

State Court Caseloads on the Decline

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In the decade since the Great Recession of 2008, caseloads in the state courts have been declining rapidly — approximately 16 percent, representing a loss of about 16 million cases. This decline in state court caseloads is evident across all case categories — civil, criminal, juvenile, domestic relations, traffic — and across all states. While there is some variation due to demographics or policy and budget changes within states, the overall trend is clear. What is not known is why this is happening.

These are among the findings of a study published by the National Center for State Courts: [The Rise and Fall of State Court Caseloads](#) (April 2017).

Reasons for the Decline

According to the study, there are several possible reasons for this decline: Some might argue that we are experiencing a course correction from a period of excess litigation. Others will cite budget reductions in government and economic pressures on those bringing cases (both businesses and individuals). Many would agree, the study said, that the courts' traditional processes and limited use of information technology and mobile services have discouraged those who otherwise might have sought adjudication of their claims, thus removing courts as the venue of choice for dispute resolution. Other factors include the complexity and costs associated with the litigation process.

The study asks: Should we be concerned about this decline? And answers Yes, giving three reasons. First, it is through courts that those seeking justice can obtain it, regardless of economic status. Courts exist to ensure that asymmetries of power do not dictate the outcome of disputes.

Second, the study said, in our common-law system, a public record of court decisions is essential for establishing and updating our legal system. When disputes are resolved in private venues, information is denied to the public and to those seeking to ensure appropriate regulation of social and economic life. And third, the judiciary plays a key role in ensuring checks and balances on the power and actions of the executive and legislative branches.

An examination of case categories can serve to shed some light on how we can begin to understand the forces reshaping our judicial system.

Civil Cases

The study notes that much has been written about the decline in civil caseloads — declining 11 percent during the period 2006 to 2015 (around 15 million civil cases were filed in 2015) — and many states have undertaken a series of reforms to improve access to the civil courts. Further, the study said, the Conference of Chief Justices launched the Civil Justice Improvements Committee to develop an empirical grasp on the civil landscape of our state courts. Contract cases comprised two-thirds of civil cases and that almost two-thirds of these cases were debt-collection or landlord/tenant cases, the study said, attributing the decline in civil cases to cost considerations, inconvenience, complexity, and delay. *(continued on next page)*

Criminal Cases

There were approximately 18 million criminal cases filed in 2015, representing a 15 percent decline during the reporting period, 2006-2015. While it is true, the study said, that budget cuts and reductions in law-enforcement and prosecution resources have cut the flow of incoming cases off at the source, the crime rate has been in a steady decline for decades. Since 1993, homicide is down 51 percent; forcible rape, 35 percent; robbery, 56 percent; and aggravated assault, 46 percent. Property crimes have also dropped sharply.

Traffic Cases

Traffic cases account for over half of the total state court caseloads (civil and criminal cases account for much of the rest), and traffic's 17 percent decline drives the overall trend. The study said there were a variety of factors, all beyond the influence (much less control) of the state courts. For example, young people were obtaining driver's licenses later (if at all); and a Texas Judicial Council study showed the proportion of licensed drivers aged 16-18 years old was down over 20 percent since 1983. The biggest cultural change relating to traffic accidents, the study said, is the extent of distracted driving due to cell phone use, though the study noted that the data to empirically determine the role of distracted driving is quite poor.

Domestic Relations Cases

Domestic relations cases — dissolution, divorce, custody, child support — have declined 14 percent from 2006 to 2015. People are marrying later in life and having fewer children, which in turn may be associated with a lower divorce rate and fewer custody and support disputes, the study said. There were approximately 5 million domestic relation cases filed in 2015.

Juvenile Cases

The sharpest decline in state court caseloads during the period 2006 to 2015 is the 40 percent decline in juvenile (delinquency and dependency) cases. The study said that this decrease mirrors the fall in the juvenile arrest rate: Arrests for juvenile crimes fell almost 50 percent during this period. Also, status offenses (e.g., truancy) dropped sharply, while dependency cases fell 17 percent. There were approximately 1.5 million juvenile cases filed in 2015.