

Minutes
Trial Court Budget Commission (TCBC)
December 1, 2001
Amelia Island Plantation

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	Judy Pittman
Lee Haworth	Theresa Westerfield
Paul Kanarek	Doug Wilkinson

Members Absent: Mark VanBever

Others Present: Judge Alice Blackwell White
Judge J. Lewis Hall, 2nd Circuit (Retired)
OSCA Staff

I. Roll Call and Approval of Minutes

Judge Schaeffer called the meeting to order at 9:05 a.m. She welcomed Judge White and Judge Hall as guests and introduced Greg Smith, new staff in the OSCA's Legal Affairs and Education Section. She asked the secretary to call the roll. A quorum was present.

Judge Schaeffer explained there were two sets of minutes which must be approved, the minutes of the July 30-31, 2001 meeting and the minutes of the September 26, 2001 Emergency Conference Call. She noted that the July 30-31 minutes were quite lengthy and asked if everyone had sufficient time to read them. Judge Farina took a moment to thank the staff who write and edit the minutes. He observed that the TCBC has been working hard this past year and the minutes accurately reflect this work. He congratulated the staff on the quality and level of detail in the minutes. Judge Schaeffer and the members of the commission concurred.

Theresa Westerfield offered a correction to the July 30-31 minutes. On Page 23, under the vote taken on case management, the minutes should read that this issue should be referred back to the "Funding Methodology Subcommittee" and not the "Supreme Court." Judge Perry commented that he again wanted to point out, that although the minutes from the July 30-31 meeting state, that the Funding Methodology Committee reported there were 41 case managers in the 9th Circuit, he does not agree with their findings. Judge Schaeffer acknowledged that there still may be some discrepancies with the methodology used by the subcommittee but it continues to be worked on.

Carol Ortman moved the adoption of the July 30-31, 2001 minutes as corrected by Ms. Westerfield and the September 26, 2001 Emergency Conference Call minutes as presented. Wayne Peacock seconded the motion. The minutes were approved unanimously.

II. Amendment to TCBC Operational Procedures

Judge Schaeffer reviewed the amendment to the Operational Procedures which passed at the September 26, 2001 Emergency Conference Call meeting. That amendment provided, that in the event of matters which required immediate action, the Executive Committee was given the authority to decide a course of action, subject to the review by the full Commission at the next regularly scheduled meeting. However, Judge Schaeffer noted, the Procedures allowed for the establishment of subcommittees but did not specifically identify the Executive Committee as a subcommittee. This required some clarification and she presented the following amendment: On Page 4 of 6, Section VII Subcommittees, after the words "The Commission may authorize the establishment of subcommittees." insert: -, one of which will be an Executive Committee.

Vote: Wayne Peacock made the motion to accept the amendment. Carol Ortman seconded the amendment. The amendment passed unanimously.

Judge Schaeffer stated that the Procedures as amended today and on September 26 will be sent to the Chief Justice for review by the full Court.

III. Current Budget Issues

Judge Schaeffer began with an overview of the proposed reductions to the trial courts 2001-2002 Operating Budget approved by the TCBC at the September 26, 2001 meeting. These reductions were done based on a request by the legislature to use in drafting of the 2002-2003 Budget. She reminded the members that staff had been requested to divide the programs into "Essential" and "Non-Essential" categories. The recommended reductions by the TCBC in priority order were: 1) "Non-Essential" new appropriations and FTEs; 2) all "Non-Essential" current budget activities and FTEs, with the exception of the Guardian ad Litem program; and 3) if further reductions were necessary, that the Guardian ad Litem program be offered for reduction but only by the amount necessary to meet the requested \$15 million cut. A letter to this effect was written by the Chief Justice to the Legislature.

A special session of the legislature was called after a \$1.5 billion shortfall to this fiscal year's budget was projected. That session ended unsatisfactorily but concluded with the Senate's version of the appropriation's bill. Another special session has been called and the conference committee is meeting this weekend. She referred to the "Special Session C (Nov. 27-Dec 6) Proposed Reductions" document in the TCBC meeting material and reviewed the House and Senate proposed reductions.

Judge Schaeffer noted that the House bill eliminates the Attorney ad Litem Program (9 FTE positions) and the newly appropriated Guardian ad Litem (28 FTE positions). However, the bill restores \$2.6 million to the Guardian ad Litem program, thereby holding the program harmless. To accomplish the required reduction, the House bill reduces the trial courts by \$5.3 million and 133.5 FTE positions. In contrast, the Senate bill eliminates the 24 FTE positions involved with the Indigency Examiners Program and reduces the funding for the Attorney ad Litem Program. The Senate budget does not cut the Guardian ad Litem Program. Other recommended reductions were approximately the same in each bill. They were funding reductions for the Foster Care Citizen Review Panel in Palm Beach County, the Drug Courts in Brevard and Pinellas Counties and the Children's Advocacy program in Hillsborough County.

Judge Schaeffer reported that as of yesterday the Senate version of the bill had prevailed including a restoration of the funding for the Children's Advocacy program in Hillsborough County. She observed that if the House bill had passed the trial courts would have lost 40% of state funded staff functioning in an "Essential" area of the courts. She expressed her apprehension at what might occur during the next budget cycle. The good news is that the revenue projections may be getting better. However, if they do not and reductions are necessary, the only place to cut will be in the core functions of the courts. That is, if the sentiment of the legislature continues to hold the Guardian ad Litem program harmless.

Judge Schaeffer thanked the members of the TCBC who assisted with the lobbying effort on these reductions, especially Judge Farina, Judge Perry, Mike Bridenback, and Carol Ortman. Judge Moran commented that the chief judges should also be acknowledged for their special efforts in this regard. Judge Schaeffer agreed and also thanked the Chief Justice. She then opened the floor for discussion on the issue of what to do should it be necessary in the future for the TCBC to make cuts to the "Essential Elements" of the courts.

Judge Schaeffer referred to the 2001-2002 Operating Budget document in the member's notebook. Given the cuts in the new budget and the sentiment to hold the GAL harmless, the only place left to cut is in the "Essential" category activities. If asked to make further cuts, what would we cut? Would cuts be made first in court administration, masters and hearing officers, case management, or one of the other essential element areas?

Judge Hammond responded that the TCBC has worked very hard and made tough decisions regarding the requested cuts. Our recommendations to the legislature that cuts be made first in those categories labeled as "non-essential" were not well received, so why are we being

asked to do this? Ms. Beranek replied that it provides direction for the staff at this juncture of the process. Judge Pittman commented that the Chief Justice also needs the guidance.

Judge Schaeffer remarked that it is important for the commission to stay the course and to be consistent in offering “non-essential” elements as a first budget cut. However, it may be that further reductions will require cuts to the “essential” elements. Therefore, this commission needs to make a recommendation to the Court on the priority for cutting the “essential” elements and the associated FTEs should further reductions be required. She offered the following suggestions. First, look at offering up those activities categorized under “Essential” - New Appropriations. Those activities are New Model Dependency (16 FTEs) and New Dependency Court - the 5th, 17th & 18th Circuits (7 FTEs). Next, she suggested the activities that are not statewide. Those activities would be Model Dependency (5 FTEs) and Dependency Court - Case Management (6 FTEs). And last, she stated the only activities beyond the judges and staff attorneys left to cut, are Court Administration (112 FTEs), Technology (27 FTEs), and Drug Court Improvement (34 FTEs).

A question arose concerning just cutting FTEs and not other budget areas. Judge Farina reminded the members that the request by the legislature is to cut recurring dollars and the majority of those dollars are FTEs. Judge Schaeffer responded that if the GAL is held harmless, then we have to look at other FTEs.

Judge Schaeffer remarked, that if it became necessary to cut some 44 positions from Trial Court Administration, the TCBC would be charged with allocating those cuts. The TCBC may decide that one circuit could handle more FTE cuts than another circuit. Judge Moran suggested that maybe it would be better for the chief judge of a circuit to determine which FTEs should be reduced from all of the essential categories. For example, he noted that cutting two court administrative positions in each circuit across the board would be disproportionate. The loss of two court administrative positions in one circuit may be devastating while in another circuit it would not represent that large of a cut.

Judge Farina remarked that maybe the legislature does not clearly understand that many of the Deputy Court Administrator positions are direct service providers. They are not just administrators. They are involved in the field. Ms. Ortman stated the problem is that there are limited titles to use. Deputy Court Administrator is the only title we have to bestow on many staff that are providing a direct service. Ms. Ortman suggested this issue go to the Personnel Subcommittee for review to determine if another title should be used for these positions.

Judge Schaeffer asked the members to advise the Executive Committee and staff on the direction to take if budget reductions in FTEs had to come from the trial court’s essential elements.

Motion and Vote: Judge Perry moved that the first recommendation for reducing FTEs should come from “Essential - New Appropriations.” This would include

new appropriations for 16 FTEs in New Model Dependency and 7 FTEs in New Dependency Courts in the 5th, 17th, and 18th circuits. This would not include new FTEs related to additional judgeships or staff attorneys. Judge Frances seconded the motion. The motion passed unanimously.

Motion and Vote: Mike Bridenback made the motion to offer next the Model Dependency and Dependency Court for reduction. This would include a reduction of 5 FTEs in Model Dependency and 6 FTEs in Dependency Court. Ms. Ortman seconded. Judge Moran commented that unilaterally cutting these positions is unfair to the chief judges. Judge Briggs suggested giving the chief judges the discretion. Judge Moran agreed saying that if you take positions from the circuits, then the chief judge should make the decision. Judge Schaeffer offered that it has been the policy of the TCBC to cut programs first which are not statewide. Judge Moran asked if there is an overall approach and suggested the need for an overriding principle. He suggested that if a circuit is to lose positions, then the chief judge should make the decision based on the impact to that circuit. They should be allowed to manage their circuit. The question was called on Mr. Bridenback's motion. The motion passed by a vote of 16 Yeas, and 4 Nays.

Judge Schaeffer noted that the only activities remaining in the essential elements left to cut, besides judges, judicial assistants, and staff attorneys, are Trial Court Administration, Technology and Drug Court Improvement. Mr. Bridenback suggested that this might be where you let the chief judges make the decision. Ms. Westerfield agreed.

Motion and Vote: Mr. Bridenback offered a motion that if further FTEs were to be cut that those cuts would occur in Trial Court Administration, Technology and Drug Court Improvement activities. Further, the chief judge in each circuit would determine how the specific cuts would occur in their circuit from among these three activities. Ms. Ortman seconded. The motion passed unanimously.

Judge Morris suggested that between now and the end of the 2002 regular session, the TCBC should make every effort to convince the legislature to put the merits of the GAL program in perspective to the essential elements necessary for the courts to function.

IV. Guardian Ad Litem Recommendations and Senate Interim Report on Legal Needs of Children

Judge Schaeffer reminded the members that after the recommended budget reductions were delivered to the Court in early August (See July 30-31, 2001 Minutes), the Chief Justice

asked the TCBC to consider all appropriate alternatives for the proper placement of the Guardian ad Litem (GAL) program. Also, the Chief Justice asked the Children's Court Improvement Committee (CCIC) and the Family Court Steering Committee (FCSC) to consider the appropriate placement for the GAL program.

At the September conference call meeting (See September 26, 2001 Minutes), the commission authorized Judge Schaeffer to draft a response to the Court. Judge Schaeffer noted that a copy of the draft letter, dated November 2, 2001, was sent to each TCBC. No members had any objections to what was written in the letter. Judge Schaeffer stated that the letter has not yet been sent to the Chief Justice primarily because of the two special sessions and the issues surrounding the trial courts budget reductions. The letter, which recommends that the GAL program be transferred out of the Judicial Branch, will be delivered next week. The CCIC recommended the GAL program move out from under the supervision of the trial courts and into an entity independent of the Governor's office; however, it also recommended that the judiciary wait to make a recommendation as to the final location for the program until an interbranch workgroup has been able to evaluate the issue. The FCSC also recommended "the appointment of an interbranch workgroup to study all options before accepting the position of the Trial Court Budget Commission."

Judge Schaeffer advised the members that the meeting materials contained a copy of her draft letter to the Court regarding the GAL program; the letter from the CCIC to the Court; the letter from the FCSC to the Court; a summary of the interim project report by the Senate Judiciary Committee entitled *Legal Needs of Children*; and the OSCA review of the report's legal aspects. She asked the members to provide her with some further direction on the appropriate placement of the GAL program.

Dee Beranek, Deputy State Courts Administrator, introduced Pat Badland, OSCA Program Manager for the Court Improvement Program (CIP), to review the recommendations of the Senate report.

Ms. Badland began by saying that the Senate report holds a lot of promise for the future of the GAL program and for children's issues. The CCIC and the GAL directors have been working with the Senate Judiciary Committee and have provided their perspective on many of these issues. The Senate committee has written a Proposed Committee Bill (PCB) based on the recommendations in this report. It continues to be work shopped and is not yet public. It seems to be an honest attempt at establishing uniform representation for children.

The Senate report recommends that a statutory framework be provided for the oversight and coordination of representation of indigent children. It would establish the Office of the Public Advocacy (OPA) located within the judicial branch. The OPA would be charged to develop standards for representation and determine performance measures. It would provide GAL representation with both lay GAL's and attorney representation for the GAL. The Justice Administrative Commission (JAC) would provide budget and administrative oversight. Each

circuit would have a Circuit Office of Public Advocacy with the statewide office providing oversight. These offices would have an administrator and would be staffed with lawyers, GAL's, social worker, volunteers, etc. The report recommends utilizing current staff positions from the GAL and the public defender's office for the local office.

CCIC has discussed the report's recommendations and has been working with the Senate Judiciary Committee on the PCB. There have already been many changes and lots of active communication on this proposed bill. The CCIC has been invited to address the committee next week, as have the GAL directors. Ms. Badland noted that the CCIC has the following objections regarding the report recommendations:

1. Transferring delinquency representation currently provided by the Office of the Public Defender to the Circuit Office of Public Advocacy is unnecessary. There have been no problems with the delinquency representation by the public defenders. Also, it could be a constitutional problem since the Public Defender is a constitutionally elected official. Additionally, with delinquency and dependency representation located within the same office there is the potential for conflict of interest.
2. The courts should not become involved with the collection of fees for GAL representation.
3. Funding for the legal representation of children should go directly to the counties. These dollars should be used to establish representation by contract rather than directing the money to the OPA.
4. The duties of the legal representative should be clarified to that of representing the expressed interest of the child as long as it is not contrary to the safety, health or welfare of the child. For example, the report would recommend the use of this attorney for children committed to residential treatment. They should be allowed to advocate for the child as long as it does not conflict with their safety or health.
5. A certification process should not be established for non-program appointed GAL's. Certification of non-program appointed GAL's could be confusing and may lead to a perception that these volunteers (having some type of certification standard) are supervised by the program. This would not be the case. The report recommends a background check and some training be done for appointment as a non-program GAL.

Ms. Badland continued saying she had a recent conference call with the GAL Directors on the proposed bill and they also objected to the public defenders being moved to the Office of Public Advocacy. They too were concerned about the certification of individuals who were outside the program. She reported that Senate committee would workshop the bill this week. Many of the children's groups will be present in addition to a representative of GAL Directors and Judge Dawson, Chair of the CCIC. The bill is reportedly a priority for the Senate President and it appears that there is an opportunity to do something good for the GAL program.

Ms. Badland related that the GAL directors have been struggling with the issue of where the program should be administratively placed for years. They too want a resolution. The recommendations in the Senate report and the subsequent proposed legislation have the potential to resolve this issue.

Judge Schaeffer commented that many of these recommendations should appeal to the members of the judiciary who work with the GAL program. The recommendation that the GAL be moved to the Judicial Administrative Commission (JAC) would remove the program from the jurisdiction of the trial courts and therefore alleviate the appearance of conflict. However, while the GAL program would no longer be in the budget of the trial courts, it would continue to be in same legislative budget subcommittees as the trial courts.

Judge Morris commented that there is a precedent for appointing guardians in Baker Act cases who are relatives or friends. He asked for Ms. Badland to further review certification of non-program GAL's so that it would not interfere with other probate cases.

Judge Perry asked where the circuit offices would be located and who would pay their costs. Judge Schaeffer responded that the state cannot force the counties to pay for housing this program. The Office of Public Advocacy will be a state agency and the counties can tell the GAL to move. The GAL will try to get the courts involved but the trial courts will have no authority to become involved. Ms. Beranek replied that the report recommendations and the PCB are still very broad concepts. The OSCA knows it will be a very expensive endeavor as currently outlined. The details are still being discussed. Many of the members know this will be a big ticket item.

Judge Farina referred to the OSCA review of the report's legal issues. It states that this office would be "created in the judicial branch;" however, the JAC provides the administration and oversight. Is the JAC an executive agency or in the judicial branch? Ms. Beranek replied that the answer to that question is unclear. However, for fiscal purposes the JAC is separate from the trial courts and judicial branch. However, either way, the Senate proposal would eliminate the program from the trial courts budget. Conversely, it would also eliminate control by the trial courts.

Judge Morris asked if the CCIC or the Senate committee had give any consideration to the impact these recommendations would have on court administration or judicial workload? He expected the report recommendations will have a dramatic impact. Ms. Badland acknowledged that workload is a factor in this deliberation. She reported that right now, by statute a judge in a dependency case is required to see the family no less than seven times within a year. Anytime you increase the number of parties involved in a case it increases the courts time. Judge Morris agreed stating this truly will place a high demand on court administration and most certainly will have a ramification on judicial workload. These recommendations call for many different types of representation, delinquency, dependency and then this other lawyer. We should think about this.

Judge Schaeffer thanked Ms. Badland for her presentation and remarked that as a fiscal committee, the TCBC should understand that anytime you add a lawyer to any case, it adds issues and thus time and money. She concluded by saying her letter to the Chief Justice will be released this week. She is sure he will call for a conference with representatives of all the committees. This issue ties directly to the budget and the pending concept of holding the GAL harmless. The Court will ask us for comments between now and our next meeting. The Executive Committee needs direction. What is the TCBC's recommendation in light of this report and the proposed legislation?

Motion and Vote: Judge Morris made a motion to approve the recommendations suggested by Judge Schaeffer. Judge Schaeffer restated her recommendations. First, from a budget standpoint, she recommended that the GAL program should ideally be placed in the Executive Branch and the Office of the Public Advocacy should be expanded to incorporate all guardianship issues. This would combine resources and be efficient, she commented. However, that is not the call of the TCBC. Second, she recommended placing the Office of Public Advocacy in the JAC, which resolves the budget conflict issue for the trial courts but continues the two budgets being heard in the same legislative budget subcommittee. Last, she recommended supporting the Senate report which recommends that the GAL be moved to the JAC. Ms. Ortman seconded the motion.

Judge Farina asked when the proposed legislation would be heard and the effective date. Ms. Badland reported that it is currently a proposed committee bill and is expected to be ready for the 2002 Session. The effective date is October 1, 2002.

The question on the motion was called. The motion passed unanimously.

V. Legislative Request for Proposal for Revision 7 Consultant

Judge Schaeffer focused attention to the draft Request for Proposal (RFP) for consultants to assist the legislature with the implementation of Revision 7. The draft RFP was provided to OSCA, as well as to other stakeholders affected by the implementation of Revision 7, along with a request for comments. The OSCA has responded and she referred to Deputy State Courts Administrator, Lisa Goodner's letter. The Court, nor the TCBC, did not offer any official comments. However, she explained that the opportunity to respond was still available and she called on the members to discuss.

Judge Schaeffer called on John Dew, OSCA Chief of Trial Court Funding Policy Section, to review the OSCA comments. Mr. Dew reported that the \$800,000 for a Revision 7 consultant was actually appropriated in the 2000 Session and has been held over pending action by the legislature. Now, with the 2002 Session right around the corner, our initial response was that we

are pleased that the legislature is proceeding with its work on Revision 7. The associations representing the Clerks, Counties and State Attorneys have also returned comments and a revised RFP is anticipated within the next few weeks.

The OSCA comments raised some general concerns regarding the RFP. First, because a great deal of work has already been accomplished by the TCBC and its predecessor, the Article V Funding Steering Committee, it would seem a better use of dollars to reduce the scope of the project and not repeat work that has already been done. The Clerks offered a similar comment. OSCA further suggested that the consultants could concentrate on areas that require additional study and provide an independent assessment of the proposals already developed by other entities.

The following recommendations in the OSCA response were provided:

Consultant Study-Phase One

- ▶ The vendor should seek information from the TCBC.
- ▶ The vendor should do the on-site reviews on a circuit basis rather than by county as proposed in the RFP.
- ▶ The vendor should review trial court activities, associated costs, associated revenue and performance data already developed by the courts.
- ▶ Suggested using the term Article V entities rather than the term court system when referring to the courts, state attorneys, public defenders and clerks.

Consultant Study-Phase Two

- ▶ Suggested rewriting this section from an emphasis on making recommendations for the reduction of the costs of essential court system activities through improved business practices to assessing the efficiency of the delivery of essential court system activities. Florida's courts deliver essential services in a multitude of ways and the vendor is likely to find varying degrees of efficiencies.

Consultant Study-Phase Three

- ▶ The vendor should be granted the discretion as to the methods used to develop standardized staffing and cost models rather than applying only the method of core business process mapping.
- ▶ The vendor should have flexibility to identify tools for estimating the need for resources because some functions of the court system do not lend themselves to using workload indicators as a tool.
- ▶ The vendor should identify when standardized staffing and cost models do not meet particular circuits needs.
- ▶ The vendor should assess the capacity of current information systems to produce the requested management reports. The courts are currently planning an information technology needs assessment.

Consultant Study-Phase Four

- ▶ Rewrite this section to clarify the assessments collected from court users. Currently implies that court users will pay the total cost of the court system rather than the portions authorized by the Constitution.
- ▶ Expand the review of court fees to an examination of revenues from fines, fees, court costs, forfeitures, and service charges.
- ▶ The vendor should be required to identify those groups receiving revenues from fines, fees, court costs and service charges and examine the impact to these groups if such revenues were redirected.

Consultant Study-Phase Five

- ▶ The vendor should provide a summary of the experience of other states that have gone through the transition to state funding of the courts.

Consultant Study-Phase Six

- ▶ The vendor should offer advise on the merits of the electronic prototype staffing and cost model before delivery of the final report.

Mr. Dew pointed out that the final report is due June 30, 2003. Therefore, it is apparent that the legislature will not be phasing in funding for Revision 7 each year beginning 2002 as was suggested by the Court's Article V Funding Steering Committee. Mr. Dew asked the members if they had any comments or suggestions. Mr. Bridenback stated that in his opinion there was not a company big enough, or with enough knowledge, to take on this project for the funding offered. Furthermore, the scope is much too large. The Justice Management Institute has looked at it but they would have to partner with another entity to accomplish the work.

A general discussion ensued concerning what the approach of the TCBC should be to this proposed RFP. Many of the members wanted to know exactly when this RFP would be issued. Some were curious as to what the Court was thinking. There were questions concerning working with the other Article V entities on this issue and how Zero Based Budgeting interacts with the RFP.

TCBC members remarked that we have done much work already and all the consultant would do is "replow" the same areas. Judge Farina expressed confidence in the work products by the courts. We have credible information. The consultant should come to us for information.

Mr. Dew cautioned that while we have done a great deal of work on the Revision 7 issue, there is still much work for us to do. Ms. Horvath, OSCA Chief of Strategy Planning, agreed and stated that we are a long way from a creditable model for the court system. At this point, TCBC members expressed strong concern for the workload of the staff and the fact that OSCA was losing staff due to budget shortfalls.

Judge Schaeffer asked the members if the TCBC should respond to the draft RFP language, agree with the OSCA written response, or do nothing. We have excellent work products. Do we offer this work up front or sit back and wait to be contacted by the consultant? Judge Moran suggested that the TCBC be cooperative, however the legislature has a responsibility to look at what we have done. Judge Schaeffer said we are proud of our data and we should offer it willingly. However, she expressed concern that the legislature might hire some “bean counter” who knows nothing about Article V issues, to perform much of the same work that has already been accomplished by the Article V Funding Steering Committee and the TCBC over the past three years. She expressed her exasperation at the money being spent for this study in light of these budget cutting times when much of the groundwork has already been undertaken by the TCBC.

After further discussion, Judge Schaeffer summarized the sentiment of the members stating, 1) we wait for the consultant to be hired; 2) that a letter be ready to go stating the courts already have much of the data required; and, 3) the TCBC stands ready to assist in any way possible.

VI. Proposed TCBC Work Agenda and Meeting Dates

Discussion ensued on the work products to be provided by the TCBC in calendar year 2002. It was determined by the TCBC that the priorities for Revision 7 implementation work continue to be focused on developing funding methodologies for essential elements, defining local requirements and standards, and developing funding suggestions. The Commission will continue to provide the Court and the legislature with budget information as requested.

Judge Schaeffer asked Judge Farina if the Revenue and Revenue Enhancement Subcommittee would need to continue its work in light of the legislature’s RFP, which requires the consultant to examine the revenue sources. Judge Farina responded that the committee has already done a lot of work on this issue, however, he suggested the committee continue its work until such time as a final report could be issued.

Mr. Dew reviewed the proposed TCBC Time Line for work products and meetings. He pointed out the TCBC meetings have been coordinated to coincide with other related events such as the Revision 7 consultant deadlines, budget deadlines, TCBC deliverables and other court meetings. Judge Schaeffer noted that the February 19th meeting coincides with the Chief Judges /TCA Meeting. She suggested the Executive Committee meet in the morning on February 18 and depending on the workload, possibly have a full TCBC meeting that afternoon. The TCBC would meet on February 19th in the morning. The proposed date of the June 25th meeting was changed to June 22nd to coincide with the Circuit Judges Conference. Judge Farina mentioned that the November 26th date was right before Thanksgiving and should be changed to November 22nd. There was consensus by the members to hold TCBC meetings on: February 18-19, April 23, and June 22, 2002. The remaining dates would be revisited at future meetings.

VII. Jimmy Ryce Cost Containment Guidelines

Judge Schaeffer recognized Judge Perry for a report by the Nonjudicial Due Process Subcommittee on the containment of costs in Jimmy Ryce cases involving a public defender conflict.

Judge Perry began with an overview of the issue. Since fiscal year 2000-01, the legislature has appropriated \$250,000 in the Judicial Branch budget to pay for attorneys fees and costs to court appointed attorneys in Jimmy Ryce cases involving a public defender conflict. After an analysis of the expenditures paid with these funds and other data available to the subcommittee, four specific questions arose concerning the containment of these attorneys fees and costs.

1. What issues required immediate attention?
 - ◆ In the 8th Circuit, there is a high percentage of Jimmy Ryce cases;
 - ◆ In Polk County, there are multiple high cost cases;
 - ◆ In both Duval and Miami-Dade Counties, there are individual high cost cases; and Judge Perry commented that in Duval County one case cost \$39,127 and in Dade County there were three cases one of which cost \$64,000.
2. What strategies were implemented to address these issues?
 - ◆ The Chief Judges and Trial Court Administrators were advised of the local issue and used their discretion to address the immediate issue; and
 - ◆ OSCA staff followed-up with the Chief Judges and Trial Court Administrators regarding the steps taken.
3. What are the potential future issues regarding containment of these costs?
 - ◆ The possibility of an increase in the number of extraordinarily expensive cases;
 - ◆ An inadequate amount of dollars to cover these fees and costs; and
 - ◆ The potential for criticism from the legislature regarding the containment of these attorneys fees and costs.
4. What are the recommendations to contain these costs?

The subcommittee offered the TCBC the following guidelines that should be considered by each circuit to ensure that Jimmy Ryce Act Civil Commitment Cases are processed in a cost effective manner:

- ◆ Consider prohibiting the issuance of blanket, open-ended orders for attorneys fees and costs;
- ◆ Consider limiting attorneys fees and costs through local administrative order to a

maximum hourly fee of \$90 per hour and up to a total of \$5,000 for any individual case. Any rate exceeding these caps would have to be justified and approved by the presiding judge. Input from the Office of the Attorney General or other fiscal agent of the state prior to approval is strongly recommended;

- ◆ Consider formally bidding and contracting for psychological/psychiatric, investigative, and expert witness services;
- ◆ Consider establishing a fee review committee to review expenditures and recommend removal of a conflict attorney when costs are determined excessive and unreasonable;
- ◆ Consider instructing conflict attorneys to utilize either Official Court Reporters or the circuit's contract court reporter services; and
- ◆ Consider appointing a liaison to the OSCA Grants Administrator to coordinate and monitor Jimmy Ryce cases.

Judge Perry asked the TCBC to consider these recommendations for discussion. Judge Moran remarked that the Public Defender in his circuit came to him regarding withdrawing from all Jimmy Ryce civil cases. The Public Defender commented that his office is severely under staffed. Moran added that in his opinion the public defenders across the state absolutely do not like these cases, and they want out.

Judge Perry commented that his circuit's budget for these cases is busted. If the public defenders cannot hire experts, they will withdraw or move to dismiss the cases. The burden is on the state to pay these costs.

Wayne Peacock asked a question concerning the terminology of "Official Court Reporter" in one of the recommendations. He stated his circuit has salaried court reporters and suggested the language be edited.

Judge Schaeffer asked if these recommendations would apply to all conflict fees. Judge Perry responded that the committee does recommend that these recommendations apply to all conflict cases but specifically to Jimmy Ryce cases involving a public defender conflict since these are the only cases in which dollars are specifically included in the Judicial Branch budget.

Motion & Vote: Theresa Westerfield made the motion to accept the subcommittee's recommendations with the following edit concerning court reporters: "...to utilize the most efficient and cost effective court reporter services whenever feasible." Judge Schaeffer seconded the motion. It was suggested that these recommendations be communicated to the Chief Judges and Trial Court Administrators at their meeting on Sunday. Mr. Carrerou advised that this fund is not in the trial courts budget but that it must be communicated to the legislature that this fund is insufficient. The motion passed unanimously.

VIII. Costs Inventory Reviews

Judge Schaeffer called on Mr. Dew to update the commission on the Cost Inventory reviews, whereby a team from OSCA and the Supreme Court Inspector General visited all 20 circuits to verify cost inventory numbers for the essential elements.

Mr. Dew stated that the review of numbers from all 20 circuits was complete and that a formal report was written by Inspector General Jim Boyd and mailed to TCBC members in November 2001. Prior to completion of the report, suggested corrections were sent to each of the trial court administrators for review and confirmation. Copies of the report have also been sent to each of the trial court administrators, Auditor General staff, and selected legislative staff. It is expected that the Auditor General may conduct audits of the numbers from the cost inventory to assure they are valid.

IX. Other Business

Mr. Dew provided a brief review of each of the following reports:

1. *Many Article V Trial Courts Funding Issues Still Need to be Resolved*, an OPPAGA Information Brief

Mr. Dew stated that many of the questions posed earlier by the TCBC are incorporated into this report. He suggested the information we have be made available and ready for use by the legislature during the 2002 Session.

2. *Justice Administration Commission - State Attorneys/Public Defenders*, an OPPAGA Justification Review (Draft)

A draft response to this report from OSCA has been written. Judge Schaeffer suggested that the TCBC get behind the report's recommendation concerning conflict attorneys. She made a motion to that affect and Ms. Ortman seconded. The motion passed unanimously.

3. *Analysis of the Jury Pool Selection Process*, a Florida Senate Interim Project Report

Mr. Dew stated this report was placed in the TCBC notebook for members only to be aware of the issue.

There being no further business Judge Schaeffer adjourned the meeting at 2:10 P.M.