

Judicial Branch Governance Study Group

**Report to the
Florida Supreme Court**

January 31, 2011

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I. Introduction

Over the course of many years, the Florida Judicial Branch has striven to meet both ongoing and emergent challenges. The current Long-Range Strategic Plan 2009-2015 recognizes that the mission of the Florida Judicial Branch is to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes. The strategic plan's Long-Range Issue #1- Strengthening Governance and Independence states that to "fulfill its mission the judicial branch must strengthen its ability to fully function as a coequal and independent branch of government, able to govern itself with coherence and clarity of purpose, to manage and control its internal operations, and to be accountable to the people. . . . The judicial branch must have the capacity to develop and implement effective and responsive policies, to deploy its resources efficiently, and to provide transparency and accountability in the management of resources."

During the development of the strategic plan, it became apparent that a rejuvenation of the internal governance structure of the court system was necessary in order to be more proactive and nimble in meeting its vision of being accessible, fair, effective, responsive, and accountable. The Governance Study Group believes that its recommendations for improving the governance structure of the court system will enable the judicial branch to better fulfill its mission.

After the supreme court approved the Long-Range Strategic Plan 2009-2015, Administrative Order No. AOSC09-43 was signed on October 19, 2009 by then Chief Justice Peggy Quince appointing a Judicial Branch Governance Study Group, with Justice Ricky Polston as chair and Judge Joseph Farina as vice-chair (see Appendix A for Administrative Orders linked to the governance study).

Other appointed members included:

- The Honorable Jorge Labarga
Justice, Supreme Court of Florida

District Court of Appeal judges:

- The Honorable Richard B. Orfinger
Judge, Fifth District Court of Appeal
- Mr. Gerald B. Cope, Jr. (former Judge, Third District Court of Appeal)
Attorney, Akerman Senterfitt, Miami, Florida

Circuit judges:

- The Honorable Alice Blackwell
Judge, Ninth Judicial Circuit

- The Honorable Brian J. Davis
Judge, Fourth Judicial Circuit

County judges:

- The Honorable Peter Marshall
Judge, Volusia County
- The Honorable Debra Roberts
Judge, Pasco County

Former Florida Bar presidents:

- Mr. Alan B. Bookman, Attorney
Emmanuel Sheppard & Condon Law Firm, Pensacola, Florida
- Mr. John G. White, III
Richman Greer P.A., West Palm Beach, Florida

The Governance Study Group was charged to undertake an in-depth study of the current governance system of the judicial branch of Florida through:

1. An examination of the structure and functions of the present governance system of the Florida Judicial Branch, and an assessment of its efficacy and efficiency;
2. Recommendations of actions or activities that the Governance Study Group concludes would advance improvement in the governance of the judicial branch; and
3. Recommendations of any changes to the present governance system that the Governance Study Group concludes would improve the effective and efficient management of the Florida Judicial Branch.

For purposes of the study, governance was defined as policy-making, budgeting, rulemaking, leadership, decision-making, planning, and intergovernmental relations. In view of these facts, the Governance Study Group was further authorized to propose recommendations for policy, rule, or statutory changes that are directly related to governance of the judicial branch and that may serve to improve the structure, function, efficacy and efficiency in achieving the vision and mission of the branch. The Strategic Planning Unit of the Office of the State Courts Administrator was assigned as staff to the study. Through grant funding obtained from the State Justice Institute, consulting services from the National Center for State Courts were also retained to assist the group with its work. The National Center for State Courts was selected through a competitive bidding process.

The Governance Study Group worked through teleconference, videoconference, and in-person meetings to develop methodology and work plans to conduct the study. The extensive methodology entailed the following research strategies:

- Interviews by the National Center for State Courts' consultants regarding the structure, balance, and continuity of governance; committee structure, coordination, and effectiveness; and communication within the judicial branch. More than 40 key individuals in the court system were interviewed, including current and former justices; judges' conference chairs; all district court of appeals' chief judges and a sample of circuit chief judges; chairs of court commissions and committees; a sample of appellate and trial court professional staff; selected OSCA managers (one group interview); and representatives from the Florida Bar, Legal Services, a State Attorney and a Public Defender, and others;
- A web-based survey conducted by the National Center for State Courts regarding intra-branch communication sent to a representative sample of approximately 100 additional judges and more than 350 court staff;
- Solicitation of comments sent by Justice Ricky Polston, chair of the Governance Study Group, to representatives/leaders of selected Bar Sections, Bar Rules Committees, the Florida Justice Association, Florida TaxWatch, and statewide business associations (Associated Industries of Florida, Florida Bankers Association, Florida Chamber of Commerce, Florida Council of 100, Florida Justice Reform Institute, Florida Retail Federation) regarding collaboration with court leadership on public policy, rulemaking processes, and legislative/funding issues; and
- Comparative research conducted by the Strategic Planning Unit on 11 selected states to gain information and insight on a variety of approaches to administering and governing state court systems.

The research results were finalized in a report submitted to the Governance Study Group in November, 2010 by Richard Van Duizend, Project Director for the National Center for State Courts (see Appendix B: The National Center for State Courts Executive Summary and Final Report to the Florida Judicial Branch Governance Study Group). The report's findings and conclusions focused on seven areas: 1) Role and Responsibilities of the Supreme Court and the Role, Responsibilities, Term and Selection of the Chief Justice and Chief Judges; 2) Rulemaking and the Current Committee System; 3) The Authority of the Conferences; 4) Legislative Advocacy on Behalf of the Judicial Branch; 5) Office of the State Courts Administrator; 6) Communication; and 7) Identifying Emergent Policy Issues. The report also contained specific conclusions on these topics for consideration by the Governance Study Group as recommendations for governance improvements in its final report to the supreme court. In a videoconference on October 29, 2010, Richard Van Duizend, Project Director, presented and discussed the report findings with the Governance Study Group; Strategic Planning staff also presented the results of the comparative states research.

Immediately afterwards, Justice Polston assigned members of the study group to subcommittees to make recommendations in response to the consulting report conclusions. The Governance Study Group met in-person on November 30, 2010 to discuss and vote on the recommendations presented by each subcommittee. After dynamic discussion and rigorous revisions to the subcommittee recommendations, the group voted unanimously on most topics and ultimately approved the proposed recommendations.

Clearly, during the entire course of the Governance Study Group's work, remarkable consensus occurred on the need to modernize the governance structure of the judicial branch, and develop a more unified systems approach to enhance progress, alignment, coherence, and functioning. Given that systems theory and application have consistently shown that structure influences behavior and outcomes, the Governance Study Group members strongly supported a unified systems approach that will more effectively enable the court system to anticipate and deal with current and emergent challenges, and improve functioning at a variety of levels.

Furthermore, the recommendations of the Governance Study Group are rooted in the spirit of continuous improvement set out in its administrative order to make recommendations of actions or activities that would advance improvement in the governance of the judicial branch. In particular, three areas were significantly important to the group members: 1) desire for the judicial branch to be more proactive rather than reactive; 2) consistent and strong leadership; and 3) better communication at all levels throughout the branch. To that end, the study group deemed that reasonable modifications can be made to the system to achieve these results.

The following sections of this report, organized by topics, set out the recommendations of the Governance Study Group for consideration by the supreme court.

II. The Supreme Court and Chief Justice (Rule 2.205)

The Governance Study Group discussed at length the role and responsibilities of the supreme court, as well as the role, responsibilities, term, and selection of the chief justice. The study group often described the need for a modernized administrative governance system with the supreme court acting as an executive board and the chief justice as a chief executive officer. Given that the supreme court sets policy for the branch, and the chief justice is the administrative officer, the study group determined that greater clarity concerning the roles of both entities could further reinforce and strengthen the branch's governance structure.

Concerning the supreme court, discussion focused on the need for the court to take a more active leadership role in setting policy, programs, and monitoring the progress and impact of them, similar in scope to authority exercised in a board model. The current governance structure often places the supreme court in a reactive rather than proactive role with the chief justice discussing policy and procedure affecting the court system as a matter of courtesy and collegiality. Although supreme court justices do serve as liaisons to supreme court committees, administrative discussions are normally relegated to portions of a standing Wednesday court conference. The

study group's recommendations focus on heightened leadership involvement and authority for the supreme court in administrative matters, particularly related to establishing policy for the judicial branch, and recommending state budget and compensation priorities.

To further support a stronger governance system marked by highly involved and consistent leadership, the study group spent considerable time and effort discussing the role of the chief justice. The consulting report pointed out that broad and deep concern was expressed about the current practice of rotating the chief justice each two years, with the most senior justice who has not served as chief justice assuming the role. The current practice is generally viewed as inadequate in that a two-year term does not give a chief justice sufficient time to master the complexity and demands of the position, nor allow for enough time to fully flesh out and implement new initiatives. Conversely, new initiatives are sometimes resisted because the next chief justice may have different priorities, or there is lack of interest and support for the implementation. Additionally, the brief term of each chief justice is widely viewed as disruptive for developing relationships and influence with the legislative and executive branches.

The study group members also reviewed comparative information concerning chief justice terms in other states and found that the Florida Judicial Branch is one of five states who rotate the chief justice every two years. The Florida Council of 100, among other external contributors, gave feedback that the two-year rotating term based on seniority, does not allow a chief justice to invest in long-term administrative strategies that ultimately benefit the judicial system and build intergovernmental relationships with other governmental leaders whose actions affect the courts. As a codified member of the Judicial Management Council, the Florida Council of 100 encouraged the court to reassess its current policy and look for other potential term-types for its chief justice, thereby enabling the position to drive long-term positive change.

Furthermore, the study group sought to improve leadership alignment through a longer term and enhanced authority for the chief justice, and in parallel to recommendations enhancing the roles of chief judges. The chief justice should be more effectively interfacing with a leadership team of chief judges in carrying out policy as set forth by the supreme court. A related issue is that the selection of the chief justice, as well as chief judges, should be based upon essential leadership and management skills. Finally, the study group approved proposed rule language to acknowledge the responsibility of the chief justice to exercise reasonable efforts to promote and encourage diversity in the administration of justice.

Conclusion 1 from consultant's report: It is recommended that the supreme court take an active leadership role in setting policy for the judicial branch, establishing programs, and monitoring the implementation and impact of those policies and programs.

Governance Study Group Action: The Governance Study Group adopts that recommendation and suggests the following related revisions. (Revisions shown in italics, underlined)

RULE 2.205. THE SUPREME COURT

(a) Internal Government.

(1) Exercise of Powers and Jurisdiction. The supreme court shall exercise its powers, including establishing policy for the judicial branch, and jurisdiction en banc. Five justices shall constitute a quorum and the concurrence of 4 shall be necessary to a decision. In cases requiring only a panel of 5, if 4 of the 5 justices who consider the case do not concur, it shall be submitted to the other 2 justices.

✦ **Above revision adopted by the Governance Study Group with a vote of 11 – 0.**

Consistent with its authority to establish policy, including recommending state budget and compensation priorities for the judicial branch, no judge, supreme court created committee, commission, taskforce, or similar group, and no conference (Conference of District Court of Appeal Judges, Conference of Circuit Court Judges, Conference of County Court Judges), is permitted to recommend substantive law changes or state budget priorities, including compensation and benefits, to the legislative or executive branches that have not been approved by the supreme court. This is not intended to apply to judges expressing their personal views who affirmatively make it explicitly clear that they are not speaking on behalf of the judicial branch.

✦ **Above revision adopted by the Governance Study Group with a vote of 10-1.**

(Note: The one dissenting vote above was resolved through a proposed rule change to Rule 2.205 (e)(2) regarding the duties of the State Courts Administrator; see page 26 of this report.)

Conclusions from consultant's report:

Conclusion 3: The Governance Study Group should consider recommending that Rule 2.205(a) be modified to clarify the leadership role of the chief justice, require consideration of administrative and leadership capacity, enhance continuity of leadership for the Florida Judicial Branch.

Conclusion 19: The Governance Study Group should consider recommending that Rule of Judicial Administration 2.205(a)(2)(B) be amended to clarify that one responsibility of the chief justice is to serve as the primary spokesperson of the judicial branch with the public, the other branches of government, and within the court.

Conclusion 20: The Governance Study Group should consider recommending that the chief justice communicate directly with all judges and by e-mail on the state of the judiciary, the state of the budget, priorities, and other matters of statewide interest, and that the chief justice routinely communicate with the chief judges and conference leadership in person, by telephone and videoconference, and via e-mail.

Governance Study Group Action: The Governance Study Group adopts these recommendations and suggests the following related revisions. (Revisions shown in italics, underlined)

RULE 2.205. THE SUPREME COURT

(a) Internal Government.

(2) Chief Justice.

(A) The chief justice shall be chosen by majority vote of the justices for a term ~~commencing on July 1 of even numbered years~~ of four years commencing on July 1, 2012. The selection of the chief justice should be based on managerial, administrative and leadership abilities, without regard to seniority. A chief justice may serve successive terms. The chief justice may be removed by a vote of five justices. If a vacancy occurs, a successor shall be chosen promptly to serve the balance of the un-expired term.

✦ **Above revision adopted by the Governance Study Group with a vote of 10-1.**

(B) The chief justice shall ~~have the following administrative powers and duties. The chief justice shall:~~ (i) be the administrative officer of the judicial branch and shall be responsible for the dispatch of its business and shall direct the implementation of policies and priorities as determined by the supreme court for the operation of the branch. The administrative powers and duties of the chief justice shall include, but not be limited to:

(i) the responsibility to serve as the primary spokesperson for the judicial branch regarding policies and practices that have statewide impact including, but not limited to, the judicial branch's management, operation, strategic plan, legislative agenda and budget priorities;

(ii) ~~have~~ the power to act on requests for stays during the pendency of proceedings, to order the consolidation of cases, to determine all procedural motions and petitions relating to the time for filing and size of briefs and other papers provided for under the rules of this court, to advance or continue cases, and to rule on other procedural matters relating to any proceeding or process in the court;

(iii) ~~have~~ the power to assign active or retired county, circuit, or appellate judges or justices to judicial service in this state, in accordance with subdivisions (a)(3) and (a)(4) of this rule;

(iv) ~~have~~ the power, upon request of the chief judge of any circuit or district, or sua sponte, in the event of natural disaster, civil disobedience, or other emergency situation requiring the closure of courts or other circumstances inhibiting the ability of litigants to comply with deadlines imposed by rules of procedure applicable in the courts of this state, to enter such order or orders as may be appropriate to suspend, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure for such period as may be appropriate, including, without limitation, those affecting speedy trial procedures in criminal and juvenile proceedings, all civil process and proceedings, and all appellate time limitations; and

✦ **Above revisions adopted by the Governance Study Group with a vote of 11 – 0.**

(v) the authority to directly inform all judges on a regular basis by any means, including, but not limited to, email on the state of the judiciary, the state of the budget, issues of importance, priorities and other matters of statewide interest. Furthermore, the chief justice shall routinely communicate with the chief judges and leaders of the district courts, circuit and county court conferences by the appropriate means.

(vi) the responsibility to exercise reasonable efforts to promote and encourage diversity in the administration of justice.

(vii) the power to perform such other administrative duties as may be required and which are not otherwise provided for by law or rule.

✦ **Above revisions adopted by the Governance Study Group with a vote of 11 – 0.**

(C) The chief justice shall be notified by all justices of any contemplated absences from the court and the reasons therefore.

(D) If the chief justice dies, retires, or is unable to perform the duties of the office, the justice longest in continuous service shall perform the duties during the period of incapacity or until a successor chief justice is elected.

(E) The chief justice shall meet on a regular basis with the chief judges of the district courts and the chief judges of the circuit courts to discuss and provide feedback for implementation of policies and practices that have statewide impact including, but not limited to, the judicial branch's management, operation, strategic plan, legislative agenda and budget priorities. Such meetings shall, if practicable, occur at least quarterly and be conducted in-person. At the discretion of the chief justice, any of these meetings may be combined with other judicial branch and leadership meetings.

✦ **Above revisions adopted by the Governance Study Group with a vote of 10 – 1.**

III. The Judicial Management Council (Rule 2.225)

Judicial Management Council (JMC)

Since the creation of the Judicial Council in 1954, this type of advisory body has existed in various forms in the judicial branch's governance structure. In 1995, the former Judicial Council was replaced with a Judicial Management Council that revised both the role and membership of the earlier body. From 1995-1998, the Judicial Management Council created a strategic planning process that resulted in strategic and operational plans, a communications initiative, and several major study committees. By 2000, the judicial branch became primarily engaged in preparations for fiscal unification through the auspices of Revision 7 to Article V. During this period, the tremendous challenge of restructuring the system, particularly the court committee structure, consumed tremendous resources and leadership attention. Therefore, the Judicial Management Council became inactive as the court system traversed the momentous transition to state funding.

In 2006, the Judicial Management Council was reauthorized and renewed through Administrative Order No. AOSC06-62 signed by then Chief Justice R. Fred Lewis. The council was reconstituted to serve as an effective forum for research and debate on specific matters. Additionally, it was reconstituted, with an extensive membership of both court and external leadership, to provide a formal mechanism for effective two-way communication about the justice system between major citizen constituencies and the courts, to inform the public about the justice system, and to provide a unique and broad perspective on significant court initiatives, including the long-range strategic plan. By 2008, the Judicial Management Council was placed in abeyance due to funding constraints brought about by the emergent fiscal crisis.

Obviously, such an advisory body as the Judicial Management Council has the potential for a meaningful role in the governance structure of the judicial branch. The consulting report for the governance study noted that given the current dormancy of the Judicial Management Council, many of its functions are now performed by major commissions and committees. Also, interviewees for the study speculated that the breadth of its mandate, the size of its membership, and the limited time and resources available to it were all contributing factors to effectively incorporating this body into the branch's governance structure. The consulting report concludes that the council could be restructured to have more narrow responsibilities with limited membership.

The Governance Study Group agreed that the Judicial Management Council has an appropriate role in the governance structure and adopted recommendations that repeal and revise the Rule of Judicial Administration 2.225, and restructure the Judicial Management Council with smaller membership and a more narrow focus. The primary intent of the recommendation is to create a forward-looking advisory body to deftly assist the chief justice and supreme court in proactively identifying trends, potential crisis situations, and means to address them. The council would become part of a feedback loop buttressed by feedback gathered from the trial and district courts, particularly the chief judges and conferences. Additionally, the council would be charged with identifying and evaluating information to assist in improving the performance and effectiveness of

the judicial branch, including monitoring progress related to the long-range plan, reviewing the various court commissions and committees, and other issues brought to the council by the supreme court.

Conclusions from consultant's report:

Conclusion 13: The Governance Study Group should consider recommending that Rule of Judicial Administration 2.225 be amended to narrow the responsibilities of the Judicial Management Council and limit its membership to no more than 25.

Conclusion 22: The Governance Study Group should consider recommending that the leadership of the judicial branch seek information to identify emerging issues on an on-going basis and take prompt action to develop an appropriate response when such an issue is found.

Governance Study Group Action: The Governance Study Group adopts these recommendations and suggests the following related revisions. (Additions shown in italics, underlined)

Repeal Rule of Judicial Administration Rule 2.225, Judicial Management Council because of the size and breadth of the previously assigned responsibilities. A newly constituted Judicial Management Council (JMC) is proposed that will be smaller and with more narrow focus.

(Note: Existing rule to be repealed appears below; proposed replacement rule begins on page 15.)

REPEAL: RULE 2.225. JUDICIAL MANAGEMENT COUNCIL

(a) Creation and Responsibilities. There is hereby created the Judicial Management Council of Florida, which shall be charged with the following responsibilities:

(1) The comprehensive study and formulation of recommendations on issues related to the efficient and effective administration of justice that have statewide impact, affect multiple levels of the court system, or affect multiple constituencies in the court and justice community.

(A) Issues that may be examined by the Judicial Management Council include, but are not limited to:

(i) the organization, jurisdiction, and management of the courts;

(ii) the qualifications, selection process, compensation, disciplinary process, and removal process for judicial officers;

(iii) administrative policies and programs of the court system;

(iv) state and local budgets for the courts and related entities, and the balance of funding between state and local government;

(v) available revenues that are currently or may be used to support the courts, including fines, forfeitures, filing fees, add-ons, surcharges, and liens;

(vi) rules of court and rulemaking process;

(vii) legislative issues, including changes in the statutes or the constitution; and

(viii) the policies, procedures, and programs of other entities that are involved in court proceedings, or otherwise affect the work of the courts.

(B) Issues may become part of the Judicial Management Council's agenda by:

(i) referral from the chief justice;

(ii) referral from the supreme court; or

(iii) identification by the Judicial Management Council on its own initiative based on the recommendations of members; input from judges, the bar, court personnel, or other sources; input from public hearings; referral of issues by the Florida Legislature, either informally or through the passage of legislation; or referral of issues by the governor, cabinet, or executive branch agencies.

(C) The chief justice and the supreme court shall consider referring significant new issues or problems with implications for judicial branch organization, policy, or budgeting to the Judicial Management Council, prior to the creation of any new committees.

(2) The development and recommendation of the long-range strategic plan and quality management and accountability program for the judicial branch, which are required pursuant to article III, section 19, of the Florida Constitution.

(3) The development of recommendations to all Constitutional Revision Commissions.

(4) To review and respond to the work of other commissions, task forces, councils, and committees of the judicial, legislative and executive branches, and The Florida Bar, which may consider matters having policy, funding, or operational implications for the judicial branch and the justice system.

(5) To provide a liaison with private sector entities with an interest in the court system, including the Florida Council of 100.

(b) Schedule of Reports.

(1) The Judicial Management Council shall prepare an annual report on its activities, along with recommendations on substantive legislation and budget resources, which shall be presented to the chief justice and the supreme court on October 1 of each year.

(2) The Judicial Management Council shall prepare a biennial review of the judicial branch's long-range strategic plan and formulate recommendations for a 2-year operational plan based on such review, which shall be presented to the chief justice on July 1 of each even-numbered year.

(3) The Judicial Management Council may prepare other reports as it deems necessary, which shall be presented to the chief justice or the supreme court upon completion.

(c) Supreme Court Action on Recommendation by the Judicial Management Council. The chief justice or the supreme court may take any or all of the following actions on recommendations made by the Judicial Management Council:

(1) Direct that action be taken to influence or change administrative policy, management practices, rules, or programs that are the subject of the recommendations.

(2) Include the recommendation in the State Courts System's legislative agenda or budget requests.

(3) Refer the recommendation back to the Judicial Management Council with an indication that:

(A) the Judicial Management Council shall undertake further study;

(B) the supreme court takes no position on the issue and encourages the Judicial Management Council to take whatever further action on the matter the Judicial Management Council deems appropriate; or

(C) the supreme court disapproves of the recommendation and directs either reassessment of the recommendation or no further action by the Judicial Management Council.

(4) Refer the recommendation to other entities, such as the Florida Legislature, the governor, the cabinet, executive branch agencies, or The Florida Bar, as the supreme court deems appropriate.

(d) Membership and Organization. The membership of the Judicial Management Council shall be appointed with the intention of ensuring diversity and representation of groups involved in or affected by the judicial system.

(1) There shall be 21 official members of the Judicial Management Council, to be appointed by the chief justice, which shall include:

(A) one supreme court justice;

(B) two district court of appeal judges, to be nominated by the Florida Conference of District Court of Appeal Judges;

(C) two circuit court judges, one of whom shall be an active chief judge, to be nominated by the Florida Conference of Circuit Judges;

(D) two county court judges, to be nominated by the Conference of County Court Judges;

(E) one state attorney, to be nominated by the Florida Prosecuting Attorneys Association;

(F) one public defender, to be nominated by the Florida Public Defenders Association;

(G) the attorney general or the attorney general's designee;

(H) one clerk of court, to be nominated by the Florida Association of Court Clerks;

(I) two representatives of The Florida Bar, one of whom shall be a member of the board of governors, to be nominated by the board of governors;

(J) one representative of the governor's legal office, to be designated by the governor;

(K) one member of the Florida Senate and one member of the House of Representatives;

(L) four public members; and

(M) one member of the Florida Council of 100, to be nominated by the Florida Council of 100.

(2) The legislative members shall serve as ad hoc, voting members, whose absence shall not be considered for purposes of determining whether a quorum is present at meetings.

(3) The chief justice may appoint no more than 8 members at large who shall serve as voting members for a term of 3 years.

(4) The chief justice or the chief justice's designee shall serve as chair of the Judicial Management Council.

(5) To ensure continuity through the Judicial Management Council's development of a long range strategic plan for the judicial branch, the original members of the council shall be appointed for a term of 3 years. The members' terms thereafter shall be on a staggered, multi-year basis, to be designated by future administrative orders of the chief justice.

(6) The Judicial Management Council shall establish a committee structure and procedures that ensure broad-based involvement of and input from interested constituencies. The Judicial Council shall have the authority and resources to improve its inclusiveness through a variety of means, such as:

(A) establishing committees or subcommittees that include persons who are not members of the Council but whose input may be needed on selected issues;

(B) referring matters to existing groups or committees, such as committees of The Florida Bar, for comment and recommendations;

(C) conducting focus groups, workshops, and town hall type meetings;

(D) conducting public hearings; and

(E) conducting surveys.

(7) The Judicial Management Council shall explore and recommend appropriate protocols for information sharing and coordination of work by the various committees that have been created by the court system. When appropriate, the Judicial Management Council shall include such committees in the process of developing the long-range strategic plan.

(e) Staff Support and Funding. The Office of the State Courts Administrator shall provide primary staff support to the Judicial Management Council. Adequate staffing and other resources shall be made available to the Office of the State Courts Administrator to ensure the effective and efficient completion of tasks assigned to the Judicial Management Council. Sufficient resources shall also be provided for meetings of the Judicial Management Council and its committees or subcommittees, and other expenses necessary to the satisfactory completion of its work.

+ Above revision adopted by the Governance Study Group with a vote of 11 – 0.

Add Rule 2.225, Judicial Management Council, to assist the supreme court in fulfilling its administrative responsibilities in a proactive, not reactive manner, as follows:

RULE 2.225. JUDICIAL MANAGEMENT COUNCIL

(a) Creation and Responsibilities. There is hereby created the Judicial Management Council of Florida, which shall meet at least quarterly, and be charged with the following responsibilities:

(1) identifying potential crisis situations affecting the judicial branch and developing strategy to timely and effectively address them;

(2) identifying and evaluating information that would assist in improving the performance and effectiveness of the judicial branch (for example, information including, but not limited to, internal operations for cash flow and budget performance, and statistical information by court and type of cases for (i) Number of Cases filed, (ii) Aged Inventory of Cases- the number and age of cases pending, (iii) Time to Disposition- the percentage of cases disposed or otherwise resolved within established time frames, and (iv) Clearance Rates- the number of outgoing cases as a percentage of the number of incoming cases;

(3) developing, and monitoring progress relating to, long range planning for the judicial branch;

(4) reviewing the charges of the various court commissions and committees, recommending consolidation or revision of the commissions and committees, and recommending a method for the coordination of the work of those bodies based on the proposed revisions;

(5) addressing issues brought to the council by the supreme court.

(b) Referrals. The chief justice and the supreme court shall consider referring significant new issues or problems with implications for judicial branch policy to the Judicial Management Council, prior to the creation of any new committees.

(c) Supreme Court Action on Recommendation by the Judicial Management Council. The supreme court may take any or all of the following actions on recommendations made by the Judicial Management Council:

(1) Adopt the recommendation of the council in whole or in part, with or without conditions, including but not limited to:

(A) Direct that action be taken to influence or change administrative policy, management practices, rules, or programs that are the subject of the recommendations;

(B) Include the recommendation in the judicial branch's legislative agenda or budget requests.

(2) Refer specific issues or questions back to the council for further study or alternative recommendations.

(3) Reject the recommendation or decision in whole or in part.

(4) Refer the recommendation to other entities, such as the Florida Legislature, the governor, the cabinet, executive branch agencies, or the Florida Bar, as the supreme court deems appropriate.

(5) Take alternative action.

(d) Membership. The council shall be chaired by the chief justice. Additional voting members shall consist of (initially and as vacancies occur):

1 District Court of Appeal (DCA) judge, President of Conference of District Court of Appeal Judges or designee;

1 District Court of Appeal (DCA) judge selected by the Conference of District Court of Appeal Judges;

1 circuit judge selected by the Trial Court Budget Commission (TCBC);

1 circuit judge, Chair of Conference of Circuit Court Judges or designee;

1 circuit judge selected by the Commission on Trial Court Performance and Accountability (TCP&A);

1 county judge, President of Conference of County Court Judges or designee;

1 county judge, selected by the Conference of County Court Judges;

1 member selected by the Florida Council of 100;

1 lawyer, president of Florida Bar or designee;

1 lawyer, selected by the Florida Bar Board of Governors.

The state courts administrator shall be a non-voting member.

The council may request other non-voting persons to participate on an as-needed temporary basis to gain expertise and experience in certain issues on review. The terms of the membership shall be staggered to achieve an average of three years on the council, as determined by the chief justice.

(e) Staff Support and Funding. The Office of the State Courts Administrator shall provide primary staff support to the Judicial Management Council. Adequate staffing and other resources shall be made available to the Office of the State Courts Administrator to ensure the effective and efficient completion of tasks assigned to the Judicial Management Council. Sufficient resources shall also be provided for meetings of the Judicial Management Council and its committees or subcommittees, and other expenses necessary to the satisfactory completion of its work.

✦ **Above revision adopted by the Governance Study Group with a vote of 11 – 0.**

IV. Chief Judges (Rule 2.215, Rule 2.210)

As noted above in the section on the supreme court and the chief justice, a stronger governance system may be marked by very involved and consistent leadership; in the judicial branch, the chief judges at the district and trial court levels are integral to the concept of a leadership team that carries out policy as set forth by the supreme court. In looking at governance issues in the judicial branch, the Governance Study Group examined the authority, responsibilities, and leadership role of chief judges in the district courts and in the trial courts. Based upon the findings of the consultant's research and the knowledge and experiences of Governance Study Group members, the Governance Study Group developed a number of proposed changes to the Rules of Judicial Administration governing chief judges. These proposed changes are designed to provide chief judges with clear authority to direct judges to adhere to court policies and administrative plans and to achieve greater administrative consistency.

Additionally, the Governance Study Group proposed several changes to strengthen and enhance leadership at the district and circuit levels, first by extending the term of chief judges from two years to four years, thus providing a longer "learning curve" for leaders as well as providing the opportunity to develop strong working relationships with local justice partners and funding bodies. Another proposed change is in the selection of chief judges, which is to be based upon managerial, administrative and leadership qualities without regard to seniority. Also, the Governance Study Group recommended that at the call of the chief justice, the chief judges of the circuit courts and district courts shall meet on a regular basis and with each other and with the chief justice to discuss and provide feedback for implementation of policies and practices that have statewide impact. These proposals, along with those related to the supreme court and chief justice, are designed to strengthen the judicial branch's governance through greater clarity of authority, enhanced continuity of leadership, and improved communication and information-sharing. Finally, the study group approved proposed rule language to acknowledge the responsibility of the chief judges at the district and circuit levels to exercise reasonable efforts to promote and encourage diversity in the administration of justice.

Conclusions from consultant's report:

Conclusion 4: The Governance Study Group should consider recommending that Rules of Judicial Administration 2.210(a)(2) and 2.215(b) be amended to provide authority to chief judges of both the circuit courts and the district courts to direct judges on their court(s) to adhere to court policies and administrative plans.

Conclusion 5: The Governance Study Group should consider recommending that Rule of Judicial Administration 2.210(a)(2) be amended to include a specific set of administrative responsibilities of district courts chief judges similar to those contained in Rule of Judicial Administration 2.215(b), along with a provision empowering the supreme court to remove a district court chief judge similar to that in Rule of Judicial Administration 2.215(c).

Conclusion 6: The Governance Study Group should consider recommending that Rule of Judicial Administration 2.210(a)(2) and 2.215(b) be amended to enhance continuity of leadership in the district courts and the circuit courts.

Conclusion 7: The Governance Study Group should consider recommending that circuit and district courts chief judges meet in person quarterly in addition to regular conference calls.

Governance Study Group Action: The Governance Study Group adopts these recommendations and suggests the following related revisions. (Revisions shown in italics, underlined)

Rule 2.215. Trial Court Administration

(a) Purpose. The purpose of this rule is to fix administrative responsibility in the chief judges of the circuit courts and the other judges that the chief judges may designate. When these rules refer to the court, they shall be construed to apply to a judge of the court when the context requires or permits.

(b) Chief Judge.

(1) The chief judge shall be a circuit judge who possesses *managerial, administrative ability and leadership abilities, and shall be selected without regard to seniority.*

(2) The chief judge shall be the administrative officer of the courts within the circuit and shall, consistent with branch wide policies, direct the formation and implementation of policies and priorities for the operation of all courts and officers within the circuit. The chief judge shall exercise administrative supervision over all *judges and court personnel* within the judicial circuit. The chief judge shall be responsible to the chief justice of the supreme court. The chief judge may enter and sign administrative orders, except as otherwise provided by this rule. *The chief judge shall have the authority to require that all judges of*

the court, other court officers, and court personnel comply with all court and judicial branch policies, administrative orders, procedures and administrative plans.

(3) The chief judge shall maintain liaison in all judicial administrative matters with the chief justice of the supreme court, and shall, considering available resources, insure the efficient and proper administration of all courts within that circuit. The chief judge shall develop an administrative plan that shall include an administrative organization capable of effecting the prompt disposition of cases; assignment of judges, other court officers, and ~~executive assistants~~ all other court personnel; control of dockets; regulation and use of courtrooms; and mandatory periodic review of the status of the inmates of the county jail. The plan shall be compatible with the development of the capabilities of the judges in such a manner that each judge will be qualified to serve in any division, thereby creating a judicial pool from which judges may be assigned to various courts throughout the state. The administrative plan shall include a consideration of the statistical data developed by the case reporting system. Questions concerning the administration or management of the courts of the circuit shall be directed to the chief justice of the supreme court through the state courts administrator.

(4) The chief judge shall assign judges to the courts and divisions, and shall determine the length of each assignment. The chief judge is authorized to order consolidation of cases, and to assign cases to a judge or judges for the preparation of opinions, orders, or judgments. All judges shall inform the chief judge of any contemplated absences that will affect the progress of the court's business. If a judge is temporarily absent, is disqualified in an action, or is unable to perform the duties of the office, the chief judge or the chief judge's designee may assign a proceeding pending before the judge to any other judge or any additional assigned judge of the same court. The chief judge may assign any judge to temporary service for which the judge is qualified in any court in the same circuit. If it appears to the chief judge that the speedy, efficient, and proper administration of justice so requires, the chief judge shall request the chief justice of the supreme court to assign temporarily an additional judge or judges from outside the circuit to duty in the court requiring assistance, and shall advise the chief justice whether or not the approval of the chief judge of the circuit from which the assignment is to be made has been obtained. The assigned judges shall be subject to administrative supervision of the chief judge for all purposes of this rule. When assigning a judge to hear any type of postconviction or collateral relief proceeding brought by a defendant who has been sentenced to death, the chief judge shall assign to such cases a judge qualified to conduct such proceedings under subdivision (b)(10) of this rule. Nothing in this rule shall restrict the constitutional powers of the chief justice of the supreme court to make such assignments as the chief justice shall deem appropriate.

(5) The chief judge may designate a judge in any court or court division of circuit or county courts as "administrative judge" of any court or division to assist with the administrative supervision of the court or division. The designee shall be responsible to the chief judge,

shall have the power and duty to carry out the responsibilities assigned by the chief judge, and shall serve at the pleasure of the chief judge.

(6) The chief judge may require the attendance of prosecutors, public defenders, clerks, bailiffs, and other officers of the courts, and may require from the clerks of the courts, sheriffs, or other officers of the courts periodic reports that the chief judge deems necessary.

(7) The chief judge shall regulate the use of ~~courtrooms~~ all court facilities, regularly examine the dockets of the courts under the chief judge's administrative supervision, and require a report on the status of the ~~actions~~ matters on the dockets. The chief judge may take such action as may be necessary to cause the dockets to be made current. The chief judge shall monitor the status of all pending postconviction or collateral relief proceedings brought by defendants who have been sentenced to death and shall take the necessary actions to assure that such cases proceed without undue delay. On the first day of every January, April, July, and October, the chief judge shall inform the chief justice of the supreme court of the status of all such pending cases.

(8) The chief judge or the chief judge's designee shall regularly examine the status of every inmate of the county jail.

(9) The chief judge may authorize the clerks of courts to maintain branch county court facilities. When so authorized, clerks of court shall be permitted to retain in such branch court facilities all county court permanent records of pending cases, and may retain and destroy these records in the manner provided by law.

(10) (A) The chief judge shall not assign a judge to preside over a capital case in which the state is seeking the death penalty, or collateral proceedings brought by a death row inmate, until that judge has become qualified to do so by:

(i) presiding a minimum of 6 months in a felony criminal division or in a division that includes felony criminal cases, and

(ii) successfully attending the "Handling Capital Cases" course offered through the Florida College of Advanced Judicial Studies. A judge whose caseload includes felony criminal cases must attend the "Handling Capital Cases" course as soon as practicable, or upon the direction of the chief judge.

(B) The chief justice may waive these requirements in exceptional circumstances at the request of the chief judge.

(C) Following attendance at the "Handling Capital Cases" course, a judge shall remain qualified to preside over a capital case for three calendar years, and may maintain that qualification by attending a "Capital Case Refresher" course during each following three-

year period. A judge who has attended the “Handling Capital Cases” course and who has not taken the “Capital Case Refresher” course within three years must requalify to preside over a capital case by attending the refresher course.

(D) The refresher course shall be at least a 6-hour course and must be approved by the Florida Court Education Council. The course must contain instruction on the following topics: penalty phase, jury selection, and proceedings brought pursuant to Florida Rule of Criminal Procedure 3.851.

(11) The failure of any judge to comply with an order or directive of the chief judge shall be considered neglect of duty and may be reported by the chief judge to the chief justice of the supreme court. The chief justice may report the neglect of duty by a judge to the Judicial Qualifications Commission or other appropriate person or body, or take such other corrective action as may be appropriate.

(12) At the call of the chief justice, the chief judges of the circuit court and district courts of appeal shall meet on a regular basis and with each other and with the chief justice to discuss and provide feedback for implementation of policies and practices that have ~~common~~ operational issues and policies and practices that statewide impact including, but not limited to, the court system’s judicial branch’s management, operation, strategic plan, legislative agenda and budget priorities. Such meetings shall, if practicable, occur at least quarterly and be conducted in-person. At the discretion of the chief justice, any of these meetings may be combined with other judicial branch and leadership meetings.

(13) The chief judge shall have the responsibility to exercise reasonable efforts to promote and encourage diversity in the administration of justice.

(c) Selection. The chief judge shall be chosen by a majority of the active circuit and county court judges within the circuit for a term of 4 years commencing on July 1, 2013, or if there is no majority, by the chief justice, for a term of 4 years. A chief judge may serve successive terms. The election for chief judge shall be held no sooner than February 1 of the year during which the chief judge's term commences beginning July 1. All elections for chief judge shall be conducted as follows:

- (1) All ballots shall be secret.
- (2) Any circuit or county judge may nominate a candidate for chief judge.
- (3) Proxy voting shall not be permitted.
- (4) Any judge who will be absent from the election may vote by secret absentee ballot obtained from and returned to the Trial Court Administrator.

A chief judge may be removed as chief judge by the supreme court, acting as the administrative supervisory body of all courts, or by a two-thirds vote of the active judges. A chief judge who is to be temporarily absent shall select an acting chief judge from among the circuit judges. If a chief judge dies, retires, fails to appoint an acting chief judge during an absence, or is unable to perform the duties of the office, the chief justice of the supreme court shall appoint a circuit judge to act as chief judge during the absence or disability, or until a successor chief judge is elected to serve the unexpired term. When the office of chief judge is temporarily vacant pending action within the scope of this paragraph, the duties of court administration shall be performed by the circuit judge having the longest continuous service as a judge or by another circuit judge designated by that judge.

+ **Above revision adopted by the Governance Study Group with a vote of 11 – 0.**

Rule 2.210 District Courts of Appeal

(a) Internal Government.

(1) *Exercise of Powers and Jurisdiction.* Three judges shall constitute a panel for and shall consider each case, and the concurrence of a majority of the panel shall be necessary to a decision.

(2) Chief Judge.

(A) The selection of a chief judge should be based on managerial, administrative, and leadership abilities, without regard to seniority.

(B) The chief judge shall be the administrative officer of the court, and shall, consistent with branch wide policies, direct the formation and implementation of policies and priorities for the operation of the court. The chief judge shall exercise administrative supervision over all judges and court personnel. The chief judge shall be responsible to the chief justice of the supreme court. The chief judge may enter and sign administrative orders. The administrative powers and duties of the chief judge include, but are not limited to, the power to order consolidation of cases, and to assign cases to the judges for the preparation of opinions, orders, or judgments. The chief judge shall have the authority to require all judges of the court, court officers and court personnel, to comply with all court and judicial branch policies, administrative orders, procedures and administrative plans.

(C) The chief judge shall maintain liaison in all judicial administrative matters with the chief justice of the supreme court, and shall, considering available resources, insure the efficient and proper administration of the court. The chief judge shall develop an administrative plan that shall include an administrative organization capable of effecting the prompt disposition of cases; assignment of judges, other court officers, court personnel, and the control of

dockets. The administrative plan shall include a consideration of the statistical data developed by the case reporting system.

(D) All judges shall inform the chief judge of any contemplated absences that will affect the progress of the court's business. If a judge is temporarily absent, is disqualified in an action, or is unable to perform the duties of the office, the chief judge or the chief judge's designee may assign a matter pending before the judge to any other judge or any additional assigned judge of the same court. If it appears to the chief judge that the speedy, efficient, and proper administration of justice so requires, the chief judge shall request the chief justice of the supreme court to assign temporarily an additional judge or judges from outside the court to duty in the court requiring assistance, and shall advise the chief justice whether or not the approval of the chief judge of the court from which the assignment is to be made has been obtained. The assigned judges shall be subject to administrative supervision of the chief judge for all purposes of this rule. Nothing in this rule shall restrict the constitutional powers of the chief justice of the supreme court to make such assignments as the chief justice shall deem appropriate.

(E) The chief judge shall regulate the use of all court facilities, regularly examine the dockets of the courts under the chief judge's administrative supervision, and require a report on the status of the matters on the docket. The chief judge may take such action as may be necessary to cause the docket to be made current.

(F) The chief judge shall be chosen by a majority of the active judges of the court for a term of four years commencing on July 1 of each, 2013 for all even-numbered districts and July 1, 2015 for all odd-numbered year and shall districts. A chief judge may serve for a term of 2 years successive terms. In the event of a vacancy, a successor shall be chosen promptly to serve the balance of the unexpired term. The selection of a chief judge should be based on managerial, administrative, and leadership abilities. The chief judge shall be the administrative officer of the court, responsible for the dispatch of its business, shall have the power to order consolidation of cases, and shall assign cases to the judges for the preparation of opinions, orders, or judgments. If the chief judge is unable to discharge these duties, the judge longest in continuous service or, as between judges with equal continuous service, the one having the longest unexpired term and able to do so, shall perform the duties of chief judge pending the chief judge's return to duty. Judges shall notify the chief judge of any contemplated absence from the court and the reasons therefore. A chief judge may be removed as chief judge by the supreme court, acting as the administrative supervisory body of all courts, or by a two-thirds vote of the active judges.

(G) The failure of any judge to comply with an order or directive of the chief judge shall be considered neglect of duty and may be reported by the chief judge to the chief justice of the supreme court. The chief justice may report the neglect of duty by a judge to the Judicial Qualifications Commission or other appropriate person or body, or take such other corrective action as may be appropriate.

(H) At the call of the chief justice, the chief judges of the circuit court and district courts of appeal shall meet on a regular basis and with each other and with the chief justice to discuss and provide feedback for implementation of policies and practices ~~common operational issues and policies and practices~~ that have statewide impact including, but not limited to, the ~~court system's~~ judicial branch's management, operation, strategic plan, legislative agenda and budget priorities. Such meetings shall, if practicable, occur at least quarterly and be conducted in-person. At the discretion of the chief justice, any of these meetings may be combined with other judicial branch and leadership meetings.

(I) The chief judge shall have the responsibility to exercise reasonable efforts to promote and encourage diversity in the administration of justice.

+ Above revision adopted by the Governance Study Group with a vote of 11 – 0.

V. Amending Rules of Court

Rule 2.140

The supreme court has directed the Florida Bar to appoint standing rules committees to consider rule proposals concerning the procedures in civil, criminal, small claims, traffic, appellate, juvenile, probate, and family matters, and also to consider changes to the rules of evidence and judicial administration. Based on current practices, rules committees may take from 18 months to five years before making their report to the supreme court. In some instances, by the time the rules committee makes its report, the Bar Board of Governors considers the report, and the court issues its Administrative Order, the need for the rule has passed or the problem to be addressed by the rule has changed. Therefore, a more timely process is needed to develop well-considered rules. The Governance Study Group also considered the issue of the size of bar rules committees, noted in the consultant's report as often being sizable and somewhat unwieldy; the two Governance Study Group members representing the Florida Bar indicated that the Bar itself will address this issue.

Conclusion 9 from consultant's report: The Governance Study Group should consider recommending that the Rule of Judicial Administration 2.140 be amended to ensure the development of well-considered rules in a timely fashion.

Governance Study Group Action: The Governance Study Group adopts this recommendation and suggests the following related revisions to ensure review of rules of court every other year. (Revisions shown in italics, underlined)

Rule 2.140 Amending Rules of Court

(b) Schedule for Rules Proposals.

(1) Each committee shall report all proposed rule changes on a staggered basis (with the first cycle starting in 2012 ~~2006~~). Reports shall be made by the Criminal Procedure Rules Committee, the Traffic Court Rules Committee, the Rules of Judicial Administration, ~~2008~~ the Family Law Rules Committee ~~2008~~ and the Juvenile Court Rules Committee in 2012 ~~2006~~; by the Civil Procedure Rules Committee, the Probate Rules Committee, the Small Claims Rules Committee, the Appellate Court Rules Committee ~~2008~~ and the Code and Rules of Evidence Committee in 2013 ~~2007~~. Thereafter, the cycle shall repeat.

✦ **Above revision adopted by the Governance Study Group with a vote of 10 – 0.**

Supreme Court Internal Procedures for Handling Cases

In order to promote communication between the supreme court and entities authorized to propose rule changes, in court conference on April 28, 2010, the supreme court made a substantive determination authorizing prefiling communication between rules committees or support staff to those committees and court staff that assist the court in processing proposed amendments. Accordingly, the justices of the court and their staff are not ethically prohibited from these informal communications and will not be subject to disqualification upon the filing of proposed amendments with the court; this process is in effect until a petition is filed and a case number assigned.

Conclusion 10 from consultant’s report: The Governance Study Group should consider recommending that the Rules of Judicial Administration be amended to enable the supreme court to consider new and amended rules of procedure and rules of judicial administration as administrative policy proposals rather than legal cases.

Governance Study Group Action: No additional work needs to be done on this issue by the Governance Study Group.

VI. Office of the State Courts Administrator (OSCA)

Additional Responsibility - Rule 2.205

The amendment proposed above to Rule 2.205(a)(1) states that it is consistent with the supreme court’s authority to establish policy, including recommending state budget and compensation priorities for the judicial branch, and further specifies that no judge, supreme court created committee, commission, taskforce, or similar group, and no conference (Conference of District Court of Appeal Judges, Conference of Circuit Court Judges, Conference of County Court Judges) is permitted to recommend substantive law changes or state budget priorities, including compensation and benefits, to the legislative or executive branches that have not been approved by the supreme court. This is not intended to apply to judges expressing their personal views who affirmatively make it explicitly clear that they are not speaking on behalf of the judicial branch.

In their discussion of that proposal, members of the Governance Study Group expressed concern that there is currently no way in which judges or judicial conferences are routinely or consistently informed of substantive law changes or state budget priorities that have been approved by the supreme court. A specific mechanism is needed to inform and explain to judges what the court's policies are.

Governance Study Group Action: The Governance Study Group recommends the proposed rule change below. (Revision in italics, underlined)

Rule 2.205 THE SUPREME COURT

(e) State Courts Administrator.

(2) Duties. The state courts administrator shall supervise the administrative office of the Florida courts, which shall be maintained at such place as directed by the supreme court; shall employ such other personnel as the court deems necessary to aid in the administration of the state courts system; shall represent the state courts system before the legislature and other bodies with respect to matters affecting the state courts system and functions related to and serving the system; shall supervise the preparation and submission to the supreme court, for review and approval, of a tentative budget request for the state courts system and shall appear before the legislature in accordance with the court's directions in support of the final budget request on behalf of the system; *shall inform the judiciary of the state courts system's final budget request and any proposed substantive law changes approved by the supreme court*; shall assist in the preparation of educational and training materials for the state courts system and related personnel, and shall coordinate or assist in the conduct of educational and training sessions for such personnel; shall assist all courts in the development of improvements in the system, and submit to the chief justice and the court appropriate recommendations to improve the state courts system; and shall collect and compile uniform financial and other statistical data or information reflective of the cost, workloads, business, and other functions related to the state courts system. The state courts administrator is the custodian of all records in the administrator's office.

Implementation and Impact of Court Policies and Initiatives

The OSCA Workgroup Subcommittee of the Governance Study Group recommended that OSCA be directed "to report regularly on the extent of implementation and impact of policies established by the Court." The subcommittee also agreed that OSCA's review of whether a policy or initiative established by the court should continue, be modified, or ended might infringe on the responsibility and privilege of the supreme court to make and revise policies and the means of implementing such policies. Consequently, the Governance Study Group recommended that language be added to clarify OSCA's role in providing support and information to the supreme court, not providing a direct recommendation for the extension, termination or revision of policies.

Conclusion 2 from consultant’s report: The Governance Study Group should consider recommending that the supreme court direct OSCA to report regularly on the extent of implementation and impact of policies and initiatives established by the court and review periodically whether a policy or initiative should continue, be modified, or ended.

Governance Study Group Action: The Governance Study Group recommends that the supreme court direct OSCA to report regularly on the extent of implementation and impact of policies established by the court and provide data so that the supreme court can review periodically whether a policy or the method of implementing such policy should continue, be modified, or be ended.

+ Above recommendation adopted by the Governance Study Group with a vote of 11 – 0.

Orientation and Specialized Education for Chief Judges

The Governance Study Group members strongly supported the goal of ensuring that incoming chief judges have adequate training for their increased responsibilities, as well as ongoing training as needed for the changing conditions faced by the branch. OSCA has an existing training program for incoming chief judges at the trial court level. Expanding this training to district court incoming chief judges and expanding the training to include continuing education for chief judges at all levels is warranted.

Conclusion 8 from consultant’s report: The Governance Study Group should consider recommending that OSCA review the orientation offered to incoming circuit chief judges, offer an orientation for incoming district court chief judges, and provide continuing education courses on the special knowledge and skills required to serve effectively as a circuit court or district court chief judge.

Governance Study Group Action: The Governance Study Group recommends that OSCA, in coordination with the district court and circuit court conference leadership, provide specialized orientation and continuing education programs for incoming district court and circuit court chief judges.

+ Above recommendation adopted by the Governance Study Group with a vote of 11 – 0.

Central Coordinating Body

There is general agreement among Governance Study Group members that there is a need for coordination of the work of various court commissions and ad hoc committees, with some of the strongest support for active coordination coming from the representatives of the Florida Bar who serve on the Governance Study Group and from past chairs of court commissions and ad hoc committees. OSCA staff has provided this coordination in the past and, where there have been conflicts between commissions and committees regarding their responsibilities, OSCA staff have generally been successful mediating among the chairs of the bodies to resolve the conflict.

However, commissions and committees have not had any real performance management system in place to ensure that each is working on those issues that are most pressing for the branch and to ensure that each is working on only those issues that are assigned to it.

Some Governance Study Group members suggested that OSCA continue in its role as the coordinator among court commissions and committees. Since OSCA staffs each commission and committee, Governance Study Group proponents of this approach reasoned that OSCA had the “big picture” view of the work of the various court commissions and committees, as well as the working relationships with the chairs of each body. OSCA staff, however, cautioned that their role as support to the commissions and committees was not a coordination role and cautioned that the coordination among commission and committee chairs should be done by judges rather than by staff. Study group members recognized that OSCA staff are already overworked at current levels. Further, it is not realistic to ask OSCA staff to recommend consolidation or revision of the supreme court’s directions to the various commissions or committees since OSCA’s role is to support the work done by those entities rather than to evaluate and manage the commissions and committees.

As a result, the Governance Study Group recommends that the Judicial Management Council (as envisioned in this report) be given the responsibility to hear reports from OSCA staff about the work of the commissions and committees. The Judicial Management Council should be asked to review the work of the various commissions and committees, make recommendations for the consolidation and revision of those entities, and propose a method by which those entities can coordinate their work to avoid overlapping responsibilities and recommendations.

Conclusion 12 from consultant’s report: The Governance Study Group should consider recommending that one or more central coordinating bodies be established to coordinate the work of the commissions and ad hoc committees and to monitor whether they are completing their charges in a timely manner.

Governance Study Group Action: The Governance Study Group recommends that OSCA, in its role as staff to the various court commissions and committees, should continue to coordinate and assist the commissions and committees of the branch. OSCA should provide reports about the work of the commissions and committees to the chief justice, to the supreme court and to the Judicial Management Council. In its charge to identify trends and challenges for the branch in the future, the Judicial Management Council should review the charge of the various court commissions and committees, recommend consolidation or revision of the commissions and committees, and recommend a method for the coordination of the work of those bodies in light of the proposed revisions.

Capacity to Coordinate and Staff Commissions and Committees

The Governance Study Group agreed that the strengthening of OSCA’s capacity to provide coordination services for the branch’s commissions and committees could occur from the addition of personnel, as well as from the restructuring of the personnel within OSCA. Further, the central coordinating committee could also relieve OSCA of some of its function to oversee the commission

and committee work and reduce duplication of effort. However, OSCA should not be responsible for working on reporting standards and measurements or for working on the technology applicable to this issue.

Conclusion 18 from consultant’s report: The Governance Study Group should consider recommending that OSCA strengthen its capacity to provide committee coordination services and to support the efforts of the Technology Commission and the Trial Court Performance and Accountability Commission to establish data standards, reporting, and functional requirements for all records maintenance systems serving the Judicial branch.

Governance Study Group Action: The Governance Study Group recommends that OSCA strengthen its capacity to provide Commission and Committee coordination and staffing services through the addition of personnel as budgets allow, as well as through the restructuring of personnel within OSCA.

+ Above recommendation adopted by the Governance Study Group with a vote of 11 – 0.

VII. Chartering of Conferences (Rule 2.220, Florida Statute 26.55)

Although the county, circuit, and district court of appeal judicial conferences have played significant roles in the judicial branch, the consulting report pointed out to the Governance Study Group that the role of the conferences within the governance structure is somewhat unclear. Obviously, the conferences have direct links to and from branch leadership and line judges, and can certainly provide insight on policies and initiatives. However, the roles and responsibilities are not currently well defined and the consulting report concludes that the Governance Study Group should consider recommending the re-chartering of the Conference of Circuit Court Judges and the Conference of County Court Judges, and the chartering of the Conference of District Court of Appeal Judges. The Governance Study Group agreed with this conclusion and noted this would entail amending Rule 2.220, and seeking the repeal of Florida Statute 26.55. The Governance Study Group also recommended that conference leadership be engaged in drafting any proposed rule that, in addition to uniformly chartering the conferences, also better defines the relationship between the conferences, the supreme court, and bar committees which often have overlapping and duplicative responsibilities.

Conclusion 15 from consultant’s report: The Governance Study Group should consider recommending the rechartering of the Conference of Circuit Court Judges and the Conference of County Court Judges and the chartering of the Conference of District Court of Appeal Judges through new or revised provisions of the Rules of Judicial Administration.

Governance Study Group Action: The Governance Study Group recommends rechartering of the Conference of Circuit Court Judges and the Conference of County Court Judges and the chartering of the Conference of District Court of Appeal Judges through new or revised provisions of the Rules of Judicial Administration.

This will entail amending rule 2.220 and seeking the repeal of Fla. Stat. 26.55.

+ Above recommendations adopted by the Governance Study Group with a vote of 11 – 0.

VIII. Standing Legislative Committee

Legislative advocacy on behalf of the judicial branch is a work in progress. There is a greater need for coordination among the various constituencies comprising the branch to allow for better and more consistent communication of the needs of the branch with the Florida Legislature and the governor’s office. The judicial branch must coordinate its legislative efforts and “speak with one voice.” The evolution of legislative advocacy has included formation of the Trial Court Budget Commission and District Court of Appeal Budget Commission, the Supreme Court Budget Oversight Committee, the Unified Committee on Judicial Compensation, and the DCA Legislative Committee. However, in the opinion of the Governance Study Group, much work remains to be done.

The Governance Study Group recommends that a Standing Legislative Committee be formed to act, along with the chief justice and the state courts administrator, as the branch’s liaison with the legislative and executive branches so that the other branches of government receive a clear and consistent message from the courts. The various constituencies of the branch should have input into developing legislative and budgetary priorities, but once developed, they should convey those priorities as part of a unitary message on behalf of the entire branch.

Conclusion 16 from the consultant’s report: The Governance Study Group should consider recommending concentrating responsibility for legislative advocacy on behalf of the judicial branch.

Governance Study Group Action: The Governance Study Group recommends that a Standing Legislative Committee be formed to act, along with the chief justice and the state court administrator, as the branch’s liaison with the legislative and executive branches. The model may be similar to that which was adopted by the Conference of District Court of Appeal Judges. The various constituencies of the branch should have input into developing legislative and budgetary priorities, and should convey that message as part of a unitary message. The standing committee should, along with the chief justice and state court administrator advocate on all salary and benefit issues, including judicial salaries and benefits.

+ Above recommendations adopted by the Governance Study Group with a vote of 11 – 0.

IX. District Court of Appeal Budget Commission (Rule 2.235)

The District Court of Appeal (DCA) Budget Commission consists of the chief judge of each DCA plus one additional judge from each DCA, who is usually the chief judge elect. Functioning as the court administrator with responsibility for budget, personnel, and security, the marshal of each DCA is a non-voting member of the Commission. The DCA Budget Commission is appointed by the chief justice effective July 1 of each odd-numbered year, and members are appointed for two-year terms. The chief justice selects the chair and vice-chair of the commission; Rule 2.235 of the Rules of Judicial Administration governs the DCA Budget Commission.

The Governance Study Group considered several ideas to enhance communication and the continuity of budgetary expertise on the DCA Budget Commission. While recognizing the importance of input from the chairs of the Commission on DCA Performance and Accountability and the Appellate Court Technology Committee of the Florida Courts Technology Commission, and the President of the DCA Judges Conference, Governance Study Group members also acknowledged the need to maintain balance in the DCA Budget Commission voting relationships. Therefore, the Governance Study Group recommends the addition of the chairs of the DCA commission, committee, and conference listed above be added to the DCA Budget Commission as non-voting *ex-officio* members. Further, if DCA chief judges' terms are increased to four years as proposed elsewhere in this report, in appointing the second member of the DCA Budget Commission, the DCAs should give priority to a judge who is interested in budgets and the budgeting process and is willing to serve beyond a single term. Finally, once a DCA has selected its chief judge elect, the chief judge elect should begin attending DCA Budget Commission meetings as an observer in order to learn the process.

✦ **Above recommendations adopted by the Governance Study Group with a vote of 11 – 0.**

Conclusion 17 from consultant's report: The Governance Study Group should consider recommending expansion of the voting membership of the District Courts of Appeal Budget Commission.

Governance Study Group Action: The Governance Study Group hereby proposes the following additional rule language changes (underlined, italicized) to accomplish the following:

- **Add the Chairs of the Performance and Accountability Commission, the Appellate Court Technology Committee, and the President of the District Court of Appeal Judges Conference as *ex officio* non-voting members, and amend Rule 2.235 to do so.**
 - **If the DCA Chief Judges' Terms are increased to four years, revise the Rule 2.235(e) appointment provision so as to accommodate the four-year terms.**
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Rule 2.235 DISTRICT COURT OF APPEAL BUDGET COMMISSION

(e) Membership and Organization. The District Court of Appeal Budget Commission will be composed of 10 voting members appointed by the chief justice who will represent the interests of the district courts generally rather than the individual interests of a particular district.

(1) The membership shall include the chief judge of each district court of appeal, who shall serve for his or her term as chief judge. The membership shall also include one additional judge from each district court of appeal, appointed by the chief justice, with advice from each chief judge. The marshal of each district court of appeal shall serve as a nonvoting member. Ex officio nonvoting members shall also include the chairs of the District Court of Appeal Performance and Accountability Commission and the Appellate Court Technology Committee, and the President of the District Court of Appeal Judges Conference.

(2) The chief justice will appoint 1 member to serve as chair and 1 member to serve as vice chair, each for a ~~one~~ four-year term, or until the member's term on the commission expires.

(3) The commission may establish subcommittees as necessary to satisfactorily carry out its responsibilities. Subcommittees may make recommendations only to the commission as a whole. The chair of the commission may appoint a non-commission member to serve on a subcommittee.

(4) Effective July 1, 2013, the commission shall be reconstituted with staggered terms for voting members, as follows: (A) The chief judge of each district will be appointed for his or her term as chief judge. (B) The additional judge from each odd-numbered district will be appointed for a four-year term. (C) The additional judge from each even-numbered district will be appointed for a two-year term, and thereafter to four-year terms. (D) Each nonvoting member will serve so long as he or she continues to hold the office which entitles him or her to membership on the commission.

X. Enhanced Communication

The National Center for State Court's consulting report noted that the leaders of the circuit and district courts readily share their views and concerns with the chief justice, supreme court, and the Office of the State Courts Administrator. Conversely, the research indicated that rank and file judges and staff are more hesitant to communicate directly with these entities, and to be assured that the communications are not only welcomed, but also appreciated. Predictably, these groups were also more likely to agree they can convey their ideas and concerns to the chief judge of their respective court.

Given that open communication is requisite for effective systems, the Governance Study Group supported the consultant's conclusion that a simple mechanism should be developed for judges

and staff to communicate ideas to the chief justice, supreme court, and the Office of the State Courts Administrator. However, the study group members also recognized that most issues are of a local nature and appropriately handled at that level rather than communicating the issue to the chief justice, supreme court, or the Office of the State Courts Administrator.

Above recommendation adopted by the Governance Study Group with a vote of 11 – 0.

Conclusion 21 from consultant’s report: The Governance Study Group should consider recommending that the chief justice, supreme court and OSCA should establish an enhanced internal communication by developing a simple mechanism for judges and staff to communicate ideas and concerns directly and making clear that communications are not only welcome but appreciated.

Governance Study Group Action: The Governance Study Group recommends that the chief justice, supreme court and OSCA enhance internal communication by developing a simple mechanism for judges and staff to communicate ideas and concerns directly and making clear that communications are not only welcome but appreciated. However, it is important that line judges and staff understand that most issues are of a local nature and should be dealt with at the local level by the appropriate chief judge, trial court administrator or marshal. On those occasions when communication with branch leadership or staff in Tallahassee is appropriate, there should be a designated person or office to contact.

XI. Consultant’s Conclusions Supported by Current Practices

In its deliberations concerning the consulting report, the Governance Study Group noted that certain conclusions are already supported by current practices. Specifically, Conclusion #11 encourages the study group to recommend that commissions be established by the full supreme court to address long term problems, and ad hoc committees be established to address specific problems. These measures have been standard procedure for quite some time and need no further attention.

Additionally, Conclusion #14 of the consulting report advances the notion that as resources permit, all commissions, committees, and ad hoc committees should be permitted to meet in-person. Although, it has been an ongoing policy to make every effort to conserve resources by utilizing such options as teleconferencing, videoconferencing, and other electronic meeting options, recent policy supports in-person meetings to the degree feasible. The study group fully recognized the value of commission, committee, and ad hoc committee members meeting in-person as opposed to teleconferences and videoconferences but determined no further action is required given current policy.

Conclusions from consultant’s report:

Conclusion 11: The Governance Study Group should consider recommending that the commissions be established by the full supreme court to address long term problems and that ad hoc committees be established by the full supreme court to address specific problems.

Conclusion 14: The Governance Study Group should consider recommending that as resources permit, commissions and ad hoc committees be permitted to meet in-person as needed to complete their charges in a timely manner.

Governance Study Group Action: No further action is needed as both conclusions above are consistent with current policy and practice.

XII. Conclusion

The Governance Study Group, appointed by Administrative Order No. AOSC09-43, undertook an extensive and in-depth study of the current governance system of the judicial branch, and thoroughly examined the structure and functions of the present governance system of the Florida Judicial Branch, and assessed its efficacy and efficiency. As directed, the scope of the study includes policy-making, budgeting, rulemaking, leadership, decision-making, planning, and intergovernmental relations.

As further outlined and authorized in the administrative order, the study group developed recommendations of actions, activities, or changes to advance effective and efficient improvement in the governance structure. To that end, the Governance Study Group presents this report and the recommendations as its final product and conclusions.

The consultant's report describes the current environment within the branch as a "propitious moment" in that there is widespread support for a more unified systems approach to enhance progress, alignment, coherence, and functioning. The Governance Study Group concurs and respectfully submits this report to the supreme court, and asks the court to accept the report, and approve and implement the recommendations. It is believed these recommendations, based on vigorous research and feedback, will result in more efficient justice on behalf of the people of Florida.