

Minutes
Trial Court Budget Commission (TCBC)
January 22-24, 2001
Holiday Inn Select - Tallahassee, FL (January 22-23)
Judicial Meeting Room - Supreme Court (January 24)

Members Present:

Susan Schaeffer, Chair	Randall McDonald
Don Briggs, Vice-Chair	Donald Moran, Jr.
Mike Bridenback	Stan Morris
Paul Bryan	Carol Ortman
Ruben Carrerou	Wayne Peacock
Joseph Farina	Nancy Perez
Charles Francis	Belvin Perry, Jr.
Kim Hammond	Mark VanBever
Lee Haworth	Theresa Westerfield
Paul Kanarek	Doug Wilkinson

Members Absent: Judy Pittman

Others Present: OSCA Staff
 Judge Alice Blackwell White
 Jennifer Dyer Wells, Trial Court Administrator, 14th Circuit
 Hunter W. Carroll, Supreme Court Law Clerk
 Richard Dolan, OPPAGA

I. Opening Remarks and Approval of Minutes - December 11-12, 2000

Judge Schaeffer called the meeting to order at 1:00 and the secretary called the roll. Judge Schaeffer stated that Judge Pittman was not in attendance due to the death of her father. Judge Haworth made a motion to approve the draft minutes of the December meeting and Judge McDonald seconded. The minutes were approved without objection.

II. Report from Chair on Presentation to Legislature

Judge Schaeffer summarized her presentation to the Senate Judiciary Committee and her meeting with Senator Burt. Her presentation to the Senate Judiciary Committee was to familiarize the members of the committee with the TCBC and Revision 7 issues. She related some of the questions

posed by the committee. They were particularly concerned that the courts should coordinate certification requests and Revision 7 issues together when seeking funding from the Legislature. Senator Burt mentioned the need to “think outside the box” and the “use of best practices.” He further mentioned that this year there may not be much funding provided by the Legislature for Revision 7 implementation. Judge Schaeffer further reported on her meetings with other senators and that they too, expressed many of the same sentiments as Sen. Burt and the Judiciary Committee. Other members of the Commission reported on meetings held with legislators, all who expressed similar points of view.

Lisa Goodner related that the Chief Justice and Ken Palmer made a presentation to the Associated Press on Revision 7 on January 16. Over 65 newspaper editorial writers and press attended. They were very attentive to the issues and asked good questions. The Governor followed our presentation and when asked about Revision 7 by the press stated that he thought that prior to any funding for Revision 7 there could be better ways found for the courts to do some things.

Given these collective legislative and executive branch sentiments, Judge Schaeffer asked, “should we push on with the legislative budget request (LBR) for Phase 1 of Revision 7, or should we back off this year?” She asked the members to give some thought to this question because prior to the end of these meetings she intended to call for a vote on this issue.

III. Scope of Work for TCBC: Deliverables for January and February

Lisa Goodner, Deputy State Courts Administrator, stated that indeed a Phase 1, Revision 7 implementation legislative budget request of \$109M had been submitted to the legislature. Assuming that the TCBC moves forward with this request, there is much to be accomplished within a very short period of time. She reviewed the many tasks at hand for the months of January and February to be prepared for the legislative session. Ken Palmer, State Courts Administrator, discussed the real challenge in completing all of these tasks in the next 38 days prior to the beginning of the legislative session. In addition, there are challenges before us that include educating new members of the legislature and dealing with the lack of interest in the legislature in Revision 7 phase-in funding beginning this year. Mr. Palmer further noted that our cost inventory (county expenditures survey for fiscal year 1999-2000) has given us much better data than we have ever had, but at the same time was raising more and varied questions that will take time to answer. Mr. Palmer suggested the TCBC reach a consensus soon on the issue of whether the LBR for Phase 1 implementation of Revision 7 was indeed going to be recommended by the Commission for this session.

Judge Schaeffer said that many of the commission members had already spoken to her about our ambitious agenda with the legislature this year and she encouraged comments. The general response was that most questioned the wisdom of moving forward this session given the lack of interest by the legislature and Governor. There was also discussion on how much

revenue from fines, fees, and court costs was available to offset Revision 7. Mr. Palmer said the estimates range from \$165M to \$200M.

Judge Schaeffer summed up the discussion saying there is some very serious work that needs to be done and that we must be very clear on our facts before we go to the legislature. Judge Schaeffer further stated, the clear question is, can the TCBC meet the schedule of deliverables outlined in Ms. Goodner's presentation. She requested the members think long and hard on these questions.

IV. Presentation on Costs Inventory Results

John Dew, Chief of Trial Court Funding Policy in the OSCA, led the discussion and provided an overview of the results from the costs inventory. The surveys were to be completed by each county by the middle of December 2000. Greg Cowan, Senior Court Analyst II in the OSCA, then explained the issues which still confront the current data and provided examples of discrepancies identified in the staff field audits and internal review. He explained how the reliability of the data could be improved. He compared the data with other known data and pointed out the varying totals in certain areas. He pointed out additional issues that still need to be considered such as hidden costs, annualizing the data, and the state's revenue picture. He concluded that we have much better data than we have ever had, however it is not completely reliable. Field audits have been conducted in five of the 20 judicial circuits and the OSCA Strategic Planning Unit was analyzing the personnel data received from all 67 counties. He related some field audit problems and suggested ways to improve the reliability of the data. Judge Schaeffer asked when we might have reliable data. Mr. Dew responded that to audit each circuit's data in order to get completely reliable expenditure data to the Legislature by the beginning of session would take more staff than we have. Carol Ortman asked how many of the essential elements the Strategy Planning Unit had looked at. Brian Lynch, Court Operations Consultant in the OSCA responded that they were looking at all eleven essential elements and as things came to their attention they were reported to the Trial Court Funding Policy Section. Mr. Cowan stated that the audit teams were looking at the total expenditures reported and comparing those to the county's financial data for accuracy. He presented comparisons of the data from the Uniform Chart of Accounts (two fiscal years) and the two cost inventories conducted by the OSCA. Judge Schaeffer commented on the amount of data and variances from circuit to circuit. She requested that staff put together a one page listing of each circuit with total number of filings, number of judges, overall population, etc. so there are additional variables to compare the expenditure data to.

V. Discussion of Essential Elements and Supports: Definitions and Strategies for Determining Basis for Funding

Mr. Lynch explained that the Strategic Planning Unit is analyzing information from the costs inventory and reviewing particularly the expenditure and personnel data for the eleven essential items.

The eleven essential items identified earlier by the TCBC were judges and judicial assistants support; legal; alternative dispute resolution; masters and hearing officers; court administration; case management; drug court; auxiliary aids and services; jury compensation and expenses; court interpreters; and court reporters. The unit has reviewed the costs inventory data and found with respect to personnel, the number of positions, the type of positions, and the salaries of the staff in each of the essential elements differed among the circuits. The same is true for temporary employment and expenses. How grants are reported in the costs inventories needs further analysis because they appear to be reported inconsistently.

Peggy Horvath, Chief of the Strategy Planning Unit in the OSCA, then went through each of the eleven essential elements and commented on the staff analysis done thus far. There were questions from the members about how their analysis relates back to the costs inventory and the issue of the varying ways circuits handle their staffing. Mr. Palmer stated that these are just the kinds of questions the legislature will be asking and suggested that we may want to think about developing funding methodology models for small, medium and large circuits. It was suggested that the Funding Methodology Subcommittee could even look at how other models, such as the education system's "FEFP model" is being used and if we could successfully develop such a model.

Judge Schaeffer concluded the day's meeting by going over particular issues she wanted the subcommittees to address when they met the next morning. The meeting was adjourned at 5:15 p.m.

January 23, 2001 - Day Two

Judge Schaeffer called the meeting to order at 10:55 a.m. A worksheet with the comparison of requested data by circuit was provided to the members. Judge Schaeffer remarked that the numbers in the costs inventory are subject to change as more review is conducted.

VI. TCBC Subcommittee Reports (These subcommittees met earlier in the day.)

Revenue and Revenue Enhancement Subcommittee

John Dew reported for Judge Farina, Chair of the Revenue and Revenue Enhancement Subcommittee meeting. The committee is charged with looking at collection and fee issues. Based on initial research by OSCA staff, approximately half of the circuits have some type of judicial enforcement or collections court. The subcommittee members addressed other areas they wanted information on from each county related to the assessment and collection process. Therefore the subcommittee is conducting an additional survey of each county. This information will be reported at the next TCBC meeting. Regarding the fee issue, forms identifying fees associated with the essential elements are being

analyzed in relation to the many state authorized fees. An analysis of the grants and fees, and their statutory references will be done by staff and presented at the next meeting as well. Based on information received from the costs assessment survey, a follow-up will be conducted with all judicial circuits to seek information on those fines, fees, and court costs that are assessed in each area. Additional information on the authority for each, the amount collected, and how the monies are used will be gathered.

Local Requirements, Obligations, and Standards Subcommittee

Judge Briggs reported that the Local Requirement Subcommittee has scheduled a February 9 conference call to begin drafting language on this issue, in the event it becomes an issue during the session. The subcommittee is concerned that if a program or service benefitting the court was not defined as either an essential item or a county obligation by the legislature then some services might “fall through the cracks”. Mr. Palmer suggested that potentially the TCBC might consider developing a mechanism to help assure that many of these items currently funded by the counties would be considered a local requirement. It was suggested that we could possibly base the local requirements of the counties on our costs inventory data and best practices model. The subcommittee was directed by the chair to pursue drafting some language on defining local requirements and bring to the next meeting.

Funding Methodology Subcommittee

Carol Ortman reported that the subcommittee earlier that morning went through each of the eleven essential items and was now making a recommendation to the TCBC on how to move forward on each. The subcommittee is working on developing a work plan and strategy for each element to make specific funding recommendations to the TCBC for the 2002 legislative session. It was expected that the subcommittee would work with the Judicial Management Council’s Committee on Trial Court Performance and Accountability (CTCPA). Carol Ortman then listed out those areas that the CTCPA would help research and those remaining essential elements that the subcommittee would address.

During the presentation two particular areas were discussed in depth. First, the subcommittee recommended that drug courts should not be a separate essential element but should be rolled into case management. TCBC members generally agreed. Second, there was discussion that while jury management was considered one of the eleven essential elements, that possibly the management responsibility for this element needed further consideration. The TCBC concluded that this question should be examined more by the subcommittee and recommendations be given at a later meeting.

Judge Schaeffer commented that we must pursue a courts system that is adequately funded. She suggested that the Funding Methodology Subcommittee should figure out what the best court system would look like and what funding would be necessary to support it. General direction was given to the committee to make recommendations which would ensure a solid court system. Judge McDonald made the motion and Judge Hammond seconded. The vote was unanimous.

VII. Overview of Lobbying Rules

During a working lunch, Brenda Smith and Elaine New from the OSCA reviewed the law regarding lobbying the legislature and the gifts rules.

VIII. Budget Cuts and Priorities

Budget Shortfall

Ms. Goodner provided an overview of the legislative budget process. This year, the legislature has projected a revenue shortfall. The executive agencies as well as the Judicial Branch have been asked to identify potential staff, programs, and services that could be offered up as a budget cut. The Governor's recommended budget for 2001-02 reflects a 2.5% reduction in the base budget which translates to an approximately \$6.5 million dollar reduction. Ms. Goodner pointed out that for the last several years the courts have been successful in assuring that in the Appropriations Act there was proviso language written which stated that in the event of a revenue shortfall, funds related to judges and their personal staff, retired judges, court reporter services, juror meals and lodging, and juror and witness payments, would not be included in calculating an across the board reduction. This language has been included so that a disproportionate reduction is not required in the remaining staff, programs, and services. A \$6.5 million dollar reduction in these services would cause substantial harm. TCBC discussed several options to deal with the budget reduction exercise. Judge Schaeffer suggested that the best strategy that might do less harm to the trial court system was to stick to the proviso and offer up a 2.5% reduction only on the remaining staff, programs, and expenses. The following types of reductions were discussed: 1) Eliminate low priority/non-implemented programs, 2) Eliminate vacant positions not filled for lengthy periods, or positions where individuals were soon retiring. The Commission members did not want to finalize any recommendations until after it received information from the legislature on the amount of cuts both the House and Senate would want.

Legislative Budget Priorities and Request

Charlotte Jerrett, Chief of Budget Services in the OSCA, reviewed the State Court Systems Legislative Budget Request for 2001-02. The members concluded that this year the top four priorities should be 1) certification of new judges; 2) staff to meet workload needs; 3) senior judges and 4) law clerks.

Judge Schaeffer then asked the members if the TCBC should proceed with a request of over \$100 million dollars for the first phase of Revision 7 funding this year. A motion was made by Judge Hammond and seconded by Judge Perry to not pursue those monies this legislative session. The Commission voted unanimously in favor of the motion.

IX. Pay Plan Issues

Margie Howard, Chief of Personnel Services and David Pepper, Personnel Management Analyst in the OSCA, presented the proposed annual legislative request for Pay Plan Funding. A motion was made by Ruben Carrerou and seconded by Judge Moran that the priorities this session for pay increases would be first, deputy and senior deputy court administrators and second, secretaries. The motion was unanimous. Judge Moran then asked that staff look at pay issues concerning judicial assistants and be prepared next year to look at the potential need to increase their salaries. The meeting adjourned at 3:35 p.m.

January 24, 2001 - Day Three (Supreme Court - Judicial Meeting Room)

Report on Visits with Legislators

Judge Schaeffer opened the meeting by requesting any members who had met with their legislators to report on their meeting. There was general discussion regarding the results of those meetings.

X. Overview of Trial Court Performance and Accountability

Judge Schaeffer introduced Judge Alice Blackwell White to provide an overview of the work of the Committee on Trial Court Performance and Accountability. Judge White said that this committee is charged with answering the following questions about the trial courts. What is it that the trial courts do? Why do they do it? How do they do what they do? How well do they do what they do? This is done to provide a basis for building accountability for funding from the legislature. The committee is in the process of mapping what happens in each of the trial court divisions - Civil, Criminal, Juvenile, Domestic Relations, etc. Judge White explained that the work her Committee was doing would be extremely beneficial to the TCBC in that it would help the Commission build a budget based on best practices and assure accountability. Judge White further suggested that her committee and the TCBC need to collaborate with other stakeholders such as the Public Defenders, State Attorneys, and Clerks. A lengthy discussion took place on how to measure court system processes and how to then develop models for budgeting purposes.

XI. TCBC Policies and Procedures

The TCBC approved without objection the suggested changes to the operational procedures as incorporated from the December 11-12 meeting. However, staff were directed to further draft language on the appeal process and bring back to the Commission at the next meeting.

The meeting was adjourned at 11:45 a.m.