

# C<sup>in</sup> CHAMBERS

THE OFFICIAL PUBLICATION OF TEXAS CENTER FOR THE JUDICIARY, INC. VOLUME 22, No. 2 SPRING 1995

## Attendees give College of Advanced Judicial Studies thumb's up

Participants and faculty members have rated Texas Center for the Judiciary, Inc.'s College of Advanced Judicial Studies a 'second to none' judicial education experience.

More than 550 Texas judges attended the program March 5-8 in Austin.

Gerry Meier, judge of the 291st District Court in Dallas since 1981, said the college experience was better than any conference she attended in the last 13 and one-half years.

"The conference was geared toward being better judges instead of just spoon-feeding the law," said Meier, who attended *Developing Cultural Sensitivity in the Courts* and *Family Violence*. "I thought the courses were well-taught by faculty who had a genuine desire to educate. They were very beneficial to me professionally and personally."

Mike Keasler, Dean of the College of Advanced Judicial Studies and judge of the 292nd District Court in Dallas, said course evaluations indicated an overwhelming majority of judges were satisfied.

"What happened was we had multiple courses such as *Evidence* and *Parables for Judges*. It (conference design) narrowed the gap between the lowest and highest rated courses such that

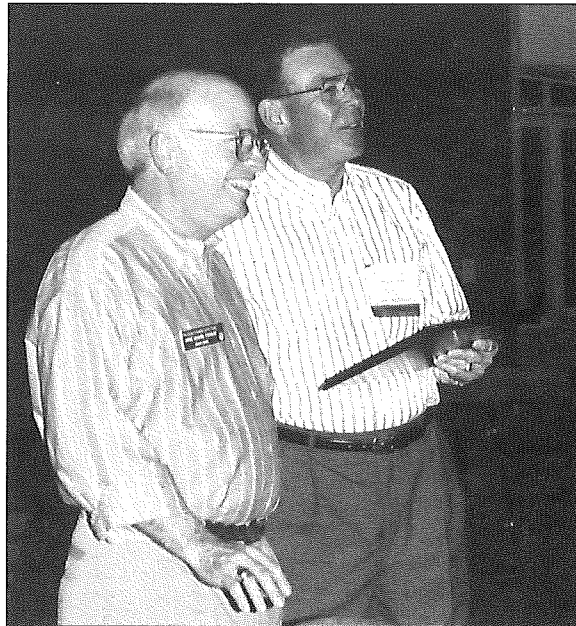


Photo taken by Matthew Reeves

Mike Keasler, Dean of the College of Advanced Judicial Studies and judge of 292nd District Court in Dallas, and Ray Anderson, chair of Texas Center Board of Directors and judge of 121st District Court in Brownfield, recognize faculty members.

all courses were rated high and about the same," Keasler said.

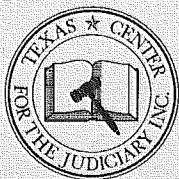
Keasler attributes the college's success to expert faculty and hard work by Texas Center staff members. "We had the best faculty we could have possibly assembled, including national authori-

ties in every area," he said.

Mari Kay Bickett, executive director of the Texas Center, said achieving a positive learning environment during conferences facilitates the center's mission. "We exist to develop judicial excellence through education. The College of Advanced Judicial Studies is indicative of the quality programs the Texas Center strives to provide."

The college offered 11 courses, including: *Juvenile Law*; *Family Violence*; *Evidence*; *Developing Cultural Sensitivity in the Courts*; *Judicial Ethics: Addressing Sexual Harassment*; *Doing Justice: Parables for Judges*; *Handling Capital Cases*; *Ethical Election of Judges*; *Updates in the Law* (Civil, Criminal, Juvenile and Family); *Judicial Writing and Mediation*.

"You have a little something for everybody, and the advantage is you (judges) can pretty much get what you need," Keasler said. ■



Judicial Excellence  
Through Education

inside  
**THIS  
ISSUE**

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NEXT JUDICIAL EDUCATION STOP:

**Texas Center outlines Criminal Justice Conference**

Texas Center for the Judiciary, Inc.'s Criminal Justice Conference gets underway May 17-19 in Austin at the Hyatt Regency Hotel.

Invitations were mailed Friday, March 31. Please contact our office, 800-252-9232, if you hear criminal cases and did not receive a conference brochure.

The conference registration deadline was April 21, 1995, and cancellations will not be refunded after May 8, 1995.

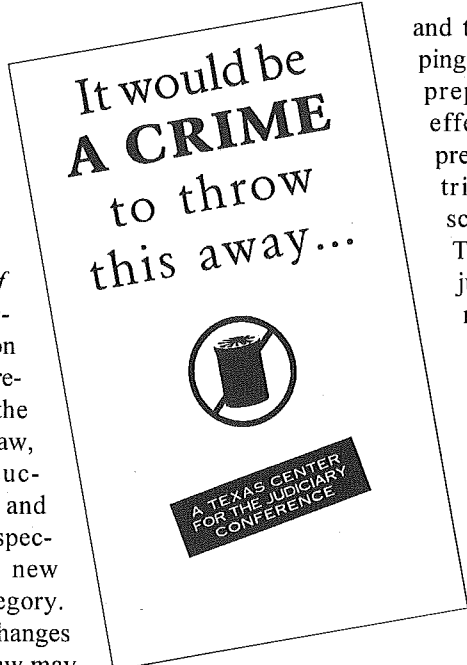
Criminal Justice participants can earn nine hours of CJE (continuing judicial education) credit by attending all sections of the course. Class begins Thursday morning at 8:30 and concludes Friday at noon.

On Thursday, May 18, the course curriculum covers: *State Jail Felony: One Year Later & 1995 Legislative Changes*; *High Profile Cases: Dealing with the Media*; *Working with Juries* and *State Habeas Corpus*.

*State Jail Felony* has been described

as one of the most dramatic changes in the *Texas Penal Code* and *Code of Criminal Procedure*. This session will focus on the repercussions of the state jail felony law, including its successes, failures and the judicial perspective behind the new punishment category. Because more changes in sentencing law may be coming your way, this session also highlights issues from the current legislative session.

The prominence of *High Profile Cases* and notorious trials in American life is not a new phenomenon. Public interest in courtroom cases today resembles that of the Salem witch trials



and the Lindberg kidnaping case. Courts must be prepared to operate effectively with media presence because many trials face intense scrutiny by the press. This course assists judges in handling the media, establishing communication and resolving problems during trials.

*Working with Juries* reminds us in the courtroom, we often lose sight of the people who get paid the least:

*jurors*. For years trials

were conducted for the convenience and pleasure of the lawyers and judges. Nationally and statewide this is changing. If trials are handled expeditiously, jurors will have greater confidence in the justice system. This session helps judges apply techniques to streamline *See Criminal Justice, page 14*

**Editor's comments...**

Welcome to the Spring '95 issue! *In Chambers* is evolving nicely, and I hope all of you are enjoying its new format.

Because the newsletter is printed expressly for you, I want to take this opportunity to invite your comments and suggestions. I welcome and encourage your phone calls (800-252-9232). Your story ideas, perspectives and

expertise are important ingredients for *In Chambers* continued success.

In an effort to bring more of your ideas to the pages of the newsletter, I recently formed an editorial board with the advice of Mari Kay Bickett, executive director, and Tricia Hall, director of education conferences.

Different types of judges who reside in different regions of the state make up the board. Printed below (bottom of page 2) are the names of the judges who serve as editorial board members.

Conversations with each board

member prompted me to start *Judge-Mentality*, a judge's guest column. Please take a look for yourself (page 6), and discover what's on the mind of one of your colleagues.

If you would like to write a column or letter to the editor, contact me immediately. In closing, I want to express my appreciation for the guidance of each editorial board member.

Working together, *In Chambers* soars. ■

—Matthew Reeves

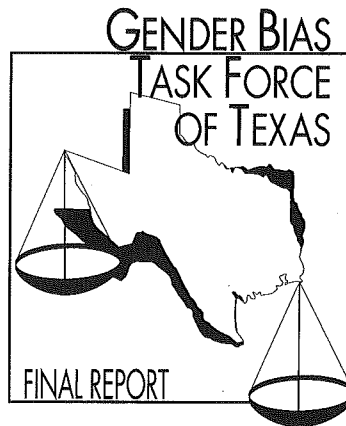
**In Chambers Editorial Board:** Justice Marilyn Aboussie, *Third Court of Appeals* (Austin); Judge Manuel Banales, *105th District Court* (Corpus Christi); Judge Scott Brister, *234th District Court* (Houston); Senior District Judge Sam W. Callan (El Paso); Judge John R. Carter, *277th District Court* (Georgetown) and Judge Molly Francis, *County Criminal Court #9* (Dallas).

## Grantees respond to Gender Bias Task Force recommendations

At a February meeting of the Gender Bias Reform Implementation Committee, the Texas Center for the Judiciary, Inc. and three of its fellow grantees outlined the curriculum they have been providing since 1991 relating to the elimination of gender bias.

The committee was created by the Supreme Court of Texas after the Gender Bias Task Force of Texas released its final report in February, 1994.

Mari Kay Bickett, executive director of the Texas Center, and Hope Lochridge, executive director of Texas Municipal Courts Education Center, were appointed to the Gender Bias Reform Implementation Committee and also serve as cochairs of the Judicial Education subcommittee which made the report. This subcommittee is part



of the Gender Bias Reform Implementation Committee.

The grantees described to the subcommittee their training sessions which were designed to address gender bias and detailed responses to recommenda-

tions printed in the *Final Report of the Gender Bias Task Force of Texas*. (See list of task force recommendations which directly concern judges on page 15)

In 1991, by order of the Supreme Court, the Gender Bias Task Force was created "to consider whether gender bias [exists] in the judicial system in Texas, and, if such gender bias does exist, to determine the nature and extent of such bias and to propose measures for its reduction and elimination." The task force found gender bias against both men and women does exist in the Texas judicial system.

The task force report documents "gender bias is present in the attitudes and stereotypes held by attorneys and judges, in behaviors that have an

*See Task Force, page 15*

## Forbis leaves College for New Judges after 10 years service

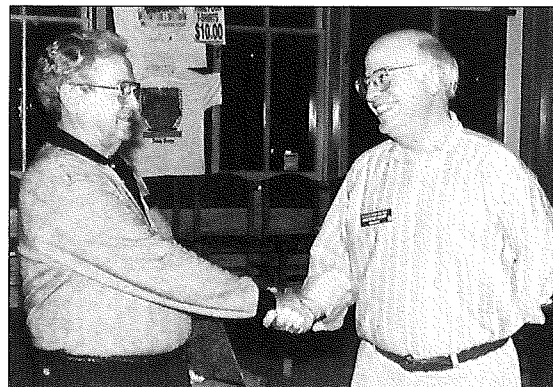
Preparing the state's newest judges for the bench may be a little tougher without one of the most valuable faculty members of the College for New Judges.

John T. Forbis, a senior district judge in Childress, recently retired from the college's faculty after serving ten years from 1985 to 1994.

The College for New Judges, traditionally held the second week of December, is the cornerstone of the Texas Center's core curriculum. Attracting a majority of newly appointed or elected judges each year, the college provides new jurists a head start on the transition from advocate to judge and begins an ongoing education relationship between judges and the Texas Center.

"I have never been involved in any sort of setting where students were as anxious to learn as new judges," Forbis said.

During his tenure on the faculty, Forbis taught on topics such as evidence, court administration, recusal and



John T. Forbis, a senior district judge in Childress, shakes hands with Mike Keasler, Dean of the College of Advanced Judicial Studies and judge of the 292nd District Court of Dallas, after accepting a plaque in recognition of his service to the Texas Center for the Judiciary, Inc.

disqualification of judges and rules of judicial survival. He also helped with the mock trial sequence at the conclusion of each college.

Linda Thomas, 5th Court of Appeals Chief Justice in Dallas and former College for New Judges Dean, said Forbis' rules of judicial survival brought a

unique perspective to the college. "He will always remain a part of the college because we will continue to use his material," she said.

Forbis said the most rewarding experience of being involved in the college has been seeing judges' careers mature.

"I watched one judge rise from the College for New Judges to the Supreme Court of Texas," he said.

Hands-on, practical instruction is the key to the success of the College for New Judges, Forbis said.

Mari Kay Bickett, executive director of the Texas Center, said successes in judicial education develop through the service of educators such as Forbis.

"The dedication of faculty like Judge Forbis to the College for New Judges is immeasurable and is precisely what makes the program so outstanding." ■

## CJE reporting

Continuing Judicial Education (CJE) credit transcripts are mailed three times per year. The next mailing is July 1. Please contact Anneya Duron at 800-252-9232 if you do not receive a transcript at that time. Subsequent transcript mailing dates are Dec. 1 ('95) and April 1 ('96). The system is the result of switching from a calendar reporting year to a fiscal reporting year.

The fiscal year runs Sept. 1 to Aug. 31. Judicial categories below describe which CJE requirements judges fall under.

**Judges who took office on or before Dec. 31, 1993:** You are required to earn **27 hours** CJE credit between Jan. 1, 1995 and Aug. 31, 1996. This is a 20-month cycle. It is based on the current requirement of 16 CJE hours per year. Your **annual** reporting cycle of 16-hours per year will resume beginning with the fiscal year calendar, Sept. 1, 1996.

**Judges who took office between Jan. 1, 1994 and Aug. 31, 1994:** If you have completed your 30-hour requirement within your first year on the bench, then you must acquire 16 additional hours by Aug. 31, 1996. If you have not yet completed the 30-hour requirement, you must complete 30-hours CJE credit

## judicial notes

during your first year on the bench and earn 16 additional hours by Aug. 31, 1996.

**Judges who take office between Sept. 1, 1994 and Aug. 31, 1995:** New judges are required to receive 30 hours CJE credit within the first year on the bench. New judges receive a status report from the Texas Center approximately three months prior to their anniversary date (on the bench) providing the number of CJE hours earned to date. If you were appointed or elected between Sept. 1, 1994 and Aug. 31, 1995, you are required to obtain 30 hours CJE credit by Aug. 31, 1996. Some new judges have longer than one year to complete the 30-hour requirement because of this transition window. Your 16-hour reporting cycle begins with the new fiscal year, Sept. 1, 1996.

This onetime extended cycle is designed to give the judiciary sufficient notice to obtain required credits and place each judge into the one-year fiscal cycle beginning Sept. 1, 1996.

## PDP approaches

Court personnel who were accepted to Texas Center for the Judiciary, Inc.'s Professional Development Program must register for the conference by **May 12**. PDP participants will gather in Huntsville June 19-23, 1995.

Court personnel enrolled in the **Court Coordination Course** should read *Pursuing Justice* before attending the June conference. These participants also should bring several copies of any forms, policies or procedures used by their court(s).

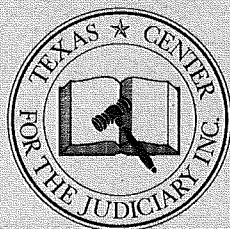
Members of the **Trial Court Management Course** need to bring the "Defining Court Administrative System" questionnaire filled out along with several copies of any forms, policies or procedures used by their court(s).

Participants enrolled in the **Court Administration Course** must bring to Huntsville two copies of a written report on one of the following subjects: a recommendation regarding implementation of a new policy or procedure; justification for some request to a funding authority or an analysis of some prevalent

*Continued on next page*



THANK YOU  
for  
YOUR  
CONTRIBUTIONS



*Judicial Excellence  
Through Education*

William Barber  
James E. Barlow  
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R. Temple Driver  
Robert T. Pfeuffer

**JUDGE GLENN R. LEWIS MEMORIAL**  
Curt F. Steib  
Royal Hart

**JUDGE GEORGE L. WALKER MEMORIAL**  
Harold Entz

ously implemented program, policy or procedure. The paper should consist of not less than five pages, typed and double-spaced with one-inch margins.

## Bench books go out

All Texas active judges (including appellate, district, county court at law, probate and former and retired subject to assignment) were mailed a complimentary copy of *Bench Book for the Texas Judiciary* in February.

If you are an active judge and were not included in the mailing, please contact Eldie at **800-252-9232**. Additional copies of the bench book can be purchased for \$125 based on availability.

The Judicial PEER Committee of the Texas Center for the Judiciary, Inc. completed the bench book under the direction of Joe Clayton, former district judge in Tyler. The project began in 1991 and was made possible by funding from the Texas Bar Foundation of the State Bar. The *Bench Book for the Texas Judiciary* is designed to provide trial judges readily available scripts, checklists and references for problems commonly arising during trials. The authors intent is not to provide an authoritative textbook of Texas law.

The Judicial PEER Committee anticipates updating the book annually and would appreciate comments regarding corrections, deletions or additions for updates. Contact the Judicial PEER Committee Chair: Hon. Lamar McCorkle, Judge, 133rd District Court; 310 Fannin, 5th Floor; Houston, TX 77002; phone: (713) 755-6266 or fax: (713) 755-5779.

## Bickett speaks to County Clerks

Mari Kay Bickett, executive director of the Texas Center for the Judiciary, Inc., was invited to speak during the 23rd Annual County and District Clerks Seminar March 27-29 in College Station.

Bickett explained the importance of judicial education and the relationship between county and district clerks and

# judicial notes

the Texas Center. "You probably know the Texas Center is the place where you send your reimbursement request forms. That is because you are an essential part of the judicial foundation and also because you are included in the Texas Center for the Judiciary grant for training funds," she said.

Bickett also discussed the Texas Center's mission and the pivotal role the center's programs play in the careers of Texas judges. "Our programs provide judges the opportunity to talk to other judges. It relieves the sense of isolation judges feel once they take office. Judges learn from other judges, and judges are taught," Bickett told the participants.

## New videos arrive

Two video tapes recently arrived to the Texas Center for the Judiciary, Inc. library.

*Envisioning Justice: Reinventing Courts for the 21st Century*, a project of the National Center for State Courts with funding support by the State Justice Institute, is a video introduction to court visioning. *Justice at First Hand*, a combined effort by the American Judicature Society and the State Justice Institute, provides curriculum on ethics and professionalism for nonjudicial court personnel.

Judges who want to checkout videos via mail should contact Matthew Reeves at **800-252-9232**.

## Manual available

The *Reference Manual on Scientific Evidence* is now available for checkout from the library at the Texas Center. Contact Eldie Morales at **800-252-9232** to checkout the manual.

The manual was published by the Federal Judicial Center. William W.

Schwarzer, director of the Federal Judicial Center, said the contents are intended to aid judges in the application of evidence governing expert evidence and in the management of such evidence, including ruling on its admissibility.

The book contains a series of seven reference guides providing an outline of the issues commonly arising when expert evidence is offered in the fields of epidemiology, toxicology, survey research, DNA identification, statistical inference, multiple regression or economic loss. The outlines are designed to offer a framework of questions to assist in the issue identification and narrowing process. The manual also addresses use of court-appointed experts and special masters in extraordinary cases.

## Legal ethics session held in Bar annual

A symposium on the legal ethics of conduct of public officials is being presented during the State Bar of Texas Annual Meeting in San Antonio, May 31-June 3.

The Texas Center for Legal Ethics and Professional-

ism's *Violations of the Public Trust II* is scheduled June 2 from 9 a.m. to noon at the Henry B. Gonzalez Convention Center in South Banquet Hall.

The symposium, which is cosponsored by the Litigation Section of the State Bar and the State Bar College, will be moderated by Dan Rather, CBS news anchor.

Confirmed panelists include Judge Deanell Tacha, 10th Circuit, U.S. Court of Appeals; David Gergen, former Counselor to the President, White House; Robert Fiske, former Special Prosecutor and Robert A. Strauss, former U.S. Ambassador to Russia.





## The power to set bail: A Judge's Curse

Hardly anything makes a judge and the justice system look worse than when things go awry after a judge has lowered a bail set by another magistrate.

A dear friend of mine once had a lawyer explain that a defendant needed to remain free for two or three days on his existing bond "to take care of some personal affairs."

My friend accordingly extended the existing bond, as if pending the filing of a motion for new trial. The defendant immediately went home

and took care of his personal affairs. He murdered his wife.

About two decades ago just after the fourth of July, I returned to work after vacation. A motion to revoke probation transferred to my docket from another judge's for hearing. As I recall, the defendant was on probation for theft, and the violation alleged in the motion to revoke was that he had committed a burglary of an automobile. The prosecutor asked for a two-week postponement because the State's witness went out of town before receiving his subpoena.

The defense attorney responded, "Judge, the defendant has been in jail pending this motion to revoke since January 3rd. If you're going to postpone this hearing, he's entitled to be released on a personal recognizance."

The defendant's attorney hadn't filed a 20-day motion. This incident occurred before the Court of Criminal Appeals held that release on PR bond was not required until 20-days after filing of the C.C.P. Art. 42.12 (now Sec. 21) demand for hearing within 20-days.

I didn't believe the defendant was entitled to release. But I thought justice required a release because the defendant had already been in jail more than six months without a hearing. I released him on personal recognizance pending the hearing of the motion to revoke in two weeks. The defendant murdered a man within two hours of release.

When a news reporter came around and asked why

### 'Setting bail is judicial Russian roulette.'

I released the man, all I could say was that I had two poor choices in front of me and picked the wrong one. I still wince when I recall that I enabled the commission of a murder.

Such experiences explain the title of this piece. No matter how cautious a judge may be, whenever a judge sets bail or grants a personal recognizance, a judge has made a bad error if the defendant splits or commits a crime while free on bond. Setting bail is judicial Russian roulette.

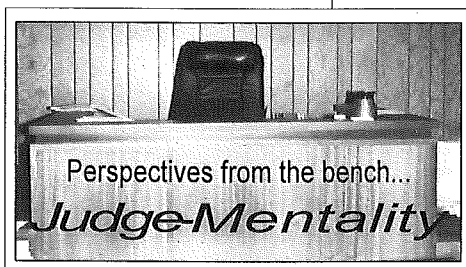
Nothing infuriates a defense attorney more than to be turned down on a motion to reduce bail set by a justice of the peace who curries

favor with peace officers by setting exorbitant bail. The reason for the lawyer's fury is simple. Who wants to hire a lawyer who can't even get the accused out on bail?

Sometimes a sheriff, while under the gun of a federal court order to keep prison population down, gets interested in granting right to reasonable bail, as do commissioners court members who are forced to jack-up taxes to pay for new jail space and the maintenance of ever-growing numbers of prisoners. But generally speaking, hardly anyone, except defense attorneys, defendants, and their families cares much about either the right to make bail or the presumption of innocence.

Judges are doubly bound under the identical provision of both U.S. (Article VIII) and Texas' Bill of Rights (Sec. 13): "Excessive bail shall not be required..." and also under the presumption of innocence (P.C. 2..01), to uphold the right to reasonable bail except in a capital case where the proof is evident (C.C.P. Art. 1.07). In fact until 1985 under C.C.P., Art. 17.15 rules, the only factors a judge should consider for fixing the amount of bail were the following: 1) The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with. 2) The power to require bail is not to be used to make it an instrument of oppression. 3) The nature of the offense and the circumstances under which it was committed are to be considered. 4) The ability to make bail is to be considered, and

*Continued on next page*



By Judge Sam Callan  
Senior District Judge  
El Paso

*Judge-Mentality* is an *In Chambers* guest column, which is written by a judge each issue. Opinions presented in the column are not necessarily the opinions of the Texas Center for the Judiciary, Inc. Please call Matthew Reeves, 800-252-9232, if you want to write a column or a letter to the editor in response to a column.

## Setting bail

*Continued from previous page*  
proof may be taken on this point.

In 1985, a fifth provision was added: 5) The future safety of a victim of the alleged offense *may* be considered.

In 1993, Sec. 5 was amended to read as follows: 5) The future safety of a victim of the alleged offense *and the community shall* be considered.

As it now reads, Sec. 5 reflects the thrust of public opinion. How the revision actually affects the right to make bail and the presumption of innocence won't be known for some time.

Judges should be pleased to be allowed to consider the safety of victims and the community in setting bail if Sec. 5 withstands constitutional grounds attacks that are bound to come. Did you ever, before the addition of Sec. 5, try to explain to an irate citizen presumption of innocence eliminates a judge's right to consider the safety of victims and the community in setting bail?

In spite of the pathway provided in Sec.5, the problem of determining the proper amount of bail remains unsolved. Now, setting bail only involves applying the Art. 17.15 rules. And of course everyone knows instinctively how much is "excessive bail."

Common sense dictates what is a "sufficiently high" bail to assure the accused will behave and appear when called. It is bound to be inherently obvious what bail amount "the circumstances under which (the offense) was committed" requires. Judges surely know from experience that a poor man out on a low bond will behave and appear when called as certainly as will an affluent man out on a high bond. And a nincompoop usually can tell with a glance whether an accused will harm his alleged victim or endanger the public after getting out on bond.

The aggregate of appellate decisions only amount to isolated observations about highly individualized circumstances such as bail was excessive under *acxdefg facts* and not excessive under *zyxwuv facts*. To determine bail is to grope for a gut-reaction to nebulous evidence if there is any available.

In general, prosecutors aren't hyped-up about setting bail. The process is unglamorous, and they aren't held responsible if things go wrong. When prosecutors are interested, their aim is simply to induce the judge to set an exorbitant bail. I've been a prosecutor. The prosecutor just isn't fired-up about the right to make bail.

My intention is not to harp at legislators, appellate judges or prosecutors.

Several years ago, the El Paso County Council of judges set out to establish a set of bail guidelines to conquer some of the problems I have discussed. We asked the local justices of the peace to join us in our undertaking. Although they looked at us as if we were daft and declined to participate, the Council carried forward and formulated some guidelines without them.

I have found the bail guidelines helpful. I'm aware that there is an Attorney General's opinion (Op. Atty. Gen. 1991 No. DM-57) which says bail must be determined on a case by case basis and not pursuant to a preset schedule of amounts. It seems to me protests about bail guidelines interfering with individual justice are unfounded because guidelines aren't mandatory. The guidelines do provide *systematic* individualized determination of the amount of bail,

**Undoubtedly, judges are still bound by what their understanding of the law and sense of justice tells them is right, regardless of public opinion.**

and they take into consideration the most common negative and positive factors.

Setting a lower bond than the guidelines indicate does produce the same problems as reducing the amount of bail set by another judge. A judge should respect the guidelines and not undercut them before writing on the docket sheet a sound reason for doing so.

I understand the El Paso Council of Judges recently amended the bail guidelines in conjunction with a new system of processing cases at the request of the district attorney. The DA took the new system from the one used in Harris County. There has been little experience with the new guidelines; but because the DA was involved to some extent in their implementation, judges should be less out on a limb.

In establishing guidelines and setting bonds, the following factors should be considered.

1. Any bail that a nonresident alien can

make is inadequate. (In saying this, I must add that El Paso County has had exceptionally good appearance experience from the granting of personal recognizances to Mexican citizen defendants chosen and sponsored by the Mexican Consulate.)

2. Under the provisions of C.C.P., Art. 17.09, a judge cannot jack-up a bail amount after it has been set except upon testimony (of record for appellate purposes) or circumstances of record (such as indictment for burglary of a habitation after an original complaint charge of burglary). See *Ex Parte King*, 613 S.W.2d 503, in which a long postponement of a trial caused by a legislative continuance filed by the defendant's attorney was insufficient justification to revoke an existing bail bond and raise the amount of bail. Defendant's appearance three to five minutes late without an attorney after he had previously been ordered to appear with an attorney also was insufficient cause to cancel and raise the amount of an existing bail. (*Meador v. State*, 780 S.W. 2d 836)

3. Setting bail to please either police, prosecutors and general public or defense attorneys, defendants and their families is *sometimes disastrous and always contemptible*. A judge must at all costs sit and remain in the middle. Judges are not contemptible for guessing what should in justice be done, even if the guess turns out disastrous.

I am constantly reminded these days, because legislators almost unanimously determine their votes on the basis of public opinion, of Edmund Burke's admonition: "The people elect a representative because they trust his judgment; if he surrenders his judgment to their opinion, he betrays their trust."

Under modern thinking, it *may* be acceptable for legislators to kowtow to public opinion, but it still isn't acceptable for judges to do so. Undoubtedly, judges are still bound by what *their* understanding of the law and sense of justice tells *them* is right, regardless of public opinion.

The crime rate is not a product of lenient judges. For several years, justice has been much stricter in Texas than it had been in the last seven decades of my life and a long time before. The moral meltdown is the real culprit. We have so much crime because we nonrear, rather than rear so many criminals.

What the public does not realize is that in history, it is a toss-up whether people have more to fear from criminals or from police, prosecutors and judges, who can be made tyrannous by public demand for protection from criminals. ■

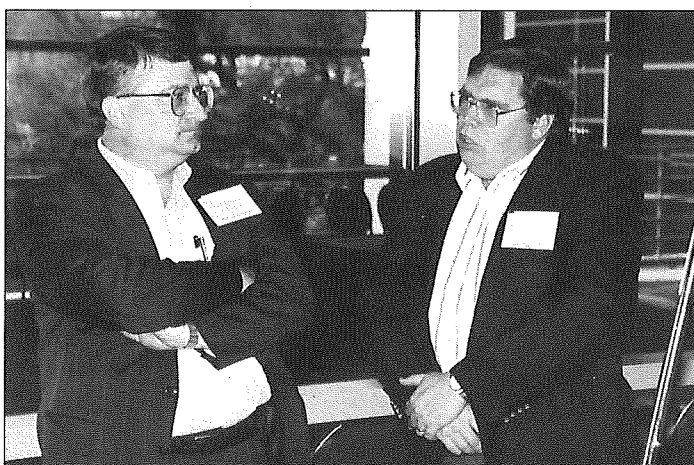
# ON THE DOORSTEP OF THE STATE CAPITOL COLLEGE OF ADVANCED JUDICIAL STUDIES

ON FAR RIGHT: Joe Carroll, judge of 27th District Court in Belton, and Mike Gassaway, judge of County Court at Law #2 in Waco, talk about their classes.

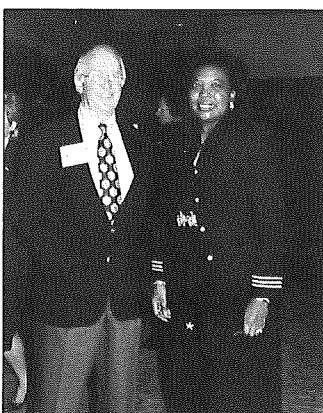
RIGHT: Susan Olsen, 360th District Court Judge; Carol Haberman, 45th District Court Judge; and Naomi Harney, a senior district judge, enjoy a break from class.

BELOW RIGHT: Bob McGregor, judge of 66th District Court in Hillsboro, and Alan Mayfield, judge of 74th District Court in Waco, talk about serious judicial issues.

BELOW: Richard Saks, state judicial educator from New Jersey, and Professor Sandy Lottor, humanities-based seminar presenter and Parables for Judges course teacher, exchange ideas about judicial education during faculty dinner.



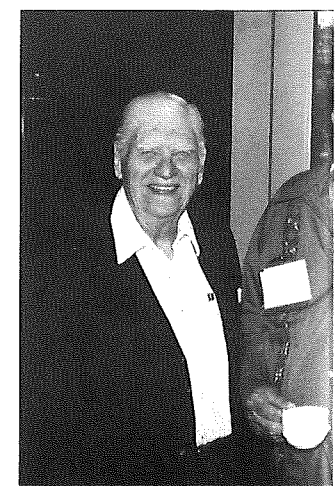
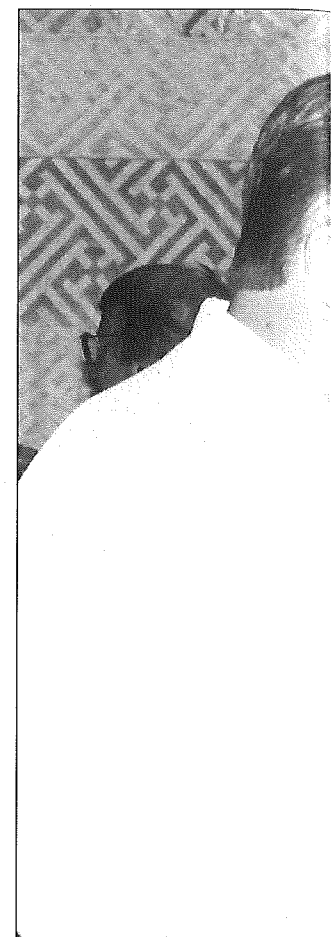
ABOVE: Ray Anderson, chair of the Texas Center for the Judiciary, Inc. Board of Directors and judge of 121st District Court in Brownfield, and Mari Kay Bickett, executive director of Texas Center, discuss the successes of the college.



ABOVE: James A. Baker, a justice on the 5th Court of Appeals in Dallas, and Carolyn Wright, judge of 256th District Court in Dallas, head into class.



ABOVE: Bea Ann Smith, a justice on the 3rd Court of Appeals in Austin, and Tricia Hall, director of education conferences for the Texas Center, are all smiles on the last day of the college.



ABOVE: From the left are Joe Kell, J. Stovall, Jr., Presiding Judge of 2nd District, and Solomon Casseb, Jr., a senior.





“The conference was geared toward being better judges instead of just spoon-feeding the law.”



“Discussion of relevant scenarios to my own court practice and procedures with other judges who have more experience than I.”

“Much improved seminars, more practical for our needs for materials not found in law books.”

“As a refresher, great. As to new knowledge, great.”

“Best conference in 22 years.”

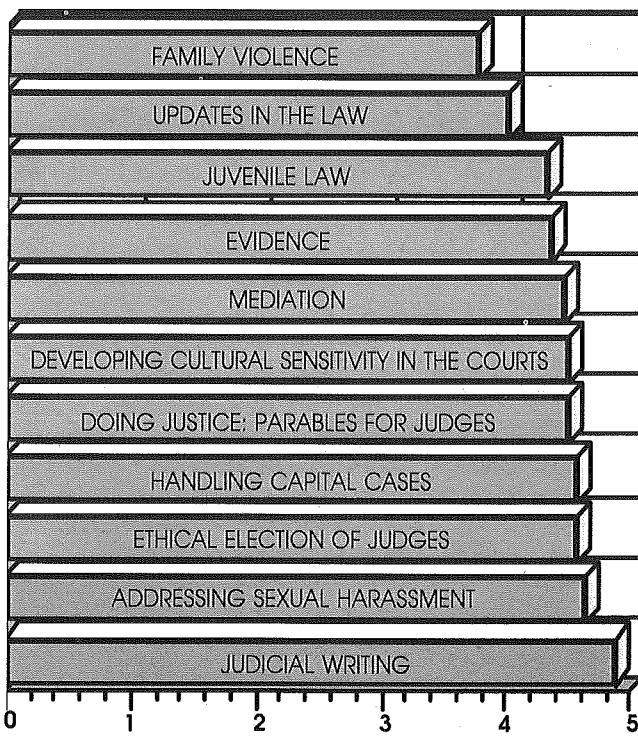
“This is the most well-planned conference ever. The quality of the director and the staff is the most.”



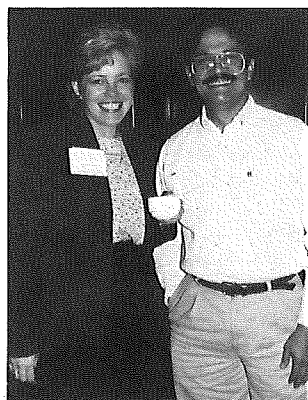
**Conference Rating System**

- 1 Poor
- 2 Mediocre
- 3 Adequate
- 4 Good
- 5 Exceptional

**Ratings by Course**



senior district judge in Victoria; Thomas Administrative Judicial Region of Seabrook district judge in San Antonio.



ABOVE: San Antonio judges Catherine Stone, a justice on the 4th Court of Appeals, and Frank Montalvo, judge of 288th District Court, smile during a coffee break.

Photos taken by Matthew Reeves

# JUDICIAL SECTION

**Editor's Note:** The following is a list of legislative bills relating to Texas judges, judicial districts and courts. The bills are under consideration by the 74th Texas Legislature, which convened Jan. 10, 1995. The bill filing deadline in both houses was March 10. The top line of each entry contains the bill number and bill author's last name. It is followed by a caption describing the bill and the name of the committee assigned the bill. Call 800-253-9693 for the latest action on a bill.

## COURTS — ADMINISTRATION

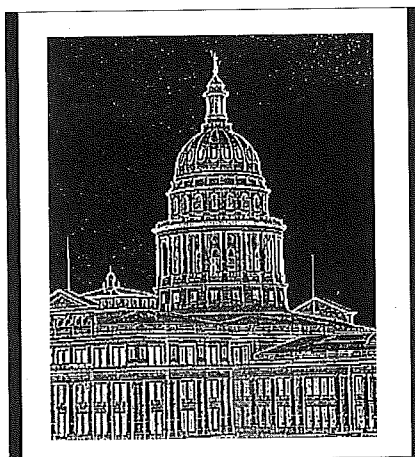
- HB 575 HUDSON**  
relating to the certification of willingness not to appear and plead as an attorney in court by certain retired and former judges. *House Judicial Affairs*
- HB 759 THOMPSON**  
relating to certain retired judges serving as local administrative district judges. *House Judicial Affairs*
- HB 847 GALLEGO**  
relating to the priority given to the hearing of certain matters by trial courts. *House Judicial Affairs*
- HB 880 CUELLAR**  
relating to an additional security fee collected in Webb County. *House County Affairs*
- SB 165 LEEDOM**  
relating to the certification of willingness not to appear and plead as an attorney in court by certain retired and former judges. *Senate Jurisprudence*
- SB 247 WHITMIRE**  
relating to certain retired judges serving as local administrative district judges. *Senate Jurisprudence*

## COURTS — APPELLATE

- HB 501 HARTNETT**  
relating to the issuance of a writ of mandamus or writ of prohibition by a court of appeals. *House Judicial Affairs*
- HB 833 CRADDICK**  
relating to the composition of the eighth and eleventh court of appeals districts. *House Judicial Affairs*
- HB 985 HUNTER, TODD**  
relating to testimony of expert witnesses in civil actions. *House State Affairs*
- HB 1693 ZBRANEK**  
relating to the qualifications of office for appellate judges and justices. *House State Affairs; referred to subcommittee*
- SB 33 BROWN; et al**  
relating to testimony of expert witnesses in civil actions. *Senate Economic Development*
- SB 77 PATTERSON**  
relating to the appointment of appellate

- justices and judges and certain district judges and to the election on confirmation of those justices and judges. *Senate Jurisprudence*
- SB 230 PATTERSON**  
relating to the right to appeal certain decisions by the juvenile court. *Senate Criminal Justice*
- SB 313 ELLIS; WEST; ROYCE; et al**  
relating to the appointment of appellate justices and judges, to the nonpartisan election of district judges, to the retention or rejection of district and appellate judges and to the creation of certain judicial districts. *Senate Jurisprudence*

## CAPITOL WATCH



### Texas Legislature '95

- SJR 10 PATTERSON**  
proposing constitutional amendment relating to the appointment of appellate justices and judges and certain district judges by the governor and to confirmation elections on a nonpartisan ballot of those justices and judges. *Senate Jurisprudence*

## COURTS — COUNTY & STATUTORY

- HB 81 MUNOZ**  
relating to the private practice of law by a judge of a statutory county court of Hidalgo County. *House Judicial Affairs*
- HB 605 DENNY; SOLOMONS**  
relating to the statutory county courts and state probate court in Denton County. *House Judicial Affairs*
- HB 627 THOMPSON**  
relating to the assignment of a retired or former judge of a statutory probate court. *House Judicial Affairs*

- HB 673 THOMPSON**  
relating to the assignment of a former statutory probate court judge. *House Judicial Affairs*
- HB 768 CRADDICK**  
relating to statutory court judges and district judges exchanging benches and transferring cases. *House Judicial Affairs*
- HB 781 OLIVEIRA**  
relating to the statutory county courts in Cameron County. *House Judicial Affairs*
- HB 824 UHER**  
relating to the creation of a statutory county court in Matagorda County. *House Judicial Affairs*
- HB 834 CRADDICK**  
relating to the county courts at law in Midland County. *House Judicial Affairs*
- HB 842 DENNY; SOLOMONS**  
relating to the statutory county courts and statutory probate courts in Denton County. *House Judicial Affairs*
- HB 993 KUBIAK**  
relating to authorizing certain counties to maintain a branch courthouse outside the county seat and permitting certain government entities to conduct certain functions at that facility. *House County Affairs*
- HB 1137 HARTNETT**  
relating to special judges elected by the practicing lawyers of statutory probate courts in Dallas. *House Judicial Affairs*
- SB 240 NELSON; et al**  
relating to the statutory county courts and statutory probate courts in Denton County. *House Judicial Affairs*
- SB 387 TURNER**  
relating to authorizing certain counties to maintain a branch courthouse outside the county seat and permitting certain government entities to conduct certain functions at that facility. *Senate Intergovernmental Relations*
- SB 316 LUCIO**  
relating to statutory county courts in Cameron County. *Senate Jurisprudence*
- SB 320 SHAPIRO**  
relating to statutory county courts at law of Collin County. *Senate Jurisprudence*
- SB 321 SHAPIRO**  
relating to statutory county courts at law of Collin County. *Senate Jurisprudence*

## COURTS — DISTRICT

- HB 134 PUENTE**  
relating to the creation of a judicial district composed of Bexar County. *House Judicial Affairs; referred to subcommittee*
- HB 135 PUENTE**  
relating to creation of two judicial districts in Bexar County. *House Judicial Affairs; referred to subcommittee*
- HB 136 PUENTE**  
relating to the creation of judicial district

# JUDICIAL SECTION

composed of Bexar County. *House Judicial Affairs; referred to subcommittee*

**HB 174 McCOULSKY**

relating to the creation of a judicial district composed of Fort Bend County. *House Judicial Affairs; referred to subcommittee*

**HB 273 PITTS**

relating to the creation of a judicial district composed of Ellis County. *House Judicial Affairs; referred to subcommittee*

**HB 352 DE LA GARZA; LUNA; et al.**

relating to the creation of additional judicial districts. *House Judicial Affairs; referred to subcommittee*

**HB 445 MUNOZ; et al**

relating to creation of a judicial district composed of Cameron County. *House Judicial Affairs; referred to subcommittee*

**HB 479 ALEXANDER**

relating to the creation of a judicial district composed of Henderson County. *House Judicial Affairs; referred to subcommittee*

**HB 598 NAISHTAT**

relating to the creation of two judicial districts in Travis County. *House Judicial Affairs; referred to subcommittee*

**HB 631 JANEK**

relating to waiver of juvenile court jurisdiction over a child and transfer of certain children to district or criminal courts. *House Juvenile Justice & Family Affairs*

**HB 757 RANGEL**

relating to the creation of judicial district composed of Starr County. *House Judicial Affairs; referred to subcommittee*

**HB 767 CRADDICK**

relating to the terms of court of the 142nd District. *House Judicial Affairs*

**HB 768 CRADDICK**

relating to statutory court judges and district court judges exchanging benches and transferring cases. *House Judicial Affairs*

**HB 811 DUNCAN; STILES**

relating to the nonpartisan election of district judges, to the retention or rejection of district judges and to the creation of certain judicial districts. *House Judicial Affairs; referred to subcommittee*

**HB 915 LEWIS; GLENN**

relating to the creation of a judicial district composed of Tarrant County. *House Judicial Affairs; referred to subcommittee*

**HB 1598 GALLEGO**

relating to the organization of the district courts in Brewster, Culberson, Hudspeth, Jeff Davis and Presidio Counties and the offices of the district attorneys of the 34th and 83rd judicial districts. *House Judicial Affairs; referred to subcommittee*

**HB 2046 ZBRANEK**

relating to the oqualifications of a district judge. *House Judicial Affairs; referred to subcommittee*

**HB 3147 ALONZO**

relating to the abolishing certain judicial dis-

trict courts, creating additional district courts and the election of district judges in certain counties. *House Judicial Affairs; referred to subcommittee*

**HJR 19 ZBRANEK**

proposing a constitutional amendment relating to the composition of judicial districts and to the selection of district judges. *House Judicial Affairs; referred to subcommittee*

**HJR 61 DUNCAN; STILES**

proposing a constitutional amendment providing for the nonpartisan election and retention or rejection of district judges, for the election of certain district judges from commissioners court precincts and for alternatives of the terms of certain judicial offices. *House Judicial Affairs*

to the election of district court judges in certain counties. *Senate Jurisprudence*

**SB 256 ROSSON; et al**

relating to the creation of two judicial districts composed of El Paso County and to the composition of the 154th and 287th judicial districts. *Senate Jurisprudence*

**SB 324 ZAFFIRINI**

relating to the creation of a judicial district composed of Starr County. *Senate Jurisprudence*

**SB 510 MADLA**

relating to the organization of the district courts in Brewster, Culberson, Hudspeth, Jeff Davis and Presidio Counties and the offices of the district attorneys of the 34th and 83rd judicial districts. *Senate Jurisprudence*



Ray Anderson, chair of the Judicial Section of the State Bar and judge of the 121st District Court in Brownfield, addresses the Judicial Section. Seated from left are Marilyn Aboussie, Judicial Section Appellate Judges Legislative Committee Chair and justice on the 3rd Court of Appeals in Austin; Bill McCoy, Judicial Section Trial Judges Legislative Committee member and judge of 358th District Court in Odessa, and Rep. Robert Junell, House Appropriations Committee Chair.

**HJR 71 NIXON, JOE**

proposing a constitutional amendment changing the requirements for persons serving as district judges. *House Judicial Affairs; referred to subcommittee*

**HJR 78 DUTTON**

proposing a constitutional amendment relating to the qualifications of judges of district courts. *House Judicial Affairs; referred to subcommittee*

**HJR 125 ALONZO**

proposing a constitutional amendment to elect district judges from election subdistricts. *House Judicial Affairs; referred to subcommittee*

**SB 70 ELLIS**

relating to abolishing certain district courts and creating additional district courts and

## COURTS — JUDGES

**HB 81 MUNOZ**

relating to the private practice of law by a judge of a statutory county court of Hidalgo County. *House Judicial Affairs*

**HB 87 CHISUM**

relating to the authority of a local government to extend employee benefits to a person related to the employee. *House County Affairs*

**HB 243 YARBROUGH**

relating to the carrying of certain weapons by judges and justices. *House Public Safety*

**HB 262 MADDEN; DENNY**

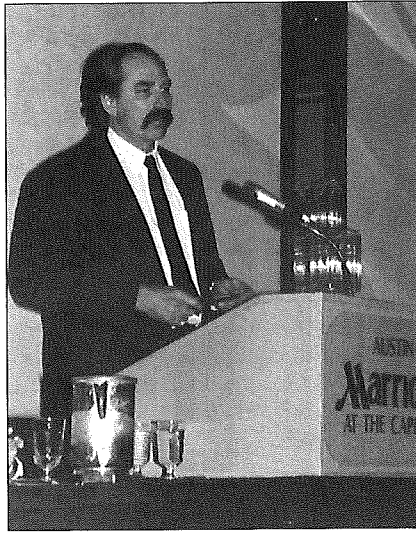
relating to the regulation of political contri-

*Continued on next page*

# JUDICIAL SECTION



Marilyn Aboussie, Judicial Section Appellate Judges Legislative Committee Chair and justice on the 3rd Court of Appeals in Austin, addresses members of the Judicial Section.



Bill McCoy, member of the Judicial Section Trial Judges Legislative Committee and judge of 358th District Court in Odessa, speaks to members of the Judicial Section.

## Bills

Continued from previous page

butions and political expenditures in connection with certain judicial candidates and officeholders and to personal financial statements filed by certain judicial officeholders; providing criminal penalties. *House Public Safety*

**HB 402 LONGORIA**  
relating to the disqualification of a judge in a criminal case. *House Criminal Jurisprudence*

**HB 482 DENNY**  
relating to county and district clerks reporting judicial appointments. *House Judicial Affairs*

**HB 483 DENNY**  
relating to reporting of political contributions from political parties to candidates for certain judicial offices. *House Elections*

**HB 575 HUDSON**  
relating to a certification of willingness not to appear and plead as an attorney in court by certain retired and former judges. *House Judicial Affairs*

**HB 626 COLEMAN**  
relating to the authority of a county judge in counties with a population greater than 2,400,00 to delegate certain responsibilities. *House County Affairs*

**HB 672 THOMPSON**  
relating to the assignment of a retired or former judge of statutory probate court. *House Judicial Affairs*

**HB 729 MOWERY**  
relating to voting in connection with certain judicial races. *House Judicial Affairs*

**HB 810 DUNCAN; STILES**  
relating to the appointment of appellate justices and judges and to retention elections for those justices and judges. *House Judicial Affairs; referred to subcommittee*

**HB 852 GALLEGO**  
relating to investigation of judges by the State Commission on Judicial Conduct. *House Judicial Affairs*

**HB 926 DUNCAN; JUNELL**  
relating to the regulation of political contributions and expenditures in connection with certain candidates and officeholders and to the disclosure by a judge of certain special relationships with attorneys; providing criminal penalties. *House Elections*

**HB 959 DAVIS; THOMPSON**  
relating to certain retired and former judges. *House Judicial Affairs*

**HB 1110 GREENBERG**  
relating to political contributions and expenditures in connection with and the public financing of campaigns for the Supreme Court and the increase of certain fees collected by clerks of court; providing criminal penalties. *House Elections*

**HB 1551 GREENBERG**  
relating to judicial training in family violence, sexual assault and child abuse issues. *House Judicial Affairs*

**HJR 60 DUNCAN; STILES**  
proposing a constitutional amendment providing for the appointment of appellate justices and judges by the governor with retention elections on a nonpartisan ballot of those justices and judges and for the alternatives of the terms of certain judicial offices. *House Judicial Affairs subcommittee*

**HJR 67 EILAND**  
proposing a constitutional amendment changing the requirements for persons serving in certain judicial offices. *House Judicial Affairs; referred to subcommittee*

**HJR 77 ZBRANEK**  
proposing a constitutional amendment changing the requirements for persons serving in certain judicial offices. *House Judicial Affairs; referred to subcommittee*

**SB 13 MONTFORD**  
relating to the regulation of political contributions and expenditures in connection with certain judicial candidates and officeholders and to the disclosure by a judge of certain special relationships with attorneys; providing criminal penalties. *House State Affairs*

**SB 77 PATTERSON**  
relating to the appointment of appellate justices and judges and certain district judges and to the election on confirmation of those justices and judges. *Senate Jurisprudence*

**SB 94 ELLIS**  
relating to the regulation of political contributions and expenditures and political advertising with certain judicial candidates and officeholders, to personal financial statements filed by certain judicial officeholders and to certain appointments made by trial judges; providing civil and criminal penalties. *House State Affairs*

**SB 108 PATTERSON**  
relating to the carrying of certain weapons by judges and justices. *Senate Criminal Justice*

**SB 1338 MONCRIEF**  
relating to the administration of the judicial and court personnel training fund. *Senate Criminal Justice*

**SJR 26 ELLIS; WEST; ROYCE; et al.**  
a constitutional amendment for the appointment of appellate justices and judges by the governor with retention elections on a nonpartisan election & retention or rejection of district judges for the election of certain district judges from commissioner court precincts and for alternatives of the terms of judicial offices. *Senate Jurisprudence*

**SJR 27 ELLIS; WEST; ROYCE; et al.**  
a constitutional amendment for the appointment of appellate justices and judges by the governor with retention elections on a nonpartisan election and retention or rejection of district judges for the election of certain dist. judges from commissioner court precincts and for alternatives of the terms of judicial offices. *Senate Criminal Justice*

## COURTS — GENERAL

**HJR 9 MADDEN**  
proposing a constitutional amendment providing for Supreme Court authority regarding funding and operation of certain programs. *House State Affairs*



**No. 176** Issued January 9, 1995

**Accepting contributions after general election**

**Q** May a judge or judicial candidate in the 1994 general election solicit and accept contributions later than 120 days after the general election?

**A** Yes. On January 1, 1995, a new version of Canon 5 of the *Code of Judicial Conduct* takes effect that imposes time limits on fundraising by judges and judicial candidates. The relevant parts provide:

(4) In addition to any other restrictions imposed by the law, a judge or judicial candidate shall not either personally or through others solicit or accept contributions:

(i) earlier than 210 days before the filing deadline for the office sought by the judge or

(ii) later than 120 days after the general election in which the judge or judicial candidate seeks office.

(5) The requirements of (4) above shall not apply to political contributions solicited or accepted solely for one or more of the purposes set forth in *Tex. Elec. Code* 253.035(I).

The question is whether section (4) applies to the 1994 election, so that the 120 days begins to run on November 9, 1994, the day after the general election. The Committee concludes that it does not.

The Supreme Court adopted the order establishing the new Canon 5 on September 21, 1994, but did not make it effective until January 1, 1995.

The Committee concludes that if the Supreme Court intended for the new limitation to apply to judges and candidates in the 1994 election, it would have made the new Canon 5 effective on or before November 8, 1994.

Because it did not do so, we conclude that the new Canon 5 imposes no limitations on fundraising by judges and judicial candidates in the 1994 general election.

**No. 177** Issued February 8, 1995

**Dollar limits on fundraising by judges**

**Q** Is there a dollar limit on the amount of money a judge who was elected in 1994 and who will not stand for re-election until 1998 may raise after January 1, 1995.

**A** No. *The Code of Judicial Conduct* contains no provisions on this subject.

ETHICS  
Q & A  
OPINIONS

**No. 178** Issued February 27, 1995

**Maintaining a part-time office at a law school of a state university**

**Q1** May a judge of a court of appeals maintain a part-time office at a state law school where a portion of his judicial duties would be performed? The office would be provided without charge, and the judge would be an occasional guest lecturer at the law school.

**Q2** If the judge may maintain such an office, would he be required to disqualify or recuse himself from any appeal involving the university?

**Q3** Does the Code require that a judge perform judicial duties exclusively at the place where the court of appeals sits?

**A1** Yes, subject to certain qualifications. \* Canon 4D.(4)(c) provides that a judge shall not accept a gift from anyone and lists certain exceptions. The pertinent exception provides that a judge may accept "any other gift," which means a gift not specifically prohibited in the code, "only if the donor is not a party or person whose interests have come or likely to come before the judge ;..." If the university's interests have not come and are not likely to come before the judge, the judge could accept the gift of a free part-time office without violating the provision. If on the other hand, the university has interests that have come or are likely to come before the judge, the judge should not accept the gift of a free office. Canon 3B(11) provides, "The discussions, votes, positions taken and writings of appellate judges and court personnel about causes are confidences of the court and shall be revealed only through a court's judgement, a written opinion, or in accordance with Supreme Court guidelines for a court approved history project."

Performing an appellate judge's duties outside of the court's offices creates a risk that confidences of the court will be lost. The affirmative answer to this question assumes that the judge could conduct his research, writing and oral communications at the part-time office in a way that would preserve the confidences of the court. If that is not the case, the judge should not perform judicial duties in such a location.

**A2** Questions of disqualification and recusal are not governed by the *Code of Judicial Conduct*. They are controlled by *Tex. R. Civ. P.* 18b and *Tex. R. App. P.* 15a. The Judicial Ethics Committee does not issue advisory opinions and questions of law.

**A3** The code does not mention this issue, but Canon 2A provides that a judge shall comply with the law. Therefore, the judge is required to comply with any statute on this subject.

\* One Judicial Ethics Committee member dissents. *Continued on next page*



**Former law office trust benefiting a judge's children**

**Q** Does a violation of the *Code of Judicial Conduct* occur if a judge's former law office now owned by a trust created to benefit judge's minor children is rented to lawyers who practice in judge's court?

**FACTS**

Judge owned office building where he practiced law. One year, prior to filing to run for his present position, the judge conveyed ownership of the building to a trust established to benefit the judge's minor children. Judge's brother is trustee. Since the judge assumed the bench (approximately 1 1/2 years after conveying the building to the trust), the trustee has made all decisions concerning management of the trust assets with no input from the judge. The portion of the building which is judge's former law office is now rented to lawyers who practice in judge's court.

**FACTS ASSUMED**

Judge's children are receiving a direct benefit from the rental of the building

by lawyers. Lawyers are not paying greater than market value for the office space.

**A** Yes.\* This question is not governed by Opinion 153 nor is it a violation of Canon 4D. (1) (2) or (3) because this is not a financial or business dealing of the judge. It is not an economic interest of the judge since he is not an officer, advisor or other active participant in the affairs of the trust. See Canon 8B.(5).

The Code does not govern the conduct of judge's family members under the circumstances presented here, assuming the law office is being rented for fair market value. Canon 4.D(4) (d) specifically allows the judge's children to receive a benefit provided the benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties.

Canon 2A provides that a judge "should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Canon 2B requires that a judge not allow any relationship to influence his judicial conduct or judgment or permit others to convey the impression that they are in a special position to influ-

ence the judge.

Although the judge has made all efforts to remove himself from the management, control or involvement in the operation of the trust, the fact remains that his children are directly benefiting from the rents paid by lawyers who regularly appear before the judge. Because the judge has statutory duty to support his minor children, any support the children receive from the trust provides an indirect benefit to the judge.

He has a conflict between his desire to be removed and detached from the operations of the trust, but is required by Canon 4 D.(3) to "...make a reasonable effort to be informed about the personal economic interest of any family member residing in the judge's household."

It is the Committee's opinion that the judge cannot allow lawyers to appear in his court when those lawyers are renting his former law office from a trust established to benefit his minor children who are living in the judge's household. If this relationship continues, public confidence in the integrity and impartiality of the judiciary would be diminished, and the public would have the impression that some lawyers are in a special position to influence the judge.

\*One member of the Judicial Ethics Committee dissents.

**Criminal Justice**

*Continued from page 2*

trial procedures; anticipate potential problem areas and resolve them before trial. Two tracks, capital and noncapital cases, are offered.

Writs of *State Habeas Corpus*, post-conviction procedures that permit prisoners to challenge constitutional violations, are a part of every criminal court.

This program segment will review the law, procedural and substantive, define the scope of the remedy and determine what remedies, if any, are available to the petitioner. Two tracks, capital and noncapital cases, are offered.

On Friday, May 19, the course topic switches to family violence. Attending *Understanding Sexual Violence: Judicial Response to Stranger and Nonstranger Rape and Sexual Assault* earns participants three hours of family violence credit mandated by the Texas Legislature.

This session's main topics include: sex offenders; sex offender treatment and sex offender sentencing.

The curriculum dispels myths about rapists and offers appropriate goals for a sex offender treatment program. It also reviews what kinds of programs are ineffective and discusses relapse prevention.

Other family violence discussion

areas include presentence reports, recidivism and remorse, sentencing juvenile rapists, race issues and community ties and service. ■

**Calendar Change**  
*The Northeast Texas Regional Conference has been changed to April 1-3, 1996. The original schedule conflicted with a religious holiday observance.*

## Gender Bias Task Force Recommendations

### for Judges:

- Judges should order divorcing couples with minor children to attend "divorce education" classes.
- Judges should be aware of the relevant statutes recognizing that a history of abuse can operate as a factor justifying, or mitigating the consequences of, the use of deadly force by a battered person.
- Mediation (as it is currently practiced) should not be ordered in a family-law case in which one of the parties is a victim of domestic violence.
- Mutual protective orders should not be entered without proper pleading and proof.

### for the Supreme Court, Court of Criminal Appeals and the State Commission on Judicial Conduct:

- Change the Code of Judicial Conduct to require lawyers to refrain from manifesting by words or conduct based on race, sex, religion or national origin against parties or counsel.
- The commission should develop specific grievance procedures for litigants who complain judges have exhibited gender bias.

### for Judicial Education:

- The Supreme Court should require all judges to complete a minimum number of hours of continuing legal education concerning the existence and consequences of gender bias.
- Judges and masters should receive training regarding child development, gender roles, the impact of divorce on children and the relationship of these matters to decisions concerning child custody and visitation.

- Judges who deal with issues of family violence should receive specialized interdisciplinary training concerning the dynamics of domestic violence, the characteristics of perpetrators and victims of domestic violence and the range of options available for the disposition of cases involving domestic violence and the sentencing of offenders.
- Judges should receive continuing education related to sexual assault, including the dynamics of spousal assault and rape, acquaintance rape and rape trauma syndrome; the characteristics of sexual offenders; gender stereotypes and rape myths that may be invoked at trial; the consent defense and the Texas rape shield statute.
- The Supreme Court and all judicial officers should strive to make the courts accessible to all would-be litigants without regard to their financial resources. Texas judges should be educated to be more accepting of pro se litigants.

### for local bar associations:

- Local judicial evaluation polls should inquire about judges' reputations for according fair and even-handed treatment to members of both sexes and should invite respondents to reveal their own gender.

### for the Texas Legislature:

- The legislative council's policy on gender and legislative drafting should be amended to reflect a proactive stance regarding the elimination of biased language. A general policy endorsing gender-neutral modes of expression should be adopted. Additionally, the policy should encourage revision of arcane language.
- The legislature should implement a systematic review and revision of statutes drafted before 1980 in order to eliminate gender-biased language.

plan consists of three goals, including first, to ensure gender bias does not affect the educational product; second, to create an environment where gender issues relating to attitudes, behavior and decision-making are effectively addressed in substantive areas of law where they occur and finally, to make gender fairness a tangible objective so that gender will remain a consideration in every activity and decision of the organization.

Certainly gender fairness issues are not new to the course curriculum of the Texas Center. Examples of Texas Center courses which addressed gender fairness issues were submitted to the implementation committee. They included *Managing Trials Effectively* (Regional Conferences 1991); *Courtroom Communication for Judges* (Judicial Section Annual Conference 1991); *Judicial Ethics* (Regional Conferences 1992); *Family Law for Trial Judges* (Judicial Section Annual Conference 1993); Cultural fairness issues and a judicial response to disproportionate incarceration of minority youth (Juvenile Justice Conference 1993); *Family Violence: Effective Judicial Intervention* (Judicial Section Annual Conference 1994) and *Judicial Ethics: Addressing Sexual Harassment; Developing Cultural Sensitivity in the Courts and Family Violence* (College of Advanced Judicial Studies 1995).

Texas Center's College for New Judges, Professional Development Program and faculty development programs also were described to the implementation committee. The curriculum of the Texas Center's annual College for New Judges has incorporated gender fairness in most of its topics from the decision-making process to mock trial scenarios. New judges who participated in the 1994 college viewed *Keeping the Blindfold On: Creating a Gender Neutral Court*, a videotape by The National Judicial College. The Texas Center's video library makes such videos available to individual judges.

The Texas Center offers an annual program for court managers, administrators and coordinators. Topics covered include their roles, as a reflection of the court systems and of the judge for whom they work, and how gender bias can express itself in the system.

Quality faculty development is one of the Texas Center's strongest commitments. Training programs for faculty are held, and guidance is given to faculty to ensure they have the tools necessary to incorporate into their presentations issues not only of gender fairness, but race fairness and cultural sensitivity. ■

## Task force

*Continued from page 3*

impact on the courtroom environment and the litigation process, and in judicial decision-making."

Gender bias develops, according to the task force, when women litigants and attorneys are treated in hostile, demeaning or condescending ways by court officials, when negative financial consequences of divorce consistently and disproportionately affect women and when negative stereotypes affect the ability of divorced fathers to remain involved in their children's lives. Gender bias also is present when crimes of violence against women are trivialized or misunder-

stood, when men are routinely sentenced more harshly than women for similar crimes and when women are denied access to the courts because of their financial status.

The task force concluded bias was subtle and limited in some areas while widespread and pervasive in others. Findings of the task force were based on data gathered from two surveys in which more than 300 Texas judges and 1900 Texas attorneys participated. In addition, public hearings were conducted to accumulate testimony from hundreds of advocates, former litigants and members of the general public.

Bickett outlined what the Texas Center and its curriculum committee have adopted as an overall plan for implementing gender fairness issues in judicial education. The

# LOOKING AHEAD

## JUDICIAL CALENDAR

### 1995

#### CRIMINAL JUSTICE CONFERENCE

May 17-19, 1995  
Hyatt Regency  
Austin

#### PROFESSIONAL DEVELOPMENT PROGRAM

June 19-23, 1995

#### JUDICIAL SECTION ANNUAL CONFERENCE

September 24-27, 1995  
San Antonio

#### COLLEGE for NEW JUDGES

December 3-8, 1995

### 1996

#### SOUTHEAST TEXAS CONFERENCE

February 7-9, 1996  
Huntsville

#### SOUTH TEXAS CONFERENCE

March 6-8, 1996

#### CENTRAL TEXAS CONFERENCE

March 20-22, 1996

#### NORTHEAST TEXAS CONFERENCE

\*April 1-3, 1996

#### WEST TEXAS CONFERENCE

April 24-26, 1996

#### CRIMINAL JUSTICE CONFERENCE

May 1996  
Dallas

#### PROFESSIONAL DEVELOPMENT PROGRAM

June 10-14, 1996

#### JUDICIAL SECTION ANNUAL CONFERENCE

September 24-27, 1996  
Corpus Christi

#### COLLEGE for NEW JUDGES

December 8-13, 1996

\*The dates of the Northeast Texas Conference have been changed to April 1-3, 1996. The original schedule conflicted with a religious holiday observance.

### NEXT ISSUE

Judicial features on sabbaticals  
and jury duty as well as debut  
of *Courtroom Comedy*

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