

**Trial Court Budget Commission
Meeting Minutes
Marco Island, Florida
December 3, 2005**



Members Present

Stan Morris, Chair	Belvin Perry, Jr., Vice Chair	Stanford Blake
Mike Bridenback	Paul Bryan	David Demers
Charles Francis	John Laurent	Wayne Peacock
Nancy Perez	James Perry	Judy Pittman
Thomas Reese	William Roby	Susan Schaeffer
Walt Smith	Mary Vanden Brook	Mark Weinberg

Members Absent

Ruben Carrerou	Joseph Farina	Doug Henderson
Donald Moran	Carol Lee Ortman	Patricia Thomas

Others Present

Raul Palomino, Jr., County Conf.	David Trammell, 5 th Circuit	Nick Sudzina, 10 th Circuit
Alice Blackwell-White, TCP&A	Gaye Inskeep, 6 th Circuit	John Lin, 10 th Circuit
Carolyn Blair, 11 th Circuit	Sandy Garcia, 11 th Circuit	Kathleen Kroll, 15 th Circuit
Hugh Hayes, 20 th Circuit	Caron Jeffreys, 20 th Circuit	Lisa Kiessel, 20 th Circuit
Laura McCloud, Judicial Assistant Association of FL	OSCA Staff	

I. Welcome and Introduction of Guests

The December 3, 2005, meeting of the Trial Court Budget Commission (TCBC) was called to order at 8:36 a.m. by Judge Morris, Chair, who welcomed members and recognized the guests in attendance.

Judge Schaeffer asked for time before the Commission to recognize Peggy Horvath, OSCA Chief of Strategic Planning. Ms. Horvath is scheduled to retire soon and this meeting will be her last TCBC meeting. Judge Schaeffer presented Ms. Horvath with a token of her appreciation and stated that Ms. Horvath was involved with the TCBC since its inception, served as staff to many committees and workgroups, and is the backbone of the Funding Methodology Committee. Peggy has earned respect and gratitude from all who have worked with her.

Approval of Meeting Minutes

Judge Morris asked if there were any revisions to the draft minutes from the August 24, 2005. meeting. There being none, Walt Smith made a motion, seconded by Judge Francis, to approve the meeting minutes as drafted. The motion passed without objection.

II. Appeal from the 6th Judicial Circuit of Executive Committee Decision

Chief Judge Demers requested that the TCBC review a decision by the Executive Committee to table his request to reclassify a Secretary Specialist position in the Pasco County mediation program, to Court Program Specialist I, until the completion of the Classification and Pay Study. Both positions perform the same duties and a classification audit conducted by Personnel Services determined the position should be re-classified.

Chief Judge Demers stated that this position is critical to the operations of the mediation program in Pasco County and that he is unable to retain employees in this position due to the low salary for the level of responsibility of the position. Though the Classification and Pay Study is nearing completion, funding for any recommendations must be approved by the 2006 Florida Legislature and the earliest possible date for an upgrade would be sometime during fiscal year 2006/2007.

Judge B. Perry stated that this situation is true for other circuits and if this request was approved, the same accommodation would have to be made for all circuits. He added that all circuits have worked hard to reduce the salary shortfall, and approving personnel action requests without proper funding (from the legislature) will have budgetary implications that would put the circuit courts back in the same situation with the previous shortfall.

Judge Morris made a motion to table the request until the study is reviewed and take appropriate measures to fund the implementation of the study. Judge Schaeffer asked if all requests would be tabled. David Pepper stated that several requests for reclassification have been received and tabled. The motion was seconded by Wayne Peacock, and passed without objection.

III. Presentation of Classification and Pay Study Recommendations

Carolyn Long of Management Advisory Group, Inc. (MAG) reviewed the progress of the study to date. The goal of the study was to assess the salary structure and make recommendations for a competitive and internally equitable classification and pay plan. An oversight committee consisting of members from circuit courts, appellate courts, and OSCA was established to monitor the progress of the study via weekly conference calls. Judge Morris stated that trial court administration, the DCA's, and OSCA paid for the consultants to complete the study.

Ms. Long reported that 87% of State Courts System employees completed the job analysis questionnaires. Surveys for collecting salary data for comparable positions were distributed to county, municipal, and Florida state government; the federal court system; and other state courts system organizations. Site visits and video conferences were conducted for follow up with employees, chief judges, and court administrators. Internal and external equity issues were reviewed.

MAG submitted to the Oversight Committee the preliminary recommendations including a proposed salary schedule with recommended increases to the minimum salaries in accordance with their findings. One study finding shows a critical concern for the current entry level of classes. 54% of the positions are below average of the market, which verifies the State Courts System's difficulty in hiring staff. The cost to bring affected classes to the minimum of the proposed pay range is approximately \$8.5 million.

Carolyn Long explained that another recommendation is to bring tenured employees up to the appropriate level of the pay range. For example, an employee in the same position for ten years should be at the mid level of the pay range. Walt Smith added that when legislative salary increases occur, the same percentage is applied to the "minimum salary" column of the salary schedule, resulting in staff that is always at the minimum. Ms. Long continued to report that the cost to raise the affected employees to the mid level is approximately \$9.2 million. The total cost of the recommendations is \$17.6 million (not including benefits), which does not include new positions requested for the 2006-07 fiscal year.

Walt Smith stated that significant changes in the number of positions are not anticipated. A funding strategy will need to be created and the information shared statewide. Judge Morris explained the steps needed for a legislative budget request. The request will be drafted and presented to the Supreme Court. The Chief Justice is supportive of a fair and equitable classification and pay plan for the entire State Courts System.

Judge Laurent asked if the MAG surveyed Florida state agencies and compared their salaries to the State Courts System salaries. If the comparison shows the State Courts System is below the agencies, that information will be very compelling in selling our request for funding. Lisa Goodner added that the survey of agencies should show that the State Courts System is behind.

Judge Morris also suggested that MAG forward their final report to the Executive Committee. Meetings will be scheduled with Brenda Johnson and the Circuit and County Judges Conferences. Mark Weinberg asked if any classes would realize a reduction. Carolyn Long stated that while some classes would not see a change, no reductions are recommended.

Walt Smith made a motion, seconded by Judge Pittman, to approve the model to bring the affected classes up to the minimum to establish target salaries, and to give the Executive

Committee the authority to make changes to the model as needed. The motion passed unanimously.

Judge Schaeffer asked if once the salary study recommendations are funded, if chief judges will be authorized to approve personnel action requests. Judge Morris suggested continuing the practice of sending requests to the Budget Management Committee, to monitor available resources to prevent any possible risk of salary shortfall.

IV. Update on Trial Court Performance and Accountability Initiatives

A. Post-Conviction Initiative

A post-conviction claim for relief is the highest growing case type in Florida in both the trial and appellate courts, and is the fastest growing area of workload demand. Post-conviction litigation has evolved from a relatively small volume of cases to a major source of workload in both the trial and appellate courts.

Judge Blackwell White reported that a work group of judges from circuit and appellate courts and staff attorneys produced a general plan. Separate workgroups were created and charged with development of specific plans and proposals relating to the initiative components. The components are: Rule and Forms, Colloquies, Video Proceedings, Trial Court Law Clerks, Information System Access, and Automated Sentencing System.

The draft model colloquies were distributed and Judge Blackwell-White asked the Commission to review and give feedback on the usefulness of the document. A project to experiment with video proceedings for post-conviction claims for relief is under development in the Thirteenth and Seventeenth Judicial Circuits. Judge Blackwell-White thanked the TCBC for advancing trial court law clerks in the budget request for the post-conviction initiative. The TCP&A Commission will review county and circuit appeals, information systems access, digital records, and automated sentencing. An automated sentencing form is being tested in the Eighth Judicial Circuit.

The project will produce comprehensive proposals to improve the effectiveness and efficiency of the trial and appellate courts in processing post-conviction motions for relief. Project recommendations will be submitted to the Florida Supreme Court.

B. Judicial Resources Study

Mike Bridenback reported that in 1998, the Florida Legislature requested that the Judicial Branch develop and validate a weighted caseload system as a tool for determining judicial workload needs. The final project was completed in 1999 and the case weights were validated by a time study. The original study recommended that there should be a systematic update of the case weights approximately every five years.

The primary goals of the study are to: update the existing judicial case weights; and develop a workload measure for General Magistrates, Traffic Infraction Hearing Officers, and Title IV-D Child Support Enforcement Hearing Officers to be incorporated as a component of the weighted caseload model. The workgroup has set a secondary goal to develop a tool to assist judicial leadership in determining the optimal allocation of judicial and supporting resources. This tool may ultimately replace the existing funding methodologies used for General Magistrates, Child Support Enforcement Hearing Officers, and Traffic Infraction Hearing Officers.

A modified Delphi study, to streamline the evaluation process, was selected to update the judicial case weights. All circuit and county judges will be included in the case weight update survey to accommodate the depth and breadth of their experiences. A supplemental resources subgroup was established, with participation from both judges and general magistrates/hearing officers, to provide project direction and guide the time study.

C. Development of Performance-Based Resource Management

Judge Blackwell White explained that the TCP&A has been directed to recommend a design and propose implementation strategies relating to a court resource management system for the trial courts that supports effective resource management and accountability. A Workload and Performance Measurement Committee has been established and is chaired by Mike Bridenback.

The Committee has begun its work by addressing performance measures that are required to be reported to the Legislature as part of the annual Long-Range Program Plan budget process. Mike Bridenback reported that new measures must be developed to comply with Florida law and mandated deadlines. Further, the next tasks performed by the committee will involve a more in-depth examination and development of internal resource management and accountability strategies to include: determining performance goals, performance measures, and benchmarks; data collection and quality control needs; and formats for reporting information back to the circuits.

Sharon Buckingham added that it is the committee's intent to provide the circuits with useful information to assist in managing day-to-day operations. The TCP&A will also begin development of an education component that will provide support for trial court managers in using performance-based resource management at the circuit level. Judge Blackwell White stated that the performance measures are not intended to emphasize the negative rather to compare circuits and evaluate the application of resources.

Judge Morris thanked Judge Blackwell White, the TCP&A Commission members, and staff for their hard work on the initiatives.

V. Report from the Funding Methodology Committee

A. Child Support Hearing Officer Allocations

Sharon Buckingham reported that in FY 2005-06, there were 16.0 total FTE appropriated. There are 12.0 FTE, 6.0 hearing officers and 6.0 support staff, left to be allocated for FY 2005-06.

Prior to completing a full evaluation of the issue, a meeting was held with Department of Revenue (DOR) staff in order to discuss available child support workload data and their recommendations for where the new resources are needed. DOR expressed concern with the level of federal funding tied directly to their ability to exhibit an increase in the number of child support orders established. They are also interested in implementing a periodic process for the review of child support hearing officer resources to determine the need for possible redistribution.

In analyzing the need for additional resources, the following information was analyzed: circuit justifications in requesting additional FTE; FY 2004-05 Uniform Data Reporting (UDR) figures, including the number of hearings held and recommended orders completed per child support hearing officer; DOR data including FY 2004-05 workload figures and FY 2005-06 projected new orders; and DOR recommendations for hearing officer allocations after gathering information from their regional managers. The DOR did not provide recommendations for support staff FTE.

Several conclusions were drawn from the evaluation of the above information. The amount of new FTE's available for allocation covers all circuit requests. Circuit requests and DOR recommendations often match or at least agree in that new resources are needed for a circuit. Both the court's UDR data and DOR's data do not correlate with circuit requests or DOR recommendations for the allocation of new resources. The data currently collected by the court and DOR reflect the volume of cases, but do not provide need indicators such as backlog or problems with case processing. Consequently, both the DOR and the Funding Methodology Committee recognize the limitations of using the existing data for allocation purposes.

The DOR would like to work with the court in determining a valid data driven methodology for the future allocation of resources based on need. The DOR has been informed of the endeavors of the Commission on TCP&A, Judicial Resource Workgroup. This workgroup is studying the use of supplemental resources such as magistrates and child support hearing officers. It is the intent of the workgroup to provide recommendations for a statistically valid funding methodology for child support hearing officers by the summer of 2007. Lisa Goodner stated that a meeting will be scheduled with DOR in February or March for further discussions.

Judge Francis made a motion, seconded by Judge Laurent, to approve the Funding Methodology Committee recommendation that the 6.0 FTE hearing officers and 6.0 FTE support staff be allocated as the circuits have requested. The motion passed without objection. The FTE's will become available for hire January 2, 2006.

B. Recommendations on Budget Request Policies for FY 2007-08

Sharon Buckingham reported that Revision 7 implementation forced the TCBC to establish a multi-year approach for the Legislative Budget Request (LBR) process. This approach focused on: bringing resources across from the counties during FY 2004-05; prioritizing the appropriation of new judgeships during FY 2005-06; and compensation and pay for judicial branch employees during FY 2006-07.

The TCBC also determined that funding formulas would be reviewed every three years, with the first review to take place during FY 2007-08. In preparation, the TCBC may wish to develop a framework or process for addressing whether a funding formula should be adjusted.

Further, it has become apparent that other court committees or individual circuits may submit recommendations regarding special initiatives. In the spirit of promoting innovations, the TCBC may wish to allow for the submission of innovation projects or grant requests at the state or circuit level. Judge Morris added that the discussion leading to this issue can be found on page four of the August 24, 2005, meeting minutes.

Judge Laurent made a motion, seconded by Judge Francis, to authorize the Funding Methodology Committee to develop the recommended criteria to address the review of funding formulas, requests from other court committees, and the submission of circuit innovations projects or grant requests. The motion passed without objection.

VI. 2006 Legislative Issues

A. Article V Technology Board Report

Judge Francis stated that the Article V Technology Board will report to the legislature in January their recommendations for the governance structure, and data elements for performance and funding. The board will set statewide technology standards. The benefit of the board to the circuits will be that although the circuits will have to meet statewide standards, they would not have to change their processes or hardware.

The board will further recommend to the legislature that the statewide board continue the state level governance with eleven members representing the Court Clerks, State Courts System, State Attorneys, Public Defenders, Counties, House of Representatives, Senate, Sheriffs, Florida Bar (new), CJJIS Council (new), and the Governor.

The board will also recommend: the length of members' term of service; that the Chief Justice of the Supreme Court appoint the chairperson of the statewide board; additional staff to provide support to the statewide board; and state funding for all necessary technology needs not provided by the counties.

As mandated by the legislature, the current \$2 technology fee language states that the fee shall be distributed by the board of county commissions to be used exclusively to fund court-related technology for the state trial courts, state attorney, and public defender in that county. The board will recommend that the \$2 fee be administered on a circuit level and overseen by a joint committee comprised of the state attorney, public defender and chief judge.

Judge Morris commended Judge Francis for his work as chair of the statewide board.

B. Proposed Legislation

- Greg Smith reviewed the legislative proposals for 2006.
 1. The TCP&A suggested that the chief judge be removed as chair of the Indigent Services Committees, stating ethical concerns of their review of attorneys who would possibly practice before them. An individual bill would need to be drafted as there would not be another "glitch" bill this year. *(the TCBC recommended that this proposal be addressed by the chief judges)*
 2. A clarification is requested on the use of the \$2 recording fee. *(withdrawn – Article V Technology Board is working on this proposal)*
 3. A trust fund account be established for the technology fee collected by the clerks and the use of funds clearly identified. This amendment would provide for a more accurate account of the funds. *(withdrawn – Article V Technology Board is working on this proposal)*
 4. The chief judge may decide to choose to place the management, operation and oversight of the jury system with the TCA and that those services will be paid for by the clerk. *(withdrawn)*
 5. Funding of mediation services: Ties fees for mediation services to the Consumer Price Index. *(disapproved)*
 6. Chief judge approval of courses and providers for lay and family guardians: The statewide office provides such approval for professional guardians; they should likewise provide approval for lay and family guardians. This would streamline the process with one statewide office providing all the approvals. *(approved – however, take to chief judges for review and comment as this is a chief judge issue)*
 7. TCA approval and certification that a bill is just, correct and reasonable: An amendment is requested to allow the TCA's designee to provide this certification. *(disapproved)*

Judge Roby made a motion to approve the proposed legislation and delegate the task of bringing the issues to the legislature to the Executive Committee. Wayne Peacock seconded and discussion on this motion ensued.

Judge Schaeffer expressed concern for proposal #1, removing the chief judges from the Indigent Services Advisory Committees, thereby not being able to oversee the setting of fees. Judge Morris stated there are two issues: no funding or staff to chair the committee, and the ethical issue. Further discussion continued and Judge Roby made a motion to have the chief judges create a designee to chair the committee on their behalf. Judge J. Perry seconded and the motion was approved without objection. This item will be presented to the chief judges.

Mike Bridenback stated that proposal #7 is unnecessary due to current state court system policy in place to designate signature authority in the TCA's absence.

Walt Smith made a motion, seconded by Judge Perez, to approve that the Executive Committee work with Greg Smith on all approved proposals and take to the Legislature. The motion was passed unanimously.

- Judge Demers reported that the Pinellas County Attorney identified several issues relating to county-funded court employees while considering a renewal of their interlocal agreement. Those issues are:
- Questions as to whether county-funded court employees can be included in the county's pre-tax benefit program;
 - Questions County's authority to provide health insurance and other benefits;
 - The county recommends statutory clarification in the worker's compensation law to ensure that worker's compensation immunity is retained by the County; and
 - The County questions whether it has authority to include county-funded court employees in the Florida Retirement System.

The Sixth Judicial Circuit proposes an amendment to Section 1. Subsection two of section 29.008, Florida Statutes to read:

(2) Counties shall pay reasonable and necessary salaries, benefits, costs, and expenses of the state court system, including associated staff, benefits, and expenses to meet local requirements as specified in this subsection and to fulfill requirements in subsection (1). Positions funded by a county under this section or s. 29.0081 shall be positions of the judicial circuit and under the direction and control of the chief judge. The county shall be deemed the employer of such personnel for the purposes of ss. 112.08(2)(a), 121.021(10), and 440.10.

[remainder of subsection 2 is not modified]

Lisa Goodner recommended adding "...under the direction, control and supervision of the chief judge." Walt Smith made a motion, seconded by Judge Francis, to approve the proposal as amended. The motion passed unanimously.

VII. Report from the Budget Management Committee on Current Year Expenditures

A. Salaries and Benefits

Dorothy Burke reported that the payroll data through November indicates the annual circuit court salary budget will be fully covered for FY 2005-06. The average lapse rate for July through November is 1.57%. Annual and sick leave payments for the first half of the fiscal year are higher than average, and should be monitored carefully.

The county court salary budget currently has a projected deficit, but it may be covered by additional lapse dollars generated through year end. The average lapse rate for July through November is .63%.

B. Due Process Expenditures

Dorothy Burke reviewed the due process expenditure charts and stated that the expenditure data through November 21, 2005, reflects that roughly 27.16% has been expended in total due process costs, with one month remaining in the second quarter. Expenditure rates by element are 22.41% for Expert Witness, 27.89% for Court Reporting, and 34.85% for Court Interpreting.

Judge Laurent expressed concern regarding the large variances of the YTD expenditures expended by each circuit and the low numbers for some circuits, when as a whole, a projected deficit was expected. Low numbers may be a result of invoices slow to come in. Judge Morris questioned whether some circuits were still performing custody evaluations. He also stated that the low YTD expenditures were likely due to slow bills. He reminded the members that the contingency fund was reduced from \$3.4 million to approximately \$775 thousand.

Dorothy Burke reviewed the Uniform Data Reporting charts for due process services which correlate with the budget data. Judge Morris again expressed concern with the variance between circuits. Mike Bridenback suggested charging this issue with the Funding Methodology Committee to review and document the cause of the variances.

Dorothy Burke stated that court reporting expenses were lower than expected and again, reflects the same great variance between circuits. The court interpreting expenses for some circuits are high. She anticipates an increase in the December numbers as vendors will be closing out the year. She reported that due process procedures would be presented at the TCA Roundtable and to staff around the state.

C. Expenses

Dorothy Burke reported that expenditure data available through October 31, 2005, for the expense category indicates that 24.96% has been expended in the circuit court cost center and 6.55% in the county court cost center.

VIII. Executive Committee Report on Proposals for Decentralization of and Circuit Accountability for Salary and Rate Management

Charlotte Jerrett stated that because of the past years' salary shortfall, it became necessary for the TCBC to control salary and rate management. Now that the shortfall has been met, the TCBC is considering returning some limited management of salary and rate to the chief judge and court administrator.

Dorothy Burke stated that, as reported to the Executive Committee, new operating budget reports would be generated with a breakdown by each circuit and by each element. Draft policy and procedures and an implementation timeline would need to be considered. Charlotte Jerrett added that it is critical to see a picture of each circuit to identify equity issues.

Judge Laurent stated that the Executive Committee discussed decentralizing the judicial assistant, court administration, and law clerk cost centers initially. Judge Morris added that further information and discussion will take place with chief judges and trial court administrators. Though central policies and monitoring cannot be avoided, each circuit would have more flexibility with management of their salary and rate.

Mark Weinberg expressed concern that decentralization would be counterproductive until the classification and pay study is implemented. Judge Morris disagreed, Lisa Goodner added that personnel actions would still be subject to the personnel regulations, and further discussion ensued. Mike Bridenback expressed his agreement with the preliminary discussions which would allow the circuits some flexibility but puts in place safeguards.

IX. Other Business

A. Legislative Budget Request Summary

Lisa Goodner reported that the total Legislative Budget Request for FY 2006-07 is \$98,694,664, with \$43,088,459 in non-recurring funds. Included in the request are several large requests, including Supreme Court and DCA renovations and a new DCA building. There were no adjustments to the circuit budget request since the last TCBC meeting. The placeholder for the pay plan will be updated once the final report is published. The final number of new judgeships is dependent upon Certification of Judicial Need from the Supreme Court.

B. Clerk Budget Cap Adjustment Process

Lisa Goodner reported that Section 28.36(6), F.S., allows the Legislative Budget Commission (LBC) to approve adjustments to the budget caps set by the Clerk of Courts Operations Corporation (CCOC) for each clerk of the court. She reviewed a document from the LBC outlining the process and criteria to be used by the LBC, the Department of Financial Services, and the CCOC. The outline states that the LBC will request that the Chief Justice of the Supreme Court, on behalf of the judicial branch, review and comment on the CCOC's request. The CCOC will provide a copy of all requests and the associated documents to the Supreme Court for its review. Charlotte Jerrett stated that the budget amendments will be distributed to chief judges for comment, to assist the Chief Justice in her review and comment to the legislature.

X. Adjournment

With no other business before the commission, Judge Morris adjourned the meeting at 12:35 p.m.