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# Progress Report



January 2004

Report No. 04-08

## Judicial System Achieves Savings by Implementing Recommendations

### *at a glance*

The Justice Administrative Commission, state attorneys, and public defenders have achieved savings by implementing recommendations made in our 2001 report. The Legislature reduced JAC staffing to reflect streamlined workload, and a purchasing consortium has achieved substantial savings for on-line legal services. The Legislature also has directed the judicial system to take steps to better integrate information systems and it adopted policies to reduce state attorney and public defender workload.

State attorneys and public defenders await funding decisions on Revision 7 of Article V before undertaking evaluation of local court programs for cost and effectiveness.

### Purpose

In accordance with state law, this progress report informs the Legislature of the extent to which the Justice Administrative Commission, state attorneys, and public defenders have addressed the recommendations made in our 2001 Justification Review report.<sup>1,2</sup>

<sup>1</sup> Section 11.51(6), *F.S.*

<sup>2</sup> *Justification Review of Justice Administrative Commission, State Attorneys, and Public Defenders*, [Report No. 01-64](#), December 2001.

### Background

Chapter 26, *Florida Statutes*, divides the state into 20 judicial circuits and the Florida Constitution requires voters in each circuit to elect a state attorney and public defender. The state attorneys prosecute criminal and some civil matters in their circuits on behalf of the state, while public defenders provide legal representation to indigent defendants. Public defender appellate lawyers located in five District Court of Appeals regions represent public defender cases that progress to appeal in all 20 circuits. Cases pertaining to the death penalty are referred to the capital collateral regional counsels for representation following action by the Florida and U.S. Supreme courts to uphold the sentences.<sup>3</sup>

The Justice Administrative Commission (JAC), created by Ch. 43, *Florida Statutes*, provides budgetary, accounting, and personnel support to the offices of the 20 state attorneys, 20 public defenders, and 2 capital collateral regional counsels.<sup>4</sup> The commission also serves as a single point of contact from which the

<sup>3</sup> The capital collateral regional counsels are supplemented by private attorneys.

<sup>4</sup> The capital collateral regional counsels and the state attorney in the 11<sup>th</sup> Circuit (Dade County) conduct their own voucher payment processing.

Legislature and state agencies can obtain administrative information concerning the state attorneys, public defenders, and capital collateral regional counsels.

## Previous Findings —————

### *Improvements could reduce costs*

Our 2001 report concluded that the Justice Administrative Commission, state attorneys, and public defenders could take steps to improve their operations and reduce costs.

**JAC workload.** We concluded that JAC could streamline its accounting work, and recommended that the Legislature eliminate 1.4 JAC positions for an annual cost savings of \$40,500.

**Technology.** The level of technology integration varied from circuit to circuit. Better integrating criminal justice information could reduce costs and improve efficiency by eliminating duplicative entry of common data, reducing the opportunity for data entry errors, allowing staff to perform other work, and enhancing the timeliness of information. We recommended that the Florida Public Defender Association, the Florida Prosecuting Attorneys Association, and the Joint Article V Committee work together to develop a plan and schedule to integrate technology within and among circuits.

**Online legal research.** State attorneys and public defenders were spending approximately \$500,000 for online legal research. We projected that these offices could save over \$300,000 annually by negotiating a group rate for these services. We recommended that state attorneys and public defenders create a purchasing group to take advantage of discounts for online legal research services.

**Reduce workloads through offense reclassification.** An ongoing issue in the judicial system is whether some non-violent criminal offenses should be reclassified, which

could reduce court workloads and costs. We recommended that state attorneys and public defenders work with the Legislature to identify misdemeanors and felonies that should be considered for reclassification.

### *Article V revision issues*

The implementation of Revision 7 to Article V of the Florida Constitution will affect several important day-to-day operations of the state attorneys and public defenders.

**Appointed counsel.** On July 1, 2004, the state will assume responsibility for appointed counsel, a function that involves approximately \$55 million in costs per year. Currently the county governments pay for and monitor attorneys appointed when public defenders cannot take a case due to ethical conflict and when parents in dependency cases (when a child may be removed from the home) are indigent. We recommended that the Legislature establish an independent commission to oversee appointed counsel.

**Court-related service costs.** It was not clear whether state attorney and public defender costs for travel, transportation, and library services would remain the responsibility of local government or be paid by the state after implementation of Revision 7 to Article V. We recommended that the Legislature clarify the funding source for these expenses.

**Special court programs.** At the time of our review, state attorneys and public defenders participated in 197 special programs that were intended to improve the efficiency or effectiveness of the court system. It was unclear whether the state should fund these programs when implementing Revision 7 to Article V. We recommended that the Legislature designate a workgroup to develop standards and uniform definitions for collecting cost and performance data and that administrators of programs that planned to seek state funding provide the specified information to the Legislature to assist with its funding decisions.

## Current Status ---

### ***The Justice Administrative Commission faces new responsibilities***

As we recommended, the Legislature eliminated funding for JAC 1.4 positions in fiscal year. JAC staffing will increase due to the additional responsibilities it will assume on July 1, 2004. As directed by Ch. 2003-402, *Laws of Florida*, JAC's new responsibilities will include those described below.

- Processing invoices that were previously administered by the counties, including state attorney and public defender court-related services costs, and fees and court-related services costs of counsel appointed to criminal conflict cases and dependency cases. JAC also will review and, if necessary, contest these bills and produce a quarterly report that compares actual to budgeted expenses for each circuit.
- Holding contingency funds for extraordinary circumstances by which a circuit may exceed its budgeted amount.
- Reviewing whether sufficient public defender conflict exists to warrant the appointment of private counsel.
- Providing administrative support to the newly created Article V Indigent Services Board.<sup>5</sup>

The Legislature appropriated 26 new positions for these new duties, effective June 1, 2004.

In addition, Ch. 2003-53, *Laws of Florida*, relocated the Guardian Ad Litem Program, which provides independent advocacy for dependent children, to JAC effective July 1, 2003. JAC will provide administrative and staff support to the program.

### ***Technology integration faces challenges in the circuits***

As we recommended, the Legislature has taken steps to establish a schedule and develop strategies for integrating technology among the judicial circuits. In Ch. 2003-402, *Laws of Florida*, the Legislature required the integration of case management systems by 2006, including the electronic exchange of case information, sentencing guideline and score sheet information, and video evidence.

In December 2003 the Senate Committee on Appropriations released a report which described the information infrastructure of the state courts system and identified issues that need to be addressed to implement an integrated system. The report recommended

- that a permanent statewide board comprised of representative of all aspects of the justice system be created and that the Statewide Technology Office be an ex-officio member of the board;
- that the board set standards for integration;
- that the Legislature clarify integration definition and requirements; and
- that each circuit create a permanent board to develop intra-circuit integration plans.

The report also noted that cost would be an impediment to obtaining new technology.

### ***State attorney and public defender caseloads have been adjusted***

As we recommended, the Legislature has taken steps to adjust limit state attorney and public defender caseloads. Chapter 2003-402, *Laws of Florida*, lowers the threshold for indigent services from 250% of the federal poverty level to 200%, which will reduce the number of defendants eligible for public defender services. In addition, the law prohibits the state attorneys from prosecuting and the public defenders from defending, violations of municipal ordinances, unless they are part of an ongoing felony or misdemeanor case;

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<sup>5</sup> The board was created to provide advice to the Legislature on the qualifications and compensation for attorneys who perform indigent services, and to suggest cost containment strategies.

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instead these actions will be enforced by the municipalities.

### ***Forming purchasing group for online legal research services has resulted in savings***

As we recommended, state attorneys have formed a purchasing group for online legal research services. As a result, the cost of these services has been reduced from an average of \$73 per attorney per month to \$21 per attorney per month for Lexis-Nexis and \$25 per attorney per month for Westlaw on-line services. As a result, the First Circuit reported savings of \$6,000 per year, while the Tenth Circuit reduced costs from \$47,426 to \$18,000 and the Twelfth Circuit reduced costs from \$38,220 to \$15,792.

However, only one public defender office is participating in this consortium, reporting a savings of \$73,000. The remaining public defenders have either negotiated individual contracts or have formed smaller groups to obtain discounts. These contracts have provided savings of approximately \$30 per attorney per month below the state contract. However, we continue to recommend that public defenders join the larger consortium to obtain additional savings.

### ***Some Article V issues have been resolved***

Chapter 2003-402, *Laws of Florida*, addresses two issues raised in our previous report. The law provides that JAC will monitor conflict cases. This will help ensure that state funds for private attorneys are spent appropriately. The law also clarifies that court-related expenses of state attorneys and public defenders, including travel, transportation, and library costs, will be paid by the state.

Because it is not clear whether special court programs will continue to be funded, the effectiveness of these programs have not yet been evaluated. Once Article V issues are resolved, the Legislature could direct that the remaining programs be evaluated to determine their effectiveness.

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