



**Arizona Court of Appeals**  
**Division One**  
**CourTools FY2009**



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## *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 as they progress from their initiation until their 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 proud to be among them.

The Committee selected four performance measures for Arizona's appellate courts to use in 2009: (1) Appellate Bar and Trial Bench Survey; (2) On-Time Case Processing; (3) Case Clearance; and (4) Age of Pending Caseload. An explanation of these measures and their results follow.

### *Surveys*

Early in 2009, the Committee administered an anonymous e-mail survey to attorney members of the Appellate Practice Section of the State Bar of Arizona, to a random list of 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.” Two hundred and seventeen people responded to the survey, although many answered “undecided” or “unknown” regarding some statements.

Of particular note, more than 90% of respondents with an opinion strongly agreed or agreed that Division One renders its decisions without any improper outside influences, treats trial court judges and attorneys with courtesy and respect, effectively informs attorneys and trial judges of its procedures, operations, and activities, provides a useful website, has a responsive clerk’s office, and assists the public by making its memorandum decisions available for online review. The court received its lowest marks for expeditious resolution of cases, although 74.8% 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.	74.8%
2. Division One renders decisions without any improper outside influences.	93.3%
3. Division One considers each case based upon its facts and applicable law.	88.1%
4. Division One's written decisions reflect thoughtful and fair evaluation of the parties' arguments.	83.4%
5. Division One's written decisions clearly state the applicable legal principles that govern the decision.	86.2%
6. Division One's written decisions clearly inform the trial courts and parties of what additional steps, if any, must be taken.	86.9%
7. Division One's written decisions treat trial court judges with courtesy and respect.	94.3%

**Statement****Percentage Agreeing**

8. Division One treats attorneys with courtesy and respect.	95.3%
9. Division One is procedurally and economically accessible to the public and attorneys.	86%
10. Division One effectively informs attorneys and trial judges of its procedures, operations, and activities.	91.5%
11. Division One's website is a useful tool.	90.7%
12. Division One's Clerk's office responds well to inquiries.	92.2%
13. It is useful to have memorandum decisions available for review on Division One's website and through Westlaw.	91.9%

The goal of the court is to elevate all statements above a 90% agreement level. The results have been shared and discussed with the leaders of Division One, including all judges. Focus in 2010 will be on achieving the often-fragile balance between quickly resolving cases and drafting decisions that fully explain the court's reasoning. As the number of Division One's personnel continues to dwindle in these poor economic times, the court has its work cut out for it.

## *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).<sup>1</sup> 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 stages were decided in the years prior to FY2009. We will measure our results in the future against our performance in FY2009 with an eye toward determining the effects of changes in funding, personnel levels, the efficiency of record gathering, and the like.

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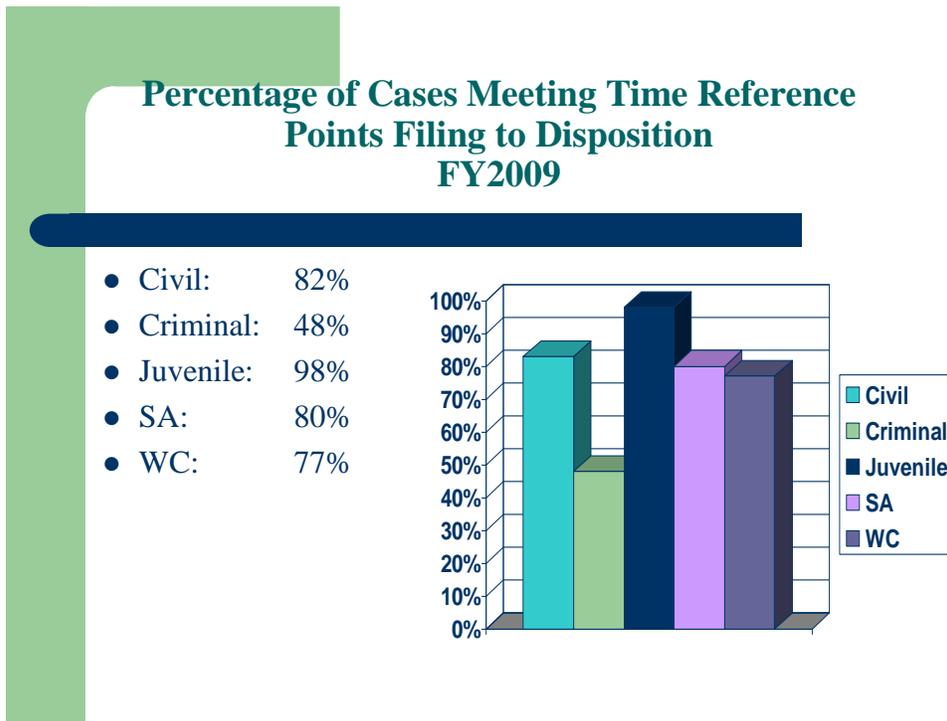
<sup>1</sup> The cases do not terminate when decided as they are subject to post-decision motions and the like.

## 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:<sup>2</sup>

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

In fiscal year 2009 (“FY2009”), the percentage of cases that met these reference points is as follows:



<sup>2</sup> 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.

## Stage Measurements

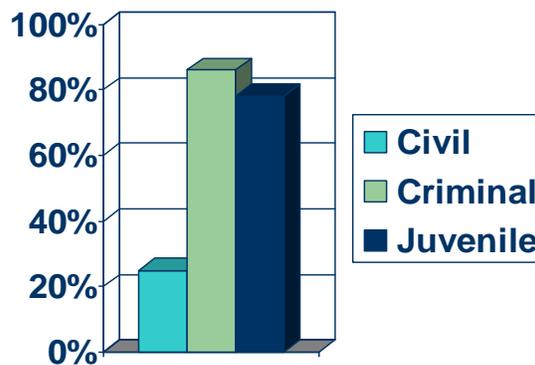
In order to understand the pace of appeals through various points in case-processing, the court also set the following time reference points for the various stages of an appeal:

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):

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

### Percentage of Cases Meeting Time Reference Points FY2009

- Civil: 25%
- Criminal: 86%
- Juvenile: 78%

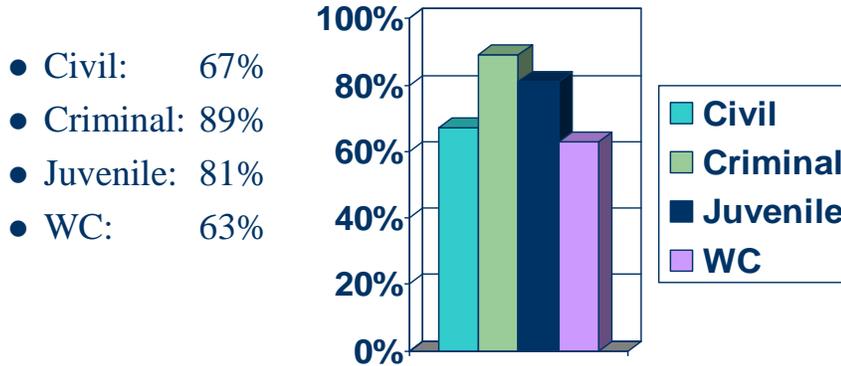


2. Time measured from day all records and briefs are filed in Division

One to the time the case is decided (inapplicable to special actions):

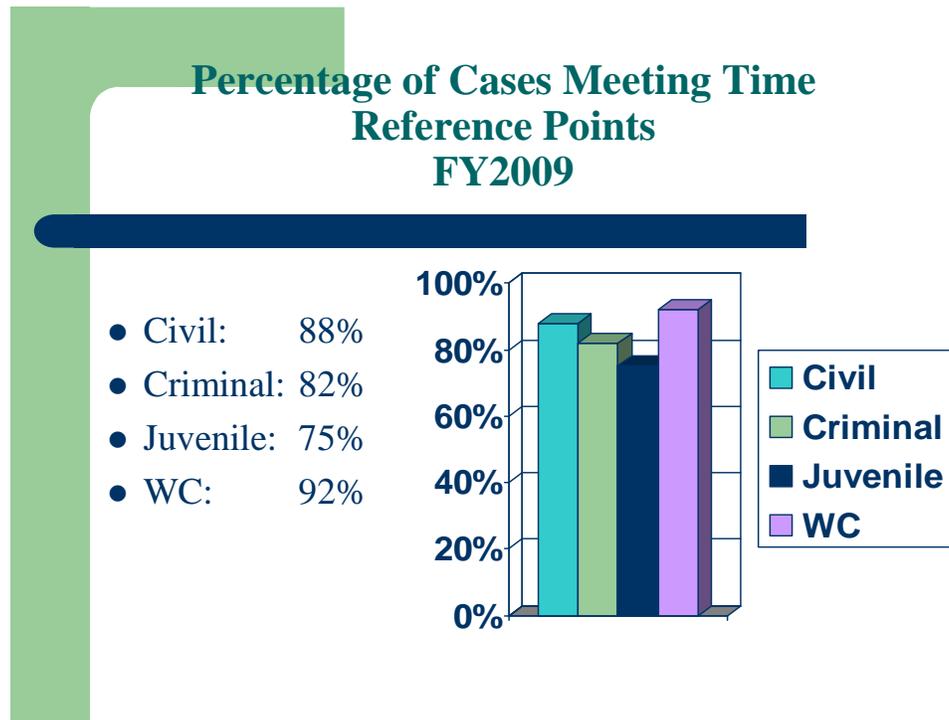
Civil:	225 days
Criminal:	150 days
Juvenile:	100 days
WC:	150 days

### Percentage of Cases Meeting Time Reference Points FY2009



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



## Conclusion

Until multiple years can be measured against the time reference points, it is not possible to draw many conclusions about whether Division One's case processing has improved over other years. We are able to glean some useful information, however, particularly when examining the data related to stages.

In all case types except criminal appeals, a higher percentage of cases met the time reference points than the 75% of cases that typically met these points in past years.

Of note was that only 48% of criminal appeals met the filing-to-disposition time reference point. A substantial number of criminal appeals met the reference points for the measured stages. Indeed, once criminal appeals were submitted to panels of judges for decisions, 89% of the cases met the given time reference point. It is evident that these cases bogged down 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 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 transmissions of records and, most particularly, 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 regularly holds “show cause” hearings to assist in expediting the filing of transcripts and briefs. Unfortunately, as the number of court reporters shrinks at the superior court and public lawyer agencies lose resources, it is increasingly difficult to expedite the record-gathering and brief-filing processes.

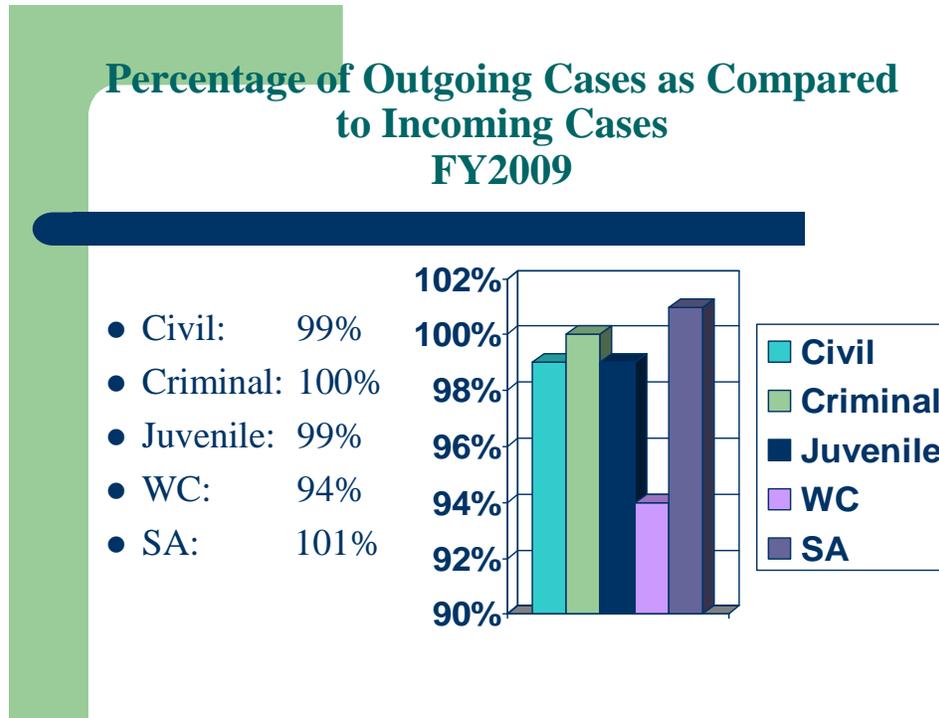
Another noteworthy measure is that only 25% of civil notices of appeal are meeting the 40-day reference point (time between filing of the notice of appeal in the superior court and transmittal of that notice to this court). This is despite a court rule that requires the superior court clerk to transmit the notices within 40 days. The court will work with the superior court in 2010 to resolve this problem. Regardless, with the transition to electronic record keeping, Division One expects to receive notices more quickly.

### *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 deciding older cases as it handles newly filed ones. The goal is to have a 100% clearance rate,

which means the court decided at least the same number of cases as the number newly filed that year, and therefore the danger of a growing backlog of cases is minimized.

In FY2009, Division One achieved the following case clearance rates:



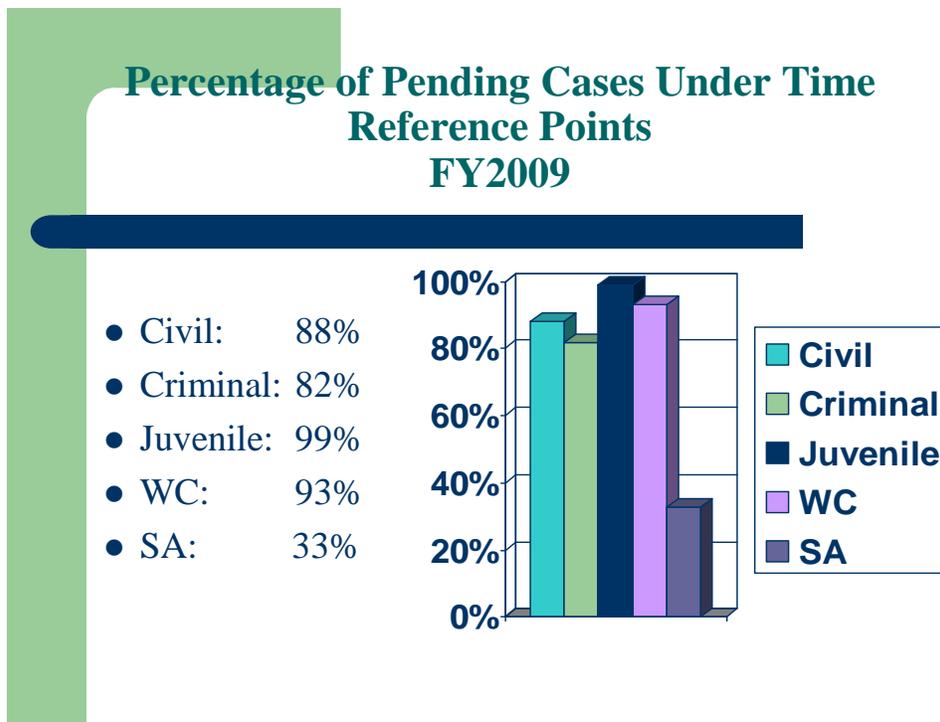
Overall, the Case Clearance measurement shows that in FY2009 Division One substantially kept pace, lagging minimally in civil and juvenile cases. The imbalance in the workers' compensation cases reflects the large increase in the number of such cases filed during the fiscal year.

### *Age of Pending Caseload*

The Age of Pending Caseload measurement applies to all cases pending but not decided in FY2009 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 FY2009 that had not reached the time reference points is as follows:



The Age of Pending Caseload measurement shows that at the end of FY2009, Division One's pending cases were relatively young, as most had not yet reached their time reference points. For example, 99% of the pending juvenile cases had not yet reached their time reference point. Although only 33% of the special actions pending at the end of FY2009 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 a handful of pending special actions remained at the end of FY2009. Specifically, only nine special actions remained at the end of FY2009 because the court had decided hundreds of other special actions that year; indeed, 80% of all special actions met the time reference point in FY2009. The age-of-pending-caseload measure shows that six of the nine remaining cases had met the time reference point.

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