

**Trial Court Budget Commission
Meeting Minutes
Tampa, Florida
August 5, 2004**



Members Present

Susan Schaeffer, Chair	Kim Hammond	Judy Pittman
Stan Morris, Vice Chair	John Laurent	Thomas Reese
Mike Bridenback	Donald Moran, Jr.	William Roby
Don Briggs	Carol Ortman	Walt Smith
Paul Bryan	Wayne Peacock	Fred Tygart
Ruben Carrerou	Nancy Perez	Mark Van Bever
Charles Francis	Belvin Perry	Theresa Westerfield

Members Absent

Joseph Farina	A.B. Majeed
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Others Present

Judge Arnold-Florida Conference of Circuit Court Judges, Britt Beasley-4th Circuit, Gay Inskeep-6th Circuit, Caron Jeffreys-20th Circuit, Elaine New-6th Circuit, Grant Slayden-2nd Circuit, Mark Weinberg-7th Circuit, Jennifer Wells-14th Circuit, and OSCA staff.

WELCOME & INTRODUCTION OF GUESTS

Judge Schaeffer called the meeting to order Thursday, August 5, 2004, at 9:30 a.m. Lisa Goodner introduced Patty Harris as OSCA's new Budget Analyst dedicated to the trial courts. Ms. Harris formerly worked in the Court Services unit, where she provided data support to the Strategic Planning unit in their efforts to plan for Revision 7 implementation.

New Commission Appointments

Judge Fred Tygart was introduced as the new chair of the Florida Conference of Circuit Court Judges, and therefore he replaces Judge Nelly Khouzam as an ex-officio member of the TCBC. Likewise, Judge A.B. Majeed is the new chair of the Florida Conference of County Court Judges and replaces Judge Jeffery Arnold as an ex-officio member.

APPROVAL OF MEETING MINUTES

Judge Schaeffer asked for a correction to the minutes from the June 18-19, 2004, meeting. On page four, #7, correct to read "...current policy of JA coverage" and add "training" to the end of that paragraph. On page seven, the end of the third paragraph should read "...by all Commission

members,” not “Executive Committee.” The same correction is needed for the same two references on page thirteen. On page fourteen, item D, strike “in three circuits” and in the last paragraph, strike “Executive Committee” and replace with “Commission.” Carol Ortman made a motion to approve the meeting minutes as amended. Judge Pittman seconded, and the motion was approved without objection.

IMPLEMENTATION ISSUES

Update on Budget Allocations

The 2004/05 Budget and Pay Administration memorandum was distributed yesterday. The allocation attachments to the budget and pay memo were reviewed. In addition to the cost center allocations, the charts show FTE, and recurring expenses. The charts for Custody Evaluations (126) and Expert Witness (127) were revised to include salaries and benefits, and were distributed. Judge Schaeffer reassured the members that the revisions do not affect previous allocations made by the Commission.

Report on July Payroll

All new organization codes, classes, positions, and employees have been entered into the payroll system. 1,200 employees were added and 600 insurance enrollments were processed. David Pepper recognized the hard work of his staff, Del Schloss, Georgia Franklin, Michelle Ogletree, Debbie Nable, and Ishmael Franklin. He stated that completion of this tremendous task was a team effort and also recognized Court Services staff: Patty Harris, Arlene Johnson, Kris Slayden, and Jo Suhr; circuit court administration staff; Department of Management Services staff; and Division of State Group Insurance staff. Judge Schaeffer commented that the success of the task was dependent on the cut-off dates imposed for personnel actions. OSCA staff worked nights and weekends to ensure the new employees were entered into the payroll system.

Cost Sharing for Court Reporting and Court Interpreting

September 15, 2004 is the target date to implement the cost sharing contracts with state attorneys and public defenders. The contracts have not been distributed yet. OSCA is working with the JAC on payment issues, including payment of conflict counsel.

Discussion ensued regarding the employee vs. contract model, noting cost savings for contract models. Also discussed was the shared model and how it works. OSCA staff are working on language so that the courts can invoice on a quarterly basis. Employees' salaries for courtroom work will be requested in full in next year's budget. The Executive Committee recommended that circuits currently using the shared model consider discontinuing the model, to simplify administrative processes, allowing all entities to obtain their own independently. Also recommended was to discontinue using resources for depositions, and explore better ways to

manage the resource and hold these other entities accountable for costs. Judge Morris recommended that the TCBC ask the Commission on Trial Court Performance and Accountability for their input on best business practices.

A motion was made to include in next year's budget employee salaries for courtroom work and explore other ways to efficiently recover funds for cost sharing. Carol Ortman seconded, and the motion was approved without objection.

Payment of Expert Witnesses

A question has arisen concerning which state entity should bear due process costs in two instances involving costs for experts who assist in determining a defendant's mental competence to stand trial in criminal cases, and costs associated with examining committee members who assist the court in making a determination of incapacity in Chapter 744 civil guardianship proceedings, involving alleged incapacitated persons who are indigent.

Judge Schaeffer explained that the Revision 7 budget request for the expert witness element was developed based on a narrow interpretation of s. 29.004(6), F.S., combined with the reasoning that the expert witness elements for state attorneys, public defenders and court appointed counsel included a reference to mental health professionals. This interpretation led to the development of a request for the courts that only provided funds for instances where judicial discretion would be invoked, and limited to those instances where there was a grant of statutory authority to do so, pursuant to s. 29.004(6), F.S. The costs for the second expert in criminal competency cases and the examining committee in guardianship cases were not included in the budget request; therefore, the appropriation for this element may be inadequate.

Statutory background and references were reviewed. Discussion ensued about how expenses for these experts are clearly the state's responsibility. However, due to the lack of clarity in the law, some uncertainty has arisen concerning which state entity should bear these expert witness costs. A budgetary policy decision should be considered by the TCBC to determine the best way to handle these costs now, and to decide the best approach to take in the next fiscal year. Several scenarios and circumstances were reviewed and discussed. It was suggested that these costs be tracked for next year.

Judge Francis made a motion for adoption of a policy that the second expert not be considered a court responsibility; however, other expert witnesses that are neither requested by a party, nor by statute expressly made a part of the state attorney, public defender, or court appointed counsel elements for budgetary purposes, should be considered a court expense and costs associated with experts appointed at the court's discretion should also be considered part of the court's budget responsibility. Carol Ortman seconded the motion and it was approved without objection.

Consistent with this adopted policy, the TCBC members concurred that, by way of example, under this policy expenses associated with experts on developmental disability appointed to evaluate a defendant's competency pursuant to Sections 916.301-916.304, F.S., experts appointed pursuant to Section 393.11, F.S., as members of developmental disabilities examining committees, and experts appointed pursuant to Section 744.331, F.S., to serve on guardianship examining committees, are court expenses.

Judge Schaeffer noted that this list of experts was not necessarily exclusive or comprehensive, but illustrative of the application of the approved policy to some specific areas. She agreed to develop an explanatory policy memorandum for distribution to the Chief Judges and Trial Court Administrators, and to work with OSCA staff to develop a chart to accompany the narrative.

Cost Recovery for Transcripts

The trial courts are providing transcripts to parties who have the ability to pay for these costs. Previously, the services were county funded and the parties reimbursed the county. These services are now state funded and no specific statutory cost recovery method exists. Parties are making payment for services and a mechanism is not in place to receive these payments on behalf of the State.

OSCA staff has contacted the Office of the State Chief Financial Officer (CFO) for their guidance on collecting and depositing these funds on behalf of the State. The CFO's office will not accept the payments as "revenue", but is considering whether to allow them to be captured as "refunds" against other expenditures in support of court reporting budgets. Judge Laurent made a motion to recover the transcription costs using the procedure as recommended by the CFO's office. Theresa Westerfield seconded, and the motion was approved without objection. Charlotte Jerrett will send a memorandum to the circuits detailing the procedures.

Court Appointed Counsel Management

The statutes governing the court-appointed counsel process and the appropriation of attorneys' fees and expenses in criminal and civil cases are contained in Chapter 27. Section 27.42, F.S. directs the establishment of circuit Article V indigent services committees to "manage the appointment and compensation of court-appointed counsel within a circuit pursuant to ss. 27.40 and 27.5303." This section also provides that "the funding and positions for the processing of committees' fees and expenses shall be appropriated to the Justice Administrative Commission in the General Appropriations Act."

The statute establishes no express operational or administrative requirements on the circuit Article V indigent services committees in the conduct of their duties, other than requiring that the committees meet at least quarterly. Hence, each committee has established its own operational and administrative mechanics, with the support of staff from the various members' agencies.

The circuits report that they cannot sustain their efforts and that much of the necessary work is not getting done.

Judge Alice Blackwell White, Chair of the Supreme Court's Commission on Performance and Accountability has asked a workgroup of judges and court professionals to prepare a comprehensive description of the operational and administrative supports necessary for the circuit Article V indigent services committees to perform their duties, to identify best practices, and to make recommendations as to the role of the chief judge and trial court in the administration of the court-appointed counsel process. The workgroup will begin its work by creating a comprehensive list of activities, related tasks, and resources necessary for the effective and accountable management of the court-appointed counsel process.

CURRENT YEAR BUDGET UPDATE

Mediation

During the 2004 Legislative Session, section 44.108, F.S. was amended to include authorization for the clerk of court to collect mediation service fees from parties as follows:

- \$80 per person per session when the parties' combined income is greater than \$50,000, but less than \$100,000 per year;
- \$40 per person per session when the parties' combined income is less than \$50,000; or
- \$40 per person per session in county civil cases.

Discussion ensued whether fees may be collected when parties' combined income is over \$100,000. It was then determined that because there is no statutory authority, those cases should be referred. The Commission members agreed that state employees could coordinate the referral, but not provide the service.

Additional Budget Requests

Second Circuit Emergency Request: Court Reporting - Chief Judge Charles Francis submitted an emergency request, for TCBC consideration, to correct a budget omission and to identify a digital court reporting transition request. The request is for \$41,200 in contractual funds for FY 2004/05, which was inadvertently left off from the initial circuit request, required to cover obligated contractual services for the current fiscal year. These funds can be obtained from unallocated due process funds or from the contingency fund. The Commission members approved, without objection, the request for \$41,200. The digital court reporting transition issues will be addressed along with other circuit requests for system expansion in FY 2004/05 and as part of the budget request for FY 2005/06.

Second Circuit Expedited Request: Court Reporting - Chief Judge Charles Francis identified the need to expedite the transition to digital court reporting in Gadsden County and in two additional felony court rooms in Leon County. The urgency of the request stems from the upcoming attrition of two existing stenographic court reporters and the desire of the circuit to take the opportunity to transition to digital as the replacement service model. With the addition of digital technology, the second circuit can maximize the efficient use of current digital capabilities in Leon and Gadsden Counties. The transition will require one time equipment funding of \$94,000. This will provide a central control room in Leon County, digital court reporting equipment in Leon County, and additional digital equipment for 2 felony court rooms in Leon County. It will ultimately result in the reduction of recurring salary dollars with the replacement of stenographic court reporters with digital court reporters. The Commission members approved this action, without objection.

Nineteenth Circuit Emergency Request: Court Reporting - Tom Willis, Court Administrator, requested funding to upgrade equipment and software for the digital court reporting system in St. Lucie County. Two options were included as possible solutions. Subsequent follow up with OSCA staff and the staff of the Nineteenth Circuit has resulted in the identification of an upgrade solution, which can be accommodated within the \$30,000 equipment budget provided to the circuit in response to their May 10, 2004, special request. Therefore, this request was withdrawn.

Request for Exception to Salary Management Policies

Eighth Circuit Request - The circuit received a Hearing Officer and an Administrative Assistant II to be hired October 1, 2004. The circuit currently has a Hearing Officer and is currently supported by a Senior Secretary position. The current Senior Secretary, who has been employed since January 2000, and the Administrative Assistant II to be hired October 2004, have the same basic job responsibilities in support of the respective Hearing Officers. This creates an equity issue.

Ted McFetridge, Court Administrator, requested to correct this inequity by reclassifying both the above support positions to Administrative Assistant I. The current total salary for both positions is \$53,020.56. The total salary needed to reclassify both positions is \$53,478.96. The impact to the budget would be an increase of \$458.40. Walt Smith made a motion to approve the request to reclassify both position to Administrative Assistant I. Judge Perry seconded, and the Commission approved the motion without objection.

Ninth Circuit Request - An employee received a 10% pay adjustment when approved as a Lead Trial Court Staff Attorney in July 2002. The employee is now being promoted to Senior Trial Court Staff Attorney with a much higher level of duties and responsibility. Chief Judge Belvin Perry requests that the employee be allowed to retain the current salary of \$52,512, which includes the 10% for Lead Worker, and in addition, be given a 5% promotional increase to bring

the salary to \$55,138, resulting in an increase of \$2,626 annually. The recent resignation of another staff attorney frees up additional funds to cover the request. The annual salary at the time of termination was \$47,928 and the position will be replaced with a staff attorney hired at the minimum of the class, resulting in a savings of \$6,615. The annual impact will be \$625 savings per year.

The Commission members deferred this request to the Budget Management Committee and requested more information on “lead” worker designation.

Second Circuit Request - The circuit incorrectly reported the salary of a mediation services coordinator as \$22,500, instead of \$29,900. Since early 2002, this salary was a combination of Leon County general revenue funds and Gadsden County contractual funds. The salary reported to the OSCA reflected only the former, resulting in an inadvertent 25% salary cut effective July 2004. Grant Slayden, Court Administrator requests that the salary be adjusted to the correct figure of \$29,900 per year, an increase of \$7,400, effective July 1, 2004.

The Commission members deferred this request to the Budget Management Committee for review and recommendation.

Second Circuit Request - Grant Slayden, Court Administrator, requests to transfer a state court employee, from a court program specialist I (pay grade 16) to a circuit judicial assistant (pay grade 15), while maintaining the current salary. The employee was employed by the circuit for approximately five years in a county funded position and currently makes \$30,753.36 annually, while the base salary for a circuit judicial assistant is \$29,411.88. The difference is \$1,341.48. The circuit has sufficient salary dollars available to accommodate the request, because of savings from the resignation of a general master who was paid significantly above the base. This proposed salary should not create any inequities with other judicial assistants who have longer tenure within the circuit.

The Commission members deferred this request to the Budget Management Committee for review and recommendation.

Thirteenth Circuit Requests - Chief Judge Manuel Menendez requested salary increase for two judicial assistant transfers. The requests are within the salary policies already approved by the TCBC: *Exceptions to hiring at minimum - A JA transferring between circuits, within a circuit, or from circuit court to county court, or vice versa, may be transferred at his or her present salary, even if the present salary is above the minimum of the new position.*

Procedure for Approving Exceptions

To clarify and expedite review of requests for salary management exceptions, the following was

agreed by the Commission members:

- Send all requests to the Budget Management Committee Chair, currently Judge John Laurent. The Budget Management Committee will meet and make their recommendation to the Commission. If the request is an emergency, the Executive Committee can hold an emergency meeting.
- Send requests to OSCA for processing, only if the request is within approved TCBC policies.

FISCAL YEAR 2005/06 LEGISLATIVE BUDGET REQUEST

Judge Morris, Judge Moran, Judge Tygart, Judge Menendez, and Mike Bridenback met with Senator Lee, next year's incoming Senate President. The group discussed glitch issues and due process problems caused by hidden costs, areas overlooked, issues where no data exists, and projections made for collections of monies. Judge Tygart discussed cost of living adjustments (COLA). Judge Morris added that the group discussed funding for certification of new judgeships. The meeting went well, with the group representing the TCBC, TCAs, Chief Judges, and the Florida Conference of Circuit Court Judges, resulting in a unified voice for the branch.

The Florida Conference of Circuit Court Judges requests the support of the TCBC to make judges' health insurance an issue for all levels of the judiciary. However, the court rule establishing the TCBC states that the TCBC shall not have authority for issues regarding pay and benefits for judges. Judge Schaeffer recommended writing a transmittal letter to the Supreme Court, stating the Conference's request and making a recommendation that if not for the prohibition, the TCBC would include the Conference's request to make judges' health insurance a budget issue. She also suggested including a caveat that if circuits receive insufficient funding and/or are faced with cuts, then the TCBC could not support the issue. Judge Francis made the motion to support the Conference's issue for judges' health insurance. Judge Hammond seconded, and the members unanimously approved.

Judge Laurent recommended that the TCBC support moving the Judicial Branch budget back into a larger appropriations committee, that now that Revision 7 has been implemented. Judge Roby made the motion to support the courts be in a larger appropriations committee. Judge Francis seconded, and the Commission members unanimously approved.

Trial Court Staff Attorneys

Current funding for staff attorneys is based on a one-to-three ratio for circuit judges. The 2004/05 Legislative Budget Request provided for a one-to-one ratio of staff attorneys to circuit judges. This issue was not funded.

The Funding Methodology Committee considered two options for the budget request. One option would be to renew the request for full funding of the one-to-one ratio. The second option would be to request a phased-in approach with funding in 2005/06 to achieve a ratio of one staff attorney for every two circuit judges, and to seek funding in 2006/07 to achieve a ratio of one law clerk for every circuit judge. The Budget Management Committee recommended a two-to-one funding ratio and phase in. Wayne Peacock made a motion to: (1) seek funding to achieve a ratio of two law clerks for every circuit judge; (2) a two or three year phase-in; (3) include the two-to-one ratio when filing the issue of certification of new judgeships; and (4) change “staff attorney” position title to “law clerk.” Carol Ortman seconded, and the motion was approved without objection.

Court Reporting

As part of the budget preparation process, the circuits were asked to identify their funding needs for court reporting services. The primary focus of the exercise was to determine costs to accomplish the migration to digital court reporting. The current funding methodology for court reporting services was based on maintaining the current service levels and models. The reports of the Commission on Trial Court Performance and Accountability and the Article V Indigent Services Advisory Board recommend that an analysis be performed to define court reporting service delivery models that incorporate best business practices. The Chief Justice has assigned this task to the Commission on Trial Court Performance and Accountability, to be accomplished on an expedited time line.

The Funding Methodology Committee recommends filing a place holder LBR issue in the amount of \$7,000,000. The details of the budget request and proposed allocation of funding to the circuits would be determined after the Commission on Trial Court Performance and Accountability develops the court reporting service delivery framework. The budget request may be phased in over a two year period based on practical implementation considerations.

More than half of the requested amount accounts for non-recurring expenses. Equipment maintenance costs will be paid by the State. The issue of equipment titles if maintenance costs are paid and if it falls under the transfer will need to be researched. Theresa Westerfield made a motion to approve filing a place holder LBR issue for \$7,000,000, but include 56.0 FTE as part of the \$7,000,000 placeholder. Judge Hammond seconded the motion, and the members approved without objection.

Resource Management System

The Judicial Resource Management System will provide the technology infrastructure necessary to allow the State Courts System to implement its performance and accountability system. The requested resource is an automated, standardized system that will collect data relevant to performance measures across court divisions and programs. It will allow local and state-level

managers to monitor and manage resources expended in the performance of all court activities. The system will have components for the statutorily enumerated elements as well as other court support resources. Article II, Section 19 of the Florida Constitution requires that the judicial branch develop a quality management and accountability program. Florida Statutes provide specific requirements to collect and report data on the use of state-funded resources.

The previous request placed the system in all courthouses, but this year's request will allow one system per circuit. The request for the technology infrastructure component is for \$845,000 in non-recurring costs in FY 2005/06. This includes funding for hardware and servers in each of Florida's 20 judicial circuits (\$200,000), purchase of licenses for software to be installed on approximately 300 employees' and administrators' desktop computers (\$450,000), and consulting services to support an Enterprise Resource Planning solution that includes planning, design, configuration, customization and training (\$195,000). Recurring funding is requested to provide ongoing annual maintenance for the hardware and licensing (\$152,000).

Mark Van Bever reported that the data collection process started on July 1, 2004, is modest but has put a strain on staff resources. This issue does not provide for staff. The commission will look at staff next year. Walt Smith made a motion to approve the Resource Management System issue be filed for \$997,100, as recommended. Wayne Peacock seconded the motion, and the motion was approved without objection.

Combine Circuit Court and County Court Budget Entities

The county court budget entity consists of only funds for salaries and expenses for county court judges and judicial assistants. For FY 2004/05, the TCBC voted to allocate expense dollars based on the total available expense dollars in both budget entities, and the number of FTE in both circuit and county courts. To implement these actions, approval was given by the TCBC to move the expense funds from the county court budget entity to the circuit court budget entity via budget amendment. An issue was filed in the 2004/05 LBR to combine these budget entities, but no action was taken. The Funding Methodology Committee recommends that a technical issue be filed in the 2005/06 LBR issue to combine the circuit and county court budget entities into one budget entity, titled Trial Courts.

Theresa Westerfield made a motion file a technical issue in the 2005/06 LBR issue to combine the circuit and county court budget entities into one budget entity, titled Trial Courts. Judge Perry seconded, and the motion was approved without objection.

Due Process Costs

With the uncertainty of sufficient resources and limited expenditure history the courts have with budgets for expert witnesses, court reporting, and court interpreting expenses, the Funding Methodology committee recommended to file a place holder issue in the LBR until the following issues are resolved:

- There are no amounts factored into the base budget for annual increases for contract services;
- During FY 2003/04, the legislature appropriated \$3.4 million in contingency funds for due process costs. Of that amount, \$637,866 is non-recurring;
- A TCBC policy determination of payment obligations for expert witnesses, pursuant to Chapter 744, F.S. is pending; and
- There are pending recommendations from the legislature's Article V Indigent Services Advisory Board regarding standardized rates for due process services.

Judge Perry made the motion to file a place holder issue in the LBR until the above issues are resolved. Judge Roby seconded, and the members approved the motion without objection.

Professional Certification/License Fees

The State Chief Financial Officer guidelines prohibit the payment of professional certification fees unless specifically authorized by law. The Funding Methodology Committee recommended to request back-of-the-bill language authorizing payment of certification fees for court interpreters, mediators, and court reporters.

Judge Perry made the motion to request back-of-the-bill language authorizing payment of certification fees for court interpreters, mediators, and court reporters. Mike Bridenback seconded, and the motion was approved by the members, without objection.

Discussion ensued regarding the source of funds to pay for the fees. Judge Laurent made a motion to pay the fees from existing circuit budgets, and the motion was approved without objection.

Equipment Transfer

Section 28 of SB 2962 states "Equipment and furnishing under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, public defenders, shall be transferred to the state at no charge. This provision does not apply to any communication services as defined in s. 29.008(1)(f)."

The staff recommendation is to file an LBR issue to cover the costs the State will be picking up effective July 1, 2005. These costs would be for maintenance agreements or lease agreements associated with stand-alone copiers, typewriters, etc. Technology items remain a county responsibility and court reporting equipment maintenance is covered under a separate issue. Preliminary estimates indicate this cost will be in the \$200,000 - \$400,000 range. Actual cost data is still pending from circuits, but will be used in determining the final amount of the issue filed. As of this date, staff estimates the costs will be closer to \$1,000,000.

Judge Francis made a motion to approve the recommendation to file an LBR issue for the equipment transfer. Theresa Westerfield seconded the motion, and the motion was approved without objection.

Personnel Study on Compensation and Benefits

The structure of the current salary schedule has not been systematically reviewed since 1991. Revision 7 has added classes of positions not previously included in the State Courts System's classification system and no thorough pay study of these positions has been conducted. Revision 7 has resulted in the incorporation of classification and pay systems from nearly all 67 counties, many of which had pay scales and practices significantly above the SCS. It is commonly accepted that SCS pay has fallen significantly behind the other branches of government due to limited pay increases and budget shortfalls. Limiting appointment rates and the inability to award bonuses and special pay increases has had a deleterious effect on the recruitment and retention of the best employees.

An early recommendation of the Personnel Committee was to have a complete classification and pay study of the State Courts System, conducted by an independent party, after Revision 7 was implemented. The study will be designed to determine if the SCS has a competitive pay system, if positions are properly classified, and if best practices are employed in developing organization models for the courts.

The Personnel Committee recommended to file an LBR issue for the study. OSCA Personnel staff is currently researching the cost to conduct this study and will consider independent management consulting firms, the State University System, grants, or combinations of the three. Conducting a comprehensive statewide compensation and benefits study is expected to cost approximately \$85,000 - \$100,000. Estimated cost data is still pending from prospective consultants.

Discussion ensued regarding the two and five year incentive plan for law clerks. Staff suggested to build the incentive plan in the law clerk issue. The members also discussed senior management benefits. Mike Bridenback made a motion to: (1) file an issue for the study on compensation and benefits, and direct the Personnel Committee to study and make a recommendation on benefits for senior management classifications; and (2) file a separate issue to provide for senior management benefits. A place holder issue will be filed if the Personnel Committee study is not completed prior to submission of the LBR.

Judicial Inquiry System

The Trial Court Technology Committee has determined that there is a need to request funding to expand the browser based system currently being developed in a limited scope using federal grant funds. The federally funded JIS implementation provides for a data integrated and query

system, which is a secure information network to facilitate the sharing of critical information statewide. It will also incorporate the functionality to extract defined data from various disparate databases and transfer the data directly into the OSCA's automated sentencing database, thereby eliminating the need for data entry and the possibility of data entry error.

System expansion will take two years to fully implement and the funding requested is \$1,051,000, inclusive of the second year recurring costs of \$70,000. The full implementation will support connections to a total of 30 state databases, keeping in mind that there may be multiple database connections within a single state agency. The Trial Court Technology Committee recommended the total funding requested for FY 2005/06 be \$490,500, which is the same amount requested for the last three years. Funding for FY 2006/07 for phase II will also require \$490,500 and will also require funding of \$70,000 in support of the first year implementation for ongoing system and hardware maintenance costs. Total recurring funding to support the system in FY 2007/08 will be \$140,000.

Judge Roby made a motion to file the issue as recommended by the Trial Court Technology Committee. Wayne Peacock seconded, and the motion was approved without objection.

Court Reporter Certification Program

During the 2004 legislative session, Section 25.383, Florida Statutes, was revised and effective July 1, 2004, created provisions for the Supreme Court to determine court reporting certification and renewal fees in an amount sufficient to cover the full cost of administering a court reporter certification program. The revisions designate the Grants and Donations Trust Fund as the ultimate repository for the fees collected.

Staff recommends that for FY 2005/06, 3.5 FTE and an estimated budget of \$325,731 (the cost of the 3.5 FTE is included in this figure) is needed for the court reporter certification program. The budget will be used to offset the costs to conduct three 1 day board meetings, conduct three one day emergency/disciplinary hearings, maintain day to day operations involving records and data base management, and generally administer the provisions of the program.

No motion was made on this issue.

Salary Shortfall

In FY 2003/04 the trial courts were faced with a total of \$4.3 million salary shortfall. The 2003 legislature cut 79.5 positions and associated salary dollars from the budget and the base salary budget was lapsed an additional \$709,339. These actions, plus other factors such as position reclassifications, and hiring staff above the minimum, have lead to the depletion of the once healthy salary budget. The TCBC successfully managed this shortfall by imposing a hiring freeze on all vacant positions, and mandating across the board operating budget reductions

for all circuit budgets. An issue was filed in the 2004/05 LBR to cover the trial court's salary deficit, but no action was taken.

Preliminary estimates indicate for FY 2004/05 the trial court's salary budget will be short approximately \$5.3 million. The \$1 million increase is attributed to the 2% salary lapse applied to all new Revision 7 positions. The TCBC developed salary management policies at their June meeting, to mitigate the shortfall for FY 2004/05. These actions include not filling new positions until October 1; hiring all initial appointments at the minimum of the pay range; disallowing overlaps of positions; placing unallocated FTE in reserve; and transferring funds for unallocated operating categories to the salary/benefits category.

The payment of annual and sick leave to terminating employees or pay outs for employees entering DROP also contributes to the salary shortfall. The Budget Management Committee will monitor these actions monthly. Leave pay outs for the trial courts have steadily increased since FY 2001/02. Between FY 2001/02 and FY 2003/04, leave pay outs increased by 74%. The 2004 Legislature funded a \$651,000 request for leave pay outs. This appropriation was subsequently vetoed by the Governor.

The group discussed that the TCBC took actions to permanently reduce the projected \$5.3 million salary shortfall to \$2 million. Lisa Goodner suggested rolling the \$2 million request with the \$709,339 request to restore salary dollars. Judge Schaeffer made a motion to: (1) file an issue to restore salary lapse dollars in the amount of \$2,709,339, which includes \$709,339 that was cut during the 2003 legislative session, and the remaining \$2 million necessary to cover the projected \$5.3 million salary shortfall for FY 2004/05; and (2) file an issue to cover the leave liability in the amount of \$827,236. Mike Bridenback seconded the motion, and the motion was approved without objection.

Mediation

In 2004/05, the Legislature funded \$7,631,689 of the \$9,937,399 GR requested. Because the trial courts had difficulty explaining the model and related budget request, the TCBC requested that a simpler funding methodology be developed for the 2005/06 LBR. The Funding Methodology Committee recommended that the model should not be changed from that proposed in FY 2004/05, as there has not been sufficient time to evaluate (or even institute in some circuits) the model developed last year.

The recommended funding methodology for determining the needs of each circuit in the delivery model includes:

- Coordination base related to circuit size - \$250,000 (small), \$375,000 (medium), \$475,000 (large), \$600,000 (Miami-Dade);
- Funding to provide mediators based on the number of eligible filings in a circuit; and

- GR in the amount of \$4 per eligible case filing and \$4 in trust fund authority per eligible case filing.

Subtracting what the TCBC has allocated to date for mediation (\$6,233,532) and what is remaining to allocate in FY 2004/05 (\$1,101,395), the LBR necessary to fund all circuits according to this model is \$2,908,053 GR and \$438,015 TF.

Judge Francis moved to request funding necessary to fund all circuits according to this model is \$2,908,053 GR and \$438,015 TF. The commission members approved without objection.

2005 GLITCH ISSUES

OSCA staff are tracking issues needing changes in legislation. Lisa Goodner requested the TCBC consider the following glitch issues for inclusion into a 2005 Glitch Bill.

1. A mechanism for cost recovery to include the ability to bill for transcription costs.
2. Clear legislation that indicates who should pay for mental health experts asked for by court appointed counsel in civil cases.
3. Clear legislation designating who should pay for mental health experts which are court witnesses, but appointed at SA or PD motion or request.
4. When a person is found indigent for costs, who should pay those costs.
5. Clean up language regarding local government involvement with hearing officers.
6. Court appointed attorneys should have the same exemption from clerks fees as the court, SA, and PD.
7. Clarify the nature of ISS staff providing services to the court. The county has to pay but who should supervise.
8. Court reporting equipment in the courtroom should be state property. Now it will remain county property even though it supplies the court with a due process element. There should be some clarity respecting digital equipment.
9. The funding method for mediation services should be amended to allow for certain additional charges, i.e. cancellation fees.
10. The \$2 of the recording fee earmarked for the court, SA, and PD, should be clarified to exclude the clerks from asserting a claim on any of that fee.

Judge Laurent moved to give OSCA staff authority to work on 2005 Glitch Bill issues. Judge Pittman seconded, and the motion was approved without objection.

ADJOURNMENT

The next TCBC meeting will be held December 8, 2004, at Amelia Island. With no other business before the commission, Judge Schaeffer adjourned the meeting at 3:00.