

**Supreme Court of Florida
Commission on Trial Court Performance and Accountability
Meeting
Tampa Airport Marriott
November 18, 2010
9:00 am to 4:00 pm**

Minutes

Members in attendance:

Judge Terry Terrell, Judge Paul Alessandroni, Judge Brian Davis, Judge Leandra Johnson, Judge Kathleen Kroll, Judge Peter Marshall, Judge Ellen Sly Masters, Judge Diana Moreland, Mike Bridenback, Gay Inskeep

Members absent:

Judge Dawn Caloca-Johnson, Judge Elizabeth Metzger, Carol Ortman, Justice Jorge Labarga (Liaison), Judge Lisa Davidson (Liaison)

Others in attendance:

Judge Ronald Ficarrota, Judge Scott Stevens

Staff in attendance:

Blan Teagle, Greg Youchock, Maggie Geraci, Patty Harris, PJ Stockdale, Lisa Bell, Steven Hall, Lakisha Hall

Judge Terrell called the meeting to order at 9:00.

I. Introduction of Commission Members and Staff

Judge Terrell discussed the staff support of the Commission and noted that staff are multi-taskers, supporting many different committees. Staff offers a statewide perspective which adds value and expertise to the discussion. Judge Terrell introduced himself. Members and staff introduced themselves.

II. Approval of September 22, 2010 Minutes

The Commission reviewed the September 22, 2010 meeting minutes. Mike Bridenback moved approval of the minutes. Judge Kroll seconded. The minutes were approved as presented.

III. Overview of Florida's Court Committee Structure

Judge Terrell noted the Committee Protocols available in the meeting materials and recommended that members review. He noted the role of the Commission and discussed the meeting objectives. He explained the court committee structure and the need for collaboration among the different committees. Judge Terrell also discussed the roles of the members, liaisons, and staff. Judge Davis mentioned the Governance Workgroup and the work they are performing. Judge Terrell asked if there was any discussion of reactivating the Judicial Management Council. Blan Teagle noted that there has been discussion of this possibility.

IV. Overview of the Commission

Greg Youchock discussed the purpose of the TCP&A and their work within the courts. Mr. Youchock discussed the TCP&A's history, major accomplishments, and provided an explanation of the Best Practices Model. He also explained the charges for the 2010 – 2012 term as directed by the chief justice.

V. Development of Standards of Operation and Best Practices – Review of Recommendations from the Court Interpreting Workgroup

Judge Ficarrotta provided background information on the Court Interpreting Workgroup and the evolution of the report presented to the Commission. Lisa Bell spoke to the current guidance of court interpreters.

Judge Moreland asked about the relationship between certified interpreters and the number needed. Ms. Bell responded that there are less than 150 certified interpreters in the state, but over 200 interpreters are poised for certification. The Commission discussed the dispersion of court interpreters throughout the state.

Ms. Bell presented the suggested rule and statutory revisions. Judge Marshall asked if there were any incentives for duly qualified interpreters to become certified interpreters. Ms. Bell responded that currently there is little incentive for duly qualified interpreters to become certified, but the report attempts to address that issue.

Mike Bridenback asked the rationale of requiring interpreters at no cost in civil litigations. Gay Inskeep noted that Florida law requires cost recovery. Judge Kroll asked if the report addressed that statute. Maggie Geraci responded that the report does note the statute. Ms. Geraci explained that the DOJ Guidance letter indicates that Title VI should be applied as the ADA is applied, to all matters. Mr. Teagle added that the letter states that interpreters should be provided in all matters as a civil rights issue, providing equal protection to all.

Gay Inskeep asked if a recommendation could be put in the report asking the TCBC to consider requesting legislation on paying the certification fees. Mr. Bridenback noted that currently there is no statutory authority to pay certification or licensing fees. Ms. Inskeep stated that she was not requesting more funding, just the ability to use current funds to pay for certification. Judge Moreland noted that even if interpreters get certified, they cannot always pay the fees to keep up the certification. Ms. Bell discussed the problems experienced when seeking passage of initial legislation for a state funded certification program and the concern with costs. She noted that the legislature required the Court Interpreting Program to be partially funded by fees.

Mr. Bridenback asked if all interpreters pay the same fee. Ms. Bell responded that the fee is the same for all interpreters seeking certification. Mr. Bridenback stated that there is a model for mediation certification that offers differing fee levels, for example, county mediator certification has a lower fee than circuit level mediation certification. Ms. Bell noted that the Workgroup looked at whether to waive the fee for court employees and at providing a tier system for certification, but did not consider different fees.

Judge Masters asked if the Workgroup discussed making the use of certified interpreters a priority. Ms. Bell responded affirmatively noting that they incorporated prioritization into the standards and best practices, in addition to the suggested rule and statutory revisions. She noted that if standards were strengthened and the amount of work available to certified interpreters increased, incentive would be created for interpreters to seek certification.

Ms. Bell presented the Assignment of Services section of the report. Mr. Bridenback asked how funding would be addressed for county based court activities. Ms. Bell explained that the recommendations are based on the federal requirements. Judge Kroll noted concern about activities, which are traditionally managed by the courts, but in reality are managed by other entities. She noted that a disparity of justice may occur depending on where the court is located. She also noted that self-help services would be more expensive if the cost of interpreting has to be included.

Judge Masters reminded the Commission to not to get bogged down in the funding and what the services are going to cost. She noted that was not the role of the TCP&A, but rather the role of the TCBC. She noted that the TCP&A is a think tank. Judge Terrell agreed. Judge Kroll stated that she thinks the court system should cover those activities affiliated with the courts but not necessarily managed by the courts. Judge Johnson asked how we can make something a standard and not recognize the associated costs. Judge Masters responded that we should recognize the concern in the report, but not get bogged down by funding issues. Judge Moreland asked if the definition of “court-managed activity” could be less specific and asked why the definition was needed. Ms. Inskeep stated that we should not take on the responsibility of covering activities that are not the responsibility of the courts. Judge Alessandrone asked if any state has challenged the DOJ. Ms. Bell stated she does not believe any state has challenged DOJ at this point. Mr. Bridenback noted that there is some difficulty separating the policy from the funding. Judge Kroll stated that the Commission should focus on what’s right.

The report recommendations on certification, networking/shared resources, and remote technology were presented by Ms. Bell and Ms. Geraci. Judge Johnson asked whether the county or the state would bear the costs for remote technology. Patty Harris responded that both the county and the state would be responsible for technology costs, but it is unknown what the costs will be as the remote technology market is still young. Mr. Bridenback noted that implementation of remote technology would most likely be modeled after the process used in implementing digital court reporting.

Ms. Geraci presented the recommendations on staffing. Mr. Bridenback asked if the Workgroup considered a floor as opposed to a ceiling for contractual interpreter rates. Ms. Inskeep and Ms. Geraci confirmed that the Workgroup did consider that but felt that a ceiling was a more effective method.

Ms. Geraci presented the recommendations on funding. Judge Terrell noted that Judge Alessandrone’s comment about whether there has been challenge to DOJ guidance letter is good point and it might be prudent to wait until it is clear whether it is the law.

Judge Kroll moved to approve recommendation of the report with modification to Standard 1, page 34, removing the words “at state expense.” Judge Masters seconded the motion. The motion carried unanimously.

Mr. Bridenback moved to remove the language revising s. 29.004, F.S., on page 31. Judge Kroll seconded the motion. The motion carried unanimously.

Judge Alessandroni moved to include any challenge or updates to the DOJ Letter in the report, should any arise. Judge Kroll seconded the motion. The motion carried unanimously.

Ms. Inskeep moved to include a recommendation that the TCBC suggest legislation to provide statutory authority for circuits to pay for certification. Judge Kroll seconded the motion. Judge Masters asked if there is a good policy reason to do so and noted that the Workgroup vetted these issues for months and did not include that recommendation. Ms. Inskeep stated that she did bring it up with the Workgroup but did not know what happened with the issue. Mr. Bridenback stated that he believes the state's policy is that it is up to the individual to get the requirements necessary for the position. Judge Kroll suggested putting some information in the report on when certification was covered for mediators, why the mediation program needed it, that it is also needed for court interpreters, and recognizing that it is currently prohibited by statute. Judge Moreland added that this would not be asking for more funding but just permission to use existing funds. The motion carried unanimously.

Judge Davis motioned that any information on litigation to the DOJ Letter/Title VI be added to the Funding section of the report. Judge Alessandroni seconded the motion. The motion carried unanimously.

Mr. Bridenback motioned to approve the report as amended. Judge Kroll seconded the motion. The motion carried unanimously¹.

VI. Other New and Continuing Commission Activities

- **Trial Court Integrated Management Solution (TIMS) Project**

Greg Youchock presented the TIMS project. He discussed the background of case management in the courts, existing systems, and the purpose of TIMS. Judge Terrell noted that the court system has been moving towards such a system for a long time. The plan/strategy has been developed over the last few months and the focus is on a collaborative effort. He thanked staff for their hard work in developing the plan. He asked for discussion. Judge Alessandroni asked if the sheriff's offices will be involved since they collect data. Mr. Youchock responded that sheriffs and any other stakeholders/service providers will be included in the outreach effort.

Judge Alessandroni moved that the TIMS project plan be approved. Mike Bridenback seconded the motion. The motion carried unanimously.

- **Court Statistics and Workload Committee**

Judge Masters presented a report on the Court Statistics and Workload Committee (CSWC). She referenced page 9 of the TIMS project plan and stated that she really liked the timeline and how it applied to the TCP&A and CSWC. She explained that the TCP&A administrative order states

¹ Subsequently, the report was updated to incorporate all amendments and sent to the members via email. Members were asked to vote via email on accepting the edits to the report. Judge Masters motioned to approve the edited report. Judge Davis seconded the motion. The motion carried unanimously.

that the CSWC is a committee of the TCP&A. At their last meeting, the CSWC decided to recommend to the TCP&A and the Supreme Court to add two clerks to the CSWC membership. She noted that the vote to add two clerks was not unanimous, but it was determined that the CSWC needed the help and input of the clerks. The CSWC is committed to a court management system and is particularly interested in whether multiple systems will be needed. Many of the questions that the CSWC has been asked to answer, require court/clerk input and the clerks can help them do that job. As a committee of the TCP&A, the members felt it best to ask the TCP&A to approve adding two clerks.

Judge Masters encouraged the members of the TCP&A to volunteer to serve on the proposed workgroups if they have an interest. Mr. Bridenback noted that this is a very challenging responsibility, but he believes they have the right people assigned. He noted that he supported adding clerks to the CSWC, as they would add their expertise and knowledge. He stated that it was important to emphasize that the TIMS project is not just about maintaining the status quo. It is important to look at the business process and make modifications that will facilitate the more efficient, effective management of cases. He explained that most of the failures are because the status quo is not challenged and new systems simply try to recreate the present reality. He expressed that he is pleased that Mr. Teagle has taken leadership of this project and that Ms. Buckingham and Mr. Youchock are involved. He looks forward to the challenge.

Judge Terrell asked if the CSWC had nominations to fill the clerk positions. Judge Masters responded no, but stated that the TCP&A and the Supreme Court would determine who the representatives would be. The CSWC asked that one clerk be from a small circuit and one from a large circuit, and that they possess a particular interest and expertise in data collection and case management issues and should specifically include those individuals who have shown a strong interest in clerk-court collaboration.

Judge Terrell stated that there was a motion from the CSWC. Judge Kroll seconded the motion. Judge Terrell asked if the presumption was to have the clerks as voting members. Judge Masters answered yes and noted that voting privileges were also discussed by the CSWC. It was determined that the clerks should have a vote because of the concern that they may not give quality input if they could not vote. Judge Davis asked if the TCP&A had the authority to add members to the committee. Mr. Stockdale confirmed that it was in the constitution of the CSWC that the TCP&A determined the membership. Mr. Teagle noted that the TCP&A has the ability to add members, but does not have the authority to pay for them to attend meetings. Mr. Stockdale noted that most of the CSWC meetings have been via teleconference. Judge Masters noted that the CSWC has long term projects and short term projects. For short term projects, quick conference calls are arranged. There are three or four examples of that in the last year. For long term projects, like TIMS, face-to-face meetings may be necessary. Judge Kroll stated that it was inappropriate to invite members to serve on the CSWC, but not pay for them to attend meetings. Mr. Teagle explained the budgeting issue with increasing the membership of the Committee. Judge Terrell suggested using video technology for meetings to cut costs.

Judge Terrell called the question. The motion passed with one nay.

- **Implementation of Standards of Operation & Best Practices – Alternative Dispute Resolution and Court Reporting**

Patty Harris presented an update of current activities involving the implementation of standards of operation and best practices for Alternative Dispute Resolution (ADR) and Court Reporting. She noted the development of the Online Compendium and statewide quarterly conference calls facilitated by OSCA for both court reporting and ADR.

- **Compendium of Standards of Operation & Best Practices for Florida’s Trial Courts**

Ms. Geraci presented a demonstration of the Online Compendium, noting that the TCP&A received approval from then-Chief Justice Quince to create a comprehensive online compendium of all standards of operation and best practices approved by the Supreme Court for elements of the trial courts. Ms. Geraci showed how the site is organized by trial court element and that in addition to the standards of operation and best practices, links are provided to applicable TCP&A reports, statutes, court rules, and other resources.

VII. Update on Self-Help Project

Mr. Youchock presented an update on the Self-Help Project. He noted that a void in self-help services was created by Revision 7 and judges have cited to the increasing impact of self-help litigants and how it is impacting the court system. At the direction of the Chief Justice, the Self-Help Workgroup has drafted a report on implementing a court-based self-help program. He stated that initial estimates indicate that this program could cost around \$6 to 10 million. He stated that the Workgroup will outreach the report to all stakeholders in December.

VIII. Schedule Next Meeting

Judge Terrell asked Judge Stevens if he had any ideas on collaboration. Judge Stevens thanked Judge Terrell for allowing him to attend the meeting and noted that he would like to come to the next meeting. He stated that the hard part of the TIMS project belongs to the TCP&A. He discussed the models of data acquisition and explained that his vision for the TIMS project was extracting data at its source.

Judge Terrell stated that with the absence of Ms. Buckingham, the next meeting will be scheduled for sometime in January, via email.

Judge Terrell asked for a motion to adjourn. Mr. Bridenback motioned and Judge Kroll seconded the motion. The meeting adjourned at 4:03 p.m.