

## **Issue 4 – Enhancing Court Access and Services**

Goal 4.1: Provide meaningful access to Florida’s courts for all people.

Goal 4.2: Florida’s courts will provide the highest quality of services to court users.

Goal 4.3: Florida’s courts will treat all people fairly and with respect.

### **Public Access to the Courts is a Cornerstone of Our Justice System**

Litigants may face a variety of obstacles in seeking access to the courts, including procedural barriers, the cost of litigation, physical obstacles, language and communication barriers, and cultural and attitudinal biases. The judicial branch has worked to identify and to ameliorate the various barriers that exist, preventing meaningful access to the courts. These actions include providing assistance and information to self-represented litigants, promoting architectural and electronic access for people with disabilities, and working to increase the pool of qualified court interpreters. The following sub-sections describe the actions taken by the state courts system to address various aspects of access to the courts.

#### Available Resources Provide Information and Procedural Help to Those Involved in the Court Process

The Florida State Courts Self-Help web page provides access to information from local self-help centers, free and low-cost legal aid, and family law forms for use in dissolution, paternity, child support, domestic violence, name change, and grandparent visitation cases. The forms are up-to-date, in engrossed (ready to use) format, with all amendments incorporated. All forms are provided free of charge by the Florida Supreme Court.

OSCA’s Office of Court Improvement (OCI) has developed, updated, and distributed a series of videos, publications, and other materials to be used by individuals involved in various types of family law cases. In conjunction with the Dependency Court Multidisciplinary Panel, the OCI developed a guide to help young children (8 to 12 years old) prepare meaningfully for dependency court and to assist them with the debriefing process after a court event. Thirteen thousand (13,000) copies of this activity booklet were published and have been made available to children involved in dependency cases. A video explaining dependency court, as well as court processes and participants was developed for older children (12 to 18 years old), urging them to play an active role in their hearings; this video is freely available online. The OCI also reprinted and distributed informational brochures for domestic violence petitioners and respondents, and developed an on-line platform to allow participants in the domestic violence injunction process to complete pertinent forms online.

## Florida's Courts Address Architectural and Electronic Access for People with Disabilities

From 2009-2011, Florida's courts have continued their progress in eliminating architectural obstacles identified in the court accessibility initiative established by then-Chief Justice R. Fred Lewis in 2006. Despite the scarcity of funding at the state and local levels, more court facilities now have ADA accessible daises and ante-rooms, water fountains, auto-open entry doors, and restrooms as well as ADA compliant ramps, countertop heights, door-closer speeds, assistive listening devices, and handrail returns; more courts also restriped parking lots to create additional accessible parking spaces or to correct the design of existing accessible parking spaces, and they created and posted signs to better inform court visitors with disabilities about the process to request the accommodations that may be needed to participate in court proceedings or activities.

To better inform Florida's courts and the public about their rights and obligations under the ADA, in 2010 the branch also implemented supreme court-approved amendments to Rule of Judicial Administration 2.540. In response to the rule amendments, each court reviewed and updated the ADA notice language that is included on notices of hearing, jury summonses, and other forms. In addition, courts posted on their website and in each courthouse the procedures for requesting an accommodation and the grievance procedures for informally resolving complaints. The rule amendments also require courts to provide a written response when the court denies an accommodation, grants it only in part, or grants an alternative accommodation. With the assistance of a workgroup, OSCA developed a Model ADA Accommodation Request Form and invited each circuit and district to customize the form for its own use.

The following ADA guidelines are posted on the State Court System website to assist judges and staff in implementing the ADA in the court system. Title I Guidelines assist elected officials, nonjudicial officers, and supervisors in ensuring compliance with the employment provisions of the ADA; Title II Guidelines assist judicial officers and courthouse personnel in understanding the provisions of the ADA relating to accessibility of state and local government services, programs, and activities and assist the courts in ensuring that architectural or communication barriers do not obstruct any person's access to the courts.

In the summer of 2010, the US Department of Justice published new regulations regarding implementation of Title II of the ADA, regulating access to the services, programs, and activities of state and local government; topics addressed include two-tiers of mobility devices, expanding the list of auxiliary communication aids and services, and revisions concerning companions, service animals, and telecommunications. The department also adopted new ADA Standards for Accessible Design, which govern new construction and renovations to existing court facilities. The new regulations and standards became enforceable in March 2011, and the OSCA has diligently communicated these changes throughout the court system.

Since the 1990 enactment of the ADA, each circuit and appellate court has designated at least one staff member to serve as that court's ADA coordinator. The local court ADA coordinators

work in conjunction with the statewide ADA coordinator to provide auxiliary aids and services that persons with disabilities need to effectively communicate with the court, modify policies and procedures, and ameliorate or eradicate architectural barriers. The ADA coordinators communicate every other month via conference call to learn about various types of disabilities and examples of accommodations, learn about resources available to assist the courts in implementing the ADA, to discuss challenging situations, and to find out about other relevant news/events.

Because Florida's courts increasingly provide access to court information and services through their websites and other electronic means, communications via electronic information and information technologies must be accessible to individuals with disabilities. Florida courts have been using Section 508 Standards, developed by the US Access Board, to ensure compliance with the ADA relative to effective communication in electronic formats. All documents, websites, web-based enterprises, email, and multi-media presentations created by OSCA must be accessible to employees and members of the public. OSCA staff offer live training as well as distance learning opportunities on ADA/508 standards for electronic information and making complex documents accessible. Trainings have been provided to supreme court and OSCA staff, as well as to court employees around the state and to staff of the Florida Bar and the Florida Board of Bar Examiners. Steps are being taken to ensure that electronic filing is also accessible to persons with disabilities. The US Department of Justice has affirmed that state and local government websites are covered by Title II of the ADA, and is in the process of developing regulations regarding web accessibility standards. Once these regulations are finalized and published, Florida's courts will be responsible for ensuring that all of their new or altered web content meets those new federal accessibility standards.

#### Court Interpreters Provide Court Access to Non-English Speakers and Those Not Fluent in English

Meaningful access to the courts should be available for all people, regardless of their ability to communicate effectively in the English language. With 18.7 percent of Florida's population foreign born, and with 25.8 percent speaking a language other than English at home, the judicial branch is especially vigilant against English language bias and continues to make concerted efforts to reduce the effects of communication barriers to Florida's courts.

The State Courts System has developed a statewide program to assist judges and trial court administrators in assessing the qualifications of court interpreters, including the use of written and oral qualifications examinations. Through the OSCA, the Court Interpreter Certification Board is responsible for certifying, regulating, and disciplining court-appointed foreign language court interpreters, as well as suspending and revoking certification. OSCA currently offers oral qualifications examinations in the following languages: Arabic, Cantonese, French, Haitian Creole, Hmong, Ilocano, Korean, Laotian, Mandarin, Polish, Portuguese, Russian, Somali, Spanish, and Vietnamese. Although Florida's population comprises considerable cultural diversity, currently certification has been awarded only to interpreters who speak Spanish,

Haitian-Creole, French, Russian, and Portuguese; as of August, 2011, a total of 155 court interpreters have been certified.

Florida Rule of Judicial Administration 2.560(e) allows for the appointment of either duly qualified or certified spoken language interpreters for select cases, and calls for a diligent search to be made in appointing an interpreter in either category. There is also a provision to allow the appointment of an individual who is neither certified nor duly qualified, but only in limited circumstances. A duly qualified interpreter is one who: has obtained a passing grade on a written examination administered by the OSCA; has attended a two-day orientation program offered by the OSCA; has an understanding of basic legal terminology in both languages; and, is familiar with Part III of the court rules which outline the appropriate conduct for certified court interpreters and articulate a core set of principles for court interpreters. A certified court interpreter is one who: meets duly qualified interpreter criteria, plus passes an oral proficiency exam, consents to a background check, and agrees to obtain continuing education credits. The Editorial Committee of the Florida Court Education Council's Publications Committee is in the process of finalizing a benchbook for judges on court interpretation to provide guidance and information to judges on the use of court interpreter services. The benchbook includes a chapter on interpretation for those who are deaf/hard-of-hearing, and is expected to be finalized and published in early 2012.

Given the limited number of certified (or duly qualified) court interpreters, the substantial need for court interpreting services, the fiscal limitations of the court system's budget, and the need for swift and effective administration of justice, two judicial circuits have explored remote interpreting services as an alternative to the traditional model of in-person, face-to-face court interpretation. Remote audio technology enables court interpreters to connect to any courtroom, communicate directly with the participants, and deliver simultaneous interpretation. This empowers circuit courts to support a greater number of hearings with existing staff and resources, thus increasing efficiency and reducing costs. The Ninth Judicial Circuit implemented its Remote Court Interpreting Program in 2007, and the Seventeenth Judicial Circuit began its Remote Interpreting System in 2010. Though the two circuits utilize different kinds of technology to perform the remote interpreting service, both report that their programs have been successful in providing a much-needed service with improved operational efficiencies and significant savings.

### **Florida's Courts Are Committed to Providing Consistent Levels of High Quality, Appropriate Services to Court Users**

Despite on-going fiscal restraints, the State Court System continues its efforts to address the needs of court users through various initiatives and programs designed to provide information, assistance, resources, and services to litigants. The following sub-sections describe these efforts in the areas of alternative dispute resolution, family courts, drug courts, and the mental health initiatives.

## Alternative Dispute Resolution Methods Assist in Improving the Administration of Justice

Alternative dispute resolution (ADR) was brought under the auspices of Florida's court system in 1988, and since that time the judicial branch has developed one of the most comprehensive court-connected mediation programs in the country. Mediation and other alternative dispute resolution methods open communication and facilitate problem-solving between parties, thereby conserving judicial time and court resources. Currently, there are court-based mediation programs serving each of the twenty judicial circuits in the state; additionally, there are over 6,200 private certified mediators in Florida. The OSCA's Dispute Resolution Center (DRC) provides staff assistance to four Supreme Court of Florida mediation boards and committees; certifies mediators and mediation training programs; sponsors an annual conference for mediators and arbitrators; publishes a newsletter and the DRC Compendium of ADR Programs; provides basic and advanced county mediation training to volunteers; and assists the local court systems throughout Florida as needed. In August, 2009, the DRC conducted a statewide conference for mediators and arbitrators which approximately 1,000 individuals attended, including judges, court staff, volunteers, and private mediators; due to a change in leadership as well as limited resources, the DRC did not put on a statewide conference in 2010. The DRC conducted a statewide conference in August 2011, and its attendance mirrored that of the 2009 with approximately 850 attendees. DRC staff conducted continuing mediator education programs on mediator ethics, domestic violence and cultural diversity (fiscal years 2009-10 and 2010-11) for over 130 certified mediators; attendees were primarily those mediators who volunteer in court-connected county mediation programs.

The Supreme Court Committee on Alternative Dispute Resolution Rules and Policy proposed changes in several areas of mediation including refining rules, training standards and practice. Revised, updated mediation standards and procedures reflecting significant changes in ADR rules and statutes were recommended to the supreme court, and were adopted by the court in July, 2009. The committee recommended and the supreme court adopted the addition of certification in appellate court mediation as well as the revision of rules governing mediator advertising and marketing.

## Family Court Strives to Resolve Disputes That Touch Families in a Fair, Timely, Efficient, and Cost-effective Way

Some of the most difficult and private family matters – including separation and divorce, child support, child neglect, delinquency, dependency, family violence, substance abuse, and mental illness - often end up being addressed in the courts. The judicial branch has adopted pioneering practices and programs to develop an integrated, comprehensive approach to handling such sensitive cases. To that end, the supreme court established the first family court committee in 1994, and has continued to recognize the significance of family courts through establishing and continuing to support the Steering Committee on Families and Children in the Court (FCC). Reconstituted by Chief Justice Canady in 2010 and chaired by Justice Pariente, the Steering Committee is tasked with several charges related to Unified Family Courts (UFC) implementation, as well as addressing rule and statutory issues, identifying and defining

elements necessary for effective family court case management, and liaising with the multi-disciplinary Dependency Court Improvement Panel. Three subcommittees have been formed to address the committee's charges; one is working with the Dependency Court Improvement Panel to establish model dependency courts across the state, another is working with charges involving the Florida Rules of Judicial Administration and the Florida Statutes, while the third is working on some of the barriers to UFC implementation. Supported by and working in conjunction with OSCA's Office of Court Improvement (OCI) staff, the Steering Committee has played an important role in the development of various resources and opportunities for family court improvement.

Within the OSCA, the Office of Court Improvement (OCI) provides technical assistance to judges and court staff in the trial courts throughout the state, thus reinforcing and enhancing substantive and procedural knowledge. With regard to domestic violence cases, OCI provides updated materials to judges attending the New Judges College, phases I and II, and in March, 2011 held a statewide meeting of domestic violence coordinators/case managers to provide and exchange information on current issues. Technical assistance is also provided to judges and court staff on dependency cases and issues. In both fiscal years 2009-10 and 2010-11, five regional judicial forums were conducted throughout the state on issues in dependency court as well as the newly revised dependency bench book, enabling judges to review and discuss legal changes and issues in an informal format. In January 2011, the Dependency Court Improvement Panel sponsored a three day conference, bringing together court-based and community-based individuals and organizations committed to implementing a model dependency court in their circuits. OCI also arranged for a technical assistance consultation to be provided to a circuit juvenile drug court team by a national expert, who conducted interviews and observations, and then provided a written report including recommendations. This partnership between OSCA/OCI and the trial courts facilitates a free flow of information in both directions and thereby improves the effectiveness of the court system.

#### Drug Courts Offer a Cost-effective Alternative to Incarceration

First implemented in Miami-Dade County in 1989, drug courts have since expanded throughout Florida as well as across the United States and numerous other countries. Drug courts typically involve a 12 to 18 month process in which non-violent substance abusers are placed into treatment programs under the supervision of a judge and a team of treatment and justice-system professionals. The drug court model includes adult felony, misdemeanor, juvenile, dependency, juvenile re-entry, and DUI drug courts; there are currently 103 drug court programs in Florida. Drug courts focus on the offenders' treatment and recovery by moving drug-related cases from the courtroom environment to community treatment and rehabilitation services; participants receive needed treatment and are required to undergo random alcohol and drug tests, with rewards for positive behavior and sanctions for negative behavior, and to maintain ongoing interaction with the courts. This combination of treatment and accountability provides the opportunity to recover from addiction and to avoid further criminal justice sanctions such as imprisonment, producing positive outcomes for individuals and avoiding the substantial public costs of incarceration. Based on available data, drug court

treatment and services are estimated to cost approximately \$30 less per day per person than incarceration in a Florida prison, an annual savings of nearly \$11,000 per individual. Thus, the diversion of non-violent felony offenders from prison to successful treatment and diversion programs offers the potential to save millions of dollars each year.

Supported by federal stimulus funding appropriated to the court system by the legislature in 2009, Florida has undertaken the expansion of adult post-adjudicatory drug court programs in eight counties across the state. The expansion program is a joint project of the court system, county governments, the offices of the state attorneys and public defenders, the Department of Corrections, and substance abuse treatment providers. Participating drug courts are required to meet specific data-reporting requirements in order to comply with the state and federal reporting requirements. The OSCA's staff have been working with a contracted vendor on the development of the data/case management system to be used to capture and aggregate the expansion drug court data; at a minimum, these data will be used by the judicial branch and the legislature to evaluate the viability of adult post-judicatory drug courts.

In recent years, research has shown that drug court programs reduce recidivism, increase public safety, return former substance abusers to productive lives, restore families, and save lives, in addition to saving public dollars. However, to date there has been no statewide evaluation of the effectiveness of Florida's drug courts. The supreme court's Task Force on Treatment-Based Drug Courts, in conjunction with OSCA's Office of Court Improvement and with technical assistance from the National Center for State Courts, developed a plan for evaluating Florida's drug courts. In 2010, the OSCA obtained a Bureau of Justice Assistance grant to perform the statewide evaluation, designed to measure the efficacy of drug court for drug and alcohol addicted individuals who enter the criminal justice system. Through a competitive bidding process, the OSCA has selected a vendor to conduct the evaluation, and the process of identifying the drug courts to participate in the evaluation is underway; the final evaluation report will be completed by the fall of 2012.

#### Mental Health Initiatives Focus on Treatment Rather Than Incarceration

Since 2006, the court system has recognized that the arrest and incarceration of those with serious mental illnesses has wasted critical tax dollars and put recovery out of reach for countless Floridians. Individuals who are arrested for felony offenses and found incompetent to stand trial meet the criteria for forensic hospitalization, but due to the scarcity of forensic beds relative to the number of individuals in need of those beds, may instead spend months in jail without any services to restore competency and thereby depleting county resources. Additionally, the state spends hundreds of millions of dollars to house people with mental illnesses in state prisons and forensic treatment facilities. Once competency has been restored, these persons stand trial and if convicted, are sentenced to jail or prison where they receive no further treatment, so their illnesses often worsen. Then-Chief Justice R. Fred Lewis established the Mental Health Subcommittee in 2006, under the Steering Committee on Families and Children in the Court, to study this issue and make recommendations.

In 2010, Chief Justice Canady issued an Administrative Order, AOSC10-52, creating the Task Force on Substance Abuse and Mental Health Issues in order to continue the momentum created by the Mental Health Subcommittee; Judge Steven Leifman was appointed to chair the Task Force. Recognizing that substance abuse and mental illness often co-occur and that the judicial case management principles associated with cases involving those conditions are similar, the Task Force is directed to continue to promote the recommendations contained in the *Transforming Florida's Mental Health System 2007* report, to propose a strategy to address unresolved matters from the reports on the Task Force of Treatment-Based Drug Courts, and to provide guidance to the OSCA as it resolves implementation issues related to the drug court expansion project. After the Task Force's first meeting, Chief Justice Canady added a fourth charge: to consider how Florida's courts may more effectively serve veterans with mental illnesses and substance abuse issues who become involved in the criminal justice system.

### **Florida's Courts Work to Ensure That All People will be Treated Fairly and with Dignity When They Appear in Court**

Today's judicial system is confronted by rapid and profound social, economic, demographic, and technological changes. The court system faces tremendous obstacles in light of these sweeping new challenges and pressures as it strives to meet its mandate to provide justice. Justice requires that the court system be open and accessible to all; respect the dignity of every person; and, respond to the needs of all members of society. Florida's judicial branch continues its active commitment to equal access, fairness, and justice for all.

#### The Supreme Court Standing Committee on Fairness and Diversity Provides a Continuing Focus on Fairness and Diversity

Established in 2004 by then-Chief Justice Barbara Pariente, the Standing Committee on Fairness and Diversity was created for the purpose of advancing the State Courts System's efforts to eliminate from court operations inappropriate bias based on race, gender, ethnicity, age, disability, or socioeconomic status. Each successive Chief Justice has extended the term of the Standing Committee to ensure that the important work of the committee continues to proceed; since 2008, the committee has been chaired by Judge Scott Bernstein of the 11th Judicial Circuit.

During fiscal years 2009-10 and 2010-11, the Standing Committee completed a number of tasks outlined in the administrative orders issued by then-Chief Justice Quince and Chief Justice Canady. In order to identify and work to fortify court-community relationships, a survey was distributed to the Diversity Teams throughout the court system asking them to identify court projects and activities that educate the public about the court system and foster court community relationships. The committee found that individual courts connect with the public in a variety of ways that contribute to greater understanding of the court system and create venues in which the courts can facilitate dialogs on fairness and diversity topics. In the Ninth Judicial Circuit, for example, the "Inside the Courts" program introduces citizens to the court system and gives them an opportunity to interact with judges in an informal setting. The

committee has liaised with several law schools to develop linkages and collaborations between the diversity work of law schools and the Standing Committee, and has been actively involved in making presentations and disseminating materials at various law schools, and law student organizations. Additionally, several members of the committee made presentations to various Bar groups and conferences regarding the committee's work and the importance of diversity in the legal community. The Standing Committee also created the Diversity Events calendar, posted on the committee's web page, describing court-based diversity events that are being held throughout the state.

Another committee initiative has been to collaborate with the Florida Court Education Council (FCEC) to identify and recommend resources for implementing permanent fairness and diversity training for judges and court staff at the state and local level. The committee estimates that by the end of fiscal 2009-10, approximately 90 percent of judges, general magistrates, and hearing officers and 66 percent of court staff had attended a day-long diversity training program. In response to recommendations from the FCEC, in December 2010 the supreme court adopted amendments to the Florida Rule of Judicial Administration; the amendments increase the number of continuing judicial education credit hours required in ethics from two to four hours, and clarify that approved courses in fairness and diversity can be used to fulfill the ethics requirement.