

August 1, 2001 (12:04PM)

Minutes

Trial Court Budget Commission (TCBC)

May 22-23, 2001

Wyndham Hotel, Tampa, FL

Members Present

Susan Schaeffer, Chair
Don Briggs, Vice-Chair
Mike Bridenback
Paul Bryan
Ruben Carrerou
Joseph Farina
Charles Francis
Kim Hammond
Donald Moran, Jr.
Lee Haworth

Paul Kanarek
Stan Morris
Carol Ortman
Wayne Peacock
Nancy Perez
Belvin Perry, Jr.
Judy Pittman
Mark VanBever
Theresa Westerfield
Doug Wilkinson

Members Absent: Randall McDonald

Others Present: Office of State Courts Administrator (OSCA) Staff
Judge Alice Blackwell White
Jim Boyd, Auditor General, Supreme Court
Hunter W. Carroll, Supreme Court Law Clerk
Richard Dolan, OPPAGA
Cyndie Cline, OPPAGA
Michele Leshko, 6th Judicial Circuit

I. Welcome and Introduction of Guests, Approval of Minutes -April 9, 2001, and Final Approval of Operating Procedures

Judge Schaeffer called the meeting to order at 12:37 p.m. and asked the secretary to call the roll. A quorum was present.

Judge Schaeffer remarked that this was the first meeting of the TCBC since the passing of Ken Palmer, State Courts Administrator. She took a moment to reflect on Ken's memorial service and reminded the members of his instrumental role in the formation of this commission by the Supreme Court. She opened the floor to any member who wished to make a comment. Several members took the opportunity to reflect on Ken's impact on the court system. Mark VanBever commented that Ken

was not only a force for Florida's courts but he will be recognized posthumously by the National Association for Court Management with this year's NACM Award of Merit. Chief Justice Wells' will attend the NACM conference to receive the award. Judge Schaeffer then requested a moment of silence in Ken's honor.

After self introductions by the guests, Judge Schaeffer called for the approval of the April 9, 2001 draft minutes. Mike Bridenback offered a clarification to the draft minutes. On Page 5, under "Discussion of Chief Deputy, Senior Deputy, and Deputy Court Administrator Issue," in paragraph three he noted that Judge Alvarez, Chair of the Judicial Administration Section, wrote his letter to all the chief judges, not to Judge Moran only. Judge Schaeffer moved the approval of the minutes with this clarification and they were approved unanimously.

Judge Schaeffer asked for a final approval of the TCBC Operational Procedures, noting that the suggestions from the last TCBC meeting on the Appeals process were now incorporated into the procedures. Judge Francis made the motion to approve the TCBC Operational Procedures as presented. Mark VanBever seconded the motion and they passed unanimously. Judge Schaeffer noted that they would now go to the Supreme Court for final review and approval.

II. Report on Legislative Issues

Lisa Goodner, Deputy State Courts Administrator, began by stating much attention was devoted in the final days of the legislative session to tracking language in SB 1784 which would have given the Governor more authority over the judicial branch. This language was deleted from the bill during the final hours of the session. However, SB 1784 did make several revisions to Chapter 216, F.S. that impact the courts. It requires:

- < Unit Cost Reporting - Unit cost data will now be used as a policymaking, budgeting and accountability tool. All major activities and their associated costs are now required as a part of the Legislative Budget Request (LBR). If this is not submitted, the Legislature may reduce the next year's allocation by at least 10% of the current year allocation.
- < Position Reporting - Quarterly reports are to be submitted to the Legislative Budget Commission (LBC) regarding the number of filled positions, the number of vacant positions and the salary associated with each category of position.
- < Incentive and Savings Program - Designed to encourage a business process re-engineering and to increase operating efficiency. The reward is the retention of a portion of the savings produced (not less than 5% nor more than 25%) in the next fiscal year.
- < Activity Based Budgeting - All future appropriations will be allocated to the appropriate activity for budgeting purposes. The judicial branch is directed to work with the legislature to identify

and reach consensus on the services and activities for activity-based budgeting. The judicial branch is required to examine approved performance measures and recommend changes so that outcomes are clearly delineated for each service or program and outputs are aligned with activities. Ms. Goodner commented that an activities based budget is a more discreet level of budgeting than performance based budgeting.

- < Budget Amendments - It appears that budget amendments must be submitted to the LBC for review and approval, but clarification is still needed on this point. Judge Farina asked for a description of how the current budget amendment process works. Ms. Goodner explained that currently a circuit makes a budget amendment request to OSCA. The staff reviews the amendment and it goes to the Chief Justice for approval. Typically, there are 2-3 budget amendments submitted each month. Under the new process, many amendments would also be considered by the LBC. She explained these amendments are by appropriations category, not by circuit.

John Dew, Chief of Trial Court Funding Policy Section, reviewed with the members of the TCBC the Article V legislation which passed in the 2001 session. Mr. Dew began with SB 304, a deferred compensation bill, which the counties amended the last day of session to push back the effective date of their funding obligations as outlined in Chapter 29, Florida Statutes from July 2001 to July 2003. Mr. Dew pointed out that counties are still required under Chapter 29 to continue to fund existing elements of the state courts system until such time as the legislature expressly assumes the responsibility for funding such elements. Another bill, SB 1852 passed this session requires that all monies collected by the clerks for state agencies or the Supreme Court are first to be remitted to the Department of Revenue (DOR) for accounting purposes. The DOR will then transfer the revenues to the appropriate entity. This will assist the state in determining the amount of money state agencies and the Judicial Branch receive from local service charges, etc.

Discussion on Strategy for Next Legislative Budget Request

Judge Schaeffer asked for comments from the members on how the TCBC should proceed with the Legislative Budget Request (LBR) for Revision 7 for next legislative session. She began by commenting on the roles of the Supreme Court, the Legislature and Governor. This session the Legislature did not address Revision 7, and it appears they may not want to address the issue during the 2002 Session. There has been no move yet by the Legislature to staff the Joint Legislative Committee on Article V and this committee has yet to meet since its establishment by the 2000 Legislature. Additionally, next year the Legislature will be focusing on reapportionment and it is also an election year. She asked the members, do we push forward or not?

Judge Briggs commented that he felt like we should at least seek funding next year for some of the essential elements. There were also several comments made by TCBC members that we need to be ready in case the Governor or Legislature did want to move forward on funding Revision 7 next

session. Judge Schaeffer summarized the discussion stating that there seems to be a consensus that we continue our work and offer some piece of the package for next year. Carol Ortman suggested that potentially we could seek funding for the essential elements of masters/hearing officers, legal, and court administration next session.

It was decided to delay any decision on this issue until the end of the next day of the TCBC meeting. This would allow members to hear a report from the Funding Methodology Subcommittee and give them time overnight to study it more. Judge Schaeffer pointed out that any strategy for Revision 7 implementation also needed to be explored with the Chief Judges and court committees.

III. Funding Methodology Committee Report

Judge Schaeffer called on Carol Ortman for her report. Ms. Ortman stated that first Judge Alice Blackwell White would be discussing the results of the masters/hearing officers and then language interpreters workshops. In addition to these two essential elements, the subcommittee would also ask the TCBC members to vote on funding recommendations concerning another essential element, Legal.

Masters/Hearing Officers

Carol Ortman introduced Judge Alice Blackwell White, Chair of the Committee on Trial Court and Performance Accountability, to report on the Masters and Hearing Officers Workshop held by the Committee on March 6-7, 2001. Judge White reviewed the charge of the workshop and the questions it was designed to address. She commented that the workshop participants included judges, court administrators, a master, a child support hearing officer and a civil traffic hearing officer. She said the membership was representative of the circuits and that several were also members of the TCBC. Judge White outlined each of the recommendations made by the workshop.

- Service Areas- the consensus of the workgroup participants is that masters and hearing officers be used when there are matters of high volume; where the need and efficiency match; where the duties are largely ministerial, computational, or managerial; where the use of services is better served; where fundamental and due process rights are protected; and where the fundamental judicial function is better served and supported.
- Staffing Considerations - workgroup participants recommended that masters be used as a supplement to judges as workload demands. The staffing ratio is to be developed by the Funding Methodology Subcommittee.
- Training - All newly hired masters and hearing officers should be required to attend a standardized, court orientation/educational program and to take court sponsored continuing education credit hours as a condition of ongoing employment.

- Position Classification- workshop participants recommended that one common classification be established. They suggested that it may be “magistrate”. The classification should be broad enough to incorporate the duties of general masters, child support hearing officers and traffic infraction hearing officers.
- Restrictions and Impediments - participants recommended that the rules of procedure should be harmonized and that courts should do more to educate pro se litigants about the consent and exception provision.
- Service Delivery- workshop participants recommended that the current option for a mixture of full-time equivalent, contractual, and privatized services be continued. However, they noted that there may be a requirement to go to more full-time equivalent positions based on a series of opinions from the Florida Supreme Court Judicial Ethics Advisory Committee.
- Training- the consensus of workshop participants’ was that all new hires should be required to attend a standardized, court orientation/education program upon employment.
- Funding Considerations - Funding restrictions that negatively affect the effective utilization of masters and hearing officers should be removed.
- Service Areas - participants listed the circumstances where masters and hearing officers should be used and identified by division and case type where masters and hearing officers are appropriate.

Recommendations from Funding Methodology Subcommittee on General Masters and Hearing Officers

Ms. Ortman stated that the findings and recommendations of the workshop provided guidance for the development of the funding methodology for the Revision 7 budget for masters and hearing offices. The Funding Methodology Subcommittee reviewed the current allocation of county masters and hearing officers and made the following recommendations:

- 1) All current county-funded master and hearing officer positions should be shifted to the state.
- 2) All current county-funded support staff positions for masters and hearing officers should be shifted to the state.
- 3) An additional general master and support staff position should be requested for each of the eight circuits that are well below the average of one general master for every 3,000 related cases. The circuits receiving positions would include: the 1st Circuit; the 3rd Circuit; the 7th Circuit; the 9th Circuit; the 10th Circuit; the 12th Circuit; the 14th Circuit; and the 19th Circuit.

- 4) While the workload of the 16th Circuit does not justify the addition of a general master position, OPS funds should be available for general master services in the amount of \$40,000, which should provide funding for a half-time general master.
- 5) Additional general master positions for model dependency court pilot programs should not be requested until an evaluation of their effectiveness is completed.
- 6) In the future, funding for additional general masters should be requested at the circuit, not the division level to provide for maximum flexibility. Requests for additional dependency general masters should be a part of a request for general masters in domestic relations, probate, guardianship, and mental health cases.
- 7) Expense funding should be requested at an amount equal to \$6,854 for each support staff position. Additional expense funding for general masters should include \$190 for Bar dues, \$325 for legal research, and \$905 for education, for a total of \$8,274.
- 8) The Funding Methodology Subcommittee supports the examination of the expanded use of general masters.

It was agreed by members of the TCBC that the 5th Circuit be added to recommendation #3 and be slated to receive an additional general master and support staff. There were questions about including the payment of bar dues in recommendation #7. It was agreed by the members to delete bar dues from this recommendation bringing the total for each expense to \$8084. TCBC members questioned members of the Funding Methodology subcommittee about the methodology used to establish the funding formulas. Dee Beranek, Deputy State Courts Administrator, asked if there had been any discussion by the subcommittee members on “best practices” or what is the “ideal” program. Peggy Horvath responded that there was no data to accomplish this. They are only working with filings but understand the need to collect data to truly reflect the workload.

There was further discussion concerning recommendation #3 and using 3,000 cases as the determination of when another general master is needed. Members discussed whether the formula should instead use 4,000 related cases. The TCBC determined that the subcommittee should add positions until the addition of one more general master would bring a circuit below the ratio of one general master for every 3,000 related cases. Judge Francis moved the recommendations as amended. Mr. Peacock seconded the motion. There were no objections and recommendations #1-8 were approved. **(The TCBC voted the next day to hold off final approval of these recommendations until all of the nine essential elements were presented to them.)**

Recommendations from the Subcommittee on Child Support Hearing Officers

The Funding Methodology Subcommittee reviewed the recommendation of the workshop participants regarding child support hearing officers. Federal funding for child support hearing officers requires that the hearing officers hear only IV-D enforcement issues. This often results in the hearing officer being unable to hear related issues, such as custody or visitation hearings. The subcommittee recommended:

- 1) The Revision 7 budget should not include the assumption of federal funds that are reimbursed to the state to fund child support hearing officers. The replacement of federal funds with less restrictive state funding should be considered in future years.
- 2) Contractual funds for child support hearing officers that are funded through independent arrangements between counties and the federal Office of Child Support Enforcement should not be included in the Revision 7 budget request. Requests for state funding should be considered in future years.
- 3) The Funding Methodology Subcommittee should work with the trial court administrators in order to:
 - identify state and county funding streams that are used to provide matching funds for federally funded child support hearing officers;
 - assess whether child support hearing officers should be paid from federal grant funds or state general revenue funds; and
 - identify the appropriate level of additional funding, if any, that would be required to hear child support enforcement proceedings.

A budget proposal for fiscal year 2003-2004 should be prepared.

Mr. Peacock moved these recommendations and Judge Kanarek seconded. The recommendations were approved with the caveat from Judge Schaeffer to continue reviewing prior to Revision 7 funding. **(The TCBC voted the next day to hold off final approval of these recommendations until all of the nine essential elements were presented to them.)**

Recommendations from the Subcommittee on Civil Traffic Infraction Hearing Officers

Ms. Ortman noted that in the Supreme Court's Certification Opinion, the "reasonable caseload" standard was not applied to civil traffic infraction cases and therefore additional study is required to develop the appropriate case weight for this case type. There are 23 counties that currently receive state funding for traffic infraction hearing officers. The current funding formula provides for the state to provide 50% of the funding with the county providing the remaining match. The current level of state

funding is \$695,000. The subcommittee examined the current funding available to the circuits and made the following recommendations:

- 1) As part of the Revision 7 Budget, state funding should be requested to supplant the current county match for civil traffic infraction hearing officers. This would require funding at a level of \$695,000.
- 2) In the future, funding requests for civil traffic infraction hearing officers should be developed using revised case weights as developed by the Court Statistics and Workload Committee and approved by the Supreme Court.
- 3) The Trial Court Budget Commission should identify the level of funding that is available to courts through the civil traffic infractions fees that have been established by municipalities. The level of funding available to circuits is a key factor in the establishment of future funding approaches.

The Trial Court Budget Commission should also consider the appropriate future strategies for these revenue sources, including the maintenance of them at the local level, or statewide consolidation.

- 4) Beyond the assumption of the county matching funds for civil traffic infraction hearing officers, no additional funds for civil traffic infraction hearing officers is recommended at this time. The need for additional funding should be re-examined after new case weights are developed to measure judicial workload for civil traffic infractions, and after an analysis of available revenues is complete.
- 5) The allocation of funds for civil traffic infraction hearing officers should also be re-examined after new case weights are developed to measure judicial workload for civil traffic infractions.
- 6) The state budget should not include funding for hearing officers who adjudicate municipal ordinance violations.

Judge Briggs suggested recommendation #6 be amended to remove the word municipal. The Commission members agreed. Judge Perez expressed concern that both the use of civil traffic hearing officers in county courts and training issues were not addressed. Ms. Goodner stated that the whole issue of a funding source for continuing education needed to be addressed.

A broad general discussion began on the above recommendations. Judge Farina asked if the TCBC was voting today on the principles only or the exact budget recommendations? Judge Moran then stated that his county does not use the civil traffic hearing officers and wondered if this meant he would have to receive positions and be required to start such a program. At this point, the TCBC members began a discussion on the importance of doing additional research and working toward developing “best models.”

Judge Schaeffer replied that today the members were voting on what they perceived any funding formula for the particular essential element should consider as well as funding policy issues. Currently, in developing potential budgets, there is not enough information available to develop best practices. Mr. Peacock moved the recommendations as amended and Judge Francis seconded. The recommendations were approved. **(The TCBC voted the next day to hold off final approval of these recommendations until all of the nine essential elements were presented to them.)**

Language Interpreters

Ms. Ortman asked Judge White to review the findings and recommendations of the Performance and Accountability Committee's Court Interpreter Workgroup. Judge White reported that the workgroup met three times - January 7, February 15 and March 29, 2001. Again the membership was representative of the circuits. The workgroup discussed the role of court interpreters, federal and state law regarding interpretation, the interpreter appointment process and management and performance measurements that could be applied.

The workgroup summarized that there were three main reasons for the appointment of a interpreter:

- to protect the rights of parties;
- to assist in creating an English language record; and
- to facilitate the fair and efficient administration of justice.

Other findings include: There is no general law in Florida controlling when an interpreter must or may be appointed; the obligation to provide court interpreter services is generally limited to court appearances; criminal defendants have a constitutional right to an interpreter as a matter of due process; in general, civil litigants do not have a right to an interpreter at public expense but may have a right to an interpreter if certain conditions are met; federal law may require Florida court to provide court interpretation and translation for all limited English proficiency individuals; in some circumstances, when court interpreter services are provided at public expense, non-indigent parties may be charged; a county may choose to fund court interpreter services even where a court interpreter is not required; and, there is no comprehensive statute in Florida that provides for standards for the qualifications of court interpreters.

A primary recommendation of the workgroup was in measurement and reporting, stating:

The utilization of court interpreter services for purposes of accountability should be measured and reported in reference to two variables; court interpretation events and the total time involved in providing services. These elements should be fully defined and incorporated into the state reporting system.

Interpreting Event: *An occurrence of court appointed interpretation.* An interpreting event

occurs each time a qualified interpreter is directed by a court to provide service to a court participant. An event may be very brief or very lengthy.

Total Time: *The time that an interpreter is required to be present in court.* Court interpreters are often required to be in court, including waiting for proceedings when interpretation services are required. The total time should reflect time spent in such stand-by posture, as well as time spent in actual interpretation.

Recommendations from the Funding Methodology Subcommittee on Court Interpreters

Ms. Ortman stated that the findings and recommendations from the workgroup provided guidance for the development of the funding methodology for the Revision 7 budget for court interpreters. She said the Funding Methodology Subcommittee has proposed a model that provides for the transition of county-funded positions and resources to the state and provides additional funding to ensure that court interpreting services that are “essential” or “reasonably necessary” are available to all circuits. There are several challenges to the development of a court interpreting budget, some of which the committee has yet to resolve. However, the subcommittee does recommend:

- 1) Circuits should prepare to move staff persons and resources dedicated to court interpreter services ordered by the public defender and the state attorney out of their budgets. Better tracking of interpreter services by the entity ordering the service (court, P.D., SA, and court appointed counsel) is needed.
- 2) All current county-funded court interpreter positions should be shifted to the state.

The Funding Methodology Subcommittee reviewed the recommendations of the Court Interpreter Workgroup regarding the statewide measurement and reporting of court interpreting activities. The workgroup recommends that court interpreter services be tracked by *interpreting event* and *total time* and recommends the following:

- 3) In the future, court interpreting services should be budgeted based on historical measures of the *interpreting events* and *time spent interpreting*.

Ms. Ortman stated that while it would be better to base the budget request on these historical measures, such current data is not available. Therefore, the formula which staff are using today to provide a budget request instead attempts to “back into” current usage using a cost per case formula for the types of cases that most often require interpreting services. For circuits that appear to be providing services for the state attorney and public defender, the proposed budget freezes that circuit at the 1999-2000 level, as reflected in the cost inventory. For circuits whose expenditures appear to be higher than other circuits with similar characteristics, the proposed budget was less than the expenditures from the 1999-2000 costs inventory.

- 4) A budget methodology incorporating circuits grouped by circuit characteristics, the estimated current level of usage, and a range of cost per case formulas should be used to budget for court interpreter services until reliable data about *interpreting events* and *time spent interpreting* is available.

Proposed Budget for Court Interpreters

The subcommittee discussed the inclusion of a reserve budget for this element. The experience of states such as Oregon is that interpreter costs increased significantly after the transition from county to state funding.

- 5) An Other Personnel Services (OPS) reserve fund equal to \$300,000, or about five percent of the budget for the circuits, is recommended.
- 6) An expense reserve fund equal to \$300,000, or about five percent of the budget for the circuits, is recommended for interpreter travel.

A broad general discussion ensued on how the TCBC could develop a “model” to determine what “best practices” for court interpreting would look like. Judge Haworth moved the recommendations of the subcommittee and Judge Morris seconded. The recommendations passed. **(The TCBC voted the next day to hold off final approval of these recommendations until all of the nine essential elements were presented to them.)**

Legal Support

State Funded Law Clerks

Teresa Westerfield noted that the majority of funding for law clerks is provided by the state. Currently, there are six law clerks in the state that are funded by the county. In the past, funding for state law clerks have been requested on a ratio of one law clerk for every three circuit judges. The subcommittee discussed whether the six county funded law clerk positions should be included in the Revision 7 budget. The subcommittee recommended:

- 1) Four of the six current county-funded law clerk positions should be shifted to the state in the following circuits: the 13th Circuit (2); the 18th Circuit (1); and the 20th Circuit (1).
- 2) One of the new staff attorney positions authorized during the 2001 Legislative Session should be allocated to supplant one of the current county-funded law clerk positions in the 18th Circuit.
- 3) Circuits such as the 13th and 18th Circuits that acquire law clerk resources through the Revision

7 process that place them above the ratio of one law clerk for every three circuit judges should reduce the number of staff attorney positions in the circuit through attrition. The staff attorney positions would then be available to be reallocated to other circuits in an equitable manner.

- 4) Funding for paid law clerk interns should be included in the following circuits: 2nd, 4th, 6th, 8th, 9th, 11th, 13th, and 17th.
- 5) For fiscal year 2001-2002, expense funds for trial court staff attorneys should be reallocated in a manner that is proportionate with the number of FTE positions.
- 6) As part of the Revision 7 budget, expense funds should be sought to bring staff attorney positions up to a level of \$7,929 per position. This includes the standard expense amount of \$6,854, plus \$190 for Bar dues, \$100 for other books and publications, and \$785 for education.
- 7) The Funding Methodology Subcommittee should review the following:
 - < how many additional law clerks should be requested to address special needs such as capital cases;
 - < what formula should be used in the future as the basis for additional law clerk positions; and
 - < what is the input of the subcommittee regarding guidelines for the establishment of Senior Trial Court Staff Attorneys and “lead worker” positions?

A broad discussion ensued on expense budgets, the 3-1 circuit judges ratio to law clerks, and how to develop a model based on population, filings, number of employees, number of judges, etc. A motion was made by Mr. Bridenback and seconded by Ms. Ortman that recommendation #1 be rejected. Instead, the current ration of 3-1 should be used for state funding. The motion passed. Both Judge Bryant and Judge Perez stated that a funding formula for law clerks should also take into consideration the number of county judges as well as circuit judges. Recommendation #2 and #3 was eliminated by consensus. Judge Pittman moved recommendation #4 be eliminated and Judge Bryant seconded. The motion passed. Judge Schaeffer suggested that recommendations #5, #6 and # 7 be revisited by the committee and brought up again at the next TCBC meeting. The members agreed and these recommendations were deferred.

May 23, 2001 - Day Two

Judge Schaeffer called the meeting to order at 8:38 a.m. and asked the secretary to call the roll. A quorum was present.

Prior to the continuation of the report from the Funding Methodology Subcommittee, Judge Schaeffer noted she had some concerns with the manner in which the TCBC was asked the previous day to sometimes hurry through such in-depth material and approve the subcommittee recommendations. Furthermore, she stated that it appears that many of the essential elements overlap with one another and this makes it difficult to vote on each element separately without having had information on all nine elements. She asked the Commission members if they would feel more comfortable reconsidering the previous day's vote on subcommittee recommendations and consider all such votes as tentative. The recommendations could be revisited once all nine essential elements and their funding formulas were presented to the TCBC. The Commission members agreed.

Carol Orman continued the Funding Methodology Subcommittee report.

Judges and Judicial Assistants

Judges and Judicial Assistants Funding

The subcommittee examined the current county resources for judicial assistants, including positions and OPS funds. These were examined along with the state resources that are available. Statewide, there is an average of \$2,275 worth of supplemental judicial assistant support available to circuit and county judges statewide. This ranges from a low of \$310 per judge in the 12th Circuit to a high of \$14,702 per judge in the 16th Circuit. Fourteen circuits range from \$1,000 to \$5,400 worth of additional support, per judge. The subcommittee made the following recommendations:

- 1) A Revision 7 budget for judges and judicial assistants' support should be forwarded that, when combined with existing state OPS funds, provides for a level of support equal to \$2,275 per judge.
- 2) Current county-funded judicial assistant positions should be included in the Revision 7 budget request only to the extent that they can be accommodated within the \$2,275 per judge level. Expense funding should be provided at a level of \$6,854 per position, if sufficient funding is available within the \$2,275 per judge level.
- 3) The current allocation of state OPS funds for temporary judicial assistants should be reallocated so that, when combined with current county resources for judges and judicial assistants' support, they provide for an equitable distribution of funds.

- 4) There are so many variables regarding county judge service in the circuit court – when they are used in circuit court, and when they are compensated – that it is difficult to develop a revised allocation formula. The allocation of funds for additional compensation for county judges should remain the same in fiscal year 2001-2002 as it was in fiscal year 2000-2001.

Senior Judges

- 5) The additional senior judge days authorized by the 2001 Legislature should be allocated to the circuits in a manner proportionate to the total judicial need in that circuit as calculated for the 2001 certification process.
- 6) Senior judge travel should be pooled at the state level. The guidelines recommended by the Senior Judge Workgroup of the Committee on Trial Court Performance and Accountability regarding senior judge travel should be promulgated. Adherence to these travel policies should be monitored.

A broad general discussion began about the issue of expenses. Judge Farina asked if today would be a final vote on these recommendations. Mr. Bridenback suggested that maybe we should create another element - expenses - and figure out how to capture the information separately from the other areas. Judge Schaeffer recommended that the Commission conceptually approve some of these recommendations and wait until all nine essential elements have been presented before final approval.

However, Ms. Goodner said she would like approval from the TCBC on the allocation of senior judge days. The TCBC reviewed the allocation chart provided. Judge Morris asked if there was any reserve at the state level if a circuit came up short on senior day allocations later in the year. Ms. Goodner replied there was and each circuit could seek using that reserve if necessary. A motion was made by Mr. Bridenback and seconded by Mr. Peacock to approve the senior judge allocations and tentatively approve the remaining recommendations of the subcommittee subject to continued evaluation. The motion passed.

IV. Report on 2001-02 General Appropriations Act

Judge Schaeffer called on Charlotte Jerrett, Chief of Budget Services, to provide an overview of the final appropriations act. Ms. Jerrett reviewed each of the thirty (30) lines of the final conference report for the State Courts System. The courts lost a total of 32 positions this year as part of reduced vacant positions and overall efficiency reductions. Judge Farina asked what the G/A - State Attorneys/P.D.'s -AVTF money was. Ms. Jerrett responded that this was transferred from the Justice Administration Commission budget, and funded in the courts budget, with the Article V Trust Fund. Mr. Carrerou stated that the Article V Trust Fund sunsets next year. Ms. Goodner said the fund collected approximately \$28 million this year.

Ms. Jerrett continued by reviewing summaries of the FTE's cut, the allocation of the Article V

Trust Fund budget authorization, and the distribution for the small counties courthouse facilities. She concluded by providing a copy of the conference report (Senate Bill 2000) and the “back of the book” language, to show TCBC members what OSCA staff must work with, to create budgets for the individual circuits.

V. Pay Plan Funding Implementation

Judge Schaeffer began by providing a brief overview of the Deputy Court Administrator and Chief Deputy Court Administrator issue which was discussed at length at the last TCBC meeting. She explained that during the appropriations conference negotiations Ms. Goodner called her to relate a proposal on the issue. The proposal provided a pay increase for the Deputy Court Administrators statewide, with the 4th circuit pay increase being slightly higher. Judge Schaeffer stated that she gave Ms. Goodner the approval to pursue the proposal on behalf of the TCBC since there would not have been time to contact all members of the TCBC Executive Committee.

Judge Schaeffer then asked Mr. VanBever to review both the Chief Deputy Court Administrator job description and pay ranges as proposed by the Personnel Committee. Judge Schaeffer suggested that the job description for the Chief Deputies include having a law degree as one of the other areas under the education and training section. The commission agreed. The pay range was reviewed without objection. Mr. Peacock made the motion to approve the job description, pay grade and criteria for employment for a Chief Deputy Court Administrator. Judge Kanarek seconded and the motion passed unanimously.

VI. Local Requirements Subcommittee Report

Judge Briggs presented to the TCBC proposed language by the committee which defines a local requirement. He stated that the definition of a local requirement could change or could expand depending on how the legislature ended up defining the essential elements. Given that, the committee’s consensus feeling was that the essential elements and the local requirements should be provided to the legislature as a package. He called on Tom Long, OSCA Chief of General Services, to review the proposed language.

Mr. Long stated the committee met by teleconference on May 11 and made changes to the draft language. In Section 2 (a), the wording “special circumstances” was added to the sentence beginning, “Local requirements exist where there are special circumstances...” In Section (a), the requirement that the Chief Justice “must justify” was changed to “must certify.” In addition, the TCBC decided to delete the reference in the language which provided a deadline date for certifying a local requirement.

The subcommittee recommended that the factors and circumstances that would result in the establishment of a local requirement should include, but not be limited to, geographic factors, demographic factors, labor market factors, the number and location of court facilities, the volume, severity, complexity, or mix of court cases, and prior county funding or a specialized program and/or

resource. Mr. Long additionally explained the subcommittee's recommendation on the process they suggested for determining what qualifies as a local requirement.

Judge Schaeffer stated she had concern regarding the use of prior county funding as a local requirement criteria in the proposed language. She recommended that this criteria be considered a local option and not a local requirement. After discussion, Mike Bridenback made a motion to delete prior county funding as a criteria for defining a local requirement. Judge Morris seconded the motion, which passed.

Judge Pittman made the motion to the TCBC to accept the amended definitions of a local requirement and the further subcommittee recommendations as presented. Judge Kanarek seconded this motion, which passed unanimously.

VII. Revenue Subcommittee Report

Judge Schaeffer recognized Judge Farina to present the report. He related that the subcommittee met via teleconference on May 1 and May 16. After giving a brief overview of the issues discussed in those meetings, he asked John Dew to proceed with a summary of their work. Mr. Dew stated that the subcommittee was not making any recommendations today, only presenting information on the Revision 7 costs and potential sources of revenue. He stated that the subcommittee, during their deliberations, discussed three potential options for funding the expense of the Revision 7 transition. These were:

1. Create a new tax or increase a current tax;
2. Increase court user fees; or
3. Redistribute revenues that are currently available.

The subcommittee determined that there should be no new tax, no additional increase in tax, or an increase in court user fees to fund the trial courts until such time there was a clear examination of the possibility of redistributing the current local and/or state revenues. Mr. Dew stated that the counties recognize that because of the Revision 7 transfer, that they may be subject to some revenue loss from the state. At the same time however, the counties will no longer have the financial responsibility for many of the court expenses they now pay. The legislature will need to determine what revenue streams may be redistributed. In addition, the legislature may need to examine if certain revenue streams that are collected at the local level through the court or clerk, and go to various state programs, should instead be redistributed to support the trial courts.

Mr. Dew presented a series of pie charts which provided information on the total expense of Article V (\$689 million) as derived from the Uniform Chart of Accounts and the estimated expense of the "essential elements" of the court system. This was followed by a series of pie charts showing the revenues collected at the local level. He concluded his presentation by saying the committee would

continue its research to 1) gain a better understanding of the recipients/entities that are receiving the revenues; 2) gain information from the trial courts on specific revenue sources that benefit their operations directly; and, 3) develop policy options. Several members had questions concerning particular revenue sources. A general discussion ensued about these revenues. Judge Schaeffer thanked Mr. Dew and Judge Farina. She reiterated that she wants to see a county by county breakdown of revenues compared to Article V expenses by the next meeting.

VIII. Personnel Subcommittee Report

Mark VanBever introduced Michele Leshko, Personnel Director, 6th Judicial Circuit, and Chair of the Classification Subcommittee, to present the subcommittee’s classification and pay recommendations. Ms. Leshko provided an overview of each of the recommended classes and pay ranges. The recommended classifications and pay ranges were:

	<u>Pay Grade</u>	<u>Pay Range</u>
Trial Court Staff Attorney	50	\$38,551 - \$ 67,464
Judicial Administrative Assistant	15	\$26,046 - \$ 46,882
General Master/Hearing Officer (Magistrate)	35	\$66,187 - \$115,828
Administrative Secretary I	14	\$24,952 - \$ 44,913
Court Interpreter	18	\$29,666 - \$ 51,916
Senior Court Interpreter	20	\$32,392 - \$ 56,686

She noted that the proposed Legal Administrative Assistant class was being withdrawn in light of the Funding Methodology Subcommittee’s recommendation to combine all of the legal secretarial support classes, including temporary judicial assistants. Also, the recommended class title of Floater Judicial Assistant has been amended to Judicial Administrative Assistant, however, the recommendation on this class was withdrawn pending additional review.

Ms. Leshko related that the Personnel Subcommittee was now recommending that the class title “Magistrate” replace that of Master/Hearing Officer. Judge Schaeffer asked the members if they wanted to accept this recommendation by the subcommittee. The consensus of the TCBC members was to accept the name change, with one objection from Judge Morris. His stated objection to this name change was that the term “magistrate” conveys a higher level of adjudicatory responsibility. He did not want to raise the expectation that masters/hearing officers could or should perform at the same level as a judge. With that in mind, Judge Schaeffer asked the Personnel Subcommittee to determine if the “magistrate” title could be used for these positions. She suggested that court rules be reviewed to ensure that it would not be problematic.

The TCBC approved the remaining classification and pay recommendations presented by the Personnel Subcommittee. Judge Farina asked if there was any consideration given by the committee to a statewide position of “lead” Judicial Assistant for chief judges. Ms. Leshko responded there was not.

Judge Moran commented that this might be handled better with bonuses. Judge Schaeffer determined that the consensus of the commission was not to pursue a separate class until further information could be obtained. It was agreed.

Next, Margie Howard, Personnel Director, Office of the State Courts Administrator, presented the subcommittee's recommendations regarding personnel benefits. The first benefit issue was determining the feasibility of having county funded employees retain supplemental insurance plans not offered by the State of Florida through payroll deduction upon transfer. She cited the example of supplemental cancer insurance. The subcommittee found that the Comptroller's office could easily establish a miscellaneous deduction code. However, this would require a minimum of 50 participants for the provider's service and some advance notice. The committee recommended:

Determine the number of supplemental insurance providers authorized for payroll deduction for county funded employees through a request to all circuit human resource offices. Upon receipt and analysis of this information, OSCA's Office of Personnel Services should determine if new deductions can be established in accordance with the Comptroller's guidelines. If so, a written request will be submitted at least three months in advance of the date of transfer.

The second issue was determining how county funded employees can receive a waiver to the pre-existing condition clauses of state group insurance plans. The Division of State Group Insurance (DSGI) is responsible for the determination of benefits and the procurement of insurance plans for the state group insurance program. By policy, the DSGI has the authority to approve waivers of pre-existing condition clauses for legislatively or constitutionally mandated transferred employees.

Therefore, the committee recommended:

Upon receipt of legislative funding, the Office of Personnel Services should determine the names of transferring employees through a request to court administration in each circuit. Subsequently, Personnel Services will submit a written request to DSGI, but no later than three months in advance of the effective date of the transfer.

Lastly, Mr. VanBever reviewed a statement which should be included in the Revision 7 implementing language to the effect that all employees transferring from county employment to state employment will become "at will" employees.

Judge Schaeffer asked the commission members if there were any objections to the recommendations made by the Personnel Subcommittee. Hearing none, she announced that the commission agreed to the recommendations.

IX. 20001- 2002 Legislative Budget Time Lines

Ms. Goodner reviewed the state budget cycle and legislative time frames in conjunction with the TCBC meeting schedule. She observed that there seemed to be three options for the next budget cycle.

- Option #1 Advance a full Revision 7 budget
- Option #2 Advance a portion of the work done thus far
- Option #3 Some combination package

She outlined the calendar of events for these options. A discussion by the members on how to proceed ensued. Ms. Goodner stated she felt that we were really at Option 3. Judge Moran advocated for advancing Option #2 along with recommendations on where the revenue could come from.

Dee Beranek, Deputy State Courts Administrator, pointed out that there were still several very important issues that needed to be addressed before any strategy was developed for Revision 7 funding. These issues included making sure there was a clear understanding as to how we approach state funding for “essential elements” versus local funding for “local requirements”. Furthermore, there needed to be clarity on if we would be moving forward on funding that would “hold harmless” the amount of funding each of the trial courts currently receive or were we going to develop a model which would mean that some trial courts could actually have less funding.

Members were in agreement that there are still large policy issues that need to be examined. Based on the discussions over the last two days it was uncertain as to whether we should even move forward with a budget request for Revision 7 funding this session. It was suggested that staff at least continue to work on gathering all the data and documentation necessary to provide information to the TCBC on potential budget request for funding Revision 7. Judge Schaeffer said that we would be further discussing the strategy for moving forward on Revision 7 implementation at future meetings.

Dee Beranek mentioned that there had been a workgroup of individuals put together to examine the issue of potentially moving the Guardian Ad Litem Program out from under the administration of the court system. She said the group wanted to have permission from the TCBC to move forward and actually discuss with other entities the possibility of housing the program within their agency or creating a separate Commission for the program. The TCBC gave approval to the workgroup to make such contacts and seek information.

Having no further business before the TCBC, Judge Schaeffer adjourned the meeting at 12:15 p.m.