

JULY 18, 2022

MEMORANDUM

TO: Senator Joseph Cervantes, Co-Chair, Courts, Corrections and Justice Committee

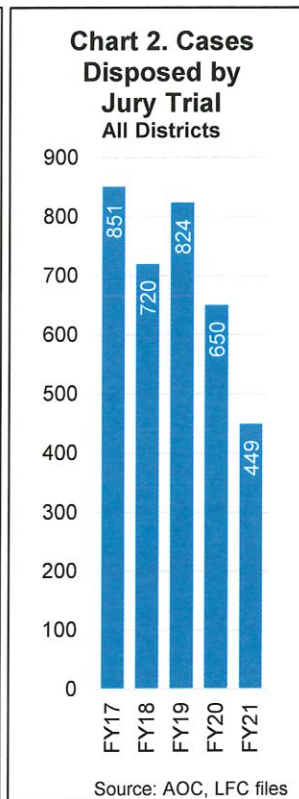
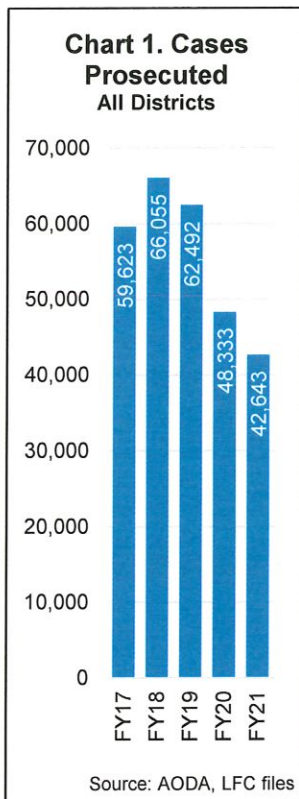
FROM: David C. Saavedra, Fiscal Analyst, Legislative Finance Committee
Ellen Rabin, Senior Fiscal Analyst, Legislative Finance Committee

CC: Representative Patricia Lundstrom, Chairwoman; and Members LFC
Representative Gail Chasey, Co-Chair; and Members CCJC

THRU: David Abbey, Director, Legislative Finance Committee
Jon Courtney, Deputy Director, Legislative Finance Committee

RE: Court Productivity

This memo was drafted by LFC staff in response to a request from Senator Cervantes, Co-Chair of the Courts, Corrections and Justice Committee. The request was concerning the effectiveness and timeliness of courts to assess court productivity in New Mexico. Overall, data suggest that workload has shrunk for judicial partners—cases and trials have decreased, fewer opinions have been issued, time to disposition has increased, all while crime remains high. The metrics discussed in this memo provide an overview of the current posture of New Mexico’s judicial branch of government and highlight areas that the Legislature can support to ensure that courts provide timely justice for New Mexicans.

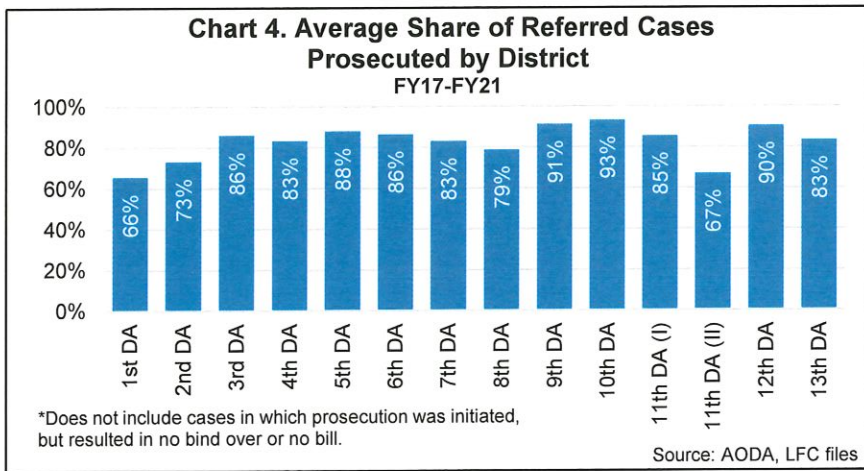
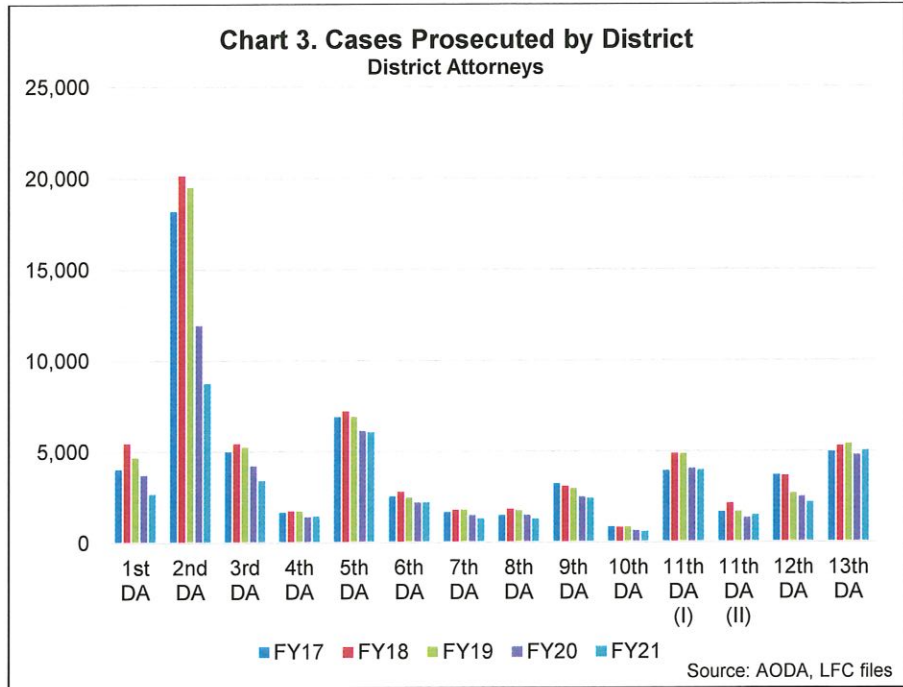


Data collected in response to the request show that the number of cases prosecuted by district attorneys in all New Mexico judicial districts fell from 59.6 thousand in FY17 to 42.6 thousand in FY21, a 29 percent decrease in cases prosecuted in all judicial districts. Each district experienced a double digit decrease in the percentage of cases prosecuted except for the 11th Division I (San Juan) and the 13th (Cibola and Valencia) judicial districts. The 2nd Judicial District (Bernalillo) experienced the highest decrease at 52 percent, dropping from 18.2 thousand cases prosecuted in FY17 to 8.7 thousand in FY21.

Similarly, cases disposed by jury trial decreased from a total of 851 in FY17 to 449 in FY21, a 47 percent decrease. The largest decrease, 64 percent, was in the 2nd Judicial District (Bernalillo). Not all districts experienced decreases in the number of cases disposed by jury trial—the number in the 4th Judicial District (Mora, San Miguel, and Guadalupe) remained flat, and the 9th (Curry and Roosevelt) and 13th (Cibola and Valencia) judicial districts experienced a double-digit percent increase.

District Attorney	Percent Change (FY17-FY21)
2nd	-52%
12th	-41%
1st	-34%
3rd	-32%
10th	-31%
9th	-25%
7th	-21%
8th	-14%
4th	-13%
6th	-13%
5th	-12%
11th (II)	-11%
11th (I)	1%
13th	1%
Grand Total	-28%

Source: AODA, LFC files



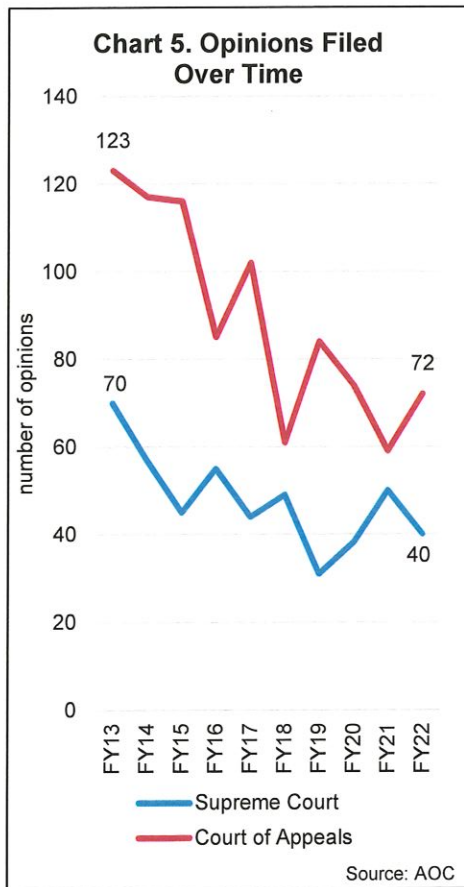
Workload across districts shrunk over the last several fiscal years. On average, each judicial district attorney prosecutes over 65 percent of cases that are referred (10 of 14 within the 80-90 percent range). The 1st, 2nd, 8th, and 11th, Division II, judicial districts prosecute, on average, the fewest percentage of referred cases. The year-by-year and district-by-district data trend downward for the

share of referred cases prosecuted, in fact, in FY21 only 70 percent of all cases referred were prosecuted, the lowest percentage of referred cases prosecuted in the past eight years.

New performance measures adopted by the district attorneys for FY22 examine pretrial detention motions, referrals to alternative sentencing treatments, and other aspects of the agencies' work, but the district attorneys have not submitted outcomes for the measures in their quarterly reporting. This effectively prevents the Legislature from tracking criminal justice reform implementation.

Despite the decrease in cases and trials, the courts never closed their doors throughout the pandemic. All criminal and civil jury trials proceeded in person with safety measures in place consistent with prior protocols under Emergency Protocol No. 2(A) and (B) of Supreme Court Order No. 21-8500-015 (effective 6.28.21).

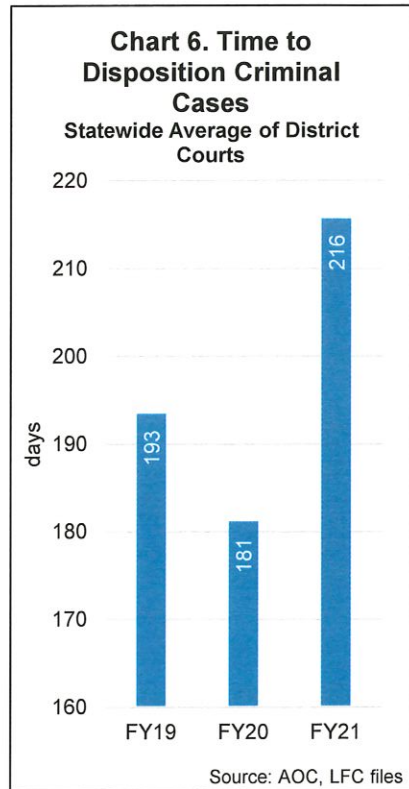
• Detention motion success rate: proportion of pretrial detention motions granted.
• Detention motion rate: proportion of defendants who are motioned for detention.
• Detention motions: number of detention motions made.
• Conviction rate: proportion of cases that result in conviction of those that make it to trial.
• Alternative sentencing treatment: proportion of cases which are identified as eligible for alternative sentencing treatment.
• Alternative sentencing treatment offers: proportion of cases which are diverted to alternative sentencing treatment.



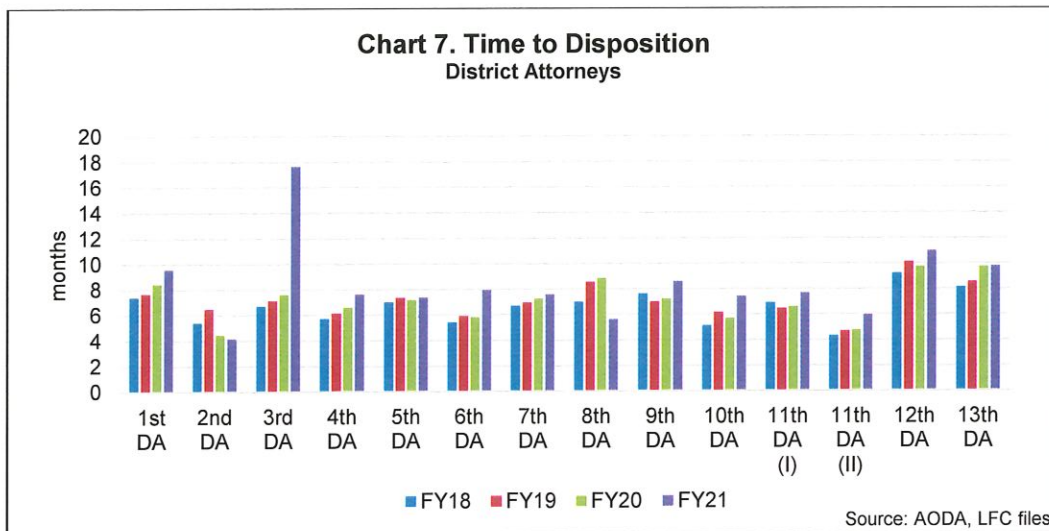
The number of opinions issued by both the Court of Appeals and Supreme Court has declined. Formal opinions filed by the Court of Appeals declined from 123 in FY13 to 72 in FY22, a 42 percent reduction. Similarly, the Supreme Court issued just 40 opinions in FY22, approximately half of what they issued ten years ago in FY13. The number of opinions filed is an important metric, as it measures the output of the courts and assigns a numerical value to decisions made. Additionally, the opinions serve as documentation of the judgment and reasoning.

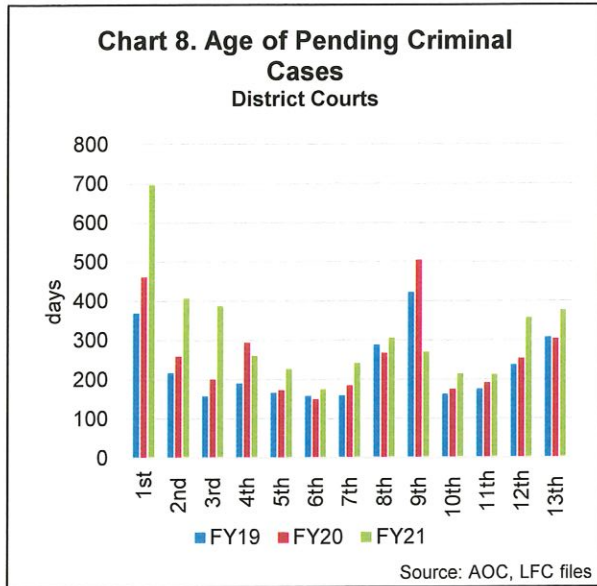
Criminal cases have slowed, with increases in time from case referral to disposition and percent of open cases. Previous LFC program evaluations note the importance of swiftness and certainty in deterring future crime. Metrics for time to disposition, age of cases, and the number of open cases provide a window to the speediness of the court system.

The district courts' time to disposition for criminal cases increased in most



courts except for the 2nd (Bernalillo), 8th (Taos, Colfax, and Union), and 13th (Cibola and Valencia) judicial districts over the past three years (FY19-FY21). As for civil cases, half of district courts have seen an increase in time to disposition while the other half have seen a decrease. District attorneys' time to disposition increased in all but the 2nd and 8th judicial districts over the past four years (FY18-FY21). The sharp increase for the 3rd (Dona Ana) Judicial District can be attributed to fewer attorneys due to vacancies within the district, which increases the caseload per attorney. The Court of Appeals has experienced a decrease in the time to disposition for both criminal and civil cases from FY20 to FY21.

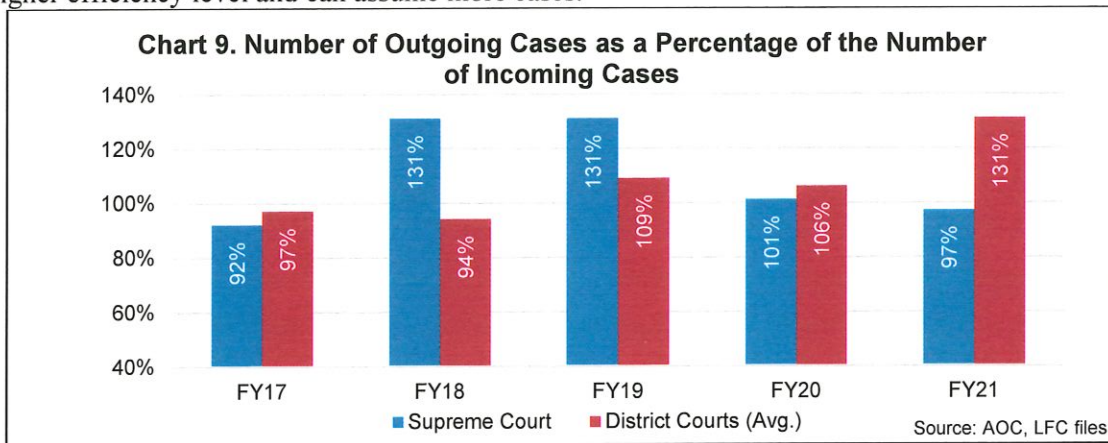




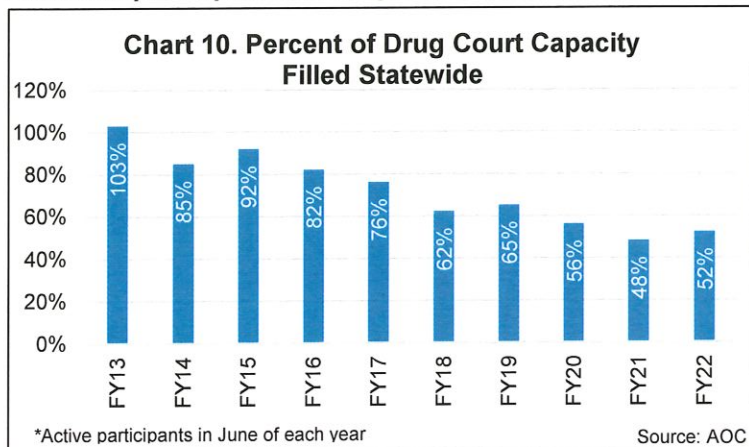
Throughout the judiciary, the age of pending criminal cases has increased. All but one district court [9th (Curry and Roosevelt)] reported increases in the age of pending criminal cases. Some of these increases are significant, such as within the 2nd Judicial District, the state’s largest district. The 2nd Judicial District Court reported criminal cases almost doubled in age from 217 days to 407 days between FY19 and FY21; similar increases are observed in the 1st (Rio Arriba, Los Alamos, and Santa Fe) and 3rd (Dona Ana) judicial districts. In contrast, the Court of Appeals experienced a decrease in the age of pending cases for both criminal and civil cases from FY20 to FY21.

The ratio of cases adjudicated and closed versus new cases opened remains high across the judiciary. The district courts report increases in the

number of cases adjudicated throughout the time period (FY17-FY21) with an overall average of 107 percent. In FY21, every district court reported above 100 percent for their percentage of cases adjudicated and closed versus new cases opened, rounding out FY21 with a 131 percent average collectively. The Supreme Court averaged 101 percent for a five-year period, from FY17 through FY21. As illustrated by Chart 9 below, district courts have increased their number of cases fully adjudicated versus new cases opened. As this metric increases, more cases are being closed than opened, implying the courts are operating at a higher efficiency level and can assume more cases.

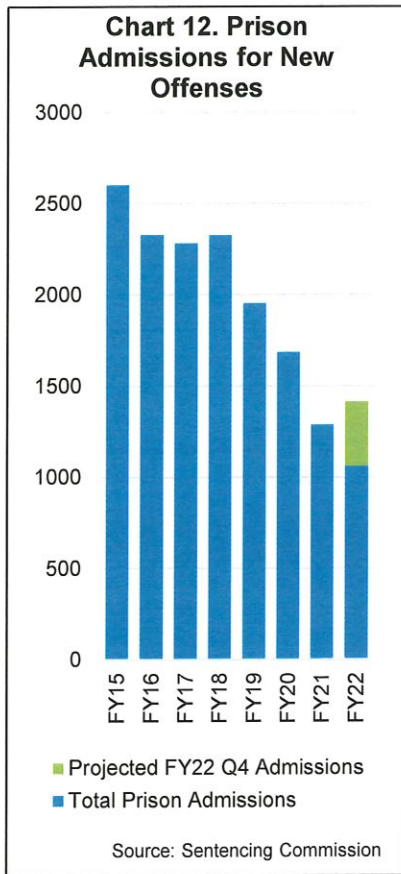
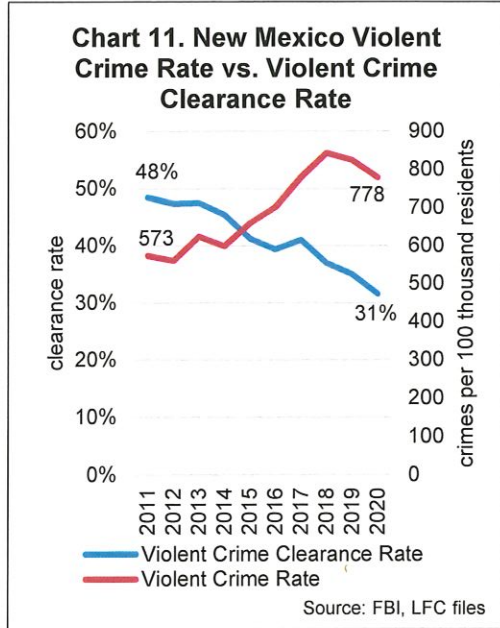


Statewide participation in drug courts has declined, with courts at less than half of capacity in FY21.



Previous LFC reports have identified drug courts as being potentially effective at reducing future crime, and cost benefit analysis suggests a \$3 to \$1 return on investment in the program. However, drug courts have seen a shift from oversubscription in FY13 to having about half of their capacity filled over the past 10 years. As of June 10, 2022, the Administrative Office of the Courts has reported an excess capacity of 48 percent for FY22.

Prison admissions from violent crime convictions in district courts have fallen in almost every district while violent crime has remained relatively high. Arrests are not the solution to all crime, but swiftness and certainty of punishment are a significant deterrent to future crime. Although violent crime saw a recent downward trend through 2020, levels remain relatively high and above national averages, and preliminary data from Albuquerque suggest crime increased in 2021. Violent crime clearance rates (crimes solved) have seen a downward trend from 2011 to 2020. Statewide in 2011, about 1 in 2 violent crimes were solved, whereas in 2020 about 1 in 3 violent crimes are solved. This upstream metric could potentially be contributing to the fact the state is seeing fewer violent crime convictions coming out of district court. In addition, prison admissions are on the decline; the 2nd Judicial District went from 968 prison admissions in FY15 to 248 in FY21, a 74 percent decline. It should be noted that the 2nd District Attorney’s Office does refer some cases to federal district court with 50 cases being the average of these referrals over the last four years. All other districts (excluding the 2nd) reported a 36 percent decline in prison admissions over the same period.



Judicial branch agencies saw budget increases for FY23. Judicial branch agencies, including the Public Defender Department (PDD), district attorneys’ offices, and district, metropolitan, and statewide courts, prioritized compensation increases to improve recruitment and retention in their FY23 operating budget requests, which the Legislature supported. Including the statewide employee compensation package, the General Appropriation Act (GAA) provides a 9.5 percent recurring budget increase for PDD, which includes \$200 thousand for targeted compensation increases and \$415 thousand to increase pay for rural contract attorneys. The district attorneys will receive funding to provide targeted increases for all attorneys, including 3.5 percent for attorneys in urban areas and 6.5 percent for those in rural areas. These increases are not mandated and are in addition to the 7 percent statewide employee compensation package.

The governor vetoed Senate Bill 2, which would have provided a 33 percent pay increase to judges, reducing total funding for these increases from \$7.6 million to \$4.1 million and providing judges with 17 percent raises. SB2 also proposed to decouple magistrate judge salaries from the salaries of Supreme Court justices. Because SB2 was vetoed, the 17 percent increases included in the GAA also apply to magistrate judges, bringing their salaries to \$115 thousand.

Chapter 56 creates three new judgeships in the 2nd, 5th, and 13th judicial districts, and the GAA provides additional funding for the new judgeships in the 5th and 13th judicial districts. As resources for the

judiciary continue to grow, courts, district attorneys, and public defenders should concentrate on improving metrics on swiftness to ensure accountability, particularly for violent offenders.

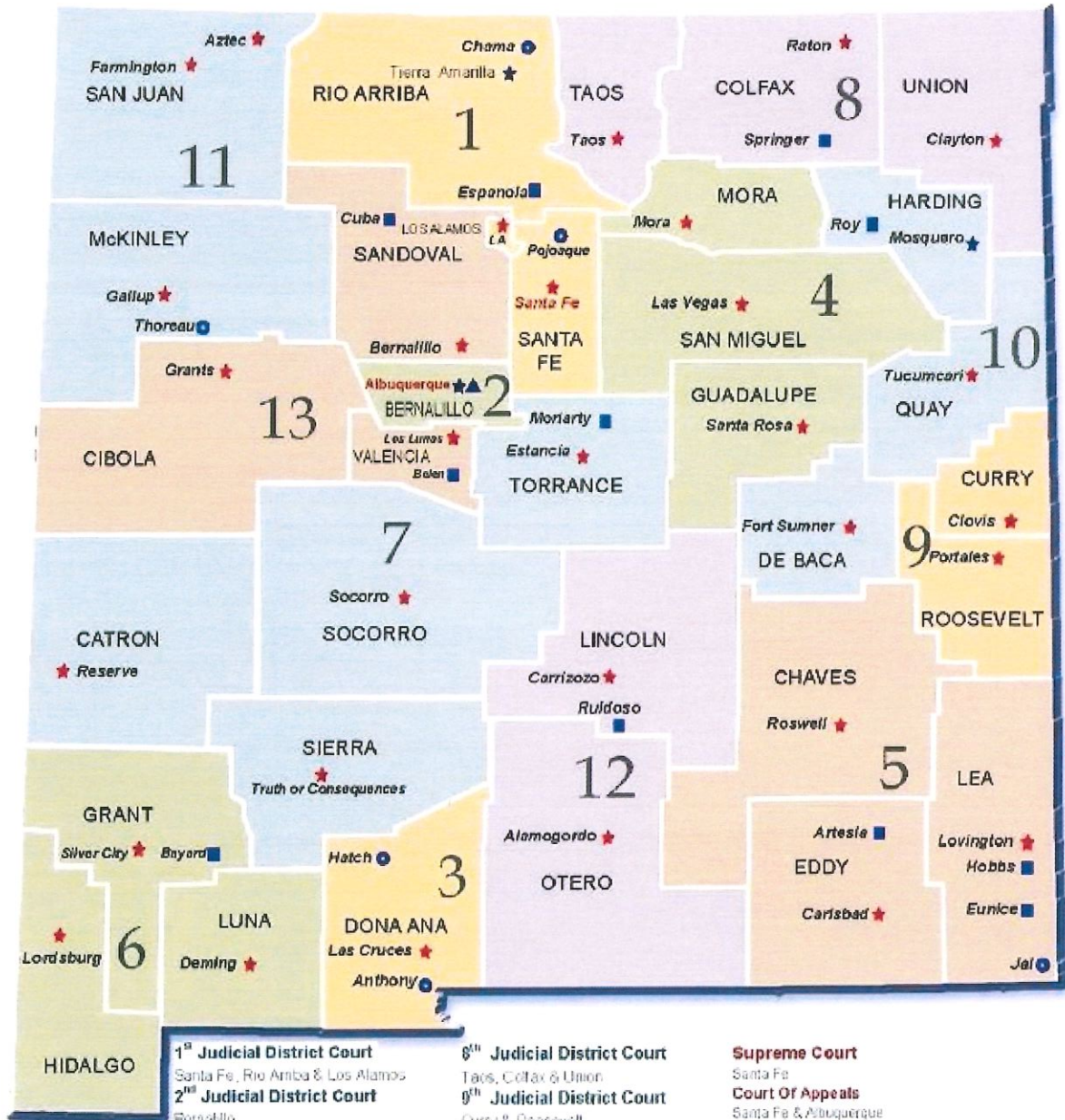
Appendices

- Appendix A. Map of New Mexico Judicial Districts
- Appendix B. Time to Disposition (District Attorneys)
- Appendix C. Time to Disposition for Civil Cases (District Courts)
- Appendix D. Time to Disposition for Criminal Cases (District Courts)
- Appendix E. Age of Pending Civil Cases (District Courts)
- Appendix F. Age of Pending Criminal Cases (District Courts)
- Appendix G. Number of Outgoing as a Percentage of the Number of Incoming Cases (District Courts)

Appendix

Appendix A. Map of New Mexico Judicial Districts

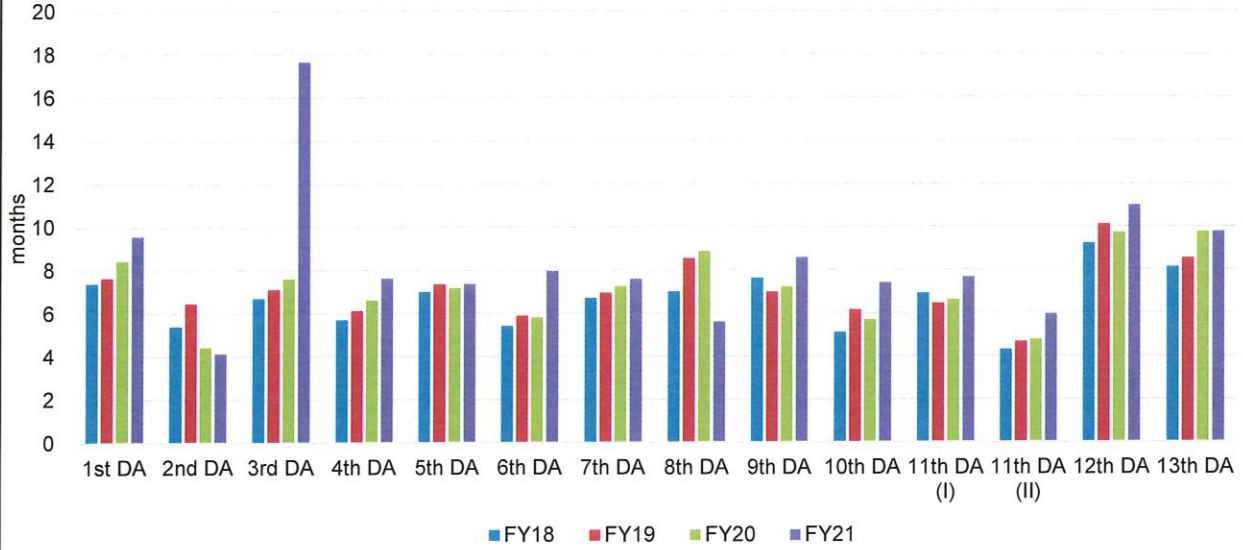
NEW MEXICO STATE COURTS



09/15/13 (B)

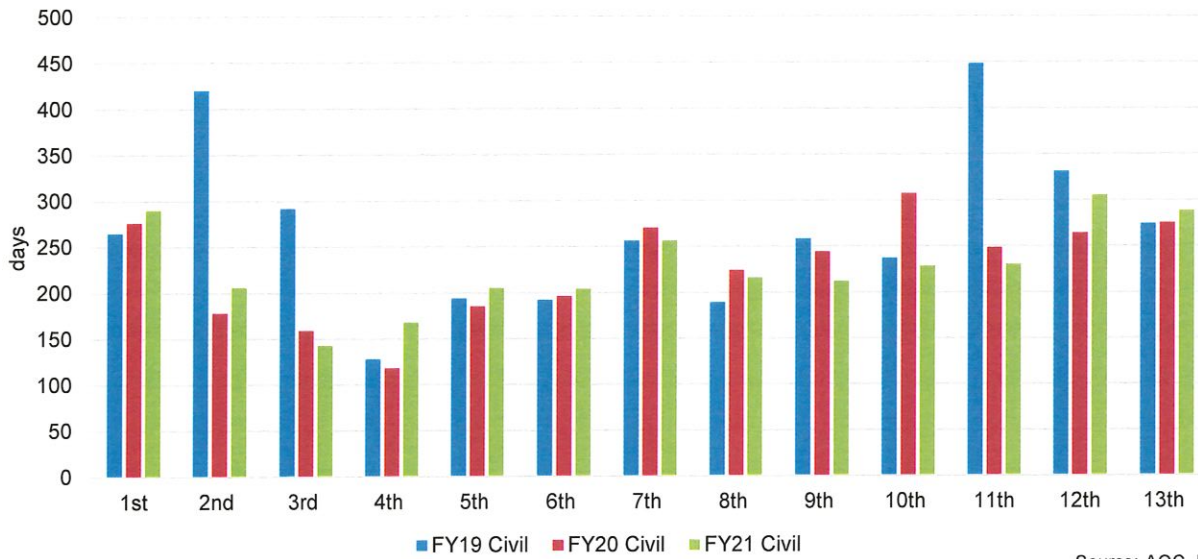
- ★ District & Magistrate Courts
- ★ District Courts
- ▲ Metropolitan Court
- Magistrate Full Courts
- ⊙ Magistrate Circuit Courts

**Appendix B. Time to Disposition
District Attorneys**



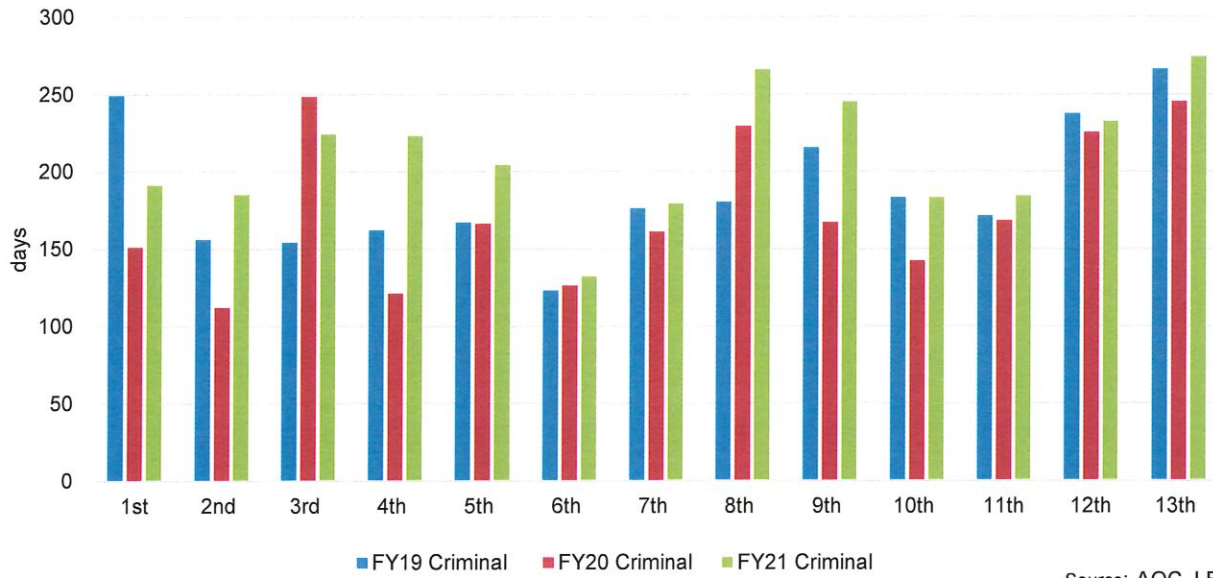
Source: AODA, LFC

**Appendix C. Time to Disposition for Civil Cases
District Courts**



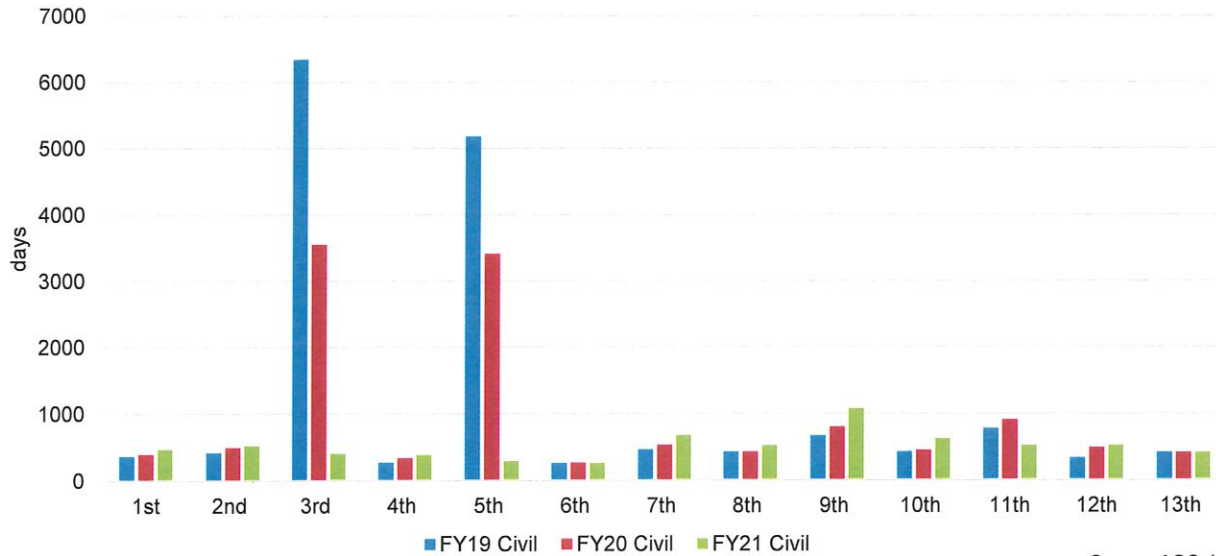
Source: AOC, LFC

Appendix D. Time to Disposition for Criminal Cases
District Courts



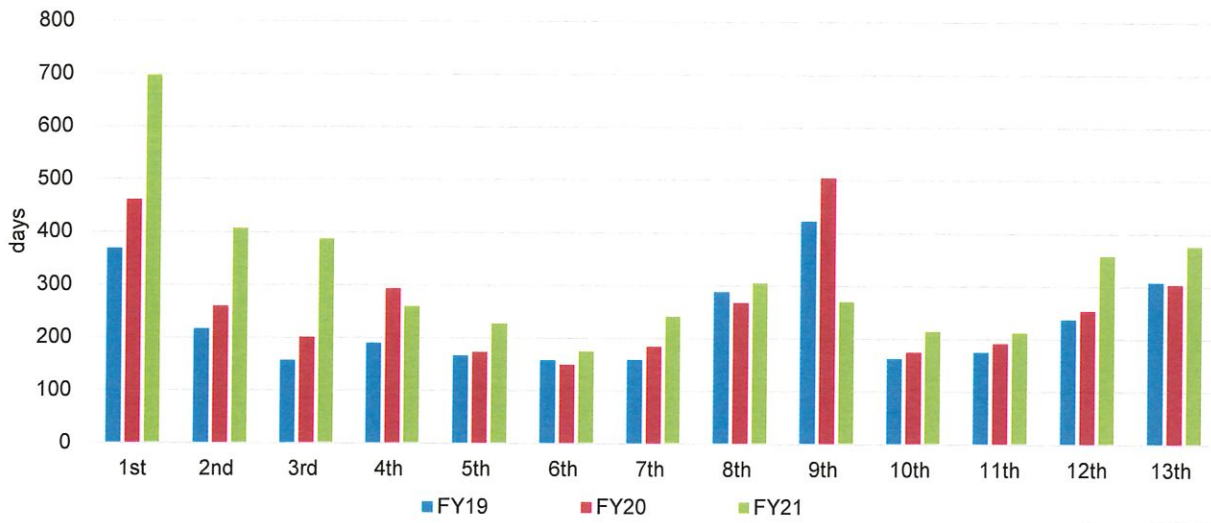
Source: AOC, LFC

Appendix E. Age of Pending Civil Cases
District Courts



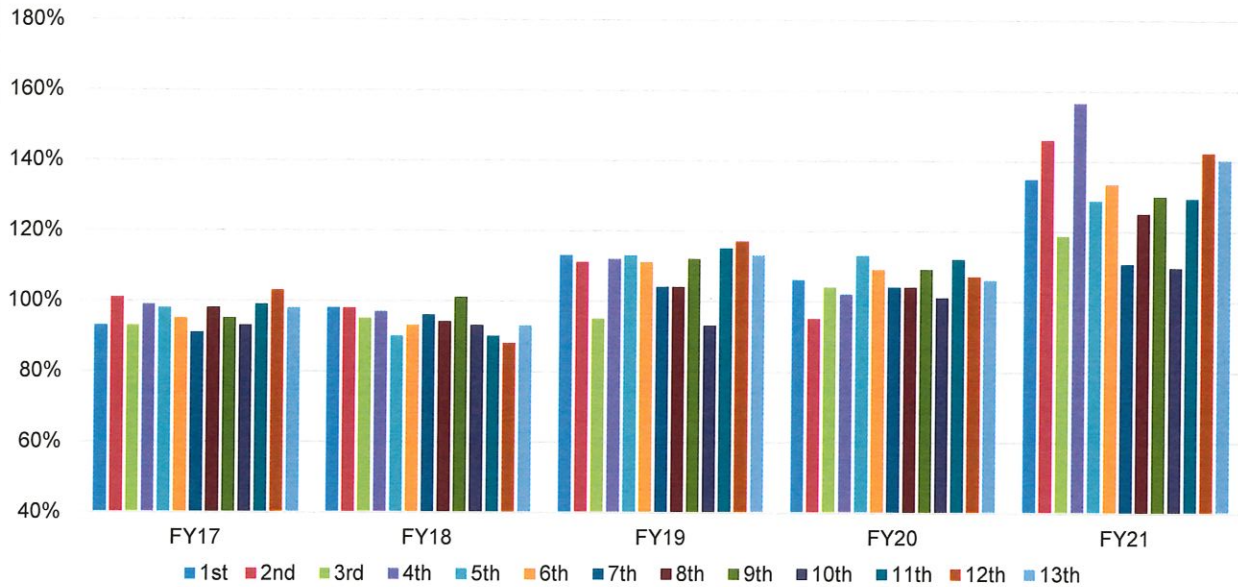
Source: AOC, LFC

Appendix F. Age of Pending Criminal Cases
District Courts



Source: AOC, LFC

Appendix G. Number of Outgoing Cases as a Percentage of the Number of Incoming Cases
District Courts



Source: AOC, LFC