

**Assessment of Need for the Addition of Judges  
Court of Appeals of Georgia**

The Court of Appeals of Georgia has had nine judges since 1961, at which time its membership was increased from seven (Ga. Laws 1961, p.140 §1). It had been increased from six to seven in 1960 (Ga. Laws 1960, p.158 §1), and from its original three members (Ga. Laws 1906, p. 24 §3) to six in 1916 (Ga. Laws 1916, p. 56 §1). In the 34 intervening years since the last increase in judges, enormous changes have occurred in Georgia's judicial system which impact upon the workload of the Court. The number of trial court judges and caseloads of these courts has dramatically increased during that period.

In 1961, the superior court judges of this State numbered 56. Since that time, the number has tripled to 169. In addition to the 300% increase in the number of superior court judges in these last 34 years, caseload filed in these courts from 1973 (the earliest statewide data available) to 1993 increased by 141% from 125,731 to 303,304 cases.

Since most state courts were created by consolidation of several different types of courts in the 1970's and statewide statistics on the number of state and juvenile judgeships were not formally kept until 1971, it is difficult to reconstruct the actual number of judgeships that existed in 1961. In 1974 there were only 67 state court judges while in fiscal year 1995 there are 64 state courts operating in 65 counties with 90 authorized state court judgeships, 50 of which are full-time and 40 of which are part-time. This is an overall 34% increase.

There are currently 56 full-time and part-time juvenile court judges in the State, plus 32 associate juvenile court judges to assist the juvenile or superior court judges in handling cases. This is a 57% increase since 1975. In counties with no separate juvenile court judge, the superior court judges hear juvenile cases. Caseload has tripled in this class of courts from 24,940 to 100,177 just since 1973.

Also in the interim since 1961, the adoption of the current Georgia Constitution in 1982 (effective 1983) contained a substantially revised judicial article. It had a tremendous impact on the operation of the courts of the State of Georgia. Shortly after the adoption of the new state constitution, the justice of the peace system was replaced by more professionally trained and fully staffed magistrate courts in the State. Each Chief Magistrate may be assisted by one or more associate magistrates. There are now 159 chief magistrates and 321 associate magistrates. Although appeals from the magistrate courts do not come directly to the Court of Appeals, they do so indirectly, often as challenges to the issuance of warrants in criminal cases.

It is from the trial courts (superior, state, magistrate, and juvenile, as well as probate on occasion) that appeals ultimately come to the Court of Appeals, either directly or through application. The application process for certain direct appeals was instituted in 1979 (see OCGA §5-6-35, Ga. Laws 1979 p. 619 §§1-2) and prior to that time for interlocutory applications (see OCGA §5-6-34, Ga. Laws 1975 p.757 §1). The application caseload has grown accordingly, as shown by figures appended as Exhibit G.

Another significant aspect of the funnel through which cases reach the Court of Appeals is that the number of district attorneys has increased over the years. In 1961 the State's prosecutorial officers were designated solicitors general. Their modest salary was paid by the State and out of this salary they paid their secretaries and office expenses. Few solicitors general had State-paid assistants. Solicitors general were permitted to engage in private practice of law, which would have to be balanced with the prosecutorial obligations. By 1977 there were 42 full-time district attorneys; now there is one district attorney in each of the 46 judicial circuits. The number of assistant district attorneys and investigators has also increased dramatically. Each circuit now is entitled to a State-paid assistant district attorney for each superior court judge in the circuit and effective July 1, 1995, an additional State-funded district attorney was added to each judicial circuit so that the number of State-funded prosecuting officers in each judicial circuit equals the number of judges plus two. Additionally, many circuits have county-funded assistants to manage the prosecutorial workload.

The Prosecuting Attorneys Council reports there are currently 174 state-paid ADAs, 190 county-paid ADAs, 46 state-paid investigators, and 111 county-paid investigators.

Another factor to be considered is the increased number of law enforcement officers who make cases, a percentage of which will eventually end up in the Court of Appeals. More arrests lead to more convictions, which lead to more appeals. Over the past decade, arrests for index crimes<sup>1</sup> in Georgia have risen nearly 54%. Drug cases have added substantially to the Court's criminal caseload. ~~Arrests on narcotics charges increased 77% from 1980 to 1993<sup>2</sup>.~~

Under recent criminal legislation, currently called "two strikes and you're out" (OCGA §17-10-6.1 and §17-10-7), the penalty for a second conviction of one of seven serious crimes is life without parole. It is anticipated that there will be no plea bargain to life without parole in the non-death penalty cases, over which the Court of Appeals has jurisdiction. It stands to reason that these cases will be tried and the defendants will appeal. In addition to the two strikes legislation, other mandatory sentencing acts in recent years probably result in more appeals. One such act is the School Safety and Juvenile Justice Reform Act of 1994, which gave jurisdiction to the superior court for juveniles 13 to 17 years of age for specific felonies. It also creates a new appeal of a decision by the superior court judge to transfer such a case back to juvenile court.

The number of inmates held in Georgia's correctional institutions also has bearing on the number of cases filed with the Court of Appeals. An increase in the number of convictions which result in incarcerations can be expected to yield more appeals of these convictions and sentences. Georgia's prison population (including prisons, county correctional institutions, and transition centers) has grown 375% from 6,985 in 1960 to 33,175 in 1994. At the end of 1994, Georgia ranked

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<sup>1</sup> Source: Georgia Crime Information Center. Index crimes are a set of eight felony offenses that the FBI tracks and includes in its annual Uniform Crime Reports. Index crimes include murder, forcible rape, robbery, burglary, aggravated assault, larceny over a specified amount, arson, and motor vehicle theft.

<sup>2</sup> Source: Georgia Statistical Abstract, 1984, 1994-95.

seventh in the nation in incarceration rates<sup>3</sup>. The number of prisoners in Georgia at the end of 1994 had increased over 20% above the previous year (ranking Georgia second nationally in terms of percent increase in inmates).

There is an increasing number of workers' compensation and other administrative agency appeals, which come to the Court of Appeals through the superior courts and sometimes, by default, from the Board of Workers' Compensation. Added to all of this is the increase in federal and state statutory regulation, as well as changes in the interpretation of the United States Constitution, all of which prompt more appeals. On the horizon is the Federal Courts Long Range Plan for shifting vast amounts of jurisdiction to state courts.

All of these factors contribute to the caseload and the workload of the Court of Appeals of Georgia. According to the latest comparative figures from the National Center for State Courts, Georgia is the busiest state appellate court in the country based on signed opinions per judge. In 1993, the Court of Appeals of Georgia averaged 278 signed opinions per judge, more than double those of the next nearest state, which was California, at 137 signed opinions per judge. If the number of judges on Georgia's Court of Appeals were increased to 13, and the total number of opinions remained the same, the average number of signed opinions per judge would be 192, still greater than California's number of opinions per judge. To reduce Georgia's signed opinions to match California's per judge level, Georgia would need 18 judges. The 1993 comparative figures from the National Center for State Courts are the latest figures available. The 1994 figures will not be available until next summer.

The attached Graph 1 shows the continued growth in the number of filings with the Georgia Court of Appeals from 1985 through 1994. Based on these filings, the number of future filings can be projected. The right half of the graph depicts two projected growth rates for filings in the Court

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<sup>3</sup> Source: *Prisoners in 1994*, Bureau of Justice Statistics, U.S. Department of Justice. Incarceration rate is defined as number of prisoners per 100,000 residents.

of Appeals, one high, the other low. As can be seen, regardless of which projection is used, the Court of Appeals can expect continued substantial growth in filings through the middle of the next decade.

Attached are several exhibits which will demonstrate the workload of the Court of Appeals of Georgia and illustrate the increased number of trial court judges. The information for Exhibits B through F is drawn from State Court Caseload Statistics 1993, National Center for State Courts, Williamsburg, Virginia, Table 6, pp. 132-135.

Exhibit A shows the increase in the number of superior court judgeships in Georgia from 1961 through 1995. Figures reflect the number of authorized superior court judgeships.

Exhibit B is a listing of the number of signed opinions per judge for the state intermediate appellate courts for 1993.

Exhibit C is an alphabetical listing by state of the number of signed opinions and signed opinions per judge for all states with intermediate appellate courts for 1993.

Exhibit D lists the number of signed opinions and signed opinions per judge for states with multiple intermediate appellate courts in 1993.

Exhibit E lists in descending order the number of signed opinions, number of judges, and number of signed opinions per judge for the southern region.

Exhibit F is a listing of filings per judge for mandatory cases in states with one intermediate appellate court for 1993.

Exhibit G is a caseload summary of the Court of Appeals of Georgia, 1985-1995.

Another important contributing factor affecting the Court of Appeals of Georgia, as well as the entire judiciary of the State, is the tremendous population growth of the State. Georgia is a vibrant state with a strong economy and progressive leadership which has made the state attractive to businesses and people from around the nation and around the world. With the recognition of Georgia's many attractive and positive attributes comes an increase in population and resultant litigation and prosecutions which will continue into the next century.

Exhibit H shows Georgia's population growth since 1960. In 1960, the State's population was 3.9 million. The 1990 census population for Georgia was 6.5 million. The present estimated population is 7 million. Projected population for the year 2000 is 7.7 million and 8.7 million for the year 2010. The projected estimates for 2000 and 2010 are based on birthrates for the mid-1980's. In actuality, birthrates for 1990 have been higher than the projected estimates, so the projections for 2000 and 2010 are likely to be conservatively low. (See also Graph 2).

As might be expected given the sharp rise in population, the number of domestic relations cases in Georgia's courts has increased also. Although domestic relations cases generally reach the Court of Appeals in the form of discretionary petitions rather than direct appeals, increases in those types of domestic relations cases over which the Court has jurisdiction will increase due to higher numbers of family dissolutions.

Along with Georgia's population growth has been substantial commerce and business growth. Graph 3 illustrates some aspects of this growth. The number of business establishments in 1992 was 163,330, which was up 197% over the 1960 count of 55,019<sup>4</sup>. The number of new business incorporations grew at an even higher rate (599%) over the same time period<sup>5</sup>. While business development has grown substantially, the number of business failures have also increased,

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<sup>4</sup> Source: U.S. Department of Commerce, Bureau of the Census, County Business Patterns.

<sup>5</sup> Source: Georgia Statistical Abstracts, Selig Center for Economic Growth, College of Business Administration, UGA.

rising 1,167% from 227 in 1960 to 2,877 in 1992<sup>6</sup>. These increases will likely yield increases in commercial litigation, which in turn have resulted in more appeals.

Georgia's increasing population and growth as a prominent commercial center have also spurred increased transportation, as is reflected in Graph 4. Georgia has built more highways, increasing its highway mileage (as of 1994) by over 14% above the total in 1960<sup>7</sup>. In addition, motor vehicle registrations have increased 334% (from 1,510,720 in 1960 to 6,556,500 in 1993)<sup>8</sup>. Unfortunately, the number of motor vehicle accidents has grown at roughly the same rate as well (324% over the same time period)<sup>9</sup>. The personal injury and property claims resulting from such accidents are likely to continue to lead to more litigation and appeals.

In conclusion, it should be noted that "[s]cholars have estimated that an appellate court should not be called upon to handle more than 100 cases on the merits per judge per year"<sup>10</sup>.

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<sup>6</sup> Ibid.

<sup>7</sup> Source: *Mileage of Public Roads in Georgia by Surface Type*, Georgia Department of Transportation, Planning Services Data Bureau.

<sup>8</sup> Source: 1993 Georgia Type Vehicle Classification by County, Georgia Department of Revenue, Motor Vehicle Unit.

<sup>9</sup> Source: 1993 Annual Report, Georgia Department of Public Safety, Accident Reporting Division.

<sup>10</sup> Appellate Practice in the United States (2d ed.), Robert L. Stern (BNA 1989), citing P. Carrington, D. Meador, and M. Rosenberg, Justice on Appeal 143-146 (1976).

**EXHIBIT A**  
**NUMBER OF SUPERIOR COURT JUDGES IN GEORGIA**  
**SINCE 1961<sup>2</sup>**

YEAR	NUMBER OF JUDGES
1961-1962	56
1965-1966	61
1967-1968	67
1968-1970	72
1971	72
1972	78
1973	79
1974	84
1975	86
1976	88
1977	96
1978	102
1979	104
1980	110
1981	115
1982	118
1983	123
1984	124
1985	126
1986	131
1987	135
1988	137
1989	142
1990	148
1991	153
1992	159
1993	159
1994	159
1995	169

<sup>2</sup>Figures before 1971 are incomplete and are extracted from the Statistical Register for the State of Georgia. Records of the number of judgeships created by the legislature since 1971 are kept by the Administrative Office of the Courts.

**EXHIBIT B  
SIGNED OPINIONS PER JUDGE  
INTERMEDIATE APPELLATE COURTS - 1993**

<b>RANK</b>	<b>STATE</b>	<b>SIGNED OPINIONS PER JUDGE</b>
1.	Georgia	278
2.	California	137
3.	New Jersey	123
4.	Kentucky	119
5.	Wisconsin	118
6.	Indiana	118
7.	Alabama	117
8.	Ohio	113
9.	Arkansas	109
10.	Kansas	102
11.	Iowa	99
12.	South Carolina	95
13.	Washington	93
14.	Minnesota	84
15.	Nebraska	82
15.	North Carolina	82
17.	Virginia	76
17.	Tennessee	76
19.	Oklahoma	74
20.	Pennsylvania	73
21.	Oregon	69
22.	New Mexico	68
23.	Texas	66
24.	Louisiana	61
25.	Missouri	54
26.	Illinois	52
27.	Connecticut	50

28.	Hawaii	27
29.	Colorado	29
30.	Alaska	23
31.	Maryland	17
32.	Massachusetts	15
33.	Michigan	14
34.	Arizona	12
35.	Florida	6

Information on the opinion reports for Idaho was not available. Pennsylvania and Oklahoma data is incomplete. Last year, California ranked second behind Georgia with 133 signed opinions per judge. Nebraska and North Carolina tied at fifteenth with 82 signed opinions per judge. This information comes from the 1993 State Court Caseload Statistics Report for the National Center for State Courts, Table 6, page 132, opinions reported by state appellate courts, 1993, signed opinions. This exhibit does not purport to explain the structural organization of other appellate courts listed in this report, but is merely a summary comparison of the number of signed opinions issued per intermediate appellate court per judge on that court for 1993.

**SOURCE:** *1993 State Court Caseload Statistics*, Table 3, pp. 117-121

**EXHIBIT C**  
**SIGNED OPINIONS PER JUDGE**  
**INTERMEDIATE APPELLATE COURTS - 1993**

STATE	NUMBER OF OPINIONS	NUMBER OF JUDGES	OPINIONS PER JUDGE
Alaska	70	3	23
Arizona	247	21	12
Arkansas	652	6	109
California	12,075	88	137
Colorado	406	16	25
Connecticut	449	9	50
Florida	343	57	6
Georgia	2,501	9	278
Hawaii	81	3	27
Idaho	N/A	3	N/A
Illinois	2,195	42	52
Iowa	593	6	99
Kansas	1,023	10	102
Kentucky	1,662	14	119
Louisiana	3,258	53	61
Maryland	217	13	17
Massachusetts	203	14	15
Michigan	331	24	14
Minnesota	1,345	16	84
Missouri	1,727	32	54
Nebraska	611	7	87
New Jersey	3,675	30	123
New Mexico	683	10	68
North Carolina	984	12	82

North Dakota	7	3	2
Ohio	7,353	65	113
Oregon	693	10	69
South Carolina	569	6	95
Utah	N/A	7	N/A
Virginia	755	10	76
Washington	1,582	17	93
Wisconsin	1,777	15	118

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Information on the opinions reports for Idaho and Utah is not available at this time.

The following states have no intermediate appellate courts: Delaware, Maine, Mississippi, Montana, Nevada, New Hampshire, Rhode Island, South Dakota, Vermont, West Virginia and Wyoming.

SOURCE: *1993 State Court Caseload Statistics*, Table 3, pp. 117-121

**EXHIBIT D  
SIGNED OPINIONS PER JUDGE  
STATES WITH MULTIPLE INTERMEDIATE  
APPELLATE COURTS - 1993**

		DISPOSITIONS BY SIGNED OPINIONS	NUMBER OF JUDGES	OPINIONS PER JUDGE
Alabama				
	Civil	491	3	
	Criminal	441	5	
<b>TOTAL</b>		<b>932</b>	<b>8</b>	<b>117</b>
Indiana				
	Court of Appeals	1,651	13	
	Tax Court	0	1	
<b>TOTAL</b>		<b>1,651</b>	<b>14</b>	<b>118</b>
Oklahoma*				
	Court of Criminal Appeals	N/A	5	
	Court of Appeals	1,260	12	
<b>TOTAL</b>		<b>1,260</b>	<b>17</b>	<b>74*</b>
Pennsylvania*				
	Superior Court	N/A	15	
	Commonwealth Court	1,743	9	
<b>TOTAL</b>		<b>1,743</b>	<b>24</b>	<b>73*</b>
Tennessee				
	Criminal Court of Appeals	753	9	
	Court of Appeals	843	12	
<b>TOTAL</b>		<b>1,596</b>	<b>21</b>	<b>76</b>
Texas				
	Ct of Crim Appeals	198	9	
	Court of Appeals	5,699	80	
<b>TOTAL</b>		<b>5,897</b>	<b>89</b>	<b>66</b>

<b>New York*</b>				
	Court of Appeals	138	7	
	Appellate Division of the Supreme Court	N/A	47	
	Appellate Terms of Supreme Court	N/A	15	
<b>TOTAL</b>		138	69	N/A*

\*Data is incomplete for New York, Oklahoma and Pennsylvania. These states were listed as states with multiple appellate courts on page 135, table 6, of the opinions reported by state appellate courts, 1993, in the comparative report of the National Center for State Courts.

**SOURCE:** *1993 State Court Caseload Statistics*, Table 6, pg 135.

**EXHIBIT E**  
**SIGNED OPINIONS PER JUDGE**  
**INTERMEDIATE STATE APPELLATE COURTS - 1993**  
**SOUTHERN REGION**

STATE	NUMBER OF WRITTEN OPINIONS	NUMBER OF JUDGES	OPINIONS PER JUDGE
Georgia	2,501	9	278
Kentucky	1,662	14	119
✓ Alabama*	932	8	117
Arkansas	652	6	109
✓ South Carolina	569	6	95
North Carolina	984	12	82
Virginia	755	10	76
Tennessee*	1,596	21	76
Texas*	5,897	89	66
Louisiana	3,258	53	61
✓ Florida	343	57	6

\*Alabama, Tennessee and Texas have two intermediate appellate courts.

**SOURCE:** *1993 State Court Caseload Statistics*, Table 3, pp. 117-121

**EXHIBIT F  
FILINGS PER JUDGE FOR MANDATORY CASES IN STATES  
WITH ONE INTERMEDIATE APPELLATE COURT, 1993**

STATE	RANK	FILINGS
Michigan*	1	521
Oregon**	2	441
Georgia	3	289
Florida	4	277
New Jersey	5	224
Wisconsin	6	219
Illinois	7	217
Kentucky	8	209
Washington	9	200
Arkansas	10	188
Arizona	11	177
Ohio	12	169
California	13	163
Nebraska	14	158
Maryland	15	156
Kansas	16	149
Minnesota	17	146
Colorado	18	138
Alaska	19	137
Massachusetts	20	130
Connecticut	21	129
Missouri	22	126
Utah	23	119
Iowa	24	112
North Carolina	25	111
Hawaii	26	104
South Carolina	27	98
Idaho	28	80

New Mexico	29	78
Louisiana	30	76
Virginia	31	60
North Dakota	32	2

\* Includes both discretionary and mandatory filings. If Georgia combined both, its filings would equal 392 per judge.

\*\* No discretionary petitions in Oregon.

**Filings Per Judge for Mandatory Cases in States  
with Multiple Intermediate Appellate Court, 1993**

STATE	RANK	FILINGS PER JUDGE
Pennsylvania	1	466
Alabama	2	366
New York	3	207
Oklahoma	4	163
Indiana	5	141
Texas	6	138
Tennessee	7	98

SOURCE: 1993 State Court Caseload Statistics, Table 3, pp. 117-121

**EXHIBIT G**  
**COURT OF APPEALS**  
**CASELOAD SUMMARY**

HISTORY SET	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986	1985
DIRECT APPEALS:	2884	2842	2601	2455	2265	2384	2360	2306	2071	2666	1946
PERCENTAGE VARIANCE:	1.4	8.5	5.6	7.7	5.3-	1.0	2.3	10.2	28.7-	27.0	9.7-
AVG. CASES PER JUDGE:	320.4	315	289	251	264	262	262	256	230	296	216
<sup>1</sup> DISCRETIONARY APPL.:	421	611	475	471	430	394	408	356	342	313	298
PERCENTAGE VARIANCE:	31.0-	22.3	.8	8.7	8.4	3.6-	12.7	3.9	8.5	4.8	5.4-
AVG. CASES PER JUDGE:	46.7	67	52	52	47	43	45	39	38	34	33
<sup>1</sup> INTERLOCUTORY APPL:	330	458	450	486	450	400	401	361	391	313	343
PERCENTAGE VARIANCE:	27.9-	1.7	7.4-	7.4	11.1	.3-	10.0	8.3-	19.9	9.6-	4.7
AVG CASES PER JUDGE:	36.6	50	50	54	50	44	44	40	43	34	38
<b>TOTAL MATTERS DOCT:</b>	<b>3635</b>	<b>3911</b>	<b>3526</b>	<b>3412</b>	<b>3145</b>	<b>3178</b>	<b>3169</b>	<b>3023</b>	<b>2804</b>	<b>3292</b>	<b>2587</b>
<b>AVG. CASES PER JUDGE:</b>	<b>403.8</b>	<b>434</b>	<b>391</b>	<b>379</b>	<b>349</b>	<b>353</b>	<b>352</b>	<b>335</b>	<b>311</b>	<b>365</b>	<b>287</b>

<sup>1</sup> Discretionary and interlocutory applications represent filings from January 1, 1995 through September 15, 1995. In 1994, the application filings were from January 1 - December 31, 1994. The change was made in 1995 to put applications on the same docket year as direct appeals, i.e., September 15 to September 15 each year.

**SOURCE:** Court of Appeals records.

**EXHIBIT H  
U.S. CENSUS POPULATION FIGURES AND  
ESTIMATED PROJECTIONS FOR GEORGIA**

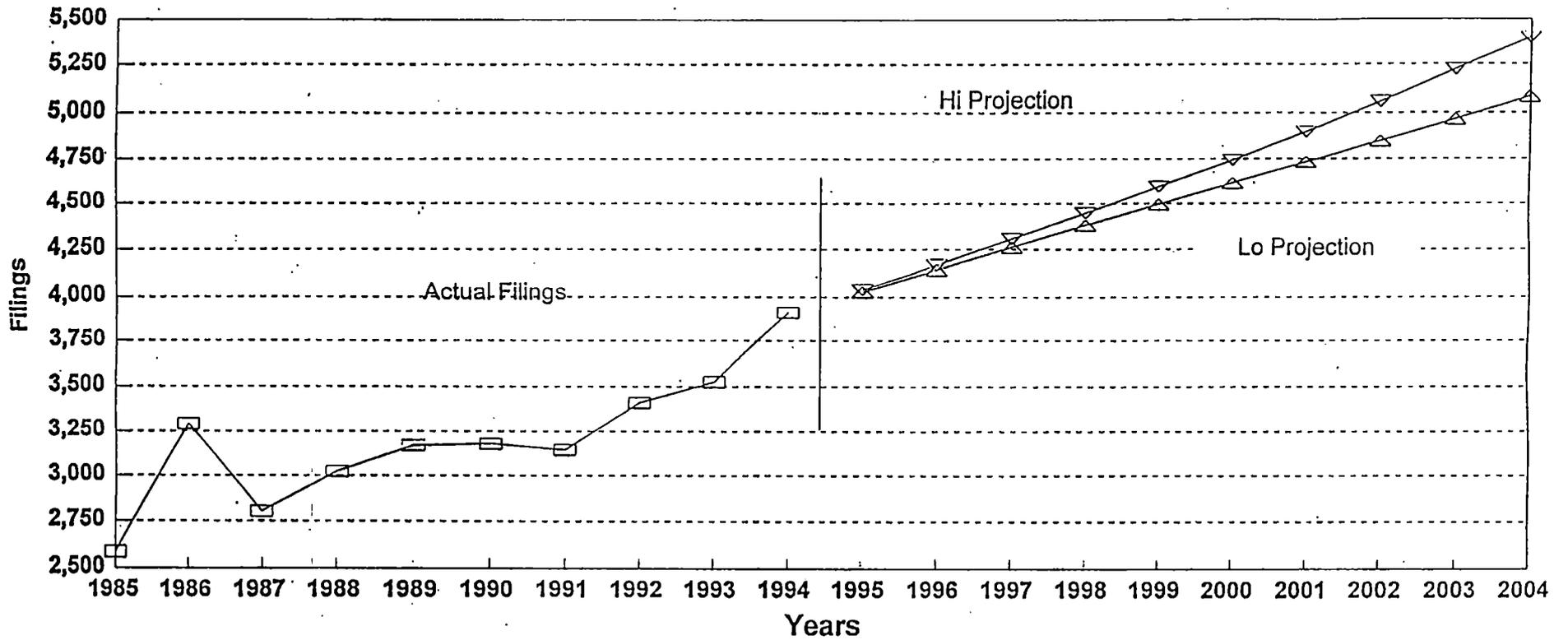
<b>YEAR</b>	<b>POPULATION</b>
1960	3,943,116
1970	4,589,575
1980	5,463,105
1990	6,478,216
1994*	7,055,336
2000*	7,703,202
2010*	8,663,057

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\*Estimated projections

**SOURCE:** United States Census

Graph 1  
 Court of Appeals Projections  
 Actual Filings from 1985 to 1994  
 With Projections to 2004



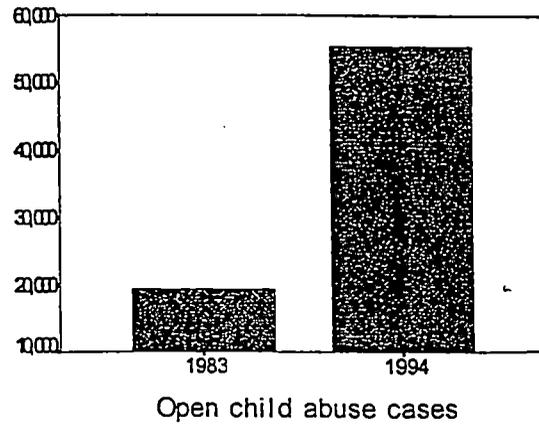
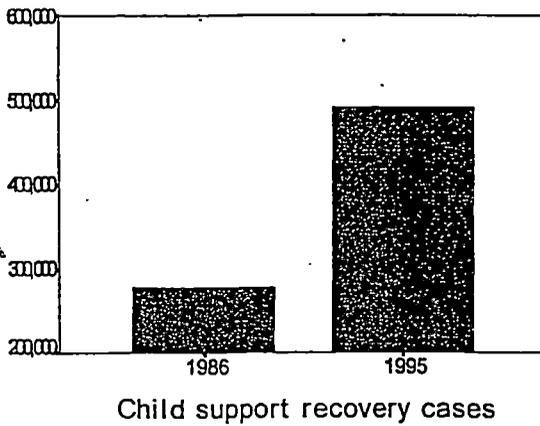
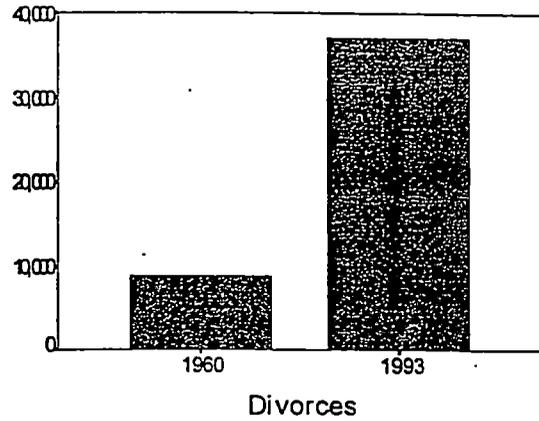
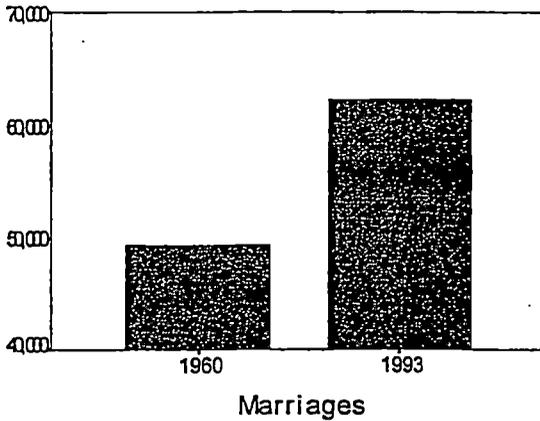
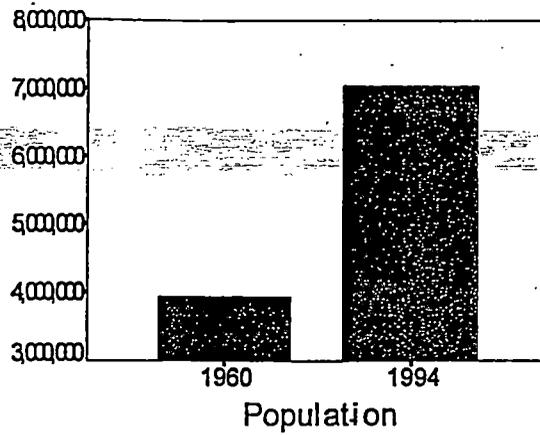
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December 14, 1995

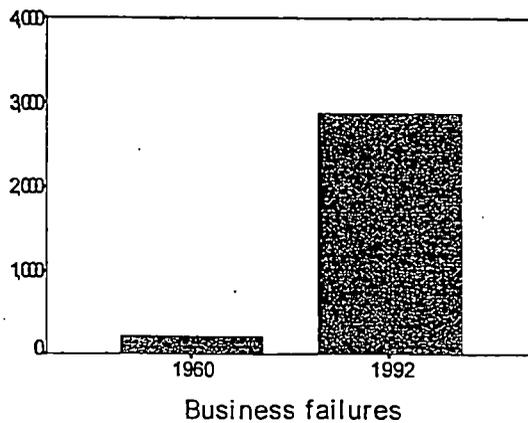
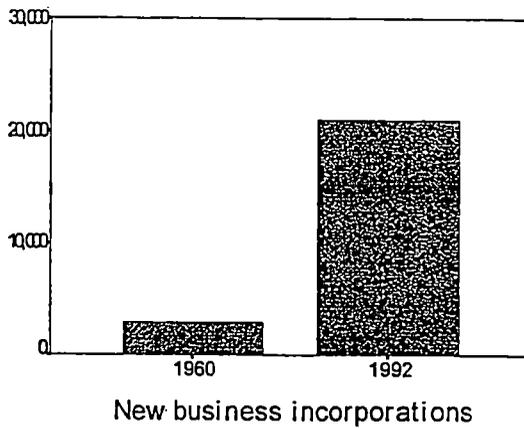
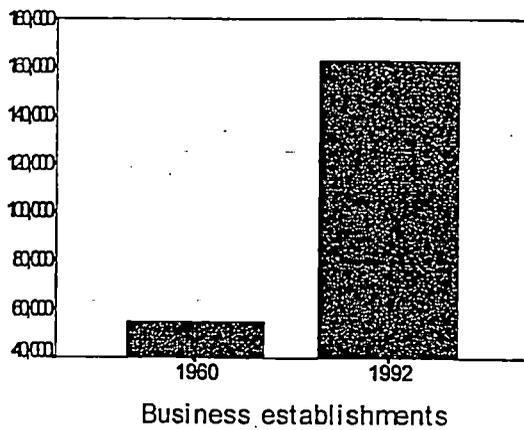
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**Graph 2**  
**Population and Other Related Statistics, Past and Present**



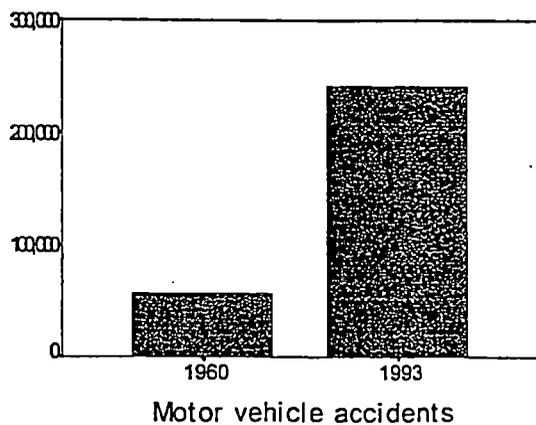
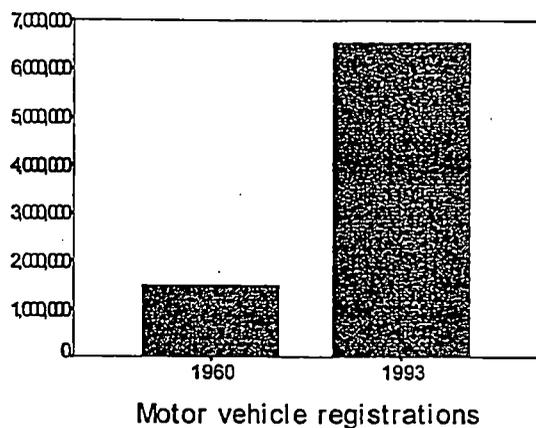
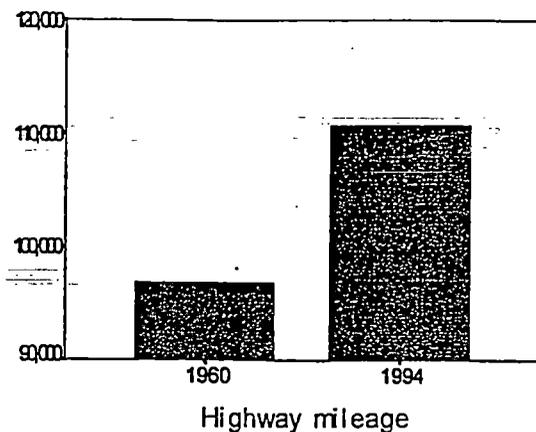
### Graph 3

#### Business Growth Statistics, Past and Present



### Graph 4

## Statistics on Highway Mileage Increases and Growth in Motor Vehicle Registrations and Accidents, Past and Present



SECRET