

Trends: Close Up

April 2017

The Rise and Fall of State Court Caseloads

Since the Great Recession in 2008, caseloads in the state courts have been declining rapidly—16 percent between 2006 and 2015, a loss of about 16 million cases. Across all case categories—civil, criminal, juvenile, domestic relations, traffic—and across all states, this pattern is pervasive and persistent. While there is some variation due to demographics or policy and budget changes within states, the overall trend is clear. What is not known is why this is happening.

Some might argue that we are experiencing a course correction from a period of excess litigation. Others will cite budget reductions in government and economic pressures on those bringing cases (both businesses and individuals). Many would agree that the courts' traditional processes and limited use of

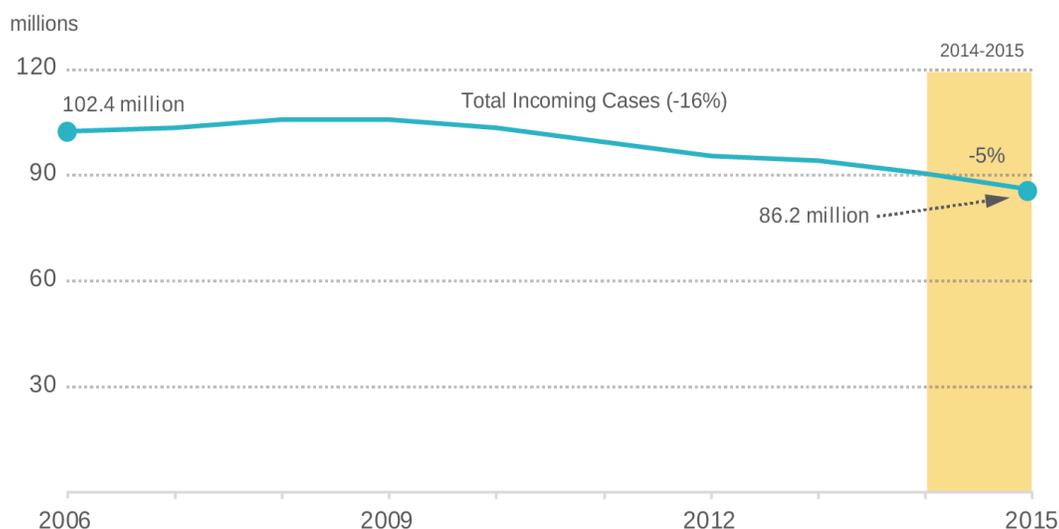
About the Series



These special reports are part of the National Center for State Courts' "Trends in the State Courts" series and serve as informative and timely updates for state court leaders. Any opinions expressed herein are those of the authors, not necessarily of the National Center for State Courts.

information technology and Web and mobile services have discouraged those seeking justice, thus removing courts as the venue of choice for dispute resolution. In addition to inconvenience, the complexity and cost of a traditional legal process make it frustrating for those seeking justice to find it. This edition of *Trends: Close Up* continues the conversation among the state courts and their partners—citizens, businesses, and justice system organizations—to develop a common understanding and appropriate response to this trend.

Incoming Caseloads, 2006-2015



Source: Court Statistics Project, *Examining the Work of State Courts* (Williamsburg, VA: National Center for State Courts, 2016).

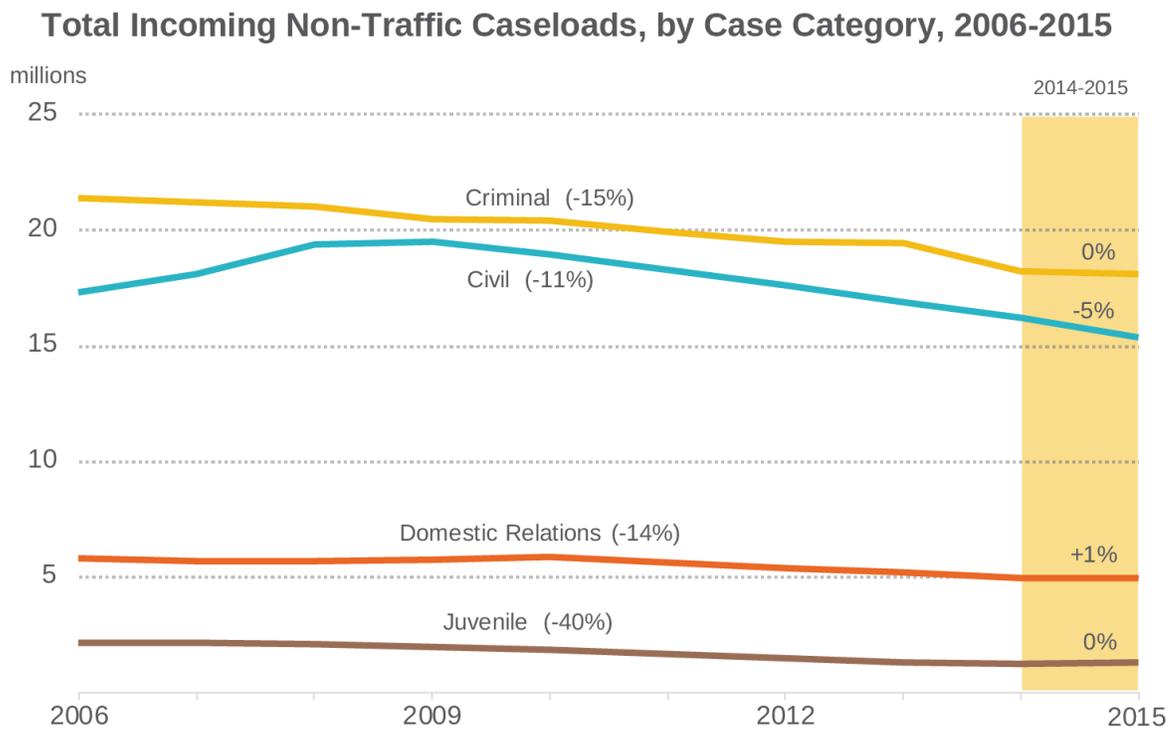
But before engaging in that discussion, it is useful to answer these two questions: Why does it matter? If courts are outliving their usefulness, should we care? We believe the answer to both questions is yes. Courts exist in our system of government for several critical reasons. First, it is through courts that those seeking justice can obtain it, regardless of wealth or power. Courts exist to ensure that asymmetries of power do not dictate the outcome of disputes. Second, in our common-law system, a public record of court decisions is essential for establishing and updating our legal system. When disputes are resolved in private venues, information is denied to the public and to those seeking to ensure appropriate regulation of social

and economic life. And third, the judiciary plays a key role in ensuring checks and balances on the power and actions of the executive and legislative branches.

An examination of case categories will shed some light on how we can begin to understand the forces reshaping our judicial system.

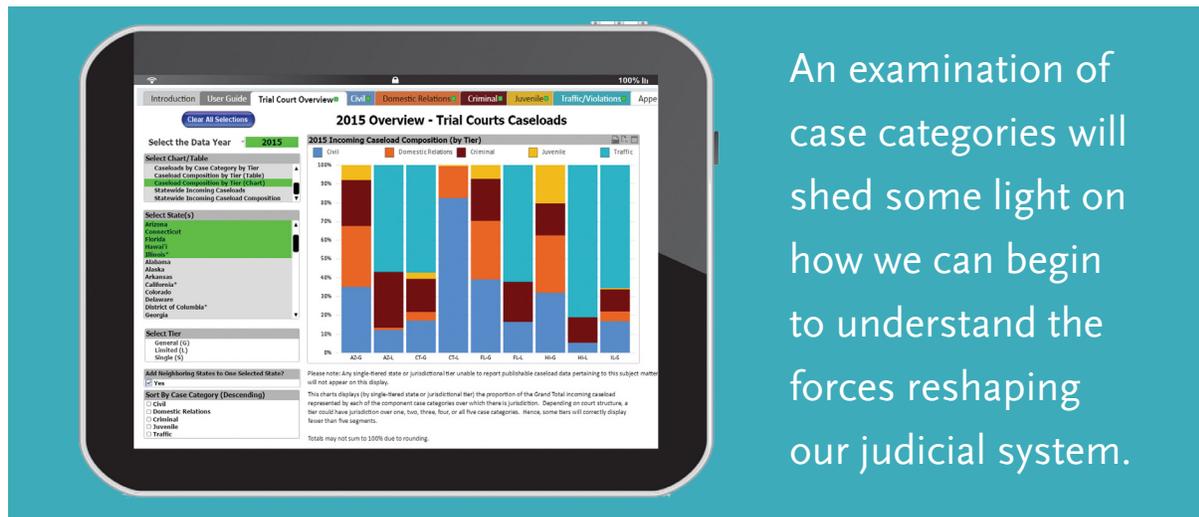
Domestic Relations Cases

Domestic relations cases—dissolution, divorce, custody, child support—have declined 14 percent from 2006 to 2015. People are marrying later in life and having fewer children, which in turn may be associated with a lower divorce rate and fewer custody and support disputes.¹



Source: Court Statistics Project, *Examining the Work of State Courts* (Williamsburg, VA: National Center for State Courts, 2016).

¹ See C. C. Miller, "The Divorce Surge Is Over," *New York Times* (December 2, 2014). While the notion of a 50 percent divorce rate has long been assumed as the way things are in the United States, in fact the divorce rate has been declining; the divorce rate is now 35 percent for those married in 1990s.



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Juvenile Cases

The sharpest decline in state court caseloads is the 40 percent decline in juvenile (delinquency and dependency) cases. The decline in juvenile delinquency cases alone from 2006 to 2015 (-49 percent) mirrors the decline in the juvenile arrest rate: Arrests for juvenile crimes have fallen 50 percent between 2005 and 2014.² Status offenses (e.g., truancy) dropped sharply (-40 percent) during this period, while dependency cases fell only 17 percent.³

Civil

Much has been written about the decline in civil caseloads, and many states have undertaken a series of reforms to improve access to civil justice. The Conference of Chief Justices launched the Civil Justice Improvements Committee to develop an empirical grasp on the civil landscape of our state courts.⁴ The landscape study found that contract cases comprised two-thirds of civil cases and that almost two-thirds of these cases were debt-collection or landlord/tenant cases. The decline in civil is attributed to cost, inconvenience, complexity, and delay.

Criminal

While it is true that budget cuts and reductions in law-enforcement and prosecution resources have cut the flow of incoming cases off at the source, the crime rate has been in a steady decline for decades. Since 1993, homicide is down 51 percent; forcible rape declined 35 percent; robbery dropped 56 percent; and aggravated assault decreased 46 percent. Property crimes have also dropped sharply.⁵

Traffic

Traffic/Violations cases account for over half of the total state court caseloads, and their 17 percent decline drives the overall trend. Here a variety of factors all beyond the influence (much less control) of the state courts are key. Young people are obtaining driver's licenses later (if at all); a Texas Judicial Council study showed the proportion of licensed drivers aged 16-18 years old was down over 20 percent since 1983.⁶

The biggest cultural change is the extent of distracted driving due to cell-phone use. However, the data to empirically determine the

2 Office of Juvenile Justice and Delinquency Prevention, "Law Enforcement and Juvenile Crime," *Statistical Briefing Book* (December 13, 2015); online at <https://www.ojjdp.gov/ojstatbb/crime/qa05101.asp?qaDate=2014>.

3 Data from 20 states, 2005-2016, from Court Statistics Project, National Center for State Courts.

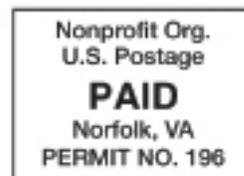
4 P. Hannaford-Agor, S. Graves, and S. S. Miller, *The Landscape of Civil Litigation in State Courts* (Williamsburg, VA: National Center for State Courts, 2015).

5 J. Wolfers, "Perceptions Haven't Caught Up to Decline in Crime," *New York Times* (September 16, 2014).

6 See the factors examined in a comprehensive report published by the Texas Judicial Council, "Report on Statistical Trends: Cases Related to Motor Vehicles," June 3, 2016; online at <http://www.txcourts.gov/media/1382651/caseload-trends-cases-related-to-motor-vehicles.pdf>.



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role of distracted driving is quite poor. A National Safety Council study audited 180 fatal crashes in which evidence indicated cell-phone use by the driver. Of the crashes in 2011 alone, only 52 percent of these crashes were coded as involving cell-phone use. New York state reported only one case in this year, but this is probably due to underreporting.⁷

Conclusion

Making the best use of available resources and deploying them in the public interest requires

that courts ask: What cases belong in court? How might we adjudicate those cases effectively and efficiently, in the eyes of those seeking justice? Courts need to sort out what factors they can influence (e.g., delay and costs that discourage civil litigation) from those they cannot (the divorce rate) and focus on improving the adjudication of cases that belong in court. Continued improvement in caseload reporting makes greater insight into caseload trends possible.

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For more data: www.courtstatistics.org

⁷ National Council of State Legislatures, *Traffic Safety Trends: State Legislative Action 2014* (February 2015); online at <https://www.ncsl.org/Documents/transportation/2014TrafficSafetyTrends.pdf>