

**Trial Court Budget Commission**  
**Meeting Minutes**  
**March 13, 2007**



**Members Present**

Belvin Perry, Jr., Chair	Charles Francis, Vice-Chair	Mike Bridenback
Paul Bryan	Ruben Carrerou	John Laurent
Manuel Menendez	Donald Moran	Robert Morris
Stan Morris	Carol Lee Ortman	Nancy Perez
James Perry	Judy Pittman	Thomas Reese
William Roby	Robert Roundtree	Walt Smith
Patricia Thomas	Mary Vanden Brook	Mark Weinberg
Robin Wright		

**Members Absent**

Joseph Farina	Raul Palomino	Susan Schaeffer
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**Others Present**

Britt Beasley	Barbara Dawicke	Tom Genung
Hugh Hayes	Gay Inskip	Lisa Kiesel
Jon Lin	David Trammel	Jennifer Wells
OSCA staff		

The March 13, 2007 meeting of the Trial Court Budget Commission (TCBC) was called to order at 9:04 by Judge Belvin Perry, Chair, who welcomed members and recognized the guests in attendance.

**I. Approval of Meeting Minutes**

Judge Perry asked if there were any revisions to the draft meeting minutes from December 2, 2006. Judge Francis made a motion, seconded by Judge Roundtree, to approve the meeting minutes as drafted. The motion passed without objection.

**II. Discussion of 20<sup>th</sup> Circuit Request Regarding Circuit Size Designation**

Chief Judge Hugh Hayes requested that the Commission consider reassessment of the current circuit size designations of small, medium and large. The current size designations were established over five years ago with case filings as a principal factor. Judge Hayes proposed that other factors such as those used for certification of judges be considered. The 20<sup>th</sup> Circuit (top-ranked medium circuit) has experienced substantial growth in population and

new judgeships over the last several years. The 20<sup>th</sup> Circuit is already understaffed and will continue to fall behind should future budget decisions be based on the medium circuit designation. Judge Hayes believes the designation may make a difference in the hiring of a trial court administrator and other positions.

Judge B. Perry recommended that the Funding Methodology Committee study the designations. The members discussed the effect of hiring a new trial court administrator while the issue is under study. The 20<sup>th</sup> Circuit is still bound by the salary for a medium circuit designation but may offer 10% above the minimum (within their circuit rate).

Judge Pittman made a motion to deny the immediate request for reassessment and refer the issue to the Funding Methodology Committee to study and report findings to the TCBC, before preparation of the 2008-09 Legislative Budget Request. Judge Roundtree seconded and the motion passed without objection.

### III. Legislative Update

**A. Supplemental Budget Issues as Approved by the Executive Committee** – Charlotte Jerrett reported that in February 2007, the TCBC Executive Committee voted to approve three supplemental issues for the Legislative Budget Request (LBR).

1. **Due Process Elements** - The availability of expenditure data in January for the first half of the year allowed for a re-evaluation of circuit requests related to court reporting given updated unit cost calculations. The TCBC deferred action on an amended budget request for court reporting at its December 2, 2006 meeting in order for staff to provide further analysis to the Executive Committee.

The Court Reporting request was revised to reflect a request of 33.0 FTEs (an increase of 1.0 FTE over the original request) and increases in Expense and HR Services related to this FTE. Contracted services and maintenance funding was increased by \$1,451,861 over the original request. The total amended Court Reporting issue in the supplemental LBR calls for \$3,482,729 (an increase of \$1,503,648 over the total original request).

2. **Reduction of the Child Support Enforcement Hearing Officer Program** – In November 2006, the Florida Department of Revenue (DOR) was hit with major federal legislation which reduces their ability to draw federal funds. DOR proposed a reduction issue in their LBR for Fiscal Year 2007-08 in the amount of \$4,411,765. Last year's reversions were reviewed and DOR proposed that the trial court Child Support Enforcement contract could be reduced by \$500,000 without reducing the level of service currently provided. OSCA staff analyzed the current contract and projected expenditures through fiscal year end and concurs with their assessment. This is a new issue filed in the LBR and proposes a reduction of \$500,000 (\$50,000 from Expense and \$450,000 in Salaries and Benefits) in the Federal Grants Trust Fund, to align our budget with reductions proposed by DOR.

3. **Increase Trust Fund Authority for Due Process Cost Recovery** – During Fiscal Year 2005-06, trust fund authority was authorized for cost recovery in the amount of \$600,000. The trial courts have collected more cash for state-funded services than what was previously projected. Increased budget authority is needed in order for the trial courts to be able to spend the additional cash received for due process services. This is a new supplemental issue filed in the LBR and provides for an increase in budget authority in the amount of \$400,000. If authorized, total trust fund authority will be \$1,000,000. Judge B. Perry clarified that some circuits are actively collecting funds and some are not.

**B. Amended Language on County Employees as Approved by the Executive Committee** – Greg Smith reported that SB 448 relating to county-funded employee benefits passed the Senate Judiciary Committee on March 8<sup>th</sup> with one amendment. The amendment further clarifies that the county-funded employees are hired, supervised, managed, and fired by personnel of the judicial circuit but the county shall be considered the employer for purposes of a flexible benefits plan. Brenda Johnson stated that the companion House bill for SB 448 is up for review next week.

**C. Overview of Legislative Activities to Date** – Brenda Johnson distributed packets containing legislative information to assist TCBC members in making legislative visits. She reported that between Chief Justice Lewis, Judge Perry, and Judge Fulmer, more than 80 visits were made to members of the House and Senate and over 10 presentations have been made before House and Senate committees. These meetings were used to educate members about the Judicial Branch and also provide the budget priorities for the branch.

Judge Francis encouraged the commission members to communicate their support for SB 2062 regarding language for the technology fee and oversight by the chief judge of each circuit. Brenda Johnson will provide the TCBC, chief judges, and trial court administrators with a sample letter, bulleted points, and legislative members' contact information.

The Revenue Estimating Conference met on March 12. The general revenue forecast was lower than expected, down by nearly \$1 billion for the 2006-07 and 2007-08 two-year revenue forecast. The House drafted possible reductions and the Senate may also propose cuts.

**D. Issues Related to Pay and Benefits Equity Issue** – Judge Perry stated that due to the revenue forecast reduction, there will be much competition for funds. The TCBC needs to consider the possibility that the issue will not be fully funded and if partial funding is received, determine the distribution priority. The members discussed several distribution methods including: positions with the highest level of turnover to improve retention, in-class adjustments to current staff, and allow circuits to identify their own needs.

Judge Roby made a motion to use the turnover/retention method and give authority to the Executive Committee use their discretion to provide specific information as needed. Judge J. Perry seconded, and the motion passed without objection.

**E. Revenue Forecasts** – Altogether, the Revenue Estimating Conference reduced its General Revenue forecast by \$956.3 million for this year and the next. On the positive side, Medicaid reported a surplus of \$566 million. The revisions to the forecast were primarily attributed to the stronger than expected downturn in the housing market.

**F. Other Bills/Items of Interest**

- HB 861, if passed, would limit reemployment after retirement. Retirees or DROP participants may not be reemployed by the same employer from which they retired for 12 months (currently one month). Any violation would void their application for retirement benefits.
- Greg Smith reviewed an opinion (2D06-536) filed March 7, 2007, in the Second District Court of Appeal regarding court reporting in which the following concerns were raised:
  - Quality of digital court reporting
  - Need for court reporting structure
  - A digital audio recording provided on a compact disk (CD) is not a transcript – a transcript is bound and paginated
  - No clear legal right as to who must pay for a transcript
  - Who can prepare an official transcript for appellate purposes

**IV. Update from Cost Sharing Workgroup**

Charlotte Jerrett reported that a cost sharing survey was sent to trial court administrators in February requesting specific information on when and how court resources are used to produce transcript pages for State Attorneys, Public Defenders and Conflict Counsel Attorneys and to measure the impact of reinforcing the original cost sharing definition that only allowed transcripts produced by court reporter employees.

Responses were received from all 20 circuits. Nine circuits reported no impact from a reinforcement of the “employee only” definition. Eleven circuits indicated they would have to change their operations to accommodate an “employee only” definition, with seven of those circuits feeling a definitional change would have an impact to their court and result in additional need for FTE’s.

Judge B. Perry stated that the Commission on Trial Court Performance and Accountability (TCP&A) is scheduled to have a report on court reporting completed in June but action is needed now to fix the problems before the next Legislative Budget Request (LBR) process.

He recommended that a workgroup be formed to determine what should be provided to the Public Defenders, State Attorneys, and Conflict Counsel Attorneys; and how to increase statewide uniformity. The workgroup will need to formulate a plan and bring back to the TCBC in June, before the LBR is taken up in August. Judge B. Perry further recommended that the workgroup consist of the Executive Committee members and Mark Weinberg (chair of the Cost Sharing Workgroup). Judge S. Morris made a motion to approve Judge B. Perry's recommendation. Judge Francis seconded and the motion was passed without objection.

## **V. Status of Current Year Budget**

**A. Distribution of Reserve Funds** – Charlotte Jerrett reported that in January 2007, the Executive Committee discussed a possible distribution of \$773,895 in unallocated “Reserve” due process category funds. The Committee decided it was necessary for all circuits to report their needs through fiscal year end, before any decision could be made to allocate the funds. A survey was sent to all chief judges and trial court administrators to identify shortages and unobligated funds for each due process element. In February, the Executive Committee reviewed the survey responses and a chart depicting shortages and unobligated funds by circuit, and by due process element. Current cash available for use from cost recovery collections was also considered.

On February 19, 2007, a memorandum from Judge B. Perry was distributed to chief judges and trial court administrators. The memorandum explained the distribution of the unallocated funds. The allocations were posted to the circuits' specific cost centers on February 20, 2007.

The survey responses also showed that \$1.2 million was identified as actually needed. To ensure that circuits are able to meet their due process obligations, the Executive Committee approved the submission of a budget amendment request for a transfer of \$464,000 from “Reserve” Expenses to the Due Process Services category. These funds were appropriated in the Expense category for court reporting services provided by the Clerks and are not needed for this purpose. The budget amendment will be submitted to the Legislative Budget Commission at the meeting tentatively set for May.

**B. Salary Budget** – Charlotte Jerrett reported that in Circuit Court, as of February 28, 2007, total projected General Revenue payroll expenditures were under appropriation by \$4.7 million. Approximately \$3.2 million has been generated in lapse. Annual leave/sick leave payouts to date are \$575,100 and an additional \$236,195 is estimated to be paid in leave payout through June 30, 2007. Ms. Jerrett expressed concern regarding the increased leave payouts. Annual/sick leave payments have averaged \$500,617 over the past two years.

In County Court, as of February 28, 2007, total projected payroll expenditures were approximately \$182,000 over the appropriation through fiscal year end. Lapse in the amount of \$311,594 has been generated, and annual leave/sick leave payouts to date were \$114,502. An additional \$56,843 is estimated to be paid in leave payouts through June 30, 2007. Funds will likely need to be transferred from Circuit Court to cover payroll through year end.

- C. Potential Year End Rate Distribution** – Charlotte Jerrett reported that in May 2006, the Executive Committee authorized a salary rate distribution to be made to each circuit consisting of \$1,000,000 for circuit court staff and \$50,000 for county court judicial assistants. In November 2006, an additional rate distribution was made consisting of \$700,000 for circuit court staff and \$35,000 for county court judicial assistants.

The purpose of the allocation was to provide greater flexibility to chief judges for the management of personnel actions in their courts throughout the remainder of the fiscal year. These actions include appointments above the minimum salary for the position, reclassification of positions, designating positions for lead worker status, and special pay increases. The allocation was not intended for across-the-board increases for all employees, or for general discretionary pay increases.

As of March 1, 2007, \$230,938 of the rate distribution statewide remains unobligated for chief judges to distribute to circuit court employees and \$15,987 remains available for county court judicial assistants.

The Budget Management Committee will analyze the salary budget before fiscal year end for an additional distribution. Judge Laurent stated that any rate not used during this fiscal year will carry over to next year and will not be lost.

- D. Due Process Funds** – Charlotte Jerrett reported that as of February 28, 2007, the percent of budget expended should be less than or equal to 67% based on 8 eight months' of expenditures (assuming an average monthly amount). An increase in expenditures is expected to occur closer to year end due to billings in arrears.

The Expert Witness Due Process category is below the 67% target with 58.35% of the appropriation expended/encumbered. Of the total expenditures, 94.9% was expended for contracted services and 5.1% was expended for custody evaluations. The Court Reporting Due Process category is below the 67% target with 59.53% of the appropriation expended/encumbered. Of the total expenditures, 91.7% was expended for contracted services and 8.3% for equipment maintenance costs. The Court Interpreting Due Process category is below the 67% target with 55.08% of the appropriation expended/encumbered. Based on information provided by circuits from the February 2, 2007 survey, due process costs are expected to be able to be covered on a statewide basis through fiscal year end.

In February 2007, the Executive Committee addressed Senate legislative staff's indication that if available, the \$774,334 Due Process Contingency Fund would be transferred to the Justice Administrative Commission (JAC) for their current year shortage in funding court appointed counsel. Given that the court can only access the contingency fund after all surplus funds from all circuits and all available categories have been utilized and a deficit still remains, the Executive Committee approved the transfer for due process costs only.

- E. Expense and OPS Funds** – Charlotte Jerrett reported that as of February 28, 2007, the percent of budget expended should be less than or equal to 67% based on 8 eight months' of expenditures (assuming an average monthly amount). An increase in expenditures is expected to occur closer to year end due to billings in arrears.

The Other Personal Services (OPS) category is below the 67% target with 43.18% of the appropriation expended/encumbered. The Circuit Expense category is below the 67% target with 38.64% of the appropriation expended/encumbered. The County Expense category is below the 67% target with 45.18% of the appropriation expended/encumbered. The Operating Capital Outlay (OCO) category is below the 67% target with 36.5% of the appropriation expended/encumbered. The Civil Traffic Hearing Officer category is below the 67% target with 35.3% of the appropriation expended/encumbered. The Circuit Contracted Services category is below the 67% target with 44.77% of the appropriation expended/encumbered. The County Contracted Services category is above the 67% target with 79.61% of the appropriation expended/encumbered.

Circuits were encouraged to monitor the OCO and Expense categories which are significantly lower than the target rate.

**F. Mediation Cost Recovery and Other Cost Recovery Funds**

- 1. Mediation Cost Recovery** - Charlotte Jerrett reported that mediation fees are collected by the clerk and remitted to the Department of Revenue (DOR) for deposit into the Mediation and Arbitration Trust Fund to fund court-ordered mediation. Circuits are limited to spending these funds on contractual mediation services based on cash received and spending authority. Spending authority was set by the TCBC for each circuit based on total cost recovery collections during FY 2005-06 with a 10% growth factor.

Fiscal year 2006-07 spending authority for mediation services cost recovery is set at \$2,538,005. As of February 28, 2007, cash revenues for mediation fees, including prior year cash balances carried forward, are \$3,315,620, which exceed the spending authority set. Expenditures/refunds from the cost recovery fund for contractual mediation services are 39.6% of the spending authority set and 30.3% of the available cash balances. Cash collected may be in arrears due to the deposit process through

the clerks' offices and DOR. Any cash balances carried forward remains in the circuit in which the cash was collected.

Out of the 67 counties, 5 counties have had no mediation fee collections during FY 2006-07; 1 county had a \$1 collection; and 1 county had a \$13 collection.

- 2. Due Process Cost Recovery** – Spending authority for State-Funded Services Cost Recovery for fiscal year 2006-07 is set at \$600,000. As of January 31, 2007, cash revenues were \$895,657, which totals 49.3% over the spending authority set. Out of the 20 circuits, three have recovered no revenue for state-funded services during FY 2006-07. Expenditures/encumbrances from the cost recovery fund total 16.7% of the spending authority set and 12.3% of available cash revenues. Cost recovery funds may be used for any due process element expenditures.

The TCBC Executive Committee approved a supplemental Legislative Budget Request for 2007-08 to increase spending authority by \$400,000, which would bring the total spending authority to \$1 million if approved during Legislative Session.

- G. Year End Spending Plan for Circuit Funds** – Charlotte Jerrett reported that to make every effort to maximize trial court budgetary resources, the TCBC approved year end spending plans for the previous two fiscal years. Funds to implement these plans have been pooled from individual trial court budgets (circuit and county), and offered only after individual circuit fiscal needs were met. This funding was largely used for purchasing digital court reporting equipment.

Operating budgets are currently healthy and may be a source to provide for a year end spending plan. There may be little, if any, due process funds to contribute to a year end plan. OSCA staff recommended that with less than four months of the fiscal year remaining and given the success of previous year end spending plans, it would be prudent to proceed with an analysis of potential available funds.

Mike Bridenback made a motion, seconded by Carol Ortman, to approve the staff recommendation. The motion was passed without objection.

## **VI. Update on Commission on Trial Court Performance and Accountability (TCP&A) Projects**

- A. Court Appointed Counsel Report** – Jo Suhr distributed copies of the TCP&A report submitted January 31, 2007, to the Legislature regarding recommendations for improving the governance and operations of state-funded court appointed counsel and due process services provided for indigent individuals. As a result of a detailed review of a variety of public defense models, issues, and input from the trial court chief judges, the TCP&A developed a service model that included a statewide office with regional operations designed to promote uniformity in standards and oversight. A joint meeting was held that

included: representatives of the TCP&A; the chair and executive director of the Justice Administrative Commission (JAC); and numerous officials and individuals participating on behalf of the public defenders, state attorneys, and private defense bar.

A draft report was submitted to the JAC and a committee of public defenders, in which the TCP&A and public defenders committee continued efforts to reach consensus. The JAC submitted a separate report to the Legislature pre-dating the TCP&A report expressing concern about some statements in the TCP&A. These items were not included in the TCP&A final report to the Legislature.

- B. Court Reporting Workgroup** – Sharon Buckingham presented the workgroup’s action plan to reach its goal: to provide recommendations to the TCP&A regarding court reporting statutory and rule changes, standards of operation, and best practices by June 1, 2007.

Another workgroup is also reviewing the Second District Court of Appeal opinion regarding electronic court reporting issues. Sharon Buckingham will communicate with the chair of the workgroup to expedite the review of these issues.

- C. Judicial Resource Study Workgroup** – Mike Bridenback reported that the Judicial Resource Study Workgroup is charged with evaluating the current judge case weights and making recommendations for new case weights. Surveys were collected from judges in the fall. The survey data was analyzed and presented to the workgroup in December. A judges’ focus group reviewed the results and made adjustments and recommendations in January. Staff is finalizing results of the survey as modified by the focus group which will be presented to the workgroup. The workgroup will finalize the report of recommendations by June 2007.

- VII. Other Business** – Judge Perry stated a request was received from the 18<sup>th</sup> Circuit to make an appointment, for a drug court coordinator position, above the minimum of the salary schedule. Judge Laurent requested that staff review this issue and make a recommendation to the Budget Management Committee and Executive Committee.

### **Adjournment**

The next meeting of the TCBC will be held Saturday, June 9, 2007, in Marco Island.

With no other business before the commission, Judge Perry adjourned the meeting at 12:45 p.m.