



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

November 7, 2008

10:00 a.m.

SUPREME COURT COURTROOM
201 W. 14th Street
Austin, Texas

COMMENCEMENT OF MEETING

On November 7, 2008, Chief Justice Wallace B. Jefferson called the meeting of the [Texas Judicial Council](#) (Council) to order at approximately 10:03 a.m. in the Supreme Court in Austin, Texas.

Chief Justice Jefferson advised the Council of a message he posted on his [campaign website](#) after the polls closed on November 4 to invite a discourse about the manner in which we assign the grave responsibility of administering the third branch of government. Ms. McAfee and Mr. Reynolds will contact the Council regarding a date for the summit, possibly in February.

Chief Justice Jefferson welcomed new Council members Judge Valencia Nash and Ms. Allyson Ho.

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
Hon. F. Alfonso Charles, Judge, County Court at Law No. 2, Gregg County
Mr. Fred E. Davis, Attorney & Mediator, Austin
Mr. Richard Figueroa, Merrill Lynch, Houston
Hon. Monica A. Gonzalez, Judge, San Antonio Municipal Court
Ms. Allyson Ho, Attorney, Morgan Lewis, Houston

*Hon. Kelly Moore, Judge, 121st Judicial District, Brownfield
Hon. Orlanda Naranjo, Judge, 419th Judicial District, Travis County
Hon. Valencia Nash, Justice of the Peace Pct. 1, Place 2, Dallas County
Mr. Henry "Hank" Nuss, Welder Leshin, Corpus Christi
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 Richard Battle, Hon. Russell Casey, Hon. Linda Thomas, Senator Robert Duncan, Senator Jeff Wentworth, Representative Will Hartnett and Representative Todd Smith.

MINUTES OF PREVIOUS MEETING

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

LEGISLATIVE COMMITTEE REPORT

Chief Justice Jefferson noted that Mr. Reynolds would present the Legislative Committee (Committee) report in Chief Justice Thomas's absence. Nathan Hecht, Supreme Court of Texas Justice, was attending the meeting as the Court's liaison to the Supreme Court Rules Advisory Committee (SCAC).

In deference to Justice Hecht, Mr. Reynolds began with the resolution regarding jury note taking from the latest list of legislative proposals that had gone through the Committee. Ted Wood, OCA Assistant General Counsel, reviewed the proposal and noted the Supreme Court was dealing with the same issue.

Justice Hecht gave an overview of the history of issues about how jury service can be improved noted the controversy over jury note taking. He said that the SCAC would probably recommend a rule of civil procedure that would be more permissive regarding jury note taking but was unsure on what the recommendation would be regarding the use of the notes. The recommendation of the SCAC is to pursue a change to the rules of civil procedure rather than to pursue legislation. He reported that the SCAC expects to finish and have recommendations for the legislative process before Thanksgiving or early in the legislative session.

Judge Naranjo advised Justice Hecht of the resolution passed by the American Board of Trial Advocates supporting note taking and allowing jurors to ask questions and said she would provide him with a copy.

Mr. Reynolds confirmed with Justice Hecht that it was his recommendation the Council not go forward with its proposal.

After further discussion, Mr. Reynolds began presentation of the remaining resolutions, suggesting as before that proposals with concerns or objections be set aside and not be included in the motion for overall approval. Additional presenters were Margaret Bennett, OCA General Counsel, María Elena

Ramón, OCA Deputy General Counsel, Ted Wood, OCA Special Counsel and Wesley Shackelford, Special Counsel for the Task Force on Indigent Defense.

Only the highlighted proposals were presented. Mr. Reynolds advised the Council throughout the presentation of resolutions that have received sponsorship from legislators. Senator Wentworth has agreed to sponsor proposals 2, 4, 11, 19, 25. Senator Uresti has agreed to sponsor guardianship proposals, 27 through 30.

Ms. Ramón presented the resolutions from the OCA child protection and child support associate judges and said that they had all been approved by the administrative regional presiding judges.

Mr. Wood presented proposal number 12 regarding court collections and registration of a motor vehicle. This resolution would require a mandatory refusal to register a motor vehicle if the owner of the vehicle owes a county money. Currently, this is discretionary. After discussion, this proposal was set aside.

Number 32, regarding the appointment of presiding judges by the Chief Justice of the Supreme Court, was presented by Mr. Reynolds. This was discussed at the last meeting and since that time has been amended by the Committee. Judge Keller, representing the Court of Criminal Appeals (CCA), dissented noting a majority opposition to this issue in the report made by the State Bar of Texas – Court Administration Task Force (SBOT-CATF). This resolution was set aside.

Judge Naranjo presented number 35 regarding the Judicial Interest on Campaign and Officeholder Account program. The Council agreed to amend the resolution so that the distinction is made that it applies only to judicial campaigns and judicial office holders.

Mr. Reynolds advised the Council that if number 37, regarding state funding for child protection cases, was approved by the Council it would be subject to an administrative conference of the Supreme Court before further advancement.

Mr. Reynolds then discussed number 38 regarding the SBOT-CATF report. He said that the Committee's position was to not adopt a resolution about the report and suggested the Council do the same. The resolution was set aside and will not be subject to vote.

Mr. Wood presented number 51 regarding pleas via video teleconference in Class C misdemeanor cases. He added that it had been brought to the justice and municipal courts workgroup with no consensus on the issue. With issues concerning resources and charging instruments, this proposal was also set aside. Mr. Reynolds then asked that the justice and municipal courts workgroup make suggestions for sponsorship of their other resolutions.

The next group of proposals presented by Mr. Wood was submitted by the probate, guardianship and mental health workgroup. Number 62 would permit an adopted adult to inherit from their biological parent. Mr. Wood stated that although the Committee advanced it to the Council, OCA staff, after

further review, said this was a substantive issue rather than a court administrative matter and requested that it not be advanced. The Council agreed not to vote on it and it was set aside.

The Council also set aside proposal 63 regarding clarification of notice provisions on presentation of account for final settlement, and proposal 64 regarding denial of letters for failure to follow filing and notice rules, as substantive probate issues rather than matters of court administration.

The final proposals related to the repaying debts report were presented by Mr. Reynolds. Chief Justice Jefferson excused himself from the meeting before discussion of proposal 67 regarding inmate trust accounts due to current litigation. Ms. McAfee also left the room. The Supreme Court is currently considering a case involving this issue.

With Chief Justice Jefferson rejoining the meeting, Mr. Reynolds reviewed the proposals that were set aside or removed from the list: 12, 32, 36, 38, 51, 62, 63 and 64. A motion was made to approve the resolutions presented with the exception of those set aside or removed from the list. After a vote, the motion carried. Chief Justice Jefferson abstained from voting on number 67.

A motion was made to postpone consideration of those set aside until the next meeting. After a second and vote, the motion carried. Chief Justice Jefferson said the Council would meet again in December.

Mr. Davis clarified that the probate resolutions would be removed from the list of proposals. In regards to the proposal on jury note taking, Ms. McAfee will provide the Council with Justice Hecht's letter to the Legislature.

OTHER REPORTS AND ACTION ITEMS

Task Force on Indigent Defense

Judge Keller reported that TFID had met and created a committee to reconsider the formula used for awarding grants.

Mr. Bethke advised the Council of the recently released survey done by TFID, Judicial Perspectives on Substance Abuse and Mental Health Discretionary Programs and Treatment. He stated there would be a more detailed White Paper on this subject and expects it to be published in January. He also reported the status of county expenditure reports. Finally, he reported that the 6th Annual Indigent Defense Workshop was held on October 26 and the materials and a videotape of the conference are available on their website.

Judicial Data Management Committee

Mary Cowherd, Deputy Director Research and Court Services Division of OCA, reported on the model coversheets for civil and family cases that the Council had approved at its September meeting. Since that time, changes have been made and were presented for approval from the Council.

Mr. Reynolds suggested that the forms be changed to distinguish which was for district reporting and which was for county. With a proper motion and vote, the changes were approved with the proposed change.

Judicial Compensation Commission

Chief Justice Jefferson informed the Council that the Judicial Compensation Commission's final report had been issued the day before and noted the draft report is available on the Commission's website.

NEW BUSINESS

None.

NEXT MEETING

Mr. Reynolds will be in contact with members concerning a date for the next meeting.

ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at approximately 12:15 p.m.

Wallace B. Jefferson
Chair