Trial Court Budget Commission
Meeting Minutes
December 7, 2010

Attendance – Members Present

The Honorable John Laurent, Chair
The Honorable Margaret Steinbeck, Vice Chair
Mr. Mike Bridenback
The Honorable Catherine Brunson
The Honorable Joseph Farina
The Honorable Charles Francis
Mr. Tom Genung
Ms. Sandra Lonergan
The Honorable Thomas McGrady
The Honorable Wayne Miller
The Honorable Debra S. Nelson
Ms. Carol Ortman
The Honorable Gregory S. Parker
The Honorable Belvin Perry, Jr.
The Honorable Robert Roundtree
The Honorable Elijah Smiley
Mr. Walt Smith
The Honorable Patricia Thomas
Mr. Mark Weinberg
Ms. Robin Wright

Attendance – Members Absent

No members were absent.

Welcome and Approval of 07/24/10 and 10/27/10 Minutes

Judge Laurent called the Trial Court Budget Commission (TCBC) meeting to order at 8:37 a.m. The roll was taken and a quorum was present. Judge Laurent then welcomed the members and guest and introduced new members, Judge Nelson and Judge Parker. Further, he requested those in the audience to introduce themselves.

Judge Laurent asked if there were any revisions to the July 24, 2010 and October 27, 2010 meeting minutes. Hearing none, a motion was made by Judge Roundtree to adopt the minutes. Judge McGrady seconded and the motion was passed with none opposed.

Status of FY 2010-11 Budget

Salary Budget

Dorothy Wilson presented information on the status of salary budgets for the trial courts. Ms. Wilson began with the salary budgets for General Revenue (GR) funds and the State Courts Revenue Trust Fund (SCRTF). The amounts indicated below account for payroll liability through

October 31, 2010. The final adjusted payroll liability at full employment was under the salary appropriation by $2,516,211 for the circuit courts and $166,337 for the county courts. Ms. Wilson noted that the adjusted liability under the salary appropriation for the county courts will likely approach zero in the coming months due to the anticipated filling of judgeships associated with the recent election cycle. In total, the final adjusted liability for the trial courts was under the salary appropriation for GR and SCRTF by $2,682,548.

Ms. Wilson continued reporting on the salary budgets for the three remaining trust funds utilized by the circuit courts. Similar to the salary budget for GR and the SCRTF, the following projections assume full employment. In the Administrative Trust Fund, the final adjusted liability was under the salary appropriation by $7,291. The liability for the Mediation and Arbitration Trust Fund (MATF) was under by $571,371. Last, the Federal Grants Trust Fund had an adjusted liability under the salary appropriation of $56,337.

Trust Fund Revenues

Report from November 15 Article V Revenue Estimating Conference

Kris Slayden provided background information from Article V Revenue Estimating Conference (REC) that met on July 21, 2010. She reported that conference principles had decreased the revenue projection for the SCRTF for FY 2010/11 by $43.9 million from $379.8 million to $335.9 million. Additionally, the principles increased revenue projections for FY 2011/12 to $350.5 million based upon the belief that there are still a significant number of delinquent mortgages that lenders have not yet filed. Ms. Slayden noted that mortgage foreclosure filings fees continue to be a dominate revenue source for the SCRTF.

Ms. Slayden stated that on November 15, 2010 the REC met to update revenue projections based on more up-to-date information. Ms. Slayden offered a chart listed as Attachment 1. The chart provided a comparison of revenue estimates in fiscal years 2010/11 and 2011/12 for the SCRTF, MATF, and the Court Education Trust Fund (CETF) from the July and Nov. REC estimates. Nov. SCRTF estimates show a reduction of $23.5 million in FY 2010/11 and an increase of $2.2 million in FY 2011/12. Revenue estimates for the MATF totaled $16.7 million in FY 2010/11 and $16.3 million in FY 2011/12. In the MATF, the estimates were reduced by $400,000 in FY 2010/11 and $100,000 in FY 2011/12 from July's figures. Estimates in the CETF decreased by $100,000 in FY 2010/11 and $200,000 in FY 2011/12. This amounted to an estimated $3.6 million in FY 2010/11 and $3.3 million in FY 2011/12 within the CETF.

Ms. Slayden directed members to Attachment II in the meeting materials. The attachment displayed a chart listing data from the Nov. REC meeting that summarized the SCRTF revenue projections by funding source in FY 2010/11 and FY 2011/12. Of the $312.4 million in revenue estimated for FY 2010/11, $238.6 million was projected for fees from mortgage foreclosure filings. In FY 2011/12, $280.2 million of the $352.7 million estimate was from mortgage foreclosure filings.

Ms. Slayden commented that the decreased revenue projection for the SCRTF in FY 2010/11 was mostly due to mortgage foreclosure filings falling off fairly dramatically in recent months. She presented Attachment III which provided a linear graph of real property/mortgage foreclosure filings by month from July of 2005 to October of 2010. The graph showed a gradual increase in filings from 2005 to a peak in July of 2009. Further, a steady decline is apparent from July 2009 to October 2010. Ms. Slayden acknowledged the decline may be attributed to a voluntary moratorium by many large lending institutions on foreclosure filings in response to allegations of dubious practices by lenders. Additionally, lenders are continuing to focus on their backlog workload.

The REC increased foreclosure revenue projections up slightly for FY 2011/12. This is due to the belief that lenders will have modified and improved their practices and that there are still a significant number of delinquent mortgages that could result in foreclosures.

Ms. Slayden reported on estimates for the Clerk of Court Trust Fund. The REC reduced the revenue down slightly from $477.1 million in FY 2010/11 to $475.6 million. This is due to the foreclosure revenue that the clerks receive. The projection for FY 2011/12 remained the same at $467.9 million.

The forecasts for direct receipts to GR were also adjusted slightly downward from $189 million in FY 2010/11 to $187.5 million. The revenue projection for FY 2011/12 increased slightly to $186 million from the July estimate of $185.2 million.

State Court Trust Funds: Forecast Update

Ms. Slayden provided background information consistent with materials presented in the previous agenda item. For the first five months of FY 2010/11, the SCRTF is starting to show instability due to the majority of funds coming from foreclosure filing fees. The Office of the State Courts Administrator (OSCA) monitors the trust fund closely and produces monthly assessments of projected revenues versus actual revenue. Ms. Slayden directed members to Attachment I for the agenda item. The chart showed that the first four months of the year

brought in an average of $25 million in revenue per month. However, October showed a drop off of $7 million to $18 million per month. Ms. Slayden reported that the decrease is likely due to the moratorium mentioned in the previous section. Revenue collections this year are significantly lower than last year, which averaged $33 million per month.

Ms. Slayden presented Attachment II. The chart indicates that for the first five months of FY 2010-11 revenues came in $10.8 million below the REC official Nov. 2010 projections. This was due to a drop off in mortgage foreclosure filings for Oct. 2010 collections/Nov. 2010 remittance, which was not factored into the Nov. REC analysis. Ms. Slayden acknowledged that whether or not this deficit will be made up in the remaining seven months of the fiscal year is unknown.

Ms Slayden then explained Attachment III; a linear graph representing actual and estimated revenues for the SCRTF from FY 2009/10 through FY 2013/14. The graph indicated a downward trend line for revenue collections. REC's official estimate for FY 2010/11 is $312.4 million. While the projection increased to $352.7 million in FY 2011/12, the estimates shift downward to $292.7 million in FY 2012/13 and $214.9 million in FY 2013/14.

Ms. Slayden stated that OSCA will continue to monitor revenue collections and will follow state and national statistics on the foreclosure crisis to make sure that the REC is as informed as possible when they consider their official projections. She further noted that this foreclosure crisis is unprecedented and continues to change as unpredictable forces impact the filings, which means there is little confidence in modeling of this trend.

Ms. Slayden reported that in the 2010 Legislative Session, portions of the SCRTF's excess cash were spent on the Clerk of Courts service charge ($18.6 million) and the Foreclosure Initiative ($6 million). Additionally, $88.5 million was fund shifted from GR to the SCRTF. If revenues come in as projected for FY 2010/11 and FY 2011-12, the SCRTF will not have adequate revenue to fund the State Court System in FY 2011/12.

Potential Issues Related to SCRTF Shortfall

Ms. Slayden briefly mentioned the Long Range Financial Outlook Report for fall 2010 as presented by the Legislative Office of Economic and Demographic Research (EDR). The report found that while GR collection forecasts for FYs 2009/10 and 2010/11 have increased, significant shortfalls totaling billions are projected for FYs 2011/12 thru 2013/14.

In relation to Florida recovery trends, it appears that the extreme financial and economic stress experienced over the last few years hit bottom sometime during the spring of 2010. Months of modest growth are expected before a full recovery begins in earnest in the spring of 2011. Questions remain on the actual pace of the recovery, the degree of remaining turbulence, and the risk of a double-dip.

The job market will take a long time to recover – about 831,000 jobs have been lost since the most recent peak. Rehiring, while necessary, will not be enough. At the current pace, a full recovery to the previous peak will not occur until 2014. The unemployment rate for FY 2011/12 is projected to be 10.8%, followed by 9.2% in FY 2012/12 and 8.2% in FY 2013/14.

Ms. Slayden offered a handout on the estimated cash balances of the SCRTF for FY 2010/11 through FY 2011/12. Revenue projection amounts for FY 2010/11 were calculated using either REC estimates or annualized revenues. Each methodology utilized the same beginning balance of $93,285,605 for FY 2010-11. Based on annualized revenues, the projected revenue amounted to $291,695,347. This amount differed with the REC estimate of $316,095,347. Less the current operating budget and the estimated service charge to GR, the estimated ending cash balance was positive $15,293,443 based on the REC estimate and negative $9,106,557 based on annualized revenues. Charlotte Jerrett noted that the FY 2010/11 estimated ending cash balance of $15,293,443 does not meet the 5% reserve required by the Governor's office.

Continuing into FY 2011-12 and carrying forward the respective balances from FY 2010/11, the estimated ending balance using the REC estimate for revenues was negative $21,925,776. Using the annualized amounts calculated by OSCA, the estimated balance was negative by $46,325,776.

Ms. Jerrett then discussed possible avenues to lessen the impact of the potential shortfall in the SCRTF. First noted was avoiding potential legislative "cash sweeps" of trust funds to protect potential positive cash balances within the branch. Ms. Jerrett reported that if a one-time legislative authority to use unobligated cash balances from the MATF is granted, an estimated $11 million could be used to partially offset the projected deficit in the SCRTF. Additionally, maximization of expenditures in other funds could help offset the deficit by $1.6 million. Ms. Jerrett reported that current spending restrictions could yield potential cash savings. Analysis of spending restriction outcomes could amount to savings of $15 million over two fiscal years.

Judge Laurent asked member if there were any questions regarding the trust fund presentation. Walt Smith asked whether adjustments were included in the calculation of the estimated cash

balances. Ms. Jerrett responded that annual adjustments such as those to health and life insurance were not included due to the inability to determine the amounts in the future. She indicated that the impact of these amounts should be minimal based upon the relatively small amounts accounted for in recent years. Hearing no more questions, Judge Laurent directed staff to proceed back to Agenda Item II B.

Status of FY 2010-11 Budget

Circuit Salary Management Rate Allocation

Gary Phillips presented information on the rate allocation for the circuits. He reviewed a proposed rate distribution for both the SCRTF and MATF. Mr. Phillips reported that the Executive Committee recommended an alternative to a rate distribution. The recommendation would direct the TCBC Personnel Committee and the OSCA Office of Personnel Services to work with the circuits to study pay equity issues. The parties would consider ways to address inequities caused by actions associated with the 2008 Reduction in Force, and hiring or promoting employees with lower salaries due to restrictions that began in 2007.

Judge Laurent commented that he did not believe a rate distribution for the SCRTF was prudent due to current projections. However, he acknowledged that in lieu of a rate distribution the Budget and Pay Memo would need to be updated. Judge Roundtree offered a motion to forgo approving a rate distribution at the current time, update the Budget and Pay Memo, and direct the TCPC Personnel Committee and the OSCA Office of Personnel Services to study pay equity issues. The motion was seconded by Judge Farina and it passed with none opposed.

Operating Budgets

Dorothy Wilson reported on the status of the FY 2010/11 SCRTF operating budgets as of October 31, 2010. She noted that expenditures in the Expense, Operating Capital Outlay, and Contracted Services categories are all somewhat higher compared to the same time period last fiscal year. Ms. Wilson indicated that higher levels of spending in the Expense category may be due to the easing of travel restrictions. Of the appropriation in the Expense category, $1.6 million had been expended and/or encumbered leaving a remaining balance of $9.7 million. 10.37% of the Operating Capital Outlay and 24.48% of the Contracted Services categories had been expended and/or encumbered.

Due Process Budgets

Ms. Wilson presented data on the status of the FY 2010/11 SCRTF Due Process budgets as of October 31, 2010. She stated that spending rates for the Expert Witness and Court Reporting

are slightly higher compared to the same time period last fiscal year. These increases may be attributed to higher maintenance costs. Additionally, spending rates for Court Interpreting are slightly lower. Total Due Process expenditures and encumbrances amounted to $4.7 million or 23.87% of the appropriation.

Trust Fund Cash Statements

Charlotte Jerrett reported on the cash statements for the SCRTF, MATF, and the Administrative Trust Fund (ATF). In the SCRTF, the year-to-date cash balance was $77,081,654. Ms. Jerrett noted that from July 2010 to October 2010 the balance of the SCRTF has declined steadily by $20.8 million. The ending cash balances year-to-date for the MATF and ATF were $13,714,916 and $1,094,386 respectively. Ms. Jerrett informed the members that the Budget Management Committee reviews reports every month and will continue to monitor closely.

Request from 5th Circuit: Court Reporting Budget

Dorothy Wilson presented a request from the 5th Judicial Circuit. Ms. Wilson stated that the 5th Circuit had requested additional FTE and salary budget authority beginning this fiscal year to "provide the appropriate level of service of digital court reporting to the Court and the court participants of the Fifth Judicial Circuit" and "to comply with the Use of the Clerk of Court Staff requirement in the Florida Supreme Court Order AOSC10-1, *In Re: Court Reporting Services In Florida's Trial Courts*."

The 5th Circuit provided two options for consideration:

The first option would increase Digital Court Reporting staff by 1.50 FTE and eliminate the contractual services paid to the Clerk of the Court in Sumter County. In addition to the 1.50 FTE requested, this option also includes internally transferring within the 5th Circuit, a .50 FTE vacant Digital Court Reporter from Marion County to Sumter County. This would result in a total of 2.0 FTE Digital Court Reporters for Sumter County.

The second option would increase Digital Court Reporting staff by .50 FTE and increase Court Administration staff by .50 FTE and eliminate the contractual services paid to the Clerk of the Court in Sumter County. In addition to the two .50 FTE requested, this option also includes internally transferring within the 5th Circuit, a .50 FTE vacant Digital Court Reporter from Marion County to Sumter County. This would result in a 1.0 FTE Digital Court Reporter for Sumter County and a .50 FTE Administrative Assistant I in Court Administration.

Ms. Wilson presented the following options for consideration:

- Option 1: Effective January 1, 2011, increase Digital Court Reporter FTE in the 5th Judicial Circuit by 1.50 FTE. The annual cost of this action would total $70,396. The annual savings of this action would total $19,400 in Due Process Contractual Services in Court Reporting Services Paid to the Clerks. Utilize existing unfunded FTE and existing unobligated salary budget to fund the request.

- Option 2: Effective January 1, 2011, increase Digital Court Reporter FTE in the 5th Judicial Circuit by .50 FTE and increase Court Administration FTE with .50 Administrative Assistant I. The annual cost of this action would total $44,655. The annual savings of this action would total $19,400 in Due Process Contractual Services in Court Reporting Services Paid to the Clerks. Utilize existing unfunded FTE and existing unobligated salary budget to fund the request.

- Option 3: Deny the request

Ms. Wilson stated that the Executive Committee had recommended Option 1 and noted that if adopted, there would not be an impact to payroll projections. Tom Genung asked if the 5th Circuit had considered using contractual services to address their needs. Jonathan Lin, the Court Technology Officer from the 5th Circuit, responded that Court had examined several options. Mr. Lin stated that due to a lack of qualified service providers in the area, that a contractual option was not feasible. A motion was offered by Judge Roundtree to adopt Option 1. The motion was seconded by Judge Perry and it passed with none opposed.

Foreclosure and Economic Recovery Funding Update on Expenditures

Ms. Wilson reported on the status of the FY 2010/11 Foreclosure and Economic Recovery budget in the SCRTF as of November 18, 2010. Of the $5.9 million appropriated, $1.6 million or 26.57% had been expended and/or encumbered.

Request from 4th Circuit

The 4th Judicial Circuit had requested $8,000 for the Duval County Clerk's Office to develop an automated program that will generate data for the Foreclosure and Economic Recovery Initiative.

Ms. Wilson informed the Commission that the 4th Circuit had withdrawn their request from consideration.

Request from 20th Circuit

Ms. Wilson relayed the 20th Judicial Circuit's request for $27,269. These funds would be used to cover 50% of the expenses associated with Foreclosure and Economic Recovery Initiative mailing and postage charges. Additionally, the Circuit had requested the remaining 50% ($27,268) if there are reserve funds remaining at the end of this fiscal year.

Ms. Wilson presented two options for the Commission's consideration:

- Option 1: Utilize $27,269 from the $119,112 Expense Contingency in the Foreclosure and Economic Recovery cost center (leaving a balance of $91,843 in Expense Contingency).

- Option 2: Deny the request

Ms. Wilson stated that the Executive Committee had recommended Option 2. The Committee had suggested that the 20th Circuit consider requesting either a budget amendment or an internal transfer out of their existing operating budget to address the issue. Judge Roundtree offered a motion to approve Option 2. Carol Ortman seconded the motion and it passed with none opposed.

Request from Florida Courts Technology Commission: Electronic Access to Court Records

This request was withdrawn from consideration.

Report on Foreclosure and Economic Recovery Initiative

Kris Slayden reported on the status of the Foreclosure and Economic Recovery Initiative. She presented several charts that summarized data from the Initiative. The first chart examined backlogged cases for the first quarter of FY 2010/11 by circuit. As of June 30, 2010, there were approximately 462,339 backlogged cases. In the first quarter, 65,830 cases were disposed leaving a remaining balance of 396,509 backlogged cases.

The second chart identified disposed backlog by type and circuit for the first quarter of FY 2010/11. Of the 65,830 cases disposed, 46,940 went to summary/final judgment, 17,025 were dismissed, 23 went to trial, and in 1,842 cases the type was unidentified. Ms. Slayden noted that there has been a 41% increase in cases ending in dismissal.

The third chart examined the Initiative by case status and circuit for the first quarter of FY 2010/11. Four designations of case status were identified: disposed, active, inactive, and stayed. As previously reported, disposed cases totaled 65,830. There were 113,467 active and 344,353 inactive cases. Stayed cases amounted to 160.

The forth chart explored the number of additional mortgage foreclosure cases added to the backlog and identified the clearance rate as the percent of cases disposed. The data was presented by quarter and ranged from September 2006 through September 2010. The clearance rate fluctuates from 78% of cases disposed in the first quarter of FY 2006/07, dropping to a low of 38% in the third quarter of FY 2007/08, and then rising steadily to over 100% in first quarter of FY 2010/11.

Last, Ms. Slayden handed out a chart listing the number of foreclosure hearings scheduled and cancelled. The chart also calculated the percentage of canceled hearings. The sample consisted of selected circuits where data was available. Ms. Slayden noted that a significant number of hearings have been cancelled. Of the reported data, the percentage of cancellations ranges from 17% in the 12th Circuit to 71% in the 7th Circuit. The average percentage of cancellations amounted to 38%. Coupled with the high cancellation rate, Ms. Slayden stated that there has also been a reduction in hearings scheduled. She stated that staff will continue to monitor and report on the status of the Initiative.

Report on Post Adjudicatory Drug Court Expansion

Charlotte Jerrett presented background information on the topic. The Adult Post-Adjudicatory Drug Court Expansion Program was created to divert non-violent prison-bound adult offenders to drug court treatment rather than prison. The purpose of the program is to reduce prison costs while improving outcomes for offenders with substance abuse and mental health disorders. The program has been funded with an $18.5 million grant appropriation from the Edward Byrne Justice Assistance Grant (JAG) funds under the American Recovery Act of 2009 appropriated by the Florida Legislature to the State Courts System. The 2009 General Appropriations Act (GAA) directed OSCA, in conjunction with the Florida Association of Drug Court Professionals, to develop a two-year plan for implementing the expansion of drug courts for offenders who would otherwise be incarcerated.

The grant funds became effective October 1, 2009. Funds are being used specifically for case management, substance abuse treatment services, drug testing, probation supervision, and for the development of a state-wide drug court case management system. Nine counties with the highest prison admissions within the population to be served were selected to participate in the

two-year expansion drug court grant, including Broward, Duval, Escambia, Hillsborough, Marion, Orange, Pinellas, Polk, and Volusia counties. An estimated 2,000 total offenders annually would be served. Most programs became fully operational in January 2010. Duval County withdrew from the program in June 2010 as a result of unforeseen issues locally.
Ms. Jerrett continued by updating the members on the current status of the program. The Florida Legislature's Office of Program Policy and Government Accountability (OPPAGA) released a report in October 2010 titled "Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings". This report explained that the counties are not reaching their admission goals in large part because the initial estimates of the potential population were overstated and the strict eligibility criteria were limiting admissions.

OPPAGA also gave recommendations to the Legislature for further reducing state prison costs. These recommendations included expanding the drug court criteria to serve more prison-bound offenders, adding additional counties to divert more prison-bound offenders, require existing expansion courts to serve predominantly prison-bound offenders, and/or shift federal drug court funds to other prison diversion programs.

While it is anticipated that the original annual offender target will not be reached, the eight remaining counties are admitting offenders into the drug court expansion program on a consistent basis. As of mid-November, there were approximately 650 participants in the drug court expansion program state-wide. OSCA has had the opportunity to conduct site visits to the eight counties participating in the drug court expansion grant and those visits will be completed by December 9, 2010. The purpose of the site visits are not only to ensure compliance with the guidelines set forth by the Florida Legislature, but also to observe the drug court expansion program's actual operations. Since over half of the funds have not been utilized, it is anticipated that OSCA will receive a no-cost grant extension through September 2012 to spend down the appropriated funds.

In addition, OSCA has released an Invitation to Negotiate (ITN) to develop the statewide drug court case management system. The deadline for submissions is December 20, 2010. The case management system will be accessible to all adult drug courts state-wide, with the ability to expand to other types of drug courts, such as juvenile delinquency and family dependency in the future. The system is expected to be implemented by September 30, 2011.
Lastly, in light of OPPAGA's October report, OSCA has developed draft legislation to ease the restrictions on eligibility criteria for drug court expansion participants. The proposed legislation is currently being reviewed by the expansion drug courts and will be reviewed by the Supreme Court's Substance Abuse and Mental Health Task Force on December 8, 2010. If approved by

the task force, the recommendations will be sent to the Florida Supreme Court for final approval.

Ms. Jerrett presented a chart showing drug court expenditures as of November 29, 2010. Totals expenditures for the circuit Other Personal Services category amounted to $201,790. Of the original allotment for the category, only 35% of the funds had been expended. Within the Grants and Aid to Counties category, expenditures totaled $565,139. Only 8% of the allotment had been expended.

Following Ms. Jerrett's presentation, several questions and comments were made. Mike Bridenback asked what happens to monies not expended after June 30, 2010. Ms. Jerrett responded that an extension would have to be requested from the Florida Department of Law Enforcement (FDLE) to meet federal requirements and then approved by the Legislature. Walt Smith commented regarding the under use of funds for the program. He believed that the programs reliance on the cooperation of State Attorneys has led to differing outcomes amongst the circuits involved in the program. Mike Bridenback cited that start-up delays hindered the program in the early stages. Judge McGrady was concerned that the guidelines affecting participation in the program on sentencing points was too narrow. He suggested that by widening the window, participation in the program would increase.

Potential Issues Related to SCRTF Shortfall

This issue was revisited briefly by Ms. Jerrett. Judge Roundtree asked whether the court should consider requesting a one-time waiver of SCRTF service charge to General Revenue in order to address the shortfall. Lisa Goodner responded that due to the projected deficits the state currently faces, it is unlikely that the Legislature will consider such a request.

Court Reporting Services

Heather Thuotte-Pierson presented the following background information on the agenda item. As part of the implementation of Revision 7 in 2004, an arrangement for sharing the costs of court reporters by the courts, the State Attorneys, Public Defenders, and the Justice Administrative Commission (JAC) on behalf of the court appointed attorneys, was developed to allocate funding to the courts for providing transcription services. 14 of the 20 circuits participate in the cost sharing arrangement. The amount of the transfers from the three entities above to the court's budget was determined based on a standardized methodology using the number of transcript pages produced for each entity by stenographer employees, as reported in the Uniform Data Reporting (UDR) system. The transfer amount was set for each entity in each circuit based on FY 2004/05 estimated pages at $7.00 per page ($4.7 million), and

the intent was to adjust the amount each year based on the previous year's level of service provided. The amount of cost sharing transfers has never been adjusted based on UDR data, and the courts have taken two budget reductions in the last 5 years ($676.469 in FY 2005/06 and $867,735 in FY 2007/08; intended to be recouped from the Regional Counsels through cost recovery).

The court has been working towards cost containment in court reporting since FY 2004/05 by utilizing digital recording equipment more extensively, but there have been other factors that have added to the cost of providing court reporting services. First, the trial courts have received new judges in the criminal division since 2004, which require additional court reporting coverage, and increase costs. Second, transcription production has increased since the implementation in FY 2004/05.

Ms. Thuotte-Pierson directed the members to Table 1 and 2 in the meeting materials. Table 1 summarized data of court reporting transcript pages by entity from FY 2004/05 through FY 2009/10. In FY 2004/05, the transcribed pages total 946,531 compared with 1,065,757 in FY 2009/10. The difference between the totals amounted to a 13% change. Table 2 listed data from media production by entity for the same time period. The total percent change from FY 2004/05 to FY 2009/10 was 5%.

Third, the circuits have begun to implement the court reporting standards and best practices outlined in AOSC10-1 issued on January 7, 2010 by the Supreme Court. These administrative order changes require TCBC to revisit the cost sharing arrangement and provide some recommendations to the Legislature, especially in light of the questions that have been raised by the cost sharing entities and legislative staff on the consistency of the services provided and the appropriateness of the cash transfer levels by circuit.

At the July 2010 meeting, TCBC directed OSCA to work with the circuits to accomplish the following: (1) quantify how the court reporting budget is spent on activities in the courtroom, out of the courtroom, and spent on transcript and media production so that a new cost sharing methodology could be developed to more accurately determine each entity's share of the court reporting costs and; (2) determine the overall fiscal impact of AOSC10-1. Also, the Commission agreed to request again this year that the cost sharing budget be moved to the courts budget to eliminate the transfer of funds from the entities' budgets.

Ms. Thuotte-Pierson reported that the circuits were surveyed in September 2010. Each circuit was asked to: (1) identify the workload distribution of their FY 2010/11 direct services staffing

resources (FTE and contractual) and; (2) indicate where they currently stand in relation to implementation of those standards of operation and best practices that have a recurring fiscal impact, including indicating new resource needs and potential cost savings associated with implementing the standards of operation and best practices.

The new methodology developed for cost sharing assigns a portion of cost that each entity is responsible for based on the total cost of the resources in FY 2010/11. The cost sharing methodology only applies to direct services costs which are a subset of the $29,148,392. Ms. Thuotte-Pierson directed members to Table 3 in the meeting materials. Table 3 breaks out the total court reporting costs by category and/or cost center for FY 2010/11. From the total reporting costs of $29,148,392 in FY 2010/11, $26,540,140 was identified as direct services costs.

Ms. Thuotte-Pierson noted that the first step in developing the new methodology was to use results from the survey to assess the workload associated with activities in the courtroom and out of the courtroom and with transcript and media production for each circuit. She then referenced Table 4. Table 4 provides a cost breakout of court reporting direct services costs by circuit and category. Next, in order to establish a link between workload and costs, the workload distribution percentages derived from the survey data were applied to the FY 2010/11 court reporting direct services costs for employees and contractual services, to calculate the workload cost breakouts for each category (in-courtroom, out-of-courtroom, transcript production and media production). Then, the number of transcript pages and media copies produced for each of the entities reported in UDR was applied to the transcript ($7,718,008) and media ($1,321,633) production cost breakouts to calculate the amount each cost sharing entity should contribute by circuit.

Ms. Thuotte-Pierson stated that the court system currently receives $3,146,365 from the cost sharing entities as quarterly cash transfers. This analysis indicates an additional $2,097,578 in funding is needed statewide, for a total of $5,243,943. Under the new cost sharing methodology, the number of circuits who participate in the cost sharing arrangement increases from fourteen to eighteen since this new methodology extends beyond including only transcripts produced by stenographer employees and now includes transcripts and media copies produced by stenographer and digital employees and contractual. Ms. Thuotte-Pierson noted that Table 5 shows the results of the new cost sharing methodology.

She mentioned that new cost sharing methodology assumes that the courts are currently providing a certain level of service to the entities and that the level of service would remain

unchanged. Ms. Thuotte-Pierson pointed to Table 6 which showed the differences in cost calculations between the existing and proposed methodologies. No additional resources above the $26,540,140 for direct services are needed to provide that level of service. AOSC10-1 states as a best practice that "Judicial circuits operating under the cost sharing arrangement are required to provide a 'statement of services provided' to local state attorneys, public defenders, the Justice Administrative Commission, and the Office of the State Courts Administrator." These statements are a requirement of the new cost sharing methodology in order to guarantee the level of service remains unchanged.
Ms. Thuotte-Pierson identified the following decisions needed:

1. Approval of the new cost sharing methodology.

2. A decision is needed on whether or not to file a Supplemental Legislative Budget Request (LBR) for FY 2011/12 for the additional $2,097,578 in funding.

3. A decision is needed on how to request the additional funds for FY 2011/12. In July the TCBC agreed to request again this year that the cost sharing budget be moved to the court's budget. Alternatively, the funding can be requested from General Revenue or as a cash transfer from the cost sharing entities. Currently, the Regional Counsels are not part of the mandated transfer of funds the court receives from the Justice Administrative Commission and s. 29.0195 prohibits the court from billing these offices directly through cost recovery. Therefore, the court is providing services without any resource reimbursement.

Ms. Thuotte-Pierson informed the Commission that the Funding Methodology Committee (FMC) recommended approval of the new cost sharing methodology and filing a Supplemental LBR for FY 2011/12 for the $2,097,578 in funding. The FMC also recommends this funding be part of the court's budget. The FMC recognizes the current situation with the Regional Counsels and absent approval by the Legislature to move the full cost sharing budget to the court's budget, the FMC recommends seeking a statutory revision to allow the courts to directly bill the Regional Counsels.

Mike Bridenback spoke in support of the new methodology. He noted that the proposed methodology utilizes cost and workload data whereas the current methodology does not. Mark Weinberg stated the proposed methodology allows the circuits to better explain cost in terms of services. Walt Smith asked if there would be any fiscal impact to the circuits. Ms. Thuotte-Pierson indicated that there would be no fiscal impact.

Hearing no further questions, Carol Ortman offered a motion to approve the new methodology as presented. The motion was seconded by Judge Roundtree and passed with none opposed.

In response to the second decision needed, Judge Perry proposed a motion to file a Supplemental Legislative Budget Request (LBR) for FY 2011/12 for the additional $2,097,578 in funding. Judge Roundtree seconded the motion and it passed with none opposed.

Moving on the third decision needed, Judge Roundtree supported a motion to request again this year that the cost sharing budget be moved to the court's budget. Carol Ortman seconded the motion and it passed with none opposed.

Ms. Thuotte-Pierson then addressed the second issue related to court reporting; the fiscal impact of AOSC10-1. She reported that the survey indicated that new resources will be needed for the circuits to fully implement the standards and best practices. The circuits requested an additional 86.0 FTE and $457,593 in contractual funds. Ms. Thuotte-Pierson directed members to Table 7 which showed the circuits' requests. She informed them that requirements of AOSC10-1 are not part of the current court reporting funding methodology.

Ms. Thuotte-Pierson presented three options for consideration:

- Option 1: File a Supplemental LBR based on circuit requests for an additional 86.0 FTE and $457,593 in contractual funding for FY 2011/12.

- Option 2: Do not file a Supplemental LBR. Table the request until the Committee has had time to develop a revised court reporting funding methodology, incorporating the new requirements in AOSC10-1, for use in future Legislature Budget Requests.

- Option 3: Do not file a Supplemental LBR.

Ms. Thuotte-Pierson informed the Committee that the FMC and Executive Committee had recommended Option 2; table the request until a revised court reporting methodology can be developed. Carol Ortman offered a motion to approve Option 2. The motion was seconded by Judge McGrady and it passed with none opposed.

Foreclosure and Economic Recovery Initiative

Judge Laurent presented brief remarks regarding the Foreclosure and Economic Recovery Initiative. He indicated that additional funds may need to be requested to address the challenges associated with the foreclosure crisis. The Executive Committee proposed an option to request and extension of the current budget for the Initiative through a request for General Revenue funds. Judge McGrady suggested that the Committee explore increases in funds to assist case management activities. Judge Roundtree offered a motion to approve the proposal. The motion was seconded by Judge Perry and it passed with none opposed.

Report from the Commission on Trial Court Performance & Accountability

Self-Help Workgroup's Final Report Update

Greg Youchock provided an update on the recent activities by the Commission on Trial Court Performance & Accountability (TCP&A). He provided the members with a brief overview of the history of TCP&A and the Workgroup. Finally, Mr. Youchock offered a high-level overview of the recommendations from the Workgroup.

Judge Farina commented on the self-help services developed by the 11th Judicial Circuit. He recognized that program had become a national model for self-help services. Judge Farina wanted the Commission to know that he was against any changes that would negatively impact the program in 11th Circuit. Walt Smith asked if there was data on possible revenue that could be generated from user fees and/or filing fees. Mr. Youchock responded that data was limited but there is evidence that potential revenues could be generated. He provided the example of Palm Beach County and other private businesses selling various forms to the public. On behalf of Joel Brown, Chief Judge of the 11th Circuit, Judge Farina offered a helping hand related to self-help services.

Court Interpreting Report

Mr. Youchock introduced Judge Terry Terrell, Chief Judge of the 1st Circuit and Chair of TCP&A to discuss the report on Court Interpreting. Judge Terrell provided additional background information. He stated that TCP&A was recently charged by the Supreme Court with the continued development of standards of operation and best practices for the major elements of the trial courts with a specific focus on court interpreting services.

Judge Terrell recognized Judge Ronald Ficarrotta's (13th Circuit Judge and Chair of the Court Interpreter Certification Board) efforts as leader of the Workgroup.

Judge Terrell noted that in order to develop the recommendations, circuit profiles of existing court interpreting services in Florida were created and reviewed along with state and federal laws, court rules, and other national requirements/information. Once preliminary recommendations were developed, an extensive outreach effort to a variety of stakeholder groups, including each judicial circuit and several court committees, was undertaken. The Workgroup received extensive comments and revised the recommendations accordingly. He directed members to the full report in Tab 7 of the meeting materials.

Judge Terrell identified current problems that the report attempts to address:

1. The circuits report that less than 50% of proceedings that require the use of a court interpreter are using interpreters that are state certified;

2. We have heard from many people across the state that there appears to be a lack of incentive for interpreters to become state certified; and

3. Florida does not appear to be in full compliance with Department of Justice guidelines. In a recent letter to all state chief justices, the DOJ indicated that court interpreting services in all court proceedings and court-managed activities must be provided at no cost in accordance with Title VI of the Federal Civil Rights Act. Judge Terrell told the members that a copy of the letter may be found in Appendix A of the report. Subsequent to the receipt of this letter by Chief Justice Canady, he directed the TCP&A to consider the DOJ guidelines in developing recommendations.

Judge Terrell covered a few of the recommendations that he believed will be of the greatest interest to the TCBC due to the budgetary impact:

1. On page 33 of the report, the TCP&A is recommending that court interpreting services be expanded to include any party or participant appearing in any court proceeding or court-managed activity to bring Florida into compliance with DOJ's guidelines. This will admittedly have a significant fiscal impact as interpreting services are not currently provided at state expense in most civil cases and are not currently provided for court-managed activities outside of the courtroom. Despite this fiscal impact, the TCP&A felt that the court system must at least "try" to be in compliance by requesting additional

2. On page 66, the TCP&A is recommending that a ceiling be applied for contract court interpreter rates (except in extenuating circumstances as approved by the chief judge). The ceiling is higher for those contract interpreters that have achieved certification, thus recognizing their expertise and also providing an incentive for interpreters to become certified.

3. Also on page 66, the TCP&A is suggesting that the TCBC review the feasibility of establishing pay increases for court employee interpreters who are or become state certified. The suggestion is to provide newly hired *certified* interpreters a higher base rate of pay and to provide existing employees a fair and equitable pay increase if they are or become *certified*.

4. The TCP&A is also suggesting that the TCBC review a couple other issues related to paying for training and certification expenses for employee interpreters (pg. 66) and adjusting the funding methodology (pg. 81) to be more representative of actual workload in each circuit using Uniform Data Reporting statistics and considering the higher cost of employing *certified* interpreters.

Judge Laurent asked what type of funds the court could use to further support these services. Judge Terrell responded that federal funds could be utilized in addition to existing funding types. Judge Laurent then inquired as to whether an estimate of cost had been conducted. Sharon Buckingham responded that there was currently not data available to develop an estimated cost.

Judge Terrell reminded members that more detailed information may be found in the report. He acknowledged that it will be the Supreme Court's decision whether or not to approve these recommendations. Judge Terrell noted that once the Supreme Court has made their decision, more direction should be forthcoming.

TIMS Project

Judge Terrell reported on the TIMS Project. He began by identifying problems associated with the technology systems designed to meet the automation needs of the courts such as in case scheduling and case management. He mentioned that currently there is not a plan for implementing a statewide solution to these problems.

Judge Terrell stated that Chief Justice Canady had decided that addressing this issue is a priority for the judicial branch and directed the TCP&A, the Court Statistics and Workload Committee, the Steering Committee on Families and Children in the Courts, and the Florida Courts Technology Commission to work with our justice system partners in developing a plan. This project is known as the Trial Court Integrated Management Solution or "TIMS" for short. He noted the details of the project are contained in the TIMS Project Proposal in the meeting materials.

Judge Terrell highlighted that the overarching goal of the TIMS project is to find the most economically sound and technologically feasible automated solution to better meet the needs of judges and court staff in efficiently and effectively processing cases, and in turn, better meet the needs of those accessing our courts.

He vowed that every effort will be made towards implementing a solution that builds upon existing court and clerk resources, both technological and staffing. This implies that every effort will be made to minimize the need for new resources or new sources of funding. However, with that said, Judge Terrell believed that it is still likely that additional resources will be needed. He recognized that TCBC's involvement will be critical, especially when the implementation phase is reached.

Judge Terrell informed the members that a report with joint recommendations from the TCP&A, the Florida Courts Technology Commission and the other committees mentioned previously, is due to the Supreme Court by July 1, 2012. He stated that TCP&A will be sure to keep the TCBC apprised of the project as it progresses and there will be an opportunity for direct input by the TCBC. He announced that if any of the members are interested in serving on workgroups involved with the project, please let him know.

Judge Terrell concluded by again thanking the Commission for the opportunity to address them and expressed his enthusiasm towards working with them during this highly collaborative project.

Update from Chief Justice Designee to the Clerks of Court Operations Corporation Executive Council

Judge Farina, the Chief Justice Designee to the Clerk of Court Operations Corporation (CCOC) Executive Council, provided an update to the Commission on CCOC's activities. He began by

thanking, Judge Perry, Judge Steinbeck, Kris Slayden, Heather Thuotte-Pierson, and Jessie Emrich for their assistance in preparing him for his duties as Designee to the Council. Judge Farina stated that the Council had met on November 29, 2010. The purpose of the meeting was to review and provide final decisions for the proposed CCOC FY 2011/12 LBR and identify revenue enhancement opportunities in order to fund the projected budget deficit for FY 2011/12.

Judge Farina reviewed the CCOC's LBR as approved by the Council. He noted that the request included $200,000 to reimburse counties that will have to pay juror expenses and $3,117,100 to cover anticipated costs related to the Miami-Dade's collective bargaining agreement. Judge Farina further noted that the operating budget request is similar to last year's. John Dew from CCOC commented that a reduction issue was proposed that would eliminate 300 FTE from the CCOC budget.

Judge Farina reported that the Council reviewed various opportunities to enhance revenues to the CCOC Trust Fund. The CCOC believes that they will have a revenue shortfall in FY 2011/12. In addition to the revenue shortfall they will require $14 million for additional duties and responsibilities such as new indigent requirement, supporting collection agents, and juror per diem costs.

Judge Farina described the priorities CCOC had established as an attempt to fund the revenue deficit: (1) Eliminate the 8% service charge to General Revenue; (2) Provide multiple funding options focusing on service charges and court costs for remainder of the shortfall; and (3) Request a redirect of fees currently earmarked for other entities to the Trust Fund. Judge Farina abstained from voting on the third priority and shared with the Council that the courts are also facing a possible revenue shortfall. He acknowledged that the Council decided not to seek any additional filing fee increases and requested a continuation of existing budget. Judge Farina stated that the CCOC will be working with the Florida Association of Court Clerks and Comptrollers in presenting the three priorities, as described above, to the Legislature for consideration. He closed by thanking John Dew for working with him on the various CCOC issues.

Other Legislative Issues

Possible Amendments to Statutes on Cost Sharing and Cost Recovery

Charlotte Jerrett addressed possible statutory changes related to cost sharing and cost recovery for due process services. She began by presenting background information on the issue. Cost

sharing arrangements with state attorneys, public defenders, and JAC on behalf of private court-appointed counsel, were authorized by the 2004 Legislature as a means to appropriately capture the cost of due process services provide to these entities by court employees. Each entity is appropriated funds via the GAA, and is required to transfer an amount to the State Courts System to pay for their share of the services provided. In turn, those funds are used to pay the salaries of court employees who provide due process services.

Ms. Jerrett stated that to insure that these entities are limited to the amounts specified in law as part of this arrangement, s. 29.0195, F.S., prohibits recovery of expenditures for state funded services from entities referenced in s. 29.005, 29.006, and 29.007 F.S.

Subsequent to the implementation of the 2004 cost sharing arrangements, the Legislature created new Offices of Criminal Conflict and Civil Regional Counsel. Accordingly, the Legislature reduced JAC's funding for the share of services that were to be provided by court-appointed counsel, with the intent that the courts would bill these new offices directly as services were provided. During the 2010 Legislative Session, the law changed to include the Offices of Criminal Conflict and Civil Regional Counsel in s. 29.007 F.S., which prohibits recovery of expenditures for state funded services.

Ms. Jerrett offered the following option for the Commission's consideration: Seek statutory change to allow circuits to invoice the Offices of Criminal Conflict and Civil Regional Counsel for due process services provided by court employees/contractors. Ms. Jerrett noted that this proposed statutory revision will not be necessary if these entities are made part of the current cost sharing payment arrangement within the GAA. Carol Ortman proposed a motion to approve the option as presented. Judge Miller seconded the motion and it passed with none opposed.

Other Business

Judge Laurent announced that Judge Kevin Emas will be resigning as the Chair of the Conference of Circuit Court Judges due to his appointment to the 3rd District Court of Appeal. He thanked Judge Emas for his service and welcomed the newly appointed Conference Chair, Judge Ronald Ficarrotta. Judge Ficarrotta thanked the Commission for the opportunity to serve.

Judge Laurent congratulated Greg Smith, Attorney from the Office of the General Counsel on his retirement from the court and thanked him for his many years of service. Following brief comments by Mr. Smith, Judge Laurent offered some brief words of encouragement for the challenging year ahead and called for the meeting to adjourn.

Adjournment

With no other business before the commission, a motion was offered to adjourn. It was seconded and passed with none opposed. The meeting adjourned at 11:02 a.m.