

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 22-281

ADOPTING SUCCESS METRICS RELATED TO LAW AND JUSTICE BACKLOG

WHEREAS, on November 9, 2021, the Snohomish County Council adopted Ordinance 21-093, approving the 2022 Budget; and

WHEREAS, the 2022 Budget Section 9, Budget notes and conditions, included a Budget Note requesting the Superior Court, District Court, the Office of Public Defense and the Prosecutive Attorney present, for Council approval, proposed success metrics that will, over time, measure the departments/courts progress at reducing the law and justice backlog; and

WHEREAS, the department/courts submitted to Council a joint memo describing the proposed success metrics on March 30, 2022; and

WHEREAS, the departments/courts presented the proposed metrics to Council at the Law, Justice and Human Services Committee meeting on June 13, 2022, where after discussion, directed staff to prepare a motion approving the proposed metrics;

NOW, THEREFORE, ON MOTION, the Snohomish County Council:

1. Adopts, as submitted, the success metrics included in Attachment A, Backlog Budget Note Memo; and
2. Consistent with the 2022 Budget Note, requests the departments/courts include success metric performance data in their 2023 Budget Presentations held during Council budget deliberations.

PASSED this 13th day of July, 2022.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Acting Council Chair

ATTEST:



Asst. Clerk of the Council

Superior Court of the State of Washington

for Snohomish County

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TO: Snohomish County Council
Heidi Beazizo, Sr. Council Analyst

FROM: Judge George F.B. Appel
Snohomish County Superior Court Presiding Judge

Jason Cummings
Chief Civil Deputy Prosecuting Attorney

Jason Schwarz
Director of the Office of Public Defense

Kathryn Koehler
District Court Administrator

DATE: March 30, 2022

RE: **2022 Budget Note concerning Law and Justice Backlog due to COVID-19**

This memorandum is in response to the 2022 Budget Note concerning the backlog created in the law and justice system from the COVID-19 pandemic. The Superior Court, District Court, Office of Public Defense (OPD) and Prosecuting Attorney's Office (PAO) began meeting following the Council's adoption of the 2022 Budget to discuss and coordinate a response. The first meeting was November 23, 2021, and the group has been meeting regularly since then to review various data sets and to reach consensus on the best way to identify key metrics representative of the backlog currently affecting the law and justice system due to the COVID-19 pandemic.

Budget Note:

The Superior Court, District Court, the Office of Public Defense and the Prosecuting Attorney have presented to Council estimates of their budgetary needs to reduce the law and justice backlog created by COVID-19. Prior to allocating funds for 2023, Council wishes to understand the progress each office/court has made to reduce the case backlog. Council requests that the Superior Court, District Court, the Office of Public Defense and the Prosecuting Attorney’s Office work collaboratively to complete the following, finding alignment where reasonable:

1. By March 31, 2022, present to council, at least two meaningful success metrics that will, over time, measure the departments/courts progress at reducing the backlog.
2. Upon Council approval of proposed metrics, include performance against those defined metrics at the annual department/court budget presentation in the fall of 2022

The flow of cases in the law and justice system is difficult to reduce to a handful of meaningful success metrics. Each partner in the system relies upon a different database and tracks information in different manners. After several meetings, the partners collectively agreed to look at a broader set of data from the courts and PAO as key performance indicators that describe the impacts of the COVID-19 backlog. A discussion of these metrics follows.

Prosecuting Attorney’s Office – Criminal Division Metrics

The PAO’s case management system has the ability to take point in time snapshots of the backlog of referrals awaiting review for filing decisions. These are uncharged cases which should be considered a separate and distinct backlog from the trial backlog before the Courts and the Office of Public Defense. If charged, these cases would be tracked as part of the Court trial backlog. The data is broken down between Felony referrals (handled in Superior Court), Misdemeanor referrals (handled in District Court), and Juvenile Court referrals (handled in Superior Court).

Pre-COVID - February 2020:

Felony - 3,965

DCU - 3,968

Juvenile - 414

Backlog as of February 17, 2022:

Felony - 7,128

DCU - 6,056

Juvenile - 200

As evidenced by the above data, with the exception of Juvenile referrals, the backlog of referrals awaiting review has significantly grown during the pandemic. Please note that not all these referrals will

necessarily become a court filing. Some referrals, following review by a deputy prosecuting attorney may be declined for evidentiary or other reasons. For example, in the two-year span between February 2020 and March 2022, the District Court Unit of the office opened 11,239 cases, filed 5,759 cases, and declined 3,138 cases.

Superior Court Metrics

The Superior Court has identified two key metrics to evaluate the impacts of COVID-19 on cases being processed by the court. The metrics are Case Age and Case Resolution.

Case Age Metric

The Administrative Office of the Courts, in conjunction with the Board for Judicial Administration, sets time standards for Washington trial courts¹. Time standards refer to the percentage of the court’s case load that should be resolved or disposed by a certain case age, defined as amount of time from filing to resolution.

Time Standards for Filing to Resolution indicate that 100% of cases should be resolved within the following time frames according to case type:

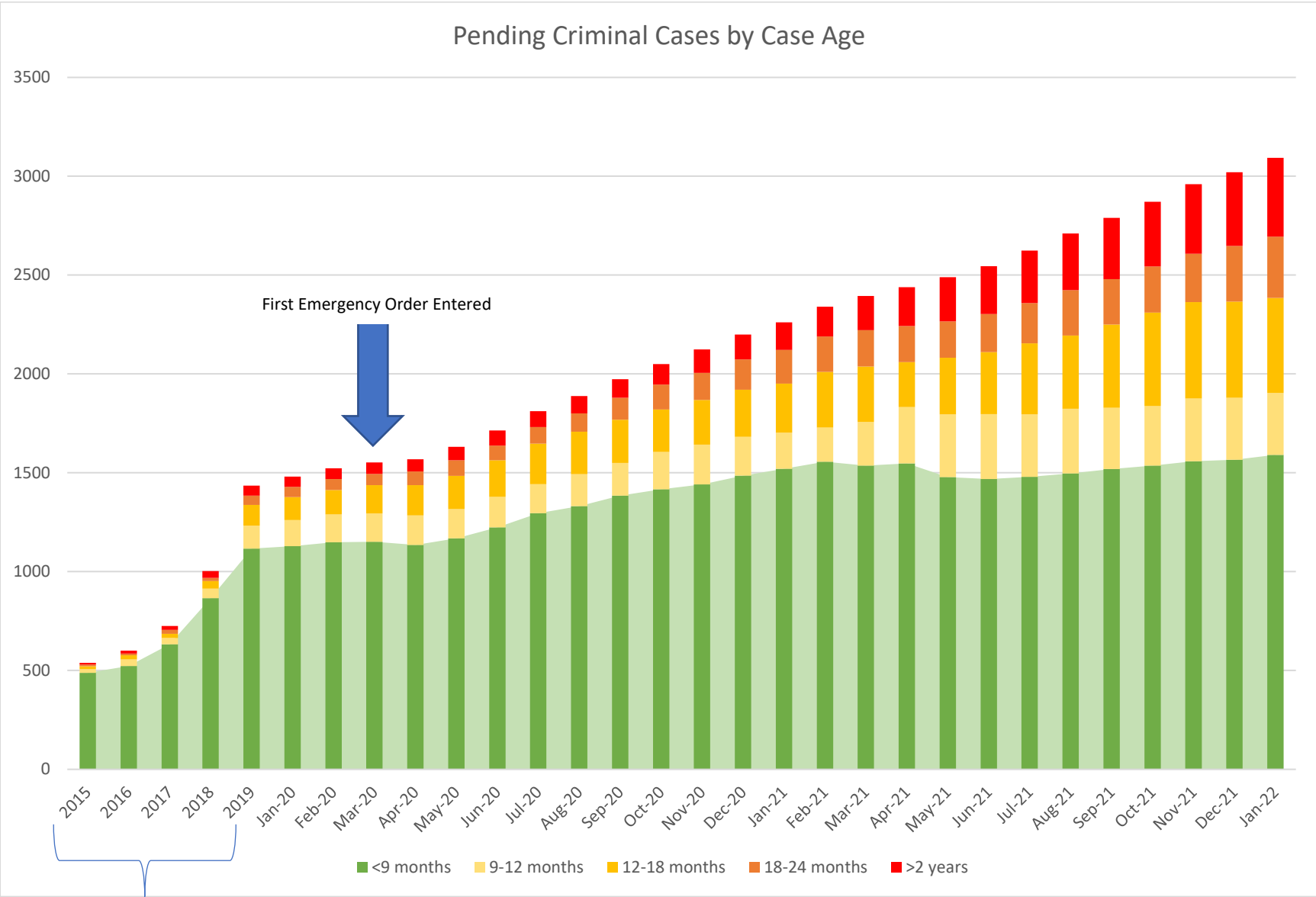
- Criminal (Case Type 1): 270 days (~9 months)
- Civil (Case Type 2): 720 days (~2 years)
- Domestic (Case Type 3): 540 days (~18 months)

The table and graphs below indicate that the court has experienced a dramatic increase in the number of pending cases that fall outside the maximum time standard.

Cases Pending over Time Standard				
Case Type (Time Standard)	February 2020	January 2021	Percent Change	Graph
Criminal (270 days)	374	1,502	+301.6%	See Graph C.1
Civil (720 days)	351	1,442	+310.8%	See Graph C.2
Domestic (540 days)	327	685	+109.5%	See Graph C.3

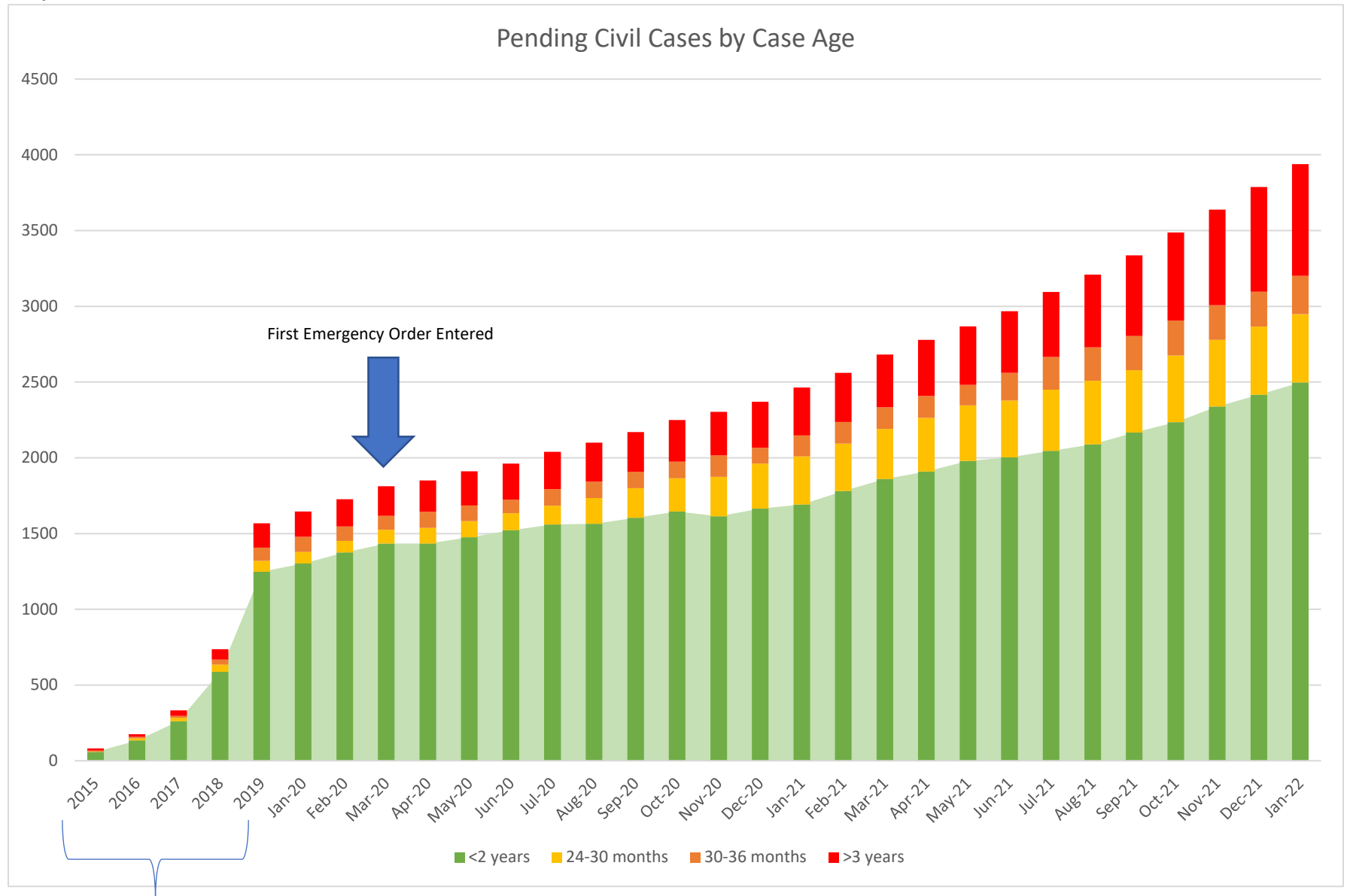
¹ https://www.courts.wa.gov/court_rules/pdf/BJA/AM_BJA_TIME.pdf

Graph C.1



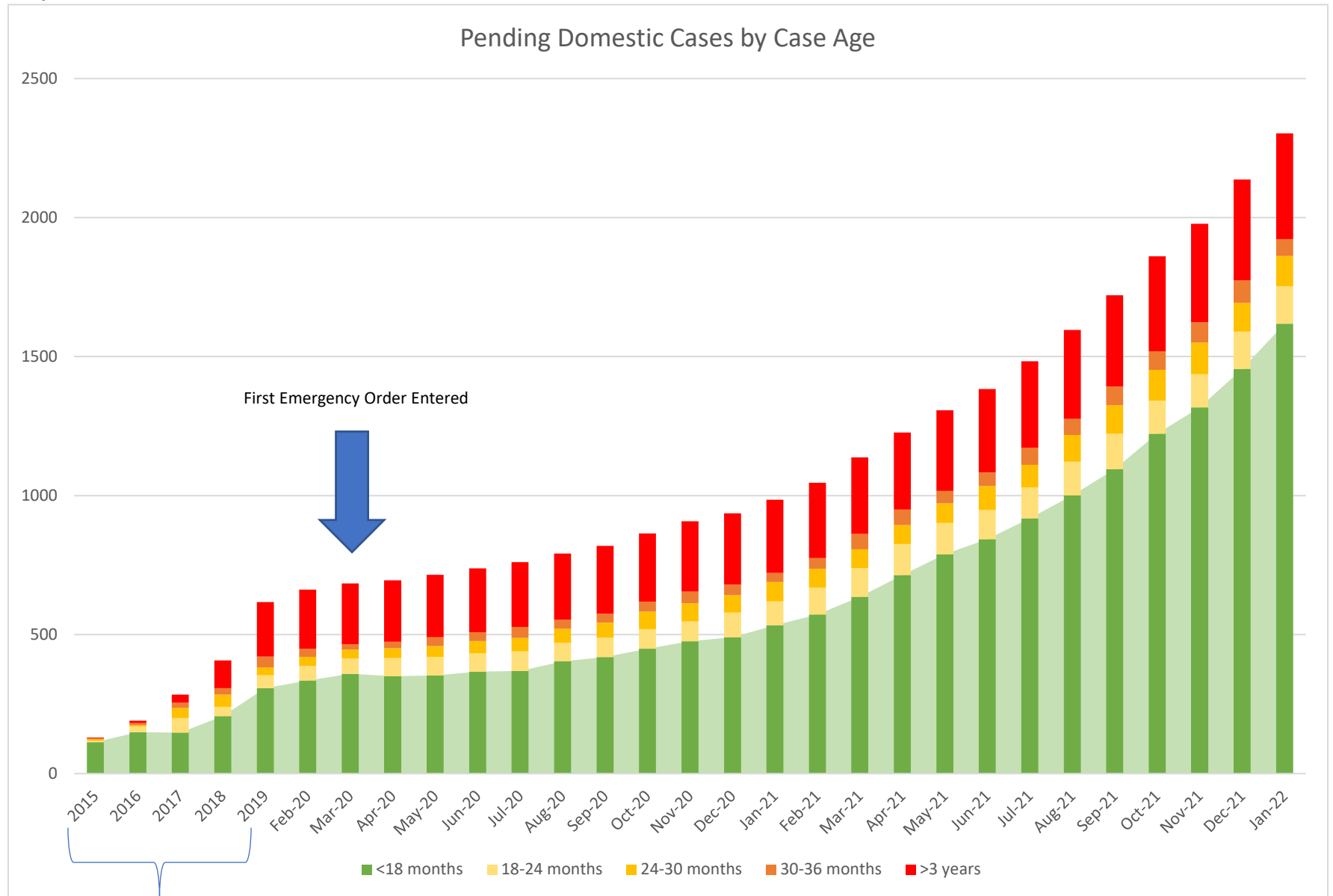
End of Year Calculations for 5 years prior to COVID

Graph C.2



End of Year Calculations for
5 years prior to COVID

Graph C.3



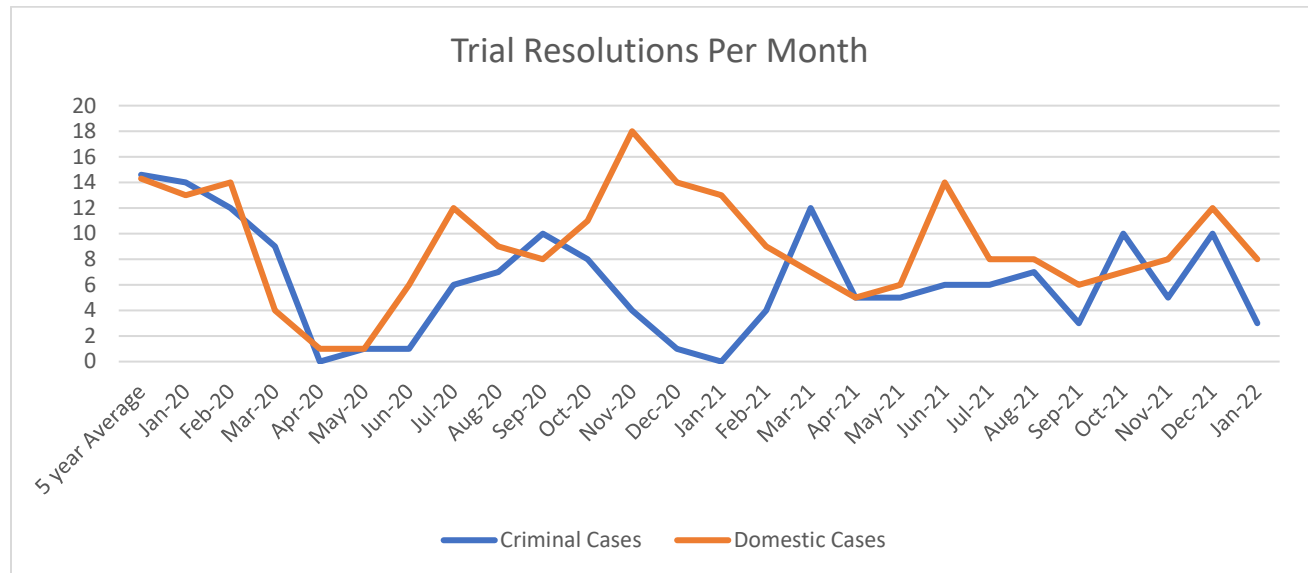
Resolution Metric

Superior Court has experienced a decrease in average monthly criminal trial resolutions for both criminal and domestic cases. These two case types make up over 75% of the court's trials.

- Criminal cases: **-63%**
- Domestic cases: **-41%**

Trials were made more complicated by COVID restrictions, decreasing the Court's capacity to maintain pre-COVID levels. Trial Resolutions also require more of the Court's time than all other resolution types and are therefore an important indicator of the Court's ability to resolve the backlog.

Graph R.1

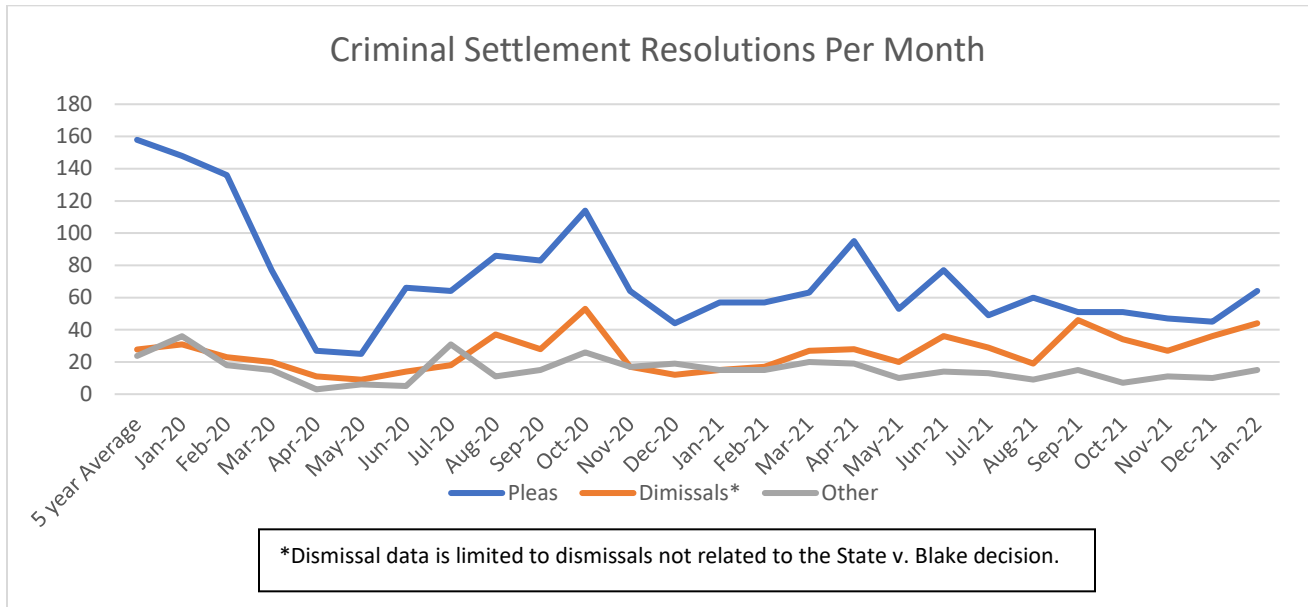


However, the Court cannot solely rely on trial resolutions as an indicator of clearing the backlog. This is because a change in settlement behavior within the legal community may decrease the need for trials to return to pre-COVID levels and increase settlement type resolutions past pre-COVID levels. Therefore, as the Court works toward clearing the backlog, it is important to view resolutions as a whole.

Superior Court also experienced a decrease in **average monthly settlement type resolutions** during COVID:

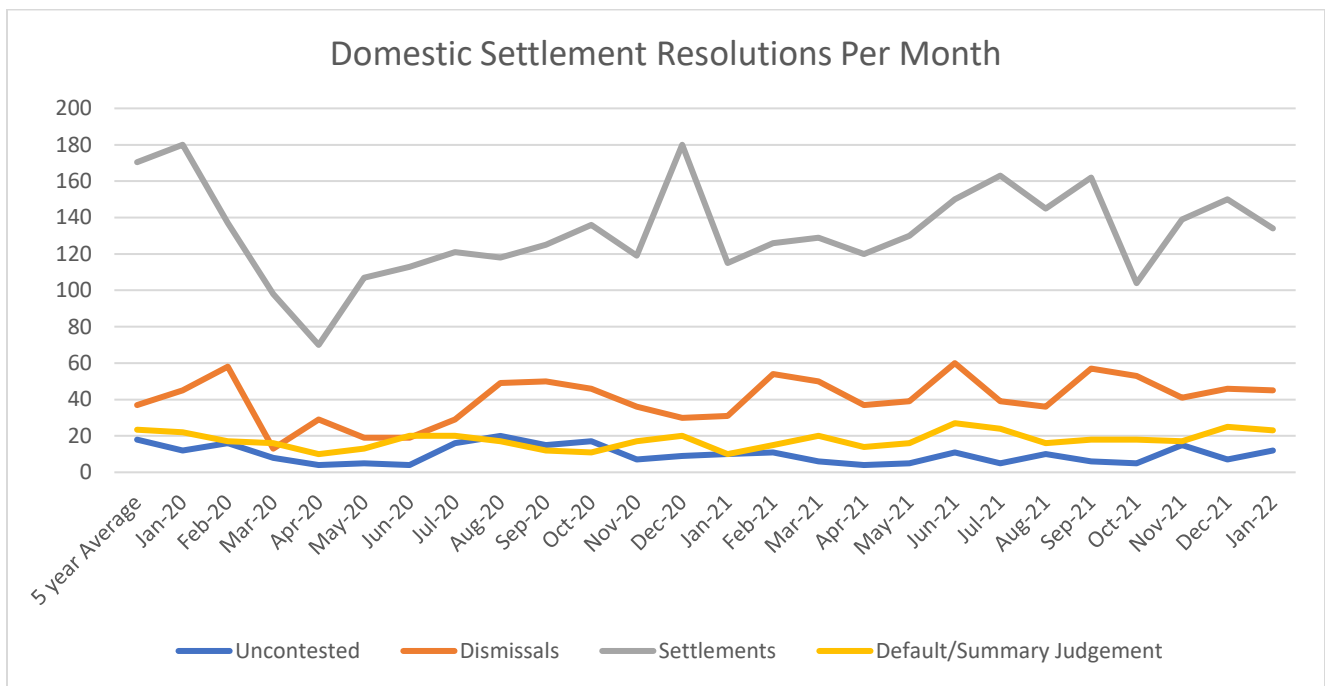
- Criminal Pleas: **-61%**
- Criminal Dismissals: **-9%**
- Criminal Other Resolutions (Deferred Prosecution, Change Venue, Lower Court Appeal, etc): **-34%**
- Domestic Uncontested/Court Closure: **-45%**
- Domestic Settlements: **-24.8%**
- Domestic Defaults/Summary Judgments: **-27%**
- Domestic Dismissals: **+6%**
 - Note: The increase in monthly dismissals is largely due to administrative dismissals for failure to complete the steps required to move the case forward.

Graph R.2



Criminal case filings have decreased by **44.7%**. However, the Court understands that the Prosecutor’s Office has experienced a large increase in their pending felony charge referrals and we expect to see a marked increase in criminal filings that will impact court operations.

Graph R.3



Domestic case filings have decreased by **18.9%**. However, this decrease is significantly smaller than the decrease in resolutions for this case type, indicating a significant growth of the court’s pending cases as well as increased case age.

District Court Metrics

ARPA Funding Request Not Based on Backlog: District Court did not request ARPA funding based on a projected backlog. Rather, District Court requested funding to compensate for the additional work and time challenges created by changing the manner in which we conducted business as a result of the pandemic, particularly transitioning to virtual hearings. A recent National Center for State Courts exploratory study of Texas courts found that remote proceedings take about a third longer than in-person hearings largely due to technology-related issues and lack of preparation by participants. The study also found that remote proceedings take longer because they increase access to justice, as litigants can more easily attend and participate in hearings. The 12-month study analyzed both 1.25 million minutes of judicial data and focus group feedback from judges and court leaders in eight counties across Texas.

District Court has, in actuality, done a very good job of keeping up with its caseloads despite the additional time and work needed to provide quality virtual hearings. However, as virtual hearings continue, so does the need to compensate for the additional time and effort required by judicial officers and staff, and for resources and tools needed to adjust to the new way of doing business.

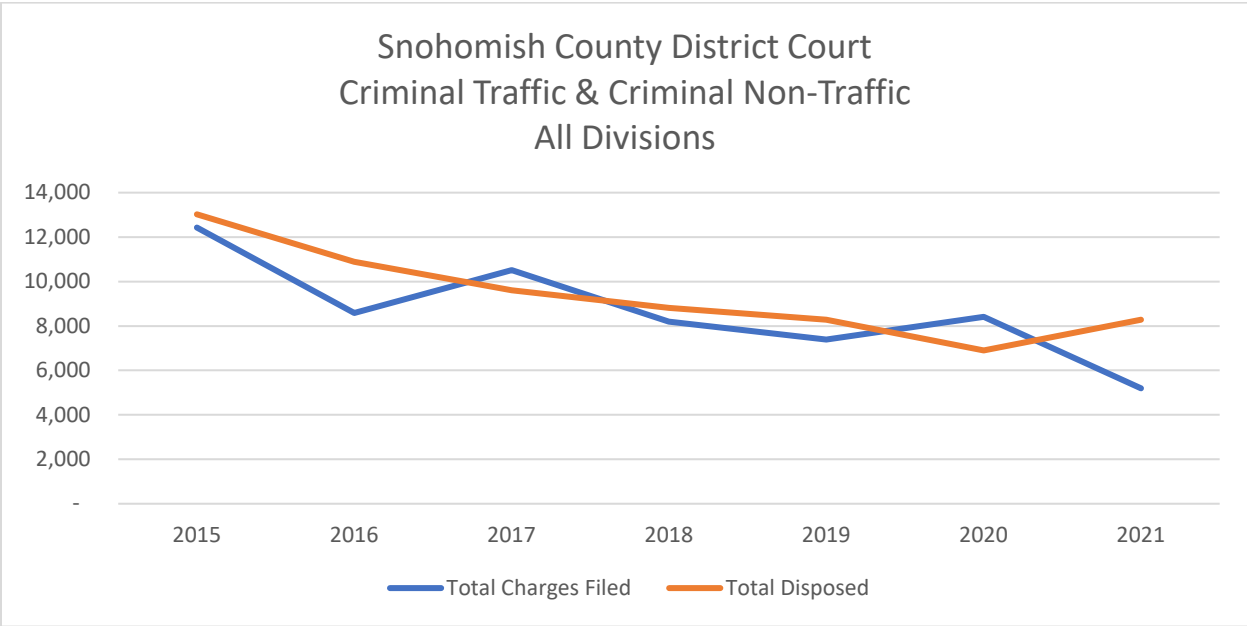
Data Limitations: Per the budget note, District Court has made a sincere effort to pull and analyze data to determine whether there is a backlog in District Court. The only data available to District Court is from an antiquated 1980's case management system, the state-wide Judicial Information System (JIS). JIS is scheduled to be replaced by Odyssey in 2024. In the meantime, we are constrained by the available data in JIS. We are not providing case age data for currently *open* cases due to data limitations. The most reliable case age data is for our criminal cases that have reached disposition (resolution). Our two metrics focus on the filing and disposition rates of criminal cases, and the case age of criminal cases that have reached disposition.

Metric No. 1: Criminal Filing Statistics Compared to Criminal Disposition Statistics, While Considering the Cases Awaiting Review and Filing at the Prosecutor's Office.

The Prosecuting Attorney's Office shared statistics indicating that in February 2020, it had nearly 4,000 District Court criminal misdemeanor cases waiting to be reviewed and filed. According to the Prosecuting Attorney's Office, at some point that number dropped to approximately 900. But, by February 2022, the number had climbed back up and had reached 6,000. The total number of misdemeanor charges that were filed in District Court in 2020 and 2021 combined is 21,770, an average of 907 per month.

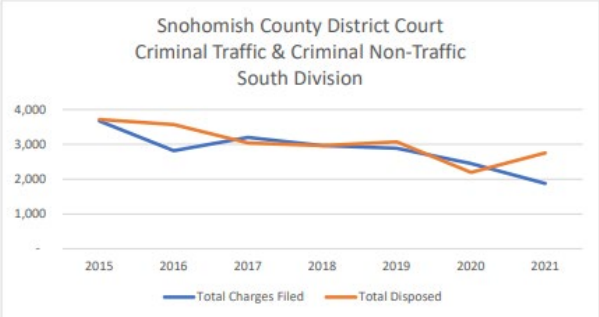
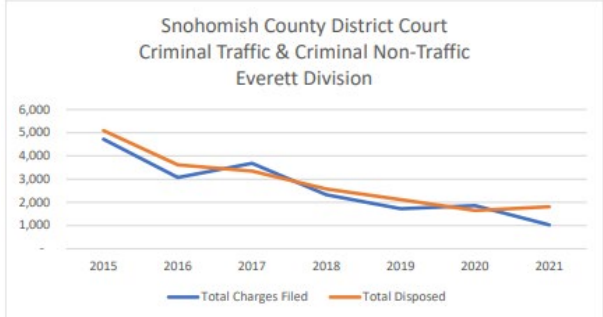
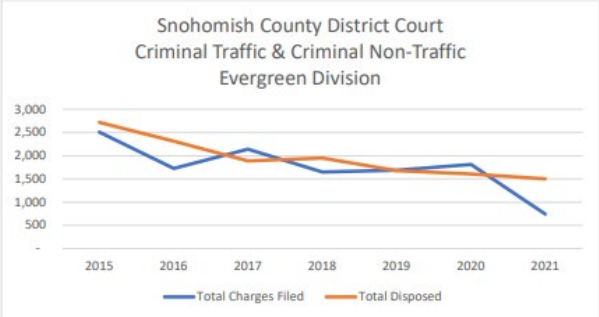
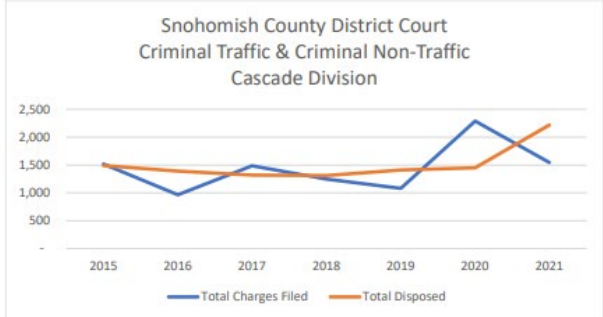
A comparison of filing rates and disposition rates was selected as our first metric in light of the Prosecuting Attorney's Office current backlog of 6,000 criminal misdemeanor cases awaiting review and filing. We will need to carefully monitor filings as compared to dispositions and remain prepared for a possible deluge of cases as the Prosecutor's backlog is resolved.

The graph below shows District Court criminal misdemeanor charges filed from January 2015 through December 2021, as well as the number of criminal misdemeanor charges that reached disposition from January 2015 through December 2021. The blue line represents charges filed, while the orange line represents charges that reached disposition.



There is a clear gap in 2020 where there were more charges filed than reached disposition. Ideally, we want to see these two lines run parallel and close together. However, due to pandemic-related work slowdowns, initial lack of technology to conduct virtual hearings, an inability to conduct jury trials, and other Covid-19 challenges of 2020, dispositions fell below filings. In 2021, there is a clear reversal showing more dispositions than filings, which is evidence of the tools, resources and adaptations that were applied to find new ways of managing caseloads and resolving cases, and much hard work from our judicial officers and staff.

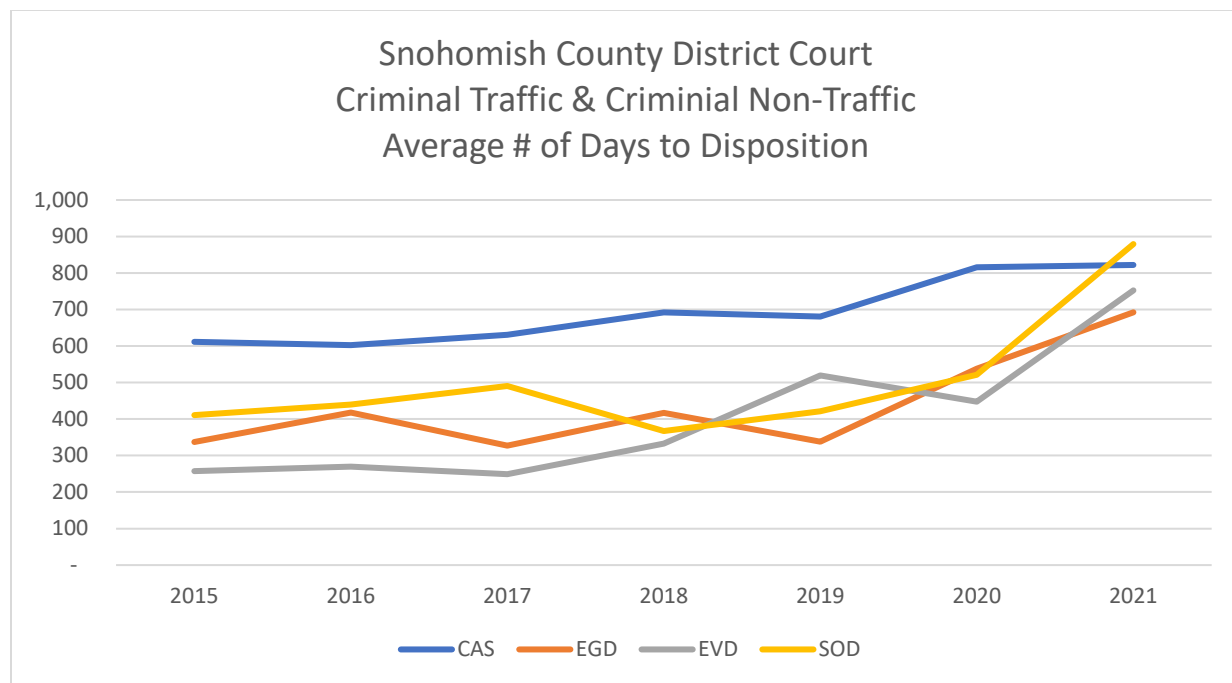
We looked at each of our four courts and determined that this trend applied across all four divisions. The following graphs show the criminal charges filed and the charges that reached disposition in each division during the same time periods as shown above.



The same pattern appears in each division: a gap in 2020 where more charges were filed than reached disposition, but a clear reversal in 2021 showing more charges reaching disposition than were filed. Note that in 2020, the Cascade Division began receiving cases from the City of Arlington, further increasing the gap.

Metric No. 2: Case Age from Filing to Disposition in Criminal Misdemeanor Cases.

Given the clear gaps between filings and dispositions in 2020 and 2021, District Court researched the “case age to disposition” in criminal cases from 2015 through 2021. The graph below shows the average number of days from case filing to disposition (resolution) for each of our four divisions from 2015 through 2021.



For all divisions except Everett, the case age of cases that resolved rose dramatically in 2020 for criminal misdemeanor cases. The average age for cases closing in 2019 versus 2020 in the Cascade Division went from 681 to 816. At the South Division, the case age went from 421 to 521 between 2019 and 2020, and at the Evergreen Division the case age went from 338 to 538 from 2019 to 2020. The increase in case age is a direct impact of COVID-19: motion hearings were delayed, jury trials were stopped and started multiple times, and virtual hearings required more staff and judicial time and effort, slowing the process.

Further, the graph shows that for all divisions, the average case age at disposition grew even older in 2021. In Everett, the average case age at disposition went from 538 to 692 from January 1 through December 31, 2021, at South the case age went from 521 to 879, at Cascade the case age grew from 816 to 822 days, and at Evergreen the average case age at disposition on January 1 was 538, but grew to 692 by December 31, more than doubling the average case age of 338 on January 1, 2019, before the pandemic. There is no question that these criminal cases grew older and older due to an inability to process cases in a timely manner and an inability to get them to jury trial, due to the pandemic.

After pausing jury trials multiple times since March 2020, District Court again resumed jury trials during the week of February 14, 2022. District Court is committed to remaining open as it has been throughout the pandemic, to continuing to be flexible, and to making adjustments as necessary to best serve the public. We look forward to presenting our progress and performance on the metrics set forth above at our annual budget presentation in the fall of 2022.

Conclusion

When reviewing the partners' metrics together, the County can see that the impact of the COVID-19 pandemic is being felt across the system – from delayed referral review and filings to the time it takes to bring a case to disposition. The ultimate goal of the partners is to work collaboratively to reduce the delays and increase case efficiencies. The Council's appropriation of federal pandemic relief funds are part of the solution to the backlogs – by increasing the resources and personnel hours that can be dedicated to the existing backlogs.