

February 25, 2009

To the Citizens of the State of Florida:

The Clerk of the Circuit Court is a constitutional officer created to preserve the checks and balances of our system of government. It was created almost two centuries ago, in 1838, when the delegates to the first Florida Constitutional Convention decided that the Clerks of the Courts should be responsible directly to the people of Florida.

There is currently a movement afoot in the Florida Legislature and among some Tallahassee bureaucrats to take away this elective office and transfer the duties to the Office of the State Court Administrator and the administrators of the 20 judicial circuits. Unfortunately, in the heat of battle, some key facts have been distorted. I think it is imperative that the record be set straight for the sake of the integrity of our system of government and the people we serve.

There is **no** rational basis to take away this elective office from the people. For 170 years, the Clerks of the Courts in Florida have been answerable to the people of Florida. This accountability is vital because it is the people's records and money that the Clerks maintain and administer. It is the Clerk's office that you go to:

- ✓ for your public records, both court and official;
- ✓ to maintain the integrity of the court files and evidence;
- ✓ to pay your traffic tickets;
- ✓ to select judges for assignment (through a blind selection system);
- ✓ to call jurors to duty;
- ✓ to process domestic violence complaints and child support delinquency compliances;
- ✓ to handle the multitude of papers for foreclosure cases and evictions;

In short, it is the Clerk's Office that keeps our court system running in a transparent, fair and orderly fashion.

In the following pages, I have included documents that tell the true story regarding the current controversy. These documents conclusively refute the allegations that Clerk budgets have grown disproportionately while other judicial partners have lagged and conclusively refute the allegation that the Clerks have no oversight. In addition, I have attached financial information regarding my own office which shows that since FY 2005, I have returned \$21,543,219 in surplus funds to the State of Florida, \$14,512,880 of which I could have spent within my legislatively approved budget cap. In the last four years, I have spent an average of only 89% of my Court-related budget, partially by holding down compensation to 2.25% below what Hillsborough County employees in the same Civil Service classifications receive.

I believe that an independent Clerk, elected by the people, is a mainstay of the Florida Constitution. In our own Hillsborough County, in the Office of Supervisor of Elections, we have seen how costly it can be when our system of checks and balances is not preserved properly. I ask you to look objectively at this issue so that together we can prevent a serious – and dangerous – mistake to our system of government.

Thank you for your attention to this very important matter.

Sincerely,

Pat Frank  
Clerk of the Circuit Court

## EXHIBIT LIST

- Exhibit One**                      **Letter from Hon. Harvey Ruvin, Miami-Dade Clerk of the Circuit Court (February 23, 2009), with attachment entitled, "Clerk of Court Budget Realities."**
- Exhibit Two**                      **Chart entitled, "Total Budget Comparisons FY 2004/05 to FY 2008/09," (Source: Clerks of Court Operations Corporation).**
- Exhibit Three**                      **Pat Frank, Hillsborough County Clerk of the Circuit Court, Court Surplus History, FY 2005/06/07/08.**
- Exhibit Four**                      **Pat Frank, Hillsborough County Clerk of the Circuit Court, Listing of Annual Audits.**



**HARVEY RUVIN**  
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February 23, 2009

DADE COUNTY COURTHOUSE  
ROOM 242  
73 West Flagler Street  
Miami, FL 33130

Honorable Justice Peggy Quince  
Supreme Court of Florida  
500 South Duval Street  
Tallahassee, FL 32399-1925

Dear Chief Justice Quince:

RE: Funding for Florida's Justice System

It was a pleasure meeting and briefly chatting with you just prior to your presentation to the Senate Judiciary Committee last Wednesday (February 18<sup>th</sup>).

You rather eloquently articulated the bedrock importance of the role we in the Judicial Branch of government play. Clearly an adequately funded, efficient and well balanced system is essential both for the timely and equitable resolution of disputes as well as for the effective handling of criminal matters. You made the point well: The very functioning of any civil society is dependent on the synergistic operation of its justice system.

I was certainly moved by your poignant discussion of children's issues, the Mental Health Initiative (championed by our own Judge Steve Leifman) and the need for support for our drug courts. In addition, all of the Clerks would wholeheartedly agree with you that more of what we collect should go to funding the entire court system including all our partners; rather than be absorbed in the general fund.

These are all goals the Judiciary and the Clerks of Florida should forge common cause with, working hand in hand, pooling our political capital to accomplish.

Instead, there are some judges that appear to be launching an ill-conceived and potentially disruptive effort to usurp the constitutional funding and statutory functions of Florida's elected Clerks and place them under the control of appointed Court Administrators in the various judicial circuits—eliminating the quintessential "Check and Balances" that the framers intended.

The importance of the "check and balance" aspect was not so long ago both recognized and fortified by former Chief Justice Lewis, when he wisely prescribed independent actions that a Clerk is required to take when judges act to seal files. This independence is clearly in the public interest and it is underscored every day in countless ways throughout our court system.

It is not helpful that, in the attempt to justify such a radical concept, its advocates have put forth a series of contentions that are at best uninformed and at worst—intentionally misleading.



I am attaching hereto a point by point analysis of their contentions in an effort to set the record straight.

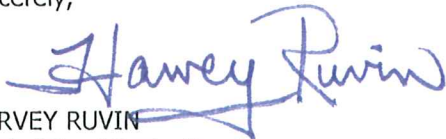
One glaring mischaracterization of the facts is a rather dramatic bar graph being distributed that "shows" the Clerks collective fiscal needs growing over the last five (5) years at a 33% increase, while depicting the Courts, State Attorneys and Public Defenders growing at only 13 – 15 % in the same time period. The TRUTH is that when ACTUAL expenditures are used, quite a different bar graph emerges – one that shows Clerks' expenditures rising only 13.7% not the misleading 33% as put forth by those supporting this takeover proposal.

Particularly disturbing is the uninformed assertion that the Clerks' budgetary process is "unaccountable and unsupervised" and that Clerks are somehow permitted to be loose canons able to resist cuts and avoid fee collection and performance standards. As you will see from the attachments, nothing could be further from the truth.

I am also somewhat surprised by the disparaging implication that our outstanding Chief Financial Officer, Alex Sink, is not fulfilling her mandated job of overseeing and auditing this process as assigned to her by the Florida Legislature. In fact, she is – and doing it quite conscientiously to boot.

YOUR HONOR, IT IS MY EARNEST HOPE THAT THIS MISGUIDED EFFORT TO DISMANTLE OUR CURRENT SYSTEM CAN BE ABORTED AND REPLACED BY A COLLABORATIVE EFFORT TO EDUCATE THE LEGISLATURE AND FORCEFULLY ADVOCATE FOR THE FUNDING NEEDED TO MAKE OUR JUDICIAL SYSTEM THE ENVY OF ALL. FLORIDA DESERVES NO LESS.

Sincerely,



HARVEY RUVIN  
Clerk, Miami-Dade County

P.S. I am proud of the great working relationship I have with my Chief Judge, Joseph Farina - who, as recently as last Wednesday morning, personally reiterated, as he often does, his satisfaction with the current way we so harmoniously function here in Miami-Dade County. We do it out of the mutual respect and confidence that our will and structural independence both permits and enables.

Attachments

cc: Honorable Charlie Crist  
Florida Cabinet Members  
Members of the Florida Legislature

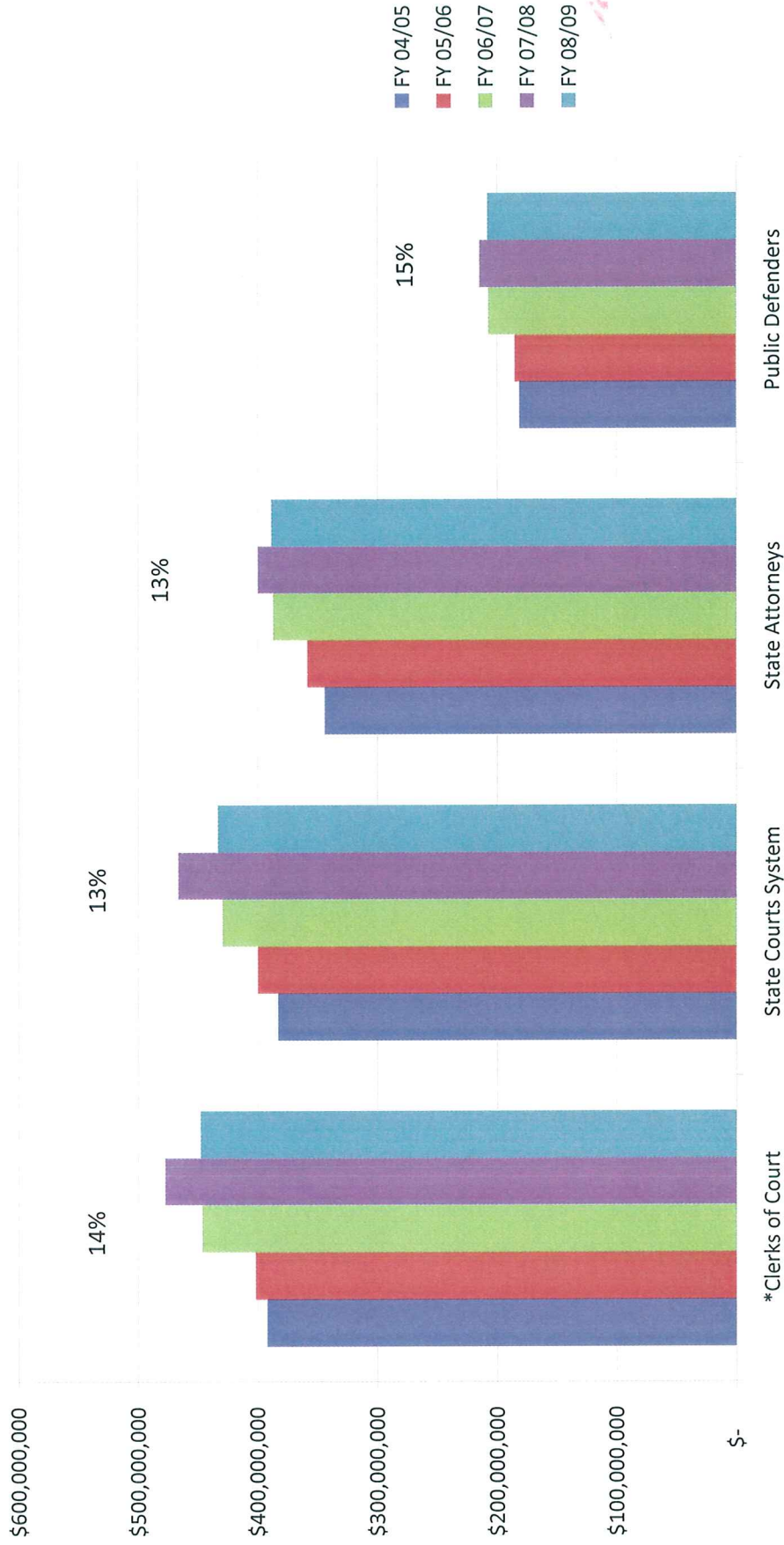
Clerk of Court Budget Realities

<b>COURT CONTENTIONS</b>	<b>CLERK BUDGET FACTS</b>
<b>ALLEGATION:</b> CLERK BUDGETS GREW BY 33% WHILE AVERAGE STATE BUDGETS GREW BY 13% OVER THE PAST FOUR YEARS	<b>FACT:</b> ACTUAL CLERK SPENDING GREW BY 13.7% OVER THE PAST FOUR YEARS, INCLUDING FUNDING FOR STAFFING FOR NEW JUDGES AUTHORIZED BY THE LEGISLATURE.
<b>ALLEGATION:</b> IF LIMITED TO 13% GROWTH, CLERKS WOULD HAVE HAD A BUDGET OF \$465.5 MILLION INSTEAD OF \$539.2 MILLION IN FY 2008-09, FREEING UP MORE THAN \$70 MILLION THAT THE CLERKS COULD HAVE RETURNED TO THE STATE.	<b>FACT:</b> CLERKS' ACTUAL SPENDING IN FY 2008-09 IS PROJECTED TO BE \$448 MILLION, MEANING THEY WILL RETURN MORE THAN \$80 MILLION TO STATE COFFERS THIS YEAR
<b>ALLEGATION:</b> CLERKS ARE NOT ACCOUNTABLE NOR ARE THEY SUBJECT TO BUDGET CUTS BECAUSE THEIR BUDGETS AREN'T SUBJECT TO THE STATE APPROPRIATIONS PROCESS.	<b>FACT:</b> THE CLERKS' BUDGET PROCESS IS HIGHLY ACCOUNTABLE AND SUBJECT TO MULTIPLE CHECKS AND BALANCES. CLERKS' BUDGETS ARE ESTABLISHED BY A STATUTORY FORMULA THAT SETS A SPENDING CEILING. THEIR SPENDING MAY NOT EXCEED THEIR COLLECTIONS; IF REVENUES ARE DOWN, THEY MUST CUT THEIR BUDGETS. ALL CLERKS' BUDGETS ARE SUBJECT TO ANNUAL REVIEWS BY THE AUDITOR GENERAL AND BIENNIAL AUDITS BY THE DEPARTMENT OF FINANCIAL SERVICES. CLERKS ARE ALSO SUBJECT TO STRICT PERFORMANCE STANDARDS FOR ALL OPERATIONS.
<b>ALLEGATION:</b> CLERKS HAVE MORE BUDGET FLEXIBILITY THAN OTHER GOVERNMENT ENTITIES.	<b>FACT:</b> THE CLERKS' BUDGET PROCESS IS ESTABLISHED IN STATUTE AS A WORKLOAD-BASED, BUSINESS MODEL. REVENUES TRACK WORKLOAD, AND CLERKS MUST CUT THEIR BUDGETS IF REVENUES ARE DOWN. CLERKS SERVE A VITAL COLLECTION ROLE FOR THE STATE AND HAVE RETURNED MORE THAN \$1.4 BILLION TO THE STATE SINCE FY 04-05.

# Total Budget Comparisons

## FY 2004/05 to FY 2008/09

(Note: Clerks = actual expenditures for 04/05 - 07/08 and projected expenditures for 08/09)



\*Created by the Clerks of Court Operations Corporation. The amounts for FY 04/05 thru FY 07/08 represents the actual Clerk Expenditures. The amount for FY 08/09 represents the projected expenditures due to revenue shortfalls. For details call (850) 386-2223.





**Pat Frank**  
**Clerk of the Circuit Court**  
**Clerk Audits**

<b>Auditor:</b>	<b>Audit Description:</b>
Ernest & Young	Annual / Interim Financial & Compliance Audit Court Timeliness and Collection Audit Central Government Depository Audit
Office of the State Courts Administrator	Summary Reporting System (SRS) Audit
State of Florida Auditor General	Financial & Compliance Audit (approx 5 years)
County Audit	BOCC and/or external agency requests Traffic Audit Bay Area Legal/Clerk of Court Audit
FACC (Contract with CPA Firm)	Annual Audit of Title IV-D Compliance
US Department of Health & Human Services	Federal Audit of Title IV-D Compliance
KPMG	Financial review for Indirect Cost Rate