



TCDLA Board of Directors Meeting Minutes

Saturday, December 3, 2016
Hyatt Regency – Rio Grande West Ballroom
San Antonio, Texas

Introduction

John Convery, President calls the meeting to order at 10:25 am. A quorum was present.

Roll Call:

Officers

<u>P</u> John Convery, President	<u>E</u> Jim Darnell	<u>P</u> John Hunter Smith
<u>P</u> David Moore, President-Elect	<u>P</u> Donald Flanary	<u>P</u> Monique Sparks
<u>P</u> Mark Snodgrass, 1st VP	<u>A</u> Stephen Gordon	<u>E</u> Courtney Stamper
<u>P</u> Kerri Anderson-Donica, 2nd VP	<u>P</u> Keith Hampton	<u>E</u> Ed Stapleton
<u>P</u> Grant Scheiner, Treasurer	<u>E</u> Melissa Hannah	<u>P</u> Mark Thiessen
<u>P</u> Michael Gross, Secretary	<u>A</u> Michael Head	<u>P</u> Oscar Vega
<u>P</u> Sarah Roland, <i>Voice</i> Editor	<u>P</u> Steve Keathley	
<u>P</u> Sam Bassett, Immed. Past President	<u>P</u> Susan Kelly	

Associate Directors

<u>P</u> Chris Abel
<u>A</u> Jorge Aristotelidis
<u>P</u> Kristin Brown
<u>P</u> Anne Burnham
<u>P</u> Casie Gotro
<u>P</u> Russell Gunter, II
<u>P</u> Thuy Le
<u>P</u> Nathan Miller
<u>E</u> JoAnne Musick
<u>P</u> Patrick O’Fiel
<u>P</u> Michelle Ochoa
<u>P</u> Scott Pawgan
<u>P</u> Carmen Roe
<u>P</u> Jessica Skinner
<u>P</u> Gregory Waldron
<u>P</u> Russell Wilson, II

Directors

<u>P</u> Susan Anderson	<u>E</u> Angela Moore
<u>E</u> Marjorie Bachman	<u>P</u> Audrey Moorehead
<u>P</u> Roberto Balli	<u>E</u> Anthony Odiorne
<u>P</u> Heather Barbieri	<u>E</u> Stephanie Patten
<u>P</u> Robert Barrera	<u>P</u> Oscar Pena
<u>P</u> Curtis Barton	<u>A</u> Bennie Ray
<u>E</u> Rick Berry	<u>P</u> Ray Rodriguez, Jr.
<u>A</u> Fred C. Brigman, III	<u>P</u> Jeremy Rosenthal
<u>E</u> Clinton Broden	<u>P</u> David Ryan
	<u>P</u> Frank Sellers

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

Past Presidents in Attendance: Lydia Clay-Jackson, Mark Daniel, William Harris, Scrappy Holmes, Dan Hurley, Edward Mallett, Bobby Mims, Gerry Morris, Cynthia Orr

Staff: Joseph Martinez, Andrea Keilen, Melissa Schank, Rick Wardroup, Mari Flores, Shreika Madison

Guests: John Hunter, Chris Reyes, Chad Van Bundt, Jessica Canter, Sarah Gunter, Jay Freeman, Mary Conn, Suzanne Spencer

President's Comments: John Convery welcomed everyone one and stated he is still having a blast and thanked all board members for their continued support.

Fallen Heroes, *John Convery*

A moment of silence was given for: Brian Murray, Lubbock by Rusty Gunter; Bertha Martinez, Austin by Joseph Martinez, John Convery and Dan Hurley. John asked for everyone to keep the families in your thoughts.

Made an announcement recognizing and congratulating Mark Daniel as the appointment for the Texas Forensics Commission. A round of applause was given. John Convery thanked Mark for his willingness to serve.

MOTION: Minutes – September 10, 2016

Motion to adopt the minutes from the TCDLA Board Meeting on September 10, 2016, in Dallas, made by Michael Gross, seconded by Susan Anderson - motion carries.

MOTION: Approve 11/15/16 Board Electronic Vote for Amicus Case of Steve Herbert Speckman made by Kerri Anderson-Donica, seconded by Kristin Brown – motion carries.

General Counsel Report, *Andrea Keilen*

Andrea gave an update on TCDLA's position and legislative bills being proposed which will impact TCDLA. Andrea reported that she is traveling and doing cle's and legislative previews, let her know if you would like one in your area. She reported meeting with HCCLA leadership. She is interested in ideas and suggestions for legislature anyone has.

Gerry Morris reported – would like to sound the alarm pre-trial release/detention. 65% accused of Federal crimes are detained. Andrea has been in talks with national and other coalition groups as well.

Executive Director 15 Year Recognition, *John Convery*

John congratulated Joseph for celebrating 15 years. The board gave Joseph a standing ovation. Joseph thanked the board for being his family and for the extraordinary warmth felt.

Executive Director's Report, *Joseph Martinez*

Joseph thanked the entire board for their support. He thanked Melissa for assisting and all the TCDLA staff for filling in during his absence. Joseph introduced Shreika Madison as the new Program Coordinator. We have also hired two new seminar clerks; Rachel Myers and Maxx Trejo.

- **Staff Anniversaries** - Joseph recognized Keri Steen and Brandie Becerra for 1 year, Cris Abascal and Craig Hattersley 9 years. A round of applause was given.
- **Federal Law Overtime Rule** – Does not impact TCDLA budget.
- **Dallas 401k downfall** – Joseph gave an update on the issues with the Dallas city retirement program guarantying a return. Joseph stated TCDLA does not guarantee a certain amount of return.

Seminars, *Melissa Schank*

Revenue is down on Cross Exam and Voir Dire mainly due to attendance down and hotel was moved to a nicer hotel after budgets were done. We are looking at new ways to increase attendance at DWI seminars. Advanced DWI had a new interactive session that was well received. May DWI Defense we

would like to do a fun enticing event/location. The January 27th Lone Star DWI we are marketing as the scientific DWI event in Texas – look out for brochure. Sexual Assault had a higher attendance than last year, congratulations Heather Barbieri and Mark Stevens. Seeking lots of assistance for marketing the DWI seminars and differentiating TCDLA's DWI seminars. January 4-5, 2017 new topic Junk Science. Rusty posters please hang up – new location Hyatt Regency.

We would like to have a special invitation to come to El Paso and come out and show some support! March 30-31, 2017: Federal and State Law Seminar and March 31, 2017: Family Violence. Board meeting is April 1, 2017 – again please come.

Membership, *Melissa Schank*

Current members is 3228, retention remains 60%. Complimentary memberships given 2015-16 is 65, only 14 comp memberships have renewed, 2014-15 only 29 renewed. Each board member receives a deleted list of members in your area we encourage you to personally contact them. The second year renewals have gone from 2014 - 59%, 2015 - 63% and 2016 – 65%.

Capital Assistance Report, *Rick Wardroup*

Rick recently put on the capital/mental Health program in South Padre. He will start organizing the Capital/Mental Health. He has consulted with the Indigent Defense Commission and other capital litigation interests in oversight of the Regional Public Defender's Office for Capital Cases. Rick will continue assisting with legislative needs. He will serve as course director for Cross Examination put on by CAIL for his 7th year.

Inmate assistance, Rick requested for interns to review the inmate mail and reply to each offender their mail had been screened and what they saw as the next step. The board agreed.

Updating Experts List, Rick reviews all requests to be added to the expert list. Rick would like to update the list and also put a disclaimer. He will also reach out to membership.

Publications, *Rick Wardroup*

Two interns for the Tech Law School assisting in updating the Losch Capital Manual with target completion date of February 2017. Rick is adopting a Forensics manual given to him by Oregon, Kevin Sali. As the session starts Rick is working on updating the manuals and Cynthia Orr has offered to resume direction of the Code of Criminal Procedure and Penal Code.

TCDLA Seminars and Course Directors 9/1/16 – 11/15/16, *John Convery*

John wanted to thank and recognized everyone who worked so hard on the following seminars.

- 9/8/16 – Voir Dire – Outside the (Jury) Box – Dallas - Kerri Anderson-Donica, Heather Barbieri, Mark Bennett
- 9/8/16 – The Cutting Edge Cross Examination – Dallas – Jason Cassel, Audrey Moorehead
- 9/16/16 – 14th Annual Top Gun DWI – Houston - Danny Easterling, Grant Scheiner
- 10/5/16 – Round Top VI – Advanced Trial Skills training – Discovering The Story – Round Top – Tony Vitz, Greg Westfall, John Ackerman
- 11/3/16 - 12th Annual Stuart Kinard Memorial Advanced DWI – San Antonio - Bobby Barrera, Michael Gross, Adam Kobs. A round of applause was given for Bobby Barrera who is now SACDLA President.

John presented the first DWI Warrior Certificates at the November, Stuart Kinard Memorial Advanced DWI Seminar. He recognized Mark Thiessen for his idea and all his work he has done for TCDLA in the DWI arena – a round of applause was given.

TCDLA Stats for this fiscal year 2016: 9/1/15 to 11/15/16

- 5 seminars
- trained 457 at TCDLA seminars, cle: 66.50 including 4 ethics hours
- 10 course directors
- 53 speakers
- capital attorneys trained 0, cle: 0 cle including 0 ethics hours

John stated it was an awesome effort from everyone involved and he thanked everyone who has participated.

Nico LaHood has asked John and Joseph to partner with TDCAA for a daylong seminar on Brady.

Amicus, David Schulman

David gave an update on the cases the Amicus committee is currently working on. As the Amicus cases continue to increase it is challenging and overworking the volunteers. David stressed the need for assistance requiring funds for a staff attorney and using law school clinic students that can assist Hillary Sheard.

John reported Executive Committee approved the Amicus Website Policy which is available online. He commended Hillary on her dedication and hard work.

Budget and Finance Committee, Grant Scheiner

Total revenue detail in packets. Grant gave 2016 review net gain put in reserves extra 10k. We are doing well but we have challenges we have 322k in reserves we want to make it much larger. 2017 review we have some challenges seminars if everyone wants to help encourage criminal defense attorneys to join. We have challenges ahead with seminar attendance going down, publications not bringing in as much or sustainable long term without electronic and membership only at 3200. Encourage members to rejoin. Have them pay dues to renew. If you want to volunteer lapse people in your area. You get that list everyone month – a personal phone call from a board member is a powerful tool.

SBOT is putting on webcast on Brady, Grant Scheiner

John thanked Grant for organizing the upcoming Brady Project and rules of ethics and cases related to it and prosecutorial duty to disclose favorable evidence. Panel discussion, Scott Derfy from prosecutors and David Botsford from defense and Judge Brown. This will be recorded, archived and available on DVD and archived. This will be a tri-sponsored event with TDCAA, TCDLA and SBOT. Members can watch it live for \$25. Can be used in the courtroom to show the State Bar has to say on Brady.

Voice for the Defense, Sarah Roland

Sarah gave an overview how the *Voice* works. Part of her goal was to get more timely publications. Everything is due the 20th the month before. Any critiques or suggestions send to Sarah. It is a board members responsibility to submit 2 articles. Please send to Sarah. Sarah has started a 4th amendment small column and asked for 3 volunteers: Kristin Brown, David Guinn and Monique Sparks.

Board report in your packet stating which board members have submitted articles.

2017 Rusty Duncan, Cynthia Orr

22,000 save the date cards have been sent out, get ready to market and sign up - new location for Rusty Duncan at Hyatt Regency. Agenda 99% complete with a new segment of Town Hall discussions, formal Hall of Fame Luncheon – get your ticket!

Invite to Events, John Convery

President’s Trip – Royal Caribbean Cruise

Mark your calendars – only need to take four days off! Seven day cruise out of Galveston – February 12-19, 2017. It will be a great time and lot of fun! Very excited – has talked to people at the cruise center you can still book a cabin. 10 hours of cle will be provided. Group Jamaica excursion that TCDLA will do. Information will be sent. Feel free to contact John if you have any questions.

Timothy Cole Innocence Commission, Sam Bassett

Final report on jury instructions and recording will go out next month. Report with recommendations will go to the legislature.

Forensics Science Commission, Mark Daniel

Any forensics expert must be licensed by Forensics Commission by 2019. Andrea is trying to get issue resolved. Also looking at lab errors database created.

Affiliate Committee, Susan Anderson

Susan reported 36 criminal defense local bar associations, only 20 are TCDLA affiliates. The committee is working very hard to have them become affiliates. The committee is working to recruit the 6 counties to be affiliates: Longview, Brazos, Fort Bend, Kerr, Tarrant and McLennan County. The committee encourages TCDLA Board members to show up to El Paso to help with their local bar and to show them support, they are struggling.

MOTION: Comal County Criminal Defense Lawyers Association, Montgomery County Criminal Defense Lawyers Association and San Antonio Criminal Defense Lawyers Association to become TCDLA Affiliate Bars

Motion for the Board to approve Comal County Criminal Defense Lawyers Association, Montgomery County Criminal Defense Lawyers Association and San Antonio Criminal Defense Lawyers Association to become TCDLA Affiliate Bars made by Susan Anderson seconded by Grant Scheiner – motion carries.

Strike Force, Nicole DeBorde

Casie Gotro and Don Flanary still working on issues in Comal. Keith Hampton dropped what he was doing to go to Hays County when civil plaintiff lawyer dropped the ball and was supposed to get discovery. He subpoena the criminal lawyer for her criminal discovery. Judge ordered her to provide criminal discover and she would be held in contempt for not providing. The prosecutor was also in favor with TCDLA. Nicole thanked Keith for dropping everything and going to Hays County. New issue in Galveston with an attorney for a 702 hearing who was held in contempt. Nicole thanked everyone for everything and attorneys for what they have been doing and everything they are willing to do – special mentions of Casie Gotro, Don Flanary, Keith Hampton and David Botsford. A round of applause was given.

Corrections and Parole, *Dave O'Neil*

The committee is working with Scott Ehlers and Andrea Keilen regarding items related to State Counsel for Offenders. Initiative from Texas Voices has someone sponsoring a bill to assist with paroles who can't find a home to live and/or can't go to work because they can't travel, this is to allow a sex offender to travel through child zone if going from one point to the other – Andrea is going to coordinate with the legislative committee. All Correction and Parole Committee members are willing and available to testify on any of the matters.

The committee will be doing some brown bag presentation on Parole matters and parole revocations.

Bill Habern also gave some exceptions in a residence in child safety zone with entrance and exit unfortunately you have to hire an attorney. Bill Habern recognized Richard Gladden for his work in Lewisville, Bill hopes he will be able to take to the 5th circuit.

Organized criminal activity or directing activity to street gangs 50% for parole activity for plea bargain or go to trial. Spread the word.

DWI, *Mark Thiessen*

DWI seminars are saturated. The committee is coming up with new cool things to do. Mark thanked Grant Scheiner and Danny Easterling, course directors for Top Gun DWI for bringing in Janine Arvizu from "Making a Murder." They had a question and answer session. Mark also thanked Bobby Barrera, Adam Kobs and Michael Gross for the great reviews Advanced DWI had. Nico LaHood from the prosecutor's side came and had an interactive session that was well received from audience.

Mark stressed the importance of helping with Lone Star DWI with a new pure science agenda – touching on the 9000. We are doing new and neat things to increase DWI seminar attendance. Effcar is coming to speak on the science of accident reconstruction. DUIDLA is coming to Austin in April 2017. TCDLA DWI seminars are a lot of fun. Mark also encouraged everyone to get the TCDLA DWI Warrior certificate and the desk award. He encouraged everyone to go to all 5 DWI seminars in two years.

Ethics Committee, *Robert Pelton*

The Ethics committee members are working hard to fulfil the mission of providing an ethics hotline for members to call when they have an ethical dilemma. The hotline is set up so all committee members receive the voicemail via email on an ethics committee listserv. They use the listserv to learn from each other how to respond. Robert also uses some issues to write his ethics column in the *Voice* anyone who has suggestions or experiences send to Robert.

Technology, *Jeremy Rosenthal*

The Technology committee had a new and full robust committee with technology as the focus and goal. TCDLA staff is well on – look at the TCDLA website which has been redone and is outstanding. The database has been updated, true phone app. Thuy Le will be handling the twitter. Jo Anne Musick is handling facebook. Scott Pawgan is working on survey monkey for technology.

Appellate Review, *Kristin Brown*

The committee is working on the mission statement and outlining what the committee will do and assist with. The committee will also work on getting the word out the committee exists and will offer assistance to review prior to sending in or if they have questions. Cynthia Orr is thrilled about the committee and stated she would assist Kristin with some ideas and assistance.

Women's Caucus, Cynthia Orr

The committee had an in person meeting last year at Rusty Duncan which included Judge Hervey. Cynthia gave an overview of the meeting and discussions with Judge Hervey. In addition the committee is supporting women in leadership. Cynthia will meet with Andrea Keilen to follow up on legislative efforts.

Awards Committee, John Convery

John mentioned we have a form online or one can be requested from Melissa. John encourages everyone to submit an application for one or all of the following: TCDLA Hall of Fame, TCDLA Charles D. Butts Pro Bono Lawyer of the Year, TCDLA Percy Foreman Lawyer of the Year or TCDLA Rodney Ellis Award. The committee is organizing the process to make it better. The deadline for applications is April 10, 2016.

By-Laws, Adam Kobs

Adam was approached by Ed Mallet to move the nominations committee meeting to the spring. By-laws do not prohibit the committee meeting being moved. If the meeting is moved timing of printing in *Voice* or communication to membership will need to be reviewed.

The committee would propose if the board wants to make the change of the nominations meeting is moved then they would suggest changing the by-laws reducing notification 90 days to 75 days prior to the next annual meeting also propose going from 75 days to 60 day. The board should strongly review this.

While considering the notification options there are reasoning's behind not having it in December. Some logistical concerns is the training in July for the new board members, April notification may be too late or find they would have to do it quicker.

Long Range committee met and the nominations committee met later in year the elected members from December to June or those going off would both be more productive regarding legislation, writing articles and supporting TCDLA.

Adam asked everyone to review, we will not have a vote. Comments or questions were asked. David Moore stated he is not set on either date, he did state travel for South Padre training may be an issue. He also suggested we focus our efforts on recruiting and start as early as Rusty Duncan in June. Contested elections for the secretary position could face some issues with deadlines if dates were changed.

The committee will continue to work on this and bring back in April.

Nominations, David Moore

This is the most important committee that forms our leadership. David recognized the members of the Nominations Committee. We have 13 slots to fill with over 50 applications received. We have two extremely qualified candidates for secretary.

If you know someone who applied grab your district representatives so we can know your thoughts. When you get on the board and we have responsibilities we all have different and unique talents we need to attend meetings. After three years you have a second term three years if you don't continue to attend it is a concern for those that don't attend meetings and participate. That will make future nominating committee remember us in your prayers.

Membership, *Monique Sparks*

Monique and Nathan have started working on strategies to have members renew. The six committee members will be dividing the list of 606 non renewals. They hope have called everyone by the end of January.

Prosecutorial Misconduct, *John Hunter Smith*

The committee has filed a grievance against prosecutor Amanda Say from Lubbock. SBOT has responded they are pursuing and have sent her a letter saying she has 15 days to submit a response. SBOT responded in May they found no reason for misconduct regarding the Bobby Bell grievance and he is now a judge.

New Business

MOTION: Rename TCTC to Tim Evans Texas Criminal Trial College

CDLP and Executive Committee recommend to the board the renaming of the Texas Criminal Trial College to the Tim Evans Texas Criminal Trial College made by Kerri Anderson-Donica, seconded by Kristin Brown – motion carries.

MOTION: Capital Habeas Unit(s) 5th Circuit Letter of Support

Motion to have a letter of support for TCDLA made by Roberto Balli, seconded by Kerri Anderson-Donica – motion carries.

Adjourn

MOTION: Adjourn Meeting

Motion to adjourn meeting at 12:29 am made by Susan Anderson, seconded by David Ryan - motion carries.

Respectfully submitted,
Michael Gross
TCDLA Secretary