

**PERMANENT JUDICIAL COMMISSION
FOR CHILDREN, YOUTH AND FAMILIES**

MINUTES OF MEETING

October 17, 2008
10 a.m. – 2 p.m.

Supreme Court Courtroom
201 W. 14th St.
Austin, Texas

COMMENCEMENT

Justice Harriet O’Neill called the meeting of the Permanent Judicial Commission for Children, Youth and Families to order on October 17, 2008 at 10:06 a.m. She welcomed everyone to the meeting and recognized the following persons:

ATTENDANCE

Members present:

Chair, Hon. Harriet O’Neill, Justice, The Supreme Court of Texas, Austin
Vice-Chair, Hon. Darlene Byrne, Judge, 126th District Court, Austin
Hon. Bonnie Hellums, Judge, 247th District Court, Houston
Joyce M. James, Assistant Commissioner, Child Protective Services, Texas Dept. of Family & Protective Svcs., Austin
Kristi Jordan, Governor's Advisor, Office of Budget, Planning & Policy, Austin
Carolyn Rodriguez, Director of Texas Strategic Consulting, Casey Family Programs, Austin
Hon. Dean Rucker, Presiding Judge, 7th Region, 318th District Court, Midland
Fairy Davenport Rutland, Director, Appeals Division, Texas Health & Human Services Commission, Austin
Hon. Cheryl Lee Shannon, Judge, 305th District Court, Dallas
Hon. Yvonne Gonzalez Toureilles, Representative, Texas House of Representatives, Alice
David M. Williams, San Saba County Attorney, San Saba

Members not present:

Hon. Camile Glasscock DuBose, Associate Judge, Child Protection Court of South Texas, Uvalde
Bruce Esterline, Vice President for Grants, The Meadows Foundation, Dallas
Stewart W. Gagnon, Partner, Fulbright & Jaworski, Houston
Albert Hawkins, Executive Commissioner, Texas Health & Human Services Commission, Austin
Hon. Patricia A. Macias, Judge, 388th District Court, El Paso
Eduardo Roberto Rodriguez, Senior Partner, Rodriguez, Colvin, Chaney & Saenz, LLP, Brownsville
G. Allan Van Fleet, Shareholder, Greenburg Traurig, LLP, Houston
Hon. Jeff Wentworth, Senator, Texas Senate, San Antonio

Staff in attendance:

Tina Amberboy, Executive Director, Permanent Judicial Commission for Children, Youth and Families
Jacque Barclay, Financial Analyst, Permanent Judicial Commission for Children, Youth and Families
Sylvia Griego, Executive Assistant, Supreme Court of Texas
Bruce Hermes, Director/Information Resource Manager, Division of Information Services, Office of Court Administration

Scott Jones, Software Dev. & Support Manager, Office of Court Administration
Teri Moran, Permanent Judicial Commission for Children, Youth and Families
Mena Ramon, Assistant General Counsel, Office of Court Administration
Carl Reynolds, Administrative Director, Office of Court Administration
Tiffany Roper, Assistant Director, Permanent Judicial Commission for Children, Youth and Families
Hon. John Specia, Senior District Judge (Ret.), Judge in Residence, Office of Court Administration
Bryan Wilson, Grant Administrator, Permanent Judicial Commission for Children, Youth and Families

Collaborative Council members in attendance:

Emy Lou Baldridge, Co-Founder, Greater Texas Community Partners, Dallas
Conni Barker, Director/Government Affairs, DePelchin Children's Center, Houston
Roy Block, Executive Director, Texas Foster Family Association, San Antonio
Judy Brow, Specialized Female Svcs. Coordinator, TX Dept. of State Health Services, Austin
Barbara Elias-Perciful, President, Texas Loves Children, Dallas
Debra D. Emerson, CPS Director of Policy and Program, Texas Dept. of Family & Protective Svcs, Austin
David Halpern, Director, Promise Mentor Program, Seedling Foundation, Austin
Alicia Key, Deputy Attorney General for Child Support, Office of the Attorney General, Austin
Richard LaVallo, Senior Attorney, Advocacy, Inc., Austin
Tracy Levins, Director, Administrative Svcs. and Community Relations, Texas Youth Commission, Austin
Rebecca Lightsey, Executive Director, Texas Appleseed, Austin
Hon. F. Scott McCown, Executive Director, Center for Public Policy Priorities, Austin
Bryan Sperry, President, Children's Hospital Association of Texas, Austin
Gloria Terry, Coalition President, Texas Council on Family Violence, Austin
Gina Van Osselaer, Executive Director, Austin Children's Shelter, Austin
Arabia Vargas, Chair, Bexar County Child Welfare Board, San Antonio

Collaborative Council members not present:

Carolyn Bivens, Executive Director, Texas Council of Child Welfare Boards, Austin
Salvador Cavazos, Asst. Superintendent, Brownsville Independent School District, Brownsville
William B. Connolly, Attorney, William B. Connolly & Associates, Houston
Penny Cook, Co-Founder, The Faith Connection, Dallas
Cathy Crabtree, Executive Director, Children's Advocacy Centers of Texas, Austin
Susan Hopkins Craven, Executive Director, Texas Alliance for Infant Mental Health, Austin
De Shaun Ealoms, Parent Program Specialist, TX Dept. of Family & Protective Svcs, Austin
Tomas Esparza, Jr., Attorney at Law, The Law Office of Tomas Esparza, Jr., Austin
Benigno F. Fernandez, M.D., President, Texas Society of Child & Adolescent Psychiatry, San Antonio
Mike Foster, Director of Development, Caring Family Network, Austin
Paul E. Furrh, Jr., Chief Executive Officer, Lone Star Legal Aid, Houston
Joe Gagen, Chief Executive Officer, Texas CASA, Inc., Austin
Eileen Garcia-Matthews, Executive Director of Texans Care for Children
Donald Lee, Executive Director, Texas Conference on Urban Counties, Austin
Madeline McClure, Executive Director, The Texas Association for the Protection of Children, Austin
Trista Miller, Region 07 Youth Specialist, Child Protective Services, Austin
Vicki Spriggs, Executive Director, Texas Juvenile Probation Commission, Austin
Gene Terry, Operations Director, Texas Association of Counties, Austin
Henrietta Wright, Vice President, Board of Directors, Children's Advocacy Centers of Texas, Dallas

COMMENCEMENT AND OPENING REMARKS, Justice Harriet O'Neill

Justice O'Neill announced that during this and future meetings the order in which the Commission handles the adoption of certain matters will be changed in an effort to streamline meetings and use time as efficiently as possible. Rather than grouping action items together and voting on them at the end of the meeting, such items will be voted on throughout the meeting as they arise.

Justice O'Neill recognized the two new Committee Chairs in attendance. Judge Karin Bonicoro is the new chair of the Technology Committee, and Judge Robin Sage is the new chair of the Basic Committee.

Justice O'Neill asked members to introduce themselves and comment on relevant issues and events in their locales.

Judge Darlene Byrne was happy to report that her court, the 126th District Court in Travis County, was selected by the National Council of Juvenile and Family Court Judges (NCJFCJ) to be designated a Model Court. Her court will implement three initiatives – addressing the issue of disproportionality, creating a database to track outcomes, and modifying dockets to implement a one judge, one family model.

Judge Dean Rucker was honored to be part of the Commission and to work with everyone present.

Kristi Jordan has been busy preparing for the upcoming legislative session and is working on the governor's budget.

Justice O'Neill commended Judge Cheryl Shannon on her electrifying speech at a Stand Up for Abused Children press conference on October 16. Judge Shannon reported on the high turnout at the press conference which will help draw public attention to the plight of children in foster care.

Justice O'Neill introduced the Honorable Don Willett, Justice of the Supreme Court of Texas. Justice Willett praised the Commission and Collaborative Council for their work, saying that he has personal experience with the landscape because he was an adoptee 42 years ago. His wife served as a staff member of CASA and he has been on the board of Safeplace, a local collaboration of a rape crisis center and battered women's shelter. He commended everyone for their work and service in this high stakes enterprise.

David Williams shortly will finish his term as Chairman of the Board of the Texas District and County Attorney Association and as the County Attorney in San Saba County, a rural county. He reported how his local Children's Advocacy Center (CAC) and other rural CACs will suffer from a recent reduction in grant funds. He commended the efforts of two groups on which he has served – the Texas Council of Child Welfare Boards and Texas Youth Commission (TYC) volunteers. Justice O'Neill thanked Mr. Williams for his longtime service.

Fairy Davenport Rutland reported that Barbara Elias-Perciful is the new chair of the State Bar of Texas Committee on Child Abuse and Neglect. Ms. Rutland has served for many years on this committee. The Spanish version of the shaken baby video, "When Babies Cry" is complete and has been well received.

The committee held a forum on representation issues and brought in non-committee members to share their expertise.

Judge Karin Bonicoro, Associate Judge of the Child Protection Court of Central Texas, is the new Chair of the Technology Committee. She presides over CPS cases in six counties. She reported on the successes of a collaborative workgroup from two of the counties she serves, including eradicating a one-year backlog of cases being moved to adoption units. As part of the group's work on issues of youth in long-term care, a memorandum of understanding (MOU) was created between the Department of Family and Protective Services (DFPS) and Gary Job Corps for educational opportunities, including GED and college preparation classes. Another initiative is with Texas State University, where Professor Tony Watt helps foster youth transition to the university and where a group of former foster youth formed a support group to help others transition to college life. She reported on a CASA mentoring program that starts working with youth on independent living skills when they turn 16. Judge Bonicoro will be doing a state bar sponsored webcast training for attorneys who represent parents.

Judge Robin Sage, 307th Family District Court in Longview, is the new Chair of the Basic Projects Committee. She reported on the recent formation of an association of Texas child protection judges. Through the Texas Lawyers for Children website, the group has a colleague connection communication network exclusively for judges and some discussion boards where members can post questions or dilemmas and get responses from one another.

Carolyn Rodriguez reported on a new public service campaign headed by Casey called Raise Me Up. The campaign kicked off last week in Austin, which is a test market before going nationwide. She presented the television and radio public service advertisements to the group. The ads dramatize what can happen to foster youth if no one intervenes on their behalf, and they lead viewers to a website, www.raisemeup.org, that provides volunteer opportunities. Another initiative involves the American Public Human Services Association working on a continuous improvement model with leaders of CPS regions. Casey also recently created a brochure on disproportionality.

Joyce James related an encouraging story about a successful faith-based initiative in a small East Texas town called Possum Trot that she recently visited, where members of a local church have adopted 70 children. ABC recently filmed a television special on the church and how the small community works together to support the families.

Judge Bonnie Hellums introduced herself.

Commissioner membership changes

In November 2008, the Commission will celebrate its one-year anniversary, and four original commissioner terms will expire. While two commissioners have agreed to continue to serve, two have chosen to move on, **Eduardo Rodriguez** and **David Williams**. Justice O'Neill commended them for their service. Justice O'Neill thanked David Williams for his leadership and dedication to the children and youth of Texas and presented him with a Supreme Court certificate and letter.

Two Commission members **Judge Cheryl Shannon** and **Stewart Gagnon** agreed to additional three-year terms.

Committee membership changes

Judge Dean Rucker, Chair of the Legislative Committee added Andrea Sparks to the Legislative Committee. Ms. Sparks is Director of Public Policy and Outreach with Texas CASA. Judge Camile

DuBose, Chair of the Training Committee, added Judge Ellen Smith and Judge Richard Garcia to her committee.

New Collaborative Council Members

Justice O'Neill announced the three new Collaborative Council members: David Halpern, with Seedling Foundation's Seedling's Promise Program. Bill Connally, a parents' attorney from Houston, and Mike Foster, who brings private placing agency experience to the Collaborative Council. Mr. Connally and Mr. Foster could not attend, and Justice O'Neill introduced Mr. Halpern, who serves on the Board of the Seedling Promise, an organization that provides mentors for children of incarcerated parents. He also services on the Board of Mental Health America.

Justice O'Neill emphasized the importance of the Collaborative Council, whose input the Commission needs and values for direction on child welfare projects and issues. Justice O'Neill expressed appreciation for everyone's service and asked members to serve another year. Justice O'Neill stated that collaborative council members may contact commission staff if the member no longer wishes or is unable to serve on the council. Collaborative council membership may rotate at the end of the Commission's second year.

Also, the Commission would like to sponsor a Collaborative Council Roundtable in 2009, and Arabia Vargas has been asked to put this together.

ADOPT MINUTES

The meeting minutes from the June 27, 2008, Children's Commission meeting were approved by general consent.

EXECUTIVE DIRECTOR'S REPORT, Tina Amberboy

Commission Procedures: Commission members were given a copy of the procedures for review and comments. The procedures will be submitted for adoption at the January 2009 meeting.

Disproportionality

In the past few years, DFPS has taken a hard look at the overrepresentation of minority children, particularly African-American children, in its child welfare system. This problem is not unique to Texas and is seen across the country. In Texas, data shows that African-American children spend significantly more time in foster or other substitute care, are less likely to be reunified with their families, and wait longer for adoption than Anglo or Hispanic children. Commission staff is involved with a Statewide Task Force on Disproportionality that will launch in December. This effort coincided with a current initiative of the National Council of Juvenile and Family Court Judges (NCJFCJ) called "Courts Catalyzing Change" which is aimed at developing practices to involve courts in achieving equity and fairness in foster care. We have two NCJFCJ Model Courts in Texas (El Paso and Travis County). As part of their annual goals, each court will incorporate facets of the Courts Catalyzing Change initiative.

Texas Partnership for Family Recovery

Although estimates differ, it is widely believed that a substantial number of CPS cases involve substance abuse issues. Parents with substance abuse issues must quickly access treatment and demonstrate progress and recovery within very tight statutory timelines mandated by the Texas Family Code. The Partnership is a collaboration of the Commission, DFPS, the Department of State Health Services (DSHS), OCA, and Texas CASA. The group works to support communities that seek to integrate the response to CPS families by the judiciary, DFPS, and substance abuse treatment organizations. One vehicle used by communities is family drug treatment courts. Some of the current and future projects of the Partnership include: a guide and toolkit for integrating child welfare, substance abuse, and court services to support families; site visits to existing drug courts; facilitating meetings that promote collaboration between the partnership members and existing drug courts; technical assistance and grant funding to new drug courts;

training for drug court judges and other participants; and creation of a web-based resource library that includes sample forms from existing courts

Bench Book

This project has been vetted through our Basic Committee. While national organizations have published checklists for CPS cases, no one has published a Texas bench book for CPS cases. Child abuse cases have become more and more complex, and states are audited and penalized for inadequacies that may be ameliorated by a more thoughtful and informed judicial process. The Bench Book for Texas judges would include checklists, statutes, sample scripts for hearings and trials, guidelines, and best practices. It would be developed by Texas judges with Texas law and statutory material, but it also would include information about judicial best practices culled from Texas jurisdictions, other states, and national resources such as the National Center for State Courts (NCSC) Building a Better Court and the federal Child and Family Services Review (CFSR) measurements. Staff is requesting a budget of up to \$20,000 for the Texas Center for the Judiciary to publish the bench book and other expenses such as travel that may be incurred by the workgroup that will handle the project. David Williams moved to approve the \$20,000 budget for the Bench Book and Judge Hellums seconded. The vote carried unanimously.

Legal Representation Study

The issue of legal representation has come up in different contexts and has been discussed by our Basic and our Legislative committees, whose members have supported a study of ad litem court appointments. The study would identify current trends and best practices including:

- Method, timeliness, and duration of the appointment.
- Training and qualifications of attorneys appointed.
- Fair and adequate compensation for court appointed attorneys.

The Commission is being asked to approve this project with a \$100,000 budget. Staff will also look for contributions from private foundations. A subcommittee will be formed to write a Request for Proposal to hire a consulting firm or some other entity to undertake the study. The subcommittee will work on the project from beginning to end, and would seek to have an interim report to the Commission by September 2009, and a final report by the end of March 2010. Carolyn Rodriguez moved to approve the project with a \$100,000 budget and Joyce James seconded. The motion carried unanimously.

National Association of Council for Children (NACC)

In September, the Commission awarded an \$180,000 contract with the National Association of Children (NACC) to develop and deploy between 14 and 17 trainings statewide to train attorneys who represent children and parents in child protection cases. The training will provide CLE credit and will be developed with a statewide view focusing on parental and child rights, best practices for effective advocacy, trial and mediation skills, and will include a local jurisdictional element. The intent is to provide the training for free or for a very low cost, and sessions will be available on the internet. Commission staff is working with NACC and the Texas Board of Legal Specialization to establish a child welfare law certification test / board certification in Texas.

Parent Representation Resource

Commission staff would like to pursue a project that will help develop legal resources for parents and parents' attorneys, which could include a hotline or resource library. The ABA will hold a National Conference for Parents' Attorneys in May, 2009 and CIP will offer scholarships for parents' attorneys to attend this conference.

CFSR / PIP

The federal Child and Family Services Review was conducted in March in 2008, and final reports are not yet available, but the Department is already working on their Program Improvement Plan (PIP). Preliminarily, the primary concerns noted include Workforce / Turnover/ Retention Issues, Permanent Managing Conservatorship (PMC) Without Termination as a permanency barrier, Capacity Needs, and Family Based Safety Services. Commission staff is involved in a CFSR / PIP workgroup that is focusing specifically on the PMC issue. Staff is also working with our OCA / TexDECK project to suggest

enhancements to the Functional Requirements Survey that have the potential to provide judges with case management options and tools that will ensure the judiciary is doing its part to achieve compliance with components of the CFSR that intersect closely with the judiciary. Commission staff made a presentation on October 15th in Washington to a group of CIP Directors and judges about Texas' program improvement efforts.

CARE for Kids

This project is aimed at promoting best practices in a particular jurisdiction that are informed by data specific to that jurisdiction. The data comes from DFPS and is compiled in a manner that is responsive to certain objectives that satisfy national measures of safety, permanency, wellbeing, timeliness, and due process. One of the goals is to help judges and attorneys understand what the data says about what is happening to children in care in their jurisdiction. Commission staff is working with CARE for Kids project members on a report of Dallas County, which was the project's first review.

Long-term care project

This two-year project that Appleseed began this spring looks at what court systems can do to improve the lives of children in long term care. Fifteen attorneys have been trained to help with the study and to conduct interviews. A Webinar through the state bar is planned to train more attorneys. Qualitative and quantitative data is being gathered from DFPS, from the Child Protection Specialty Courts, and other courts. A longer report will be given later in the meeting.

TYC/CPS dually managed youth

Carolyne Rodriguez and Richard Lavallo reported on this workgroup's efforts to identify ways to better coordinate services for these youth. Workgroup members are trying to plan site visits or teleconferences with other locales that have developed integrated systems, such as King County in Washington. An MOU between DFPS and TYC was produced to better monitor these youth. Mr. Lavallo wrote proposed legislation that highlights the need for CPS courts to continue to review these cases, and for CPS caseworkers to continue to visit these youth.

COMMITTEE REPORTS

Basic Projects Committee, Hon. Robin Sage, Chair

Judge Sage referred members to the Basic Projects Committee report under Tab 5 in the meeting notebook, pointing out that the committee had approved the following grants.

- Mediation Outcomes Research Project, UT-Austin, \$8,088
- Three National Adoption Day Grants totaling \$3,200
- Texas Rio Grande Legal Aid, Foster Youth Hotline and Website, \$80,000
- Tarrant County Challenge Family Drug Court, \$100,000
- ChildSafe CAC and Family Drug Court, \$55,781
- Texas Lawyers for Children (TLC), \$250,000
- OCA/Child Protection Courts Support, \$50,000grant.

David Williams moved to approve the grants and Judge Hellums seconded. The vote carried unanimously.

Technology Committee, Hon. Karin Bonicoro, Chair

Judge Bonicoro reported on committee projects, including the creation of a workgroup to address the challenges to providing more videoconferencing technology in Texas. She referred members to the Technology Committee report under Tab 6 in the meeting notebook, pointing out that the committee had approved the renewal the following grant.

- Office of Court Administration, Texas Data Enabled Courts for Kids (TexDECK), \$456,327.

Because this item was referred by the Technology Committee, no motions were required and the vote to approve the TexDECK project in the amount stated above was carried unanimously.

Training Committee, Hon. Camile DuBose, Chair

Ms. Roper reported that the Training Committee will conduct a two-day strategic planning meeting next month. Two committee members were added, Judge Richard Garcia of San Antonio, and Judge Ellen Smith of Fort Worth. The committee approved commission staff to explore options for conducting a statewide Child Welfare Conference in 2009, and a statewide Drug Court Conference as well. Ms. Roper referred members to the Training Committee report under Tab 7 in the meeting notebook, pointing out that the committee had approved the renewal of the following grant:

- Texas Center for the Judiciary, Associate Judges Training, CPS Judges Training, Beyond the Bench, and National Conferences, \$490,456.

Because this item was referred by the Training Committee, no motions were required and the vote to renew the Texas Center for the Judiciary grant in the amount stated above was carried unanimously.

Legislative Committee, Hon. Dean Rucker, Chair

Judge Rucker reported that Legislative Committee members served as a resource to legislative committees by attending and sometimes presenting at House and Senate interim committee hearings. The committee approved a study of legal representation and is creating a subcommittee to study concerns related to appeal of final orders in the Texas Family Code. The committee has addressed issues related to permanency barriers, permanency and placement review hearings, and extending jurisdiction beyond the age of 18.

Executive Committee, Hon. Dean Rucker

During the interim between commission meetings, the Executive Committee approved a \$56,000 supplemental grant to Texas Lawyers for Children (TLC) in response to an urgent need for groups of judges and groups of attorneys to be able to communicate in a protected environment. TLC created user groups, and these enhanced features have been made available to other groups, such as drug courts. The \$56,000 grant to TLC was ratified by general consent.

DFPS UPDATE, Joyce James

Ms. James reported on DFPS's early analysis of the recently passed federal bill, HR 6893, Fostering Connections to Success and Increasing Adoption Act, which, among other changes, affects the title IV-E Adoption Assistance program. The bill allows states to establish a relative guardianship assistance program for children under title IV-E that may not be less than the adoption assistance payment or more than foster care maintenance payments. The bill also makes available a new grant states may apply for called the Family Connections Grant (\$15 million each year from 2009-2013). With these discretionary grants, states could implement programs such as (a) Kinship Navigator Program (b) intensive family finding efforts using search technology, and (c) family group decision-making. The bill clarifies the definition of a child that can remain in foster care past age 18, as part of a section in the bill for improving outcomes for older youth in foster care. Another provision provides federal financial participation for short term training of child welfare workers.

The department has begun intensive pilot programs for conservatorship PMC cases in Bexar and Harris counties where PMC caseworkers will be assigned no more than 10 youth.

TEXAS LAWYERS FOR CHILDREN (TLC) WEBSITE DEMONSTRATION, Barbara Elias Perciful

Ms. Elias-Perciful demonstrated the TLC website, which provides online legal resources, communication networks, and a pro bono network, and has about 1,200 subscribers (judges and attorneys). A team of experienced attorneys research and catalogue the information, which is topically organized and can be searched by resource type. A recent user survey showed users view the site as critical to their work. The site has user groups similar to a ListServ where judges or attorneys can share information. The pro bono

network allows attorneys in any legal specialty to sign up to provide services, and because the list is organized by county, judges can search for local attorneys. California recently licensed TLC's site, and its one-stop communications has become a national model, Ms. Elias-Perciful said.

PUBLIC DEFENDERS OFFICES, Hon. Darlene Byrne

Judge Byrne very briefly described the two new public defender offices for CPS cases that will be established in Travis County – one for parental representation, and one for children, which is partially funded with CIP grant money.

OFFICE OF COURT ADMINISTRATION, Carl Reynolds

Mr. Reynolds reported on the two new Specialty CPS courts (formerly called Cluster Courts) started this year, one in the Wichita Falls area (Judge Alyce Bondurant) in north Texas and one in the valley (Judge James E. Belton). OCA is asking the legislature for more funds to bolster cluster courts and child support courts. Also, the State Bar created a Court Administration Task Force in response to the reorganization of the judicial system resulting from last session's SB 1204. The group endorsed a proposal to provide state funding for grants to counties to improve the safety, permanency and well-being of children in the CPS system. Mr. Reynolds intends to ask the Judicial Council to vet a legislative proposal he handed out to members. Justice O'Neill asked Mr. Reynolds to email a copy of the resolution to Commission members not in attendance, and she said she would present it to the Supreme Court. Judge Rucker moved to submit the resolution to the Judicial Council, and Mr. Williams seconded. All remaining Commission members voted to approve. Other Commission members will be asked to vote via email.

ADJOURNMENT

Justice O'Neill thanked everyone for attending and reminded everyone that the next meeting will be held on Friday, January 16, 2009. The meeting adjourned at 2:16 p.m.