



TEXAS JUDICIAL COUNCIL

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CHAIR:

HON. NATHAN L. HECHT
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

August 22, 2014
10:00 a.m.

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

COMMENCEMENT OF MEETING

On August 22, 2014, Chief Justice Nathan L. Hecht called the meeting¹ of the Texas Judicial Council ("Council") to order at approximately 10:03 a.m. in the courtroom of the Supreme Court of Texas ("SCOT") in Austin, Texas.

The following members of the Council were present:

Hon. Nathan L. Hecht, Chief Justice, Supreme Court of Texas
Hon. Sharon Keller, Presiding Judge, Court of Criminal Appeals
Hon. Gary Bellair, Presiding Judge, Ransom Canyon Municipal Court
Hon. Bill Boyce, Justice, 14th Court of Appeals, Houston
Hon. Russell Casey, Justice of the Peace Pct. 3, Place 1, Tarrant County
Mr. Richard Figueroa, UBS Advisory & Brokerage Services, Houston
Hon. Scott Jenkins, Judge, 53rd District Court, Travis County
Hon. Tryon Lewis, Representative, Odessa
Hon. Kelly Moore, Judge, 121st Judicial District, Terry & Yoakum
Mr. "Hank" Nuss, Welder Leshin, Corpus Christi
Hon. Glenn D. Phillips, Presiding Judge, City of Kilgore
Hon. Sherry Radaek, Chief Justice, 1st Court of Appeals, Houston
Hon. Linda A. Rodriguez, Judge, County Court at Law No. 2, Hays County
Hon. Polly Jackson Spencer, Judge, Probate Court #1, Bexar County

¹ The meeting may be viewed on the State Bar of Texas website <http://www.texasbarcle.com/CLE/TSCSearch2.asp>

Members not in attendance were Rep. Roberto Alonzo, Mr. Richard Battle, Chancellor Robert Duncan, Ms. Allyson Ho, Ms. Ashley Johnson, Mr. Virgil Justice, Judge Valencia Nash and Senator Royce West.

Chief Justice Hecht advised that Senator Robert Duncan has accepted the position of Chancellor at Texas Tech University and has elected to remain on the Council.

Chief Justice Hecht informed members that the purpose of this meeting is to discuss proposals for resolutions. At the next meeting, the Council will consider resolutions and additional concepts for proposals, and also discuss details for resolutions.

MINUTES

With a quorum present, Chief Justice Hecht called for a motion to approve the previous meeting minutes. Motion by Judge Bellair, second by Mr. Nuss. After vote, the February 21, 2014 meeting minutes were adopted.

REPORTS AND ACTION ITEMS

Executive Director's Report

David Slayton, Executive Director of the Council, reported that the Judiciary had submitted its [Legislative Appropriations Request](#) (LAR) and noted that the budgets of the State Judiciary, Article IV, comprise 0.36% of the State budget. Chief Justice Hecht will lay out to the Legislature a coordinated approach to the judiciary's budgets next Monday.

Since the last Council meeting eFiling has expanded with 22 counties where electronic filing is mandatory for attorneys with civil cases at the county and district levels. The entire state is in a mandatory environment for appellate filings, both civil and criminal. Another 56 counties are permissive eFiling. Approximately 18,000 documents are received per day. The [Judicial Committee on Information Technology](#) and the Supreme Court through its order have implemented standardization of the codes that lawyers are using with the eFiling system.

The courts' and judicial branch agencies' websites are being redesigned and will be rolled out this fall.

The [Language Access Program](#) continues to grow and the Office of Court Administration ("Office") is providing Spanish language interpretation across the State via phone or video with 245 hearings in 47 counties since the beginning of the year.

The Office is working with the Court and [National Center for State Courts](#) on an evaluation of the Expedited Actions Rule. The study is expected to be released in Fall 2015.

The [Judicial Branch Certification Commission](#) begins operation September 1. The Supreme Court has appointed all members and next week will appoint advisory board members. The Court promulgated rules for the Commission this week.

Texas Tech University has agreed to perform a public opinion poll survey on attitudes of public on judicial selection.

Mr. Slayton discussed the issue of unaccompanied children crossing the border in Texas. Although most think it is a federal issue, federal law allows juveniles to seek specialized immigrant juvenile status, and they are required to seek those findings from state courts that have juvenile jurisdiction. The Office of Court Administration has been working with a number of groups to monitor the situation, prepare for it, get educated about it and ensure judges are educated. They are also working with national leaders so that they are aware of the impact to budgets of the judiciary and collecting data to provide to the Council on the impact of those cases.

Texas Indigent Defense Commission Report

Judge Keller reported that the Texas Indigent Defense Commission (“Commission”) had met yesterday. She reviewed the three exceptional items that were submitted in its LAR; 1) Statewide Regional Capital Defender Program, 2) Multi-County Technology Grant program, and 3) Close the Fair Defense Act Funding Gap.

The Commission selected Cameron County, Judge Arturo Cisneros Nelson and Judge Carlos Cascos, to receive the Gideon Recognition Award.

The Commission has the authority to impose administrative remedies on counties that do not comply with the law and, for the first time, the Commission is considering imposing remedies against Hidalgo County related to the fair distribution of indigent defense appointments. They have been invited to the December Commission meeting for potential resolution.

Jim Bethke, Executive Director for the Commission, reported the Commission adopted policy monitoring rules at its meeting which will be published in the Texas Register. Texas Government Code requires review every four years. Most changes were non-substantive with the exception of time frames adjusted due to statutory changes.

He reported three studies: 1) Innocence Projects – requests are being examined, 2) Weighted Caseload Study – quantitative analysis is complete, moving into qualitative analysis, results to be published on or before January 1, 2015, and 3) on the horizon, Reporting Requirements -- for attorneys who take court appointments -- to report percentage of practice time spent on indigent defense and for counties – to report by bar number how many cases are assigned and how much money they are paid.

One final grant of note, Travis County which was the model for the assigned counsel system has now been transformed into a full Managed Assigned Counsel System.

Shared Solutions 2.0 Update

Mr. Richard Figueroa reported that the Shared Solutions Summit took place in May and reviewed the nine characteristics of an efficient court system. It was well received and he would like to see the event occur annually rather than biennially. There were 90 in attendance, 14 teams, and two teams wait listed.

Chief Justice Hecht recommended the Office continue to work with Mr. Figueroa about a future summit. Mr. Figueroa also expressed plans for the addition of videoconferencing in the future.

Elders Committee Report

Judge Spencer reported that the Elders Workgroup had met last week and that much of the work was in collaboration with the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS). She reported that the workgroup received a detailed report prepared by Helen Gaebler, Senior Research Attorney William Wayne Justice Center for Public Interest Law, and an update on WINGS from Mr. Slayton. The resulting primary concern of the workgroup was reporting requirements for guardianships and less restrictive alternatives to guardianship.

Mr. Slayton added that a request for a guardianship compliance pilot program is included in the LAR. Staff for this program would review guardianship filings for the elderly and incapacitated to determine if guardians are following statutorily-required procedures, to review annual reports filed by the guardians, and to ensure that exploitation and/or neglect of persons under guardianship (wards) is not occurring. The workgroup also heard from the Office's court services consultant Aurora Zamora who had visited with 13 counties about their guardianship concerns.

Judge Spencer reviewed the following legislative proposals:

1. An act relating to the determination of incapacity in a guardianship proceeding and the findings and proof required prior to the appointment of a guardian of the person or estate.
2. An act relating to an applicant's and guardianship ad litem's duties in guardianship proceedings and required training.
3. An act relating to the recognition of a supported decision-making agreement as an alternative to a guardianship for adults with disabilities.
4. An act relating to the recognition of guardianship alternatives for adults with disabilities.
5. An act relating to supports and services designed to limit power or authority of a guardian over an incapacitated person and to develop or maintain the maximum self-reliance and independence in an incapacitated person.
6. An act relating to decisions about a ward's residence.

Update on Legislative Interim Charge Hearings

Mr. Slayton said the Office has provided testimony at a number of hearings that have occurred related to interim charges. He highlighted Representative Lewis' committee hearing on Judiciary and Civil Jurisprudence where the committee considered a charge to examine the constitutional qualifications and term lengths for appellate court judges, and consider whether changes would benefit the public and the judiciary, and also Senator West's committee hearing on Senate Jurisprudence where the committee considered charges to 1) Monitor the implementation of Senate Bill 393 and Senate Bill 1114 and determine if any statutory changes are necessary to clarify the intent of this legislation and determine those school districts that have implemented the graduated sanctions envisioned by Senate Bill 393 and decide if any additional statutory changes are necessary to ensure that school districts are complying with its intent, and to 2) Monitor the implementation of statewide electronic filing as mandated by the Texas Supreme Court to determine if any additional training or resources are needed by local jurisdictions and determine those jurisdictions that have imposed the local transaction fee, as created by House Bill 2302, to determine how it is being utilized and if its continued collection is necessary. Senator West asked the Office to prepare a Gold Standard document to be used by school administrators and law enforcement and it is available on the website.

NEW BUSINESS

Legislative Proposals

Chief Justice Hecht laid out the following concepts for legislative proposals:

1. A resolution advocating for adequate funding of the courts.

Judge Spencer made a motion to support the proposal. Judge Bellair seconded the motion. The motion carried.

2. A resolution supporting adequate resources for counties for electronic filing.

Mr. Figueroa made a motion to support the proposal. Chief Justice Radack seconded the motion. The motion carried.

3. A resolution encouraging additional funding by the state for the increased cost of indigent defense since the passage of the Fair Defense Act.

Chief Justice Radack made a motion to support the proposal. Judge Casey seconded the motion. The motion carried.

4. A resolution in support of adequate funding for civil legal aid in Texas.

Judge Phillips made a motion to support the proposal. Judge Rodriguez seconded the motion. The motion carried.

5. A resolution supporting the Judicial Compensation Commission recommendations.

Chief Justice Radack made a motion to support the proposal. Judge Phillips seconded the motion. The motion carried.

6. A resolution supporting judicial selection reform.

Judge Moore made a motion to support the proposal. Chief Justice Radack seconded the motion. The motion carried.

7. A resolution supporting the Elders Committee recommendations.

Chief Justice Radack made a motion to support the proposal. Judge Jenkins seconded the motion. The motion carried.

8. A resolution supporting the Juvenile Justice Committee's recommendations (with notion to hear back from Committee at next meeting).

Representative Lewis made a motion to support the proposal. Judge Bellair seconded the motion. The motion carried.

9. A resolution encouraging revision of the statutes that mandate a pre-technology process in a technology-driven court system.

Chief Justice Radack made a motion to support the proposal. Judge Bellair seconded the motion. The motion carried.

10. A resolution supporting broadening the statutory eligibility requirements of specialty courts and other recommendations related to veterans' courts.

Chief Justice Radack made a motion to support the proposal. Justice Boyce seconded the motion. The motion carried.

11. A resolution supporting clarification of the law regarding assessment of court costs on multiple counts.

Judge Spencer made a motion to support the proposal. Judge Bellair seconded the motion. The motion carried.

12. A resolution encouraging simplification of the court cost and filing fee difference for the same functions/processes within clerks' offices (i.e. different costs for divorce case depending on whether the case is filed in the district courts or county courts-at-law).

Chief Justice Radack made a motion to support the proposal. Judge Rodriguez seconded the motion. The motion carried.

Review Judicial Council Administrative Rules pursuant to Art. 2001.039, TGC

Pursuant to Texas Government Code, Article 2001.039, Mr. Slayton requested Council review and consider for readoption the Judicial Council administrative rules. Judge Casey made a motion to readopt the current Judicial Council administrative rules. Judge Phillips seconded the motion. The motion carried.

Resolution of Recognition

Chief Justice Hecht read a resolution of recognition for Mary Cowherd, Deputy Director of the Office of Court Administration, to honor her retirement. Chief Justice Radack made a motion to approve the resolution. Judge Spencer seconded the motion. The resolution was approved.

Next Meeting

November 7, 2014

There will be a group photo taken of the Council at 9:30 in the Courtroom at the next meeting.

ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at approximately 12:02 p.m.


Nathan L. Hecht
Chair