

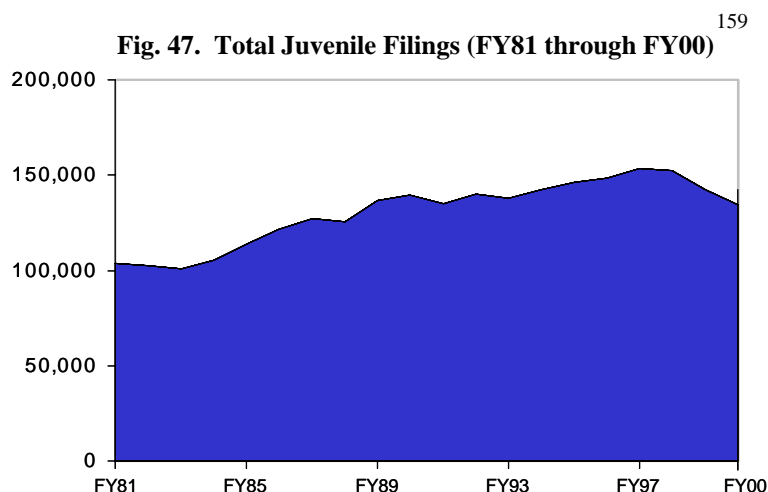
H. JUVENILE CASES

There are two distinct types of juvenile cases: Delinquency and Dependency. Delinquency cases involve status offenses such as truancy (referred to as “601s”), and criminal offenses committed by persons under age 18 (referred to as “602s”). Dependency cases are related to provisions of the Welfare & Institutions Code §300 et seq., and pertain to matters involving the general welfare of a child. Petitions in dependency matters are brought by interested parties, including social service units of county government, and generally assert child neglect or abuse.

Both case types have two forms of case filings: the “original” filing and the “subsequent” filing. Subsequent filings in delinquency matters are petitions filed by a probation officer alleging additional acts by a minor who has been made a ward of the court. Subsequent filings in dependency matters are petitions that allege new facts relating to a minor who is the subject of an original Welfare & Institutions Code §300 petition.

Between FY81 and FY00, total juvenile filings (delinquency and dependency cases) increased by 30,401 cases (+29%). Filings dipped in the first years of the 1980s and then steadily increased, reaching a peak of 49,319 new cases by FY97. Beginning in FY98, filings have dropped each year.

National filing patterns for all juvenile cases followed a path similar to that of California. A sample of 27 states reveals a 66% increase between 1984 and 2000.¹⁶⁰ California also experienced an increase (18.5%) in the same period, although it was significantly less than the national percent increase. Although there was an overall increase in filings nationally between 1997 and 2000, filings have been steadily declining since 1997, as they have in California.¹⁶¹



¹⁵⁹ Filing and disposition data cited are from the Judicial Branch Statistical Information System (JBSIS) unless otherwise noted. For a list of individual case types in a case-type category, see p. iii. Convention for notation of fiscal years is also found on p. iii.

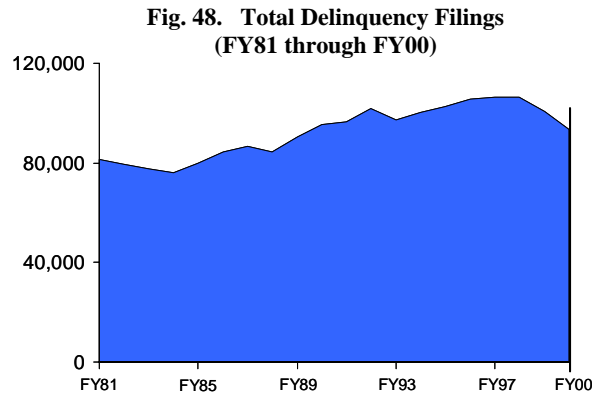
¹⁶⁰ *Examining the Work of the State Courts, 2001: A National Perspective From the Court Statistics Project*, National Center for State Courts. Twenty-seven states in the sample include Washington, California, Nevada, Utah, Colorado, Wyoming, New Mexico, North Dakota, South Dakota, Minnesota, Michigan, Ohio, West Virginia, Pennsylvania, Maryland, New York, Vermont, New Hampshire, Delaware, Maine, Louisiana, Arkansas, Alabama, Georgia, North Carolina, Tennessee, and Hawaii.

¹⁶¹ The comparison between California’s trend and the national trend should be viewed with some caution because California was included in the national sample. California is significantly larger than the other states in the sample and consequently, the national filing pattern for juvenile cases may look more like California’s than it would have if California were not included in the sample.

1. Statewide Filings by Case Type

a. Delinquency Filings

Delinquency filings (both 601s and 602s) increased by 12,576 cases (15%) between FY81 and FY00. Filings fell by 4,541 cases in the first part of the 1980s. By the mid-1980s filings were climbing, totaling 30,378 new cases by FY98. Since FY98, filings have dropped.



b. Dependency Filings

Dependency cases nearly doubled in the 20-year period studied. Between FY81 and FY00, new filings increased by 17,992 cases (79%). Filings were stable in the early 1980s but surged between FY83 and FY89, reaching 46,491 cases in FY89 (105% increase). After a brief tumble between FY89 and FY92, filings rose again, reaching 46,950 cases in FY97. Since FY97, filings have dropped.

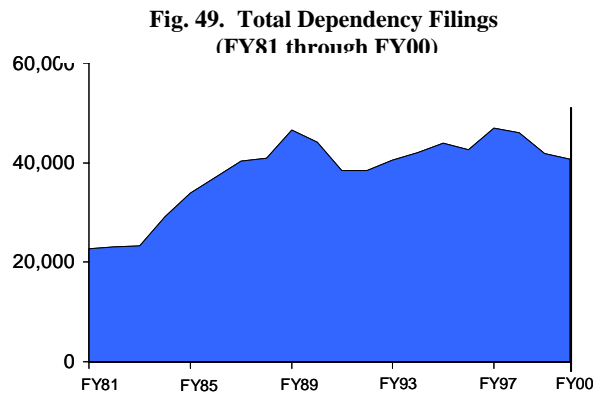
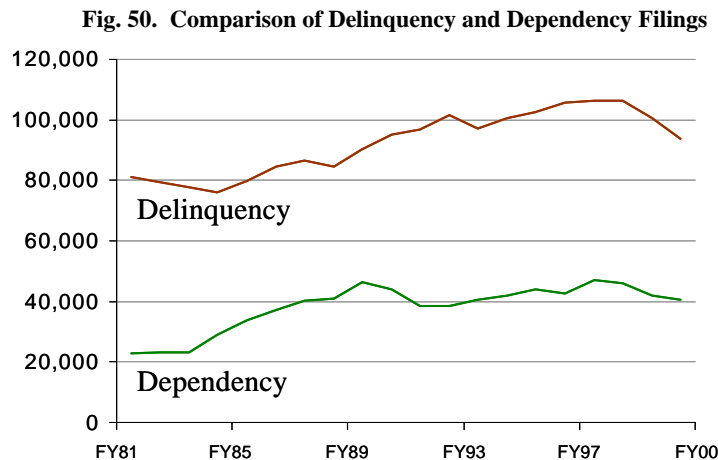


Figure 49 to the right compares the total number of delinquency filings to dependency filings.



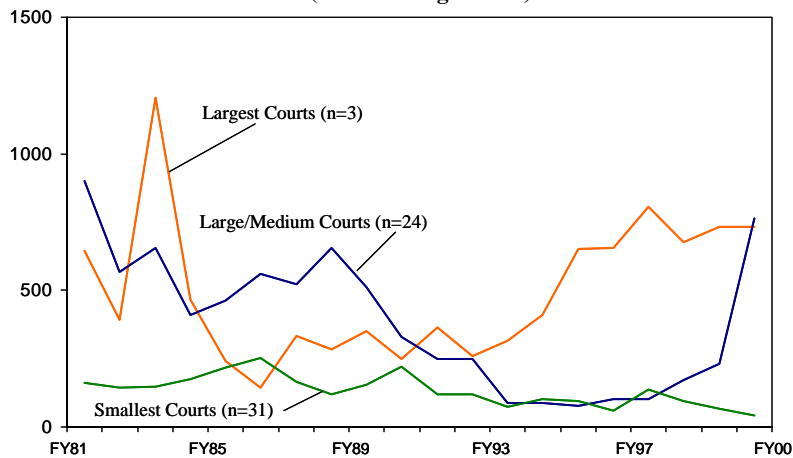
Although delinquency and dependency cases both involve juveniles, they address very different issues (“crimes” versus “abuse and neglect” of children). Therefore, they will be discussed separately.

2. Delinquency Case Type

a. 601 Status Offense

A review of filings data seems to indicate that many counties do not devote resources to the prosecution of 601 offenses. Many courts filed 601 petitions in the 1980s, but do not report any filings in many years in the 1990s. Thus, recent filings appear very low, and over time the pattern is erratic. The following chart captures the erratic nature of these filings.

Fig. 51. Delinquency (601) Filings by Court-Size Grouping (FY81 through FY00)

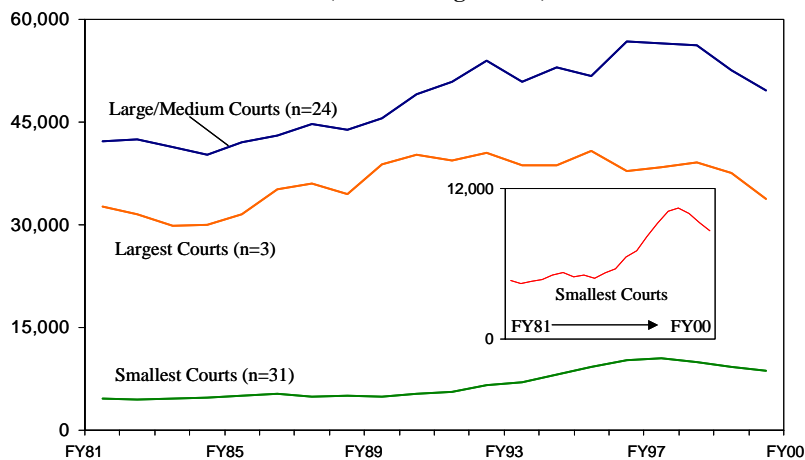


b. 602 Offenses

(1) Filings by Court-Size Grouping

The overwhelming majority of new juvenile delinquency filings are related to criminal offenses (602s). All court-size groupings followed similar filing patterns over the 20-year period

Fig. 52. Delinquency (602) Filings by Court-Size Grouping (FY81 through FY00)



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

surveyed. Each experienced fairly steady growth from FY81 to around FY95, followed by declines continuing into FY00. Nonetheless, all groupings had more filings in FY00 than in FY81, although the comparative increase in the Largest courts was relatively minor. The greatest growth occurred in the Smallest courts where filings almost doubled.

(2) Subsequent Petitions

The subsequent petition in delinquency matters is a significant portion of all 602 filings statewide. Although subsequent petitions are treated as new filings, they are significant because they are indicators of recidivism rates for those juveniles on probation. Whether recidivism begins to climb again after probation terminates is beyond the scope of this report. Nonetheless, the number of subsequent filings per 100 original filings has declined (see Fig. 51).

Statewide, both original and subsequent filings have risen over the 20-year period studied. What is significant, however, is that the percentage of subsequent petitions to all delinquency petitions filed slightly declined over the 20 years studied. In FY81, subsequent petitions accounted for approximately 39% of all delinquency petitions. By FY00, subsequent petitions made up only 35% of all delinquency petitions (See Fig. 52). It may be that the decline in subsequent petitions to original petitions is related to changes in filing practices and not reductions in recidivism, but this will require more research to substantiate.

c. Filings Influences

Several factors impact filing trends in delinquency cases between FY81 and FY00, including population changes, the economy, and changes in attitudes towards juvenile criminal activity.

(1) Population Growth

Juvenile population changes are a factor in filing trends. In the 10 years between 1990 and 2000, the at-risk juvenile population (children between the ages of 10 and 19)¹⁶² increased by more than 990,000 juveniles and now comprises roughly 15% of the population.¹⁶³ It is doubtful, however, that population growth fully accounts for the steady increases in delinquency filings over the 20 years studied.

Fig. 53. Number of Subsequent Filings Per 100 Original Filings (FY81 through FY00)

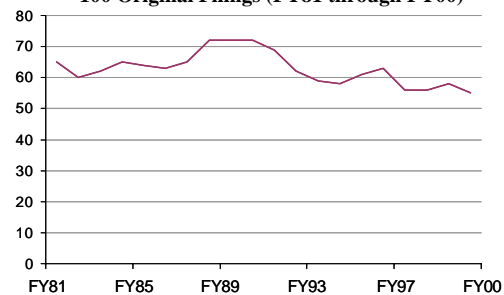
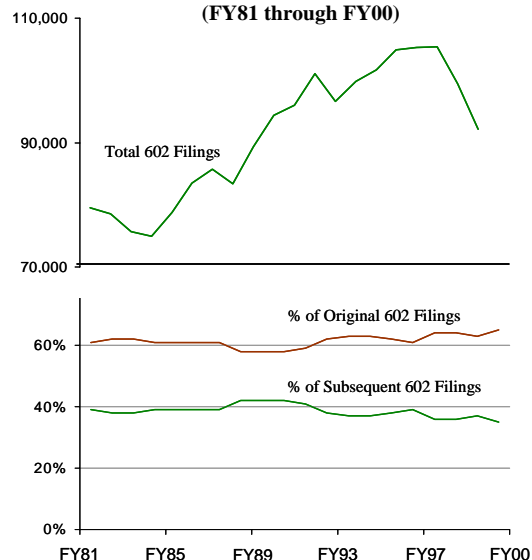


Fig. 54. Breakdown of Total 602 Filings (FY81 through FY00)



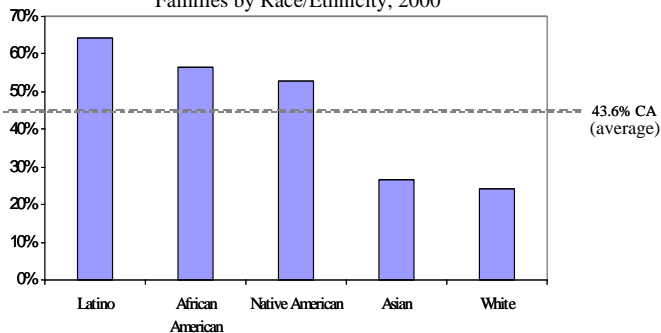
¹⁶² Although the at-risk juvenile population includes youth between the ages of 10 and 19, delinquency cases concern youth under the age of 18.

¹⁶³ California 1990, 2000 Census Comparison Tables, California Department of Finance, <<http://www.dof.ca.gov:8080/html/demograp/comp%2Dtables.doc>>.

(2) Race and Ethnic Mix

California has been experiencing a growth spurt in the at-risk juvenile population. This population is more diverse than ever before. Latino youth comprised 39.8% of the total population ages 0-17 in 2000, followed by whites (37.5%), and Asians (11.5%). Disconcertingly, the percentage of Latino youth living in low-income households was 64.3% in 2000; 30.3% were living below the poverty line. By comparison, 24.2% of white youth, 56.6% of African American youth, 26.6% of Asian youth, and 53% of Native American youth live in low-income households.¹⁶⁴ Approximately 46% of all youth in immigrant families and nearly three-fifths of all poor children in California are immigrants.¹⁶⁴

Fig. 57. Percent of Youth Living In Low Income* Families by Race/Ethnicity, 2000



* Annual income <\$28,300 for family of three

1993.¹⁶⁶ Further, a study of second-generation children of immigrants found evidence of risk behavior, such as dropping out of school, substance abuse, and gang activity.¹⁶⁷

Fig. 55. Percent of Total Population in 2000—At-Risk Youth by Race/Ethnicity

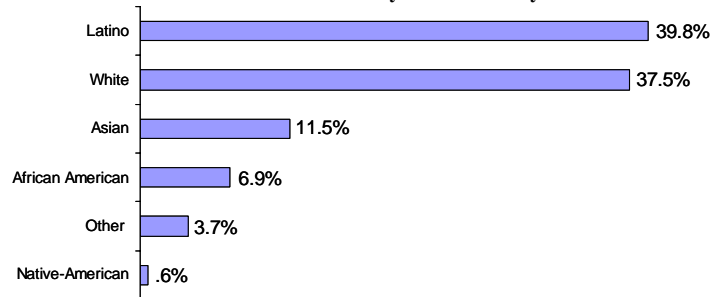
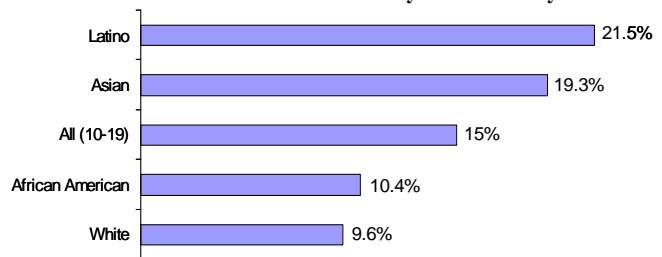


Fig. 56. Percent Change of At-Risk Youth from 1995 to 2000 by Race/Ethnicity



The effects of poverty on youth behavior are well documented, especially for those youth concentrated in poor and dilapidated neighborhoods.¹⁶⁵ The effects of poverty have been particularly devastating for first- and second-generation Latino youth. California juvenile arrest rates show Latino youth have been involved in a disproportionate percentage of all felony arrests, and involved in more than half of all status offenses (e.g., truancy and graffiti violations) reported to the state since

¹⁶⁴ National Center for Children in Poverty, *The Changing Face of Child Poverty in California* (New York: Mailman School of Public Health, Columbia University, NY, August 2002) <<http://www.nccp.org>>. See also Deborah Reed and Amadra Bailey, “California’s Young Children: Demographic, Social, and Economic Conditions” (Nov. 2002) 4(2) *California Counts: Population Trends and Profiles*, Public Policy Institute of California.

¹⁶⁵ See Jeanne Brooks-Gunn, et al. *Neighborhood and Poverty: Context and Consequences for Children* (Russell Press, New York, 1997); Christopher Jencks and Susan E. Mayer (1990) “The Social Consequences of Growing Up in a Poor Neighborhood” in L. Lynn and M. McGeary, Eds, *Inner-City Poverty in the United States* (Washington: NAS) pp. 111—186.

¹⁶⁶ William A. Vega, “A Profile of Crime, Violence, and Drug Use Among Mexican Immigrants” (a paper prepared for *Perspectives on Crime and Justice: 1999-2000 Lecture Series*, National Institute of Justice), found at <<http://www.ojp.usdoj.gov/nij>>.

Compounding the problem are police practices that target low-income neighborhoods. Referencing research comparing drug usage of African American youth with white youth, a study commissioned by Annie E. Casey Foundation points out:

Where offenses happen greatly influences the potential for arrests (e.g., white youth use and sell drugs at higher rates than African American youth, but police arrest more youth of color probably because they can easily target street corners in cities but not homes in the suburbs).¹⁶⁸

The disparities in arrest and detention rates combined with a rapidly growing and largely marginalized population concentrated in distinct neighborhoods may account for some of the growth in delinquency filings.

(3) The Economy

There is a strong correlation between the state of the economy and delinquency, but establishing a causal relationship is complex, and the research has produced inconsistent results. Further, most research finds other economic factors in combination with unemployment such as whether a youth is in school or lives in a poverty-stricken neighborhood as statistically more significant in affecting youth crime rates than factors based solely on unemployment.¹⁶⁹ Some research suggests the robust economy of the 1990s brought a number of jobs for teens, especially in the fast food and retail business, which provided at-risk young males an alternative to illegitimate employment opportunities such as selling drugs.¹⁷⁰

¹⁶⁷ Ruben G. Rumbaut, "Assimilation and its Discontents: Immigrant adaptation and Native-Born Responses in the Making of Americans," (Winter 1997) 31(4) *International Migration Review*. 923(38). See also National Center for Children In Poverty, *Children of Immigrants* (New York: Mailman School of Public Health, Columbia University, NY), found at < <http://www.nccp.org> >.

¹⁶⁸ Eleanor Hinton Hoytt, et al., *Pathways to Juvenile Detention Reform: Reducing Racial Disparities in Juvenile Detention* (Baltimore, Maryland: Annie E. Casey Foundation) found at < <http://www.aecf.org> >. Note, however, *Monitoring the Future* study found in its 2001 overview that while African Americans continue to use drugs of all kinds less frequently than whites, rates of usage by Latinos in the 12th grade parallel or surpass white usage in a number of drugs, including crack, ecstasy, and heroin. In the 8th grade, Latino youth have the highest usage for nearly all classes of drugs. < <http://www.monitoringthefuture.org> >.

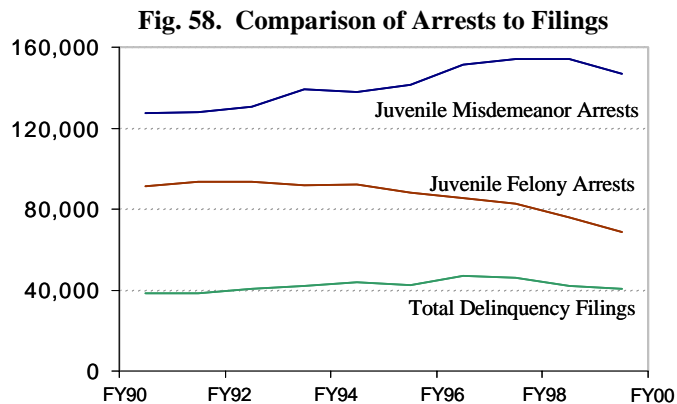
¹⁶⁹ See Jeanne Brooks-Gunn, et al. *Neighborhood and Poverty: Context and Consequences for Children* (New York: Russell Press, 1997); Jens Ludwig, et al. (1999) "Urban Poverty and Juvenile Crime: Evidence from a Randomized Housing-Mobility Experiment," working paper: Georgetown University.

¹⁷⁰ Richard Freeman, "Does the Booming Economy Help Explain the Fall in Crime?" (a paper presented to the National Institute of Justice as part of the Perspectives on Crime and Justice: 1999-2000 Lecture Series (NCJ No. 184245) Mar. 2001). It should be noted, however, that other research found intensive employment contributed to dropping out of school (see Ralph B. McNeal "Extracurricular Activities and High School Dropouts" (1995) 68 *Sociology of Education*, 62—81). On the other hand, research conducted by the Urban Institute found that while dropout rates increased for working at-risk youth, many returned to school after a brief hiatus. Further, there was a positive relationship between working at-risk youth and long-term employment (see Duncan Chaplin and Jane Hannaway, "High School Employment: Meaningful Connections for At-Risk Youth (April 1999) <<http://www.urban.org/education/appam4b.htm>>).

(4) Public Perception of Violent Youth

Although felony arrests dropped between 1995 and 1997, misdemeanor arrests steadily increased until 1998 and account for much of the increase in delinquency filings for much of the 1990s. Another dynamic may be impacting filings as well.

A recent report on California's youth, *Children Now*, stated that attitudes regarding juvenile crime have changed following several school shootings in the late 1980s and early 1990s. As a consequence, prosecutors are "cracking down" and filing more cases than in the past.¹⁷¹



Finally, thousands of gang members were jailed or sent to CYA during the crack epidemic in the late 1980s.¹⁷² This may have contributed to the decline in the 1990s because many of these gang members would still have been incarcerated during most of the 1990s.

d. Workload Influences

The change in attitude towards juvenile crime has resulted in a number of statutes regarding juvenile proceedings, which have impacted workload significantly. A sample of the 25 statutes reviewed for this report follows:

1991

- Required courts to open hearings to the public when minors are involved in specific instances such as gang activity resulting in a felony to the public.

1992

- Required a finding by the court to initiate emergency detention of a minor in a jail or lockup.

1995

- Allowed parents and "interested persons" to petition for termination or modification of the juvenile court's jurisdiction.

1996

- Required a court to allow victim statements at a minor's disposition hearing if the act committed by the minor would have been a felony if committed by an adult.

¹⁷¹ Children Now, *California: The State of Our Children 2000* (Oakland, Ca: Children Now).

¹⁷² A recent article in *Time*, "LA Gangs Are Back" (Sept. 30, 2001) 158(9)/46, stated 100,000 gang members were incarcerated in the late 1980s, many with 5-10 year sentences.

- Allowed a juvenile court traffic-hearing officer to hear and dispose of marijuana possession cases.

1997

- Required the court to find that there are no civil actions related to the criminal act of a minor before ordering the records sealed.

Changes in courtroom proceedings such as those cited above affect the time required for a hearing. Some changes, such as allowing traffic-hearing officers to hear marijuana possession cases, are designed to ease judges' workload. Most of these changes, however, mandate something such as a hearing or a specific finding that compels courtroom time and/or judicial attention.

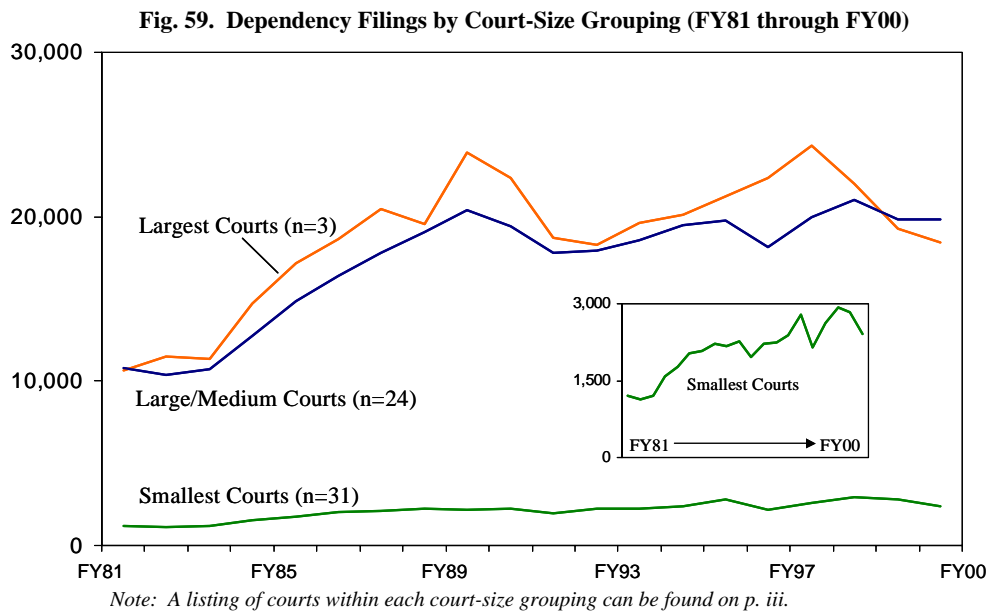
In addition to changes in court proceedings, many statutes include notice requirements. For example, a 1997 statute requires courts to notify the sheriff of the county where a minor allegedly commits the felony, as well as the sheriff in the county where the minor lives. Notice requirements generally fall to the staff, impacting staff workload.

Managing court records of juveniles has likewise changed in the 1990s. In the past, delinquency records were always confidential to everyone but court officials and law enforcement. However, changing attitudes about juveniles and juvenile crime have prompted the state Legislature to require that some records become public, thus requiring a dual system for delinquency record management.

3. Dependency Case Type

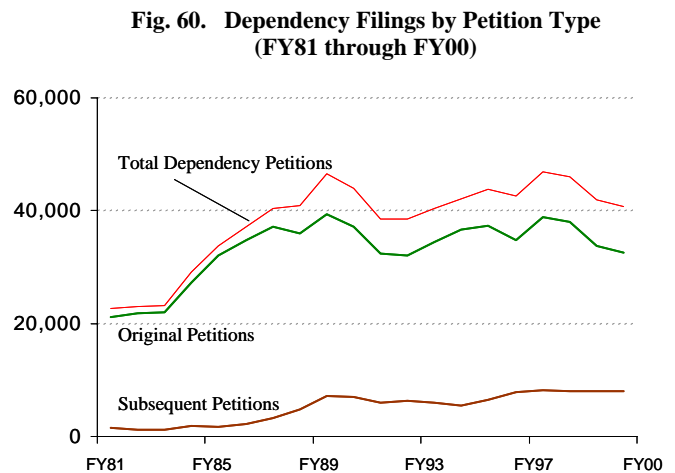
a. Filings by Court-Size Grouping

Filing patterns for the 20-year period studied were similar for each court-size grouping. The number of new dependency filings doubled between FY81 and FY88. Thereafter, filings seesawed, reaching 20-year highs around FY98. For the Largest and Smallest groupings, filings have dropped considerably since FY98. The Large/Medium grouping also had a drop after FY98, but it was slight compared to the other court size groupings.



b. Subsequent Petition

The two petition types in dependency cases are original and subsequent. Subsequent petitions are treated like new petitions and, thus, are included in the totals discussed above. It is noteworthy, however, that subsequent petitions have increased considerably over the 20-year period studied. Between FY86 and FY90, subsequent filings increased by approximately 5,000 cases. From FY90 through FY00, they climbed another 1,000 cases. Increases experienced in Los Angeles account for 80% of the statewide subsequent filings. Other than in Los Angeles, the numbers for subsequent filings has remained relatively low in most courts.



c. Filing Influences

Within society, the state of children's health, education, and general welfare has gained increasing attention and priority throughout the 1990s. These forces have contributed to a number of federal legislative changes, as well as energized many local communities to pay more attention to the needs of abused and neglected children through the allocation of more resources. When there are increased resources, more filings are likely to occur because there is a greater capacity to deal with the problem. The degree to which greater local resources have contributed to the increases in filings year-to-year is unknown, but it is a critical element in both the number of cases a court receives and in the court's capacity to respond effectively.

There may also be an inverse relationship between welfare reform and dependency cases. A study in Los Angeles County indicates that there was a 2.7% decrease in AFDC benefits in 1991, which was associated with a 12% increase in the number of monthly referrals to Child Protective Services (CPS).¹⁷³ The same study also found that a 5.8% cut in benefits during 1992 was associated with an approximate 20% increase in referrals to CPS.¹⁷⁴ The report does not indicate how many of these additional CPS referrals become court filings, but it is reasonable to assume some relationship between increased referrals and increased filings exists. More research is necessary.

d. Workload Influences

Numerous external factors have influenced the workload. Of these factors, statutory changes had the greatest impact on workload.

(1) Federal Legislation

Federal law, subsequently reflected in state law, has been the dominant influence on workload. Major changes in federal law occurred in 1980 and 1997. Each change attempted to address and improve upon the treatment of abused and neglected children and restore them to, or place them in, a stable and permanent family relationship as quickly as possible. Federal law impacts workload in three key respects:

1. It requires judicial oversight of the local Child Protective Services agency;
2. It requires extra hearings to ensure that progress is being made toward permanent placement of the children under the court's jurisdiction; and
3. It expands what must be addressed during each hearing and who can participate.

In 1980, federal law mandated review of the progress of foster children toward permanent placement every 6 months. The reviews could be done by the court or delegated to an administrative board. Judge Leonard P. Edwards, Santa Clara Superior Court, set forth eleven

¹⁷³ Little Hoover Commission, *Now in Our Hands: Caring for California's Abused and Neglected Children*, (Sacramento, CA 1999) p. 61 (citing a study by Courtney, *The Cost of Child Protection in Context of Welfare Reform*).

¹⁷⁴ *Id.* at pp. 61-63.

requirements of this law in an article in the *Juvenile and Family Court Journal*, nine of which are mandates on the courts. Relevant to this discussion are:

- Review of a foster child's status at least once every six months;
- A hearing no later than 18 months after the original out-of-home placement to determine a permanent plan for the child;
- A hearing, usually within 48 to 72 hours following the involuntary removal of a child from his or her home, and review of the status of the child each six months thereafter.¹⁷⁵

In 1997, the Adoption and Safe Families Act improved permanency planning for foster children. It removed the discretion of the courts to delegate the six-month reviews of status and was much more explicit about what courts must do in each hearing. A paper presented at the American Bar Association's Ninth National Conference on Children and the Law summarizes the new requirements for courts:

First, courts are expected to decide, early in the case, whether reunification services are required. Requests ... that such services are not required will require more, earlier contested hearings. It will also trigger earlier permanency hearings and, in turn, earlier termination of parental rights hearings.

Second, permanency hearings are required at 12 months, several months earlier than in the past. Further, permanency hearings are to be more decisive and comprehensive hearings than before ... The court is also expected to thoroughly review all permanency options. Additional court and attorney time is required.

Third, there are now deadlines for filing or joining in termination petitions. As a result, petitions will be filed earlier in each case, causing a temporary bulge in termination hearings and a higher proportion of termination proceedings will be contested. There will be additional appeals of termination decisions.

Fourth, foster parents, pre-adoptive parents, and relative caretakers now must receive notice and have the opportunity to participate in court hearings in child abuse and neglect cases. This will require both additional court time and additional time and costs for court staff.¹⁷⁶

Two trial courts, Los Angeles County and Placer County, were able to provide data on the number of hearings in dependency cases during the 1990s. The impact of the statutory requirements is clearly reflected in these data.

Los Angeles: Between FY90-91 and FY99-00, the total number of hearings held doubled. The number of review hearings for permanency planning almost quadrupled, going from 25,300 in FY90-91 to 97,600 in FY99-00.

¹⁷⁵ Leonard P. Edwards, "Improving Juvenile Dependency Courts, Twenty-Three Steps," (Nov. 1997) *Juvenile and Family Court Journal*, 1—2.

¹⁷⁶ Mark Hardin, "Impact of the Adoption and Safe Families Act (ASFA) on Judicial Resources and Procedures" (April 1999), pp. 1-2.

Placer: Between 1991 and 1999, the number of 6-month review hearings increased from 120 to 600 (+400%), 12-month review hearings increased from 100 to 280 (+180%), and 18-month review hearings went from 70 to 125 (+79%). Contested hearings, which are the most time consuming,¹⁷⁷ went from 35 in 1991 to 400 in 1999 (+1,043%).

(2) State Legislation

To the extent that federal law has mandated certain workload changes, state law has mirrored those changes. In addition, state law has added a number of other provisions that impact both judicial officers' and staff's workload. Most of the new statutes reviewed for this report concerned courtroom proceedings. A sample follows:

1993

- Permits the court, after notice and providing opportunity to be heard, to join in a dependency proceeding against any agency failing to meet its service obligations to the minor.

1994

- Requires the court to state reasons why it wouldn't place a child with a relative considered for placement.

1995

- Allows any party to file a motion to remove a social worker for conflict of interest.
- Requires the court to make a finding in writing regarding placement of a child with a nonoffending parent when the child was removed from the home or abused or neglected.

1998

- Allows the county welfare department to request a rehearing of a court's findings in a dependency proceeding.

1999

- Creates a presumption of substantial risk of harm when a parent or guardian is currently alleged to have committed or was previously convicted of sexual abuse.

The recommended workload standard for a typical dependency case is 224 minutes, exceeding the standard for felony cases and second only to personal injury torts. Although only 1 statute of the 23 reviewed for this report directly relates to staff workload changes, staff directly supporting judicial officers are undoubtedly impacted by the numerous and labor-intensive changes in the dependency proceedings as well.

(3) Collaborative Courts

Additionally, many trial courts use variations of the problem-solving or collaborative court for dependency cases (see Introduction for a historical background on Collaborative Courts).

¹⁷⁷ A recent evaluation of judicial workloads for dependency cases in Santa Clara County reports the following regarding contested hearings: "The greatest amount of time [for judicial officers]...is needed for contested jurisdiction or disposition hearings (which typically take between half a day and a full day) and contested 6-month, 12-month or 18-month hearings, which usually average somewhat more than a single day." See David Steelman, et al., *Preliminary Assessment of the Judicial Workloads for Juvenile Dependency Cases in Santa Clara County, California* (Denver, CO: National Center for State Courts, 2000).

The multi-agency approach of these courts suits dependency cases well. Dependency cases frequently involve substance abuse and emotional and mental health problems, and the parties often need employment assistance, childcare, and even housing, all of which contribute to family dysfunction and can be addressed in the problem-solving court construct.

The coordination efforts necessary for these courts to be effective create a significant increase in workload over the traditional model of adjudicating these cases. Indicators of workload increases include:

- More hearings: every two weeks for most courts at the beginning, stretching to every month or so later in the program;
- Added paperwork for staff following each hearing;
- Prehearing meetings for the judge with the treatment team for a report on each client and to discuss any problems, often lasting an hour or more for each in-court session;
- Meetings with and monitoring of the service providers by the judicial officer and the coordinator outside courtroom hours and, often, outside courthouse hours;
- Coordination by staff with service providers between court sessions; and
- Monitoring service providers and clients between court sessions.

Finally, two requirements often overlooked in new programs that contribute to workload are (1) staff training in the areas of identifying services provided by others and monitoring court orders, and (2) release time to permit judges to meet and coordinate with social service, treatment, and community agencies.¹⁷⁸

(4) Improving Permanency Planning

As an aid to courts and in response to the changes in law in 1980, the National Council of Juvenile and Family Court Judges established the Permanency Planning for Children Project. In 1995, the Project established a set of guidelines (“Resource Guidelines Improving Court Practice in Child Abuse & Neglect Cases”) for improving court practice in child abuse and neglect cases that effectively increases hearing time for each abuse and neglect case. The Judicial Council’s Standard of Judicial Administration 24, effective July 1, 1997, now echoes these guidelines, as do the revised rules of court on dependency cases. Although the guidelines are acknowledged as a goal, to the extent that courts have been able to implement them, additional workload has been created for judicial officers and for staff.

¹⁷⁸ Victor Eugene Flango, “Creating Family Friendly Courts: Lessons From Two Oregon Counties” (Spring 2000) 34 Fam. L.Q. 115, p. 128.