



# Arizona Court of Appeals Division One

## CourTools FY 2014



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## **Executive Summary**

"CourTools" is a package of metrics by which an appellate court measures the timeliness of its processing of cases. The metrics are nationally accepted time standards for the handling of different types of cases on appeal. Because appellate cases vary greatly in difficulty and complexity, a court meets a standard if 75 percent of its cases are resolved within the applicable time period.

During FY 2014, Division One of the Arizona Court of Appeals (the "Court") met the overall time standard for case processing in 77.1 percent of its cases. As shown below, the Court met the overall time standard in 80.3 percent of civil cases and in 98.8 percent of juvenile cases. Due to delays by some court reporters in preparing trial transcripts and some attorneys in submitting briefs, the time standard for resolving criminal cases always has been a challenge for the Court. During FY 2014, the Court met the overall time standard in 61.7 percent of its criminal cases. A different time standard applies to the period after the transcripts and briefs have been filed; during FY 2014 the Court met that time standard for issuing a decision in 83.5 percent of its criminal cases.

## **Introduction**

The Arizona Supreme Court established the Appellate CourTools Committee in 2008 to recommend measures to track case processing by Arizona's appellate courts using a methodology developed by the National Center for State Courts. Only a handful of appellate courts across the country have undertaken this project, and the Court is committed to gathering and publishing this information on an annual basis. Three performance measures selected by the Appellate CourTools Committee, Time Standards, Case Clearance and Age of Pending Caseload, are discussed below. Also discussed are the results of the Court's biannual opinion survey of trial judges and appellate counsel.

## A. Time Standards

The time standards employed by CourTools measure the length of time it takes the Court to process various categories of cases. In preparation for implementing CourTools, the Court selected reference timeframes for certain key periods in the handling of an appellate case. In annual reports commencing with FY 2009, the Court has reviewed its performance against the selected time standards. Three time standards are most relevant to assessing the timeliness of the Court's processing of its cases:

- **"Time to Disposition."** This standard measures the length of time between when an appeal begins (filing of the notice of appeal) and when the Court issues its decision in the appeal.
- **"At-Issue to Disposition."** This standard measures the length of time between when the Court has received all the briefs, transcripts and other records that are required to decide an appeal, and when the Court issues its decision in the appeal.
- **"Under-Advisement to Disposition."** This standard measures the length of time between the day a panel of judges meets to consider an appeal and when the Court issues its decision in the appeal.

Although the Court strives to timely resolve all cases that come before it, the goal of an appellate court using the CourTools methodology is that 75 percent of its cases will be handled within the applicable time standard.

### 1. Filing to Disposition

The Court met the time reference point for filing to disposition (i.e., filing of the notice of appeal to issuance of a decision) in 77.1 percent of all the cases it completed during FY 2014. The table below shows, for each case type, the number of days chosen as the reference period for the time between the filing of a notice of appeal or petition for special action and the day the

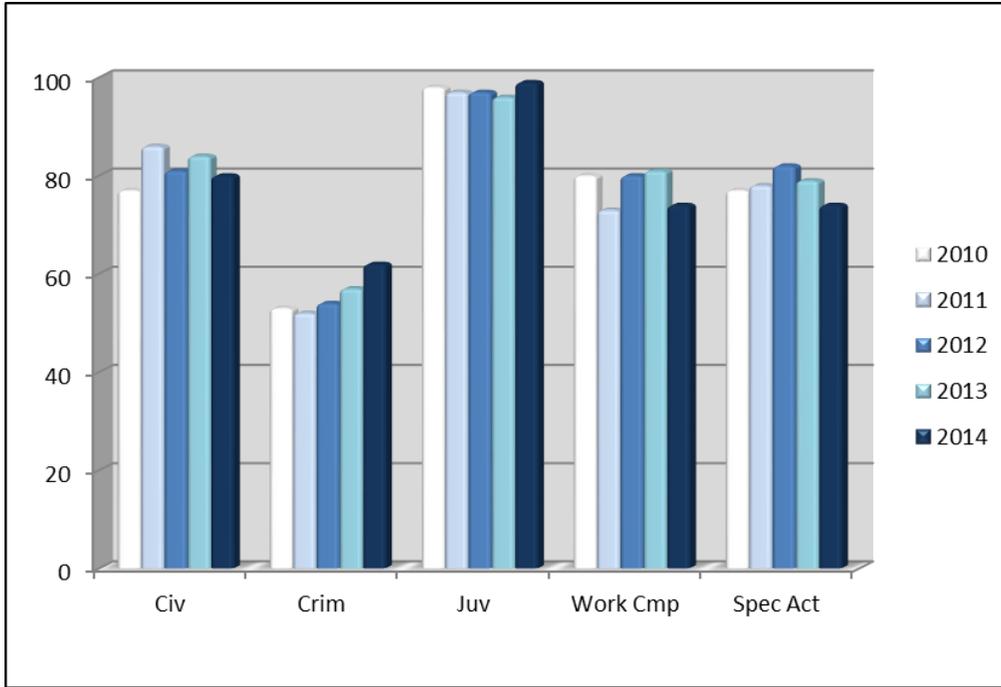
Court decides the case, and the percentage of cases that met that reference period during FY 2014:

<b>Case Type</b>	<b>Reference Period (filing to disposition)</b>	<b>Percent of FY 2014 Cases Decided Within Reference Period</b>
Civil	400 days	80.3%
Criminal	375 days	61.7%
Juvenile	275 days	98.8%
Workers Compensation	300 days	73.8%
Special Actions	25 days	73.5%

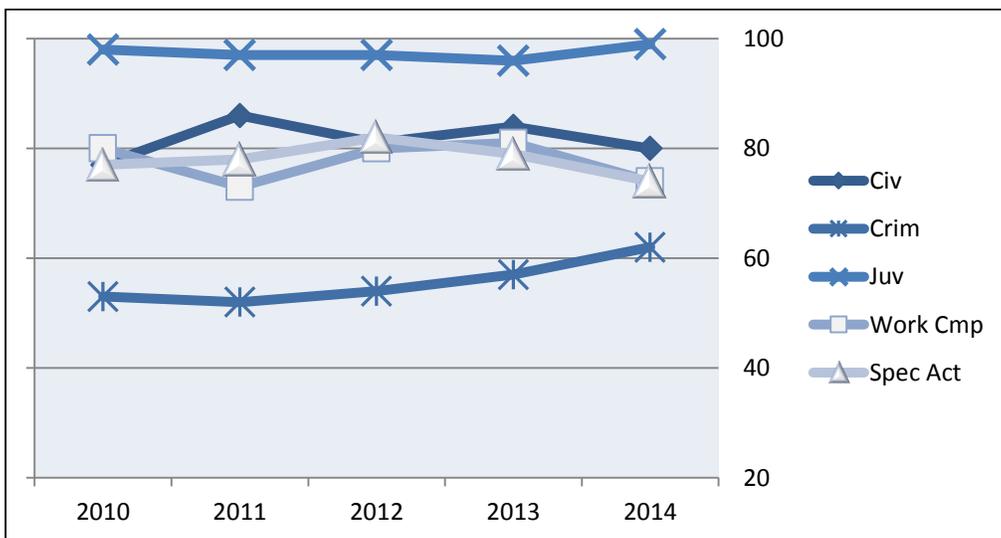
The table and graphs below show the Court's performance with respect to these reference points during FY 2014 and in prior years.

<b>Filing to Disposition FY 2010 - 2014 (percent of cases, rounded, decided within reference periods)</b>					
	<b>Civil</b>	<b>Criminal</b>	<b>Juvenile</b>	<b>Workers Compensation</b>	<b>Special Action</b>
<b>2014</b>	80	62	99	74	74
<b>2013</b>	84	57	96	81	79
<b>2012</b>	81	54	97	80	82
<b>2011</b>	86	52	97	73	78
<b>2010</b>	77	53	98	80	77

## Percent of Cases Decided Within Time Reference Points Filing to Disposition FY 2010-2014



## Percent of Cases, by Case Type, Decided Within Time Reference Points for Filing to Disposition FY 2010-2014



## 2. At-Issue to Disposition and Under-Advisement to Disposition

The Court also reviews the time it takes to decide an appeal from the day all records, transcripts and briefs have been filed in the Court (i.e., from when the case is "at-issue") and from the day a panel of the court meets to discuss the case and/or holds oral argument on the case (i.e., from when the case is "under-advisement").<sup>1</sup>

The Court met the time reference point for at-issue to disposition in 74.6 percent of all the cases it completed during FY 2014. The table below shows, for each case type, the number of days chosen as the reference period between the day an appeal is at-issue and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2014:

<b>Case Type</b>	<b>Reference Period (at-issue to disposition)</b>	<b>Percent of FY 2014 Cases Decided Within Reference Period</b>
Civil	225 days	63.8%
Criminal	150 days	83.5%
Juvenile	100 days	84.2%
Workers Compensation	150 days	64.1%

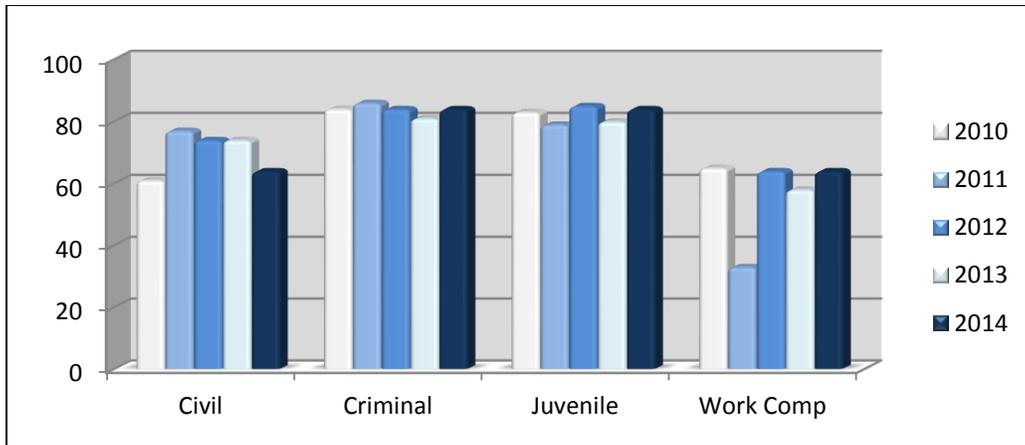
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<sup>1</sup> These reference periods are not relevant to special actions (interlocutory appeals).

The table and graph below show the Court's performance with respect to these reference points during FY 2014 and in prior years:

<b>At-Issue to Disposition FY 2010 - 2014 (percent of cases decided within reference periods)</b>				
	<b>Civil</b>	<b>Criminal</b>	<b>Juvenile</b>	<b>Workers Compensation</b>
<b>2014</b>	64	84	84	64
<b>2013</b>	74	81	80	58
<b>2012</b>	74	84	85	64
<b>2011</b>	77	86	79	33
<b>2010</b>	61	84	83	65

**Percent of Cases Decided Within Time Reference Points  
At-Issue to Disposition FY 2010-2014**



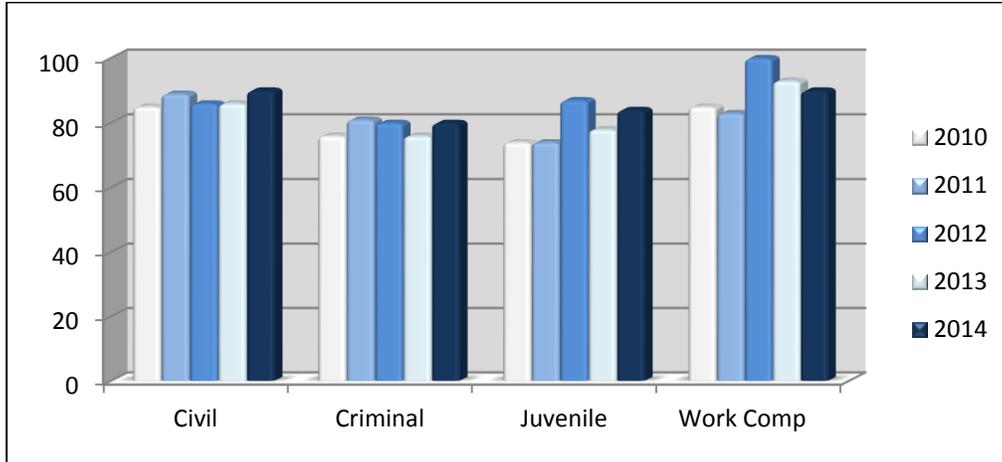
The Court met the time reference point for under-advisement to disposition in 84.7 percent of all the cases it completed during FY 2014. The table below shows, for each case type, the number of days chosen as the reference period for the time between the day an appeal is taken under advisement and the day the Court decides the case, and the percentage of cases that met that reference period during FY 2014:

<b>Case Type</b>	<b>Reference Period (under- advisement to disposition)</b>	<b>Percent of FY 2014 Cases Decided Within Reference Period</b>
Civil	120 days	89.6%
Criminal	90 days	79.9%
Juvenile	40 days	83.8%
Workers Compensation	100 days	89.5%

The table and graph below show the Court's performance with respect to these reference points during FY 2014 and in prior years:

<b>Under-Advisement to Disposition FY 2010 - 2014 (percent of cases decided within reference periods)</b>				
	<b>Civil</b>	<b>Criminal</b>	<b>Juvenile</b>	<b>Workers Compensation</b>
<b>2014</b>	90	80	84	90
<b>2013</b>	86	76	78	93
<b>2012</b>	86	80	87	100
<b>2011</b>	89	81	74	83
<b>2010</b>	85	76	74	85

## Percent of Cases Decided Within Time Reference Points Under-Advisement to Disposition FY 2010-2014



\* \* \* \*

Together, the data recounted in the pages above show that compared to FY 2013, the Court saw slight improvements in FY 2014 (five and three percentage points, respectively) in criminal and juvenile cases in the broadest time reference period – filing to disposition. By statute, the Court must grant priority to resolving juvenile cases, and the number of cases resolved within the target timeframe has remained very high. Although the percentage of civil, workers compensation and special action cases resolved within the target timeframes declined slightly (four, seven and five percentage points, respectively), civil cases meeting the target were well above the 75 percent goal, and workers compensation and special action cases were not far below that goal.

Timely handling of criminal cases continues to challenge the Court, due in large part to delays in receiving trial court records, transcripts and briefs. The Court resolved 62 percent (an increase of five percentage points over 2013, and eight points better than in 2012) of its criminal cases within the 375 days that is the reference time period for the overall handling of a criminal appeal (filing to disposition). The Court resolved a much higher

percentage of criminal cases – 84 percent – within the target time period for after a case is at-issue, that is, in the 150-day period after the briefs have been filed. Moreover, the Court resolved 80 percent of criminal cases within the target time period for under-advisement to disposition. Taken together, these data demonstrate that although the court expeditiously resolves criminal cases once they are at-issue and under-advisement, significant delays (vis-a-vis the reference time periods) continue to occur before the Court begins its analysis of the merits of many criminal cases, i.e., delays in the transmission of the record and trial transcripts and delays in filing of the briefs by counsel.

The volume of criminal appeals, extended staff shortages and budgetary constraints in the trial court seem to cause court reporters continued difficulty in completing the official transcripts of criminal court proceedings in a timely fashion. The Court of Appeals closely tracks deadlines for transcripts and orders tardy court reporters to appear at "show cause" hearings held every two weeks to attempt to reduce this delay. The Court will continue to work with superior court personnel, including court reporter supervisors, to resolve delays in the filing of transcripts.

The Court also has taken steps to reduce continuances granted to counsel for the submission of appellate briefs; however, constitutional due process requires a careful review of the trial record by appellate counsel and by the court. This painstaking process often causes counsel to ask for additional trial transcripts to be prepared and for additional time to complete such review. If there are arguable questions of law, those issues need to be identified and briefed. Additionally, if counsel certifies the absence of any arguable questions on appeal, the defendant-appellant is entitled to submit his or her own supplemental brief. Finally, in relatively rare instances, as a result of the court's own independent review of the record for fundamental error, the court may identify an issue and order the parties to submit supplemental briefing. In sum, constitutionally mandated due process requirements for criminal appeals may extend the time until the appeal is considered at issue for as long as two years.

A final note about the relatively low (64.1 percent) of workers compensation cases that met the time reference period for at-issue to disposition. The court was able to resolve 73.8 percent of its workers compensation cases within the broader reference period for filing to disposition. This is because, as shown by the relatively high number (89.5 percent) of cases resolved within the reference timeframe for under-advisement to disposition, once workers compensation cases are readied for consideration by panels of the court, the court tends to dispose of them in timely fashion.

## **B. Case Clearance**

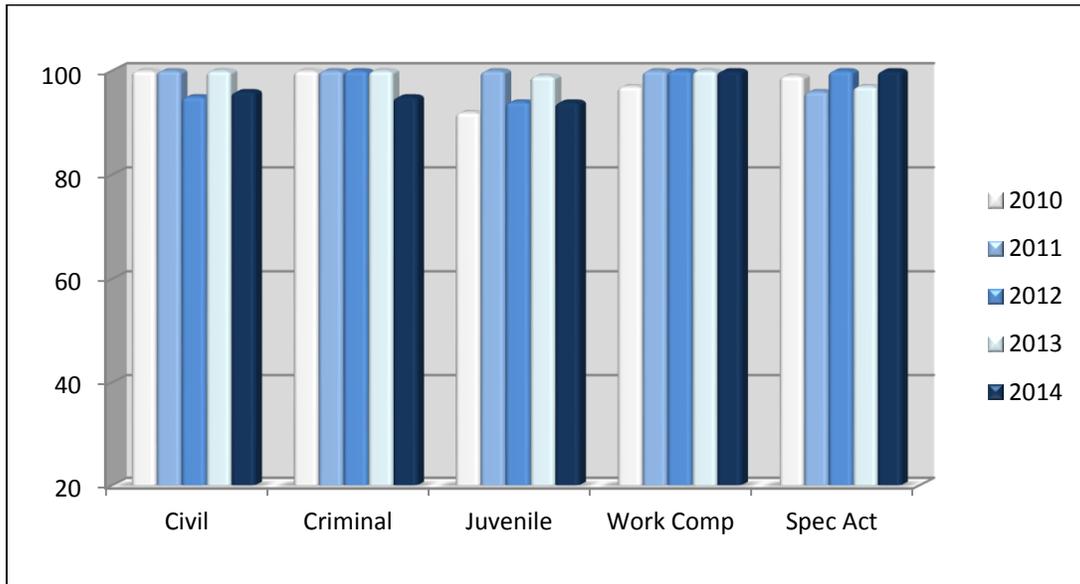
"Case clearance" measures the number of cases decided in a fiscal year as a percentage of the number of new appeals filed that year. The purpose of the measurement is to assess the number of "older" cases the Court is resolving at the same time as it decides newly filed matters. The case clearance percentage for all types of cases that the Court completed during FY 2014 is 96.8 percent. In FY 2014, the Court achieved the following case clearance rates:

<b>Case Type</b>	<b>Case Clearance Rate FY 2014</b>
Civil	96.4%
Criminal	94.7%
Juvenile	94.2%
Workers Compensation	102.6%
Special Action	103.7%

The table and graph below show the Court's case-clearance performance during FY 2014 with prior years:

<b>Case Clearance Rates FY 2010 - 2014</b>					
	<b>Civil</b>	<b>Criminal</b>	<b>Juvenile</b>	<b>Workers Compensation</b>	<b>Special Action</b>
<b>2014</b>	96%	95%	94%	103%	104%
<b>2013</b>	107%	116%	99%	104%	97%
<b>2012</b>	95%	114%	94%	104%	104%
<b>2011</b>	103%	116%	110%	106%	96%
<b>2010</b>	101%	104%	92%	97%	99%

**Case Clearance Rates FY 2010-2014**



These data show that, compared with FY 2013, the court's case clearance rate was slightly down overall, and slightly down in every case category except for special actions.

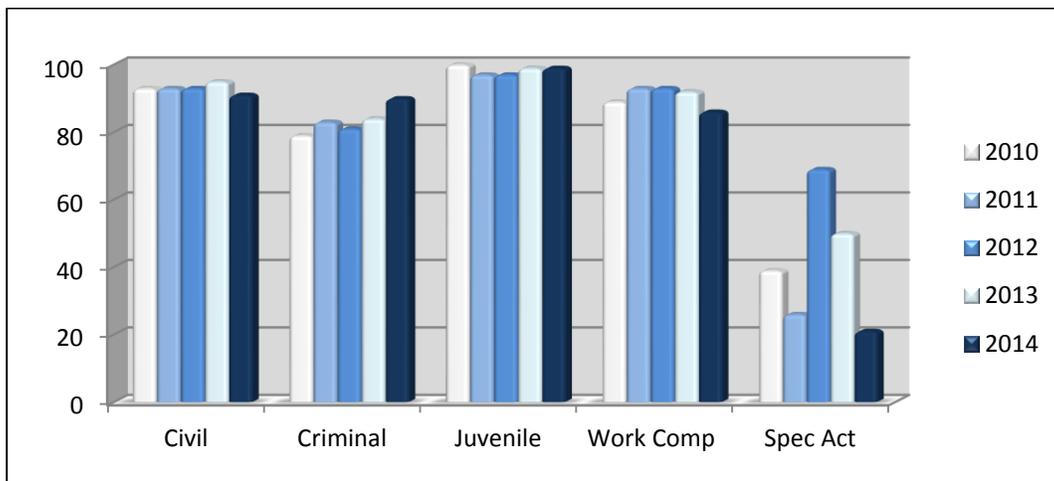
### C. Age of Pending Caseload

This measurement illustrates the age of the Court's pending caseload. It calculates the percentage of cases pending at the end of the fiscal year that are too new to fit within the time reference points described above.

The percentage of all cases pending at the end of FY 2014 that were too new to fit within the time reference points was 90 percent:

Percent of Pending Cases Not Yet Fitting Reference Points FY 2010 - 2014					
	Civil	Criminal	Juvenile	Workers Compensation	Special Action
2014	91	90	99	86	21
2013	95	84	99	92	50
2012	93	81	97	93	69
2011	93	83	97	93	26
2010	93	79	100	89	39

Percent of Pending Cases Not Yet Reaching Reference Points  
FY 2010-2014



These data show that at the end of FY 2014, the Court's pending cases were relatively new, as most had not yet reached their time reference points.

### **D. Attorney/Trial Bench Survey**

The Court conducts a biannual anonymous survey of attorney members of the Appellate Practice Section of the State Bar of Arizona, other attorneys who appeared before the Court, and superior court judges and commissioners. The survey asks respondents to rate their agreement with specified statements about the Court on a five-point scale ranging from "strongly agree" to "undecided/unknown." The most recent survey was conducted in 2013, when responses were received from 416 individuals, or 33 percent of those surveyed. Results of the 2013 survey are shown below, along with results of the same survey conducted in 2011:

<b>Survey Question</b>	<b>2011- Results<sup>2</sup></b>	<b>2013- Results<sup>2</sup></b>
The Court resolves its cases expeditiously.	72%	76%
The Court renders decisions without any improper outside influences.	94%	94%
The Court considers each case based upon its facts and applicable law.	87%	88%
The Court's written decisions reflect thoughtful and fair evaluation of the parties' arguments.	84%	86%
The Court's written decisions clearly state the applicable legal principles that govern the decision.	87%	90%
The Court's written decisions clearly inform the trial courts and parties of what additional steps, if any, must be taken.	85%	89%

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<sup>2</sup> Results indicate the percent of respondents who selected "Agree or Strongly Agree" and exclude all "Undecided or Unknown" responses.

The Court's written decisions treat trial court judges with courtesy and respect.	97%	97%
The Court treats attorneys with courtesy and respect.	94%	94%
The Court is procedurally and economically accessible to the public and attorneys.	91%	86%
The Court effectively informs attorneys and trial judges of its procedures, operations, and activities.	92%	89%
The Court's website is a useful tool.	90%	90%
The Court's Clerk's office responds well to inquiries.	95%	96%
It is useful to have memorandum decisions available for review on the Court's website and through Westlaw.	98%	96%

Of particular note, greater than 90 percent of those who responded agreed or strongly agreed that the Court (1) renders its decisions without any improper outside influences; (2) issues decisions that clearly state the applicable legal principles; (3) treats trial court judges and attorneys with courtesy and respect; (4) provides a useful website; (5) has a responsive clerk's office; and (6) assists the public by making its memorandum decisions available for online review. Although the Court fell just short of a 90 percent rating in several areas, the percentage of favorable responses to several survey questions increased in 2013 over 2011. The number of respondents with an opinion who strongly agreed or agreed that the Court resolves its cases expeditiously rose in 2013 from 2011 by four percentage points, to 76 percent.

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