



# TEXAS JUDICIAL COUNCIL

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CHAIR:

HON. WALLACE B. JEFFERSON  
Chief Justice, Supreme Court

EXECUTIVE DIRECTOR:  
DAVID SLAYTON

VICE CHAIR:

HON. SHARON KELLER  
Presiding Judge, Court of Criminal Appeals

## TEXAS JUDICIAL COUNCIL

### MINUTES OF MEETING

June 8, 2012  
2:00 p.m.

SUPREME COURT OF TEXAS  
Supreme Court Building  
201 W. 14th Street, Room 104  
Austin, Texas

#### COMMENCEMENT OF MEETING

On June 8, 2012 Chief Justice Wallace B. Jefferson called the meeting of the [Texas Judicial Council](#) (“Council”) to order at approximately 2:00 p.m. in the courtroom of the [Supreme Court of Texas](#) (“SCOT”) in Austin, Texas.

Chief Justice Jefferson introduced David Slayton as the new Administrative Director for the [Office of Court Administration](#) (“OCA”). He then mentioned that Judge B.B. Schraub, (Ret.), former Presiding Judge of the Third Administrative Judicial Region, had passed away on June 7, 2012. After a moment of silence, Chief Justice Jefferson indicated that the meeting is being streamed online<sup>1</sup>.

The following members of the Council were present:

*Hon. Wallace B. Jefferson, Chief Justice, Supreme Court of Texas*  
*Hon. Gary Bellair, Presiding Judge, Ransom Canyon Municipal Court*  
*Hon. Bill Boyce, Justice, 14<sup>th</sup> Court of Appeals, Houston*  
*Hon. Russell B. Casey, Justice of the Peace Pct. 3, Place 1, Tarrant County*  
*Mr. Richard Figueroa, UBS Advisory & Brokerage Services, Houston*  
*Ms. Allyson Ho, Morgan Lewis, Dallas*  
*Mr. Virgil Justice, First Insurance Agency, Kerrville*  
*Hon. Kelly Moore, Judge, 121<sup>st</sup> Judicial District, Terry & Yoakum*  
*Hon. Orlanda Naranjo, Judge, 419<sup>th</sup> Judicial District, Travis County*

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<sup>1</sup> <http://stmarytxlaw.mediasite.com/mediasite/Catalog/pages/catalog.aspx?catalogId=c7b36466-40e3-4d88-b90c-0761e609344e>

*Hon. Valencia Nash, Justice of the Peace Pct. 1, Place 2, Dallas County  
Mr. Henry Nuss, Welder Leshin, Corpus Christi  
Hon. Glenn D. Phillips, Presiding Judge, City of Kilgore  
Hon. Polly Jackson Spencer, Judge, Probate Court #1, Bexar County  
Hon. Laura A. Weiser, Judge, County Court at Law No. 1, Victoria County*

Judges Kelly Moore and Glenn Phillips attended via conference phone as did Ms. Allyson Ho.

Members not in attendance were Presiding Judge Sharon Keller, Representative Roberto Alonzo, Mr. Richard Battle, Senator Robert Duncan, Senator Chris Harris, Representative Jim Jackson, Ms. Ashley Johnson and Chief Justice Sherry Radack.

## **MINUTES**

With a quorum present, Chief Justice Jefferson called for a motion to approve the previous meeting minutes. With proper motion and vote, the [February 23, 2012](#) meeting minutes were approved.

Chief Justice Jefferson commented on the Texas judiciary as presented in the [Annual Report](#) for FY 2011. The Texas judiciary had over 12.1 million cases filed in the trial courts in FY 2011 and disposed of 92% of those cases. Almost 11 million were criminal cases and approximately 850,000 were civil cases. Over 400,000 were family law cases and a huge percentage of those are cases in which one of the parties is representing themselves. There were almost 30,000 juvenile cases. The appellate courts had over 20,000 cases filed in that same period and 99% were disposed. These numbers assist in reminding the legislature of the incredible work done by the courts and their staff. This work is also being done with a rapidly growing population and many more complicated cases impacting the citizens of the state. Of additional importance is the number of projects underway within the judicial branch, some of which will be reported today.

Chief Justice Jefferson then recognized Carl Reynolds, former Administrative Director for OCA, and read a resolution of gratitude from the Texas Judicial Council. Mr. Reynolds thanked the Council. Chief Justice Jefferson called for a motion to approve the resolution and with proper motion and vote, the resolution was approved.

## **REPORTS AND ACTION ITEMS**

### **Collection Improvement Program Rule Revisions**

At the last meeting, the Council considered and approved publication of [proposed rule revisions](#) to 1 Texas Administrative Code §§175.1 – 175.6 for the Collection Improvement Program (“Program”) in the *Texas Register* for public comment. Ms. Mary Cowherd, Deputy Director for OCA, advised that the proposed amendments will update the rules to comply with legislation passed during the last session and clarify certain provisions that are misunderstood by the local collection programs. Prior to publication, OCA sent notice to all county judges and mayors of the counties and cities required to implement a program to notify them that the proposed amendments would be published on March 30 and comments would be due on or before April 30. The notice provided a link to the proposed amendments posted on the Council website and provided them with information on how to submit comments. No comments were received. Ms.

Cowherd requested a motion to adopt the proposed amendment to the rules relating to OCA's Program. Judge Bellair made the motion and Mr. Figueroa provided a second. With proper vote, the amendments to the rules were adopted.

***Update on eFiling for Courts***

Justice Rebecca Simmons, Chair of the [Judicial Committee on Information Technology](#) ("JCIT"), discussed the history of eFiling, the current status and plans for the future. Implementation has occurred in the most populous counties with only 50-52 counties currently on board; however those counties make up 75% of the Texas population. She noted there has been inconsistent implementation in the counties between the district and county clerks.

The current contract for the eFiling vendor, entered into and negotiated by the Department of Information Resources ("DIR") without involvement from OCA, will end on August 31 and has been extended for the next 18 months but with a limited increase for the user. OCA issued Requests for Offers ("RFOs") and has received eight responses. They have convened a panel of stakeholders whom have met twice. The evaluation committee will turn in scores to OCA next week after which recommendations will be made to SCOT. Upon SCOT approval, negotiation and implementation will begin. A key factor will be moving the contract from the executive branch to the judicial branch which will allow direct control over the vendor.

Justice Simmons discussed recommendations made by JCIT to the SCOT including requiring eFiling in many courts, beginning with the most populous counties, and moving sequentially on a scheduled program, hopefully creating a unified eFiling system statewide within the next five years. There was discussion of opposition to a SCOT mandated statewide eFiling. Possible challenges may come from the clerks due to implementation expenditures. Clerks may also perceive an impingement on their duties as custodians of paper documents. Other challenges may be with the rural counties and judges who prefer paper filings. Finally, cost to the user will be a challenge. Other topics for consideration include eFiling in probate courts, access to court records and privacy concerns, county control of funding, dedicated technology funding, education, training and culture.

Chief Justice Jefferson and Justice Boyce added respectively that the State Bar of Texas seems to be ready for this transition and a recent survey to appellate practitioners indicates a desire for a uniform eFiling practice. Chief Justice Jefferson requested assistance from Justice Simmons and Mr. Kennedy regarding legislative appropriations and changes that need to be made.

***Update from Judicial Compensation Commission***

Mr. Bill Strawn, Chair of the Judicial Compensation Commission ("Commission"), reviewed the directive from the Legislature to the Commission to recommend compensation for all state justices and judges. The Commission is in the process of gathering data and on June 21 there will be a public comments session, chaired by Mike Slack. The Commission will provide its report to the Legislature prior to the deadline of December 1, 2012. This will be the Commission's third report to the Legislature, the last issued in 2010. Mr. Strawn provided the Commission's analysis of [State Salary of District Judges](#), which will be included in its report, Salary Rankings of 10

Most Populous States<sup>2</sup> and its 2010 recommended judicial compensation levels. As the Legislature has not acted on any previous recommendations, he reported that the disparity continues to grow between the Consumer Price Index and judicial salaries.

Chief Justice Jefferson added that the Council has taken an active role in the past and that it would be appropriate for it to consider a resolution with respect to the Commission's analysis and its next report.

### Juvenile Justice Committee

Judge Naranjo reported that the Juvenile Justice Committee ("Committee") had its second meeting on March 29. The Committee heard from presenters regarding best practices in the area of juvenile justice. Sergeant Michelle White, San Antonio Independent School District Police Department, presented information on the district's Children's Crisis Intervention Training Program. Dr. Brenda Scheuermann of Texas State University presented an overview on "*Schoolwide Positive Behavior Interventions and Supports*<sup>3</sup>." Joyce James, Director, Center for Elimination of Disproportionality and Disparities, Health and Human Services Commission, presented information on Undoing Racism which addresses disproportionality issues in systems. There was also continued focus on the report, "*Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*," presented at its first meeting. The Committee identified several proposals for consideration and two subcommittees were formed; the Legislative Committee, chaired by Judge Nash, and the Data and Best Practices Committee, chaired by Judge Spencer.

Judge Spencer reported on activity of the Data and Best Practices Committee which had held two phone meetings. The first phone meeting included Dustin Rynders and Dr. Dora Fabelo. This group considered a proposal to either mandate an attorney's obligation to raise issues related to mental health and intellectual disabilities for juveniles in all courts or failing that to develop a video for dissemination that would explain rights to juveniles and their parents. It also considered a proposed mandate to require attorney representation for juveniles in all courts. There was agreement on the need for additional training in mental health issues and de-escalation training and whether or not that could be mandated. One concept proposed was to hold juvenile dockets in the evenings so that children and parents would not need to miss school or work. The second phone meeting included Dr. Scheuermann and Cherie Townsend. This group discussed the Austin Independent School District's current implementation of a change to no longer allow discretionary referrals, the Juvenile Justice Department's grants to counties to do early intervention pilot programs and, a legislative initiative in San Antonio regarding fingerprinting of juveniles. The latter topic will be referred to the Legislative Committee. Also discussed was the idea of a mobile mini-summit, similar to Shared Solutions, which would provide training on positive behavioral interventions and supports.

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<sup>2</sup> *Survey of Judicial Salaries*, Vol. 36, No.2, July 1, 2011, [http://www.ncsconline.org/D\\_KIS/Salary\\_Survey/home.asp](http://www.ncsconline.org/D_KIS/Salary_Survey/home.asp); updated New York salary data from *Final Report of the Special Commission on Judicial Compensation*, August 29, 2011, <http://www.judicialcompensation.ny.gov/assets/FinalReportSpecialCommissionJD.pdf>.

<sup>3</sup> See [http://www.pbis.org/school/what\\_is\\_swpbs.aspx](http://www.pbis.org/school/what_is_swpbs.aspx) for a summary of PBIS.

Judge Naranjo reported that the Legislative Committee had met by phone to review legislative proposals and narrowed them to three top priority issues: to expressly authorize local governments to implement deferred prosecution measures in Class C misdemeanors to decrease the number of local filings, to amend criminal laws to ensure that local courts are not the first step in school discipline, and to amend existing criminal law procedures to increase parity between criminal and civil juvenile justice courts and systems. Another issue raised was the large number of judgments against juveniles who cannot pay. Judge Coffey and Judge Nash are going to work together on that issue. They hope to come back to the Council with proposals.

### [Shared Solutions Summit](#)

Mr. Figueroa highlighted excerpts from the Committee on Court Resources report located in the [2012 June Director's Report](#) which listed the responses and continuing actions from the counties that attended the Shared Solutions Summit. These actions demonstrate successful collaboration. The next step is determining immediate, intermediate and long-term goals. An immediate goal is to clean up base camp by shaping what works and what has not worked. An intermediate goal is to plan a winter summit in collaboration with the Texas Indigent Defense Commission ("TIDC"). He suggested inviting both past and new participants. He also suggested formalizing the idea in a legislative manner. The long term goal is to have the courts incorporate high efficiency court certification that would be metrics driven. Standards should be determined in a collaborative manner, perhaps using National Center for State Court standards as a format.

### [Texas Indigent Defense Commission](#)

Mr. Wesley Shackelford, Deputy Director for TIDC, reported the following: TIDC director, Jim Bethke, along with Presiding Judge Keller, had been appointed ex-officio members to the Governor's Criminal Justice Advisory Council. Mr. Bethke was also asked to participate in the Defender Research, Data and Analysis Advisory Committee of the National Legal Aid & Defender Association on May 21-22 in DC. Mr. Shackelford introduced two new interns, Brad Estes and Andrew Bluebond. The Grants and Reporting Committee met earlier in the day to review applications and have noted a continuation of the trend to try to provide appropriate services to defendants with mental health issues. Grant applications will go to the full board at its June 21 meeting. TIDC's Annual Indigent Defense Workshops are now posted on a YouTube channel. New developments on Innocence Projects are that Texas leads the nation with 44 DNA exonerations; four innocence projects that the State provides funding for have been responsible for work in seven exonerations, the most recent regarding three men in Dallas who were wrongfully convicted of robbery and through further investigation the true criminals were found and prosecuted. Last, the Lubbock City Council approved placement of a monument in memory of Timothy Cole whom was wrongfully convicted and died in prison before being exonerated.

### **NEW BUSINESS**

None. Chief Justice Jefferson thanked Mena Ramon for acting as Interim Director for OCA.

### **NEXT MEETING**

Friday, September 7, 2012. 10:00 a.m. – 12:00 p.m. The next meeting will be in preparation for next session.

**ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at approximately 3:53 p.m.

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Wallace B. Jefferson  
Chair

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