

# CASELOAD HIGHLIGHTS

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EXAMINING THE WORK OF STATE COURTS

## Timeliness in Five State Supreme Courts

State supreme courts are expected to resolve their cases expeditiously. The American Bar Association (ABA), the Appellate Court Performance Standards Commission, and individual states have adopted timeliness as an explicit goal. The ABA suggests a twofold guideline: first, the recommendation is that state supreme courts should resolve 50 percent of mandatory appeals from the dates of their filings and 50 percent of discretionary petitions for review from the dates of their filings within 290 days or fewer. Second, the ABA recommends that 90 percent of mandatory appeals and 90 percent of petitions for review should be resolved within 365 days or fewer.

The ABA expects that death penalty cases generally will take more than 365 days to resolve, but timeliness should be kept in mind even in those special cases. Yet, despite the work that the ABA devoted to formulating these criteria, there are uncertainties surrounding the scope of cases covered by the ABA guidelines. For example, do

discretionary petitions for review include both granted and denied cases? Are civil cases and criminal cases governed by the same set of criteria? Do the guidelines apply to applications for writs and to bar disciplinary cases?

Unfortunately, there is little data available that measure how close courts come to meeting the ABA timeliness guidelines. This issue of *Caseload Highlights* begins to fill this information void by using timeliness data from five state supreme courts—those in Florida, Georgia, Minnesota, Ohio, and Virginia.<sup>1</sup> Data from these

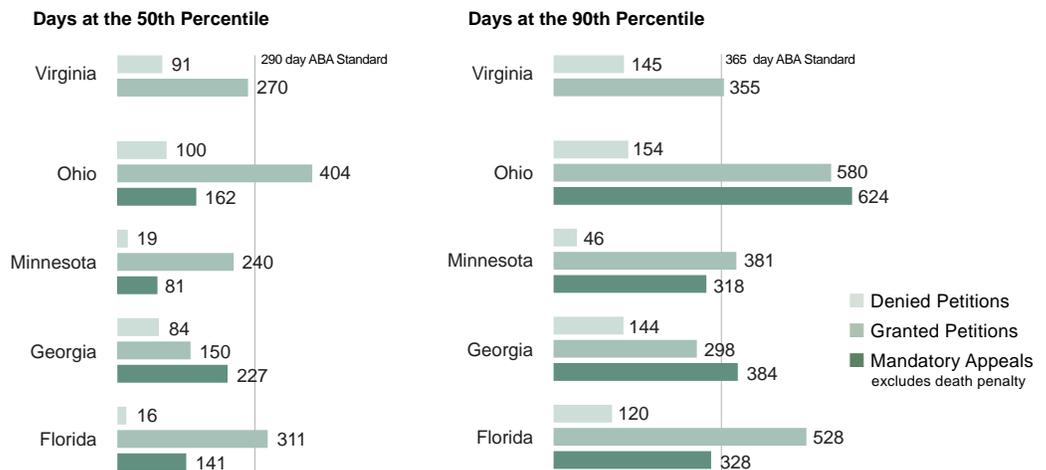
states are divided into five major case types: discretionary petitions for review (including granted and denied petitions), mandatory appeals, applications for writs, bar and judicial disciplinary cases, and death penalty-related cases. These data suggest that state supreme courts are not slow-moving institutions and that there are understandable reasons for why some courts take longer to resolve cases than other courts.

The charts below compare the number of days from filing to case resolution at the 50<sup>th</sup> and 90<sup>th</sup> percentiles for our five state supreme courts.

- All five courts achieve or approximate the ABA time frames for mandatory appeals and the combination of denied and granted discretionary petitions.
- Jurisdiction shapes the caseload composition of each court, which in turn shapes timeliness.
- A general perspective portrays the five courts as timely, but dividing appellate cases into finer categories shows they are unable to resolve *all* cases in a manner consistent with the ABA guidelines.

<sup>1</sup> More information relevant to understanding the timeliness of state supreme courts is contained in *Jurisdiction, Caseload, and Timeliness in State Supreme Courts* (NCSC, 2001), supported by a grant from the State Justice Institute.

**Number of Days from Date of Filing to Resolution** (Cases Resolved in 1996 and 1997)



## A More Detailed Look at Each Supreme Court

The adjacent tables show how expeditiously each court resolves various case types within its jurisdiction. The numbers indicate how long it took to resolve 50 and 90 percent of the cases. If the days exceed 290 or 365, the court is not meeting the ABA expectations. Taking into account jurisdiction, caseload composition, and resources, there are several conditions that affect appellate case resolution time:

**1** Mandatory criminal appeals are potentially among the most time consuming cases for state supreme courts to resolve. Cases where the underlying offense

is severe, the sentence is long-term incarceration, and/or a constitutional issue is raised, take even the most expeditious courts longer to resolve. This situation occurs in both Georgia and Minnesota.

**2** There are structural features and corresponding processes in the courts that account for why some discretionary petitions take longer to resolve than others. Florida and Georgia illustrate two possibilities. Routine appeals to the intermediate appellate courts in Florida are decided by per curiam affirmances, which cannot be appealed to the Supreme Court. Their absence from the Florida Supreme Court

docket means that there likely are proportionally more complex cases on the court's docket than in other supreme courts. Those complex cases contribute to longer resolution times in Florida. In Georgia, most of the Supreme Court's granted petitions come directly from a trial court. As a result, most of these cases require preparation of a record and have no first-level appellate court opinion. It is understandable that these cases take a longer time to resolve as compared to petitions in other courts.

**3** Some courts have no bar disciplinary cases or applications for writs whereas others

have substantial numbers of these cases. Minnesota has very few applications for writs and Virginia has very few disciplinary cases. Florida, Georgia, and Ohio have sizable numbers of both kinds of cases.

**4** The number of death penalty-related cases is associated with timeliness. They take relatively longer to resolve than most other categories of cases in the states with a death penalty statute. The two states with the most death penalty cases, Florida and Ohio, take longer to resolve the rest of their respective caseloads than do the other courts.

## The Number of Appellate Cases Per Justice

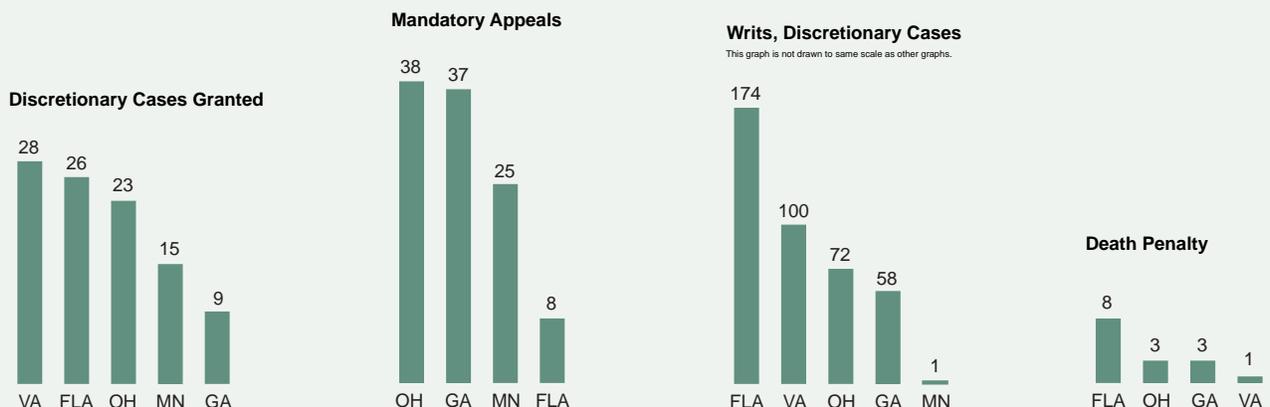
Because the five courts examined here have the same number of justices, the number of cases resolved per justice is a way to gauge more closely the connection between the amount of work

to be done and timeliness. This examination indicates that the more cases per justice, the longer it takes to resolve cases.

The more expeditious courts, Minnesota and Virginia, tend to have fewer cases and fewer kinds of cases to handle than the other courts. Florida and Ohio tend to have more kinds

of cases and greater numbers of cases. They also tend to take longer to resolve their granted discretionary petitions and mandatory appeals. Hence, the blend of cases bears on timeliness.

**Average Annual Number of Cases Resolved Per Justice** (Cases Resolved in 1996 and 1997)



## Number of Days from Filing to Resolution

### Florida

	# of Cases	No. of days at percentile:	
		50 <sup>th</sup>	90 <sup>th</sup>
<b>• Discretionary Cases Granted</b>			
<b>Conflict Cases<sup>1</sup></b>			
Civil	127	329 ▲	550 ▲
Criminal	135	272	529 ▲
<b>Notices to Invoke Discretionary Jurisdiction<sup>2</sup></b>			
Civil	47	374 ▲	596 ▲
Criminal	59	325 ▲	465 ▲
<b>• Mandatory</b>			
Civil Appeals	98	170	330
Criminal Appeals	19	135	311
Bar Disciplinary Cases	1,140	165	495 ▲
Writs of Habeas Corpus	710	41	145
Other Writs	576	69	206
<b>• Death Penalty</b> (direct reviews & writs)	227	612 ▲	1,241 ▲

### Minnesota

	# of Cases	No. of days at percentile:	
		50 <sup>th</sup>	90 <sup>th</sup>
<b>• Discretionary Cases Granted</b>			
Civil Petitions for Review	211	240	381 ▲
Criminal Petitions for Review	167	239	379 ▲
	39	275	413 ▲
<b>• Mandatory</b>			
Criminal Appeals <sup>5</sup>	44	371 ▲	554 ▲
Administrative Agency Appeals	199	82	237
Bar Disciplinary Cases	74	163	476 ▲
Writs of Habeas Corpus	8	15	61
Other Writs	35	17	49

### Virginia

	# of Cases	No. of days at percentile:	
		50 <sup>th</sup>	90 <sup>th</sup>
<b>• Discretionary Cases Granted</b>			
Civil	395	270	355
Criminal	349	270	354
All Other Cases <sup>6</sup>	36	274	376 ▲
	10	220	288
<b>• Mandatory</b>			
Bar Disciplinary Cases	6	42	137
Writs of Habeas Corpus	1,138	103	166
Other Writs	256	59	120
<b>• Death Penalty</b> (direct reviews) <sup>7</sup>	7	183	281

### Georgia

	# of Cases	No. of days at percentile:	
		50 <sup>th</sup>	90 <sup>th</sup>
<b>• Discretionary Cases Granted</b>			
Civil Petitions for Writs of Certiorari	14	150	214
Civil Applications for Review <sup>3</sup>	106	154	306
<b>• Mandatory</b>			
Civil Appeals	242	229	378 ▲
Criminal Appeals	273	224	391 ▲
Murder & Life Sentences	242	227	388 ▲
All Other Criminal Cases <sup>4</sup>	31	196	464 ▲
Bar Disciplinary Cases	198	90	258
Writs of Habeas Corpus	533	129	300
Other Writs	94	120	289
<b>• Death Penalty</b> (direct reviews & writs)	39	115	462 ▲

### Ohio

	# of Cases	No. of days at percentile:	
		50 <sup>th</sup>	90 <sup>th</sup>
<b>• Discretionary Cases Granted</b>			
Civil	319	404 ▲	580 ▲
Criminal	264	401 ▲	575 ▲
	55	415 ▲	653 ▲
<b>• Mandatory</b>			
Civil Appeals	480	285	803 ▲
Criminal Appeals	53	177	266
Bar Disciplinary Cases	342	146	404 ▲
Writs of Habeas Corpus	194	36	60
Other Writs	479	58	163
<b>• Death Penalty</b> (direct reviews & writs)	34	422 ▲	567 ▲

▲ 290 or 365 day ABA Time Standard exceeded

<sup>1</sup> District Court of Appeal certifies case of great public importance or direct conflict among the Florida Courts of Appeal.

<sup>2</sup> Attorney certifies case involving statutory validity, constitutional construction, constitutional/state officers, or conflict among Courts of Appeal.

<sup>3</sup> Cases come directly from a trial court.

<sup>4</sup> Criminal cases involving constitutional questions or an equally divided Court of Appeals.

<sup>5</sup> First degree homicide convictions.

<sup>6</sup> Certified questions of law.

<sup>7</sup> Time is from docketing to resolution.

## Summing Up and Looking Ahead

There are three lessons to be learned from this analysis. The first is that not all state supreme courts are equivalent. There are distinctions in jurisdiction, structure, caseload composition, and resources. Those distinctions contribute to differences in timeliness.

The second lesson is that despite these distinctions, all five courts approximate the uniform time criteria pro-

posed by the ABA to some extent. Some courts are more expeditious than other courts, but the popular images of supreme courts taking painfully long periods of time to resolve their cases are not supported by the data.

Third, the ABA guidelines are targets for supreme courts to shoot for; it is unrealistic to expect all cases in all courts to always reach the ideal level of timeliness.

As mentioned earlier, numerous factors affect case processing timeliness.

The lessons learned help to frame future state supreme court appraisals. The nature and variety of supreme courts suggest the need to examine how particular courts achieve timeliness for some cases but not for others. This task calls for a more integrated understanding of jurisdiction, structure,

caseload, and court resources. Some courts have already begun this self-examination process.<sup>2</sup> Further descriptions of other courts will help ensure a greater understanding of the ability of courts to achieve timeliness in the context of time standards.

<sup>2</sup> See, for example, Gerald Kogan and Robert Craig Waters (1994) "The Operation and Jurisdiction of the Florida Supreme Court," 18 *Nova Law Review* 1151.

### The Court Statistics Project (CSP)

In existence since 1975, the CSP is administered by the National Center for State Courts, with generous support by the State Justice Institute (Grant SJI-91-N-007-O01-1) and the Bureau of Justice Statistics. The CSP receives general policy direction from the Conference of State Court Administrators

through its Court Statistics Project Advisory Committee. Those wishing a more comprehensive review and analysis of the business of state trial and appellate courts are invited to read the CSP's latest publication, *Examining the Work of State Courts, 2001*.



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Points of view expressed herein are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute or the Bureau of Justice Statistics.

