

## **A Report to the First Judicial Circuit on Judicial Assignments, Best Practices and Caseload Management**

### **Overview**

This report is being issued in response to a request for technical assistance by Chief Judge Terry D. Terrell, First Judicial Circuit in a letter to Ms. Lisa Goodner, State Courts Administrator dated September 23, 2009 (copy attached). In his letter, Chief Judge Terrell specifically asks for an audit and review of the First Judicial Circuit's "judicial assignments, best practices, and caseload management."

Chief Judge Terrell also notes that in January 2011, one of the circuit judgeships currently assigned to Escambia County will be transferred to Okaloosa County.<sup>1</sup> This move is being made to address the growing circuit court workload in Okaloosa County.<sup>2</sup> Thus, Escambia County's judicial complement will be reduced by one full-time equivalent position. To counter the loss of this judgeship, Judge Terrell asks the OSCA staff and its consultant to "review current practices in each county and recommend revisions or changes that will improve efficiencies in the assignment of judges and docket management." Accordingly, this report reflects information gleaned from materials provided by the circuit along with interviews conducted with judges and the trial court administrator.

### **Report Structure**

This report contains four sections: 1) a review, recommendations, and discussion for Escambia County for both circuit and county court; 2) a review, recommendations, and discussion for Okaloosa County for both circuit and county

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<sup>1</sup> This move coincides with the retirement of a current circuit court judge.

<sup>2</sup> An independent workload analysis conducted by the Office of the State Courts Administrator verified the need for additional judicial help in Okaloosa County. The OSCA analysis also indicated the First Judicial Circuit has the highest need for circuit judges of any circuit in Florida.

court; 3) circuit-wide recommendations; and 4) a conclusion section. The report also contains several attachments.

### Site Visits

In response to Chief Judge Terrell's letter, site visits to Escambia and Okaloosa County within the First Circuit were conducted by Mr. Thomas H. Bateman III, retired circuit court judge from the Second Judicial Circuit of Florida and Mr. Gregory Youchock, Chief of Court Services with the Office of the State Courts Administrator in January and April 2010.

The site visits were comprised of meetings and interviews with the chief judge, administrative judges, circuit and county judges and the trial court administrator. Judicial assignments, logistics, docket management, and rotational practices were reviewed and discussed. Also discussed were judicial preferences and the history associated with current assignment practices, workload distribution, local legal culture, and possible impediments to change.

In addition, The Florida Rules of Judicial Administration<sup>3</sup> as well as publications and articles by the Institute for Court Management of the National Center for State Courts<sup>4</sup> and the Federal Judicial Center's Manual for Complex Litigation<sup>5</sup> were consulted.

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<sup>3</sup> See Rule 2.215(b)(2) and (b)(3), Trial Court Administration.

<sup>4</sup> Caseflow Management: Core Competency Curriculum Guidelines. Caseflow management is the process by which courts move cases from filing to closure. This includes all pre-trial phases, trials, and increasingly, events that follow disposition to ensure the integrity of court orders and timely completion of post-disposition case activity.

<sup>5</sup> Although federal trial judges are the *Manual's* primary audience, the techniques and procedures discussed may be useful in state courts as well, particularly in view of the convergence that is occurring in related litigation pending in both state and federal court systems. Reference to the *Manual* may assist in the coordination of such litigation. The *Manual* will also assist lawyers, who share with judges the responsibility for managing complex litigation in which they are involved.

## **Escambia County**

Presently, there are thirteen circuit and five county court judges in Escambia County. There are two judicial locations, the main courthouse in downtown Pensacola and a juvenile facility approximately four miles away. Escambia County has a rotational policy in effect for its circuit court judges. The circuit judges have a rotating nine-week master calendar.

County court judges have fixed divisional assignments with four county judges assigned to criminal matters with one presiding exclusively over civil proceedings. The county judges have a five week calendar and perform little, if any, circuit court work.

## **General Themes**

In addition to the chief and administrative judge, several circuit and county court judges were interviewed in Escambia County.<sup>6</sup> A primary theme that emerged from the interviews is that the circuit judges like being “generalists” (i.e., having a varied caseload comprised of multiple divisions of court). They also appear reluctant to embrace divisional assignments. Other judicial concerns include a growing lack of civility between members of the Bar, personnel turnover in the state attorney and public defender offices, workload associated with post-conviction relief motions, Escambia County Bar Association concerns about the use of magistrates, the workload impact of tobacco and mortgage foreclosure cases, a lack of sufficient resources given existing workload, the anticipated loss of a circuit judgeship in January 2011 with resulting workload implications and temporary holds on filling vacant judicial assistant positions.

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<sup>6</sup> A separate telephone interview was conducted between Mr. Youchock and Judge Shackelford as she was unable to be interviewed during the actual site visit to Escambia County.

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## **Circuit Court Recommendations (Escambia County)**

The following recommendations are offered to assist the judges in Escambia County in providing maximum judicial coverage while acknowledging that their staffing complement will be reduced by one circuit judge effective January 2011. As noted by the chief judge, Florida's economy remains in a recession with little hope of new resources from the Florida Legislature in the next several years despite a documented need. Thus, current and future workload must be addressed with fewer judicial resources working at optimum capacity.

### **1. Divisional Assignments for Circuit Court (Escambia County)**

It is recommended that the circuit court judges switch to a divisional assignment system. Workload distribution should be prioritized to address due process and family law matters (i.e., criminal, family law and juvenile) with non-due process matters (i.e., civil and probate) receiving secondary consideration. A proposed wire diagram of the suggested divisional assignments can be found in Attachment A. Consideration should be given to have the chief judge handle all tobacco and probate cases along with their administrative duties. The circuit should also review recent family and juvenile filings to determine if the proposed judicial allocation for family law and juvenile proceedings can be reduced. If it is determined that a judicial allocation can be reduced (either partially or wholly), that judicial resource should be shifted to assist with labor intensive cases such as those involving tobacco litigation and other complex civil matters.

Senior judges should be used to support this new assignment system by providing backup for jury selection/trials where necessary. Magistrates should be used to handle discovery and other case processing matters that will move cases towards disposition. To the extent possible, case managers should be used to assist judges with managing and processing mortgage foreclosure cases.

Discussion. The review team recognizes that adopting this recommendation would be a major shift for the circuit judges in Escambia County who like being *generalists* and having a mix of cases from multiple court divisions. However,

in our estimation and consistent with the national literature on master calendar systems<sup>7</sup> that is not the most efficient assignment method given Escambia County's existing workload and reduced judicial staffing complement effective January 2011.

There are numerous advantages to adopting divisional assignments,<sup>8</sup> including: 1) economies of scale for addressing workload; 2) consolidation of state attorney and public defender teams; 3) greater certainty and predictability for the Bar and legal community re: assignments/calendaring; 4) fewer attempts by Bar members to judge shop; 5) better coordination with the Escambia County Clerk of Court's Office for file maintenance and management; 6) better coordination with state agencies like the Department of Children and Families and Juvenile Justice; 7) more efficient use and coordination of limited courtroom space; and 8) better security coordination with the sheriff's office for prisoner transport. Other advantages include divisional specific case management orders that could be standardized, faster disposition times, and stricter adherence to the current case processing time standards per the Florida Rules of Judicial Administration.

Clearly, it will take considerable planning and coordination to implement these recommendations. Initially, this will place a heavy burden on the judges and court administration to implement such a workload paradigm shift. Frequent meetings and planning sessions with affected parties are recommended. The Court's rotation policy will need to be adjusted to reflect the new assignment system. These recommendations may also enhance the Court's current master calendar, which over time can lead to greater efficiencies.

Some circuit judges may feel that a disadvantage to the proposed recommendation is that judges would no longer be *generalists* as the variety of caseload mix and the intellectual relief that it provides would be eliminated.

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<sup>7</sup> See *Caseflow Management in the Trial Court: Now and For the Future*, Maureen Solomon and Douglas K. Somerlot, 1998, American Bar Association, Chicago, Illinois.

<sup>8</sup> Ibid.

Yet in Florida and throughout the nation, many jurisdictions have adopted a divisional approach to workload assignments as resources have dwindled. This approach is also consistent with the Court's obligation to deliver the most efficient and effective justice system for the citizens of Escambia County and the First Judicial Circuit. Moreover, the essence of this approach shifts the focus away from judicial assignment preferences to a broader model that addresses macro-level workload in the most efficient and effective way possible given a diminished workforce.

Other concerns may include fewer judicial resources devoted to civil matters. To ameliorate this concern the Court should consider relying more heavily on magistrates to assist with discovery and case management issues and mediation to narrow down case issues. The review team is cognizant of the Court's experience with magistrates and their reaction from the legal community. However, in the final analysis, the use of magistrates by the Court as a supplemental case processing tool is a management and leadership issue. In addition, serious consideration should be given to referring to mediation (not appointing special masters which would require the parties to consent) parties who look to the courts to resolve their discovery disputes as well as other pre-trial matters that are suitable for mediation. Any issue in a civil case may be referred to mediation under Chapter 44, Florida Statutes and the Florida Rules of Civil Procedure yet most Florida's judges have not taken advantage of mediation as a case management tool and technique.

The Court must demonstrate to the legal community that a different management model is necessary to effectively manage its overall workload, including civil cases. By hiring qualified and talented magistrates and providing them the necessary support, both internal and external, and referring appropriate pretrial issues and matters to mediation, the Court sends a very clear message to the legal community that it is committed to ensuring that justice is administered in a timely, thoughtful, and efficient manner.

The overwhelming nature of the mortgage foreclosure crisis is likely to be protracted and could significantly impact the Court's workload for the next several years. The circuit's use of the managed mediation model for mortgage

foreclosure cases, however, is one example of how a court can ameliorate some workload pressure.

## **2. Rotation/Four Week Master Calendar**

It is recommended that the Court consider adopting a regular and ongoing rotation cycle for all divisions of court. While rotating judicial assignments is not “mandatory,” Rule 2.215, Florida Rules of Judicial Administration puts the administration of the trial courts in the hands of an elected Chief Judge. Indeed, subsection (4) states, “(b)(4) The chief judge shall assign judges to the courts and divisions, and shall determine the length of each assignment.” The subsection goes on to say that the “chief judge may assign any judge to temporary service for which the judge is qualified in any court in the same circuit” and such “assigned judges shall be subject to administrative supervision of the chief judge for all purposes of this rule.” It is further recommended that the Court consider switching from a nine to a four week master calendar.

Discussion. There are several advantages associated with adopting these recommendations, namely, that a regular and ongoing rotation of judicial assignments will ensure that all judges will cycle in and out of all court divisions over time. Such a rotation will enable the institutional knowledge of the bench to become diverse and well rounded. For example, if the recommendations made in this report are executed and a two-year rotation cycle established, a judge could move through the divisions in six (6) to ten (ten) years, or 1 to 2 terms of office. To accommodate judges with a particular expertise (e.g., post conviction relief, complex litigation), or who may have more experience (e.g., many years in office), and who may want to stay in a particular division, an “opt-in” system based on seniority and choice of assignment could be established. Such a rotation and judicial assignment system is in place and is working successfully in many circuits in the state.

Second, the four week master calendar will enable better case management and trial week coordination. A closer alignment with the county court calendar will also enhance backup judge availability for jury selection and trial weeks. For example, if circuit felony and county misdemeanor case management and trial

weeks were coordinated on an every-other-week basis, county and circuit judges would be available to back up each other on trial weeks twice a month while conducting their own case management calendars on the other two weeks of the month. In months when there are five (5) weeks available, the fifth week can be used to schedule additional trials, “get-out-of-jail” plea days (see Rule of Judicial Administration 2.215(b)(8), “The chief judge or the chief judge’s designee shall regularly examine the state of every inmate of the county jail”), lengthy motion or evidentiary hearings, or judge’s and judicial assistant’s medical and dental appointments or vacations.

Note: the review team is aware that courtroom space is limited in Escambia County and that such recommendations may be contingent upon the county constructing additional courtroom space. This could be problematic given the current state of Florida’s economy. However, if the timing of this recommendation is not possible today, it should be considered in the future.

### **3. Unified Family Court (UFC)**

It is recommended that the Court adopt a Unified Family Court (UFC)<sup>9</sup> in Escambia County. The current supplemental resources assigned to the Family Law division (i.e., two case managers for pro se cases, one part-time county funded position, three case managers dedicated to domestic violence cases, and one magistrate who assists with family law cases) should be dedicated to support the UFC. The resources should be allocated as necessary to effectuate the goals of implementing a UFC.

Discussion. Over the last twenty years, Florida’s State Court System has done a considerable amount of work to improve the administration of justice in the Family Law and juvenile areas. A number of reports have been developed by the Family Court Steering Committee<sup>10</sup> with an equal number of Supreme Court

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<sup>9</sup> The term Unified Family Court is often used synonymously with the phrase Model Family Court.

<sup>10</sup> The committee is now known as the Steering Committee on Children and Families in the Court.

opinions issued as to the merits of a UFC.<sup>11</sup> The essential goal of a UFC is the creation of a fully integrated, comprehensive approach to handling all cases involving children and families while simultaneously resolving disputes in a fair, timely, efficient, and cost effective manner.

While there are resource (i.e., a limited number of case managers and magistrates) and logistical challenges (i.e., two courthouse locations) in Escambia County for creating a UFC, the divisional approach as identified in Recommendation 1 lends itself to such a paradigm shift for improving the delivery of services to children and families. Attachment B identifies the main characteristics of a UFC as identified by the Family Court Steering Committee including guiding principles, division structure and jurisdiction, and essential elements. Additionally, there are other judicial circuits within Florida that have implemented a UFC which can be a valuable resource to the First Circuit.

#### **4. Use of Court Innovation Funding (Magistrates/Case Managers)**

It is recommended that the Court continue to explore ways to use court innovation funding per the \$65 ordinance fee as established in Chapter 939 Florida Statutes, especially in the areas of magistrates and case managers for family law and mortgage foreclosure cases. It is recommended that the Court consult with other circuits throughout Florida who are using “court innovation” monies to address some of its more pressing needs.

### **County Court Recommendations (Escambia County)**

#### **5. Arraignments/Pleas**

It is recommended that county court judges accept pleas at arraignment. It is also recommended that county court judges accept written pleas in absentia. It is further recommended that all county court judges adopt the same policy thereby creating uniformity and consistency in process throughout all county court divisions.

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<sup>11</sup> See Family Court page of Supreme Court website [www.flcourts.org](http://www.flcourts.org).

Discussion. The review team believes that a significant portion of the criminal cases that come before the both the circuit and the county court can be disposed at arraignment by the Court accepting a plea. This recommendation should be applied to both felony and misdemeanor arraignments. The team also believes that the County Court should give serious consideration to accepting written pleas in absentia as a means to move cases through the court system and to keep its docket current. This technique is permitted under the Florida Rules of Criminal Procedure, rule 3.180 (d) and many county court judges around the state have utilized written pleas in absentia in high-volume misdemeanor and criminal traffic courts as an effective case management tool. Those courts work closely with the Offices of the State Attorney and the Public Defender to establish guidelines for sentences in routine misdemeanor and criminal traffic cases. In addition, the courts use pre-filled out written plea forms and they have fashioned a way, either in person or by a prepared video or DVD, to advise the defendants who are present in court of their constitutional rights *en masse* at the beginning of the arraignment docket thereby reducing the time needed later to conduct the plea colloquy that is conducted with each defendant who chooses to address the judge in person.

## **6. Will Calls**

It is recommended that the practice of “will calls” be discontinued.

Discussion. If the Court wishes to provide a court proceeding at which a defendant is permitted to enter a plea at a time off of the arraignment, case management or pre-trial docket, it is recommended that a day and time specific for such “will call” proceedings be scheduled. For example, a Court could set a time every day at 8:30 a.m. and/or 1:15 p.m. at which the judge would accept pleas or hear short motions. The number of pleas could be limited to no more than five (5) per docket and would have to be negotiated pleas, or two 15-minute hearings. (e.g., motion to set bond, motion for pre-trial release, etc.). During trial weeks, the plea docket could be conducted daily before the trial commences. In order for such a system to function efficiently, the lawyer for the defendant would be required to notify the clerk of the intent to enter the plea by at least the day before (we recommend noon) so as to get the case on the

Court's docket; and, the Court would have to enforce a policy that it will only accept negotiated pleas and conduct very short motion hearings. If the Court does not enforce the policy, the dockets can quickly get out of control. This arrangement works well in several circuits.

## **7. Driving Under the Influence (DUI) Cases**

It is recommended that county court judges preside over as many felony DUI cases and trials as possible.

Discussion. The OSCA workload analysis indicates that the Escambia County County Court judges are working at capacity. Yet, the “judicial need gap” between the current judicial staffing complement in county court is considerably lower than that of circuit court. First, county judges are very familiar with presiding over DUI cases. Most felony DUI cases are bifurcated between what is effectively a misdemeanor DUI trial and a mini-trial to prove or accept a stipulation of one or more prior convictions for a DUI. County judges are well-qualified to preside over such cases. Second, given the reduction of a circuit court judgeship effective January 2011 and the predominance of four county court judges presiding over county criminal matters, as well as the fact that there are relatively few felony DUIs compared to the number of misdemeanor DUI cases, it is reasonable to suggest that they would be able to incorporate the few felony DUI cases and trials into their overall caseload. The review team recognizes that this recommendation is impacted by jurisdictional issues, compensation, and a willingness of the county court judges to accept this additional workload. Yet, in keeping with the spirit of this analysis and recognition of circuit court workload, the review team believes that the Court should consider adopting such a proposal.

## **Overall Recommendation**

### **8. Conduct Regular Judges' Meetings (Circuit and County)**

It is recommended that Escambia County conduct regular meetings of all circuit and county court judges.

Discussion. During a time of change and uncertainty it is incumbent that communication among all of the judges in Escambia County be enhanced. While regular planning sessions with other parties (i.e., state attorney, public defender, sheriff, state agencies, local Bar, etc.) are advised for obvious operational reasons, regular communication between the judges is strongly recommended so as to avoid any unnecessary pitfalls during the transition to a new workload paradigm.

### **Okaloosa County**

Okaloosa County has two courthouse locations: one in Crestview (county seat) and the other in Shalimar which is located approximately 26 miles to the South. Although Crestview is the county seat, a majority of Okaloosa County's population is located in Shalimar. The two courthouses are separated by federal land which belongs to Eglin Air Force Base. The Crestview Courthouse is part of a larger governmental complex with room for courtroom expansion. It has two courtrooms with access to the Board of County Commissioners (BOCC) Meeting Room when necessary. The Shalimar Courthouse design is outdated with only two secure courtrooms for criminal proceedings. The jail is located north of Crestview and prisoners are transported to Shalimar when necessary. Recently, the Okaloosa County BOCC agreed to build a new courthouse in Shalimar. The new courthouse is slated to open in October 2011.

Presently, there are five circuit judges assigned to Okaloosa County and three county judges. One county judge and one circuit judge are permanently assigned to the Crestview location. The remaining judges, two county court and three circuit court, spend a majority of their time in Shalimar. This judicial assignment distribution reflects the overall workload distribution of the county with approximately one third occurring in Crestview and two-thirds occurring in Shalimar. Effective January 2011, Okaloosa County will receive another circuit court judge to assist with the growing workload.<sup>12</sup> Due to chamber and courtroom space limitations in Shalimar, the new judge assigned to Okaloosa County will be

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<sup>12</sup> This is the circuit court judgeship being transferred from Escambia County to Okaloosa County referenced earlier in the report.

housed in the Crestview location until the new Shalimar courthouse is available for occupancy in October 2011.

Also in 2011, it is anticipated that an additional 10,000 military personnel and families will be moving to Okaloosa County. Most are expected to reside north of Eglin AFB in the Crestview area. It is anticipated that their presence will have an impact on the circuit and county courts in Okaloosa County. The extent of their impact on court workload remains to be seen.

### **General Themes**

Several general themes emerged from the judges interviewed in Okaloosa County. It was generally agreed that having one county and one circuit court judge in Crestview to handle the north county work is sufficient. As is the case with their Escambia County counterparts, the circuit court judges in Okaloosa County like being *generalists* meaning they prefer to have a mix of cases from multiple divisions. There also appears to be a constant effort on behalf of all the judges to ensure that the workload is equitably distributed. This effort often results in judges shuttling between the Crestview and Shalimar locations and frequently presiding over a varied mix of caseload assignments which may or may not be related to one another. Out of respect for their service, great deference is given to the most tenured circuit court judges within the county as to their assignment preference. There is no rotation policy in effect. As in Escambia County, the county judges in Okaloosa County perform little, if any, circuit court work. A continuous challenge confronting the judges and trial court administrator is how to equitably balance the workload between the Crestview and Shalimar locations.

### **Circuit Court Recommendations (Okaloosa County)**

Okaloosa County is presented with some unique challenges because of the geographic split between its two courthouse locations, Crestview and Shalimar. The absence of a well-defined judicial rotation policy and the fact that county court judges perform little, if any, circuit court work complicates matters. As noted above, Okaloosa County is scheduled to receive an additional circuit court judge in January 2011. Due to courthouse space restrictions in Shalimar, the new judge will

be located in Crestview. This fact further complicates matters as the workload is presently not sufficient to support two circuit judges at the Crestview location. Notwithstanding these challenges, the Court should view the next several years as opportunities to improve the delivery of justice within Okaloosa County.

### **9. Develop Short-Term, Intermediate, and Long-Term Improvement Plans**

It is recommended that the Court develop short-term, intermediate, and long-term plans to improve the administration of justice within Okaloosa County. Each plan should contain specific attainable goals with a focus on improving court operations. There should be an acknowledgement that operations and service delivery can be improved over time with a commitment from everyone involved. There also needs to be recognition by all of the judges that change is necessary and inevitable. Maintaining the status quo is not recommended. Since the Court has a balance of approximately \$600,000 in Court Innovation funding, it may wish to consult with court planning experts to assist them with transitional measures to achieve its goals.

Discussion. This recommendation is being made in recognition of an additional circuit judge in January 2011 and a new courthouse in October 2011. These two valuable resources will enable the Court to significantly improve its operation over the next three to five years. It is important that the Court vision and plan for the future. The Court must continue to exert a leadership role in improving the administration of justice for the citizens of Okaloosa County. Having a vision and plan for the future will enable the Court to achieve its goals.

Note: Some, or all, of the following recommendations may be incorporated into each plan developed by the Court.

### **10. Minimize Travel Between the Crestview and Shalimar Locations**

To the extent possible, it is recommended that judicial travel between the Crestview and Shalimar locations be minimized.

Discussion. There seems to be general consensus among the judges that there is insufficient work for a circuit and county judge at the Crestview location. Yet, in order to balance the circuit court workload, judges are regularly traveling between Crestview and Shalimar. It appears to the review team that this is not a wise use of judicial time. It also speaks to the absence of a rotational policy that recognizes the unique challenges of split courthouse locations. The Court should consider having the circuit court judge assigned to the Crestview location handle all circuit work emanating from that location. If excess time is available, consideration should be given to assigning them non-jury chamber workloads (e.g., probate, Baker and Marchman Act, and mortgage foreclosures) to fill the balance of their work week.

#### **11. Create Divisional Assignments (Shalimar and Crestview)**

It is recommended that the Court adopt divisional assignments.

Discussion. As part of its intermediate or long-term plan, it is recommended that the Court shift to a divisional assignment system. The advantages for such are identified above in the Escambia County section of this report and will not be belabored here. Attachments C and D are proposed wire diagrams of how such a divisional assignments might be structured for each location. The team is cognizant of the judges' desire to be *generalists*. Yet for the reasons noted in the Escambia section above, we do not believe that is the most efficient and effective way to administer justice for the people of Okaloosa County. As Chief Judge Terrell noted several times during the site visit, the First Circuit (like all circuits) will have to do more with less for the next several years until the economy improves and the Legislature provides some relief. Until that occurs, operational changes in Okaloosa County are warranted.

## **12. Create a Unified Family Court (UFC)**

It is recommended that the Court create Unified Family Court divisions in both locations (Crestview and Shalimar). It is further recommended that current supplemental resources of one case manager<sup>13</sup> who assists with pro se cases, two part-time case managers who assist with domestic violence cases, and one magistrate who assists with family law cases be dedicated to support a UFC. Since Santa Rosa County has a UFC, it is further recommended that the Court consult with their counterparts prior to implementing a UFC to glean insights as to their experience with doing so in Milton.

Discussion. The availability of an additional circuit court judgeship will greatly enable the court to develop a Unified Family Court. By consolidating family law and juvenile cases (i.e., dependency and delinquency) the Court will be positioned to obtain many of the goals associated with a UFC. The net result will be an efficient allocation of resources and enhanced services provided to children and families in Okaloosa County. The creation of a UFC should also improve coordination and communication with the Department of Children and Families and Juvenile Justice. The Okaloosa County Clerk's Office should also be better positioned to coordinate file maintenance for the Court.

## **13. Develop and Adhere to a Rotational Policy**

It is recommended that the Court develop and adhere to a sound rotational policy.

Discussion. It appears that the court is in need of a well-developed rotational policy that contains minimum time requirements for divisional assignments/locations. As often is the case throughout Florida, judicial preference and seniority impact rotational policies. Yet that should not

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<sup>13</sup> This position splits time with Walton County and the Crestview courthouse in Okaloosa County.

preclude the Court from its obligation to ensure that all judges are able to rotate into various court divisions over time. By working together and achieving consensus, the judges should be able to embrace a sound rotational policy that meets their needs, and most importantly, that of the Court. Moreover, no judge should be able to veto a fair rotational policy based on seniority, or preference, or otherwise refuse to participate in a policy developed through the consensus process. Any policy developed should embrace and reflect the divisional assignments suggested above.

### **County Court Recommendations (Okaloosa County)**

Presently, there is one county judge assigned to Crestview and two county judges assigned to Shalimar. County court judges perform little, if any, circuit court work. This is due primarily to their workload and historical/political factors within the county. Yet, in speaking with the judges, it appears that there may be some opportunities to enhance the use of county judges in Okaloosa County.

#### **14. County Court Judges Should Be More Fully Integrated Into the Overall Workload of the Circuit**

Discussion. Where possible, county court judges should be encouraged to perform circuit court work such as presiding over simplified dissolutions, uncontested divorces and domestic violence hearings. This is especially true for the Crestview location as there seems to be a general consensus that there is insufficient workload for both the county court judge and circuit court judge assigned to that location. The review team recognizes that there are some hurdles associated with this recommendation including county court judges' willingness to assist, availability, compensation, and the like. A renewed sense of cooperation and collegiality between all of the judges towards the overall workload within the circuit would be beneficial for all.

#### **15. Circuit Court Plea Day**

It is recommended that the Court review its circuit court plea day process to ensure that remains as effective as possible. The use of county court judges in the circuit court plea day should be considered.

Discussion. The Court should review its circuit court plea day process to ensure that defendants are able to plea at the earliest possible time. Consideration should be given to having county court judges accept felony pleas. If adopted, this ~~will~~ process will reduce the overall jail population and enable cases to be disposed at the earliest possible date.

#### **16. Rules of Court (Rule 1.420(e) and Rule 7.110(e))**

If there is consensus among the judges that certain rules of court are cumbersome or antiquated, then the Court should consider communicating their concerns to the Supreme Court of Florida and/or the proper rules committees of The Florida Bar.

Discussion. The review team was advised that certain rule provisions related to Rule 1.420(e) and Rule 7.110(e) which address county court civil actions such as landlord tenant and small claims matters are both cumbersome and expensive. Many of these cases are filed pro se. Further, due to cutbacks in the clerk of court's office, many of these cases are not being routinely reviewed for dismissal for a lack of prosecution. The net result is that many county court caseloads are comprised of "stale" cases because they have not been dismissed for various reasons.

#### **17. County Judge Time Spent on Canvassing Boards**

If there is consensus among the judges that county judge time while serving on a canvassing board is greater than anticipated by workload models used by the Supreme Court to evaluate county court workload, then the Court should communicate its concerns in writing to the Supreme Court.

Discussion. The Supreme Court uses a sophisticated workload model to evaluate circuit and county court workload. The model was developed in 1999 at the request of the Florida Legislature. The model is regularly reviewed and updated by the Supreme Court to ensure it reflects judicial time spent on enforcing statutes, laws, and rules of court. This is the model that is used to certify new judgeships to the legislature each year. The review team recommends that if the Court believes that county judge time spent on Canvassing Board activities is under-captured in the current workload model, that it advise the Supreme Court accordingly and ask them to conduct a review of the issue.

## Circuit-Wide Recommendations

### 18. Three-Judge Panels (County Appeals to Circuit Court)

It is recommended that the Court adopt three-judge panels to hear county court appeals by circuit court judges.

Discussion. By adopting three-judge appellate panels, the Court can avoid two scenarios: 1) the appearance of favoritism or impropriety with the public and Bar, and 2) any unnecessary friction between the county and circuit bench. Three-judge panels are used in other circuits throughout Florida with great success. This recommendation may require a bit more coordination between the judges. Yet, the benefits that it affords the Court in creating the appearance that justice is being administered in the fairest and most equitable way, both internally and externally, cannot be over emphasized.

### 19. Periodic Judges' Meetings

It is recommended that the Court hold periodic meetings of all judges throughout the circuit. The meetings should rotate around the circuit and should occur at a time most convenient for a majority of judges to attend. Team building, planning, and visionary exercises should be periodically incorporated into the agendas. If necessary, a professional meeting facilitator should be used.

Discussion. The First Circuit is unique in that judges do not travel the circuit for their assignments. Rather, they reside and work in the same county. Over time, this can create an insular or county-specific mentality as to the day-to-day operations or overall needs of the circuit. To combat such a scenario, the judges should meet periodically as a group to discuss any policy and operational concerns.

## 20. Judicial Assistant Issue

It is recommended that the Court consider communicating its concerns about the need for temporary judicial assistant help by corresponding with the Trial Court Budget Commission (TCBC). There is a standard protocol for advancing such concerns. A letter should be sent to the chair of the commission with a copy to the state courts administrator.

Discussion. A number of judges interviewed during the site visits indicated that the current vacancy time for filling vacant judicial assistant positions was impacting their ability to manage and run their offices effectively. The review team advised the judges that this TCBC policy decision was deemed necessary to manage the salary budget of the state court system. Nonetheless, if judicial operations are being significantly hampered as a result of this policy, the TCBC should be made fully aware of the operational impact their decisions are having on circuit and county judges.

## Conclusion

The reassignment of a circuit court judgeship from Escambia County to Okaloosa County in January 2011 will create challenges for the judiciary and court administration. Conversely, there are many opportunities for change and improvement to the administration of justice in both counties. The current circuit court division of labor in both locations could be improved by switching to divisional assignments. Adoption of a Unified Family Court in both counties should also improve the delivery of services to children and families. Both approaches will require the judges to discard their traditional *generalist* approach to judging. Considerable internal (i.e., judiciary and court administration) and external (i.e., state attorney, public defender, Bar, sheriff's office, etc.) planning will be necessary to implement the recommendations contained in this report.

Refinements to the existing rotational policy will be required in Escambia County. Development of a rotational policy for Okaloosa County is needed. The Court should explore ways to more fully integrate the county court judges into the overall workload mix in both counties. The circuit should also commit itself to short-term and long-term visioning and planning. In that vein, periodic, circuit-wide judges'

meetings are recommended. Regular, county-specific judge meetings are also advised. The use of professional meeting facilitators and planners is recommended. The Court should explore every possibility for the use of court innovation funding to address the needs of the circuit.

CIRCUIT COURT  
FIRST JUDICIAL CIRCUIT OF FLORIDA



TERRY D. TERRELL  
CHIEF JUDGE

M. C. BLANCHARD JUDICIAL CENTER  
190 GOVERNMENTAL CENTER  
PENSACOLA, FLORIDA 32502-5795

TELEPHONE (850) 595-4464  
FAX (850) 595-0392

AIRDYE E. GRAHAM  
JUDICIAL ASSISTANT

September 23, 2009

Lisa Goodner, State Courts Administrator  
500 South Duval Street  
Tallahassee, Florida 32399-1900

Dear Ms. Goodner:

Please consider this my request for OSCA to conduct an audit and review of the First Judicial Circuit's judicial assignments, best practices, and caseload management.

In January, 2011 one of Escambia's Circuit Judges will retire. To maximize judicial resources, and in consideration of case load and need, this judicial position will be re-assigned to Okaloosa County if no new circuit judge position is approved by the Legislature. The First Judicial Circuit could benefit greatly from a review of our judicial assignments and case load management.

The goal of the request is to review current practices in each county and recommend revisions or changes that will improve efficiencies in the assignment of judges and docket management by our judges. With respect for their experience and expertise, I request this audit be performed by OSCA's Greg Youchock and retired judge Thomas Bateman.

We have Court Innovation dollars available in each county to cover the travel expenses of any of your staff members and others sent to conduct the review.

May I please have your authority to permit the review and to expend the county innovation dollars for related travel expenses?

Thank you for your consideration. I await your response.

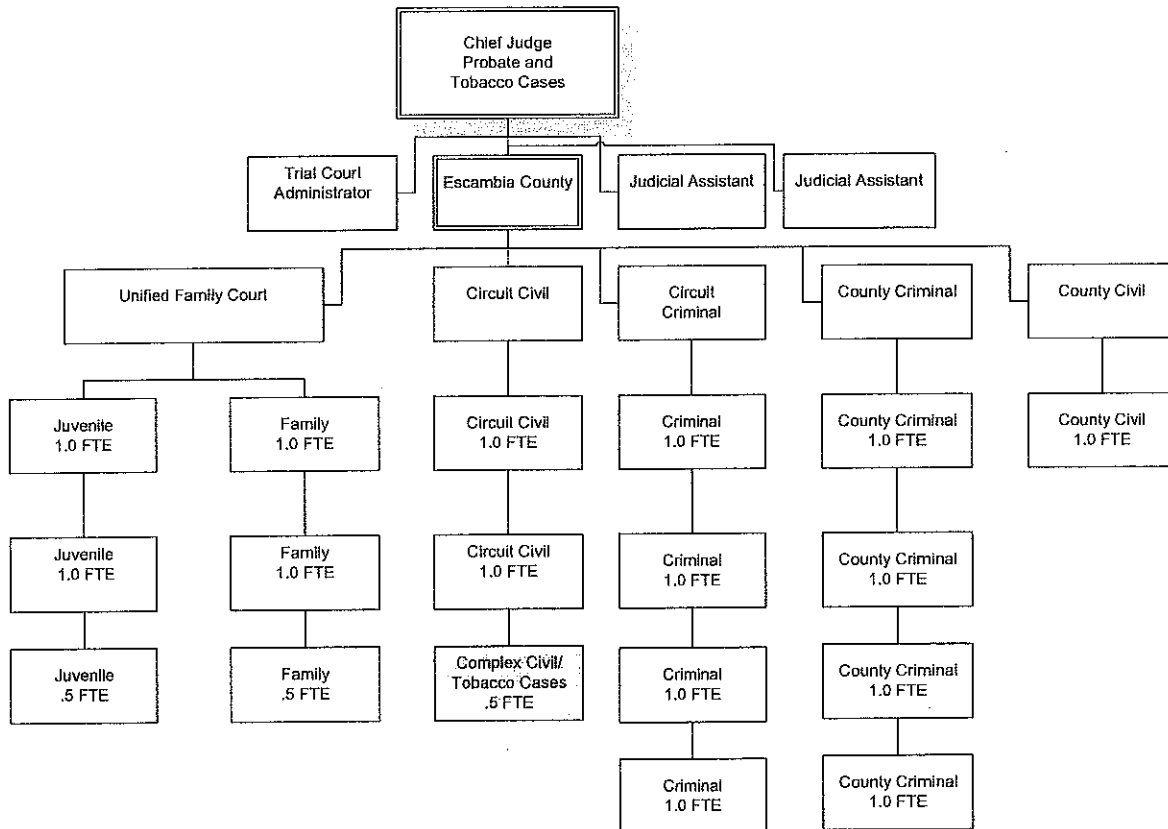
Sincerely,

Terry D. Terrell  
Chief Judge

TDT:slf

cc: Robin Wright, Trial Court Administrator, First Judicial Circuit

**Attachment A**  
**Escambia County**  
**Proposed Divisional Assignments**  
**January 2011**



## Attachment B

### Family Court Guiding Principles

1. Children should live in safe and permanent homes.
2. The needs and best interests of children should be the primary consideration of any family court.
3. All persons, whether children or adults, should be treated with objectivity, sensitivity, dignity and respect.
4. Cases involving inter-related family law issues should be consolidated or coordinated to maximize use of court resources to avoid conflicting decisions and to minimize inconvenience to the families.
5. Therapeutic justice should be a key part of the family court process. Therapeutic justice is a process that attempts to address the family's interrelated legal and non-legal problems to produce a result that improves the family's functioning. The process should empower families through skills development, assist them to resolve their own disputes, provide access to appropriate services, and offer a variety of dispute resolution forums where the family can resolve problems without additional emotional trauma.
6. Whenever possible, parties and their attorneys should be empowered to select processes for addressing issues in their cases that are compatible with the family's needs, financial circumstances, and legal requirements.
7. The court is responsible for managing its cases with due consideration of the needs of the family, the litigants, and the issues presented by the case.
8. There should be a means of differentiating among cases so that judicial resources are conserved and cases are diverted to non-judicial and quasi-judicial personnel for resolution, when appropriate and consistent with the ends of justice.
9. Trial courts must coordinate and maximize court resources and establish linkages with community resources.

10. The court's role in family restructuring is to identify services and craft solutions that are appropriate for long-term stability and that minimize the need for subsequent court action.
11. Court services should be available to litigants at a reasonable cost and accessible without economic discrimination.
12. Courts should have well trained and highly motivated judicial and non-judicial personnel.

#### Family Division Structure and Jurisdiction

- dissolution of marriage
- division and distribution of property arising out of a dissolution of marriage
- annulment
- support unconnected with dissolution of marriage
- paternity
- child support
- URESA/UIFSA
- custodial care of and access to children
- adoption
- name change
- declaratory judgment actions related to premarital, marital, or postmarital agreements
- civil domestic and repeat violence injunctions
- juvenile dependency
- termination of parental rights
- juvenile delinquency
- emancipation of a minor
- CINS/FINS
- truancy
- modification and enforcement of orders entered in these cases

### Twelve Essential Elements of a Unified Family Court

1. Case Management – Supervising, coordinating, directing, and overseeing the process and progress of a case.
2. Self-Help Programs – Providing intake, screening, and procedural guidance to self represented litigants in family law cases.
3. Domestic Violence – Ensuring that cases involving domestic violence are identified and managed in a manner that is organized, timely, and sensitive to the special dynamics involved in these cases.
4. Alternative Dispute Resolution (ADR) – Offering alternatives to reduce the trauma of traditional adversarial litigation process.
5. Guardian ad Litem – Utilizing Guardians ad Litem in all family cases involving abused, abandoned or neglected children, and children at risk of harm.
6. General Masters/Hearing Officers – Using quasi-judicial officers to expedite hearings and expand judicial resources.
7. Custody Evaluation – Providing the court with evaluative information in proceedings involving custody disputes.
8. Supervised Visitation – Promoting the utilization of qualified programs for supervised visitation and/or monitored programs.
9. Education Programs for Parents – Utilizing education programs for parents involved in family law proceedings.
10. Counseling Services/Treatment Programs – Assuring the availability of crisis intervention and long-term counseling/treatment programs and ensuring that compliance is monitored when such services are court ordered.
11. Security – Providing adequate and sufficient security personnel and equipment to ensure that family divisions are safe environments for judges, non-judicial staff, and the public.

12. Technology - Providing computer hardware, systems, and training to access information essential to case management and coordination, to print forms and notices immediately, and to generate statistical reports, to provide public and inter-agency access to records, and to allow teleconferencing and appearance of witnesses by electronic means.

**Attachment C**  
**Intermediate Plan - January 2011**  
**Okaloosa County Crestview Location**

Circuit Judge 1.0 FTE  
(Criminal, Civil, & Probate)

County Judge 1.0 FTE

Circuit Judge 1.0 FTE-UFC  
(Family Law, Dependency,  
and Delinquency)

**Eglin Air Force Base**

**Okaloosa County Shalimar Location**

Circuit Judge 1.0 FTE- UFC  
(Family Law, Dependency,  
and Delinquency)

Circuit Judge 1.0 FTE  
(Criminal, Civil, & Probate)

County Judge 1.0 FTE

Circuit Judge 1.0 FTE-UFC  
(Family Law, Dependency,  
and Delinquency)

Circuit Judge 1.0 FTE  
(Criminal, Civil, Probate)

County Judge 1.0 FTE

Magistrate 1.0 FTE-UFC  
(Family Law, Dependency,  
and Delinquency)

Attachment D  
Long-Term Plan - October 2011  
Okaloosa County Crestview Location

Circuit Judge .5 FTE  
(Criminal, Civil, & Probate)

County Judge 1.0 FTE

Circuit Judge 1.0 FTE-UFC  
(Family Law, Dependency,  
and Delinquency)

Eglin Air Force Base

Okaloosa County Shalimar Location

Circuit Judge 1.0 FTE- UFC  
(Family Law, Dependency,  
and Delinquency)

Circuit Judge 1.0 FTE  
(Criminal, Civil, and Probate)

County Judge 1.0 FTE

Circuit Judge 1.0 FTE-UFC  
(Family Law, Dependency,  
and Delinquency)

Circuit Judge 1.0 FTE  
(Criminal, Civil, and Probate)

County Judge 1.0 FTE

Magistrate 1.0 FTE-UFC  
(Family Law, Dependency,  
and Delinquency)

Circuit Judge .5 FTE  
(Criminal, Civil, and Probate)