

MINUTES
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION
EXECUTIVE COUNCIL
THURSDAY, JULY 14, 2005
TELECONFERENCE

The July 14, 2005 meeting of the Executive Council of the Clerks of Court Operations Corporation (CCOC) was called to order at 1:30 p.m. by Chairman Maryanne Morse who welcomed members and guests. Members and staff of the Executive Council of the Corporation present were the Honorable Maryanne Morse, Honorable Jeffrey K. Barton, Honorable Howard Forman, Honorable Annie Mae Murphy, Honorable Harvey Ruvin, Honorable Tim Smith, Honorable Richard Weiss, John Dew, Joseph Boyd, and Judy Zorn. Ms. Morse announced that a quorum was present.

APPROVAL OF MINUTES FROM JUNE 12, 2005

Ms. Morse asked if there were any revisions to the draft minutes from the June 12, 2005 meeting. There being none, a motion to approve the minutes was made by Ms. Murphy and seconded by Mr. Ruvin. The minutes were approved as circulated.

SUBCOMMITTEE REPORTS

PERSONNEL

Mr. Smith was charged with doing a job evaluation for Mr. Dew. He stated that Mr. Dew was hired in November 2003 and has continuously remained an employee through the life of the Conference and subsequently the Corporation. His compensation has not been adjusted since he was hired and he has continued to do an excellent job. Mr. Smith made a motion to increase Mr. Dew's salary by 15%. Mr. Forman said this was very reasonable and seconded the motion. Ms. Morse called for discussion. There being none, vote was taken and the motion passed unanimously. Mr. Ruvin commented that Mr. Dew is one of the hardest working and most conscientious public servants he's known, and he's glad we have him working with us. Ms. Morse said that if there was no objection that the increase would be effective July 1, 2005. There was no objection.

LEGISLATIVE

Mr. Forman stated there was nothing to report at this time.

PERFORMANCE MEASURES

Ms. Murphy stated that she would cover Performance Measures under a later Agenda item.

BUDGET AMENDMENT REQUESTS – St. Lucie and Dade Counties

St Lucie Clerk's Office –

Mr. Dew noted that the St. Lucie Clerk's Office hasn't reached its earlier projected revenue for the present budget year and therefore is seeking a Budget Amendment Request. The Request is to decrease the amount of dollars to be sent to the Trust Fund and instead receive dollars from the Clerks' Trust Fund. According to St. Lucie Clerk staff they have never fully recovered from the hurricanes of 2004. The Clerk is requesting approval to not send further monies to the Trust Fund (year to date contributions \$121,000) and to receive \$428,295 from the Trust Fund. Mr. Dew reported that we currently have sufficient dollars in the Trust Fund to meet this request. Mr. Fry, Honorable Clerk of the Court, St. Lucie County, said that while he can meet his expenditure obligations until August he will need the funds from the Trust Fund before the end of this fiscal year. Mr. Forman moved approval of the St Lucie Budget Amendment Request. Seconded by Mr. Smith, the motion passed unanimously.

Dade County Clerk's Office –

Mr. Dew pointed out that Section 69 of HB1935 states that the FY 04/05 expenditure cap for the Clerk of Court, Miami-Dade County is increased by \$3,817,115. Mr. Forman, in order to comply with the law, made a motion to have the expenditure cap for the Miami-Dade Clerk's office increased by \$3,817,115. This was seconded by Mr. Weiss and the motion passed unanimously. Mr. Ruvin thanked the Council and said that the newly adjusted budget would be sent to the CCOC office within a day.

Ms. Pat Frank, Honorable Clerk of the Court, Hillsborough County, asked Council members what efforts are being made to investigate whether FEMA will reimburse counties for the dollars they need as a result of the impact caused by the hurricanes. She noted a concern that surplus counties are contributing to a pool of dollars that, in turn, are being used to support counties whose revenues have been affected by hurricanes. Ms. Morse responded that it is her understanding that FEMA deals with property loss but not with potential revenue loss occurring as a result of there being fewer cases. Mr. Dew reported that we had researched the issue of potential reimbursement of dollars for loss of revenues and FEMA will not reimburse for lost revenue.

Mr. Fry, Honorable Clerk of Court, St. Lucie County, thanked the Executive Council for approval of his Budget Amendment. He also stated that costs incurred as a result of losing his building and equipment were reimbursed by insurance or by FEMA. However, FEMA would not reimburse for loss revenues due to a drop in court cases.

CHILD SUPPORT ISSUE

Ms. Morse pointed out that legislative appropriations staff has stated that non-court child support should not be included in the Clerks' court-related budgets. It is going to be very difficult with such short notice to try and figure out in each budget what is court vs. non-court child support expenditures. The difficulty is trying to figure out with a clear definition across all 67 Clerk offices which is court and which is non-court related child support.

Mr. Forman and Ms. Murphy asked how we are to know whether the work is court-related or not. Ms. Morse responded that this is the dilemma. By example, if staff is working up a case to go back to court, this is court-related. However if staff is setting up an order under the child support system or collecting monies for distribution, then it may be considered not court-related.

Ms. Morse suggested another way to try and pull out "non-court related" child support from the budget is making an assumption that the IV-D child support reimbursement revenue is only offsetting the non-court expense and therefore you would remove those expenditures from the budget. If, for example, you get \$100,000 from DOR for IV-D cases, you'll deduct the \$100,000 from your revenue side and \$100,000 from your expenditure side, thereby causing no impact at all on your court-related budget.

Mr. Forman stated that Broward County handles child support a little differently. He has four people doing the record keeping and their salaries are covered by IV-D monies. The county is the depository and that's under the county budget. Therefore, Mr. Forman feels his four people should be court-related. Mr. Dew stated that in this case the staff, although funded by IV-D, may be performing court-related functions. If Mr. Forman takes out all the IV-D dollars from his revenue, he would not show any expenditure in that area. Mr. Dew stated that we need to look further into this scenario.

Ms. Murphy stated that she has one person doing all of the Child Support. Everything she does is for the court and, therefore, Ms. Murphy felt it could all be defined as court-related. Ms. Morse said that if the IV-D reimbursement covers 2/3 of this staff person's salary; the remaining 1/3 will be picked up under court-related budget.

Ms. O'Keefe (Volusia County) asked why their IV-D monies pay for sending cases to court which is considered court-related. She feels they are being reimbursed by IV-D for many functions which are court-related. Ms. Morse answered that this refers to indirect cases and we are looking for the easiest way to solve this problem. Ms. Morse asked if anyone could think of another methodology to remove non-court child support expenditures from the court-related budget.

Mr. Weiss moved that for the purposes of budget preparation we remove from the budgets the IV-D revenue reimbursed through DOR and the same amount from the expenditure side. In other words, the amount of IV-D revenues reimbursed from the DOR will have the same amount of expenditures pulled out of the Article V Budgets. Ms. Morse suggested that this solution does not preclude our taking a more in-depth look at this issue after this budget cycle. Ms. Murphy suggested that if you estimate what IV-D will reimburse you with an offset in expenditures, and random moment selection comes up far less such that IV-D takes away some of your money, you'll come up short in your budget. Ms. Morse said she understands and agrees that this may happen in some

counties. We do recognize that some counties are hurt by random moment selection and some are helped by it. If a shortfall occurs, then we will have to find out if we can initiate a Budget Amendment Request to cover that shortfall. Mr. Smith seconded Mr. Weiss' motion. Ms. Morse asked for further discussion by the Executive Council or by those listening. There being no further discussion, the motion passed unanimously. Mr. Dew stated that this change will have to be incorporated into the 05-06 Budget Forms and Instructions prior to them being sent out.

Mr. Howard, Honorable Clerk of the Court, Okaloosa County, stated that his child support staff functions strictly as a depository. They perform no court-related functions whatsoever. Therefore, he suggested that, based on the motion just passed by the Executive Council, neither the expenses for this staff nor the IV-D reimbursement would appear in the Article V budget. Mr. Weiss added that this is true only up to the level of the IV-D reimbursement. Ms. Morse stated that if any of Mr. Howard's child support staff is working up cases to go back to court, then they are performing a court-related function. Mr. Howard allowed that, given this, they are performing some court-related functions.

PERFORMANCE MEASURES

Ms. Murphy announced that a copy of the Output and Outcome Measures Report Outline is included in all the packets. This is the form we will use to report Clerk compliance with Timeliness and Collections to the CFO at the end of this month as required by our contract with the Department of Financial Services. This will be a combined report for all sixty-seven counties. Ms. Morse stated that the first page is the information we're already providing, number of cases and defendants. By law, we also need to supply information regarding which counties have not met the performance standards and what CCOC has done or is doing to assist them in meeting both the Timeliness (new cases and docketing) and Collections Performance Measures. Mr. Weiss asked if CCOC plans to supply an explanation as to why the individual counties have not met particular standards. Ms. Morse said she's not sure we would supply that information but did add that CCOC would be contacting the Clerk's offices to discern why the standards were not met. Mr. Dew stated that we can, if the Clerks prefer, include reasons. Mr. Dew said he does not expect that all counties will have been able to meet all the standards during this first reporting period.

Ms. Murphy asked for clarification as to when the reports are due. Mr. Dew stated that reports are due at the CCOC office by end of workday July 20. Ms. Morse asked that any Clerk who has sent his/her reports to FACC please send a copy to CCOC as well. She also requests that FACC forward to CCOC any reports they have received. Ms. Morse asked if there were any questions regarding the form as presented. There were no objections. Ms. Morse explained that there is a scrivener's error on page 4. The timeliness measure for opening a Civil Traffic case should have been 80% in four days, not the two days listed on the form. Mr. Forman made a motion to correct the form to reflect these changes. Mr. Weiss seconded the motion. The motion carried unanimously.

Ms. Morse recommended changing the felony collections compliance rate from 15% to 9%. She asked if anyone listening has the ability to track the percent of individuals who have been sent to the Department of Corrections (DOC) or to county jail.

Getting no response, she reported that there are at least two counties that she knows can track this data. Both have discerned that forty percent of felonies are sent either to DOC or to county jail. The odds are that we won't be able to collect those dollars while they are in jail or prison. Therefore, if we are looking realistically for a collections rate in this area it should be lower than 15%. Mr. Ruvin moved that we make this change; Ms. Murphy seconded the motion; and the motion carried unanimously.

Mr. Weiss asked about the definition for reopens. We have in the 05-06 budgets a projection for reopens but still do not have a definition. Mr. Weiss suggested that we have a timing issue with budgets due by August 15. Mr. Dew stated that that particular cell on the budget forms is locked because we anticipated that the definition would not be ready until after the budgets were due. Mr. Dew asked for permission to put together a workgroup to develop this definition and bring it back to a later Executive Council meeting. Ms. Morse agreed it might be a good idea to establish a workgroup to help develop this definition.

Ms. Frank, Clerk of Court, Hillsborough County asked if we must file collections performance measures reports quarterly or only annually. Ms. Morse reported that legislative staff would like to see results; therefore, we should provide this information on a quarterly basis. Ms. Morse noted that she explained this at both the annual Corporation Meeting and the June Council meeting. While we realize that no county will meet a 40% collections rate in three months, counties within 10% each quarter will automatically fall within 40% for the year. We must report collections quarterly. Mr. Forman reminded everyone that our goal is to improve collections. Ms. Morse reminded Clerks that improving collections will be critical to increasing budgets in the future.

Mr. Weiss asked for clarification on when we will start tracking collections. Ms. Morse responded that the first quarter for which we are required to submit the Performance Standards Reports is April through June 2005. Mr. Dew reminded Council Members that in April, 2005 they passed a motion that we will only submit collections compliance reports annually and that while it was suggested at the annual Corporation Meeting and the June Council meeting that it be made a quarterly report, no formal motion was made. Ms. Morse noted that with the changes that have come about as a result of recent legislation and our working with the LBC, we will need collection information sooner. We therefore now need a motion to correct our previous action. Mr. Forman moved that Clerks do Performance Measures Reports on collections quarterly. Mr. Weiss stated that we won't have much information before we have to go to the LBC, and the information will make it appear that our collections are very low. Ms. Morse stated that our primary concern is our need to be able to show the LBC, when approaching them on the Clerks' behalf in October, that we are at least getting information and are trying to meet both timeliness and collections performance standards. Mr. Dew reported that to date, we have no documentation on Clerk's meeting timeliness or collections standards. DFS have told us the CCOC may be seen as not fulfilling their role until such information is obtained. Both DFS and the Legislature are anxious to see the data. Mr. Smith seconded Mr. Forman's motion. Ms. Morse asked if there was any further discussion. There being no further discussion, a vote was taken and the motion carried.

Mr. Dew also reported that the original timeliness form only required that Clerks indicate by checking "yes" or "no" that they are or are not in compliance. Since that

form was developed, we realize the need to gather percentage of compliance for each timeliness measure. This information is being provided to FACC, so it is our hope that it will be easy for the Clerks to submit the same data to CCOC. There being no objections, Ms. Morse stated that we will ask the Clerks to send that information to CCOC.

JUDGES/MAGISTRATES SURVEY

At the June 12 Executive Council meeting, we presented our timeline for dealing with the new judges/magistrates issue. The Council approved a short period of time to gather data, establish a workgroup that would be staffed by CCOC staff, and develop a formula / strategy for our presentation to the Legislative Budget Commission (LBC) in August. This was a short timeline because we had hoped legislative staff would agree to allow us to include in the 04/05 budget Clerk staff to support the 35 magistrates provided this budget cycle. The approval of this timeline included noting that the survey sent out on June 13th would be due to the CCOC by Friday, June 24th.

The next step is to bring this information to a CCOC workgroup in mid August and discuss a staffing strategy and policy questions / answers. We will then present the preliminary information at the CCOC August meeting. The Legislative Budget Commission meets in August and again in October. Our target, if Legislative staff agrees to approve including magistrates as part of the budget, will be to present that information to the LBC in August. If they do not agree to include the magistrates, then we will present at the October LBC meeting.

NEGOTIATION ON EXPENDITURE METHODOLOGY WITH CFO

Ms. Morse noted that unfortunately, we have received a letter from Richard Donelan, lead attorney with DFS, stating that they are not going to make the adjustments in the budget expenditure cap methodology we suggested. That adjustment would have based budget expenditure caps on prior actual expenditures for County Fiscal Year 03/04 rather than projected expenditures. Mr. Ruvin expressed his concern that there might be confusion among the Clerks as to the money Dade County was awarded via legislation this past spring. He is concerned that one might conclude that Dade County was awarded the \$3.8 million because of an error in the methodology. That was not the case. The \$3.8 million was based on the prior contractual obligation issue rather than on the methodology issue.

REVENUE – EXPENDITURE UPDATE

Mr. Dew presented Ms. El Kadiri's memo on Clerks' monthly revenues and expenditures. May's local revenue and expenditure figures were similar to April's. In May, although Clerks expended \$35.4 million, they generated enough revenue to cover these expenditures. We are continually watching the expenditures of each Clerk. It appears that we will have no problems. We have contacted a couple of clerks, but it looks like most Clerks will be within their expenditure caps and that we'll have enough funds to take care of all approved expenditures. Barring any hurricanes coming in and impacting the Trust Fund, it looks good.

OTHER BUSINESS

Ms. Morse stated that she has requested Mr. Dew to contact a CPA firm for the purposes of conducting a special election to fill the vacancy created by Jim Fuller's leaving to serve as Treasurer of FACC. This process, if agreed to by the Council, will start as soon as Mr. Fuller sends his letter of resignation. She asked if the Council was fine with moving forward, once we receive the resignation letter, on this process. This was agreed to by the Council members. She then stated that sometime within the next six weeks we will be getting ballots to all Clerks with our hopes of having the position filled by sometime in September.

Mr. Weiss referred back to the Judges' support issue stating that he is getting two new felony judges in November. For these two new judges he will need at least three trial clerks, and it takes three to four months to train them. He fears that he has no assurance that he'll get these new positions approved for his next year's budget. Ms. Morse concurred. She agreed that getting judges in November creates a major problem for counties since they need to hire and train personnel prior to the judge starting. There is no easy solution because we cannot go before the LBC before their October meeting. This is the reason it's imperative that we receive and analyze all the information including performance measures and develop a rational formula / strategy for making budget requests to the LBC.

Having no further business before the Council Ms. Morse announced the next teleconference is scheduled for Wednesday, August 24 at 2:00 p.m.