

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

**ANNUAL ASSESSMENT  
UNDER THE  
CIVIL JUSTICE REFORM ACT OF 1990  
FOR THE YEAR 1995**

**June 1996**

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Reporter

Ann D. Marshall, Law Clerk  
Special Assistant

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA

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

**STATE OF THE COURT REPORT FOR 1995**

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

**April 19, 1995.** Unfortunately the most significant event to the Western District of Oklahoma in 1995 was a tragedy - the bombing of the Alfred P. Murrah Federal Building - directly across the street from our courthouse.

Aside from the complete loss of the Murrah Federal Building, the 168 known deaths and countless injuries there, the bombing itself resulted in significant property damage to the courthouse and to the Old Post Office Building which houses the U.S. Bankruptcy Court, the U.S. Probation Office, and numerous other federal agencies but fortunately there were minimal physical injuries in those locations. We were very proud of the way the court family reacted to the tragedy. Notwithstanding the magnitude of this terrible event, the district court was back in operation and open to the public in less than a week. Demonstrating our

resolve, only nine days after the bombing the court conducted a naturalization ceremony in which 166 people took the oath of citizenship in the courthouse which resembled a war zone.

Many acts of kindness occurred from courts and judges near and far, from our local bar and many, many more people too numerous to name for which we all are truly grateful and thankful. We are also pleased that out of this, our Court Clerk, Robert Dennis, was given a Directors Award for Leadership which included a \$5000 award from the Administrative Office of the Courts for his leadership during and after the bombing. In spite of the obvious disruption caused by the bombing and its aftermath, the court stayed current on its civil and criminal dockets as this report and assessment demonstrates.

**CONDITION OF THE DOCKET:**

**Caseload Volume:**

	<u>SY 1995</u>	<u>SY 1994</u>	<u>SY 1993</u>	<u>SY 1992</u>	<u>SY 1991</u>	<u>SY 1990</u>
<u>Total Case Filings:</u>	2330	2464	2610	2647	2237	2474
<u>Total Civil Filings:</u>	2168	2271	2375	2442	1949	2288
<u>Total Criminal Felony</u>						
<u>Cases Filed:*</u>	162	193	235	205	225	245
<u>Total Case</u>						
<u>Terminations:</u>	2483	2522	2650	2248	2145	2644
<u>Total Cases</u>						
<u>Pending:</u>	1528	1707	1772	1907	1508	1475

\* includes transfers

Statistical data concerning caseload volume is a major source of information about the condition of the court's docket. The court continues to have a high civil caseload in relation to its criminal caseload just as it has had for more than a decade. However, it should be noted that both civil and criminal case filings continued to decrease.

**Criminal Statistics:**

Because a court's criminal caseload limits the resources available for work on a



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

Criminal Caseload Mix and Filing Trends: Chart I on the following page (i) describes criminal felony filings for 1995 by nature of offence. There were 36 criminal felony fraud cases in 1995 as compared with 40 in 1994 and this is still a significant part of the criminal caseload. In 1995 the statistical department at the Administrative Office of the Courts decided to combine all drug related offenses (marihuana, controlled substances, narcotics) into one category -"drugs" - which had 35 case filings in 1995 and 52 in 1994. Cases involving weapons and firearms increased in 1995 to 19 cases, up from 12 in 1994.

Chart II on page (ii) following reflects filing trends in criminal cases by type. Note the increasing trend in certain drug, firearms and homicide cases.

Burden on the Court: Criminal case filings are continuing to decrease as they have for the last several years. The significantly lower number this year could be attributed to the possibility that the United States Attorney's office in our district had much of its attention devoted to the bombing case. The bombing case took up a great deal of time for many court staff as well processing thousands of documents, planning for the possibility of a trial in Lawton, Oklahoma, dealing with the media and coordinating many public hearings.

By 1995 death penalty cases in the State of Oklahoma had risen sufficiently for the court to be allocated a full-time law clerk devoted solely to death penalty cases. There were close to 20 federal and state habeas death penalty cases in all of Oklahoma with most of those coming from the Western District. This Law Clerk assists all three federal districts in this area.

Burden on the court in criminal matters statistically is measured by the number of criminal defendants per case. Two of the categories mentioned above (fraud and drugs) usually have more than one defendant per case. However the court averaged only 1.2 felony defendants per case in SY 1995, down from 1.4 in SY 1994. In fact the court has only varied from 1.2 to 1.5 felony defendants per case since 1988.

Statistical information provided to us from the Administrative Office of the Courts

CHART I

### Criminal Filings for Oklahoma Western District 1995

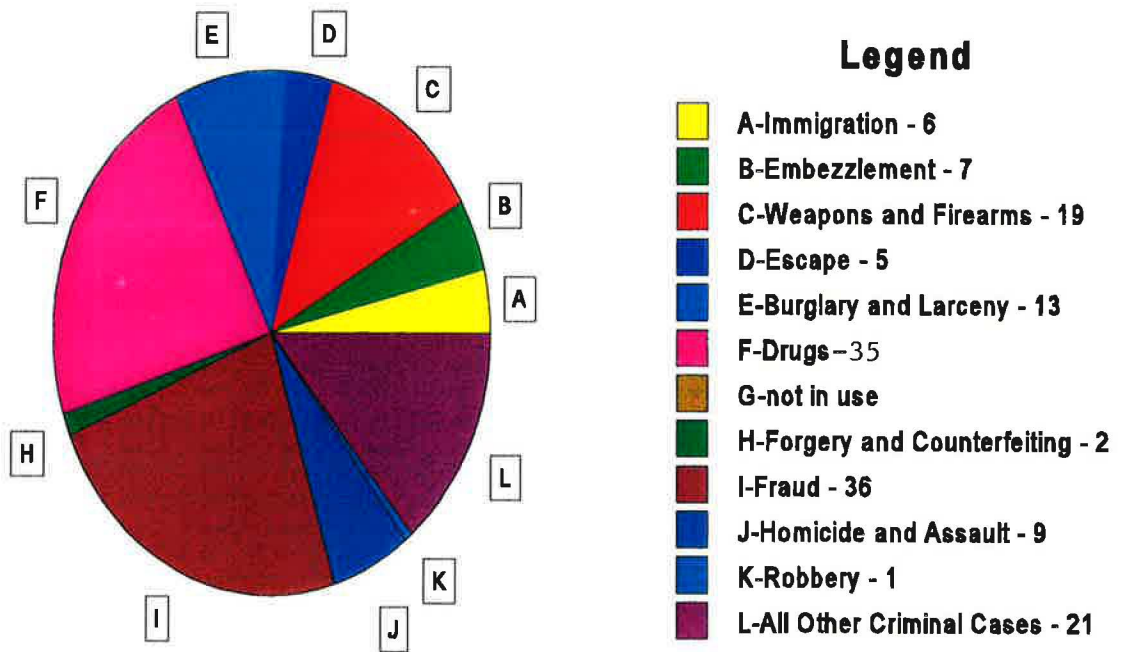
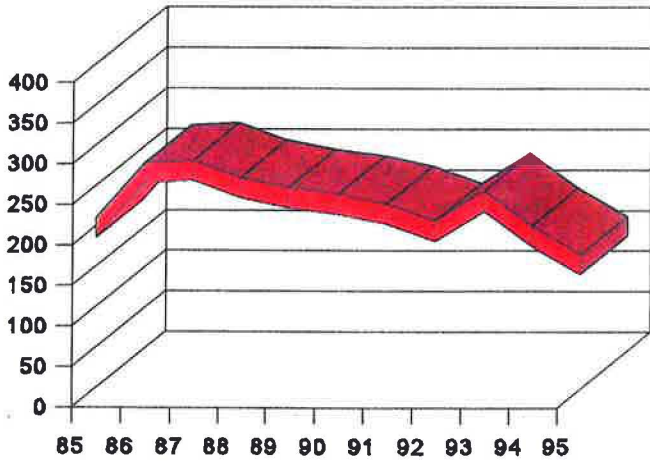


CHART II

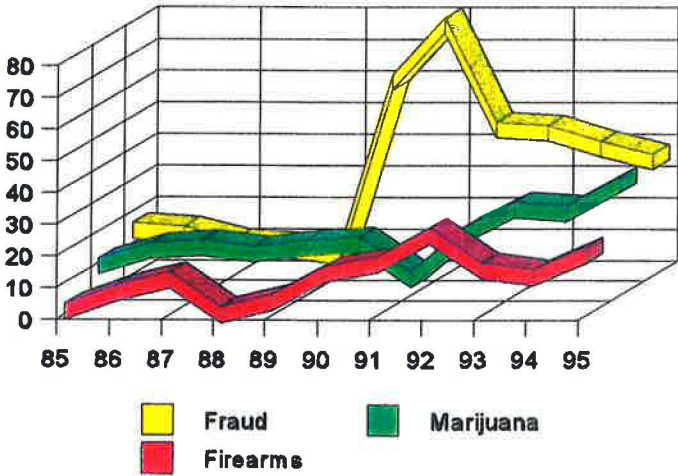
### Criminal Cases Filed



In FY95 154 CRIMINAL CASES

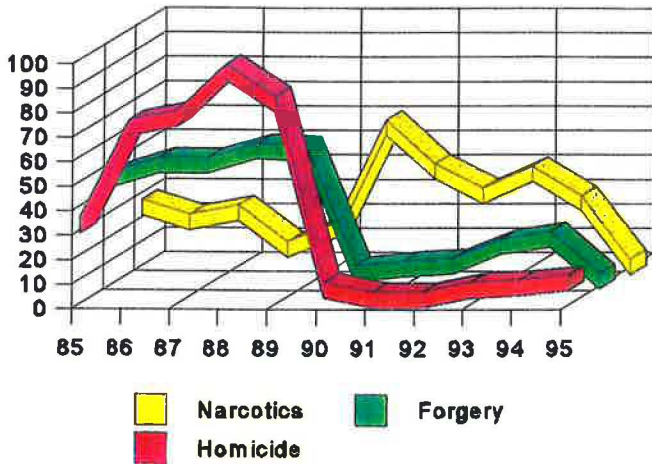
Fraud (36)	23%
Marijuana and Controlled Substances (35)	23%
Weapons and Firearms (19)	12%

### Criminal Cases by Type



■ Fraud      ■ Marijuana  
■ Firearms

### Criminal Cases by Type



■ Narcotics      ■ Forgery  
■ Homicide

and the Federal Judicial Center also indicates a decrease in criminal misdemeanor defendants in SY 1994. However, it should be noted that during 1995, the Probation Office of our district continued to be very busy supervising an average of 650 offenders and defendants on any given day. They prepared more than 200 presentence reports in 1995.

Criminal Trials:<sup>3</sup> The Speedy Trial Act (18 U.S.C. §§ 3161-74) requires certain criminal matters to be held within specified times which often interferes with the prompt disposition of civil matters. Criminal felony trials numbers did decrease in keeping with the general decrease in criminal matters. There were 51 criminal felony trials held in 1995, down from 79 in 1994. Thus any potential problem observed in 1994 concerning the then increase in criminal trials vis-a-vis civil trials is moot for the time being. Again the burden of fraud and drug trials is evident due to their protracted nature.

Comparison of Criminal Caseload in the Tenth Circuit: It is interesting to see how we compare with the rest of the Tenth Circuit. Charts III, IV and V (following on pages iii, iv and v) describe the caseload of the circuit in terms of criminal cases commenced, terminated and pending for the last 5 years.

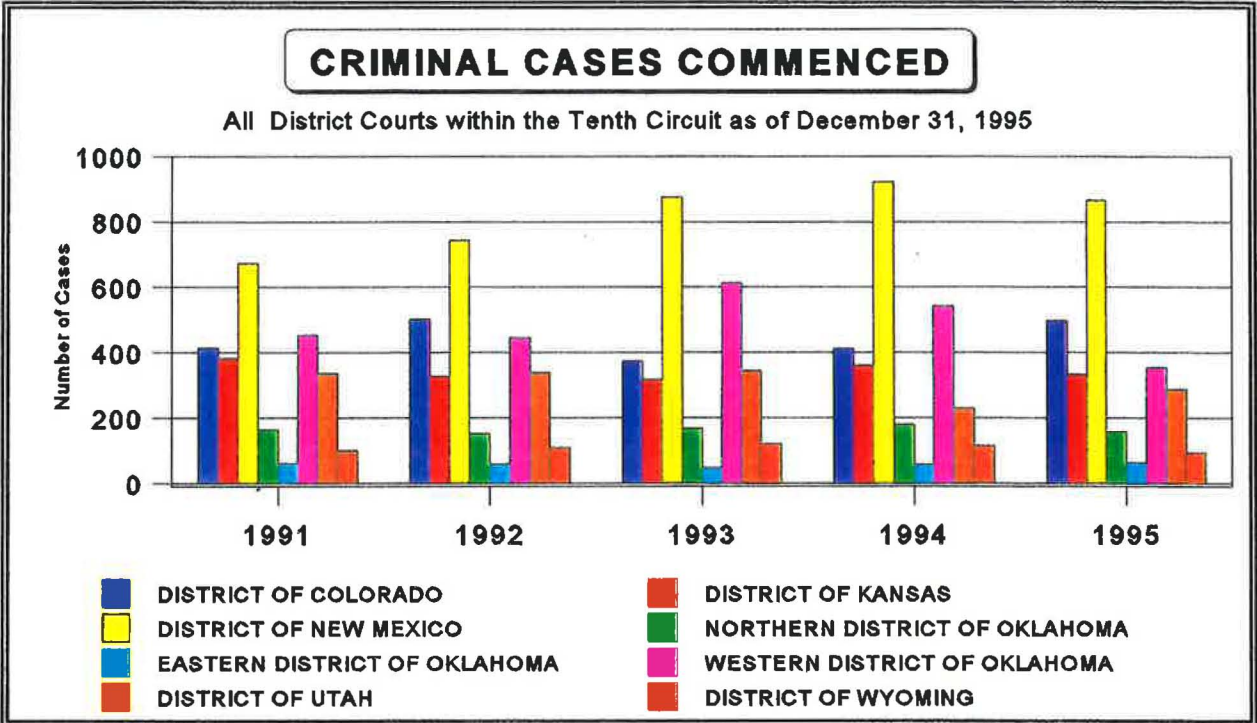
#### Civil Statistics:

The 1995 Federal Court Management Statistics reports a 5.4% decrease in total filings for the Western District of Oklahoma since SY 1994 and a 10.7% decrease in total filings since SY 1993. There was a 4.5% decrease in civil filings from 1994 to 1995.

Civil Caseload Mix and Filing Trends. Caseload mix and filing trends show the variety of cases making up the caseload and is helpful for assessment purposes because different types of cases tend to move through the court system in different ways. The following pie graph at Chart VI, following on page (vi), demonstrates civil filing types for 1995.

The complexion or mix of case types is virtually the same in 1995 as in 1994 with civil rights cases continuing to increase. Generally the numbers of the various types of cases or nature of suits that are filed in this court have changed over time. The civil cases showing the greatest decrease in filings are contract cases while the civil cases showing the greatest increase in filings are prisoner and habeas corpus cases with non-prisoner civil rights (i.e.

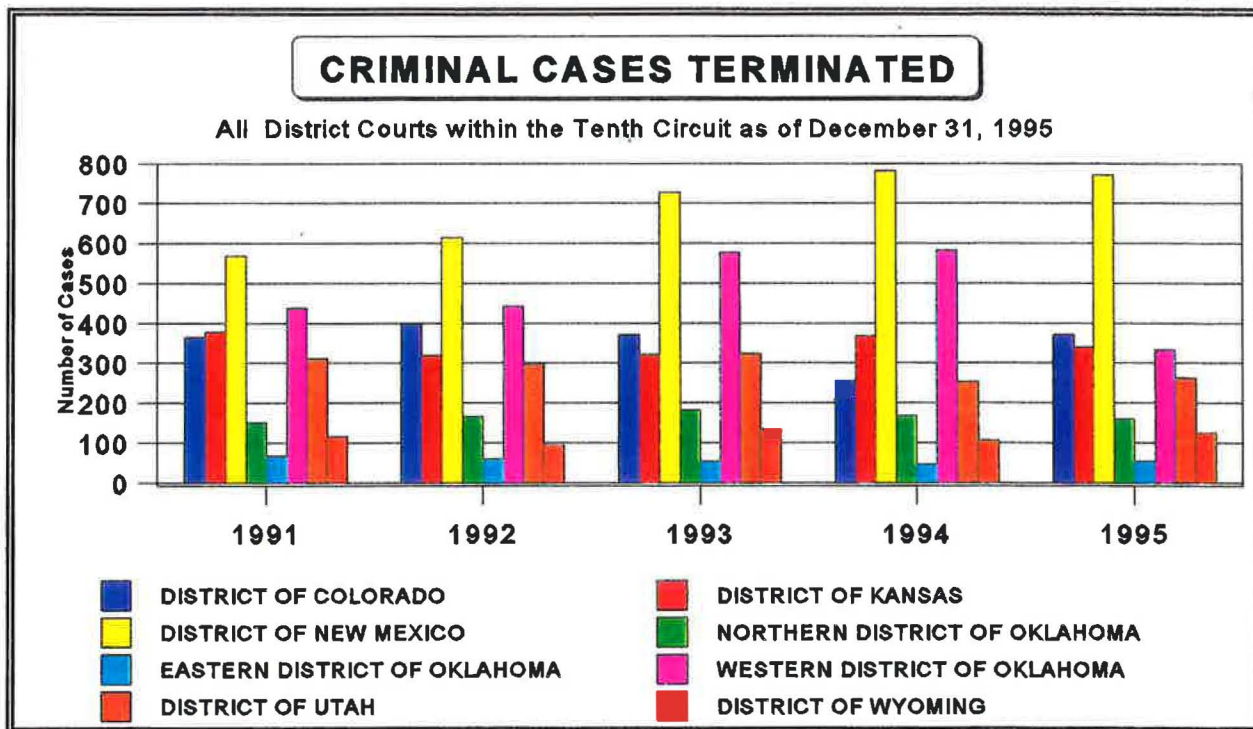
CHART III



<b>CRIMINAL CASES COMMENCED FROM 1991 THROUGH 1995</b>					
	1991	1992	1993	1994	1995
District of Colorado	415	502	373	413	498
District of Kansas	382	328	318	360	332
District of New Mexico	673	742	875	922	864
Northern District of Oklahoma	163	152	168	179	158
Eastern District of Oklahoma	60	59	46	57	62
Western District of Oklahoma	453	445	612	542	353
District of Utah	337	339	345	230	287
District of Wyoming	99	109	121	115	93

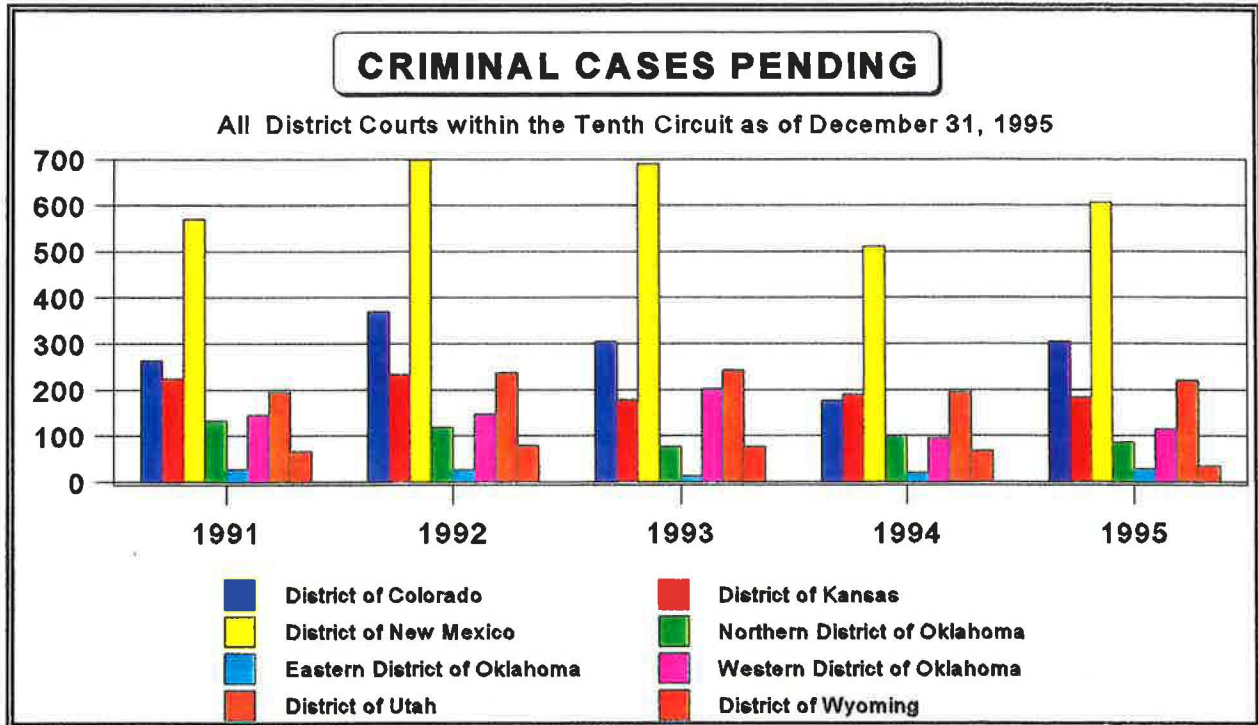


CHART IV



<b>CRIMINAL CASES TERMINATED FROM 1991 THROUGH 1995</b>					
	1991	1992	1993	1994	1995
District of Colorado	364	396	370	255	370
District of Kansas	379	320	321	368	339
District of New Mexico	569	614	728	782	770
Northern District of Oklahoma	150	165	181	167	158
Eastern District of Oklahoma	67	58	54	46	54
Western District of Oklahoma	438	442	577	582	333
District of Utah	311	298	323	253	263
District of Wyoming	116	96	134	107	125

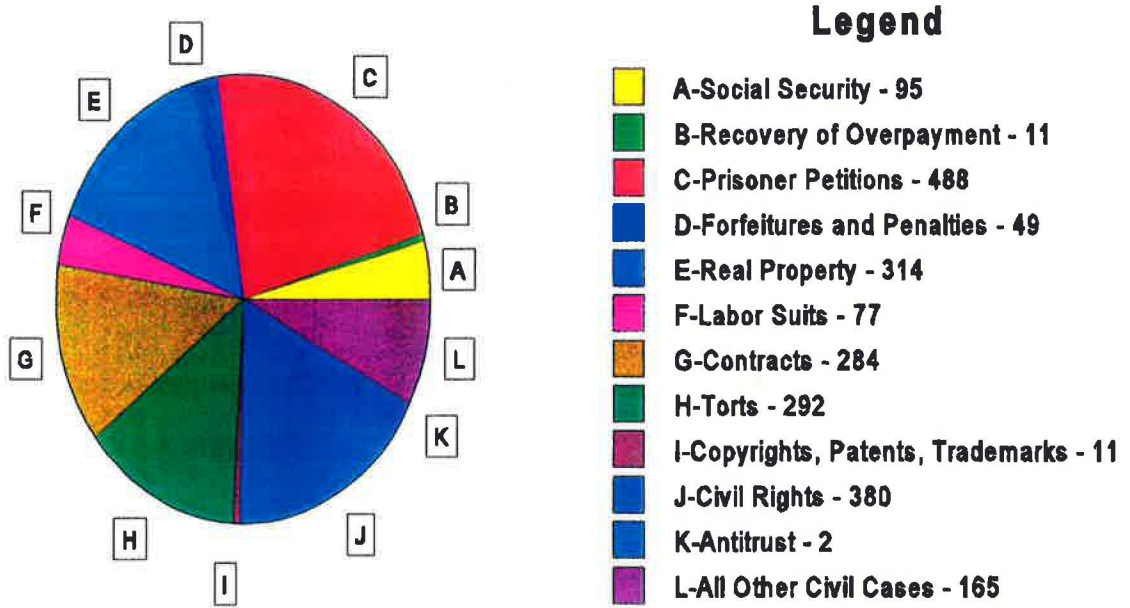
CHART V



<b>CRIMINAL CASES PENDING FROM 1991 THROUGH 1995</b>					
	1991	1992	1993	1994	1995
District of Colorado	263	369	304	177	305
District of Kansas	225	233	178	190	183
District of New Mexico	570	698	690	511	605
Northern District of Oklahoma	132	119	75	97	86
Eastern District of Oklahoma	26	27	12	20	28
Western District of Oklahoma	144	147	201	95	115
District of Utah	196	237	242	196	220
District of Wyoming	66	79	76	67	35

CHART VI

Civil Filings for Oklahoma Western District  
1995





employment discrimination and § 1983 actions) steadily continuing to rise in number of filings. The graph at Chart VII on page (vii) shows these trends.

Burden on the Court. Although prisoner filings did decrease slightly, they continued to be a sufficiently substantial piece (23%) of the court's civil docket. These numbers entitled the court to an additional (we already had one) Pro Se Law Clerk to work exclusively on prisoner habeas and civil rights cases. The greatest time burden for this type of case is on magistrate judge time but federal district judges usually must review their reports and recommendations.

While total number of cases filed is an important figure, numbers combined with case types provides information about the workload the cases will impose on the court. However, to help assess the workload burden on the judiciary, the Judicial Conference uses a system of case weights based on measurements of judge time devoted to different types of cases. The significant difference in the court's weighted caseload from last year (see Chart VI on the page (vi) of the Annual Assessment for 1994) is an increase in weighted civil case filings in the civil rights category - up to 30% from 25% - of a judge's time in this district devoted to this type of case.

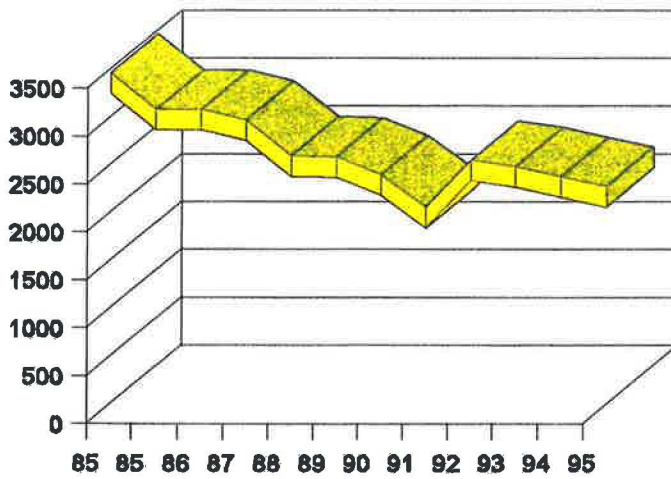
While this court was first in the nation in 1985 in the number of weighted cases per judgeship, it has continued to have an active workload. Today we thankfully do not have that distinction. We are currently 71st in the nation and 6th in the circuit in weighted civil caseload. Chart VIII (following at page (viii) shows weighted filings per judgeship as of December 31, 1995 for the Western District of Oklahoma, Chart IX at page (ix) shows weighted filings per judgeship in the Tenth Circuit and Chart X at page (x) compares weighted civil filings per judgeship for each district court in the Tenth Circuit.

Civil Trials: Another indicator of burden is the incidence of civil trials. According to our court's own JS-10 Forms for the calendar year 1995, it appears that the court completed 99 civil trials (we had 97 in 1994). Thus civil trials represented 66% of all trials conducted. Trials in civil matters appeared to average 3-4 days each.

CHART VII

IN FY 95 2168 CIVIL CASES

### Civil Cases



Prisoner (488)	23%
Civil Rights (380)	18%
Real Estate (314)	15%
Contracts (284)	13%
Torts (292)	13%

### Civil Cases by Type

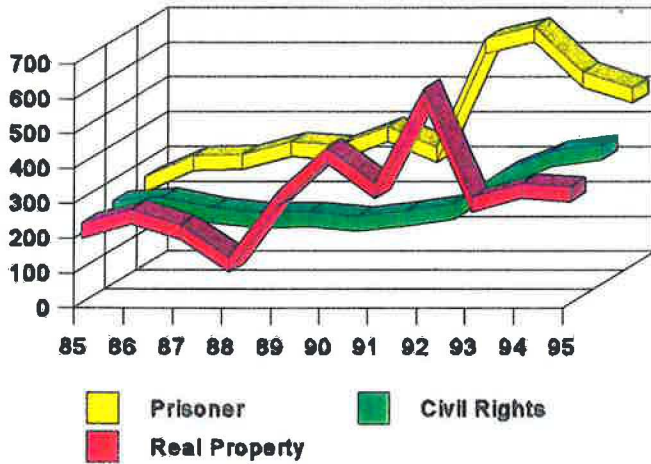
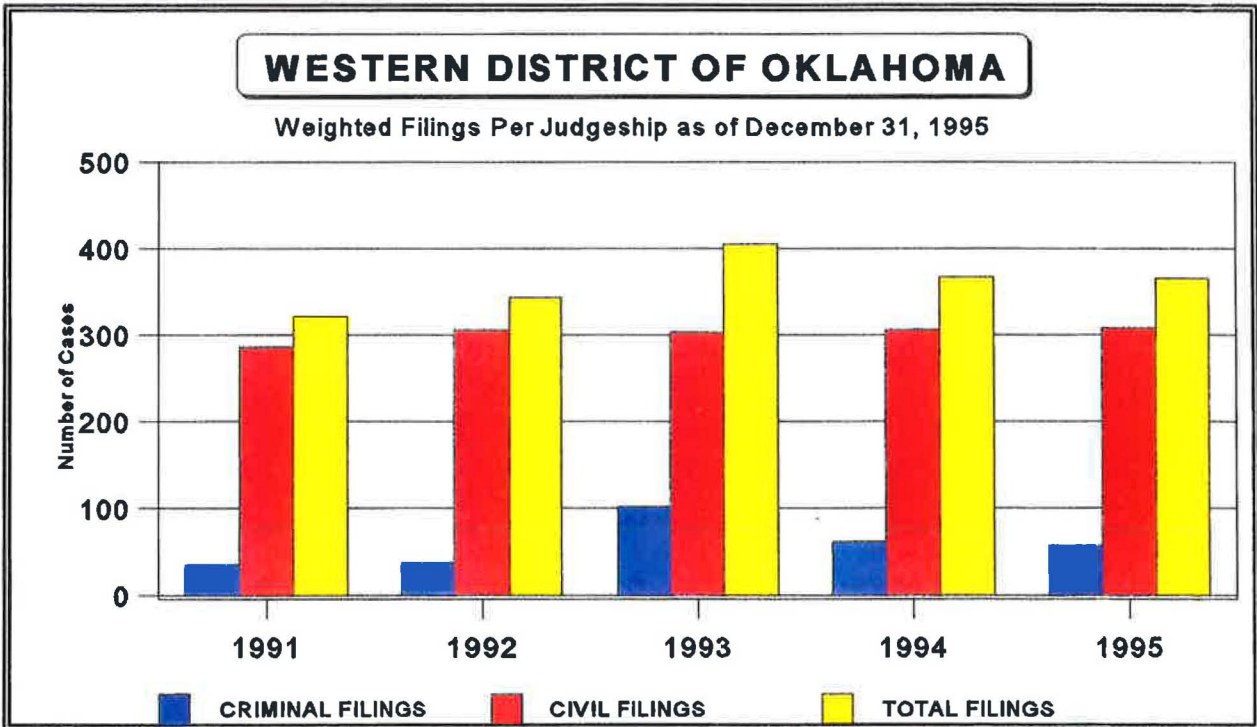
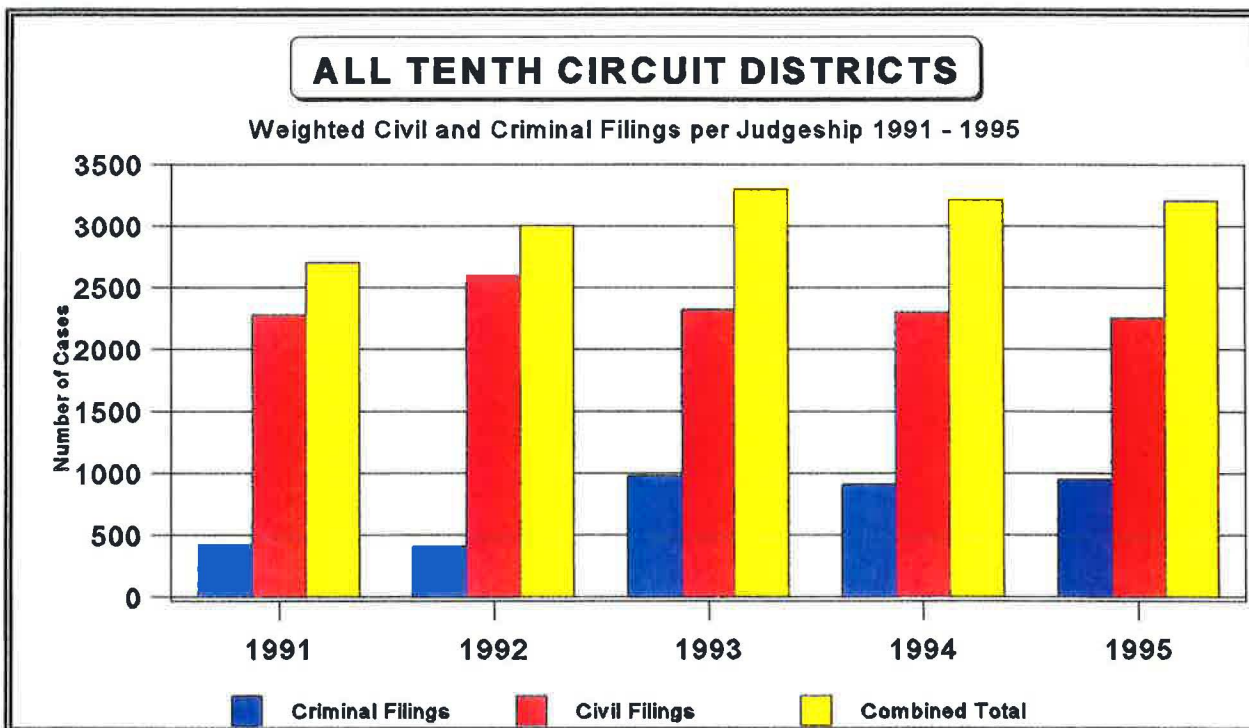


CHART VIII



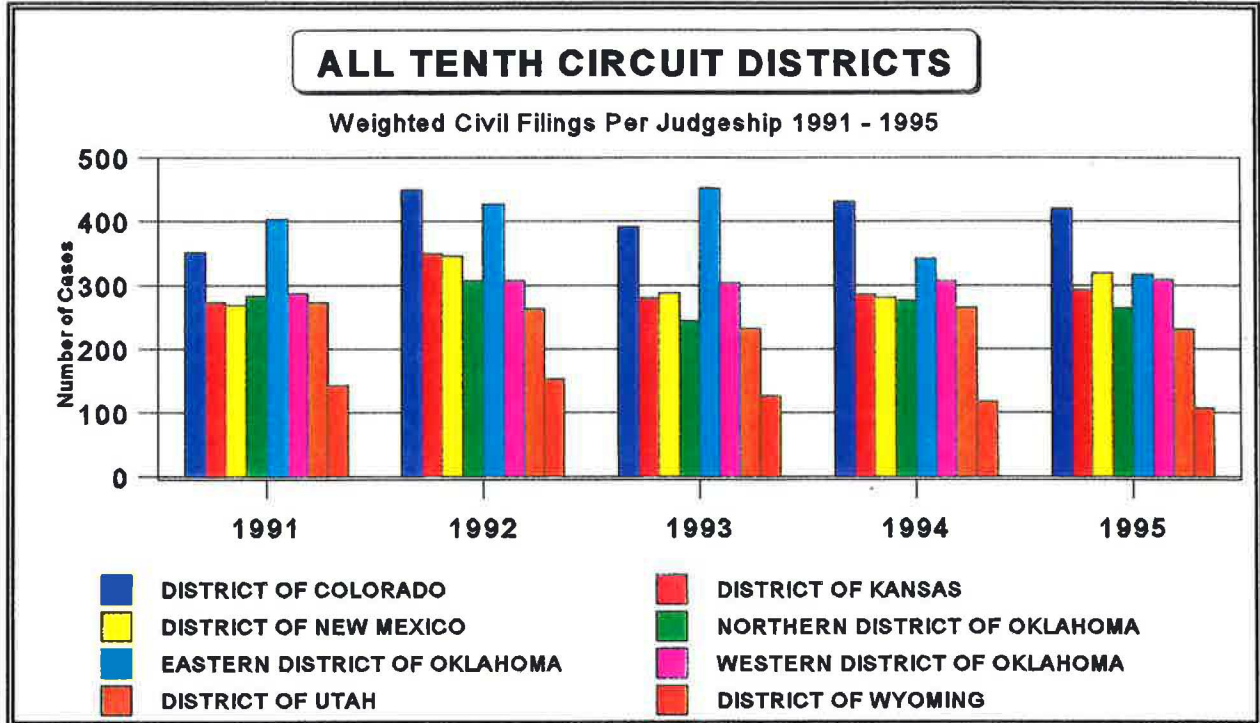
	1991	1992	1993	1994	1995
Criminal Filings	35	37	102	61	57
Civil Filings	286	306	303	306	308
Total Filings	321	343	405	367	365

CHART IX



<b>WEIGHTED CIVIL &amp; CRIMINAL FILINGS PER JUDGESHIP</b>					
<b>1991 - 1995</b>					
	1991	1992	1993	1994	1995
Criminal Filings	421	406	979	908	950
Civil Filings	2280	2598	2319	2301	2256
Combined Total	2701	3004	3298	3209	3206

CHART X



**WEIGHTED CIVIL FILINGS PER JUDGESHIP**  
1991 - 1995

	1991	1992	1993	1994	1995
District of Colorado	351	449	391	431	420
District of Kansas	273	349	279	285	292
District of District New Mexico	269	345	287	280	318
Northern District of Oklahoma	282	306	244	275	264
Eastern District of Oklahoma	403	427	452	341	316
Western District of Oklahoma	286	306	303	306	308
District of Utah	273	263	232	265	231
District of Wyoming	143	153	126	117	107



**CASE PROCESSING:**

**Median Times to Disposition:**

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

Criminal. The 1995 Federal Court Management Statistics rates the Western District of Oklahoma third nationwide for timely disposition of criminal felony cases with a median time of only 4.1 months and we ranked first in the Tenth Circuit. We disposed of criminal felony cases in the same time as in 1994 but we ranked fifth nationally then. Our court has always maintained excellent ratings in this area and at least since 1991, our court has ranked at between 2nd and 5th in the nation in prompt disposition of criminal felony cases.

Civil: According to the 1995 Federal Court Management Statistics, in 1995 our court ranked seventh in the nation and first in the circuit in median time (months) from filing to disposition of civil cases. The national average was eight months, while our court's average was six months. Furthermore, our court ranked sixth in the nation in the median time (months) from issue to trial of civil cases. The national average was eighteen (18) months while our court's average was only eleven (11) months. It would seem impossible as well as unnecessary to do much better.

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

**Western District of Oklahoma Comparison of Total Civil Terminations and Pending Cases, SY1990 - 1995**

	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>
<b>Civil Terminations:</b>	2315	1734	2378	1988	2092	2470
<b>Civil Pending:</b>	1497	1595	1679	1571	1296	1344

The 1995 data demonstrates an increase in terminations and a decrease in pending cases from the immediate prior year. The court is clearly handling the caseload expeditiously. The following Charts, Chart XI at page (xi), Chart XII at page (xii) and Chart XIII at page (xiii), show a comparison of civil cases commenced, terminated and pending for all the district courts in the Tenth Circuit. The Western District of Oklahoma appears to hold its own.

Diversity Filings. Because discussions surrounding the concept of diversity and how it impacts federal filings have become prevalent in recent years in judicial and congressional committees, included for review is Chart XIV at page (xiv), comparing diversity filings of each district court in the Tenth Circuit. The Western District of Oklahoma is second highest only after the District of Colorado in the number of diversity filings.

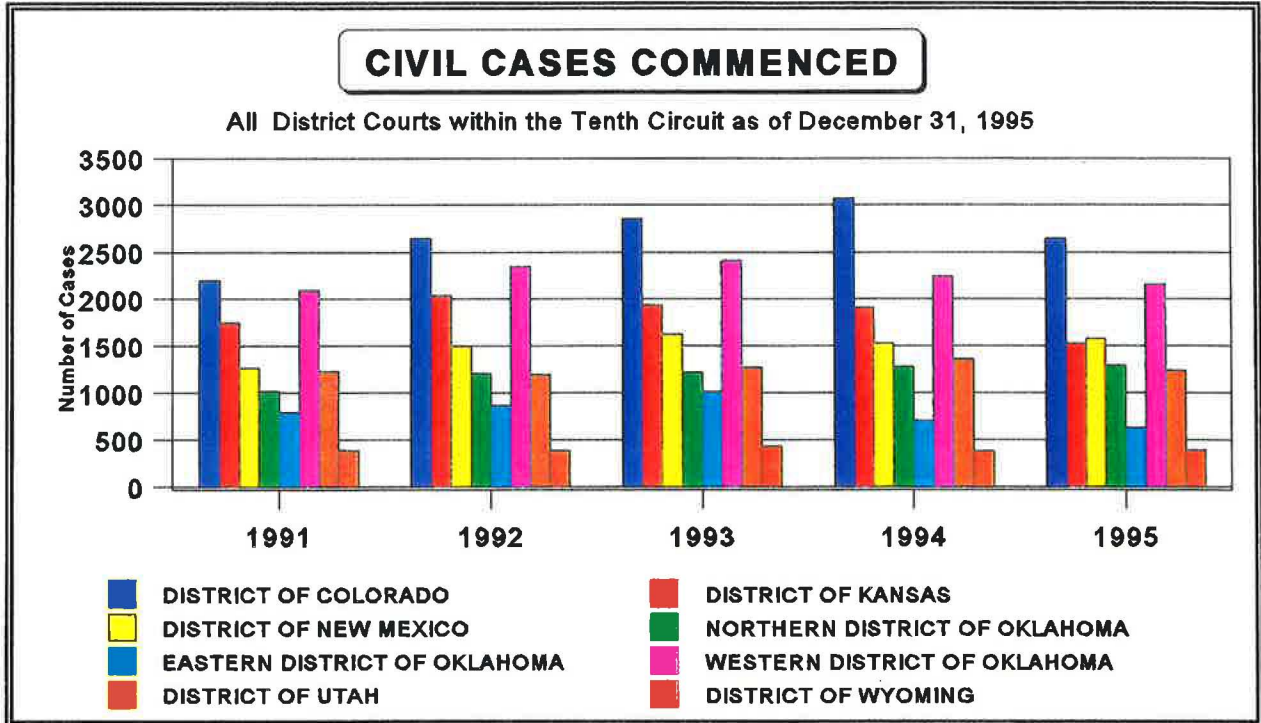
Number of Cases Over 3 Years Old. This measure has long been seen as a guideline for determining delay problems in court processing. Currently we are first in the circuit and 10th in the nation in the fewest older cases. We had 27 in 1995 and 22 of such cases in 1994. Chart XV following at page (xv) compares the number of civil cases pending from 1991 through 1995 in our district for 1,2,3 and more years. Chart XVI following at page (xvi) is the similar chart for the Tenth Circuit.

**Alternative Dispute Resolution Programs:**

This court has recognized since the early 1980's that full, formal litigation of claims can impose serious economic burdens on parties and can delay resolution of disputes for considerable periods. Because this court has made available to litigants a broad array of court-sponsored dispute resolution and settlement options and has involved both private attorneys and court personnel in these processes, we believe we have helped fulfill our responsibility for the delivery of effective, fair and timely judicial services for all civil cases. These programs and procedures are designed to provide quicker, less expensive and often more satisfying alternatives to the civil litigation process without impairing the quality of justice or the right to trial. ADR programs and settlement procedures for civil cases go a long way in assisting with prompt case processing and management as well as potentially positively affecting costs.

In comparing and contrasting these programs, both the court-annexed arbitration and

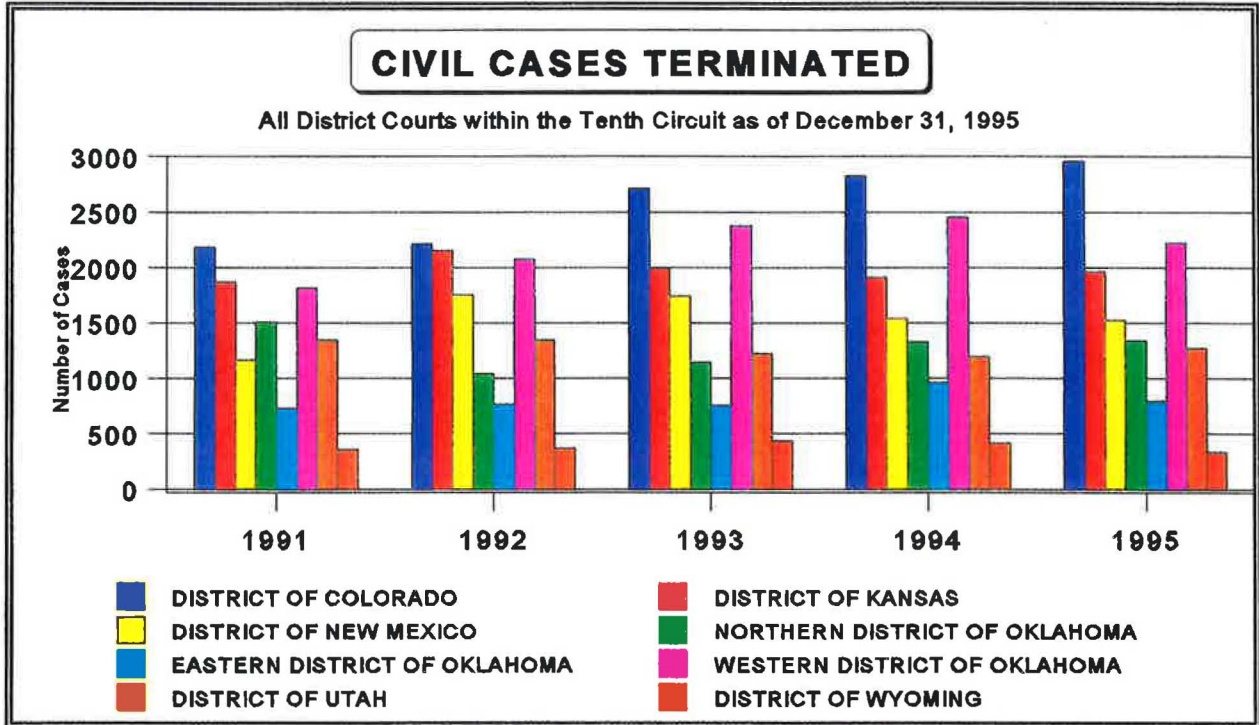
CHART XI



<b>CIVIL CASES COMMENCED FROM 1991 THROUGH 1995</b>					
	1991	1992	1993	1994	1995
District of Colorado	2202	2648	2855	3068	3340
District of Kansas	1744	2034	1938	1910	2019
District of <del>District</del> New Mexico	1264	1495	1627	1532	1621
Northern District of Oklahoma	1017	1202	1216	1280	1280
Eastern District of Oklahoma	794	864	1014	701	701
Western District of Oklahoma	2092	2350	2411	2238	2238
District of Utah	1235	1197	1271	1359	1359
District of Wyoming	383	385	430	381	381

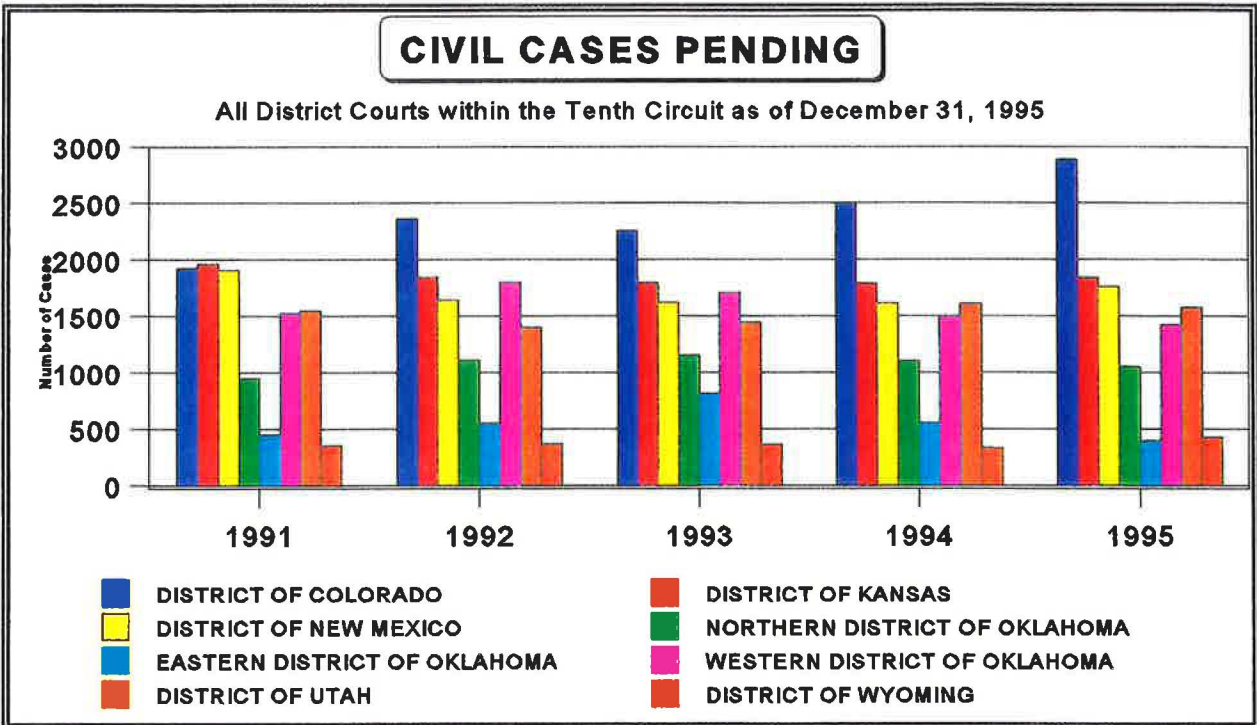


CHART XII



<b>CIVIL CASES TERMINATED FROM 1991 THROUGH 1995</b>					
	1991	1992	1993	1994	1995
District of Colorado	2183	2211	2707	2826	2959
District of Kansas	1874	2156	1990	1913	1966
District of <del>District</del> New Mexico	1168	1754	1742	1539	1521
Northern District of Oklahoma	1506	1043	1146	1331	1341
Eastern District of Oklahoma	730	767	753	961	793
Western District of Oklahoma	1815	2073	2375	2454	2225
District of Utah	1346	1348	1226	1194	1272
District of Wyoming	361	368	435	414	334

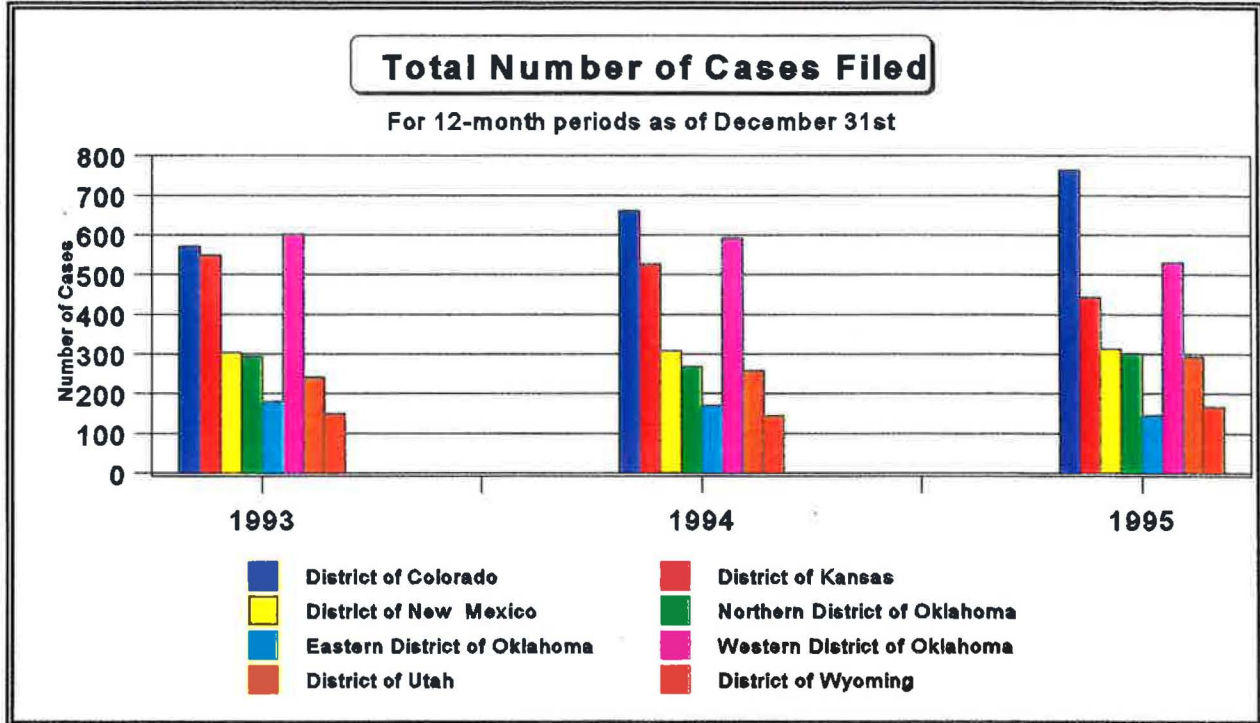
CHART XIII



<b>CIVIL CASES PENDING FROM 1991 THROUGH 1995</b>					
	1991	1992	1993	1994	1995
District of Colorado	1926	2363	2254	2496	2886
District of Kansas	1965	1843	1793	1790	1841
District of <del>District</del> New Mexico	1904	1645	1620	1613	1759
Northern District of Oklahoma	951	1110	1152	1101	1053
Eastern District of Oklahoma	453	550	815	555	397
Western District of Oklahoma	1524	1801	1711	1495	1422
District of Utah	1549	1398	1444	1609	1577
District of Wyoming	353	370	366	333	426

## DIVERSITY FILINGS SUMMARY

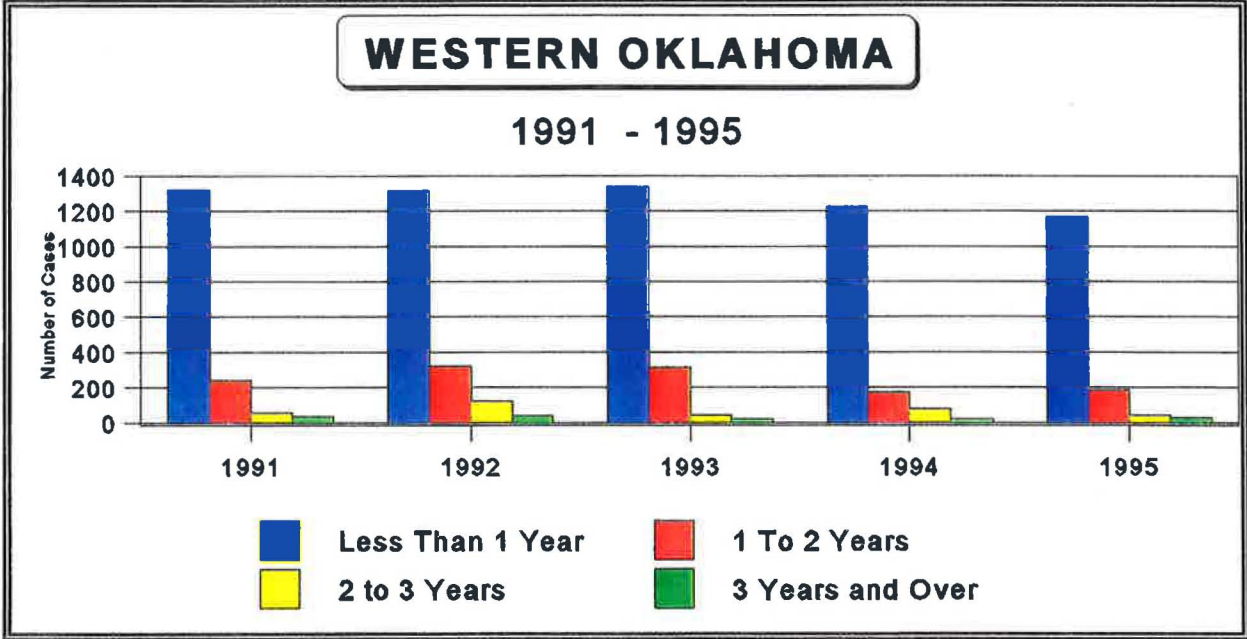
### Tenth Circuit District Courts



<b>TOTAL DIVERSITY CASES</b>			
<b>1993 - 1995</b>			
	<b>1993</b>	<b>1994</b>	<b>1995</b>
District of Colorado	571	661	763
District of Kansas	548	526	442
District of New Mexico	303	308	313
Northern District of Oklahoma	293	268	302
Eastern District of Oklahoma	179	170	144
Western District of Oklahoma	601	592	530
District of Utah	241	259	294
District of Wyoming	149	144	167



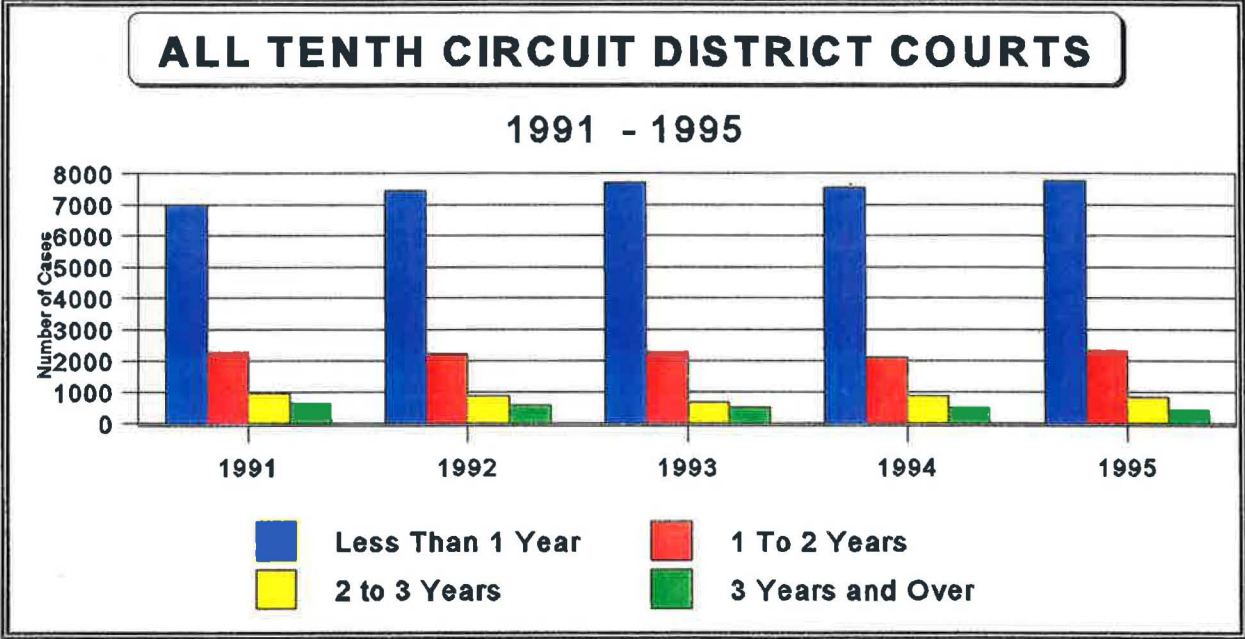
**COMPARITIVE NUMBER OF CIVIL CASES PENDING  
FOR RESPECTIVE LENGTHS OF TIME**



**CIVIL CASES AND LENGTH OF TIME PENDING  
1991 - 1995**

	1991	1992	1993	1994	1995
Less Than 1 Year	1319	1318	1337	1225	1169
1 to 2 Years	242	321	314	171	185
2 to 3 Years	58	122	44	78	41
3 Years and Over	33	40	20	21	27

**COMPARITIVE NUMBER OF CIVIL CASES PENDING  
FOR RESPECTIVE LENGTHS OF TIME**



**CIVIL CASES AND LENGTH OF TIME PENDING**

**1991 - 1995**

	1991	1992	1993	1994	1995
Less Than 1 Year	6961	7434	7701	7537	7768
1 to 2 Years	2274	2209	2285	2105	2330
2 to 3 Years	941	875	662	864	832
3 Years and Over	621	562	500	486	431

the summary jury trial are analogous to a trial - the "third party neutral" (the arbitrator or an advisory jury) reviews facts, hears arguments by both sides and then renders a decision (albeit non-binding unless agreed to be by stipulation). Both are rights-based processes with win-lose outcomes. They focus on the past - right or wrong, fault or blame and is sometimes, but not always, divisive. Mediation and the judicial settlement conference, on the other hand, can be rights-based or interest-based and can have more creative solutions and can focus on the future rather than the past - how best to solve or resolve the conflict. It is the parties themselves who make their own decisions working with their attorneys as advisors with the help of the neutral third party facilitator (an advocate for settlement and cooperation rather than a decision maker).

The use of court-sponsored procedures such as ours is generally controlled by judicial referral. The judges are allowing cases to opt out of mandatory arbitration in favor of mediation or an early judicial settlement conference and are not referring cases to summary jury trial. Neither the arbitration nor the summary jury trial has been widely embraced by the bar in recent years, although some attorneys prefer arbitration and a few privately indicate that a summary jury trial would be helpful to their case. In the early years of arbitration in this court, the judges would gladly refer mandatory cases as it was the only early dispute resolution choice. The arbitration process in our court has appeared to work best when the approach of the arbitrator was flexible, acting as an evaluator and often a mediator. The only active arbitrators at this time appear to be those with subject matter knowledge - especially in the employment discrimination arena.

With the advent of mediation in our state and the implementation of a well-defined program in our court, that became the process of choice. Now with civil case filings down and more time available for the settlement magistrate judge to hold conferences, counsel and parties frequently request his services as they like his judicial evaluative approach and his services are free. However, he is only one person.

Many attorneys are becoming quite sophisticated when it comes to ADR and, according to the ADR Committees of the OBA and the Oklahoma County Bars, we are seeing an increase in pre-litigation mediation, very early mediation (pre or directly following -status/scheduling conferences) as well as private mediation during the litigation process all



without court referral.

This analysis may help explain the following ADR and settlement data for this year and prior years. The volume or number of cases utilizing non-binding arbitration and the summary jury trial has decreased significantly over the years while those utilizing mediation and the judicial settlement conference did not vary much from prior years. The following comparison data is prepared for review by the CJRA Advisory Group.

Non-binding arbitration:

	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>
Cases referred	82	113	177	201	190	223
mandatory	(75	96	138	150)		
voluntary	(7	17	39	51)		
Hearings Scheduled	47	48	119	188		
Hearings Held	17	29	60	92	130	89
Trial de Novo Demand	9	18	36	54	69	39

Mediation:

	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>
Cases referred	142	135	145	109
Court-ordered	(0	0	0	28)
Voluntary	(142	135	145	81)
Sessions Held	105	114	108	62
Settled at Mediation	42	41	51	27
Not Settled at Session	61	68	52	35 N.B. many do settle shortly thereafter

Other important efforts in this area included special training for the mediator panel in handling the various types of employment discrimination cases before the court since that appears to be a major category of cases in this district. The trainer was a skilled labor mediator from the Federal Mediation and Conciliation Service who trained in interest-based mediation and all aspects of employment conflicts.

As of December 31, 1995, there are 62 mediators on our panel with several more applications pending. Those should be processed sometime in 1996.

One interesting observation of some of the mediators is an indication from attorneys

and litigants that, especially in employment litigation where race and sex play such an important role and issues are highly charged, choice of mediator is sometimes determined by those factors as well. For instance, some women in sexual harassment cases, feel more comfortable with a female mediator.

Summary Jury Trials:

	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>
Cases referred	0	3	5	19	20	46
Settled Prior	0	0	0	3	6	17
SJT Held	0	2	5	14	11	25
Settled After SJT	0	1	4	12	10	13
Trial after SJT	0	1	3	1	1	10

Settlement Conferences: 1995 was no different than prior years with this settlement tool. Approximately 500 settlement conferences were held in by the full-time settlement magistrate judge with occasional settlement conferences held by other federal and magistrate judges. The court schedules settlement conferences in all civil cases placed on trial dockets and in cases where district judges determine that a settlement conference should be held either on their own motion or at the request of the parties. Many are able to be held earlier in the litigation process due to the overall decrease in the numbers of civil cases. More than one settlement conference per case then frequently occurs.

Our hats are off to those members of the bar and to the settlement conference magistrate judge who continued to hold settlement conferences in local law offices directly after the bombing before the courthouse was again habitable. This went a long way towards assisting litigants in this district who had already made travel plans as well as helping keep the civil docket on course.

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

The referrals to magistrate judges of civil matters began to accelerate again after the "moratorium" on such referrals beginning in late 1993 and continuing through mid to late 1994. In 1995 magistrate judges held 30 civil consent trials and handled over 73 discovery matters. The following is annual numerical statistical comparison on magistrate judge consent



trials:

**Magistrate Judge Consent Trials:**

<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>
30	11	33	66	15	2

**Case Disposition:**

How cases are "disposed of" or terminate is important to the annual assessment. Generally cases terminated by the same percentages in the same various categories in 1995 as they did in 1994. Approximately 4% by jury verdict, 2% by bench trial, 11% by judgment on a pretrial motion, and in the dismissed or settled categories (before answer, after answer, after pretrial conference) - 47%.

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

**Statutory Effects on The Plan.**

According to the Judicial Improvements Act of 1990, § 105 of Pub.L. 101-650, as amended Pub.L. 103-420, § 4, Oct. 25, 1994, (which Act incorporated the Civil Justice Reform Act of 1990) Pilot Courts are to conduct pilot programs for a five year period beginning January 1, 1991, and, in addition to complying with all other applicable provisions of the CJRA, shall include in their expense and delay reduction plans the 6 principles and guidelines of litigation management and cost and delay reduction identified in 28 U.S.C. § 473 (a).

Also, § 105 (b)(3) of the Judicial Improvements Act of 1990, as amended, states that the expense and delay reduction plans implemented by the Pilot Districts shall remain in effect for a period of 4 years. At the end of that 4-year period, the Pilot Districts shall no longer be required to include, in their expense and delay reduction plans, the 6 principles and guidelines of litigation management and cost and delay reduction as set forth in the Act. For our Pilot District, the 4 year period ended December 31, 1995, and the 5 year period ended January 1, 1996.

It will be necessary for the Court to decide how it wishes to proceed. The CJRA

Advisory Group may want to make suggestions. The Judicial Amendments Act of 1994 extended the due date until December 31, 1996, for the RAND Corporation's study of civil litigation and the impact that CJRA has had on the federal courts. Once that report is delivered to the Judicial Conference, they will also need some time to review it. We may want to see what that study shows before any major changes are made to our Plan or local rules.

#### **Judicial Events:**

There was a full complement of District Judges, Magistrate Judges and Bankruptcy Judges during 1995. A new part-time magistrate judge for Lawton, OK, Shon T. Erwin, was appointed on June 1, 1995 to fill the position held by Sam Joyner, who resigned the part-time position to take a full-time magistrate judge position with the Northern District of Oklahoma.

The State-Federal Judicial Council, chaired by U.S. District Judge Robin Cauthron through its Prisoner Litigation Study Committee was instrumental in encouraging the State of Oklahoma Department of Corrections to get its prisoner grievance certified, which it did in the fall of 1995, so that exhaustion of administrative remedies for state prisoner civil rights cases may be required pursuant to 42 U.S.C. § 1997(e). It is hoped that this and other measures will help reduce prisoner litigation.

#### **Local Rules Revisions:**

In 1995 the court began a major undertaking to first revise the civil local rules to shorten them, reduce repetition and have them numerically correspond to the Federal Rules of Civil Procedure. Draft rules were submitted to the CJRA Advisory Group for comment and recommendations. The ADR and settlement local rules are also being reviewed. Revisions to criminal local rules will begin after the civil are completed also to correspond to the Federal Rules of Criminal Procedure.

#### **Space, Facilities and Personnel:**

There was substantial damage to the Federal Courthouse and Old Post Office Building from the Murrah Building bombing. There was over one million dollars of damage to the buildings resulting from 238 broken windows, window frames, falling ceiling plaster, light fixtures, etc. There was also damaged furniture, office equipment and automation

equipment throughout the remaining federal buildings. There are still areas of damage which have gone undiscovered. Despite these problems, we were able to complete the large renovation project which included seven new courtrooms and chambers and ancillary space throughout the courthouse. During this tumultuous year, the district court clerk's office was staffed at only 80% of its staffing formula. One district court clerk employee's 12 month old daughter was killed and another court employee's young son was severely injured. Generally all personnel pulled together and everyone helped to get the court on track.

**Technological Advances within the Court:**

The automation group continues to contribute to enhanced automation systems throughout the courthouse. Data Communications Network (DCN) was installed in our court which enhances our communication capabilities throughout the judiciary.

Beginning in January 1995, the Bankruptcy Court began the implementation of a plan to ultimately scan and image all pleadings filed in the court, and to create an electronic file in addition to the normal paper file. This procedure received a significant setback due to the bombing and its aftermath. That court is now in the process of completing the development of a system to make all documents scanned and imaged available to the public through remote access by telephone, thus making travel to and from the courthouse and actual handling of the file unnecessary. The development of this imaging program has resulted in Ms. Leah Arms, Systems Manager, being awarded the Administrative Office Director's Award for Administrative Excellence for the year 1995.

**BANKRUPTCY COURT CASELOAD.**

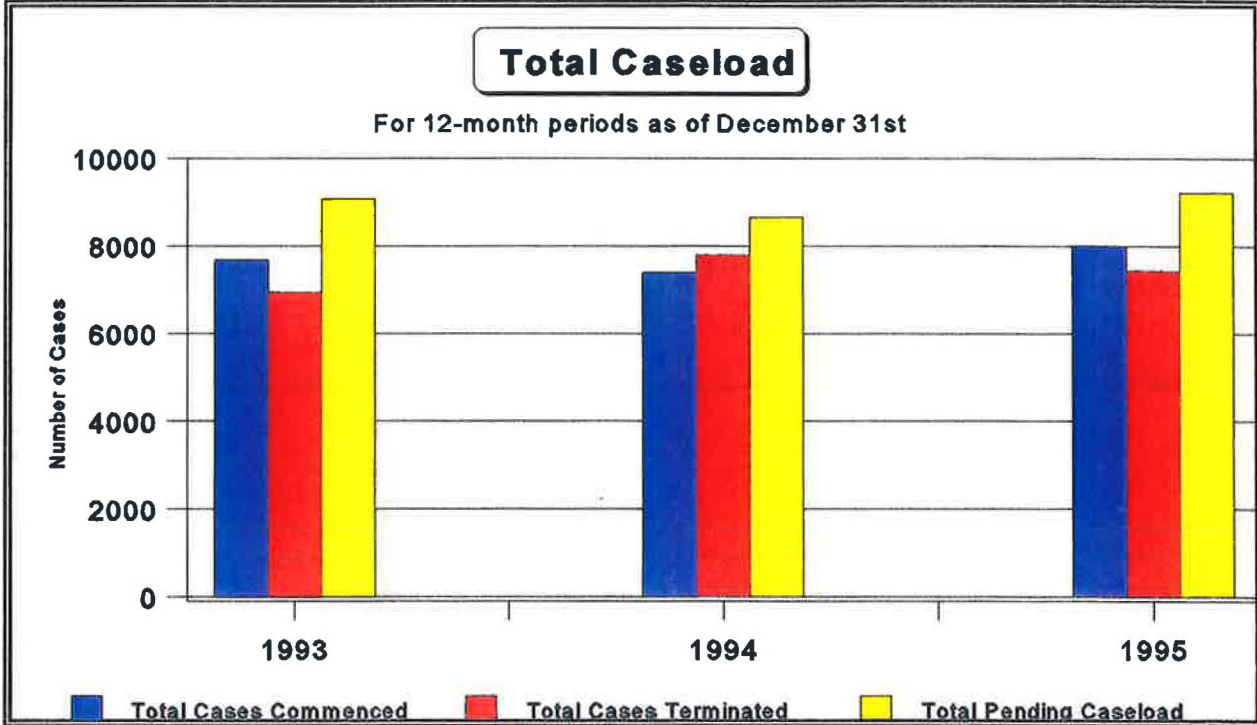
Because the Bankruptcy Court is an integral part of the Western District of Oklahoma, even though it was not part of the CJRA, here is some information about their docket for 1995 that will complete the picture for our court. Chart XVII at page (xvii) indicates information on the total caseload and Chart XVIII and page (xviii) gives the caseload summary for types of bankruptcies filed. Although numbers are increasing, most appear to be Chapter 7 cases which do require staff time but not as burdensome on judicial time.

**OTHER CJRA INFORMATION.**

In 1995 The Federal Judicial Center published The Civil Justice Reform Act Expense

## BANKRUPTCY CASELOAD SUMMARY

### Western District of Oklahoma



Authorized Judgeships ..... 3

<b>TOTAL BANKRUPTCY CASES</b>					
<b>1993 - 1995</b>					
	<b>1993</b>		<b>1994</b>		<b>1995</b>
Total Cases Commenced	7668		7379		7995
Total Cases Terminated	6929		7794		7425
Total Pending Caseload	9061		8649		9219

and Delay Reduction Plans: A Sourcebook. It provides a district-by district summary of the principal components of the CJRA plans, arranged according to key case management topics, such as case scheduling, differential case tracking, discovery requirements and alternative dispute resolution.

The CJRA Advisory Group full committee met in January of 1995. Various sub-committees met throughout the year. The committee members were asked by the Court and made recommendations concerning proposed revisions to the local civil rules.

### CONCLUSION

Chief Judge Russell has said in his 1995 Annual Report to the Tenth Circuit that although 1995 involved tragedy for our court, it was also a year in which we can take great pride in the manner in which we handled adversity and fulfilled our mission. Since the Plan of the district basically was a continuation of our pre-CJRA policies and procedures and all current civil local rules are based on these concepts, if there are any more suggestions for fine-tuning or any innovative ideas to contain the continuing high costs of litigation in federal court, those are always encouraged. As with all of these assessments, it continues to appear that our Civil Expense and Delay Reduction Plan promotes efficiency and economy and therefore, satisfies the purpose of the CJRA.



## ENDNOTES

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

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

2. Except the portions on Alternative Dispute Resolution, Consent to Civil Trials with Magistrate Judges, and some information on civil and criminal trials which is prepared by the court and is based on the calendar year, the statistical data used throughout this report was derived from the 1990, 1991, 1992, 1993, 1994 and 1995 Federal Court Management Statistics, prepared annually by the Administrative Office of the Courts, the Guidelines to Advisory Groups Appointed Under the Civil Justice Reform Act of 1990, February 1991, the SY 91 Statistics Supplement, October 1991, the SY 92 Statistics Supplement, September 1992, the SY 93 Statistics Supplement, September 1993, the SY 94 Statistics Supplement, October 1994 and the SY 95 Statistics Supplement, October 1995 prepared by the Administrative Office of the Courts and the Federal Judicial Center. Also used were actual statistics from the Statistics Division of the Federal Judicial Center and the 1995 Annual Report for the Western District of Oklahoma, prepared by Chief Judge Russell and Robert Dennis, Clerk of Court for the Tenth Circuit. These are some of the same or similar resources utilized and given the Advisory Group for preparation for the Advisory Group Report in the Fall of 1991. Please recall that the assessment of the court's criminal and civil dockets used in the Advisory Group Report was based primarily on statistics from SY 1990.

N.B. "SY" indicates statistical year. The SY year end date is June 30 for the data used for 1990 and 1991 and September 30 for 1992, 1993, 1994 and 1995. The Judicial Conference approved the new statistical reporting period to coincide with the federal fiscal year. Some references are to FY years (fiscal year).

Many of the Charts utilized in the Report were supplied by The Honorable Stephanie Seymour, Chief Judge of the Tenth Circuit, which were based on statistical information from the Administrative Office of the Courts. Some of the court's charts were prepared for Senator Charles E. Grassley, Chairman, Subcommittee on Administrative Oversight and the Courts, for purposes of a Judicial Survey he conducted in early 1996.

3. According to the Federal Judicial Center Research/Statistics Division, the definition of "trial" for statistical purposes as used by the Administrative Office of the Courts and the Federal

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