

Trial Court Budget Commission
Meeting Minutes
May 15, 2008



Attendance - Members Present		
Belvin Perry, Jr., Chair	Charles Francis, Vice-Chair	Mike Bridenback
Paul Bryan	Ruben Carrerou	Joseph Farina
Shelley Kravitz	John Laurent	Mark Mahon
Robert Morris	Stan Morris	Carol Ortman
Nancy Perez	James Perry	Judy Pittman
Thomas Reese	William Roby	Robert Roundtree
Susan Schaeffer	Walt Smith	Margaret Steinbeck
Patricia Thomas	Mark Weinberg	Robin Wright

Guests Present		
Dennis Pelletier-2 nd Circuit	Vernon Douglas-3 rd Circuit	Sondra Williams-3 rd Circuit
Donald Moran-4 th Circuit	Joe Stelma-4 th Circuit	Daniel Merritt-5 th Circuit
David Trammell-5 th Circuit	Jon Lin-5 th Circuit	Todd Tuzzolino-5 th Circuit
Gay Inskeep-6 th Circuit	Frederick Smith-8 th Circuit	Ted McFetridge-8 th Circuit
Matt Benefiel-9 th Circuit	Marsha Williams-9 th Circuit	David Langford-10 th Circuit
Nick Sudzina-10 th Circuit	Amy Negrin-11 th Circuit	Lee Haworth-12 th Circuit
Manuel Menendez-13 th Circuit	Kathleen Kroll-15 th Circuit	Barbara Dawicke-15 th Circuit
Sandra Taylor-16 th Circuit	Victor Tobin-17 th Circuit	Clayton Simmons-18 th Circuit
Mark Van Bever-18 th Circuit	Corrie Johnson-19 th Circuit	Richard Callanan-20 th Circuit
Lisa Kiesel-20 th Circuit	Jordana Mishory, Daily Business Review	OSCA Staff

The May 15, 2008 meeting of the Trial Court Budget Commission (TCBC) was called to order at 8:30 a.m. by Judge Belvin Perry, Chair.

I. Welcome and Introduction of Guests

Judge B. Perry welcomed the members and the roll was called. He also welcomed Justice Bell and recognized the guests in attendance.

Judge Perry stated that the judicial branch is facing cuts and staff played a vital role in the administration of justice. He thanked OSCA: Lisa Goodner and her staff for all the work done for current year budget reductions in Special Session C and HB 7009 and again during 2008 Legislative Session for FY 2008-09 budget reductions. He also thanked the TCBC members who helped during legislative session, chief judges, trial court administrators, Judge Steinbeck and Judge Kravitz who represent the Circuit and County Court Conferences, for lobbying and their work to minimize cuts. Judge Perry stated that the budget is not where we want it to be but it could have been worse. The courts must now work with the hand that has been dealt.

Approval of December 8, 2007 Meeting Minutes and March 5, 2008 Conference Call Minutes

Judge B. Perry asked if there any revisions to the draft minutes from the December 8, 2007 and March 5, 2008 meeting minutes. Judge Mahon made a motion, seconded by Judge Francis, to adopt the meeting minutes as drafted. The motion passed without objection.

II. Retrospective of 2008 Legislative Session

a. Conference Impact Analysis for FY 2008-09

Dorothy Wilson reviewed a chart reflecting the conference impact for the judicial branch. She noted that the conference bill reflects a low number of FTE reductions compared to the salary dollars that were taken. Additional FTE's will need to be reduced to meet the salary dollar reduction amount.

Ms. Wilson reviewed a portion of the FY 2008-09 General Appropriations Act (GAA), noting that in Administered Funds, 22 FTE remain in the Due Process Contingency Fund. However, the dollars were cut. She also noted the proviso language regarding the appointment of the Office of Program Policy and Analysis and Government Accountability (OPPAGA) to conduct a workload management study of circuit and county court judges. OPPAGA is required to submit a report by January 1, 2009 to the Chief Justice, chair of the Senate Fiscal Policy and Calendar Committee, and the chair of the House Policy and Budget Council. Section 8 of the GAA does not include pay increases for employees but health insurance premiums paid by employees remain at the current rate.

Charlotte Jerrett added that the legislature did not make any changes to cost sharing.

b. CS for SB 1790

Greg Smith reviewed a section by section analysis of SB 1790. The bill adds additional revenue streams with new fees or increases to existing court/clerk fees. The bill also increases the salary of conflict regional counsel from \$80,000 to \$100,000, eliminates additional compensation to county judges, eliminates one appellate judge in the 3rd DCA, and implements the shift of juror and witness expenses payments to the clerks. The bill also states the clerks' budget may not increase more than 3% as a result of the increased revenue. The increase is intended as a revenue stream for the General Revenue Fund. Lisa Goodner added that the estimated increase in revenue is approximately \$121 million and that an analysis for the trial courts is currently underway.

III. Status of FY 2007-08 Budget – Strategies to Maximize General Revenue:

Judge B. Perry complimented the chief judges and trial court administrators in watching the spending of expense dollars. Holding back or deferring expenditures helped minimize the impact of the budget reductions.

a. Salaries/Benefits Budget

Charlotte Jerrett reported that staff worked with the Budget Management Committee to ensure funds will be available to cover payroll through June 30th. Dorothy Wilson reviewed the trial court salary projections, noting that the legislature authorized the back fill of current year budget reductions with trust fund dollars.

The back fill allowed the circuit courts to keep the salary liability under the salary appropriation by \$938,859. The county courts' liability is projected to be over the appropriation by \$186,290. The projections do not include leave liability payments associated with any FTE reductions. The State does not fund leave liability payouts.

Walt Smith asked if trust fund dollars were available for use as a one-time infusion of cash. Ms. Jerrett explained that because incoming revenues

can take 2-3 months to receive, cash balances must be preserved for operations until the revenues start coming in.

b. Operating Budget

Dorothy Wilson reviewed the status of the operating budget. Charlotte Jerrett added that \$3.5 million of the remaining unexpended budget is the Expense hold back and will be used to offset liabilities as a result of the FTE reductions. Judge Perez asked if the potential liabilities have been determined. Ms. Jerrett stated that the liabilities cannot be projected at this time and would vary depending on the reduction in force plans. The worst case scenario would be \$6 million and if the liabilities cannot be covered with this year's funds, they must be paid from next year's.

c. Civil Traffic Infraction Hearing Officers

Charlotte Jerrett reported that the budget was reduced and circuits were directed to reschedule, cancel, or assign judicial resources to cover all workload for any assignments after March 14, 2008. After processing of all outstanding invoices, the available balance as of May 12, 2008 was \$390,295. The Executive Committee recommended the balance be moved to the salary budget for liabilities.

Judge Roundtree made a motion to transfer \$390,295 remaining balance from the Civil Traffic Infraction Hearing Officer category to the Salaries and Benefits category to help cover the leave payout liabilities. Carol Ortman seconded, and the motion was passed without objection.

d. Recommendation to Lift Hiring and Travel Freeze

Charlotte Jerrett stated that at this time it is prudent to maintain the current restrictions to ensure the salary liabilities are covered. Chief Justice Lewis directed the travel freeze remain in place. Ruben Carrerou asked if the circuits are allowed to make staffing changes. Ms. Jerrett stated that as part of reduction in force plans, vacancies may be filled with an employee whose position is being eliminated.

IV. FY 2008-09 Budget Reductions

Salary/Benefits Reduction Target

Judge B. Perry stated that the TCBC members worked very hard to try to minimize the budget reductions. The cuts are not where we want to be; however, they could have been worse. Now the members face a very difficult task of starting the reduction in workforce process.

Charlotte Jerrett reviewed the reconciliation of the salary dollar reductions, including the line items directed by the Legislature for the Court Administration, Case Management, and Magistrate elements. A transfer of \$1,062,040 from GR Mediation Contracted Services to Salaries is recommended, reducing the base salary reduction target to \$11,456,790. A statewide average salary was used to calculate the projected total circuit FTE reduction number of 198. The circuits may find that their FTE numbers are more or less than the target as they operationalize their plans.

Walt Smith made a motion, seconded by Ruben Carrerou, to approve a transfer of \$1,062,040 from GR Mediation Contracted Services to Salaries. The motion was approved without objection.

Salary/Benefits Reduction Direction

Kris Slayden reported that the final salary/benefits reduction amount of \$11,456,790 was received eight days ago. To address the reduction in the FY 2008-09 trial court budget, including both the line item and base budget reductions, the TCBC Executive Committee provided direction in formulating the reduction options.

- Permit cuts to be taken from four elements only: law clerks, court administration, case management, and general magistrates
- Transfer positions from the expert witness element currently performing case management or custody evaluation duties to the case management element
- Do not prioritize elements for cuts (with the exception of line item cuts), but instead create a methodology that allows flexibility across the elements for circuits to identify positions to cut

- Create a maximum allowable cut, by circuit, for each element that maintains a certain level of integrity with the existing funding methodologies

Ms. Slayden reviewed the steps that lead to each circuit's reduction target. The proposal will provide flexibility to the circuits but still maintain a certain level of integrity with the existing funding methodologies by allowing circuit to take additional cuts across the four elements as long as each circuit does not exceed the maximum reduction amount and as long as each circuit meets their proportional share of the statewide cut. The circuits may also use up to \$25,600 from their operating base to reach their target reduction amount.

The overall statewide target FTE cut for each circuit and each element is only an estimate. It will be a moving target until the specific positions are identified by each circuit. The final number of positions reduced in each circuit will be dependent on the class level of the positions cut but each circuit must match their target salary/benefit cut. The Executive Committee recommended this approach to provide circuits flexibility.

Law Clerks

Sharon Buckingham reported that this element may be considered for the base budget reduction with an estimated target cut of 22 positions statewide from the current total 236 FTEs (including 38 FTEs for post conviction). The current average ratio of law clerks to judges is 1:2.5 statewide. The option allows circuits to reduce their law clerk allotment up to a 1:3.5 ratio, which equates to a 27% reduction of the element. The ratio is not intended to alter existing funding methodology formulas, and is just for use in this reduction process. She reviewed a chart reflecting the maximum reductions allowed per circuit. The Executive Committee recommended approval of the maximum reduction allowed per circuit.

Judge Roundtree made a motion to allow circuits to reduce their law clerk allotment up to a 1:3.5 ratio as proposed. Carol Ortman seconded, and the motion was approved without objection.

Court Administration

Sharon Buckingham reported that during the 2008 Legislative session, the court administration budget was reduced as a line item by 35 positions of the total 356 FTEs currently in the element. Because it is a line item, these 35 positions must be cut in this element. Court administration is also being considered for the base

budget reduction with an estimated target cut of 32 additional positions, totaling an estimated statewide cut of 67 positions.

Two charts were presented: (1) line item reduction cuts positions proportionally based on each circuit's percent of the total general counsel and operations/administration positions applied to the statewide reduction, and (2) maximum reduction chart based on flexibility to allow circuits to cut approximately 40% of each circuit's total number of general counsel and operations/administration positions. The Executive Committee recommended approval of the line item reductions and maximum reductions as proposed.

Judge Roundtree made a motion to approve the line item reductions as proposed, and to allow the circuits flexibility to take up to the maximum reduction as proposed: 3 - small circuits, 5 - medium circuits, 9 - large circuits, and 14 - Miami/Dade. Judge Laurent seconded, and the motion was approved without objection.

Case Management

Sharon Buckingham reported that during the 2008 Legislative session, the case management budget was reduced as a line item by 47 of the total 365.75 FTEs. Case management is also being considered for the base budget reduction with an estimated target cut of 35 additional positions, totaling an estimated statewide cut of 82 positions.

The current case management funding methodology is based on circuit "need" (rounded down) per the ratio of 1:5,500 projected FY 2008-09 eligible filings (with a floor of 8.0 FTEs).

Two options were presented for the line item reduction:

1. Cut positions based on each circuit's "net need" per the ratio of 1:8,000 projected relevant FY 2008-09 filings with a floor of 6.0 FTEs.
2. Cut positions proportionately based on each circuit's percent of the total case management positions applied to the statewide reduction of 47.0 FTEs with a floor of 6.0 FTEs.

The Executive Committee recommended the approval of Option 2 for the line item reduction.

Judge J. Perry made a motion to approve Option 2 as proposed for the line item cut of 47 FTEs, and was seconded by Ruben Carrerou. The motion passed by the majority; however, two negative votes were acknowledged.

Two options were presented for the maximum base budget reduction:

1. Allow circuits to cut positions up to each circuit's "net need" per the ratio of 1:10,300 projected relevant FY 2008-09 filings with a floor of 4.0 FTEs (33% reduction of element).
2. Allow circuits to cut positions up to their percent of the total statewide case management positions with a floor of 4.0 FTEs (33% reduction of element).

The Executive Committee recommended the approval of Option 2 for the maximum base budget reduction.

The members discussed the flexibility of the options. The circuits cannot reduce to the floor of 4.0 FTEs if the cut equates to more the one-third. The members also discussed the "net need" and circuit resources that were held harmless during Revision 7.

Judge Roby made a motion to approve Option 2 as proposed, to allow the circuits to cut positions up to their percent of the total statewide case management positions with a floor of 4.0 FTEs. Ruben Carrerou seconded, and the motion passed without objection.

General Magistrates

Sharon Buckingham reported that during the 2008 Legislative session, the general magistrate budget was reduced as a line item by 10 administrative support positions of the total 195.5 FTEs. The magistrate element is also being considered for the base budget reduction with an estimated target cut of 18.5 additional positions, totaling an estimated statewide cut of 28.5 positions. The line item cut is restricted to support positions and the additional base budget reduction may be either administrative support or magistrate positions.

The funding methodology used through FY 2007-08 was based on the "net need" per the ratio of 1:3,000 filings including 1:1 administrative support. Currently all circuits have 1:1 administrative support with the exception to the 11th and 15th

Circuits who each have 1.0 FTE extra, and the 16th Circuit does not have any FTEs in this element.

For FY 2008-09, the TCBC approved for the Legislative Budget Request, a new case weight methodology as developed through the Judicial Resource Study (JRS). The new methodology calculates circuit “net need” (rounded up) by applying case weights to projected relevant FY 2008-09 filings. The 1:1 ratio of administrative support is still applied.

Three options were presented for the line item reduction:

1. Cut 1.0 administrative support position in each the 11th and 15th circuits off the top. Cut remaining 8.0 administrative support positions based on those circuits with the lowest “net need” per the ratio of 1:3,000 projected relevant FY 2008-09 filings. Those circuits with the lowest “net need” are cut by 1.0 FTE.
2. Cut 1.0 administrative support position in each the 11th and 15th circuits off the top. Cut remaining 8.0 administrative support positions based on those circuits with the lowest “net need” per the JRS weighted caseload methodology. Those circuits with the lowest “net need” are cut between 0.5 and 1.0 FTE.
3. Cut 1.0 administrative support position in each the 11th and 15th circuits off the top. Cut remaining 8.0 administrative support positions by reducing those circuits whose administrative support to magistrate ratio is least impacted by a cut.

The Executive Committee recommended the approval of Option 2 for the line item reduction.

Judge Francis made a motion, seconded by Judge Mahon to approve Option 2 as proposed. The motion was passed by the majority; however, two negative votes were acknowledged.

Judge Schaeffer stated that the Executive Committee recommended Option 2 which uses the JRS weighted caseload. The JRS weighted caseload study was adopted by the TCBC and already used for the FY 2008-09 LBR. She suggested that members try not to look at the impact on just one circuit, but instead look at all twenty as a whole that make up the State of Florida.

Judge B. Perry referenced the Supreme Court Opinion by Justice Wells included in the meeting materials. The opinion sets the framework for the TCBC, whose members must refrain from advancing individual interests and focus on the citizens of Florida, whom we all serve.

Three options were presented for the maximum base budget reduction:

1. Circuits are permitted to cut magistrate and administrative support positions based on their “net need” per the ratio of 1:3,585 projected relevant FY 2008-09 filings. To identify the maximum cut for each circuit, those circuits with the lowest “net need” are reduced to meet an overall 34% reduction in the element, with a floor of 0.5 FTE general magistrate.
2. Circuits are permitted to cut magistrate and administrative support positions based on their “net need” per the JRS weighted caseload methodology. To identify the maximum cut for each circuit, those circuits with the lowest “net need” are reduced to meet an overall 34% reduction in the element, with a floor of 0.5 FTE general magistrates.
3. Circuits are permitted to cut magistrate and administrative support positions up to approximately 50% of their total magistrate and administrative support FTEs.

The floor is low due to some circuits having only one or two positions in this element. The Executive Committee recommended the approval of Option 2 as proposed.

Mark Weinberg asked if the goal is to provide the circuits flexibility, then why was Option 3 not selected. Judge Perry stated that again, the Executive Committee selected Option 2 because the JRS weighted caseload was used and to be consistent.

Mike Bridenback made a motion to approve Option 2 as proposed. Judge Roby seconded, and the motion passed without objection.

V. Discussion and Vote of FY 2008-09 Budget Reductions

Kris Slayden distributed a chart of the estimated FTE cuts that reflect the options that were just approved. The chart shows the line item cuts that must be taken in the magistrate, case management, and court administration elements and the

estimated remaining FTE reduction needed to reach the target salaries and benefits reduction. Mike Bridenback stated that although the number of FTEs to be cut in the line item reductions must be taken, circuits have the flexibility to choose the positions to be cut. He reminded the members that if selecting low salary positions, the salary amount will need to be made up in the estimated remaining FTE reduction. The circuits will also have the option to use up to \$25,600 from another operating category.

a. Public Comment

Judge Moran asked for a lead staff contact. The OSCA lead staff contact is Charlotte Jerrett.

b. Further Discussion by Members

Walt Smith asked if the TCBC will consider reduction of Senior Judge or Civil Traffic Infraction Hearing Officer resources. Judge B. Perry responded that civil traffic has already been reduced twice in FY 2007-08 down to \$1.3 million. The remaining senior judge resources are equally as important as no new judges were certified for FY 2008-09.

The members discussed the appointment of the Office of Program Policy and Analysis and Government Accountability (OPPAGA) to conduct a workload management study of circuit and county court judges. OPPAGA is required to submit a report by January 1, 2009 to the Chief Justice, chair of the Senate Fiscal Policy and Calendar Committee, and the chair of the House Policy and Budget Council. Judge B. Perry believes the study will show the courts to be underfunded. Judge S. Morris stated the study that will be conducted by an independent committee and should benefit the courts. The Trial Court Performance and Accountability (TCPA) Commission has volumes of white papers and the TCBC has used many of those papers to make budget decisions. Judge Francis agreed that when OPPAGA reports, the TCBC's numbers will stand up well, in support of our requests.

c. Vote

(The votes were taken up individually and reported in each element section listed above.)

VI. FY 2008-09 Budget Allocations

Judge Perry stated that with the reductions, the courts cannot operate like before and must make do with what we have. The courts need to keep prudent budget policies and proceed with caution. We can get a new picture once the salary data levels out after the layoffs.

a. Operating Reserve

Dorothy Wilson reported that there are Expense and Contracted Services allotments in the Operating Reserve for centralized administration of statewide accounts such as Florida Bar Dues, Unemployment Compensation, etc. The circuit hold back of \$3,500,000 was placed in Operating Reserve of which \$2,311,776 was cut during FY 2007-08 and FY 08-09. The remaining balance of \$1,188,224 will be used toward the estimated \$1,565,700 needed for FY 08-09 Unemployment Compensation costs, not only for the layoffs but for normal turnover.

Ms. Wilson reviewed the proposed FY 2008-09 Operating Reserve allotments, noting the Circuit and County Court Business meeting received an increase in allocation for rise in hotel and gasoline costs and the possible funding of a second meeting in June 2009, subject to the availability of funds.

Judge Roundtree asked if funds remained after the Unemployment Compensation obligations were met, how it would it be distributed. Ms. Wilson stated that the issue would be brought to the TCBC for a decision.

Judge Roundtree made a motion, seconded by Carol Ortman, to approve the Operating Reserve allocation as proposed. The motion passed without objection.

Judge Mahon asked what positions have their Bar dues paid. Charlotte Jerrett stated that the General Appropriations Act allows the payment of Florida Bar membership fees for staff attorneys, or those staff positions that require Bar membership as a condition of their employment by the state.

Judge Perez asked how the conference business meeting increases can be justified as layoffs are happening. Judge Perry stated that funds for the

meetings are in Expense and the reduction is in Salaries. Judge R. Morris added that judges education is mandated by law and with current travel restrictions, the business meetings are the only opportunities for judges to gain their required continuing judicial education credits. Judge Schaeffer reminded the TCBC members that Expense dollars cannot be used for Salaries. Those being cut will not understand and members should be ready to explain.

b. Expenses, Contract Services, Operating Capital Outlay

Dorothy Wilson stated that the proposed allotments for the Due Process elements will be presented during the June meeting. Ms. Wilson explained that the proposed FY 2008-09 allotments in each element and category have been adjusted accordingly for FY 2007-08 non-recurring Expense, FY 2007-08 and FY 2008-09 Legislative reductions in the operating categories. The reductions were pro-rated and a target reduction amount for each circuit was attained. Circuit staff chose the cost center in which to apply the reductions to reach the target amount. The proposed allotments were not adjusted for any internal transfers or Budget Amendments that may have been processed throughout FY 2007-08, as those transfers are not considered permanent from one fiscal year to the next.

The proposed allotment charts for the following elements were reviewed: Circuit Judges and Judicial Assistants, County Judges and Judicial Assistants, Case Management, Magistrates, Court Administration, Drug Court, Post-Conviction Law Clerks, and Law Clerks.

Judge Roundtree made a motion, seconded by Judge Mahon, to approve the above allocations as proposed. The motion passed without objection.

c. Senior Judge Days

Dorothy Wilson reported that for FY 2007-08, the total appropriation of \$2,664,927 was reduced by \$198,684, leaving a total of 7,046 days available for allotment in FY 2008-09.

Ms. Wilson reviewed the proposed allocation chart which allocates 7,046 days based on a \$350 per day rate, holding 100 days in the statewide

reserve, and using a proportional distribution based on judicial need as calculated during the most recent certification process.

Judge Roundtree made a motion to approve the senior judge allocation of 7,046 days as proposed. Judge J. Perry seconded and the motion was passed without objection.

d. Civil Traffic Infraction Hearing Officers

Judge B. Perry reported that the Civil Traffic Infraction Hearing Officer allocation will not be presented at this meeting. As discussed earlier, the allocation was reduced down to \$1.3 million and more time is needed to gather the actual usage data for the current year.

VII. Reduction in Force Plan

Blan Teagle presented Reduction in Force (RIF) planning and employee selection criteria based on best practices in human resources and federal case law. The guidelines are provided for consideration as methodology for cuts is developed by the TCBC and as each circuit develops their RIF plans.

Gary Phillips stated that staff is working on a communication plan which includes sample letters, etc., which will be distributed next week. If circuits need technical assistance as RIF plans are developed, they may contact Blan Teagle-Deputy State Courts Administrator, Gary Phillips-OSCA Chief of Personnel, or Laura Rush-OSCA General Counsel.

VIII. Discussion of Implementation Plan for FY 2008-09 Target Reductions

Charlotte Jerrett reported that RIF plan templates will be distributed tomorrow to trial court administrators. The template will ensure that each circuit reaches their target, identify personnel movement, and allow staff to calculate leave payouts. A TCA conference call is scheduled for Monday, May 19th. Personnel and budget staff will be available for questions.

The RIF plans are due to OSCA on or before May 23rd. Completed plans should not be held until the due date. As the plans are received, OSCA will review the plan to verify target numbers and contact the circuits to confirm. The goal is to give affected employees four weeks notice of termination: no later than June 1, 2008.

Judge Perry asked that any exceptions be sent with the RIF plans and they will be forwarded to the Budget Management Committee for consideration. Judge Farina thanked OSCA staff for their assistance.

IX. Other Business

Adjournment

Judge B. Perry thanked OSCA, the TCBC members, especially Judge Laurent, Judge Francis, Judge Farina, Carol Ortman, Judge Kravitz, Judge Steinbeck, Judge Menendez, Judge Mahon, Judge Thomas, and many others, including judges who filled in while others were attending Legislative session.

With no other business before the commission, Judge Perry adjourned the meeting at 1:50 p.m.