JUDICIAL MANAGEMENT COUNCIL
COMMITTEE ON TRIAL COURT
PERFORMANCE AND ACCOUNTABILITY

CRIMINAL WORKGROUP

REPORT

Executive Summary

The Criminal Workgroup of the Committee on Trial Court Performance and Accountability has studied the jurisdiction, workload, and processing of criminal cases in the circuit courts. To facilitate accountability and to improve the performance of the circuit criminal courts the Workgroup discusses and makes recommendations on the following:

- A mission statement of the circuit criminal courts is proposed;
- A classification system is proposed to organize aggregate information on the volume and distribution of cases;
- Key events in the processing of criminal cases are presented and discussed, and the interims between the key events are analyzed;
- Uniform measures of timeliness in reference to the key events are proposed;
- Additional matters heard in circuit criminal courts are described, and areas of future study are proposed;
- Uniform descriptive indicators of the disposition of cases and the reporting of an annual clearance rate are proposed;
- The current rule on time standards is discussed and an alternative rule is proposed.

The implementation of a performance and accountability system cannot occur without the existence of an information system capable of providing complete and accurate information about cases statewide. The workgroup strongly urges the speedy development of such a capability, and takes no position on whether responsibility for this capability belongs to the respective clerks of court or to the state courts system itself.
I. Introduction

The Florida judicial branch is committed to improving court performance through the implementation of a comprehensive management and accountability system. This document is one in a series to be developed that describes the constitutional function of adjudication in the divisions of the circuit and county courts.

This report discusses the implementation of performance and accountability with respect to the criminal cases handled in Florida circuit courts. To gain knowledgeable input on the operations of the criminal courts, the Committee on Trial Court Performance and Accountability formed a Criminal Workgroup. The workgroup consisted of eleven circuit and county judges, and was facilitated by Judge Paul Backman of the Seventeenth Judicial Circuit. Judge Backman also serves as liaison to the committee. The Criminal Workgroup met on June 21, July 27 and 28, and August 18, 2000.

Recommendations from the Criminal Workgroup are forwarded in this document to the Judicial Management Council’s Committee on Trial Court Performance and Accountability regarding the mission of the criminal courts, descriptions of their jurisdiction and caseload, analysis of the key events and the processing of cases, and the manner and outcome of dispositions. Further, the workgroup makes recommendations on accountability regarding court rules on timeliness in the processing of cases.

II. Mission of the Circuit Court in Handling Criminal Cases

The Florida constitution provides for two types of trial courts – county courts and circuit courts. Their jurisdiction, or authority to hear certain matters, is to be set by general law. Generally, county courts hear misdemeanors, and circuit courts hear felony cases. Where a defendant is charged with several offenses including both misdemeanor and felony charges the case is heard in circuit court. The workgroup was asked to study and make recommendations regarding circuit criminal courts. Matters regarding the criminal cases handled in county courts will be studied by a separate workgroup.

Criminal courts play a delicate and pivotal role in our system of criminal justice, and in our society in general. The central function of the criminal courts is to apply the criminal laws through a process that recognizes and protects the due process rights that all citizens have. A number of important social goals are included in this function. In a nation built on principles of liberty and individual rights, the rights of people charged with crimes represent the rights of all

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1 There are county courts in each of Florida’s 67 counties, and 20 circuit courts. Most of the circuit courts cover multiple counties, while five, Broward, Hillsborough, Miami-Dade, Monroe, and Palm Beach, are single-county circuits.
citizens, and the protection of these rights is a paramount duty of the courts. Courts therefore were created to exist within an independent branch of government, operating separately from the executive and legislative branches, able to interpose the law in the event another branch of government overreaches its constitutional authority. At the same time, the value of a safe and orderly community requires that those who threaten public safety or otherwise violate the law must be effectively controlled. The courts can also support the larger criminal justice system in the rehabilitation of criminals to reduce future offenses. Finally, principles of equality and fairness mandate that in all cases the courts operate in a manner that is, and is seen as, being impartial, consistent and independent in applying the law.

These important goals are balanced not in the abstract, but through the judicial handling of thousands and thousands of individual cases. In processing these cases – from routine and minor infractions to infamous and complex cases – courts operate under constraints of time and resources. Time dedicated to any given case results in less time available for other cases. The courts must effectively balance the goals discussed above, and must do so in a manner that is both timely and efficient, allowing cases sufficient time and attention to bring them to their just resolution.

The courts also play an important role in developing responses to the changing needs of a modern society. Courts seek to provide appropriate legal forums to resolve issues and address problems that arise in cases before them. Courts provide leadership in improving and adapting the justice system to meet societal needs and to support public trust and confidence. In addition to direct responsibility for cases that come into the courts, judges improve the legal system by providing education to lawyers, fellow judges, and to the public. In this way both practitioners and citizens are able to understand the constantly changing environment of the law.

The purpose of the circuit courts in handling criminal cases can be summarized in the following mission statement:

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**Mission Statement of the Circuit Criminal Courts**

Circuit courts provide an independent forum to ensure fair and equal treatment to defendants, victims, witnesses, and other participants, giving each case the time and resources to do justice. Judges impose punitive and rehabilitative sanctions to restore justice, protect victims, and enhance public safety.

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III. The Jurisdiction and Criminal Caseloads of Circuit Courts

The jurisdiction of courts over criminal cases is determined by statute and can be described in several ways. One way to describe jurisdiction is to categorize criminal offenses by the traditional distinctions of felony and misdemeanor. While some believe the distinction between felony and misdemeanor is outdated, it remains the single most relied upon operative classifications.\(^2\) Within these broad categories there are degrees, with capital and life felonies being the most serious, followed by first, second and third degree felonies, and then first and second degree misdemeanors.

As discussed previously, the jurisdiction of the circuit courts over criminal cases is determined by general law, and currently includes all felony cases and pendant jurisdiction over misdemeanors where the most serious charge is a felony. Changes in the law have expanded the jurisdiction and thus the caseload of the circuit courts as offenses traditionally heard in county courts now must be heard filed in circuit courts. Florida law directs that all delinquency cases be heard in circuit court, for instance, and certain criminal traffic offenses are now felonies and must be heard in circuit courts.

A second way of describing criminal cases is by the nature of offenses, which permits a more discrete level of analysis. For instance, crimes can be classified as violent or nonviolent, or as crimes against persons, crimes against property, drug crimes, and other types. This kind of classification can be extended so that crimes against persons, for example, can be further categorized as murders, robberies, batteries, sex offenses and others. Each of these can be broken down yet further, so that sex offenses might be classified as sexual battery, lewd and lascivious behavior, and others.

The workgroup recommends a categorization system that incorporates both of these approaches, and organizes case information as follows:

A. Case Jurisdiction and Type:

1. All circuit court cases be classified by division, including criminal, domestic relations (family), civil, juvenile, and probate and guardianship;\(^3\)

\(^2\) Felonies, under American colonial law the most serious of offenses, punishable by banishment, capital and severe corporal punishment, now include many offenses that were traditionally classified as misdemeanors. Misdemeanors, by tradition punishable by no more than one year in jail, can now lead to enhanced sentences of many years under repeat offender laws.

\(^3\) This breakdown is consistent with the Summary Reporting System (SRS). Separation of juvenile cases into dependency and delinquency filings may be needed. The classification of cases by division shows the relative activity within divisions, but does not always provide a good indication of the actual nature of cases. Similar cases are sometimes heard in different divisions in different
2. All criminal cases be classified by the degree of the most serious charge, as provided in statute, including capital, life felony, 1st degree felony, 2nd degree felony, 3rd degree felony, and misdemeanor;

3. All circuit criminal cases are classified into major offense groupings: crimes against persons, crimes against property, drug-related offenses, and other;

4. All circuit criminal cases are classified by offense groupings used to report Summary Reporting System data.

The volume of cases within the above classifications should be reported, providing several indicators of caseload and distribution. The distribution of criminal cases of various types filed in Florida’s courts are not necessarily consistent with population size across communities and times. There can be large differences between different places and different years. While the factors that contribute to the numbers of criminal cases of different types coming into the courts in different places and times are complex and not fully understood, most observers and practitioners would agree that these can include such factors as: changes in criminal laws; the deterrent effect of these laws; the resources available to and policies of both police and prosecutors; fluctuations in populations and age cohorts; employment markets and general economic conditions; social transience and mobility; the local availability of drugs, alcohol and guns; and other conditions that influence criminal or official behavior.

A central conclusion to be drawn is that the courts themselves do not have control over the numbers of cases filed before them. The courts must handle every case properly before them.

courts, such as cases brought under the new civil confinement law, which are technically civil but heard in criminal divisions in some circuits. Furthermore, some courts in rural areas do not use divisions, with a single judge handling cases of all types.

4. These categories include: capital murder; noncapital murder; sexual offenses; robbery; other crimes against persons; burglary; theft, forgery, fraud; worthless checks; other crimes against property; drug offenses; and other offenses.

5. For instance, a local law enforcement initiative targeting drunk driving will increase the number of DUI cases regardless of the actual number of drunk drivers. If a local prosecutor chooses not to charge the customers of prostitutes but only the prostitutes themselves, the distribution of sex crimes as between prostitution and solicitation will reflect that practice.

6. Some of these factors can be highly localized. Regional economic events — such as the relocation of spring break or the concentration of correctional facilities in rural areas — can have a strong impact on the numbers of certain types of cases. Even weather and academic calendars have been shown to affect crime rates.
Under Florida’s constitution it is state attorneys who decide, within prescribed limits, whether and when to file criminal charges in cases referred to them by police.

To describe the volume and distribution of criminal cases in Florida, the Criminal Workgroup recommends that the classifications outlined earlier be used to present the volume and relative distribution of cases, as follows:

B. Case Volume and Distribution

1. The absolute number and percentage distribution of all circuit court cases by division: criminal, domestic relations (family), civil, juvenile, and probate and guardianship;

2. The absolute number and percentage distribution of all criminal cases, classified by the degree of the most serious charge, as provided in statute, including capital, life felony, 1st degree felony, 2nd degree felony, 3rd degree felony, and misdemeanor;

3. The absolute number and percentage distribution of all criminal cases, classified into major offense groupings: crimes against persons, crimes against property, drug-related offenses, and other;

4. The absolute number and percentage distribution of all criminal cases, classified by offense groupings used to report Summary Reporting System data; and

5. The absolute number and percentage distribution of all criminal cases, classified by offense groupings used by the Offender-Based Transaction System.

IV. The Processing of Criminal Cases in Circuit Courts

Criminal cases progress through the judicial system in a pattern that is generally similar in its principle events, but can be highly variable across different types of cases and often among different cases of the same type. The most direct way to understand the criminal case process is to start with a clear understanding of several key events that occur in the majority of cases, then to examine what is occurring at these events as well as during the intervals between them. This provides a framework then for understanding why some types of cases progress very quickly while others take longer, and why there can be wide variations between cases of the same type.

A. Key Events in the Criminal Case Process.
1. **Arrest.** Arrest is performed by a law enforcement agency, typically at the time of an alleged criminal offense or shortly thereafter. Occasionally an investigation or the discovery of a past crime leads to an arrest months or even years after the alleged crime. Most arrested persons are released after signing a document promising to appear in court for an arraignment. Some people that are arrested are held in jail without bail, or because they are unable to post the bail amount that is set for them.

1(a) **Re-arrest.** In a substantial number of cases, a person who was arrested and released fails to appear in court on the required date. This can lead to a warrant for their arrest, sometimes called a capias, so that they can be rearrested and held in custody until they appear in court. Until this occurs, the case against the defendant cannot proceed.

2. **Case Filing.** A criminal case is formally introduced into the judicial process through the filing with the clerk of court of a charging document—an information or indictment—by a state attorney.

3. **Disposition.** A criminal case in the trial court is generally concluded when a judge or the clerk of the court enters an order that terminates the matter in some way. There are a number of ways that cases are disposed of, which are discussed in Section VII. Unless the case is reopened or sent back to the trial court by an appellate court—which occurs in some cases—the disposition date is the final event in a judicial case.

The key events summarized above are the principle formal stages that occur within the life of most criminal cases. Each is performed by a different actor in the criminal justice system—police, prosecutors, and judges. The process of criminal justice can be analyzed by examining the activities that occur in the intervals between the key events, and by considering some of the many other events that occur in many cases in order to advance case to the next key event.

B. **Activities within intervals.**

1. **Arrest - Filing.** Arrest is performed by a law-enforcement agency when an officer feels that sufficient probable cause exists to believe a crime has been committed and the person to be arrested committed it. After arrest, the investigation may continue, evidence must be collected and preserved, and reports must be prepared. Depending on the complexity and seriousness of the alleged crime, this process can be relatively brief or very extended. When the investigation is concluded, all evidence and reports, along with a complaint, is provided to the state attorney within the jurisdiction.
State attorney's offices are generally organized in a way that mirrors the divisions of the court, with sections for felony, misdemeanor, delinquency, and traffic. Incoming cases are assigned to an assistant state attorney in the appropriate division. The assistant state attorney examines the materials provided by the police, and any other matters, and determines whether to file charges and what charges to file. In most cases the state then files a complaint called an information. For some serious crimes, such as murder, the state presents its evidence to a grand jury, which can then return an indictment, or true bill, charging a person with a crime. When either of these documents are filed with the clerk of the court, the case is assigned a number, entered on the court docket, and scheduled for arraignment.

1(a) Effect of re-arrest. When a defendant fails to appear for an arraignment or other court proceeding, the progress of the case is stalled until the person is rearrested and brought before the court. While in many cases the defendant voluntarily surrenders himself or herself or is rearrested within a short time, in some cases the defendant flees the jurisdiction and may remain at large for years. When this happens the case remains dormant but still open.

2. Filing - Disposition. Approximately 80% of criminal cases are disposed of through a plea; a small portion proceed all the way to a trial, and the rest are either dismissed, transferred to another jurisdiction, or otherwise disposed. Whether concluded by a plea, trial, or other manner, in most cases resolution does not occur until the prosecution and defense have had the time to investigate the case and explore their available options. Some of these activities can include:

- The process of reaching a plea agreement in a case includes the collection of information by both the state attorney and the defense attorney, exchanges of information through a process known as discovery. Discovery can include the taking of depositions from witness and police officers.

- Negotiations between the two sides, and sometimes conflicting interests among several co-defendants, often lead to pre-trial motions, which may require hearings or written briefs. Strategic decisions, such as motions of conflict and motions to severe the trials of co-defendants, can take several months. In some cases defendants must be evaluated for mental competency, which may take several months.
- For those cases that do not settle and proceed to trial, these negotiations and exchanges eventually give way to trial preparation. Trial dates are frequently continued at the request of either the state or defense counsel in the hope that events will unfold favorable to their side.

- If the trial is a jury trial, the process of selecting a jury can take a few hours for a routine case, but for a murder or infamous case it can take a day or more.

- Most felony criminal trials once underway can take a day or more, and a major trial such as for a murder or sexual assault, which may include testimony from many witnesses and experts, can take several days or even weeks. Cases with multiple defendants can take longer, or may require separate trials.

- Whether by plea or trial, the outcome of a case is finally documented by the presiding judge. When a sentence is to be imposed, the disposition does not occur until the sentence is entered. Frequently sentencing is delayed until a sentencing scoresheet is prepared by a state attorney and provided to the court, and a pre-sentencing report is completed by the Department of Corrections.

3. Arrest - Disposition. The overall life of a criminal case starts with a crime and arrest and concludes with a disposition. The summaries above illustrate that before a case is disposed of, a series of decisions must be made by different system actors. The central actors in the criminal justice system – law enforcement, prosecutors, defense counsel – each have an important and independent role to play. It is important that each of these carry out their responsibilities, and to understand that the process takes time as each agent makes decisions about the case.

C. Measures of Timeliness

The time it takes for cases to proceed through the judicial process can vary significantly in response to a number of factors. Most significantly is the seriousness of the charge, which

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7 Complete and accurate data on all criminal cases in Florida is not readily available with existing information systems. In developing its recommendations, the workgroup relied on data drawn from the Offender-Based Transaction System after comparing it to data in the Summary Reporting System. Full reporting is conditional on the development of a reliable and comprehensive statewide data collection system. Thirty-nine counties are included in the sample used by the Workgroup, comprising about 54% of cases statewide. Several large counties were not included in this sample, including Broward, Duval, Hillsborough, and Palm Beach.
affects both the preparation required and the probable sentence. When the probable sentence is long, or if there is a possibility of a death sentence being imposed, there is little incentive for a defendant to accept a plea offer. Changes in the law have increased the frequency of instances where this can occur, discussed in section XX. This extends the life of the case and increases the probability of a trial. Similarly, an extensive prior record of a defendant, or the presence of any other factor that might be used by the state to enhance the sentence, will increase the probable sentence and lead to a more extended negotiation process or trial. In addition, the inability of any critical actor involved in the case to be prepared at each stage, often a problem when resources are stretched thin, will cause delay.

The management practices and policies of a court can also contribute to timeliness. The traditional view that the movement of cases should be largely controlled by attorneys has given way in recent years to the view that there is a public interest in the timely processing of cases, and therefore every court should take steps to ensure that cases proceed to resolution as quickly as possible consistent with due process and thoughtful decision-making by all parties. Studies have shown that courts that consistently apply case management techniques can shorten the time it takes for most cases to complete the judicial process. This approach has been expressly adopted in Florida. Rule 2.085 of the Rules of Judicial Administration expressly directs trial judges to take charge of all cases and control the progress of the case until it is completed.

To help describe the movement of cases through the circuit courts, the following descriptive timeliness indicators should be collected and reported:

1. Filing to disposition:
   a. Percentage of cases that proceed from filing to disposition within 120 days
   b. Percentage of cases that proceed from filing to disposition within 180 days
   c. Percentage of cases that proceed from filing to disposition within 365 days

2. Arrest/re-arrest to disposition:
   a. Percentage of cases that proceed from arrest/re-arrest to disposition within 120 days
   b. Percentage of cases that proceed from arrest/re-arrest to disposition within 180 days
   c. Percentage of cases that proceed from arrest/re-arrest to disposition within 365 days
V. Additional Matters Heard in Circuit Criminal Divisions.

While most criminal cases follow the relatively standard path through the judicial process described above, many matters are handled by the courts that do not follow this general process. These matters are not included in the statistics on “cases” presented in the last section. A fuller understanding of the criminal court requires awareness of these matters and how they contribute to the workload of the court and the overall functioning of the criminal justice system.

A. Pre-filing events. A number of important judicial events can occur before a case is filed, and in many cases where no case will be filed. For instance, a judge must review affidavits and authorize a search warrant before police can conduct searches under certain conditions. Judges must be available at all times to review requests for warrants. Bail hearings are another important function, where the court decides whether an arrested person can be held without bail, or what the appropriate amount of bail should be. Judges are also available at all times to review and rule on motions for temporary restraining orders, frequently in the context of allegations of domestic violence.

B. Pre-trial intervention. Judges sometime participate in programs that are designed to resolve cases in a productive manner without the case being filed. For instance, some drug courts are pre-filing programs, where a person who was arrested on a drug charge can avoid having the charge filed against them if they successfully complete a treatment program and other conditions.

C. Post-disposition events. Some cases return to circuit court after the disposition has been made. Hearings for violations of probation must be held to determine whether a person had violated the terms of their probation and so must be subjected to greater sanctions. Violation of probation matters can consume as much as 10% of a circuit criminal judge’s time. Additionally, motions to vacate, set aside, or correct a judgement or sentence under Rule of Criminal Procedure 3.850 are very common. Circuit courts conduct post-conviction hearings regarding sentencing in capital cases.

D. Appeals of county cases. Circuit courts hear appeals from county court cases, typically in panels of three judges. These matters usual require briefings, review of any available record, legal research, panel conference, and the writing of one or more opinions.

E. Referee and Commissioner matters. Circuit court judges are frequently assigned by the Florida Supreme Court as referees in cases where an attorney is alleged to have violated the rules of professional conduct.

The workgroup is prepared to conduct further study into these matters if so directed.
VI. Issues Affecting the Processing of Criminal Cases

There are a number of organizational and legal issues, as well as specific statutes, that have an impact on the volume of cases and which may operate to cause delays in processing. Study of the impact that these issues and laws have on the dynamics of the criminal court process would help to improve accountability and to facilitate improvement in the judicial process. A brief summary of some of these issues follows.

**Jurisdiction.** As discussed previously, circuit courts handle felony cases and county courts handle misdemeanors. Circuit courts also handle all juvenile delinquency matters. This jurisdictional division can be altered by statute. Circuit courts are increasingly providing jurisdiction for matters traditionally handled in county courts. Currently, for instance, circuit courts are required to take jurisdiction over criminal traffic cases that are felonies because of the prior record of the defendant, as in felony DUI. Cases of this type could be placed under the jurisdiction of the county court along with other traffic and DUI cases.

**Sentencing.** In recent years laws regarding sentencing have fundamentally altered the dynamics of the criminal process in ways that are not yet fully understood. Florida law now requires persons convicted to serve 85% of their sentence, and gain-time is no longer available. Furthermore, sentence enhancements and mandatory-minimum sentences based on various factors also can contribute to longer potential sentences. Crimes alleged against previously released incarcerated offenders can bring greatly enhanced sentences. These changes appear to have made a number of significant impacts on the processing of cases independent of their primary policy objectives. First, the incentives for defendants to accept a plea in exchange for a shorter sentence are often no longer available in such cases or greatly reduced, decreasing the likelihood of a defendant accepting plea offers and increasing the possibility of a trial. Secondly, the procedural and evidentiary issues raised in such cases are more complex, requiring greater attention from prosecutors and defense counsel as well as the court. The application of enhanced sentencing in general requires more hearings and often appeals and remands, and the issues have become increasingly complex. A recent United States Supreme Court case, *Apprendi v. New Jersey*, may generate a great deal of litigation regarding the requirements that courts must meet before enhanced sentences can be imposed.  

**Sex offenses.** Recent laws designed to incapacitate sex offenders appear to have created processing issues that should be studied more fully. Violations of probation by convicted sex offenders now lead to significantly more severe sanctions, reducing the likelihood of a plea and increasing the possibility of a trial. More complex still, the Involuntary Civil Commitment Care

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*Apprendi* concerns procedures that must be followed before a sentence can be enhanced, and may require that any factor to be used to enhance a sentence must be found to be present by a jury beyond a reasonable doubt, rather than determined by a judge on a preponderance of the evidence standard.
Act (Jimmy Ryce) presents unique challenges to the courts. While civil confinement is grounded in civil rather than criminal law, in many jurisdictions these cases are being directed to the criminal division because of the underlying criminal nature of the facts. The controlling rules of procedure, however, are different, as are the participants, and the procedural and evidentiary requirements for a civil commitment case have not been clearly established.

The workgroup is prepared to study any of these issues further if so directed. In particular the workgroup suggests that the issues of previously released re-offenders and enhanced sentencing in general be studied further for the implications regarding timeliness and workload.

VII. The Disposition of Criminal Cases in Circuit Courts

Every case that is filed in a court must eventually be disposed. Disposition can occur in several ways, most commonly by a plea and sentencing. Smaller numbers of cases are disposed by a judgment of guilt followed by sentencing, a judgment of not guilty, dismissal, or other manner. The following would provide descriptive indicators of the disposition of cases:

A. Disposition Summary Indicators.

1. **Manner of Disposition.** The absolute numbers and percentages of cases, by circuit, disposed by: plea, dismissal, jury trial, and other.

2. **Outcome of Disposition.** The absolute numbers and percentages of cases, by circuit, where the disposition of cases are: conviction (or adjudication withheld), acquittal or other.

B. Clearance Rates.

1. The number of cases disposed expressed as a percentage of the number of cases filed be calculated and reported for each circuit and statewide.

A standard reference point for whether a court is keeping up with its caseload is a clearance rate. The clearance rate is a calculation of the number of cases disposed divided by the number of cases that were filed, expressed as a percentage. The usual period is for one year. The clearance rate essentially encapsulates the flow of cases through court. When the court is disposing of fewer cases than are filed, its clearance rate will be less than 100%, when it is disposing of more cases than are being filed, the clearance rate will be greater than 100%. In the very long run, because all cases are eventually disposed of, the statistical trend will invariably be for the clearance rate to approximate 100%.

A clearance rate of less than 100% indicates that more cases have been filed in a court than the court has resolved in a given time period. There can be many reasons for this to happen,
often related to the availability of resources within the court, as well as resources available to other actors, particularly state attorneys and public defenders. In addition, even with similar resources, some courts maintain a higher clearance rate by utilizing case management practices that allow the court to operate more efficiently.

When a clearance rate is above 100% it is an indication that the court is reducing its backlog of cases. This can occur when additional resources are put into the court, as when additional judges are assigned or senior judges, who are retired but can still be called for temporary service, are utilized to reduce a significant backlog. A well-performing court will rarely operate with a clearance rate significantly higher than 100%, simply because the court has had the resources and policies in place that have allowed it to consistently process its cases in a timely manner to avoid the creation of a backlog. A very high clearance rate indicates that the court had a large backlog that is being reduced. Ideally, a court should maintain a clearance rate around 100%, accompanied by timeliness indicators that show that the court's work is being done in a timely manner.

VIII. Time Standards

Florida currently has court rules that include time standards for trial and appellate courts. Rule 2.085(d) provides that a set of time frames are presumptively reasonable for the completion of most cases, and recognizes that some cases will take longer. Rule 2.085(e) further requires that information about all cases that exceed the applicable time frames be reported quarterly to the Office of the State Courts Administrator. Some observers and practitioners believe these rules to be unworkable, and the workgroup was asked to examine the usefulness of these rules and recommend changes.

The workgroup suggests replacing the existing rule with a new rule entitled “Timeliness of Case Processing” that utilizes the time frames outlined in section IV-C of this report and the case types outlined in section IV-A. The rule should require every circuit to annually report to the Supreme Court the absolute numbers and percentage of cases, broken down by case type, that are disposed of within 120, 180, and 365 days. The rule should also include “Timeliness Goals” for each case type, calculated after current performance is accurately assessed, that provide aspirational performance levels. Finally, the rule should also express that every circuit chief judge should monitor these timeliness indicators and take steps to ensure that judges within the circuit are provided with assistance in managing their cases in a timely manner. Judicial education programs should incorporate training on case management techniques that support timely case processing.
IX. Recommendations:

The Criminal Workgroup recommends the following:

A. The following mission statement be adopted as an operative mission statement for the circuit criminal courts:

"Circuit courts provide an independent forum to ensure fair and equal treatment to defendants, victims, witnesses, and other participants, giving each case the time and resources to do justice. Judges impose punitive and rehabilitative sanctions to restore justice, protect victims, and enhance public safety."

B. The capability to collect uniform and accurate data statewide must be developed and maintained to allow the collection of reliable data on cases as described in the following recommendations.

C. The following case jurisdiction and case type classification be adopted:

1. All circuit court cases be classified by division, including criminal, domestic relations (family), civil, juvenile, and probate and guardianship;

2. All criminal cases be classified by the degree of the most serious charge, as provided in statute, including capital, life felony, 1st degree felony, 2nd degree felony, 3rd degree felony, and misdemeanor;

3. All circuit criminal cases are classified into major offense groupings: crimes against persons, crimes against property, drug-related offenses, and other;

4. All circuit criminal cases are classified by offense groupings used to report Summary Reporting System data.

D. The following case volume and distribution descriptive statistics be calculated and reported statewide and for each circuit.

1. The absolute number and percentage distribution of all circuit court cases by division: criminal, domestic relations (family), civil, juvenile, and probate and guardianship;
2. The absolute number and percentage distribution of all criminal cases, classified by the degree of the most serious charge, as provided in statute, including capital, life felony, 1st degree felony, 2nd degree felony, 3rd degree felony, and misdemeanor;

3. The absolute number and percentage distribution of all criminal cases, classified into major offense groupings: crimes against persons, crimes against property, drug-related offenses, and other;

4. The absolute number and percentage distribution of all criminal cases, classified by offense groupings used to report Summary Reporting System data; and

5. The absolute number and percentage distribution of all criminal cases, classified by offense groupings used by the Offender-Based Transaction System.

E. The following timeliness indicators be calculated and reported statewide and for each circuit.

1. Filing to disposition:
   a. Percentage of cases that proceed from filing to disposition within 120 days
   b. Percentage of cases that proceed from filing to disposition within 180 days
   c. Percentage of cases that proceed from filing to disposition within 365 days

2. Arrest/re-arrest to disposition:
   a. Percentage of cases that proceed from arrest/re-arrest to disposition within 120 days
   b. Percentage of cases that proceed from arrest/re-arrest to disposition within 180 days
   c. Percentage of cases that proceed from arrest/re-arrest to disposition within 365 days

F. The following disposition summary indicators be calculated and reported statewide and for each circuit.

   Manner of Disposition. The absolute numbers and percentages of cases, by circuit, disposed by: plea, dismissal, jury trial, and other.
Outcome of Disposition. The absolute numbers and percentages of cases, by circuit, where the disposition of cases are: conviction (or adjudication withheld), acquittal or other.

G. The clearance rates be calculated and reported statewide and for each circuit.

The number of cases disposed expressed as a percentage of the number of cases filed be calculated and reported for each circuit and statewide.

H. Rule of Judicial Administration 2.850 should be considered for revision as suggested in section VII.

I. The Criminal Workgroup should be directed to undertake the following matters:

1. Conduct education and outreach with circuit judges and others regarding the development of performance and accountability mechanisms;

2. Evaluate the feasibility of the current speedy trial;

3. Analyze the volume and workload demands of violations of probation hearings, 3.850 and 3.851 hearings, and other post-conviction matters;

4. Analyze the impact of legislation regarding enhanced sentencing on the ability of the courts to timely process cases.

X. Membership of the Criminal Workgroup

- Paul L. Backman, Judge, Seventeenth Judicial Circuit, facilitator
- Henry Davis, Judge, Fourth Judicial Circuit
- James V. Dominguez, Judge, Hillsborough County
- Janet Ferris, Judge, Second Judicial Circuit
- Nancy Moate Ley, Judge, Sixth Judicial Circuit
- Melanie G. May, Judge, Seventeenth Judicial Circuit
- A. Thomas Mihok, Judge, Ninth Judicial Circuit
- Victoria Platzer, Judge, Eleventh Judicial Circuit
- Robert J. Simms, Judge, Thirteenth Judicial Circuit
- Larry Gibbs Turner, Judge, Eighth Judicial Circuit
- Charles E. Williams, Judge, Twelfth Judicial Circuit
Criminal Section
Florida Conference of Circuit Judges

Judicial Management Council
Committee on Trial Court Performance and Accountability
Circuit Criminal Workgroup

December 3, 2000
Rule 2.085

Time Standards for Trial and Appellate Courts

(d) **Time Standards.** The following time standards are hereby established as a presumptively reasonable time period for the completion of cases in the trial and appellate courts of this state. It is recognized that there are cases that, because of their complexity and present problems that cause reasonable delays. However, most cases should be completed within the following time periods:

...  

Felony – 180 days (arrest to final disposition)  

...
Timeliness Goals

Under Revised Rule (to be developed)

*Example:*

x% of circuit criminal cases should be disposed within 180 days of filing

Different goals may be established for different classifications of cases, such as:

- first degree and capital murder
- other murder
- capital sexual offenses
- other sexual offenses
- all other circuit criminal cases
The role of the Circuit Courts in the handling of felony cases is to provide an independent forum to ensure fair and equal treatment to defendants, victims, witnesses, and other participants, giving each case the time and resources necessary to do justice. Judges impose punitive and rehabilitative sanctions to restore justice, protect victims, and enhance public safety.
Organization of Indicators

- Jurisdiction
- Case Processing
- Disposition

The indicators to be presented here are for illustration. Not all of the figures presented have been verified.
Circuit Court Filings

source: all counties, SRS, fiscal year 1998-99

Total Filings: 766,726

- Domestic Relations 30.7% 235,427
- Civil 20.9% 160,489
- Criminal 23.9% 183,350
- Probate/Guardianship 11.9% 90,979
- Juvenile 12.6% 96,481
Circuit Court Filings

Criminal as a Percentage of All Filings, by Circuit
source: all counties, SRS, fiscal year 1998-99

Total Filings: 766,726    Criminal Filings: 183,350

Percentage of Circuit Court Cases

| Circuit | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th | 8th | 9th | 10th | 11th | 12th | 13th | 14th | 15th | 16th | 17th | 18th | 19th | 20th | State |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|------|------|------|------|------|------|-------|
| Percent | 26.0| 26.4| 26.5| 24.6| 21.7| 21.7| 26.0| 26.8| 25.4| 23.0 | 20.4 | 29.4 | 27.2 | 35.5 | 23.8 | 21.8 | 21.5 | 25.6 | 23.9 |
Comparison of Filings by Degree Level
source: all counties, OBTS/FDLE, fiscal year 1998-99

- 3rd Degree: 68.6% 125,778
- 2nd Degree: 25.7% 47,121
- 1st Degree: 4.8% 8,801
- Life: 0.7% 1,283
- Capital: 0.2% 367

Criminal Filings: 183,350

1st degree: penalty not to exceed 30 years (some with possibility of life)
2nd degree: penalty not to exceed 15 years
3rd degree: penalty not to exceed 5 years

run date Jul-00
Circuit Criminal Filings

source: all counties, SRS, fiscal year 1998-99

Criminal Filings: 183,350

- Drug 31.9% 58,580
- Crimes Against Persons 24.6% 45,095
- Crimes Against Property 35.0% 64,086
- Other 8.5% 15,589

run date Jul-00
Criminal Filings: 183,350

- Drugs 31.9% 58,580
- Theft, Forgery, Fraud 20.3% 37,186
- Burglary 9.8% 17,898
- Other Crimes Against Property 1.0% 1,785
- Worthless Checks 3.9% 7,217
- Sexual Offenses 2.1% 3,810
- Robbery 3.0% 5,446
- Capital Murder 0.2% 433
- Non-Capital Murder 0.6% 1,190

Other 8.5% 15,589

source: all counties, SRS, fiscal year 1998-99

run date Jul-00
Timeliness Indicators

based on a preliminary review of 43 counties

Filing to Disposition

- 48% of circuit criminal cases disposed within 120 days of filing
- 62% of circuit criminal cases disposed within 180 days of filing
- 83% of circuit criminal cases disposed within one year of filing

Arrest to Disposition

- 50% of circuit criminal cases disposed within 120 days of arrest
- 67% of circuit criminal cases disposed within 180 days of arrest
- 87% of circuit criminal cases disposed within one year of arrest

run date 11-17-00
Clearance Rates

Dispositions in One Year as a Percentage of Filings
source: SRS, all counties
run date 12-1-00
Jury Trial Rates

Jury Trials as a Percentage of Dispositions
source: SRS, all counties, fiscal year 1998-99

Criminal Dispositions: 176,903
run date 11-28-00
Manner of Disposition

source: SRS, all counties, fiscal year 1998-99

Criminal Dispositions: 176,903

* Includes defendants placed on deferred prosecution program, transferred to another court, dismissed prior to trial, and dismissed on the prosecutor’s motion.
Criminal Dispositions: 176,903

* Other 18.4% 32,598
Acquittal 0.9% 1,566
Conviction 80.7% 142,739

* Includes defendants placed on deferred prosecution program, transferred to another court, dismissed prior to trial, and dismissed on the prosecutor’s motion.

source: SRS, all counties, fiscal year 1998-99

run date 11-28-00