



# Arizona Court of Appeals Division One

**CourTools FY 2013**



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## **Introduction**

The Arizona Supreme Court established the Appellate CourTools Committee in 2008 to recommend measures to track case processing by Arizona's appellate courts using a methodology developed by the National Center for State Courts. Only a handful of appellate courts across the country have undertaken this project, and Division One of the Court of Appeals ("the Court") is committed to gathering and publishing this information on an annual basis. The Appellate CourTools Committee selected three performance measures for Arizona's appellate courts: (1) Time to Disposition; (2) Case Clearance; and (3) Age of Pending Caseload. Each is discussed below. Also discussed below are the results of the Court's biannual opinion survey of trial judges and appellate counsel.

### **A. Time to Disposition**

The purpose of this assessment is to measure various stages of appeals against the same timeframes in successive years. In preparation for using CourTools, the Court selected reference timeframes for certain milestone periods in the handling of an appellate case. In annual reports commencing with FY 2009, the Court has reviewed its performance against the selected time reference points. Three time periods are described below: (1) The time between the filing of an appeal and the Court's disposition of the appeal; (2) the time between the day an appeal comes at-issue and disposition; and (3) the time between the day an appeal is taken under advisement to disposition.

#### **1. Filing to Disposition**

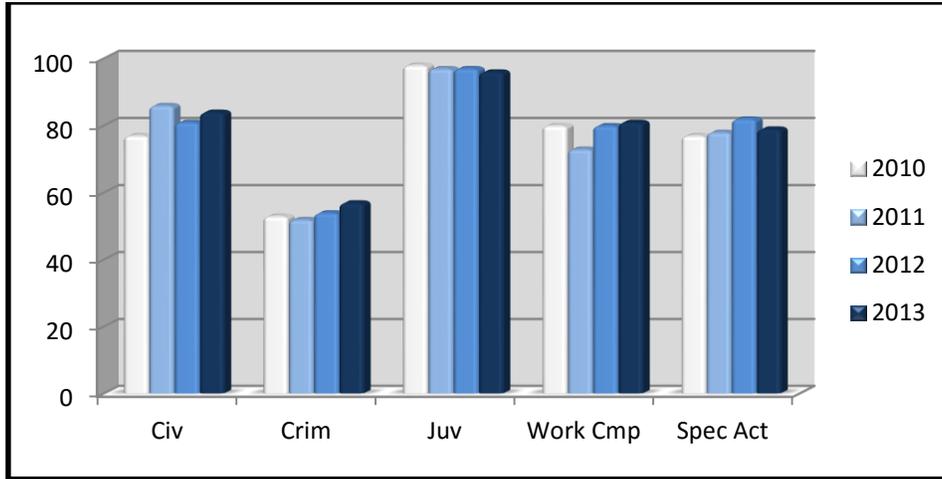
The table below shows, for each case type, the number of days chosen as the reference period for the time between the filing of an appeal or special action and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2013:

<b>Case Type</b>	<b>Reference Period (filing to disposition)</b>	<b>Percent of FY 2013 Cases Decided Within Reference Period</b>
Civil	400 days	84%
Criminal	375 days	57%
Juvenile	275 days	96%
Workers Compensation	300 days	81%
Special Actions	25 days	79%

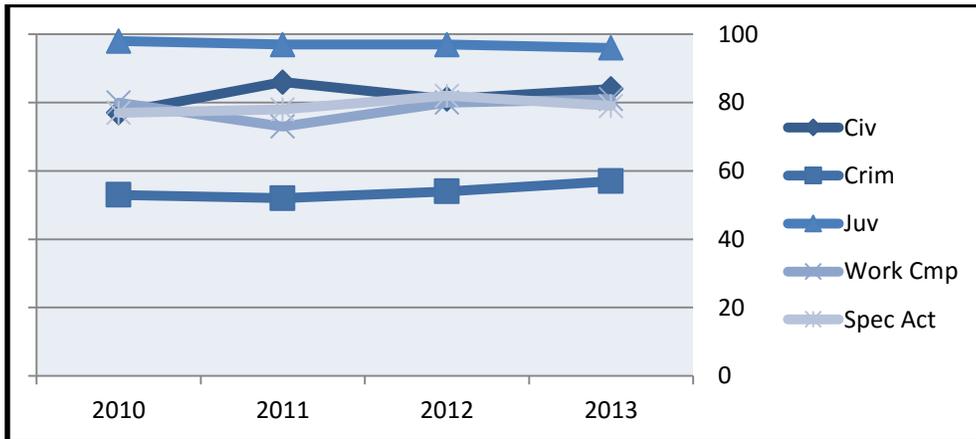
The table and graphs below show the Court's performance with respect to these reference points during FY 2013 and in prior years.

<b>Filing to Disposition FY 2010 - 2013 (percent of cases decided within reference periods)</b>					
	<b>Civil</b>	<b>Criminal</b>	<b>Juvenile</b>	<b>Workers Compensation</b>	<b>Special Action</b>
<b>2013</b>	84	57	96	81	79
<b>2012</b>	81	54	97	80	82
<b>2011</b>	86	52	97	73	78
<b>2010</b>	77	53	98	80	77

**Percent of Cases Decided Within Time Reference Points  
Filing to Disposition FY 2010-2013**



**Percent of Cases, by Case Type, Decided Within Time  
Reference Points for Filing to Disposition FY 2010-2013**



**2. At-Issue to Disposition and  
Under-Advisement to Disposition**

The Court also reviews the time it takes to decide an appeal from the day all records and briefs have been filed in the Court (i.e., from when the case is "at issue") and from the day a panel of the

court meets to discuss the case and/or holds oral argument on the case (i.e., from when the case is "under advisement").<sup>1</sup>

The table below shows, for each case type, the number of days chosen as the reference period between the day an appeal is at issue and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2013:

<b>Case Type</b>	<b>Reference Period (at-issue to disposition)</b>	<b>Percent of FY 2013 Cases Decided Within Reference Period</b>
Civil	225 days	74 %
Criminal	150 days	81 %
Juvenile	100 days	80 %
Workers Compensation	150 days	58 %

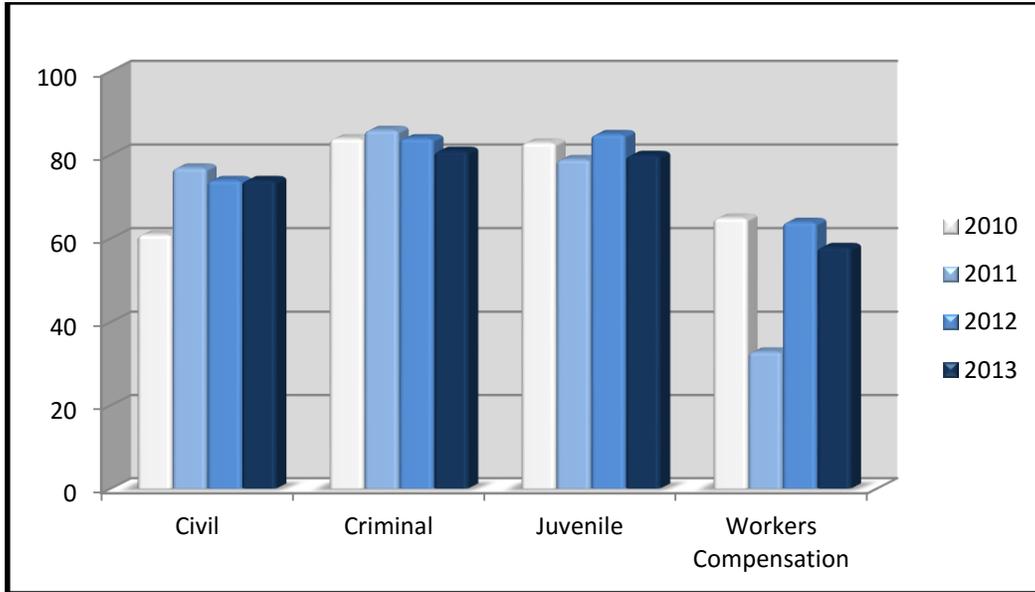
The table and graph below show the Court's performance with respect to these reference points during FY 2013 and in prior years:

<b>At-Issue to Disposition FY 2010 - 2013 (percent of cases decided within reference periods)</b>				
	<b>Civil</b>	<b>Criminal</b>	<b>Juvenile</b>	<b>Workers Compensation</b>
<b>2013</b>	74	81	80	58
<b>2012</b>	74	84	85	64
<b>2011</b>	77	86	79	33
<b>2010</b>	61	84	83	65

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<sup>1</sup> These reference periods are not relevant to special actions (interlocutory appeals).

**Percent of Cases Decided Within Time Reference Points  
At-Issue to Disposition FY 2010-2013**



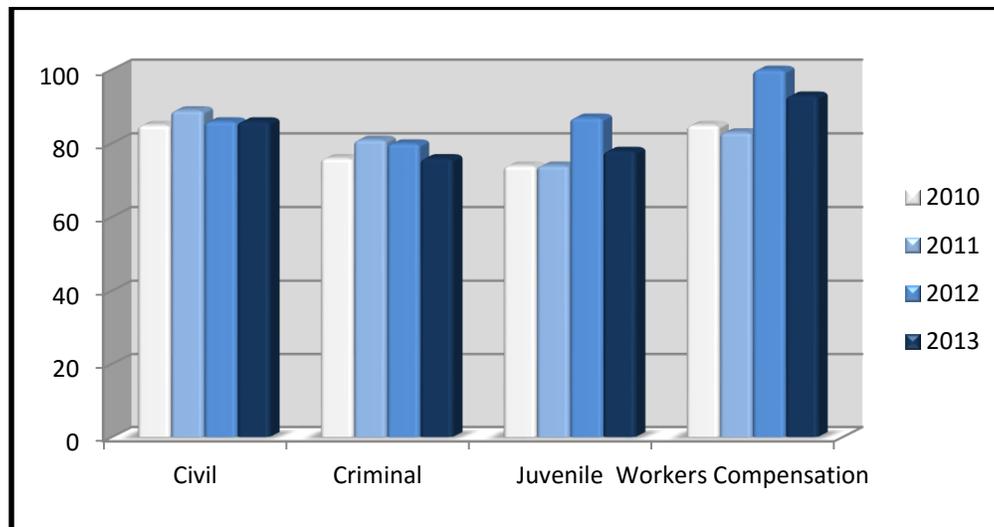
The table below shows, for each case type, the number of days chosen as the reference period for the time between the day an appeal is taken under advisement and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2013:

<b>Case Type</b>	<b>Reference Period (under-advisement to disposition)</b>	<b>Percent of FY 2013 Cases Decided Within Reference Period</b>
Civil	120 days	86 %
Criminal	90 days	76 %
Juvenile	40 days	78 %
Workers Compensation	100 days	93 %

The table and graph below show the Court's performance with respect to these reference points during FY 2013 and in prior years:

<b>Under-Advisement to Disposition FY 2010 - 2013 (percent of cases decided within reference periods)</b>				
	<b>Civil</b>	<b>Criminal</b>	<b>Juvenile</b>	<b>Workers Compensation</b>
<b>2013</b>	86	76	78	93
<b>2012</b>	86	80	87	100
<b>2011</b>	89	81	74	83
<b>2010</b>	85	76	74	85

**Percent of Cases Decided Within Time Reference Points  
Under-Advisement to Disposition FY 2010-2013**



\* \* \* \*

Together, the data recounted in the pages above show that compared to FY 2012, the Court saw slight improvements in FY 2013 (three, three and one percentage points, respectively) in the numbers of civil, criminal and workers compensation cases resolved within the broadest time reference period – filing to disposition. The number of special actions resolved within that reference period declined three

percentage points, to 79 percent, while the number of juvenile cases resolved within the reference period dropped by one point, to 96 percent. By statute, the Court grants priority to its handling of juvenile cases, and the number of cases resolved within the target timeframe has remained very high.

Timely handling of criminal cases continues to challenge the Court, due in large part to delays in its receipt of trial court records, transcripts and briefs. The Court resolved 57 percent (an increase of three percentage points over 2012) of its criminal cases within the 375 days that is the reference time period for the overall handling of a criminal appeal (filing to disposition). The Court resolved a much higher percentage of criminal cases – 81 percent – within the target time period for after a case is at issue, that is, in the 150-day period after the briefs have been filed. Taken together, these data demonstrate significant delays (*vis-a-vis* the reference time periods) that continue to occur before the Court begins its analysis of the merits of many criminal cases, *i.e.*, delays in the transmission of the record and trial transcripts and delays in filing of the briefs by counsel.

The volume of criminal appeals, extended staff shortages and budgetary constraints in the trial court seem to cause court reporters continued difficulty in completing the official transcripts of criminal court proceedings in a timely fashion. The Court of Appeals closely tracks deadlines for transcripts and orders tardy court reporters to appear at "show cause" hearings held every two weeks to attempt to reduce this delay. Because some trial transcripts are delayed when court reporters do not know whether the appellants will be represented by appointed counsel on appeal, the Court has begun reviewing newly filed criminal appeals and, when representation is not clear, contacting appellant's trial counsel in an effort to speed determination of the issue. The Court will continue to work collaboratively with superior court personnel, including court reporter supervisors, to resolve delays in the filing of transcripts.

The Court also has taken steps to reduce continuances granted to counsel for the submission of appellate briefs; however, constitutional due process requires a careful review of the trial record by appellate counsel and by the court. This painstaking process often causes counsel to ask for additional trial transcripts to be prepared and for additional time to complete such review. If there are arguable questions of law, those issues need to be identified and briefed. Additionally, if counsel certifies the absence of any arguable questions on appeal, the defendant-appellant is entitled to submit his or her own supplemental brief. Finally, in relatively rare instances, as a result of the court's own independent review of the record for fundamental error, the court may identify an issue and order the parties to submit supplemental briefing. In short, constitutionally mandated due process requirements for criminal appeals may extend the time until the appeal is considered at issue for as long as two years.

A final note about the relatively low (58 percent) of workers compensation cases that met the time reference period for at-issue to disposition. The court was able to resolve 81 percent of its workers compensation cases within the broader reference period for filing to disposition. This is because, as shown by the relatively high number (93 percent) of cases resolved within the reference timeframe for under advisement to disposition, once workers compensation cases are readied for consideration by panels of the court, the court tends to dispose of them in timely fashion.

## **B. Case Clearance**

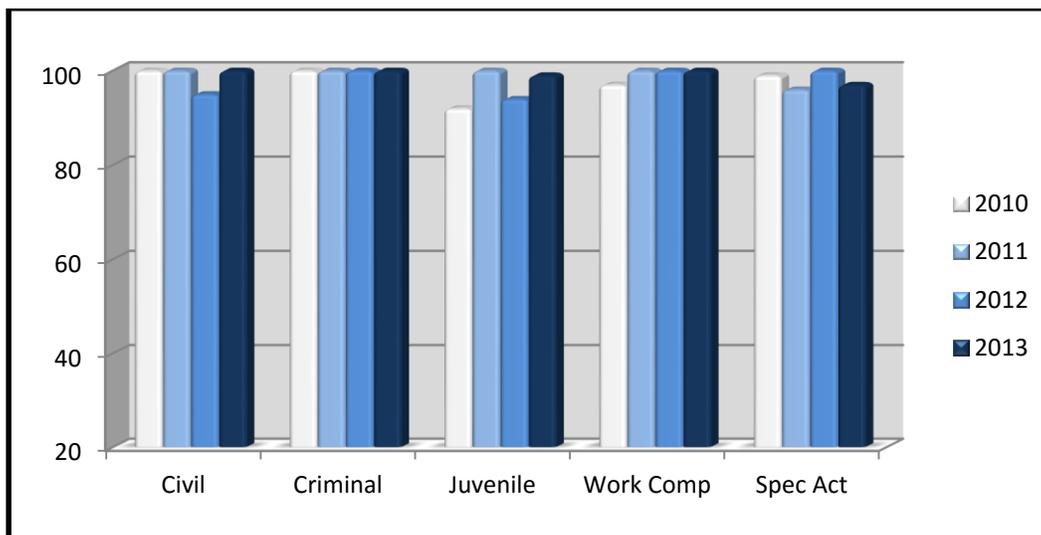
"Case clearance" measures the number of cases decided in a fiscal year as a percentage of the number of new cases filed that year. The point of the measurement is to assess the number of "older" cases the Court is resolving at the same time as it decides newly filed matters. In FY 2013, the Court achieved the following case clearance rates:

Case Type	Case Clearance Rate FY 2013
Civil	107%
Criminal	116%
Juvenile	99%
Workers Compensation	104%
Special Action	97%

The table and graph below show the Court's case-clearance performance during FY 2013 with prior years:

Case Clearance Rates FY 2010 - 2013					
	Civil	Criminal	Juvenile	Workers Compensation	Special Action
<b>2013</b>	107%	116%	99%	104%	97%
<b>2012</b>	95%	114%	94%	104%	104%
<b>2011</b>	103%	116%	110%	106%	96%
<b>2010</b>	101%	104%	92%	97%	99%

Case Clearance Rates FY 2010-2013



Overall, the blended case clearance rate in FY 2013 was 106 percent, showing that the Court made good progress in reducing the overall number of pending cases. By individual case type, compared with FY 2012, the court maintained or improved its case clearance rate for criminal, civil (an increase of 12 percentage points) and juvenile cases.

### C. Age of Pending Caseload

This measurement is intended to provide information about the age of the Court's complement of pending cases. It calculates the percentage of cases pending at the end of a fiscal year that had not reached the time reference points described above.

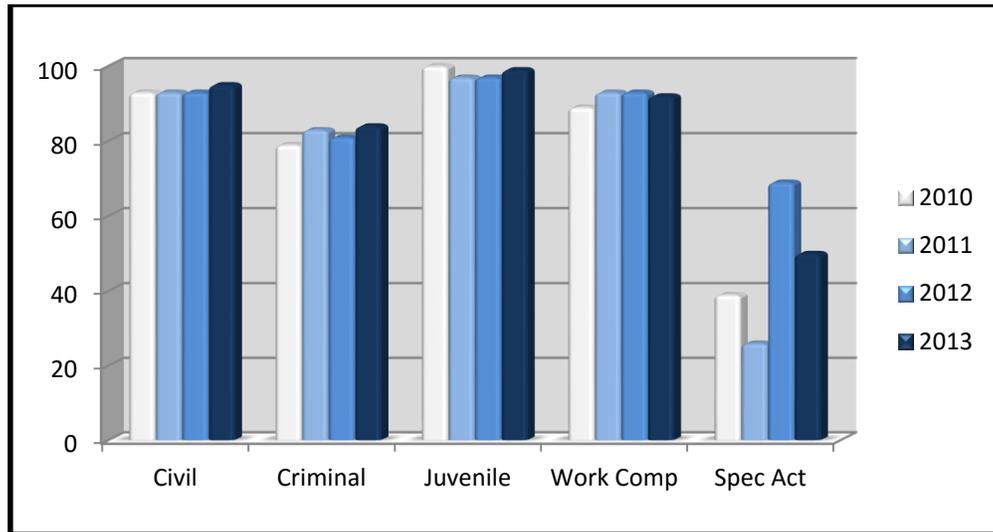
The percentage of all cases pending at the end of FY 2013 that had not reached the time reference points is as follows:

<b>Percent of Pending Cases Short of Reference Points FY 2010 - 2013</b>					
	<b>Civil</b>	<b>Criminal</b>	<b>Juvenile</b>	<b>Workers Compensation</b>	<b>Special Action</b>
<b>2013</b>	95	84	99	92	50
<b>2012</b>	93	81	97	93	69
<b>2011</b>	93	83	97	93	26
<b>2010</b>	93	79	100	89	39

These results show that at the end of FY 2013, the Court's pending cases were relatively new, as most had not yet reached their time reference points. Although 50 percent of the special actions pending at the end of FY 2013 had not yet met their time reference point, 79 percent of the special action cases the Court resolved during the year were disposed of within the time reference period for filing to disposition.

On the whole, as depicted in the following graph, the age of pending cases remained substantially the same at the end of FY 2013 as compared to prior years:

**Percent of Pending Cases Short of Reference Points FY 2010-2013**



### **D. Attorney/Trial Bench Survey**

The Court conducts a biannual anonymous survey of attorney members of the Appellate Practice Section of the State Bar of Arizona, other attorneys who appeared before the Court, and superior court judges and commissioners. The survey asks respondents to rate their agreement with specified statements about the Court on a five-point scale ranging from "strongly agree" to "undecided/unknown." Responses to the 2013 survey were received from 416 individuals, or 33 percent of those surveyed. Results of the 2013 survey are shown below, along with results of the same survey conducted in 2011:

<b>Survey Question</b>	<b>2011- Results<sup>2</sup></b>	<b>2013- Results<sup>2</sup></b>
The Court resolves its cases expeditiously.	72%	76%
The Court renders decisions without any improper outside influences.	94%	94%
The Court considers each case based upon its facts and applicable law.	87%	88%
The Court's written decisions reflect thoughtful and fair evaluation of the parties' arguments.	84%	86%
The Court's written decisions clearly state the applicable legal principles that govern the decision.	87%	90%
The Court's written decisions clearly inform the trial courts and parties of what additional steps, if any, must be taken.	85%	89%
The Court's written decisions treat trial court judges with courtesy and respect.	97%	97%
The Court treats attorneys with courtesy and respect.	94%	94%
The Court is procedurally and economically accessible to the public and attorneys.	91%	86%
The Court effectively informs attorneys and trial judges of its procedures, operations, and activities.	92%	89%
The Court's website is a useful tool.	90%	90%
The Court's Clerk's office responds well to inquiries.	95%	96%
It is useful to have memorandum decisions available for review on the Court's website and through Westlaw.	98%	96%

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<sup>2</sup> Results indicate the percent of respondents who selected "Agree or Strongly Agree" and exclude all "Undecided or Unknown" responses.

Of particular note, greater than 90 percent of those who responded agreed or strongly agreed that the Court (1) renders its decisions without any improper outside influences; (2) issues decisions that clearly state the applicable legal principles; (3) treats trial court judges and attorneys with courtesy and respect; (4) provides a useful website; (5) has a responsive clerk's office; and (6) assists the public by making its memorandum decisions available for online review. Although the Court fell just short of a 90 percent rating in several areas, the percentage of favorable responses to several survey questions increased in 2013 over 2011. The number of respondents with an opinion who strongly agreed or agreed that the Court resolves its cases expeditiously rose in 2013 from 2011 by four percentage points, to 76 percent.

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