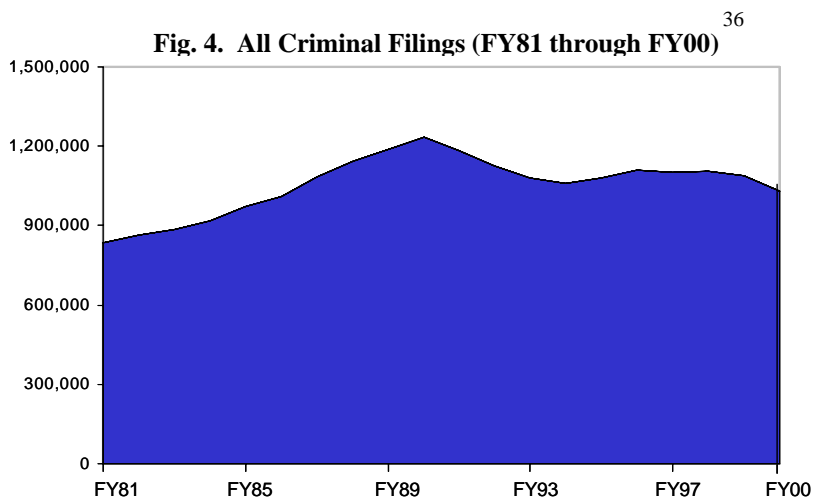


### III. CASE CATEGORIES

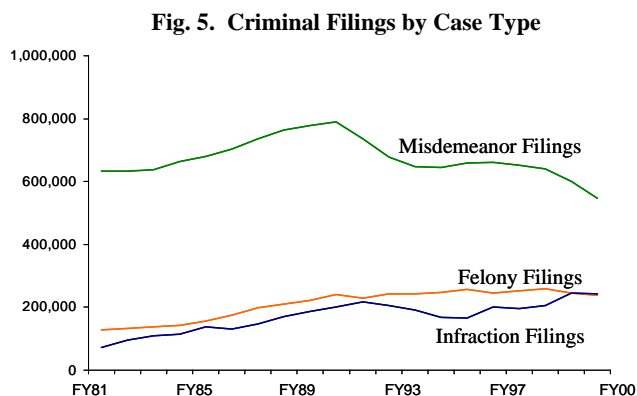
#### A. CRIMINAL CASES

Three case types are included in this case-type category: Felonies, Misdemeanors, and Criminal Infractions. Felonies are criminal violations that involve serious offenses punishable by death or incarceration in state prison. Criminal Misdemeanors are non-Traffic violations punishable by imprisonment in county jail, by fine, or both. Criminal Infractions are non-Traffic violations of state law or local ordinances and are punishable only by fine or other comparable penalty.

Total criminal filings increased by 195,171 cases (+23.4%) between FY81 and FY00. Filings grew quickly until FY90, increasing by 398,000 cases (+48%) over this period. A dip of 172,057 (-14%) cases occurred from FY91 to FY94 followed by a fairly stable period until FY00, when filings again fell by 61,585 cases (-5.6%).



The chart to the right breaks down criminal filings by the individual case-type categories. Misdemeanors comprise the greatest number of criminal filings, followed by felonies.

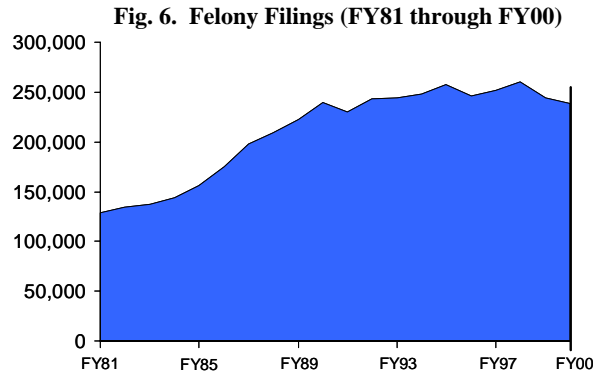


<sup>36</sup> Filings and dispositions cited or represented are from Judicial Branch Statistical Information System (JBSIS) unless otherwise noted. For a list of individual case types in a case-type category, please see p. iii. Convention for notation of fiscal years is also found on p. iii.

## 1. Criminal Filings by Case Type

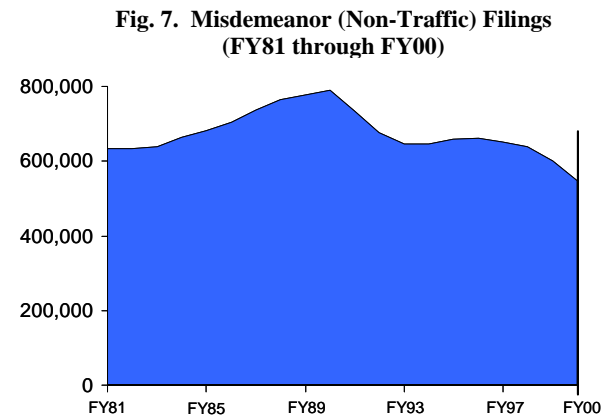
### a. Felony Filings

Felonies constitute a relatively small proportion of all criminal filings (an average of 19.9% of all criminal filings over the 20-year period). Nevertheless, they are the most serious cases in the criminal caseload and consistently require substantial amounts of judicial time to resolve. The number of new felony filings increased by 109,835 cases (+85%) over the 20-year period surveyed for this report. Although most of that growth occurred in the 1980s, filings in the 1990s still grew by 9,000 cases (+4%).



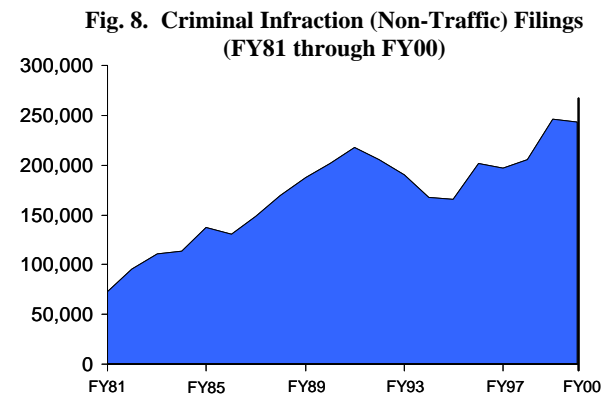
### b. Misdemeanor Filings

Over the 20-year period surveyed, the number of misdemeanor filings decreased by 84,806 cases (-13.4%). Unlike felony filings, the state experienced vastly different trends in misdemeanor filings during the 1980s and 1990s. There was an increase of about 25% in the number of filings over the 1980s; however, in the 1990s, the state experienced a 31% decrease in misdemeanor filings.



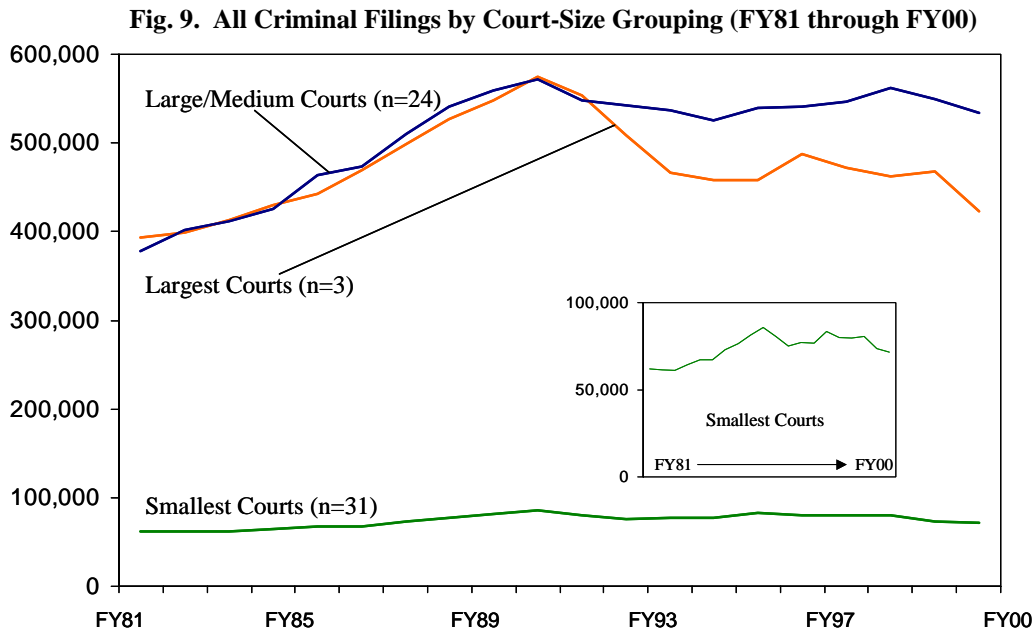
### c. Criminal Infraction Filings

Criminal infraction cases grew more than any other criminal case type from FY81 through FY00. In FY00, filings were more than three times higher statewide than they were in FY81. Much of the increase in the new cases occurred in the 1980s, when filings grew consistently from year to year. There were some fluctuations up and down in the 1990s, but the decade still showed an overall 11% increase (about 25,000 cases) of infraction filings.



## 2. Statewide Criminal Filings by Court-Size Grouping

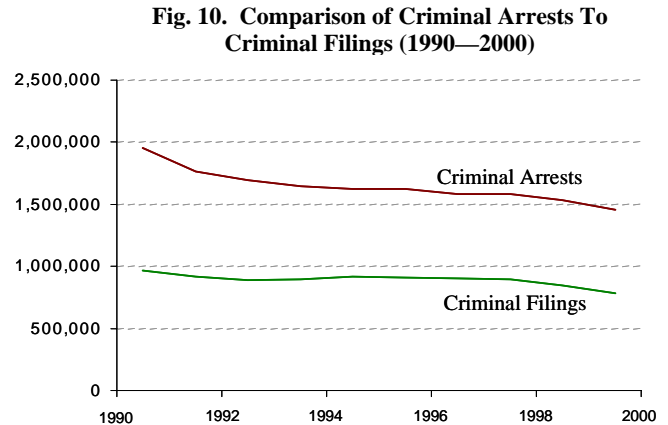
Each of the groups based on court size had more filings in FY00 than in FY81. Filing patterns for the 20 years that were surveyed were similar for the Largest and Smallest size groupings. Both experienced steady increases in the 1980s followed by decreases over the 1990s. That brought filings back to a level only slightly higher than at the start of the 20-year period. The Large/Medium size grouping also experienced a steady increase through the 1980s and a decline after FY90, although the decline for this group was modest compared to the Largest and Smallest court-size groupings.



Note: A listing of courts within each court-size grouping can be found on p. iii.

## 3. Filing Influences

Understanding criminal case filings requires an explanation of the relationship between criminal arrests and subsequent criminal filings. The defendant's point of entry into the criminal justice system is almost always at the time of arrest (in felony and misdemeanor cases); of course, not all arrests result in criminal filings. Nevertheless, fluctuations in the number of arrests generally mirror any trends in the number of filings. That is, an increase or decline in arrests *generally* result in a



corresponding increase or decline in criminal filings. The chart above (Fig. 10) depicts criminal (felonies and misdemeanors) arrests and criminal filings; as arrests fell between 1990 and 1999, so did the number of criminal filings.

Felony arrests declined by 109,322 (-18%), while misdemeanor arrests dropped by over 390,000 (-28%). Crimes against persons, drug offenses, and other felonies—three of the four types of felonies—each fell in the 1990s by less than 10%, while the fourth type of felony, crime against property, dropped by 39%.<sup>37</sup> The factors likely to influence the drop in crime and criminal arrests in the 1990s are many, but a study by the California Department of Justice suggests the following factors as most influential:

- The strong job market of the 1990s resulted in a fundamental shift in employment opportunities for at-risk, low-skilled young males;
- Increases in incarceration rates since the 1980s have contributed to declines in property crime rates and older adult violent crime rates;
- A weakening of the crack cocaine market because the number of new users began to decline in the early 1990s;
- Statutes that increased domestic violence arrests and/or made domestic violence a felony contributed to a decline in domestic partner homicides. Additionally, the increase in available resources for women wanting to escape violent relationships lowered the rate of domestic violence; and
- In recent years, due entirely to a drop in juvenile homicides committed with firearms (primarily handguns)<sup>38</sup>, there was a decrease in homicides and violent crime by young people.

Grants to law enforcement can also affect arrest rates. The most documented examples of this were the grants to support law enforcement's efforts to deal with drug-related crimes and youth gang problems in the 1980s and 1990s. Each new area of emphasis impacts the courts in terms of the number and type of new filings. Indeed, the key impetus behind the first drug court was a need within the court to deal with the flood of repeat drug offenders caught in the "war on drugs."<sup>39</sup>

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<sup>37</sup> Department of Justice, *Key Facts: 1952 - 2000*, Criminal Justice Statistics Center <<http://caag.state.ca.us/cjsc/keyfacts.htm>>.

<sup>38</sup> See Leonard A. Marowitz, *Why Did the Crime Rate Decrease Through 1999? A Literature Review and Critical Analysis* (Sacramento, CA: Criminal Justice Statistics Center, California Department of Justice, 2000).

<sup>39</sup> Cf. Drug Court Clearinghouse and Technical Assistance Project, *Looking at a Decade of Drug Courts* (Washington D.C.: Office of Justice Programs, U.S. Dept. of Justice, 2000) p. 1.

## **4. Workload Influences**

Numerous factors influence workload. Three stand out for both the magnitude of their influence and their impact across all case types: statutory changes, use of collaborative courts, and managing interpreters.

### **a. Statutory Changes**

Of the 437 statutes reviewed for this report (see Methodology), 161 are related to criminal filings and proceedings. Twenty-eight (28) of the 161 statutes created new crimes. The remaining 153 tend to fall into one of three categories: (1) statutes affecting courtroom procedures; (2) statutes affecting giving notice; and (3) statutes affecting information management.

#### **(1) Courtroom Procedures**

Some examples of statutory changes affecting courtroom procedures are the following:

*1991*

- Requires a hearing to determine whether to continue or rescind an order for medical treatment for a prisoner.
- Requires a confidential hearing to determine the merits of cases of alleged felony child abuse before defendant can be named in the pleadings.

*1992*

- Allows expert testimony on battered woman's syndrome to explain a victim's perceptions or behavior.
- Requires the court to notify the district attorney and hold a hearing before modifying, revoking, or terminating probation, and to state on the record the reasons for any modification or revocation.

*1996*

- When a defendant is charged costs in a criminal proceeding, he or she has a right to a hearing, with counsel, to determine the amount to be paid and the manner of payment.

Each addition of a new procedure or hearing involves additional courtroom time that translates into additional workload. Further research would need to be done to determine how often each new procedure or hearing actually occurs during a typical week or year. Nonetheless, approximately 25% of the criminal statutes reviewed required some court action. These changes accumulate in the course of a year, across 58 courts, and their combined impact may be substantial.

#### **(2) Notice Requirements**

Some examples of statutory changes with notice requirements are the following:

1991

- Requires the court to report to the Department of Justice (DOJ) on criminal restraining orders.

1995

- Requires the court to provide DOJ with the address of a convicted arsonist.

1996

- Requires the court to notify DMV of convictions of specified controlled substance offenses.

It is not possible to say how much time a particular notice requires. The workload associated with notice requirements depends on a number of factors including a court's information technology and how often cases needing the new notice are filed in that court. A budget request from the Superior Court in Fresno County for FY01-02 may provide some additional insight on this point.

In a budget request for staff prepared in 2000, Fresno had a substantial backlog of JUS8715<sup>40</sup> forms that needed to be completed and sent to the DOJ. This backlog developed despite significant overtime put in by the staff to catch up. Fresno also had a backlog of notices to prepare and send to the DMV. While any one additional reporting requirement may appear insignificant in terms of workload, the combined impact of these incremental changes adds up to substantial workload increases. It is not uncommon for trial courts to report significant backlogs in routine reports to the DMV, Department of Corrections, or Department of Justice. Although the courts are working on solutions to permit efficient, electronic transfer of this information, in the meantime such reports represent significant workload.

In addition, since criminal filings have increased over the last 20 years, the volume of DOJ reporting has likewise increased. Any further reporting requirements in addition to the DOJ reporting only exacerbate the burden on the courts.

### **(3) Information Management**

Some examples of statutory changes affecting information management are the following:

1993

- Upon a victim's request, courts must order the identity of an alleged victim to be made a "Doe" in the court record.

1996

- Requires the court to obtain a thumbprint of criminal defendants charged with a felony; upon conviction, the court must attach the print to the minute order and file both.

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<sup>40</sup> The JUS8715 form is used by the courts to report the disposition of criminal cases to the DOJ.

- Requires the court to protect the address and phone number of the victim(s) and witnesses absent a showing of good cause whenever a defendant is acting as his or her own counsel.

Keeping information confidential presents a number of difficulties for the court, all of which are workload intensive. For instance, sealing and/or changing records involve several steps. Information declared confidential normally is confidential only for the public. There must still be an original (unchanged) record that the court can consult in case an issue should arise that requires post-adjudication action, such as an appeal. In addition, depending on the information, law enforcement, probation, or other government entity may be allowed access to the original information, which would require a procedure to determine right to access. Finally, the issue of keeping information confidential does not disappear when the case is concluded.

For most case types, any information that is not confidential becomes public record. Anyone can request to review the case at any time. Thus, procedures must be developed to ensure that confidentiality is maintained long after the case was disposed and that those persons with authority to access the original file information can do so. These measures translate into workload for each new requirement of confidentiality or change of information (e.g., changing victim names to “Does”).

## **b. Collaborative Justice Courts**

The 1990s was a decade of reinvention for the courts. Judges and court executives around the state established “collaborative courts” or “therapeutic courts”—the so-called “problem-solving courts”—to resolve cases involving addictive behavior or family law cases. Collaborative justice courts work in conjunction with treatment and social service agencies to address the multifaceted problems indicative of these cases. Each court builds a treatment process to ensure that both the enrolling participants cooperate and that appropriate services are provided.<sup>41</sup>

“Drug courts” are the most prevalent collaborative justice courts. Currently, there are 91 adult drug courts throughout California. The coordination efforts necessary for these courts to be effective create an initial increase in workload over the traditional court model. Case processing through collaborative courts involves a greater number of hearings, many meetings between the service providers and the judicial officer, and coordination by staff with service providers between court sessions.

Collaborative justice courts have the long-term prospect of reducing recidivism. To the degree that adjudicating cases in these courts results in long-term reductions in recidivism, this will offset to some degree the initial increased workload for both staff and judicial officers in collaborative justice courts.

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<sup>41</sup> Bureau of Justice Assistance, *Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts* (Washington D.C.: US Department of Justice).

### c. Managing Interpreters

The use of interpreters in criminal cases has grown in the 1990s, even though both felony and misdemeanor filings fell. A recent report for the Judicial Council stated the number of Spanish interpreter service days increased by 19% from FY95 through FY99.<sup>42</sup> Service days for all language interpreters increased by over 21%. Staff workload is significantly impacted by the increased use of interpreters.

As of FY99, only six counties employed their own interpreter staff. In the other 52 counties, interpreters are independent consultants, who normally work for several courts and other entities requiring interpreter services. Consequently, when an interpreter is needed, staff must

1. Locate interpreters;
2. Negotiate time availability;
3. Deal with any last minute changes in both the court's and the interpreter's schedules; and
4. Review and approve bills when they are submitted.<sup>43</sup>

The amount of time involved in coordinating and managing interpreters can be staggering. For example, Los Angeles and Riverside use the equivalent of 440 and 400 hours a week,<sup>44</sup> respectively, to coordinate the use of contract interpreters. As California grows more diverse, the need for interpreters will probably grow and continue to impact workload.

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<sup>42</sup> Walter R. McDonald & Assoc., Inc., *2000 Language Need and Interpreter Use Study* (San Francisco, CA: Judicial Council of California, 2000).

<sup>43</sup> *Ibid.*

<sup>44</sup> This is the equivalent of 12 and 10 full-time staff.

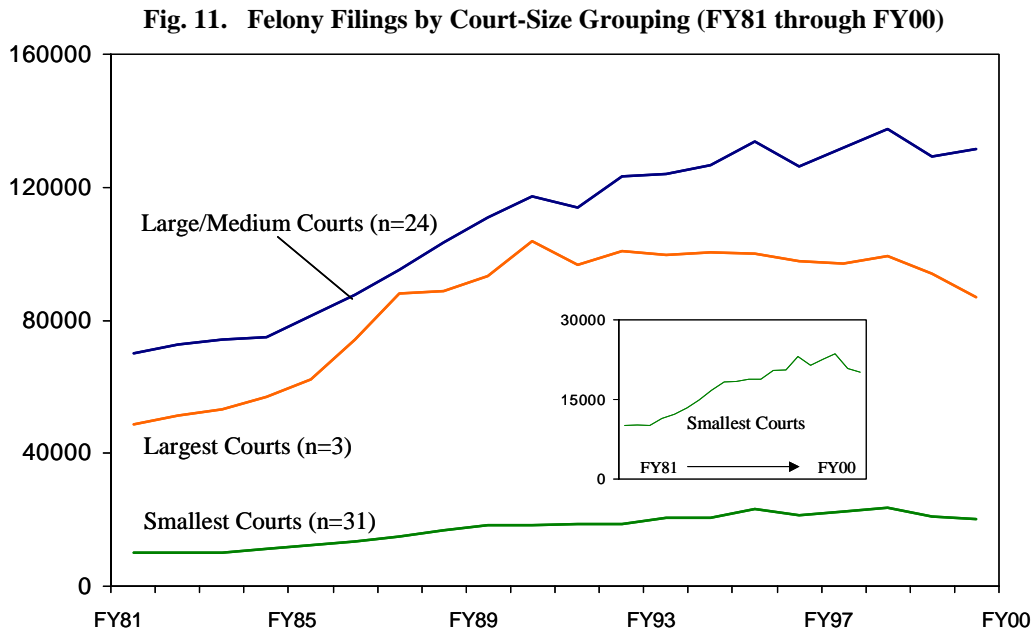


## 5. Felony

While felony filings statewide increased dramatically in the 1980s and slightly in the 1990s (see Fig. 6 above), a breakdown of the courts into court-size groupings reveals a variation in filing patterns across these groups.

### a. Filings by Court-Size Grouping

Each of the three groups had more filings in FY00 than in FY81, and experienced a steady increase through the 1980s. The Large/Medium and Smallest court groups continued to experience increases in the 1990s, although the increases followed several short periods of declines. Filings in the Largest courts increased significantly through most of the 1980s, were relatively stable between FY90 and FY98, and decreased slightly but steadily at the end of the 1990s. However, Los Angeles had a significant decline (-20%) in the 1990s, which drives down the numbers for the Largest courts. Without Los Angeles's filings, the state would have experienced a 14% increase in felony filings between FY90 and FY00.



Note: A listing of courts within each court-size grouping can be found on p. iii.

### b. Felony Filing Influences

While the crime rate was dropping during the 1990s to about half its level at the beginning of the decade,<sup>45</sup> felony filings were up about 4% statewide. This fact is inconsistent with the previously stated concept that an increase or decrease in arrests

<sup>45</sup> The crime rate for 1990 was 3500 per 100,000 population; in 2000, it was 1800 per 100,000 population. See Department of Justice, *Crime in California* (Criminal Justice Statistics Center, April 2001).

generally results in a corresponding increase or decrease in criminal filings. There are several possible explanations for a statewide increase in felony filings while arrests generally fell, including, but not limited to, changes in police practices and decisions to file more felonies within prosecutors' offices. There is some statistical evidence, however, that a higher percentage of cases were being filed in the 1990s than in the 1980s.

The Department of Justice (DOJ) compiles an annual profile of criminal justice statistics. The "Final Law Enforcement, Prosecution, and Court Disposition of Adult Felony Arrests Table" for the 1980s and the 1990s show the disposition of felony arrests including data on "complaints denied," which reflects the screening process of prosecutors. In the 1980s, the percent of denied complaints went from 15.3% in 1981 to 18.2% in 1982, and stayed around the 18%-19% range until 1988. In 1989, the percentage of denied complaints dropped to 16.6%, and in 1990 it dropped to 12.9%. Since 1992, the statewide rate for complaints denied has been below 15%, and most years under 14%.<sup>46</sup> Thus, the average rate for complaints denied in the 1980s was 17.4% versus 13.4% in the 1990s. In the 1990s, total felony arrests ranged from a low of approximately 260,000 to a high of approximately 350,000.<sup>47</sup> A 4% drop (17.4% - 13.4%) in the number of complaints denied in the 1990s represents 10,400 (.4 x 260,000) to 14,000 (.4 x 350,000) additional filings per year compared to what filings would have been with the higher denial rate of the 1980s.

According to the tables, however, 40% of the felony arrests were filed as misdemeanors only in the courts. Nonetheless, these numbers suggest that less "screening out" was taking place and may well explain how felony filings increased but arrests declined in the 1990s. More research will be required; one possible hypothesis is that in an era of declining crime rates, police have more time to develop solid cases, which are then more likely to be filed by prosecutors.

### **c. Felony Workload Influences**

All things considered, the increased number of felony filings may account for the increase in the number of felony jury trials, which contributes to workload.

Trials represent a relatively small number, as a percent of total criminal dispositions. The percentage of felony dispositions achieved by trial (i.e., the trial rate) is slightly higher than 5%. This low percentage of dispositions by trial belies the workload impact of trials. A review of several case-weighting studies from California and other states suggests that a significant portion of a court's total case-related time is spent in bench and

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<sup>46</sup> There are a number of data limitations. Most noteworthy is the fact that the data normally only represent final disposition on approximately 65-75% of the total adult felony arrests made during a calendar year. The DOJ does state that in the aggregate, the data generally describe state disposition patterns. *See* Department of Justice, *California Criminal Justice Profiles, 1998*, CJSC Publications on Line, page titled "Known Data Limitations and Characteristics"

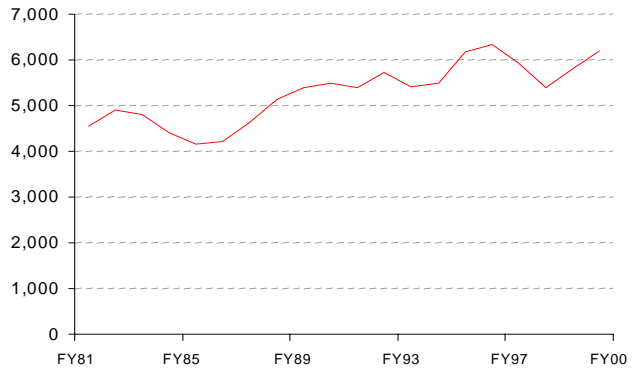
<<http://caag.state.ca.us/cjsc/publications/profiles/prof98/lmts.pdf>>.

<sup>47</sup> *Ibid.*

jury trials. Jury trials are the single most time-consuming part of case processing for a judge, with an average jury trial consuming significantly more time than a bench trial.

The number of felony jury trials statewide went up significantly (+1,650) between FY81 and FY00. It is estimated that it takes an average of three to four days to complete a felony jury trial in most courts. Using the three to four day average, the increase in jury trials over the 20-year period surveyed added 5,000 to 6,500 trial days statewide.

**Fig. 12. Felony Jury Trials Statewide (FY81 through FY00)**



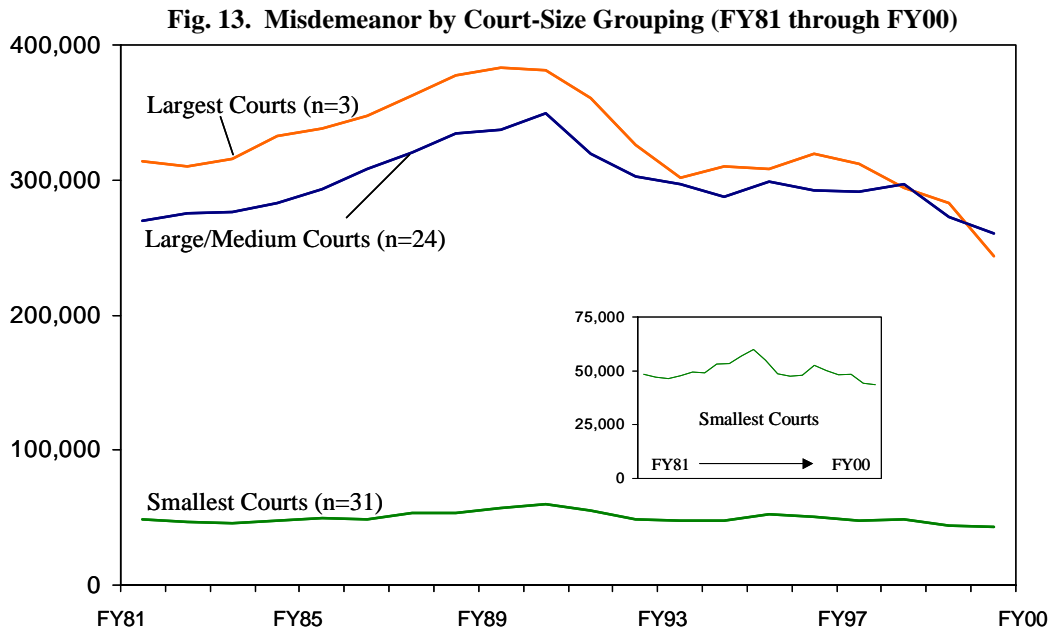
The increases in felony jury trials can be partially attributed to the advent of the “three strikes” legislation. The highest number of jury trials in one year (6,329) occurred in FY96, roughly one year after “three strikes” implementation began, and the timing and pattern of these cases is a result of three-strikes cases, particularly in the state’s three largest courts.

## 6. Misdemeanor (Non-Traffic)

Misdemeanors constitute the largest segment of the criminal caseload. Overall, the number of misdemeanor filings decreased by about 85,000 cases (-13%) over the 20-year period studied.

### a. Filings by Court- Size Grouping

A breakdown of filings by court-size grouping reveals that each court-size group had similar filing patterns. Between FY81 and FY90, all subgroups experienced significant increases, followed by a steep decline between FY90 and FY94. Beginning in FY94, filings increased steadily until around FY97, after which they again declined.



Note: A listing of courts within each court-size grouping can be found on p. iii.

### b. Misdemeanor Filing Influences

There was a 28% decline in criminal misdemeanor arrests in the 1990s; there was a 25.5% decline in the number of filings. The age of the population is a factor influencing filing declines. A report from California's Attorney General on falling crime rates in the 1990s states that older criminals were committing fewer property crimes, many of which are charged as misdemeanors.<sup>48</sup> Beyond the age factor, criminal misdemeanor filings are affected by the same factors previously identified for felonies.

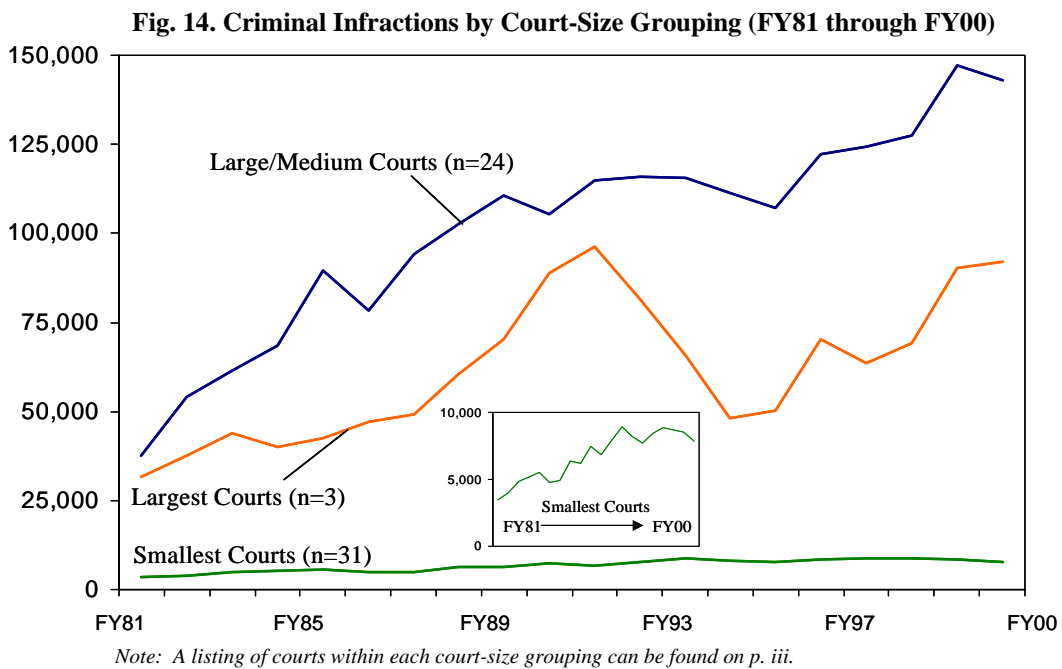
<sup>48</sup> Leonard A. Marowitz, *supra*, fn. 38.

## 7. Criminal Infractions (Non-Traffic)

Criminal infraction cases grew more than any other criminal case type in the 20-year period studied.

### a. Filings by Court-Size Grouping

Each court-size grouping experienced growth over the 20-year period surveyed, although filing increases were characterized by fluctuations up and down. The Largest court grouping experienced a significant decline in infraction filings in the early 1990s, but made up most of the decrease in the latter part of the 1990s.



### b. Infractions Workload Influences

Because infractions are dealt with by citation and involve the lowest level of punishment for a criminal case, the time required for a judicial officer to dispose of these cases is very limited. The impact on staff is perhaps greater, but there are no data. It is probably safe to say that given the remarkable increase in the number of filings over the 20-year period surveyed (230% increase), there has been some increase in workload for both the judiciary and the staff, but further research is needed to quantify this increased workload.