Commission on Trial Court Performance and Accountability
Orlando, Florida
April 20, 2018
9:00 a.m. - 3:00 p.m. EDT

Minutes

Members in attendance: Judge Diana Moreland, Judge Paul Alessandroni, Judge Jennifer Bailey, Matthew Benefiel, Holly Elomina, Judge Ronald W. Flury, Judge Victor L. Hulslander, Judge Leandra Johnson, Judge Ellen Sly Masters, Judge Elijah Smiley, and Judge William Stone

Members absent: Judge William Roby, Jonathan Lin, Barbara Dawicke, and Justice Jorge Labarga (Liaison)

Staff and others in attendance: Patty Harris, Lindsay Hafford, Victor McKay, Arlene Johnson, Shelley Kaus, and Jason Cleveland

I. Welcome and Introductions, Judge Diana Moreland, Chair

Judge Moreland welcomed members and called the meeting to order at 9:00 a.m.

II. Approval of January 25, 2018 Meeting Minutes (Decision Needed)

Judge Moreland asked if there was a motion to approve the January 25, 2018, meeting minutes. Judge Flury moved to approve the minutes. The motion was seconded by Judge Smiley and the minutes were approved without modification.

III. Letter to Judge Rodney Smith on Mediation Fee Collection Issue – In Response to Supreme Court’s Referral

Lindsay Hafford discussed a letter that was sent to Judge Rodney Smith, Chair of the ADR Rules and Policy Committee regarding the mediation fee collection issue. The letter serves as TCP&A’s response to the Supreme Court’s referral to review the policies on the mediation fee collection process as approved in administrative order SC09-19. The OSCA and the ADR Directors from around the state met twice late last year discussing those policies that had a 50-percent or below implementation rate. As a result, ADR Directors were able to swap ideas on how to improve compliance with the existing best practices. No changes to existing policies were recommended.

IV. Review of the 2018 Legislative Session

The OSCA tracked over 500 bills related to the courts during the 2018 session. Lindsay Hafford provided a brief summary of the bills that were of most significance to the trial courts, including:
Provisions related to criminal justice data collection and transparency that were originally introduced in a House Judiciary Committee bill (HB 7071) passed after being added to a pretrial diversion programs bill (SB 1392). The criminal justice data collection and transparency provisions, in part:

- Centralize certain criminal justice data by requiring the clerks of court, state attorneys, public defenders, county jail operators, and the Department of Corrections (DOC) to collect and submit specified data elements to the Department of Law Enforcement (FDLE) on a weekly basis;
- Require the FDLE to publish the data on its website and make it searchable, at a minimum, by data element, county, circuit, and unique identifier;
- Digitize the Criminal Punishment Code Scoresheet with individual cells for each data field;
- Expand the annual reporting requirements for pretrial release programs; and
- Require the DOC to report and publish, on a quarterly basis, inmate admissions by offense type and recidivism rates.

A number of court-related issues did not pass during this session including legislation to increase the county court jurisdictional threshold to $50,000 from $15,000 (HB 7061) was amended in the final days of session to include Supreme Court justice travel provisions and language addressing the relationships among chief judges, sheriffs, and counties on security for trial court facilities. However, after the Senate adopted an additional compromise amendment to raise the county court jurisdictional threshold to only $25,000, the House refused to agree and the Senate did not take up the bill again. A provision included in the bill at one point that would have provided for a refund of qualifying fees to unopposed judicial candidates died with the bill. Language implementing the appropriation for reimbursement of travel expenses for justices who live outside of Leon County was included in the budget implementing bill. Variations of the trial court security language were included in or filed in an amendment to other bills, but none passed. In addition, no legislation decreasing or increasing judgeships passed.

The Legislature passed a package in response to the Parkland school shooting. One of the bills, SB 7026, is a comprehensive piece of legislation that, in part:

- Authorizes a law enforcement officer or agency to petition the court for a risk protection order through which a person’s firearms and ammunition may be temporarily removed from his or her possession if there is demonstrated evidence that the person poses a significant danger to himself or herself or others;
- Authorizes a law enforcement officer to seize and hold firearms and ammunition if taking custody of a person under the Baker Act who poses a potential danger to
himself or herself or others and who has made a credible threat against another person;

- Prohibits a person who has been adjudicated mentally defective or been committed to a mental institution from owning or possessing a firearm until relief from the firearm possession and firearm ownership disability is obtained; and

- Requires the OSCA to develop and prepare instructions and informational brochures, standard petitions and risk protection order forms, and a court staff handbook on the risk protection order process, and to make the materials available in the languages of significant non-English-speaking or limited English-speaking populations in the state.

The standard petition and risk protection order forms must be used after January 1, 2019. The effective date for the rest of the bill is “upon becoming a law.” Governor Rick Scott signed the bill into law on March 9 (Chapter 2018-3, Laws of Fla.).

V. Risk Protection Orders and Reporting through Summary Reporting System (SRS) – Recommendations from the Court Statistics and Workload Committee

The TCP&A has been asked to provide a recommendation to the Supreme Court on how Risk Protection Order’s should be classified within the statewide SRS statistical reporting system, pursuant to the newly created law under section 790.401, Florida Statutes entitled “The Risk Protection Order Act.” Specifically, a recommendation is needed on the specific reporting category and appropriate judicial workload case weight for cases of this type.

Since the law went into effect on March 9, 2018, the OSCA has directed clerks to temporarily report Risk Protection Order cases under the Baker Act (Mental Health) category of the Probate Division. This reporting is intended to be a temporary solution for the month of March 2018 pending final recommendation by the Supreme Court in April 2018. Based upon internal discussions, input from chief judges, trial court administrators, and the FCCC Best Practice Workgroup, staff recommended to CSWC and TCP&A members the following as a permanent solution:

1. A separate reporting case type entitled Risk Protection Orders be created within the Probate/Mental Health division for SRS and Uniform Case Reporting (UCR) reporting for April 2018 forward.

2. Recommend that the Supreme Court define a new Uniform Case Number category, RP – Risk Protection Order, to be associated with the probate/mental health category. Require amendment to Supreme Court Administrative Order dated March 6, 1998 IN RE: Uniform Case Numbering

3. For judicial workload purposes, cases filed under this statute should be categorized as comparable to Orders for Protection Against Violence with a weight of 26 minutes until the next judicial workload study.

4. Summary counts of risk protection order cases be reported to OSCA under separate cover until appropriate reporting rules can be implemented.
5. The UCR system incorporate reporting of these case types immediately (even though Probate cases generally are not scheduled to be reported until Jan 2019).

The CSWC discussed these options at their meeting on April 19th and voted to recommend to TCP&A the creation of a new RPO SRS case type within the Probate Division and a case weight of 26 minutes.

The TCP&A discussed the CSWC’s recommendation and other voting options. The members expressed difficulty in making an educated guess because RPO’s are too new. Additionally, members remarked on how the process may not be as efficient as other case types as no additional resources will be provided specific for this case type.

Judge Stone moved to approve the CSWC’s recommendation and Judge Johnson seconded the motion. Judge Hulslander offered an amendment to the motion in consideration of Judge Smiley’s chart presented during the meeting on a number of judge minutes (120 minutes) anticipated to adjudicate RPO’s. The members voted favorably of the amendment, and the motion (as amended) passed with no objection. The members noted the need to administratively update the civil cover sheet as appropriate.

In summary, the TCP&A voted favorably to adopt CSWC recommendation to create a new RPO SRS case type within the Probate division. The TCP&A did not adopt the CSWC’s case weight recommendation. Rather, the Commission recommends a case weight of 120 minutes rather than 26 minutes.

VI. Preliminary Recommendations from the Performance Management Workgroup

To further our efforts in developing a performance management framework for the trial courts, Judge Moreland discussed the re-establishment of this Workgroup in this term to continue work as outlined in the current AO. Judge Stone agreed to serve as chair of the Workgroup embarking on an effort to gather data from available sources such as SRS, OBTS, and CCIS. They began their work pragmatically to review data to gain insights from that data to help determine a viable approach to performance management in these areas. However, the Workgroup was unable to obtain CCIS data from the FCCC which hindered that process.

Judge Stone discussed how the Workgroup moved forward developing four recommendations as noted within their report. He noted the different uses of performance measures. Some are used at the statewide level to assist in steering resources properly and some are used at the circuit level for case management purposes. He highlighted the need for more detailed information on the branch’s performance. Such access will enable the reporting and display of case management information in a meaningful way for judicial use. An example of some of the challenges include:

- In some instances, the courts have no ability to query their data. It is troubling that in 2017 the courts still do not have a mechanism in place to access our data or get the simplest of statistics such as time to disposition.
Case disposition data is not always entered. According to the most recent criminal time standards data, 46 percent of felony pending cases were filed prior to 2010. In fact, the data was showing that there are some felony cases pending for 116 years.

- Cases with outstanding warrants are classified as active and incorrectly included in the timeliness statistics.
- Some cases listed have invalid case numbers.
- Some cases are duplicated.
- There are data errors based on inevitable human error.

Judge Stone mentioned the Workgroup welcomes any comments and feedback from the TCP&A. Staff is continuing to work with the Workgroup to finalize the recommendations by mid-May. Once a final draft of the report is ready, it will be forwarded to TCP&A for consideration.

**VII. Juvenile Dependency Workload Tracking Workshop (Decision Needed)**

Judge Alessandroni provided a presentation on this topic. The Florida Supreme Court tasked the TCP&A with conducting “a workshop to identify events within a dependency case that involve significant judicial workload or court resources that are not captured by current tracking and data reporting systems. This workshop should identify appropriate data management and reporting processes for capturing this workload and resource usage.” (Source: AOSC16-39 In Re: Commission on Trial Court Performance and Accountability)

The Juvenile Dependency Workload Tracking Workshop was held Friday, September 16, 2016 and was a resounding success. This CSWC-sponsored workshop was chaired by Judge Ellen S. Masters and included a very dynamic and engaged group of dependency judges, case managers, circuit administration, clerk of court staff, and OSCA subject matter experts in attendance. The discussion and debate lasted the entire day.

Staff spent the remainder of the FY2016-2018 committee term analyzing and evaluating the information developed during the workshop. The completed Juvenile Dependency Workload Tracking Workshop Report and Recommendations is presented in Enclosure 02 and Enclosure 02A.

Recommendation 1 (as amended by Judge Masters in Enclosure 02A): Establish the child as the unit of case activity reporting.
Recommendation 2: Adopt an event-driven approach to reporting case activity within the juvenile dependency case type.
Recommendation 3: Complete the workload simulations for Issues 1.c.i.-1.c.iii.

Judge Johnson made a motion to approve Recommendations 1, 2, and 3 as provided in the Enclosure 02 of the Juvenile Dependency Workload Tracking Workshop Report, accepting the amendment to Recommendation 1 as noted in Enclosure 02A. Judge Stone seconded the motion and the motion passed.
VIII. Update on Uniform Case Reporting

Judge Alessandroni provided an update on the Statewide Uniform Trial Court Caseload Reporting System Plan (proviso report) submitted to the Legislature on December 1, 2017. The 2017 Legislature requested the OSCA submit a report detailing a plan to build a case data management system capable of providing judges with case activity and management reports via a web-based visual display system. Workload measures required for this plan included filings, dispositions, clearance rates, time to disposition and pending caseloads calculated by judge, circuit, and statewide. Additionally, the proviso language required the court system to include a plan to pay for development from existing budgetary funds.

The Legislature did not take up the proposal during the 2018 Legislative Session. (The 2018 Legislature focused primarily on criminal justice data collection and public availability of that data.) However, overall data and performance reporting will likely continue as a recurring topic of consideration by the Legislature.

The Statewide Uniform Trial Court Caseload Reporting System was modeled on the Uniform Case Reporting (UCR) project, which is currently underway and being overseen by Court Statistics and Workload Committee. Work on this project has focused on transitioning the clerks of court from traditional Summary Reporting System reporting to the event-driven reporting of UCR.

In preparation for this work, the OSCA completed a pilot project with Hillsborough and Brevard counties in March of 2017. The pilot served to validate the UCR reporting mechanism and to identify potential issues and problems that might impede the transition of clerks of court in general. A number of technical issues, including the development of the UCR data exchange web service, were identified during the pilot and addressed in the subsequent months.

Transition to reporting under UCR requirements will occur in two phases. Phase I focuses on working with the clerks of court to develop technical specifications and change orders for vendors, establishing stable connections from the clerk CMS to UCR data exchange service, and culminates in an initial upload of all open and reopened cases in the clerk’s inventory. Phase II focuses on the validation of data submitted by the clerk to ensure uniformity in reporting and in the computation of caseload reporting measures.

Both Hillsborough and Brevard counties completed the Phase I transition process (December 2017, March 2018 respectively) and are actively participating in Phase II.

An additional 20 clerks of court began UCR Phase I transition in different weeks throughout January and February 2018. Counties with similar case maintenance systems were scheduled during the same week, so as to provide any advantages from collaboration with the other clerks’ offices. Of the total 22 counties transitioning to UCR:
• All clerks of court selected the reporting mechanism for UCR data exchange (web-based or CMS replica) and the mechanism for receiving UCR error communications.

• 5 clerks are in active Phase I or II transition at this time (Hillsborough, Brevard, Polk, Columbia, Washington). While Polk, Columbia, and Washington did not complete Phase I in their scheduled transition period, they continue to make progress.

• 17 clerks of court did not make significant progress during UCR Phase I Transition period (Jan 15 – Mar 29, 2018) and have been returned to the transition queue to try again at a later date. (Charlotte, Citrus, Leon, Okaloosa, Sarasota, Okeechobee, Putnam, Union, Orange, Broward, Clay, Lee, Miami-Dade, Monroe, Pinellas, Alachua, and Levy)

Recently, the FCCC proposed what it refers to as a “data broker model” to fulfill the UCR requirements. Under this scenario, the existing data portal would transmit clerks’ data to Civitek (FCCC). The information would then be compared to existing CCIS data and the FCCC would create a new data broker to transmit information to the courts in an effort to try to meet the requirements for uniform case reporting. This approach through a third-party vendor is not consistent with the current requirements of AOSC16-15 In Re: Uniform Case Reporting Requirements. In early March, the OSCA received three separate letters from clerks of court using the Pioneer CMS. These clerks expressed an unwillingness to commit to additional transition work to implement UCR until the court system made a final decision on the FCCC data broker proposal. Their letters outlined their position that if the FCCC data broker proposal is deemed non-viable, they would opt to use the web services option, not replication servers. They also expressed a need for compliance extensions if the court system decides not to use the FCCC option.

On April 2, 2018, Ms. PK Jameson sent a letter to Mr. Chris Hart IV, CEO of the FCCC, in response to the “data broker model” proposal. A copy of the letter is included in the meeting packet.

IX. Update from the Shared Remote Interpreting Governance Committee

Lindsay Hafford discussed the Shared Remote Interpreting model that operates under the principle that some participating circuits will contribute staff time to cover demand in other circuits, providing the ability for all participating circuits to access a certified interpreter when needed. To manage the use of these shared resources, the Governance Committee developed operational procedures summarized in the meeting materials.

Based on anticipated demand reported by circuits, the Governance Committee developed a staffing model for on-demand calls centered on circuits providing a specified number of staff at certain times of the day. This requires the interpreter to be at their workstation, registered online, and prepared to receive incoming calls to provide services. An initial
A memorandum of understanding (MOU) will be executed between the Governance Committee and each participating circuit. The MOU will contain information relating to the overall operations of shared remote interpreting as well as the expectations of each party. The Committee previously determined the MOU will be established annually for each fiscal year and that the MOU template may be tailored to meet each circuit’s specific needs. It is also acknowledged that, as the staffing schedule is fine-tuned, individual circuit contributions may change and the schedule should be incorporated into the MOU as an addendum. Staff will be finalizing an MOU for each participating circuit and distributing them for signature prior to the launch of on-demand services.

While the MOU is designed to be an internal agreement between the Governance Committee and the participating circuit, the business model is envisioned to be a public document establishing the business rules and methods of operation of shared remote interpreting technology and resources. In addition, a technical standards document with detailed specifications and diagrams is under development and may be incorporated with the technical standards of the Florida Courts. A draft business model document is currently under development.

Educational materials designed to ensure all users feel comfortable with the use and functionality of technology are currently under development for three user profiles (Judge/Court Staff, Interpreter, and Defendant). This will include written materials, user guides, and short videos where applicable. Dialing instructions have been developed and disseminated to participating circuits. Remaining educational materials will be made available to participants prior to the launch of on-demand services.

In their 2015 report, the Shared Remote Interpreting Workgroup recommended the establishment of a statewide sign language FTE to be used by all circuits within the VRI pool. This recommendation was subsequently approved in concept by the Supreme Court and in order to implement it, the Governance Committee voted to prepare a proposal to the Trial Court Budget Commission (TCBC) requesting inclusion in the FY 2019-20 judicial branch legislative budget request (LBR) for an RFID certified American Sign Language interpreter to provide services to all circuits via remote technology. Staff of the OSCA are completing the internal steps to prepare a proposal, including the employee salary, benefits, and expenses as well as the associated equipment and start-up costs, to be presented to the TCBC for their consideration in early summer of 2018.

Judge Moreland mentioned the Joint Due Process Workgroup is meeting on Monday to begin discussions on gaining efficiencies and improving effectiveness of court interpreting services. Issues include: difficulty and cost of hiring/retaining certified
court interpreters, salary issues for interpreters, and more widespread use of VRI technology.

X. New Directives for the 2018-2020 Term

Since 1998, the Supreme Court has maintained operation of the Performance and Accountability Commissions for both the trial courts and the district courts. Every two years, the P&A Commissions are re-established per administrative order signed by the chief justice. The TCP&A consists of 15 members. There are two committees. Judge Alessandroni chairs the Court Statistics and Workload Committee. Also, a long-term member of P&A (2010-2014) Chief Judge Elizabeth Metzger is now serving as chair to the new Shared Remote Interpreting Governance Committee.

Over the last several years, the TCP&A has provided policy guidance to the trial courts in the areas of performance and accountability through use of consistent standards of operation and best practices. The TCP&A continually assists with the judicial workload related studies. The P&A has also developed the Uniform Data Reporting (UDR) system to collect consistent information on circuit workload to assist in the management of resources – with a specific focus on due process elements (e.g., Court Reporting, Court Interpreting, Expert Witnesses, and Mediation).

During the 2016-2018 term, the Commission accomplished the following:

- Established the Shared Remote Interpreting Governance Committee, whose charge includes establishing the statewide court interpreting pool for remote interpreting, overseeing administration and management of shared remote interpreting human and technology resources, collecting and monitoring workload data, and making recommendations to the Trial Court Budget Commission on additional funding needs.

- Re-established the Performance Management Workgroup to continue the development of the Trial Court Performance Management Framework, evaluate data needs and availability of court programs, provide guidance on data management issues, and identify events within dependency cases that involve significant judicial workload or court resources that are not captured by current reporting data systems.

- Continued implementation of Uniform Case Reporting, through the efforts of the Court Statistics and Workload Committee (CSWC), in order to enhance the ability of judges and case managers to electronically process and manage cases across all case types and to improve statewide collection and use of performance measurement data.

- Submitted recommendations to the Supreme Court on the provision of expert witnesses in Florida’s Trial Courts (a joint report filed on behalf of the Commission and the Trial Court Budget Commission).
• Developed a framework for implementing Recommendation 4 (creation of a separate case weight for each problem-solving court) of the 2016 Florida Judicial Workload Assessment.

At the end of each two-year term, the Commission is asked to identify topics, issues, or concerns that have come to the Commission’s attention and that the Commission believes should be addressed in the future. During the next 2018-2020 term, there are several issues that may merit the attention of the TCP&A based upon previous recommendations or newly identified issues.

1) The TCP&A may wish to continue its development of recommendations on the Trial Court Performance Management Framework, monitoring and reviewing the current time standards, however, focusing on data accuracy. Additionally, the TCP&A may wish to review the LRPP measures for possible revision.

2) Through the Court Statistics and Workload Committee, the TCP&A may wish to continue the implementation of Uniform Case Reporting based on the schedule as approved in AOSC16-15.

3) Through the Shared Remote Interpreting Governance Committee, the TCP&A may wish to continue to provide governance support to the circuits in the implementation and use of virtual remote interpreting to facilitate language access.

4) The TCP&A may wish to continue to provide support to the joint Due Process Workgroup, a workgroup of the Trial Court Budget Commission and the Commission, charged with identifying factors affecting the cost of providing court reporting, court interpreting, and expert witness services and developing comprehensive fiscal and operational recommendations to optimize due process services.

XI. Other Business

Judge Moreland mentioned the possibility of meeting via conference call in May/June to address recommendations by the Joint Due Process Workgroup for court interpreting services. Also, she noted staff will provide the Performance Management Workgroup’s final report for vote in late May or early June.

Members were recognized for their commitment and service during this term.

With no further business, the meeting was adjourned at 2:44 p.m.