

**VERMONT JUDICIARY – OFFICE OF COURT ADMINISTRATOR
REPORT ON PERFORMANCE MEASURES**

Goals/Objectives/Performance Measures

Summary:

This report responds to the legislative mandate under section E.204.15 of Act No. 58 of 2015 regarding three programmatic areas for which the Court has established performance measures that demonstrate program results. In FY 14, the Judiciary identified three performance measures tied to dispositional time frames. The same performance measures were used in FY 15:

- 1) % of juvenile abuse and neglect cases disposed or otherwise resolved within established time frame of 98 days. The goal was 100%. Thirty-two per cent of juvenile abuse and neglect cases met this time standard.
- 2) % of criminal felony cases disposed or otherwise resolved within established time frame of 6 months [180 days]. The goal was 100%. Fifty-one percent of criminal felony cases met this time standard.
- 3) % of criminal misdemeanor cases disposed or otherwise resolved within established time frame of 4 months [120 days]. The goal was 100%. Seventy per cent of criminal misdemeanor cases met this time standard.

Vermont Judicial Branch Mission Statement

The Vermont Judicial Branch of state government was established under the Vermont Constitution to protect the rights of all Vermonters by providing equal access to justice and to the courts, and to provide an opportunity for the merits of every legal dispute to be impartially heard and timely decided. The Judiciary, as a co-equal branch of government, is an important element in the constitutional balance of power between the Executive, the Legislative, and the Judicial Branches. The courts provide a forum for resolution of disputes involving the range of human conflict, including cases that address the protection of individual rights, public safety, and business and commercial concerns. The purpose of the Courts is identified in our constitution and is essential to the maintenance of an orderly society.

It is the mission of the Vermont Judicial Branch to provide a justice system that engenders public trust and confidence through impartial decision-making and accountability for the use of public resources. The general public and those who use the court system will refer to it as accessible, fair, consistent, responsive, free of discrimination, independent and well-managed.

Key Constitutional Concepts

Article 6 of Chapter I of the Vermont Constitution states that all power is "originally inherent in and consequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants" and are legally accountable to them at all times.

Article 1 of Chapter I of the Vermont Constitution states that all people have inalienable rights to be secure in their persons, homes, properties, and pursuits.

Article 4 of Chapter I of the Vermont Constitution endows the people with the remedy of "recourse to the laws, for all injuries or wrongs" and further endows the people with the right to obtain justice "freely ...; completely and without any denial; promptly and without delay".

Objectives and Performance Measures ¹

Basic indicators of court performance are a necessary ingredient of accountability in the administration of justice and effective governance of the third branch. Moreover, performance measures provide a structured means for courts to communicate this message. The Judiciary's three performance measures are based on an instrument developed by the National Center for State Courts. This instrument, known as CourTools, is designed to foster consensus on what courts should strive to achieve and their success in meeting objectives in a world of limited resources. The instrument consists of ten performance measures, one of which is time to disposition. Time to disposition is defined as the percentage of cases disposed or otherwise resolved within established time frames. Case disposition guidelines have been established by the Supreme Court as goals for the administration of court caseloads. ² These guidelines do not supersede procedural requirement in court rules or statutes for specific cases, or supersede reporting requirements in court rules or statutes.

As contained in Supreme Court Administrative Directive 26, the standard track timeline that has been established for CHINS cases is 98 days. The timeframe from removal to temporary care hearing is 3 days [33 VSA §5307(a)]; from temporary care order to merits adjudication is 60 days [33 VSA §5313(b)]; and from merits adjudication to disposition order is 35 days [33 VSA 5317(a)].

As established in Supreme Court Directive 24, the standard track timeline that has been established for Felony cases is 100% in 180 days [6 months] and the standard track timeline that has been established for Misdemeanor cases is 100% in 120 days [4 months]. These case disposition guidelines contained in the Supreme Court Directives also include separate timelines for complex cases. A case is determined to be complex when mitigating factors exist.

¹ See Appendix 1

² See Appendix 2

In juvenile cases, mitigating factors may include the filing of a termination of parental rights application, a forensic evaluation, the inclusion of additional parties or attorneys, interpreters, interstate compact, or multiple expert witnesses. In criminal misdemeanor cases, a case is determined to be complex when it involves an interpreter, competency evaluation, jury trial, a public defender conflict at or after the first calendar call. In criminal felony cases, a case is deemed to be complex when it involves all of the mitigating factors outlined for a misdemeanor case, as well as a self-represented defendant, a juvenile victim, multiple victims, out-of-state witnesses, co-defendants, or a pre-sentence investigation. A felony case is considered “super” complex if it involves a fatality or life sentence. For the purposes of this analysis, the data treats all cases as following a standard track.

The Story Behind the Baseline

Some of the factors that impact our ability to reach time standards include:

Generally

- The loss of six highly experienced judicial officers
- The continued rise in the number of cases involving addiction

Juvenile abuse/neglect

- Attorney availability
- Case volume³
- Drug impacted families
- Guardian ad litem availability

Felonies

- Increase in serious offenses
- Alcohol and drug dependency
- Attorney availability
- Delay in the filing of pre-sentence investigations

Misdemeanors

- Attorney availability
- Chemist availability in DUI cases
- Mental health issues
- Violations of conditions of release

Turning the Curve

Because of limitations within our current case management reporting, we are unable to quickly differentiate between those cases which follow a standard versus a complex track. As we work toward transitioning to a new case management system, we will have more capability to identify and sort standard versus complex cases which, in turn, will allow us to more accurately report and analyze the data to determine whether we are achieving more reasonable time frames.

³ See Appendix 3

The current level of contract counsel is insufficient to meet the needs of the juvenile and criminal dockets. This creates a ripple effect upon the other dockets as well. To respond to the challenges created by the unavailability of contract counsel, we have conducted a mapping exercise which enables us to identify where the resources are located and the extent to which they are shared. Electronic search capability has also been developed which allows all courts to share scheduling information on a statewide basis and thus identify scheduling conflicts involving attorneys whose practice is in multiple counties and across multiple divisions. However, even with this new “conflict checker” tool in place, there continues to be too few attorneys to cover the number of case hearings that must be scheduled in the administrative timelines. These attorneys typically cover both juvenile and criminal cases, thereby impacting both dockets.

The Justice for Children Task Force continues to develop new strategies to manage juvenile cases within designated timelines. This includes the need to define and obtain the critical resources needed to ensure adequate representation of children, parents and defendants in order for cases to progress and resolve in the designated timeframes. In addition to abuse/neglect cases, we have also experienced an increase in the number of Termination of Parental Rights (TPRs) cases filed in 2015. These cases are often contested and need one or more days of hearing time to resolve. This exacerbates the issue of trying to set cases with overextended contract and conflict counsel who are scheduled everyday somewhere in the state. This also takes time away from the flow of other Juvenile and criminal cases that are waiting for merits and disposition of their cases.

Although the recruitment and training of new guardians ad litem are a priority for the Judiciary, limited resources have made this a challenge. Recruitment and retention of GALS has not kept up with the rising number of children entering DCF custody. Many GALS have caseload numbers far beyond the standards set by National CASA. The creation of guardian ad litem coordinator positions have helped to advance our recruitment and training goals, however, coordinators are not currently available in all counties. As more resources become available to support our GAL program, we hope to extend this resource throughout the state so that recruitment, training, retention and caseload standard goals are met.

While problem-solving dockets and initiatives are being piloted in various court units through the state, they are not available uniformly. As resources become available, we hope to expand these problem-solving dockets to all counties throughout the state to better serve those who utilize court services.

The recruitment and appointment of three new judges with aggressive training and mentoring will move additional cases forward. An additional number of judges to be appointed and on the bench by early 2016 will enhance the Judiciary's ability to meet performance standards.

APPENDIX 1

Performance Measure Description:	Measure Unit:	Target Limit:	Measure Type:	FY14 Target	% That Meet Time Standard	FY15 Target	% That Meet Time Standard
% of juvenile abuse and neglect cases disposed or otherwise resolved within established time frame of 98 days.	% that meet time standard	Minimum	Output	100%	42%	100%	32%
% of criminal felony cases disposed or otherwise resolved within established time frame of 6 months [180 days].	% that meet time standard	Minimum	Output	100%	52%	100%	51%
% of criminal misdemeanor cases disposed or otherwise resolved within established time frame of 4 months [120 days].	% that meet time standard	Minimum	Output	100%	73%	100%	70%

APPENDIX 2

FY 15 Time to Disposition

Juvenile Abuse/Neglect Target: 98 Days	Under Goal	175	32%
	Over Goal	369	68%
	Total	544	100%

Felonies Target: 180 Days	Under Goal	1,870	52%
	Over Goal	1,699	48%
	Total	3,569	100%

Misdemeanors Target: 120 Days	Under Goal	8,480	70%
	Over Goal	3,555	30%
	Total	12,035	100%

APPENDIX 3

CASES ADDED

data as of 12/4/15

