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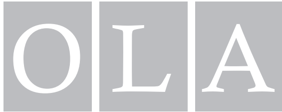
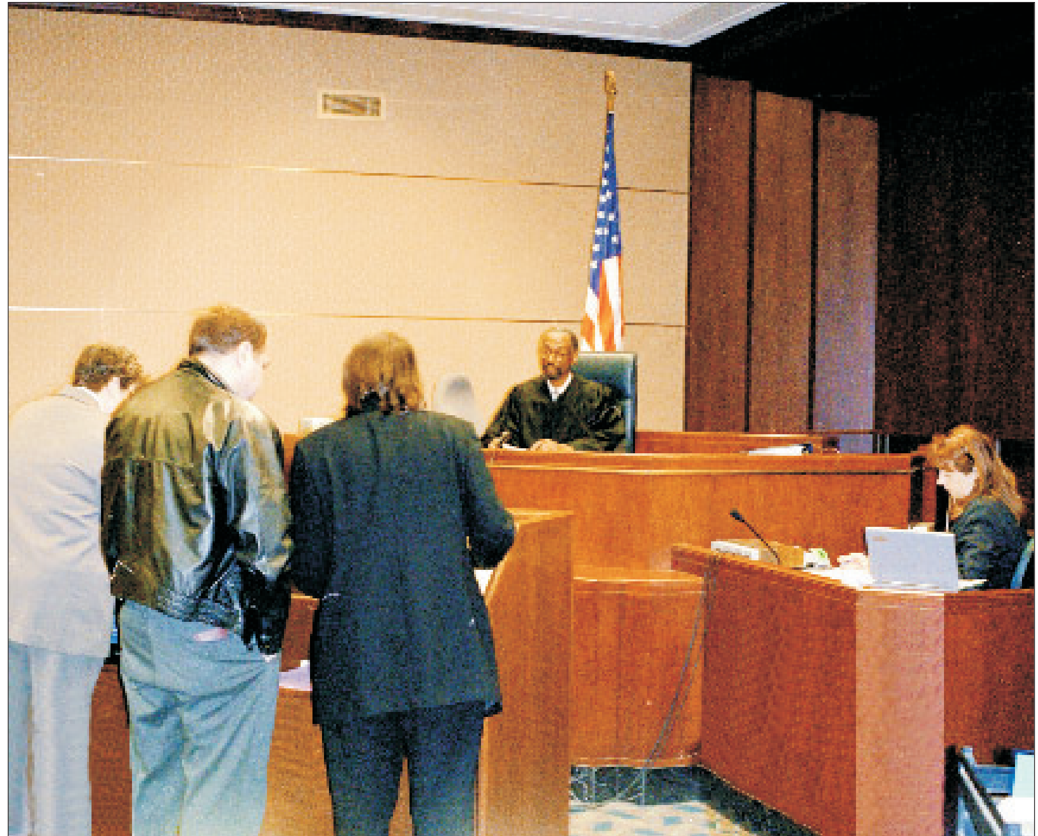


OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

PROGRAM EVALUATION REPORT

District Courts



JANUARY 2001

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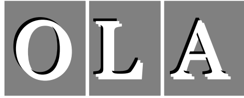

OFFICE OF THE LEGISLATIVE AUDITOR
State of Minnesota • James Nobles, Legislative Auditor

January 26, 2001

Members
Legislative Audit Commission

In April 2000, the Legislative Audit Commission directed OLA to study Minnesota's district courts (also called trial courts). Legislators asked about the need for new judge positions and whether district courts were able to process cases efficiently without sacrificing justice and equity.

The ten judicial districts that make up Minnesota's statewide system of trial courts often differ in how they manage their caseloads. Nevertheless, we found that, for the most part, district courts process their cases in a timely manner. Their caseloads have grown, and the major cases, which account for the majority of judge time, have risen at a rate faster than the increase in the number of district judges. While our study found that most judges and attorneys believe delay is not a serious problem, they are concerned about the growth in caseloads and judges' ability to devote adequate time to each case. We recommend that the state update and improve the method it uses to estimate the need for judge positions.

Although some judges expressed concern about the appropriateness of a legislative evaluation of the judicial branch, we received full cooperation from chief judges and district judges around the state, as well as from court staff and the State Court Administrator's Office. This report was researched and written by Jody Hauer (project manager), David Chein, and Jan Sandberg.

Sincerely,

/s/ James Nobles

James Nobles
Legislative Auditor

/s/ Roger Brooks

Roger Brooks
Deputy Legislative Auditor

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Table of Contents

		Page
	SUMMARY	**ix**
	INTRODUCTION	**1**
1.	**BACKGROUND**	**3**
	Structure of Minnesota's District Courts	3
	Other Courts in Minnesota	5
	Judges	6
	Chief Judges	8
	Minnesota Board on Judicial Standards	10
	The Supreme Court and District Courts	12
	Effects of Others on District Courts	15
2.	**CASELOADS AND RESOURCES**	**17**
	Trends in Case Filings	18
	Caseloads and Judges in Other States	22
	District Court Expenditure Trends	24
	Fee and Fine Revenues	30
3.	**DETERMINING THE NUMBER OF JUDGES**	**37**
	Definition of Weighted Caseload	37
	Minnesota's Use of Weighted Caseload Studies	39
	Guidelines for Effective Weighted Caseload Studies	43
	Retired Judges	47
4.	**CASE DISPOSITION TIMELINESS**	**51**
	Timing Objectives	52
	Clearance Rates	62
	Continuance Rates	63
	Comparing Minnesota with Other States	64
	Deadline for Cases Taken Under Advisement	66
5.	**BALANCING TIMELINESS AND JUSTICE**	**69**
	Processing Cases Efficiently While Preserving Justice	70
	Extent of Delay	72
	Need for More Time Per Case	74
	Causes of Delay	78
	Issues That Negatively Affect Case Processing Today	82
	Judicial District Operations and Case Management	87
	Adjudication Alternatives That Affect Caseloads	99
	Judge and Attorney Views on Improving Case Processing	104
	APPENDIX A: Survey Methodology	**109**
	FURTHER READING	**111**
	DISTRICT COURT RESPONSE	**113**
	RECENT PROGRAM EVALUATIONS	**Back Cover**

List of Tables and Figures

		Page
Tables		
1.1	Actions by Board on Judicial Standards, 1998-99	11
1.2	Statutory Duties of the State Court Administrator	14
2.1	Statewide Filings by Case Types, 1998	20
2.2	Select Statistics Comparing Minnesota and Other Similar States, 1993-98	24
2.3	Change in State Expenditures and Filings in District Court, FY 1996-2000	25
2.4	Salary Increases for Judges Approved by the 1997 and 1998 Legislatures	26
2.5	Court Administrator Responses on the Adequacy of Court Space, Funding, Staff, and Facility Conditions, 2000	28
2.6	Court Administrator Responses on the Change in Need for Interpreters and Guardians *Ad Litem* in the Past Five Years, 2000	29
2.7	Ten Largest Sources of Fee and Fine Revenue, 1999	33
2.8	Factors Judges Consider When Imposing Fines, 2000	34
2.9	Fee and Fine Collection Practices, 2000	35
2.10	Practices to Follow Up on Nonpayment of Fees and Fines, 2000	36
3.1	Select Case Weights (Average Minutes per Case) from Minnesota Weighted Caseload Studies for 1986 and 1992	40
3.2	Case Weight Changes for Six Case Types Studied in 1998	41
3.3	Guidelines for Assessing the Need for Judges and Court Support Staff	44
4.1	Timing Objectives Established by the Conference of Chief Judges for Case Dispositions	53
5.1	Judges Responding That Delay is a Serious or Moderate Problem in Processing Cases, by Type of Case and Judicial District, 2000	74
5.2	Judges Reporting Factors That Greatly or Moderately Contribute to Delay, 2000	78
5.3	Attorneys Reporting Factors That Greatly or Moderately Contribute to Delay, 2000	79
5.4	Judge Opinions on Factors Negatively Affecting Courts' Ability to Process Cases Today Compared with Five or More Years Ago, 2000	83
5.5	Attorney Opinions on Factors Negatively Affecting Courts' Ability to Process Cases Today Compared with Five or More Years Ago, 2000	84
5.6	Assignment Areas in the Fifth Judicial District, 2000	88
5.7	Assigning Civil, Family, and Probate Cases to Individual Judges by County, 2000	89
5.8	Assigning Adult Criminal Cases to Individual Judges by County, 2000	90
5.9	Assigning Juvenile Protection Matters to Individual Judges by County, 2000	90
5.10	Responsibility for Common Case-Management Activities, 2000	93

5.11 Steps Taken by Court Administrators to Improve Case Processing, 2000 94
5.12 Judge and Attorney Opinions About the Effectiveness of Practices to Reduce Caseload Burdens, 2000 100
5.13 Judge Suggestions on Improvements the Courts or Legislature Can Make to Case Processing, 2000 105
5.14 Attorney Suggestions on Improvements the Courts or Legislature Can Make to Case Processing, 2000 106

Figures

1.1 Minnesota Judicial Districts, 2000 4
2.1 Case Filings by Major Case Type, 1990-98 18
2.2 Change in Judge Positions, Case Filings, and Trials, 1990-98 21
2.3 Major Case Filings by District, 1998 22
2.4 Filings per Judge in Minnesota and Seven Similar States, 1993-98 23
2.5 State Expenditures and Case Filings in District Courts, FY 1996-2000 25
2.6 District Courts' State Employees, FY 1994-2001 26
2.7 Distribution of Revenues from Court-Imposed Fees and Fines, 1999 31
3.1 Average Daily Judge Time, 1992 43
4.1 Timing Objectives for Disposition of Four Major Case Types 54
4.2 Percentage of Major Cases Meeting the Final Timing Objective by District, 1998 55
4.3 Range of Judicial District Performance on the Final Timing Objective for Major Cases, 1991-98 56
4.4 Range of Counties Meeting the Final Timing Objective for Felonies by District, 1998 59
4.5 Range of Judicial Districts Meeting the Final Timing Objective for Felonies, 1995-98 60
4.6 Statewide Clearance Rates for Seven Case Types, 1990-98 62
4.7 Major Case Clearance Rates by Judicial District, 1990-98 64
4.8 Case Clearance Rates for Minnesota and Seven Similar States, 1993-98 66
5.1 Judges Agreeing or Strongly Agreeing that Cases are Processed in a Timely Manner, 2000 71
5.2 Judges Agreeing or Strongly Agreeing that Courts Generally Manage Caseloads Efficiently While Preserving Justice and Equity, 2000 71
5.3 Attorneys Who Said that Courts Always or Usually Balance the Need for Efficiency with Preserving Justice and Equity, 2000 72
5.4 Judge Opinions on the Extent to Which Delay is a Problem in Case Processing, 2000 73
5.5 Attorney Opinions on the Extent to Which Delay is a Problem in Case Processing, 2000 75
5.6 Judges Agreeing or Strongly Agreeing that the Quality of Judicial Decisions Suffers Because There are Too Many Cases Per Judge, 2000 76
5.7 Judges Agreeing or Strongly Agreeing that Judges Need More Time Per Case if People Are to Feel Their Concerns Are Fully Heard, 2000 76

Summary

Major Findings:

District courts process cases in a reasonable amount of time, but judges and attorneys believe many cases need more judge time.

- By certain well-accepted measures, Minnesota's district courts processed their caseloads in a reasonable amount of time from 1991 through 1998 (p. 54 of the full report).
- Although some case-processing delay exists, judges and attorneys do not view delay as a serious problem. Judges are concerned, however, about the size of their caseloads and their ability to devote adequate time to each case (pp. 72, 74).
- When delay occurs, judges most frequently reported it is because there are too few judges, too few public defenders, or because attorneys do not have enough time to prepare their cases (p. 78).
- Between 1990 and 1998, the number of district court judges rose 5 percent, compared with a 13 percent increase in trials, a 36 percent increase in major case filings, and a 3 percent rise in total case filings (p. 21).
- Over the last five fiscal years, state expenditures for district courts (adjusted for inflation) have risen at a rate similar to increases in total case filings but less than increases in major case filings (p. 24).

- A weighted caseload study is an accepted method for determining the need for judges, but Minnesota's study needs to be updated and improved (pp. 38, 43).
- Retired judges can be a valuable resource to districts that have shortages in full-time judges (p. 48).

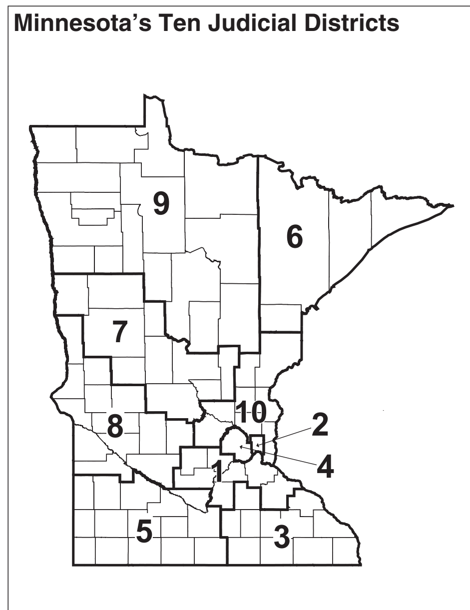
Recommendations:

- The State Court Administrator's Office should conduct an updated, comprehensive weighted caseload study (p. 46).
- The Legislature should consider making the pay for retired judges uniform (p. 49).

In 1998, most district courts met, or came close to meeting, final timing objectives for disposing of their major cases.

Report Summary:

Minnesota has 10 judicial districts and 268 authorized district judge positions. District courts have original jurisdiction over all civil and criminal cases, and they now process more than 2 million cases annually. Judges within each district elect a chief judge who has general administrative authority over that district's courts, including authority to assign judges to hear any case.



In every judicial district, a district administrator, appointed by the chief judge, manages the district's administrative affairs. Within multiple-county districts, each county has a court administrator who helps judges in processing court cases and setting calendars; district administrators in the Second District (Ramsey County) and Fourth District (Hennepin County) also serve as court administrators there.

The Conference of Chief Judges, comprised of all chief judges and assistant chief judges around the state, is the policy-making body for the district courts. In addition, the Minnesota Supreme Court has certain authority related to district courts, including deciding whether to refill, transfer, or abolish judge positions when vacancies occur. Beyond that, the Chief Justice of the Supreme Court has supervisory powers and coordination responsibilities over the courts in the state. The State Court Administrator, who serves at the pleasure of the Supreme Court, conducts administrative business for the courts.

District Courts Process Cases in a Reasonable Amount of Time

Research indicates that timely disposition of cases is an important component of justice. Minnesota's Supreme Court adopted timing objectives on how much time courts should typically take to dispose of specific case types. The timing guidelines vary by case type. For instance, the timing objectives suggest that courts should dispose of 90 percent of felonies and gross misdemeanors within four months, 97 percent within six months, and 99 percent within a year. On the other hand, courts are expected to dispose of juvenile cases more quickly.

For major case types, Minnesota's ten judicial districts have come closer between 1991 and 1998 to meeting the final timing objectives. This varies by district and by case type. For civil cases, as an example, nine of the ten districts met the final timing objective in 1998 and the remaining district was close. On the other hand, for juvenile cases, only one district met the final timing objective while most others came close. Among all case types, timing performance varied by county within districts.

A second measure of timeliness is "case clearance rates"—the number of cases disposed of in a year divided by the number of cases filed during that period. Clearance rates of 100 percent indicate no added backlog of cases for the year. Average statewide clearance rates in 1998 varied from 96 to 103 percent, depending on case type. When comparing Minnesota with seven other Midwestern states that have similar court systems, Minnesota's case clearance rates exceeded those in other states for most years between 1993 and 1998.

Caseloads, Expenditures, and Judges Increased at Similar Rates, But Less than Major Cases and Trials

Between 1990 and 1998, the number of total cases filed in district courts went up at a rate similar to the increase in the number of authorized judge positions. However, for major cases, such as felonies and gross misdemeanors that usually consume more time and resources than minor cases, the increase in filings and trials was greater than that for judges. Major case filings increased 36 percent between 1990 and 1998, and major-case trials increased 25 percent, while district judge positions increased 5 percent.

State expenditures on district courts showed a similar pattern. Expenditures adjusted for inflation increased from $71.9 million in fiscal year 1996 to $75.4 million in fiscal year 2000, a 5 percent increase over the five years. During that same period, statewide filings in district courts increased at about the same rate. On the other hand, filings of major cases statewide in district courts increased twice as fast as expenditures, at a 10 percent rate between fiscal years 1996 and 2000.

The state should update and improve its method of estimating how many judges are needed.

The Means for Determining the Need for Judges Should be Improved

Minnesota uses a well-accepted method, called a weighted caseload study, for determining the need for judges statewide. A weighted caseload study recognizes that complex cases take more time than less complex ones. Consequently, the analysis will recommend a higher number of judges for caseloads with a heavy mix of felonies than for caseloads with few felonies.

National experts recommend certain guidelines for conducting weighted caseload studies. Although Minnesota has taken several steps that meet these guidelines, it has not met all of them. A committee of the Conference of Chief Judges is currently reviewing the weighted caseload study in anticipation of updating it.

The State Court Administrator's Office should update and improve its weighted caseload study. The last comprehensive study was conducted in 1992, but to retain credibility, the study should be updated to better reflect current court practices. In addition to the study's quantitative analysis, the State Court Administrator's Office should consider qualitative factors, such as how actions of other criminal justice agencies affect court caseloads, to more realistically assess local variations. Ideally, to avoid enshrining existing court practices, as opposed to optimal practices, the State Court Administrator's Office should weigh the advantages and disadvantages of collecting data from only those courts that best balance timeliness and justice, although measuring "justice" presents practical difficulties. Further, it is important to conduct a weighted caseload study to determine the need for court clerks and support staff, especially if and when the state moves to full state funding for district courts.

To supplement full-time judges, district courts have occasionally used retired judges. Currently, different retired judges earn varying amounts for similar work solely because their pay is tied to the amount of their pensions. The Legislature should consider making the pay for retired judges uniform.

Most judges reported that they need to spend more time on criminal, juvenile, and family cases.

Delay is Not a Serious Problem, But Judges and Attorneys Believe Cases Need More Time

Judges and attorneys indicated that delay in case processing is not a serious problem. Depending on case type, only between 0 and 13 percent of judges reported that delay is a serious problem in their district. Higher percentages of judges viewed delay as a moderate problem for criminal, juvenile, and family cases. Judges' views on the seriousness of delay varied somewhat by district. Similarly, only between 3 and 18 percent of attorneys said delay is a serious problem, depending on case type. Family cases were the only case type where a majority of attorneys (54 percent) said that delay is a serious or moderate problem.

Nonetheless, judges are concerned about the size of their caseloads and their ability to devote adequate time to each case. At least three-quarters of judges agreed or strongly agreed that judges need more time per case on criminal, juvenile, and family cases if people are to feel their concerns are fully heard. Fewer reported the need for more time on civil cases, and fewer still on probate cases. Attorneys tended to agree; 76 percent of attorneys reported that judges sometimes, usually, or always need more time per case if people are to feel their concerns are fully heard.

When asked about causes of delay, judges most frequently said that delay occurs because there are too few judges, too few public defenders, or attorneys do not have enough time to prepare their cases. Attorneys said that delay most often occurs because too many minor offenses are brought to court, pretrial diversion is not used enough, or there are too few judges.

In describing what steps the courts or Legislature could take to improve case processing, judges and attorneys reported most frequently that increasing the number of judges would help. Many judges also mentioned the need for more public defenders, prosecutors, and court support staff; increased help for *pro se* litigants; and less frequent changes to laws or procedural requirements.

Introduction

Minnesota has ten judicial districts in which trial courts (generally called district courts) hear cases of all types—criminal, juvenile, civil, family, and probate. Although minor criminal cases, including many traffic violations, make up the bulk of the district court caseload, major cases, such as felonies and gross misdemeanors, take up considerably more judge time. District courts now process more than 2 million cases annually.

The 1999 Legislature increased by 13 the number of district court judgeships, which brought the number of district judge positions to 268. The 1999 increase, however, was less than the 18 judgeships requested, based on the State Court Administrator's Office's study of the number and types of cases in the state and the number of judges needed to hear them. Many of the new judge positions went unfilled because of higher-than-expected personnel costs in the judicial branch. Consequently, the 2000 Legislature approved $2.7 million in supplemental funding for fiscal year 2001, allowing the judgeships to be filled. The final new judge position is scheduled to be filled in early 2001.

Our study focused on case processing in the ten judicial districts.

Although the state regularly conducts financial audits of the courts, it had not previously evaluated the operations of district courts. Questions about the need for new judgeships and the efficiency of district courts led to interest in more information about district court operations. In April 2000 the Legislative Audit Commission directed our office to evaluate Minnesota's district courts. The evaluation addresses the following main research questions:

- **Do Minnesota's judicial districts process cases in a reasonable amount of time?**

- **How do the courts manage their caseloads? Do judges and attorneys believe the courts are able to process cases efficiently without sacrificing justice and equity?**

- **What do judges and attorneys believe are the most important factors contributing to court delay?**

- **How well does Minnesota's weighted caseload study compare with accepted guidelines for determining the need for district court judges?**

To answer these questions, we studied national literature on caseload management. Using data from Minnesota's State Court Administrator's Office, we analyzed statistics on case filings and studied how well district courts have met certain objectives for disposing of cases within preset timelines. To gauge judge and attorney perceptions on court processing and causes of delay, we conducted a mail survey of Minnesota district judges and a second survey of attorneys, including prosecutors and defense attorneys. We also surveyed court

administrators who work with judges to manage the courts in each of Minnesota's 87 counties.[1]

We interviewed the chief judges and district administrators in the ten judicial districts. For a first-hand look at the day-to-day operations in court, we spent time in some judicial districts observing courts in action. To better understand interactions between district courts and other courts in Minnesota, we interviewed the chief justice of Minnesota's Supreme Court and the State Court Administrator. Because many people outside of judges and court staff have an impact on case processing, we interviewed representatives of probation services and the Board of Public Defense. We also reviewed numerous statutes, court rules, and other documents pertaining to court operations.

Chapter 1 of this report presents background information on Minnesota's district courts. It briefly explains the organization of district courts and the roles played by persons working in or with the courts.

Chapter 2 describes caseloads in Minnesota and some comparative data with other similar states. It analyzes Minnesota district courts' expenditures and compares changes over time in both expenditures and caseloads.

In Chapter 3 we examine the weighted caseload study used by the State Court Administrator's Office to estimate the need for judgeships. We also discuss the district courts' use of retired judges.

Chapter 4 evaluates how well district courts have processed their caseloads in light of several measures of timeliness. We examine timing objectives adopted by the Supreme Court, "clearance" rates that measure case backlogs, and the ability of judges to meet a 90-day statutory deadline for disposing of cases taken under advisement. With what limited data are available, we compare Minnesota with similar states on some of these measures.

Finally, Chapter 5 assesses judge and attorney perceptions on the existence of delay in district courts. It presents information on the need to balance timeliness and quality outcomes in the courtroom. In this final chapter, we discuss case management practices that vary among and within judicial districts. We describe alternatives to the traditional adjudicatory process and summarize judge and attorney views on changes that could improve case processing.

---

1 Appendix A describes the methodology we followed in surveying judges, attorneys, and court administrators.

1 Background

SUMMARY

District courts in Minnesota's ten judicial districts are the state's trial courts, and they have original jurisdiction over criminal and civil cases. Within each district, judges elect a chief judge who has general administrative authority there. Attorneys, law enforcement officers, and probation personnel are generally independent from the courts, but their actions directly affect court operations.

This chapter provides background information on Minnesota's district courts. It addresses the following questions:

- **How are Minnesota's district courts organized?**
- **What are the different roles played by district judges, chief judges, the Supreme Court, and various organizations related to the judiciary?**
- **How do the roles of others, such as law enforcement officers, prosecutors, public defenders, and probation personnel, affect the courts?**

To answer these questions, we examined *Minnesota Statutes*, *Court Rules*, and other materials pertaining to Minnesota's District Courts. We interviewed chief judges and district administrators around the state, the Chief Justice of the Supreme Court, and the State Court Administrator. We also observed the monthly meetings of the Conference of Chief Judges. To better understand the role of others involved with district courts, we interviewed representatives of several agencies that affect the work of the courts, including the heads of probation offices in four counties.

STRUCTURE OF MINNESOTA'S DISTRICT COURTS

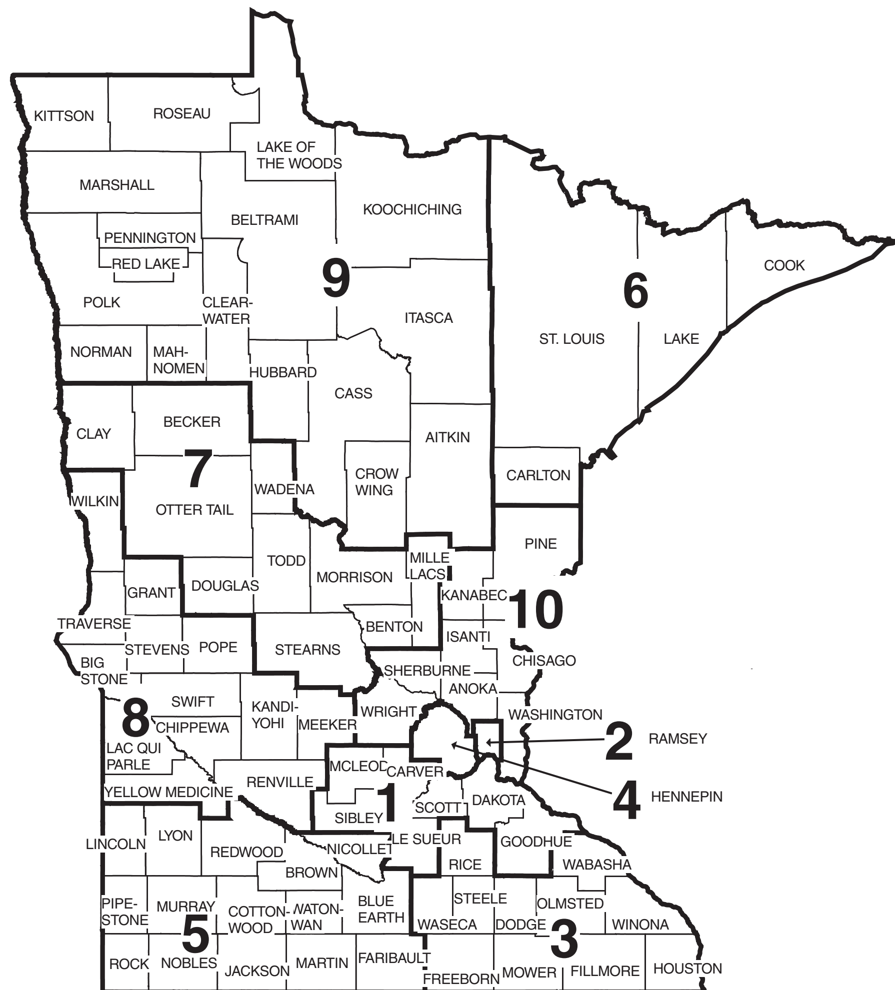
Minnesota has ten judicial districts. District boundaries follow county lines and serve as election districts for the judges. Hennepin and Ramsey counties each constitute their own judicial districts, and the remaining eight districts contain from 4 to 17 counties. State statutes specify the configuration of the districts, but

the Supreme Court has authority to alter district boundaries, with the exception of the Second (Ramsey County) and Fourth (Hennepin County) districts.[1] Figure 1.1 displays the ten districts and the counties each comprises.

Minnesota's district courts are trial courts and have original jurisdiction in all civil and criminal cases.

According to Minnesota's State Constitution, district courts have original jurisdiction in all civil and criminal cases.[2] This means that cases of all types begin in district courts.

Figure 1.1: Minnesota Judicial Districts, 2000



SOURCE: Office of the Legislative Auditor.

1 *Minn. Stat*. (2000) §2.722, subd. 1-2. The Supreme Court may alter judicial district boundaries only with the consent of a majority of the chief judges.

2 *Minn. Const.*, art. VI, sec. 3.

Each of the ten judicial districts has a district administrator appointed by the chief judge, with the advice of the district's judges and subject to the approval of the Supreme Court.[3] District administrators manage the administrative affairs of the judicial district, including budgeting and personnel management. When judges in the district meet, the district administrator serves as secretary. Many district administrators with whom we spoke said they often act as a liaison between judges and others outside the judiciary.

Each of the ten judicial districts has a district administrator, and each county has a court administrator.

Within a judicial district, each county has a clerk of court, known as the court administrator.[4] St. Louis County is unique in that it has a court administrator and two deputy court administrators, one for each courthouse in Duluth, Virginia, and Hibbing.[5] Court administrators help judges in processing court cases, set calendars of cases, and assist in case management, among other duties.

"Unified" Trial Courts

Around the country, each state's court system is structured differently, making comparisons difficult. Most states have several layers of courts, with each layer hearing certain types of cases. For example, many states have limited jurisdiction courts that hear only misdemeanors. By contrast, Minnesota is one of nine states in which judges hear all cases, civil and criminal, regardless of the type of crime or offense.[6] These states are said to have "unified" courts.

A pure "unified" court would be highly centralized, with statewide administration, rulemaking, budgeting, funding, and consolidated trial courts. No state meets this definition completely. Minnesota comes close, as the rest of this study describes, but within Minnesota there are many differences among judicial districts in case processing and relations with other criminal justice agencies. As shown in the chapters that follow, practices vary even within districts.

OTHER COURTS IN MINNESOTA

In addition to the district courts, Minnesota has a Court of Appeals and Supreme Court. The Court of Appeals has 15 judges and a chief judge. Its jurisdiction includes hearing appeals of final decisions from district courts, with two exceptions (heard instead by the Supreme Court): (1) legislative or statewide election contests and (2) first-degree murder convictions.[7]

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3 *Minn. Stat.* (2000) §484.68, subd. 1.

4 In the Second District (Ramsey County) and the Fourth District (Hennepin County), the district administrator is also the court administrator.

5 *Minn. Stat*. (2000) §484.44.

6 Brian Ostrom and Neal Kauder, eds., *Examining the Work of State Courts, 1998* (National Center for State Courts, 1999), 12. Other states said to be unified are: Connecticut, Illinois, Iowa, Kansas, Missouri, North Dakota, South Dakota, and Wisconsin. The District of Columbia and Puerto Rico also have unified court systems. As explained in more detail later, caution must be exercised in comparing even the states with unified courts because of many differences among them.

7 *Minn. Stat*. (2000) §480A.06, subd. 1. Conciliation court appeals are heard as new cases in district courts.

The state Supreme Court has six justices and a Chief Justice. It hears appeals of cases but also hears certain original actions prescribed by law. Minnesota's Supreme Court has authority to set rules of practice that govern procedures followed in all civil and criminal cases. The Supreme Court also has authority over certain aspects of the district courts, as is explained later in this chapter.

Executive Branch Courts

Outside the judicial branch, Minnesota has two statutory courts that are independent executive-branch agencies. One is the Tax Court, consisting of three judges with jurisdiction over state tax law cases.[8] The second is the Workers' Compensation Court of Appeals. Five judges serve on this court and hear cases arising under Minnesota's workers' compensation laws.[9] Unlike district courts, judges on these two courts are not elected; the Governor appoints them with Senate consent. The two courts have statewide jurisdiction, and appeals of their decisions go directly to the Supreme Court.

Minnesota's executive branch also has an Office of Administrative Hearings that employs administrative law judges to preside over rulemaking hearings and "contested cases" (which typically involve a dispute between a citizen and a state agency).[10] In addition, compensation judges in the office hear cases involving workers' compensation benefits. A chief administrative law judge, appointed by the Governor with the Senate's consent, employs the administrative law judges and compensation judges.

Prior to 1999, the Office of Administrative Hearings had statutory authority to conduct child support hearings, which was intended as a means to expedite the enforcement of child support orders. A Supreme Court decision that year, however, said that permitting the Office of Administrative Hearings this authority infringed on the district courts' original jurisdiction, which includes family law cases.[11] According to the ruling, child support decisions by administrative law judges were not subject to district court review and, in some cases, they modified child support orders issued by district courts. In the Supreme Court's judgment, this violated the separation of powers doctrine in the state Constitution, rendering the statute unconstitutional. The ruling removed authority for child support cases from the Office of Administrative Hearings, and child support magistrates, appointed by district court chief judges, now have this duty.

Minnesota currently has 268 authorized district judge positions.

JUDGES

Currently, Minnesota has 268 authorized district court judge positions, although not all have been filled to date. In 1999, the Legislature approved the addition of

8 *Minn. Stat*. (2000) §271.01, subd. 1, 5.

9 *Minn. Stat*. (2000) §175A.01, subd. 1, 5.

10 *Minn. Stat*. (2000) §14.48.

11 Holmberg v. Holmberg, 588 N.W.2d 720, 721 (Minn. 1999).

13 new judge positions for the 2000-01 biennium.[12] According to law, the last of the new positions is to start January 1, 2001.

The current complement of judges includes 13 positions approved by the 1999 Legislature.

Beyond their trial court functions, judges have administrative obligations. A majority of a district's judges appoints a court administrator for each county in the district, who serves at the pleasure of the judges.[13] Judges also appoint law clerks, who serve at the pleasure of the appointing judges.[14] They may also be involved in hiring and supervising their court reporters. Some administrative authority varies by district. For instance, judges in the Second and Fourth Judicial Districts (Ramsey and Hennepin counties) have authority to appoint referees to serve in conciliation court.[15]

Judges also have continuing legal education requirements. The Supreme Court's personnel policy requires district judges to obtain 45 hours of continuing education every three years. District judges must also attend "judicial college" once every term of office, and they are required each term to tour one institution to which they sentence individuals. New judges attend a one-week orientation and have a mentor relationship with a judge from their district.

According to the state Constitution, district judges serve six-year terms.[16] Although district judges are elected officials, when vacancies occur, or when judges retire, the Governor appoints judges until successors are elected. State statutes prescribe mandatory retirement for district judges upon reaching age 70.[17]

Quasi-Judicial Positions

In addition to judges, Minnesota has a limited number of appointive quasi-judicial positions, including judicial officers, child support magistrates, referees, and hearing officers, that function similarly to judges in some ways but are limited in others. Judicial officers are attorneys who are appointed by and serve at the pleasure of a district's chief judge. Although the judicial officer position has been phased out around much of the state, St. Louis County has a judicial officer who performs all the functions of a district court judge.[18] Since 1999, chief judges have had authority to appoint magistrates who serve as judicial officers working solely on child-support cases.[19] The Legislature established the child support magistrate positions following the Supreme Court ruling mentioned earlier that removed the authority of the Office of Administrative Hearings to conduct child support cases.

12 *Minn. Laws* (1999) ch. 216, art. 1, sec. 4.

13 *Minn. Stat*. (2000) §485.01 and *Minn. Const.*, art. VI, sec. 13.

14 *Minn. Stat*. (2000) §484.545, subd. 1, 4.

15 *Minn. Stat*. (2000) §491A.03, subd. 1.

16 *Minn. Const.*, art. VI, sec. 7.

17 *Minn. Stat*. (2000) §490.121, subd. 12.

18 *Minn. Stat*. (2000) §487.08, subd. 1, 2, and 5.

19 *Minn. Stat*. (2000) §484.702, subd. 3. The Supreme Court confirms appointments of child-support magistrates.

Referees are attorneys who are appointed by chief judges and serve at the pleasure of the district judges. Referees are used in many capacities. For instance, the 13 referees in Hennepin County hear juvenile and family cases and also serve in housing court, drug court, and probate/mental health court. However, a district court judge has to review and sign referees' decisions, and the parties can appeal referee decisions to a district court judge.[20] Only the Second and Fourth Judicial Districts (Ramsey and Hennepin counties) have referees.

Administrative hearing officers are available in the Second District (Ramsey County) and Fourth District (Hennepin County) to hear traffic-related matters short of a trial. Hearing officers are county employees appointed by district court administrators. They have authority to reduce or forgive traffic-ticket fines. When persons with a traffic ticket do not deny the offense but have special circumstances they believe ought to be heard, they may bring them to a hearing officer. On the other hand, persons who deny committing the traffic offense go to trial with a judge.

A hearing officer in the Fourth Judicial District (Hennepin County) hears a traffic case.

Chief judges have general administrative authority over courts in their district, including authority to assign judges.

CHIEF JUDGES

Judges in each of the judicial districts elect a chief judge and assistant chief judge every two years. Chief judges have general administrative authority over the courts within the district, including authority to assign judges to hear any case in the district.[21] As described in Chapter 5, the means by which chief judges make assignments varies considerably. When a motion is made to remove a judge from

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20 *Minn. Stat*. (2000) §484.70, subd. 7.

21 *Minn. Stat*. (2000) §484.69, subd. 3.

a case or when a judge must recuse him or herself from hearing a case, the chief judge in most districts assigns another judge to the case.

Administrative responsibilities of chief judges include general oversight of district budgets, personnel supervision for the court and district administrators, and adoption of districtwide rules or procedures. Chief judges may spend time orienting new judges or may appoint another judge to act as mentor for a new judge. Many chief judges said they work with their district administrator to oversee the district's adherence to time guidelines for disposing of cases. They also monitor the workload in the district and attempt to balance it among the judges.

During interviews, most chief judges spoke about their role as liaison between the courts and the broader community. For instance, media representatives often view the chief judge as spokesperson for the district and contact the chief judge about local court issues. Within a given county, the chief judge may be the primary representative before the county board on issues such as facilities or courtroom security. Plus, several chief judges view part of their role to provide outreach to district residents through various forums, such as civic group meetings and school convocations.

In addition to hearing cases, chief judges oversee district budgets and certain personnel and serve as liaisons with the public.

Chief judges have other statutory obligations. They are required to convene a conference at least semiannually of all judges in the district to consider administrative business.[22] Many chief judges told us they held quarterly meetings, known as "bench meetings," with the judges in their district.

Responsibility for personnel appointments and supervision rests with chief judges. As mentioned earlier, chief judges appoint child-support magistrates and district administrators. For judicial districts with referees, the chief judge has authority to appoint referees and holds administrative authority over them.[23] Chief judges also appoint members to charter commissions in cities that wish to frame a charter spelling out their rules of governance.[24]

Chief judges represent their districts on the Conference of Chief Judges, as explained later in this chapter. Chief judge duties can take up to half of a judge's time during certain periods, yet all the current chief judges have caseloads in addition to their administrative duties. None of the chief judges plays a purely administrative role, although it is within their discretion to do so.

Supervision of Judges

Although chief judges have general administrative authority in their districts, they do not have supervisory or disciplinary control over the district judges, all of whom are independently elected officials. We learned that chief judges often become a point of contact regarding complaints about judges in their district. People sometimes complain about other judges' decisions, even though chief judges do not have authority to change them. When people complain about a

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22 *Minn. Stat*. (2000) §484.69, subd. 5.

23 *Minn. Stat*. (2000) §484.70, subd. 1, 7.

24 *Minn. Stat*. (2000) §410.05, subd. 1, 2.

judge's courtroom demeanor or style, however, the chief judge sometimes serves as a resource to the judge, offering suggestions or even recommending counseling if it appears warranted. Many chief judges choose to monitor motions made to remove judges from cases and intervene when they see repeated motions to remove a particular judge.

As described below, formal disciplinary actions against judges can only occur following investigations by the Minnesota Board on Judicial Standards. Based on that board's recommendations, the Supreme Court determines whether to censure or remove judges for failure to perform their duties, incompetence, habitual intemperance, or conduct prejudicial to administering justice.[25]

Although chief judges cannot require judges in their district to subject themselves to performance evaluations, many said they encourage their judges to do so. Such evaluations are done at a judge's own prerogative. They may be administered within the district or through the State Court Administrator's Office and typically include collecting opinions on a judge's performance from attorneys and court staff.

MINNESOTA BOARD ON JUDICIAL STANDARDS

Minnesota's Constitution states that the Legislature may "provide for the retirement, removal or other discipline of any judge who is disabled, incompetent or guilty of conduct prejudicial to the administration of justice."[26] In 1971 the Legislature created Minnesota's Board on Judicial Standards to act upon complaints of judicial misconduct or wrongdoing.[27] The board, whose authority extends over all judges, referees, and judicial officers, also initiates reviews of judicial physical or mental disability.

The Board on Judicial Standards hears complaints of judicial misconduct.

Minnesota's Supreme Court issues rules for the board. The rules specify procedures to follow when the board receives complaints about judges. A *Code of Judicial Conduct*, first established by the Supreme Court in 1974, sets standards for judges' ethical conduct and provides a framework for the board's regulation of judicial conduct. Examples of judicial misconduct are: improper treatment of parties, counsel, jurors, court staff or others; conflicts of interest; failure to promptly dispose of judicial business; chemical abuse; and engaging in improper election campaign activities.

By statute, the board has ten members.[28] One is a Court of Appeals judge; three are district judges; two are lawyers who have practiced for at least ten years; and four are citizens who are neither judges nor lawyers. The Governor appoints the judge members; the Governor also appoints other members with the advice and

25 *Minn. Stat*. (2000) §490.16, subd. 3.

26 *Minn. Const.,* art. VI, sec. 9.

27 *Minn. R. Board on Judicial Standards,* 2 (a); and *Minn. Stat.* (2000) §490.15, 490.16, and 490.18.

28 *Minn. Stat.* (2000) §490.15, sub. 1.

consent of the Senate. A term is four years long and members may serve two terms.

Once it receives complaints, the board conducts a preliminary evaluation and, if there is sufficient cause to proceed, an investigation. Most complaints are dismissed without need for a substantial investigation, as shown in Table 1.1 for 1998 and 1999. Following an investigation, the board may do one of two things if it determines a need to proceed. First, it may issue a public reprimand for conduct that is unacceptable but does not merit further discipline by the Supreme Court. In 1999, the board issued two public reprimands.

Most complaints about judges are dismissed.

Table 1.1: Actions by Board on Judicial Standards, 1998-99

	1998	1999
Number Who Were Subject of Complaints		
District Court judges	89	122
Referees/judicial officers	14	13
Retired - active duty judges	1	2
Court of Appeals judges	0	5
Supreme Court justices	2	0
Tax Court-Workers Compensation judges	0	1
Dispositions		
Dismissals	93	132
Public reprimands	3	2
Warnings	5	8
Personal appearances	3	6
Visit by board delegation	2	2
Conditions imposed	1	2

SOURCE: Minnesota Board on Judicial Standards, *Annual Report 1999* (St. Paul, 2000), 7, 8; and Board on Judicial Standards, *Annual Report 1998* (St. Paul, 1999), 7, 8.

Alternatively, the board may prepare a statement of charges, have the judge respond, and then either dismiss the charges or proceed with a formal complaint to the Supreme Court. Should a majority of the board eventually concur to recommend sanctions to the Supreme Court, the following sanctions are possible: removal, retirement, imposing discipline as an attorney, imposing limitations or conditions on the performance of judicial duties, censure, imposing a civil penalty, or suspension with or without pay. Twelve cases required substantial investigation in each of 1998 and 1999, but all of the complaints were resolved without sanctions by the Supreme Court. In fact, since 1990 the Supreme Court has sanctioned only one district judge at the recommendation of the board; sanctions in this case were a Supreme Court reprimand, suspension of pay for 60 days, and payment of $3,500 to the state.

Even if the board does not determine sufficient cause exists for a formal hearing, it may impose conditions on the judge's conduct, direct professional counseling or treatment, or warn a judge about conduct that may be cause for discipline. Eight cases out of 144 complaints in 1999 resulted in warnings to the judges involved; two resulted in imposing conditions on the judges.

In addition to its investigation function, the board encourages judges to approach it with their ethical questions.[29] After studying the issues, the board issues advisory opinions applying the *Code of Judicial Conduct* to the ethical questions for the benefit of all judges.

Conference of Chief Judges

Minnesota's Conference of Chief Judges is the policy-making body for the district courts.

Since 1985 the Conference of Chief Judges has been the policy-making body for the district courts.[30] Membership in the conference consists of the chief judges and assistant chief judges from around the state. Ex-officio, nonvoting members include the Chief Justice of the Supreme Court, the State Court Administrator, and the presidents of the Minnesota District Judges Association and the Minnesota Judicial District Administrators Association. Conference members typically meet once monthly, joined by district administrators.

Every two years, the conference elects by majority vote a chair and vice-chair. Besides setting agendas, presiding over conference meetings, and appointing committee chairs, the conference chair is also the primary contact with the Chief Justice of the Supreme Court.

The Conference of Chief Judges sets statewide direction for the district courts' budget and policies. During the months we conducted this study in 2000, the Conference of Chief Judges dealt with an array of concerns, including: finance and budgetary issues, the use of retired judges, initiatives to implement components of the *Minnesota Courts Strategic Plan*, measures to reduce judicial stress, the collection of race data to analyze racial fairness in the courts, court employee salaries and an employee recognition program, and improvements to the process for determining the number of judgeships.

THE SUPREME COURT AND DISTRICT COURTS

The Supreme Court has certain authority related to district courts, in addition to administering sanctions for judge misconduct, as described earlier. When district judge vacancies occur, the Supreme Court determines whether to refill, transfer, or abolish the judge position.[31] It bases its determination on whether the position is necessary for effective judicial administration or adequate access to the courts.

In addition, the Chief Justice has supervisory powers and coordination responsibilities over the courts in the state.[32] According to statutes, the Chief Justice has authority for supervising (1) the courts' financial affairs, (2) continuing education for judges and other court staff, and (3) planning and operations

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29 Minnesota Board on Judicial Standards, *Annual Report 1999* (St. Paul, 2000), 11.

30 State Court Administrator's Office, *History of Court Reform in Minnesota* (St. Paul, 2000), 9.

31 *Minn. Stat*. (2000) §2.722, subd. 4.

32 *Minn. Stat.* (2000) §2.724, subd. 2, 4.

research. The Chief Justice also supervises the administrative operations of the courts.

Coordination for the District Courts

Rules adopted by the Supreme Court have made district court procedures more uniform.

Over the years, the Supreme Court has acted to create a more coordinated district court system. For example, it adopted the *Uniform General Rules of Practice*, superceding local rules that individual districts had in place. Since the 1970s, the Supreme Court has promulgated rules for civil and criminal procedures, juvenile court, and evidence, among others. More recently, the Supreme Court issued statewide rules for administering court interpreters and implementing a statewide guardian *ad litem* system.

Moreover, since 1976, the Chief Justice has had authority to assign a judge to work in a district court other than the judge's own, as the need arises.[33] This has provided a mechanism for making all district court judges available to serve where statewide needs dictated. Minnesota's Supreme Court has also overseen implementation of automated court case information systems that, with the exception of two counties, operate statewide.

Judicial Branch Strategic Plan

The Conference of Chief Judges, in collaboration with the Supreme Court, published a strategic plan for the judiciary in 1996. Based on the strategic plan, the judiciary's current initiatives aim to improve four concerns: juvenile justice, the use of technology, access to the courts, and public trust and confidence in the courts. In 2000, Chief Justice Kathleen Blatz re-established an "Intercourt Committee" to share information among the different levels of courts and to oversee implementation of the strategic plan. As its name suggests, the Intercourt Committee includes members from the three levels of courts and their administration.

Community Outreach

The Supreme Court encourages district judges to be involved in their communities.

The Supreme Court has used the judicial leave policy, which applies to district court judges, as a mechanism to encourage community involvement. Besides specifying vacation leave and disability leave, since 1997 the policy has permitted judges to take limited leave time for community outreach activities. According to the policy, districts receive two judge days per year for each of its judges. The chief judge authorizes use of those days for events that offer an opportunity to educate and inform the public on the justice system.

To encourage communication and interaction between the judicial and legislative branches, the Chief Justice created an "Interbranch Forum" with the support of the Speaker of the House of Representatives and Majority Leader of the Senate. The forum consists of 17 judges and 20 legislative leaders. It is the Chief Justice's intent that the forum meet on an ad hoc basis to create a better understanding of the judiciary among legislators and to discuss ways legislators and the judiciary can work together to promote public safety and better serve the public.

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33 Minn. Stat. (2000) §2.724, subd. 1.

In implementing the administrative and coordinating functions, the Chief Justice and Supreme Court rely on the State Court Administrator's Office.

State Court Administrator's Office

In the early 1960s the Legislature created an office of administrative assistant to the Supreme Court that later became known as the State Court Administrator's Office. The State Court Administrator is appointed by, and serves at the pleasure of, the Supreme Court.[34]

The State Court Administrator oversees the administration of district courts at the direction of the Chief Justice.

By law, the court administrator takes direction from the Chief Justice and attends to assignments from the Supreme Court. The State Court Administrator has responsibilities in four major areas: (1) budget and financial management, (2) statewide technological information systems, (3) court research and evaluation, and (4) public information and liaison with other governmental units. Table 1.2 outlines the specific statutory responsibilities of the State Court Administrator.

In the last two years, the State Court Administrator's Office established a court executive team with members who are either district administrators or court administrators from the individual counties. The court executive team is intended to bring greater cohesion to the administrative side of the district courts. It works on ways to implement statewide policies at the local court level.

Table 1.2: Statutory Duties of the State Court Administrator

- Examine and make recommendations to improve the administrative methods and systems used by judges, court administrators, and other court employees
- Examine the state of court dockets
- Recommend to the chief justice the assignment of judges where courts are in need of assistance
- Collect statistical and other data on court business
- Prepare budgets for operating the judiciary
- Collect data and report on public expenditures for operating the judiciary
- Report on cases that have not been disposed of on a timely basis
- Recommend policies for improving the judicial system
- Prepare annual report on the activities of the office
- Prepare uniform standards for recruiting, evaluating, training, and disciplining court support staff
- Prepare uniform requirements for court budget and information systems and the use of court records
- Review plans for office equipment needed by the judicial districts

SOURCE: *Minn. Stat.* (2000) §480.15, subd. 2 - 12.

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34 *Minn. Stat.* (2000) §480.13.

EFFECT OF OTHERS ON DISTRICT COURTS

Many people, in addition to judges and court staff, are involved in the courts and can greatly affect case processing. Although prosecutors, public defenders, law enforcement officers, and probation personnel are generally independent from the courts, their actions directly affect court operations.

Lawyers, law enforcement officers, and probation personnel affect court operations.

Chief judges and district administrators we interviewed described how actions by people and organizations outside of their control dramatically affect the courts. For example, when a city police department begins a sting operation to crack down on driving while intoxicated (DWI) offenses, the effort typically produces a tremendous increase in court cases. Courts have no control over these efforts and may be unaware of them until they experience the resultant caseload increase. As another example, waiting for forensic test results from the Bureau of Criminal Apprehension may delay hearing a case.

Budgets for one criminal justice agency may affect others' operations elsewhere. This is particularly evident with public defenders and the courts. As explained in Chapter 5, when we surveyed judges about factors contributing to delays for criminal and juvenile cases, the most frequently reported response was that too few public defenders greatly contributes to delay.

Interdisciplinary Meetings

We learned that many judges and administrators meet with officials from other criminal justice agencies to improve communication and coordination. For instance, courts in several counties have justice advisory councils comprised of judges, law enforcement, prosecutors, public defenders, and probation services that meet to discuss common issues or methods for implementing state directives. Court administrators indicated that they commonly hold interdisciplinary meetings with representatives of outside agencies to improve case processing.

Judges and administrators often meet with representatives of other agencies to discuss court-related issues.

In some judicial districts, such as the Fifth (southwestern Minnesota) and the Tenth (north metropolitan and east central Minnesota), the courts regularly invite the head of the local bar, the chief public defender, or corrections supervisor to bench meetings. Some judges in less populated counties said they have near-daily interactions with the local sheriff and probation personnel, so formal meetings are unnecessary. Others indicated that committees including other agencies only exist on an ad hoc basis as topics arise, such as race bias or family violence.

Some counties appoint corrections advisory boards to discuss issues related to probation services and corrections. For counties providing probation services through the Community Corrections Act, these advisory boards must represent law enforcement, prosecution, the judiciary, education, corrections, ethnic minorities, social services, and lay citizens.[35] Most probation officials with whom we spoke indicated that their advisory boards provide a useful forum for discussing new laws or problems related to the courts.

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35 Minn. Stat. (2000) §401.08, subd. 1.

2 Caseloads and Resources

SUMMARY

Although the number of total case filings and the number of judges rose at similar rates during the 1990s, the number of major cases and the number of trials increased faster than the number of judges. Compared to other states with similar court systems, Minnesota has significantly more case filings per judge and fewer judges per capita. Inflation-adjusted expenditures by district courts over the past five fiscal years increased at a rate similar to increases in total filings, but less than major case filings. A portion of fee and fine revenues is distributed to the state's General Fund, but none is dedicated to district courts' operations.

In this chapter we address the following questions:

- **What is the district courts' caseload and how has it changed over the past decade?**
- **How does the caseload in Minnesota compare with caseloads in other states?**
- **How much does the state spend on district courts? Do judges and court administrators believe this is sufficient?**
- **What amount of fees and fines do courts assess? Where do revenues from these fees and fines go? What processes have court administrators adopted to improve their collections?**

To answer these questions we relied on several sources of information. Data on caseload trends, district court expenditures, and fee and fine revenues came from the State Court Administrator's Office. We also received expenditure data from the Department of Finance. The National Center for State Courts publishes nationwide court statistics, which allowed us to contrast Minnesota with comparable states on certain measures.

To gather viewpoints of judges and attorneys, we mailed surveys to all district judges and county attorneys, and stratified random samples of city prosecutors, public defenders, and private attorneys. Of 252 judges, 85 percent responded to the survey. Of the 804 attorneys we surveyed, 72 percent responded. For information on efforts to collect fee and fine revenue, we surveyed court administrators in Minnesota's 87 counties. Of the 87 court administrators and

2 deputy court administrators, 84 responded to the survey, for a response rate of 94 percent.[1]

TRENDS IN CASE FILINGS

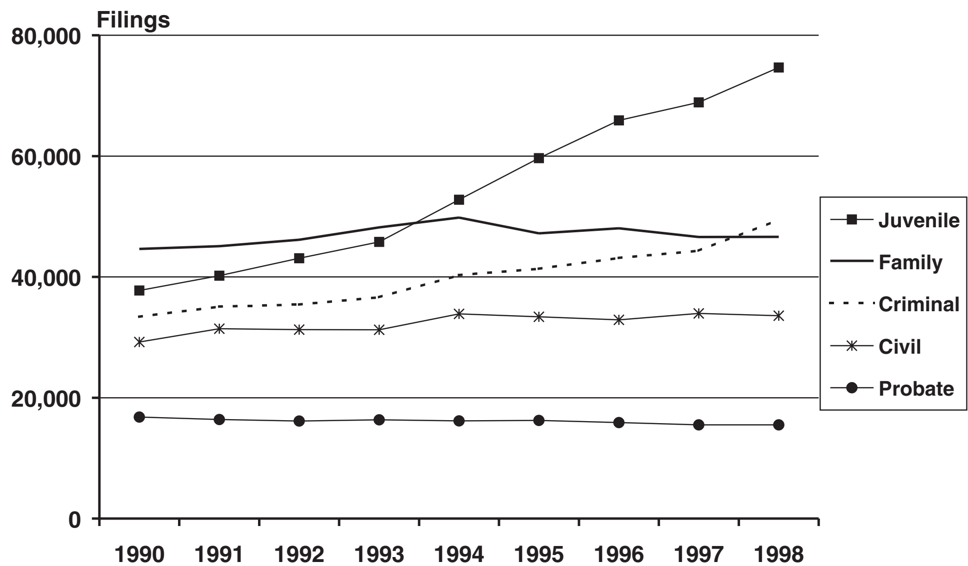
An important measure of district courts' workload is the number of cases filed. We examined statewide trends in case filings, as reported by the State Court Administrator's Office and found:[2]

- **The number of case filings statewide rose slightly between 1990 and 1998, increasing by just 3 percent, but for the same period major case filings increased 36 percent and trials for major cases rose 25 percent.**

Strong growth in the numbers of major criminal cases and juvenile cases drove a 33 percent increase in major case filings between 1990 and 1998.

Major case filings increased by about one-third between 1990 and 1998, largely because of the 48 percent increase in major criminal cases (felonies and gross misdemeanors) and a near doubling of major juvenile filings, as shown in Figure 2.1. Most of the increase in criminal cases occurred because of growth in gross misdemeanors and "other" felonies, such as burglaries or arson; serious

Figure 2.1: Case Filings by Major Case Type, 1990-98



SOURCE: Office of the Legislative Auditor's analysis of data from the State Court Administrator's Office.

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1 Appendix A describes the methodology we followed in conducting the surveys. Aggregate results from the surveys are available at our web site: http://www.auditor.leg.state.mn.us/ped/2001/pe0102.htm.

2 Data from the State Court Administrator's Office indicated several unusual changes in statistics between 1998 and 1999. We believe that the data reflect changes in that office's information systems rather than true changes in trial rates or other factors. For these reasons we chose to report data only through 1998.

felonies including homicide, on the other hand, decreased 12 percent from 1992 to 1998.

In contrast, major civil case filings increased 15 percent, family filings increased 4 percent, and the relatively small number of probate filings decreased 8 percent from 1990 to 1998. Statewide, changes in minor filings decreased 0.4 percent between 1990 and 1998. Among the case types included in the major civil category, harassment cases grew the most, increasing 79 percent between 1992 and 1998, although most of this increase occurred by 1994.

Minor cases far outnumber major cases, but major cases take up about 80 percent of judicial time.

The distinction between major and minor cases is important because major cases, such as felonies or gross misdemeanors, are more complex and likely to require more court resources. On the other hand, minor criminal cases include a variety of misdemeanors, traffic offenses, and parking violations, which courts usually dispose of more quickly. Although minor cases far outnumber major cases, as discussed more in Chapter 4, major cases require about 80 percent of judicial time.[3] Of the two million filings in 1998, only about 11 percent were major cases, as illustrated in Table 2.1.

The number of trials for all case types grew 13 percent from 21,158 in 1990 to 23,825 trials in 1998. Reflecting increases in major case filings, trials for major cases increased 25 percent during this period; court trials for juvenile cases alone increased 62 percent.[4] Although relatively few cases result in a trial, trials absorb a disproportionate share of judicial resources. In addition to increased filings and trials for juvenile cases, rule changes enacted in recent years require more

Although few cases go to trial, trials take extra time and resources.

3 Research & Evaluation, Court Services, State Court Administration, Minnesota Supreme Court, *Statistical Highlights 1998 Minnesota State Courts* (St. Paul, June 2000), 50.

4 "Court" trials are heard by a judge without a jury.

hearings for juvenile protection cases today than in the past, increasing the amount of time judges spend on these cases.[5]

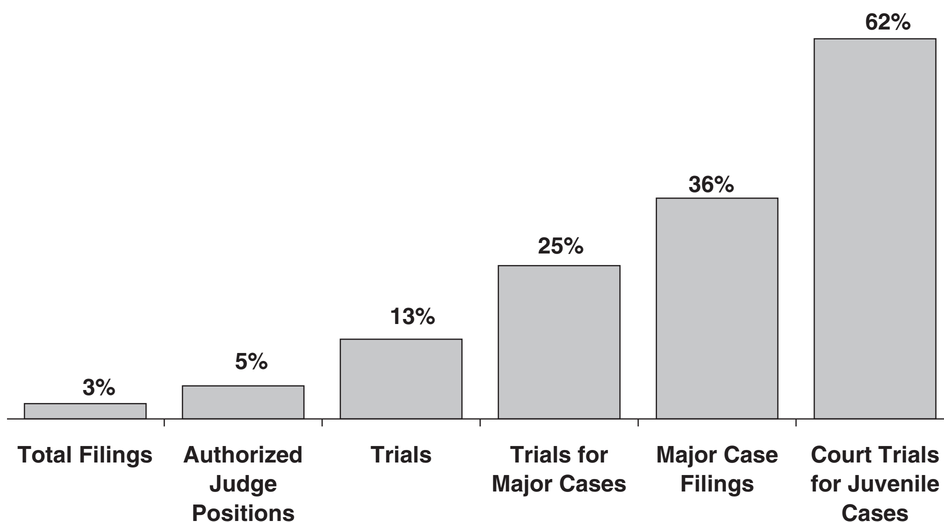
Looking at trends in caseloads and the number of judge positions, we found:

- **Between 1990 and 1998, the increase in the number of judges paralleled total filings but lagged behind increases in major cases and trials.**

As shown in Figure 2.2, the number of authorized judges increased about 5 percent from 1990 to 1998. This increase was overshadowed by a substantial 36 percent increase in major cases, which constituted most of the judicial workload. As noted above, the number of trials, and especially the number of trials for major cases, increased faster than increases in judge positions.

Judgeships and total case filings increased less than trials and major case filings.

Figure 2.2: Change in Judge Positions, Case Filings, and Trials, 1990-98



SOURCE: Office of the Legislative Auditor's analysis of data from the State Court Administrator's Office.

Differences in Case Filings by District

We examined differences in case filings for the ten judicial districts and found:

- **Caseloads vary greatly by judicial district.**

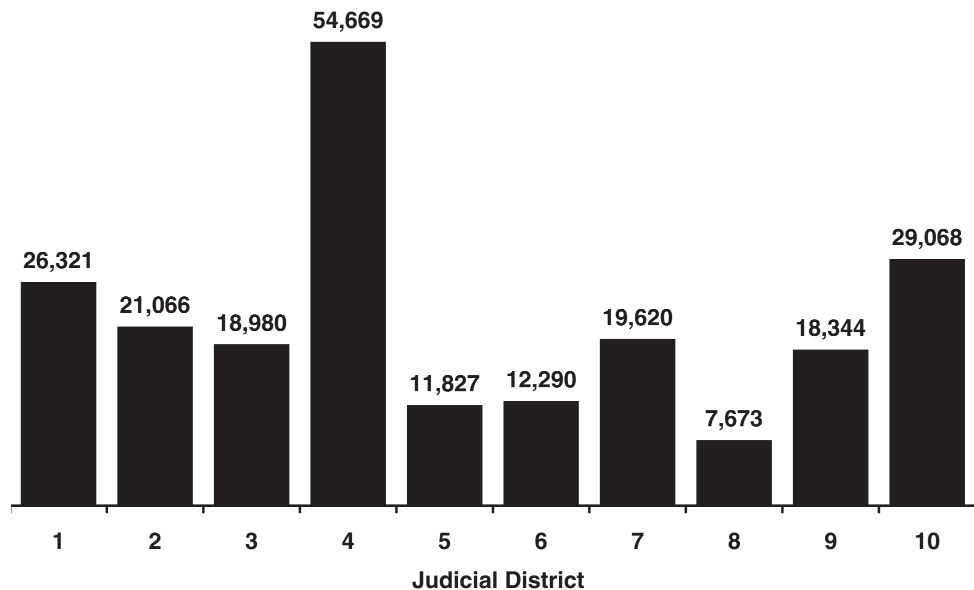
Differences in caseload are a key factor in how the State Court Administrator's Office determines the number of judges to be assigned in each district, as

5 State Court Administrator's Office, *Judicial and Court Administration Responsibilities and Timelines Under the Juvenile Protection Rules*, March 14, 2000, internal report.

discussed in Chapter 3. On a district-by-district basis, the Fourth District (Hennepin County) had the largest shares of both major and minor case filings. Nearly 25 percent of all major case filings in Minnesota, and 40 percent of minor case filings, occurred in Hennepin County in 1998. By contrast, the Eighth District (west central Minnesota) accounted for 3 percent of major filings and 2 percent of minor filings in 1998. While the Eighth District had the smallest shares of cases, other districts also had small shares relative to the Fourth District, as illustrated by Figure 2.3 for major cases.

The Fourth Judicial District (Hennepin County) accounts for about 40 percent of all major case filings.

Figure 2.3: Major Case Filings by District, 1998



SOURCE: Office of the Legislative Auditor's analysis of data from the State Court Administrator's Office.

CASELOADS AND JUDGES IN OTHER STATES

States structure their judicial systems in a variety of ways. However, as mentioned earlier, nine states, including Minnesota, have what the National Center for State Courts considers a "unified" court system, although there are differences within these nine. We found:

- **Compared to other states with similar court systems, Minnesota has had significantly more case filings per judge and fewer judges per capita.**

Table 2.1: Statewide Filings by Case Types, 1998

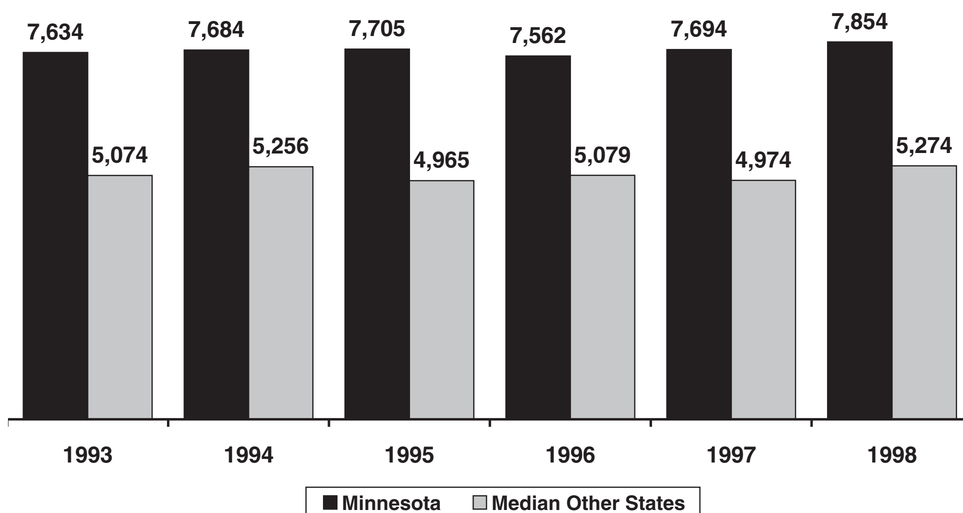
Category	Case Type	1998 Filings	Percentage of All Cases
Major Civil	Conciliation Appeal	1,636	0.1%
	Condemnation	267	0.0
	Contract	5,676	0.3
	Employment	463	0.0
	Harassment	8,630	0.4
	Malpractice	208	0.0
	Other Civil	10,161	0.5
	Personal Injury	5,647	0.3
	Property Damage	476	0.0
	Wrongful Death	421	0.0
	Major Civil Total	**33,585**	**1.6**
Major Criminal	Gross Misdemeanor DWI	12,956	0.6
	Other Felony	20,227	1.0
	Other Gross Misdemeanor	14,975	0.7
	Serious Felony	1,328	0.1
	Major Criminal Total	**49,486**	**2.4**
Family	Adoption	2,060	0.1
	Domestic Abuse	13,480	0.7
	Marriage Dissolution with Child	9,684	0.5
	Marriage Dissolution without Child	7,764	0.4
	Other Family	1,240	0.1
	Other Juvenile	740	0.0
	Support	11,654	0.6
	Major Family Total	**46,622**	**2.3**
Juvenile	Delinquency Felony	9,494	0.5
	Delinquency Gross Misdemeanor	2,749	0.1
	Delinquency Misdemeanor	14,103	0.7
	Delinquency under 10	54	0.0
	Dependency/Neglect	5,011	0.2
	Runaway	2,111	0.1
	Status Offense	37,309	1.8
	Termination of Parental Rights	1,245	0.1
	Truancy	2,573	0.1
	Major Juvenile Total	**74,649**	**3.7**
Probate	Commitment	3,167	0.2
	Guardian/Conservator	2,422	0.1
	Informal Administration	4,092	0.2
	Other Probate	1,166	0.1
	Special Administration	298	0.0
	Supervised Administration	1,253	0.1
	Trust	436	0.0
	Unsupervised Administration	2,682	0.1
	Major Probate Total	**15,516**	**0.8**
TOTAL MAJOR (Including Family, Juvenile, and Probate)		**219,858**	**11.0**
Minor Civil	Conciliation	79,025	3.9
	Default Judgment	13,617	0.7
	Implied Consent	3,676	0.2
	Transcript Judgment	29,828	1.5
	Unlawful Detainer	21,891	1.1
	Minor Civil Total	**148,037**	**7.3**
Minor Criminal	5th Degree Assault	16,299	0.8
	DWI	42,118	2.1
	Juvenile Traffic	18,838	0.9
	Other Non Traffic	177,131	8.7
	Other Traffic	728,199	35.7
	Parking	688,105	33.8
	Minor Criminal Total	**1,670,690**	**82.0**
TOTAL MINOR		**1,818,727**	**89.2**
GRAND TOTAL		**2,038,585**	**100.0%**

SOURCE: Office of the Legislative Auditor's analysis of data from the State Court Administrator's Office.

Major cases represent 11 percent of all cases filed in 1998.

We focused on seven Midwestern states similar to Minnesota.[6] In 1998, Minnesota had 7,854 total filings per judge, compared to a median 5,274 filings per judge among the comparable states, a 49 percent difference. The difference has remained stable since at least 1993, as shown in Figure 2.4.

Figure 2.4: Filings per Judge in Minnesota and Seven Similar States, 1993-98



SOURCE: Office of Legislative Auditor's analysis of data from Brian Ostrom and Neal Kauder, *Examining the Work of State Courts, 1998* (National Center for State Courts, 1999) and prior volumes; and Melissa Cantrell, et. al., *State Court Caseload Statistics, 1998* (National Center for State Courts, 1999) and prior volumes.

Table 2.2 illustrates that criminal filings drive most of the difference in filings per judge. In 1998, Minnesota had 73 percent more criminal filings per judge than the median for comparable states. By contrast, Minnesota tends to have fewer civil filings per judge than comparable states: Minnesota had 854 civil filings per judge in 1998, compared with 962 median civil filings per judge in seven comparable states. One possible explanation for the lower civil filings is Minnesota's practice of "hip pocket filing," which allows a person to serve another with a civil lawsuit without first filing it in court; such cases that settle are not included in the count of civil filings per judge.

Minnesota has more criminal case filings but fewer civil filings per judge than similar states.

Relatively few cases go to trial in Minnesota or other states. Trial rates are important because cases that go to trial consume far more time and court resources than other cases. However, data are unavailable to reliably compare trial rates in Minnesota with similar states.

6 The states are: Illinois, Iowa, Kansas, Missouri, North Dakota, South Dakota, and Wisconsin. Even among these states, only the most general interpretations are possible because court operations and case reporting vary dramatically by state. For example, some states record multiple charges as one filing, while others count each charge as separate filings. Enforcement and charging practices may also differ, particularly for minor offenses.

Table 2.2: Select Statistics Comparing Minnesota and Other Similar States, 1993-98

	1993	1994	1995	1996	1997	1998
Judges Per 100,000 Population						
Minnesota	5.4	5.3	5.5	5.4	5.4	5.4
Median Other Similar States	5.9	5.8	6.2	5.8	6.0	5.9
Criminal Filings Per Judge						
Minnesota	843	882	897	969	1,005	1,058
Median Other Similar States	450	467	574	605	623	610
Civil Filings Per Judge						
Minnesota	933	934	891	885	874	854
Median Other Similar States	1,133	1,169	834	898	940	962
Total Filings Per Judge						
Minnesota	7,634	7,684	7,705	7,562	7,694	7,854
Median Other Similar States	5,074	5,256	4,965	5,079	4,974	5,274

NOTE: Civil filings include family, domestic assault, and probate cases but exclude default judgments and transcript judgments.

SOURCE: Office of the Legislative Auditor's analysis of data from Brian Ostrom and Neal Kauder, *Examining the Work of State Courts, 1998* (National Center for State Courts, 1999) and prior volumes; and Melissa Cantrell, *et al.*, *State Court Caseload Statistics, 1998* (National Center for State Courts, 1999) and prior volumes.

Minnesota has fewer judges per capita and more total filings per judge than similar states.

From 1993 to 1998, Minnesota had fewer judge positions per 100,000 people than the median of seven comparable states. In 1998, Minnesota had 5.4 judge positions per 100,000 people compared with a median 5.9 per 100,000 people in seven comparable states. The number of judges per 100,000 population in Minnesota has remained stable over the six-year period.

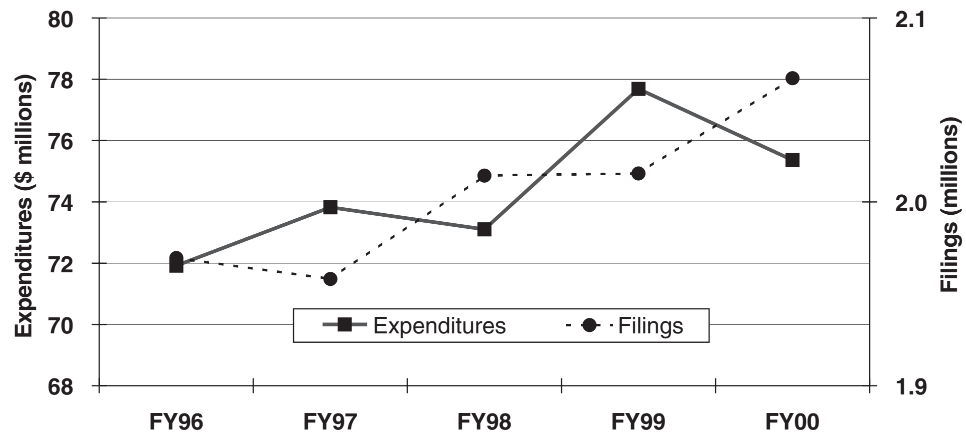
DISTRICT COURT EXPENDITURE TRENDS

A combination of state and county tax revenues fund Minnesota's district courts. Looking only at state expenditures we found:

- **Over the last five fiscal years, state expenditures for district courts (adjusted for inflation) have increased at a rate similar to increases in total case filings statewide but less than increases in major case filings.**

Expenditures adjusted for inflation increased from $71.9 million in fiscal year 1996 to $75.4 million in fiscal year 2000, a 5 percent increase over the five years. During that same period, statewide filings in district courts increased at about the same rate—from 1.97 million to 2.07 million filings. Figure 2.5 illustrates the change over time in filings and inflation-adjusted expenditures. At the same time, filings of major cases statewide in district courts increased twice as fast as expenditures, at a 10 percent rate as shown in Table 2.3. Average expenditures per filing varied slightly from year to year but stayed fairly constant overall.

Figure 2.5: State Expenditures and Case Filings in District Courts, FY 1996-2000



NOTE: Expenditures are stated in year 2000 dollars and were adjusted for inflation using the Bureau of Economic Analysis price index for state and local government.

SOURCES: Office of Legislative Auditor's analysis of Department of Finance Information Warehouse, *Agency Expenditure Summary*; and http://criminal.justice.state.mn.us/courts/mth2quer.htm; accessed October 30, 2000.

Compensation for state-paid staff accounts for 88 percent of state expenditures on district courts.

Salaries and benefits for state employees represent the bulk of district court expenditures—88 percent in fiscal year 2000. Figure 2.6 depicts the change over the past eight fiscal years in judge positions and other district court staff who are also state employees. In addition to the state employees, many county employees work in court administration, but a precise count is not available. As of July 2000, 352 former county employees in three judicial districts became state employees under legislation whereby the state is assuming larger shares of district courts' costs.

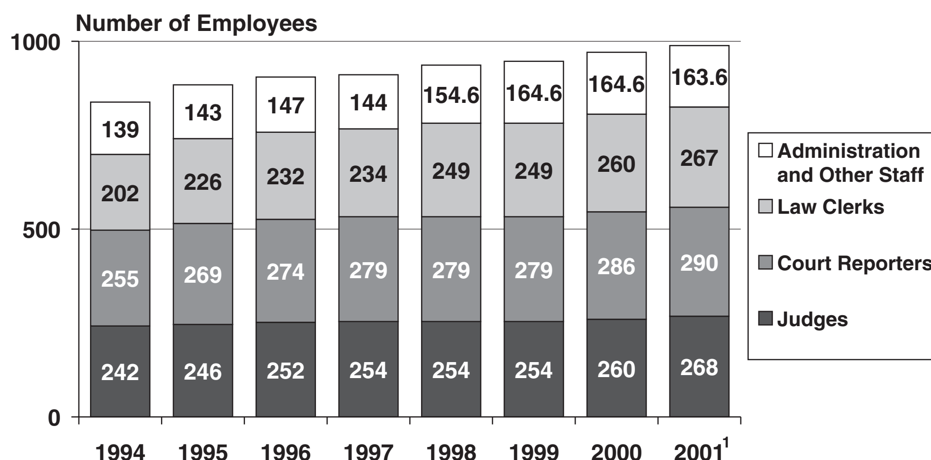
Table 2.3: Change in State Expenditures and Filings in District Court, FY 1996-2000

	Major Case Filings	Total Filings	Expenditures	Expenditures/Filing
FY96	199,507	1,969,469	$71,917,119	$36.52
FY97	206,909	1,958,068	73,823,259	37.70
FY98	216,030	2,014,248	73,101,526	36.29
FY99	218,945	2,015,485	77,684,438	38.54
FY00	219,117	2,067,267	75,360,767	36.45
Five-Year Change	10%	5%	5%	(0.2%)

NOTE: Expenditures are stated in year 2000 dollars and were adjusted for inflation using the Bureau of Economic Analysis price index for state and local government.

SOURCES: Office of the Legislative Auditor's analysis of Department of Finance Information Warehouse, *Agency Expenditure Summary*; and http://criminal.justice.state.mn.us/courts/mth2quer.htm; accessed October 30, 2000.

Figure 2.6: District Courts' State Employees, FY 1994-2001



[1]Data for FY 2001 do not include the 352 county positions transferred to state positions in July 2000.

NOTE: Court administration staff employed by counties are not included. "Administration and Other Staff" include district administration (including about 69 court administration and support staff in the Eighth District), referees, and technology positions.

SOURCE: Judith Rehak, Administrative Services Director, State Court Administrator's Office, to Legislative Auditor's Office, "Trial Court Staffing Levels," November 2, 2000, letter.

Judge Salaries

The State Constitution gives the Legislature authority to determine judge salaries.[7] Currently, district court judges receive an annual salary of $98,180 and chief judges receive $103,089.

The Legislature considers the recommendations of a compensation council when setting judge salaries.

The Legislature last approved salary increases for judges in 1997 (with a slight modification in 1998), and the increases went into effect each year from 1997 through 2000, as shown in Table 2.4. Judge salaries represented 45 percent of the

Table 2.4: Salary Increases for Judges Approved by the 1997 and 1998 Legislatures

Time of Increase	Percentage Increase
July 1, 1997	4.0%
January 1, 1998	5.0
July 1, 1998	1.5
July 1, 1999	3.0[a]
January 1, 2000	3.0[a]

[a]By law, the salary increases in 1999 and 2000 were calculated as the average salary adjustment for state employees.

SOURCE: *Minn. Laws* (2 Sp1997), ch. 3, sec. 16, (c) - (e); and *Minn. Laws* (1998), ch. 390, art. 5, sec. 6.

7 *Minn. Const.,* art. VI, sec. 5.

state-funded portion of district courts' budgets for fiscal year 2000. Judge salary increases from fiscal year 2000 to 2001 represented just 0.8 percent of state-funded budgeted expenditures for district courts. The 2000 Legislature approved a supplemental appropriation of $2.7 million for district courts in fiscal year 2001 because higher-than-expected health insurance costs combined with the pay increase prevented the judiciary from filling new judge positions.

As in 19 other states, each budget year a compensation council considers and recommends to the Minnesota Legislature salary increases for judges, constitutional officers, and legislators.[8] The 1999 recommendations of the compensation council included increases for judges of 3.5 percent on January 1, 2001 and 3.5 percent in January 2002, as well as an additional 3 percent increase, reflecting average salary adjustments received by state employees, for each of those years.[9] However, the Legislature did not act on these recommendations, so the increases will not go into effect. A new compensation council recommendation is expected in 2001, although a council has yet to be appointed as of this writing.

Minnesota's district judge salaries rank 33d among states.

Salaries for Minnesota district judges are lower than the national median salary for general trial court judges. As of 2000, Minnesota's district judge salary ranked 33d out of the 50 states.[10] Compared with the seven Midwestern states that have unified court systems, the 2000 Minnesota judge salary of $98,180 was lower than the median $103,500 for the other states.

Judge and Court Administrator Views on Resource Needs

When interviewing chief judges and analyzing judge responses to survey questions, we learned that:

- **Most judges do not believe there is a serious lack of resources for district courts overall, but they all see certain needs going unmet.**

Through our interviews and surveys, many judges indicated they saw a need for additional judge positions. When asked on the survey what could be done to improve case processing, judges overwhelmingly responded that providing more judges would help. Judges expressed concern about inadequate judicial resources for particular case types. As discussed in Chapter 5, about two-thirds of judges statewide said the quality of judicial decisions for criminal, juvenile, and family cases suffers because there are too many cases per judge. About 80 percent said judges need to spend more time per criminal, juvenile, and family case if people are to feel their concerns are fully heard. Fewer judges felt similarly about civil and probate cases. Believing that one has been fully heard is important because behavioral research indicates that people's judgment about justice shapes their reactions to events. Those who encounter a negative outcome, such as sentencing

8 *Minn. Stat.* (2000) §15A.082; National Conference of State Legislatures, "Judicial Salaries," *State Budget & Tax News* 19, no. 9 (May 1, 2000): 8.

9 Gene Merriam, Chair, Minnesota Compensation Council, to Speaker of the House and President of the Senate, *1999 Compensation Council Recommendations,* April 7, 1999.

10 National Center for State Courts, *Survey of Judicial Salaries* 26, no. 1 (Winter 2000): 10.

following a guilty finding, are more likely to support that outcome if they believe it resulted from fair procedures.[11]

Chief judges also spoke of other needs. Indicative of the interrelationship between courts and other agencies, several chief judges said the number of public defenders is inadequate. Others mentioned the need for better information management systems, more interpreters, and higher pay for law clerks. Some of the chief judges in outstate Minnesota expressed a need for more ancillary services, such as social workers, mental health providers, and chemical dependency services.

Many chief judges said the numbers of judges and public defenders were insufficient.

We also learned that:

- **Court administrators reported inadequate numbers of courtrooms and other court space, as well as dramatic increases in needs for interpreters and guardians *ad litem*.**

As shown in Table 2.5, nearly half (49 percent) of court administrators said the number of courtrooms and other space is inadequate.[12] A lack of space was a problem in all judicial districts, particularly in the Second District (Ramsey County), Third District (southeastern Minnesota), Fourth District (Hennepin County), and Eighth District (west central Minnesota).

Thirty-two percent of court administrators said funding for court administration is inadequate, and 44 percent said it was somewhat adequate. Court administrator responses on inadequate funding did not differ by geographic region. Many mentioned a shortage of staff.

Table 2.5: Court Administrator Responses on the Adequacy of Court Space, Funding, Staff, and Facility Conditions, 2000

		Percentage of Court Administrators Reponding:		
	N	Inadequate	Somewhat Adequate	Adequate
Number of court rooms and other court space	82	49%	21%	30%
Funding for court administration	81	32	44	23
Number of court administration staff	82	28	30	41
Facility conditions	82	20	38	43

NOTE: Shaded number indicates plurality of respondents.

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

11 Tom Tyler, *Social Justice in a Diverse Society* (Boulder, CO: Westview Press, 1997), 6, 10, and 166.

12 A separate survey question asked about the condition of courtroom space.

As described in Chapter 5 and Table 2.6, 62 percent of court administrators said their need for guardians *ad litem* increased 50 percent or more in the past five years. Court administrators in all geographic regions reported strong increases in the need for guardians. Regarding interpreters, a plurality of court administrators (37 percent) said their need for interpreters increased at least 50 percent. As might be expected, a larger share of court administrators from counties in the Twin Cities seven-county metropolitan area (71 percent) than those elsewhere (33 percent) indicated dramatic increases in interpreter needs.

Table 2.6: Court Administrator Responses on the Change in Need for Interpreters and Guardians *Ad Litem* in the Past Five Years, 2000

		Percentage of Court Administrators Responding:			
	N	50% or Greater Increase	25 to 49% Increase	1 to 24% Increase	No Change or Decrease
Guardians *ad litem*	81	62%	28%	9%	1%
Interpreters	82	37	23	21	20

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

State Takeover of Court Funding

As stated earlier, counties and the state share in funding district courts. According to the Department of Finance, in 1998, the state paid about 44 percent of the district courts' $160 million costs and counties paid for 56 percent.[13] Since the 1980s, the state has gradually assumed greater portions of the district courts' budget.

Although counties and the state jointly fund district courts, the state is gradually increasing its share.

In 1990 Minnesota began a pilot demonstration project in the Eighth Judicial District (west central Minnesota) in which the state paid for court operations, including those of district administration and court administration in the counties.[14] Also in the early 1990s, the state assumed other expenses that all counties had paid previously: district administration staff; law clerk and court reporter salaries and expenses; jury system fees and expenses; and local costs for the Total Court Information System (a statewide case records system).

More recently, the 1999 Legislature approved the state takeover of additional district court costs.[15] As of July 2000 (the beginning of fiscal year 2001), the state is paying for court administration in counties within the Fifth District (southwestern Minnesota), Seventh District (north central Minnesota), and Ninth District (northwestern Minnesota), in addition to the Eighth District. The state is also paying for witness fees and mileage fees in those districts.

In addition, the state has assumed the costs for certain functions in *all* judicial districts. Starting July 2000, the state is paying for the costs of court reporter

13 Department of Finance, *2000-01 Biennial Budget* (St. Paul), H-49.

14 *Minn. Laws* (1989), ch 335, art. 3, sec. 54; and *Minn. Laws* (1993), ch. 192, sec. 107.

15 *Minn. Laws* (1999), ch. 216, art. 7, sec. 23, 27, and 46.

transcripts and jury programs (not personnel). In the next fiscal year, beginning July 2001, the state will pay the statewide costs of court interpreter programs, guardian *ad litem* personnel and programs, examinations for mental commitments and competency, and *in forma pauperis* expenses (costs for civil cases by indigents).

The state now pays for court administration costs in the Fifth, Seventh, Eighth, and Ninth districts.

For fiscal year 2001, the transfer of court administration costs from the Fifth, Seventh, and Ninth districts, together with costs for court reporter transcripts and jury programs statewide, represent $18.7 million in new costs to the state. However, two adjustments offset these new costs. One is an $11.2 million reduction in the Homestead and Agricultural Credit Aid that the state pays to counties. The second is about $7 million in estimated revenues from fines. The portion of fine revenues collected in the Fifth, Seventh, and Ninth districts that went to counties in the past now come to the state's General Fund (revenues from fines in the Eighth District already come to the state).

Counties remain responsible for funding courtrooms and other facility costs.

The 1999 legislation also required the judiciary to prepare a plan for the 2001 Legislature that provides for state assumption by July 2003 of court administration costs in every judicial district.[16] If implemented, this plan would have the state pay the costs for court administration now paid by counties in the eastern half of the state—covering the First, Second, Third, Fourth, Sixth, and Tenth districts. Counties would remain responsible, however, for the capital and operating costs of facilities, such as the courtrooms and office space used by court administrators.

FEE AND FINE REVENUES

Under Minnesota statutes, judges may impose fines for a variety of crimes and offenses (such as petty misdemeanors, which are noncriminal offenses that carry no jail time). For lesser violations, such as minor traffic and ordinance violations, fines often represent the total penalty imposed. For more serious crimes, fines may be imposed in addition to other penalties, such as incarceration, probation, or restitution.

The courts also collect many fees and surcharges. Some of these, such as filing fees, are assessed to make participants pay for their use of court services. Others, such as surcharges, are used primarily as criminal sanctions but also generate

16 *Minn. Laws* (1999) ch. 216, art. 7, sec. 44.

revenues to help pay for various programs related to crime, such as programs for crime victims. State law designates how fees and fines are to be distributed among state, county, and municipal governments.

Amount and Distribution of Fees and Fines Collected

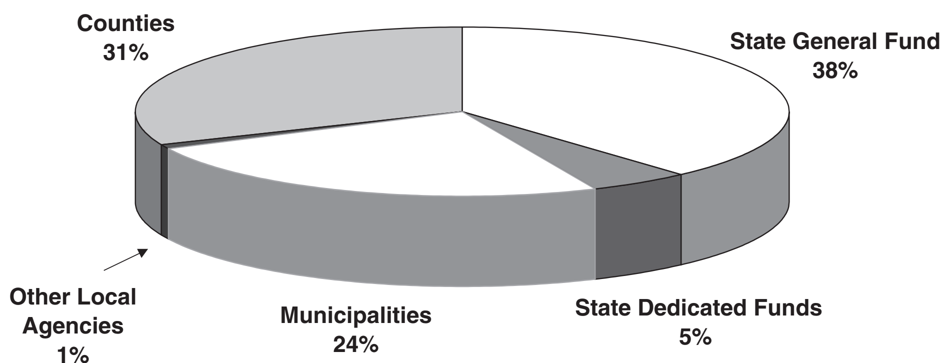
The State Court Administrator's Office compiles reports from counties on the amount of fees and fines collected during the calendar year. According to these reports,

- **In 1999, the courts statewide collected an estimated $121 million in fees and fines that were redistributed to local governments, a number of dedicated state funds, and the state General Fund.**

Revenue from fees and fines is split between the state and local governments.

This amount is slightly understated.[17] As shown in Figure 2.7, 43 percent of the fee and fine revenue in 1999 was distributed to the state, including 38 percent to the state's General Fund and 5 percent to dedicated state funds.[18] None of the fee and fine revenue went directly to the district courts. The state-funded portion of

Figure 2.7: Distribution of Revenues from Court-Imposed Fees and Fines, 1999



NOTE: Because the Eighth District is fully state funded, the State General Fund amount includes $1.8 million from Eighth District fees and fines that go to counties in other districts.

SOURCE: Office of the Legislative Auditor's analysis of data from State Court Administrator's Office.

17 This is because Clay and Wright counties submitted data for only 11 months. We removed fees for marriage licenses and birth certificates (about $1 million in 1999) because these fees are not directly imposed by the courts.

18 Ninety-four percent of the $6.4 million paid to dedicated state funds went to the Trunk Highway Fund for traffic and motor vehicle violations involving the State Patrol. The remainder represented fines for fish and wildlife violations, water safety violations, and violations involving snowmobiles and all-terrain vehicles, and the revenue went to several funds used by the Department of Natural Resources.

district court operation comes from General Fund appropriations. Counties retained 31 percent of the fee and fine revenue in 1999, municipalities received 24 percent, and other local agencies received 1 percent.

Statutes impose some requirements on the distribution of fines. For example, the state normally receives 20 percent of all fines for criminal offenses. The state also imposes a mandatory $25 surcharge on all criminal convictions except parking. Sixty percent of the surcharge proceeds go to the state's General Fund, 39 percent to the Peace Officers Training Account, and 1 percent to the Game and Fish Fund for warden training.

In addition, several fees and surcharges support other criminal justice programs.[19] Table 2.7 lists the ten largest sources of revenues from fees and fines. These ten sources accounted for $100.1 million in 1999, or 83 percent of the total fees and fines collected by district courts.

Traffic and parking fines paid to municipalities represented the largest share of fees and fines in 1999.

As shown in Table 2.7, the largest source of revenue was traffic and parking fines paid to municipalities, accounting for $29 million, or about 24 percent of the total fees and fines collected in 1999. In addition, about $9 million from municipal traffic and parking fines was retained by counties to offset their law enforcement and prosecution costs. Revenue from the $25 criminal surcharge was the second largest revenue source, accounting for $14.8 million in 1999. The third largest revenue source was civil and probate filing fees, which generated $13.6 million; counties may retain part of these fees to pay the salaries of "screener-collectors" hired to help collect fees and fines. The remaining money from civil and probate filing fees goes to the state's General Fund.

Factors Judges Consider When Imposing Fines

Data were unavailable to determine how consistently judges impose the minimum statutory fines and surcharges. The State Court Administrator's Office has tried to calculate the actual amount of fines imposed, but it has been unable to do so reliably due to limitations of its automated information system and inconsistencies in the way court clerks record and track data. As a result,

- **We were unable to determine the total amount of fines that judges impose per year or differences between fines imposed and fines actually collected.**

Some information is available about the $25 criminal surcharge required for all criminal convictions. A recent State Court Administrator's Office study of a sample of criminal cases indicated that for all districts, excluding the Fourth

19 For example, *Minn. Stat*. (2000) §609.2244, subd. 4 imposes a fee of between $50 and $125 on persons convicted of domestic abuse, with proceeds going to the county to help defray the cost of the investigation; *Minn. Stat*. (2000) §609.101, subd. 2 requires 30 percent of fines imposed against persons convicted of assault or criminal sexual conduct to go to the state's General Fund and 70 percent to be retained by counties for local victim assistance programs; and *Minn. Stat*. (2000) §609.101, subd. 3 requires 70 percent of fines for controlled substance abuse to be retained by counties to support local drug-abuse prevention programs.

Table 2.7: Ten Largest Sources of Fee and Fine Revenue, 1999

Type of Fee or Fine	Statute	Recipient of Funds	Description	Amount
Cities' Share of Municipal Traffic and Parking Fines	487.33, subd. 5	Municipalities	100% of traffic and parking fines if no warrant is issued; 2/3 of other fines if municipality provides law enforcement or 1/3 if county does	$29,172,513
$25 Surcharge	357.021, subd. 6, 7	State Treasurer	$25 surcharge assessed to all persons convicted of crimes except parking violations[a]	14,783,336
Civil and Probate Filing Fees	357.021, subd. 1(1)	State Treasurer	$122 filing fee to all parties in civil actions[b]	13,602,656
County Fines	574.34	County	Fines and forfeitures not allocated by statute to other branches of government	9,137,192
County's Share of Municipal Traffic and Parking Fines	487.33, subd. 5	County	County portion of court imposed fees, fines, and penalties for municipal traffic violations to offset county law enforcement and prosecution costs	9,113,535
Other Local Fees		County	Other fees specific to individual counties	6,758,399
State Share of Highway Patrol Fines	299D.03, subd. 5	Trunk Highway Fund	State share of fines and forfeited bail from traffic and motor vehicle violations involving the State Patrol	6,018,718
Law Library Fee	134A.09-10	County Law Libraries	Fee collected from parties in civil suits, probate proceedings, petty misdemeanors, and criminal convictions to pay for county law libraries	4,738,044
County Share of Highway Patrol Fines	299D.03, subd. 5(a)	County	County share of fines and forfeited bail from traffic and motor vehicle violations involving the State Patrol	3,473,243
State Share of Minimum Fines	609.101, subd. 4(2)	State Treasurer	State's 20% share of statutory minimum $50 fine for misdemeanor and gross misdemeanor convictions	3,274,739

[a]Sixty percent of proceeds go to the state's General Fund, 39 percent to the Peace Officers Training Account, and 1 percent to the Game and Fish Fund for warden training.

[b]Counties may use their portion of these funds to pay the salaries of screener-collectors (staff hired to collect fees and fines), with the remaining funds going to the State Treasurer.

SOURCE: Office of the Legislative Auditor's analysis of data from State Court Administrator's Office and *Minnesota Statutes* (2000).

(Hennepin County), judges imposed the criminal surcharge for 99 percent of misdemeanors, 95 percent of gross misdemeanors, and 86 percent of felonies.[20] However, the numbers must be viewed with caution because the cases studied came from a two-week sample of cases, and they may not be representative of all criminal cases.

From interviews with chief judges and survey results, we learned that judges use considerable discretion in determining whether to assess fines and the amount to assess. At the same time, some judicial districts, or counties within a district, have developed fine schedules to promote consistency in sentencing for similar

20 State Court Administrator's Office, *Criminal Surcharge Report to Conference of Chief Judges*, (St. Paul, December 5, 2000), 1. In the sample of cases drawn from January through September 2000 in Hennepin County, judges imposed the criminal surcharge for 35 percent of misdemeanors, 56 percent of gross misdemeanors, and 19 percent of felonies.

offenses. Further, some statutes limit judge discretion in determining fine amounts, such as the requirement to impose a fine of at least 30 percent of the $30,000 maximum for convictions of assault in the first degree.[21] In our survey, we asked judges to rate the importance of several factors in determining the amount of fine to assess. We found that:

- **The most important factors judges consider in determining the amount of fine to impose are the seriousness of the offense and the offender's ability to pay.**

Seventy percent of judges cited both ability to pay and the seriousness of the offense as "important" in determining the amount of fine imposed at sentencing, as shown in Table 2.8. In addition, 57 percent of judges said the cumulative amount of mandatory fees in addition to fines was important. By contrast, 54 percent of judges said that the maximum fine allowed by law was "unimportant" in determining the amount of fine to impose.

Judges consider a variety of factors when imposing fines.

Table 2.8: Factors Judges Consider When Imposing Fines, 2000

		Percentage of Judges Responding:		
	N	Important	Somewhat Important	Unimportant
Offender's ability to pay	212	70%	26%	4%
Seriousness of the offense	210	70	24	7
Cumulative amount of fees and fines	205	57	36	7
Whether restitution is imposed	210	48	47	5
Whether offender is incarcerated	212	47	45	8
Whether community service is a viable alternative	208	47	43	10
Whether defendant is a first-time offender	211	38	43	18
The maximum fine allowed by law	154	19	27	54

SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

Collecting Fees and Fines

To better understand how fees and fines are collected, we surveyed court administrators. We learned that:

- **In most counties, court administrators monitor and collect fees and fines among their other duties, although about 29 percent of court administrators reported that specific collections personnel have this task.**

Fifty-eight percent of court administrators said that court administration staff are responsible for collecting fees and fines; 29 percent said counties employ a "screener-collector" to collect fees and fines, and 6 percent said they use a

21 *Minn. Stat.* (2000) §609.101, subd. 2. Subdivision 5 of this statute allows the court to reduce the minimum fine to $50 for indigent defendants when payment would be an economic hardship.

combination of court administrator staff and screener-collectors. In the remaining counties, collection responsibilities are spread among a variety of staff, including court administration, probation, and other county staff. Sixty-one percent of court administrators indicated that they have written policies on collecting fines. We also found that:

- **Most court administrators believe they have been at least somewhat successful in their collection efforts and that collection practices have improved in the last five years.**

Twenty-nine percent of court administrators described their collection efforts as "successful," and 59 percent described collection efforts as "somewhat successful." Eighty-four percent said their counties have taken steps that have improved collection of fees and fines over the last five years. When asked to describe what steps have improved collections, the largest share of respondents wrote that filing for "revenue recapture," in which payments come from the debtor's tax refunds, was helpful.

Most court administrators reported improving the collection of fees and fines over the past five years.

To make their collection of fees and fines successful:

- **Most court administrators in Minnesota use at least some of the techniques recommended by experts to collect fees and fines and follow up on nonpayments.**

In a study of how courts successfully collect fees and fines, the National Center for State Courts reported that collection efforts are most effective when (1) defendants can pay without too much inconvenience and (2) the collector applies increasingly coercive measures to those who do not pay.[22] The study describes many techniques that courts around the country have employed to improve their fee and fine collections.

As shown in Table 2.9, majorities of court administrators in Minnesota use certain practices recommended to encourage payments. Ninety-eight percent of court

Table 2.9: Fee and Fine Collection Practices, 2000

Practice	Percentage of Court Administrators (*N* = 83)
Allow personal checks (by suitable defendants)	98%
Allow payment in installments	96
Tailor payment plans to individual financial circumstances	88
Encourage same-day payments prior to leaving the courthouse	82
Locate collection personnel in or adjacent to courtrooms	53
Use violations bureaus (for fines on uniform fine schedule)	47
Allow credit cards	25
Require minimum down payment if full payment is not available	23
Offer secure lockbox or remote locations for after-hour payments	13
Provide early payment discounts	0

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

22 John Matthias, Gwendolyn Lyford, and Paul Gomez, *Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions* (National Center for State Courts, 1995), 2.

administrators reported allowing payment by personal check and 96 percent allow payment in installments. Similarly, high percentages of court administrators said they tailor payment plans to individual financial circumstances and take steps to encourage same-day payments before the defendant leaves the courthouse.

When defendants fail to pay, many counties employ certain recommended practices to follow up. The methods used vary, as shown in Table 2.10. At least 93 percent of court administrators said they initiate license suspensions against individuals who fail to pay their fines, actively monitor fees and fines assessed and collected, and mail past-due notices following nonpayment. In addition, at least 81 percent reported that they initiate arrest warrants, notify the court when nonpayment is a probation violation, and use revenue recapture to collect payments from tax refunds.

Table 2.10: Practices to Follow Up on Nonpayment of Fees and Fines, 2000

Practice	Percentage of Court Administrators ($N = 83$)
Initiate license suspensions	95%
Ongoing monitoring of fees and fines assessed and amounts collected	93
Mail past-due notices within set time following nonpayment	93
Initiate service of warrants for arrest	84
Notify court when nonpayment is a probation violation	82
Use the Department of Revenue's "revenue recapture" to collect payments from tax refunds	81
Define accounts as uncollectible after suitable time or effort has been expended	77
Take steps to keep defendants' addresses current	76
Compile reports on nonpayments	54
Initiate garnishment of wages or property liens	27
Telephone defendants within set time following nonpayment	22
Personally serve delinquency notices within set time following nonpayment	20
Other nonpayment practices	18
Charge interest or fee on late payments	8
Report nonpayments to credit reporting agency	2

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

3 Determining the Number of Judges

SUMMARY

A weighted caseload study is an accepted method for determining the need for judges statewide, but Minnesota's study should be improved and updated. A committee of the Conference of Chief Judges is currently studying possible modifications to the study. Also, using retired judges benefits district courts. The Legislature should consider revising pay for retired judges.

Determining the "correct" number of judges statewide and for individual judicial districts is a complicated and politically sensitive process. For the last two decades, Minnesota has used a weighted caseload analysis based on case filing statistics and time reports from judges to estimate the number of judges that are needed. We reviewed the weighted caseload method in general and its specific application in Minnesota. We also examined how Minnesota courts use retired judges to help manage caseloads in specific judicial districts.

In this chapter we address the following questions:

- **How well does Minnesota's weighted caseload study compare with accepted guidelines for determining the need for district court judges?**

- **How helpful is the use of retired judges for managing caseloads?**

To answer these questions we reviewed national literature on weighted caseload studies and what documentation remains from Minnesota's past studies. We reviewed data from the State Court Administrator's Office on the costs and use of retired judges and minutes from meetings of the Conference of Chief Judges. We also interviewed chief judges and district administrators about their views on the weighted caseload studies and their use of retired judges.

DEFINITION OF WEIGHTED CASELOAD

Properly designed and implemented, weighted caseload analyses allow court administrators to estimate the need for judges in a state and allocate an appropriate number of judges to districts. A weighted caseload study recognizes that complex cases take more time than less complex ones. Based on the average time judges spend on a particular case type, the study assigns heavier weights to the cases that are, on average, more time consuming. Thus, for instance, the

analysis will recommend a higher number of judges for caseloads with a heavy mix of felonies than for caseloads with few felonies. We found:

- **Weighted caseload studies are widely accepted by court administrators and the National Center for State Courts for determining the number of judges needed.**

National studies strongly endorse the use of weighted caseload analysis as "the best method for assessing judicial need."[1] The analyses often depend on consultant expertise, take many months, and require detailed reports to explain both findings and methodology.

Experts endorse weighted caseload studies as the best method for estimating the need for judges.

The typical steps in conducting a weighted caseload study are:

1. Obtain accurate, current data on case filings.
2. Define appropriate methods to collect and analyze how judges use their time.
3. Collect records on use of time for a period of several weeks, typically via detailed logs of judge time during the workday on all activities and specific types of cases.
4. Calculate the number of days per year and minutes per day that judges have to do case-related work.
5. Estimate the case weights, that is, how much time judges spend on average for cases of particular types.
6. Using current caseloads, determine how many judges are needed for current caseload.
7. Use these same methods to calculate the estimated number of judges needed for each district.
8. Adjust calculations to reflect individual district needs, such as the time spent traveling to courtrooms in geographically large districts.

Case weights are the average time judges spent on a specific case type. This average includes all cases, even those on which judges spent little or no time. Many cases take more time than the average, some much more, and many others take less time. Similarly, judges work at different paces. Nevertheless, the weighted caseload analysis reflects the average time spent on cases.

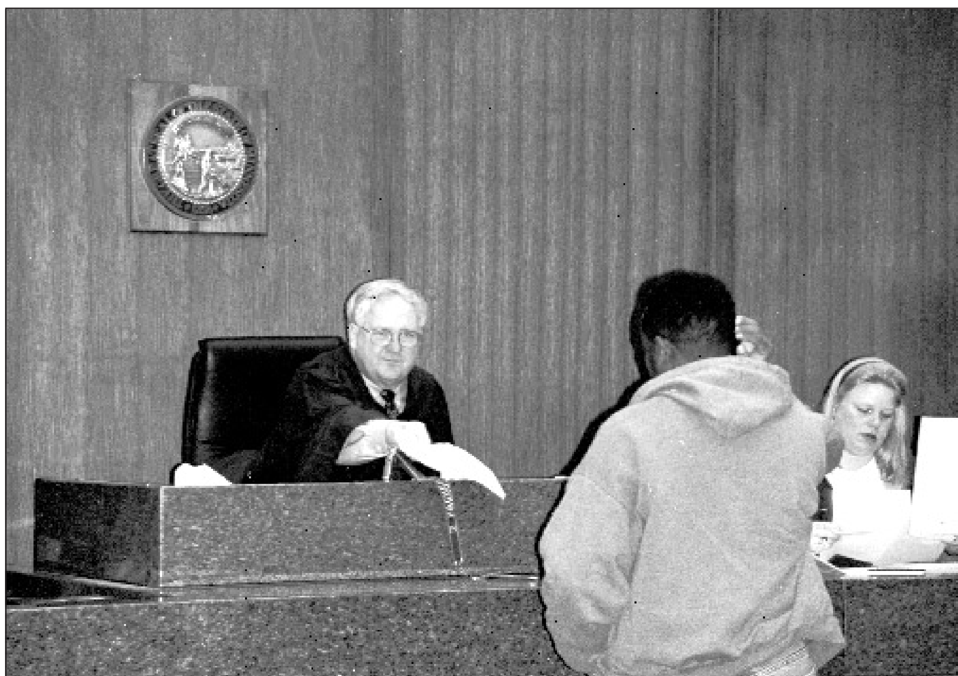
1 Victor Flango and Brian Ostrom, *Assessing the Need for Judges and Court Support Staff*, (National Center for State Courts, 1996), 14.

MINNESOTA'S USE OF WEIGHTED CASELOAD STUDIES

Minnesota first used a weighted caseload analysis in 1980. Due to structural changes in the court process and changes in case types, the State Court Administrator's Office completely redid the study in 1986 and again in 1992. In 1998, relying on a process managed by the National Center for State Courts, the State Court Administrator's Office updated 6 of 49 case types. Significant changes since 1992 to laws affecting these six case types warranted their selection for updating. In its work, the National Center for State Courts followed a procedure known as a Delphi study, which is based on expert judgment of a panel of judges to estimate the length of new hearings required for certain case types. These estimates of time, together with changes in the number of hearings and trials, were used to update case weights for the six case types. Based on the 1998 study, the judiciary requested 18 new judgeships, and the Legislature approved 13 in 1999.

Minnesota last conducted a comprehensive weighted caseload study in 1992.

With the exception of the six case types singled out in the 1998 study, the average number of minutes for many cases declined between 1980 and 1992. In some instances, a decrease may reflect procedural changes, such as a change in 1992 that resulted from counting civil cases from the time of filing rather than from the time of activation.[2] In other instances, the average time per case may have



A weighted caseload analysis accounts for the judge time needed to dispose of different types of cases.

2 "Activation" refers to counting a case only if there is some court activity. Courts that intervened earlier in civil cases tended to activate a larger share of their civil caseload and judge need was overstated for some courts. Wayne Kobbervig, State Court Administration, *Minnesota Weighted Caseload 1992* (St. Paul, October 1993), 18.

declined due to the impact of an increasing workload together with the need to dispose of cases within a specific time limit.

Table 3.1 compares the changes in select case weights for the 1986 and 1992 weighted caseload studies. Relative to each other, the case weights seem reasonable: serious felony cases took the most judge time at 665 minutes on average in 1992; parking offenses required the least time at an average of less than a minute per case. The table also shows that workload cannot be characterized by a simple count of filings. For 1992, serious felonies represented only 0.1 percent of all filings but 5.1 percent of the judicial workload. Table 3.2 shows the weights for the six select case types updated in 1998.

The number of judges needed to process the caseload statewide is calculated using the case weights, number of filings, and a measure of the time judges have available to process cases. The estimated number of judges may change for several reasons. First, case weights may increase or decrease. Second, adding a judge in certain districts may decrease the need for travel time, increasing the average amount of time per day that judges have to hear cases in that district. A

Table 3.1: Select Case Weights (Average Minutes per Case) from Minnesota Weighted Caseload Studies for 1986 and 1992

Case Type	1986 Average Minutes per Case	1992 Average Minutes per Case	Percentage Change 1986 to 1992	Percentage 1992 Filings	Percentage 1992 Workload
Serious Felony	(unavailable)	664.9		0.1%	5.1%
Other Felony	(unavailable)	119.7		0.8	9.0
Felonies (total)	178.0	169.4	-4.8%	0.9	14.1
Gross Misdemeanor DUI	(unavailable)	56.0		0.5	2.5
Gross Misdemeanor Other	(unavailable)	42.5		0.5	2.3
Gross Misdemeanors (total)	63.6	49.2	-22.6	1.0	4.8
Personal Injury	292.5	292.4	0.0	0.3	9.1
Contract	255.6	188.9	-26.1	0.4	6.7
Guardianship	163.9	126.1	-23.1	0.1	1.6
Commitment	211.2	226.8	7.4	0.2	3.6
Dissolution with Children	(unavailable)	182.3		0.5	9.3
Dissolution without Children	(unavailable)	63.1		0.4	2.3
Dissolution (total)	143.3	133.2	-7.0	0.9	11.6
Domestic Abuse	42.0	36.8	-12.3	0.6	2.2
Parking	0.2	0.1	-59.0	40.1	0.3

NOTE: The table reports 12 of 49 case types. Workload is calculated by multiplying case weights by the number of filings for that case type.

SOURCES: 1992 data from Wayne Kobbervig, State Court Administration, *Minnesota Weighted Caseload 1992* (St. Paul, 1993), 16, 34; 1986 data from Wayne Kobbervig, Office of the State Court Administrator, *1986 Minnesota Weighted Caseload Study* (St. Paul, April 1987), 35.

Table 3.2: Case Weight Changes for Six Case Types Studied in 1998

Case Type	1986 Average Minutes per Case	1992 Average Minutes per Case	Percentage Case Weight Change 1986 to 1992	1998 Average Minutes per Case	Percentage Case Weight Change 1992 to 1998
Status Offense	—-	11.7	—-	13.0	11%
Dependency/ Neglect of Children	147.6	148.9	0.9%	190.0	28
Termination of Parental Rights	96.3	149.5	55.2%	248.0	66
Implied Consent	73.6	72.4	-1.6%	96.0	33
Fifth Degree Assault	—-	20.5	—-	24.0	17
Misdemeanor DWI	—-	11.3	—-	13.0	15

NOTE: These six case types were selected for updating in 1998 because law changes since 1992 had increased the number and length of required hearings and because of substantial growth in the rate of hearings and trials for many of these case types.

SOURCES: 1992 data from Wayne Kobbervig, State Court Administration, *Minnesota Weighted Caseload 1992* (St. Paul, 1993), 16, 34; 1986 data from Wayne Kobbervig, Office of the State Court Administrator, *1986 Minnesota Weighted Caseload Study* (St. Paul, April, 1987), 35; 1998 weights from a data file containing filings, case weights, and judge need for 1996 through first quarter 2000 from the State Court Administrator's Office.

third factor is the total number of days judges have to hear cases. Between 1986 and 1992, the number of judicial education days decreased from ten to five and the number of holidays increased by one, giving judges four more days to hear cases. Authors of the 1992 study estimated that this factor alone reduced the estimated number of judges needed by five.[3]

The district courts' 2002-03 biennial budget includes a request for nine new judges, law clerks, and court reporters.

In 2000, the State Court Administrator's Office estimated a need for 294.57 full-time equivalent judges, based on the number of cases in 1999.[4] This is nearly the same as the number of 294.24 full-time equivalent judges expected in January 2001. However, the Conference of Chief Judges approved a budget request that includes nine additional judge units (one unit is a judge, law clerk, and court reporter) over the upcoming 2002-03 biennium. Its request includes five judgeships that were not approved in the 1998 request, two judgeships to account for growth in case filings since 1998, and two judgeships to meet anticipated growth in case filings during the 2002-03 biennium in the First District (south metropolitan Minnesota) and Tenth District (north metropolitan and east central Minnesota).

3 Kobbervig, *Minnesota Weighted Caseload 1992*, 19.

4 State Court Administrator's Office, "Equalizing Workload by District - Calculated Distribution January - June 2001," working document, May 19, 2000. This estimate includes referees in the Second District (Ramsey County) and Fourth District (Hennepin County) and a judicial officer in the Sixth District (northeastern Minnesota). It does not include adjustments such as adding judges to provide sufficient public access to court resources in large districts, as described later in this chapter.

Court Observations on Weighted Caseload

According to our interviews, chief judges and district administrators around the state almost uniformly think that the weighted caseload study is an important and necessary tool, yet they agreed there is room for improvement. Many judges said the weighted caseload results often underestimate the need for judges because they rely on filings data that may be old by the time the Legislature considers requests for more judge positions. Accordingly, some judges have advocated projecting estimates of future filings. Their intent is to better reflect the caseload at the time the need for judges is actually being considered. Although statistical models exist to estimate future caseloads, the uncertainty involved with such estimates reduces their accuracy and usefulness.

Most chief judges agreed that the weighted caseload study is an important tool, but it needs to be improved.

Many chief judges indicated the study should include an assessment of how much time a particular case *should* take, as opposed to the time it actually takes. They are concerned that the weighted caseload study addresses only the efficiency of case processing and ignores the concept of quality outcomes. This issue was also raised in the 1992 weighted caseload study.[5] If caseloads increase substantially without an increase in the number of judges, and judges try to meet timing objectives for disposing of cases, then the amount of time available for processing each case will decline. When applying these lowered case weights to current filings, it may incorrectly appear that judicial resources are adequate.

How Judges Spend Their Time

As mentioned earlier, the weighted caseload study is based in part on the amount of time judges have available to spend on cases. For Minnesota's study, the State Court Administrator's Office calculated the amount of available judge time from records of how judges spent their time for a sample period. However, these data are from the 1992 weighted caseload study, which is now more than eight years old. Other possible sources of information, such as judge timesheets, do not record how judges used their time, according to the State Court Administrator's Office. We found that:

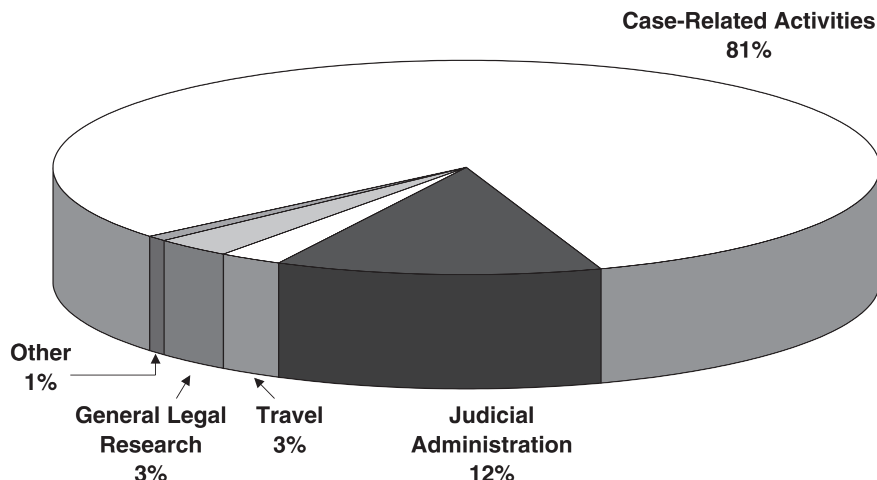
- **No current data exist to describe the extent of time judges spend on their various tasks. Available information is dated and may not apply well to judges today.**

For the 1992 weighted caseload study, all judges recorded their work time, both on and off the bench, for a nine-week period. They distinguished between time spent on specific cases and noncase-related time. Of the calculated total number of judge minutes available in a day for 1992, an average 81 percent was spent on case activities and 19 percent on noncase-related activities, as shown in Figure 3.1.[6] Judicial administration, such as committee meetings or judge meetings in the district, represented two-thirds of the noncase-related activities. General legal research and travel each accounted for 3 percent of judge time, and all other noncase activity was 1 percent.

5 Kobbervig, *Minnesota Weighted Caseload 1992*, 23.

6 Kobbervig, *Minnesota Weighted Caseload 1992*, 11.

Figure 3.1: Average Daily Judge Time, 1992



SOURCE: Office of the Legislative Auditor's analysis of data from Wayne Kobbervig, State Court Administration, *Minnesota Weighted Caseload 1992* (St. Paul, 1993), 3, 11.

The proportion of time spent on noncase-related activities in 1992 was similar to those from two earlier weighted caseload studies conducted in 1980 and 1986. During that 12-year span, the number of average minutes judges spent per day on noncase-related activities declined 8 percent, from an average 93 minutes per day in 1980, to 92 minutes in 1986, to 86 minutes in 1992. Although it is possible that these trends would continue to the present, we cannot predict that absent an updated study of judge time.

GUIDELINES FOR EFFECTIVE WEIGHTED CASELOAD STUDIES

The National Center for State Courts has published materials on weighted caseload studies, including a list of 12 guidelines for conducting such studies. We found:

- **Minnesota's weighted caseload studies have conformed to many, but not all, of the accepted guidelines for conducting these studies.**

Of the 12 guidelines, Minnesota has met 8, as described in Table 3.3. Minnesota's studies emphasize statewide standards, preestablished criteria, limited modifications to calculations from the model, data from local jurisdictions, weighted filings, calculation of available judicial time, ongoing analysis of the distribution of judges, a single set of case weights with minimum modifications, and consideration of access needs by county.

Table 3.3: Guidelines for Assessing the Need for Judges and Court Support Staff

Guideline	Minnesota Judiciary's Efforts to Meet the Guideline
1. The need for judicial and court staff positions should be assessed against (a) measures of demand for service, (b) statewide standards of judgeship needs, and (c) effective use of existing resources.	✓ Minnesota uses an objective and rational study.
2. The number of judgeship and court support staff positions required should depend upon satisfying preestablished criteria. The criteria should be established by the state court administrative office prior to the analysis of need in any particular locality and should include consequences to the public of not adding judges or court support staff.	✓ Minnesota's study sets criteria in advance.
3. After a decision on judgeship and court support staff needs is made, the burden of proof for any modification should rest upon those advocating a contrary position, whether they be members of the judicial, legislative, or executive branches of government.	✓ The judiciary has allowed a limited number of changes based on special needs.
4. Local courts should provide the data necessary to assess the need for judges and court support staff on a regular basis. Statutes or court rules should specify a clear set of definitions and the data elements required to produce the assessment measures.	✓ Most case data come from a single information system, and state court staff reassess judge need quarterly.
5. The best direct measure of demand for judges and court support staff is the number of weighted filings, tempered by qualitative considerations.	Minnesota uses weighted filings but weights reflect all practices, not the best practices. The study is no longer current.
6. Existing resources should be evaluated in terms of a standard year and full-time equivalent hours per day for judges and support staff.	✓ The judiciary sets a standard year and the time analysis defines available time per day.
7. Before new judges or court support staff are requested, the current distribution of caseloads should be examined to ensure the existing judges and court support staff are allocated equitably among jurisdictions.	✓ The judiciary has authority for judge reassignments.
8. The need for judges, quasi-judicial officers, and court support staff should be assessed together if at all possible, because addition of one type of court personnel may affect the overall need for resources. Without the proper type and level of support, judges may be forced to perform some tasks that could be delegated to qualified support staff.	There is no statewide weighted caseload analysis of the need for court support staff.
9. A single set of case weights for judges and for court support staff within a state is preferable. Weighted caseload studies, however, should evaluate differences in time requirements or case mix across courts of different sizes to determine if separate weights are needed.	✓ Available judge time is adjusted to reflect travel differences; other possible factors are assessed.
10. Simulation can be used in concert with other criteria to determine how to make the best use of existing judges and court support staff.	Minnesota has not used simulation, but this has a lower priority and is costly.
11. One necessary step in assessing the need for judges and court support staff should be an independent review of whether a court appearing to need additional judges could reduce or eliminate the apparent need through operational changes. Part of that review should include opportunities for input from local judges, members of the bar, local elected representatives, and citizens knowledgeable about the operations of the court.	✓ State Court administration increases judge need estimates to add "access" in four districts.
12. Qualitative adjustments to quantitative criteria used to assess the need for judges and court support staff should themselves be evaluated. If criteria require frequent adjustment after the on-site review, the quantitative criteria may need to be changed.	Minnesota has not systematically made qualitative adjustments.

NOTE: Checkmarks indicate Minnesota has taken steps to meet the guideline.

SOURCE: Office of the Legislative Auditor's analysis of Victor Flango and Brian Ostrom, *Assessing the Need for Judges and Court Support Staff*, (National Center for State Courts, 1996), viii-ix.

On the other hand, Minnesota has not met key components in four important areas: incorporating significant qualitative factors into the analysis, highlighting efficient practices, estimating court support staff, and updating the study on a timely basis. These are explained below.[7]

Improving Minnesota's Weighted Caseload Study

Minnesota should incorporate qualitative measures into its weighted caseload study.

One guideline from the National Center for State Courts that Minnesota has not fully met recommends including qualitative analyses in addition to the purely quantitative analyses that weighted caseload studies supply.[8] Some studies have considered the importance of accounting for differences in the local legal culture of different courts, including attitudes and norms about how cases should be handled.[9] For example, because of local differences, public defenders may be assigned to a broader range of cases in some courts than in others. In preparing for the next weighted caseload study, the Judicial Resources Allocation Subcommittee of the Conference of Chief Judges is discussing adding qualitative factors, such as measures of interagency effects on court workload.

As part of Minnesota's 1992 study, the State Court Administrator's Office adjusted the number of judges needed in two ways that conform to the guidelines discussed above. First, in keeping with Guideline 7, fractions of judges were rounded up to the next whole judge in most districts to avoid the assignment of fractional judges to districts. For example, in the Sixth District (northeastern Minnesota) the number of judges was originally calculated as 14.46 but was rounded up to 15.[10] Second, consistent with Guideline 11, four geographically large districts (the Third, Fifth, Eighth, and Ninth districts representing much of southern, western, and northwestern Minnesota) were each given one additional judge to provide adequate citizen access to court resources.[11] For 1992, these changes resulted in the addition of six judges to the number calculated from the weighted caseload study. Such adjustments are useful, but differ from qualitative factors that reflect local differences.

To avoid creating weights that simply embody existing practices, as opposed to efficient practices, a second guideline from the National Center for State Courts recommends collecting data from only the most productive courts, that is, those courts that balance the concerns of timeliness and quality outcomes.[12] In Minnesota, the weighted caseload analyses collected data on judge time from all

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7 Minnesota also does not meet the guideline for using simulation procedures, but these generally have extensive data requirements and can be costly. We concluded that this guideline is less compelling than the others.

8 Flango and Ostrom, *Assessing the Need for Judges*, 123-124.

9 Steven Hays and Cole Blease Graham, Jr., *Handbook of Court Administration and Management* (New York: Marcel Dekker, Inc., 1993), 473.

10 There were two exceptions to the rounding. Judge need was rounded up to 31.5 instead of 32 in the Second District (Ramsey County) and was rounded down from 34.13 to 34.1 in the Tenth District (north metropolitan and east central Minnesota).

11 Two of the four districts were given two additional judges following the 1986 weighted caseload analysis.

12 Flango and Ostrom, *Assessing the Need for Judges,* 22.

courts and then applied these statewide averages to cases. This practice helps avoid institutionalizing the status quo in less productive districts; they are held to the higher standard of the statewide average. Districts at or above the statewide average, however, have no goal to which they can aspire. Because the weights are averages, they do not represent the practices that best demonstrate expeditious case disposition combined with justice. Further, collecting data from all courts presents a large data collection burden.

A weighted caseload analysis is necessary to estimate the need for court support staff.

A third guideline of the National Center for State Courts recommends using weighted caseload studies to determine the need for court clerks and support staff.[13] Assessing the need for judges and court support staff is important because changes to either may affect the overall need for resources.[14] Case weights for estimating support staff needs will likely differ from those for judges. For example, for minor criminal cases, caseloads may require more support staff time than judge time.

Minnesota does not use a weighted caseload study to determine support staff needs, although the state-funded Eighth District (west central Minnesota) developed such a study for its support staff. The Fifth District (southwestern Minnesota) has adapted parts of the Eighth District's model for its own use.

Finally, a fourth guideline from the National Center recommends periodic updating of weighted caseload studies.[15] The State Court Administrator's Office and the Conference of Chief Judges have suggested that the courts should redo the weighted caseload analysis again because most case weights are nearly a decade old and several procedural changes in the interim have made it likely that particular case weights have changed. The 1998 Delphi study updated select case weights based on expert opinion that changes in judicial practice increased the time needed to process those cases, but this affected only 6 out of the 49 case types in the weighted caseload study. Because Minnesota's last comprehensive weighted caseload study occurred in 1992, an update is overdue.

RECOMMENDATION

The State Court Administrator's Office should conduct an updated, comprehensive weighted caseload study.

A weighted caseload analysis requires periodic updates.

As mentioned earlier, a weighted caseload study is the best method to provide critical information to help the judiciary and the Legislature make informed decisions. However, to retain credibility, the study must reflect current court practices.

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13 Flango and Ostrom, *Assessing the Need for Judges,* 55.

14 It can be argued that the workload for public defenders or prosecutors is also related to the judicial workload. However, attorney staffing is not tied to estimates for judges in Minnesota. Public defenders use a weighted study to estimate target workloads: one public defender for every 150 felony cases, or 275 gross misdemeanor cases, or 400 misdemeanor cases, or 80 juvenile welfare cases, or 175 juvenile cases, or 200 other cases in any year. Caseloads for public defenders around the state exceed this standard for the number of public defenders available. (Minnesota Department of Finance, *Minnesota 2000-01 Biennial Budget*, (St. Paul, 1999), H-98.)

15 Flango and Ostrom, *Assessing the Need for Judges,* 21-22.

An updated weighted caseload study will require additional money, although certain steps, such as sampling data, can help minimize costs. The Conference of Chief Judges approved a budget request of $250,000 for the next study. To offset part of this expense, the State Court Administrator's Office has submitted a grant proposal to the State Justice Institute for about $90,000 to study how certain local legal practices, such as the availability of public defenders for juveniles, affect court workloads.

In planning for a new study the State Court Administrator's Office should supplement its calculation of weighted caseload with qualitative factors most likely to affect local court workloads. To ensure credibility, qualitative factors should be carefully chosen and explicitly defined. Using too many qualitative factors or using factors that have not been demonstrated to affect caseloads could undermine the credibility of the entire weighted caseload analysis. Yet, ignoring all qualitative factors paints an unrealistic picture of judge need.

The State Court Administrator's Office should also consider collecting time records for the caseload study from only the most productive courts. This would mean identifying courts that best meet timing guidelines while maintaining justice and equity. We understand that it may be difficult to identify the most productive courts, and we are unaware of any other states that have done so in their weighted caseload analyses. At the same time, doing so reduces the burden involved with collecting time records from all district judges. Further, focusing on the most productive courts provides a goal to which other courts may aspire instead of merely reflecting statewide average practices. The State Court Administrator's Office should weigh the advantages and disadvantages of using this strategy.

Finally, as the state moves closer to full state funding for the courts, it will be important to objectively determine an appropriate number of court staff. If and when all Minnesota district courts become state funded, the State Court Administrator's Office should use weighted caseload analyses to estimate court support staff needs. A statewide weighted caseload study for support staff will mean an additional cost. Using an objective method to determine needs for support staff, however, will help promote equity in allocating resources statewide.

RETIRED JUDGES

To make up for temporary shortages of judges, some judicial districts receive funds to hire retired judges on a part-time basis. State statutes allow the Chief Justice of the Supreme Court to assign a retired judge to act as a district court judge.[16]

The Need for Retired Judges

In its weighted caseload analysis, the State Court Administrator's Office determines where the need for retired judges is greatest. Based on an amount of retired-judge money approved each year by the Conference of Chief Judges, the

16 *Minn. Stat.* (2000) §2.724, subd. 3.

State Court Administrator's Office adds retired-judge days to districts with the greatest shortage of judges. Together, the retired-judge days and a district's own judges represent that district's judicial resources.

Judicial districts with the greatest shortage of judges receive some help from retired judges.

With approval from the Conference of Chief Judges, the State Court Administrator's Office then adjusts each district's judicial resources through a process known as "equalization." Under equalization, those judicial districts with the greatest shortage of judges receive judge resources from other districts.[17] Judicial districts required to send judicial resources elsewhere may do so either by having a judge travel there for a predetermined number of days or by allotting sufficient funds to pay for the use of retired judges in the receiving district. Although some districts find it slightly more costly to transfer money for a retired judge than to send one of its own judges, they do so because of their own caseload needs.

In the last five fiscal years, four of the ten judicial districts consistently received equalization judges or funds for retired judges: the First District (south metropolitan Minnesota), Seventh District (north central Minnesota), Ninth District (northeastern Minnesota), and Tenth District (north metropolitan and east central Minnesota). In addition, the Fourth District (Hennepin County) received retired judge money for two of these five years, and the Third District (southeastern Minnesota) for one of them.

Over the past five fiscal years, the money budgeted for retired judges varied between $121,462 and $310,098 statewide. Of that, the State Court Administrator's Office used between $100,000 and $200,000 to assign retired-judge days to districts most short of judges.

The remaining portion of the money is for other uses of retired judges during the year. When judges spend time at Judicial College or judges teach courses for others, the district qualifies for money in an amount equivalent to the time spent. Judicial districts can use that money to hire retired judges.

Should prolonged illnesses or other unexpected judge absences occur later in a year, districts may adjust their individual budgets to hire retired judges. For example, they may use salary savings from vacant positions. However, when a judge retires or dies, the district is allowed to use only 25 percent of the salary savings for this purpose. The Conference of Chief Judges agreed on the 25 percent figure because of insufficient resources to reimburse a larger share.

Benefits and Drawbacks of Using Retired Judges

Districts that frequently use retired judges reported that they are grateful for the assistance. We learned from chief judges and district administrators in these districts that:

- **Retired judges can be a valuable resource, and without their help districts would expect increasingly serious backlogs.**

17 Further equalization of judge resources across the state may occur each year. For instance, in years when the Second District heard all tort cases for breast-implant litigation, which benefited other districts, judge allotments were adjusted to recognize this expenditure of Second District judges' time.

At the same time, chief judges and district administrators said that both the dollars for hiring retired judges and the supply of retired judges willing to work are insufficient. Districts said that they would use more retired judges if given the money to do so. About one-third of the 112 retired judges are actively taking assignments in District Court, according to a June 2000 report of the Conference of Chief Judges.[18] In a given district, however, the number of retired judges who are willing to come back to the bench may be minimal or nonexistent. These numbers may decrease even further in winter months when many retirees temporarily leave Minnesota for warmer climates.

About one-third of retired judges currently take assignments in district courts.

We also heard about some minor inconveniences of using retired judges. Retired judges who come in from outside a district may not be familiar with that district's procedures, such as those for handling arraignments or setting sentences. They may need additional time or technical assistance to adapt to district procedures. Further, retired judges may lack the expertise or desire to handle certain calendars, which forces a district to adjust other full-time judges' calendars to meet the given needs. Finally, a district may not have the requisite support resources, such as a law clerk, clerical support, or office space, for retired judges to conduct their work.

Of larger concern to chief judges and district administrators, however, was the issue of compensation for retired judges. According to statute, pay for retired judges amounts to the difference between the judge's retirement pay and the legislatively set salary paid to all district court judges.[19] This arrangement ensures that retired judges earn no more in combined pension and pay per day than full-time district judges earn per day. It means, however, that pay for retired judges is a function of their retirement benefits, not just the work they perform when they come out of retirement. We found that:

- **The larger a retired judge's pension, the smaller pay that judge receives.**

Pay for retired judges varies from $12 to $333 per day, according to the Conference of Chief Judges.

In its June 2000 report, the Conference of Chief Judges concluded that the method of compensating judges is inequitable and should change. It proposed that the Supreme Court, not the Legislature, have authority for determining compensation. Further, it concluded that a new formula, based on a percentage of a full-time judge's salary, should be used to set a uniform per diem wage for retired judges.

RECOMMENDATION

The Legislature should consider making the pay for retired judges uniform.

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18 Minnesota Conference of Chief Judges, *Retired Judge Usage* (St. Paul), June 22, 2000.

19 *Minn. Stat*. (2000) §2.724, subd. 3(a).

Uniform pay for retired judges would be more equitable and provide an incentive for more of them to serve.

Changing pay for retired judges would require amending *Minnesota Statutes* §2.724, subd. 3(a). More equitable payments to retired judges is, first, a matter of fairness. Currently, retired judges earn different amounts solely because the length of time they served as full-time judges determines their retirement pay. Second, encouraging retired judges to accept work is beneficial to the state because retired judges represent a cost-effective way to manage short-term judge shortfalls in districts. It is in Minnesota's best interest to provide incentives so that retired judges are available and willing to work in every district. A more equitable pay structure could help promote this objective.

4

Case Disposition Timeliness

SUMMARY

By some well-accepted measures, including the time courts take to dispose of cases, the proportion of incoming cases processed by courts in a year, and the time judges take to render decisions on individual cases, Minnesota's district courts process their caseloads in a reasonable amount of time. For most types of cases, district courts' ability to meet a final timing objective has improved over the last decade. Most district courts have been less successful in meeting earlier timing objectives for felonies and gross misdemeanors. Within judicial districts containing multiple counties, county-by-county performance in meeting timing objectives has varied widely. Although data are limited, district courts also appear to perform well compared with courts in other states that have similar judicial systems.

In 1990, a 12-member commission established by the National Center for State Courts published the Trial Court Performance Standards, specifying five areas for defining court performance: (1) access to justice; (2) expediency and timeliness; (3) equality, fairness, and integrity; (4) independence and accountability; and (5) public trust and confidence.[1] All five areas are considered fundamental to high performing courts. In this chapter we focus on the second area: timeliness. We ask:

- **What are the standards for assessing the timeliness of case dispositions?**
- **Have Minnesota's judicial districts met the standards?**
- **How do Minnesota's case disposition rates compare with those in other states, particularly those that have unified court systems?**

To answer these questions we reviewed national literature on judicial timing objectives, Minnesota statutes, information from the Board on Judicial Standards, and publications from the Minnesota Supreme Court. We also reviewed data from the State Court Administrator's Office on case filings, dispositions, and the time courts take to dispose of cases.[2] Data from the National Center for State

1 Pamela Casey, "Defining Optimal Court Performance: The Trial Court Performance Standards," *Court Review* (Winter 1998): 25. The commission included judges, court administrators, and scholars of judicial administration from around the country.

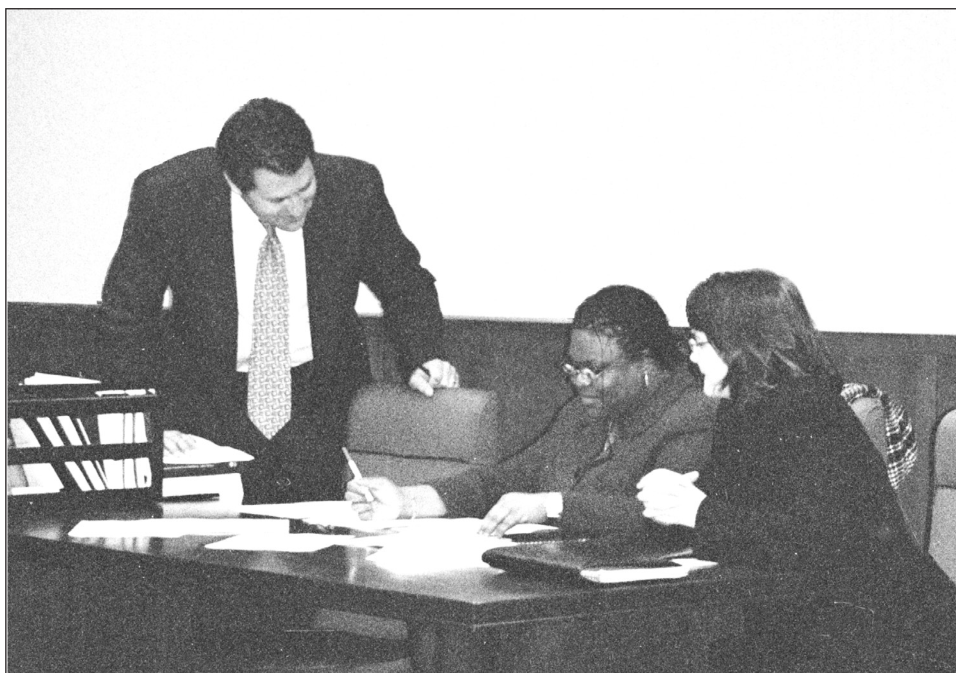
2 A disposition signifies an outcome determining what has happened with a case. According to the State Court Administrator's Office, dispositions include trials, cases that had court activity such as accepting a guilty plea, and other cases without a court hearing.

Courts allowed us to compare Minnesota with other states on some case-processing measures.

TIMING OBJECTIVES

Since 1985, Minnesota has had timing objectives for disposing of cases in district courts.

Well-managed courts provide just and fair decisions in a timely manner.[3] Timeliness is an important component of justice, and this section looks at how well the district courts are doing. Several national organizations took the lead during the mid-1980s in proposing objectives that defined how much time courts should use to dispose of specific types of cases. According to the National Center for State Courts, 34 states and the District of Columbia had adopted some form of mandatory or advisory case processing goals by 1995.[4] Minnesota's Conference of Chief Judges first adopted timing objectives in 1985 and updated them in 1989 in accordance with timing standards set by the American Bar Association. In addition, the Minnesota Legislature adopted specific timing standards in 1989 for disposing of criminal cases.[5] Table 4.1 describes the timing objectives established



More complex cases typically take more time.

3 Brian Ostrom and Roger Hanson, *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts* (National Center for State Courts, 1999), 107-113.

4 Janice Fernette, National Center for State Courts, memorandum on the National Center for State Courts website, http://www.ncsc.dni.us/is/MEMOS/S94-3989.htm, January 31, 1995; accessed July 21, 2000.

5 *Minn. Stat.* (2000) §631.021. Ninety percent of all crimes must be disposed of within 120 days, 97 percent must be disposed of within 180 days, and 99 percent must be disposed of within 365 days. Time is measured from the date the criminal complaint is filed to the date the defendant is found not guilty or sentenced.

Table 4.1: Timing Objectives Established by the Conference of Chief Judges for Case Dispositions

Type of Case	Percentage of Cases to be Disposed of Within Set Time
Major criminal	
Felony, gross misdemeanor	90% in 4 months 97% in 6 months 99% in 12 months
Major civil	90% in 12 months 97% in 18 months 99% in 24 months
Major probate	90% in 18 months 97% in 21 months 99% in 24 months
Major family	
Adoption	90% in 4 months 97% in 6 months 99% in 12 months
Child support[a]	90% in 6 months 97% in 9 months 99% in 12 months
Domestic abuse	90% in 2 months 97% in 3 months 99% in 4 months
Marriage dissolution, other family, other juvenile	90% in 12 months 97% in 18 months 99% in 24 months
Major juvenile	90% in 3 months 97% in 5 months 99% in 6 months

[a]Different federal standards apply to certain child support cases.

SOURCE: Office of the Legislative Auditor's analysis of information from the State Court Administrator's Office.

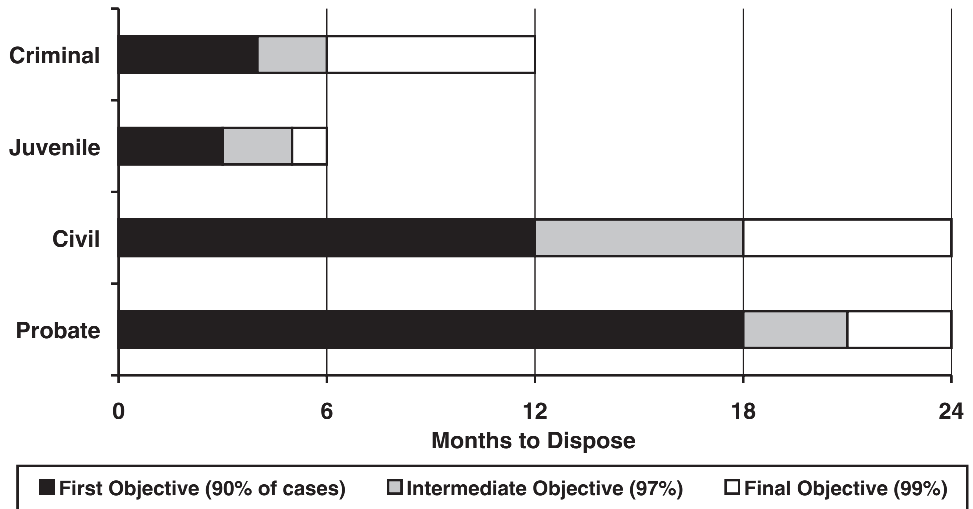
Timing objectives vary by type of case.

by the Conference of Chief Judges for different case types.[6]

In the timing objectives adopted by the Conference of Chief Judges, three timing intervals exist for each type of case. As depicted in Figure 4.1, the first timing objective for criminal cases recommends that courts dispose of 90 percent of criminal cases within four months. The intermediate timing objective is disposing of 97 percent of criminal cases within six months. The final timing objective is disposing of 99 percent of criminal cases within one year. Using 99 percent rather than 100 percent allows some flexibility for a small number of very complex cases that may require significantly more time than other cases.

6 We noticed discrepancies between the statutory timing objectives for criminal cases and those provided to us by the State Court Administrator's Office. Statutes specify 120, 180, and 365 days as the three timing objectives, compared with 122, 183, and 365 days specified by the State Court Administrator's Office. Some of the difference may come from the use of months rather than days. For criminal cases where data were available, we used the statutory numbers in our calculations.

Figure 4.1: Timing Objectives for Disposition of Four Major Case Types



NOTE: Family cases include a range of timing guidelines and have been excluded from this figure.

SOURCE: Office of the Legislative Auditor's analysis of data from the State Court Administrator's Office.

Judges are expected to dispose of juvenile cases more quickly than other case types.

Cases differ in many ways, and the timing objectives reflect some of these differences. Juvenile cases are expected to be disposed of more quickly than other types, with three months as the first objective, five months as the intermediate objective, and six months as the final objective. In contrast, the three timing objectives for probate cases are much longer, specifically 18 months, 21 months, and 2 years.

We examined how well Minnesota courts met the statutory objectives for criminal cases and the objectives established by the Conference of Chief Judges for other types of cases. The State Court Administrator's Office provided us with files for major criminal cases with which we examined performance on the first and intermediate timing objectives for felonies and gross misdemeanors from 1995 to 1998.[7] We used data from the State Court Administrator's Office publication *Statistical Highlights* to calculate eight-year trends on the final timing objective for five major types of cases from 1991 to 1998. Based on our analyses, we conclude that:

- **By some well-accepted measures, Minnesota's judicial districts have processed their caseloads in a reasonable amount of time. How well individual districts have met the timing guidelines, however, varies by case type, district, and county.**

7 We were unable to obtain reliable data on the first and intermediate objectives for major civil, major juvenile, major family, and major probate cases. Although the State Court Administrator's Office's *Statistical Highlights* publications reference the objectives, data files were not available. Because of changes to information systems in the State Court Administrator's Office, data for 1999 and later cannot be reliably compared to earlier years.

In the sections below we explain this conclusion and show how performance varies across and within districts.

Final Timing Objective for Major Cases

Considering major case types, including major criminal, major juvenile, major civil, and major family cases, we found:

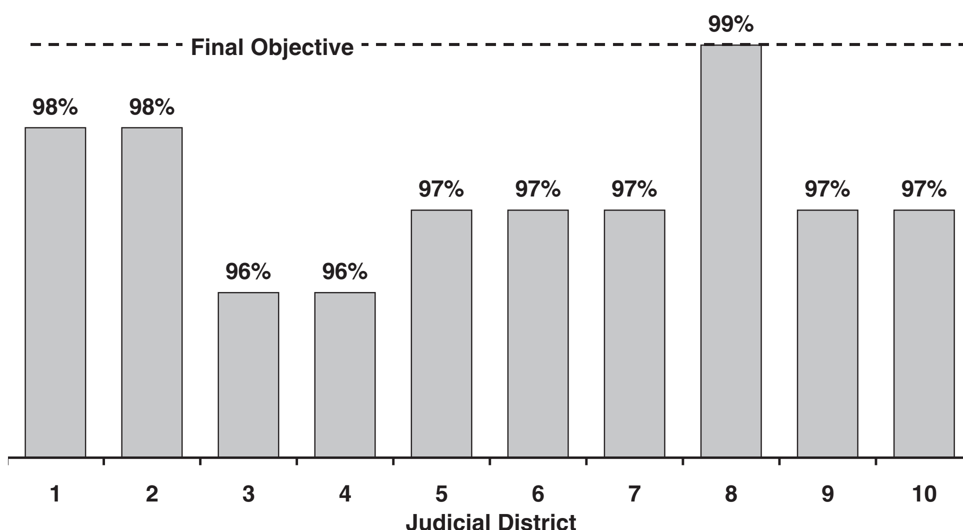
- **Minnesota's ten judicial districts have come closer over time to meeting the final timing objective of disposing of 99 percent of their major cases within specified numbers of months.**

Districts varied in how well they met the final timing objective for major cases, as discussed below. Major cases are those, such as felonies and gross misdemeanors, that typically take the most time and resources; minor cases, such as many traffic offenses, are more common but consume relatively fewer resources.

In 1998, the most recent year for which we have reliable data, districts disposed of 96 to 99 percent of all major cases within the specified number of months, as shown in Figure 4.2. One of the ten districts achieved the final timing objective and the others were close. Two districts disposed of 98 percent of their major cases by the final timing objective, five districts disposed of 97 percent, and two districts disposed of 96 percent.

Districts met, or came close to meeting, the final timing objectives for major cases in 1998.

Figure 4.2: Percentage of Major Cases Meeting the Final Timing Objective by District, 1998

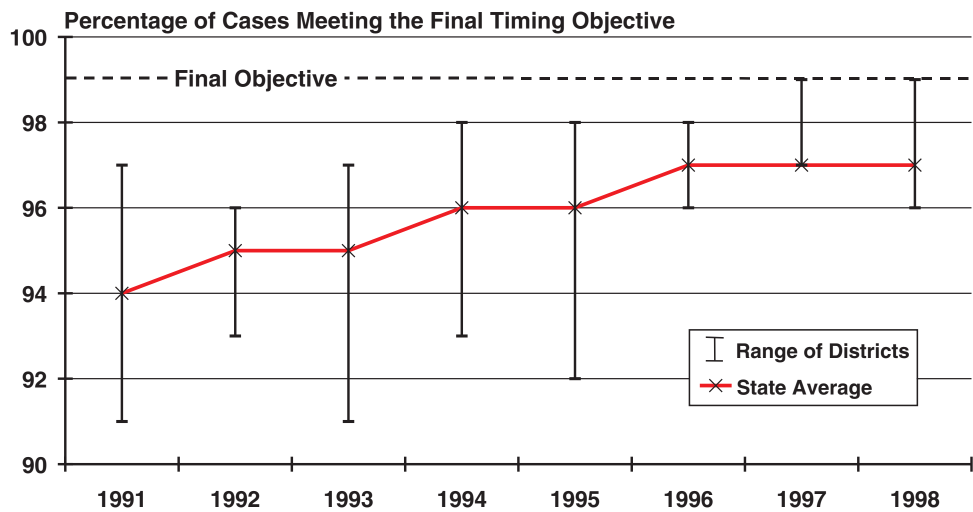


SOURCE: Office of the Legislative Auditor's analysis of data from the State Court Administrator's Office, *Statistical Highlights 1998* (St. Paul, June 2000), 17.

Since 1991, district courts improved the proportion of major cases meeting the final timing objective, as shown in Figure 4.3.[8] In 1991, judicial districts on average disposed of 94 percent of all major cases within the final timing guidelines, and by 1998 this increased to 97 percent. The range of cases meeting the final timing objective in 1991 varied from 91 percent to 97 percent of major cases. By 1998, the range narrowed: the ten districts disposed of between 96 and 99 percent of major cases within the final objective.

During the 1990s, district courts improved their performance in meeting the final timing objective for major cases.

Figure 4.3: Range of Judicial District Performance on the Final Timing Objective for Major Cases, 1991-98



NOTE: For 1997, the state average intersects with seven of the ten judicial district averages.

SOURCE: Office of the Legislative Auditor's analysis of data from the State Court Administrator's Office, *Statistical Highlights 1998* (St. Paul, 2000) and prior volumes.

Looking at specific types of cases, we examined disposition trends for four of the five types of major cases.[9] For civil, family, and juvenile cases the only data available were on the final timing objective. On the other hand, for major criminal cases, data were available on the first, intermediate, and final timing objectives. We review the criminal case data later in this chapter. The ability of districts to meet the final objective varied by type of major case.

We found that:

- **Most districts met the final timing objective for major civil cases in 1998, and all districts improved their performance during the 1990s.**

Nine of the ten judicial districts achieved the final timing objective for civil cases in 1998. These districts disposed of at least 99 percent of all civil cases within two years; the remaining district, the Sixth District in northeastern Minnesota,

8 All districts improved with the exception of the Seventh District (north central Minnesota) which disposed of the same percentage in 1991 and 1998.

9 Data for probate cases during the period in question were not available.

disposed of 97 percent of all civil cases within two years. Between 1991 and 1998, all judicial districts improved their percentages of civil cases meeting the final timing objective. The most dramatic change occurred in the Ninth District (northwestern Minnesota) where the percentage of civil cases disposed of within two years increased from 86 percent in 1991 to 99 percent in 1998.

According to our analysis:

- **More than half of the judicial districts met or exceeded the final timing objectives for major family cases in 1998, and nearly all districts improved their performance during the 1990s.**

In 1998, six districts disposed of at least 99 percent of their family cases within the specified guidelines.[10] Three districts came very close to achieving the timing objectives, disposing of 98 percent of their family cases on a timely basis. The remaining district, the Third District in southeastern Minnesota, disposed of 94 percent of its family cases within the specified times. Since 1991, five districts improved the percentage of major family cases meeting the final objective by four or more percentage points and four other districts improved somewhat less. The Third District disposed of 94 percent of family cases by the final objectives in both 1991 and 1998.

Performance on timing objectives varied by case type.

Fewer district courts met the final objective for juvenile cases. Based on our analysis:

- **Most districts came close in 1998 to meeting the final timing objective for juvenile cases, although only one met it. Most districts improved their performance slightly during the 1990s.**

For juvenile cases in 1998, only the Eighth District (west central Minnesota) achieved the final timing objective. Eight districts came close by disposing of 96 to 98 percent of their juvenile cases in six months. The Fourth District (Hennepin County) in 1998 disposed of 93 percent of its juvenile cases within six months. Between 1991 and 1998, the statewide average increased slightly but most of the change occurred between 1991 and 1992, with minor fluctuations during the next six years. During the eight-year period, seven of the ten districts increased by one or more percentage points the percentage of juvenile cases processed within six months. The three remaining districts already were high performing districts in 1991; over the eight years, two were unchanged and one decreased by a percentage point.

Timing Objectives for Felonies and Gross Misdemeanors

As mentioned previously and shown in Table 4.1, the Conference of Chief Judges has adopted three specific timing objectives for felonies and gross misdemeanors.

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10 As shown in Table 4.1, objectives for family court cases vary by type of case; the final objective ranges from 4 months for domestic abuse to 24 months for marriage dissolution.

We analyzed how well districts met the three timing objectives for major criminal cases for the period 1995 to 1998.[11] According to our analysis:

- **Minnesota's district courts met final timing objectives for criminal cases reasonably well but failed to meet the first and intermediate objectives.**

Generally, judicial districts met the final timing objectives reasonably well, although there is variation among counties within individual judicial districts. No district came close to meeting the first and intermediate timing objectives.

Final Timing Objective for Felonies in 1998

Based on our analysis:

- **Statewide in 1998, district courts disposed of 96 percent of all felony cases within Minnesota's final timing objective of 12 months.**

Three of the ten judicial districts in 1998 nearly met the final timing objective by disposing of 98 percent of felonies within 12 months, and most other judicial districts came close. One district disposed of 97 percent of felonies within 12 months that year. Another five districts disposed of 95 to 96 percent, and the remaining district disposed of 93 percent of felonies in 12 months.

Most districts came close to meeting the final timing objective for felonies in 1998 but were less likely to do so for serious felonies.

Within districts, the extent to which individual counties achieved timing guidelines varied. For example, the Ninth District (northwestern Minnesota) in 1998 disposed of 96 percent of felony cases overall in 12 months. But, as illustrated in Figure 4.4, for the district's 17 counties, the percentage of cases disposed of ranged from 86 percent for one county to 100 percent for seven other counties.

As might be expected, when looking only at serious felony cases, such as homicides, courts were less likely to meet the final timing objective. Statewide, districts disposed of only 90 percent of serious felonies within 12 months, compared to 97 percent of other felonies. Serious felonies represented just 7 percent of all felonies in 1998.

First and Intermediate Timing Objectives for Felonies in 1998

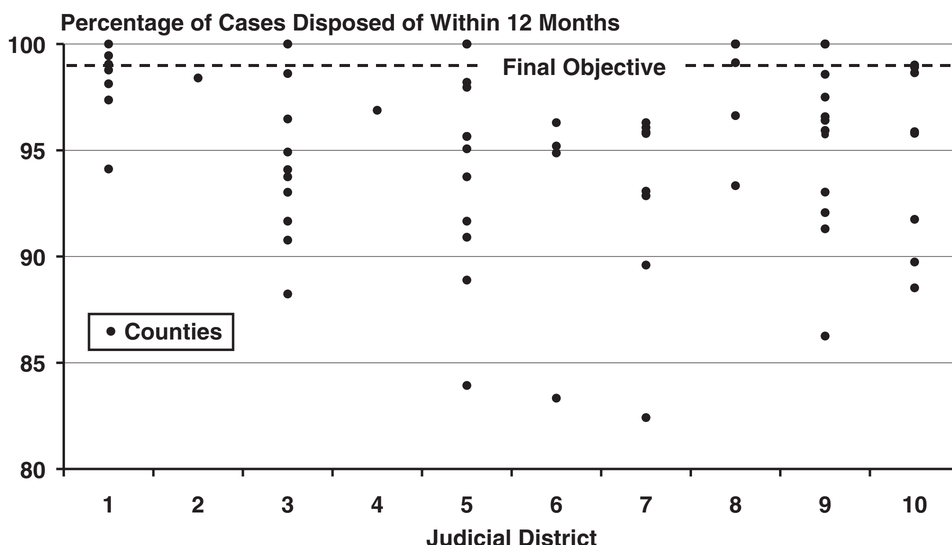
District performance on the first and intermediate timing objectives contrasted sharply with performance on the final timing objective. We found that:

- **Few districts came close to the intermediate timing objective for felonies, and fewer still approached the first timing objective.**

In 1998, the ten districts ranged from disposing of 68 to 90 percent of their felony cases within 6 months, compared to the intermediate timing objective of

11 The data for these analyses were generated from separate files submitted by the State Court Administrator's Office, and the calculated percentages for some of the final timing objectives differed slightly from those in the *Statistical Highlights* series reported earlier in this chapter. We do not report data for 1999 due to data problems in the State Court Administrator's Office, which changed information systems in 1999.

Figure 4.4: Range of Counties Meeting the Final Timing Objective for Felonies by District, 1998



SOURCE: Office of the Legislative Auditor's analysis of the State Court Administrator's Office data on timing performance for felonies and gross misdemeanors, 1998.

97 percent of cases. During that same year, the ten judicial districts ranged from disposing of 44 to 72 percent of their felonies within four months, compared to the first objective of 90 percent of cases.

No district met the first or intermediate timing objectives for serious felonies or other felonies in 1998.

Similarly, looking only at serious felonies, more districts came closer to meeting the final timing guideline than either the intermediate or first timing objectives. During 1998, the ten judicial districts disposed of 43 to 78 percent of serious felony cases within 6 months, compared to the intermediate timing objective of 97 percent of cases. Similarly, the districts disposed of 20 percent to 53 percent of their serious felonies within four months, compared with the first objective of 90 percent of cases.

Within districts, counties' ability to meet the earlier timing objectives varied considerably, especially when compared with meeting the final timing objective. For example, during 1998 counties in the Eighth District (west central Minnesota) disposed of between 36 and 92 percent of felonies within the first timing objective (four months) compared with disposing of 93 to 100 percent of all felonies by the final timing objective (12 months).

Trends for Felonies Since 1995

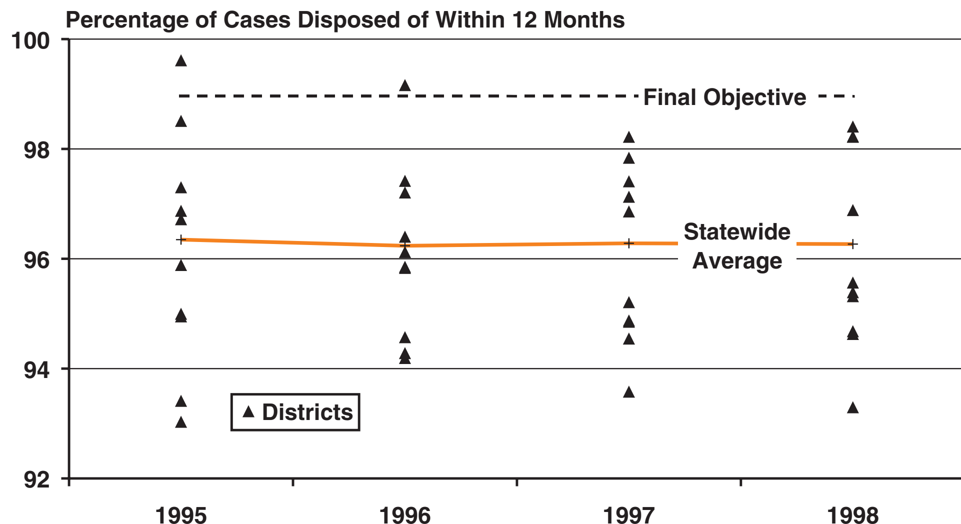
According to our analysis:

- **Unlike 1995 or 1996, no district met the final timing objective for disposing of felonies in 1997 or 1998, although several came close.**

Since 1995, differences among districts in meeting the final timing objective for felonies have narrowed.

Despite the overall increase in the number of felonies since 1995, the ability of the ten districts to meet the timing objective for felonies has remained fairly stable, but the differences among the districts narrowed somewhat, as illustrated in Figure 4.5. From 1995 to 1998, three districts decreased and two districts increased the proportion meeting the final timing objective by one or two percentage points; five remained unchanged.

Figure 4.5: Range of Judicial Districts Meeting the Final Timing Objective for Felonies, 1995-98



SOURCE: Office of the Legislative Auditor's analysis of State Court Administrator's Office data on timing performance for felonies and gross misdemeanors, 1995-98.

Patterns were similar within districts. From 1995 to 1998, 30 counties in the eight multiple-county districts improved the percentage of cases meeting the final timing objective. These counties were distributed fairly evenly across all districts. Similarly, the counties with increases and large decreases were found in every multiple-county district. Although the percentage of felonies disposed of in three of the four counties in the Sixth District (northeastern Minnesota) slipped in 1998, for two of those counties the percentage of cases meeting the final timing objective was already high in 1995 at 100 and 98 percent.

Trends for serious felonies were less positive. The statewide average percentage of serious felonies disposed of within 12 months decreased from 92 percent in 1995 to 90 percent in 1998. The percentage of serious felonies meeting the final objective declined in all districts during this period with two exceptions; the Fourth District (Hennepin County) remained unchanged at 94 percent and the Fifth District (southwestern Minnesota) improved slightly from 86 percent to 87 percent. As noted in Chapter 2, filings for serious felonies declined between 1992 and 1998, so it seems likely that any degradation in performance is due to factors other than increased numbers of cases. However, performance might decline if courts reallocate resources to other cases, or if more recent serious

felonies are more complex and require more resources on an individual basis. It is not possible to determine from these data alone the specific reasons for the observed changes.

Timing Objectives for Gross Misdemeanors

Our analysis showed that:

- **District courts were successful in meeting or nearly meeting the final timing objective for gross misdemeanors in 1998.**

The ten judicial districts on average disposed of 98 percent of their cases within 12 months, very near to the final timing objective. For 1998, three districts met the final objective, two came close by disposing of 98 percent, and the remaining five districts were not far behind, disposing of 97 percent of gross misdemeanors in 12 months.

Among counties within judicial districts, performance on the timing objectives for gross misdemeanors varied.

Individual counties again differed considerably within certain districts. For example, among the 15 counties in the Fifth District (southwestern Minnesota), 1 county disposed of 88 percent of its gross misdemeanors within 12 months in 1998 while 5 counties disposed of 100 percent.

We also found that:

- **As with felonies, judicial districts came closer to meeting the final objective than the first and intermediate timing objectives for gross misdemeanors.**

Statewide in 1998, judicial districts disposed of an average 89 percent of gross misdemeanor cases in six months, compared with the intermediate guideline of 97 percent. They disposed of an average 77 percent of gross misdemeanors within four months, compared with the guideline of 90 percent. Within each multiple-county district, counties varied widely in their ability to meet either timing objective. For example, in 1998, counties in the Seventh District (north central Minnesota) ranged from 63 to 95 percent of cases meeting the intermediate timing objective.

Trends for Gross Misdemeanors Since 1995

District performance on the final timing objective remained high between 1995 and 1998 for gross misdemeanors, averaging about 98 percent of cases disposed of each year. For 1998, almost all districts were within one percentage point of their gross misdemeanor disposition rates from 1995, with nine of the districts exhibiting very small decreases and one an increase. For counties within districts, changes between 1995 and 1998 on the timing objectives for gross misdemeanors were much smaller than changes noted previously for felonies.

CLEARANCE RATES

Another measure of district court performance is the "case clearance rate" — the number of cases disposed of in a year divided by the number of cases filed during the same period. Clearance rates of 100 percent indicate no added backlog of cases for the year. Clearance rates in excess of 100 percent indicate that a pre-existing backlog of cases has been reduced.

We found that:

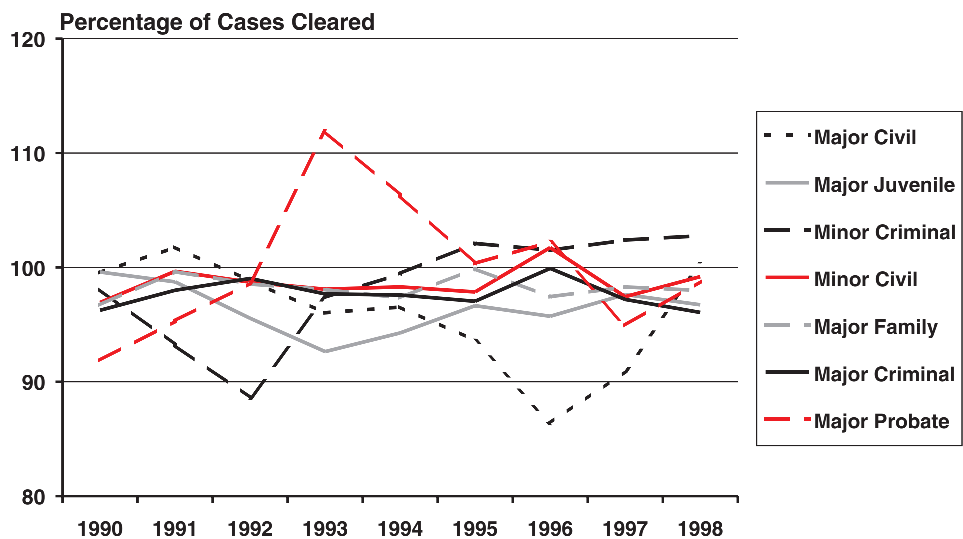
- **On average for all judicial districts in 1998, clearance rates varied from 96 to 103 percent, depending on case type.**

District courts have, for the most part, been able to clear as many cases as are filed each year.

Statewide in 1998, the clearance rates for major cases ranged from 96 percent for major criminal cases to 103 percent for minor criminal cases. Civil and probate clearance rates were also at or near 100 percent. Clearance rates for major family and major juvenile cases were 98 and 97 percent, respectively.

Since 1990 most clearance rates have fluctuated. Years of lower rates were often followed by a year or so of higher rates.[12] The widest fluctuations occurred for minor criminal, major civil, and probate cases, as shown in Figure 4.6. Clearance rates for major criminal cases improved slightly or held steady from 1990 through 1998. Rules requiring speedy trials in major criminal cases may explain the

Figure 4.6: Statewide Clearance Rates for Seven Case Types, 1990-98



SOURCE: Office of the Legislative Auditor analysis of data from the State Court Administrator's Office on filings and dispositions, 1990-98.

12 Such fluctuations might reflect efforts to reduce or eliminate a backlog or the addition of resources, but this is not possible to determine from the available data.

volatility in clearance rates for other case types; to comply with the rules of criminal procedure, some judges told us they had to delay other cases while first hearing criminal cases.

Clearance rates for a few civil cases, such as harassment and wrongful death suits, approached or exceeded 100 percent from 1992 through 1998.[13] Clearance rates for employment suits improved over the period. Clearance rates for yet other major civil cases, such as personal injury cases and conciliation appeals, decreased in the 1990s, but increased dramatically in 1998 to 103 and 106 percent, respectively.

Clearance rates for most juvenile cases were less than 100 percent from 1992 to 1998. Rates for most types of juvenile cases generally increased during the period. For runaway and delinquency gross misdemeanors in 1998, however, the clearance rate was 100 percent.

Within judicial districts, case clearance rates varied by county.

Clearance rates for family cases also varied. Clearance rates for adoption, marriage dissolution without children, and domestic abuse equaled or exceeded 100 percent in 1998. The clearance rate for other family cases was 91 percent in 1998; since 1992, it varied from year to year with a low of 80 percent in 1996 and a high of 99 percent in 1997. Rates generally improved slightly since 1992 for most types of family cases. The two exceptions, marriage dissolution with children and dissolution without children, had high clearance rates in 1992 and little room for improvement.

Across judicial districts, clearance rates differed considerably. As shown in Figure 4.7, districts ranged from 96 percent to 101 percent of major cases cleared in 1998. The relative rank of each district tended to change from year to year and no district ranked consistently high. The pattern was similar for minor cases.

Within districts, clearance rates often varied dramatically. For major criminal cases in the Eighth District (west central Minnesota), for instance, county clearance rates ranged from 65 percent in one county to 131 percent in another for 1998. Again, no single county appeared to be consistently high between 1990 and 1998.

CONTINUANCE RATES

Another commonly accepted measure of a court's caseflow management system is the percentage of events that take place on the date originally scheduled.[14] Trial dates that are frequently rescheduled (continued to later dates), unduly delay case processing. Although continuance rates are an important measure of performance, the information systems in use by the State Court Administrator's Office do not collect the data needed to calculate continuance rates. Consequently, we were

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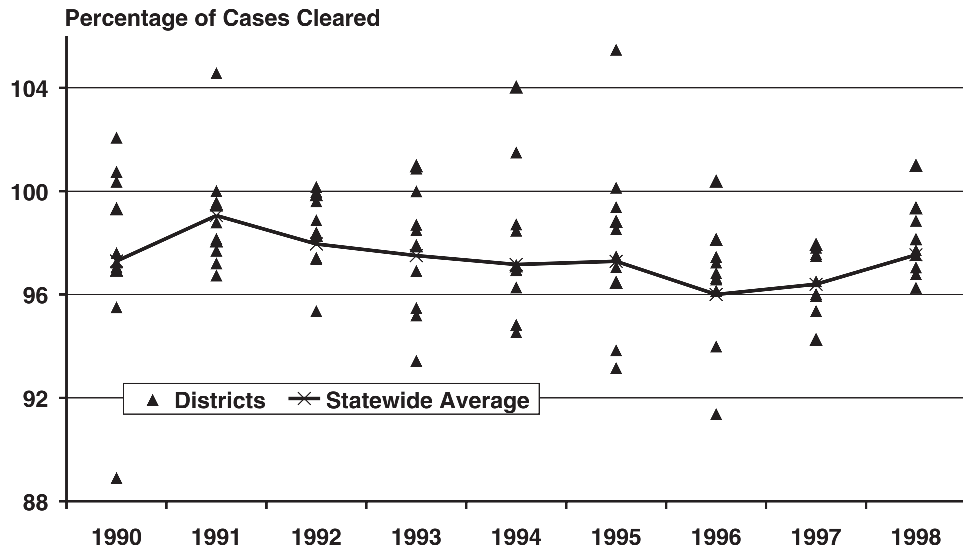
13 We calculated clearance rates for individual types of cases from 1992 to 1998 because statistics were not kept on several types of cases prior to 1992.

14 Barry Mahoney, Karen Booth, Richard Hoffman, and Douglas Somerlot, *Improving Your Jurisdiction's Felony Caseflow Process* (The Justice Management Institute, April 2000), 17.

Figure 4.7: Major Case Clearance Rates by Judicial District, 1990-98



SOURCE: Office of the Legislative Auditor's analysis of filings and clearance data from the State Court Administrator's Office.

Data are unavailable to determine how well district courts control continuances of cases.

unable to analyze how well district courts control continuances of cases. As described in Chapter 5, however, many district courts have taken steps to ensure that trials occur when originally scheduled, and most judges and attorneys do not think that continuances contribute greatly to delays in case processing.

COMPARING MINNESOTA WITH OTHER STATES

State-by-state comparisons do not exist on measures such as the amount of time taken to dispose of cases. We examined what information is available on other states and conclude that:

- **Minnesota district courts appear to have met timing guidelines as well as or better than courts in other states.**

In a National Center for State Courts report on trial courts in other states, only 5 of 17 courts in 1995 resolved at least 97 percent of their felony cases within a year of arrest, and none met the American Bar Association timing objective of

resolving 100 percent.[15] In 1995, Minnesota courts around the state disposed of an average 97 percent of felonies within 12 months from the date of filing.[16] Three of the ten Minnesota judicial districts disposed of 98 percent or more of the felony cases that year.

Another comparative measure is the age of cases at their disposition. All other things being equal, disposing of cases in fewer days is generally preferable to more days. For Minnesota felony cases in 1995, the median age of cases (99 days) was less than that for the 17 courts (126 days). Minnesota as a whole had a median age for felonies that was lower than 13 of the 17 courts studied. Within Minnesota, however, the median age of felony cases in 1995 varied substantially, from 76 days in the First District (south metropolitan Minnesota) to 136 days in the Third District (southeastern Minnesota).

A much earlier National Center for State Courts study of 34 courts around the nation, including Minnesota's Second (Ramsey County) and Fourth (Hennepin County) districts, showed that no court met the American Bar Association objective for disposing of all felony cases within one year.[17] Six of these courts came close by disposing of at least 98 percent of felonies within one year for cases in 1987. Ramsey County and Hennepin County were near the average, disposing of 87 and 89 percent of felonies, respectively. Similar results were found for civil cases in 1987. No court met the American Bar Association guideline for disposing of all civil cases within two years, but 2 of the 34 courts disposed of at least 95 percent. Ramsey and Hennepin counties were at or above the median that year by disposing of 87 and 90 percent of their civil cases, respectively, within two years.

In addition to timing guidelines, we compared case clearance rates among comparable states. We conclude that:

Compared with similar states, Minnesota's clearance rate was superior for criminal cases and comparable for civil cases in 1998.

- **Minnesota's case clearance rates between 1993 and 1998 compared well to those in similar states.**

A comparison of cases cleared in states with unified court systems indicates that Minnesota had similar or better clearance rates for total filings in the years from 1993 to 1998, as shown in Figure 4.8. In 1998, Minnesota district courts reported a 102 percent clearance rate when looking at total case filings, compared to a median 96 percent clearance rate among seven similar states.[18]

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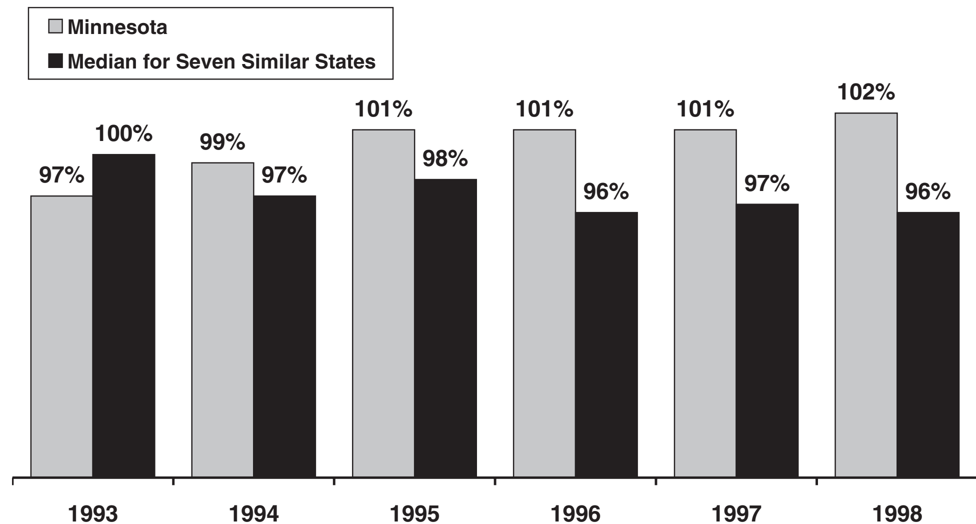
15 Brian Ostrom and Neal Kauder, eds., *Examining the Work of State Courts*, *1998* (National Center for State Courts, 1999), 106. The American Bar Association's timing objective differs slightly from Minnesota's. The American Bar Association says 100 percent of felony cases should be disposed of in 365 days from date of arrest, while Minnesota's objective is disposing of 99 percent of felonies within a year of filing the case. Because of speedy trial rules for criminal cases in Minnesota, making Minnesota's data comparable to that reported for other states would add only a small amount of time to account for the period between arrest and filing of the case.

16 State Court Administrator's Office, *Statistical Highlights 1995* (St. Paul, 1996), 17.

17 John A. Goerdt, *Reexamining the Pace of Litigation in 39 Urban Trial Courts* (National Center for State Courts, 1991), 4.

18 The seven similar states were: Illinois, Iowa, Kansas, Missouri, North Dakota, South Dakota, and Wisconsin.

Figure 4.8: Case Clearance Rates for Minnesota and Seven Similar States, 1993-98



SOURCE: Office of the Legislative Auditor's analysis of data from Melissa Cantrell, et. al., *State Court Caseload Statistics, 1998* (National Center for State Courts, 1999) and prior volumes.

Clearance rates varied by type of case. For criminal filings, Minnesota reported a 103 percent clearance rate in 1998, compared with a median 97 percent in the other seven states.[19] Minnesota's clearance rate for civil filings in 1998 was 98 percent compared with a median 99 percent in the comparable states.[20]

DEADLINE FOR CASES TAKEN UNDER ADVISEMENT

In addition to the timing objectives for disposing of cases, state statutes require judges to render judgments within 90 days after all motions or questions of fact and law have been submitted to a judge for a decision, commonly known as "taking a case under advisement."[21] Exceptions are allowed for sickness, accidents, or if the parties to the case give written consent to extend the deadline. Further, judges must file decisions within 15 days on matters related to petitions involving physical or sexual abuse of a child alleged to be in need of protection or

For the few cases exceeding the deadline, judges nearly always disposed of them shortly thereafter.

19 For this comparison, criminal includes major and minor criminal cases, including DWI but excluding other traffic offenses and domestic violence cases.

20 Clearance rates for all states but Minnesota are as reported by the National Center for State Courts. We adjusted Minnesota's civil case clearance rate because of incomplete data on the number of civil dispositions supplied to the National Center for State Courts in 1998. For this comparison, civil cases include family, probate, and domestic violence cases, but they exclude transcript judgments and default judgments.

21 *Minn. Stat.* (2000) §546.27, subd. 1.(a).

neglected and in foster care. If judges fail to file decisions within the deadline, the statute prohibits payment of their salary.

We found that:

- **Of the thousands of cases taken under advisement each year since 1995, only a fraction of 1 percent failed to meet the 90-day deadline for disposition.**

Judges comply with the law for the overwhelming majority of cases taken under advisement. In 1999, for example, of the 17,615 cases recorded as having been taken under advisement, only 37, or 0.2 percent, exceeded the deadline. This low percentage typified all the months we examined from 1995 to June 2000.

Furthermore, the few cases out of compliance were nearly always disposed of shortly thereafter. Statutes require the Board of Judicial Standards to review judge compliance with the deadline and notify the Commissioner of Finance about noncompliance.[22] By the time the board goes to the commissioner, the judges have typically come into compliance.[23]

No single judicial district appeared to have a disproportionate share of cases exceeding the 90-day deadline between 1995 and June 2000. One exception to this was a slightly higher number of cases in the Third District (southeastern Minnesota) for some months from September 1998 through March 2000, but this was due mostly to one judge's serious illness and subsequent death. Two districts, the Fifth (southwestern Minnesota) and the Eighth (west central Minnesota), had no cases exceeding the deadline in that five-year period.

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22 *Minn. Stat.* (2000) §546.27, subd. 2.

23 David S. Paull, executive secretary, Board on Judicial Standards, Telephone interview by author, St. Paul, Minnesota, July 19, 2000.

5 Balancing Timeliness and Justice

SUMMARY

Delay in the processing of cases is not a serious problem in Minnesota's district courts, although it occurs for some types of cases. Judges and attorneys we surveyed tended to believe that Minnesota courts are usually able to process cases efficiently without sacrificing justice and equity. They also felt, however, that judges need to spend more time on cases if people are to feel that their concerns are fully heard. Districts employ different strategies to schedule and manage cases, and they have increasingly relied on technological improvements to help manage their caseloads.

The previous chapter indicated that Minnesota's district courts have generally been able to keep pace with their caseloads and resolve most cases in a timely way. In addition to expediency and timeliness, the guiding principles for the Trial Court Performance Standards include "access to justice" and "equality, fairness and integrity."[1] This means in part that trial courts should provide an opportunity for all who appear in court to participate effectively. It also means that trial courts should give individual attention to cases. According to national experts, high levels of both timeliness and quality outcomes are hallmarks of well-managed courts.[2] In this chapter we focus on the need to balance timeliness with quality outcomes. Specifically, we ask:

- **Do judges and attorneys believe that the courts are able to process cases efficiently without sacrificing equity and justice?**
- **What do judges and attorneys say are the most important factors that contribute to court delay? Is delay viewed as more of a problem in some judicial districts than in others? What new issues face the courts today that may not have affected case flow in the past?**
- **How do courts manage their case flows? What technological and other initiatives have courts taken to improve case processing?**
- **What suggestions do judges and attorneys have for improving case processing?**

To answer these questions, we mailed questionnaires to all district court judges and to a sample of attorneys and asked them about the extent of delay and the

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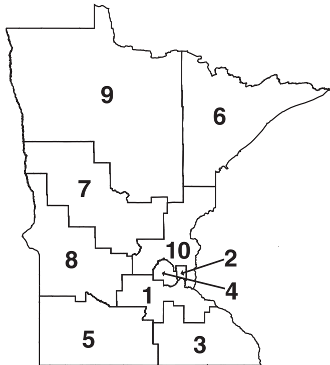
1 Pamela Casey, "Defining Optimal Court Performance: The Trial Court Performance Standards," *Court Review* (Winter 1998): 25.

2 Brian Ostrom and Roger Hanson, *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts* (National Center for State Courts, 1999), 107-113.

factors that contribute to delay. We received timely responses from 215 judges, or 85 percent of the 252 judges to whom we mailed questionnaires. For the attorneys, we sent questionnaires to all 87 county attorneys, a sample of 200 city attorneys, a sample of 200 public defenders, and a sample of 364 private attorneys. We received responses from 77 county attorneys (89 percent), 138 city attorneys (73 percent), 133 public defenders (71 percent), and 229 private attorneys (67 percent). Overall, we received responses from 577 of the 804 attorneys to whom we sent the questionnaire (72 percent). We also surveyed court administrators in each county about case management and other court operations. Of the 89 court administrators (including 2 deputy court administrators in St. Louis County) we received responses from 84, for a 94 percent return rate. Appendix A contains additional information on our survey methodology.[3]



In addition to the surveys, we interviewed the chief judges and district administrators in all Minnesota judicial districts and asked them about case scheduling and management. We also observed courts in session and talked informally with judges from the First, Second, Fourth, Seventh, and Ninth judicial districts to get first-hand knowledge of the day-to-day operations of the courts.

PROCESSING CASES EFFICIENTLY WHILE PRESERVING JUSTICE

In our survey of judges, we asked about the efficiency of case processing, preserving justice, and the extent of delay. We requested that judges answer separately for criminal, juvenile, family, civil, and probate cases. We found that:

- **For the most part, judges believe that they are able to manage cases efficiently without sacrificing justice and equity.**

Majorities of judges and attorneys believe the courts balance efficiency and justice.

Figure 5.1 shows the percentage of judges agreeing or strongly agreeing with the statement, "most cases are processed in a timely manner." Depending on the type of case, between 76 percent and 93 percent of judges said that cases are being processed in a timely manner.[4]

Furthermore, Figure 5.2 shows that, depending on the type of case, between 69 percent and 83 percent of judges agreed or strongly agreed with the statement, "courts generally manage caseloads efficiently while preserving justice and equity." Slightly fewer judges agreed with the statement for family cases than for other types of cases.

In our survey of attorneys, we asked similar questions about case processing, preserving justice, and delay. We found that:

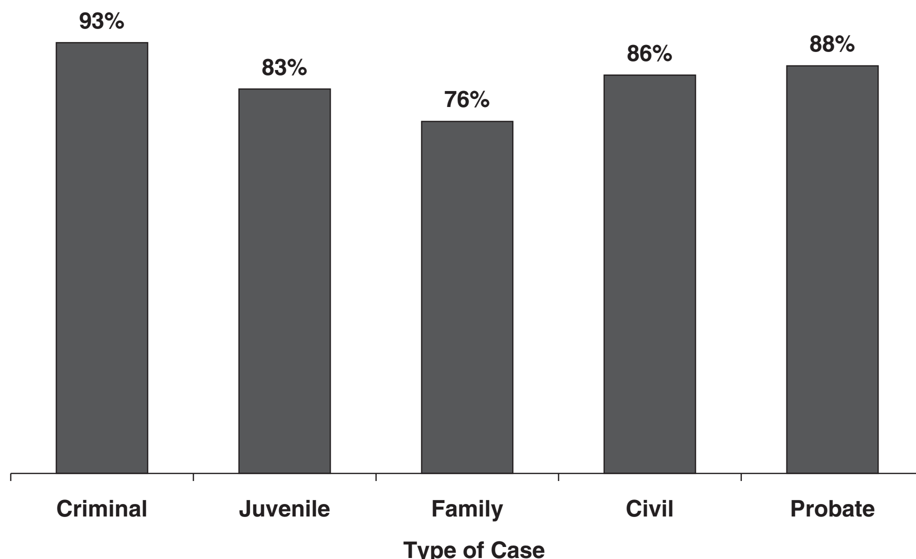
- **Attorneys generally believe that courts manage cases efficiently without sacrificing justice and equity.**

3 Aggregate results from the surveys are available at our web site: http://www.auditor.leg.state.mn.us/ped/2001/pe0102.htm.

4 All percentages cited in this chapter are based on the number of individuals responding to the question, excluding those who responded "don't know."

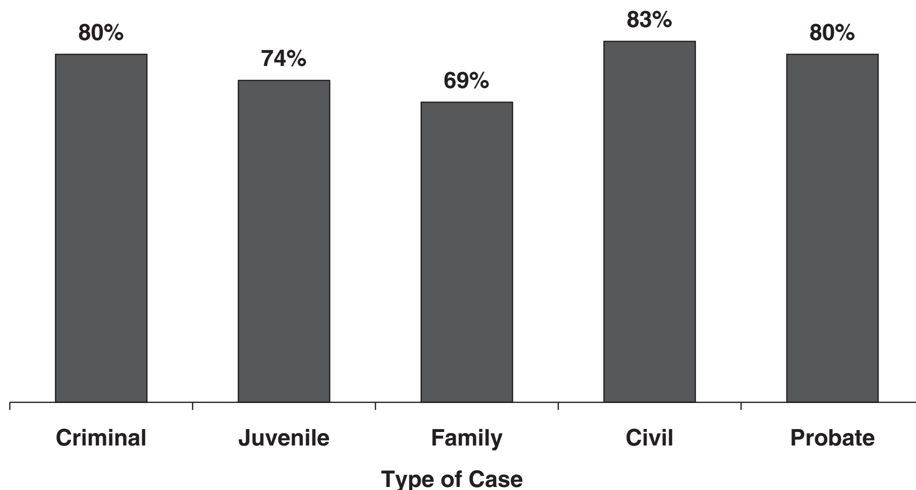
Most judges said that all types of cases are processed in a timely way.

Figure 5.1: Judges Agreeing or Strongly Agreeing that Cases are Processed in a Timely Manner, 2000



SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

Figure 5.2: Judges Agreeing or Strongly Agreeing that Courts Generally Manage Caseloads Efficiently While Preserving Justice and Equity, 2000

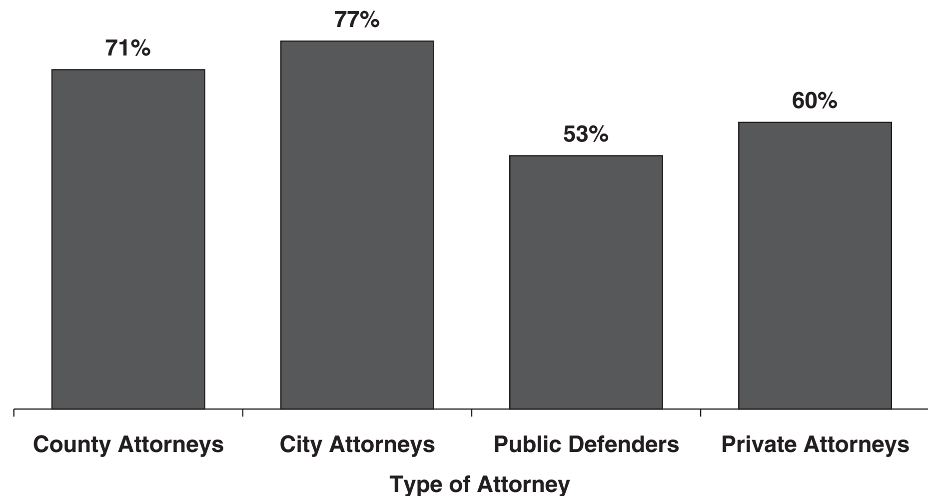


SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

Nearly two-thirds of all attorneys surveyed (65 percent) said that courts always or usually manage their caseloads efficiently. Prosecutors (city and county attorneys) were more likely to share this view than public defenders and private attorneys. Moreover, among all types of attorneys, 64 percent said that courts always or usually balance the need for managing cases efficiently while preserving justice and equity, 26 percent said that courts sometimes do this, and 10 percent said they seldom or never do so. Figure 5.3 illustrates that a majority of all types of attorneys reported that courts always or usually balance the need for efficiency with preserving justice and equity. Prosecutors were more likely to share this opinion than were private attorneys or public defenders.

Prosecutors were more likely than other attorneys to say that courts always or usually balance efficiency and justice.

Figure 5.3: Attorneys Who Said that Courts Always or Usually Balance the Need for Efficiency with Preserving Justice and Equity, 2000



SOURCE: Office of the Legislative Auditor's survey of attorneys, 2000.

EXTENT OF DELAY

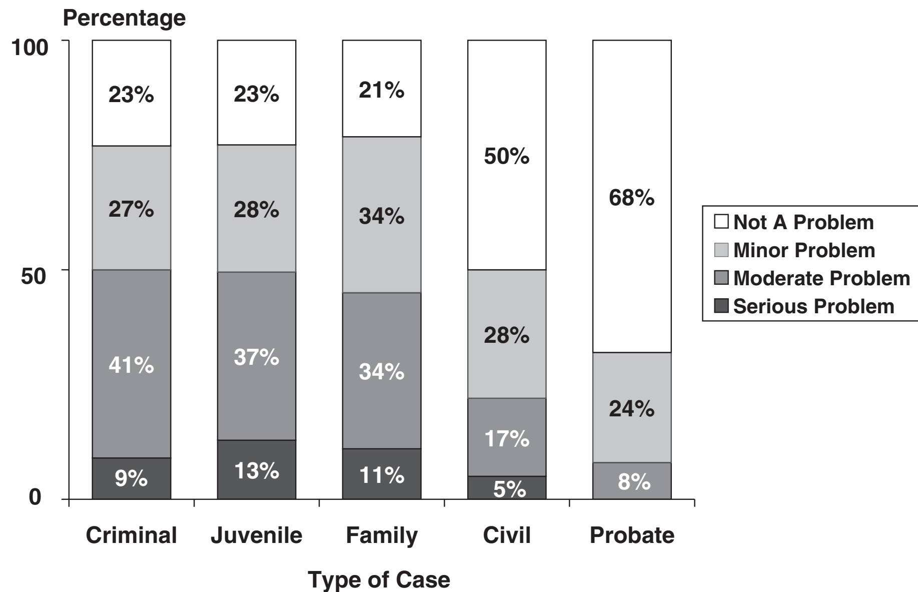
We asked judges to rate the extent to which case processing delay is a problem in their judicial district. We found that:

- **Small percentages of judges reported that delay is a serious problem in their district regardless of case type, but higher percentages of judges saw delay as a moderate problem for criminal, juvenile, and family cases.**

Figure 5.4 shows that few judges view delay as a serious problem. However, half of the judges said that delay is either a serious or moderate problem in criminal and juvenile cases and 45 percent of the judges said the same for family cases. Further, about 39 percent of judges agreed or strongly agreed with the statement,

Few judges viewed delay as a serious problem.

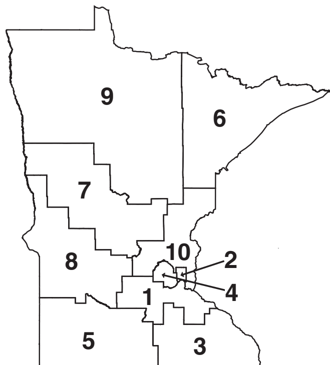
Figure 5.4: Judge Opinions on the Extent to Which Delay is a Problem in Case Processing, 2000



SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

"judges have to spend too much time waiting rather than hearing cases" in relation to criminal and juvenile cases. At the same time, only 22 percent of the judges responded that delay is either a serious or moderate problem in civil cases. No judges said that delay is a serious problem in probate cases and only 8 percent said it is a moderate problem.

From district to district, judges' opinions on delay were mixed. Table 5.1 presents the findings on delay for each of Minnesota's ten judicial districts. In four districts (First, Second, Fifth, and Tenth), a majority of judges said delay is minor or not a problem for all case types. In four other districts (Sixth, Seventh, Eighth, and Ninth), judges' opinions on delay were nearly evenly split in criminal and juvenile cases, with roughly half seeing delay as a moderate or serious problem, and the other half as minor or not a problem. In the remaining two districts (Third and Fourth), strong majorities of judges viewed delay as moderate or serious for criminal, juvenile, and family cases. For example, 78 percent of the Third District judges and 66 percent of the Fourth District judges responded that delay is a serious or moderate problem in criminal cases.



Judges from the Third, Sixth, and Seventh districts were more likely than judges from other districts to say that delay is a problem for civil cases. A majority of judges from all ten districts said delay was a minor problem or not a problem in processing probate cases.

We also asked attorneys to rate the extent to which delay is a problem in their judicial district. We found that:

Table 5.1: Judges Responding That Delay is a Serious or Moderate Problem in Processing Cases, by Type of Case and Judicial District, 2000

	Type of Case				
District	Criminal	Juvenile	Family	Civil	Probate
First (25 judges)	38%	37%	25%	17%	0%
Second (23 judges)	27	36	25	0	0
Third (18 judges)	78	78	78	73	29
Fourth (48 judges)	66	75	78	5	0
Fifth (14 judges)	31	38	8	8	9
Sixth (13 judges)	50	50	58	50	13
Seventh (19 judges)	58	47	47	47	11
Eighth (10 judges)	50	50	22	11	10
Ninth (17 judges)	47	47	41	29	6
Tenth (28 judges)	40	29	38	8	0
All Districts (215 judges)	50	50	45	23	8

NOTE: The number of respondents varied by case type. Statewide, 204 judges responded to the question for criminal cases (excluding judges who responded "Don't Know"), 167 responded for juvenile cases, 174 for family cases, 191 for civil cases, and 128 for probate cases.

SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

Judges' opinions on delay varied by case type and by district.

- **Most attorneys said that delay is not a serious problem in their judicial district.**

As shown in Figure 5.5, the percentage of attorneys indicating that delay is a serious problem ranged from 18 percent for family cases to 3 percent for probate cases. The figure shows that 35 percent of attorneys said that delay is a serious or moderate problem for criminal cases and 39 percent said it was for juvenile cases.

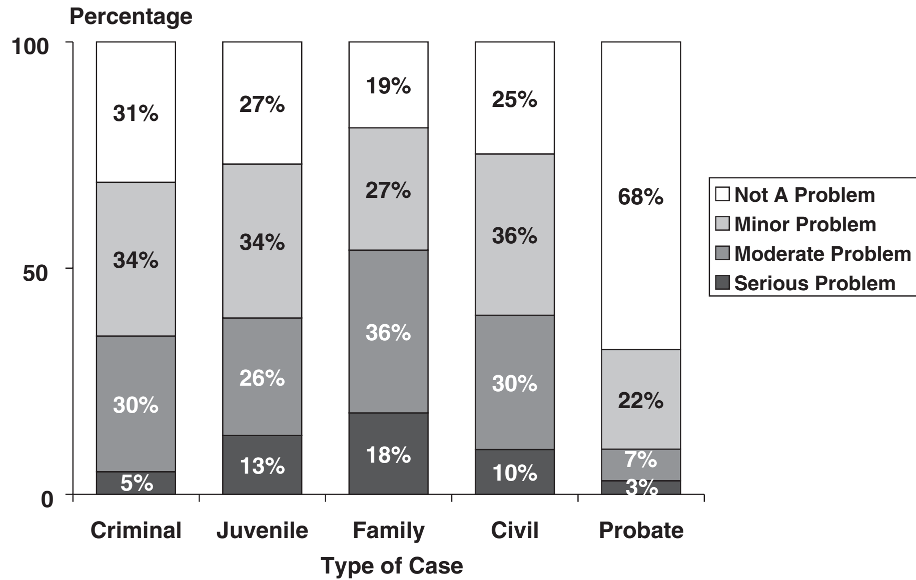
Family cases are the only type of case where a majority of attorneys (54 percent) said that delay is a serious or moderate problem. For civil cases, 40 percent of attorneys said that delay is a serious or moderate problem, and only 10 percent said that delay is a serious or moderate problem for probate cases. Comparing these results with the opinions of judges discussed earlier, we found that attorneys were less likely than judges to see delay as a serious or moderate problem for criminal and juvenile cases, but somewhat more likely than judges to see delay as a problem for family and civil cases.

NEED FOR MORE TIME PER CASE

Although most judges believe that cases are processed efficiently and few believe that delay is a serious problem, we found that:

- **Judges are concerned about the size of their caseloads and their ability to devote adequate time to each case.**

Figure 5.5: Attorney Opinions on the Extent to Which Delay is a Problem in Case Processing, 2000



SOURCE: Office of the Legislative Auditor's survey of attorneys, 2000.

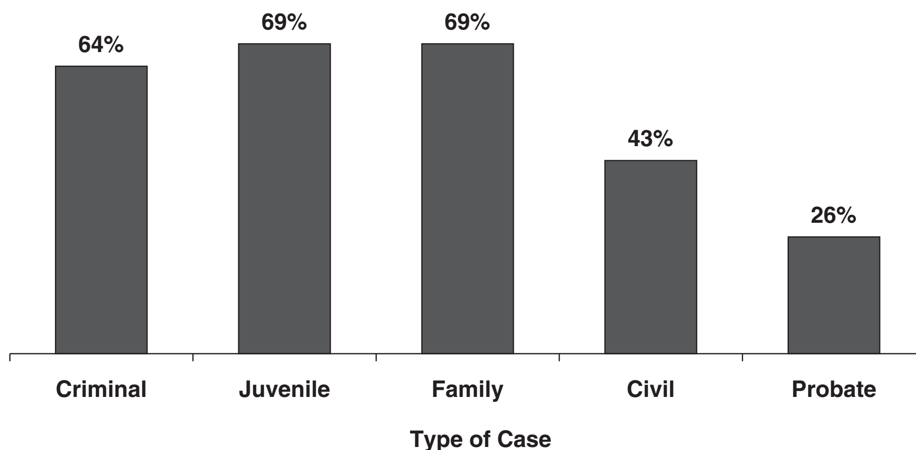
Most judges said quality suffers because there are too many criminal, juvenile, and family cases per judge.

As shown in Figure 5.6, about two-thirds of the judges agreed or strongly agreed that “the quality of judicial decisions suffers because there are too many cases per judge” in criminal, juvenile, and family cases. Fewer judges were concerned about large caseloads affecting the quality of their decisions in civil and probate cases. Similarly, 73 percent of the judges agreed or strongly agreed that “judges generally do not have enough time to spend on criminal cases.” Seventy-seven percent agreed or strongly agreed with that statement with respect to juvenile cases, 75 percent for family cases, 57 percent for civil cases, and 33 percent for probate cases. As shown in Figure 5.7, about four-fifths of the judges agreed or strongly agreed for criminal, juvenile, and family cases that “judges need more time per case if people are to feel their concerns are fully heard.” Nearly three-fifths of the judges said the statement applies to civil cases.

Judges were given the opportunity to make additional comments at the end of the questionnaire, and several of them said that their heavy caseloads made it difficult to give cases the amount of time needed to do an adequate job. The following comments illustrate this concern.

> I really think there are too few judges to handle caseloads — particularly increases in [the] past few years in criminal and juvenile [caseloads]…. There is amazing pressure to just “get through the calendar”—the quicker, the better, and while we do our best, the quality of decision-making suffers.
>
> Efficiency measures can only go so far. Participants need the time to meet clients, prepare the case, hear the case, and decide the case. We must avoid sacrificing justice to process more cases more quickly.

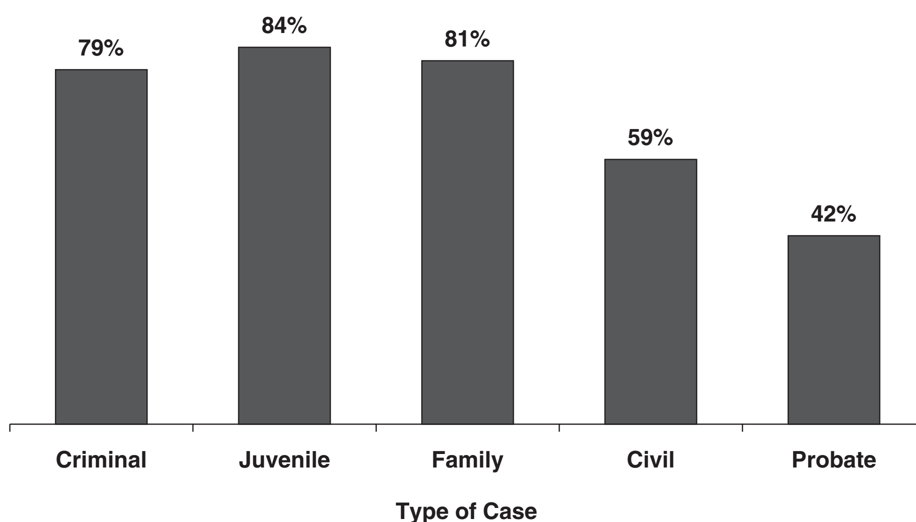
Figure 5.6: Judges Agreeing or Strongly Agreeing that the Quality of Judical Decisions Suffers Because There are Too Many Cases Per Judge, 2000



SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

Figure 5.7: Judges Agreeing or Strongly Agreeing that Judges Need More Time Per Case if People Are to Feel Their Concerns Are Fully Heard, 2000

Most judges said they need more time per case for criminal, juvenile, family, and civil cases.



SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

> Judges need chamber time to think about tough decisions, especially in family, juvenile, and civil cases…. ideally, one-half day every ten days minimum. This would slow things down, but enhance the quality of decisions. Right now, we are always in court, on an assembly line!

Other comments, such as the following, suggest that heavy caseloads can be very stressful:

> I have to say that the sheer number of cases and the resulting stress on the judiciary and the attorneys who appear before us are crushing, to the point where many of the judges in this district have experienced physical problems specifically related to this stress. Among the problems are arraignment calendars that stretch from 9 AM to 2 PM with no break for the judges, attorneys or staff…. Rather than allocate another arraignment session (whether contemporaneous or sequential) and another judge to handle the swollen calendars, we continue to stuff a size 10 foot into a size 6 shoe.

Most of the chief judges we interviewed maintained that their districts were able to process cases in a timely manner. However, they also commented that the number of judges in their district was not adequate to meet the demands of their growing caseloads. As a result, chief judges are concerned that, without an infusion of more judges, the quality of justice will suffer.

Attorneys tended to agree that more court time is needed per case.

Finally, attorneys tended to agree with judges about the need for more court time to process large caseloads. A plurality of attorneys (44 percent) said that judges sometimes need more time per case if people are to feel that their concerns are fully heard. Thirty-two percent said that judges usually or always need more time, and 24 percent said judges seldom or never need more time.

As was the case with judges, attorneys were given the opportunity to make additional comments about case processing at the end of the questionnaire. Several attorneys said that the courts have become too concerned with processing cases quickly, sometimes at the expense of justice. The following comments illustrate this concern:

> The courts should be more concerned about justice being served, especially in criminal matters, instead of being concerned about how many cases can we get finished…. Courts should have the attitude that justice is not necessarily efficient.

> It is important that the interests of the parties to court proceedings be paramount and not be lost in the goal of moving cases.… In many cases, there is too much pressure to move cases which interferes with the ability of public defenders to advocate for their clients.

> Efficiency seems to be the current buzzword in the cottage industry of studying judicial performance. My goal as an attorney is not to see how quickly a case is processed. My goal is to see that a client is treated fairly and that his rights are protected. Often, an “efficient” system conflicts with my job; and the court’s goal of “processing” cases overlooks the idea of justice.

CAUSES OF DELAY

Although most judges and attorneys did not think that delay in processing cases is a serious problem for the courts, they were still able to pinpoint several factors that contribute to delay when it occurs. We asked judges and attorneys to rate a variety of factors on the extent to which they contribute to delay.[5]

Table 5.2 lists the factors that, according to at least half of the judges, are most likely to contribute to delay for different types of cases. We found that:

- **Judges most frequently said that delay occurs because there are too few judges, too few public defenders, or attorneys do not have enough time to prepare their cases.**

Table 5.2 indicates that a majority of judges said that "too few judges" greatly or moderately contributes to delay for criminal, juvenile, family, and civil cases. Judges most often rated too few public defenders, not enough time for attorneys to prepare cases, and too few judges as greatly or moderately contributing to delay in criminal and juvenile cases.[6] Too few judges was the only factor cited by at least

At least half of the judges reported that "too few judges" contributes to delay in criminal, juvenile, family, and civil cases.

Table 5.2: Judges Reporting Factors That Greatly or Moderately Contribute to Delay, 2000

Reason For Delay	*N*	Percentage
Criminal Cases		
Attorneys have too little time to prepare	183	70%
Too few public defenders	209	70
Too few judges	205	66
Juvenile Cases		
Too few public defenders	167	70
Attorneys have too little time to prepare	146	70
Too few judges	180	66
Too many minor offenses	160	51
Family Cases		
Too few judges	180	64
Civil Cases		
Too few judges	192	50

NOTE: The table includes factors cited by at least 50 percent of the judges as greatly or moderately contributing to delay. Percentages are based on the number of judges who answered each question, excluding those who responded "Don't Know." The number of respondents varied depending on the question. No factor was cited as greatly or moderately contributing to delay in probate cases by at least 50 percent of the judges.

SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

5 Our surveys of judges and attorneys contained identical lists of factors. For each factor, we asked respondents to indicate whether it "greatly contributes," "moderately contributes," "slightly contributes," or "does not contribute" to delay. We asked for separate responses for criminal, juvenile, family, civil, and probate cases.

6 We found similar results when we analyzed only the responses of judges who said that delay is a serious or moderate problem.

half of the judges as greatly or moderately contributing to delay in family and civil cases.[7]

While observing courtrooms, we noted several instances where criminal or juvenile proceedings were delayed or cases were continued because the public defender was representing another client in a different courtroom or another county. We also saw court proceedings delayed because the public defender and prosecutor had not conferred on the case prior to their arrival in the courtroom.[8] However, in response to a separate question, only about 39 percent of judges agreed or strongly agreed with the statement, "Most judges have to spend too much time waiting rather than hearing cases" in relation to criminal and juvenile cases.

Table 5.3 lists the factors that, according to at least half of the attorneys, are most likely to contribute to delay for different types of cases. We found that:

- **Attorneys said that delay most often occurs because too many minor offenses are brought to court, pretrial diversion is not used enough, or there are too few judges.**

At least half of the attorneys agreed that "too few judges" contributes to delay in criminal, juvenile, family, and civil cases.

Table 5.3: Attorneys Reporting Factors That Greatly or Moderately Contribute to Delay, 2000

Reason For Delay	*N*	Percentage
Criminal Cases		
Too many minor offenses	425	57%
Too little use of pretrial diversion	391	56
Enhancement of misdemeanor offenses to gross misdemeanors	407	52
Too few judges	436	50
Juvenile Cases		
Too many minor offenses	344	59
Too little use of pretrial diversion	320	52
Too few judges	374	50
Family Cases		
Too few judges	324	57
Backlog of Cases	299	52
Civil Cases		
Too few judges	374	50

NOTE: The table includes factors cited by at least 50 percent of the attorneys as greatly or moderately contributing to delay. Percentages are based on the number of attorneys who answered each question, excluding those who responded "Don't Know." The number of respondents varied depending on the question. No factor was cited as greatly or moderately contributing to delay in probate cases by at least 50 percent of the attorneys.

SOURCE: Office of the Legislative Auditor's survey of attorneys, 2000.

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7 No factor was described by 50 percent of the judges as greatly or moderately contributing to delay in probate cases. Thirty-five percent of judges cited "too few judges" as greatly or moderately contributing to delay in probate cases.

8 When possible, the judge would move on to other cases while the attorneys conferred. Otherwise, judges usually remained in their chambers and worked on other cases while waiting for the attorneys to complete their negotiations.

For criminal and juvenile cases, half or more of the attorneys said that too many minor offenses, too little use of pretrial diversion, or too few judges greatly or moderately contribute to delay. Attorneys also cited enhancement of misdemeanor offenses to gross misdemeanors as a factor in criminal cases.[9] At least half of the attorneys rated too few judges as a factor that greatly or moderately contributes to delay in family and civil cases.[10]

Attorney responses to the questions on the causes of delay indicate that many of them believed that some cases should not be brought to court. Many attorneys said that greater use of pretrial diversion and removing minor offenses from the courtroom could reduce the size of court calendars.

A comparison of Tables 5.2 and 5.3 shows that both judges and attorneys responded that too few judges is an important cause of delay for all types of cases except probate, where delay was not seen as a problem. Judges and attorneys differ somewhat in their perceptions about other factors that cause delay. More judges than attorneys said that too few public defenders and too little time for attorneys to prepare greatly or moderately contributes to delay in criminal and juvenile cases. On the other hand, more attorneys than judges said that too many minor offenses and not enough use of pretrial diversion contributes to delay (perhaps because judges lack knowledge of the extent of its use).

Continuances

Based on our courtroom observations and discussions with judges, we looked at several other factors that could cause delay in processing cases. We found that:

- **Most judges and attorneys did not think that too many continuances are a major cause of delay.**

A continuance is a postponement of a hearing or trial date. Only 37 percent of the judges and 17 percent of the attorneys responded that "too many continuances granted" greatly or moderately contributes to delay in criminal cases. Even fewer responded that continuances were a cause of delay in civil cases. Forty percent of judges strongly agreed or agreed with the statement, "Too many unnecessary continuances occur, often causing delay" for criminal cases. Twenty-one percent of the judges strongly agreed or agreed with the statement in reference to civil cases.

Many districts have taken steps to reduce the number of cases that are continued to later dates.

Sixty-three percent of the judges said they or their district had taken steps to reduce the number of continuances. For criminal cases, this usually involved setting strict schedules at the pretrial conference. The Fourth Judicial District (Hennepin County) requires the presiding criminal judge to sign off on all continuance requests for jury trial dates in criminal cases. For civil cases, most chief judges we interviewed told us that individually assigning cases to judges was

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9 This is a process where, due to prior offenses, the prosecutor enhances a case originally charged as a misdemeanor to a gross misdemeanor. This increases the number of hearings and procedural requirements and could result in more jury trials.

10 No factor was described by 50 percent of the attorneys as greatly or moderately contributing to delay in probate cases. Twenty-nine percent of attorneys said too few judges greatly or moderately contributes to delay in probate cases.

an effective way to limit unnecessary continuances because judges do not want large backlogs of pending cases.

Judges also reported that trials were usually held when they were originally scheduled. Two-thirds of the judges surveyed strongly agreed or agreed that most trials are heard when originally scheduled in relation to criminal cases, and 71 percent agreed for juvenile cases. Slightly fewer judges, 55 percent, agreed that family case trials are usually held when originally scheduled and 61 percent agreed for civil cases.

Judge Shopping

In our interviews with chief judges, we heard that motions to remove a judge sometimes are a source of delay. We were told, for example, that attorneys might file a motion to remove a judge whom they feel is more likely to impose a stiff sentence on their client. This practice, sometimes referred to as "judge shopping," could especially be a problem in single-judge counties because the district has to send in a judge from another county to handle the case, and that could require other scheduling adjustments. Although judge shopping could cause delay in some instances, we found that:

- **Most judges and attorneys did not think that judge shopping is a significant cause of delay.**

Our surveys found that 28 percent of the judges responded that "too many notices to remove a judge" greatly or moderately contributes to delay in criminal cases and 14 percent said it contributes to delay in civil cases. Less than 10 percent of attorneys said that notices to remove a judge contribute to delay. Thirty-nine percent of judges and 10 percent of attorneys responded that "attorneys seek continuances to 'shop' for judges" greatly or moderately contributes to delay in criminal cases and lesser percentages responded that way for civil cases.

Interpreters

The use of interpreters can lengthen the processing of a case.

While observing courtrooms, we encountered several instances where the court had to wait for interpreters and where hearings requiring interpreters took longer than others. Several chief judges and district administrators also indicated to us that they sometimes faced a shortage of interpreters. On the survey, 48 percent of judges and 37 percent of attorneys responded that "too few interpreters" greatly or moderately contributes to delay in criminal cases. Too few interpreters was viewed as less of a problem for other types of cases. For example, 19 percent of judges and 10 percent of attorneys responded that "too few interpreters" greatly or moderately contributes to delay in family cases. We discuss issues about interpreters in greater detail later in this chapter.

Transporting Defendants

We observed several instances where court proceedings were held up because the sheriff's van bringing defendants from the jail to the courtroom had not yet arrived. On our surveys, 46 percent of judges and 36 percent of attorneys

responded that "waiting for in-custody defendants to be transported" greatly or moderately contributes to delay in criminal cases. Thirty-nine percent of judges and 34 percent of attorneys said it greatly or moderately contributes to delay in juvenile cases.

Pro Se Litigants

Litigants who represent themselves can cause delay.

Several judges and attorneys commented that *pro se* litigants (defendants or plaintiffs who represent themselves without an attorney) can often cause delay.[11] We also observed this when we visited courts. Because *pro se* litigants are usually unfamiliar with laws and courtroom procedures, judges sometimes have to take extra time to explain things to them and make sure they understand the consequences of actions they take, such as pleading guilty to an offense. In response to open-ended questions on how the courts could improve services, several judges and attorneys mentioned improving legal aid and other services for *pro se* litigants.

ISSUES THAT NEGATIVELY AFFECT CASE PROCESSING TODAY

In our visits to courthouses and discussions with judges, we became aware of several issues that confront the courts today but that were minor or nonexistent five or ten years ago. In our surveys, we also asked judges and attorneys to rate the extent to which various issues negatively affected the court's ability to process cases. We found that:

- **A majority of judges said that new types of cases, like harassment, had a substantial effect on the court's ability to process cases today compared with five or more years ago.**

There was less agreement among judges about other issues that have had a moderate or substantial effect. No issue was cited by a majority of attorneys as negatively affecting case processing, although smaller shares of attorneys reported that certain issues had a substantial effect. These issues are discussed below. Tables 5.4 and 5.5 present the responses of judges and attorneys, respectively.

New Types of Cases

Tables 5.4 and 5.5 show that 88 percent of judges and 71 percent of attorneys see new types of cases, like harassment, as having a moderately or substantially greater impact on case processing today than five or more years ago. The harassment statute, originally enacted in 1990, essentially allows individuals to petition the court to issue a restraining order against persons who are stalking or otherwise harassing them.[12] Judges we talked with commented that, although the law was originally intended as a method to protect potential victims of stalking, its

11 The questionnaire did not include an item about *pro se* litigants.

12 Minn. Stat. (2000) §609.748.

Table 5.4: Judge Opinions on Factors Negatively Affecting Courts' Ability to Process Cases Today Compared with Five or More Years Ago, 2000

		Percentage Responding:			
Issue	*N*	Substantial Effect	Moderate Effect	Slight Effect	No Effect
New types of cases like harassment	205	62%	26%	10%	2%
Legislation or rule changes leading to new procedural or hearing requirements	209	46	39	13	2
Changing expectations of court to be a provider of services as well as a trier of facts	201	44	40	13	3
Changes in enforcement and prosecution of DWI laws	206	31	44	18	7
Cultural and language differences presented by immigrants unfamiliar with the courts	209	23	33	30	13
Changes in enforcement and prosecution of controlled substance offenses	202	19	43	22	16
Changes in enforcement and prosecution of juvenile status offenses	168	16	37	33	14
Changing expectations for judges' community involvement	199	9	23	36	32
Insufficient courthouse security	200	9	21	33	38
Increased need for mental health assessments	198	8	28	43	21

SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

A variety of factors affects courts' ability to process cases.

use has expanded considerably. For example, individuals have filed harassment lawsuits against neighbors or relatives with whom they do not get along. Harassment filings grew from 4,824 in 1992 when the courts first began counting harassment filings to 8,630 in 1998, a 79 percent increase.

Implied consent cases have also become more numerous over the last decade. These are proceedings to revoke a person's driver's license for failure to submit to a sobriety test when stopped for driving while impaired.[13] Implied consent filings increased from 2,174 in 1992 to 3,676 in 1998, a 69 percent increase. Several of the chief judges we interviewed said domestic violence cases and requests for orders for protection have also increased. They commented that victim-support organizations and increased publicity about domestic violence laws have resulted in greater willingness of victims to come forward.

13 *Minn. Stat*. (2000) §169A.50-169A53.

Table 5.5: Attorney Opinions on Factors Negatively Affecting Courts' Ability to Process Cases Today Compared with Five or More Years Ago, 2000

		Percentage Responding:			
Issue	*N*	Substantial Effect	Moderate Effect	Slight Effect	No Effect
Changes in enforcement and prosecution of DWI laws	421	37%	36%	19%	9%
New types of cases like harassment	482	35	36	23	6
Changes in enforcement and prosecution of controlled substance offenses	395	32	34	24	10
Legislation or rule changes leading to new procedural or hearing requirements	501	22	34	33	11
Changing expectations of court to be a provider of services as well as a trier of facts	446	21	40	26	13
Changes in enforcement and prosecution of juvenile status offenses	351	21	36	30	14
Cultural and language differences presented by immigrants unfamiliar with the courts	460	14	31	34	20
Increased need for mental health assessments	400	6	25	48	22
Changing expectations for judges' community involvement	373	5	11	28	56
Insufficient courthouse security	456	2	7	23	68

SOURCE: Office of the Legislative Auditor's survey of attorneys, 2000.

Changes in Procedural Requirements

Judges and attorneys believe that frequent changes to laws and procedures can negatively affect case processing.

Another factor that judges and attorneys think negatively affects case processing is that the Legislature and Supreme Court frequently change procedural or hearing requirements. As shown in Tables 5.4 and 5.5, 85 percent of judges and 56 percent of attorneys said that "legislation or rule changes leading to new procedural or hearing requirements" substantially or moderately affected the court's ability to process cases today compared with five or more years ago. When asked on the survey what the Legislature could do to improve case processing, 27 judges (14 percent of the judges responding to the open-ended question) said the Legislature should stop changing laws or procedural requirements every year. Many of these comments were specifically directed at DWI laws. Several chief judges we interviewed said that the tightening of the timeframe for child protection cases has forced their district to shift resources to those cases, causing the courts to fall behind in other areas.

Changing Expectations of the Courts

Eighty-four percent of judges and 61 percent of attorneys said "changing expectations of the court to be a provider of services as well as a trier of facts" has had a substantial or moderate negative effect on the ability of courts to process cases. For example, some courts are actively involved with the assessment and treatment of defendants with chemical dependency and mental health problems. In addition, some judges we talked with said the courts have become increasingly involved with resolving personal disputes, such as harassment cases, child custody disputes, and conciliation court cases.

Changes in Enforcement

Judges and attorneys also said that changes in enforcement practices have affected the courts. For example, 75 percent of the judges and 72 percent of the attorneys we surveyed said that "changes in the enforcement and prosecution of DWI laws" substantially or moderately negatively affected the court's ability to process cases.[14] Sixty-two percent of judges and 66 percent of attorneys responded the same way about controlled substance abuse. Fifty-three percent of judges and 56 percent of attorneys said that "changes in the enforcement and prosecution of juvenile status offenses" substantially or moderately affected the court's ability to process cases.[15]

Growth in the Need for Interpreters

In some districts, the need for interpreters in the courts has grown considerably.

Tables 5.4 and 5.5 show that 56 percent of judges and 45 percent of attorneys said that "cultural and language differences presented by immigrants unfamiliar with the courts" substantially or moderately affected the court's ability to process cases today compared with five or more years ago. Several chief judges and district administrators whom we interviewed said that growth in their district's immigrant population has resulted in an increased need for interpreters. In addition to language differences, many recent immigrants do not understand courtroom procedures or the legal system in general. Using interpreters can lengthen case processing; we observed that court hearings with interpreters tended to take longer than others where interpreters were not involved.

We also asked court administrators about changes in the need for interpreters over the last five years. Thirty of the 82 court administrators who responded to this survey question (37 percent) reported an increase of 50 percent or more in the need for interpreters, and 19 court administrators (23 percent) said that the need for interpreters has increased between 25 and 49 percent. In addition, 13 percent of court administrators said that having no interpreters available in certain languages in their county is a serious problem and 45 percent said it is a moderately serious problem.

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14 Between 1992 and 1998, the number of misdemeanor DWI filings declined by 2 percent, but the number of gross misdemeanor DWI filings increased 48 percent.

15 Juvenile status offenses are offenses, such as underage drinking, that would not be crimes if committed by an adult. Between 1992 and 1998, juvenile runaway filings increased by 42 percent, truancy filings increased by 71 percent, and other status offenses increased by 360 percent.

While we were unable to obtain reliable information on the percentage of non-English speaking residents in Minnesota, the U.S. Census provides an estimate of the number of immigrants by county.[16] According to the census, Minnesota has received a net migration of about 55,173 people from foreign countries between 1990 and 1999, about 1.2 percent of the state's 1999 population. Immigration has been greatest into the Second and Fourth Judicial Districts (Ramsey and Hennepin counties). In both of those districts, 2.4 percent of the 1999 population are immigrants who arrived since 1990. While immigrants make up less than 1 percent of the populations in the other judicial districts, several individual counties have immigrant populations above 1 percent. For example, Nobles County's immigrant population is 2.5 percent and Olmsted County's is 2.0 percent.

A committee of the Conference of Chief Judges recently issued a report on the need for court interpreters.[17] The study reported that the number of requests for interpreter services in Hennepin County grew 97 percent from 1996 to 1999. In Ramsey County, interpreter requests increased 61 percent. Statewide, judicial district expenditures on interpreter services (excluding the Eighth Judicial District in west central Minnesota) increased by 122 percent, from $674,052 to $1,499,031, between 1996 and 1999. The study projected that interpreter costs will increase by 20 percent per year in the future. The study estimated that Hennepin and Ramsey counties spent about $59 per interpreter request in 1999, excluding court staff time arranging for interpreters. Elsewhere in the state, it costs almost $75 per interpreter request.

The study recommends that the Legislature increase funding and staffing to the State Court Administrator's Office to develop and implement consistent statewide practices and policies, provide assistance to court administrators in obtaining appropriate and timely interpreter services, and increase the number of qualified interpreters available (including money for training).[18] The study makes numerous other recommendations, mostly directed at standardizing the recruitment, use, and compensation for interpreters.[19]

Guardians *Ad Litem*

Guardians *ad litem* are not always available when needed to represent children in court.

Finally, some chief judges and district administrators we interviewed expressed concerns about the increasing number of cases involving guardians *ad litem*.[20] Some said that while the Legislature has provided some funding for guardians, the amount has not been adequate.[21] Although federal and state statutes require the appointment of guardians for cases involving allegations of child abuse and

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16 U. S. Census Bureau, *County Population Estimates for July 1, 1999,* http://www.census.gov/population/estimates/county/co-99-4/99C4 27.txt; accessed November 10, 2000. Not all immigrants are non-English speaking.

17 Conference of Chief Judges State Funding Committee, *Court Interpreter Subcommittee Report,* (St. Paul, 2000).

18 *Ibid*., 21.

19 *Ibid*., 4-6.

20 A guardian *ad litem* is a person appointed by a court to represent the best interests of a child in court proceedings where a child's interests might be at risk, such as cases involving marriage dissolution, child abuse or neglect, domestic abuse, child custody, or child support.

21 As reported in Chapter 2, the state will begin paying all guardian *ad litem* expenses in July 2001.

neglect, we learned that guardians have not always been available when needed. While counties have often relied on volunteers, some district administrators said it has become difficult to find sufficient numbers of volunteers. We did not ask specific questions about guardians *ad litem* on our judge survey, but seven judges commented that the Legislature should increase funding for guardians. Most court administrators (62 percent) reported that the demand for guardians in their counties had increased over the last five years by 50 percent or more.

JUDICIAL DISTRICT OPERATIONS AND CASE MANAGEMENT

While all cases originate at the district court level, and all district courts around the state have similar responsibilities, some practices vary from district to district and others vary among counties within a single district. Courts at the county level largely control case-management practices; district participation is limited, although this varies around the state.

Assigning Judges

From speaking with chief judges we learned that:

- **The way judges are assigned to cases varies by judicial district.**

By law, chief judges have general administrative authority over courts in their district.[22] This authority includes making assignments of judges to hear cases arising within the district. Approaches to assigning judges differ based on chief judges' management styles as well as historical precedent in the district. In discussing judge assignment authority, many chief judges described the need to be collaborative and consider views of the judges in their district. At least one district has a committee of judges that sets the general direction for assignments, and others have districtwide policies governing assignments. One chief judge said he becomes involved in judge assignments only when recusals or motions to remove a judge require intervention.

The assignment of judges is done in a centralized way in some districts but not in others.

At the same time, chief judges spoke of the need to balance the workload across the district. Accommodating individual judge preferences is secondary to ensuring that cases are heard and judges' workloads are relatively even. Many chief judges indicated that their judges must be generalists; for the most part, judges do not have the opportunity to specialize in only certain case types.

The Fifth and First Districts exemplify the variation between decentralized and centralized judge assignments. In the Fifth District (southwestern Minnesota), 16 judges are organized into 5 assignment areas, as depicted in Table 5.6. Each of the assignment areas follows its own case assignment and scheduling plans. With the exception of the chief judge, judges in the Fifth District rarely travel to counties outside their assignment areas. When a motion to remove a judge is filed or a judge recuses himself from a case, judges from within the assignment area

22 *Minn. Stat*. (2000) §484.69, subd. 3.

Table 5.6: Assignment Areas in the Fifth Judicial District, 2000

Assignment Area	Number of Counties		Number of Judges
Eastern District	One:	Blue Earth	Four
Southern District	Four:	Cottonwood, Faribault, Jackson, Martin	Four
Southwestern District	Four:	Murray, Nobles, Pipestone, Rock	Three
Northwestern District	Three:	Lincoln, Lyon, Redwood	Three
Northern District	Three:	Brown, Nicollet, Watonwan	Four

SOURCE: State of Minnesota Fifth Judicial District, *Amended Administrative Order #2, Fifth District Caseflow Management Order,* (Mankato), 1996.

will shift to accommodate the need. The district office steps in to locate a judge outside an assignment area when none of the judges within an assignment area can accept a reassigned case.

In contrast, assignment of judges throughout much of the First Judicial District (south metropolitan Minnesota) is more centrally controlled. Although judges typically work out of the courthouse in their county of residence, the First District's central assignment office moves judges to nearby counties as needed. The central assignment office works with court administrators in the counties to monitor cases. When contested cases are ready for hearings, the office assigns judges to them.[23] A judge who is scheduled for trials in Scott County, for example, could be moved on a day's notice to hear trials in Dakota County, if trials on the Scott County calendar settle.

Assigning Cases to Individual Judges

Beyond assignment of judges, we found that:

- **The time at which specific cases are assigned to individual judges varies by case type and geography. According to court management experts, however, the method of assigning judges matters less to effective case management than other factors such as judge leadership.**

Case assignment systems range from "individual" calendars, where one judge hears all case events from filing to disposition, to "master" calendars where different judges preside over various court events linked to a case. Court management experts tend to agree that all types of case assignment systems have value. Each approach carries advantages and disadvantages. What is more important, according to studies on caseflow management, are factors such as judge leadership and commitment to control caseflow, published goals of the case

23 The central assignment office assigns contested matters for all but two counties in the First District; Sibley and McLeod counties, on the western edge of the district, assign their own cases.

assignment system and means to attain the goals, and adequate communications among judges and other court participants.[24]

Court administrators in some Minnesota counties never assign cases to an individual judge. Multiple judges may hear different events for the same case, such as an arraignment, omnibus hearing, or trial. In effect, the case stays with a particular judge only for trial and sentencing. Counties with only a single judge may or may not officially assign cases to that judge, but practically speaking, that judge oversees all cases through to disposition, barring a recusal or notice to remove.

According to our survey of court administrators:

- **Most counties assign family and civil cases to judges when cases are filed; far fewer do so for criminal and juvenile cases.**

Around Minnesota, courts assign different case types to individual judges at different case events. A majority of counties (79 percent) assign civil and family cases to individual judges when the first court document is filed. Table 5.7 describes the case events at which these cases are often assigned.

Civil and family cases are likely to be assigned to an individual judge when filed.

Table 5.7: Assigning Civil, Family, and Probate Cases to Individual Judges by County, 2000

Point When Assigned to Individual Judge	Percentage of Counties		
	Civil	Family	Probate
When filing first court document	79%	79%	40%
Up to or near pretrial conference or trial management conference	8	10	10
When setting trial date	1	1	13
At time of trial	10	10	19
Other	2	1	18

NOTE: Counties that do not assign cases to individual judges are included with those that assign at the time of trial. In some counties, cases are assigned when contested or if an objection is filed.

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

In contrast to civil cases, only 29 percent of counties (a plurality) assign adult felonies to individual judges at the point the case is first filed; 27 percent (again, a plurality) assign gross misdemeanors at this point. Other counties assign adult felonies and gross misdemeanors at various later points, such as at the arraignment or the omnibus hearing, as shown in Table 5.8. Misdemeanor cases, petty misdemeanors, and traffic violations are less likely to be assigned to an individual judge prior to trial.

Courts frequently treat juvenile cases differently from other criminal cases. Higher percentages of counties assign juvenile felonies and juvenile gross

24 Maureen Solomon and Douglas K. Somerlot, *Caseflow Management in the Trial Court: Now and for the Future* (Chicago: American Bar Association, 1987), 43-44; and David Steelman, *Caseflow Management: The Heart of Court Management in the New Millennium* (National Center for State Courts, 2000), 88-100.

Table 5.8: Assigning Adult Criminal Cases to Individual Judges by County, 2000

	Percentage of Counties			
Point When Assigned to Individual Judge	Felony	Gross Misdemeanor	Misdemeanor	Petty Misdemeanor/ Traffic
When case is filed	29%	27%	23%	23%
First appearance or arraignment	18	19	17	12
Omnibus hearing	20	20	8	2
Pretrial conference	7	6	10	2
When setting trial date	0	0	10	15
At time of trial	17	18	25	39
Other	10	10	8	6

NOTE: Shaded numbers indicate a plurality of counties. Counties that do not assign cases to individual judges are included with those that assign at the time of trial. In some counties, only certain types of criminal cases, such as serious felonies, are assigned. In others, criminal cases are assigned when a not guilty plea is entered.

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

misdemeanors to individual judges when the case is first filed (37 and 35 percent, respectively). Several judges told us that they think continuity is especially important in juvenile cases.

From county to county, the assignment of juvenile protection cases (child abuse and neglect) is spread out across several different case events, as shown in Table 5.9. A plurality of counties (35 percent) assigns juvenile protection cases to individual judges at the admit-or-deny hearing.

We also found that:

- **Within a single judicial district, procedures for assigning cases differ among counties.**

Table 5.9: Assigning Juvenile Protection Matters to Individual Judges by County, 2000

Point When Assigned to Individual Judge	Percentage of Counties
Emergency protective hearing	20%
Filing of petition for Child in Need of Protection	22
Admit or deny hearing	35
Pretrial conference or when setting trial date	5
At time of trial	14
Other	4

NOTE: Shaded number indicates a plurality of counties. Counties that do not assign cases to individual judges are included with those that assign at the time of trial.

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

Within all eight of the judicial districts containing multiple counties, the assignment of criminal cases varies by county. For instance, of the 17 counties in the Ninth District (northwestern Minnesota), 35 percent assign adult felony cases to judges when the cases are filed. Another 29 percent assign them at the time of trial, 18 percent at the omnibus hearing, and 12 percent at the pretrial conference. In the remaining county, criminal cases are assigned at the time a not guilty plea is entered. Similar variation is evident in the other districts.

Even though most counties assign civil cases at the time the first document is filed, there is some variation among counties within a given district. In five of the eight judicial districts comprising multiple counties, the assignment of civil cases varies by county. For example, of the six counties reporting from the Tenth District (north metropolitan and east central Minnesota), one assigns civil cases when the first court document is filed and another at the time of trial. Two counties may assign civil cases at pretrial conferences, but for one of these counties, whether civil cases are individually assigned depends on each judge's preferences. In one county, a civil case is assigned to an individual judge not at specific case events but only after the court reviews it to determine whether individual assignment is appropriate for that case. The remaining county rarely assigns civil cases and does so only if a judge deems a case to be "extraordinary."

Case Management

Many techniques are available to manage cases and court administrators in most counties are actively involved in improving case management. We found that:

- **Court management experts commonly recommend some case-management activities, but we believe that other activities require evaluation before more widespread use in Minnesota.**

Reports published by the National Center for State Courts generally agree that practices and policies to ensure a firm trial date are important to a well-managed court.[25] Data are not available on the extent to which trials in Minnesota begin on the first scheduled trial date.[26] But 81 percent of Minnesota's court administrators reported that they follow specific practices to make sure trials occur as originally scheduled (unless cases settle prior to trial).

Ensuring a firm trial date is important to effective case management.

Practices for keeping firm trial dates varied among counties, but court administrators mentioned four most frequently. These are:

1. Judges oversee and approve requests for continuing a trial date. In some counties, judges approve all such requests; elsewhere, judge approval is needed under certain conditions, such as for requests within 24 hours of the trial.

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25 Steelman, *Caseflow Management*, 9-10; and John Goerdt, *Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts, 1987* (National Center for State Courts, 1989), 81.

26 The data systems used by the State Court Administrator's Office do not provide the data needed to analyze continuance rates. But in response to a question on our survey, two thirds of the judges who responded agreed or strongly agreed with the statement, "Most trials are heard when originally scheduled (if not settled first)."

2. Court clerks contact attorneys a day or a week in advance of the trial to determine the status of the case and assess the likelihood of settlement or trial.

3. The court holds pretrial conferences or settlement conferences shortly before the trial. Pretrial conferences are formal proceedings held to determine motions, discuss pleas, and consider matters to promote a fair and expeditious trial. They are not mandatory but often promote settlement of cases and avoid the time and expense of trials.

4. Clerks schedule multiple back-up trials on trial day, knowing that some, if not all, will settle. This has to be done carefully to avoid heavy overscheduling that leads to case continuances.

Most court administrators help monitor the progress of cases.

Another practice cited by court management experts as important to effective caseflow management is active supervision of cases from filing to disposition.[27] One component of this is monitoring the progress of individual cases. Court administrators in nearly all Minnesota counties said someone monitors the age of cases to identify "old" cases, according to our survey. The responsibility for doing so varies. Although 56 percent of respondents said court administration is primarily responsible for identifying old cases, district administrators and sometimes judges share this responsibility in other counties. Table 5.10 shows activities commonly used to manage case flows and who is primarily responsible for them.

Other case management activities are not as widespread. For instance, less than half of court administrators said someone has responsibility for identifying complex cases and assigning them to separate management tracks even though case management experts suggest this assists case processing.[28]

We found that:

- **Most court administrators have taken steps in the past five years to improve case processing. The specific steps have varied among counties, and what works well in one county may not work well elsewhere.**

When asked about steps taken in the past five years to improve case processing, 80 percent of the court administrators described actions they have undertaken. The actual actions varied widely. Of the 65 court administrators responding, the largest group (25 percent) said they improved case calendaring. This included actions such as requiring all criminal pretrial hearings to occur two weeks prior to trial or instituting a "one-family/one-judge" approach when multiple cases involve a single family. Smaller groups of court administrators described a wide variety of case processing techniques, from involving attorneys in discussions over case processing to beginning a pilot project for assisting *pro se* litigants. Table 5.11 illustrates some of this variation.

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27 Steelman, *Caseflow Management*, 107-108; and Solomon and Somerlot, *Caseflow Management in the Trial Court,* 11-15, 23.

28 Steelman, *Caseflow Management*, 49.

Table 5.10: Responsibility for Common Case-Management Activities, 2000

	Responsibility Lies Primarily With:					
Activity	Court Administration	District Administration	Court and District Administration	Judge	Court Administration and Judge	Court and District Administration and Judge
Consider availability of attorneys when setting criminal calendars (*N* = 84)	86%	-	1%	6%	5%	-%
Regularly discuss calendar issues with attorneys, law enforcement, and probation (*N* = 84)	65	-	5	2	15	1
Screen "old" cases to determine reasons for delay (*N* = 84)	64	-	17	1	7	7
Monitor case age to identify old cases (*N* = 84)	56	1	26	1	6	8
Maintain accurate and reliable inventory of cases awaiting court action (N = 83)	61	4	20	1	2	4
Determine cause of trial date continuances (*N* = 82)	49	2	10	16	5	-
Notify attorneys when cases exceed timing guidelines (*N* = 83)	45	-	-	10	1	-
Implement backlog reduction strategies (when needed) (*N* = 82)	43	-	16	9	11	1
Measure backlog of cases (*N* = 80)	43	13	24	-	4	1
Identify criminal cases likely to be resolved before a trial date (*N* = 84)	40	-	1	12	14	-
Build into calendars a "back-up" block of judge time or another way to cover judge absences (*N* = 83)	35	19	11	4	2	1
Report on percentage of cases that meet timing guidelines (*N* = 80)	30	34	20	1	1	8

NOTE: For certain activities, such as reporting on cases that meet timing guidelines, some court administrators said the state, not the local courts, had primary responsibility.

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

Table 5.11: Steps Taken by Court Administrators to Improve Case Processing, 2000

- Improve calendaring of cases
- Involve attorneys, law enforcement, or probation services in policy discussions
- Provide ongoing review of case-processing procedures
- Add block scheduling for certain case types
- Work with judges to identify pending cases that require action for timely dispositions
- Change administrative processes, such as assigning each case to a caseload manager
- Adopt procedures to limit continuance requests and ensure timely trials
- Require prosecutors and public defenders to attend arraignments
- Schedule certain public defenders or prosecutors on particular days to assure their attendance
- Meet regularly with judges to discuss case assignments and processing
- Combine hearings, such as the omnibus hearing and settlement conference
- Schedule back-up trials for trial calendars, knowing that most will settle in advance
- Follow a case management plan
- Set the scheduling conference as civil cases are filed
- Give parties the appropriate forms with court dates before they leave courthouse
- Adopt fast-track procedures for certain cases
- Use computers to generate forms that are frequently used
- Change jury procedures to minimize disruptions to jurors' lives
- Begin pilot projects to assist *pro se* litigants

SOURCE: Office of the Legislative Auditor's survey of court administrators, 2000.

Court administrators have taken various steps to improve case processing.

Actions taken by some counties to improve case processing have been abandoned by others. For example, several court administrators said they improved case processing by setting a scheduling conference for civil cases as soon as the cases are filed. We learned that other counties no longer hold scheduling conferences because judges found that scheduling was better done outside the courtroom. Instead, court administrators in these counties typically mail informational statements to the parties.[29]

We learned about several local initiatives to improve aspects of case processing. In most cases, the projects were either spearheaded by judges or enjoyed strong judge support. They often combined case processing improvements with other objectives, such as treating offenders for alcohol or drug abuse. Although we have not evaluated the costs and benefits of the specific projects, the people involved believe the efforts have proven beneficial. Many such projects were

29 Minnesota's general rules of practice for civil cases require parties to submit information needed by the court to manage the case, such as a case description, whether a jury trial is requested, and estimated completion date for discovery. (*General Rules of Practice,* 111.02.) These "informational statements" allow the court to set a scheduling order that details deadlines for case events, including a trial date.

called to our attention, but we briefly mention only four here as examples of initiatives underway.

Better management of court calendars helps make more efficient use of judge time.

One example from the Eighth District (west central Minnesota) is an analysis conducted of best practices in calendaring. As part of a total quality management initiative in 1994, a team of employees identified scheduling practices to improve case management and make more efficient use of judicial time. Team members based their recommendations in part on surveys and interviews of judges, court staff, and attorneys. Their work resulted in 27 short-term recommendations, as well as a set of topics for studying longer-term issues.

The short-term recommendations now serve as a basis for scheduling and monitoring cases around the district. The recommendations included: requiring continuance requests to be in writing when they are for cases assigned to individual judges; setting pretrial conferences prior to all trial dates and requiring parties to attend; making procedures and forms uniform across all counties in the district; attaching to the front of the file the dates by which court timing objectives would have to be met; and meeting regularly with local attorneys to resolve case management issues.

A second example of a local initiative to improve case processing is the Mower County Driver's License Return Program. The program has operated for about three years, targeting first-time offenders arrested for driving after license revocation, cancellation, or suspension. Ordinarily, many of these drivers would have had their licenses suspended due to their inability to pay fines for other petty misdemeanors. They still had to drive to get to their jobs, but doing so with their license suspended often resulted in additional arrests. License reinstatement proved time consuming and difficult.

To break the cyclic arrests, Mower County began the Driver's License Return Program with the cooperation of the courts, prosecutors, public defenders, and correctional services. The program combined a stay of adjudication from the courts with active supervision from probation services and help in regaining driving privileges. To date, none of the participants who have successfully completed the program has been rearrested for another driver license offense in the county, although some have failed to complete the program. The program has contributed to fewer misdemeanor arraignments for driving after license suspension or revocation and concomitantly freed up jail space that repeat offenders previously occupied.

A third example is "Teen Court" in Blue Earth County. Since mid-1997, Teen Court has operated as an alternative to District Court for second- and third-time juvenile petty offenders. Juveniles who participate have already admitted to the offense; a jury of teenagers trained for their role query the offender about the offense. Jury members determine what sentence to impose. Sentences have ranged from fines and restitution to writing essays on health risks associated with smoking or underage drinking.

Participants who successfully complete their sentences have the charges dismissed. The program has reduced the number of cases in juvenile court by about 100 per year. Most of the participants complete their sentences and do not reoffend, although program coordinators say the relatively small number of cases

makes it difficult to legitimately test Teen Court's impact on recidivism in the county. Other counties have adopted similar Teen or Peer Courts.

Drug Court participants submit to frequent, random drug tests.

A fourth example is the Drug Court in the Fourth District (Hennepin County). Establishing the Drug Court changed the way Hennepin County managed drug-related cases. By providing a more immediate response and requiring treatment for those charged with drug crimes, Drug Court is intended to improve defendants' behavior and reduce crime over the long term. At defendants' first appearance in Drug Court, which occurs the day after being booked on their charges, they are assessed to determine the need for chemical dependency treatment. Drug Court participants are required to submit to frequent, random drug testing and frequent judicial reviews of their cases. Drug Court also uses sanctions, such as the threat of jail for breaking program rules and reducing a fine in return for clean urinalyses, as incentives to stay off drugs.

A judge reviews a case with a defendant in Hennepin County's Drug Court.

In processing cases through Drug Court, the Fourth District reports that it has significantly reduced the case processing time and the number of appearances per case.[30] The success of Drug Court depends on working collaborations with county probation services and police officers who visit defendants' homes to ensure compliance with court conditions.

Technological Initiatives

In addition to the previously mentioned case-management practices, we found that:

30 Hennepin County District Court Research Department, *Hennepin County Drug Court Second Year Activity Report* (Minneapolis, 1999), ii.

- **Court administrators believe their increasing reliance on technological initiatives has improved case processing, but more work remains to be done.**

The Minnesota Judiciary's strategic plan recognizes the need for an expanded and innovative use of technology in the courts.[31] This encompasses everything from having personal computers in courtrooms, to using interactive video for hearings, to having a statewide database on cases, criminal histories, and warrants.

Local Technological Initiatives

We found that:

- **Forty-three percent of court administrators reported undertaking technological initiatives in the past five years that they believe assist case processing.**

Computer terminals in courtrooms make data accessible to judges and court staff.

Computer upgrades, networking computers, and installing computers in the courtrooms were among the initiatives most frequently mentioned as improvements in the last five years. Terminals in the courtroom make data immediately accessible to judges and courtroom personnel. Clerks can complete case processing and data entry while in the courtroom; they can produce forms and notices to hand to defendants before they leave the courthouse. In one county, court administration installed a computer terminal in the office that linked with community corrections data to help staff track offenders and fine or restitution payments.

Another common technological improvement according to court administrators is the use of on-line calendars. These calendars provide automated, real-time schedules of current cases and provide easy access to calendars for all judges and clerks. About 18 percent of the court administrators, however, reported having little or no automation in setting calendars. Court administrators also mentioned the use of electronic mail and interactive television as initiatives that have improved case processing.

Some technologies are relatively new and are available in only a small number of counties. Evaluations of these technologies could reveal whether more widespread use is cost-effective. One example is an automated ticket-writer program that allows law enforcement and courts to share data electronically, negating the need to reenter computerized data. Another is document-imaging systems that allow access to case information from multiple locations and reduce the need to store paper documents.

Interactive Television

Of special note is court use of interactive television (ITV), where courts are able to hold hearings from remote locations. This can be especially useful in judicial districts spread out over large areas, as is the case in all districts except the Second (Ramsey County) and Fourth (Hennepin County). For example, travelling to a

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31 Minnesota Conference of Chief Judges, *Minnesota Courts Strategic Plan for the Year 2005* (St. Paul, 1996), 34-35.

Interactive television allows litigants in one county to interact with a judge located elsewhere.

Regional Treatment Center to hold a mental health hearing consumes great amounts of time and is costly. Courts have used ITV to hold hearings using judges from other counties when there are judge absences, when a judge is removed from a case, or in counties without a chambered judge.

The Conference of Chief Judges has endorsed the use of interactive television for civil cases and certain events in criminal cases.

In 1999, Minnesota's Supreme Court approved the use of interactive television for use in civil cases following a pilot project conducted in the Ninth Judicial District (northwestern Minnesota).[32] An evaluation of the Ninth District's use of ITV reported that users are generally satisfied and the system more than pays for itself by avoiding travel expenses and saving time.[33] The Ninth District developed protocols for ITV use that are recommended for other districts' use. In addition, the Supreme Court approved statewide use of ITV on a limited basis in criminal cases as long as the district follows agreed-upon protocols and agrees to participate in an evaluation of ITV.

In its strategic plan, the judiciary endorses the use of ITV. It recommends "using whenever possible, tele/videopresence to facilitate access and reduce the need for travel."[34]

We observed that:

- **Although courts' use of ITV has proven effective and is growing, the potential for ITV is even greater.**

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32 Sue K. Dosal, State Court Administrator, to Judicial District Administrators, *ITV Protocols*, October 25, 1999, memorandum.

33 Willet R. Willis, *Assessment of the Interactive Television Program in the Ninth Judicial District of Minnesota* (Denver: National Center for State Courts, Court Services Division, 1999), 32, 35.

34 Minnesota Conference of Chief Judges, *Minnesota Courts Strategic Plan,* 35.

Chief judges who have used ITV find it beneficial. They believe that ITV improves access to justice for citizens in geographically large districts and improves efficiency by saving travel time. Seven of the 10 judicial districts currently have access to ITV, although the scope of its use varies. Some judges have used ITV systems set up by other units of government, such as a sheriff department or high school. All chief judges who said their districts actively use ITV are seeking to expand its use. Many sought funding in their budget requests to the State Court Administrator's Office to install additional ITV sites around their districts, but because of limited appropriations and other budget items receiving higher priority, not all requests were granted. Besides using ITV for hearings, some districts use it for training and administrative meetings.

Statewide Integrated Information System

The judiciary's strategic plan calls for the technology necessary to support timely and comprehensive sharing of information across county lines and across agencies.[35] During our study, we heard many judges and court staff express concern about the inadequacies of the information systems now in place. Problems include the inability to share data with courts in other parts of the state or with other agencies, such as law enforcement; the lack of criminal history information on defendants; antiquated and inflexible case-information systems; inadequate case-management features; and redundant data entry.

The judiciary's Technology Planning Committee is overseeing a multi-year effort to design new information technology, known as the Minnesota Court Information System or MNCIS. The State Court Administrator's Office anticipates that MNCIS will be an integrated system allowing access by relevant users from all levels of government involved with criminal justice.

While an evaluation of MNCIS is beyond the scope of this study, throughout our work we heard numerous high expectations expressed for the project. Judges and court staff are looking to MNCIS for everything from instantaneous criminal history data, to automation of calendar setting, to tracking fee and fine data. Even our cursory information about MNCIS suggests that the business practices and case-processing practices now largely controlled at the county level will need far greater statewide uniformity to make MNCIS operational and meet the high expectations for it.

ADJUDICATION ALTERNATIVES THAT AFFECT CASELOADS

Some disputes are better suited to resolution outside the traditional courtroom process.

In an effort to reduce the number of cases appearing in court and reduce the number of trials, courts and other criminal justice agencies have adopted several alternatives to formal adjudication (the traditional court process) for certain case types. To this end, the Minnesota judiciary's strategic plan has endorsed the expanded use of alternative forums to resolve disputes. The plan notes that some disputes are better suited to simplified nonadversarial forums for resolution.

35 *Ibid.*, 35.

Further, alternative forums could relieve pressure on courts' caseload burden. Among the alternatives recommended in the strategic plan are diversion for certain criminal and juvenile offenders, and alternative dispute processes such as mediation, arbitration, or neutral third-party evaluation for family, harassment, and civil cases.[36]

In our surveys, we asked judges and attorneys to rate the effectiveness of several alternatives or practices in reducing caseload burdens.[37] As shown in Table 5.12, we found that:

- **A majority of judges said that the use of quasi-judicial officers, mediation, and diversion before filing cases are effective in reducing caseload burdens. A majority of attorneys said that diverting cases either before or after they are filed is effective in reducing caseload burdens.**

Judges and attorneys differ somewhat over the practices they see as most effective in reducing caseload burdens. A higher percentage of judges than attorneys said mediation, arbitration, and neutral third-party evaluation are effective in reducing caseload burdens. Judges were also more likely than attorneys to view the use of

Table 5.12: Judge and Attorney Opinions About the Effectiveness of Practices to Reduce Caseload Burdens, 2000

	Percentage of Judges Responding:				Percentage of Attorneys Responding:			
Practice	*N*	Effective	Somewhat Effective	Ineffective	*N*	Effective	Somewhat Effective	Ineffective
Referees, hearing officers, judicial officers, or child support magistrates	184	65%	32%	4%	369	45%	46%	9%
Mediation	180	60	38	2	373	36	53	11
Diversion before the case is filed	157	50	43	8	354	55	30	15
Arbitration	153	48	46	6	311	30	55	15
Diversion after the case is filed	171	46	43	11	386	54	32	15
Continuances without prosecution or continuances for dismissal	184	43	48	9	417	58	29	13
Neutral third party evaluation	125	35	53	12	242	24	49	27
Other alternative dispute resolution processes, such as mini-trials	119	33	52	15	191	17	53	30
"Hip-pocket" filing, i.e., civil case proceeds without filing in court	67	33	34	33	256	42	41	16
Ordinance violations resolved administratively by city	82	30	30	39	202	47	31	22

SOURCE: Office of the Legislative Auditor's surveys of district court judges and attorneys, 2000.

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36 Minnesota Conference of Chief Judges, *Minnesota Courts Strategic Plan*, 28-30.

37 We asked only about the effectiveness of these factors in reducing caseload burdens. There may be other issues to consider in determining whether the use of alternatives should be encouraged or expanded.

referees, judicial officers, hearing officers, or child support magistrates as effective. We discuss some of these alternatives below.

Referees, Judicial Officers, Hearing Officers, and Child Support Magistrates

As discussed in Chapter 1, Minnesota has a limited number of quasi-judicial employees who typically handle certain types of cases, allowing judges to spend greater time on more complex or serious cases. In response to a survey question, 52 percent of judges and 29 percent of attorneys with opinions said that referees, hearing officers, judicial officers, or child support magistrates are used often.[38] Moreover, as shown in Table 5.12, 65 percent of judges and 45 percent of attorneys said that these quasi-judicial officers are effective in reducing caseload burdens.

Alternative Dispute Resolution

Alternative dispute resolution is a term generally applied to attempts to settle noncriminal disputes outside of court. The most common forms of alternative dispute resolution are mediation and arbitration. In mediation, the parties to a dispute agree to meet separately or jointly with a mediator or facilitator who tries to reach a compromise acceptable to all. In arbitration, the parties present their case to a neutral arbitrator acceptable to both sides. The arbitrator then recommends a settlement. If the parties agree in advance to binding arbitration, the arbitrator's decision is final and the parties to the dispute are bound by the decision.

The advantage of mediation and arbitration for the parties to the dispute are that they probably resolve the dispute more quickly and more cheaply than if the case goes to trial.[39] The disadvantage is that both sides probably end up with less than they wanted. From the standpoint of the court, less judge time is involved and judges have more time for other cases. On the other hand, alternative dispute resolution may not be successful and the case may go to trial anyway. Studies of mediation for civil cases show a decrease in court workloads, but results for other types of cases are mixed.[40]

Civil cases in Minnesota are subject to alternative dispute resolution, such as mediation or arbitration.

In general, chief judges we interviewed have favorable opinions of alternative dispute resolution in civil cases. Minnesota's *General Rules of Practice* say that all civil cases are subject to alternative dispute resolution and that court administrators must provide attorneys of record with information about alternative dispute resolution.[41] The rules also require consideration of alternative dispute resolution in family law cases.[42]

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38 Many judges underlined or circled "child support magistrates," suggesting that their response was only in reference to the magistrates.

39 Some judges commented that mediation can itself be costly and that the cost discourages some individuals, especially in family disputes, from using mediation.

40 Steelman, *Caseflow Management*, 167.

41 *Minnesota General Rules of Practice*, §114.01 and 114.03.

42 *Minnesota General Rules of Practice*, §310.01.

Courts do not keep records on the extent to which mediation or arbitration is used but our interviews with chief judges and our surveys of judges and lawyers suggest that they are encouraged and used frequently. Moreover, many judges, and to a lesser extent attorneys, believe that mediation and arbitration are effective in reducing caseload burdens. As shown in Table 5.12, 60 percent of judges and 36 percent of attorneys said that mediation is effective for this purpose and 48 percent of judges and 30 percent of attorneys said that arbitration is effective.[43] Most of the other respondents said that mediation and arbitration are somewhat effective. Few judges and attorneys said these alternative dispute resolution methods were ineffective in reducing caseload burdens.

Pretrial Diversion

Prosecutors may divert certain cases from prosecution when offenders agree to abide by predetermined conditions. Foremost among the conditions is that the offender does not repeat the crime or any other crime. The offender may also have to comply with other conditions such as paying restitution to the crime victim, performing community service, or completing a treatment program. In return for complying with the terms of the diversion program, the charges are usually dismissed. Diversion may be used for both juvenile and adult offenders. Prosecutors control pretrial diversion and, if it is successfully completed, the court may never see the case. Sometimes the diversion occurs after a case is filed. In these cases, judges approve the terms of the diversion agreed to by the prosecutor and defendant. Probation departments or private agencies often monitor offenders in the program.

Diversion by prosecutors helps reduce caseload burdens.

We were unable to determine the extent to which pretrial diversion is used. Although state law requires county attorneys to report the name of each adult and juvenile participant in a diversion program to the Bureau of Criminal Apprehension's Criminal Justice Information System, state officials told us that they do not have complete data for several reasons.[44] First, misdemeanors are not included in the data system. Second, only crime reports with a valid fingerprint card are entered into the database. Valid fingerprints are often missing, especially for juvenile offenders. Finally, even when a valid fingerprint card exists, it is not known how accurately county attorneys report information on diversion.

According to data from the State Court Administrator's Office on diversions occurring after cases were filed, 776 felony and 393 gross misdemeanors cases had court-approved diversion in 1999.[45] This represented 5 percent of the felonies and 2 percent of the gross misdemeanors. Data were unavailable for misdemeanors and petty misdemeanors, even though lower-level offenses are more typically candidates for diversion.

A minority of the judges and attorneys we surveyed said diversion is used often. Of the judges with an opinion, 58 percent said diversion before filing is used

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43 Far smaller shares of judges and attorneys rated other forms of alternative dispute resolution, such as "mock trials" to give parties an idea about how a jury might decide a case, as effective in reducing caseload burdens.

44 *Minn. Stat.* (2000) §401.065, subd. 3a; and *Minn. Stat.* (2000) §388.24, subd. 4.

45 Some of these dispositions might subsequently change if the defendant fails to abide by the conditions, resulting in a new disposition.

sometimes and 52 percent said diversion after the case is filed occurs sometimes. Among the attorneys, 51 percent said diversion before filing is rarely used and 51 percent said diversion after the cases are filed is used sometimes.[46]

Attorneys are slightly more likely than judges to think that diversion is effective in reducing caseload burdens, although half or more of judges and attorneys with opinions said that diversion before filing is effective, as shown in Table 5.12. Among attorneys, fewer county prosecutors than other types of attorneys viewed diversion before filing as effective in reducing caseload burdens. In the case of diversion after the case is filed, 46 percent of the judges and 54 percent of the attorneys think it is effective in reducing caseload burdens. Again, fewer county prosecutors than other attorneys rated post-filing diversion as effective in reducing caseload burdens. Judges and attorneys expressed similar opinions about continuances without prosecution or continuances for dismissal. Relatively few judges and attorneys responded that diversion is ineffective in reducing caseload burdens.

Hip Pocket Filing

Minnesota is one of two states that allow one person to serve another with a lawsuit without first filing the suit with the court. This practice, known as "hip pocket filing," allows parties to try to settle cases before the court becomes involved. One-third of the judges we surveyed and 42 percent of attorneys considered hip pocket filing effective in reducing caseloads.

Administrative Procedures for Ordinance Violations

As an alternative to prosecution, some cities have designed administrative processes to hear violations of certain local ordinances.

Some cities have adopted procedures permitting violations of local ordinances to be handled administratively instead of by criminal prosecution. City attorneys we talked with said that they developed administrative procedures for handling ordinance violations because courts were assigning a low priority to them and because judges were usually unfamiliar with the details of each city's ordinances. Accused violators of city ordinances can either pay the fine, request an administrative hearing, or refuse to participate in the administrative process and instead go to court. A city government employee or an independent hearing officer hired by the city usually conducts the administrative hearings. If the violator refuses to participate or disagrees with the hearing officer, the city files the case in district court.

City attorneys said that these procedures for ordinance violations save the city time and the expense of court trials. To the extent that cases are not filed, they relieve pressure on the courts. Some judges we spoke with, however, questioned whether handling violations administratively is a violation of the separation of powers provision of the state constitution.[47] They do not believe that an executive branch agency should be performing a judicial function. On the other hand, city

46 The responses were similar when we asked about the frequency of using continuances without prosecution or continuances for dismissal.

47 Minn. Const., art. 3, sec. 1.

attorneys said that their administrative ordinance procedures have never been challenged in court. They pointed out that the procedures are voluntary and anyone can refuse to participate by demanding their day in court.

We were unable to determine how many cities handle ordinance violations administratively, nor do we know how many cases are handled this way. In response to a question on our survey, 70 percent of judges and 62 percent of attorneys said that administrative procedures for handling ordinance violations are rarely used. Attorneys were more likely than judges to say that administrative handling of ordinances are effective in reducing caseload burdens. As Table 5.12 shows, 47 percent of the attorneys and 30 percent of the judges said that handling ordinance violations administratively is effective, and about 30 percent of each said it is somewhat effective.

Hearing officers hear disputed traffic offenses in Ramsey and Hennepin counties.

Violations Bureaus

Violations bureaus can reduce the number of traffic offenses heard in court.

Some counties have established violations bureaus to collect fines for petty misdemeanors (usually traffic offenses). Most of the time, this consists of a collections window at the courthouse or another location where offenders can pay their fine. As noted in Chapter 1, however, Hennepin and Ramsey counties also employ hearing officers where individuals can claim mitigating circumstances and request that their fine be reduced or waived. Defendants who are not satisfied with the hearing officer's decision or who deny the allegation may still demand a court trial. Chief judges we interviewed felt that violations bureaus improved collection of fines while reducing court caseloads.

JUDGE AND ATTORNEY VIEWS ON IMPROVING CASE PROCESSING

We asked judges and attorneys to describe steps that the courts or the Legislature could take to improve case processing. Table 5.13 lists the most common responses of judges and Table 5.14 lists attorneys' suggestions. The tables indicate that:

- **The most common suggestion made by both judges and attorneys for improving case processing is to increase the number of judges.**

Table 5.13: Judge Suggestions on Improvements the Courts or Legislature Can Make to Case Processing, 2000

To improve case processing, judges suggested increasing the numbers of judges and public defenders.

- The Legislature should fund or hire more judges (70 judges)
- The Legislature should fund or hire more public defenders (47)
- The Legislature should consider the impact of new laws on the courts before passing them (28)
- The Legislature should stop changing laws or procedural requirements every year (27)
- The Legislature or counties should fund more court support staff (22)
- The Legislature should stop trying to micromanage the courts (19)
- The Legislature should provide funding when passing new laws or requirements (18)
- The court should increase pay for law clerks (18)
- The Legislature should not pass laws with mandatory minimum sentences (16)
- The Legislature or counties should provide more funding for legal aid services and *pro se* litigants (14)
- The Legislature or counties should provide more funding for prosecutors (14)
- The Legislature or counties should provide more funding for technology (13)
- Courts should use individual assignment or the "block" system to schedule more cases (13)
- The Legislature should stop clogging the courts with laws to resolve petty disputes such as harassment laws (13)
- The Legislature or counties should provide more funding for the court system in general (12)
- Courts should make greater use of referees and hearing officers (11)
- The Legislature should stop expecting the courts to solve society's problems (10)

NOTE: Numbers in parentheses indicate the number of judges who made that suggestion. Of the 215 judges who returned the survey, 188 made one or more comments or suggestions. The table includes suggestions made by at least ten judges.

SOURCE: Office of the Legislative Auditor's survey of district court judges, 2000.

As we mentioned earlier, most judges and attorneys think that the court is processing cases efficiently while preserving justice and equity. However, many are also concerned that cases are being rushed through the system and that more time should be devoted to individual cases if people are to feel that their concerns are being heard.[48]

Table 5.13 also shows that:

- **Many judges said that there is a shortage of public defenders.**

48 Judges and attorneys submitted their responses to the survey before all of the 13 additional judge positions authorized by the 1999 Legislature were filled.

Table 5.14: Attorney Suggestions on Improvements the Courts or Legislature Can Make to Case Processing, 2000

- The Legislature should fund or hire more judges (101 attorneys)
- The courts should use more referees, magistrates, etc. or otherwise handle minor matters in another venue (74)
- The courts should schedule cases more efficiently or do a better job of adhering to their schedules (59)
- The court should foster better communication and respect among the parties appearing in cases (55)
- The courts should encourage greater use of mediation or other alternative dispute resolution techniques (51)
- The Legislature should stop making more laws or changing existing laws (50)
- The Legislature or counties should fund more court support staff (41)
- The Legislature should stop increasing penalties for offenses or decriminalize some offenses (35)
- Judges should spend more time in court hearing cases and less time doing other things (33)
- The Legislature or the courts should reduce or simplify procedural requirements (32)
- Courts should make better use of technology, including conference calls (29)
- Courts should use individual assignment or the “block” system to schedule more cases (26)
- Courts should encourage greater use of diversion (26)
- Judges should specialize more and rotate less (20)
- The Legislature should not pass laws with mandatory minimum sentences (19)
- The Legislature or counties should fund or hire more public defenders (18)
- The courts should shorten time frames allowed (18)
- The courts should be more concerned with justice rather than efficiency (17)
- The Legislature should stop interfering with the courts (15)

NOTE: Numbers in parentheses indicate the number of attorneys who made that suggestion. Of the 577 attorneys who returned the survey, 418 made one or more comments or suggestions. The table includes suggestions made by at least 15 attorneys.

SOURCE: Office of the Legislative Auditor’s survey of attorneys, 2000.

To improve case processing, attorneys suggested hiring more judges, using more quasi-judicial personnel, or scheduling cases more efficiently.

Forty-seven judges suggested that the Legislature should fund more public defenders and many attorneys agreed. In addition, 14 judges said that funding should be increased to pay for legal aid services for *pro se* litigants and low-income participants in noncriminal proceedings such as family cases. Fourteen judges also said that more funding is needed to increase the number of prosecutors.[49]

Several judges and attorneys also see a need for more court support staff. In particular, many judges believe that the Legislature should increase salaries for

49 In addition, 11 attorneys said that the courts or the Legislature should hire or fund more prosecutors, 4 said more defense attorneys are needed, and 2 simply said more attorneys are needed.

law clerks.[50] Several chief judges whom we interviewed said it is becoming difficult to recruit qualified law clerks, especially in rural areas.

Judges said it was difficult to recruit qualified law clerks because of low pay.

Attorneys and judges also have suggestions about laws that the Legislature passes. Generally speaking, judges, and to a lesser extent attorneys, believe that the Legislature should not attempt to tell the court how to do its job. For example, many judges and attorneys believe that the Legislature should refrain from frequently changing the laws or procedural requirements. In their view, in many instances, laws change as soon as legal precedents are established and a consensus develops about how to apply them.

Judges also feel that the Legislature should consider the impact of new laws and procedural requirements on caseloads and the time judges have to devote to cases. Some judges and attorneys also believe that mandatory minimum sentences make it more difficult for the courts to process cases in a timely manner because they remove incentives for defendants to settle cases.

Table 5.14 also indicates that many attorneys believe that the courts should use existing resources to schedule cases more efficiently. Some attorneys said that the courts could foster better communication and respect among the parties appearing in a case. Some attorneys suggested that the court should encourage greater use of alternative dispute resolution. Attorneys also said that judges should spend more time in court hearing cases and less time doing other things.

Some attorneys and some judges think that more courts should move to a "block" or individual case assignment system and some attorneys would like to see more specialization by judges. Both attorneys and judges see a need for greater use of referees, magistrates, or hearing officers to handle minor cases such as juvenile status offenses, conciliation court, or uncontested divorces. Some judges and attorneys also see a need for more use of technology in the courts.

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50 *Minn. Stat.* (2000) 480.181, subd. 1 allows the Supreme Court to establish pay scales for law clerks. The pay range for law clerks for fiscal year 2001 is $26,706 to $38,158 per year.

Survey Methodology

APPENDIX A

This appendix describes our methodology for surveying judges, court administrators, and attorneys. Aggregate results are available at our web site: http://www.auditor.leg.state.mn.us/ped/2001/pe0102.htm.

Judges

We mailed surveys to 255 judges from a list provided by the State Court Administrator's Office. On the list were names of one judge who had died, one who had retired, and one who had not yet begun to serve. Additional judges appointed after we mailed our questionnaire did not receive it. We mailed the survey on September 7, 2000 and sent a follow-up survey on October 2, 2000 to those who had not responded. We received timely responses from 215 judges (85 percent). Response rates ranged from 93 percent in the Fifth Judicial District to 78 percent in the Tenth Judicial District. Three additional judge responses arrived too late to be included in the analysis.

Court Administrators

We mailed surveys to all 87 court administrators using a mailing list from the State Court Administrator's Office. Because St. Louis County has one court administrator in Duluth and two deputy court administrators for courthouses in Hibbing and Virginia, the two deputy court administrators also filled out surveys. We mailed the survey on September 11, 2000 and sent a follow-up to nonrespondents on October 4, 2000. Of the 87 court administrators and 2 deputy court administrators, 84 responded to the survey, for a response rate of 94 percent. Response rates ranged from 100 percent in the First, Second, Fourth, Fifth, Sixth, and Ninth Districts to 75 percent in the Tenth Judicial District.

Attorneys

We obtained the county attorney list from the Minnesota County Attorney Association. We obtained a list of 816 city attorneys from the League of Minnesota Cities. After removing incomplete names and duplicate names (individuals listed more than once because they served as city attorneys for more than one city), we randomly selected 200 names from the 444 remaining on the list. For public defenders, we randomly selected 200 of 506 names (reduced to 465 nonduplicates) that we obtained from the Board of Public Defense and Hennepin and Ramsey counties. Finally, for private attorneys, we received a randomly generated list from the State Court Administrator's Office of 484 names of attorneys who appeared before the district courts in 1999. After we removed duplicate names and names of attorneys who also served as county attorneys, city

attorneys, or public defenders, 364 private attorneys remained in the sample. Some city attorneys, county attorneys, and public defenders were part-time and may have had a private practice as well.

We mailed the survey to 851 attorneys on September 13, 2000 and sent a follow-up to nonrespondents on October 6, 2000. Twenty-two surveys (12 private attorneys, 9 public defenders, and 1 city attorney) were returned to us because of bad addresses, and we were unable to determine the correct address. In addition, 23 surveys (12 private attorneys, 7 city attorneys, and 4 public defenders) were not completed because the person or law firm that received it was not the appropriate subject for the survey. For example, a person on the list of city attorneys said he was not a city attorney. Finally, we found two instances of public defenders appearing on our list twice, under slightly different names.

After adjusting for these individuals, our revised attorney sample size was 804 including 87 county attorneys, 190 city attorneys, 187 public defenders, and 340 private attorneys. We received timely responses from 77 county attorneys (89 percent), 138 city attorneys (73 percent), 133 public defenders (71 percent), and 229 private attorneys (67 percent), for a total of 577 responses (72 percent). Fourteen additional attorney responses arrived too late to be included in the analysis.

Further Reading

Cantrell, Melissa, Carol R. Flango, and Karen Gillions Way. *State Court Caseload Statistics, 1998: Supplement to Examining the Work of State Courts, 1998.* National Center for State Courts, 1999.

Casey, Pamela. "Defining Optimal Court Performance: The Trial Court Performance Standards," *Court Review*, Winter 1998.

Conference of Chief Judges State Funding Committee. *Court Interpreter Subcommittee Report.* St. Paul: 2000.

Flango, Victor, and Brian Ostrom. *Assessing the Need for Judges and Court Support Staff.* National Center for State Courts, 1996.

Goerdt, John A. *Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts.* National Center for State Courts, 1989.

Goerdt, John A. *Reexamining the Pace of Litigation in 39 Urban Trial Courts.* National Center for State Courts, 1991.

Hays, Steven, and Cole Blease Graham, Jr. *Handbook of Court Administration and Management.* New York: Marcel Dekker, Inc., 1993.

Kobbervig, Wayne, Office of the State Court Administrator. *Minnesota Weighted Caseload 1986.* St. Paul: April 1987.

Kobbervig, Wayne, State Court Administration. *Minnesota Weighted Caseload 1992.* St. Paul: October 1993.

Mahoney, Barry, Karen Booth, Richard Hoffman, and Douglas Somerlot. *Improving Your Jurisdiction's Felony Caseflow Process.* The Justice Management Institute, April 2000.

Matthias, John, Gwendolyn Lyford, and Paul Gomez. *Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions.* National Center for State Courts, 1995.

Minnesota Board on Judicial Standards. *Annual Report 1999.* St. Paul: 2000. Also earlier volumes in the series.

Minnesota Conference of Chief Judges. *Retired Judge Usage.* St. Paul: June 22, 2000.

Minnesota Conference of Chief Judges. *Minnesota Courts Strategic Plan for the Year 2005.* St. Paul: 1996.

National Conference of State Legislatures. "Judicial Salaries," *State Budget & Tax News*, no. 9, May 1, 2000.

Ostrom, Brian J., and Neal B. Kauder. *Examining the Work of State Courts, 1998: A National Perspective from the Court Statistics Project.* National Center for State Courts, 1999. Also prior volumes in the series.

Ostrom, Brian, and Roger Hanson. *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts.* National Center for State Courts, 1999.

Research and Evaluation, Court Services, State Court Administration, Minnesota Supreme Court. *Statistical Highlights 1998 Minnesota State Courts.* St. Paul: June 2000. Also earlier volumes in the series.

Solomon, Maureen, and Douglas K. Somerlot. *Caseflow Management in the Trial Court: Now and for the Future.* Chicago: American Bar Association, 1987.

State Court Administrator's Office. *Criminal Surcharge Report to Conference of Chief Judges.* St. Paul: December 5, 2000.

State Court Administrator's Office. *History of Court Reform in Minnesota.* St. Paul: 2000.

Steelman, David, John Goerdt, and James McMillan. *Caseflow Management: The Heart of Court Management in the New Millennium.* National Center for State Courts, 2000.

Willis, Willet R. *Assessment of the Interactive Television Program in the Ninth Judicial District of Minnesota.* Denver: National Center for State Courts, Court Services Division, 1999.

MINNESOTA CONFERENCE OF CHIEF JUDGES

Minnesota Judicial Center
25 Constitution Avenue
St. Paul, Minnesota 55155

January 17, 2001

James Nobles, Legislative Auditor
First Floor Centennial Building
658 Cedar St.
St. Paul, MN 55155

Dear Mr. Nobles:

On behalf of the Conference of Chief Judges, which represents Minnesota's 268 elected trial court judges, I write this formal response to the Legislative Auditor's report on the district courts. We commend your staff on a fair and thorough evaluation of the court system's programs. We appreciated the objective and professional manner in which the evaluation was conducted. Useful analyses of the Court's case management practices are a valuable tool for our continued improvement.

More importantly, your report serves as independent verification of what the judicial branch has been struggling with for years: providing effective justice when resources have not kept pace with demands. Major caseload filings have increased at twice the rate of state expenditures on the judiciary. While judges have responded to this increase by working harder than ever, they have been forced to shorten hearing times and handle many important matters in a cursory manner with little time for reflection. The advent of "assembly line justice" has enormous implications for a citizenry dependent on us to resolve their most troubling disputes, as well as for the judges who have been operating in crisis mode for far too long.

Your report echoes this sentiment in the finding that a majority of judges and lawyers are concerned that there is not enough time or judges to handle cases properly. Your survey also demonstrated that those who work within the judicial system are troubled by not having the guardians ad litem, court interpreters and public defenders that are needed daily in court proceedings. Devoting adequate time to each case is not just an issue of making constituents feel good. Research shows having adequate time and resources to spend on each case results in better decisions. People are more likely to obey judicial orders if they believe their side of the story was fully "heard" by the Court.

We believe your evaluation supports our legislative request, which is designed to ensure that the judiciary is able to provide the people we serve with the effective justice they deserve. Having a sufficient number of judges, adequate support staff, interpreters, guardians ad litem, upgraded technology and reasonable compensation for all judicial branch employees is critical to the continued efficiency of the Minnesota District Courts, essential to our strategic focus on

improving effectiveness, and key to maintaining public trust in the Judicial Branch as an institution.

Although we believe our resource needs are broader, we support both recommendations of the study. First, updating our system of assessing judgeship need is an issue the Conference of Chief Judges has been actively addressing. We expect to conduct a new and improved weighted caseload study in the coming biennium. Second, increasing the pool of retired judges by changing the retired judge compensation scheme is also important. The Conference of Chief Judges has already recommended adjustments to the compensation plan for retired judges who return to the courts working part-time.

As you know, we initially expressed concerns to your office relative to separation of powers issues raised by a legislative audit of the judiciary. In the final analysis, your report provides an opportunity for us to have an objective study of case management practices in Minnesota and will help us educate the public and other branches of government about the complex issues facing our courts. Let me again express our appreciation for a fair and thorough evaluation.

Sincerely, yours,

/s/ Leslie M. Metzen

Leslie M. Metzen
Conference of Chief Judges, Chair

LMM:sjr