

Case Tracking in North Carolina: Current Issues and Possible Areas of Reform

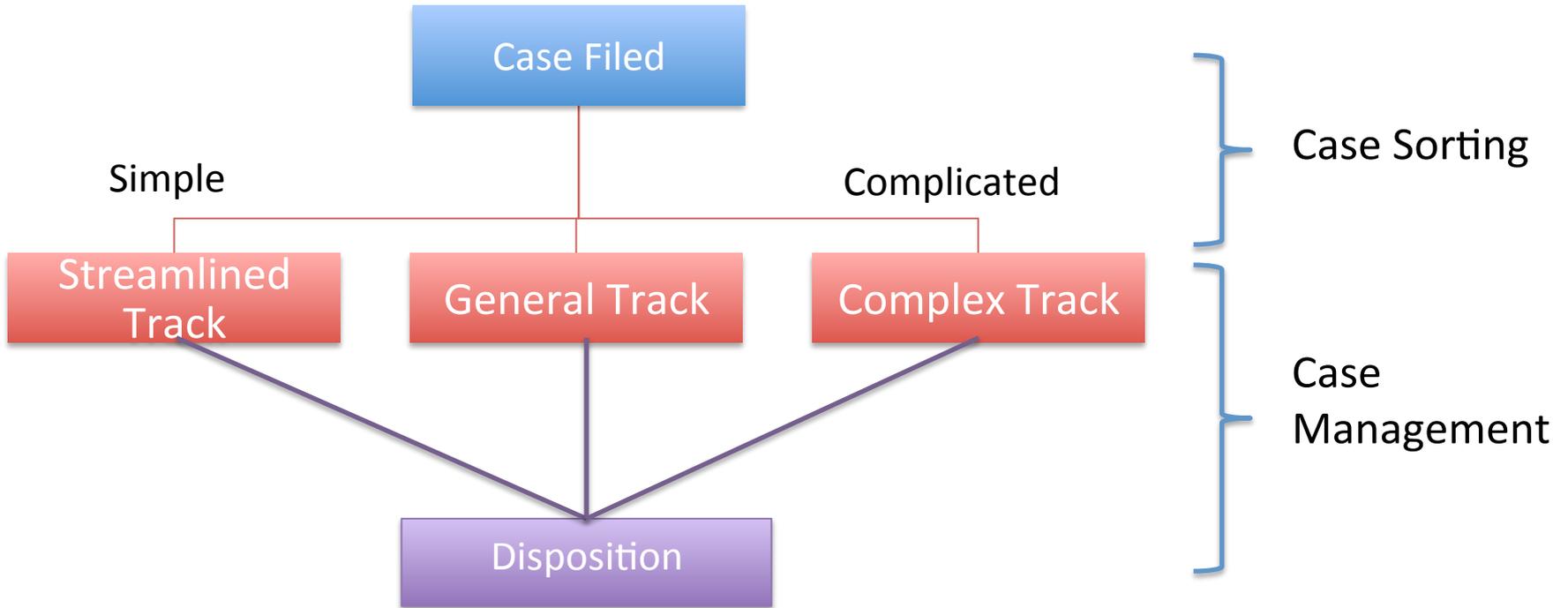
N.C. Commission on the Administration of Law & Justice

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“Case Tracking”



Overview of the Status Quo

- Sorting based on
 - Amount in controversy (\$\$)
 - Case type (area of law involved)

Court	Jurisdiction
Magistrates	<ul style="list-style-type: none"> • Small claims (generally less than \$10,000) • Landlord eviction • Recovery of lost property
District Courts	<ul style="list-style-type: none"> • Claims of \$25,000 or less • Domestic relations • Mental health commitments
<i>Note: Family Courts now operate in 13 districts</i>	

NORTH CAROLINA DISTRICT COURT Caseload Inventory and Median Age of Cases

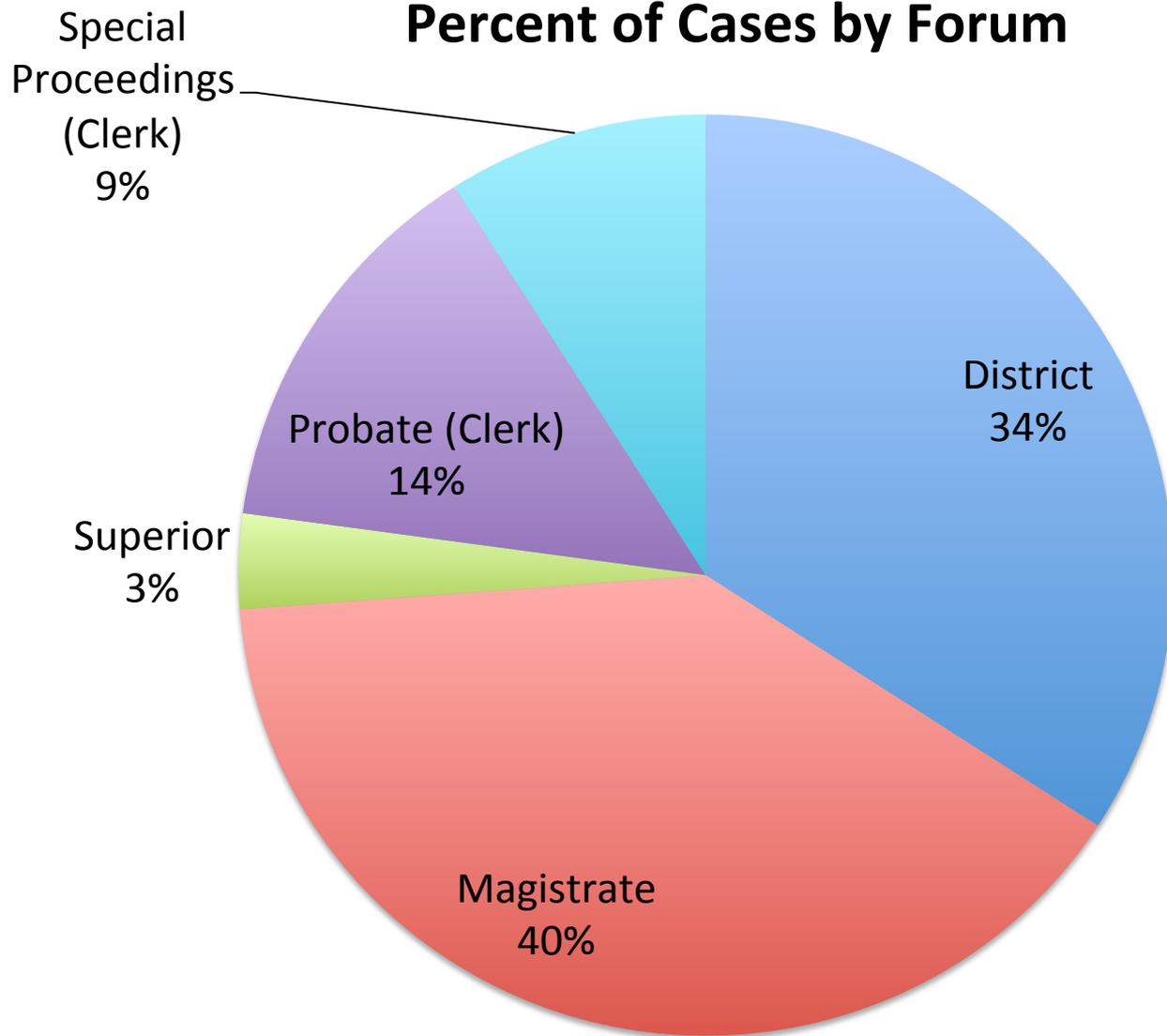
Case type	Filed	Disposed	End pending (6/30/15)	Median ages (in days)	
				Disposed cases	Pending cases
CIVIL CASES	183,938	183,630	91,897	63	222
URESAs/UIFSAs	321	367	311	121	788
Child support (IV-D)	31,085	32,242	22,461	97	571
Child support (non IV-D)	4,133	4,250	5,175	237	398
General civil	51,565	52,584	27,152	92	137
Magistrate appeal/transfer	3,932	3,875	1,849	70	161
Other domestic relations	92,902	90,312	34,949	46	167
CIVIL MAGISTRATE (small claims)	212,533	213,218	14,395	13	12

Court	Jurisdiction
Clerks of Superior Court	<ul style="list-style-type: none"> • Probate and estates • Special proceedings
Superior Courts	<ul style="list-style-type: none"> • Claims of over \$25,000 • Statutory and constitutional claims • Decisions of administrative agencies
Business Court	<ul style="list-style-type: none"> • Complex and significant issues of corporate and commercial law

NORTH CAROLINA SUPERIOR COURT Caseload Inventory and Median Age of Cases

Case type	Filed	Disposed	End pending (6/30/15)	Median ages (in days)*	
				Disposed cases	Pending cases
CIVIL CASES	17,265	17,956	14,752	218	228
Contract	3,302	3,538	2,598	171	222
Collect on accounts	781	866	468	128	186
Motor vehicle negligence	4,013	4,033	3,559	298	181
Other negligence	2,068	2,289	2,384	333	266
Real property	1,293	1,527	1,827	340	382
Administrative appeal	237	251	322	141	536
Other	5,571	5,452	3,594	119	218
ESTATES	70,924	74,221	70,847	–	722
SPECIAL PROCEEDINGS**	45,670	48,638	50,527	132	741

Percent of Cases by Forum



Overview of the Status Quo

- Case management
 - Judges, Court Administrators, and judicial assistants
 - Optional pretrial/discovery conferences
 - “management by event”
 - “management by the passage of time”
 - Local case management rules that vary between districts and between Courts within a district

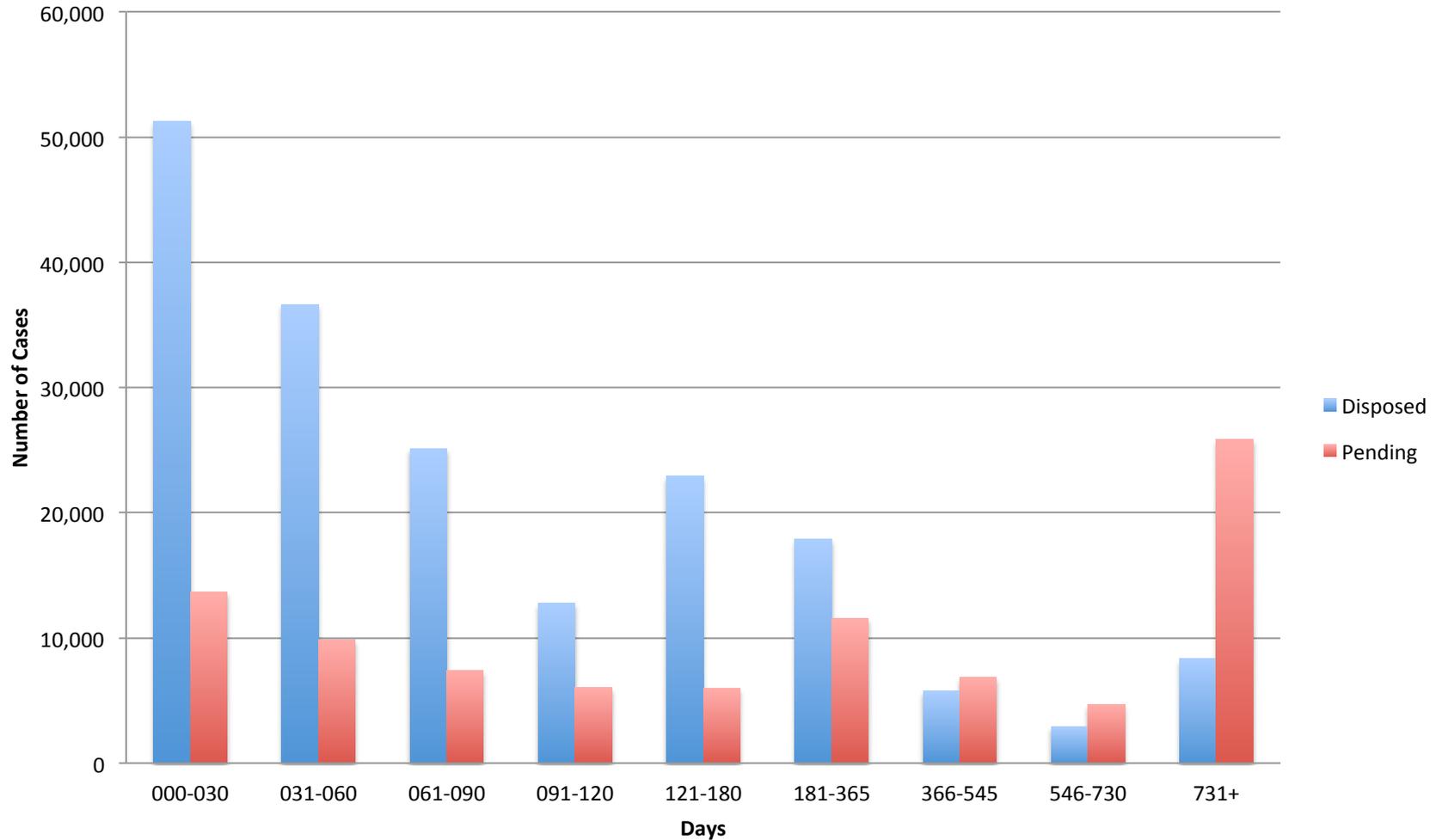
Common Criticisms and Areas of Inquiry

- Inefficiency
 - Cases move slowly through system
 - Excessive discovery (at least in civil cases where money is at stake)
 - “One-size-fits-all” rules

*Percentage of general civil cases by time to disposition
in FY 2014-15*

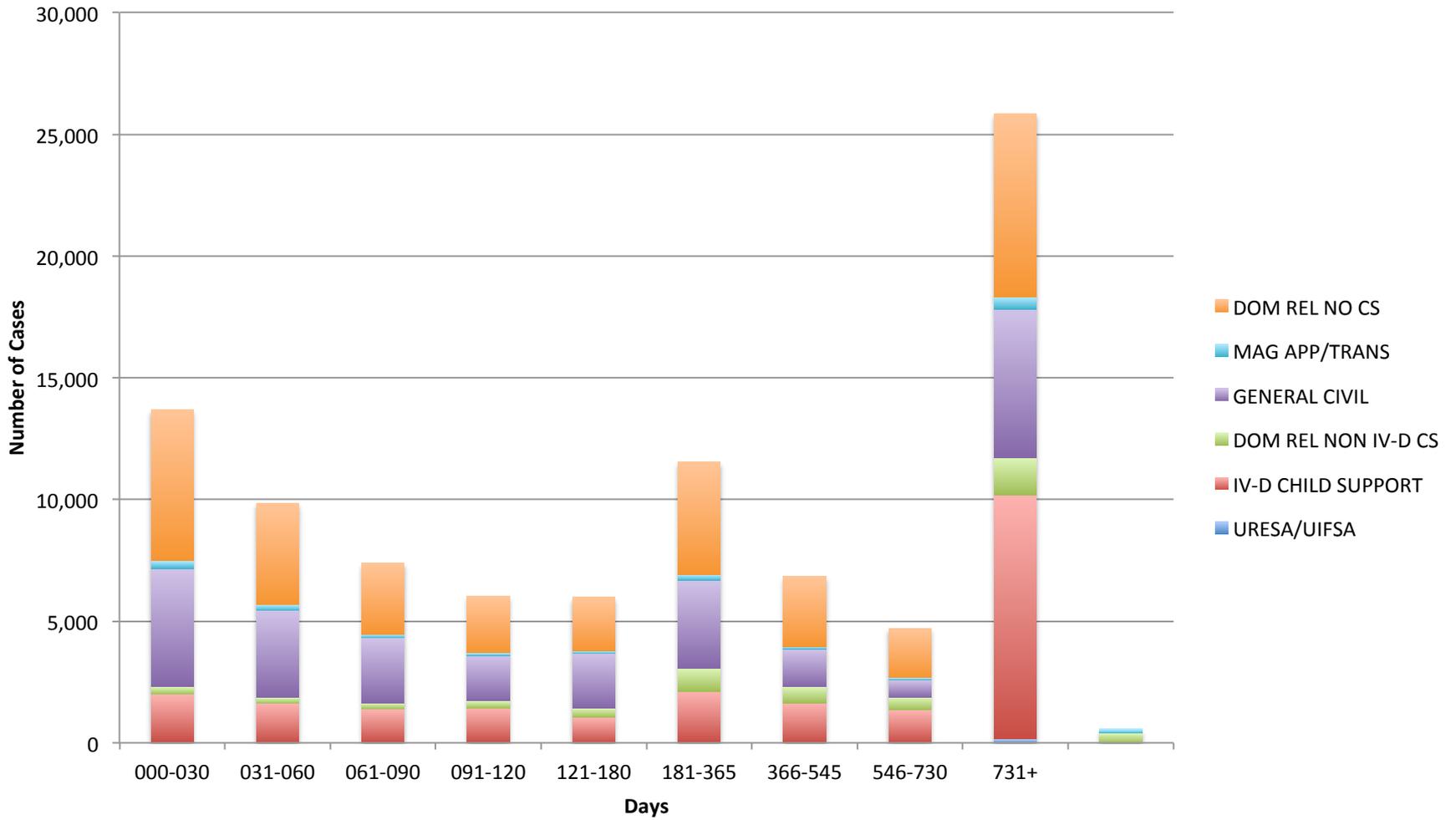
	% within 6 months	% within 1 year	% within 1.5 years	% within 2 years
NC Supreme Court Standard	--	90%	98%	100%
<i>ABA Standard</i>	--	90%	--	100%
<i>NCSC Standard</i>	75%	90%	98%	--
<i>COSCA Standard</i>	--	100%	100%	--
N.C. Superior Court	44%	72%	87%	93%
N.C. District Court (excluding domestic)	<u>75%</u>	<u>91%</u>	95%	96%

District Court - Age of Disposed and Pending Cases

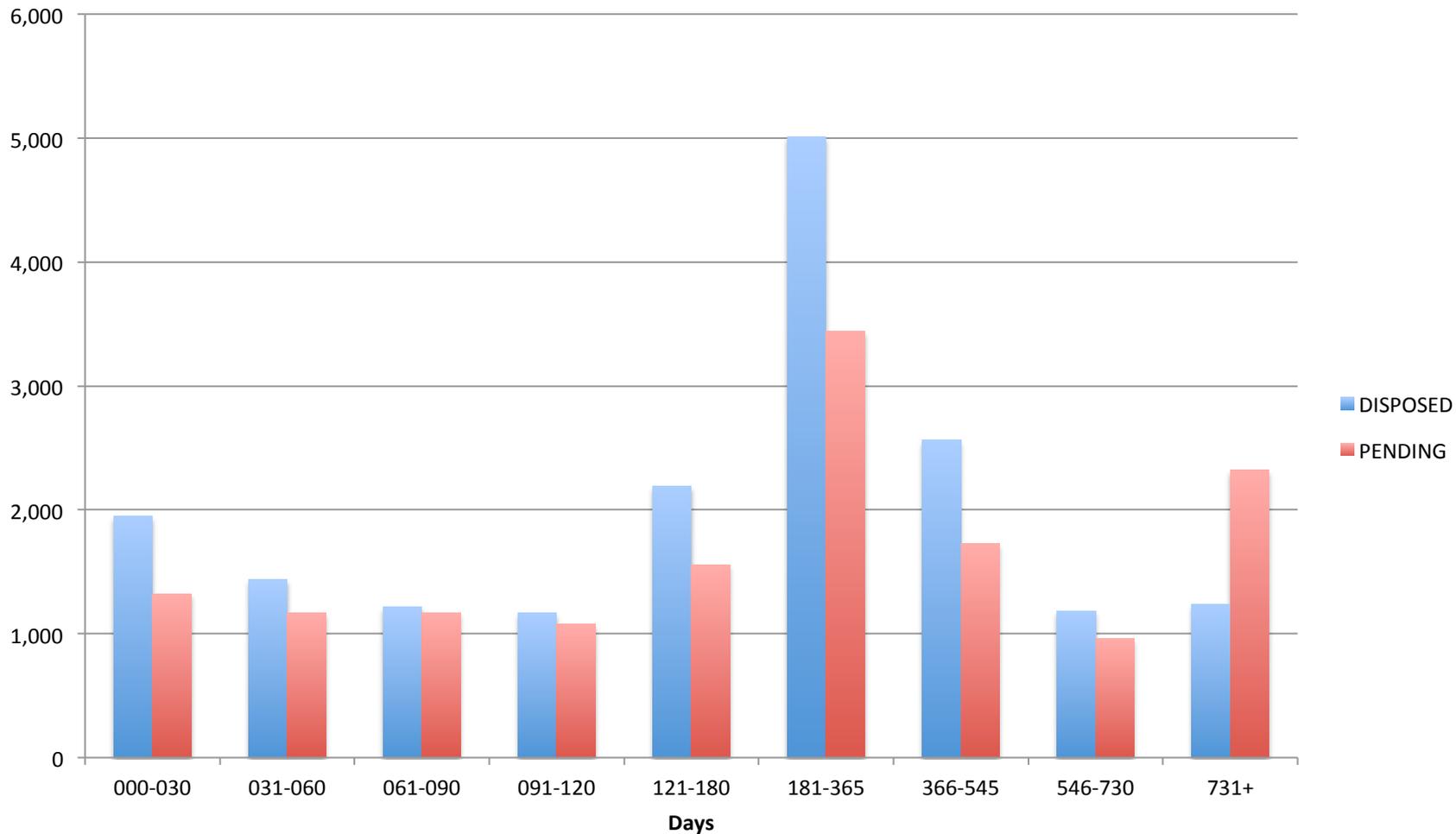


Source: The North Carolina Court System, Case Activity Reports – Fiscal Year 2014 – 2015, http://www.nccourts.org/Citizens/SRPlanning/Statistics/CAReports_fy14-15.asp.

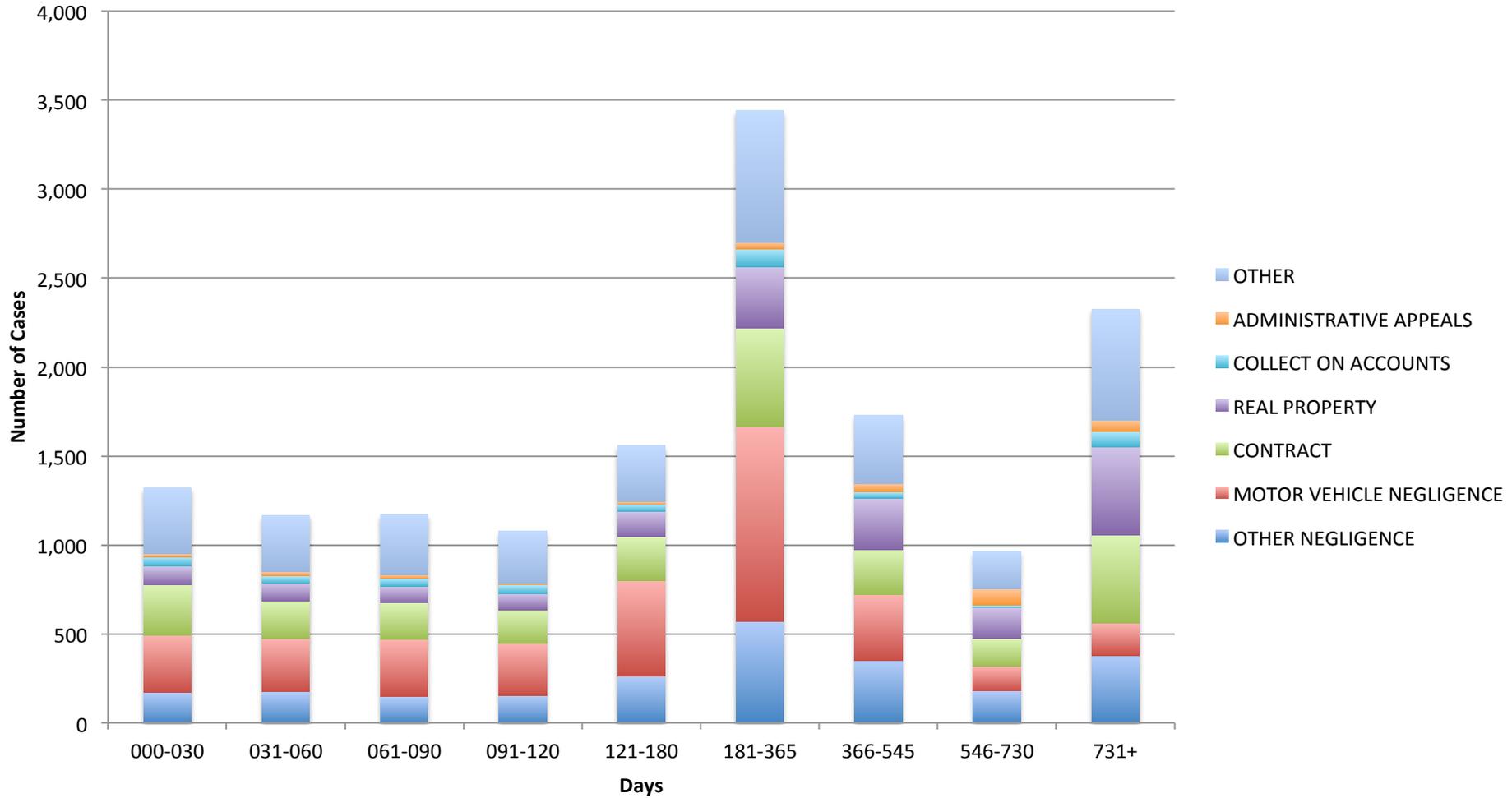
District Court - Age of Pending Cases by Type



Superior Court - Age of Disposed and Pending Cases



Superior Court - Age of Pending Cases by Type



Percentages of domestic cases disposed by time to disposition for FY 2014-15.

	% disposed within 3 months	% disposed within 4 months	% within 6 months	% within 1 year
<i>ABA Standard</i>	90%	--	98%	100%
<i>NCSC Standard</i>	--	75%	90%	98%
N.C. All Domestic	67%	73%	84%	91%
Family Court Districts	--	--	84%	93%
Non-Family	--	--	84%	91%

Note: Family Court Districts have far fewer long-pending cases than non-Family Court districts.

Percentages of Magistrate cases disposed by time to disposition for FY 2014-15, compared with standards for “summary matters.”

	% within 30 days	% within 60 days	% within 90 days	% within 180 days
<i>ABA Standard</i>	<i>100%</i>	--	--	--
<i>NCSC Standard</i>	--	<i>75%</i>	<i>90%</i>	<i>98%</i>
N.C. Magistrates	89%	95%	96%	99%

Percentages of probate and estates cases disposed by time to disposition for FY 2014-15.

	% within 1 year	% within 1.5 years	% within 2 years
<i>NCSC Standard</i>	75%	90%	98%
NC Clerks	29%	82%	99%

Common Criticisms and Areas of Inquiry

- Lack of Uniformity and Uncertainty
 - No standard operating procedure regarding case management
 - No standard “small claims” amount for Magistrate jurisdiction
 - Inconsistencies causes confusion and unnecessary transaction costs for litigants

Common Criticisms and Areas of Inquiry

- Unfairness
 - Pro se litigants:
 - flooding courts (8% of plaintiffs, 74% of defendants nationally)
 - require disproportionate resources
 - unable to effectively navigate system

Analysis of Issues and Guiding Principles

- Sorting: jurisdiction of courts does not track case needs
 - “Right-sizing”: match resources with needs
 - Tracking: triage cases based on relevant factors
- Case management: passive and reliant on litigants to direct pace of litigation
 - Courts must take *responsibility*
 - Management must be *uniform*

Promising Avenues of Reform

- **Sorting**
 - How many tracks?
 - Voluntary or mandatory?
 - Based on what criteria/factors?
- **Case Management**
 - Rules/techniques for each track?

Sorting: How Many Tracks?

- Streamlined Track (approx. 85% of cases)
 - Uncomplicated facts, simple legal issues, require minimal judicial intervention
- Complex Track (less than 3% of cases)
 - Multiple and/or complicated factual and legal issues, many parties, require close court supervision
- General Track (approx. 12-15% of cases)
 - All other cases

Sorting: Voluntary or Mandatory?

- Voluntary programs preserve litigants' autonomy and access to full procedures, but comes with high transaction costs that deter entrance into program
- Mandatory program required for system-wide change, but need to allow option to transfer into a more appropriate track

Sorting: Based on What Criteria?

- Amount in controversy
 - Does not capture all relevant characteristics; may encourage misrepresentation
- Case type
 - Does not always predict case needs
- Case complexity
 - Factors: legal issues (number and complexity), anticipated discovery, number of parties, number of fact/expert witnesses, likely number of trial days, suitability for ADR, the character and nature of damage claims (including \$\$)
 - Automatic sorting (like TurboTax) or discretionary (balancing)?
 - Objective vs. subjective factors

Case Management

- Streamlined Track
 - Rules/Techniques
 - Mandatory disclosures / pattern discovery
 - Firm trial date (6-8 months after filing)
 - Enumerated discovery and discovery deadlines
 - In North Carolina
 - Sorting more simple cases to District Courts and Magistrates
 - Provide uniform case management rules

Case Management

- Complex Track
 - Rules/Techniques
 - One judge per case
 - Mandatory disclosures
 - Early case management conferences
 - Set firm trial date and detailed discovery plan at conference, based on anticipated needs
 - In North Carolina
 - The Chief Justice has authority to designate cases or classes of cases as “complex business” and send to Business Court (Rule 2.1)
 - Provide uniform case management rules

Case Management

- General Track

- Rules/Techniques

- Mandatory disclosures / pattern discovery
 - Firm trial date (12-18 months after filing)
 - Enumerated discovery and discovery deadlines
 - Case management conferences if needed

- In North Carolina

- Sorting fewer simple cases (and maybe more complex cases) to Superior Court
 - Provide uniform case management rules

Conclusion

- North Carolina's courts would benefit from a better designed tracking system that sorts cases into particular tracks that are "right-sized" to case needs.
- Recommendations
 - Sorting based on case complexity
 - Short term: case-by-case discretion
 - Long term: TurboTax-like triaging
 - Uniform case management for each track
 - Mandatory disclosures, firm trial dates, enumerated and time-limited discovery