



Judicial MANAGEMENT Council

**Committee on
Trial Court
Performance and Accountability**

Report and Recommendations

December 1999

Judicial Management Council
Committee on
Trial Court
Performance and Accountability

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JUDICIAL MANAGEMENT COUNCIL

Committee on Trial Court Performance and Accountability

Report and Recommendations

I. Introduction

The people of Florida have a vital interest in the performance of their trial courts, and a strong desire to know how well the courts are performing their work. Several mandates that operate on the judicial branch are directed at meeting these interests. In response, Chief Justice Major Harding, as Chair of the Judicial Management Council, created the Judicial Management Council Committee on Trial Court Performance and Accountability in December, 1998.

Foremost among the mandates directed at trial court performance and accountability is a 1992 amendment to the Constitution of the State of Florida through which the citizens expressed their desire that agencies of state government, including the judicial branch, operate through planning processes that guide their efforts, and that agencies implement quality management and accountability programs to ensure productivity and efficiency. This desire echoes citizen demands nationwide for improved performance and accountability throughout government. The Florida judicial branch committed itself to respond fully to these constitutional mandates, completing its first long-range strategic plan in 1998, and launching a comprehensive, branch-wide performance and accountability initiative, which includes the work of this committee.

The branch long-range strategic plan, *Taking Bearings, Setting Course*, also directs the development of a comprehensive performance and accountability system. The long-range plan observes that sound performance and an open system of accountability are the principle components of public trust and confidence in the courts: "Courts earn public trust by doing a good job, and by communicating effectively with the people." To be faithful to the confidence of citizens, the courts must pay constant attention to the quality of the judicial system. For a full discussion, see *The Florida Approach to Public Trust and Confidence in the Courts*. (Appendix A.)

The most direct mandate in the long-range strategic plan for developing a performance and accountability system can be found in Goal 5.1, which states simply: "The judicial branch will be

accountable to the people.” One of the strategies to achieve that goal is to: “Share information about judicial system performance with policymakers, court users, and the public.”

The 1998-2000 operational plan of the judicial branch, *Horizon 2000*, provides more specific direction. Objective I-B calls for the creation of a trial court performance and accountability committee under the Judicial Management Council, and directs that the committee develop a methodology to develop a performance and accountability system. That objective also directs the committee to undertake a comprehensive review of court services and programs. Objective II-J of the operational plan is to “institutionalize and integrate strategic planning, performance measurement, and accountability programs within the judicial branch.” Objective II-D directs quality management and accountability activities specifically to improve the timely resolution of cases.

II. Committee Charge, Membership and Process

A. Committee Charge

The committee was directed to make recommendations to the Judicial Management Council on a number of issues related to performance and accountability in the trial courts. Specifically, the committee was asked to address the following matters:

1. Articulate a mission statement for the trial courts.
2. Identify legitimate expectations that are common to all divisions of trial courts.
3. Define the criteria for identifying those trial court functions that should operate under a performance-based program budget.
4. Recommend to the Judicial Management Council those programs that should operate under a performance-based program budget.
5. In conjunction with the Article V Funding Steering Committee, identify the specific budget line items that should operate under a performance-based program budget.
6. Identify performance indicators for those trial court functions that should *not* operate under a performance-based program budget.
7. Identify program outcomes, performance measures, and standards for those trial court programs that should operate under a performance-based program budget.
8. Recommend steps to further implement a trial court performance and accountability program.

B. Committee Membership

The membership of the committee is representative of the entire state courts system, and also includes representatives of major constituency groups, including prosecutors and public defenders, clerks of court, and the general public. The membership of the committee is:

- Alice Blackwell White, Judge, Ninth Judicial Circuit
- Paul L. Backman, Judge, Seventeenth Judicial Circuit
- Jean A. Bice, Attorney, Ocala
- Ruben O. Carrerou, Court Administrator, Eleventh Judicial Circuit
- Walter N. Colbath, Jr., Chief Judge, Fifteenth Judicial Circuit
- Henry W. Cook, Clerk, Duval County
- Al Davis, Public Member, Tampa
- Brian J. Davis, Judge, Fourth Judicial Circuit
- John A. DeVault, III, Attorney, Jacksonville
- Sandra Edwards-Stephens, Judge, Marion County
- Rosemary E. Enright, Public Defender, Sixteenth Judicial Circuit
- Woodrow W. Hatcher, Judge, Jackson County
- Terry P. Lewis, Judge, Second Judicial Circuit
- Bernie McCabe, State Attorney, Sixth Judicial Circuit
- Ted McFetridge, Court Administrator, Eighth Judicial Circuit
- Manuel R. Morales, Jr., Attorney, Miami
- Thomas S. Reese, Judge, Twentieth Judicial Circuit
- Susan F. Schaeffer, Chief Judge, Sixth Judicial Circuit
- Marsha G. Stiller, Clerk, Martin County
- Martha C. Warner, Chief Judge, Fourth District Court of Appeal
- Mark A. Weinberg, Court Administrator, Seventh Judicial Circuit

- Charles T. Wells, Justice, Liaison from Supreme Court of Florida

C. Committee Process

The complexity of the charge to the committee compelled the committee to develop a deliberate, structured approach to its work. At its first meeting, in February, 1999, the committee adopted a workplan and timetable that would allow it to make a report to the Judicial Management Council by December, 1999. With some modification, the committee has largely adhered to this workplan and timetable.

The workplan of the committee had three major sets of components: research and analysis; definition and development; and outreach and approval. (Appendix B.)

The research and analysis elements of the committee's work included: a review of the existing literature on court performance measurement such as the national Trial Court Performance Standards, and relevant ABA performance standards; a review of literature on performance measurement in government; the identification and compilation of relevant state and national data; and a review of an inventory of existing state and local court operating budgets conducted by the Article V Funding Steering Committee.

The definition and development components of the committee's work included: the development of a trial court mission statement, the identification and definition of the functional areas of the trial court process, the definition and differentiation of core court functions and court programs, the development of a process to identify performance indicators for core functions, and the development of a process to create performance measures for court programs.

The committee consulted on a number of occasions with constituent groups and colleagues in the court community in developing and ratifying its approach to performance and accountability. Early in the work of the committee, a series of presentations were made to constituent groups, at which input was sought about the role of the courts and expectations of the public. These outreach presentations were made to the Florida Conference of Circuit Judges, the Florida Conference of County Court Judges, the Judicial Assistants Association of Florida, and the Florida Association of Court Clerks and Comptrollers. At the first three of these sessions, participants were asked to respond to a survey inquiring into public expectations of the courts.

After the committee had developed its approach, it sought input once again from key components of the court community. This dialog principally occurred through two events. The first was an educational meeting of circuit court chief judges and trial court administrators which was devoted to developing key competencies of court managers. At this event, the committee's approach to trial court performance and accountability provided the substance of a one-day educational session.

The second event was a judicial forum organized by the committee that was specifically designed to gain broad input from the judicial community. This event, supported by a grant from The Florida Bar Foundation, brought together some eighty judges and court administrators to consider and respond to the committee's work in detail. Participants in this forum included leadership of the judges' conferences, chairs of all major branch policy committees, chief judges, trial court administrators, and other representatives selected by each chief judge. Forum participants discussed the overall approach to performance and accountability, and provided input to the committee on the approach, as well as the articulation of the mission statement and the identification of court functions and activities. The views expressed through this forum have been incorporated in this report, and will inform the ongoing development of the branch's performance and accountability efforts.

III. Committee Findings and Recommendations

Performance and accountability systems can be understood to have three major elements: outcome statements, performance components, and accountability mechanisms. The following findings and recommendations address each of these elements in turn, concluding with discussion and recommendations of additional work that remains to be done in developing a functional performance and accountability system.

The mission statement set out in the following section is a general outcome statement for Florida's trial courts. As discussed in that section, it may be desirable to create more specific outcome statements, whether referred to as mission statements or not, for the divisions of the trial courts.

Performance components are discussed in the next section. A description of trial court operations, explained by the concepts of inherent and integrated functions of courts and supplemented by the functional differentiation of activities, sets out a framework for analyzing the way in which trial courts perform their work.

Finally, a number of accountability mechanisms are discussed and recommended. The committee recommends a series of interrelated mechanisms to serve several purposes. These accountability mechanisms include performance indicators and measures, workload measures, and quality management programs. Accountability mechanisms are distinguished between those appropriate for inherent functions of courts and those appropriate for integrated functions of courts.

A. The Mission of the Trial Courts

The mission statement for Florida's trial courts intends to incorporate in general terms the constitutional, statutory and traditional expectations of the trial courts. As discussed above, the mission statement is a fundamental component to performance and accountability; it serves as a general statement of outcomes, or expectations, that the trial courts are responsible for meeting. From the general mission statement is derived a more specific elaboration of both performance components and accountability mechanisms. The mission thus serves as a lynchpin for the entire system of performance and accountability.

The committee devoted considerable time developing the trial court mission statement. The committee dedicated about half of its first meeting contemplating fundamental questions about the purpose of the trial courts within our social and legal systems, and discussed how the courts serve the people. Following this initial session, the committee developed a draft mission statement and returned to it at every subsequent meeting, refining it on every occasion. Finally, the committee presented the draft mission statement to broad groups of judges and court administrators at two separate forums, asking for their input and making additional changes.

The judicial article of the Constitution of the State of Florida, Article V, provides scant guidance on the mission of the courts, stating only that: "The judicial power shall be vested in a supreme court, district courts of appeal, circuit courts and county courts." Article V goes on to describe the jurisdiction of the various courts, and enumerates some of the specific legal powers of these courts. There is, however, no clear definition of the mission of the trial courts. The Declaration of Rights, Article I, clearly implicates the courts in the constitutional protections provided to citizens, including those of due process, access to the courts, and trial by jury. Beyond that, an understanding of the constitutional role of the courts must be found in statutes and case law that set out the requirements of due process and the role of the courts in providing it.

At present, the committee is satisfied that the mission statement set forth in Recommendation One adequately embraces the constitutional, statutory and traditional expectations of the trial courts. At the same time, the committee believes that additional consideration and review by the wider court and legal community may lead to further improvement and refinement in the statement. Therefore, the committee does not recommend that the mission statement below be adopted at this time as a permanent statement, but rather that the statement be embraced provisionally for purposes of developing a performance and accountability system, recognizing that further refinements may be desirable as this initiative continues.

The committee recognizes the general nature of the proposed mission statement, applying as it does to the entire role of the trial courts, without reference to the roles of the divisions of the trial courts, such as criminal, civil, domestic relations and so on. As discussed later in this report, the committee contemplates that as Florida's performance and accountability effort progresses into these more specific areas, it may be desirable to articulate outcome statements in each of these areas, whether these statements are referred to as mission statements or not.

Recommendation 1

The present mission statement for the trial courts of the Florida State Court System is:

"The purpose of Florida's trial courts is to protect and declare the rights and responsibilities of the people; to uphold and interpret the law; and to provide a forum for the just and peaceful resolution of legal and factual disputes."

B. The Functions of Trial Courts

To address the task of identifying and analyzing the performance components of the trial courts, the committee set out first to find a descriptive model of the trial courts that expresses in direct terms what the trial courts do and why they do it. These two elements – what and why – summarize the central inquiries of modern performance measurement. This management approach has gained acceptance among public officials and administrators across subject areas because it seeks to answer the important questions about what public benefit a governmental entity ought to be providing, and the effectiveness of mechanisms employed to provide that benefit.

Such a descriptive model of the performance components of the trial courts would allow an understanding of why courts perform various activities and functions. Performance measures then would be directed at capturing the degree to which the trial courts are performing those functions. An extensive search of the theoretic literature on legal systems and court administration, however, found no satisfactory existing theory. The committee then endeavored to construct one. In doing so, the committee was greatly aided by the developing work of its companion body, the Committee on District Court of Appeal Performance and Accountability, which was undertaking a similar task for the intermediate appellate courts.

The Committee on District Court of Appeal Performance and Accountability developed definitions of "core court functions" and "court programs." Under these definitions, "core court functions" are those activities that are reasonably necessary for the district courts of appeal to accomplish their mission; "court programs" are those activities that help realize identifiable goals and objectives beyond the central mission. The trial court committee found great value in these definitions, and set about to build on these a framework that was both applicable to the more complex mission and operating structures of the trial courts, and more comprehensive in facilitating the incorporation of accountability mechanisms.

The committee felt that the term "core" was not helpful, being somewhat imprecise and subject to misinterpretation. The committee understood that what was needed was a term that describes those activities and functions that are required for a court to perform its mission. The major concern was that the term "core," as applied to the trial courts, was too restrictive, and might not be understood to embrace the full range of activities that are necessary to actually operate a modern trial court. The committee was concerned that the abstract concept, whatever it is termed, must contemplate the actual, day to day, operating requirements of a functional court. Thus, while a single circuit judge, duly commissioned, could in theory perform all the judicial duties directed to a trial court by the state constitution, a workable model should accommodate the actual operating needs of a functioning court.

Inherent Functions

After extensive consideration, the committee elected to use the term "inherent functions" rather than "core functions" or "core processes" as a more precise expression of the underlying concept. "Inherent functions," like the "core court functions" of the Committee on District Court of Appeal Performance and Accountability, are those that a court must be able to carry out in order to perform its mission. The committee derives the meaning of "inherent," in this context, from the long established doctrine of inherent powers. That doctrine recognizes simply that courts have constitutional obligations to the citizenry, and that to meet those obligations there are functions and activities that a court must be able to perform.

Inherent functions of courts include activities involved in adjudication, which is the ability to make authoritative decisions about factual, legal, and procedural matters presented in a case. These would include essentially all judicial activities and the direct support of judicial activities, as well as administrative activities that relate to the organization and processing of cases through the judicial system. An enumeration of activities that the committee finds to be within the inherent functions of trial courts is set forth in Recommendation Three.

Integrated Functions

Modern trial courts are highly elaborated organizations, performing an array of functions and services that few people, even those within the legal community, are fully aware of. While many of these activities directly support the mission of the courts and can be considered part of the inherent functions discussed above, many do not directly support the central mission of the courts. Rather, these additional functions and activities are usually integrated into the operation of the courts to respond to some community need or stated public policy. In most cases, the courts are the most appropriate provider of the service because the nature of the need or public policy is closely related to the principal work of the courts. In some cases, courts became the provider of a service because of a demonstrated ability to marshal resources and respond to the public need. As expressed in the long-range plan of the judicial branch, there is today "an emerging set of roles for courts beyond those traditionally accepted as fundamental to the judicial function."

The committee elected to term these activities "integrated functions," rather than employ the term "court programs" used by the Committee on District Court of Appeal Performance and Accountability. This term is intended to convey more completely the close relationship between these activities, the inherent functions of courts, and the ongoing administration of justice. Integrated activities are in many cases more than mere enhancements or add-ons. Some, such as law libraries, have been operated by courts for so long that it is difficult to conceive of them as being provided by any other entity.

Recommendation 2

Activities of trial courts are directed to either Inherent Functions or Integrated Functions. These are:

- **Inherent Functions.** Activities of trial courts that are essential, or reasonably necessary, to effectuate the mission of the trial courts.
- **Integrated Functions.** Activities of trial courts that are reasonably necessary to effectuate public policy or to respond to legitimate public expectations.

C. Differentiation of Trial Court Activities

The model presented distinguishes between activities that support the mission of the trial courts (inherent functions) and those that support public policy or respond to legitimate public expectations beyond the mission of the courts (integrated functions). This distinction creates a framework for considering all court activities with respect to the public benefit they provide. To facilitate classification of court activities within this framework, the committee differentiated all activities currently being carried out in any trial court in Florida in terms of the general function, or benefit, the activity serves.

The committee identified approximately eighty activities performed within Florida's trial courts, and classified these activities within the six functional areas. These are:

1. The Adjudication Function
2. The Assessment and Evaluation Function
3. The Enforcement Function
4. The Oversight Function
5. The Treatment Function
6. The Public Access and Services Function

See Appendix C for the definitions of these functions and itemization of activities by function.

The committee then considered this functional differentiation in terms of the concept of inherent functions and the articulated mission statement. The committee concluded that the inherent functions of the courts include, at a minimum, all activities directed to the performance of the adjudication function. Some of the activities categorized as directed to the other five functions may also fall within the concept of inherent functions.

The itemization presented in Recommendation Three reflects the practical, operational implications of the concept of inherent functions. It is the finding of the committee that the itemized activities are reasonably necessary for a trial court to fulfill its obligations to the people of Florida as summarized in the proposed mission statement. The committee does not intend that this itemization be understood to be fixed. The operational environment of the modern court changes quickly, and judges and court administrators must be allowed the flexibility to both adapt to changing conditions and to innovate management practices to improve the administration of justice. In this dynamic environment, functions and activities performed in courts may become so essential or reasonably necessary that they might eventually be considered inherent functions within this framework.

Recommendation 3

The following activities are essential, or reasonably necessary, to effectuate the mission of the trial courts:

Judicial activities, and supervisory and administrative activities including: calendar management, court administration, judicial library services, staff attorney research and writing, case management and coordination, court reporting, interpreting and translating, record creation and preparation, evidence collection and preservation, security and courtroom management, alternative dispute resolution, specialty court coordination, personnel management, finance and budgeting, facility management, technology support and coordination, reimbursement of juror expenses, jury management, education and training, rule-making, and information reporting.

D. Accountability Mechanisms

The third element of a performance and accountability system is the creation of accountability mechanisms. The distinction between inherent and integrated functions of courts is a reflection of the separation of powers found within our constitutional structure. This structural separation supports one of the most fundamental values of the American governmental system: judicial independence. In considering the appropriate mechanisms for providing accountability for trial court performance, the committee confronted the difficult issue of balancing the principles of judicial independence and separation of powers with that of accountability. In doing so, the committee again benefitted from the previous work of the Committee on District Court of Appeal Performance and Accountability. That committee suggests that the constitutional basis for core court functions (inherent functions) places responsibility for the performance of those functions in the judicial branch. In contrast, the constitutional basis for the performance of court programs (integrated functions), does not place responsibility for the performance of those functions exclusively in the judicial branch. Because responsibility for performing functions arises from different parts of the constitutional structure, accountability must appropriately be located differently. The Committee on Trial Court Performance and Accountability agrees with this view.

It is the responsibility of the judicial branch to provide accountability to the people for the performance of the inherent functions of the courts. Accountability mechanisms, at the same time, must not interfere with judicial independence, whether that of an individual judge, a court, or the entire level branch. Integrated functions, on the other hand, do not implicate the constitutional role of the courts in the same way, but rather involve the effectuation of public policy that does not arise to the constitutional level. As such, the issue of judicial independence is less implicated, and appropriate accountability mechanisms can be fashioned in coordination with the governmental entity that supports the public policy involved.

Accountability Mechanisms for Inherent Functions

To protect judicial independence while ensuring accountability, the committee embraced several principles regarding the development of accountability mechanisms for inherent functions:

- Accountability to the people for the performance of the inherent functions of the courts is the responsibility of the judicial.
- Measurement of court performance of the inherent functions of courts should be descriptive rather than normative. An accountability system should not operate to impact the substantive outcomes of particular cases.
- The appropriate level of inquiry is the court and the system, not the individual judge. Constitutional mechanisms exist, including judicial elections and the Judicial Qualifications Commission, to address individual judge performance.

The committee finds that three mechanisms are appropriate for providing accountability for inherent functions. These are:

- **Performance Indicators** that describe relevant elements of court performance of the inherent functions of courts.
- **Judicial Workload Measures** that justify the need for resources.
- **A Quality Management Program** that ensures operational accountability for other inherent functions.

The committee recommends that the principle mechanism for accountability of inherent functions be *performance indicators*. Performance indicators are presentations of descriptive data that summarize the operation of the courts, including the nature and volume of cases, the major events that occur within the processing of cases and how long these events take, and what happens to cases as they proceed through and out of the judicial process. The most significant difference between performance indicators and performance measures, which are recommended for integrated functions, is that the former are purely descriptive, while the latter can be normative as well as descriptive. Appendix D provides examples of the information about the operation of the courts that performance indicators might provide.

Recommendation 4

The committee should oversee a process to develop performance indicators that describe the performance of inherent court functions of the trial courts in terms of the volume and nature of caseloads, the processing of cases, and the resolution of cases. Indicators should be developed for the trial courts in general, as well as for the trial court divisions of criminal, civil, family, dependency, delinquency, probate and guardianship, traffic, and circuit appellate.

To account for resources needed to do the work of the trial courts, the committee finds that workload measures are an appropriate mechanism to provide accountability. The concept of workload measures is not new; different forms of workload measurement have long been used by the judicial branch to support its requests to the Legislature for new judgeships and funding. Properly formulated, workload measures are an appropriate method of sharing fiscal accountability

between the judicial branch and the legislative branch, which has an independent constitutional obligation to ensure that public funds are expended prudently. The committee finds that many activities performed within the inherent functions can be appropriately related to workload measures.

Finally, the committee recommends that the judicial branch dedicate resources to creating a comprehensive quality management system that ensures the effective and efficient operation of major court functions. A quality management system could have a number of components, including policy development processes, workload criteria, and educational activities. Major cost centers, such as jury management and use of senior judges, would be the subject of quality management efforts. The need for such a system is heightened by the recent amendment to Article V of the state constitution, which mandates that the state assume responsibility for funding many court functions that have previously been funded by the counties. It is imperative that sound management systems be in place as these costs become incorporated into the state judicial branch budget.

Recommendation 5

The Committee should develop and recommend a branch quality management infrastructure to ensure continuous improvement in the management of the trial courts. This infrastructure should include policy development processes, criteria for resource allocation and educational elements.

Accountability Mechanisms for Integrated Functions

As discussed previously, integrated functions do not implicate the constitutional role of the courts, but are intertwined with the operations of the courts to help address public policy or a legitimate public expectation. As such, accountability for these functions does not reside solely within the judicial branch, but is shared by the courts with the entity of government that has adopted the specific public policy or seeks to respond to a specific public desire, and has elected to fund the provision of that service through the courts. Integrated functions can be supported by local government, state government, the federal government, or even through grant funding. In any case, the court or courts that provide a given integrated function share an obligation with that entity for the provision of that service.

With respect to integrated functions funded by state revenue, Chapter 94-249, Laws of Florida, vests with the Chief Justice the responsibility for identifying programs that could operate under performance-based program budgeting. The Act defines "program" as "a set of activities undertaken in accordance with a plan of action organized to realize identifiable goals and objectives

based on legislative authorization.” This definition is compatible with the committee’s recommended definition of an integrated function. Therefore, the committee finds that those integrated functions that are funded by the state, or are included in a budget request, would fall within the definition provided in the Act.

Recommendation 6

Those court activities that meet the definition of an integrated function and are currently funded by the state should be classified as a program that could operate under performance-based program budgeting, and should be submitted to the Legislature as such.

The committee finds that a number of integrated functions of the trial courts are currently funded by the state. As such they are suitable for submission to the Legislature under performance-based program budgeting.

Recommendation 7

The Chief Justice should identify the following activities as court programs in the 2000-2001 budget for purposes of performance-based program budgeting:

- **Custody Evaluation**
- **Guardian Ad Litem**
- **Indigence Examination**
- **Juvenile Alternative Sanctions Coordination**
- **Probate/Guardianship Monitoring**
- **Drug Treatment**
- **Pre-filing Drug Court**
- **Neighborhood/Community Justice Centers**
- **Intake Services For Self-represented Litigants**
- **Teen Court**
- **Truancy**

(See Appendix E for complete descriptions of these activities.)

The 1998 amendment to Article V must be fully implemented by 2004. As the process of implementing this change occurs, additional integrated functions of the trial courts are likely to become state funded. A process must be put in place to identify these as such, and to incorporate them into the judicial branch's performance-based program budgeting system.

Recommendation 8

The committee, in coordination with the Article V Funding Steering Committee, should develop a methodology to identify budget items that are assumed by the state in implementing Revision 7 to Article V that meet the definition of an integrated function, and should be classified as a program that could operate under performance-based program budgeting.

Beginning in September, 2000, legislative budget requests submitted under performance-based program budgeting must be presented with a set of performance measures and standards. These measures and standards are intended to allow the Legislature to consider the purpose of the activity as well as the effectiveness of the activity in achieving its purpose. The committee views this requirement as consistent with sound public management and entirely within the Legislature's prerogative. It is the responsibility of the judicial branch, in submitting programs for Legislative consideration, to develop the necessary performance measures and standards.

Recommendation 9

The committee should oversee a process to develop performance measures and standards as appropriate for each program identified as such under performance-based program budgeting.

Finally, with respect to those integrated functions carried out by trial courts in Florida that are not funded by the state, the committee recognizes that there is a continuing obligation of the courts to develop sound management practices that include quality management and accountability elements. This is particularly important in light of Revision 7 to Article V. As its performance and accountability initiative continues, the judicial branch should seek to institute accountability mechanisms at the local level that parallel those at the state level.

E. Summary of Performance and Accountability Elements

Outcome Statement:

- A **Mission** that incorporates constitutional, statutory and traditional expectations of the courts.

Performance Components:

- **Inherent Functions** of courts are essential, or reasonably necessary, to effectuate the mission.
- **Integrated Functions** of courts are reasonably necessary to effectuate public policy or respond to legitimate public expectations.

Accountability Mechanisms:

- For **Inherent Functions**:
 - ▶ **Performance Indicators** that describe relevant elements of court performance of the inherent functions of courts.
 - ▶ **Judicial Workload Measures** that justify the need for resources.
 - ▶ A **Quality Management Program** that ensures operational accountability for other inherent functions.
- For **Integrated Functions**:
 - ▶ **Performance Measures** for integrated function activities that are state-funded and meet criteria for designation as a program under performance-based program budgeting.
 - ▶ **Quality Management Program** to ensure accountability for other integrated functions.

F. Remaining Matters

The development and institutionalization of a comprehensive performance and accountability system for the trial courts of Florida is a major undertaking. This report and recommendations of the Committee on Trial Court Performance and Accountability documents only the first steps in this effort; much remains to be done. In this initial phase, the committee was well served by a broadly representative and diverse membership that included two clerks of court, a state attorney, a public defender, a public member, and representatives of the Bar. The perspective provided by these members was invaluable in creating a mission statement and in designing the general framework presented in this report.

With the completion of this important developmental work, the foundation is now laid for a second stage, during which most of the work represented in the preceding recommendations must be carried forward. To advance the performance and accountability initiative into this next, more operational, phase, the committee recommends that the body be reconstituted and given a new charge. The reconstituted committee should include trial court judges and administrators with a strong working knowledge of the trial courts, who would be capable of overseeing the work of a number of ad hoc workgroups organized to address specific tasks required in the complete development of an accountability system.

Recommendation 10

The Committee on Trial Court Performance and Accountability should be reconstituted, and charged to address the following matters by January, 2001:

- **oversee the development of a coordinated system to identify appropriate performance indicators for inherent court functions for the trial courts generally, and for divisions of the courts;**
- **oversee the development of a system to identify performance measures for court programs;**
- **develop a plan for the state court system to enhance quality management within the trial courts, and;**
- **assist in developing a budgeting framework that incorporates performance indicators and measures.**

Judicial Management Council
Committee on
Trial Court Performance and Accountability

Appendix A:
The Florida Approach to
Public Trust and Confidence in the Courts
(Winter 1999)

Nationally and in Florida, the issue of public trust and confidence in the courts has emerged as a matter of the highest priority. The national Conference of Chief Justices has launched a major initiative on the subject in an effort to develop a national strategy to improve public support of the justice system. In May of 1999, the Conference will bring together teams from every state, led by the chief justices, to address the topic and consider a strategic national response. In Florida, Chief Justice Harding has identified building public trust and confidence as the focus of his administration, and has charged the Judicial Management Council with leading branch efforts to address this issue.¹ The following analysis discusses the issue of trust and confidence, and suggests a framework under which a comprehensive strategy can be developed.

I. The Importance of Public Trust and Confidence.

There is general agreement that an essential condition for the effective functioning of the courts is a measure of trust and confidence on the part of the people. One might ask why this is so, given that the courts do, after all, operate under broad express and inherent authority vested in them by constitutional structures. At least three reasons have been articulated: First, confidence in the institution of the judiciary contributes to the voluntary compliance of citizens

with the rule of law in general, and court orders in particular.² Second, the American constitutional scheme of separation of powers functions best when public support for the three branches is relatively equally distributed, or balanced. This allows courts to decide controversial cases and manage their affairs without political interference, and enables the judicial branch to fulfill its role as a check on the other branches.³ Finally, in jurisdictions with election or popular retention of judges and justices, such as Florida, the ability of judges to make locally unpopular decisions when necessary is buttressed where judges are comfortable in the knowledge that they are protected from personal retaliation by a buffer of support for the institution.⁴

Public trust and confidence, then, give force to the formal power vested in the courts by the constitution. Public support can thus be understood as an extra-constitutional, or pre-constitutional, political foundation upon which the formal structures of public institutions rest. Without this foundation, the formal authority of the courts is rendered impotent. The long-range strategic plan for the Florida judicial branch recognizes this, stating that "the legal authority of the courts is a grant by the people, extended as a matter of faith and confidence."⁵ The strategic plan is organized around five long term issues confronting the Florida courts, culminating with public trust and confidence.

II. The Status of Public Trust and Confidence in Florida.

By a number of indicators, public trust and confidence in the courts is at or near a historical low point. The only national opinion survey specifically directed at assessing regard for the courts was carried out in 1978 by the National Center for State Courts.⁶ (The National Center is developing another national survey to be conducted in early 1999.) This research showed that only 23% of respondents reported being extremely or very confident in their state or local courts. The researchers concluded, "[t]he general public and community leaders are dissatisfied with the performance of courts and rank courts lower than many other major American institutions."⁷ More recent surveys have been conducted in various states which indicate similar results, with between 22% and 48% of the public reporting high confidence in the judicial system. A national survey of judges by the American Judicature Society showed that

almost 80% of respondents report an observed lack of public trust and confidence in their jurisdictions, with the highest levels of dissatisfaction found in urban areas.⁸

Public opinion research was commissioned in 1996 by Florida's Judicial Management Council. This research included a telephone survey of more than one thousand households, as well as seven regional focus groups. The results were comparable to those of surveys in other states. In the telephone survey, 13% of respondents reported being "extremely" or "very confident" in the Florida courts, while 48% rated them as "only fair" or "poor." Questions directed at specific aspects of court performance indicate public concern with a number of issues. For instance, 69% of the public disagree with the statement that "the courts treat poor and wealthy people alike," 34% disagree that the courts spend their funds wisely, and 46% disagree with the statement "court cases are concluded in a timely manner."

Further evidence of public dissatisfaction with the courts can be found in efforts such as legislative action to reorganize the death penalty process, and support for broad changes in civil liability law. Increasing disregard for court orders, as frequently occurs in matters such as child support, restraining orders, and probation conditions, also indicates diminishing respect for the courts. Direct expressions of public dissatisfaction with the courts, overflowing into violent frustration, have been seen in riots that occurred in Florida cities in response to perceived injustices not addressed by the courts following confrontations between law enforcement and black citizens. Regarding race, the 1996 public opinion survey found that 47% of Floridians disagree that courts treat whites and minorities alike.

It should be noted that the courts are not alone as the recipients of low public esteem. Other social and governmental institutions are similarly held in low regard by the public, and public views toward the courts must be understood in this context. Government agencies in general, as well as media, educators, and industries like health care all suffer from public dissatisfaction. While 13% of Floridians said they were "extremely confident" or "very confident" in the courts, this was comparable to confidence in public schools (15.5%), and the news media (14.5%), and somewhat better than the Florida Legislature (9.5%). Lawyers in particular are poorly thought of, and public views toward the courts are closely related to their

views toward attorneys and the larger civil and criminal systems of which the courts are a central element.

III. An Expectations Approach.

Judge Roger Warren, president of the National Center for State Courts, believes that public trust and confidence is an outcome of two necessary conditions. First, it involves the essential quality of the system and the consistent delivery of justice. Secondly, it involves meaningful communication between the courts and the public. In short, courts earn public trust by doing a good job, and consolidate it by communicating effectively with the people. This view conflicts in part with that of those observers who explain diminishing faith in the courts as primarily a result of public ignorance and misunderstanding about the courts. Because citizens do not fully understand the limited role of the courts within the larger justice system, they cannot intelligently assess the effectiveness of the courts. From this perspective, diminishing public support is largely a public relations and education problem.

The proposed Florida approach largely accepts Roger Warren's paradigm, but also incorporates some elements of the second perspective. This approach starts with the simple notion that trust comes about when there is, between concerned parties, some measure of clarity as to what is expected, followed by a degree of substantial fulfillment of those expectations over time. Confidence is nothing more than comfort in the knowledge that a person or institution is capable and reliable regarding the fulfillment of duties. Under this perspective, those who argue that the cause of low public trust and confidence is public misunderstanding of the role of the courts are essentially saying that there is confusion or ambiguity regarding the expectations that the public has of the courts. Those who view diminished trust and confidence as arising out of poor performance, in this analysis, are saying that the courts are not meeting the expectations that are reasonable, clear, and appropriate.¹⁰ These views are not inconsistent, and both are incorporated in the Florida model.

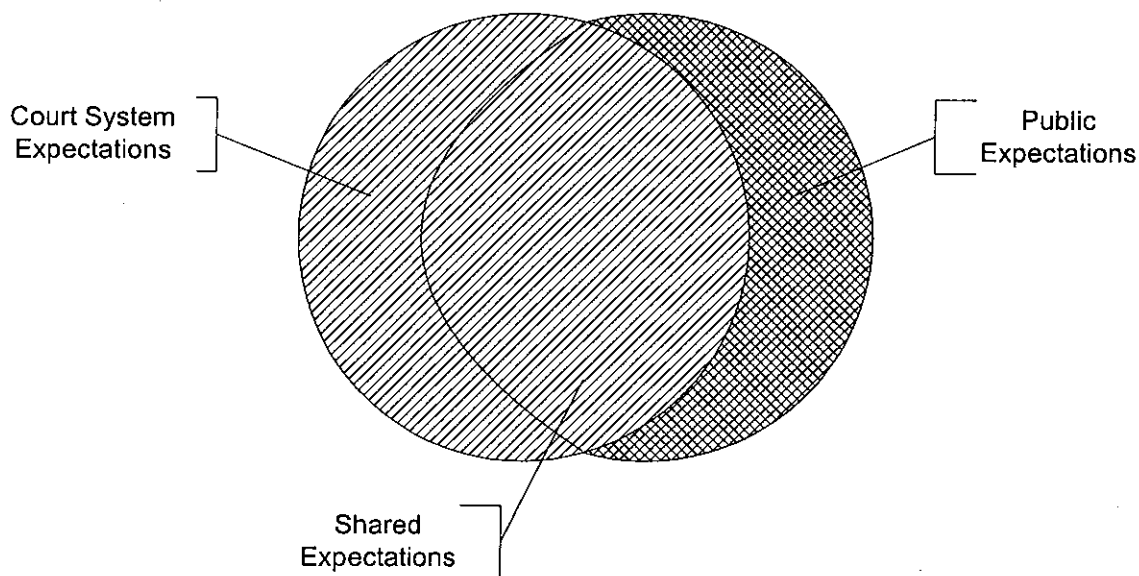
So the beginning point is a discussion of public expectations of the courts. The "public," of course, is not a monolithic entity. Our population, particularly in a jurisdiction with the size and diversity of Florida, includes many different types of people with widely divergent

circumstances, backgrounds, perspectives and interests. It cannot be anticipated that a clear and unified articulation on what is expected of the courts would be easily forthcoming. Some people desire an assertive judiciary, one quick to respond to public and private problems, while others want a limited judiciary that exercises restraint, deciding only strictly legal matters brought before it. This tension is found in areas such as specialty courts, such as drug and elder courts, which are designed to involve judges in more aggressive intervention in cases. Furthermore, some expectations that the public holds out for the courts may be unreasonable or inconsistent with constitutional structures and principles of due process, such as expectations that courts will “fix” troubled youths or resolve difficult emerging issues of medical ethics. On the other hand, many of the expectations that the public has are altogether reasonable and fully consistent with our constitutional and legal systems. People have many expectations regarding how cases should be handled by the courts: They expect judges to be unbiased and competent; they expect court matters to be dealt with in a timely fashion; they expect information about their cases to be accessible and understandable; they expect court decisions to be consistent. Many of these expectations, while undefined, are real, and they are utterly reasonable and achievable. To begin the process of addressing public trust and confidence, there is no need to pass judgement on the merits of the many and various expectations that people have for the courts; as a first step, it is only necessary to acknowledge that these expectations exist, and to make a conscious effort to identify and understand them.

The second element of addressing the trust and confidence issue is the assessment, or filtering, of the universe of public expectations, identifying those which are reasonable and constitutional and not otherwise flawed. But by what criteria are the expectations of the people to be judged? Clearly, the courts should not manage themselves like a retail enterprise, catering to whatever the demands of its “customers” may be. It is the duty of the courts themselves, given constitutional parameters, to state their responsibilities consistent with the mission of the courts. Public expectations must therefore be examined and sorted in light of the expectations that the courts themselves have developed regarding their mission and role. Those public expectations that are consistent with court system expectations become the mutual or shared expectations by which court performance can be measured; those which are not accepted as legitimate or

reasonable by the reckoning of the judicial system represent matters that may call for education and clarification. This conceptual framework can be illustrated with a simple diagram such as that in Figure 1.

Figure 1:



The diagram shows two overlapping sets of expectations, those of the public and those of the courts. The juxtaposition of the two sets creates three conceptual types of expectations: those that are held in common, or shared; those that the public has that the courts for one reason or another do not accept; and those that the courts have of themselves that the public either does not accept or is not aware of. Once organized into this basic topology, each group of expectations can then be addressed separately.

Before going on, it is important to note that, as with the public regarding its expectations, there is not unanimity of views within the court community regarding what the courts ought to expect of themselves. This lack of consensus may itself contribute to public confusion as to the role of the courts. The strategic plan of the Florida judicial branch identifies this as a threshold problem, articulating it as the first of its five long-range issues:

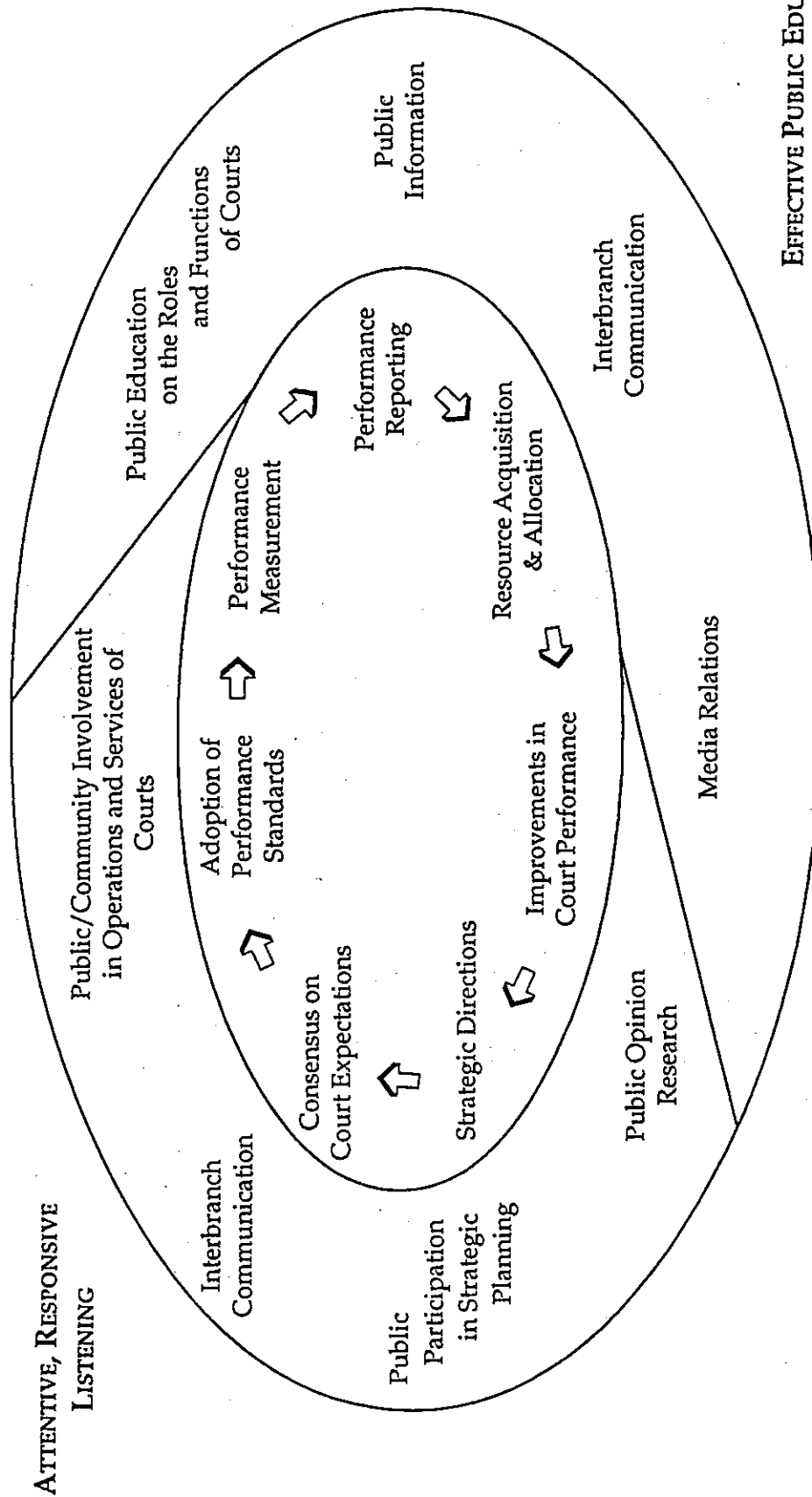
Before other issues can be addressed, there is a need for deliberate, ongoing discussion that clarifies the roles and responsibilities of the courts within Florida's overall systems of justice and human services. Resolution of this fundamental question will allow the judicial branch to focus its energies and resources on improvement of those core court processes and functions which are agreed upon to be within the responsibility of the courts. As a clearer consensus on the role of the courts emerges, this consensus can be communicated to the public, bringing a degree of reconciliation between that which is expected and that which is provided.¹¹

The clarification of expectations regarding the roles and responsibilities of Florida's courts is thus a definitional threshold to improving public trust and confidence. But it is only a starting point. This process will serve as a basis for further activities that the Judicial Management Council will be asked to undertake to address trust and confidence. These will include the articulation of court performance standards based on expectations that are shared by the public and the courts, and communication initiatives directed at addressing and reconciling the divergent expectations of the public and the courts.

Endnotes

1. In Re: Judicial Management Council, Administrative Order, (cite). 1998.
2. Gibson, J. L. (1989). "Understandings of Justice: Institutional Legitimacy, Procedural Justice, and Political Tolerance." 23 *Law and Society Review* 469.
3. Kaufman, Irving R. (1980). "The Essence of Judicial Independence." 80 *Columbia Law Review* 671. "To the extent that the action of another branch exposes a judge to the threat of reprisal if he decides against a particular litigant, usurpation of the judicial power is particularly acute." P.694.
4. Olson, Susan M. And David A. Huth. (1998). "Explaining Public Attitudes Toward Local Courts." 20 *The Justice System Journal* 41. "Although they may adhere to the norm of judicial independence and try to make decisions without considering public opinion, these judges face the possibility that loss of public support can mean loss of their judgeships." p.42.
5. *Taking Bearings, Setting Course: The Long-Range Strategic Plan for the Florida Judicial Branch*. (1998). Judicial Management Council, Florida Supreme Court.
6. Yankelovich, Skelly and White, Inc. (1978). *The Public Image of the Courts: Highlights of a National Survey of the General Public, Judges, Lawyers and Community Leaders*. National Center for State Courts.
7. Ibid., p.25.
8. *Results of a National Survey of Strategies to Improve Public Trust and Confidence in the Courts*. (1994). American Judicature Society.
9. *Florida Statewide Public Opinion Survey*, (1996). Judicial Management Council.
10. In Warren's words, "we must not be deaf to just criticism." Warren, Roger K. (1997). "Courts and the Public: The Need for Effective Communication." *The Court Manager*, Winter.
11. *Taking Bearings, Setting Course*, p.19.

Building Public Trust and Confidence



Judicial Management Council

Committee on
Trial Court Performance and Accountability

Appendix B:
Committee Process

Trial Courts

Process for Developing Performance and Accountability Model

1999-2000

Research and Analysis Components

Review National Trial Court Performance Standards and Measurement System	Review Relevant ABA Standards, Additional Performance Standards, Trial Court Literature	Compilation of National Trial Court Statistical Data	Identification and Review of State Data Sources	Identification of Judicial Workload Standards (Delphi Judges Committee)	Inventory of Existing State and Local Trial Court Budgets (Article V Committee)
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Definition and Development Components

Development of Trial Court Mission Statement	Identification and Definition of the Functional Areas of the Trial Court Process	Definition, Differentiation Among Core Functions, Court Programs	Development of a Process to Identify Performance Indicators for Core Functions	Development of PB ² Performance Measures for Court Programs	Development of a Budget Format
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Outreach and Approval Components

Outreach to Judges Regarding Expectations	Outreach to Stakeholders Regarding Expectations	Orientation to Performance and Accountability Initiative for Judges	Orientation to Performance and Accountability Initiative for Stakeholders	Linkages to: full Judicial Management Council DCA Committee on Performance and Accountability Article V Funding Steering Committee Delphi Judges Committee
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Judicial Management Council

Committee on
Trial Court Performance and Accountability

Appendix C:
Definitions of Functions
and
Itemization of Activities by Function

Definitions of Functions and Itemization of Activities by Function

Committee on Trial Court Performance and Accountability

The Committee on Trial Court Performance and Accountability has developed a functional model of trial courts to facilitate the identification of inherent and integrated court activities. This model identifies six functions of trial courts, defined by purpose. The model provides a framework for classifying activities. Following are definitions of each of the six functions, along with a preliminary classification of activities by function.

I. The Adjudication Function

Definition: Those activities reasonably necessary to allow courts to make authoritative decisions about legal, factual and procedural issues presented in cases before the court.

Judicial Activities, including:

- ▶ hearings
- ▶ circuit court appellate proceedings
- ▶ trials
- ▶ conferences
- ▶ reading pleadings
- ▶ entering orders (oral and written)
- ▶ delivering rulings, judgements and sentences
- ▶ research
- ▶ case management
- ▶ managing calendars
- ▶ administration

Supervisory and Administrative Activities, including:

- ▶ administrative assistance
- ▶ judicial library services
- ▶ staff attorney research and writing
- ▶ case management and coordination (staff)
- ▶ court reporting
- ▶ interpreting and translating
- ▶ record creation and preparation
- ▶ evidence collection and preservation
- ▶ security and courtroom management
- ▶ alternative dispute resolution
- ▶ specialty court coordination
- ▶ personnel management

- finance and budgeting
- facility management
- technology support and coordination
- reimbursement of juror expenses
- jury management
- education and training
- rule-making
- information reporting

- **The Assessment and Evaluation Function**

Definition: Services utilized by the court that provide information or expert/independent analysis for judges to facilitate judicial decision-making.

Activities:

- indigence examination
- custody evaluation
- guardian ad litem
- biological (including medical), psychological, or social evaluations
- home studies
- pre-sentence investigations
- pre-trial release assessment
- juvenile alternative sanctions coordination
- foster care citizen review
- risk assessment (juvenile delinquency)
- alcohol/drug evaluation (not drug testing)
- other court-appointed experts

- **The Enforcement Function**

Definition: Court activities intended to ensure compliance with court orders.

Activities:

- fines and cost collection – criminal
- family court collection
- collections court/judicial enforcement section
 (court-initiated actions to collect unpaid fines and costs)
- victim restitution
- misdemeanor probation
- pre-trial supervision
- drug testing

- ▶ community service
- ▶ supervised visitation
- ▶ monitored exchange

- **The Oversight Function**

Definition: Those activities carried out by courts to certify and monitor entities responsible to the courts.

- ▶ victim/witness coordination
- ▶ certification of marriage license counselors
- ▶ certification of parenting course providers
- ▶ certification and education of guardians
- ▶ certification and oversight of process servers
- ▶ investigation and review of guardians and executors in probate and guardianship cases
- ▶ oversight of the payment of conflict and court-appointed attorneys' fees
- ▶ oversight of monitored exchange programs that are operated outside the judicial branch
- ▶ oversight of supervised visitation programs that are operated outside the judicial branch
- ▶ oversight of misdemeanor probation and community service programs that are operated outside the judicial branch

E. The Treatment Function

Definition: Services directly operated or managed by the court intended to modify behavior or prepare persons for re-entry into the community.

Activities:

- ▶ pre-filing drug court
- ▶ drug treatment
- ▶ mental health treatment
- ▶ domestic violence intervention
- ▶ intervention for highly conflicted divorced families
(e.g., 9th Circuit Focus on the Children Program)

The Public Access and Services Function

Definition: Activities undertaken by the court to provide information, education and services to the public, and to ensure access to the courts.

Activities:

- ▶ public information office
- ▶ teen court
- ▶ neighborhood/community justice centers
- ▶ attorneys for parents in dependency cases
(e.g., 11th Circuit Family Reunification Legal Office)
- ▶ public law libraries (separate from library services for court use)
- ▶ intake services for self-represented litigants
- ▶ child care
- ▶ public education programs, included law-related education and local justice teaching institutes
- ▶ information booths and self-help kiosks
- ▶ internet site development
- ▶ production of educational programming (video, television) about the courts
- ▶ victims services

Judicial Management Council
Committee on
Trial Court Performance and Accountability

Appendix D:
Toward Performance Indicators

I Introduction

The Committee on Trial Court Performance and Accountability has begun working to develop a set a performance indicators that describe the inherent functions of Florida's trial courts. Performance measures and standards for integrated functions will be developed for trial court programs.

The development of performance indicators is responsive to the goals and strategies of the long-range plan of the Florida judicial branch, and is consistent with Article III, section 19(h) of the Florida Constitution.

The process used by the committee to begin the development of performance indicators was informed by the work of the Committee on District Court of Appeal Performance and Accountability. The DCA committee defined a set of performance indicators that describe the jurisdiction, manner of processing cases, and the manner of disposing cases. This framework has been used by the trial court committee as it has begun to develop performance indicators for the trial courts.

The development of performance indicators in the trial courts is a long-term endeavor. Data about trial court cases is collected and recorded at the county level by 67 separate and independent systems. To begin the examination of potential performance indicators, the committee examined criminal data from circuit courts in a representative sample of nine counties. These counties were able to provide data to illustrate potential performance indicators to the committee.

The data in this section is presented only to illustrate the potential performance indicators to be considered by the committee.

II Toward the Development of Performance Indicators

For the inherent functions of the trial courts, the committee decided to work toward developing *performance indicators* as opposed to performance standards. Performance indicators are distinguished from performance standards as follows:

- ***Performance Standards*** would have included numerical targets or goals, which the Trial Courts would have had to meet (or aspire to meet).
Related terms: benchmarks, performance measures
- ***Performance Indicators*** report quantitative data about the performance of the Trial Courts without setting targets or goals.

Performance standards and measures will be developed for trial court programs.

The committee's decision to develop performance indicators as opposed to performance standards is consistent with the recommendations of the Committee on District Court of Appeal Performance and Accountability. The district court committee articulated several reasons for utilizing performance indicators as opposed to performance standards for inherent functions:

Avoid changing court practices to meet statistical targets. The committee wants to discourage courts from changing effective practices for statistical purposes.

Maintain accountability for the performance of core court functions within the judicial branch. The committee feels that, for core court functions, the responsibility for developing performance level targets belongs within the judicial branch.

Avoid inappropriate normative judgments. Most of the performance indicators considered by the committee are descriptive, but not evaluative. Objective conclusions about the relationship between performance indicators and the quality of judicial processes cannot be drawn.

No baseline. The development of performance standards would require the analysis of several years' worth of baseline data, which is not currently available for all court divisions.

III Performance Indicators

The trial court committee has initially organized the performance indicators into three categories:

- A. Jurisdiction**
- B. Case Processing**
- C. Disposition**

Performance indicators are designed to answer a series of questions about how courts perform their inherent functions. For each of these categories the following is provided:

- A review of the questions that performance indicators may address
- Questions that can now be addressed given the data available
- A review of available data.

A. Jurisdiction

Performance indicators may address the following questions relating to jurisdiction:

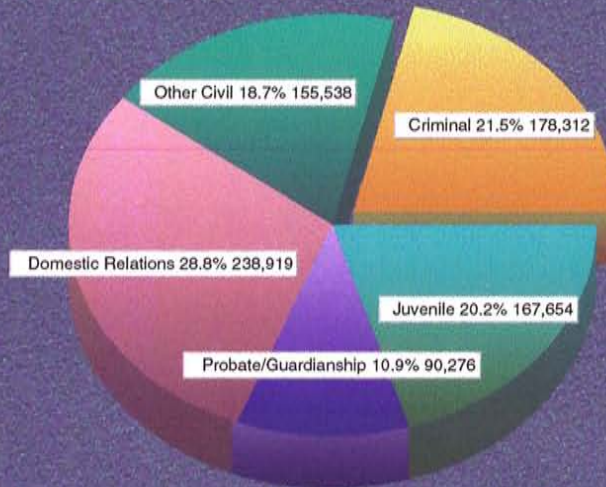
- What broad types of cases are heard in Florida's trial courts?
 - Criminal, Civil, Probate/Guardianship, Delinquency, Dependency, Domestic Relations, Appellate
- What is the volume of cases heard statewide and across the 20 circuits?
- How does the volume of cases compare to similar states?
- What is the composition of caseloads statewide and across the 20 circuits?
- How does the composition of caseloads compare to other states?

The committee anticipates the development of performance indicators for all divisions and across all circuits and counties. Some data from criminal circuit court cases in nine sample counties is available now. With data currently available, sample performance indicator data can be shown for illustration purposes. The sample performance indicators address the following questions:

- What is the composition of cases in Florida's circuit courts?
- What is the composition of circuit criminal cases in Florida?
- Can we establish a representative sample of counties for use in detailed analysis?

Performance Indicators: Jurisdiction

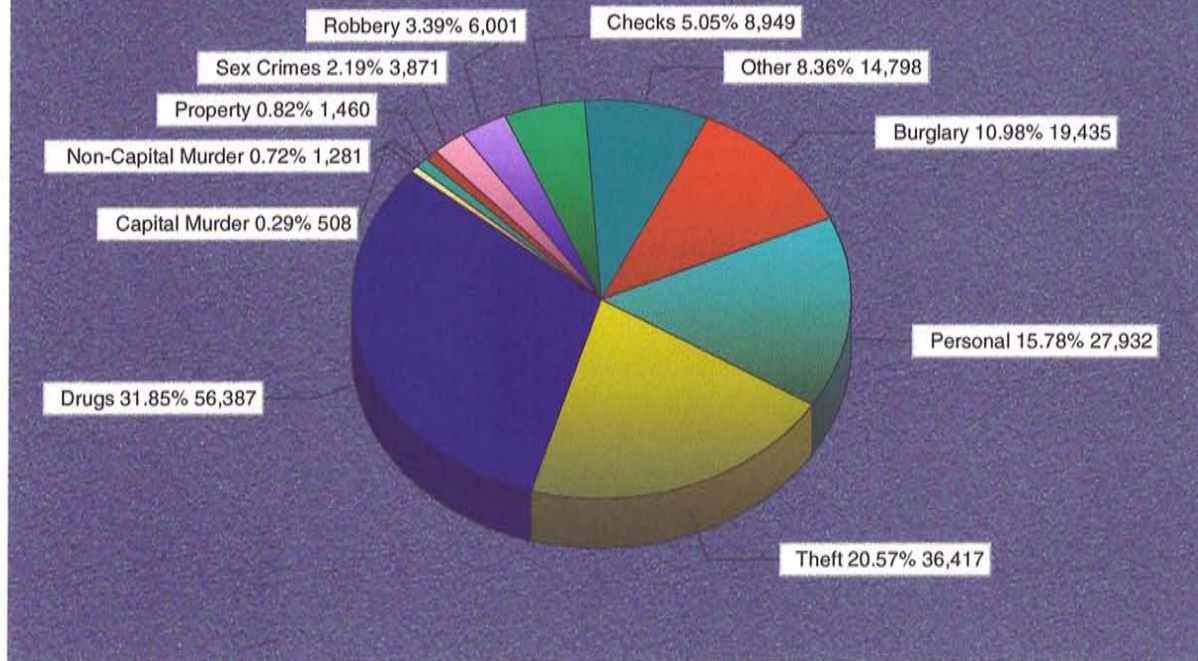
Cases Filed Statewide by Circuit Division, 1997



What is the composition of cases in Florida's circuit courts?

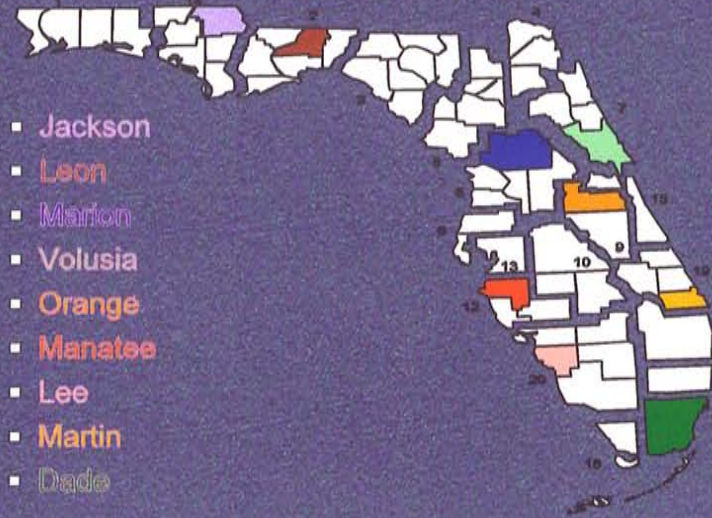
Performance Indicators: Jurisdiction

Circuit Criminal Cases Filed Statewide, 1997



What is the composition of circuit criminal cases in Florida?

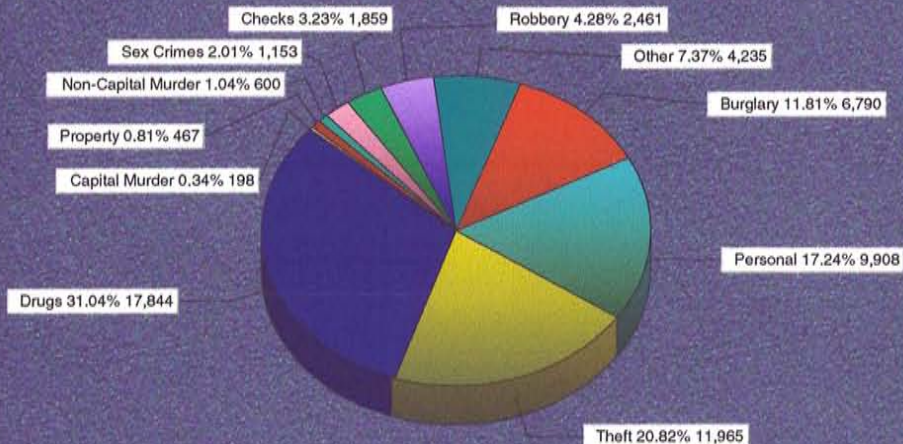
Counties Selected for the Initial Review



What counties were selected as a representative sample based on geography and size?
 What is the composition of circuit criminal cases in the sample counties?

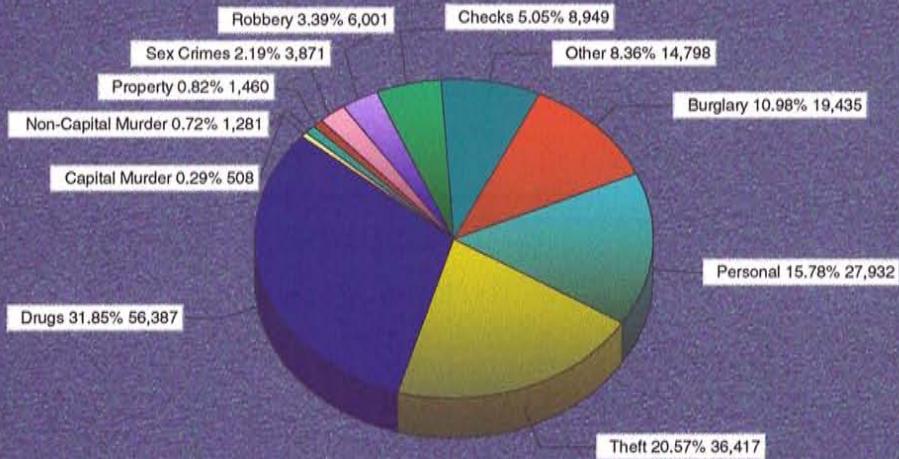
Performance Indicators: Jurisdiction

Circuit Criminal Cases Filed in Sample Counties, 1997



Performance Indicators: Jurisdiction

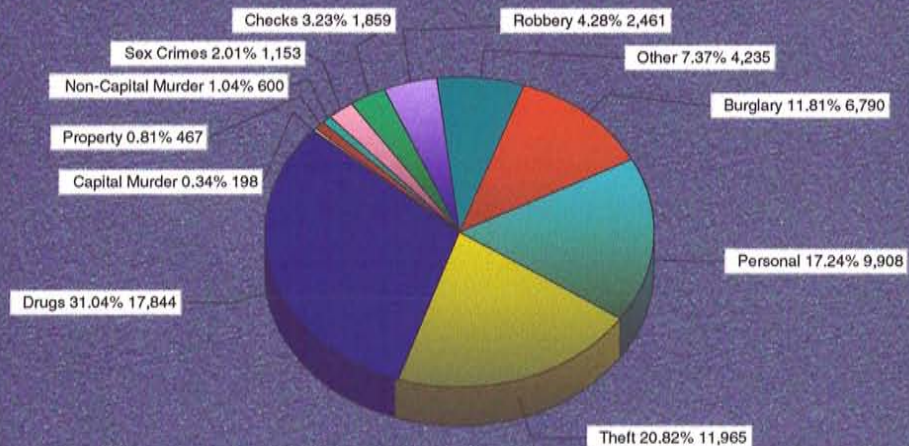
Circuit Criminal Cases Filed Statewide, 1997



Given the composition of circuit criminal cases statewide, how does the composition of circuit criminal cases in the sample counties compare?

Performance Indicators: Jurisdiction

Circuit Criminal Cases Filed in Sample Counties, 1997



B. Case Processing

Performance indicators relating to case processing the committee may address the following:

- What are the major events that occur in most cases?
- What activities occur at or between major events?
- How much time typically passes between major events?
- How many cases are disposed at each stage of the court process?
- How much time does it take for a typical case to progress from filing to disposition?
- How does the time of processing vary by:
 - Case Type?
 - Manner of Disposition?
- What methods do trial courts use to resolve cases without trials?
- How many cases proceed to trial?
- How many trials are heard by juries?
- How many cases remain open on an ongoing basis or are re-instated?

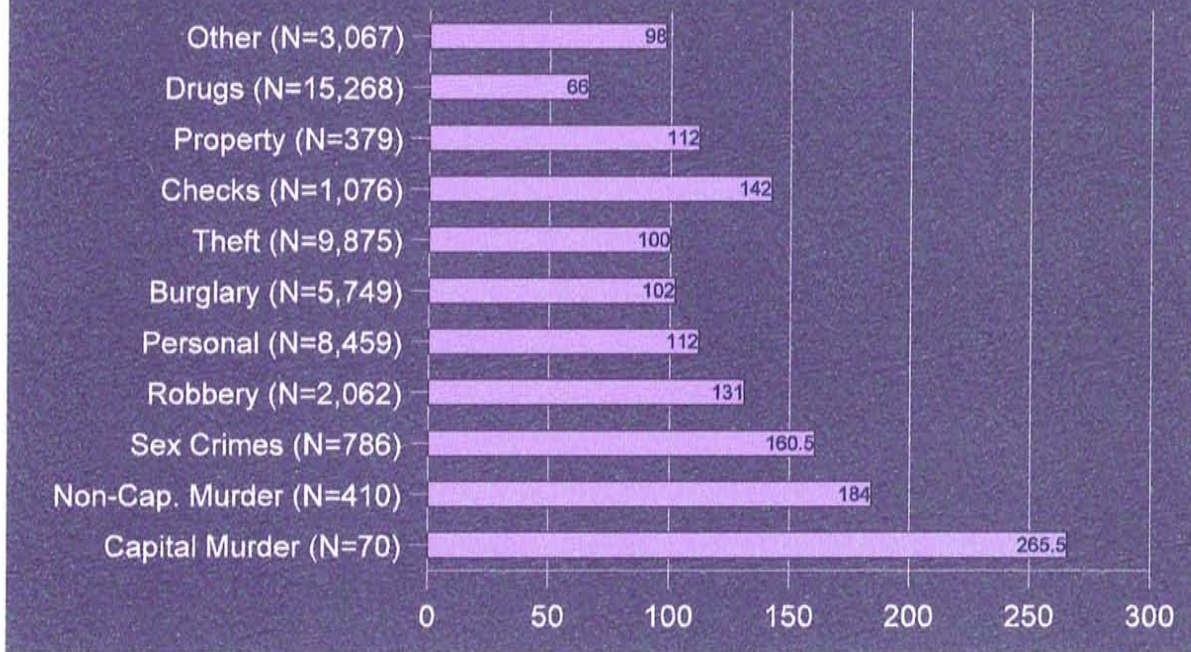
The committee anticipates the development of performance indicators for all divisions and across all circuits and counties. Some data from criminal circuit court cases in nine sample counties is available now. With data currently available, sample performance indicator data can be shown for illustration purposes. The sample performance indicators address the following questions:

- How long does it take for the typical case to progress from filing to disposition in the sample counties?
- How does the time to disposition vary in the sample counties for:
 - type of case?
 - manner of disposition?

Statistical Note:	12
	14
The performance indicators in this section use the	14
statistical median . This represents the “middle	15
value” in a set of numbers and more closely	15
represents a typical case than the statistical average.	→ 16
	18
	19
	22
	median = 16 24
	average = 18 29

Performance Indicators: Processing

Median Days Filing to Disposition by Case Type for Sample Counties, 1997

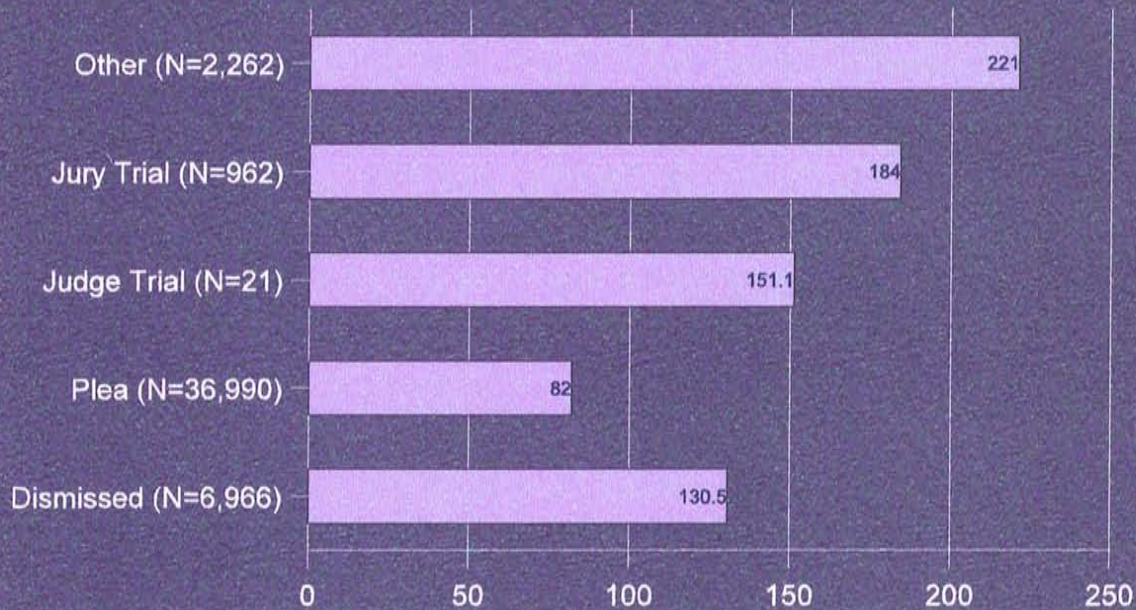


How long does it take for the typical case to progress from filing to disposition in the sample counties?

How does the time to disposition vary in the sample counties for type of case?

Performance Indicators: Processing

Median Days Filing to Disposition by Manner of Disposition for Sample Counties, 1997



How long does it take for the typical case to progress from filing to disposition in the sample counties?

How does the time to disposition vary in the sample counties for manner of disposition?

C. Disposition

Performance indicators relating to the manner in which trial court cases are disposed may address the following questions relating to the disposition of cases:

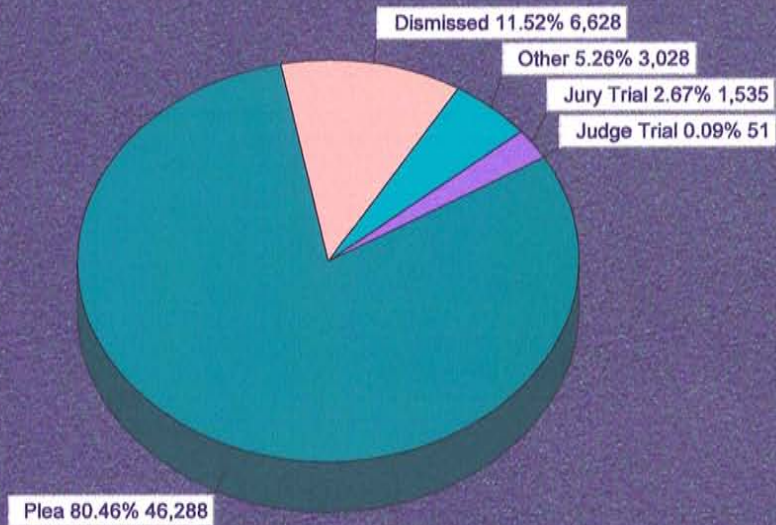
- What are the ways that cases are disposed in each division?
- How many cases are disposed by each type of disposition in each division?
- What is the composition of disposition types in each division?

The committee anticipates the development of performance indicators for all divisions and across all circuits and counties. Some data from criminal circuit court cases in nine sample counties is available now. With data currently available, sample performance indicator data can be shown for illustration purposes. The sample performance indicators address the following questions:

- How many cases in the sample counties are disposed by manner of disposition?
- How do the individual sample counties vary in the way they dispose cases?
- How many cases in the sample counties are disposed by each type of disposition?

Performance Indicators: Disposition

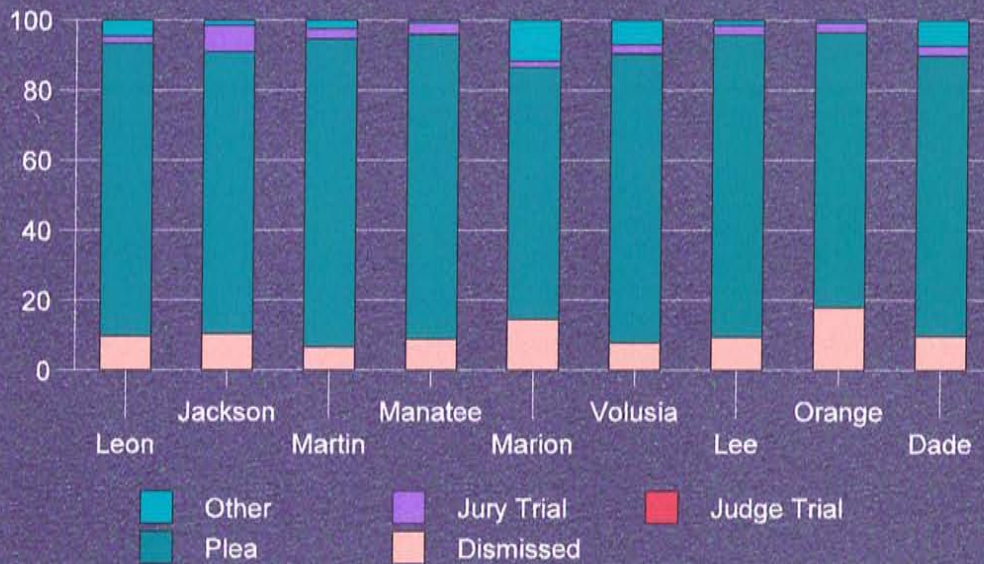
Percent of Sample Cases Disposed by Manner of Disposition, 1997



How many cases in the sample counties are disposed by manner of disposition?

Performance Indicators: Disposition

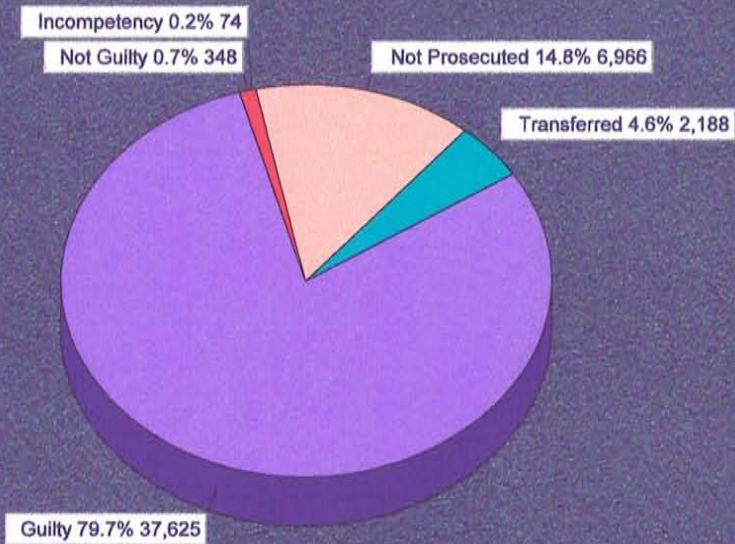
Percent of Cases Disposed by County and Manner of Disposition, 1997



How do the individual sample counties vary in the way they dispose cases?

Performance Indicators: Disposition

Percent of Sample Cases Disposed by Disposition Type, 1997



How many cases in the sample counties are disposed by type of disposition?

Judicial Management Council

Committee on
Trial Court Performance and Accountability

Appendix E:
Performance-Based Program Budgeting
Potential Programs

Performance-Based Program Budgeting Potential Programs

Pursuant to Chapter 94-249, Laws of Florida, the judicial branch is required to submit to the Legislature a list of the programs that the Chief Justice recommends could operate under performance-based program budgeting.

The Committee on Trial Court Performance and Accountability is charged with making a recommendation to the Judicial Management Council on the programs that should be submitted by the judicial branch. The following is a listing of services and activities that may help the committee to make their recommendation to the Judicial Management Council.

Services and activities are included here because: a) they are currently state funded;¹ and b) in the functional model of the courts drafted by the committee, they are located in a function other than the adjudication function (assessment and evaluation, enforcement, oversight, treatment, public access and services). Accountability for services and activities within the adjudication function would be accomplished through performance indicators rather than performance-based program budgeting measures and outcomes.

¹

Most services and activities that are state funded also receive funding from counties, fees, and/or grants, including federal grants.

1. **CUSTODY EVALUATION** ✓ **SOME STATE FUNDS CURRENTLY**
Function: Assessment and Evaluation **IN JUDICIAL BRANCH BUDGET**

description: Judges often order an independent custody evaluation in dissolution and paternity cases to assist them in making appropriate decisions regarding custody and visitation rights. Judges find the independence of this information to be important. This is particularly true in cases where there have been allegations of abuse.

The Family Court Steering Committee includes custody evaluation as one of its eleven essential elements of a model family court. Independent custody evaluations are not uniformly available throughout the judicial circuits. Some custody evaluations are conducted by county personnel who are not under the judicial branch. Others are conducted by judicial branch employees. Some circuits have expense funding to pay for custody evaluations conducted by independent private contractors.

current state funding: The Family Courts Trust Fund supports 2 Court Counselor positions in each of the following circuits: the 6th, 13th, and 18th judicial circuits. (source: Family Court Steering Committee)

legislative budget request for FY 2000-2001: Circuit requests for custody evaluation services included 19 FTE positions in the 3rd, 4th, 7th, 17th, 18th, 19th, and 20th Circuits, and a grant-in-aid for \$75,000 in the 15th Circuit to offset the costs of custody evaluations ordered by the court. Requests for custody evaluators were not included in this year's legislative budget request, pending further review by the Article V Funding Steering Committee and the Family Court Steering Committee. (source: OSCA Budget Office)

county funding: County funding for custody evaluations is estimated to be in the judicial branch budgets of nine circuits (the 3rd (only \$200), 6th, 11th, 13th, 14th, 15th, 16th, 17th, and 18th). The Article V Funding Steering Committee estimates that \$1,115,529 and 23.3 FTEs are included in local judicial branch budgets statewide; most of the funding is from county general revenue funds.

2. **GUARDIAN AD LITEM** ✓ **SOME STATE FUNDS CURRENTLY**
Function: Assessment and Evaluation **IN JUDICIAL BRANCH BUDGET**

description: Guardians ad litem are lay volunteers who represent the best interests of children in court proceedings as provided by law. Appointed most often in dependency cases (cases involving child abuse or neglect), guardian ad litem volunteers are required to review all placement recommendations and changes in placements. They must also be present in court during all critical court proceedings, or submit a written report of recommendations to the court.

Chronic shortages of volunteers and case coordinators have prevented the assignment of volunteers to more than about half of all dependency cases, requiring the implementation of rules regarding the prioritization of volunteer services.

In every circuit, judicial branch staff coordinate guardian ad litem volunteers. The one exception is in Orange County, where Orange County Bar Association volunteers act as GAL volunteers.

current state funding: The state judicial branch budget includes GAL coordinators, program directors, and attorneys in each circuit, totaling 164.5 FTEs statewide. The state budget for GAL services is \$7,337,207. (source: OSCA Budget Office)

legislative budget request for FY 2000-2001: The request includes 84 FTE program attorney positions in the FY 2000-2001 budget, a sufficient number for program attorneys to serve on 50% of dependency cases filed, if they do not attend case plan conferences, mediation sessions, and shelter hearings. (source: OSCA Budget Office)

county funding: County funds and staff support the GAL programs in all but one circuit. County support ranges from minor expense funding support to a major portion of the overall program. County support is estimated at \$2,206,218 and 54.2 FTEs statewide, with the bulk of the funding coming from county general revenue funds. (source: Article V Funding Steering Committee)

3. **INDIGENCE EXAMINATION** ✓ **SOME STATE FUNDS CURRENTLY**
Function: Assessment and Evaluation **IN JUDICIAL BRANCH BUDGET**

description: Indigence examiners are staff persons in the trial court administrator's office who screen prospective public defender's office clientele for indigence prior to the appointment of counsel, as provided by Chapter 27.52, Florida Statutes. In some circuits, these persons also screen clients who request fee waivers in other divisions.

current state funding: Each circuit has at least one state-funded staff person responsible for indigence screening. State general revenue funds support 24 FTEs statewide with a budget of \$1,039,452. (source: OSCA Budget Office)

legislative budget request for FY 2000-2001: Individual circuit requests for indigence examiner services totaled 26.5 FTEs and \$1,187,160. Requests for indigence examiners were incorporated into a trial court workload budget issue, which includes 374 positions and \$18,344,600. (source: OSCA Budget Office)

county funding: Several circuits (the 11th, 13th, and 20th) have county-funded staff providing this service, and many other circuits provide some expense funding for the service. County funding for indigence examiners is estimated at \$457,501 and 15.9 FTEs. County general funds support this service. (source: Article V Funding Steering Committee)

4. **JUVENILE ALTERNATIVE
SANCTIONS COORDINATION**

✓ **SOME STATE FUNDS CURRENTLY
IN JUDICIAL BRANCH BUDGET**

Function: Assessment and Evaluation

description: Chapter 985.216, Florida Statutes provides that each judicial circuit shall have an alternative sanctions coordinator. This person serves under the chief administrative judge of the juvenile division to coordinate and maintain a "spectrum of contempt sanction alternatives." The role of the alternative sanctions coordinator is to act as a liaison with programs and sanction providers, and to recommend the most appropriate available alternative sanction to the court.

current state funding: Each circuit has one state-funded staff person responsible for juvenile alternative sanctions coordination. State general revenue funds support 20 FTEs statewide with a budget of \$1,135,215. (source: OSCA Budget Office) An additional alternative sanctions coordinator is paid out of the Family Courts Trust Fund in the 11th Circuit. (source: Family Court Steering Committee)

legislative budget request for FY 2000-2001: No circuit funding requests were identified in support of the juvenile alternative sanctions service. (source: OSCA Budget Office)

county funding: Several circuits (the 1st, 7th, 9th, 11th, 13th, and 18th) have additional county-funded staff for this function, and many other circuits provide some expense funding for the service. County funding for alternative sanctions coordination is estimated at \$1,121,657 and 31.5 FTEs. At the county level, a mixture of general revenue funds, grants, and fees support this service. (source: Article V Funding Steering Committee)

5. **PROBATE/GUARDIANSHIP
MONITORING**

✓ **SOME STATE FUNDS CURRENTLY
IN JUDICIAL BRANCH BUDGET**

Function: Oversight

description: Probate and guardianship monitors conduct field investigations as assigned by the court regarding allegations that guardians and executors are not acting in the best interests of wards and decedents. Written reports and recommendations are submitted to the court for review.

current state funding: Two FTE positions are state funded, a guardianship investigator and a court monitor, serving in the 17th circuit with a total budget of \$84,510. (source: OSCA Budget Office, 17th Circuit)

legislative budget request for FY 2000-2001: No circuit funding requests were identified in support of the probate/guardianship monitoring service. (source: OSCA Budget Office)

county funding: Counties in nine circuits (the 5th, 6th, 9th, 12th, 14th, 15th, 16th, 17th, and 19th) provide funding for guardianship review. County funding for guardianship review is estimated at \$744,169 and 14.6 FTEs. At the county level, mostly general revenue funds are used for these services, with some fee support. (source: Article V Funding Steering Committee)

6. **DRUG TREATMENT**

✓ SOME STATE FUNDS CURRENTLY
IN JUDICIAL BRANCH BUDGET
(INCLUDING SOME FEDERAL PASS-THROUGH FUNDS)

Function: Treatment

description: Treatment-based drug courts are designed to give defendants an opportunity to break the cycle of addiction and criminal involvement. Drug courts offer treatment and use a graduated system of rewards and punishments to encourage defendants to make radical life changes. Critical to the drug court concept is the requirement that the defendant continually appear before the drug court judge. Successful drug courts require a partnership among the court and the state attorney, public defender, corrections, and treatment professionals in the community.

Drug treatment services are provided by a variety of means. In some circuits, drug treatment programs are operated and/or managed by the court either through a contractual arrangement between the court and a treatment provider, or through court employees who provide treatment services. In other circuits, the court makes referrals to drug treatment, but does not participate in the oversight, management, or operation of the treatment program. Funding for treatment may be found in judicial branch budgets, in executive agency budgets, or in community service organization budgets.

current state funding: The general revenue fund of the State Courts System contributes \$150,000 in contractual and expense funding towards the 11th Circuit's dependency drug court. Funds support three contractual dependency drug court specialists, including a licensed clinical social worker and two recovery specialists. In addition, \$301,300 in federal drug treatment funds for the 4th Circuit are in the state judicial branch budget. These funds support 1 FTE position, a case coordinator, expense funding, and funds for treatment services provided by Gateway. These funds support both a juvenile and an adult drug court.

legislative budget request for FY 2000-2001: Several individual circuits requested funding for treatment services, including \$50,000 for the 2nd Circuit, and 6 substance abuse advocates and a secretary for the dependency drug court in the 11th circuit. Based on the recommendations of the Treatment-Based Drug Court Steering Committee and the Budget Review Committee, the drug court budget issue for the state does not include funding for treatment services.

county/other funding: The Article V Funding Steering committee estimated that 95 FTE positions and \$7,287,080 in the circuits' county judicial branch budgets are for treatment services. While most of the treatment is for substance abuse, this figure also includes treatment services in other areas such as anger management, domestic violence intervention, and mental health. Of the total funding, \$5.7 million is from county general revenue funds, \$1.5 million from grants, and the remaining \$55,000 from fees.

7. **PRE-FILING DRUG COURT**

Function: Treatment

✓ **SOME STATE FUNDS CURRENTLY
IN JUDICIAL BRANCH BUDGET**

description: Treatment-based drug courts are designed to give defendants an opportunity to break the cycle of addiction and criminal involvement. Drug courts offer treatment and use a graduated system of rewards and punishments to encourage defendants to make radical life changes. Critical to the drug court concept is the requirement that the defendant continually appear before the drug court judge. Successful drug courts require a partnership among the court and the state attorney, public defender, corrections, and treatment professionals in the community.

The pre-filing drug court in the 4th Circuit is unique in Florida because it is a diversion program. That is, many defendants enter the 4th Circuit's drug court before the information is filed by the state attorney, so there is no pending court case before the drug court judge.

The practice of handling drug court defendants before a case is filed may change. Once a case is filed, the handling of a drug court case is part of the adjudication function, and presumably not a program for the purposes of performance-based program budgeting.

current state funding: The State Courts System funds the pre-filing drug court in the 4th Circuit, including the salary of a drug court coordinator.

legislative budget request for FY 2000-2001: Based on the recommendations of the Treatment-Based Drug Court Steering Committee and the Budget Review Committee, the drug court budget issue includes an Administrative Assistant I in the 4th Circuit, along with positions in the other circuits with operational drug courts.

county/other funding: The Article V Funding Steering Committee identified 4 FTE positions in a "specialty courts" category in the 4th Circuit, with a total personnel, contractual, expense, and capital expenditures of \$425,330. \$314,500 of these funds were from county general revenue funds, with \$78,892 from grants and \$31,938 from fees.

8. **NEIGHBORHOOD/
COMMUNITY JUSTICE CENTERS**
Function: Public Access and Services

✓ **SOME STATE FUNDS CURRENTLY
IN JUDICIAL BRANCH BUDGET**

description: Neighborhood Justice Centers provide residents, businesses, and institutions with access to problem solving, dispute resolution and related legal services to resolve disputes in a non-adversarial fashion. Referrals are made by law enforcement, state attorneys, businesses, schools, and civic organizations, and walk-ins are welcome. Neighborhood Justice Centers do not handle cases where court cases are pending.

Centers also make referrals to community resources and social services agencies, and provide workshops on resolving legal issues.

current state funding: State judicial branch funding includes a grant-in-aid in the amount of \$60,000 between the Supreme Court of Florida and Tallahassee's Neighborhood Justice Center.

legislative budget request for FY 2000-2001: Individual requests for neighborhood justice services included \$85,000 for the Tallahassee Neighborhood Justice Center, \$50,000 for a Community Justice Center in the 13th Circuit, and a Neighborhood Justice Liaison in the 13th Circuit. Part of a Critical Local Needs and an Other Supplemental Circuit Requests grouping, it was incorporated into a trial court workload budget issue, which includes 374 positions and \$18,344,600, and a trial court infrastructure issue, which includes \$3,000,000 in non-recurring expense funds. (source: OSCA Budget Office)

county funding: The Article V Funding Steering Committee did not identify any county funding for neighborhood or community justice centers.

9. **INTAKE SERVICES FOR SELF-REPRESENTED LITIGANTS** ✓ **SOME STATE FUNDS CURRENTLY IN JUDICIAL BRANCH BUDGET**
Function: Public Access and Services

description: Self-help intake centers include personnel that assist self-represented litigants, generally in family courts. Intake centers provide pre-filing assistance, including an initial review, attorney or other legal service referrals, referrals to social services, forms, instructions, definitions, and procedural information. Self-help centers operating under the auspices of the Court must comply with guidelines that ensure that self-help personnel do not provide legal advice to clients. The guidelines for self-help services are set forth in rule 12.750, Family Law Rules of Procedure. The Family Court Steering Committee includes self-help programs as one of its eleven essential elements of a model family court.

Intake services for self-represented litigants are distinguished from case management services in family courts, some of which are provided in cases that have been filed by self-represented litigants. Case management, including the screening of cases for differentiated handling by the court, and the supervision, coordination, oversight, and direction of the process and progress of each case, is part of the adjudication function and not part of a program for the purposes of performance-based program budgeting.

Often, the same court personnel perform *both* intake and case management activities. The development of a program would require the separation of those functions.

current state funding: The State Court System's General Revenue Fund supports contractual services and expenses in the amount of \$197,863. (source: OSCA Budget Office) In addition, the Family Courts Trust Fund includes 36 FTE positions for self-help services. (source: Family Court Steering Committee) Currently, the same resources are dedicated to both intake and case management activities.

legislative budget request for FY 2000-2001: Individual circuit requests for self-help services totaled 26.5 FTEs, plus 27,500 in expense funding, \$20,000 for computers, and grant-in-aid request in the amount of \$25,000. Part of a Family Court Initiative category, requests for self-help services were incorporated into a trial court workload budget issue, which includes 374 positions and \$18,344,600. (source: OSCA Budget Office)

county funding: Counties fund self-help services in 14 circuits (the 5th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 15th, 16th, 17th, 18th, 19th, and 20th). Statewide, county funding of self-help services totals 32.7 FTE positions and \$1,560,496. Funding sources are a blend of county general revenue funds and fees. As with the state level, the same resources are dedicated to both intake and case management activities.

10. **TEEN COURT**

Function: Public Access and Services

✓ **SOME STATE FUNDS CURRENTLY
IN JUDICIAL BRANCH BUDGET**

description: Teen courts divert juveniles from the regular juvenile delinquency court system. Some teen court programs also conduct intake assessments, make crisis referrals, and provide counseling services. In teen court, juveniles who commit crimes are brought before "courts" where all of the participants – the judge, prosecutor, defense attorney, and jury – are other teens. Juveniles diverted to teen court, along with teen court volunteers, participate in the program.

In the circuits, teen courts are operated by a variety of court and non-court entities. Chapter 938.19, Florida Statutes, allows counties to adopt court costs to support teen courts; assessments collected by the clerk of court are to be deposited into an account for the operation of teen court.

current state funding: A Clerical Assistant and 3 Administrative Assistant/Counselors for the 17th Circuit are funded by the State Courts System's general revenue fund. Total state funding for teen court is \$121,957 (source: OSCA Budget Office)

legislative budget request for FY 2000-2001: No circuit funding requests were identified in support of teen court. (source: OSCA Budget Office)

county/other funding: Most teen courts are fee-funded. The Article V Funding Steering Committee did not identify any county funds in judicial branch budgets for teen courts. Some of the funding for specialty courts (88.4 FTEs, \$4,268,062) or other programs (20.5 FTEs, \$998,046) may be dedicated to teen courts.

11. **TRUANCY**

Function: Public Access and Services

✓ **SOME STATE FUNDS CURRENTLY
IN JUDICIAL BRANCH BUDGET**

description: The Miami-Dade Truancy Alternative Program screens juveniles who are arrested for truancy and/or academic failure. Those identified as truant are monitored, with TAP case managers initially notifying the court of the truancy status, and subsequently keeping the court informed about the child's attendance and academic progress. TAP also includes a component that provides tutoring in math and reading for a limited number of juveniles. TAP also has established relationships with other community programs.

current state funding: State judicial branch funding includes a grant-in-aid in the amount of \$200,000 between the Supreme Court of Florida and the 11th Circuit.

legislative budget request for FY 2000-2001: The 11th Circuit requested 3 Case Coordinator I positions, 3 Clerical Assistants, 7 School Liaisons, a Court Community Liaison, and a Juvenile Court Social Service Specialist in support of this program. In addition, \$5,400 for evaluation and \$6,000 for training was requested. Part of a Family Miscellaneous grouping, it was incorporated into a trial court workload issue, workload budget issue, which includes 374 positions and \$18,344,600, and a trial court infrastructure issue, which includes \$3,000,000 in non-recurring expense funds. (source: OSCA Budget Office)

county funding: County judicial branch budgets do not support the truancy program. However, the 11th Circuit and Miami-Dade County provide in-kind support to TAP in the form of facilities. Miami-Dade public schools provide two case manager/social worker positions to the program, and Miami-Dade transit provides \$700 per month in transportation assistance.

