

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
OFFICE OF THE CLERK

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William T. Walsh
Clerk

April 28, 1995

Ms. Donna J. Stienstra
Research Division
Federal Judicial Center
One Columbus Circle, NE
Room G-255
Washington, DC 20544

Abel J. Mattos, Chief
Court Programs Branch
Administrative Office of the
United States Courts
One Columbus Circle, NE
Washington, DC 20544

Dear Ms. Stienstra and Mr. Mattos:

Enclosed is the Third Annual Assessment of the Civil Justice Expense and Delay Reduction Plan for the District of New Jersey which was adopted today.

Very truly yours,

A handwritten signature in cursive script that reads "W. T. Walsh".

WILLIAM T. WALSH
Clerk

WTW:tlc
Encl.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
(201) 645-3827



CHAMBERS OF
RONALD J. HEDGES
UNITED STATES MAGISTRATE

UNITED STATES COURT HOUSE
NEWARK, NJ 07101-0999

April 28, 1995

Mr. Frederick Rusillo
Administrative Office of the
U. S. Courts
Court Administration Policy Staff
One Columbus Circle, NE, Suite 4-560
Washington, DC 20544

Dear Fred:

Enclosed is our Third Annual Assessment. It was adopted today.

Sincerely,



RONALD J. HEDGES
United States Magistrate Judge

RJH:tlc
Encl.

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY



THIRD ANNUAL ASSESSMENT
OF THE
CIVIL JUSTICE EXPENSE & DELAY REDUCTION PLAN
FOR THE IMPLEMENTATION OF THE
CIVIL JUSTICE REFORM ACT OF 1990

Adopted: April 28, 1995

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THIRD ANNUAL ASSESSMENT OF THE PLAN FOR IMPLEMENTATION OF THE
CIVIL JUSTICE REFORM ACT OF 1990 IN THE
DISTRICT OF NEW JERSEY

I. INTRODUCTION AND METHODOLOGY

This is the third annual review of the Civil Justice Expense and Delay Reduction Plan ("the Plan") adopted by the United States District Court for the District of New Jersey on December 12, 1991. Prior annual assessments were adopted on December 22, 1992, and April 29, 1994.

Two important events involving the Plan occurred in 1994. First, at the time of the Second Annual Assessment the Court had in large measure "opted-in" to the 1993 amendments to the Federal Rules of Civil Procedure ("Civil Rules"). However, the Court had not made a final decision to do so. Second Annual Assessment at 3. On the subsequent recommendation of the Lawyers Advisory Committee the Court has elected to opt-in permanently. The amended Civil Rules have superseded portions of the Plan dealing with civil case management and have also introduced new discovery practices.¹ The impact of the amended Civil Rules on the Plan will be discussed below in Section III.

Second, the membership of the Civil Justice Expense and Delay Reduction Committee for the United States District Court for the District of New Jersey ("the Advisory Committee") has been reconstituted. During 1994 a new United States Attorney and a new Director of the Division of Law, New Jersey Department of Law and Public Safety, joined the Advisory Committee. In January of 1995,

¹ General Rule 15B, which reflects the Court's adoption of the amended Civil Rules, appears in the Appendix at 1a.

the terms of the original members expired and new members were appointed. The Order reconstituting the Advisory Committee appears in the Appendix at 2a-3a.

Once again, aware of the need to minimize expense, the Court relied in large measure on the advice of the Advisory Committee. The Court has been extremely fortunate in having had the benefit of the views of both the original and new members. The Court also continued to rely on the full-time magistrate judges ("magistrates") in the District. The recommendations of the Advisory Committee and the magistrates have, as before, been carefully considered by the Board of Judges.

The format of this Third Annual Assessment differs somewhat from that of its predecessors. As before, following this "Introduction and Methodology" there is an "Assessment of the Dockets." However, rather than specifically address the "principal causes of costs and delay in civil litigation" (as did the prior annual assessments), this annual review includes a new Section III which focuses on the impact of the amended Civil Rules as well as programs or proposals intended to reduce cost and delay.

II. ASSESSMENT OF THE DOCKETS

A. CONDITION OF THE CIVIL AND CRIMINAL DOCKETS²

1. Civil³

(a) During the twelve-month period ending September 30, 1994, civil case filings increased 7.3% from 5,960 to 6,392. Of this total number, civil filings involving the United States numbered 1,155 cases (18% of the 1994 civil docket). The remainder were private in nature.⁴

(b) As of September 30, 1994, the total number of pending civil cases was 5,703. Of this total, 1,039 were cases in which the United States was a party, prisoner cases numbered 843, and the remainder were private in nature.

(c) During the twelve-month period ending September 30, 1994, 6,074 civil cases were terminated. Of this total, 1,080 civil cases involved the United States, prisoner cases numbered 944, and the remainder were private in nature. Civil case terminations rose 7.3% over 1993, a percentage identical to that for the increase in civil filings.

² Civil and criminal caseload statistics are for the statistical year ending September 30, 1994. 1993 statistics are for the statistical year which ended on September 30, 1993. 1992 statistics are for the statistical year which ended on June 30, 1992.

³ Civil caseload statistics for the District are graphed in the Appendix at 4a-13a.

⁴ Of the 6,392 cases filed, 938 (or 14.7%) were removals from the State courts. There were 773 removals in 1993 (13.0% of cases filed) and 826 in 1992 (14.3% of cases filed).

(d) For 1992, 1993 and 1994, the disposition rate of non-prisoner civil cases, from the date of filing of a complaint, was as follows:

	1992	1993	1994
Total Number of Cases Disposed of	5,216 (100%)	4,818 (100%)	5,121 (100%)
Number of Cases Disposed of Before Any Court Action	995 (19.1%)	623 (12.9%)	661 (12.9%)
Number of Cases Disposed of Before Pretrial	2,190 (41.9%)	2,184 (45.3%)	2,410 (47.1%)
Number of Cases Disposed of During or After Pretrial	1,864 (35.7%)	1,834 (38.1%)	1,905 (37.2%)
Number of Cases Tried to Disposition	167 (3.2%)	177 (3.6%)	145 (2.8%)

During the operation of the Plan there has been an overall decrease in the percentage of civil cases disposed of at trial.

(e) Consistent with (d) above, the median time intervals from filing to disposition of non-prisoner civil cases from the filing of a complaint for 1992, 1993 and 1994 were as follows:

	1992		1993		1994	
	Filings	Months	Filings	Months	Filings	Months
All Civil Cases	(5,216)	7	(4,818)	7	(5,121)	7
Cases Disposed of Before Court Action	(995)	4	(623)	4	(661)	3
Cases Disposed of Before Pretrial	(2,190)	5	(2,184)	5	(2,410)	5
Cases Disposed of During or After Pretrial	(1,864)	14	(1,834)	13	(1,905)	13
Cases Disposed of by Trial to Completion	(167)	23	(177)	25	(145)	25

Over 97% of all non-prisoner civil cases terminated in 1994 were disposed of within 13 months of filing, well within the eighteen-month period suggested by the Civil Justice Reform Act (28 U.S.C. § 473(a)(2)(B)) within which a case should be tried.

(f) The median disposition time of 7 months for all civil cases terminated in 1994 ranked the District behind only nine others nationwide out of 94 (the nationwide average was 8 months). The District ranked 39th nationally and first in the Third Circuit in weighted case filings per judgeship. The District did rank 78th nationally in the median disposition time of 25 months for cases tried to completion.⁵ However, only 2.8% (145 cases) of all terminated non-prisoner civil cases fell into the "tried to completion" category.

(g) The arbitration program (governed by General Rule 47) was responsible for the disposition of 1,378 (or 22.2%) of the 6,074

⁵ Why did the median disposition time remain at 25 months in 1994? Several factors may be responsible.

During 1994 three judges went on senior status and a fourth was elevated, creating four judicial vacancies in the District. These vacancies were the equivalent of the absence of one active judge for 13 months, thus increasing the workload of the judges in the District.

A second factor was the increase in weighted filings. Products liability cases increased 63.9%, RICO--14.3%, patent--12.2%, securities--84.6% and environmental--25.8%. These time-consuming cases cannot help but have contributed toward an increase in median disposition time.

Finally, 30.7% of all judges' time on the bench was consumed by criminal trials. This percentage does not include bench time for criminal arraignments, motions, sentencings, etc. The availability of judges to dispose of civil cases (complex or not) is entirely dependent on their criminal calendars.

civil cases disposed of in 1994. The success of the arbitration program is reflected by the following:

	1992	1993	1994
Number of Cases Placed in Arbitration	1,694	1,593	1,646
Total Cases Pending in Arbitration	1,287	1,237	1,472
Cases Closed Prior to Appointment of Arbitrator	974	1,145	1,088
Cases Arbitrated or Settled After Arbitrator Appointed	242	262	290
Requests for Trial <u>De Novo</u>	144	142	173
<u>De Novo</u> Requests Closed Before Trial	128	128	115
Cases Left for Trial or Tried to Completion	16	14	58

The number of cases placed in arbitration in 1994 remain consistent with prior years and have increased by 42.6% since adoption of the Plan. There has also been a significant increase over the past several years in the number of cases closed before the appointment of an arbitrator or an arbitration hearing. Although the number of cases left for trial or tried to completion increased in 1994 the success of the arbitration program remains undoubted.

(h) As of September 30, 1994, 256 three-year or older civil cases were pending. This represents 4.5% of the pending civil

caseload.⁶ Examples of three-year or older civil cases, by nature of statistical category, are as follows:

Pending Civil Cases That Were Three-Years Old on 6/30/91

<u>Nature of Suit</u>	<u>Prsnr Civ Rgt</u>	<u>Oth Civ Rgt</u>	<u>P.I.</u>	<u>Cntrct</u>
Newark (127)	13	18	10	24
Trenton (51)	14	8	11	8
Camden (59)	16	11	5	11
Total (237)	43 (18.1%)	37 (15.6%)	26 (11.0%)	43 (18.1%)

Pending Civil Cases That Were Three-Years Old on 9/30/94

<u>Nature of Suit</u>	<u>Prsnr Civ Rgt</u>	<u>Oth Civ Rgt</u>	<u>P.I.</u>	<u>Cntrct</u>
Newark (178)	19	23	26	43
Trenton (37)	7	7	5	8
Camden (41)	4	7	2	11
Total (256)	30 (11.7%)	37 (14.5%)	33 (12.9%)	62 (24.2%)

2. Criminal⁷

(a) During the twelve-month period ending September 30, 1994, 798 criminal cases were filed in the District, 717 were terminated and 710 were pending as of September 30, 1994. Of the cases filed, 586 were felonies and 212 were misdemeanors.

⁶ The District continues to have the lowest percentage of pending three-year or older civil cases in the Third Circuit. The District's figure of 4.5% is approximately one-half the nationwide level.

⁷ Criminal caseload statistics for the District are graphed in the Appendix at 14a-16a.

(b) In 1994, criminal cases were instituted against 1,068 defendants. Of this number, 845 defendants were charged with felonies and 223 with misdemeanor offenses.

(c) The criminal statistics set forth above may be summarized as follow:

	<u>CRIMINAL CASES</u>		
	1992	1993	1994
Criminal Cases Filed	790	818	798
Criminal Cases Terminated	700	775	717
Felony Cases Filed	607	634	586
Misdemeanor Cases Filed	183	184	212
Number of Defendants	1,110	1,087	1,068
Number of Defendants (Felony)	899	898	845
Number of Defendants (Misdemeanor)	194	189	223
Criminal Cases Pending Year End	783	628	710

3. Ranking of the District

For the twelve-month period ending September 30, 1994 the District continued to rank 9th nationwide in total case filings (civil of 6,392 and criminal of 798) with a total of 7,190.⁸

⁸ Civil and criminal caseloads for the District are summarized in the Appendix at 17a.

B. TRENDS IN CASE FILINGS AND DEMANDS BEING PLACED ON THE RESOURCES OF THE DISTRICT

1. Civil

(a) Civil case filings rose 7.3% in 1994. Nationally, civil filings rose 3.0%.

(b) 1994 saw the highest civil filings (6,386) in the history of the Court.⁹ This continued a four-year trend (1990-93) of increased civil filings. The 1994 increase appears to be attributable in large measure to an increase in civil rights actions, particularly those brought by prisoners.

2. Criminal

The District's progress with its civil calendar continues to be hampered by criminal filings and trials, especially drug- and bank-related. Criminal filings decreased nationwide -3.0% in 1994. In the District criminal filings fell -2.4%. Felony filings in 1994 declined by 7.5%, slightly less than the nationwide percentage.¹⁰ This nationwide decline may be attributable to changes within the Department of Justice resulting from a new administration in Washington.

There are currently 1,032 defendants pending in criminal cases (842 felony, 177 misdemeanor and 13 others). Since 1990, the number of defendants charged rose from 912 to 1,068 -- a workload increase of 13.2%.

⁹ A previous high of 6,366 filings was in 1985. This reflected a substantial increase in Social Security appeals and complaints for recovery on defaulted student loans.

¹⁰ Felony filings decreased nationwide by -8.7%.

A review of criminal case filing trends also reflects that 1994 filings in RICO matters increased by 20%, postal offenses 41.6%, weapons and firearms cases 19% and I.R.S. tax violations 17.7%, while drug offenses decreased slightly by -5% and banking law case fell -15.7%. These categories represent 71% of the 1994 criminal caseload. Despite the moderate decline in drug and banking cases, these two categories represent 44% of the felony actions brought in 1994, and the 431 defendants charged represents 51% of all felony filings.

III. THE STATE OF THE PLAN IN 1995

The Plan has been in effect for over three years. Rather than review it seriatim, the Advisory Committee and the Court deemed it appropriate to focus on developments over the past year which affected specific portions of the Plan. These are discussed below.

A. CASE MANAGEMENT

The central feature of the Plan was a revision of General Rule 15. Annual Assessment at 19-22. Attorneys were required to confer and submit a joint discovery plan before the initial conference in most civil actions. A scheduling order was thereafter to issue which was intended to address specific topics prescribed in the Plan.

Civil Rule 26(f) requires that parties meet and prepare a discovery plan before a conference is conducted pursuant to Civil Rule 16. Civil Rule 16(c) directs that certain subjects be considered at the conference. These amended Civil Rules dealing with early case management have superseded the Plan. However, the Plan introduced the case management concepts now embodied in Civil Rules 16 and 26 and the implementation of these amended Civil Rules has proceeded smoothly.

The amended Civil Rules also made substantial changes in discovery practice. Civil Rule 26(a) is new. This creates obligations to disclose certain information without a formal discovery demand. Prior to the adoption of the Plan, the Advisory

Committee considered -- and rejected -- a proposal for "automatic" disclosure of information similar to that now mandated by Rule 26(a). The Advisory Committee also considered -- and rejected -- limitations on interrogatories. These positions of the Advisory Committee were adopted by the Court. However, amended Civil Rule 30(a) limits the number of depositions. Amended Civil Rule 33(a) limits the number of interrogatories. Although not adopted by the Plan, these limitations on discovery have been incorporated into the practice of the District without difficulty.

B. DIFFERENTIATED CASE MANAGEMENT

The Civil Justice Reform Act directed the district courts to consider the inclusion of differentiated case management in their plans. 28 U.S.C. § 473(a)(1). Long before adoption of the Plan the practice of the District had been to assign each civil action to a magistrate and judge on the filing of a complaint, thus ensuring uniform management and supervision. An additional measure of differentiated case management was, nevertheless, introduced in the Plan by the creation of two litigation "tracks." These recognized that, although many non-arbitration civil cases can be pre-tried within one year of joinder of issue, other cases (which are complex in nature and include intellectual property and environmental matters) require more time as well as greater judicial management. Plan at 27.

Both the magistrates and the Advisory Committee recommended that the tracks be abandoned. It was their sense that the formal

designation of non-arbitration civil cases into tracks had proven to be of marginal benefit. The Court rejected this recommendation, deeming the tracks to be useful classifications for cases of varying complexity and reflecting the District's continued commitment to civil justice reform.¹¹

C. MEDIATION

Court-annexed mediation was introduced in the Plan on an experimental basis. The mediation program thereafter became permanent with the adoption of General Rule 49. Both the Advisory Committee and the Court continue to be pleased with the mediation program, which has a settlement rate of 54%.¹²

The Advisory Committee has made several recommendations to the Court regarding amendment of General Rule 49 and the accompanying Guidelines for Mediation. The text of these proposed amendments appears in the Appendix at 18a-19a. The Court directs the Clerk to give public notice of the proposed amendments pursuant to 28 U.S.C. § 2071.

When the mediation program was established a restriction was imposed on the number of cases which could be referred to mediation at one time. This restriction was intended to avoid overburdening the program. Similarly, as the mediation program was intended to

¹¹ The median disposition time in 1994 was 16.5 months for Track I and 23.6 months for Track II cases.

¹² Since the commencement of the program 130 cases have been referred to mediation. Twenty-five of these cases remain in mediation at present. Of the 105 cases no longer in mediation, 57 were settled.

deal with the most difficult civil cases (those designated "Track II"), only such cases were to be referred to mediation. These restrictions remain in effect. However, experience has demonstrated that neither is necessary.

The Advisory Committee also considered whether the compensation scheme set forth in General Rule 49D should be modified to permit a mediator to be compensated in excess of \$150 per hour by agreement of the parties. The Advisory Committee rejected the suggestion, noting that the existing compensation scheme reflected a pro bono component and that permitting compensation to vary among mediators might lead to an adverse public perception.

The proposed amendments will be subject to notice and comment. The Court will consider which, if any, to adopt after notice is given and comment received.

The Advisory Committee and the Court remain concerned with making the best possible use of the mediation program. To increase awareness of the availability of mediation, the Association of the Federal Bar and the Federal Practice and Procedure Section of the State Bar Association have agreed to sponsor two seminars for the benefit of new lawyers. These are intended to be an introduction to practice in the District and will feature a mediation component.

The Chief Judge approved the selection and training of a second group of mediators in 1994. These new mediators underwent an intense one-day training session and also participated in a "refresher" program for the mediators certified by the Chief Judge

in 1992. The Court has a corps of trained, certified mediators available to assist in settling any civil case.

D. EARLY NEUTRAL EVALUATION

Before the Plan was adopted, the Advisory Committee considered the possible introduction of early neutral evaluation ("ENE"). See 28 U.S.C. § 473(b)(4). ENE is intended to present the parties with an evaluation of the merits of a case by a neutral third person at the commencement of litigation. In some districts ENE is performed by volunteer attorneys and in others by magistrates.

After adoption of the Second Annual Assessment, both the Advisory Committee and the magistrates reconsidered ENE. The consensus of both groups was that the magistrates always performed the equivalent of ENE. The sense of the Advisory Committee was also that, rather than attempt to establish a new alternative dispute resolution program and secure attorneys and the like, an attempt should be made to make more use of mediation and arbitration.¹³ The Court agrees with these views.

E. CRIMINAL CASELOAD

The impact of the criminal caseload on civil justice reform continues to be substantial. Although felony filings decreased

¹³ The court-annexed arbitration program, which is governed by General Rule 47, was authorized pursuant to 28 U.S.C. § 651 et seq. The consensus of the Advisory Committee was that the arbitration program should be expanded to include more civil actions filed in the District, if possible. However, at least as of the present, it appears that such expansion would be contrary to the enabling legislation.

slightly in 1994, substantial judicial resources continue to be directed toward the criminal caseload. This decreases the availability of judges to deal with civil cases.

The Court, in the first Annual Assessment, requested the Advisory Committee to consider means to lessen the impact of the criminal caseload. Annual Assessment at 15. The Second Annual Assessment reflects recommendations made by the Advisory Committee as well as actions taken thereon by the Court. Second Annual Assessment at 13-18. Unfortunately, there has been no discernible impact on the criminal caseload.

The Advisory Committee has continued to address the criminal caseload. A subcommittee has been established which will report back to the entire Advisory Committee at a later date. In this regard, the Advisory Committee is cognizant of a House bill entitled the "Taking Back Our Streets Act of 1995," H.R. 3, 104th Cong., 1st Sess. (1995). If enacted into law, this legislation may require further commitment of judicial resources to criminal matters.

F. PRISONER PRO SE LITIGATION

Prisoner pro se litigation continues to be a major component of the District's civil caseload. Nineteen-ninety four saw a substantial increase in prisoner filings, apparently resulting from an increase in the State prison population as well as the opening of a federal correctional institution at Fort Dix, which may eventually be the largest such facility in the country.

Management of prisoner pro se litigation has always been difficult and time-consuming. Without benefit of counsel in most cases, prisoners are unfamiliar with rules governing pleadings and procedure. This increases the case management burden on magistrates. Most prisoner cases see one or more dispositive motions brought by defendants. This extensive motion practice, coupled with prisoners' unfamiliarity with the law, requires a disproportionate commitment of judicial resources.

Modest steps were taken by the Plan to improve procedures governing prisoner filings. Plan at 28-29. Both the first and Second Annual Assessments addressed the prisoner pro se caseload. First Annual Assessment at 22-23; Second Annual Assessment at 22-25. Unfortunately, there has been no discernible impact on that caseload.

The Advisory Committee and the Court remain committed to reducing the disproportionate impact of prisoner pro se cases. There is also a continued commitment to address prisoners' claims and to do so more efficiently. With this dual commitment in mind the Advisory Committee has established a subcommittee to further consider means to lessen the impact of the prisoner pro se caseload. One of the tasks of the subcommittee will be to monitor closely the progress of H.R. 3 which, if enacted, may reduce new prisoner civil case filings as well as habeas petitions.¹⁴

¹⁴ In 1994 the New Jersey Department of Law and Public Safety completed a manual on prisoner civil rights law. This was prepared with the encouragement of the Advisory Committee. Second Annual Assessment at 22 n.22. The manual has been distributed to judicial officers and to the Third Circuit branch libraries in the District.

The Court has itself taken action to address the prisoner pro se docket. The position of pro se law clerk was restructured under the supervision of the Standing Pro Se Committee of the Court. In September of 1994 a new pro se law clerk was appointed. Her duties include screening of prisoners' civil rights complaints and the drafting of legal memoranda and proposed orders. The intention of the Court is to expand these duties to include both research projects and the development of a pool of volunteer counsel who will be available to represent indigent prisoners.

G. EXPANDED USE OF SPECIAL MASTERS

In the Plan the Court recommended to the Judicial Conference that it consider an amendment to Civil Rule 53 to permit greater flexibility in the use of special masters to address the management of complex civil cases. The experience in the District had been that, in rare and complicated cases, the commitment of judicial resources was so great as to warrant the appointment of a special master. This would free magistrates and judges to deal with other civil cases. Plan at 31.

In 1994 the Advisory Committee on Civil Rules proposed to the Committee on Rules and Case Management of the Judicial Conference a substantial modification of Civil Rule 53. This proposal, among other things, would have had the effect of adopting the recommendation made in the Plan. However, the proposal of the Advisory Committee was tabled indefinitely and no rule amendment is foreseen at present.

IV. CONCLUSION

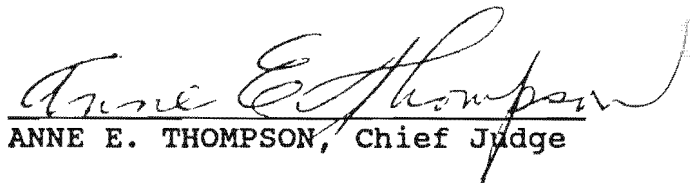
Civil justice reform may be approaching a crossroads. The Civil Justice Reform Act has led to experimentation throughout the district courts. Similarly, the amended Federal Rules of Civil Procedure have presented options for the district courts in case management and discovery. We look to the future for the congressional response to these changes.

The United States District Court for the District of New Jersey has long been a proponent of civil justice reform tailored to the needs of the court and the public. This Third Annual Assessment reviews the progress of reform in the District over the past year.

Respectfully submitted,

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

By:


ANNE E. THOMPSON, Chief Judge

[INDEX TO APPENDIX and APPENDIX follows]

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RULE 15 CASE MANAGEMENT AND DISCOVERY

B. Meeting of Parties, Discovery Plans, Initial Conferences, and Initial Disclosures

1. The requirements currently codified in Civil Rules 26(a) and (f) pertaining to required disclosures, meetings of parties, and submission of discovery plans, shall apply to all civil cases filed after December 1, 1993, and to all civil cases pending on December 1, 1993, that have not had their initial scheduling conference prior to January 20, 1994; except that these requirements shall not apply to those civil cases described in General Rule 40A.4(c) in which scheduling conferences are not normally held, unless the judicial officer otherwise directs. The judicial officer may modify or suspend these requirements in a case for good cause.

2. The initial meeting of parties as required in Civil Rule 26(f) shall be convened at least fourteen (14) days before the initial scheduling conference, and the proposed discovery plan under Civil Rule 26(f)(1)-(4) shall be generated at that meeting and delivered to the Magistrate within ten (10) days after the meeting of parties. Discussion at the initial meeting shall address, and the resulting plan shall include: (a) the issues in Civil Rule 26(f)(1)-4; (b) bifurcation (e.g., liability from damages; statute of limitations before other issues); (c) dates for filing of dispositive motions and for trial; and (d) whether the case is one which might be resolved in whole or in part by voluntary arbitration (pursuant to Rule 47C.2 or otherwise), mediation (pursuant to Rule 49 or otherwise), appointment of a special master or other special procedure. The parties shall make their initial disclosures under Civil Rule 26(a)(1) within ten (10) days after the initial meeting of the parties, unless otherwise stipulated or directed by the court. Such discovery plans and disclosures shall not be filed with the Clerk.

3. The Magistrate shall, after consultation with counsel, enter a scheduling order which may include, but need not be limited to, the following:

- a. dates by which parties must move to amend pleadings or add new parties;
- b. dates for submission of experts' reports;
- c. dates for completion of fact and expert discovery;
- d. dates for filing of dispositive motions after due consideration whether such motions may be brought at an early stage of proceedings (i.e., before completion of fact discovery or submission of experts' reports);
- e. a pretrial conference date; and
- f. any designation of the case for arbitration, mediation, appointment of a special master or other special procedure.

The scheduling order may further include such limitations on the scope, method or order of discovery as may be warranted by the circumstances of the particular case to avoid duplication, harassment, delay or needless expenditure of costs.

4. The Magistrate shall, after consultation with the parties, designate each non-arbitration case either Track I or II. Each class action, antitrust, securities, environmental, patent, trademark, or multi-district case shall presumptively be designated Track II.

5. The Magistrate shall also advise each party of the provisions of Rule 40A.3.

6. In a civil action arising under 18 U.S.C. Sections 1961-1968, the Judge or Magistrate may require a RICO case statement to be filed and served in the form set forth in Appendix O.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

FILED

IN RE: CJRA ADVISORY COMMITTEE :

:

OCT 7 1994

AT 8:30 *1:00 P* M
WILLIAM T. WALSH
CLERK

ORDER

IT IS ON THIS *7th* day of *October* 1994;

ORDERED that, pursuant to 28 U.S.C. § 478(a), the following persons are hereby appointed members of the Advisory Committee effective January 31, 1995:

Ann G. McCormick - Chairwoman
William J. O'Shaughnessy - Vice Chairman
Susan D. Davis
Herb Jaffe
Larry Lustberg
J. Michael Riordan
Dante J. Romanini

and

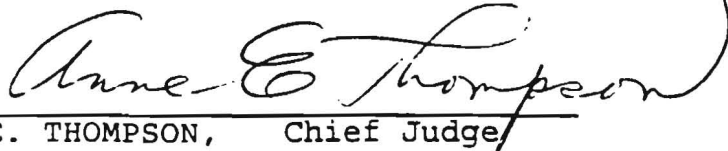
IT IS FURTHER ORDERED that, effective as of the date hereof and pursuant to 28 U.S.C. § 478(d), the Honorable Faith Shapiro Hochberg be and she is hereby appointed a member of the Advisory Committee in the stead of Michael Chertoff; and

IT IS FURTHER ORDERED that, effective as of the date hereof, the Honorable Jaynee LaVecchia be and she is hereby appointed a member of the Advisory Committee in the stead of Jack M. Sabatino; and

IT IS FURTHER ORDERED that, effective January 31, 1995, United States District Judge William G. Bassler shall be an ex-officio, non-voting member of the Advisory Committee in the stead of the

Honorable Dickinson R. Debevoise and the Honorable John W. Bissell;
and

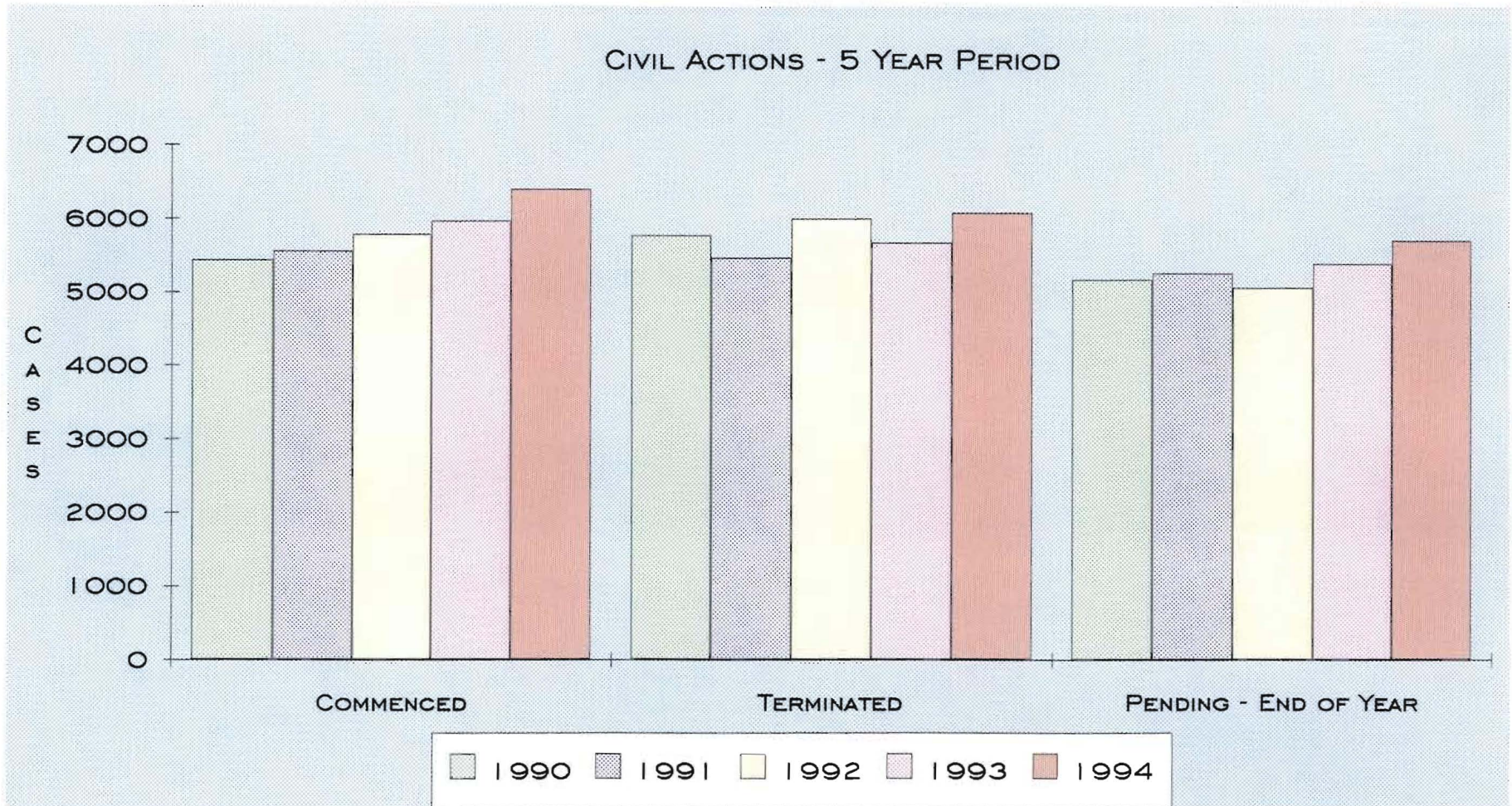
IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 478(e),
United States Magistrate Judge Ronald J. Hedges is hereby
designated the reporter to the Advisory Committee.

A handwritten signature in cursive script that reads "Anne E. Thompson". The signature is written in black ink and is positioned above a horizontal line.

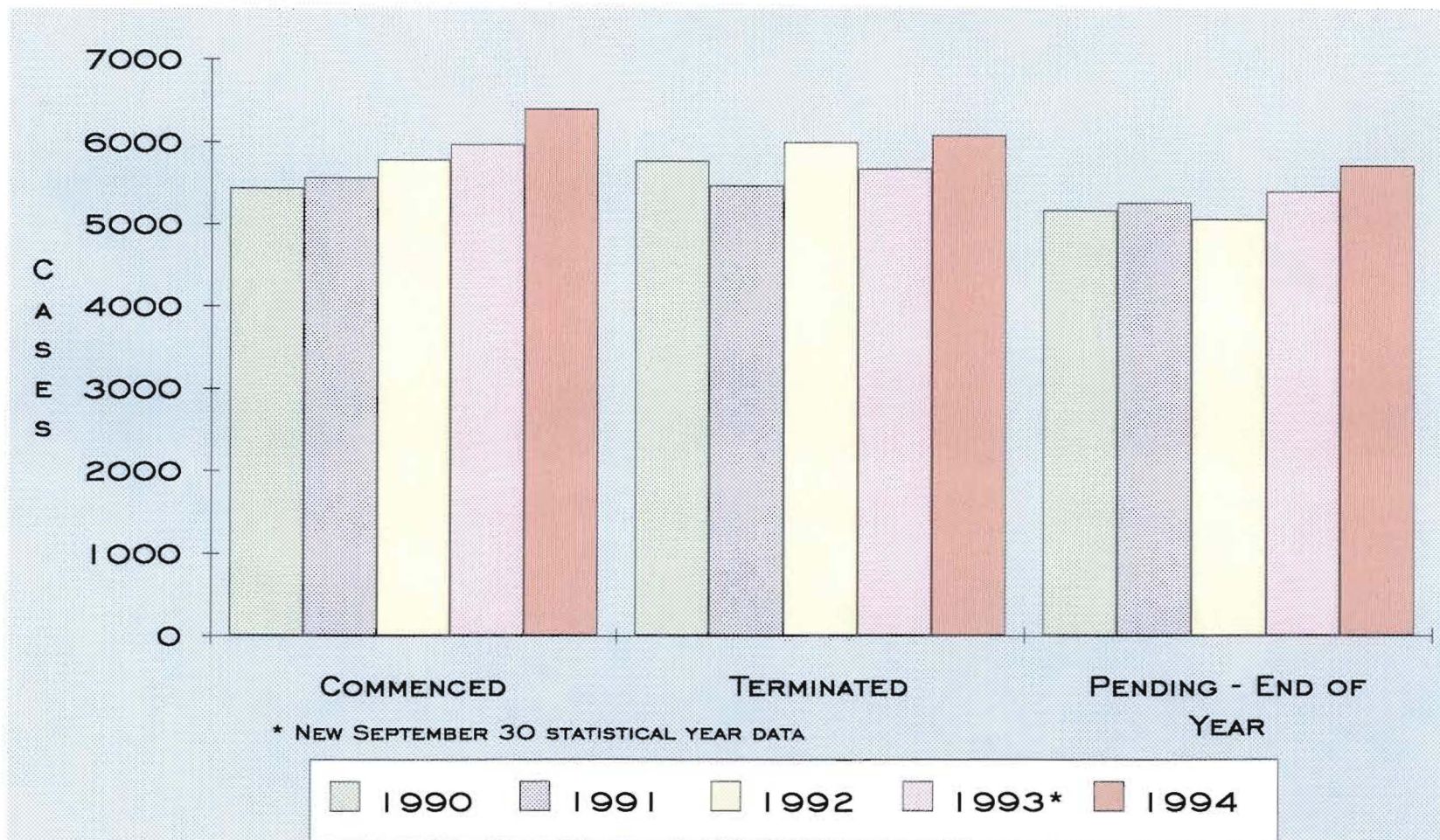
ANNE E. THOMPSON, Chief Judge

Civil Actions
5 Year Period

Civil Actions	Commenced	Terminated	Pending - End of Year
1990	5435	5767	5161
1991	5560	5466	5255
1992	5780	5992	5052
1993	5960	5668	5386
1994	6392	6074	5703

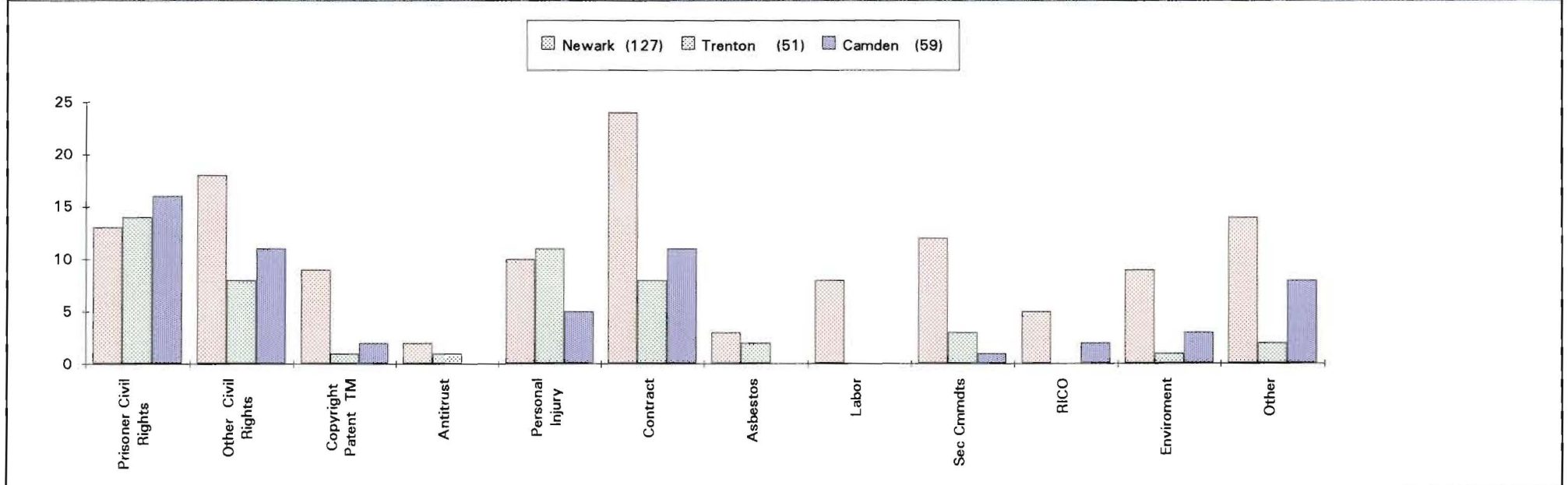


CIVIL ACTIONS	COMMENCED	TERMINATED	PENDING - END OF YEAR
1990	5435	5767	5161
1991	5560	5466	5255
1992	5780	5992	5052
1993*	5960	5668	5386
1994	6392	6074	5703



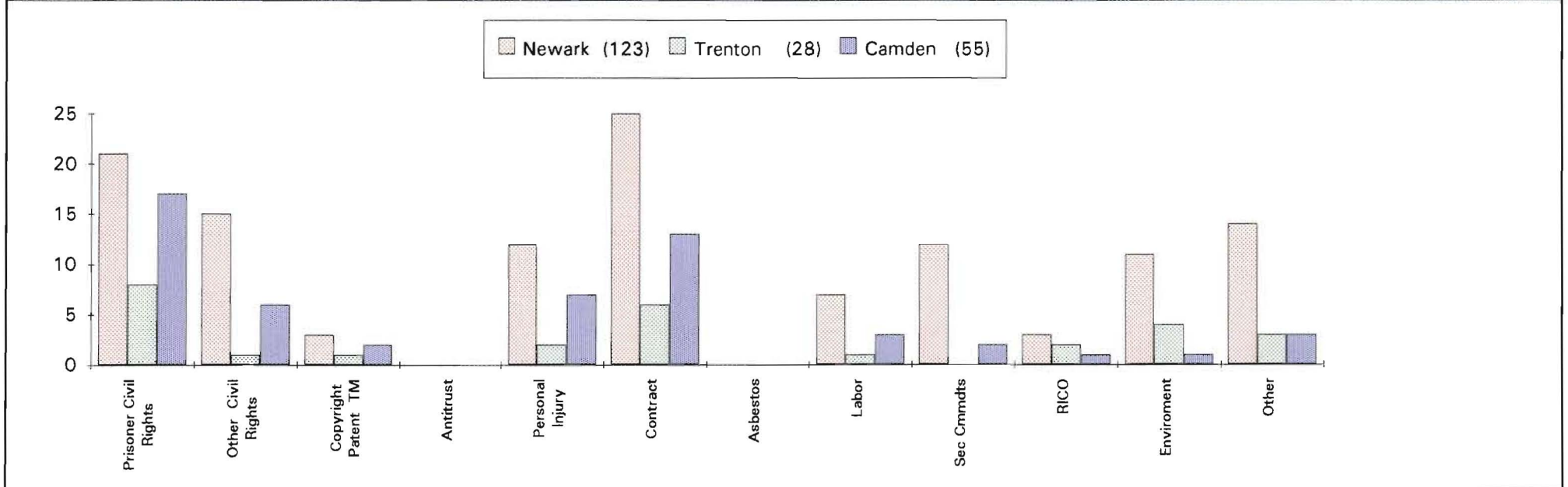
Pending Civil Cases
Three Years or Older
June 30, 1991

1991	Prisoner Civil Rights	Other Civil Rights	Copyright Patent TM	Antitrust	Personal Injury	Contract	Asbestos	Labor	Sec Cmndts	RICO	Enviroment	Other
<i>Vicinage</i>												
Newark (127)	13	18	9	2	10	24	3	8	12	5	9	14
Trenton (51)	14	8	1	1	11	8	2	0	3	0	1	2
Camden (59)	16	11	2	0	5	11	0	0	1	2	3	8
Totals (237)	43	37	12	3	26	43	5	8	16	7	13	24
% Of Caseload	18.14%	15.61%	5.06%	1.27%	10.97%	18.14%	2.11%	3.38%	6.75%	2.95%	5.49%	10.13%



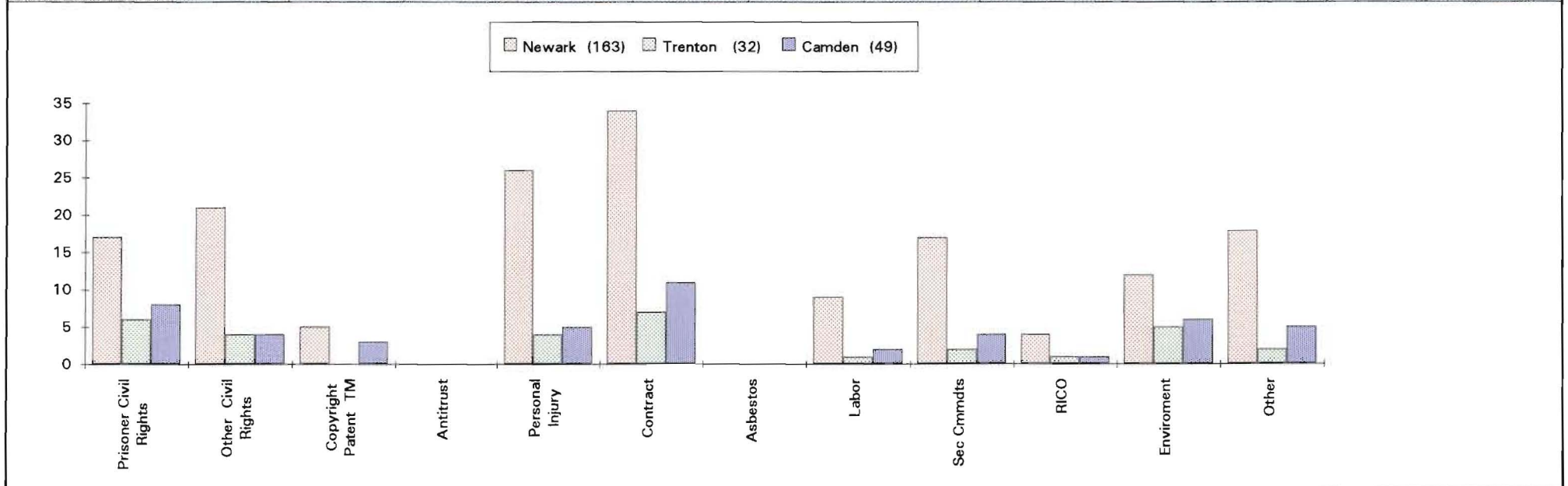
Pending Civil Cases
Three Years or Older
June 30, 1992

1992	Prisoner Civil Rights	Other Civil Rights	Copyright Patent TM	Antitrust	Personal Injury	Contract	Asbestos	Labor	Sec Cmmdts	RICO	Enviroment	Other
<i>Vicinage</i>												
Newark (123)	21	15	3	0	12	25	0	7	12	3	11	14
Trenton (28)	8	1	1	0	2	6	0	1	0	2	4	3
Camden (55)	17	6	2	0	7	13	0	3	2	1	1	3
Totals (206)	46	22	6	0	21	44	0	11	14	6	16	20
% Of Caseload	22.33%	10.68%	2.91%	0.00%	10.19%	21.36%	0.00%	5.34%	6.80%	2.91%	7.77%	9.71%



Pending Civil Cases
Three Years or Older
June 30, 1993

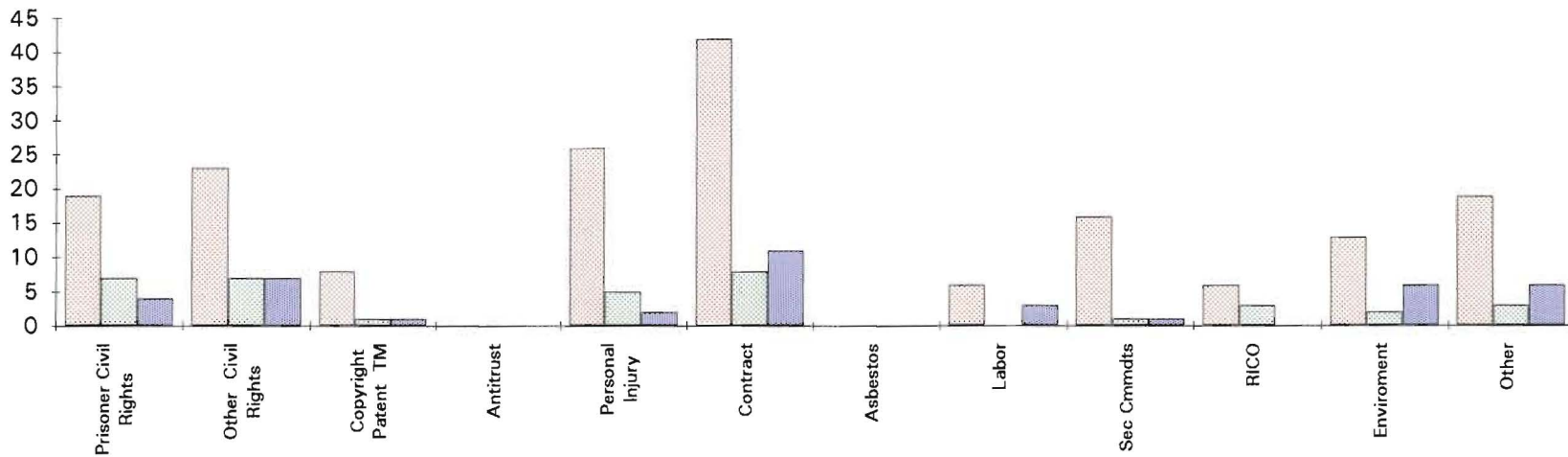
1993	Prisoner Civil Rights	Other Civil Rights	Copyright Patent TM	Antitrust	Personal Injury	Contract	Asbestos	Labor	Sec Cmmdts	RICO	Enviroment	Other
<i>Vicinage</i>												
Newark (163)	17	21	5	0	26	34	0	9	17	4	12	18
Trenton (32)	6	4	0	0	4	7	0	1	2	1	5	2
Camden (49)	8	4	3	0	5	11	0	2	4	1	6	5
Totals (244)	31	29	8	0	35	52	0	12	23	6	23	25
% Of Caseload	12.70%	11.89%	3.28%	0.00%	14.34%	21.31%	0.00%	4.92%	9.43%	2.46%	9.43%	10.25%



Pending Civil Cases
Three Years or Older
September 30, 1994

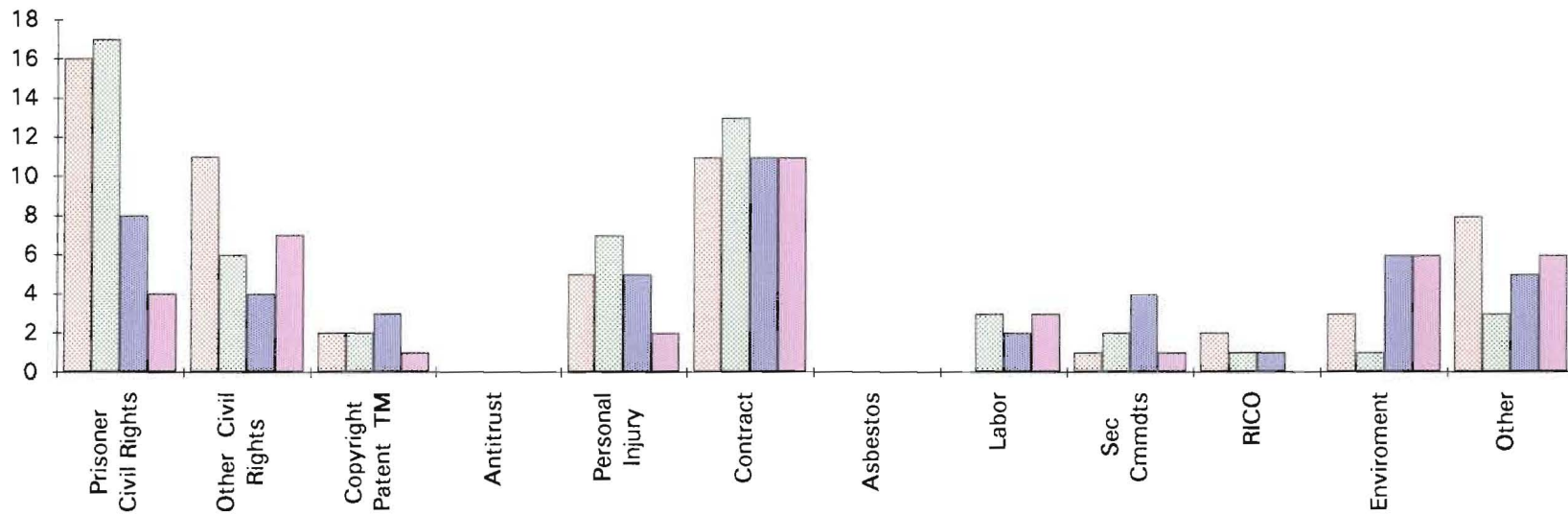
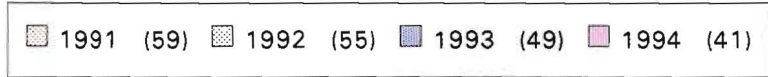
1994	Prisoner Civil Rights	Other Civil Rights	Copyright Patent TM	Antitrust	Personal Injury	Contract	Asbestos	Labor	Sec Cmndts	RICO	Enviroment	Other
<i>Vicinage</i>												
Newark (178)	19	23	8	0	26	42	0	6	16	6	13	19
Trenton (37)	7	7	1	0	5	8	0	0	1	3	2	3
Camden (41)	4	7	1	0	2	11	0	3	1	0	6	6
Totals (256)	30	37	10	0	33	61	0	9	18	9	21	28
% Of Caseload	11.72%	14.45%	3.91%	0.00%	12.89%	23.83%	0.00%	3.52%	7.03%	3.52%	8.20%	10.94%

Legend: Newark (178) Trenton (37) Camden (41)



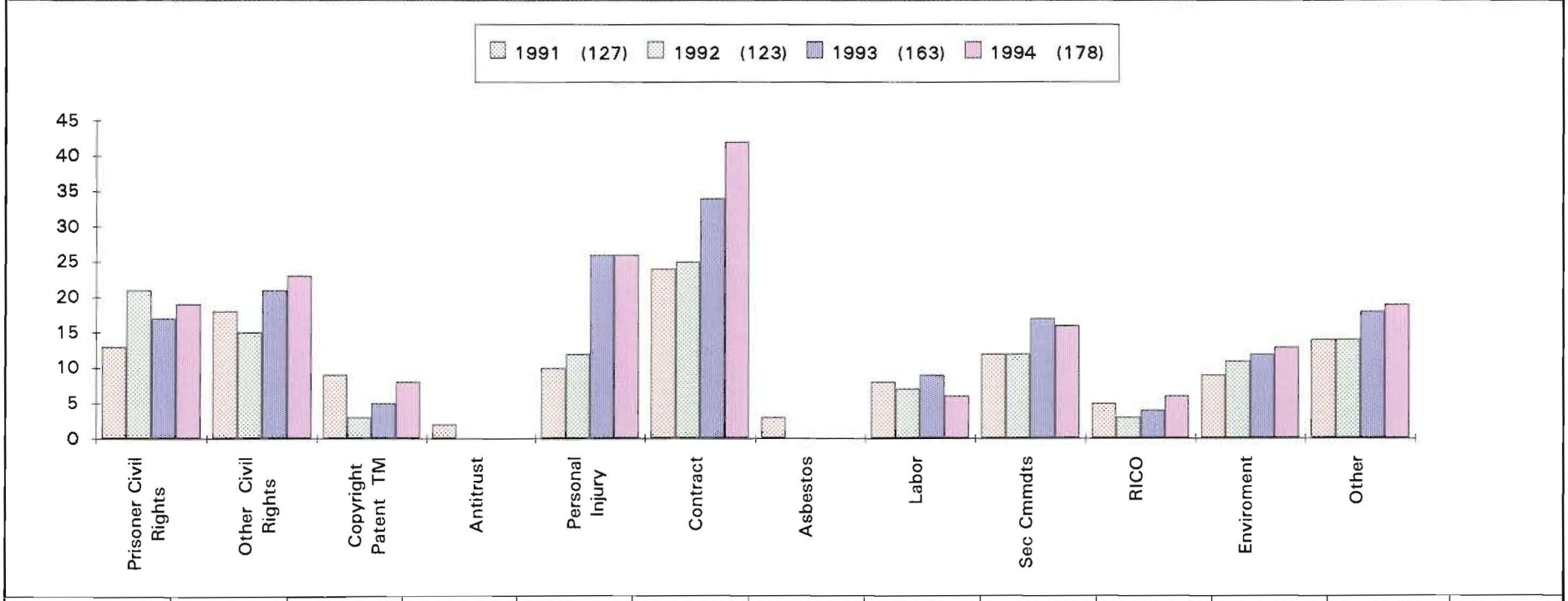
Pending Civil Cases
Three Years or Older
Camden Vicinage

<i>Camden</i>	<i>Prisoner Civil Rights</i>	<i>Other Civil Rights</i>	<i>Copyright Patent TM</i>	<i>Antitrust</i>	<i>Personal Injury</i>	<i>Contract</i>	<i>Asbestos</i>	<i>Labor</i>	<i>Sec Cmmmts</i>	<i>RICO</i>	<i>Enviroment</i>	<i>Other</i>
1991 (59)	16	11	2	0	5	11	0	0	1	2	3	8
1992 (55)	17	6	2	0	7	13	0	3	2	1	1	3
1993 (49)	8	4	3	0	5	11	0	2	4	1	6	5
1994 (41)	4	7	1	0	2	11	0	3	1	0	6	6
Totals (204)	45	28	8	0	19	46	0	8	8	4	16	22
% Of Caseload	22.06%	13.73%	3.92%	0.00%	9.31%	22.55%	0.00%	3.92%	3.92%	1.96%	7.84%	10.78%



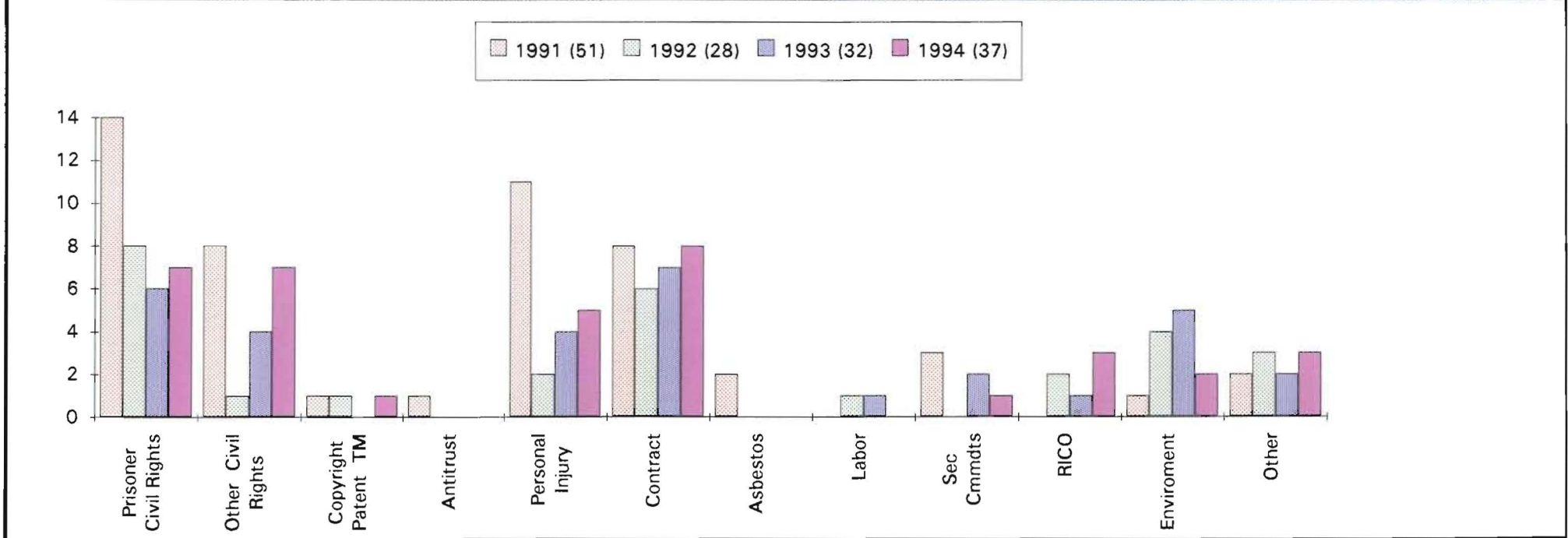
Pending Civil Cases
Three Years or Older
Newark Vicinage

Newark	Prisoner Civil Rights	Other Civil Rights	Copyright Patent TM	Antitrust	Personal Injury	Contract	Asbestos	Labor	Sec Cmmdts	RICO	Enviroment	Other
1991 (127)	13	18	9	2	10	24	3	8	12	5	9	14
1992 (123)	21	15	3	0	12	25	0	7	12	3	11	14
1993 (163)	17	21	5	0	26	34	0	9	17	4	12	18
1994 (178)	19	23	8	0	26	42	0	6	16	6	13	19
Totals (591)	70	77	25	2	74	125	3	30	57	18	45	65
% Of Caseload	11.84%	13.03%	4.23%	0.34%	12.52%	21.15%	0.51%	5.08%	9.64%	3.05%	7.61%	11.00%



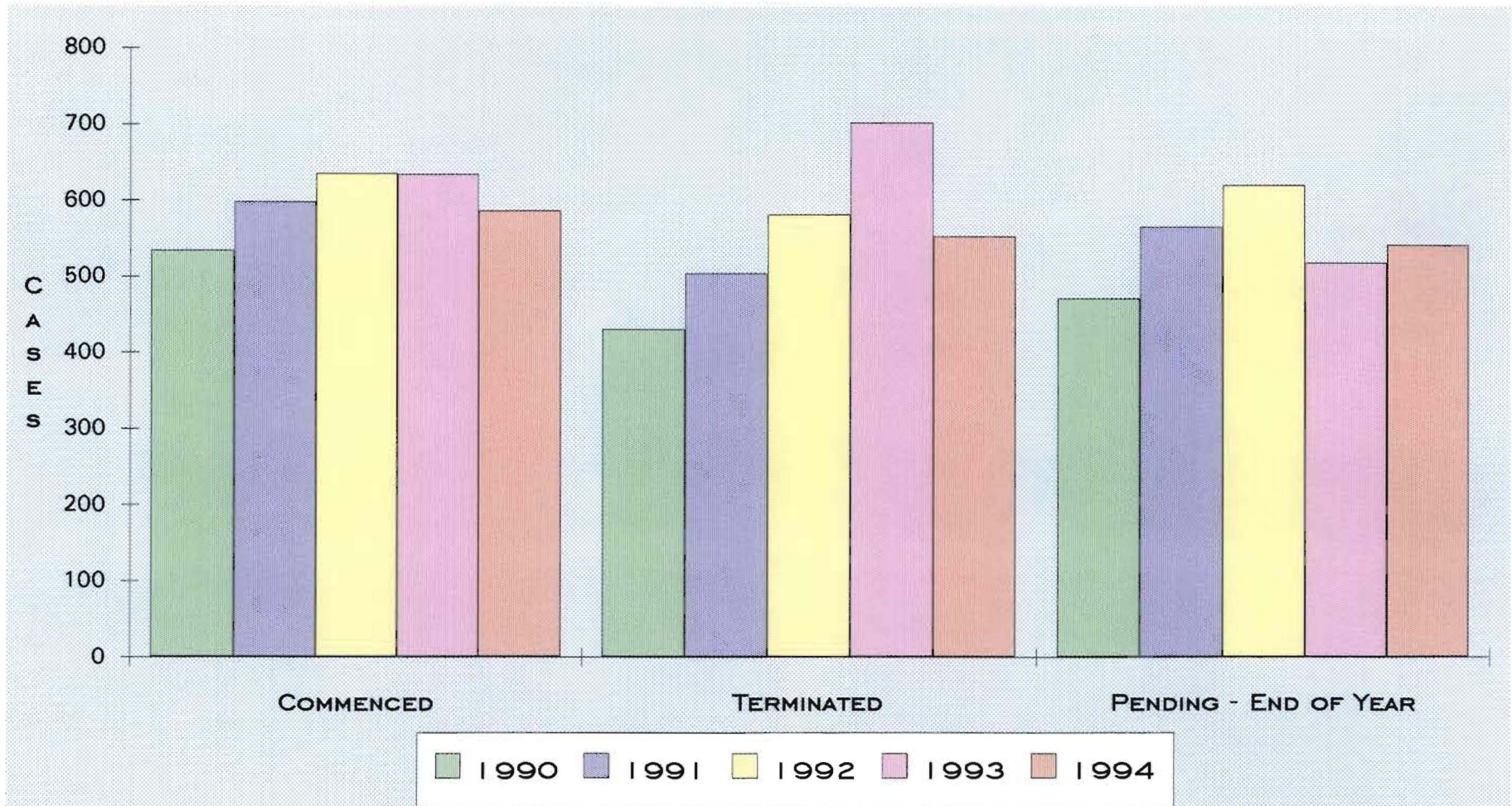
Pending Civil Cases
Three Years or Older
Trenton Vicinage

<i>Trenton</i>	<i>Prisoner Civil Rights</i>	<i>Other Civil Rights</i>	<i>Copyright Patent TM</i>	<i>Antitrust</i>	<i>Personal Injury</i>	<i>Contract</i>	<i>Asbestos</i>	<i>Labor</i>	<i>Sec Cmmdts</i>	<i>RICO</i>	<i>Enviroment</i>	<i>Other</i>
1991 (51)	14	8	1	1	11	8	2	0	3	0	1	2
1992 (28)	8	1	1	0	2	6	0	1	0	2	4	3
1993 (32)	6	4	0	0	4	7	0	1	2	1	5	2
1994 (37)	7	7	1	0	5	8	0	0	1	3	2	3
Totals (148)	35	20	3	1	22	29	2	2	6	6	12	10
% Of Caseload	23.65%	13.51%	2.03%	0.68%	14.86%	19.59%	1.35%	1.35%	4.05%	4.05%	8.11%	6.76%



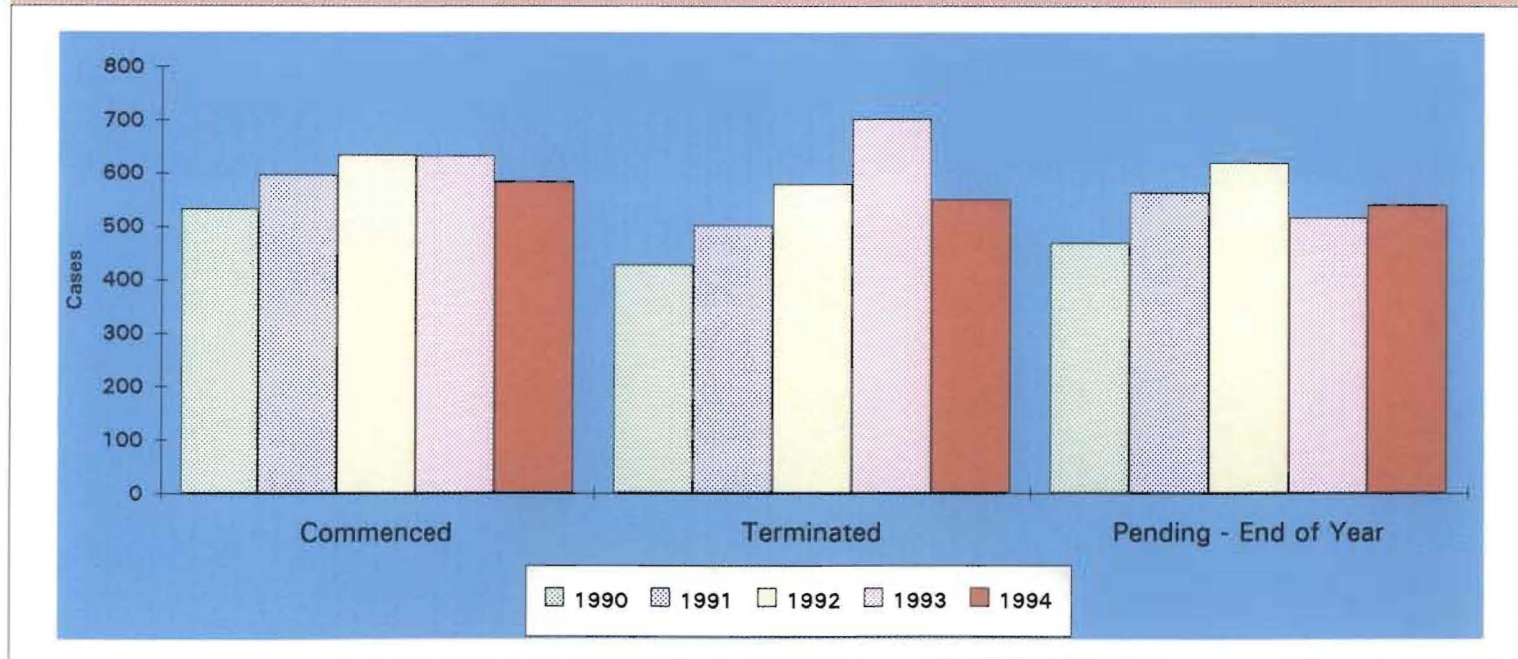
FELONY CRIMINAL ACTIONS
5 YEAR PERIOD

CRIMINAL ACTIONS	COMMENCED	TERMINATED	PENDING - END OF YEAR
1 990	534	430	471
1 991	598	504	565
1 992	635	581	620
1 993	634	702	51 8
1 994	586	552	542



FELONY CRIMINAL ACTIONS
5 YEAR PERIOD

CRIMINAL ACTIONS	COMMENCED	TERMINATED	PENDING - END OF YEAR
1990	534	430	471
1991	598	504	565
1992	635	581	620
1993	634	702	518
1994	586	552	542



Civil/*Criminal Caseload Summary

New Jersey	Civil			Criminal			Total		
	1992	1993	1994	1992	1993	1994	1992	1993	1994
Total Filings	5,692	5,959	6,392	804	818	798	6,496	6,777	7,190
Per Judgeship	334	351	376	47	48	47	382	399	423
% Change	-1%	4.6%	7.3%	6%	1.7%	-2.4%	-0.30%	4.30%	6.1%
Total Terminations	6,022	5,668	6,074	720	886	717	6,742	6,554	6,791
Per Judgeship	354	333	357	42	52	42	397	386	399
% Change	10%	-6%	7.2%	11%	23%	-19.1%	10%	-2.8%	3.6%
Pending Caseload	5,098	5,385	5,703	794	628	710	5,892	6,013	6,413
Per Judgeship	300	317	335	47	37	42	347	354	377
% Change	-6%	5.6%	5.9%	12%	-21%	13%	-4%	2%	6.7%

**PROPOSED AMENDMENTS TO
GENERAL RULE 49 AND MEDIATION GUIDELINES**

Proposed Amendment to General Rule 49D

Each Judge or Magistrate Judge in the District may, without the consent of the parties, refer to mediation any civil action. Notwithstanding the above, the parties in any civil action may, with consent of a Judge or Magistrate, agree to mediation and, if such consent is given, select a mediator.

This would permit a judicial officer to refer any number of civil cases to compulsory mediation. It would also permit any civil case to be referred (as opposed to only Track II cases).

Proposed Amendment to Second Paragraph, Section I, Guidelines for Mediation

Any case pending in the Court may be referred to mediation by the assigned Judge or Magistrate. Moreover, any pending case may be referred to mediation if all parties consent.

This would make the Guidelines consistent with revised General Rule 49D above.

Proposed Amendment to Section III, Guidelines for Mediation

The attendance of parties or their representatives may be deemed by the mediator to be appropriate for mediation to proceed in a meaningful manner. Moreover, one of the goals of the mediation program is to involve both parties and attorneys more intimately. Likewise, the assurance of confidentiality furthers the intimate involvement of parties and attorneys as well as the frank and open discussion required for mediation to succeed. Accordingly, appropriate sanctions may be imposed on any party or attorney who fails to

participate in a meaningful manner or to cooperate with the mediator or who breaches confidentiality.

This would confirm the importance of confidentiality and would also make explicit the availability of sanctions for anyone who breaches confidentiality.

Proposed Amendment to Section IV, Guidelines to Mediation

A mediator shall be compensated at the rate of \$150.00 an hour except for the first six hours of his or her time, which shall not be compensated. The time incurred by a mediator in reviewing the submissions of the parties shall be included in the calculation of his or her time. The compensation, which shall be paid equally by the parties, may not be varied by the consent of the parties.

This would clarify that the time incurred by a mediator in reviewing the submissions of the parties should be calculated in his or her overall time. Likewise, it would provide that the \$150.00 an hour rate may not be varied.