



TEXAS JUDICIAL COUNCIL

205 WEST 14TH STREET, SUITE 600 • TOM C. CLARK BUILDING • (512) 463-1625 • FAX (512) 936-2423
P. O. BOX 12066 • AUSTIN, TEXAS 78711-2066

CHAIR:
HON. WALLACE B. JEFFERSON
Chief Justice, Supreme Court

DIRECTOR:
MS. ELIZABETH KILGO, J.D.

VICE CHAIR:
HON. SHARON KELLER
Presiding Judge, Court of Criminal Appeals

TEXAS JUDICIAL COUNCIL

MINUTES OF MEETING

January 18, 2005
2:00 p.m.
Supreme Court Courtroom
201 W. 14th Street
Austin, Texas

COMMENCEMENT OF MEETING

On January 18, 2005, Chief Justice Wallace B. Jefferson called the meeting of the Texas Judicial Council (Council) to order at 2:10 p.m. in the Supreme Court Courtroom in Austin, Texas.

ATTENDANCE OF MEMBERS

The Director of the Council, Ms. Kilgo, called the roll. The following members of the Council were present:

Hon. Wallace B. Jefferson, Chief Justice, Supreme Court
Hon. Sharon Keller, Presiding Judge, Court of Criminal Appeals
Ms. Willie Jean Birmingham, City Commissioner, Marshall
Mr. Joseph Callier, Attorney at Law, Callier & Garza, Houston
Ms. Delia Martinez Carian, Assistant Criminal District Attorney, San Antonio
Hon. Robert Duncan, Senator, Lubbock
Hon. Allen Gilbert, Judge, Municipal Court, San Angelo
Hon. Melissa Goodwin, Justice of the Peace, Precinct 3, Travis County
Hon. Will Hartnett, Representative, Dallas
Hon. Polly Jackson Spencer, Judge, Probate Court #1, Bexar County
Deacon Jose Luis Lopez, Executive Director, Housing Authority of Crystal City, San Antonio
Ms. Ann Manning, Attorney at Law, McWhorter Cobb & Johnson, Lubbock
Hon. Ann McClure, Justice, 8th Court of Appeals
Hon. Orlinda Naranjo, Judge, County Court at Law #2, Travis County
Hon. Sherry Radack, Chief Justice, 1st Court of Appeals
Hon. Dean Rucker, Judge, 318th Judicial District, Midland
Hon. Sharolyn P. Wood, Judge, 127th Judicial District, Harris County

Members not in attendance were Mr. Lance Byrd, Senator Chris Harris, Judge Glenn D. Phillips, and Representative Todd Smith. Witnesses present included the Honorable Lamar McCorkle, Judge 133rd District Court.

With a quorum established, the Council took the following action:

INTRODUCTION

Chief Justice Jefferson welcomed those in attendance and introduced the Interim Administrative Director of the Office of Court Administration, Carrice Marcovich.

MINUTES OF THE PREVIOUS MEETING

Upon proper motion and vote, the minutes of the August 27, 2004 Council meeting were reviewed and adopted.

REPORT OF THE COMMITTEE ON PROSECUTORS IN MUNICIPAL AND JUSTICE COURTS

Judge Melissa Goodwin discussed the work of the Committee with the Council. Judge Goodwin explained that after receiving negative input on the Committee's legislative proposal to allow municipal and justice courts in rural areas to contract with county and district prosecutors, the Committee tabled the proposed statutory change.

REPORT OF THE COMMITTEE JUVENILE JUSTICE

Judge Allen Gilbert, chair of the Committee, discussed the work of the Committee. Judge Gilbert described the concern that the current video magistration statute allows a police officer to conduct a video statement with certification from a magistrate prior to the video being made. The Committee's concern about what is happening off camera during the video magistration process prompted it to recommend that the magistrate be allowed to require the police officer to return with the juvenile and the video tape to the magistrate for certification after the video statement has been taken. Upon proper motion, discussion and a vote, the Council voted unanimously to support the Committee's legislative recommendation.

Judge Gilbert also discussed the failure to attend statute, which requires school administrators to file a case with the municipal or justice court within ten days of a student's tenth unexcused absence. Judge Gilbert explained that because the statute has no enforcement mechanism, some school districts across the state wait long intervals after the tenth offense to file the case in court. When a district waits to file these cases, the court is inundated with what may be hundreds of cases at a time. This practice, aside from disrupting the court's other business, severely hinders a court's ability to address students with attendance problems and to develop solutions in an effective and timely manner. Therefore, the Committee recommended that the Council support a statutory change that would create a Class C misdemeanor for school administrators who do not file the case in a timely manner. After proper motion, several Council members expressed their concerns regarding criminalizing the omissions of school officials. After discussion and a vote, the motion to support the Committee's recommendation failed.

Chief Justice Radack then made a motion to recommend that the legislature examine and take appropriate action to effectuate the filing requirement. Upon proper motion, discussion and a vote, the Council voted unanimously to support the motion.

Judge Gilbert then discussed the value of a case manager in failure to attend cases. The Committee recommended that the Council support a legislative proposal to allow a county court, justice court, or municipal court to employ juvenile case managers to assist the court in administering the court's juvenile docket. Upon proper motion, discussion and a vote, the Council voted unanimously to support the Committee's legislative recommendation.

Upon the request of Judge Gilbert, Chief Justice Jefferson appointed Ms. Willie Jean Birmingham to serve as a member on the Committee.

PUBLIC ACCESS TO COURT RECORDS

Ms. Lisa Hobbs, Rules Attorney for the Supreme Court of Texas, updated the Council on the status of the rules regarding public access to court records.

Judge Spencer reminded the Council that the Sensitive Data Form, which is part of the Council's previous recommendations, should be implemented as soon as possible to prevent further dissemination of sensitive information. Judge Spencer suggested that the Supreme Court Advisory Committee prioritize the implementation of the data form. Upon proper motion, discussion and a vote, the Council voted unanimously to urge the Supreme Court Advisory Committee to expedite the implementation of the Sensitive Data Form.

JURISDICTION OF STATUTORY COUNTY COURTS

Senator Duncan discussed an interim recommendation of the Senate Jurisprudence Committee that the Texas Judicial Council study the issue of statutory county court jurisdiction in Texas. Senator Duncan noted the varied jurisdictions of those courts and expressed a desire for more uniform jurisdictions. Chief Justice Jefferson created the Committee on Statutory County Courts and appointed Chief Justice Radack (chair), Judge Rucker, Judge Naranjo, Judge Wood, Deacon Lopez, and Judge Spencer to the Committee. The Committee must focus on developing recommendations that provide for uniform jurisdiction of all statutory county courts. The Committee will consider the potential impact of any jurisdictional changes on the caseloads of both district courts and statutory county courts.

JUDICIAL PAY

The Council discussed the judicial pay raise initiative before the legislature and discussed the disparities between rural and urban counties and the elimination of county supplements. Members reviewed the Comptroller's *Special Report on Judicial Pay* (December, 2004).

UPDATE FROM THE DIRECTOR OF THE OFFICE OF COURT ADMINISTRATION

Ms. Carrice Marcovich updated Council members on the status of the operations of the Office of Court Administration. Ms. Marcovich discussed the revised version of the *Judicial System Annual Report*, which is now available in print and online. Ms. Marcovich updated the members

regarding the OCA workgroups that are reviewing the data elements collected for the judicial information database.

Ms. Marcovich then submitted to the Council a resolution that the OCA assemble a task force to coordinate the Court Uncollected Fees and Fines System (CUFFS) project and that the OCA request funding for the initial implementation and development of the database. The project would create a central database of information on uncollected fines and fees and would coordinate with relevant agencies to enforce and collect such fees. Upon proper motion, discussion and a vote, the Council unanimously adopted the CUFFS Resolution.

Ms. Marcovich also discussed the OCA's Legislative Appropriations Request, which included an exceptional item to recover the five percent cut for currently existing child protection courts. Ms. Marcovich submitted to the Council a resolution that the Texas Legislature continue to support this worthwhile program at the FY 2004-2005 funding levels as specified in the OCA's Legislative Appropriations Request. Upon proper motion, discussion and a vote, the Council unanimously adopted the Child Protection Resolution.

UPDATE FROM THE DIRECTOR OF THE TASK FORCE ON INDIGENT DEFENSE

Mr. Jim Bethke, Director of the Task Force on Indigent Defense (TFID), addressed the Council regarding the activities of the TFID. Mr. Bethke discussed a policy report on the effects of the Fair Defense Act, which found that the number of defendant's receiving court appointed counsel had increased by 40 percent since the Act. The report also found that the counties are meeting the new statutory requirements for indigent defense and the county's choices in implementation will determine the costs of those requirements to that county.

DATE OF NEXT MEETING

The Council plans to meet again in April or immediately following the regular legislative session.

ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at approximately 4:10 p.m.

Wallace B. Jefferson
Chair