



TCDLA Board of Directors Meeting Minutes

Saturday, December 9, 2017
Wyndham – Lake Austin/Lake Travis Room
Austin, Texas

Introduction

David Moore, President, calls the meeting to order at 11:00 am. A quorum was present.

Roll Call:

Officers

P David Moore, President
P Mark Snodgrass, President-Elect
P Kerri Anderson-Donica, 1st VP
P Grant Scheiner, Treasurer
P Michael Gross, Treasurer
P Heather Barbieri, Secretary
P Sarah Roland, *Voice Editor*
P John Convery, Immed. Past President

P Casie Gotro
P Russell Gunter
A Keith Hampton
A Melissa Hannah
P Steve Keathley
P Susan Kelly
E Laurie Key
P Adam Kobs
P Thuy Le
A Bradley Lollar
A Louis Lopez
P Hiram McBeth
P Nathan Miller
P Audrey Moorehead
P Patrick O’Fiel
P Michelle Ochoa
P Anthony Odiorne
P Scott Pawgan
P Oscar Pena
P Carmen Roe
P Jeremy Rosenthal
P David Ryan
P Frank Sellers
P Jessica Skinner

P John Hunter Smith
P Monique Sparks
P Courtney Stamper
P Mark Thiessen
P Gregory Waldron

Associate Directors

P Frank Brown
P Jason Cassel
A Brain Eppes
P Ricardo Flores
A Ruth Gomez Serra
P Heather Hall
P John Hunter
P Kelly Pace
P George Roland
A Jed Silverman
P Stephanie Stevens
A Seth Sutton
P Paul Tu
P Michelle Tuegel
P Michael Ware
P Thomas Wynne

Directors

E Chris Abel
P Susan Anderson
P Jorge Aristotelidis
P Marjorie Bachman
P Roberto Balli
A Robert Barrera
A Curtis Barton
E Rick Berry
P Kristin Brown
P Anne Burnham
P Jim Darnell
P Danny Easterling
E Donald Flanary

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

Past Presidents in Attendance: John Convery, Sam Bassett, Betty Blackwell, Mark Daniel, Tim Evans, Bill Harris, Rick Hagen, Ed Mallett, Bobby Mims, Gerry Morris, Stan Schneider, Randy Wilson

Guests: Nancy Bunin, Jessica Canter, Mary Conn, Elizabeth Cortright, Lance Evans, Sarah Gunter, Angela Moore, Paul Morgan, Dwayne Sampson, Kyle Therrian, Brian Watson

Staff: Joseph Martinez, Melissa Schank, Rick Wardroup, Mari Flores, Craig Hattersley, Tracy Casares, Miriam Duarte, Amanda Rivera, Cristina Abascal, Shreika Madison

President’s Comments, *David Moore*

David Moore welcomed the board and past presidents. He recognized how the past presidents are critical to the success of TCDLA. David acknowledged and introduced and welcomed the new Executive Director of the Texas Indigent Defense Commission.

DWI Update, *David Moore*

David reported ongoing discussions and process.

MOTION: Minutes – September 7, 2017

Motion to adopt the minutes from the TCDLA Board Meeting on September 7, 2017, in Fort Worth made by Rusty Gunter, seconded by Roberto Balli - motion carries.

Recognitions of Fallen Heroes, *David Moore*

David gave a moment of silence in recognition of fallen heroes: H. Ownby (Dallas), James Healey (Houston), Ardon Moore (Tyler) Bill Rugeley (San Marcos), and Jesus Guillen (Laredo).

TCDLA Committee Policy, *David Moore*

David reported the Executive Committee voted on November 10, 2017, to approve a Committee Policy. The policy requires committees to get approval before taking any actions on behalf of TCDLA.

MOTION: TCDLA Committee Policy

Move to adopt the TCDLA Committee Policy by Carmen Roe, seconded by Michelle Tuegel – motion carries.

Executive Director's Report, *Joseph Martinez*

Joseph welcomed everyone.

- **Staff Anniversaries** - Joseph recognized Maxx Trejo – 1 year, Shreika Madison – 1 year, Keri Steen – 2 years, Craig Hattersley – 10 years, Cristina Abascal – 10 years. Joseph recognized all the full-time staff in attendance at the board meeting and asked for a round of applause. Sarah Roland gave special recognition and kudos to Craig. David provided a summary of meeting with every staff member and stated he truly appreciated the staff and thanked them for everything they do. Joseph reported he celebrated 16 years in September.
- **Jay Freeman**, Joseph recognized Jay for always assisting at the seminars and sponsoring beverages at the speaker dinner. A round of applause was given.
- **Annual Report** – Joseph went over the annual report included in board packets.
- **Declaration Readings** – Mark your calendars, Robb Fickman and Chuck Lanehart, are organizing readings for July 3, 2018, this year they are adding on the Bill of Rights.

Membership, *Melissa Schank*

Melissa recognized Miriam Duarte, Nathan Miller and Monique Sparks for adding on three new membership benefits. The new benefits will be highlighted in the *Voice* and on social media. Staff is incorporating the Strategic Plan goals for membership by asking each board member to recruit three new paying board members. To date, the board has recruited only two new members. Staff is making calls, and each board member is encouraged to call members in their area from the monthly deleted reports sent. Direct calls from a board member are the most successful renewal tool. A monthly snapshot is sent to board members. Board comps are not renewing.

Seminars, *Melissa Schank*

Melissa reported seminars are meeting budget. Amanda Rivera has created a new seminar app, and we encourage any feedback you have. We are trying a new seminar format in which we offer coffee in the morning and have lunch instead of a breakfast. Lunch is in a different room than the seminar to allow for networking with colleagues and speakers. Melissa encouraged everyone to attend the new Anatomy of the Trial seminar in Houston, March 1-2, 2018 in conjunction with the board meeting. The rodeo will also be in town. We are dropping 20,000 postcards to market Rusty Duncan on June 21-23, 2018 in San Antonio.

Publications, *Rick Wardroup*

Rick recognized Craig for all his fabulous work on publications and attention to detail. Rick reported we are working on the completion of four books which include the Punishment Manual and ALR. We have projected revenue of \$88,000 for the year. To date, we have collected \$15,500.

Capital Assistance Report, *Rick Wardroup*

Rick reported the state is choosing not to seek the death penalty partially due to RPDO and the law changed regarding Life without Parole. Lawyers are also better trained. Rick recognized Thuy Le for assisting at the Capital/Mental Health seminar. David Ryan did an outstanding job to recruit attendance and changing the format.

The Capital/Mental training in South Padre Island on February 1-2, 2018, is almost complete. Rick encouraged everyone to come to the Forensics program to be held December 14-15, 2017, in Houston, they have an outstanding line-up. Rick will be presenting on Junk Science at the Judicial Conference.

Budget and Finance Committee, *Michael Gross*

Michael gave an update on the FY18 budget. We are doing an outstanding job with the budget passed. We have put on some excellent seminars. A round of applause was given. David recognized all the course directors for exceeding the projected budgets. David stressed how the seminars would not be a success without the course directors, speakers, and staff. A round of applause was given.

TCDLA Seminars 8/16/17 – 11/16/17

COURSE DIRECTORS

- 8/18/2017 – 15th Annual Top Gun DWI – Houston – Danny Easterling and Grant Scheiner
- 9/14/2017 – Successfully Defending Child Physical Abuse and Child Death Cases – John Hunter Smith and Sarah Roland
- 10/4/2017 – Psychodrama – Round Top – John Ackerman, Heather Barbieri, Tony Vitz, and Greg Westfall
- 11/2/2017 – 13th Annual Stuart Kinard – San Antonio – Gary Trichter, Bobby Barrera, and Michael Gross
- 12/7-8/2017 – To Kill a Sex Crime – Austin – Heather Barbieri, Sam Bassett, and Gerry Morris

TCDLA Stats for this fiscal year 2018: 8/15/17 to 11/16/17

- 4 seminars
- Trained 317 at TCDLA seminars, cle: 47.0 including 3 ethics hours
- 30 course directors
- 32 speakers
- Capital attorneys trained 119, cle: 11 cle including 0 ethics hours

Voice for the Defense, Sarah Roland

Sarah reminded everyone who promised articles to send them in and tell Craig “thank you.” David thanked Sarah and Craig for their work on the *Voice*. David recognized Ed Mallet for his Astros jersey.

2018 Rusty Duncan, Nicole DeBorde

Rusty Duncan is going to be great this year. We will have speakers from across the nation. We have an outstanding line-up of speakers, and we hope you will attend. It is great working with the course directors Gerry Goldstein, Mark Thiessen, and John Hunter Smith. Join us for the membership party which will have a live band and casino night. We are looking for membership sponsors. Nicole thanked all of the staff, we have had a lot of fun planning. All the speakers along with submitting a paper will provide a motion.

Strike Force, Nicole DeBorde

The committee is very active. In Austin the Reposa situation has been very ugly. Without further documentation provided this is not a strike force issue. A paralegal from Houston had been subpoenaed, James Makin went in and solved the problem. Nicole recognized Bobby Mims offering to drive all the way to Beaumont. The Strike Force is so successful due to members willing to drop everything, drive all over the state, and represent our members. Another lawyer was subpoenaed to testify about an old client – case is still pending. A round of applause was given. David thanked Nicole and Regan for their heroic efforts and all the committee members.

President’s Trip, David Moore

Join us in Napa Valley – February 14-18, 2018. Hotel and cle registration are open. There will be 2-3 wine tastings, great cle, and a fun trip!

Members’ Retreat and Orientation – South Padre, Mark Snodgrass

Mark invited everyone to the events held on South Padre Island July 11-15, 2018

- Wednesday, July 11, 2018—Trainer of Trainers
- Thursday/Friday, July 12-13, 2018—Unleashing the Beast
- Saturday, July 14, 2018—TCDLA/TCDLEI/CDLP Orientation

TLAP, Kelly Pace

TLAP at their own expense will design and print copies of a mental health brochure to include in CDLP seminar packets. CDLP unanimously approved. The staff has agreed to include in materials.

MOTION: TLAP Brochure

Motion to include TLAP brochures in TCDLA seminar packets made by Kelly Pace, seconded by Roberto Balli – motion carries.

Affiliate, Susan Anderson

The following criminal defense bars have been recognized as TCDLA Affiliates in the *Voice*, website, and directories. We would like to have the local bars voted in officially to the TCDLA Board Minutes.

- Austin Criminal Defense Lawyers Association
- Harris County Criminal Lawyers Association
- Lubbock Criminal Defense Lawyers Association
- Panhandle Criminal Defense Lawyers Association

- Williamson County Criminal Defense Lawyers Association

MOTION: Affiliates

Motion to officially approve Austin Criminal Defense Lawyers Association, Harris County Criminal Lawyers Association, Lubbock Criminal Defense Lawyers Association, Panhandle Criminal Defense Lawyers Association, and Williamson County Criminal Defense Lawyers Association made by Susan Anderson, seconded by Audrey Moorehead – motion carries.

Amicus Curiae, *Stanley Schneider*

David named Stanley as the liaison between the Amicus and Executive committee. Waco Court of Appeals has asked for an amicus brief on Revenge Porn case. Justice Grey has asked from TIVA and TCDLA – Justice Grey. The committee voted and then presented to Executive Committee for approval.

Bylaw, *Adam Kobs*

Adam and Tip Hargrove have been discussing with the Long Range Committee to readjust board terms. Tip gave a summary of a proposal and the number of board members and terms that would allow for an equal rotation, openings, and continuity. Two suggestions were made for associate director position; get rid of the associate director positions and have three-year terms.

CDLP, *Heather Barbieri*

Heather gave an update on the roadshow “Unleashing the Beast.”

CDLP Stats for this fiscal year 2018: 8/15/17 to 11/16/17

- 14 seminars
- Trained 954 at CDLP seminars, cle: 51 including 7 ethics hours
- 15 course directors
- 33 speakers
- Capital attorneys trained 119, cle: 11 cle including 0 ethics hours

Heather also stated if you are an understudy or speaker and need assistance please reach out. She encouraged members to attend an upcoming “Unleashing the Beast.”

- January 12 –Waco
- February 2 – Longview
- April 6 – Salado
- April 20 – Galveston
- July 12-13 – South Padre

Clay Steadman talked about next year’s theme: “Come and Take It.” He also urged members to reach out to their local areas to increase attendance. Allen and Shea Place have been traveling throughout the state presenting the TCDLA Legislative Update. Clay asked for a round of applause for them getting TCDLA’s name out there. Kelly Pace urged local members to send out personal invitations. David recognized Allen and Shea for branding TCDLA and Clay and Heather for doing yeoman’s work for CDLP.

Corrections & Parole, *Nancy Bunin*

Nancy is soliciting input from members who have complaints about the accommodations provided by TDC units for attorney/client visits. The committee would like to compile a comprehensive list of

complaints. There are inadequate accommodations.

In December 2017, the State Bar of Texas' Legal Services to the Poor in Criminal Matters Committee (LSPCM) published its Review of the Operations of State Counsel for Offenders. TCDLA's 2014 resolution on SCFO served as an impetus for the research, along with a request from TCDLA's Corrections and Parole Committee for LSPCM to examine SCFO's operations. Scott Ehlers, a member of TCDLA's Corrections and Parole Committee, is also a member of the LSPCM and was the lead author of the report. The Review employed the American Bar Association's (ABA) Ten Principals of a Public Defense System as a measure to assess SCFO operations and relied upon a survey of current and former SCFO employees as well as prosecutors from the Special Prosecutors Unit.

SBOT has approved the distribution of the report. Jani Maselli Wood gave a summary of the resolutions passed to the comprehensive study. Jani requested TCDLA publish the report on TCDLA's website. LSPCM will then link to our website.

The report will be sent to the board, send any comments to David.

MOTION: Review of the Operations of State Counsel for Offenders Report
Motion to have the Executive Committee review the report and take action made by David Ryan, seconded by Tony Odiorne – motion carries.

Lawyer/Client Access Committee, David Moore

David reported on a growing concern regarding seeing clients in county jails where audio/visual devices are placed in attorney rooms, getting counsel phone calls from jails, sheriffs requesting approval from prosecutors. David will appoint a committee similar to Strike Force that can respond to these type of issues immediately.

Criminalization of Poverty, Jani Maselli Wood

Jani submitted an article to the *Voice* about court costs and motions – look for more to come.

Ethics, Robert Pelton

Written report submitted.

TCDLA/TCDLEI Harvey Relief Committee, Danny Easterling

Danny thanked everyone for donating, the committee has collected \$10,300 and assisted 51 attorneys with educational and office materials. Scholarships are available for attorneys from the affected area for Anatomy of the Trial on March 1-2, 2018, in Houston and Rusty Duncan. It will be publicized to the affected areas. Danny thanked everyone for their hard work.

Judicial Relations, Michelle Ochoa

The committee was getting ready to follow Nicole to Beaumont before James Makin solved the issue. Keith Hampton has filed a mandamus against an Austin municipal judge intent involving a court reporter not making a record.

Law School Students, Michael Gross

Michael thanked David Guinn and Michelle Tuegel for their work on the committee. They are getting more activity from law schools.

Legislative, *Bill Harris*

Bill reported a lot of what happens in the legislature is done in off session. An email will be created for members to send in requests for statutory changes or additional laws for Shea to keep track of and have ideas for affirmative actions. The email will be publicized in the Voice. Bill introduce Shea Place who worked with us the last session and works in Allen Place's law firm. She is contracted with TCDLA to keep a presence in the legislature and have a long and great relationship with legislators. A round of applause was given. David commended Shea for her work and is glad to have her part of our organization.

Listserves, *Jeep Darnell*

Jeep reported listserves has a lot of traffic. Any complaints on listserves send to him or Michael Mowla.

Memo Bank, *Tip Hargrove*

Written report submitted.

Mental Illness, *John Hunter Smith*

John invited everyone to come to the Mental Health seminar on February 2, 2018, in South Padre.

New Lawyers, *Thuy Le*

The committee is working on setting up a mentorship program. They will start with Waco and central Texas area. Contact Thuy or Michelle Tuegel if you are interested in participating. The committee is meeting to develop how to set up the relationships and created a questionnaire for mentee and mentors to see what they are wanting. Thuy is also working hand in hand with the Law School Committee. David appreciates how the committee has hit the ground running and working hard. David suggested drafting new board members to committee.

Prosecutorial Integrity, *John Hunter Smith*

John recognized Casie Gotro for her work for the Waco Biker Cases. The board applauded. Cleburne county DA grievance filed in 2015 sent a response on **January 4, 2018**, they found there was no disciplinary action to be taken. Ellis County has some issues; they are waiting for information from the attorney.

Technology and Communications, *Jeremy Rosenthal*

Jeremy reported the committee is working on several projects including platforms for mobile Voice, Seminar app, updating the website, mass texting, and website speed. Social media has a lot of action, YouTube outreach, follow TCDLA on twitter and retweet – help us generate more followers.

Veteran's Assistance, *John Hunter Smith*

John invited everyone to attend the Veterans Justice Clinic on February 9, 2018, in Austin. The seminar is co-sponsored with the SBOT Veterans Section. We have a great line up including SBOT President Tom Vicks speaking.

Women's Caucus, *Betty Blackwell*

We have a great seminar planned with national speakers on April 13, 2018, in Fredericksburg. Course directors are Betty Blackwell, Cynthia Orr, and Julie Hasdorff.

TCDLEI Announcement, *Lance Evans*

Lance announced TCDLEI is responsible for providing a home for TCDLA and providing \$40,000 in scholarships a year. TCDLEI must maintain a certain percentage to keep their tax status. The board will be seeking TCDLA board members to pledge to become an Associate Fellow, Fellow, or Super Fellow. They are investing funds wisely to serve as a safety net for TCDLA. They are also exploring other revenue options.

President's Closing, *David Moore*

David introduced all the guests to the board. David asked for another round of applause for Casie Gotro. David encouraged everyone again to read the Review of the Operations of State Counsel for Offenders Report and post comments on the board listserve or to anyone on the Executive Committee. Help get the word out for our new Anatomy of the Trial seminar March 1-2, 2018, in Houston. David wished everyone a happy holidays and to be safe.

Board Sexual Harassment Policy, *David Moore*

We are going to adopt a Board Sexual Harassment Policy for board members that will sign and abide by boundaries and appropriate behavior.

Old and New Business

No old or new business at this time.

MOTION: Adjourn

Motion to adjourn the meeting at 1:28 pm made by Frank Sellers, seconded by Kristin Brown – motion carries.

Respectfully submitted,
Heather Barbieri
TCDLA Secretary