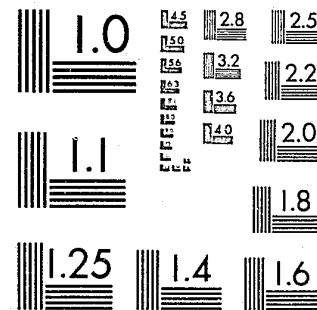


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STATE APPELLATE CASELOAD GROWTH
DOCUMENTARY APPENDIX

October 1983

National Center for State Courts

by

Thomas B. Marvell, Carlisle E. Moody, Paul Dempsey,
Kenneth J. Lasky, and Gerard M. Mackarevich

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INTRODUCTION

As a documentary appendix, this report supplies background support for the shorter, "State Appellate Caseload Growth." It is the full report of the research, organized as separate parts--actually separate appendices--each addressing a distinct topic.

Part I presents the findings from the research, giving statistics concerning the extent of appellate caseload growth and the relationship of the growth to the independent variables. It explains why the various independent variables were included in the model and summarizes arguments that have been made concerning whether particular variables affect appellate caseloads. The first part also describes the regression techniques used in the analysis.

Part II discusses the sources of caseload statistics and other data used in the analysis, and describes the checking procedure which comprised most of the work done for the study. The primary sources were court annual reports, unpublished materials sent by the courts, and interviews with court clerks and administrative personnel.

Parts III through V define appeals and other appellate court statistics used in the analysis. Because these are key data elements, the definitions must be exact. The numerous variations between case types and court structure make the concepts complicated. These parts also describe problems encountered in gathering appellate court data and other factors that can make some data misleading.

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Part VI describes the trial court statistics with emphasis on the numerous problems with the data. The seventh part details the sources of the trial and appellate judgeship data, and the eighth part describes the sources of the demographic variables (population, personal income, crime rate, and prison commitments). Unlike all other data in the study, the demographic statistics did not require original data collection.

The ninth and tenth parts describe miscellaneous variables. For civil cases these include interest rates on appeal, the trial court dollar jurisdictional limit, prehearing settlement conferences, and new rules of trial and appellate procedure. Additional variables in criminal cases include sentence appeal procedures and new court rules.

The next two parts describe the data coding. Part XI gives the values for the dichotomous (dummy) variables. Part XII describes the continuous variables both as they exist in the data set and as adjusted for the regression analysis. The final part lists the trial and appellate statistics and explains in detail the sources of data for each state, the variations in definitions of data elements, adjustments and estimations made, and any problems that remain unresolved.

I. ANALYSIS

The analysis details the study's basic findings, leaving to later parts technical details about variable composition. The sections that follow: 1) illustrate the growth of appellate court caseloads, trial court caseloads, and demographic variables, 2) explain the general theoretical background for analysis of the variables, 3) outline the probable relationship between the independent variables and appellate volume, 4) describe the regression techniques used, 5) present the findings of the regression analysis, and 6) compare the states in the sample to those outside the sample.

a) Magnitude of Caseload Growth

Appellate caseloads, based on a sample of 43 states, grew at a rate averaging 9 percent between 1974 and 1982 (see Table Ia). Criminal and civil appeals, judging from smaller samples, have grown at the average rates of 10.6 and 8.9 percent. (As described in parts III and V, though, the total number of appeals is not necessarily the sum of all criminal and civil appeals, because the latter figures were adjusted for anomalous changes, especially in jurisdiction, to facilitate regression analysis.) The figures in Table Ia are the mean annual growth rates for the different states. They are computed, first, by taking the percentage growth for each year in each state, and then taking the mean of these percentages. This measure treats each state as a separate entity; it is not the growth of all appeals in the nation or in the sample of states in this study. The total growth rate is dominated by California and a few other large states with slower than average growth. Hence, the average

Table Ia
Average State Annual Increases, Nine Years, 1974-82

| <u>Total Appeals (43 states)</u> | |
|--|-------|
| <u>Appeals</u> | 9.0% |
| Population | 1.3% |
| Real personal income | 1.5% |
| Appellate judges | 3.3% |
| Trial judges | 2.4% |
| <u>Criminal Appeals (38 states)</u> | |
| <u>Appeals</u> | 10.6% |
| Criminal trial filings (30 states) | 5.3% |
| Criminal trials (18 states) | 4.5% |
| FBI crime index (1973-81) | 6.7% |
| FBI violent crime (1973-81) | 7.2% |
| Prison commitments (1973-81, except D.C.) | 8.0% |
| <u>Civil Appeals (37 states)</u> | |
| <u>Appeals</u> | 8.9% |
| Civil trial filings (23 states) | 4.3% |
| Civil and domestic relations trial filings (33 states) | 4.3% |
| Civil trials (15 states) | 1.6% |

The variables are for only the states with appeal statistics; see Table Ic. The states with trial data available are listed in Table VIa.

Table Ib
Average State Annual Increases,
Twelve Years, 1971-82

| | |
|-----------------------------|-------|
| TOTAL APPEALS* | 9.0% |
| Population | 1.4% |
| Real personal income | 2.5% |
| Appellate judges | 2.9% |
| Trial judges | 3.1% |
| CRIMINAL APPEALS * | 11.5% |
| FBI crime index (1971-81) | 9.5% |
| FBI violent crime (1971-81) | 8.0% |
| CIVIL APPEALS* | 8.7% |

*Based on less than full sample before 1974; see Tables Ic and IIIb.

Table Ic. Average Annual Appeals Growth Rates by State Through 1982

| State | Total | | | Criminal | | | Civil | | |
|------------|-------|--------|--------|----------|--------|--------|-------|--------|--------|
| | 9 Yr. | 12 Yr. | 15 Yr. | 9 Yr. | 12 Yr. | 15 Yr. | 9 Yr. | 12 Yr. | 15 Yr. |
| Alabama | 9.1 | -- | -- | 9.2 | -- | -- | 10.0 | -- | -- |
| Alaska | 16.3 | 13.2 | -- | 26.7 | 18.5 | -- | 8.1 | 8.3 | -- |
| Arizona | 11.5 | 10.1 | 10.9 | 22.0 | 19.6 | 19.0 | 6.3 | 5.3 | 6.9 |
| Calif. | 6.0 | 5.9 | 6.7 | 5.3 | 5.8 | 6.6 | 7.2 | 6.6 | 7.3 |
| Colorado | 9.9 | -- | -- | 10.4 | -- | -- | 10.0 | -- | -- |
| Conn.* | 12.8 | 10.0 | 8.5 | 17.7 | 14.6 | 14.1 | 13.9 | 10.7 | 8.9 |
| Delaware | 4.3 | 5.9 | 8.2 | 5.7 | 11.1 | 11.2 | 4.7 | 5.0 | 8.1 |
| D.C. | 5.8 | -- | -- | 4.7 | -- | -- | 8.4 | -- | -- |
| Florida | 11.1 | 10.1 | -- | -- | -- | -- | -- | -- | -- |
| Hawaii | 10.4 | 13.6 | -- | 17.7 | 21.0 | -- | 8.2 | 11.3 | -- |
| Idaho | 6.7 | 6.1 | 7.2 | 8.8 | -- | -- | 6.2 | -- | -- |
| Illinois* | 9.9 | -- | -- | 8.1 | -- | -- | 12.0 | -- | -- |
| Iowa | 8.6 | -- | -- | 4.2 | 7.3 | -- | 11.6 | -- | -- |
| Kansas | 9.2 | -- | -- | 15.2 | -- | -- | 7.6 | -- | -- |
| Kentucky* | 12.2 | 11.1 | 10.1 | 13.5 | 11.7 | 16.7 | 12.0 | 11.2 | 8.7 |
| Louisiana | 8.7 | 8.2 | 6.9 | 20.3 | 22.0 | 20.6 | 6.2 | 5.9 | 4.9 |
| Maine* | 13.3 | -- | -- | 4.4 | -- | -- | 21.5 | -- | -- |
| Maryland | 6.3 | 5.1 | 6.5 | 7.5 | 6.7 | 8.2 | 5.3 | 4.0 | 5.5 |
| Mass. | 11.5 | 11.9 | -- | 13.2 | 16.3 | -- | 11.5 | 11.1 | -- |
| Michigan | 11.7 | 11.2 | 11.1 | 9.8 | 11.1 | 11.6 | -- | -- | -- |
| Minnesota | 10.5 | -- | -- | 13.6 | -- | -- | 8.1 | -- | -- |
| Miss. | 3.4 | 5.3 | -- | 5.8 | -- | -- | 2.5 | -- | -- |
| Missouri | 8.3 | 7.6 | -- | 8.3 | -- | -- | 8.7 | -- | -- |
| Montana | 12.2 | 11.5 | -- | 19.1 | 18.9 | -- | 11.9 | 11.0 | -- |
| Nebraska | 6.8 | 9.1 | 8.1 | 6.0 | 10.8 | 12.6 | 7.9 | 8.4 | 6.4 |
| Nevada | 8.9 | 6.0 | -- | 11.1 | 8.0 | -- | 8.4 | 5.6 | -- |
| New Hamp.* | 10.7 | 12.7 | 9.7 | 11.5 | 14.1 | -- | 11.0 | 13.0 | -- |
| New Jersey | 5.4 | 8.2 | 9.5 | 4.5 | -- | -- | 6.0 | -- | -- |
| New Mexico | 9.1 | 10.3 | -- | 12.1 | 14.1 | -- | 8.4 | 10.1 | -- |
| New York | 6.0 | 5.6 | 5.1 | -- | -- | -- | -- | -- | -- |
| Ohio | 7.3 | 9.3 | -- | -- | -- | -- | -- | -- | -- |
| Oklahoma | 6.9 | -- | -- | 5.0 | -- | -- | 8.2 | 7.5 | -- |
| Oregon | 13.9 | 13.3 | 13.1 | 12.4 | -- | -- | 10.0 | -- | -- |
| Penn. | 7.6 | -- | -- | -- | -- | -- | -- | -- | -- |
| R. I. | 7.2 | 6.9 | -- | 6.3 | 11.5 | -- | 10.0 | 8.0 | -- |
| S. Dakota | 11.5 | -- | -- | -- | -- | -- | -- | -- | -- |
| Tennessee | 4.5 | 5.1 | -- | 3.3 | 6.9 | -- | 5.7 | 4.3 | -- |
| Texas* | 11.1 | 10.6 | 9.0 | 13.1 | 13.8 | 12.0 | 9.1 | 7.5 | 6.2 |
| Utah | 7.7 | -- | -- | 10.1 | -- | -- | 7.6 | -- | -- |
| Vermont | 10.7 | 12.0 | -- | 10.6 | 9.6 | -- | 11.3 | 14.2 | -- |
| Virginia | 7.2 | -- | -- | 6.3 | -- | -- | 9.0 | -- | -- |
| Wash. | 8.4 | 9.6 | 10.8 | 11.4 | 9.3 | 11.7 | 7.1 | 10.8 | 11.6 |
| Wyoming | 6.3 | 5.8 | 8.4 | 9.6 | 15.9 | 20.4 | 6.6 | 4.9 | 7.1 |
| Average | 9.0 | 9.0 | -- | 10.6 | 11.5 | -- | 8.9 | 8.7 | -- |
| Median | 9.0 | 9.5 | -- | 10.0 | 11.7 | -- | 8.4 | 8.2 | -- |

*Statistics not available for Arkansas, Georgia, Indiana, North Carolina, North Dakota, South Carolina, West Virginia, and Wisconsin.

*Docketing system changed, increasing the number of appeals counted (civil only in Maine; criminal only in Texas)

Table Id. Average Percentage Growth by Year

| Year | <u>Total Appeals (43 states)</u> | | | | |
|------|----------------------------------|-------------------------|------------------------|-----------------------------|-------------------------|
| | <u>Appeals</u> | <u>Popu- lation</u> | <u>Real Income</u> | <u>Appellate Judges</u> | <u>Trial Judges</u> |
| 1974 | 9.2 | 1.2 | -0.8 | 1.8 | 1.6 |
| 1975 | 16.6 | 1.4 | 0.4 | 2.1 | 1.8 |
| 1976 | 13.0 | 1.4 | 4.2 | 5.2 | 1.7 |
| 1977 | 12.2 | 1.3 | 4.5 | 3.4 | 5.7 |
| 1978 | 2.8 | 1.4 | 4.8 | 2.8 | 2.6 |
| 1979 | 4.1 | 1.4 | 1.3 | 3.2 | 1.9 |
| 1980 | 10.1 | 1.2 | -2.4 | 1.9 | 1.7 |
| 1981 | 7.3 | 1.0 | 1.4 | 5.4 | 2.6 |
| 1982 | 5.5 | 1.1 | 0.3 | 3.4 | 2.4 |

Criminal Appeals (38 states)

| Year | <u>Criminal Appeals</u> | <u>Prison Commitments (D.C. Excluded)</u> | <u>Trial Court Criminal Filings (30 states; Kansas excluded)</u> | <u>FBI Crime Index</u> |
|------|-----------------------------|---|--|--------------------------------|
| 1974 | 11.0 | 5.1 | 9.0 | 19.6 |
| 1975 | 25.7 | 17.4 | 10.4 | 10.3 |
| 1976 | 11.4 | 2.4 | -1.9 | 0.8 |
| 1977 | 15.1 | 5.6 | 1.1 | -1.1 |
| 1978 | 0.8 | 3.2 | -0.5 | 2.7 |
| 1979 | -0.5 | 8.4 | 3.4 | 10.7 |
| 1980 | 14.2 | 10.3 | 11.3 | 9.1 |
| 1981 | 9.1 | 17.0 | 10.2 | 0.4 |
| 1982 | 9.0 | -- | 4.5 | -- |

Civil Appeals (37 states)

| Year | <u>Civil Appeals</u> | <u>Trial Court Civil Filings (24 states)</u> | <u>Trial Court Civil and Domestic Relations Filings (33 states)</u> |
|------|--------------------------|--|---|
| 1974 | 7.2 | 8.6 | 7.6 |
| 1975 | 12.5 | 7.4 | 6.5 |
| 1976 | 14.0 | 0.5 | 3.6 |
| 1977 | 13.3 | 0.1 | 3.6 |
| 1978 | 5.1 | 3.6 | 4.4 |
| 1979 | 8.2 | 8.2 | 5.5 |
| 1980 | 9.2 | 7.9 | 5.8 |
| 1981 | 7.1 | 0.4 | 1.4 |
| 1982 | 3.3 | 2.1 | 0.5 |

annual growth rate for all appeals in the 43 states was 8.2 percent. The rate for criminal appeals in the sample of 38 states averaged 8.1 percent per year over the past 9 years, as opposed to the 10.6 average state growth shown in Table Ia. The rate for civil appeals averaged 8.0 percent, down from 8.9 percent. Appeals doubled in the past decade. Total criminal appeals and civil appeals in the sample each increased 98 and 99 percent respectively from 1973 to 1982. The total appeals in the 43 states increased by 101 percent (see Table 1e).

Table Ia shows that since 1973 the number of appeals has grown faster than the number of judgeships and faster than trial court filings. (The 1982 statistics for trial filings are not totally complete--data are missing for Illinois, Mississippi, and New Jersey). Appeals also have grown faster than the major demographic trends such as population and income. Table Ib lists the information available back to 1971, and shows that the trends described above have been operating for at least the past 12 years. Because the pre-1973 appellate statistics used in Table Ib are incomplete (see Tables Ic and IIb), the growth rate for appeals given there is not completely comparable to that given in Table Ia.

Table Ic gives the growth rates for appeals in each of the 43 states for which appellate filing data were obtained. The growth rate is substantial for all states, although much higher in some than in others. The rate is exaggerated in states that changed docketing systems, marked with an asterisk (see Part IIIId). Table Id shows that growth rates for appeals and other trends vary considerably from year to year. Table 1e gives the cumulative growth for the total number of appeals and for the other trends. Again the growth in appeals outstrips the other changes.

Table Ie
Percentage Growth Since 1973

Total Appeals (43 states)

| <u>Year</u> | <u>Appeals</u> | <u>Population</u> | <u>Real Income</u> | <u>Appellate Judges</u> | <u>Trial Judges</u> |
|-------------|----------------|-------------------|--------------------|-------------------------|---------------------|
| 1973 | -- | -- | -- | -- | -- |
| 1974 | 7.9 | 0.9 | -1.1 | 2.1 | 1.5 |
| 1975 | 28.6 | 1.8 | -1.7 | 5.0 | 3.2 |
| 1976 | 41.6 | 2.9 | 2.2 | 8.2 | 4.6 |
| 1977 | 54.4 | 3.8 | 6.4 | 12.1 | 10.0 |
| 1978 | 60.7 | 5.0 | 11.1 | 15.9 | 12.1 |
| 1979 | 66.8 | 6.2 | 12.5 | 19.2 | 14.8 |
| 1980 | 80.3 | 7.4 | 10.0 | 22.5 | 16.5 |
| 1981 | 92.2 | 8.5 | 11.4 | 27.5 | 19.8 |
| 1982 | 100.9 | 9.6 | 11.8 | 34.3 | 21.8 |

Criminal Appeals (38 states)

| <u>Year</u> | <u>Criminal Appeals</u> | <u>Prison Commitments (D.C. excluded)</u> | <u>Trial Court Criminal Filings (30 states; Kansas excluded)</u> | <u>FBI Crime Index</u> |
|-------------|-------------------------|---|--|------------------------|
| 1973 | -- | -- | -- | -- |
| 1974 | 7.6 | 2.1 | 7.4 | 17.4 |
| 1975 | 30.6 | 16.2 | 15.9 | 27.6 |
| 1976 | 37.6 | 22.2 | 13.9 | 27.4 |
| 1977 | 57.0 | 26.2 | 15.2 | 23.8 |
| 1978 | 53.1 | 29.8 | 15.9 | 26.8 |
| 1979 | 56.8 | 38.1 | 20.0 | 38.2 |
| 1980 | 72.1 | 52.4 | 31.7 | 50.3 |
| 1981 | 84.6 | 76.0 | 42.3 | 50.1 |
| 1982 | 98.0 | -- | -- | -- |

Civil Appeals (37 states)

| <u>Year</u> | <u>Civil Appeals</u> | <u>Trial Court Civil and Domestic Relations Filings (33 states)</u> |
|-------------|----------------------|---|
| 1973 | -- | -- |
| 1974 | 5.3 | 8.7 |
| 1975 | 21.0 | 17.0 |
| 1976 | 36.0 | 20.2 |
| 1977 | 47.8 | 24.0 |
| 1978 | 55.4 | 29.6 |
| 1979 | 67.6 | 37.2 |
| 1980 | 82.1 | 43.5 |
| 1981 | 94.4 | 43.8 |
| 1982 | 99.4 | -- |

b) Theoretical Background

The main purpose of the research was to obtain information about the causes of appellate caseload growth. Two distinct types of variables are explored: 1) those representing the source of appeals and 2) those representing features of appellate procedure that may attract or restrict appellate filings. The former are control variables that facilitate study of the latter. A distinction also is made between social and personal variables. At the social level are background variables representing the sources of cases that may be appealed; these include demographic variables such as personal income, crime statistics, and trial court filings. The regression analysis, discussed later, found that some of these factors are closely related to civil or criminal appeals. The reasons for these relationships will be discussed in the next two sections.

The second set of variables pertains to the decision to appeal, and is derived from the general assumptions in economic theory that people are motivated largely by self-interest and that they compare costs and benefits when making decisions. Examples of these variables, described in later sections, are appellate delay, interest rates on appeal, and various aspects of appellate procedure such as the use of printed briefs.

c) Variables in the Criminal Analysis

In accordance with this general theoretical outline, two fundamental assumptions underly the analysis of criminal appeals growth. The first is that the number of appeals depends largely on the potential number of cases that can be appealed. That is, more criminal activity in society and more criminal cases in the trial courts lead to more criminal

appeals. The second assumption is that convicted criminals are more likely to appeal if they stand to gain by winning the appeal. For indigents, who comprise the vast majority of defendants, appeals are essentially without cost because the state must provide counsel and transcripts. Hence, convicted defendants probably appeal even if the chance of gain is small. Nevertheless, few appeals are expected when the defendants have virtually nothing to gain. These rather basic assumptions are used to analyze the relationship between criminal appellate volume and the following independent variables:

1) FBI Crime Index. The initial variable in the chain of reasoning is the amount of crime. Crime supplies the raw material for appeals, although there are many steps--apprehension, trial court indictment, conviction, and sentencing--between the initial act and the appeal. In effect, any relationship in the analysis between the FBI crime index and the number of appeals represents inadequate information concerning the intervening steps, rather than a separate impact from the amount of crime. The Crime Index for one year prior to the court year studied are related to criminal appeals more closely than statistics for earlier years or the same year.

2) Trial Court Criminal Filings. The next stage represented by an independent variable--that is, the next stage for which statistics are available--is trial court filings (which are defined here as the determination of probable cause in felony cases and, in some states, major misdemeanor cases). Compared to the crime rate, trial filings represent a vastly reduced number of potential appeals, and should be more closely related to appeals. As described in Part VI, however, the

trial court filing statistics are not always available and their accuracy is sometimes uncertain. The trial filing statistics for the year before the appellate statistics are most closely related to appeals, although the correspondence is far from perfect because the time from trial court filing to trial and then to appellate court docketing is often considerably less than or more than a year.

3) Trials. As a general rule, criminal appeals are filed only by defendants who were tried and convicted; few guilty pleas are appealed in most states. Hence, one would expect statistics on the number of trials held to be closely related to appeals. Based on the limited number of states for which criminal trial data are available, however, this is not the case. Trials have been increasing at a slower rate than the number of appeals, and in the regression analysis trial statistics are much less closely related to appeals than either trial filing statistics or the FBI Crime Index.

Several reasons for this unexpected result can be advanced. Perhaps a larger portion of defendants tried are appealing because, for example, sentences are becoming longer or because more defendants are being convicted. Such trends, though, cannot conceivably account for much of the increased ratio of appeals to trials. A second possible cause is that an increasing portion of the appeals come from other than trial judgments--from guilty pleas, rulings on preliminary motions (such as motions to suppress evidence), and post-conviction hearing orders. Little information is available on this point. Equally likely, however, the quality of trial statistics may be so poor that they do not even approximately reflect the number of trials (see Part VI). Whatever the

reason for the weak relationship between criminal trials and appeals, the number of trials was deleted from the analysis because it did not contribute to the explanation of appellate volume. Also, including it would have reduced the sample size because statistics on the number of trials are missing for many states.

4) Trial Judges. The number of general jurisdiction trial judges was entered as a variable because several appellate clerks interviewed said that their caseloads went up when the trial courts were enlarged. More trial judges mean more cases decided and, thus, more cases eligible for appeal. The trial judge variable, therefore, is largely a surrogate measure of the output of trial courts; it is used in the absence of reliable statistics on the number of trials or the number of convictions. A less plausible hypothesis is that new trial judges are prone to make errors that lead to appeals.

(A few court personnel interviewed suggested that the number of attorneys also affects appellate volume, but we were unable to obtain adequate attorney data to explore this contention.)

5) Prison Commitments. Prison commitment is the next stage in the criminal case process for which comparable nationwide data are available. Convicted defendants, it is assumed, are far more likely to appeal if they receive prison sentences--that is, sentences longer than one year--because they stand to gain more by winning an appeal. Defendants have little to gain if winning does not reduce their imprisonment time. When a sentence is shorter than the time required for an appellate decision, a defendant in jail pending appeal can get little relief by appealing. Defendants sentenced to prison, as a result, comprise the great majority of potential criminal appellants.

This analysis is incomplete on several accounts, however. Some defendants receiving short jail sentences, or even probation, may appeal to remove the convictions from their records. When a defendant is on bail pending appeal, no matter how long the appellate process takes, victory on appeal can affect the time spent incarcerated. Moreover, some defendants given bail may appeal simply to delay their entry into jail. Unfortunately, there is little information about how many defendants are on bail pending appeal. Even the appellate court clerks interviewed usually had little knowledge of this issue; most, however, said they believed that defendants are seldom on bail pending appeal, although in a few states up to a third or a half may be on bail. (Along this same line, the appellate court clerks almost uniformly said that only about one or two percent of the criminal appeals are brought by the prosecution. Hence, prosecution appeals, which are included in the criminal appeals statistics in this study, cannot have much impact.)

Regardless of these issues, it is important to note that the relationship between convictions and appeals is watered down greatly because the overwhelming majority of prisoners in most states plead guilty and rarely appeal.

6) Appellate Court Backlog. As described in Part IV, appellate court delay is measured by a "backlog ratio"--the number of appeals pending at the end of the year divided by the number disposed in the same year. The expected impact of appellate delay is the opposite of the impact of prison commitments. With more delay, fewer defendants in prison can gain by appealing. If, for example, an appellate court increases case processing time from 12 months to 18 months, defendants

sentenced to prison for 12 to 18 months now have less incentive to appeal. On the other hand defendants on bail have a longer reprieve when delays are longer.

7) Intermediate Appellate Court. An argument often made against intermediate courts is that they attract more appeals, for example, by reducing delay. The backlog ratio variable provides an opportunity to test this impact. Other reasons advanced are: a) that the intermediate court, if it sits in several locations around the state, will make appeals more convenient, and b) that the new court may review cases more thoroughly, giving appellants more hope of success. The regression analysis showed that the presence of an intermediate appellate court contributed substantially to the volume of appeals. This impact was reduced only slightly when the backlog ratio was entered as a variable, suggesting that one or both of the last two arguments are important.

8) Sentence Appeals. Appellate courts in most states rarely review sentence length. As discussed in Part X, however, courts in 11 of the 38 states studied conduct broader sentence review and laws in 7 of the 38 states have established sentence review outside the regular appellate process. Some argue that appellate and sentence review attracts appeals by providing opportunities for success in what are otherwise hopeless cases. A counter argument is that defendants who want to appeal generally can find some issue to raise; thus, if they believe their sentences are too high, they will appeal even if sentence review is not available. On the other side of the coin, sentence review outside the regular appellate process (generally by a panel of trial judges) may well divert cases from the appellate courts.

The two types of sentence review were entered into the analysis as separate dummy variables. Appellate court sentence review was found to have virtually no impact on appeals. Non-appellate sentence review showed the expected negative relationship. These results must be viewed with caution because they are dominated by a very few states that changed their sentence review systems during the period of the research. As discussed in Part X, only two states adopted appellate sentence review and two non-appellate review. The results, therefore show the impact on appeals in these few states.

9) New Criminal Code and New Rules of Procedure. New criminal codes and new rules of criminal procedure may increase appellate volume because they create new issues of legal interpretation. The new issues, however, may simply be added to appeals that would have been filed anyway. In any event, the enactment of new criminal codes appears to have little or no impact; and new rules of procedure if anything decreases the volume of criminal appeals. In the analysis it was assumed that the impact of these changes, if any, would occur in the four years following the new laws.

10) Appellate Procedure. For several decades states have been simplifying appellate procedure, especially by reducing the expense and time required to prepare records and briefs. Three aspects of appellate procedure were entered into the analysis as dummy variables: (1) whether the attorneys must prepare a narrative abbreviation of the record, a time consuming process, (2) whether the record must be printed, and (3) whether the briefs must be printed. Another dummy variable marked the issuing of new rules of appellate procedure. Because defendants

generally do not pay for their appeals, however, economic concerns probably do not influence their decisions whether to appeal. Indeed, none of the four variables are related to the volume of appeals.

d) Variables in the Civil Analysis

The model used to analyze civil appeals is very similar to the criminal appeals model, although the specific factors differ. First, it is assumed that civil appeals are fueled by social trends and events that lead to litigation. Second, it is assumed that parties losing at the trial level appeal only when economic realities permit; unlike criminal defendants, the civil litigant (or his lawyer in a contingent fee case) must bear the cost of litigation. The variables used in the analysis of civil appeals are:

1) Real income. Real personal income is used as a measure of economic activity, a fuel that can create disputes and hence possibly appeals. The more economic activity, the greater the probability of disputes. More construction, for example, provides more opportunities for construction contract disputes. More and longer vacation trips mean more chances for automobile accidents. The time lag between these events and resulting appeals is substantial; analysis of the relationship between civil appeals filed and real personal income in the years preceding the appeals showed positive relationship with real income of four years prior. This relationship disappeared, however, when more immediate variables, especially trial court filings, were entered into the regression.

2) Trial court civil filings. Trial court civil filings are defined as complaints filed in ordinary civil litigation (mainly tort and

contract cases) and divorce cases. These statistics, like the criminal trial court statistics, are of mixed quality. The trial court cases most related to civil appeals are those from the year preceding the appeals, although filings two years earlier are related almost as strongly. That is, on the average, the time from trial court filing to appellate docketing is approximately one or two years, although this time probably varies greatly between jurisdictions.

Trial court filings are related to appeals for the obvious reason that most appeals must have originated as trial filings. (Exceptions to these rules included appeals from administrative agencies and civil case types, such as probate and juvenile, not included in the trial court caseload measure). One cannot assume a strong relationship between trial court filings and appellate court filings because few trial court actually reach the decision stage and become eligible for appeal. In the end, however, the trial court filings proved to be the most important variable in the regression analysis of civil appeals.

3) Trial Court Dollar Jurisdictional Limit. The dollar jurisdiction limit is the largest amount in controversy defining the upper limit of the state's limited jurisdiction or small claims courts. Because cases in limited jurisdiction or small claims courts are almost always appealed within the trial court system before going to the appellate courts, the higher the dollar limit, the fewer appellate court filings expected. On the other hand, one would expect such jurisdictional changes to be reflected in the trial court filing statistics, and that variable should absorb the relationship between dollar limits and appeals. This happened to only a limited degree,

however, and there remained a strong negative relationship between dollar limits and civil appellate volume.

4) Trials. The trial statistics for civil cases involve the same problems as those discussed above with respect to criminal trials; the data are unreliable, and there was virtually no relationship between civil appellate volume and number of civil trials reported.

5) Number of Trial Judges. The number of trial judges, as in the criminal appeals analysis, measures the output of trial courts. This variable shows a close relationship with the number of appeals.

6) Appellate Court Backlog. Contrary arguments can be made concerning the relationship between appellate delay and civil appeals. On the one hand, some litigants may not bother to appeal if relief can not come for many months. On the other hand, some litigants may appeal because they wish to delay the operation of the trial court decision; the longer the delay, the greater the temptation to use appeals as a dilatory tactic. The regression analysis found that there is virtually no relationship between civil appellate volume and delay, as measured by the ratio of pending cases to dispositions.

7) Intermediate Courts. Arguments concerning the impact of intermediate courts on civil filings are similar to those made about their effect on criminal filings. The first concerns the impact of backlog and the considerations discussed in the preceding paragraph. The backlog ratio, however, showed no relationship to the number of appeals even though the backlog ratio itself is generally reduced when intermediate courts are created. The other arguments concern the easier physical access to the courts and the possibility of more thorough

consideration of cases. For whatever reason, the relationship between civil appellate volume and intermediate courts is substantial, suggesting that intermediate courts do attract more appeals.

8) Interest Rate Differential. When losing litigants appeal monetary judgments, they must pay interest at a rate prescribed by statute. Although virtually all states have raised the rate in the past few years, there is often a substantial gap between the statutory rate and market rates. The interest rate differential is the difference between the average statutory interest rate each year in a state and the average yearly rate on three month U.S. Treasury Bills. Although the size of this differential varies substantially, in the regression analysis it showed no significant relationship to the volume of civil appeals.

9) Prehearing Settlement Conferences. Several courts initiated prehearing settlement conferences during the past decade to reduce appellate workloads. The conferences are attended by the opposing attorneys and usually are presided over by a judge from the appellate court. There has been considerable debate about the effectiveness of this procedure; the most discussed issue, which is not addressed here, is whether they actually lead to more settlements than would be reached without them.

An equally important question is whether the conferences attract appeals. Some parties who lose in the trial court may appeal just to take advantage of the appellate court's mediation services. Even a modest increase in civil appeals would counter any gains derived from settling more cases. The regression analysis did show a moderate

increase in civil appeals when appellate courts used settlement conferences.

10) New Rules of Procedure. The considerations with respect to new civil rules of procedure are the same as those discussed earlier in the section on new criminal rules. There was no association between new rules and civil appellate volume.

11) Appellate Procedure. Modifications of appellate procedure made in recent years have reduced expense and inconvenience, especially by eliminating narrative records and requirements that briefs and records be printed. Although one might expect such changes to attract civil appeals, the research findings suggest that they have had very little if any impact.

e) Regression Analysis Model

The factors affecting caseloads were analyzed using regression techniques common to econometric analysis. As is the usual practice, the variables that reflect the size of states are expressed in per capita terms. These variables include the case filings, number of judgeships, and demographic statistics; variables that do not reflect state size, such as trial court jurisdictional limits, are not converted to per capita variables. The reasons for using per capita variables are 1) to help prevent between-state differences from dominating the analysis (a problem discussed below) and 2) to mitigate against problems of heteroscedasticity--that is, domination of results by states at one end of the regression line because variance is greater (e.g., variance in caseload filings in small states is larger than that in large states).

The basic regression model is an ordinary linear least-square regression with fixed effects added. The fixed effects model (also known as the Least Squares Dummy Variables technique) uses dummy variables created for each state. The coefficient associated with each state dummy variable is an intercept term different for each particular state. The value of this intercept is an estimate of the influence of the specific factors ("fixed effects") that are unique to a state and that could affect appellate court caseloads in that state. Omission of these fixed effects, if they are significant, will cause the estimates of the other variables included in the model to be biased since their effects will be confounded with the fixed effects. The differences between states in caseload volume and demograph measures (even when expressed in per capita terms) are much greater than the differences within a state from year to year. Hence, without the state dummy variables, the analysis would be dominated by the between-state variances and the time series data would have little impact on the results. Thus the state dummy variables are control variables, which are included to obtain more accurate estimates of the influence of the variables under study. The price paid for using state dummy variables, of course, is that the degrees of freedom are reduced by the number of variables and, hence, the standard error is larger and the results less precise. The analysis showed that the state dummy variables as a group are highly significant, with F values of 128 in the civil appeals analysis and 66 in the criminal appeals analysis, both significant at the .0001 level. Thus, important differences between states cannot be accounted for by the other variables in the regression analysis.

Pooling cross section and time series data is the only way to control for fixed effects and the Least Squares Dummy Variable technique shows excellent statistical properties. (See Mundlak, "On the Pooling of Time Series and Cross Section Data," Econometrica, 46 (January 1978): 44-56, and Johnson and Lyon, "Experimental Evidence on Combining Cross Section and Time Series Information," Review of Economics and Statistics, 55 (November 1973): 465-474.) In addition, pooling time series and cross section data creates a large data base on which the analysis can be performed. Like other cross section analyses (comparisons between states) it is assumed that the coefficients for each variable are the same from state to state. And like other time series analyses, it is assumed that the coefficients do not vary from year to year. In addition, it is assumed that there are little or no fixed effects for the years, since the model does not include year dummy variables in the same manner as state dummy variables. There is no reason to suspect that factors associated with the individual years, not accounted for in the independent variables, affect appellate volume (the state effects, however, are clearly anticipated).

In terms familiar to sociologists and psychologists the regression analysis model is an interrupted time series with nonequivalent no-treatment control groups, a powerful type of quasi-experimental analysis. (See Cook and Campbell, Quasi-Experimentation, Design and Analysis Issues for Field Settings, Chicago: Rand McNally, 1979, pp. 214-218.) Campbell and Stanley call this the "multiple time series design" and state that it is "an excellent quasi-experimental design, perhaps the best of the more feasible designs." (Campbell and Stanley,

Experimental and Quasi-Experimental Designs for Research, Chicago: Rand McNally, 1967, pp. 55-57.) Pure experimental analysis, it should be noted, is not feasible in the present research because the states and the courts would not permit the required randomization. Also, the cost of pure experimental research is so great that very few changes could be studied given the resources available.

All analyses used the Statistical Analysis System (SAS Institute, Cary, N.C.) on an IBM 370 computer at the College of William and Mary. In particular, the regression analyses were generally the Proc Reg program. Collinearity and outlier diagnostics available with Proc Reg were used. No collinearity problems were discovered in the analyses reported here (although collinearity was a major problem when selecting which lag to use for independent variables, for instance the number of civil appeals in the year before or two years before).

The outlier analysis uncovered major problems in Alaska (criminal only) and the District of Columbia. In these states exceedingly high filing figures for specific years caused the Studentized Residuals to fluctuate greatly, reaching well above significant levels. (The state dummy variables compensate for the fact that appeals per capita in some states are consistently higher than in others, but not for values that are extreme in individual years after controlling for the impact of the independent variables.) In Alaska the main problem is unusually high numbers of criminal appeals in 1977 and 1982, the latter apparently due to a new determinant sentencing law. In the District of Columbia there were unexplained leaps in criminal appeals in 1976 and 1980-82, and in civil appeals in 1977, 1981, and 1982. The growth in appeals in these

years did not match comparable changes in the independent variables that are generally associated with increased appeals. Therefore, these states were left out of the analysis. If they were included in the criminal appeals analysis, real income would become an important variable and the crime rate would diminish in importance, reducing the standardized coefficient by almost half. In the civil appeals analysis, with the District of Columbia included, the trial court dollar limitation would change from a standardized estimate of $-.37$ to $-.28$. There are no other important changes in either the civil or criminal analysis resulting from deletion of these states.

f) Results of the Regression Analysis

Tables If through Ii display the basic findings. In all, it is not an exaggeration to say that appeals are caused largely by trial judges; the number of trial judges shows a strong relationship to the number of appeals, presumably because more trial judges mean more cases decided. The analysis also shows that for both criminal and civil appeals there is at least one important variable associated with the early stages of a case. On the criminal side, this variable is the FBI Crime Index, which dominates the number of criminal trial court filings as a measure of initial input. On the civil side, the variable is the number of trial court filings, along with the trial court dollar jurisdictional limits.

The statistic used to assess the importance of variables is the standardized parameter estimate, or beta weight. Standardizing the variables controls for the differences in measurement units that hinders comparison of the regular parameter estimates. Standardized estimates, however, do not give absolute measures of the importance of individual

variables or of groups of variables in the regression model used. The practical import is that we cannot tell how much of the R-square is accounted for by the state dummies, required in the fixed effects model, or by the independent variables of interest. The total R-square, which is very high for these regressions, is partly accounted for by the state dummy variables and partly by the remaining variables. Without the state dummies, the R-square is $.64$ in the regression comparable to Table If for criminal cases and $.54$ in the regression comparable to Table Ii for civil cases. The R-square for the state dummies alone is $.71$ and $.69$ for the two. How much of the overlap is accounted for by each type of variable is not known.

1) Criminal Appeals. The results of the analysis of criminal appeals is contained in Tables If to Ih, which show the impact of different groups of variables. Table Ig shows the results of the regression analysis using all variables (dummy variables not significant at the $.10$ level are not reported). The most important variables, judging by the standardized estimates, appear to be the crime rate, the number of trial judges, and the intermediate court percentage. Real income, trial court filings, and the backlog ratio appear to have virtually no relationship to appeals. Prison commitments, new trial court rules, and non-appellate sentence review are significant at the $.05$ level with standardized estimates of only $.10$ to $.14$. The analysis is hampered, however, by the low sample size (260) which is due to missing data for three variables: trial court filings, available for only 31 states; the backlog ratio, available for 27; and prison commitments, available for only 1972-1981. The regression without them, in Table If,

Table If
Regression Analysis of Factors Affecting Criminal Appeals I

| | <u>T</u> | <u>Prob.</u> | <u>Standardized Estimate</u> | <u>Parameter Estimate</u> | <u>Standard Error</u> |
|---|----------|--------------|------------------------------|---------------------------|-----------------------|
| Real Income (RINCOMP)* | -.02 | .98 | .00 | -.023 | 1.12 |
| FBI Crime Index (FBIP1)* | 12.91 | .0001 | .48 | .279 | .022 |
| Number of Trial Judgeships (TRIALJP)* | 4.90 | .0001 | .53 | 4.90 | 1.00 |
| Intermediate Court Percentage (IACPCTKR) | 3.36 | .001 | .24 | .471 | .140 |
| Docketing time (DK1) (0=notice of appeal) | -.93 | .35 | -.06 | 11.0 | 11.8 |
| Sentence Review by Appellate Courts (C) (0=sentence review) | .42 | .80 | .06 | 13.6 | 16.9 |
| Sentence Review Elsewhere (D) (0=sentence review) | 2.95 | .003 | .19 | 44.7 | 15.2 |
| Record Condensing (E) (0=old method) | -.40 | .69 | -.01 | -3.64 | 9.05 |
| Record Duplication (F) (0=old method) | -.15 | .88 | -.01 | -1.76 | 11.7 |
| Changes in Brief Duplication (I) (0=old method) | -.33 | .74 | -.01 | -3.43 | 10.4 |
| New Appellate Rules (G1) (0=new rules) | .87 | .38 | .02 | 4.56 | 5.24 |
| New Trial Court Rules (K1) (0=new rules) | 2.78 | .006 | .06 | 14.8 | 5.34 |
| Changes in Trial Court Structure (P1) (0=changed) | .63 | .52 | .01 | 4.04 | 6.37 |
| Changes in Criminal Appellate Jurisdiction (M) (0=jurisdiction increased) | -.59 | .55 | -.02 | -7.57 | 12.8 |
| New Criminal Code (J1) (0=new code) | 1.25 | .21 | .03 | 5.97 | 4.77 |

*These variables and criminal appeals are per capita variables.

(430 sample size; fixed effects included; R-square = .88)

The states included are those with data on criminal appeals filed. See Table IIIb. D.C. and Alaska are excluded.

Table Ig
Regression Analysis of Factors Affecting Criminal Appeals II

| | <u>T</u> | <u>Prob.</u> | <u>Standardized Estimate</u> | <u>Parameter Estimate</u> | <u>Standard Error</u> |
|--|----------|--------------|------------------------------|---------------------------|-----------------------|
| Real Income (RINCOMP)* | -.93 | .35 | .09 | -1.54 | 1.66 |
| Trial Court Filings (FIKRP1)* | .74 | .46 | .07 | .004 | .005 |
| Prison Commitments (TOTCOMP)* | 2.30 | .02 | .12 | .052 | .023 |
| FBI Crime Index (FBIP1)* | 6.48 | .0001 | .41 | .251 | .039 |
| Trial Judgeships (TRIALJP)* | 1.93 | .05 | .32 | 3.00 | 1.55 |
| Backlog Ratio (BKLOGKR) | 1.13 | .27 | .04 | 8.17 | 7.40 |
| Intermediate Court Percentage (IACPCTKR) | 2.76 | .006 | .28 | .548 | .199 |
| New Trial Court Rules (K1) | 3.40 | .001 | .10 | 23.2 | 6.8 |
| Other Sentence Review (O) | 2.21 | .03 | .14 | 39.9 | 18.0 |

*These variables and criminal appeals are per capita variables.

(260 sample size; dummy variables and fixed effects included; R square = .89; dummy variables are not reported if not significant at the .10 level.)

The states included are the 27 with data on both the backlog ratio and trial court criminal filings, as indicated in Tables IIIb and IVb. 1982 is not included because data for prison commitments is not available. D.C. and Alaska are excluded.

Table Ih

Regression Analysis of Factors Affecting Criminal Appeals III

| | <u>T</u> | <u>Prob.</u> | <u>Standardized Estimate</u> | <u>Parameter Estimate</u> | <u>Standard Error</u> |
|--|----------|--------------|------------------------------|---------------------------|-----------------------|
| Real Income (RINCOMP)* | 1.43 | .15 | .14 | 2.49 | 1.73 |
| Trial Court Filings (FIKRP1)* | 2.47 | .01 | .24 | .013 | .005 |
| Prison Commitments (TOTCOMP)* | 5.19 | .0001 | .29 | .124 | .023 |
| Backlog Ratio (BKLOGKR) | 2.28 | .02 | .09 | 18.5 | 8.10 |
| Intermediate Court Percentage (IACPCTKR) | 4.24 | .0001 | .46 | .909 | .215 |

*These variables and criminal appeals are per capita variables.

(260 sample size; D.C. and Alaska excluded; fixed effects and dummy variables included but not reported; R-square = .86)

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Table Ii

Regression Analysis of Factors Affecting Civil Appeals

| | <u>T</u> | <u>Prob.</u> | <u>Standardized Estimate</u> | <u>Parameter Estimate</u> | <u>Standard Error</u> |
|--|----------|--------------|------------------------------|---------------------------|-----------------------|
| Trial Court Filings including domestic relations, prior year (FICDP1)* | 9.36 | .0001 | .59 | .0122 | .0013 |
| Trial Court Dollar Limit, two years prior (TRJLIM2) | -6.73 | .0001 | -.37 | -.0216 | .0032 |
| Number of Trial Court Judgeships (TRIALJP)* | 4.47 | .0001 | .47 | 5.85 | 1.31 |
| Real Income (RINCOMP)* | .96 | .34 | .05 | 1.20 | 1.23 |
| Intermediate Court Percentage (IACPCTCI) | 4.12 | .0001 | .24 | .727 | .176 |
| Backlog Ratio (BKLOGCI) | -- | NS | -- | -- | -- |
| Interest Differential (INTDIF2) | 1.23 | .22 | .02 | .122 | .099 |
| Prehearing Settlement Conference (PHSCD) (0=PHSC held) | -4.97 | .0001 | -.10 | -45.7 | 9.2 |
| Docketing time (DC1) (0=at notice of appeal) | -5.12 | .0001 | -.25 | -67.4 | 13.2 |
| Record Condensing (EE) (0=old method) | 1.41 | .16 | .05 | 17.6 | 12.5 |
| Record Duplication (FF) (0=old method) | .21 | .83 | .01 | 2.4 | 11.2 |
| Changes in Brief Duplication (II) (0=old method) | .31 | .75 | .01 | 3.6 | 11.5 |
| New Appellate Rules (GG1) (0=new rules) | -.80 | .42 | -.02 | -4.9 | 6.1 |
| New Trial Court Rules (KK1) (0=new rules) | .52 | .60 | .01 | 4.5 | 8.6 |
| Changes in Trial Court Structure (PP1) (0=change) | 2.13 | .03 | .04 | 14.6 | 6.8 |
| Changes in Civil Appellate Jurisdiction (MM) (0=jurisdiction added) | .68 | .50 | .02 | 15.2 | 22.3 |
| Changes in Content of Civil Trial Filings (QQ) (0=jurisdiction added) | 2.57 | .01 | .06 | 56.8 | 22.1 |

*These variables and civil appeals are per capita variables.

+The backlog ratio is not included in this regression; it is not significant when entered.

(363 Sample size; fixed effects included; R-square = .93)

States included are those with data on civil trial filings. See Table IVb. D.C. is excluded.

I-28

has a sample size of 430 covering 36 states, and it permits more exact analysis. The drawback, of course, is that the possible impact of the three deleted variables is not reflected, but only the prison commitment variable is significant at the .05 level, and its impact is only moderate. In all likelihood, however, the absence of the three variables is partly responsible for the large standardized estimate for crime rates and number of trial judges in Table If. (In a regression analysis, comparable to Table If, but adding prison commitments and thereby deleting several years from the analysis, the standardized estimate for the crime rate is .39, down from .48 in Table If; and the standardized estimate for the number of trial judgeships is .48, down from .53. The standardized estimate for prison commitments is .16.)

In any event, taking Tables If and Ig in conjunction, the relative importance of the variables is clear. The number of trial judges and the crime rate clearly dominate, followed by the intermediate court variable (the percentage of criminal appeals filed in the intermediate court). The non-appellate sentence review procedure is moderately associated with reduction in appeals. The only other significant, or even near significant, variable is the negative association between new trial court rules and appeals. The effect, with a standardized estimate of only .06, is not large however.

Table Ih is a regression analysis without the two dominant variables, crime rate and number of trial judgeships. All the variables presented in Table Ih, except real income, are significant to the .05 level. Trial court filings are moderately related to appeals, although with a lower standardized estimate than the crime rate, which also is a measure of the

origin of disputes that potentially can result in appeals. The crime rate, when entered, renders trial court filings not significant. Prison commitments, similarly, become more important (standardized estimate increases from .12 to .29) in the absence of the other indicator of trial court output, the number of trial judges.

2) Civil Appeals. The analysis of civil appeals is shown in Table Ii. Trial judgeships again are a major variable with a standardized estimate of .47. Trial court filings, unlike in the criminal appeals analysis, are very important, with a standardized estimate of .59. The trial court dollar jurisdictional limit, another measure of the input into the court system, is also important, with a -.37 standardized estimate. The percentage of cases in the intermediate court and the use of prehearing settlement conferences are highly significant, but with moderate standardized estimates of .24 and .10 respectively.

Table Ii also lists many variables that appear to have no impact on appeals. The backlog ratio was not included in the analysis because data for some states was missing. When included, though, it is far from significant. The interest rate differential shows a slight, but not significant, relationship to appeals. Finally, all variables pertaining to appellate court procedure or to new laws are far from significant.

3) Control Variables. Some of the dummy variables in Tables Ig and Ii should be explained here briefly, although they are discussed in detail later. The docketing time is the time the case is first counted, either when the notice of appeal arrives or later, generally when the record arrives. When counting civil cases, but not criminal cases, the time of docketing is a major factor because many cases are settled or

abandoned between the notice of appeal and receipt of the record. The variables pertaining to changes in appellate jurisdiction and changes in the content of court filings refer to jurisdictional changes (and at the trial level, changes in how cases are counted) for which data adjustments were not possible. These variables were used in only a few states (see Part XI), and they show little overall significance. Similarly, the variable for changes in trial court structure refers to trial court unification, although any major jurisdiction change is entered as another variable as well. Similar variables pertaining to criminal trial court jurisdiction and methods of counting criminal cases are not included in Table 1f because the analysis represented there does not include trial court filings. None of these variables are significant.

g) Impact of Future Changes

The discussion so far has been limited to the importance of the various factors in determining the volume of past filings. Another important topic is the potential impact when factors change in the future. These are quite different topics. The past importance is determined by 1) how closely the factor is related to appellate caseloads and 2) how much that factor has changed. A factor might have a powerful impact on appeals, but its importance is limited (and the standardized estimate low) because it varied little from year to year.

For purposes of predicting the impact of future changes in the factors, we must extract the first component, that is, the relation between changes in a factor and changes in filings. Two measures are used: the parameter estimate and the elasticity for the variable in the regression. These are shown in Tables 1j and 1k for the basic criminal

and civil appeals analyses, corresponding to the analyses in Tables 1f and 1i.

The parameter estimate is the absolute change in the dependent variable, appeals per capita, resulting from a unit change in the independent variable. It depends on the units of measurement used for the variables. As described in Part XII, appeals, trial court filings, and the number of judges are expressed in the number per million population. The FBI Crime Index is the number per 10,000 population. The intermediate court percentage is the percentage of appeals filed in the intermediate court and, therefore, varies between zero and 100. This variable is bimodal, however, with most values at zero or close to 100. The remaining variables in Tables 1j and 1k are dummy variables, with values of zero and one; the zero indicates the least common situation (e.g. presence of settlement conferences, docketing when the record is filed, new trial court rules, and changes in trial court structure).

The parameter allows one to estimate the impact of changes in the various factors. For every unit increase in the crime index per 10,000 persons, one can expect an increase in .28 appeals per million population. Or more simply, for every 1000 new crimes reported, one can expect about 3 new criminal appeals. Similarly, a hundred new civil trial court filings will lead to about one new appeal. For the dummy variables, the parameter estimates how many more or fewer appeals per million population have occurred, and presumably will occur, when the factor is changed. That is, a prehearing settlement conference can be expected to add 45 more civil appeals per million population, and new criminal trial court rules can be expected to reduce appeals by about 15 per million population.

Table Ij
Criminal Appeals
Parameters and Elasticities

| | Parameter | 90% Confidence Interval | Elasticity | 90% Confidence Interval |
|---|-----------|-------------------------------|------------|-------------------------------|
| FBI Crime Index | .28 | .24 to .32 | .84 | .72 to .96 |
| Number of Trial Judges | 4.9 | 3.2 to 6.6 | .91 | .61 to 1.21 |
| Intermediate Court Percentage | .47 | .24 to .70 | .11 | .05 to .17 |
| Sentence Review Outside Appellate Court | 45 | 20 to 70 | -- | -- |
| New Trial Court Rules | 15 | 6 to 24 | -- | -- |

Note--this table corresponds to Table If.

Table Ik
Civil Appeals
Parameters and Elasticities

| | Parameter | 90% Confidence Interval | Elasticity | 90% Confidence Interval |
|--|-----------|-------------------------------|------------|-------------------------------|
| Trial Court Filings | .012 | .010 to .014 | .76 | .63 to .88 |
| Trial Court Jurisdictional Limit | -.022 | -.017 to -.027 | -.18 | -.14 to -.22 |
| Number of Trial Judges | 5.9 | 3.8 to 8.0 | .59 | .37 to .80 |
| Intermediate Court Percentage | .73 | .44 to 1.02 | .12 | .07 to .17 |
| Prehearing Settlement Conference | -45 | -30 to -60 | -- | -- |
| Docketing Times | -67 | -45 to -89 | -- | -- |
| Change in Trial Court Structure | 15 | 4 to 26 | -- | -- |

Note--this table corresponds to Table Ii.

These estimates, of course, are far from exact, and the impact of a variable differs somewhat from state to state. The 90 percent confidence interval shown in Tables Ij and Ik indicates the likely range of the impacts. For some variables, most notably the crime rate, the range is limited and forecasts are likely to be fairly accurate. But for other variables, such as the number of trial judges, the impact, although usually great, varies substantially from state to state.

Another measure of impact is elasticity, or the percentage change in the dependent variables (appeals per million population) resulting from a one percent change in the independent variable. This measure is not affected by the measurement units, but it cannot be used with dummy variables. For the most part, the elasticities of the important factors vary between one half and one, indicating that particular percentage increase result in almost as much percentage growth in appeals. But the intermediate court percentages and the trial court jurisdictional limit have low elasticities which means that large changes are needed to result in noticeable changes in the number of appeals.

h) Representativeness of the Sample

A last important question is how well the states studied reflect the nation as a whole. The states were not selected randomly, but on the basis of data availability. Strictly speaking, the analysis here applies only to the states in the sample. We cannot make sure that there are no systematic relationships between the availability of data and the variables studied.

Some information on this point, however, was obtained by comparing the states in and outside the sample whenever statistics are available

Table Im

All Appeals

Comparison of States In and Outside the Sample, 1970-82

| States | <u>Mean</u> | | | <u>Per Capita Mean</u> | | | <u>Average Annual Growth</u> | | |
|-----------------------------------|------------------------------------|-------------------------------|-------------------------------------|------------------------------------|-------------------------------|-------------------------------------|------------------------------------|-------------------------------|---------------------------|
| | <u>1</u> States in Sample | <u>2</u> Outside Sample | <u>3</u> States All States | <u>4</u> States in Sample | <u>5</u> Outside Sample | <u>6</u> States All States | <u>7</u> States in Sample | <u>8</u> Outside Sample | <u>9</u> All States |
| Population | 4,484 | 3,449 | 4,271 | -- | -- | -- | 1.4% | 1.2% | 1.3% |
| Real Income | 172 | 114 | 160 | 37 | 33 | 36 | 2.5% | 2.9% | 2.6% |
| FBI Crime Rate (1970-1981) | 2,219 | 1,143 | 1,994 | 467 | 316 | 435 | 9.9% | 14.1% | 10.9% |
| Prison Commitments (1972-1981) | 2,739 | 2,859 | 2,760 | 590 | 722 | 613 | 7.9% | 7.6% | 7.8% |
| Trial Court Judges | 116 | 85 | 109 | 29 | 25 | 28 | 2.9% | 3.7% | 3.0% |
| Appellate Court Judges | 17 | 10 | 16 | 6 | 4 | 5 | 3.1% | 2.5% | 3.0% |

The 43 states in the sample are those with statistics for all appeals. See Table IVb. Units of measurement are explained in Part XII.

Table In
Criminal Appeals Analysis
Comparison of States In and Outside the Sample, 1970-82

| | <u>Mean</u> | | <u>Per Capita Mean</u> | | <u>Average Annual Growth</u> | |
|---------------------------------|------------------------------------|---|------------------------------------|---|------------------------------------|---|
| | <u>1</u> States in Sample | <u>2</u> States Outside Sample | <u>3</u> States in Sample | <u>4</u> States Outside Sample | <u>5</u> States in Sample | <u>6</u> States Outside Sample |
| Population | 3,890 | 5,535 | -- | -- | 1.5% | 1.1% |
| Real income | 148 | 200 | 37 | 34 | 2.5% | 2.7% |
| FBI Crime Rate (1971-81) | 1,960 | 2,262 | 466 | 345 | 9.6% | 13.6% |
| Prison Commitments (1972-81) | 2,371 | 3,898 | 586 | 671 | 8.0% | 7.3% |
| Trial Judges | 104 | 129 | 27 | 26 | 2.7% | 3.7% |
| Appellate Judges | 16 | 16 | 5 | 4 | 3.1% | 2.6% |

The states in the sample are those with statistics on criminal appeals as indicated in Table IIIb. The District of Columbia and Alaska are excluded. Units of measurement are explained in Part XII.

Table Io
Civil Appeals Analysis
Comparison of States in and Outside the Sample, 1970-82

| | <u>Mean</u> | | <u>Per Capita Mean</u> | | <u>Average Annual Growth</u> | |
|------------------|------------------------------------|---|------------------------------------|---|------------------------------------|---|
| | <u>1</u> States in Sample | <u>2</u> States Outside Sample | <u>3</u> States in Sample | <u>4</u> States Outside Sample | <u>5</u> States in Sample | <u>6</u> States Outside Sample |
| Population | 3,879 | 5,029 | -- | -- | 1.5% | 1.2% |
| Real Income | 148 | 183 | 37 | 35 | 2.8% | 2.5% |
| Trial Judges | 108 | 114 | 28 | 27 | 2.8% | 3.6% |
| Appellate Judges | 17 | 15 | 6 | 4 | 3.5% | 2.2% |

The 33 states in the sample are those with data on civil appeals and civil trial court filings. See Tables IIIb and VIa. The District of Columbia is excluded. Units of measurement are explained in Part XII.

nationwide. These results are shown in Tables Im, In, and Io for the total number of appeals (43 state sample), the analysis of criminal appeals (36 state sample), and the analysis of civil appeals (33 state sample).

The states with total filing data are somewhat larger, on the average, than states without appellate data--larger by roughly a quarter to a half on most variables listed in Table Im. The per capita variables, however, are quite similar, except that the states in the sample have a comparatively low number of prison commitments, and comparatively high crime rates.

Since the number of total appeals is used primarily to determine the growth rate of appeals, it is important to note that the growth rates of variables for states in the sample differ somewhat from other states. The major difference is that the crime rate and the number of trial court judges in the sample grew at a smaller pace. Since these variables are closely associated with the volume of appeals filed, the nationwide growth rate in appeals is probably higher than the 9 percent rate for the sample.

The states in the criminal appeals analysis tend to be smaller, by roughly a third, than the remaining states. (Total filing data, but not criminal filing data, are available for several large states: Florida, New York, Ohio, and Pennsylvania). The analysis, however, uses per capita variables which are similar, except that, again, prison commitments are comparatively low and crime rates comparatively high. The states in the civil analysis are also smaller on the average than other states, but the per capita variables are very close.

On the whole, then, the states studied are roughly representative of all states; although the differences are sufficiently large to require caution when applying the findings to other states.

III. Appellate Court Filings

A major endeavor in this research was to compile appellate filing statistics that are comparable from state to state and from year to year within states. The first requirement is a uniform definition of an appellate court filing: it is a direct appeal from a trial court or administrative agency. Further refinement of this definition requires considerable exploration of appellate court structure, caseload composition, and operations. These three topics are discussed in the following four sections, and the discussion concludes with a description of the estimations made to adjust misleading statistics and to fill in missing data elements.

a) Courts included

Appellate filings, for the purpose of this study, include filings in all appellate courts of a state. This presents no problems in the 19 states (including D.C.) without intermediate courts before 1983. In the remaining 32 states, the caseload measure includes initial appeals filed in both the supreme courts and intermediate courts. Only initial appeals are counted. The caseload measure excludes appeals that are filed in one appellate court after having been filed in another. For example, it does not include supreme court reviews of intermediate court decisions, regardless of whether they are petitions for review or mandatory appeals. Nor does it include cases transferred to one appellate court after being filed in, but not decided by, another appellate court. (In several states the supreme courts balance caseloads by transferring cases to the intermediate courts. Also, cases filed in the wrong court

The research was aimed at 34 specific areas that either pertained to independent variables or were known potential problems (e.g. jurisdictional changes). Because not all problems could be anticipated, changes in the rules and statutes pertaining to appellate courts made during the period of the study also were researched. For most states the published sources contained sufficient information on nearly all the specific areas, but for some states interviews supplied a substantial portion of the information.

c) Interviews

The literature search was supplemented by interviews with appellate court clerks and with state court administrative staff responsible for data collection. The findings from these interviews are discussed throughout this report. Staff were interviewed in almost all the states for which filing data was available. The main purpose of the interviews was to check the accuracy of the caseload statistics. The interviews also checked and supplemented the results of the literature search with respect to the independent variables. The questionnaire used in interviewing the appellate clerks is found at the end of this report; additional questions formulated after the review of the literature were included in almost all appellate clerk interviews. The interviews averaged about half an hour.

The interviews with administrative office staff were much shorter and were conducted without a formal questionnaire. The questions varied from state to state depending on the problems encountered when gathering the trial statistics; all, however, were asked whether there were problems that might make the statistics misleading.

annual reports themselves. Information about such problems was obtained from literature searches and from interviews with court officials, as described in the next two sections.

b) Literature Searches

A thorough study was made of the literature concerning the appellate systems in the 38 states for which appellate data was obtained. The purpose of this research, performed by the principal investigator and law student assistants, was: 1) to locate events that might have rendered the statistics misleading, and 2) to obtain information for the many independent variables, described in Parts VII to XII. The potential problems, which are numerous, are discussed throughout this report, but especially in Part III with respect to appellate court statistics definitions and adjustments, and in Part XIII, with respect to the problems in individual states. The literature search was comprehensive, based mainly on the following sources:

- narrative and statistical portions of state court annual reports and judicial council reports.
- annotated rules of appellate procedure.
- annotated statutes and constitutional provisions concerning appellate court jurisdiction, operations, and procedure.
- law review articles, state and local bar journals, and court administrative office newsletters.
- unpublished monographs.
- state criminal justice plans.

then, on corrections and additions submitted by state court officials upon review of the initial compilation.

2. Advance Report. This is a compilation, again by the National Center, of court statistics, including appellate filings, in 1981 and occasionally fiscal year 1982.

3. W. Kramer, Outline of Basic Appellate Court Structures and Procedures in the United States (1975, 1978, and 1983). These three books, published by West Publishing Co, are based on questionnaires answered by appellate court clerks in nearly all states. The volumes give filing statistics for 1974, 1976, 1977, 1981, and 1982, with varying degrees of completeness in the different states.

4. Criminal Justice Plans. Almost all states prepared criminal justice plans during the early and mid-1970's. Most contained lengthy sections that described the current status of the criminal justice system, and many presented considerable trial and appellate court statistics.

5. Reports and Law Review Articles. Appellate statistics are often found in special reports (generally unpublished) on the problems of particular appellate courts. Law review articles occasionally present statistics obtained from courts.

In all, therefore, the secondary sources provided checks for most of the appellate statistics and many of the trial statistics. The value of this check, however, is limited because the secondary sources typically derive their information from state court annual reports, which also were the major source of statistics compiled for this study. Hence, the secondary sources help little with problems that are not evident in the

court statistics. Statistics in court annual reports, it should be added, are quite often revised in later reports, although the changes are seldom substantial. The later versions were used in this research.

2. Unpublished Statistics. Whenever the appellate statistics in the annual reports are incomplete, unpublished information was sought from the court clerks. For the most part, unpublished statistics were used only to supplement the annual reports by obtaining data for missing years or for variables not found in the annual reports. In a few states, though, all the appellate statistics came directly from the clerk's office. Unpublished trial court statistics were also used in several states.

3. Count of Cases in Docket Books. The appellate filing statistics for six states were obtained partly (Alaska, Massachusetts, Nebraska) or completely (Connecticut, New Hampshire, Virginia) by counting cases in docket books.

The statistics compiled from these three sources were checked with statistics in several secondary sources. Whenever there was a conflict, considerable effort was made to determine whether the primary sources were incorrect and, if so, what implications that might have for the accuracy of other data elements. In rare instances the secondary sources were the only source of a particular statistic (see Part XIII). The secondary sources are:

1. State Court Caseload Statistics: Annual Report (1975-1977). These reports, prepared by the National Center for State Courts, are compilations of trial and appellate statistics from all states. The reports are based, initially, on statistics given in annual reports and,

II. SOURCES OF APPELLATE AND TRIAL COURT DATA

This part describes the data-gathering effort, the sources of caseload statistics, the sources of other information, including the dichotomous variables, and finally, potential problems in interpreting the statistics. Later parts will discuss in more detail the content of specific data types and problems encountered.

a) Sources of Statistics

The appellate and trial court statistics were gathered from three primary sources and then were checked against a wide variety of secondary sources. The state-by-state descriptions in Part XIII list the primary sources for each state. In order of frequency of use, the primary sources are:

1. State Court Annual Reports. These reports, issued by the state court administrative offices or judicial councils, are published annually in all but a few states. They are available for at least ten years in most states and consist largely of statistical compilations of greatly varying completeness. The statistics presented are based on information received from the various trial and appellate courts in the state. The initial data collection in appellate courts is almost always performed by staff in the clerk's office. In trial courts it is performed by either the clerk's office or a separate court administrator's office. Usually a specific member of the central state administrator's office is assigned to receive and compile statistics. To varying degrees, the central offices set uniform standards for data collection and audit the trial

generally are transferred automatically to the correct court.) Transfers are particularly numerous when intermediate courts are first created; failure to delete them from filing statistics greatly exaggerates the impact of intermediate courts on caseload volume.

In a few states, the supreme court filing statistics do not distinguish between criminal and civil appeals or between appeals and reviews of intermediate court decisions. In these states the intermediate court filings are considered the total filings for the state if they comprise at least 98 percent of all initial appeals.

The appellate filing statistics do not include appeals to general jurisdiction trial courts, which in almost all states hear appeals from some divisions within the court or from limited jurisdiction courts. In New Jersey and New York, however, the appellate divisions of the trial courts are regular intermediate courts manned by full-time appellate judges.

b) Types of cases

The great variety of case types hinder comparisons of appellate caseloads. We have tried to use a uniform measure: regular appeals from trial courts and administrative agencies, excluding discretionary writs and original jurisdiction cases. The following paragraphs expound on this definition, and Part XIII shows where statistics for specific states depart from the definition.

All regular appeals are included. The filings include all mandatory criminal and civil appeals from trial court and agency rulings, regardless of subject matter. The distinction between criminal and civil

appeals is generally clear-cut, with the few exceptions, such as juvenile delinquency cases, discussed below. Filings include appeals filed and later dismissed, which generally comprise a small portion of criminal cases and a sizeable portion of civil cases.

Discretionary appeals are excluded. Most appellate courts, even at the intermediate level, have discretionary jurisdiction in limited areas (generally interlocutory appeals or appeals involving small sums). The courts review these cases quickly and decide whether to dismiss them summarily or put them on the track for a "merits" decision. Only then does the court review the case fully. Typically, only a small portion (roughly ten percent) of discretionary writs are granted. Whenever possible, discretionary cases are not counted even if full review is granted. Several courts, however, count writs granted as regular filings, but such cases comprise only a very small percentage of total initial appeals. For a few courts, discretionary writs are counted as filings because they are not stated separately in the court statistics reports, but only if such cases comprise a small portion of the total caseload.

Virginia Supreme Court appeals are counted as regular appeals even though almost all are discretionary. Although the court's jurisdiction is discretionary, the review procedure is very similar to procedures in regular appeals: the court receives briefs, hears oral arguments, and considers the merits of the cases. If the court grants the appeal, the case is rebriefed, reargued, and decided with a published opinion.

Original writs filed directly are excluded. The caseload measure excludes original jurisdiction writs and prisoner petitions filed

initially in the appellate court. These cases, like petitions for appeal, generally involve much less work than regular appeals because the great majority are dismissed summarily.

On the other hand, original jurisdiction cases and prisoner petitions are included in the filing statistics if they were filed and decided in the trial court before reaching the appellate court. Most appellate courts include these cases in their statistics for regular criminal appeals. If, however, these original jurisdiction appeals are screened and otherwise processed as discretionary appeals, they are considered discretionary cases and are not included in the filing statistics.

Agency appeals are included. The caseload measure includes appeals from administrative agencies, whether they are direct filings or appeals from trial court reviews of agency decisions. Agency appeals are counted as civil cases.

Agency appeal routes vary greatly among the states. An appellate court probably receives more agency cases if it, rather than the trial court, receives the initial appeals from the agency. Nevertheless, even in states where almost all agency appeals go directly to the appellate courts, they constitute less than a quarter of all civil appeals.

Agency appeal statistics were not available in 9 of the 32 states in the basic civil regression analyses (see Table Ii). In the remaining 23 states there was very little change in the regression analyses when agency appeals were excluded from civil appeals.

Sentence appeals to appellate courts are included. Sentence appeals, even if the only issue is the length of sentence, are counted as criminal appeals if filed in the same manner as ordinary criminal appeals. The

measure of criminal appeals, however, does not include sentence review by panels of trial judges. It also does not include sentence appeals in Maine, which go to a separate division of the Supreme Judicial Court, nor automatic review of certain sentences in Colorado.

Other Categories.

- Juvenile delinquency appeals are counted as civil appeals whenever possible because most courts include them in their civil appeals statistics. Less than two percent of appeals are juvenile delinquency cases.
- Appeals in post conviction writ cases are counted as criminal appeals.
- Cross appeals, reinstated appeals, and rehearing petitions are not counted separately from the original appeals except in a few states where this was not possible. In general, any motion or new filing in a case already docketed is not counted as an appeal.
- Cases consolidated after having been filed are counted as separate appeals. Cases consolidated beforehand are counted as one appeal.
- Requests for advisory opinions and certified questions from the federal courts are not counted as appeals whenever possible. These comprise less than one percent of the caseload of almost all courts that receive them. Certified questions from trial courts, however, are counted if they are mandatory appeals.
- Whenever possible, bar and judicial discipline cases, which also form a very small part of the appellate caseload, are not counted as appeals.

Table IIIa Appellate Case-Counting Procedures

| | State | Year used for Appellate Statistics | When Case is Counted+ | Notes |
|----|---------------|------------------------------------|-----------------------|---|
| 01 | Alabama | FY 9/30 | NOA | |
| 02 | Alaska | Calendar | NOA | |
| 03 | Arizona | Calendar | NOA* | *Rec. in civil cases. |
| 05 | California | FY 6/30 | Rec. | |
| 06 | Colorado | FY 6/30 | Rec. | |
| 07 | Connecticut | FY 6/30 | NOA* | *Changed from Rec. in Oct. 1974 for criminal cases and in Sept. 1975 for civil. |
| 08 | Delaware | FY 6/30 | NOA | |
| 09 | Dist. Col. | Calendar | NOA | |
| 12 | Hawaii | FY 6/30 | Rec. | |
| 13 | Idaho | Calendar | NOA | |
| 14 | Illinois | Calendar | NOA* | *Change from Rec. in July 1979. |
| 16 | Iowa | Calendar | NOA* | *Change from Rec. in civil cases in Jan. 1973. |
| 17 | Kansas | Calendar* | NOA | *FY 6/30 before 1979. |
| 18 | Kentucky | Calendar* | NOA* | *FY 6/30 before 1971; Cases counted when briefs arrive before 1979. |
| 19 | Louisiana | Calendar* | Rec. | *FY 6/30 before 1975. |
| 20 | Maine | Calendar | NOA* | *Change from Rec. in civil cases in Sept. 1980. |
| 21 | Maryland | FY 2/28 | Rec. | |
| 22 | Massachusetts | Calendar | Rec. | |
| 23 | Michigan | Calendar | NOA | |
| 24 | Minnesota | Calendar | NOA | |
| 25 | Mississippi | Calendar* | Rec. | *FY 6/30 before 1974. |
| 26 | Missouri | FY 6/30 | NOA | |
| 27 | Montana | Calendar | Rec. | |
| 28 | Nebraska | FY 8/31 | NOA | |
| 29 | Nevada | Calendar | Rec. | |
| 30 | New Hampshire | FY 6/30* | NOA* | *FY 7/31 before 1979; change from Rec. in July 1979. |
| 31 | New Jersey | FY 8/31 | NOA | |
| 32 | New Mexico | FY 6/30* | NOA | *Calendar before 1980. |
| 37 | Oklahoma | Calendar | Rec.* | *NOA for civil cases. |
| 38 | Oregon | Calendar | NOA | |
| 40 | Rhode Island | FY 9/30 | Rec. | |
| 43 | Tennessee | Calendar | Rec. | |
| 44 | Texas | Calendar | NOA* | *Rec. for civil; when briefs arrived for criminal until 9/81. |
| 45 | Utah | Calendar | NOA | |
| 46 | Vermont | FY 6/30 | NOA | |
| 47 | Virginia | Calendar | Rec.* | *When the petition to appeal arrives, which is after the record is filed. |
| 48 | Washington | Calendar | NOA | |
| 51 | Wyoming | Calendar | Rec. | |

+NOA means the case is counted soon after the notice of appeal is filed.
Rec. means that the case is filed when the record is received.

Table IIIb
Appellate Data Available

| State | Appellate Court Filings | | | Pending & Disposed Cases | |
|-------------------|-------------------------|-------|-------|--------------------------|------------------|
| | Criminal | Civil | Total | Total | Civil & Criminal |
| 01 Alabama | 71 | 71 | 71 | 72 ⁺ | + |
| 02 Alaska | 70 | 70 | 70 | 68 | * |
| 03 Arizona | 67 | 67 | 67 | 69 | 69 |
| 04 Arkansas | -- | -- | -- | -- | -- |
| 05 California | 67 | 67 | 67 | 67 | 67 |
| 06 Colorado | 72 | 72 | 72 | 67 | -- |
| 07 Connecticut | 67 | 67 | 67 | 67 | * |
| 08 Delaware | 67 | 67 | 67 | 67 | 67 |
| 09 Dist. of Col. | 73 | 73 | 73 | 72 | 72 |
| 10 Florida | -- | -- | 69 | -- | -- |
| 11 Georgia | -- | -- | -- | -- | -- |
| 12 Hawaii | 70 | 70 | 70 | 69 | 69 |
| 13 Idaho | 73 | 73 | 67 | 72 | 72 |
| 14 Illinois | 72 | 72 | 72 | 69 | 69 |
| 15 Indiana | -- | -- | -- | -- | -- |
| 16 Iowa | 70 | 73 | 73 | 71 | * |
| 17 Kansas | 73 | 73 | 73 | 71 | * |
| 18 Kentucky | 67 | 67 | 67 | 67 | * |
| 19 Louisiana | 67 | 67 | 67 | 67 ⁺ | + |
| 20 Maine | 73 | 73 | 73 | * | -- |
| 21 Maryland | 67 | 67 | 67 | -- | -- |
| 22 Massachusetts | 70 | 70 | 70 | -- | -- |
| 23 Michigan | 67 | -- | 67 | -- | -- |
| 24 Minnesota | 73 | 73 | 73 | -- | -- |
| 25 Mississippi | 73 | 73 | 70 | 72 | -- |
| 26 Missouri | 73 | 73 | 69 | 72 | * |
| 27 Montana | 70 | 70 | 70 | -- | -- |
| 28 Nebraska | 67 | 67 | 67 | 67 | * |
| 29 Nevada | 70 | 70 | 70 | 69 | -- |
| 30 New Hampshire | 70 | 70 | 67 | 67 | -- |
| 31 New Jersey | 73 | 73 | 67 | 67 | -- |
| 32 New Mexico | 68 | 68 | 68 | 67 | -- |
| 33 New York | -- | -- | 67 | -- | -- |
| 34 North Carolina | -- | -- | -- | -- | -- |
| 35 North Dakota | -- | -- | -- | -- | -- |
| 36 Ohio | -- | -- | 69 | -- | -- |
| 37 Oklahoma | 73 | 69 | 73 | 69 ⁺ | + |
| 38 Oregon | 73 | 73 | 67 | 67 | -- |
| 39 Pennsylvania | -- | -- | 72 | -- | -- |
| 40 Rhode Island | 70 | 70 | 70 | 69 | -- |
| 41 South Carolina | -- | -- | -- | -- | -- |
| 42 South Dakota | -- | -- | 71 | -- | -- |

Appellate Court Filings

Pending & Disposed Cases

| State | Appellate Court Filings | | | Pending & Disposed Cases | |
|------------------|-------------------------|-------|-------|--------------------------|------------------|
| | Criminal | Civil | Total | Total | Civil & Criminal |
| 43 Tennessee | 68 | 68 | 68 | -- | -- |
| 44 Texas | 67 | 67 | 67 | 67 | 67 |
| 45 Utah | 73 | 73 | 73 | * | -- |
| 46 Vermont | 69 | 69 | 69 | 69 | -- |
| 47 Virginia | 73 | 73 | 73 | 70 | -- |
| 48 Washington | 67 | 67 | 67 | 67 | * |
| 49 West Virginia | -- | -- | -- | -- | -- |
| 50 Wisconsin | -- | -- | -- | -- | -- |
| 51 Wyoming | 67 | 67 | 67 | 69 | * |
| TOTAL STATES | 38 | 37 | 43 | 32 | 8 |
| STATES TO 1967 | 12 | 11 | 17 | | |
| STATES TO 1970 | 11 | 11 | 13 | | |
| STATES TO 1973 | 15 | 15 | 13 | | |
| TOTAL SAMPLE | 492 | 477 | | | |

*Partial

+Civil only in Louisiana and Oklahoma; criminal only in Alabama before 1978.

Departures from these rules were made occasionally when the available statistics did not permit the categorizations described. These departures, which involve very small percentages of the total appellate caseloads, are described in Table IVa and Part XIII. The categorization remains the same within a given state, following the principle that statistics should be as comparable as possible from year to year, but permits limited differences between states.

c) Court year

Most appellate courts present statistics for calendar years, although 14 of the 38 states studied use a fiscal year (see Table IIIa). Moreover, six courts changed their fiscal year during the period of the study. Statistics are presented for the year in which the fiscal year ends. (An exception is Maryland. Its fiscal year ends in February--the only fiscal year ending before midyear--but is counted for the prior year ending December 31.) Whenever possible, the variables compiled for the research are in terms of the individual court's fiscal year. (See the description of dichotomous variables in Appendix XI, for example.) The demographic variables such as state population and personal income are according to calendar year.

d) When cases are counted

A major problem is that courts count cases at different points in the progress of an appeal. Filing statistics are affected greatly by when appeals are "docketed", that is, entered into the court's records (typically a docket book or a computer record). The earlier cases are

docketed, the higher the number of filings. Most courts docket cases early in the life of an appeal. In a few states the appellant sends the notice of appeal directly to the appellate court and the case is docketed at the very beginning of the appeal. More often, the notice of appeal is filed with the trial court clerk who is required to send a copy within a few days to the appellate court, which then docket the case.

In other states, though, the appeal is not docketed until the record arrives, several months after the notice of appeal is filed. During this time the trial court reporter prepares the transcript of testimony and the trial court clerk compiles the papers in the case file and transmits them and the transcript to the appellate court. The court usually still has not received a copy of the notice of appeal, and may first learn of the case only when the record arrives.

Thirteen of the 38 states in the study count cases when the record arrives. In addition, until two years ago, criminal appeals in Texas were counted when the briefs arrived. The Kentucky appellate courts count appeals when the appellant's brief arrives (but for the last six years Kentucky is considered to have counted cases when the notice of appeal arrived because the courts count cases which are dismissed because no briefs were submitted as filings). Besides Texas and Kentucky, appellate courts in five states changed their methods of counting appeals during the period under study. Table IIIa lists the docketing procedure used in each state and shows which states changed their procedures.

The docketing procedure affects the statistics because many cases are dropped during the early stages of appeal. Courts that count cases when the record is filed necessarily exclude appeals that are dropped before

the record is prepared; hence they tend to report lower filing statistics. This affects civil filings especially because many appellants settle or abandon appeals before incurring the expense of transcript production. A few criminal cases also are abandoned early in the appellate process.

A dummy variable was used to indicate, by year, whether states docket cases when the notice of appeal is filed. The dummy variable, of course, also indicates when a court changed its docketing procedure. Hence, the caseloads of courts that docket cases late are adjusted upward in the regression analysis of caseload trends. This adjustment, however, is not exact because it treats all courts with later docketing times uniformly. Actually, the time required to prepare the record varies substantially from state to state, and varies somewhat from year to year within states. Also, cases were not counted in two states until the briefing stage, which occurs well after the record is prepared. Information about the exact times, however, is too incomplete to permit more precise adjustments.

A further problem is that when courts change from docketing at a later stage to docketing when the notice of appeal arrives (no court changed the other way), there is a great influx of filings. Cases are counted under both the old and new systems for the several months required to complete the filing of the earlier appeals. Even more dramatic, the rules may be changed to require that all cases pending, but without a record filed, be docketed immediately when the new docketing procedure goes into effect. Therefore, appellate statistics during the change of docketing procedures are inflated considerably. Statistics for such years were adjusted, as discussed below.

e) Estimations

The statistics, including appellate filing statistics, occasionally are estimated when the published statistics are misleading or when statistics are not available. All such estimations are explained in the state-by-state descriptions in Part XIII. Estimations are made more cautiously for appellate filing data than for other variables. Only scattered points, where data is missing for one year (or, rarely, two or three years) are estimated from series of yearly statistics. Almost all estimations are made for one of the following reasons:

Change in filing procedure. Appellate filing data is adjusted for years when the docketing procedure changes, generally by taking the average of the filings in the prior and following years. Similarly, adjustments were made for years when the time limit for filing the notice of appeal changed. If the length of time from trial decision to filing the notice of appeal decreases, an influx of appeals follows because appellants usually wait until near the end of the time limit to file. Likewise, appellate statistics understate the volume of appeals whenever the time for filing the notice of appeal is lengthened. Adjustments were made in about six states for such changes, but only after consulting with the court clerks concerning whether the attorneys actually filed near the end of the period (see Part XIII).

Changes in appellate court jurisdiction. Jurisdictional changes can affect a court's caseload and render filing trends misleading, especially in comparison with other states. Jurisdictional statutes in each state were searched for changes, and the findings, described in Part XIII, were double checked in the interviews with appellate court clerks. With few

exceptions, it was possible to adjust the filing statistics to compensate for the changes, usually by excluding categories of cases (typically agency appeals or appeals from limited jurisdiction trial courts) which were added to a court's jurisdiction. As shown in Table XIc, adjustments were not possible in four states and the changes are indicated by dummy variables.

Missing data adjustments. Adjustments were made for missing data in a small percentage of the appellate filing statistics. The adjustments were almost always made on the basis of partial data available. Estimates were made most commonly when the numbers of civil and criminal appeals were not available, but the number of total appeals was. The proportion of criminal and civil appeals in other years was applied to the total filing figures for the year in question to approximate the civil/criminal breakdown. In most states, this adjustment was limited to one year, usually the first in the data series. Filings also were estimated by using information about subparts of the caseload which, judging from data for other years, are closely related to caseload components needed to compute total criminal or civil caseload. Examples of this procedure for Iowa and New Jersey can be found in Part XIII.

f) Conclusion

The goal for each state was to obtain separate criminal and civil appellate filing statistics for at least 10 years. This was accomplished in 38 states for criminal appeals and 37 states for civil appeals, as shown in Table IIb. In 22 states, filing statistics were obtained back to 1970, and in 11 back to 1967. The total number of appeals were obtained in 43 states.

IV. APPELLATE COURT BACKLOG RATIO

The backlog ratio is a measure of appellate court delay, which is calculated by dividing the number of appeals pending at the end of a year by the number disposed during the year. The result is a number, generally between 0.5 and 1.5, that approximates the length of time, in years, needed to dispose of the average case.

The ratio is used not as an absolute indication of appellate court delay, but as a comparison of the extent of delay from year to year and from court to court. Such a measure of delay is used regularly by the Second Circuit Court of Appeals (see United States Court for the Second Circuit, 1982, 4-5; it is called an "inventory control index"). A similar measure is advocated in Clark and Merryman, "Measuring the Duration of Judicial and Administrative Proceedings" 75 Michigan L. Rev. 89 (1976). The Clark and Merryman measure is the number of cases pending at the end of the year divided by the number of new filings in the year minus the increase (or plus the decrease) in pending cases.

The backlog ratio includes the pending and disposed cases for all appellate courts that handle an appreciable portion of the initial appeals in a given state. The ratio is obtained from the total number of pending and disposed appeals, except that separate ratios were compiled for criminal and civil cases in a few states where separate courts handle initial criminal and civil appeals. The backlog ratio for the same year as the appellate filings is entered in the regression analysis.

Appellants, however, are influenced by what they believe about delay, not necessarily by the actual delay in the particular year. Attorneys'

views may be shaped by delays experienced in the one or two years before filing. Perhaps their views also are shaped by estimates that differ from delay in recent years because, for example, needed judges were or were not added. In any event the regression analysis showed that the backlog ratio for the current year, for the year prior to the filing year in question, and for two years prior bore little relation to the volume of filings. A possible exception is that in civil cases the backlog two years prior to filings shows an almost significant negative relationship to appeals, while there is a slight, nonsignificant positive relationship between current year backlog ratio and appeals.

Plots IVa and IVb show the relationships of these backlog ratios to criminal and civil appeals. The outlying points to the far right are the Hawaii Supreme Court which had extreme delays before the creation of an intermediate court in 1980. Deleting Hawaii from the analysis does not affect the overall findings concerning the impact of the backlog ratio on appellate volume.

Delay was not measured directly by using statistics for the average time from filing to decision, partly because such statistics are not available for most courts and partly because the average time to decision can be a misleading measure of delay. It necessarily is based on cases decided in a particular year; hence, it pertains to appeals filed in the past year or two, and may not reflect a court's current operations. For example, when a court strives to reduce its backlog, the average time to decision usually increases because judges decide many long-delayed cases.

The backlog ratio, on the other hand, measures the delay at the time the appeal is filed. The ratio decreases when a court increases output

relative to the number of filings and changes in court operating conditions are reflected immediately. Nevertheless, several problems with the backlog ratio require discussion:

1) The ratio, unlike time to decision measures, includes all cases, even those not decided. This generates uncertainties that hinder comparisons between courts. The first is that the proportion of cases disposed without decision (i.e., dismissed) varies between courts and varies between criminal and civil cases. Because cases dismissed tend to be disposed sooner than those decided, an increase in the number of dismissals lowers the backlog ratio, even if the time required to decide cases is the same. This impact probably is not large, though, because the portion of appeals dismissed in the various states is roughly the same--about a quarter to a half of civil cases are disposed without decision after the notice of appeal is filed. (Trial court delay cannot be measured by the backlog ratio because the vast majority of cases filed are not decided by the courts.)

2) Different courts have somewhat different procedures for dismissing cases for lack of progress. Backlog ratios in courts which strive to dismiss cases as soon as it becomes apparent that the appellant will not pursue the case (for example, because the parties settled), are lower than in courts that permit large accumulations of "deadwood" on the docket. This probably does not render the backlog ratio misleading, though, because the latter courts generally have substantial delay problems in any event. The accumulation of deadwood indicates that the court monitors the attorneys' progress loosely, meaning either that a) the court permits delay by letting the attorneys and court reporters

control the pace of appeals, or, more likely, b) the court is so far behind that expediting brief and record production would increase the backlog of cases ready for argument rather than expedite decisions.

3) The third problem also results from the inclusion in the backlog ratio of both cases dismissed and decided. In more than a third of the 38 states in the analysis, cases are not docketed until after the record arrives. These courts have fewer pending and disposed cases than otherwise comparable courts that docket appeals when the notice of appeal is filed. There are fewer dispositions because they do not include cases dropped before the record is filed and fewer pending cases because they do not include cases in which the notice of appeal has been filed, but the record has not. By using the same backlog ratio for all courts, we assume that these two reductions generally balance each other. In fact, the ratios are very similar in the two types of courts. The mean backlog ratio is 1.00 for civil cases in courts that docket appeals when the notice of appeal arrives, and .94 for other courts. In criminal cases the ratios are .99 and .97 for the two types of courts. Although the backlog ratios could be adjusted to account for overall differences, the differences are not large enough to merit such action. In any event, a dummy variable controls for the effect of docketing time on the relation between backlog and appellate filings.

4) There was not enough information to calculate the cases pending and disposed statistics in all states with filing data, and separate ratios for criminal and civil cases were seldom possible. The analysis of the impact of backlog on appellate filings, therefore, was limited to 32 states (see Table IIb). The lack of separate statistics for criminal

and civil cases necessitated the use of an overall backlog ratio for both types of cases. That is, the amount of delay is assumed to be the same in criminal and civil cases.

Using the total backlog ratio for both criminal and civil cases, of course, assumes that the courts handle both types of cases. This assumption cannot be made where separate appellate courts process initial criminal and civil appeals--that is, in Alabama, Louisiana, Oklahoma, Tennessee, and Texas; here separate backlog ratios were compiled for civil and criminal cases. (In Alaska, Colorado, and Maryland criminal and civil cases were handled separately for a short time during the period encompassed by the research; here the total backlog ratio was used.)

5) The disposed and especially the pending statistics are typically less accurate than the filing statistics. They require more elaborate recordkeeping systems than the simple docket books used to compile filing data. For example, courts occasionally adjust pending statistics by as much as ten percent after they inventory case records. Statistics for cases pending at the beginning of a year regularly differ (but seldom by much) from those pending at the end of the prior year. As always in this study, statistics from later reports are used in preference to reports for the year in question.

6) The final problem is obtaining measures that include comparable types of cases. Here as elsewhere every effort was made to obtain statistics consistent from year to year within a state and between states, although more leeway was permitted in the latter than the former. The aim was to use disposition and pending data for appeals only

and to exclude extraordinary writs and discretionary writs. That is, "appeals" are defined in the same manner as filings. Cases other than appeals tend to be decided very quickly because they seldom go through the full decision process. Because the number of writs decided varies greatly between courts, inclusion of writs would render the backlog ratios incomparable.

The pending cases do not include cases awaiting rehearing, and the dispositions do not include cases transferred to another appellate court. Cases are considered disposed when decided or dismissed, and not when the mandate is issued, often several weeks after the final decision. Similarly, cases decided but awaiting mandate are not considered pending cases.

Incomplete data, however, often required departures from the general rule that the backlog ratio includes appeals only. The departures, as described in Part XIII, are greater than those permitted for the appellate filing statistics. The main departure is that the pending figures often include writs because the court did not exclude them from statistics on pending cases. Writs are decided so quickly that they comprise only a small percentage of the pending caseload (except in supreme courts with discretionary review where the writs are excluded because they are not initial appeals). Writs were either included or excluded as pending cases in a particular court; year to year changes were not permitted. Disposition figures, however, exclude writs unless the filing data showed that the court handles few writs. In Virginia, the pending and disposed cases, like the filings, are writs because they comprise virtually the entire appellate caseload.

V. OTHER APPELLATE COURT CASE STATISTICS

In addition to the criminal and civil filing statistics, several other categories of appellate court statistics were gathered for use in supplementary analysis. These are the total number of appeals, the percentage of cases in intermediate courts, sentence appeals, administrative agency appeals, and reversal rates.

a) Total appeals.

While the focus of the research was to study the growth of civil and criminal appeals, the dependent variables in the regression analysis, an attempt was made to measure the total number of appeals as well. This involved more than simply adding the figures for criminal and civil appeals. For example, some criminal and civil figures were increased or decreased to compensate for jurisdictional changes that would hinder year-to-year comparisons in the regression analysis. The original figures, however, must be used to calculate the overall growth of appeals.

The same reasoning applies to adjustments made to compensate for changes in the notice of appeal time limit; such changes caused real increases or decreases in the cases presented to the court. On the other hand, adjustments made for changes in the docketing system are retained when calculating the total number of appeals. Those changes affect the way cases are counted, but not the number of cases. In addition, total appeals figures for early years were obtained for some states where the criminal/civil breakdown was not available before 1973. The total number of appeals, however, was not used in the regression analysis because criminal and civil appeals are affected by quite different factors.

Statistics for total appeals were also available for seven states where the criminal/civil breakdown was not available (see Table IIIb).

b) Intermediate appellate court percentages

A major focus of the research was to determine the impact of intermediate appellate courts on the number of filings. The presence or absence of an intermediate court, however, is not a clear-cut variable. Intermediate courts vary greatly in their size and in the portion of the caseload they receive. The appellate court structure in a state like New Jersey, where the intermediate court receives virtually all initial appeals, cannot easily be compared to a state like Iowa where less than a third of the initial filings go to the intermediate court. Moreover, the portion of appeals filed in intermediate courts sometimes differs greatly between criminal and civil appeals.

As a result, the variable used is the percentage of appeals filed in the intermediate court. This shows the amount of intermediate court activity in criminal and civil cases separately, as illustrated in Plots Va and Vb for each state. Little variation occurs within states; most either have no intermediate court or have one that receives almost all initial appeals. Substantial changes were made, however, in 12 states. Intermediate courts were created in Massachusetts (1972), Iowa (1976), Kentucky (1976), Kansas (1977), Alaska (1980), Hawaii (1980), and Idaho (1982). Alaska, however, was not used in the analysis of criminal cases (the intermediate court receives only criminal cases) for the reasons discussed in Part I. Also, intermediate court jurisdiction was expanded greatly in Arizona (1974), Maryland (1974), Colorado (1975), Oregon (1978), Texas (1981), and Louisiana (1982). In Louisiana and Texas the

effect of the changes was to transfer almost all initial criminal appeals from the supreme court to the intermediate court level, but without affecting civil appeals. These changes are reflected in Plots Va and Vb.

Appellate structures were changed, it should be added, in several of the 13 states outside our sample. Intermediate courts were created in Wisconsin (1978), and Arkansas (1979) and intermediate court jurisdiction was increased greatly in Pennsylvania (1980). The impact of these changes, however, could not be studied because the appellate filing data was insufficient. Also, as shown in Table XIa, several changes were made outside the 10 year period reflected in Plots Va and Vb. Filing data is available for Oklahoma and Washington before and after the changes, which occurred in 1970 and 1969 respectively.

As a practical matter, the percentage of cases filed in intermediate courts is only an approximate measure of the amount of intermediate court use in the states. The major complication is transfers between the supreme and intermediate courts. In Hawaii, Oklahoma, Iowa, and Idaho the intermediate court receives only cases transferred by the supreme court, where all cases are filed initially. For the purposes of this study, the number of appeals in the intermediate court is considered to be the number transferred, and the number in the supreme court is the total number of appeals less those transferred. This is only approximate, because all cases that are dismissed in the early stages are included in the supreme court's filings, thereby inflating its portion of the caseload. In several other states, some cases are transferred between courts to balance caseloads. These transfers have not been taken into account; only in Massachusetts are the numbers transferred large

enough to affect the intermediate court percentage appreciably, and there by only about 10 to 20 percent. Finally, in states where supreme court statistics were not used because figures for civil and criminal initial filings were not available (see Part III), the intermediate court percentage is 100. Including supreme court filings would reduce the percentage by only one or two points.

Plots Vc and Vd show the relationships between criminal and civil appeals and the intermediate court percentages. It is clearly a bimodal variable, with the great majority of the points either zero or close to 100. In addition, as seen in Table XIa, a dummy variable distinguished between states with and without an intermediate court; substitution of this variable for the intermediate court percentage produced similar, but less pronounced effects in the regression analysis.

A problem encountered when studying the impact of intermediate courts on appellate caseloads is that other changes often are made when an intermediate court is created. These changes almost always inflate the caseload statistics after the new court is created, and every attempt was made to account for them. The most frequent and most important changes are:

- a) The supreme court generally transfers pending cases to the new court as soon as it is created. These transfers often are included in the filing statistics for the new court. For the purposes of this study, though, these transfers are subtracted from the intermediate court filings because they were already counted as supreme court filings in earlier years.
- b) The supreme court's caseload, after the intermediate court is created, includes petitions to review the intermediate court

decisions. A few supreme courts, at least initially, include these petitions in their statistics for appeals. They have been deleted for this study.

- c) Laws creating intermediate courts frequently make additional appellate jurisdiction changes, most commonly by adding categories of appeals. (Presumably the lawmakers believe that the new court enables the appellate system to decide more appeals.) Cases arising under this extra jurisdiction have been deleted from the appellate filings.
- d) Trial court structure or jurisdiction may be changed when the intermediate court is created. For example, the new appellate court may be part of a comprehensive restructuring of the court system. In as much as this changed appellate jurisdiction, it was dealt with as described above. If it changed trial court jurisdiction, it was dealt with through variables signaling changes in the trial court system, such as "changes in dollar jurisdictional limit", "changes in trial court jurisdiction", and "unification of trial courts" (see Parts VI, IX, and XII).
- e) Changes in appellate jurisdiction sometimes were accompanied by changes in docketing procedures such as changing the time of docketing from when the record arrived to when the notice of appeal arrived. This problem, and how it was addressed are discussed in Part III.

Many of these problems required adjustments to the appellate court statistics; these are described in the state-by-state discussion in Part XIII. A considerable amount of detective work was required to locate all

changes made when intermediate courts were created and to determine the impact of the changes. Admittedly, no assurance can be given that all changes were located or even that those located were dealt with adequately through adjustments and extra variables. However, such inadequacies are unlikely to be substantial enough to affect the conclusion, discussed in Part I, that intermediate courts do increase appellate caseloads.

c) Sentence and Agency Appeals

Because sentence and agency appeals are distinctly different from other criminal and civil appeals, separate statistics were gathered whenever possible. In the end, though, not enough states provided information to make the data useful.

As explained in Part X, 11 states in our sample of 38 have appellate sentence review. Of the 11, Alaska alone has separate filing statistics for appeals in which the sentence is the only issue (usually appeals from guilty pleas). Of course, though, there were additional appeals which concerned both the sentence and other issues.

The appeal routes from state agencies vary greatly from state to state and even from agency to agency within many states. For the purposes of this study, the major difference is between appeals directly to the appellate court and appeals to the trial court with further review (either discretionary or mandatory) in the appellate courts. Direct appellate court review probably increases appellate caseloads, although this is not necessarily so because direct review often is accompanied by a narrower scope of review. There may be many more agency appeals when initial review is in the trial courts, and subsequent appeals to the

appellate courts may be as numerous as direct appeals would be under a narrow standard of review.

In any event, civil appellate statistics in 23 of the 37 states contained at least some agency appeals filed directly in the appellate courts. In almost all of these states, some agency appeals also went to the trial courts and these usually far outnumbered those going to the appellate courts. Not enough courts, however, presented separate agency appeals statistics to provide an accurate measure of the volume of agency appeals. The number of agency appeals is available in only 12 of the 23 states; agency appeals varied from about a quarter of all civil appeals in New Jersey to less than 5 percent in several other states.

d) Reversal rates

Reversal rate statistics are very difficult to gather. They are not compiled by most appellate courts, and when compiled the types of cases considered affirmances or reversals vary from court to court. Nevertheless, we gathered what we could to obtain evidence concerning whether more reversals attract more appeals.

The courts used a wide variety of designations for dispositions, and it was necessary to compile a dictionary of terms. Initially, only cases decided are included, leaving out cases dismissed for lack of progress or other reasons not requiring a decision by the appellate court. The remaining cases were broken down into three categories, affirmed, reversed, and other. The terms used by the courts were placed in each category as follows:

Affirmed - affirmed, dismissed with opinion.

Reversed - reversed, reversed and remanded, appeal sustained (rare).

Other - remanded, modified, reversed in part and affirmed in part, affirmed as modified (rare), affirmed with directions (rare).

The "other" category presents the major problem, because each disposition category listed above under "other" is considered either an affirmance or a reversal by some courts. In fact, a few courts classified all cases in the "other" category as either affirmances or reversals. Every effort was made to make the statistics consistent within a state, but differences between states remain.

Another problem is that the courts often do not prepare separate statistics for criminal and civil cases. Reversal rates in criminal cases are ordinarily much lower than those in civil cases; hence the combined reversal rate may poorly reflect both the civil or criminal rate. Nevertheless, the combined rate was used here because it is often the only information available.

Of the 37 states with criminal and civil filing data, 23 had reversal rate statistics for at least some years. Thirteen had data for 1973 through 1982. Two measures of reversal rates were used in the analysis: 1) "reversed" and "other", divided by "affirmed", "reversed", and "other"; 2) "reversed", divided "affirmed" and "reversed". The variables were placed, separately, in the basic regression analysis for civil and criminal cases, as described in Part I. The prior year reversal rate was used since the litigant is not likely to be aware of the reversal rate for the year in question. Neither variable showed a significant impact on filings in criminal or civil appeals. The only analysis that hinted that reversal rates might be a factor occurred when using the first measure of reversal rates in the civil analysis, with a T of 1.53 (P=.13) and a standardized estimate of .09.

We cannot say, however, that the lack of impact of reversal rates in these analyses shows that litigants are not motivated by the proportion of cases that are reversed. As was said, combining civil and criminal cases weakens the analysis, and the available data is scattered. Another important point is that most individual courts appear to vary reversal rates only slightly over time, hence it is difficult to test the impact of reversal rates in any one court. (On the other hand, there is tremendous variation between states; appellate courts in Alaska, Nevada, and Vermont, among others, reverse a third to a half of their cases, while the Virginia Supreme Court reverses less than 5 percent.)

VI. TRIAL COURT FILINGS AND TRIALS

The major trial court statistics used in the analysis are the number of criminal and civil filings. Criminal filings statistics were gathered for 31 states and civil statistics for 33 states (see Table VIa). The statistics go back at least to 1972 and as far back as 1967 for some states. Trial court statistics were not gathered for states without usable appellate filing statistics.

Statistics from fewer states were gathered for:

- civil filings excluding domestic relations (23 states);
- civil trials (15 states);
- criminal trials (18 states);
- convictions (3 states).

These variables were used for more restricted analyses. It was found that they added little to the analysis beyond that contributed by other variables, especially trial filings and the number of trial judges.

As described below, the criminal and civil trial court filing statistics include only major cases--that is, cases likely to reach appellate courts. They comprise only a small percentage of the total trial court caseload, which is composed mostly of minor, routine cases.

Trial court statistics are generally inferior in quality to appellate statistics primarily because of the decentralization of trial court data gathering; there are far more trial courts than appellate courts in a state. Hence, trial court statistics are the cumulative work of many local clerks and court administrators, often politically and organizationally independent of the central court administration office.

In contrast, most states have only one appellate clerk, and the highest number is sixteen in Texas. The trial court caseloads also are far larger and more varied than appellate caseloads, making compilation of court statistics more complicated. The central state administrative offices exercise varying amounts of control in directing, monitoring and checking the data gathered locally.

The state court administrative staff who oversee trial court data collection in their states were asked to estimate the reliability of the statistics and to point out special problems. Generally they answered that the statistics are better in recent years than in the past, and that to varying degrees the past statistics are suspect. More often than not, the staff interviewed were saying, explicitly or implicitly, that the data collection has been much better during their tenure (typically some 3 to 7 years) than in earlier years. Their responses, therefore, may have been largely boasts. On the other hand, it is likely that the staff members were hired specifically to improve data collection. In any event, the staff were especially forthcoming about the problems with earlier data.

Almost uniformly, the staff said that the most reliable trial court statistics are filing statistics. This data is collected from the trial court docket books, generally by subtracting the last docket number of the prior year from the last number for the current year. Several mentioned that the accuracy was best when the data elements were kept simple; attempts to tabulate the volume of specific case types tend to confuse local clerks and result in less useful data. Trial statistics other than filing statistics are highly suspect in many states.

Table VIa
Trial Court Statistics Available

| State | <u>Filings</u> | | | <u>Trials</u> | | |
|------------------|-----------------|------------------------|---|-----------------|--------------|---------------------------------|
| | <u>Criminal</u> | <u>Civil Alone</u> | <u>Civil & Domestic Relations</u> | <u>Criminal</u> | <u>Civil</u> | <u>Criminal Convictions</u> |
| 01 Alabama | 72 | 72 | 72 | -- | -- | -- |
| 02 Alaska | 72 | -- | 72 | * | * | * |
| 03 Arizona | 72 | 72 | 72 | 72 | 72 | -- |
| 05 California | 67 | 67 | 67 | 67 | 67 | -- |
| 06 Colorado | 69 | 69 | 69 | -- | -- | -- |
| 07 Connecticut | 72 | 72 | 72 | 72 | -- | -- |
| 08 Delaware | 67 | 67 | 67 | * | * | -- |
| 09 Dist. of Col. | 72 | 72 | 72 | 72 | * | -- |
| 12 Hawaii | 71 | 71 | 71 | 71 | 71 | -- |
| 13 Idaho | 71 | 71 | 71 | -- | -- | -- |
| 14 Illinois | 69 | 69 | 69 | 69 | 69 | -- |
| 16 Iowa | 67 | -- | 67 | 67 | 67 | -- |
| 17 Kansas | 67 | 67 | 67 | 67 | * | 67 |
| 18 Kentucky | 72 | 72 | 72 | -- | -- | -- |
| 19 Louisiana | -- | -- | 67 | -- | -- | -- |
| 20 Maine | 72 | -- | 72 | * | * | -- |
| 21 Maryland | -- | 67 | 67 | -- | 67 | -- |
| 22 Massachusetts | -- | 67 | 67 | -- | -- | -- |
| 23 Michigan | * | -- | -- | -- | -- | -- |
| 24 Minnesota | 67 | -- | -- | 67 | * | -- |
| 25 Mississippi | 67 | -- | -- | -- | -- | -- |
| 26 Missouri | 67 | -- | 67 | 72 | * | -- |
| 27 Montana | -- | -- | -- | -- | -- | -- |
| 28 Nebraska | 72 | 72 | 72 | -- | -- | -- |
| 29 Nevada | -- | -- | -- | -- | -- | -- |
| 30 New Hampshire | 69 | 69 | 69 | -- | -- | -- |
| 31 New Jersey | 67 | 67 | 67 | 71 | 73 | 71 |
| 32 New Mexico | 67 | -- | 67 | -- | -- | -- |
| 37 Oklahoma | 69 | 69 | 69 | 69 | 69 | -- |
| 38 Oregon | 72 | 72 | 72 | 71 | 71 | -- |
| 40 Rhode Island | 69 | 69 | 69 | -- | -- | -- |
| 43 Tennessee | 67 | -- | 67 | -- | -- | -- |
| 44 Texas | 67 | 67 | 67 | 70 | 67 | 70 |
| 45 Utah | 67 | -- | 69 | 73 | 73 | -- |
| 46 Vermont | 70 | 70 | 70 | 70 | 70 | -- |
| 47 Virginia | -- | 67 | 67 | -- | 73 | -- |
| 48 Washington | 67 | * | 67 | 67 | 67 | -- |
| 51 Wyoming | 71 | -- | 71 | 70 | 72 | -- |
| TOTAL | 31 | 23 | 33 | 18 | 15 | 3 |

*Partial data available
 Note: this table only includes the 38 states for which appellate data was obtained.

Table VIb

Trial Court Statistics Description

| State | Designation in annual report | | Domestic relations include all or just divorce relation | Court |
|------------------|---|--|---|---------------------------------------|
| | Regular Civil | Criminal | | |
| 01 Alabama | civil | criminal filings | broad | Circuit |
| 02 Alaska | other civil; domestic relations* | felony | divorce | Superior |
| 03 Arizona | civil | felony | divorce | Superior |
| 05 California | personal injury; death & property damage; eminent domain; other civil complaints | criminal | divorce | Superior |
| 06 Colorado | civil | criminal offense | broad | District |
| 07 Connecticut | civil | Part A criminal | divorce | Superior; Common Pleas; Circuit |
| 08 Delaware | civil cases | criminal cases | divorce | Superior; Chancery; Family |
| 09 Dist. Col. | civil actions | felony indictments | divorce | Superior |
| 12 Hawaii | civil actions | criminal actions | divorce | Circuit+ |
| 13 Idaho | personal injury; property damage; other complaints and petitions | felony | divorce ^o | District |
| 14 Illinois | Law; chancery; miscellaneous remedies; eminent domain; municipal corporations (excludes tax) | felony | divorce | Circuit |
| 16 Iowa | regular civil* | regular criminal | broad | District |
| 17 Kansas | regular civil original actions | felonies# | broad | District |
| 18 Kentucky | other civil | criminal | divorce | Circuit |
| 19 Louisiana | civil* | criminal | broad | District |
| 20 Maine | civil* | criminal | divorce | Superior |
| 21 Maryland | law | criminal indict- ments and informa- tion | divorce | Circuit; Baltimore City Court |
| 22 Massachusetts | civil | N/A | divorce | Superior |
| 23 Michigan | N/A | N/A | N/A | Circuit; Recorders |

| | | | | | |
|----|---------------|---|---------------------------------|--------------------|--|
| 24 | Minnesota | N/A | criminal | divorce | District |
| 25 | Mississippi | N/A | criminal | --- | Circuit; Chancery |
| 26 | Missouri | civil# | criminal | broad | Circuit |
| 27 | Montana | N/A | N/A | N/A | --- |
| 28 | Nebraska | other civil | criminal | broad | District |
| 30 | New Hampshire | law entries; civil entries | indictments and complaints | broad | Superior ⁺ |
| 31 | New Jersey | civil cases; other general equity | indictments and accusations | divorce | Superior; County |
| 32 | New Mexico | civil cases* | criminal defendants | broad | District |
| 37 | Oklahoma | civil litigation | felony | broad ^o | District |
| 38 | Oregon | civil | criminal | divorce | Circuit |
| 40 | Rhode Island | civil | indictments and informations | divorce | Superior; Family |
| 43 | Tennessee | civil* | criminal | broad | Circuit; Chancery; Law & Equity; Criminal District |
| 44 | Texas | civil-less divorce; annulment; and non-adversary cases | criminal | divorce | District |
| 45 | Utah | civil (except probate)* | criminal | broad | District |
| 46 | Vermont | civil | felony# | divorce | Superior, (District for criminal) |
| 47 | Virginia | law cases | felony cases | all | Circuit |
| 48 | Washington | civil* | criminal | broad | Superior |
| 51 | Wyoming | civil* | criminal | broad ^o | District |

* The civil filings include domestic relations

+ More than 10% of the appeals come from other courts in Hawaii (District Court) and New Hampshire (Probate and District)

^o The District Court receives only some divorce cases in Idaho; Wyoming domestic relations includes probate and Oklahoma includes juvenile.

The trial disposition statistics. In Kansas and Vermont criminal trials include misdemeanors; in Missouri civil trials have case categories different from the filing data.

Disposition statistics and, especially, pending statistics were often considered unreliable.

a) Trial Court Filing Data

The filing statistics, although the most accurate trial court statistics, are far from trouble-free. Trial filing statistics were used even if the administrative officials interviewed had reservations about them. The statistics were not used, though, if after their intended use was explained the official said they were not sufficiently accurate.

In all, criminal filing statistics were obtained for 31 of the 38 states with criminal appellate filing data, and in 33 of the 37 states with sufficient civil appellate filing data. Table VIa lists these states. (The average growth rates for criminal filings in Tables Ia and Id exclude Kansas, which changed the time of docketing in 1977, thereby greatly increasing the number of appeals.)

Civil filings, are defined as "regular" civil and divorce cases. Criminal cases are felony indictments. These definitions will be further specified later. The general goals in gathering trial court data were to include only those cases likely to be appealed and to make every effort to obtain statistics that are consistent from year to year and from state to state. More leeway was allowed, however, for state-to-state variations than for year-to-year variations. Towards these ends, we included only trial courts from which cases were taken to the appellate courts. These are listed in Table VIb. As a general rule, they are single trial courts of general jurisdiction, although in eight states an additional court or two is included because their decisions often are appealable directly to the appellate courts. Most states also have lower

which appeals are taken to the general jurisdiction trial courts. Court systems in a few of these states were unified during the period of the study, requiring special care to ensure comparability of case types before and after the merger of limited jurisdiction courts into the general jurisdiction court.

b) Criminal Filings

In selecting criminal case types for inclusion in trial court filings, a major aim was to delete minor cases that are highly unlikely to reach the appellate courts. Cases such as traffic violations, ordinance violations, and misdemeanors comprise the vast bulk of criminal cases in trial courts, but they cannot reasonably be compared to appellate filings because they comprise a small portion of the appellate caseload. The statistics compiled for this research usually exclude these cases. The criminal trial filings for most states are felony indictments exclusively, although in several states they include some major misdemeanors, either appealed to or filed directly in the general jurisdiction court. The 11 states where these constituted more than a quarter of the filings were marked with a dummy variable (Table XIc). Misdemeanors generally comprise less than half of the caseloads of these courts and they never outnumber felonies.

Two major problems can affect criminal filings statistics. The first is the time when the case is counted. The great majority of courts in this study counted criminal cases after some sort of preliminary determination of probable cause--e.g., a grand jury indictment or a preliminary hearing. In three states, however, the cases are counted at the complaint stage, when charges are first brought. Because counting

complaints greatly increases the number of criminal filings, these states also have been marked with a dummy variable (see Table XIc).

The second problem is differences in how cases are counted. Courts use three basic methods to count criminal cases: counting the number of charges, the number of indictments, or the number of defendants. The number of indictments is slightly lower than the number of defendants because joint defendants are not counted separately. The number of charges tends to be much higher because prosecutors often bring multiple charges. For the purposes of this study, the number of defendants and the number of indictments are considered permissible measures, but the number of charges is not. However, in at least one state included in the study, Illinois, some local courts counted the number of charges (see Part XIII).

The relationship between per capita criminal filings and appeals is shown in Plot VIc. The trial filings are lagged one year. As in other areas, the District of Columbia and Alaska, with very high appellate volume for their population size, are outlying states. The relationship between appellate and trial criminal filings, however, is closer than it appears from the plot, because where the trial filing statistics are very high, more misdemeanor cases than usual are included (these states are marked with a dummy variable).

c) Civil Filings

On the civil side, also, many types of cases virtually never reach the appellate courts. Some are minor matters, such as small claims cases and other cases involving small amounts. Some can be characterized more as administrative matters than as litigation and are almost never

contested. These include probate, adoption, and child support cases. Others simply are seldom appealed. For example, civil commitment, juvenile, and domestic relations cases comprise a much smaller portion of the caseload in the appellate courts than in the trial courts.

Therefore, when compiling civil filings every attempt was made to develop a measure that includes only those civil cases likely to be appealed, such as torts, contracts, and injunctions, although they comprise only a small portion of the trial court filings. The civil filings measure, therefore, contains the civil filings as set forth in trial court statistics but excludes the types of cases listed in the preceding paragraph. In most states these cases usually are handled by limited jurisdiction courts and, thus, are excluded automatically. Elsewhere, the courts generally presented separate statistics for the regular civil cases. Table VIb contains a list of the labels given in the annual reports for the filing categories used.

The major unresolved problem is domestic relations cases. In 23 states (see Table VIa), statistics were obtained for civil filings without domestic relations. Civil filings alone would be the preferred measure of trial court civil caseloads because relatively few appeals are domestic relations cases, while they typically are as numerous as regular civil cases in the trial courts. Using civil filings alone, though, would restrict the sample size severely. Domestic relations cases, therefore, are included in the civil filings, resulting in 33 states with civil filing data. As a practical matter, however, the addition of domestic relations cases has little effect on the analysis of appellate caseloads, for the results are virtually the same when regular civil plus

domestic relations cases are used and when regular civil cases alone are used.

Inclusion of domestic relations cases, however, raises definitional problems. As a general rule, only divorce and other dissolution cases are included in the filing statistics, leaving out several types of cases, such as child support, that can comprise as much as a quarter to a third of the domestic relations caseload. This was not possible in all states, as is indicated by Table VIb, where the term "broad" means that a broad definition of domestic relations was used. The relationship between civil appeals and trial court civil filings is shown in Plot VIb. The trial filings are lagged one year. The District of Columbia, with high rates of litigation, is in the upper right section of the plot.

d) Trials

The initial research plan called for comparison of appellate volume to trial volume, resulting in an "appeal rate". This was impossible because of the poor quality of the trial data. The court administration staff interviewed often stressed that there is little agreement among judges and local clerks concerning what a trial is. For example, a large number of civil cases in some states are settled soon after a trial starts; these may or may not be counted as trials. The same problem occurs when criminal defendants plead guilty.

Determining when a trial begins is another confounding factor, although most states seem to accept the definition that a jury trial starts when the first juror is sworn and a non-jury trial starts when the first witness is sworn. The problem that affects trial statistics most is whether to count uncontested trials and, if not, what constitutes a

CONTINUED

1 OF 4

contested trial. There are perhaps ten times as many uncontested as contested trials, particularly in divorces. Several states count guilty plea hearings as trials. Also, there is uncertainty whether and what type of pre-trial hearings should be considered trials, especially when they dispose of the case. These problems are compounded because the number of trials is largely a measure of the work performed by the judges and courtroom personnel. Given this uncertainty and their vested interest in keeping numbers high, local court officials are likely to inflate the statistics. Many state court administrative offices, consequently, have chosen not to publish trial data and some have abandoned its collection.

The present study has accepted published trial data unless inaccurate on its face or unless the court administrative office characterized it as very misleading. In other words, a fairly low standard for inclusion was set. Nevertheless, much of the published data was discarded.

The number of trials held is the most common trial statistic available and, whenever possible, is used here as the measure of trial dispositions. Hence, the data includes cases settled during trial, roughly a quarter to a half of the civil cases and a smaller portion of the criminal cases. Only the actual trial judgment can be appealed in most cases; therefore, using trials rather than trial judgments renders the relationship between trials and appeals less exact. Because prosecutors rarely appeal (according to the appellate clerks interviewed), the number of criminal convictions would be a more exact indication of cases likely to be appealed. That information, however, is seldom available. Its accuracy was not explored in the interviews, but

judging from the annual reports, some courts seem to include guilty pleas in the trial conviction data.

In all, statistics were obtained for criminal trials back to at least 1973 in 18 states as shown in Table VIa. Similar information for civil cases was obtained in only 15 states. The relationship between trials and appeals is shown in Plots VIc and VIId. These illustrate the finding that there is little relation between the two variables. When the other variables were entered into the regression model, criminal trials had no significant relationship to appeals. The points high above the rest are the District of Columbia, and the points to the right are Oklahoma. Deleting Oklahoma and D.C. does not appreciably strengthen the relationship between trials and appeals.

VII. TRIAL AND APPELLATE COURT JUDGESHIPS

a) Trial Judgeships

This variable is the number of judgeships in general jurisdiction trial courts from 1969 to 1982. The information was obtained initially from The Book of the States, published biennially by the Council of State Governments; it gives the number of judges for every odd year. This was supplemented and checked by a wide variety of other sources. State Court Caseload Statistics: Annual Reports, 1975-1978 (National Center for State Courts, 1979-83) contain trial judge statistics for 1975-78. State Court Organization, 1980 (Bureau of Justice Statistics, 1982) contains 1979 information, and "Counting the Judges in State Courts", 4 NCSC Reports 2 (January 1983) contains the number of judges for most states in 1982.

These sources, however, are sometimes incomplete and inconsistent. For most states, the figures were checked and supplemented by information found in state court annual reports, and, especially, by researching statutory histories to determine when judgeships were created. Information also was found in special studies of individual states, criminal justice plans, and other miscellaneous articles and reports. Figures for 1982 were obtained by telephone from the court administration offices in Illinois, Iowa, Michigan, New York, and Ohio. When the data for a particular year was not available, but the figures for the preceding and following years were the same, it was assumed that the number for the intervening year also was the same.

In a few instances, despite all these sources and methods, the number of judgeships was not obtained; here the number of judges was assumed to be the average of the preceding and following years. This estimation was made for Alaska, Colorado, Florida, Kansas, Kentucky, Louisiana, Maine, Minnesota, Ohio, and Virginia, 1970; Georgia, 1974; and Nevada, 1970, 1972, and 1974.

The numbers of judgeships were those in courts from which appeals go to appellate courts, rather than to higher trial courts. In the great majority of states this was a single general jurisdiction court (see the list of the court names in Table VIb for the 38 states included in the research). Judges from two or more courts are included for Connecticut, Delaware, Maryland, Michigan, Mississippi, New Jersey, Tennessee, and Vermont.

Some general jurisdiction trial courts have both regular and associate judges. In Kansas and Iowa, district associate judges possess only limited authority and, therefore, are not included in the data. Associate circuit judges in Illinois and associate district judges in Oklahoma, however, are invested with full authority and are included.

In Connecticut, Kansas, and Massachusetts, the trial court structure was changed greatly during the period of the study; the judgeship figures before and after the changes are consistent, though. In Kansas and Massachusetts the former general jurisdiction judgeships became a distinct class of judgeships in the merged court. In Connecticut the merged courts are included in the figures before the merger because some types of cases were appealed from those courts to the Supreme Court. In the District of Columbia, there was a drastic reorganization of the courts in 1971 and there is no data for earlier years.

The figures given are the number of judgeships; because of vacancies, the number of actual judges is often lower. Also, in a few states such as Massachusetts, other judges sometimes are assigned to do the work of the general jurisdiction judges. These extra judges were not included. As a general rule, the number of judges is the number in the fall of the year. The information from The Book of the States is for "late in the year." We tried to be consistent when obtaining statistics from other sources, but in a few instances, the time of year to which a number referred simply was not clear.

Because of the differences in state trial court structures, the number of trial judges as a variable is more comparable within a state, from year to year, than between states. On the civil side, at least, the state to state differences are mitigated by including the trial court dollar jurisdiction limit (see part IX); this partly controls for the fact that when limited jurisdiction courts have lower jurisdictional limits general jurisdiction courts probably have more judges to handle the greater number of filings.

The number of trial judges in each state from 1969 to 1982 is given in Table VIIa. Plots VIIa and VIIb show the relationship between criminal and civil appeals and the number of trial judges per capita.

The number of trial judges proved to be closely related to the number of civil filings, as is shown in plot VIIc. A fixed-effects regression analysis was run with the number of trial judges as the dependent variable and the number of civil and criminal trial court filings, the FBI crime rate, and real income as independent variables (all expressed in per capita terms). This showed a beta coefficient of .23 for civil trial filings, and no other variables approached significance.

Collinearity diagnostics, however, showed that the number of trial judges and civil trial court filings operate quite independently.

b) Appellate Judgeships

The sources of the number of appellate judgeships are essentially identical to those for the number of trial judgeships. The Book of the States, published biennially by the Council of State Governments, provides counts of judgeships taken late in odd numbered years. When two consecutive odd numbered years showed no change in the number of justices, the number for the intervening even year was assumed to be the same. Because appellate judgeships generally are created less frequently than trial judgeships, this assumption was made for several even numbered years in most states.

Nevertheless, a variety of other sources was consulted to verify and, if necessary, correct the data. Among these were the following: State Court Caseload Statistics: Annual Report, 1975-78. "Counting the Judges in State Courts," 4 NCSC Report 2 (January 1983), which furnished most of the 1982 figures used; state court and judicial council reports; and state statutes.

The supreme court figures represent the number of judgeships on all courts of last resort, including the courts of criminal appeals in Oklahoma and Texas. Judgeships do not include commissioners, who in Texas and Missouri used to perform all the functions of judges except voting on cases. Effective dates of new judgeships were found in statutory annotations. Judgeships created in the middle of the court year were prorated according to the court year. The figures do not include, temporarily assigned judges, nor do they take account of vacancies.

Table VIIa Number of Trial Judgeships, 1969-82

| State | 69 | 70 | 71 | 72 | 73 | 74 | 75 | 76 | 77 | 78 | 79 | 80 | 81 | 82 |
|-------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 1 | 80 | 80 | 80 | 92 | 98 | 98 | 108 | 109 | 108 | 112 | 112 | 113 | 113 | 122 |
| 2 | 11 | 14 | 16 | 16 | 16 | 17 | 17 | 19 | 20 | 20 | 21 | 21 | 21 | 23 |
| 3 | 50 | 54 | 55 | 56 | 60 | 61 | 67 | 70 | 73 | 76 | 78 | 80 | 81 | 83 |
| 4 | 47 | 48 | 49 | 49 | 53 | 53 | 55 | 55 | 56 | 56 | 63 | 63 | 63 | 63 |
| 5 | 416 | 443 | 471 | 477 | 478 | 501 | 520 | 542 | 551 | 561 | 607 | 628 | 628 | 629 |
| 6 | 72 | 75 | 78 | 81 | 81 | 82 | 94 | 94 | 99 | 105 | 106 | 107 | 107 | 107 |
| 7 | 95 | 95 | 95 | 95 | 106 | 106 | 106 | 106 | 106 | 112 | 113 | 113 | 121 | 125 |
| 8 | 12 | 12 | 12 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 |
| 9 | - | - | 37 | 44 | 44 | 44 | 44 | 44 | 44 | 44 | 44 | 44 | 44 | 44 |
| 10 | 126 | 133 | 140 | 140 | 261 | 263 | 263 | 273 | 287 | 289 | 302 | 302 | 326 | 339 |
| 11 | 52 | 52 | 52 | 52 | 52 | 69 | 86 | 86 | 86 | 102 | 104 | 110 | 116 | 120 |
| 12 | 14 | 14 | 14 | 14 | 13 | 13 | 13 | 13 | 18 | 18 | 18 | 18 | 18 | 19 |
| 13 | 24 | 24 | 24 | 24 | 24 | 24 | 24 | 25 | 27 | 28 | 29 | 30 | 31 | 33 |
| 14 | 566 | 584 | 575 | 597 | 594 | 601 | 603 | 603 | 643 | 642 | 650 | 652 | 685 | 685 |
| 15 | 115 | 137 | 139 | 146 | 154 | 164 | 170 | 173 | 172 | 171 | 178 | 181 | 184 | 190 |
| 16 | 76 | 76 | 76 | 76 | 83 | 83 | 85 | 89 | 92 | 92 | 92 | 92 | 95 | 96 |
| 17 | 60 | 61 | 61 | 61 | 63 | 63 | 64 | 63 | 69 | 70 | 70 | 70 | 71 | 71 |
| 18 | 73 | 75 | 76 | 79 | 83 | 83 | 83 | 87 | 87 | 87 | 87 | 91 | 91 | 91 |
| 19 | 107 | 111 | 115 | 115 | 118 | 123 | 125 | 125 | 143 | 155 | 166 | 168 | 181 | 186 |
| 20 | 11 | 12 | 13 | 13 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 |
| 21 | 78 | 79 | 79 | 79 | 79 | 80 | 85 | 85 | 90 | 90 | 97 | 97 | 103 | 103 |
| 22 | 46 | 46 | 46 | 46 | 46 | 46 | 46 | 46 | 46 | 56 | 56 | 56 | 56 | 61 |
| 23 | 129 | 129 | 132 | 132 | 146 | 158 | 161 | 161 | 170 | 170 | 173 | 173 | 194 | 194 |
| 24 | 70 | 71 | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 77 |
| 25 | 49 | 49 | 49 | 49 | 49 | 49 | 49 | 55 | 57 | 64 | 65 | 65 | 65 | 65 |
| 26 | 103 | 103 | 103 | 105 | 106 | 106 | 111 | 113 | 115 | 131 | 131 | 131 | 131 | 132 |
| 27 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 28 | 29 | 29 | 29 | 32 | 32 | 32 |
| 28 | 38 | 38 | 38 | 45 | 45 | 45 | 45 | 45 | 45 | 45 | 45 | 45 | 47 | 47 |
| 29 | 18 | 20 | 22 | 23 | 23 | 24 | 25 | 25 | 26 | 27 | 29 | 29 | 31 | 31 |
| 30 | 10 | 11 | 10 | 11 | 12 | 12 | 13 | 13 | 13 | 14 | 15 | 15 | 15 | 15 |
| 31 | 154 | 154 | 154 | 178 | 204 | 201 | 201 | 201 | 207 | 209 | 215 | 215 | 215 | 215 |
| 32 | 21 | 21 | 26 | 26 | 29 | 32 | 32 | 32 | 40 | 42 | 44 | 44 | 44 | 49 |
| 33 | 221 | 225 | 226 | 232 | 257 | 257 | 257 | 257 | 257 | 259 | 263 | 263 | 263 | 263 |
| 34 | 49 | 49 | 49 | 49 | 49 | 55 | 55 | 56 | 66 | 66 | 66 | 66 | 66 | 68 |
| 35 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 24 | 24 | 26 | 26 |
| 36 | 289 | 290 | 291 | 291 | 291 | 293 | 296 | 296 | 313 | 314 | 321 | 321 | 321 | 329 |
| 37 | 138 | 138 | 138 | 138 | 138 | 139 | 141 | 141 | 141 | 141 | 146 | 148 | 148 | 148 |
| 38 | 59 | 59 | 60 | 61 | 64 | 65 | 67 | 68 | 70 | 73 | 77 | 77 | 77 | 81 |
| 39 | 234 | 234 | 234 | 285 | 285 | 285 | 285 | 285 | 285 | 285 | 285 | 309 | 309 | 309 |
| 40 | 13 | 13 | 13 | 13 | 13 | 15 | 15 | 17 | 17 | 17 | 17 | 19 | 19 | 19 |
| 41 | 16 | 16 | 16 | 16 | 16 | 16 | 16 | 25 | 25 | 25 | 25 | 31 | 31 | 31 |
| 42 | 21 | 21 | 21 | 37 | 37 | 37 | 36 | 36 | 36 | 36 | 36 | 36 | 36 | 36 |
| 43 | 92 | 92 | 92 | 103 | 102 | 106 | 107 | 112 | 114 | 115 | 116 | 117 | 120 | 122 |
| 44 | 211 | 211 | 216 | 217 | 227 | 230 | 230 | 230 | 305 | 309 | 310 | 310 | 330 | 344 |
| 45 | 22 | 22 | 22 | 22 | 22 | 21 | 21 | 21 | 24 | 24 | 24 | 24 | 25 | 29 |
| 46 | 16 | 16 | 16 | 16 | 17 | 18 | 18 | 18 | 19 | 20 | 20 | 22 | 24 | 24 |
| 47 | 96 | 98 | 99 | 99 | 99 | 101 | 103 | 104 | 107 | 107 | 108 | 111 | 113 | 116 |
| 48 | 88 | 88 | 92 | 92 | 98 | 99 | 100 | 101 | 111 | 111 | 111 | 118 | 126 | 128 |
| 49 | 32 | 32 | 34 | 34 | 32 | 50 | 50 | 50 | 54 | 56 | 56 | 59 | 59 | 59 |
| 50 | 174 | 174 | 174 | 179 | 178 | 178 | 179 | 180 | 181 | 181 | 181 | 190 | 190 | 190 |
| 51 | 11 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 15 | 15 | 15 | 15 | 17 | 17 |

VIII. DEMOGRAPHIC VARIABLES

The demographic variables were obtained from statistics published by federal agencies. They are the only variables not compiled especially for this research. The variables are: population, real personal income, FBI crime statistics, and prison commitments. The population variable was used mainly to control for the differences in state sizes. These differences are so large that the variation in appeals can be explained largely by the variation in the demographic variables that reflect state size.

The following paragraphs will explain the source and content of the demographic variables and show the general relationship between the variables and the number of civil and criminal appeals filed.

a) Population. The population variable is the number (in thousands) of people in each state. The source of the data is, of course, the U.S. Census Bureau reports, which are based on decennial censuses and estimates made by the Bureau for intervening years.

Population itself as a variable proved to be highly skewed, as shown in Plots VIIIa and VIIIb. There is a strong negative relation between population and per capita appeals, due primarily to the relatively high number of per capita appeals in Alaska and D.C. and the small number in California, the outlying state on the far right.

b) Real Personal Income. The personal income variable is annual total personal income (in hundreds of millions of dollars) for each state, as found in the Survey of Current Business, published by the Federal Reserve Board. It is divided by the yearly Consumer Price Index

(prepared by the Bureau of Labor Statistics) to obtain inflation-adjusted personal income. The real personal income variable is converted into per capita personal income for reasons explained above. The relationships between per capita criminal and civil appeals and per capita personal income in 1970-82 are shown in Plots VIIIc and VIIIId.

c) FBI Crime Index. The annual FBI total crime index, expressed in terms of hundreds of crimes is given for each state. It includes violent crimes--murder, rape, robbery, and aggravated assault--and property crimes--burglary, larceny (\$50 and over), and theft. The variables are expressed in per capita terms. Plot VIIIe shows the relationship between the crime index in a given year and criminal appeals in the following year. The impact of the outlier states, Alaska and D.C., is particularly evident here. As seen in Plot VIIIf, the high appellate volume is not matched by a comparable increase in crime statistics, and thereby raises the slope of the relationship between the two variables. The FBI violent crime index was used also, but it showed less relationship to appeals than the total crime index.

In the regression analysis the crime indices are used with a lag of one year. It takes roughly a year for the amount of crime to affect appeals, because roughly a year passes between the commission of a crime and the completion of trial. Indeed, stepwise regression consistently picked the crime index with a lag of one year over the current year or lags of two or three years.

d) Prison Commitments. This variable is the total number of persons committed to prison each year in each state, starting in 1972 when reliable information first became available. The 1981 statistics

are the latest available at the time of this research. The statistics are prepared by the Census Bureau for the Bureau of Justice Statistics. The variable includes: (a) commitments from courts, (b) parole or conditional release violators returned, and (c) escapees returned. Other prison admissions such as returns from authorized temporary absences and transfers from other jurisdictions are excluded. The prison commitments are generally for terms of one year or more. Statistics for the District of Columbia are not used because they include many sentences shorter than one year, and because the numbers of court commitments before and after 1978 do not appear to be comparable.

Perhaps commitments from courts, without returned parolees and escapees, would be a better variable for the purposes of this study, but this information is not available before 1974. For the period 1974-81, also, the court commitment variable showed a slightly weaker relationship to appeals than total commitments.

IX. OTHER VARIABLES PERTAINING TO CIVIL CASES

This part describes several variables, in addition to those described in Parts IV through VIII, that pertain specifically to civil cases. They are the interest rate differential on appeal, the trial court dollar jurisdictional limit, prehearing settlement conferences, and revision of civil rules of procedure.

a) Interest Rate Differential

The interest rate differential is the difference between the cost of money and the interest rate on judgments. The latter is the interest that the losing party pays on the amount awarded in the trial court while the appeal is pending. It is, for example, the rate an insurance company must pay while it appeals an adverse judgment in a tort case. Presumably, the party suffering a large judgment in the trial court will benefit if payment is delayed, with interest to be paid accumulating at a lower rate than can be earned in the open market.

The interest rates on judgments for each state are shown in Table IXa. These rates are established by statute and were located through research in the state statutes. This research was checked by reviewing the last 16 editions of Volume VII of Martindale-Hubbell, where interest rates on appeal are published annually. The data is in terms of percentages and is entered according to the appellate court year. When statutory interest rates changed during a year, the value of the variable for that year was prorated according to the court year. When the statutes specify variable interest rates, the actual rates were

Table IXa Interest Rates on Judgments for Civil Appeals, 1966-82

| | | |
|----|----------------|---|
| 01 | Alabama | 6% to 12% (1981) |
| 02 | Alaska | 6% to 8% (1969) to 10.5 (1980) |
| 03 | Arizona | 6% to 10% (1979) |
| 04 | Arkansas | 6% to 10% (1975) |
| 05 | California | 7% to 10% (1976) |
| 06 | Colorado | 6% to 8% (1975)* |
| 07 | Connecticut | 6% to 8% (1980) |
| 08 | Delaware | 6% to variable (1974)* |
| 09 | Dist. of Col. | 5% to variable (1982)* |
| 10 | Florida | 6% to 8% (1977) to 10 (1980) to 12% (1981) |
| 11 | Georgia | 7% to 12% (1980) |
| 12 | Hawaii | 6% to 8% (1979) to 10% (1981) |
| 13 | Idaho | 6% to 8% (1974) to 18% (1981) |
| 14 | Illinois | 5% to 6% (1969) to 8% (1977) to 9% (1980) |
| 15 | Indiana | 6% to 8% (1974) to 12% (1981) |
| 16 | Iowa | 6% to 7% (1974) to 10% (1981) |
| 17 | Kansas | 6% to 8% (1969) to 12% (1980) to 15% (1972) |
| 18 | Kentucky | 6% to 8% (1976) to 15% (1982) |
| 19 | Louisiana | 5% to 7% (1970) to 10% (1980) to 12% (1981) |
| 20 | Maine | 6% to 10% (1971) to 12% (1980) to 15% (1981) |
| 21 | Maryland | 6% to 10% (1980) |
| 22 | Massachusetts | 6% to 8% (1974) to 10% (1980) to 12% (1982) |
| 23 | Michigan | 5% to 6% (1973) to 12% (1980) |
| 24 | Minnesota | 6% to variable (1980)* |
| 25 | Mississippi | 6% to 8% (1975) |
| 26 | Missouri | 6% to 9% (1979) |
| 27 | Montana | 6% to 10% (1979) |
| 28 | Nebraska | 6% to 8% (1972) to 12% (1980) |
| 29 | Nevada | 7% to 8% (1979) to 12% (1981) |
| 30 | New Hampshire | 6% to 10% (1981) |
| 31 | New Jersey | 6% to 8% (1975) to 12% (1981) |
| 32 | New Mexico | 6% to 10% (1980) |
| 33 | New York | 6% to 9% (1981) |
| 34 | North Carolina | 6% to 8% (1981) |
| 35 | North Dakota | 4% to 6% (1975) to 12% (1982) |
| 36 | Ohio | 6% to 8% (1980) to 10% (1982) |
| 37 | Oklahoma | 6% to 10% (1968) to 12% (1979) to 15% (1982) |
| 38 | Oregon | 6% to 9% (1979) |
| 39 | Pennsylvania | 6% (no change) |
| 40 | Rhode Island | 6% to 8% (1976) to 12% (1981) |
| 41 | South Carolina | 6% to 8.75% (1979) to 14% (1982) |
| 42 | South Dakota | 6% to 8% (1972) to 10% (1975) to 12% (1980) to 18% (1981) |
| 43 | Tennessee | 6% to 8% (1976) to 10% (1981) |
| 44 | Texas | 6% to 9% (1975) |
| 45 | Utah | 8% to 12% (1981) |
| 46 | Vermont | 6% to 6.5% (1968) to 7.5% (1969) to 8.5% (1974) to 12% (1980) |
| 47 | Virginia | 6% to 8% (1974) to 10% (1981) |
| 48 | Washington | 6% to 8% (1969) to 10% (1980) to 12% (1982) |
| 49 | West Virginia | 6% to 10% (1981) |
| 50 | Wisconsin | 5% to 7% (1971) to 12% (1980) |
| 51 | Wyoming | 7% to 10% (1973) |

*Colorado--Two percentage points above the Federal Reserve Discount Rate. (Jan. 1973). Delaware--4 percentage points above the Discount Rate, then 5 percent above in 1980. D.C.--70 percent of interest set by the Treasury Department for unpaid taxes. Minnesota--Treasury bill rate for prior year.

Table IXb

Average Monthly Interest Rates, 1966-1982

| <u>Year</u> | <u>Treasury Bills</u> | <u>Bankers' Ninety Day Acceptances</u> |
|-------------|-----------------------|--|
| 1966 | 4.9 | 5.4 |
| 1967 | 4.3 | 4.8 |
| 1968 | 5.4 | 5.8 |
| 1969 | 6.7 | 7.6 |
| 1970 | 6.4 | 7.3 |
| 1971 | 4.3 | 4.9 |
| 1972 | 4.1 | 4.5 |
| 1973 | 7.0 | 8.0 |
| 1974 | 7.9 | 9.9 |
| 1975 | 5.8 | 6.3 |
| 1976 | 5.0 | 5.2 |
| 1977 | 5.3 | 5.6 |
| 1978 | 7.2 | 8.1 |
| 1979 | 10.1 | 11.1 |
| 1980 | 11.4 | 12.8 |
| 1981 | 14.0 | 15.3 |
| 1982 | 10.6 | 11.9 |

determined according to the statutory formula, or, as was necessary in two states, by telephoning court administrative office staff.

The cost of money was calculated from two different indices, the average yearly rate of three month treasury bills and the average yearly rate of three month bankers' acceptances. Treasury bills are U.S. government obligations and thus the safest short-term investment. The bankers' acceptances rate represents what banks charge regular customers, specially trading firms, for short term loans.

The rates on bankers acceptances are generally one half to one percentage point higher than the treasury bill rates, as can be seen in table IXb. The two rates fluctuate somewhat independently. There was a difference of two percentage points in 1974 and only two tenths of a percentage point in 1976. Both rates were used to calculate the interest rate differential, which is the money market rate minus the interest rate on appeal. In general, the interest differential was negative throughout most of the period, but became strongly positive in the 1979 to 1982 period. The differential, of course, varied greatly between the states and varied depending on whether the treasury bill or the bankers acceptances rates were used. The differential based on the treasury bill rate was used in the regression analysis because it was selected in stepwise regression over the differential based on bankers acceptances.

b) Trial Court Dollar Jurisdictional Limit.

The trial court dollar jurisdictional limit is the highest amount in controversy that can be sought in the limited jurisdiction trial court. In a few states this is also the lower limit of the general jurisdiction

courts, but jurisdiction usually overlaps between limited and general jurisdiction courts. In states with a single unified court, the dollar jurisdiction limit is the upper limit for the small claims division of the court; these cases could also be filed in the regular civil division of the court, but usually are not because procedures there are more expensive.

The dollar limitation amounts were obtained from state statutes, and were verified in most states through information in the court annual reports and other secondary literature. When the jurisdiction limit was changed during a year, it was prorated according to the trial court fiscal year, which is generally the same as the appellate court fiscal year (compare Tables IIb and IVc). The dollar amounts are listed in Table IXc.

The dollar jurisdiction amount was adjusted for the declining value of the dollar by dividing it by the Consumer Price Index. In the regression analysis, it was found that the jurisdictional amount was most closely related to civil appeals two years later (rather than the same year or one or three years later). Plot IXa shows the relationship between the adjusted dollar jurisdiction limit and the number of civil appeals two years later. Plot IXb shows the relationship to the number of trial court filings in the same year. A strong relationship between the jurisdictional limit and both appellate and trial filings is apparent. The outlying values to the right are Maine, which has a very high jurisdictional amount, and correspondingly low filings. Deleting Maine from the analysis of civil appeals lowers the beta coefficient for trial jurisdictional limit from $-.37$ to $-.22$, but the regular coefficient remains almost the same ($.022$ and $-.020$).

Table IXc

Trial Court JurisdictionalDollar Limit, 1969-82

| <u>State and FY</u> | |
|-----------------------|--|
| 01 Alabama-C | Varied till \$5,000 (Oct. 1977) |
| 02 Alaska-6/30* | \$10,000 |
| 03 Arizona-C | \$500 to \$1,000 (Nov. 1972) to \$2,500 (April 1980) |
| 05 California-6/30 | \$5,000 to \$15,000 (June 1979) |
| 06 Colorado-6/30 | \$500 to \$1,000 (Oct. 1975) to \$5,000 (July 1981) |
| 07 Connecticut-6/30* | +\$250 to \$750 (Sept. 1971) to \$1,000 (Oct. 1981) |
| 08 Delaware-6/30 | \$2,500 to \$5,000 (July 1975) |
| 09 Dist. Col.-C | +\$750 |
| 12 Hawaii-6/30 | \$5,000 |
| 13 Idaho-C | \$2,500 to \$5,000 (June 1978) to \$12,000 (Jan. 1981) |
| 14 Illinois-C | +\$500 to \$1,000 (July 1969) to \$2,500 (Feb. 1981) |
| 16 Iowa-C | \$300 to \$1,000 (July 1973) |
| 17 Kansas-6/30 | \$1,000 |
| 18 Kentucky-6/30* | \$500 to \$1,500 (Jan. 1978) |
| 19 Louisiana-C* | \$1,000 to \$2,000 (Oct. 1976) to \$3,000 (Jan. 1980) |
| 20 Maine-C | \$20,000 |
| 21 Maryland-8/31* | \$2,500 to \$5,000 (July 1971) to \$10,000 (1980) |
| 22 Massachusetts-6/30 | \$2,000 to \$4,000 (Sept. 1974) to \$7,500 (July 1978) |
| 23 Michigan-C | \$3,000 to \$10,000 (Jan. 1972) |
| 24 Minnesota-C | \$1,000 to \$5,000 (July 1972) |
| 25 Mississippi-C | \$200 to \$500 (Jan. 1976) to \$1,000 (April 1981) |
| 26 Missouri-6/30 | \$3,500 to \$5,000 (Aug. 1976) |
| 27 Montana-C | \$300 to \$1,500 (1975) to \$3,500 (Oct. 1981) |
| 28 Nebraska-C | \$1,000 to \$5,000 (Jan. 1973) |
| 29 Nevada-C | \$300 to \$750 (July 1979) |
| 30 New Hampshire-C* | \$1,500 to \$3,000 (Aug. 1973) to \$5,000 (Aug. 1979) |
| 31 New Jersey-8/31 | \$1,000 to \$3,000 (Oct. 1969) to \$5,000 (July 1981) |
| 32 New Mexico-6/30* | \$500 to \$2,000 (June 1973) |
| 37 Oklahoma-C | +\$400 to \$600 (Oct. 1976) to \$1,000 (Oct. 1981) |
| 38 Oregon-C | \$2,500 to \$3,000 (July 1973) |
| 40 Rhode Island-C | \$5,000 to \$10,000 (May 1981) |
| 43 Tennessee-C | \$3,000 to \$5,000 (May 1977) to \$10,000 (April 1982) |
| 44 Texas-C | \$200 to \$500 (Nov. 1978) |
| 45 Utah-6/30* | \$1,000 to \$2,500 (May 1975) to \$5,000 (July 1978) |
| 46 Vermont-6/30* | \$5,000 |
| 47 Virginia-C | \$5,000 to \$7,000 (July 1981) |
| 48 Washington-C | \$1,000 to \$3,000 (May 1979) to \$5,000 (July 1981) |
| 51 Wyoming-C | \$200 to \$1,000 (Jan. 1975) |

*Alaska-calendar before 1981; + small claims limits.
 Connecticut-FY 8/31 before 1977;
 Kentucky-Calendar before 1979;
 Louisiana-FY 6/30 before 1975;
 Maryland-FY 6/30 before 1975;
 New Hampshire-FY 8/31 before 1977;
 New Mexico-Calendar before 1980;
 Utah-Calendar before 1975;
 Vermont-Calendar before 1977.

Table IXd

States with Pre-Hearing Settlement Conferences in Appellate Courts

| <u>State</u> | <u>Prehearing Settlement Conferences^o</u> | <u>Coded as Dummy Variable⁺</u> | <u>Notes</u> |
|------------------|--|--|--|
| 01 Alabama | --- | --- | |
| 02 Alaska | --- | --- | |
| 03 Arizona | --- | --- | |
| 05 California | 1975 | --- | One of five divisions. |
| 06 Colorado | 1977 | 77-82 | |
| 07 Connecticut | Dec. 1978 | 79-82 | |
| 08 Delaware | --- | --- | |
| 09 Dist. Col. | fall 1978 | 79-82 | |
| 12 Hawaii | --- | --- | |
| 13 Idaho | --- | --- | |
| 14 Illinois | --- | --- | |
| 16 Iowa | --- | --- | |
| 17 Kansas | --- | --- | |
| 18 Kentucky | --- | --- | |
| 19 Louisiana | ----* | --- | PHSCs were used in one division in 1976-77 but are not included here because they were held before the record was filed. |
| 20 Maine | --- | --- | |
| 21 Maryland | ----* | --- | PHSCs began in July 1980, but are not included in analysis because they occur before cases are filed. |
| 22 Massachusetts | --- | --- | |
| 24 Minnesota | 1976-79 | 77-78 | Sept. 1976 to Jan. 1979. |
| 25 Mississippi | --- | --- | |
| 26 Missouri | Dec. 1976 | 79-82 | Initially one division only. |
| 27 Montana | --- | --- | |
| 28 Nebraska | April 1979 | 80-82 | |
| 29 Nevada | --- | --- | |
| 30 New Hampshire | July 1979 | 80-82 | |
| 31 New Jersey | fall 1981 | 1982 | |
| 32 New Mexico | --- | --- | |
| 37 Oklahoma | 1977 | 77-82 | |
| 38 Oregon | --- | --- | |
| 40 Rhode Island | Jan. 1979 | 79-82 | |
| 43 Tennessee | --- | --- | |
| 44 Texas | ----* | --- | Limited use of PHSCs in 1978 and 1979 in one of 14 intermediate court divisions. Held in April to December. |
| 45 Utah | 1978 only | 1978 | |
| 46 Vermont | --- | --- | |
| 47 Virginia | --- | --- | |
| 48 Washington | March 1976 | 77-82 | |
| 51 Wyoming | --- | --- | |

^oDate the settlement conferences began (or period during which they were held).
⁺According to the appellate fiscal year.

c) Prehearing Settlement Conferences

Prehearing settlement conferences (PHSCs) are conferences held by the court, usually presided over by a judge, and intended to persuade the parties to settle. For the purposes of this study, the PHSCs exclude conferences with attorneys held primarily for reasons other than prompting settlement, such as scheduling cases. Courts that use PHSCs were located in the literature search and in the telephone interviews with court clerks. Table IXd shows the states in our sample of 37 with civil appellate data that have used PHSCs. In the regression analysis, 13 courts are considered to have used the settlement conferences. Note that for two states, Maryland and Louisiana, PHSCs were not included in the analysis because they were held before cases are docketed (i.e. before the record was filed), and their impact on the volume of appeals counted is very uncertain. Presumably those filing appeals just to make use of the settlement procedures would seldom proceed further in the case. Also, the Michigan Court of Appeals held settlement conferences between April 1979 and May 1980, but only criminal appellate data was obtained for the analysis.

A major problem encountered when analyzing PHSCs is that in some states they are used for only some civil appeals. For the purposes of this study, a court is considered to use PHSCs even though some cases did not go through the conferences, unless the PHSC use was very limited. In several states, one appellate court used PHSCs while others did not; in other states PHSCs were often used for only part of the year in which they were initiated or terminated. Consequently, the PHSCs were represented by a continuous variable, 0 for no PHSC to 9 for use by all

appellate courts hearing initial civil appeals. When PHSCs were used by only one of several courts, the use was prorated, such that the variable had a value of 1 to 8, depending on the portion of civil appeals filed in the court with the PHSC. A similar calculation was made to adjust for the initiation or termination of PHSCs during a year.

The PHSCs were also represented by a dummy variable, in which states were counted as having a PHSC if the value of the variable was 5 or more. The two variables gave very similar results in the regression analysis.

d) New Civil Rules

The variables for new civil trial court and appellate court rules are dummy variables, as described in Part XI. New rules include only totally new rules. In the analysis, this variable is given a value for the year in which the rule changes were made and for the following four years. That is, it is assumed that the impact on appellate volume, if any, will continue for about four years after the rules go into effect.

X. OTHER VARIABLES PERTAINING TO CRIMINAL CASES

This section describes several additional independent variables entered into the analysis of criminal appeals. They are sentence appeals, determinant sentencing laws, criminal code revisions, new rules of criminal procedure, and appellate procedure modifications. The analysis constitutes, in effect, an experiment to determine whether, and by how much, these factors affect the volume of appeals.

a) Sentence Appeals

States have established three types of sentence review. The traditional and still predominant system limits review to the legality of the sentence, allowing trial courts complete discretion within the statutory maximums and minimums. For all practical purposes, sentence review does not exist in these states. The second system is appellate court review of sentences, permitting reduction (and often increase) even if the sentence is legal. Although the guidelines for such review are varied, appellate courts in these states are generally more likely to modify sentences than in states where a legal sentence cannot be attacked. The third system, although similar to the second, operates outside the regular appellate process, consisting usually of a panel of trial judges.

In practice, it proved difficult to determine which states have which type of sentence review. We initially studied the law review and other literature on the topic, and found considerable inconsistency. The most informative writing is R. Labbe, "Appellate Review of Sentences:

Penology on the Judicial Doorstep," 66 J. Criminal Law & Criminology 122 (1977), which describes the sentence review procedures in 23 states, giving the extent of use in each, information obtained from library research and a questionnaire survey of state attorneys general. Other surveys of sentence review laws can be found in Mueller, "Penology on Appeal: Appellate Review of Legal but Excessive Sentences," 15 Vand. L. Rev. 671 (1962); Comment, "Appellate Review of Sentences: A Survey," 17 St. Louis U. L. J. 221 (1972); E. Edmunds, "Disparity and Discretion in Sentencing: A Proposal for Uniformity," 25 UCLA L. Rev. 323 (1977); C. Cooper, et al, Judicial and Executive Discretion in the Sentencing Process: Analysis of State Felony Code Provisions (American University, 1982); and W. Kramer, Comparative Outline of Basic Appellate Court Structure and Procedures in the United States (West Publishing Company 1975, 1978, 1983). The last is based on a survey of appellate court clerks; the remainder are based on statutory research.

The information in these writings is very inconsistent. One reason is the lack of a clear definition of sentence review. Another is that statutes alone are an incomplete source of information; appellate courts sometimes initiate sentence review even though it is not specifically authorized by statute, and at least one court has held statutory sentence review schemes unconstitutional. Also, in some states sentence review procedures are technically on the books but in practice do not exist; the courts have established such strict standards for modifying sentences that the laws provide little or no review beyond the traditional review of legality. These sources were supplemented by a review of current statutes, current caseload statistics in states where sentence review is governed by case law, and interviews with appellate court clerks.

Regular appellate sentence review, we discovered, is authorized in 20 states:

| | | |
|-------------|-------------------|---------------------|
| *Alaska | Indiana (1970) | Oklahoma |
| *Arizona | *Iowa | Oregon |
| *California | *Louisiana (1979) | Rhode Island (1975) |
| *Colorado | *Minnesota (1980) | Tennessee (1982) |
| Hawaii | *Nebraska | Wisconsin |
| *Idaho | *New Jersey | Washington (1984) |
| *Illinois | New York | |

The dates mark the initiation of sentence review; states without dates had sentence review before 1970. The list does not include states that review death sentences only. Eleven of these 20 states, marked with asterisks, are counted as having sentence review for the purposes of this research and were entered as dummy variables, as described in Part XI. Of the remaining states, Indiana, New York and Wisconsin were not included in the sample of 38 states studied here; the laws in Tennessee and Washington did not become effective until after the period of the research--that is, after the 1982 appellate court fiscal year; and the use of appellate review in Hawaii, Oklahoma, Oregon, and Rhode Island, (and also in Tennessee under sentence review laws before 1982) is so infrequent that it is not available for all practical purposes.

The second type of sentence review--review outside the regular appellate process--was found in 8 states (making 27 states with sentence review; Colorado is in both categories). The states are:

| | |
|---------------------|-----------------------|
| *Colorado (1979-82) | *Maryland |
| *Connecticut | *Massachusetts |
| Georgia | *Montana |
| *Maine | *New Hampshire (1976) |

All but Georgia are included in the sample of 38 states in the study; Colorado and New Hampshire initiated sentence review during the period of the study. With two exceptions, sentence review in these states is by a panel of trial court judges. The first exception is Maine where sentence review is by a special division of the Supreme Court. The review division is considered a separate court and sentence review filings are separate from those in the Supreme Court (even though the same case often results in both types of filings). The second exception is Colorado where a short-lived law provided automatic review of sentences falling outside statutory guidelines; these cases were separate from other appeals that might have been taken in the same case.

As discussed in Part III, regular sentence appeals were counted as criminal appeals for the purpose of this study, even if sentencing is the sole issue in the case. In the analysis, the presence or absence of such review is indicated by a dummy variable (see Part XI). The presence of sentence review other than the regular appellate review is indicated by a separate dummy variable (also described in Part XI) because one would expect its effect on appeals to be opposite that of regular sentence review.

b) Determinant Sentencing

The research also attempted to study the effects of determinant and mandatory sentencing on appellate court caseloads. Information about this topic was even more difficult to gather than information about sentence appeals. Law review articles and other written sources contain less information, categorizing the statutory procedures is more difficult, and many appellate court clerks were unable to give

information about sentencing laws. The one comprehensive study of the topic, S. Cooper, et al., supra, presents an incomplete and unpersuasive categorization of determinant sentencing provisions.

The sentencing laws in question are variously called mandatory, determinant, and presumptive. They specify that judges must give (or must give unless reasons are stated for not doing so) sentences of at least a certain length in specified circumstances. The net effect of the laws, many of which were passed in the last 10 years, is probably to increase the number of defendants given prison sentences.

The sentences specified and the types of cases encompassed vary greatly. For the purposes of this study, a state is considered to have determinant (or mandatory or determinant) sentencing if the law requires a specified minimum prison sentence for broad categories of felonies either upon first conviction or for repeat convictions. In the latter situation, the minimum specified must be at least two years greater than the minimum for the first offense. Presumptive sentencing minimums are included, but extensions of the limits for ordinary discretionary sentencing are not included. Determinant sentencing for crimes involving guns or deadly weapons in general were not included because they encompass a small minority of felony convictions.

In all, however, after considerable statutory research it must be admitted that the uncertainties on this topic remain substantial. The results of the research are entered as dummy variables, as shown in Table XIb. Fifteen of the 38 states in the sample are counted as having determinant sentencing for at least one year from 1970 to 1982. In thirteen, the laws were new, generally enacted in 1978 to 1980.

c) Criminal Code Revision and New Criminal Rules of Procedure

It is sometimes contended that major changes in criminal laws lead to more appeals because the changes create new legal issues. The research here includes two such changes, new criminal codes and new trial court rules of criminal procedure. Both were entered as dummy variables, as shown in Table XIb, for the appellate court fiscal year when the new law took effect and three years thereafter.

Criminal code revision, to be included, must have been total rather than mere amendment of the existing code. Amendments in a very few states, however, were so comprehensive that they were counted in the study as new codes. In all, 22 of the 38 states have passed new codes since 1970.

Revisions of trial court criminal rules were similarly defined. As can be seen in Table IXb, 19 of the 38 states passed new rules of criminal procedure from 1970 to 1982.

d) Appellate procedure

The criminal appeals analysis, like the analysis of civil appeals, included variables indicating the method of record and brief production and the adoption of new appellate rules. Tables XIa and XIb list these variables.

XI. DICHOTOMOUS VARIABLE CODING

The dichotomous variables are those with only two values; that is, either the event happened or did not during the year, or a state had a certain trait or did not during the year. The following sections describe these variables and explain how they are coded. Several tables which follow present the variables used in the analysis and give their values by state.

The variables are coded according to the court's statistical reporting year--usually the calendar year, but often a fiscal year ending, for example, on June 30. Hence, if a change occurred in September 1978 and the statistics are given for the fiscal year ending June 30, the change is considered to have occurred in 1979.

The dichotomous variables are used in two ways. First, some are events that took place in only one year. An example is a new criminal code; the impact probably results from the change itself, and the effect on appellate volume is probably only temporary. In the analysis these are considered to have an impact in the year of the change and in the following three years.

Most variables, however, are coded as permanent changes, because their impact, if any, continues as long as the change is in effect. Examples are changes from printed to typed briefs and initiation of sentence review.

The following list of the dichotomous variables explains how they are defined and coded. The variable names on the computer are the paragraph letters--A, B, etc.

INTERMEDIATE APPELLATE COURT

A. Existence of Intermediate Court

X = An IAC existed since 1967. (Code: 1)

-- = No IAC during the period. (Code: 0)

date = the year in which an IAC became operational.

B. Expansion of an Intermediate Appellate Court

X = The IAC takes at least 90 percent of the initial appeals from trial courts and administrative agencies.

(Code: 1)

-- = Otherwise. (Code: 0)

date = The year in which the IAC jurisdiction was expanded to include at least 90 percent of initial appeals.

SENTENCE REVIEW

C. Sentence Review by Appellate Courts

X = Sentence review by the appellate courts since 1970.

(Code: 0)

-- = No such review. (Code: 1)

date = Year when such review was initiated or the next year if the change occurred after the midpoint. (Note--if a change occurs at the midpoint, it is coded at the year made. E.g., if a change is effective July 1, 1978 it is considered to have been made in 1978 if the state is a calendar year state.)

D. Sentence Review Outside the Appellate Court

X = Sentence review outside the appellate court process. This is usually by a panel of trial judges. (Code: 0)

-- = No such review. (Code: 1)

date = When such review was initiated or the next year if the change occurred after the midpoint.

RECORD PREPARATION

E. Record Condensing - Criminal

X = . The parties must condense the record into a narrative version. (Code: 0)

-- = Otherwise. (Code: 1)

date = Year of change from narrative version, except Mississippi, where the change was to the narrative version.

The year after the year of change is used if the change occurred after the midpoint.

EE. Record Condensing - Civil

See E for coding.

F. Record Duplication - Criminal

X = The original record is not used; either the papers in the clerk's file must be retyped or the record must be printed for the appellate court. (Code: 0)

-- = The original record, or a photocopy, is sent to the appellate court. (Code: 1)

date = Year of change to original record, or the next year if the change occurred after the midpoint.

FF. Record Duplication - Civil

See F for coding.

APPELLATE RULES

G. New Criminal Appellate Rules

date = Year in which a new version of the criminal appellate

rules became effective. (Code: 0)

-- = No change in rules. (Code: 1 for each year that a new version of appellate rules was not issued)

GG. New Civil Appellate Rules

See G for coding.

H. Abbreviated Briefs - Criminal (Variable 15, Column 31).

X = Counsel have the option, by court rule, to file short, informal briefs (25 pages or under) in criminal appeals. (Code: 0)

-- = No such program was initiated. (Code: 1)

date = The year counsel were allowed to file abbreviated briefs, or the next year if the change occurred after the midpoint.

HH. Abbreviated Briefs - Civil

See H for coding.

I. Duplicating Briefs - Criminal

X = Briefs must be printed, including offset printing. (Code: 0)

-- = Briefs are photocopied; includes a few states where briefs can be so duplicated with the court's permission and permission is routinely granted. (Code: 1)

date = Year when the court abolished the requirement for printed briefs, or the next year if the change occurred after the midpoint.

II. Duplicating Briefs - Civil

See I for coding.

NEW CODES, PROCEDURE RULES, AND SENTENCING LAWS

J. New Criminal Code

date = The year when a new criminal code became effective or, in Arizona, when the code was thoroughly rewritten. (Code: 0)

-- = No such change was made. (Code: 1 for any year in which a change was not made.)

K. New Criminal Rules

date = The year when new rules of criminal procedure became effective. (Code: 0)

-- = No such change was made. (Code: 1 for any year in which a change was not made.)

KK. New Civil Rules

See K for coding.

L. Determinant or Presumptive Sentencing

X = The state has a determinant or presumptive sentencing law. This variable includes determinant or presumptive sentencing for initial and repeat offenders. The determinant sentencing for repeat offenders must be substantially higher than the minimum sentence for initial offenders. This variable does not include determinant or presumptive sentencing solely for crimes committed with dangerous weapons. (Code: 0)

-- = The state does not have such a law. (Code: 1)

date = Year when a determinant or presumptive sentencing law went into effect, or the next year if the change occurred after the midpoint.

APPELLATE JURISDICTIONAL CHANGES

M. Changes in Criminal Appellate Jur.

date = Year, 1973 or after, when a change was made that substantially affected appellate court jurisdiction over criminal appeals excluding changes for which adjustments were made in the filing statistics. (Code: If the change increased appellate jurisdiction, code as 0 on the year of the change, or the next year if the change occurred after the midpoint, and for every later year. Changes in 1982 reduced jurisdiction in Washington. The reduction is coded 0 for the years prior to the change, and for the year of the change if the change occurred after the midpoint.)

-- = No such change. (Code: 1 for all years.)

MM. Changes in Civil Appellate Jur.

See M for coding.

TRIAL COURT DICHOTOMOUS VARIABLES

N. When Criminal Cases are Counted

X = Counted when the complaint is filed. (Code: 0)

-- = Counted when the defendant is indicted. (Code: 1)

date = Date that the courts changed the time of counting (irrespective of the time of year if the practical impact was to file most cases in the year according to the new system).

NN. When Civil Cases are Counted

X = Counted at the time of readiness or time the case is brought to issue; that is, typically, the time the plaintiff asks for trial. (Code: 0)

-- = . Counted when the complaint is originally filed. (Code: 1)

date = See N for coding.

O. Composition of Criminal Statistics

X = The criminal filing statistics include a substantial proportion of misdemeanor cases. A "substantial proportion" means at least a quarter of the filings, although in a few states exact percentages are not available and the proportion is based on estimates given by state court administrative office staff. (Code: 0)

-- = Totally or mainly felony--see the criteria above. (Code: 1)

date = Year when the criminal filings switched from one category to another.

P. Change in Trial Court Structure - Crim.

date = Year when there was a major change in the trial court structure with respect to criminal cases, generally a new limited jurisdiction court or a merger of limited jurisdiction courts into the general jurisdiction court. (Code: 0)

-- = There was no such change. (Code: 1 for every year in which there was no change.)

PP. Change in Trial Court Structure - Civil

See P for coding.

Q. Changes in Content of Filings - Crim.

date = Year when there was a major change in the composition of the cases in the "criminal" category of trial court statistics, either a major jurisdictional change or to a different method of counting cases. The change is considered to have occurred in the year when most of its impact was first felt. (Code: if the change increased the volume of cases in the statistics, it is coded as 0 after the change, and 1 beforehand. If the change reduced the volume of cases, the opposite coding is used.)

-- = There was no such change. (Code: 1)

QQ. Changes in Content of Filings - Civil

See Q for coding. (Changes in dollar amount jurisdiction are not included because they are a separate variable.)

Table XIa
Table of Dichotomous Variables, Part I

| State and FY | Intermediate Court | | Sentence App. | Review Other | Record Condensing | | Record Duplication | | New Appellate Rules | |
|----------------|--------------------|----------------|---------------|--------------|-------------------|-------------------|--------------------|-------|---------------------|-----------------|
| | Exist | Expanded | | | Crim | Civil | Crim | Civil | Crim | Civil |
| | A ⁰ | B ⁰ | C | D | E | EE | F | FF | GO | GG ⁰ |
| 01 Ala.-9/30 | X | -- | -- | -- | 1976 | 1976 | 1976 | 1976 | 1976 | 1976 |
| 02 Alaska-C | 1980 | -- | X | -- | -- | -- | -- | -- | -- | -- |
| 03 Ariz.-C | X | 1974 | X | -- | -- | 1978 | -- | -- | 1973 | 1978 |
| 05 Cal.-6/30 | X | X | X | -- | -- | -- | 1972 | 1972 | -- | -- |
| 06 Col.-6/30 | 1970 | 1975 | X | 1980 | -- | -- | -- | -- | 1970 | 1970 |
| 07 Conn.-6/30 | -- | -- | -- | X | 1975 | 1980 | X | X | 1980 | 1980 |
| 08 Del.-6/30 | -- | -- | -- | -- | -- | -- | -- | -- | 1978 | 1978 |
| 09 D.C.-C | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 12 Hawaii-6/30 | 1980 | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 13 Idaho-C | 1982 | -- | X | -- | -- | -- | -- | -- | 1977 | 1977 |
| 14 Ill.-C | X | 1971 | X | -- | 1980 | 1980 | -- | -- | -- | -- |
| 16 Iowa-C | 1976 | -- | X | -- | 1977 | 1973 | -- | -- | 1977 | 1973 |
| 17 Kansas-C* | 1977 | -- | -- | -- | 1977 | 1977 | 1977 | 1977 | 1977 | 1977 |
| 18 Ky.-C* | 1976 | 1976 | -- | -- | 1978 | 1978 | -- | 1973 | 1978 | 1978 |
| 19 La.-C* | X | 1982 | 1979 | -- | 1975 | -- | -- | -- | 1974 | 1978 |
| 20 Maine-C | -- | -- | -- | X | -- | -- | -- | 1978 | 1979 | 1978 |
| 21 Md.-2/28 | 1967 | 1974 | -- | X | -- | X | -- | 1973 | -- | -- |
| 22 Mass.-C | 1972 | -- | -- | X | 1974 | 1974 | 1974 | 1974 | 1979 | 1974 |
| 23 Mich.-C | X | X | -- | -- | -- | -- | -- | -- | -- | -- |
| 24 Minn.-C | 1983 | 1983 | 1980 | -- | 1975 | -- | -- | -- | 1975 | -- |
| 25 Miss.-C* | -- | -- | -- | -- | 1976 ⁺ | 1976 ⁺ | -- | -- | -- | -- |
| 26 Mo.-6/30 | X | 1972 | -- | -- | -- | -- | 1980 | 1980 | 1980 | 1980 |
| 27 Mont.-C | -- | -- | -- | X | -- | -- | -- | -- | -- | -- |
| 28 Neb.-8/31 | -- | -- | X | -- | -- | -- | -- | -- | -- | -- |
| 29 Nevada-C | -- | -- | -- | -- | -- | -- | -- | -- | 1973 | 1973 |
| 30 N.H.-6/30* | -- | -- | -- | 1976 | -- | -- | -- | -- | 1979 | 1979 |
| 31 N.J.-8/31 | X | X | X | -- | -- | -- | -- | -- | 1969 | 1969 |
| 32 N.M.-6/30* | X | 1983 | -- | -- | 1974 | -- | 1974 | 1974 | 1975 | 1974 |
| 37 Okla.-C | 1970 | -- | -- | -- | -- | -- | -- | -- | -- | -- |

| State and FY | Intermediate Court | | Sentence App. | Review Other | Record Condensing | | Record Duplication | | New Appellate Rules | |
|--------------|----------------------|----------------------|---------------|--------------|-------------------|-----------|--------------------|-----------|----------------------|-----------------------|
| | Exist | Expansion | | | Crim | Civil | Crim | Civil | Crim | Civil |
| | <u>A^o</u> | <u>B^o</u> | <u>C</u> | <u>D</u> | <u>E</u> | <u>EE</u> | <u>F</u> | <u>FF</u> | <u>G^o</u> | <u>GG^o</u> |
| 38 Oregon-C | 1969 | 1978 | -- | -- | -- | -- | -- | -- | 74 & 82 | 74 & 82 |
| 40 R.I.-9/31 | -- | -- | -- | -- | -- | -- | -- | -- | 1973 | 1973 |
| 43 Tenn.-C | X | 1978 | -- | -- | -- | -- | -- | -- | 1979 | 1979 |
| 44 Texas-C | X | 1981 | -- | -- | -- | -- | -- | -- | 1981 | -- |
| 45 Utah-C | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 46 Vt.-6/30 | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 47 Va.-C | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 48 Wash.-C | 1969 | 1969 | -- | -- | -- | -- | -- | -- | 1976 | 1976 |
| 51 Wy.-C | -- | -- | -- | -- | -- | -- | -- | -- | 1978 | 1978 |

*Kansas-6/30 through 1978
Kentucky-6/30 through 1970
Louisiana-6/30 through 1974
Mississippi-6/30 through 1973
New Hampshire-7/31 through 1978
New Mexico-Calendar through 1979.

+Mississippi changed to the narrative record in 1976.

o--The event is counted in the year it occurred. For other variables the event is counted as occurring in the following year if it occurred after the mid-point of the year.

Table XIb
Table of Dichotomous Variables, Part II

| State and FY | Abbreviated Briefs | | Printing Briefs | | New Criminal Code Jo | New Trial Court Rules | | Determinant Sentencing L |
|-----------------|-----------------------|-------------|--------------------|-------------|-------------------------------|--------------------------|--------------|--------------------------------|
| | Crim H | Civil HH | Crim I | Civil II | | Crim Ko | Civil KKo | |
| 01 Ala.-9/30 | -- | -- | 1976 | 1976 | 1980 | 1980 | 1973 | 1979 |
| 02 Alaska-C | -- | -- | -- | -- | 1980 | -- | -- | 1980 |
| 03 Ariz.-C | -- | -- | -- | -- | 1978 | 1973 | -- | 1979 |
| 05 Cal.-6/30 | -- | -- | -- | -- | -- | -- | -- | 1978 |
| 06 Col.-6/30 | 1980 | 1980 | -- | -- | 1973 | 1974 | 1970 | 1980 |
| 07 Conn.-6/30 | -- | -- | X | X | -- | -- | -- | -- |
| 08 Del.-6/30 | -- | -- | -- | -- | 1974 | -- | -- | -- |
| 09 D.C. - C | -- | -- | -- | -- | -- | 1971 | 1971 | -- |
| 12 Hawaii-6/30 | -- | -- | -- | -- | 1973 | 1977 | 1973 | 1977 |
| 13 Idaho-C | -- | -- | -- | 1977 | 1972 | 72 & 80 | 1975 | 1979 |
| 14 Ill.-C | -- | -- | 1975 | 1975 | -- | -- | 1982 | 1978 |
| 16 Iowa-C | -- | -- | -- | -- | 1978 | 1978 | -- | -- |
| 17 Kansas-C* | -- | -- | -- | -- | 1971 | -- | -- | -- |
| 18 Ky.-C* | 76-78 | 76-78 | -- | 1976 | 1975 | -- | -- | -- |
| 19 La.-C* | -- | -- | 1974 | -- | -- | -- | -- | X |
| 20 Maine-C | -- | -- | -- | -- | 1976 | -- | -- | -- |
| 21 Md.-2/28 | -- | -- | 1973 | 1973 | -- | 1977 | -- | 1976 |
| 22 Mass.-C | -- | -- | 1973 | 1973 | -- | 1979 | 1974 | -- |
| 23 Mich.-C | -- | -- | -- | -- | -- | -- | -- | -- |
| 24 Minn.-C | -- | 1981 | -- | 1981 | -- | 1975 | -- | 1980 |
| 25 Miss.-C* | -- | -- | -- | -- | 1974 | -- | 1982 | -- |
| 26 Mo.-6/30 | -- | -- | -- | -- | 1979 | 1980 | -- | -- |
| 27 Mont.-C | -- | -- | -- | -- | 1974 | 1968 | -- | 1979 |
| 28 Neb.-8/31 | -- | -- | X | X | 1979 | -- | -- | -- |
| 29 Nevada-C | -- | -- | -- | -- | -- | -- | -- | -- |
| 30 N.H.-6/30* | -- | -- | -- | -- | 1974 | 1980 | 1980 | -- |
| 31 N.J.-8/31 | 1979 | 1979 | -- | -- | 1980 | -- | -- | 1980 |
| 32 N.M.-6/30* | -- | -- | -- | -- | -- | 1972 | -- | 1980 |
| 37 Okla.-C | -- | -- | -- | -- | -- | -- | 1982 | -- |

| | State and FY | Abbreviated Briefs | | Printed Briefs | | New Criminal Code <u>Jo</u> | New Trial Court Rules | | Determinant Sentencing <u>L</u> |
|----|-----------------|-------------------------|---------------------------|-------------------------|---------------------------|--------------------------------------|--------------------------|----------------------------|---------------------------------------|
| | | <u>Crim</u> <u>H</u> | <u>Civil</u> <u>HH</u> | <u>Crim</u> <u>I</u> | <u>Civil</u> <u>II</u> | | <u>Crim</u> <u>Ko</u> | <u>Civil</u> <u>KKo</u> | |
| 38 | Oregon-C | -- | -- | -- | -- | 1972 | 1974 | 1980 | -- |
| 40 | R.I.-9/31 | 1982 | 1982 | -- | -- | -- | 1973 | -- | -- |
| 43 | Tenn.-C | -- | -- | -- | -- | -- | 1978 | 1971 | -- |
| 44 | Texas-C | -- | -- | -- | -- | 1974 | -- | -- | X |
| 45 | Utah-C | -- | -- | 1975 | 1975 | 1973 | 1980 | -- | -- |
| 46 | Vt.-6/30 | -- | -- | -- | -- | -- | 1974 | 1972 | -- |
| 47 | Va.-C | -- | -- | -- | -- | 1975 | -- | -- | -- |
| 48 | Wash.-C | -- | -- | -- | 1976 | 1976 | 1973 | -- | -- |
| 51 | Wy.-C | -- | -- | -- | -- | 1983 | -- | -- | 1983 |

See notes to Table XIa

Table XIc
Table of Dichotomous Variables, Part 3

| | State and FY | Appellate Jurisdictional Changes | | When Cases Are Counted in Trial Court | | Composition of Criminal Trial Court Statistics O | Change in Trial Court Structure | | Change in Content of Trial Court Filings | |
|----|-----------------|--|-------------|---|-------------|--|---------------------------------------|--------------|---|-------------|
| | | Crim M | Civil MM | Crim N | Civil NN | | Crim PO | Civil PPO | Crim Q | Civil QQ |
| 01 | Ala.-9/30 | -- | -- | -- | -- | 1977 | 1978 | 1978 | 1978 | 1978 |
| 02 | Alaska-C | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 03 | Ariz.-C | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 05 | Cal.-6/30 | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 06 | Col.-6/30 | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 07 | Conn.-6/30 | -- | -- | -- | -- | -- | 1979 | 74&79 | -- | -- |
| 08 | Del.-6/30 | -- | -- | -- | -- | -- | -- | 1971 | -- | 1971 |
| 09 | D.C. - C | -- | -- | -- | -- | -- | 1970 | 1970 | 1974 | 1974 |
| 12 | Hawaii-6/30 | 1973 | 1973 | -- | -- | -- | -- | -- | -- | -- |
| 13 | Idaho-C | -- | -- | -- | -- | -- | 1971 | 1971 | -- | -- |
| 14 | Ill.-C | -- | -- | -- | -- | -- | -- | -- | 1973 | -- |
| 16 | Iowa-C | -- | -- | -- | -- | X | 1973 | 1973 | -- | -- |
| 17 | Kansas-C* | 1978 | 1978 | 1977 | -- | -- | 1977 | 1977 | 1977 | -- |
| 18 | Ky.-C* | -- | -- | -- | -- | 1978 | 1978 | 1978 | 1978 | -- |
| 19 | La.-C* | -- | -- | X | -- | X | -- | -- | -- | -- |
| 20 | Maine-C | -- | -- | -- | -- | X | -- | -- | -- | -- |
| 21 | Md.-2/28 | -- | -- | -- | -- | X | 1971 | 1971 | -- | -- |
| 22 | Mass.-C | -- | -- | -- | -- | -- | 1978 | 1978 | -- | -- |
| 23 | Mich.-C | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 24 | Minn.-C | 1982 | -- | -- | X | 1982 | 1972 | 1972 | 1982 | -- |
| 25 | Miss.-C* | -- | -- | -- | -- | X | -- | -- | -- | -- |
| 26 | Mo.-6/30 | -- | -- | -- | -- | -- | 1979 | 1979 | -- | -- |
| 27 | Mont.-C | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 28 | Neb.-8/31 | -- | -- | -- | -- | -- | 1973 | 1973 | -- | -- |
| 29 | Nevada-C | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 30 | N.H.-6/30* | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 31 | N.J.-8/31 | -- | -- | -- | -- | -- | 1979 | 1979 | -- | -- |
| 32 | N.M.-6/30* | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 37 | Okla.-C | -- | -- | X | -- | -- | 1969 | 1969 | -- | -- |

| | State and FY | Appellate Jurisdictional Changes | | When Cases Are Counted in Trial Court | | Composition of Criminal Trial Court Statistics O | Change in Trial Court Structure | | Change in Content of Trial Court Filings | |
|----|-----------------|--|-------------|---|-------------|--|---------------------------------------|--------------|---|-------------|
| | | Crim M | Civil MM | Crim N | Civil NN | | Crim po | Civil ppo | Crim Q | Civil QQ |
| 38 | Oregon-C | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 40 | R. I.-9/31 | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 43 | Tenn.-C | -- | -- | -- | -- | X | -- | -- | -- | -- |
| 44 | Texas-C | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 45 | Utah-C | -- | -- | -- | -- | -- | 1979 | 1979 | -- | -- |
| 46 | Vt.-6/30 | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 47 | Va.-C | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| 48 | Wash.-C | 78&81 | 1981 | -- | -- | -- | -- | -- | -- | -- |
| 51 | Wy.-C | -- | -- | -- | -- | X | -- | 1975 | -- | -- |

See notes to Table XIa

XII. CONTINUOUS VARIABLE CODING

This part describes how the continuous variables are coded and entered into the regression analysis. The variables are listed in the following order: 1) appellate filings, 2) variables common to criminal and civil appeals, 3) variables used in the analysis of criminal appeals, and 4) variables used in the analysis of civil appeals. This part explains only the form of the variables entered into the computer. How the variable values were derived is discussed in Parts II to XI.

The tables which follow show the form of each variable as entered into the data set, and the form in which each was used in the regression analysis. Any variables that reflect the size of the state are expressed in per capita terms, usually in terms of the number per million population.

1) Appellate Filings

| | <u>Originally Entered</u> | <u>Used in Regression Analysis</u> |
|------------------|---|------------------------------------|
| Criminal Appeals | FIKRT number of cases | FIKRTP = FIKRT/POP times 1000 |
| Civil Appeals | FICIT number of cases | FICITP = FICIT/POP times 1000 |
| Total Appeals | ALLAPP= FICIT+FIKRT+EXAPP+TOTAPP (EXAPP is adjustments made for changes in jurisdiction and filing times. TOTAPP is the total number of appeals in states with a criminal/civil breakdown.) | -- |

2) Variables Common to Civil and Criminal Appeals

| | | |
|--------------------------------|--|--|
| Population | POP numbers in thousands | POP |
| Income | INCOME Personal income in tens of millions of dollars | RINCOMP = INCOME/CPI/POP times 1000 |
| Inflation Adjustment | CPI consumer price index, 1967=1.0 | CPI |
| Trial Judges | TRIAL number of judges | TRIALJP = TRIALJ/POP times 1000 |
| Appellate Judges | APPCJ (sum of IACJ and SUPCJ, the numbers of intermediate and supreme court judges) | APPCJP = APPJ/POP times 1000 |
| Appellate Court Fiscal Year | FYAPP month in which the fiscal year ends (Feb.=14) | -- |
| Trial Court Fiscal Year | FYTR see above | -- |

Reversal Rate REVRATE --
 (sum of REVBT+OTHBT divided
 by the sum of AFFBT+REVBT+
 OTHBT, the total numbers of
 affirmances, reversals, and
 other decisions.)
 REVRATX
 (REVBT divided by AFFBT+REVBT)

3) Variables Pertaining to Criminal Appeals Only

| | <u>Originally Entered</u> | <u>Used in Regression Analysis</u> |
|----------------------------------|---|--|
| FBI Crime Index | FBI number of crimes in hundreds | FBIP1 = FBI/POP times 1,000 (number per 10,000 persons) lagged one year |
| FBI Violent Crime | FBIV number of crimes | FBIV1 = FBIV/POP times 10 (number per 10,000 persons) lagged one year |
| Prison Commitments | TOTCOM number of court commitments, parolees returned, and escapees returned. | TOTCOMP = TOTCOM/POP times 1000 |
| Court Commitments | CTCOM number of court commitments | CTCOMP = CTCOM/POP times 1000 |
| Trial court filings | FIKR number of cases | FIKRP1 = FIKR/POP times 1000 lagged on year |
| Criminal Trials | TRKR number of trials | TRKRP = FIKR/POP times 1000 |
| Convictions | COKR number of trial convictions | COKRP = COKR/POP times 1000 |
| Intermediate Court Percentage | IACPCTKR number of criminal appeals filed in the intermediate court divided by the total number of criminal appeals, multiplied by 100 | IACPCTKR |

Backlog Ratio BKLOGKR BKLOGKR
 total pending cases divided
 by dispositions (for several
 states this is limited to
 criminal cases)

Docketing Time KRDOCK DK1
 coded: 0=when the notice of
 appeals is filed; 1= when the
 record is filed; 2=when the
 first brief is filed; 3= when
 the briefs arrive. Coded: 0=when the
 notice of appeals is
 filed; 1=all other

Number of Sentence
 Appeals NOSENTAP --
 number of cases

4) Variables Pertaining to Civil Appeals Only

| | <u>Originally entered</u> | <u>Used in Regression Analysis</u> |
|---|--|--|
| Civil Trial Court Filings | FICI number of cases | FICIP1 = FICI/POP times 1000 lagged one year |
| Domestic Relations Filings | FIDR number of cases | -- |
| Civil and Domestic Filings | FICD number of cases | FICD1 = FICD/POP times 1000 lagged one year |
| Civil Trials | TRCI number of trials | TRCIP = TRCI/POP times 1000 |
| Trial Court Jurisdictional Dollar Limit | TRJLIM dollar amount | TRJLIM2 = TRJLIM/CP1 lagged two years |
| Intermediate Court Percentage | IACPCTCI (number of civil appeals filed in the intermediate court divided by the total number of civil appeals, multiplied by 100 | IACPCTCI |
| Backlog Ratio | BKLOGCI total pending cases divided by dispositions (for several states limited to civil cases) | BKLOGCI |

Use of Prehearing
Settlement
Conference

PHSC
0=PHSC is not held; 1 to 9
proportion of courts and part
of year PHSCs are held

PHSC1 =
0=PHSC if 5 or more
1=PHSC if 4 or less

Interest Rate
Differential

INTDIF2
rate on three month U.S.
Treasury Bills less the
statutory interest rate on
appeal (INTDIF uses the rate
on three month bankers
acceptances)

INTDIF2

Administrative
Agency Appeals

AGAPP
number of cases

--

Docketing Time

CIDOCK
see description of KRDOCK
in the criminal variables

DC1
(see DK1)

DOC #7036Q

XIII. STATE BY STATE DESCRIPTIONS

The following pages present the appellate and trial court statistics used in this research and explain the procedures used in compiling the statistics. The material is organized according to the 38 states studied, first presenting appellate statistics, then trial statistics, and finally a narrative discussion. Definitions of the various statistics categories are given in Parts III through VI. Not all the data given were actually used in the analysis--for example, dispositions and pending statistics were sometimes available for one court in a state but could not be used because information from other courts was missing.

The narrative contains the following sections:

1) Sources. The term "Annual Report" refers to the annual report of the state court system, generally published by the state court administrative office. These reports are available in the National Center for State Courts library. The term "criminal justice plan" refers to the state's comprehensive criminal justice plan prepared pursuant to the Law Enforcement Assistance Administration Act. References to the State Court Statistics Report are to the State Court Caseload Statistics: Annual Report series, which is prepared by the National Center for State Courts. References to "Kramer" refer to W. Kramer, Outline of Basic Appellate Court Structures and Procedures in the United States, published by West Publishing Co. in 1975, 1978, and 1983.

Unpublished statistics received from the appellate courts or state

court administrative offices are on file at the National Center for State Courts, with the exception of some 1982 data received over the telephone.

2) Special Features of the Statistics. This section describes departures from the general rules concerning the definitions of the various categories of appellate statistics which were discussed in parts II and IV. For departures concerning the trial data, see Table VIb.

3) Estimations. As described in parts II to IV, statistics were estimated when information was not available or when the available statistics were misleading. Estimations were made, for example, to compensate for changes in appellate court jurisdiction and for changes in docketing procedures.

4) Special Problems. This section describes problems with specific statistics that might make them misleading, but for which estimations were not possible (if important, these factors were entered as dummy variables; see Part XI). Also included are major changes (other than those entered as variables elsewhere) in each state that might affect the volume of appeals.

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APPEALS FILED

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> | <u>Supreme Court</u> |
|-------------|---------------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Intermediate Court</u> | |
| 1971 | 554 | 146 | 208 |
| 1972 | 625 | 157 | 184 |
| 1973 | 612 | 196 | 260 |
| 1974 | 602 | 211 | 280 |
| 1975 | 878 | 251 | 333 |
| 1976 | 1,084 | 283 | 336 |
| 1977 | 853 | 308 | 454 |
| 1978 | 912 | 361 | 545 |
| 1979 | 829 | 419 | 563 |
| 1980 | 838 | 464 | 651 |
| 1981 | 1,030 | 475 | 579 |
| 1982 | 1,180 | 485 | 651 |

REVERSAL RATES
INTERMEDIATE COURT

| <u>Year</u> | <u>Civil</u> | | |
|-------------|---------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1977 | 129 | 32 | 18 |
| 1978 | 164 | 50 | 15 |
| 1979 | 166 | 64 | 16 |
| 1980 | 200 | 66 | 23 |
| 1981 | 229 | 69 | 26 |
| 1982 | --- | -- | -- |

TIME TO DECISION
INTERMEDIATE COURT

| <u>Year</u> | <u>Civil</u> |
|-------------|--------------|
| 1976 | 6.2 |
| 1977 | 5.8 |
| 1978 | 5.5 |
| 1979 | 5.9 |
| 1980 | 6.0 |
| 1981 | 6.2 |
| 1982 | 5.9 |

ALABAMA

ALABAMA

PENDING AND DISPOSED CASES
INTERMEDIATE COURTS

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|-------------------|-------------------|-------------------|-------------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1972 | 614 | 484 | --- | --- |
| 1973 | 647 | 503 | --- | --- |
| 1974 | 562 | 426 | --- | --- |
| 1975 | 634 | 523 | --- | --- |
| 1976 | 904 | 671 | --- | 124 |
| 1977 | 976 | 548 | 292 | 140 |
| 1978 | 838 | 622 | 346 | 155 |
| 1979 | 949 | 502 | 370 | 204 |
| 1980 | 803 | 537 | 429 | 239 |
| 1981 | 982 | 585 | 474 | 240 |
| 1982 | 1,044 | 721 | 484 | 241 |

TRIAL COURT CASELOADS

| Year | <u>Filings</u> | | |
|------|-----------------|--------------|-------------------------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> |
| 1972 | 17,421 | 30,690 | 29,928 |
| 1973 | 19,272 | 30,338 | 32,360 |
| 1974 | 22,956 | 34,353 | 33,804 |
| 1975 | 25,777 | 37,863 | 37,919 |
| 1976 | 25,466 | 38,920 | 39,096 |
| 1977 | 24,143 | 23,539 | 41,080 |
| 1978 | 23,326 | 24,917 | 45,548 |
| 1979 | 24,302 | 26,302 | 46,809 |
| 1980 | 26,896 | 29,287 | 47,176 |
| 1981 | 31,129 | 28,460 | 47,353 |
| 1982 | 33,055 | 29,403 | 46,217 |

Sources: Annual reports for 1973-82; 1971-72 in National Center for State Courts, Report on the Appellate Process in Alabama, 44-45 (1973). See also, Note, "Appellate Courts," 43 Alabama Lawyer 7 (1982); Note, "Certiorari in Alabama," 30 Alabama Law Rev. 471, 494 (1979); John Tyson, "Alabama Court of Criminal Appeals Ten Year Survey," 43 Alabama Lawyer 326 (1982). Trial data is from court annual reports.

Estimations

The number of criminal appeals in 1973 is not available. Instead, it was calculated by taking the average of 1972 and 1974 (622 and 602 filings respectively).

Data for the Court of Civil Appeals was not available for 1973-75. It was estimated by averaging the percentage of civil cases filed in the Court of Civil Appeals (as opposed to the Supreme Court) in 1971-72 and 1976-81. (The average was 43, range 40 to 46 percent.)

New rules effective on December 1, 1975, reduced the time for filing appeals from 6 months to 42 days. This increased the number of appeals filed in fiscal 1976 (ending Sept. 30) because both the normal filings, plus the filings that without the new rules would not have come in until the next year were received. An estimated 1.5 months of additional civil filings (or 13.5 months in all) came in. The preceding estimate is arrived at as follows: A study of 1971 and 1972 filings showed median times of 84 and 81 days between the trial judgment and filings in the Supreme Court and Court of Civil Appeals (but a median of zero for the Court of Criminal Appeals). It is assumed that this time was reduced to just under 40 days after the rules became effective (i.e., that most appellants waited until nearly the end of the filing time) making a difference of roughly a month and a half. In 1976 there were 378 filings in the Supreme Court and 318 in the Court of Civil Appeals. To take into account the change in filing time, these figures are multiplied by .89 (12 divided by 13.5).

There was no regular dollar limit to the jurisdiction of the County Courts before the 1977 merger of limited jurisdiction courts into the District Court; the limit varied up to \$10,000 from county to county. It is assumed that the limit was about the same before the change as afterwards (\$5,000).

Special Problems

The large rise in criminal filings in 1976 was probably due to the new rules of appellate procedure. It is likely that some defendants filed appeals sooner because they were unsure about the availability of post trial motions (which toll the time for appeal).

Two laws increased the appellate court jurisdiction:

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1) Starting in 1977, appeals are allowed from courts of limited jurisdiction if the only issue is one of law. These cases number five or ten a year, according to the clerk of the Court of Civil Appeals.

2) Effective March 1, 1982, appeals in juvenile cases go directly to the appellate courts, delinquency to the Court of Criminal Appeals, and other juvenile matters to the Court of Civil Appeals. (Rule 28, Rules of Juvenile Procedure). There were about five such appeals in the Court of Criminal Appeals in 1982; the number in the court of civil appeals is not known. Before the new rules, delinquency appeals (upon second appeal, from the general jurisdiction trial court) were filed in the Supreme Court, and are counted as civil cases here.

Civil cases filed in the wrong court are transferred; unless the jurisdictional mistake is discovered upon the filing of the appeal, the case is docketed in the first court and again in the court to which it is transferred. The figures here include this double counting. At present there are roughly 100 transfers, about half to the Supreme Court and half to the Court of Civil Appeals. On November 9, 1976, a new notice of appeal form was issued, designed to specify jurisdiction so that fewer transfers would be required. The number of transfers in the Court of Civil Appeals decreased from 51 in 1976 to 25 in 1978.

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APPEALS FILED

| Year | Criminal | | Civil |
|------|--------------------|---------------|---------------|
| | Intermediate Court | Supreme Court | Supreme Court |
| 1970 | --- | 60 | 112 |
| 1971 | --- | 68 | 121 |
| 1972 | --- | 63 | 120 |
| 1973 | --- | 48 | 144 |
| 1974 | --- | 61 | 148 |
| 1975 | --- | 98 | 151 |
| 1976 | --- | 152 | 214 |
| 1977 | --- | 219 | 251 |
| 1978 | --- | 191 | 256 |
| 1979 | --- | 173 | 305 |
| 1980 | 43 | 153 | 255 |
| 1981 | 248 | 0 | 291 |
| 1982 | 337 | 0 | 262 |

REVERSAL RATES
ALL COURTS

| Year | Criminal | | | Civil | | |
|------|----------|---------|-------|--------|---------|-------|
| | Affirm | Reverse | Other | Affirm | Reverse | Other |
| 1976 | 29 | 17 | 3 | 32 | 31 | 15 |
| 1977 | 54 | 20 | 1 | 48 | 31 | 22 |
| 1978 | 87 | 29 | 19 | 50 | 37 | 36 |
| 1979 | 94 | 25 | 26 | 81 | 43 | 17 |
| 1980 | 87 | 30 | 15 | 72 | 54 | 24 |
| 1981 | 74 | 54 | 26 | 86 | 60 | 46 |
| 1982 | 199 | 115 | 36 | 81 | 55 | 39 |

TIME TO DECISION
SUPREME COURT

| Year | Criminal | Civil |
|------|----------|-------|
| 1976 | --- | 14.0 |
| 1977 | 19.5 | 15.9 |
| 1978 | 20.1 | 17.7 |
| 1979 | 19.7 | 20.0 |
| 1980 | 22.9 | 20.6 |
| 1981 | 24.2 | 21.6 |
| 1982 | 20.1 | 20.5 |

ALASKA
PENDING AND DISPOSED CASES
ALL COURTS

| Year | Criminal | | Civil | | All Cases | |
|------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1967 | --- | --- | --- | --- | --- | 91 |
| 1968 | --- | --- | --- | --- | 89 | 107 |
| 1969 | --- | --- | --- | --- | 112 | 100 |
| 1970 | --- | --- | --- | --- | 127 | 145 |
| 1971 | --- | --- | --- | --- | 165 | 175 |
| 1972 | --- | --- | --- | --- | 175 | 188 |
| 1973 | --- | --- | --- | --- | 210 | 172 |
| 1974 | --- | --- | --- | --- | 178 | 193 |
| 1975 | --- | 93 | --- | 148 | 205 | 241 |
| 1976 | 100 | 148 | 141 | 218 | 241 | 366 |
| 1977 | 128 | 239 | 201 | 268 | 329 | 507 |
| 1978 | 174 | 260 | 225 | 297 | 399 | 557 |
| 1979 | 194 | 239 | 254 | 346 | 448 | 585 |
| 1980 | 181 | 269 | 247 | 351 | 428 | 620 |
| 1981 | 247 | 362 | 287 | 354 | 532 | 716 |
| 1982 | 376 | 409 | 268 | 349 | 641 | 758 |

TRIAL COURT CASELOADS

| Year | Filings | | Trials | | | |
|------|----------|---|-----------------------|-------------|----------|-------|
| | Criminal | Civil (including domestic Relations) | Domestic Relations | Convictions | Criminal | Civil |
| 1972 | 1,016 | 5,418 | --- | --- | --- | --- |
| 1973 | 1,218 | 5,667 | --- | --- | --- | --- |
| 1974 | 1,171 | 6,373 | --- | --- | --- | --- |
| 1975 | 875 | 7,778 | --- | 37 | 65 | --- |
| 1976 | 782 | 9,125 | 5,536 | 107 | 153 | 172 |
| 1977 | 752 | 9,696 | 6,038 | 103 | 157 | 226 |
| 1978 | 778 | 9,601 | 5,668 | 108 | 166 | 164 |
| 1979 | 691 | 9,318 | 5,445 | 85 | 127 | 130 |
| 1980 | 906 | 9,007 | 5,650 | 102 | 126 | 148 |
| 1981 | 1,194 | 9,775 | 6,429 | --- | --- | --- |
| 1982 | 1,317 | 11,886 | 8,257 | --- | --- | --- |

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Sources: Appellate statistics 1971-73 from count of cases on court's docket sheet; 1970-74, 1977-82 reports sent by the court clerk; and 1975-81 annual reports. Trial statistics: 1972-1975 data sent by the state court administrator's office; 1974-81, annual reports.

Estimations

Criminal and civil filings in 1970 are estimated by using the total number of appeals (supplied by the court administrator's office and taking the average percentage of criminal cases in 1971 and 1972--35%, range 34 and 36; the percentage dropped to 25 and 29 percent in the following two years).

Filings exclude direct appeals from the district court, which first went to the appellate courts in 1980. After 1980, when the Court of Criminal Appeals was created, the criminal filing and pending data is for the new court, and the civil statistics are for the Supreme Court. Dispositions in criminal cases are for both courts in 1981 and for the Court of Appeals only in 1981 when the Supreme Court had little role in deciding initial appeals in criminal cases.

Pending and disposed cases include those awaiting mandate. The time to disposition statistics are the time of notice of appeal to the mandate (only a small percentage of the cases at any one time are awaiting mandate).

Statistics for time to decision in 1981 and 1982 are for fiscal years.

1981 and 1982 criminal filings statistics given by the court allowed computation of filings in the Court of Appeals for July-December 1981, fiscal year ending June 1982, and July-December 1982. To compute the calendar year data for 1981 and 1982 the FY 1982 data was apportioned equally between the two years.

Dispositions in the Court of Criminal Appeals for 1981 and 1982 are estimated in the same manner as filings (but statistics for pending cases at the end of the year are available).

Reversal rate statistics for civil cases in 1982 are fiscal year statistics. The reversal statistics for criminal cases are estimated in the same manner as dispositions, by taking half the FY 82 figures and applying them to 1981 and 1982. The 1981 half is added to the Supreme Court figures, and the 1982 half is added to statistics available for the second half of 1982. Statistics concerning Court of Criminal Appeals decisions in FY 1981 (the court's first 8 months) are not available for the 40 cases decided during that period.

ALASKA

When the new Court of Appeals was created in September 1980, the appeal route for misdemeanor cases from the District Court (limited jurisdiction) was changed. Formerly, appeals were taken to the Superior Court, with further review in the Supreme Court; after September 1980, defendants were given the option of appealing directly to the Court of Appeals from the District Court. These direct appeals have been deleted from the statistics in the analysis. This adjustment would mean that the increase in criminal appeals is slightly understated, because the changes reduced the number of appeals from Superior Court reviews of District Court convictions. Virtually all appeals from the District Court went to the Court of Appeals after the change, and almost no appeals to the Court of Appeals in 1981 or 1982 came up from the District Court via the Superior Court. A rough estimate is that the jurisdiction change caused a reduction of about 12 percent in the number of appeals from the Superior Court. This estimate is based on the fact that 30 appeals (all merits appeals) from Superior Court reviews of the district court were pending at the end of 1980, out of the total of 259 pending appeals (55 sentence appeals and 204 merits appeals.) Hence the statistics for appeals from the Supreme Court in 1981 and 1982 were increased by 12 percent.

ARIZONA

APPEALS FILED

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1967 | 63 | 90 | 395 | 3 |
| 1968 | 78 | 99 | 410 | 1 |
| 1969 | 111 | 91 | 466 | 1 |
| 1970 | 125 | 119 | 560 | 15 |
| 1971 | 124 | 157 | 522 | 9 |
| 1972 | 120 | 118 | 617 | 8 |
| 1973 | 145 | 180 | 597 | 8 |
| 1974 | 512 | 192 | 639 | 6 |
| 1975 | 960 | 63 | 633 | 4 |
| 1976 | 1,004 | 63 | 786 | 4 |
| 1977 | 1,008 | 35 | 814 | 2 |
| 1978 | 1,054 | 25 | 948 | 11 |
| 1979 | 893 | 30 | 928 | 0 |
| 1980 | 898 | 53 | 984 | 5 |
| 1981 | 1,073 | 49 | 1,080 | 1 |
| 1982 | 1,341 | 53 | 1,008 | 5 |

PENDING AND DISPOSED CASES
SUPREME COURT

| Year | <u>Criminal</u> | |
|------|------------------------|-----------------------|
| | <u>Dispos- sitions</u> | <u>Pending at end</u> |
| 1970 | 148 | 263 |
| 1971 | 113 | 308 |
| 1972 | 124 | 304 |
| 1973 | 224 | 283 |
| 1974 | 238 | 238 |
| 1975 | 178 | 201 |
| 1976 | 155 | 215 |
| 1977 | 139 | 45 |
| 1978 | 108 | 59 |
| 1979 | 72 | 72 |
| 1980 | 95 | 66 |
| 1981 | 89 | 50 |
| 1982 | 44 | 62 |

ARIZONA

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|---------------------------|---------------------------|---------------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1967 | 63 | 50 | 328 | 323 |
| 1968 | 63 | 61 | 325 | 389 |
| 1969 | 101 | 71 | 392 | 398 |
| 1970 | 92 | 105 | 503 | 431 |
| 1971 | 101 | 128 | 508 | 434 |
| 1972 | 140 | 104 | 492 | 542 |
| 1973 | 165 | 96 | 508 | 628 |
| 1974 | 223 | 378 | 549 | 670 |
| 1975 | 620 | 633 | 695 | 580 |
| 1976 | 852 | 655 | 681 | 719 |
| 1977 | 872 | 734 | 749 | 787 |
| 1978 | 969 | 710 | 925 | 756 |
| 1979 | 961 | 597 | 860 | 774 |
| 1980 | 791 | 647 | 782 | 870 |
| 1981 | 849 | 841 | 902 | 1,013 |
| 1982 | 1,027 | 1,145 | 955 | 1,036 |

ARIZONA

TRIAL COURT CASELOADS

| Year | <u>Filings</u> | | | <u>Trials</u> | |
|------|-----------------|--------------|-------------------------------|-----------------|--------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> | <u>Criminal</u> | <u>Civil</u> |
| 1972 | 8,033 | 22,583 | 16,531 | 717 | 2,844 |
| 1973 | 9,724 | 22,850 | 18,016 | 725 | 2,835 |
| 1974 | 11,665 | 29,008 | 21,153 | 1,005 | 2,786 |
| 1975 | 11,812 | 31,216 | 21,623 | 1,142 | 2,740 |
| 1976 | 10,514 | 28,992 | 22,025 | 928 | 3,254 |
| 1977 | 10,320 | 28,678 | 23,571 | 945 | 3,147 |
| 1978 | 10,048 | 29,321 | 25,741 | 908 | 2,158 |
| 1979 | 10,987 | 32,417 | 26,511 | 710 | 2,442 |
| 1980 | 13,806 | 36,830 | 27,899 | 735 | 2,559 |
| 1981 | 14,182 | 35,162 | 28,023 | 826 | 2,157 |
| 1982 | 14,638 | 38,329 | 25,573 | 849 | 2,120 |

ARIZONA

Sources: Annual reports; Arizona Courts Summary Report, History, Structure, and Operation (1977).

Special Features of the Statistics

Civil filings include civil appeals, Industrial Commission appeals, and juvenile appeals. Unemployment insurance appeals are excluded because they are discretionary.

The number of pending and disposed cases in the intermediate court includes criminal post-conviction writs (less than 10 percent of the caseload) and excludes cases transferred to the Supreme Court.

Estimations

The new rules of civil appellate procedure, effective January 1, 1978, reduced the time for notice of appeal in civil cases from 60 to 30 days. Consequently, about 30 extra days' worth of civil appeals were filed that year, and the number of filings was multiplied by .924, reducing the 851 filings to 786.

Statistics for criminal and civil pending and disposed cases in the Supreme Court are not available for 1969. They are estimated to be the same as the figures for 1970.

The new rules of criminal procedure, effective September 1, 1973, changed the time for notice of appeal from 60 to 20 days. Consequently about 40 extra days' worth of criminal cases were filed in 1973, and the number of filings was multiplied by .901. Hence, the filings in the Court of Appeals and Supreme Court have been reduced from 161 and 200 to 145 and 180 respectively.

Special Problems

The court of appeals criminal jurisdiction was expanded in 1974. Post-conviction relief procedures were revised greatly in 1973. See Rule 32 of the rules of criminal procedure.

The cause of the great rise in criminal appeals during 1974 and 1975 is uncertain. It may be due to a change in sentencing practices which resulted in more defendants being sentenced to prison.

CALIFORNIA

APPEALS FILED

| Year | Criminal | | Civil | |
|------|--------------------|---------------|--------------------|---------------|
| | Intermediate Court | Supreme Court | Intermediate Court | Supreme Court |
| 1967 | 1,945 | 22 | 1,306 | 189 |
| 1968 | 2,037 | 30 | 1,657 | 19 |
| 1969 | 2,120 | 15 | 1,751 | 0 |
| 1970 | 2,562 | 17 | 1,981 | 0 |
| 1971 | 3,025 | 38 | 1,921 | 0 |
| 1972 | 2,764 | 11 | 2,191 | 0 |
| 1973 | 3,106 | 0 | 2,277 | 0 |
| 1974 | 3,300 | 0 | 2,380 | 0 |
| 1975 | 3,229 | 18 | 2,686 | 0 |
| 1976 | 3,279 | 21 | 3,183 | 0 |
| 1977 | 4,040 | 27 | 3,283 | 0 |
| 1978 | 3,947 | 3 | 3,518 | 0 |
| 1979 | 4,279 | 15 | 3,662 | 0 |
| 1980 | 4,586 | 22 | 4,249 | 0 |
| 1981 | 4,730 | 27 | 4,466 | 0 |
| 1982 | 4,808 | 43 | 4,152 | 0 |

REVERSAL RATES
INTERMEDIATE COURT

| Year | Criminal | | |
|------|----------|---------|-------|
| | Affirm | Reverse | Other |
| 1976 | 1,979 | 155 | 217 |
| 1977 | 2,375 | 223 | 314 |
| 1978 | 2,553 | 325 | 376 |
| 1979 | 2,334 | 326 | 368 |
| 1980 | 2,588 | 306 | 424 |
| 1981 | 3,020 | 383 | 488 |

CALIFORNIA

TIME TO DECISION
INTERMEDIATE COURT

| Year | Criminal | Civil |
|------|----------|-------|
| 1969 | 16 | 19 |
| 1970 | 16 | 22 |
| 1971 | 14 | 17 |
| 1972 | 12 | 17 |
| 1973 | 12 | 17 |
| 1974 | 11 | 19 |
| 1975 | 11 | 17 |
| 1976 | 10 | 14 |
| 1977 | 11 | 14 |
| 1978 | 11 | 16 |
| 1979 | 11 | 17 |
| 1980 | 13 | 16 |
| 1981 | 12 | 17 |
| 1982 | 13 | 19 |

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | Criminal | | Civil | |
|------|-------------------|-------------------|-------------------|-------------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1967 | 1,586 | 1,659 | 1,475 | 1,767 |
| 1968 | 2,006 | 1,758 | 1,593 | 1,949 |
| 1969 | 2,282 | 1,695 | 1,768 | 1,980 |
| 1970 | 2,551 | 1,866 | 1,923 | 2,111 |
| 1971 | 2,880 | 2,036 | 2,064 | 1,995 |
| 1972 | 2,940 | 1,993 | 2,196 | 2,057 |
| 1973 | 2,965 | 2,252 | 2,128 | 2,258 |
| 1974 | 3,331 | 2,366 | 2,242 | 2,454 |
| 1975 | 3,672 | 2,096 | 2,758 | 2,579 |
| 1976 | 3,500 | 1,989 | 3,485 | 2,555 |
| 1977 | 3,690 | 2,566 | 3,639 | 2,597 |
| 1978 | 4,100 | 2,628 | 3,404 | 2,895 |
| 1979 | 3,991 | 3,069 | 3,716 | 3,250 |
| 1980 | 4,341 | 3,649 | 4,131 | 3,813 |
| 1981 | 4,795 | 3,781 | 4,067 | 4,421 |
| 1982 | 4,890 | 4,185 | 4,538 | 4,649 |

CALIFORNIA

TRIAL COURT CASELOADS

| Year | Filings | | Domestic Relations | Convictions | Trials | |
|------|----------|---------|-----------------------|-------------|----------|-------|
| | Criminal | Civil | | | Criminal | Civil |
| 1967 | 46,328 | 101,492 | 109,589 | -- | -- | -- |
| 1968 | 55,067 | 100,264 | 116,381 | -- | 5,704 | 9,422 |
| 1969 | 68,159 | 98,378 | 120,740 | -- | 6,490 | 7,979 |
| 1970 | 71,422 | 103,749 | 131,571 | -- | 7,203 | 8,111 |
| 1971 | 76,386 | 111,151 | 139,019 | -- | 7,015 | 8,378 |
| 1972 | 65,487 | 116,131 | 145,148 | -- | 6,114 | 8,644 |
| 1973 | 61,605 | 126,611 | 149,062 | -- | 6,189 | 9,024 |
| 1974 | 54,635 | 142,163 | 154,793 | -- | 6,509 | 8,759 |
| 1975 | 55,635 | 161,925 | 162,938 | -- | 6,373 | 8,096 |
| 1976 | 54,816 | 168,882 | 168,602 | 4,242 | 5,089 | 7,781 |
| 1977 | 54,619 | 170,085 | 172,211 | 5,025 | 6,133 | 7,838 |
| 1978 | 55,639 | 177,803 | 175,160 | 4,668 | 5,823 | 7,591 |
| 1979 | 53,955 | 194,315 | 175,837 | 4,258 | 5,200 | 7,622 |
| 1980 | 58,004 | 175,080 | 176,279 | 4,175 | 5,094 | 7,225 |
| 1981 | 64,993 | 176,605 | 177,255 | 4,290 | 5,241 | 7,616 |
| 1982 | 67,411 | 186,377 | 167,902 | 4,660 | 5,609 | 7,543 |

CALIFORNIA

Source: Annual Reports.

Estimations

The figures given for dispositions in the annual reports include cases disposed before the record arrives, while pending cases include only those in which the record is filed. The difference is small in criminal cases (97 and 99 percent of the appeals were disposed after the record arrived in 1980 and 1981, years for which data are available). In civil cases, however, there are many dispositions before the record arrives, and the civil disposition data is adjusted to include only dispositions occurring after the record arrives. That information is available for 1973-1982. For earlier years it is estimated by adding dispositions with opinions to 54 percent of the dispositions without opinions. The 54 percent is the average percentage for 1973-82 (the range is 48 to 60 percent with no evident trend).

The delay statistics are the median figures among the court divisions.

Special Problems

Effective January 1, 1972, the time for notice of appeal in criminal cases was extended from 10 to 60 days. No adjustments were made for this because the clerk interviewed stated that notices of appeal continued to be filed in about ten days, the same length of time as before the rule change.

A change effective January 1, 1982, changed the time for filing the notice of appeal in civil cases from 60 days of service of notice of entry of judgment to 60 days from when the prevailing party filed proof of service of the notice of entry. The change was rescinded effective September 22, 1982. The impact of the change is minimal according to the clerk interviewed.

A rule effective January 1, 1972, required trial judges to advise convicted defendants of their right to appeal and their right to free counsel if indigent.

COLORADO

APPEALS FILED

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1970 | 0 | --- | 113 | --- |
| 1971 | 0 | --- | 317 | --- |
| 1972 | 0 | 183 | 418 | 37 |
| 1973 | 0 | 240 | 465 | 38 |
| 1974 | 0 | 231 | 441 | 36 |
| 1975 | 278 | 52 | 572 | 39 |
| 1976 | 259 | 33 | 651 | 56 |
| 1977 | 321 | 48 | 799 | 61 |
| 1978 | 315 | 79 | 797 | 43 |
| 1979 | 340 | 76 | 868 | 64 |
| 1980 | 289 | 67 | 912 | 44 |
| 1981 | 327 | 68 | 951 | 34 |
| 1982 | 423 | 92 | 1,081 | 54 |

PENDING AND DISPOSED CASES
SUPREME COURT

| Year | <u>All Cases</u> | |
|------|-----------------------|-----------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1967 | 542 | 844 |
| 1968 | 519 | 899 |
| 1969 | 496 | 1,023 |
| 1970 | 484 | 847 |
| 1971 | 0 | 0 |
| 1972 | 0 | 0 |
| 1973 | 0 | 0 |
| 1974 | 0 | 0 |
| 1975 | 0 | 0 |
| 1976 | 0 | 0 |
| 1977 | 0 | 0 |
| 1978 | 0 | 0 |
| 1979 | 0 | 0 |
| 1980 | 0 | 0 |
| 1981 | 0 | 0 |
| 1982 | 0 | 0 |

COLORADO

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| <u>All Cases</u> | | |
|------------------|---------------------------|---------------------------|
| <u>Year</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1970 | 161 | 208 |
| 1971 | 432 | 376 |
| 1972 | 438 | 355 |
| 1973 | 447 | 356 |
| 1974 | 411 | 359 |
| 1975 | 592 | 592 |
| 1976 | 752 | 673 |
| 1977 | 843 | 884 |
| 1978 | 934 | 1,002 |
| 1979 | 1,030 | 1,097 |
| 1980 | 1,030 | 1,141 |
| 1981 | 1,155 | 1,211 |
| 1982 | 1,245 | 1,403 |

COLORADO

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | | |
|-------------|-----------------|--------------|-------------------------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> |
| 1969 | 5,880 | 16,102 | 14,863 |
| 1970 | 6,171 | 17,484 | 16,141 |
| 1971 | 7,953 | 20,735 | 18,890 |
| 1972 | 9,067 | 20,528 | 21,475 |
| 1973 | 8,521 | 22,744 | 23,491 |
| 1974 | 9,807 | 28,230 | 25,389 |
| 1975 | 11,032 | 34,073 | 28,300 |
| 1976 | 10,972 | 27,843 | 30,361 |
| 1977 | 10,882 | 25,771 | 30,406 |
| 1978 | 10,604 | 25,523 | 31,677 |
| 1979 | 10,622 | 30,566 | 33,888 |
| 1980 | 12,477 | 37,365 | 34,505 |
| 1981 | 11,047 | 42,723 | 36,137 |
| 1982 | 14,379 | 35,340 | 35,188 |

COLORADO

Source: Annual Reports.

Special Features of the Data

Filings in the Supreme Court do not include "interlocutories", which are civil interlocutories and criminal prosecution appeals. They numbered 17 to 31 cases in 1978 to 1982, with no noticeable trend.

Estimations

The rules for sentence appeals were changed effective Nov. 13, 1979. In cases affected by the presumptive sentencing law, appeal was no longer allowed if the sentence was within the presumptive range, and an automatic, non-adversary appeal was provided in cases outside the range. The latter numbered 13, 47, and 71 in FY 80-82. There is no information on the number of regular sentence appeals in those or earlier years. When there was a regular appeal and a non-adversary sentence appeal in the same case, the two were counted separately, although a regular sentence appeal was not counted separately from an appeal on the merits in the same case. For the purpose of this study the non-adversary appeals are considered sentence review outside the appellate system, and are not counted as appeals.

The data in the annual reports for appeals to the Supreme Court includes cases transferred from the Court of Appeals prior to decision there. The total number of cases transferred is available, but the breakdown between criminal and civil cases is not. The clerk stated that the transfers are generally criminal cases and estimated that about 20 transfers each year are civil cases. Hence, for 1975-1982, when the Court of Appeals had criminal jurisdiction, the number of civil filings from the trial courts directly to the Supreme Court is estimated by subtracting 20 from the total number of civil filings, and the number of direct criminal appeals is estimated by subtracting the total number of transfers and adding 20.

Criminal trial filings for 1969-1972 are estimated. From 1973 on, the statistics are the "total offense filings" excluding appeals from limited jurisdiction courts and non-offense cases. The statistics given for 1969-72 include these cases and are adjusted by subtracting 7.2%, the average percentage from 73 to 78 (range 6.2 to 8.3, with no evident trend).

The number of pending and disposed cases in the Supreme Court is not available for 1971 through 1974, when it heard all criminal cases. The Court of Appeals pending and disposed figures are used to compile the backlog estimate for all cases for those years (as well as later years, when the Court of Appeals received nearly all first appeals).

COLORADO

Special problems

The jurisdiction of the court of appeals was expanded slightly in 1973 and in later years by adding appeals from several administrative agencies. These appeals, according to the clerk, now number about 20 to 30 cases a year.

CONNECTICUT

APPEALS FILED

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|----------------------|----------------------|
| | <u>Supreme Court</u> | <u>Supreme Court</u> |
| 1967 | 22 | 167 |
| 1968 | 29 | 156 |
| 1969 | 30 | 139 |
| 1970 | 30 | 170 |
| 1971 | 30 | 169 |
| 1972 | 34 | 167 |
| 1973 | 35 | 175 |
| 1974 | 35 | 203 |
| 1975 | 65* | 196 |
| 1976 | 55 | 242 |
| 1977 | 67 | 342 |
| 1978 | 81 | 393 |
| 1979 | 90 | 425 |
| 1980 | 121 | 437 |
| 1981 | 133 | 504 |
| 1982 | 121 | 474 |

REVERSAL RATES
SUPREME COURT

ALL CASES

| <u>Year</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
|-------------|---------------|----------------|--------------|
| 1967 | 99 | 58 | 0 |
| 1968 | 91 | 44 | 0 |
| 1969 | 94 | 34 | 0 |
| 1970 | 71 | 49 | 0 |
| 1971 | 80 | 47 | 0 |
| 1972 | 97 | 62 | 0 |
| 1973 | 95 | 40 | 0 |
| 1974 | 106 | 44 | 0 |
| 1975 | 140 | 58 | 0 |
| 1976 | 138 | 54 | 0 |
| 1977 | 102 | 60 | 0 |
| 1978 | 128 | 88 | 0 |
| 1979 | --- | --- | --- |
| 1980 | --- | --- | --- |
| 1981 | --- | --- | --- |
| 1982 | --- | --- | --- |

CONNECTICUT

TIME TO DECISION
SUPREME COURT

| Year | Criminal | Civil | All Cases |
|------|----------|-------|-----------|
| 1974 | 30.4 | 19.1 | 21.1 |
| 1975 | 32.4 | 20.3 | 22.4 |
| 1976 | 29.4 | 21.0 | 23.0 |
| 1977 | 31.7 | 20.0 | 23.1 |

PENDING AND DISPOSED CASES
SUPREME COURT

| Year | Criminal | | Civil | | All Cases | |
|------|-------------------|-------------------|------------------|-------------------|------------------|-------------------|
| | Dispos- itions | Pending at end | Dispo- itions | Pending at end | Dispo- itions | Pending at end |
| 1967 | --- | --- | --- | --- | 203 | 156 |
| 1968 | --- | --- | --- | --- | 179 | 170 |
| 1969 | --- | --- | --- | --- | 158 | 189 |
| 1970 | --- | --- | --- | --- | 168 | 212 |
| 1971 | --- | --- | --- | --- | 176 | 241 |
| 1972 | --- | --- | --- | --- | 199 | 239 |
| 1973 | --- | --- | --- | --- | 195 | 244 |
| 1974 | --- | --- | --- | --- | 220 | 288 |
| 1975 | --- | --- | --- | --- | 256 | 307 |
| 1976 | --- | 81 | --- | 299 | 301 | 380 |
| 1977 | 59 | 89 | 243 | 398 | 302 | 487 |
| 1978 | 49 | 121 | 304 | 487 | 353 | 608 |
| 1979 | 57 | 154 | 390 | 522 | 447 | 676 |
| 1980 | 94 | 203 | 459 | 507 | 553 | 710 |
| 1981 | 84 | 252 | 401 | 610 | 485 | 862 |
| 1982 | 74 | 299 | 485 | 599 | 559 | 898 |

TRIAL COURT CASELOADS

| Year | Filings | | | Trials |
|------|---------|-----------------------|-------------|----------|
| | Civil | Domestic Relations | Convictions | Criminal |
| 1971 | -- | -- | 155 | 231 |
| 1972 | 39,914 | 11,601 | 107 | 146 |
| 1973 | 35,448 | 12,246 | 75 | 114 |
| 1974 | 38,681 | 14,594 | 98 | 146 |
| 1975 | 39,734 | 15,374 | 84 | 139 |
| 1976 | 41,138 | 15,453 | 78 | 133 |
| 1977 | 41,528 | 15,453 | 78 | 152 |
| 1978 | 41,513 | 15,704 | 92 | 149 |
| 1979 | 41,544 | 16,561 | -- | 207 |
| 1980 | 45,017 | 17,068 | -- | 214 |
| 1981 | 47,434 | 17,862 | -- | 169 |
| 1982 | 46,121 | 16,435 | -- | 138 |

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Sources: Appellate filings in 1967-1976 were obtained by counting cases in the supreme court docket book. Other statistics are from annual reports. Some trial court data for 1971 to 1978 was obtained from unpublished reports and from Evaluation of the Various Proposals for Reorganization and Unification of the Trial Courts (Commission to Study Reorganization and Unification of the Courts, 1974).

Special Features of Statistics

Civil filings in the Supreme Court include bar discipline cases, which average about one case a year.

Estimations and Special Problems

The procedures for filing appeals and counting cases changed twice. Initially, cases were counted when the assignment of errors was filed by the appellant. This was prepared after the transcript was completed; the parties submitted proposed findings to the trial court, the trial court made the findings, and the appellant based the assignment of errors on these findings. On October 1, 1974, the requirement for the findings was abolished in appeals from jury verdicts, and on July 1, 1978 it was abolished for all appeals. Under the old system, the cases were not counted until, on the average, about 6 months from the notice of appeal, with a variation from less than a month to a year and a half. (This information is based on dates given in the docket books.) Because almost all criminal cases are appeals from jury verdicts, criminal cases are counted as filed under the new rules pertaining to jury trials, beginning on October 24, 1974, when such appeals started coming in. That is, cases with notices of appeal before that date, but docketed afterwards because the assignment or error came afterwards, are not counted. There were 12 such cases in FY 1975.

Because about 80 percent of the civil appeals are from non-jury verdicts, the October 1974 rule change had little effect on their docketing; hence the figures for civil filings are the total number of filings for fiscal year 1975. Beginning in September 1975, however, the clerk's office started counting civil as well as criminal cases when the notice of appeal was filed. The trial court clerks were required to send copies of the notices of appeal to the Supreme Court, and the cases were docketed when the copies arrived. This also resulted in substantial double counting of appeals. Therefore, after September 15, 1975, when the cases started coming in under the new system, cases docketed when the assignment of error was filed (but with the notice of appeal filed earlier) are deleted from the civil filing figures for fiscal years 1976 and 1977.

Several recent laws reduced supreme court jurisdiction by routing appeals to the Appellate Session of the Superior Court. The changes are: Workmen's Compensation appeals (Oct. 1979); appeals from an order

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prohibiting a person from attending a session of court (1980); appeals from Superior Court reviews of state and local administrative agencies (July 1981); and juvenile cases (July 1981). Also in July 1981, the dollar jurisdiction level for the appellate session was raised from \$7,500 to \$15,000. The impact of these changes on the caseload statistics, however, is not great. Agency cases were discretionary in the Supreme Court, hence routing them to the Appellate Session does not change the caseload. The juvenile change applied only to cases filed in the trial court after July 1, 1981, and not many such cases could have reached the appellate level by the end of fiscal year 1982.

The change in dollar amount applied to appeals filed after July 1, 1981. An unpublished study conducted by the court found that in 1979 the appeals to the Supreme Court involving \$7,500 to \$15,000 constituted 13 percent of the civil appeals. Hence, the civil appeals statistic used here for 1982, 536, is 13 percent more than the actual number of appeals, 474.

The trial court civil filings are the total of those filed in the Superior, Common Pleas and Circuit Courts. The latter two courts were limited jurisdiction courts (but with jurisdiction over claims of at least \$7,500). The Circuit Court was merged into the Common Pleas Court at the end of 1974, and the Common Pleas Court was merged with the Superior Court in 1978. Statistics for Circuit Court are not available for 1974 and 1975, and the total Common Pleas and Circuit Court filings for those years are estimated to be the average of the filings in 1972, 1973 and 1976-78 (30,105, with a range of 27,415 and 31,693, and with no evident trend).

DELAWARE

APPEALS FILED

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|----------------------|----------------------|
| | <u>Supreme Court</u> | <u>Supreme Court</u> |
| 1967 | 38 | 85 |
| 1968 | 42 | 84 |
| 1969 | 60 | 120 |
| 1970 | 49 | 144 |
| 1971 | 69 | 107 |
| 1972 | 111 | 139 |
| 1973 | 90 | 157 |
| 1974 | 70 | 185 |
| 1975 | 97 | 176 |
| 1976 | 123 | 218 |
| 1977 | 111 | 251 |
| 1978 | 135 | 226 |
| 1979 | 126 | 213 |
| 1980 | 107 | 225 |
| 1981 | 130 | 207 |
| 1982 | 163 | 225 |

TIME TO DECISION
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> | <u>All Cases</u> |
|-------------|-----------------|--------------|------------------|
| 1979 | 11.1 | 10.5 | 10.4 |
| 1980 | 12.0 | 9.8 | 10.3 |
| 1981 | 13.1 | 9.3 | 10.4 |
| 1982 | 12.5 | 8.0 | 9.7 |

DELAWARE

PENDING AND DISPOSED CASES
SUPREME COURT

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|---------------------------|---------------------------|---------------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1968 | 45 | 21 | 96 | 39 |
| 1969 | 36 | 45 | 87 | 72 |
| 1970 | 48 | 46 | 124 | 92 |
| 1971 | 67 | 48 | 149 | 50 |
| 1972 | 80 | 79 | 113 | 76 |
| 1973 | 102 | 67 | 140 | 93 |
| 1974 | 80 | 57 | 169 | 109 |
| 1975 | 83 | 71 | 173 | 112 |
| 1976 | 93 | 101 | 155 | 175 |
| 1977 | 128 | 84 | 223 | 203 |
| 1978 | 86 | 133 | 233 | 196 |
| 1979 | 124 | 135 | 234 | 175 |
| 1980 | 111 | 131 | 255 | 145 |
| 1981 | 116 | 145 | 230 | 122 |
| 1982 | 153 | 155 | 207 | 140 |

REVERSAL RATES
SUPREME COURT

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|-----------------|----------------|---------------|----------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Affirm</u> | <u>Reverse</u> |
| 1979 | 79 | 21 | 102 | 39 |
| 1980 | 73 | 11 | 110 | 59 |
| 1981 | 52 | 30 | 100 | 43 |
| 1982 | 98 | 24 | 64 | 48 |

DELAWARE

TRIAL COURT CASELOADS

| Year | <u>Filings</u> | | | <u>Trials</u> | |
|------|-----------------|--------------|-------------------------------|--------------------|-----------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> | <u>Convictions</u> | <u>Criminal</u> |
| 1967 | 1,642 | 2,311 | 955 | -- | -- |
| 1968 | 1,845 | 2,187 | 1,183 | -- | -- |
| 1969 | 1,556 | 2,395 | 2,007 | -- | -- |
| 1970 | 2,094 | 2,417 | 2,042 | -- | -- |
| 1971 | 2,491 | 2,991 | 2,160 | -- | -- |
| 1972 | 3,275 | 3,094 | 2,410 | -- | -- |
| 1973 | 3,042 | 3,397 | 2,662 | -- | -- |
| 1974 | 3,177 | 3,495 | 2,689 | -- | -- |
| 1975 | 4,087 | 4,443 | 3,116 | 268 | 413 |
| 1976 | 3,786 | 3,973 | 3,269 | 302 | 441 |
| 1977 | 4,097 | 4,192 | 3,357 | 263 | 449 |
| 1978 | 3,293 | 4,315 | 3,473 | 225 | 406 |
| 1979 | 2,950 | 4,538 | 3,560 | 185 | 330 |
| 1980 | 3,115 | 4,840 | 3,695 | 146 | 255 |
| 1981 | 3,305 | 4,508 | 3,765 | 207 | 330 |
| 1982 | 3,697 | 4,871 | 4,099 | 262 | 368 |

DELAWARE

Source: Annual Reports.

Special Features of the Statistics

Civil appeals include advisory opinions, certifications, and original applications. These numbered 17, 22, 10, 17 and 18 in 1978-1982, the only years for which data are available. Also, the civil appeal figures include discretionary interlocutory appeals, which number less than 20 a year, according to the court clerk.

The delay statistics (1979-1982) are for all cases, including those dismissed or withdrawn.

Estimations

Trial court domestic relations (divorce and annulments) figures are from the Superior Court to 1976, and the Family Court thereafter. Data for domestic relations are not available for 1972 and is estimated by using the average percentage of such cases in 69-71, and 73-76 (47 percent, range 43 to 50; no evident trend).

Special Problems

In September 1980, the appeal route for the family court was changed. Formerly appellants could appeal to either the Superior or Supreme Court; now they can appeal only to the Supreme Court. Appeals from Family Court judgments in domestic relations are somewhat more restricted than they were from the Superior Court.

The Superior Court received jurisdiction over terminations and adoptions in 1971. This jurisdiction was transferred to the Family Court in 1981. These cases, which number three to four hundred a year are included in the statistics for 1971-1982.

DISTRICT OF COLUMBIA

APPEALS FILED

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|----------------------|----------------------|
| | <u>Supreme Court</u> | <u>Supreme Court</u> |
| 1973 | 569 | 411 |
| 1974 | 702 | 426 |
| 1975 | 706 | 515 |
| 1976 | 826 | 516 |
| 1977 | 684 | 643 |
| 1978 | 742 | 527 |
| 1979 | 653 | 543 |
| 1980 | 801 | 568 |
| 1981 | 844 | 741 |
| 1982 | 796 | 789 |

REVERSAL RATES
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | | |
|-------------|-----------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1972 | 49 | 26 | 0 |
| 1973 | 167 | 41 | 11 |
| 1974 | 229 | 160 | 15 |
| 1975 | 211 | 143 | 51 |
| 1976 | 296 | 35 | 39 |
| 1977 | 364 | 29 | 15 |
| 1978 | 424 | 49 | 31 |
| 1979 | 312 | 19 | 26 |
| 1980 | --- | --- | --- |
| 1981 | --- | --- | --- |
| 1982 | --- | --- | --- |

DISTRICT OF COLUMBIA

TIME TO DECISION
SUPREME COURT

| <u>Year</u> | <u>All Cases</u> |
|-------------|------------------|
| 1971 | 8.0 |
| 1972 | 8.7 |
| 1973 | 9.4 |
| 1974 | 10.2 |
| 1975 | 12.5 |
| 1976 | 14.2 |
| 1977 | 15.0 |
| 1978 | 15.5 |
| 1979 | 14.8 |
| 1980 | 15.6 |
| 1981 | 16.7 |
| 1982 | 17.9 |

PENDING AND DISPOSED CASES
SUPREME COURT

| <u>Year</u> | <u>All Cases</u> | |
|-------------|---------------------------|---------------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1971 | 502 | 268 |
| 1972 | 608 | 462 |
| 1973 | 789 | 653 |
| 1974 | 945 | 842 |
| 1975 | 1,120 | 951 |
| 1976 | 1,197 | 1,110 |
| 1977 | 1,288 | 1,161 |
| 1978 | 1,331 | 1,109 |
| 1979 | 1,278 | 1,050 |
| 1980 | 1,194 | 1,275 |
| 1981 | 1,235 | 1,600 |
| 1982 | 1,546 | 1,778 |

DISTRICT OF COLUMBIA

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | | | <u>Trials</u> | |
|-------------|-----------------|--------------|-------------------------------|-----------------|--------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> | <u>Criminal</u> | <u>Civil</u> |
| 1972 | 2,348 | 9,734 | 4,062 | 546 | -- |
| 1973 | 3,354 | 10,981 | 4,309 | 493 | -- |
| 1974 | 3,514 | 11,361 | 4,251 | 827 | -- |
| 1975 | 4,138 | 11,716 | 4,155 | 730 | -- |
| 1976 | 3,737 | 12,674 | 3,990 | 877 | 394 |
| 1977 | 3,044 | 12,862 | 4,334 | 635 | 479 |
| 1978 | 3,083 | 14,063 | 4,320 | 710 | 412 |
| 1979 | 3,655 | 16,607 | 4,161 | 575 | 347 |
| 1980 | 3,138 | 17,705 | 4,077 | 549 | 365 |
| 1981 | 3,631 | 18,587 | 4,078 | 646 | 496 |
| 1982 | 3,934 | 16,569 | 3,229 | 583 | 376 |

DISTRICT OF COLUMBIA

Sources: Annual Reports; pending statistics through 1978 are from District of Columbia Court of Appeals: Workload Problems and Possible Solutions (D.C. Judicial Planning Committee, 1979).

Estimations

Pending cases in 1979-81 are estimated from a graph.

Special Problems

During the early 1970's, the local D.C. jurisdiction was transferred in stages from the U.S. District Court to the D.C. Superior Court. The transfer was not completed until August 1, 1973, when major felony cases and civil cases with amount in controversy exceeding \$50,000 were transferred. During 1973 and a year or two thereafter, the cases decided in the Superior Court were increasingly more important and, thus, more likely to be appealed, probably causing much of the appellate growth during that period.

The number of prosecution appeals was very high in 1973-75, 71 in 1973; 280 in 1974, and 93 in 1975, as opposed to about 35 a year in later years. Review of the published opinions indicates that these appeals were on a wide variety of issues, but particularly suppression of evidence. The trial court was reversed in the vast majority of the cases; hence reversal rates for 1974 and 1975 were very high.

HAWAII

APPEALS FILED

SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1970 | 21 | 76 |
| 1971 | 35 | 116 |
| 1972 | 28 | 88 |
| 1973 | 41 | 118 |
| 1974 | 69 | 103 |
| 1975 | 78 | 111 |
| 1976 | 99 | 154 |
| 1977 | 114 | 189 |
| 1978 | 146 | 212 |
| 1979 | 122 | 181 |
| 1980 | 151 | 218 |
| 1981 | 126 | 82 |
| 1982 | 113 | 108 |

REVERSAL RATES
SUPREME COURT

ALL CASES

| <u>Year</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
|-------------|---------------|----------------|--------------|
| 1970 | 47 | 22 | 1 |
| 1971 | 53 | 35 | 2 |
| 1972 | 47 | 28 | 2 |
| 1973 | 73 | 24 | 2 |
| 1974 | 54 | 36 | 1 |
| 1975 | 56 | 32 | 6 |
| 1976 | 52 | 27 | 5 |
| 1977 | 54 | 22 | 6 |
| 1978 | 60 | 29 | 3 |
| 1979 | 127 | 49 | 10 |
| 1980 | 103 | 29 | 3 |
| 1981 | 215 | 94 | 14 |
| 1982 | 224 | 103 | 20 |

HAWAII

TIME TO DECISION
ALL COURTS

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1976 | 17.8 | 21.8 |
| 1977 | 20.7 | 25.3 |
| 1978 | --- | --- |
| 1979 | --- | --- |
| 1980 | 24.0 | 43.0 |
| 1981 | --- | --- |
| 1982 | --- | --- |

PENDING AND DISPOSED CASES
ALL COURTS

| <u>Year</u> | <u>Criminal</u> | | <u>Civil</u> | |
|-------------|---------------------------|---------------------------|---------------------------|---------------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1970 | 31 | 14 | 95 | 75 |
| 1971 | 21 | 28 | 102 | 89 |
| 1972 | 32 | 24 | 86 | 91 |
| 1973 | 39 | 26 | 98 | 111 |
| 1974 | 46 | 49 | 94 | 120 |
| 1975 | 65 | 62 | 75 | 156 |
| 1976 | 50 | 111 | 105 | 205 |
| 1977 | 41 | 184 | 103 | 291 |
| 1978 | 68 | 262 | 98 | 405 |
| 1979 | 149 | 235 | 117 | 469 |
| 1980 | 171 | 221 | 92 | 607 |
| 1981 | 181 | 200 | 280 | 498 |
| 1982 | 168 | 185 | 335 | 371 |

HAWAII

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | | | <u>Trials</u> | |
|-------------|-----------------|--------------|-------------------------------|-----------------|--------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> | <u>Criminal</u> | <u>Civil</u> |
| 1971 | 2,547 | 3,184 | 4,450 | 497 | 359 |
| 1972 | 2,476 | 3,220 | 4,926 | 320 | 284 |
| 1973 | 2,048 | 3,262 | 5,353 | 215 | 265 |
| 1974 | 2,006 | 3,556 | 5,786 | 240 | 215 |
| 1975 | 2,045 | 3,835 | 5,704 | 256 | 253 |
| 1976 | 1,988 | 4,204 | 6,395 | 281 | 275 |
| 1977 | 1,986 | 4,212 | 7,051 | 326 | 218 |
| 1978 | 2,061 | 4,090 | 8,218 | 283 | 203 |
| 1979 | 2,809 | 4,479 | 7,987 | 224 | 167 |
| 1980 | 2,426 | 4,862 | 8,379 | 290 | 189 |
| 1981 | 2,667 | 5,421 | 7,894 | 183 | 132 |
| 1982 | 2,810 | 7,733 | 8,497 | 284 | 132 |

HAWAII

Source: Annual reports.

Estimations

The number of criminal and civil appeals in 1970 is estimated by considering criminal cases as 22 percent of the total number, 97 cases. (Twenty-two percent is a progression from the percentages for the years 1971-74: 23, 24, 26, and 40 percent respectively.)

All appeals are filed in the Supreme Court and then apportioned between the two courts. The number of filings in the Court of Appeals in 1981 and 1982 is the portion transferred to it, and the number in the Supreme Court is the total filings less that number. In 1980 the Supreme Court transferred a large number of pending cases. The figure used for Court of Appeals filings is derived by multiplying the total number of appeals by the portion of the year the court existed (.2) and by the average portion of cases transferred to that court in 1981 and 1982.

The published data for 1981 and 1982 include some cases that were filed with both appellate courts. In the two years, 1 and 3 cases respectively were transferred from the Court of Appeals to the Supreme Court, and 6 and 12 were applications for leave to appeal. It is assumed that these 7 and 15 cases were criminal and civil in proportion to the number of criminal and civil cases decided by the Court of Appeals in the same years, or 25 and 17 percent criminal. Hence, 2 criminal cases are subtracted in 1981 and 3 in 1982; 4 civil cases are subtracted in 1981 and 12 in 1982.

Statistics for pending and disposed cases are not available for 1969 and are estimated to the same as the 1970 figures.

Special Problems

Effective July 1, 1972, all appeals from the District Court were appealed directly to the Supreme Court; formerly, the Supreme Court heard appeals only on points of law. Cases with factual issues (presumably most cases) were tried de novo in the Circuit Court. Roughly 15 percent of the appellate caseload are District Court appeals.

IDAHO

APPEALS FILED

| <u>Year</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> |
|-------------|----------------------|---------------------------|----------------------|---------------------------|
| 1973 | 63 | 0 | 180 | 0 |
| 1974 | 66 | 0 | 186 | 0 |
| 1975 | 85 | 0 | 222 | 0 |
| 1976 | 88 | 0 | 207 | 0 |
| 1977 | 107 | 0 | 238 | 0 |
| 1978 | 90 | 0 | 233 | 0 |
| 1979 | 104 | 0 | 276 | 0 |
| 1980 | 132 | 0 | 270 | 0 |
| 1981 | 128 | 1 | 253 | 0 |
| 1982 | 58 | 66 | 189 | 106 |

TIME TO DECISION
ALL COURTS

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> | <u>All Cases</u> |
|-------------|-----------------|--------------|------------------|
| 1977 | 16.8 | 20.8 | --- |
| 1978 | 21.2 | 22.2 | --- |
| 1979 | 24.3 | 26.1 | 25.1 |
| 1980 | 26.1 | 27.1 | 26.4 |
| 1981 | 29.0 | 28.7 | 28.7 |
| 1982 | 27.5 | 27.8 | 27.5 |

PENDING AND DISPOSED CASES
ALL COURTS

| <u>Year</u> | <u>Criminal</u> | | <u>Civil</u> | |
|-------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1972 | 55 | 70 | 172 | 163 |
| 1973 | 41 | 91 | 133 | 211 |
| 1974 | 62 | 95 | 197 | 200 |
| 1975 | 86 | 95 | 204 | 217 |
| 1976 | 74 | 111 | 154 | 269 |
| 1977 | 90 | 127 | 177 | 331 |
| 1978 | 71 | 146 | 207 | 351 |
| 1979 | 93 | 157 | 238 | 391 |
| 1980 | 110 | 181 | 231 | 428 |
| 1981 | 89 | 220 | 206 | 475 |
| 1982 | 112 | 233 | 242 | 527 |

CONTINUED

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IDAHO

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | | |
|-------------|-----------------|--------------|---------------------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> |
| 1971 | 1,110 | 5,268 | 6,816 |
| 1972 | 1,147 | 4,237 | 6,673 |
| 1973 | 2,403 | 5,735 | 8,407 |
| 1974 | 2,309 | 4,873 | 7,924 |
| 1975 | 2,495 | 4,095 | 8,032 |
| 1976 | 2,620 | 4,320 | 8,259 |
| 1977 | 2,937 | 4,788 | 8,902 |
| 1978 | 2,845 | 5,127 | 9,373 |
| 1979 | 2,752 | 5,852 | 9,548 |
| 1980 | 3,085 | 6,278 | 9,747 |
| 1981 | 3,459 | 5,083 | 9,632 |
| 1982 | 3,566 | 4,921 | 8,641 |

IDAHO

Sources: Annual reports; 1982 data from the administrative office of the courts.

Estimations

Civil appeals include "appeals by certification", which are cases certified by the federal courts and interlocutory appeals certified by the trial courts. A few of the latter may be criminal appeals. (Appeals by certification constitute only about three percent of all appeals.)

The number of criminal and civil dispositions in 1972 is estimated by applying the portion of criminal and civil dispositions in 1973 and 1974 (24 percent criminal) to the total number of dispositions.

There is no clear way to apportion the filing statistics between the Supreme Court (5 judges) and the intermediate court (3 judges) after the latter's creation in 1982, because the latter's caseload consists mainly of cases transferred from the Supreme Court's backlog. The distribution is calculated by multiplying the criminal and civil filings (which all come to the Supreme Court) by the percentage of the cases assigned (out of current filings and backlog) to each court.

Special Problems

The notice of appeal time was changed in July 1978 from 30 and 60 days for criminal and civil appeals respectively to 42 days for all appeals. The impact on the number of appeals, however, is uncertain.

ILLINOIS

APPEALS FILED

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1969 | 663 | --- | 1,028 | --- |
| 1970 | 790 | --- | 1,066 | --- |
| 1971 | 1,243 | --- | 1,256 | --- |
| 1972 | 1,716 | --- | 1,304 | --- |
| 1973 | 1,628 | --- | 1,416 | --- |
| 1974 | 1,797 | --- | 1,462 | --- |
| 1975 | 2,414 | --- | 1,721 | --- |
| 1976 | 2,115 | 16 | 1,858 | 50 |
| 1977 | 2,442 | 6 | 1,939 | 52 |
| 1978 | 2,309 | 6 | 2,102 | 64 |
| 1979 | 2,856 | 20 | 2,876 | 77 |
| 1980 | 3,420 | 19 | 3,183 | 87 |
| 1981 | 3,116 | 12 | 3,478 | 80 |
| 1982 | 3,001 | --- | 3,802 | --- |

REVERSAL RATES
INTERMEDIATE COURT

| Year | <u>Criminal</u> | | | <u>Civil</u> | | |
|------|-----------------|----------------|--------------|---------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1969 | 332 | 84 | 54 | 352 | 212 | 84 |
| 1970 | 338 | 93 | 97 | 364 | 210 | 111 |
| 1971 | 525 | 195 | 121 | 389 | 226 | 109 |
| 1972 | 662 | 187 | 92 | 460 | 285 | 73 |
| 1973 | 711 | 315 | 179 | 542 | 286 | 78 |
| 1974 | 850 | 316 | 219 | 511 | 266 | 90 |
| 1975 | 1,099 | 329 | 194 | 643 | 375 | 94 |
| 1976 | 1,297 | 291 | 231 | 650 | 379 | 112 |
| 1977 | 1,482 | 386 | 224 | 853 | 434 | 149 |
| 1978 | 1,339 | 307 | 159 | 839 | 502 | 178 |
| 1979 | 1,540 | 293 | 170 | 875 | 524 | 203 |
| 1980 | 1,888 | 319 | 241 | 1,110 | 541 | 234 |
| 1981 | 1,927 | 298 | 242 | 1,318 | 616 | 238 |
| 1982 | 1,960 | 262 | 258 | 1,262 | 548 | 261 |

ILLINOIS

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|---------------------------|--------------------------|---------------------------|
| | <u>Dispos- itions</u> | <u>Pending at end</u> | <u>Dispo- itions</u> | <u>Pending at end</u> |
| 1968 | --- | 674 | --- | 988 |
| 1969 | 509 | 830 | 945 | 1,071 |
| 1970 | 565 | 1,055 | 931 | 1,206 |
| 1971 | 922 | 1,376 | 1,022 | 1,440 |
| 1972 | 1,216 | 1,876 | 1,310 | 1,434 |
| 1973 | 1,639 | 1,865 | 1,319 | 1,531 |
| 1974 | 1,769 | 1,893 | 1,302 | 1,691 |
| 1975 | 2,035 | 2,270 | 1,610 | 1,803 |
| 1976 | 2,257 | 2,128 | 1,678 | 1,983 |
| 1977 | 2,488 | 2,081 | 2,091 | 1,832 |
| 1978 | 2,308 | 2,082 | 2,164 | 1,770 |
| 1979 | 2,352 | 2,586 | 2,308 | 2,338 |
| 1980 | 3,040 | 2,967 | 3,113 | 2,407 |
| 1981 | 2,973 | 3,110 | 3,360 | 2,525 |
| 1982 | 3,021 | 3,090 | 3,479 | 2,848 |

TRIAL COURT CASELOADS

| Year | <u>Filings</u> | | | <u>Convictions</u> | <u>Trials Criminal</u> |
|------|-----------------|--------------|-------------------------------|--------------------|----------------------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> | | |
| 1969 | 15,194 | 159,155 | 51,772 | 1,026 | 1,649 |
| 1970 | 13,559 | 152,075 | 49,822 | 1,084 | 1,669 |
| 1971 | 16,051 | 151,827 | 53,778 | 1,226 | 1,974 |
| 1972 | 16,955 | 149,929 | 56,388 | 1,397 | 2,107 |
| 1973 | 22,227 | 148,088 | 61,412 | 1,386 | 2,172 |
| 1974 | 30,597 | 166,076 | 62,718 | 1,201 | 2,058 |
| 1975 | 34,777 | 181,862 | 66,256 | 1,584 | 2,585 |
| 1976 | 32,426 | 180,489 | 66,496 | 1,577 | 2,567 |
| 1977 | 31,924 | 215,311 | 64,612 | 2,351 | 3,756 |
| 1978 | 34,040 | 230,073 | 69,366 | 1,984 | 3,340 |
| 1979 | 37,135 | 245,723 | 68,345 | 2,416 | 3,782 |
| 1980 | 42,608 | 258,874 | 69,298 | 3,113 | 4,936 |
| 1981 | 42,749 | 243,602 | 69,036 | 3,619 | 6,044 |
| 1982 | --- | --- | --- | --- | --- |

ILLINOIS

Source: Annual reports

Special Features of the Statistics

The appeals filed are those filed in the intermediate courts. Because data is not available before 1976, Supreme Court direct filings are not included, but they constitute less than one percent of the criminal appeals and less than three percent of the civil appeals (almost all direct filings in civil cases are workmen's compensation cases).

Filings include reinstated cases which comprise about 2 percent of the caseloads. Filings also include discretionary appeals - "permissive interlocutory appeals" - which constitute a very small portion of the filings.

Special Problems

Effective October 15, 1979, the filing of cases was changed from receipt of the record to filing of the notice of appeal. This increased the filings by an uncertain number: between 1978-79 the pending criminal cases increased by 504 and the pending civil by 568, probably good measures of the increase in filings caused by the change in docketing procedures. The time between notice of appeal and record filing averaged 97 days in civil cases and 127 in criminal cases during the early 1970's.

At the trial level, felony cases are counted at time of indictment in most cases, but many down state counties count them at the time of complaint. Also, the definition of "felony" was expanded at the beginning of 1973, and this accounted for an unknown portion of the 31 percent increase in felony filings that year.

Trial dispositions in felony cases does not include felony defendants convicted of misdemeanors because a very large one year jump in such convictions in 1973 (98 to 719 to 87) looks suspicious.

IOWA

APPEALS FILED

| Year | Criminal | | Civil | |
|------|--------------------|---------------|--------------------|---------------|
| | Intermediate Court | Supreme Court | Intermediate Court | Supreme Court |
| 1970 | 0 | 234 | 0 | --- |
| 1971 | 0 | 284 | 0 | --- |
| 1972 | 0 | 285 | 0 | --- |
| 1973 | 0 | 364 | 0 | 436 |
| 1974 | 0 | 362 | 0 | 490 |
| 1975 | 0 | 392 | 0 | 619 |
| 1976 | 13 | 426 | 56 | 579 |
| 1977 | 82 | 364 | 274 | 394 |
| 1978 | 125 | 323 | 245 | 653 |
| 1979 | 114 | 320 | 263 | 596 |
| 1980 | 116 | 359 | 344 | 602 |
| 1981 | 149 | 344 | 305 | 737 |
| 1982 | 134 | 390 | 397 | 725 |

REVERSAL RATES
SUPREME COURT

| Year | Criminal | | | Civil | | | All Cases | | |
|------|----------|---------|-------|--------|---------|-------|-----------|---------|-------|
| | Affirm | Reverse | Other | Affirm | Reverse | Other | Affirm | Reverse | Other |
| 1967 | --- | --- | --- | --- | --- | --- | 141 | 64 | 23 |
| 1968 | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1969 | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1970 | --- | --- | --- | --- | --- | --- | 149 | 62 | 29 |
| 1971 | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1972 | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1973 | --- | --- | --- | --- | --- | --- | 190 | 87 | 34 |
| 1974 | --- | --- | --- | --- | --- | --- | 267 | 91 | 28 |
| 1975 | 141 | 34 | 5 | 134 | 60 | 30 | 242 | 97 | 22 |
| 1976 | 244 | 47 | 5 | 98 | 40 | 30 | 263 | 89 | 35 |
| 1977 | 93 | 22 | 1 | 145 | 84 | 20 | 237 | 111 | 22 |
| 1978 | --- | --- | --- | --- | --- | --- | 219 | 94 | 35 |
| 1979 | 96 | 15 | 3 | 90 | 66 | 21 | 161 | 43 | 28 |
| 1980 | 104 | 23 | 6 | 86 | 58 | 28 | 144 | 89 | 38 |
| 1981 | 188 | 28 | 10 | 115 | 47 | 27 | 254 | 87 | 38 |
| 1982 | 226 | 18 | 12 | 155 | 77 | 44 | --- | --- | --- |

IOWA

REVERSAL RATES
INTERMEDIATE COURT

| Year | ALL CASES | | |
|------|-----------|---------|-------|
| | Affirm | Reverse | Other |
| 1977 | 207 | 77 | 45 |
| 1978 | 258 | 73 | 51 |
| 1979 | 235 | 70 | 72 |
| 1980 | 148 | 76 | 66 |
| 1981 | 337 | 81 | 83 |
| 1982 | --- | --- | --- |

TIME TO DECISION
INTERMEDIATE COURT

| Year | Criminal | Civil | All Cases |
|------|----------|-------|-----------|
| 1976 | --- | --- | --- |
| 1977 | 15.4 | 25.3 | 21.7 |
| 1978 | 13.8 | 15.9 | 14.3 |
| 1979 | 14.0 | 13.7 | 13.4 |
| 1980 | 115.3 | 13.2 | 13.7 |
| 1981 | 16.4 | 14.5 | 14.8 |
| 1982 | 15.7 | 14.3 | 14.3 |

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | Criminal | | Civil | |
|------|-------------------|-------------------|-------------------|-------------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1976 | 0 | 13 | 0 | 56 |
| 1977 | 73 | 22 | 260 | 70 |
| 1978 | 117 | 30 | 267 | 48 |
| 1979 | 120 | 24 | 259 | 52 |
| 1980 | 94 | 46 | 303 | 93 |
| 1981 | 163 | 32 | 348 | 50 |
| 1982 | 116 | 50 | 307 | 140 |

IOWA

TIME TO DECISION
SUPREME COURT

| Year | Criminal (Months) | Civil (Months) | Total Cases |
|------|----------------------|-------------------|----------------|
| 1969 | --- | --- | 20.0 |
| 1970 | --- | --- | 19.7 |
| 1971 | --- | --- | 13.7 |
| 1972 | --- | --- | --- |
| 1973 | --- | --- | --- |
| 1974 | --- | --- | --- |
| 1975 | 14.0 | 16.5 | 15.2 |
| 1976 | 13.3 | 28.8 | 18.1 |
| 1977 | 14.0 | 25.7 | 21.0 |
| 1978 | 12.6 | 16.2 | 14.7 |
| 1979 | 12.6 | 12.9 | 12.4 |
| 1980 | 12.8 | 14.6 | 13.2 |
| 1981 | 14.9 | 14.0 | 14.2 |
| 1982 | 13.5 | 14.3 | 13.8 |

PENDING AND DISPOSED CASES
SUPREME COURT

| Year | Criminal | | Civil | | All Cases | |
|------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1971 | --- | --- | --- | --- | 384 | 498 |
| 1972 | --- | 273 | --- | 326 | 444 | 599 |
| 1973 | --- | 269 | --- | 498 | 752 | 767 |
| 1974 | --- | 236 | --- | 624 | 746 | 860 |
| 1975 | 284 | 337 | 503 | 662 | 787 | 999 |
| 1976 | 422 | 322 | 459 | 756 | 881 | 1,147 |
| 1977 | 365 | 307 | 520 | 541 | 885 | 848 |
| 1978 | 341 | 275 | 581 | 605 | 922 | 880 |
| 1979 | 248 | 350 | 571 | 618 | 819 | 968 |
| 1980 | 296 | 485 | 618 | 544 | 914 | 1,029 |
| 1981 | 424 | 422 | 583 | 743 | 1,007 | 1,165 |
| 1982 | 439 | 356 | 748 | 799 | 1,145 | 1,155 |

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TRIAL COURT CASELOADS

| Year | Filings | | Trials | |
|------|----------|--------------------------------------|----------|-------|
| | Criminal | Civil (including Domestic Relations) | Criminal | Civil |
| 1967 | 7,496 | 31,646 | 795 | 2,865 |
| 1968 | 8,367 | 33,617 | 914 | 2,716 |
| 1969 | 9,505 | 35,574 | 821 | 2,733 |
| 1970 | 10,140 | 37,965 | 998 | 2,837 |
| 1971 | 11,300 | 40,315 | 1,246 | 3,120 |
| 1972 | 10,699 | 40,483 | 1,184 | 3,376 |
| 1973 | 12,816 | 38,057 | 1,221 | 3,472 |
| 1974 | 15,403 | 36,216 | 1,933 | 4,021 |
| 1975 | 15,183 | 37,963 | 2,894 | 4,515 |
| 1976 | 17,866 | 40,103 | 3,466 | 3,832 |
| 1977 | 17,859 | 43,324 | 1,974 | 4,335 |
| 1978 | 15,073 | 46,498 | 1,612 | 5,301 |
| 1979 | 16,566 | 51,031 | 1,762 | 6,186 |
| 1980 | 18,135 | 58,442 | 1,610 | 6,299 |
| 1981 | 21,340 | 58,225 | 1,769 | 6,818 |
| 1982 | 20,231 | 55,763 | 1,624 | 6,657 |

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Sources: Annual reports for 1973-81; data supplied by the administrative office of the courts for 1976-1982; Institute of Judicial Administration, The Supreme Court of Iowa, A Study of its Procedures and Administration (1971); W. Stuart, "Iowa Supreme Court Congestion: Can We Avert a Crisis," 55 Iowa L. Rev. 594 (1970); M. McCormick, "Appellate Congestion in Iowa: Dimensions and Remedies," 25 Drake L. Rev. 133 (1975).

Special Features of the Statistics

Civil appeals include lawyer discipline and postconviction relief appeals. Each comprises less than one percent of the civil filings.

The time to decision in civil cases excludes priority civil cases. Disposition figures exclude denials of discretionary jurisdiction. Pending cases include discretionary jurisdiction cases. Criminal cases affirmed include cases dismissed for failure to state a cause of action.

Estimations

Criminal and civil appeals filed are total appeals filed less discretionary appeals refused. Hence, it is an approximation of appeals plus discretionary appeals granted. In criminal cases, discretionary appeals, which amount to less than 2 percent of the caseload, include appeals by the prosecution and interlocutory appeals by the defense. Discretionary jurisdiction upon first appeal in civil cases includes civil cases involving less than \$1,000 and interlocutory appeals. Less than 3 percent of the civil filings are discretionary appeals granted.

The disposition figures available for 1972-1973 include denial of discretionary jurisdiction cases. These denials have been estimated by subtracting the average of the denials for 1974 to 1978 (101, range 75 to 117, with no evident trend) from the figures given. The number of cases pending in 1971 is estimated by using the numbers filed, disposed, and pending in 1972.

Special Problems

Jurisdiction on appeal is discretionary for civil appeals involving less than \$3,000. Before July 1, 1971, they were discretionary with trial judges if over \$1,000 (the appellate courts were required to take cases permitted by the trial judge). After that date, the appellate courts, rather than the trial courts, exercised the discretion. This change slightly reduced the number of mandatory appeals filed.

The trial courts were consolidated on July 1, 1973, and cases formerly filed in the Justice of the Peace and Municipal Courts were then filed in the District Court, the court of general jurisdiction. The statistics for criminal cases after the change exclude cases assigned to

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district court magistrates and associate judges. These cases are generally the same as those formerly filed in limited jurisdiction courts. On the civil side, the filings are "general civil" filings, which exclude cases involving \$1,000 or less. Before 1973, the statistics for civil cases are for all civil cases filed in the District Court, which had jurisdiction over cases involving \$300 or more, except that the municipal courts had concurrent jurisdiction over cases involving less than \$2,000. (Municipal courts existed in most of the large towns in the state.)

KANSAS

APPEALS FILED

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1973 | 0 | 111 | 0 | 428 |
| 1974 | 0 | 178 | 0 | 414 |
| 1975 | 0 | 202 | 0 | 428 |
| 1976 | 0 | 232 | 0 | 489 |
| 1977 | 95 | 205 | 275 | 229 |
| 1978 | 190 | 106 | 602 | 21 |
| 1979 | 191 | 107 | 686 | 12 |
| 1980 | 161 | 121 | 749 | 7 |
| 1981 | 187 | 118 | 818 | 10 |
| 1982 | 234 | 122 | 800 | 6 |

REVERSAL RATES
SUPREME COURT

| Year | <u>Criminal</u> | | | <u>Civil</u> | | |
|------|-----------------|----------------|--------------|---------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1967 | 46 | 11 | 2 | 116 | 44 | 13 |
| 1968 | 46 | 8 | 3 | 137 | 41 | 8 |
| 1969 | 57 | 4 | 3 | 109 | 47 | 11 |
| 1970 | 58 | 3 | 1 | 124 | 47 | 13 |
| 1971 | 58 | 10 | 1 | 118 | 45 | 7 |
| 1972 | 55 | 16 | 1 | 122 | 59 | 21 |
| 1973 | 47 | 26 | 4 | 180 | 61 | 14 |
| 1974 | 52 | 14 | 0 | 142 | 71 | 22 |
| 1975 | 83 | 19 | 3 | 122 | 55 | 8 |
| 1976 | 93 | 14 | 6 | 102 | 51 | 10 |
| 1977 | 112 | 17 | 5 | 86 | 29 | 6 |
| 1978 | 131 | 21 | 10 | 69 | 29 | 6 |
| 1979 | 98 | 19 | 12 | 84 | 42 | 16 |
| 1980 | --- | --- | --- | --- | --- | --- |
| 1981 | --- | --- | --- | --- | --- | --- |
| 1982 | --- | --- | --- | --- | --- | --- |

KANSAS

REVERSAL RATES
INTERMEDIATE COURT

| Year | Criminal | | | Civil | | | All Cases | | |
|------|----------|---------|-------|--------|---------|-------|-----------|---------|-------|
| | Affirm | Reverse | Other | Affirm | Reverse | Other | Affirm | Reverse | Other |
| 1977 | 6 | 3 | 0 | 72 | 14 | 3 | --- | --- | --- |
| 1978 | 79 | 21 | 3 | 140 | 39 | 23 | --- | --- | --- |
| 1979 | 111 | 16 | 6 | 221 | 36 | 19 | --- | --- | --- |
| 1980 | --- | --- | --- | --- | --- | --- | 331 | 81 | 24 |
| 1981 | --- | --- | --- | --- | --- | --- | 457 | 102 | 45 |
| 1982 | --- | --- | --- | --- | --- | --- | 518 | 153 | 42 |

TIME TO DECISION
INTERMEDIATE COURT

| Year | Criminal | Civil |
|------|----------|-------|
| 1977 | 19.5 | 19.2 |
| 1978 | 9.4 | 9.9 |
| 1979 | --- | --- |
| 1980 | --- | --- |
| 1981 | --- | --- |
| 1982 | --- | --- |

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | All Cases | |
|------|-------------------|-------------------|
| | Dispo- sitions | Pending at end |
| 1977 | 131 | 385 |
| 1978 | 447 | 712 |
| 1979 | 836 | 645 |
| 1980 | 682 | 833 |
| 1981 | 888 | 638 |
| 1982 | 998 | 791 |

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TIME TO DECISION
SUPREME COURT

| Year | Criminal | Civil |
|------|----------|-------|
| 1970 | 16.0 | 18.6 |
| 1971 | 17.5 | 19.8 |
| 1972 | 19.8 | 20.8 |
| 1973 | 17.5 | 17.9 |
| 1974 | 19.0 | 15.9 |
| 1975 | 17.6 | 14.9 |
| 1976 | 16.5 | 17.1 |
| 1977 | 18.3 | 17.6 |
| 1978 | 11.2 | 13.7 |
| 1979 | --- | --- |
| 1980 | --- | --- |
| 1981 | --- | --- |
| 1982 | --- | --- |

PENDING AND DISPOSED CASES
SUPREME COURT

| Year | All Cases | |
|------|-------------------|-------------------|
| | Dispo- sitions | Pending at end |
| 1971 | 337 | 633 |
| 1972 | 436 | 672 |
| 1973 | 535 | 671 |
| 1974 | 594 | 650 |
| 1975 | 541 | 732 |
| 1976 | 443 | 1,003 |
| 1977 | 306 | 341 |
| 1978 | 300 | 196 |
| 1979 | 294 | 207 |
| 1980 | 307 | 147 |
| 1981 | 252 | 116 |
| 1982 | 274 | 141 |

KANSAS
TRIAL COURT CASELOADS

| Year | Filings | | | Trials | | |
|------|----------|--------|--------------------|-------------|----------|-------|
| | Criminal | Civil | Domestic Relations | Convictions | Criminal | Civil |
| 1967 | 3,235 | 12,211 | 12,974 | 323 | 472 | -- |
| 1968 | 2,876 | 11,745 | 13,712 | 555 | 774 | -- |
| 1969 | 2,915 | 11,454 | 14,541 | 443 | 652 | -- |
| 1970 | 3,401 | 12,786 | 15,951 | 488 | 735 | -- |
| 1971 | 3,567 | 13,782 | 16,044 | 625 | 871 | -- |
| 1972 | 3,743 | 14,061 | 17,588 | 873 | 1,234 | -- |
| 1973 | 3,621 | 13,421 | 18,067 | 781 | 1,069 | -- |
| 1974 | 4,312 | 14,020 | 19,471 | 933 | 1,240 | -- |
| 1975 | 5,164 | 14,281 | 21,031 | 995 | 1,289 | -- |
| 1976 | 5,514 | 15,212 | 22,599 | 1,096 | 1,431 | -- |
| 1977 | 9,444 | 15,353 | 23,099 | 1,053 | 1,339 | -- |
| 1978 | 10,303 | 15,131 | 23,807 | 1,049 | 1,409 | 3,625 |
| 1979 | 9,901 | 16,744 | 24,668 | 915 | 1,244 | 2,556 |
| 1980 | 10,944 | 17,372 | 25,856 | 995 | 1,374 | 2,395 |
| 1981 | 12,121 | 17,659 | 27,869 | 1,063 | 1,450 | 2,316 |
| 1982 | 12,507 | 20,149 | 26,073 | 1,159 | 1,567 | 2,632 |

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Sources: Annual Reports, 1977-1982; data supplied by the state court administrator's office and the clerk of the Supreme Court; "Report of the Kansas Judicial Study Advisory Committee--Recommendations for Improving the Kansas Judicial System," 13 Washburn L. J. 1974.

Special Features of the Statistics

The figures for dispositions and pending cases for 1978-82 include original jurisdictions cases, which comprise less than 5 percent of the caseload.

Estimations

For 1974, the total number of appeals is available, but the civil/criminal breakdown is not. The number of criminal appeals was estimated by using the portion of criminal appeals in 1971, 1973, and 1975-1982. (30 percent, varying between 21 and 37 percent with no evident trend; the 21 percent, however, was in 1973).

The number of cases disposed in 1972 is not available. It was estimated by averaging the number of cases disposed in 1971 and 1973.

Special problems:

There was a change in counting cases on January 10, 1977. Up to that time, the count is the number of NOAs filed in the trial court; afterwards it is the number received by the appellate court. (The rules specify that the NOA must be sent up within 3 weeks after filing.) The number of filings after 1977 does not include cases settled between the time the NOA was filed but before it was sent to the appellate court. Also, the 1977 statistics may understate the number of filings because of the commencement of delay (of uncertain extent, up to three weeks) in counting the cases.

When the intermediate court was created and the trial courts were unified on January 10, 1977, the appellate jurisdiction was enlarged. Misdemeanor appeals and civil decisions from limited jurisdiction courts were taken to the Supreme Court, rather than to the court of general jurisdiction (except that cases handled by judges not law trained are appealed de novo within the District Court). Also, effective January 10, 1977 a new law removed a \$500 minimum limit on cases that could be appealed to the Supreme Court.

At the same time courts were reorganized in 1977, the trial courts were unified. New appellate rules in 1977 abolished the printed record, of which 20 copies were required, and adopted the original record system. Printing the record required the attorney to spend considerable time arranging the record's content.

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The reorganization probably caused the number of criminal trials to increase because the District (general jurisdiction) Court received wider jurisdiction in misdemeanor cases. About half the trials in 1982 were misdemeanor trials. There is no information about the proportion before unification.

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APPEALS FILED

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1967 | 0 | 92 | 0 | 558 |
| 1968 | 0 | 124 | 0 | 548 |
| 1969 | 0 | 159 | 0 | 528 |
| 1970 | 0 | 234 | 0 | 534 |
| 1971 | 0 | 255 | 0 | 622 |
| 1972 | 0 | 246 | 0 | 686 |
| 1973 | 0 | 279 | 0 | 682 |
| 1974 | 0 | 296 | 0 | 661 |
| 1975 | 0 | 308 | 0 | 743 |
| 1976 | 141 | 259 | 440 | 417 |
| 1977 | 321 | 78 | 1,183 | 0 |
| 1978 | 305 | 96 | 1,178 | 0 |
| 1979 | 380 | 116 | 1,535 | 0 |
| 1980 | 491 | 125 | 1,700 | 0 |
| 1981 | 562 | 139 | 1,780 | 0 |
| 1982 | 663 | 173 | 1,781 | 0 |

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | <u>Criminal</u> | | <u>Civil</u> | | <u>All Cases</u> | |
|------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1976 | 4 | 0 | 46 | 0 | 50 | 812 |
| 1977 | 280 | 228 | 1,174 | 892 | 1,454 | 1,254 |
| 1978 | 317 | 216 | 1,340 | 741 | 1,657 | 1,073 |
| 1979 | 381 | 341 | 1,485 | 1,303 | 1,866 | 1,733 |
| 1980 | 437 | 433 | 1,720 | 1,338 | 2,157 | 1,851 |
| 1981 | 512 | 506 | 1,796 | 1,348 | 2,308 | 1,947 |
| 1982 | 593 | 610 | 1,674 | 1,456 | 2,267 | 2,135 |

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PENDING AND DISPOSED CASES
SUPREME COURT

All Cases

| <u>Year</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
|-------------|---------------------------|---------------------------|
| 1967 | 760 | 577 |
| 1968 | 793 | 401 |
| 1969 | 741 | 488 |
| 1970 | 787 | 547 |
| 1971 | 767 | 676 |
| 1972 | 775 | 893 |
| 1973 | 887 | 920 |
| 1974 | 929 | 848 |
| 1975 | 907 | 886 |
| 1976 | 835 | 513 |
| 1977 | 0 | 0 |
| 1978 | 0 | 0 |
| 1979 | 0 | 0 |
| 1980 | 0 | 0 |
| 1981 | 0 | 0 |
| 1982 | 0 | 0 |

TRIAL COURT CASELOADS

Filings

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> |
|-------------|-----------------|--------------|-------------------------------|
| 1972 | 12,268 | 28,254 | 19,595 |
| 1973 | 11,455 | 29,484 | 20,806 |
| 1974 | 12,296 | 32,756 | 22,928 |
| 1975 | 11,328 | 34,787 | 24,672 |
| 1976 | 12,824 | 36,488 | 26,730 |
| 1977 | 12,699 | 37,075 | 28,703 |
| 1978 | 9,582 | 26,434 | 28,172 |
| 1979 | 10,124 | 29,208 | 30,917 |
| 1980 | 11,162 | 33,812 | 34,999 |
| 1981 | 13,007 | 33,624 | 36,899 |
| 1982 | 13,115 | 34,447 | 36,419 |

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Sources: Annual reports through 1978; Appellate statistics are from data supplied by the court for 1978-1982; 1977 Supreme Court filings are from State Court Statistics, 1977. The 1974 and 1976 Supreme Court filings are from Kramer (1975 and 1978); trial court data is from the annual reports through 1981; and from the administrative office of the courts in 1982.

Special Features of the Statistics

The pending and disposition statistics are for the Supreme Court through 1975, the Supreme Court and Court of Appeals in 1976 when the latter was created, and in later years for the court of appeals only. Afterwards dispositions are appeals only.

Pending cases include original actions, discretionary writs, and rehearing applications; these constitute about 10 percent of the pending cases. (The figures for civil and criminal pending cases in the intermediate court include appeals only.) The number of pending cases in 1979-81 is estimated as described below in the problem section.

Estimations

All direct filings in the Supreme Court after the intermediate court was created are assumed to be criminal cases, although one or two a year may be civil cases. The Supreme Court filings for 1978 and 1980 are for fiscal years ending June 30; other data is for calendar years. The number of appeal dispositions in the Supreme Court was not available for 1974-76 although the number of total dispositions (including original jurisdiction cases and requests to appeal) is available. The appeal dispositions in 1974-76 are estimated by using the percentage of total dispositions in 1972 and 1973 that were appeals (78.5 percent in both years; the percentages in 1970 and 1971 were 75 and 76 percent) and applying it to the total dispositions in 1974, 1975, and 1976.

Statistics for pending cases in the Supreme Court are not available for 1973-1975, and they are estimated by using pending figures for 1972 and 1976, and calculating the number pending in intervening years by using filing and disposition statistics. Pending figures are obtained by working backward and forward, and for 1974 by using the average of the two estimations. There is a difference of 84 between the two methods for that year. (The 1974 annual report, it should be noted contains an "inventory of pending matters" which shows 1,087 pending matters at the end of that year; there is no explanation for the difference between this and other pending statistics.)

Problems

The extent of discretionary and mandatory jurisdiction in appeals from trial courts in minor cases changed twice. Until March 1976 the

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Supreme Court had discretionary jurisdiction over claims involving less than \$2,500 (and no jurisdiction over claims involving less than \$500). The number of such cases varied from 56 in 1967 to 26 in 1975. In January 1978 further review of appeals from limited jurisdiction courts through the general jurisdiction court became discretionary in the court of appeals; formerly they were mandatory. These numbered 63 in 1981, and 65 in 1982. In both situations, these discretionary appeals are not counted as appellate filings. This increases slightly the number of appeals in the years 1976-78 in comparison to other years because some mandatory appeals in those years were discretionary in earlier and later years.

The number of appeals counted as filed and as disposed is artificially high after 1978. Cases are not docketed until the appellant brief or a motion is filed. Typical motions are motions for extension of time or motions to dismiss. A new rule effective at the beginning of 1978 required the appellant to forward a copy of the notice of appeal to the appellate court. Although this did not trigger docketing, it did increase the number of docketings for the following reason: the courts in 1978 and 1979 decided to weed out the "deadwood" cases, and issued sua sponte motions to dismiss after a notice of appeal had been pending 150 days or more. These motions meant that the cases were docketed, whereas in earlier years, the court would not have known of their existence. Because of this change, starting in 1979 the time of filing is coded as being when the notice of appeal is filed. But these cases are not counted as "pending" cases until well after the notice of appeal is filed, and remain pending for a very short time. Hence the pending figures given by the court for 1979-82 (1733, 1851, 1947, 2135) have been increased by an amount equal to one third of the filings (the time limit from notice of appeal to briefing is 90 days, with extensions up to 60 days by the trial court permitted.)

The time for filing the notice of appeal in civil cases was changed from 30 to 20 days in July 1976, and then back to 30 days in January 1978. In 1978, however, the maximum extension of time (for filing the notice of appeal) allowed by the trial court was reduced from 30 days to 10 days. Also in 1979, time for filing the appellant brief was reduced from 40 to 30 days after the record was completed. All of these changes may have affected the time in which appeals were filed, but the impact is uncertain.

Effective July 1, 1981 appellants were given the option of using tape recordings instead of the written transcript (Rule 75.07).

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APPEALS FILED

| Year | Intermediate Court | Supreme Court |
|------|--------------------|---------------|
| 1967 | 1,226 | 71 |
| 1968 | 1,312 | 74 |
| 1969 | 1,282 | 74 |
| 1970 | 1,262 | 105 |
| 1971 | 1,318 | 151 |
| 1972 | 1,573 | 214 |
| 1973 | 1,429 | 204 |
| 1974 | 1,407 | 235 |
| 1975 | 1,812 | 358 |
| 1976 | 1,947 | 461 |
| 1977 | 2,092 | 608 |
| 1978 | 2,042 | 563 |
| 1979 | 2,269 | 493 |
| 1980 | 2,417 | 661 |
| 1981 | 2,426 | 817 |
| 1982 | 2,386 | 646 |

PENDING AND DISPOSED CASES
ALL COURTS

| Year | Criminal | Civil | Pending at end |
|------|--------------|--------------|----------------|
| | Dispositions | Dispositions | |
| 1967 | 65 | 1,216 | 361 |
| 1968 | 61 | 1,249 | 413 |
| 1969 | 91 | 1,234 | 415 |
| 1970 | 86 | 1,288 | 503 |
| 1971 | 100 | 1,239 | 608 |
| 1972 | 202 | 1,476 | 746 |
| 1973 | 238 | 1,462 | 603 |
| 1974 | 250 | 1,593 | 507 |
| 1975 | 365 | 1,641 | 738 |
| 1976 | 405 | 1,802 | 918 |
| 1977 | 490 | 2,054 | 909 |
| 1978 | 574 | 2,068 | 1,395 |
| 1979 | 444 | 2,046 | 1,147 |
| 1980 | 506 | 2,236 | 1,346 |
| 1981 | 602 | 2,063 | 1,740 |
| 1982 | 692 | 2,550 | 1,149 |

LOUISIANA

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Civil (including Domestic Relations)</u> |
|-------------|---|
| 1967 | 91,441 |
| 1968 | 90,287 |
| 1969 | 94,717 |
| 1970 | 100,881 |
| 1971 | 98,612 |
| 1972 | 97,970 |
| 1973 | 104,106 |
| 1974 | 117,932 |
| 1975 | 122,633 |
| 1976 | 133,124 |
| 1977 | 133,369 |
| 1978 | 141,000 |
| 1979 | 152,965 |
| 1980 | 161,884 |
| 1981 | 151,977 |
| 1982 | 160,801 |

LOUISIANA

Source: Annual reports

Special Features of the Statistics

Statistics for criminal appeals in the Supreme Court are the total number of direct appeals, although there are a very few direct civil appeals. Scattered available information shows that 10 of the Supreme Court's direct appeals were civil in 1973 (5 percent of the direct appeals), 17 in 1975 (5 percent), 8 in 1976 (2 percent) and 9 to 16 in 1978-82 (one to three percent).

Criminal post conviction writs appealed from the trial courts are not counted as appeals because they are treated as discretionary reviews. Less than 10 percent of the 951 post-conviction writs in 1982 were granted full review.

Statistics for cases pending in the Court of Appeals include writs.

Estimations

The statistics for 1976 trial court filings are not broken down into civil and criminal as in other years. The proportion of cases is estimated by taking the average portion for the years 1973-75 and 1977-79 (38 percent, with a variation of 36 to 40 percent and no evident trend).

Special Problems

In 1975, there was a change from fiscal year, ending June 30, to the calendar year.

There is no apparent explanation for the large increase in civil and criminal appeals in 1975, nor the increase in civil cases pending in 1978.

In 1981 and 1982 the Supreme Court conducted a program to expedite transcript production. Since cases are docketed when the transcript is filed, the program may have increased the number of cases docketed (but probably by not more than 30 cases each year). The same program was undertaken in the state's Fourth Circuit Court of Appeals (and the Fifth Circuit which split from it in 1982), but the civil filings actually decreased by 6 percent there, while civil filings in the other circuits remained at the same level as in 1981.

The Fourth Circuit Court of Appeals conducted settlement conferences in 1976 and 1977. Because the conferences were held before the record was filed, they may have reduced the number of filings by causing settlements before docketing. They also may have delayed record production, delaying some filings to a later year.

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The 1974 Constitution enlarged the jurisdiction of the Court of Appeals by small amounts--adding cases involving \$100 or less and moving jurisdiction from the Supreme Court in cases involving the legality of taxes, election contests, and appeals from the Public Service Commission. The reduction in Supreme Court jurisdiction reduced Supreme Court civil filings by a few cases (see comments above).

MAINE

APPEALS FILED

| Year | <u>Criminal</u> | <u>Civil</u> |
|------|-----------------|---------------|
| | Supreme Court | Supreme Court |
| 1973 | 111 | 75 |
| 1974 | 124 | 99 |
| 1975 | 137 | 131 |
| 1976 | 124 | 145 |
| 1977 | 152 | 174 |
| 1978 | 125 | 240 |
| 1979 | 118 | 238 |
| 1980 | 131 | 382 |
| 1981 | 137 | 384 |
| 1982 | 153 | 384 |

REVERSAL RATES
SUPREME COURT

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|-----------------|----------------|---------------|----------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Affirm</u> | <u>Reverse</u> |
| 1976 | 63 | 9 | 69 | 25 |
| 1977 | 65 | 9 | 56 | 34 |
| 1978 | 141 | 20 | 137 | 81 |
| 1979 | 73 | 27 | 94 | 80 |
| 1980 | 65 | 17 | 112 | 48 |
| 1981 | 79 | 35 | 138 | 100 |
| 1982 | 69 | 22 | 111 | 78 |

PENDING AND DISPOSED CASES
ALL COURTS

| Year | <u>Criminal</u> | | <u>Civil</u> | | <u>All Cases</u> | |
|------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| | <u>Dispos- itions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1974 | --- | 104 | --- | 79 | --- | 183 |
| 1975 | 114 | 127 | 91 | 119 | 205 | 246 |
| 1976 | 115 | 136 | 121 | 143 | 236 | 279 |
| 1977 | 124 | 164 | 112 | 205 | 236 | 369 |
| 1978 | 219 | 70 | 258 | 187 | 477 | 257 |
| 1979 | 132 | 56 | 245 | 180 | 377 | 236 |
| 1980 | 110 | 77 | 274 | 288 | 384 | 365 |
| 1981 | 147 | 54 | 402 | 270 | 549 | 302 |
| 1982 | 125 | 82 | 343 | 230 | 468 | 312 |

MAINE

TRIAL COURT CASELOADS

| Year | Filings | | Convictions | Trials | |
|------|----------|--------------------------------------|-------------|----------|-------|
| | Criminal | Civil (including Domestic Relations) | | Criminal | Civil |
| 1972 | 5,300 | 4,400 | -- | -- | -- |
| 1973 | 7,543 | 4,610 | -- | -- | -- |
| 1974 | 9,785 | 4,819 | -- | -- | -- |
| 1975 | 8,734 | 5,158 | -- | -- | -- |
| 1976 | 6,533 | 5,851 | -- | 600 | 288 |
| 1977 | 7,800 | 6,314 | 537 | 604 | 477 |
| 1978 | 7,457 | 6,462 | 536 | 765 | 393 |
| 1979 | 8,258 | 6,457 | 511 | 759 | 481 |
| 1980 | 8,867 | 6,443 | 477 | 717 | 356 |
| 1981 | 9,186 | 6,365 | 485 | 680 | 443 |
| 1982 | 9,241 | 6,058 | 378 | 655 | 426 |
| | | | | 576 | 392 |

MAINE

Sources: Annual Reports, 1976-1982; State Court Statistics Report (1975); criminal justice plan, 1974.

Special Features of the Statistics

The appellate filings do not include sentence appeals. These are heard by a panel of three Supreme Court justices who constitute the Appellate Division, technically a separate court. Many of the sentence appeals involve cases appealed to the Supreme Court itself, and these are counted, as separate filings.

Post conviction writs may be counted as filings when granted. Attorney discipline cases, which number about one a year, are counted as civil cases.

Estimations

The total number of filings, but without a civil/criminal breakdown, is available for 1973 and 1974. The proportion of criminal cases is estimated by taking the average decline from 1976 to 1981 in the percentage of cases that are criminal cases (4.3 percent, variation 12.4 percent decline to a 0.5 percent increase; with no evident deviation from the trend until the portion of criminal cases increased again in 1982). Hence, it is estimated that criminal cases comprise 59.7 and 55.4 percent of the filings in 1973 and 1974, followed by the known figure of 51.5 percent in 1975. These estimates probably are close because criminal cases comprised 56 percent of the dispositions in 1975, and 57 and 52 percent of the pending cases in 1974 and 1975.

The number of civil filings in 1982 is estimated to be the same as the number in 1981, rather than the 325 filings that actually occurred. In late 1981, workmen's compensation appeals started going to a new Appellate Division of the Workers Compensation Commission with review thereafter by the Supreme Court, instead of going directly to the Supreme Court. The 1982 annual report claims that this accounts for the drop in civil appeals between 1981 and 1982. The Supreme Court disposed of 89 and 51 workmen's compensation cases in 1981 and 1982.

The annual reports contain trial court civil and criminal filings starting in 1974. The 1972 figures are estimated from a chart in the criminal justice plan; and the statistics for 1973 are estimated to be the average of 1972 and 1974 figures.

Special Problems

Advisory opinions were counted as appeals during the early years of the statistics, but not in later years. They amounted, however, to only about 2 or 3 cases a year.

In 1981 a new probate code routed probate appeals to the Supreme Court, rather than the trial courts; the clerk estimated that this increased the caseload by about a dozen cases a year.

MARYLAND

APPEALS FILED

| Year | Criminal | | Civil |
|------|--------------------|--------------------|---------------|
| | Intermediate Court | Intermediate Court | Supreme Court |
| 1967 | 382 | 0 | 408 |
| 1968 | 500 | 0 | 400 |
| 1969 | 593 | 0 | 430 |
| 1970 | 553 | 86 | 470 |
| 1971 | 542 | 174 | 381 |
| 1972 | 678 | 189 | 313 |
| 1973 | 610 | 323 | 227 |
| 1974 | 631 | 494 | 70 |
| 1975 | 762 | 622 | 0 |
| 1976 | 675 | 708 | 0 |
| 1977 | 684 | 728 | 0 |
| 1978 | 665 | 751 | 0 |
| 1979 | 796 | 875 | 0 |
| 1980 | 820 | 902 | 0 |
| 1981 | 870 | 872 | 0 |
| 1982 | 1,106 | 862 | 0 |

REVERSAL RATES
INTERMEDIATE COURT

| Year | Criminal | | | Civil | | |
|------|----------|---------|-------|--------|---------|-------|
| | Affirm | Reverse | Other | Affirm | Reverse | Other |
| 1967 | 190 | 13 | 9 | 0 | 0 | 0 |
| 1968 | 348 | 47 | 20 | 0 | 0 | 0 |
| 1969 | 363 | 47 | 17 | 0 | 0 | 0 |
| 1970 | 443 | 49 | 29 | 0 | 0 | 0 |
| 1971 | 465 | 43 | 28 | 98 | 14 | 12 |
| 1972 | 479 | 40 | 12 | 110 | 24 | 16 |
| 1973 | 516 | 56 | 25 | 79 | 28 | 14 |
| 1974 | 553 | 38 | 18 | 160 | 41 | 20 |
| 1975 | 414 | 48 | 17 | 212 | 83 | 33 |
| 1976 | 483 | 79 | 35 | 254 | 59 | 39 |
| 1977 | 506 | 67 | 32 | 264 | 81 | 45 |
| 1978 | 489 | 54 | 38 | 315 | 74 | 43 |
| 1979 | 399 | 90 | 28 | 293 | 83 | 44 |
| 1980 | 486 | 103 | 17 | 330 | 100 | 45 |
| 1981 | 611 | 139 | 43 | 402 | 112 | 54 |
| 1982 | 564 | 74 | 66 | 325 | 83 | 52 |

MARYLAND

REVERSAL RATES
SUPREME COURT

| Year | Civil | | |
|------|--------|---------|-------|
| | Affirm | Reverse | Other |
| 1967 | 167 | 73 | 28 |
| 1968 | 183 | 79 | 19 |
| 1969 | 203 | 79 | 34 |
| 1970 | 224 | 75 | 28 |
| 1971 | 190 | 61 | 17 |
| 1972 | 178 | 57 | 36 |
| 1973 | 149 | 55 | 40 |
| 1974 | 120 | 43 | 22 |
| 1975 | --- | --- | --- |
| 1976 | --- | --- | --- |
| 1977 | --- | --- | --- |
| 1978 | --- | --- | --- |
| 1979 | --- | --- | --- |
| 1980 | --- | --- | --- |
| 1981 | --- | --- | --- |
| 1982 | --- | --- | --- |

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | Criminal | Civil |
|------|--------------|--------------|
| | Dispositions | Dispositions |
| 1967 | 241 | --- |
| 1968 | 462 | --- |
| 1969 | 496 | --- |
| 1970 | 588 | --- |
| 1971 | 574 | 172 |
| 1972 | 580 | 189 |
| 1973 | 659 | 179 |
| 1974 | 659 | 282 |
| 1975 | 572 | 461 |
| 1976 | 726 | 535 |
| 1977 | 749 | 609 |
| 1978 | 666 | 704 |
| 1979 | 620 | 664 |
| 1980 | 715 | 708 |
| 1981 | 960 | 892 |
| 1982 | 851 | 681 |

MARYLAND

TIME TO DECISION
INTERMEDIATE COURT

| <u>Year</u> | <u>All Cases</u> |
|-------------|------------------|
| 1973 | 9.5 |
| 1974 | 8.8 |
| 1975 | 8.9 |
| 1976 | 7.6 |
| 1977 | 8.3 |
| 1978 | 8.3 |
| 1979 | 9.6 |
| 1980 | 10.3 |
| 1981 | 10.7 |
| 1982 | 10.5 |

TIME TO DECISION
SUPREME COURT

| <u>Year</u> | <u>All Cases</u> |
|-------------|------------------|
| 1967 | 9.4 |
| 1968 | 8.9 |
| 1969 | 7.6 |
| 1970 | 5.7 |
| 1971 | 5.5 |
| 1972 | 5.4 |
| 1973 | 6.0 |
| 1974 | 7.0 |
| 1975 | 6.0 |
| 1976 | 3.3 |
| 1977 | --- |
| 1978 | --- |
| 1979 | --- |
| 1980 | --- |
| 1981 | --- |
| 1982 | --- |

MARYLAND

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | | <u>Trials</u> |
|-------------|----------------|---------------------------|---------------|
| | <u>Civil</u> | <u>Domestic Relations</u> | <u>Civil</u> |
| 1967 | 26,081 | 10,735 | 4,035 |
| 1968 | 25,583 | 12,109 | 3,739 |
| 1969 | 25,235 | 12,776 | 3,995 |
| 1970 | 27,140 | 13,651 | 4,980 |
| 1971 | 27,436 | 14,573 | 4,881 |
| 1972 | 19,021 | 17,104 | 4,410 |
| 1973 | 18,306 | 19,158 | 3,727 |
| 1974 | 17,505 | 20,890 | 3,678 |
| 1975 | 18,930 | 21,303 | 3,928 |
| 1976 | 18,724 | 24,015 | 3,633 |
| 1977 | 19,372 | 25,923 | 2,539 |
| 1978 | 21,089 | 28,526 | 2,393 |
| 1979 | 21,454 | 30,371 | 2,479 |
| 1980 | 25,319 | 32,444 | 2,416 |
| 1981 | 21,608 | 24,482 | 2,647 |
| 1982 | 21,852 | 31,879 | 2,307 |

MARYLAND

Sources: Annual Reports; Report of the Commission to Study the Judicial Branch of the Government (1982); Final Report of the Commission on Judicial Reform to the Governor and the General Assembly of Maryland (1974). The filings for 1982 were obtained from the clerk of the Court of Special Appeals.

Special Features of the Statistics

The filings include appeals and applications for leave to the intermediate court that have been granted full review. There are few such cases.

Appellate filings include cases that had been dismissed for procedural defects in the record and then refiled after the defects were corrected. The clerk estimated that two or three percent of the cases fell in this category, and that the proportion has not changed much over the years.

After 1973 the data for reversals, delay and dispositions are for the fiscal year ending June 30, while the filing data is for the year ending February 28.

After 1974, only appeals to the intermediate court are counted, even though death sentences, starting in 1979, go to the court of last resort.

Estimations

In 1970 to 1974, when both the Court of Appeals and the Court of Special Appeals had jurisdiction in civil cases, there were transfers between the courts that were counted as filings in both courts. The filing statistics for the Court of Appeals also included certioraris granted. The number of criminal and civil transfers is available for the fiscal year ending June 30, and not for the court year which includes filings up to February 28. Likewise, the number of appeals granted certiorari is available for 1972 through 1974. (In earlier years there were almost no civil certioraris granted.) The number of filings, therefore, is estimated by subtracting the number of transfers and certioraris granted in civil cases in the fiscal year from the filings in the nearest court year.

Special Problems

In 1978, the mandatory jurisdiction over appeals from inmate administrative grievances became discretionary. There are, however, very few of these appeals.

The prehearing settlement conference procedure, adopted on July 3, 1980, extends the time for filing the record in some civil cases; the

MARYLAND

time limits for record production run from the conference, if one is held, and may be extended after the conference if settlement is likely. Because filings are counted when the record arrives, this has the effect of reducing the number of filings. Also, any additional settlements effected by the conferences would reduce the number of filings if, as is ordinarily the case, the settlement is reached before the record is filed.

MASSACHUSETTS

APPEALS FILED

| <u>Year</u> | <u>Criminal</u> | | <u>Civil</u> | |
|-------------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1970 | 0 | 96 | 0 | 335 |
| 1971 | 0 | 94 | 0 | 365 |
| 1972 | 39 | 71 | 137 | 245 |
| 1973 | 133 | 45 | 363 | 79 |
| 1974 | 109 | 29 | 448 | 93 |
| 1975 | 109 | 46 | 545 | 85 |
| 1976 | 151 | 48 | 642 | 84 |
| 1977 | 188 | 51 | 978 | 90 |
| 1978 | 187 | 47 | 821 | 103 |
| 1979 | 281 | 55 | 858 | 63 |
| 1980 | 358 | 42 | 859 | 100 |
| 1981 | 412 | 54 | 891 | 90 |
| 1982 | 430 | 51 | 977 | 98 |

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | |
|-------------|----------------|---------------------------|
| | <u>Civil</u> | <u>Domestic Relations</u> |
| 1967 | 40,646 | 14,241 |
| 1968 | 39,089 | 15,546 |
| 1969 | 39,984 | 16,692 |
| 1970 | 41,047 | 18,290 |
| 1971 | 40,830 | 19,974 |
| 1972 | 38,692 | 21,001 |
| 1973 | 33,213 | 21,767 |
| 1974 | 31,980 | 22,993 |
| 1975 | 32,247 | 24,218 |
| 1976 | 31,085 | 23,483 |
| 1977 | 31,395 | 24,418 |
| 1978 | 31,951 | 25,465 |
| 1979 | 31,793 | 25,144 |
| 1980 | 31,786 | 25,601 |
| 1981 | 29,072 | 25,098 |
| 1982 | 30,497 | 25,048 |

MASSACHUSETTS

Sources: Data supplied by the Appeals Court for 1975-82; otherwise, counts of the docket books of the Supreme Judicial Court and the Appeals Court.

Special Features of the Statistics

Civil appeals in the supreme court include requests for advisory opinions, certified cases from the federal courts, and bar cases. These constitute less than two percent of the civil appeals each year.

Estimations

Civil filings in fiscal year 1975 were inflated by a change in the rules effective July 1, 1974. The new rules abolished the requirement for the printed record and bill of exceptions, which took considerable time to prepare. Hence in 1975 there was a double dose of appeals, those filed under the new rules and those originally filed under the old rules, but reaching the appellate courts later because of the time required to prepare the printed record. The statistics for civil filings in the intermediate court in 1975 are estimated to be the average of the 1974 and 1976 filings (as opposed to 819 actual filings). No adjustments were made for supreme court filings, and no adjustments were made for the possibility of extra appeals in late 1974; in both situations, there seems to have been little, if any, impact from the new rules.

Criminal and civil trial filings are not available for 1978. Nor are divorce filings available for 1974. All are estimated to be the average of the prior and following years.

Special Problems

The statistics for the two courts are the number of cases filed in each. As a practical matter, roughly 200 cases a year filed in the appeals court since 1973 were transferred to the Supreme Court for hearing.

There were two important changes in the jurisdiction of the appellate courts: appeals from district court decisions in cases tried by jury, starting in about 1980, went to the appellate courts instead of the Superior Court, with further appellate review to the appellate courts. In the fiscal year ending August 1982, there were 88 appeals from the District Court, as opposed to 287 from the Superior Court, or about a quarter of the appeals. There is no information, however, about how many District Court cases were appealed to the appellate courts (through the superior court) before the jurisdictional change.

The second change is that the appellate courts received jurisdiction over appeals from the Labor Relations Commission in about 1981. Court staff estimated that there were about 20 such appeals in 1982.

Divorce filings for 1973 (or perhaps 1975) and earlier are calendar year statistics.

MICHIGAN

APPEALS FILED

Intermediate Court

| <u>Year</u> | <u>Criminal</u> |
|-------------|-----------------|
| 1968 | 780 |
| 1969 | 903 |
| 1970 | 1,051 |
| 1971 | 1,142 |
| 1972 | 1,231 |
| 1973 | 1,585 |
| 1974 | 1,975 |
| 1975 | 2,965 |
| 1976 | 2,509 |
| 1977 | 2,947 |
| 1978 | 2,886 |
| 1979 | 3,024 |
| 1980 | 3,275 |
| 1981 | 3,284 |
| 1982 | 3,465 |

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | | <u>Trials</u> | |
|-------------|-----------------|--------------|-----------------|--------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Criminal</u> | <u>Civil</u> |
| 1967 | 14,129 | 38,714 | -- | 3,078 |
| 1968 | 15,338 | 39,708 | -- | 3,182 |
| 1969 | 15,837 | 36,253 | -- | 3,447 |
| 1970 | 18,090 | 39,919 | -- | 3,299 |
| 1971 | 20,371 | 43,863 | -- | 3,502 |
| 1972 | 19,027 | 47,418 | -- | 3,485 |
| 1973 | 19,970 | 54,139 | 2,030 | 3,132 |
| 1974 | 21,659 | 57,640 | 2,040 | 3,002 |
| 1975 | 26,191 | 68,557 | 2,154 | 2,724 |
| 1976 | 26,985 | 65,774 | 2,460 | 3,004 |
| 1977 | 26,992 | 68,478 | 2,415 | 2,917 |
| 1978 | -- | -- | -- | -- |
| 1979 | -- | -- | -- | -- |
| 1980 | -- | -- | -- | -- |
| 1981 | -- | -- | -- | -- |
| 1982 | -- | -- | -- | -- |

MICHIGAN

Sources: Annual reports of the Court of Appeals through 1976 (unpublished for 1975 and 1976); Kramer for 1977; and information given by the court for 1980-82.

Special Features of the Statistics

The criminal filing statistics include applications for leave to appeal and original jurisdiction cases, which constitute 20 to 30 percent of the caseload. Most of these cases, however, are treated as mandatory jurisdiction cases. About half, for example, are applications for leave to file a delayed appeal, which are always granted. Figures for the total number of appeals include only appeals of right. (The statistics for civil filings are not used because they include a large number of discretionary cases.)

Estimations

Statistics for the 1978 and 1979 criminal filings are not available. They have been estimated by using the percentage of total filings for the years 1975, 1976, 1977, 1980, 1981, and 1982. The portions for those four years are 60.8, 55.2, 55.9, 54.8, 52.0 and 50.1 percent, and it is estimated that 55.0 percent of all filings in 1978 and 1979 are criminal.

MINNESOTA

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1973 | 124 | 498 |
| 1974 | 144 | 549 |
| 1975 | 236 | 548 |
| 1976 | 175 | 548 |
| 1977 | 229 | 632 |
| 1978 | 237 | 757 |
| 1979 | 242 | 776 |
| 1980 | 166 | 831 |
| 1981 | 263 | 908 |
| 1982 | 276 | 989 |

TIME TO DECISION
SUPREME COURT

| <u>Year</u> | <u>All Cases</u> |
|-------------|------------------|
| 1967 | 16.0 |
| 1968 | 17.5 |
| 1969 | 15.6 |
| 1970 | 15.6 |
| 1971 | 15.4 |
| 1972 | 15.5 |
| 1973 | 15.1 |
| 1974 | 16.3 |
| 1975 | 14.9 |
| 1976 | 14.9 |
| 1977 | 14.3 |
| 1978 | 12.7 |
| 1979 | 14.9 |
| 1980 | 12.9 |
| 1981 | 10.9 |
| 1982 | 9.1 |

MINNESOTA

TRIAL COURT CASELOADS

Filings

Trials

| <u>Year</u> | <u>Criminal</u> | <u>Civil (including Domestic Relations)</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|---|-----------------|--------------|
| 1967 | 2,926 | 14,795 | 463 | 3,361 |
| 1968 | 3,492 | 14,570 | 469 | 3,293 |
| 1969 | 3,644 | 15,533 | 552 | 3,175 |
| 1970 | 4,586 | 16,924 | 759 | 3,514 |
| 1971 | 5,392 | 19,102 | 716 | 3,960 |
| 1972 | 5,613 | 17,786 | 611 | 4,465 |
| 1973 | 6,043 | 19,501 | 589 | 6,878 |
| 1974 | 6,125 | 19,549 | 651 | 9,919 |
| 1975 | 7,991 | 21,342 | 717 | 10,528 |
| 1976 | 8,919 | 21,643 | 669 | 10,081 |
| 1977 | 10,012 | 18,843 | 819 | 8,564 |
| 1978 | 10,678 | 16,461 | 763 | 7,699 |
| 1979 | 9,756 | -- | 733 | -- |
| 1980 | 14,039 | -- | 733 | -- |
| 1981 | 14,304 | -- | 699 | -- |
| 1982 | 18,045 | -- | 957 | -- |

MINNESOTA

Sources: 1973-78 appellate data is in Harmon and Lang, "A Needs Analysis of an Intermediate Appellate Court," 6 William Mitchell L. Rev. 51, 87 (1981). The remaining appellate data is from unpublished statistics received from the court administrator's office. The trial data is from annual reports through 1979, and unpublished data thereafter.

Estimations

The number of criminal appeals rose to 476 in 1982, largely due to a new sentencing law which permitted retroactive review of sentences. This was a unique occurrence, and the number of appeals is expected to return to lower levels. The figure here for criminal appeals in 1982 (276) is 58 percent of the total. This percentage is an approximation of the number of criminal appeals with other than retroactive sentencing issues, based on the statistics maintained by the court commissioner: 105 of the 250 cases processed in the commissioner's office in 1982 contained only such issues, and the office processes nearly all criminal cases.

The number of civil and criminal appeals for 1979 is estimated by multiplying the total filings in that year (1212) by the average percentage of cases that are criminal and civil during 1974-81 (criminal: 20 percent, varying from 14 to 25 with no evident trend, although the number of appeals in the prior year, 1978, was very low; civil: 64 percent, varying between 59 and 70, with no evident trend; the remaining cases are original jurisdiction).

The average time to decision for 1979 is missing also, and is estimated by taking the average time in 1978 and 1980. The time to decision for 1981 and 1982 is the average of time for summary affirmances and cases decided with opinion, although there were a few more of the latter (499 as opposed to 439 summary affirmances in 1981.)

The state instituted a new statistical system in 1980 which seems to have caused an increase in the volume of filings reported. The trial data available for 1980 is for the second half of the year; the criminal filings statistics for that year are double the six-month figures. The six month trial data is unusable because there probably are far more trials in the first half of the year; the criminal trials for 1979 and 1980 are estimated by taking the average for 1974 to 1981. There is no evident trend, although trials increase rapidly in 1982 because of expanded jurisdiction in the district courts.

Special Problems

In 1982, the district courts obtained jurisdiction over more classifications of misdemeanors, especially some DWI cases.

The reason for the drop in criminal filings in 1980 is not clear.

MISSISSIPPI

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1973 | 222 | 399 |
| 1974 | 208 | 390 |
| 1975 | 184 | 422 |
| 1976 | 273 | 507 |
| 1977 | 224 | 434 |
| 1978 | 216 | 440 |
| 1979 | 210 | 487 |
| 1980 | 251 | 497 |
| 1981 | 304 | 575 |
| 1982 | 319 | 464 |

REVERSAL RATES
SUPREME COURT

| <u>Year</u> | <u>All Cases</u> | | |
|-------------|------------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1968 | 257 | 96 | 31 |
| 1969 | 248 | 103 | 25 |
| 1970 | 286 | 97 | 16 |
| 1971 | 266 | 112 | 14 |
| 1972 | 265 | 101 | 29 |
| 1973 | 284 | 88 | 25 |
| 1974 | 301 | 134 | 31 |
| 1975 | 343 | 111 | 26 |
| 1976 | 325 | 141 | 25 |
| 1977 | 450 | 152 | 32 |
| 1978 | 480 | 149 | 27 |
| 1979 | 426 | 128 | 49 |
| 1980 | 441 | 119 | 32 |
| 1981 | 469 | 122 | 25 |
| 1982 | 401 | 117 | 37 |

MISSISSIPPI

TIME TO DECISION
SUPREME COURT

| <u>Year</u> | <u>Total Cases</u> |
|-------------|--------------------|
| 1972 | 7.9 |
| 1973 | 8.4 |
| 1974 | 12.3 |
| 1975 | 11.0 |
| 1976 | 12.5 |
| 1977 | 10.6 |
| 1978 | 10.1 |
| 1979 | 8.1 |
| 1980 | 7.9 |
| 1981 | 7.7 |
| 1982 | 9.7 |

PENDING AND DISPOSED CASES
SUPREME COURT

| <u>Year</u> | <u>All Cases</u> | |
|-------------|---------------------------|---------------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1972 | 472 | 429 |
| 1973 | 482 | 553 |
| 1974 | 559 | 592 |
| 1975 | 598 | 607 |
| 1976 | 662 | 725 |
| 1977 | 780 | 553 |
| 1978 | 776 | 433 |
| 1979 | 722 | 411 |
| 1980 | 746 | 421 |
| 1981 | 775 | 536 |
| 1982 | 794 | 633 |

TRIAL COURT CASELOADS

Filings

| <u>Year</u> | <u>Criminal</u> |
|-------------|-----------------|
| 1972 | 5,633 |
| 1973 | 5,989 |
| 1974 | 6,679 |
| 1975 | 7,444 |
| 1976 | 7,441 |
| 1977 | 7,442 |
| 1978 | 8,082 |
| 1979 | 8,205 |
| 1980 | 8,788 |
| 1981 | 9,140 |
| 1982 | -- |

MISSISSIPPI

Sources: Annual reports; Courts Strategy, A Master Plan for Courts in Mississippi (1976) for years 1973-1975; trial data after 1975 sent by the courts. The numbers of cases pending in 1974-76 were obtained from the State Court Statistics Report (1975 and 1976).

Special Features of the Statistics

The statistics for time to decision are from the time the record is filed, which is also the time the case is docketed.

Estimations

Statistics for 1972 and 1981 criminal trial court filings are not available. The 1972 figure is estimated by subtracting the average growth rate from the 1973 filings. (6 percent, range 1 to 12 between 1973-77, with the growth rate decreasing somewhat). The 1981 figures are estimated by adding the average growth rate to the 1980 filings, (4 percent, range 0 to 9 percent between 1976-80, with no evident trend).

Statistics for cases pending and disposed before 1974 are not available. The number of dispositions is estimated for 1972 and 1973 by adding the number of cases disposed on the merits to an estimate of the number of dismissals, 77 and 85 for 1972 and 1973. These estimates were computed by applying the average rate of increase in 1975 to 1978 to the number dismissed in 1974, or 93 cases. (The average rate of increase was 10 percent, but the increase was very uneven--up 26 and 45 percent in 1975 and 1976, and down 15 and 18 percent in 1977 and 1978.) The number of pending cases in 1972 and 1973 is estimated by using the numbers filed, disposed, and pending in the following years (the 1972 pending is, thus, in turn based on the estimated dispositions for 1973).

MISSOURI

APPEALS FILED

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1973 | 446 | 13 | 829 | 109 |
| 1974 | 504 | 12 | 901 | 81 |
| 1975 | 527 | 19 | 1,025 | 100 |
| 1976 | 599 | 31 | 1,206 | 139 |
| 1977 | 607 | 24 | 1,190 | 134 |
| 1978 | 688 | 35 | 1,207 | 120 |
| 1979 | 484 | 45 | 1,332 | 125 |
| 1980 | 615 | 88 | 1,565 | 92 |
| 1981 | 654 | 119 | 1,773 | 212 |
| 1982 | 737 | 116 | 1,814 | 115 |

PENDING AND DISPOSED CASES
SUPREME COURT

| Year | <u>All Cases</u> | |
|------|-----------------------|-----------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1972 | 618 | 1,073 |
| 1973 | 713 | 493 |
| 1974 | 430 | 249 |
| 1975 | 252 | 116 |
| 1976 | 215 | 71 |
| 1977 | 119 | 110 |
| 1978 | 183 | 82 |
| 1979 | 171 | 81 |
| 1980 | 151 | 110 |
| 1981 | 198 | 243 |
| 1982 | 216 | 258 |

MISSOURI

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | <u>Criminal</u> | | <u>Civil</u> | | <u>All Cases</u> | |
|------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1968 | --- | --- | --- | --- | --- | 562 |
| 1969 | --- | --- | --- | --- | 615 | 439 |
| 1970 | --- | --- | --- | --- | 534 | 474 |
| 1971 | --- | --- | --- | --- | 587 | 554 |
| 1972 | --- | --- | --- | --- | 711 | 834 |
| 1973 | --- | --- | --- | --- | 873 | 1,171 |
| 1974 | 361 | 548 | 708 | 923 | 1,069 | 1,507 |
| 1975 | 386 | 698 | 722 | 1,117 | 1,145 | 1,815 |
| 1976 | 596 | 694 | 1,021 | 1,309 | 1,617 | 2,003 |
| 1977 | 630 | 675 | 1,227 | 1,244 | 1,907 | 1,919 |
| 1978 | 620 | 741 | 1,141 | 1,312 | 1,761 | 2,053 |
| 1979 | 557 | 667 | 1,270 | 1,441 | 1,827 | 2,092 |
| 1980 | 613 | 645 | 1,600 | 1,430 | 2,213 | 2,075 |
| 1981 | 563 | 744 | 1,627 | 1,610 | 2,190 | 2,354 |
| 1982 | 649 | 832 | 1,741 | 1,683 | 2,390 | 2,515 |

TRIAL COURT CASELOADS

| Year | <u>Filings</u> | | <u>Trials</u> | |
|------|-----------------|---|-----------------|--------------|
| | <u>Criminal</u> | <u>Civil (including Domestic Relations)</u> | <u>Criminal</u> | <u>Civil</u> |
| 1967 | 12,686 | 58,976 | -- | 10,846 |
| 1968 | 13,846 | 58,191 | -- | 8,886 |
| 1969 | 14,197 | 59,037 | -- | 10,855 |
| 1970 | 15,267 | 71,166 | -- | 9,666 |
| 1971 | 14,177 | 67,796 | -- | 8,864 |
| 1972 | 15,326 | 65,954 | 2,224 | 6,618 |
| 1973 | 14,449 | 63,259 | 2,237 | 7,301 |
| 1974 | 16,341 | 66,591 | 2,154 | 6,110 |
| 1975 | 17,760 | 74,314 | 2,078 | 6,087 |
| 1976 | 18,080 | 74,474 | 2,239 | 6,456 |
| 1977 | 18,130 | 72,132 | 3,590 | -- |
| 1978 | 19,020 | 79,578 | 3,825 | 8,357 |
| 1979 | 18,503 | 88,478 | 3,839 | -- |
| 1980 | 21,660 | 91,747 | 3,853 | -- |
| 1981 | 23,052 | 96,767 | 4,201 | -- |
| 1982 | 22,668 | 88,863 | 3,953 | -- |

MISSOURI

Sources: Annual reports; information about Supreme Court civil and criminal filings in 1975-78 was obtained from the court.

Special Features of the Statistics

Appeals from trial court rulings in postconviction cases are counted as civil cases. The clerk interviewed estimated that they constitute 10 to 15 percent of the civil filings.

The statistics for Court of Appeals filings and Supreme Court dispositions include transfers from the Supreme Court. The number of transfers amounts to less than 2 percent of the total filings and dispositions. (Transfers were deleted from the Court of Appeals filings in 1972 and 1973; the Supreme Court transferred a large number of cases after its jurisdiction was restricted, and that of the Court of Appeals expanded, in January 1972.)

Estimations

The civil/criminal breakdown for 1973 is not available. The number of criminal cases in the Court of Appeals is estimated by using the average portion of criminal cases in 1974-78 (35 percent, with a range of 33 to 36, with no evident trend, but a decrease to about 27 percent after 1979.)

1981 and 1982 Supreme Court pending cases are computed from the 1980 pending data by using the filings and dispositions for the next two years.

The available statistics for pending cases in 1972 and 1973 include writs pending. The number of writs pending in the Court of Appeals, however, is negligible. Writs constitute a sizeable portion of the Supreme Court caseload so the published pending statistics are reduced by an estimated 80 writs pending in each year. This estimate is based on the average number of writs pending in the next four years (range 35 to 119, with no evident trend until the number increased greatly in 1981).

The number of criminal trial dispositions in 1979 is not available, and is estimated by taking the average of the 1978 and 1980 figures, (which were very close, 3825 and 3853, in a generally rising trend).

Special Problems

The civil jurisdiction of the Court of Appeals was expanded in late 1978 by the addition of appeals from the Administrative Hearing Commission and the Industrial Labor Commission. Formerly these were appealed to the trial courts, with appeal thereafter to the Court of Appeals. A rough estimate by the clerk interviewed is that these direct agency appeals now constitute 10 percent of the civil appeals.

MISSOURI

Cross-appeals are counted as separate appeals, although the Western District Court of Appeals did not do so until about 1980.

In January 1979 the trial courts were merged; limited jurisdiction court judges became associate judges of the Circuit Court, and could be assigned to cases formerly heard only by circuit judges. This probably increased substantially the number of cases decided at the circuit level and, thus, the number of appeals.

MONTANA

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1970 | 19 | 102 |
| 1971 | 24 | 111 |
| 1972 | 22 | 145 |
| 1973 | 30 | 124 |
| 1974 | 31 | 155 |
| 1975 | 37 | 149 |
| 1976 | 44 | 247 |
| 1977 | 102 | 275 |
| 1978 | 84 | 287 |
| 1979 | 74 | 288 |
| 1980 | 89 | 292 |
| 1981 | 76 | 348 |
| 1982 | 93 | 292 |

MONTANA

Sources: Statistics supplied by the court for 1978-82; annual reports for earlier years.

Special Problems

There is no obvious explanation for the large jump in criminal filings in 1977.

NEBRASKA

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1967 | 92 | 228 |
| 1968 | 107 | 216 |
| 1969 | 92 | 228 |
| 1970 | 144 | 216 |
| 1971 | 223 | 253 |
| 1972 | 196 | 250 |
| 1973 | 261 | 285 |
| 1974 | 214 | 279 |
| 1975 | 278 | 294 |
| 1976 | 352 | 364 |
| 1977 | 263 | 344 |
| 1978 | 254 | 392 |
| 1979 | 238 | 400 |
| 1980 | 314 | 427 |
| 1981 | 389 | 540 |
| 1982 | 368 | 543 |

REVERSAL RATES
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | | | <u>Civil</u> | | |
|-------------|-----------------|----------------|--------------|---------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1972 | 121 | 17 | 0 | 148 | 44 | 0 |
| 1973 | 117 | 8 | 0 | 126 | 62 | 0 |
| 1974 | 86 | 22 | 0 | 135 | 57 | 0 |
| 1975 | --- | --- | --- | --- | --- | --- |
| 1976 | --- | --- | --- | --- | --- | --- |
| 1977 | --- | --- | --- | --- | --- | --- |
| 1978 | --- | --- | --- | --- | --- | --- |
| 1979 | --- | --- | --- | --- | --- | --- |
| 1980 | --- | --- | --- | --- | --- | --- |
| 1981 | --- | --- | --- | --- | --- | --- |
| 1982 | --- | --- | --- | --- | --- | --- |

NEBRASKA

PENDING AND DISPOSED CASES
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | | <u>Civil</u> | | <u>All Cases</u> | |
|-------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1967 | --- | --- | --- | --- | 297 | 225 |
| 1968 | --- | --- | --- | --- | 341 | 207 |
| 1969 | --- | --- | --- | --- | 316 | 213 |
| 1970 | --- | --- | --- | --- | 316 | 280 |
| 1971 | --- | --- | --- | --- | 407 | 320 |
| 1972 | 229 | --- | 250 | --- | 478 | 294 |
| 1973 | 249 | 141 | 251 | 185 | 520 | 326 |
| 1974 | 193 | 162 | 269 | 195 | 462 | 357 |
| 1975 | 258 | 183 | 283 | 205 | 545 | 388 |
| 1976 | 309 | 226 | 325 | 244 | 634 | 470 |
| 1977 | 306 | 183 | 303 | 264 | 609 | 447 |
| 1978 | 302 | 133 | 329 | 345 | 631 | 478 |
| 1979 | 240 | 126 | 420 | 317 | 660 | 443 |
| 1980 | 258 | 180 | 393 | 350 | 651 | 530 |
| 1981 | 379 | 192 | 407 | 482 | 786 | 674 |
| 1982 | 355 | 192 | 583 | 454 | 938 | 646 |

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> |
|-------------|-----------------|--------------|-------------------------------|
| 1972 | 3,649 | 6,750 | 7,535 |
| 1973 | 3,649 | 6,750 | 7,911 |
| 1974 | 3,649 | 6,750 | 8,307 |
| 1975 | 3,978 | 6,793 | 8,436 |
| 1976 | 4,124 | 5,970 | 8,823 |
| 1977 | 3,477 | 5,931 | 9,390 |
| 1978 | 3,477 | 6,620 | 10,163 |
| 1979 | 3,204 | 7,613 | 9,976 |
| 1980 | 3,518 | 8,746 | 10,122 |
| 1981 | 3,642 | 10,561 | 11,890 |
| 1982 | 3,661 | 10,321 | 10,541 |

NEBRASKA

Sources: Data for 1972 and afterwards were obtained from unpublished reports from the clerk's office. Filing data through 1972 were obtained by counting cases on the docket (data compiled by Mick Garcia and John Coriotto). Disposition data through 1976 was obtained from the court annual reports.

Estimations

Pending data for 1979-1981 were calculated by using the filing and disposition figures to determine the change in pending cases since 1978; and the numbers pending in 1971-74 were estimated by calculating back from the 1975 pending figures.

The trial court filings before 1974 are not available. The general civil and criminal filings in 1972 and 1973 were estimated to be the same as the filings in 1974 because the civil filings remained rather steady from 1974 to 1978 and the criminal filings remained at about the same level through 1982, although rising about 10 percent in 1975 and 1976. The domestic relations filings were estimated to have increased at the rate of 5 percent a year, the average rate of increase from 1974 to 1978. (The rate of increase varied from 2 to 8 percent, with the rate of increase increasing, but the number of cases decreased in 1979.)

NEVADA

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1970 | 125 | 182 |
| 1971 | 81 | 145 |
| 1972 | 77 | 159 |
| 1973 | 105 | 163 |
| 1974 | 105 | 177 |
| 1975 | 131 | 194 |
| 1976 | 162 | 249 |
| 1977 | 250 | 243 |
| 1978 | 248 | 252 |
| 1979 | 194 | 257 |
| 1980 | 207 | 273 |
| 1981 | 197 | 336 |
| 1982 | 232 | 323 |

REVERSAL RATES
SUPREME COURT

ALL CASES

| <u>Year</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
|-------------|---------------|----------------|--------------|
| 1968 | 94 | 34 | 5 |
| 1969 | 122 | 33 | 4 |
| 1970 | 159 | 41 | 7 |
| 1971 | 97 | 45 | 8 |
| 1972 | 130 | 33 | 10 |
| 1973 | 142 | 39 | 6 |
| 1974 | 99 | 33 | 5 |
| 1975 | 168 | 67 | 13 |
| 1976 | 162 | 66 | 10 |
| 1977 | 135 | 67 | 7 |
| 1978 | 145 | 50 | 18 |
| 1979 | 139 | 63 | 17 |
| 1980 | 145 | 72 | 15 |
| 1981 | 102 | 73 | 12 |
| 1982 | 69 | 75 | 18 |

NEVADA

TIME TO DECISION
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> | <u>All Cases</u> |
|-------------|-----------------|--------------|------------------|
| 1970 | 7.1 | 8.7 | 7.9 |
| 1971 | --- | --- | --- |
| 1972 | --- | --- | --- |
| 1973 | --- | --- | --- |
| 1974 | --- | --- | --- |
| 1975 | 3.5 | 8.6 | 4.9 |
| 1976 | --- | --- | --- |
| 1977 | --- | --- | --- |
| 1978 | --- | --- | --- |
| 1979 | --- | --- | --- |
| 1980 | --- | --- | --- |
| 1981 | --- | --- | --- |
| 1982 | --- | --- | --- |

PENDING AND DISPOSED CASES
SUPREME COURT

All Cases

| <u>Year</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
|-------------|---------------------------|---------------------------|
| 1967 | --- | 143 |
| 1968 | --- | 186 |
| 1969 | 430 | 202 |
| 1970 | 338 | 219 |
| 1971 | 256 | 208 |
| 1972 | 294 | 266 |
| 1973 | 338 | 277 |
| 1974 | 341 | 334 |
| 1975 | 411 | 256 |
| 1976 | 406 | 259 |
| 1977 | 344 | 467 |
| 1978 | 356 | 667 |
| 1978 | 371 | 713 |
| 1980 | 383 | 744 |
| 1981 | 315 | 633 |
| 1982 | 272 | 708 |

NEVADA

TRIAL COURT CASELOADS

Filings

| <u>Year</u> | <u>Domestic Relations</u> |
|-------------|-------------------------------|
| 1968 | 10,846 |
| 1969 | 11,113 |
| 1970 | 9,592 |
| 1971 | 10,284 |
| 1972 | 10,215 |
| 1973 | 10,308 |
| 1974 | 10,944 |
| 1975 | 11,057 |
| 1976 | 11,157 |
| 1977 | 10,554 |
| 1978 | --- |
| 1979 | --- |
| 1980 | --- |
| 1981 | --- |
| 1982 | --- |

NEVADA

Sources: Information supplied by the clerk's office; the Nevada 1980 Comprehensive Criminal Justice Plan contains trial and appellate data for 1968 to 1977.

Special Features of the Statistics

Criminal filings include postconviction habeas appeals, but exclude pre-trial habeas appeals, which were abolished in 1978 and typically were decided summarily.

Estimations

The number of pending and disposed cases in the court's statistics include writs, which are decided quickly. The number of writs filed expanded greatly until the mid-1970's and then decreased considerably. Because the writs are decided very quickly, few are in the pending statistics. The disposition statistics were adjusted to account for the writs. The disposition figures used here are the number of cases decided (with opinion) divided by the proportion (over the years 1970 to 1982) of the cases decided to the number of dispositions less the number of writs filed. This proportion was .66, and it essentially assumes that for each two appeals decided, one is dismissed in any given year.

NEW HAMPSHIRE

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1970 | 31 | 96 |
| 1971 | 44 | 116 |
| 1972 | 36 | 136 |
| 1973 | 51 | 161 |
| 1974 | 71 | 174 |
| 1975 | 88 | 150 |
| 1976 | 69 | 169 |
| 1977 | 69 | 197 |
| 1978 | 60 | 212 |
| 1979 | 50 | 207 |
| 1980 | 69 | 281 |
| 1981 | 87 | 355 |
| 1982 | 111 | 385 |

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | | |
|-------------|-----------------|--------------|---------------------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> |
| 1969 | 1,458 | 5,788 | 3,558 |
| 1970 | 1,756 | 5,876 | 3,779 |
| 1971 | 1,766 | 5,614 | 3,941 |
| 1972 | 2,364 | 5,626 | 4,686 |
| 1973 | 2,207 | 5,502 | 5,257 |
| 1974 | 2,802 | 6,351 | 5,444 |
| 1975 | 3,374 | 6,188 | 5,590 |
| 1976 | 3,032 | 5,685 | 5,841 |
| 1977 | 3,032 | 5,400 | 5,824 |
| 1978 | 2,811 | 6,422 | 6,357 |
| 1979 | 3,056 | 6,473 | 6,518 |
| 1980 | 3,460 | 6,702 | 6,581 |
| 1981 | 3,652 | 6,316 | 7,959 |
| 1982 | 3,597 | 6,479 | 7,100 |

NEW HAMPSHIRE

Sources: The number of criminal cases was obtained by counting the cases in the docket books. The number of civil cases was obtained by subtracting criminal cases from the totals given in the annual reports. Trial court figures are from the annual reports, except that 1979 and 1980 divorce filings were obtained from the judicial council.

Special Features of the Statistics

The criminal appellate filings are for FY ending June 30. The civil filings are calculated by subtracting the criminal filings from the total number of appeals filed; the latter figures before 1979, however, are for fiscal year ending July 31.

Disposition and pending data include non-appeals (original jurisdiction cases, advisory opinions, and cases certified from the federal court) which constitute about 10 percent of the filings.

Estimations

The figures for the 1980 appeals are the average of the 1979 and 1981 numbers (rather than the actual 102 criminal and 465 civil filings). New rules, effective at the beginning of fiscal year 1980, changed the time of docketing from receipt of the transcript to arrival of the notice of appeal. Hence, there was a double dose of appeals in 1980--new appeals filed and appeals with notices of appeals filed in the year earlier.

Special Problems

In January 1976, the Supreme Court received jurisdiction over probate appeals involving questions of law; formerly such appeals went to the superior court, with further review by the Supreme Court. These constitute less than two percent of the appeals.

In September 1973, the Supreme Court received jurisdiction over Tax Commission appeals, which formerly went to the Superior Court. According to the clerk's office these number about 10 to 12 a year.

The new appellate rules, effective July 1979, put into effect a summary screening mechanism that may have encouraged appeals. The court screens cases before the transcript is prepared, summarily dismissing those found to have no merit. Hence, some litigants may appeal now, but would not have done so under the old rules, because they pay for the transcript only if the case passes the screening stage.

Cross appeals were counted as separate filings until 1981.

The criminal trial filings from some districts are counted by the number of charges.

NEW JERSEY

APPEALS FILED
INTERMEDIATE COURT

| Year | Criminal | Civil |
|------|----------|-------|
| 1973 | 1,479 | 2,401 |
| 1974 | 1,408 | 2,393 |
| 1975 | 1,642 | 2,741 |
| 1976 | 1,662 | 3,157 |
| 1977 | 2,023 | 3,185 |
| 1978 | 1,657 | 3,649 |
| 1979 | 1,642 | 3,143 |
| 1980 | 1,749 | 3,336 |
| 1981 | 2,082 | 3,634 |
| 1982 | 2,056 | 3,928 |

REVERSAL RATES
INTERMEDIATE COURT

| Year | Criminal | | | Civil | | |
|------|----------|---------|-------|--------|---------|-------|
| | Affirm | Reverse | Other | Affirm | Reverse | Other |
| 1973 | 973 | 120 | 0 | 837 | 267 | 0 |
| 1974 | 1,051 | 146 | 0 | 821 | 388 | 0 |
| 1975 | 1,011 | 239 | 0 | 938 | 461 | 0 |
| 1976 | 1,197 | 257 | 0 | 1,199 | 490 | 0 |
| 1977 | 975 | 246 | 0 | 1,205 | 575 | 0 |
| 1978 | 1,057 | 261 | 0 | 1,134 | 580 | 0 |
| 1979 | 1,227 | 268 | 0 | 1,345 | 587 | 0 |
| 1980 | 1,478 | 283 | 0 | 1,353 | 624 | 0 |
| 1981 | 1,446 | 247 | 0 | 1,405 | 652 | 0 |
| 1982 | --- | --- | --- | --- | --- | --- |

NEW JERSEY

REVERSAL RATES
INTERMEDIATE COURT

ALL CASES

| Year | Affirm | Reverse | Other |
|------|--------|---------|-------|
| 1967 | 636 | 215 | 54 |
| 1968 | 771 | 186 | 41 |
| 1969 | 803 | 179 | 63 |
| 1970 | 924 | 197 | 107 |
| 1971 | 1,273 | 220 | 122 |
| 1972 | 1,493 | 262 | 176 |
| 1973 | 1,746 | 370 | 184 |
| 1974 | 1,796 | 365 | 292 |
| 1975 | 1,942 | 397 | 319 |
| 1976 | 2,342 | 439 | 362 |
| 1977 | 2,134 | 586 | 281 |
| 1978 | 2,160 | 538 | 334 |
| 1979 | 2,532 | 544 | 351 |
| 1980 | 2,810 | 568 | 360 |
| 1981 | 2,826 | 539 | 382 |
| 1982 | 3,096 | 536 | 440 |

TIME TO DECISION
INTERMEDIATE COURT

| Year | Criminal | Civil | All Cases |
|------|----------|-------|-----------|
| 1967 | --- | --- | 7.3 |
| 1968 | --- | --- | 8.0 |
| 1969 | --- | --- | 9.4 |
| 1970 | --- | --- | 10.1 |
| 1971 | --- | --- | 12.1 |
| 1972 | --- | --- | 11.7 |
| 1973 | 13.0 | 11.9 | 11.1 |
| 1974 | 13.4 | 12.7 | 11.9 |
| 1975 | 15.3 | 14.8 | 13.4 |
| 1976 | 14.5 | 14.1 | 13.0 |
| 1977 | 12.9 | 13.7 | 12.5 |
| 1978 | --- | --- | 12.3 |
| 1979 | 15.8 | 11.6 | 13.0 |
| 1980 | 18.0 | 13.0 | 15.3 |
| 1981 | 15.6 | 12.3 | 13.7 |
| 1982 | 14.5 | 12.6 | 13.4 |

NEW JERSEY

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

All Cases

| Year | Dispositions | Pending at end |
|------|--------------|----------------|
| 1967 | 1,399 | 991 |
| 1968 | 1,539 | 1,266 |
| 1969 | 1,619 | 1,673 |
| 1970 | 1,885 | 2,185 |
| 1971 | 2,349 | 2,521 |
| 1972 | 2,977 | 3,092 |
| 1973 | 3,411 | 3,514 |
| 1974 | 3,568 | 3,725 |
| 1975 | 3,877 | 4,266 |
| 1976 | 4,333 | 4,746 |
| 1977 | 4,237 | 5,641 |
| 1978 | 4,741 | 6,171 |
| 1979 | 5,622 | 5,380 |
| 1980 | 5,400 | 5,033 |
| 1981 | 5,001 | 5,845 |
| 1982 | 5,423 | 6,460 |

TRIAL COURT CASELOADS

| Year | Filings | | Domestic Relations | Convictions | Trials | |
|------|----------|--------|--------------------|-------------|----------|-------|
| | Criminal | Civil | | | Criminal | Civil |
| 1967 | 12,123 | 50,518 | 9,974 | -- | -- | -- |
| 1968 | 14,273 | 53,067 | 11,152 | -- | -- | -- |
| 1969 | 17,209 | 50,332 | 12,185 | -- | -- | -- |
| 1970 | 19,924 | 47,123 | 13,642 | -- | -- | -- |
| 1971 | 25,159 | 44,440 | 14,817 | 2,014 | 4,145 | -- |
| 1972 | 29,127 | 44,040 | 26,348 | 2,019 | 4,047 | -- |
| 1973 | 25,134 | 45,811 | 23,787 | 2,047 | 4,164 | 7,051 |
| 1974 | 24,170 | 48,681 | 24,223 | 1,650 | 3,705 | 6,114 |
| 1975 | 27,089 | 54,834 | 25,623 | 1,779 | 3,485 | 5,211 |
| 1976 | 27,167 | 56,453 | 27,829 | 1,809 | 3,590 | 5,176 |
| 1977 | 25,312 | 59,330 | 27,449 | 1,620 | 3,229 | 4,863 |
| 1978 | 23,997 | 62,217 | 27,669 | 1,441 | 3,822 | 4,702 |
| 1979 | 21,811 | 71,575 | 29,973 | 1,327 | 2,812 | 4,994 |
| 1980 | 22,651 | 77,690 | 30,262 | 1,280 | 2,403 | 5,284 |
| 1981 | 28,594 | 81,810 | 31,146 | 1,400 | 2,547 | 4,805 |
| 1982 | -- | -- | -- | -- | -- | -- |

NEW JERSEY

Sources: Through 1980, Annual Reports; data sent from the court for 1981-82.

Special Features of the Statistics

Appellate Statistics include only cases filed in the Appellate Division of the Superior Court. It does not include a small number of cases, about 1.5 percent of the total, filed directly in the Supreme Court (these are not included because they are not broken down into criminal and civil cases).

The criminal appeals are only those from the County or Superior Court, and exclude some designated as criminal in the annual report (about 9 percent of the criminal appeals there). Most of these are juvenile appeals, but about 2 percent of the other appeals designated as criminal in the report are counted as civil here, mainly administrative appeals from the department of corrections.

There are two sources of reversal rates: 1) statistics compiled by the clerk's office giving the number of appeals affirmed, reversed, and otherwise decided, and 2) statistics compiled by the staff attorney's office giving the number reversed and affirmed for criminal and civil cases separately.

The time to decision statistics for criminal and civil cases in 1973-76 are for cases processed by the staff attorney's office, the great majority of all cases, but excluding sentence appeals.

Estimations

Before 1966 the appellate data is not broken down into criminal and civil cases. The number of criminal filings in 1973-1975 is estimated by using data available on the number of appeals from various trial court divisions. The divisions with criminal jurisdiction are the law divisions of the County and Superior Courts. In 1976-1980 the appeals from these sources averaged 59 percent criminal (range 55 to 65, with no discernable trend). Criminal filings for 1973-1975 were estimated by taking 59 percent of the Superior and County Court law division appeals in each of these years. The figures for civil appeals in these years are total appeals minus criminal appeals.

The number of general equity filings, which comprise about 8 percent of the civil trial filings, is not available for 1981, and is estimated by using the number of such cases filed in 1980 (although the number of general equity cases had been increasing by about 200 a year for the previous several years, the number of such cases "added"-the complaint was answered-decreased slightly.)

NEW MEXICO

APPEALS FILED

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1967 | 41 | --- | 39 | --- |
| 1968 | 41 | 26 | 67 | 100 |
| 1969 | 56 | 11 | 80 | 115 |
| 1970 | 97 | 13 | 74 | 101 |
| 1971 | 88 | 8 | 112 | 93 |
| 1972 | 88 | 11 | 133 | 90 |
| 1973 | 157 | 11 | 142 | 125 |
| 1974 | 263 | 15 | 182 | 185 |
| 1975 | 259 | 15 | 188 | 197 |
| 1976 | 221 | 7 | 212 | 195 |
| 1977 | 333 | 22 | 222 | 231 |
| 1978 | 299 | 28 | 221 | 221 |
| 1979 | 252 | 28 | 257 | 190 |
| 1980 | 295 | 32 | 267 | 211 |
| 1981 | 242 | 18 | 248 | 199 |
| 1982 | 312 | 32 | 279 | 246 |

REVERSAL RATES
INTERMEDIATE COURT

| Year | <u>Criminal</u> | | | <u>Civil</u> | | |
|------|-----------------|----------------|--------------|---------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1972 | 65 | 21 | 0 | 55 | 33 | 8 |
| 1973 | 81 | 22 | 1 | 58 | 22 | 9 |
| 1974 | 114 | 31 | 5 | 79 | 29 | 8 |
| 1975 | 164 | 60 | 4 | 109 | 43 | 3 |
| 1976 | 185 | 42 | 8 | 104 | 66 | 23 |
| 1977 | 202 | 55 | 9 | 55 | 40 | 6 |
| 1978 | 191 | 49 | 8 | 61 | 37 | 4 |
| 1979 | 145 | 51 | 10 | 111 | 56 | 9 |
| 1980 | 185 | 69 | 7 | 108 | 65 | 9 |
| 1981 | 155 | 73 | 20 | 128 | 63 | 5 |
| 1982 | 179 | 49 | 13 | 121 | 60 | 18 |

NEW MEXICO

REVERSAL RATES
SUPREME COURT

ALL CASES

| Year | Affirm | Reverse | Other |
|------|--------|---------|-------|
| 1967 | 161 | 58 | 30 |
| 1968 | 106 | 36 | 22 |
| 1969 | 92 | 31 | 21 |
| 1970 | 80 | 29 | 9 |
| 1971 | 76 | 34 | 9 |
| 1972 | 47 | 22 | 5 |
| 1973 | 70 | 49 | 7 |
| 1974 | 56 | 31 | 11 |
| 1975 | 115 | 55 | 22 |
| 1976 | 123 | 71 | 16 |
| 1977 | 109 | 50 | 16 |
| 1978 | 134 | 61 | 24 |
| 1979 | 119 | 54 | 15 |
| 1980 | 119 | 66 | 24 |
| 1981 | 128 | 67 | 34 |
| 1982 | 124 | 100 | 33 |

TIME TO DECISION
INTERMEDIATE COURT

| Year | Criminal | Civil | All Cases |
|------|----------|-------|-----------|
| 1971 | 9.4 | 9.7 | 9.6 |
| 1972 | 8.6 | 9.4 | 9.0 |
| 1973 | 9.0 | 9.8 | 9.4 |
| 1974 | 11.2 | 13.9 | 11.9 |
| 1975 | 8.4 | 10.0 | 9.1 |
| 1976 | 6.5 | 8.5 | 7.4 |
| 1977 | 4.2 | 6.7 | 5.0 |
| 1978 | 4.5 | 10.0 | 6.6 |
| 1979 | 7.0 | 12.1 | 9.5 |
| 1980 | 5.3 | 10.0 | 7.3 |
| 1981 | 4.5 | 9.2 | 6.6 |
| 1982 | --- | --- | --- |

NEW MEXICO

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

All Cases

| Year | Dispo- sitions | Pending at end |
|------|-------------------|-------------------|
| 1967 | 46 | 47 |
| 1968 | 115 | 59 |
| 1969 | 134 | 82 |
| 1970 | 137 | 101 |
| 1971 | 209 | 112 |
| 1972 | 214 | 108 |
| 1973 | 247 | 161 |
| 1974 | 343 | 264 |
| 1975 | 506 | 249 |
| 1976 | 540 | 145 |
| 1977 | 484 | 218 |
| 1978 | 444 | 294 |
| 1979 | 477 | 299 |
| 1980 | 578 | 269 |
| 1981 | 557 | 239 |
| 1982 | 534 | 280 |

PENDING AND DISPOSED CASES
SUPREME COURT

All Cases

| Year | Dispo- sitions | Pending at end |
|------|-------------------|-------------------|
| 1967 | 290 | 141 |
| 1968 | 168 | 115 |
| 1969 | 167 | 101 |
| 1970 | 145 | 70 |
| 1971 | 140 | 67 |
| 1972 | 101 | 96 |
| 1973 | 151 | 101 |
| 1974 | 135 | 173 |
| 1975 | 252 | 168 |
| 1976 | 270 | 123 |
| 1977 | 234 | 169 |
| 1978 | 269 | 197 |
| 1979 | 247 | 207 |
| 1980 | --- | 165 |
| 1981 | --- | 181 |
| 1982 | --- | 261 |

NEW MEXICO

TIME TO DECISION
SUPREME COURT

| <u>Year</u> | <u>All Cases</u> |
|-------------|------------------|
| 1972 | 10.6 |
| 1973 | 13.3 |
| 1974 | 14.0 |
| 1975 | 12.7 |
| 1976 | --- |
| 1977 | 7.9 |
| 1978 | 8.3 |
| 1979 | 10.2 |
| 1980 | 10.5 |
| 1981 | 10.6 |
| 1982 | 10.4 |

TRIAL COURT CASELOADS

Filings

| <u>Year</u> | <u>Criminal</u> | <u>Civil (including Domestic Relations)</u> |
|-------------|-----------------|---|
| 1967 | 2,480 | 20,669 |
| 1968 | 2,292 | 19,991 |
| 1969 | 2,494 | 20,461 |
| 1970 | 2,699 | 21,501 |
| 1971 | 3,315 | 23,355 |
| 1972 | 3,704 | 24,153 |
| 1973 | 4,266 | 27,226 |
| 1974 | 4,483 | 30,679 |
| 1975 | 4,771 | 30,374 |
| 1976 | 4,706 | 33,990 |
| 1977 | 4,656 | 39,217 |
| 1978 | 4,949 | 40,568 |
| 1979 | 5,289 | 44,069 |
| 1980 | 5,186 | 45,627 |
| 1981 | 5,927 | 43,918 |
| 1982 | 5,631 | 43,055 |

NEW MEXICO

Source: Annual reports.

Estimations

Transfers between the two courts are included in the filing statistics in the annual reports. The transfers occur when the appellant files in a court that lacks the appropriate jurisdiction. The number transferred from the Supreme Court (about 10 a year) has been deducted from the Court of Appeals filings (this data is not available for 1980-82, and is estimated at 8 a year, the same as in 1979, because the Supreme Court clerk said that the number has remained about the same since then.)

Also, the transfers from the Court of Appeals (about 20 a year) to the Supreme Court have been deleted from the Supreme Court filings. The court statistics give the total number of transfers, but not the number of civil or criminal cases; the clerks of the two courts, said however, that the great majority are civil cases, and they are all counted as civil cases here.

The number of appeals disposed by the Supreme Court for 1980-82 is not available. It is estimated by taking the average disposition for the years 1975-79 (254, range 234 to 270, with no evident trend).

Special Problems

The filings exclude "Rule 93" cases, which, until abolished in 1976, were appeals from habeas corpus rulings in the trial courts. These cases averaged about 25 a year.

Legislation effective July 1, 1972, for civil cases and March 2, 1971, for criminal cases gave the courts jurisdiction over interlocutory appeals. The filings include interlocutory appeals, which even though discretionary, usually are granted review. In the Court of Appeals they averaged about 15 criminal and 15 civil cases a year from 1974 through 1982, years for which data is available.

The Supreme Court clerk estimated about 15 to 20 interlocutories a year in civil filings there.

OKLAHOMA

APPEALS FILED
OKLAHOMA

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|-----------------|---------------|--------------------|--------------------|
| | Supreme Court | Supreme Court | Intermediate Court | Intermediate Court |
| 1969 | --- | 70 | 509 | |
| 1970 | --- | 32 | 621 | |
| 1971 | --- | 445 | 221 | |
| 1972 | --- | 472 | 245 | |
| 1973 | 413 | 365 | 397 | |
| 1974 | 488 | 406 | 417 | |
| 1975 | 518 | 327 | 654 | |
| 1976 | 667 | 418 | 714 | |
| 1977 | 651 | 353 | 770 | |
| 1978 | 385 | 449 | 659 | |
| 1979 | 415 | 482 | 741 | |
| 1980 | 515 | 369 | 1,057 | |
| 1981 | 524 | 1,072 | 395 | |
| 1982 | 532 | 1,088 | 432 | |

REVERSAL RATES
INTERMEDIATE COURT

| Year | <u>Criminal</u> | | |
|------|-----------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1972 | 368 | 112 | 43 |
| 1973 | 436 | 119 | 48 |
| 1974 | 414 | 66 | 17 |
| 1975 | 345 | 63 | 12 |
| 1976 | 401 | 61 | 23 |
| 1977 | 398 | 63 | 50 |
| 1978 | 263 | 55 | 32 |
| 1979 | 315 | 90 | 14 |
| 1980 | 247 | 66 | 6 |
| 1981 | --- | --- | --- |
| 1982 | 435 | 47 | 24 |

OKLAHOMA

PENDING AND DISPOSED CASES
ALL COURTS

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|-----------------|----------------|----------------|----------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1969 | --- | --- | 442 | 1,153 |
| 1970 | --- | --- | 445 | 1,373 |
| 1971 | --- | --- | 814 | 1,215 |
| 1972 | 570 | 337 | 767 | 1,076 |
| 1973 | 643 | 213 | 762 | 1,045 |
| 1974 | 537 | 220 | 808 | 1,092 |
| 1975 | 468 | 244 | 831 | 1,294 |
| 1976 | 528 | 336 | 925 | 1,473 |
| 1977 | 549 | 398 | 1,170 | 1,475 |
| 1978 | 366 | 382 | 986 | 1,620 |
| 1979 | 426 | 480 | 975 | 1,903 |
| 1980 | 330 | 518 | 1,143 | 2,267 |
| 1981 | 563 | 608 | 1,268 | 2,508 |
| 1982 | 563 | 626 | 1,486 | 2,436 |

TIME TO DECISION
SUPREME COURT

| Year | <u>All Cases</u> |
|------|------------------|
| 1967 | 13.3 |
| 1968 | 13.7 |
| 1969 | 15.5 |
| 1970 | 15.4 |
| 1971 | 12.6 |
| 1972 | 11.2 |
| 1973 | 11.3 |
| 1974 | 10.4 |
| 1975 | 9.7 |
| 1976 | 9.1 |
| 1977 | 10.8 |
| 1978 | --- |
| 1979 | --- |
| 1980 | --- |
| 1981 | --- |
| 1982 | --- |

OKLAHOMA

TRIAL COURT CASELOADS

| Year | Filings | | | Trials | |
|------|----------|--------|--------------------|----------|--------|
| | Criminal | Civil | Domestic Relations | Criminal | Civil |
| 1969 | 14,266 | 27,973 | 29,280 | 805 | 7,425 |
| 1970 | 15,959 | 30,522 | 32,894 | 1,290 | 9,519 |
| 1971 | 15,200 | 31,301 | 33,973 | 1,283 | 8,933 |
| 1972 | 14,968 | 31,209 | 37,299 | 1,471 | 7,367 |
| 1973 | 16,622 | 34,441 | 39,470 | 1,340 | 7,320 |
| 1974 | 18,727 | 38,603 | 41,723 | 1,536 | 7,261 |
| 1975 | 20,439 | 41,434 | 45,016 | 2,141 | 8,026 |
| 1976 | 20,179 | 42,787 | 45,763 | 2,203 | 7,728 |
| 1977 | 20,819 | 43,778 | 47,688 | 1,578 | 7,840 |
| 1978 | 22,165 | 46,628 | 47,785 | 2,266 | 8,066 |
| 1979 | 22,753 | 48,525 | 48,682 | 1,956 | 8,573 |
| 1980 | 23,696 | 52,492 | 52,004 | 2,094 | 8,644 |
| 1981 | 25,232 | 53,877 | 53,438 | 2,000 | 9,974 |
| 1982 | 26,930 | 55,334 | 54,875 | 1,875 | 11,828 |

OKLAHOMA

Sources: Annual reports; Kramer (1975) for 1974 criminal appeals.

Special Features of the Statistics

Criminal cases are those filed in the Court of Criminal Appeals. They include juvenile delinquency cases and postconviction appeals. Civil cases are those filed in the Supreme Court; the statistics here for Court of Appeals filings are the number of cases transferred there by the Supreme Court, and the statistics for Supreme Court filings are the total filings less the number transferred.

Pending data, but not disposed data, includes "special matters", which are original jurisdiction cases. They form about 10 percent of the civil caseload, and about one third of the criminal caseload.

Estimations

The number of civil dispositions in 1971 is estimated by using the total number of dispositions (900) and subtracting the average of the 1970 and 1972 writs disposed (76). The 1969-70 pending cases were estimated using the number pending in 1971 and adjusting for filings and dispositions in that year and in 1970.

The number of criminal appeals in 1973 is estimated by subtracting from the total number of filings the average number of original jurisdiction cases in the years 1973-1982 (306, range 242-355 with no evident trend).

Statistics for Supreme Court filings in 1971 and 1981 do not distinguish between appeals and original jurisdiction cases. The number of original jurisdiction cases was estimated by taking the average of the number in 1970 and 1972 and 1980 and 1982 (76, the average of 67 and 84; and 216, the average of 210 and 220; the number steadily rose from 1969, when data are first available, through 1979 and then dropped slightly).

The court changed from calendar year to fiscal year; the last calendar year data is for 1980 (and civil appeals for 1981), and the first fiscal year data is for 1982, leaving a gap of six months. The criminal appeals filings, the trial court data, and the portion of civil appeals transferred to the court of appeals are all estimated by assuming a constant rate of change in 1981 and 1982, and applying the rate of change calculated to the calendar 1980 and fiscal year 1982 statistics.

OKLAHOMA

Special Problems

There is no apparent explanation for the jump in criminal filings in 1976 and 1977 (the increase is due almost completely to an increase in regular appeals, rather than postconviction appeals).

Statistics in the annual reports for the three components of the criminal appeals (appeals, postconviction appeals, and original jurisdiction) add up to less than figures for the total number of appeals in 1978 and 1980 by 100 and 45 respectively. It is assumed that the figures for regular appeals and postconviction appeals given in the annual reports are correct.

OREGON

APPEALS FILED

| Year | Criminal | | Civil | |
|------|--------------------|---------------|--------------------|---------------|
| | Intermediate Court | Supreme Court | Intermediate Court | Supreme Court |
| 1967 | --- | 207 | --- | 383 |
| 1968 | --- | --- | --- | --- |
| 1969 | --- | --- | --- | --- |
| 1970 | --- | 0 | --- | 294 |
| 1971 | --- | 0 | --- | 363 |
| 1972 | --- | 0 | --- | 353 |
| 1973 | 514 | 0 | 294 | 347 |
| 1974 | 452 | 0 | 365 | 338 |
| 1975 | 760 | 0 | 467 | 405 |
| 1976 | 765 | 0 | 597 | 440 |
| 1977 | 997 | 0 | 649 | 466 |
| 1978 | 1,206 | 0 | 1,133 | 28 |
| 1979 | 1,281 | 0 | 1,289 | 13 |
| 1980 | 1,411 | 3 | 1,257 | 9 |
| 1981 | 1,278 | 0 | 1,313 | 24 |
| 1982 | 1,240 | 0 | 1,450 | 35 |

REVERSAL RATES
SUPREME COURT

| Year | All Cases | | |
|------|-----------|---------|-------|
| | Affirm | Reverse | Other |
| 1967 | 201 | 84 | 16 |
| 1968 | 226 | 92 | 18 |
| 1969 | 159 | 73 | 14 |
| 1970 | 120 | 69 | 11 |
| 1971 | 142 | 56 | 20 |
| 1972 | 154 | 60 | 15 |
| 1973 | 155 | 58 | 17 |
| 1974 | 143 | 75 | 18 |
| 1975 | 147 | 78 | 33 |
| 1976 | 150 | 108 | 23 |
| 1977 | 172 | 113 | 29 |
| 1978 | 138 | 81 | 29 |
| 1979 | --- | --- | --- |
| 1980 | --- | --- | --- |
| 1981 | --- | --- | --- |
| 1982 | --- | --- | --- |

OREGON

REVERSAL RATES
INTERMEDIATE COURT

| Year | All Cases | | |
|------|-----------|---------|-------|
| | Affirm | Reverse | Other |
| 1969 | 63 | 17 | 4 |
| 1970 | 267 | 69 | 12 |
| 1971 | 370 | 72 | 22 |
| 1972 | 420 | 114 | 22 |
| 1973 | 443 | 95 | 22 |
| 1974 | 425 | 120 | 29 |
| 1975 | 634 | 144 | 52 |
| 1976 | 992 | 187 | 47 |
| 1977 | 1,219 | 232 | 60 |
| 1978 | 1,452 | 433 | 73 |
| 1979 | 1,709 | 424 | 107 |
| 1980 | --- | --- | --- |
| 1981 | --- | --- | --- |
| 1982 | --- | --- | --- |

TIME TO DECISION
INTERMEDIATE COURT

| Year | All Cases |
|------|-----------|
| 1970 | 12.2 |
| 1971 | 8.8 |
| 1972 | 6.8 |
| 1973 | 5.8 |
| 1974 | 5.6 |
| 1975 | 5.4 |
| 1976 | 5.6 |
| 1977 | 5.8 |
| 1978 | 6.3 |
| 1979 | 7.1 |
| 1980 | 7.3 |
| 1981 | 7.4 |
| 1982 | 8.2 |

OREGON

PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | All Cases | |
|------|-------------------|-------------------|
| | Dispo- sitions | Pending at end |
| 1969 | 168 | 395 |
| 1970 | 546 | 426 |
| 1971 | 719 | 329 |
| 1972 | 804 | 291 |
| 1973 | 822 | 312 |
| 1974 | 929 | 429 |
| 1975 | 1,298 | 669 |
| 1976 | 1,786 | 730 |
| 1977 | 2,054 | 1,024 |
| 1978 | 2,684 | 1,446 |
| 1979 | 3,369 | 1,533 |
| 1980 | 3,310 | 1,659 |
| 1981 | 3,239 | 1,823 |
| 1982 | 3,329 | 2,129 |

TIME TO DECISION
SUPREME COURT

| Year | All Cases |
|------|-----------|
| 1967 | 13.3 |
| 1968 | 13.7 |
| 1969 | 15.5 |
| 1970 | 15.4 |
| 1971 | 12.6 |
| 1972 | 11.2 |
| 1973 | 11.3 |
| 1974 | 10.4 |
| 1975 | 9.7 |
| 1976 | 9.1 |
| 1977 | 10.8 |
| 1978 | --- |
| 1979 | --- |
| 1980 | --- |
| 1981 | --- |
| 1982 | --- |

OREGON

PENDING AND DISPOSED CASES
SUPREME COURT

| <u>All Cases</u> | | |
|------------------|---------------------------|---------------------------|
| <u>Year</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1967 | 577 | 505 |
| 1968 | 576 | 558 |
| 1969 | 414 | 288 |
| 1970 | 352 | 243 |
| 1971 | 387 | 237 |
| 1972 | 389 | 222 |
| 1973 | 370 | 217 |
| 1974 | 379 | 250 |
| 1975 | 424 | 298 |
| 1976 | 500 | 347 |
| 1977 | 577 | 383 |
| 1978 | --- | --- |
| 1979 | --- | --- |
| 1980 | --- | --- |
| 1981 | --- | --- |
| 1982 | --- | --- |

TRIAL COURT CASELOADS

| <u>Year</u> | <u>Filings</u> | | | <u>Trials</u> | |
|-------------|-----------------|--------------|-------------------------------|-----------------|--------------|
| | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> | <u>Criminal</u> | <u>Civil</u> |
| 1967 | -- | --- | -- | 1,236 | -- |
| 1968 | -- | --- | -- | -- | --- |
| 1969 | 6,675 | --- | -- | 1,340 | --- |
| 1970 | -- | --- | -- | -- | --- |
| 1971 | -- | --- | -- | 1,716 | 2,606 |
| 1972 | 10,400 | 14,565 | 16,575 | 1,715 | 2,693 |
| 1973 | 11,224 | 16,099 | 17,769 | 1,678 | 2,548 |
| 1974 | 13,244 | 18,019 | 19,724 | 1,642 | 2,536 |
| 1975 | 14,360 | 20,539 | 20,153 | 1,839 | 2,835 |
| 1976 | 14,485 | 19,587 | 22,817 | 1,636 | 2,877 |
| 1977 | 14,174 | 19,192 | 24,139 | 1,550 | 2,614 |
| 1978 | 16,097 | 20,926 | 27,399 | 1,878 | 2,681 |
| 1979 | 16,643 | 23,410 | 26,873 | 1,905 | 2,783 |
| 1980 | 19,007 | 28,961 | 27,103 | 1,991 | 2,676 |
| 1981 | 20,198 | 30,823 | 26,291 | 1,980 | 2,531 |
| 1982 | 20,224 | 32,955 | 23,901 | 1,762 | 2,471 |

OREGON

Sources: Annual Reports; 1982 data from court administrator's office.

Special Features of the Statistics

Criminal appeals are those designated "criminal" and "postconviction and habeas corpus". Civil appeals are those designated "civil" and "administrative agency review".

Several additions were made to the jurisdiction of the appellate system in the past decade, and, when possible, cases coming in under new jurisdiction were excluded. Corrections disciplinary appeals and parole board reviews were added to the Court of Appeals jurisdiction in 1974, and they are not included in the number of criminal and civil filings. In 1977, the Court of Appeals received jurisdiction over direct appeals in workmen's compensation cases; whereas formerly, such appeals went to the trial courts, with appeal thereafter to the Court of Appeals. The civil data excludes all workmen's compensation appeals, whether from the trial courts or the agency. Also in 1977, the Court of Appeals received jurisdiction over appeals from the District Court (limited jurisdiction court). This includes traffic cases, as well as some criminal and civil cases.

Estimations

The number of civil and criminal appeals from the District Court is not available for 1980-82. It is estimated as the average of such cases in 1978 and 1979, the first full years when the Court of Appeals received District Court appeals (criminal: 137, average of 140 and 133; Civil: 63, average of 56 and 69). These appeals constitute a small portion of the total appeals.

Special Problems

A 1981 law required the notice of appeal to be filed in the Court of Appeals in civil cases; formerly it was filed in the trial court, which was required to certify it to the Court of Appeals in 10 days. Hence, in 1981 there were a few additional civil appeal filed because the notice of appeal reached the court earlier.

RHODE ISLAND

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1970 | 40 | 166 |
| 1971 | 72 | 153 |
| 1972 | 47 | 153 |
| 1973 | 64 | 174 |
| 1974 | 49 | 164 |
| 1975 | 52 | 188 |
| 1976 | 61 | 197 |
| 1977 | 51 | 241 |
| 1978 | 82 | 205 |
| 1979 | 73 | 257 |
| 1980 | 111 | 309 |
| 1981 | 84 | 354 |
| 1982 | 80 | 385 |

PENDING AND DISPOSED CASES
SUPREME COURT

All Cases

| <u>Year</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
|-------------|---------------------------|---------------------------|
| 1969 | 344 | 227 |
| 1970 | 344 | 227 |
| 1971 | 346 | 257 |
| 1972 | 342 | 240 |
| 1973 | 291 | 311 |
| 1974 | 330 | 326 |
| 1975 | 326 | 355 |
| 1976 | 330 | 447 |
| 1977 | 364 | 516 |
| 1978 | 418 | 556 |
| 1979 | 478 | 577 |
| 1980 | 544 | 641 |
| 1981 | 581 | 703 |
| 1982 | 629 | 666 |

RHODE ISLAND

TRIAL COURT CASELOADS

Filings

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> |
|-------------|-----------------|--------------|-------------------------------|
| 1969 | 1,746 | 6,292 | 3,764 |
| 1970 | 2,003 | 4,542 | 3,327 |
| 1971 | 2,269 | 4,646 | 4,114 |
| 1972 | 3,121 | 3,804 | 4,411 |
| 1973 | 2,837 | 4,458 | 4,571 |
| 1974 | 2,451 | 4,721 | 4,737 |
| 1975 | 2,374 | 5,589 | 4,149 |
| 1976 | 2,159 | 5,799 | 4,727 |
| 1977 | 2,267 | 5,511 | 5,096 |
| 1978 | 2,396 | 5,677 | 4,569 |
| 1979 | 2,144 | 6,283 | 5,188 |
| 1980 | 3,103 | 6,316 | 5,191 |
| 1981 | 4,023 | 6,702 | 5,228 |
| 1982 | 3,873 | 6,202 | 5,137 |

RHODE ISLAND

Sources: Annual reports through 1978. Unpublished data received from the court for 1979-82.

Special Features of the Statistics

The appellate filings do not include public utility appeals, which number about 10 per year. They are categorized by the court as certiorari cases, even though jurisdiction is mandatory.

The pending and disposed statistics include original writs and discretionary jurisdiction cases. These comprise about 30 percent of the filings and dispositions, but only about 15 percent of the pending cases in 1979-82, years for which information is available.

Estimations

A 1981 law limited appeals from support rulings. The number of domestic relations cases in 1979-82 was 25, 41, 64, and 24. It is assumed that the new law decreased filings by about 40 cases, and that number is added to the civil appeals statistics for 1982.

Statistics for pending and disposed appeals in 1969 are not available, and the figures are assumed to be the same as the 1970 figures.

The civil trial filings for 1982 are not available. The number of civil cases along with probate appeals and miscellaneous petitions is available, and that number as well as the number of civil cases alone is available for earlier years. The 1982 civil figure is estimated by applying the 1981 percentage (86 percent; from 1978 to 1980 the percentage had been decreasing--89, 89, and 88 percent).

Special Problems

Criminal filings may have been increased by a law, effective September 1974, that required all post-conviction writs to be filed in the trial court. Formerly defendants could file in the trial or appellate court. The change may have increased the number of appeals from trial court denials of post-conviction relief (counted as criminal appeals), while reducing the direct post-conviction filings in the Supreme Court (which are not counted as appeals).

Zoning board cases were appealed to the Supreme Court until a law effective in September 1979 routed them to the trial court.

TENNESSEE

APPEALS FILED

| Year | <u>Criminal</u> | <u>Civil</u> | Supreme Court |
|------|--------------------|--------------------|---------------|
| | Intermediate Court | Intermediate Court | |
| 1968 | 411 | 400 | 156 |
| 1969 | 430 | 430 | 138 |
| 1970 | 375 | 488 | 163 |
| 1971 | 407 | 452 | 160 |
| 1972 | 544 | 498 | 166 |
| 1973 | 598 | 494 | 156 |
| 1974 | 531 | 485 | 191 |
| 1975 | 630 | 649 | 241 |
| 1976 | 636 | 694 | 246 |
| 1977 | 714 | 758 | 232 |
| 1978 | 685 | 730 | 138 |
| 1979 | 650 | 775 | 159 |
| 1980 | 704 | 806 | 131 |
| 1981 | 783 | 884 | 124 |
| 1982 | 776 | 897 | 122 |

REVERSAL RATES
INTERMEDIATE COURT

| Year | <u>Criminal</u> | | | <u>Civil</u> | | |
|------|-----------------|----------------|--------------|---------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1978 | 590 | 47 | 51 | 429 | 149 | 92 |
| 1979 | 487 | 46 | 39 | 425 | 156 | 112 |
| 1980 | 461 | 71 | 32 | 366 | 147 | 95 |
| 1981 | 522 | 68 | 42 | 437 | 160 | 78 |
| 1982 | --- | --- | --- | --- | --- | --- |

REVERSAL RATES
SUPREME COURT

ALL CASES

| Year | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
|------|---------------|----------------|--------------|
| 1978 | 119 | 72 | 23 |
| 1979 | 81 | 62 | 27 |
| 1980 | 91 | 66 | 24 |
| 1981 | 92 | 48 | 25 |
| 1982 | --- | --- | --- |

TENNESSEE

TRIAL COURT CASELOADS

Filings

| <u>Year</u> | <u>Criminal</u> | <u>Civil (including Domestic Relations)</u> |
|-------------|-----------------|---|
| 1967 | 17,497 | 46,091 |
| 1968 | 18,068 | 52,773 |
| 1969 | 19,401 | 58,648 |
| 1970 | 20,890 | 63,507 |
| 1971 | 21,882 | 60,113 |
| 1972 | 20,104 | 61,168 |
| 1973 | 21,953 | 66,091 |
| 1974 | 26,583 | 74,799 |
| 1975 | 29,462 | 80,907 |
| 1976 | 29,612 | 82,739 |
| 1977 | 31,626 | 86,520 |
| 1978 | 31,508 | 85,911 |
| 1979 | 30,723 | 89,894 |
| 1980 | 34,564 | 93,497 |
| 1981 | 37,213 | 94,631 |
| 1982 | 39,294 | 93,208 |

TENNESSEE

Sources: Annual Reports; Le Clercq, "The Tennessee Court System," 8 Memphis St. U. L. Rev. 185, 191-240 (1978).

Special Features of the Statistics

The filings include civil writs and discretionary appeals from the trial court if they are granted. (They are not counted if refused.) These constitute a very small portion of the caseload.

The statistics include cases transferred from one appellate court to another, but these number less than 2 percent of the filings.

The supreme court filings are all counted as civil, although a very few are criminal (cases involving a death penalty or a constitutional issue). In 1976 and 1977, years for which data is available, 6 and 11 percent of the Supreme Court direct filings (and 2 and 3 percent of the total civil appeals) are criminal appeals.

Estimations

Before 1974, the figures available for Supreme Court filings include both direct appeals from the trial courts and cases granted certiorari from the intermediate court rulings. The direct appeals in 1968-72 are approximated by subtracting the number of certioraris granted from the total appeals filed. The number of certioraris granted in 1973 is not available and is estimated by multiplying the total number of appeals (certioraris granted and direct appeals) by the average percentage of the total appeals for 1968-75 that are direct appeals (76 percent, with a range of 72 to 80 percent with no evident trend).

Special Problems

Statistics from different sources do not always match. The number of criminal appeals is based on material in the 1978 annual report, but the reports for individual years give somewhat lower figures for several years. Also, figures given in the Memphis law review article for 1974 and 1975, based on a count of the cases by the authors, differ from the figures in the annual reports. These differences are small, though, except for total Supreme Court filings, which is 355 in the law review and 327 in the annual report.

The criminal filings include appeals from post-conviction rulings in the trial courts. These decreased from 40 percent of the criminal filings in 1970 to 11 percent in 1977, the last year for which statistics on these cases are available.

New Appellate rules in 1979 made many changes mostly eliminating technical procedural requirements. For example, the rules abolished the requirement that a motion for new trial is a prerequisite to an appeal.

TEXAS

APPEALS FILED

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1967 | --- | 947 | 1,199 | |
| 1968 | 0 | 811 | 1,133 | |
| 1969 | 0 | 893 | 1,153 | |
| 1970 | 0 | 1,057 | 1,228 | |
| 1971 | 0 | 1,328 | 1,328 | |
| 1972 | 0 | 1,394 | 1,397 | |
| 1973 | 0 | 1,628 | 1,332 | |
| 1974 | 0 | 1,546 | 1,502 | |
| 1975 | 0 | 1,863 | 1,764 | |
| 1976 | 0 | 2,458 | 1,824 | |
| 1977 | 0 | 3,267 | 1,969 | |
| 1978 | 0 | 3,104 | 2,172 | |
| 1979 | 0 | 3,166 | 2,445 | |
| 1980 | 0 | 3,072 | 2,621 | |
| 1981 | 1,540 | 2,278 | 2,830 | |
| 1982 | 4,350 | 214 | 2,889 | |

REVERSAL RATES
ALL COURTS

| Year | <u>Criminal</u> | | | <u>Civil</u> | | |
|------|-----------------|----------------|--------------|---------------|----------------|--------------|
| | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
| 1967 | 689 | 48 | 11 | --- | --- | --- |
| 1968 | 663 | 50 | 11 | --- | --- | --- |
| 1969 | 606 | 40 | 5 | 656 | 310 | 114 |
| 1970 | 753 | 40 | 12 | 665 | 303 | 109 |
| 1971 | 864 | 60 | 16 | 738 | 339 | 143 |
| 1972 | 1,036 | 131 | 29 | 764 | 353 | 141 |
| 1973 | 1,394 | 146 | 39 | 767 | 314 | 160 |
| 1974 | 1,472 | 145 | 30 | 745 | 313 | 180 |
| 1975 | 1,330 | 136 | 60 | 851 | 352 | 202 |
| 1976 | 1,646 | 134 | 52 | 867 | 396 | 252 |
| 1977 | 1,825 | 283 | 65 | 988 | 443 | 248 |
| 1978 | 1,958 | 174 | 66 | 973 | 492 | 271 |
| 1979 | 1,812 | 225 | 52 | 1,149 | 487 | 320 |
| 1980 | 1,650 | 173 | 45 | 1,183 | 483 | 364 |
| 1981 | 1,642 | 217 | 35 | 1,925 | 544 | 369 |
| 1982 | 3,533 | 316 | 300 | 1,242 | 466 | 308 |

TEXAS

TIME TO DECISION
ALL COURTS

| Year | <u>Criminal</u> | <u>Civil</u> |
|------|-----------------|--------------|
| 1971 | 16.5 | 5.0 |
| 1972 | 20.5 | 4.7 |
| 1973 | 15.5 | 4.8 |
| 1974 | 15.5 | 4.8 |
| 1975 | --- | 4.9 |
| 1976 | --- | 5.5 |
| 1977 | --- | 6.0 |
| 1978 | --- | 6.0 |
| 1979 | --- | 7.0 |
| 1980 | --- | 6.0 |
| 1981 | --- | 7.0 |
| 1982 | --- | 6.7 |

PENDING AND DISPOSED CASES
ALL COURTS

| Year | <u>Criminal</u> | | <u>Civil</u> | |
|------|-----------------------|-----------------------|-----------------------|-----------------------|
| | <u>Dispo- sitions</u> | <u>Pending at end</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
| 1967 | 875 | 219 | 1,199 | 647 |
| 1968 | 865 | 144 | 1,266 | 316 |
| 1969 | 774 | 282 | 1,166 | 501 |
| 1970 | 944 | 376 | 1,175 | 556 |
| 1971 | 1,070 | 606 | 1,330 | 586 |
| 1972 | 1,303 | 700 | 1,392 | 601 |
| 1973 | 1,708 | 618 | 1,404 | 542 |
| 1974 | 1,773 | 391 | 1,383 | 674 |
| 1975 | 1,638 | 575 | 1,608 | 847 |
| 1976 | 2,046 | 1,022 | 1,717 | 978 |
| 1977 | 2,452 | 1,819 | 1,898 | 1,080 |
| 1978 | 2,511 | 2,390 | 1,987 | 1,304 |
| 1979 | 2,477 | 3,155 | 2,299 | 1,479 |
| 1980 | 2,311 | 3,868 | 2,457 | 1,672 |
| 1981 | 2,977 | 6,577 | 2,609 | 1,954 |
| 1982 | 4,395 | 4,463 | 2,442 | 2,432 |

TEXAS

TRIAL COURT CASELOADS

| Year | Filings | | | Convictions | Trials | |
|------|----------|---------|--------------------|-------------|----------|--------|
| | Criminal | Civil | Domestic Relations | | Criminal | Civil |
| 1967 | 31,222 | 83,712 | 67,430 | -- | -- | -- |
| 1968 | 37,486 | 86,057 | 72,903 | -- | -- | 15,828 |
| 1969 | 39,337 | 88,663 | 79,426 | -- | -- | 18,573 |
| 1970 | 50,962 | 93,162 | 83,210 | 2,125 | 2,771 | 19,211 |
| 1971 | 61,523 | 94,708 | 88,154 | 2,375 | 3,098 | 20,272 |
| 1972 | 65,864 | 87,035 | 93,739 | 2,426 | 3,145 | 20,284 |
| 1973 | 66,206 | 95,428 | 100,261 | 2,894 | 3,586 | 19,999 |
| 1974 | 65,971 | 108,365 | 106,926 | 2,890 | 3,758 | 19,582 |
| 1975 | 71,664 | 121,203 | 115,926 | 2,665 | 4,053 | 22,844 |
| 1976 | 67,296 | 125,382 | 118,585 | 2,554 | 3,865 | 23,635 |
| 1977 | 71,839 | 130,375 | 123,907 | 2,820 | 4,084 | 27,005 |
| 1978 | 75,740 | 135,097 | 129,156 | 3,147 | 4,544 | 27,366 |
| 1979 | 85,056 | 142,422 | 136,638 | 3,226 | 4,469 | 28,394 |
| 1980 | 87,677 | 158,294 | 140,591 | 2,955 | 4,236 | 27,313 |
| 1981 | 92,703 | 164,880 | 143,958 | 2,878 | 4,161 | 26,630 |
| 1982 | 105,913 | 177,541 | 139,544 | 3,494 | 4,987 | 28,449 |

TEXAS

Source: Annual reports.

Special Features of the Statistics

Criminal filings include postconviction writs that are accepted for full review; they amount to less than 5 percent of the filings.

Civil cases include original jurisdiction cases, which constitute roughly 5 percent of the filings.

The figures for pending criminal cases and dispositions include both the Court of Criminal Appeals and the Court of Appeals for 1981, but just the latter court in 1982, the first year in which it has jurisdiction over almost all initial appeals.

Estimations

On January 1, 1976, the time limit for filing civil appeals was changed from 10 to 30 days. This means that 1976 civil filings were reduced by about 20 days worth of appeals (assuming that appellants tended to wait until near the end of the time allowed for appeal). Hence, the civil filings statistics used here in 1976 are increased by 5.5 percent over the published statistics.

In the trial court statistics, civil filings include annulments, for which data was provided through 1979. After that date annulments were included in the category "other civil", which are included in civil filings. For 1980-82, therefore, 1,620 was subtracted from the civil filings; this is the average of the number of annulment filings in 1975-79 (range, 1,567-1,677; slight downward trend). The annulments, including the estimated number after 1979, are included in the domestic relations filings.

The number of civil filings and civil trial dispositions are reduced by the number of "non-adversary" proceedings (adoptions, etc.). The number is not available before 1974. It is estimated by using the portion of such cases in 1974-1981 (19 percent of the filings, with a range of 18 to 20 percent; 41 percent of the trials, with a range of 37 to 46 percent; in both situations the percentages were higher in the earlier and later years).

Estimations

When jurisdiction in criminal appeals was transferred from the Court of Criminal Appeals to the Court of Appeals in September 1981, the docketing of the cases changed from when the appellant's brief was filed to when the notice of appeal was filed, thus greatly increasing the number of filings by adding the cases that were pending between the notice of appeal stage and the briefing stage and by adding cases that

TEXAS

would ordinarily have been dropped or dismissed before the appellate brief was filed.

The 1981 criminal filing statistic used here is the average of the 1980 and 1982 statistics. The Court of Criminal Appeals figure for 1981 criminal appeals is 2,278, the actual number received. The figure for the Court of Appeals is the remainder (the actual figure is 3,321, rather than 1,540 in the statistics used). The number of appeals filed in the Court of Criminal Appeals for 1982 is estimated to be the total number of appeals less the number of petitions for discretionary review granted (200).

Special Problems

In a series of changes, the time from trial judgment to the filing of civil appeals has been adjusted, but the impact of the changes of counting cases is not likely to be great. Cases are docketed when the trial court clerk sends the transcript (the papers in the case file) to the Court of Appeals. A change effective January 1, 1976 eliminated, for most cases, a requirement that the notice of appeal be filed within 10 days of judgment (or decision on motion for new trial), making the operative time for appeal the 30 day limit for paying filing fees. On January 1, 1978, the requirement for filing a motion for new trial before filing an appeal was eliminated for most civil jury cases; and the requirement was further reduced in 1981. A 1982 rule amendment changed the time limits for filing an appeal to 30 days from the trial judgement, or 90 days if a motion for new trial was filed. The prior rule specified 30 days for filing the motion for new trial, and then 45 days (with a 45 day extension possible) after a new trial motion. In civil appeals, a January 1, 1981, rule change required the trial court clerk to file the transcript (the step which triggers the docketing of the appeal) 60 days after the judgment, or 100 days after if there is a motion for new trial. Under the old rule, the trial clerk filed the transcript (i.e., the papers in the file) only after being designated by the parties, and the step was to be performed in 60 days after judgment, including judgment in a motion for new trial.

Appeals from guilty pleas were greatly restricted in 1975; the clerk interviewed estimated that this reduced the caseload roughly 5 percent.

The reversal rate data for 1982 differs from the data for 1981 and earlier (especially the "other category") probably because the counting system used in the court of appeals differs from that used in the court of criminal appeals.

UTAH

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1973 | 74 | 246 |
| 1974 | 73 | 253 |
| 1975 | 128 | 278 |
| 1976 | 111 | 369 |
| 1977 | 129 | 413 |
| 1978 | 131 | 407 |
| 1979 | 107 | 415 |
| 1980 | 108 | 439 |
| 1981 | 121 | 467 |
| 1982 | 143 | 461 |

PENDING AND DISPOSED CASES
SUPREME COURT

All Cases

| <u>Year</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
|-------------|---------------------------|---------------------------|
| 1970 | --- | 226 |
| 1971 | --- | 263 |
| 1972 | --- | --- |
| 1973 | --- | --- |
| 1974 | 313 | 186 |
| 1975 | 368 | 280 |
| 1976 | 396 | 440 |
| 1977 | 659 | 415 |
| 1978 | 635 | 405 |
| 1979 | 534 | 490 |
| 1980 | 638 | 503 |
| 1981 | 577 | 641 |
| 1982 | 672 | 694 |

UTAH

TRIAL COURT CASELOADS

| Year | Filings | | Trials | |
|------|----------|--------|----------|-------|
| | Criminal | Civil | Criminal | Civil |
| 1969 | 1,551 | 13,799 | -- | -- |
| 1970 | 1,900 | 15,243 | -- | -- |
| 1971 | 1,920 | 15,445 | -- | -- |
| 1972 | 2,098 | 17,194 | -- | -- |
| 1973 | 2,328 | 18,410 | 213 | 1,841 |
| 1974 | 2,062 | 21,786 | 266 | 1,898 |
| 1975 | 2,643 | 22,884 | 349 | 1,893 |
| 1976 | 3,074 | 22,307 | 486 | 2,034 |
| 1977 | 3,334 | 23,526 | 435 | 2,050 |
| 1978 | 3,444 | 25,116 | 566 | 2,481 |
| 1979 | 2,396 | 24,046 | 425 | 1,979 |
| 1980 | 2,798 | 26,986 | 437 | 2,175 |
| 1981 | 3,530 | 29,783 | 407 | 1,668 |
| 1982 | 3,878 | 29,663 | 423 | 1,941 |

UTAH

Sources: Annual reports; data from the clerk's office for 1978 and 1982. Utah Foundation, Research Report: The Utah Supreme Court (1983).

Special Features of the Statistics

Appellate filings include "criminal" and "civil" filings, as designated by the clerk's statistics, and exclude "miscellaneous" case. The latter include a few appeals of right, including juvenile appeals (which number about 5 and 6 in 1981 and 1982). Also, filings do not include appeals in post conviction cases, which number only one or two a year.

The number of disposed and pending cases includes all miscellaneous cases, which comprise about 25 percent of the filings.

Estimations

Statistics for civil and criminal appeals in 1973 were not available. They were estimated by taking the average percent of filings in 1974-1982 that were civil and criminal appeals (20 percent for criminal, range of 17 to 28, with no evident trend; 57 percent for civil, range of 53 to 61, with no evident trend).

The number of pending cases in 1974 and 1975 is estimated by starting with the 1976 pending figure and using the number disposed and filed.

For civil appellate filings, the number of agency cases is not available for 1973-1977, and are included in figures for "miscellaneous cases", which include original jurisdiction filings. The agency appeals in these years were estimated by taking the average proportion of miscellaneous cases that are agency cases in 1978 (36 percent with a range of 28 to 43 percent, with no evident trend), and multiplying this by the number of miscellaneous cases in the earlier years. Agency cases constitute about 15 percent of the civil appeals.

The trial dispositions data is available only for 1974-1981. The 1982 data was estimated by taking the average of the 1979-1980 figures. (There was no evident trend in these years.) Because there was an upward trend after 1973, the 1973 data is approximated by calculating the average increase in 1975-77 and applying that to the 1974 data.

VERMONT

APPEALS FILED
SUPREME COURT

| Year | Criminal | Civil |
|------|----------|-------|
| 1969 | 34 | 110 |
| 1970 | 54 | 97 |
| 1971 | 40 | 138 |
| 1972 | 52 | 148 |
| 1973 | 60 | 176 |
| 1974 | 59 | 180 |
| 1975 | 68 | 242 |
| 1976 | 69 | 186 |
| 1977 | 65 | 281 |
| 1978 | 69 | 276 |
| 1979 | 99 | 314 |
| 1980 | 111 | 351 |
| 1981 | 129 | 349 |
| 1982 | 140 | 398 |

REVERSAL RATES
SUPREME COURT

ALL CASES

| Year | Affirm | Reverse | Other |
|------|--------|---------|-------|
| 1969 | 43 | 15 | 8 |
| 1970 | 52 | 32 | 7 |
| 1971 | 58 | 30 | 2 |
| 1972 | 47 | 27 | 11 |
| 1973 | 67 | 31 | 19 |
| 1974 | 71 | 32 | 12 |
| 1975 | 61 | 42 | 21 |
| 1976 | 74 | 52 | 23 |
| 1977 | 71 | 49 | 19 |
| 1978 | 56 | 51 | 22 |
| 1979 | 75 | 31 | 34 |
| 1980 | 98 | 38 | 23 |
| 1981 | 94 | 74 | 18 |
| 1982 | 115 | 50 | 16 |

VERMONT

PENDING AND DISPOSED CASES
SUPREME COURT

All Cases

| Year | Dispo- sitions | Pending at end |
|------|-------------------|-------------------|
| 1968 | --- | 108 |
| 1969 | 127 | 110 |
| 1970 | 173 | 118 |
| 1971 | 162 | 134 |
| 1972 | 176 | 158 |
| 1973 | 207 | 187 |
| 1974 | 223 | 203 |
| 1975 | 269 | 250 |
| 1976 | 339 | 266 |
| 1977 | 334 | 287 |
| 1978 | 346 | 291 |
| 1979 | 362 | 349 |
| 1980 | 456 | 355 |
| 1981 | 431 | 401 |
| 1982 | 456 | 484 |

TRIAL COURT CASELOADS

Filings

Trials

| Year | Criminal | Civil | Domestic Relations | Criminal | Civil |
|------|----------|-------|-----------------------|----------|-------|
| 1970 | 1,497 | 2,102 | 1,799 | 265 | 588 |
| 1971 | 1,452 | 2,406 | 1,981 | 386 | 585 |
| 1972 | 1,389 | 2,486 | 2,428 | 398 | 609 |
| 1973 | 1,902 | 2,957 | 2,498 | 317 | 638 |
| 1974 | 2,455 | 3,296 | 2,700 | 253 | 805 |
| 1975 | 2,381 | 3,175 | 2,741 | 269 | 952 |
| 1976 | 2,341 | 3,537 | 2,798 | 226 | 710 |
| 1977 | 2,670 | 3,520 | 2,753 | 203 | 662 |
| 1978 | 2,686 | 3,335 | 3,194 | 222 | 746 |
| 1979 | 2,915 | 3,485 | 3,288 | 213 | 504 |
| 1980 | 3,127 | 3,970 | 3,341 | 230 | 546 |
| 1981 | 3,055 | 4,195 | 3,303 | 260 | 566 |
| 1982 | 2,088 | 4,429 | 3,081 | 287 | 947 |

VERMONT

Sources: Court annual reports; statistics sent by the court for years 1973-76 and 1981-2.

Special Features of the Statistics

Criminal filings exclude bail cases. Filings include discretionary appeals granted, which number less than five a year according to the clerk.

VIRGINIA

APPEALS FILED
SUPREME COURT

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|
| 1973 | 686 | 374 |
| 1974 | 660 | 425 |
| 1975 | 911 | 497 |
| 1976 | 964 | 524 |
| 1977 | 940 | 595 |
| 1978 | 963 | 571 |
| 1979 | 874 | 698 |
| 1980 | 998 | 709 |
| 1981 | 1,069 | 805 |
| 1982 | 1,122 | 792 |

REVERSAL RATES
SUPREME COURT

All Cases

| <u>Year</u> | <u>Affirm</u> | <u>Reverse</u> | <u>Other</u> |
|-------------|---------------|----------------|--------------|
| 1967 | 954 | 77 | 0 |
| 1968 | 1,064 | 78 | 0 |
| 1969 | 997 | 75 | 0 |
| 1970 | 982 | 87 | 0 |
| 1971 | 1,581 | 117 | 0 |
| 1972 | 1,276 | 133 | 0 |
| 1973 | 1,191 | 100 | 0 |
| 1974 | 1,071 | 84 | 0 |
| 1975 | 1,286 | 98 | 0 |
| 1976 | 1,393 | 76 | 0 |
| 1977 | 1,529 | 89 | 0 |
| 1978 | 1,693 | 73 | 0 |
| 1979 | 1,562 | 86 | 0 |
| 1980 | 1,667 | 86 | 0 |
| 1981 | 1,647 | 90 | 0 |
| 1982 | 2,109 | 81 | 0 |

CONTINUED

3 OF 4

VIRGINIA

PENDING AND DISPOSED CASES
SUPREME COURT

All Cases

| <u>Year</u> | <u>Dispo- sitions</u> | <u>Pending at end</u> |
|-------------|---------------------------|---------------------------|
| 1970 | 1,206 | 1,155 |
| 1971 | 1,824 | 647 |
| 1972 | 1,492 | 574 |
| 1973 | 1,389 | 451 |
| 1974 | 1,240 | 469 |
| 1975 | 1,459 | 527 |
| 1976 | 1,556 | 617 |
| 1977 | 1,741 | 770 |
| 1978 | 1,894 | 797 |
| 1979 | 1,778 | 881 |
| 1980 | 1,858 | 1,066 |
| 1981 | 1,931 | 1,437 |
| 1982 | 2,384 | 1,331 |

TRIAL COURT CASELOADS

Filings

Trials

| <u>Year</u> | <u>Criminal</u> | <u>Civil</u> | <u>Domestic Relations</u> | <u>Criminal</u> | <u>Civil</u> |
|-------------|-----------------|--------------|-------------------------------|-----------------|--------------|
| 1967 | 9,275 | 20,825 | 23,355 | -- | -- |
| 1968 | 9,536 | 20,140 | 25,197 | -- | -- |
| 1969 | 10,594 | 20,279 | 26,750 | -- | -- |
| 1970 | 12,034 | 21,515 | 27,761 | -- | -- |
| 1971 | 14,829 | 20,097 | 29,546 | -- | -- |
| 1972 | 15,593 | 20,565 | 31,047 | -- | -- |
| 1973 | 15,724 | 20,835 | 32,403 | -- | 5,190 |
| 1974 | 18,224 | 24,094 | 34,676 | -- | 5,626 |
| 1975 | 22,427 | 26,170 | 36,768 | -- | 6,530 |
| 1976 | 23,772 | 26,584 | 37,392 | -- | 7,044 |
| 1977 | 27,762 | 25,481 | 42,204 | 8,288 | 6,218 |
| 1978 | 29,354 | 27,950 | 44,025 | 8,697 | 5,864 |
| 1979 | 31,896 | 29,247 | 46,094 | 9,103 | 5,777 |
| 1980 | 36,378 | 31,509 | 47,223 | 11,161 | 6,707 |
| 1981 | 40,729 | 30,886 | 49,366 | 12,562 | 7,403 |
| 1982 | 42,383 | 31,015 | 51,981 | 12,821 | 7,371 |

VIRGINIA

Sources: The filing data was obtained by counting cases from the court's records. The data concerning dispositions, pending cases, and reversals, are from the annual reports.

Special Features of the Statistics

Virtually all appeals in Virginia are discretionary, but they are counted as appeals here. The petitions for review in Virginia are briefed and argued in a manner similar to regular appeals, although the decisions are not accompanied by written opinions.

In calculating reversal rate, petitions denied are counted as affirmances. The dispositions statistics for cases granted full review are for affirmances and reversals only; the latter includes cases remanded or reversed in part.

The dispositions and pending data include original jurisdiction writs, about 15 percent of the filings, but these cases are processed in a manner similar to most criminal cases.

Estimations

The number of civil and criminal appeals in 1973 is estimated by using incomplete information in the docket books. The docket books began in mid-1973, and of the 1,248 filings (appeals and original jurisdiction writs) in that year, 959, or 76.8 percent, were in the docket books. The figures used here for criminal and civil appeals in 1973 are the number of such appeals in the docket books, divided by .768.

The number of cases disposed includes discretionary writs denied, appeals decided on the merits, and writs and appeals withdrawn or dismissed. The number of pending cases is the number of pending writs, the number of appeals awaiting oral argument, and the number of cases in the post argument stage. The latter figure is not given for most years and is estimated by taking 15 percent of the number of cases decided the previous year; this amounts to about 25 cases a year. The number of pending petitions in 1972 and 1973 is estimated by adding the difference between disposed and filed petitions.

The rules were changed effective August 1, 1977, to require that petitions be filed within 90 days of the trial judgment, instead of 120 days. Before and after the change, the petitions generally arrived a few days before the deadlines. Hence there was an additional 30 days worth of civil filings in 1977. In criminal cases, the attorneys could request, and were routinely granted, a further 30 day extension. Court statistics show that these extensions were granted in 30 to 40 percent of the cases in 1978-82. Some extensions are for less than the 30 days, and it is estimated that the rules change led to an additional 20 days worth

VIRGINIA

of appeals. Consequently, the number of civil and criminal cases filed (644 and 991) are multiplied by .924 and .948 respectively, for a total reduction of 49 and 51 appeals.

Special Problems

At the trial court level, a new case counting system was initiated in 1977. This did not change the definitions of the data categories used here, but the counting became more consistent from court to court.

In April 1977, the jurisdictional amount required for appeal to the Supreme Court from the Circuit Court was raised from \$300 to \$500.

A trial court unification in March 1973 is not included in the analysis because it occurred at the beginning of the period under study and because it did not affect the appeal route.

Criminal trial data is based on the number of charges and, therefore, is not used in the analysis.

WASHINGTON

APPEALS FILED

| <u>Year</u> | <u>Criminal</u> | | <u>Civil</u> | |
|-------------|---------------------------|----------------------|---------------------------|----------------------|
| | <u>Intermediate Court</u> | <u>Supreme Court</u> | <u>Intermediate Court</u> | <u>Supreme Court</u> |
| 1967 | 0 | 226 | 0 | 342 |
| 1968 | 0 | 201 | 0 | 368 |
| 1969 | 80 | 248 | 57 | 295 |
| 1970 | 336 | 28 | 416 | 84 |
| 1971 | 258 | 15 | 502 | 43 |
| 1972 | 236 | 36 | 764 | 122 |
| 1973 | 344 | 22 | 729 | 106 |
| 1974 | 401 | 16 | 866 | 84 |
| 1975 | 477 | 14 | 928 | 80 |
| 1976 | 490 | 17 | 982 | 80 |
| 1977 | 629 | 41 | 1,033 | 100 |
| 1978 | 675 | 35 | 1,061 | 99 |
| 1979 | 702 | 37 | 1,175 | 117 |
| 1980 | 835 | 28 | 1,329 | 89 |
| 1981 | 923 | 25 | 1,323 | 81 |
| 1982 | 907 | 29 | 1,444 | 89 |

TIME TO DECISION
INTERMEDIATE COURT

| <u>Year</u> | <u>All Cases</u> |
|-------------|------------------|
| 1976 | 15.0 |
| 1977 | 16.0 |
| 1978 | 15.0 |
| 1979 | 14.0 |
| 1980 | --- |
| 1981 | --- |
| 1982 | --- |

WASHINGTON
PENDING AND DISPOSED CASES
INTERMEDIATE COURT

| Year | Criminal | | Civil | | All Cases | |
|------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1969 | 16 | 104 | 72 | 312 | 88 | 416 |
| 1970 | 215 | 302 | 357 | 423 | 572 | 725 |
| 1971 | 320 | 228 | 442 | 431 | 762 | 659 |
| 1972 | 265 | 283 | 545 | 627 | 810 | 910 |
| 1973 | 288 | 308 | 651 | 672 | 939 | 980 |
| 1974 | 317 | 380 | 656 | 871 | 973 | 1,251 |
| 1975 | --- | --- | --- | --- | 1,007 | 1,630 |
| 1976 | --- | --- | --- | --- | 1,227 | 1,620 |
| 1977 | --- | 725 | --- | 1,107 | 1,272 | 1,832 |
| 1978 | 589 | 827 | 1,066 | 1,079 | 1,655 | 1,906 |
| 1979 | 773 | 786 | 1,113 | 1,136 | 1,886 | 1,922 |
| 1980 | 590 | 1,010 | 1,093 | 1,394 | 1,683 | 2,404 |
| 1981 | 726 | 1,234 | 1,232 | 1,529 | 1,958 | 2,763 |
| 1982 | 941 | 1,136 | 1,249 | 1,714 | 2,190 | 2,850 |

TIME TO DECISION
SUPREME COURT

| Year | All Cases |
|------|-----------|
| 1976 | 12.0 |
| 1977 | 18.0 |
| 1978 | 19.0 |
| 1979 | 17.0 |
| 1980 | --- |
| 1981 | --- |
| 1982 | --- |

WASHINGTON
PENDING AND DISPOSED CASES
SUPREME COURT

| Year | Criminal | | Civil | | All Cases | |
|------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1967 | 205 | 205 | 356 | 405 | 561 | 610 |
| 1968 | 186 | 216 | 293 | 519 | 479 | 735 |
| 1969 | 223 | 161 | 250 | 212 | 473 | 373 |
| 1970 | 83 | 36 | 135 | 92 | 218 | 128 |
| 1971 | 41 | 21 | 94 | 113 | 135 | 134 |
| 1972 | 18 | 47 | 116 | 99 | 134 | 146 |
| 1973 | 33 | 38 | 117 | 114 | 150 | 152 |
| 1974 | 17 | 17 | 86 | 104 | 103 | 121 |
| 1975 | --- | --- | --- | --- | 118 | 134 |
| 1976 | --- | --- | --- | --- | 125 | 150 |
| 1977 | --- | 39 | --- | 76 | 173 | 215 |
| 1978 | 36 | 45 | 153 | 106 | 199 | 151 |
| 1979 | 29 | 42 | 109 | 135 | 138 | 177 |
| 1980 | 19 | 49 | 94 | 83 | 113 | 132 |
| 1981 | 23 | 34 | 62 | 109 | 95 | 143 |
| 1982 | 22 | 34 | 89 | 124 | 111 | 158 |

TRIAL COURT CASELOADS

| Year | Filings | | | Trials | |
|------|----------|-----------------------|---|----------|-------|
| | Criminal | Domestic Relations | Civil (including Domestic Relations) | Criminal | Civil |
| 1967 | 5,502 | --- | 50,799 | 985 | 5,926 |
| 1968 | 6,277 | --- | 52,684 | 946 | 6,021 |
| 1969 | 7,598 | --- | 57,423 | 1,350 | 6,583 |
| 1970 | 8,726 | --- | 60,569 | 1,665 | 7,645 |
| 1971 | 10,233 | --- | 64,029 | 1,761 | 7,878 |
| 1972 | 11,177 | --- | 64,306 | 2,166 | 7,865 |
| 1973 | 11,715 | --- | 65,434 | 2,228 | 8,077 |
| 1974 | 13,438 | --- | 70,909 | 2,089 | 7,679 |
| 1975 | 14,048 | 37,643 | 72,520 | 2,296 | 7,433 |
| 1976 | 14,053 | 38,608 | 75,317 | 2,569 | 7,662 |
| 1977 | 14,141 | 39,974 | 80,026 | 2,763 | 7,957 |
| 1978 | 14,278 | 41,659 | 83,927 | 2,615 | 8,446 |
| 1979 | 15,224 | 42,529 | 90,869 | 2,790 | 7,384 |
| 1980 | 17,930 | 44,938 | 94,201 | 2,065 | 6,658 |
| 1981 | 16,713 | 45,317 | 90,817 | 2,315 | 7,393 |
| 1982 | 16,996 | 42,794 | 86,187 | 2,019 | 6,688 |

WASHINGTON

Source: Court annual reports.

Special Features of the Statistics

(See the special problems section.)

Estimations

The apportionment of civil and criminal filings between the Supreme Court and Court of Appeals after 1978 is estimated by using statistics concerning the total number of criminal appeals, the total number of civil appeals, and the number of direct appeals to each court. During 1976 to 1978 criminal appeals averaged 24 percent of the direct appeals to the supreme court; the number of direct appeals in later years was multiplied by this figure to estimate the number of criminal appeals (and hence civil appeals) filed directly in the Supreme Court. Criminal and civil filings in the Court of Appeals were estimated by subtracting the numbers filed in the Supreme Court from the total number of civil or criminal appeals.

Special Problems

A new rule effective July 1, 1978, provided for accelerated appeals from juvenile sentences that were beyond the standard range of the offense. There were quite a few such appeals, which are counted as criminal appeals, soon after the new law, but then became infrequent.

A new law effective January 1, 1981, changed the appeals from Superior Court reviews of limited jurisdiction court decision. Formerly, all such cases were appealable by right to the Court of Appeals; the new law made such appeals discretionary if the Superior Court decision was based on the record (tape recording), rather than being a de novo review.

The trial court statistics include appeals from limited jurisdiction courts. The number of appeals decreased as a result of the 1971 change allowing appeals on the record, rather than de novo, when the proceedings below are tape recorded. The number of criminal appeals in the Superior Court decreased from 3,187 to 1,271 between 1980 and 1981, and the number of civil appeals from 1,154 to 733.

WYOMING

APPEALS FILED
SUPREME COURT

| Year | Criminal | Civil |
|------|----------|-------|
| 1967 | 9 | 67 |
| 1968 | 11 | 71 |
| 1969 | 9 | 60 |
| 1970 | 19 | 94 |
| 1971 | 25 | 79 |
| 1972 | 12 | 68 |
| 1973 | 27 | 88 |
| 1974 | 30 | 95 |
| 1975 | 26 | 94 |
| 1976 | 47 | 81 |
| 1977 | 39 | 96 |
| 1978 | 40 | 107 |
| 1979 | 37 | 131 |
| 1980 | 48 | 135 |
| 1981 | 46 | 140 |
| 1982 | 48 | 150 |

REVERSAL RATES
SUPREME COURT

| Year | Criminal | | | Civil | | | All Cases | | |
|------|----------|---------|-------|--------|---------|-------|-----------|---------|-------|
| | Affirm | Reverse | Other | Affirm | Reverse | Other | Affirm | Reverse | Other |
| 1970 | --- | --- | --- | --- | --- | --- | 36 | 22 | 3 |
| 1971 | --- | --- | --- | --- | --- | --- | 77 | 20 | 0 |
| 1972 | --- | --- | --- | --- | --- | --- | 64 | 35 | 0 |
| 1973 | --- | --- | --- | --- | --- | --- | 51 | 21 | 0 |
| 1974 | --- | --- | --- | --- | --- | --- | 42 | 22 | 10 |
| 1975 | --- | --- | --- | --- | --- | --- | 44 | 12 | 2 |
| 1976 | --- | --- | --- | --- | --- | --- | 49 | 18 | 10 |
| 1977 | --- | --- | --- | --- | --- | --- | 67 | 19 | 8 |
| 1978 | --- | --- | --- | --- | --- | --- | 54 | 22 | 25 |
| 1979 | --- | --- | --- | --- | --- | --- | 107 | 43 | 10 |
| 1980 | 22 | 3 | 0 | 49 | 24 | 9 | 71 | 27 | 9 |
| 1981 | 34 | 2 | 1 | 78 | 23 | 2 | 112 | 25 | 3 |
| 1982 | 41 | 3 | 0 | 51 | 30 | 10 | 92 | 33 | 10 |

WYOMING

TIME TO DECISION
SUPREME COURT

| Year | All Cases |
|------|-----------|
| 1975 | 10.0 |
| 1976 | 9.9 |
| 1977 | 15.0 |
| 1978 | 9.7 |
| 1979 | --- |
| 1980 | --- |
| 1981 | --- |
| 1982 | --- |

PENDING AND DISPOSED CASES
SUPREME COURT

| Year | Criminal | | Civil | | All Cases | |
|------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end | Dispo- sitions | Pending at end |
| 1969 | --- | --- | --- | --- | 101 | 55 |
| 1970 | --- | --- | --- | --- | 80 | 86 |
| 1971 | --- | --- | --- | --- | 114 | 77 |
| 1972 | --- | --- | --- | --- | 116 | 41 |
| 1973 | --- | --- | --- | --- | 93 | 67 |
| 1974 | --- | --- | --- | --- | 95 | 97 |
| 1975 | --- | --- | --- | --- | 99 | 117 |
| 1976 | --- | --- | --- | --- | 129 | 127 |
| 1977 | --- | --- | --- | --- | 160 | 112 |
| 1978 | --- | --- | --- | --- | 139 | 122 |
| 1979 | --- | --- | --- | --- | 211 | 77 |
| 1980 | 36 | 25 | 124 | 73 | 160 | 101 |
| 1981 | 42 | 29 | 157 | 49 | 199 | 88 |
| 1982 | 57 | 20 | 128 | 71 | 185 | 95 |

TRIAL COURT CASELOADS

| Year | Filings | | Trials | |
|------|----------|---|----------|-------|
| | Criminal | Civil (including Domestic Relations) | Criminal | Civil |
| 1971 | 841 | 6,678 | 215 | 593 |
| 1972 | 889 | 6,900 | 146 | 1,791 |
| 1973 | 1,148 | 7,575 | 201 | 1,392 |
| 1974 | 1,220 | 7,206 | 206 | 1,204 |
| 1975 | 1,629 | 7,987 | 336 | 1,692 |
| 1976 | 1,329 | 7,981 | 352 | 1,808 |
| 1977 | 1,284 | 9,044 | 316 | 2,372 |
| 1978 | 1,404 | 9,393 | 312 | 2,402 |
| 1979 | 1,613 | 10,069 | 324 | 2,780 |
| 1980 | 1,732 | 10,902 | 322 | 3,410 |
| 1981 | 1,772 | 11,513 | 273 | 3,802 |
| 1982 | 2,044 | 12,028 | 211 | 3,242 |

WYOMING

Sources: Statistics supplied by the court for 1970-82; the Wyoming Criminal Justice System Data Book (1972) for earlier years.

Special features of the Statistics

Criminal appeals include bills of exceptions (about one per year); civil appeals include reserved questions and injunctions (about three a year).

Total pending cases include original jurisdictions (about 10 percent of the caseload, but less than five percent of the pending cases for 1980-83, years for which data is available).

Estimations

The numbers of pending cases for 1969-1970 and 1973-1974 are not available, and were calculated by using the number of filings and dispositions for the years available.

Problems

Statistics for Wyoming were available from three different unpublished sources for several years. Although the filing statistics were consistent, the pending and disposed statistics varied but almost always by no more than 10 percent.

The reversal rate statistics for 1971-73 contain only affirmances and reversals; it appears that the "other" category was included in one or both of the affirmed and reversed categories.

APPENDIX A

Document 3740Q

Court Clerk
Interview Questionnaire
(draft 3/22/83)

INTERVIEWER _____ STATE _____
DATE OF INTERVIEW _____ COURT _____
INTERVIEWED _____ TITLE AND HOW LONG AT THE COURT _____

Contact the appellate court clerk and state the purpose of the project and the interview. Ask whether you should talk with him or with someone else at the office. Say the interview will take about 15 minutes. If the interview is with him ask whether it is best to set up a time later or to talk now.

Before interview starts, tell him/her that we are looking at appellate caseload trends during the past 12 years and are interested in things that affect the caseload statistics. Ask how long he/she has been at the court.

- 1) Ask him/her about suspicious looking data, if any (write down the problems before the interview, and write answers here).

- 2) Ask about any missing data elements (write down the gaps and write answers).

- 3) In general, can you think of anything during the past 12 years that might have affected the statistics in the Annual Reports or that might make the statistics misleading, e.g., change in definition of when a case is filed?

- 4) WHEN CASE IS COUNTED. When is a case counted as having been filed? For example, when the Notice of Appeal is filed, or when the record is filed? (Note - write down any information given in the cover sheet, and ask "It seems from the annual reports that appeals are counted when _____; is that true?")

Are there any exceptions?

- 5) COMPOSITION OF FILINGS. (Write in any information in the cover sheet and ask "is it true that...?")

- a) Are CONSOLIDATED APPEALS counted as separate filings?

Yes _____ No _____

- b) Are CROSS APPEALS counted as separate filings?

Yes _____ No _____

If yes, very roughly what percent of the cases have cross appeals? _____ percent.

- c) Are JUVENILE DELINQUENCY APPEALS counted as criminal or civil cases?

Criminal _____ Civil _____

d) Are there any appeals from trial court rulings in POST-CONVICTION WRITS?
Yes _____ No _____

(if applicable) Are these counted as criminal or civil cases?
Criminal _____ Civil _____

e) Are there any SENTENCE APPEALS to the appellate courts? I am talking here of appeals where the sentence is the only issue.
Yes _____ No _____

(if applicable) Are these counted as filings in the same manner as regular criminal appeals?
Yes _____ No _____

Are sentence appeals counted separately from regular appeals in the same case (that is, where there is an appeal on the merits, is it counted as a different case than the appeal of the sentence)?
Yes _____ No _____

(if applicable) Have there been any changes in the right to sentence appeal in the past 12 years?
Yes _____ No _____

If yes, explain.

f) Are REINSTATED or reopened appeals counted as new appeals and added to the number of cases filed?
Yes _____ No _____

g) (For supreme courts above intermediate courts only) Are PETITIONS FOR REVIEW of intermediate court decisions counted as if they were filings of appeals from trial courts?
Yes _____ No _____

Are they counted if the petition is granted?
Yes _____ No _____

h) (In states with intermediate courts) Are there any APPEALS TRANSFERRED from the intermediate court to the supreme court before decision or vice versa?
Yes _____ No _____

Are these transfers counted again as filings in the court transferred to?
Yes _____ No _____

6. CHANGES. Have there been any changes in any of these areas in the past 12 years? (List the areas for the respondent).
Yes _____ No _____

If yes, explain.

Have there been any other changes in the way appeals are counted?
Yes _____ No _____

If yes, explain.

7. FILINGS - WHAT ARE INCLUDED?

a) Are DISCRETIONARY APPEALS from trial courts or administrative agencies counted as filings - for example, discretionary interlocutory appeals?

Yes _____ No _____

If yes, ask if all are counted as filings, or are counted if granted.

b) Are CIVIL ORIGINAL WRITS counted as filings like appeals?

Yes _____ No _____

(If yes) Can you give a rough estimate of the number filed each year. _____

c) Are there any POST-CONVICTION WRITS filed directly in the appellate courts (as opposed to being appealed from the trial court)?

Yes _____ No _____

(If yes) Can you give a rough estimate of the number filed each year. _____

d) Does the court receive any "ANDERS PETITIONS" (motions by defense attorneys in criminal cases asking to withdraw because the case contains no arguable issue)?

Yes _____ No _____

(If yes) Roughly, how many of these are granted each year? _____

Are cases with Anders petitions granted included in the statistics for criminal case filings?

Yes _____ No _____

e) AGENCY APPEALS - Does the court receive appeals directly from administrative agencies, state or local?

Yes _____ No _____

(f) & (g) need not ask about.

h) LAWYER DISCIPLINE CASES - Are these counted as regular filings?

Yes _____ No _____

(If yes) Roughly how many are there a year. _____

8. OTHER DATA

a) Are most defendants in JAIL PENDING APPEAL?

Yes _____ No _____

Can you give a rough percentage estimate of the defendants in jail pending appeal?

_____ percent

b) Very roughly, what percent of the criminal appeals are APPEALS BY THE PROSECUTION?

_____ percent

c) Very roughly, what percent of the civil appeals have a SUPERSEDEAS order that stays monetary judgment pending appeal? _____ percent.

9) CHANGES AFFECTING CASELOAD

We are interested in finding out what changes have taken place in the last 12 years that might have affected the volume of appellate filings. We have done research in the statutes, rules, and other literature here, but there are a few things we still need information about.

(Here go over major gaps in the available literature.)

a) Have there been any major changes in the sentencing laws in the past dozen years - e.g. determinat sentencing or presumptive sentencing?

If yes, write down what the changes are and the approximate year made.

b) Have there been any comprehensive changes in the criminal code or rules of procedure, or in the civil rules of procedure?

If yes, explain.

c) Has the court adopted a settlement conference procedure for civil cases?

(If yes) When was it adopted? _____

Is it still used? _____

Roughly, what percent of the civil cases go through the conference procedures? _____

d) In the past dozen years, have there been any major changes in the procedures for briefing or record preparation - e.g., shortening time limits, or changes in duplication methods.

If yes, explain.

e) Have there been any changes in the time limits for filing the notice of appeal?

If yes, explain.

DOC #7047Q

PLOTS

PLOT Ia PER CAPITA CRIMINAL APPEALS BY STATE
(1970-82; 38 states)

PLOT Ib PER CAPITA CIVIL APPEALS BY STATE
(1970-82; 37 states)

PLOT Ic PER CAPITA CRIMINAL APPEALS BY YEAR
(1970-82; 36 states, D.C. and Alaska excluded)

PLOT Id PER CAPITA CIVIL APPEALS BY YEAR
(1970-82; 36 states, D.C. excluded)

PLOT IVa PER CAPITA CRIMINAL APPEALS vs. BACKLOG RATIO
(1970-82; 27 states, D.C. and Alaska excluded)

PLOT IVb PER CAPITA CIVIL APPEALS vs. BACKLOG RATIO
(1970-82; 26 states, D.C. excluded)

PLOT Va CRIMINAL INTERMEDIATE COURT PERCENTAGE BY STATE
(1970-82; 36 states, D.C. and Alaska excluded)

PLOT Vb CIVIL INTERMEDIATE COURT PERCENTAGE BY STATE
(1970-82; 36 states, D.C. excluded)

PLOT Vc PER CAPITA CRIMINAL APPEALS vs. INTERMEDIATE COURT
PERCENTAGE
(1970-82; 36 states, D.C. and Alaska excluded)

PLOT Vd PER CAPITA CIVIL APPEALS vs. INTERMEDIATE COURT PERCENTAGE
(1970-82; 36 states, D.C. excluded)

PLOT VIa PER CAPITA CRIMINAL TRIAL FILINGS BY STATE
(1970-82; 30 states, D.C. and Alaska excluded)

PLOT Vlb PER CAPITA CIVIL TRIAL FILINGS BY STATE
(1970-82; 32 states, D.C. excluded)

PLOT VIc CRIMINAL APPEALS vs. CRIMINAL TRIAL COURT FILINGS
(1970-82; per capita variables; 30 states, D.C. and Alaska
excluded; trial court filings for the prior year)

PLOT VId CIVIL APPEALS vs. CIVIL TRIAL COURT FILINGS
(1970-82; per capita variables; 32 states, D.C. excluded;
trial court filings for the prior year)

PLOT VIe CRIMINAL APPEALS vs. TRIALS
(1970-82; per capita variables; 15 states, D.C. excluded)

PLOT VIf CIVIL APPEALS vs. TRIALS
(1970-82; per capita variables; 17 states, D.C. and Alaska
excluded)

PLOT VIIa CRIMINAL APPEALS vs. TRIAL JUDGES
(1970-82; per capita variables; 36 states, D.C. and Alaska
excluded)

PLOT VIIb CIVIL APPEALS vs. TRIAL JUDGES
(1970-82; per capita variables; 36 states, D.C. excluded)

PLOT VIIc CIVIL TRIAL FILINGS vs. TRIAL JUDGES
(1970-82; per capita variables; 33 states, D.C. excluded)

PLOT VIIId PER CAPITA CRIMINAL APPEALS vs. POPULATION
(1970-82; 38 states)

PLOT VIIIf PER CAPITA CIVIL APPEALS vs. POPULATION
(1970-82; 37 states)

PLOT VIIIf CRIMINAL APPEALS vs. REAL PERSONAL INCOME
(1970-82; per capita variables; 36 states, D.C. and Alaska
excluded)

PLOT VIIIf CIVIL APPEALS vs. REAL PERSONAL INCOME
(1970-82; per capita variables; 36 states, D.C. excluded)

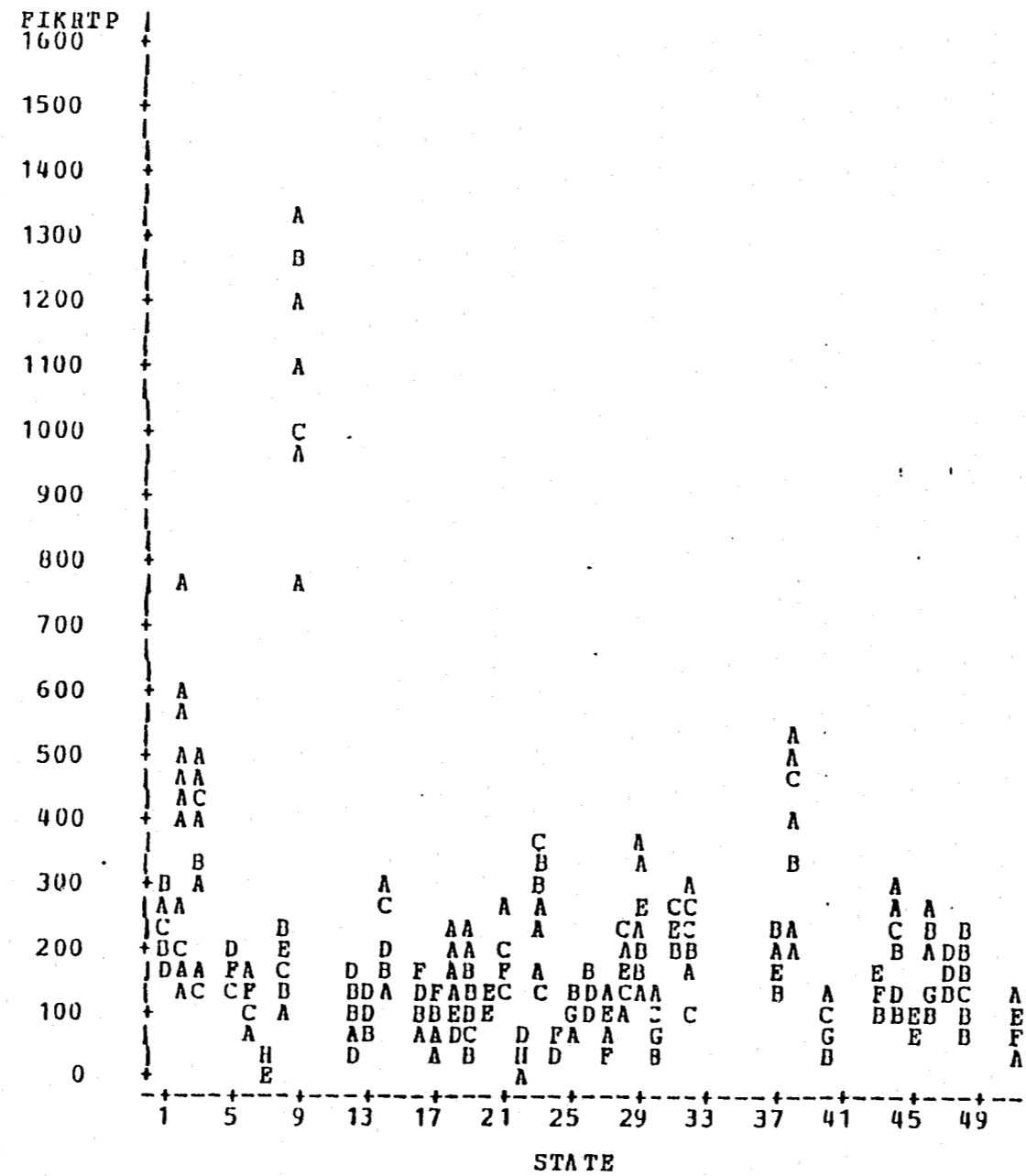
PLOT VIIIf CRIMINAL APPEALS vs. FBI CRIME INDEX I
(1970-82; per capita variables; crime index is for the year
prior to appeals; 36 states, D.C. and Alaska excluded)

PLOT VIIIf CRIMINAL APPEALS vs. FBI CRIME INDEX II
(1970-82; per capita variables; crime index is for the year
prior to appeals; 38 states)

PLOT IXa CIVIL APPEALS vs. DOLLAR JURISDICTIONAL LIMIT
(1970-82; per capita civil appeals; jurisdictional limit is
two years prior to appeals; 36 states, D.C. excluded)

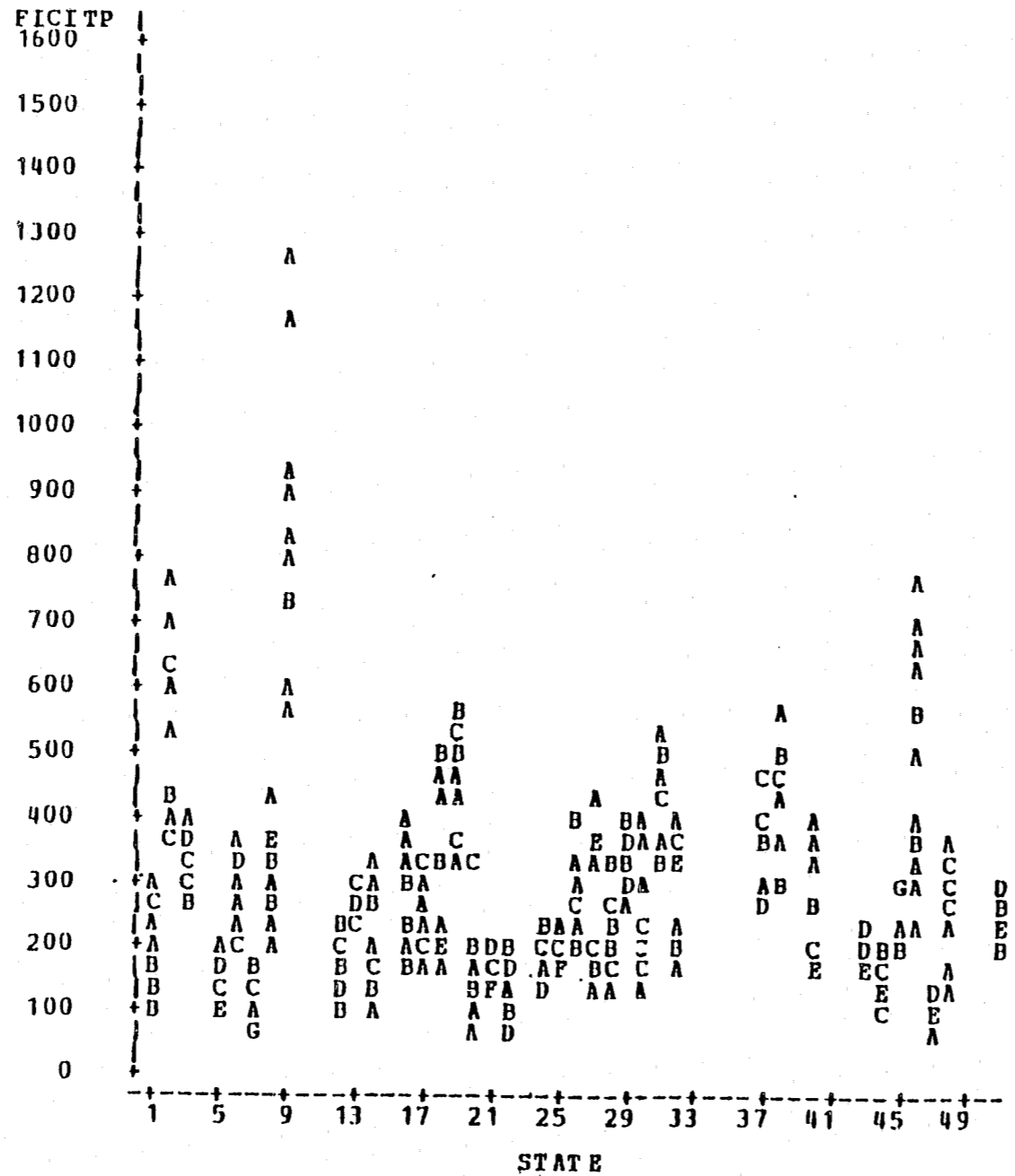
PLOT IXb CIVIL TRIAL FILINGS vs. DOLLAR JURISDICTIONAL LIMIT
(1970-82; per capita trial filings; 32 states, D.C.
excluded)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF FIKRTP*STATE LEGEND: A = 1 OBS, B = 2 OBS, ETC.



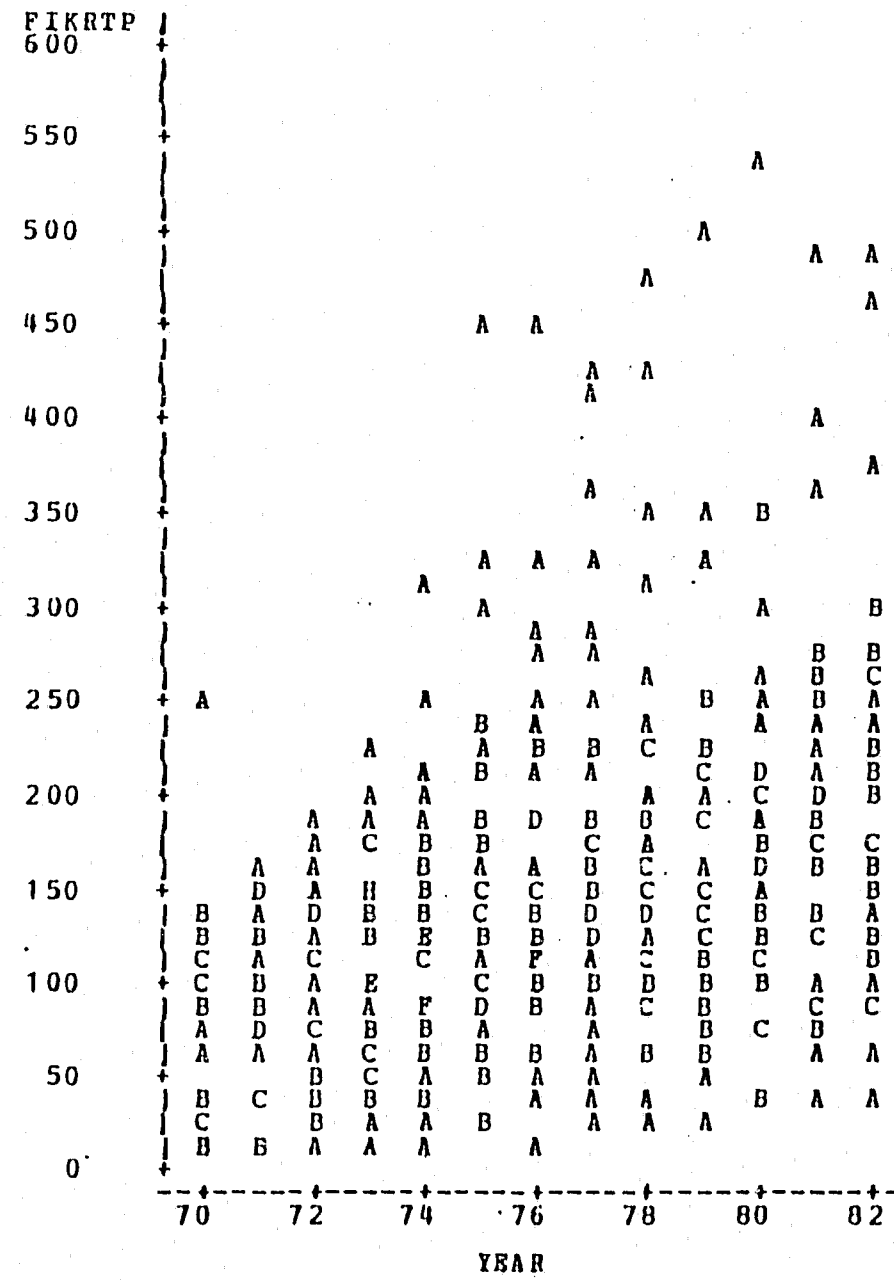
PLOT Ia PER CAPITA CRIMINAL APPEALS BY STATE
 (1970-82; 38 states)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF PICITP*STATE LEGEND: A = 1 OBS, B = 2 OBS, ETC.



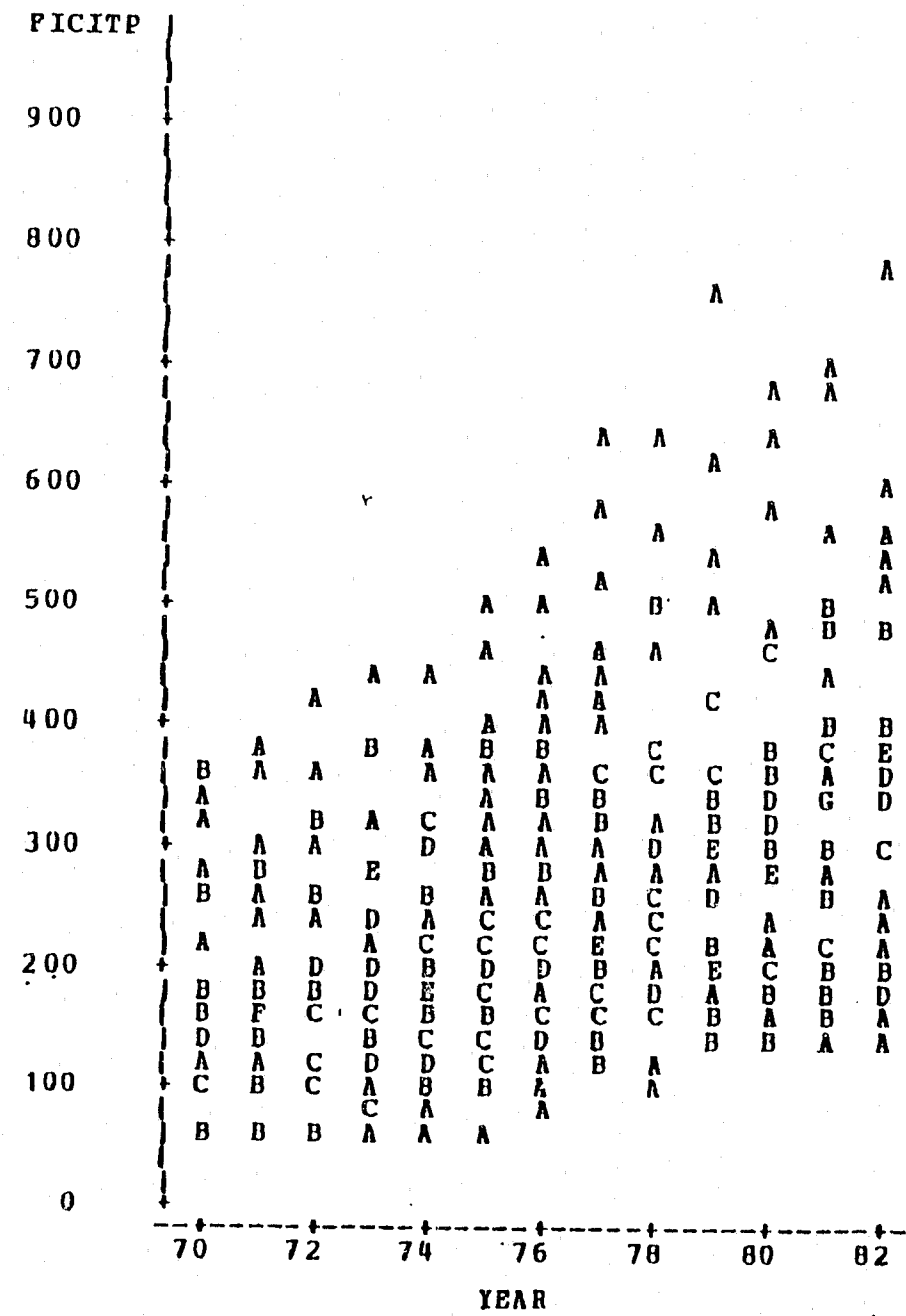
PLOT 1b PER CAPITA CIVIL APPEALS BY STATE
 (1970-82: 37 states)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF FIKRTP*YEAR LEGEND: A = 1 OBS, B = 2 OBS, ETC.

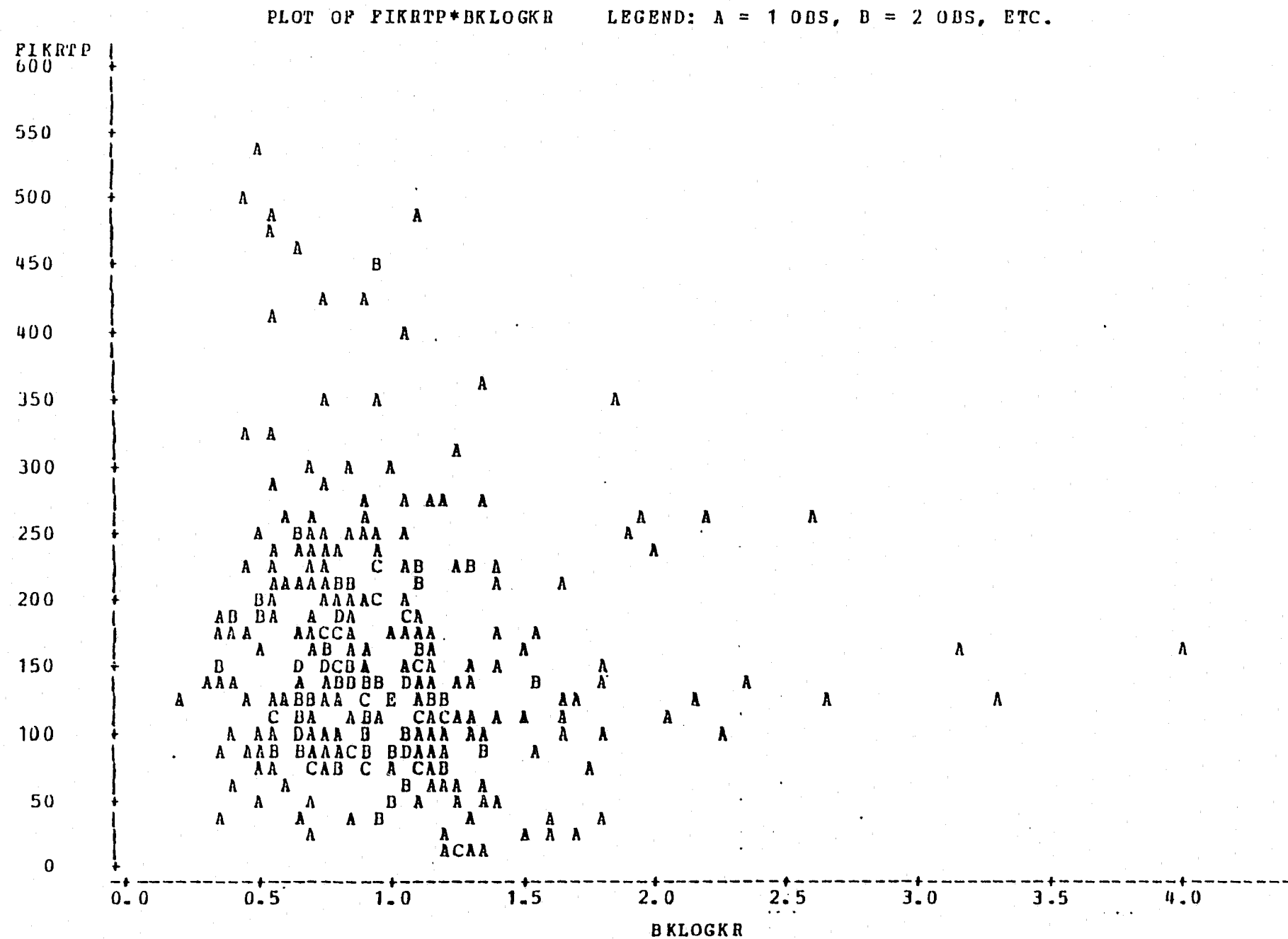


PLOT 1c PER CAPITA CRIMINAL APPEALS BY YEAR
 (1970-82; 36 states, D.C. and Alaska excluded)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF PICITP*YEAR LEGEND: A = 1 OBS, B = 2 OBS, ETC.

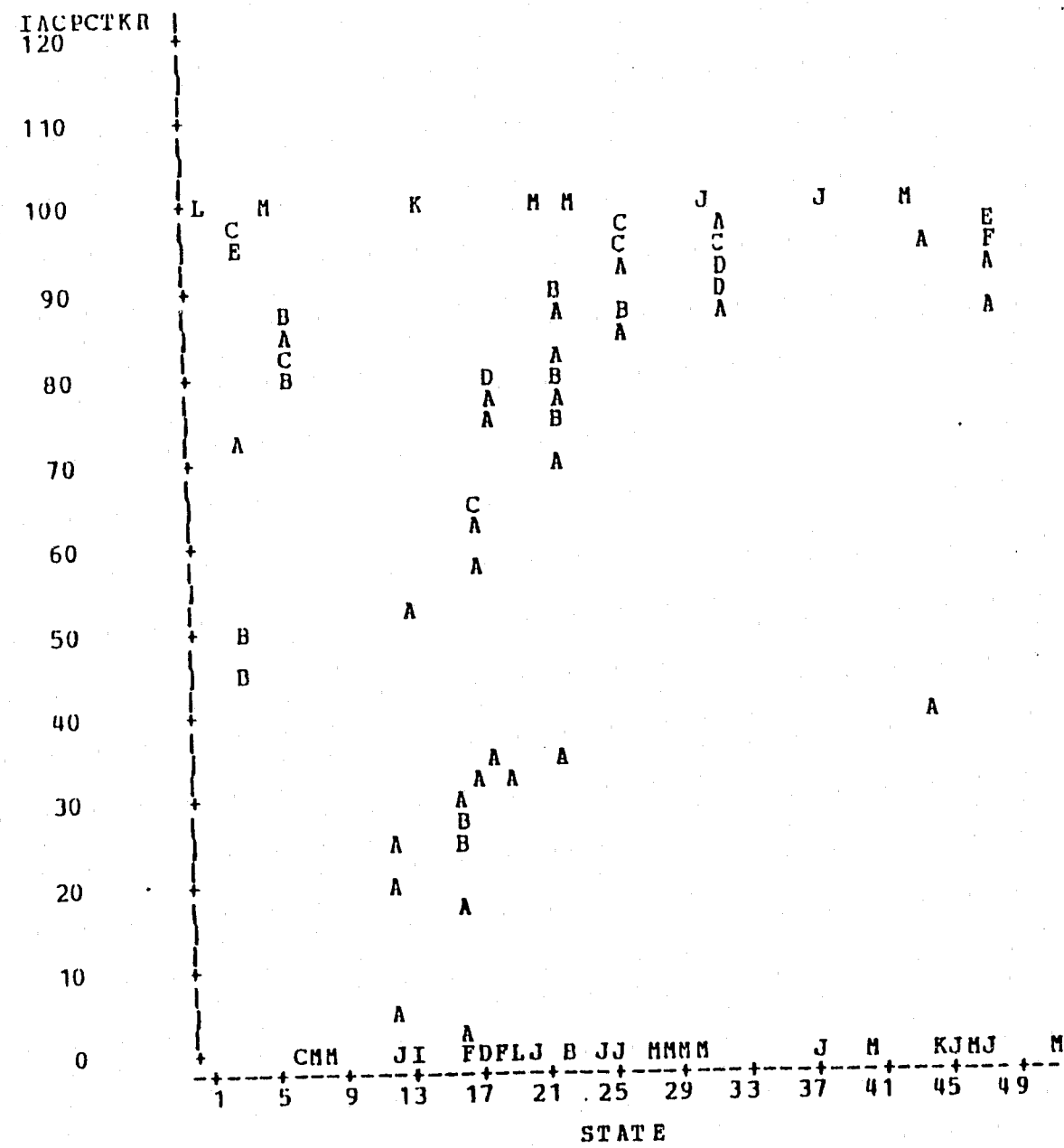


PLOT Id PER CAPITA CIVIL APPEALS BY YEAR
 (1970-82; 36 states, D.C. excluded)



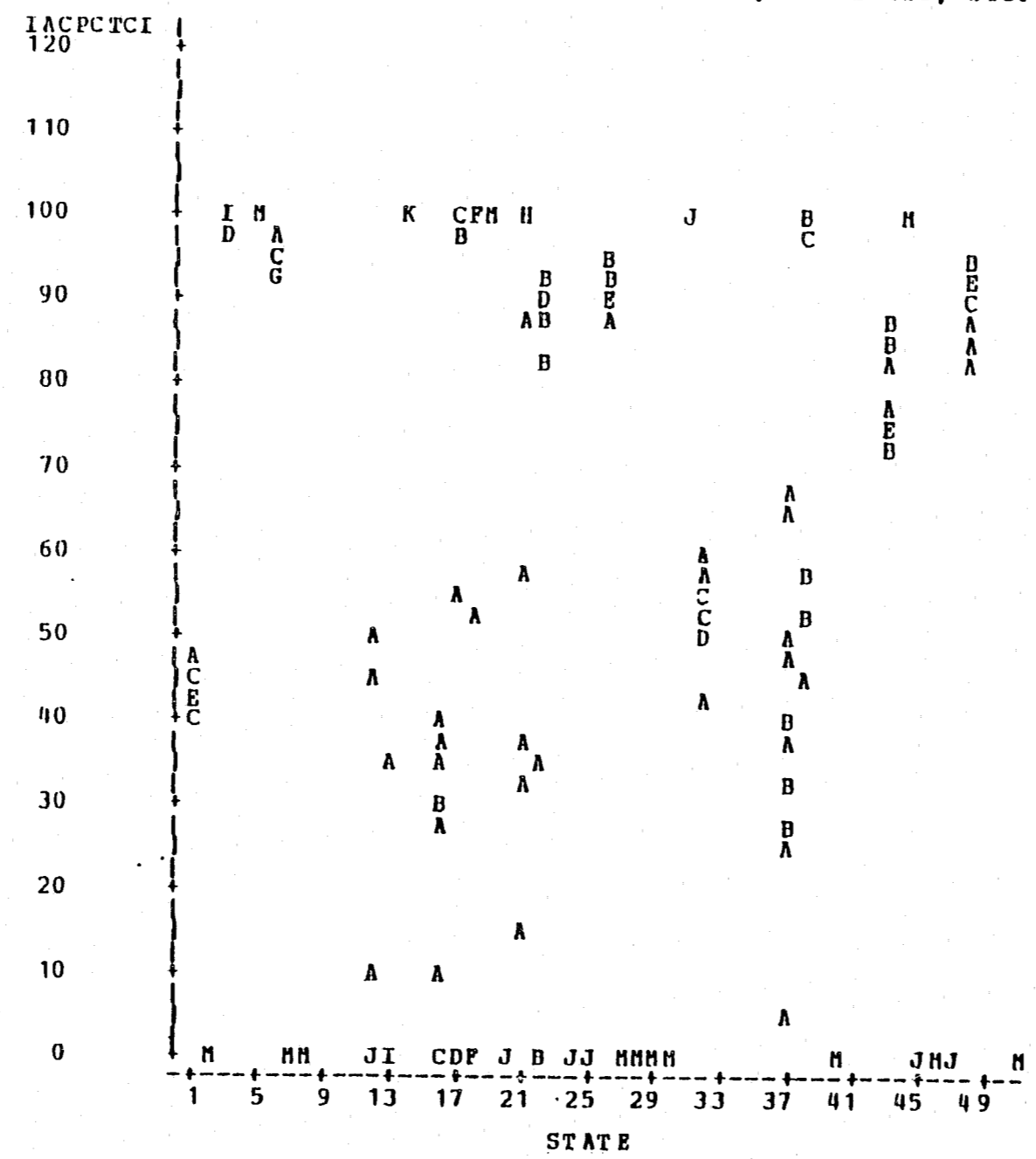
PLOT IVa PER CAPITA CRIMINAL APPEALS vs. BACKLOG RATIO
(1970-82; 27 states, D.C. and Alaska excluded)

STATISTICAL ANALYSIS SYSTEM 20:19
 PLOT OF IACPCTKR*STATE LEGEND: A = 1 OBS, B = 2 OBS, ETC.



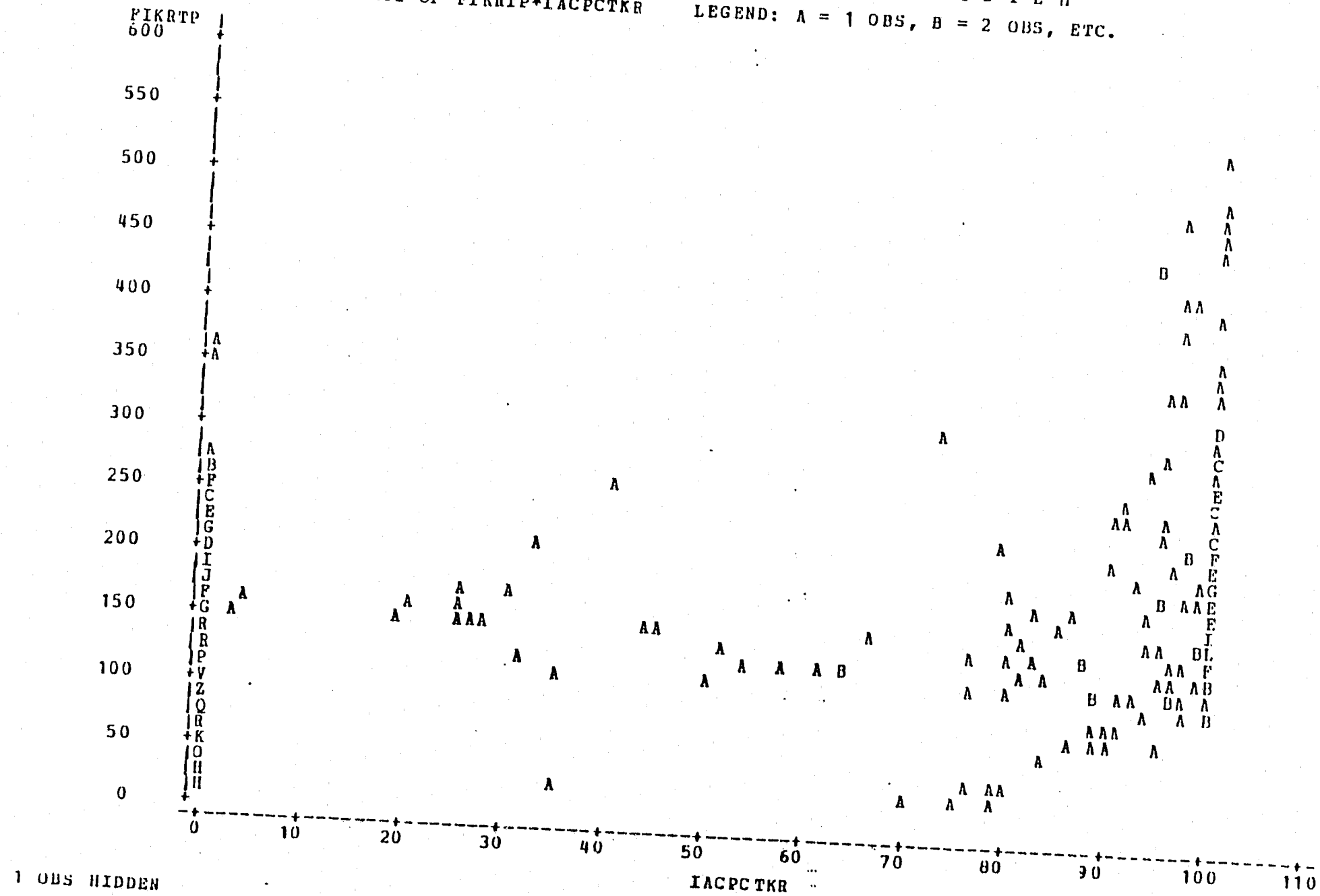
PLOT Va CRIMINAL INTERMEDIATE COURT PERCENTAGE BY STATE
 (1970-82; 36 states, D.C. and Alaska excluded)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF IACPCTCI*STATE LEGEND: A = 1 OBS, B = 2 OBS, ETC.



PLOT Vb CIVIL INTERMEDIATE COURT PERCENTAGE BY STATE
 (1970-82; 36 states, D.C. excluded)

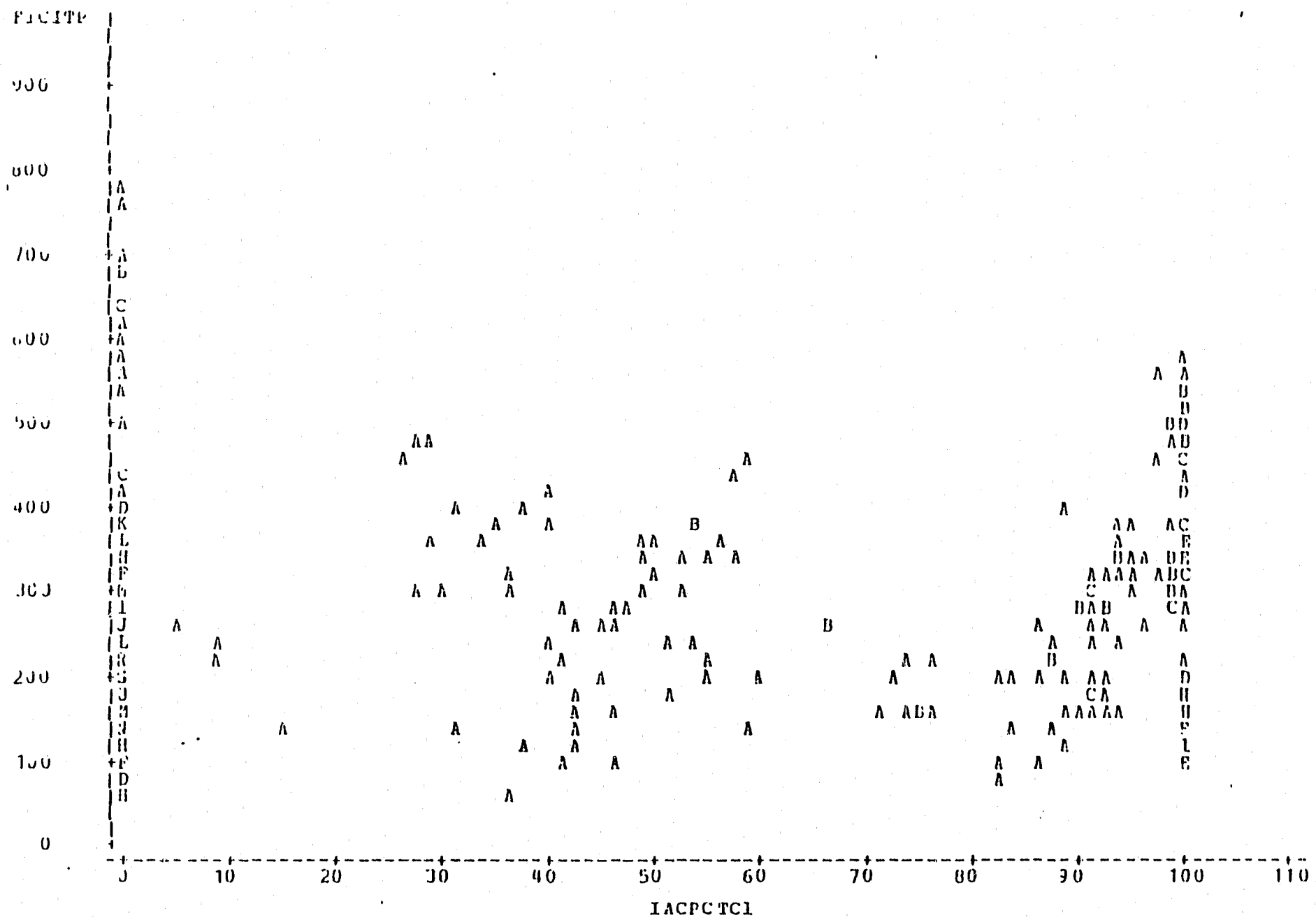
STATISTICAL ANALYSIS SYSTEM
 PLOT OF FIKRTP*IACPCTKR LEGEND: A = 1 OBS, B = 2 OBS, ETC.



1 OBS HIDDEN

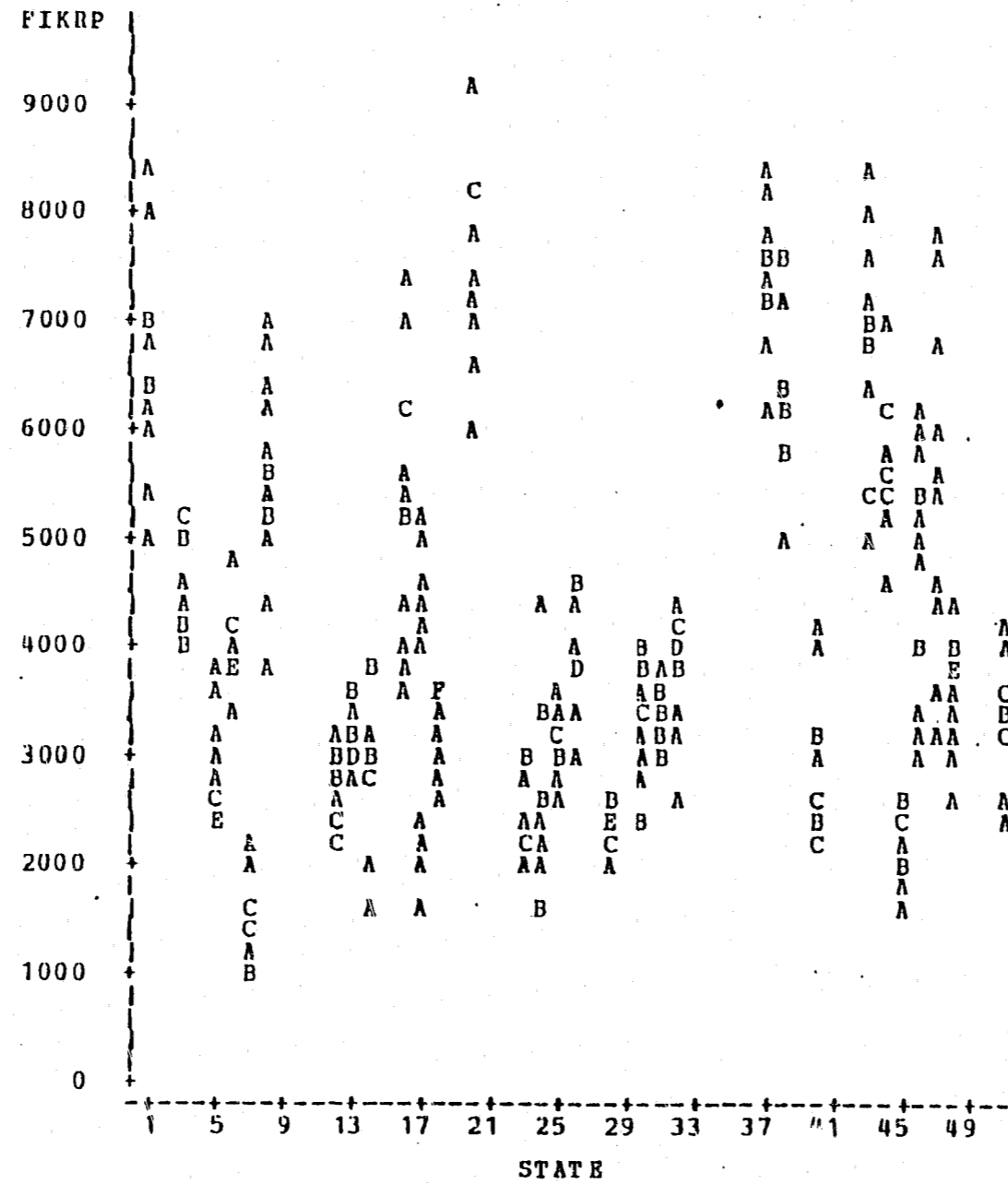
PLOT Vc
 PER CAPITA CRIMINAL APPEALS vs. INTERMEDIATE COURT
 PERCENTAGE
 (1970-82; 36 states, D.C. and Alaska excluded)

PLOT OF P1C1P+IACPC1C1 LEGEND: A - 1 OBS, B - 2 OBS, ETC.



PLOT Vd PER CAPITA CIVIL APPEALS vs, INTERMEDIATE COURT PERCENTAGE (1970-82; 36 states, D.C. excluded)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF FIKRP*STATE LEGEND: A = 1 OBS, B = 2 OBS, ETC.



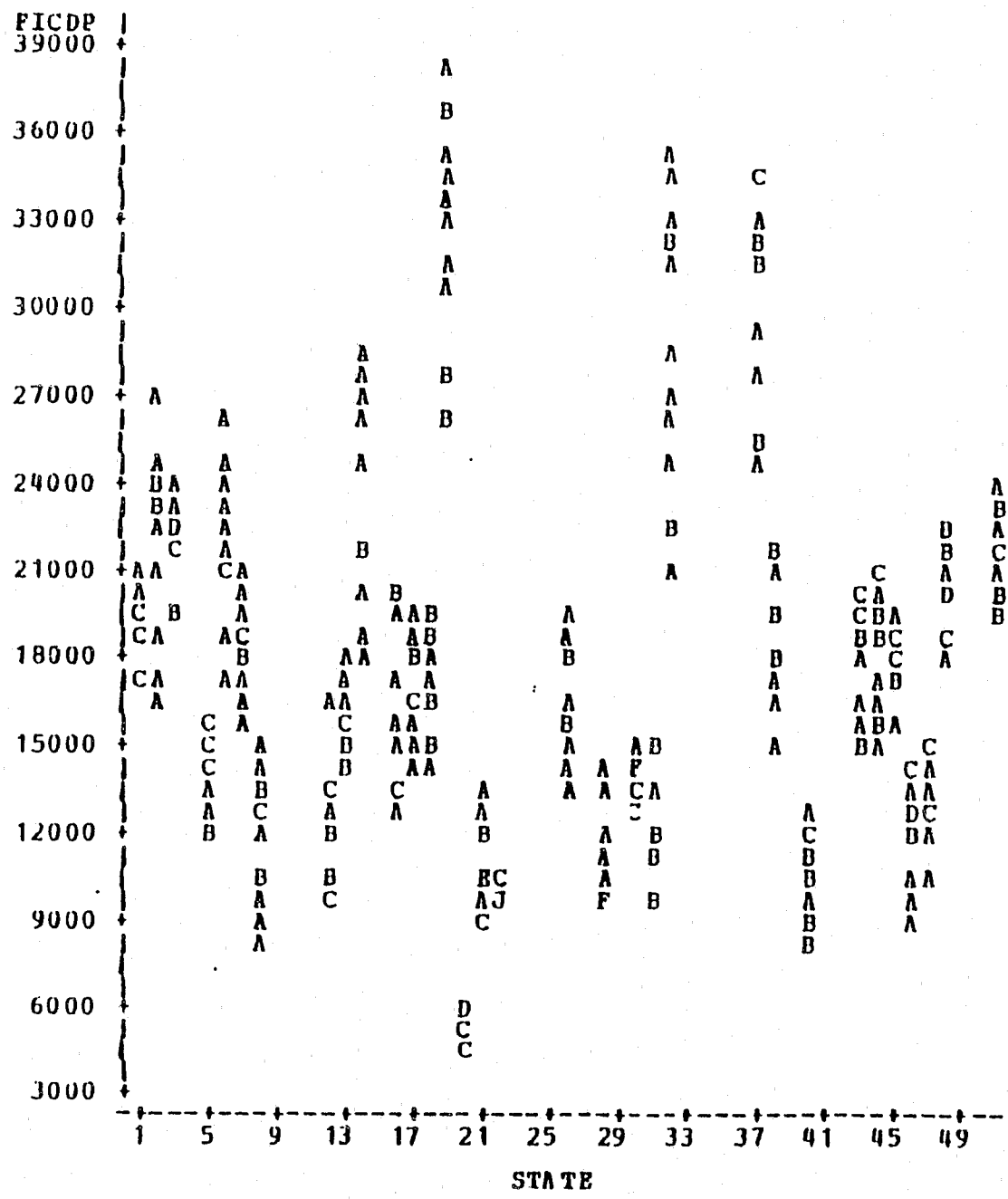
04 OBS HAD MISSING VALUES

PLOT VIa

PER CAPITA CRIMINAL TRIAL FILINGS BY STATE
 (1970-82; 30 states, D.C. and Alaska excluded)

STATISTICAL ANALYSIS SYSTEM

PLOT OF FICDP*STATE LEGEND: A = 1 OBS, B = 2 OBS, ETC.

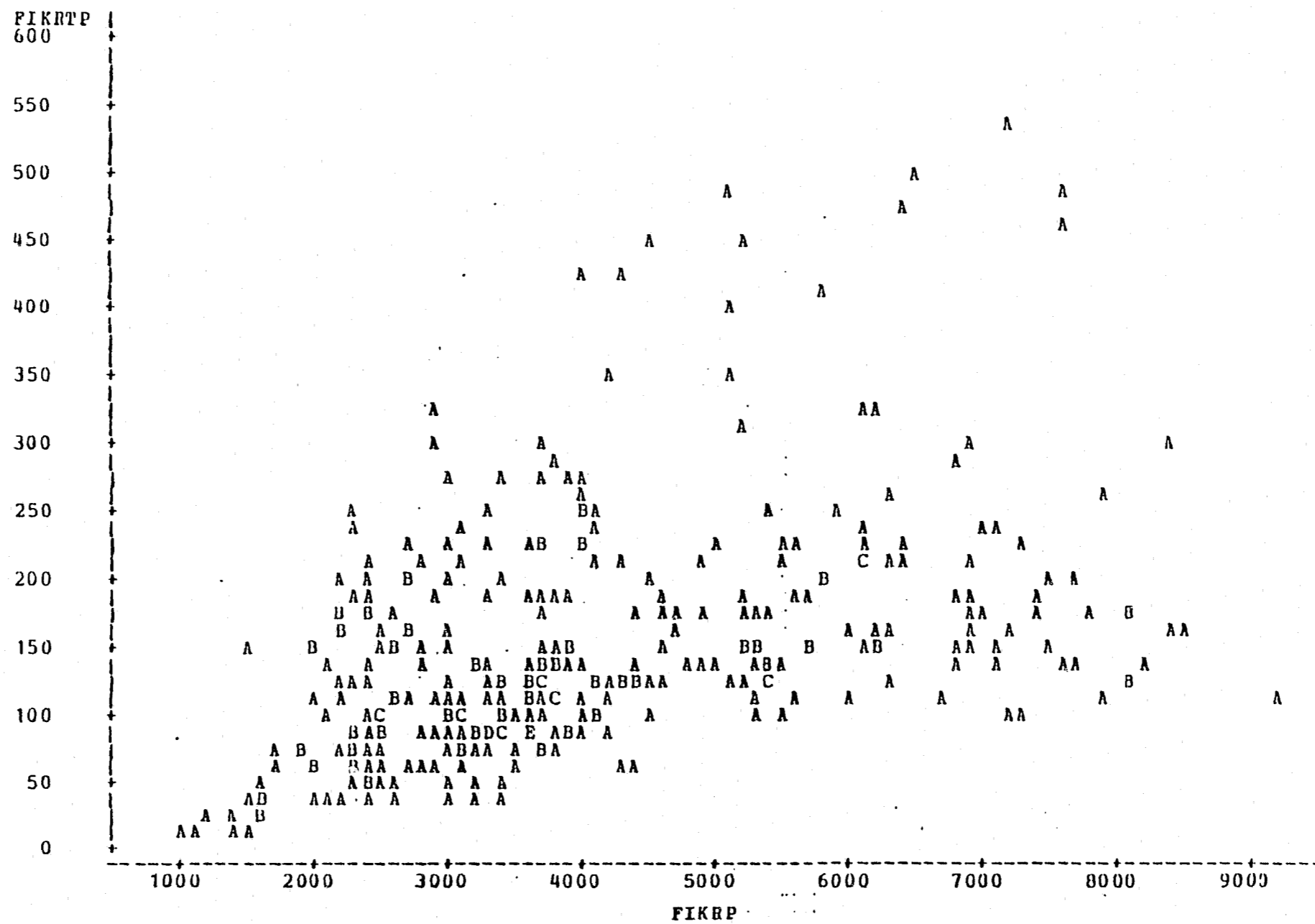


4 OBS HAD MISSING VALUES

PLOT V16

PER CAPITA CIVIL TRIAL FILINGS BY STATE
(1970-82; 32 states, D.C. excluded)

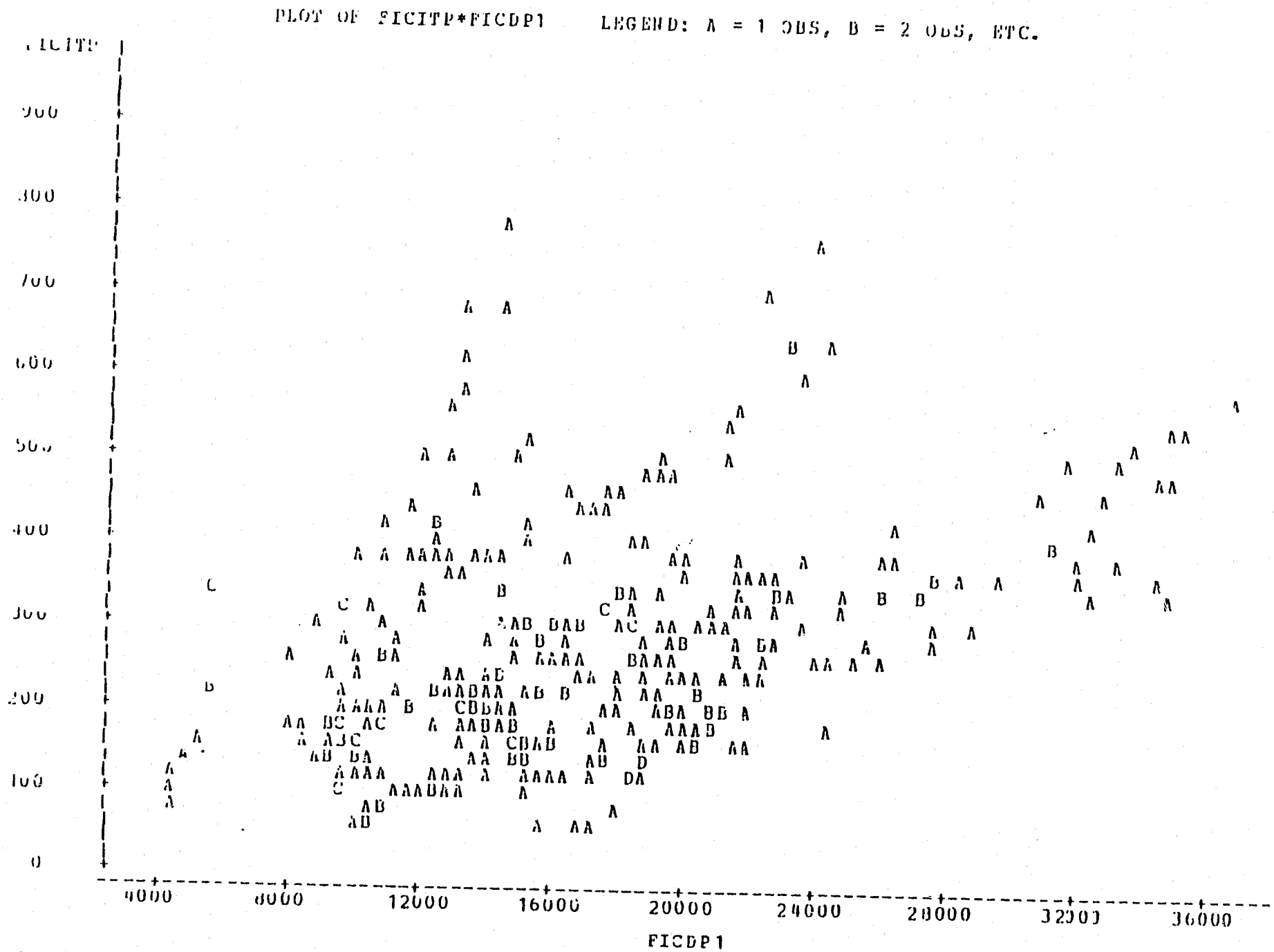
PLOT OF FIKRTP*FIKRP LEGEND: A = 1 OBS, B = 2 OBS, ETC.



84 OBS HAD MISSING VALUES

PLOT VIc

CRIMINAL APPEALS vs. CRIMINAL TRIAL COURT FILINGS
(1970-82; per capita variables; 30 states, D.C. and Alaska
excluded; trial court filings for the prior year)

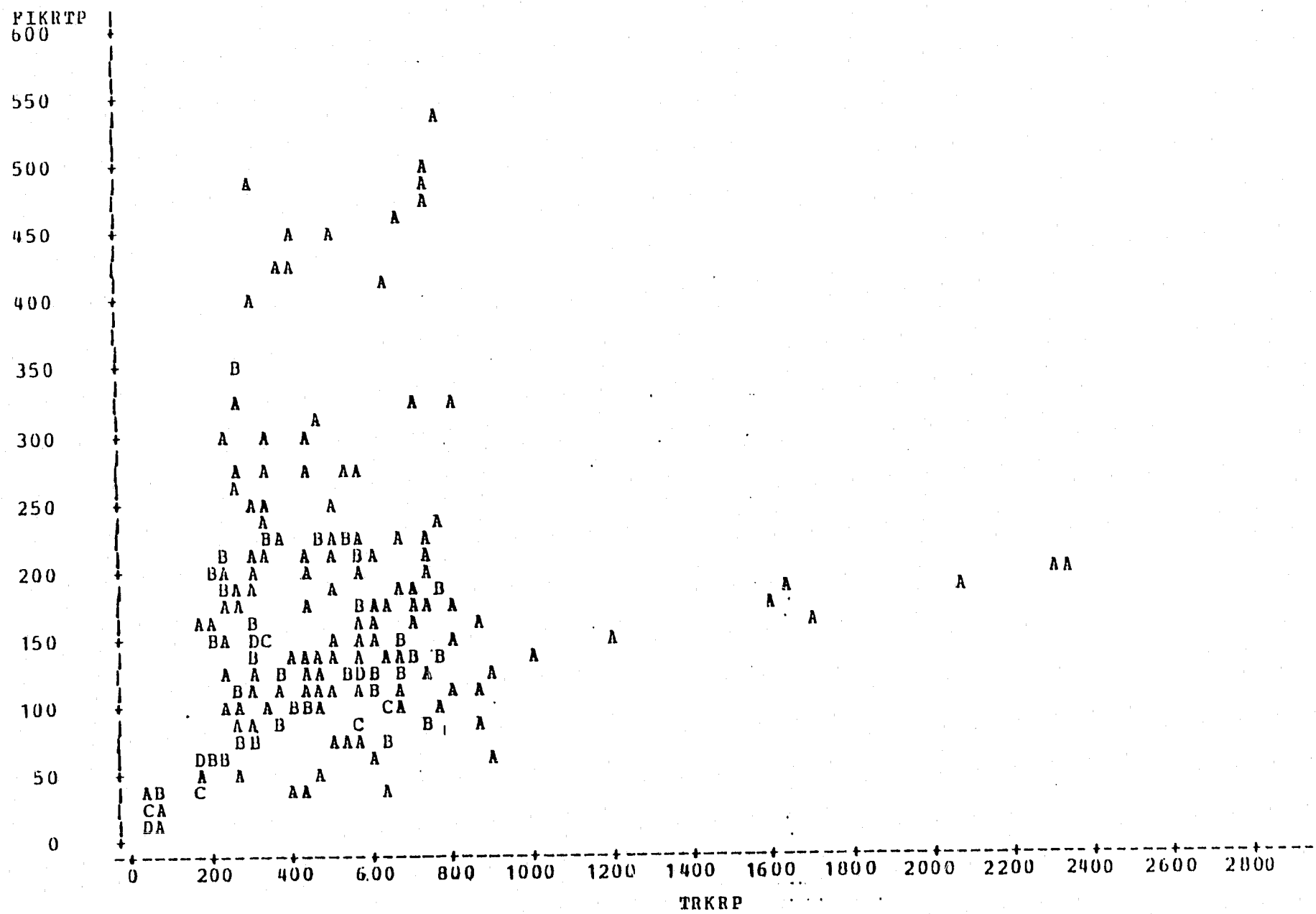


68 OBS HAD MISSING VALUES

PLOT VIId

CIVIL APPEALS vs. CIVIL TRIAL COURT FILINGS
 (1970-82; per capita variables; 32 states, D.C. excluded;
 trial court filings for the prior year)

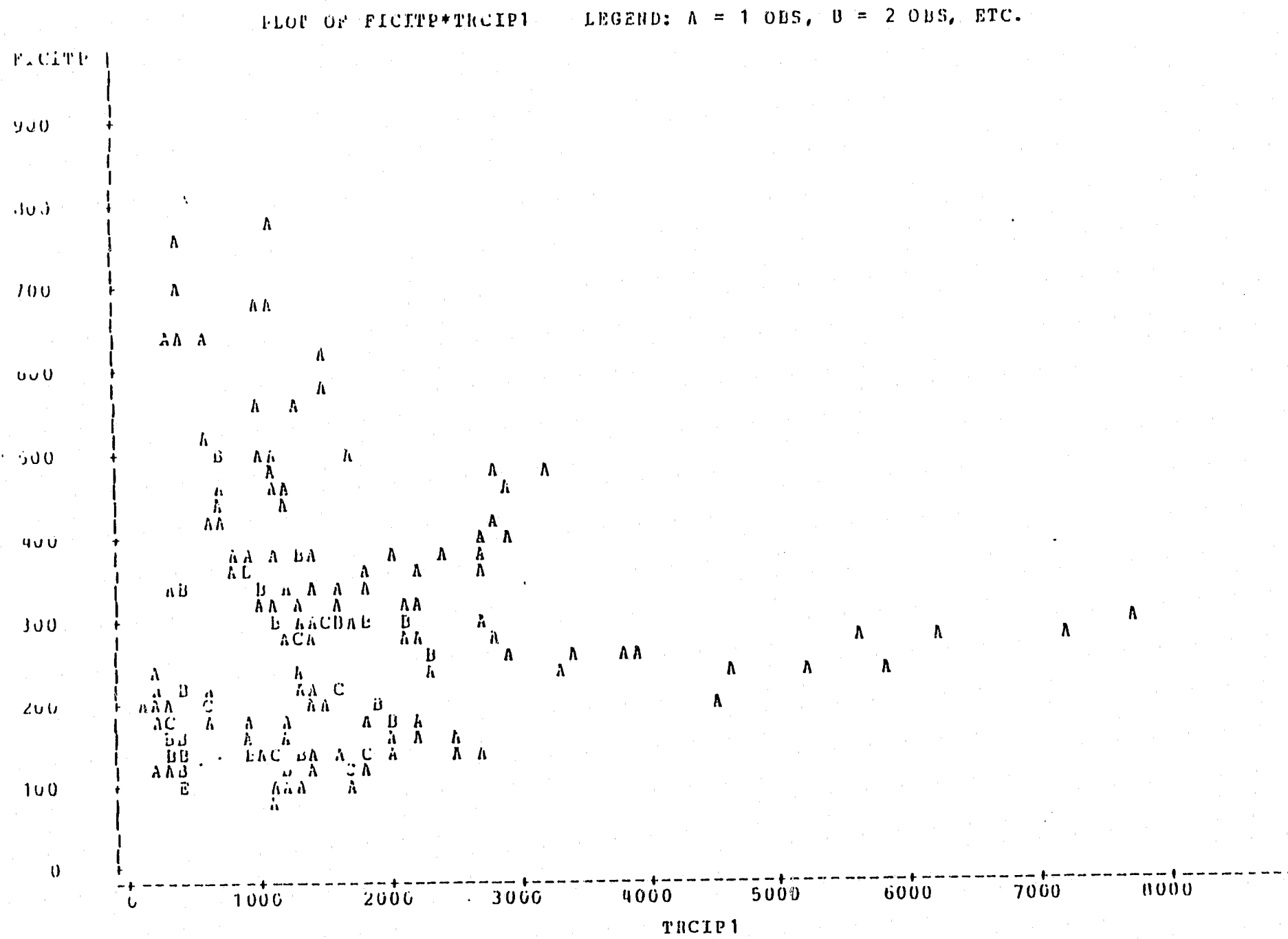
STATISTICAL ANALYSIS SYSTEM
 PLOT OF PIK RTP*TRKRP LEGEND: A = 1 OBS, B = 2 OBS, ETC.



212 OBS HAD MISSING VALUES

PLOT VIe

CRIMINAL APPEALS vs. TRIALS
 (1970-82; per capita variables; 15 states, D.C. excluded)



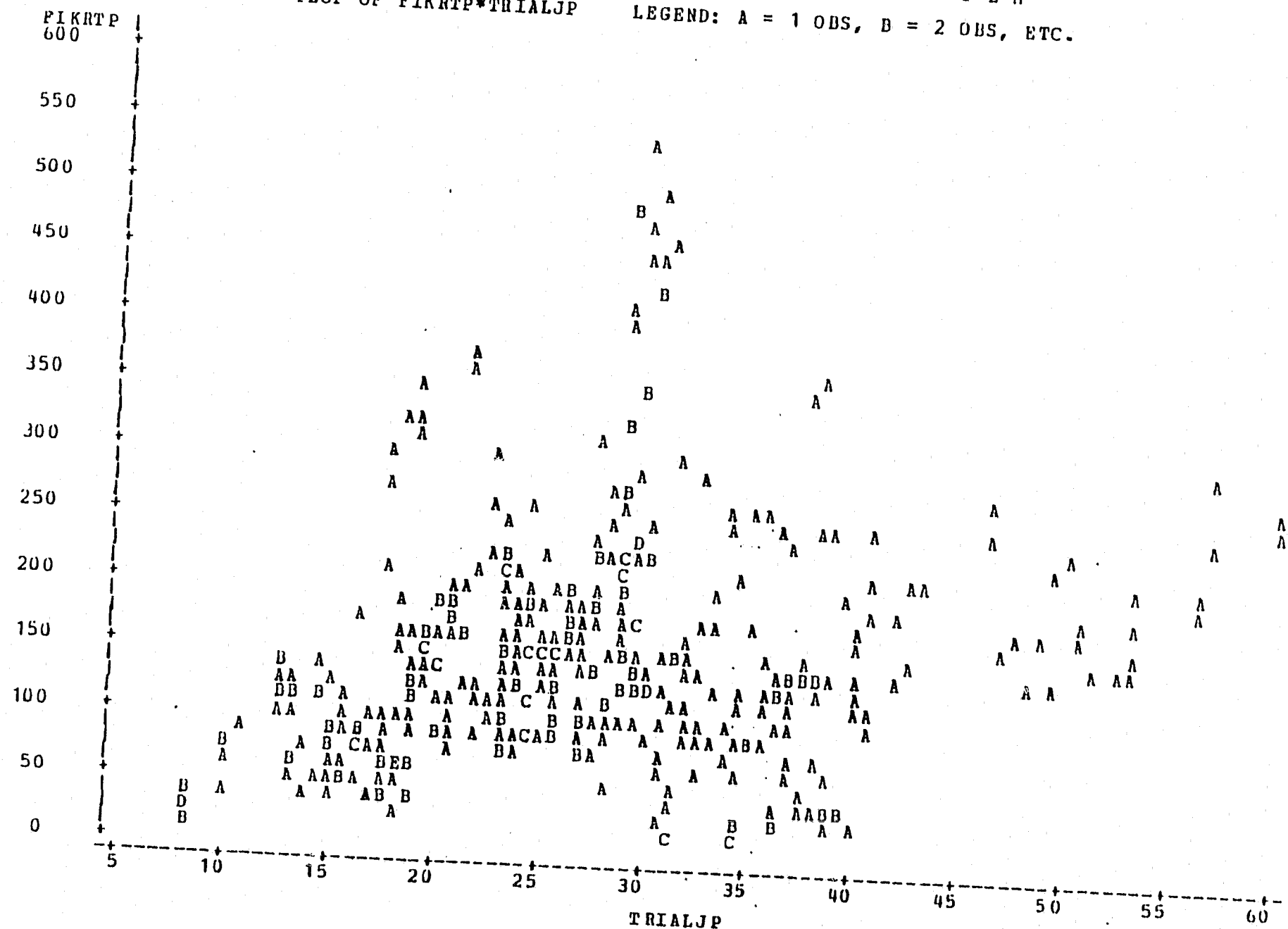
147 OBS HAD MISSING VALUES

PLOT VIF

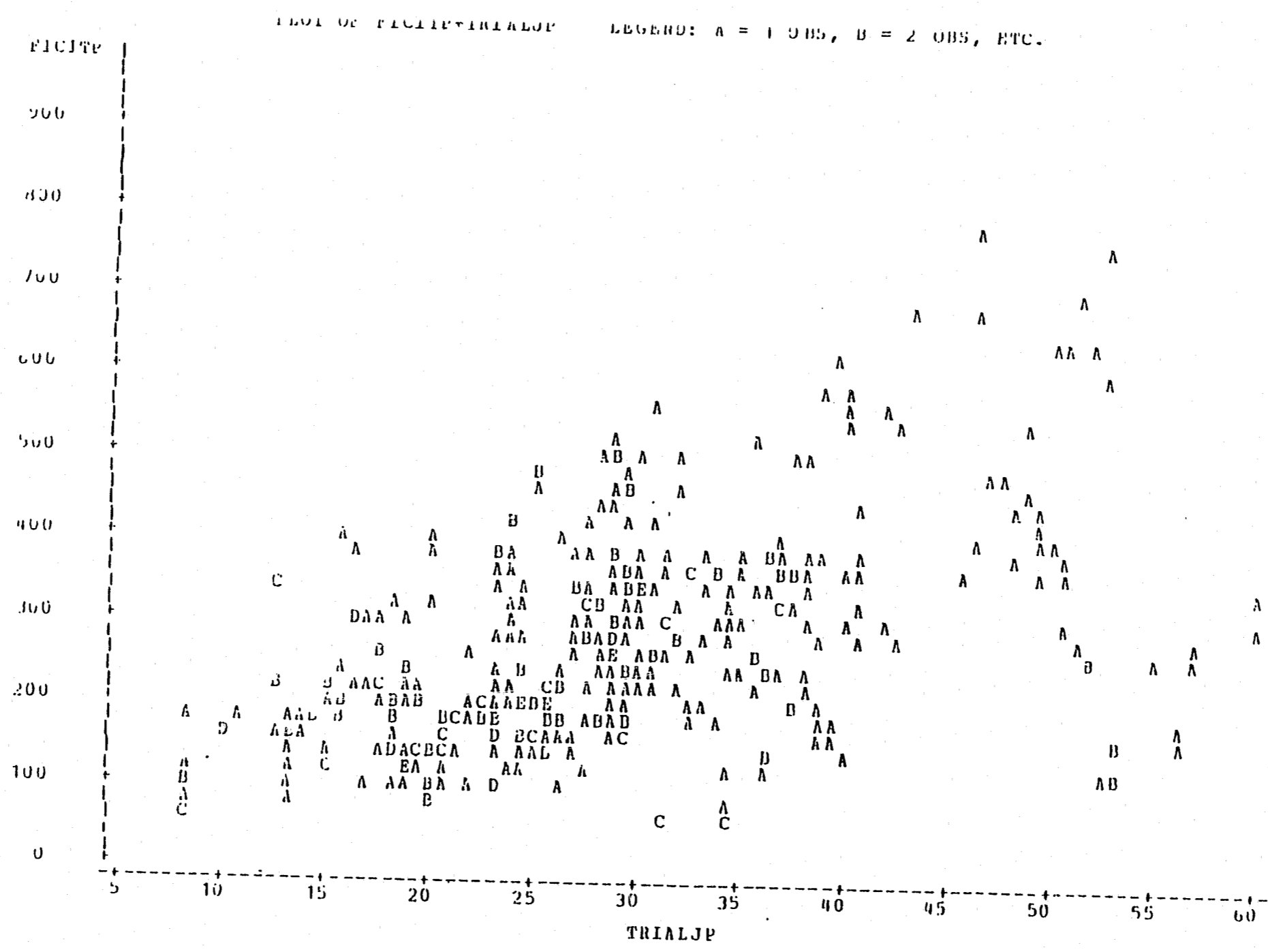
CIVIL APPEALS vs. TRIALS
 (1970-82; per capita variables; 17 states, D.C. and Alaska)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF PIK RTP*TRIALJP

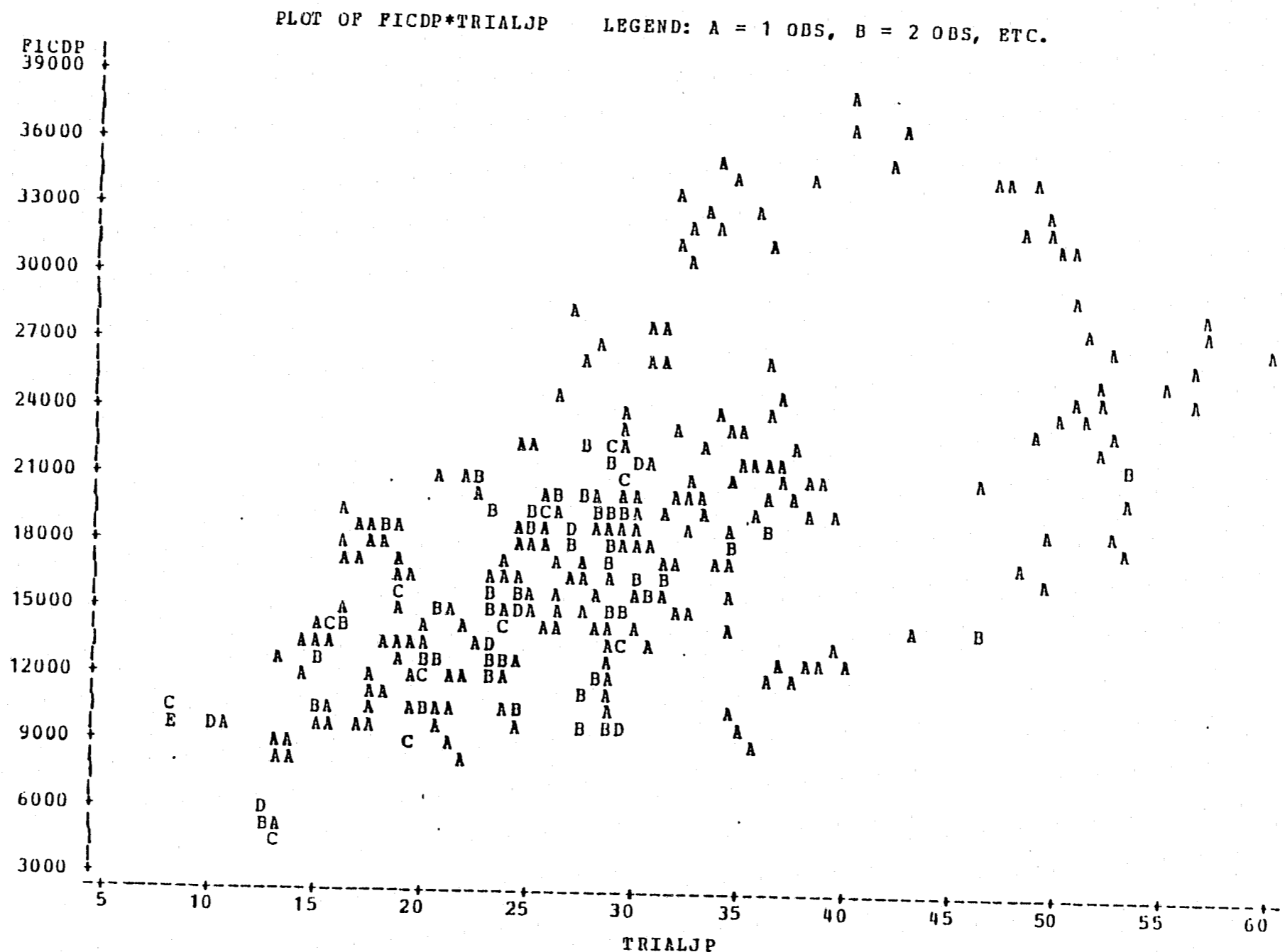
LEGEND: A = 1 OBS, B = 2 OBS, ETC.



PLOT VIIa CRIMINAL APPEALS vs. TRIAL JUDGES
 (1970-82; per capita variables; 36 states, D.C. and Alaska
 excluded)

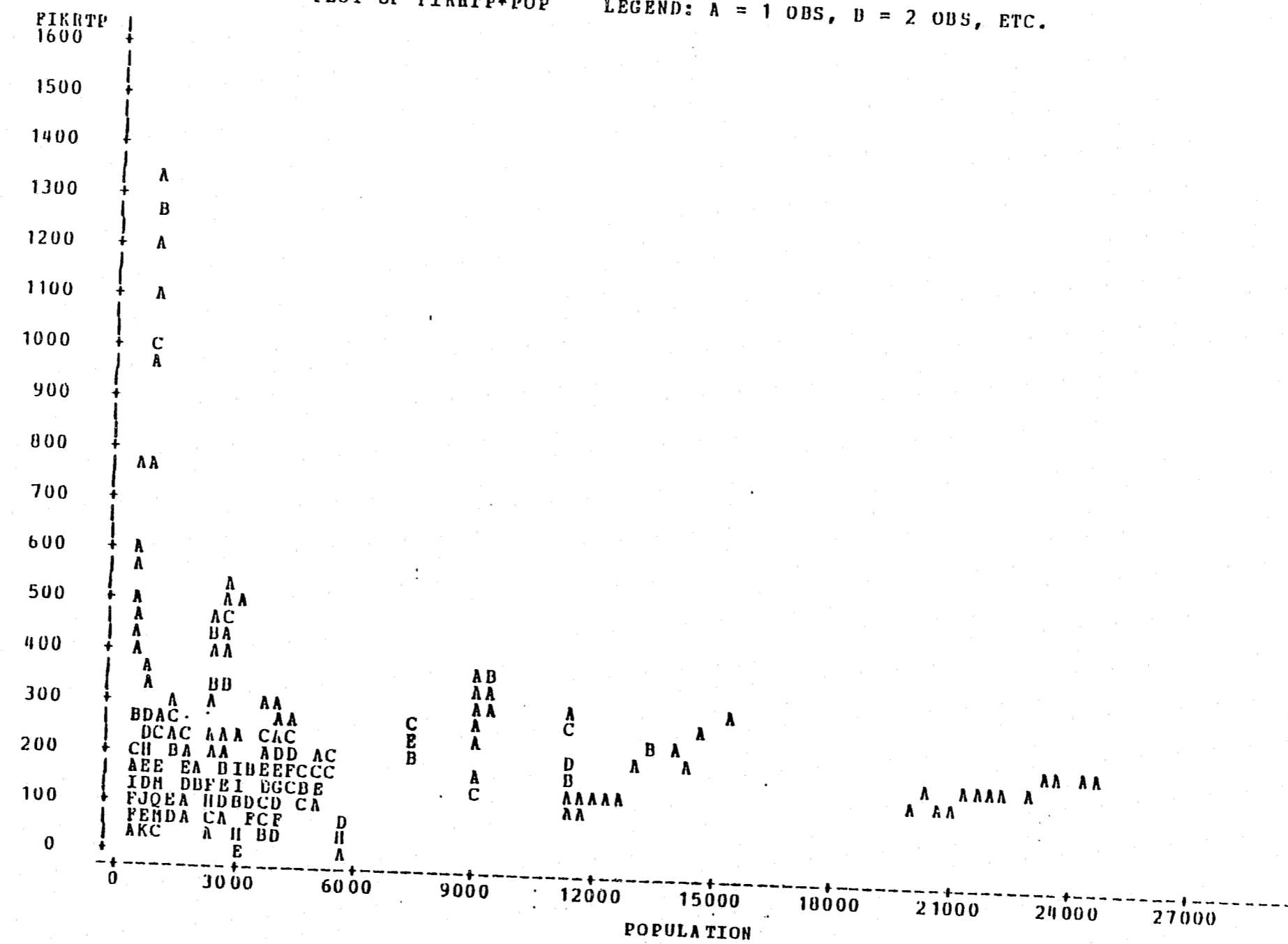


PLOT VIIIb CIVIL APPEALS vs. TRIAL JUDGES
 (1970-82; per capita variables; 36 states, D.C. excluded)

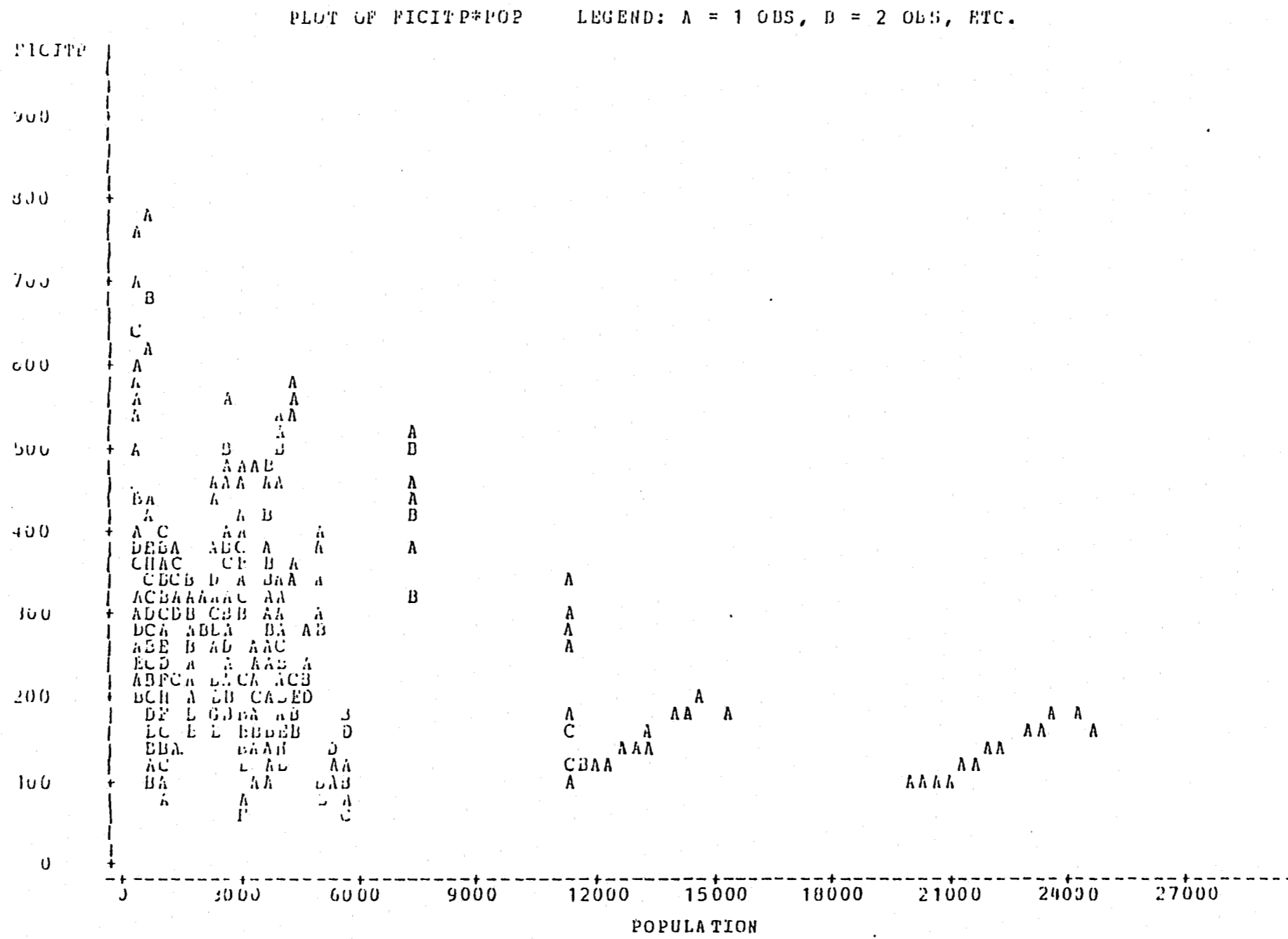


PLOT VIIc CIVIL TRIAL FILINGS vs. TRIAL JUDGES
 (1970-82; per capita variables; 33 states, D.C. excluded)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF PIK RTP*POP LEGEND: A = 1 OBS, B = 2 OBS, ETC.

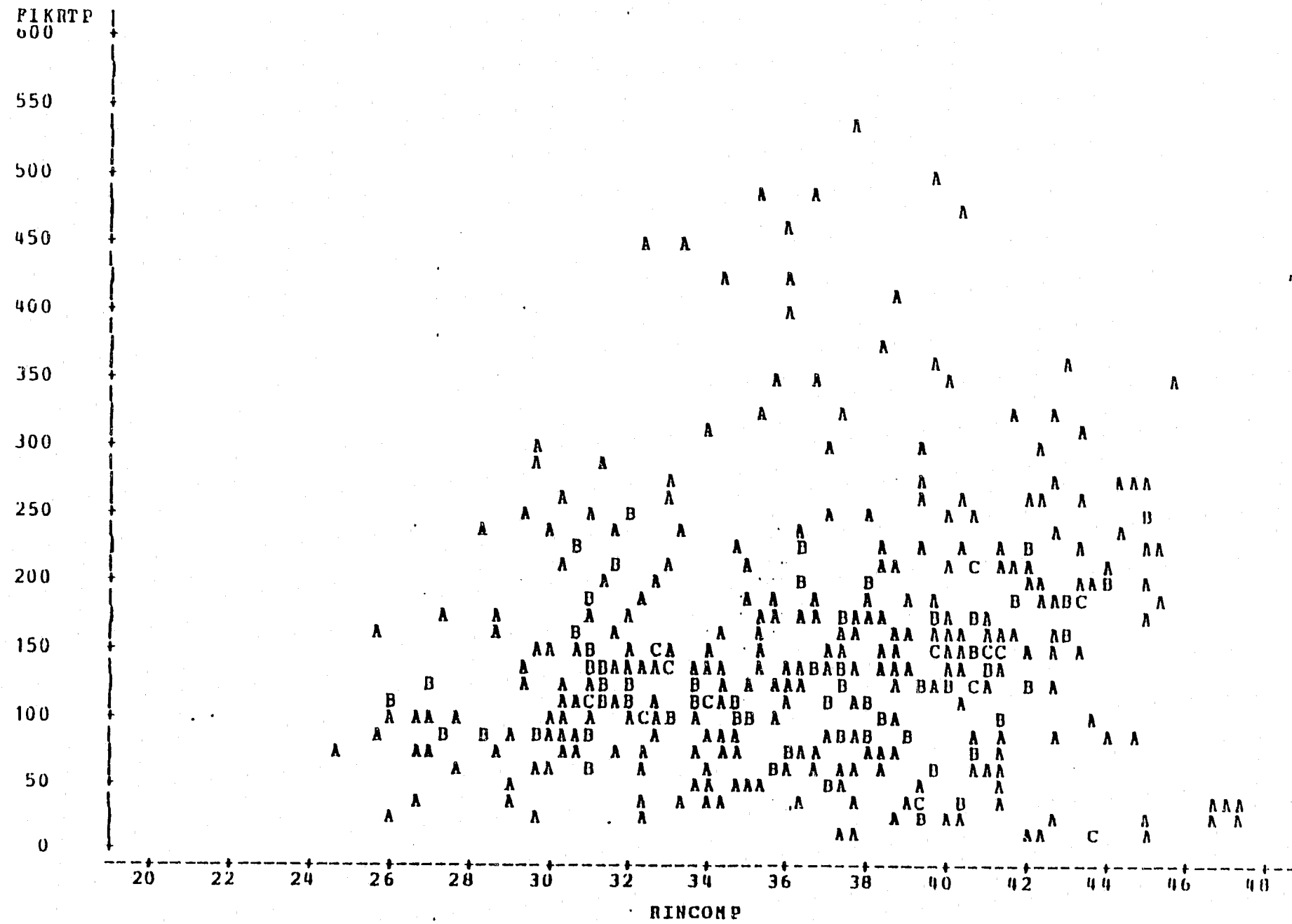


PLOT VIIIa PER CAPITA CRIMINAL APPEALS vs. POPULATION
 (1970-82; 38 states)

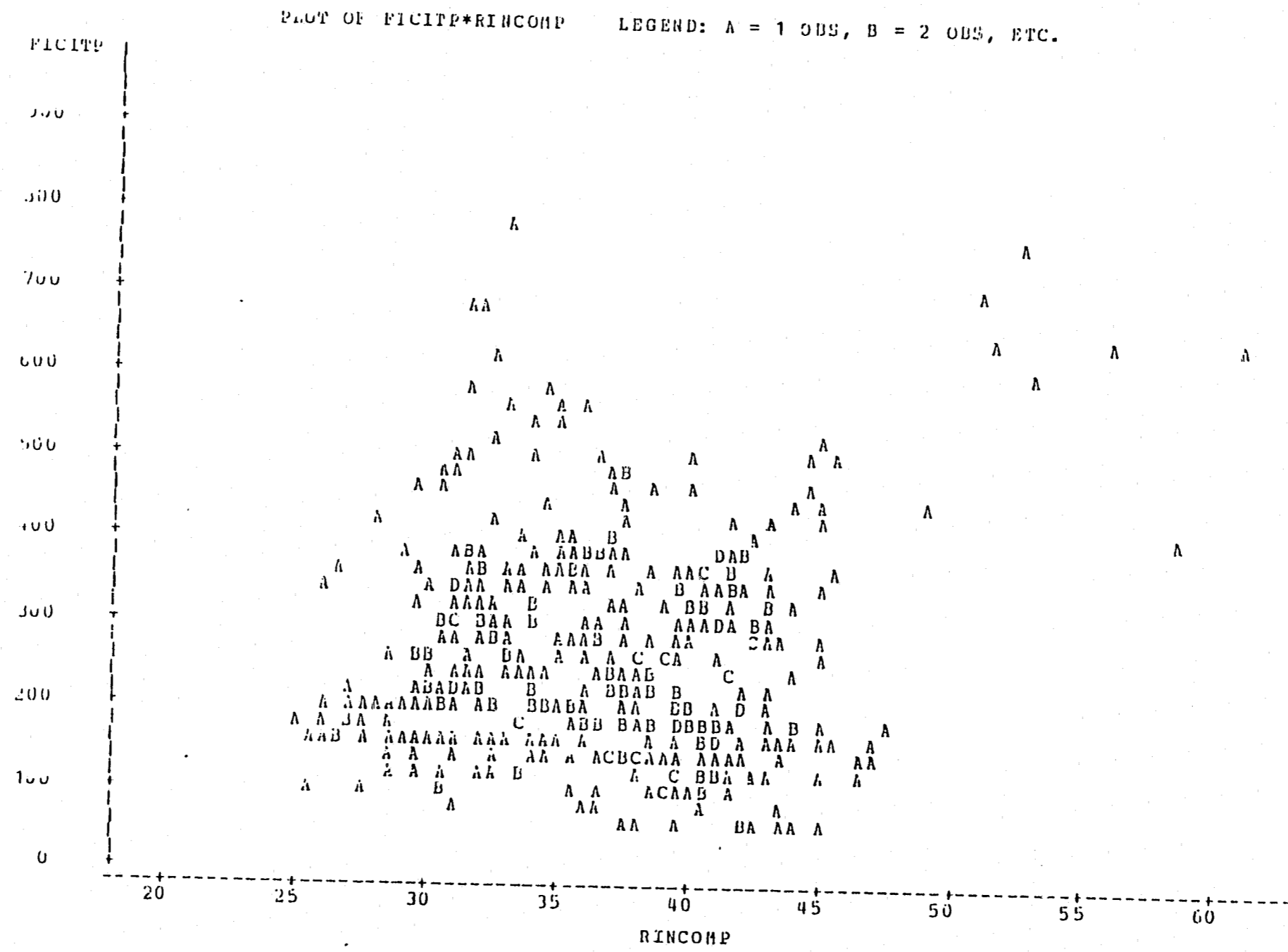


PLOT VIIIb PER CAPITA CIVIL APPEALS vs. POPULATION
(1970-82; 37 states)

PLOT OF FIKRTP*RINCOMP LEGEND: A = 1 OBS, B = 2 OBS, ETC.

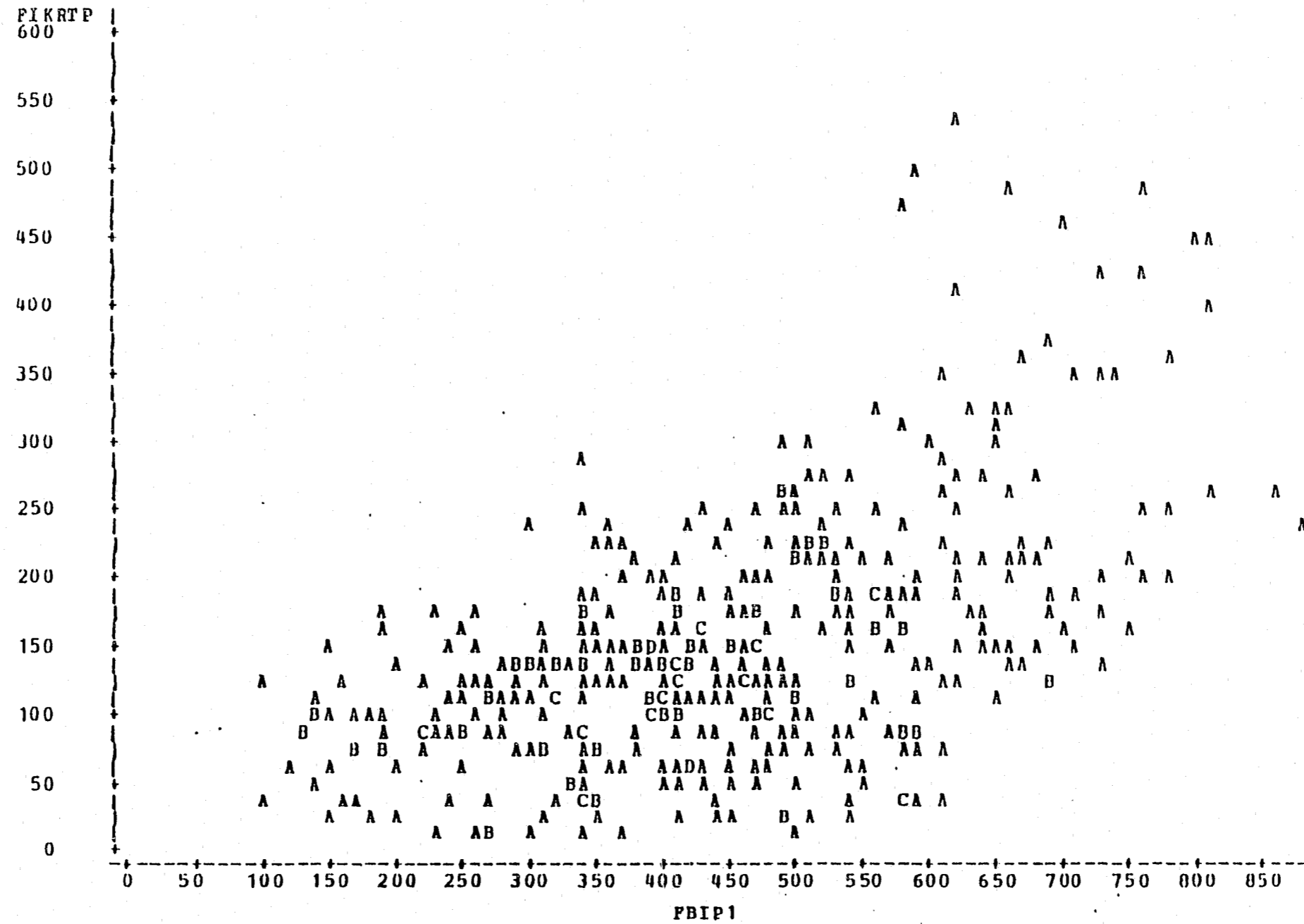


PLOT VIIIc CRIMINAL APPEALS vs. REAL PERSONAL INCOME
(1970-82; per capita variables; 36 states, D.C. and Alaska
excluded)



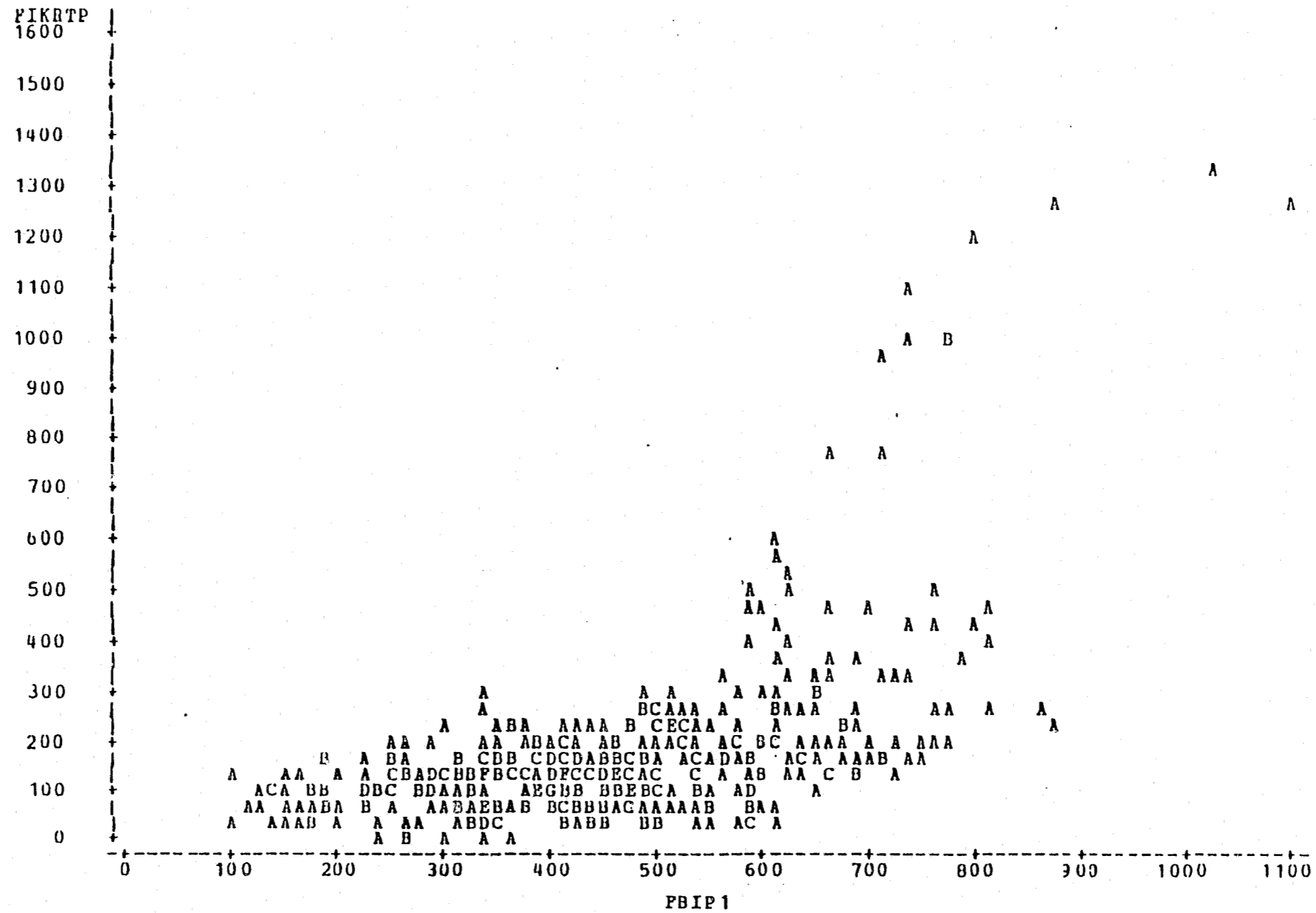
PLOT VIIIId CIVIL APPEALS vs. REAL PERSONAL INCOME
 (1970-82; per capita variables; 36 states, D.C. excluded)

PLOT OF FIKRTP*FBIP1 LEGEND: A = 1 OBS, B = 2 OBS, ETC.

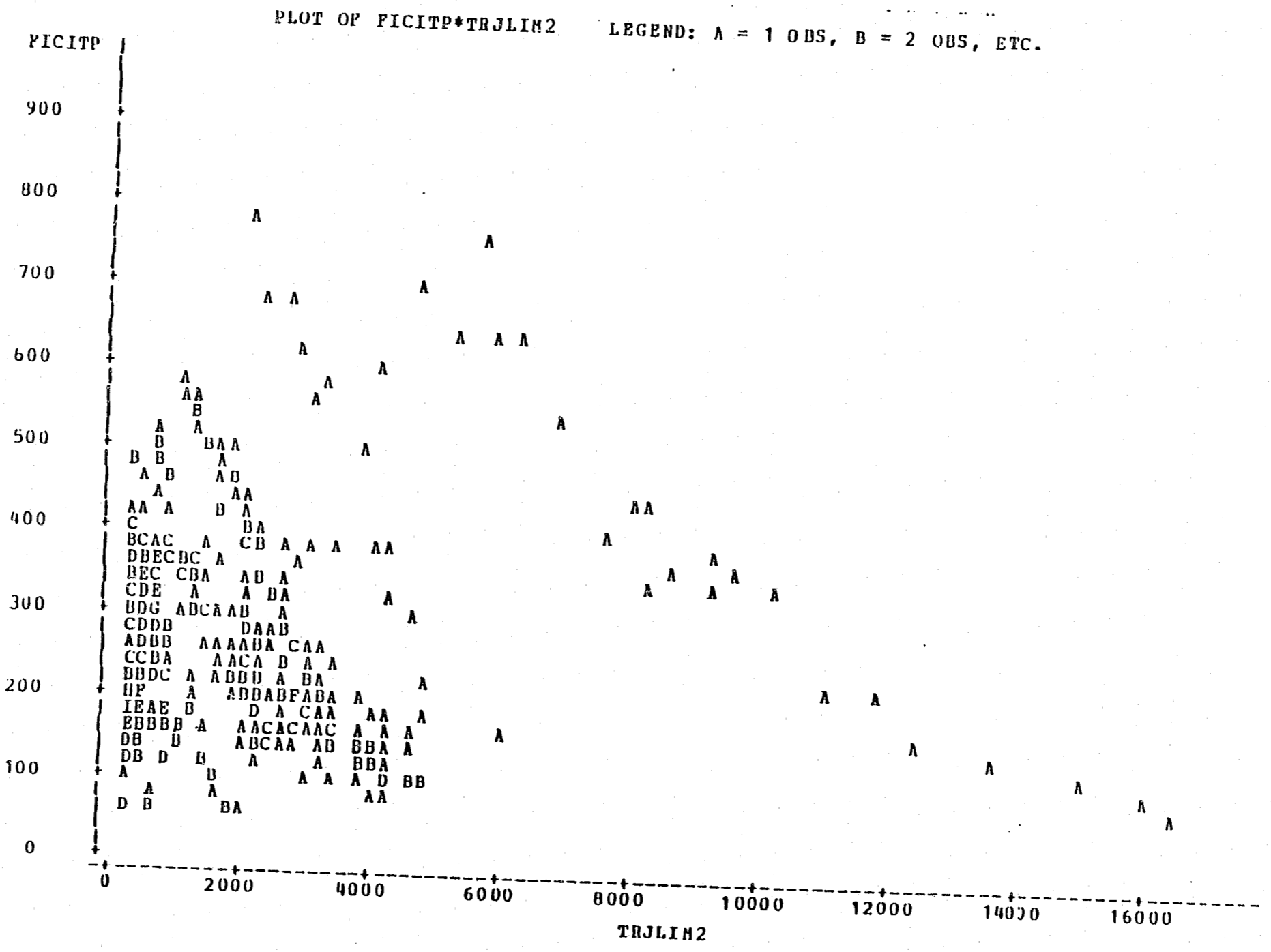


PLOT VIIIe CRIMINAL APPEALS vs. FBI CRIME INDEX I
(1970-82; per capita variables; crime index is for the year
prior to appeals; 36 states, D.C. and Alaska excluded)

STATISTICAL ANALYSIS SYSTEM
 STATISTICAL ANALYSIS SYSTEM
 PLOT OF PIK RTP*FBIP1 LEGEND: A = 1 OBS, B = 2 OBS, ETC.

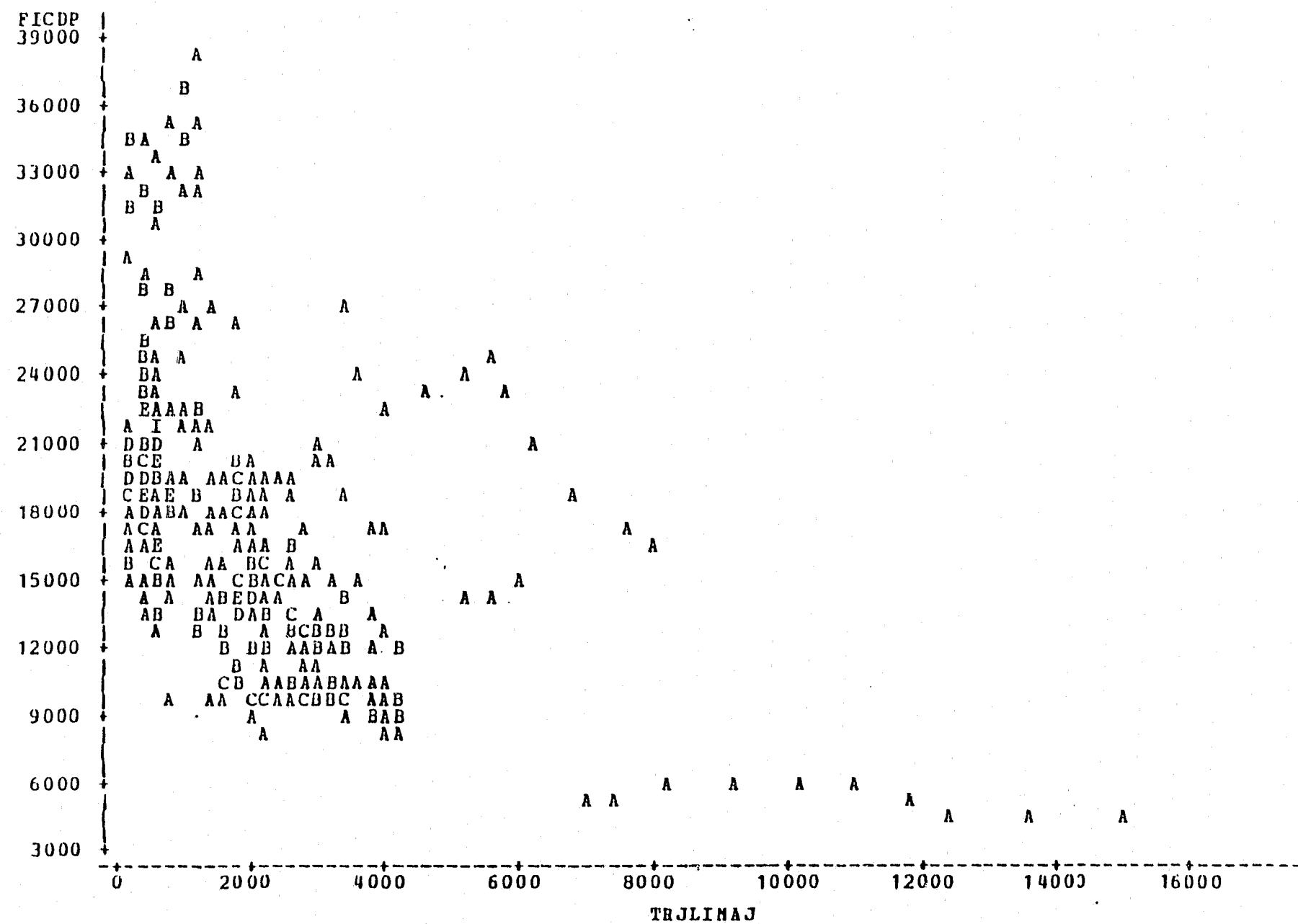


PLOT VIIIIf CRIMINAL APPEALS vs. FBI CRIME INDEX II
 (1970-82; per capita variables; crime index is for the year
 prior to appeals; 38 states)



PLOT IXa CIVIL APPEALS vs. DOLLAR JURISDICTIONAL LIMIT
 (1970-82; per capita civil appeals; jurisdictional limit is
 two years prior to appeals; 36 states, D.C. excluded)

STATISTICAL ANALYSIS SYSTEM
 PLOT OF PICDP*TRJLIMAJ LEGEND: A = 1 OBS, B = 2 OBS, ETC.



61 OBS HAD MISSING VALUES PLOT IXb

CIVIL TRIAL FILINGS vs. DOLLAR JURISDICTION LIMIT
 (1970-82; per capita trial filings; 32 states, D.C.
 excluded)

DOC #7594Q

APPENDIX C CIVIL CORRELATION MATRIX

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | |
|------------|-------|------|------|------|------|------|------|------|------|------|------|------|------|------|-----|------|-----|------|----|
| 1 FICITP | -- | | | | | | | | | | | | | | | | | | |
| 2 RINCOMP | .08 | -- | | | | | | | | | | | | | | | | | |
| 3 FICDP1 | .44 | -.08 | -- | | | | | | | | | | | | | | | | |
| 4 FICIP1 | .19 | .11* | .86 | -- | | | | | | | | | | | | | | | |
| 5 TRJLIM2 | -.06 | .03 | -.50 | -.59 | -- | | | | | | | | | | | | | | |
| 6 IACPCTC1 | .04 | .00 | .32 | .32 | -.29 | -- | | | | | | | | | | | | | |
| 7 TRIALJP | .48 | .24 | .64 | .68 | -.24 | .08 | -- | | | | | | | | | | | | |
| 8 DKLOGCI | -.01 | .24 | -.02 | .13 | .03 | -.18 | .18 | -- | | | | | | | | | | | |
| 9 INTDIF2 | .11 | .11 | .10 | .06 | -.15 | .16 | -.04 | -.06 | -- | | | | | | | | | | |
| 10 DC1 | -.45 | -.01 | -.12 | -.12 | .06 | .21 | -.34 | -.11 | .00 | -- | | | | | | | | | |
| 11 EE | .31 | -.11 | .08 | -.19 | .11 | -.08 | -.08 | -.16 | -.01 | -.21 | -- | | | | | | | | |
| 12 FF | .34 | .01 | .15 | -.10 | -.16 | .12 | .12 | -.18 | .05 | .06 | .42 | -- | | | | | | | |
| 13 GG1 | -.10* | .03 | -.08 | -.03 | .06 | -.05 | .07 | .07 | -.18 | .11 | -.18 | -.10 | -- | | | | | | |
| 14 KK1 | .03 | .13 | .10 | .11* | -.05 | .04 | .09 | -.05 | .00 | .04 | -.05 | -.03 | .14 | -- | | | | | |
| 15 PP1 | .08 | -.09 | .09 | .02 | .14 | .07 | -.01 | -.08 | -.13 | .23 | .03 | .10 | .16 | -.14 | -- | | | | |
| 16 MM | -.02 | -.09 | -.07 | -.03 | .13 | -.23 | -.01 | -.06 | .06 | .21 | -.09 | -.08 | .12 | -.07 | .01 | -- | | | |
| 17 II | .29 | -.03 | .11 | -.05 | .11 | .22 | -.04 | -.10 | .03 | .13 | .39 | .37 | -.13 | .01 | .16 | .15 | -- | | |
| 18 QQ | .12 | .17 | .00 | .00 | .09 | .03 | .01 | .11 | .01 | .15 | .15 | .17 | .06 | .21 | .04 | -.03 | .16 | -- | |
| 19 PHSCD | -.16 | -.14 | -.19 | -.30 | .13 | -.01 | -.13 | -.18 | -.21 | .14 | -.11 | .01 | .12 | .02 | .05 | .11 | .05 | -.05 | -- |

With few exceptions, the .05 significance level is reached at .11 correlation and the .0001 significance level at .20 correlation. The exceptions are marked with an asterisk.

APPENDIX C CRIMINAL CORRELATION MATRIX

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | |
|------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|----|
| 1 FIKRP | -- | | | | | | | | | | | | | | | | | | | | | | |
| 2 RINCOMP | .13 | -- | | | | | | | | | | | | | | | | | | | | | |
| 3 FBIPI | .54 | .55 | -- | | | | | | | | | | | | | | | | | | | | |
| 4 TRIALJP | .24 | .11 | .05 | -- | | | | | | | | | | | | | | | | | | | |
| 5 IACPCTKR | .40 | .13 | .34 | .01 | -- | | | | | | | | | | | | | | | | | | |
| 6 FIKRP1 | .44 | -.27 | .07 | .11 | .10 | -- | | | | | | | | | | | | | | | | | |
| 7 TOTCOMP | .49 | .03 | .28 | .28 | .23 | .40 | -- | | | | | | | | | | | | | | | | |
| 8 BKLOGKR | -.11 | .27 | .23 | .03 | -.11 | -.27 | -.04 | -- | | | | | | | | | | | | | | | |
| 9 E | .22 | .20 | .36 | -.08 | .06 | .20* | .10* | -.04 | -- | | | | | | | | | | | | | | |
| 10 F | .24 | -.00 | .12 | .02 | -.06 | .23 | .02 | -.15 | .30 | -- | | | | | | | | | | | | | |
| 11 G1 | -.05 | -.04 | -.17 | .04 | -.05 | -.16 | -.03 | .05 | -.16 | -.06 | -- | | | | | | | | | | | | |
| 12 I | .18 | -.07 | .24 | -.08 | .11 | .30 | .07 | -.04 | .29 | .43 | -.10 | -- | | | | | | | | | | | |
| 13 K1 | .01 | .07 | -.14 | .08 | -.11 | .04 | .05 | -.17 | -.13 | -.10 | .32 | -.16 | -- | | | | | | | | | | |
| 14 M | .04 | -.20 | -.17 | .11 | .02 | .10* | .17 | -.34 | -.09 | -.07 | .03 | -.07 | .02 | -- | | | | | | | | | |
| 15 H | .06 | .02 | -.05 | -.20 | .19 | -.12 | .01 | -.26 | .03 | -.07 | .00 | -.00 | -.05 | .52 | -- | | | | | | | | |
| 16 P1 | .07 | -.10 | .01 | .07 | -.00 | .15 | -.05 | -.04 | .00 | .04 | .20 | .11 | .11 | .03 | -.01 | -- | | | | | | | |
| 17 Q | -.03 | .00 | .16 | .19 | -.16 | -.06 | -.07 | .02 | .37 | .07 | .01 | .08 | -.14 | .18 | .08 | .05 | -- | | | | | | |
| 18 C | -.20 | -.22 | -.15 | -.29 | -.17 | .16 | -.12 | -.08 | .01 | -.14 | -.09 | .09 | .02 | -.29 | -.10 | .04 | .05 | -- | | | | | |
| 19 D | .32 | -.16 | .01 | .18 | .05 | -.03 | -.02 | -.06 | -.02 | .22 | .01 | .23 | .02 | -.10 | -.14 | .07 | -.07 | -.20 | -- | | | | |
| 20 J1 | .01 | .03 | -.02 | .09 | .09 | .00 | .08 | .09 | -.03 | -.01 | -.02 | .02 | .08 | .07 | -.07 | .05 | -.06 | .04 | .00 | -- | | | |
| 21 L | -.16 | -.05 | -.25 | -.11 | -.08 | -.03 | -.21 | -.16 | -.05 | -.15 | -.10 | -.08 | .02 | .11 | .25 | -.05 | -.01 | .18 | .02 | -.03 | -- | | |
| 22 O | .15 | .35 | .35 | .05 | .04 | -.31 | -.15 | .10* | .29 | -.08 | .02 | .02 | -.07 | -.09 | .07 | -.06 | .20 | -.07 | .03 | -.06 | .04 | -- | |
| 23 DK1 | -.30 | .04 | -.06 | .02 | -.19 | -.02 | .02 | .01 | -.08 | .14 | .18 | .07 | .12 | -.01 | -.22 | .22 | .05 | .16 | -.11 | .07 | -.14 | -.22 | -- |

With few exceptions, the .05 significance level is reached at .10 correlation and the .0001 significance level at .19 correlation. The exceptions are marked with an asterisk.

END