

**Minutes**  
**Trial Court Budget Commission (TCBC)**  
**Amelia Island, FL**  
**December 7, 2002**

**Members Present:**

|                          |                     |
|--------------------------|---------------------|
| Susan Schaeffer, Chair   | Carol Ortman        |
| Mike Bridenback          | Wayne Peacock       |
| Don Briggs               | Nancy Perez         |
| Paul Bryan               | Belvin Perry, Jr.   |
| Ruben Carrerou           | Judy Pittman        |
| Joseph Farina            | Thomas Reese        |
| Charles Francis          | William Roby        |
| Kim Hammond              | Walt Smith          |
| Randall McDonald         | Theresa Westerfield |
| Donald Moran, Jr.        |                     |
| Stan Morris - Vice-Chair |                     |

**Members Absent:** Mark VanBever - excused

**Others Present:** OSCA Staff; Bill Lockhart, Nick Sudzina, Judge Turner, Judge Tygart

**Welcome & Introduction of New Members & Guests**

Judge Schaeffer explained that the Chief Justice had appointed new members to the commission to replace those members whose two year term had expired. Judge Schaeffer explained Chief Justice Anstead considered her input on potential new members. She welcomed Judge Tom Reese from the 20<sup>th</sup> circuit and Judge Bill Roby from the 19<sup>th</sup> circuit. She reported that Judge Randy McDonald would stay on until John Laurent became a judge in January and he would then become a member. Walt Smith would be the new representative from the 12<sup>th</sup> circuit. The new vice-chair would be Judge Morris and she thanked Judge Briggs for serving as vice-chair the past 2 years.

Judge Schaeffer recognized the following visitors: Judge Fred Tygart, Judge Gene Turner, Judge Alice Blackwell-White, Bill Lockhart, Trial Court Administrator from the 6<sup>th</sup> circuit and Nick Sudzina, Trial Court Administrator from the 10<sup>th</sup>.

Judge Schaeffer asked if there were any corrections to the minutes. On page 4 in the 2<sup>nd</sup> paragraph, 2<sup>nd</sup> line, she wanted to add "circuit judges." Judge Francis so moved, Judge Hammond seconded, and the motion was approved unanimously.

### **Revision 7 Legislative Issues**

Lisa Goodner reported that under Tab 1 were the notes from the organizational session in November and that members were listed by their role. The document also showed the senators and representatives in each TCBC member's area. The committees have been announced. Both houses have subcommittees to look at Article V issues relating to the courts, public defenders, and state attorneys. Mr. Smith asked if chairs had been approved, and Ms. Goodner said not officially, but it will likely be Rod Smith in the Senate. She said she didn't think the new chairs would be announced until January. Article V issues will be handled in the Judicial Appropriations subcommittee in the House. There has been no mention of the joint committee on Article V.

Ms. Goodner asked Brenda Johnson if she had anything to add and Ms. Johnson said Senator King will be looking at recent amendments to the constitution along with Johnnie Byrd, and will most likely set up a special committee to look at these issues.

Judge Schaeffer asked which circuits had already had site visits by MGT. Mr. Lockhart, Judge Perry, Judge Morris, Judge Francis and Mr. Carrerou raised their hands. Judge Perry said the person who came to his site was sick with the flu and didn't stay long, and was actually gone before he got there, but he did get a packet of materials that had been prepared by the circuit for the visit. Judge Morris said his circuit was originally scheduled for Union County and that he had them move the visit to Alachua County, because rural counties don't have the services that the urban counties do. He stated that the staff person wanted to know where in the constitution were staff attorneys mandated? The original visit was supposed to last 1-1/2 hours and it actually lasted 2-1/2 hours.

Judge Francis said they spent 3-4 hours in his circuit and Grant Slayden hosted the presentation. He said the person who came mainly asked questions pertaining to hearing officers and general masters. Mr. Slayden thought the visit was helpful because they saw the huge volume in the courtroom on their visit, and they asked a lot of questions about why certain services were needed. Ruben Carrerou reported that 2 people visited his site for most of the day and said they would be coming back again, because they wanted to examine the technology issue separately. He said we need to make sure that the information we give them in writing is thorough and complete. They asked questions pertaining to interpreters, case management, and witness fees. They also wanted to know which divisions were self-sustaining or could be funded some other way. Bill Lockhart said his circuit's information was thorough, and the consultants were seeing the volume of cases that go through our court system. They had a lot of questions about performance measures and a lot of the focus was on accountability.

Judge Hammond reported that he told the site visit team of the importance of the work the TCBC had done. Judge Schaeffer also participated in a visit as chair of the TCBC and she stated that they had a list of 30 questions and only got to 2 of them. Judge Schaeffer said they asked why the court needed ADR, so she explained its purpose.

Judge Schaeffer reported that she and other TCBC representatives met with the state attorneys to discuss separate budgets for court reporting, victim witness coordination, witness fees and conflict counsel. She stated that they had agreed to change administration of those funds from trial court administrators to the state attorneys and public defenders, however, there was a difference of opinion among the state attorneys and public defenders on whether conflict counsel should be on individual public defender's budget or budgeted at JAC. That issue would need to be resolved by the legislature.

Judge Schaeffer said they would be meeting on Monday from 1:00-3:00 with the clerks' association. She also has additional meetings planned with state attorney representatives.

### **Funding Methodology Subcommittee Proposals**

The Executive Committee met in November and considered several proposals on a cost estimate for Revision 7 essential elements provided by the Funding Methodology Subcommittee. The methodology they used was the most inclusive and they agreed that what should be proposed is that the have not circuits be brought up to a minimum level, and the other circuits held harmless.

Carol Ortman reported that after the Funding Methodology Subcommittee was told to come up with a bottom line number in the TCBC meeting in Tampa in August, the subcommittee worked with OSCA staff during a 2 day workshop, and came up with a figure of \$190 million for essential elements and other costs. A summary chart was discussed. Ms. Goodner asked Ms. Ortman to explain the legal services element. Ms. Ortman said each small circuit should have a general counsel and the medium and large circuits should have a general counsel and an administrative assistant. For every 5 attorneys, it is also proposed to fund one secretarial support position.

Judge Moran asked are these new positions we need? Ms. Ortman responded by saying some are new or are currently provided by other entities. Judge Moran said we don't have these positions now, and Judge Schaeffer said the proposal is to bring the have nots up to the minimum and hold the rest harmless, but doesn't mean that we will get funding for them. Mike Bridenback said for the essential elements we would need more than \$190 million and that's not adding new resources. He also said replacing resources such as budget, personnel and legal services within the courts' county budget would be hard.

Judge Briggs asked what is necessary to hold the circuits harmless - what is in a circuit court's budget? Judge Schaeffer responded by saying that holding circuits harmless doesn't mean the resources are currently in your budget, it means they are resources we must replace, for example county assistance to the court.

Judge Schaeffer asked Ms. Ortman how many of these positions were new and Ms. Ortman said she wasn't sure. Ms. Goodner said some are growth in costs, and also to keep in mind that this is not a budget. Judge Perry said there are 49 new positions proposed for the OSCA. Ms. Jerrett explained that there are currently 98 OSCA staff who provide support to the trial courts. 49 FTE is only a placeholder until the administrative processes are analyzed. The number of OSCA positions needed, if any, will depend on how centralized or decentralized the processes are.

Mr. Bridenback reported in the case management area, the subcommittee tried to define the services by function, from service to the judges to the tracking of litigants. He said the subcommittee considered the dependency pilot projects, drug court coordinators, and family self-help centers within the county and state. The baseline for this proposal was the House survey from last summer, with counties grouped by size and types of resources - criminal, juvenile and family. The cost was calculated by case and circuit size. The formula for allocating resources compared to county/state - used baseline salary dollars of \$41,000 per position. Then positions funded by the state were subtracted. Additional funds to bring up to the minimal support level, would be 147 positions plus 6% per year for a total of 341 FTE and \$18.4 million. Judge Schaeffer asked if that included expense and OCO, and Ms. Jerrett said yes, and the state standard formula of \$9,915 annually, was calculated per FTE.

Ms. Ortman explained the court administration element by stating that the subcommittee tried to create a business model in each circuit, and used the House survey as a baseline to break down the 3 types of functions: general administration, judicial operations and executive. She said each circuit requires a trial court administrator, chief deputy and administrative assistant, for the executive function as shown in table X. Ms. Ortman said the 11<sup>th</sup> circuit executive administration is not state funded. In referring to table X for general administration, the subcommittee calculated 8 FTE for small circuits, 12 FTE for medium circuits and 20 FTE for large circuits to bring across all existing positions. For judicial operations, small circuits were calculated at 3 FTE, medium circuits at 6 FTE and large circuits at 10 FTE.

Judge Morris suggested each chief judge meet with their trial court administrator and assess the impact on their circuit, if not all court administration positions are funded.

Ms. Ortman asked Ms. Jerrett to explain the contingency for insurance. She said the State now pays for risk management insurance and suggested that we put in a placeholder of 2% for additional insurance costs, until an analysis of actual costs can be completed.

Ms. Ortman stated that we should allow for a contingency of at least 10% because allowances have not been made for unanticipated or hidden costs. Mr. Bridenback said it was based on the California model.

Ms. Jerrett explained that administrative coverage for increased processing due to Revision 7 is important. For example, California learned they had shorted their central administrative staff. She suggested a placeholder be put in for 49 positions in OSCA because 98 of the current 120 FTE provide support to the trial courts. Using this ratio with the new funding, 49 FTE will be needed. Mr. Lubitz stated that whether OSCA will have to expand or how we would get funds would be determined at a later date, when decisions are made regarding administrative processes. Ms. Ortman said in California they only asked for the base amount and found out that it was more advantageous to be inclusive, not exclusive.

Judge Schaeffer asked, "does the commission recommend that we would request the have nots receive the minimum recommended by the Funding Methodology Subcommittee and those circuits that have in excess be held harmless?" She also said the Executive Committee voted unanimously to approve the proposal as recommended by the Funding Methodology Subcommittee.

Judge Morris made a motion to "move the recommendation of the Funding Methodology Subcommittee on proposed funding of the essential elements be adopted and that the state be requested to fully fund the essential operation of the trial courts to allow the trial courts to maintain the current level of services and, where deficient, to fund essential services at least at the minimal level recommended by the subcommittee." Judge Francis seconded, and Judge McDonald so moved. The motion was unanimously adopted.

Judge Schaeffer stated that Judge Bronson wants to have a volunteer from the commission on Sunday at 3:00, to talk to his section about implications of Revision 7. Judge Pittman volunteered.

Judge Schaeffer said she wanted Ms. Ortman and the Funding Methodology Subcommittee to know how much the commission appreciates the tremendous amount of work they had done on getting these numbers together and the number is now \$190,000,000 with the exclusion of conflict attorneys. Ms. Ortman said she wanted to thank OSCA for their tremendous help on this project.

### **Draft Implementing Legislation**

Debby Kearney reported on the draft Revision 7 legislation and stated that section 1 is refining the language, section 2 sets out the essential elements, and section 3 is the local requirements section of the bill. Section 4 is a placeholder on who can receive funds. Section 5 gives the responsibility for witness coordination to the state attorneys. Section 6 references amendments in a revisor's bill. Section 7 is the savings clause that contracts continue to be valid, and section 8 gives the Chief Justice authority to transfer up to 10% of appropriations between categories; this authority is currently 5% in the statute. Concerns were expressed about the 10% transfer authority being controlled by the Chief Justice and not the chief judges. Ms. Goodner explained that this transfer authority could be delegated internally to the chief judges. Section 9 of the bill, provides for an effective date.

Judge White asked if there had been an agreement between the Supreme Court and the TCBC to do allocations and Judge Schaeffer said the Supreme Court has not changed allocations. Judge Perry said maybe we need to create some kind of trial court authority. Mr. Lubitz said this is for the entire judicial branch and Judge Schaeffer said the trial courts need maximum flexibility. Ms. Goodner said chapter 216, Florida Statutes creates coequal authority for the Governor and Chief Justice for budget matters for their respective branches based on the Supreme Court opinion *Chiles v. Children*. Judge Moran said Judge White's point is important and that the TCBC should be able to decide where money needs to be allocated. Judge Schaeffer said we might want to consider it if the TCBC were acknowledged by the legislature as a budget entity.

Judge White asked why "mediation" was in the proposed legislation and not ADR. Mr. Bridenback said ADR is made up of several things but mediation was the essential part. It was suggested to put ADR as essential and then list mediation under it. Judge Schaeffer asked how personal staff should be defined; maybe we need to change it to say essential staff? Judge White suggested sign language interpretation be included as part of interpreters, based on discussions of this issue by Trial Court Performance and Accountability. The commission directed OSCA to include judicial assistants in section 1, page 3. Mr. Smith asked on pg. 7, 2a what are real local requirements and isn't due process borne by the state? Judge Briggs said it was discussed at the Executive Committee meeting to take out due process.

Judge Perry asked if we could put something in to keep furnishings/equipment modern or updated so the circuits aren't working with obsolete items. Mr. Smith said in section 1a, there should be standards for facilities and the language on pg. 7, line 7 should be under 2 of page 6. Judge Schaeffer asked about authority for signing contracts and giving the trial court administrators that authority. Judge Francis moved to add in that language to the bill, and this motion was seconded by Judge Pittman.

Judge Schaeffer suggested leaving the draft legislation as draft, continuing to work on it. The Commission unanimously agreed.

### **Reports from Other Committees**

Update on Trial Court Performance & Accountability Review of the Usage of Trial Court Staff Attorneys:

Judge White explained that her commission had done a study of 10 different circuits, and expected the results in January. The most important things that came out of the study were that employees had no training and received very little compensation for what they did. She also stated that they were looking at the function of general counsel and thinks that legal support should be assigned by the proximity to the judges where as most are assigned now by division, but would like to have feedback on legal support from the judges. At the end of her report, she said it's a work in progress and anyone that has questions and/or input, were encouraged to see her individually. Judge Schaeffer said she was always glad for Judge White to participate and stated that the TCBC really appreciated her committee's hard work.

Update from the Revision 7 Advisory Group:

Judge Perry said his report was also a work in progress and if anyone has questions and/or input, members were encouraged to talk to him or Mr. Lubitz.

### **Recommendations for 2003 Pay Plan**

David Pepper and Theresa Westerfield gave a report on the recommendations for the 2003/2004 pay plan. Mr. Pepper stated that in June the pay increases for the chief deputy court administrators and the secretaries were approved by the TCBC. Ms. Westerfield said that the results were in for the judicial assistants' salary survey. Her subcommittee recommended to give each judicial assistant a 2 pay grade increase and some increases in competitive area differentials, because some circuits are farther behind than others. The circuits proposed to get the differential increase are the 4th, 6th, 9th, 11th, 13th, 15th, 16th and 17<sup>th</sup>. All of these increases are in addition to the across the board raises. Judge Bryan moved that the pay plan recommendations be approved, it was seconded and approved unanimously.

### **2003-2004 Budget Issues**

Family Court Trust Fund Deficit:

Ms. Jerrett stated that an analysis of the trust fund's FY 2003-04 projected revenues and expenditures show a cash deficit of \$502,665. She asked the committee for direction on how to

balance the trust fund. She reviewed the options listed for places where budget reductions could be absorbed. Judge Pittman stated that she thought the funding for the unified family courts model had been put on hold to be evaluated. Mr. Smith asked can't we simply increase the filing fees and if not, can't we use options C, D, E and F which don't appear to involve people in the cuts? Ms. Goodner stated that a request to continue the unified family courts model had been received from Judge Demers and that OSCA had agreed to do the study and after the results were in, the commission would determine whether to continue the pilots. A motion was made to cost shift the custody evaluator positions after options C, D, E, and F were taken. The motion was seconded and approved.

**Court Reporting Technology Issue:**

Ms. Jerrett explained that this was not a new budget issue, and that she needed the commission's vote on splitting this budget request to be phased in over a 3-year period, with \$4,537,000 requested in FY 2003/04. Judge Schaeffer said digital court reporting had been taken up at a previous meeting and Mr. Bridenback moved that this phase-in schedule be accepted. Ms. Ortman seconded the motion, and all were in favor.

**Other Business**

Judge Schaeffer stated that Judge Beth Bloom had contacted her regarding funding for the conference of county court judges' yearly conference currently paid by the counties. Judge Schaeffer recommended that the chairs of the county and circuit judges conference be appointed as ex officio members of the commission, so they would know what the TCBC was doing. The Executive Committee had previously approved this recommendation. Judge Schaeffer explained that adding them would require a rule change and Judge Briggs asked what would membership do for them. Judge Schaeffer explained they would be included in future meetings to keep them up to date. Judge Reese said he agreed and so moved. Judge Hammond seconded and the members unanimously approved the motion. Judge Schaeffer asked Ms. Goodner to make the TCBC's recommendation known to the Court, and if she needed to talk to them she would.

Judge Schaeffer indicated the next TCBC meeting would probably be in Tallahassee during legislative session and would let everyone know the date as soon as possible. The meeting was adjourned at 1:33 p.m.