

Trends in State court caseloads during the COVID-19 pandemic

The pandemic has affected all aspects of American society, including the courts. Courts were required to quickly adapt to a sudden shutdown of courthouses in 2020 while keeping justice accessible. State courts across the United States have remained open throughout the pandemic, though how cases are filed and adjudicated has seen dramatic changes. Courts have broadly implemented remote hearings and social distancing and more courts have adopted electronic filing of cases. Despite these efforts, the number of cases filed dropped in every subject area beginning in March 2020. Throughout 2020, the number of cases closed (dispositions) remained below 2019 levels as courts and litigants adjusted to the new processes.

The Court Statistics Project (CSP) of the National Center for State Courts collects comprehensive caseload data from state courts on an annual basis, but because of the unprecedented nature of the pandemic, the CSP is collecting partial data, where available, and providing periodic reports to help courts plan for 2021 and beyond. The CSP put out a call for data in February 2021 to state court data specialists, requesting month by month filing and disposition numbers. Twelve states responded to the request for data.¹



The number of case filings in civil, domestic relations, and dependency is expected to surge and may pose a significant challenge to courts in 2021 and beyond. Civil case filings were down significantly in 2020, but many experts expect an increase in case filings, particularly in debt, eviction, and foreclosure cases, as a *result* of the pandemic. Domestic relations filings are also expected to increase, particularly as individuals become more mobile and able to leave their current situation. Because many dependency cases begin with a call to a child abuse hotline by a mandated reporter, it is expected that more cases will be filed as children return to in-person instruction.

While the number of case filings is expected to return to normal in criminal, traffic, and juvenile over the course of 2021, no surge in cases is expected. This is due to a widespread drop in criminal incidents, traffic incidents, and arrests beginning with the onset of the pandemic.² However, the trial delays caused by the pandemic have caused significant growth in the number of pending cases in criminal and traffic. No surge is expected in probate because new case filings have not dropped significantly.

This report provides an overview of filings and dispositions in these 12 states in civil, domestic relations, dependency, juvenile, traffic, criminal, and probate cases. It also examines areas where court planning will be needed to accommodate for potential surges in case filings and provides resources to help courts effectively manage their caseloads. A [dashboard with the data](#) is also available.

¹ Not all states provided data in each subject area or in both general and limited jurisdiction courts.

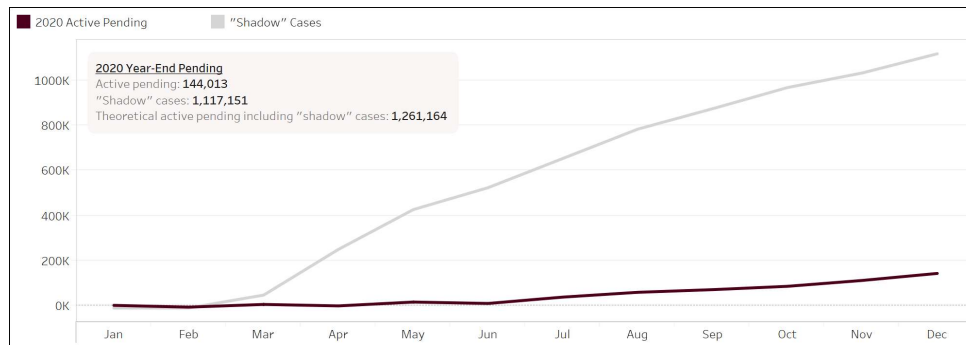
² Abrams D. (2020). COVID and Crime: An early empirical look. *U of Penn, Inst for Law & Econ Research Paper No. 20-49.*

Will there be a post-pandemic surge in civil or domestic relations case filings?

Because case filings were significantly lower in 2020 than in 2019, an important question in both civil and domestic relations courts is whether the cases that were not filed in 2020 will be filed in 2021 or 2022. Although courts remained open for filing throughout the pandemic, litigants, particularly those who are self-represented, may not have been aware of this, may have been unclear on how to file a case, or may simply have chosen to wait to file civil or domestic relations cases.

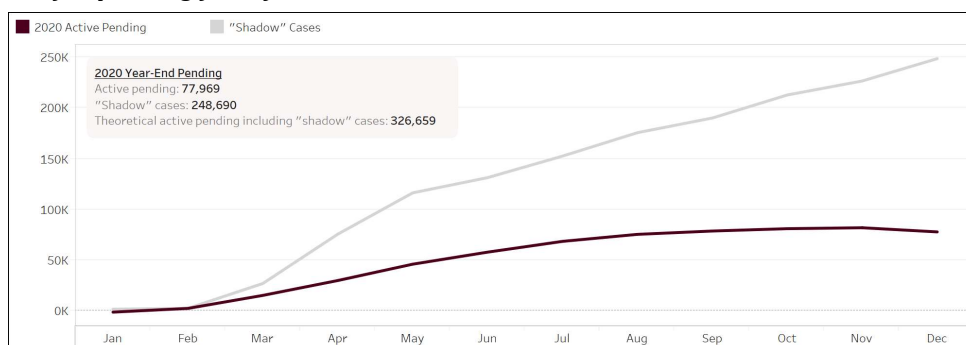
Civil cases involve a wide variety of case types including contract disputes, torts, employment issues, real property, and small claims cases. Although it is impossible to predict future civil case filings with any certainty, over a million civil cases that were not filed in 2020 could make their way into the courts of these 12 states in 2021. Although the drop in filings in 2020 may have been partially due to fewer disputes (e.g., fewer personal injuries likely occurred during stay-at-home orders) and to greater use of out-of-court settlements, an unknown number may still be filed. Figure 1 shows the effect on active pending caseloads for these courts if 2020 filings had equaled those in 2019. These cases are referred to as “shadow” cases and have the potential to overwhelm the civil justice system that was already struggling to keep up with caseloads prior to 2020. A further risk is that less complex cases (e.g., not requiring a jury trial) may have been more likely to be disposed during the pandemic, leaving more complex cases in the courts’ caseload.

Figure 1: Potential for pending civil caseload



Domestic relations cases include domestic protection orders, divorce, custody, visitation, and child support. Historically the number of divorce filings is lower in times of economic uncertainty than when the economy is strong.³ Additionally, cases involving orders of protection may surge once victims have more options of places to go away from their abusers. Had the number of family or domestic cases filed in 2020 equaled those filed in 2019, nearly 250,000 additional cases would have been filed in 2020, as shown in Figure 2. These cases would contribute significantly to the active pending caseload of these courts.

Figure 2: Potential for pending family or domestic caseload

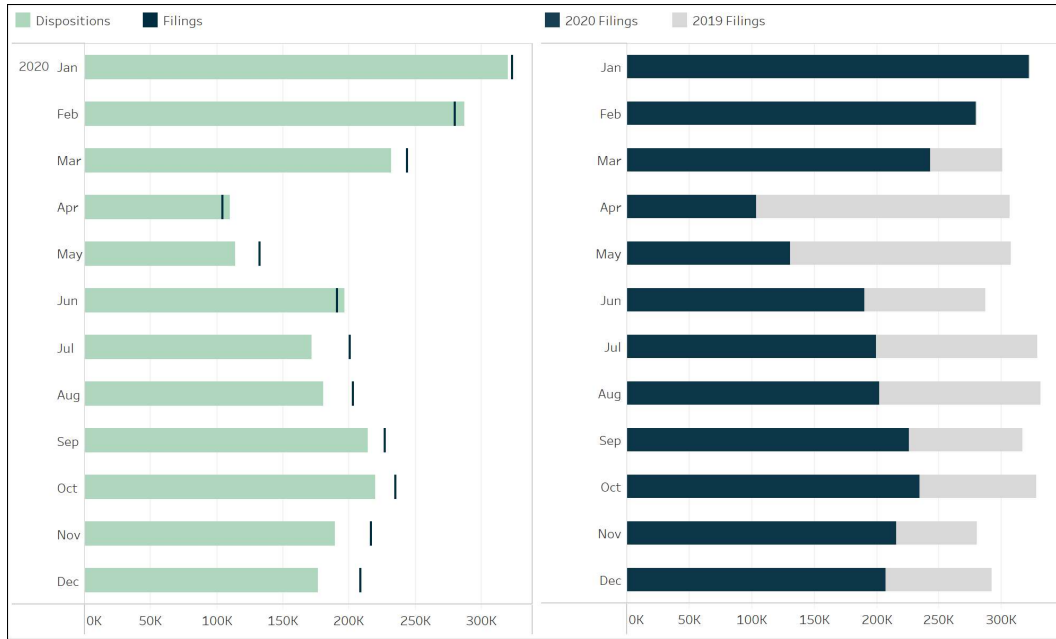


³ Cohen, PN., Recession and Divorce in the United States, 2008-2011, Population Research and Policy Review 33 no. 5 (May 2015).

Trends in civil cases

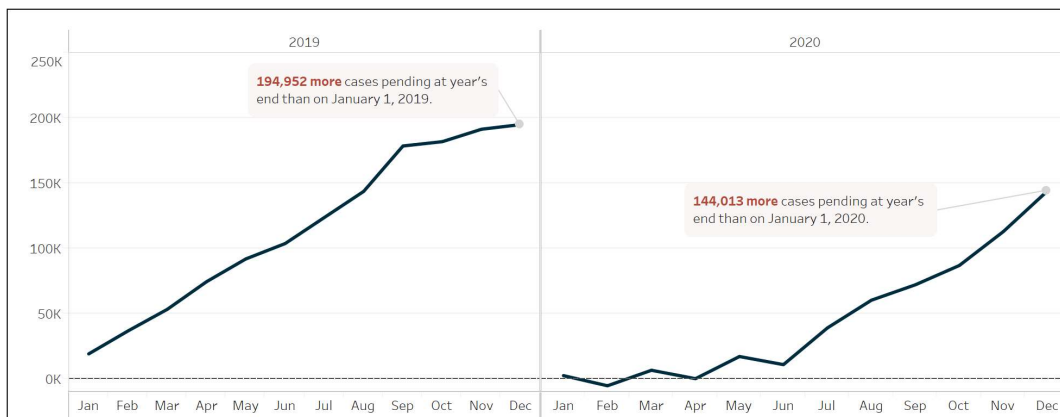
The number of civil cases disposed by courts (shown by the green bar) was lower than the number of cases filed (shown by the vertical blue line) in nine out of 12 months in 2020, as shown in Figure 3. This was despite the fact that the number of civil cases filed was significantly lower in every month since the pandemic began to affect court operations. The dark blue bars in Figure 3 show 2020 filings overlaid on 2019 filings, shown on the grey bars. In part, this may be due to filing moratoria, including in eviction and foreclosure cases. This may also be due to the non-urgent nature of some civil cases, with attorneys and self-represented litigants choosing to wait to file cases.

Figure 3: Civil cases filed and disposed



Any time the number of dispositions lag the number of case filings, the active pending caseload of the court grows. In 2020, over 144,000 cases were added to the active pending civil caseloads of the reporting states. Significantly, this is in addition to the nearly 195,000 cases added to the active pending caseloads of the reporting states in 2019, as shown in Figure 4. This speaks to the need to address growing backlogs in civil courts independent of the issues raised by the pandemic as well as the need to address data quality issues to ensure that disposed cases are closed in the courts' case management systems.

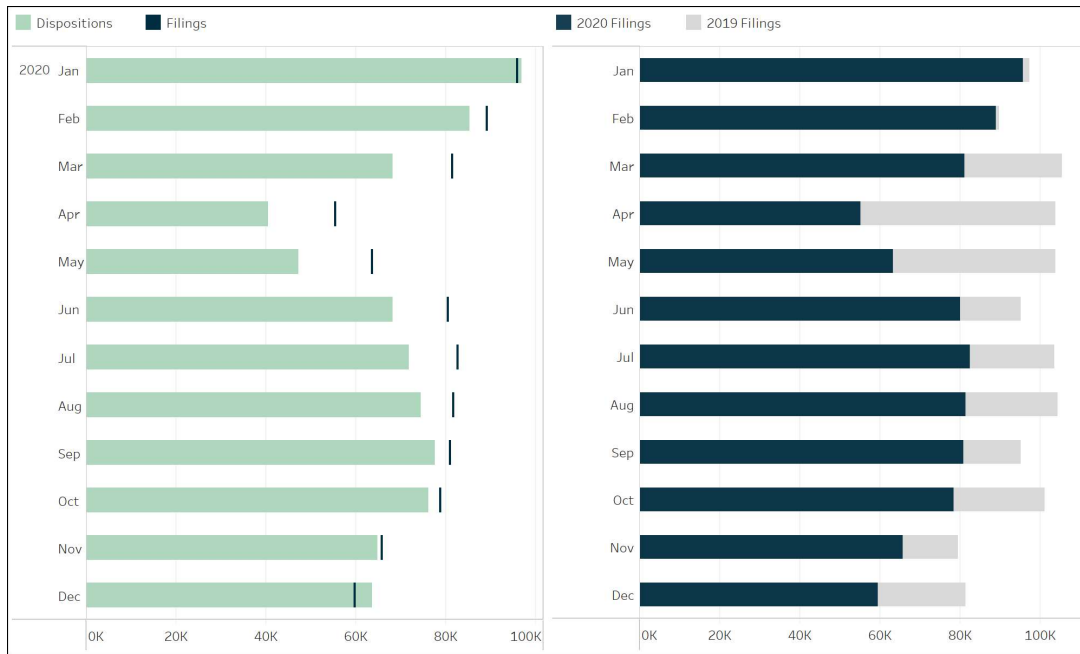
Figure 4: Change in active pending civil cases.



Trends in domestic relations cases

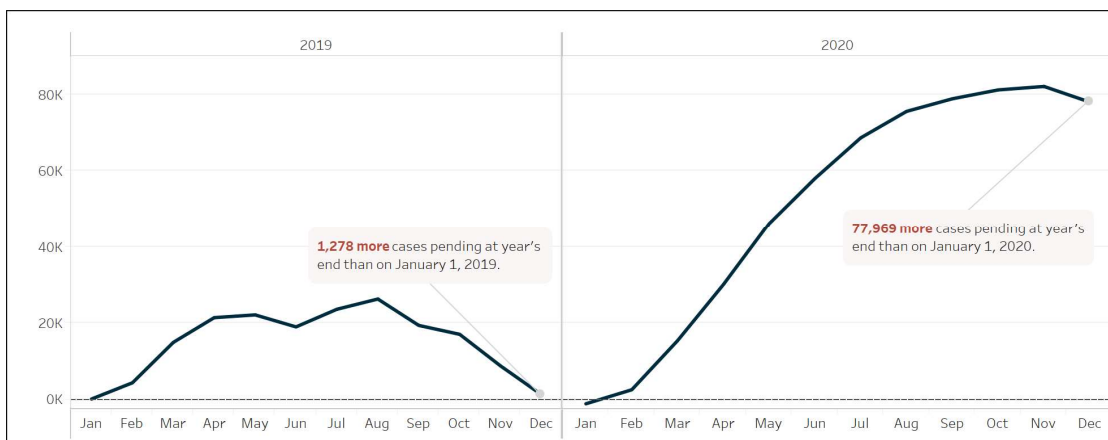
Twelve states reported filings and dispositions in domestic relations. These cases include domestic protection orders, divorce, custody, visitation, and child support. As with other areas, the number of filings were lower in 2020 than in 2019 in each month starting with March (Figure 5). The number of dispositions per month did not keep pace with the number of filings until December when, aided by a seasonal drop in filings, more cases were disposed than filed. It is typical for fewer domestic cases to be filed in November and December.

Figure 5: Domestic relations cases filed and disposed



Because fewer cases are filed in November and December, courts are often able to substantially reduce the active pending caseload that grows through the summer months. This was the pattern in 2019, but in 2020 the number of pending cases increased through November, ending the year with nearly 78,000 additional pending cases in these states compared to the start of the year (Figure 6).

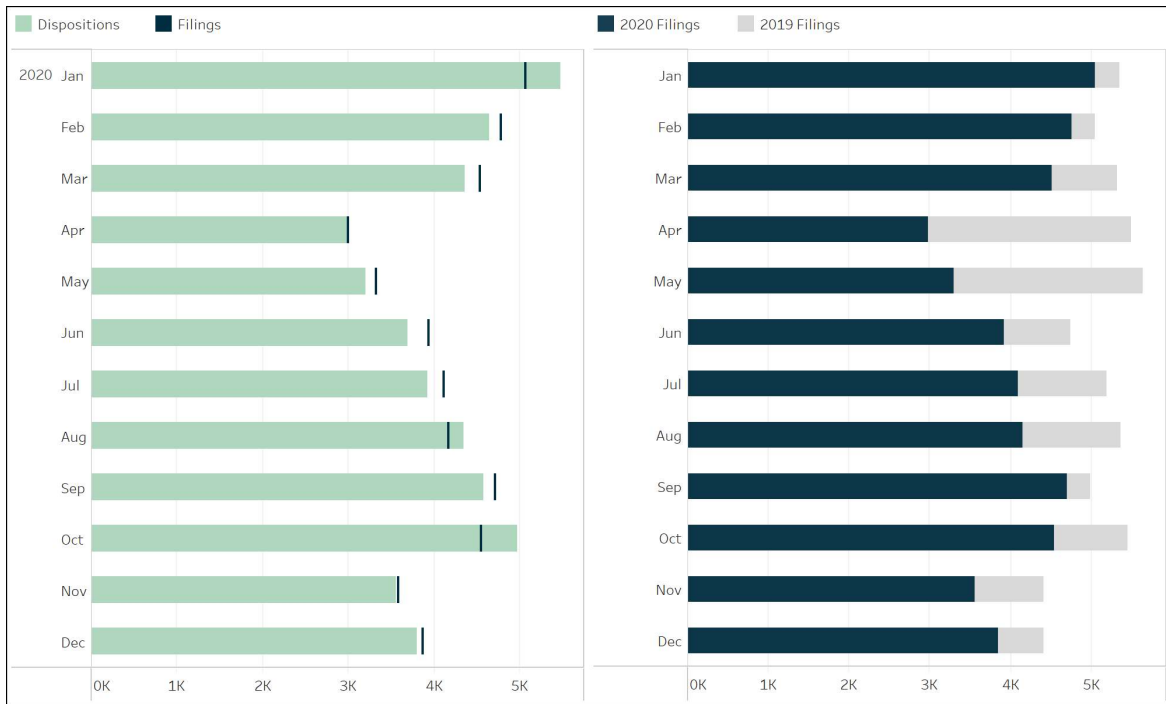
Figure 6: Change in active pending domestic relations cases



Trends in dependency cases

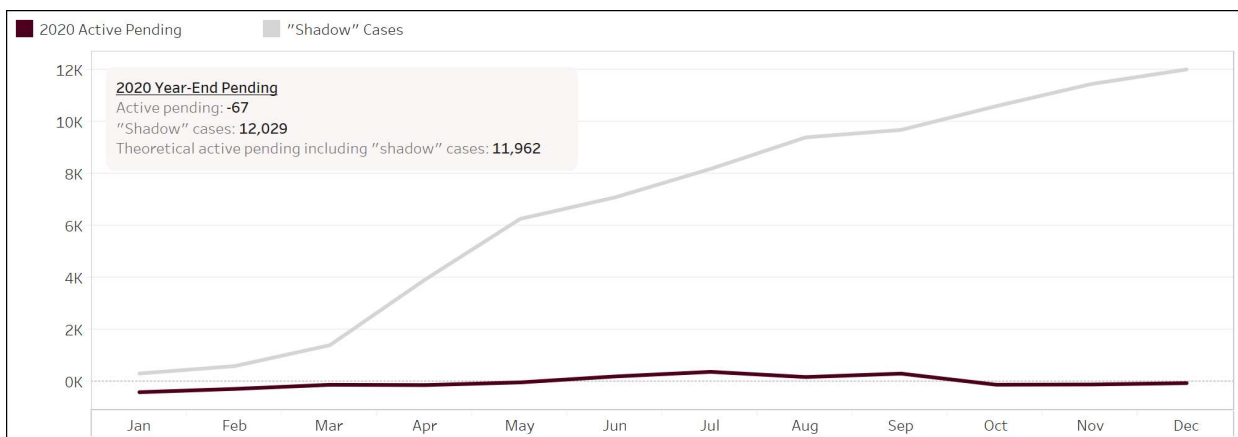
Eight states reported dependency data separate from juvenile cases. Dependency cases are those involving child abuse or neglect. In these eight states, the number of dependency filings were lower in each month of 2020 when compared to 2019. Courts were able to manage the incoming cases, with about as many cases disposed as filed (Figure 7). Most courts around the country prioritized timely hearing of dependency cases both because of the urgency of the child protection issues and because of the need to meet specific timelines in these cases.

Figure 7: Dependency cases filed and disposed



Because many courts prioritized dependency cases, nearly as many were disposed as filed in 2020. Had filings been at the level seen in 2019, the pending caseload would have been much higher at the end of the year, as seen in Figure 8.

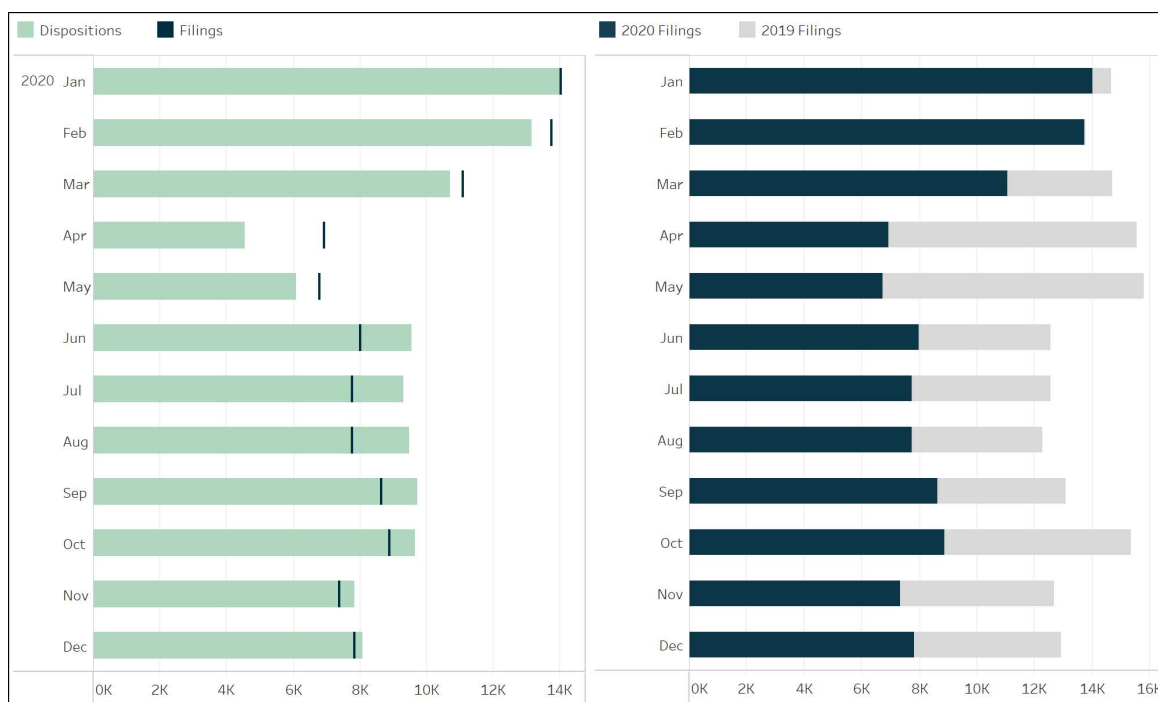
Figure 8: Change in active pending dependency cases



Trends in juvenile cases

Because of the way juvenile cases were reported for this analysis, juvenile cases primarily include delinquency and status offense cases, though some dependency cases are also included in the nine states reporting. As shown in Figure 9, the number of juvenile cases filed remained lower than normal through the end of 2020. Courts were able to manage the incoming caseload, and in most months the court disposed more cases than were filed. This led to a slight decline in the number of pending juvenile cases in 2020 in the states reporting.

Figure 9: Juvenile cases filed and disposed



Will there be a post-pandemic surge in dependency or juvenile cases?

It is difficult to predict what may happen in dependency cases in 2021, but there is concern that additional cases may be filed in the coming months as more children return to school and have more contact with mandated reporters of abuse and neglect. The CDC reported increased symptoms of depressive and anxiety disorders as well as increased reports of substance abuse in adults during the first months of the pandemic.⁴ Mental health challenges and substance use are risk factors for child maltreatment, making it unlikely that the lower numbers of dependency cases filed are a true reflection of the level of child abuse and neglect occurring during this time.

No surge is expected in juvenile delinquency cases. Although reliable juvenile arrest data is not yet available for 2020, it is believed that the lower number of case filings is a result of a lower level of juvenile arrests. As an example, Florida reports that statewide arrests of juveniles in April-June 2020 were down 4% from the same period in 2019.⁵

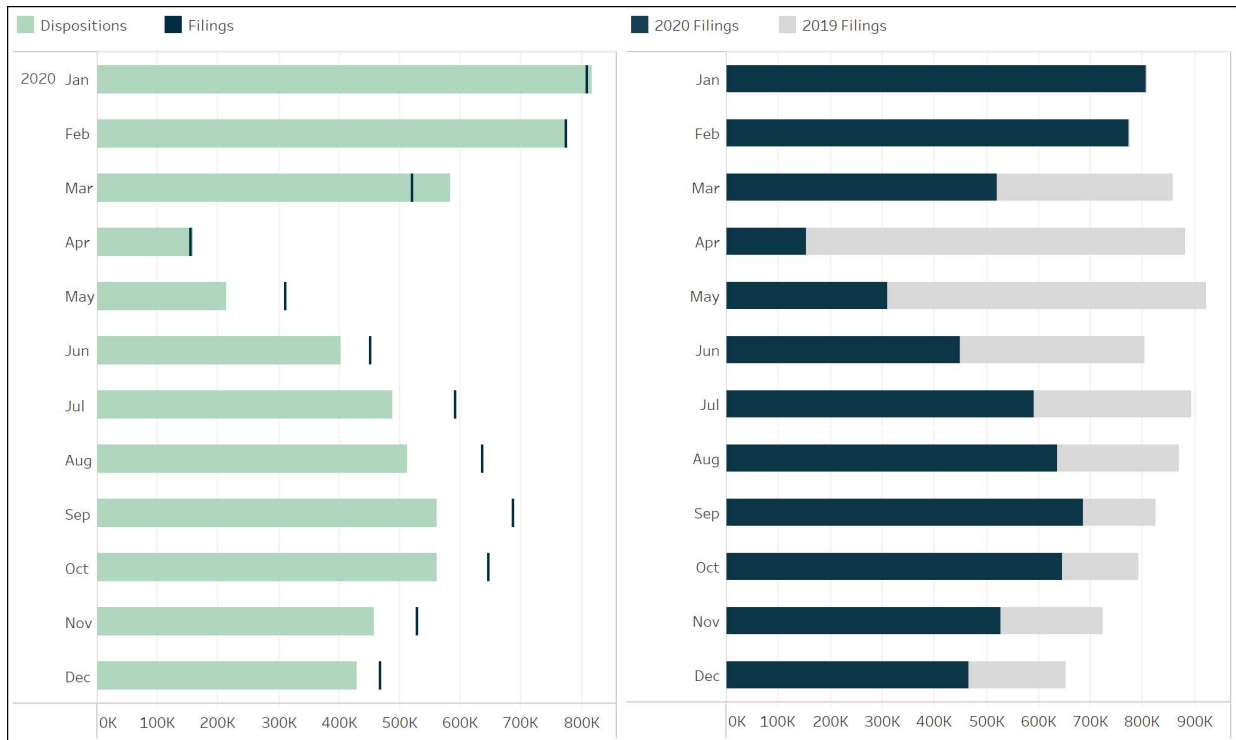
⁴ Czeisler MÉ, Lane RI, Petrosky E, et al. Mental Health, Substance Use, and Suicidal Ideation During the COVID-19 Pandemic — United States, June 24–30, 2020. MMWR Morb Mortal Wkly Rep 2020; 69:1049–1057. DOI: <http://dx.doi.org/10.15585/mmwr.mm6932a1>

⁵ <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard>

Trends in traffic/local ordinance cases

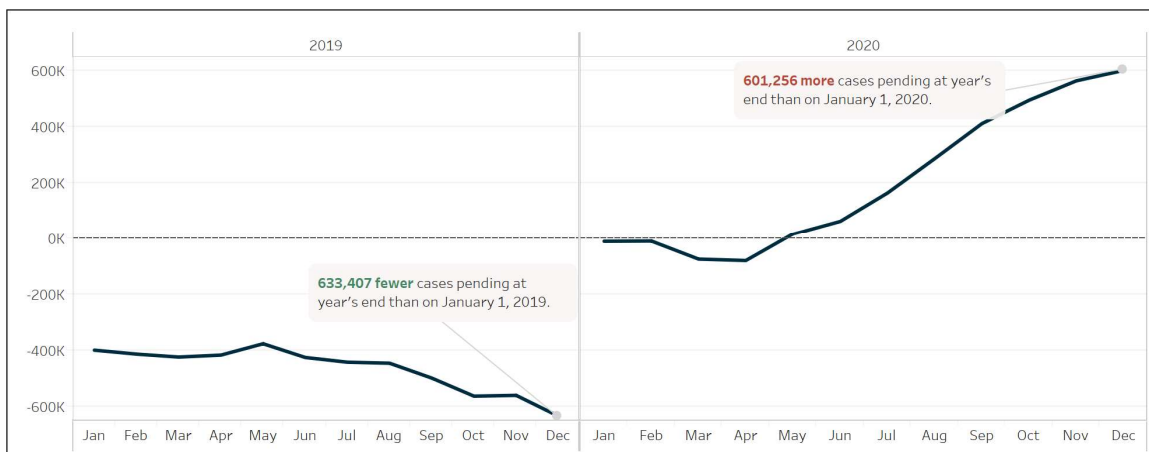
The pattern of traffic and local ordinance case filings is a good indicator for the extent to which people were following stay-at-home orders and limiting travel. Traffic filings follow a seasonal pattern, with the highest number of case filings typically occurring over the summer months. The number of cases filed in the ten states reporting traffic and local ordinance cases was lower in 2020 than in 2019 in every month from March to December, as shown in Figure 10. Significantly, the number of cases disposed lagged the number filed, despite the significant drop in the number of cases filed.

Figure 10: Traffic and local ordinance cases filed and disposed



This gap between filing and disposition is reflected in the number of cases pending, which increased in 2020 by over 600,000 cases in the ten states reporting, as shown in Figure 11. The most likely explanation is that courts were not prioritizing traffic and local ordinance cases during the pandemic. Note that 2019 began with a large drop in active pending cases primarily due to a purge of old parking cases in two states.

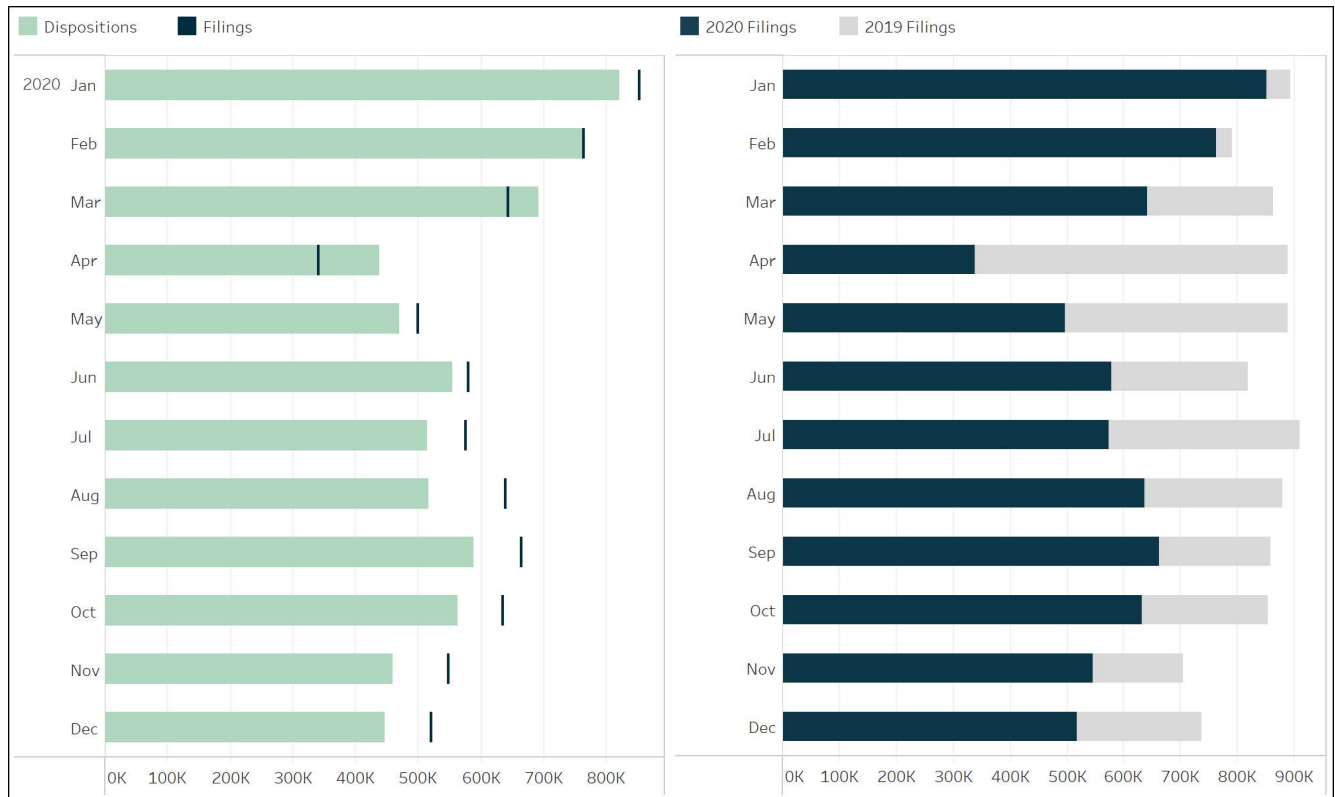
Figure 11: Change in active pending traffic cases



Trends in criminal cases

The number of criminal cases disposed was lower than the number of cases filed in each month from May onward (figure 12), even though filings were lower in each month of 2020 when compared to 2019. In April 2020, when stay-at-home orders were in place in all or parts of 45 states,⁶ only 337,948 criminal cases were filed. This was a decline of 62% compared to April 2019. By November, filings were down only 23%, but were down 30% in December.

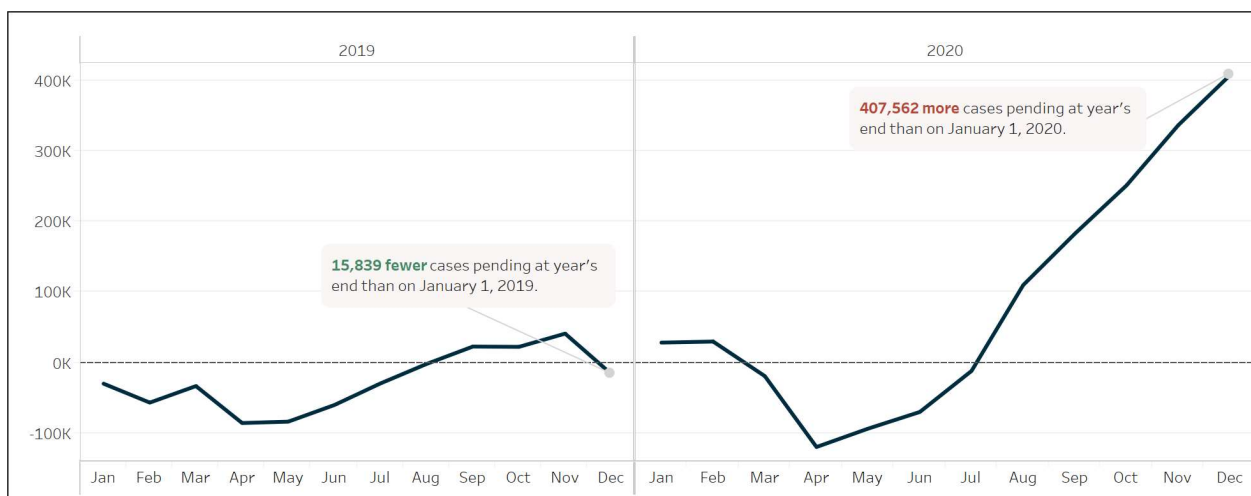
Figure 12: Adult criminal cases filed and disposed



⁶ Mervosh S., Lu D. See Which States and Cities Have Told Residents to Stay at Home. The New York Times, April 20, 2020.

Although many courts have prioritized criminal cases during the pandemic, the gap between cases filed and disposed is creating a growing problem for courts. Figure 13 provides the accumulation of active pending criminal cases during 2019 and 2020. In 2019, courts disposed more cases than were filed through the first seven months of the year and ended the year with slightly fewer pending cases than existed on January 1, 2019. In 2020 however, the active pending caseload grew consistently from April through the end of the year, with nearly 400,000 more active criminal cases at the end of 2020 than were pending at the beginning of 2020 in the 12 states represented. This presents a particular challenge for courts as criminal cases typically have speedy trial deadlines.

Figure 13: Change in active pending criminal cases



Will there be a post-pandemic surge in traffic or criminal cases?

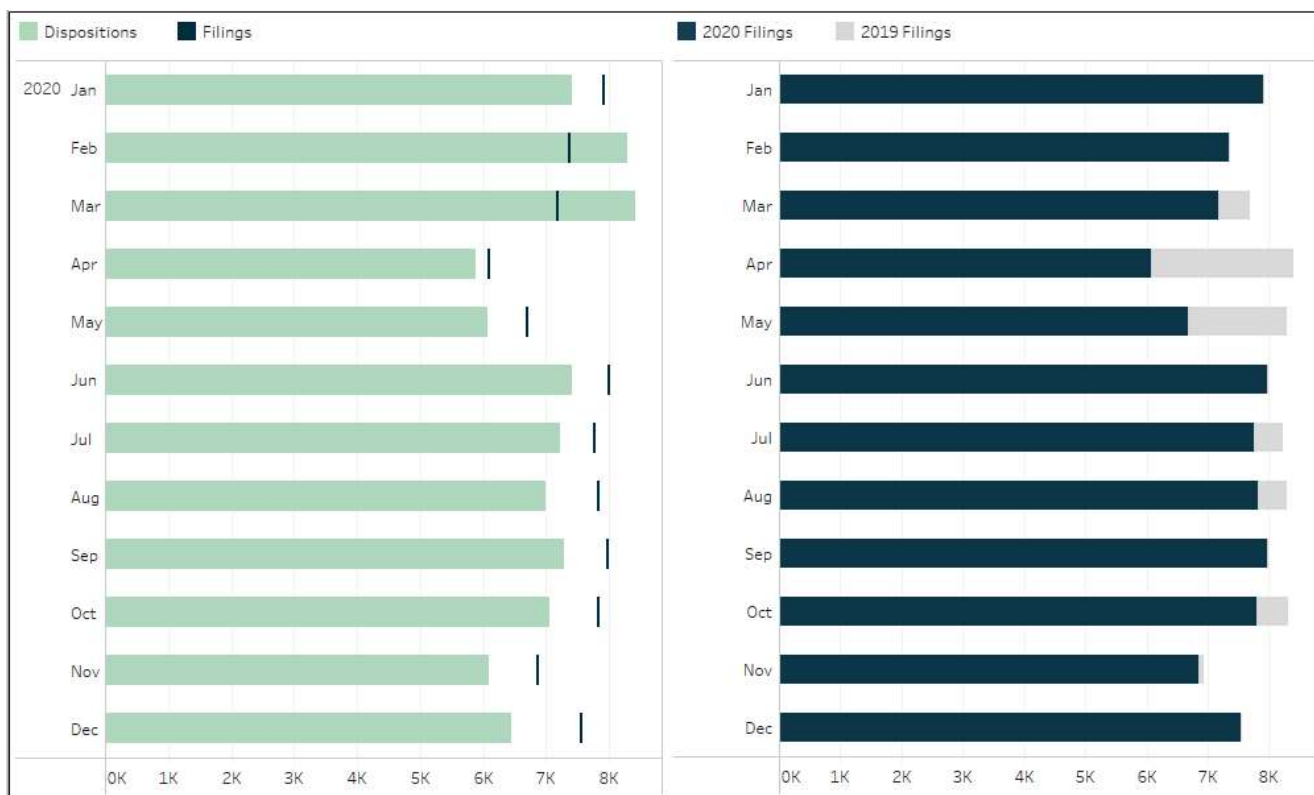
Because there was a widespread drop in criminal incidents, traffic incidents, and arrests beginning with the onset of the pandemic, no significant surge in traffic or criminal cases is expected.⁷ However, some prosecutors may be delaying filing of non-urgent cases out of concern that it will be difficult to meet speedy trial timelines. An additional concern is that, due to the challenges of conducting jury trials during the pandemic, the criminal cases pending are more likely to be those awaiting a jury trial. Even without a surge, the large number of pending criminal and traffic cases at the end of 2020 presents a significant challenge for courts.

⁷Abrams D. (2020). COVID and Crime: An early empirical look. *U of Penn, Inst for Law & Econ Research Paper No. 20-49.*

Trends in probate cases

Of all case types, probate filings in 2020 were closest to 2019 levels. The majority of probate cases filed in these states were wills and estates. While many of these cases are filed by self-represented litigants, they are often time sensitive, and executors of estates are limited in what they can do to settle an estate without filing the case with the court. As seen in Figure 14, probate cases returned to levels close to normal by June of 2020. The number of additional cases pending at the end of 2020 was 4,247 greater than at the beginning of the year in these states.

Figure 14: Probate cases filed and disposed



Will there be a post-pandemic surge in probate cases?

Because probate case filings have returned to close-to-normal levels, there is no reason to expect a surge in probate cases in the coming months or years.

Recommendations for managing caseloads

The principles that have been shown to work pre-pandemic to help courts effectively manage cases also work during the pandemic. Courts must actively monitor their caseloads and practice active case management. Best practice recommendations include:

- Reducing the number of continuances with firm rule-based continuance policies;
- Resolving cases with fewer hearings, making each event meaningful;
- Ruling promptly on motions;
- Implementing firm cut-off policies for pleas and discovery; and
- Actively monitoring progress of cases, including the number of cases pending and how long they have been pending.

The following resources may be useful to courts seeking to effectively manage their cases:

- Effective Criminal Case Management: www.ncsc.org/eccm
- Civil Justice Initiative: www.ncsc.org/cji
- The Cady Initiative for Family Justice Reform: www.ncsc.org/fji

Courts should also continue to actively monitor their caseloads. Having accurate data and tracking the number of cases filed and disposed as well as the age of the active pending caseload is essential. Some of the essential data to track and monitor include:

- Year over year comparison of filings and dispositions by week or by month;
- The number of pending cases in each subject area;
- The age of cases currently pending; and
- The clearance rate, defined as the number of disposed cases divided by the number of filed cases. Any clearance rate below 100% indicates that the number of pending cases is growing.

By tracking this information and using the data to manage the caseload, courts can prioritize available resources, including judicial officers, court staff, courtroom space, and remote hearing resources to continue to provide timely justice. For more assistance with court data, email csp@ncsc.org.

About the Court Statistics Project

Since 1975, the Court Statistics Project (CSP) has provided a comprehensive analysis of the work of state courts by gathering caseload data and creating meaningful comparisons for identifying trends, comparing caseloads, and highlighting policy issues. The CSP is supported by the National Center for State Courts and obtains policy direction from the Conference of State Court Administrators. More CSP data and reports can be found at www.courtstatistics.org.