



TEXAS JUDICIAL COUNCIL

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

EXECUTIVE DIRECTOR:
CARL REYNOLDS

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

TEXAS JUDICIAL COUNCIL

MINUTES OF MEETING

February 6, 2009
10:00 a.m.

TEXAS ASSOCIATION OF COUNTIES
1210 San Antonio, 4th Floor
AUSTIN, TEXAS

COMMENCEMENT OF MEETING

On February 6, 2009, Chief Justice Wallace B. Jefferson called the meeting of the Texas Judicial Council (Council) to order at approximately 10:25 a.m. at the Texas Association of Counties Boardroom in Austin, Texas.

ATTENDANCE OF MEMBERS

Carl Reynolds of the Office of Court Administration (OCA) called the roll. The following members of the Council were present:

Hon. Wallace B. Jefferson, Chief Justice, Supreme Court of Texas
Hon. Sharon Keller, Presiding Judge, Court of Criminal Appeals
Ms. Keely Appleton, Magnolia Media Group, Arlington
Mr. Richard Battle, KeyTrak, College Station
Hon. Russell B. Casey, Justice of the Peace Pct. 3, Place 1, Tarrant County
Hon. F. Alfonso Charles, Judge, County Court at Law No. 2, Gregg County
Mr. Fred E. Davis, Attorney & Mediator, Austin
Mr. Richard Figueroa, UBS Advisory & Brokerage Services, Houston
Hon. Monica Gonzalez, Judge, San Antonio Municipal Court
Ms. Allyson Ho, Attorney, Morgan Lewis, Houston
Hon. Orlanda Naranjo, Judge, 419th Judicial District, Travis County
Hon. Valencia Nash, Justice of the Peace Pct. 1, Place 2, Dallas County
Hon. Glenn D. Phillips, Presiding Judge, City of Kilgore
Hon. Sherry Radack, Chief Justice, 1st Court of Appeals, Houston
Hon. Polly Spencer, Judge, Probate Court #1, Bexar County

Additionally present was Alice McAfee, General Counsel for the Supreme Court of Texas. Members not in attendance were Hon. Kelly Moore, Senator Robert Duncan, Representative Will Hartnett,

Representative Todd Smith, Senator Jeff Wentworth and Hank Nuss. Chief Justice Linda Thomas attended via conference call.

MINUTES OF PREVIOUS MEETING

With a quorum present, after a proper motion and vote, the minutes were approved as presented with no discussion.

Chief Justice Jefferson discussed changes in the House of Representatives that have taken place since the last Council meeting and how they may affect the Council. He also noted the state of the economy and its effect on the courts' Legislative Appropriations Request.

He stated that conversations he has had with legislative members regarding multi-district litigation have been productive.

PENDING LEGISLATIVE PROPOSALS

Court of Appeals Records

Ted Wood, OCA Assistant General Counsel, reviewed the proposal to Authorize Courts of Appeals to Destroy Paper Records when Records are Maintained in an Electronic Format. He stated that legislation was passed in 2001, §51.105 of the Government Code, which only affected the Court of Criminal Appeals (CCA). The current resolution seeks to extend this policy to the Courts of Appeals and the Supreme Court of Texas. After discussion, proper motion and vote, the proposal was approved.

Appointment of Regional Presiding Judges

Mr. Reynolds reviewed the proposal regarding the Appointment of Presiding Judges by the Chief Justice of the Supreme Court of Texas and its most recent change concerning consultation with the CCA.

Chief Justice Jefferson recognized Mike Schofield of the Governor's office and their role in this issue. He then explained his view that the appropriate infrastructure for these appointments should be judicial rather than political. Mr. Battle expressed his concern as a citizen representative for the change in power. With proper motion and after discussion, the resolution carried with two votes opposed.

Filed Legislation of Interest

Gary Kansteiner, OCA Attorney, reported on the tracking process for general bills of interest to the judiciary and noted the March 13 filing deadline. He also addressed tracking of high priority items with the bulk of those being Council proposals.

Mr. Reynolds invited members to add to the list of high priority items if desired and also to comment if current items should not be viewed as high priority. He advised members of the OCA weekly legislative meeting and invited those interested to participate by phone.

OTHER REPORTS AND ACTION ITEMS

Criminal Justice Integrity Unit

Chief Justice Jefferson invited Judge Barbara Hervey of the CCA to report on the actions of the Criminal Justice Integrity Unit (Unit). Judge Hervey stated that the Unit was close to releasing a report of its accomplishments, noting education has been the main achievement at this point, and described the different training in progress. With assistance from the Department of Public Safety, clerks and judges have begun to receive training on preservation of biological evidence. She discussed the Unit's work with Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to change their curriculum to suggest best practices concerning eyewitness identification procedures. Judge Hervey stated that writ training would also begin soon. In reference to eyewitness identification, she pointed out work being done with Senator Rodney Ellis on Innocence legislation. Finally, she talked about the project concerning reliability checks of forensic labs.

PENDING LEGISLATIVE PROPOSALS

Judicial Council Legislative Proposals

Mr. Reynolds briefly reviewed the tracking list of the 63 adopted Council resolutions and noted that of those, four had not been sponsored. He stated that he would check with Senator Duncan's office for items of interest that had not been accounted for.

Updates were announced for a few of the resolutions. Mr. Wood informed the Council that Item 12 had been sponsored by Senator Corona and was expected to be filed shortly. Katie Bond, OCA Assistant General Counsel, added that Item 17 had been sent to Senator Harris for sponsorship rather than Senator Watson. Chief Justice Thomas said that she had made an effort to coordinate with the Access to Justice Foundation (ATJF) on Item 34 because of similar legislation and stated that Representative Will Hartnett would be the House sponsor. Judge Naranjo added that Senator Watson had agreed to sponsor the ATJF bill. María Elena Ramón, OCA General Counsel, noted that Senator Jeff Wentworth's office would be filing Item Four today and that Senator Watson will not carry Item Six due to objection from the Office of Attorney General.

OTHER REPORTS AND ACTION ITEMS

Task Force on Indigent Defense (TFID)

Jim Bethke, TFID Director, provided the 2008 Annual Report and noted two items of impact in the report. The report, Upholding the Constitution, includes stories from recipients of discretionary grants. One such of interest was that Kaufman County was recognized last year for best practices for its public defender's office. Also of interest was the setup of the West Texas Capital Defender's Office in which Senator Duncan's office was involved.

He then reported on a collaborative project with the county courts as law about representing mentally impaired clients. A curriculum was developed to improve representation of offenders with mental impairments and is available in DVD format through TFID or the Texas Criminal Defense Lawyers Association for continuing legal education. The Grant Education Committee of the CCA will also

have a library of ten. Chief Justice Jefferson asked that the curriculum be shared with the [National Center for State Courts](#).

Judicial Data Management Committee

Judge Phillips reported on the workgroup that met to review the proposed reporting format and instructions for the justice of the peace and municipal courts judicial activity. He stated that a draft would be ready at the next meeting of the Council.

Repaying Debts Report

Mr. Reynolds stated that [Council of State Governments Justice Center](#) is redeveloping the report that he had shared with Council at an earlier meeting and is anticipating the report within the next few weeks. He stated that it would be made available on the website at that time. He said that he had sent the draft report to Larance Coleman, Chief of Staff at the Senate Criminal Justice Committee, headed by Senator John Whitmire, who then sent it to the [Texas Legislative Council](#) (TLC) requesting legislation. Mr. Reynolds said that OCA has since then been working with TLC in drafting some bills related to the report.

Judge Spencer suggested review of rehabilitative services be added as a footnote and Mr. Reynolds agreed to do so.

Assessing the Need for New District Courts

Mr. Reynolds next reported on conversation with legislative staff about how to evaluate the [weighted caseload study](#) that was done last year and what it says about the need for district courts in Texas and in addition, requests the Legislature has already received for more district courts. He described the [meeting](#) recently held to discuss the issue and reviewed a [chart](#) summarizing that need.

Mr. Reynolds stated that county courts were not included and there are plans to request funding for an additional study that would measure the work of those courts.

NEW BUSINESS

Chief Justice Jefferson said that he would be giving the State of the Judiciary Address on February 11th. He discussed his concern for the preservation of physical court records and noted the discovery of an internet site auctioning such records. Then he discussed identity theft and the use of social security numbers in pleadings.

Chief Justice Thomas will be testifying for the Courts of Appeals at a Senate Finance hearing on February 16th.

NEXT MEETING

Mr. Reynolds will be in contact with members concerning a date for the next meeting. Chief Justice Jefferson would like to meet before the end of the legislative session.

ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at approximately 11:40 a.m.

Wallace B. Jefferson
Chair