



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

LEGISLATIVE COMMITTEE

MINUTES OF MEETING

May 23, 2008

9:00 a.m.

Court of Criminal Appeals Courtroom
201 West 14th Street
Austin, Texas

COMMENCEMENT OF MEETING

Chief Justice Linda Thomas called the meeting of the Legislative Committee (Committee) to order at 9:03 a.m. on May 23, 2008 in the Court of Criminal Appeals.

ATTENDANCE OF MEMBERS

The following members of the Committee were present:

Hon. Linda Thomas, Chief Justice, 5th Court of Appeals, Dallas
Hon. Kelly Moore, Judge, 121st Judicial District, Brownfield
Hon. Monica A. Gonzalez, Judge, San Antonio Municipal Court
Hon. Polly Spencer, Judge, Probate Court #1, Bexar County

Others in attendance were Carl Reynolds, Administrative Director for the Office of Court Administration (OCA), Jim Bethke, Task Force on Indigent Defense (TFID) Director, Ted Wood, OCA Assistant General Counsel, and Wesley Shackelford, TFID Special Counsel. Judge F. Alfonso Charles did not attend.

OPENING REMARKS

Chief Justice Thomas thanked the staff at OCA for their updates in preparation for the meeting. She anticipated that the workgroups would be meeting during the summer months and noted that Chief Justice Wallace B. Jefferson, Supreme Court of Texas, would have a report on the appointments to the newly created Judicial Compensation Commission.

WORKGROUP REPORTS

Appellate Courts and Judicial Compensation Workgroup

Chief Justice Thomas reported that the Council of Chief Justices (CCJ) met a few weeks ago to discuss legislative priorities which are essentially a continuation of funding and new positions

within the intermediate appellate courts. She noted that the CCJ would prepare a proposal for the Texas Judicial Council (TJC) and the Committee would only be asked to support it.

Emergency Preparedness Workgroup

Judge Moore informed the Committee that Judge Olen Underwood, a member of the Task Force to Ensure Judicial Readiness in Times of Emergency (JRITE), is working on a proposed interim plan for counties to adopt. The interim plan will allow for agreements between counties that will consent to offices and staff being shared in events of emergency. The JRITE will follow through with recommendations for the legislature for implementation. Judge Moore stated that they intend to have the majority done by rule as opposed to the legislative process. The committee chairs will begin meeting weekly by phone.

Mr. Reynolds added that the State Bar of Texas Court Administration Task Force (SBOT-CATF) has begun to review the statute for emergency planning and may be able to assist towards cooperative efforts.

Criminal Law and Indigent Defense Workgroup

Mr. Shackelford reported that a workgroup had been setup with about 30 stakeholders to participate. The workgroup is made up of judges, county representatives, court staff, attorneys and administrators who work for courts, defense attorneys, including public defenders, and others. A second meeting is planned for July 16th with the last meeting tentatively scheduled for late August in conjunction with the Task Force's Policies and Standards Committee meeting.

He reviewed a few provisions remaining from the last session that the workgroup is working to further through riders and modifications. A new proposal to establish a statutory framework for Independent Assigned Counsel Program is being reviewed. Lubbock County is interested in piloting this program which is in effect in a number of other states. He noted the workgroup is also looking at pre-trial release studies on the impact of restrictive release from jail that are affecting indigent defense dramatically. The workgroup also had a general consensus recommendation to request additional state funding for grants to counties to create new model programs to provide indigent defense services.

Another proposal that came in late last session but didn't get into queue is the longevity pay program for public defenders. Mr. Reynolds suggested including Kim Vernon with the State Counsel for Offenders at the Texas Department of Criminal Justice. Judge Moore added that the U.S. Supreme Court's Rothgary decision may have a legislative impact on when counsel is appointed.

Justice and Municipal Courts Workgroup

Judge Monica Gonzalez reported on the Justice and Municipal Court workgroup. She stated that the workgroup is made up of 18 attorneys and judges. Initially there were eight proposals and there are now 22. There has been much communication through email regarding the various proposals. The suggested timeline for proposal submissions is June 1. Plans are to submit final proposals to the Legislative Committee by August 1. There are several things still in need of

clarification and repair.

There has also been an issue with court interpreters regarding different levels of requirement for licensing at different court levels and there is a recommendation for a higher licensing requirement for practicing in the higher courts.

Mr. Reynolds said the SBOT-CATF is trying to close the gap in appeals from small claims court and justice of the peace courts and suggested the workgroup visit with Dickie Hile who is the chair of the SBOT-CATF.

Chief Justice Thomas asked what recommendation the Task Force had on the change of jurisdictional caps. Mr. Reynolds relayed that district courts would be resolved statutorily now at \$500 and perhaps later at \$10,000 with county courts at law fixed at \$200,000.

Judicial Administration/OCA Workgroup

Ted Wood reported on Judicial Administration/OCA workgroup noting that there are truly ten different areas. He stated that some of the groups are fully functioning and some are just getting underway. Some of the areas will not have workgroups at all. The first area on information technology, dealing with the Judicial Committee on Information Technology, has no information to report.

The second group, Process Servers, is a six person workgroup that met on April 10 and discussed five issues that they are moving forward with, with the possibility of more.

The third group, Court Reporters, have meetings scheduled for June and July. These are meetings of the Legislative Committee of the Court Reporters Certification Board. Michele Henricks, director of the Court Reporter Certification Board said that the full board will meet on July 18 to discuss consider committee recommendations. Proposals will then be forwarded to this Committee. One issue concerns complaints against court reporters or firms. Currently there is an indefinite time period for filing an appeal and the Board will try to establish a 30 day deadline. The Committee also discussed court reporters not turning in timely transcripts.

The fourth group is the Guardianship Certification workgroup, consisting of 16 members. They met on May 15 and are scheduled to meet in mid June. Lesley Ondrechen, Director of the Guardianship Certification Program is the lead staff member of that workgroup. There are seven initial proposals and a few more have developed.

The Judicial Conduct workgroup is the fifth group for discussion and it consists of five members. They met on April 24 with three initial proposals. One is a constitutional amendment proposal. Margaret Bennett, General Counsel for OCA explained the proposal as one that would change the membership requirements for the State Commission on Judicial Conduct. Ms. Bennett said another proposal that concerns the ex parte issue of the Automated Registry and would facilitate a judge's use of the Registry. Mr. Wood said there may or may not be more proposals coming from the workgroup.

He then discussed the Mental Health/Probate Guardianship workgroup. Letters inviting participation in the workgroup were sent last week with ten agreeable responses received so far.

The Court Cost Collections/Fees, group seven, will not be an ongoing workgroup. An internal OCA meeting was held in March where issues were narrowed down. The decision was made not to hold a broader workgroup but will go forward with a few proposals in that area. Mr. Reynolds suggested the sentencing proposal be forwarded to Mr. Shackelford's workgroup. Mr. Wood and Mr. Shackelford will meet later to discuss.

Mr. Wood stated that he had not received feedback from the Associate Judges/Specialty Courts workgroup.

The New Courts/Weighted Caseload Study will not have a workgroup. Ms. Mary Cowherd, Deputy Director Research and Court Services Division at OCA, discussed the draft final report of the Weighted Caseload Study. The final report should be completed by June 20. The results from the Study will assist in legislative decisions about whether to create new district courts or not.

Finally, Mr. Wood discussed the last area of subjects. Included are Judicial Administration, Court Clerks, Juries, Access to Justice, SBOT-CATF and Court Security. There is no formal workgroup on all of these subjects but there are groups of people working on different things. The most prominent group is the SBOT-CATF. Mr. Reynolds reported on the timeline of that group. He stated they are scheduled to meet in Houston on June 24 and try to finalize a report. There recommendations will be available early summer. They are trying to address the remaining issues about district court and county-court-at-law jurisdiction as well as other various matters.

Mr. Wood then asked the Committee if they would like proposals submitted in resolution form and if they would like to see them refer to specifically drafted language. Chief Justice Thomas proposed that the Council would adopt the resolution and the workgroup would create a draft bill as a guide. It was agreed that the workgroups would continue throughout session. Ms. Bennett also added that it helps to have specific language drafted before a resolution goes to Council and that workgroups should not wait until the Council adopts a concept to start working on language. Mr. Reynolds suggested a legislative packet be prepared that would include the first two sections of the bill analysis process that include background and goals.

Next, Mr. Woods asked about limiting the scope of the subject area for proposals and the Committee agreed.

He then asked if people outside workgroups want information, how open the workgroup can be. Mr. Bethke noted that his group is completely open with the proviso that the work is in a process and is not necessarily supported by the Council. Ms. Bennett cautioned that the judiciary was not subject to the Open Meetings Act or the Public Information Act but is subject to Rule 12 of Judicial Administration. Chief Justice Thomas agreed that the groups should be as open as allowed.

Chief Justice Thomas asked if there were any currently discussed items that would be considered controversial. Mr. Bethke said that pre-trial release is a volatile area and Mr. Reynolds mentioned court reporters and briefed the Committee on process server opposition.

NEW BUSINESS

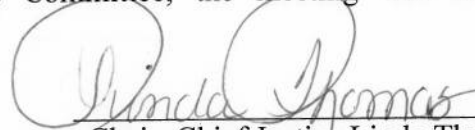
None.

NEXT MEETING

The next meeting will be in late August or early September.

ADJOURNMENT

There being no further business before the Committee, the meeting was adjourned at approximately 10:20 a.m.



Chair, Chief Justice Linda Thomas