



Judicial Case Management Practices Vary Throughout State; Better Case Data Needed

at a glance

Florida circuit and county courts use a variety of case management practices to improve efficiency and reduce delays. As part of these practices, the Florida Supreme Court has adopted statewide rules that address trial court administration, time standards, case management, and use of court technology, among other issues. Many circuits in Florida use nationally recognized case management practices. These include using administrative judges to lead court divisions; differentiated case management; modifying judicial assignments to meet caseload needs; encouraging case progress through frequent status conferences and firm trial dates; and using video technology for court appearances and internal conferencing. However, factors such as circuit geography, demographics requiring interpreters, resource availability, some circuit cultures, and concerns about invalid case management data can negatively affect circuit and county courts' workload management.

Scope

As directed by the Legislature, this report examines judicial workload management by circuit and county courts.¹ The report addresses two questions:

- what practices are used in Florida trial courts to effect the prompt disposition of cases; and
- what factors impact the courts' abilities to operate efficiently?

¹ Proviso to specific appropriation 3234 in the 2008-09 General Appropriation Act.

Background

Article V of the *Florida Constitution* establishes the state courts system. The system is composed of the Supreme Court, district courts of appeal, and circuit and county Courts. The Supreme Court and the district courts of appeal have primarily appellate jurisdiction; circuit and county courts conduct hearings and trials and dispose of other cases.²

Other key participants in the state courts system are clerks of the court, state attorneys, and public defenders. These independently elected constitutional officers include 67 county clerks of circuit court, 20 state attorneys and 20 public defenders that interact as a part of a complex interdependent system. The circuit court clerks maintain all official court-related documents filed in the clerk's office; keep court dockets and minutes of court proceedings; and record orders and final judgments. The clerks of court are also required by court rule to report the activity of all cases within their jurisdiction for the Summary Reporting System (SRS), which is used by the Florida Supreme Court for certification of judicial need and formulation of budgets.³ The state attorneys prosecute criminal cases in circuit and county court. Public defenders provide indigent persons with constitutionally guaranteed representation.

² There are 599 circuit court judges and 322 county court judges in Florida. The Governor is authorized to fill a judicial vacancy by appointing a nominee from lists of names approved by judicial nominating commissions.

³ Rule 2.245, *Florida Rules of Judicial Administration*.

Case management. The state courts system handles a high volume of civil and criminal cases. In Fiscal Year 2006-07, the system received 918,676 circuit court filings and 3,159,824 county court filings. During the same year, there were 832,880 case dispositions in circuit courts and 2,702,215 county court dispositions. Given this high workload, it is important for the state courts system to provide effective case management to ensure prompt justice and avoid undue delay. Case management policies and practices are established by the Supreme Court, circuit chief judges, and individual judges.

The constitution requires the Supreme Court to adopt rules for the practice and procedure and administrative supervision of all courts. To meet this responsibility, the Supreme Court issues *Florida Rules of Court*, including the *Rules of Judicial Administration*, that establish policies for trial court administration, case management, and time standards for case processing, among other subjects.

Each circuit is headed by a chief judge, who is responsible for administrative supervision of all courts in the circuit.⁴ The chief judge is a circuit judge selected by a majority of the circuit and county court judges, and may serve unlimited terms of two years.⁵ To fulfill his or her administrative responsibilities, a chief judge develops administrative plans that must include an administrative organization capable of effecting the prompt disposition of cases. Administrative plans also generally include policies for controlling dockets; regulating courtroom use; assigning judges; periodically reviewing the status of the inmates of the county jail; and considering statistical data developed by the circuit's case reporting system.⁶ Administrative plans are often composed of a number of administrative orders covering a broad range of subjects, such as appointment of administrative judges; designation of special dockets such as a domestic violence division; and courtroom assignments.

Individual judges must adhere to *Florida Rules of Court* and circuit administrative orders. However,

⁴ Article V, sec. 2(d), *Florida Constitution*; see also, Rule 2.215(b)(2), *Florida Rules of Judicial Administration*.

⁵ Rule 2.215(c), *Florida Rules of Judicial Administration*.

⁶ Rule 2.215(b)(3), *Florida Rules of Judicial Administration*.

they have substantial discretion in managing their individual courtrooms and the cases brought before them.

National research on the efficiency of criminal and civil litigation has shown that there is no single set of best practices for judicial case management. However, the research indicates that several general factors are important, including

- providing effective court leadership;
- developing and enforcing appropriate case processing time expectations;
- maintaining court control of case progress;
- setting firm and credible trial dates; and
- using court technology effectively.

To identify the case management practices used by Florida's circuit and county courts we conducted site visits to 8 judicial circuits and interviewed chief judges and court administrators in the remaining 12 circuits. These research steps also enabled us to identify factors that tend to limit the use of case management practices in some areas of the state. See Appendix A for details on our methodology.

Questions and Answers —

What practices are used in Florida trial courts to effect the prompt disposition of cases?

Florida circuit and county courts are using a variety of case management practices that are consistent with the general strategies prescribed by national literature. Many of Florida's practices are established in statewide court rules and circuit administrative orders, and vary somewhat throughout the state for several reasons.

Statewide policies are established by the Florida Supreme Court

As part of the *Florida Rules of Court*, the Supreme Court has adopted the *Rules of Judicial Administration* that include clear statements about trial court administration. The Rules cover time standards, case management, and use of court technology, among other issues. These rules address practice and procedure, are adopted to facilitate the uniform conduct of litigation, and are

intended to help secure the speedy and inexpensive determination of court proceedings.

Judicial rules establish chief judge and budget responsibilities. The *Florida Rules of Judicial Administration* identify the circuit chief judges' responsibilities for trial courts. These rules also establish the Trial Court Budget Commission, which has responsibility to develop and administer trial court budgets fairly and equitably across the 20 circuits.

Judicial rules establish case time standards. Establishing and monitoring time standards, expressed in a number of days to process specific types of cases, is recognized as a way to effectively manage workload. Time standards developed by the National Conference of State Trial Judges and approved by the American Bar Association are a common point of reference for considering overall time standards. For example, those standards suggest that 98% of felony cases should take not more than 180 days from arrest to final disposition, while 90% of misdemeanors should take 30 days or less.

Florida Rules of Judicial Administration include similar time standards, which are established as presumptively reasonable.⁷ It is recognized that there are cases that, because of their complexity, present problems that cause reasonable delays. Most judges reported that they are aware of the time standards in the *Florida Rules of Judicial Administration* and strive to abide by them.

Judicial rules require proactive trial court case management. Florida court rules direct the trial judge to take control of all cases at an early stage in the litigation and to control the progress of the case thereafter until the case is determined. Under this concept, the court creates a schedule for each case to move to disposition and every case has a future court event scheduled on the judge's calendar. Court rules also direct judges to apply a firm continuance policy, granting few and for good cause only, and to develop rational and effective trial setting policies.

Establishing firm case schedules and discouraging continuances is beneficial as these steps can help spur earlier pleas and case settlements. National

studies conclude that 95% of U.S. cases are disposed without trial.

Judicial rules address use of court technology. The *Rules of Judicial Administration* address court technology in areas such as media coverage of court proceedings, electronic filing of court documents when authorized by the Florida Supreme Court, and use of communication equipment, such as a conference telephone or other electronic device that allows all those appearing in a proceeding to hear and speak to each other without impediment. The rules also require that the circuits' chief judges' administrative plans include consideration of the statistical data developed by the circuits' case reporting systems.

Effective use of court technology is beneficial to effectively manage court workflow. National studies note the positive role technology can play in scheduling judicial events, monitoring case processing, capturing court records and proceedings, and providing judges with timely management information and statistics.

Circuit practices reflect court rules, circuit administrative orders, and individual judge's preferences

Case management policies and practices established by chief judges implement and supplement those mandated by the *Florida Rules of Judicial Administration* and often are tailored to specific conditions in their circuits. These policies and practices often include using administrative judges, establishing judicial rotation policies, establishing differentiated case management, addressing case backlogs with temporary judicial assignments, managing case progress through intermediate timelines and limited continuances, and using innovative technologies.

Circuits often use administrative judges to manage court divisions. Most chief judges in Florida circuits use administrative judges to lead divisions and agree that efficiency is improved by this practice. The *Rules of Judicial Administration* allow chief judges to appoint administrative judges to manage within divisions.⁸ Many chief judges told us that administrative judges are very helpful in managing the division's workload; in some

⁷ Rule 2.250(a), *Florida Rules of Judicial Administration*.

⁸ Rule 2.215(b)(5), *Florida Rules of Judicial Administration*.

circuits administrative judges coordinate the work of an entire court division while in other circuits they coordinate the work of multiple judges within large divisions or judges who are located throughout geographically large circuits. Duties of administrative judges can include reviewing case movement by examining case data for the overall division and each judge; identifying cases that are pending for longer than recommended time standards; examining reasons for backlogs; recommending case or judge reassignment; overseeing new or different case handling techniques; and recommending rotations of judges.

Circuits often modify judicial assignments and rotation to serve local needs. The *Rules of Judicial Administration* encourage circuits to assign judges to different divisions over time in order to allow them to become generally familiar with all types of cases and fully develop their capabilities.⁹ This helps ensure that circuits will always have judges available to handle cases in any division and avoid delay. While there is considerable variation in these rotation policies among the circuits, many chief judges reported that their approach to judicial assignments and rotation was designed to serve the local needs. For example, in some circuits judges are rotated among court divisions every two years, while other circuits allow judges to remain in their same assignment for several years. There is some diversity of opinion among judges on rotation among court divisions. Some judges told us that rotation can aid in their professional development, while others indicated that it can hinder efficiency in certain circumstances as the judges with more experience in a court division can better administer their dockets.

Circuits use differentiated case management to reduce caseloads and ensure continuity of service. Most chief judges reported having at least one division that provided differentiated case management services that more effectively addressed the types of cases it heard. The term “differentiated case management” refers to an approach where the court conducts early case screening and assigns certain cases to processing tracks based on that assessment. For example, in some circuits, criminal court divisions have special dockets that handle technical violations of probation on an expedited basis with the goal of reducing the jail population.

Some circuits also have developed complex business litigation divisions to handle time-consuming cases such as medical malpractice or product liability. This allows cases to progress more effectively through the regular trial division.

Circuits with unified family court divisions try to handle cases related to the same children and family together, recognizing that there are often common issues for the court to address.¹⁰ This approach tries to avoid inconsistent results, potential conflicting orders of court, and multiple court appearances by the same parties on the same issues while promoting the efficient administration of justice, conserving judicial resources and ensuring continuity of services for families.

Other circuits use additional types of special case processing tracks, such as juvenile drug courts and mental health courts that also allow for collaboration of all stakeholders during court proceedings. However, judges told us these dockets can only be implemented in criminal cases if the state attorney’s and public defender’s offices are able to adequately staff them. In multi-county circuits, differentiated case management may be feasible only in the most densely populated county or counties where there would be sufficient volume of cases to justify a special docket.

Circuits often assign additional judges to assist in clearing case backlogs. Judges in many circuits reported that they receive assistance from other available judges to help with hearings and trials when needed. The chief judge or the court administrator usually coordinates this process. While this is an efficient practice, some circuits are limited in doing this by courtroom space and travel considerations.

Senior judges, who are retired judges eligible to serve on assignment to temporary judicial duty, are also used for clearing docket backlogs and to provide coverage during lengthy or complex trials to permit the regular judges to continue to handle their other cases without delay.¹¹ However, circuits must compensate senior judges for their service and funding for those services is limited.

¹⁰ One example would be hearing a domestic relations case together with a juvenile matter where the same family is involved.

¹¹ A retired judge is a judge not engaged in the practice of law who has been a judicial officer of the state. *Rule 2.205(a)(3)(B), Florida Rules of Judicial Administration.*

⁹ Rule 2.215(b)(3), *Florida Rules of Judicial Administration.*

While senior judges are not used for covering annual leave, they are occasionally used for long periods of sick leave. One judge suggested that available appellate judges could also temporarily serve in circuits with need. This could be accomplished by request of the circuit chief judge to the Chief Justice, as provided by court rule.¹²

Florida law also authorizes county judges to be designated to hear circuit cases to improve the efficiency of circuit operations.¹³ Most judges told us that designating county judges to hear circuit court cases is an effective practice, especially in multi-county circuits where it may be less efficient to have a circuit judge travel to an outlying county. These temporary assignments also can help avoid disruption of court operations and scheduled trials when a judge is out sick, and avoid the need for continuances and the cost of using senior judges.

Some circuits and judges use intermediate timelines, active case management, deadlines, and limited continuances to guide cases to timely resolution. A few circuits use standard pretrial orders that establish general timelines for case resolution. In these circuits, the court sets deadlines for certain events such as discovery to prompt efficient case movement. This encourages lawyers to prepare for the events and recognizes that prepared lawyers are more likely to settle because they appreciate the strengths and weaknesses of their case.

“Active case management” is used by some judges to improve case processing. These judges play an active role in moving cases through the judicial process by setting timelines, scheduling frequent case management meetings, and monitoring case progress including dismissing cases after determining that matters are not still at issue or are not progressing. These techniques are not universally used, as other judges believe that attorneys and the criminal law process should guide the progress of cases.

Some criminal court judges impose deadlines for plea submission to encourage case resolution. Judges following this practice assert that the deadlines encourage defendants who were going to

enter a guilty plea right before their trial to plea sooner and thereby allow another case to fill that space on the trial calendar. These judges announce that the terms of any plea not entered at the final pretrial conference or hearing are not guaranteed if entered on the day of trial, and the defendant will be subject to the judge’s decision on the plea and sentence on trial day. Judges who use this deadline system stated that this practice also reduces the need to bring more potential jurors to the court only to have defendants plea out. However, other judges that do not use plea deadlines counter that defendants have a right to plea up to the time of trial and that any plea would reduce delays and improve case processing and so should be accepted.

Finally, many judges report controlling case progress by limiting continuances. These judges asserted that they grant continuances only for good cause in an effort to minimize unreasonable delays. These judges indicated that this encourages attorneys to be prepared for all scheduled court events. “Good cause” is determined at the discretion of the individual judge, but the *Rules of Judicial Administration* require that continuances be “few” and, in most instances, the request for continuance be signed by the requesting party, not only by the lawyer. An example of good cause may be the sudden illness of the lawyer or client.

Many circuits are using technology to help manage workload. These initiatives include using document imaging, electronic document filing, closed circuit television and video conferencing, and case management software.

Many clerks of courts are imaging court documents to reduce workload of clerks, judicial assistants and judges. Imaging documents is the process which transfers paper documents into data to make it available electronically. According to the Florida Association of Court Clerks and Comptrollers, most county clerks are already doing this and others have plans to initiate the practice in the future. Many judges noted that access to electronic court files increased their efficiency by enabling quick access to previous orders or pleadings without having the paper files in front of them.

Some counties are providing electronic court document filing to increase efficiency. Clerks of court who currently provide an electronic filing

¹² Rule 2.205(a)(2)(B)iii and (a)(3)(A), *Florida Rules of Judicial Administration*.

¹³ Section 26.57, *F.S.*, authorizes the temporary assignment of a county court judge, qualified to be a circuit judge, to any circuit court within the circuit.

option reported that efficiencies gained benefit lawyers and clerk staff, but also improve case processing, reduce storage space required, and reduce the costs of justice. These systems enable court documents to be submitted from any location with a computer. While not eliminating the need for the original to be filed with the clerk, electronic filing can expedite case movement. However, availability of electronic filing may be limited by the existing technology used in each county clerk's office, and funds are limited to update or replace these systems. The federal court system has implemented electronic case management for the federal courts, and the Office of the State Courts Administrator is presently pursuing the establishment of an electronic case management system for the district courts of appeal to increase case processing efficiency.

Judges in several circuits are using closed-circuit television for first appearances, and video conferencing, to better use the court's time and improve safety and cost efficiency. To avoid the cost of transporting and providing security for prisoners coming from the county jail to the courthouse for first appearance, many courts conduct arraignments and initial appearances via closed-circuit television. Video conferencing is also used to facilitate hearings with participants in remote locations, such as plea hearings for incarcerated defendants and testimony from witnesses living outside of Florida, without delay in the case. Internal court meetings as well as meetings with OSCA staff, and court training are also facilitated by video-conferencing.

Finally, some circuits use computer software that provides case management information to judges and gives lawyers internet access to judges' calendars to schedule hearing times. Judges in these circuits report that lawyers routinely use this access to set hearings, especially for shorter matters, which keeps cases moving and cuts down on telephone calls to judges' offices. Most courts allow attorneys to appear for non-final hearings by telephone to save time for judges and lawyers, reduce the need for continuances, and save money for civil litigants.¹⁴

What factors impact the courts' abilities to operate efficiently?

Based on review of literature and extensive interviews with judges and court stakeholders we identified four factors that present challenges for managing caseload. These are

- circuit geography and demographics;
- local legal culture;
- resource availability and allocation; and
- data availability.

Circuit geography and demographics can affect case management. The geographic size of circuits, including the number of counties that comprise the circuit, can affect how cases are managed. In large, multi-county circuits, judges, assistant state attorneys and assistant public defenders often incur travel time driving to outlying counties to handle cases, reducing time available to perform other court-related duties. The geographic configuration of circuits also influences judicial assignments, requiring greater consideration of judges' residential locations and travel considerations in making rotation schedules and court assignments. Also, it is more difficult for chief judges to temporarily assign additional judges to assist with case backlog in circuits that cover large geographical areas.

Chief judges in multi-county circuits must also coordinate with independent county-level operations. For example, clerks of court in each county may use different approaches for capturing court data and managing court records. These circuits have greater challenges in terms of establishing uniform processes for efficient caseload management.

In addition, the demographic make-up of circuits can affect caseload management. For example, circuits with large and growing multi-cultural populations have greater need for interpreters. Criminal defendants and some civil litigants have a constitutional right to interpreter services, and the number of languages the court must have interpreted has risen dramatically in recent years. Judges told us that court proceedings are often delayed while waiting for interpreters who are usually shared by several courts in the same circuit.

¹⁴ Rule 2.530, *Florida Rules of Judicial Administration*.

Local legal culture can affect case management. Research has shown that case processing speed is greatly affected by established expectations, practices, and informal rules of behavior of judges and attorneys.¹⁵ This is referred to as the local legal culture, and includes the degree to which judges and administrators emphasize the importance of cooperative relations and pursue shared goals, common tasks, and agreed upon procedures. Leadership by chief judges can help promote the level of collegiality within the courts system. However, individual judges are independently elected constitutional officers who have substantial discretion in managing their individual courtrooms and the cases brought before them. This can limit the chief judges' efforts to require the most efficient case management practices.

Resource availability and allocation can affect circuit case management. The Supreme Court and the Trial Court Budget Commission are responsible for allocating funds appropriated to the state courts system among the trial courts. Chief judges, using effective management practices, can allocate their circuit resources to promote the prompt disposition of cases. However, courts do not control the allocation of all types of resources required to effectively manage caseload.

- ***Staffing decisions by state attorneys and public defenders affect case management.*** The availability of some local resources that are not controlled by the court can affect judges' efforts to promptly dispose of cases. For example, a chief judge may not be able to establish an efficient and effective mental health court if the state attorney in that circuit does not have the resources to assign a specific assistant state attorney to this effort to develop the necessary expertise in that area of law. Similarly, county government budgetary considerations may not allow bailiffs to staff trials past normal business hours. Judges also reported that the number of trials that can be held at one time is sometimes limited by the number of available court reporters and interpreters, as well as by the availability of the assistant state attorneys and assistant public defenders in criminal cases, who are often assigned to multiple divisions or counties.

- ***County funding availability also can impact use of some case management resources.*** In some counties, local governments and community organizations contribute supplemental funds to provide court services. These include, in some areas of the state, additional traffic hearing officers to help courts more efficiently process cases and improve fine collection, family court case managers, and programs to divert juveniles from the court. These staff members benefit the county and free judges to focus on other judicial responsibilities. However, such supplemental financial support has primarily been available only in large urban counties and judges reported that such funding is becoming less available during challenging economic times.
- ***Courtroom facilities configured for criminal trials are a scarce resource in some circuits and must be used effectively to enable efficient resolution of as many cases as possible.*** To accomplish this, courts usually set trial calendars on a four-, six-, or eight-week rotating basis to maximize use of the space. Trial weeks are staggered for judges, with other weeks of the judges' calendars used for proceedings that don't require courtroom space, such as matters that can be handled in judges' chambers. Criminal court judges are given priority in courtroom allocations to accommodate speedy trial requirements, the number of criminal cases and security concerns. Many chief judges and court administrators reported that they have an insufficient number of available courtrooms. To help address this problem, some court administrators have reworked existing corridor and closet space to create small hearing rooms. Some chief judges reported that they have worked for years with city and/or county commissioners on the potential development or expansion of court facilities to provide more appropriate courtroom space to process cases more efficiently.
- Several judges noted that when trials settle at the last minute or finish early, judges and open courtrooms can become available. However, it is often impossible to identify a pending matter that can be heard by the judge on such short notice.

¹⁵ *Court Cultures and their Consequences*, Ostrom, Hanson, Ostrom and Kleiman, *The Court Manager*, Volume 20, Issue 1 (Spring 2005).

Reliable case data is not always available. Judges indicated that reliable data is critical to efficiently manage circuit caseloads. Some circuits have court information technology staff who have created or implemented case management software that provides reports for judges. Judges in these circuits and counties reported that these systems provide them information needed to manage workload effectively.¹⁶ However, judges in other circuits and counties report that they lack information needed to meet their case management needs.¹⁷ In some circuits, other elected courts system officers such as state attorneys maintain statistical case data that they share with judges, court administrators, and the other elected court officers. In other circuits, individual judges reported keeping their own statistics because they couldn't rely on available data.

Judges frequently voiced concerns about the accuracy of case data reported to them by their county clerks.¹⁸ While most of the chief judges reported using their clerk's data on the number of case filings, judges voiced general concern about the accuracy of other data in their clerks' system.

¹⁶ Other counties lack the system capacity to use such software, the trained personnel to maintain the programs, or the funds necessary to purchase new technology or required software licenses. Art. V, s. 14(c), *Florida Constitution*, provides that counties have the responsibility to fund communication services. Section 29.008(1)(f)2., *F.S.*, provides that information technology is a county responsibility.

¹⁷ In some counties judges report that the hard copy court case files are not indexed, requiring the judge to page through file documents searching for the document needed.

¹⁸ This data is downloaded nightly into the Comprehensive Case Information System (CCIS) maintained by the Florida Association of Court Clerks and Comptrollers (FACCC). This system includes clerk of court case-related data from all 67 clerks. CCIS contains the exact data that is collected from individual clerks; FACCC uses that data to produce management reports for one circuit that has requested that service.

Several circuits reported that while county clerks have assigned dedicated staff to try to improve the accuracy of clerks' data, the data was still inaccurate and sometimes internally inconsistent. Some judges attributed these problems to a lack of trained staff to input the data, improperly closed-out cases, and varying definitions between clerks and courts on how closed and re-opened cases should be designated in the system.

Judges also questioned whether management reports generated from clerk data contained all the information they needed to effectively oversee case management. The most specific concerns cited were with re-opened cases, the age of those cases, and the level of detail that could be provided. Also, some judges noted that information systems used by clerks of court were not all capable of generating reports by judge or division, thereby limiting some chief and administrative judges' abilities to monitor case processing.

Previous studies have identified similar problems and concerns with court data systems. The Legislature may wish to consider convening a workgroup of judges and county clerks of court to examine the case management information available to judges statewide under the current clerk of court case maintenance and data reporting practices.

Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Office of the State Courts Administrator to review and respond. The State Courts Administrator's written response has been reproduced in Appendix B.

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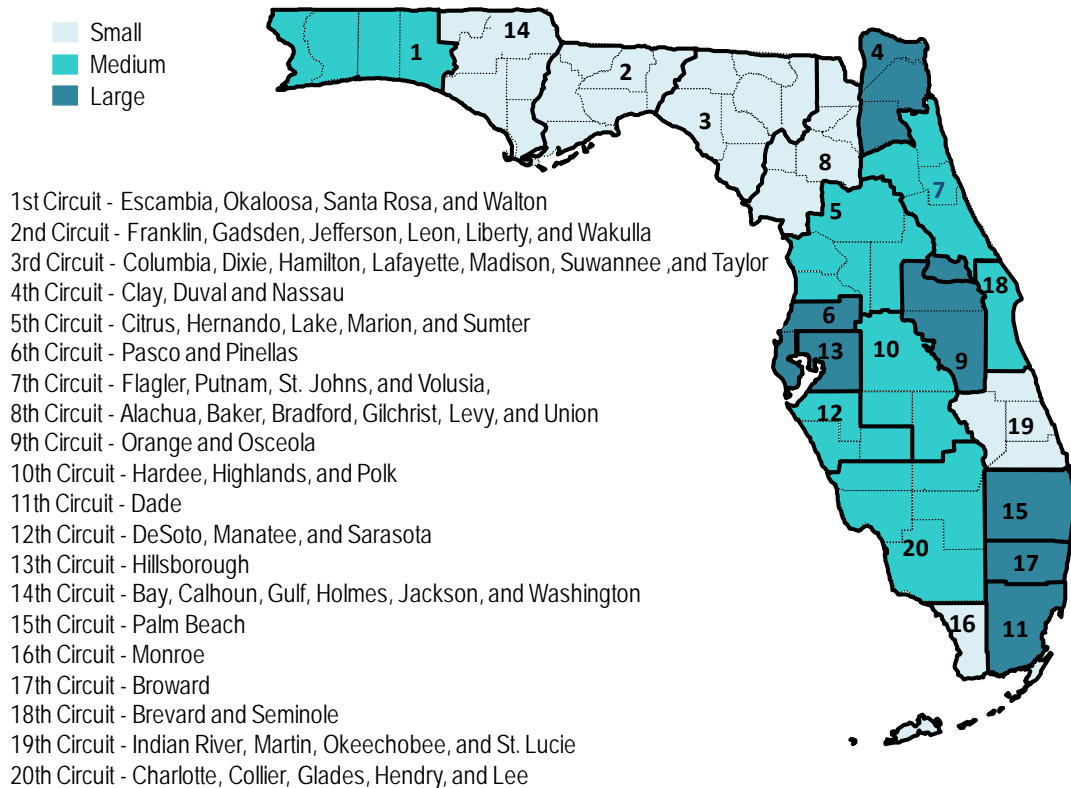
Gary R. VanLandingham, Ph.D., OPPAGA Director

Appendix A

Site Selection Methodology

As part of our review and to examine the conditions affecting judicial workload management practices in Florida, we visited eight circuits around the state: the 2nd, 3rd, 8th, 9th, 11th, 12th, 13th, and 15th circuits. We selected these circuits on the basis of their case clearance rates, population density (to include urban and rural circuits and large, medium and small circuits); and geographical characteristics (to include multi-county circuits that are geographically dispersed as well as single county circuits with numerous court locations).¹⁹

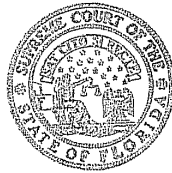
In our site visits, we interviewed numerous court stakeholders, including chief judges, administrative judges, circuit judges, county judges, court administrators, public defenders, state attorneys and clerks of court. We conducted telephone interviews with the 12 chief judges, which often included their court administrators, in circuits we did not visit. We also met with the Chief Justice of the Florida Supreme Court; staff of the Office of the State Court Administrator; staff of the Florida Association of County Court Clerks and Comptrollers; the president of the Florida Bar; and the executive director and a member of the Commission on Capital Cases.



¹⁹ "Clearance rates" are a generally accepted measure of court efficiency recognized in national literature. The calculation of clearance rates takes all open cases pending in a division, adds all newly filed cases within the division, and divides by the number of cases disposed within the division within a certain period of time. Clearance rates are calculated by Office of State Courts Administrator for each circuit by division using State Reporting System data.

Appendix B

Peggy A. Quince
Chief Justice



Elisabeth H. Goodner
State Courts Administrator

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January 16, 2009

Mr. Gary R. VanLandingham
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Dear Mr. VanLandingham:

The following information is provided by the Office of the State Courts Administrator in response to OPPAGA's report entitled "Judicial Case Management Practices Vary Throughout State; Better Case Data Needed." My office has conferred with Judge Judith Kreeger, chair of the Florida Courts Technology Commission in preparing this response.

First, let me state that we are pleased that the report reflects that Florida's circuit and county courts employ a variety of strategies to improve efficiency and reduce delay, and that the Supreme Court has adopted rules to encourage effective management of the trial courts. The report also reflects two realities with which the court system is confronted within its endeavors to be efficient: lack of adequate resources and lack of reliable data. We are concerned about both, and welcome the opportunity to comment further.

It is encouraging to see that "using court technology effectively" is one of the important general factors identified among the "best practices for judicial case management" as noted in the background section of the report. Conversely, the *lack* of adequate technology is one of the factors that limits the use of case management practices in some areas of the state. Lack of adequate technology is a result of the *lack* of sufficient technology funding for the court system, a concern that we have expressed many times since the implementation of state funding of the trial courts in 2004.

Additionally, the courts have been hampered in their case management activities by recent budget reductions at the state level. Eighty-seven case management positions were eliminated in the 2007/08 and 2008/09 fiscal years and many circuits report a decline in effective case management as a result. Sufficient case management staff is critical to the courts' ability to properly manage cases.

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It is also important that the report recognizes that the Supreme Court has included the use of technology as it has established statewide policies and adopted court rules. This practice clearly underscores the fact that technology has been of concern to the Court for many years. As a result, the Supreme Court established a committee governance structure to address technology in the branch over 13 years ago. Most recently the work of the Florida Courts Technology Commission and the Electronic Filing Committee has been focused on pursuing the adoption of rules and standards that will provide the ability for electronic filing in the state's trial courts, no matter where an individual is located or in which state trial court they will be filing documents. Electronic filing could potentially improve case management if the courts are able to build case management systems that would also be available statewide.

The report reflects the importance of "using innovative technologies" for case management practices and policies; and specifically cites "establishing differentiated case management." The report goes on to state that "differentiated case management may only be feasible in the most densely populated county or counties where there would be sufficient volume of cases to justify a special docket." Clarification of this statement may be needed, based on input received from Judge Kreeger. Judge Kreeger has indicated that every judge can use the benefits of differentiated case management techniques and analysis in the management of their docket, regardless of the case type or whether the court is urban or rural (or somewhere in between). Again, this issue goes back to the use *and availability* of adequate court technology.

The report further states that "county funding availability also can impact use of some case management resources," and indicates that this funding is "becoming less available during challenging economic times." I would also point out that the counties have experienced a drop off in the technology fee collections specifically, which is of great concern to many of the circuits since it is the only dedicated source of technology funding for the trial courts.

We find it helpful that the report emphasizes that "courts do not control the allocation of all types of resources required to effectively manage caseflow." However it does not clearly spell out that the systems and data that the clerks of court have developed are used to perform their *case maintenance activities*, as opposed to the data the courts must have that is necessary to perform *case management activities*, which is the primary subject matter of the report. As I have stated previously, the ability of the trial courts to have any uniform case management across the state is hampered by the current funding structure, which depends on support from each of the 67 counties individually.

The courts welcome any opportunity to improve judges' access to the information they require for effective case management; therefore, the suggestion that the Legislature may wish to consider creating a workgroup to look at this information is a positive one. In the event this workgroup is established, it may be helpful to revisit the final report and recommendations of the

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Article V Technology Board, which was established by the Legislature in 2004 to address technology issues facing Article V entities.

Thank you for the opportunity to comment on this report, and also for the time spent by your staff with judges and court administrators across the state in order to properly reflect our case management practices.

Please let me know if you have any questions or concerns, or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Goodner". The signature is written in a cursive, flowing style.

Elisabeth H. Goodner

LG:CN:ma