



# TCDLA Board of Directors Meeting Minutes

Saturday, December 12, 2015  
Wyndham Conference Center  
Austin, Texas

**Introduction:**

Sam Bassett, President calls the meeting to order at 10:02 am. A quorum was present. Sam recognized all the past presidents, guests and new board members.

**Roll Call:**

**Officers**

- P Sam Bassett, President
- P John Convery, President-Elect
- P David Moore, 1st VP
- P Mark Snodgrass, 2nd VP
- P Kerri Anderson-Donica, Treasurer
- P Grant Scheiner, Secretary
- P Michael Gross, *Voice* Editor

**Directors**

- P Susan Anderson
- P Marjorie Bachman
- P Heather Barbieri
- A Robert Barrera
- P Curtis Barton
- E Rick Berry
- E Fred C. Brigman, III
- P Clinton Broden
- P Jim Darnell
- P Nicole DeBorde
- E Donald Flanary

- P Stephen Gordon
- E Deandra Grant
- P Keith Hampton
- A Melissa Hannah
- E Jo Ann Jacinto
- A Steve Keathley
- P Laurie Key
- P Adam Kobs
- A Bradley Lollar
- A Louis Lopez
- P Jani Maselli Wood
- P Hiram McBeth
- A Michael McDougal
- A George Milner, III
- E Angela Moore
- P Anthony Odiorne
- P Stephanie Patten
- A Oscar Pena
- A Bennie Ray
- P Ray Rodriguez, Jr.
- P Sarah Roland
- P Jeremy Rosenthal
- P David Ryan
- P John Hunter Smith

- A Ed Stapleton
- A George Taylor
- A Oscar Vega
- E Greg Westfall

**Associate Directors**

- P Chris Abel
- A Roberto Balli
- E Casie Gotro
- E Michael Head
- P Susan Kelly
- A Nathan Miller
- P Michelle Moore
- P Audrey Moorehead
- P Michelle Ochoa
- P Scott Pawgan
- P Carmen Roe
- P Frank Sellers
- E Monique Sparks
- P Courtney Stamper
- P Mark Thiessen
- A Gregory Waldron

Key: P = Present; E = Excused Absence; A = Unexcused Absence

**Past Presidents in Attendance:** Emmett Harris, David Bires, David Botsford, Lydia Clay-Jackson, Tim Evans, William Harris, Dan Hurley, Craig Jett, Edward Mallett, Bobby Mims, Gerry Morris

**Guests:** Jason Ortega, Rick Flores, Jeep Darnell, Mark Stevens, Scott Ehlers, Tyler Flood, Jay Freeman, Kristen Brown

**Staff:** Joseph Martinez, Melissa Schank, Rick Wardroup, Mari Flores, Amanda Rivera, Craig Hattersley, Christine Abascal, Miriam Duarte, Nitu Gill, Tracy Casares

**President Announcements:** Sam welcomed everyone to the board meeting and stated we have a lot happening!

**MOTION: September 12, 2015, Minutes**

**Motion to adopt the minutes from the TCDLA Board Meeting on September 12, 2015, in Dallas made by Mark Snodgrass, seconded by Susan Anderson - motion carries.**

**Fallen Heroes, William Harris**

A moment of silence and recognition of fallen heroes was given for: Leonard Schilling – Fort Worth, Justin Mock - San Angelo and Melvin Gray – San Angelo

**TCDLEI Charles Butts Memorial Scholarship, David Guinn**

Sam Bassett has awarded the scholarship in the amount of \$5,000 to Alyssa Arroyo, third year law student and President of the Student Criminal Law Chapter at St. Mary's University. We had twenty one applicants. A presentation will be done at the February 2016 board meeting in New Orleans.

**TCDLA General Counsel Position, Sam Bassett**

TCDLA is searching for a replacement for the General Counsel Position. The Executive and Legislative committee are working together to have a decision prior to the next board meeting in February. We have two qualified candidates.

**Forensics Advisory Board Commission, Sam Bassett**

TCDLA has submitted four names and resumes as requested. Names submitted were Mark Daniel, Deandra Grant, Keith Hampton and Mark Thiessen. We have not heard who they may select.

**DNA Mixture Issue and Forensics Science Commission, Rick Wardroup**

FBI admitted it has been making incorrect statistical analysis of DNA. This has apparently affected DNA analysis by DPS. DPS is reviewing all of its DNA tests during the past ten years, isolating approximately 25,000 mixtures which apparently used the wrong protocol. This apparently does not include five other private labs.

Forensics Science Commission is involved now, looking into how to notify those in prison or those who have been released to have a writs filed. A subcommittee has been set up and has met twice so far. Members around the state chaired by Bob Wicoff and Jack Brody. The committee is working to notify affected parties and set up a triage unit. Indigent Defense Commission is involved to fund training. Courts may require this training for appointments on these types of cases. TCDLA will post information on its website.

**TCDLA Membership Status While Serving as a Prosecutor, Sam Bassett**

An issue was raised recently by a past president, regarding what to do when a member, board member and/or officer is assigned to serve as a special prosecutor. Adam Kobs has reviewed the Bylaws, which do not address this issue. Consensus of the Executive Committee was they trusted leadership members' good judgement and suggested self-recuse, for any issues that can raise a potential conflict. Self-recusal from board votes may be in addition to limiting activities, such as use of TCDLA list serves.

**Kleberg County Update, Sarah Roland**

It has been discovered the elected DA, John Hubert, has set up audio and video recording in hallways outside of courtrooms during off hours. The feed apparently goes directly to the DA office. The Prosecutorial Integrity Committee has requested and should be receiving a transcript of the hearing that was held several days ago on this issue. The DA reportedly tried to justify his actions by claiming it was for safety and, further, the courthouse is a public place. A special prosecutor has been appointed to investigate the DA. It is recommended TCDLA notify all proper law enforcement agencies, including FBI, and send letters to State Bar of Texas. Sam commented Sarah is a “doer” and “amazing.” Sam appreciates Sarah’s work. A round of applause was given.

### **Travis County Issue, *Sam Bassett***

Sam reported that Scott Smith is working with DA office, regarding a hacking incident with a company called “Securus Technologies,” and information came to light about how some attorney/client conversations were being recorded. Scott learned that some of his conversations with his client were being recorded, so he filed an appropriate motion with the court. Scott will keep Sam up to date. Sam and Keith Hampton would like to participate in drafting a standing order or local rule for criminal courts, prohibiting Securus Technologies or Sheriff Departments from recording and/or storing attorney/client conversations.

A suggestion was made for the new general counsel to work on putting a law in place at the legislature.

### **TCDLEI, *David Guinn***

TCDLEI is changing radically and is actively soliciting donations. LEI is focusing on raising money to help educate lawyers and support TCDLA. TCDLEI continues to support TCDLA by paying over \$8,000 for judges to receive copies of the *Voice for the Defense*, meet in person twice a year with TCDLA, actively raising funds for over \$40,000 in scholarship. TCDLEI is in a state of transition, the building interest will end soon. All board members pledge to raise \$1,500 each. Staff has created numerous ways to raise funds. We want to encourage past presidents to rejoin, like Lydia Clay-Jackson, and set the trends. We are looking at establishing a foundation.

### **NACDL, *Gerry Morris***

Gerry is having the time of his life as NACDL President. NACDL has issued a report on the state of Federal Indigent Defense System. Gerry and John Convery testified. The consensus was that the Federal Indigent Defense Systems needs to be taken out from under the judicial system (Federal Public Defenders and CJA Panel).

NACDL will have a seminar (Science of the Minds) and board meeting on February 17-20, 2016, at the JW Marriot in Austin. Gerry invites everyone to attend the NACDL Board meeting. We have scholarships available for criminal defense attorneys to attend, contact the home office. There will be a social event on Friday cosponsored by TCDLA, Gerry and Sam at Serguende Hall. NACDL Thursday night social will be at the hotel, the theme is to recognize the women of the profession.

### **Executive Director’s Report, *Joseph Martinez***

- Joseph thanked the people who do the work for TCDLA: Amanda Rivera, Craig Hattersley, Cris Abascal, Miriam Duarte, Tracy Casares and Nitu Gill. He has never worked with a more committed dedicated staff as these individuals; he is honored to work with them.
- This is his 57<sup>th</sup> board meeting he has attended; he thanked the board as he celebrates his fourteenth year.

- Repairs have been completed at the office with the exception of resurfacing of the first floor. We have about \$28,000 remaining to complete the first floor. The office will be down when the floors are repaired everything on the first floor will need to be moved out.
- Joseph recognized Jay Freeman with SR-22 – Jay assists TCDLA at all seminars, helps with registration when needed, courageous enough to pick up the bar tab for speaker dinners when in attendance.
- Home office is located on HWY 71, the highway will be expanded, and the city will purchase approximately 5000 sq. estimated to pay TCDLA \$32,000 for fair market value.
- We will attempt to have a conference call with HCCLA about a close working relationship with upcoming CLE and how grant funds can assist. We hope to use the working agreement as a model for future co-sponsorships.
- We will have another conference call to discuss how to share proceeds with our affiliates.

### **TCDLA Seminars, *Sam Bassett***

Sam recognized and thanked all the Course Directors who put on seminars from September 1, 2015, through November 15, 2015.

- 9/10-11/2015: Successfully Defending Child Physical Abuse and Child Death Cases - Dallas, TX - Sarah Roland and John Hunter Smith
- 9/10-11/2015: Defending Juveniles – Dallas, TX - Kameron Johnson and Laura Peterson
- 10/7-10/2015: Round Top V – Advanced Skills Training – Discovering the Story – Round Top, TX - John Ackerman, Tony Vitz and Greg Westfall
- 11/12-13/2015: Stuart Kinard Memorial Advanced DWI Seminar – San Antonio, TX - Bobby Barrera, Michael Gross, and Adam Kobs

TCDLA Stats for this fiscal year 2016: 9/1/15 to 11/15/15

- 4 seminars
- trained 315 at TCDLA seminars, cle: 60 including 4.75 ethics hours
- 9 course directors
- 53 speakers
- capital attorneys trained 0, cle: 0 including 0 ethics hours

### **Membership, *Melissa Schank***

Melissa recognized Miriam Duarte for membership and list serve work for TCDLA. As of December 3, 2015, we have 3,154 members. Board complimentary return renewal is 46% up 6% from last year. Board members are encouraged to keep in contact with those they have endorsed. Second year \$100 rate renewal is helping increase renewals. 2013 – 57%, 2014 – 59%, 2015 – 63%. Working on adding new member benefits.

### **Seminars, *Melissa Schank***

Melissa thanked Nitu and Amanda for all their seminar work. Tracy working on scholarships and stipends and Cris for writing everyone's reimbursements. Melissa stated we need to work really hard on marketing, especially our specialty DWI seminars. Members are still confused about which seminars are TCDLA's verses other competing organizations. We have many competing organizations and local bars doing one hour free CLE's monthly.

We have tripled the number of CLE's online. Typically the end user is approximately 20 attorneys viewing for 1.0 hours. They normally need CLE ASAP due to being due at the end of the month. All CDLP events and DWI events are recorded.

We provide 1-2 hour local bar CLE, will provide speaker, food and CLE.

Melissa thanked Craig for his beautiful artwork on the Rusty Duncan posters which we have multiple copies for each board member to take home and hang in their office, the courthouse or anywhere else to market the event.

### **Capital Assistance and Publications Report, *Rick Wardroup***

The Federal Grant who has put on the Capital Case Litigation Initiative events is no longer available. We just had 65 people attend the South Padre Capital/Mental Health seminar. We will have another Capital/Mental Health Seminar February 4-5, 2016 in Houston. We are also moving Forensics to Houston, October 20-21, 2016. Three death sentences for the year.

Four books are not complete due to Rick picking up work. Traffic and Punishment will be completed shortly. All cheat sheets will be complete within three weeks. An error(s) has/have been discovered in the Code Books. Rick will update and we are reprinting and re-mailing. For future publications we need to have completed by August 1<sup>st</sup>, so they are printed and ready for sale by September 1<sup>st</sup>. A suggestion was made for next year to pay additional law students to make deadline instead of volunteers.

### **Budget and Finance Committee, *Kerri Anderson-Donica***

Kerri gave a report on the end of year financial report 8/31/15. FY16 Financial Report through 10/31/15. The budget committee is already working on the 2017 budget. The budget committee is looking at spreading out the legislative year expenses over the non-legislative years.

### **CDLP, *Jani Maselli Wood***

Jani commented how awesome and enjoying it is to go to the remote areas (San Angelo, Laredo, Nacogdoches), the attendees are very welcoming. Jani thanked John Hunter Smith for all of his assistance. We have had some new blood speakers.

Come and get trained at CDLP seminars. As of September 1<sup>st</sup> we have had nine seminars. FY 15 we trained 3,052 attorneys providing CLE hours of 294.25 including 35.75 ethics hours, capital attorneys trained 238, CLE: 51.50 including 4.25 ethics hours. We have had 49 course directors and 298 speakers.

We want some new blood – In April going to Alpine and Big Bend in the spring.

### ***Voice for Defense, Michael Gross***

*Voice* is going great! Michael recognized Jeremy Rosenthal for the blog online and thanked Craig Hattersley for the professional *Voice* covers and Voice Assistant Editor Grant Scheiner – Remember to submit an article!

Technology Committee, Sam Bassett

Robert Guest has resigned and Sam has appointed Jeremy Rosenthal.

### **Long Range Planning Committee, *Ed Mallett***

In 2012 a committee wrote a long range plan. Committee members are Marjorie Bachman, Bill Harris, Craig Jett and Stephanie Patten. There has been 100% participation in conference and live meetings. Sam Bassett, John Convery and Joseph Martinez have joined us. Recommendations for long range plan:

- Selling building in Oak Hill at a high price and buying a building at a low price near the capital downtown
- Recruiting new members, reporting members recruitment and articles to continue growing membership
- Working on ways to invest funds, want to get a professional financial advisor with slightly greater risk but substantial return
- Relationships with other bar groups – increase influence with our presence
- Law Schools – have an appointed liaison for each law school and establish relations and report annually
- Technology – have apps brought up to date in a timely fashion, seminars where millennials can teach veterans the emerging technology
- Diversity – encourage board members to work hard through the whole year by moving election cycle.

Write to Long Range Committee – they want to hear from you!

**Rusty Duncan, Heather Barbieri**

We have 90% of the agenda complete and have a great line up! Forensics, Jury Selection and Essential Tracks are included. Y'all please come!

**Timothy Cole Innocence Commission, Sam Bassett**

Innocence committee that was created last session. Sam sits on this commission with legislative representatives, Innocence Project members, prosecutors and other stakeholders.

**Indigent Defense Taskforce (Tony Odiorne, Don Haase)**

Taking up the issue on making the reporting easier.

**DWI Resource, Mark Thiessen**

DWI seminars are suturing the market. "TDDLA" is putting on four seminars a year. Its email address is info@tddla.com, which may be confusing to some TCDLA members, who are used to seeing our emails from tcsla.com. TCDLA DWI seminar numbers (of attendees) are decreasing. Please ask everyone to support "TCDLA Strong" and speak at TCDLA seminars!

**MOTION: TCDLA DWI Trial Lawyers Certificate**

Anyone who attends five TCDLA sponsored within two years will receive a TCDLA DWI Trial Lawyer certificate. Motion made by Mark Thiessen, seconded by Keith Hampton – motion carries.

**Corrections and Parole, David O'Neil**

Call from Betty Wells, shortage of appointed attorneys for parole revocation cases in several areas. Shortage due to average pay for one case is \$800 median \$50 - \$75 first two hours and \$35 after. Very limited on what you can be paid for. She would like TCDLA to assist in getting the word out that there is such a shortage. The committee feels it will be worthwhile to get word out via *Voice* and list serve. Would like to have some training for attorneys. Craig Jett stated State Bar has funded this for prosecutors. Suggested maybe TCDLA could do a DVD. Encourage bringing this up at the next legislation.

Encourage next legislative session for changes to improve. Dave will also write a letter to the Parole Board, he will submit to TCDLA for approval.

**MOTION: Allow Corrections Committee to get the word out and work with board to get training in place made by Dave O'Neil, seconded by Craig Jett – motion carries.**

**State Counsel for Offenders, *David O'Neil***

Scott Ehlers reported that he also works with State Bar Poor and Criminal Matter Committee. Working on poor pay, high turnover at State Counsel. Urged State bar to get a report from SBOT. Developing a survey for current and past employees on their operations. Will review other state systems and a number of open records request. Needs to be completed by March to present to the State Bar. Please give Scott any helpful information you may have.

**Strike Force, *Nicole DeBorde***

Since last meeting we had an incident in Colorado County. Notice of contempt no calls back. TCDLA was brought in – judge called back and issue was resolved. TCDLA's good name means a good deal in Colorado County. Comal county update. Received a copy of motion from Indigent Defense Commission, complaint appointed attorneys were being targeted. All judges wrote a letter stating attorneys were volunteering. Judges will now find another way for notification.

**Old Business**

**Waco Update, *Jim Darnell***

Susan Kelly, Carmen Roe and Jim are the committee chairs and Task Force. They met Susan Anderson and Clint Broden this morning. McLennan County is a joke, the system is broken. We have over 100 attorneys who are fighting for their clients and most fighting for free. Jim recognized Keith Hampton, Robb Fickman and Stan Schwieger for their work. TCDLA will set up a list serve specifically for attorneys representing Waco Cases. An agreement has been proposed and will be approved by Executive Committee.

**Voting Status of Past President, *Susan Anderson***

As we move along as an organization we have an increasing number of past presidents who keep their voting privileges. Three choices: 1. Leave as is, all past presidents retain voting privileges; 2. Past Presidents may attend as ex-officio but cannot vote; 3. Ten most recent past presidents retain voting privileges.

**MOTION: Voting Privileges of Past Presidents**

**A motion was made to leave bylaws as is, in which all past presidents retain voting privileges. Motion made by John Convery, seconded by Laurie Key – 1 abstained – motion carries.**

**New Business**

Sam invited board members travel to New Orleans for Members Trip and Federal Law CLE.

- Wednesday, February 10-14, 2016 – Members' Retreat with Sam Bassett
- Thursday/Friday, February 11-12, 2016 – Federal Law
- Saturday, February 13, 2016 – TCDLA Board/Executive and CDLP Meetings

**MOTION to adjourn meeting at 12:22 pm. Made by David Ryan, seconded by Susan Anderson – motion carries.**

Respectfully submitted,  
Grant Scheiner  
TCDLA Secretary