

**VERMONT JUDICIARY – OFFICE OF COURT ADMINISTRATOR
REPORT TO HOUSE JUDICIARY COMMITTEE
ON STRATEGIC PLANNING AND PERFORMANCE MEASURES
January 14, 2016**

Executive Summary

1. Vermont Judiciary 2015-2020 Strategic Plan – DRAFT

The Vermont Judiciary is in the process of developing the 2015-2020 Strategic Plan, which provides guidance and direction to judicial officers, court personnel, and administrative staff as they work together to realize the Vision, Mission, and Principles for Administration adopted by the Vermont Supreme Court. Future work will focus on establishing performance measures to meet the goals contained in the plan. It is important to note that this draft of the Strategic Plan was last amended in 2015 and does not contain the most recent caseload data. To read the strategic plan in its entirety, an electronic copy has been provided for your convenience. In brief, the plan includes the following:

Table of Contents

I.	Introduction and Overview	1
II.	Mission, Vision, Core Values, and Principles for Administration.....	2
III.	Trends Analysis.....	4
	A. Social/Demographic Trends.....	4
	B. Economic Trends.....	5
	C. Technological and Scientific Trends	8
	D. Policy and Political Trends	9
	E. National Judicial Branch Trends.....	10
	F. Vermont Judiciary Trends.....	11
IV.	Summary of Statewide Analysis: Vermont Judiciary Caseload Trends	12
	A. Clearance Rate.....	12

B.	Age of Active Pending Caseload.....	12
C.	Time to Disposition	12
D.	Disposition Time Standards.....	13
V.	Highlights.....	13
VI.	Implications of the Trends on the Vermont Judiciary.....	18
A.	Composition, Needs, and Expectations of the Court Users	18
B.	Technology.....	19
C.	Monitor and Adapt to Changing Caseloads and Workloads.....	19
D.	Flexible Use of Resources.....	19
E.	Efficiency and Effectiveness of the Court.....	19
F.	Facilities, Space, and Security.....	19
G.	Collaboration with Partners.....	19
VII.	Strategic Focus Areas and Goals	20
	Strategic Area #1: Equal Access to Justice	20
	Strategic Area #2: Fair and Timely Resolution of Disputes	20
	Strategic Area #3: Safe and Secure Administration of Justice.....	20
	Strategic Area #4: Educated, Skilled and Professional Judiciary Personnel.....	20

2. Vermont Judiciary Annual Metrics and Analytics for 2015

The annual statistical report for the Vermont Judiciary highlights trends in the five divisions of the Superior Court, the Judicial Bureau, and the Supreme Court 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 with respect to timeliness using the three performance measurements that are part of the National Center for State Courts’ CourTools.

The three measures are:

- **Clearance Rate:** The clearance rate measures the number of disposed cases as a percentage of the number of incoming cases. The purpose is

to measure whether the court is keeping up with its incoming caseload.

- **Age of Active Pending Caseload:** This is a point in time measurement usually done 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 particular case type set by the Supreme Court to determine how many of the active unresolved cases are within the goal and how many have exceeded the goal.
- **Time to Disposition:** This measure looks at all of cases disposed during the fiscal year and measures the percentage that were resolved within the disposition time standard or goal for that case type and the percentage that exceeded the goal.

Highlights from the Report:

Family Division

- The number of CHINS petitions on the grounds of abuse or neglect of child has increased by 91% since 2011. This represents the largest case filing increase in the Superior Court.
- In every year in the past five years, the Superior Court has disposed of fewer CHINS cases than the number of cases filed. The clearance rate in FY15 was 79.9%. The backlog of CHINS cases continues to grow with the steepest growth occurring in the past year.
- Although the overall number of case filings in the delinquency docket rose marginally (3%) in FY 15, there remains a decline in filings compared to previous years.
- Termination of parental rights petitions in juvenile cases have increased by 61% in the last five years.
- There has been a 6% decline in divorce/parentage filings over the past five years, continuing the decline that began last year.
- Petitions for protective orders for relief from abuse have also declined in the past five years by about 12%. Temporary orders were granted in 75% of relief from abuse cases, and final orders in 46%.
- The fastest growing case type in the Mental Health docket is involuntary medication applications, with filings nearly doubled in FY15 over filings in FY11.

Criminal Division

- Felony filings were down 9% in FY15 as compared to FY14. The major increases in felony filings over the past 5 years are in domestic violence felonies which are up 18% since 2011 and felony drug filings which are up 18% from 2011.
- Misdemeanor filings between FY14 and FY15 were nearly level.
- The number of criminal jury trials has increased 25% over FY14, but consistent with the number observed in 2011.

Civil Division

- Filings in major civil cases declined by 2.5% in FY15 over FY14, primarily as a result of a decline in collections filings.
- The decline in small claims cases which began in FY11 has continued, with 2015 filings decreasing by almost 9% over FY14.
- Final orders were granted in only 25% of the civil complaints that were filed seeking an order against stalking or sexual assault.

Probate Division

- Filings in adoption cases declined by 15%. There were 18% fewer minor and adult guardianships combined and 3% fewer estates.

Environmental Division

- Cases in the environmental division declined by 35% since FY14, the lowest number of filings in five years.

Judicial Bureau

- Filings in the Judicial Bureau were also the lowest in five years, declining 12% since 2011.

To read the 2015 statistical report in its entirety, an electronic copy has been provided for your convenience, including appendices of statewide and unit by unit data. To give a sense of the information contained in the report, an excerpt of family division juvenile data follows.

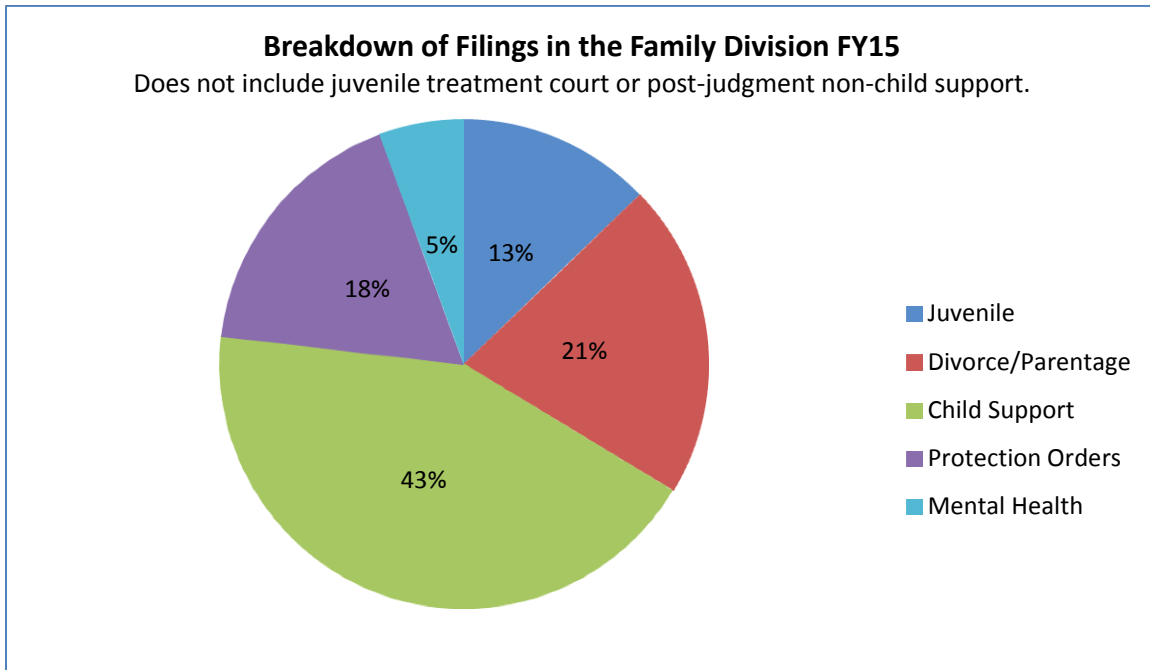
EXCERPT FROM 2015 ANNUAL STATISTICAL REPORT

Family Division Statewide Data

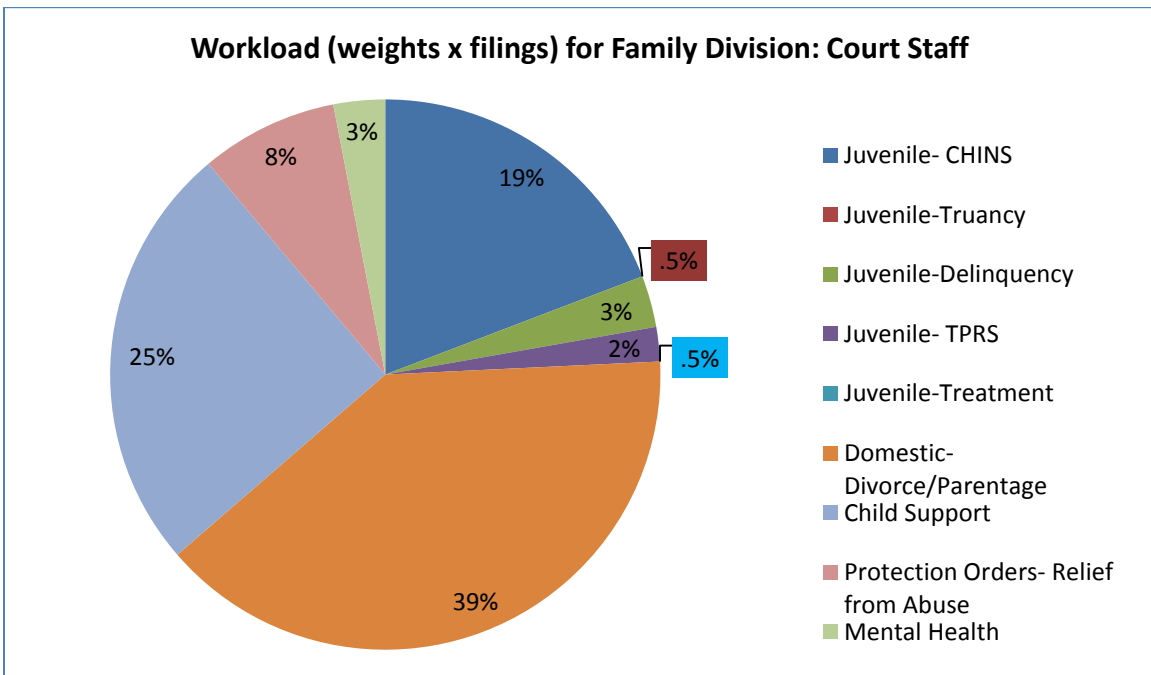
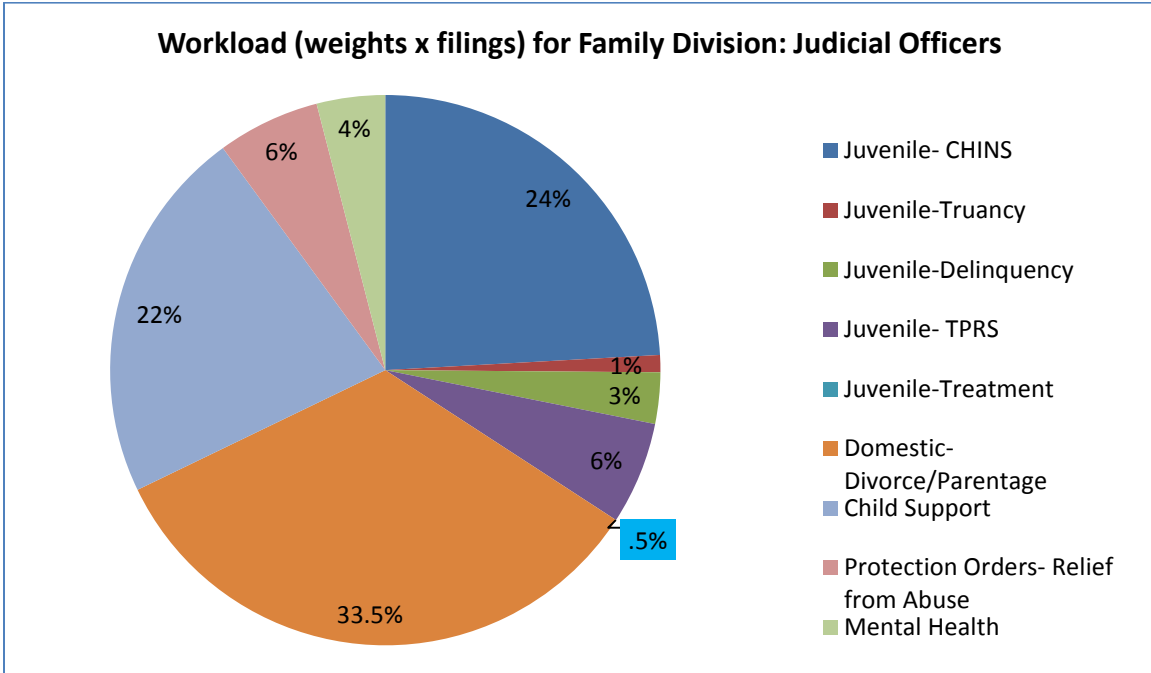
For statistical purposes Family Division cases are divided into three major categories: domestic, juvenile and mental health. Each of these categories is comprised of several different case types as shown below:

JUVENILE	<ul style="list-style-type: none"> Child in Need of Care and Supervision – abuse/neglect and beyond parental control Delinquency (including youthful offenders) Termination of Parental Rights
DOMESTIC	<ul style="list-style-type: none"> Divorce/Dissolution Parentage Post Judgment Motions for Enforcement or Modification of final orders Child Support Establishment and Motions for Enforcement or Modification of final orders Protection Orders for Relief From Abuse
MENTAL HEALTH	<ul style="list-style-type: none"> Application for Involuntary Treatment (Hospitalization) Application for Involuntary Medication

The chart below depicts the breakdown of the various case types in the family division based solely on numbers of cases filed. It is not reflective of the relative work load associated with these cases from the perspective of staff and judicial resources.



WEIGHTED CASELOAD WORKLOAD WITH FY15 FILINGS



Family Division: Juvenile

There are two major categories of juvenile cases:

1. Cases involving children who are in need of care and supervision known as CHINS cases and cases involving children who have committed a delinquent act known as delinquencies. CHINS cases are divided into two subtypes: children who have been abused or neglected and children who are truant or beyond parental control.¹
2. The delinquency docket includes both youth charged with a delinquent act and youth transferred from adult criminal court as youthful offenders. State custody (i.e. the removal of a child from the custody of the child's parents) is a potential outcome in all juvenile cases and court records in all juvenile cases are confidential.

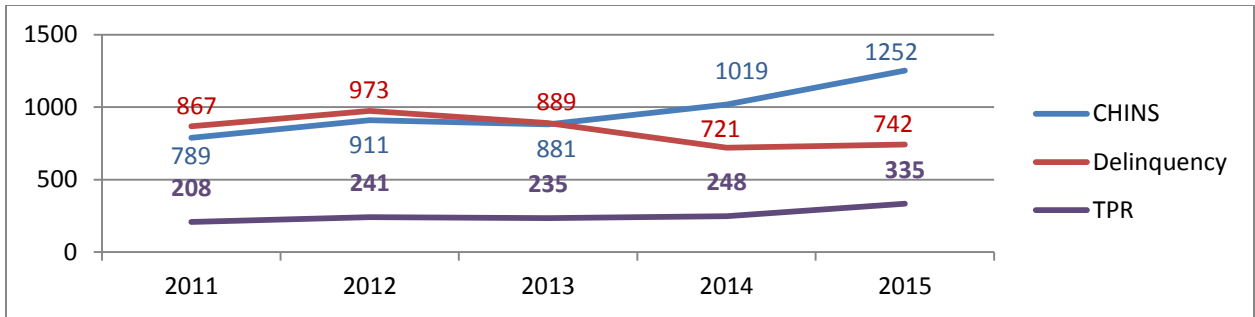
Juvenile cases often involve significant post judgment activity. This is particularly true of CHINS cases. As long as a child who is the subject of a CHINS proceeding is in state custody, multiple review hearings will occur in the family division including a post disposition review and numerous permanency reviews. The purpose of these review hearings is to ensure that the child moves towards a permanent resolution – usually either reunification with a parent or adoption – with as little unwarranted delay as possible. If parents are unable to either reunify or make significant progress towards reunification with the child within a reasonable amount of time, the State will then petition the court to terminate parental rights so that the child can be adopted. Termination of parental rights petitions are resource intensive and for statistical purposes are therefore tracked as a separate case type.

Trends

As indicated in the chart below, while the number of delinquency cases has declined over the past five years, the number of CHINS cases has significantly increased, especially in FY15. Whereas five years ago, there were more delinquencies filed than CHINS cases, now there are a greater number of CHINS cases. From a workload perspective, CHINS cases rank as one of the most labor intensive case types not only in the family division, but in any division of the Superior Court.² The dramatic rise in CHINS cases over the past five years has put a significant strain on the resources of the trial courts. The increasing caseload in the CHINS docket also has resulted in an increase in the number of TPR petitions filed. Given the significant increase in CHINS cases in the past year, the increase in TPR filings is likely to continue for the next few years.

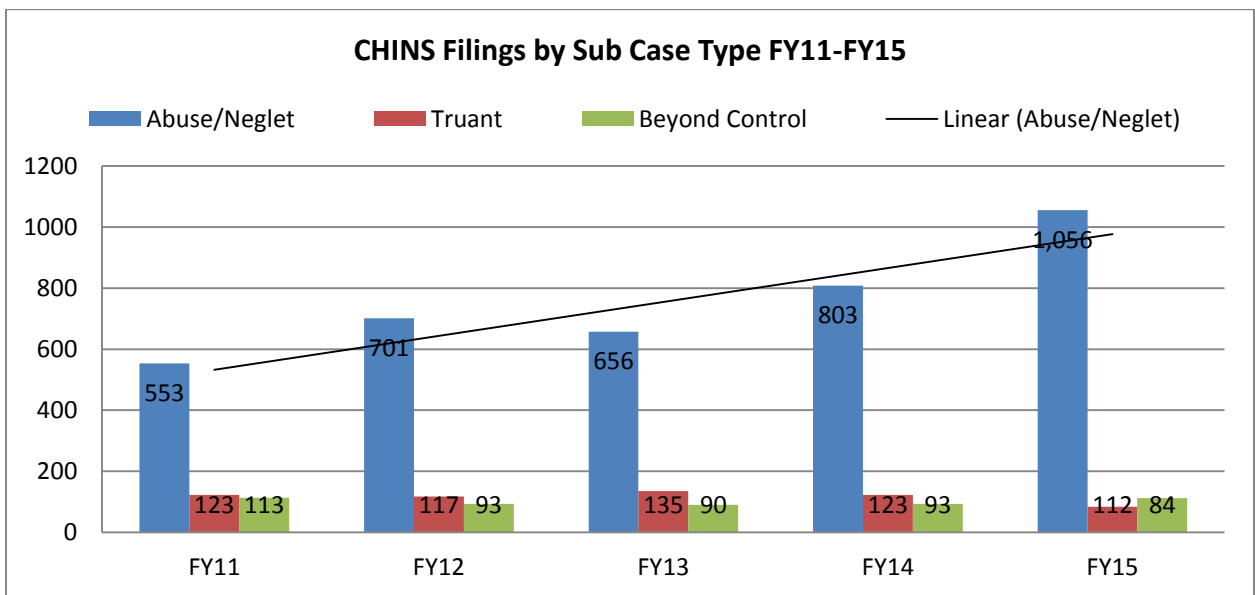
¹ Children beyond parental control are sometimes referred to as “unmanageable.” This category includes youth who have run away from home and youth who are chronically truant from school.

² According to the 2015 Weighted Caseload Study by the National Center for State Courts, of the work involved in juvenile cases, a CHINS abuse/neglect case on average requires nearly six times the amount of judicial resources and slightly more than 3 times the amount of staff work compared to the work load involved in disposing a delinquency case.



CHINS

Of the 1,252 CHINS cases filed in FY15, 1,056 were abuse/neglect cases, the remainder were beyond parental control or truant. The increase in CHINS filings over the past few years has been fueled primarily by a dramatic growth in abuse/neglect cases. The number of abuse neglect filings increased by 91% between FY11 and FY15. This represents the largest increase in any case type in any division of the superior court.



Delinquency

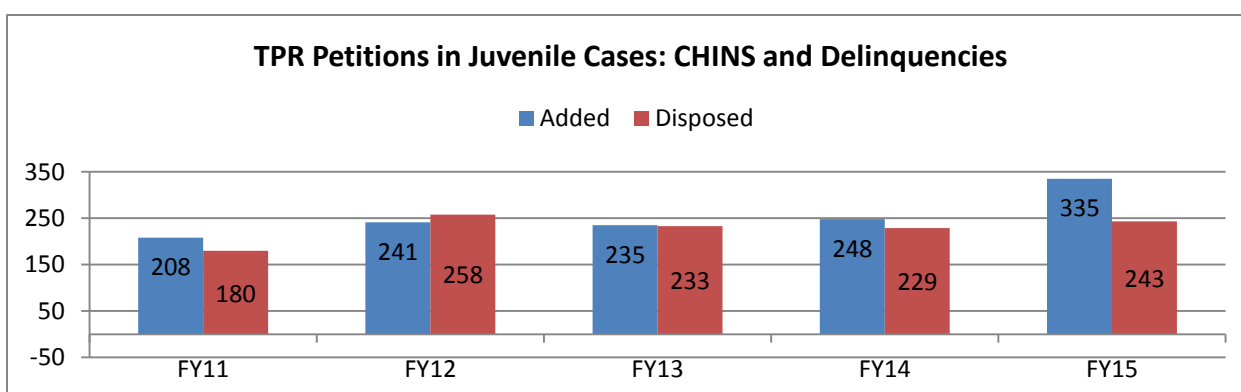
Although the overall number of case filings in the delinquency docket rose marginally (3%) in FY15, there remains a decline in filings compared to prior years. This decline parallels a similar decline in criminal filings.

ADDED	FY11	FY12	FY13	FY14	FY15
Domestic Violence	80	93	67	60	72
Drug	68	71	99	44	51
Motor Vehicle - DWI/DUI	1	2	9	8	4
Motor Vehicle - Other	40	35	35	27	16

Other	26	42	33	54	0
Person	198	244	191	176	195
Property	160	174	145	106	104
Protection	0	2	8	3	4
Public Order	294	310	302	243	296
Grand Total	867	973	889	721	742

Termination of Parental Rights (TPR)

TPR petitions have increased by 61% since 2011 with the major increase occurring during the past three years. As indicated earlier, this is a trend that is likely to continue given recent increases in the number of CHINS filings.

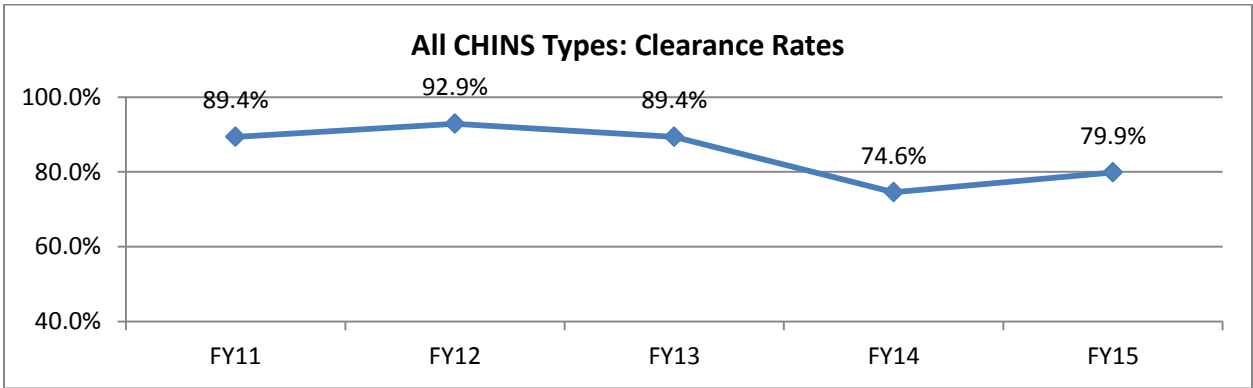


Clearance Rates

A clearance rate reflects the number of cases closed/disposed divided by the number of cases added/filed. If the Clearance rate is 100%, the court is basically staying even. A clearance rate above 100% indicates that the Court is disposing more cases than it is adding and should reflect a decrease in backlogged cases. A clearance rate below 100% indicates that the Court has added more cases than it has disposed which means that the backlog of cases is increasing.

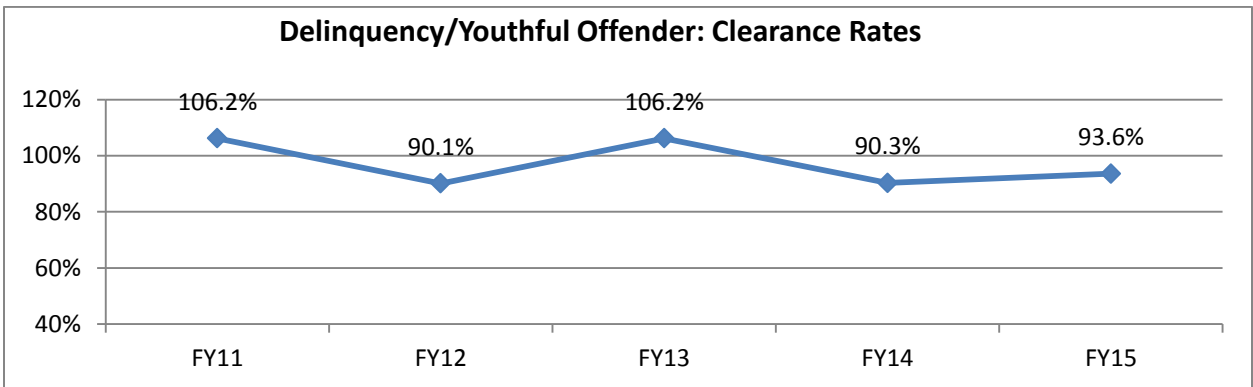
CHINS

Given the dramatic upsurge of abuse/neglect cases in FY15, the clearance rate for CHINS cases was one of the lowest of any group of cases in any division of the superior court. As pointed out in the introduction to this section, CHINS cases are labor intensive for judges and court staff. They require numerous hearings and the stakes for the litigants are high. Not only are many of the children involved in these cases removed from the custody of their parents, there is always the threat of termination of parental rights if parents are unable to regain custody within a reasonable amount of time. Five years of clearance rates below 100% is a source of significant concern. It means the development of a backlog of cases that will be difficult to overcome without a dramatic decline in the number of filings or an increase in resources.



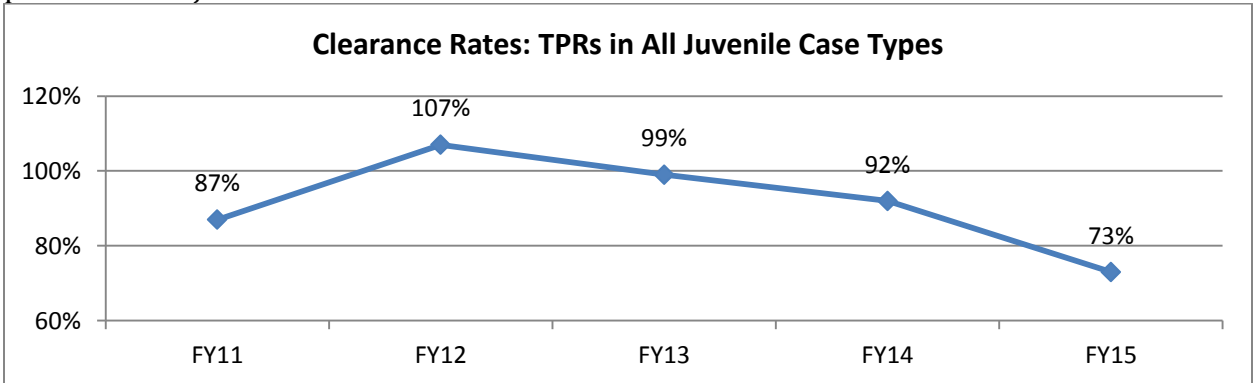
Delinquency

The clearance rate for delinquency cases rose slightly. This is likely a reflection of the slight increase in delinquency case filings, as well as the burgeoning CHINS caseload.



Termination of Parental Rights

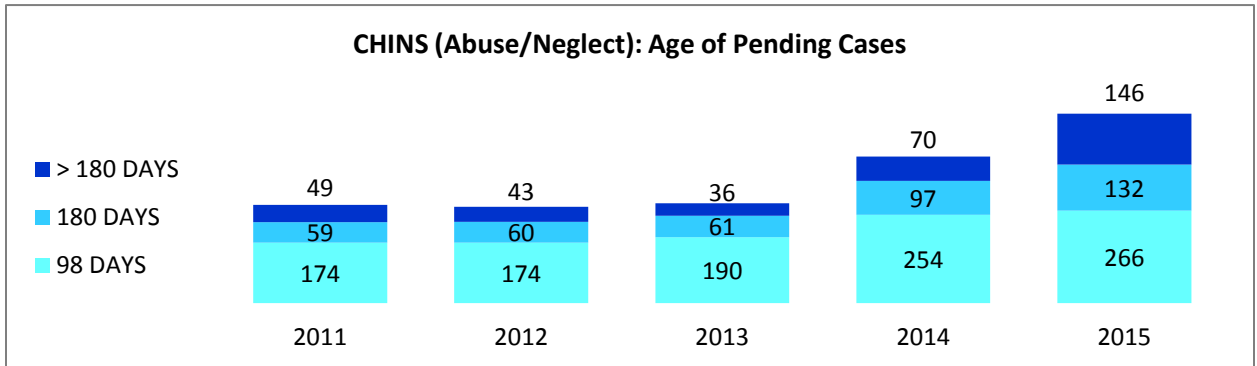
The clearance rate for termination of parental rights petitions fell dramatically in FY15 – yet another indication of the degree of stress that increased filings has placed on the juvenile caseload.



Age of Pending Cases

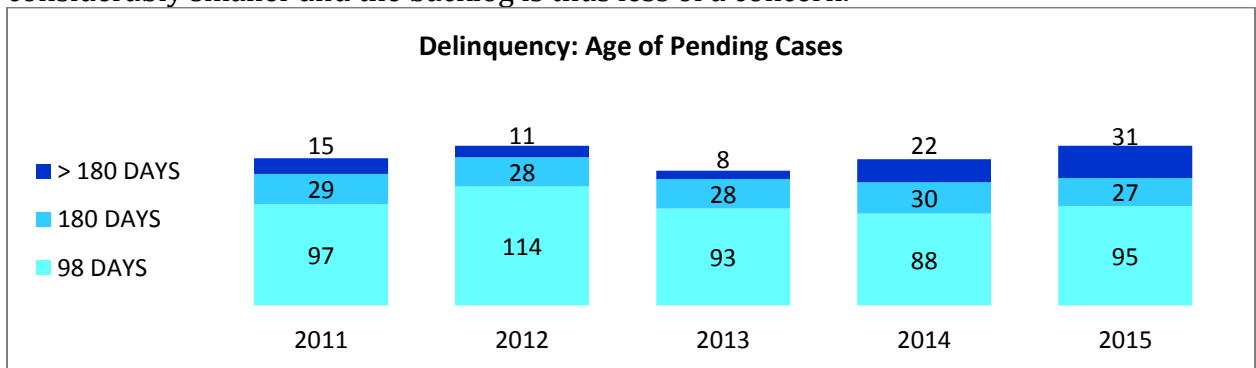
CHINS

The Supreme Court has established a disposition goal of 98 days for standard (i.e. non-complex) CHINS cases. The chart below shows the age of the cases pending on the last day of FY15. The chart indicates not only the growth in the total number of pending cases, but also that the pending cases older than the disposition goal has more than doubled when measured against FY11.



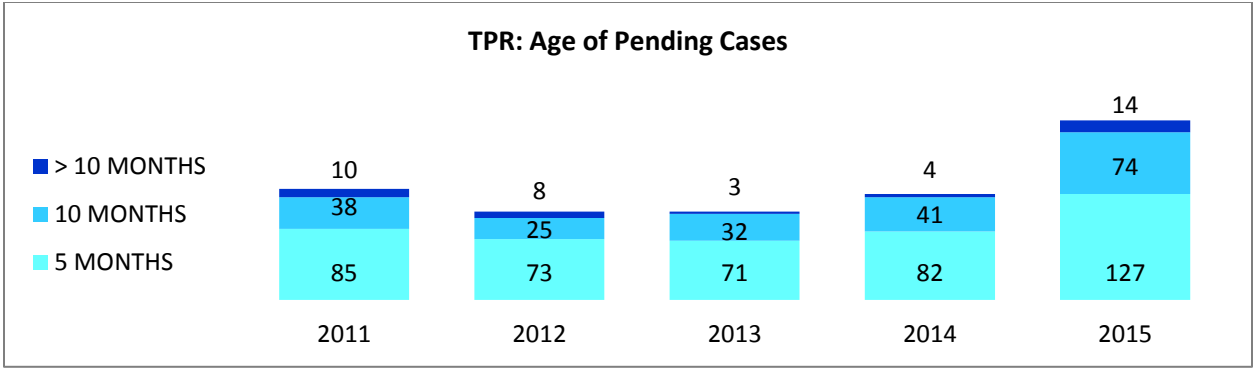
Delinquency

The disposition goal for delinquency cases is 98 days. There has been some growth in the backlog of delinquency cases older than 98 days, but the numbers are considerably smaller and the backlog is thus less of a concern.



Termination of Parental Rights

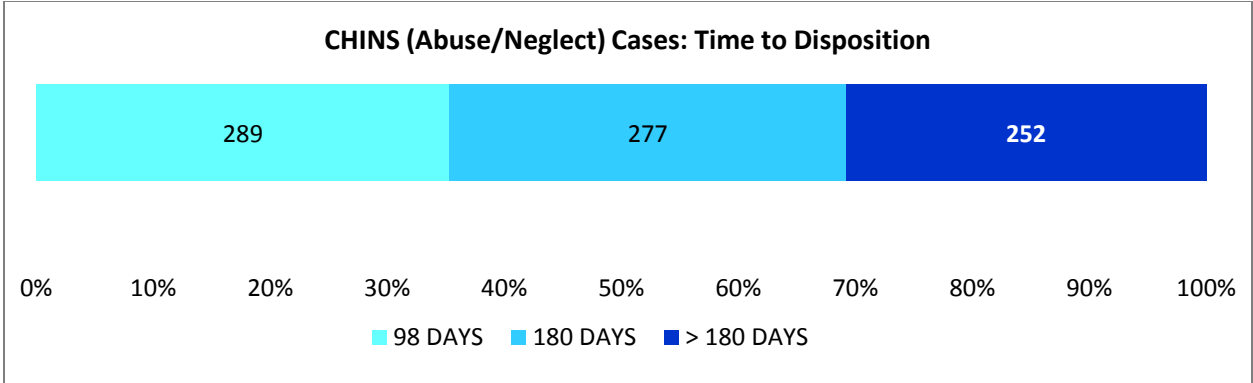
The disposition goal for a non-complex termination of parental rights case is five months. The chart below shows that the number of pending cases at the end of FY15 has grown dramatically, as has the number of cases over goal. There were 14 cases in FY15 that were over 10 months old.



Time to Disposition

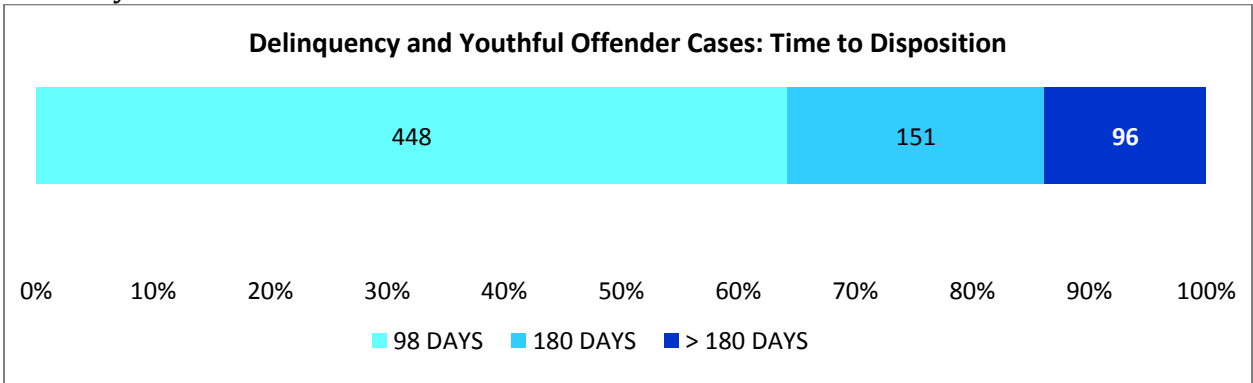
CHINS

Only about 35% of CHINS cases were disposed within the 98 day disposition goal set by the Supreme Court. 31% of the disposed cases took longer than six months.



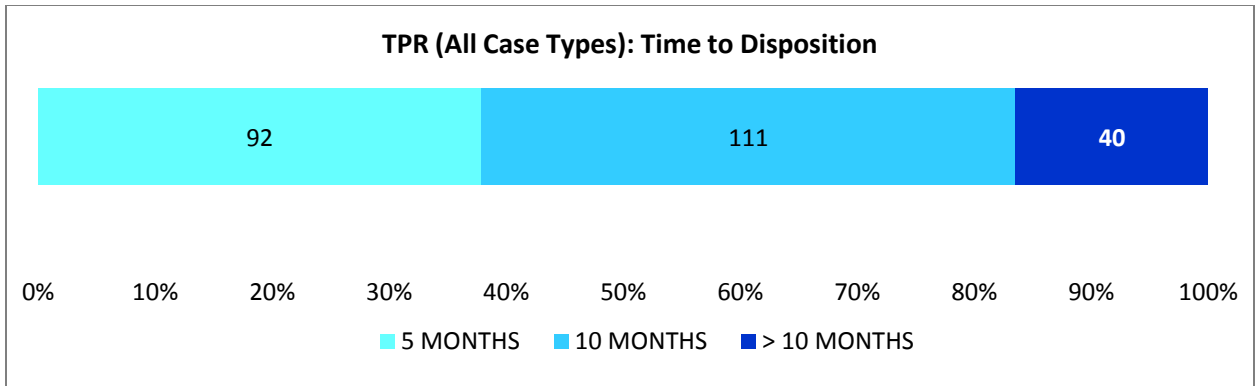
Delinquency

By contrast, 64% of the delinquency cases were resolved within the disposition goal of 95 days and less than 14% exceeded six months.



Termination of Parental Rights

It continues to be difficult for the Superior Court to meet the time frame for TPRs set by the Supreme Court. 39% of TPR cases were resolved within the five month time frame for standard cases.



Method of Disposition

CHINS (Abuse/Neglect, Truancy, Beyond Control of Parents)

Out of the 1001 CHINS cases disposed in FY15, 69% resulted in a finding that the child was a child in need of care and supervision. 27% were either dismissed by the Court or withdrawn prior to disposition.

Delinquency/Youthful Offender

Of the 695 delinquency cases disposed in FY15, 35% resulted in a finding of delinquency, 34% were dismissed or withdrawn and 29% completed diversion satisfactorily.

3. Vermont Judicial Branch Overview: 2016 Legislative Session Courts, Judiciary Programs, and Performance Measures

The ultimate measures of performance for the Judiciary are set forth in the Vermont Constitution, which provides as follows in Chapter 1, Article 4:

Every person within the state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which one may receive in person, property, or character; every person ought to obtain right and justice, freely, and without being obliged to purchase it; completely and without any denial; promptly and without delay, conformably to the laws.

More specific performance measures and outcomes for the Vermont Judiciary are set forth in this overview. Most of the Judiciary's court programs use RBA performance measures for evaluative purposes. These include treatment court dockets, the guardian ad litem program, the juvenile court improvement program, the court interpreter program, and the judicial branch education program.

The following is an example, taken from the adult treatment docket report.

Court Response to Crime in the Community

Adult Drug/Treatment Court Docket Projects in Rutland, Chittenden and Washington Counties

Treatment court dockets operate in the criminal division and rely on the coordinated effort of the judiciary, prosecution, defense bar, probation, law enforcement, mental health and substance abuse treatment. This team meets weekly prior to the hearings to review the cases coming to Court. Treatment courts best serve high needs/high risk individuals: those who are likely to continue to engage in criminal behavior without a long term intensive intervention. Participants spend about 18 months completing the 4 phases of the program and are required to have a total of 240 days of negative drug tests. Treatment courts include early intervention and treatment, judicial monitoring, random mandatory drug testing, case management, community supervision, use of incentives and sanctions and other habilitation services such as housing, employment/job training, and health services, to increase a participant's likelihood of success.

How Much Did We Do?

There are 3 adult treatment court dockets comprising Chittenden, Rutland & Washington Counties. These counties serve at least half of the criminal population coming through the Court system.

Number served in FY14:

The number depends on case management best practice standards. Case managers serve between 20-25 participants at one time. In 2014 new coordinators started in all 3 treatment court dockets due to turnover. As a result there was a decrease in the number of participants served in 2014 from 145 to 138. Unless more case managers are hired the projected numbers for FY15 and FY16 remain the same as FY13 or 145.

Services provided:

Drug testing is given at least 2 times a week for participants. Weekly or bi-weekly Judicial hearings are held with the team and participants.

Substance abuse services are provided to participants.

Mental health services are provided as needed. Case management services are provided to all.

Examples of community services made available"

- Housing
- Employment/Vocational Rehabilitation
- Health Services
- Transportation

How Well Did We Do It?

Participants are identified quickly and enter the program early:

From arraignment to referral is within 30 – 90 days.

From referral to orientation phase is 14 – 30 days.

Orientation phase lasts 30 days where the participant is assessed, the plea agreement is worked out, and treatment and case management begin.

Retention rate:

A structured behavior modification program is used with sanctions for non-compliant behavior and incentives for compliant behavior. The longer a participant remains in the program, the more treatment the participant receives, which reduces the likelihood that the participant will reoffend and thereby saves the State the costs associated with recidivism.

The treatment court dockets use:

- Evidence-based (EB) risk and needs assessments (Ohio Risk Assessment System also known as the ORAS)
- EB substance abuse and mental health screenings and assessments
- EB substance abuse services such as: Intensive Outpatient Programing individually designed as needed
- Mental health services delivered as needed
- Groups on criminal thinking, relapse prevention, etc.
- Medication assisted treatment both for substance abuse addiction and mental health issues

Is Anyone Better Off?

Graduation rates

Graduates: 35
Graduation rate: 60%
(Best Practice Standards indicate 45% is positive)
Terminations: 23

Recidivism rate post program from the beginning of the program:

<i>Chittenden:</i>	<i>Yr 1</i>	<i>Yr 2</i>	<i>Yr 3</i>
Graduates:	23.9%	8.8%	8.2%
Control Group:	47.4%	15.7%	11.8%

<i>Rutland:</i>	<i>Yr 1</i>	<i>Yr 2</i>	<i>Yr 3</i>
Graduates:	15.4%	9.6%	4.5%
Control Group:	29.3%	15.5%	7.2%

Note: Most of the recidivism occurs in year 1 and decreases in the later years. The treatment docket graduates have approximately half the recidivism rate of the control group. *Vermont Criminal Justice Research Study of 2013*

More examples can be found in the report, of which an electronic copy has been provided.

4. Vermont Judiciary, Office of Court Administrator Report on Performance Measures

On December 17, 2015, the State Court Administrator submitted to the Committee Chair a report responding 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 FY14, the Judiciary identified three performance measures tied to dispositional time frames. The same performance measures were used in FY15.

- 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.

More information about time standards can be found in the Vermont Judiciary Annual Metrics and Analytics for 2015 (#2 above).

5. Vermont Trial Court System Judicial Officer and Court Staff Weighted Caseload Study, 2015

In July of 2014, the Vermont Judiciary contracted with the National Center for State Courts to conduct a comprehensive weighted caseload study of the workloads of Vermont's judicial officers and court staff. This report responded to the legislative mandated under section 235b. of Act 154 of 2010 that a weighted caseload study and analysis or equivalent study within the Superior Court and Judicial Bureau be conducted every three years.

The study concluded with a final report submitted by the National Center for State Courts in August, 2015, however, several months after the submission of this report, errors were noted in the recording and computation of rotational and other travel in the judicial officer need model. These errors were corrected and a revised report was submitted by NCSC consultants in January, 2016. The judicial and court staff need models presented in the report utilize case filings **from fiscal year 2014**.

Some key findings resulted:

- 1) The time studies conducted in the Vermont courts measured the amount of time judicial officers and court staff currently spends handling cases, which includes the fast-paced and stressful case processing practices described in the focus groups. **The time studies do not inform us about the amount of time judicial officers and court staff should spend on activities to ensure the quality processing of cases.**
- 2) **The study is a quantitative assessment and should not be used as the sole interpretation of optimum staffing levels, but rather as a starting point from which further conversation and analysis can occur.** A qualitative analysis also needs to take place, considering what work is not

getting done with current resources, as well as other anomalies such as vacancy numbers, workload variances of units affected by the proximity of correctional facilities and mental health treatment facilities.

Findings

Absent the qualitative assessment, the study found a need for 33.87 Superior Judges; 4.52 magistrates; 8.66 probate judges; 1.84 environmental judges; and 1.79 hearing officers. The study also found a need for 212 court staff.

In response to the NCSC recommendation that need models be updated on an annual basis using the most recent case filings, the need models contained in the report have been updated to reflect 2015 case filings. **Absent the qualitative assessment**, the updated need models found a need for 34.02 Superior Judges; 4.44 magistrates; 8.44 probate judges; 1.34 environmental judges; and 1.93 hearing officers.

When applying the qualitative analysis, we know that this conclusion does not take into account the amount of time judicial officers and court staff **should** spend on activities to ensure the quality processing of cases. Adding a 36th judge in 2017 will enable us to positively “turn the curve” on clearance rates and times to disposition.

- Although the overall case filings in the VT Superior Court were down, those cases with greater case weights (such as the abuse/neglect docket) resulted in a need for a slightly greater judicial officer demand than in FY14.
- Case filings were down in the probate and environmental divisions, resulting in a slightly lower judicial officer demand than in FY14.
- Although overall judicial bureau filings were down, contested hearings were greater than 2014, resulting in a need for a slighter greater hearing officer demand than in FY14.

Three recommendations were made to maintain the integrity and utility of the case weights and the model developed in the study.

- 1) That the weighted caseload model be the starting point for determining judicial officer and court staff need in each county across the state. There are some considerations that an objective weighted caseload model cannot account for that should be taken into account when determining staffing level needs.
- 2) The judicial officer and court staff need models should be updated on an annual basis using the most recent case filings.

- 3) Unless significant case processing changes are implemented, the current case weights should be accurate for 6-7 years. Updating of the case weights more frequently is not necessary.

A copy of the Weighted Caseload Study Report from the National Center for State Courts has been provided electronically, along with updated need models reflecting 2015 case filings.