Florida Supreme Court  
Commission on District Court of Appeal Performance and Accountability  
Video Conference  
1:30 p.m. – 3:00 p.m.  
June 14, 2017  

Minutes  

Members in attendance:  
Judge Vance Salter, Judge Anthony Black, Judge Ross L. Bilbrey, Judge Melanie May, Lonn Weissblum, Judge James A. Edwards, and Justice Peggy Quince (liaison)  

Absent:  None.  

Staff in attendance:  
Patty Harris and Victor McKay  

I. Welcome and Introductions  
Judge Salter called the meeting to order at 1:30 p.m.  

II. Membership Changes (AOSC17-3)  
Administrative Order SC 17-3 has been issued to appoint Judge James A. Edwards to the Commission.  

III. Approval of September 26, 2016 Minutes  
Judge Melanie May moved to approve the minutes and Judge Anthony Black seconded the motion. The minutes were approved without modification.  

IV. Appellate Innovation E-Catalog  
In 2015, the State Justice Institute awarded a grant to the National Center for State Courts to develop an electronic catalog of innovative practices and technological applications in state appellate courts. A project committee was formed and tasked with gathering and disseminating successful changes instituted by intermediate appellate courts and courts of last resort that have resulted in increased efficiencies and reduced time to disposition in appellate cases. The committee comprised State Courts Administrators and Chief Justices from across the country. While appellate courts do vary significantly across the nation, hopefully this work will offer some examples of approaches that may be used to better our efforts in providing efficiencies wherever feasible. To view the E-Catalog, you can access it from either the CCJ or COSCA webpage. Also, a direct link is provided here:  E-Catalog.  

V. Final Report on OPPAGA Study on Florida District Courts of Appeal Boundaries and Workload, February 2017
The members discussed the recommendations in the OPPAGA report in which the Legislature directed a review of DCA jurisdictional boundaries. The members discussed the Florida Rules of Judicial Administration and the specific criteria outlined for determining changes to jurisdictional boundaries. The report lists some options for the Legislature to consider in addressing distribution of the workload. A copy of the report is included in the meeting materials.

VI. Implementation Letter Dated February 22, 2017 to the Chief Judges RE: Performance Study: Dependency and Termination of Parental Rights Appeals and AOSC17-11 Corrected

A letter was issued to the chief judges on February 22, 2017 in regards to the implementation of AOSC17-11 on the issues that cause delays in the receipt of documents at the appellate level in dependency and termination of parental rights appeals. Following the issuance of the letter, a corrected version of the AO was provided by the Supreme Court to reflect the appropriate citation in Recommendation 34 on page 8, Motions for Extension of Time, is R. 9.146(g)(4)(C), Fla. R. App. R.

A. Issue Relating to Ineffective Counsel Assistance in TPR Cases

The Court recently recognized a right to effective assistance of counsel in termination proceedings. At a recent conference, the Court expressed its desire that this new proceeding not delay the ultimate determination. Whether delay or confusion in what constitutes the ROA in those cases and any other factors should be something that the DCAP&A and TCP&A also considers.

The Court put interim procedures in place until the Select Committee appointed by the Chief recommended rules. That petition was filed and heard by the Court this past December. On March 23, 2017, the Court issued an opinion regarding amendments to the Florida Rules of Juvenile Procedure and Florida Rule of Appellate Procedure 9.146. The opinion is included in the materials.

Judge Salter discussed the amended rule and the potential impact it will have on TPR collateral issues that may arise. Some members commented they have not seen any ineffective assistance of counsel so far. That may be due to the rule being new. The DCAP&A will monitor the issue in the coming months.

B. Next Review of Dependency/TPR Appeals Timeframes

In reference to the next review of the timeframes, the members noted the last review focused on data from FY2013-14. Since the AO was released in FY2016-17, it may take time for the best practices to be reflected in the statistics. Staff will review data early next year to determine if there have been improvements made in the timeframes, based on the new best practices. Judge Black commented that his district does not seem to be having an issue with lawyers complying with the time requirement.

VII. Next Tasks
A. Review of Current Appellate Court Time Standards, including Rule-Based and Model Time Standards

Charge One of AOSC16-32 directs the Commission to monitor and review the current appellate court time standards, including rule-based and model time standards, and develop policies and procedures to improve meeting those time standards. The last review occurred from 2011-2015. That review showed all districts are functioning within current standards outlined in Florida Rule of Judicial Administration 2.250. Staff recommends reviewing FY 2016-17 data. The intent is to conduct a formal review of the time standards to determine how the districts are performing. Advances of new technologies may result in an update to the rule 2.250 or put forth other recommendation for the Court’s consideration. Staff will conduct a review of time to disposition for two previous fiscal years and report back to the Commission at the next meeting.

B. Develop Performance Indicators for Post-Conviction Cases

Charge Two of AOSC16-32 directs the Commission to develop performance indicators for efficient, effective, and timely processing of post-conviction cases, as part of monitoring and reviewing statewide performance indicators. The members discussed if there is a need for updated statistics as it relates to post-conviction cases. The previous data review included:

- Post-conviction Filings as a Percent of Total Filings by District (FY 1996-97 to 2015-16)
- Post-conviction Filings by District (FY 1996-97 to 2015-16)
- Prison Admissions by District (FY 1995-96 to 2014-15)
- Prison Population by District (FY 1995-96 to 2014-15)
- Circuit Court Post-conviction Relief Motions Filed by District (FY 1996-97 to 2015-16)
- Post-conviction Dispositions (FY 2010-11 to 2014-15)

The members discussed the need to look at post-conviction cases more closely since the issue was recently studied. Judge May commented she would like to see the orders (in the chart on page 109 of the meeting materials) broken down by district. She also stated they have been pretty aggressive about issuing post-conviction relief orders, which resulted a reduction of frivolous filings in her district. A determination of additional post-conviction indicators will be determined after reviewing data for the previous two fiscal years. Staff will also review data on the number of bar orders that are filed.

C. Develop Performance Indicators for Online Dashboard with ACTC

Charge Three of AOSC16-32 directs the Commission to collaborate with the Appellate Court Technology Committee to identify and develop performance indicators for an online dashboard with the intent to convey appellate court performance. OSCA reached out to NCSC to see if there were other states that currently have true appellate dashboards. Michigan came the closest to having one, but it was not a true dashboard with real-time data. It more resembles information that is published in the Court’s annual report. Judge Salter informed the members that the Website Revision Committee is
finished with the website re-design for the district courts and is now being sent to vendors for implementation. He has been keeping the committee aware that DCAP&A may have a piece to go into the website. The members discussed what information should go on a dashboard while considering who the audience is and what data they consider relevant. They determined attorneys, practitioners and the legislature would be considered the audience for the dashboard. The data elements on the dashboard would include the status of a case, time to disposition on civil and criminal cases, time to oral argument, cases pending and disposed, and a breakdown of the cases by type.

The members also discussed how frequently the page should be updated. If updated in real-time, staff would have to talk to the technology staff as the frequency also depends on the availability of the data. Currently, the eFACTS Change Advisory Board is waiting for the DCAP&A to provide them with a list of indicators and measures for a dashboard. Staff will put together a list of those indicators and measures, then talk with OSCA technology staff to determine what data is available and how often it is available. Once that information is determined, it will be placed on the Board’s agenda for consideration. Staff will contact OSCA technology staff to determine when the Board will have their next meeting. OSCA staff will also get the 22 different measures from the C-Web report. OSCA staff will email a list of the measures to the members. This may help the Commissions determine what measures are the most important and how we are performing.

D. Review Appellate Clerks Staffing Model

A narrative was completed in 2012 explaining that the Commission would not update the 2008 study due to the fact that e-filing was new. Therefore it would be best to wait to see if e-filing would change the way clerk offices are operating and what affect that would have on the clerk model. The 2008 recommendations are included in the meeting material on page 111. Staff has made a request with the technology office to give us more updated data. The data will be available soon and will be sent to the members for their review. Lonn Weissblum has agreed to poll the clerks as a way to start pulling together data on the items needed to revisit the clerk staffing model.

In reference to the members working on the various charges:

- Judge Salter will work on the appellate dashboard.
- Judge May will lead the effort to review data to determine if rule 2.250 should be changed.
- The members agreed to look at the post-conviction data first before making a determination if this is something the Commission wants to explore.
- Lonn Weissblum will work on the clerk staffing model.

VIII. Other Business

The LRPP measures will be approved by the members via a follow-up email in July.

The next meeting is scheduled for the fall. Information will be sent once a meeting date is determined.
With no further business, the meeting was adjourned at 2:54 pm.