

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

MINUTES OF MEETING

April 11, 2008
10 A.M.

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

COMMENCEMENT OF MEETING

Justice Harriet O'Neill called the meeting of the Permanent Judicial Commission for Children, Youth and Families to order on April 11, 2008 at 10:10 a.m. The meeting was held at the Supreme Court Courtroom in Austin, Texas.

ATTENDANCE OF MEMBERS

The following members were present:

Chair, Hon. Harriet O'Neill, Justice, The Supreme Court of Texas, Austin
Hon. Darlene Byrne, Judge, 126th District Court, Austin
Hon. Camile Glasscock DuBose, Associate Judge, Child Protection Court of South Texas, Uvalde
Stewart W. Gagnon, Partner, Fulbright & Jaworski, Houston
Hon. Patricia A. Macias, Judge, 388th District Court, El Paso
Carolyn Rodriguez, Director of Texas Strategic Consulting, Casey Family Programs, Austin
Hon. Dean Rucker, Presiding Judge, 7th Region, 318th District Court, Midland
Eduardo Roberto Rodriguez, Senior Partner, Rodriguez, Colvin, Chaney & Saenz, LLP, Brownsville
Hon. Cheryl Lee Shannon, Judge, 305th District Court, Dallas
David M. Williams, San Saba County Attorney, San Saba

Members absent:

Bruce Esterline, Vice President for Grants, The Meadows Foundation, Dallas
Albert Hawkins, Executive Commissioner, Texas Health & Human Services Commission, Austin
Joyce M. James, Assistant Commissioner, Child Protective Services, Texas Dept. of Family & Protective Svcs., Austin
Vice Chair, Hon. John Specia, Senior District Judge (Ret.), Plunkett & Gibson, San Antonio
Fairy Davenport Rutland, Director, Appeals Division, Texas Health & Human Services Commission, Austin

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
Teri Moran, Executive Assistant, Permanent Judicial Commission for Children, Youth and Families
Bryan Wilson, Grant Administrator, Permanent Judicial Commission for Children, Youth and Families

Collaborative Council members in attendance:

Emy Lou Baldrige, Co-Founder, Greater Texas Community Partners, Dallas
Conni Barker, Director/Government Affairs, DePelchin Children's Center, Houston

Carolyn Bivens, Executive Director, Texas Council of Child Welfare Boards, Austin
Roy Block, Executive Director, Texas Foster Family Association, San Antonio
Judy Brow, Specialized Female Services Coordinator, TX Dept. of State Health Services, Austin
Penny Cook, Co-Founder, The Faith Connection, Dallas
Cathy Crabtree, Executive Director, Children's Advocacy Centers of Texas, Austin
Eileen Garcia-Matthews, Executive Director of Texans Care for Children
Susan Hopkins Craven, Executive Director, Texans Care for Children, Austin
Barbara Elias-Perciful, President, Texas Loves Children, Dallas
Richard LaVallo, Senior Attorney, Advocacy, Inc., Austin
Rebecca Lightsey, Executive Director, Texas Appleseed, Austin
Hon. F. Scott McCown, Executive Director, Center for Public Policy Priorities, Austin
Trista Miller, Region 07 Youth Specialist, Child Protective Services, Austin
Gina Van Osselaer, Executive Director, Austin Children's Shelter, Austin
Arabia Vargas, Chair, Bexar County Child Welfare Board, San Antonio
Henrietta Wright, Vice President, Board of Directors, Children's Advocacy Centers of Texas, Dallas

Collaborative Council members absent:

De Shaun Bradley, Parent Program Specialist, TX Dept. of Family & Protective Svcs, Austin
Debra D. Emerson, CPS Director of Policy and Program, Texas Dept. of Family & Protective Svcs, Austin
Tomas Esparza, Jr., Attorney at Law, The Law Office of Tomas Esparza, Jr., Austin
Joe Gagen, Chief Executive Officer, Texas CASA, Inc., Austin
Alicia Key, Deputy Attorney General for Child Support, Office of the Attorney General, Austin
Donald Lee, Executive Director, Texas Conference on Urban Counties, Austin
Bryan Sperry, President, Children's Hospital Association of Texas, Austin
Vicki Spriggs, Executive Director, Texas Juvenile Probation Commission, Austin
Gene Terry, Operations Director, Texas Association of Counties, Austin
Gloria Terry, Coalition President, Texas Council on Family Violence, Austin

Others present:

Judy Powers
Cynthia Bryant, Clinical Professor, University of Texas School of Law, Austin
Janelle Collier, Director/General Counsel, Senate Committee on Jurisprudence, Texas Senate, Austin
Sarah Combs,
Katie Henry, General Counsel, Senator Jeff Wentworth, Texas Senate, Austin
D'Ann Johnson
Rachel Johnston
Vi Nanthaveth, Associate Attorney, The Law Office of Tomas Esparza, Jr., Austin, representing Tomas Esparza, Jr.,
Christopher Pournott
Judy Powell, Communications Director, Parent Guidance Center, Austin
Madison Sloan, Legal Intern, Texas Appleseed
Jodie Smith, Public Policy Coordinator, Texans Care for Children, Austin,
Andrea Sparks, Expansion Specialist, Texas CASA, Inc., Austin, representing Joe Gagen
Annie Spilman
Katherine Yoder, Policy Analyst, Senate Committee on Health and Human Services
Steve Spencer, Director of Behavioral Health, Texas Juvenile Probation Commission, Austin, representing Vicki Spriggs
David Williams, Senior Analyst, Senate Committee on Jurisprudence, Texas Senate, Austin

COMMENCEMENT AND OPENING REMARKS, Justice Harriet O'Neill

Recognition of new ex-officio members

Justice O'Neill welcomed everyone to the meeting and recognized the new ex-officio members in attendance:

- Kristi Jordan, Governor's Advisor, Office of the Governor, ex-officio member
- Texas Senator Jeff Wentworth could not attend. Representing him was Katie Henry, his General Counsel. (Representing Senator Wentworth in the afternoon was Janelle Collier, Director/General Counsel at Senate Committee on Jurisprudence.
- Texas Representative Yvonne Gonzalez Toureilles could not attend. Representing Rep. Gonzalez Toureilles was Nelson Salinas, her Chief of Staff.

Justice O'Neill also recognized Rachel Johnston, Senior Policy Analyst, representing Senator Carlos I. Uresti

Recognition of new Collaborative Council members

- Debra Emerson, DFPS, CPS Director of Policy and Program
- Tracy Levins, TYC, Director of Administrative Services and Community Relations
- Madeline McClure, Executive Director of TexProtects
- Eileen Garcia-Matthews, new Executive Director of Texans Care for Children, replacing Susan Craven who has agreed to stay on the Collaborative Council in her capacity as Interim Director of Texas Infant Mental Health Association.

New personnel

- Jacque Barclay, Financial Analyst, Children's Commission
- Tiffany Roper, Assistant Director, Children's Commission

Justice O'Neill reported that Kristi Taylor resigned from the Commission due to other obligations, but that Justice O'Neill hopes Kristi will be able to contribute to the Commission work as a Special Projects Director as needed.

CPS/Court Emergency Issue in West Texas

The Texas Department of Family and Protective Services removed over 400 children from an Eldorado ranch run by a Fundamentalist Latter-Day Saints group. Eldorado, population about 2,000, is the county seat of Schleicher County, and San Angelo, 44 miles north, is the county seat of Tom Green County. Eldorado is a small community with limited resources in a rural area of Texas.

After the children were removed, District Judge Dean Rucker, Presiding Judge of the Seventh Region, called Justice O'Neill to alert the Commission of the tremendous need for attorneys to represent children and parents in the Eldorado case. Justice O'Neill contacted several organizations, including the Access to Justice Commission & Foundation and the State Bar of Texas to coordinate efforts to provide legal representation for these families. The Family Law Section of the State Bar of Texas spearheaded efforts to coordinate the many attorneys who have called to offer their help representing the children. Legal Aid of Northwest Texas is leading efforts to recruit attorneys for parents.

Justice O'Neill lauded the State Bar's efforts and the tremendous response from Texas attorneys.

The cases were moved from Schleicher to Tom Green County, where OCA staff, led by Carl Reynolds was onsite a few days assessing the needs of the court headed by District Judge Barbara Walther. Judge Rucker appointed Commission Vice Chair John Specia as a visiting judge, and he is in San Angelo, as well as new Assistant Director for the Children's Commission, Tiffany Roper.

Carl Reynolds gave an overhead presentation on the current situation in West Texas, saying that a 14-day adversarial hearing was scheduled for Thursday, April 17th, and some 123 petitions have been filed by DFPS, including one petition in the interest of 330 children. The legal situation is complicated by lack of information regarding the children's ages and familial relationships.

HIGHLIGHTED ISSUES AND COMMISSION PROJECTS, Justice Harriet O'Neill

Best Practices Initiative

The Supreme Court order establishing the Commission charges it to promote best practices and programs that are data-driven, evidence-based, and outcome-focused. The strategic plan includes a goal to identify and promote best practices to improve outcomes affecting safety, permanence, and well-being of children. At the last meeting, the Commission approved the CARE for Kids Initiative which is designed to promote best practices in Texas. After preliminary work on this initiative began, it became apparent that there is a need to undertake a more in depth study of best practices, and to develop a tool that can be used by judges and practitioners in a variety of situations encountered in a CPS case. Commission members will be asked later in the meeting to vote on a grant proposal for a Best Practices Initiative.

CPS Youth and Texas Youth Commission (TYC)

Collaborative Council Member, Richard LaVallo, brought to the Commission's attention an issue that deals with CPS Youth who are involved with TYC. Commission staff referred the issue to the Basic Project Committee, whose members recommended that a subcommittee examine the CPS/TYC population to determine if they are receiving appropriate services and having their cases reviewed by a judge in a manner consistent with the Texas Family Code. The subcommittee will be co-led by Richard LaVallo, with Advocacy Inc., and Rebecca Lightsey, with Texas Appleseed, and it includes Children's Commissioner Carolyn Rodriguez, Colleen McCall, CPS Director of Field Operations, and is supported by Commission Staff. Justice O'Neill said this collaborative effort stands as a good example of how our Commission can and should work. She added that not every project will find a solution through the Commission, but that it serves as a resource to our child welfare community throughout the state.

Legal Representation of PMC Kids (Children Growing up in Foster Care)

The Basic Projects Committee recommended that a subcommittee be appointed to examine how long-term, life outcomes for foster kids who are growing up in our system can be improved by having a dedicated advocate, either in an attorney who stays on their case until they are no longer in the state's conservatorship, or a CASA or GAL who can stay on for that length of time. The subcommittee will look at how outcomes for this population of children could be improved by more consistent and well-trained advocates, including funding issues that affect guaranteeing effective advocacy. Ideally, better outcomes for these children may be improved in a way that does not unfairly financially burden counties. The Motion Agenda includes an action item tasking subcommittee membership to look at this issue, and we would like one of our Collaborative Council members from the Conference of Urban Counties or Texas Association of Counties to participate on the subcommittee.

EXECUTIVE DIRECTOR'S REPORT, Tina Amberboy

This March, Tina Amberboy reviewed two cases as part of the federal Child and Family Services Review (CFSR) on-site review team this March, measuring 23 items in many areas of a case. The Commission continues weekly collaboration meetings with OCA, CPS, and legislative representatives. The Workforce Commission contacted the Commission to see how they could partner with us to help families in the CPS system. The Governor's Commission on Women is also interested in partnering with the Commission on promoting economic development for women involved in CPS cases. Ms. Amberboy testified in February before the Texas House and Human Services Committee about PMC issues. A popular multidisciplinary

conference for CPS judges is coming up in August. Casey Family Programs has invited Ms. Amberboy to attend National Convening on Youth Permanency in May, as well as disproportionality training in May.

Ms. Amberboy referred members to Tab 4 showing the list of current grantees, and two budget documents. There is \$3.2 million total currently, which consists of this year's award and carry over from FFY06 funds from the Texas Center for the Judiciary.

Projects under consideration include an office of public defender for children and parents in Travis and Webb counties. Ms. Amberboy noted the Commission's new newsletter that Ms. Moran produced and said it may be a quarterly newsletter for awhile before going monthly.

The CIP grant administration function will be contracted to the Office of Court Administration, and a contract is nearly complete. The program function will stay with the Supreme Court.

COMMITTEE REPORTS

The chair of each of the five committees gave a report.

Strategic Planning Committee Report, by Cynthia Bryant, Chair

The committee met in an all-day meeting in February that was productive and visionary and a draft plan is now being circulated to members. Next, feedback from members of other Commission committees will be solicited. Ms. Bryant said the committee hopes to finalize and approve a strategic plan before the June 27, 2008 Commission meeting, and that Collaborative Council feedback will also be requested.

Basic Committee Report, by Tina Amberboy reporting for Judge Specia

The committee had a conference call on March 8, 2008, and discussed Tarrant County submitting a grant application for an Office of Parental Representation. Bryan Wilson created a short form for organizations seeking funding for their National Adoption Days. The full committee report is under Tab 5. Texas Lawyers for Children will add to their Web site a link for CPS and Drug Court judges, as well as a link specifically for judges and attorneys dealing with the West Texas situation.

Data/Technology Committee Report, by the Honorable Darlene Byrne, Chair

Judge Byrne directed members to the full report under Tab 5, and highlighted OCA's progress on the Functional Requirements Study, an interactive document that contains all of the legal-related steps (data elements) of a CPS court case. The tool may ultimately be used by software developers to create case management systems to accommodate the unique needs of CPS cases and to help judges keep track of its multiple variables. Judge Byrne said there has been national interest in the work of the team of Scott Jones, Project Director for TexDECK. It will be reviewed first by staff, then Data committee members, then by those courts that were interviewed, then finally by the Commission. Mr. Reynolds will fill out more details in his later presentation.

Training Committee Report, by The Honorable Camile DuBose, Chair

At one meeting the committee discussed long term projects, such as a prosecutor's conference that could be paired with Beyond the Bench to bring in a more technical component. Short term goals include the Associate Judges Training and CPS Judges Conference developed and held by the Texas Center for the Judiciary (TCJ). Members of the Commission, including Judge DuBose, are on TCJ's Curriculum Committee, which develops content for both trainings. Judge DuBose welcomes suggestions on content and speakers for both.

Judge Rucker asked Ms. Bryant to develop training for ad litem attorneys for the Eldorado case. With technical assistance from OCA and funding from the Court Improvement Program grant, the UT Children's Rights Clinic at the University of Texas School of Law developed training and are in San

Angelo today conducting attorney training for at least at least 50 lawyers. The training will be professionally videotaped for future use. Justice O'Neill again lauded the State Bar for its efforts, in addition to Commission and OCA staff, and the UT School of Law Children's Rights Clinic.

An RFP has been drafted to solicit for an organization to conduct ad litem training, and we expect to open the RFP by mid-May, and have a contract by June.

Legislative Committee Report, by Tina Amberboy for the Honorable Dean Rucker, Chair

Judge Rucker appointed two subcommittees to review the Texas Family Code for necessary statutory amendments. Ms. Amberboy reviewed several sections of the code that the committee discussed. She highlighted one item recommended by the committee, which suggests to the commission that a study be undertaken of representation of children and parents. This study should include looking at costs to counties for attorney ad litem representation. Also, Judge Specia was directed at the meeting to form a subcommittee to further study two issues – whether in the family code there is a presumption that a determination of indigence follows from the trial to the appellate level, and the issue of whether the law requires indigent parties to receive a free record on appeal.

CHILD & FAMILY SERVICES REVIEW, by Julie Shores, Child and Family Services Review Team Lead

The federal Child and Family Services Review evaluates the domains of safety, permanency and well-being using seven outcome measures and seven systemic measures. The review process begins with a statewide self-assessment, then an on-site review, and if all of the measures are not substantially achieved, the third stage is a program improvement plan (PIP). Texas just went through the second CFSR review this March and Harris, Dallas, and El Paso counties were reviewed.

All of the following is from a very preliminary exit interview from the federal reviewers. Texas achieved its highest (97%) in a measure called Well-being 2 that has to do educational needs and services. Another strength was in Well-being 3 that has to do with medical and dental health. Safety outcome 2 that measures whether children are safely maintained in homes whenever possible and appropriate was also noted as a positive.

Areas of concern in Texas, upon which the PIP will be built, include Permanency outcome 1, which measures only children in foster care and whether they have permanency and stability in their living situation. The review suggests that PMC kids without parental rights terminated could perhaps be moved out of PMC and become eligible for adoption if parent rights were terminated. The review showed a lack of stability among placements – that Texas moves children too often according to the standards.

The review found Texas has strengths that include the family focused approach, the disproportionality initiative, and family group decision making. The final report from the federal reviewers is due 60 days after the review, but can take as long as six months. Then, CPS has 90 days to send its PIP plan for federal review and approval.

Of the two outstanding Permanency and Well-being outcomes from the first review, Texas reached one and did not reach the other by the end of its PIP. Officials are still negotiating the state's fines, which are approximately \$4 million and which must be paid back to the federal government with state, and not federal, funds.

OFFICE OF COURT ADMINISTRATION UPDATE, Carl Reynolds

Carl outlined the components of TexDECK, which are:

- 1) Case management
- 2) Case specific information
- 3) Data exchanges (between courts & executive branch agencies).
- 4) Aggregate outcome information
- 5) Necessary judicial resources

Mr. Reynolds highlighted the nearly completed functional requirements study, which is part of a case management effort to map out all the steps required to try a CPS case. It identifies what a system should be able to do or the activities or tasks that it should be able to perform. That information will hopefully be adopted by software vendors in their products. The completed study is in the review process now. Also, the Judicial Web Page is nearly complete, and is in the testing stage.

OCA continues its data exchange efforts, and is collaborating with the National Center for State Courts (NCSC), to standardize the lexicon for sharing justice data. For CPS cases, NCSC and Texas are leading the way and the current focus is on exchanges between the courts and child welfare agencies.

In another effort, DFPS has contracted with an organization called Fostering Court Improvement, a nonprofit that takes state's child welfare statistics and, using proprietary software, organizes them into useful reports.

Lastly, the weighted caseload study of Texas courts, that OCA contracted NCSC to conduct, is almost complete. It tells you how much time it takes for a judge to handle different kinds of cases. OCA asked child protection judges last October to document their time, and the results confirmed that these cases take a lot of time, on average, about 330 minutes per filing, which is far more than any other kind of cases, except capital cases.

ACTION ITEMS

▪ Adopt minutes

The meeting minutes of the January 18, 2008 Children's Commission meeting minutes were approved by general consent with the following change:

The Honorable Patricia Macias was listed in the minutes as residing in Austin; she resides in El Paso.

After the meeting, it was brought to Teri Moran's attention that the January 18, 2008 meeting minutes required two other corrections:

- Commission member Bruce Esterline was listed both as present and absent in the January 18th meeting minutes. He was absent.
- Collaborative Council member Trista Miller noted that the minutes reflected incorrectly that she had said in her January 18th comments that she had a CASA volunteer.

- **Confirm addition to Legislative Committee**
By general consent, the addition of Sandra Hachem to the Legislative committee was approved.

- **Confirm updated Collaborative Council list**
By general consent, the additions to the Collaborative Council were approved.

- **Approve Best Practices Initiative**
This Initiative will encompass the CARE for Kids Project, and while both projects will progress on parallel tracks, CARE for Kids will ultimately be subsumed into the Best Practices Initiative. There is no budget associated with this project at this time, but the intent is that once the Commission forms a Committee to begin the project, the Executive Director will assign much of

the initial research to an Intern who will work for the Commission during summer 2008. Because this item was referred by the Basic Projects committee, no motions were required and the vote carried unanimously.

- **Approve CPS/TYC Youth Project**

The Basic Projects Committee recommends that a subcommittee be formed to examine the CPS/TYC population to determine if they are receiving appropriate services and having their cases reviewed by a judge in a manner consistent with the Texas Family Code. Because this item was referred by the Basic Projects committee, no motions were required and the vote carried unanimously.

Rebecca Lightsey, Executive Director of Texas Appleseed, reported on the PMC/TYC project and said Fulbright & Jaworski had agreed to partner with Texas Appleseed and Advocacy, Inc. Texas Appleseed has in the past done reports similar to the one the Commission just voted to approve. With the Children's Commission acting as consultants, Ms. Lightsey proposed a study to identify the issues these children face, getting data from counties as well as gathering best practices, to ultimately develop recommendations that include cost analysis. Although a full study could not be completed before the January 2009 legislative session, a preliminary report could be completed.

- **Approve PMC Best Practices Study**

The Basic Projects Committee recommends that a subcommittee be formed to study how outcomes for this population of children could be improved by more consistent and well-trained advocates, and how funding issues affect representation. Because this item was referred by the Basic Projects committee, no motions were required and the vote carried unanimously.

- **Authorize the Commission's Executive Director to approve emergency expenditures with ratification from the Executive Committee related to using CIP funds to assist the legal community in San Angelo with regards to the FLDS removals. The Commission staff will ensure that expenses are consistent with CIP grants and with the mission of the Children's Commission.** Eduardo Rodriquez made a motion to approve the request, Stewart Gagnon seconded, and the vote carried unanimously.

COMMENTS/NEW BUSINESS/COLLABORATIVE COUNCIL ISSUES

Judge Dean Rucker arrived, and Justice O'Neill asked him to report on the events in West Texas. Judge Rucker lauded the Commission and many other parties for their support, and summarized the situation.

Justice O'Neill opened the floor for Collaborative Council members to introduce themselves and provide comments

ADJOURNMENT

Justice O'Neill thanked everyone for attending and reminded everyone that they could contact staff with questions, and that the Commission's website would include meeting materials a few days before the June 27, 2008 meeting. The meeting adjourned at 2:30 p.m.