Recommendations for the Provision of Court Appointed Expert Witness Services in Florida’s Trial Courts

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Executive Summary

Commission on Trial Court Performance and Accountability

The Commission on Trial Court Performance and Accountability (TCP&A) was established by the Supreme Court in July 2002 for the purpose of proposing policies and procedures on matters related to the efficient and effective resource management, performance measurement, and accountability of Florida’s trial courts. Since its inception, a major objective of the TCP&A has been the development and implementation of standards of operation and best practices for the major elements of the trial court system. As such, the TCP&A has issued standards of operation and best practices for three trial court elements, mediation, court reporting, and court interpreting.

Supreme Court Directive

With mediation, court reporting, and court interpreting as a precedent, the TCP&A was directed in Administrative Order SC12-25, to continue to develop and implement standards of operation and best practices for the major elements of the trial court system. The TCP&A determined that expert witness services should be the next element reviewed for this purpose.

Expert Witness Workgroup

The TCP&A issued a 2003 report developed by its Expert Witness Workgroup, in an effort to provide a degree of standardization of policies and practices regarding the use of court appointed expert witnesses. To embark upon the development of standards of operation and best practices, a new Expert Witness Workgroup was formed by the TCP&A in the summer of 2013. The Workgroup included: judges, trial court administrators, court administration employees, and experts, as well as cross-over membership with the TCP&A and the Trial Court Budget Commission. The Honorable Diana L. Moreland, Circuit Judge, Twelfth Judicial Circuit, was selected to chair the Expert Witness Workgroup. The Workgroup met from August 2013 through April 2014 via a series of conference calls and one in-person meeting. In April 2013, the Workgroup solicited feedback from expert witness stakeholders on the proposed standards and best practices and modified the recommendations accordingly. The Workgroup report was then forwarded to the TCP&A for review and final approval.

Guiding Principles

Throughout the process, the Workgroup focused on uniform services across the state, while giving high priority to circuit flexibility. As the makeup of the Workgroup represented circuits of differing size, market conditions, population, and requirements, consideration for differences among the circuits was paramount. Understanding that significant variations in practice and local conditions exist around Florida, the Workgroup focused on solutions to
improve the effectiveness, efficiency, timeliness, and uniformity of expert witness services. The report strives to balance a uniform system for expert witness services with an approach that allows circuits to determine procedures that provide for their unique variations. These variations must be carefully considered in formulating legal and operational recommendations designed to improve the effectiveness and efficiency of expert witness services.

**Recommendations**

The general recommendations, standards of operation and best practices offered throughout the report provide a comprehensive ground work for expert witness services. Issues covered include: assignment of services, management practices, judicial appointments/monitoring, education, funding/payment, and data collection/performance monitoring.

The proposed general recommendations, standards of operation and best practices are summarized in the following table. “Standards of operation” are intended to be mandatory practices which must be implemented. “Best practices” are suggested practices intended to improve operations, but due to local conditions beyond the court’s control, are not required. “General recommendations” pertain to issues that fall within the purview of another Supreme Court appointed committee and are offered for their review and subsequent action, if appropriate. Particular standards and best practices may not apply to all types of expert witnesses.
# Expert Witness General Recommendations, Standards of Operation and Best Practices

## I. ASSIGNMENT OF SERVICES

### A. Staffing Model

**Proposed Standards of Operation**

1. Circuits shall determine a staffing model that provides for the efficient and effective use of expert witness services, while maintaining flexibility in order to best fit the jurisdiction’s needs.
2. Circuits shall consider the ethical implications and the appearance of bias in determining a staffing model.

### B. Qualifications of Court Appointed Expert Witness

**Proposed Standard of Operation**

1. Expert witnesses conducting court-ordered evaluations shall have expertise which, at a minimum, meets statutory or rule requirements for qualification.

**Proposed Best Practices**

1. Expert witnesses conducting court-ordered evaluations should have at least five years of experience in their area of expertise.
2. Expert witnesses should be encouraged to complete a portion of their continuing education requirements in their area of expertise, as it relates to court appointed expert witness services.

### C. Selection of Court Appointed Expert Witnesses

**Proposed Standards of Operation**

1. Circuits shall develop a fair mechanism for the selection of court appointed expert witnesses.
2. Circuits shall develop an application and vetting process for selection of court appointed expert witnesses.

**Proposed Best Practices**

1. Circuits should consider the use of expert witnesses from other circuits if the appropriate expert is not available in the local circuit.
2. Circuits should consider cultural diversity in the recruitment and retention of expert witnesses.
3. Circuits should consider contacting professional associations for possible use of a statewide listserv for recruitment of expert witness candidates.

## II. MANAGEMENT PRACTICE

### A. Forms/Records Management

**Proposed Standards of Operation**

1. Circuits shall use the standard invoices as developed by the Office of the State Courts Administrator.
2. Circuits’ standard orders of appointment shall identify factors, if applicable, that must be addressed in the expert witness reports.
3. Circuits shall keep all records pertaining to the payment of expert witness services in accordance with generally accepted accounting principles and procedures and in such a way as to permit their inspection pursuant to Florida Rule of Judicial Administration 2.420.

**Proposed Best Practices**

1. Circuits should audit invoices prior to submission to ensure compliance with the approved fee schedule.
2. Circuits should share forms and guidelines developed locally, regarding the provision of expert witness services, with other circuits, if requested.
3. Circuits should track the number of evaluations per case and defendant.

### B. Contracts with Expert Witnesses

**Proposed Standard of Operation**

1. Circuits shall develop a procedure for approval of fees in excess of the standard rates, to require a court order or approval from the chief judge or trial court administrator.
### Proposed Best Practices

1. Circuits should be allowed to apply cooperative contract provisions that would allow an expert to be hired using the contract provisions of another circuit.

2. The Office of the State Courts Administrator should draft template language for an expert witness service agreement that may be used by the circuits, which contains standardized language in the areas of liability, billing procedure, qualifications of experts, cancellation/termination and record retention/auditing.

3. Circuits should include notice in their contracts with expert witnesses that alerts the expert that a videographer or court reporter may be present. For example, “Expert understands that Florida law ordinarily permits a party to have a videographer, court reporter, or court interpreter present during an examination and agrees to the presence of a court reporter or videographer when one is required by Florida law.”

### C. Registry of Expert Witnesses

#### Proposed Standards of Operation

1. Circuits shall submit their current list of approved experts, their qualifications and approved fees to the Office of the State Courts Administrator, when requested.

2. The Office of the State Courts Administrator shall develop and maintain an online registry of expert witnesses, by field of expertise, based on lists submitted by the circuits. The registry should indicate whether each expert is willing to travel to provide services in other circuits.

#### Proposed Best Practice

1. Circuits should maintain a listing of approved experts, their qualifications, and the approved fees, to share with other circuits, if requested.

### III. JUDICIAL APPOINTMENTS/MONITORING

#### A. Evaluation and Retention of Expert Witnesses

#### Proposed Standard of Operation

1. Each Circuit shall continually evaluate the performance of the expert witnesses that it contracts with or employs.

#### B. Issues with Expert Witnesses

#### Proposed Standards of Operation

1. Circuits shall have procedures for dealing with inappropriate behavior, complaints, or performance issues of expert witnesses.

2. Judges shall require that expert witnesses maintain professional conduct in the courtroom at all times.

3. Judges shall report to the appropriate authorities any unethical behavior of an expert witness.

#### Proposed Best Practice

1. Circuits should consider convening a committee to address complaints and grievances regarding a court approved expert witness.

### IV. EDUCATION

#### General Recommendations to the Florida Court Education Council

1. Within the appropriate bench books (i.e., criminal, mental health, etc.), consider adding a chapter regarding the use of expert witnesses.

2. Presentations to judges pertaining to expert witness services should be included periodically at judicial conferences.

3. Presentations regarding the use of expert witnesses should be included at the Florida Judicial College.

4. Presentations regarding the use of expert witnesses via webinars should be considered as an alternative to traditional in-person educational opportunities.

#### Proposed Standard of Operation

1. Circuits shall keep on file the curricula vitae of the expert witnesses who have been approved.
### Recommendations for the Provision of Court Appointed Expert Witness Services in Florida’s Trial Courts

#### Proposed Best Practices

1. Circuits should offer informational sessions for court approved expert witnesses on administrative and court protocols.
2. Circuits should determine a procedure to notify court approved expert witnesses on changes to administrative and court protocols.
3. Circuits should consider posting information regarding expert witnesses, including protocols and administrative orders, on the court’s website.

#### V. FUNDING/PAYMENT

**General Recommendations to the Trial Court Budget Commission**

1. Funding allocations should take the total need for funding into consideration in order to bring uniformity and equity to the level of services provided across the trial courts.
2. The expert witness funding formula should be modified to include expert witness events, as well as expenditures.

**Proposed Best Practice**

1. Circuits should set, by administrative order or standard contract, standardized rates for expert witness services for each of the most commonly needed expert witness examinations.

#### VI. DATA COLLECTION/MONITORING

**Proposed Standards of Operation**

1. The Office of the State Courts Administrator shall sponsor periodic trainings for all individuals involved in the collection and reporting of Uniform Data Reporting System statistics.
2. All circuits shall require attendance at trainings sponsored by the Office of State Courts Administrator for individuals involved in the collection and reporting of Uniform Data Reporting System statistics.

#### VII. SUGGESTED STATUTORY AND RULE REVISIONS

**General Recommendation to the Trial Court Budget Commission**

1. Consider reviewing the suggested statutory and rule changes for the expert witness element to determine whether there are costs associated with such amendments.

**General Recommendation to the Commission on Trial Court Performance and Accountability**

1. Consider pursuing statutory and rule changes to clarify and make consistent language regarding the appointment of experts and the party responsible for payment of experts.
Introduction

Expert Witness Services in Florida

An expert witness is a person who, by reason of his or her special knowledge, skill, experience, training or education in a particular subject, is qualified to express an opinion or give testimony within that particular area of expertise. A court appointed expert witness provides essential support to the adjudication process by providing independent expert opinion concerning a scientific or technical matter in dispute, or concerning the physical, psychological, and/or mental condition of persons affected by or subject to the dispositional orders of the court, in matters involving a fundamental interest or right.¹

Prior to and following Revision 7, the Commission on Trial Court Performance and Accountability (TCP&A) has been examining expert witness services as a major element of the trial courts. In 2003, TCP&A submitted recommendations to the Supreme Court identifying definitions and policies that address performance and accountability in the utilization of court appointed expert witness resources, including psychological evaluations in the trial courts. That report, Report and Recommendations on the Definitions and Purpose of Court Appointed Expert Witnesses, provided the following recommendations:

- Accept the recommended definition and purpose statement.
- Encourage the Legislature to make each Article V entity responsible for its respective budget.
- Urge the Legislature to conform section 29.004, F.S. with the TCP&A and the Trial Court Budget Commission (TCBC) designation of expert witnesses as an essential element of the trial courts.
- Propose to the Legislature a general statute that codifies case law and clarifies the circumstances where an expert witness should be appointed at public expense.
- Create a representative group of judicial branch stakeholders and ask it to conduct a best business practices review of the court appointed expert witness essential element.
- Request the best business practices group to address each of the management, legal and procedural, and ethical concerns raised by the Expert Witnesses Workgroup.
- Approve the proposed new framework for describing, managing and tracking the resources connected with the Court Appointed Expert Witness Element.
- Immediately request the OSCA to initiate an effort to collect and analyze six month worth of data on utilization of court appointed expert witness resources organized into the proposed new framework for describing the components of the element.

Upon passage of legislation that established expert witnesses as a state court expense (see s. 29.004, F.S.), the Trial Court Budget Commission (TCBC) developed guidelines to determine the

¹ Report and Recommendations on the Definition and Use of the Court Appointed Expert Witness Essential Element. (Commission on Trial Court Performance and Accountability, January 2003)
entity responsible for each category of expert witnesses and a rate range for those paid for by the court.

To further the work on the expert witness element, the Supreme Court issued Administrative Order 12-25 directing TCP&A, by July 1, 2014, to “continue with the development of standards of operation and best practices for the major elements of the trial courts” with a specific focus on “expert witness services.”

The TCP&A convened a workgroup based on recommendations from all chief judges and trial court administrators. Sixteen individuals, representing a variety of court personnel, including circuit judges, county judges, expert witnesses, court administrators, and administrative personnel, and a diversity of circuit size, made up the Expert Witness Workgroup.

**FY 2013-2014 Expert Witness Workgroup members:**

- **Diana L. Moreland**, Circuit Judge, Twelfth Judicial Circuit, Chair
- **Augustus Aikens**, County Judge, Leon County
- **Dr. Michael Brannon**, Forensic Psychologist, Coral Springs, FL
- **Linda Brooks**, Mental Health Unit Supervisor, Seventeenth Judicial Circuit
- **Kendra Brown**, Court Mental Health Coordinator, Second Judicial Circuit
- **Mike Emge**, Senior Staff Attorney, Sixth Judicial Circuit
- **Grace A. Fagan**, General Counsel, Fifth Judicial Circuit
- **Eric Fishbeck**, Court Operations Manager, Twentieth Judicial Circuit
- **Patricia Gladson**, Assistant General Counsel, Eleventh Judicial Circuit
- **Patricia Grau**, Mental Health Administrator’s Office, Eleventh Judicial Circuit
- **Michelle Kennedy**, Administrative Services Manager/PIO, Eighteenth Judicial Circuit
- **Thomas J. Rebull**, Circuit Judge, Eleventh Judicial Circuit
- **Alexandra V. Rieman**, General Counsel, Seventeenth Judicial Circuit
- **Lawrence Semento**, Circuit Judge, Fifth Judicial Circuit
- **Mark Speiser**, Circuit Judge, Seventeenth Judicial Circuit
- **Mark Weinberg**, Court Administrator, Seventeenth Judicial Circuit

The Workgroup was charged with recommending standards of operation, best practices, and providing any other general recommendations to improve expert witness services in the trial courts. To accomplish this task, the Workgroup reviewed several sources of information, including statutes, court rules, circuit administrative orders and profiles, other states’ laws and regulations, federal laws and requirements, national and state guidelines and certification practices. The Workgroup held telephone conferences between August 2013 and February 2014, and met face-to-face in October 2013, in Tampa, for an all-day workshop. The recommendations of the Workgroup were outreach to the trial courts, employee and contract expert witnesses, and other stakeholder groups during April 2014 before being presented to the TCP&A for extensive review and final approval.

Throughout the process, the Workgroup focused on uniform services throughout the state, while giving high priority to circuit flexibility. As the makeup of the Workgroup represented
circuits of differing size, market conditions, population, and requirements, consideration for differences among the circuits was paramount. Understanding that significant variations in practice and local conditions exist around Florida, the Workgroup focused on solutions, rather than problems, in an effort to improve the effectiveness, efficiency, and uniformity of expert witness services. The report strives to balance a uniform system for expert witness services with an approach that allows circuits to determine procedures that provide for their unique variations. These variations must be carefully considered in formulating legal and operational recommendations designed to improve the effectiveness and efficiency of expert witness services.

The report is organized into three main sections: a general overview of the expert witness process, court appointed expert witness legal criteria, and proposed standards of operations, best practices, and general recommendations. “Standards of operation” are intended to be mandatory practices which must be implemented. “Best practices” are suggested practices intended to improve operations, but due to local conditions beyond the court’s control, are not required. “General recommendations” pertain to issues that fall within the purview of another Supreme Court appointed committee and are offered for their review and subsequent action, if appropriate. While the report addresses expert witness services as a whole, particular standards and best practices may not apply to all types of witnesses.
**Expert Witness Process Overview**

The provision of court appointed expert witness services in Florida’s trial courts constitutes a variety of practices related to both the management and utilization of expert witnesses. This may be driven in large part due to resource variances in the state, to include both the demand for services as well as the available pools of witnesses for the diverse needs of Florida’s trial courts. Accordingly, each circuit, and sometimes even each county within a circuit, has employed varying service delivery systems dictated by any number of factors.

According to section 29.004(6), Florida Statutes, “expert witnesses who are appointed by the court pursuant to an express grant of statutory authority” is one of the elements of the state courts system to be provided from state revenues. See Appendix A for statutes and rules providing for evaluation, assessment, or testing by experts.

The following diagram and subsequent descriptions supply a general overview of expert witness process steps.

**General Court Appointed Expert Witness Process Steps**

- **Court Orders Examination Based on Statutory Authority**
- **Selection of Expert Witness**
- **Provision of Services**

**Court Orders Examination Based on Statutory Authority**

Trial court judges are authorized by statute to order a variety of evaluations or assessments concerning the physical, emotional, developmental, or mental condition of persons subject to the jurisdiction of the court. These orders may be entered on the court’s own motion or at the request of a party. The need for such examinations arise in a variety of circumstances within the context of family law, domestic violence, dependency, delinquency, guardianship, mental health, substance abuse, and criminal cases.

**Selection of Expert Witness**

The next step is to select and appoint an expert witness. Selecting an expert witness is typically done through lists or rosters of court approved experts. An expert will be appointed based on the knowledge, skill, experience, training and education, and willingness to accept the court fee necessary for the opinion or evaluation to be completed.
Based on the applicable statute or court rule, the expert will provide the required service in accordance with the terms outlined in the contract and/or order. Generally, the provision of expert witness services in Florida’s trial courts is performed using the staffing models as described below.

**Staffing Models**

**Contract Model** – Under the contract model, court appointed expert witnesses, whether employed by a firm or working individually, provide services on a fee basis. Selection, supervision, terms and conditions of service, and compensation are determined by contract or court order. Contracts may be used for all expert witness service delivery models. Nineteen out of the 20 circuits in Florida currently only use contractors to provide all of their court appointed expert witness services.

**Employee Model** – Under the employee model, all expert witness services are provided by court employees. Currently, there are no circuits in Florida that exclusively use employees to provide court appointed expert witness services.

**Hybrid Model** – One circuit currently combines features of the contract model and the employee model to provide expert witness services.
Court Appointed Expert Witness Legal Criteria

The United States Supreme Court made a clear statement in *Ake v. Oklahoma*, 105 S.Ct. 1087, (1985), that an indigent criminal defendant is entitled to an expert witness at public expense when it is demonstrated that a significant element of the defense is premised on expert testimony.

This Court has long recognized that when a state brings its judicial power to bear on an indigent defendant in a criminal proceeding, it must take steps to assure that the defendant has a fair opportunity to present his defense. This elementary principle, grounded in significant part on the Fourteenth Amendment’s due process guarantee of fundamental fairness, derives from the belief that justice cannot be equal where, simply as a result of his poverty, a defendant is denied the opportunity to participate meaningfully in a judicial proceeding in which his liberty is at stake.

105 S.Ct. 1087, at 1092.

As the Supreme Court was presented with civil cases in which a litigant’s right to full court access was more substantial than the public’s monetary interest, the Court began to apply due process protections in the civil arena. In *Boddi v. Connecticut*, 91 S.Ct. 780, (1971), the Court found that the state could not refuse access to court to an indigent couple who did not have the fee required to file for divorce. The courts are the sole mechanism for obtaining dissolution of marriage and denial of access to that forum on the basis of ability to pay, denies due process. The countervailing interest in protecting public resources must yield to the individual’s fundamental interest in a divorce proceeding. Dissolution of marriage, termination of parental rights and paternity hearings clearly involve “fundamental interests” important enough to trigger access to courts rights for indigents. See: *Little v. Streater*, 452 U.S. 1, (1981) (putative father in a paternity hearing entitled to blood tests at public expense); *M.L.B. v. S.L.J.*, 519 U.S. 102, (1996), (parent in termination of parental rights proceeding entitled to transcripts at public expense.)

Clearly, due process protections would require an expert witness at public expense if a litigant whose “fundamental interests” are being litigated can demonstrate that the expert witness is a critical part of the issue in question. Florida law has acknowledged that certain proceedings have such a substantial impact on the interests of the individual that the judge is either required to appoint an expert or given the discretion to appoint one.
Recommended Standards of Operation, Best Practices, and General Recommendations

As applied below, “standards of operation” are intended to be mandatory practices which must be implemented. “Best practices” are suggested practices intended to improve operations, but due to local conditions beyond the court’s control, are not required. “General recommendations” pertain to issues that fall within the purview of another Supreme Court appointed committee and are offered for their review and subsequent action, if appropriate.

I. ASSIGNMENT OF SERVICES

Background Information

Prior to Revision 7, the provision of expert witnesses at the trial court level was a county financial obligation, and as such circuits developed differing practices regarding assignment, management, and coordination of expert witness services. Although uniformity was not a consideration when these practices were implemented, most circuits have encountered similar issues when addressing the need for services and determining who is qualified to provide those services.

Section 29.004, Florida Statutes, spoke to the Revision 7 transfer of court elements from county to state obligation, stating:

For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the state courts system to be provided from state revenues appropriated by general law are as follows: ...(6) Expert witnesses who are appointed by the court pursuant to an express grant of statutory authority.

In preparation for Revision 7, the Commission on Trial Court Performance and Accountability (TCP&A) issued Report and Recommendations on the Definition and Purpose of Court Appointed Expert Witnesses (January 2003). The report provided a definition and policies for court appointed expert witnesses. Additionally, the TCP&A recommended that a best business practices group be convened to address management, legal, procedural, and ethical concerns raised in the report, including service delivery options for the expert witness element. The assignment of services is an integral piece of the circuits’ ability to provide effective and efficient justice.
A. Staffing Model

Proposed Standards of Operation

1. Circuits shall determine a staffing model that provides for the efficient and effective use of expert witness services, while maintaining flexibility in order to best fit the jurisdiction’s needs.

2. Circuits shall consider the ethical implications and the appearance of bias in determining a staffing model.

Discussion

At the time of Revision 7, five of the 20 circuits were employing staff to perform a portion of the psychological evaluations ordered by their courts, while relying on the contract model for all other types of expert witnesses. An analysis of cost data for expert witnesses at the time indicated the following:

- Four of the five circuits that used a staff model for psychological evaluations had the highest unit cost of all circuits;
- Two of the circuits using a staff model reported average cost per case for psychological evaluations that exceeded the statewide average by more than 100 percent; and
- These discrepancies persisted even after considering jury trial rates in civil and criminal cases.²

The 2003 Expert Witness Workgroup concluded that the determination of when it is cost effective to hire staff depends on a number of variables including the size and geographical configuration of the circuit, the number of filings and judges, and the cost and availability of contractual services. However, currently, most circuit courts in Florida employ a contract model, but one circuit currently combines features of the contract model and the employee model to provide expert witness services.

Possible ethical implications should be considered in the hiring of experts. A court employee in the role of expert witness should be able to maintain independence, as well as the appearance of independence, while acting as an employee of the court system.

Finally, circuits should consider the experience of an individual in determining whether to hire or contract with him or her as an expert. Consideration should be given to the range of specialty areas and the availability of experts, whether an employee or independent contractor.

² Report and Recommendations on the Definition and Purpose of Court Appointed Expert Witnesses (Commission on Trial Court Performance and Accountability, January 2003)
B. Qualifications of Court Appointed Expert Witnesses

Proposed Standard of Operation

1. Expert witnesses conducting court-ordered evaluations shall have expertise which, at a minimum, meets statutory or rule requirements for qualification.

Proposed Best Practices

1. Expert witnesses conducting court-ordered evaluations should have at least five years of experience in their area of expertise.

2. Expert witnesses should be encouraged to complete a portion of their continuing education requirements in their area of expertise, as it relates to court appointed expert witness services.

Discussion

Minimum qualifications, as required by statute and rule, provide a basic foundation of knowledge and skill for an expert witness. However, with minimal experience and lack of specialized skills, problems may arise. Expert witnesses who only conduct evaluations on a limited basis may not remain abreast of the most recent developments in the provision of expert witness services. As a result, disagreement may occur among experts analyzing the same data set, potentially leading to more evaluations, additional hearings, and increased costs. Circuits should make efforts to obtain experts who hold more than the minimum qualifications.

C. Selection of Court Appointed Expert Witnesses

Proposed Standards of Operation

1. Circuits shall develop a fair mechanism for the selection of court appointed expert witnesses.

2. Circuits shall develop an application and vetting process for selection of court appointed expert witnesses.

Proposed Best Practices

1. Circuits should consider the use of expert witnesses from other circuits if the appropriate expert is not available in the local circuit.

2. Circuits should consider cultural diversity in the recruitment and retention of expert witnesses.

3. Circuits should consider contacting professional associations for possible use of a statewide listserv for recruitment of expert witness candidates.
Discussion

Without a perceived fair selection process, there may be a disincentive for some experts to contract with the court, thus leading to a lack of available witnesses. Most circuits have addressed this concern with assignment systems, allowing experts to rotate among the available courts. Selection for contracting should give priority to well-qualified candidates, thereby creating incentive for experts to keep abreast of the latest developments in their fields. Because the various fields of experts who are highly skilled and specialized, it is understandable that the pool of available, qualified experts may be small. Many circuits may need to look to other circuits and “outside the box” in an effort to cull potential experts to ensure an adequate number of qualified applicants are available for contract needs. Circuits may contact professional associations, such as the Florida Psychological Association, Forensic Division, in order to gain access to listservs which would allow for networking with area experts.

II. MANAGEMENT PRACTICES

Background Information

As mentioned previously, prior to Revision 7, the expert witness element was funded by county dollars, thus circuits developed differing management practices. As the expert witness element has evolved under state funding, the need for uniform, but flexible practices are essential for the courts to fulfill their constitutional role, those that are integral to a quality trial court system and those that contribute to more efficient operations, are necessary.

A. Forms/Records Management

Proposed Standards of Operation

1. Circuits shall use the standard invoices as developed by the Office of the State Courts Administrator.

2. Circuits’ standard orders of appointment shall identify factors, if applicable, that must be addressed in the expert witness reports.

3. Circuits shall keep all records pertaining to the payment of expert witness services in accordance with generally accepted accounting principles and procedures and in such a way as to permit their inspection pursuant to Florida Rule of Judicial Administration 2.420.

Proposed Best Practices

1. Circuits should audit invoices prior to submission to ensure compliance with the approved fee schedule.
2. Circuits should share forms and guidelines developed locally, regarding the provision of expert witness services, with other circuits, if requested.

3. Circuits should track the number of evaluations per case and defendant.

**Discussion**

The use of standard forms and orders or contracts will allow court administration to better assist the judges. Court administration will also be able to provide the information necessary for expert witnesses to perform their duties correctly, timely, and consistently. Collaborative efforts among circuits in sharing local forms and guidelines will help ensure effective consistency across the state.

## B. Contracts with Expert Witnesses

### Proposed Standard of Operation

1. Circuits shall develop a procedure for approval of fees in excess of the standard rates, to require a court order or approval from the chief judge or trial court administrator.

### Proposed Best Practices

1. Circuits should be allowed to apply cooperative contract provisions that would allow an expert to be hired using the contract provisions of another circuit.

2. The Office of the State Courts Administrator should draft template language for an expert witness service agreement that may be used by the circuits, which contains standardized language in the areas of liability, billing procedure, qualifications of experts, cancellation/termination and record retention/auditing.

3. Circuits should include notice in their contracts with expert witnesses that alerts the expert that a videographer, court reporter, or court interpreter may be present. For example, “Expert understands that Florida law ordinarily permits a party to have a videographer, court reporter, or court interpreter present during an examination and agrees to the presence of a court reporter or videographer when one is required by Florida law.”

### Discussion

Circuits have reported timeliness issues amongst some court approved expert witnesses in the submission of their reports. By providing template language covering all aspects of the relationship, needs, and considerations between a circuit and an expert, issues can be eliminated or resolved quickly. Sanctions available to the court to enforce compliance could include the withholding of compensation to the expert until all issues required to be reported are completed and submitted; suspension or removal of the expert from the list of court approved experts; termination of the expert’s contract; or contempt. Clearly setting forth the agreement between circuit and expert, including approved fees and providing for cooperative
contract provisions may resolve ambiguity and discourse in the working relationship with the expert.

C. Registry of Expert Witnesses

Proposed Standards of Operation

1. Circuits shall submit their current list of approved experts, their qualifications and approved fees to the Office of the State Courts Administrator, when requested.

2. The Office of the State Courts Administrator shall develop and maintain an online registry of expert witnesses, by field of expertise, based on lists submitted by the circuits. The registry should indicate whether each expert is willing to travel to provide services in other circuits.

Proposed Best Practice

1. Circuits should maintain a listing of approved experts, their qualifications, and the approved fees, to share with other circuits, if requested.

Discussion

The circuits would be well served by having a registry of qualified expert witnesses and maintained by the Office of the State Courts Administrator (OSCA). Providing court managers with an expanded, centralized resource will increase efficiency as all managers will be able to easily access this information through OSCA’s website, reducing the time spent trying to locate appropriate experts.

III. JUDICIAL APPOINTMENTS/MONITORING

Background Information

Trial court judges are authorized, by provisions of no fewer than ten separate chapters of the Florida Statutes, to appoint experts for a variety of evaluations, assessments, or tests. A number of civil, criminal, juvenile or family law rules of procedure also provide for the examination of the physical, emotional or mental condition of persons within the jurisdiction of the court. The scope and depth of these examinations vary in their intrusiveness from a home study to an examination after involuntary commitment to a secure mental health facility. Some examinations are intended to address specific issues while others are more general or exploratory. In most cases, these court experts support the adjudication process by providing trial court judges with highly specialized or expert information and opinion testimony concerning a matter in dispute, and expert or opinion testimony regarding the physical, psychological, or mental health conditions of persons affected by or subject to dispositional orders of the court.
A. Evaluation and Retention of Expert Witnesses

Proposed Standard of Operation
1. Each Circuit shall continually evaluate the performance of the expert witnesses that it contracts with or employs.

B. Issues with Expert Witnesses

Proposed Standards of Operation
1. Circuits shall have procedures for dealing with inappropriate behavior, complaints, or performance issues of expert witnesses.
2. Judges shall require that expert witnesses maintain professional conduct in the courtroom at all times.
3. Judges shall report to the appropriate authorities any unethical behavior of an expert witness.

Proposed Best Practice
1. Circuits should consider convening a committee to address complaints and grievances regarding a court approved expert witness.

Discussion
The inherent goal of the expert witness element is to protect due process rights and fundamental interests for an individual with a pending case. If an issue concerning the performance of expert witness arises, there is a risk to those rights and interests. It is in the best interest of the judiciary and all parties to address performance issues promptly, to avoid mistrials and appeals. Established procedures to deal with expert witness performance issues should be instituted at the earliest signs of a problem.

IV. EDUCATION

Background Information
The U.S. and Florida Constitutions guarantee individuals the right to due process. By sharing information regarding the use and qualifications of expert witnesses in court proceedings, the rights of individuals may be better protected and courts may better provide the effective, efficient administration of justice.
General Recommendations to the Florida Court Education Council

1. Within the appropriate bench books (i.e., criminal, mental health, etc.), consider adding a chapter regarding the use of experts witnesses.

2. Presentations to judges pertaining to expert witness services should be included periodically at judicial conferences.

3. Presentations regarding the use of expert witnesses should be included at the Florida Judicial College.

4. Presentations regarding the use of expert witnesses via webinars should be considered as an alternative to traditional in-person educational opportunities.

Proposed Standard of Operation

1. Circuits shall keep on file the curricula vitae of the expert witnesses who have been approved.

Proposed Best Practices

1. Circuits should offer informational sessions for court approved expert witnesses on administrative and court protocols.

2. Circuits should determine a procedure to notify court approved expert witnesses on changes to administrative and court protocols.

3. Circuits should consider posting information regarding expert witnesses, including protocols and administrative orders, on the court’s website.

Discussion

By having access to information regarding the qualifications, skills, and experience of expert witnesses, judges will be better equipped to utilize this important resource for the court. Additionally, resources, such as the Florida Psychological Association, Forensic Specialty Division, are available to provide educational materials and speakers for judicial conferences. In this age of technology, providing access to educational components via webinars and computer-based platforms is an effective means to provide the judiciary with important information. Additionally, by allowing judges to have access to the curricula vitae of expert witnesses, they will be better able to match experts with relevant skills to specific case requirements.

Expert witnesses who perform court-ordered evaluations need to stay informed of relevant changes in their profession and the law as it relates to the examinations for which they are appointed. Information on court procedure, and community resources should be provided to the expert witnesses. Circuits are well advised to offer multiple ways of providing this information, including face-to-face meetings, email listservs, and posting the information online.
V. FUNDING/PAYMENT

Background Information

Currently, the legislative budget request for state funding in the court appointed expert witness element, as proposed by the Trial Court Budget Commission and approved by the Supreme Court, is based on a formula that applies an average 2 year growth rate in expenditures to prior year contractual expenditures. Since Revision 7, the funding methodology used by the Trial Court Budget Commission to determine actual allocations for each circuit has been determined by placing five percent of the total statewide allotment in reserve and allocating the remaining contractual authority based on each circuit’s percent of current year annualized expenditures.

General Recommendations to the Trial Court Budget Commission

1. Funding allocations should take the total need for funding into consideration in order to bring uniformity and equity to the level of services provided across the trial courts.

2. The expert witness funding formula should be modified to include expert witness events, as well as expenditures.

Proposed Best Practice

1. Circuits should set, by administrative order or standard contract, standardized rates for expert witness services for each of the most commonly needed expert witness examinations.

Discussion

Although the current funding methodology has been mostly sufficient in addressing circuit expert witness needs, there have been certain deficiencies in the methodology. Perhaps the most prominent deficiency is that the methodology does not provide any standardized cost controls across the circuits. Presently, contract rates vary by circuits. As the methodology currently stands, circuits are essentially “rewarded” for spending more money because their next year allocation is based on prior year expenditures with a growth rate applied. Thus, the more money a circuit spends in the current year, the more money they receive the following year. The opposite is true for circuits that spend less money in the current year as they will receive less money the next year. Consequently, the methodology does not encourage cost efficiency and also cannot ensure a certain level of spending equity across the circuits. A closely related second deficiency is that the funding methodology is not directly tied to the expert witness workload of each circuit. Expert Witness Uniform Data Reporting (UDR) data for each circuit are not used in the funding calculations, and thus, do not ensure equity in funding across the circuits in line with the work they perform.
Due to these deficiencies, a new funding methodology is recommended for the Trial Court Budget Commission’s consideration. The new funding methodology could be modeled after the funding methodologies utilized by the Trial Court Budget Commission for the court reporting, mediation, and court interpreting elements. These methodologies place a ceiling on circuit spending that is calculated using a standardized statewide cost for services which is applied to data collected through the UDR System. Thus, these methodologies factor in the actual workload of each circuit and the actual cost of providing services.

When requesting funding from the legislature, this methodology allows the court system to equate any additional requested funding to a specific increase in expert witness workload. Therefore, the Legislature will be able to better identify a direct relationship between the additional dollars requested and an increase in services provided. The court system will also be able to provide greater accountability to how funds are expended. The funding methodology also provides for long-term equity in how resources are expended statewide.

### VI. DATA COLLECTION/MONITORING

**Background Information**

In 2004, the supreme court directed the Commission on Trial Court Performance and Accountability to develop a Uniform Data Reporting (UDR) System. The UDR System provides data pertaining to several court elements, including court appointed expert witnesses, to assist with the management of resources and measurement of performance and accountability of Florida’s trial courts. The UDR data only pertain to court events that occur at state expense. The current court appointed expert witness data collection instructions may be found in Appendix B.

**Proposed Standards of Operation**

1. The Office of the State Courts Administrator shall sponsor periodic trainings for all individuals involved in the collection and reporting of Uniform Data Reporting System statistics.

2. All circuits shall require attendance at trainings sponsored by the Office of State Courts Administrator for individuals involved in the collection and reporting of Uniform Data Reporting System statistics.

**Discussion**

These standards of operation are offered to further strengthen the quality of the data reported by each circuit. The Office of the State Courts Administrator should be required to provide periodic trainings for individuals involved in the collection and reporting of expert witness UDR data just as each judicial circuit should require attendance at these trainings.
VII. SUGGESTED STATUTORY AND RULE REVISIONS

Background Information
There are at least 22 statutes and 8 procedural court rules providing for evaluation, assessment, or testing by experts, or payments to experts (see Appendix A). Consistency among these statutory requirements is vital to the operations of the court and due process protections. Accordingly, the supreme court, in AO12-25, authorized the Commission on Trial Court Performance and Accountability to propose statutory changes related to the operational efficiency and effectiveness of the trial courts and to propose amendments to rules of court procedure on issues involving the operational efficiency and effectiveness of the trial courts, for consideration by the Court.

General Recommendation to the Trial Court Budget Commission
1. Consider reviewing the suggested statutory and rule changes for the expert witness element to determine whether there are costs associated with such amendments.

General Recommendation to the Commission on Trial Court Performance and Accountability
1. Consider pursuing statutory and rule changes to clarify and make consistent language regarding the appointment of experts and the party responsible for payment of experts, upon review of the potential costs as determined by the Trial Court Budget Commission.

Discussion
Several circuits have reported that inconsistencies in statutes regarding the number of experts that should be appointed in certain situations have caused confusion in how many experts are appointed. The following statutory and rule amendments are offered as suggestions to help eliminate inconsistencies:

- § 393.11(5)(g), F.S. Members of the examining committee shall receive a reasonable fee to be determined by the court. The fees shall be paid from the general revenue fund of the county in which the person who has the intellectual disability resided when the petition was filed by the court. (Revision 7 was supposed to relieve counties of these sorts of financial obligations)

- § 744.331(7)(b), F.S. The fees awarded under paragraph (a) shall be paid by the guardian from the property of the ward, or if the ward is indigent, by the state court. The state shall have a creditor’s claim against the guardianship property for any amounts paid under this section. The state may file its claim within 90 days after the entry of an order awarding attorney ad litem fees. If the state does not file its claim within the 90-day period, the state is thereafter barred from asserting the claim. Upon petition by the state for payment of the claim, the court shall enter an order authorizing immediate
payment out of the property of the ward. The state shall keep a record of the payments.  
(Defines “state”)

- **§ 916.301(2), F.S.** If a defendant’s suspected mental condition is intellectual disability or autism, the court shall appoint the following:
  
  (a) At least one, or at the request of any party, two experts to evaluate whether the defendant meets the definition of intellectual disability or autism and, if so, whether the defendant is competent to proceed; and

  (b) A psychologist selected by the agency who is licensed or authorized by law to practice in this state, with experience in evaluating persons suspected of having an intellectual disability or autism, and a social service professional, with experience in working with persons who have an intellectual disability or autism.

  1. (a) The psychologist shall evaluate whether the defendant meets the definition of intellectual disability or autism and, if so, whether the defendant is incompetent to proceed due to intellectual disability or autism.

  2. (b) The social service professional shall provide a social and developmental history of the defendant.

  (Suggest deleting paragraph (a). Appointment of psychologist and social service expert referenced in paragraph (b) may be sufficient.)

- **§ 921.09, F.S.** The court shall allow reasonable fees to physicians appointed by the court to determine the mental condition of a defendant who has alleged insanity as a cause for not pronouncing sentence shall be allowed reasonable fees. The fees shall be paid by the county in which the indictment was found or the information or affidavit filed.  
  
  (Revision 7 was supposed to relieve counties of these sorts of financial obligations.)

- **§ 921.12, F.S.** The court shall allow reasonable fees to physicians appointed to examine a defendant who has alleged her pregnancy as a cause for not pronouncing sentence shall be allowed reasonable fees. The fees shall be paid by the county in which the indictment was found or the information or affidavit filed.  
  
  (Revision 7 was supposed to relieve counties of these sorts of financial obligations.)

- **§ 921.137(10), F.S.** Experts appointed under paragraph (4) above shall be entitled to reasonable fees as determined by the court. If the defendant is indigent, said fees shall be paid by the court.  
  
  (Current statute requires the court to appoint experts but is silent as to who pays.)

- **§ 985.19(1)(b), F.S.** All determinations of competency shall be made at a hearing, with findings of fact based on an evaluation of the child’s mental condition made by not less
Recommendations for the Provision of Court Appointed Expert Witness Services in Florida’s Trial Courts

than two nor more than three experts appointed by the court. *(Remove “no fewer than two” language to be consistent with adult.)*

- **§ 985.19(1)(e), F.S.** For incompetency evaluations related to intellectual disability or autism, the court shall order a psychologist selected by the Agency for Persons with Disabilities to examine the child to determine if the child meets the definition of “intellectual disability” or “autism” in s. 393.063 and, if so, whether the child is competent to proceed with delinquency proceedings. *(Current statute calls for the appointment of the Agency, which causes confusion and is inconsistent with other statutory provisions.)*

- **Rule 8.095(c)(1), Fla. R. Juv. Proc.** When a question has been raised concerning the sanity or competency of the child named in the petition and the court has set the matter for an adjudicatory hearing, hearing on violation of juvenile probation, or a hearing to determine the mental condition of the child, the court may on its own motion, and shall on the motion of the state or the child, appoint no more than 3, nor fewer than 2 disinterested qualified experts to examine the child as to competency or sanity of the child at the time of the commission of the alleged delinquent act or violation of juvenile probation. *(Remove “no fewer than two” language to be consistent with adult and statute above.)*

However, the proposed amendments may shift some cost burden to the courts and should be reviewed and considered by the TCBC before pursuing statutory change.
Appendix A

Statutes providing for evaluation, assessment, or testing by experts, or payments:

- §39.407, F.S. (Dependent children)
- §57.081, F.S. (Indigents)
- §61.20, F.S. (Child Custody)
- §92.231, F.S. (Expert Witnesses)
- §393.11, F.S. (Developmental Disability)
- §§394.463 and 394.473 F.S. (Involuntary Mental Health Examination - Baker Act)
- §397.681, F.S. (Involuntary Substance Abuse Assessment and Stabilization)
- §397.6811, F.S. (Involuntary Substance Abuse Treatment)
- §397.697, F.S. (Involuntary Substance Abuse Treatment)
- §406.09, F.S. (Medical Examiners; fees)
- §744.331(3) & (7), F.S. (Guardianship)
- §794.0235, F.S. (Administration of MPA to Persons Convicted of Sexual Battery)
- §916.115, F.S. (Forensic Services for Mentally Ill)
- §916.301, F.S. (Forensic Services for Retarded and Autistic)
- §921.09, F.S. (Fees of Physicians Who Determine Sanity at Time of Sentence)
- §921.12, F.S. (Fees of Physicians When Pregnancy is Alleged)
- §921.137(4), F.S. (Mental retardation as bar to imposition of death penalty)
- §984.19, F.S. (Med., Psychiatric, or Psych. Examination of Child, Parent or Guardian in Children & Families In Need Of Services Cases)
- §985.18, F.S. (Med., Psychiatric, or Psych. Examination of Child Alleged to be Delinquent)
- §985.185, F.S. (Evaluations for Disposition)
- §985.475(2), F.S. (Comprehensive Assessment for Juvenile Sexual Offenders)

Rules of court providing for evaluation, assessment or testing by experts:

- Fla. R. Civ. Proc. 1.360 (Examinations of Persons)
- Fla. R. Crim. Proc. 3.210 (Incompetence to Proceed)
- Fla. R. Crim. Proc. 3.216 (Insanity At Time of Offense; Appointment of Experts)
- Fla. R. Juv. Proc. 8.250 (Examination, Evaluation and Treatment - Dependency)
- Fla. R. Juv. Proc. 8.675 (Examination, Evaluation and Treatment - F/CINS)
- Fla. Fam. Law R. Proc. 12.360 (Examination of Persons)
- Fla. Fam. Law R. Proc. 12.363 (Examination of Minor Child)
### Uniform Data Reporting

<table>
<thead>
<tr>
<th>Type of Proceeding</th>
<th>Court Experts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>✓</strong> For <strong>Circuit Criminal</strong>, report the number of evaluations involving felony</td>
<td>Competency Evaluations</td>
</tr>
<tr>
<td>proceedings. This includes, but is not limited to, bail hearings, first appearance</td>
<td></td>
</tr>
<tr>
<td>hearings, arraignment, trials, sentencing, and contempt. [Note: Also report</td>
<td></td>
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<tr>
<td>events for contempt that arise from a civil case.]</td>
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<tr>
<td><strong>✓</strong> For <strong>County Criminal</strong>, report the number of evaluations involving</td>
<td></td>
</tr>
<tr>
<td>misdemeanor, county ordinance, and municipal ordinance proceedings. This</td>
<td></td>
</tr>
<tr>
<td>includes, but is not limited to, bail hearings, first appearance hearings,</td>
<td></td>
</tr>
<tr>
<td>arraignment, trials, sentencing, and contempt. [Note: Also report events for</td>
<td></td>
</tr>
<tr>
<td>contempt that arise from a civil case.]</td>
<td></td>
</tr>
<tr>
<td><strong>✓</strong> If you cannot distinguish the type of proceeding for a first appearance</td>
<td></td>
</tr>
<tr>
<td>hearing, report the number of events in <strong>Circuit Criminal</strong>.</td>
<td></td>
</tr>
<tr>
<td><strong>✓</strong> For <strong>Family Court - Dependency</strong>, report the number of evaluations involving</td>
<td></td>
</tr>
<tr>
<td>dependent children.</td>
<td></td>
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<tr>
<td><strong>✓</strong> For <strong>Family Court - Delinquency</strong>, report the number of evaluations</td>
<td></td>
</tr>
<tr>
<td>involving delinquent children.</td>
<td></td>
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<tr>
<td><strong>✓</strong> For <strong>Marchman/Guardianship</strong>, report the number of evaluations involving</td>
<td></td>
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<tr>
<td>Marchman Act and guardianship. This includes, but is not limited to, matters</td>
<td></td>
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<tr>
<td>related to the involuntary assessment/stabilization/treatment of substance abuse</td>
<td></td>
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<tr>
<td>and the appointment and removal of guardians.</td>
<td></td>
</tr>
<tr>
<td><strong>✓</strong> For <strong>Family Court – All Other</strong>, report the number of evaluations involving</td>
<td></td>
</tr>
<tr>
<td>domestic issues. This includes, but is not limited to, matters related to domestic</td>
<td></td>
</tr>
<tr>
<td>violence, paternity, and change of custody.</td>
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</tbody>
</table>

### Number of Evaluations

- Report evaluations any time state court funding is used to pay an expert.
- Report each evaluation in a case regardless of how long the appointment lasts.
- Report each evaluation in the month the expert completed the report. If the date is unknown until receipt of the invoice several months later, please submit an amended report.
Court Experts

Uniform Data Reporting ∗ Competency Evaluations

Number of Evaluations (continued)

✓ For Adult Competency, report the number of evaluations conducted by court appointed experts to evaluate adult defendants for determination of competence pursuant to section 916.115(2)(a)(1), Florida Statutes and Florida Rule of Criminal Procedure 3.211.

✓ For Developmental Disabilities, report the number of evaluations conducted by experts appointed to evaluate defendants concerning allegations of incompetence to proceed to trial due to retardation or autism pursuant to section 916.301-916.304, Florida Statutes.

✓ For Developmental Disabilities Examining Committee, report the number of evaluations conducted by experts to determine mental retardation pursuant to section 393.11, Florida Statutes. [Note: The expert must agree to act as a Committee member.]

✓ For Guardianship Examining Committee, report the number of evaluations conducted by experts for cases in which the wards of an estate cannot pay pursuant to section 744.331, Florida Statutes. [Note: The expert must agree to act as a Committee member.]

✓ For Juvenile Competency, report the number of evaluations conducted by court appointed experts to evaluate juvenile defendants for determination of competence pursuant to section 985.223, Florida Statutes and Florida Rule of Juvenile Procedure 8.095.

The following items identify common reporting errors. Please check these items to ensure that the UDR data does not include these reporting errors.

× DO NOT report Adult Competency evaluations conducted by experts retained by the public defender before the public defender asks the court for a competency determination.

× DO NOT report Adult Competency evaluations conducted by experts retained by the state attorney to testify on behalf of the prosecution and appointed by the court in order to ensure that the expert has access to the defendant.

× DO NOT report Adult Competency evaluations conducted by experts retained by an indigent defendant represented by court-appointed private counsel or who is indigent for costs.

× DO NOT report treatment facility employees who testify in Baker Act/Marchman Act Evaluations.
### Court Experts

<table>
<thead>
<tr>
<th>Uniform Data Reporting</th>
<th>Competency Evaluations</th>
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<tbody>
<tr>
<td>✗ DO NOT report evaluations conducted by independent experts appointed at the request of court-appointed counsel or public defender in Baker Act/Marchman Act Evaluations.</td>
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</tr>
<tr>
<td>✗ DO NOT report Juvenile Competency evaluations if the evaluations are related to mental retardation.</td>
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</tr>
<tr>
<td>✗ DO NOT report ordinary witnesses, including but not limited to, witnesses in civil traffic cases and local ordinance violations.</td>
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</tr>
</tbody>
</table>
Recommendations for the Provision of Court Appointed Expert Witness Services in Florida’s Trial Courts

Uniform Data Reporting

Type of Proceeding

✓ For Circuit Criminal, report the number of evaluations involving felony proceedings. This includes, but is not limited to, bail hearings, first appearance hearings, arraignment, trials, sentencing, and contempt. [Note: Also report events for contempt that arise from a civil case.]

✓ For County Criminal, report the number of evaluations involving misdemeanor, county ordinance, and municipal ordinance proceedings. This includes, but is not limited to, bail hearings, first appearance hearings, arraignment, trials, sentencing, and contempt. [Note: Also report events for contempt that arise from a civil case.]

✓ If you cannot distinguish the type of proceeding for a first appearance hearing, report the number of events in Circuit Criminal.

✓ For Family Court - Dependency, report the number of evaluations involving dependent children.

✓ For Family Court - Delinquency, report the number of evaluations involving delinquent children.

✓ For Marchman/Guardianship, report the number of evaluations involving Marchman Act and guardianship. This includes, but is not limited to, matters related to the involuntary assessment/stabilization/treatment of substance abuse and the appointment and removal of guardians.

✓ For Family Court – All Other, report the number of evaluations involving domestic issues. This includes, but is not limited to, matters related to domestic violence, paternity, and change of custody.

Number of Evaluations

✓ Report evaluations any time state court funding is used to pay an expert.

✓ Report each evaluation in a case regardless of how long the appointment lasts.

✓ Report each evaluation in the month the expert completed the report. If the date is unknown until receipt of the invoice several months later, please submit an amended report.
**Uniform Data Reporting**

<table>
<thead>
<tr>
<th>Uniform Data Reporting</th>
<th>Court Experts</th>
<th>Other Evaluations</th>
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</table>

**Number of Evaluations (continued)**

- For **Custody Evaluation**, report the number of evaluations performed when a custody evaluation is ordered by the court for Family Court proceedings. Custody evaluations are conducted on both parties and all children. These evaluations focus on family relationships, parental capacities and the needs of children. Custody evaluators are licensed or licensed-eligible mental health professionals.

- For **Home Study**, report the number of evaluations performed when a home study is ordered by the court for Family Court proceedings. Home studies, or social investigations, are assessments of the child’s home environment and education status. These studies are conducted by court staff or by mental health providers (specifically, a licensed child-placing agency, a licensed psychologist, a clinical social worker, marriage and family therapist or a licensed mental health counselor).

- For **Other Evaluations**, report the number of evaluations ordered by the court that are not included in the types described above. This includes all experts other than competency, custody evaluation, and home study.

The following items identify common reporting errors. Please check these items to ensure that the UDR data does not include these reporting errors.

- **×** DO NOT report competency evaluations.
- **×** DO NOT report expert evaluations conducted on behalf of the Developmental Disabilities Examining Committee.
- **×** DO NOT report expert evaluations conducted on behalf of the Guardianship Examining Committee.
- **×** DO NOT report a home study performed by the Department of Children and Families for dependent children.