



Spring 2006

# FULL COURT PRESS

THE OFFICIAL NEWSLETTER OF THE STATE COURTS SYSTEM OF FLORIDA

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## A MESSAGE FROM LISA GOODNER, STATE COURTS ADMINISTRATOR

This spring edition of the Full Court Press looks back at some of our court system's achievements during the past quarter and looks forward to important upcoming projects and events.

During the past few months, we have had a variety of court education and outreach programs: some new, some familiar, and one program—the United Judicial Conference (UJC)—that innovatively combined the new and the familiar. The UJC, the realization of one of Chief Justice Barbara Pariente's visions, brought together appellate judges, circuit judges, appellate marshals, appellate clerks, and trial court administrators in one educational setting!

A familiar education program, the Florida Judicial College, was its usual success—although it instructed an unusually large “class” this year: fifty-six new trial judges! And the Florida State Courts System also stepped in to host an unc customary education program—the Midyear Meeting of the Conference of Chief Justices—after Louisiana, the scheduled host, was devastated by Hurricane Katrina. Additionally, our court system offered other significant education and outreach programs that you will find discussed in detail in this newsletter.



This edition of the newsletter also reports on the work of various court committees and projects and underscores the value of our daily efforts to improve the administration of justice for all. For instance, the newsletter has an article on Florida's Standard Criminal Jury Instructions, which are now online, and on the Standing Committee on Fairness and Diversity, which has submitted its first report and recommendations to the Supreme Court.

The next several months will continue to be a busy time for the court system, and the newsletter reflects upon many of these upcoming proceedings and events: the Legislature has just convened (on March 7); judicial candidates will qualify for office the week of May 8; judicial campaign conduct forums will be held May 18-19; also scheduled for mid-May is a branch-wide planning forum that will revisit the judicial branch's long range strategic plan; and on August 3-4, look for the next family court conference.

Indeed, much is happening in our court system, but please remember that this newsletter is your newsletter. We look forward to hearing from you, so please contact us with your ideas, comments, and story suggestions!

Sincerely,

*Lisa Goodner*

## Education and Outreach

### THE FLORIDA JUDICIAL COLLEGE: EDUCATION FOR NEW JUDGES

Imagine...it's your first day on the bench, the moment you've awaited ardently your entire adult life. Yet everything that could possibly go wrong is going wrong—dreadfully



This January, 56 new judges attended Phase I of the Florida Judicial College; gathering in the courtroom of the Supreme Court, they will be welcomed by Chief Justice Pariente, Justice Lewis, and Justice Cantero.

wrong. Cell phones are ringing and chiming and chirping and beeping all throughout the courtroom. The prosecutor, who's chewing gum with abandon, is asking leading questions on direct, and the defense isn't even objecting. Is it possible that you just heard one of the attorneys make a subtle ethnic slur? Meanwhile, the victim, a preacher, to the astonishment of his captive audience, has become inspired to spread The Word in august tones. To make matters worse, the attorneys are talking directly to the jurors, and jurors are directly questioning the witnesses. Yet, in spite of this circus, one of the jurors has somehow managed to fall asleep. And, to top it all off, you've just caught your bailiff making a pass at the defendant!

Although you may indeed feel as if your worst nightmare has suddenly materialized, you can relax: it's actually just your first day of classes at the Florida Judicial College, and you are merely being put through the paces of the state's rigorous court education program for new judges. This program, employing a range of provocative pedagogical tools, gives new judges two weeks' worth of opportunities to deliberate and to exercise strategies for addressing all kinds of scenarios—such as those above—that could unfold in the courtroom. The program also offers new judges a rare opportunity—in fact, the only one they might ever get on the bench—to receive feedback from some of the most seasoned trial and appellate court judges in Florida.

Through the various educational sessions, new judges become acutely perceptive to everything that may transpire within the courtroom dynamic, and they learn how to compose this environment effectively so that justice may be served.

Even though judicial education was not required by law until 1988, the Florida Judicial College has been in place since the late 70s, and this court education program is mandatory for all Florida state judges who are new to the bench. The program consists of two phases: the first phase, in January of each year, includes a series of orientation sessions and a trial skills workshop; the second phase, which takes place every March, focuses on substantive law for new trial and appellate court judges. In addition to completing this program within their first year on the bench, all new trial court judges participate in a mentoring program that offers them regular one-on-one guidance from experienced judges.

Phase I, which took place in Tallahassee early this year, teemed with educational opportunities. The Orientation covered a range of issues that trial judges must consider as they undergo the remarkable metamorphosis from the bar to the bench. They learned about judicial ethics; judicial immunity and liability; family issues such as domestic violence, juvenile detention, and shelter hearings; fairness issues; contempt; and search warrants and first appearance. The Orientation also included a fascinating series of classes on the Art of Judging and on Building Judicial Style. The Trial Skills Workshop examined mechanisms for addressing both jury and non-jury trials; working interactively with “hypotheticals,” new



Judge Carroll Kelly, Miami-Dade County Court, and Judge Peter Ramsberger, Sixth Judicial Circuit, discuss the range of procedural issues of which judges should be aware when they handle domestic violence cases.

judges were prompted to discuss ways they might handle common courtroom situations (e.g., analyzing objections and motions, issuing proper jury instructions, dealing with indecisive juries and with the possibility of a mistrial).

This court education program was instructive in the broadest sense of the word, for, in addition to the factual and objective knowledge that the faculty presented, they also shared expertise that was pragmatic in nature, often anecdotal, and born of long years of practice, giving the new judges an opportunity to learn from the veteran judges' treasury of experience. In addition, the new judges began to build relationships with the faculty and with other apprentice judges, developing a warm collegiality as they studied together. As the week progressed, it was also possible to observe the new judges' growing comfort level with their nascent identities.



Justice R. Fred Lewis, welcoming the new judges to the Florida Judicial College, reminds them that "The strength of this system is founded on [their] shoulders."

Given the depth of learning that this educational program engenders, it's evident that the Florida Judicial College helps to build really firm and capable shoulders on which to base the judicial system.

## ASSESSING THE NEED FOR NEW JUDGES: THE WEIGHTED CASELOAD SYSTEM

The number of judges on the bench profoundly affects court performance and the courts' ability to process cases expeditiously. When filings increase—as they have been doing with great dispatch—additional judges are needed to facilitate the timely administration of justice. The article on the Florida Judicial College (see p. 2) elucidates the rigorous program that all newly-appointed and newly-elected judges are required to complete during their first year of judicial service. But how do the courts ascertain

precisely when and precisely where new judges are needed?

Up until fairly recently, Florida's courts used a "threshold model" for certifying new judges. However, this model didn't always accurately reflect the workload involved in the changing mix of cases in the courts. So in 1998, after discussion with the legislature, the court initiated a study to develop a more accurate workload model that would take into account the complexity of cases coming into the court system; with a more discriminating model, the court would be better able to determine judicial workload, establish recommended caseloads for trial court judges, and assess the need for new judges.



Kris Slayden, Heather Thuotte-Pierson, and PJ Stockdale, of OSCA's Court Services Unit, discuss the relationships between judicial and hearing officer/magistrate case weights.

With the help of the National Center for State Courts, OSCA's Court Services Unit embarked upon the process of developing a weighted caseload system—in other words, a system that anatomizes the amount of time it takes to handle the twenty-six different types of cases filed in the trial courts. In a weighted caseload system, cases that can be completed somewhat swiftly—like civil traffic cases, for instance—receive a lower weight; other cases that occupy more judicial time—like child dependency or capital murder cases, for example—receive a greater weight. The weighted caseload system that OSCA selected is based on the Delphi Research Method—a technique that involves sampling expert opinion in order to arrive at valid case weights. The weights developed through this method were subsequently validated and refined using a time study that measured real world workload for various cases in the courts.

OSCA completed its project in November 1999, and the *Florida Delphi-based Weighted Caseload Final Report* became the standard foundation for determining case weights for Florida's trial courts. Since then, the courts have used this same model; however, because judicial workload inevitably fluctuates, and because of new legislation (e.g., the Jimmy Ryce Act, the Jessica Lunsford Act, the rewrite of Chapter 39), changes in case precedent, and the availability of new resources, several specific

adjustments have been made to a few of the case weights in order to improve the accuracy of the “judge need” model. Recognizing a responsibility to keep up with these kinds of changes, the original study suggested the need for “a systematic update of the case weights approximately every five years.”

As a result, in August of last year, the Judicial Study Resource Workgroup was formed and charged with several goals. Its first is to update the case weights developed in the original study. The group’s second goal is to develop a methodology that can be used to measure, for possible funding formulas, the workload of general magistrates, child support enforcement hearing officers, and civil traffic infraction hearing officers so as to incorporate their caseloads into the existing model. An ancillary goal is to develop a tool to help judicial leadership determine the best allocation of judicial and supporting services. Co-chaired by Chief Judge Robert Bennett, Jr., Twelfth Judicial Circuit, and Trial Court Administrator Michael Bridenback, Thirteenth Judicial Circuit, the workgroup aims to achieve these goals by June 2007.

### Judicial Certification, 2006

On December 15, 2005, the Supreme Court released its annual certification opinion, which will be presented at the upcoming legislative session. As Chief Justice Pariente emphasized in the opinion, judicial certification “is one of the Court’s most crucial duties because the availability of judges to hear and decide cases...is essential to fulfilling the guarantee of timely and meaningful access to justice for the people of Florida.”

The weighted caseload system described above was used to determine how many trial court judgeships should be certified; a new set of criteria, called “weighted case dispositions,” was used to evaluate the workload of DCA judges and to certify the need for additional ones.

The certification process took into consideration the 55 judgeships funded by the legislature and signed into law by the governor last year; also considered were the two circuit and two county judgeships authorized and signed into law during the special session of December 5-8, 2005. “There remains, however, a significant unfilled need for new judges,” the chief justice underscored. Thus for 2006, the Supreme Court certified the need for an additional 66 judges: two district courts of appeal judges, 40 circuit judges, and 24 county court judges.

## THE UNITED JUDICIAL CONFERENCE: A CONVERGENCE OF ANNUAL EDUCATION PROGRAMS

This past December, the Florida Judiciary carried off one of its most ambitious projects ever: the United Judicial Conference, which marked the culmination of 18 months of preparation. This conference, a long-held vision of Chief Justice Pariente, represented a marriage of the annual education programs of the Florida Conference of Circuit Judges and the Florida Conference of District Court of Appeal Judges. With separate educational tracks for appellate judges, circuit judges, appellate clerks, appellate marshals, and trial court administrators, the Marco Island gathering brought together over 500 participants for three days of intensive study and professional interaction.



Chief Justice Barbara J. Pariente presents Judge Martha C. Warner, Fourth DCA, with the Judicial Award for Excellence at the United Judicial Conference. Judge Terry Terrell, First Judicial Circuit, was also a recipient of this prestigious award.

was deliberately planned with the two conferences in mind. As the chief justice pointed out in her introduction to the opening plenary session, Revision 7 led the way to a mandated budgetary interdependence, but, in the process, it also fostered a sense of branch-wide interdependence as well as branch-wide judicial collegiality; for this reason, the conference held symbolic significance for many of the attendees.

The opening plenary clearly set the tone and the level of excellence for the rest of the conference. Duke University Professor Erwin Chemerinsky and Pepperdine University School of Law Professor Douglas Kmiec challenged, provoked, and energized participants with their “Colloquium on Separation of Powers and Judicial Independence.” The colloquium was so far-ranging and so intellectually

invigorating that the four-hour session unfolded with lightening alacrity.

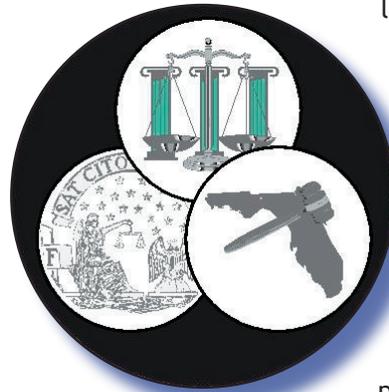
Over the next few days, sessions were so numerous and varied that cerebral stimulation was easy to find. Attendees could choose from among the following—and this is a very abbreviated list: “Judicial Qualifications Commission: Hot Topics” and “Rethinking the Original Foundations of American Constitutionalism” (Appellate Track); “DNA and Selected Forensic Issues in Criminal Cases” and a refresher course in “Handling Capital Cases” (Criminal Track); “Bioethics” and “Maximizing Your Effectiveness on the Bench” (Civil/General Interest Track); “From Toddlers to Teens: What Judges Should Know About Child Development and Parenting” (Unified Family Court Track); and “Technology and the 21<sup>st</sup> Century Probate Court” (Probate Track).

In her State of the Florida Judiciary Address, Chief Justice Pariente had abundant praise for the many judges who have worked assiduously to embody judicial distinction. Then she singled out two judges in particular who she said exemplify the spirit of judicial excellence: Judge Terry Terrell, First Judicial Circuit, and Judge Martha Warner, Fourth DCA. Concluding her address, she recalled for listeners the acclaimed words of former Texas Congresswoman Barbara Jordan: “What the people want is simple. They want an America as good as its promise.” Similarly, the chief justice declared, the people of Florida want courts as good as their promise: they want speed and efficiency, fairness and respect, careful listening, judicial excellence and accountability, and justice for every person who enters the court. She ended by imploring her listeners to do everything they can to ensure that all Floridians have access to justice no matter who they are or what they do.

## JUDICIAL CAMPAIGN CONDUCT FORUMS: MAINTAINING THE INTEGRITY OF THE JUDICIARY

“Would you do it in front of your mother [or father]?” “Would it hurt or harm your reputation?” “Is it the kind of story you would want to see on the front page of your local newspaper?” Although this sounds a bit like the sort of catechism with which hopeful parents try to animate their college-bound children, in fact these are some of the more commonsensical questions that judicial candidates are asked to consider when trying to gauge the appropriateness of prospective campaign and political activities. But common sense isn’t always enough to help one determine rightful judicial conduct....

Anyone who has been in Florida during an election cycle knows that judicial elections are dramatically different from



legislative elections. Among the most conspicuous differences, judicial candidates cannot hold office in a political organization, nor can they publicly endorse or oppose another candidate. They cannot make speeches on behalf of a political organization, attend political party functions

(except in the most limited circumstances), or solicit funds for or contribute to political organizations or candidates. Further, judicial candidates cannot make promises about what they’ll do once in office, other than faithfully perform their duties, and they cannot make statements that commit them—or even merely appear to commit them—to a position regarding an issue that is likely to come before the court. Judicial candidates cannot even personally solicit campaign funds. They may speak on behalf of their candidacy at political party functions—but the content of their talk is severely regulated; the function cannot be a fund-raiser; the opposing candidates (if any exist) must also be included in the invitation to speak; they cannot identify or comment on their political party affiliation; and they should avoid expressing a position on political issues.

The reasons for placing such a strict circumference around judicial candidates are well-grounded and cogent. To maintain the independence of the judicial branch, judges must not be subject to—nor may they subject themselves to—outside influences. Moreover, to sustain public trust and confidence, judges must be—and must be perceived as—unbiased, impartial, and free from partisanship. The protocol governing political conduct by judges and judicial candidates is Canon 7 of the Code of Judicial Conduct, which establishes the standards for appropriate behavior.

When judicial candidates qualify for election, which happens in May of an election year, they sign an oath saying that they have read and understand the Code of Judicial Conduct. However, candidates often file to run for election months earlier, and even if they read the Code before qualifying, they may still have questions about the rules governing their conduct in judicial elections.

And that’s where the Judicial Campaign Conduct Forums come in. Inaugurated in 1998, these one-hour programs are offered in every circuit in which there is a contested judicial election; this year, they will take place on May 18 and 19. Aiming to inform judicial candidates about the requirements imposed upon them by Canon 7, the forums emphasize the importance of integrity and professionalism among candidates for judicial office—and the impact of campaign conduct on public trust and confidence in the

judicial system. They also stress the weighty and humiliating consequences of any breaches of the Code.

Coordinated by a partnering of the Florida Supreme Court, the state's trial court chief judges, the Judicial Ethics Advisory Committee (JEAC), and The Florida Bar Board of Governors, the forums outline the judicial candidate's ethical responsibilities. Then comes a review of Canon 7, covering the most pressing of the "shalls" and the "shall nots." Candidates with any questions are urged to contact Marjorie Gadarian Graham, Chair of the JEAC; elections opinions are typically issued within five days of the inquiry's receipt.

No doubt the most sobering part of the program is the presentation of the consequences—with real-life examples—of transgressing against the Code: judicial candidates will find themselves in the news; they will have to meet with the Judicial Qualifications Commission (JQC); if the JQC finds just cause, the candidates will be formally charged; then

they may have to stand before the entire Florida Supreme Court—in front of a packed courtroom (and the entire world, thanks to the Internet)—and listen to the justices deliver a public reprimand. Their punishment could include any one of a number of castigations: admonishment, probation, imposition of fines, suspension, disbarment, even removal from the bench.

The JEAC urges all judicial candidates in contested elections to attend these forums (this year, held on May 18-19), but the committee also invites campaign managers, campaign staff, local political party chairs, the presidents of the local bar associations, print and broadcast media, and the public to participate. So far, the forums, though well-attended, primarily tend to draw judicial candidates or their representatives. However, whether or not all the relevant parties participate, the committee hopes to leave them with this caution: "Candidates for judicial office should be well aware that they win nothing if they win elections by violating Canon 7. They can and will be disciplined..." (Justice Charles Wells).

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## A WELCOME TO COURT EDUCATION CHIEF MARTHA MARTIN



Meet Martha Martin, OSCA's new (since January 2005) Chief of Court Education.

The Florida Judicial College, the United Judicial Conference, and the Judicial Campaign Conduct Forums—all discussed above—fall under the aegis of OSCA's Court Education Section (as do a host of other judicial branch education programs). Since January 2005, Court Ed has had a new chief: Martha Martin (the prior chief, Susan Leseman, is now the senior attorney overseeing OSCA's Publications Unit). Martha moved to Tallahassee from Oklahoma City in the fall of 1999 to serve as a Court Ed senior attorney, and then supervising senior attorney, before being promoted to chief.

The appeal to her of Court Ed, she says, is that it lies at the conjunction of the law and education. Because her undergraduate degree was in religion, with a focus on education, Martha sees working with Court Ed as "a return to my first love." When asked of her goals for the program, Martha responded, "When I first got here, Court Ed had a long, rich history of judicial branch education and its excellence in Florida, so I feel as if I'm following on the heels of people who have created and nurtured that excellence—pretty big shoes to step into. My goal is to continue and foster that tradition of excellence." Given the quality of the Court Ed programs over the last year, it is apparent that Martha is comfortably fitting into those "big shoes."

## FLORIDA HOSTS THE JANUARY MEETING OF THE CONFERENCE OF CHIEF JUSTICES

On Amelia Island from January 15-18, the Florida Supreme Court hosted the Midyear Meeting of the Conference of Chief Justices (CCJ). Founded in 1949, the CCJ creates an opportunity for the highest judicial officers of the United States to gather quarterly in order to discuss strategies for improving the administration of justice, the rules and methods of procedure, and the organization and operation of state courts.

This particular conference had been scheduled to take place in New Orleans, but when Hurricane Katrina sabotaged that plan, Chief Justice Barbara Pariente, recently elected Second Vice President of the CCJ's Board of Directors, stepped forward, welcoming the conference to Florida. Although it typically takes a year to organize such a far-reaching and large-scale conference, Florida Supreme Court and OSCA staff, with the help of the National Center for State Courts, magically managed to pull everything together in about four months, creating a seamless educational program that unfurled in a context of extraordinary beauty and gracious Florida hospitality.

Altogether, 46 chief justices or their designees were in attendance; also present were 70 other judicial stakeholders (e.g., other justices, judges, Bar representatives, executive officers of various judicial organizations, attorneys). Participants attended committee meetings on court management, tribal relations, security and emergency preparedness, children and families in the courts, and access to and fairness in the courts. And they were also treated to a rich educational program that included sessions such as Judicial Independence in the Eyes of the American Public, Getting Smarter about Sentencing, and Revising the Model Code of Judicial Conduct, as well as a roundtable discussion on Addressing Common Concerns Impacting Chief Justices.

The conference kicked off with a talk by Marsha Dean Pheltes, author of *An American Beach for African Americans*—an appropriate and timely topic, given the location of the conference and its onset on Martin Luther King's birthday.

The next morning, conferees were welcomed by Chief Justice Pariente and by Lieutenant Governor Toni Jennings, who were followed by the Ritz Voices Youth Chorus, a product of the historically black Jacksonville Ritz Theater, which inspired guests with a profoundly moving series of songs. And the conference ended with guest speaker Janet Reno, who addressed the issue of wrongful convictions and suggested ways in which the courts, law enforcement, prosecutors, and other judicial officers can work together to avoid a problem that, if not addressed, will insidiously weaken the criminal justice system and erode the public's confidence in the courts.



Chief Justice Barbara J. Pariente gives a warm welcome to Judith S. Kaye, Chief Judge of the State of New York, at the Midyear Meeting of the Conference of Chief Justices, hosted by the Florida Supreme Court on Amelia Island.

The CCJ performs a critical function for state courts across the country; through its committees, special task forces, and resolutions, it addresses and gives voice to such issues as violence against women, privacy and access to court records, self-represented litigation, victims' rights, and the handling of child abuse and neglect cases. The Florida State Courts System is proud to have hosted this important gathering of influential guests who are committed to working together to improve the administration of justice in this country.

## THE JUDICIAL FAMILY INSTITUTE: ADDRESSING THE UNIQUE CHALLENGES OF PUBLIC LIFE

In addition to the wide spectrum of educational offerings for the nation's chief justices, the CCJ also hosted a meeting of the Judicial Family Institute

(JFI), a national organization that provides information and support to judicial families throughout the country. Affiliated with the National Center for State Courts, the JFI, recognizing the unique challenges that judicial families face, coordinates educational programs, provides access to helpful research materials, and maintains a burgeoning website aimed at assisting the families of judges and justices with issues of particular importance to them.

Most people would assume that judicial families have the same problems as other families—and of course they do—but they also face “public life” issues that have a singular inflection in their personal lives. For example, since personal security has become a grave concern in the wake

of recent, high profile murders of and threats to judges and their families, the JFI now offers expert advice about how to minimize risks to personal safety. The institute also provides ethics and conflicts of interest guidelines; information about how to deal with the peculiar challenges that the children of judges confront; resources for dealing with isolation, depression, and other health and quality of life matters; and suggestions for handling campaign stresses and restrictions.

The JFI welcomes visitors to its website with an articulation of the institute's most important focus: "We set aside personal differences in politics, geography, and positions on controversial issues to attend to what we have in common as families" (<http://jfi.ncsconline.org>). Through its regular meetings and its growing web presence, the JFI is successfully nurturing a dynamic interaction among members by providing an easy access to pertinent information and by building a strong sense of judicial family community.

## GENERAL COUNSEL MEETING: BUILDING A CONSTITUENCY OF SUPPORT

"What trends in society are already impacting—or will soon impact—the court system?" This was the guiding question with which Chief Justice Pariente opened the February 2 General Counsel Meeting at the Florida Supreme Court. Co-sponsored by The Florida Bar Business Law Section, the half-day meeting included the general counsel from nine prestigious corporations across the state. The day's goal, according to the chief justice, was to "look at the big picture together" and then to brainstorm about the ramifications of six major trends on Florida's ability to administer justice fairly, efficiently, and effectively.

Thomas A. Gottschalk, Executive Vice President of Law and Public Policy at General Motors Corporation, was the keynote speaker, and his message was clear and cogent: "A strong, independent judiciary is good for business." A strong and independent judiciary is the greatest protection that GM has, he stressed, for it's the only way to guarantee a fair and neutral forum for the resolution of legal disputes.

Why should corporate general counsel be concerned about the condition of the judicial branch in this country? Mr. Gottschalk offered three persuasive reasons: practical self-interest; the need for an environment of good government and the rule of law in order for business to flourish; and a sense of professional responsibility.

After Mr. Gottschalk's talk, Chief Justice Pariente summarized some of the ways in which the business world is significantly affected—both directly and indirectly—by



Thomas A. Gottschalk, Executive Vice President of Law and Public Policy at GM, talks about "Building a Constituency of Support for State Courts."

the state of the judiciary. For instance, last year, Florida's state courts had three and a half million filings, she pointed out, with family court representing the largest and ever-increasing percentage of those filings. She also reminded participants of the courts' rather limited resources (in fiscal year 2005-2006, for example, appropriations to the judicial branch amounted to just .6% of the

total state budget). Participants were invited to consider the effects of these two realities on other civil court issues.

The chief justice then went on to discuss six major trends in Florida that are having a dramatic impact on the courts: changes in access to the courts; changing demographics; redefinitions of the family unit and its effects on children; revolutions in information technologies; increased globalization; and transformations in security and emergency preparedness.

A breakout session followed in which participants, divided into four small groups, discussed these trends and their effects on the courts. After much animated exchange, each group had a chance to present its assessment. Among other things, all four groups asserted that more support for judges—additional law clerks, for example, and more support staff—is essential in order to improve and expedite the case management process. In the end, participants agreed that this meeting offered them a deeper understanding of the court system and of the ways in which its health—or lack thereof—is bound to affect their lives, both personally and professionally, and they expressed an interest in continuing the dialogue.

## Strategic Planning

### BRANCH PLANNING FORUM: RE-VISIONING FLORIDA'S COURT SYSTEM

Stretching beyond the constraints of the current reality toward a preferred image of the future—this is what it means to have a vision. Signifying a forward-looking stance, visioning is founded upon a mental picture of where one wants to go or what one desires to be. Clearly, people benefit from having a vision of a preferred future, but organizations also recognize its advantages. Thinking along those lines, Florida voters saw the wisdom of requiring their government to draft and implement a vision, and in 1992, they passed a constitutional amendment mandating that all of state government engage in strategic planning; since then, the executive, legislative, and judicial branches have been required to formulate a vision and design a blueprint for their long-range goals.

Immediately, Florida's courts embraced the challenges of formulating a vision, a mission, and a long-range plan. They realized the need for strategic planning because, all across the state—and all across the country as well, of course—



Judge Joseph P. Farina, Eleventh Judicial Circuit, is chair of the Task Force on Judicial Branch Planning.

courts were facing dramatic challenges: pervasive changes in social structure, politics, the economy, and technology; intensified demands by and expectations of court users; presumptions that the courts should assume new, non-traditional roles and responsibilities while still fulfilling traditional functions; unparalleled critiques of the judicial branch by the legislature, the media, and the public, particularly as a result of the rash of high-profile cases; and waning public trust and confidence in government generally, including the judicial system. The implementation of a strategic plan would address the above challenges while boosting overall court performance and expediting the courts' administration of a broad spectrum of services in a cost-effective and competent manner. The Florida Supreme Court charged the Judicial Management

Council (JMC) with developing the long-range strategic plan.

In 1998, after several years of visioning, planning, and outreach efforts, the JMC published its first long-range strategic plan: *Taking Bearings, Setting Course: The Long-Range Strategic Plan of the Florida Judicial Branch*. The plan, which contemplates the sorts of concerns that the courts would confront over the next 20 years, identifies five overarching issues, and it singles out specific goals and strategies that need particular attention and that should undergo updating in six-year cycles.

The first cycle has come to a close, so it is now time to evaluate the progress made and to refresh the goals and strategies for the next six-year cycle. Thus OSCA's Strategic Planning Unit and the Task Force on Judicial Branch Planning are coordinating a two-day workshop in May that will launch the reassessment process. Approximately one hundred participants—among them, judges, government and private attorneys, members of executive agencies and the legislative branch, and representatives from the education, business, and non-profit advocacy communities—will gather together to discuss consequential social, economic, and political trends and to offer suggestions for re-addressing the strategic plan.

The workshop has an extensive and far-reaching agenda. The program will begin with opening remarks by Chief Justice Pariente and the chair of the Planning Task Force, Chief Judge Joseph Farina, Eleventh Judicial Circuit. Then Peggy Horvath, formerly OSCA's Chief of Strategic Planning, will present "A View from the Stern and the Bow," a Janus-faced reflection that looks back to the accomplishments of the current plan and glances forward toward some of the trends the courts will encounter. Following will be three presentations that address some of the most momentous categories of change expected to influence the courts over the next decade: "Cultural and Economic Changes," "Science, Technology, and the Law," and "Changes in Court Organization and Administration."

The second day, participants will be organized into five discussion groups, each charged with a particular concern with which to wrestle (these concerns reflect the five issues in the strategic plan): clarifying the role of the courts; improving the administration of justice; supporting competence and quality; enhancing public access and service; and building public trust and confidence. After carefully examining the issue assigned to it, each group will provide an overview of the challenges that it has identified as well as goals and strategies that the judicial branch should consider as it revisits its long-range plan.

Of paramount importance to the court's process of visioning is the creation and maintenance of lines of communication with other governmental entities and with the public.

With the goal of updating the long-range strategic plan by October 2006, the coordinators of this workshop will foster the continuation of this dialogue, which began over ten years ago.

According to Thucydides, the fifth century BCE historian, “The bravest are surely those who have the clearest vision of what is before them, glory and danger alike, and yet notwithstanding, go out to meet it.” Given the ambitiousness of their task, it is clear that those who will be coming together in May to re-vision the Florida Courts System are indeed dauntless.

## HELPING PRO SE LITIGANTS ACHIEVE MEANINGFUL ACCESS

We pump our own gas. We sell our own houses, often after having fixed them up ourselves. Instead of going through travel agents, insurance agents, and stockbrokers, we buy our own airline tickets and car insurance and favorite stocks—directly, online. We purchase computer programs that let us do our own accounting and that lead us through the process of filling out and filing our own tax forms. Using the plethora of self-help books available, we can also, if we’re bold enough, avoid a visit to our mechanic or computer doctor or therapist.

The fact that there are over 450 “Complete Idiot’s Guides” and more than 900 “For Dummies” books is telling: this phenomenon reflects the tendency of modern Americans to want to learn how to do all sorts of things on their own—how to master a computer program, a digital camera, a musical instrument, Internet poker, ham radio, even the art of fund-raising. There’s even a word for this behavior—“disintermediation”—which, simply put, means to cut out the “middleman” or the intermediary. And insofar as it gives people direct access to information that, in the past, required a mediator (a salesperson, an accountant, a lawyer, etc.), disintermediation can be extremely empowering.

Not surprisingly, disintermediation—which is typically associated with banking, insurance, and Internet-based businesses—is even evident in the courts. Pro se litigation is not a new phenomenon; in fact, litigants have the right to represent themselves in court on any matter, and that right

is guaranteed in Florida’s Constitution (“The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay,” Article I, Section 21). However, the number of litigants who choose to represent themselves, especially in family law cases, has been increasing dramatically since the 80s; for instance, on average, 65% of all dissolution of marriage cases and 80% of all family law cases have at least one pro se party in Florida (nor is Florida unusual in this matter). Numbers like these have made it necessary for Florida’s courts to discover ways to facilitate meaningful access to justice for these parties, whether they are pro se because they can’t afford to hire a lawyer or because they decide, for whatever reason, they don’t want to.

The courts recognize that, “without meaningful access to the courts, there is no access at all” because, in order for justice to be served, two conditions must be met: litigants must be able to get into the courtroom, and their legal issues must find resolution. If litigants are unaware of the proper protocols and therefore fail to file the necessary or correct papers, for instance, resolution of the case will be delayed, thereby fueling the litigants’ sense of frustration and powerlessness as well as damming up the court dockets (March 1999 OSCA report to the legislature).

The formal effort to help pro se litigants began in 1996, when then Chief Justice Gerald Kogan, by administrative order, directed the Family Court Steering Committee to recommend strategies by which the courts could help “self-represented litigants access the family courts through the use of standardized simplified forms, self-help centers, technological innovations, and other mechanisms, as appropriate.” Some significant progress began to be made—but with the 1998 passage of Revision 7, the courts’ energy and attention had to be directed at implementing the prodigious demands of this constitutional amendment, and assistance to pro se litigants was interrupted—but not forgotten.

The overarching purpose of Revision 7 is to ensure that all the people of Florida, in every community, have equal access to justice, so since July 2004, when Revision 7 was implemented, meaningful access for pro se litigants has become even more spotlighted than it had been. In some important ways, Revision 7 has even made the challenge less daunting because, for the first time, all the circuits are on the same page about the services that need to be offered and because the courts now have centralized mechanisms in place (e.g., performance and accountability commissions, budget commissions) to achieve their goals.

Recently, Chief Justice Pariente created a focus group that has been charged with



Jo Haynes Suhr, Senior Court Operations Consultant for OSCA’s Strategic Planning Unit, gets ready for the Performance and Accountability Subcommittee Meeting in March.

developing a broad, service-oriented perspective on this issue. The group—consisting of judges, court administrators, case managers, clerks of court, and providers of legal and library services—is working to identify the “threshold” level of services and support that all self-represented litigants should be able to receive, using a process similar the Trial Court Budget Commission’s when it sought to determine the essential services that Revision 7 should cover. The focus group came together for a one-day workshop in January to develop consensus on the necessary services and resources.

The workshop led to four major conclusions: the courts are constitutionally responsible for ensuring meaningful access; the essential and useful court-based services for self-represented litigants have been identified; pro se litigants should be able to access court-based self-help services seamlessly, within a single-service operation; and the courts should be the primary provider of self-help services.

Florida’s courts still have several steps to take before final decisions are made about precisely which services will be provided and by whom, including developing a framework for delivering the services; doing outreach to chief judges, appellate clerks, and trial court administrators; and developing a budget. Nonetheless, Florida is closer than ever to having an organized system for helping self-represented litigants—a system that will ease these litigants through the judicial process and that will enable the judges and other court personnel who are involved in pro se cases to use their time more efficiently.

## FAREWELL TO STRATEGIC PLANNING CHIEF PEGGY HORVATH

Although she has steadily demonstrated a distinguished aptitude for long-range planning, Peggy Horvath, Chief of OSCA’s Strategic Planning Unit, probably would not have been able to envision—or to plan—her own intriguing and unusual long-range career path. In 1985, after 11 years as a deputy with FDLE, she interviewed for one of OSCA’s deputy state courts administrator positions. Given that her background was in information systems rather than law, she was, no doubt, an unexpected candidate, but her atypical background is precisely what made her stand out: Peggy was hired, in part, to marshal (and coax and prod and lure) the courts into the technology-savvy twentieth-first century.

During her earliest years with OSCA, the courts were woefully “antiquated,” but Peggy eagerly embraced

the challenge of modernizing the court system. With technological advancement as her primary focus, she hired the first state courts technology officer, and she and her staff automated the appellate courts—a colossal endeavor that involved, for instance, building a case management system from scratch. She fondly refers to these trials as “adventures.”

After revolutionizing the courts’ relationship to the digital world, Peggy was ready for a new test of her aptitude as deputy administrator. This time, an invitation to staff the Judicial Management Council gave her a chance to hone more finely her program management skills. The purpose of this council is to provide recommendations and guidance



Peggy Horvath, at a farewell party thrown for her at the United Judicial Conference on Marco Island, relishes an informal moment with Chief Judge Belvin Perry, Jr., Ninth Judicial Circuit.

to the Supreme Court on matters relating to the operations of the courts as well as other aspects of the justice system. As the primary staff member for the prominent, broad-based group of people who constituted this Council, Peggy was intrigued at the prospect of doing research projects with far-reaching policy implications.

Helping to develop the Florida judicial system’s first long-range strategic plan

and to engineer a quality management and accountability program: these were her first major projects—and they would certainly have struck fear into the heart of a less determined, resourceful, or venturesome person. But Peggy was ardent to play a part in this sea change. A 1992 Florida constitutional amendment mandated that the judicial branch address these issues, and Peggy particularly cherishes having had the extraordinary opportunity to work with the court system as it “began defining itself from ground zero—that was the thrill!” she exclaimed. Traveling across the state talking to local people in business, government, and the like, and brainstorming with the inspiring members of the Council, Peggy witnessed the gestation of the court system’s emerging identity. For never before had the courts established a defined and coherent “personality.” Here, Peggy reminisced, was a chance to start at the most elemental level: “Who are we? Why are we? What is our mission? What is our vision? What does the public want and expect from us?”—these were the sorts of profound questions with which the Council members got to wrestle. And at last, in June 1998, the Council’s labors bore fruit:

*Taking Bearings, Setting Course: The Long-Range Strategic Plan of the Florida Judicial Branch* was released.

Having exhibited a special talent for long-range planning, Peggy moved from her deputy position to become chief of the newly-created Strategic Planning Unit, which is exclusively responsible for planning and policy development. Thanks to her unit's efforts, the *DCA Performance and Accountability Report* was issued in 1998, and the following year, the *Trial Court Performance and Accountability Report* came out.

Peggy attributes her ability to work effectively with the Judicial Management Council to one of her most influential mentors, the late Honorable Earle Zehmer, Chief Judge of the First DCA, who chaired the Long-Range/Strategic Planning Committee until his death in 1996. Judge Zehmer reminded her that a judge's job is to look backwards, at precedent—but that her job is to look ahead. If she researches broadly, uncovers the facts, and is comprehensive and unbiased, then when she presents her findings to the judges, all she'll need to do is to step back and let the judges do what they do best: judge and make the final decisions. If she follows this advice, he assured her, she'll be able to move the branch forward. And, with great success, she's been following Judge Zehmer's advice ever since.

The implementation of Revision 7 was her next major project, and, as Lisa Goodner affirmed, "Peggy was absolutely integral to our success with Revision 7." Peggy especially loved working on this project because it gave her a chance to build a foundation under her vision of an integrated and codified court system—a dream prompted by her work on court performance and accountability measures. Most satisfying of all, Peggy maintained, is that "Now, with Revision 7, the court system is ONE system, not 67 different systems, and the branch acts like a system, and decisions are made as a system—not as a decentralized series of entities."

Revision 7 was fully implemented in July 2004, but with projects too numerous to name, she has kept herself and her unit industriously employed since then. Therefore, it comes as no surprise that, even for retirement, Peggy has long-range plans. She's looking forward to rekindling some of her favorite hobbies—cooking, growing herbs, doing crafts—and to spending more time with family; she also plans to go back to Maine for several months each year. But she will also continue to do the sort of planning and policy development she's been doing all these years—this time, though, as an independent contractor. She already has several ambitious projects lined up.

When pushed, Peggy said that her greatest strength is her creativity—her ability to look at the big picture and to think along parallel lines rather than in a linear fashion. Naturally, she has been applying this strength to her preparation for retirement. When asked how she psychologically readied

herself for this huge step, she said that every time she has to adapt to a significant change, she practices "visioning." Here's her recipe: create a detailed picture of where this change will take you in life; vision that change all the way through, putting/seeing yourself there in your mind, thereby establishing this vision as your "comfort picture"; if possible, also physically create this envisioned space in your home or office. If you do all that, she concluded, then "The transition to get there is easy!"

However, although Peggy might have had an easy time visioning herself in her new life, chances are that her many friends and colleagues will have a very hard time imagining their lives without her rewarding society. Peggy will be deeply missed.

## Emergency Preparedness

### READYING FOR A RANGE OF CONTINGENCIES

Although most Floridians rarely think about emergency preparedness—except between the beginning of June and the end of November—in fact the work of the Unified Supreme Court/Branch Court Emergency Management Group (CEMG) is never done. On hiatus from reflecting about hurricanes for the moment, the CEMG has had its hands full with several other crisis-related issues.

#### Influenza Pandemic

Contemplating the ramifications of an influenza pandemic has been one of CEMG's primary projects; the group has come up with a draft strategy document and has been meeting to discuss and fine-tune its plan. Like the branch's strategic goals for responding to all emergencies that affect the courts, this plan has two main goals: to protect the health and safety of everyone inside the courts and to keep the courts open to ensure access to justice for the people.



Avian flu is not, of course, just a local issue. To address the nation-wide implications, U.S. Department of Health and Human Services Secretary Mike Leavitt has coordinated statewide summits all across the country; the Florida

summit took place in Tallahassee on February 16. Called “Florida Prepares: Florida Department of Health Pandemic Flu Summit,” this half-day program featured a wide range of speakers, among them, Governor Jeb Bush, HHS Secretary Leavitt, Centers for Disease Control and Prevention Director Julie Geberding, Florida Department of Health Secretary M. Rony Francois, and Florida Division of Emergency Management Director Craig Fugate.

Greg Cowan, OSCA Court Operations Consultant and member of the CEMG, attended the summit and reported the following. The governor stressed that we should apply lessons learned from the hurricanes, including the need for communication early and often; for an aggressive response by government; for strong leadership at all levels; and for individual preparedness. Secretary Leavitt and Craig Fugate emphasized that “preparation is a local matter,” but Mr. Fugate also emphasized the need for government agencies to work together cooperatively. All the speakers recognized the global nature of the threat, summing it up with the slogan, “A threat anywhere is a threat everywhere.”

### Updating the Branch-wide Emergency Preparedness Plan

As effective and comprehensive as the Florida court system’s emergency preparedness has become, the courts still can’t rest easy on their laurels: updating the branch-wide plan is—and will always be—an ongoing process. Based on what has been learned from the most recent assaults to the state, whether they’re weather-related or not, the CEMG will continue to modify its preparedness strategies. Probably the most notable of the updates involves making changes to the procedural process that the courts, when confronting some sort of disaster, undergo in requesting “tolling orders” (those emergency requests to extend time periods under All Florida Rules of Procedure).

Regarding the 33 satellite phones purchased by OSCA last fall (one for each circuit court, one for each DCA, and the rest for distribution on an emergency basis), they did indeed come in handy this past hurricane season. When Wilma blasted Key West, landlines and cell service were temporarily dysfunctional; the only way to communicate was via satellite phone. Also, speaking of satellite phones, OSCA had lent eight of them to the Louisiana courts after

Katrina barreled through; all eight phones have been returned, along with much gratitude for the loan during that desperate time.



Greg Cowan, Court Operations Consultant for OSCA’s Court Services Unit and CEMG member, studiously prepares for the Florida Department of Health Pandemic Flu Summit, a statewide conference addressing the ramifications of a possible avian flu outbreak.

### Emergency Response Test

On Thursday, January 12, the CEMG conducted a test of the Supreme Court Building’s ability to respond to and recover from an emergency that precipitates a facility-wide power outage. The power supply to the entire building was suspended, which gave the CEMG the opportunity to test the response/recovery of both business-related (facility/security) and technical (ISS) functions.

Once the power supply was cut, the generator was turned on; the CEMG’s goal was to make sure that the generator would work and that it would turn on the servers and run the computers. Members of the CEMG anticipated that it would take one hour to do the test, so they were delighted when, after only 20 minutes, the building was fully functional again. According to Greg Cowan, the exercise was extremely successful: he gave the test a grade of 98%.

## *Children and Families*

### CROSSOVER DOCKETS: SOME RECENT ACHIEVEMENTS

As family court cases have continued to proliferate and to become more complex and multi-faceted, the need for unified family courts (UFCs)—a comprehensive court system that is designed to handle the range of legal issues concerning families—has continued to burgeon. Because they entail fruitful collaborations among various units of the court as well as beneficial outreach efforts to pertinent social service providers (e.g., Guardian Ad Litem, the Department of Revenue, Department of Children and Families), UFCs have the ability to offer an exceptionally high and integrated level of service to their users.

A fully-implemented UFC embraces several fundamentals, including case management, security, family law advisory groups, court-related services, and the use of technology, for instance. But one of the most complex elements is the “crossover docket.” The crossover docket is ideal for families with multiple, related cases because it coordinates

their various legal proceedings, addressing the entire scope of a family's legal issues together instead of attending to each issue separately. So if, for instance, the clerk or case manager discovers that a couple has filed for divorce, has a son with a delinquency charge, and has a pending domestic violence injunction, the court may decide to send those cases to one judge for handling on a crossover docket. This "one family, one judge" model is an especially effective unified family court strategy.

All of Florida courts are working through and refining their unique UFCs, and great strides are being made statewide. However, some circuits have had especially noteworthy achievements lately, and this article will highlight a few.

For example, the Seventh Judicial Circuit created its first UFC crossover docket in September 2005. Using dependency cases as its hub, the circuit developed an approach for assigning cases to the UFC and for sharing information about case progression among the court case managers, the clerk's office, Department of Children and Families, Department of Juvenile Justice, the state attorney's and public defender's offices, dependency contract attorneys, Guardian Ad Litem, and the Department of Revenue.

The Seventh has also implemented certain case management techniques that ensure efficiency and success. For instance, the clerk's office screens and assigns new case filings when active, related dependency cases already exist or are filed; the family court services case manager screens all related cases and generates orders for re-assignment and notices of hearing for pending issues within related cases; the case manager also attends court and provides input, data, and orders on cases assigned to the crossover docket as well as on related cases not yet assigned to UFC; the UFC Steering Committee addresses issues and concerns, shares best practices, and produces reports for the chief judge on the court's progress; and stakeholder testimonials and quality assurance methods have been put in place to ensure positive case resolution, outcomes, and experiences for the children and families as well as for the professionals involved in the case.

The Thirteenth Judicial Circuit has also had some notable successes recently. This circuit's Dependency/Delinquency Crossover Division began hearing cases in November 2005. In preparation for its creation, Judge Herbert Baumann,

who's handling the division, held meetings with stakeholder agencies such as the clerk of the court, public defender, state attorney, Department of Juvenile Justice, Department of Children and Families, the attorney general's office, and Hillsborough Kids, Inc. Subsequently, Judge Baumann established a pilot program with the clerk of court to identify crossover cases; met with domestic violence providers regarding victim services in the community; and established "Crossover Case Identification Sheets" that identify all involved cases.

Judge Baumann is also working with community agencies to assign an on-site representative in the Family Court Resources Office to assist families who are referred by judges. Moreover, always taking into consideration a child's best interests, he is collaborating with the Hillsborough County School District and Hillsborough Kids, Inc., to institute a means by which children who are removed from their homes and families can remain in their schools with the teachers and friends who care about them.

Also making great progress is the Fifteenth Judicial Circuit, which celebrated its official UFC kickoff in January of this year. What makes this circuit unique is that 13 judges in all—all of the family and juvenile division judges, as well as one county court judge in a specialized domestic violence division—hear crossover cases involving the same parties. The circuit has assigned four employees to the screening unit, 16 to case management, and three to administrative functions, and each judicial division also has the support of a magistrate, mediator, and case manager to move the case toward final disposition.

The Fifteenth's UFC screening unit evaluates all newly-filed cases for related cases and prepares standardized forms that provide comprehensive family-related case information to the court, thereby maximizing staff and judicial resources. This circuit is also working in concert with various community agencies to implement a social service component and provide community service referrals.

Nor are these the only circuits that are gearing up for some meaningful changes. For instance, the Second Circuit was able to begin a comprehensive crossover docket in early February due in part to the leadership of Circuit Judge Nikki Clark and the many court staff and stakeholders who have been working with her to develop solutions for handling related cases.

Clearly, Florida's courts are engineering all sorts of innovative strategies to make UFC more of a reality in this



Judge Nikki Clark, Second Judicial Circuit, has just inaugurated an extensive crossover docket for her circuit.

state. As a result of the achievements of these, and other, Florida courts, judges are in a stronger position to hear and judge complex cases involving children and families.

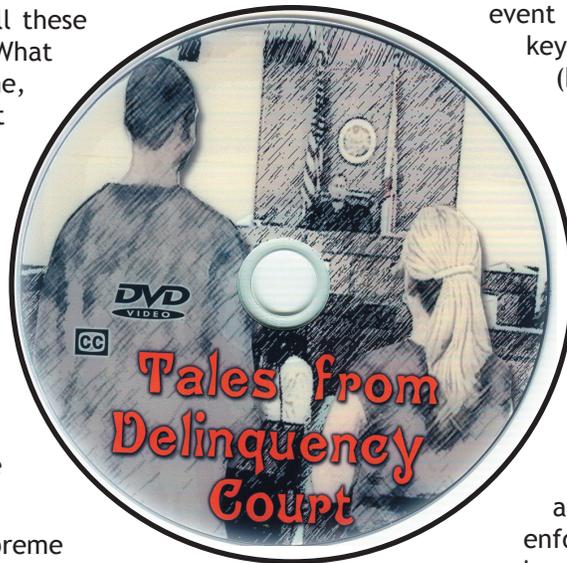
## DELINQUENCY COURT: A NEW VIDEO INTRODUCES THE PROCESS

“Why am I here?” “Who are all these people in the courtroom?” “What are their assumptions about me, and how should I behave?” “What could happen to me here?” Juvenile delinquency court can be a baffling, scary place for juveniles and their families; they are often anxious and find themselves plagued with questions. They usually aren’t familiar with the key figures in the courtroom, and they don’t know how to prepare for or what to expect from the experience of being in court.

Recognizing a problem, the Supreme Court formally acknowledged the need to make the court process more comprehensible for children and families, and in 2004, under Chief Justice Pariente, the Steering Committee on Families and Children in the Courts was charged with developing tools to support and guide children and families through the trials of delinquency court. The committee created a juvenile delinquency brochure in October of that year, and this year, it has followed up with a video that provides an overview of the delinquency court process.

The script for the video was written by a panel of judges with the help of OSCA staff. Called *Tales from Delinquency Court*, the video was made for juveniles—as well as the parents of juveniles—who are involved in the delinquency court system. The goal is to show the video at courthouses, detention centers, and assessment centers throughout the state. There’s even talk of presenting it in Florida schools: the Florida Law Related Education Association has expressed an interest in developing a curriculum to reinforce and distribute the video as part of its civics education program.

About 140 copies were sent to courthouses across the state, and over 300 copies were sent to the Department of Juvenile Justice for distribution in assessment centers, detention centers, and probation offices. For more information, contact John Couch at [couchj@flcourts.org](mailto:couchj@flcourts.org)



## THE 2006 FAMILY COURT CONFERENCE: MARK YOUR CALENDARS

The Office of Court Improvement is in the process of planning its third annual family court conference, “Tools to Move Forward.” The conference, scheduled for August 3-4 in Orlando, promises to be a richly-textured event that will include three compelling keynote speakers, networking opportunities (both formal and informal), “hot topic” roundtable discussions, in-depth institutes, and interactive problem-solving workshops.

This conference is designed for professionals who work with children and family issues: judges, court support staff, clerks, community-based care providers, child advocates, domestic violence advocates, parenting coordinators, school superintendents, law school deans, family law attorneys, state attorneys, public defenders, law enforcement officers, guardians ad litem, and employees of the Department of Juvenile Justice, Department of Revenue, Department of Children and Families, and Department of Education. Information on the keynote speakers, workshops, and institutes will be available soon, as will the registration form. For more information, visit the OCI website: [http://www.flcourts.org/gen\\_public/family/familycourts.shtml](http://www.flcourts.org/gen_public/family/familycourts.shtml)

## *Fairness and Diversity*

### INCREASING THE DIVERSITY OF JUDICIAL LAW CLERKS

“A clerkship is the perfect career for a lawyer who enjoys the academic and intellectual challenge of a legal career but who does not wish to try cases.” “Working as a judicial law clerk is the absolute best first job out of law school. I could not have asked for a better start to my career.” “This experience continues to surpass my expectations. I know that working [at the court] provides a solid foundation from which I can jump into other careers.” “As a result of my experience as a clerk, the phrase ‘administration of justice’ has profound personal meaning....Although my future plans include private practice, I will always be proud of the Florida judiciary and of my association with it.”

Excerpted from a recently-administered survey of law clerks by the Standing Committee on Fairness and Diversity, these spirited endorsements of the value of judicial clerkships are typical of the 200 respondents who completed the survey. More than half of the respondents claimed that their experience as judicial clerks met or exceeded their expectations in a range of ways: in the acquisition of general knowledge about the court process; in the development of legal judgment, reasoning, and analysis; in the understanding of case law, statutes, and the administrative process; and in the improvement of their legal writing skills. So, when most law clerks speak so enthusiastically about their jobs and find the experience so rewarding, why is it that minority representation in clerkships is generally lower than it is in law school populations? This is one of the questions that the Standing Committee, established by Chief Justice Pariente in November 2004, set out to answer.

The purpose of the Standing Committee on Fairness and Diversity is to “advance[e] the State Courts System’s efforts to eliminate from court operations inappropriate bias based on race, gender, ethnicity, age, disability, or socioeconomic status.” One of the committee’s four charges is to fashion a program to promote and ensure the diversity of judicial staff attorneys and judicial law clerks in Florida’s courts—and then to design a means to implement the program.

To fulfill this charge, the committee began by gathering data from Florida’s eight law schools, current law clerks and staff attorneys, and members of the judiciary; the committee sought information on the perception of judicial clerkships, the percentage of racial minorities in clerkship positions, and the role that law schools and private employers play in an aspiring attorney’s decision to become—or not become—a law clerk. After analyzing the data, the committee submitted its report and recommendations to the Supreme Court in December 2005; *Promoting and Ensuring the Diversity of Judicial Staff Attorneys and Law Clerks Within the Florida State Courts System* is now available online at [http://www.flcourts.org/gen\\_public/family/diversity/bin/lawclerk\\_report.pdf](http://www.flcourts.org/gen_public/family/diversity/bin/lawclerk_report.pdf)

The committee’s research diagnoses a number of significant issues that seem in some way responsible for the dearth of minority law clerks. According to the report, “These issues included lack of diversity in the applicant pool; insufficient value attributed to the clerkship position; lack of uniform hiring guidelines; and comparatively low entry-level

salary.” From these concerns, the committee singles out “three key priority areas” on which to focus its attention—outreach, status of clerkship position, and recruitment and hiring—and the report then goes into some detail about how to address these issues, concluding with three ways of achieving the goal of promoting and ensuring diversity of judicial staff attorneys and law clerks: “increasing the number of minority applicants through enhanced outreach methods; promoting the status of the clerkship position by projecting a positive image of judicial clerks; and improving the overall recruitment and hiring process by making it more user-friendly and less arduous.”

The report also provides an “Action Plan” that offers detailed suggestions to the judiciary, law schools, private employers, and bar associations. Many of these suggestions are, in fact, remarkably inexpensive—if they

cost anything at all—and many are fairly easily implementable. For example, the judiciary could create a judicial clerkship website, and it could announce clerkship vacancies through minority lawyer networks. Law schools could post clerkship vacancies in prominent places at the law school and could have specialized publications, such as *The Courts: An Excellent Place for Attorneys of Color to Launch Their Careers*, in their career services offices. Private employers could promote the value of clerkships and encourage students to apply for them. And bar associations could announce clerkship vacancies in their publications and on their official websites and could publish articles on the benefits of having judicial law clerk experience.

Finally, the report recommends hierarchizing its goals so that the courts can design a specific and focused plan each year. And it suggests

that “a realistic performance evaluation and benchmarking (both qualitative and quantitative) should be developed to follow up the implementation of the objectives, goals, and targets in the Action Plan.”

According to state law, “The Supreme Court shall ensure that clearly written policies, procedures, and goals for the recruitment, selection, promotion, and retention of minorities, including minority women, are established throughout all levels of the judicial system” [§25.382 (4), Fla. Stat. (2004)]. In its efforts to increase the diversity of the courts’ law clerks, the Standing Committee on Fairness and Diversity is now well on its way toward fulfilling the mandates of this statute.



Judge Gill Freeman, Eleventh Judicial Circuit, chairs the Standing Committee on Fairness and Diversity.

## Energy Conservation

### THE FIRST DCA'S OFFICIAL JUDICIAL BIKE RACK

After Katrina thrashed Florida's neighbors to the west, Chief Justice Pariente sent a memo to court employees expressing her profound concern about the tragedy and also warning about the inordinate strain that the hurricane inflicted on the state's electrical providers and gasoline supplies. As a result of this strain, she instituted a number of energy-conservation measures in the Supreme Court building, requesting that the DCAs and trial courts take similar steps. Among them, court employees were urged to adjust temperatures; to turn off lights, printers, copiers, and computer monitors at the end of the day; to take the stairs rather than elevators whenever possible; and to turn off and unplug all non-essential equipment and personal appliances. In addition, court employees were encouraged to practice energy-saving strategies at home.

But some employees at the First DCA decided to take the chief justice's dictum one step further. It all began when career attorney Ellen Gwynn resolved to ride her bike to work a few days a week. At first, she locked her bike up to a railing alongside the court building, but she was concerned that it made the court look scruffy—plus the bike was getting wet when it rained, which made for a rather unpleasant ride home. So she approached Chief Judge Charles J. Kahn about the possibility of installing a bike rack—an idea he enthusiastically endorsed; within days, a covered bike rack was in place, and now bike-riders have a safe, dry, and comely place to lock their bikes. Since then, a second employee has begun riding her bike to the court, and others have vowed to begin as soon as the weather shows signs of improvement.

By biking rather than driving, riders derive—and share—multiple benefits: they not only save gas, but they also free up parking spaces and, according to Ellen, “feel noticeably happier.” The First DCA definitely deserves kudos for its resourcefulness.



Ellen Gwynn, Career Attorney with the First DCA, encourages others to ride their bikes to work because bike-riding saves gas, liberates much-in-demand parking spaces, and boosts riders' moods.

## Online Courses and Publications

### CRIMINAL JURY INSTRUCTIONS: ONLINE AT LAST

In order to access the most current criminal jury instructions, envision having to pore through an 800-page tome and make sure that you're reading the most up-to-date version (though you would have no easy way of knowing whether or not it was). Imagine that you are an attorney fraught with the responsibility of ascertaining the most updated rendering of these instructions for your client—and that you have to charge your client for the considerable amount of

research you must do to get this information. Alternatively, visualize yourself as a defendant who has to endure a lengthy wait while your attorney makes sure he or she has secured the most recent version of the instructions: think of the expense of having your attorney do the necessary, and possibly cumbersome, research.

Up until a few months ago, that was the predicament that defendants, attorneys, and judges found themselves in with every criminal trial. But fortunately, all that has recently changed for the better: thanks to a year-long effort by OSCA staff, Florida's *Standard Criminal Jury Instructions* are now online, readily accessible from the Florida Supreme Court homepage ([www.floridasupremecourt.org](http://www.floridasupremecourt.org)).

In addition to their being effortlessly available to anyone with a computer, the online *Standard Criminal Jury Instructions* deliver two additional, revolutionary benefits: the instructions can—and will—be updated frequently to

reflect changes; and they are formatted such that they can be tailored by the court or by the parties to fit each case (standard jury instructions are never used precisely as written; rather, they must be customized for each case, and the particular format of the online version lets one easily cut, paste, and construct a final version that is accurately adapted to the case).

As Chief Justice Pariente said, “This year-long project fulfills a major goal of mine.” She is especially pleased

that some new features will soon be added, among them, the uploading of recent appellate decisions as well as the posting of jury instructions proposed by the committee and published in *The Florida Bar News* for comment before submission to the Supreme Court. The chief justice is encouraging all interested parties to provide feedback to staff: after reviewing the online instructions, send comments to the Court by way of the email link from the site.



## *The Library Nook: Recommended Reading*

Follow this link to another court favorite

State Courts Administrator Lisa Goodner recommends “Is Big Bad? Timeliness and Consistency on Large State Appellate Courts,” by Judge Martha C. Warner, Fourth DCA, and Steve Henley, OSCA Court Operations Consultant. This article, published in the Fall 2005 issue of *The Judges’ Journal*, explores the concern that expanding the size of courts will diminish the courts’ ability to function effectively—due to the assumptions that larger courts are more bureaucratic, less efficient, less consistent, and less collegial. The article examines the validity of this concern, recognizing that if it is indeed justified, the courts will need to discover other methods for responding to caseload growth. [Read this article online.](#)

If you have read any interesting or thought-provoking articles about the court system lately, please send your suggestions for inclusion in this column (along with the articles’ URLs) to [schwartzb@flcourts.org](mailto:schwartzb@flcourts.org)

## Turning Points

### AWARDS AND HONORS

- **Judge C. Jeffery Arnold**, Orange County, was presented with the Judicial Award of Excellence by Chief Justice Barbara J. Pariente at the 2006 Annual Education Program of the Conference of County Court Judges of Florida.
- **Judge Ralph Artigliere**, of the Tenth Judicial Circuit, was presented with the annual Professionalism Award sponsored by the Willson American Inns of Court. This award is given to a judge or lawyer who exemplifies and promotes professionalism in the Tenth Circuit.
- **Judge Fred Lauten**, of the Ninth Judicial Circuit, was elected to serve as the upcoming Dean of the Florida Judicial College.
- **Judge Mark Shames**, of the Sixth Judicial Circuit, was elected to serve as an upcoming Associate Dean of the Florida Judicial College.
- **Nick Sudzina**, Trial Court Administrator of the Tenth Judicial Circuit, was presented with the first annual Justice Achievement Award sponsored by the Willson American Inns of Court. This award is given to a non-lawyer who makes a significant impact on the improvement of the administration of justice in the Tenth Circuit.

On February 16, 2006, at a ceremony at the Florida Supreme Court, the following were awarded for their exemplary pro bono service:

- **Katherine W. Ezell** was presented with the 2006 Tobias Simon Pro Bono Service Award
- **Chief Judge Charles A. Francis** was presented with the Distinguished Judicial Service Award
- The law firm of **Johnson, Pope, Bokor, Ruppel & Burns** was presented with the Law Firm Commendation Award
- **The Hispanic Bar Association for Stetson University College of Law** was presented with the Voluntary Bar Pro Bono Service Award
- **Joseph F. Summonte, Jr.**, was presented with the Young Lawyers Division Pro Bono Award

And the following attorneys were recipients of The Florida Bar President's Pro Bono Service Award:

**Michael J. Stebbins** (First Circuit), **Gwendolyn P. Adkins** (Second Circuit), **John K. Kendron** (Third Circuit), **John S. Mills** (Fourth Circuit), **Mary B. Steddom** (Fifth Circuit), **Elise K. Winters** (Sixth Circuit), **Julia Soerpeboel** (Seventh Circuit), **P. Ause Brown, Jr.** (Eighth Circuit), **Matthew G. Brenner** (Ninth Circuit), **Stephen R. Senn** (Tenth Circuit), **John Kozyak** (Eleventh Circuit), **Joseph F. Summonte, Jr.** (Twelfth Circuit), **Charles H. Scruggs III** (Thirteenth Circuit), **Douglas J. Sale** (Fourteenth Circuit), **Larry D. Murrell, Jr.** (Fifteenth Circuit), **Howard M. Talenfeld** (Seventeenth Circuit), **Thomas G. Freeman** (Eighteenth Circuit), **Brian J. Connelly** (Nineteenth Circuit), **Janeice T. Martin** (Twentieth Circuit), and **Bryant M. Richardson** (Out-of-State Division)

*March 2006*

- 7 Florida Legislature convenes
- 19-24 Florida Judicial College, Phase II, Orlando, FL
- 29-30 Court Interpreter Oral Language Exams, Ft. Myers, FL
- 31 Standing Committee on Fairness & Diversity Meeting, Orlando, FL

*April 2006*

- 4 Trial Court Budget Commission Meeting, Tallahassee, FL
- 21 Judicial Ethics Advisory Committee Meeting, Orlando, FL
- 23-27 Justice Teaching Institute, Tallahassee, FL
- 25-28 National Consortium on Racial & Ethnic Fairness in the Courts Annual Conference, Albuquerque, NM
- 26-28 Court Interpreter Orientation Workshop & Written Exam, Palm Beach, FL

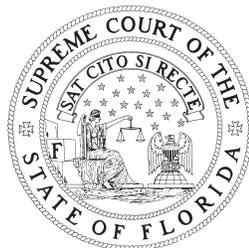
*May 2006*

- 1 Law Day 2006, "Liberty Under Law: Separate Branches, Balanced Powers," Tallahassee, FL
- 5 Last day of Regular Legislative Session (Sine Die)
- 11-12 Statewide Domestic Violence Coordinators Meeting, Tallahassee, FL
- 18-19 Judicial Campaign Conduct Forums, 1:00 pm (all circuits with contested judicial elections in the fall)
- 18-19 Steering Committee on Families & Children in the Court Meeting, Tallahassee, FL
- 18-19 Future Trends Workshop, Orlando, FL
- 19 Supreme Court Committee on ADR Rules & Policy Meeting, Orlando, FL
- 22-26 2006 Florida College of Advanced Judicial Studies, Ft. Myers, FL

*June 2006*

- 2 Standing Committee on Fairness & Diversity Meeting, Miami, FL
- 12-14 Florida Conference of Circuit Judges Annual Business Program, Naples, FL

**ON  
THE  
HORIZON**



Under the direction of  
 Supreme Court Chief Justice Barbara J. Pariente  
 State Courts Administrator Elisabeth H. Goodner  
 Deputy State Courts Administrator Blan L. Teagle  
 Senior Attorney Susan Leseman

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