



Arizona Court of Appeals Division One

CourTools FY2011

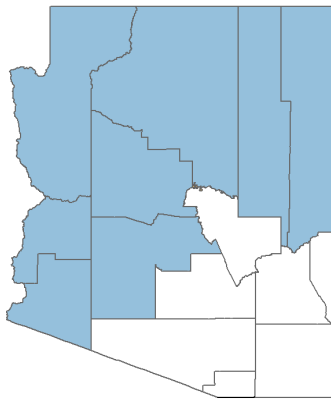


Table of Contents

| | |
|---|-----------|
| CourTools: An Introduction | 1 |
| Time to Disposition | 2 |
| Filing-to-Disposition Measure..... | 3 |
| Stage Measurements | 6 |
| Conclusion..... | 11 |
| Case Clearance | 13 |
| Age of Pending Caseload | 15 |
| Surveys | 18 |
| | |
| Contact Information | 21 |



CourTools: An Introduction

In June 2008, the Arizona Supreme Court established the Appellate CourTools Committee to evaluate and recommend measures by which Arizona's appellate courts can track and improve performance using a methodology developed by the National Center for State Courts. By tracking the life of appeals from initiation until resolution, Arizona's appellate courts aim to improve their performance and provide transparency and accountability to the public. Only a handful of appellate courts across the

country have undertaken this project, and Division One is committed to measuring and updating this information on an annual basis.

The Committee selected three performance measures for Arizona's appellate courts to use in Fiscal Year 2011: (1) Time to Disposition; (2) Case Clearance; (3) Age of Pending Caseload; and (4) Appellate Bar and Trial Bench Survey. An explanation of these measures and their results follow.

Time to Disposition

Time to Disposition measures the percentage of cases that were decided by a selected time reference point for the court's primary case types (civil, criminal, juvenile, special actions, and workers' compensation cases) during the court's **fiscal year** (July 1 – June 30).¹ The purpose of this assessment is to measure stages of appeals against the same fixed points in successive years. For purposes of reference points, the court selected periods of time in which approximately 75% of its cases in the various case types and

¹ The cases do not terminate when decided as they are subject to post-decision motions and the like.

stages were decided in the years prior to Fiscal Year 2009 (“FY2009”). After measuring the results for Fiscal Year 2011 (“FY2011”), we compared those results against our performance in Fiscal Year 2010 (“FY2010”) and prior years, with an eye toward determining the effects of changes in funding, personnel levels, the efficiency of record gathering, and the like.

Filing-to-Disposition Measure

The court selected the following number of days as time reference points for resolving cases measured from the day an appeal or special action is initiated by a party to the day a case is decided:²

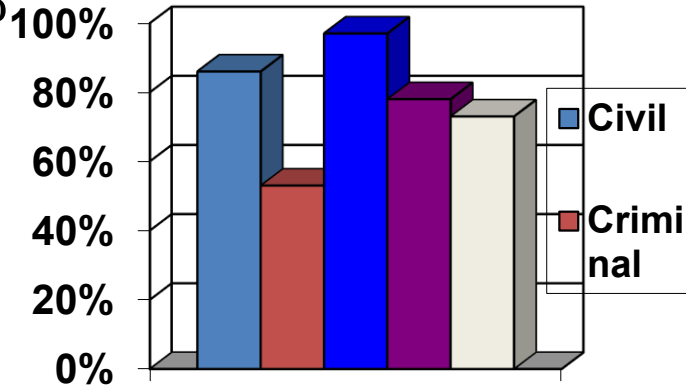
| | |
|-------------------------------|----------|
| Civil: | 400 days |
| Criminal: | 375 days |
| Juvenile: | 275 days |
| Special Actions (“SA”): | 25 days |
| Workers’ Compensation (“WC”): | 300 days |

In FY2011, the percentage of cases that met these reference points was as follows:

² This means, for example, that the reference point for civil appeals from initiation to decision is 400 days, for criminal appeals is 375 days, and so forth.

Percentage of Cases Meeting

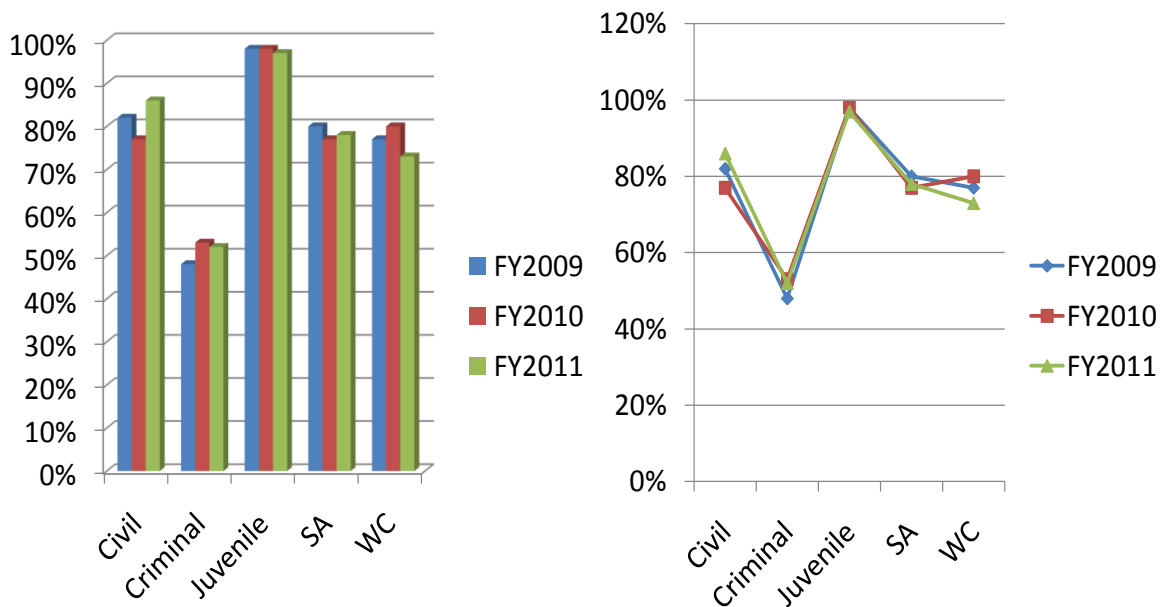
- Civil: 86%
- Criminal: 53%
- Juvenile: 97%
- SA: 97%



Compared to FY2010, the court improved its processing of civil cases by 9%, while the processing time for criminal cases was relatively identical. The percentage of criminal cases meeting this reference point goal remains a challenge, mainly due to problems in having a complete record timely transmitted to the appellate court. In particular, due to staff shortages and budgetary constraints, court reporters in the trial court continue to have difficulty completing and transmitting the official transcripts of criminal court proceedings in a timely fashion. The Court of Appeals tracks the preparation and filing deadlines for transcripts closely, and conducts “show cause” hearings every two weeks to try to reduce this delay. The court has also taken steps to reduce continuances for the submission of appellate briefs.

The percentage of workers' compensation cases meeting the target goal dropped by 7%, while the filing to disposition measure for special actions improved slightly. The percentage of juvenile cases meeting the time reference points in FY2011 remained essentially identical to FY2009 and FY2010. The following graphs illustrate the comparison between the fiscal years:

Time from Filing to Disposition FY 2009 - 2011



Stage Measurements

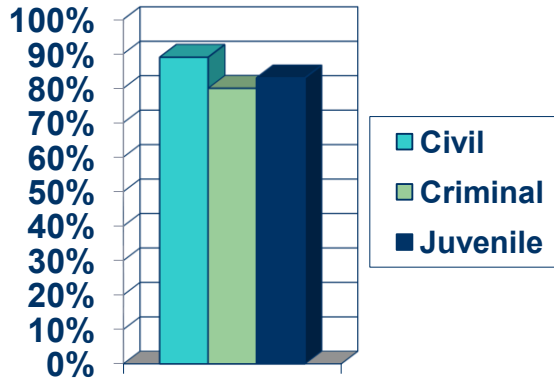
To understand the pace of appeals through various points in case-processing, the court also set the following **time reference points** for the various **stages of an appeal**:

1. Time a party files a notice of appeal in the superior court to the time that court notifies Division One of the appeal (inapplicable to SA and WC cases):

| | |
|-----------|---------|
| Civil: | 40 days |
| Criminal: | 8 days |
| Juvenile: | 5 days |

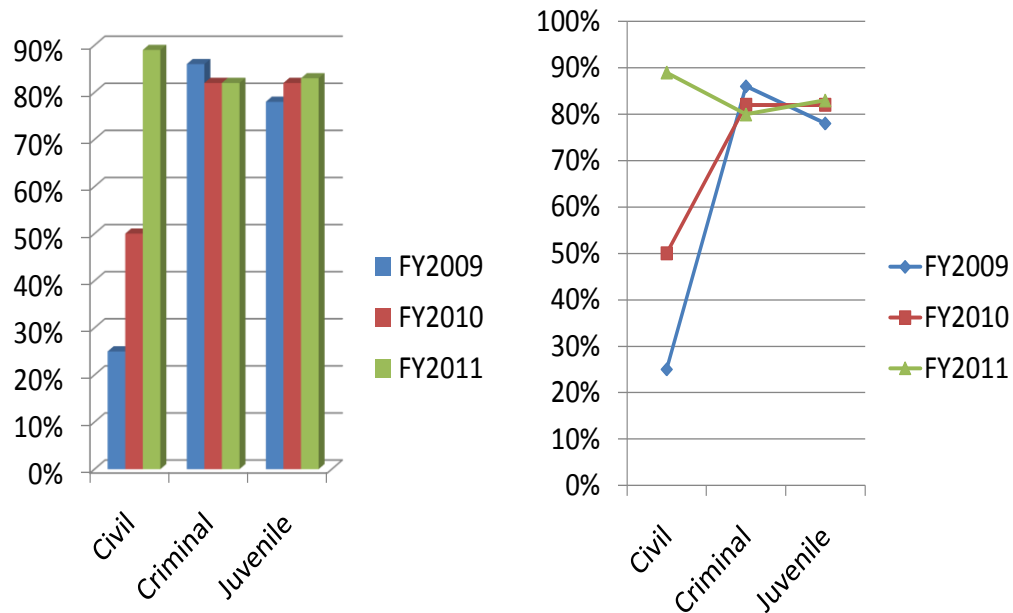
Percentage of Cases Meeting Time Reference Points FY2011

- Civil: 89%
- Criminal: 80%
- Juvenile: 83%



Compared to FY2010, 30% more civil appeals met the target time reference point. Juvenile appeals improved slightly, while the percentage of criminal appeals meeting the reference point dropped 2%. The following graphs illustrate the comparison between the fiscal years:

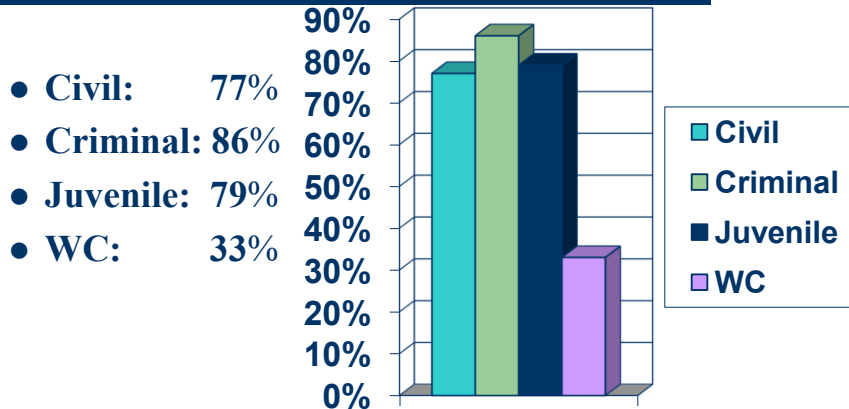
Time from Filing Notice of Appeal to Delivery of Notice to Court of Appeals FY 2009 - 2011



2. Time measured from the day all records and briefs are filed in Division One (when the case is “at issue”) to the time the case is decided (inapplicable to special actions):

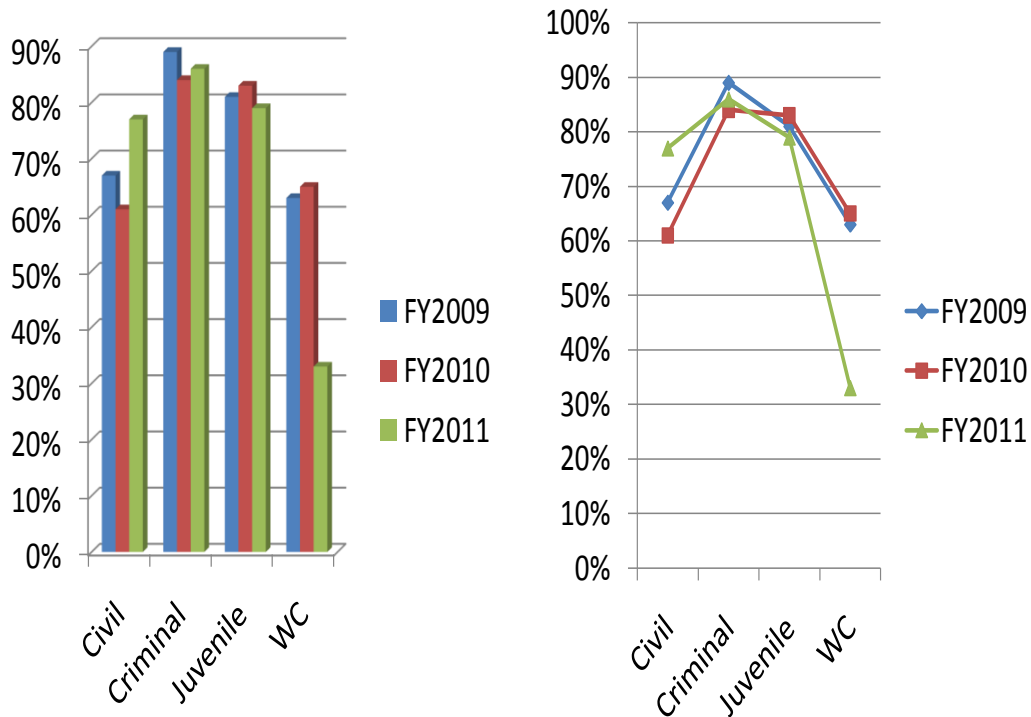
| | |
|-----------|----------|
| Civil: | 225 days |
| Criminal: | 150 days |
| Juvenile: | 100 days |
| WC: | 150 days |

Percentage of Cases Meeting Time Reference Points FY2011



Compared to FY2010, the percentage of civil appeals meeting the target reference point increased by 16%, and the percentage of criminal cases meeting the target reference point increased by 1.5%. Conversely, 4% fewer juvenile cases met the target reference point. The workers' compensation statistic for FY2011 is substantially lower as compared to FY2010; however, that number is skewed by the comparative few numbers of workers' compensation appeals. The following graphs illustrate the comparison between the fiscal years:

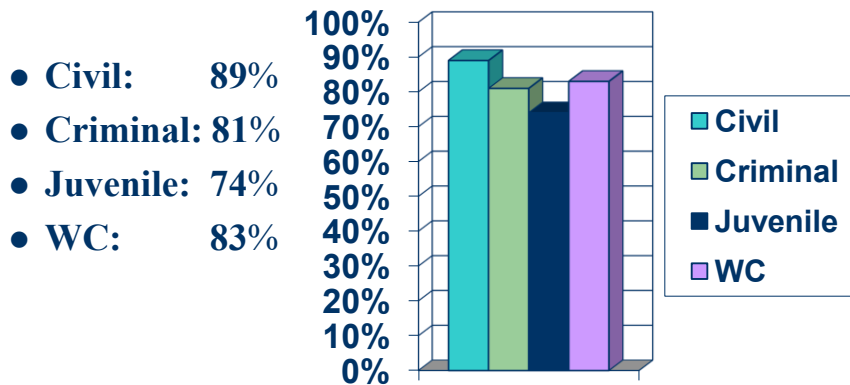
Time from Filing all Records and Briefs to Disposition FY 2009 - 2011



3. Time measured from day the panel of judges hears a case and takes it “under advisement” to the day the panel issues its decision (special actions not measured):

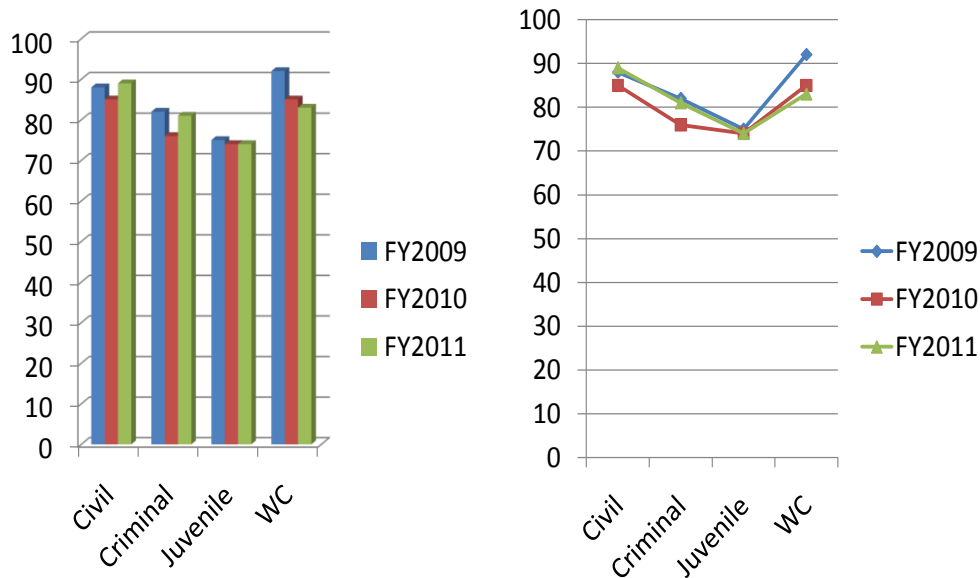
| | |
|-----------|----------|
| Civil: | 120 days |
| Criminal: | 90 days |
| Juvenile: | 40 days |
| WC: | 100 days |

Percentage of Cases Meeting Time Reference Points FY2011



Compared to FY2010, the court maintained or improved its performance in just about every area. The percentage of civil cases meeting the reference point improved by 4%, and criminal cases improved by 5%. The number of juvenile cases meeting the reference point remained the same. The percentage of workers' compensation cases meeting the reference point dropped slightly, by 2%. The following graphs illustrate the comparison between the fiscal years:

Time from Under Advisement to Decision FY 2009 - 2011



Conclusion

Having statistics covering multiple fiscal years allows us to compare performance and draw some conclusions about whether Division One's case processing has improved as compared to earlier years. This is particularly true when examining the data related to stages.

In all case types except criminal appeals and workers' compensation appeals, a higher percentage of cases met the time reference points for filing

to disposition than the 75% of cases that typically met these points in past years.

As previously noted, only 53% of criminal appeals met the filing-to-disposition time reference point. At the same time, a substantial number of criminal appeals met or exceeded the reference points for the measured stages. Indeed, once all records and briefs in criminal appeals were filed in the Court of Appeals, 86% of the cases in FY2011 met the given time reference point from that point until disposition by a panel of judges. It is evident that these appeals are being delayed in a stage not measured by CourTools: The time period starting from the date in which the appeal is initiated to the date the superior court record and transcripts are complete and transmitted, and all briefs are filed by the parties. Division One has been aware of this problem for some time and has been working with the superior courts and their court reporters to expedite completion of the record and, most particularly, transmission of hearing and trial transcripts. We have also examined our practices regarding granting continuances of dates for filing briefs and have reduced the number of continuances (and the length of continuances) granted. The court holds “show cause” hearings at least every two weeks to assist in expediting the filing of transcripts and briefs. We will continue to track and try to improve this performance measure as we move forward; unfortunately,

as the number of court reporters shrinks at the superior court and public lawyer agencies lose resources, it is increasingly difficult to further compress or expedite the record-gathering and brief-filing processes.

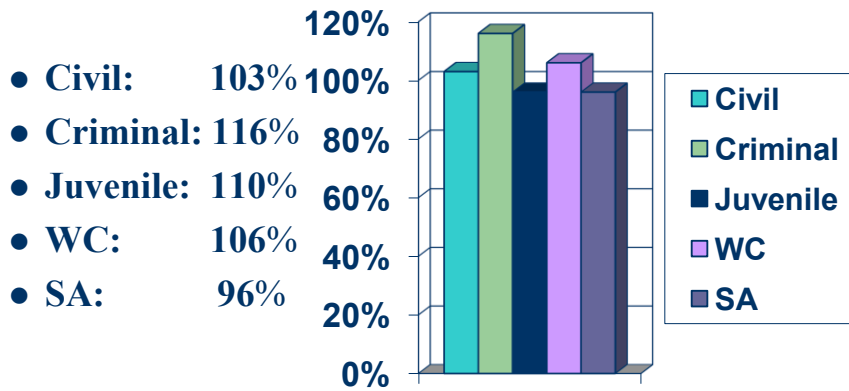
Another noteworthy area of improvement is that, despite a court rule that requires the superior court clerk to transmit notices of appeal within 40 days, only 50% of civil notices of appeal in FY2010 met the 40-day reference point. The court worked with the superior court in FY2011 to resolve this problem and, with such efforts and the continued evolution of electronic record-keeping, that percentage improved dramatically in FY2011 to 89%.

Case Clearance

Case Clearance measures the number of decided cases in a fiscal year as a percentage of the number of new cases filed that year. The point of the measurement is to assess how efficiently the court is resolving older cases as it accepts and processes newly filed appeals. The goal is to have a 100% clearance rate, which means the court resolves at least the same number of cases as the number newly filed that year; in that fashion, the danger of a growing backlog of cases is minimized.

In FY2011, Division One achieved the following case clearance rates:

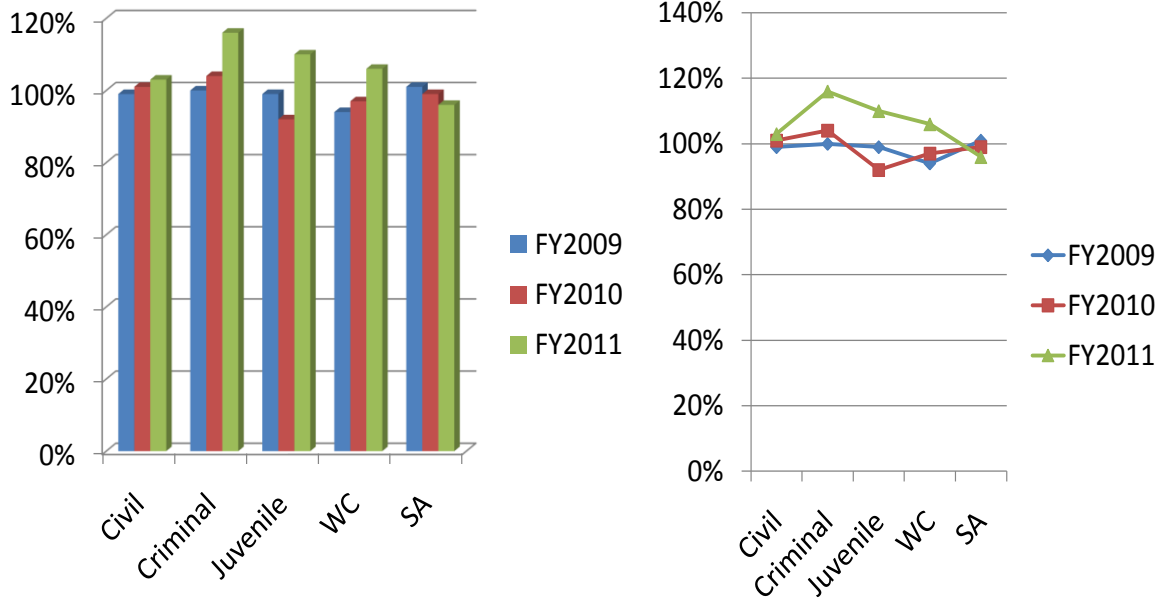
Percentage of Outgoing Cases as Compared to Incoming Cases FY2011



Compared with FY2010, the court significantly improved its case clearance rate in FY2011 for civil, criminal, juvenile and workers' compensation cases, but fell behind slightly in clearing special action cases. Like the workers' compensation appeals, the numbers for special actions are somewhat skewed by the low number of special actions accepted.

The following charts show the comparison between FY2009, FY2010 and FY2011:

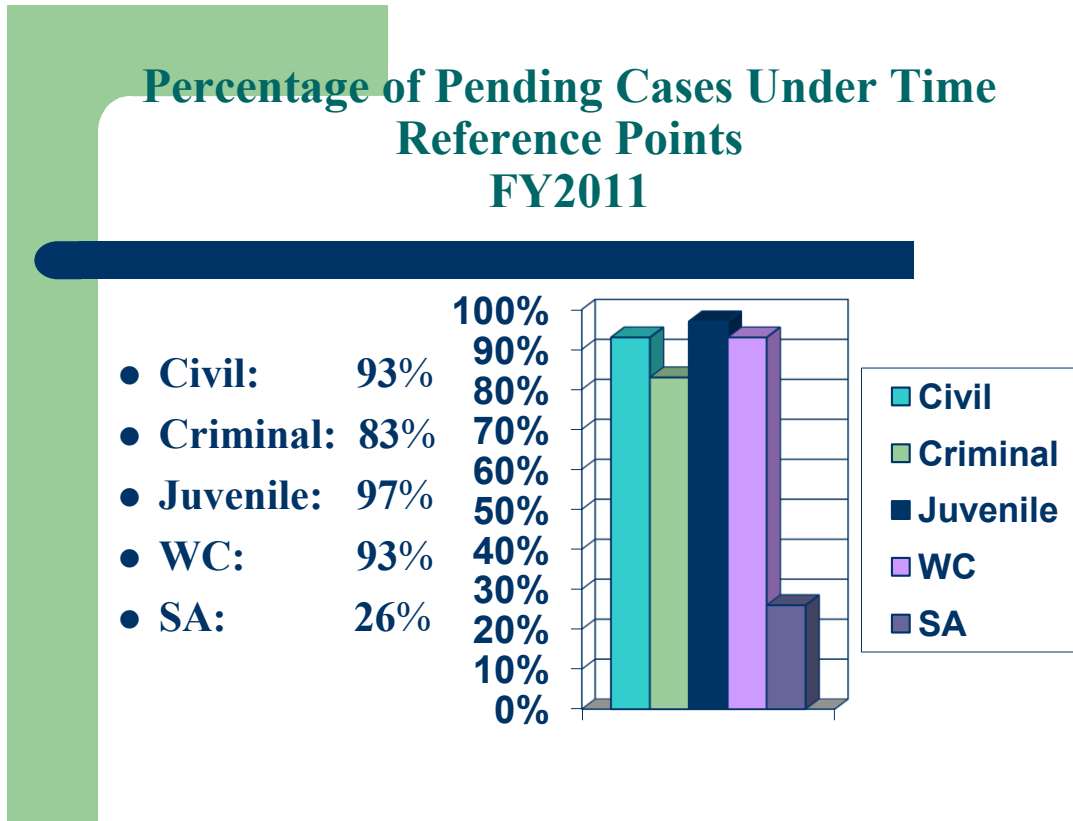
Percentage of Outgoing Cases as Compared to Incoming Cases FY 2009 - 2011



Age of Pending Caseload

The **Age of Pending Caseload** measurement applies to all cases pending but not decided in FY2011, and is intended to provide information about the age of Division One's complement of cases. Specifically, the measurement calculates the percentage of cases pending at the end of a fiscal year that had not reached the time reference points identified for the Time to Disposition Measure described above.

The percentage of all cases pending at the end of FY2011 that had not reached the time reference points is as follows:

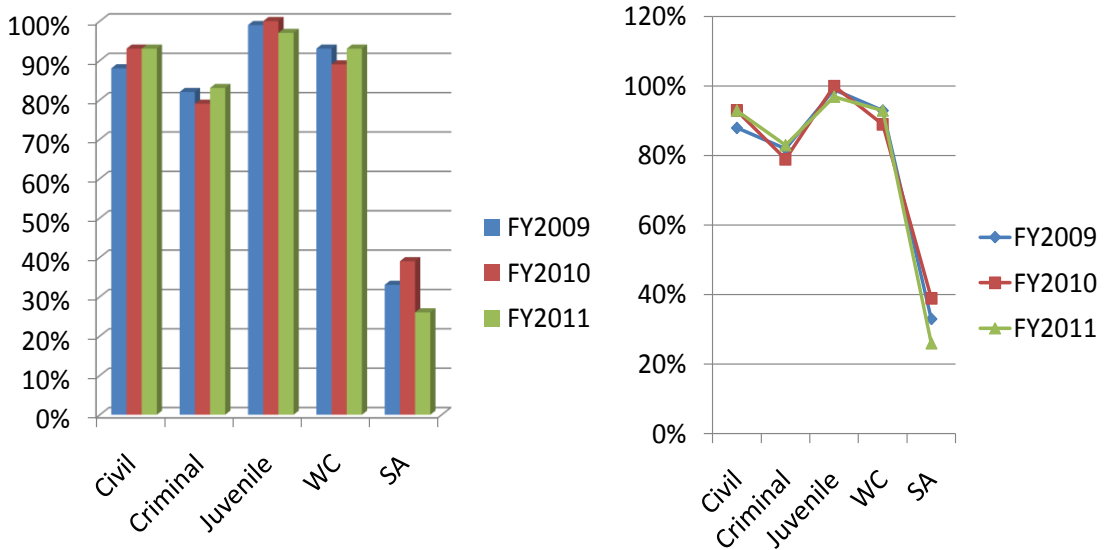


The Age of Pending Caseload measurement shows that at the end of FY2011, Division One’s pending cases were relatively young, as most had not yet reached their time reference points. For example, 97% of the pending juvenile cases had not yet reached their time reference point. Although only 26% of the special actions pending at the end of FY2011 had not yet met their time reference point, this result does not demonstrate that Division One’s pending special actions were particularly aged because only 23 special actions remained pending at the end of FY2011. The statistics indicate that the court

considered and resolved nearly 300 special actions that year and, indeed, 78% of all special actions met the filing-to-disposition reference point established for FY2011.

On the whole, Division One’s age of pending cases remained substantially the same at the end of FY2011 as compared with the end of prior fiscal years measured, as depicted in the following graphs:

**Percentage of Pending Cases Under Time Reference Points
FY 2009 - 2011**



Surveys

In the Spring of 2011, an anonymous e-mail survey was sent to attorney members of the Appellate Practice Section of the State Bar of Arizona, to a random list of other attorneys who had appeared before Division One within a designated time period, and to superior court judges and commissioners. The survey asked respondents to rate their agreement regarding statements about Division One on a five-point scale ranging from “strongly agree” to “undecided/unknown.” One hundred fifty-nine people responded to the survey, although several answered “undecided” or “unknown” regarding some statements.

Of particular note, greater than 90% of respondents with an opinion agreed or strongly agreed that Division One (1) renders its decisions without any improper outside influences; (2) treats trial court judges and attorneys with courtesy and respect; (3) is procedurally and economically accessible to the public and attorneys; (4) effectively informs attorneys and trial judges of its procedures, operations, and activities; (5) provides a useful website; (6) has a responsive clerk’s office; and (7) assists the public by making its memorandum decisions available for online review. The court received its lowest marks for expeditious resolution of cases, although 72% of respondents with an opinion strongly agreed or agreed that Division One resolves its cases expeditiously.

Complete survey results setting forth the percentage of respondents expressing an opinion who “strongly agree” or “agree” with statements regarding Division One are as follows:

Statement **Percentage Agreeing:**

| | |
|--|-----|
| 1. Division One resolves its cases expeditiously. | 72% |
| 2. Division One renders decisions without any improper outside influences. | 94% |
| 3. Division One considers each case based upon its facts and applicable law. | 87% |
| 4. Division One’s written decisions reflect thoughtful and fair evaluation of the parties’ arguments. | 84% |
| 5. Division One’s written decisions clearly state the applicable legal principles that govern the decision. | 87% |
| 6. Division One’s written decisions clearly inform the trial courts and parties of what additional steps, if any, must be taken. | 85% |
| 7. Division One’s written decisions treat trial court judges with courtesy and respect. | 97% |
| 8. Division One treats attorneys with courtesy and respect. | 94% |
| | |
| 9. Division One is procedurally and economically accessible to the public and attorneys. | 91% |
| 10. Division One effectively informs attorneys and trial judges of its procedures, operations, and activities. | 92% |

| | |
|---|-----|
| 11. Division One's website is a useful tool. | 90% |
| 12. Division One's Clerk's office responds well to inquiries. | 95% |
| 13. It is useful to have memorandum decisions available for review on Division One's website and through Westlaw. | 97% |

The goal of the court is to elevate all statements above a 90% agreement level. Compared to the results of the 2009 survey,³ the court has continued to improve in most of the surveyed areas. These results have been shared and discussed with the leaders of Division One, including all judges. Focus in FY2012 will be on achieving the often-fragile balance between quickly resolving cases and providing decisions that fully explain the court's reasoning. Achieving this balance will continue to be a challenge, particularly if the economy compels further reductions in the court's workforce.

[Contact Information](#)

Hon. Lawrence F. Winthrop
 Chief Judge
 Arizona Court of Appeals

Division One
 1501 West Washington
 Phoenix, Arizona 85007

³ Division One conducts its survey biennially. Accordingly, the court did not conduct a survey in FY2010.

(602) 542-1430
Hon. Diane M. Johnsen
Vice Chief Judge
Arizona Court of Appeals
lwinthrop@appeals.az.gov

Division One
1501 W. Washington
Phoenix, Arizona 85007
(602) 542-1432
djohnsen@appeals.az.gov

Ruth Willingham
Clerk of the Court
Arizona Court of Appeals
Division One
1501 West Washington
Phoenix, Arizona 85007
(602) 542-4821
rwillingham@appeals.az.gov

Anthony Mackey, Esq.
Chief Staff Attorney
Arizona Court of Appeals
Division One
1501 West Washington
Phoenix, Arizona 85007
(602) 542-4824
tmackey@appeals.az.gov



Visit our website at www.azcourts.gov/coal

