complaint resulted in a dismissal against one attorney and a private reprimand against the other; one complaint resulted in formal proceedings instituted against one attorney and the complaint pending against the other; one complaint resulted in a private reprimand against one attorney and the complaint pending against the other; and another complaint resulted in a dismissal against two attorneys and the complaint pending against the other.

Judicial Conduct Commission

The Judicial Conduct Commission was established by the legislature in 1975 with the enactment of Chapter 27-23 of the North Dakota Century Code. The law empowers the Commission to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal, or retirement of a judge.

The seven members of the Commission include one district judge, one county judge, one attorney, and four citizen members. Members of the Commission are Janet Maxson, Minot, Chair; Honorable William F. Hodny, Mandan, Vice Chair; Robert C. Heinley, Carrington; Dorreen Yellow Bird, New Town; Rick Maixner, New England; Clifton Odegard, Grand Forks; Honorable James M. Bekken, New Rockford. The Clerk of the Supreme Court, Luella Dunn, is secretary for the Commission. Staff Counsel is Vivian E. Berg.

Complaints against judges are filed with the Commission's secretary, who acknowledges their receipt and forwards them to staff counsel for investigation. The judge against whom the complaint is filed is afforded due process and provided an opportunity to present such matters as the judge may choose.

A majority of complaints are dismissed as being without merit; however, the Commission may issue a private censure or direct that formal proceedings be instituted. If formal proceedings are instituted, the matter may be heard by the Commission or by a master or masters appointed by the Supreme Court.

The following table is a summary of the nature and disposition of complaints handled by the Judicial Conduct Commission in 1991.

SUMMARY OF JUDICIAL CONDUCT COMMISSION COMPLAINTS FOR THE YEAR 1991	
New Complaints filed in 1991	42
General Nature of Complaints filed:	
Improper Judicial Conduct	8
Biased Decisions	5
Failure to Comply with Law	23
Failure to Afford Complainant Due Process	6
TOTAL	42
Complaints carried over from 1990	4
TOTAL complaints for consideration	46
Disposition of Complaints:	
Dismissed	40
Private Censure	1
Public Censure	1
Formal Proceedings Instituted	1
Complaints Pending 12/31/91	3
TOTAL	46
Of the New Complaints Filed in 1991:	
10 were against County Judges	
16 were against District Court Judges	
15 were against Municipal Judges	
<u>1</u> was against a Hearing Officer	
42	

State Bar Board Annual Report - 1991

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, Bolinske and Smith serve as members of the State Bar Board. The Board's duties include evaluating the legal ability of applicants for admission to the Bar as well as determining their character and fitness to practice law. The Board is the licensing agency for lawyers and, in that capacity, collects the annual license fees and keeps a record of all licensed attorneys.

The State Bar Board administers a two-day state bar examination in February and July. The Multistate Bar Examination, given on the first day of the exam, is a multiple-choice exam consisting of 200 questions and covers the subjects of Constitutional Law, Contracts, Criminal Law, Evidence, Torts and Real Property. The second day of the exam is an essay examination which is a six-hour written examination and covers the subjects of Practice and Procedure; Equity; Business Associations; Commercial Transactions; Family Law; and Wills, Estates and Trusts. Beginning with the July 1992 state bar examination, subjects tested on the essay portion of the examination may also include Administrative Law, Creditor/Debtor Relationships, and Real Property.

Applicants for admission by examination are also required to pass the Multistate Professional Responsibility Examination, national exam given three times yearly at the law schools.

Statistics for the 1991 bar examinations are:

Exam	#Apps.	# Success % Success	#UND Grads.	# Success % Success
2-91	17	12/70%	9	6/66%
7-91	80	77/96%	61	60/98%

Attorneys applying for admission based on at least five years admission in another jurisdiction must file proof of four years of active practice. Other requirements are certification of good standing in the jurisdiction or jurisdictions of admission as well as 45 hours of continuing legal education received in the three years immediately preceding application for admission.

Attorneys who have been admitted to another jurisdiction less than five years may be eligible for admission based on a Multistate Bar Examination scaled score of at least 150 and admission and good standing in the jurisdiction where that examination was written. These applicants must have passed the Multistate Professional Responsibility Examination.

Slightly more than one-third of the lawyers admitted to the North Dakota Bar in 1991 were women. Of the 93 lawyers admitted in 1991, nine were admitted on motion based upon admission and active practice in another jurisdiction, four were admitted by waiver of the examination based upon a Multistate Bar Examination score of 150 or more and admission in another jurisdiction, and eighty were admitted by examination.

In 1991, the State Bar Board licensed 1,666 lawyers and judges, 269 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, Justice H.F. Gierke, Chair.
 2. Committee on Legislation, Justice Herbert L. Meschke, Chair.
 3. Committee on Judicial Salary and Retirement, Judge Lawrence A. Leclerc.
 4. Committee on Courts with Limited Jurisdiction, Judge Harold B. Herseth, Chair.
 5. Committee on Judicial Training, Judge Larry Hatch, 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 1991 were as follows:

- Judge Jonal H. Uglem, Chair
Justice H.F. Gierke, Chair-elect
Justice Gerald W. VandeWalle, Executive Committee
Judge Lawrence E. Jahnke, Executive Committee
Judge James Bekken, 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
Larry M. Hatch

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
Bert L. Wilson

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
Gordon O. Hoberg

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

Surrogate Judges of the Supreme & District Courts

Eugene A. Burdick
Roy A. Ilvedson

John O. Garaas
Douglas B. Heen

Attorney General Nicholas J. Spaeth
Clerk of the Supreme Court Luella Dunn
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

William G. Bohn
(State Court Administrator during 1991)

*Denotes Presiding Judge

74 Members