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Sent: Monday, October 13, 2008 4:01 PM
To: Babcock, Chip; tracy_christopher@justex.net; aalbright@mail.law.utexas.edu; Senneff, Angie
Cc: Nathan Hecht
Subject: SCAC - Legislative Interest in Jury Procedure Issues

Chip, Judge Christopher, Professor Albright, and Angie:

Senator Wentworth, chair of the Senate Jurisprudence Committee, has been interested in jury procedure issues for several years. (Chip, you may recall that Justice Hecht invited him to attend the Jury Summit in Houston two years ago.) During the last session, he introduced SB 1300, a copy of which is attached.

For the next session, an interim charge to his committee is to “[s]tudy practices intended to enhance the jury experience and increase jury participation, including: [1] allowing jurors to ask questions of witnesses by submitting them to the judge in writing; [2] allowing lawyers to periodically summarize testimony for the jury; [3] allowing jurors to take notes during trial; and [4] allowing jurors to discuss evidence among themselves during trial.” The committee added other issues to this list, but they have not yet been made public.

The committee took evidence on these issues in Lubbock and discussed them at its October 1 hearing. See: <http://www.senate.state.tx.us/75r/Senate/commit/c550/c550.htm>. The relevant discussion is located toward the end of the recording, and it includes references to the attached letter that Justice Hecht wrote to the committee about the work the SCAC is doing to address jury procedure issues.

The committee appears to be leaning in favor of note-taking with limitations — prohibiting use of notes during deliberations, keeping notes confidential, and requiring courts to destroy notes after trial. The committee’s position on other issues is not yet clear. But the committee’s position on all jury procedure issues should be clear in its final report, which is expected to issue on October 31.

On a related note, the House Committee on Judiciary is scheduled to meet on November 13 to discuss its interim charges, including: “Examine the current Texas jury system. Consider possible changes to enhance the jury experience and increase citizen participation on juries.” The notice of the hearing is available at this link:

<http://www.capitol.state.tx.us/tlodocs/80R/schedules/html/C3302008111309301.HTM>.

Justice Hecht would like to be sure that the SCAC fully addresses jury procedure issues at its next meeting so that its work will be available for use in the next session. This should be a priority item for the agenda. I will keep you informed of any legislative developments between now and the next meeting.

Best Regards,
Kennon

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