

Minutes
Trial Court Budget Commission (TCBC)
July 30 - 31, 2001
Wyndham Hotel, Tampa, FL

Members Present:

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

Others Present: Office of State Courts Administrator (OSCA) Staff
Judge Melanie May, 17th Judicial Circuit
Judge Daniel Dawson, 9th Judicial Circuit
Judge Mel Grossman, 17th Judicial Circuit
Judge Raymond McNeal, 5th Judicial Circuit
Nick Sudzina, Trial Court Administrator, 10th Judicial Circuit
Jannet Lewis, Technology Officer, 10th Judicial Circuit
Jim Boyd, Inspector General, Supreme Court
Hunter W. Carroll, Supreme Court Law Clerk
Richard Dolan, OPPAGA
PK Jameson, Council Director, House Procedural & Redistricting Council

I. Welcome and Introduction of Guests, Approval of May 22-23, 2001 and June 16, 2001 Meeting Minutes

Judge Schaeffer called the meeting to order at 10:00 a.m. and asked the secretary to call the roll. All members were present. Judge Schaeffer welcomed the guests and requested they introduce themselves.

She reminded the members that the commission had agreed to defer the approval of the May 22-23 TCBC minutes until this meeting, to give everyone sufficient time to review them. Ms. Goodner, OSCA Deputy State Courts Administrator, advised Judge Schaeffer that the June 16, 2001 minutes needed a correction. On Page 4, under “Model Dependency Court Programs Allocation,” the 8th Circuit should read the 18th Circuit. Judge Bryan moved the adoption of the May 22-23 minutes and the June 16 minutes with the correction to Page 4. Ms. Ortman seconded the motion and the minutes for both meetings were approved unanimously.

II. Communications with Legislative and Executive Branch

Judge Schaeffer asked if any of the members would like to report on communication with members of the legislature since the last TCBC meeting. Several members commented on their conversations with legislative members. The consensus of these conversations continued to be that Revision 7 is not a high priority for the legislature this year. To support this view, Judge Schaeffer referenced the comments made by Representative Byrd, Chairman of the Joint Committee on Article V regarding Revision 7, at the Judicial Administration Section meeting at the Circuit Judges Conference.

Ms. Goodner stated that there had also been meetings with the House and Senate staff and the Governor’s office. She reported that the House staff for the Joint Committee on Article V said the committee will not meet this year. Senate staff for this committee did not know if they will meet next year when the chair changes.

III. Report on State Financial Outlook

Judge Schaeffer called on Charlotte Jerrett, OSCA Chief of Budget Services, to present a snapshot of the state’s financial outlook for FY 2002-03. Ms. Jerrett reported that her office communicates regularly with staff from the executive branch on the state’s revenue picture and the requirements for next year’s budget request. The state’s available revenue for FY 2002-03 is estimated at \$21,047 billion, according to the most recent figures from the Revenue Estimating Conference. This amount is \$650 million below the projected revenue estimated in March. The amount necessary to fully fund the recurring statewide budget is \$20,427 billion. This leaves a remaining \$620 million in estimated revenue for additional funding of budget requests statewide. Subtracting the \$210 million for the Estate Tax Repeal and the \$150 million for the Working Capital Fund Balance from this \$620 million, leaves a remaining balance of \$260 million for additional funding requests statewide. Ms. Goodner added that there may be a shortfall in this fiscal year’s budget. Ms. Jerrett advised that the next Revenue Estimating Conference will be held in September.

IV. FY 2002-03 Legislative Budget

Judge Schaeffer reviewed the agenda for the day and the process for the budget hearings. She explained that all of the chief judges received a copy of the proposals approved by the TCBC at the June meeting and were given the opportunity to agree or disagree. If a circuit disagreed with a proposal or had any comment, they were encouraged to send a representative to this meeting. In addition, the proposals were sent to the chairs of the various Supreme Court committees that had an interest in these proposals. Judge Schaeffer noted that there are several representatives from other Supreme Court committees present to speak on an issue. If a circuit has disagreed on a proposal and no outside representative from that circuit is present, the TCBC member from that circuit will be afforded the opportunity to comment. Finally, after the commission has heard all the proposals regarding the budget reductions and requests, and after hearing from all the parties concerned, the commission will begin deliberation.

Budget Reduction Proposals

Judge Schaeffer called on Carol Ortman, Funding Methodology Subcommittee Chair. Ms. Ortman reviewed the subcommittee's deliberation process. The committee met by video teleconference on July 26 and reviewed the input by the chief judges and committee chairs. The OSCA staff provided additional budget and personnel information for the meeting. Ms. Ortman introduced Ms. Jerrett to present the FY 2002-03 budget reduction proposals. Ms. Jerrett provided an overview of the budget reduction recommendations and the summarized responses or requests received from the chief judges of each circuit. (The TCBC voted on these proposals later in the day. See Pages 18 -27).

1. **Statewide Grand Jury** - Recommend shifting \$158,772 for this activity to the Office of the Attorney General or another more appropriate entity. The 8th Circuit offered a comment which was withdrawn by Judge Morris.
2. **Pre-Indictment Witness Fees** - Recommend shifting \$167,987 to a more appropriate entity. The 11th Circuit was undecided and suggested deferring this cut until an appropriate entity could be defined.
3. **Juror Meals and Lodging** - Recommend shifting \$215,825 to a more appropriate entity. The 11th Circuit was undecided and suggested deferring this cut until an appropriate entity could be defined. The 15th Circuit recommended increasing the amount. Judge Perez reported that Palm Beach County averages way above the annual allotment for juror expenses. Ms. Goodner explained that at the beginning of the budget year, OSCA allots this money equitably

among the counties. However, this money has traditionally been adjusted and reallocated to the circuits based on need. To her knowledge, this appropriation has been adequate over the years.

4. **Small County Courthouse Facilities Grant-in-Aid** - Recommend deleting this responsibility from state funding - \$3,450,000 from general revenue and \$2,249,732 from the Article V Trust Fund. The 7th, 8th, and 14th Circuits disagreed. Judges Hammond, Morris, and Pittman commented on behalf of their circuits. The general opinion was that without this money, the smaller counties would not be able to bring their courthouses up to the required standards. Judge Schaeffer stated that this commission had been told to recommend budget cuts. She recognizes the difficulty of this task, but it must be done. Judge Bryant and Judge Pittman commented that the general revenue appropriation was relatively small and does substantial good.
5. **Indigence Examination** - Recommend conducting a one-year review to determine whether this activity should be eliminated, reallocated to other activities, or shifted to a more appropriate entity. The total appropriation is \$979,313 and 24 FTEs. The 7th Circuit agreed with a comment. The 8th, 14th and 16th Circuits disagreed. The 8th and 14th wanted it eliminated or moved to another entity this year. The 16th felt the program should remain under the trial court administrator. Judge Morris remarked that his circuit found this program to be expensive and not productive. Many members agreed.
6. **Juvenile Alternative Sanctions Coordinators** - Recommend conducting a review with the intent of re-engineering the activity to broaden the scope of services that can be provided. The total appropriation is \$1,098,984 and 20 FTEs. The 10th Circuit commented that the circuits should be given the flexibility to utilize this position to best serve each circuit's needs.
7. **Attorney Ad Litem** - Recommend waiting on the final report due October 1, 2003, which will provide an evaluation and recommendation on the three year pilot program in the 9th Circuit. The total appropriation is \$1,860,583 and 11 FTEs. The 8th Circuit disagreed.
8. **Guardian Ad Litem (GAL)** - Recommend creating a new judicial branch program of GAL outside the trial courts program. Recommend shifting the funds from the trial courts to the new program. The program would be governed by an independent commission reporting to the Supreme Court. The total appropriation is \$7,781,464 (\$7,188,458 general revenue and 165 FTEs plus \$593,006 Family Court Trust Fund and 16 FTEs). The 6th Circuit agreed but recommended the consideration of local supervision such as the Public Defender's office. The 8th Circuit disagreed and 14th Circuit was undecided. The 8th Circuit recommended that an independent program should report through the TCBC to the Supreme Court. A short discussion ensued about the GAL program being under the umbrella of the courts and the possibility of relocating it to another entity.

9. **Voices for Children** - This program is located in the 11th Circuit. Recommend shifting \$692,656 to the same entity recommended for the GAL program. The 7th Circuit disagreed, noting that this program should not be treated any differently than other similar organizations. They should seek their own funding and not be funded by the state.
10. **Child Advocacy Center** - This program is located in the 13th Circuit. Recommend shifting \$200,000 to a more appropriate entity. The 13th Circuit disagreed without comment.
11. **Foster Care Citizen Review Panels** - Located in the 4th, 5th, 11th, and 15th Circuits. Recommend eliminating the volunteer foster care citizen review panels, and reassigning the panels' responsibilities to general masters in FY 2002-03. A total appropriation of \$1,125,296. The 7th Circuit disagree noting it should be removed from the Supreme Court's budget and operate independently. The 11th Circuit also disagreed writing that they did not have the resources to absorb the additional duties by a general master.
12. **Guardianship Monitoring** - Located in the 17th Circuit. It has an appropriation of \$81,869 with 2 FTEs. Recommend shifting the activity to the local level. The 17th Circuit agreed, but remarked that this program would be of great value statewide. Ms. Ortman commented that the program could be a statewide program under court administration for purposes of case management. The 7th Circuit commented that possibly it could be made a function of the Statewide Public Guardian. The 8th Circuit disagreed saying screening, review and reporting should be the responsibility of the Department of Children and Families.
13. **Truancy Alternative** - Recommend shifting \$200,000 to the Department of Education or other more appropriate entity. The 15th Circuit agreed but also suggested amending Chapter 938.19, F. S., relating to teen courts to allow for the fee imposed by counties to be used for other juvenile services or programs.
14. **Drug Treatment** - Located in the 6th (\$400,000 appropriation) and 18th (\$360,000 appropriation) Circuits. Recommend shifting the drug treatment funds from the judicial branch to other appropriate entities. All circuits agreed.
15. **Administration of Grants Awarded to Individual Circuits** - Funding is provided by a variety of grantors for specified programs and are frequently administered through the state courts budget. Currently, OSCA administers 15 grants. Recommend shifting the grant administration to the respective county government if the functions do not have a statewide impact and are not associated with the "essential elements" of the trial courts. The 2nd Circuit agreed but commented that the county may charge back for this service. The 8th Circuit disagreed, stating it should be a court function. The 16th Circuit suggested extending the shifting of grants to the counties to September 30, 2002.

Legislative Budget Requests (LBR)

Judge Schaeffer summarized again the process the TCBC and Funding Methodology Subcommittee had taken to arrive at the recommendations for the budget request. Again, all the chief judges and policy committee chairs were sent these proposals and given the opportunity to respond. She outlined the three voting options for the members: 1) accept the recommended proposal; 2) agree with a request and suggest an amendment to the recommended proposal; or, 3) after analyzing the rationale of a circuit’s request, choose to apply it uniformly to all the circuits and amend the proposal accordingly. She introduced Peggy Horvath, OSCA Chief of Strategic Planning, to review the legislative budget requests for FY 2002-03.

1. Court Administration

The recommended approach is to make sure every trial court has a minimum administrative infrastructure in place for the transition to state funding. This requires some positions in four critical areas:

- | | | | |
|---|------------------------|---|-------------|
| T | planning and budgeting | T | personnel |
| T | finance and accounting | T | procurement |

At a minimum, small circuits should have three positions and medium circuits should have at least four positions. The recommendation is to request thirteen court administration positions as follows:

3rd Circuit	add 3 positions	14th Circuit	add 2 positions
5th Circuit	add 3 positions	16th Circuit	add 2 positions
10th Circuit	add 1 position	19th Circuit	add 2 positions

Additional expense funding should be requested to provide for court administrative staff training and coordination as follows:

&	Planning & Budgeting	\$10,000	&	Personnel	\$10,000
&	Finance & Accounting	\$10,000	&	Procurement	\$10,000

The 9th Circuit disagreed requesting one FTE for a Grants Administrator. Judge Perry withdrew the request. The 15th Circuit disagreed requesting one FTE for personnel. Judge Perez

explained that her circuit did not have a personnel position in court administration. She noted that no large circuit received a position and stated that each circuit should have at least one personnel position. A question was asked as to how many total positions the 15th had in the four critical categories. Ms. Horvath answered seven. Other large circuits which do not have designated positions one of the four critical areas are the 4th, 6th and 17th Circuits. Mark VanBever, Chair of the Personnel Subcommittee, commented that in an effort to bring the “have-nots” up to the level of the “haves” this year, there are needs in some circuits going unmet.

2. Case Management

The proposal is for one case management position in the small, medium and large circuit categories, where the current number of positions falls below the average for that grouping. The recommended positions are for the following circuits:

- 1st Circuit
- 2nd Circuit
- 3rd Circuit
- 4th Circuit
- 5th Circuit
- 6th Circuit
- 12th Circuit
- 14th Circuit
- 15th Circuit

The 7th Circuit agreed with a comment. The 6th Circuit agreed but requested a drug court coordinator in addition to the recommended case manager position. Drug court coordinator positions have been funded for all circuits except the 3rd and 6th. The Drug Court Steering Committee requested two drug court coordinators for the 3rd and 6th Circuits. The 3rd Circuit did not request an additional position but would like to have a drug court coordinator as well as the case management position. If this is not possible, the 3rd would use the case management position as a drug court coordinator. Ms. Horvath explained that the position description for a case management position is written broadly to allow the judiciary flexibility with staffing needs.

The 9th and 15th Circuits disagreed. The 9th Circuit requested two Program Specialists positions for pro se Family Court management. The 15th Circuit requested three additional case managers and that other criteria be used when determining the appropriate resource needs and allocation of case managers, not just the “average” number of positions.

Ms. Horvath reported that the 9th Circuit has 41 case management positions according to an analysis by the Funding Methodology Subcommittee. The average for the large circuit grouping is 35 and the median is 34. Other circuits who are still below the average after the addition of one case management position are:

Small Circuits

Medium Circuits

Large Circuits

3rd - 1 position

1st - 2 positions

4th - 18 positions

5th - 2 positions

6th - 11 positions

12th - 3 positions

15th - 11 positions

Judge Schaeffer explained the 6th Circuit's request for an additional position for a drug court coordinator. She said that two years ago all drug courts in existence received funding for a drug court coordinator. Between then and now, Pinellas County initiated a drug court. The drug court coordinator in Pinellas is funded by a grant. This proposal allots the 6th one case management position, and the 6th does not want to use a case management position for a drug court coordinator. She notes that the 6th is eleven positions under the average for case managers. The 6th would like to be funded at a rate equal to the other circuits who have drug courts with a state paid drug court coordinator.

Judge Bryant agreed with Judge Schaeffer and asked about the 41 case management positions in the 9th Circuit. Judge Perry said he discussed this issue with his court administrator and was provided with an explanation as to why the number for case managers was so high. He described several persons specified as case managers; however, they do not perform true case management functions. Therefore, he concluded that the 9th really does not have 41 case management positions.

A discussion ensued among the members on the definition of case management and how the various circuits assign these employees. Judge Hammond said in his circuit these positions are in the clerk's office. Ms. Goodner explained that the cost inventory did distinguish between positions in the clerk's office and those in the courts.

A number of comments were made regarding the discrepancy between duties performed by the clerks and duties performed by the administrative office of the courts. Judge Perry remarked that there are 67 counties that handle case management 67 different ways. Mr. Bridenback said that the definition is broad to provide flexibility. Judge Schaeffer stated that for now case management positions are all being counted the same.

Judge Perez explained her circuit's request for 3 additional positions. These positions would bring her circuit up to the average for the circuits in the large circuit grouping. She stated that consideration should be given to the number of case management programs a circuit has when determining the resource needs and allocation. Other criteria should be considered beyond the "average" number of positions. She explained that the programs and demographics of Palm Beach County required additional and much needed staff. The Family Court and Dependency Court are two areas where these positions could be utilized.

3. **General Masters**

One general master position is recommended for each circuit where the current ratio of cases to masters and hearing officers for the combined divisions of family (excluding domestic violence and repeat violence), probate (including guardianship and mental health), and dependency exceeds one

master per 3,000 cases. Based on this recommendation, one general master is proposed for the 1st, 3rd, 5th, 7th, 9th, 10th, 12th, 14th, and 19th Circuits.

The 6th Circuit agreed with a comment suggesting, when developing staffing formulas for positions such as the general masters, consideration should be given to multi-county circuits. The 6th, 4th, and 9th Circuits have similar situations. Judge Moran remarked that Duval County uses one of their general masters in Nassau County. Judge Schaeffer commented that Pinellas County had a recent internal audit and the court was told, if they supplied a general master to Pasco County, they needed to charge Pasco County. The 9th Circuit disagreed with the recommended proposal. They requested an additional general master for a total of two. This would bring the resulting ratio for the 9th circuit closer to the recommended 1 to 3,000 ratio.

The Funding Methodology Subcommittee originally proposed two alternatives to the TCBC regarding this budget category: 1) provide general masters to the circuits which need to be brought up to the 1 to 3,000 ratio or, 2) limit the addition to one general master. After some discussion, the TCBC had agreed with the proposal of adding one general master. Other circuits who also have a substantially higher ratio than 1 to 3,000 after the addition of one general master position are the 1st, 3rd, 5th, 10th and 14th Circuits. Judge Perry withdrew the 9th circuit's request.

Judge Schaeffer suggested that the TCBC needed to have a global discussion on the use of general masters by the judiciary when a vote is taken on this budget issue later in the day. She advised that a unified approach on this issue is needed by the judiciary.

4. **Legal**

The recommendation provides for 26 additional trial court staff attorney positions. The request includes three components: certification, capital case staff attorneys, and county court staff attorneys.

It is estimated that 15 circuit court judges may be justified in the next judicial certification opinion. Using the current, accepted formula of one law clerk for every three circuit judges, five additional law clerks would be included in judicial certification, a separate budget issue.

The best data available concerning capital cases is the number of cases filed in the circuit. This data has some relationship to the initial workload generated but does not reflect subsequent workload. The number of filings are subject to wide variations from year to year. Given the available data, the best approach is to look at capital case filings over multiple years. There are twelve circuits that have had an average of 20 or more capital case filings over the last eight years. Eight circuits have averaged twelve or fewer cases. The proposal calls for a total of 12 trial court attorney positions for each circuit that has averaged more than 20 capital case filings per year: 1st, 4th, 5th, 6th, 7th, 9th, 10th, 11th, 13th, 15th, 17th, and 18th Circuits.

The ratio of one law clerk for every three *circuit* judges has been fully funded. Budget requests have been submitted seeking a ratio of one law clerk for every three *trial* court judges using the multi-year approach. This approach has been difficult to justify. At the May 22-23 TCBC meeting, the Funding Methodology Subcommittee was asked to develop a proposal for funding trial court staff attorneys for county court.

The subcommittee's approach was to group circuits by size, and develop allocation formulas as follows:

Small Circuits

Recommend: One law clerk shared by all county court judges.

Result: One additional trial court staff attorney position for the 2nd, 3rd, 8th, 14th, 16th, and 19th Circuits.

Medium Circuits

Recommend: Two law clerks shared by all county court judges.

Result: Two additional trial court staff attorney positions for the 1st, 5th, 7th, 10th, 12th, 18th, and 20th Circuits.

Large Circuits

Recommend: Three law clerks shared by all county judges.

Result: Three additional trial court staff attorney positions for the 4th, 6th, 9th, 11th, 13th, 15th, and 17th Circuits.

To fully fund the county courts staff attorney needs, the total number of trial court staff attorney positions needed would be 41. This is a large number of positions to request in one year. Therefore, it is suggested that the request be phased in over five years and be reflected in the Long Range Program Plan. The recommendation is to request 26 additional trial court staff attorney positions this year. It is also recommended that \$149,150 in expense funding be requested to support an education program for the new trial court staff attorneys.

Judge Schaeffer stated that the 1-3 ratio has been a generally accepted ratio for some time. She brought up the large number of pending 3,850, post conviction filings, that were backlogged in her circuit. These filings are in addition to the daily work of the court. Without some help, the disposition of these filings will be significantly delayed. The increasing number of criminal appeals escalates the need for law clerks. She suggested the commission consider requesting a 1-1 ratio, at least in the criminal division. She proposed that a more refined staffing formula be developed for law clerks. In her experience, there is a demonstrated need for a 1-1 ratio in the criminal division. She also advocated that more law clerks should be allocated to support capital cases. Judge Perry commented

that his circuit had the same problem with a backlog of post conviction filings. Judge Farina mentioned this is going to get worse with the new time frames set for criminal and capital cases. Judge Schaeffer remarked that the District Court of Appeals judges have two law clerks each. Also, the Supreme Court has more than three law clerks for each justice.

5. **Technology**

% **Evaluating All Court Data Systems Requirements Statewide**

For the past several years, the Supreme Court has recognized the need to develop standards within automated court systems and has made this issue a priority. To address the needs of the judiciary, an assessment of the current status of the technology available to all courts is needed, followed by recommendations and a plan for addressing the statewide standardization of court system data. It is recommended that \$600,000 be requested to acquire a consultant to perform a needs assessment of the courts' data systems requirements.

% **Enhancing the State Courts Network**

Currently, the Supreme Court uses the Department of Education's FIRN Network as their Internet provider at no charge. It is anticipated that the court will be required to pay a fee in the near future. Recommend \$75,000 be requested for a one time Asynchronous Transfer Mode (ATM) line installation and the ongoing annual line costs.

The State Technology Office has notified all users that the line cost for the Committed Information Rate (CIR) on the Frame Relay will increase by 25% and a rate increase is being implemented. Recommend \$250,000 be requested to continue service through the Department of Management Services.

% **Financial & Procurement System Software**

In preparation for the implementation of Article V/Revision 7, OSCA along with the trial courts, has investigated various automated management systems which can coordinate the administrative process within the 20 judicial circuits, as well as increase the productivity and efficiency of these processes. Implementation of Revision 7 will also increase the administrative tasks within OSCA. Recommend \$978,145 be requested to acquire the software, including interface consulting services, the hardware required to house the dedicated system and positions for technical and financial expertise.

All the circuits agreed with the 10th and 11th Circuits making an additional request. The 10th Circuit requested two Senior User Support Analysts and the 11th Circuit asked for three User Support Analysts. The 11th Circuit withdrew its request.

In 1998, the Court Technology Commission contracted for a technology review of the appellate courts, which included a study of technology support requirements. That study endorsed the general industry standards for technology user support and recommended that each court should have one full-time systems administrator for every 35 - 40 users. An analysis has not been performed for the trial courts to determine the support ratio to court staff. However, a review of the total state and county funded technology positions for the circuits (which includes user support positions plus other technology positions) in relation to the total state and county funded positions provides the following results:

The 11th Circuit has 29.98 technology positions in support of 646.72 state and county funded employees. To meet the 1 - 35 support ratio would require 18.48 new positions. The 10th Circuit has two technology positions in support of 145.5 state and county funded positions. To meet the 1 - 35 ratio would require 4.16 new positions. Other circuits who would require additional positions to meet the requirement are: 1st circuit - 2.34 positions; 2nd circuit - 2.11 positions; 3rd circuit - .59 positions; 4th circuit - 2.12 positions; 8th circuit -1.06 positions; 12th circuit - 1.60 positions; 14th circuit - .94 positions; 15th circuit - 3.05 positions; 18th circuit - .61 positions; 19th circuit -1.31 positions.

6. **Judicial Processing of Cases**

There was no TCBC recommendation for additional resources to support the judicial processing of cases. The 9th circuit requested two senior secretaries and one court program specialist. Judge Perry withdrew the 9th's request.

7. **Court Reporters**

There was no TCBC recommendation for this Revision 7 essential element. The 11th Circuit requested funding to purchase digital court reporting equipment. Judge Farina withdrew the 11th's request in lieu of the plans by the Committee on Trial Court Performance and Accountability to hold a workshop to determine the best practices for the effective and efficient delivery of court reporting services. The Funding Methodology Subcommittee will use this committee's recommendations to develop funding options for the circuits.

8. **Article V Trust Fund**

Ms. Goodner reported that several circuits requested the TCBC to discuss the funding cuts resulting from the Governor's veto of several Article V Trust Fund line items and to consider strategies for the future use of the money which now flows into this fund - approximately \$28 million a year. She reminded the members that the Article V Trust Fund sunsets on June 30, 2002. The TCBC has been asked to consider the impact of the fund being sunset and the strategy the trial courts should take relative to this funding source. Ms. Goodner outlined three possible strategies:

- 1) Propose continuing the Article V Trust Fund as is until 2004 when Revision 7 will take effect.

- 2) Propose that the money available to the trust fund be used to fund certain items in the trial court budget request for FY 2002-03.
- 3) Propose new language for the Article V Trust Fund that would specify funding for certain purposes.

Ms. Goodner emphasized that something must be done with the trust fund this year. Judge Farina commented on the veto by the Governor saying that Dade County was hit with a \$5.5 million deficit, a significant impact. It came out of court operations, court costs, etc. Mr. Bridenback commented that the only thing left after the veto was funding for the state attorneys, small county courthouses and the public defenders. He agreed with Judge Farina that the courts should not rely on this money. Judge Perry suggested using the money for non-recurring expenditures. Ms. Horvath suggested it could be used to fund the study for electronic court reporting. Mr. Bridenback commented that the vetoed money cannot be spent on anything else and is still available. What was vetoed this year will be available next fiscal year. It should be approximately \$48 million. Judge Schaeffer agreed with Judge Perry that the money should be put into non-recurring expenses which do not affect the operation of the courts.

Ms. Goodner reported on one final comment regarding future budget year priorities. The 13th Circuit recommended that in future years, consideration should be given to advancing the budget and resource needs for large urban circuits so that they might continue to initiate innovative, cost effective and efficient services.

V. FY 2002-03 Legislative Budget Request Hearings

Judge Schaeffer welcomed all those who came to present their request before the TCBC. She remarked this is the first effort by the TCBC to prepare a legislative budget request for the trial courts and stressed the importance of input by the circuits and court committees concerning these issues.

Treatment-based Drug Court Steering Committee

Judge Schaeffer called on Judge Melanie May, 17th Judicial Circuit, and Chair of the Treatment-based Drug Court Steering Committee. Judge May commented that drug courts originated in Florida and have been in existence for twelve years. She noted that 19 of the 20 circuits have at least one operational drug court program, with the 3rd Circuit still in the planning stages. Currently, there are 59 operational drug courts in thirty-three counties throughout the state: 33 Adult, 17 Juvenile, 8 Dependency and 1 Re-entry. Thirteen drug courts are in the planning stages in twelve counties. These programs have served over 11,000 clients in the past year and have the potential to serve many more offenders. She requested the TCBC to consider the request for a drug court coordinator position in the 3rd and 6th Circuits. At the time of the Legislative Budget Request, the 3rd Circuit and 6th Circuit did not have operational drug courts which precluded them from receiving a position. A new law passed this year which requires all circuits to have a drug court program. She stated that these positions are crucial to implementing and expanding a drug court program and clearly puts these two circuits at a disadvantage. She requested, in addition to the case management positions, that a drug court coordinator position should be considered for both the 3rd and 6th Circuit.

Mark VanBever made the motion to recommend the addition of one drug court coordinator for the 3rd and 6th Circuits. Judge Bryant seconded the motion. The motion passed unanimously. Judge May thanked the commission.

Children's Court Improvement Committee (CCIC)

Judge Schaeffer introduced Judge Daniel Dawson, 9th Judicial Circuit and Chair of the Children's Court Improvement Committee. Judge Dawson explained that this committee was created by the Supreme Court and funded by a Federal Court Improvement Initiative grant. Originally called the Dependency Court Improvement Committee, it was charged to assess and improve the handling of dependency proceedings. The Supreme Court has recently expanded the charge to include delinquency issues. Dependency issues continue to be funded by the federal grant and some funding for delinquency issues has been provided by the legislature. Judge Dawson reported that the CCIC has been examining many of the same issues as the TCBC.

The CCIC has been developing a transition proposal for relocation of the Guardian Ad Litem Program. The issue of the appropriate placement for this program is being addressed. The committee has determined that the optimum choice for relocation is the establishment of an independently functioning commission under the judicial branch. Another suggestion for the relocation of the program has been the Justice Administration Commission.

The use of general masters is currently under review by a number of committees, including the CCIC. The committee has taken a position that all juvenile hearings should be conducted by judges; however, if special masters were to be utilized to assist judges, they would be used as an additional resource/supplement and not as a substitute to the judge. The Model Dependency Court pilot project located in five circuits is providing the information to inform a discussion on the appropriate use of masters in dependency proceedings. Judge Dawson said, that until there is an opportunity to study the results of this project, a fully informed decision on the use of masters cannot be made.

Judge Dawson reported that even though 10 counties that have elected to implement a volunteer review procedure for children in "out of home" care, (Foster Care Citizen Review Panel) the funding only supports five of these counties. The TCBC proposes to shift these dollars to create general masters to perform the review process. This issue is directly linked to the issue of use of general masters because these volunteer panels conduct reviews on the status of a child. The use of general masters in dependency proceedings is currently under review. The CCIC is working jointly with the Supreme Court's Family Courts Steering Committee to develop uniform proposals for the proper use of general masters in all types of family court proceedings, including dependency and delinquency.

Judge Schaeffer asked Judge Dawson if he would clarify the committee's position on the use of general masters for additional court reviews. Also, given the TCBC's budget request regarding general

masters, was the funding proposal acceptable? Judge Dawson replied that his committee does not support the use of general masters for statutorily required reviews. In general, the committee's sentiment is that general masters are to be used to assist and enhance the work of the court. They should augment the duties and responsibilities of a judge. The committee is not opposed to the use of masters or to having more. However, his committee recommends that some protection be in place so that a general master cannot be used in place of a judge. Judge Schaeffer commented that she wanted to be clear on this issue since the TCBC will make recommendations to the Supreme Court and these recommendations must be defended. She does not want to be in conflict with another committee position.

Judge Farina requested further clarification on the committee's position regarding Foster Care Citizen Review Panels. Judge Dawson replied that a study of the four circuits with these panels was being conducted in conjunction with the general masters pilot project study. Judge Farina wondered how other circuits who do not have general masters or foster care citizen review panels handle these cases.

Judge Briggs asked what Judge Dawson's committee felt a general master should do in a juvenile case. Judge Dawson suggested they might, 1) handle additional reviews which were not statutorily required, 2) handle a case where all parties involved agreed to the use of a general master, or 3) become involved with cases that required additional scrutiny.

Judge Perez remarked that Palm Beach County replaced their Foster Care Review Panel with general masters and state funding was lost. It is now funded by the county; however, the county is now arguing that the state should be funding the masters. This is not a statewide issue. Judge Dawson replied that each county should be looked at individually.

Ms. Orman asked about the use of general masters in reviews requiring permanency such as juvenile placement. Judge Dawson replied that the committee recommends that general masters should be used to assist a judge. He related that the CCIC has drafted an amendment to the Rules of Procedure regarding the use of general masters in dependency proceedings. The rule will go to the Supreme Court in January 2002.

Judge May interjected that we all agree that if we had sufficient judges to handle the work that we would not need general masters. She commented that requesting general masters without defining their responsibilities is problematic. Judge Schaeffer stated that the TCBC is a budget committee not a policy committee. There are circuits using general masters. This commission is making every effort to balance the resources associated with the essential elements of the trial courts among the circuits. The Supreme Court will establish the policy. Judge Dawson concluded that his committee has concerns with the use of general masters in dependency reviews and does not advocate for the use of general masters in these proceedings.

Family Court Steering Committee

Judge Schaeffer called on Judge Raymond McNeal, 5th Judicial Circuit and Chair of the Family Court Steering Committee. Judge McNeal stated that the committee's biggest concern is the use of general masters. It is clear that the duties assigned to general masters vary greatly from circuit to circuit. The committee is concerned that requesting additional general masters without a clear definition of how they will be used may be ill advised. Until this is resolved, the judges will continue to define how a master is used and will establish the procedures. Baker Act hearings are an example. These hearings require an immediate decision and they involve the liberty of a person. The committee recommends proceeding cautiously on the use of general masters.

The fundamental rights of due process must be protected, and general masters should support and expedite this judicial function. There is a distinction between supporting the judicial function and shifting judicial responsibility to other court personnel. The judicial branch should be clear on this important distinction before requesting additional general masters. As an alternative, the committee recommends requesting additional general masters for specific responsibilities with clear directions on how they will be used by the circuits.

Judge Morris asked if Judge McNeal's committee disagreed with the Trial Court Performance and Accountability Committee Masters and Hearing Officers Report which defined the function of general masters. Judge McNeal agreed with the report that masters should not be used in cases where liberty is involved; however, he stated he disagreed with the interpretation of the report. Judge Schaeffer commented that there are circuits right now who are using masters to assist with workload. Until a new rule by the Supreme Court becomes effective, the TCBC will continue to strive toward equalizing the circuits. Judge Schaeffer asked Judge McNeal for further clarification on this issue, since the TCBC has received a report from the Performance and Accountability Committee that appears to be inconsistent with the Family Court Steering Committee's view. Judge McNeal provided some examples of where masters should not be used, such as dependency cases and uncontested divorces. He clarified that the committee felt that allowing masters to do uncontested divorces was not an efficient use of resources because of the delay between the hearing and the entry of a final judgment.

Judge Briggs commented that the use of masters for specified proceedings was a national trend. The judiciary needs to be on the same page with this issue. Judge Morris remarked that we do not appear to be on the same page. He stated, we have the Performance and Accountability workshop report, and now it appears the Family Court Steering Committee disagrees.

Technology Request - 10th Circuit (Two FTEs)

Nick Sudzina, Trial Court Administrator, 10th Judicial Circuit spoke regarding his circuit's request for additional technology personnel. Mr. Sudzina stated if the TCBC's criteria is to equalize the "have-nots" with the "haves," the 10th circuit is surely deserving in the area of technology. The 10th was among the last circuits given a position for a technology officer, which they have just recently hired. The 10th is requesting two support personnel in the amount of \$99,000. He asked the commission to

help the 10th keep up with the minimum standards set by the Court Technology Commission. He introduced his technology officer, Jannet Lewis, for some comments.

Ms. Lewis provided an overview of her efforts to play catch up in such areas as electronic court reporting, managing and updating the network software, PC replacement, and developing database systems. She explained the difficulty of managing information and communication between the several branch courthouses as well as performing PC installations and user technical support. She emphasized that the requested positions are needed to perform such work as installing and supporting networked PC systems and software, supporting peripheral devices, and performing backup and archiving operations on the server. Without assistance, the 10th circuit will continue to lag behind the other circuits.

Commission on Fairness

Judge Mel Grossman, 17th Judicial Circuit and a member of the Commission on Fairness, spoke on behalf of the commission regarding guardianship monitoring. Judge Grossman co-chairs the commission's project to develop performance measures for the guardianship monitoring program. He began by asking the TCBC to distinguish between state paid monitors and the circuits where a county may provide a monitor. These two are not mutually exclusive.

He announced that sometime in the Fall, a report would be issued designating guardianship monitoring as an important function of the courts and recommending each circuit have at least one monitor, or access to a monitor. He referred to a 1979 Maryland case and the statutory requirements in Florida. Automation can help but people will always be necessary. He stressed the real test on this issue is what is the core function of the judiciary as it relates to case law. He stated that neither the Department of Children and Families nor the statewide public guardian has authority. It comes back to the judiciary and what their obligations are.

He suggested an alternative approach to the TCBC. He suggested, if the commission did not recommend funding for guardianship monitors, they establish several pilot projects. He suggested the smaller counties in the 4th, 5th and 6th Circuits and the larger counties in the 4th, 6th, 9th, 13th, 15th, and 17th Circuits.

VI. Deliberations on FY 2002-03 Budget Reduction Proposals

Judge Schaeffer reviewed the options available for voting on the Funding Methodology Subcommittee's proposed budget shifts/cuts and realignment of resources.

1. **Jury Operations and Expenses - Statewide Grand Jury** - Shift \$158,772 to the Office of the Attorney General or other more appropriate entity. (See Page 3)

Vote: Mr. VanBever moved the approval of the recommendation. Ms. Ortman seconded the motion. The motion was approved unanimously.

2. **Pre-indictment Witness Fees** - Shift \$167,987 to another more appropriate entity. (See Page 3)

Vote: Mr. Peacock moved the approval of recommendation. Mr. VanBever seconded the motion. The motion was approved unanimously.

3. **Juror Meals and Lodging** - Shift \$215,825 to other more appropriate entity. (See Page 3)

Vote: Mr. Peacock moved the approval of the recommendation. Mr. VanBever seconded the motion. The motion was approved unanimously.

4. **Small County Courthouse Facilities Grand-in-Aid** - Delete this responsibility from state funding in FY 2002-03 in light of Article V, Florida Constitution, and Chapter 29, Florida Statutes. (See Page 4)

Ms. Ortman moved to approve the recommendation. Judge Francis seconded the motion.

Judge Pittman commented that this money has helped the small counties in her circuit. Ms. Goodner remarked that this proposed cut draws attention to the larger question of what is the appropriate use of the Article V Trust Fund monies. This money does benefit the smaller counties, stated Judge Schaeffer, but given Article V and Ch. 29, this is an appropriate place to cut.

Judge McDonald said he had a small county in his circuit and the courthouse desperately needed renovation. He asked how many counties received this money and how they received it. Judge Bryant stated that the county had to go to the legislature for the money. Mr. VanBever remarked that this proposal is an offer to cut which may be considered. Judges Morris and Kanarek both stated they had small counties in their circuits also. Judge Kanarek said absent this money, his county would continue to use a courthouse that was built in 1914. Judge Haworth agreed that it is the county's responsibility to maintain the courthouse. Judge McDonald responded that many of these counties were already at the 10 mill cap and just could not afford to renovate their courthouses. Judge Moran mentioned this issue is political but it is appropriate that the TCBC offer this as a cut. The legislature must make the final decision. Judge Schaeffer concluded that in view of Article V and the counties responsibility for funding facilities under Chapter 29.008 F. S., this is not something the state should pay for.

Vote: The motion to approve the recommendation was moved again by Ms. Ortman and seconded by Judge Francis. The vote was 15 in favor and 6 against. The motion passed. (See Pages 27-28 for further discussion and vote)

5. **Indigence Examination** - Conduct a one-year review to determine whether this activity should be eliminated, reallocated to other activities, or relocated to a more appropriate entity in FY 2003-04. (See Page 4)

Vote: Mr. Bridenback moved to cut indigency examiners in FY 2002-03. Judge Francis seconded the motion. Judge Schaeffer restated the motion as a motion to reject the recommendation and to cut this year. The vote was 11 in favor and 10 against. The motion passed.

6. **Juvenile Alternative Sanctions Coordinators** - Conduct a review with the intent of re-engineering this activity to broaden the scope of services which can be provided. (See Page 4)

Vote: Mr. Peacock made the motion to approve the recommendation. Judge Kanarek seconded the motion. The motion was approved unanimously. Judge Schaeffer said requested the Children's Court Improvement Committee to work with the commission on this issue.

7. **Attorney Ad Litem** - Review a final report on October 1, 2003 evaluating the pilot activity and making recommendations. (See Page 4)

Vote: Judge Briggs made the motion to accept the recommendation. Judge Moran seconded the motion. The motion was approved unanimously.

8. **Guardian Ad Litem** - Create a new judicial branch program of Guardian ad Litem outside the trial courts program and shift the funds to the new program. This program would be governed by an independent commission reporting to the Supreme Court. (See Page 4)

Judge Briggs made the motion to approve the recommendation. Judge Hammond seconded the motion.

Judge Schaeffer stated that she disagreed with the motion. She said this program should be out from under the court. It is a conflict of interest. Even if it is placed under an independent commission, it is still under the umbrella of the courts. In addition, it will always be funded, mainly because the program has such enthusiastic and committed advocates. The court would not control this money but it would affect our overall budget. The trial courts would end up in competition with the program.

Several members commented that they thought it was a bad idea to remove this program from the courts. They agreed that even if it is shifted to an independent commission, it would still technically be under the judiciary. It is currently funded at \$7 million but really requires \$23-30 million to properly function. Judge Farina agreed with Judge Schaeffer that the funding requirements of the Guardian Ad Litem program conflict with the trial courts' needs. Other valuable activities of the courts are shorted - case management for instance. Judge Moran remarked that the courts have been given this program but it is not a core function for the courts. He stated that it was a valuable program and I support it wholeheartedly; however, we compete for the money.

Judge Schaeffer expressed that she does not support the idea of a commission under the court. Judge Farina reported that the courts have a long history of saying this program is a conflict of interest. Judge Moran and Judge Schaeffer agreed that the best interest of the judiciary is involved. Ms. Goodner advised the members on the ramifications of this issue with the proposed budget.

Vote: Judge Briggs withdrew his motion. Judge Schaeffer then turned the chair over to Judge Briggs. Judge Schaeffer made the motion to reject the subcommittee's recommendation and to recommend instead, that the Guardian Ad Litem Program be shifted to the Executive Branch budget. Judge Perry seconded the motion. Judge Schaeffer stated that she wanted the record to reflect that she and the commission fully supported the Guardian Ad Litem Program and recognized the valuable service it performs for the community. However, she states it is a conflict of interest for the program to be under the judiciary. Judge Briggs called for a vote. The motion was approved by a vote of 20-1. Judge Briggs passed the chair back to Judge Schaeffer.

9. **Voices for Children** - Shift to the same entity as the Guardian Ad Litem Program. (See Pages 4-5)

Vote: A motion was made by Judge McDonald to shift this activity to the Executive Branch. Judge Haworth seconded the motion. The motion was approved unanimously.

10. **Child Advocacy Center** - Shift to other more appropriate entity. (See Page 5)

Vote: Mr. Bridenback commented that this activity may be more appropriately placed in the Department of Children and Families budget. Mr. VanBever made the motion to accept the recommendation. Judges Perez and Farina seconded the motion. The motion passed unanimously.

11. **Foster Care Citizen Review Panels** - Combine this activity with the Quasi-Judicial Officers Processing of Cases activity, eliminate volunteer foster care citizen review panels, and reassign the panels' responsibilities to general masters. (See Page 5)

Judge Schaeffer states this would only affect the 4th, 5th, 11th and 15th circuits. The funding would shift to general masters. Judge Farina, Mr. Bridenback and Judge Moran asked if their circuits would retain the money. From the audience, Judge Dawson explained that the funding for the 11th circuit's panel was by statute and could not be used for anything else. (See Page 5)

Vote: Ms. Ortman made the motion to shift the activity to the Executive Branch. \$300,000 would be used for the 11th Circuit and the remainder would be to the general revenue controlled by proviso language. Ms. Westerfield seconded the motion. The motion passed unanimously.

12. **Guardianship Monitoring** - Shift the activity to the local level. (See Page 5)

Vote: Ms. Westerfield made the motion to accept the recommendation. Judge Perez seconded the motion. Judge Schaeffer reminded the members that this was the issue which Judge Grossman had spoken to earlier. She stated she believed it to be a local issue. The motion passed 20-1.

13. **Truancy Alternatives** - Shift to the Department of Education or other more appropriate entity. (See Page 5)

Vote: Ms. Ortman made the motion to accept the recommendation with an amendment that the proposed concept suggested by the 15th Circuit regarding the teen court statute be added. Judge Francis seconded the motion. The motion passed unanimously.

14. **Drug Treatment** - Shift drug treatment funds from the judicial circuit branch budget to another more appropriate entity. (See Page 5)

Vote: Judge Morris made the motion to accept the recommendation. Ms. Ortman seconded the motion. The motion passed unanimously.

15. **Administration of Grants Administered to Individual Circuits** - Shift the administration functions to the appropriate county in FY2002-03, if the functions do not have a statewide impact and are not associated with the essential or reasonably necessary elements of the trial courts. (See Page 5)

Vote: Mr. Bridenback made the motion to accept the recommendation. Mr. Peacock seconded the motion. Ms. Westerfield requested the acceptance of a friendly amendment to move the date of the shift to coincide with the end of the county's fiscal

year, September 30. Mr. Bridenback accepted the amendment. The motion was approved unanimously.

VII. Future Meetings

Judge Pittman requested information regarding the future TCBC meeting dates. Judge Schaeffer reminded the commission that they had previously accepted that the Executive Committee would handle any appeals on the budget recommendations at the already scheduled August 15 meeting. In other words, the Appeals Panel would be chosen from the Executive Committee members. She asked if this was still acceptable to the commission. Judge McDonald made a motion to accept that the Executive Committee members would serve on the Appeals Panel and Judge Francis seconded the motion. The motion was approved.

Ms. Goodner advised the commission that the next meeting would be September 12 & 13, 2002 in Tampa. The hotel site is unknown at this time. Judge Schaeffer announced the Executive Committee meeting would be in Tampa. Judge Perry stated he thought the meeting had been scheduled for September 13 & 14 so as not to conflict with the Advanced Judicial Studies College (AJS). Judge Schaeffer suggested the commission discuss this in the morning.

Judge Schaeffer adjourned the meeting at 5:00 P.M.

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Judge Schaeffer called the meeting to order at 8:30 A.M.

Before continuing with the agenda, Judge Schaeffer discussed the September meeting dates in light of the overlap with the dates of the AJS College. Since the September meeting is a retreat, it is necessary for all members to attend. She called for a vote between the dates of September 13-14 and September 12-13. September 12-13 was selected.

Ms. Goodner stated that no TCBC meetings are scheduled for October or November. The next meeting will be held December 1 at Amelia Island in conjunction with the Circuit Judges Conference. The January meeting will probably coincide with week of legislative committee meetings, January 6-11, 2002.

VIII. Deliberations on FY 2002-2003 Legislative Budget Requests

Judge Schaeffer called on Ms. Horvath to present the recommendations made by the Funding Methodology Subcommittee for legislative budget requests.

1. Court Administration (See Pages 6-7)

The recommendation is to request thirteen court administration positions and expense funding for training and coordination. In addition, the 15th Circuit requested one additional FTE for personnel. Judge Schaeffer remarked that none of the large circuits received additional administration positions. She commented that if we accept the 15th's request, then we must do the same for all the large circuits.

Vote: Mr. Bridenback made the motion to accept the committee recommendation of 13 court administration positions and the associated expense funding. Mr. Wilkinson seconded the motion. The motion passed 20-1.

2. Case Management (See Pages 7-8)

The recommendation is for one case management position for circuits in the small, medium and large circuit categories where the current number of positions falls below the average for that grouping. The 9th and 15th circuits requested additional positions. The 6th circuit requested a drug court coordinator.

Judge Schaeffer remarked that the definition of case management really requires further evaluation; however, for this year, she urged the acceptance of the recommendation. Judge Morris commented that if we agree to the request by the 9th and 15th, then we should allow those circuits who held back, the opportunity to submit a request. Judge McDonald agreed with Judge Schaeffer that the issue should be reviewed further.

Vote: Judge Pittman moved to accept the committee recommendation for one case management position for circuits in the small, medium and large circuit categories where the current number of positions falls below the average for that grouping. She further moved that this issue be referred back to the Funding Methodology Committee for further evaluation. Judge Francis seconded the motion. The motion was approved unanimously.

Ms. Goodner requested a clarification regarding drug court personnel. She asked if drug courts were to be included in case management or become a separate issue? Judge Bryant made the motion to make drug courts a separate issue. Judge Pittman seconded the motion. The motion was approved without objection. Judge Schaeffer offered that the TCBC would work with the Drug Court Steering Committee on this issue.

3. **General Masters** (See Pages 8-9)

The recommendation is for one general master position for each circuit where the current ratio of cases to masters and hearing officers for the combined divisions of family (excluding domestic violence and repeat violence), probate (including guardianship and mental health), and dependency exceeds one master per 3,000 cases.

Judge Schaeffer reviewed the comments made by Judge Dawson, Children's Court Improvement Committee, and Judge McNeal, Family Courts Steering Committee. She questioned if the TCBC should go forward with this issue. Apparently, these two committees disagree with the recommendations made by the Performance and Accountability Committee workshop report.

Judge Haworth commented on the supposition by the committee representatives that substantive change to the law would be necessary for the use of masters in certain court divisions. He felt that current law was sufficient to regulate general masters. Judge Schaeffer thought this recommendation should include what masters can do. Judge Pittman said her circuit doesn't have masters and asked what they do in the circuits that do have them.

Judge Haworth explained that his circuit uses masters for Title IV-D and Baker Act cases. The public defender's office likes them because they are well acquainted with the process and know the law. They are also used in traffic court, some domestic violence cases, and preliminary hearings.

Judge Moran advised that he found the use of masters in his circuit invaluable. He uses them in child support cases, visitation, and modification of orders. They have improved the family law division. He suggested using the Florida Bar's recommendations for how a master should be used.

Judge Schaeffer said her circuit uses them in all pro se cases, guardianships, and court reviews in dependency, but not for shelter hearings. She also said they were used for Marchman Act capacity hearings and Baker Act hearings. She emphasized that masters are invaluable.

Judge Farina commented that his circuit uses them for many of the same type cases and also in probate. The Public Defender supports their use wholeheartedly. He stressed the importance of the selection process for general masters. The Bar rates masters as they do judges. The 11th circuit has a formal selection, appointment and review process for masters, and he suggested a formal process be designed for the trial courts. These are very coveted positions.

Mr. Bridenback said his circuit uses them for post conviction proceedings, probate, Marchman and Baker Act cases. It has made the family law division more efficient. Mr. Bridenback described some of his circuit's criteria for selection and agreed with Judge Farina that the selection process is very important.

Judge Morris suggested that the rules of procedure are right on track in family law. He cautioned that if we conflict with the Family Court Steering Committee, we might run into a rules change. The Supreme Court must make this decision.

Judge Schaeffer reiterated that the charge of the TCBC is to write a budget for the trial courts. Masters do much of the tedious and time consuming legal work in many circuits. The TCBC can and should consider the views of the other committees; however, it does not mean we must accept these views. At this point, the TCBC is trying to provide the “have not” circuits with a resource “have” circuits are using.

Vote: Mr. Bridenback moved that the recommendation by the committee for one general master position for each circuit where the current ratio of cases to masters and hearing officers for the combined divisions of family (excluding domestic violence and repeat violence), probate (including guardianship and mental health), and dependency exceeds one master per 3,000 cases be accepted. Further, he clarified that the use of masters would be at the chief judge’s discretion. Ms. Ortman seconded the motion. The motion passed without objection.

4. **Legal** (See Pages 9-10)

The recommendation is to request 26 additional trial court staff attorney positions. Twenty-one positions would be in the trial courts budget and five (estimated) would be included in the judicial certification budget request. Also, recommended is a request for expense funding. Judge Schaeffer referenced the previous day’s discussion regarding post conviction filings and the need for additional law clerks in the criminal division.

Judge Perez discussed the need for county court judges to have better access to law clerks. Recently, she needed some research done and requested a law clerk. She was told that they were for the use of the circuit judges only. She discussed this issue with her chief judge and learned that county judges had access to law clerks but were accorded the lowest priority. She stated that all judges should be included in the 1-3 ratio and that the chief judge should be granted the discretion to allocate these law clerks.

A discussion occurred concerning the accepted ratio of 1-3, the inclusion of county judges in the ratio and the need for additional help in the criminal division. Judge Perry emphasized the necessity of not only looking at the number of judges but also, to look at the workload. Judge Briggs agreed that the currently accepted ratio of 1-3 is not satisfactory. He suggested working toward a better ratio; however, if county judges are included, it will significantly increase the number of law clerks requested. Judge Schaeffer commented that the District Courts of Appeal and the Supreme Court have a pool of law clerks and two clerks per judge. Judge Farina said he did not believe the legislature would accept the 1-3 ratio with the county judges included. Judge Schaeffer stressed that this ratio is not working in the criminal division. Capital cases and post conviction filings require more help. Ms. Ortman suggested the possibility of

refining the formula. She suggested sending the proposal back to the Performance and Accountability Committee so they could factor in the need of the criminal division. Judge Haworth suggested assessing the number of post conviction filings as an indication of workload. Judge Schaeffer suggested the approval of the recommended number of law clerks. Judge Farina concurred; however, he stated that including the county judges in the ratio needs to be reviewed. He commented that the work the county judges are doing should not be discounted.

Vote: Judge Schaeffer stated that the recommendation as presented is to request 26 additional trial court staff attorneys; however, it does not identify how or where these law clerks would provide assistance. Judge Schaeffer asked Judge Briggs to assume the chair. Judge Schaeffer made the motion to accept the recommendation of 26 additional law clerks but to reject the committee's back up materials. She added that the chief judges would have the discretion to assign law clerks according to the workload needs, giving consideration to county judges and post conviction circuit criminal cases. She also moved that the 1-3 ratio issue be given further study and referred the issue to the Performance and Accountability Committee for recommendations to the Funding Methodology Subcommittee. Mr. Bridenback seconded the motion. The motion passed unanimously. Judge Briggs returned the chair to Judge Schaeffer.

5 **Technology** (See Page 11-12)

The recommendation is for funding to conduct an assessment of court data needs statewide, to purchase an ATM line, to pay Internet access fees, and to acquire Financial and Procurement System software.

Vote: Mr. Peacock moved the approval of the recommendation. Judge Francis seconded the motion. The motion was approved unanimously.

IX. FY 2002-03 Budget Reductions and Requests

Ms. Horvath advised Judge Schaeffer that a few budget recommendations had been overlooked during yesterday's deliberations. Judge Schaeffer asked Ms. Horvath to review these issues. Ms. Horvath explained that these were recommendations made by the Funding Methodology Subcommittee which were agreed to by all the circuits. They were not discussed during yesterday's meeting. There are two budget reduction recommendations and two budget request recommendations.

Budget Reductions

Administration of Judicial Nominating Commission Travel Expense Funds - Recommend shifting \$13,690 to the Executive Office of the Governor or other more appropriate entity.

Vote: Judge Francis made the motion to accept the recommendation. Ms. Ortman seconded the motion. The motion was approved unanimously.

Jury Operations and Expenses - Recommend that a review be conducted to evaluate the effectiveness of current jury management practices.

Vote: Judge Farina made the motion to accept the recommendation. Ms. Ortman seconded the motion. The motion was approved unanimously.

Legislative Budget Requests

Guardian Ad Litem - A new model of representation for GAL Programs has been proposed by the GAL Management Subcommittee. The proposal was developed in response to the difficulties inherent in representing 100% of the children needing advocacy and legal representation. Under the formula developed, an additional 140 positions are needed. Considering the large number, the recommendation is for a five year phase-in of these positions consistent with the time-line of the Long Range Program Plan. Accordingly, the recommendation is to request an additional 28 positions.

Vote: Ms. Ortman moved not to accept this request in light of the decision yesterday by the TCBC to shift the funding of the Guardian Ad Litem program to another entity. Many of the members expressed their strong support for GAL but agreed that asking for positions was inconsistent with yesterday's decision. The consensus was that this program does not belong in the courts' budget. A question was asked regarding how the shift would occur. Ms. Goodner stated it would require substantive legislation in order to take effect in FY 2002-03. Mr. Bridenback reminded the members that these are new positions being requested. Ms. Ortman moved that the recommendation not be approved. Judge Francis seconded the motion. The motion passed unanimously.

Auxiliary Aids and Services - Recommend a request of \$305,000 for auxiliary aids and services. This budget request will fund sign language interpreting services, real-time transcription services for persons who are deaf or hard of hearing, purchase of equipment and training.

Vote: Mr. Peacock moved the approval of the recommendation. Judge Perez seconded the motion. The motion passed unanimously.

Other Issues

Teen Court Operations - (See Pages 5 and 21) Chapter 938.19, F.S. allows the counties which have established a teen court to assess a \$3.00 fee to fund the cost of the court. These monies are specifically for the operation and administration of the teen court. The 15th Circuit suggested that this statute be amended to provide for a broader range of uses for this money.

Vote: Judge Perry moved to approve this request. Judge Pittman seconded the motion. The motion passed unanimously.

Small County Courthouse Facilities Grant-in-Aid (See Page 4 and Page 18) Ms. Ortman made a motion to reconsider the vote on the small county courthouses facilities grant-in-aid reduction. She had made the motion earlier to approve the reduction and Judge Francis had seconded. Judge Francis agreed to the motion. Ms. Ortman explained that Judge Bryant had convinced her the timing is wrong on this issue. He suggested this cut be delayed until Revision 7 is implemented in 2004.

Ms. Ortman advocated for the reduction to occur in FY 2004-05 and to review this issue in the Long Range Program Plan (LRPP). Judge Schaeffer reiterated that the constitution and the law make the counties responsible for the courthouse facilities. The expectation is that the counties will have the available money when the Revision 7 transition takes place. Judge Morris and Judge Farina each commented on the necessity of meeting the targeted cuts. There were questions on exactly how much the courts are requested to cut. Ms. Jerrett said that the exact cut amount is not known at this point.

Vote: Ms. Ortman motioned to reject the budget reduction recommendation for FY 2002-03; however, if this reduction is necessary to meet the required cut amount this year, then it may be offered as a reduction. She suggested this cut be placed at the bottom of the list. Should we need it, we will offer it. She further moved to defer this cut to FY 2004-05; however, if cuts are necessary to meet a target it may be used in any preceding budget year. Judge Francis seconded the motion. The motion passed unanimously.

X. Community Budget Request Discussion

Judge Schaeffer initiated a discussion on the issue of trial court budget requests that have not been reviewed and recommended by the TCBC. She outlined the possible scenarios for trial court budget requests which have not been seen by the TCBC. The possible scenarios include:

1. A circuit or county court judge, or a court staff member, makes a funding request to a local legislator for a local program or staffing for an issue that has not been addressed by the TCBC or has been disapproved by the TCBC.
2. A legislator wants to do something for his or her circuit. The legislator goes to the chief judge and asks for suggestions. The chief judge provides suggestions per the request.
3. A legislator wants to fund a special project which has local political significance. The legislator moves forward on the project without conferring with any judicial contacts.

Judge Schaeffer asks what should be the position of the TCBC in these scenarios? Should there be a deterrent to this activity? Should there be some kind of leverage on the circuits?

Judge Moran stated the TCBC has no authority to hamstring the legislature, nor should it. Only the legislative leadership can stop the end run requests. They must view this type of request as a

problem. The members agreed with Judge Moran's comments. Judge Schaeffer agreed this addressed scenarios #2 and #3, but asked how scenario #1 should be handled.

Suggestions were offered as to what might happen if a judge or staff member bypasses the TCBC and goes directly to the legislature for funding. These suggestions ranged from encouraging a veto by the Governor to a comparable budget reduction in the allocations made to the circuit. Many members commented on the need to go slow on this issue since it is the first budget written by the TCBC. Others urged that no sanctions be applied. Judge Hammond said it was important for the TCBC to establish credibility in the budget process. Judge Morris suggested that this issue should be discussed with the chief judges.

Judge Schaeffer agreed with the members who recommended a consequence of some kind if a circuit request did not come through the TCBC. Judge Hammond commented that the courts will fair much better if we work together. If a circuit is hurt by this process, we need to know about it. Judge Haworth suggested that maybe the TCBC should encourage legislators to offer their proposals to the TCBC as possible pilot projects. Judge Morris remarked that the TCBC has not yet completed one full budget cycle and should first establish itself as an institution before thinking of invoking sanctions.

Judge Schaeffer encouraged the commission to take a position. She stated the chief judges have been kept informed of all the actions of the TCBC and they have thus far agreed.

Vote: Judge Haworth made the motion that all trial court budget requests should be reviewed and approved by the TCBC. If a request (referring to scenario #1) is made which has not been heard by the TCBC, there may be a subsequent consequence. Judge Perry amended the motion to allow that the consequence could include but is not be limited to a reduction in the circuits' budget allocation. Mr. VanBever seconded the motion. The motion passed unanimously.

XI. Pay Plan

Mark VanBever, Chair of the Personnel Subcommittee, presented the proposals by the subcommittee regarding the issue of Chief Deputy Court Administrator positions. There are 19 circuits with Senior Deputy Court Administrators. Some are paid by the county and some are paid by the state. In some circuits these senior deputies act in the capacity of a chief deputy. Some circuits have a Chief Deputy Court Administrator position (the 11th Circuit has two Chief Deputy positions). All Chief Deputy positions are paid for by the county.

The Personnel Subcommittee prepared four proposals for consideration by the commission. Mr. VanBever reviewed the pros and cons of each proposal. The subcommittee voted to recommend that funding be sought through the operating budget of the trial courts to establish a new Chief Deputy position in the circuits that currently have a county funded chief deputy position and to request pay plan

funding for a Chief Deputy position for the existing state paid senior deputies acting in this capacity in the remaining circuits. A job description and salary range was discussed and all employees would have to meet the required criteria for the chief deputy position. This proposal allows for only one chief deputy per circuit. It would create six new positions in the 6th, 9th, 11th, 13th, 17th and 20th circuits. The total amount requested is \$961,736. Ms. Goodner advised the commission that this proposal would add an additional request to the Court Administration category of the legislative budget request.

Vote: Mr. Bridenback moved to accept the proposal and the position description submitted by the subcommittee. Judge Hammond seconded the motion. The motion passed unanimously.

Mr. VanBever also reported that the Judicial Assistant salary survey was underway. Ms. Goodner explained that salary comparisons are being made with competing, similar situation employers. She said a proposal will be ready on this issue sometime later in the fall, and presented at the December 1 meeting. It was suggested that the salaries of legislative aides be included in the comparison. Ms. Goodner said they would attempt to include these positions.

XII. FY 2001-02 Operating Budget Allotments

Judge Schaeffer called on Ms. Jerrett to present the FY 2001-02 trial court operating budget allotments.

Ms. Jerrett explained that the charge and the operating procedures of the TCBC call for the commission to approve the operating budget allocations each year. This is the first time the commission has the responsibility for approving the statewide expense allocations. The strategies used to develop these proposed allocations were developed by the Funding Methodology Subcommittee and discussed with the trial court administrators. The TCBC approved these strategies at their last meeting. (See TCBC, June 16, 2001 Meeting Minutes)

Ms. Jerrett referenced the FY 2001-02 Operating Budget Allotments sheet. She reviewed each of the columns on this sheet and explained their meaning. She then reviewed the specific allotments by circuit, appropriations category and OSCA cost centers. She stated that the budget and pay memo would be released shortly and urged the members to read it. Also, when the SAMAS reports are received by your circuit, she requested they be reviewed and to call the OSCA budget office if anything appeared wrong. There were several questions asked regarding the clarification of a budget category or cost center.

Vote: Mr. Peacock made the motion to accept the FY 2001-02 expense allocations. Mr. Bridenback seconded the motion. The motion passed unanimously.

XIII. Trial Court Technology Committee Presentation

Judge Schaeffer announced that the Supreme Court had created the Trial Court Technology Committee (TCTC) as a standing committee of the Florida Court Technology Commission (FCTC). Judge Charles Francis was appointed the chair of the committee. She introduced Mike Love, OSCA Director of Information Services, to present an overview of the committee's charge and plan of action.

Mr. Love prefaced by saying the FCTC has been extended by the Supreme Court to July 2003. It is specifically charged with setting the priorities for appellate and trial court technology budgets and for presenting the recommendations to the DCA and Trial Court Budget Commissions. The TCTC is charged to design a long-range strategic plan to coordinate present and future technical development in the trial courts. He remarked that currently there are 67 counties providing the 20 circuits with 67 different systems for supporting the court records.

After providing a list of the membership, Mr. Love reviewed Article V, Section 14 (c) Florida Constitution where it states that "...counties shall be required to fund the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems....." The definition of communications was further defined in Chapter 29.008 F.S. It expressly gives the counties the responsibility for all telephone, computer systems and equipment, and other electronic communication for the "judges, clerks, public defenders, state attorneys and all staff of the state court system, state attorneys' offices, public defenders' offices, and clerks of the circuit and county courts performing court-related functions."

According to Mr. Love, \$38+ million was expended by the counties in support of the court technology in 1999-2000. Of this amount, \$14.4 million is expended by court administration and \$24.2 million is expended by other agencies in support of the court. Although the OSCA does not have any documentation, Mr. Love estimated that \$50 million is expended by the Clerks in support of the courts.

Recently, the Governor has placed all executive branch technology expenditures under one office. The judicial branch has been included in the grouping of Public Safety. The total amount expended for this group (includes Departments of Corrections, Highway Safety, Juvenile Justice, and Law Enforcement, the State Attorneys, and the Public Defenders) was \$101.4 million in 1999-2000. Of this amount, \$4.9 million was for the judicial branch, the lowest of all these entities. Looking at the technology expenditures for the remaining executive branch agencies, the total was \$419.4M in 1999-2000.

Mr. Love provided an overview of how the technology budget request approved by the TCBC will be used. The \$600,000 will be used to conduct a statewide trial court technology assessment. The assessment will include developing standards, providing judges with court data in a standardized format encompassing all the divisions of the court system, and conducting an assessment of the current status of the trial court technology followed by recommendations and a plan. The \$978,145 for a financial management system will be used to coordinate the administrative processes of the courts, to

implement Revision 7 administrative tasks, and to interface with the SAMAS system. The \$250,000 to enhance the state courts network will be used to pay for the continuation of Internet service and a rate fee increase for provision of bandwidth.

Judge Schaeffer asked Judge Francis for his comments on the TCTC. He responded by providing a personal technology frustration. He said he could not send an email from his office to any other county in his circuit since it included six counties with six different systems. The TCTC will strive to come up with a proposal which will provide for practical applications for the judges. The committee will explore what it is judges do and how technology can help them do their job better. To assist in this effort, the committee will hire a consultant to perform a statewide survey and analysis. The TCTC is charged with making recommendations for a reliable, efficient network of systems for the trial courts. It is not a budget committee. In the end, the committee hopes to have a solid evaluation of the trial courts' technology needs and to make recommendations to the Supreme Court for a useable, statewide database and communications network that will integrate with other public safety systems.

Judge Briggs questioned whether the legislature or governor had any interest in changing Ch. 29.008, F. S. Judge Haworth asked about the use of other database resources within the circuits, such as the school board or county jail information. He also asked what approach would be taken regarding the identification of persons to cases. Case numbering is vastly different throughout the state and people's names change. There is a need to track the individual by a common thread. Mr. Love responded that these are the kinds of questions that will be posed and resolved by the study. The study will provide insight into what is currently being provided by each of the counties in conjunction with identifying the technology requirements desired by the trial courts. This should provide a clearer picture for future technology decisions.

Judge Farina suggested that the Article V Trust Fund may be an option for funding certain trial court technology matters. Several members agreed on the need for a dedicated funding source for court technology. Ms. Westerfield offered the suggestion that the Local Option Subcommittee should work with the Technology Committee on this issue. She said that until the study is complete, we will not know where the lines of responsibility should be drawn.

Judge Farina suggested there should be a discussion on the use of the Article V Trust Fund money for non-recurring projects or court technology, or possibly a study regarding digital court reporting technology. Judge Perry reminded the members that the fund is scheduled for sunset in 2002, so it could potentially be used as a one time set up for digital court reporting. Judge Morris suggested this money could be used for the redesign of courthouses for electronic court reporting. Judge Schaeffer stated that this money was needed for true Article V costs, such as conflict attorneys. Judge Briggs suggested the Technology Committee review this issue. The Performance and Accountability Committee was also suggested. Judge Hammond commented that the goal is for a uniform and efficient technology system and he cautioned that it should not be approached in a piecemeal fashion. Judge Kanarek remarked that the 19th circuit has been using electronic court reporting for many years. They started with cassette tapes and are now are using CD's. The only time they use a court reporter is in capital murder cases.

Mr. Love said the study would be completed by 2003 if the requested funding is approved. Ms. Goodner reported that trust fund money vetoed by the governor is still there and available, approximately \$20 million. She suggested that it may be possible to use this money to look at the issue of digital court reporting. Judge Farina made a motion to develop substantive legislation for the use of the Article V Trust Fund for court technology issues. Judge Briggs seconded the motion. Judge Schaeffer suggested she appoint an ad hoc committee to review this issue. The members agreed and Judge Farina withdrew his motion.

Judge Schaeffer established the Article V Trust Fund Subcommittee and appointed Judge Farina, Judge Francis, Judge Kanarek, Mr. Bridenback, and Ms. Ortman. Mr. Bridenback was appointed the chair. She stated that the subcommittee would identify proposals for the use of the Article V Trust Fund moneys, both now and in the future, to benefit the need of the trial courts. The committee will focus on nonrecurring budget issues and technology advances in court reporting and information systems. Judge Schaeffer also requested Ms. Horvath to ask the Performance and Accountability Committee to provide input to this subcommittee concerning the types of court proceedings and the best practices using technology for recording of the court record.

XIV. Other FY 2002-03 Budget Requests

Ms. Jerrett advised Judge Schaeffer there were a few budget issues which were overlooked.

1. Request for a budget increase of \$85,000 from the Family Court Trust Fund. This would increase the spending authorization to allow for case management training.
2. A budget reduction is recommended to end the funding of the Model Family Court pilot projects in five circuits in June 30, 2002. The budget reduction is \$410,000.

Vote: Mr. Peacock moved the approval of the budget request by the committee and the recommended reduction of funding for the Model Family Court pilot projects. Ms. Ortman seconded the motion. The motion was approved without objection.

3. A budget request to establish a Guardian Ad Litem Program office to manage the transition to an independent commission under the judiciary.

Vote: Judge Schaeffer stated that the TCBC has decided to shift the GAL program from the judiciary to the executive branch so this is not necessary. Ms. Ortman made the motion to reject the proposal. Judge Perez seconded the motion. The motion was approved without objection.

Judge Farina commented to the members that he would recommend that they make a point of meeting with their Guardian Ad Litem Directors as soon as possible to explain the recommendations made by this committee regarding the GAL program. Judge Schaeffer also commented that these

recommendations are in no way meant to imply that this commission does not support the fine work performed by the GAL program or, that it should not be funded adequately. Instead, it is the view of this commission that the program has been inappropriately placed under the judiciary and should be shifted to the executive branch. This shift will eliminate the inherent conflict of interest between the judiciary and the program. She agreed with Judge Farina that the members should make every effort to keep their local GAL program informed and to work with them on this effort.

XV. Other Business

Judge Schaeffer stated that a vote was necessary to give the authority to the Executive Committee to approve the LBR for submission to the Supreme Court. She announced that the committee would meet as a panel in Tampa if there were any appeals. If not, they would meet via conference call.

Vote: Judge Francis made the motion and Mr. Peacock seconded. The motion passed without objection.

Judge Schaeffer asked the members if they had any input into the agenda for the retreat in September or were they happy with the facilitator's suggestions. Judge Haworth suggested addressing ways to handle conflicts between a circuit and a county. Judge Schaeffer recommended this issue be discussed by the Local Requirements Subcommittee and it not be a part of the retreat agenda. Hearing no other comments, Judge Schaeffer said the facilitator would set the agenda.

There being no further business, Mr. Peacock moved to adjourn. Judge Francis seconded. Judge Schaeffer adjourned the meeting at 12:45 p.m..