



# 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

December 12, 2008

10:00 a.m.

### TEXAS ASSOCIATION OF COUNTIES

1210 San Antonio, 4<sup>th</sup> Floor  
AUSTIN, TEXAS

#### COMMENCEMENT OF MEETING

On December 12, 2008, Chief Justice Wallace B. Jefferson called the meeting of the Texas Judicial Council (Council) to order at approximately 10:10 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*  
*Mr. Richard Battle, KeyTrak, College Station*  
*Hon. F. Alfonso Charles, Judge, County Court at Law No. 2, Gregg County*  
*Mr. Fred E. Davis, Attorney & Mediator, Austin*  
*Ms. Allyson Ho, Attorney, Morgan Lewis, Houston*  
*Hon. Orlinda Naranjo, Judge, 419<sup>th</sup> 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. Sherry Radack, Chief Justice, 1<sup>st</sup> Court of Appeals, Houston*  
*Hon. Polly Spencer, Judge, Probate Court #1, Bexar County*  
*Hon. Linda Thomas, Chief Justice, 5<sup>th</sup> Court of Appeals, Dallas*

Additionally present was Alice McAfee, General Counsel for the Supreme Court of Texas. Members not in attendance were Keely Appleton, Hon. Russell Casey, Senator Robert Duncan, Richard

Figueroa, Hon. Monica Gonzalez, Representative Will Hartnett, Hon. Kelly Moore, Hon. Glenn Phillips, Representative Todd Smith and Senator Jeff Wentworth. Chief Justice Radack attended via conference call.

Chief Justice Jefferson restated his desire to look at judicial selection in Texas and added that his position is not to mandate but rather to review the process and see if there were any reforms that could make a difference in the public's trust and confidence in the judicial system. He does not expect to radically change the way judges are elected in Texas. In speaking informally with other judges and lawyers around the state, he has received some good suggestions such as having judicial elections apart from the others. Another plan was to have non-partisan election of judges. Representative Strauss of San Antonio currently has proposed the elimination of straight-ticket voting altogether. Another was to ensure that a judge on the ballot has experience although how that will be accomplished is not known. Chief Justice Jefferson reminded the Council that all suggestions are anecdotal and he does not know if any of these would be favorable with the Legislature.

#### **MINUTES OF PREVIOUS MEETING**

With a quorum present, after a proper motion and vote, the minutes were approved as presented with no discussion. Mr. Reynolds noted that the underlined text in the printed version is actually hyperlinks for when the minutes are posted on the internet.

#### **LEGISLATIVE COMMITTEE REPORT**

The current resolutions were presented to the Council. Mr. Ted Wood, OCA Assistant General Council, presented the proposal for Mandatory Auto Vehicle Registration that would strengthen the efforts to collect unpaid fines and court costs. He provided a letter and article regarding Scofflaw for consideration. After brief discussion about the grace period, a motion was made and the resolution was approved unanimously.

Mr. Reynolds discussed the proposal for Appointment of Presiding Judges by the Chief Justice of the Supreme Court of Texas and added that it had been before the Council twice with no change since the last meeting. Mr. Reynolds recommended it to the Council for vote, noting that there would be legislation filed that would further the idea. A proper motion was made for approval. Dialogue ensued regarding the background for the proposal after which Justice Thomas amended the motion so that the draft would include that the Chief Justice of the Supreme Court consult with the Presiding Judge of the Court of Criminal Appeals when making an appointment of a regional presiding judge.

Notwithstanding the amendment, Judge Keller stated her position that she could not vote on the resolution without consulting with the other judges on her court. Further conversation resulted in deferring the vote until January to allow Judge Keller time to discuss the resolution as amended with her colleagues.

Next, Mr. Reynolds shared information on filed legislation that he and Judge Charles agreed would be of interest. Those were HB 250, SB 320, SB 317, HJR 25 and HB 135.

Mr. Reynolds then introduced Gary Kansteiner as the attorney hired to work with OCA during the legislative session.

Wesley Shackelford, Special Counsel for Indigent Defense, briefly updated the Council on a bill that will clarify procedures in writs of habeas corpus in death warrant cases. The Council had previously approved the resolution relating to procedural issues and Mr. Shackelford noted that the workgroup had moved beyond clarifications to Article 1107.01 into making substantive changes. However, the workgroup will be asked to remove anything considered substantive so that it is more reflective of its original intent.

## **OTHER REPORTS AND ACTION ITEMS**

### **Task Force on Indigent Defense**

Judge Keller spoke to the Council about her involvement with the Justice Center of the Council of State Governments and provided the Council with information from their website and the big picture for policy development.

Jim Bethke then reported that the Task Force would have its first meeting of the fiscal year following the Council meeting. He stated that each year, the Task Force honors an individual who has made significant contributions to improving overall indigent defense in Texas and this year it will be presented to Robert Spangenberg. The Task Force will also be considering rules for adoption regarding policy monitoring at its meeting.

### **Criminal Justice Integrity Unit**

Rose Cardona, Program Attorney for the Criminal Justice Integrity Unit (Unit), presented in place of Judge Barbara Hervey of the CCA who was unable to attend. She noted the Unit has met three times and its next meeting is scheduled for January. Ms. Cardona updated the Council on items the Unit has made progress on in the last three months. Out of nine overall goals, the Unit has focused on three.

They have worked on curriculum for eyewitness identification procedures throughout the state of Texas and within the next 12-15 weeks plan to have completed implementing new curriculum into Texas Commission on Law Enforcement Officer Standards and Education.

They have proposed a traveling DNA lab to conduct unannounced inspections to ensure the labs are accountable for statewide and nationwide standards. They are currently requesting the Texas Forensic Science Commission to house results of the inspections. This will also require legislation.

Finally, the method of collection, preservation and storage of evidence currently is not standardized throughout the State and the Unit is seeking legislation that would clarify these procedures and provide educational requirements. Beginning in January, clerks all over Texas will be trained on proper procedures regarding the collection, preservation and storage of biological evidence as well as proper ways to handle the chain of custody of evidence before, during and after trial. The training will also take place in April and June.

Mr. Reynolds added that OCA is conducting a survey of court reporters to determine how they deal with evidence.

**Judicial Data Management Committee**

Mary Cowherd, OCA Deputy Director for Research and Court Services, advised that the Committee met on November 19 to consider the changes that were recommended by the OCA judicial data workgroups to the justice and municipal monthly case activity reports. Currently OCA is incorporating the additional changes that were recommended by the Committee into the draft reporting forms and instructions and will be disseminating the new drafts to the Committee members next week. Another Committee meeting will be scheduled for January or February. Any changes adopted by the Committee will be presented to the Council possibly in the spring.

**Judicial Readiness in Times of Emergency**

Mr. Reynolds provided a brief update on the Judicial Readiness Task Force (JRITE) along with a handout of a matrix for review. The matrix contains potential recommendations of the JRITE. They will be meeting December 16 to discuss the recommendations. He anticipates a resolution for the Council at a later date.

**NEW BUSINESS**

Chief Justice Jefferson, referring to the approved resolution suggesting changes to statutes involving the Judicial Conduct Commission, stated that he had concerns he would like to discuss with Chief Justice Thomas and the group reviewing those changes and have her report to the Council at the next meeting.

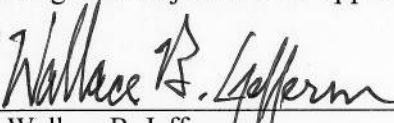
Mr. Reynolds announced the retirement of OCA General Counsel, Margaret Bennett and added that María Elena Ramón would be her successor. Ms. Ramón is currently the Deputy General Counsel for OCA.

**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 11:20 a.m.

  
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Wallace B. Jefferson  
Chair