

Cⁱⁿ CHAMBERS

THE OFFICIAL PUBLICATION OF TEXAS CENTER FOR THE JUDICIARY, INC. VOLUME 23, No. 4 FALL 1996

Annual Conference Offered Education and Fun

How do you keep 600 judges occupied, entertained, and enthusiastic about learning for four days? A variety of educational topics and festive social events seemed to do the trick at this year's Judicial Section Annual Conference. The conference was held September 24-27 in Corpus Christi.

The educational portion of the program offered judges an opportunity to select from a variety of courses enabling them to design a custom-made curriculum that best suited their needs. Classes offered included *Appellate Jeopardy*, *Advanced Court Technology*, *Paper Terrorism*, *Managing Complex Litigation*, *Court Updates*, and *Family*

Violence. The general session entitled *So You Think You Can't Be Sued?*, dealt with employment law and how it applies to a judge's role as an employer. The topics chosen targeted issues that face judges on a daily basis.

"These combinations of courses are designed to present the best education program to judges," Mari Kay Bickett, executive director of the Texas Center for the Judiciary, Inc., said. "Every judge's job is a little bit different, so its one of our biggest challenges to develop courses that appeal to everyone, and I think we succeeded at this year's Annual Conference."

The judges in attendance seemed to

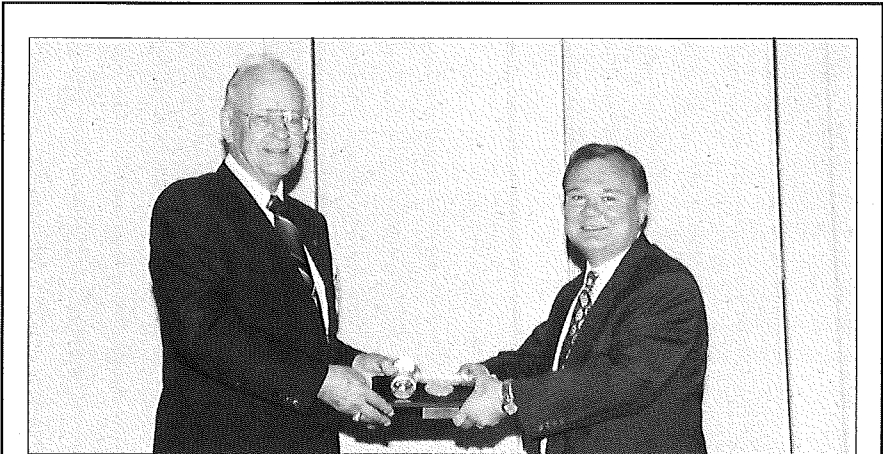
agree. The conference received an overall rating of 4.39 on a scale of one to five. With the wealth of feedback received from these evaluations, the Texas Center can develop programs that best meet the judiciary's needs and expectations.

"The mix of networking and continuing education combine to create a conference that is beneficial for all Texas judges," Justice Bob Dickenson, conference leader and current immediate past chair of the Texas Center for the Judiciary, said.


In addition to the educational programs, judges participated in a welcome reception at the Corpus Christi Museum of Science and History, and a *Beach Ball* party, highlighted by a tacky tourist contest. The main attraction of the *Beach Ball* was the silent auction sponsored by the Texas Court Reporters Association. The event offered a host of great items to bid on and raised more than \$10,800 for the Texas Center for the Judiciary.

"The silent auction this year was fabulous, and the Texas Court Reporters are to be commended and thanked for all their hard work," Bickett said.

This standard of quality education will continue at next year's Judicial Section Annual Conference scheduled for September 23-26, 1997, in Fort Worth.



Chief Justice Charles Reynolds accepts the Outstanding Jurist Award, presented to him by Richard Pena from the Texas Bar Foundation. The award was presented to Justice Reynolds at the Judicial Section Annual Conference in Corpus Christi in September.

 <p style="font-size: small;">Judicial Excellence Through Education</p>	<p style="font-size: x-small;">inside</p> <h1 style="margin: 0;">THIS ISSUE</h1>	<p>FEATURES</p> <p>JUDGES GIVE JURORS LARGER ROLE 6</p> <p>NEW BOARD MEMBERS 4</p> <p>COMMITTEE APPOINTMENTS 11</p>	<p>DEPARTMENTS</p> <p>JUDICIAL NOTES 2</p> <p>CONTRIBUTORS 3</p> <p>NEW JUDGES 3</p> <p>ETHICS OPINIONS 8</p> <p>IN MEMORIAM 9</p> <p>JUDICIAL CALENDAR 12</p>
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judicial notes

Schraub Leads National Judicial College

Judge B.B. Schraub, presiding judge of the Third Administrative Region in Seguin, was recently voted Chair of The National Judicial College Board of Trustees. Schraub has been active with NJC since 1972, and a member of the Board of Trustees since 1992.

Evans Receives Justice Award

Retired Chief Justice of the Texas 1st Court of Appeals, Frank G. Evans, received \$10,000 from the Foundation for Improvement of Justice for his commitment to improving the justice system.

Evans, a professor of law at South Texas College of Law, was recognized for his work creating peer mediation programs, primarily at Houston-area elementary and middle schools.

New Videos

The Texas Center for the Judiciary recently acquired a new video and book for the video library.

Ethical Issues in Judicial Settlement is produced by the American Judicature Society and discusses guidelines and recommendations for judicial ethics requirements.

For information regarding video availability and check-out, call the Texas Center at 800-252-9232 and ask for Angela.

Attorney General Offers Opinion

At the request of Comptroller John Sharp, Attorney General Morales offered a formal opinion about the allocation of funds received from a convicted individual who makes only partial payment of the court costs, fines and fees imposed by the trial judge. Since 1972, the Comptroller's office has required court costs to be paid first, with any remaining money then allocated on a *pro rata* basis among various state funds.

The Attorney General's opinion concluded that there is an exception to the general rule requiring that court costs be paid first where the convicted criminal is placed on "community supervision" under Article 42.12 of the Code of Criminal Procedure. In those cases, the trial judge basically is free to fashion an order regarding costs, fines and fees that the judge deems appropriate. The only limitation on such an order is that the total amount of payments allocated to community supervision fees cannot exceed \$40 per month.

The Attorney General's opinion confirms that the trial judge has considerable discretion in this area.

The National Judicial College Scholarships

The Bureau of Justice Assistance has provided scholarship funding for The National Judicial College

courses dealing with drugs and violent crime. The monies cover the balance of 1996 and the year 1997, with priority given to 1996 courses. The scholarships may be used for tuition, conference fees, lodging, airline tickets, and meals at the University Inn.

Applications should be made to Nancy Copfer at the NJC at (800) 25-JUDGE.

Outstanding Jurists Named

The Texas Bar Foundation awarded Chief Justice Charles Reynolds the Outstanding Jurist Award at the Judicial Section Annual Conference.

Also during the Annual Conference, Judge Mike Westergren was named the Outstanding Criminal Jurist by the Criminal Justice section of the State Bar. Westergren was in the spotlight as the judge of the much publicized Salina murder trial.

Staff Changes

The Texas Center for the Judiciary is bidding farewell to Anneya Duron, who has served as the registrar of the Texas Center for two years. Anneya has taken a membership coordinator position with the Texas Association for Health, Physical Education, Recreation, and Dance. Everyone at the Texas Center is sorry to see Anneya go, but wishes her the best of luck in her future pursuits.

Taking Anneya's place is Lela Nickel. Lela has a background in education, with a degree in social science from the University of North Texas. The Texas Center welcomes Lela.

CONTRIBUTIONS

THANK YOU FOR YOUR CONTRIBUTIONS

(contributions received as of October 15, 1996)

Gene Ater	Judge & Mrs. Dixon Holman	Tom B. Ramey
Frances Bass	Jean Spradling Hughes	Pamela Richter
Julia Biard	Donald R. Jones	Estella Schraub
Linda Bierman-Davis	Mack Kidd	James M. Simmonds
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Shirley Butts	Ward Koehler	B.J. Stevens
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Harold Clapp	Charles E. Lance	Thomas J. Stovall
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George H. Hansard	Susan Olsen	Bill C. White
Royal Hart	Peter Peca	K. Stephen Williams
Adele Hedges	Judge & Mrs. Mickey R. Pennington	Jim Wither
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William Henderson	Graham Purcell	J.C. Zbranek
Darlene Herrin		
Leonard E. Hoffman		

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LINDA WATSON WILLIAMS MEMORIAL

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David Goldstein
Weldon & Mary Kirk

ROBERT C. WRIGHT MEMORIAL

James Morgan

College for New Judges in December

With elections just past, the state has several new judges in office. In its effort to further judicial excellence through education, the Texas Center is offering its premier program, the *College for New Judges*.

This conference provides an opportunity to analyze the role and responsibilities of being a judge and to develop the skills necessary to be effective in this new position.

The program provides information and training to help new judges make the transition from an advocate to that of a fair and impartial administrator of justice.

The College includes a wide variety of faculty members with Judge Kent Sims serving as dean of the college.

The College for New Judges is set to take place December 8-13 in Dallas at the Grand Kempinski Hotel.

The Texas Center looks to have a successful program that will help new judges better serve, as well as meet their mandated education requirements during their first year on the bench.

NEW JUDGES & JUDICIAL APPOINTMENTS

(As of October 25, 1996)

Hon. John T. Boyd

Chief Justice, Seventh Court of Appeals
Succeeding Chief Justice Charles Reynolds

Hon. Carlos Lopez

County Court at Law #2 of Dallas County

Hon. James A. Moseley

5th Court of Appeals
Succeeding Justice Joseph A. Devany

Hon. Martin E. Richter

116th District Court
Succeeding Judge Frank Andrews

Hon. Joseph W. Wolfe

Fifth Court of Appeals
Succeeding Justice Will Barber

1996-97 BOARD OF DIRECTORS AND EXECUTIVE COMMITTEE

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133 N. Industrial
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FAX (214) 653-5777

Chair Elect

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McLennan County Courthouse
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FAX (210) 792-2294

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Hon. Raul Vasquez (1998)
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Place 2

Hon. Adele Hedges (1998)
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Houston, TX 77002
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Hon. Fernando Mancias (1997)
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Place 10

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Place 5

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FAX (903) 798-3034

Place 4

Hon. Judith Wells (1999)
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Place 7

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Place 9

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Place 5

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Place 8

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(1997)
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Place 10

Hon. Max Osborn (1997)
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Place 3

Hon. Doug Shaver (1999)
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Place 6

Hon. Barbara Walther (1998)
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Tom Green Courthouse
San Angelo, TX 76903
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1996 JUDICIAL SECTION ANNUAL CONFERENCE

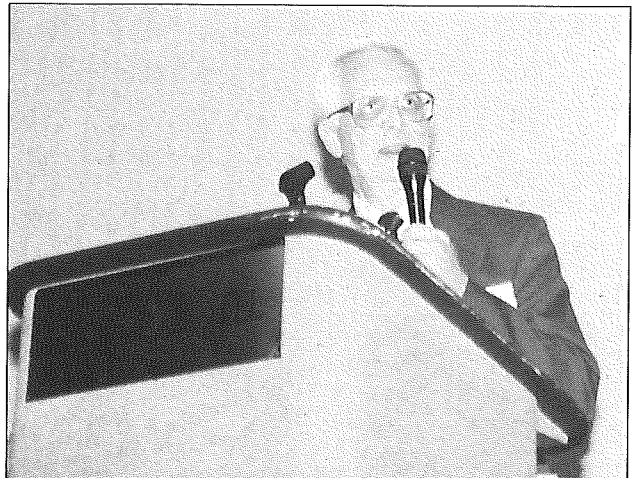


Left: Justice John Ovard of the 5th Court of Appeals, winner of the Tacky Tourist competition and recipient of a \$300 travel voucher from Southwest Airlines, sports his outlandish outfit during the Beach Ball.

Bottom Left: Judge Howard Fender, County Criminal Court #7, and his wife Virginia show their tacky side during the Beach Ball. The Fenders received second place in the Tacky Tourist contest.

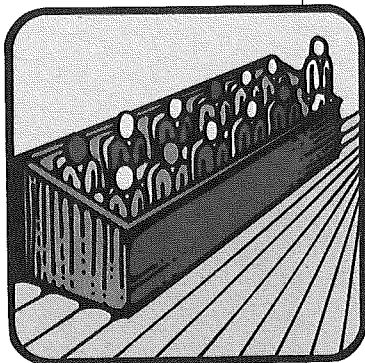
Below: Justice Bob Dickenson, conference leader and current immediate past chair of the Texas Center and the Judicial Section Executive Committee, addresses attendees of the Judicial Section Annual Conference. Dickenson was the outgoing Chair of the Texas Center for the Judiciary and the Judicial Section Executive Committee.

Bottom Right: Members of the Texas Court Reporters Association, sponsors of the silent auction benefiting the Texas Center, Donna Collins, Judy Miller, Judy Hobart, Dee Anne Boyd, and Melissa Carson, gather around the auction tables. The silent auction raised more than \$10,800 for the Texas Center. (Not pictured: Jenny McClusky, president of TCRA).



Judge Gives Jurors Larger Role in Court

by Ed Housewright



Serving on a jury can be a difficult task. Jurors must sometimes sit through days of complicated testimony, stay alert, and render a fair verdict.

One Dallas judge is trying to make jury service less onerous by involving the jury more in the proceedings.

For the past few months, state District Judge Merrill Hartman has allowed jurors in his court to take notes, submit written questions during trial, discuss testimony among themselves during breaks, and get the benefit of a summary of the proceedings each day from opposing lawyers.

Judge Hartman, a civil court judge, said the response to the measures has been positive from jurors and lawyers.

"They love it," he said. "I think it's the wave of the future."

Traditionally, judges in Texas and some other states have not allowed the participatory methods that Judge Hartman has instituted, but many experts who have studied the jury system praise them.

"I applaud him for trying these techniques," said Valerie Hans, a criminal justice professor at the University of Delaware. "The backdrop for this is that for a long time we've treated jurors like passive bumps on a log."

Since December 1, Arizona civil courts have allowed jurors to take notes and ask questions during trial.

The change came about after a study by the Arizona Supreme Court Committee on *More Effective Use of Juries*.

"For over 20 years, jurors in criminal trials have had the right to take notes," the report says. "Experience has shown that the obvious benefits of the practice [aid to memory, increased attention to the trial, etc.] outweigh any supposed drawbacks..."

"Jurors should be allowed to ask questions during trials... subject to careful judicial supervision."

Many court observers have commented on the need to get jurors more involved in the trial proceedings.

"Jurors need not and should not be merely passive listeners in trials, but instead should be given the tools to become more active participants in the search for just results," according to a report from the American Bar Association and the Brookings Institution, titled *Charting a Future for the Civil Jury System*.

"Specifically, we strongly urge that jurors be allowed to take notes and that courts make more extensive use of visual exhibits [including videotapes and computer demonstrations]... The image of jurors as blank slates, sitting in silence and passively absorbing

information fed to them, is not and should not be an accurate version of how jurors respond to the evidence in a trial or how they make decisions."

Getting jurors more involved in the trial proceedings can counteract some of the criticism of juries, the report says.

For instance, jurors are sometimes faulted for their lack of attention during a trial or for handing down controversial verdicts, such as the \$2.9 million verdict in the 1994 McDonald's coffee-spill case.

"There is such misunderstanding and misperception about, and even some hostility toward, the civil jury system," the report from the ABA and the Brookings Institution says. "In some quarters, civil juries are viewed as generators of often indefensible and inconsistent verdicts."

Perhaps the most common measure that Judge Hartman has instituted is allowing jurors to take notes during trials. Some other courts in Dallas County and around the country also allow this.

"I think if they take notes, they learn better and remember better," Judge Hartman said.

Generally, few object to note-taking, but a lawyer writing in the September 1995 *American Lawyer* did take issue with it.

"The note-taking juror

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cannot simultaneously take notes and observe the demeanor of the witness," Alan Zegas wrote. "The witness' demeanor can be as important as what the witness is saying.

"Jurors who take notes may be listened to more carefully during deliberations simply because they have what purports to be a summary of testimony. But what if the notes are inaccurate? What if the note-taking was selective, with the juror jotting down observations only about testimony supporting the juror's particular views or biases?"

Many people also support allowing jurors to ask questions. An article in the March-April 1996 issue of *Judicature* strongly supports the use of

doubts about jurors' asking questions. "How many lawyers do you need in a case?" he asked. "Do we want to add 12 to it? That's what I see us doing. I'm afraid it could really help or hurt somebody.

"Suppose there's a gray area. It should be up to the lawyers to clear it up, not the jury."

Allowing jurors to discuss the testimony among themselves during breaks in the trial when all are present is perhaps the most controversial of Judge Hartman's initiatives.

Marc Whitehead, a Minneapolis attorney who has been involved in many of the

loud. When the time comes to reach a verdict, instead of spending time getting clear about what they heard, they can spend time deciding how to vote."

Allowing lawyers to summarize the proceedings each morning for jurors appears to be generally favored. Judge Hartman said it can help the lawyers get their thoughts together.

But, as with the other measures, this one has critics, too.

"Granted, each side gets to do it, but my inclination is that the process will benefit the better advocate and not necessarily aid the jury," said Robert Hirschhorn, a lawyer and jury trial consultant in Galveston. "The better public speaker,

Jurors need not and should not be merely passive listeners in trials, but instead should be given the tools to become more active participants in the search for just results."

-- from a report by the American Bar Association and the Brookings Institution

questions by jurors.

"Juror questions to witnesses promote juror understanding of the facts and issues, and alleviate juror doubts about trial evidence," according to the article, written by Larry Heuer, an assistant professor of psychology and law at Barnard College, Columbia University, and Steven Penrod, a professor of psychology and law at the University of Nebraska.

In Judge Hartman's court, jurors submit written questions to the bailiff, who gives them to the judge. He then reviews them outside the jury's presence with the lawyers, who discuss how to answer the questions. The judge may deem some questions inappropriate or the answers inadmissible.

State District Judge Frank Andrews, a colleague of Judge Hartman's, has some

American Bar Association's civil justice reform efforts, echoes the concerns of many lawyers.

"I think many psychologists who have studied small group interaction are very concerned that this results in people making up their mind and taking positions before all the evidence is in," he said. "If you start to take a position and say 'This is what I think. What do you think?' you begin to harden and begin to establish a point of view.

"While you may do that anyhow, if you do it publicly it gets harder to change as the trial goes on."

Judge Hartman, however, defends allowing jurors to talk about the testimony. He said he instructs them not to reach a decision in their minds.

"It's a learning tool," he said. "To get clear, a lot of people need to think out

whoever is the more effective communicator, is going to win the battle. That's not good."

All in all, attorneys who have tried cases before Judge Hartman said they like the initiatives.

"Some more time will tell how juries are reacting to it, or if we're getting some pattern that's fairer to one party or another," attorney Mike Beene said. "But from the jury feedback so far, it looks to be a fair way of meting out justice."

Dan Oates, a juror in a recent case in Judge Hartman's court, agreed.

"It was an extended trial, a week and a half, with a lot of contradictory testimony from each side, with a lot of different witnesses," Mr. Oates said. "There were a lot of dates and facts and figures. Allowing us to take the notes and being able to review these in our own mind was a lot better than trying to recall what they said seven days ago."

ETHICS OPINIONS

No. 197

Issued July 18, 1996

Q *May a court coordinator who has qualified as a notary public at her own expense, not reimbursable, notarize papers for the public at a fee as long as the instrument notarized does not pertain to any case in her court?*

A No. Although the activity is an accomodation, once a fee is charged, a business activity is being conducted out of the judge's office and is a violation of Canon 2, Section B.

A much better practice would be for the county to pay for the cost of qualifying the staff member as a notary and notarization be done at no charge.

No. 199

Issued July 18, 1996

Q *May a judge solicit contributions to the Texas Center for the Judiciary, Inc., a not-for-profit organization dedicated to the education of judges, from individuals, businesses or foundations promoting judicial education or similar endeavors?*

A No. In 1982 we issued Opinion No. 52 holding that a judge may solicit funds for the Texas Center for the Judiciary from foundations and other donors not likely to come before the court without violating the letter or the spirit of the Code of Judicial Conduct. Since that time the letter of the code has changed; Canon 4C(2) now squarely prohibits a judge from soliciting funds for any educational, religious, charitable, fraternal or civic organization without excepting organizations devoted to the improvement of the law. No longer is there any language that could justify a distinction between public fund raising and solicitations directed to private foundations. While it might seem appropriate for a judge to be able to solicit funds for an organization that promotes judicial education, the Code as presently drafted does not permit any direct fund raising by Texas judges, as we noted recently in Opinion No. 196

ETHICS Q & A OPINIONS

concerning solicitation of funds for the National Center for State Courts.

Q *May a judge introduce the executive director of Texas Center for the Judiciary to foundations, businesses, or individuals expressing an interest in supporting the Center?*

A Yes. As we noted in Opinion No. 196, Canon 4C(2) permits judges to be listed as an officer, director or trustee of a civic or charitable organization, and implicitly allows stationary bearing their names in such positions to be used for fund raising purposes, so long as the judge does not sign the solicitation letter. Allowing a judge to make an introduction of the executive director to a potential donor serves a similar function: it informs the donor that the judge is associated with and sponsors the Texas Center for the Judiciary. The judge must not participate in or be present during the executive director's fund raising efforts as this would constitute direct solicitation.

Q *May the executive director of the Texas Center for the Judiciary solicit contributions or sponsorships from vendors of legal materials, such as West Publishing?*

A Because the Code of Judicial Conduct only governs the activities of judges, the Committee expresses no opinion regarding the actions of the executive director or the Texas Center for the Judiciary. The solicitation efforts of the Center directly reflect upon judges, but the executive director's activities are subject to review

by the organization's board of directors and not this committee.

No. 201

Issued Sept. 10, 1996

Q *May a committee of the Texas Association of District Judges send a letter to the members of the association or those eligible for membership in the association soliciting \$100.00? The funds would be spent to hire a lobbyist to assist the efforts of the association before the Legislature.*

A Yes. Canon 4C(2) prohibits a judge from soliciting funds for any "education, religious, charitable, fraternal or civic organization." It is the opinion of the Committee that the Code of Judicial Conduct does not prohibit such activity so long as the letter is restricted to members of the Texas Association of District Judges or those eligible for membership in the association.

Q *May a committee of the Texas Association of District Judges send a letter explaining the aims of various groups that are forming to raise money to assist the judiciary in explaining their desires to the Legislature?*

A No. Such implicit recognition of the "various groups" would "lend the prestige of judicial office to advance the private interests" of the groups, in violation of Canon 2B.

Q *May a committee of the Texas Association of District Judges send a letter accompanying correspondence from another group formed to raise money to assist the judiciary in explaining their desires to the Legislature?*

A No. Given the resolution to Question No. 2, any letter accompanying the correspondence of another group would violate both the letter and spirit of the Code of Judicial Conduct.

Continued on page 9

Q *May a home rule city Municipal Court Relief judge, appointed by the city council, also serve on the City's Zoning Board of Adjustment, a wholly voluntary and uncompensated position also appointed by the city council?*

A Yes. Canon 6C(1) (b) exempts Municipal Court judges from the requirements of Canon 4H.

Canon 4H provides that a judge should not accept appointment to a governmental committee, commission or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice.

IN MEMORIAM

For those who served our state courts

Judge Byron Crosier

Judge Byron Crosier, senior district judge in Cleburne, Texas, died August 27, 1996.

Judge Joseph E. Kelly

Senior Judge Joe Kelly, former chair of the Texas Center Board and Judicial Section Executive Committee, passed away Oct. 30 in Victoria.

Judge Kelly served in the 24th District Court for 14 years, and was very involved in his community, serving as mayor, working on the school board, and chairing various fund-raising campaigns.

Mrs. Linda Watson Williams

Linda Watson Williams, receptionist and administrative assistant for the Texas Center for the Judiciary, Inc., died August 24, 1996 in an auto accident.

Mrs. Williams was returning from Houston at the time of the accident.

Mrs. Williams was a graduate of the University of Texas and was a member of the Junior League of Austin. She had been employed at the Texas Center for a year.

A Letter from the Chair

Those of you who attended our annual Judicial Section meeting this year in Corpus Christi (as well as the Section meetings over the years) can attest to the continuing excellence of the educational program. You may not be aware of the extent of the assistance we have received from the Texas Bar Foundation. Every year, the Bar Foundation sponsors our fall conference and enables us to bring nationally acclaimed speakers to inform and challenge us. While this project may be the most conspicuous of its efforts in support of the bench, it is by no means the only one.

In the last few years alone, the Bar Foundation has funded the creation of the bench book that every judge in the state possesses and the card of jury instructions that every jury box in the state contains. In addition, the Foundation has provided funding for the Texas Association of Court Administrators for continuing education seminars, the Texas Appellate Judges Seminar, and the Future of the Texas Judicial System

Study. It also established the Outstanding Jurist Award to recognize and acknowledge exemplary dedication to the judiciary.

Beyond these obvious endeavors for our benefit, the Foundation has helped legal service providers serve their clients more effectively, bringing to court causes that might never have been heard without their assistance. Through its continued support of the Texas Center for Legal Ethics and Professionalism, it has encouraged an elevation in the ethical standards and civility of the lawyers who come before us. In short, the unselfish generosity of the Bar Foundation permeates the Texas legal profession.

During this season in which we give thanks for our blessings, we should remember the Texas Bar Foundation and the many ways it has enriched our professional lives. It is a good, loyal friend to the judiciary.



Technology Task Force Goes High Tech

The Information Technology Task Force was appointed by the Texas Supreme Court to study how technology can be used to enhance communication among the courts, the public and law enforcement as well as improve judicial access to criminal records, fines and fee collections and court efficiency.

The task force is chaired by Dr. Donald L. Hardcastle, director of computing and information systems at Baylor University.

In an effort to illustrate the benefits of cyberspace, the task force has a website that posts the recommendations of the committee.

The site is: <http://www.txdirect.net/users/rRichard/tech-tf.htm>.

At this site, which can also be accessed through the Texas Center website at www.yourhonor.com, judges can review the task force's recommendations, make comments, and view others responses.

The task force foresees two immediate benefits. First, this allows the courts to devote more time and energy to the administration of justice, and less time moving volumes of paper and answering telephone calls about scheduling. And second, video conferencing will permit criminal arraignments directly from jail, and some civil hearings won't require travel costs.

The Texas Commission on Judicial Efficiency will report the task force's findings to the legislature.

Supreme Court Appoints Jury Task Force

by Justice John Cornyn

On September 17, 1996, the Texas Supreme Court appointed a Jury Task Force, charging it to make recommendations to the Supreme Court and the Legislature on needed reforms. The task force includes judges, district and county clerks, lawyers representing the criminal and civil bar, professors, legislators, business people, psychologists, and even people whose main qualification is former jury service. The court tried to include a broad range of views and interests. Dean Frank Newton of Texas Tech Law School chairs the task force; Professor Jack Ratliff of the University of Texas Law School is the reporter. The liaison to the task force for the Court of Criminal Appeals is Judge Sharon Keller.

The task force will study many issues, including the following:

Jury Selection

Are juries really representative of the community? Should they be if they are truly "the conscience of the community?" Does part of the crisis in confidence stem from failing to meet this ideal? The National Center for State Courts reports that only 10 percent of those summoned make up the jury pool. Jurors who do show up are subject to many legal exemptions and discretionary excuses from service.

Should we limit the exemptions or permissible excuses? If so, which ones? For example, should we retain a statutory exemption for all citizens over age 65?

Is an "impartial" jury necessarily an ignorant one? Often people who have been exposed to media coverage about celebrated events are excluded wholesale from jury service. Should juries be selected mainly from the ranks of the unaware?

Peremptory Challenges

Should peremptory challenges be reevaluated in light of *Batson's*

prohibition of race-based strikes, which has been extended to prohibit gender-based strikes in civil and criminal trials? One member of the Texas Supreme Court would eliminate peremptory strikes entirely.

Problems with the Trial System

The length of trials is perhaps the single biggest deterrent to having a true cross-section of the community on a jury. Long trials preclude many from service, such as, single parents, or sole supporters of households. Professionals believe they can't afford the time either. Judges need to avoid unnecessary delay, duplicative



testimony or marginally relevant evidence, and to make sure that only truly irresolvable disputes go to trial. Taxpayers, who subsidize litigation by paying for the salaries of court employees and courthouses, are entitled to have their tax dollars used efficiently.

Burgeoning technology has perhaps made complex (and lengthy) trials unavoidable. One response might be to adopt a state counterpart to Federal Rule 706, which allows a judge to appoint disinterested expert witnesses.

Some seeming irrationality in verdicts is no doubt caused by incomprehensible jury instructions. There must be better

ways to help juries reach rational verdicts.

Juror Compensation

Why is juror compensation so low? This issue is difficult during tough financial times for county government, which pays this stipend. Unless county government or employers subsidize jury service, however, only the unemployed or the independently well-off can serve without hardship. The legislatures in some states presently require employers to pay their employees' salaries while the employees are on jury duty.

Other Issues

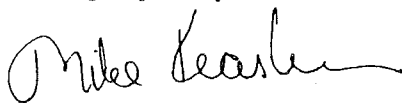
When is jury sequestration justified? Should jurors be allowed to take notes, deliberate during trial, or otherwise participate in the proceedings, for example, by submitting questions to the court or parties?

The importance of the task force's goals cannot be overstated. Our state and federal constitutions guarantee the right to trial by jury and we commit to juries some of society's most important decisions, yet few people today publicly contend that the American jury system works as it should. Troubling results in some high profile cases have led to the unsettling suggestion that the jury's place in the judicial system should be curtailed, or even eliminated in some types of civil cases. While anecdotes, rather than empirical evidence, have driven some of this criticism, reform in certain areas is clearly needed. Resolving disputes in a way that meets with general public satisfaction is, I think, the jury's greatest contribution to our system of self-government and is consistent with Tocqueville's theory of the jury as a political institution, broadly conceived. The court hopes that the task force can help restore public confidence, not just in the jury system, but in the judiciary, the legal profession, and democracy itself.

COMMITTEE APPOINTMENTS

A Note to Judicial Section Members

As we discussed at the annual conference in Corpus Christi, the number one objective of the section's legislative program for the upcoming session is a salary increase for all county, district, and appellate judges. In order to be successful, it is imperative that we remain united, with no surprises and no secret agendas. The appellate and trial judges' legislative committees will be working together in this effort. The co-chairs are Marilyn Aboussie and Mickey Pennington. If you have proposed legislation during this session, we ask that you work through these committees so we can speak with one voice on matters affecting the judiciary.



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LOOKING AHEAD

JUDICIAL CALENDAR

1996

**COLLEGE FOR
NEW JUDGES**
December 8-13, 1996
Dallas

**COLLEGE OF ADVANCED
JUDICIAL STUDIES**
March 2-5, 1997
Houston

**CRIMINAL JUSTICE
CONFERENCE**
May 7-9, 1997
Austin

1997

**PROFESSIONAL
DEVELOPMENT PROGRAM**
June 16-20, 1997
Huntsville

**JUDICIAL SECTION
ANNUAL CONFERENCE**
September 23-26, 1997
Worthington & Radisson Hotels
Fort Worth

**COLLEGE FOR
NEW JUDGES**
December 7-12, 1997
Dallas



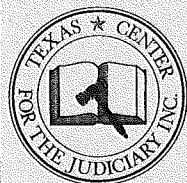
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Access information about the Texas Center and its conferences, offer suggestions, link to the Texas Commission on Judicial Efficiency and send any staff member e-mail.



in CHAMBERS

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