

**Trial Court Budget Commission
Meeting Minutes
October 19, 2011**



Attendance – Members Present

The Honorable John Laurent, Chair
Mr. Mike Bridenback
The Honorable Catherine Brunson
The Honorable Joseph Farina
The Honorable Ronald Ficarrotta
Mr. Tom Genung
Ms. Sandra Lonergan
The Honorable Mark Mahon
The Honorable Debra Nelson
The Honorable Margaret Steinbeck, Vice Chair

The Honorable Gregory Parker
Ms. Kathy Pugh
The Honorable Robert Roundtree
The Honorable Louis Schiff
The Honorable Elijah Smiley
Mr. Walt Smith
The Honorable Patricia Thomas
Mr. Mark Weinberg
Ms. Robin Wright

Attendance – Members Absent

The Honorable Charles Francis
The Honorable Thomas McGrady

The Honorable Wayne Miller
The Honorable Belvin Perry, Jr.

Welcome and Approval of Meeting Minutes

The Trial Court Budget Commission (TCBC) meeting was called to order at 12:00 p.m. by Judge Laurent. The roll was taken and a quorum was present. Judge Laurent welcomed the members and asked the guests to introduce themselves.

Judge Laurent asked if there were any revisions to the June 23, 2011 or July 29, 2011 meeting minutes. A motion was made by Judge Steinbeck to adopt the minutes as drafted. Judge Miller seconded and the motion passed without objection.

Study on Resolving Civil Disputes: FY 2012-13 Supplemental Legislative Budget Request

Alex Krivosheyev presented background from the 2011 Session regarding the Senate's proposed language (SB 2116) to create the Judicial Caseload Incentive Plan. The plan's intended purpose was to resolve civil disputes in a timely manner and to reduce legal costs in the state courts system by allowing judges assigned to the circuit civil division within each judicial circuit who meet the established performance goals to earn a non-recurring award. The Senate earmarked \$6.6 million for these awards to be paid from the State Courts Revenue Trust Fund. The courts developed a proposal designed to achieve similar goals as the Senate plan using a

Differentiated Case Management system (DCM) and performance reports rather than monetary awards. The proposal included a \$3.2 million request for case managers, database analysts, and training expenses to implement the system.

Neither the legislative proposal nor the alternative proposal passed during legislative session; however, proviso language was adopted by the Legislature in the General Appropriations Act stating that:

“[f]rom the funds in Specific Appropriation 2986, the Office of State Courts Administrator will make recommendations by January 2, 2012, to the chair of the Senate Budget Committee and the chair of the House Appropriations Committee on resolving civil disputes in a timely manner and reducing legal costs to the state court system through the use of financial and other incentives.”

To meet the requirements of the proviso language, the Commission on Trial Court Performance and Accountability (TCP&A) developed four recommendations that are designed to aid in resolving civil disputes in a timely manner:

1. Differentiated Case Management
2. Performance Indicators
3. Additional Core Management Resources
4. Grants to Promote Flexibility and Creativity

Two of the recommendations, Additional Core Management Resources and Grants to Promote Flexibility and Creativity, require additional financial resources for implementation.

Additional Core Management Resources

The DCM system is a team based model in which case managers are provided to support judges in developing and implementing proactive case management initiatives. Case management functions would include early screening and classification of civil cases, facilitation of pretrial discovery and case management plans/orders, and scheduling case management conferences in problematic cases to resolve issues contributing to case delay.

In order to implement the DCM system in all judicial circuits, the TCP&A recommended a uniform staffing model threshold based on a 2:1 ratio of civil trial judges to one case manager. In addition, the model adds one database analyst per circuit to develop performance measurements and reliable evaluation and monitoring of data.

Two funding options were developed with the Funding Methodology Committee (FMC) recommending Option #1; a formula of a 2:1 ratio of civil trial judges to case managers using

actual number of civil judges within each circuit plus one database analyst per circuit. Option #2 used an average number of civil judges within each circuit size designation. The FMC also recommended using Court Program Specialist II (CPS II) positions rather than the Senior Court Analyst I (SCA I) position presented during the 2011 Session.

Judge Steinbeck asked about the pros and cons of the two options. Mark Weinberg replied the differences were relatively small between the two models. Judge Farina noted that the SCA I is a higher classification than a CPS II. Mr. Weinberg stated that members of the committee felt circuits already had case managers with similar functions and the different class would do more harm than good. Judge Steinbeck noted that during last year's session the thought was that requesting the SCA I with its higher pay grade would attract more attorneys. Ms. Sandra Lonergan thought having SCA I's would give the perception that civil cases were more important and would lead to an exodus from the other divisions to the civil division. Judge Steinbeck agreed the CPS II classification would be more appropriate and would match the other divisions. The FMC recommended approval of Option #1.

Judge Farina made a motion to approve the FMC recommendation. Judge Parker seconded and the motion passed without objection.

Training Expense

Three one-time training workshops on case classification and early screening of cases, performance measure reporting, and Bench/Bar training will need to be conducted. These training workshops may be conducted at the statewide or regional level. The funds can be utilized for travel expenses if required. The workshops are estimated to cost \$200,000 based on an estimate produced during Session 2011 and approved by the TCBC Executive Committee on April 21, 2011. The FMC recommended approval.

Judge Nelson motioned to approve the training expense funding. Judge Thomas seconded and the motion passed without objection.

Reserve Fund

The DCM system will provide a base level of resources that can be incorporated by each circuit court. In addition, the TCP&A recommended that a grants request process to promote flexibility and creativity be made available to the circuits. However, to allow for maximum flexibility in how funds can be utilized, OSCA staff recommends that a reserve fund may be a better vehicle that circuit courts can utilize for alternative or supplemental financial assistance in the creation and implementation of technology ideas that would directly promote the resolution of civil disputes in a timely manner and the reduction of costs to the justice system. The reserve fund would be in the amount of \$100,000. The FMC recommended approval.

Mr. Bridenback made a motion to approve the FMC recommendation. Judge Brunson seconded and the motion passed without objection.

Criteria for Accessing the Reserve Fund

In order to access the reserve fund, a circuit must demonstrate how it intends to use the requested funds to achieve improved efficiency under the below-listed criteria. The intent of the criteria is to allow both high performing circuits and circuits that are struggling to access the funds. Requests for reserve funds are to be made in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator.

1. Interest and readiness – Demonstration of ground work already done in implementing an innovation initiative.
2. Demonstration that no other difficult pilot programs is underway or major transitions underway that would conflict with an innovation initiative.
3. Technology Component – Demonstration of how technology will be utilized to improve efficiency under the proposed innovation initiative.
4. Performance Measure – Demonstration of how the innovation initiative will improve performance and how the circuit intends to measure improvement.
5. Cost/Benefit Analysis – A narrative of how the plan reduces costs of case processing for litigants and results in significant reduction in the time to disposition of cases.

The FMC recommended approval of the proposed reserve fund criteria and added a sixth criterion that requires circuits to demonstrate the ability of an innovation initiative to be replicated statewide. The additional criterion will read as follows:

6. Demonstration that a particular innovation initiative has the potential to be replicated statewide.

Judge Steinbeck motioned to accept the FMC's recommendation including the sixth criterion. Judge Nelson seconded and the motion passed without objection.

Request from the Supreme Court: Court Interpreting Fiscal Impact

Jessie Emrich reported that the Supreme Court reviewed the *Recommendations for the Provision of Court Interpreting Services in Florida's Trial Courts* submitted by the Commission on Trial Court Performance and Accountability (TCP&A). One of the major points of the proposed standards of operations and best practices include expanding court interpreting services to all court proceedings and court managed activities. Due to the possible additional cost associated with several of the recommendations, the Supreme Court directed the TCBC to determine the overall cost for implementing those recommendations with a potential fiscal impact.

OSCA staff surveyed circuits from to: 1) determine the extent to which the court interpreting program would need to be expanded to comply with the proposed standards/best practices that have a potential fiscal impact; and 2) identify the additional resources that would be needed in order to fully implement the new requirements proposed in the recommended standards/best practices. The following three possible methodologies were developed for determining the fiscal impact of the proposed changes to Court Interpreting Services:

1. Actual Circuit Requests - The circuits' survey responses indicated an additional need of 96.5 FTE, over \$3 million in Contractual Services funds, and over \$6.6 million in Expense funds, for a total of \$15,018,957 of additional requested resources by the circuits to fully implement the proposed best standards and practices. This was the lowest estimate.
2. UDR Data - Using UDR information, OSCA staff estimated the number of court interpreting events if services were expanded to all court divisions. A ratio of 3.5 Summary Reporting System (SRS) filings to every 1 UDR language event was developed based upon the average of the statewide and median ratio of SRS filings to UDR events under current requirements. This ratio was then applied to all court divisions to estimate the number of new language events across all court divisions. This methodology estimated additional total resources needed at \$19,048,929, and was the medium estimate.
3. Average Percent Increase in Budgets - The highest estimate, compared FY 2011-12 allocations, and additional resources needed as indicated in the circuit survey responses, to determine an average percent increase. The estimated average increase was 250%, or, 2.5 times the current allocation. The estimated total additional resources needed using this methodology was \$22,654,064.

The FMC recommended the high estimate, noting the response from some circuits detailing their inability to recruit and retain staff based on the current salary structure. Judge Brunson motioned to approve the recommendation. Judge Farina seconded and the motion was passed without objection.

Adult Post-Adjudicatory Drug Court Expansion Continuation: FY 2012-13 Supplemental Legislative Budget Request

Rose Patterson report that in 2009, The Florida Legislature appropriated Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds to expand adult post-adjudicatory drug courts in an effort to save the State of Florida money by diverting offenders from prison. The program had an initial goal of diverting 4,000 offenders from prison into drug court and successfully completing 2,000 of these offenders. Also, initially there were 9 counties involved

in the program which became operational in early 2010. However, one county dropped out of the program in June 2010, leaving eight counties currently in operation with a new goal of serving up to 3,611 offenders and 1,805 successful graduates.

As of October 13, 2011, 1,215 offenders have been admitted into the expansion drug courts. There are currently 157 successful completions, 252 unsuccessful completions, and 45 administrative terminations from the program. Seventy-six percent (76%) of the participants are currently being retained in the program. While the retention rate is expected to decline over time, the program is on track to successfully graduate more than the national average of 50% of total admissions.

Based on current total program expenditures (\$6.7 million) and the total number of participant days, daily program costs are averaging less than \$23 per person per day. By comparison, the Florida Department of Corrections reports that it costs slightly more than \$58 per person per day to keep a person in prison. Multiplying these average costs by the total number of participant days shows that this program has already saved the State of Florida more than \$7 million by diverting nonviolent offenders from prison to drug court.

Funding is requested for FY 2012-2013 to continue this program with the current eight participating counties. Federal grant funds expire March 31, 2013; therefore three months of funding is required during FY 2012-2013 to continue the program without interruption.

- An estimated \$2,000,000 in Expense funding is needed to continue treatment services. This amount was estimated based on program admissions and expenditures to date and projected admissions and expenditures through March 2013.
- An additional \$5,000 in Expense is needed to accommodate OSCA's monitoring, training and technical assistance efforts.
- \$25,000 in Other Data Processing Services is requested to continue the licensing and support of the statewide drug court case management system. This system will have been deployed statewide. It would be counterproductive to de-fund and thus take the the system offline.
- Convert current Other Personnel Services (OPS) court case manager positions (\$162,042) to FTE positions.

The FMC recommended continuation of funding for this program at a rate consistent with the original funding methodology for the period from April 1, 2012 through June 30, 2013. The committee further recommended that current OPS staff positions should not be converted to

FTE for this period. The FMC's recommendation is specific to extending the funding necessary to maintain the program through the end of the 2012-2013 fiscal year. Whether or not funding will be requested to maintain, expand, or modify this program for fiscal year 2013-2014 is a larger issue which needs to be dealt with separately.

Mike Bridenback motioned to approve the FMC recommendations for a total budget request in the amount of \$2,192,042. Judge Steinbeck seconded and the motion passed without objection.

Other Business

Lisa Goodner discussed the Senate Judiciary Committee's intent to address the mortgage foreclosure backlog. The committee wants to eliminate 100% of the backlog and the courts need to plan on how to deal with the projected ramp up of cases. There is the potential of 280,000 cases next year. Members of the TCBC voiced concern as to whether the banking industry would have difficulties moving so many cases through the system.

Judge Terrell, TCP&A Chair, thanked the commission for accepting the proposals and the recommendations.

Adjournment

With no other business before the commission, the meeting was adjourned at 12:39 p.m.