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September 21, 1994

Duke Argetsinger
OCP-CAPS
Administrative Office of
the United States Courts
Washington, D.C. 20544

Dear Mr. Argetsinger:

Enclosed pursuant to 28 U.S.C. § 475 is the First Assessment Report of the Advisory Group of the District of Delaware Pursuant to the Civil Justice Reform Act submitted after review by the Court.

Sincerely,

John R. McAllister, Jr.
John R. McAllister, Jr.

cc: Chief Judge Longobardi
Judge Farnan
Judge Robinson
Judge McKelvie
Judge Latchum
Judge Schwartz
Judge Trostle



**FIRST ASSESSMENT REPORT OF THE
ADVISORY GROUP OF THE DISTRICT OF DELAWARE
PURSUANT TO CIVIL JUSTICE REFORM ACT**

TO

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SEPTEMBER 14, 1994

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FIRST ASSESSMENT REPORT OF THE
ADVISORY GROUP OF THE DISTRICT OF DELAWARE
PURSUANT TO CIVIL JUSTICE REFORM ACT

I. Introduction

The Civil Justice Reform Act ("CJRA") of 1990 requires each United States District Court that has promulgated a civil justice delay and expense reduction plan to reassess the state of its docket annually and in doing so consult with the advisory group appointed pursuant to the Act.¹ The review is intended to lead to further action, where appropriate, to reduce "cost and delay in civil litigation" and improve "the litigation practices of the court."² This is the initial assessment report of the Advisory Group to the District Court for the District of Delaware since the submission of its Final Report and recommendations for the formulation of a plan on October 1, 1991.

The Initial Assessment Report was deferred in order to develop a meaningful data base of completed cases by which to compare the apparent effects of the Plan, which was subsequently adopted by the Court and implemented by amended local rules. The conclusions drawn are both tentative and incomplete. They are tentative, because the changes effected by the Plan occurred coincident to the filling of two judicial vacancies on a four-judge court and the use of procedures by members of that court that are not directly related to implementation

¹ 28 U.S.C. § 475

² Id.

of the Plan. The conclusions are incomplete, because the cost study being conducted by Rand Corporation pursuant to its July 10, 1992 research design has yet to be received.

In this first assessment, there is a review of events occurring since the Plan was adopted, a discussion of the assessment methodology developed by the Advisory Group and the result of applying that methodology to compare a universe of closed cases upon which the amended local rules had limited impact with a universe of cases largely governed by those rules. The statistical analysis has been performed by Dr. Danilo Yanich of the University of Delaware's College of Urban Affairs and Public Policy, who also served as the special consultant to the Group in preparation of its 1991 Report. Finally, there is a summary of the Group's conclusions based upon its review of the foregoing data and consideration of comments by members of the Court.

II. Events Since The Adoption Of The Plan

The Civil Justice Expense and Delay Reduction Plan (the "Plan") promulgated by the United States District Court for the District of Delaware was adopted on December 23, 1991 and became effective with the implementation of amended local rules on August 1, 1992. The two judicial vacancies existing in the fall of 1991 were subsequently filled when, on December 16, 1991 and March 2, 1992, respectively, Judge Robinson and Judge McKelvie joined the Court. Their appointment has had an immediate and substantial impact on the state of the Court's docket. The full effect of the Court being at full strength, however, may not be known until some time in the future.

Additionally, the adoption of the Plan coincided with the implementation of new local District Court rules, which incorporate certain aspects of the Plan and make additional changes as well. Whether the effects of the rule changes pursuant to the Plan can be separated from the other rule changes remains to be seen.

III. The Development Of A Means Of Assessment

The Advisory Group concluded that a first year assessment would be of limited utility, given the brief period of time for the amended local rules and filling of judicial vacancies to have any measurable effect. Any empirical results of such an assessment would not be sufficiently reliable to determine whether the adopted measures were working as expected or whether further action was appropriate. The Advisory Group further recognized that the Rand Corporation, acting under contract with the Administrative Office of the United States Courts, was conducting an intensive study of the impact of the CJRA in Delaware. Since this study includes an extensive attorney questionnaire, the Group concluded that an additional survey of attorneys on its part would be redundant and of little additional value.

The Advisory Group therefore determined to use the first year after the implementation of the Plan to develop and test a means of data collection and analysis to enable the reliable assessment of the state of the Court's docket both for purposes of the CJRA and for the everyday management of the Court's caseload. To this end the Advisory Group has continued to use the services of Dr. Danilo Yanich as a special consultant.

The Advisory Group concluded that analyzing certain key aspects of case processing would permit a meaningful comparison of different universes of cases, initially for

the particular purpose of doing a study comparing cases that were generally not affected by the Plan and amended rules, with those cases that were so affected. Following a review of preliminary data from some 1,173 civil cases filed during the period from January 1, 1991 to August 1, 1992,³ the Advisory Group determined that its study could most effectively focus upon the following key aspects of civil case processing:

- * Basis for civil jurisdiction.
- * Case origins.
- * Distribution by case type, consistent with the categories employed in the October 1, 1991 Report.⁴
- * Employment of Scheduling Orders.
- * Motion practice focusing upon five broad categories of procedural, transfer or removal, discovery, case dispositive and injunctive relief.
- * Extension of time.
- * Case disposition by case type, manner of disposition and processing time, both by manner of disposition and where motion practice was involved.
- * Expanded study of motion practice and processing.

In developing data for an analysis of motion practice, the raw data base is derived from the computerized case management program used by the Court. That program provides for numerous categories of motions. In order to avoid dealing with unnecessary detail, the Advisory Group determined to disregard certain of the program's motion categories that would

³ Appendix A

⁴ Prisoner cases, which made up 33 percent of the civil cases studied in the 1991 Report were omitted from the studies made in this assessment, since they are distinct from the civil cases with which the Civil Justice Reform Act is concerned.

not generally cause delay or are so infrequent as to be statistically irrelevant (e.g., for appointment of a special process server) and to consolidate the other motions into one of the five categories dealt with in this report (Appendix B).

IV. Conclusions

Based upon the data described in the subsequent portions of this report and the experiences of members of the Advisory Group, it is clear that cases are being processed more rapidly than they were in the pre-CJRA period. In part this is the consequence of the Court being at full strength, but it is also clear that the procedures implemented under the Plan have produced a more prompt resolution of civil cases.

In summary, the Advisory Group has found that in general:

- Lawyers and judges are focusing upon the process of case disposition. Fixing a trial date at an early point in the proceeding enhances that focus.
- Cases that in prior years may have been active for 36 months are now being disposed of in 18 or fewer months. From an anecdotal perspective, one consequence of more rapid case disposition may be that the settlement process may be impeded.
- In actions involving State agencies and officials, the office of the Attorney General has found that conduct of required discovery during the pendency of motions to dismiss is frequently wasteful of the time required of State officials.

Among the Advisory Group's specific findings are that following implementation of the Plan:

- The disposition of cases on the basis of a motion decreased, while other dispositions (that include trials and voluntary dismissals by plaintiffs), increased.
- Among patent, antitrust and environmental ("PEAT") cases, there was a 20 percent reduction (to 34 percent) in the number of cases resolved by settlement.
- More cases not otherwise exempt by rule from the scheduling requirement of FRCP 16(b), are now having scheduling orders entered.
- Total processing time for all three categories of cases declined: contract and tort cases from 302 to 257 days, PEAT cases from 229 to 163 days and "Other" cases from 228 to 184 days.
- In looking at the manner in which cases were resolved, those that were concluded by settlement had a processing time of 239 days (versus 304 days for the pre-CJRA population). A similar decline is reflected in the "Other" disposition category (from 262 to 188 days). On the other hand, the duration of cases disposed of on motion increased from 161 to 186 days.
- While motion practice extends the duration of civil cases, since implementation of the Plan, the duration of cases in which motions in one or more of the five primary categories was filed, has declined. With regard to some categories, the decline in duration was modest (from 446 to 423

days where discovery motions were filed), while in other it was dramatic (from 313 to 147 days for transfer motions).

- Case dispositive and procedural motions accounted for approximately 81 percent of all motion activity. The processing time for the former category increased slightly (from 80 to 85 days) for the post-CJRA population, while the time decreased (from 19 to 12 days) for procedural motions.

I. Introduction

The following section of this report presents the findings of the research conducted by Dr. Yanich for the Advisory Committee for the Civil Justice Reform Act of 1990 at the United States District Court of Delaware. The purpose of the research is to compare the civil case processing activity of the US District Court before and after the implementation of the new rules guiding civil litigation as outlined by the Civil Justice Reform Act (CJRA). The new rules were implemented by the Court on August 1, 1992.

Dr. Yanich has prepared two reports. The first report, provided to the Advisory Committee in September 1993, presented the state of civil case processing in the Court *before* the new rules were implemented. As such, those findings were the baseline against which we could examine the case processing activity of the Court. This second report presents the findings of an examination of the civil case processing performance in the period *after* the CJRA rules had been adopted.

In general, the civil case processing of the Court saw an improvement between the PreCJRA and PostCJRA periods. We will outline those findings in the graphs and narrative that comprise this report.

II. Method

We conducted this research in a way that was consistent with our initial work so as to make the comparison between the PreCJRA and PostCJRA performance possible. That began with the determination of the period that we were going to study---the Timeline.

The Timeline

In brief, the determination of the Timeline was fundamental to the analysis. It was designed to be equal to the study period that was used for the PreCJRA research. In that project, the minimum amount of time that the cases were at-risk, i.e., available to the court for processing, was about ten months. In order to accomplish any comparison, we had to equalize that period for the PostCJRA group.

That was accomplished by working backwards from the last date for which we had data for the PostCJRA population. That date, called the End of Observation Period (EOP), was May 19, 1994. Backing up ten months from that date put us at June 30, 1993. That meant that the last date for the filing of a case for the new study would be June 30, 1993. That was necessary in order to give cases at least ten months in the system for processing, i.e., they would be *at-risk*. Certainly those cases that were filed before that date would be *at-risk* upon filing. So, the minimum *at-risk* period went from August 1, 1993 through May 19, 1994. The Timeline figure below shows the periods.

The filing period is defined as that period during which the cases were filed for processing by the court. Accordingly, there are included cases filed *after* the CJRA rules were adopted on August 1, 1992. However, it was the opinion of the Advisory Committee that the

We subtracted the 16 cases that were pending as of the end of the observation period, May, 19, 1994, giving us a final PostCJRA population of 338 closed cases.

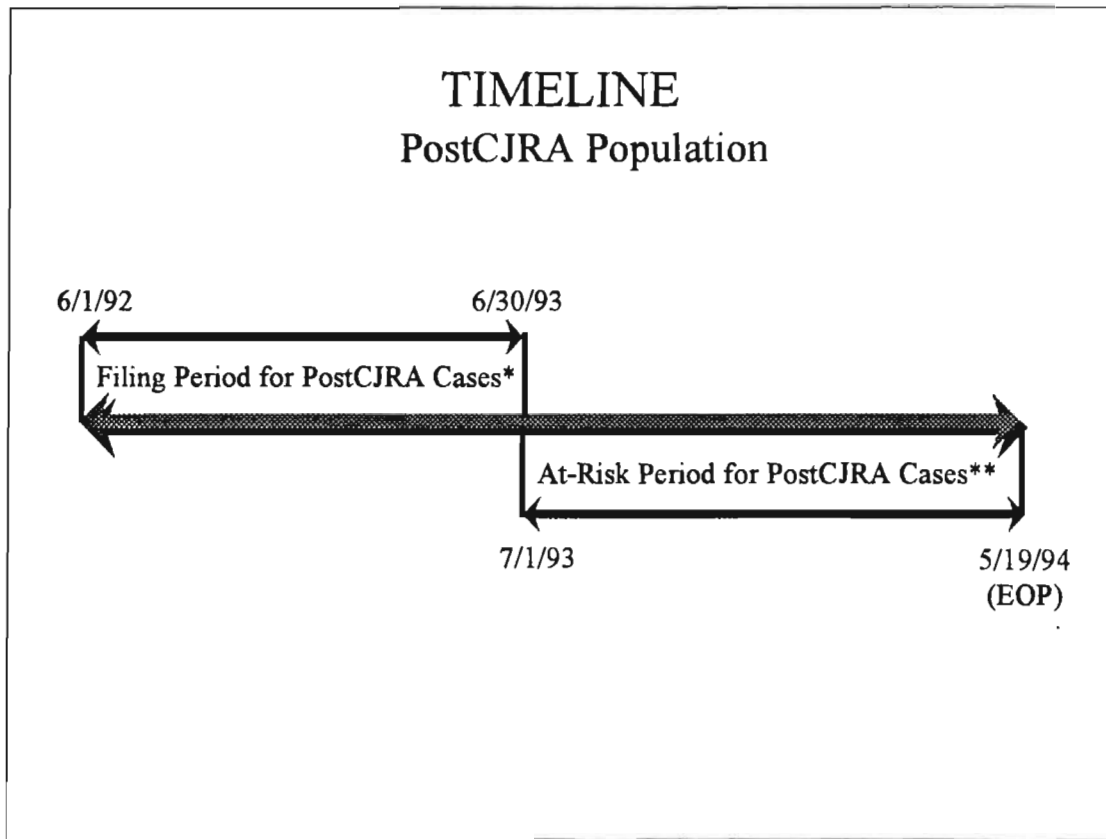
III. The Report

This report is based upon the presentation in two sets of graphs. The first offers information about the general case processing activity of the PostCJRA population and compares that to the processing of the PreCJRA population. The second set examines motion activity in the same manner. Where appropriate, the graphs compare the Pre- and PostCJRA populations with updated information for the PreCJRA group.

**Description of All Closed Cases
For Post CJRA Cases**

N=338 (Except Prisoner Cases)

Source: D. Yanich, CJRA, 1994.

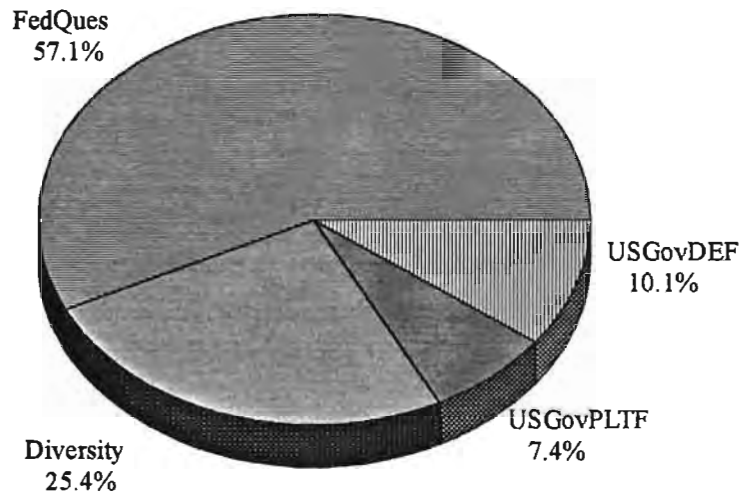


*The *filing* period for the PreCJRA population covered cases that were filed through 6/30/93 and included cases that were filed two months prior to the implementation of the new CJRA rules on 8/1/92 because the Advisory Committee felt that these cases were effectively controlled by the new rules.

**The *at-risk* period represents that time during which the cases were being processed by the court with NO new filings being added to the population. This period matches the at-risk period for the PreCJRA population. Of course, cases were at-risk immediately upon filing.

The End of Observation Period (EOP) ends on May 19, 1994 because that is the date on which the data were run.

Figure 1
Basis for Federal Jurisdiction
All Closed Cases, Except Pris. for PostCJRA Cases



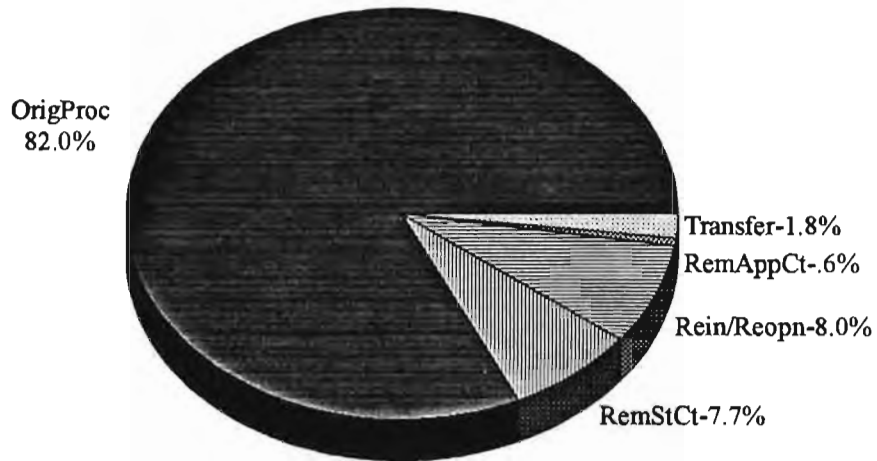
Source: D. Yanich, CJRA, 1994.
(N=338)

The basis for Federal jurisdiction in the PostCJRA cases is fairly consistent with the distribution of the jurisdiction of the PreCJRA cases.

However, there was a reversal in the proportion of the USGovt as defendant or plaintiff. That is, the PostCJRA population had almost twice as many cases with USGovt as defendant while the proportion of cases with the USGovt as plaintiff dropped by almost 50 percent from the Pre- to PostCJRA populations.

Figure 2 Case Origins

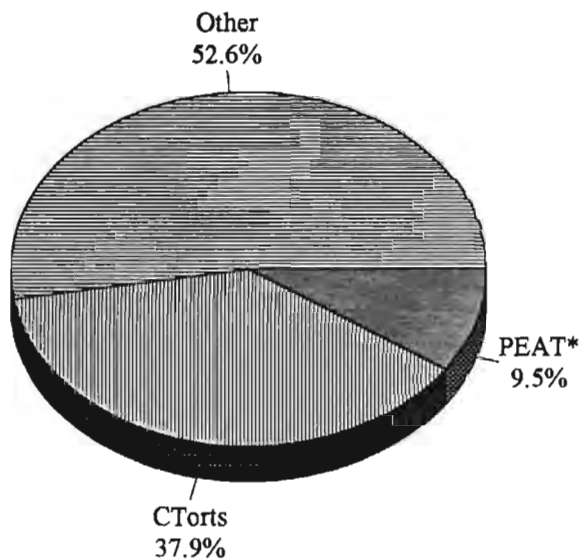
All Closed Cases Except Pris. for PostCJRA Cases



Source: D. Yanich, CJRA, 1994.
(N=338)

There was no real difference between the Pre- and PostCJRA populations regarding origin of the cases. The vast majority of cases for both groups (89 percent PreCJRA and 82 percent Post-CJRA) were original proceedings.

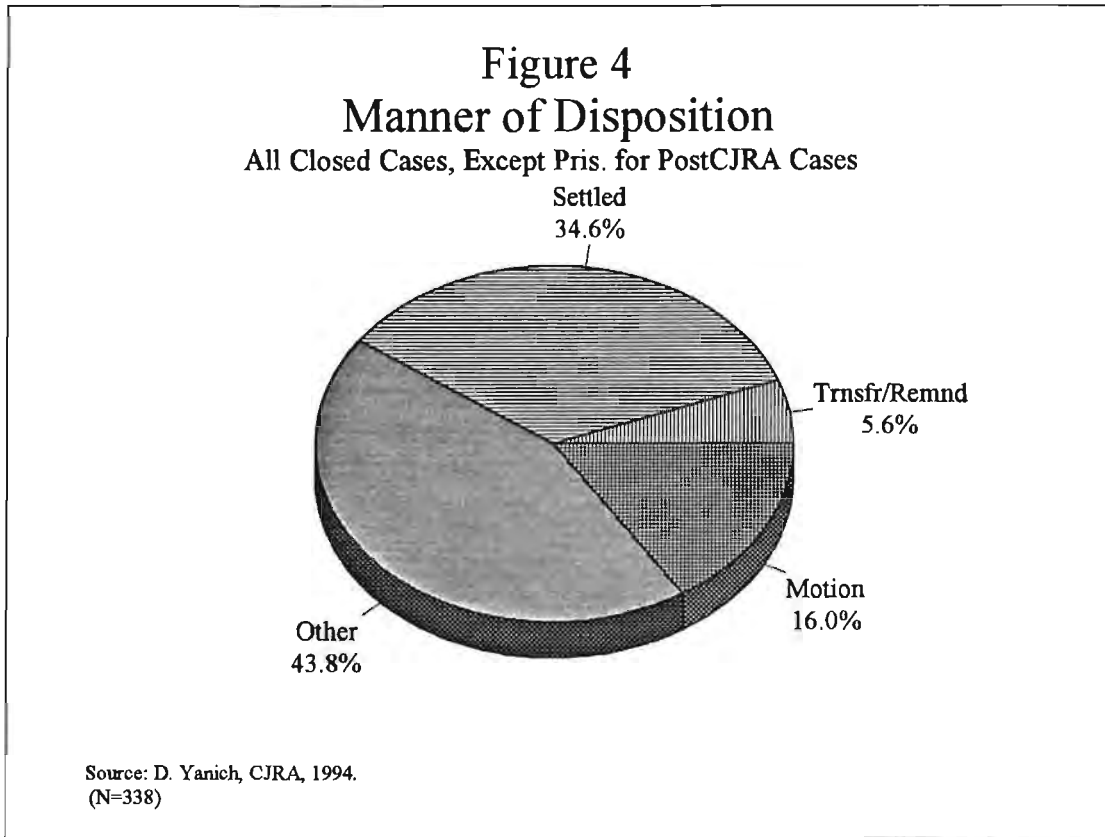
Figure 3
Distribution Among Case Types
All Closed Cases, Except Pris. for PostCJRA Cases



Source: D. Yanich, CJRA, 1994. (N=338)
*PEAT=Patent, Environmental, Anti-Trust cases.

The distribution of CaseType did change for the Other and CTorts cases between the Pre- and PostCJRA cases.

The proportion of Other cases increased about five percent (47.7 percent, PreCJRA to 52.6 percent, PostCJRA). On the other hand, the proportion of CTorts cases dropped from the PreCJRA group (43.8 percent) to the PostCJRA population (37.9 percent). The proportion of PEAT cases remained relatively stable.

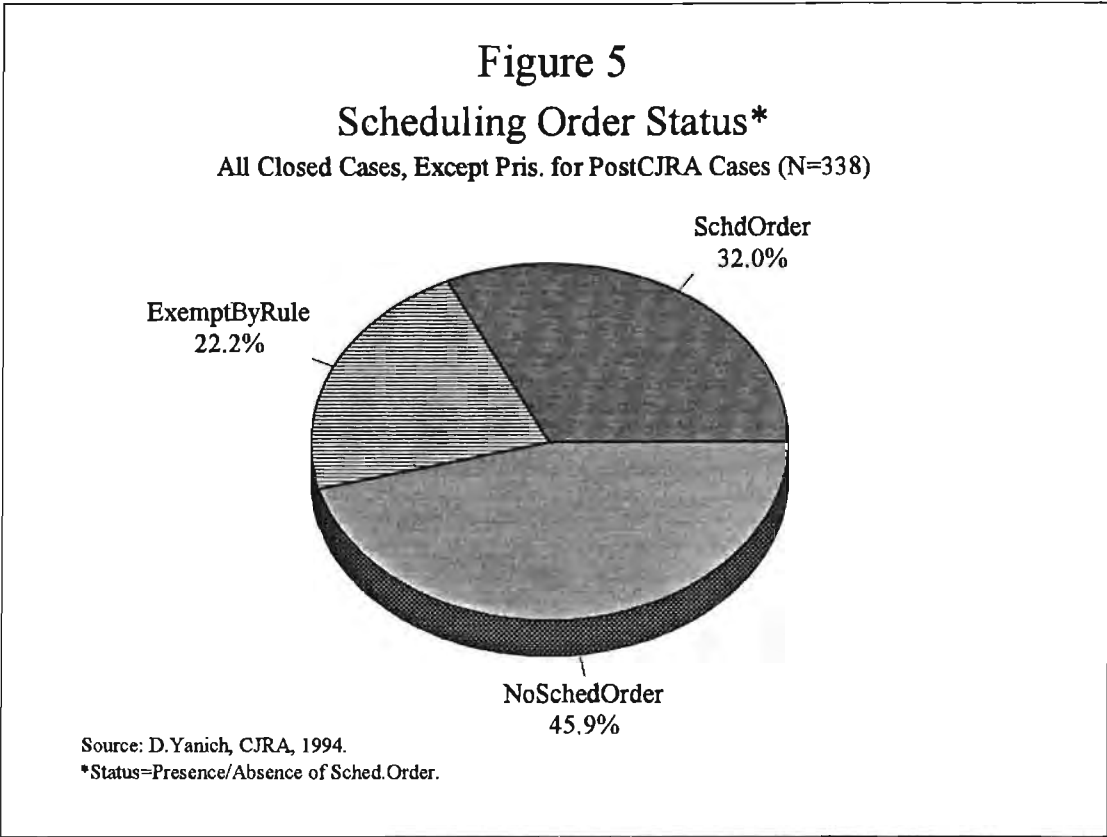


Between the Pre- and PostCJRA populations there was some difference in the distribution of dispositions, particularly among the Other and Motion dispositions.

The PostCJRA population experienced a substantial increase in Other dispositions (43.8 percent) as compared to the proportion of such dispositions for the PreCJRA population (34.8 percent).

On the other hand, the proportion of Motion dispositions fell from 25.4 percent for the PreCJRA cases to 16 percent for the PostCJRA population.

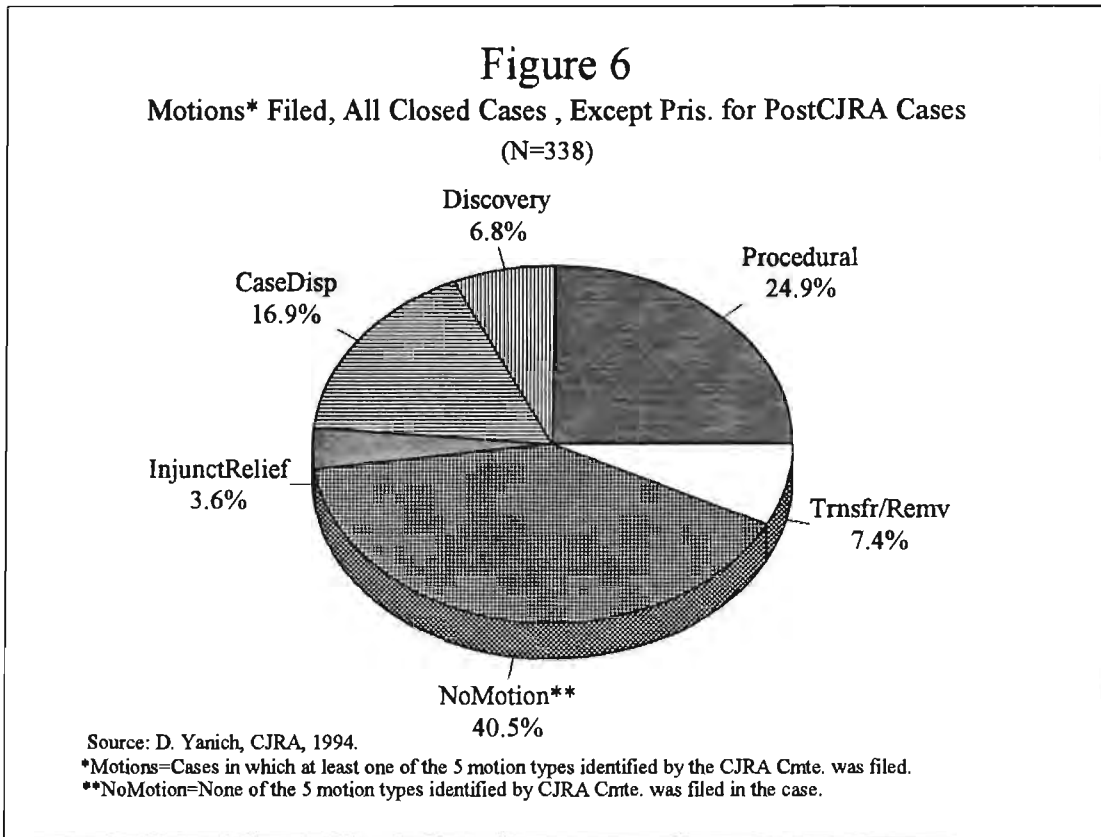
In short, for the PostCJRA population, Other dispositions increased, Motion dispositions decreased, and the Settled and Transfer/Remand dispositions remained relatively stable as compared to the PreCJRA cases.



The percentage of cases in the PostCJRA population that DID NOT have a scheduling order filed (45.9 percent) was a decrease from that proportion in the PreCJRA population (50.5 percent).

On the other hand, the proportion of cases that DID have a scheduling order increased from 24.9 percent in the PreCJRA cases to 32 percent in the PostCJRA population.

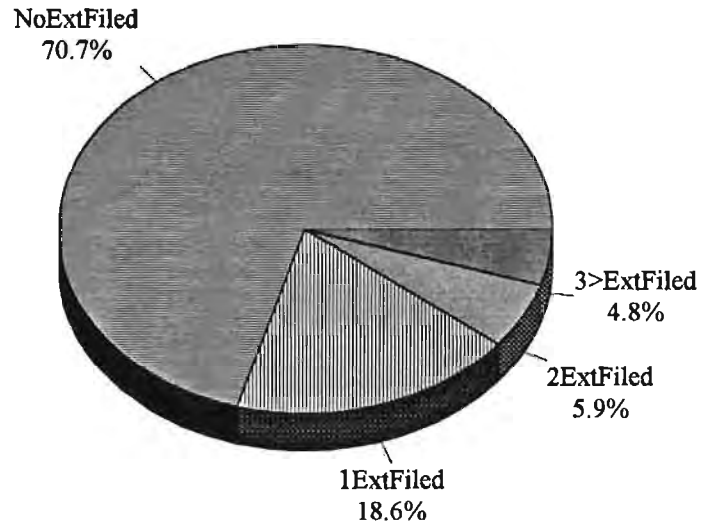
The proportion of cases that were exempt by rule decreased moderately for the PostCJRA population.



The percentage of cases in which there were none of the motions identified by the CJRA Committee was relatively stable between the PreCJRA and PostCJRA populations. About four out of ten cases did not have a motion in one of the five categories filed.

The distribution of the other motions was also relatively stable between both populations; the difference was a movement of not more than four percent.

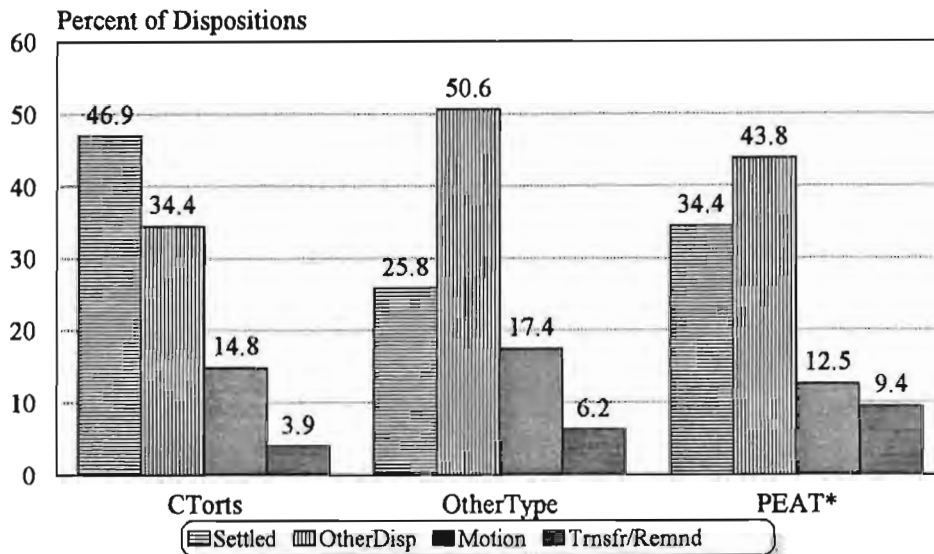
Figure 7
Cases Filing Time Extensions
All Closed Cases, Except Pris. for PostCJRA Cases



Source: D. Yanich, CJRA, 1994.
(N=338)

The distribution of filings for extensions of cases was relatively consistent among the populations. It should be noted that the significant majority of cases (70.7 percent) did not involve applications for extensions of time, whether to respond to the complaint or meet other deadlines fixed by rule, stipulation, or court order

Figure 8
Distribution of Disposition by Case Type
 All Closed Cases, Except Pris. for PostCJRA Cases (N=338)



Source: D. Yanich, CJRA, 1994.
 *PEAT=Patent, Envir, Anti-Trust cases.

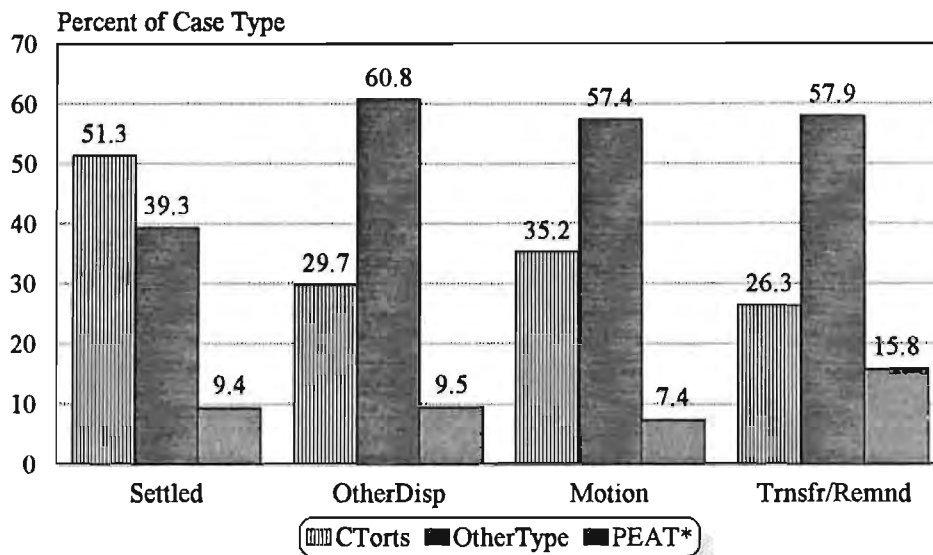
There were substantial differences in the manner of case disposition across the Case Types between the Pre- and PostCJRA populations.

Among the CTorts cases, the proportion of *Settled*, *Otherdisp* and *Transfer/Remand* dispositions increased in the PostCJRA population by about nine, five, and three percent respectively. Only the proportion of the *motion* disposition decreased (about eight percent) between the two populations.

Among the OtherType cases, the *Otherdisp* category registered the most significant change between the Pre- and PostCJRA populations. There was an increase of over ten percent to 50.6 percent. There was also a substantial decrease (over nine percent) in the *motion* disposition (to 17.4 percent).

The *Settled* disposition dropped almost twenty percent (to 34 percent) among the PEAT cases in the PostCJRA population. The *Otherdisp* disposition increased by about nine percent (from 34.5 percent to 43.8 percent in the Pre- to PostCJRA populations, respectively).

Figure 9
Distribution of Case Type by Disposition
 All Closed Cases, Except Pris. for PostCJRA Cases (N=338)



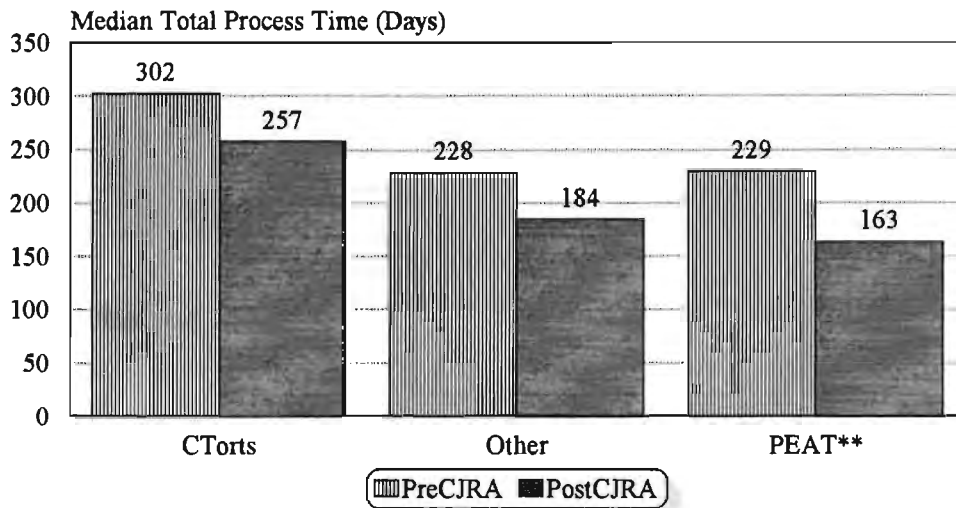
Source: D. Yanich, CJRA, 1994.
 *PEAT=Patent, Environmental, Anti-Trust Cases.

The case type changed between the Pre- and PostCJRA populations for two categories of case dispositions and remained relatively stable for the two others..

Specifically, the distribution the case types for the Settled and Otherdisp categories remained relatively constant for both time periods. Of the cases resolved by Settlement, CTorts accounted for over half of the cases followed by the OtherType cases at just under forty percent.

There were changes in the distribution of case type for the Motion and Transfer/Remand categories from the Pre- to PostCJRA populations. For the Motion dispositions, CTorts cases dropped from just about half of the cases to just over one-third (35 percent) for the PostCJRA population. In addition, the number of PEAT cases resolved by motion more than doubled from three percent for the PreCJRA group to 7.4 percent of the cases for the PostCJRA population.

Figure 10
Comparing Total Process Time* by Case Type
 All Closed Cases, Except Pris. for Pre- & PostCJRA Cases



Source: D. Yanich, CJRA, 1994.

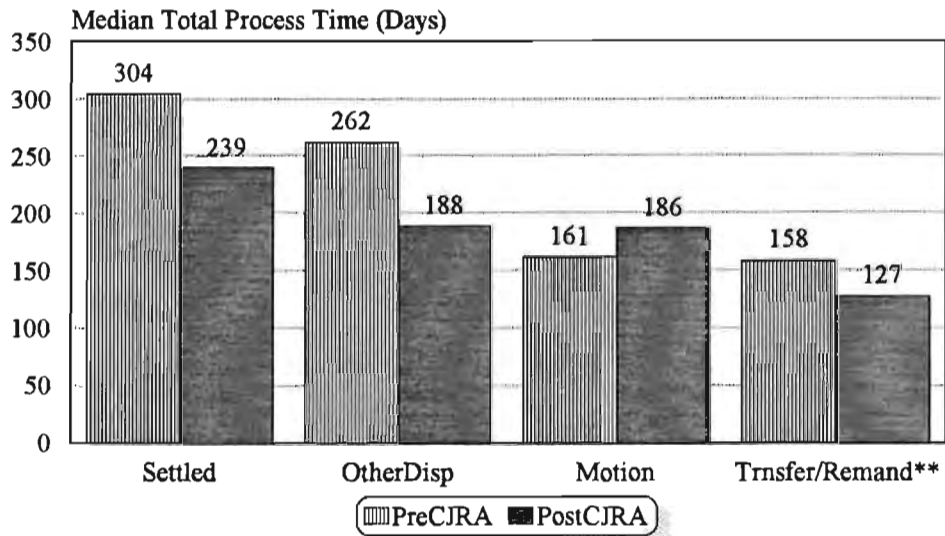
*Total Process Time=Period between filing of complaint & disposition.

**Reflects small # of cases (PreCJRA, n=63; PostCJRA n=32), thereby reducing reliability.

Before making any comparisons between the process times of the Pre- and PostCJRA populations, it should be noted that the PreCJRA process times reported here include the cases that were pending at the end of observation period in mid-1993, but were disposed of in the succeeding ten months. Therefore, the PreCJRA process times indicated here are longer than those reported in the first report. This is so because the pending cases that have now reached disposition and whose times are reported here, by definition, are those that required more time to reach conclusion. It also follows, then, that the PreCJRA process times indicated here are more accurate because they take those cases into account.

There is an obvious pattern in the process times for each of the case types. They all decreased from the Pre- to PostCJRA populations. For the CTorts cases that decrease was from 302 days in the PreCJRA period to 257 days in the PostCJRA period. The Other case types also experienced a significant decrease in process time. The PEAT cases also showed a substantial decrease in process time; however, the relatively small number of PEAT cases reduces the reliability of that finding. It is clear that the PostCJRA population moved through the system more quickly than its PreCJRA counterpart.

Figure 11
Comparing Total Process Time* by Disposition
 All Closed Cases, Except Pris. for Pre- & PostCJRA Cases



Source: D. Yanich, CJRA, 1994.

*Total Process Time=Period between filing of complaint & disposition.

**Reflects small # of cases (PreCJRA, n=39; PostCJRA, n=19), thereby reducing reliability.

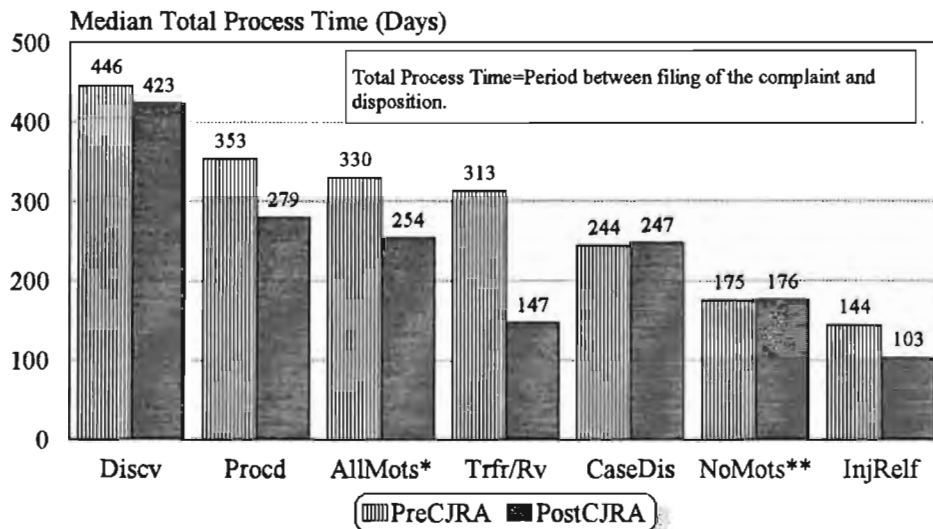
In this graph we compare the process times for each disposition for the Pre- and PostCJRA populations. As in the previous graph (Figure 10) these process times for the PreCJRA population include the pending cases that reached disposition during the period after last year's research.

Again, as we saw in the process time for the case types (Figure 10), the process times changed significantly. Those times decreased for the Settled cases (a median of 304 days for the PreCJRA population to a median of 239 days for the PostCJRA group). The OtherDisp cases also experienced a substantial decrease in process time (a PreCJRA median time of 262 days to 188 Days for the PostCJRA group).

The process time for the cases disposed of by Motion increased from a median of 161 days for the PreCJRA population to a median of 186 days for the PostCJRA cases.

The case dispositions in the Transfer/Remand category also experienced a decrease in their process times. The small number of cases in this category, however, reduces the reliability of the finding.

Figure 12
Comparing Total Process Time by Motion Type
 All Closed Cases, Except Pris. for Pre- & PostCJRA Cases



Source: D. Yanich, CJRA, 1994.

*AllMots=Combination of all cases w/ at least one motion identified by CJRA Cmte.

**NoMots=None of the 5 motion types identified by the CJRA Cmte. was filed in the cases.

Here we compare the process times of the Pre- and PostCJRA populations by the motion activity of the cases. The categories include the motions that the Advisory Committee identified as Discovery, Procedural, Transfer/Remand, Case Dispositive, and Injunctive Relief. Two other categories are represented in the graph in order to provide context for the findings. The category designated as AllMots refers to the process time of the cases with any of the foregoing motion categories, regardless of their designation. Likewise, the NoMots category refers to those cases in which none of the motions identified by the committee was filed. Again, the process time that are reported here for the PreCJRA population include those cases that were pending in June 1993, but that reached disposition subsequently.

The general pattern we see in the process times is a decrease in those times from the Pre- to PostCJRA populations. Only the cases with Case Dispositive motions experienced a minor increase (from a median of 244 days PreCJRA to 247 days PostCJRA). Cases in which Discovery motions were filed took the longest to move through the system. As might be expected, cases in which none of these was filed (NoMots) and the cases in which an Injunctive Relief (InjRelf) motion was filed took the shorter time to move through the system.

We should note here that these times represent the cases in which at least one of the motions identified by the committee was filed. The motions could have been filed *at any time* during the ten months that each case was at risk.

Motion Activity

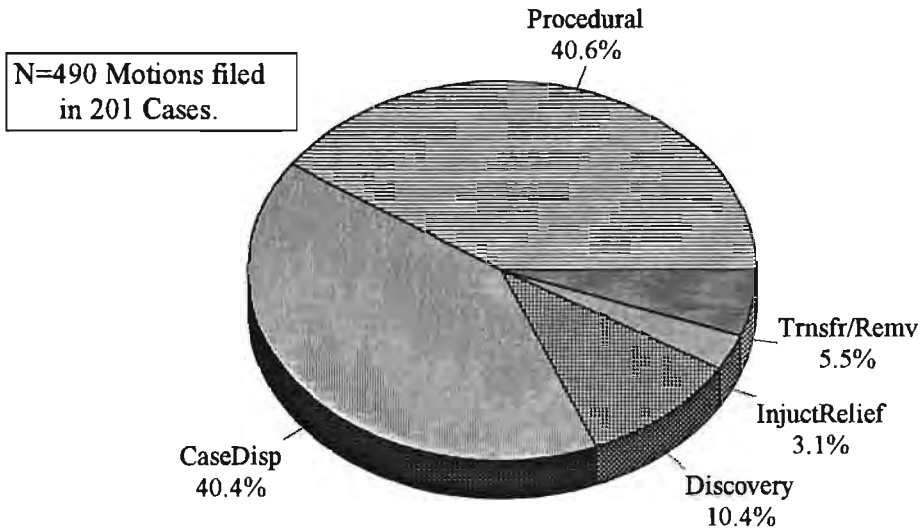
**For All Closed Cases, Post-CJRA,
Except Prisoner Cases**

**Representing 490 motions
Filed in 201 Cases**

**Source: D. Yanich, CJRA, 1994.
File dct3hg\motact3.prs**

Figure 1 Distribution of Motion Categories

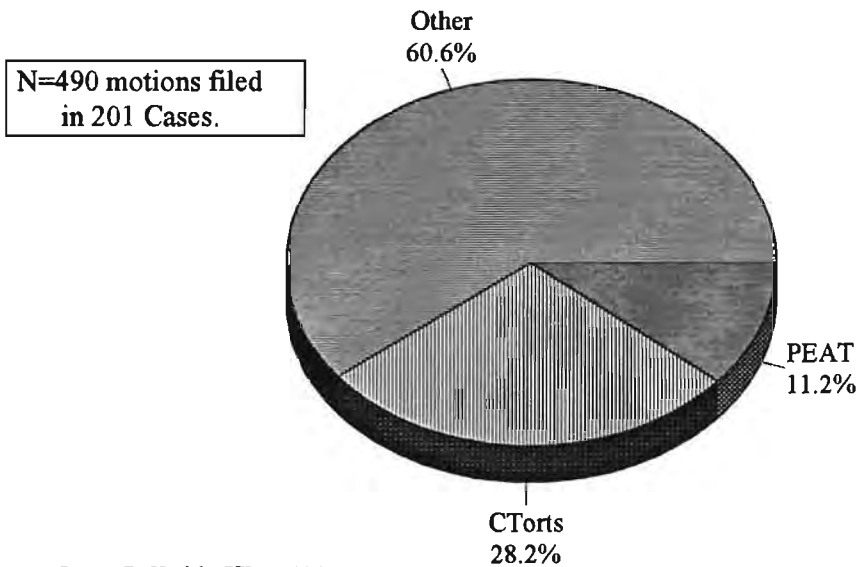
For All Closed Cases, Except Prisoner Cases



Source: D. Yanich, CJRA, 1994.

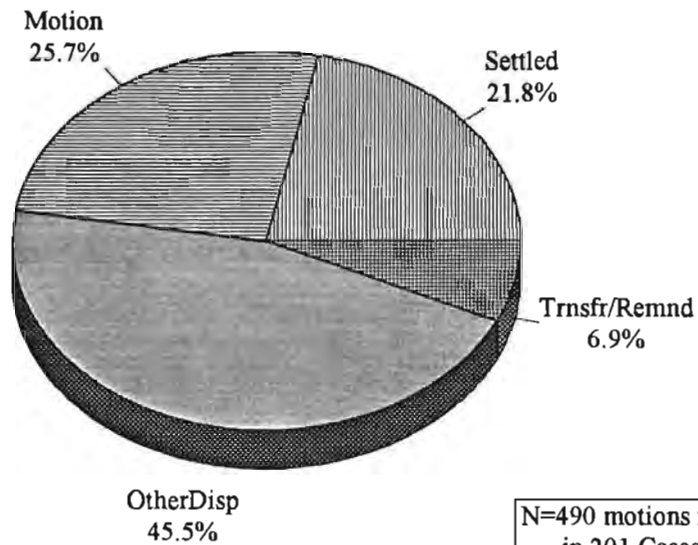
The distribution of the motion categories for the PostCJRA population remained relatively consistent with the distribution of the PreCJRA population. Procedural and Case Dispositive motions accounted for over eighty percent of the motion activity among the cases.

Figure 2
Distribution of Motions by Case Type
For All *Closed* Cases, Except Prisoner Cases



The distribution of motions across the case type changed as we moved from the Pre- to PostCJRA populations. The Other case type continued to account for a significant proportion of cases, moving from just over one-half of the cases for the PreCJRA population to over sixty percent of the cases for the PostCJRA population. The CTort cases continued to hover around the thirty percent mark for both populations. The PEAT cases accounted for a small proportion of the cases in both populations.

Figure 3
Distribution of Motions by Disposition Type
For All *Closed* Cases, Except Prisoner Cases

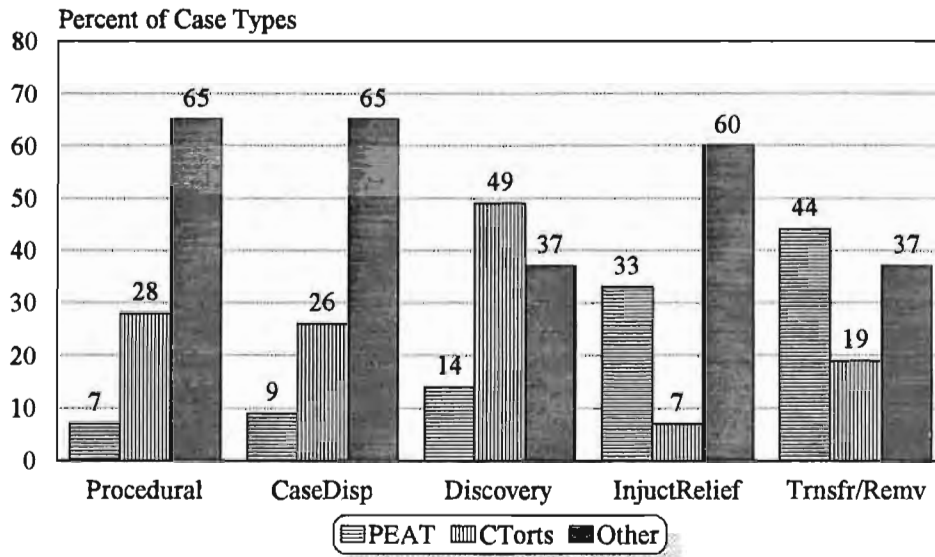


Source: D. Yanich, CJRA, 1994.

N=490 motions filed
in 201 Cases.

The distribution of motions across the various bases for case dispositions remained relatively stable between the Pre- and PostCJRA populations. However, there was a substantial increase in the proportion of cases with motions filed that were in the OtherDisp category of disposition (from 35.2 percent in the PreCJRA population to 45.5 percent for the PostCJRA population).

Figure 4
Distribution of Case Types within Motion Type
 For All *Closed* Cases, Except Prisoner Cases*

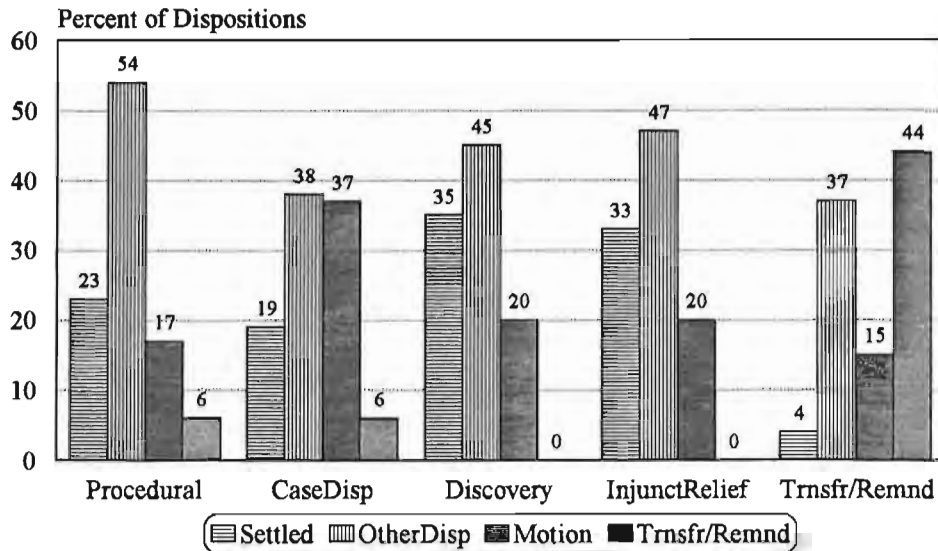


Source: D. Yanich, CJRA, 1994.
 *N of Cases=201.

How were the cases distributed within the various motion types? We found that for the Procedural and CaseDispositive motion types the distribution of the case types was relatively consistent for the Pre- and PostCJRA populations. That is, the Other case category was the most prominent, accounting for almost two-thirds of the cases in which these motions were filed.

To a lesser extent, the distribution of the case types within the Discovery and Injunctive Relief motions was also consistent for the Pre- and PostCJRA populations. There were, however, significant changes in the Transfer/Remand motion category. Specifically, CTorts cases fell dramatically between the two populations (45 percent for the PreCJRA population to 19 percent for the PostCJRA population). However, there was a relatively small number of cases with Injunctive Relief motions filed, making that finding unreliable on which to base a conclusion.

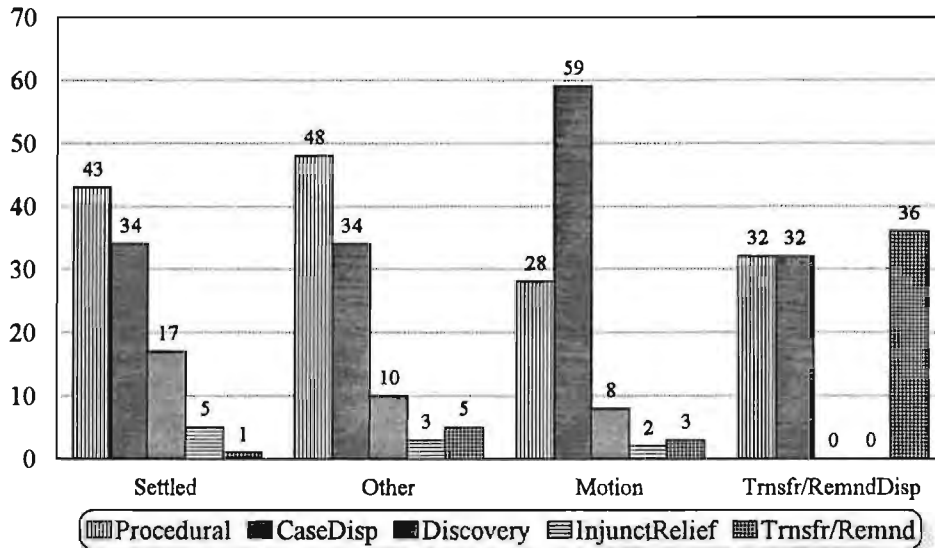
Figure 5
Distribution of Dispositions within Motion Type
 For All *Closed* Cases, Except Prisoner Cases*



Source: D. Yanich, CJRA, 1994.
 *N of Cases=201.

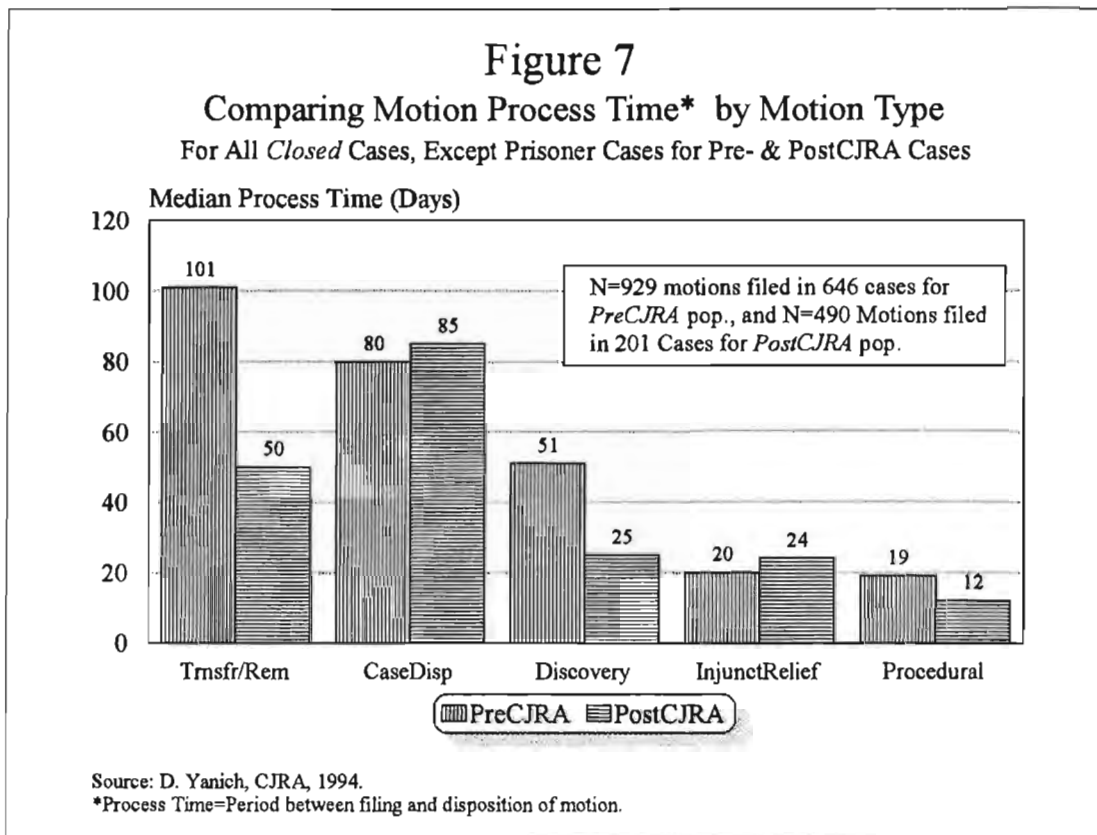
There were significant changes in how the dispositions occurred within each motion type between the Pre- and PostCJRA populations. That was especially true of the cases that had Procedural motions filed. The OtherDisp category of disposition increased significantly (36 percent for the PreCJRA population as compared to 54 percent for the PostCJRA group).

Figure 6
Distribution of Motion Type within Dispositions
 For All *Closed* Cases, Except Prisoner Cases*



Source: D. Yanich, CJRA, 1994.
 *N of Cases=201

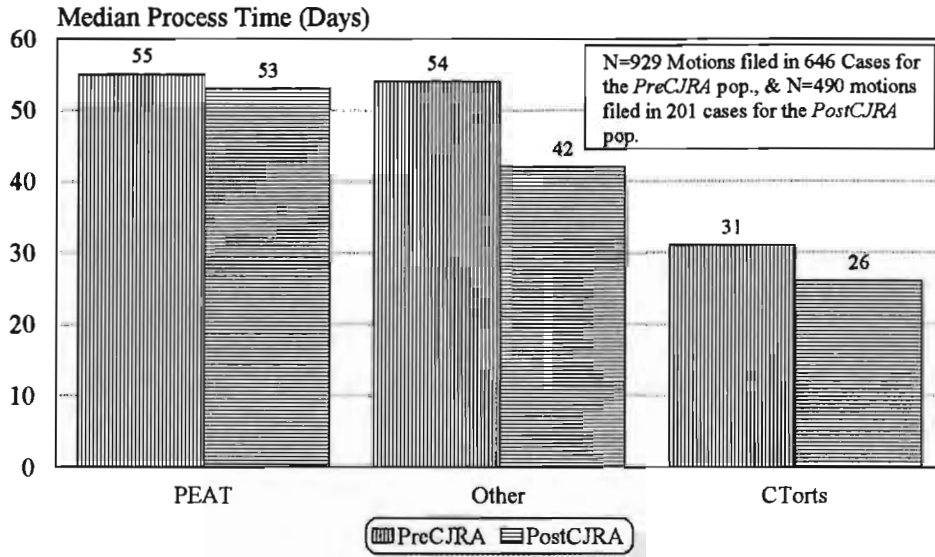
The distribution of the motion types within the various dispositions was very consistent for the Pre- and PostCJRA populations. That is, the PostCJRA cases did not achieve a set of dispositions that was significantly different than those of the PreCJRA population, except in one disposition type, Transfer/Remand. As we might expect, in this disposition type, the Transfer/Remand *motions* increased while the Procedural motions decreased.



In this graph we compare the motion process time for each of the motion types across the Pre- and PostCJRA populations. We should note that the PreCJRA motion activity represents 929 motions that were filed in 646 cases. Likewise, the PostCJRA motion activity represents 490 motions that were filed in 201 cases. If we simply use an average number of motions per case for each population, we find that the PostCJRA cases registered more motions per case (2.43, i.e., 490 motions divided by 201 cases). The PreCJRA population had about 1.43 motions per case. On its face, that seems that the PostCJRA population engaged in more motion activity. Although it is beyond the scope of this inquiry, it would be fruitful to take a closer look at the motion activity of those cases that had substantially more than the average motion activity. A cursory look at those cases revealed that there were combinations of motions that seem to be filed as the case progressed through the system.

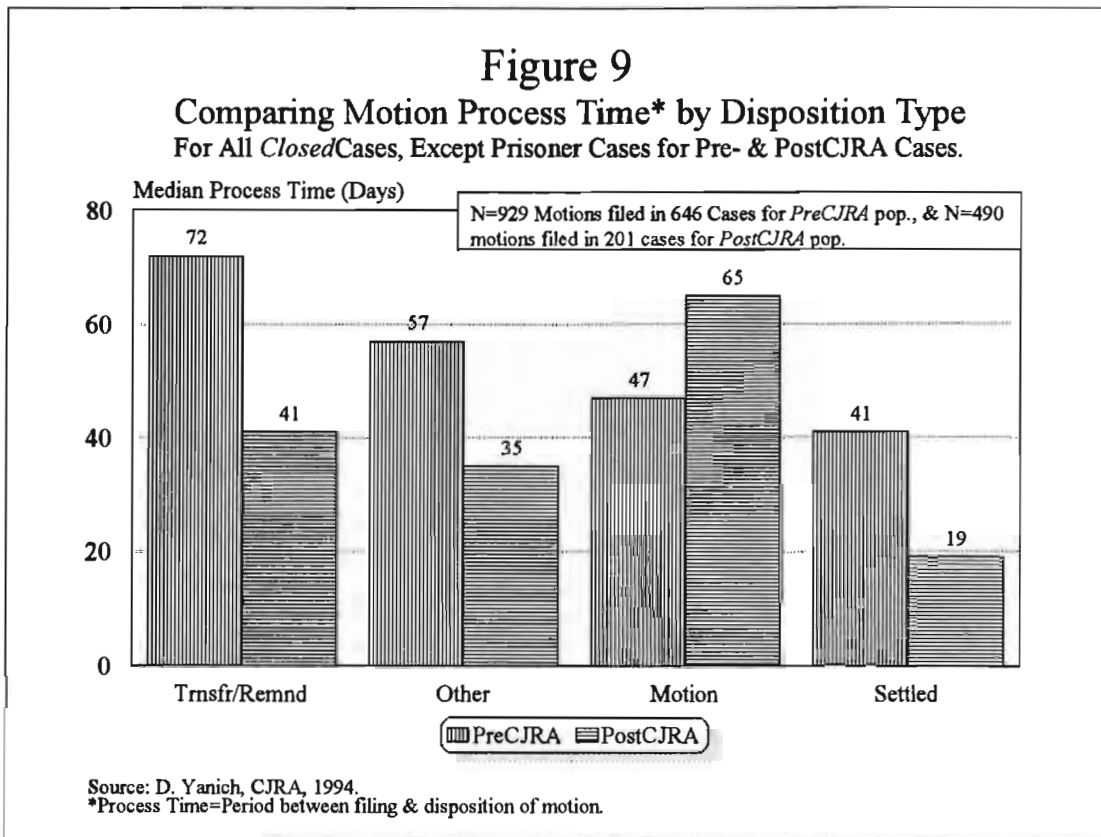
Perhaps the most important findings on the graph refer to the motion process times for the Case Dispositive and Procedural motions. They were, by far, the most numerous for both populations and the changes in their motion process times would yield a reliable view of the time required for the disposition of motions. For the Case Dispositive motions, the motion process time increased slightly from a median of 80 days for the PreCJRA group to a median of 85 days for the PostCJRA population. The news for the Procedural motions, however, is encouraging. The motion process time decreased from a median of 19 days to 12 days for the Pre- and PostCJRA populations, respectively.

Figure 8
Comparing Motion Process Time* by Case Type
 For All *Closed* Cases, Except Prisoner Cases for Pre- & PostCJRA Cases



Source: D. Yanich, CJRA, 1994.
 *Process Time=Period between filing and disposition of motion.

Here we compare the motion process time for each population by the case type. The most obvious feature is the reduction in motion process time (as measured by the median number of days required to dispose of the motion) between the Pre- and PostCJRA populations. The most significant reduction occurred for the Other case type (from a median of 54 days for the PreCJRA population to a median of 42 days for the PostCJRA group).



When we compare the motion process time across the dispositions, we found that there were substantial differences in the time required to process motions from the Pre- to PostCJRA populations. For some of the dispositions (Transfer/Remand, Other, & Settled), the motion process times decreased in significant ways. However, for the cases disposed by Motion, the motion process time increased from a median of 47 days for the PreCJRA population to a median of 65 days for the PostCJRA populations.

SUMMARY OF CONCLUSIONS

With an increased focus upon the processing of cases by members of the Court, its clerk's office and lawyers, it is evident that cases are now being resolved more promptly than was the case prior to the Plan's adoption. Based upon the foregoing data, that is at least in part due to the procedures that were implemented on August 1, 1992.

Respectfully,

Henry N. Herndon, Jr., Chairman
Gary W. Aber
Victor F. Battaglia, Sr.
Jack B. Blumenfeld
Gregg E. Wilson
Richard K. Herrmann
Kathi A. Karsnitz
The Honorable Joshua W. Martin, III
Michael F. Parkowski
Richard Allen Paul
Robert H. Richards, III
The Honorable Gregory M. Sleet
Bruce M. Stargatt
Pamela S. Tikellis
The Honorable Mary Pat Trostle

**PROCESSING CIVIL CASES
US DISTRICT COURT,
DELAWARE**

A Project for the Advisory Committee
on the
Civil Justice Reform Act of 1990

Danilo Yanich
September 1993

Defining the Sample

- 1173 cases were filed before August 1, 1992, the adoption of the CJRA rules.
- We excluded cases that were open as of June 16, 1993, the end of the observation period...174 such cases...resulting in 999 CLOSED cases.
- We then subtracted all prisoner cases...353 such cases...
- Resulting in a final sample of 646 CLOSED cases.

Description of All Closed Cases
With Complaints Filed Prior to 8/1/92
(Date of CJRA Rules)
Excluding Prisoner Cases

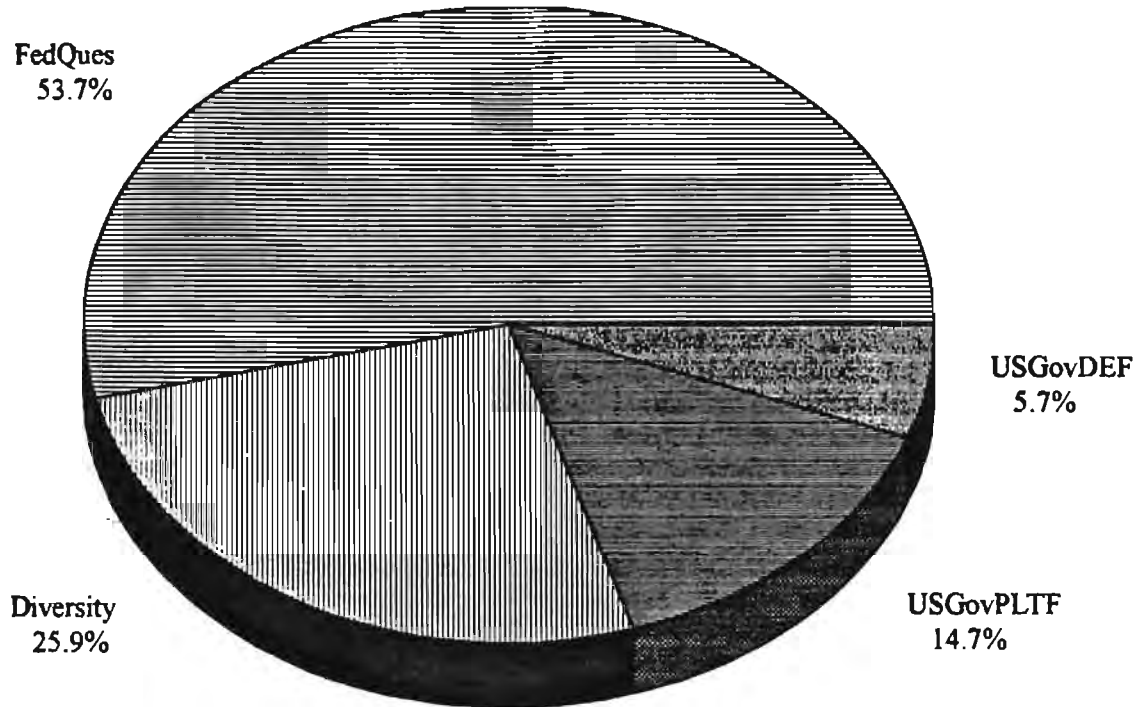
N=646

Danilo Yanich
CJRA, 1993.

Figure 1

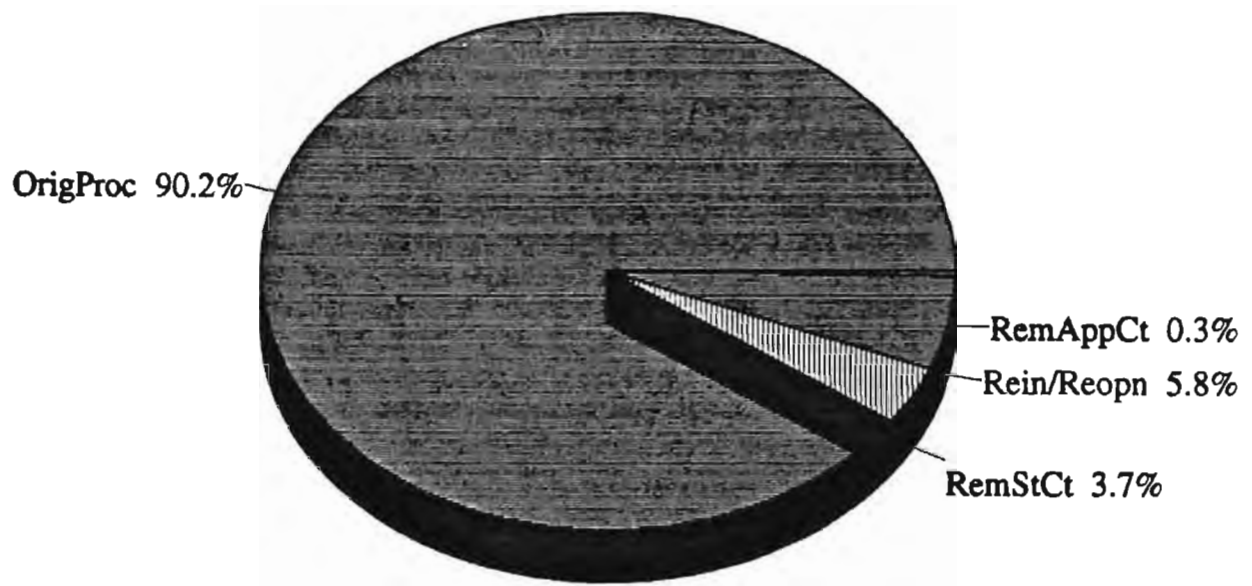
Distribution of Jurisdiction

All Closed Cases, Except Pris.



Source: D. Yanich, CJRA, 1993.
(N=646)

Figure 2
Distribution of Origin
All Closed Cases, Except Pris.

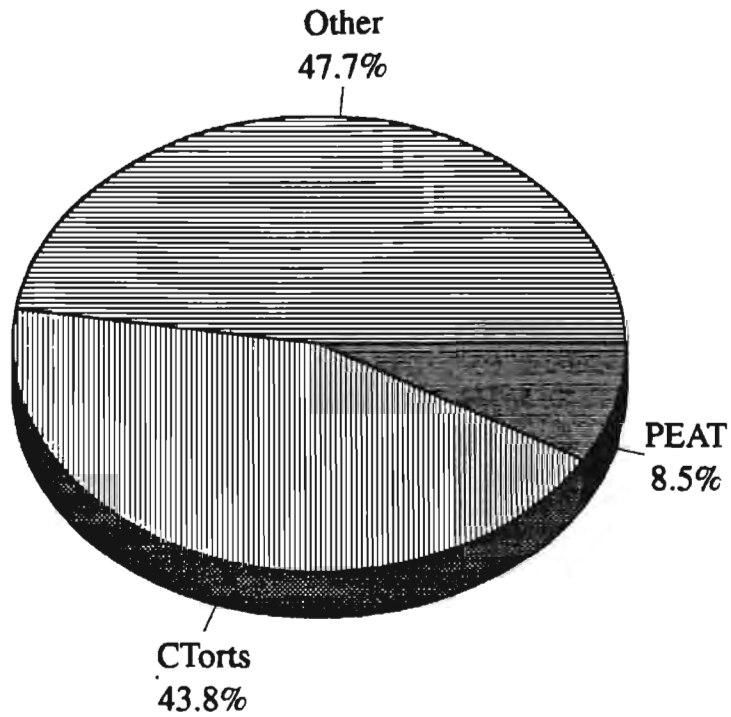


Source: D. Yanich, CJRA, 1993.
N=646

Figure 3

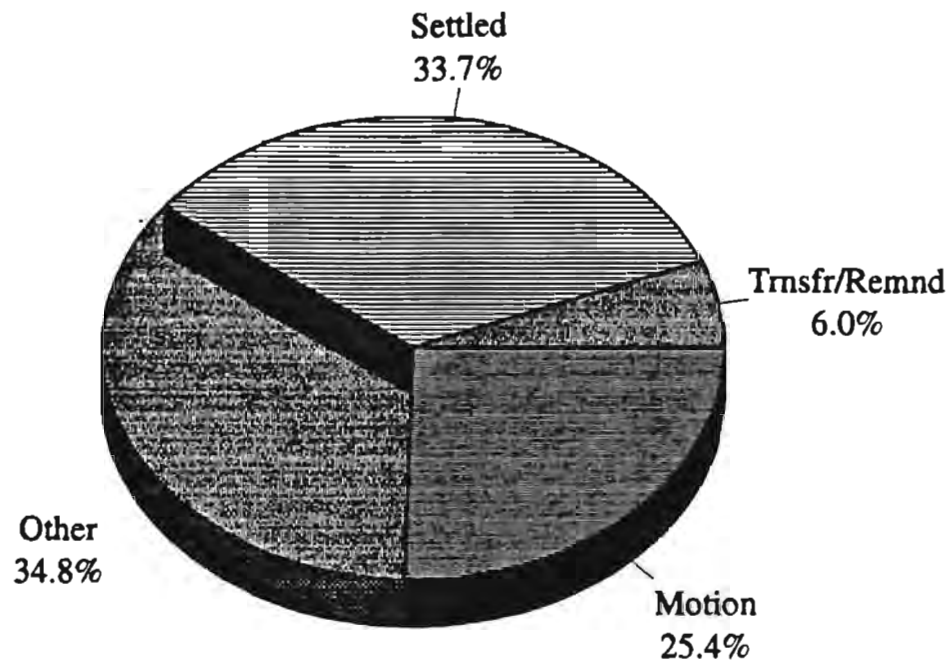
Distribution of Case Type

All Closed Cases, Except Pris.



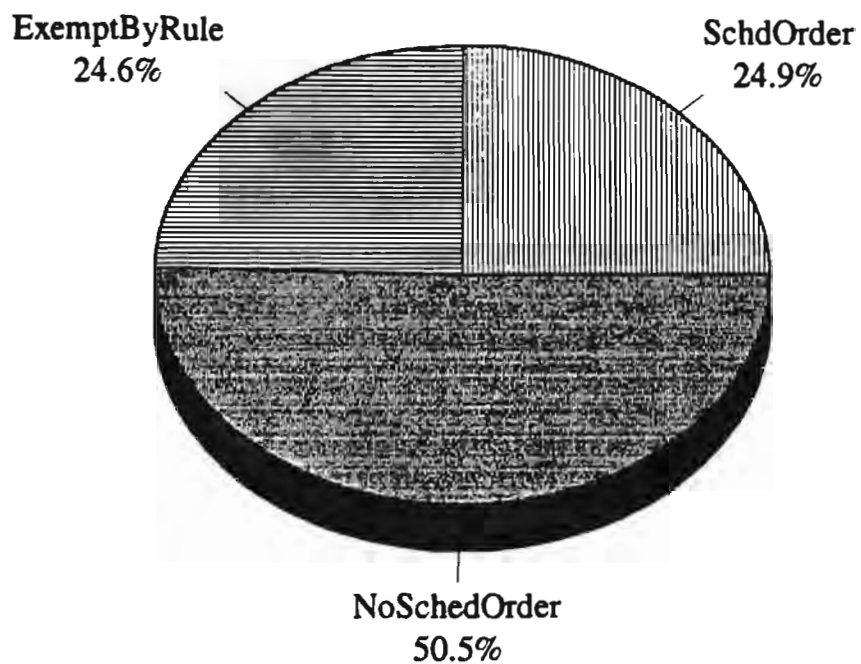
Source: D. Yanich, CJRA, 1993.
(N=646)

Figure 4
Distribution of Dispositions
All Closed Cases, Except Pris.



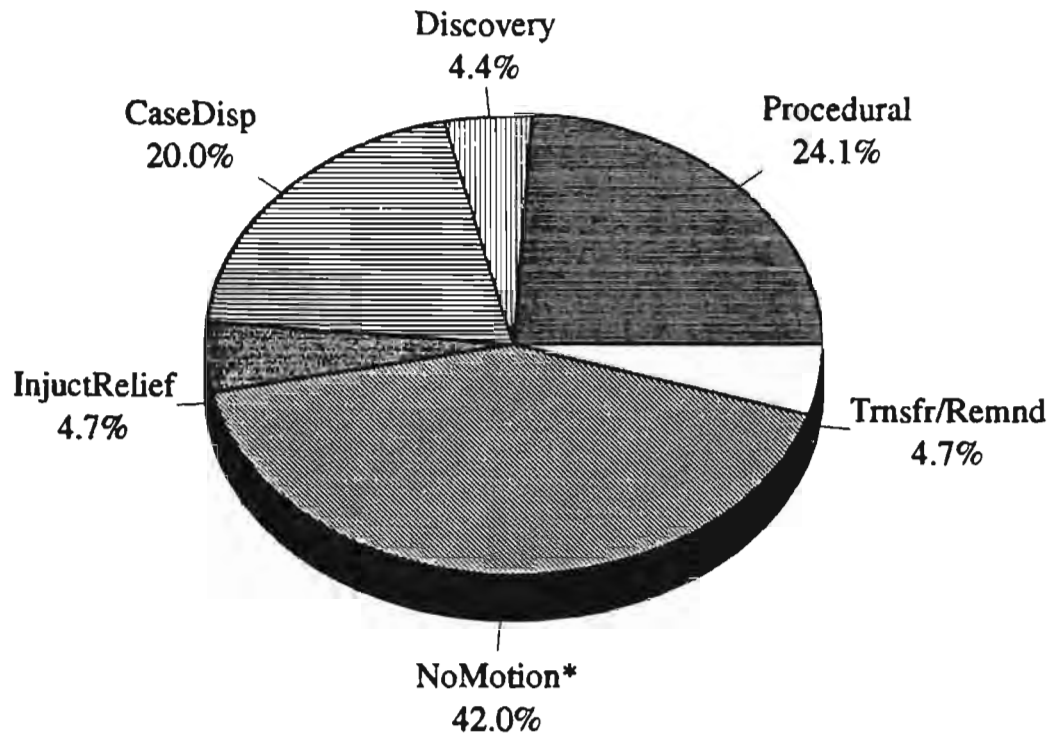
Source: D. Yanich, CJRA, 1993.
(N=646)

Figure 5
Scheduling Order Status*
All Closed Cases, Except Pris. (N=646)



*Status=Presence/Absence of Sched.Order.
Source: D. Yanich, CJRA, 1993.

Figure 6
Motions Filed, All Closed Cases , Except Pris.
(N=646)

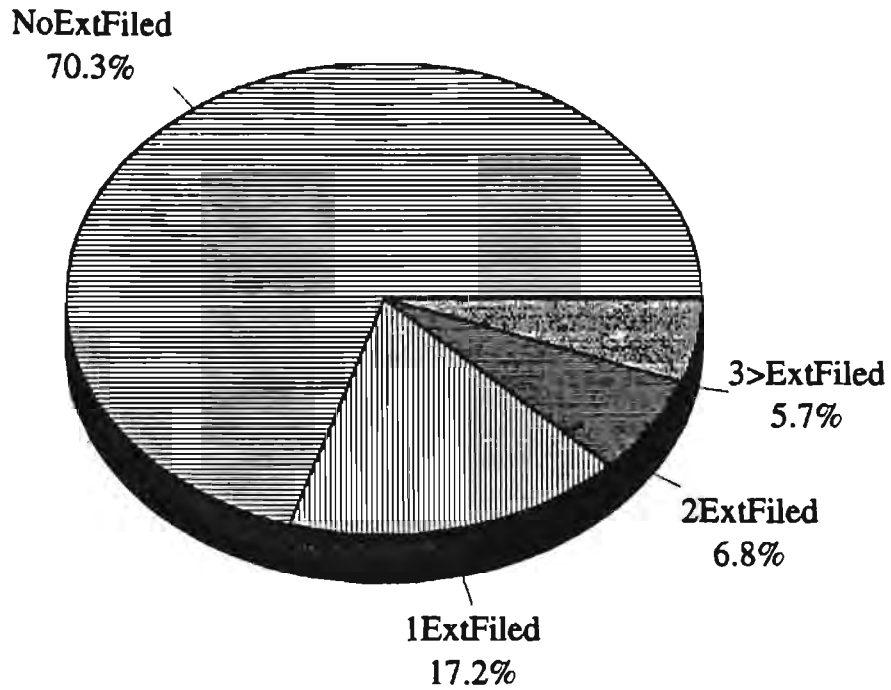


*NoMotion=None of the 5 motion types identified by CJRA Cmte. was filed in the case.
Source: D. Yanich, CJRA, 1993.

Figure 7

Cases Filing Time Extensions

All Closed Cases, Except Pris.

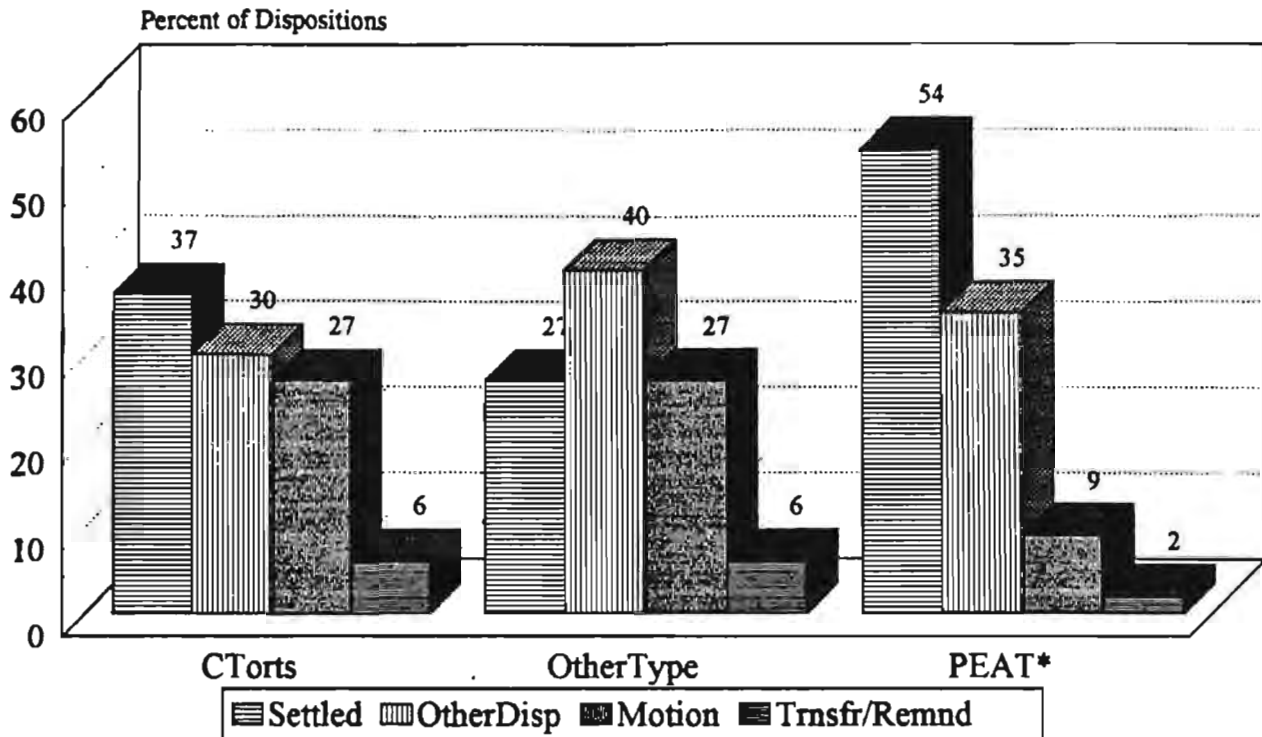


Source: D. Yanich, CJRA, 1993.
(N=646)

Figure 8

Distribution of Disposition by Case Type

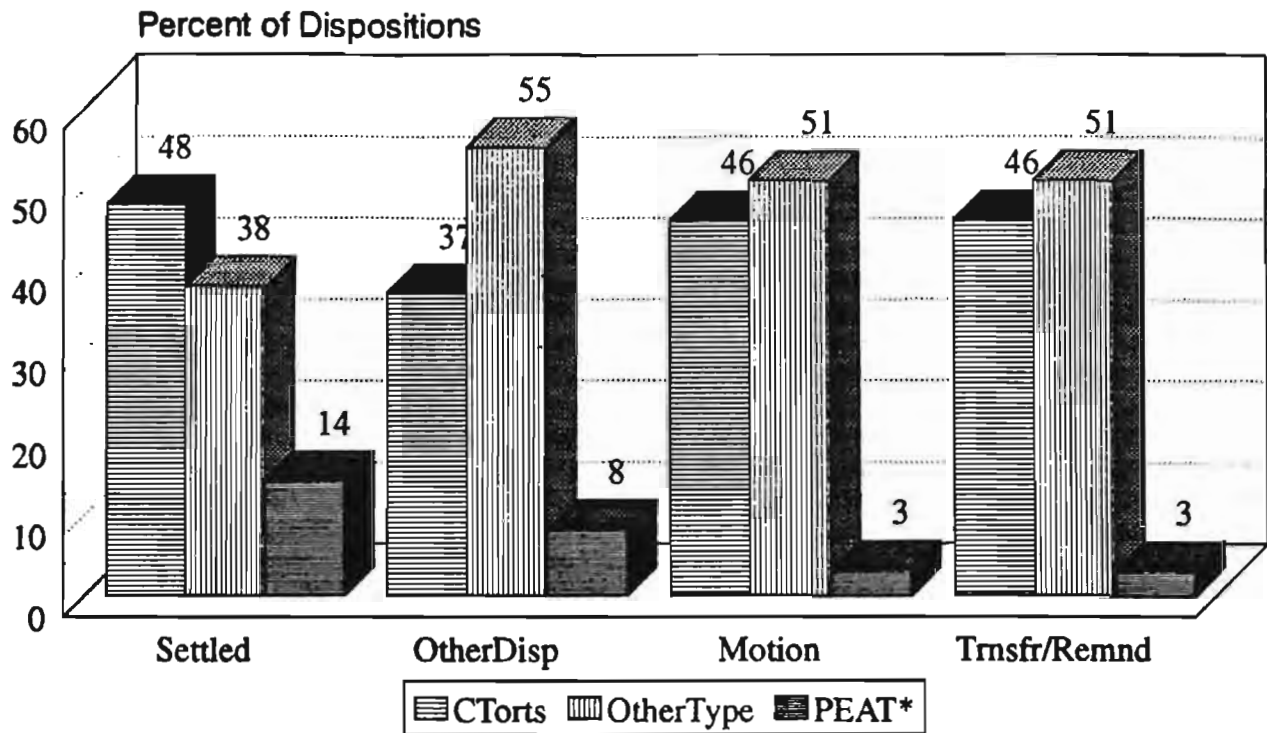
All Closed Cases, Except Pris. (N=646)



*PEAT=Patent, Envir, Anti-Trust cases.

Source: D. Yanich, CJRA, 1993.

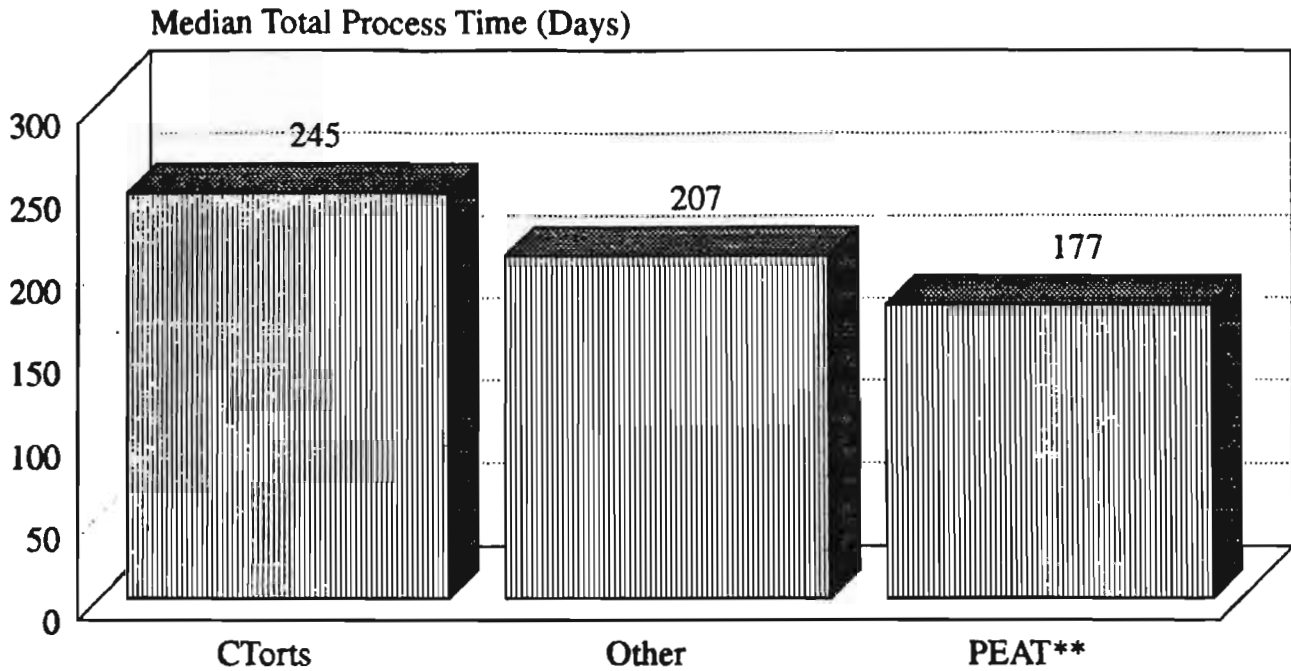
Figure 9
Distribution of Case Type by Disposition
 All Closed Cases, Except Pris. (N=646)



*PEAT=Patent, Environmental, Anti-Trust Cases.

Source: D. Yanich, CJRA, 1993.

Figure 10
Total Process Time* by Case Type
All Closed Cases, Except Pris. (N=646)

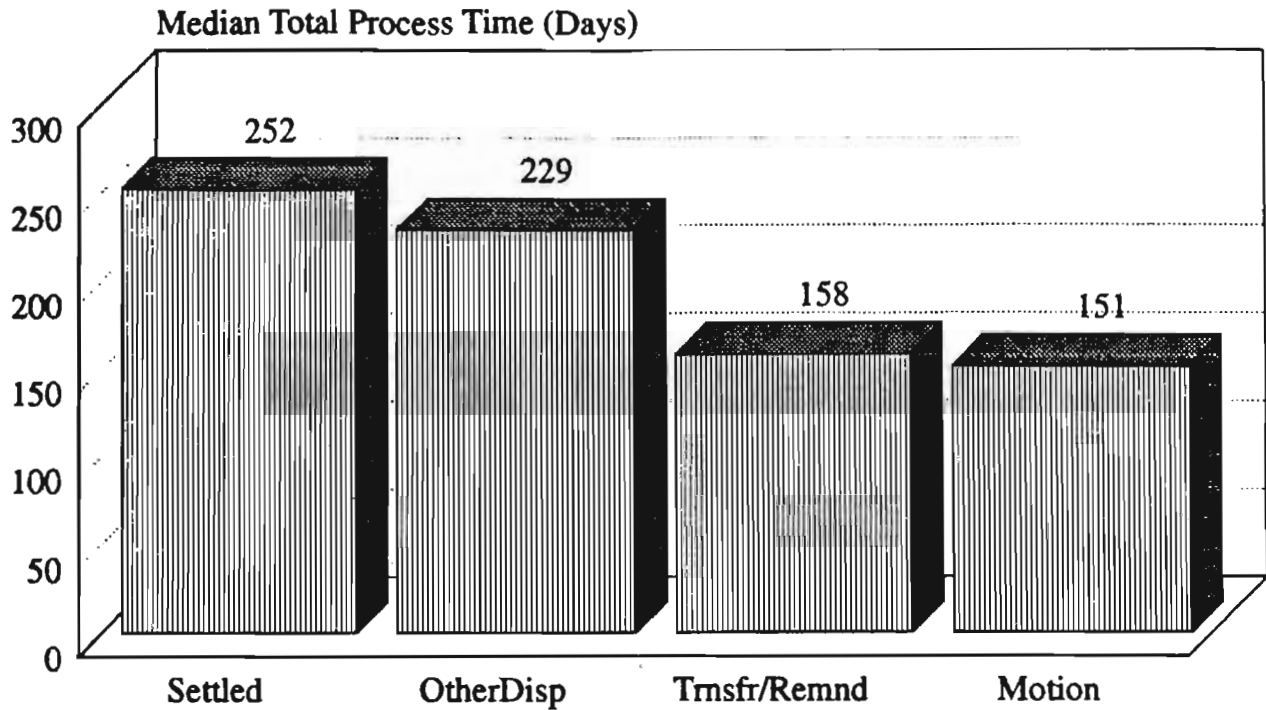


*Total Process Time=Period between filing of complaint & disposition.

**Reflects small # of cases (n=55), thereby reducing reliability.

Source: D. Yanich, CJRA, 1993.

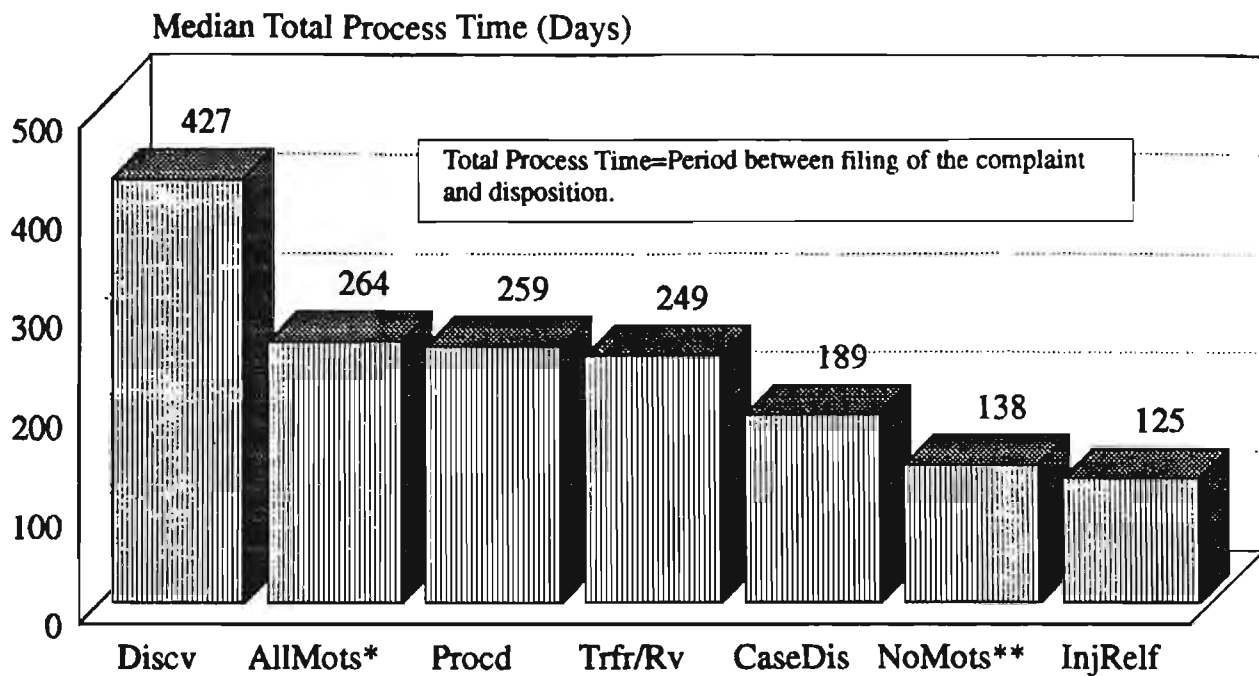
Figure 11
Total Process Time* by Disposition
All Closed Cases, Except Pris. (N=646)



*Total Process Time=Period between filing of complaint & disposition.

Source: D. Yanich, CJRA, 1993.

Figure 12
Total Process Time by Motion Type
All Closed Cases, Except Pris. (N=646)



*AllMots=Combination of all cases w/ a motion identified by CJRA Cmte.

**NoMots=None of the 5 motion types identified by the CJRA Cmte. was filed in the cases.

Source: D. Yanich, CJRA, 1993.

Motion Activity

For All Closed Cases, Except Prisoner Cases

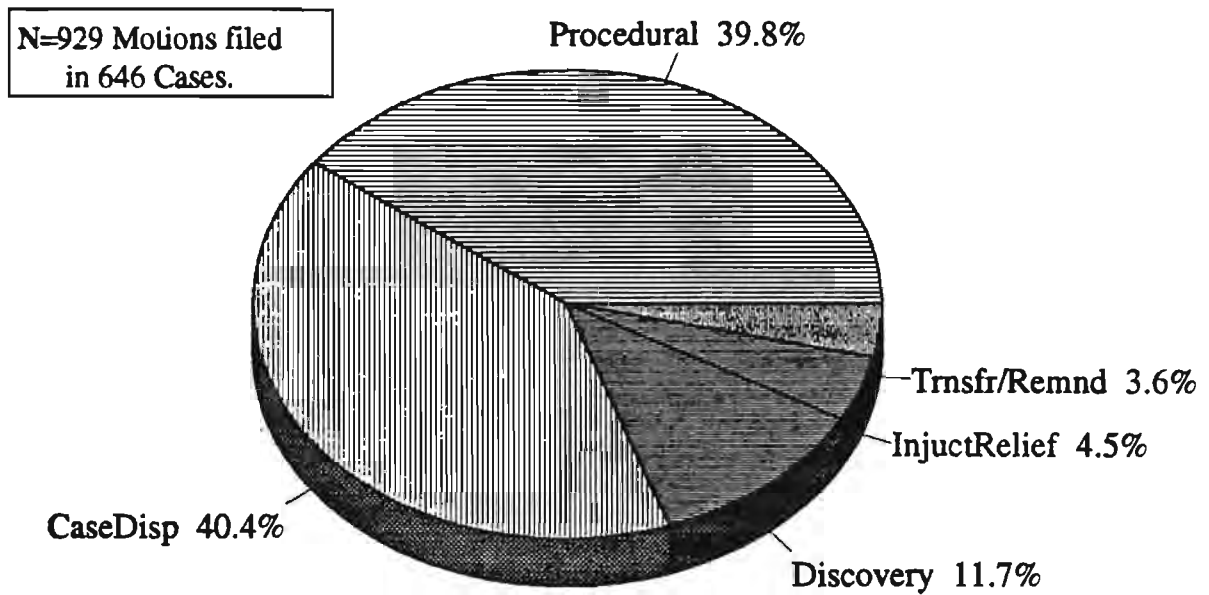
**Representing 929 motions
Filed in 646 Cases**

**Danilo Yanich
CJRA, 1993.**

Figure 1

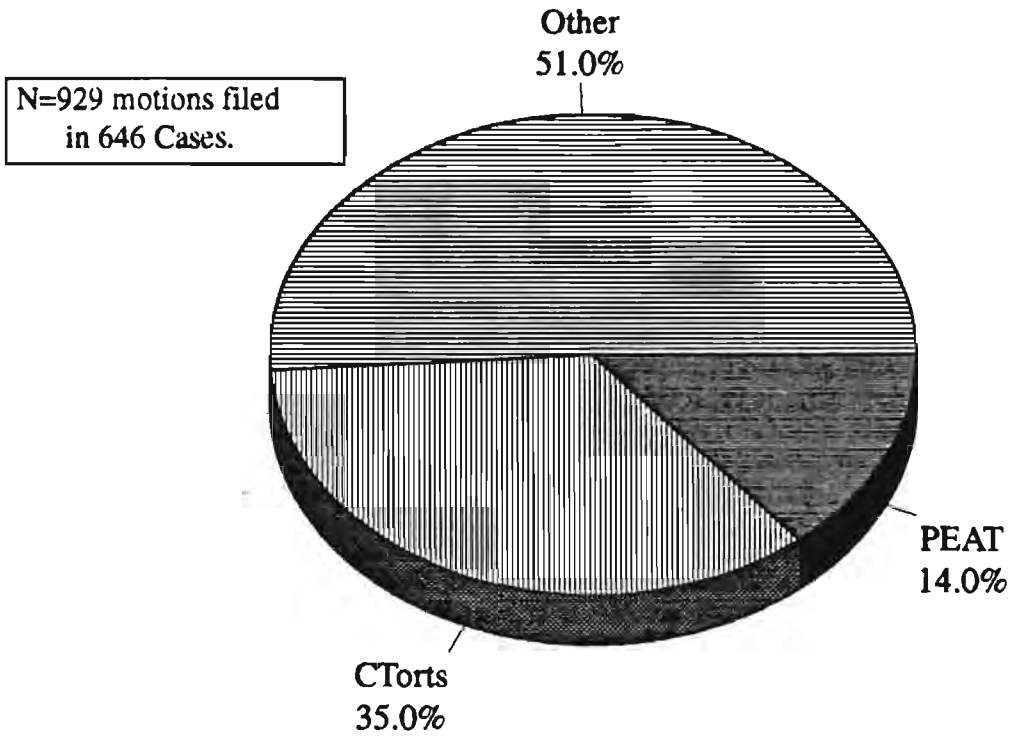
Distribution of Motion Type

For All Closed Cases, Except Prisoner Cases



Source: D. Yanich, CJRA, 1993.

Figure 2
Distribution of Motions by Case Type
For All *Closed* Cases, Except Prisoner Cases

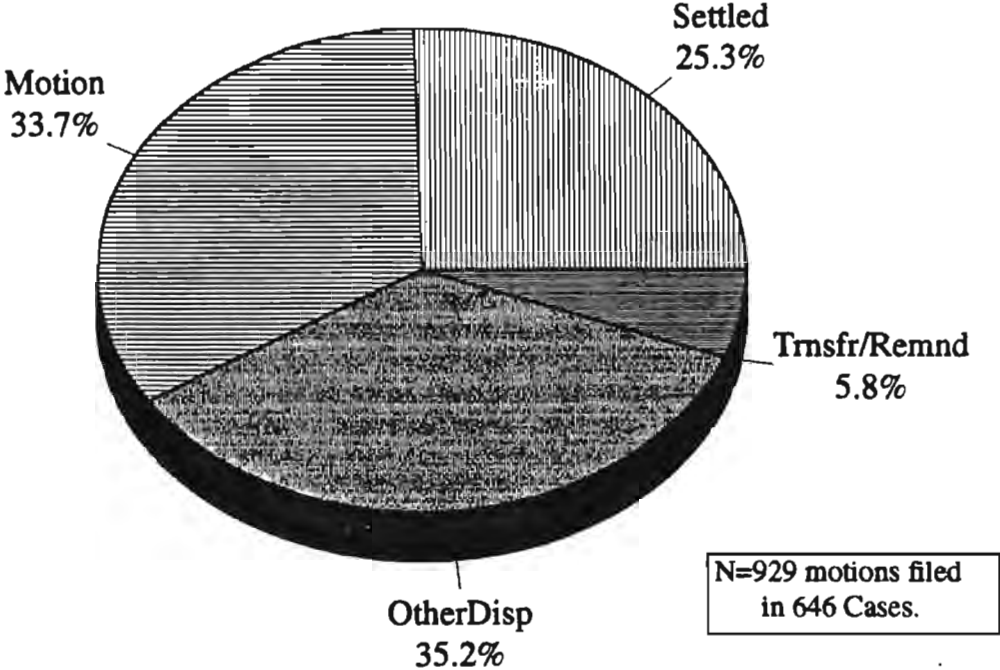


Source: D. Yanich, CJRA, 1993.

Figure 3

Distribution of Motions by Disposition Type

For All *Closed* Cases, Except Prisoner Cases

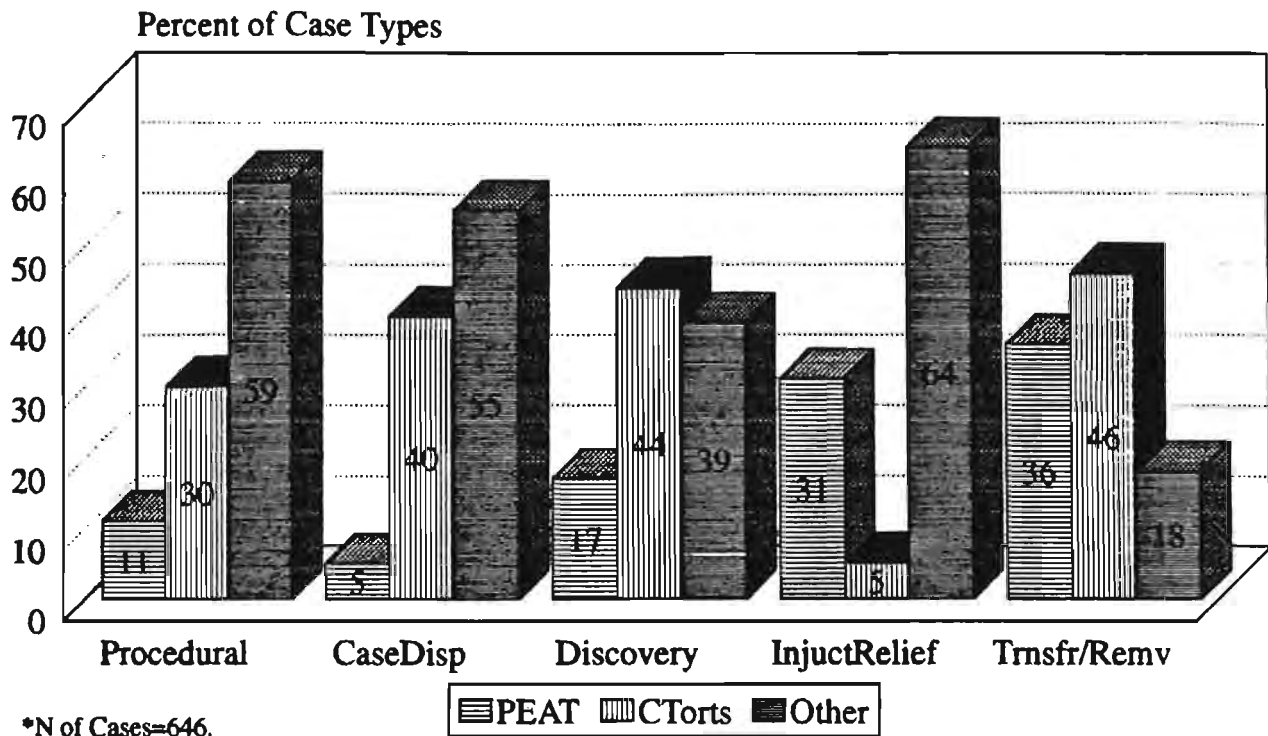


Source: D. Yanich, CJRA, 1993.

Figure 4

Distribution of Case Types within Motion Type

For All *Closed* Cases, Except Prisoner Cases*



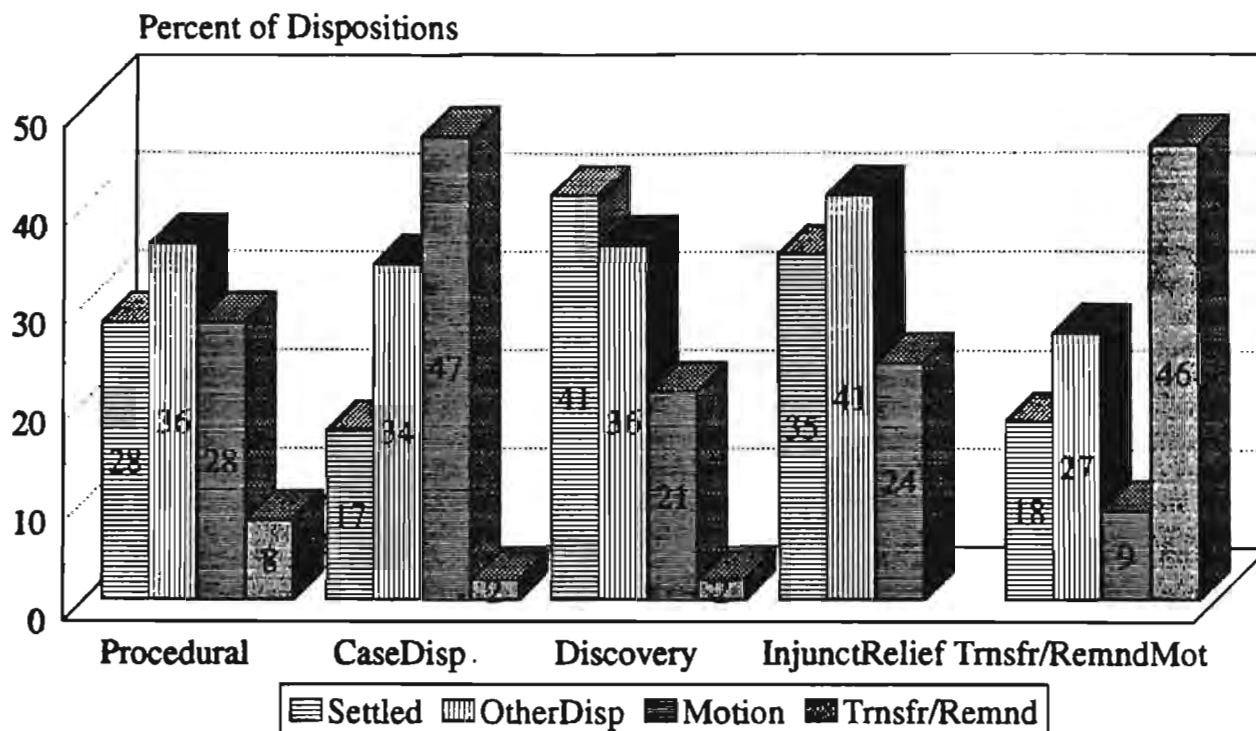
*N of Cases=646.

Source: D. Yanich, CJRA, 1993.

Figure 5

Distribution of Dispositions within Motion Type

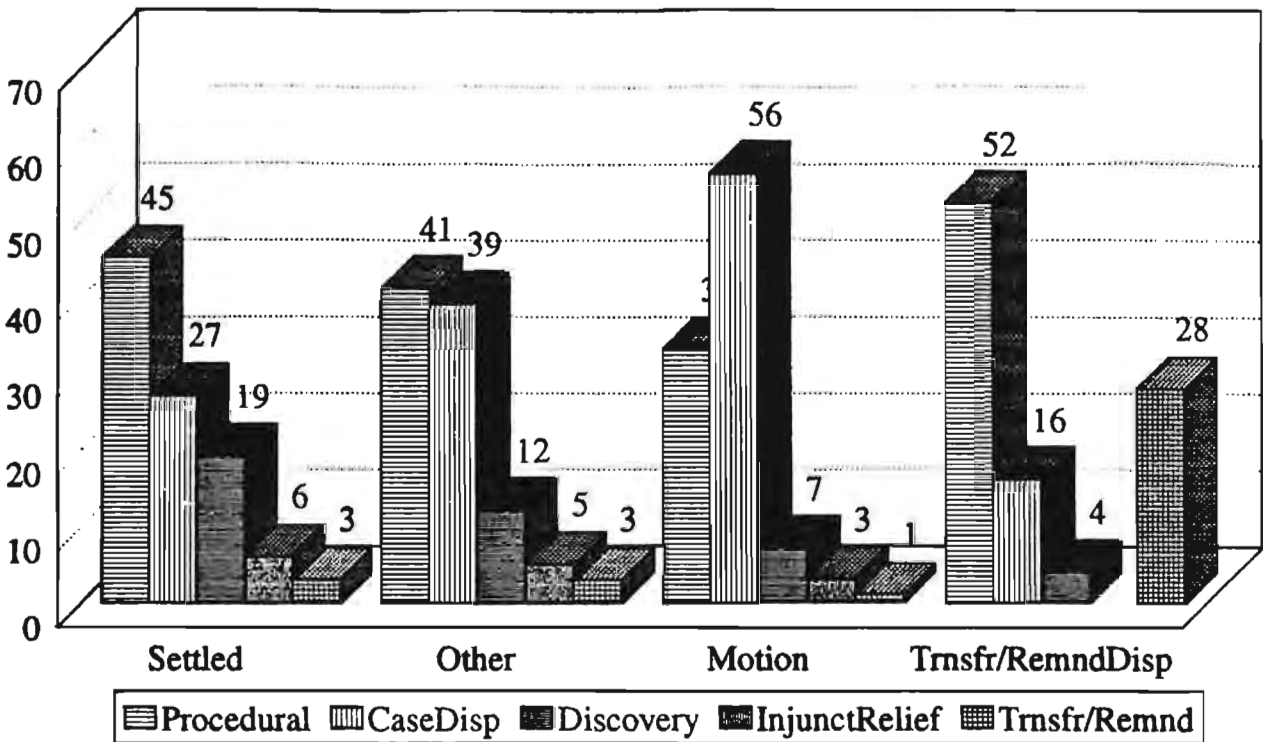
For All Closed Cases, Except Prisoner Cases*



*N of Cases=646.

Source: D. Yanich, CJRA, 1993.

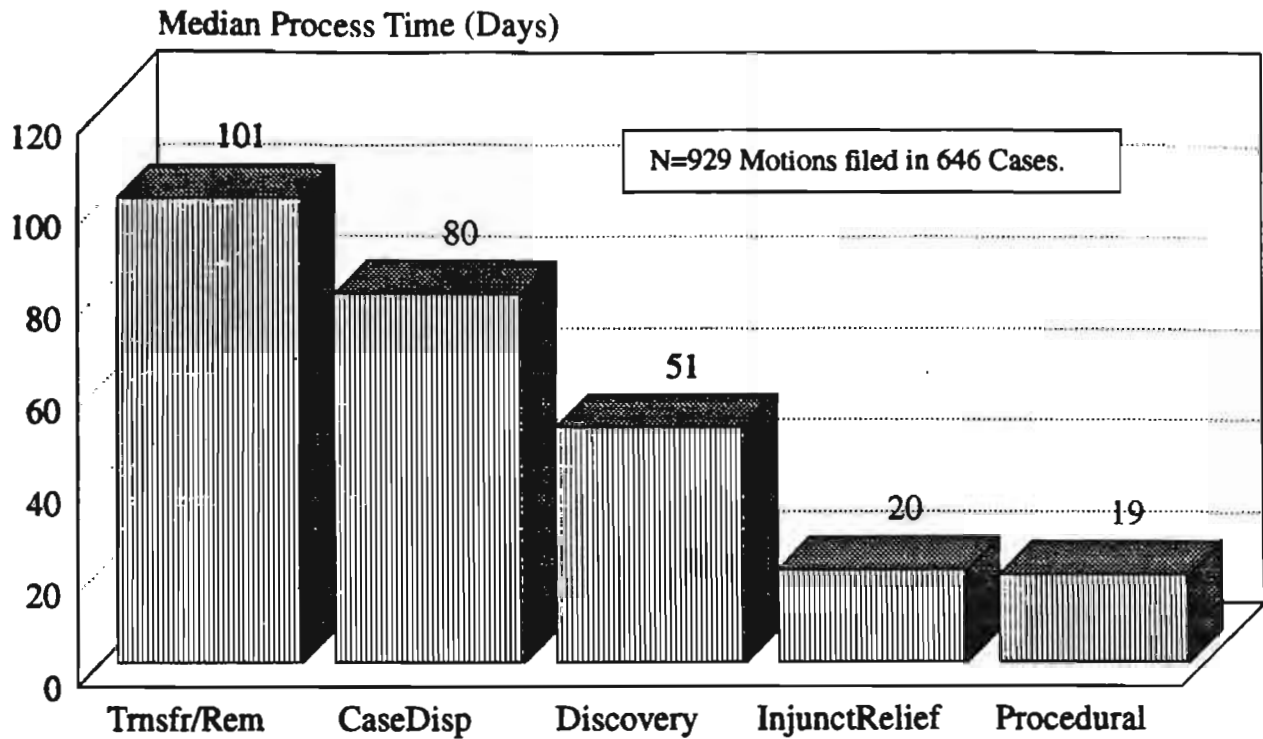
Figure 6
Distribution of Motion Type within Dispositions
 For All Closed Cases, Except Prisoner Cases*



*N of Cases=646

Source: D. Yanich, CJRA, 1993.

Figure 7
Motion Process Time* by Motion Type
For All Closed Cases, Except Prisoner Cases

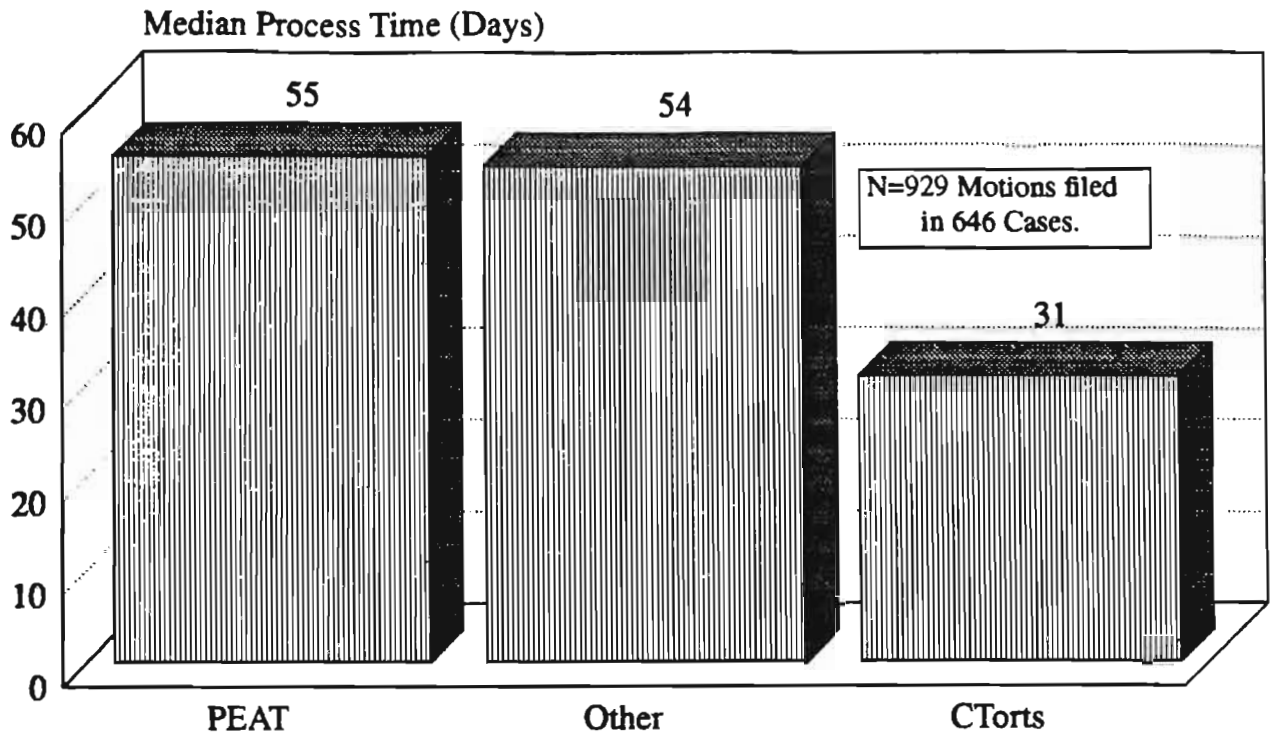


*Process Time=Period between filing and disposition of motion.
Source: D. Yanich, CJRA, 1993.

Figure 8

Motion Process Time* by Case Type

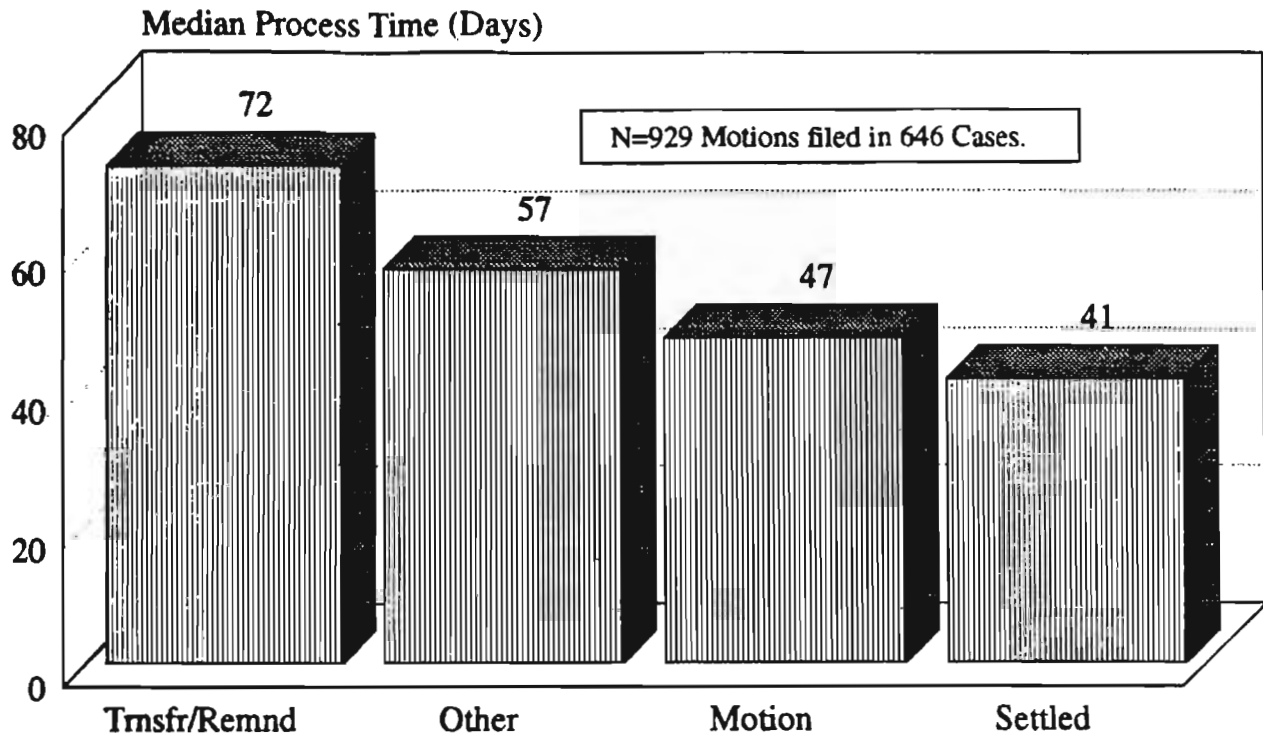
For All *Closed* Cases, Except Prisoner Cases



*Process Time=Period between filing and disposition of motion.

Source: D. Yanich, CJRA, 1993.

Figure 9
Motion Process Time* by Disposition Type
For All Closed Cases, Except Prisoner Cases.



*Process Time=Period between filing & disposition of motion.

Source: D. Yanich, CJRA, 1993.

CJRA Motion Groupings

Case Dispositive:

- 113 To dismiss
- 114 For summary judgment
- 116 For default judgment
- 126 For judgment on the pleadings

Procedural:

- 102 To amend
- 110 To consolidate cases
- 121 To expedite
- 123 To extend time
- 124 To intervene
- 130 For new trial
- 139 For reconsideration
- 143 For leave to file
- 148 To stay
- 149 To strike
- 154 To vacate
- 160 To withdraw
- 168 For pre-trial conference
- 170 For special hearing
- 180 To bifurcate
- 190 To seal
- 205 For leave to appeal
- 208 To join parties

Discovery:

- 111 To compel
- 137 For protective order
- 138 To quash
- 169 For discovery
- 186 To produce

Injunctive Relief:

- 134 For preliminary injunction
- 135 For temporary restraining order

Transfer/Removal:

- 109 To change venue
- 141 To remand
- 142 To transfer case