

**JUDICIAL MANAGEMENT COUNCIL
COMMITTEE ON TRIAL COURT
PERFORMANCE AND ACCOUNTABILITY**

**SENIOR JUDGES WORKGROUP
REPORT**

I. Introduction

The Florida judicial branch is committed to improving court performance through the implementation of a comprehensive management and accountability system. This document is one in a series to be developed that describes the utilization of selected resources and cost centers. These resources are deployed in order for the courts to perform their core function of adjudicating cases.

This report discusses the manner in which courts use *senior judges*. Recommendations from a Senior Judges Workgroup regarding the certification, allocation, and utilization of senior judges are summarized and transmitted by this document to the Judicial Management Council's Committee on Trial Court Performance and Accountability. This report also includes recommendations about the information needed to effectively account for and manage senior judge resources.

Senior judges are defined in rule 2.030(a)(3)(D), Rules of Judicial Administration, as retired judges serving on assignment to temporary judicial duties. Judges who are eligible for retirement compensation may be eligible for recall to judicial service as senior judges upon "cessation of the private practice of law and approval of the judge's application to the [Supreme Court]" as specified in rule 2.030(a)(3)(C). Retired judges are compensated for their services at a rate of \$275 per day.

To gain knowledgeable input on the utilization and allocation of senior judges, the Committee on Trial Court Performance and Accountability formed a Senior Judges Workgroup. Other workgroups will conduct similar exercises in other areas of court activity to advise the Committee on elements of a performance and accountability system with respect to those areas.

The Senior Judges Workgroup met on May 31, June 12, and August 3, 2000 in Tampa, and via telephone on June 29, 2000. The workgroup was facilitated by Judge Thomas S. Reese of the Twentieth Judicial Circuit. Other participants in the Senior Judges Workgroup included:

- Robert H. Bonanno, Judge, Thirteenth Judicial Circuit
- Ted P. Coleman, Chief Judge, Ninth Judicial Circuit
- J. Lewis Hall, Jr., Senior Judge, Tallahassee
- Michelle Leshko, Deputy Court Administrator, Sixth Judicial Circuit
- Ted McFetridge, Court Administrator, Eighth Judicial Circuit
- Dale Ross, Chief Judge, Seventeenth Judicial Circuit
- William H. Seaver, Senior Judge, Hudson
- Stuart M. Simons, Judge, Eleventh Judicial Circuit
- Odalys Somodevilla, Deputy Court Administrator, Eleventh Judicial Circuit

Due to an illness, Judge Simons attended only the May 31 and June 12 workgroup sessions. In his absence, Judge Jon I. Gordon participated in the June 29 conference call, and Chief Judge Joseph P. Farina attended the workgroup session on August 3rd. Judges Gordon and Farina are from the Eleventh Circuit.

The Senior Judges Workgroup presented its report in draft form to the Committee on Trial Court Performance and Accountability on August 29, 2000.

II. Utilization of Senior Judges in the Courts

Senior judges are a critical supplemental component of Florida's judicial workforce. Senior judges provide courts with the equivalent of more than 35 full-time judges, at a current annual cost of about \$2.125 million. While not a substitute for active judges, senior judges serve in a variety of capacities:

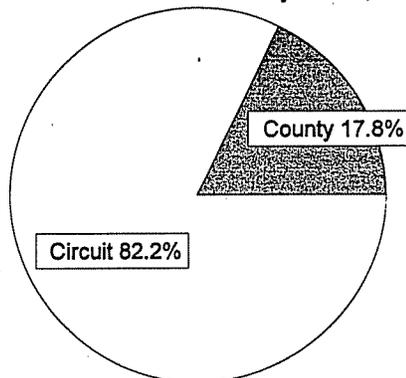
- senior judges fill in for absent judges, particularly those who have extended and/or unanticipated absences;
- senior judges, either singly or in teams, work on extended calendars of trial courts to alleviate backlogs of pending cases;
- senior judges temporarily work regular court calendars to meet caseload needs that would otherwise be unmet by the available judges;
- senior judges preside over trials, including complex, lengthy trials that make significant demands on judicial time;
- senior judges carry dockets for other judges who are presiding over lengthy trials.

The availability of senior judges provides a number of benefits to the State Courts System. Parties have better access to courts, thanks to the service provided by senior judges. The assistance of senior judges also provided shorter trial calendars, reduced backlogs, and an increased capacity to conduct longer proceedings such as trials.

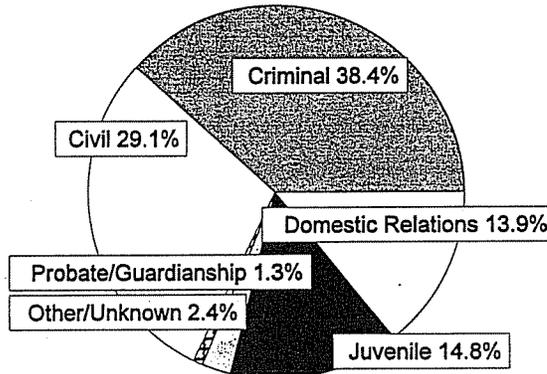
Senior judges primarily work in circuit court; 82 percent of the hours they worked in 1999 were in circuit court.

In circuit courts, senior judges mostly work in civil and criminal divisions, but also spend more than a quarter of their time in family and juvenile divisions.

Utilization of Senior Judges
Service in Circuit and County Court, 1999



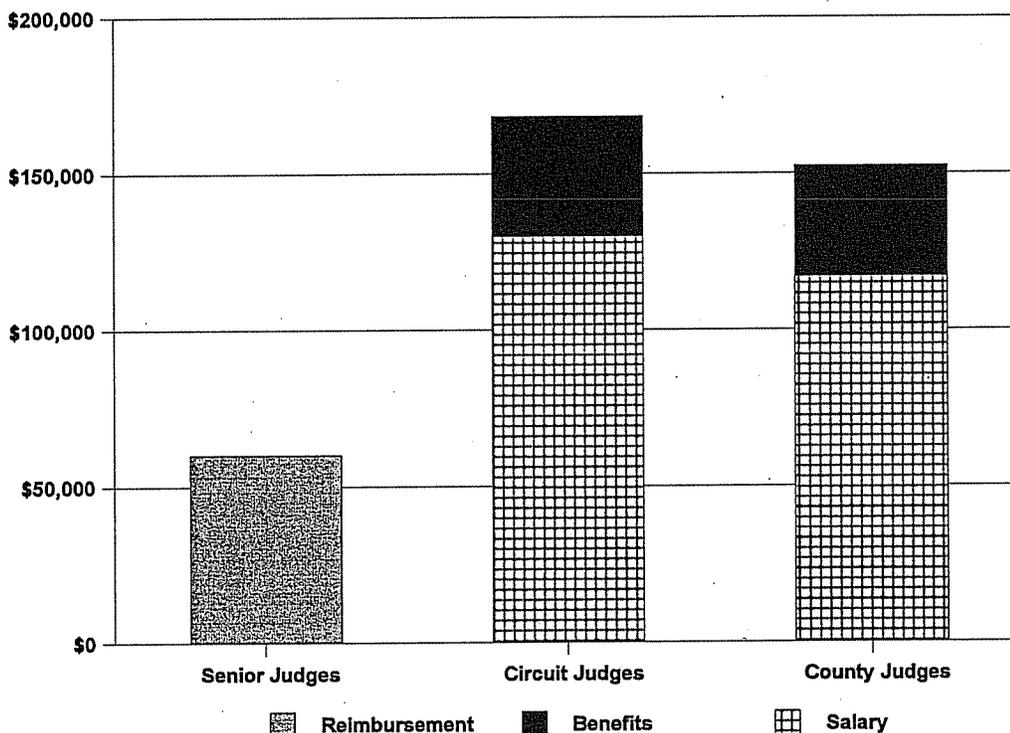
Utilization of Senior Judges
Service in Circuit Court, 1999



Senior judges are highly cost effective. Senior judges are currently compensated at a rate of \$275 per day. Other than those provided through the Florida Retirement System, fringe benefits are not provided to senior judges. Beyond the \$275 per day compensation, the only additional cost to the State Courts System is a 1.45% matching contribution to Medicare, making the total cost of a senior judge day \$278.99. A senior judge who hears cases for 215 days per year costs the State Courts System \$59,982 per year, significantly less than a circuit or county judge.¹

Cost of Senior Judges

Comparison to Full-Time Circuit and County Judges, As of October 1, 2000



III. Availability

The utilization of senior judges is subject to several limitations. The total number of retired judges eligible to serve as senior judges is limited. Furthermore, senior judges are not equally available throughout the circuits, and some circuits have historically found it difficult to find available senior judges. As the number of senior judges available to serve increases, the availability to all circuits is improving.

¹The Delphi Policy Committee has estimated that a full-time sitting judge is available to hear cases an average of 215 days per year. This estimate begins with a 250-day year (52 weeks × 5 days per week minus 10 holidays) and subtracts 20 days for vacation, 5 days for illness, and 10 days for conferences and committee work.

There are also limitations on the types of cases and proceedings for which senior judges are available. Some senior judges are available to hear only certain types of cases, such as criminal or civil cases, or certain types of proceedings, such as trials. In managing senior judges, some chief judges and administrative judges have found that some senior judges are better suited to certain types of assignments, such as trials, because they typically serve for short periods of time.

IV. Accountability for Senior Judge Resources

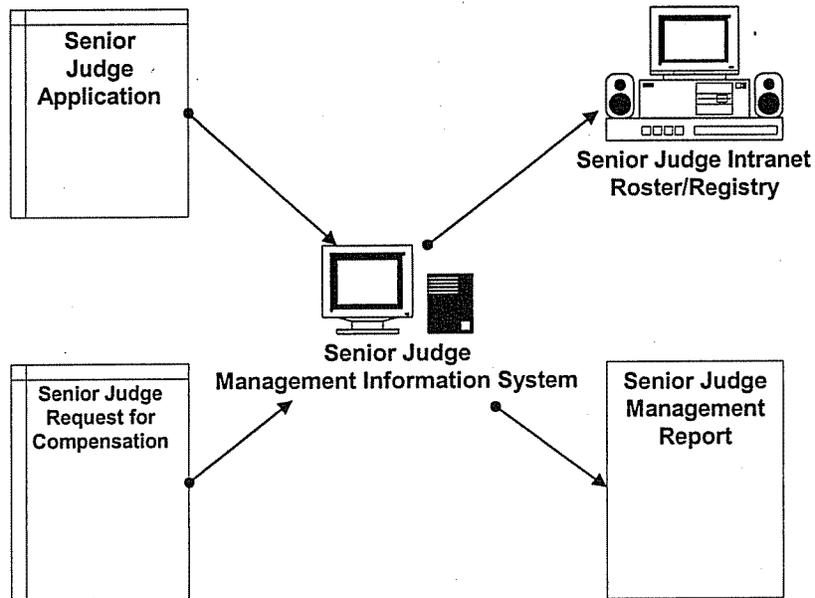
Senior judges are one of several cost centers that will be included in the judicial branch's comprehensive management and accountability system. The primary purpose of this system is to provide the judicial branch with the means to better account for and describe the manner in which it utilizes resources. As a resource that currently costs just over \$2 million, senior judges are among the least costly resources in the state judicial branch budget. Senior judges were selected to lead off the accountability effort because they are funded solely by state general revenue and, relatively speaking, information about the use of senior judges is available (though not always in a consistent or easily accessible form). This report sets out a methodology that will guide similar examinations of resources, such as court reporting and court interpreting.

As the judicial branch requests increases in the number of senior judge days, there will be a concomitant increase in the need for accountability. The judicial branch needs to be able to justify requests for increases by demonstrating how senior judges are used, and that judicial caseload and workload needs are addressed in a cost-effective manner by senior judges who provide high quality public service.

The role of senior judges may also increase as a consideration in the determination of the need for additional judges. In the certification process, senior judges are currently considered to be supplemental resources available to a circuit. Utilization of senior judges may support a circuit's request for additional judges. In the future, senior judge availability and utilization may be factored into the measurement of the total need for judges.

Finally, the Senior Judges Workgroup recommends several improvements in the manner in which data about senior judges is collected, recorded, and reported. Implementation of these recommendations will provide information to assist the courts in managing these resources. The workgroup has recommended that a single senior judge management information system be created to replace the existing separate databases associated with senior judge authorization, compensation, and utilization. The management information system is illustrated here and further described in the text of the recommendations:

Senior Judge Management Information System



V. Recommendations

The Senior Judges Workgroup has developed a comprehensive set of recommendations regarding the utilization, allocation, and management of senior judge resources, including:

- the application, certification, and renewal process;
- continuing education requirements for senior judges;
- the development of a senior judge registry;
- the process for allocation and authorization of senior judge days;
- travel policies for senior judges;
- support staff for senior judges;
- the budget request for FY 2001-2002;
- senior judge compensation;
- management and data reporting; and
- orientation and education for managers of senior judges.

A. Application, Certification, and Renewal Process

1. A uniform senior judge application form should be developed to provide a profile of the judicial experience of the judge, including any specialty case law experience, and the specific service areas the judge is available for assignment. This should include:

- ✓ the judge's name, address, date of birth, date of retirement, and other required personnel information;
- ✓ the circuit/county in which the judge served;
- ✓ the reason for retirement;
- ✓ the judges' years of service in the county/circuit bench;
- ✓ the division(s) to which the judge was assigned in the past 10 years;
- ✓ an identification of special case experience, such as:
 - ▶ asbestos cases
 - ▶ phen-phen cases
 - ▶ breast implant cases
 - ▶ computer crime cases;
- ✓ a question asking whether the judge's continuing educational requirements are current (this can be confirmed by the OSCA);
- ✓ a question asking whether the judge has completed the capital cases course (this can also be confirmed by the OSCA);
- ✓ the circuit(s) in which the judge is available to serve;
- ✓ the levels of court in which the judge is available to serve:
 - ▶ circuit
 - ▶ county;
- ✓ the circuit or county court divisions in which the judge is available to serve:

Circuit	County
▶ criminal	criminal
▶ civil	civil
▶ domestic relations	traffic
▶ dependency	domestic violence
▶ delinquency	
▶ circuit appellate	
▶ probate/guardianship;	
- ✓ the types of proceedings over which the judge is available to preside, such as:
 - ▶ regular docket
 - ▶ lengthy trials
 - ▶ capital criminal cases
 - ▶ referee matters
 - ▶ other (specify);
- ✓ any specific accommodations the judge requires to serve; and

- ✓ the specific calendar times when the judge is available to serve.

2. The initial application process and review by the Supreme Court should remain as it currently exists.
3. A senior judge renewal process should be established to coincide with the three-year continuing education cycle for judges. A renewal application should be developed that includes the identification of the most recent assignments of the senior judge and a verification of completion of the continuing educational requirements.

B. Continuing Education

1. Senior judges should be required to meet the standard continuing educational requirements in order to maintain the status of senior judge.
2. The recommendation of the Florida Court Education Council's Senior Judge Education Subcommittee that an annual update on routine procedural matters should be provided as part of the circuit judges' conference should be adopted. A similar program should be provided at the county judges' conference.

C. Development of a Senior Judge Registry

1. An Intranet registry should be established to provide the circuits with on-line access to the profiles and service availability of senior judges.
2. The registry should include the information contained on the initial application form plus information about the circuits and divisions the senior judge has worked in during the past year.
3. On an annual basis, senior judges should be provided with a copy of the information on the roster and should be required to verify and update its content. Senior judges who do not verify information on the roster should be considered unavailable to serve until the roster information is verified.
4. The on-line roster should have a monthly calendar segment that can be accessed on-line by the senior judge to allow for the designation of dates and times that the judge is available to serve.
5. The on-line roster should be user-friendly so that it can be used as an assignment tool for the courts. It should provide search capabilities by

circuit, division availability, specialty expertise, and availability by calendar time frame.

D. Allocation and Authorization of Days

1. The circuits should be provided with an allocation of senior judge days at the beginning of each fiscal year based on an equitable distribution formula.
2. Each chief judge of a circuit should be responsible for establishing a plan and management system to provide for the effective and efficient utilization of senior judges with that circuit.
3. Accompanying the annual senior judge allocation the Chief Justice should issue a standing assignment order that provides for the assignment of available senior judges at the discretion of the chief judge of a circuit. This order would respond to the statutory requirements of Chapter 25.073, Florida Statutes, concerning retired justices and judges, which states that "no such justice or judge may serve for more than 60 days in any year without the approval of the Chief Justice." It would also replace the current procedure that requires circuits to submit assignment requests for specific senior judges and routine updates throughout the year.
4. The Supreme Court should issue management and accountability guidelines for the effective and efficient utilization of senior judges and should establish a periodic review process to define ways to maximize the use of this valuable resource.

E. Travel

1. Travel reimbursement should be provided to a senior judge by the state only when there is a need for the judge to travel for an assignment outside of their county of residence.
2. Travel funds should be pooled at the state level, rather than allocated to individual circuits.
3. The official headquarters for a senior judge should be the courthouse in the county of the residence of the senior judge. If there is more than one courthouse in the county, the official headquarters should be the county courthouse closest to the residence of the senior judge.

4. Travel reimbursement should be calculated from the official headquarters when a judge is assigned to another county.
5. Chief judges should utilize senior judges who reside within their county/circuit as the first option. The second option is to use senior judges who reside in adjacent counties/circuits. On an exception basis, senior judges from other counties/circuits in the state may be assigned by chief judges.
6. Out-of-state travel should not be paid without prior approval by the Office of State Courts Administrator to the chief judge of the circuit.

F. Support Staff

1. Support staff should be provided to senior judges through the allocation of Other Personal Services (OPS) funding.
2. The current allotment of \$27,083 OPS for senior judge support and the \$20,000 OPS for strike force support should be combined into the general OPS temporary JA allotment. Since the current OPS allotment for temporary judicial assistant support is \$209,730, this would provide a total of \$256,813 for temporary support for all judges, including senior judges. This allotment should be distributed to the circuits based on the Delphi distribution formula used for the allocation of senior judge days. The guidelines for the use of the temporary JA allotment should include the support for senior judges.
3. The temporary JA support allotments and expenditures should be monitored by the Office of State Courts Administrator to determine if there should be adjustments in the allotment based on need.

G. Budget Request

1. A budget request of 1,142 additional senior judge days, which reflects a 15% increase over the FY 2000-2001 budget should be submitted to the 2001 legislature. This request should not impact the judicial certification process.

H. Senior Judge Compensation

1. Senior judges are expected to work a full day. Nonetheless, there are circumstances where the court's calendar unexpectedly clears, leaving less than a full day's work available for the senior judge, after the senior judge

has reserved the entire day to work in the court. State policies should be retained which allow senior judges to be compensated for a full day's pay even if less than a full day is served. Chief judges may require that senior judges work a minimum number of hours in order to be eligible for compensation.

2. Courts are encouraged to develop utilization policies and procedures relative to case assignment, docket management and trial assignment to maximize the use of the senior judge time when being called to serve.

I. Management and Data Reporting

1. The senior judge application information should be included in a management system to provide the base record for each senior judge. Additional data regarding the service hours should be added to this base record.
2. A uniform reporting system should be developed to provide accurate information regarding the utilization of senior judges.
3. The information regarding senior judge utilization should be provided by the senior judge on a uniform reporting form to be included with the request for reimbursement.
4. The senior judge service information should include:
 - ✓ the circuit/county where service was provided
 - ✓ the number of days being reimbursed
 - ✓ the actual number of hours served
 - ✓ the number of days served by division of the court
 - ✓ the number of days served by service requirement
 - ▶ caseload
 - ▶ long-term trial
 - ▶ coverage for long term absence
 - ▶ special service such as referee
5. Senior judge management reports should be made available to the chief judges and trial court administrators on a quarterly basis to facilitate the management and utilization of senior judges.
6. The senior judge management system should be used to provide information for the long range program plan required by the legislature and to support the legislative budget requests.

J. Orientation and Education

1. Chief judges and trial court administrators should be provided with an overview of the new policies and procedures.
2. A senior judge administrative/management review session should be an integral part of the new chief judges orientation program.

VI. Conclusion

This report provides a framework for describing the utilization of senior judges. It is intended to help provide a better understanding of how courts use this resource in the performance of their core function of adjudication. It is also intended to assist in the compilation of data required to comply with planning and budgeting statutes. This report also forms the recommended template for the type of information that should be recorded for other cost centers, such as court reporting and court interpreting.

Implementation of these recommendations will take place in stages. Some of the recommendations have already been implemented – a proposed allocation of senior judge days for fiscal year 2000-2001 was developed by this workgroup, circulated to the trial courts, and subsequently adopted by the Chief Justice. In addition, the legislative budget request for fiscal year 2001-2002 includes the recommended increase of 1,142 additional senior judge days that was recommended by the workgroup. Finally, guidelines for the planning, management, and utilization of senior judges were issued by the Chief Justice this fall. Other recommendations will be implemented in stages, such as the establishment of a senior judge registry on the Florida State Courts Intranet, and the construction of a unified senior judge management information system.

Many of the recommendations of the workgroup will need to be reviewed after a period of time to monitor their implementation and determine if changes are needed. The Senior Judges Workgroup plans to meet after six months of data from the current fiscal year.