



**Legislative Budget Commission
Zero-Based Budgeting
Subcommittee on Public Safety
Wednesday, January 9, 2002
11:15 a.m. 214 C**

AGENDA
Legislative Budget Commission
Public Safety Zero Based Budgeting Subcommittee

DATE: Wednesday, January 9, 2002
TIME: 11:15 a.m. – 1:45 p.m.
PLACE: 214 Capitol

| | | |
|----------|-----------------------|-------------------------------------|
| Members: | Senator Anna Cowin | Representative Randy Ball, Chairman |
| | Senator Skip Campbell | Representative Gus Bilirakis |
| | Senator Victor Crist | Representative Rob Wallace |

1. Call To Order
2. Roll Call
3. Chairman's Opening Remarks
4. Overview of Chairman's Recommendations
5. Public Testimony and Discussion
6. Adjourn

Legislative Budget Commission
Public Safety Zero Based Budgeting Subcommittee
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TAB 1

SUPREME COURT

All activities within the Supreme Court are being recommended for continuation with no recommendations for modifications. This overall recommendation is based upon the following:

- The Supreme Court operates in an effective and efficient manner in carrying out its mission. The Supreme Court operates with fewer resources than its counterparts in the 10 most populous states, yet ranks near the top in clearance rates of cases and opinions issued per justice.
- Revising the Supreme Court's responsibilities would require restructuring of Florida's Constitution, which is not recommended. The Legislature created the Supreme Court Workload Study Commission in 2000 and charged it with the responsibility of conducting a comprehensive review and analysis of the structure, caseload, and operations of the Supreme Court. The Commission issued its report in March 2001 and did not recommend any changes to the Court's jurisdiction.
- The Supreme Court currently outsources facility maintenance and major repairs. Other areas were reviewed for outsourcing but **no** further outsourcing is recommended at this time.

Zero Based Budget Review Recommendations by Service & Activity - 2001

| | |
|----------|--------------------------|
| Agency: | State Courts System |
| Program: | Supreme Court |
| Service: | Supreme Court of Florida |

1. Should the state continue to perform this Service? X YES _____ NO

The Constitution of the State of Florida creates the Supreme Court and vests it with the following duties:

- *Article V, Section 3 makes the Supreme Court the court of last resort in the Florida judicial branch, vesting the court with mandatory and discretionary review powers.*
- *Article V, Section 2 charges the Supreme Court with responsibility for the administrative supervision of all Florida courts and with rule-making authority for the practice and procedure of law in all state courts.*
- *Article V, Section 12 gives the Supreme Court authority for disciplining and removing judges.*
- *Article V, Section 15 grants the Supreme Court exclusive responsibility for regulating admission to the practice of law, the discipline of attorneys admitted to practice, and all other matters relating to the practice of law.*

Elimination of the Supreme Court, or revising its responsibilities, could not occur without restructuring Florida's Constitution. In March 2001, the Supreme Court Workload Study Commission, which was created by the Florida Legislature in 2000 to conduct a comprehensive review and analysis of the structure, caseload, and operations of the Supreme Court, issued its report and did not recommend any changes to the Court's jurisdiction. The Supreme Court operates in an effective and efficient manner and does so with fewer resources than most of the highest level courts in the 10 most populous states.

2. Are there any areas where performance is not meeting expectations for this service?

For those activities within the Supreme Court for which there are performance standards those standards are being met.

3. Based on the information provided, should each activity within this service continue to be performed by the state and, if continued, should funding be modified per questions 3.1 through 3.6? *Each activity should continue without any funding modifications.*

| Activities (Business Processes) | FY 01-02 Est. Exp. | YES | NO | Modify |
|---|-----------------------|-----|----|--------|
| 1. Judicial Processing of Cases | \$4,324,665 | X | | |
| 2. Court Records and Case Flow Management | \$ 969,790 | X | | |
| 3. Facility Maintenance and Management | \$1,093,976 | X | | |
| 4. Security | \$ 371,212 | X | | |
| 5. Supreme Court Library | \$ 664,606 | X | | |
| 6. Desktop Support | \$ 104,527 | X | | |
| 7. Fixed Capital Outlay | 0 | | | |
| Total Service | \$7,528,776 | | | |

3.1 Provide detailed reasons for activities NOT being recommended for continuation.

Not applicable.

3.2 Are there any areas where the agency could improve performance by re-engineering any activity? *No.*

3.3 For each activity recommended for continuation, is the current level of efficiency and effectiveness meeting legislative expectations? Describe those deficiencies. Can the deficiency be addressed using current resources?

Yes.

3.4. For each activity, identify potential and recommended reductions as follows:

a. Can any General Revenue be shifted to trust funds?

No.

b. List and describe all reductions listed in the 5% LRPP reduction list and the LBR Schedule 8B reduction list (if different). Explain in detail why any of these reductions should or should not be recommended.

There are no reductions listed in the 5% LRPP reduction list. The only reduction issues included in the LBR Schedule VIII B includes eliminating funds for the First District Court of Appeals Annex Fixed Capital Outlay project. The Revenue Estimating Conference has already included the reversion of these funds in the state revenue estimate for FY 2002-03.

c. List the activities, or components thereof, which are least relevant to or least effective in accomplishing the agency's missions and goals (if not previously listed in "b" above). Should any funding for these activities be redirected to a higher priority activity within this agency or eliminated entirely?

Not applicable.

d. For any LRPP reduction above that you recommend against adopting, develop alternative reduction options to achieve the 5% savings.

Not applicable.

3.5. Are there any funding enhancements which would significantly enhance the efficiency or effectiveness of the activities within this service?

No. Based on staff review of the current operations of the Supreme Court there are no funding enhancements that would significantly enhance the efficiency or effectiveness of the activities evaluated.

3.6 For each recommendation relating to an activity's funding level (whether to eliminate or modify) what are the consequences to the customers of each recommendation?

4. Based on a review of statutory authorities for activities and the analysis of customer needs and quality of services provided, are any changes to statutes or other expressions of legislative intent recommended?

No.

5. Were there any areas in this service which consistently lack adequate information necessary to perform the zero based budget analysis? If so please explain.

No.

6. Is there any evidence that quality could be improved or costs reduced through outsourcing or privatizing all or part of the activities within this service?

No. The Supreme Court currently outsources facility maintenance and major repairs. Other areas were reviewed for outsourcing but no further outsourcing is recommended at this time.

7. Should all or some of the tasks or functions within this activity be transferred to a more appropriate service or budget entity where a similar activity exists or to an entity that has a more compatible mission?

Activity 1. The judicial processing of cases cannot be transferred to another entity without changing the Florida Constitution, and the other activities within this program support the court's ability to process cases and should not be transferred.

8. Are any changes indicated to the mission statements and goals of the LRPP based on your review of statutory authorities and legislative intent for this service and its activities?

No.

9. Are there other recommendations at either the Service or Activity Level not addressed in the recommendations above?

No.

TAB 2

District Courts of Appeal

- The Appellate Mediation program should be discontinued. Private sector mediators can perform the same service for litigants as the Appellate Mediation Program with the same level of quality.
- The statutory provisions governing waiver of filing fees, costs and/or service charges for indigents in criminal or civil actions should be re-examined and perhaps be revised to establish, at a minimum, uniform criteria upon which to make a determination of who is indigent. Uniform criteria may ensure that there is more equitable treatment among civil and criminal litigants and possibly discourage appeals without merit.

Zero Based Budget Review Recommendations by Service & Activity - 2001

| | |
|----------|---------------------------|
| Agency: | State Courts System |
| Program: | District Courts of Appeal |
| Service: | District Courts of Appeal |

1. Should the state continue to perform this Service? X YES _____ NO

Provide reasons for the above recommendation

The District Courts of Appeal are created by Article V of the Florida Constitution. Citizens whose rights and liberties are determined by the trial courts have a right to appeal the decision to the District Courts of Appeal. In most cases this is the final review of a decision. The District Courts of Appeal correct errors of law made by the lower courts and insure the law is applied consistently within the district. If there were no District Courts of Appeals, the citizens' constitutional right to appeal would be negated.

2. Are there any areas where performance is not meeting expectations for this service?

There are no statewide performance standards for the District Courts of Appeal.

3. Based on the information provided, should each activity within this service continue to be performed by the state and, if continued, should funding be modified per questions 3.1 through 3.6?

| Activities (Business Processes) | FY 01-02 Est. Exp. | YES | NO | Modify |
|---|-----------------------|-----|----|--------|
| 1. Judicial Processing of Cases | \$26,694,799 | X | | |
| 2. Court Records and Case Flow Management | 3, 774,7998 | X | | |
| 3. Judicial Administration | 1,500,787 | X | | |
| 4. Security | 458,981 | X | | |
| 5. Facility Maintenance and Management | 1,582,796 | X | | |
| 6. Appellate Mediation | 377,101 | | X | |
| 7. Desktop Support | 981,208 | X | | |
| Total Service | \$35,370,378 | | | |

3.1 Provide detailed reasons for activities NOT being recommended for continuation.

Activity 6 – Appellate Mediation: By Administrative Order, the Fourth DCA, based on “budgetary and other considerations,” discontinued its Appellate Mediation program effective September 30, 2001. Presently, the First DCA is the only district that has an Appellate Mediation program.

In October, the First DCA issued its Report on the Status of the First District Court of Appellate Mediation Program. The report concludes the unit cost for successful mediation of a case is substantially higher than the unit cost for resolution of a case through the traditional process of appellate adjudication. The court recognized that first priority must be given to those expenditures that most efficiently accomplish the court’s mission of competent case disposition. The First DCA plans to phase out the program over the course of the current fiscal year.

Staff concurs with the First DCA’s conclusion and recommends that the program be discontinued. Private sector mediators can perform the same service for litigants as the Appellate Mediation Program with the same level of quality. There are enough private mediators to meet the anticipated needs. If the litigants who are currently receiving this service from the state for free perceive the service as beneficial and valuable, they will be able to hire private mediators.

3.2 Are there any areas where the agency could improve performance by re-engineering any activity?

No activities were identified that could be improved by re-engineering.

3.3 For each activity recommended for continuation, is the current level of efficiency and effectiveness meeting legislative expectations? Describe those deficiencies. Can the deficiency be addressed using current resources?

The District Courts of Appeal have not yet adopted any statewide performance standards. Although there is variance in some administrative practices among the appellate courts, it appears that the activities recommended for continuation are performing at a satisfactory level of efficiency and effectiveness based on the information available. In addition, it appears that the automated case management system and other technological advances have greatly improved the efficiency and effectiveness of the court without significant attendant increases in personnel.

3.4. For each activity, identify potential and recommended reductions as follows:

- a. Can any General Revenue be shifted to trust funds?

None have been identified.

- b. List and describe all reductions listed in the 5% LRPP reduction list and the LBR Schedule 8B reduction list (if different). Explain in detail why any of these reductions should or should not be recommended.

There are no reductions listed in the 5% LRPP reduction list. The only reduction issue included in the LBR Schedule VIII B includes eliminating funds for the 1st District Court of Appeals Annex Fixed Capital Outlay project. The Revenue Estimating Conference has already included the reversion of these funds in the state revenue estimate for FY 2002-03. This recommendation should not be adopted since the funds are no longer available.

- c. List the activities, or components thereof, which are least relevant to or least effective in accomplishing the agency's missions and goals (if not previously listed in "b" above). Should any funding for these activities be redirected to a higher priority activity within this agency or eliminated entirely?

N/A

- d. For any LRPP reduction above that you recommend against adopting, develop alternative reduction options to achieve the 5% savings.

N/A

3.5. Are there any funding enhancements which would significantly enhance the efficiency or effectiveness of the activities within this service?

No.

3.6 For each recommendation relating to an activity's funding level (whether to eliminate or modify) what are the consequences to the customers of each recommendation?

If Appellate Mediation is no longer funded, litigants will still be able to have their cases mediated if they chose since there is a strong private market. The litigants will have to seek out and pay for the appellate mediators, since the mediation will no longer be provided free of charge by the state. However, if the litigants perceive mediation as an effective alternative to further litigation and chose to hire a mediator, the cost of the mediation will be less than the cost of continuing the appeal in the court system.

4. Based on a review of statutory authorities for activities and the analysis of customer needs and quality of services provided, are any changes to statutes or other expressions of legislative intent recommended?

It is recommended that statutory provisions ((ss. 27.52, s. 57.081, 57.085, 440.25, F.S.) governing waiver of filing fees, costs and/or service charges for indigents in criminal or civil actions be re-examined and revised to establish, at a minimum, uniform criteria upon which to make a determination of indigency, pursuant to s. 29.002(3), F.S. It may ensure that there is more equitable treatment among civil and criminal litigants in determining who is unable to pay based on federal poverty guidelines or other specific threshold. It may also help to deter the pursuit of frivolous claims and appeals made easier by waivers of fees, costs and services.

5. Were there any areas in this service which consistently lack adequate information necessary to perform the zero based budget analysis? If so please explain.

No. Adequate information was provided by the court system to perform the zero-based budget analysis.

6. Is there any evidence that quality could be improved or costs reduced through outsourcing or privatizing all or part of the activities within this service?

Discontinuing the Appellate Mediation Program will reduce costs to the state while maintaining the same quality for the participants since private sector mediators can perform the same service for litigants the same level of quality. There are enough private mediators to meet the anticipated needs. If the litigants who are currently receiving this service from the state for free perceive the service as beneficial and valuable, they will be able to hire private mediators.

7. Should all or some of the tasks or functions within this activity be transferred to a more appropriate service or budget entity where a similar activity exists or to an entity that has a more compatible mission?

No.

8. Are any changes indicated to the mission statements and goals of the LRPP based on your review of statutory authorities and legislative intent for this service and its activities?

No.

9. Are there other recommendations at either the Service or Activity Level not addressed in the recommendations above?

No.

TAB 3

Judicial Qualifications Commission

- The JQC should consider eliminating the collection and filing of financial disclosure forms that are also filed and held with the Ethics Commission.

Zero Based Budget Review Recommendations by Service & Activity - 2001

| | |
|----------|------------------------------------|
| Agency: | State Courts System |
| Program: | Judicial Qualifications Commission |
| Service: | Judicial Qualifications Commission |

1. Should the state continue to perform this Service? YES NO

Provide reasons for the above recommendation

The Judicial Qualifications Commission (JQC) investigates charges of unethical conduct by judges,¹ and recommends disciplinary action to the Florida Supreme Court ranging from reprimand through removal from office. Final determination of disciplinary action is by the Florida Supreme Court. This activity is required by art. V, s. 12, of the Florida Constitution.

The activity is not essential to the workings of the government, discipline of judges could be limited to the legislative impeachment process. However, impeachment only allows for one significant remedy, and thus is of little use in cases where a sanction other than removal from office is appropriate. Impeachment consumes a significant amount of legislative time and resources, and is inefficient as compared to the JQC process. The JQC also recommends forced retirement of a judge due to disability, a function that would be difficult to accomplish through the impeachment process.

The JQC also collects and maintains financial disclosure forms that judges are required to file annually. These financial disclosure forms are required by court rule, not state law.

2. Are there any areas where performance is not meeting expectations for this service?

There is little specific guidance on what the appropriate performance expectation is for this service. The Florida Bar disciplines attorneys, a function that is similar to the disciplining of judges. In the latest fiscal year, the Florida Bar disciplinary program expended an average of \$16,770 per sanction, and expended an overall average of \$852.94 per disciplinary case filed.² By contrast, the estimated overall average cost per case filed with the JQC for 2001-2002 is \$1,454.68.³ These numbers are for information only, there is no reasonable known methodology that can factor differences in types of cases and economies of scale in order to create an exact comparison of these averages.

Compared to other states, the Florida JQC receives significantly less funding. The JQC provided the following information on funding of the JQC function in other states:

¹ The JQC has jurisdiction over elected or appointed county court judges, circuit court judges, judges of an appeals court, or justice of the supreme court. The term "judge" is used for simplicity, but refers here to a judge or a justice.

² Statistics for 2000-2001 fiscal year. Source: <http://www.flabar.org/newflabar/lawpractice/Conduct/flastats.html>.

³ JQC ZBB submission, at page 2.

- California has a budget of \$3,101,000, 28 full-time staff (which includes 14 FT attys) and jurisdiction over 1580 judges.
- Illinois has a budget of \$525,000 with 6 full-time staff and jurisdiction over 923 judges. However, Illinois is a two-tier state and these statistics are for the investigative side only. Budget for the second tier is unknown.
- Louisiana has a budget of \$609,829 with 10 full-time and one part-time staff (which includes 3 FT attys.), with jurisdiction over 760 judges.
- Michigan has a budget of \$918,800 with 7 full-time staff (which includes 3 FT attys.) and jurisdiction over 1058 judges (including senior judges).
- Ohio has a budget of \$1,328,024 with 18 full-time staff (which includes 6 FT attys.) and jurisdiction over 1130 judges.
- Pennsylvania has a budget of \$929,000 with 9 full-time staff (which includes 2 FT attys.) and jurisdiction over 1000 judges. However, Pennsylvania is a two-tier state; these statistics are for the investigative side only.
- Arkansas has a budget of \$311,253 with 4 FT staff and jurisdiction over 400 judges. However, litigation costs are paid by the Attorney General's office unless there is a conflict.
- New York has a budget of \$1,947,500 with 26 full-time and 1 part-time staff (which includes 8 FT attys.) and jurisdiction over 3500 judges. (New York has numerous "township" judges, non-lawyer judges, part-time judges, etc.)

It is unclear the extent to which other states may be overfunded, or the Florida JQC may be underfunded, as compared to other states.

3. Based on the information provided, should each activity within this service continue to be performed by the state and, if continued, should funding be modified per questions 3.1 through 3.6?

It is recommended that the activity of investigating and prosecuting complaints against judges should continue to be performed by the state.

| Activities (Business Processes) | FY 01-02 Est. Exp. | YES | NO | Modify |
|--|-----------------------|-----|----|--------|
| 1. Disposition of Complaints Against the Judiciary | 753,524 | X | | yes |
| Total Service | 753,524 | | | |

3.1 Provide detailed reasons for activities NOT being recommended for continuation.

No activities are recommended for discontinuation.

3.2 Are there any areas where the agency could improve performance by re-engineering any activity?

Please see sections 3.4.b. and 3.4.c. below.

3.3 For each activity recommended for continuation, is the current level of efficiency and effectiveness meeting legislative expectations? Describe those deficiencies. Can the deficiency be addressed using current resources?

No deficiencies noted.

3.4. For each activity, identify potential and recommended reductions as follows:

a. Can any General Revenue be shifted to trust funds?

It does not appear that any General Revenue expenditures could be shifted to an existing trust fund.

b. List and describe all reductions listed in the 5% LRPP reduction list and the LBR Schedule 8B reduction list (if different). Explain in detail why any of these reductions should or should not be recommended.

The agency has not completed a LRPP. The agency has indicated that its proposed 5% reduction is to use court reporters from the Attorney General's list of approved providers. Those providers have agreed to a reduced fee in exchange for inclusion on the list. This is an internal management decision resulting in cost savings and is recommended.

c. List the activities, or components thereof, which are least relevant to or least effective in accomplishing the agency's missions and goals (if not previously listed in "b" above). Should any funding for these activities be redirected to a higher priority activity within this agency or eliminated entirely?

The component of the activity that appears to be the least relevant or the least effective in accomplishing the agency's missions and goals is the collection of financial reports submitted by judges. Judges are required to file with the JQC a copy of the disclosure form already filed with the Ethics Commission. Compliance must be checked, and the documents received must be indexed and stored. The JQC wastes time and resources keeping a copy of a document maintained elsewhere.

d. For any LRPP reduction above that you recommend against adopting, develop alternative reduction options to achieve the 5% savings.

The agency has not completed a LRPP.

3.5. Are there any funding enhancements which would significantly enhance the efficiency or effectiveness of the activities within this service?

No.

3.6 For each recommendation relating to an activity's funding level (whether to eliminate or modify) what are the consequences to the customers of each recommendation?

N/A

4. Based on a review of statutory authorities for activities and the analysis of customer needs and quality of services provided, are any changes to statutes or other expressions of legislative intent recommended?

No.

5. Were there any areas in this service which consistently lack adequate information necessary to perform the zero based budget analysis? If so please explain.

There were no areas in this service which consistently lack adequate information necessary to perform the zero based budget analysis.

6. Is there any evidence that quality could be improved or costs reduced through outsourcing or privatizing all or part of the activities within this service?

The JQC currently employs private investigators and private attorneys to perform many of the tasks of the commission. It does not appear that further outsourcing or privatizing would improve quality or reduce costs.

7. Should all or some of the tasks or functions within this activity be transferred to a more appropriate service or budget entity where a similar activity exists or to an entity that has a more compatible mission?

There do not appear to be tasks or functions within this activity that should be transferred to a more appropriate service or budget entity.

8. Are any changes indicated to the mission statements and goals of the LRPP based on your review of statutory authorities and legislative intent for this service and its activities?

The agency has not completed a LRPP.

9. Are there other recommendations at either the Service or Activity Level not addressed in the recommendations above?

There are no further recommendations at either the Service or Activity Level not addressed above.

TAB 4

State Courts Executive Direction and Support Services

A. Recommended Budget Reductions

| | | FTE | All Funds |
|---|--|------------|------------------|
| 1 | Eliminate Trial Court Funding Unit | (2) | (81,023) |
| 2 | Eliminate 1 FTE in the Court Education Unit | (1) | (70,244) |
| 3 | Eliminate 1 FTE in the Children's Court Improvement Unit | (1) | (52,418) |
| 4 | Eliminate a Secretarial Support Position that Reports to the State Courts Administrator | (1) | (28,605) |
| 5 | Restructure the Communications and Legislative Relations Unit | (1) | (47,748) |
| 6 | Reduce Operating Capital Outlay; Redirect a Portion of the Savings to Fund a Technology Needs Assessment | | (150,000) |
| 7 | Reduce Travel Expenses | | (42,000) |
| 8 | Total | (6) | (472,038) |

Please note: These recommendations were all adopted during the recent special session.

B. Other Recommendations

- 1 Outsource selected personnel functions
- 2 Fund Shift General Revenue to Court Education Trust Fund
- 3 Consider outsourcing network operations to the Statewide Technology Office
Require complete accounting of travel expenditures to determine
- 4 if further savings are possible through enhanced technology.
Urge new state courts administrator to review organizational structure and position classifications. Require a report to the legislature of any such review in time for consideration by the 2003 Legislature. Courts should maintain current position
- 5 descriptions at all times.

Zero Based Budget Review Recommendations by Service & Activity - 2001

| | |
|----------|--|
| Agency: | State Courts System |
| Program: | Executive Direction and Support Services |
| Service: | Executive Direction and Support Services |

1. Should the state continue to perform this Service? X YES _____ NO

Provide reasons for the above recommendation

The Office of State Courts Administrator (a.k.a., Executive Direction and Support Services) provides administrative support for Florida's State Courts System. This support is broken out according to the various activities listed under Item 3 below. Since 1972, the State Courts System has operated a centralized administrative operation - - i.e., administrative support functions, staff and resources, have been consolidated into a single office with support functions performed in (Tallahassee).

Executive Direction and Support Service activities are performed by every agency of state government and are considered essential to administer and support department programs. Several recommendations to enhance this service as well as potentially increase efficiency and reduce costs follow below.

2. Are there any areas where performance is not meeting expectations for this service?

There are no statewide performance standards for Executive Direction & Support Services (Administrative Services).

3. Based on the information provided, should each activity within this service continue to be performed by the state and, if continued, should funding be modified per questions 3.1 through 3.6?

| Activities (Business Processes) | FY 01-02 Est. Exp. | YES | NO | Modify |
|---|-----------------------|-----|----|-----------|
| 1. Executive Direction and Support Services | \$ 576,982 | X | | |
| 2. Director of Administration | \$ 481,160 | X | | |
| 3. Planning and Budgeting | \$ 536,325 | X | | X |
| 4. Personnel Services/Human Resources | \$ 497,578 | X | | Outsource |
| 5. Finance and Accounting | \$ 518,752 | X | | X |
| 6. Procurement | \$ 555,693 | X | | X |
| 7. General Counsel/Legal | \$ 396,702 | X | | |
| 8. Court Services, Research and Evaluation | \$2,231,040 | X | | X |
| 9. Judicial and Court Staff Education | \$2,217,458 | X | | X |
| 10. Executive Direction-ISS | \$ 122,301 | X | | |
| 11. Administrative Services-ISS | \$ 342,148 | X | | |

| | | | | |
|--------------------------------------|--------------|---|--|---|
| 12. Applications Development/Support | \$ 657,685 | X | | |
| 13. Desktop Support | \$ 588,559 | X | | |
| 14. Network Operations | \$1,588,226 | X | | |
| 15. Inspector General | \$ 92,514 | X | | |
| 16. Professional Certification | \$ 762,032 | X | | |
| 17. Communication/Public Information | \$ 262,580 | X | | |
| 18. Grants Management | \$ 47,254 | X | | |
| 19. Public Education | \$ 44,500 | X | | X |
| Total Service | \$12,429,490 | | | |

3.1 Provide detailed reasons for activities NOT being recommended for continuation.

Activity 4. Personnel Services/Human Resources: This activity is proposed for outsourcing on a statewide basis. Outsourcing state personnel services/human resources is anticipated to save state tax dollars and improve services to employees through automation enhancements. The state courts system should be included in the statewide plan to outsource personnel services activities.

3.2 Are there any areas where the agency could improve performance by re-engineering any activity?

Based on a thorough review of agency organizational charts and ZBB budget documentation, the following efficiency improvements within Executive Direction & Support Services are recommended:

1. *Eliminate Trial Court Funding Unit (2 FTE & \$81,023)*
2. *Eliminate 1 FTE in the Court Education Unit (Cost savings: 1 FTE and \$70,244)*
3. *Eliminate 1 FTE in the Children’s Court Improvement unit (Cost savings: 1 FTE and \$52,418)*
4. *Eliminate one of two secretarial support positions that report to the state courts administrator (Cost savings: 1 FTE and \$28,605).*
5. *Restructure the Communications and Legislative Relations unit. Convert the graphic communications specialist into either two half-time positions or outsource communications functions and eliminate one legislative and communications specialist: (Cost savings: 1 FTE and \$47,758).*
6. *Reduce \$150,000 of operating capital outlay funds identified by the Office of State Courts Administrator in an interim budget amendment for a technology needs assessment. Require written agreement for management assistance with the Statewide Technology Office prior to commencement of the project. (Cost savings: \$150,000).*
7. *Reduce committee-related travel (Cost savings: \$42,000)*

Please note: Recommendations 1 – 7 above are contained in the Conference Report on Senate Bill 2C which passed during Special Session C.

In addition, the subcommittee recommends the following for future review:

1. *The Legislature should require a full accounting of court system travel expenditures in time for review by the 2003 Legislature. Staff raised the possibility that further savings in travel may be possible through increased reliance on video-teleconferencing and other technology for some meetings and training sessions. More complete and detailed information on travel expenditures, however, is necessary to identify further savings.*
2. *The Legislature should urge the new State Courts Administrator to conduct a detailed review of position classifications, official position descriptions and the organizational structure of the state courts. In some instances, staff noted that the organizational chart for the Office of State Courts Administrator revealed relatively low spans-of-control for management positions in production-oriented units. Although the lack of current position descriptions for key management personnel complicated the review, there is concern based on conversations with court system staff that some management positions may not be appropriately classified. Also, additional efficiencies from further organizational restructuring may be possible. The Legislature should closely monitor the progress of any such review and require a report on the Administrator's findings in time for consideration by the 2003 Legislature. At a minimum, the courts should be required to maintain complete and accurate position descriptions at all times.*

3.3 For each activity recommended for continuation, is the current level of efficiency and effectiveness meeting legislative expectations? Describe those deficiencies. Can the deficiency be addressed using current resources?

While specific deficiencies are not noted, the subcommittee believes that it may be possible to increase efficiency through organizational restructuring, more appropriate classification of positions, and increased use of technology. Specific recommendations, along with suggestions for further review, are described in section 3.2 above.

3.4. For each activity, identify potential and recommended reductions as follows:

- a. Can any General Revenue be shifted to trust funds?

Activity 9. Judicial and Court Staff Education: Court Education Trust Fund revenues appear adequate to support fund shifts of General Revenue expenditures to this trust fund in both the current fiscal year and FY 2002-03.

Please note: Budget recommendations adopted in Senate Bill 2C during Special Session C contains a fund shift of \$264,735 which will annualize to \$529,471 in FY 2002-03 from General Revenue to the Court Education Trust Fund.

- b. List and describe all reductions listed in the 5% LRPP reduction list and the LBR Schedule VIII B reduction list (if different). Explain in detail why any of these reductions should or should not be recommended.

There are no reductions listed in the 5% LRPP reduction exercise.

The only reduction issue included in the LBR Schedule VIII B includes eliminating funds for the 1st District Court of Appeals Annex Fixed Capital Outlay project. The Revenue Estimating Conference has already included the reversion of these funds in the state revenue estimate for FY 2002-03. This recommendation should not be adopted since the funds are no longer available.

- c. List the activities, or components thereof, which are least relevant to or least effective in accomplishing the agency's missions and goals (if not previously listed in "b" above). Should any funding for these activities be redirected to a higher priority activity within this agency or eliminated entirely?

N/A

- d. For any LRPP reduction above that you recommend against adopting, develop alternative reduction options to achieve the 5% savings.

The recommendations in section 3.2 above exceed 5% of the recurring base budget.

3.5. Are there any funding enhancements which would significantly enhance the efficiency or effectiveness of the activities within this service?

No.

3.6 For each recommendation relating to an activity's funding level (whether to eliminate or modify) what are the consequences to the customers of each recommendation?

The specific reductions listed in section 3.2 above have been adopted with the full involvement of the Office of State Courts Administrator. No significant consequences are anticipated.

4. Based on a review of statutory authorities for activities and the analysis of customer needs and quality of services provided, are any changes to statutes or other expressions of legislative intent recommended?

No.

5. Were there any areas in this service which consistently lack adequate information necessary to perform the zero-based budget analysis? If so please explain.

Generally, adequate information was provided by the Office of State Courts Administrator to perform the zero-based budget analysis. The office should, however, maintain position descriptions for all positions.

6. Is there any evidence that quality could be improved or costs reduced through outsourcing or privatizing all or part of the activities within this service?

Activity 4. Personnel Services/Human Resources: This activity is proposed for outsourcing on a statewide basis. Outsourcing state personnel services/human resources is anticipated to save state tax dollars and improve services to employees through automation enhancements and centralized personnel support services. The state courts system should be included in the statewide plan to outsource personnel services activities.

The Court has outsourced several tasks within various activities in the Executive Direction and Support Services Program. Tasks that have been outsourced include: data entry, education and training, printing, program assessment, automated legal research, computer maintenance, and software support. Other tasks, such as publications support, communications, and certification, continue to be explored for outsourcing opportunities.

7. Should all or some of the tasks or functions within this activity be transferred to a more appropriate service or budget entity where a similar activity exists or to an entity that has a more compatible mission?

Activity 14. Network Operations: The State Court System is currently exploring whether the State Technology Office (STO) can assume responsibility for Network Operations. Presumably, these operations could be outsourced by the STO as a part of a larger, statewide contract with a private vendor for Network Operations. The STO has indicated that cost-savings in information technology costs may be achieved by centralizing network operations and through group purchasing agreements whereby agencies “pool” their purchases for computer equipment, data processing services, and network operations. Through “group purchasing agreements”, the state may end up getting a better deal by paying lower costs for these services/purchases.

8. Are any changes indicated to the mission statements and goals of the LRPP based on your review of statutory authorities and legislative intent for this service and its activities?

No.

9. Are there other recommendations at either the Service or Activity Level not addressed in the recommendations above?

No.

TAB 5

PAROLE COMMISSION

Highlights of Proposed Chair's Recommendations

CLEMENCY:

- Automate the initial review of clemency cases to automatically exclude offenders who are not eligible.
- Outsource clemency investigations in order to relieve the current backlog of cases.
- Consider financial incentives to Parole Commission employees (or outside organization) to work overtime to alleviate backlog.
- Consider asking applicants to pay a fee.
- Transfer all support functions of clemency to the Executive Office of the Governor, thereby allowing the Clemency Board (Governor and Cabinet) to directly manage the workload issues associated with the clemency process.

PAROLE INVESTIGATIONS:

- Noted potential conflict of interest problems associated with original staff recommendation to consider transferring the workload associated with investigations for parole determinations to the Department of Corrections. Whether to recommend will be based on subcommittee discussion.

REVOICATIONS:

- Consider charging offenders for a portion of the costs associated with the investigation and prosecution of violations that lead to a revocation.

PAROLE COMMISSION RELOCATION:

- To the extent that parole determination functions, administrative functions and clemency functions are transferred to other entities, the Legislature must then determine whether the parole commission should continue as a free-standing agency or be relocated under another appropriate entity. Zero-based budgeting staff recommends a strategic review of various state government functions to determine where such consolidation and streamlining of management and services are feasible.

Recommendations by Service & Activity - 2001

| | |
|----------|--|
| Agency: | Florida Parole Commission |
| Program: | Post-Incarceration Enforcement & Victims' Rights |
| Service: | Post-Incarceration Enforcement & Victims' Rights |

1. SHOULD THE STATE CONTINUE TO PERFORM THIS SERVICE?

(Note: The original staff recommendation has been revised based on information provided by the Parole Commission and other sources.)

Yes.

The State of Florida should continue to perform the service of Post-Incarceration & Victims' Rights because this service involves many quasi-judicial activities that are required by statute and are best suited for performance by the state. The Parole Commission is currently referenced in Article IV, Section 8 of the Florida Constitution, and Chapter 947 of the Florida Statutes is devoted entirely to the Parole Commission and its duties.

The Constitution authorizes, but does not mandate, creation of the Parole Commission. The Commission's organizational structure, procedures, and existence as a separate agency are not specified in the Constitution. Therefore, the Legislature is not precluded from transferring some or all of the Commission's support activities (such as investigations) to other agencies, or from housing the Commission within a state agency for administrative purposes.

2. ARE THERE ANY AREAS WHERE PERFORMANCE IS NOT MEETING EXPECTATIONS FOR THIS SERVICE?

Yes. The Parole Commission has acknowledged that there is a substantial backlog of clemency cases (762 case backlog for full clemency cases and 26,040 case backlog for RCR without a hearing). Also, the Commission has acknowledged that 0% of the clemency cases are completed within the 90-day time frame, which is a recognized performance measure for the Commission

Because of this backlog, the Parole Commission is requesting 73 new FTEs (30 in FY 02-03 and 43 in FY 03-04).

3. BASED ON THE INFORMATION PROVIDED, SHOULD EACH ACTIVITY WITHIN THIS SERVICE CONTINUE TO BE PERFORMED BY THE STATE AND, IF CONTINUED, SHOULD FUNDING BE MODIFIED PER QUESTIONS 3.1 THROUGH 3.6?

| Activities (Business Processes) | FY 01-02 Est. Exp. | YES | NO | Modify |
|--|--------------------|-----|----|--------|
| 1. Conditional Release | | X | | No |
| 2. Offender Revocations | | X | | Yes |
| 3. Clemency Services | | X | | Yes |
| 4. Parole Determinations | | X | | No |
| 5. Victims Assistance | | X | | No |
| 6. Executive Direction and Business Support Services | | X | | No |
| 7. General Counsel/Legal | | X | | No |
| 8. Human Resources | | X | | No |
| 9. Accounting and Budgeting | | X | | Yes |
| 10. Procurement/mail and supply rooms | | X | | Yes |
| 11. Information Services/ Executive Direction | | X | | No |
| 12. Information Services/ Application Development | | X | | No |
| 13. Information Services/ Network Administration | | X | | Yes |
| 14. Information Services/ Help Desk Support | | X | | Yes |
| Total Service | | X | | Yes |

3.1 PROVIDE DETAILED REASONS FOR ACTIVITIES NOT BEING RECOMMENDED FOR CONTINUATION.

N/A

3.2 ARE THERE ANY AREAS WHERE THE AGENCY COULD IMPROVE PERFORMANCE BY RE-ENGINEERING ANY ACTIVITY?

(Note: The original staff recommendation has been revised based on information provided by the Parole Commission and other sources.)

Yes, clemency, parole investigations, and administrative support functions.

CLEMENCY -- Although there may be non-recurring start-up costs, automating the initial review of clemency cases could help to reduce workload by identifying cases that are clearly not eligible. The Department of Corrections currently generates a list of offenders released from prison and supervision that could be modified to exclude offenders that are not eligible. This could eliminate manual review of a substantial number of cases. Currently, 60% of the cases that are reviewed are not eligible. This recommendation is reflected in the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) report number 01-55.

PAROLE INVESTIGATIONS – While the workload associated with investigations for parole determinations could be performed by the Department of Corrections (DOC), there exists the potential for a conflict of interest to occur. The Department of Corrections is responsible for inmate incarceration which includes the maintenance of inmate records used for parole investigations. DOC, having possession of and being familiar with inmate records could feasibly perform the investigatory work, however, the possibility exists that biases could occur during investigation determinations because of unfavorable incidences or “history” between DOC Correctional staff and inmates eligible for parole.

*ADMINISTRATIVE FUNCTIONS** -- The Legislature should consider transferring the following administrative functions to the Department of Corrections: (1) accounting, (2) procurement and mail and supply rooms, (3) network administration, and (4) help desk support. The Department of Corrections indicates that it can absorb this workload within current resources with the possible exception of some of the information technology services. These actions would produce a reduction of 8 FTE and \$534,559 General Revenue while leaving key Commission personnel in place to serve as liaison with the Department of Corrections. The recent OPPAGA report number 01-55 includes a similar recommendation (also see section 7 below). ****PLEASE NOTE: This recommendation was adopted through the Conference Report to Senate Bill 2C during the recent special session. A reduction of \$50,000 in FY 01-02 funding will annualize to 8FTE and \$534,559 in FY 02-03.***

ADDITIONAL RECOMMENDATIONS -- The Legislature should also consider the following additional recommendations/options:

- 1. Outsource clemency investigations to relieve the current backlog. Outsourcing does not necessarily mean employing the private sector, but could include contracting another state agency (e.g. the Florida Department of Law Enforcement) to perform this service. (This recommendation was also included in the recent OPPAGA report, No. 01-55.)*
- 2. Require the Parole Commission to establish a plan for an employee performance-based compensation plan similar to the program operating in the Florida Department of Law Enforcement for Parole Commission employees engaged in clemency investigations. The plan should provide cash bonuses to those employees that exceed established performance/output standards for completing clemency investigations. By providing these non-recurring, one-time employee bonuses, Commission employees engaged in clemency investigations would be rewarded for*

exceptional job performance and for their efforts to reduce the current backlog. The plan must convey/validate current employee workload/output and include the newly proposed superior performance/output standards necessary to reduce the current clemency investigation backlog by at least 25% by March 1, 2003. The plan should also provide additional one-time, non-recurring compensation to employees that exceed the newly established performance/output standards.

- 3. The Legislature should consider transferring support for the Executive Board of Clemency to the Executive Office of the Governor. Clemency is an executive power granted to the Governor by the Constitution, and as such, greater accountability can be achieved where the Executive Office of the Governor has direct supervision of its management, workload and resources.*
- 4. To the extent that parole determination functions, administrative functions and clemency functions are transferred to other entities, the Legislature must then determine whether the Parole Commission should continue as a free-standing agency or be relocated under another appropriate entity. Zero-based budgeting staff recommends a strategic review of various state government functions to determine where such consolidation and streamlining of management and services are feasible.*

3.3 FOR EACH ACTIVITY RECOMMENDED FOR CONTINUATION, IS THE CURRENT LEVEL OF EFFICIENCY AND EFFECTIVENESS MEETING LEGISLATIVE EXPECTATIONS? DESCRIBE THOSE DEFICIENCIES. CAN THE DEFICIENCY BE ADDRESSED USING CURRENT RESOURCES?

The activities of conditional release, offender revocations, victims' assistance, and parole determinations all appear to be meeting legislative expectations.

However, upon review of materials submitted by the Commission regarding clemency, as well as testimony provided by Commission staff at meetings, it appears that there are deficiencies, inefficiencies, and confusion concerning the clemency process.

- 1) There is a backlog of clemency cases.*
- 2) There is a lawsuit that alleges that many eligible offenders have not been notified of the restoration of civil rights process.*
- 3) The Parole Commission states that the Clemency Board recently gave the Commission various verbal directives that increased the Commission's workload. A brief explanation of the directives was provided in the Commission's Legislative Budget Request, although specific documentation of the Board's directives is not available.*

If the recommendations from section 3.2 above are adopted, it should be possible to gradually alleviate the backlog without the need to appropriate funds for an additional 73 new, permanent FTE.

While identifying potential efficiencies in setting the terms and conditions of conditional release, staff raised questions about whether the statutory changes to Chapter 947 in 2001 inadvertently created an unnecessary duplication of effort. However, insufficient data prevents staff from making recommended changes to this operation at this time. Staff does, however, recommend that OPPAGA be tasked with evaluating the process for setting the terms and conditions for conditional release and make recommendations on where, if possible, the Legislature could further streamline this process and improve agency efficiency.

3.4. FOR EACH ACTIVITY, IDENTIFY POTENTIAL AND RECOMMENDED REDUCTIONS AS FOLLOWS:

- a. CAN ANY GENERAL REVENUE BE SHIFTED TO TRUST FUNDS?

(Note: The original staff recommendation has been revised based on information provided by the Parole Commission and other sources.)

There is a possibility that a portion of current costs charged to General Revenue can be shifted to trust funds.

Specifically, in the area of clemency, the Legislature should consider a policy to shift a portion of the associated costs from state taxpayers to applicants.

In the area of revocation proceedings, the Legislature should consider charging offenders for a portion of the costs associated with the investigation and prosecution of violations that lead to a revocation.

In considering these issues, care should be taken to identify all legal and practical issues that may arise from adoption of these recommended policies. In particular, the Legislature should consider the impact on indigent offenders seeking to have their civil rights restored and whether there should be a mechanism established to defer or waive fees for these individuals. In addition, the Legislature should delay adopting a fund shift in the General Appropriations Act until the second year of implementation. This will allow for better estimates of the total revenues that will be generated and an opportunity to identify and correct problems prior to relying on these funds for critical operations.

- b. LIST AND DESCRIBE ALL REDUCTIONS LISTED IN THE 5% LRPP REDUCTION LIST AND THE LBR SCHEDULE 8B REDUCTION LIST (IF DIFFERENT). EXPLAIN IN DETAIL WHY ANY OF THESE REDUCTIONS SHOULD OR SHOULD NOT BE RECOMMENDED.

The only 5% reduction offered by the Parole Commission was in the area of clemency (which is also the area where they are asking for 73 more FTEs over the next two fiscal years). The Commission says they can cut 10 FTEs in this activity because clemency is the only “operational activity that does not have statutory deadlines for completing cases.” By cutting these 10 positions, the state will save \$435,516.

These reductions, however, should not be approved since they would further exacerbate the current backlog.

- c. LIST THE ACTIVITIES, OR COMPONENTS THEREOF, WHICH ARE LEAST RELEVANT TO OR LEAST EFFECTIVE IN ACCOMPLISHING THE AGENCY’S MISSIONS AND GOALS (IF NOT PREVIOUSLY LISTED IN “B” ABOVE). SHOULD ANY FUNDING FOR THESE ACTIVITIES BE REDIRECTED TO A HIGHER PRIORITY ACTIVITY WITHIN THIS AGENCY OR ELIMINATED ENTIRELY?

The area of clemency is an area that could be considered “less” relevant to the Commission’s mission, which is to “provide for public safety through the judicious administration and strict enforcement of statutes regarding post-prison incarceration supervision programs.” Clemency is not a “post-prison incarceration supervision program.”

It is not recommended, however, that these resources be redirected to other activities due to the current backlog.

- d. FOR ANY LRPP REDUCTION ABOVE THAT YOU RECOMMEND AGAINST ADOPTING, DEVELOP ALTERNATIVE REDUCTION OPTIONS TO ACHIEVE THE 5% SAVINGS.

Please see section 3.2 above. The administrative reductions recommended therein would achieve more than 5% savings.

3.5. ARE THERE ANY FUNDING ENHANCEMENTS WHICH WOULD SIGNIFICANTLY ENHANCE THE EFFICIENCY OR EFFECTIVENESS OF THE ACTIVITIES WITHIN THIS SERVICE?

No.

3.6 FOR EACH RECOMMENDATION RELATING TO AN ACTIVITY'S FUNDING LEVEL (WHETHER TO ELIMINATE OR MODIFY) WHAT ARE THE CONSEQUENCES TO THE CUSTOMERS OF EACH RECOMMENDATION?

Proposed modifications to agency administrative support activities will likely generate anxiety among agency staff related to the uncertainty of relying on another agency for critical support functions. Similar concerns will be likely concerning the transfer of parole determination investigations.

Recommendations related to clemency should have minimal impact on the level of support to the Board of Executive Clemency.

It is anticipated that there would be minimal impact on the Commission's ability to reach appropriate decisions regarding parole and conditional release.

4. BASED ON A REVIEW OF STATUTORY AUTHORITIES FOR ACTIVITIES AND THE ANALYSIS OF CUSTOMER NEEDS AND QUALITY OF SERVICES PROVIDED, ARE ANY CHANGES TO STATUTES OR OTHER EXPRESSIONS OF LEGISLATIVE INTENT RECOMMENDED?

Conditional Release: no changes

Offender Revocation: no changes

Victims' Assistance: no changes

Parole Investigations: Changes possible to s. 947.172, s. 947.174, and s. 947.1745, but are NOT recommended:

If the Clemency function is to remain in the Parole Commission, implementing bill language, authorizing the establishment of an employee performance-based compensation/bonus plan, must be developed and included in the FY 2002-03 Implementing Bill.

Statutory changes would also be necessary should the Legislature move to consolidate and streamline Parole Commission functions and assign the Commission to another state entity.

Although not an absolute necessity, the assignment of administrative support functions to the Department of Corrections should be specified in law as well.

The proposal to pass costs of clemency and revocation proceedings to offenders would also need to be adopted in law.

5. WERE THERE ANY AREAS IN THIS SERVICE WHICH CONSISTENTLY LACK ADEQUATE INFORMATION NECESSARY TO PERFORM THE ZERO BASED BUDGET ANALYSIS? IF SO PLEASE EXPLAIN.

Initially, the Parole Commission did not provide breakdowns or explanations of their unit costs. However, upon requests from the ZBB staff, such budget information was provided.

6. IS THERE ANY EVIDENCE THAT QUALITY COULD BE IMPROVED OR COSTS REDUCED THROUGH OUTSOURCING OR PRIVATIZING ALL OR PART OF THE ACTIVITIES WITHIN THIS SERVICE?

Because of the unique nature of the activities and services provided by the Parole Commission, the option of outsourcing within this agency is very limited. As suggested in section 3.2 above, the activity that seems to have some potential for outsourcing would be that of clemency investigations, although there are positives and negatives on each side of the issue. Through their research of the issue, OPPAGA determined that outsourcing clemency investigations would facilitate a quick reduction of the backlog, remove the Commission's need for 73 FTEs over the next two years, and allow for the use of more expensive and diverse technology that the Commission cannot afford. On the other hand, OPPAGA noted several concerns about outside agencies getting involved, such as victim confidentiality, limited access to Federal and state crime information, and difficulty in assuring accountability. These concerns, however, should not preclude a good-faith examination of this strategy since similar obstacles have been successfully negotiated in other outsourcing initiatives in state government.

7. SHOULD ALL OR SOME OF THE TASKS OR FUNCTIONS WITHIN THIS ACTIVITY BE TRANSFERRED TO A MORE APPROPRIATE SERVICE OR BUDGET ENTITY WHERE A SIMILAR ACTIVITY EXISTS OR TO AN ENTITY THAT HAS A MORE COMPATIBLE MISSION?

There are several "transfer" options, although each of them may need further, detailed research. Each of these recommendations are discussed in section 3.2 above.

- *Parole Investigations: Transfer the workload associated with investigations for parole determinations to the Department of Corrections, although such a transfer could result in the potential for a conflict of interests to arise [See section 3.2]. (The Parole Commission will retain sole authority to grant or deny parole.)*
- *Move Clemency: Transfer all support functions of clemency to the Executive Office of the Governor, therefore allowing the Governor and Cabinet (Clemency*

Board) to directly manage the workload issues associated with the clemency process.

- *House the Commission Within Another Entity: To the extent that parole investigations, administrative functions, and clemency functions are transferred to other entities, the Parole Commissioners and remaining staff could be administratively housed under another appropriate agency for purposes of streamlining and consolidation.*

8. ARE ANY CHANGES INDICATED TO THE MISSION STATEMENTS AND GOALS OF THE LRPP BASED ON YOUR REVIEW OF STATUTORY AUTHORITIES AND LEGISLATIVE INTENT FOR THIS SERVICE AND ITS ACTIVITIES?

No, other than changes that will be necessary to reflect changes from any of the above recommendations that are ultimately adopted.

9. ARE THERE OTHER RECOMMENDATIONS AT EITHER THE SERVICE OR ACTIVITY LEVEL NOT ADDRESSED IN THE RECOMMENDATIONS ABOVE?

No.

TAB 6

Capital Collateral Regional Counsel

- The CCRCs are required to request reimbursement from the federal government for providing legal representation in federal courts. The amount of money requested from the federal government and the amount received should be reported as part of the quarterly report to the Commission on Capital Cases.
- In order to compare the efficiency of the registry attorneys to the CCRCs, the contract with registry attorneys may need to be modified in order to require the registry attorneys to report case costs and progress to the Commission on Capital Cases on a quarterly basis. The payment structure and contract for registry attorneys should also be amended to include responsibility for a case after a death warrant has been signed.
- The legislature should gather information necessary to evaluate feasibility of funding capital collateral representation entirely through the use of private attorneys. If current funds were distributed equally among the inmates on death row, each inmate could be provided with cash assistance of roughly \$39,000 per year in order to hire the qualified attorney of their choice to represent them in collateral proceedings.
- The CCRC for the Middle Region has begun the process of scanning case files and storing them on computer discs which may reduce the need for file storage space and make information retrieval more efficient for investigators and attorneys. The Northern and Southern Regions should submit a detailed plan to the legislature for the use of scanning equipment that indicates the costs savings that will result.

Zero Based Budget Review Recommendations by Service & Activity - 2001

| | |
|----------|--|
| Agency: | Capital Collateral Regional Councils |
| Program: | Northern, Middle, and Southern Regional Councils |
| Service: | Death Penalty Legal Representation |

1. Should the state continue to perform this Service? YES NO

Provide reasons for the above recommendation

A prisoner does not have a federal constitutional right to postconviction counsel provided by the state in capital cases. Also, the Florida Supreme Court has not clearly stated whether there is a state constitutional right to postconviction counsel in capital cases. However, if the state stopped providing postconviction counsel in capital cases, it is unlikely that the Florida Supreme Court would allow a death row inmate to be executed. The statutory creation of the Capital Collateral Regional Councils provides a way for the legislature to monitor and fund postconviction representation at reasonable levels.

2. Are there any areas where performance is not meeting expectations for this service?

House staff notes that the according to the Output Measures contained in the ZBB budget document submitted by the CCRCs, 80 percent of the issues raised by the CCRCs are summarily dismissed by the courts or ruled to be procedurally barred or without merit.

3. Based on the information provided, should each activity within this service continue to be performed by the state and, if continued, should funding be modified per questions 3.1 through 3.6?

| Activities (Business Processes) | FY 01-02 Est. Exp. | YES | NO | Modify |
|--|-----------------------|-----|----|--------|
| 1. Public Records and Information Services | \$2,403,095 | x | | |
| 2. Case Investigation Services | \$2,599,857 | x | | |
| 3. Legal Representation Services | \$4,213,111 | x | | |
| Total Service | \$9,216,063 | | | |

3.1 Provide detailed reasons for activities NOT being recommended for continuation.

N/A

3.2 Are there any areas where the agency could improve performance by re-engineering any activity? *In the area of Public Records and Information Services, the Middle Region has begun the process of scanning case files and storing them on computer discs. The CCRCs claim that this provides increased efficiency in two ways: It reduces the need for file storage space and makes information retrieval more efficient for the investigators and attorneys. The North and South regions should submit a detailed plan to the legislature for the use of scanning equipment that indicates the costs savings that will result.*

3.3 For each activity recommended for continuation, is the current level of efficiency and effectiveness meeting legislative expectations? Describe those deficiencies. Can the deficiency be addressed using current resources?

In 1985, the legislature created the Office of Capital Collateral Counsel. In 1997, the legislature divided the collateral counsel office into three regional offices. According to a draft OPPAGA justification review of the CCRCs released to staff in October 2001, the performance of the CCRCs has improved since the regional counsels were established. OPPAGA noted that the reforms enacted by the legislature were too recent to “allow for analysis of their effect on case completion” but concluded that cases are moving through the process. Every death row inmate who wants a lawyer is currently represented by the CCRCs or by a private lawyer. Also, OPPAGA found that the public records repository which is maintained by the Department of State has improved the “timeliness of obtaining case records and reduced the litigation over production.” According to the Commission on Capital Cases, the CCRCs have participated in more evidentiary hearings in the last year than in the last 10 years combined.

Additionally, House staff notes that according to the Output Measures contained in the ZBB budget document submitted by the CCRCs, 80 percent of the issues raised by the CCRCs are summarily dismissed by the courts or ruled to be procedurally barred or without merit.

There is room for improvement in the “Public Records” activity as noted above in question 3.2.

3.4. For each activity, identify potential and recommended reductions as follows:

- a. Can any General Revenue be shifted to trust funds?
This is not practical based on current trust fund balances (only about 2 percent of total CCRC appropriations is trust fund). The CCRCs are statutorily required to request reimbursement from the federal government for providing legal representation in federal court. This money is deposited into the Capital Collateral Trust Fund which is maintained by the Justice Administrative Commission. s. 27.702(3)(a), F.S.; 18 U.S.C. s. 3006A. The actual amount recovered from the federal government is based on the judgment of the federal judge assigned to the case and often does not match the reimbursement request which was submitted. Trust funds should be looked on as a supplement and not as a major source of funding.

- b. List and describe all reductions listed in the 5% LRPP reduction list and the LBR Schedule 8B reduction list (if different). Explain in detail why any of these reductions should or should not be recommended. *Current 5% reduction plan offers a cut in Case Related Costs of \$444,000, based on 00-01 reversions. The amount of money expended on case related costs depends on case activity. The category could end up in deficit if cases are more active.*
- c. List the activities, or components thereof, which are least relevant to or least effective in accomplishing the agency's missions and goals (if not previously listed in "b" above). Should any funding for these activities be redirected to a higher priority activity within this agency or eliminated entirely? *N/A refer to 3.1.*
- d. For any LRPP reduction above that you recommend against adopting, develop alternative reduction options to achieve the 5% savings. *See explanation in b. above. It is recommended that CCRC "zero-base" the Case Related Costs category. Each CCRC would list the TOTAL requirements projected for the fiscal year requested, with associated cost estimates and justifications.*

3.5. Are there any funding enhancements which would significantly enhance the efficiency or effectiveness of the activities within this service? *The CCRCs should actively pursue reimbursement for expenses incurred during representation of federal cases from the federal government whenever possible. See further discussion in 3.4.a. As part of their quarterly reports to the Commission on Capital Cases, the CCRCs should be required to report their requests for reimbursement from the federal government and the result of the requests.*

3.6 For each recommendation relating to an activity's funding level (whether to eliminate or modify) what are the consequences to the customers of each recommendation? *N/A*

4. Based on a review of statutory authorities for activities and the analysis of customer needs and quality of services provided, are any changes to statutes or other expressions of legislative intent recommended?

In order to compare the efficiency of the private registry attorneys to the CCRCs (see further discussion in question 6, below), the contract with registry attorneys may need to be modified in several ways. The registry attorneys should be required to report case costs and progress to the Commission on Capital Cases on a quarterly basis. In addition, private attorneys should be required to track and adhere to the same performance standards as the CCRC's. Currently, there is no statutory provision for representation by a registry attorney after a death warrant is signed. There is some concern that in cases in which a warrant is signed in a registry case, a registry attorney could withdraw from the case. The CCRCs could then face the possibility of being assigned to provide post-warrant representation in cases with which they are not familiar. The payment structure and contractual arrangement for registry counsel could be modified to include responsibility for a case after a death warrant has been signed.

5. Were there any areas in this service which consistently lack adequate information necessary to perform the zero based budget analysis? If so please explain.

None noted, however costs fluctuate based on the status of caseloads in the system. This makes it difficult to predict budgetary requirements. For instance, if a large percentage of cases have evidentiary hearings during a budget year, more funds will be needed than if the cases are awaiting a decision from the court. Likewise, cases in which a death warrant has been signed are very labor intensive and it is difficult to predict when a death warrant may be signed by the Governor.

6. Is there any evidence that quality could be improved or costs reduced through outsourcing or privatizing all or part of the activities within this service?

In 1998, the legislature created a registry of private attorneys who are appointed to represent death row inmate when a CCRC has an excessive caseload or has a conflict of interest. The registry is comprised of attorneys who have met certain statutory criteria and is maintained by the Commission on Capital Cases. s. 27.710(2) and 27.704(2). The registry attorneys are paid at the completion of each phase of postconviction proceedings according to a statutory schedule. s. 27.711, F.S. There are statutory fee maximums for each stage of the proceedings. Although staff has been presented with anecdotal evidence that in certain instances, registry attorneys have provided efficient representation at a low cost to the state, it is difficult to make a reliable comparison to the service provided by the CCRCs. To date, there have been no death warrants signed in any case in which the inmate was represented by a registry attorney. Also, there are pending challenges to the statutory maximum fees. It will be difficult to predict any cost savings to the state if judges allow payment to registry counsel in excess of the statutory maximums.

The legislature, after consultation with the Commission on Capital Cases, should consider gathering the information necessary to evaluate the feasibility of funding this activity entirely through use of private attorneys. If current funds were to be distributed equally among the inmates on death row that are in the process of having a collateral review of their cases, each inmate could be provided with cash assistance of roughly \$39,000 per year at current funding levels. Each death row inmate could be given direct access to these funds for the purpose of hiring a qualified attorney of their choosing to represent them in collateral proceedings. Savings, or improved representation, may be possible. This system would allow the state to eliminate the bureaucracy of the three CCRCs and focus resources on providing the most effective defense possible for the inmate. It also may give the inmates greater satisfaction in being represented by the attorney of their choosing. This would also eliminate the possibility of a conflict in collateral representation.

7. Should all or some of the tasks or functions within this activity be transferred to a more appropriate service or budget entity where a similar activity exists or to an entity that has a more compatible mission?

It may be argued that this service could be housed within the appellate public defender offices. Because the area of post-conviction litigation is a specialized field, these cases would probably have to be handled by a separate group of attorneys. Also, cases would have to be handled by an office other than the office that originally handled the trial court representation in order to avoid conflict of interest problems. Also, it may be problematic to place postconviction public defenders in a position where they were forced to regularly file motions which would claim that trial court public defenders provided ineffective assistance of counsel. This system might require increased witness and attorney travel costs.

8. Are any changes indicated to the mission statements and goals of the LRPP based on your review of statutory authorities and legislative intent for this service and its activities?

None.

9. Are there other recommendations at either the Service or Activity Level not addressed in the recommendations above?

The Commission on Capital Cases should evaluate all contracts for lobbying or consulting services which are being paid or proposed to be paid by the CCRCs.

Section 11.062, F.S. provides for a prohibition against the use of state funds for lobbying except by full time employees of an agency.

Please note: The Legislature reduced expenses for the CCRCs by \$60,000 related to lobbying and consulting contracts.