



VERMONT JUDICIARY

Annual Statistical Report, FY 2020

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Introduction and Overview

Each year, the Vermont Judiciary issues a statistical report detailing the work of the state's courts with respect to the filing and disposition of cases. In addition to providing data on the number of cases added and disposed, this report also measures performance of the trial courts. This is achieved by utilizing three performance measurements that are part of the National Center for State Courts' CourTools: clearance rate, age of active pending cases, and time to disposition. These are well-established and important indicators of court performance. These indicators are described below.

- **Clearance Rate:** The clearance rate measures the number of disposed cases as a percentage of incoming cases. The purpose is to measure whether the court is keeping up with its incoming caseload. A clearance rate above 100% indicates that a court is disposing more cases than it is adding. Conversely, a clearance rate below 100% indicates that a court has added more cases than it has disposed, which means that a backlog of cases may be developing.
- **Age of Active Pending Caseload:** This is a point-in-time measurement, which for the purposes of the Judiciary's Annual Statistical Report is conducted on the last day of the fiscal year. The age of the active pending cases is measured against the time standard or disposition goal for that case type set by the Supreme Court.
- **Time to Disposition:** This measure is focused on cases disposed during the fiscal year. It measures the percentage that were resolved within the disposition time standard or goal for that case type.

The FY 2020 Report

The Judiciary's FY20 Annual Statistical Report is different from prior years' reports. This is principally because the case-level data on which the analysis depends was not available in all cases. This is due to the phased transition of the trial courts from the Judiciary's legacy case management system (VTADS) to its Next-Generation Case Management System (Odyssey), which occurred between June 2019 and February 2021.

While the Judiciary fully expects to be able to return to reporting on the trial court's performance using the measures described above, it is not possible to do so for FY20 for the criminal, family, civil and probate divisions of the Superior Court. This is due to a lack of comparability between key data elements in VTADS and Odyssey. These challenges are being, and will continue to be addressed through staff training, the use of quality assurance protocols, and the development and testing of standardized data reports.

Report Format

Information in this report is presented as follows:

- Part 1 of this report includes an overview of filing trends in the criminal, family, civil and probate divisions of the Superior Court. Detail regarding changes in filings between FY19 and FY20 is highlighted in this section, as is a comparison of average monthly filings in FY21 are returning to the pre-pandemic levels observed in FY19.
- The Judiciary has two statewide divisions – the Judicial Bureau and the Environmental Division. The Judicial Bureau was the first division in the state to convert to the Judiciary’s new case management system and was on it for the entirety of the fiscal year. The Environmental Division did not convert to the new case management system until after FY21 ended. Data for these two statewide divisions is presented in Part 2 of this report.
- The Supreme Court was not impacted by the conversion to the new case management system. Supreme Court statistics for FY20 are provided in Part 3 of this report.

Part 1: Filing Trends in the Superior Court

The COVID-19 pandemic had a major impact on the administration of justice for a significant portion of the fiscal year. This can be observed in part by looking at trends in case filing since the onset of the pandemic. These trends reveal a sharp decline in case filing activity followed by rates of increase and decrease. These variations vary by court division. There is still much to be learned about the short- and long-term impact of the pandemic on case filings and Judiciary staff continue to monitor this activity.

The Judiciary continues to adapt to the changing circumstances associated with the ongoing pandemic. These adaptations have involved, among other things, a transition to remote hearings and the temporary delay of criminal and civil jury trials. These and other actions taken by the Judiciary are expected to have an impact on the courts’ ability to process cases. Judiciary staff are likewise monitoring these impacts.

Impact of COVID on Annual Filings

The impact of the pandemic on case filings has been significant. In sum:

- Between FY19 and FY20 filings dropped for every case type reviewed except for mental health cases, which increased slightly.¹
 - The Judiciary experienced over 20% reductions in filings between FY19 and FY20 of small claims (-22%), guardianship (-22%), abuse and neglect (-21%), change of name (-21%), and misdemeanors (-21%) cases.

¹ This continues a trend, as filings also dropped for nearly half of these case types between FY16 and FY19.

- Average monthly filings between July and December 2020 (FY21 YTD) were lower than average monthly filings in FY19 (the most recent full fiscal year not impacted by the pandemic) for all case types reviewed, except for mental health and relief from abuse.
- Average monthly filings between July and December 2020 (FY21 YTD) in the Family and Juvenile Division for the period were closest to FY19 levels (89%), followed by the Probate Division (82%), and Criminal Division (76%). Filing activity in the Civil Division is significantly lower (56%) than FY19 levels.
- Average monthly filings between July and December 2020 (FY21 YTD) were lower than average monthly filings in FY20 for most case types reviewed, except for felony, abuse and neglect, delinquency/ youthful offender, relief from abuse, guardianships, estates, and change of name, which were all at or above FY20 levels.
- Average monthly filings in the Family and Juvenile Division between July and December 2020 (FY21 YTD) were at FY20 levels (100%) and are nearly at FY 20 levels in the Probate Division (96%), and Criminal Division (95%). Filing activity in the Civil Division is considerably lower (67%) than FY20 levels.

This information is presented in Exhibit 1, below.

Exhibit 1: Overall Trends in Case Filings for Select Case Types, FY19 - FY21 YTD

Select Case Type	Cases Filed % Change FY19-FY20	Avg. Monthly Filings in FY21 YTD as % of Avg. Monthly Filings FY19	Avg. Monthly Filings in FY21 YTD as % of Avg. Monthly Filings FY20	As % of Filings FY21YTD
Criminal		76%	95%	
Felonies	-12%	88%	100%	7%
Misdemeanors	-21%	76%	96%	26%
Civil Suspension	-17%	55%	66%	2%
Civil		56%	67%	
Major Civil	-13%	49%	57%	8%
Evictions	-16%	22%	26%	1%
Foreclosures	-17%	15%	18%	0.3%
Small Claims	-22%	70%	91%	11%
Stalking & Sex'l Asslt	-2%	94%	96%	3%
Family/Juvenile		89%	100%	
Domestic	-14%	75%	87%	7%
Abuse and Neglect	-21%	80%	100%	2%
Delinquency/YO	-16%	93%	111%	3%
Mental Health	7%	107%	99%	3%
Relief from Abuse	-7%	100%	108%	9%
Probate		82%	96%	
Guardianship	-22%	78%	100%	2%
Estates	-12%	91%	103%	6%
Adoptions	-11%	80%	89%	1%
Change of Name	-21%	80%	103%	1%
Administrative	-13%	78%	89%	7%

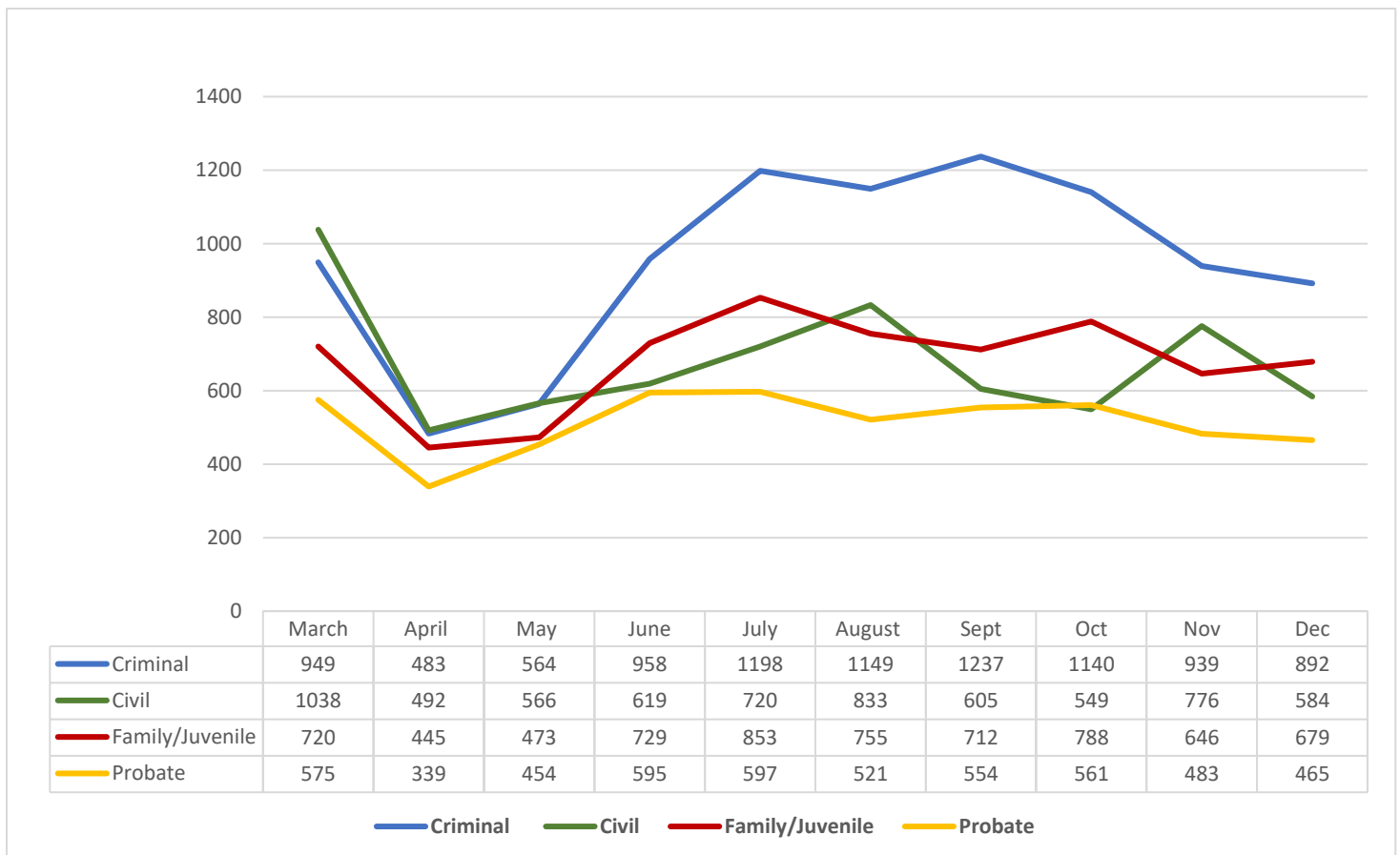
Case Filing Activity Since Onset of Pandemic

Overall Monthly Activity

Trends in filings for the select case types above in the criminal, family, civil and probate divisions are presented in Exhibit 2, below. In sum:

- Filings for the case types reviewed hit their lowest point in April and generally rose throughout the summer, peaking (with the exception of the Civil Division) in July.
 - Criminal Division filings increased most rapidly during the period April through July (148%), followed by an increase in Family/Juvenile Division filings (92%), an increase in Probate Division filings (76%), and an increase in Civil Division filings (46%).
- While filings for the case types reviewed have decreased since the summer – led by a decline in Criminal Division filings between September and December (-28%) – civil filings increased sharply (41%) between October and November, only to fall in December.
- In December, filings for all case types reviewed were 49% higher than they were at their post-COVID low in April, and they were 22% lower than they were at their post-COVID high in July.

Exhibit 2: Cases Filed, March 2020 - December 2020



Summary Trends by Superior Court Division

Criminal Division

Average monthly filings FY19	1,432
Average monthly filings FY20	1,154
Average monthly filings FY21 YTD (July – December)	1,091
Percent change in filings July – December 2021	-26%

Criminal Division	Avg. Monthly Filings FY19	Avg. Monthly Filings FY20	Avg. Monthly Filings FY21 YTD	% Change in Filings July – December 2021
Felonies	258	226	227	-20%
Misdemeanors	1055	829	798	-25%
Civil Suspension	119	99	66	-49%

Civil Division

Average monthly filings FY19	1205
Average monthly filings FY20	1010
Average monthly filings FY21 YTD (July – December)	678
Percent change in filings July – December 2021	-19%

Civil Division	Avg. Monthly Filings FY19	Avg. Monthly Filings FY20	Avg. Monthly Filings FY21 YTD	% Change in Filings July – December 2021
Major Civil	474	413	234	-4%
Evictions	112	94	24	-17%
Foreclosures	69	57	10	-25%
Small Claims	455	353	320	-21%
Stalking & Sex'l Asslt	95	93	89	-46%

Family/Juvenile Division

Average monthly filings FY19	828
Average monthly filings FY20	740
Average monthly filings FY21 YTD (July – December)	739
Percent change in filings July – December 2021	-20%

Family/Juvenile Division	Avg. Monthly Filings FY19	Avg. Monthly Filings FY20	Avg. Monthly Filings FY21 YTD	% Change in Filings July – December 2021
Domestic	290	248	217	-18%
Abuse and Neglect	74	59	59	40%
Delinquency/YO	101	85	94	-46%
Mental Health	82	88	88	0%
Relief from Abuse	281	260	281	-26%

Probate Division

Average monthly filings FY19	648
Average monthly filings FY20	556
Average monthly filings FY21 YTD (July – December)	533
Percent change in filings July – December 2021	-22%

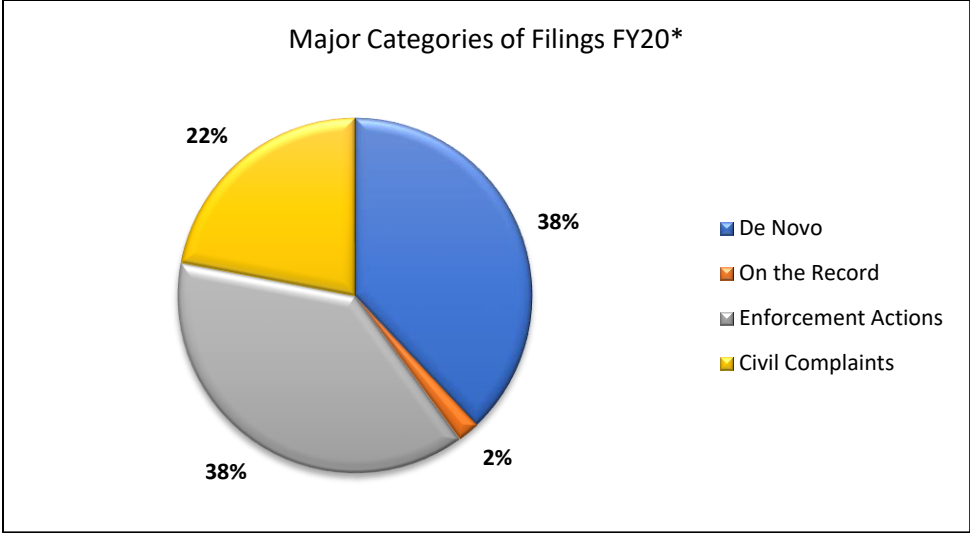
Probate Division	Avg. Monthly Filings FY19	Avg. Monthly Filings FY20	Avg. Monthly Filings FY21YTD	% Change in Filings July – December 2021
Guardianship	79	62	61	-3%
Estates	208	183	197	-35%
Adoptions	32	29	25	30%
Change of Name	53	41	42	-23%
Administrative	276	241	216	-20%

Part 2: Statewide Division Statistics

Environmental Division

The Environmental Division of the Superior Court is a statewide division responsible for hearing and deciding cases that fall primarily into five categories, as follows:

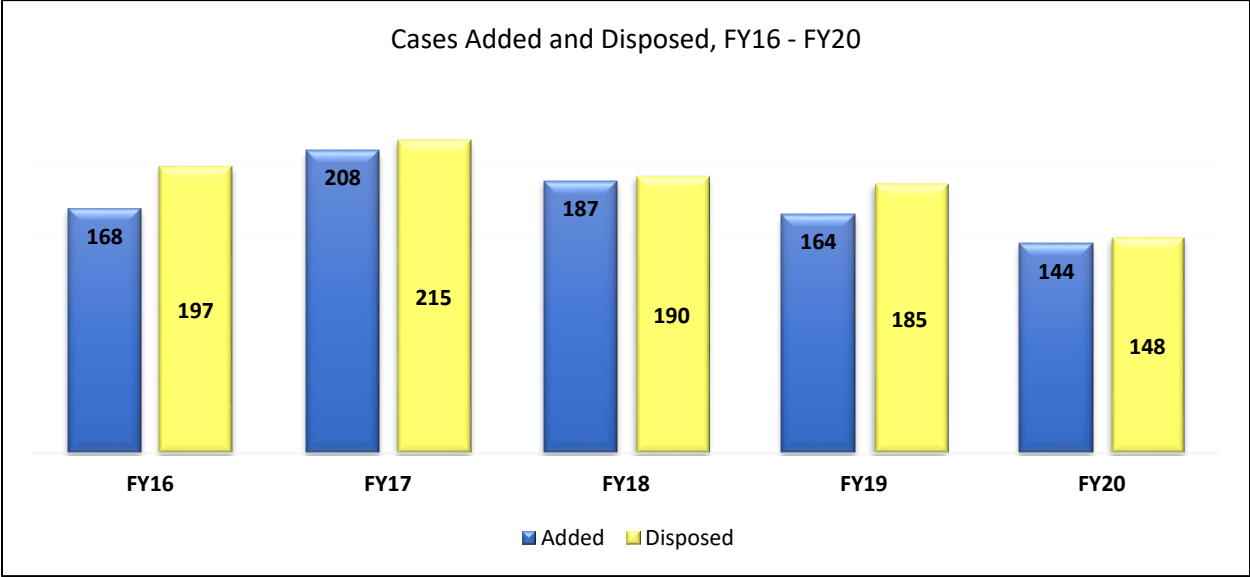
1. Requests to enforce administrative orders issued by various state land use and environmental enforcement agencies;
2. Environmental enforcement proceedings from various municipalities;
3. Appeals from municipal zoning boards, development review boards and planning commissions;
4. Appeals from land use determinations made by the various Act 250 district commissions and jurisdictional determinations by the Act 250 district coordinators; and
5. Tickets for environmental violations such as unlawful burning, dumping, or failing to abide by a permit condition or acceptable management practice (AMP).



*"De Novo" includes municipal appeals, Act 250 and Agency of Natural Resources appeals.
 "Enforcement Actions" include environmental and municipal enforcement matters.

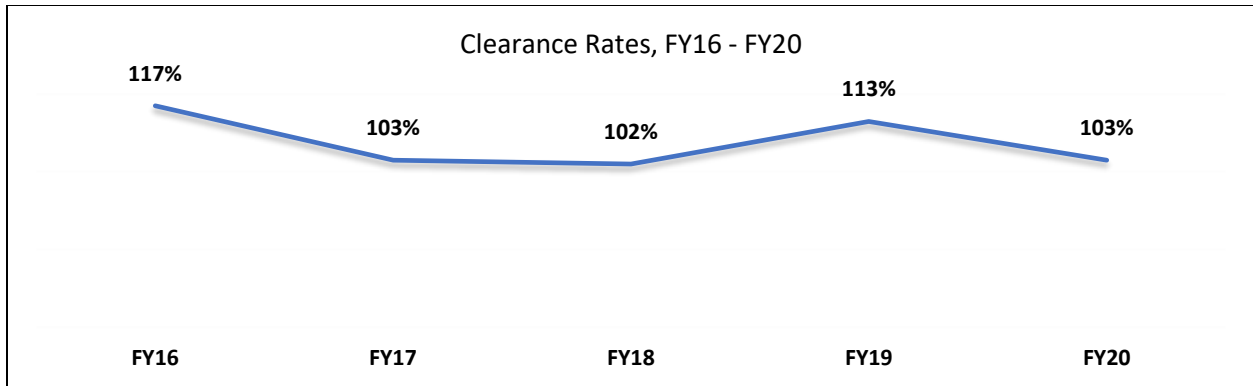
Trends

As indicated by the chart below, filings in the Environmental Division decreased 12% from the previous year, primarily in the areas of Civil Complaints and Act 250 and Agency of Natural Resources appeals. The number of dispositions also decreased from the previous year (20%).



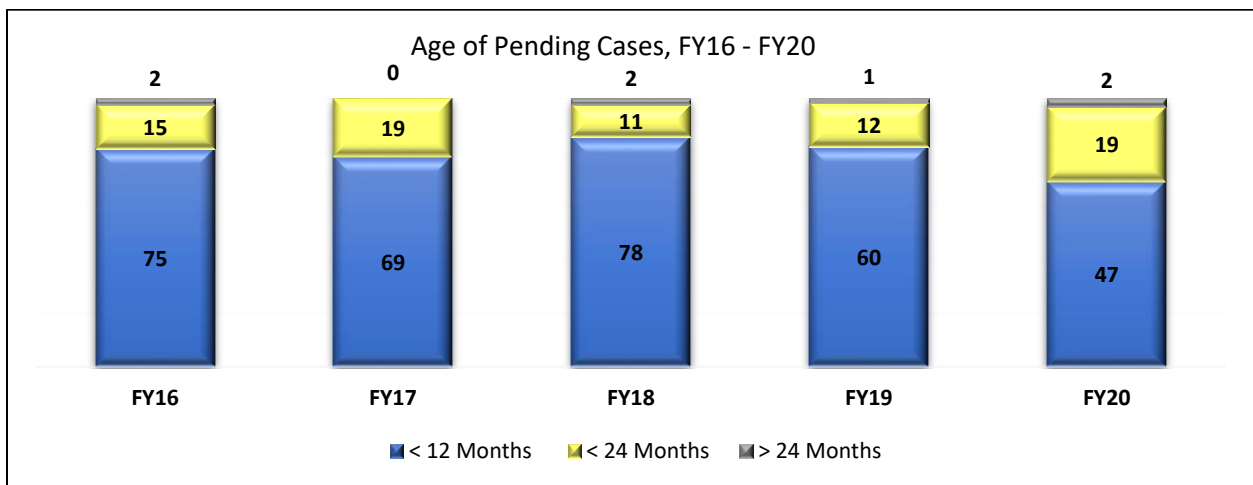
Clearance Rate

The chart below measures the clearance rate for all environmental division cases from FY16 to FY20. The clearance rate in the Environmental Division has consistently remained over 100%, meaning more cases were disposed than added. This means the division is keeping current with its caseload.



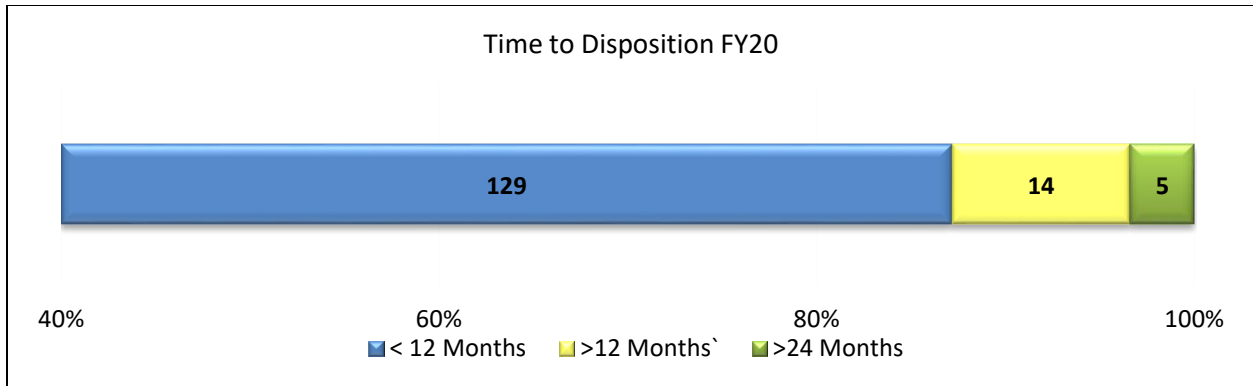
Age of Pending Cases

It is difficult to measure performance based on the age of environmental cases because there is so much variation in the average time to disposition from one case type to the next. For all but the most complex of cases, disposition guideline schedules provide for a disposition in 12 months or less. For example, the disposition goal set by the Supreme Court for Act 250 and Agency of Natural Resources cases is 11 months for a standard case and 13 months for a complex case. At the shorter end, the goal for a Municipal Enforcement case (no notice of violation or appeal) is 5 months. It is only when data on the age of pending cases and time to disposition is broken down by case type and sub-case type that accurate conclusions can be drawn with respect to court performance. In FY20, 69% of environmental cases were pending less than 12 months.



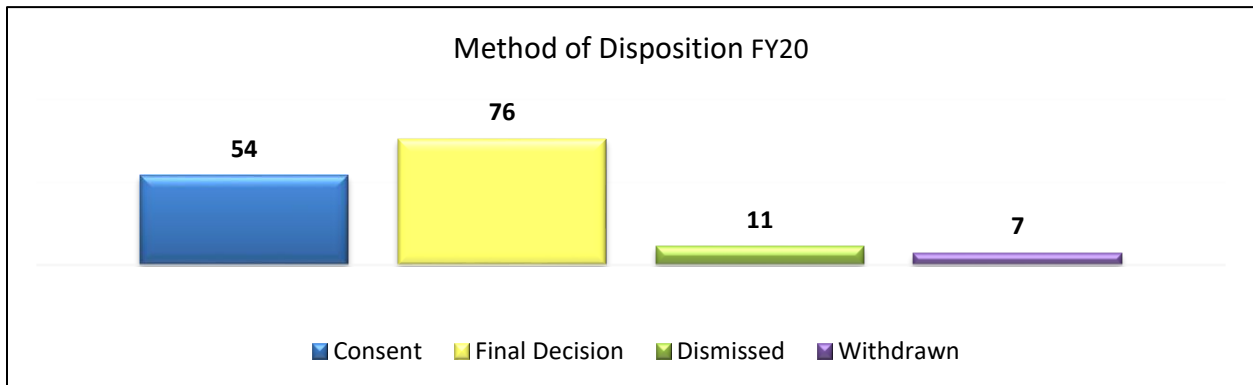
Time to Disposition

In FY20, 87% of all environmental cases were disposed within 12 months of filing.



Method of Disposition

Approximately 37% of the cases disposed in the environmental division were resolved by agreement of the parties. Final decisions were issued by the court in 51% of the cases and 12% were dismissed or withdrawn by parties.

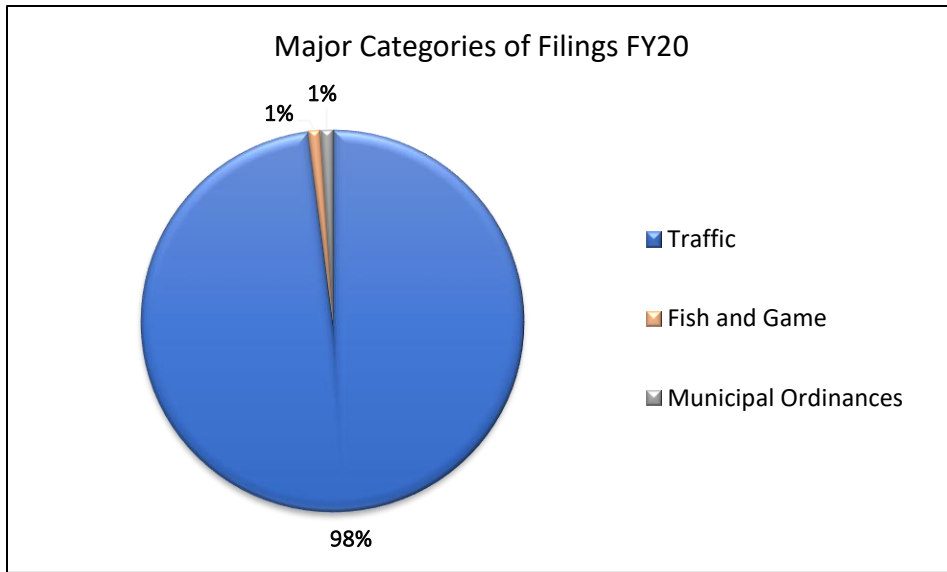


Judicial Bureau

The Judicial Bureau has statewide jurisdiction over civil violations. Police and other government officials have authority to charge civil violations, including for example:

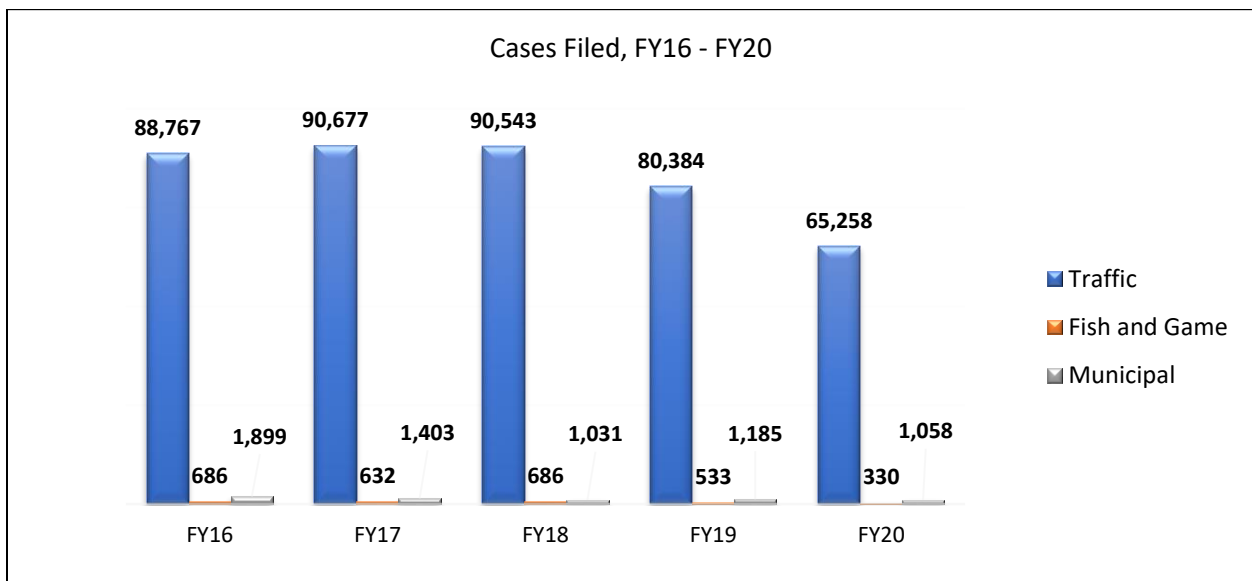
- Title 23
 - Traffic violations
- Municipal ordinance violations
- Title 10
 - Fish and wildlife violations
- Burning and waste disposal violations
- Environmental violations
- Lead hazard abatement violations
- Cruelty to animal violations
- Titles 2, 5, 7, 9, 10, 13, 16, 18, 19, 20, 21, 24 including but not limited to:

- Violations for motor carrier, railroads, alcohol, tobacco, marijuana, scrap metal, water rules, waste transportation, humane treatment of animals, hazing, environmental mitigation, labor, littering and illegal dumping.



Trends

As indicated in the chart below, traffic filings in the Judicial Bureau were 19% lower in FY20 than in FY19 and 26% lower than they were five years ago. Municipal violations filings decreased 11% between FY19 and FY20, while Fish and Game violations fell 38%. Overall, Judicial Bureau filings have decreased 27% since FY16.



Part 3: Supreme Court Statistics

Types of Cases Filed, Decided, and Pending

Appeal and Case Type	Sum of Cases Pending at Beginning	Sum of Cases Filed	Sum of Decided	Sum of Cases Pending at End of Period
Appeal by Permission	10	35	35	10
Class Certification	1	0	1	0
Foreclosure	0	7	7	0
Interlocutory Rule 5	7	24	22	9
Interlocutory Rule 5.1	1	2	2	1
Judicial Bureau	0	1	1	0
Small Claims	1	1	2	0
Appeal by Right	209	311	358	162
Bail	0	15	13	2
Board/Agency	16	32	33	15
Civil, General	52	97	105	44
Criminal, General	72	50	75	47
Environmental	8	6	8	6
Family	15	32	31	16
Habeas Corpus	2	2	4	0
Juvenile	5	10	11	4
Juvenile - Delinquency	3	8	9	2
Juvenile - TPR	16	27	33	10
Mental Health	3	1	4	0
Post-Conviction Relief	11	12	16	7
Probate	1	6	4	3
Relief from Abuse	4	6	7	3
Stalking	1	7	5	3
Federal Certified Question	0	1	1	0
Original Jurisdiction	4	26	24	6
Board of Bar Examiners	0	4	1	3
Extraordinary Relief	0	9	8	1
Judicial Conduct Board	1	3	4	0
Professional Responsibility Board	3	10	11	2
Grand Total	223	373	418	178

Origin of Cases

Appeal Type and Division	Sum of Cases Pending at Beginning	Sum of Cases Filed	Sum of Decided	Sum of Cases Pending at End of Period
Appeal by Permission	10	35	35	10
Civil	5	23	24	4
Criminal	2	7	6	3
Family	3	4	4	3
Boards	0	1	1	0
Appeal by Right	209	311	358	162
Civil	67	120	132	55
Criminal	72	65	88	49
Environmental	8	6	8	6
Family	46	84	95	35
Probate	0	4	2	2
Boards	16	32	33	15
Federal Certified Question	0	1	1	0
Original Jurisdiction	4	26	24	6
Grand Total	223	373	418	178

Manner of Disposition

Disposition	Appeal by Permission	Appeal by Right	Federal Certified Question	Original Jurisdiction	Grand Total
Closed by misc. memorandum	3	40		20	63
Closed by stipulation		11			11
Closed for lack of progress		42			42
Full court memorandum	1	2		1	4
Panel memorandum		146			146
Permission Denied	25				25
Withdrawn		30	1	1	32
Written Opinion	6	87		2	95
Grand Total	35	358	1	24	418

Cases Considered

Panel Type	Oral Argument	On Brief	Grand Total
3 Justice	64	78	142
5 Justice	93	17	110
Grand Total	157	95	252

Number of Opinions by Justice

Author	Majority	Dissent	Concur	Concur/Dissent	Grand Total*
Chief Justice Reiber	19	4	1		24
Justice Skoglund	7			2	9
Justice Robinson	19	3	2	3	27
Justice Eaton	24	1			25
Justice Carroll	17	5		1	23
Justice Cohen	4				4
Justice Dooley, Ret.	1		1		2
Judge Howard	1				1
Judge Pearson	1	1			2
PER CURIAM	2				2
Grand Total	95	14	4	6	119

*Cases consolidated for decision are each counted as a separate opinion.

Results of Full Court and Panel Cases

Mandate	Full court Memorandum	Panel Memorandum	Written Opinion	Grand Total
Affirm	2	125	42	169
Affirmed in part; reversed in part		1	12	13
Dismissed	1		2	3
Other	1	2	10	13
Remanded		1	1	2
Reversed		4	12	16
Reversed and remanded		13	15	28
Vacated			1	1
Grand Total	4	146	95	245

Motions to Reargue

Sum of Motions to Reargue Pending	Sum of Motions Added	Sum of Motions Disposed	Sum of Motions Pending at End of Period
1	36	35	2

Disposition of Motions to Reargue

Disposition	Total
Denied	30
Granted	1
Granted In Part	2
Granted In Part and Denied in Part	2
Grand Total	35

Age of Cases Pending as of June 30, 2020

Age of Appeal	Total
Less than 6 Months	110
6 to 12 Months	46
1 to 1.5 Years	19
1.5 to 2 Years	2
2 to 2.5 Years	1
Grand Total	178

Type of Cases Pending Over 1.5 Years

Appeal and Case Type	1.5 to 2 Years	2 to 2.5 Years	Grand Total
Appeal by Right	2	1	3
- Civil, General	1	1	2
- Criminal, General	1		1
Grand Total	2	1	3