

**Florida Supreme Court
Commission on Trial Court Performance and Accountability Teleconference
May 20, 2009
12:00 pm to 2:00 pm**

Minutes

Members in attendance:

Judge Robert Bennett, Judge Kathleen Kroll, Judge Peter Lopez, Judge Peter Marshall, Judge Ellen Masters, Judge Terry Terrell, Judge William Wright, Gay Inskeep, Judge Lisa Davidson (Liaison)

Members absent:

Judge Brian Davis, Judge Thomas Jaworski, Judge Jonathan Sjostrom, Carol Ortman, Mike Bridenback

Others in attendance:

Rick Melendi

Staff in attendance:

Lisa Bell, Sharon Buckingham, Jim Ledbetter, Rose Patterson, Greg Smith, P.J. Stockdale, Greg Youchock

Judge Bennett called the meeting to order at 12:02 pm.

Judge Bennett observed that the judicial branch has been in survival status since the last TCP&A meeting and thus, much of the OSCA's efforts have been focused on Legislative Session and protecting the State Court System against further cuts.

I. 2009 Legislative Session Summary

Judge Bennett noted that the legislation in the meeting materials has not yet been signed by Governor Crist or allowed to become law without his signature.

SB 1718 – Changes to Filing Fees

Sharon Buckingham reviewed the background and components of the bill:

- As of 07/01/09, almost all of trial court resources will be funded from the State Courts Revenue Trust Fund. The bill will result in a \$240.7 million increase to the State Courts Revenue Trust Fund; however, the branch will lose the equivalent general revenue dollars that it is gaining in trust. This affects the appellate courts and the OSCA, as well. Most of trial court administration and some other staff were moved to this trust fund last year, but all staff except most judges will now be funded through trust beginning July 2009.
- As part of this bill, OPPAGA will be conducting a study of court and clerk functions to determine possible efficiencies within the branch.

- The Trial Court Budget Commission will again address FY 2009-10 allocations in June and also work on developing new budget management policies as appropriate.

Judge Bennett asked if judicial personal staff will also be funded through general revenue, the same as judges. Ms. Buckingham replied that only the judges will be funded through general revenue.

Judge Bennett inquired as to the source of the trust fund dollars. Ms. Buckingham replied that the source is the fee increases contained in the bill.

This bill has been forwarded to Governor Crist but has not been signed. Subsequent to the meeting, the bill was signed by the Governor on 05/27/09.

SB 2108 – Clerk Bill

Ms. Buckingham reviewed the background and components of the bill:

- The bill revises the methods for setting the clerks budget. The legislature will now appropriate the clerks' budget and the Clerks of Court Operations Corporation, which will be housed in the Judicial Administrative Commission, will release funds to the clerks.
- Similar to SB 1718, the bill also provides for a study by OPPAGA of court and clerk functions, in conjunction with the Auditor General and the Chief Financial Officer, which is due on 01/15/10. Ms. Buckingham noted that OSCA staff is compiling information for the OPPAGA study, including information on the TCBC process, the use of funding methodologies, and the work of the TCP&A, both pre- and post-Revision 7, especially related to best practices and standards of operation.
- The bill also directs the legislature's Technology Review Workgroup to develop a plan for an integrated computer system, due 02/01/10. The Court Statistics and Workload Committee and the Florida Court Technology Commission will be involved in generating standards for the integrated computer system.

Judge Bennett added that the Judicial Resources Study, undertaken by a TCP&A workgroup, received high marks in a recent OPPAGA study.

The bill has not been sent to Governor Crist.

SB 1726 – Drug Court Bill

Ms. Buckingham reviewed the background and components of the bill:

- The bill expands the use of drug court as a part of a sentence which includes community supervision (post adjudication) with the recommendation of the state attorney and other qualifications.
- The bill also requires drug courts in each circuit to report client level data to the OSCA and requires OPPAGA to determine the effectiveness of the changes to drug court.
- The bill also includes federal grant funding for two years: \$18.25 million for the circuit courts, \$825,000 for data processing services at the OSCA, and \$175,000 for OPS

positions at the OSCA. However, a plan must be sent from the Chief Justice to the Legislative Budget Commission for review before any funds are expended, which equates to July 1, 2009.

- The OSCA is holding internal meetings to discuss the implementation of this expansion, including the creation of an advisory committee of representatives from the court system, state attorneys offices, public defenders offices, Drug Court Association, etc.

Judge Kroll asked if there has been any study of drug courts by the TCP&A. Ms. Buckingham replied that the TCP&A has not been directed to conduct a study of drug courts, most likely because of the former existence of the Drug Court Task Force. Judge Kroll mentioned that the TCP&A may be able to develop best practices for drug courts in the future.

Judge Bennett said that the money currently allocated to drug courts may not be going where it is needed. Rose Patterson added that Byrne Grant money appropriated by the legislature will be directed to those offenders scoring 44-52 on the sentencing score sheet. The legislative intent of these dollars is to save money by preventing offenders from going into state prisons. Thus, a plan is being developed to allocate resources in a manner that ensures the best effect for the most volume of offenders.

Judge Kroll observed that the Department of Corrections is relied upon for information, which does not yield performance and accountability-type information.

Judge Bennett said that the key is to prove the worth of drug court expenditures and establish that parameters need to be tweaked. He also stated that over the next two years, the use of drug courts will need to be proven as a cost-saver and that the perspective of the Court might be different from the Department of Corrections.

Judge Wright added that he runs a four county drug court that targets violations of probation and is interested in additional funding for his program. Ms. Patterson informed that the OSCA Office of Court Improvement would be in contact with the circuits very soon.

Subsequent to the meeting, the bill was signed by the Governor on 05/27/09.

II. Current and Upcoming Commission Projects

Self-Help

Ms. Buckingham provided an overview of the project:

- Self-help assistance slipped through the cracks in Revision 7 as the responsibility for this function fell to the clerks, many of whom provide very limited and inconsistent services throughout the state.
- A TCP&A report was submitted to the Court in April 2008 which outlined a service framework, basic principles and assumptions, roles and responsibilities, and proposed rules.
- A supplemental report was issued in December 2008, which recommended a hybrid model of local self-help centers in each circuit and a statewide call-in center based in

the OSCA. The model was approved by the TCBC and the Supreme Court and included in the Stable Funding Initiative cost calculations. The report also recommended changes regarding court and clerk staff responsibilities, as well as a suggestion to amend Florida Statutes so that self-help is considered an element of the State Courts System.

- Status: The Supreme Court approved the inclusion of the self-help model as a part of the Stable Funding Initiative. The other TCP&A recommendations contained in both reports are pending formal approval by the Supreme Court.
- Commission Action Needed: No action is required at this time. However, it is anticipated that the TCP&A will receive notification of the Court's decisions along with further instruction which may require attention in the near future.

Judge Masters inquired as to whether the statewide call-in center was approved by the Court and what the next implementation step should be. Ms. Buckingham replied that the Court did approve the model, but the Court has not yet approved the other recommendations. However, the Court should issue their directive to the TCP&A very soon. Judge Bennett added the Court could ask TCP&A to look at what can be done with available funding. Ms. Buckingham added that different ideas are being discussed, such as the possibility of the self-help programs being partially self-funded, so we are waiting for the Court to weigh in.

Court Reporting

Ms. Buckingham provided an overview of the project:

- Background: *The Best Practices Model for Ensuring the Highest Performance & Accountability for Trial Court Resources*, formulated in 2002, is the approach used by the TCP&A for the development and implementation of standards of operation and best practices. The model is a guide for improving the performance of the trial courts and supporting the unification of trial court operations into one statewide system. The model covers three main action areas – to define, to develop, and to implement. Specific model steps include:
 - developing standards of operation/best practices;
 - creating performance measures, definitions, & goals that link to standards/practices;
 - developing/revising data collection systems to monitor performance;
 - providing educational opportunities and resource materials for the trial courts to ensure implementation of standards/practices; and
 - providing technical assistance for the trial courts in monitoring and managing their operations.
- A report was submitted to the Court in 2007, which included recommended court reporting best practices, standards of operation, and rule and statutory changes. The Court referred the rules changes to the Florida Bar committees, who submitted their recommendations in August 2008.
- Status: Oral Argument was held on 04/06/09, and we are waiting to hear what the next action and direction will be from the Court.
- Commission Action Needed: No action is required at this time. Quarterly conference calls with court reporting managers were suggested by staff, as well as collaboration with Court Education to possibly integrate training on court reporting standards and

practices into current training programs sponsored by the Florida Court Education Council. Also discussed was the possibility of developing an online reference guide.

Judge Kroll noted that the Publications Committee did not mention this issue at the last Trial Court Administrators meeting, and she inquired if Judge Bennett would like her to bring the issue up at the next meeting. Judge Bennett responded yes, but added that until the Court comes back with what it wants to do, it is hard to give specific guidance, although it is good to plant the seed of the idea as to what may be coming.

ADR/Mediation

Ms. Buckingham provided an overview of the project:

- The charge in the most recent TCP&A administrative order is to continue with development of best practices and standards of operation.
- In August, 2008, a TCP&A report was submitted to the Court.
- Status: On 05/06/09, Administrative Order 09-19 was released, which adopted the recommended best practices and standards of operation.
- Commission Action Needed: No action is required at this time; however, Court Services staff plans to work with the OSCA Dispute Resolution Center to assist circuits with implementation of the standards and practices. The DRC holds a quarterly conference call with the ADR Directors and sponsors educational opportunities each year.

Court Interpreting

Ms. Buckingham provided an overview of the project:

- A report was issued by the TCP&A in January 2002, but since this report was issued and since the effective date of Revision 7, much has occurred to impact court interpreting operations in the trial courts. Positive developments include: the passage of legislation directing the Supreme Court to establish minimum standards and procedures for qualifications, certification, professional conduct, discipline, and training of court interpreters; the establishment of the Court Interpreting Certification Board by the Supreme Court; and the use of new remote interpreting technology. Less positive developments include: several rounds of trial court budget cuts; increasing demand for court interpreting services; difficulty in hiring and retaining qualified court interpreting staff; and in some cases, disincentives for duly qualified interpreters to pursue further testing and/or for eligible interpreters to apply for certification.
- In the midst of these developments, the OSCA has regularly received requests for guidance from the circuits regarding management of their court interpreting programs. While the Certification Board has begun to address issues specifically related to certification and qualifications, there is a need for assistance with other operational issues.
- Commission Action Needed: Staff recommended the establishment of a workgroup to develop best practices and standards of operation. The commission approved this recommendation, with no opposition. The workgroup will be formed in the fall of 2009, when the court interpreting profiles, which are currently under construction, will

hopefully be ready. Judge Bennett stated that he would work with staff to determine the chair and members of the workgroup.

Ms. Buckingham explained that through both the involvement of the Court Interpreting Certification Board in this issue and the 2002 report, much of the groundwork for this project has been completed.

Trial Court Operating Procedures Manual

Ms. Buckingham provided an overview of the project:

- With the recent best practices and standards of operation work developed by the TCP&A for two court elements, it has been suggested that the creation of an operating procedures manual may be necessary to support the institutionalization of these policies.
- The manual could be placed on the State Court System's website as a comprehensive, one-stop reference of all standards and best practices.
- The Chief Justice has expressed interest in pursuing the development of this manual and has also suggested that the TCP&A propose an amendment process for the policies in the manual.
- Commission Action Needed: Develop a proposal for a Trial Court Operating Procedures Manual and amendment process and direct staff to prepare draft proposal(s) for consideration at the next TCP&A meeting. The commission approved these actions, with no opposition.

Judge Bennett inquired if the manual will be accessible by the public or just intra-branch. Ms. Buckingham replied that it would be accessible to the public. Judge Bennett added that there are good reasons to do this, such as improving public relations by displaying the efforts of the branch to be accountable for the resources used in the trial courts.

Judge Kroll noted that the Publications Committee may be interested in this effort. Thus, staff was directed to meet with the Publications Committee staff and report back to the commission at the next meeting. Judge Kroll volunteered to liaison between the TCP&A and the Publications Committee.

Judge Masters stressed that the manual should identify those practices approved by the Court, not just those recommended by court committees. Judge Bennett concurred that the policies included would only be those with the Court's stamp of approval.

Dependency/TPR Case Monitoring

Jim Ledbetter provided an overview of the project:

- The latest administrative order for the TCP&A charges the commission with monitoring Dependency/TPR cases. The DCAP&A has an identical charge in their latest administrative order.

- A report was submitted to the Court by the DCAP&A in June 2006, which recommended shortened time periods and specific case management provisions for Dependency/TPR cases.
- A supplemental report was submitted to the Court in June 2007, which used data gathered from the districts and statewide and district-wide workshops to develop a proposed time standard in these cases of 195 days from rendition of a final trial court judgment to rendition of an opinion on appeal, with 90% compliance. The report also noted that the majority of the delay in these cases seemed to occur prior to perfection of the case at the district court.
- The Court referred the rule revision to the Florida Bar Rules of Judicial Administration, Appellate Court Rules, and Juvenile Rules Committees, which submitted their recommendations to the Court in June 2008.
- Status: Oral Argument was held on 05/05/09 and the Court has the issue under consideration.
- Commission Action Needed: No action is required at this time. The DCAP&A is looking at the nuts and bolts of the monitoring process. Through a recent trend analysis, the commission has noted an overall downward trend in the processing time of these cases.

Complex Civil Litigation

Greg Youchock provided an overview of the project:

- In September 2006, the Court created the Task Force on the Management of Cases Involving Complex Litigation.
- A report was submitted to the Court in April 2008, which included sections on a proposed rule, definitions, and administrative issues for complex litigation.
- The major administrative issues are:
 - Time standards
 - Quarterly pending caseload reports
 - Expansion of the civil cover sheet and Summary Reporting System (SRS) categories
 - Implementation by the clerks
- Status: Oral Argument was held on 03/10/09 and the Court has the rule under review. Subsequent to the meeting, the Court issued an opinion on the proposed rules on 05/28/09.
- Commission Action Needed: No action is required at this time, but it is anticipated that the Court will refer the administrative issues to the TCP&A and Court Statistics and Workload Committee in the near future.

III. Report from the Court Statistics and Workload Committee

Judge Masters reviewed the recent work of the committee:

- The committee is in the process of answering the charges from the TCP&A administrative order.
- The CSWC completed its recommendation to the Court in September 2008 concerning the inclusion of Senior Judges in the Weighted Workload Model. The Court accepted the CSWCs recommendation in its 2009 certification opinion.
- There is frustration due to the lack of data available for several key areas of workload management. The committee is working on improving data collection where possible.
- The CSWC is currently reviewing the remaining tasks outlined in the Judicial Resource Study (JRS) for applicability in light of the recent legislative session.
- The committee stands ready to help with the recommendations of the Complex Litigation Task Force.
- The best way the committee can help is to keep beating the drum about getting good data. Judge Bennett asked, “Data from whom?” Judge Masters replied that she was referring to data into the SRS. They need to take a close look at data collection and see what is needed. Travel restrictions and staff availability as a result of the budget issues over the past year are limiting work in this area.
- The annual review of the workload model, which was mentioned in the JRS, has not yet been addressed for this year. The CSWC is considering recommendations on the time scale for a periodic, complete review of the workload model.

P.J. Stockdale continued with the review of the committee’s recent work on improving SRS data collection:

- The CSWC has been working on some housekeeping issues to update and improve some existing data collection systems:
 - This includes a review of the cross-reference of statutes to the SRS and refers to how cases are summarized by statute. The impact of this review is more accurate SRS accounting. As statutes are updated each year, it is important for regular review so that the statistics currently used are as good as they can be.
 - Also included in this secondary charge is collection of Jimmy Ryce Act Data. The administrative order expired requiring this data collection, but the clerks are still submitting the data. The data form needs revision, which is ongoing.
 - Additionally, the refining of the Uniform Traffic Citation data is ongoing.

Judge Bennett added that a central data collection point would be helpful for the state, and TCP&A is willing to do what it takes to get it done.

IV. Schedule Next Meeting

The next conference call was tentatively scheduled for 09/25/09 from 12:00 pm – 2:00 pm.

Judge Bennett adjourned the meeting at 1:24 pm.