

UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK
EASTERN DISTRICT OF TEXAS

DAVID J. MALAND
CLERK

211 W. FERGUSON
TYLER, TEXAS 75702

September 8, 1994

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

Donna Stienstra
Research Division
Federal Judicial Center
One Columbus Circle, NE
Washington, D.C. 20002-8003

Dear Duke and Donna:

This is in response to Abel Mattos' letter of September 1 regarding annual CJRA assessments. In the Eastern District of Texas, the advisory group and court perform annual assessments but no formal written report is prepared. In order to assist in the assessment, statistical charts are put together that depict the performance of our plan and the condition of our civil and criminal dockets. Enclosed are examples of materials that were used in the most recent assessment. Our plan has been modified on a couple of occasions as a result of the CJRA annual assessments.

Sincerely,



David J. Maland
Clerk

cc: Chief Judge Schell

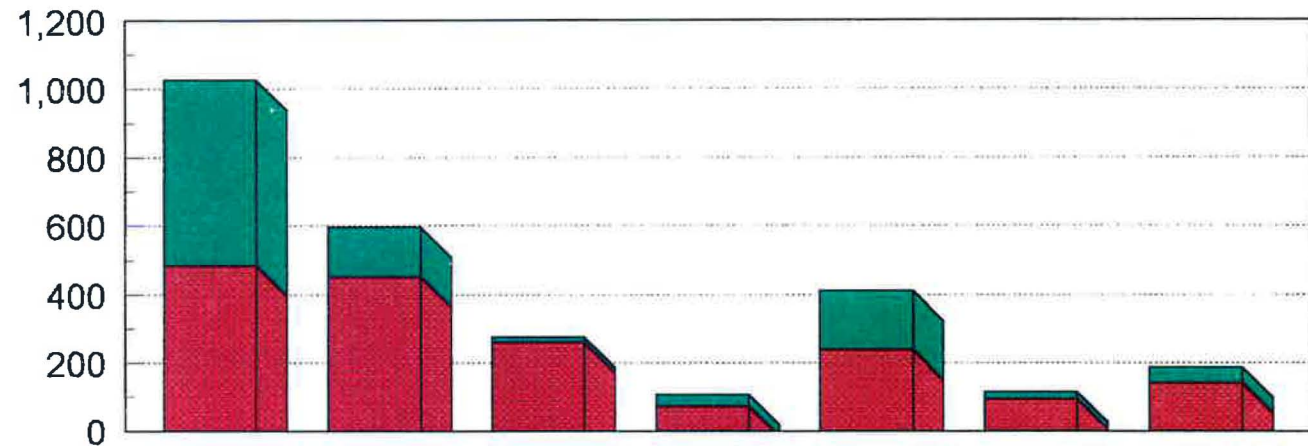
U.S. DISTRICT COURT -- JUDICIAL WORKLOAD PROFILE

TEXAS EASTERN		TWELVE MONTH PERIOD ENDED SEPTEMBER 30						NUMERICAL STANDING WITHIN U.S. CIRCUIT		
		1993	1992	1991	1990	1989	1988			
OVERALL WORKLOAD STATISTICS	Filings	2,760	2,633	2,955	3,303	3,120	3,166			
	Terminations	2,816	4,297	4,879	3,234	2,560	2,725			
	Pending	2,135	2,136	4,181	6,283	6,325	5,800			
	Percent Change in Total Filings Current Year	Over Last Year 4.6%								
Number of Judgeships		7	7	7	6	6	6			
Vacant Judgeship Months		12.0	12.0	10.0	0.0	0.0	5.9			
ACTIONS PER JUDGESHIP	FILINGS	Total	394	376	422	551	520	528	48	7
		Civil	337	326	386	511	474	501	48	6
		Crim Felony	57	44	36	40	46	27	37	5
	Pending Cases		305	305	597	1,047	1,054	967		
	Terminations		402	614	697	539	427	454	42	4
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Crim Felony	5.2	5.2	6.1	5.5	4.8	3.6	22	5
		Civil	10	11	43	10	13	12	65	5
	From Issue to Trial (Civil Only)		11	11	10	10	10	9	10	1
OTHER	Number (and %) of Civil Cases Over 3 Years Old		76 3.6%	152 7.9%	505 12.6%	2,101 34.3%	1,547 25.1%	888 15.5%		
	Average Number of Felony Defendants Filed per Case		1.4	1.6	1.4	1.6	1.4	1.5		
	Jurors	Avg. Present for for Jury Selection	27.64	20.48	20.61	20.96	21.27	17.99	21	4
		Percent not Selected or Challenged	27.3%	20.0%	23.8%	23.0%	31.0%	25.0%	37	5

1993 and 1992 Totals do not include the MDL Asbestos Cases returned from Penn.

1994 Weighted Caseload by Division

Eastern District of Texas



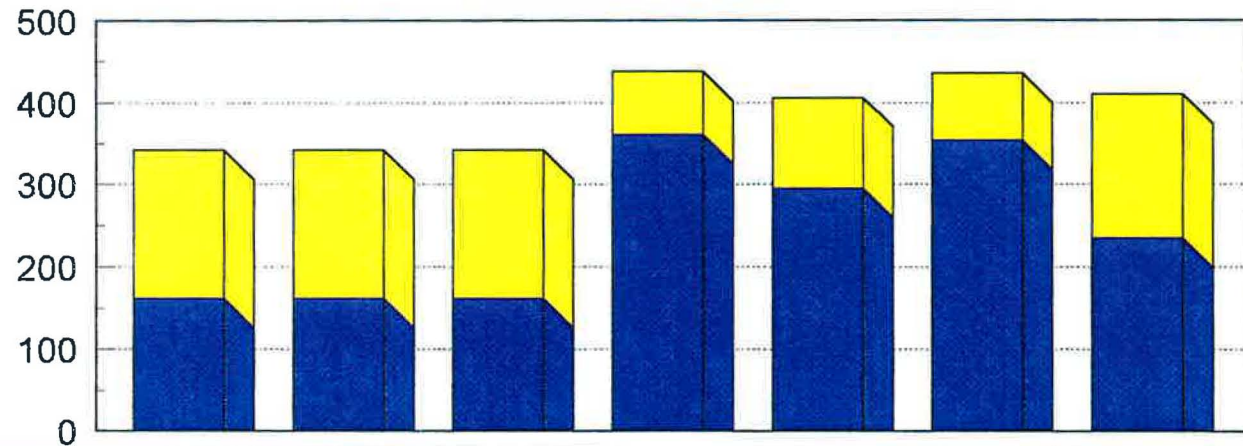
	Beaumont	Tyler	Marshall	Paris	Sherman	Texarkana	Lufkin
Civil ■	482	449	258	70	235	93	139
Criminal ■	544	146	16	38	175	22	47



Data is from 5/1/93 to 4/30/94

Weights are per 1993 AO weights table

1994 Weighted Caseload by Judge

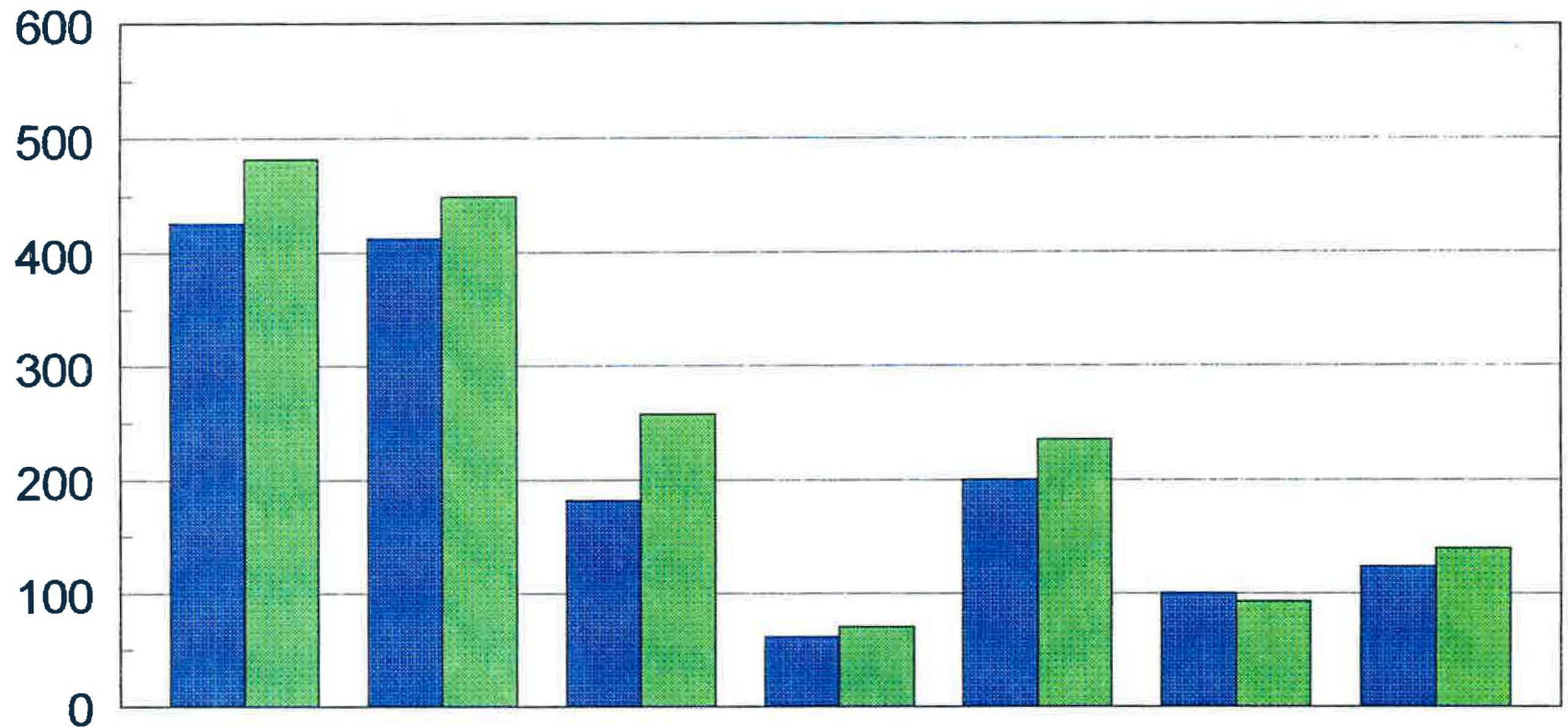
Eastern District of Texas





	Schell	Cobb	Fisher	Hannah	Justice	Steger	Brown
Civil 	161	161	161	361	295	354	235
Criminal 	181	181	181	77	111	81	175

Data is from 5/1/93 to 4/30/94
Weights are per 1993 AO weights table

1993 vs. 1994 Weighted Civil Filings by Division



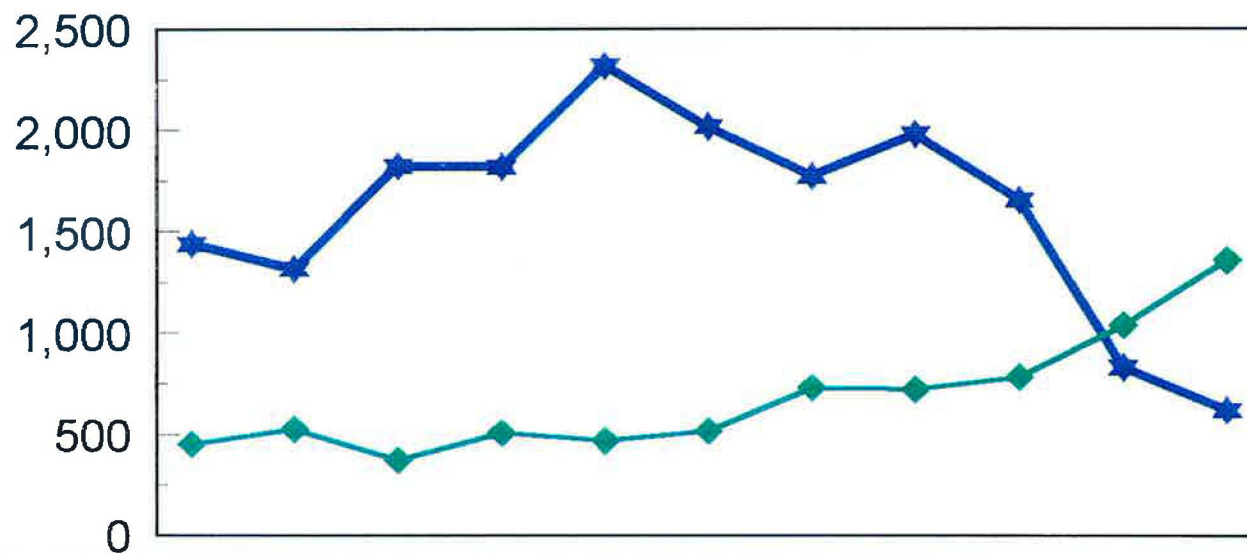
	Beaumont	Tyler	Marshall	Paris	Sherman	Texarkana	Lufkin
1993 	425.54	412.46	181.04	61.44	199.90	100.09	123.16
1994 	481.50	449.04	257.54	70.28	234.75	92.98	139.31

*1994 figures May 1, 1993 - April 30, 1994

*1993 figures May 1, 1992 - April 30, 1993

11 Year Civil Study

General Civil, Civil Rights and Social Security Filings (Openings/Reopenings)



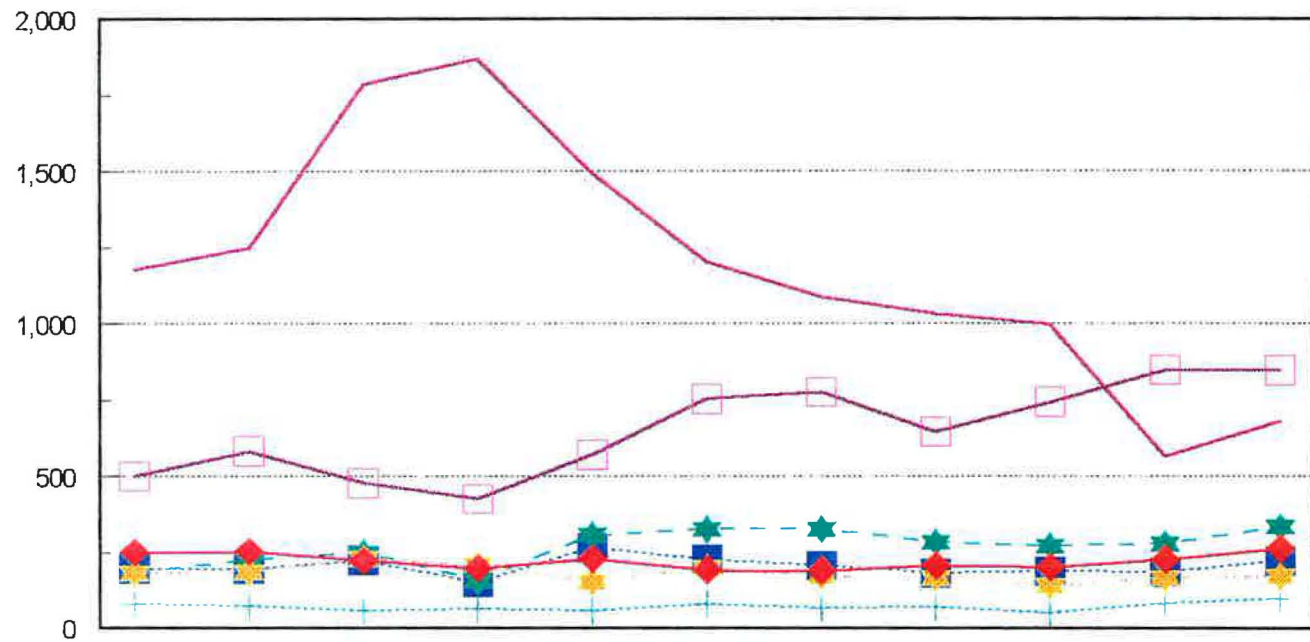
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
General Civil	1,440	1,316	1,823	1,818	2,317	2,017	1,771	1,979	1,654	830	619
Prisoner	451	527	372	508	469	517	731	722	783	1,041	1,360

*1983-1992 from Federal Court Management Statistics, 1993 from local data

*in 1992 MDL Asbestos reopenings excluded

*1983-1991 ends each SY June 30; 1992-1993 data ends each SY Sept 30

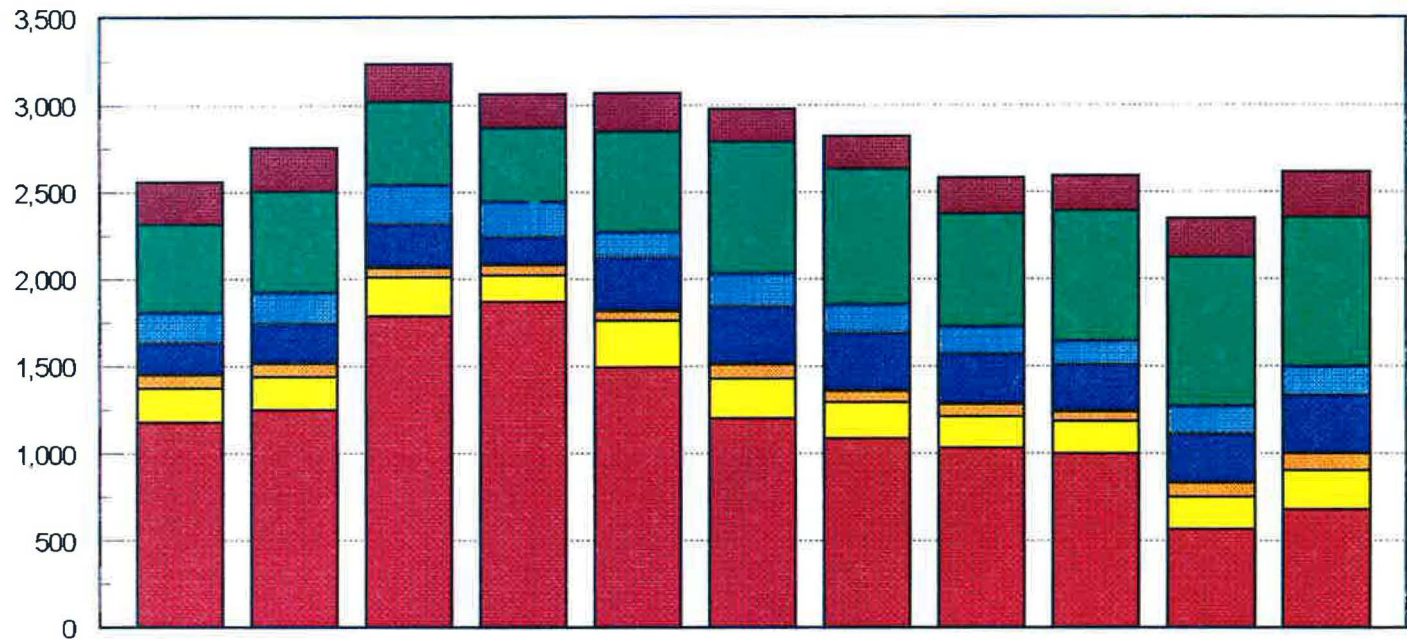
**11 Year Civil Study
January 1, 1983 - December 31, 1993
Filings (Openings /Reopenings)**



	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
Beaumont	1,180	1,250	1,788	1,870	1,494	1,204	1,088	1,033	999	567	683
Marshall	195	193	222	149	265	226	206	180	188	184	221
Paris	78	72	57	64	58	80	67	69	52	83	97
Sherman	181	225	249	155	306	326	327	283	270	278	334
Texarkana	181	183	228	207	152	197	169	163	138	164	170
Tyler	502	583	478	427	571	755	777	648	745	849	848
Lufkin	249	253	221	196	227	192	189	207	199	226	261

Note: All years include asbestos cases except 1992.

**11 Year Civil Study
January 1, 1983 - December 31, 1993
Filings (Openings /Reopenings)**

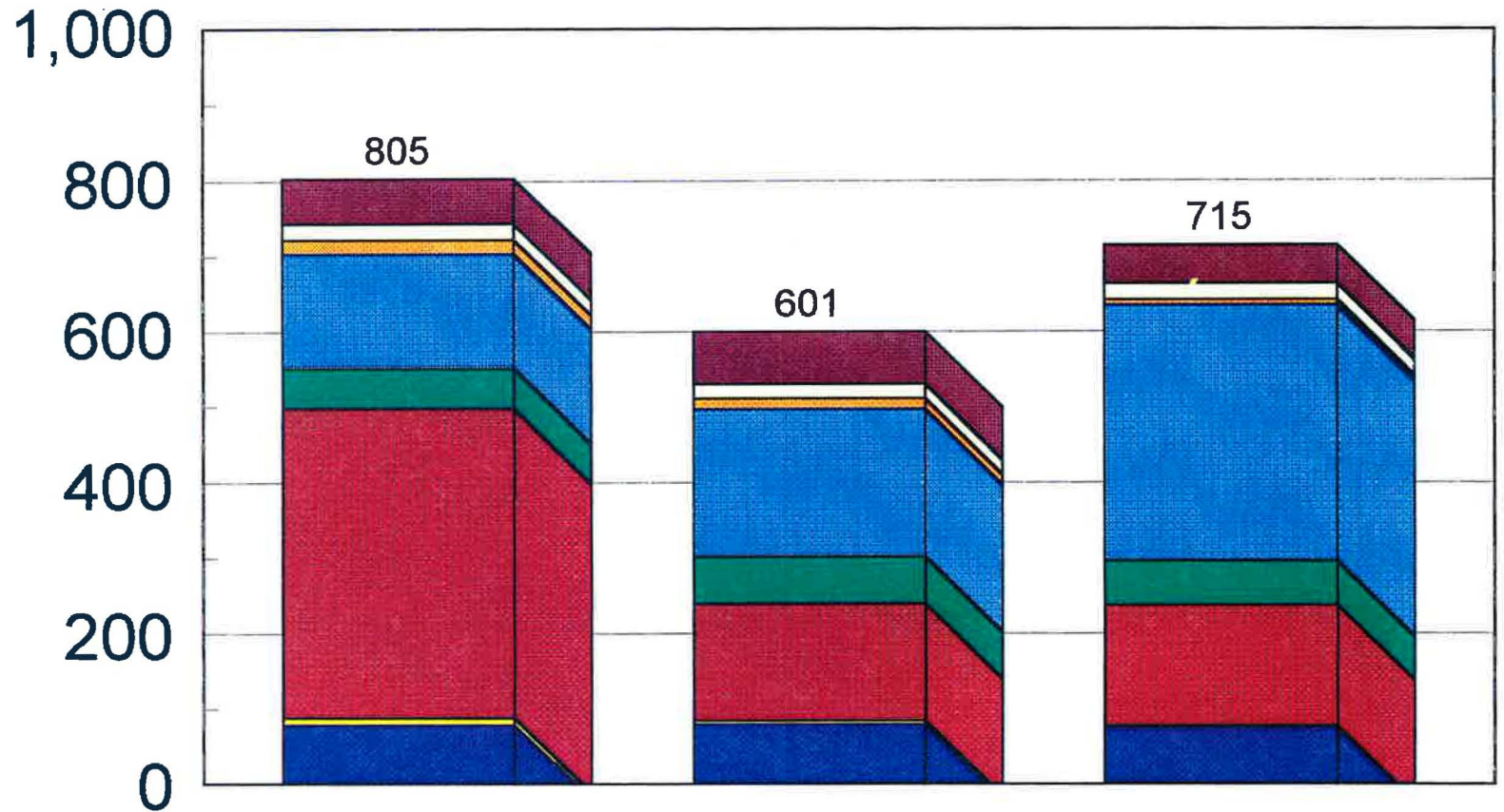


	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
Beaumont	1,180	1,250	1,788	1,870	1,494	1,204	1,088	1,033	999	567	683
Marshall	195	193	222	149	265	226	206	180	188	184	221
Paris	78	72	57	64	58	80	67	69	52	83	97
Sherman	181	225	249	155	306	326	327	283	270	278	334
Texarkana	181	183	228	207	152	197	169	163	138	164	170
Tyler	502	583	478	427	571	755	777	648	745	849	848
Lufkin	249	253	221	196	227	192	189	207	199	226	261

Note: All years include asbestos cases except 1992.

Civil Cases Filed

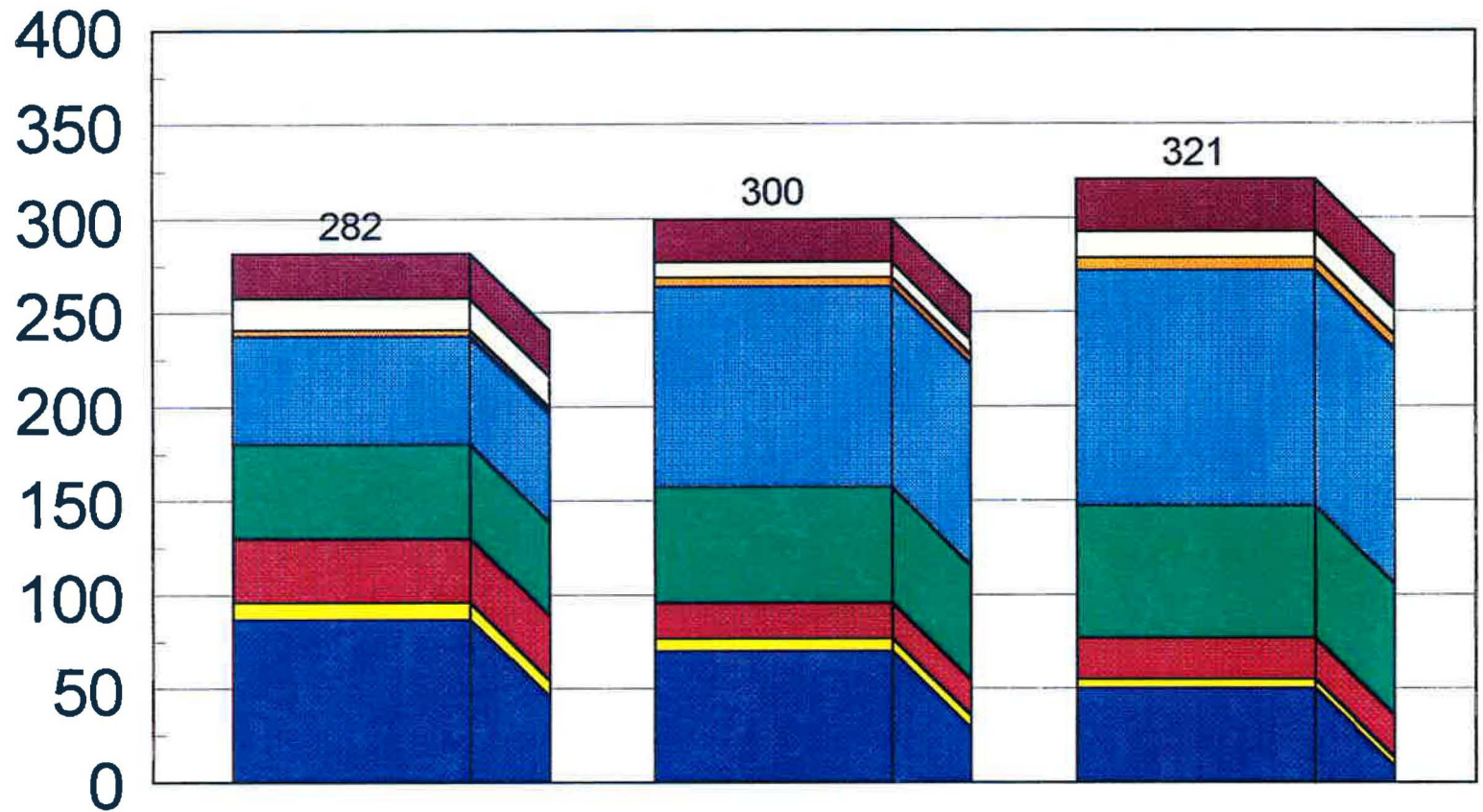
Beaumont



	5/91-4/92	5/92-4/93	5/93-4/94
Contract	79	80	75
Real Property	9	5	2
Torts	411	155	161
Civil Rights	52	62	58
Prisoner	153	196	339
Forfeiture	19	14	7
Labor	22	20	21
Property/SS	60	69	51
Constitutional	0	0	1

Civil Cases Filed

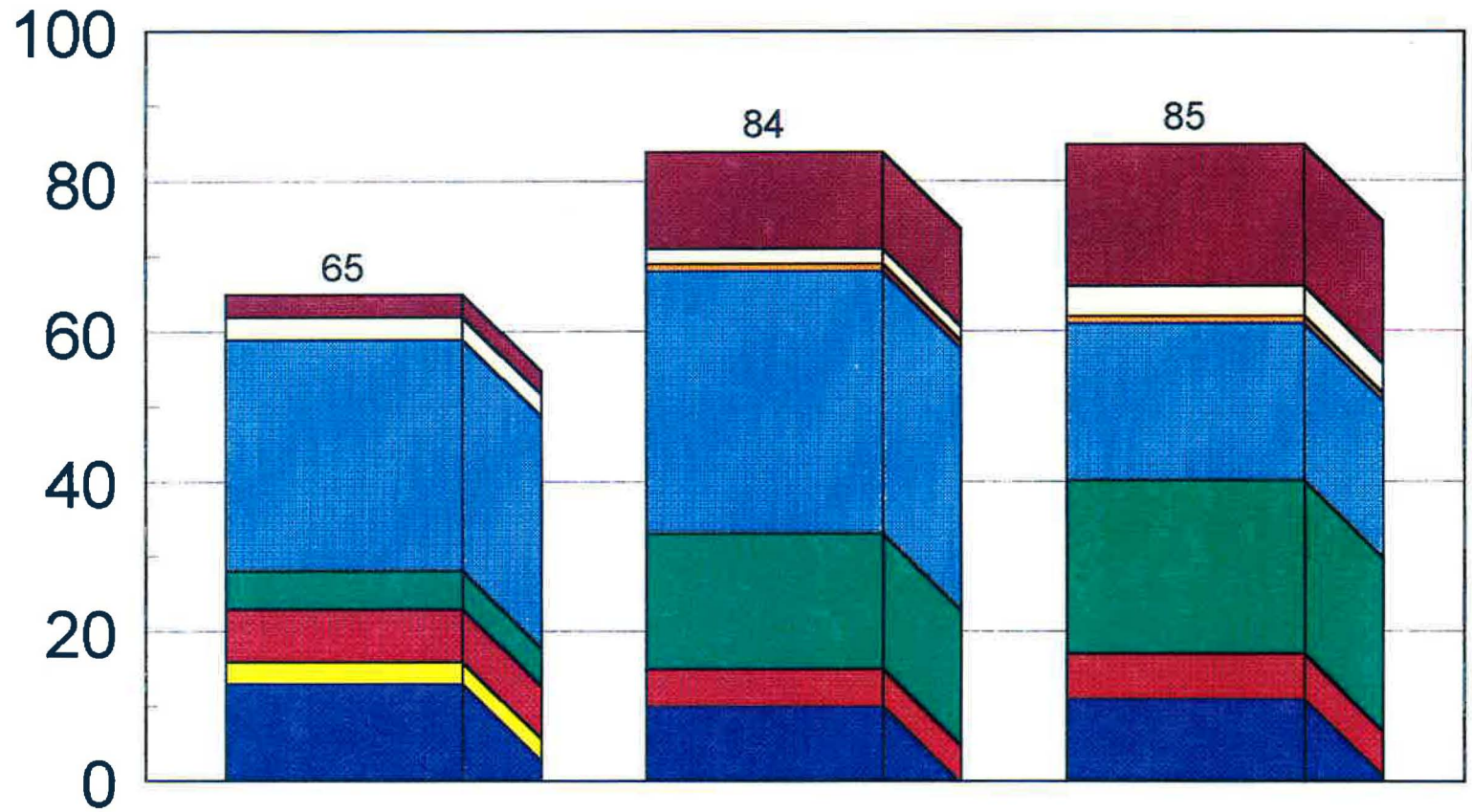
Sherman



	5/91-4/92	5/92-4/93	5/93-4/94
Contract	87	70	50
Real Property	9	7	5
Torts	34	19	22
Civil Rights	50	61	70
Prisoner	58	107	125
Forfeiture	3	5	7
Labor	17	8	14
Property/SS	24	23	28

Civil Cases Filed

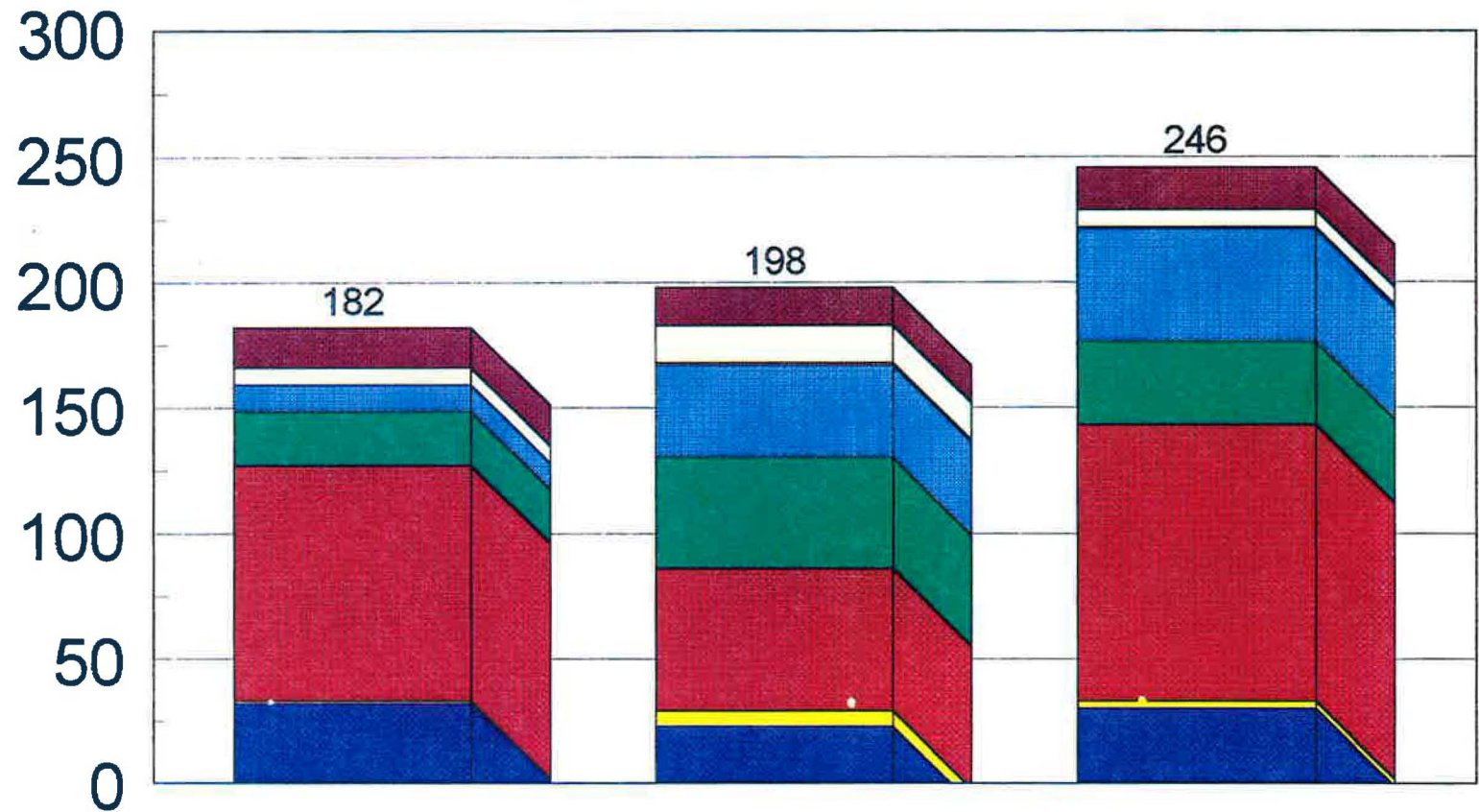
Paris



	5/91-4/92	5/92-4/93	5/93-4/94
Contract	13	10	11
Real Property	3	0	0
Torts	7	5	6
Civil Rights	5	18	23
Prisoner	31	35	21
Forfeiture	0	1	1
Labor	3	2	4
Property/SS	3	13	19

Civil Cases Filed

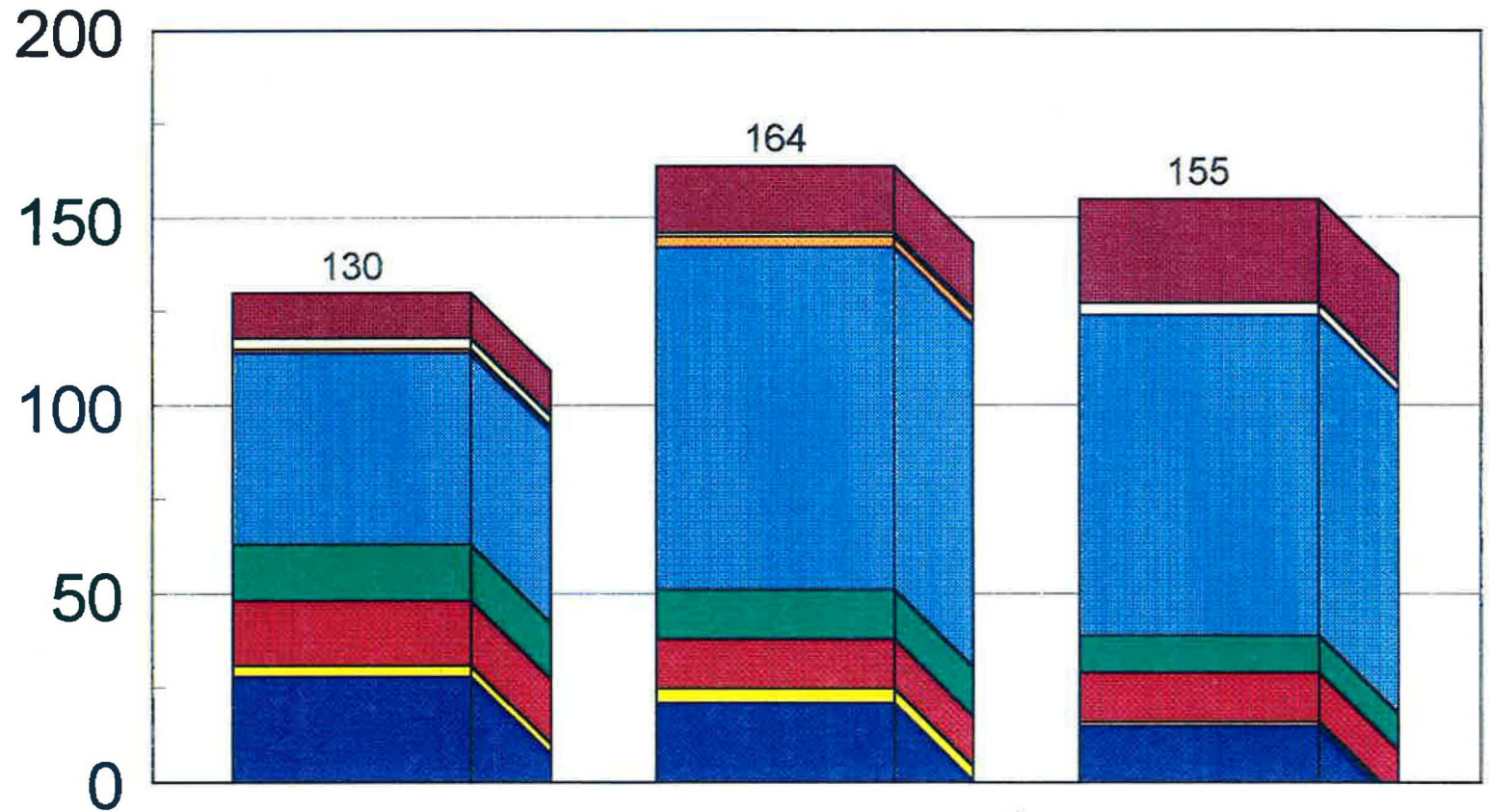
Marshall



	5/91-4/92	5/92-4/93	5/93-4/94
Contract	32	23	30
Real Property	1	6	3
Torts	94	57	110
Civil Rights	21	44	33
Prisoner	11	37	45
Forfeiture	0	1	1
Labor	7	15	7
Property/SS	16	15	17

Civil Cases Filed

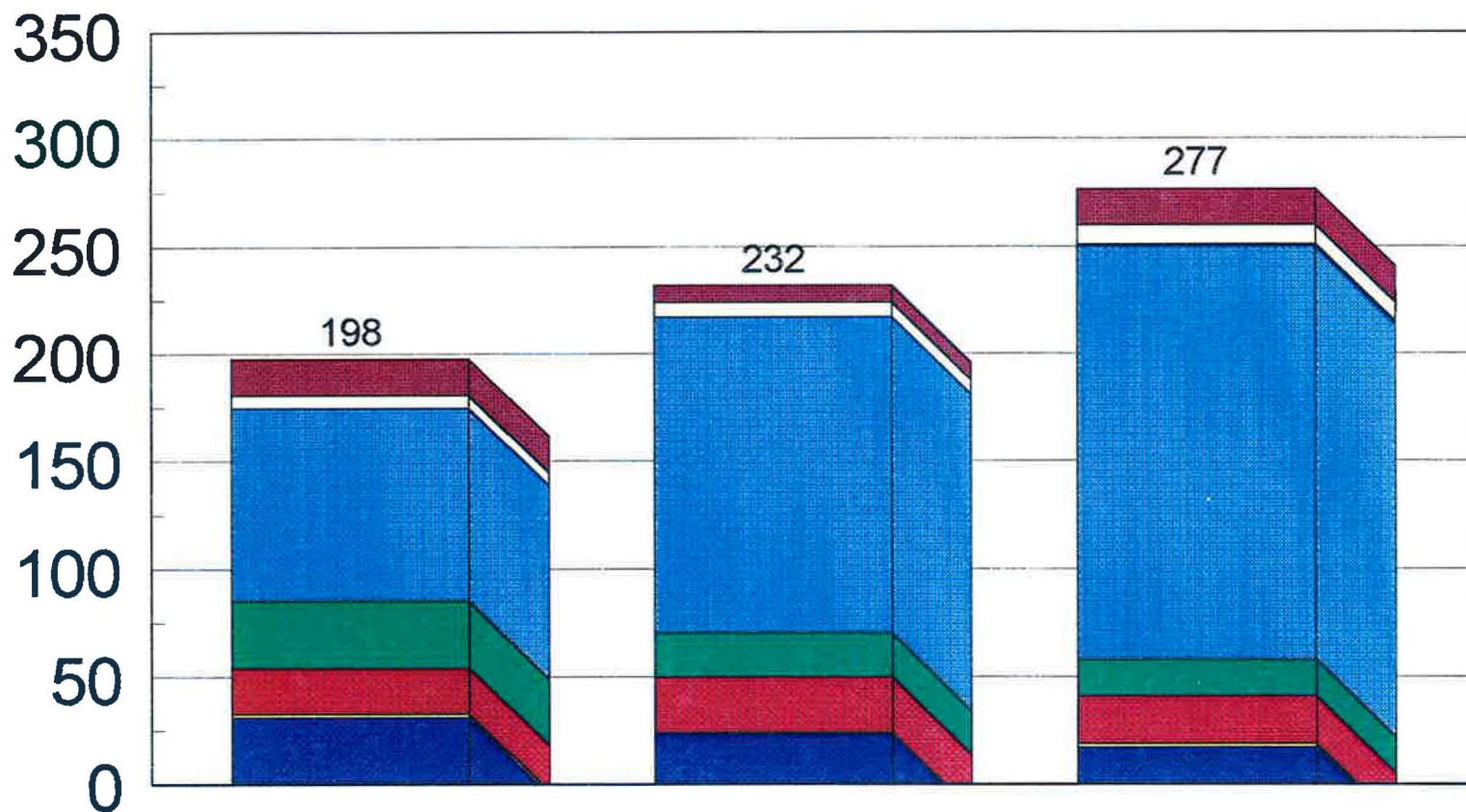
Texarkana



	5/91-4/92	5/92-4/93	5/93-4/94
Contract	28	21	15
Real Property	3	4	1
Torts	17	13	13
Civil Rights	15	13	10
Prisoner	51	91	85
Forfeiture	1	3	0
Labor	3	1	3
Property/SS	12	18	28

Civil Cases Filed

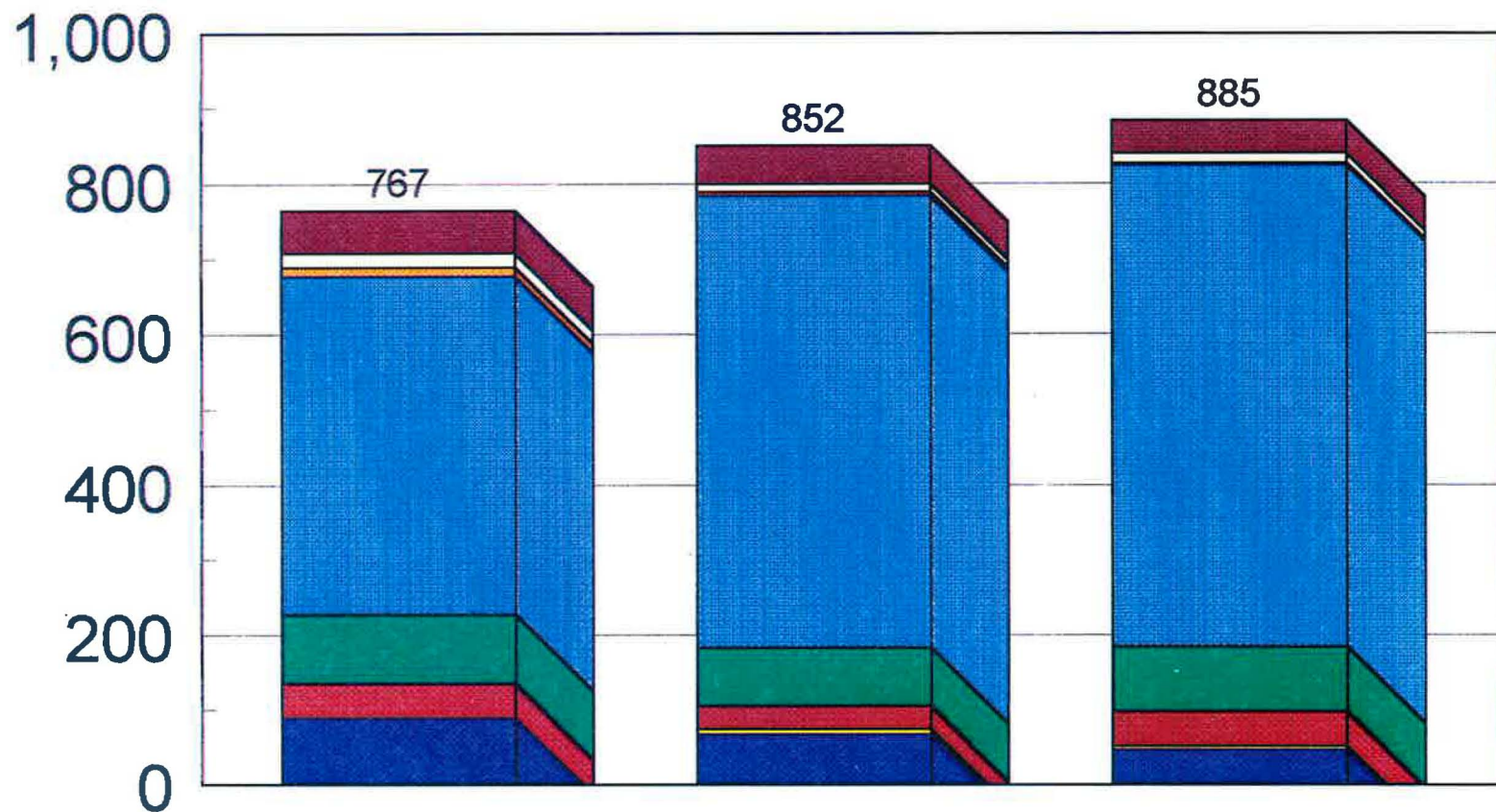
Lufkin



	5/91-4/92	5/92-4/93	5/93-4/94
Contract	31	23	17
Real Property	2	1	2
Torts	21	26	22
Civil Rights	31	20	17
Prisoner	90	147	192
Forfeiture	0	0	1
Labor	6	7	9
Property/SS	17	8	17

Civil Cases Filed

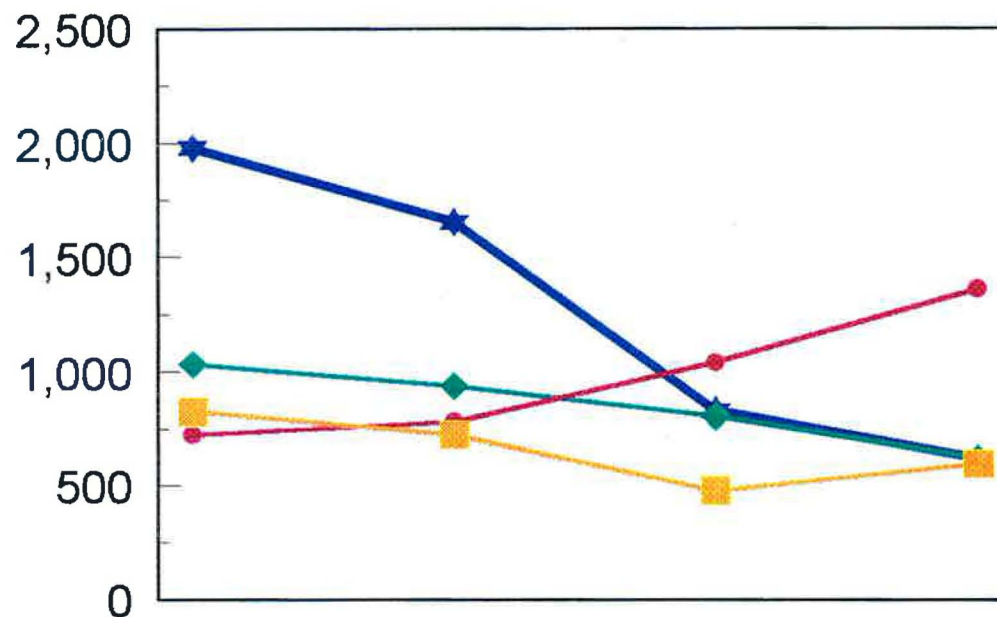
Tyler



	5/91-4/92	5/92-4/93	5/93-4/94
Contract	89	68	47
Real Property	1	7	6
Torts	45	30	45
Civil Rights	93	78	87
Prisoner	450	603	641
Forfeiture	12	4	2
Labor	19	12	13
Property/SS	58	50	44

4 Year Civil Study

General Civil and Prisoner Suits Filings vs. Pending Cases



	1990	1991	1992	1993
Gen Civ Filings ◆	1,979	1,654	830	619
Gen Civ Pending ◆	1,033	939	805	619
Prisoner Filings ●	722	783	1,041	1,360
Prisoner Pending ■	826	724	478	595

*Pending as of April 30 of each year

TEN YEAR PLAN FOR PRISONER CASES

A. *Prison Facilities*

	<u>Current Units (1994)</u>	<u>Approved Units</u>	<u>Projected Units (2004)*</u>
I.	Beaumont Division Hightower Stiles	Fed. Prison (200 cases/year) Jasper (15 cases/year) Liberty (15 cases per/year)	Beaumont (250 cases/year)
II.	Marshall Division none	none	none
III.	Paris Division none	Bonham (30 cases/year)	none
IV.	Sherman Division none	none	none
V.	Texarkana Division FCI Texarkana	New Boston (250 cases/year)	none
VI.	Tyler Division Beto I Beto II Coffield Gurney Michael Skyview	Rusk (30 cases/year) Wood County (15 cases/year)	Palestine (250 cases/year)
IX.	Lufkin Division Eastham Lewis Terrell	none	Lufkin (250 cases/year)

B. *Prisoner Population in Eastern District of Texas*

21,100 (5-1-1994)	+ 10,350 (31,450)**	+ 7,800 (39,250)***
14,700 (1992,		

C. *Prisoner Case Filings*

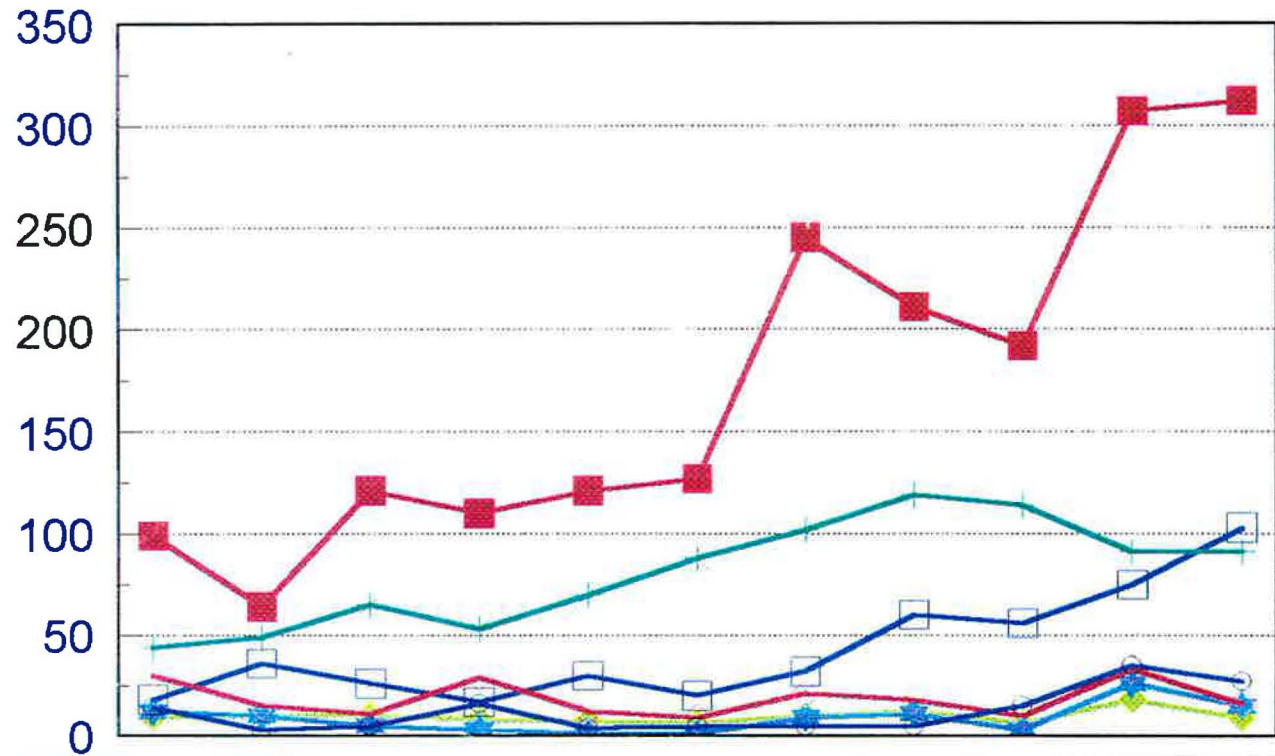
<u>Division</u>	<u>1990</u>	<u>1992</u>	<u>1993</u>	<u>2003</u>
I. Beaumont	114	176	262	950
II. Marshall	6	24	44	50
III. Paris	14	41	23	110
IV. Sherman	66	74	149	170
V. Texarkana	93	94	85	350
VI. Tyler	383	581	621	950
IX. Lufkin	100	131	176	650
Total	776	1121	1360	3230

*Note: the projected units focus only on maximum security units, which are the source of most prisoner cases.

**Note: the 10,350 new beds are for units that have been approved but not yet on line.

***Note: taking the ratio of 1121 cases filed per 14,700 inmates (1992) and projecting it to the 39,250 inmate population expected in 2004 gives an estimate of 2993. Figures for 1992 were used for projection purposes since the Stiles and Terrell Units, which are maximum security units, opened in late 1993 and the impact of the units is not sufficiently reflected in 1993 statistics for projection purposes. The 3230 number was arrived at by adding together the number of cases that is anticipated to be filed by inmates from each type of unit that is expected to be on line in 2004. The effect of county cases has not been considered in arriving at this number.

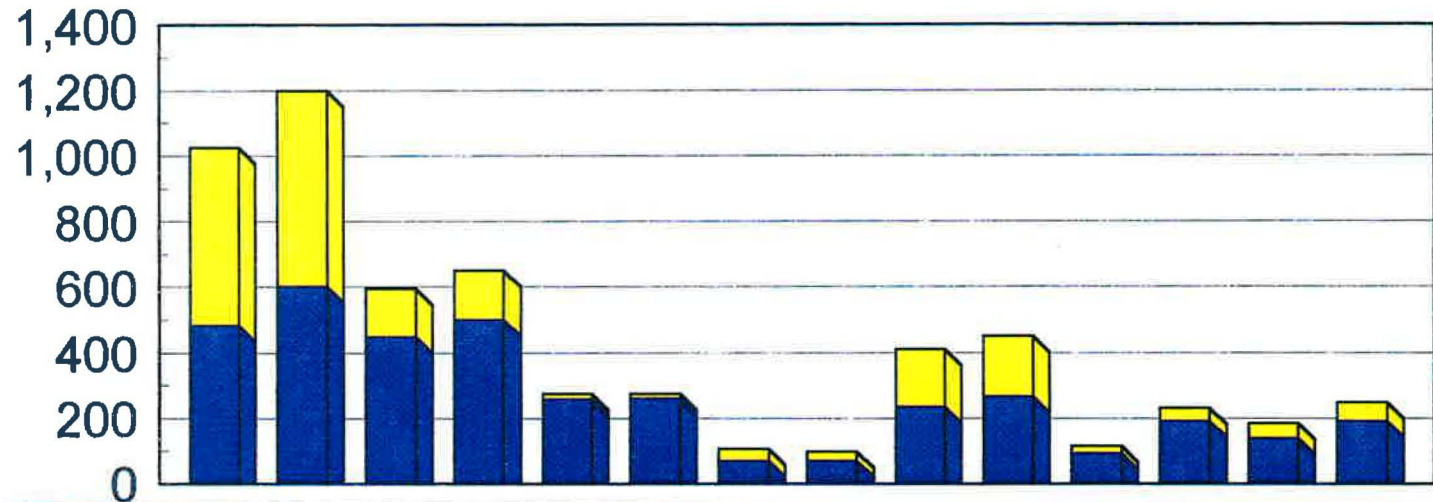
Criminal Docket Defendants Filed



	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
Beaumont	99	64	121	110	121	127	245	211	192	307	312
Marshall	9	10	10	8	7	6	10	12	6	18	9
Paris	12	10	5	3	1	1	9	11	3	26	15
Sherman	18	36	26	17	30	20	32	60	56	75	103
Texarkana	30	15	11	29	12	9	21	18	10	33	16
Tyler	44	49	65	53	70	88	102	119	114	91	91
Lufkin	14	3	5	16	4	5	5	5	15	35	27

* Calendar Year

1994 Actual vs. 1995 Projected Weighted Caseload Filings by Division

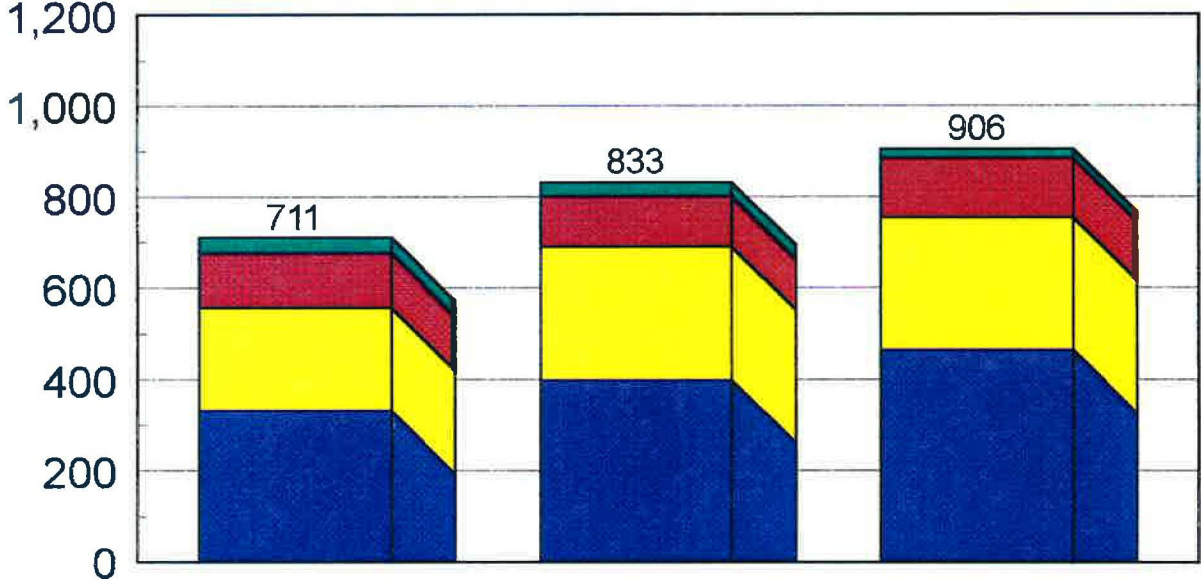


	Bmt '94	Bmt '95	Tyler '94	Tyler '95	Msh '94	Msh '95	Paris '94	Paris '95	Shm '94	Shm '95	Txk '94	Txk '95	Lufkin '94	Lufkin '95
Civil ■	482	600	449	500	258	260	70	70	235	265	93	190	139	190
Criminal ■	544	600	146	150	16	15	38	30	175	185	22	40	47	60

1994 data is from 5/1/93 to 4/30/94

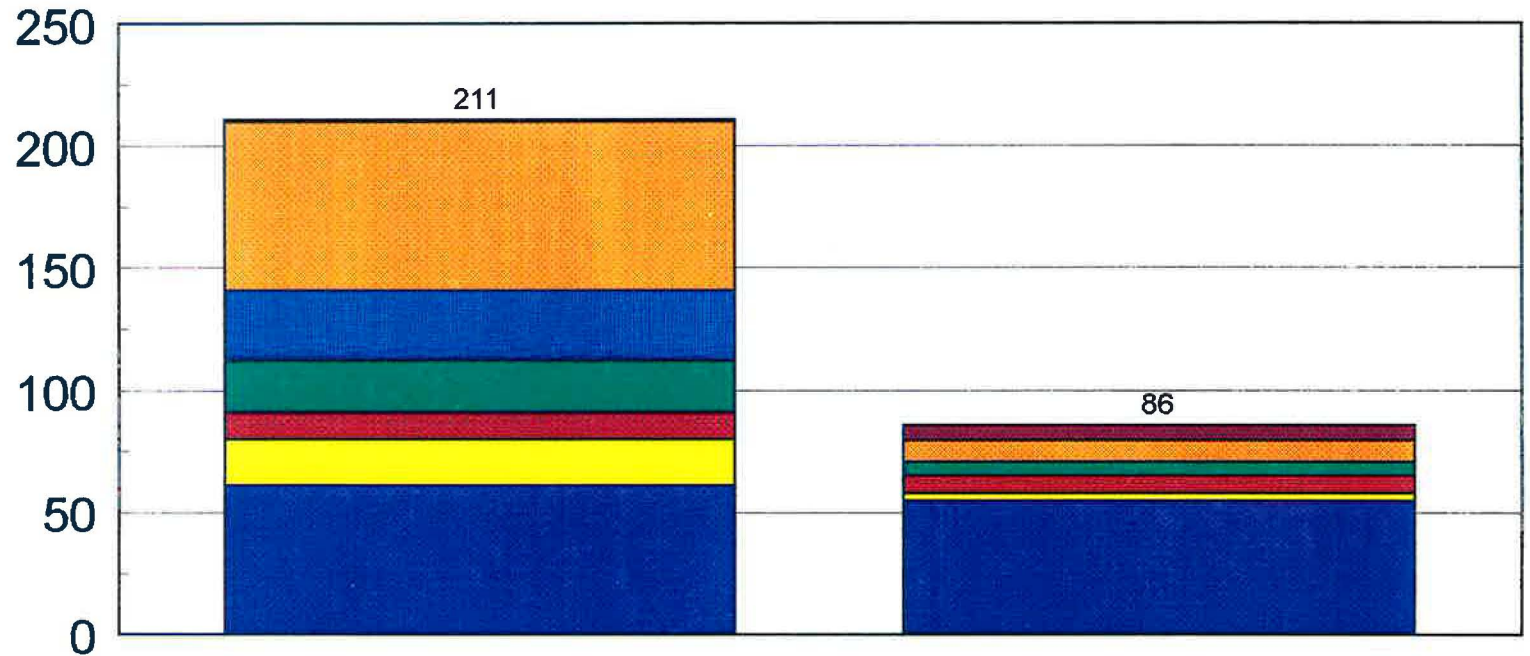
Weights are per 1993 AO weights table

Cases Opened & Closed Within Same Calendar Year



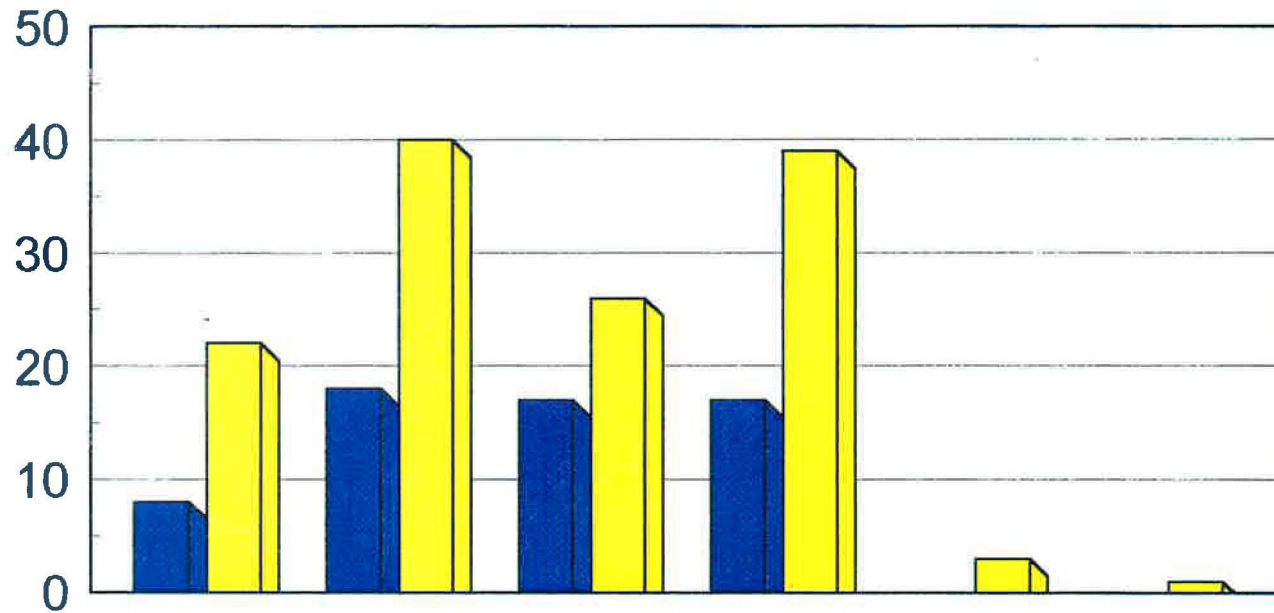
	1991	1992	1993
<=90days ■	331	398	464
>90 <=180 days ■	228	293	292
>180 <=270 days ■	117	109	129
>270 <=365 days ■	35	33	21

Cases That Changed Tracks



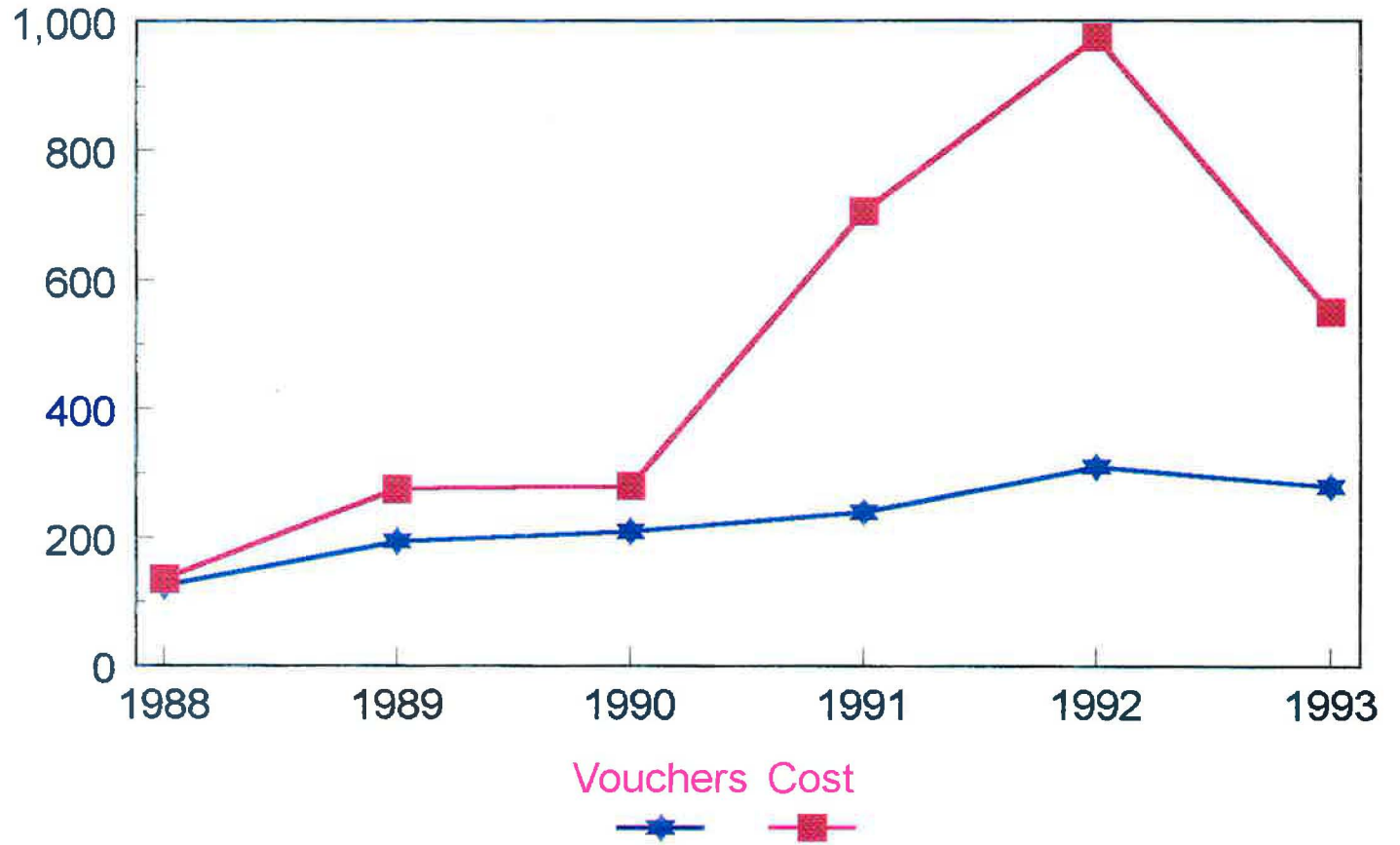
	1992	1993
Beaumont	61	55
Lufkin	19	3
Paris	11	7
Sherman	21	6
Texarkana	29	0
Tyler	69	9
Marshall	1	6

Hotline Conferences



	Guthrie	Hines	McKee	Radford	Parker	Cobb
1992	8	18	17	17	0	0
1993	22	40	26	39	3	1

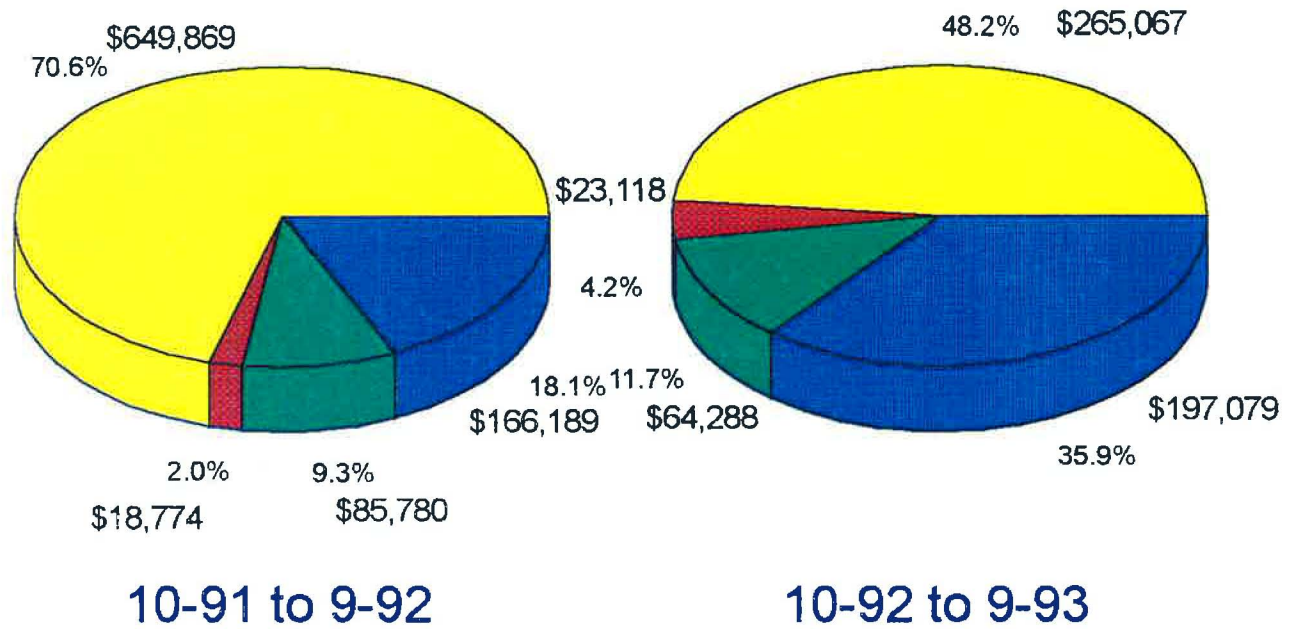
CJA STATISTICS



Cost is in Thousands

CJA COMPARISON

1992 VS 1993



■ Beaumont ■ Marshall/Txka ■ Sherman/Paris ■ Tyler/Lufkin

CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN

Article I. Tracking and Presumptive Discovery Limits

The Amended Rules do not address the tracking system. The Plan allows 15 interrogatories per side on tracks 3 and 4 while the amended Rules provide for a limit of 25. However, the Amended Rules allow the parties to expand the number by written stipulation.

Article II. Duty of Disclosure

a. Initial Disclosure

Rule 26(a)(1) covers initial disclosure under the Amended Rules. This provision is essentially the same as in the Plan except the Plan uses the language "bears significantly on any claim or defense" and the Amended Rules use the language "discoverable information relevant to disputed facts alleged with particularity in the pleadings".

b. Timing of Disclosure

Under the Plan, disclosure shall be made 30 days after service of a 12(b) motion or answer, or removal from state court. Under the Amended Rules, mandatory disclosure shall take place 10 days after the required meeting of the parties under Amended Rule 26(f). No discovery can take place until after the initial meeting. The Rule 26(f) meeting shall occur as soon as the possible but no later than 14 days before the scheduling conference is held or a scheduling order is due. The scheduling order is due within 90 days after the appearance of the defendant but no later than 120 days after a complaint is served on the defendant.

Under the Amended Rules the initial disclosure will normally be made up to 76 days after the appearance of the defendant or under the Plan, 30 days after the appearance of the defendant.

d. No Excuses

The amended rule 26 provides the same policy.

2. Disclosure of Expert Testimony

Under the Plan, mandatory disclosure with reports is required. Amended Rule 26(a)(2) also requires mandatory disclosure, but only applies to retained or employees. The Plan provides no such limitation. Amended Rule 26 also requires that the expert contain in his report a list of publications for the last 10 years and compensation. The Plan does not require these items.

The time for disclosure is the same under the Plan and the Amended Rules.

3. Pretrial Disclosure

The Plan and Amended Rule 26(a)(3) are virtually identical in what is required. The timing requirement of 30 days prior to trial, unless otherwise directed by the court, is the same.

4. Form of Disclosures, Meeting, Filing

The Plan requires that the disclosures be signed under Rule 11. Rule 11 has been amended and no longer applies to discovery. Amended Rule 37(c)(1) now covers sanctions for violation of disclosure requirements or other discovery violations. Amended Rule 26(a)(4) also requires that the disclosure be signed and filed with the court. Under the Plan, only notice is required to be filed whereas the Amended Rules provide that the disclosure shall be filed.

5. Duty to Supplement

The Plan and Amended Rule 26(e) requiring supplementation are virtually identical.

Article III. Management Conference

1. Timing

The Plan provides that a management conference shall be held within 120 days after issue is joined. Amended Rule 16 provides that a scheduling conference may be held within 120 days after a complaint is served upon the defendant. Amended Rule 16 does not require a scheduling conference because after the Amended Rule 26(f) initial meeting the parties submit to the court the parties discovery plan. Amended Rule 16 requires that the Scheduling Order must be entered within 120 days after the defendant is served.

2. Attorney Responsibility Prior to Management Conference

The Plan requires that prior to the management conference that the parties shall confer concerning stipulations of fact and issues to be tried and that initial disclosure and depositions of the parties, if any, be completed.

Amended Rule 26(f) requires the attorneys to meet and develop a discovery plan and make disclosure within 10 days after the meeting. No discovery until after the 26(f) meeting. Parties shall meet as soon as practicable and in any event at least 14 days before a scheduling conference.

3. Scope of Management Conference

The items to be discussed in the Rule 16 conference and the management conference are essentially the same. The Rule 16 scheduling conference may also discuss the following:

restrictions on the use of testimony; orders for separate trials under Rule 42(b); order to present evidence early; identification of documents; form and substance of pretrial order; and disposition of pending motions.

4. Attendance

The Plan requires that the attorney of record with full authority to make decision and agreements that bind the client must attend. The Plan expects that the attorney will be the one who will try the case. The Plan does not require the parties to attend but encourages their attendance. Amended Rule 16(c) is the same except that the rule allows the court to decide whether the parties should attend or be available by telephone for possible settlement discussions.

Article IV Motion Practice

The Amended Rules do not conflict.

Article V Attorneys' Fees

The Amended Rules do not address this issue.

Article VI Miscellaneous Matters

1. Discovery Hotline

The Plan provides for a means to resolve discovery disputes without filing a motion. The Amended Rules do not provide any such mechanism. Amended Rule 30(d)(3) allows a party at anytime to make a motion to cease a deposition because of some problem. The movant is allowed to stop the deposition pending the resolution of the dispute.

2. Pretrial Orders

The Amended Rules do not provide.

6. Depositions

The Plan limits the number of deposition based upon the track that a case is assigned. Amended Rule 30(a)(2)(A) limits the number to 10 deposition to be divided among the parties. The Amended Rule allows the parties to expand by agreement the number of depositions.

Under the Plan, depositions are limited to 6 hours and must be taken during business hours. Amende Rule 30(d) does not limit the time for depositions.

Under the Plan, objections are not permitted except to assert a recognized privilege. All other objections shall be made at trial. Under Amended Rule 30(d)(1) objections are to be stated concisely and in a non-argumentative manner. The Amended Rule prohibits lengthy and leading objections which are subject to sanctions under Amended Rule 37. Amended Rule 30 prohibits an attorney from instructing a witness not to answer a question exception in the following situations: preserve a privilege; enforce an evidentiary limitation directed by the court; and to present an immediate motion under Amended Rule 30(d)(3).

Amended Rule 30(d)(3) provides that a party may stop a deposition to file a motion which claims that the deposition is being taken in bad faith or in such a manner that it unreasonably annoys, embarrass, or oppresses the deponent or party.

10. Docket Control Order Modification

The Plan provides that the court may alter the order produced as a result of the management conference. Amended Rule 29 allows the parties to revise or expand discovery by agreement without court approval. The only real limitation is that the parties' modifications are not allowed to interfere with the time set to complete discovery, to hear a motion, or for trial without approval from the court.