



## MEETING AGENDA

**12 p.m. to 1 p.m. (Eastern Time), Wednesday, May 16, 2018**  
**Telephone Conference Call**

**Note: On Tuesday, May 15, 2018, materials will be posted at:**  
**<http://www.flcourts.org/administration-funding/court-funding-budget/trial-court-budget-commission/>**

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|------|--|------------------|
| I.   | Approval of March 21, 2018, Meeting Minutes  | 12:00-12:05 p.m. |
| II.  | Problem-Solving Court Advisory Group Recommendations   | 12:05-12:20 p.m. |
| III. | Joint Due Process Workgroup and Personnel Committee Recommendations<br>Relating to Expert Witnesses and Court Interpreters | 12:20-12:40 p.m. |
|      | A. Expert Witness Initiatives – Statewide Rate Structure Chart   |                  |
|      | B. Court Interpreting – Availability of Certified Interpreters   |                  |
|      | C. Court Interpreting – FY 2017-18 (Current Year) Contractual Resources  |                  |
|      | D. Court Interpreting – FY 2018-19 Contractual Resources and FTE   |                  |
| IV.  | FY 2017-18 Year-End Budget Management  | 12:40-12:55 p.m. |
| V.   | Other Business   | 12:55-1:00 p.m.  |

Next Meeting: Tuesday, June 26, 2018, at 8:30 a.m. in Orlando – FY 2018-19 Allocations

# Agenda Item I. Approval of Meeting Minutes

**DRAFT**

**Trial Court Budget Commission  
Meeting Minutes  
March 21, 2018  
Conference Call**



**Attendance – Members Present**

The Honorable Margaret Steinbeck, Chair  
The Honorable Mark Mahon, Vice Chair  
The Honorable Scott Bernstein  
The Honorable Monica Brasington  
The Honorable Catherine Brunson  
Ms. Holly Elomina  
The Honorable Ronald Ficarrotta  
Mr. Tom Genung  
The Honorable Frederick Lauten  
Ms. Sandra Lonergan  
The Honorable Diana Moreland

The Honorable Debra Nelson  
The Honorable Gregory Parker  
Ms. Kathleen Pugh  
The Honorable Anthony Rondolino  
Mr. Grant Slayden  
The Honorable Elijah Smiley  
Mr. Walt Smith  
The Honorable Robert Hilliard  
The Honorable Patricia Thomas  
Mr. Mark Weinberg

**Attendance – Members Absent**

The Honorable Joseph Williams  
The Honorable Bertila Soto  
The Honorable John Stargel

**Special Note:** It is recommended these minutes be used in conjunction with the meeting materials.

Chair Steinbeck called the Trial Court Budget Commission (TCBC) meeting to order at 12:00 p.m. and reminded members that the meeting was being recorded for administrative accuracy. The roll was taken with a quorum present. She invited additional phone participants to introduce themselves. Chair Steinbeck then acknowledged Justice Lawson and Marti Harkness from Senate staff and thanked them for their continued support of the TCBC.

**Agenda Item I: Approval of December 18, 2017, Meeting Minutes**

Chair Steinbeck presented the draft meeting minutes from the December 18, 2017, TCBC meeting and asked if there were any changes necessary before approval. Judge Mahon moved to approve the minutes as drafted. Judge Lauten seconded, and the motion passed without objection.

**Agenda Item II: FY 2017-18 Budget Status**

**A. Salary Budgets**

Dorothy Willard provided an overview of the trial court salary budgets for FY 2017-18 as of February 28, 2018. The salary liability for the trial courts General Revenue/State Court Revenue Trust Fund is approximately \$67,988 under the salary appropriation. Ms. Willard noted there is still a projected deficit on the circuit court level. It is anticipated this deficit will be fully covered in May due to projected lapse. She further stated the trial courts continue to recover from the hiring freeze, but trouble recruiting and hiring positions is contributing to being under the appropriation in the overall salary budget. The Administrative Trust Fund salary liability is under the appropriation by \$35,144,

and the Federal Grants Trust Fund liability is over the appropriation by \$29,888. Ms. Willard noted OSCA has received an additional contract adjustment from the Department of Revenue. Based on the contract adjustment, the Federal Grants Trust Fund liability should be under appropriation by approximately \$16,000 by the end of the fiscal year.

**B. Positions Vacant More Than 180 Days**

Beatriz Caballero provided an overview of the positions vacant for more than 180 days as of March 16, 2018. Chair Steinbeck noted the majority of the vacancies are interpreters. She stated a legislative budget request was filed on behalf of the trial courts to address issues with retaining and recruiting court interpreters; however, this issue was not funded by the Legislature for FY 2018-19. Chair Steinbeck further stated court interpreting vacancies will be an ongoing issue the Commission will need to address.

**C. Operating Budgets**

Ms. Willard provided an overview of the operating budgets for FY 2017-18 as of February 28, 2018, in comparison with the same time period last fiscal year. The expenditures reflected in the materials do not include any returned funds associated with the year-end spending plan. Ms. Willard noted at this time in the fiscal year, if we were spending at the rate of release, approximately 67% of funds would be expended. She noted spending in the Other Personal Services (OPS), Expenses, Other Capital Outlay (OCO), Contracted Services, Lease Purchase, and Other Data Processing Services (ODPS) categories are in line with prior year expenditures. Expenditures in the Additional Compensation to County Judges category are up 8% compared to FY 2016-17, while Civil Traffic Infraction Hearing Officers (12%) and Mediation Services (1%) have decreased compared to the prior fiscal year. It was noted spending is 8% lower in the due process elements as compared to this same period last year.

Ms. Willard provided an overview of FY 2017-18 legislative projects and senior judge activity as of February 28, 2018. She stated the senior judge days served are down approximately 12% from this same period last year.

**D. Trust Fund Cash Balances**

Ms. Willard provided an overview of the State Courts Revenue Trust Fund (SCRTF) cash analysis as of February 28, 2018, and stated there is an approximate carry forward into next fiscal year of \$14.2 million. The trust fund will need to carry forward approximately \$4.0 million into FY 2018-19 in order to cover the first quarter expenditures for FY 2018-19. Ms. Willard noted OSCA staff continue to monitor and adjust remaining FY 2017-18 estimated expenditures based on generated salary lapse.

Ms. Willard then provided an overview of the Administrative Trust Fund (ATF), and stated there is an approximate balance of \$2.7 million.

**Agenda Item III: Reallocation of FY 2017-18 Post-Adjudicatory Drug Court Funds**

Eric Maclure provided an overview of the current funds available to the trial courts through the FY 2017-18 General Appropriations Act for support of post-adjudicatory drug courts in 10 counties. He noted the TCBC determined allocations of these funds at their June 27, 2017, meeting and then further revised the allotments to include funding to Seminole County in August. Mr. Maclure stated in order to maximize the use of available funds, the Commission may wish to revise the allotments for the remainder of the fiscal year while still maintaining a small amount of funds in statewide reserve. Judge Smiley moved to reallocate funds from the First, Seventeenth, and Eighteenth Circuits to address needs in the Fifth, Tenth, and Thirteenth Circuits. Judge Ficarrota seconded, and the motion passed without objection.

**Agenda Item IV: FY 2017-18 Year-End Spending Plan**

Dorothy Willard provided background information concerning the TCBC's approval, at the December 18, 2017, meeting, for a year-end spending plan and direction to OSCA staff to assist the circuits with evaluating unobligated funds and outstanding needs. Ms. Willard reviewed the available funding and requested circuit needs, then provided two options. Option 1 is to approved the proposed fiscal year-end spending plan and submit a request to the chief justice for an exception to the trial court budget and pay memorandum to allow for the purchase of equipment using due process funds. Option 2 is to propose an alternative plan.

Chair Steinbeck stated the Executive Committee discussed the purchase of general equipment not routinely provided for with state funds and software for an electronic form creator. The Executive Committee was concerned the trial courts did not have authority to spend state funding on these items and that further legal research was needed. Judge Smiley asked if the Commission decided to pull these requests from the spending plan today, that does not mean these items have been denied, just additional legal research is needed before approval. Chair Steinbeck confirmed.

Grant Slayden made a motion to approve Option 1 as identified in the meeting materials with the caveat that additional legal research from the OSCA General Counsel is needed indicating the appropriateness of the purchase of the general equipment and software using state funds. Sandra Lonergan seconded the motion.

Paul Silverman asked if circuits will have the ability to submit alternative requests for items that are appropriate and within approved funding amounts. Chair Steinbeck indicated a motion will need to be submitted by a voting member of the Commission. Judge Brunson inquired if funds have been spent in the past on these types of items. Ms. Willard responded the trial courts have not spent money on an electronic form creator in the past and the payment requests for general equipment items have generally been returned to circuits as an unallowable expense.

With no further questions, Option 1 was approved with the caveat that additional legal research was needed. Mark Weinberg opposed the motion. Judge Brasington made a subsequent motion to allow

circuits to resubmit funding requests, and authorize the Executive Committee to review and approve, if the items in question are determined to be inappropriate to purchase with state funding. Walt Smith seconded the motion, and the motion was approved unanimously.

## **Agenda Item V: 2018 Legislative Session Issues and Outcomes**

### **A. FY 2018-19 General Appropriations Act/Implementing Bill**

Ms. Willard provided an overview of the final Conference Report, less governor vetoes, from the 2018 Legislative Session. The Supreme Court received funding for travel reimbursement and Executive Direction received funding for electronic notification technology and early childhood court program evaluations. There was no funding received for the District Courts of Appeal. The trial courts received funding for various legislative projects. Ms. Willard noted the \$2 million reduction in FY 2017-18 salary budget was restored for FY 2018-19. Judge Smiley asked where will the restoration in salary budget be reflected in the trial court budget, and Ms. Willard indicated in the FY 2018-19 payroll projections.

Ms. Willard provided an overview of the proviso and implementing language. She noted proviso language related to problem-solving courts will be discussed in greater detail in Agenda Item VI.A. Also, the FY 2018-19 implementing language reflects current language, however, updated for dates.

### **B. Executive Committee Discussion on Operating Budget Realignment**

Chair Steinbeck reported the TCBC Executive Committee conducted an emergency telephone conference on January 18, 2018. In keeping with the TCBC operating procedures, she provided an overview of the issue discussed to the full Commission including a potential fund-shift of base operating categories from General Revenue to the State Courts Revenue Trust Fund. Chair Steinbeck stated the proposed fund-shift was not approved during the legislative session. She noted although the issue is no longer time sensitive, it is something the Commission may need to discuss at a later meeting and consider as part of the 2019 Legislative Session.

### **C. Substantive Legislation**

Due to time constraints, Chair Steinbeck proposed deferring this agenda item to the next TCBC meeting. Sarah Naf Biel stated there are no legislative issues needing immediate attention.

## **Agenda Item VI: Preparing for FY 2018-19 Allocations**

### **A. Problem-Solving Court Funding and Proviso**

Eric Maclure described the FY 2017-18 appropriated funds and current allocation practices for the various problem-solving courts in the trial courts. Mr. Maclure then reviewed the appropriated funding and proviso language in the FY 2018-19 General Appropriations Act (GAA). He noted the GAA consolidates current funding for existing post-adjudicatory drug courts and veterans courts; provides an additional \$2.5 million; and places the funding into a special category. Further, the

proviso language states the TCBC shall allocate the available \$7.5 million minus the designated funding for veteran's court, provides a requirement for matching funds by local, federal, or private funds, and provides an exemption for fiscally constrained counties or problem-solving courts that serve a state funding responsibility. Mr. Maclure reported a number of issues the TCBC will need to consider when allocating funds such as continuation funding for existing programs, data needs for collection and reporting, maximizing the capacity of existing problem-solving courts versus the creation of new courts, return on investment, and state-level infrastructure needed to support problem-solving courts.

Chair Steinbeck informed the Commission that she had contacted Judge Leifman, chair of the Task Force on Substance Abuse and Mental Health Issues in the Courts (SAMH), and Judge Greider, chair of the Steering Committee on Families and Children in the Court, to let them know this topic is on the meeting agenda. Chair Steinbeck further noted the TCBC typically does not weigh-in on matters involving policy; however, the funding for this issue overlaps with policy implications. Given this overlap, Chair Steinbeck asked for ideas for going forward with developing funding methodologies for problem-solving courts given the requirements in the proviso language.

Walt Smith asked if the proviso language requires a cash match or includes current county dollars being spent on staff and equipment. PK Jameson answered that the courts proposed language allowing for an in-kind match, but the Legislature did not pick up this proposal. She further stated it is believed county funded staff and cash spent specifically on specialty courts would meet the requirements of the proviso language. Walt Smith suggested starting with the total \$8.9 million available, maintain the \$5.0 million for the post-adjudicatory courts assuming they have the same funding needs, provide the \$1.4 million recurring funds to veteran's courts, encumber the non-recurring funds for veteran's courts, and then allocate the remaining funds to other circuits. Grant Slayden, in conjunction with Walt Smith's suggestion, recommended before encumbering the non-recurring funds, finding out which circuits plan to use funding for problem-solving courts, verify if counties want these courts to continue to receive funding on a recurring or non-recurring basis, and then prioritize remaining funds to circuits who do not currently receive funds. Judge Mahon asked if the \$65 county discretionary funds could be used as part of the matching requirement. PK Jameson answered the \$65 discretionary funds are local money and could be used towards the matching requirement. Chair Steinbeck noted the matching requirements only apply to those courts that do not support a state funding responsibility. Further research would be needed to determine which problem-solving courts do not fall within a state funding responsibility, for example, offenders destined for county jails or mental health courts serving misdemeanor populations.

Due to the multiple funding and policy implications, Chair Steinbeck stated she would like to provide guidance to all circuits as to the TCBC's interpretation of the proviso language and the requirements related to the matching requirements. In addition, Chair Steinbeck stated she would like to establish a separate funding advisory group specific to problem-solving courts including TCBC members and subject matter experts from the Task Force on Substance Abuse and Mental Health Issues and the

Steering Committee on Families and Children. Judge Mahon moved to approve creating such a group. Grant Slayden seconded, and the motion passed without objection.

**B. Other Issues**

There were no issues to report.

**Agenda Item VII. Report from Chief Justice Designee to Clerks of Court Operations Corporation Executive Council**

Judge Ficarrotta provided an update on Clerks of Court Operations Corporation (CCOC) activities. He reported the FY 2018-19 budget for the clerks of court will be \$13 million less than current county fiscal year. This reduction is due to factors such as increased health costs for FTE and reduced revenues from cases. The clerks received several additional duties without corresponding funds. He further stated the clerks and courts want to continue to work together to address budget needs and improve revenue collections.

**Agenda Item VIII. Other Business**

There were no issues to report.

**Adjournment**

With no other business before the commission, the meeting adjourned at 1:29 p.m.



## Agenda Item II. Problem-Solving Court Advisory Group Recommendations

## **Agenda Item II.: Problem-Solving Court Advisory Group Recommendations**

### **Background**

The fiscal year 2017-18 General Appropriations Act (GAA) appropriates funds for a variety of problem-solving courts in two separate specific appropriations, as follows:

### **Fiscal Year 2017-18 (Current Year) Problem-Solving Court Funding**

Type	Recurring	Non-Recurring	County(ies)		Comments
Post-Adjudicatory Drug Court  Specific Appropriation (SA) 3187	\$5,000,000		Broward, Escambia, Hillsborough, Marion, Okaloosa, Orange, Pinellas, Polk, Seminole, and Volusia		Allocated by the Trial Court Budget Commission.  Each program shall serve prison-bound offenders (at least 50 percent of participants shall have Criminal Punishment Code scores of greater than 44 points but no more than 60 points) and shall make residential treatment beds available for clients needing residential treatment.
Adult Drug Court  SA 3187		\$124,421	Seminole		For drug court treatment.
Juvenile Drug Court  SA 3187		\$175,000	Seminole		Designated for Grove Counseling Center to provide treatment services for Seminole County Juvenile Drug Court.
Veterans Court – Recurring			Alachua	\$150,000	For felony and/or misdemeanor pretrial or post-adjudicatory
			Clay	\$150,000	
			Duval	\$200,000	

Type	Recurring	Non-Recurring	County(ies)		Comments
SA 3191	\$1,426,846 <sup>1</sup>		Escambia	\$150,000	veterans' treatment intervention programs.
			Leon	\$125,000	
			Okaloosa	\$150,000	
			Orange	\$200,000	
			Pasco	\$150,000	
			Pinellas	\$150,000	
Veterans Court – Non-Recurring  SA 3191		\$802,649	Lake	\$200,000	For felony and/or misdemeanor pretrial or post-adjudicatory veterans' treatment intervention programs.
			Leon <sup>2</sup>	\$50,000	
			Marion	\$50,000	
			Miami-Dade	\$150,500	
			Nassau	\$150,000	
			Seminole	\$116,149	
			Collier <sup>3</sup>	\$86,000	
Total	\$6,426,846 Recurring	\$1,102,070 Non-Recurring			

The fiscal year 2018-19 GAA appropriates \$8.9 million in recurring general revenue in one special category appropriation for problem-solving courts (Attachment A). The funding is comprised of \$5 million in existing recurring funds, which is the amount appropriated in the current fiscal year for 10 post-adjudicatory drugs courts; \$1.4 million in existing recurring funds for veterans courts, which is designated for nine counties in the current fiscal year; and \$2.5 million in additional recurring funds. The new budget designates the \$1.4 million in veterans court funding for the nine counties receiving recurring funding in the current fiscal year and in the same amounts as the current fiscal year for each county. The remaining \$7.5 million is not designated for any particular type of problem-solving court or counties, such as the 10 post-adjudicatory drug court counties. Further, the appropriation does not retain any of the current year proviso for post-adjudicatory drug courts, including the Criminal Punishment Code score requirements. Lastly, the GAA does not appropriate any non-recurring problem-solving court funding to any county, including counties receiving non-recurring funding for problem-solving courts in the current fiscal year.

<sup>1</sup> The appropriation includes \$1,846 in supplemental funding previously received for increased employer health insurance premium contributions for OPS employees serving veterans courts.

<sup>2</sup> This funding is to support provision of legal assistance for veterans as part of the Tallahassee Veterans Legal Cooperative, including the Florida State University College of Law.

<sup>3</sup> Designated for reimbursement of the David Lawrence Mental Health Center, Inc.

### Fiscal Year 2018-19 Problem-Solving Court Funding (SA 3165A)

Type	Recurring	Non-Recurring	Counties		Comments
Problem-Solving Courts Including, But Not Limited to, Adult Drug Courts, Juvenile Drug Courts, Family Dependency Drug Courts, Early Childhood Courts, Mental Health Courts, and Veterans Courts	\$7,500,000				For treatment services, drug testing, case management, and ancillary services.  Allocated by the Trial Court Budget Commission.
Veterans Court	\$1,426,846 <sup>4</sup>		Alachua	\$150,000	For felony and/or misdemeanor pretrial or post-adjudicatory veterans' treatment intervention programs.
			Clay	\$150,000	
			Duval	\$200,000	
			Escambia	\$150,000	
			Leon	\$125,000	
			Okaloosa	\$150,000	
			Orange	\$200,000	
			Pasco	\$150,000	
			Pinellas	\$150,000	
Total	\$8,926,846 Recurring				

Proviso accompany the appropriation (attached) specifies, among other things, that:

- The Trial Court Budget Commission (TCBC) shall allocate the \$7.5 million.
- Funds must be match by local government, federal government, or private funds at a ratio of 30 percent non-state and 70 percent state funding, other than veterans courts, which shall use a ratio of 20 percent non-state and 80 percent state funding.
- No match is required:
  - In the case of a fiscally constrained county as defined by statute. Twenty-nine counties are currently designated as a fiscally constrained county.
  - For a problem-solving court that by its primary purpose or mission addresses activities for which state dollars are typically expended.
- The TCBC shall phase in implementation to avoid disruption in services for individuals who are participating in state-funded problem-solving courts as of June 30, 2018, and to provide time for circuits to meet the requirements of the appropriation and request funding.

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<sup>4</sup> See note 1.

- As part of the phased-in implementation, the TCBC may allocate funding to any problem-solving court that received state funding in fiscal year 2017-18 while the problem-solving court secures and demonstrates the required match. Any such problem-solving court shall be in compliance with the match requirement no later than January 4, 2019.

## **Problem-Solving Court Advisory Group**

Implementation of this appropriation raises a number of considerations, such as:

- The extent to which problem-solving courts receiving state funding in the current fiscal year desire and should receive continuation funding in fiscal year 2018-19. As noted above, the proviso states that the TCBC shall phase in implementation to avoid disruption of services for participants in problem-solving courts that are receiving state funding in the current fiscal year. Distinct from the named veterans courts that receive recurring funding, there is approximately \$6.1 million in recurring and non-recurring funding for post-adjudicatory drug courts and other problem-solving courts in the current year budget.
- Potential differences in allocation approaches for the first fiscal year versus subsequent fiscal years.
- The process, timeframes, and criteria that will govern circuit requests for funding.
- The manner in which match requirements will be applied and satisfied.
- The involvement of other Supreme Court committees with subject matter expertise related to problem-solving courts in the development of allocation criteria.
- Enhancement of existing problem-solving court capacity versus funding of new problem-solving courts.
- Demonstration of programmatic progress as a result of the investment of additional state funding.
- Data collection/case management system or staffing needs related to the operation of problem-solving courts that receive funding and for reporting on activities and outcomes.<sup>5</sup>
- Development of a certification program to encourage compliance with problem-solving court standards.<sup>6</sup>
- Whether the TCBC should develop guidance on use of funds.
- State-level infrastructure needed to support problem-solving courts in terms of standards compliance, best practices, training, and evaluation.<sup>7</sup>

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<sup>5</sup> An FY 2018-19 judicial branch legislative budget request for funding and one position to support the increased usage demand of the Florida Drug Court Case Management System and to make necessary functional enhancements to the Florida Drug Court Case Management System was not adopted as part of the new state budget.

<sup>6</sup> Currently best practice standards have been approved for adult drug courts and drafted for early childhood courts. Best practice standards for other problem-solving court types remain to be developed. A certification program has not yet been finalized, and a self-assessment tool is in process but not completed.

<sup>7</sup> An FY 2018-19 judicial branch legislative budget request for funding and one position to develop and implement a Florida Problem-Solving Court Certification Program was not adopted as part of the new state budget.

- Identification of the complement of resources necessary to effectively operate a problem-solving court.

At its March 21, 2018, meeting, the TCBC approved formation of an advisory group to assist with the various policy and fiscal considerations related to implementation of the appropriation – with membership from the TCBC, the Task Force on Substance Abuse and Mental Health Issues in the Courts (Task Force), and the Steering Committee on Children and Families in the Court. As subsequently appointed by Judge Margaret Steinbeck, TCBC chair, with input from the chairs of the Task Force and the Steering Committee, the Problem-Solving Court Advisory Group members include:

- Chief Judge Elijah Smiley (chair), Fourteenth Judicial Circuit, TCBC;
- Chief Judge Anthony Rondolino, Sixth Judicial Circuit, TCBC;
- Trial Court Administrator Tom Genung, Nineteenth Judicial Circuit, TCBC;
- Judge Steven Leifman, Miami-Dade County Court, Task Force;
- Judge Melanie May, Fourth District Court of Appeal, Task Force;
- Judge Frederick Lauten, Ninth Judicial Circuit, Task Force;
- Judge Christine Greider, Twentieth Judicial Circuit, Steering Committee;
- Judge Hope Bristol, Seventeenth Judicial Circuit, Steering Committee; and
- Trial Court Administrator Robin Wright, First Judicial Circuit, Steering Committee.

### **Circuit Interest in Continuation Funding**

To gather information for the advisory group and the TCBC, the Office of the State Courts Administrator (OSCA) in April 2018 distributed a survey to those circuits that have a problem-solving court receiving state funding in the current fiscal year. The purpose of the survey was: 1) to determine the problem-solving court's interest in continuing operations with state funding in FY 2018-2019; 2) to obtain estimates on the amount of funding needed to continue, and 3) to identify any unmet program resource needs.

The OSCA received survey responses from the circuits on behalf of all of the problem-solving courts receiving funding in FY 2017-2018. Twenty-six (26) out of twenty-seven (27) problem-solving courts currently receiving funding expressed an interest to continue operations with state funding. Of those problem-solving courts interested in continuing operations with state funding, two are interested in continuing at a reduced funding level. Of the remainder, about half are interested in continuing at the current funding levels, and about half are interested in continuing at an increased funding level. Case management resources and additional treatment resources were the most common identified unmet need. Other unmet needs include drug testing, ancillary services (transitional housing), veteran peer mentors, legal services for veterans, operational expenses, county pretrial services staff, and staff training.

Attached are: FY 2017-18 expenditure data (Attachment B); a table that shows current funding and requested funding – organized by problem-solving court type and breaking down current funding into recurring and non-recurring (Attachment C); and an alternative version of the table above with information by county (Attachment D).

## **Funding to Avoid Disruption in Services**

One of the initial considerations for the TCBC is the extent to which a portion of the \$7.5 million must be allocated on a continuation-funding basis to problem-solving courts that are currently receiving state funding, in order to avoid disruption in services. The proviso language specifies that the TCBC shall phase in implementation to avoid disruption in services for individuals who are participating in state-funded problem-solving courts as of June 30, 2018, and to provide time for circuits to meet the requirements of the appropriation and request funding. As part of the phased-in implementation, the TCBC may allocate funding to any problem-solving court that received state funding in Fiscal Year 2017-18 while the problem-solving court secures and demonstrates the required match. Any such problem-solving court shall be in compliance with the match requirement no later than January 4, 2019.

Component considerations include:

- Interpretation of the proviso language requiring the TCBC to phase in implementation in order to avoid disruption in services for individuals who are participating in state-funded problem-solving courts as of June 30, 2018.
- Whether to provide continuation funding solely sufficient to serve those specific individuals who are participating as of June 30, 2018, or whether to provide continuation funding to allow the problem-solving court to maintain the same overall level of service provided in the current fiscal year.
- Whether the TCBC should provide solely continuation funding or whether it should allocate additional funding to these problem-solving courts in order to address unmet needs identified by circuits.

The total amount of recurring funding for problem-solving courts in the current fiscal year (excluding recurring funding for designated veterans courts) is \$5 million, all of which is allocated to post-adjudicatory drug courts in 10 counties. In the current fiscal year, the total amount of non-recurring funding for problem-solving courts (including non-recurring funding for veterans courts) is \$1,102,070. Of the \$7.5 million available for allocation for fiscal year 2018-19, the combined total funding necessary to provide full continuation funding for all problem-solving courts receiving state funding in the current year would be \$6,102,070.

However, as noted above, one problem-solving does not wish to continue funding. Further, of those problem-solving courts interested in continuing operations with state funding, some are interested in continuing at their current funding levels, some are interested in continuing at an increased funding level, and some are interested in continuing at a reduced funding level. Most of the problem-solving courts identified unmet needs affecting program operations. Case management resources and additional treatment resources were the most common identified unmet need. Other unmet needs include drug testing, ancillary services (transitional housing), veteran peer mentors, legal services for veterans, operational expenses, county pretrial services staff, and staff training.

Based on the circuit feedback and requests, approximately \$6.7 million of the \$7.5 million would be needed to provide full continuation funding and meet requests for increased funding from those problem-solving courts that are currently receiving recurring or non-recurring state funding.

A decision on continuation funding is time-sensitive, as current-year funding ends on June 30. Thus, a currently funded circuit that does not receive continuation funding effective July 1, 2018, will need to secure alternative funding or immediately address the impact to program participants. It is important to note that cost estimates for continuation funding as well as for any increased funding for these program-solving courts are subject to additional revisions based on the implementation decisions by the TCBC. Once the fundamental decisions about continuation funding and any increased funding are addressed, a specific allocation plan may need to be developed for TCBC consideration by a subsequent email or conference-call vote. In particular, if the TCBC decides to allocate continuation funding solely sufficient to serve those specific individuals who are participating as of June 30, 2018, detailed information will be needed from the circuits on the number of participants, the services they are receiving, and the costs for providing those services for the remainder of their time in the program.

### **Decisions Needed**

The Problem-Solving Court Advisory Group held its first meeting via telephone conference call on May 14. After discussing a variety of short-term and longer-term issues related to the appropriation, the advisory group focused on the issue of continuation funding to avoid disruption in services. The advisory group offered recommendations, as an initial matter, solely on continuation funding, with plans to analyze problem-solving court data and have additional discussions before addressing other uses of available dollars, such as requests for additional state funding or new requests for state funding.

### ***Interpretation of Proviso***

- 1) Conclude that the proviso requires, at a minimum, providing funding sufficient to serve those specific individuals who are participating in a state-funded problem-solving court as of June 30, 2018 – regardless of whether the state funding is recurring or non-recurring.
- 2) Adopt an alternative interpretation.

### **Advisory Group Recommendation:**

The advisory group did not specifically address this issue but offered recommendations on continuation funding as described below.

### ***Continuation Funding – Problem-Solving Courts with Recurring Funding in Current Year***

- 1) For problem-solving courts currently receiving recurring state funding, allocate funding solely sufficient to serve those individuals who are participating as of June 30, 2018.
- 2) For problem-solving courts currently receiving recurring state funding, allocate funding to maintain the same overall level of service provided in the current fiscal year (i.e., fund each at its current level of funding).
- 3) Adopt an alternative.



#### Advisory Group Recommendation:

For the 10 post-adjudicatory drug courts receiving recurring funding in fiscal year 2017-18, the advisory group recommends the same level of funding for fiscal year 2018-19, with the exception of Seminole County, which would receive a reduced amount based on its indication of a reduced need. The advisory group also recommends that post-adjudicatory drug courts receiving allocations from the TCBC continue to operate under the program criteria that the Legislature prescribed in the fiscal year 2017-18 General Appropriations Act, namely that each program shall serve prison-bound offenders (at least 50 percent of participants shall have Criminal Punishment Code scores of greater than 44 points but no more than 60 points) and shall make residential treatment beds available for clients needing residential treatment. (Note: The nine veterans courts receiving recurring funding in the current fiscal year already receive designated recurring funding for fiscal year 2018-19 under the new appropriation.)

#### ***Continuation Funding – Problem-Solving Courts with Non-Recurring Funding in Current Year***

- 1) For problem-solving courts currently receiving non-recurring state funding, allocate funding solely sufficient to serve those individuals who are participating as of June 30, 2018.
- 2) For problem-solving courts currently receiving non-recurring state funding, allocate funding to maintain the same overall level of service provided in the current fiscal year (i.e., fund each at its current level of funding).
- 3) Adopt an alternative.

#### Advisory Group Recommendation:

For problem-solving courts receiving non-recurring funding in fiscal year 2017-18 (i.e., certain veterans courts and the Seminole County adult and juvenile drug courts), the advisory group recommends the same level of funding for fiscal year 2018-19, with the exception of the Seminole County veterans court, for which the Eighteenth Judicial Circuit is not requesting continuation funding. However, the advisory group further recommends that the TCBC allocate funds to these problem-solving courts solely for the first quarter of fiscal year 2018-19, to allow time for additional data to be analyzed for consideration of funding beyond the first quarter.

#### ***Funding for Unmet Circuit Needs***

Specific options are not presented on the issue of increased funding for problem-solving courts currently receiving state funds. Rather, the following questions are posed for discussion and consideration:

- Does the TCBC recommend considering increased funding for problem-solving courts that are receiving state funding in the current fiscal year?
- Should the issue of providing increased funding for currently funded problem-solving courts be addressed as a priority over the issue of circuit requests for new funding, or at the same time the issue of new funding requests is addressed?

- If the TCBC decides to address unmet needs/increased funding identified by currently funded problem-solving courts as a priority over requests for new funding:
  - What is the comparative priority among the categories of unmet needs (e.g., case management, treatment, etc.)?
  - If case management is a priority need, does the TCBC recommend addressing it as soon as feasible for post-adjudicatory drug courts, in particular? In the initial years of the post-adjudicatory drug court program, participating counties received case management positions. More recently, the Legislature added new counties to the program but corresponding case management positions were not provided. Further, some of the post-adjudicatory drug courts are exceeding the approved ratio of 50 participants for one case manager. Through reallocation of dollars, some circuits have attempted to address case management needs by hiring OPS case managers at least for the remainder of the current fiscal year. The TCBC could consider providing full-year funding for case manager needs in post-adjudicatory drug courts currently receiving state funding.

Depending upon its answers to these questions, the TCBC may wish to recommend that OSCA staff continue to work with the circuits to determine the increased funding necessary to address unmet needs and to provide a proposed allocation plan for possible TCBC approval by May 31, 2018, to give circuits time to renew service contracts by July 1 in order to avoid a disruption in services to individuals currently participating in the problem-solving court.

Advisory Group Recommendation:

The advisory group discussed the issue of requests for additional funding on behalf of problem-solving courts receiving state funding in the current fiscal year. However, the advisory group deferred a decision on this issue, pending additional time to discuss the various issues surrounding the appropriation and to analyze data relating to problem-solving courts.

## **FY 2018-19 Problem-Solving Court Appropriation and Proviso**

Following is the specific appropriation and accompanying proviso for the problem-solving court appropriation in the fiscal year 2018-19 General Appropriations Act enacted by the Legislature and approved by the Governor.

3165A

### **SPECIAL CATEGORIES**

#### **PROBLEM SOLVING COURTS**

**FROM GENERAL REVENUE FUND . . . . 8,926,846**

From the funds in Specific Appropriation 3165A, \$7,500,000 in recurring general revenue funds is provided for treatment services, drug testing, case management, and ancillary services for participants in problem-solving courts, including, but not limited to, adult drug courts, juvenile drug courts, family dependency drug courts, early childhood courts, mental health courts, and veterans courts.

The Trial Court Budget Commission shall determine the allocation of funds to the circuits. Funds distributed from this specific appropriation must be matched by local government, federal government, or private funds. The matching ratio for allocation of these funds shall be 30 percent non-state and 70 percent state funding, other than veterans court, which shall have a matching ratio of 20 percent non-state funding and 80 percent state funding. However, no match will be required for a problem-solving court that by its primary purpose or mission addresses activities for which state dollars are typically expended. Further, if the county meets the definition of a “fiscally constrained county,” as provided in section 218.67, Florida Statutes, no match will be required. In pursuing funding under this specific appropriation, a circuit may consider, among other criteria, the extent to which a problem-solving court addresses the needs of individuals with an opioid use disorder.

The Trial Court Budget Commission shall phase in implementation of this specific appropriation to avoid disruption in services for individuals who are participating in state-funded problem-solving courts as of June 30, 2018, and to provide time for circuits to meet the requirements of this appropriation and request funding. As part of the phased-in implementation, the commission may allocate funding to any problem-solving court that received state funding in Fiscal Year 2017-18 while the problem-solving court secures and demonstrates the required match. Any such problem-solving court shall be in compliance with the match requirement no later than January 4, 2019.

From the funds in Specific Appropriation 3165A, \$1,425,000 in recurring general revenue funds is provided for felony and/or misdemeanor pretrial or post-adjudicatory veterans' treatment intervention programs in the following counties:

Alachua.....	150,000
Clay.....	150,000
Duval.....	200,000
Escambia.....	150,000
Leon.....	125,000
Okaloosa.....	150,000
Orange.....	200,000
Pasco.....	150,000
Pinellas.....	150,000

Legislative Projects	Circuit	FY 2017-2018 Appropriation	Expended/ Encumbered	Remaining Balance	% Expended/ Encumbered
<b>Adult Post-Adjudicatory Drug Court (Recurring)</b>	00	\$ 13,399.00	\$ -	\$ 13,399.00	0.00%
	01	\$ 680,606.00	\$ 477,713.15	\$ 202,892.85	70.19%
	05	\$ 189,864.00	\$ 145,525.00	\$ 44,339.00	76.65%
	06	\$ 599,928.00	\$ 314,042.64	\$ 285,885.36	52.35%
	07	\$ 318,200.00	\$ 228,520.13	\$ 89,679.87	71.82%
	09	\$ 639,244.00	\$ 295,414.09	\$ 343,829.91	46.21%
	10	\$ 488,272.00	\$ 350,934.82	\$ 137,337.18	71.87%
	13	\$ 948,800.00	\$ 654,093.50	\$ 294,706.50	68.94%
	17	\$ 991,226.00	\$ 604,748.92	\$ 386,477.08	61.01%
	18	\$ 130,461.00	\$ 13,286.00	\$ 117,175.00	10.18%
	<b>Total</b>	<b>\$ 5,000,000.00</b>	<b>\$ 3,084,278.25</b>	<b>\$ 1,915,721.75</b>	<b>61.69%</b>
<b>Juvenile Drug Court (Non-Recurring)</b>	<b>18</b>	<b>\$ 175,000.00</b>	<b>\$ 175,000.00</b>	<b>\$ -</b>	<b>100.00%</b>
<b>Adult Drug Court (Non-Recurring)</b>	<b>18</b>	<b>\$ 124,421.00</b>	<b>\$ 17,453.84</b>	<b>\$ 106,967.16</b>	<b>14.03%</b>
<b>Veterans Court (Recurring and Non-Recurring)</b>	00	\$ 1,846.00	\$ -	\$ 1,846.00	0.00%
	01	\$ 300,000.00	\$ 157,644.33	\$ 142,355.67	52.55%
	02	\$ 175,000.00	\$ 80,632.57	\$ 94,367.43	46.08%
	04	\$ 500,000.00	\$ 297,388.51	\$ 202,611.49	59.48%
	05	\$ 250,000.00	\$ 90,680.43	\$ 159,319.57	36.27%
	06	\$ 300,000.00	\$ 232,233.66	\$ 67,766.34	77.41%
	08	\$ 150,000.00	\$ 51,410.26	\$ 98,589.74	34.27%
	09	\$ 200,000.00	\$ 128,956.41	\$ 71,043.59	64.48%
	11	\$ 150,500.00	\$ 99,457.74	\$ 51,042.26	66.08%
	18	\$ 116,149.00	\$ -	\$ 116,149.00	0.00%
	20	\$ 86,000.00	\$ 37,626.36	\$ 48,373.64	43.75%
	<b>Total</b>	<b>2,229,495</b>	<b>1,176,030</b>	<b>1,053,465</b>	<b>52.75%</b>

\*Expenditures current as of the April 30, 2018 FLAIR report.

Agenda Item II. -- Attachment C -- Current and Requested Funding by Problem-Solving Court Category

A	B	C	D	E	F	G
Legislative Projects	Circuit	FY 2017-2018 Appropriation (Recurring)	FY 2017-2018 Appropriation (Non- Recurring)	FY 2017-2018 Appropriation TOTAL	FY 2018-2019 Appropriation (Recurring)	FY 2018-2019 Estimated Circuit Funding Request
Adult Post-Adjudicatory Drug Court (Recurring)	00	\$ 13,399.00		\$ 13,399.00		
	01	\$ 680,606.00		\$ 680,606.00		\$ 771,017.68
	05	\$ 189,864.00		\$ 189,864.00		\$ 250,000.00
	06	\$ 599,928.00		\$ 599,928.00		\$ 599,928.00
	07	\$ 318,200.00		\$ 318,200.00		\$ 318,200.00
	09	\$ 639,244.00		\$ 639,244.00		\$ 640,000.00
	10	\$ 488,272.00		\$ 488,272.00		\$ 775,814.51
	13	\$ 948,800.00		\$ 948,800.00		\$ 948,800.00
	17	\$ 991,226.00		\$ 991,226.00		\$ 1,121,433.00
	18	\$ 130,461.00		\$ 130,461.00		\$ 126,000.00
	<b>Total</b>	<b>\$ 5,000,000.00</b>		<b>\$ 5,000,000.00</b>		<b>\$ 5,551,193.19</b>
Adult Drug Court (Non-Recurring)	<b>18</b>		<b>\$ 124,421.00</b>	<b>\$ 124,421.00</b>		<b>\$ 124,421.00</b>
Juvenile Drug Court (Non-Recurring)	<b>18</b>		<b>\$ 175,000.00</b>	<b>\$ 175,000.00</b>		<b>\$ 200,000.00</b>
Veterans Court (Recurring and Non-Recurring)	00	\$ 1,846.00		\$ 1,846.00	\$ 1,846.00	\$ 1,846.00
	01	\$ 300,000.00		\$ 300,000.00	\$ 300,000.00	\$ 300,000.00
	02	\$ 125,000.00	\$ 50,000.00	\$ 175,000.00	\$ 125,000.00	\$ 275,000.00
	04	\$ 350,000.00	\$ 150,000.00	\$ 500,000.00	\$ 350,000.00	\$ 550,000.00
	05		\$ 250,000.00	\$ 250,000.00		\$ 193,175.00
	06	\$ 300,000.00		\$ 300,000.00	\$ 300,000.00	\$ 300,000.00
	08	\$ 150,000.00		\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
	09	\$ 200,000.00		\$ 200,000.00	\$ 200,000.00	\$ 200,000.00
	11		\$ 150,500.00	\$ 150,500.00		\$ 205,000.00
	18		\$ 116,149.00	\$ 116,149.00		\$ -
	20		\$ 86,000.00	\$ 86,000.00		\$ 89,100.00
	<b>Total</b>	<b>\$ 1,426,846.00</b>	<b>\$ 802,649.00</b>	<b>\$ 2,229,495.00</b>	<b>\$ 1,426,846.00</b>	<b>\$ 2,264,121.00</b>
Problem-Solving Courts (Recurring)	<b>TBD</b>				<b>\$ 7,500,000.00</b>	
<b>Total</b>					<b>\$ 8,926,846.00</b>	<b>\$ 8,139,735.19</b>

Agenda Item II. -- Attachment D -- Current and Requested Funding by County

A	B	C	D	E	F
Circuit	County	Problem-Solving Court Type	FY 2017-2018 Appropriation (Recurring/Non-Recurring)	FY 2018-2019 Appropriation	Estimated Circuit Funding Request
TBD (to be allocated by TCBC)			\$ 13,399.00	\$ 7,500,000.00	
Supplemental funding for OPS employees serving veterans courts			\$ 1,846.00	\$ 1,846.00	\$ 1,846.00
1	Escambia	Adult PADC	\$ 680,606.00		\$ 771,017.68
1	Escambia	Veterans Court	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
1	Okaloosa	Adult PADC	Included with Escambia County		Included with Escambia County
1	Okaloosa	Veterans Court	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
2	Leon	Veterans Court	\$ 175,000.00	\$ 125,000.00	\$ 275,000.00
4	Clay	Veterans Court	\$ 150,000.00	\$ 150,000.00	\$ 200,000.00
4	Duval	Veterans Court	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00
4	Nassau	Veterans Court	\$ 150,000.00		\$ 150,000.00
5	Lake	Veterans Court	\$ 200,000.00		\$ 70,000.00
5	Marion	Adult PADC	\$ 189,864.00		\$ 250,000.00
5	Marion	Veterans Court	\$ 50,000.00		\$ 123,175.00
6	Pasco	Veterans Court	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
6	Pinellas	Adult PADC	\$ 599,928.00		\$ 599,928.00
6	Pinellas	Veterans Court	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
7	Volusia	Adult PADC	\$ 318,200.00		\$ 318,200.00
8	Alachua	Veterans Court	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
9	Orange	Adult PADC	\$ 639,244.00		\$ 640,000.00
9	Orange	Veterans Court	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00
10	Polk	Adult PADC	\$ 488,272.00		\$ 775,814.51
11	Miami-Dade	Veterans Court	\$ 150,500.00		\$ 205,000.00
13	Hillsborough	Adult PADC	\$ 948,800.00		\$ 948,800.00
17	Broward	Adult PADC	\$ 991,226.00		\$ 1,121,433.00
18	Seminole	Adult PADC	\$ 130,461.00		\$ 126,000.00
18	Seminole	Adult Drug Court	\$ 124,421.00		\$ 124,421.00
18	Seminole	Juvenile Drug Court	\$ 175,000.00		\$ 200,000.00
18	Seminole	Veterans Court	\$ 116,149.00		\$ -
20	Collier	Veterans Court	\$ 86,000.00		\$ 89,100.00
<b>TOTAL</b>			<b>\$ 7,528,916.00</b>	<b>\$ 8,926,846.00</b>	<b>\$ 8,139,735.19</b>

Note: The 7th Circuit and 17th Circuit funding amounts do not include the requested case manager resources identified in unmet needs, while other circuits included this additional resource need in their requested funding. The unmet needs identified in the 6th Circuit's Veterans Courts in Pasco and Pinellas counties for veteran peer mentor coordination is not included in the requested funding, and the 13th Circuit's unmet needs for transitional housing and medication-assisted treatment is not included in the funding request. All others problem-solving courts included the unmet needs in the funding amounts requested.

# Agenda Item III. Joint Due Process Workgroup and Personnel Committee Recommendations Relating to Expert Witnesses and Court Interpreters

## A. Expert Witness Initiatives – Statewide Rate Structure Chart



**Agenda Item III. A.: Joint Due Process Workgroup and Personnel Committee  
Recommendations Relating to Expert Witnesses and Court Interpreters - Expert Witness  
Initiatives – Statewide Rate Structure Chart**

On April 23, 2018, and May 10, 2018, the Due Process Workgroup (Workgroup) considered potential clarifications needed regarding intellectual disabilities or autism related competency evaluations pursuant to ss. 916.301-304. and 985.19(1)(e), F.S., and their inclusion in the Supreme Court issued AOSC 17-12 statewide rate structure chart. Comments from the circuits suggested that the range of allowable rates for types of evaluations was not specific enough as to which evaluation types are included. The Workgroup requested further analysis be completed on intellectual disabilities or autism related competency evaluation invoices to determine if a recommendation needs to be made to revise the administrative order.

**Due Process Workgroup  
Expert Witness Invoice Review  
FY 2017-18 July through December**

Adult Competence: Intellectual Disabilities and Autism (ss. 916.301 - 916.304, F.S.)		Juvenile Competence: Intellectual Disabilities and Autism (s. 985.19(1) (e), F.S.)	
> \$300	0	> \$250	1
\$300-\$500	115	\$250-\$350	2
< \$500	9	< \$350	6
<b>Total</b>	<b>124</b>	<b>Total</b>	<b>9</b>

Invoice review does not include no show fees or other activity fees, only evaluations.

A sample of expert witness evaluation invoices between July 2017 and December 2017 were reviewed by the Office of the State Courts Administrator (OSCA) staff. Due to the small frequency of intellectual disabilities or autism related competency exams, not all circuits are represented in the above chart. Based on expert witness evaluation invoices, the payment amounts for intellectual disabilities or autism competency evaluations differ between adult and juvenile. It is important to note that of the 115 adult evaluations falling within the standard adult competency rate, 60 evaluations or 52% are for the maximum amount of \$500.

During the invoice review, two juvenile intellectual disabilities or autism evaluations were billed for the standard juvenile competency rate of \$250-\$350. Communication with circuit representatives and the Agency for Persons with Disabilities suggests that juvenile intellectual disabilities or autism exams are more time consuming and intricate than the adult evaluations, and may justify payment above the standard juvenile competency evaluation payment range.

At the Administrative Services Division Training (ASD), held on May 3-4, 2018, in Orlando, Florida, ASD participants discussed whether adult and juvenile intellectual disability or autism exams are included in the statewide rate structure chart. Instances of extraordinary circumstances were also discussed. Circuit representatives shared their experience with the difficulty in finding experts to preform juvenile intellectual disabilities or autism exams at the standard juvenile competency rate and how this could be considered an extraordinary circumstance.

*Adult Competency: Intellectual Disabilities or Autism*

**Decision Needed**

Recommend approval of one or more of the following options to address the standard adult competency rate.

- 1) Specifically include adult intellectual disabilities or autism exams in the standard adult competency rate category; however, allowing the payment of exams exceeding this rate with supporting extraordinary circumstance documentation.
- 2) Do not include adult intellectual disabilities or autism exams in the standard adult competency rate category. Recommend a separate rate range for these specific exams.
- 3) Do not include adult intellectual disabilities or autism exams in the standard adult competency rate category until further analysis is completed.

*Juvenile Competency: Intellectual Disabilities or Autism*

**Decision Needed**

Recommend approval of one or more of the following options to address the standard juvenile competency rate.

- 1) Specifically include juvenile intellectual disabilities or autism exams in the standard juvenile competency rate category; however, allowing the payment of exams exceeding this rate with supporting extraordinary circumstance documentation.
- 2) Do not include juvenile intellectual disabilities or autism exams in the standard juvenile competency rate category. Recommend a separate rate range for these specific exams.
- 3) Do not include juvenile intellectual disabilities or autism exams in the standard juvenile competency rate category until further analysis is completed.

*Other Clarifications Needed*

In addition to the allowable payment rates for specific evaluation types, circuits had questions regarding the meaning of the grey or omitted sections on the statewide rate structure chart.

Many circuits interpreted the Maximum Allowable Travel Rate column as no travel expense being permissible for all evaluation types included in the rate structure chart. The expert witness invoice review reveals that not all circuits assumed this, as OSCA has received invoices that include travel reimbursement refunds. The apparent intention of AOSC 17-12 was to provide payment for an expert's mileage and per diem, but prohibit payment for an expert's travel time.

Similarly, circuits requested clarification about the “Maximum Hourly Testimony Rate, Court Ordered (Including wait time, 2 hour cap)” column. Some interpreted this as only allowing adult competency cases. Others reported utilizing contract language that included testimony rates within the evaluation flat fee. The apparent intention of AOSC 17-12 was to set an hourly rate for all activities related to testimony in adult competency evaluations only, including wait time, at \$150 per hour with a two-hour cap, and to allow circuits to determine testimony-related rates for other types of evaluations.

Based on the potential outcomes of the above recommendations for adult and juvenile intellectual disabilities or autism, a draft of the Proposed Expert Witness Rate Structure Chart and the original AOSC 17-12 statewide rate structure chart are attached.

#### **Due Process Workgroup Recommendations:**

Recommends Option 1 for Adult and Juvenile Competency – Intellectual Disability and Autism.

Recommends changes to Other Clarifications Needed section. Include setting the Maximum Hourly Testimony Rate, Court Ordered (Including wait time, applies 2 hour cap) for Standard Juvenile Competency to match the rate set for Standard Adult Competency. Also, recommends making clear in the note that payment amounts higher than the rates listed in the chart are allowable in extraordinary circumstances, with prior approval by the court and with the reason documented in orders and invoices.

#### **Decision Needed:**

Recommend approval of the revised rate structure chart (see **Attachment A**) for Supreme Court consideration.

Expert Witness Rate Structure from AOSC17-12

Type of Evaluation	Range of Allowable Rates for Evaluation	Maximum Allowable Travel Rate	Range of Allowable Follow-up Evaluation Rates (With same expert)	Maximum Allowable No Show Rate	Maximum Hourly Testimony Rate, Court Ordered (Including wait time, 2 hour cap)
Adult Competency	\$300-\$500		\$200-\$350	40% of Evaluation Rate	\$150
Juvenile Competency	\$250-\$350		\$175-\$250	40% of Evaluation Rate	
Guardianship Examining Committee					
Ph.D., M.D., or D.O.	\$250-\$350		\$175-\$250	40% of Evaluation Rate	
ARNP, RN, MSW, LPN, LCSW, Lay Person	\$75-\$250		\$50-\$175		
Developmental Disability Examining Committee					
Ph.D., M.D., or D.O.	\$250-\$350		\$175-\$250	40% of Evaluation Rate	
ARNP, RN, MSW, LPN, LCSW, Lay Person	\$75-\$250		\$50-\$175		

Proposed Expert Witness Rate Structure Chart (May 10, 2018)

Type of Evaluation	Range of Allowable Rates for Evaluation <sup>1</sup>	Travel <sup>2</sup>	Range of Allowable Follow- up Evaluation Rates (With same expert) <sup>1</sup>	Maximum Allowable No Show Rate <sup>1</sup>	Maximum Hourly Testimony Rate, Court Ordered (Includes wait time, applies 2 hour cap) <sup>3</sup>
Standard Adult Competency (s. 916.12, F.S. & s. 916.301-304, F.S.)					
Mental Competence to Proceed	\$300 - \$500	Mileage and Per Diem only	\$200 - \$350	40% of Evaluation Flat Rate	\$150 per hour
Standard Juvenile Competency (s. 985.19(1)(d), F.S. & s. 985.19(1)(e), F.S.)					
Mental Competence to Proceed	\$250 - \$350	Mileage and Per Diem only	\$175-\$250	40% of Evaluation Flat Rate	\$150 per hour
Guardianship Examining Committee (s. 744.331, F.S.)					
Ph.D., M.D., or D.O.	\$250 - \$350	Mileage and Per Diem only	\$175 - \$250	40% of Evaluation Flat Rate	Rates to be determined by circuit
ARNP, RN, MSW, LPN, LCSW, Lay Person	\$75 -\$250		\$50 - \$175		
Developmental Disability Examining Committee (s. 393.11(5) (g), F.S.)					
Ph.D., M.D., or D.O.	\$250 - \$350	Mileage and Per Diem only	\$175 - \$250	40% of Evaluation Flat Rate	Rates to be determined by circuit
ARNP, RN, MSW, LPN, LCSW, Lay Person	\$75 - \$250		\$50 - \$175		

**Note:** Payment amounts higher than the rates listed in the chart are allowable in **extraordinary circumstances** with prior approval by the court; however, documentation of reason must be included in orders and invoices.

<sup>1</sup> Allowable rates are based on a flat per-evaluation rate. The flat rate is designed to include the performance of the evaluation as well as any travel time or preparation time associated with the evaluation.

<sup>2</sup> Compensation for travel time is not permitted under the rate structure; however, mileage and per diem are allowable pursuant to section 112.061, F.S.

<sup>3</sup> The structure sets the hourly rate for all activities related to testimony in Standard Adult and Juvenile Competency evaluations, including wait time, at \$150 per hour with a two-hour cap. Testimony-related rates for other types of evaluations are left to the circuit to determine based on the type of expert testifying.

# Agenda Item III. Joint Due Process Workgroup and Personnel Committee Recommendations Relating to Expert Witnesses and Court Interpreters

## B. Court Interpreting – Availability of Certified Interpreters

**Agenda Item III. B.: Joint Due Process Workgroup and Personnel Committee  
Recommendations Relating to Expert Witnesses and Court Interpreters - Court  
Interpreting – Availability of Certified Interpreters**

The following content was discussed at the Due Process Workgroup meeting on April 23, 2018, and a conference call on May 10, 2018. The Due Process Workgroup’s initial recommendations were provided to the Personnel Committee for consideration.

**Background**

The number of staff court interpreter vacancies has fluctuated over the years. In addition, the duration for which a position is vacant has increased (**Attachment A**).

<b>Month/ Year</b>	<b>Over 180 Days (FTE)</b>
April 2013	2.0
January 2016	1.5
August 2016	13.0
April 2018	22.5

In 2006, the Supreme Court adopted the rules governing the certification and regulation of spoken language court interpreters in order to ensure a higher quality of interpreting services in the state courts system. The Supreme Court in 2008 implemented a state certification program for spoken language interpreters for this same purpose.

Amendments were made to the Florida Rules for Certification and Regulation of Spoken Language Court Interpreters and the Florida Rules of Judicial Administration through SC14-1055 and SC15-1594, in order to promote the use of the program’s more highly qualified interpreters and expand the rule to cover not only “non-English-speaking” but also “limited-English-proficient” litigants. Revisions included but are not limited to addressing disciplinary procedures for designated interpreters; creating three designations (certified, language skilled, and provisionally approved) to replace the original two designations (certified and duly qualified); requiring all persons providing interpreting services in Florida’s trial courts to register with the Office of the State Courts Administrator; adopting definitions for court-related proceedings and establishing that the provision of high-quality interpreting services should include ancillary activities such as depositions, mediations, and other similar proceedings; making technical amendments to the designation and registration process; and making amendments to ensure compliance with Rules 2.560 and 2.565 of the Rules of Judicial Administration.

Specifically related to the hiring process of court-employed interpreters, in SC13-304 the Supreme Court adopted Rule 14.205, Certified Court Interpreter Designation, to provide that:

Applicants who are selected as employee interpreters, but who are not certified at the time of court employment, shall become certified within one year of being employed in a court interpreting position. The one-year requirement may be modified by the board on a case-by-case basis, if necessary, only in exceptional circumstances.<sup>1</sup>

As of March 2018, there are currently 476 Florida certified, language skilled, provisionally approved, or registered interpreters. The chart below represents both staff and contractual interpreters as reported in the OSCA Court Interpreter Database and may include interpreters who are not actively interpreting for the court system.

<b>CERTIFIED</b>	<b>333</b>
Bosnian/Serbian/Croatian	1
French	3
Haitian Creole	37
Mandarin	1
Portuguese	3
Russian	7
Spanish	281
<b>LANGUAGE SKILLED</b>	<b>2</b>
German	1
Romanian	1
<b>PROVISIONALLY APPROVED</b>	<b>19</b>
Haitian Creole	1
Spanish	18
<b>REGISTERED</b>	<b>122</b>
Arabic	3
French	2
Haitian Creole	11
Mandarin	3
Polish	1
Portuguese	6
Russian	2
Spanish	92
Tagalog	1
Ukrainian	1
<b>Grand Total</b>	<b>476</b>

In September 2017, Judge Margaret Steinbeck, Chair of the Trial Court Budget Commission (TCBC), asked the TCBC Personnel Committee to explore ideas to help address the significant number of vacancies in the court interpreting element, as well as consider factors contributing to

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<sup>1</sup> This rule requirement was a codification of a requirement previously established by administrative order.

the challenges in recruitment and retention of certified court interpreters. In addition, the Personnel Committee was directed to work cooperatively with the Due Process Workgroup (Workgroup) in exchanging information and ideas on addressing the large number of vacancies. However, the work was placed on hold pending the outcome of the judicial branches comprehensive court interpreting budget request, which included a request to increase the salary for supervising and certified court interpreters. This request was not funded.

The following chart depicts the results of the initial data collected by OSCA staff through the 2017 Survey of Circuits on Court Interpreting Policies and Practices.

<b>2017 Survey of Circuits on Court Interpreting Policies and Practices</b>			
<b>What are the court interpreting challenges for your circuit?</b>			
<b>Circuit</b>	<b>Availability</b> to include quantity, language type, infrastructure, certified interpreters, and short notice proceedings.	<b>Certification</b> <b>Requirements</b> to include training and education offerings, fees associated with certification.	<b>Recruitment and</b> <b>Retention</b> to include high turnover, competition, low salaries.
1	X		
2	X		
4	X		
5			X
6	X	X	X
7	X		X
8	X		
9	X		
10	X		
11	X		X
12	X		
13	X	X	
14		X	
15	X		X
16	X	X	X
17	X		
18	X		X
19	X		X
20	X	X	X

### Current Issue

Upon conclusion of the 2018 legislative session, the TCBC Executive Committee held a conference call on March 20, 2018, to discuss the outcomes affecting the trial courts. Judge Steinbeck, Chair, and Judge Mark Mahon, Vice Chair, encouraged the Workgroup to continue to analyze the issues affecting the availability of certified court interpreters, in conjunction with the TCBC Personnel Committee.



At the direction of the Workgroup, OSCA staff utilized the survey data collected from all circuits in 2017 and additionally reached out to specific circuits in 2018 to identify the potential factors affecting the number of vacant positions and suggested solutions. The combined analysis does not identify all feedback or describe in depth the unique demographic-related scenarios of each circuit; however, it does provide insight into the circuits' experiences with court interpreter vacancies.

The four specific circuits suggested two main reasons for the significant number of vacancies:

- A) The starting salaries are too low.
- B) The pool of available interpreters is too small.

**1. The starting salary for a certified interpreter is too low**

- For the skill level required, to include certification standards.
- May not be competitive with county, federal, and private job opportunities.

	<b>7th Circuit</b>	<b>11th Circuit</b>	<b>15th Circuit</b>	<b>16th Circuit</b>
<b>Staff and Contractual</b>	Need staff interpreters along with contractual but not sure of the mix.	Have replaced some staff with a full service firm.	Need staff interpreters, along with contractual.	Need staff interpreters, along with contractual.
<b>CAD/Salary Increase</b>	Difficult to give a CAD to one class but not others. Prefers a salary increase.	Need to match county government interpreters' salaries to be competitive. A small CAD would be ineffective and would raise the need for CADs for other classes. If salaries are adjusted, the circuit may consider returning 4 vacant staff (FTE).	Would need a CAD that raises salaries to \$60,000 to be effective (not in favor of a CAD as the solution). Prefers a salary increase.	Agree that a CAD is needed but should be for all elements, since the problem is related to geographic issues and not just interpreters. Staff interpreter salary needs to be addressed.

**Possible solutions for certified interpreter starting salary too low:**

- 1) Align with FY 2018-19 LBR objective by increasing the minimum salary for certified court interpreters to \$60,000, assistant supervising court interpreters to \$66,354, and the minimum for supervising court interpreters to \$73,381.
- 2) Offer a Certified Court Interpreter Incentive Plan.

- 3) Offer a CAD to specific circuits.

A CAD is a competitive area differential. A competitive area differential is a pay additive for a “class,” not all job classes, based on three factors: geographically localized recruitment, retention (unintended turnover), or competitive pay issues. A COLA, or cost-of-living adjustment, is tied to a cost-of-living index, typically to the consumer price index (CPI). A COLA adjusts salaries of employees, not based on the jobs, but based on the cost-of-living index for that area.

- 4) Reducing 4.0 FTE’s, while offering a CAD to specific circuits.

The 11<sup>th</sup> Circuit agrees with releasing 4 FTEs, if sufficient funding is available to implement the pay changes above.

- 5) Hire staff at 10% below the minimum if not certified, removing the need for two different class titles.
- 6) A combination of or alternative to the above suggestions including a different starting salary or CAD for court interpreters.

When making recommendations to address the interpreter salary issue, time-sensitivity may be a factor when considered against the backdrop of proactively thinking about salary management options for this year and next. The TCBC and the Commission on Trial Court Performance and Accountability (TCP&A) could consider feedback on whether increasing the interpreter salary would promote retention and recruitment. This salary could complement the Workgroup’s analysis of other solutions related to the limited pool of certified interpreters.

Options of implementation dates:

1. In current year
2. On July 1<sup>st</sup>
3. After payroll projections (June)
4. Through FY 2019-20 LBR

The Workgroup discussed the salary and implementation options at the April 23, 2018, meeting and made initial recommendations to be considered by the Personnel Committee, through an email vote, sent out on April 29, 2018.

### **Personnel Committee Recommendations:**

The Personnel Committee concurred with some of the Due Process Workgroup’s initial recommendations and recommended alternatives to others. Specifically, they recommended:

- Proposed minimum salaries
- Certified Court Interpreter (\$55,000)
  - Assistant Supervising Court Interpreter (\$60,825)

- Supervising Court Interpreter (\$67,266)
- Proposed Certified Court Interpreter Incentive Plan
- \$2,500 upon completion of 2 years
  - An additional \$2,500 upon completion of 5 years

Agreed with \$5,000 CAD for Miami-Dade County

- Allow other circuits to request a CAD, with approval from the TCBC.

Agreed with hiring staff at 10% below the minimum if not certified and eliminate the non-certified court interpreter class title.

The Due Process Workgroup discussed the issue again, at their May 10, 2018, conference call, considering the recommendations of the Personnel Committee.

### **Due Process Workgroup Final Recommendations:**

Proposed minimum salaries – **Total Cost \$1,539,000**

- Certified Court Interpreter (\$55,000)
- Assistant Supervising Court Interpreter (\$57,500)
- Supervising Court Interpreter (\$61,000)

Proposed Certified Court Interpreter Incentive Plan for all 3 classes (**Attachment B**) – **Total Cost \$721,540**

- \$2,500 upon completion of 2 years
- An additional \$2,500 upon completion of 5 years

Proposed \$5,000 CAD for Miami-Dade County for all 3 classes – **Total Cost \$289,775**

- Allow other circuits to request a CAD, with approval from the TCBC.

Proposed hiring staff at 10% below the minimum if not certified and eliminate the non-certified court interpreter class title.

Recommended an immediate implementation date for the above proposals, with the understanding that if all salary proposals are approved the **Total Cost** would be \$2,550,315.

The above proposals assume that any filled, non-certified interpreter positions (6 current FTEs) will move to the 10% below the minimum of the certified court interpreter position on the date that the proposals become effective and will be governed by the certification rules going forward. Additionally, the above incentive plan assumes that, if approved, those positions with 2 years or 5 years of service at the time the plan becomes effective would receive the increases immediately.

If the 4 FTE positions from the 11<sup>th</sup> Circuit are set aside as non-funded, the total costs for the recommendations above would be adjusted down as follows: Proposed minimum salaries: Total

Cost \$1,315,409; Proposed Certified Court Interpreter Incentive Plan: Total Cost \$698,358; CAD for Miami-Dade County: Total Cost \$266,593. Total Cost \$2,280,360.

## Decision Needed

Concur with one or more of the recommendations above, suggest alternative recommendations, or table the issue pending additional information.

### 2. The Certified Interpreter Pool is Too Small

- Exam is too difficult (indicated by the low pass rate), not just in Florida.
- Orientation/exam not offered often/convenient enough.
- Exam does not allow for super scoring.
- Process is too expensive for the individual interpreter.

	<b>11th Circuit</b>	<b>15th Circuit</b>	<b>16th Circuit</b>
<b>Certification Requirements</b>	The requirements are not too difficult if the person has an in-depth knowledge of the process. Need to allow longer time to become certified.	Complying with certification policies is very difficult but would rather try other solutions than changing policies right now.	Complying with certification policies is very difficult.
<b>Certification Exams</b>	Need to offer orientation workshops and exams more often and in more places. Should allow for super scoring of exam. Need to pay for certification or offer a waiver.	Need to offer orientation workshops and exams more often and in more places.	Should allow for super scoring of exam.

Potential solutions include:

- 1) Extend the certification timeframe from 1 year to 2 years.
- 2) Super scoring on the certification exam.
- 3) Provide financial aid or waiver programs for certification fees for FTE's.

### Due Process Workgroup Recommendations:

The Workgroup recommended the Court Interpreter Certification Board consider the impact on recruitment and retention of staff court interpreters by extending the certification timeline from 1 year to 2 years and consider the pros and cons of super scoring. Solution #3 was tabled. No recommendations were needed from the Personnel Committee for Workgroup's two recommended suggestions to the Court Interpreter Certification Board because they are regulatory in nature.

**Decision Needed**

Consider approving the recommendations of the Workgroup. If approved, the chairs of the Trial Court Budget Commission and Commission on Trial Court Performance and Accountability will send a letter to the chair of the Court Interpreter Certification Board, requesting that the Board consider the timeframe and scoring issues.

**Trial Court Budget Allocations FY 2010-11 through FY 2017-18**  
**Court Interpreting**

Circuit	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Vacancies*	
	FTE	FTE	FTE	FTE	FTE	FTE	FTE	FTE	Over 180 days	Total
1										
2										
3										
4										
5			2.0	3.0	3.0	5.0	5.0	5.0	0.0	1.0
6										
7	1.0	1.0	2.0	3.0	3.0	3.0	3.0	3.0		
8	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0		
9	9.0	9.0	10.0	10.0	10.0	10.0	10.0	10.0		
10	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	1.0	2.0
11	41.0	41.0	41.0	41.0	41.0	41.0	41.0	41.0	15.5	18.5
12								2.0		
13	9.0	9.0	10.0	10.0	10.0	10.0	10.0	10.0	2.0	3.0
14										
15	13.0	13.0	13.0	13.0	13.0	13.0	13.0	13.0	1.0	1.0
16	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0		
17	15.5	15.5	15.5	15.5	15.5	15.5	15.5	15.5	2.0	2.0
18	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0		
19	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	1.0	1.0
20	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0		1.0
<b>Total</b>	<b>107.5</b>	<b>107.5</b>	<b>112.5</b>	<b>114.5</b>	<b>114.5</b>	<b>116.5</b>	<b>116.5</b>	<b>118.5</b>	<b>22.5</b>	<b>29.5</b>

\* Court Interpreter Vacancy Report as of April 4, 2018

**DRAFT (Staff, Assistant Supervising, and Supervising)**

**Certified Court Interpreter Incentive Plan**

A Staff, Assistant Supervising, or Supervising Court Interpreter, who has completed 2 years of **certified** interpreter services within the State Courts System, is eligible to receive a one-time incentive increase in annual salary, up to \$2,500, upon approval of the chief judge. [e.g., potential salary increase at the beginning of YR-3, only.]

A Staff, Assistant Supervising, or Supervising Court Interpreter, who has completed 5 years of **certified** interpreter services within the State Courts System, is eligible to receive a one-time incentive increase in annual salary, up to \$2,500, upon approval of the chief judge. [e.g., potential salary increase at the beginning of YR-6, only.]

**Procedures:**

1. For new hires, increases will be effective on the date the Interpreter begins his or her third or sixth year of service with the State Courts System. For currently employed Staff, Assistant Supervising, or Supervising Certified Court Interpreters, prior years of service will factor into eligibility determination; however, any incentive increases in annual salary will not be retroactive.
  - a. If an Interpreter who has received an incentive increase leaves the State Courts System employment, and subsequently returns, he or she will be eligible to receive an incentive increase upon completion of two years of eligible service in the subsequent service.
  - b. Prior Staff, Assistant Supervising, or Supervising Certified Court Interpreter experience of less than two years, for which no incentive was received counts toward eligibility.
  - c. Employment in a county-funded Staff, Assistant Supervising, or Supervising Certified Court Interpreter position counts toward eligibility.
2. It is the responsibility of the Trial Court Administrator to submit a completed Personnel Action Request form (PAR) notifying the Office of the State Courts Administrator (OSCA) Office of Human Resource of each Interpreter in their court who is eligible and who was approved for the incentive increase.

- a. Any notification received after the first month of eligibility will be processed on the monthly payroll following receipt of the PAR, and will not be retroactive.

ESTABLISHED: \_\_\_\_\_ , 2018

DRAFT



# Agenda Item III. Joint Due Process Workgroup and Personnel Committee Recommendations Relating to Expert Witnesses and Court Interpreters

## C. Court Interpreting – FY 2017-18 (Current Year) Contractual Resources

**Trial Court Budget Commission**  
**May 16, 2018**  
**Conference Call**

**Agenda Item III. C.: Joint Due Process Workgroup and Personnel Committee  
Recommendations Relating to Expert Witnesses and Court Interpreters - Court  
Interpreting – FY 2017-18 (Current Year) Contractual Resources**

It is estimated that the policies recommended by the Due Process Workgroup (Workgroup) and approved by the Supreme Court for Expert Witnesses have freed-up contractual funds that could be available to support due process services in FY 2017-18. The following balance is estimated as of April 2018:

FY 2017-18 Estimated Remaining Due Process Contractual	\$1,912,186
FY 2017-18 Reserve	\$412,804
Subtotal	\$2,324,990
FY 2017-18 Year-end Spending	-\$600,280
Estimated Remaining FY 2017-18 Balance*	<b>\$1,724,710</b>

\*A portion of the Estimated Remaining FY 2017-18 Balance may be needed for other purposes.

The estimated remaining due process contractual funds are based on current year circuit expenditure trends. The Workgroup anticipates that individual circuit accounts will have remaining balances at the end of the fiscal year. To make use of these balances, circuits would need to return remaining balances for reallocation.

At the April 23, 2018 meeting and the May 10, 2018 conference call, the Workgroup discussed using remaining due process contractual funds for virtual remote interpreting expansion, specifically in the 11<sup>th</sup> Circuit. This issue was tabled at the April 23<sup>rd</sup> meeting, pending research on cost and other implementation factors.

Since the April 2018 meeting, staff from the Office of the State Courts Administrator (OSCA) have been in contact with staff from the 11<sup>th</sup> Circuit to determine the technical feasibility and method for implementing virtual remote interpreting in the current year.

**Due Process Workgroup Recommendation:**

Recommend using a portion of the Estimated Remaining FY 2017-18 Balance to support virtual remote interpreting maintenance and expansion. Direct OSCA staff to continue to work with the 11<sup>th</sup> Circuit and contact other circuits to determine interest in VRI maintenance or expansion. Estimate the cost to procure and install equipment in the current fiscal year. In the interest of time, allow staff to present final estimated costs directly to the Trial Court Budget Commission for consideration, rather than bringing the cost estimates back to the Workgroup.

**Decision Needed**

Approve using a portion of the Estimated Remaining FY 2017-18 Balance to support virtual remote interpreting maintenance and expansion. Direct OSCA staff to continue to work with the circuits to determine the cost to procure and install equipment in the current fiscal year, to be presented for consideration by the Trial Court Budget Commission.

# Agenda Item III. Joint Due Process Workgroup and Personnel Committee Recommendations Relating to Expert Witnesses and Court Interpreters

## D. Court Interpreting – FY 2018-19 Contractual Resources and FTE

**Trial Court Budget Commission**  
**May 16, 2018**  
**Conference Call**

**Agenda Item III. D.: Joint Due Process Workgroup and Personnel Committee  
Recommendations Relating to Expert Witnesses and Court Interpreters - Court  
Interpreting – FY 2018-19 Contractual Resources and FTE**

At the April 23, 2018, Due Process Workgroup (Workgroup) meeting, it was estimated that the Expert Witness policies recommended by the workgroup and later approved by the Supreme Court may increase the anticipated remaining balance of contractual funds, available for allocation in FY 2018-19.

**Due Process Contractual Expenditure Analysis by Element**  
**FY 2017-18**  
**As of April 2018**

<b>Methodology</b> - Placing 2.5% of the Due Process Appropriation in reserve and determining circuit allocation using a proportional distribution based on expenditures and adjustments for previous fiscal year actions.	Court Interpreting	Expert Witness	Court Reporting	Remote Interpreting	OpenCourt	<b>Total</b>
FY 2017-18 Due Process Appropriation	\$19,955,792					<b>\$19,955,792</b>
FY 2017-18 Proposed Element Allocations	\$3,532,940	\$7,900,764	\$7,715,354	\$113,931	\$280,000	<b>\$19,542,989</b>
<b>2.5% Reserve Amount (with VRI Adjustment)</b>						<b>\$412,804</b>
% held in Reserve						<b>2.10%</b>

FY 2017-18 Annualized Expenditures	\$3,677,129	\$6,268,465	\$7,291,278	\$113,931	\$280,000	<b>\$17,630,803</b>
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FY 2017-18 Estimated Remaining Balance (excluding reserve)	(\$144,189)	\$1,632,299	\$424,076	\$0	\$0	<b>\$1,912,186</b>
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This provided an opportunity for the Workgroup to not only reevaluate the allocation of existing resources, but also explore ways in which court interpreting services may be more effectively provided. Currently, the Legislature appropriates funds in the contracted services category as a lump sum for due process services delivered by the trial courts. Each year, the Funding

Methodology Committee (FMC) of the Trial Court Budget Commission (TCBC) recommends an allocation for each of the three due process elements – expert witness, court interpreting, and court reporting – based on expenditure trends. The FMC further recommends a circuit-by-circuit allocation within each of the three elements.

To the extent the trial courts are seeing a reduction in expenditures in the expert witness category, the TCBC could consider, as a near-term strategy for the upcoming fiscal year, reducing the allocation for the expert witness element and increasing the allocation for the court interpreting element, thereby making additional court interpreting dollars available to circuits. Circuits could use the increased funding to help address additional interpreting services in their circuits, while still managing expenditures within their respective allocations. As noted, the funding is currently appropriated in the contracted services category. Subject to state and court system budget requirements, a potential other application of the savings might be to purchase additional Virtual Remote Interpreting (VRI) capability. The current VRI systems are in limited use around the state. Any expansion in this service delivery model would help achieve more long term benefits.

Further, as part of an ongoing strategy, the Workgroup could evaluate court interpreting practices, including but not limited service delivery models, to identify opportunities for additional, more efficient use of the current due process appropriation. The savings could in turn be applied toward addressing additional court interpreting services consistent with court system guidance. Of note, on January 30, 2012, the Supreme Court adopted the Commission on Trial Court Performance and Accountability's recommendation regarding prioritizing services according to case types when there is limited availability of spoken language interpreters.

Based on recommendations related to the salary proposals, the Workgroup discussed options for the 4 vacant FTEs provided by the 11<sup>th</sup> Circuit, if funding for the salary issues are approved.

Options include:

1. Un-fund the 4 vacant FTEs, allowing their salary rates to help cover the cost of the court interpreter salary increases.
2. Re-allocate up to 4 vacant FTE into a court interpreter statewide pool for shared remote interpreting.
3. Use up to 4 of the vacant FTE for translation services for the 11<sup>th</sup> Circuit, housed in another circuit.

### **Due Process Workgroup Recommendation:**

*FY 2018-19 Contractual Resource Allocation:* At the April 23, 2018, Due Process Workgroup meeting, the members discussed redistributing resources among the three due process elements and agreed to recommend increasing the total allocation for the court interpreting element to enable circuits to meet additional interpreting services by approaches such as: increasing contractual services, maintaining VRI capabilities, or a combination of these resources. The Workgroup deferred to the Funding Methodology Committee to recommend how much to allocate to each of the due process elements and to the circuits and to recommend a mechanism for tracking the use of resources.

*FY 2018-19 FTE Allocation:* The Workgroup did not make a recommendation on the potential 4.0 FTE provided by the 11<sup>th</sup> Circuit, pending the decisions by the Trial Court Budget Commission on the salary proposals and the VRI year-end spending.

### **Decisions Needed**

Approve the Workgroup's recommendation on FY 2018-19 contractual resource allocation.

Dependent on decisions related to the salary proposals and FY 2017-18 contractual year-end spending, there are potential options for the 4 vacant FTEs provided by the 11<sup>th</sup> Circuit, if funding for the salary issues are approved.

Options include:

1. Un-fund the 4 vacant FTEs, allowing their salary rates to help cover the cost of the court interpreter salary increases.
2. Re-allocate up to 4 vacant FTE into a court interpreter statewide pool for shared remote interpreting.
3. Use up to 4 of the vacant FTE for translation services for the 11<sup>th</sup> Circuit, housed in another circuit.
4. Other re-allocations.
5. Table the issue pending an outcome of FY 2017-18 due process contractual balance allocation.

## Agenda Item IV. FY 2017-18 Year-End Budget Management

**Agenda Item IV.: FY 2017-18 Year-End Budget Management**

There are no materials for this agenda item.



## Agenda Item V. Other Business

**Agenda Item V.: Other Business**

There are no materials for this agenda item.