

Introduction

In September of 2007, the Montana Supreme Court embarked on a project to develop and implement a set of measures to gauge its performance and, on that basis, to try to improve performance. With technical assistance from the National Center for State Courts, the Supreme Court started with the NCSC's performance measurement system called *CourtTools*, and adapted it to better fit Montana and our Supreme Court's dual appellate and original jurisdiction. Results from the first performance measure implemented by the Court—a survey of trial judges, appellate attorneys and law school faculty—can be viewed at: [Bench-Bar Survey](#).

This report provides baseline data from three additional performance measures which focus on case processing and related timelines. These “snapshots” give the Court the opportunity to identify where delays in case processing are occurring and to target specific delays for decrease to the extent possible.

The case processing measures reflect the Court's two broadest categories of cases:

- *Direct appeals* are cases appealed from a trial court decision. These cases make up the bulk of the Court's workload. Direct appeals have been divided into four smaller case categories: criminal, general civil, child abuse and neglect, and domestic relations.
- *Original proceedings* are cases filed directly with the Court. These cases sometimes—but not always—involve a dispute in a case still ongoing in a trial court.

In each of these case categories, the Court has established time reference points. These are not deadlines, but ways of measuring the time it takes various types of cases to move through the entire process at the Court. The case processing measures are described in detail in this report. The performance measures posted here reflect five quarters of data on ***Direct Appeals and Original Proceedings filed, pending or disposed of between July 1, 2007 and September 30, 2008.***

The Court will update the data at least every six months in an effort to continue to identify and monitor changes expected to shave time from the filing of the notice of appeal or original proceeding to a decision by the Court and the formal closing of the docket. The Chief Justice and Justices are pleased to share this data with court users and the people of Montana.

Introduction

This report presents baseline data for three core case processing performance measures: case clearance, age of pending cases, and on-time processing. One subordinate measure – productivity – is also presented.

- **Case Clearance** – The ratio between the number of cases closed (outgoing) and the number of cases filed (incoming).
- **Productivity** – The manner by which the Court disposes of its cases.
- **Age of Pending Cases** – The age of the Court’s active cases (that is those cases awaiting disposition).
- **On-time Case Processing** – The length of time it takes for the Court to dispose of cases.

Methodology and Case Lifecycles

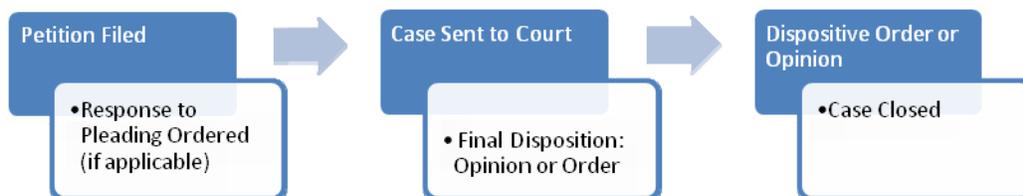
The tables and charts in this report are derived from the Supreme Court’s automated case management system using case information entered by the Clerk of the Supreme Court. Each case in a case group (Direct Appeals and Original Proceedings) follows a case lifecycle of actions and events docketed by the Clerk in accordance with the Montana Rules of Appellate Procedure. The filing date for each key event or action is used to calculate the measures.

The following process diagrams illustrate the actions and events that makeup the case lifecycle.

Direct Appeal Case Lifecycle



Original Proceeding Case Lifecycle



Case Clearance

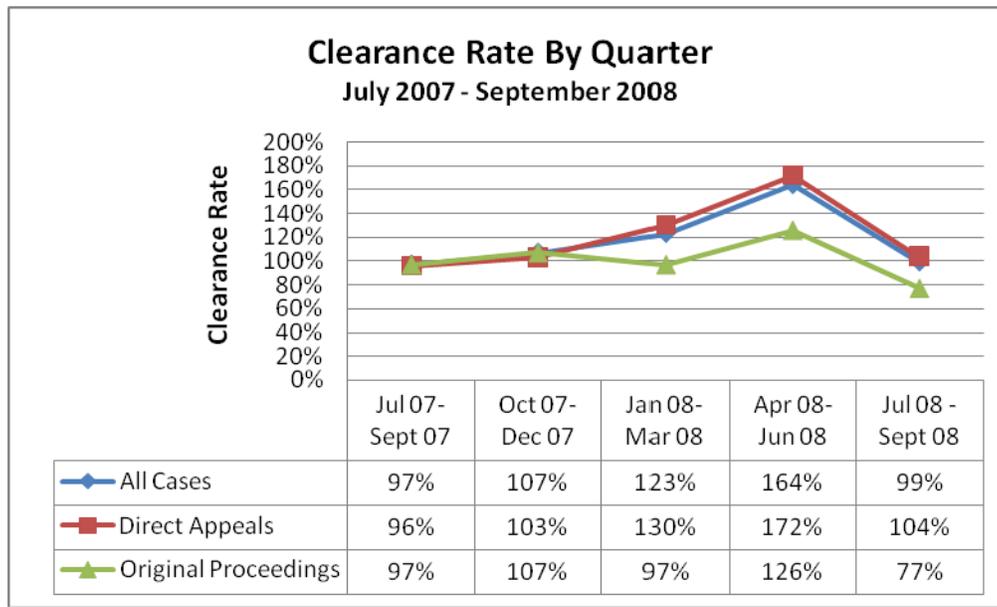
Definition: The number of closed (outgoing cases) as a percentage of filed (incoming) cases.

Purpose: Clearance rate measures whether the Court is keeping up with its incoming caseload. The goal is to clear (dispose of) at least as many cases as have been filed during the time period by having a clearance rate of 100% or higher.

Table 1: Case Clearance Rates by Case Type (July 2007 – Sept. 2008)

Case Group/Case Type	Cases Filed (Incoming)	Cases Closed (Outgoing)	Clearance Rate (Ratio of Closed to Filed Cases)
Direct Appeal			
Criminal	223	269	121%
Civil General	326	387	119%
Abuse & Neglect	38	49	129%
Domestic Relations	68	67	99%
Original Proceedings	146	151	103%
All Cases	801	923	115%

Chart 1: Quarterly Case Clearance Rates by Major Case Group (July 2007 – Sept. 2008)



Productivity

Definition: The number and manner by which cases were disposed of during the time period.

Purpose: Used in conjunction with the case clearance rate, productivity measures the number of opinions and final dispositive orders issued by the Court during the time period.

Table 2: Manner of Case Disposition by Case Type (July 2007 – Sept. 2008)

Case Group/Case Type	Published Opinion	Non-Cite or Memorandum	Closed Other ¹	Order	Total
Direct Appeal					
Criminal	142	62	70		274
Civil General	196	60	109		365
Abuse & Neglect	15	22	27		64
Domestic Relations	9	19	40		68
Original Proceedings	1			142	143
All Cases	363	163	246	142	914

¹ Cases closed other than by Opinion, e.g., cases settled by mediation, dismissals by order for other reasons, etc.

Chart 2: Direct Appeals - Manner of Disposition by Quarter (July 2007 – Sept. 2008)

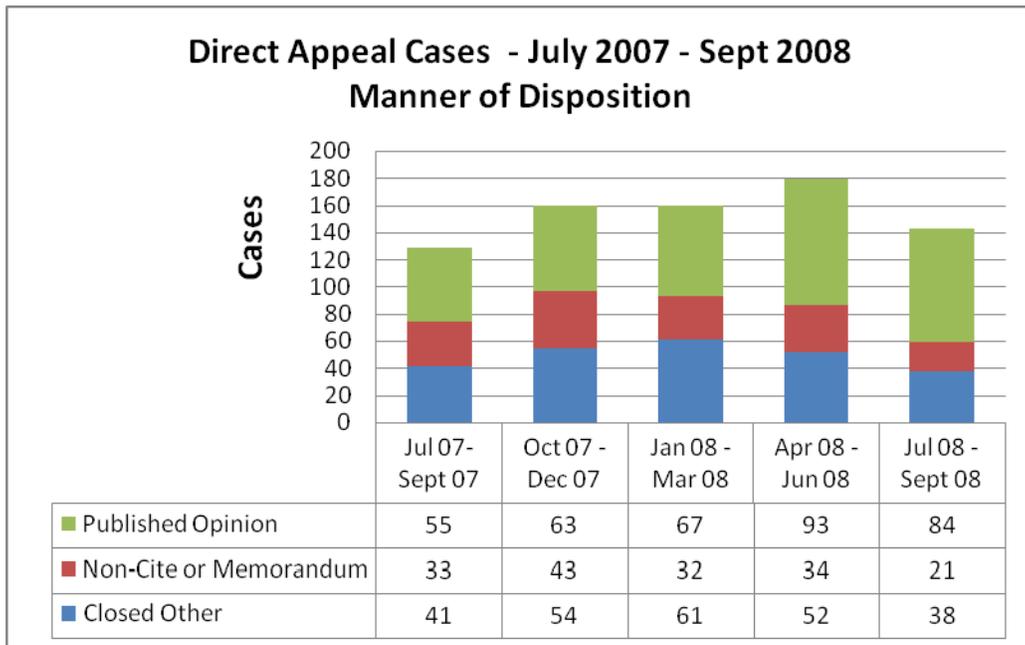
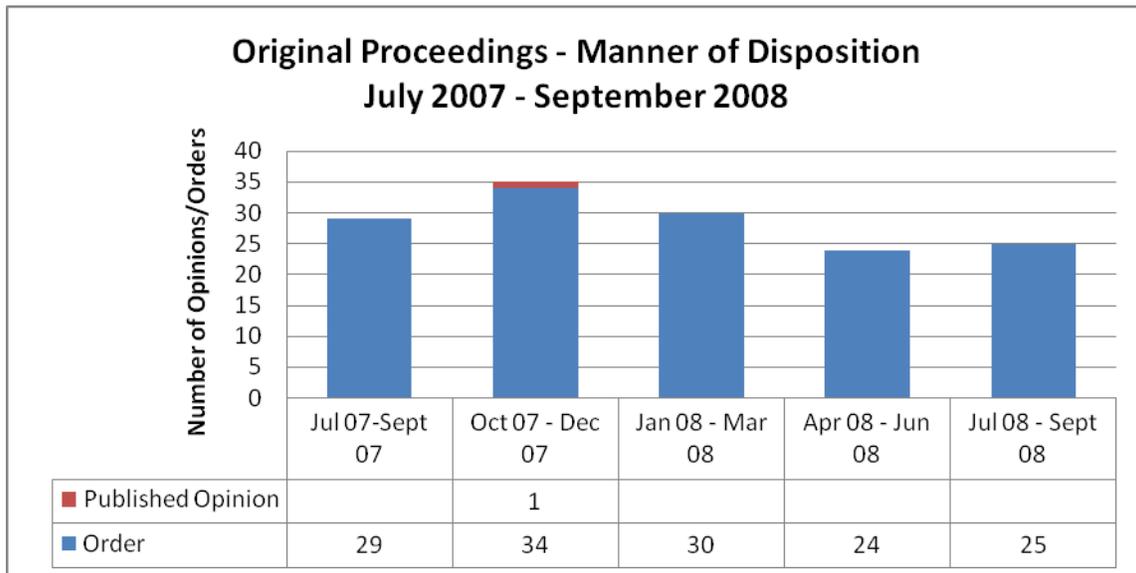


Chart 3: Original Proceedings - Manner of Disposition by Quarter (July 2007 – Sept. 2008)



Age of Pending Cases

Definition: The age of active cases that are pending before the Court, measured as the number of days from filing until the day of the measurement (September 30, 2008).

Purpose: Cases filed but not yet disposed make up the Court’s pending caseload. Having a complete and accurate inventory of active pending cases as well as tracking their number and age is important because this pool of cases potentially requires Court action. Once the age spectrum of cases is determined, the Court can focus attention on what is required to ensure cases are brought to completion within reasonable timeframes.

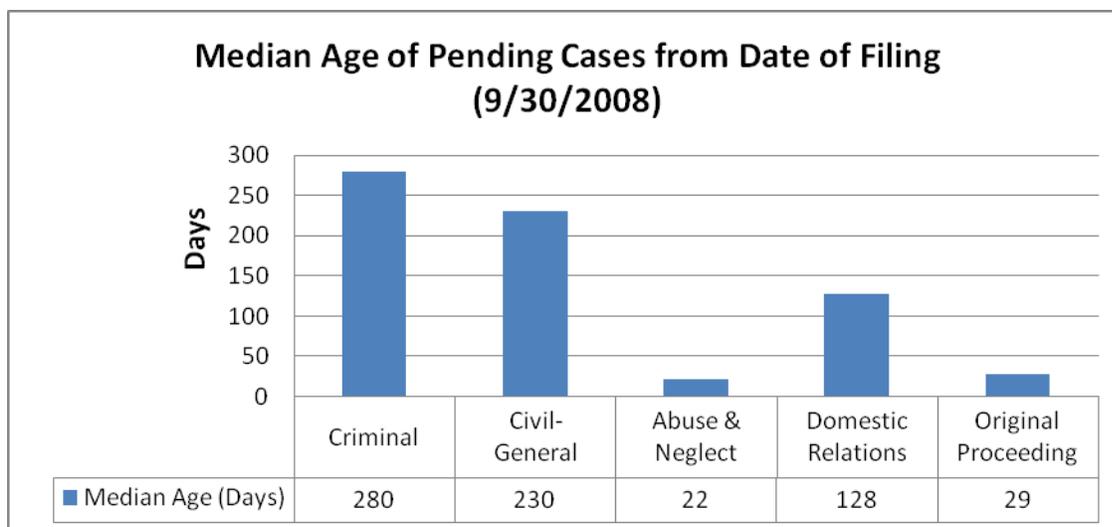
Table 3: Median Age of Pending Cases from Date of Filing as of Sept. 30, 2008

Case Type/Case Group	Number of Cases	% of Cases Pending	Median Days
Direct Appeal			
Criminal	200	37%	280
Civil - General	263	48%	230
Abuse & Neglect	14	3%	22
Domestic Relations	42	8%	128
Original Proceeding	24	4%	29
All Cases	543	100%	216

Excludes stayed cases and Oral Argument cases.

(“Median” means age in days in which 50% of the cases are younger and 50% are older.)

Chart 4: Median Age of Pending Cases from Date of Filing to Sept. 30, 2008



Excludes stayed cases and Oral Argument cases.

(“Median” means age in days in which 50% of the cases are younger and 50% are older.)

Table 4: Current Caseload: Percent of Pending Cases less than 365 days old from Date of Filing as of Sept. 30, 2008

Case Group/Case Type	Number of Cases Less Than 365 Days Old (As of 9/30/2008)	Number of Cases More Than 365 Days Old (As of 9/30/2008)	Percent Current: Number of Cases Less Than 365 Days Old (As of 9/30/2008)
Direct Appeal			
Civil General	197	66	75%
Domestic Relations	34	8	81%
Abuse & Neglect	14	0	100%
Criminal	130	70	65%
Original Proceedings	23	1	96%
Oral Argument Cases	4	13	24%
All Cases	402	158	72%

Excludes stayed cases.

Table 5: Age Distribution of Pending Cases from Date of Filing to Sept. 30, 2008

Age in Days from Initial Filing as of 9/30/2008	Direct Appeals Cases	Original Proceeding Cases	Total Cases	Percentage of Total Cases	Cumulative Percentage
0-90 Days	133	20	153	28%	28%
91-180 Days	87		87	16%	44%
181-270 Days	84	2	86	16%	60%
271-365 Days	71	1	72	13%	73%
366-540 Days	78	1	79	15%	88%
Older than 540 Days	66		66	12%	100%
All Cases	519	24	543	100%	

Excludes stayed cases and Oral Argument cases.

Table 6: Current Caseload: Percent of Pending Cases less than 365 days old from Date Sent to Court as of Sept. 30, 2008

Case Group/Case Type	Number of Cases Less Than 365 Days Old (As of 9/30/2008)	Number of Cases More Than 365 Days Old (As of 9/30/2008)	Percent Current: Number of Cases Less Than 365 Days Old (As of 9/30/2008)
Direct Appeal			
Civil General	128	20	86%
Domestic Relations	6	2	75%
Abuse & Neglect	4	0	100%
Criminal	95	21	82%
Original Proceedings	23	1	96%
Oral Argument Cases	4	13	24%
All Cases	260	57	82%

Excludes stayed cases.

Table 7: Age Distribution of Pending Cases from Date Sent to Court as of Sept. 30, 2008

Age in Days from Date Sent to Court (As of 9/30/2008)	Direct Appeals Cases	Original Proceeding Cases	Total Number of Cases	Percent	Cumulative Percentage
0-90 Days	89	20	109	36%	36%
91-180 Days	66	2	68	23%	59%
181-270 Days	50		50	17%	76%
271-365 Days	28	1	29	10%	85%
366-540 Days	26	1	27	9%	94%
Older than 540 Days	17		17	6%	100%
All Cases	276	24	300		

Excludes stayed cases and Oral Argument cases.

On-Time Case Processing

Definition: The On-Time Case Processing measure measures the amount of time it takes to resolve cases. The metric is the elapsed number of days from the *date the case is sent to the Supreme Court* by the Clerk of Court to the date the remittitur is issued for direct appeal cases or the final dispositive order is filed in an original proceeding case.

Purpose: How long does it take an appellate court to make its decisions? Is the elapsed time longer for certain types of appeals? How does the elapsed time compare with guidelines for timely case processing? This measure, used in conjunction with Case Clearance and Age of Pending Caseload is a fundamental management tool that assesses the length of time it takes to issue a decision once a case has been filed with the Court.

Table 8: Days to Disposition: Direct Appeal Cases by Case Type (July 2007-Sept. 2008)

Number of Days to Resolve Case from Date Sent to Court	Civil-General Cases Resolved	Abuse & Neglect Cases Resolved	Domestic Relations Cases Resolved	Criminal Cases Resolved	Total Cases Resolved	Percent of Total Cases Resolved	Cumulative Percentage Resolved
0-90 Days	1	21		1	23	5%	5%
91-180 Days	17	21	4	15	57	12%	17%
181-270 Days	92	1	16	92	201	42%	58%
271-365 Days	52		2	30	84	17%	76%
366-540 Days	55		4	33	92	19%	95%
>540 Days	21		1	4	26	5%	100%
	238	43	27	175	483	100%	

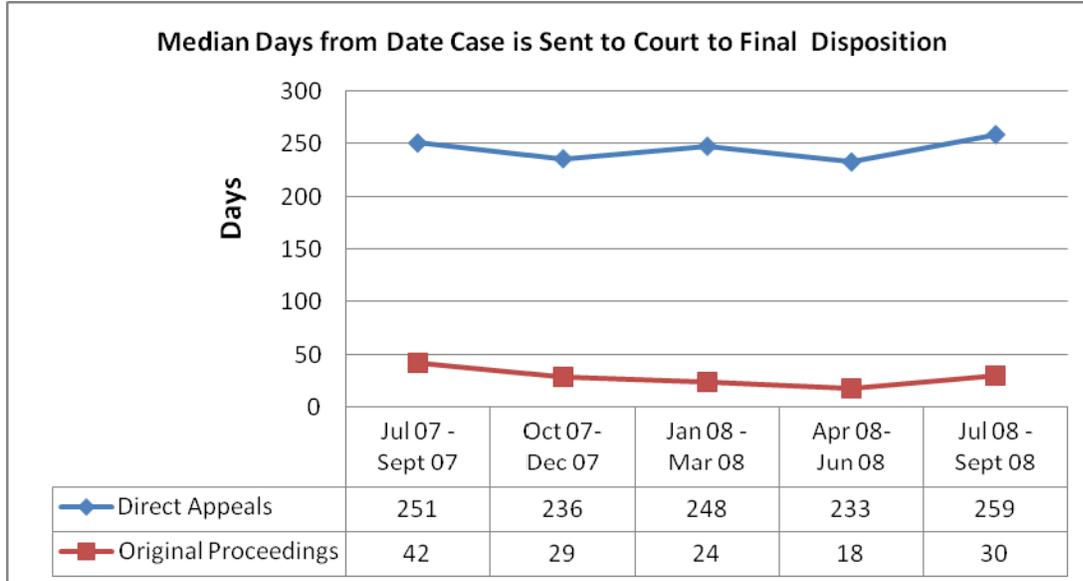
Excludes Oral Argument cases

Table 9: Days to Disposition: Original Proceeding Cases (July 2007-Sept. 2008)

Number of Days to Resolve Case from Date Sent to Court	Original Proceeding Cases	Percent	Cumulative Percentage
0-90 Days	152	97%	97%
91-180 Days	2	1%	98%
181- 270 Days	2	1%	99%
271-365 Days		0%	99%
366 - 540 Days		0%	99%
More than 540 Days	1	1%	100%
Total	157	100%	

Excludes Oral Argument cases

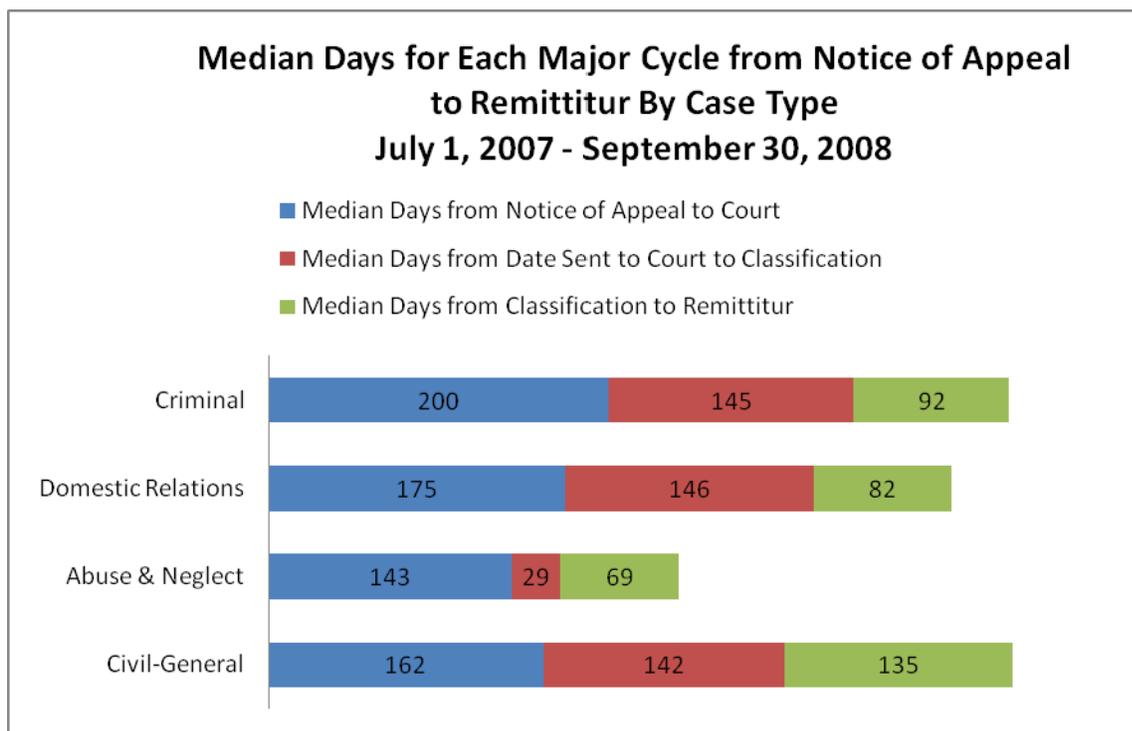
Chart 5: Median Days to Disposition by Case Group by Quarter (July 2007-Sept 2008)



Excludes Oral Argument cases

("Median" means age in days in which 50% of the cases are younger and 50% are older.)

Chart 6: Direct Appeal Lifecycle in Median Days by Case Type



Excludes Oral Argument cases

("Median" means age in days in which 50% of the cases are younger and 50% are older.)