

Minutes
Trial Court Budget Commission (TCBC)
February 19, 2002

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	Mark VanBever
Paul Kanarek	Theresa Westerfield

Members Absent: Doug Wilkinson

Others Present: Justice Harry Lee Anstead
Richard Dolan, OPPAGA
Hunter W. Carroll, Supreme Court Staff Attorney
OSCA Staff

I. Roll Call and Approval of the Minutes

Judge Schaeffer called the meeting to order at 10:00 a.m. and asked the secretary to call the roll. Mr. Wilkinson's absence was excused. A quorum was present. Judge Schaeffer greeted the members and asked the guests to introduce themselves.

Judge Schaeffer called for the approval of the December 1, 2001 minutes. Mr. Bridenback noted a correction was needed on Page 11, changing the "Judicial Management Institute" to "Justice Management Institute" and on Page 2 at Vote, changing "Chief Judge" to "Chief Justice." Judge Farina referred to the top of Page 12 and stated his comment at the December meeting was actually, "The consultant should and not 'will have to' come to us for information." Mr. VanBever moved the approval of the minutes as amended by Mr. Bridenback and Judge Farina. Judge Francis seconded the motion. The minutes were approved as amended.

Judge Schaeffer introduced Rob Lubitz, the new State Courts Administrator, and welcomed him to his first meeting of the TCBC. Mr. Lubitz spoke briefly saying he was honored to have been chosen for the job. He was aware of the difficult decisions the TCBC had to make recently on the request by the legislature for budget reductions and he applauded their work. He commented that the Florida courts enjoy a great reputation outside the state for their innovation and organization. Implementation of Revision 7 is a top priority since it will impact the future of the trial courts for years to come. He looked forward to meeting with the members to discuss the issues and to continuing the excellence of Florida's trial courts. Judge Schaeffer commented that many of the trial courts' leaders sit on this Commission and she offered that he could count on them for information he may require.

II. Legislative Update & Overview

A. 2002/2003 Budget

Judge Schaeffer called on Charlotte Jerrett, OSCA Chief of Budget Services, to present the current status of the State Courts Legislative Budget Request for FY 2002/2003. Ms. Jerrett reminded the Commission that they had authorized the Executive Committee to make recommendations to the Court on trial court budget priorities, and she referred them to the list of final priorities in Tab 3 of the notebook. She then reviewed the Senate and House proposed appropriations bills, as of 2/13/2002.

The Senate bill provides two new FTE's for Drug Courts in the 3rd and 6th Circuits. This appropriation also fulfills the requirements of two substantive bills, HB 1403 and SB 1662, that require a drug court program in each circuit. The proposed Senate appropriations bill further provides for a \$100,000 increase to sexual predator conflict case reimbursement. Twenty-one FTE's are funded for certification of additional judgeships as follows:

<u>Circuit</u>	<u>Proposed Judgeships*</u>	<u>Total FTE</u>	<u>County</u>	<u>Proposed Judgeships*</u>	<u>Total FTE</u>
5	1	2.0	Duval	1	2.0
8	1	2.0	Palm Beach	1	2.0
9	1	2.0	Broward	1	2.0
10	1	2.0			
11	1	2.0			
13	1	2.0			
20	1	3.0			
Total	7	15.0		3	6.0

* Judgeships include 1 judge and 1 judicial assistant. The 20th circuit judgeship includes 1 judge, 1 judicial assistant and 1 law clerk.

The House bill provides for eight FTEs for certification of 2 additional DCA judgeships. Judge Schaeffer asked how the distribution of the circuit judgeships was determined by the Senate. Lisa Goodner, Deputy State Courts Administrator, replied that the judgeships were based on the Delphi analysis of SRS data and were allocated to those circuits with the “highest net need.”

Ms. Jerrett continued her review of the Senate bill reporting an increase for JQC Operations of \$175,000, additional expenses of \$995,433 for implementation technology and two FTEs relating to Revision 7, an increase in budget authority of \$350,000 for the Unified Family Courts and a cut restoration from Special Session C, of the \$375,000 for Foster Care Review in Miami/Dade County. The twenty-six million dollar cost shift from General Revenue to the Article V Trust Fund (AVTF) taken in Special Session C is restored in the Senate bill. The Small County Courthouse Facilities funding from the AVTF was eliminated; however, \$2.4 million is restored for Small County Courthouse Facilities out of non-recurring General Revenue.

The House bill also eliminates funding for Small County Courthouse Facilities from the AVTF, and replaces funding for the same, with \$2,000,000 in non-recurring general revenue. Ms. Jerrett stated the Senate’s methodology in determining the amount of member requests to fund for Small County Courthouse facilities, was based on member requests which related only to repairs, and the American’s with Disabilities Act requirements and maintenance. Finally, the House bill restores the \$760,000 for Drug Court treatment services in Brevard and Pinellas Counties cut during Special Session C. In summary, the Senate proposes 25 FTE and \$7 million in new General Revenue (GR). The House proposes funding for 8 FTE and \$2.5 million in new GR. Significant negotiations will need to take place during budget conference, to reach an agreement on the budget.

Judge Schaeffer asked why the Revision 7 issues proposed in the legislative budget request were not funded. Ms. Goodner related that OSCA “made the pitch” for these issues, but the message did not seem to resonate well with the legislature. She added that the conference process would not start until March 8, the same day the Revenue Estimating Conference meets to announce the latest estimates of revenue.

B. Pay Plan Issues

David Pepper, OSCA Chief of Personnel, provided an overview of the 2002 Pay Plan Requests for the State Courts System. He commented that even though the outlook for funding these requests seemed unlikely, the Chief Justice wanted a plan submitted because recruiting and retaining qualified employees is a vital need for the courts. Mr. Pepper only reviewed the pay plan requests relating to the trial courts.

The Pay Plan calls for thirteen Senior Deputy Court Administrators to be elevated to a Chief Deputy Court Administrator position. Currently, only one Chief Deputy position is paid for by the state. All others are paid for by the county. The requested dollars for elevating these 13 Senior

Deputies to a Chief Deputy position are \$344,440 for 12 months, or \$258,330 for 9 months. Six new Chief Deputy positions were requested in the operating budget.

The Pay Plan also requests that all current secretarial support positions be elevated to a higher pay grade. Mr. Pepper cited the frequent and consistent turnover of support positions throughout the state. For example, in OSCA alone, there were 9 turnovers among 10.5 senior secretary positions since January 2000. The amount of this request for the trial courts is \$197,300 for 60 positions. He commented that 30 of these positions were in the Guardian ad Litem program.

Mr. Pepper reported that a Judicial Assistant Salary Survey was being prepared and will be sent out this spring. A pay plan request on this issue will be submitted to the legislature next year, if the results of the survey justify a request.

Mr. VanBever reminded the members that the TCBC had voted on a budget request which included moving the six Chief Deputies, currently county-funded, to newly created state funded Chief Deputy positions. He clarified that the pay plan request is for funding to elevate the state-paid Senior Deputies to the Chief Deputy level.

C. Trust Fund Bills

Ms. Jerrett reported on the status of bills pertaining to the five trusts funds which support the state courts system and are due to sunset this year if not reenacted. The five are the Article V Trust Fund (AVTF); Mediation and Arbitration Trust Fund; Grants and Donations Trust Fund; Family Courts Trust Fund; and Court Education Trust Fund.

There are three bills in the Senate (SB 758; SB 828; SB 2080) and one in the House (HB 1853 related to the AVTF). The House bill contains essentially the same language as that in SB 758 and SB 828, which recreates the trust fund and synchronizes its review cycle to conform with other trust funds. SB 2080 is a glitch bill that redistributes money collected from civil penalties received by county courts to increase the distribution to the AVTF, with an off-setting decrease to the General Revenue Fund. This bill is necessary to correct an error in the current year Implementing Bill that only directs 15% of civil penalties to the AVTF; 20.6% of civil penalties should have been re-directed to the AVTF. The AVTF has a projected \$2.2 million shortfall based on the 15% collection of penalties. This bill passed Senate Judiciary on February 19.

The Mediation & Arbitration Trust Fund and the Grants & Donations Trust Fund are proposed for re-creation in both houses. The Family Courts Trust Fund (SB 752) and the Court Education Trust Fund (SB 754) are re-created in the Senate, but the House recommends the elimination of both.

Dee Beranek, Deputy State Courts Administrator, Legal Affairs and Education, reported that the Florida Court Education Council (FCEC) was working very hard to get support from the legislature

for the re-creation of the Court Education Trust Fund. The fund was established in 1982 to give the judiciary control over the content and presentation of their education programs and to assure quality. This trust fund has provided a stable and secure resource for many years to ensure a knowledgeable judiciary; however, it is now the subject of much scrutiny by the legislature. The legislature has questioned the need for face to face instruction and the use of these funds for out-of-state training programs.

Judge Farina commented that the Conference of Circuit Court Judges and the Conference of County Court Judges have been fully informed of the possible elimination of the Court Education Trust Fund and they have been provided with information on the issues involved. He encouraged Commission members to meet with the legislators on the House Criminal Justice Appropriation Subcommittee, and let them know how important this fund is to continuing the education of the judiciary.

D. Proposed Revision 7 Request for Proposal (RFP)

John Dew, Chief of the Trial Court Funding Policy Section, reported on the status of the RFP that was initially proposed to be released by the legislature in November 2001 to hire a consultant to study and make recommendations on Revision 7. He stated that at one point it appeared the RFP would be released by the legislature by the end of the year, then it appeared the legislature decided not to have a RFP, and now it is unclear if anything at all will be done on this issue. OSCA staff has been advised that the House has drafted a revised RFP, based on comments provided by our office, the clerks of the court and the Association of Counties, and it is currently being reviewed by the Senate. Mr. Dew reported that legislative staff have been unwilling to provide us with a copy of the latest RFP draft since because the House and Senate have some sections they currently disagree on. If and when the RFP is released, Mr. Dew stated he would provide all members with a copy.

E. Guardian ad Litem

Pat Badland, OSCA Program Manager for the Court Improvement Program (CIP), reviewed the bills regarding the Guardian ad Litem Program.

Senate Bill 686 by Senator Burt is the result of the Senate Judiciary Committee's interim project on the representation of children. The bill proposes to more than double the funding of the Program. The Senate Children and Families Committee amended the bill to move the Program and its existing budget into the Statewide Public Guardian Office effective October 1, 2002. The bill calls for an interim study from October 2002 to February 2003 to study the organizational placement of the program in this new entity. The bill will be heard next in Senate Appropriations. There is not a companion bill in the House.

House Bill 629 by Representative Lerner proposes to transfer the Guardian ad Litem Program to the Justice Administrative Commission (JAC) and create a statewide office. It has passed two

committees and has two more references. It does not have funding implications at this time. There is no companion bill in the Senate.

Ms. Goodner reported that the Senate appropriations bill would double the staff of Guardian and Litem Program and increase their funding by \$13 million. The proposed increase is intended to provide for 100% representation of children in dependency hearings. The Senate bill does not address which entity would be responsible for housing the GAL staff.

Judge Schaeffer commented that the Senate bill is consistent with what the TCBC has recommended, which is the transfer of the Program to the Executive Branch. Judge Schaeffer submitted that both from a budget standpoint and the assurance that the Program is taken care of, the Senate bill is preferred. Currently, both the state attorneys and public defenders oppose the House bill recommendation to move the GAL program into the JAC. She asked the Commission members to support the Senate bill and help to pass it.

Several questions were asked by Commission members. Mr. Bridenback asked who would do the study of the program as described in the Senate bill? Ms. Badland responded that it would be the Office of Public Guardian, the judiciary and other involved entities. Judge Schaeffer asked if Ms. Badland knew how the GAL Program Directors are reacting to the proposals. She had heard that the directors were adamantly opposed to the bill when it was proposing a transfer to the Public Defenders' office. Ms. Badland replied the only concern she has heard expressed by the directors was that of what facilities they might be housed in.

Judge Farina asked if the bill is a transition from an all volunteer model to an attorney model. Ms. Badland explained that the volunteer model will be preserved; however, the Senate bill recognizes that the volunteer model has its limits and intends for the Program to have more professional staff.

III. Revision 7 Implementation: Goals, Timelines and Work Agenda

Judge Schaeffer reported that the Executive Committee had met the day before with the primary focus of the meeting being to review and discuss a proposed work plan for Revision 7 objectives. She called on Mr. Lubitz to explain and review the draft plan.

Mr. Lubitz noted that there were only 28½ months until July 2004, the constitutional deadline for the implementation of Revision 7. To outline better what needs to be done and by when, he requested staff to prepare a document showing the Revision 7 objectives, deadlines to achieve those objectives, and the entity responsible for review or approval. Mr. Lubitz referenced the Revision 7 Objectives "Working Draft" in the member's notebook and began a review of the 8 outlined objectives in the document.

The first objective is to define the essential court elements and their potential costs. He

commented that the due dates listed for all the component goals of each objective were the absolute deadlines in order to complete the necessary work by August 2003. The August 2003 date is important to assure we have our information ready for the budget request which is due in September 2003. He noted that the Executive Committee added court expert and witness expenses to the essential elements list at their meeting yesterday. Therefore, there are now ten essential elements. These are: auxiliary aids and services; interpreters; masters/hearing officers; court reporters; case management; legal; alternative dispute resolution; court expert and witness expenses; court administration; and judges/JA support.

The current worksheet provides that the Judicial Management Council's Trial Court Performance and Accountability Committee (TCP&A), along with the TCBC Funding Methodology Subcommittee, will develop the essential element models. The TCBC, the Chief Judges, and then the Supreme Court will review and approve the models. The TCBC will then determine the costs of the models and this would be reviewed by the Chief Judges and approved by the Supreme Court.

A lengthy discussion ensued on why there was a need for the Supreme Court to approve the essential element models prior to the TCBC determining the costs, since they would eventually review and approve both the models and the costs recommended later by the TCBC. This also led into a discussion on what process other Supreme Court committees would have available to them for input into the development of the essential elements and the associated costs. After the discussion, the language on the worksheet was changed to provide that the TCP&A and TCBC Funding Methodology Subcommittee would develop descriptions of the elements and the TCBC would later develop the model and associated costs. The TCP&A is required to submit the descriptions of the essential elements to the Supreme Court for approval and the TCBC will develop the models and costs.

To assure other Supreme Court committees have some input in the development of the essential element models and costs, Mr. Lubitz suggested that at least 30 days prior to the meeting of the TCBC where review and approval of these models would take place, that information be sent out to all affected Supreme Court committees with a request for comments. The TCBC would then determine the models and costs; the Chief Judges would review; and finally, the Supreme Court would consider and approve the models and costs.

The members were in agreement with the first objective and deadlines after the changes were made. Mr. Lubitz continued his review of the working draft. Objective two is to define other state responsibilities. The first phase of the objective is to properly assign due process costs currently funded by the counties to the appropriate entities for state funding. He suggested changing the dates for review and approval from the Supreme Court to coincide with the previous time table in objective one. The commission agreed. The second phase of this objective is to advocate for the transfer of budget items currently in the state courts budget to other more appropriate entities. Items such as court reporting for state attorneys and public defenders and conflict counsel costs should not be in the trial court's budget. The third phase would be to review and clarify jury management practices in the

various circuits. Members agreed with the plan and deadlines for objective two.

The third objective is to develop funding strategies for the integrated court functions. Integrated court functions can be defined as those programs that, while not essential to the trial courts, have been created to provide enhanced services to the community and potentially provide efficiencies in the system. Mr. Lubitz proposed that the TCBC and the Trial Court Performance and Accountability Committee meet jointly at the June Circuit Judges' Conference to review programs and services in this category. He said the third objective also calls for a determination as to the proper placement for the budget of each of the integrated functions either in or out of the court system. If the budget is in the court system, the same time table as Objective #1 would apply. If the budget is outside of the court system, but there is a recommendation that it be state funded, then an appropriate state entity must be found for placement. If it is recommended it not be state funded, then the program might be considered as either a local requirement or a local option that the county could fund.

The fourth objective is to define local requirements. Mr. Lubitz commented, that once objectives #1-3 are solidified and there is a sense that they are accepted as reasonable, then we will have a better idea of what programs might fall in the category of local requirements. The deadline for considering and approving local requirements for the TCBC would be June 2003.

The fifth objective is defining county obligations. Mr. Lubitz said there is concern that some guidelines are needed for technology and security so that court facilities would not be short changed. Currently the Technology Committee is working on guidelines for determining the technology needs of judges. Judge Francis (Chair of the Technology Committee) noted that the committee was working mainly on the data component and information needs of judges. These recommended guidelines will be completed later this year. However, the requirement for the hardware, software, networking, and staffing components of this obligation are unclear. The deadline for the technology component is August 2003. Judge Schaeffer reported that the Executive Committee discussed the possibility of setting minimum standards for court facilities and security within the 2003 deadline but decided against it. They decided it would be best to wait until December 2004 to start the process.

The sixth objective is identifying revenue sources. The TCBC Revenue Subcommittee has been working on identifying revenue sources and will conclude its work by April of this year. The courts should then focus on improving the assessment and enforcement process. Judge Schaeffer noted that in her meeting with Representative Benson earlier that morning, the Representative specifically asked if the TCBC was involved in the issues of collections of fines and fees. She responded that courts are responsible for assessment and enforcement. However, in her view, the responsibility for collection is with the clerks. Judge Schaeffer stated that we need to be prepared to address this issue because it is of concern to the legislature. Mr. Lubitz stated that the issue is important, however we have not set a date yet for the issue to be resolved.

The seventh objective is to develop an implementation structure. Such issues as assumption of

county positions; review of the roles and responsibilities of trial court administrators and the OSCA; building an infrastructure (financial, personnel, technology, technical assistance, etc.); and accountability and quality control. The building of the infrastructure should be funded no later than the 2003 session.

Last, the eighth objective is the determination of communication and legislative strategies. Revision 7 is a critical, pressing issue and its importance must be communicated to the legislature and the public. Both the tasks necessary and the deadline dates for this objective will be determined in the future. Judge Schaeffer stated that the Executive Committee suggested that in future legislative appropriations committee meetings, that it would be beneficial for the chair or representative of the TCBC to be making the budget recommendations for the trial courts. Of course, this will require the approval of the Supreme Court. The members agreed. Mr. Lubitz concluded his review of the planning document and asked if there were any questions.

Judge Haworth expressed some concern over how this timetable would synchronize with the work of the Legislature and the review by the Supreme Court. Mr. Lubitz stated that this Commission should continue to work on each of these issues since the implementation date for Revision 7 is only 2 years away. Judge Schaeffer agreed, commenting that the TCBC should move forward to produce a product that the Supreme Court will eventually receive. If, along the way, something in particular needs to be re-addressed, we can adjust.

The TCBC members were in agreement with the planning document and the associated deadlines.

IV. Funding Methodology Subcommittee Report

Peggy Horvath, OSCA Chief of Strategic Planning, provided an update on the work of the Funding Methodology Subcommittee. The Funding Methodology Subcommittee has been working in concert with the Committee on Trial Court Performance and Accountability Committee (TCP&A) to develop a budget strategy for the essential elements. The TCP&A is charged with developing consensus views of the purposes and parameters of various court resources and services. These analyses become the bases for advisory guidelines for the use of resources that support the judicial processing of cases. In developing analyses, consideration is given to the due process rights of parties and the requirements of the state and federal constitutions, Florida Rules of Court, and Florida Statutes. Ms. Horvath then reviewed the process the Funding Methodology Subcommittee used to develop a proposed funding strategy for the state assumption of these court costs.

After Ms. Horvath's review, Judge Morris moved the approval of the Funding Methodology Subcommittee's approach to defining the essential elements and developing funding strategies. Judge Hammond seconded.

Judge Farina expressed his strong concern regarding this proposed approach and its

divergence from a previous commitment by the TCBC to a “hold harmless” approach. His understanding was that the TCBC would look at all the circuits and arrive at a benchmark level. Those circuits that fell below the benchmark would be brought up to that level and those circuits above that level would remain the same, a truly “hold harmless” approach. The proposed approach would mean that those circuits that fall above the norm would be left to seek funding from their counties. Judge Schaeffer stated that the Funding Methodology Subcommittee is asking for direction as to how to approach their work. Some threshold needs to be established before we can begin to determine the funding necessary.

Judge Farina expressed the view that the TCBC should strive for the best model and not settle on a normative level if it is not adequate. Mr. Peacock agreed with Judge Schaeffer that some baseline is needed. Judge Farina asked that the Commission, if this process is accepted, please keep in mind his concern. He also wanted the Commission to more closely examine the Local Requirement concept as it moves along.

Ms. Horvath reminded the commission that the state was looking for demonstrated efficiency. Ms. Horvath reported that the Funding Methodology Subcommittee has completed analyses of auxiliary aids and services, interpreters, and masters and hearing officers.

Judge Schaeffer called for vote on the motion made by Judge Morris. The motion carried.

V. Other Business

Judge Schaeffer announced that the next meeting of the TCBC will be held on April 23, 2002 in Tampa. The next meeting to follow will be held in conjunction with the Circuit Judges Conference in Naples on Saturday, June 22. She mentioned that a joint meeting of the TCBC and the Committee on Trial Court Performance and Accountability is being contemplated for Friday June 21. As soon as the details of the joint meeting are worked out, the members will be notified.

There being no further business, Judge Schaeffer adjourned the meeting at 2:45 p.m.