

Report of the 2006 – 2008



Florida Supreme Court

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Circuit Court Judge, Second Judicial Circuit**

Justice Barbara J. Pariente, Supreme Court Liaison
Florida Supreme Court



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Table of Contents

EXECUTIVE SUMMARY

Committee’s Accomplishments	9
CHARGE 1	9
CHARGE 2	10
CHARGE 3	11
CHARGE 4	11
CHARGE 5	12
CHARGE 6	12
CHARGE 7	13
Committee’s Recommendations for Court Action	14
1) Committee’s Proposed Juvenile Rule Amendment, Support Summary Court Form and Child Support Rule:	14
2) Mental Health Education for Judges:	14
3) Dependency Court Education for Families:	16
4) Circuit Data Collection and Technical Assistance:	16
5) Impediments in Florida Statutes and Court Rules Inhibiting UFC Operations:	18

REPORT OF THE 2006 - 2008 FAMILIES AND CHILDREN IN THE COURT STEERING COMMITTEE

I. Background	23
II. Committee Accomplishments	24

CHARGE 1	24
CHARGE 2	26
CHARGE 3	29
CHARGE 4	30
CHARGE 5	31
CHARGE 6	32
CHARGE 7	32
III. Committee’s Recommendations for Court Action.....	33
A. Committee’s Proposed Rule Amendment, Rule and Court Form.....	34
B. Mental Health Education for Judges	37
C. Dependency Court Education for Families	42
D. Circuit Data Collection and Technical Assistance.....	43
E. Impediments in Florida Statutes and Court Rules Inhibiting UFC Operations	47
IV. Further Explanation of each Subcommittee’s Work and Determinations.....	61
Subcommittee 1	61
Critical Area 1: The Presence and Participation of Children in Dependency Hearings	62
Critical Area 2: Difficulties in Determining the Types of Services	63
Critical Area 3: Extending Jurisdiction	64
Critical Area 4: Services for Youth Aging Out of the Juvenile Justice System	64
Subcommittee 2	65
Focus Area 1: Mental Health Needs of Children Who Appear in Court	66

Focus Area 2: Comprehensive System of Mental Health Care.....	70
Focus Area 3: Creating a Justice System Specific Continuum of Care	74
Focus Area 4: Developing a Comprehensive and Competent Mental Health System for the Juvenile Justice and Child Protection Systems	75
Focus Area 5: Enhancing Judicial Education and Community Collaborations	76
Subcommittee 3	83
Subcommittee 4	84
Subcommittee 5	85
Subcommittee 6	88
Subcommittee 7	89
V. Conclusion	90
APPENDICIES: 1 – 12	

EXECUTIVE SUMMARY
OF THE
FCC 2006-2008 REPORT

The accomplishments and recommendations of the 2006-2008 Florida Supreme Court Steering Committee on Families and Children in the Court are summarized below. Each are further explained within this report under Section II. and III. The Committee's recommendations for further Court action are also set out separately and further explained in the committee's formal Request for Court Action, which is submitted to the Court simultaneously with this report. Similarly, the committee's proposed rule amendment will be discussed further and submitted to the Court in a petition. The committee's petition will be filed by June 30, 2008.

Committee's Accomplishments

CHARGE 1 – *Examine the role of courts in dependency cases in which children leave the foster care system without a permanent family, such as when the child reaches adulthood and “ages out” of the foster care system. Based on this examination, the Steering Committee shall develop recommendations for courts handling these cases and formulate an action plan for implementing those recommendations by the court system.*

- **Proposed Juvenile Rule Amendment** – The committee identified the nonattendance of youth at risk of “aging out” of the foster care system as an issue that impedes the success of youth. To address these issues, the committee drafted a rule proposal that would amend Florida Rule of Juvenile Procedure 8.255. The committee presented its proposed rule amendment to The Florida Bar's Juvenile Rules Committee during the Bar's mid-year meeting in January 2008. The proposed rule amendment will be submitted to the Court in a petition before June 30, 2008. *See Appendix 1.*
- **Independent Living Services Checklist** – In order to assist judges and magistrates as they navigate the statutorily mandated services and required judicial reviews for youth “aging out” of foster care, the committee created an Independent Living Checklist. The Office of the State Courts Administrator (OSCA) mailed the checklist to all dependency judges and

will include it in the next revision of Florida's Dependency Benchbook. *See* Appendix 2.

- **Amended Statutes** – The committee determined that Florida Statutes needed to be revised to make Guardian Advocates available for older foster youth; who have developmental disabilities, lack the mental capacity to make decisions about their physical and mental health and their property, and are “aging out” of the foster care system. A guardian advocate would be responsible for making all of the decisions regarding the youth’s medical and psychological treatment and care when the youth turns eighteen. Subsequently, the 2008 Florida Legislature addressed this issue in House Bill 739 and the Governor signed the bill into law on June 10, 2008. *See* Chapter 2008-124, Laws of Florida. The new law, which will permit the courts to appoint a guardian advocate under certain circumstances, will be effective July 1, 2008,

CHARGE 2 – *Create a subcommittee to study and examine the scope, impact, and relationship of mental health issues with regard to individuals involved in the justice system. Based on this study and examination, develop recommendations for courts to address, process, and deal with individuals having mental health issues and formulate an action plan for implementation of the recommendations by the court system.*

- **Comprehensive Mental Health Plan** – The committee partnered with the Florida Supreme Court Chief Justice’s Criminal/Mental Health Leadership Initiative to developed a comprehensive plan intended to reduce the number of people with mental illnesses involved in the justice system, to enhance the administration of justice for cases involving people with mental illnesses, and to improve the responsiveness of the community mental health system to individuals at risk of justice system involvement.¹

¹ The Report can be accessed online at: www.floridasupremecourt.org/pub_info/documents/11-14-2007_Mental_Health_Report.pdf

- The comprehensive mental health report has received considerable national attention and is being considered by several other states as a model for enhancing the administration of criminal justice and mental health systems.
- **Mental Health Legislation** – Draft legislation based on recommendations from the report was introduced during the 2008 Florida Legislative Session. Members of the subcommittee engaged leadership in the executive and legislative branches to sustain the efforts initiated by this body, and to develop interim strategies to address the immediate needs of the justice and forensic mental health systems.

CHARGE 3 – *Develop a video on the dependency system for use in courthouses to inform parents about how dependency cases proceed and the types of things parents may expect to happen in their cases.*

- **Dependency DVD** – The committee developed an informative video titled *A Family Guide to Dependency Court*. Copies of the DVD were disseminated on November 28, 2007, to Florida’s dependency judges, court staff, offices of Guardian ad Litem, Department of Children and Families (DCF), and Community-Based Care providers.

CHARGE 4 – *Consistent with the requirements of In re: Implementation of Report and Recommendation of the Committee on Privacy and Court Records No.*

AOSC06-20 (Fla. June 30, 2006):

- a. *Consider and make recommendations on the sealing of psycho-social evaluations, psychological evaluations, and guardian ad litem reports in family court cases and, if necessary, propose amendments to the rules of court procedure to effectuate those recommendations; and*
- b. *Review the Supreme Court Approved Family Law Forms to determine if personal information that is not necessary for adjudication or case management is being required in the forms.*

- **Committee’s Recommendations and Proposed Amendments** – The committee completed Charge 4a. and filed its recommendations on July 31, 2007. *See* Appendix 3.
- **Committee’s Report of Unnecessary Personal Information in Court Forms** – On behalf of the committee, OSCA staff reviewed the Supreme Court Approved Family Law Forms to determine if personal information that is not necessary for adjudication or case management is currently required when completing the forms. The committee completed Charge 4b. and sent documentation of its findings to Judge Judith Kreeger, Chair of the Court’s Committee on Privacy and Court Records, on November 9, 2007. *See* Appendix 4.

CHARGE 5 – *Develop a standardized child support order for use throughout the state that will provide the Department of Revenue with the uniform information the Department needs for establishment and enforcement purposes.*

- **Proposed Court Form and Rule** – The committee’s diligent work resulted in the creation of a proposed Court form – Support Summary Sheet, and a child support rule. The committee’s proposed Support Summary Sheet was created to capture in one location the information regarding all alimony and child support ordered in all related family court proceedings. The committee’s proposed child support rule specifies the information that should be included uniformly in Florida’s child support orders and mandates use of the proposed Support Summary Sheet.²

CHARGE 6 – *Design a means to regularly collect meaningful data that will help to improve judicial case management of civil domestic violence cases.*

² The committee’s proposed child support rule and related Support Summary Sheet form will be submitted to the Court in the committee’s Request for Court Action; rather than by petition as the committee initially hoped, because further work with the Bar is necessary before it is submitted to the Court.

- **Mechanism to Collect Domestic Violence Case Data** – The committee identified specific types of data elements that should be collected by Florida’s judicial circuits in civil domestic violence injunctions (DVI) cases to further improve effective judicial case management and determined that, until additional funding and technology is available, capturing data within an Excel spreadsheet is the best means available to collect the data. To this end, the subcommittee included a sample Excel spreadsheet that could be used by the circuits. *See Appendix 5.*

CHARGE 7 – *Examine existing court rules that impact the implementation of the unified family court concept. Based on this examination, develop and recommend additional rules, repeal of rules, amendments to rules, coordination of rules, and any other system of process to enhance operation of the unified family court concept.*

Impediments in Florida Statutes and Court Rules Inhibiting Unified Family Court (UFC) Operations – After conducting a statewide survey of court stakeholders, the committee determined that the creation of one complete set of Family Court Rules, which would include all of the family and juvenile rules together, would be helpful to further implement the UFC concept. The committee worked towards that goal and made great strides by focusing on conflicts and impediments within the statutes and rules that inhibit the operation of the UFC concept. Ultimately nine areas that are in need of immediate work were identified – five general areas where rule changes are needed and four areas where issues need to be addressed by legislation to resolve a conflict. The nine areas identified by the committee as “in need of immediate work” are discussed in more detail, later in this report, under Section III.E. **Impediments in Florida Statutes and Court Rules Inhibiting UFC Operations.**

Committee's Recommendations for Court Action

1) Committee's Proposed Juvenile Rule Amendment, Support Summary Court Form and Child Support Rule:

- **Proposed Juvenile Rule Amendment** – The committee recommends that the Court adopt the committee's proposal to amend Florida Rule of Juvenile Procedure 8.255, regarding Presence of Child in dependency proceedings. The proposed rule amendment will be submitted to the Court in a petition to be filed by June 30, 2008. *See* Appendix 1.
- **Proposed Support Summary Court Form and Child Support Rule** – The committee's diligent work resulted in the creation of a proposed form – Support Summary Sheet, which was created to capture in one location the information regarding all alimony and child support ordered in all related family court proceedings, and a child support rule, which specifies the information that should be included uniformly in Florida's child support orders and mandates use of the proposed Support Summary Sheet. *See* Appendix 6(a) and 6(b). This committee, as advised by its liaison to The Florida Bar, recommends that the Court refer this issue to The Florida Bar Family Law Section Rules Committee (FBFLSRC), the larger of the Bar's rules committees, to be studied further and discussed with the Florida Association of Clerks and Comptrollers, if the FBFLSRC deems it appropriate and necessary.

2) Mental Health Education for Judges:

The committee recommends that the Court assign an existing or subsequent committee to oversee continued development of mental-health, substance use disorder, and co-occurring disorder education for Florida's judges, court staff and community stakeholders. Furthermore, it is recommended that the Court incorporate mental health as a component of the Florida Supreme Court Task Force on Treatment-Based Drug Courts.

Accordingly, the committee proposes that the recommendations below be dealt with jointly by Court committees and staff with appropriate expertise in judicial education, unified family court, and problem solving courts.

- Develop a course for trial court administrators on the use of case management in the handling of cases involving mental health, substance use disorders, and co-occurring disorders.
- Develop a certification standards system for judges, lawyers, and other court personnel in mental health, substance use disorders, and co-occurring disorders.
- Develop additional specialized and continuing educational opportunities around mental health, substance use disorders, and co-occurring disorders for judges, lawyers, and other court personnel.
- Create self-instruction materials to be incorporated on the court system webpage and links to other online resources relating to mental health, substance use disorders, and co-occurring disorders.
- Review the rules, statutes, and procedures that pertain to the authorization and administration of psychotherapeutic medications to children in foster care and child protective services and, where appropriate, recommended ways in which existing practices and procedures should be expanded and/or revised to provide additional oversight and review of medication administration for all children and adolescents in the dependency system.
- Develop specific training, standards, and bench materials for juvenile judges around psychotherapeutic medication prescribing practices in foster care after exploring strategies adopted by California and other states in which psychotherapeutic medication being prescribed for children, who are in the custody of the state, must be reviewed and approved by a consulting child psychiatrist working for the courts.
- Compile a bench book on mental health, substance use disorders, and co-occurring disorders containing resources that can be updated and made available to judges around the state.
- Collaborate with the Florida Department of Law Enforcement as it continues to revise law enforcement, corrections, and probation academy training curricula related to understanding and responding to people with mental

illnesses, substance use disorders, and those in crisis. Curricula should provide useful information for all new law enforcement, corrections, juvenile justice, and probation officers.

- Develop a system where eight to 16 hours of mental health, substance use disorders, and co-occurring disorders training are offered annually as a requirement for all judges, prosecutors, defense attorneys, corrections officers, and state and county probation officers.
- Work with each circuit to develop training/information programs for the judiciary and law enforcement that identifies community resources and how to access them.
- Develop a glossary that standardizes mental health and substance use disorders order related terminology across systems that addresses the needs of those with mental illnesses, substance use disorders, and co-occurring disorders.

3) Dependency Court Education for Families:

The committee recommends that a letter, signed jointly by the Chief Justice of the Supreme Court and the Secretary of Department of Children and Families, be sent to all trial court chief judges to request that the circuits show the committee's DVD, *A Family Guide to Dependency Court*, to parents at the earliest stage possible in their dependency cases. Copies of the DVD were disseminated on November 28, 2007, to Florida's dependency judges, court staff, offices of Guardian ad Litem, Department of Children and Families (DCF), and Community-Based Care providers.

4) Circuit Data Collection and Technical Assistance:

- **Circuit Domestic Violence Data Collection** – The committee recommends that the Court direct the OSCA to collect monthly domestic violence reports from the circuits by advising the circuits on data collection in domestic violence cases to ensure effective judicial case management, informing the circuits of the data elements identified by the committee, and recommending

that such data be captured monthly by the circuit's domestic violence coordinator within the committee's Excel spreadsheet and submitted to the Office of Court Improvement within the Office of the State Courts Administrator on a quarterly basis. *See* Appendix 5. Additionally, the committee recommends that the Court direct the OSCA to continue to assist the circuits with domestic violence data collection for two years. In particular, the OSCA should review and possibly update the list of applicable data elements and, as the data is utilized and technologies develop, update the system by which the data is captured and re-examine the process with the ultimate intent to develop a uniform case management system in Florida for domestic violence cases.

- **Circuit Technical Assistance with Mental Health Issues** – The committee recommends that the Court direct OSCA to
 - Create templates to guide local circuits in collecting uniform data and data-sharing agreements, which assure mistaken notions about confidentiality laws do not create barriers to appropriate data sharing, to enable circuits to share data across systems;
 - Encourage circuits to adopt minimum common data elements to facilitate comparisons of local problem-solving initiatives around criminal justice/mental health issues; and
 - Provide technical assistance to circuits as they develop administrative orders and Memoranda of Understanding (MOU) designed to consider:
 - Strategies which will promote and sustain significant involvement of the courts and members of the judiciary in local criminal and juvenile justice/mental health stakeholder collaborations;
 - Ways in which the courts and members of the judiciary may serve in leadership roles in addressing the effect of mental illnesses on the judicial system and in supporting the application of problem solving techniques in cases involving individuals with mental illnesses;
 - Methods for the courts and members of the judiciary to stimulate, support, and sustain joint problem-solving initiatives that address the availability of community resources, access to community-based services, system duplication, lack of coordinated care, programmatic and system outcomes, and information sharing;

- Processes to ensure information-sharing among stakeholders within the courts, criminal justice system, juvenile justice system, and community mental health and substance abuse treatment systems in order to improve early identification and treatment of individuals; and
- The creation of a multi-agency informed consent form.

5) Impediments in Florida Statutes and Court Rules Inhibiting UFC Operations:

The committee recommends the creation of one complete set of Family Court Rules that would include all of the juvenile and family court rules. Towards that goal, the committee reviewed all of the existing court rules and statutes and ultimately identified ten areas where the rules conflict and further work is needed immediately to enhance the operation of the Unified Family Court (UFC) concept – five general areas where rule changes are needed, four areas where issues need to be addressed by legislation, and one area where a rule change and possibly legislation are needed to resolve a conflict. The committee recommends that the Court assign subsequent committee(s) the task of reconciling the ten impediments identified by this committee. Thus, the committee recommends that the Court assign subsequent committee(s), as necessary, the following charge:

Study and recommend resolutions to the ten impediments within the Florida Statutes and Court Rules that were identified during the committee's 2006 - 2008 term as inhibiting Unified Family Court operation and continue to examine existing court rules and statutes that impact the implementation of the Unified Family Court concept. Recommend changes to current statutes and develop and recommend additional rules, repeal of rules, amendments to rules, coordination of rules, and any other system of process to enhance the operation of the unified family court concept and ultimately result in the creation of one complete set of Family Court Rules. When possible, liaison and work jointly with The Florida Bar's rules committees and Court committees to develop consistent and thoroughly proposed rules to enhance the operation of the Unified Family Court concept.

Each of the ten areas, identified by the committee as in need of immediate work, are summarized below in priority order, based on the responses from the committee's statewide survey and committee discussions, and further explained with this report under Section III.

- 1. Confidentiality of Communication(s) in Family Court Cases** – The committee recommends that the Court require a subsequent committee to further examine the issue of confidentiality of communication(s) in family court cases and develop and recommend additional rules, repeal of rules, amendments to rules, and coordination of rules that pertain to the confidentiality of communication(s) in order to enhance operation of the Unified Family Court concept.
- 2. Child as a Party and Legal Representation of Children** – The committee recommends that the Court require a subsequent committee to further examine the issue of children as parties and legal representation of children; and develop and recommend additional rules, repeal of rules, amendments to rules, coordination of rules, and amendments to statutes that pertain to the above issue in order to enhance operation of the Unified Family Court concept. In so doing, it is recommended that the Court require a subsequent committee to review California's 2008 Rule of Court Standard 5.40(c),(f), and (g), and Louisiana Supreme Court's Special Rules for Child Abuse and Neglect Cases and legislation as each pertains to the legal representation of children and children as parties. *See Appendix 8 and 9.*
- 3. Notice to Parties/Notice of Related Cases** – To continue the work of this committee, it is recommended that the Court require a subsequent committee to develop a rule to direct the use of the Notice of Related Cases Form in the coordination of related cases. The committee began work to develop a proposed notice rule but determined that in order to develop the most effective and efficient notice rule, the broader operational issues involved in handling related cases should first be further studied.
- 4. Judicial Procedures for Handling Related Cases** – The committee recommends that the Court require a subsequent committee to consider and create the following

- a. Create a procedure for handling crossover cases that requires the appearance of only those persons/parties necessary for a particular hearing. Specifically, clarify procedurally how to coordinate crossover cases without requiring everyone to appear for every hearing.
 - i. Consider how best to give notice to a party's lawyer in every case involving that party, without requiring the lawyer to file a notice of appearance in every case and without requiring attendance at every hearing in those cases wherein the lawyer has not appeared.
 - ii. Consider how best to coordinate the scheduling of hearings to allow the presence of children when children's presence is desirable or required.
- b. Create a rule that mirrors Florida Rules of Civil Procedure 1.270(a) in both the family and juvenile rules of court to facilitate the coordination of related cases.
- c. Create a rule which would allow a lawyer for a party to obtain access to all the family law files relating to that party, notwithstanding applicable confidentiality requirements.³
- d. Create a rule which would require judges to file copies of appropriate orders in all cases involving the same family, to avoid inconsistency. All applicable case numbers should be placed on the order and a copy placed in each file.
- e. Create a rule which would require the deletion or protection of confidential address information in all cases relating to domestic violence cases, wherein address confidentiality is asserted.
- f. Create a rule which would address the issue of closed versus open courtrooms, allow the determination of whether a courtroom should be open or closed to be at the discretion of the presiding judge, and require best interest findings.
- g. Create a rule which would address issues of electronic communications between and among judges in coordinated crossover cases.

³ Sections 985.045(2), 39.202(2), Florida Statutes, currently permit parties and certain persons, who have an interest in a delinquency or dependency case, to access delinquency or dependency files that are statutorily classified as confidential, but no authority permits counsel access to all related family court case files, whether classified as confidential or otherwise.

- h. Create a rule which would address the attendance of children in crossover case hearings, allow the determination of whether children should attend to be at the discretion of the presiding judge, and require best interest findings for excluding a child from a hearing.
- i. Create a rule which would require differentiated case management, and mandate a case management conference in crossover cases. Within the rule, clarify that matters to be addressed would potentially include not only those matters that are referenced in Rule 12.200, but also other matters as addressed in Florida's Family Court Toolkit: Volume 2 and the Florida Supreme Court's 2001 UFC opinion.
- j. Create a rule which addresses who gets notice of what proceedings or hearings in crossover cases.
- k. Create a rule which requires a single Family Law Administrative Judge for each circuit.

5. Parenting Coordination/Mediation –

- a. **Model Parenting Coordination Administrative Order:** This committee reviewed the model administrative order created by the 2005 workgroup and recommends that the Court require a subsequent committee to include participation of parenting coordination experts to review the Model Parenting Coordination Administrative Order and work that has been completed since 2005 on the Proposed Parenting Coordination Rule, enhance both as necessary, and possibly submit both to the Court for adoption. *See* Appendix 10(a), 10(b), and 11.
- b. **Inconsistencies Between Rules Governing Mediation:** In dependency and other related family law cases, inconsistencies between rules that govern mediation pose significant problems, particularly if a family has more than one related family court case. Thus, the committee recommends that the Court have a subsequent committee study this issue further, liaison with the Court's Alternative Dispute Resolution Committee, and make recommendations as to whether the provision in Florida Family Law Rule of Procedure 12.740(f), which requires that a party's attorney, who did not attend mediation, be provided a copy of the mediated agreement and permits the attorney to file a timely objection with the Court, should be deleted.

- 6. Inconsistency of Definitions among Florida’s Family Law Statutes –**
The committee recommends that the Court require a subsequent committee to review and propose legislation that would make the family court definitions – words and phrases – consistent throughout the Florida Statutes. In so doing, it is recommended that a subsequent committee review the list of conflicting definitions developed by this committee to facilitate its work. *See* Appendix 12.
- 7. Reconciling Differences between Termination of Parental Rights (TPR) Proceedings in Chapter 39 and 63, Florida Statutes –** Very significant differences exist between the procedures for termination of parental rights under Chapters 39 and 63, Florida Statutes. The committee recommends that the Court require a subsequent committee to review the issue and, as necessary, propose legislation that would make the procedures for involuntary TPR consistent between the two statutes – Chapter 39 and 63, Florida Statutes.
- 8. Benefit All Dependent Children by Extending Jurisdiction to Allow Continued Services for All Dependent Youth to Nineteen Years of Age –** The committee identified the need to amend Section 39.013(2), Florida Statutes, to extend jurisdiction to age nineteen for all youth. The committee recommends that the Court assign this issue to a subsequent committee to be studied further with the Florida’s Department of Children and Families Family Services (DCF), as collateral issues may impact that agency, and permit the committee to propose legislative changes it deems necessary.
- 9. Adult Transition Services Needed for Youth Aging Out of the Juvenile Justice System –** Youth who are under the supervision of Florida’s Department of Juvenile Justice (DJJ) would greatly benefit from Adult Transition Services. The committee recommends that changes be made to Section 985.03, Florida Statutes, and recommends that the Court require a subsequent committee to study this issue further with DJJ, in case collateral issues may impact that agency, and permit that committee to propose legislation, if such is deemed necessary.

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**REPORT OF THE 2006 – 2008
FAMILIES AND CHILDREN IN THE COURT STEERING COMMITTEE**

I. Background

The scope of the 2006-2008 Florida Supreme Court Steering Committee on Families and Children in the Court (committee) was more expansive this term than in years past. The committee continued its long held commitment to improve and refine the manner in which the Florida Court System serves families and children, but broadened its focus to examine the relationship of mental health issues with regard to individuals involved in the justice system. The committee identified and thoroughly examined the issues encompassed by the charges; studied the collateral impact of each issue on Florida's families, agencies and organizations; developed appropriate work product; liaised with The Florida Bar Family Law and Juvenile Rules Committees; and liaised with appropriate committees of the Court.

Eighty individuals participated in the committee's work during the 2006 – 2008 committee term. Twenty-two were appointed committee members, and the remaining fifty-eight participated as subcommittee members. All participants were divided among seven subcommittees, according to their expertise. The committee and subcommittees held four two-day meetings, two one-day meetings, and thirty one telephonic conference call meetings.

The extensive work of the committee resulted in two rule proposals, of which at this time the committee will be submitting only one to the Court; a form proposal; and numerous recommendations for further Court action. This report comprehensively lists the committee's accomplishments and recommendations. The committee's proposed rule amendment that pertains to the presence of children in court will be submitted to the Court in a petition by June 30, 2008. The committee's remaining recommendations for further court action will be submitted to the Court in a Request for Court Action by June 30.

II. Committee Accomplishments

CHARGE 1 - *Examine the role of courts in dependency cases in which children leave the foster care system without a permanent family, such as when the child reaches adulthood and "ages out" of the foster care system. Based on this examination, the Steering Committee shall develop recommendations for courts handling these cases and formulate an action plan for implementing those recommendations by the court system.*

Rule Proposal – While both federal and state statutes support the presence of children in court, it is not common practice throughout the state. The committee identified the nonattendance of youth at risk of "aging out" of the foster care system as an issue that impedes the success of youth. To address these issues, the committee drafted a rule proposal that would amend Florida Rule of Juvenile Procedure 8.255. The committee presented its proposed

rule amendment to The Florida Bar Juvenile Rules Committee during the Bar's mid-year meeting in January 2008. The proposed rule amendment will be submitted to the Court in a petition before June 30, 2008. *See* Appendix 1.

Independent Living Services Checklist – The complexity of the statutes regarding independent living services for youth “aging out” of foster care makes it difficult for judges and magistrates to determine the types of services available and when each should be offered. In order to assist judges and magistrates as they navigate the statutorily mandated services and required judicial reviews for youth “aging out” of foster care, the committee created an Independent Living Checklist. The Office of the State Courts Administrator (OSCA) mailed the checklist to all dependency judges and will include it in the next revision of Florida's Dependency Benchbook. *See* Appendix 2.

Amended Statutes – Guardian Advocates Needed for Older Foster Youth with Developmental Disabilities: There are certain individuals aging out of the foster care system who lack the mental capacity to make decisions about their physical and mental health and their property. As these individuals leave the foster care system, they need someone to make these and other

types of decisions on their behalf and in their best interest. A guardian advocate would be responsible for making all of the decisions regarding the youth's medical and psychological treatment and care, when the youth turns eighteen. The committee determined that Florida Statutes needed to be revised. Subsequently, the 2008 Florida Legislature addressed this issue in House Bill 739 and the Governor signed the bill into law on June 10, 2008. *See* Chapter 2008-124, Laws of Florida. The new law, which will permit the courts to appoint a guardian advocate under certain circumstances, will be effective July 1, 2008.

CHARGE 2 – *Create a subcommittee to study and examine the scope, impact, and relationship of mental health issues with regard to individuals involved in the justice system. Based on this study and examination, develop recommendations for courts to address, process, and deal with individuals having mental health issues and formulate an action plan for implementation of the recommendations by the court system.*

In an effort to address the increasing trend of people with untreated or under-treated mental illnesses becoming involved in the justice system, the committee's Mental Health Subcommittee was charged with identifying and recommending collaborative problem-solving strategies to improve the effectiveness and efficiency of both the justice and community mental health systems. In response to this charge, the subcommittee developed a

comprehensive plan intended to reduce the number of people with mental illnesses involved in the justice system, to enhance the administration of justice for cases involving people with mental illnesses, and to improve the responsiveness of the community mental health system to individuals at risk of justice system involvement.

Consisting of stakeholders from all three branches of government, as well as leading state and national experts, the subcommittee established four separate, but overlapping, workgroups: *Judicial Education and Rule-Making; Criminal Justice Advisory; Standards and Evidence Based Practices; and Policy, Legislative, and Finance*. The committee also partnered with the Florida Supreme Court Chief Justice's Criminal Justice/Mental Health Leadership Initiative, a project coordinated by the Council of State Governments Justice Center with help from the National GAINS Center. The final report of this initiative, which is entitled *Transforming Florida's Mental Health System*⁴ was released in November 2007 and details comprehensive recommendations for planning, leadership, financing, and service development.

⁴ The Report can be accessed online at: www.floridasupremecourt.org/pub_info/documents/11-14-2007_Mental_Health_Report.pdf

Key elements of the report include recommendations for improving judicial processing of cases involving adults with Serious Mental Illnesses (SMI) and children with Severe Emotional Disturbances (SED) involved in the criminal justice, juvenile justice, and dependency systems; recommendations for the development of specialized curricula and training for judges, court personnel, attorneys, law enforcement and correctional officers, and other community stakeholders; development of financing strategies that leverage federal resources and create incentives to prevent individuals from inappropriately entering the justice system; establishment of a service delivery model based on individualized treatment needs and risk of justice system involvement; development of enhanced service delivery systems and strategic interventions targeting the needs of individuals involved in or a risk of becoming involved in the justice system; and development of local and statewide partnerships that foster cross-system collaboration.

During the 2008 regular legislative session, draft legislation based on recommendations from the report was introduced. Although the draft legislation was well received by both chambers of the legislature, passing unanimously in Florida's House of Representatives, unprecedented budget

constraints prevented the legislation from being adopted by the Florida Senate. It did, however, succeed in educating lawmakers about the problems associated with mental illnesses in the justice system, as well as the importance of working across all branches of government to identify collaborative and lasting solutions. Members of the committee's Mental Health Subcommittee members continue to engage leadership in the executive and legislative branches to sustain the efforts initiated by this body, and to develop interim strategies to address the immediate needs of the justice and forensic mental health systems. In addition, the final report of the Florida Supreme Court Chief Justice's Criminal Justice/Mental Health Leadership Initiative final report has received considerable national attention and is being considered by several other states as a model for enhancing the administration of criminal justice and mental health systems.

CHARGE 3 – *Develop a video on the dependency system for use in courthouses to inform parents about how dependency cases proceed and the types of things parents may expect to happen in their cases.*

Dependency DVD – The committee developed an informative video titled *A Family Guide to Dependency Court*. Copies of the DVD were disseminated on November 28, 2007, to Florida's dependency judges, court staff, offices

of Guardian ad Litem, Department of Children and Families (DCF), and Community-Based Care providers.

CHARGE 4 – *Consistent with the requirements of In re: Implementation of Report and Recommendation of the Committee on Privacy and Court Records No.*

AOSC06-20 (Fla. June 30, 2006):

- a. Consider and make recommendations on the sealing of psycho-social evaluations, psychological evaluations, and guardian ad litem reports in family court cases and, if necessary, propose amendments to the rules of court procedure to effectuate those recommendations; and*
- b. Review the Supreme Court Approved Family Law Forms to determine if personal information that is not necessary for adjudication or case management is being required in the forms.*

Committee’s Recommendations and Proposed Amendments – The

committee completed Charge 4a. and filed its recommendations on July 31, 2007. *See* Appendix 3.

Committee’s Report of Unnecessary Personal Information in Court

Forms – On behalf of the committee, OSCA staff reviewed the Supreme

Court Approved Family Law Forms to determine if personal information

that is not necessary for adjudication or case management is currently

required when completing the forms. The committee completed Charge 4b.

and sent documentation of its findings to Judge Judith Kreeger, Chair of the

Court’s Committee on Privacy and Court Records, on November 9, 2007.

See Appendix 4.

CHARGE 5 – *Develop a standardized child support order for use throughout the state that will provide the Department of Revenue with the uniform information the Department needs for establishment and enforcement purposes.*

Proposed Court Form and Rule – The committee drafted a one-page child support “order” with the intent that it would be attached to all child support orders, regardless of the origin of the case. The order was presented to the full committee, and the Bar liaison took it to the members of The Florida Bar Family Law Rules Committee (FBFLRC). For various reasons, the FBFLRC was opposed to the order and voted against it. Subsequently, this committee’s chair, subcommittee chair, representative from the DOR, and liaison to the Bar held several conference calls and eventually agreed that a “form” rather than an “order” would provide DOR with the information it needs and the stakeholders with the necessary support information. The committee’s diligent work resulted in the creation of a proposed Court form – Support Summary Sheet, and a child support rule. The committee’s proposed Support Summary Sheet was created to capture in one location the information regarding all alimony and child support ordered in all related family court proceedings. The committee’s proposed child support rule specifies the information that should be included uniformly in Florida’s

child support orders and mandates use of the proposed Support Summary Sheet.⁵

CHARGE 6 – *Design a means to regularly collect meaningful data that will help to improve judicial case management of civil domestic violence cases.*

Mechanism to Collect Domestic Violence Case Data – The committee identified specific types of data elements that should be collected by Florida’s judicial circuits in civil domestic violence injunctions (DVI) cases to further improve effective judicial case management and determined that, until additional funding and technology is available, capturing data within an Excel spreadsheet is the best means available to collect the data. To this end, the subcommittee included a sample Excel spreadsheet that could be used by the circuits. *See Appendix 5.*

CHARGE 7 – *Examine existing court rules that impact the implementation of the unified family court concept. Based on this examination, develop and recommend additional rules, repeal of rules, amendments to rules, coordination of rules, and any other system of process to enhance operation of the unified family court concept.*

⁵ The committee’s proposed child support rule and related Support Summary Sheet form will be submitted to the Court in the committee’s Request for Court Action rather than by petition, because further work with the Bar is necessary before it is submitted to the Court.

Impediments in Florida Statutes and Court Rules Inhibiting Unified

Family Court (UFC) Operations – After conducting a statewide survey of court stakeholders, the committee determined that the creation of one complete set of Family Court Rules, which would include all of the family and juvenile rules together, would be helpful to further implement the UFC concept. In between and throughout the six subsequent subcommittee meetings, the committee worked towards that goal and made great strides by focusing on conflicts and impediments within the statutes and rules that inhibit the operation of the UFC concept. Ultimately nine areas that are in need of immediate work were identified – five general areas where rule changes are needed and four areas where issues need to be addressed by legislation to resolve a conflict. The nine areas identified by the committee as “in need of immediate work” are discussed in more detail, later in this report, under Section III.E. Impediments in Florida Statutes and Court Rules Inhibiting UFC Operations.

III. Committee’s Recommendations for Court Action

The extensive work of the committee to improve and refine the manner in which the Florida Court System serves families and children inevitably resulted in

numerous recommendations for further Court action. Each of the committee's recommendations for Court action is reported below under the following five categories: 1) Committee's Proposed Rule Amendment, Rule and Court form; 2) Mental Health Education for Judges; 3) Dependency Court Education for Families; 4) Circuit Data Collection and Technical Assistance; and 5) Impediments within Florida Statutes and Court Rules Inhibiting UFC Operations. The Committee's recommendations for further Court action are also set out separately and further explained in the committee's formal Request for Court Action, which is submitted to the Court simultaneously with this report. Similarly, the committee's proposed rule amendment will be discussed further and submitted to the Court in a petition. The committee's petition will be filed by June 30, 2008.

A. Committee's Proposed Rule Amendment, Rule and Court Form:

- (1) Proposed Juvenile Rule Amendment – Approve and adopt the committee's proposal to amend Florida Rule of Juvenile Procedure 8.255, regarding Presence of Child in dependency proceedings. The proposed rule amendment will be submitted to the Court in a petition to be filed by June 30, 2008. *See* Appendix 1.
- (2) Proposed Support Summary Court Form and Child Support Rule – This charge was developed in response to a request from the Department of

Revenue (DOR) for a standardized order. Stakeholders also desired to capture all the necessary child support information in one, easy to locate, standard document. It was envisioned that the order would eventually be written into the DOR's information system, enabling DOR attorneys to prepare orders with greater efficiency.

Initially, the committee drafted a one-page child support "order" with the intent that it would be attached to all child support orders, regardless of the origin of the case. The order was presented to the full committee, and the Bar liaison took it to the members of The Florida Bar Family Law Rules Committee (FBFLRC). For various reasons, the FBFLRC was opposed to the order and voted against it. Subsequently, this committee's chair, subcommittee chair, representative from the DOR, and liaison to the Bar held several conference calls and eventually agreed that a "form" rather than an "order" would provide DOR with the information it needs and the stakeholders with the necessary support. The committee's diligent work resulted in the creation of a proposed form – Support Summary Sheet, and child support rule. The committee's proposed Support Summary Sheet was created to capture in one location the information regarding all alimony and child support ordered in all related family court proceedings. The

committee's proposed child support rule specifies the information that should be included uniformly in Florida's child support orders and mandates use of the proposed Support Summary Sheet. *See* Appendix 6(a) and 6(b).

The committee presented its proposed Support Summary Sheet and child support rule to The Florida Bar Family Law Rules Committee during the Bar's mid-year meeting in January 2008. After discussion, the FBFLRC appointed a subcommittee to study this committee's proposals. The subcommittee proposed various amendments to this committee's proposed support form and rule and submitted each to the full FBFLRC for an email vote in May 2008. The results were 18-8 against the rule and 20-6 against the form.

The primary reason given by the FBFLRC for voting against the rule and form was that the rule and form created an obligation for the court to prepare a form that was not an order and had no judicial effect. Other reasons given included the following:

- The form is duplicative of the controlling court order.
- The form may cause confusion for non-lawyers.

- The information in the form, such as dates of birth and social security numbers, creates privacy issues and provides easy access to such information for persons who have no legitimate right.
- The amount of work required to create the form outweighs any proposed benefit of the form.

In a letter to committee staff, Judge McNeal, Chair of the FBFLRC, indicated that he thinks “the proposal [child support rule and form] would have more support if the rule required the clerk to complete the form, especially since they would benefit from it more than the judiciary.” See Appendix 7. Furthermore, he feels this issue could be discussed on a state level with the Florida Association of Clerks and Comptrollers. Thus, this committee, as advised by its liaison to The Florida Bar, recommends that the Court refer this issue to The Florida Bar Family Law Section Rules Committee (FBFLSRC), the larger of the Bar’s rules committees, to be studied further and discussed with the Florida Association of Clerks and Comptrollers, if the FBFLSRC deems it appropriate and necessary.

B. Mental Health Education for Judges:

The committee determined that education of judges and stakeholders is critical to properly addressing the mental health needs of children and

families engaged in the justice system. Substance use disorders, mental illnesses, and co-occurring mental illnesses and substance use disorders underlie 70-80% of the cases handled in the criminal division⁶, 70% of the cases handled in the dependency division⁷, 70-80% of the cases handled in the juvenile delinquency division⁸ of the courts, and no doubt contribute heavily to issues arising in marriage dissolution cases. Yet, only a small percentage of the judiciary has received any education or training on these subjects.

The committee worked with pertinent members of the court education community to incorporate education concerning substance use disorders, mental illnesses, and co-occurring disorders into the curricula at Florida Judicial College, Circuit and County Court Judicial Conferences, Florida College of Advanced Judicial Studies, and other subject-related seminars and conferences. However, it is clear that more work must be done to determine which courses should be offered, in what frequency they should

⁶ The Supreme Court Mental Health Report can be accessed online at: www.floridasupremecourt.org/pub_info/documents/11-14-2007_Mental_Health_Report.pdf

⁷ The National Center on Addiction and Substance Abuse at Columbia University (CASA). January 1999. *No Safe Haven: Children of Substance Abusing Parents*.

⁸ Skowyra, Kathleen and Cocooza, Joseph “A Blueprint for Change: Improving the System Response to Youth with Mental Health Needs Involved with the Juvenile Justice System,” June, 2006, Research and Program Brief – National Center for Mental Health and Juvenile Justice.

be offered, and which courses should be mandatory. As such, it is recommended that the Court assign an existing or subsequent committee to oversee continued development of judicial education, justice system education, and community stakeholder education around mental health, substance use disorders, and co-occurring disorders. Furthermore, it is recommended that the Court incorporate mental health as a component of the Florida Supreme Court Task Force on Treatment-Based Drug Courts to convene stakeholders and provide continued oversight and leadership in the effort to implement problem-solving initiatives that will reduce the number of people with mental illnesses in the justice system, enhance the administration of justice, and improve the responsiveness of the public mental health system.

Accordingly, the committee proposes that the recommendations below be dealt with jointly by Court committees and staff with appropriate expertise in judicial education, unified family court, and problem solving courts. The following recommendations are intended to complement judicial education and to support expanded educational and training opportunities for stakeholders throughout the justice system.

- Develop a course for trial court administrators on the use of case management in the handling of cases involving mental health, substance use disorders, and co-occurring disorders.
- Develop a certification standards system for judges, lawyers, and other court personnel in mental health, substance use disorders, and co-occurring disorders.
- Develop additional specialized and continuing educational opportunities around mental health, substance use disorders, and co-occurring disorders for judges, lawyers, and other court personnel.
- Create self-instruction materials to be incorporated on the court system webpage and links to other online resources relating to mental health, substance use disorders, and co-occurring disorders.
- Develop specific training, standards, and bench materials for juvenile judges around psychotherapeutic medication prescribing practices in foster care after exploring strategies adopted by California and other states in which psychotherapeutic medication being prescribed for children, who are in the custody of the state,

must be reviewed and approved by a consulting child psychiatrist working for the courts. California has developed one of the more comprehensive such programs requiring the completion of a detailed application justifying the use of any psychotherapeutic medications.

- Compile a bench book on mental health, substance use disorders, and co-occurring disorders containing resources that can be updated and made available to judges around the state.

The following recommendations pertain to the education of the judiciary as well as community stakeholders, as they are an integral part of the justice system:

- Collaborate with the Florida Department of Law Enforcement as it continues to revise law enforcement, corrections, and probation academy training curricula related to understanding and responding to people with mental illnesses, substance use disorders, and those in crisis. Curricula should provide useful information for all new law enforcement, corrections, juvenile justice, and probation officers.

- Develop a system where eight to 16 hours of mental health, substance use disorders, and co-occurring disorders training are offered annually as a requirement for all judges, prosecutors, defense attorneys, corrections officers, and state and county probation officers.
- Work with each circuit to develop training/information programs for the judiciary and law enforcement that identifies community resources and how to access them.
- Develop a glossary that standardizes mental health and substance use disorders order related terminology across systems that addresses the needs of those with mental illnesses, substance use disorders, and co-occurring disorders.

C. Dependency Court Education for Families:

The committee recommends that a letter, signed jointly by the Chief Justice of the Supreme Court and the Secretary of Department of Children and Families, be sent to all trial court chief judges to request that the circuits show the committee's DVD, *A Family Guide to Dependency Court*, to parents at the earliest stage possible in their dependency cases. Copies of

the DVD were disseminated on November 28, 2007, to Florida's dependency judges, court staff, offices of Guardian ad Litem, Department of Children and Families (DCF), and Community-Based Care providers.

D. Circuit Data Collection and Technical Assistance:

(1) Circuit Domestic Violence Data Collection: The committee identified specific data elements that should be collected by Florida's judicial circuits in civil domestic violence injunction cases to ensure effective judicial case management. It also determined that capturing data within an Excel spreadsheet is currently the best means available for data collection and created a sample Excel spreadsheet to be used by the circuits. *See Appendix 5.* The data elements identified by the committee, however, should not be viewed as an exhaustive list nor should the capturing of data within an Excel spreadsheet be viewed as the most advanced form of data collection. The committee studied and considered the Eleventh Judicial Circuit's data collection system but determined the use of an Excel spreadsheet to be the most feasible alternative because it is responsive to the committee's charge and remains possible with limited funds and technology. Thus, it is the committee's recommendation that the Court direct the OSCA to collect monthly domestic violence reports from the circuits by advising the circuits

on data collection in domestic violence cases to ensure effective judicial case management, informing the circuits of the data elements identified by the committee, and recommending that such data be captured monthly by the circuit's domestic violence coordinator within the committee's Excel spreadsheet and submitted to the Office of Court Improvement within the Office of the State Courts Administrator on a quarterly basis. Additionally, the committee recommends that the Court direct the OSCA to continue to assist the circuits with domestic violence data collection for two years. In particular, the OSCA should review and possibly update the list of applicable data elements and, as the data is utilized and technologies develop, update the system by which the data is captured and re-examine the process with the ultimate intent to develop a uniform case management system in Florida for domestic violence cases.

(2) Circuit Technical Assistance with Mental Health Issues: To assist with collaborative efforts and technical assistance relating to mental health issues at the circuit level, the committee recommends that the Court direct OSCA to provide technical assistance to circuits as they develop administrative orders and Memoranda of Understanding (MOU) designed to consider:

- Strategies which will promote and sustain significant involvement of the courts and members of the judiciary in local criminal and juvenile justice/mental health stakeholder collaborations;
- Ways in which the courts and members of the judiciary may serve in leadership roles in addressing the effect of mental illnesses on the judicial system and in supporting the application of problem solving techniques in cases involving individuals with mental illnesses;
- Methods for the courts and members of the judiciary to stimulate, support, and sustain joint problem-solving initiatives that address the availability of community resources, access to community-based services, system duplication, lack of coordinated care, programmatic and system outcomes, and information sharing;
- Processes to ensure information-sharing among stakeholders within the courts, criminal justice system, juvenile justice system, and community mental health and substance abuse treatment systems in order to improve early identification and treatment of individuals; and

- The creation of a multi-agency informed consent form.

It is also recommended that the Court direct the OSCA to encourage circuits to adopt minimum common data elements to facilitate comparisons of local problem-solving initiatives around criminal justice/mental health issues. Such data standards should include templates to guide local circuits in collecting uniform data, as well as model data-sharing agreements to enable circuits to share data across systems and to assure that mistaken notions about confidentiality laws do not create barriers to appropriate data sharing.

Additionally, trial courts are charged with reviewing and approving the administration of psychotropic medication to children. Because of concerns inherent in requiring judges to authorize medication administration for children in the dependency system, it is recommended that the Court require a subsequent committee to review the rules, statutes, and procedures that pertain to the authorization and administration of psychotherapeutic medications to children in foster care and child protective services and, where appropriate, recommended ways in which existing practices and procedures should be expanded and/or revised to provide additional

oversight and review of medication administration for all children and adolescents in the dependency system.

E. Impediments in Florida Statutes and Court Rules Inhibiting UFC Operations:

The committee recommends the creation of one complete set of Family Court Rules that would include all of the juvenile and family court rules. The committee's statewide survey responses indicated that such a set of rules would be beneficial. Survey responses also indicate that accomplishing such a daunting task will take considerable time. Thus, during the 2006 – 2008 term, the committee began and completed the initial work necessary towards meeting this goal and recommends that subsequent committees be employed to continue the process.

As charged, the committee reviewed all of the existing court rules and statutes and ultimately identified nine areas where the rules conflict and further work is needed immediately to enhance the operation of the Unified Family Court (UFC) concept – five general areas where rule changes are needed and four areas where issues need to be addressed by legislation to resolve a conflict. The committee studied, reviewed, identified, and categorized the nine identified impediments and recommends that the Court

assign subsequent committee(s) the task of reconciling the impediments identified by this committee. Thus, the committee recommends that the Court assign subsequent committee(s), as necessary, the following charge:

Study and recommend resolutions to the nine impediments within the Florida Statutes and Court Rules that were identified during the committee's 2006 - 2008 term as inhibiting Unified Family Court operation and continue to examine existing court rules and statutes that impact the implementation of the Unified Family Court concept. Recommend changes to current statutes and develop and recommend additional rules, repeal of rules, amendments to rules, coordination of rules, and any other system of process to enhance the operation of the unified family court concept and ultimately result in the creation of one complete set of Family Court Rules. When possible, liaison and work jointly with The Florida Bar's rules committees and Court committees to develop consistent and thoroughly proposed rules to enhance the operation of the Unified Family Court concept.

Each of the nine areas, identified by the committee as in need of immediate work, are explained below in priority order, based on the responses from the committee's statewide survey and committee discussions.

(1) Confidentiality of Communication(s) in Family Court Cases:

Multiple and complex confidentiality issues exist in family court cases, from the privacy of address information for domestic violence victims, to

financial and identity theft issues in domestic relations cases, to protection of identity and information of child victims and child subjects in dependency cases. The committee recommends that the Court require a subsequent committee to further examine the issue of confidentiality of communication(s) in family court cases and develop and recommend additional rules, repeal of rules, amendments to rules, and coordination of rules that pertain to the confidentiality of communication(s) in order to enhance operation of the Unified Family Court concept.

(2) Child as a Party and Legal Representation of Children: Children are parties in many family court cases and are the subject of many others; yet, they are frequently excluded from court proceedings, and their opinions and preferences are rarely heard. Children rarely have legal representation except in delinquency cases, and guardian ad litem representation is rare except in dependency and termination of parental rights cases under Chapter 39, Florida Statutes. Because of their age, past experiences, or lack of support from their parents or other adults, many children are unable to understand courtroom proceedings and fully participate in the hearings that could have drastic and long lasting impact on their lives. The committee recommends that the Court require a subsequent committee to further

examine the issue of children as parties and legal representation of children; and develop and recommend additional rules, repeal of rules, amendments to rules, coordination of rules, and amendments to statutes that pertain to the above issue in order to enhance operation of the Unified Family Court concept. In so doing, it is recommended that the Court require a subsequent committee to review California's 2008 Rule of Court Standard 5.40(c),(f), and (g), and Louisiana Supreme Court's Special Rules for Child Abuse and Neglect Cases and legislation as each pertains to the legal representation of children and children as parties. *See* Appendix 8 and 9. California's 2008 Rule of Court Standard 5.4(c),(f), and (g) addresses standards for representation and compensation, appointment of attorneys and other persons, and educational rights of children in juvenile court. Louisiana Supreme Court Rule XXXIII. Special Rules for Child Abuse and Neglect Cases was created to effectuate the expeditious disposition of child abuse and neglect cases or juvenile cases under a one-family, one-judge policy; and Part III. of the rule sets forth qualifications and standards for attorneys representing children in Child in Need of Care cases. In particular, the Louisiana rule address the qualifications of appointed counsel, duties and

obligations, investigations, requests for services, hearings, and appellate review.

(3) Notice to Parties/Notice of Related Cases: A notice of related cases rule exists under Florida's Rules of Judicial Administration 2.545(d), which requires the petitioner in a family case to file with the court a notice of related cases, if related cases are known or reasonably ascertainable. A statewide notice of related cases form has been proposed by The Florida Bar Family Law Rules Committee and submitted to the Court under case number SC08-92. However, no rule to specify or direct the use of the notice form has been adopted, and circuits are currently using their own locally created forms. For crossover cases – multiple pending cases at one time for one family, to truly be coordinated, all of the necessary parties and attorneys need to be properly noticed and made aware of who will be involved and the scope of the proceedings. If the necessary parties and attorneys are not properly notified, the parties and attorneys will remain uninformed of case coordination, unaware of the full nature of the legal matters, unable to determine the proper scope of their representation, and unable to resolve multiple legal matters effectively and efficiently. To continue the work of this committee, it is recommended that the Court require a subsequent

committee to develop a rule to direct the use of the Notice of Related Cases Form in the coordination of related cases. The committee began work to develop a proposed notice rule but determined that in order to develop the most effective and efficient notice rule, the broader operational issues involved in handling related cases should first be further studied.

(4) Judicial Procedures for Handling Related Cases: For crossover cases to truly be coordinated, the necessary parties and attorneys need to also be aware of the scope of the proceedings and who will be involved. A procedure needs to be developed so that the parties and attorneys are informed of case coordination, aware of the full nature of the legal matters, able to determine the proper scope of their representation, and able to resolve multiple legal matters effectively and efficiently. Circuits are currently coordinating crossover cases in various ways; however, statewide uniformity through the creation of an applicable procedure is preferable to establish consistent practice within and throughout Florida's diverse circuits. Thus, the committee recommends that the Court require a subsequent committee to consider and create the following

- a. Create a procedure for handling crossover cases that requires the appearance of only those persons/parties necessary for a particular

hearing. Specifically, clarify procedurally how to coordinate crossover cases without requiring everyone to appear for every hearing.

- i. Consider how best to give notice to a party's lawyer in every case involving that party, without requiring the lawyer to file a notice of appearance in every case and without requiring attendance at every hearing in those cases wherein the lawyer has not appeared.
 - ii. Consider how best to coordinate the scheduling of hearings to allow the presence of children when children's presence is desirable or required.
- b. Create a rule that mirrors Florida Rules of Civil Procedure 1.270(a) in both the family and juvenile rules of court to facilitate the coordination of related cases.

- c. Create a rule which would allow a lawyer for a party to obtain access to all the family law files relating to that party, notwithstanding applicable confidentiality requirements.⁹
- d. Create a rule which would require judges to file copies of appropriate orders in all cases involving the same family, to avoid inconsistency. All applicable case numbers should be placed on the order and a copy placed in each file.
- e. Create a rule which would require the deletion or protection of confidential address information in all cases relating to domestic violence cases, wherein address confidentiality is asserted.
- f. Create a rule which would address the issue of closed versus open courtrooms, allow the determination of whether a courtroom should be open or closed to be at the discretion of the presiding judge, and require best interest findings.
- g. Create a rule which would address issues of electronic communications between and among judges in coordinated crossover cases.

⁹ Sections 985.045(2), 39.202(2), Florida Statutes, currently permit parties and certain persons, who have an interest in a delinquency or dependency case, to access delinquency or dependency files that are statutorily classified as confidential, but no authority permits counsel access to all related family court case files, whether classified as confidential or otherwise.

- h. Create a rule which would address the attendance of children in crossover case hearings, allow the determination of whether children should attend to be at the discretion of the presiding judge, and require best interest findings for excluding a child from a hearing.
- i. Create a rule which would require differentiated case management, and mandate a case management conference in crossover cases. Within the rule, clarify that matters to be addressed would potentially include not only those matters that are referenced in Rule 12.200, but also other matters as addressed in Florida's Family Court Toolkit: Volume 2 and the Florida Supreme Court's 2001 UFC opinion.
- j. Create a rule which addresses who gets notice of what proceedings or hearings in crossover cases.
- k. Create a rule which requires a single Family Law Administrative Judge for each circuit.

(5) Parenting Coordination/Mediation:

- a. Model Parenting Coordination Administrative Order: Parenting Coordination is being used successfully in Florida and is the

subject of ever growing enthusiasm. In 2005, former Chief Justice Barbara Pariente created a workgroup as requested by the Governor Bush. The workgroup developed a Model Parenting Coordination Administrative Order. The 2004 – 2006 Steering Committee on Families and Children in the Court reviewed the model administrative order and requested that the Court send the model administrative order to Florida’s chief judges; however, that committee did not proceed to request that the Court adopt the administrative order. The model administrative order was sent to the circuits as requested. *See* Appendix 10(a) and 10(b). Thus, immediate implementation of a Model Parenting Coordination Administrative Order and the development of an appropriate court rule are recommended. This committee reviewed the model administrative order created by the 2005 workgroup and recommends that the Court require a subsequent committee to include participation of parenting coordination experts to review the Model Parenting Coordination Administrative Order and work that has been completed since 2005 on the Proposed Parenting Coordination Rule, enhance both as necessary, and possibly submit

b. Inconsistencies Between Rules Governing Mediation: In dependency and other related family law cases, inconsistencies between rules that govern mediation pose significant problems, particularly if a family has more than one related family court case. Family Law Rule of Procedure 12.740(f) provides that "[i]f counsel for any party is not present when the agreement is reached, the mediator shall cause to be mailed a copy of the agreement to counsel within 5 days. Counsel shall have 10 days from service of a copy of the agreement to serve a written objection on the mediator, unrepresented parties, and counsel. Absent a timely written objection, the agreement is presumed to be approved by counsel and shall be filed with the court by the mediator[,]" while Rules of Juvenile Procedure 8.290(o) remains silent on this issue. So, presumably a represented party who is participating in dependency mediation without counsel present would not have the protection of a copy being mailed to their counsel with 10 days to object, as provided under Rule 12.740(f). Furthermore, in the event that the mediation addressed both dissolution and dependency issues, it is not clear how the parties, the mediator, or

the court would interpret this discrepancy. It is unclear as to whether Rule 12.740(f) should apply only to the dissolution of marriage issues in the mediation or to the whole agreement. Thus, the committee recommends that the Court have a subsequent committee study this issue further, liaison with the Court's Alternative Dispute Resolution Committee, and make recommendations as to whether the provision in Florida Family Law Rule of Procedure 12.740(f), which requires that a party's attorney, who did not attend mediation, be provided a copy of the mediated agreement and permits the attorney to file a timely objection with the Court, should be deleted.

(6) Inconsistency of Definitions among Florida's Family Law Statutes:

Multiple terms are defined differently throughout Florida statutes. In some instances, the definitions of the words vary in important ways with far-reaching consequences. The committee recommends that the Court require a subsequent committee to review and propose legislation that would make the family court definitions – words and phrases – consistent throughout the Florida Statutes. In so doing, it is recommended that a

subsequent committee review the list of conflicting definitions developed by this committee to facilitate its work. *See* Appendix 12.

(7) Reconciling Differences between Termination of Parental Rights (TPR)

Proceedings in Chapter 39 and 63, Florida Statutes: Very significant differences exist between the procedures for termination of parental rights under Chapters 39 and 63, Florida Statutes. Examples are many, including these three: (1) the putative father registry requirements of Chapter 63, Florida Statutes, do not apply under Chapter 39, although the definition of who is a father under Chapter 39 refers to a father whose consent is required under Chapter 63, thus indirectly implicating the registry and its requirements; (2) the time periods for a prospective father or unmarried biological father to take steps necessary to perfect his inchoate claim of parenthood are different under the two statutes, as he has (generally) until the TPR petition is filed under Chapter 63, but until the adjudicatory hearing under Chapter 39; and (3) the right to counsel is treated differently under the two statutes. The committee recommends that the Court require a subsequent committee to review the issue and, as necessary, propose legislation that would make the procedures for

involuntary TPR consistent between the two statutes – Chapter 39 and 63, Florida Statutes.

(8) Benefit All Dependent Children by Extending Jurisdiction to Allow

Continued Services for All Dependent Youth to Nineteen Years of Age:

The committee identified the need to amend Section 39.013(2), Florida Statutes, to extend jurisdiction to age nineteen for all youth. Many of the youth aging out of foster care turn 18 years of age during their senior year of high school and are forced out of their foster care placement to find alternate housing before they have the requisite knowledge or mode of transportation. Meanwhile, they continue to struggle with the circumstances of their lives and school. Often their new housing is located in a different school zone away from the area in which they are familiar. When faced with such a disruption the risk of youth failing, dropping out, or not completing high school increases greatly. Along these lines, 2008 Florida House Bill 625 will require reporting on services available to high school foster youth after they turn 18, and require recommendations for statutory changes. The committee recommends that the Court assign this issue to a subsequent committee to be studied further with the Florida's Department of Children and

Families Family Services (DCF), as collateral issues may impact that agency, and permit the committee to propose legislative changes it deems necessary.

(9) Adult Transition Services Needed for Youth Aging Out of the Juvenile

Justice System: Youth who are under the supervision of Florida's Department of Juvenile Justice (DJJ) would greatly benefit from Adult Transition Services. The committee recommends that changes be made to Section 985.03, Florida Statutes, and recommends that the Court require a subsequent committee to study this issue further with DJJ, in case collateral issues may impact that agency, and permit that committee to propose legislation, if such is deemed necessary.

IV. Further Explanation of each Subcommittee's Work and Determinations

The committee worked through its seven subcommittees to accomplish its charges. Each subcommittee's accomplishments and recommendations (as approved by the full committee) are reiterated and further explained below.

Subcommittee 1

CHARGE 1 - *Examine the role of courts in dependency cases in which children leave the foster care system without a permanent family, such as when the child reaches adulthood and "ages out" of the foster care system. Based on this examination, the Steering Committee shall develop recommendations for courts handling these cases and formulate an action plan for implementing those recommendations by the court system.*

In 2005 there were more than 4,600 youths aged 13 to 18 involved in Florida's foster care system. All of these children are potentially eligible for independent living services. Sadly, many will be released from the foster care system at the age of 18 with little support or help to live sufficiently. While there are limited programs and funds to help youth who "age out," most of those eligible are not enrolled for services. As a result, many youth reach 18 years of age and are released from the system while still attempting to complete high school, find adequate housing, and otherwise live independently. The judiciary has a limited but pertinent role in the success of these youths.

The Charge 1 subcommittee focused its efforts in the five critical areas outlined below. The resulting recommendations represent a comprehensive, yet manageable, framework for addressing the needs of this often forgotten population.

Critical Area 1: The Presence and Participation of Children in Dependency Hearings

While both federal and state statutes support the presence of children in court, it is not common practice throughout the state. The subcommittee determined that a change to Florida Rule of Juvenile Procedure 8.255 would most directly address the issue. The committee presented the following

proposed rule amendment to The Florida Bar Juvenile Rules Committee during the Bar's mid-year meeting in January 2008:

Rule 8.255. GENERAL PROVISIONS FOR HEARINGS

(b) Presence of Child.

(1) The child has a right to be present at the hearing unless the court finds that the child's mental or physical condition or age is such that a court appearance is not in the best interest of the child. Any party may file a motion to require or excuse the presence of the child. *A motion to excuse the presence of a child filed under this subsection shall be subject to the provisions in subsection (2), if applicable.*

(2) Any child who is placed in licensed foster care or who is in foster care with "another planned permanent living arrangement" goal and who is at least 16 years of age must attend all court hearings unless the child's presence is excused by the court upon a showing of good cause why the child should not attend. Prior to the hearing, any party with good cause may file a motion to excuse the presence of a child.

This proposed rule amendment will be submitted to the Court in a petition to be filed before June 30, 2008.

Critical Area 2: Difficulties in Determining the Types of Services Available

Statutes regarding independent living services are complex, making it difficult to determine the types of services available and when they can be offered. A draft checklist was produced by the OSCA's Office of Court Improvement staff and subsequently revised and approved by the

subcommittee. The checklist was provided to judges and magistrates to assist them as they navigate the statutorily mandated services and required judicial reviews for youth aging out of foster care. The checklist will also be included in the next revision of the dependency bench book. *See* Appendix 2.

Critical Area 3: Extending Jurisdiction

The subcommittee determined that all dependent youth would benefit from the continuation of services if jurisdiction was extended to 19 years of age. To accomplish this, changes must be made to s. 39.013(2), Florida Statutes. Along these lines, 2008 House Bill 625 will require reporting on services available to high school foster youth after they turn 18, and require recommendations for statutory changes. The committee recommends that the Court assign this issue to a subsequent committee to be studied further with the Florida's Department of Children and Families Family Services (DCF), as collateral issues may impact that agency, and permit the committee to propose legislative changes it deems necessary.

Critical Area 4: Services for Youth Aging Out of the Juvenile Justice System

Youth who are under the supervision of Florida's Department of Juvenile Justice (DJJ) would greatly benefit from Adult Transition Services.

The committee recommends that changes be made to Section 985.03, Florida Statutes, and recommends that the Court require a subsequent committee to study this issue further with DJJ, in case collateral issues may impact that agency, and permit that committee to propose legislation, if such is deemed necessary.

Subcommittee 2

CHARGE 2 – *Create a subcommittee to study and examine the scope, impact, and relationship of mental health issues with regard to individuals involved in the justice system. Based on this study and examination, develop recommendations for courts to address, process, and deal with individuals having mental health issues and formulate an action plan for implementation of the recommendations by the court system.*

The ways in which individuals with mental illnesses become engaged with the justice system encompasses broad issues that involve a myriad of court dockets. At a basic level, the handling of cases involving persons with mental illnesses poses a number of difficult due process issues that may arise in cases involving involuntary commitment, determinations related to competency, and the judicial monitoring of mental health treatment. Some mental health conditions render individuals incapable of understanding the substance and consequences of their actions and related legal proceedings. These individuals may also have difficulty complying with court orders.

Addressing all of these concerns required a complex examination of how courts interact with a number of different institutions and social service providers. A major challenge for the subcommittee was identifying primary issues to be considered. In narrowing its scope, the subcommittee identified the following five areas of focus.

Focus Area 1: Mental Health Needs of Children Who Appear in Court

For years, little was known about the importance of attending to the emotional and behavioral needs of children involved in various legal proceedings, and the role the court system and judges may play in either contributing to or protecting children from more severe behavioral and emotional impairment. In fact, many experts mistakenly assumed that children involved in the justice system were relatively unaffected by the process in long-term emotional ways and that behavioral or emotional difficulties that did arise were more likely pre-existent or coincident to legal matters. Recent research demonstrates that this is far from the case. Such experiences can result in profound disruptions in social and developmental functioning, particularly during infancy and early childhood development. These early experiences have been demonstrated to contribute to more severe forms of mental illnesses and functional impairment later in life.

To best address the mental health needs of children involved in the court system, the subcommittee developed a multifaceted series of recommendations.

1) Children who are experiencing trauma - victims of abuse

- Assess all children for neglect, trauma, and abuse with particular attention to the possible presence of attachment disorders and possible developmental delays.
- Implement and expand assessment of children under the age of five, targeting prevention and early intervention.
- Require comprehensive and periodic evaluation of all children in the dependency system, delinquency system, and child protective services to assess ongoing behavioral, social, emotional, and developmental needs.
- Establish specific transfer criteria to ensure continuity of medical and behavioral health coverage for children leaving foster care and child protective services.
- Provide gender-specific trauma services.
- Address suicidal ideations (focus on girls).

2) Co-occurring substance use/mental health disorders

- Appropriately assess children for substance use disorders.
- Ensure DCF and DJJ are assessing for co-occurring disorders at the earliest point of entry.
- Provide referrals and linkages to appropriate community services.
- Provide case management for the purposes of monitoring treatment.

3) Competency restoration

- DCF, DJJ, and the courts should collaborate to reorganize the current juvenile competency restoration program to:
 - Establish more appropriate treatment goals and long-term case plans for children with developmental disabilities, such as mental retardation;
 - Emphasize the use of crisis stabilization and community-based diversion in place of competency restoration where appropriate;
 - Create community-based competency restoration programs where appropriate;

- Ensure adequate resources and infrastructure in the community to serve juveniles with severe behavioral disturbances; and
- Review appropriate treatment and placement options for juveniles at substantial risk of violence.

4) Judicial education on mental health

- Determine what education requirements should be mandatory and which should be optional.
- Work cooperatively with the Florida Court Education Council to determine how to best and at what frequency to deliver education.
- Topics should include:
 - How to read assessments
 - What assessments to order
 - Comprehensive Behavioral Health Assessments (CBHAs) and how they should be used in case planning
 - Parents with mental illness
- Provide judges with checklists outlining standards and statutory requirements.

- Psychotropic medications – Require judges, case managers, and guardians ad litem to receive training related to the appropriate use of psychotropic medications, and what side effects to watch for.

5) Accountability and standards:

- Establish standards for reviewing and approving administration of psychotropic medication to children, for use by the courts.
- Establish standardized protocol for CBHAs to ensure timely and consistent evaluations.

Focus Area 2: Comprehensive System of Mental Health Care

Current state expenditures on mental health treatment are concentrated in providing expensive acute-care services. Crisis-stabilization, hospitalization, and services provided in jails, prisons, and youth detention centers require heavy investment in “back end” treatment. This comes at the expense of developing an adequate continuum of primary, preventive, and transitional care targeting individuals who experience the most acute forms of mental illnesses before they become involved in institutional settings. It is not surprising that there has been an increase in the number of adults with Serious Mental Illnesses (SMI) and children with Severe Emotional

Disturbances (SED) becoming involved in the justice system. Many of these individuals have been unable to access routine services in the community. The courts need to take an active interest in more effectively identifying, processing, and responding to individuals and families experiencing mental health issues.

To accomplish this, the subcommittee recommends that the state invest in a redesigned and transformed system of care. The system of care should be oriented around ensuring adequate access to appropriate prevention and treatment services in the community, minimizing unnecessary involvement of people with mental illnesses in the justice system, and developing collaborative cross-systems relationships that will facilitate continuous, integrated service delivery across all levels of care and treatment settings. Services offered should be those that are most likely to contribute to adaptive and productive life in the community, while minimizing unnecessary or inappropriate involvement in institutional settings. Specifically, services should:

- Prevent individuals from inappropriately entering the justice and forensic mental health systems;

- Include mechanisms to quickly identify individuals with mental illnesses who do become inappropriately involved in the justice system; and
- Stabilize individuals in psychiatric crisis and link them to recovery-oriented services in the community that are responsive to their unique needs.

Additional recommendations for this system of care include:

- A phased-in implementation that targets the provision of enhanced services to individuals involved in or at risk of becoming involved in the criminal and juvenile justice systems, with the provision of reasonable start up costs;
- The creation of a statewide system of limited enrollment services which maximize state funding, along with new Medicaid programs to serve individuals with SMI/SED who are involved in or at risk of becoming involved in institutional levels of care;
- The development of financing strategies that will create an incentive to prevent individuals from inappropriately entering the

justice system, and to quickly respond to individuals who do become involved in the justice system;

- Establishment of minimum competencies and proficiencies for local providers and communities participating in enhanced system of care. Communities must demonstrate the ability, commitment, and readiness to deliver effective, high-quality services, across systems of care to individuals at highest risk of becoming involved in institutional levels of care;
- The establishment of a classification system based on risk of institutional involvement in the criminal justice, juvenile justice, and state mental health systems;
- The establishment of a partnership between DCF and AHCA to maximize funding streams for individuals covered under public entitlement benefits (i.e., Medicaid), as well as individuals not so covered;
- The implementation of strategies to maximize enrollment in federally supported entitlement benefits such as Medicaid and SSI/SSDI;

- The establishment of a statewide leadership group to provide administrative oversight and facilitate technical assistance with the development of state and local plans; and
- The development of comprehensive and competent community-based mental health systems based on evidence-based and promising practices.

Focus Area 3: Creating a Justice System Specific Continuum of Care

There are several established national best practices for use at various intersects in which individuals may come into contact with the juvenile and criminal justice systems. The *Sequential Intercept Model* identifies opportunities for intervention as well as evidence-based strategies for use at each of these various intercepts. The model organizes the interface with the justice system at five key points. At each point there are opportunities to divert individuals from further penetrating into the system or to assist individuals already engaged in the criminal process. The objective is to divert completely and early. Intercepting more people early, and engaging them in appropriate treatment and supports, decreases the number of individuals requiring services at subsequent intercept points. Consistent with this model, the subcommittee recommends targeting:

- Law enforcement and emergency services – establishment of pre-arrest diversion programs
- Initial hearings and initial detention – establishment of pre-adjudication diversion programs
- Jails and courts – establishment of post-adjudication diversion and correctional treatment programs
- Re-entry from jails prisons and hospitals
- Community corrections and community support services

Focus Area 4: Developing a Comprehensive and Competent Mental Health System for the Juvenile Justice and Child Protection Systems

Many infants, children, and adolescents involved in the justice system experience significant behavioral and emotional disturbances which contribute to and/or result from significant disruptions in family, social, and interpersonal functioning. Because children are often unable to articulate these difficulties, it is imperative that a comprehensive and competent system of care incorporate interventions and safeguards to ensure that the needs of this most vulnerable population are recognized and addressed. These children have unique developmental needs that are often overlooked, or, perhaps worse, responded to with inappropriate versions of interventions and treatment philosophies originally designed to meet adult mental health needs.

Early intervention is viewed as one of the most effective and efficient means by which to identify and respond to individuals at risk of long-term impairment and psychiatric disability. This principle informed the committee's recommendation that services be enhanced in the following areas:

- Early childhood development and attachment
- Psychotherapeutic medication prescribing practices
- Sequential redirection strategies for youth with mental illness involved with or at risk for involvement with the juvenile justice system
- Assessment in the juvenile justice system
- Mental health and substance use disorders as factors at detention hearings
- Use of evidence based practices with children and adolescents

Focus Area 5: Enhancing Judicial Education and Community Collaborations

Substance use disorders, mental illnesses, and co-occurring substance use and mental health disorders underlie 70-80% of the cases handled in the

criminal division¹⁰, 70% of the cases handled in the dependency division¹¹, 70-80% of the cases handled in the juvenile delinquency division¹² of the courts, and no doubt contribute heavily to issues arising in marriage dissolution cases. Yet, only a small percentage of the judiciary has received any education or training on these subjects.

Canon 4 of the Code of Judicial Conduct for the State of Florida specifically encourages judges to “...*engage in activities that improve the administration of Justice.*” Judges are uniquely positioned to play leadership roles in their communities. Judges can convene, organize, and support existing inter- and cross-systems collaborations that focus on planning and developing diversion and intervention programs; building system capacity for services and supports; and creating problem-solving cross-systems partnerships for cases involving mental health and/or substance use disorders. Criminal justice, mental health, and substance abuse treatment collaborations need to be formally organized with missions,

¹⁰ The Supreme Court Mental Health Report can be accessed online at: www.floridasupremecourt.org/pub_info/documents/11-14-2007_Mental_Health_Report.pdf

¹¹ The National Center on Addiction and Substance Abuse at Columbia University (CASA). January 1999. *No Safe Haven: Children of Substance Abusing Parents.*

¹² Skowrya, Kathleen and Cocooza, Joseph “A Blueprint for Change: Improving the System Response to Youth with Mental Health Needs Involved with the Juvenile Justice System,” June, 2006, Research and Program Brief – National Center for Mental Health and Juvenile Justice.

goals and objectives. They need to be dynamic in their membership and have mechanisms to document their achievements and communicate their efforts.

With regard to judicial education, the subcommittee worked with leading members of the court education community to incorporate education on the issues of substance use disorders, mental illnesses, and co-occurring disorders into the curricula at Florida Judicial College, Circuit and County Court Judicial Conferences, Florida College of Advanced Judicial Studies, and other subject-related seminars and conferences. The following recommendations are intended to complement judicial education and to support expanded educational and training opportunities for stakeholders throughout the justice system.

- Trial court administrators should receive a course on the use of case management in the handling of cases involving mental health, substance use disorders, and co-occurring disorders.
- Develop justice system competent certification standards for judges, lawyers, and other court personnel in mental health, substance use disorders, and co-occurring disorders.

- Develop additional specialized and continuing educational opportunities around mental health, substance use disorders, and co-occurring disorders for judges, lawyers, and other court personnel.
- Law schools should develop and promote curricula on problem-solving approaches to issues relating to substance use disorders, mental health, and co-occurring disorders. Those trained in this area should volunteer to guest lecture at law schools. The Florida Bar Association is encouraged to join in this effort by providing education and training for its membership.
- Create self-instruction materials to be incorporated on the court system webpage and links to other online resources relating to mental health, substance use disorders, and co-occurring disorders.
- Compile a bench book on mental health, substance use disorders, and co-occurring disorders containing resources that can be updated and that can be made available to judges around the state.
- Acquire and distribute the publication *Judge's Guide to Mental Health Jargon* to all members of the judiciary.

Discussion also focused on the education of stakeholders. To facilitate community stakeholder education and collaboration, it is recommended that:

- Each circuit work with FDLE as it continues to revise its law enforcement, corrections, and probation academy training related to understanding and responding to people with mental illnesses, substance use disorders, co-occurring disorders, and those in crisis. The curriculum should provide useful information for all new law enforcement, corrections, juvenile justice, and probation officers.
- All law enforcement agencies should provide eight hours of updated mental health and Baker Act/Marchman Act training annually to all officers through their block training schedules.
- Eight to 16 hours of mental health and substance use disorders training should be required annually for all judges, prosecutors, defense attorneys, corrections officers, and state and county probation officers.
- Those who conduct forensic evaluations should be required to attend the Forensic Evaluators training put on by the Florida Mental Health Institute (FMHI).

- All forensic evaluators should be required to participate in eight hours of updated annual training.
- Judicial circuits should promote the use of the National Alliance on Mental Illness's (NAMI) *Family- to-Family* training program for parents and loved ones.
- Each circuit should develop a training/information program directed at the judiciary and law enforcement that identifies community resources and how to access services.
- Develop a glossary that standardizes mental health and substance use disorders related terminology across all systems that address the needs of those with Serious Mental Illness (SMI), substance use disorders, as well as those with co-occurring mental illness and substance use disorders.

To facilitate collaborative efforts at the circuit level, the subcommittee recommended that each judicial circuit develop a formal mechanism to direct its leadership role through Administrative Orders and the establishment of Memoranda of Understanding (MOU) among community

stakeholders. Each circuit, through an Administrative Order, should consider

- Strategies which will promote and sustain significant involvement of the courts and members of the judiciary in local criminal justice/mental health stakeholder collaborations;
- Ways in which the courts and members of the judiciary may serve in leadership roles in addressing the effect of mental illnesses on the judicial system and supporting the application of problem solving techniques in cases involving individuals with mental illnesses;
- Methods for the courts and members of the judiciary to stimulate, support, and sustain joint problem-solving initiatives that address the availability of community resources, access to community-based services, system duplication, lack of coordinated care, programmatic and system outcomes, and information sharing;
- Processes to ensure information-sharing among stakeholders within the courts, criminal justice system, juvenile justice system, and community mental health and substance abuse treatment

systems in order to improve early identification and treatment of individuals; and

- The creation of a multi-agency informed consent form.

Although the Mental Health Subcommittee made significant progress and addressed all stated goals and charges, more work needs to be done to fully realize the vision of this body and its impact on the administration of the justice system. Given the substantial prevalence of substance use disorders among individuals with mental illnesses involved in the justice system, it is recommended that the Court incorporate mental health as a component of the Florida Supreme Court Task Force on Treatment-Based Drug Courts to convene stakeholders and provide continued oversight and leadership in the effort to implement joint problem-solving initiatives that will reduce the number of people with mental illnesses in the justice system, enhance the administration of justice, and improve the responsiveness of the public mental health system.

Subcommittee 3

CHARGE 3 – *Develop a video on the dependency system for use in courthouses to inform parents about how dependency cases proceed and the types of things parents may expect to happen in their cases.*

In order to make the dependency court process more understandable for parents, who are involved in dependency proceedings, the subcommittee designed and developed an informative video titled *A Family Guide to Dependency Court*. Copies of the DVD were disseminated on November 28, 2007, to Florida's dependency judges, court staff, offices of Guardian ad Litem, Department of Children and Families staff, and Community-Based Care providers. The video was also posted to the OSCA's website.

Subcommittee 4

CHARGE 4 – *Consistent with the requirements of In re: Implementation of Report and Recommendation of the Committee on Privacy and Court Records No. AOSC06-20 (Fla. June 30, 2006):*

a. Consider and make recommendations on the sealing of psycho-social evaluations, psychological evaluations, and guardian ad litem reports in family court cases and, if necessary, propose amendments to the rules of court procedure to effectuate those recommendations; and,

b. Review the Supreme Court Approved Family Law Forms to determine if personal information that is not necessary for adjudication or case management is being required in the forms.

Report Recommendations on Sealing Evaluations and Reports –

The committee completed this task early in its term and filed its recommendations with the Court in Report In Re: Sealing of Court Records on July 31, 2007. *See Appendix 3.*

Report Unnecessary Personal Information in Court Forms – On

behalf of the committee, OSCA staff reviewed the Supreme Court Approved Family Law Forms to determine if personal information that is not necessary for adjudication or case management is currently required when completing the forms. The committee sent documentation of its findings to Judge Judith Kreeger, Chair of the Court's Committee on Privacy and Court Records, on November 9, 2007. *See* Appendix 4.

Subcommittee 5

CHARGE 5 – *Develop a standardized child support order for use throughout the state that will provide the Department of Revenue with the uniform information the Department needs for establishment and enforcement purposes.*

Rule and Form Proposal – This charge was developed in response to a request from the Department of Revenue (DOR) for a standardized order. There was also a desire to capture all the necessary child support information in one, easy to locate, standard document. It was envisioned that the order would eventually be written into the Department's information system, enabling Department attorneys to prepare orders with greater efficiency. Initially, the committee drafted a one-page child support order with the intent that it would be attached to all child support orders, regardless of the origin of the case. The order was presented to the full

committee, and the Bar liaison took it to the members of The Florida Bar Family Law Rules Committee (FLRC). For various reasons, the FLRC was opposed to the order and voted against it. Subsequently, this committee's chair, subcommittee chair, representative from the DOR, and Bar liaison held several conference calls and eventually agreed that a "form" rather than an "order" would be acceptable to all.

These efforts resulted in the creation of a proposed Support Summary Sheet form and a child support rule proposal. The proposed child support rule specifies the information that should be included uniformly in Florida's child support orders and mandates use of the proposed Support Summary Sheet. The committee presented the proposed Support Summary Sheet and rule to The Florida Bar Family Law Rules Committee during the Bar's mid-year meeting in January of 2008. After discussion, the FBFLRC appointed a subcommittee to study the issues. The subcommittee proposed various amendments to the rule and form. The proposals were finalized and then submitted to the full FBFLRC for an email vote. *See* Appendix 6. The results were 18-8 against the rule and 20-6 against the form.

The primary reason given for voting against the rule and form was that the rule and form created an obligation for the court to prepare a form

that was not an order and had no judicial effect. Other reasons given included the following:

- The form is duplicative of the controlling court order.
- The form may cause confusion for non-lawyers.
- The information in the form, such as dates of birth and social security numbers, creates privacy issues and provides easy access to such information for persons who have no legitimate right.
- The amount of work required to create the form outweighs any proposed benefit of the form.

In a letter to committee staff, Judge McNeal, Chair of the FBFLRC, indicated that he thinks “the proposal [child support rule and form] would have more support if the rule required the clerk to complete the form, especially since they would benefit from it more than the judiciary.” *See* Appendix 7. Furthermore, he feels this issue could be discussed on a state level with the Florida Association of Clerks and Comptrollers. The Court’s committee, as advised by its liaison to The Florida Bar, recommends that the Court refer this issue to The Florida Bar Family Law Section Rules Committee (FBFLSRC) to be studied further and discussed with the Florida

Association of Clerks and Comptrollers, if the FBFLSRC deems it appropriate and necessary.

Subcommittee 6

CHARGE 6 – *Design a means to regularly collect meaningful data that will help to improve judicial case management of civil domestic violence cases.*

Florida’s statutory definition of domestic violence includes child abuse, elder abuse, spouse abuse, and other forms of family violence.

Consequently, a wide range of family constellations and circumstances may be addressed through civil domestic violence injunction (DVI) cases. Until data on the types of individuals and families involved in DVI cases is captured, systematic identification of trends, service needs, and areas for court improvement will be impossible.

In addressing its charge, the subcommittee reviewed data elements and systems utilized in other states and in Florida to develop a list of elements to consider for collection. The subcommittee discussed and assigned priority ratings to each of the elements and voted to condense the original listing of sixty items to approximately thirty data elements. A table of proposed elements is listed in Appendix 5.

Members of the subcommittee then explored the means by which data could be collected. The methods counties use to collect local DVI data vary significantly across the state. Some counties utilize different computer programs, databases, and software. Others rely upon manual collection. One option to consider in this environment is for all counties to enter data into their own systems and transfer the data to another central system for reporting purposes. Another possibility is to provide counties with access to a standardized state case management system. The reality is that immediate funding and technology issues preclude these options at this time, so the subcommittee determined that the most feasible approach is for domestic violence coordinators to enter the data into an Excel spreadsheet. *See* Appendix 5. This data could then be reported on a quarterly basis for the purpose of systematically identifying trends, service needs, and areas for court improvement.

Subcommittee 7

CHARGE 7 – *Examine existing court rules that impact the implementation of the unified family court concept. Based on this examination, develop and recommend additional rules, repeal of rules, amendments to rules, coordination of rules, and any other system of process to enhance operation of the unified family court concept.*

The committee conducted a thorough statewide survey of stakeholders and determined that creating one complete set of Family Court Rules, which

would include all of the family and juvenile rules together, would be helpful to further implement the UFC concept. The committee worked towards that goal and made great strides by focusing on conflicts and impediments within the statutes and rules that inhibit the operation of the UFC concept.

Ultimately nine areas in need of improvement were identified – five general areas where rule changes are needed and four areas where issues need to be addressed by legislation to resolve a conflict. The nine areas identified by the committee as “in need of immediate work” are discussed in detail in Part II.E. of this report, under the section titled “Impediments in Florida Statutes, Court Rules and Forms Inhibiting UFC Operations.”

V. Conclusion

The committee worked diligently through its seven subcommittees. It identified and thoroughly examined the issues encompassed by the charges; studied the collateral impact of each issue on Florida’s families and children, agencies, and organizations; developed appropriate work product; liaised with The Florida Bar Family Law and Juvenile Rules Committees; and liaised with appropriate committees of the Court. The committee is pleased to report its accomplishments to the Court and recommends that the Court approve the committee’s proposed new rule, which will be submitted to the Court in a petition

by June 30, 2008. The committee also requests that the Court direct continued efforts to implement its work product and achieve each of its recommendations. The committee's recommendations will be submitted to the court, by June 30, in its Request for Court Action.

The chair wishes to thank and commend each committee and subcommittee member for contributing so effectively to the completion of our charges. The children and families of Florida will indeed benefit from the dedication and commitment of each of the committee and subcommittee members. The chair also sincerely appreciates the research, input, and commitment of OSCA staff lead by Rose Patterson and Dana Dowling.