

**Commission on Trial Court Performance and Accountability
Conference Call
June 15, 2016**

Minutes

Members in attendance:

Judge Diana Moreland, Judge Terry D. Terrell, Judge Paul Alessandroni, Judge Ronald W. Flury, Judge Victor L. Hulslander, Judge Herbert Baumann, Holly Elomina, Gay Inskeep, Judge Leandra Johnson, Judge Shelley Kravitz, Judge Ellen Sly Masters, and Judge William Roby.

Members absent:

Barbara Dawicke and Justice Jorge Labarga (Liaison)

Staff in attendance:

Greg Youchock, Maggie Lewis, Victor McKay, Andrew Johns, Lindsay Hafford, and Kris Slayden.

I. Welcome, Judge Diana Moreland, Chair

Judge Moreland called the meeting to order at 12:00 p.m.

II. Approval of the January 22, 2016 Minutes (Decision Needed)

Judge Moreland asked the members if there was a motion to approve the January 22, 2016, meeting minutes. Judge Johnson moved to approve the minutes. The motion was seconded by Judge Masters. The minutes were approved unanimously without modification.

III. Review and approval of the Performance Management Workgroup Final Recommendations (Decision Needed)

Maggie Lewis gave an update on the work of the Performance Management Workgroup (Workgroup). TCP&A was charged by the Supreme Court, through AOSC14-40, with developing recommendations on a performance management framework for the trial courts. In 2015, The Workgroup, chaired by Judge Hulslander, was convened. The Workgroup reviewed national, international, as well as state literature on performance management and data collection efforts. The Workgroup also participated in exercises that addressed adaptability, productivity, effectiveness and efficiency with the goal of gaining a better understanding of performance management. The result of the Workgroup's efforts led to the development of recommendations provided on pages 7-36 of the meeting materials. The goal of the recommendations is to provide a foundation for performance management as well as several next steps in the process of establishing a framework. The recommendations include the goal and scope, principles identified as essential elements and administrative principles, and long term objectives of a performance management framework. Included are also general recommendations to the Florida Court Technology Commission, the Florida Court Education Council, and TCP&A. The report was outreached to all trial court administrators and chief judges.

The members discussed the feedback they provided. While the length of the report was discussed, the members thought the report was thoroughly done. Judge Roby moved to accept the final recommendations to the report and Judge Flury seconded. The report was approved without modification.

IV. **Recommendations of the Joint Workgroup on Due Process (Decision Needed)**

Ms. Lewis provided a detailed explanation of what the Joint Workgroup on Due Process (Workgroup) was tasked with. After reviewing the five process improvements and cost containment mechanisms the Workgroup suggested, the members reviewed each issue individually.

- **Revise The Statewide Expert Witness Invoice Template**
 1. **Uniform Invoice for Expert Witness Services** – Requiring the use of the uniform invoice for Expert Witness Services as a standard.
 2. **Update to the Uniform for Expert Witness Services** – Approving the current draft of the invoice for use by all circuits.

Judge Flury moved to accept the recommendation on issue 1. The motion was seconded by Gay Inskeep. The motion was accepted.

- **Uniform Data Reporting**
 1. **Updating the UDR Reporting System** – Updating the UDR to improve data reporting and reflect common case types,
 2. **UDR Instructions** – Updating the UDR instructions and referring the issue to OCSA.
 3. **Training on UDR** - Developing a training program for circuit staff and referring the issue to OSCA.
 4. **Data Quality** - Implementing a routine audit process for UDR data.

Gay Inskeep moved to accept the recommendation on issue 2. The motion was seconded by Judge Roby. The motion was accepted.

- **Contracts** –Developing a uniform expert witness contract template. They also noted that circuits should consider this as a best practice with implementation of the issue referred to OSCA for further consideration.

Judge Johnson moved to accept the recommendation on issue 3. The motion was seconded by Judge Terrell. The motion was accepted.

- **Revised Payment Responsibility Matrix** – Approving the draft *Payment Responsibility Matrix - Expert Witness* with OSCA staff updating the chart as potential statutory changes are made. Further, they recommend the chair of TCBC share the final matrix with the trial courts and other interested parties.

Gay Inskeep moved to accept the recommendation on issue 4. The motion was seconded by Judge Roby. The motion was accepted.

- **Proposed Potential Policy Changes**

1. **Selection of Experts** - Requiring circuits to select experts from a registry maintained by the circuit.
2. **Number of Experts to Appoint** – As a standard, a policy requiring that courts appoint one expert for the initial evaluation in standard adult competency evaluations. They also acknowledge that clarification of the statute may be helpful to distinguish requirements related to competency from those related to commitment. They further recommend a policy that courts appoint one expert for the initial evaluation in standard juvenile competency evaluations. This would require a change to the statute and rule.
3. **Payment in Extraordinary Circumstances** – Allowing courts to pay above the set rates and provide suggested best practices to circuits for developing a process to approve extraordinary rates.
4. **Circuit Administrative Order** – Requiring circuits to issue a comprehensive written policy to document rates, policies and procedures relating to expert witnesses, but as a best practice, allowing them to choose the form of the written policy.
5. **Other Operational/Policy Considerations – Educational Training** – Referring the development of an educational component regarding use and payment for expert witnesses to OSCA for further consideration.

Judge Terrell moved to accept the recommendation on issue 5. The motion was seconded by Judge Hulslander. The motion was accepted.

- **Proposed Rate Structure for Expert Witness** – The Workgroup discussed development of a statewide rate structure. They evaluated information in the expert witness invoice review and identified six factors that warrant careful consideration. They considered other state courts and Florida Government policies and pay rates. They plan to present the proposed rate structure to TCBC and TCPA at their August meeting. Issue 6 was for informational purposes only.
- **Proposed Statutory and Rule Revisions** – As a result of the survey sent to court administration on their rate issues and current statute and rules, the workgroup identified potential statutory and rule revisions that can be found on pages 45-46 of the meeting materials. The Workgroup is finalizing the proposed revisions with plans to present a proposal to TCBC and TCP&A at their August 2016 meeting. Item 7 is for informational purposes only.

V. **Results of the Judicial Workload Study (*Decision Needed*)**

Greg Youchock presented the recommendations of the Judicial Needs Assessment Committee.

- Adopting 215 as the number of days per year that judges are available for work.
- A three year average cycles for filings.
- Eliminations of the urban/rural distinction for case related time available in circuit court. As a result of the time study, it was found that judges are spending 6 hours a day on case related matters.

- Reduction in case related time available each day in court. The time study found that county judges are spending 5 hours each day on case related matters.
- Adoption of the revised case weights that came out of the time study and the adjustments to those preliminary case weights from the Subject Matter Expert Panel workgroups.
- Adoption of a chief judge adjustment in circuit court that allows for administrative time spent by chief judges
- Adoption of a canvassing board adjustment (.05 per county) for time during election periods. This equated to twelve days per year. Judge Kravitz suggested equating that adjustment by the number of registered voters. Mr. Youchock suggesting the possibility of reaching out to the National Center for State Courts staff to see what their recommendations might be. Judge Alessandroni suggested asking Ms. Arlene Johnson to figure out what that .05 Adjustment might mean for some of the larger counties that might be challenged by that adjustment amount. Judge Kravitz is going to forward a copy of the canvassing board's schedule for review.
- Judicial need at the judge level using 1.10 threshold in circuit and count court. This recommendation will go the Supreme Court because unanimous consent could not be reached by the Committee.
- OSCA should develop a mechanism for capturing judicial workload with problem solving courts.
- Other actors be considered when evaluating judicial workload. Some examples are multiple court locations, geography caseload trends, etc.
- OSCA conduct a comprehensive investigation into roles and uses of various quasi-judicial officers.
- OSCA take a closer look at the work of staff attorneys/law clerks

The final report has been transmitted to the Supreme Court for their consideration and will be discussed at court conference. After final approval, a copy will be available for any feedback. The earliest the case weights will be adopted will be in the fall in the Supreme Court's Certification on Need Opinion.

V. End-of-Term Report (Decision Needed)

The members discussed the draft end of term report provided on page 59 of the meeting materials. Judge Alessandroni mention part of the report (page 64) that references the NCSC is expected to submit a final report to the Supreme Court in May 2016 may need to be revised. Judge Terrell moved to accept the motion. The motion was seconded by Judge Alessandroni. The motion was approved.

There being no other business, the meeting was adjourned at 1:07 p.m.