

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**ANNUAL ASSESSMENT
UNDER THE
CIVIL JUSTICE REFORM ACT OF 1990
FOR THE YEAR 1994**

June 1996

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

**THIRD ANNUAL ASSESSMENT OF THE CONDITION OF THE COURT AND REVIEW
OF THE CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN BY THE
ADVISORY GROUP APPOINTED UNDER THE CIVIL JUSTICE REFORM ACT OF 1990**

STATE OF THE COURT REPORT FOR 1994

This is the third "State of the Court Report" and assessment made after the adoption on December 31, 1991 and the implementation in January, 1992 of the Civil Justice Expense and Delay Reduction Plan (The Plan) in this pilot district court.¹ This annual assessment of the condition of the court's criminal and civil dockets is in response to 28 U.S.C. § 475 of the Civil Justice Reform Act of 1990 requiring annual assessments, consultation with and review by the Advisory Group through 1997 with a view toward determining appropriate additional actions that may be taken by the court to reduce avoidable cost and delay in civil litigation and to improve the litigation management practices of the court. This is an update of our prior annual assessments and reports with further analysis of the impact of the court's Plan and assessment of the Plan's performance. It also compares the data of the three years under the Plan and at least the two years prior to implementation.²

CONDITION OF THE DOCKET:

Caseload Volume:

	<u>SY 1994</u>	<u>SY 1993</u>	<u>SY 1992</u>	<u>SY 1991</u>	<u>SY 1990</u>
<u>Total Case Filings:</u>	2464	2610	2647	2237	2474
<u>Total Civil Cases Filed:</u>	2271	2375	2442	1949	2288
<u>Total Criminal Felony</u>					
<u>Cases Filed:*</u>	193	235	205	225	245
<u>Total Case Terminations:</u>	2522	2650	2248	2145	2644
<u>Total Cases Pending:</u>	1707	1772	1907	1508	1475

* includes transfers

Statistical data concerning caseload volume is a major source of information about the condition of the court's docket. The court continues to have a high civil caseload in relation to its criminal caseload just as it has had for more than a decade. According to the 1994 Federal Court Management Statistics, it appears that, just as in the past several years, over 90% of all cases filed in this court are civil in nature and less than 10% criminal felony cases.

Criminal Statistics:

Because a court's criminal caseload limits the resources available for work on a court's civil caseload, the impact of criminal prosecutions must be reviewed annually to better assess the overall condition of the court's docket and whether this is an area that needs attention in order to continue to focus on the goal of avoidable expense and delay reduction for civil cases under the CJRA.

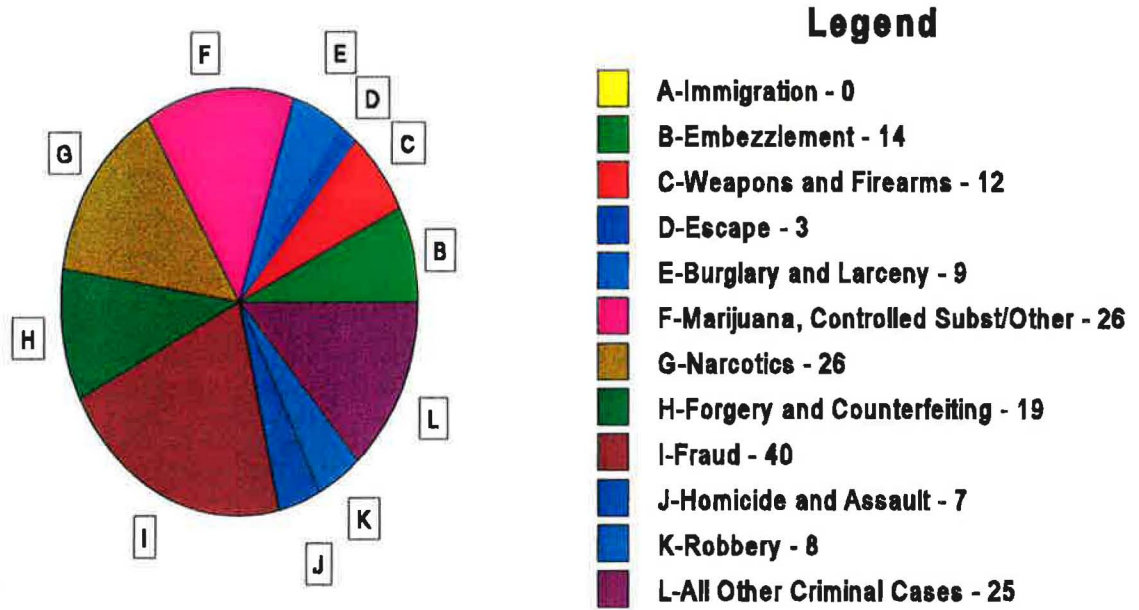
Caseload Mix: Chart I on the following page (i) describes criminal felony filings for 1994 by nature of offence. Fraud has been a significant part of the criminal caseload for some years. This was due in large part to the task forces organized by the Department of Justice to investigate and prosecute individuals involved in fraudulent financial practices since the savings and loan crisis.

Burden on the Court: Criminal felony case filings have remained fairly stable for the last several years but down a bit in 1994 (see Caseload Volume on page 1). Burden on the court in this area is measured by the number of criminal defendants and the court averaged 1.4 criminal felony defendants per case in SY 1994. In fact the court has only varied from 1.3 to 1.5 felony defendants per case since 1988. The average nationally in 1994 was 1.6 felony defendants per case.

Statistical information provided to us from the Administrative Office of the Courts and the Federal Judicial Center indicates a rise in criminal misdemeanor defendants in our district. Misdemeanors are handled by the magistrate judges, with the time burden on them rather than the district judge. The court has one magistrate judge who devotes his criminal case load full time to the Tinker Air Force Base docket. It should be noted that district judges are spend increasing amounts of time on presentence investigation reports under the

CHART I

Criminal Filings for Oklahoma Western District 1994



Sentencing Guidelines and appear to be spending more time on contested sentencing matters.

Criminal Trials: It is important to recognize that the Speedy Trial Act mandates that criminal proceedings occur within specified time limits and therefore, often must preempt scheduled civil trials. This can interfere with the prompt disposition of civil matters. There appears to be an increase in the number of criminal felony trials being conducted relative to civil trials over the past several years.³ In 1994 the judges held a total of 79 criminal felony trials and 97 civil trials; 50 criminal in 1993 and 88 civil trials; in 1992, 47 criminal to 117 civil; in 1991, 37 criminal to 129 civil; and in 1990, 51 criminal to 118 civil. Chart II on the following page (ii) shows this graphically. Although the court continues to process all cases very promptly as will be discussed later, the incidence of or increase in criminal felony trials should be monitored for any adverse effects.

Civil Statistics:

The 1994 Federal Court Management Statistics reports a 5.6% decrease in total filings for the Western District of Oklahoma since SY 1993 and a 6.9% decrease in civil filings since SY 1992. The opposite was true nationally - total district court filings rose slightly in 1994, up 1.4%, and civil filings nationally in 1994 rose almost 3 percent.

Civil Caseload Mix and Filing Trends. Caseload mix and filing trends show the variety of cases making up the caseload and is helpful for assessment purposes because different types of cases tend to move through the court system in different ways. The pie graph at Chart III on the following page (iii) demonstrates civil filing types for 1994.

The numbers of the various types of cases or nature of suits that are filed in this court have changed over time. The civil cases showing the greatest decrease in filings are contract cases while the civil cases showing the greatest increase in filings are prisoner and habeas corpus cases (comprising 24% of the civil docket in SY94) with non-prisoner civil rights (i.e. employment discrimination and § 1983 actions) steadily continuing to rise in number of filings (comprising 16% of the civil docket in SY 1994). The civil rights filings appear to continue to rise of all the major case categories. The Civil Rights Act of 1991 is partly responsible for this increase. The graph at Chart IV on page (iv) shows these case

Chart II
Number of Civil Trials Compared to Number of Criminal Trials

Criminal & Civil Filings

Calendar Years - 1990 through 1994

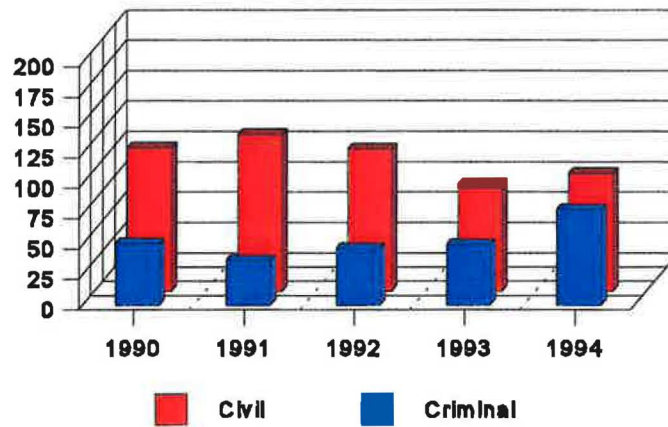


CHART III

**Civil Filings for Oklahoma Western District
1994**

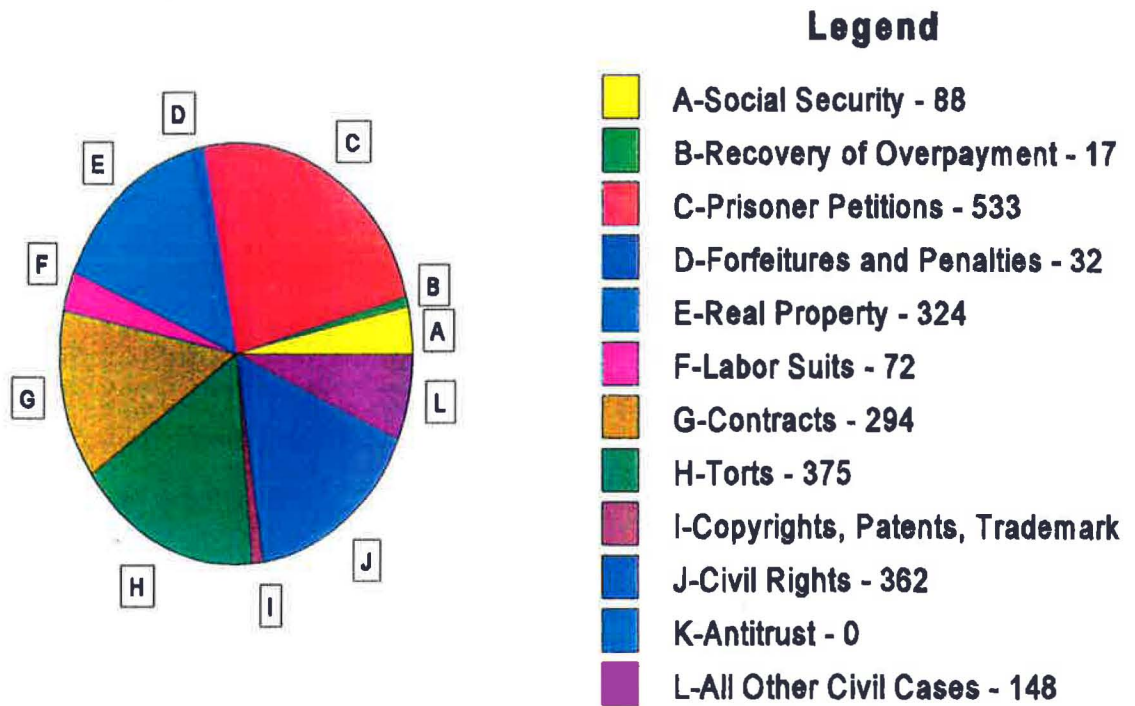
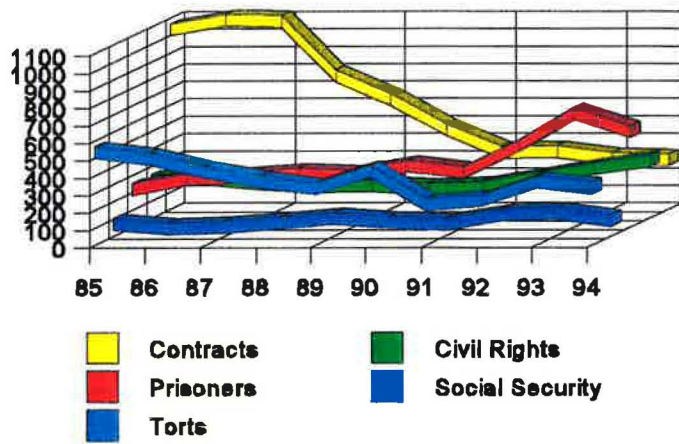


Chart IV
Distribution of Weighted Civil Case Filings

Case Type/Filing Trends

SY 1985-1994



types with decreasing and increasing trends.

Burden on the Court. It is noteworthy that in one of the areas of growth, prisoner filings, the greatest burden here is on magistrate judge time. This type of case is routinely referred to a magistrate judge in accordance with the Plan for the Prisoner Litigation Track in our differential case management system. Magistrate judges enter such orders as are necessary in a case and prepare a Report and Recommendation for the court. Four magistrate judges and each of their law clerks and 1 full time pro se law clerk (a law clerk who in our court does only prisoner litigation - habeas and civil rights) do the bulk of this work. Chart V on the following page (v) graph total prisoner filings by year since 1989.

Because of the workload involved for magistrate judges, the "moratorium" on referrals to magistrate judges of civil consent cases, discovery disputes and other routine civil matters that was instituted in 1993 was continued well into the Fall of 1994 when the number of prisoner filings began to subside.

While total number of cases filed is an important figure, numbers combined with case types provides information about the work the cases will impose on the court. Just as civil filings have decreased, obviously civil filings per judgeship has decreased annually as well. This averages to 411 total case filings per judgeship in SY 1994 with 379 of those civil case filings each. However, to help assess the workload burden on the judiciary, the Judicial Conference uses a system of case weights based on measurements of judge time devoted to different types of cases. Chart VI on the following page (vi) employs the current case weights (revised in August, 1993) to show the approximate distribution of demands on judge time among the case types accounting for the past three years' filings in this district. The chart does not reflect the demand on magistrate judges.

While this court was first in the nation in 1985 in the number of weighted cases per judgeship, it has continued to have an active workload. It appears that the difficulty and degree of judicial time that cases take has remained fairly constant due to change in case types and weighted cases per judgeship.

Civil Trials: Another indicator of burden is the incidence of civil trials. According to our court's own JS-10 Forms for the calendar year 1994, it appears that the court completed 97 civil trials. (See Chart 2 concerning civil trials compared to criminal trials.)

CHART V
 Prisoner Litigation Filings
 SY 1989-1994

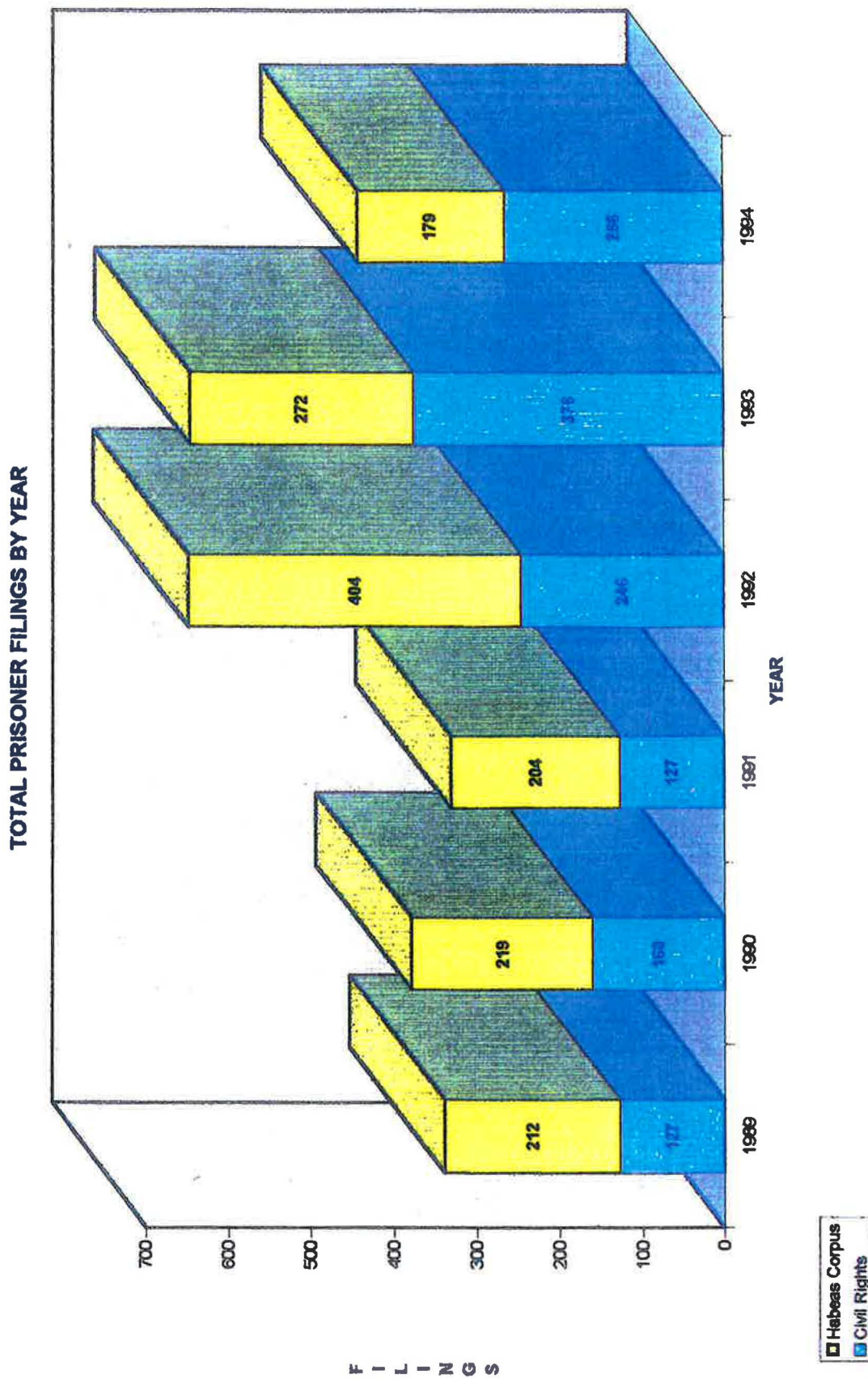
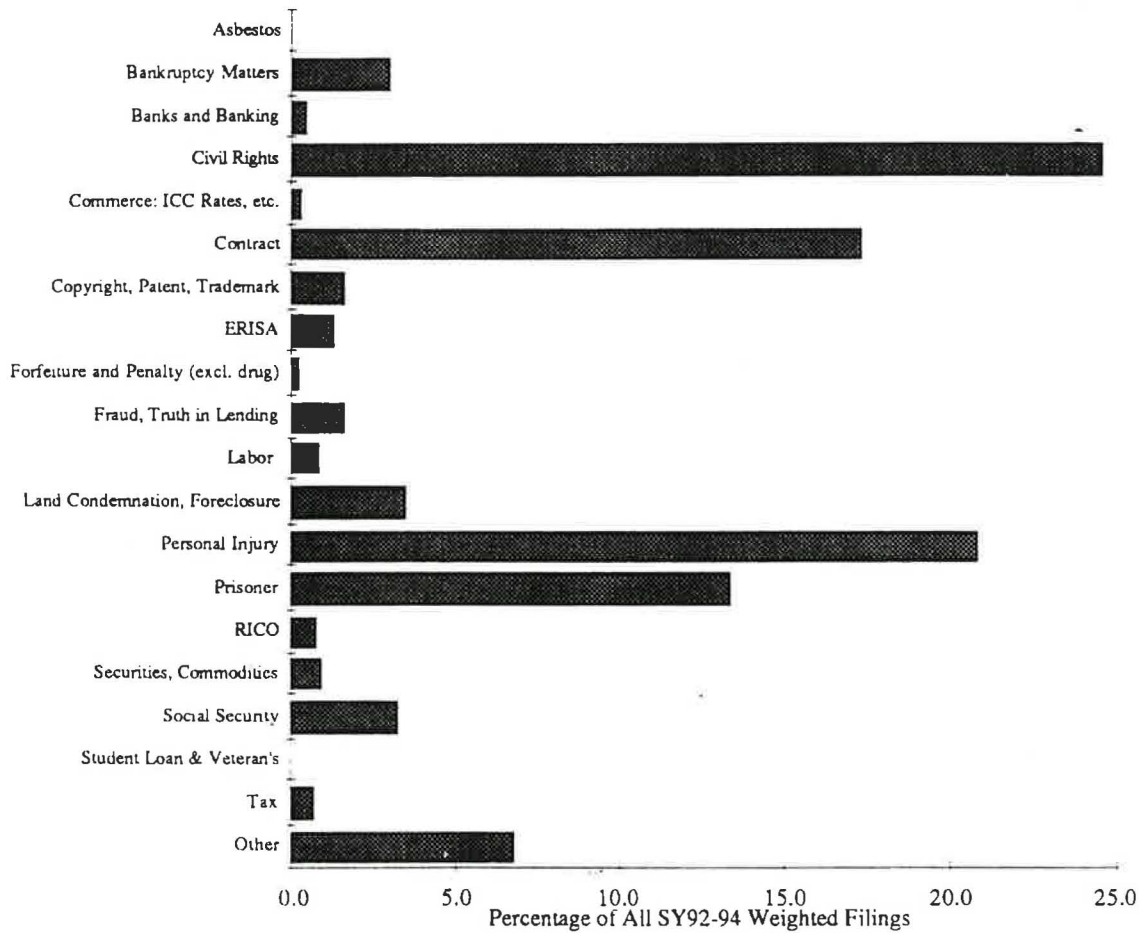


Chart VI
Distribution of Weighted Civil Case Filings, SY92-94
Western District of Oklahoma



Thus civil trials represented 55% of all trials conducted. There were 3 civil trials that lasted 2 weeks or longer and, other than certain civil matters needing judicial decision lasting only 1 day, most civil trials appeared to average 3 days each.

CASE PROCESSING:

Median Times to Disposition:

This section is intended to assist in assessments of "delay" in civil litigation in this district. These data are commonly used to assess the dispatch with which cases have moved through a court in the past. When enough years are shown and the data for those years are looked at collectively, reasonable assessments of a court's pace might be made.

Criminal. The 1994 Federal Court Management Statistics rates the Western District of Oklahoma fifth nationwide for timely disposition of criminal felony cases with a median time of only 4.1 months while the national average was 6.5 months. We are up from 3.5 last year and the national average is up from 6.3 months. Our court has always maintained excellent ratings in this area and at least since 1991, our court has ranked at between 2nd and 5th in the nation and in 1994 is 2nd in the 10th Circuit in prompt disposition of criminal felony cases.

Civil: According to the 1994 Federal Court Management Statistics, in 1994 our court ranked eleventh in the nation and second in the circuit in median time (months) from filing to disposition in civil cases. The national average was eight months, while our court's average was seven months. Furthermore, our court ranked sixth in the nation in the median time (months) from issue to trial of civil cases. The national average was eighteen (18) months while our court's average was only eleven (11) months. It can be observed that this year we are up both in median time to disposition and from filing to trial but still well below the national average. However, we are not experiencing any problem from this slight fluctuation.

Relationship of Civil Terminations to Civil Pending Cases. Another measure of how well the court is processing and managing its civil caseload is to review the relationship of terminations to number of cases pending at the end of given year. See the following annual

comparison:

**Western District of Oklahoma Comparison of Total Civil Terminations and Pending Cases,
SY1990 - 1994**

	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>
Civil Terminations:	1734	2378	1988	2092	2470
Civil Pending:	1595	1679	1571	1296	1344

The 1994 data demonstrates a decrease in terminations and in pending cases from the immediate prior year. The pending cases at the close of 1993 increased slightly to 1679 over 1571 in 1992 and prior years but terminations increased. A comparison of terminations and pending cases demonstrates the life expectancy/lifespan of cases (i.e. some cases are "living longer"). This year, therefore, while the life expectancy of some civil cases is slightly shorter (less pending cases), considering the type of cases/case mix, weighted caseload in our court and decrease in case filings in 1994, even though we had a decrease in terminations, it appears that we are not experiencing any significant problem and we are still disposing of cases in a timely fashion.

Number of Cases Over 3 Years Old. This measure has long been seen as a guideline for determining delay problems in court processing. Currently we are first in the circuit and 7th in the nation in the fewest older cases. We only had 22 such cases in 1994 down from the high 40's in the late 1980's.

Alternative Dispute Resolution Programs:

The court's ADR programs and settlement procedures for civil cases go a long way in assisting with prompt case processing and management as well as potentially positively affecting costs. This court has utilized a variety of dispute settlement procedures since the early 1980's. The volume or number of cases utilizing non-binding arbitration is decreasing while those utilizing mediation and the settlement conference did not vary much from prior years under review. The use of the summary jury trial continues to decrease due to better case evaluation for use of such an expensive process, because different types of cases are reaching the final trial preparation stages than in the past and surveys of attorneys by the initial CJRA Advisory indicating the costly nature of this process. The following comparison

data is prepared for review by the CJRA Advisory Group.

Non-binding arbitration:

	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>
Cases referred	113	177	201	190	223
mandatory	(96	138	150)		
voluntary	(17	39	51)		
Hearings Scheduled	48	119	188		
Hearings Held	29	60	92	130	89
Trial de Novo Demand	18	36	54	69	39

Again we can note the real significance in this program is in the setting of an early firm deadline resulting in case disposition prior to the hearing. Of those who do utilize our panel of arbitrators, again the result is case resolution due to award evaluation and often further discussion of the award and what was learned at the arbitration with the settlement conference judge.

There were originally approximately 350 attorney arbitrators on the panel. There are approximately 315 still remaining. Many from the first (1985) and second (1989) appointments are deceased, moved out of state, took the bench or other government positions that preclude their service. Only 29 arbitrators actually served in calendar year 1994. Today virtually every case that enters the arbitration track wishes to choose an arbitrator with subject matter knowledge desiring to focus on the evaluative nature of this settlement procedure. That was not so true in the early days of the program. Many of the cases that get referred to this process are Fair Debt Collection Act cases, some ERISA, low dollar personal injury, insurance, and quite a few employment discrimination have volunteered for the process. Those arbitrators with expertise in these areas are continuously selected.

The program continues to serve the purpose of an early settlement devise as can be shown by the differential between cases referred and hearings held. The fact of having to participate and/or of having a firm date has always caused these usually less complex cases to get resolved. The Judicial Amendments Act of 1994 re-authorized the 10 pilot mandatory and the 10 pilot voluntary court-annexed arbitration programs until December 31, 1997.

Mediation:

This early mediation program began as a result of a recommendation from the Civil Justice Reform Act Advisory Group and their experience with both attorney and client satisfaction with the process in the state courts. The following compares the statistical information for the past 3 years since program inception.

	<u>1994</u>	<u>1993</u>	<u>1992</u>
Cases referred	135	145	109
Court-ordered	(0	0	28)
Voluntary	(135	145	81)
Sessions Held	114	108	62
Settled at Mediation	41	51	27
Not Settled at Session	68	52	35 N.B. many do settle shortly thereafter

Virtually all sessions were held during the early discovery period according to our Mediator Reports suggesting that for those cases that did settle, costs were saved and for those cases which did not settle, issues were narrowed and discovery more focused. Selection of the mediator is by agreement of the parties from the entire list; therefore, the market place has determined selection since the program began in 1992. Attorneys and mediators continue to report using the mediators on the court's panel, who are also private mediators, even earlier than the court anticipated i.e. pre status/scheduling conference or in the pre-filing or pre-litigation setting. Also several mediators report service in federal court cases in progress at counsel's request and not by court referral or order.

Although the setting of cases for mediation within a "window of time" was intended to be flexible to allow necessary discovery needs to be met, many mediators report that necessary discovery is not always done thus causing either a fruitless mediation or the need to continue or re-set the session after the window necessitating additional paperwork and cost. Another problem that this causes is that by allowing continuances of the session after the "window," some cases run up on the regularly scheduled judicial settlement conference. Both are probably not needed at the end of the litigation process.

Individual education of certain mediators has occurred so that they now inquire and determine that the necessary work gets done prior to the mediation. However, some attorneys seem to need education on the benefits of building settlement discussions or

settlement procedures into their discovery and litigation management plans early or mid discovery rather than waiting for the settlement judge just before trial when trial preparation costs are expended.

Summary Jury Trials:

	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>
Cases referred	3	5	19	20	46
Settled Prior	0	0	3	6	17
SJT Held	2	5	14	11	25
Settled After SJT1	4	12	10	13	
Trial after SJT	1	3	1	1	10

Most judges have discontinued use of the SJT except for very particular cases or circumstances.

Settlement Conferences: The magistrate judge-hosted settlement conference or judicial settlement conference continues to be the most popular of the court's settlement procedures. Approximately 500 settlement conferences were held in 1994 by the full-time settlement magistrate judge with occasional settlement conferences held by other federal and magistrate judges. The court schedules settlement conferences in all civil cases placed on trial dockets and in cases where district judges determine that a settlement conference should be held either on their own motion or at the request of the parties. It was originally designed for utilization at the end of the litigation process after most all of the discovery has been done and most motions have been judicially ruled on. It is normally used as a rights-based, evaluative process.

Consent to Civil Trials before a U.S. Magistrate Judge:

The Advisory Group in its initial report was supportive of the increased use of Magistrate Judges for civil case management and resolution. Earlier CJRA Reports said that in late 1993, due to increasing numbers of matters that were traditionally handled by our magistrate judges such as prisoner civil rights and habeas cases, social security appeals and the like, in addition to their regular criminal misdemeanor dockets, the court ordered that fewer other civil matters be referred to magistrate judges. Therefore, for the last quarter of 1993 to the last quarter of 1994, the Article III judges did not refer civil cases that

consented to magistrate trials, retained discovery disputes and rarely referred any summary jury trials or other civil matters to magistrates in an effort to allow the magistrate judges to handle their own caseload.

Therefore, in all of 1994, only 11 civil consent trials were referred (33 in 1993 and 66 in 1992), and only 20 discovery matters were referred.

Case Disposition:

How cases get resolved or terminated is relevant to our analysis of cost and delay. The following list shows termination by category and percentage of cases in SY 1992-94:

Transferred to another district -	3%
Remanded to state court -	2.5%
Dismissed for want of prosecution-	4%
Dismissed or settled* before answer -	15%
Dismissed or settled* after answer, before pretrial -	12%
Dismissed or settled* during or after pretrial conference -	25%
Default judgment -	16%
Judgment on pretrial motion (e.g. Rule 12 or 56) -	12%
Judgment on jury verdict -	3.5%
Judgment on bench trial -	2%
Other -	5%

(*Includes consent judgment and voluntary dismissal) TOTAL 100%

ADDITIONAL INFLUENCES ON THE COURT, THE DOCKET, OR THE CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN.

New Federal Rule 26 and Voluntary Discovery Disclosure:

With the changes in the Federal Rules of Civil Procedure in 1993 regarding discovery, our court opted out of 26(a)(1) leaving Local Rule 17(C) governing voluntary disclosure in

place. We also opted out of the filing requirement in 26(a)(4), declined to stay discovery, and did not require discovery/planning meetings pursuant to 26(f). Instead the provisions of Local Rule 17 (A) - (E) shall control. The local bar and the Civil Justice Advisory Group were given an opportunity to comment.

This was "codified" as Local Rule 1.5 on April 20, 1994. Therefore, our court continued the discovery provisions adopted by the Plan in 1991 with amendments to Local Rule 17 in June of 1993 and April of 1994.

Judicial Events:

The Honorable Lee R. West served as Chief Judge from July, 1993, through November of 1994 when he took senior status and The Honorable David R. Russell became Chief Judge. In December of 1994, the Honorable Vicki Miles-LaGrange was sworn in as our 6th active Federal District Judge, replacing Judge West.

Technological Advances within the Court:

In early 1994, the clerk's office provided the CHASER (CHambers Access to Selected Electronic Records) solution to chambers staff. CHASER allows courtroom deputies, secretaries, and law clerks to easily obtain case management reports. It also provides a much user-friendly interface to print or view docket sheets.

Also in early 1994, ICMS (Integrated Case Management System) was moved from an aging Unisys 5000 to a new Dell 486 computer. The new system is faster and provides more hard disk storage space. The clerk's office also continued to expand a Novell network. cc:Mail was implemented. Because of the network connectivity, now electronic mail (E-Mail) can be sent locally within the clerk's office, locally to the Bankruptcy Court, locally to the Probation Office, to the Tenth Circuit staff in Denver, and to the staff at the Administrative Office of the Courts.

Space and Facilities:

The first phase of the \$10 million project of remodeling and realignment of the entire federal building/courthouse was almost complete in 1994. During the month of August, 1994, all magistrate judges were moved to the first floor of the federal courthouse to new chambers, courtrooms and settlement conference and ADR hearing rooms. The Tenth Circuit court of Appeals and library moved to the second floor - east side.

OTHER CJRA INFORMATION.

RAND - Preliminary Report. In July of 1994, the RAND Corporation's Institute for Civil Justice (selected by Congress to evaluate the impact of the implementation of the Civil Justice Reform Act) gave an "interim report" entitled "Preliminary Observations on Implementation of the Pilot Programs of the Civil Justice Reform Act of 1990." This Report can be found at 46 Stanford Law Review 1303. One of its early conclusions concerning pilot districts is that case-management procedures vary greatly among districts and variation has been increased by implementation of the CJRA but that this process has heightened awareness of lawyers, judges and clerks to the problems of litigation costs and delay.

All 10 pilot courts were studied vis-a-vis a comparison district. The Western District of Oklahoma is teamed up with the Middle District of Pennsylvania. Our court is also a pilot ADR court for our mediation program.

The Judicial Amendments Act of 1994 extended the due date until December 31, 1996, for the RAND Corporation's final report or study of civil litigation and the impact the CJRA has had on the federal courts.

On December 1, 1994, the Judicial Conference of the United States submitted to Congress its comprehensive report on the implementation of the CJRA. It contained the contents of all 94 District Court Expense and Delay Reduction Plans. Many innovative procedures adopted by the courts that address cost and delay issues are found in those Plans.

The Violent Crime Control and Law Enforcement Act of 1994 adds a number of new federal offenses that may affect the court's workload.

The CJRA Advisory Group assisted the court by surveying members and making recommendations concerning the discovery disclosure provisions of the new Federal Rules of Civil Procedure. Also by Administrative Order dated December 28, 1994, Chief Judge Russell appointed 4 new members to the Civil Justice Advisory Group to fill the positions of members whose terms had expired.

A Criminal Justice Act Committee was appointed by the Court in late 1994, Chaired by Judge Tim Leonard at the request of the Judicial Conference to study cost containment measures in the criminal justice system.

CONCLUSION

The court's way of doing business under the Plan in 1994 did not differ much from 1993 and 1992 or for several years before the Plan. This court basically codified as our Plan the case-management and ADR procedures we were already doing plus added a court-annexed early mediation program and the voluntary discovery disclosure concept. The Plan continues to have a positive impact. Early and continuous control of the pretrial process with status/ scheduling conferences and the filing of status reports for all civil cases is a staple of our court management system. The smooth operation of the systematic differential treatment of civil cases and standard or special management track assignments still appears to work well. However, there are very few cases on the special tract.

This court has for many years resolved both civil and criminal matters before it expeditiously. The court continues to adapt well to changes in its docket and is able to do so, in part, because of a very flexible Plan and case management as incorporated in the Plan. Excellent communication, cooperation between judges, and the overall management in the district are a secret of our success. It continues to appear that our Civil Justice Expense and Delay Reduction Plan promotes economy and efficiency and that satisfies the purpose of the Act.

ENDNOTES

1. The Judicial Conference selected the Western District of Oklahoma as a pilot district for purposes of the Civil Justice Reform Act of 1990. See the Judicial Improvements Act of 1990, § 105 of Pub.L. 101-650, as amended Pub.L. 103-420, § 4, Oct. 25, 1994, for a description of program requirements for Pilot Programs.

N.B. In accordance with the above cited Act and amendments, after 1995, Pilot Courts do not appear to be required to keep the statutory requirements of their Plans in effect.

2. Except the portions on Alternative Dispute Resolution and Consent to Civil Trials with Magistrate Judges, and some of the civil and criminal trial data, which is prepared by the court and is based on the calendar year, the statistical data used throughout this report was derived from the 1990, 1991, 1992, 1993 and 1994 Federal Court Management Statistics, prepared annually by the Administrative Office of the Courts, the Guidelines to Advisory Groups Appointed Under the Civil Justice Reform Act of 1990, February 1991, the SY 91 Statistics Supplement, October 1991, the SY 92 Statistics Supplement, September 1992, the SY 93 Statistics Supplement, September 1993, and the SY 94 Statistics Supplement, October 1994 prepared by the Administrative Office of the Courts and the Federal Judicial Center. Also used were actual statistics from the Statistics Division of the Federal Judicial Center. These are some of the same resources utilized and given the Advisory Group for preparation for the Advisory Group Report in the Fall of 1991. Please recall that the assessment of the court's criminal and civil dockets used in the Advisory Group Report was based primarily on statistics from SY 1990.

N.B. "SY" indicates statistical year. The SY year end date is June 30 for the data used for 1990 and 1991 and September 30 for 1992, 1993 and 1994. The Judicial Conference approved the new statistical reporting period to coincide with the federal fiscal year.

3. According to the Federal Judicial Center Research/Statistics Division, the definition of "trial" for statistical purposes as used by the Administrative Office of the Courts and the Federal Judicial Center is broader than merely jury or non-jury trials and includes in-court proceedings completed with a court decision. For civil cases, hearings on preliminary injunctions and TRO's and a category entitled "all other" are included. For criminal trials the same is true and "all other" would include hearings that were completed by a court decision such as hearings on motions to suppress. Contested sentencing hearings are also considered trials for statistical purposes. The JS-10 Form itself that the court's statistical clerk furnishes the Administrative Office from much of this data is derived, includes these as "types of trial."