

# **Comparative Analysis of Judicial Ethics Committees in Paraguay, Mexico and Texas**

by  
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## **Executive Summary:**

This study tour was designed to allow Paraguayan government functionaries charged with the implementation of the Paraguayan Office of Judicial Ethics (OJE) the chance to observe firsthand a state agency with the similar mandate of sanctioning judges for ethics violations, the Texas State Commission on Judicial Conduct (SCJC). The latter has been in existence for over 40 years. The study tour took place over the course of one week in January 2006 in Austin, Texas. One Paraguayan Supreme Court Justice, Alicia Pucheta, the Director of the OJE, Esteban Kriskovich, and two representatives from Management Systems International (MSI) attended. Afterward, Kriskovich and one MSI representative visited Mexican government agencies responsible for the dissemination of Mexico's 2004 judicial code of ethics. Twenty government functionaries and two non-profit employees were interviewed through this process.

The study tour took place during a crucial period in the implementation of the OJE as the Government of Paraguay (GoP) was still defining operating policies and procedures for the OJE (professional unit). The Paraguayan Tribunal and the Consultative Committee (appointed bodies, see below) will be formed in March-April of 2006.

Both the Paraguayan model and the Texas model consist of three entities: 1) an appointed, unremunerated Tribunal with ultimate sanctioning authority; 2) an appointed, unremunerated Consultative Committee that emits non-binding advisory opinions to assist in the interpretation of the respective codes of ethics; and 3) a Professional Unit with permanent staff that receives and investigates ethics complaints and makes recommendations to the respective Tribunals for dismissal, sanction, etc.

Given the similarity in the structure of the models, many operating practices, procedures and tools observed in the SCJC/Professional Unit will be adaptable for Paraguayan OJE use. These include internal forms, form letters, a Microsoft Access case tracking system, public ethics sanction dissemination techniques, etc. Other potentially adaptable practices from the SCJC are being considered for use in the Paraguayan OJE. For example, the practice of opening the complaint process to the public at large without need to go through a lawyer while 'administratively dismissing' complaints that do not contain an allegation of an ethics violation allows the SCJC avoid inundation by baseless complaints while opening the complaint process to the widest possible constituency. 'Administrative dismissal' consists of dismissing complaints within the Professional Unit without sending the recommendation to the SCJC tribunal (Commission) and is applicable in an estimated 90% of all complaints received. While the current Paraguayan OJE model seeks to address the same concern by requiring a complainant to submit a complaint through a lawyer, GoP functionaries appreciate the value of the more open complaint model offered by the SCJC and are amenable to considering this model.

Through a comparative analysis of the OJE and SCJC enabled by the study tour, certain characteristics of the composition of the appointed bodies of the OJE were brought to relief:

- The Paraguayan Tribunal has no requirement for geographic representation within its membership and most members, if not all, will probably come from the Asuncion area;
- There is no plan to stagger the terms of the Paraguayan Tribunal and the Consultative Council members' terms meaning that entirely new bodies will be appointed in 3 years;
- The Paraguayan Tribunal is appointed by the judicial branch and consists entirely of legal professionals, whereas the Texas Tribunal model incorporates citizen members appointed by the executive branch in addition to judicial appointees and State Bar appointees.

The Mexican judicial ethics code dissemination efforts are less relevant to the GoP's current focus on creating a functioning sanctioning mechanism for its code of judicial ethics. The Mexican government does not have a sanctioning mechanism to enforce its 2004 judicial ethics code. Moreover, at the highest levels, the Mexican government does not appear perceive the value of much less be committed to creating a functioning sanctioning system that would act as a deterrent to would be ethics violators. The Mexican philosophy of sanctioning appears to be at odds with the more effective Texas model: while the GoM does have a sanctioning mechanism for administrative violations (e.g., judicial absenteeism), no public disclosure of 'public sanctions' imposed on violators exists. This gives rise to questions about how meaningful of a disincentive the possibility of sanctions are for would be violators. Some ethics code dissemination techniques might be adaptable from the Mexican experience, though many of these are focused on narrow audiences (e.g., the publication of erudite treatises on deontology) or are already in use in Paraguay (e.g., internet).

**Recommendations:** This report recommends consideration of the observations about the composition of the Tribunal and Consultative Committee mentioned above, especially during the formation those bodies in March-April 2006. This report recommends additional contacts between the Texas SCJC and the Paraguayan OJE as the latter continues to develop. The OJE would benefit from having the SCJC/Professional Unit director and general council visit its office in Paraguay after 2-4 months of operation.

## **Study Tour Design:**

The visit took place from January 16-20, 2006 in Austin, Texas. From the GoP, Justice Alicia Pucheta de Correa, the Supreme Court justice charged with overseeing the judicial ethics code's and the OJE's implementation, and Esteban Kriskovich, the Supreme Court's designee for the OJE director position, participated in the study tour. Roberto Ubeda and Brian Norris were present from MSI to facilitate study tour activities. Brian Norris and Seana Willing, SCJC/Professional Unit director, planned the Austin-based activities starting in November 2005.

In addition to visiting the SCJC, study tour participants met with representatives of the Texas Committee for Judicial Ethics (similar to Paraguay's *Consejo Consultivo*), representatives from the Texas Supreme Court, the Texas Office of Court Administration and the Texas Center for the Judiciary, non-profit organization dedicated to judicial education (see "Annex A: SCJC Study Tour Contacts").

Most interactions in Austin were structured as formal presentations given by the agency or unit that was being visited that then segued into question and answer sessions. Either Brian Norris or Roberto Ubeda provided general information about Paraguayan institutions, recent history and the Paraguay judicial ethics project to orient presenters' and interviewees' comments. A professional interpreter was present for all meetings. Sixteen individuals were interviewed through this process.

From January 22-25, Kriskovich and Norris were in Mexico City, Mexico. Offices visited included Supreme Court of Mexico, Tribunal Electoral del Poder Judicial de la Federacion-Sala Superior, Instituto de la Judicatura Federal (IJF), Secretaria Ejecutiva del Pleno del Consejo de la Judicatura Federal and the Poder Judicial de la Federaci3n (see "Annex B: Mexico Study Tour Contacts"). Six individuals were interviewed through this process.

## **Structure of the Report**

The report presents a brief history of the judicial ethics code project in Paraguay, a comparative analysis of the SCJC and the OJE, a brief overview of the Mexican judicial code dissemination efforts and offers specific short, medium and long-term recommendations for the OJE project.

**Antecedents:**

In 2002, Esteban Kriskovich read an article in an Argentine newspaper about Rodolfo Vigo’s role in the creation of a judicial code of ethics for the Santa Fe province in Argentina. Kriskovich, then **secretary general** of the Paraguayan Supreme Court, contacted Vigo, then Supreme Court Justice in Santa Fe, via email about the project. Their collaboration led to the inclusion of the goal of creating a judicial code of ethics for Paraguay in the Paraguayan Supreme Court’s 2003 Strategic Plan. USAID/Paraguay subsequently pledged support for this initiative. MSI, already under contract with USAID/Paraguay for an anti-corruption project focused on media strengthening in Paraguay since 2000, included the creation of a judicial ethics code in its revised scope of work for 2004.

With technical assistance provided by MSI, a working group composed of four Supreme Court justices, four appellate judges, a Uruguayan judge (supported by UNDP), representatives of the Paraguayan Association of Judges and INECIP, a local judicial reform NGO, drafted and revised a judicial code of ethics throughout 2003 - 05. After public consultation in 2005, a final version of the Paraguayan Judicial Ethics Code was ratified by the Paraguayan Supreme Court in October 2005.

Moving into the Code’s implementation phase, the Supreme Court designated office space for the Office of Judicial Ethics in the Public Ministry building in mid 2005. MSI provided architectural and material support to outfit the space. The functional office space was inaugurated in December 2005. In October 2005, the Paraguayan Supreme Court named Kriskovich the first director of the Office of Judicial Ethics. It named a staff of four to the OJE in November of 2005.

As of January 2006, the staff of the OJE/Professional Unit is conducting internet research on judicial ethics codes across Latin America. MSI will be providing technical assistance to the Supreme Court to form the Tribunal and the Consultative Council starting in March of 2006.

**Comparative Analysis: OJE and SCJC**

A comparative analysis of the two helps highlight unique characteristics of the OJE’s institutional structure as it is currently conceived. Comparisons can be made in terms of jurisdiction, mandate, structure, composition.

**Jurisdiction**

Judges under jurisdiction of the Texas SCJC:	3,600
Texas population:	21.3 million
SCJC/Professional Unit Staff:	16
Staff/judge ratio:	1:225

Judges under jurisdiction of the Paraguay OJE:	800-900
Paraguay population:	6.3 million
Office of Judicial Ethics Staff:	5
Staff/judge ratio:	1:180

## Mandate

The SCJC was created in 1965. The SCJC has the authority to dismiss complaints, sanction judges—either publicly or privately—, order additional training or recommend enrollment in the *Amicus Curiae* program based on Texas Code on Judicial Conduct (<http://www.scjc.state.tx.us/texcode.php>) last revised in August 2002. The SCJC can recommend suspension or removal of a judge to the Texas Supreme Court, the only body with the authority to remove judges.

The Paraguayan Ethics Tribunal (the Tribunal) has the power to sanction judges, publicly or privately, based on its 2005 Judicial Ethics Code. The Tribunal cannot recommend removal of a judge for misconduct, as removal of magistrates is the bailiwick of the Jury for the Prosecution of Magistrates.

## Structure

Both the Paraguayan model and the Texas model include three primary entities: a tribunal/commission, a professional unit and a consultative body (see Annex C “SCJC Structure” and Annex D “OJE Structure”).<sup>1</sup>

Entity	Paraguay	Texas
Tribunal/Commission	Ethics Tribunal	State Commission on Judicial Ethics (Tribunal)
Professional Unit	Office of Judicial Ethics	State Commission on Judicial Ethics (Professional Unit)
Consultative Body	Consultative Committee	Committee on Judicial Ethics

The models have much in common. In each, the tribunal/commission is the body with binding sanctioning authority. The professional units are staffed with permanent paid staff. Both consultative bodies emit non-binding public opinions to aid the interpretation

<sup>1</sup> Consistency in utilization of terms throughout the document is maintained. “OJE” and “SCJC” will be used to refer to the respective models consisting of the three entities listed above. “The Commission” and “the Tribunal” will be used to refer to the respective tribunals/commissions, meaning the sanctioning bodies. “SCJC/Professional Unit” and “OJE/Professional Unit” will be used to refer to the professional units. “Committee on Judicial Ethics” and “Consultative Committee” will be used to refer to the consultative bodies.

of the ethics codes. Both the tribunal/commission and the consultative bodies are non-remunerated and members are appointed.

One fundamental difference between the two models is that the Paraguayan Consultative Committee will be involved in the adjudicating specific complaints while the Texas Committee on Judicial Ethics is completely removed from this process.

The current inchoate state of the Paraguayan OJE, however, makes comparisons on some terms difficult, such as the specific internal procedures utilized by the professional units to adjudicate complaints.

## **Composition**

While the models are structurally similar, differences in composition of constituent entities in terms of personnel and tenure are more pronounced.

### ***SCJC***

***Commission-*** Participation in both the Commission and the Tribunal is unremunerated and membership is gained by appointment. The SCJC/Commission is composed of 13 members that serve six year, staggered terms (see “Annex E: SCJC Composition”). Three entities appoint these members: the Texas Supreme Court appoints 6 judicial members; the Texas State Bar appoints two lawyer members; the governor appoints five citizen members that cannot be lawyers or judges. Seven members constitute a quorum. Meetings of the Commission are paid for out of the operating budget of the Professional Unit.

According to the SCJC, the incorporation of citizens at large gives the commission more credibility in the public’s eyes. It is important that the SCJC not be perceived by the public as an exclusive or elite judicial institution, according to the SCJC/Professional Unit director. Importantly, the presence of citizen members also ensures that public opinions are written in a way that is accessible to a wider, non-legal community.

The question of citizen members in the Tribunal/Commission is, on one level, a question of transparency. One example of a transparency enhancing practice is promotion of laws of freedom of access to information and a corollary posting of government documents on the web. Web access to abstruse or highly technical government documents, however, is less transparent than web access to documents accessible to lay audiences. Through the inclusion of citizen members in its Commission, the Texas SCJC assures that its public decisions will be accessible to a wider audience than if the Commission were exclusively composed of legal professionals.

Geographically, none of the appellate, district, county court at law, constitutional county judicial members or the lawyer appointees of the SCJC can come from the same Texas appellate districts (see “Annex F: Texas Appellate Districts”). This promotes more

equitable geographic representation in the Commission. There are currently no geographic restrictions on the citizen members or on the justice of the peace or municipal judge appointees.<sup>2</sup> Because Texas is a large state, the SCJC has converted two of its six annual Commission meetings to a virtual format to mitigate potential difficulties caused by the geographic dispersion of members.

Different levels of the judicial system are represented within the six judicial appointees: appellate, district, county court at law, constitutional county and municipal judges and justices of the peace.

***Committee on Judicial Ethics*** - The Committee is composed of nine judges appointed by the Chairman of the State Judiciary to three year terms. The positions are non-remunerated. Each year, the incoming Chairman, who is limited to a one year term, appoints three new members. The district, county court and appellate levels of the judiciary must be represented. There is no geographic representation requirement for the members of the Committee, but the Committee's bylaws suggest that an effort be made to achieve fair geographic representation. Seven members constitute a quorum. The Commission does not have a separate budget allocation; its constituent members donate their time and the resources of the offices that they work in.

The current chair of the Committee believes that limiting Committee membership to judges—different from the Commission, which has citizen and lawyer members—is necessary. Since it has no enforcement role, the need for increased perception of legitimacy imbued by a more diversified member constituency is less acute than in the case of the Commission. As such, the Committee is primarily a resource for judges. Conversations about ethical issues within the Committee are frank and are based on the experiences of its members as practicing judges. Presence of non-judicial members might compromise the frankness of these internal discussions.

***SCJC/Professional Unit***- The SCJC/Professional Unit has 15 full time employees and one part time employee (see “Annex G: Professional Unit Org. Chart”). The office is divided into two primary internal units, the Investigative Unit and the Attorney Unit. Another unit provides administrative support. There is relatively little turnover in the SCJC/Professional Unit. The executive director has been with the organization for six years and served as an attorney and as General Council at the Professional Unit before being named director.

### ***Paraguayan Office of Judicial Ethics***

***Tribunal***- The Tribunal is composed of five members appointed by the Paraguayan Supreme Court for terms of three years each (see “Annex H: OJE Composition”). Three members are judicial appointees, one member is a lawyer appointee and another is the dean of a law faculty. As currently conceived, these terms are not staggered. No

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<sup>2</sup> Similar geographic restrictions for the five citizen members were recently removed in political negotiations between the Governor's Office and the Supreme Court.

requirement for geographic representation exists. According to conversations with Justice Pucheta, Kriskovich and Ubeda, it is assumed that most members will come from the Asuncion area.

***Consultative Council-*** The Consultative Council is composed of five members appointed by the Paraguayan Supreme Court for terms of three years each. Three members are judicial appointees, one member is a lawyer appointee and another is the dean of a law faculty. Membership in the Consultative Council is mutually exclusive with membership in the Tribunal. These positions are unremunerated.

***Office of Judicial Ethics-*** The OJE has a staff of five permanent employees. This staff includes a director, one Tribunal liaison, one Consultative Council liaison and two support staff.

## **Complaint Process**

### ***SCJC: Processing of Complaints***

Anyone can complain with one page form (English <http://www.scjc.state.tx.us/ComplaintForm2003.PDF> or Spanish <http://www.scjc.state.tx.us/ComplaintFormSpanish.PDF>). While anonymous complaints are accepted only 1% of all complaints are anonymous. The SCJC can investigate leads from the newspaper as well. There is a ten year statute of limitations on complaints. Most cases come from a family member or person involved in a case, not a third party. All proceedings of the SCJC are confidential, save sanctions that are specifically designated public, to minimize the chances of political manipulation of the institution. The SCJC believes that confidentiality protects the system from being abused (see below, “Abuse”).

The SCJC has a two part complaint evaluation process divided into a ‘preliminary investigation’ and ‘full investigation.’ In the preliminary investigation, conducted primarily by the SCJC investigators, the Professional Unit has the ability to administratively dismiss complaints if no allegation of judicial misconduct is found. These instances include matters that should be referred to appellate courts or allegations of criminal misconduct on the part of judges. Approximately 90% of complaints that the SCJC/Professional Unit receives are dismissed administratively. This procedure acts as a filter to keep the SCJC from being inundated with baseless complaints. Most of the investigation is conducted by phone interview; rarely an SCJC investigator will incorporate field work into his/her investigation.

If the complaint moves to a full investigation, it is passed to the ‘Attorney Unit’ within the SCJC Professional Unit. Only attorneys in the Attorney Unit contact judges directly. After deepening the investigation and receiving testimony from the judge accused of an ethics violation, the General Council assigns one attorney to draft a preliminary decision which is then circulated among the entire Attorney Unit for comment. Once a decision is

finalized it enters into one of several dockets (the dismissal docket, the agenda, or sanction, docket, etc.) for the next Commission meeting.

In preparing for the Commission meetings, which take place about six times per year, the Professional Unit prepares a meeting packet for each Commission member that contains the recommended decisions for each complaint and relevant support documentation from the investigation. These packets are mailed to the Commission members two weeks before each meeting. The Professional Unit invites judges for which it recommends sanction to appear before the Commission. About half of the judges that appear before the SCJC appear with legal representation.

The Committee on Judicial Ethics functions somewhat independently from the SCJC (Professional Unit and Commission) as it is not directly involved in the complaint process. The Committee has emitted over 300 opinions on judicial ethics issues. Thus, most new formal questions can be referred to a previous opinion. Judge Ables, the Committee chair suggested that meetings in the early years of a Committee's existence, when a corpus of opinions is being built, will be more frequent than in later in the Committee's existence. The Committee emitted 6-7 opinions in 2005. Formal complaints are submitted in writing with a form printed in "In Chambers," the Texas State Judiciary's journal. Judges can also submit formal ethics questions by email to the Committee Chair. However, most judicial ethics opinions are answered informally. The After coming to consensus, the Committee Chair assigns a member to write the opinion. All opinions are available online ([www.courts.state.tx.us/Judethics/ethicsop.asp](http://www.courts.state.tx.us/Judethics/ethicsop.asp)).

**Dissemination-** The SCJC disseminates widely all public sanctions and this is one of the strengths of the agency. The Legal Assistant has a dissemination list that includes the mailing addresses of professional organizations and individuals (such as judges, lawyers, citizens at large). All opinions are published online ([www.scjc.state.tx.us/FY2005PUB-SANC.pdf](http://www.scjc.state.tx.us/FY2005PUB-SANC.pdf)). The SCJC/Professional Unit will often contact the local newspaper(s) where a judge lives to alert the newspaper(s) to the ethics opinion.

**Amicus Curiae** This program exists to assist judges with substance abuse problems. The core of the program consists of a referral network for substance abuse related health services coordinated by an SCJC/Professional Unit employee and printed materials developed with a previous grant. A three member board consisting of one judge, one former judge and one psychologist advises the SCJC and the program coordinator on *Amicus Curiae*.

While *Amicus Curiae* program offers the SCJS an additional option for dealing with judges, only 10-15 judges have participated in the program since its inception in 2001.

**Outreach-** The Executive Director gives numerous presentations at State Bar events and at judicial training activities, especially those sponsored by the non-profit Texas Center for the Judiciary. These activities are reported in the SCJC's Annual Report.

***Performance Measures-*** The only performance measure that the SCJC is held accountable for before the Executive and the Legislature is the disposition of all cases that the SCJC receives in one year. In 2004, the SCJC disposed of 108% of newly-submitted cases (approx. 1,200). This indicator, while easy to achieve according to the SCJC executive director, assures that the backlog of pending cases is constantly monitored.

The SCJC does track and include in its annual report other indicators of performance. The SCJC tracks the average age of disposed cases, which was four months in 2004. It tracks number of disciplinary actions by type (public sanction, private sanction, order of additional education, signing of Voluntary Agreements to Resign in Lieu of Disciplinary Action, etc.). The number of judicial ethics presentations given and a list of organizations and/or events for the presentations are included in the SCJC annual report, measuring outreach efforts. The SCJC/Professional Unit tracks the number of ethics consultation calls that it receives.

### ***OJE Complaint process***

The OJE is still defining its procedures for its complaint process, therefore this section will present relevant questions to be answered about this process.

As mentioned above, the OJE process requires that judicial ethics complaints be submitted through a lawyer. It is assumed that the OJE/Professional Unit and Tribunal processes and relations will approximate the SCJC model above.

The OJE/Professional Unit, differently from the SCJC model, supports both the Tribunal and the Consultative Council. The specific relation of the OJE/Professional Unit to the Consultative Council needs to be further articulated and the rationale for this relation needs to be stated explicitly. What does it mean for the Professional Unit to present “inquiries and memoranda” presented to Committee? Are these inquiries and memoranda recommendations for certain actions on specific complaints? Are they a disinterested presentation of case materials so that the Consultative Council can make a decision on a specific complaint? To the extent that the latter might be the case, what are the implications for a decentralized decision making process?

Consultative Council, as it is currently conceived, in addition to emitting non-binding public opinions on general ethics inquiries, emits a non-binding decision on all complaints processed by the OJE and considered by the Tribunal. These decisions are not public. If the Council’s decision does not correspond with the Tribunal’s decision, only by unanimous vote can the Tribunal impose its decision on a particular judge. The rationale for this process should be explicitly stated.

## **Mexico**

### ***Mexican Ethics Code***

In 2004 Mexico created its judicial code of ethics. Since its creation, the Mexican Government has undertaken a number of activities to disseminate the Judicial Ethics Code:

- 3,000 letters to Supreme Court employees
- Internet publication  
([http://www.ifecom.cjf.gob.mx/informacion/articulos/RefsArticulos/doc\\_de\\_ref10.pdf](http://www.ifecom.cjf.gob.mx/informacion/articulos/RefsArticulos/doc_de_ref10.pdf))
- Internal training activities (with Rodolfo Vigo, etc.)
- Video conference/Judicial Channel (in 2006)

No sanctioning mechanism was created to implement the code, however. One explanation was that there were concerns that any the mandate of a judicial ethics sanctioning body might overlap with those of two other sanctioning bodies, the Executive Secretary of Discipline and the Discipline Commission, that have sanctioning power on administrative issues (though not ethics issues).<sup>3</sup> The GOM has no plans at this time to create a sanctioning body to implement its Code of Ethics.

The Mexican Executive Secretary of Discipline is the body that receives and adjudicates administrative complaints against judges. It received 809 administrative complaints in 2005, of which 525 were admitted and the balance was dismissed by presidential decree. Of the complaints admitted, 27 resulted in a private sanction, 10 in a public sanction and 11 in suspension or removal.<sup>4</sup>

It should be noted that the Mexican judicial branch of government's philosophy behind public sanctioning differs from that of the SCJC. A 'public sanction' for the Executive Secretary of Discipline and the Discipline Commission, another sanctioning body, is one in which the judge is called to appear before the sanctioning body in person, distinguished from a 'private sanction' in which the judge only receives written notification of the sanction. No public disclosure is made of the infraction or of the identity of the judge in the case of the 'public sanction.' Paraphrasing one functionary, 'the idea should not be to stigmatize the judge.'<sup>5</sup> Another Mexican government functionary emphasized convincing judges on a personal level of the value of adhering to the code of ethics rather than relying on the threat of sanctions.<sup>6</sup>

### ***Ibo-American Ethics Code***

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<sup>3</sup> Eduardo Ferrer Mac-Gregor Poisot, Secretario Ejecutivo Jurídico Administrativo, Supreme Court of Mexico (1/23/06).

<sup>4</sup> Informe Anual de Labores. Poder Judicial de la Federación 2005 (CD-ROM).

<sup>5</sup> Gonzalo Moctezuma Barragán, Secretario Ejecutivo del Pleno, Secretaria Ejecutiva del Pleno del Consejo de la Judicatura Federal (1/24/06).

<sup>6</sup> Jaime Manuel Marroquin Zaleta, Director, Instituto de la Judicatura Federal (IJF) (1/24/06).

Both Ferrer Mac-Gregor Poisot and Joaquin Gonzalez Cassanova<sup>7</sup> mentioned the importance of promoting an Ibo-American model judicial ethics code through multilateral events such as the Conference of the Americas. In the words of Gonzalez Cassanova, “While bilateral relations are important, we really feel strongly that promoting an Ibo-American model for the Judicial Ethics code [i.e., a Pan Latin American and Iberian model code] is a project that we should support.” The prioritization of resources for this activity over instituting judicial ethics enforcement and sanctioning mechanisms at the nation or sub-national level is not addressed is questionable.

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<sup>7</sup> Director General de Relaciones Nacionales e Internacionales, Poder Judicial de la Federación.

## **Conclusion**

Starting from the premise that creating an effective system for imposing sanctions on judges for ethics violations is a necessary condition for the success of the judicial ethics project in Paraguay, the relative value of the Austin study tour was greater than that of the Mexico City study tour.

Additionally, the exposure to different norms regarding relative decentralization of decision making, professional norms regarding private work outside of permanent salaried positions of high-level government functionaries, public outreach and merit based hiring practices was valuable in Austin, though this value is difficult to measure in concrete terms.

## Recommendations

### Short Term Recommendations

- Develop or adapt appropriate office forms and form letters (see “Resources Identified”)
- Develop simple MS Access based case tracking system (see “Resources Identified”)
- Review the possibility of removing the lawyer assistance requirement for filing a complaint and introducing an ‘administrative dismissal’ mechanism allowing the OJE to dismiss baseless complaints without sending them to the Tribunal (noted in both Est. Kriskovich’s and R. Ubeda’s trip reports)
- Review the possibility of increasing geographic representation in the Tribunal de Etica and the Consejo Consultivo
- Consider possibility of making terms of appointees to the Tribunal and Council staggered
- Clarify support role that the OJE plays for the Consultative Committee
- Develop performance measures. The goal of disposing the same number of cases per year that the OJE receives is recommendable for the OJE as this will provide incentive to control the backlog of cases and help avoid the dysfunctional state of the Jury for the Prosecution of Magistrates. The average time to dispose of a case is another recommendable performance measure.
- Develop performance monitoring procedures, such as an annual review process in which the Supreme Court or another body reviews the OJE director based on performance measures above.

### Medium Term Recommendations

- Schedule 4 month follow-up visit to Paraguay for Seana Willing, Executive Director of SCJC/Professional Unit, and Bob Warneke, General Council. Interpreters are available in Asuncion for this assignment. LOE: 4-5 days each.
- Provide for internet publication of judicial conduct advisory opinions such as that of the Texas Committee on Judicial Ethics ([www.courts.state.tx.us/Judethics/ethicsop.asp](http://www.courts.state.tx.us/Judethics/ethicsop.asp)).
- Provide for internet publication of public ethics sanctions such as that of the Texas SCJC (<http://www.scjc.state.tx.us/FY2005PUB-SANC.pdf>).
- Research Chilean or other Latin American judicial ethics models before planning additional study tours to determine the strength and relevance of their sanctioning systems for the Paraguayan OJE
- Establish telecommuting practices to allow far away members of the Tribunal and Consultative Council to participate more easily in meetings and to facilitate achieving quorum.

### Long Term Recommendations

- Integrate the Jury for the Prosecution of Magistrates removal of judges processes into OJE complaint, investigation and recommending procedures, or modify the Code of Ethics to allow recommendation of removal of judges for ethics violations.

### Cross Cutting Considerations

- International consultants and others with practical experience in the implementation of ethics codes or similar institutions will continue to increase in value relative to individuals focused on philosophical and deontological considerations as the creation of the ethics code sanctioning mechanism continues.

### Lessons Learned

- Planning such a study tour before the design phase of the office would have allowed relevant models and practices (e.g., a more open complaint processes, more geographically representative composition of the Tribunal) to be more easily incorporated into the design of the office.

**ANNEX A**

**List of Contacts: Study Tour Texas State Commission on Judicial Conduct  
January 16-20, 2006, Austin, TX**

**Present at all meetings: Justice Alicia Pucheta (GoP), Esteban Kriskovich (GoP), Roberto Ubeda (MSI), Brian Norris (MSI)**

<b>Date</b>	<b>Person</b>	<b>Agency</b>	<b>Position</b>	<b>Email</b>	<b>Contact Info</b>
1/16	Judge Stephen Ables	Texas Committee on Judicial Ethics	Chairman	<a href="mailto:sables@co.kerr.tx.us">sables@co.kerr.tx.us</a>	700 Main Street Kerrville, Texas 78028-5389, Ofc. 830 792 2290
1/16	Judge Cathy Cochrane	Texas Committee on Judicial Ethics	Committee Member		
1/16-1/20	Seana Willing	Texas State Commission on Judicial Conduct (SCJC)	Executive Director	<a href="mailto:Seana.willing@scjc.state.tx.us">Seana.willing@scjc.state.tx.us</a>	State Commission on Judicial Conduct, P.O. Box 12265, Austin, TX 78711, Toll free 877 228 5750; 512 463 5533
1/17	Terri Counts	SCJC	Admin. Specialist / Budget Analyst		S. Willing cell 512 659 8597
1/17	Ron Bennett	SCJC	Chief Investigator	<a href="mailto:Ron.bennett@scjc.state.tx.us">Ron.bennett@scjc.state.tx.us</a>	
1/17-1/20	Bob Warneke	SCJC	General Council	<a href="mailto:Bob.warneke@scjc.state.tx.us">Bob.warneke@scjc.state.tx.us</a>	Warneke cell 512 217 4836
1/18	Connie Paredes	SCJC	Receptionist		
1/18	Carl Reynolds	Texas Office of Court Administration (OCA)	Director	<a href="mailto:Carl.reynolds@courts.state.tx.us">Carl.reynolds@courts.state.tx.us</a>	205 W. 14 <sup>th</sup> Street, Ste. 600, Tom C. Clark Building, P.O. Box 12066, Austin, TX 78711-2066, 512 463 1626
1/18	Mena Ramon	OCA			Direct # 512 463 1603
1/18	Bruce Hermes	OCA	Director-Information Services	<a href="mailto:Bruce.hermes@courts.state.tx.us">Bruce.hermes@courts.state.tx.us</a>	Same, direct # 512 475 3450
1/19	Justice Paul	Texas Supreme Court	Associate		

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**January 16-20, 2006, Austin, TX**

**Present at all meetings: Justice Alicia Pucheta (GoP), Esteban Kriskovich (GoP), Roberto Ubeda (MSI), Brian Norris (MSI)**

	Green		Justice		
1/19	Lisa Hobbs	Texas Supreme Court	General Council	<a href="mailto:Lisa.Hobbs@courts.state.tx.us">Lisa.Hobbs@courts.state.tx.us</a>	Cell 512 463 6645
1/19	Celso Victor Hidalgo	SCJC	Investigator		Same as above
1/19	Elaine Thompson	SCJC	Legal Assistant		Same as above
1/20	Mari Kay Bickett	Texas Center for the Judiciary (non-profit)	Executive Director	<a href="mailto:mkbickett@yourhonor.com">mkbickett@yourhonor.com</a>	1210 San Antonio, Suite 800, Austin, TX 78701, 512 482 8986; toll free in Texas 800 252 9232
1/20	Tana J. Petrich	Texas Center for the Judiciary (non-profit)	Associate Director	<a href="mailto:tpetrich@yourhonor.com">tpetrich@yourhonor.com</a>	

**Government of Paraguay**

<b>Name</b>	<b>Agency</b>	<b>Title</b>	<b>Email</b>	<b>Contact</b>
Alicia Pucheta de Correa	Supreme Court	Associate Justice		
Esteban Kriskovich	Office of Judicial Ethics	Director	<a href="mailto:eticajudicial@pj.gov.py">eticajudicial@pj.gov.py</a>	Palacio de Justicia, Alonso y Testanova, Asuncion, Paraguay, 595 21 425495

**Management Systems International**

<b>Name</b>	<b>Email</b>	<b>Contact</b>
Roberto Ubeda	<a href="mailto:Rubeda@msiassociates.com">Rubeda@msiassociates.com</a>	Management Systems International, Teniente Ross N° 297, c/ José Berges (Barrio El Dorado), 011 595 21 222 335/370

**ANNEX A**

**List of Contacts: Study Tour Texas State Commission on Judicial Conduct**

**January 16-20, 2006, Austin, TX**

**Present at all meetings: Justice Alicia Pucheta (GoP), Esteban Kriskovich (GoP), Roberto Ubeda (MSI), Brian Norris (MSI)**

Brian Norris	<a href="mailto:bnorris@msi-inc.com">bnorris@msi-inc.com</a>	Management Systems International, 600 Water Street, SW, Washington, DC, 20024, 202 484 7170 x. 246
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**Annex B****List of Contacts: Study Tour Texas State Commission on Judicial Conduct****January 22-25, 2006****Mexico City, Mexico****Present at all meetings: Esteban Kriskovich (GoP), Brian Norris (MSI)**

<b>Date</b>	<b>Person</b>	<b>Agency</b>	<b>Position</b>	<b>Email</b>	<b>Contact Info</b>
1/23	Eduardo Ferrer Mac-Gregor Poisot	Supreme Court of Mexico	Secretario Ejecutivo Jurídico Administrativo	<a href="mailto:eferrerm@mail.scjn.gob.mx">eferrerm@mail.scjn.gob.mx</a>	Suprema Corte de Justicia de la Nación, Pino Suarez, No 2 Pta. 2005 BIS, Col. Centro, C.P. 06065, México, D.F., tel. 52 55 5130 1159, 55 5522 1500, x. 2190 and 2241
1/24	Omar Espinoza Hoyo	Tribunal Electoral del Poder Judicial de la Federación-Sala Superior	Coordinador de Relaciones con Organismos Electorales	<a href="mailto:omare@trife.org.mx">omare@trife.org.mx</a> ; <a href="mailto:Omare66@yahoo.com.mx">Omare66@yahoo.com.mx</a>	Tribunal Electoral del Poder Judicial de la Federación, Sala Superior, Pablo de la Llave 110, Col. Bosques de Tetlameya, C.P. 04730 México, D.F., Deleg. Coyoacán, 52 55 5722 4044; 5722 4000, ext. 4158
1/24	Hector Davalos Martinez	Tribunal Electoral del Poder Judicial de la Federación-Sala Superior	Coordinación de la Unidad de Asuntos Internacionales		Carlota Armero No. 5000, Col. Culhuacan CTM, C.P. 04480 México, D.F., 52 55 5728 2300, ext. 4142
1/24	Jaime Manuel Marroquin Zaleta	Instituto de la Judicatura Federal (IJF)	Director General	<a href="mailto:jmz@cjf.gob.mx">jmz@cjf.gob.mx</a>	Sidar y Rovirosa No. 236, Nivel 2, Ala Sur, Col. El Parque, Deleg. Venustiano Carranza, C.P. 15960, México, D.F., 52 55 5133 8645; 5133 8900, ext. 6608
1/24	Gonzalo Moctezuma Barragan	Secretaria Ejecutiva del Pleno del Consejo de la Judicatura Federal	Secretario Ejecutivo del Pleno	<a href="mailto:gmb@cjf.gob.mx">gmb@cjf.gob.mx</a>	Insurgentes Sur 2417, Piso 13, San Angel, C.P. 01100 México, D.F., 52 55 5490 8027; 5490 8029; cell 0445 5414 1552
1/24	Joaquin	Poder Judicial de la	Director		Av. Insurgentes Sur No. 2065,

**Annex B**

**List of Contacts: Study Tour Texas State Commission on Judicial Conduct**

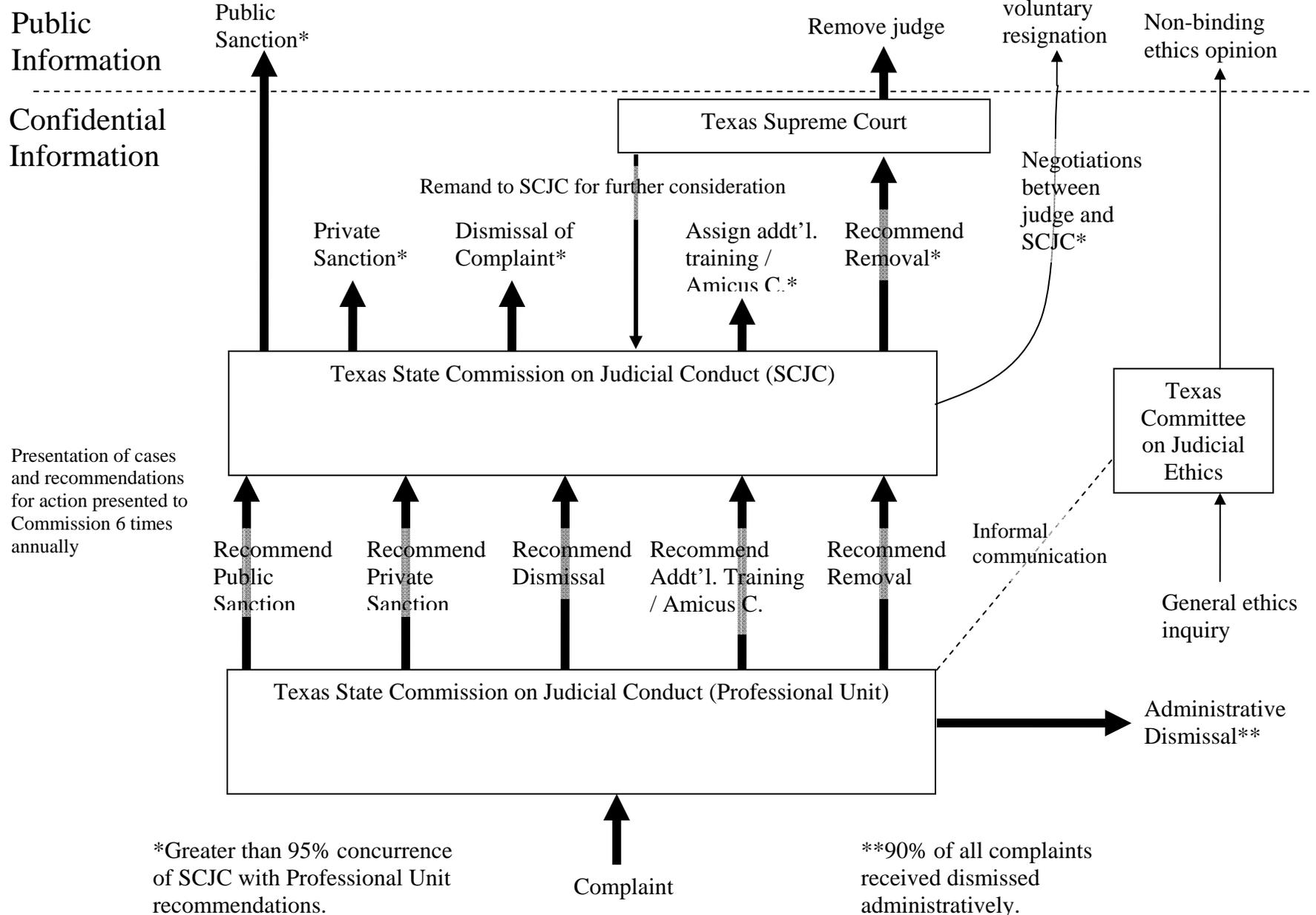
**January 22-25, 2006**

**Mexico City, Mexico**

**Present at all meetings: Esteban Kriskovich (GoP), Brian Norris (MSI)**

	Gonzalez Cassanova	Federación	General de Relaciones Nacionales e Internacionales		mezzanine, Col. Tizapán, San Angel, Deleg. Alvaro Obregón, C.P. 01000, 52 56 47 6000, ext. 4569
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**Annex C**  
 Texas State Commission on Judicial Conduct  
 Commission Structure/Complaint Process

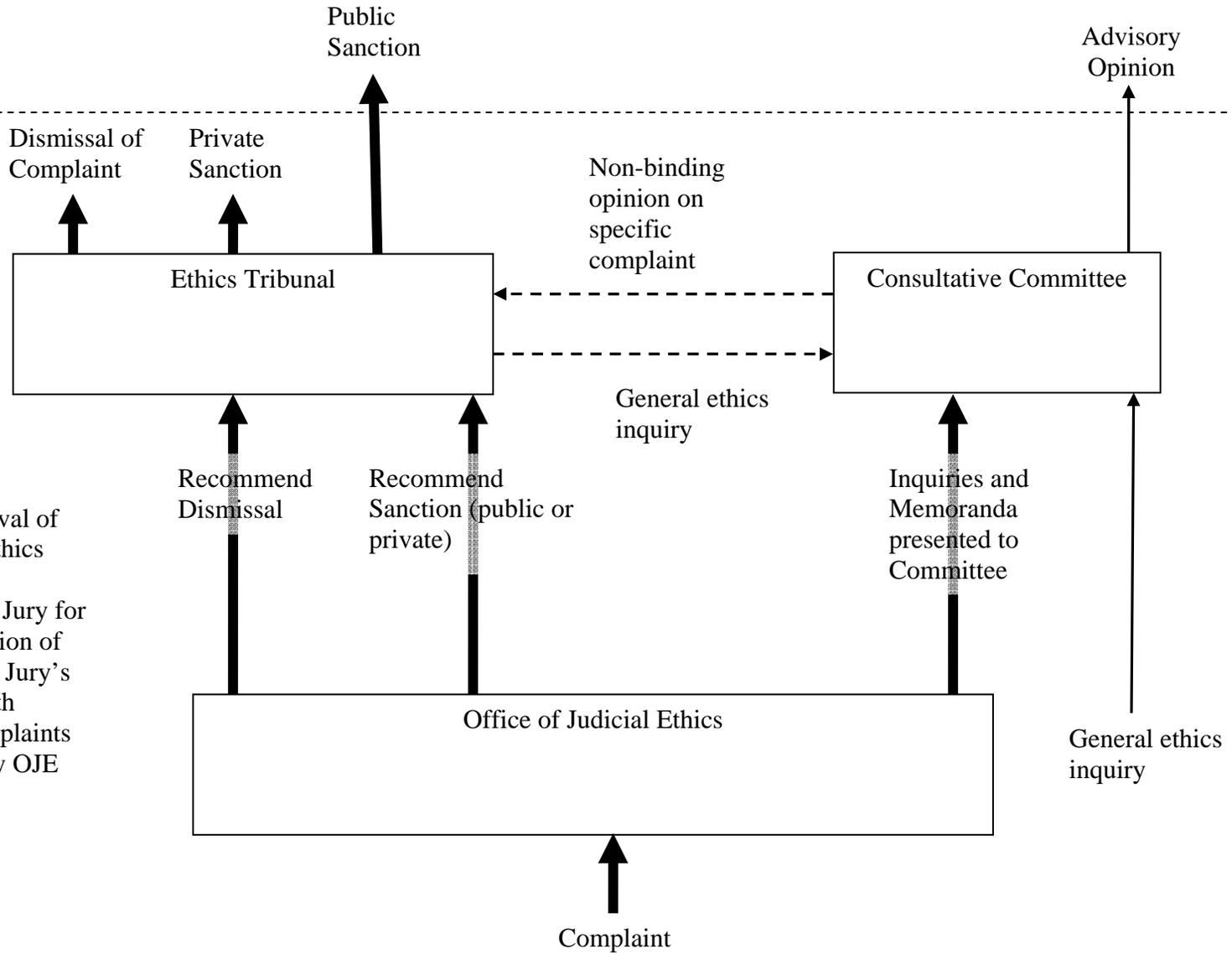


**Annex D**  
Paraguay Office of Judicial Ethics  
OJE Structure/Complaint Process

Public  
Information

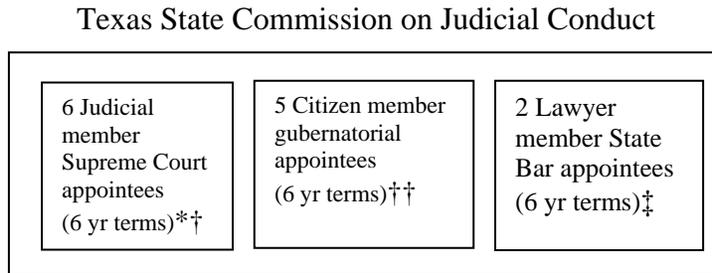
Confidential  
Information

Note: Removal of judges for ethics violations is bailiwick of Jury for the Prosecution of Magistrates. Jury's interface with judicial complaints processed by OJE not defined.



**Annex E**  
**Texas State Commission on Judicial Conduct (SCJC) at a Glance**

# of judges and magistrates under jurisdiction: 3,600  
 # of employees in professional unit: 15 ½



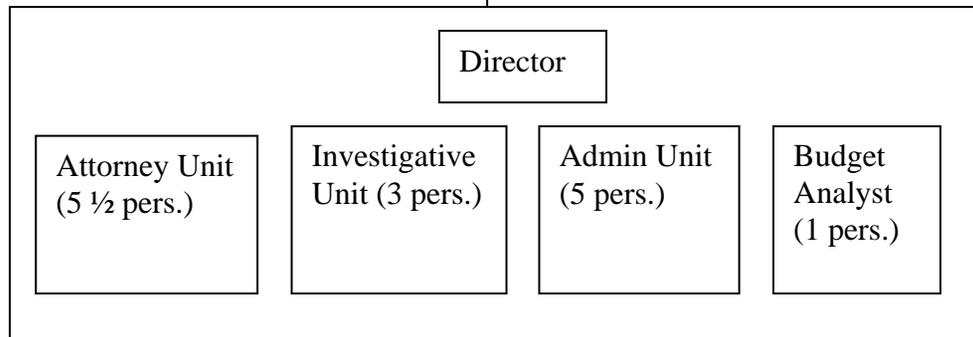
\*One each from the appellate, district, county court at law, constitutional county, justice of the peace, and municipal levels.

†Appellate, district, county court at law, and constitutional county judges may not come from same appellate district. Justice of the peace and municipal judges appointed at large.

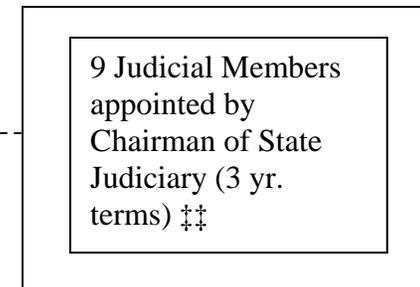
††Citizen members appointed at large.

‡Two lawyer appointees may not come from same appellate district.

Texas State Commission on Judicial Conduct (Professional Unit)



Judicial Ethics Committee  
(Advisory Committee)

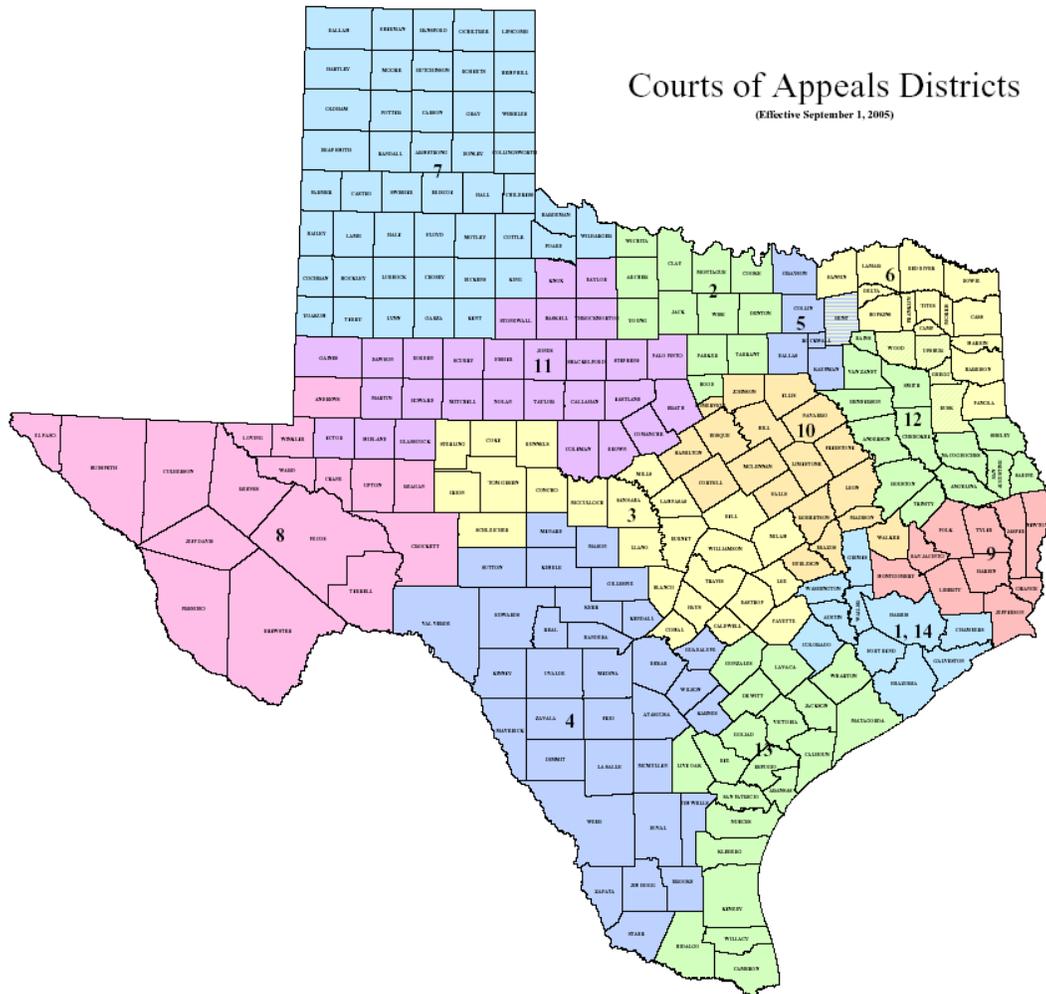


Informal contact on an as needed basis

‡‡Requirements that one judge each come from district, county and appellate levels. Suggestion in bylaws that there be a fair geographic representation within the Committee, but no requirement.

**Annex F**  
**Texas Appellate Districts (14 Total)**

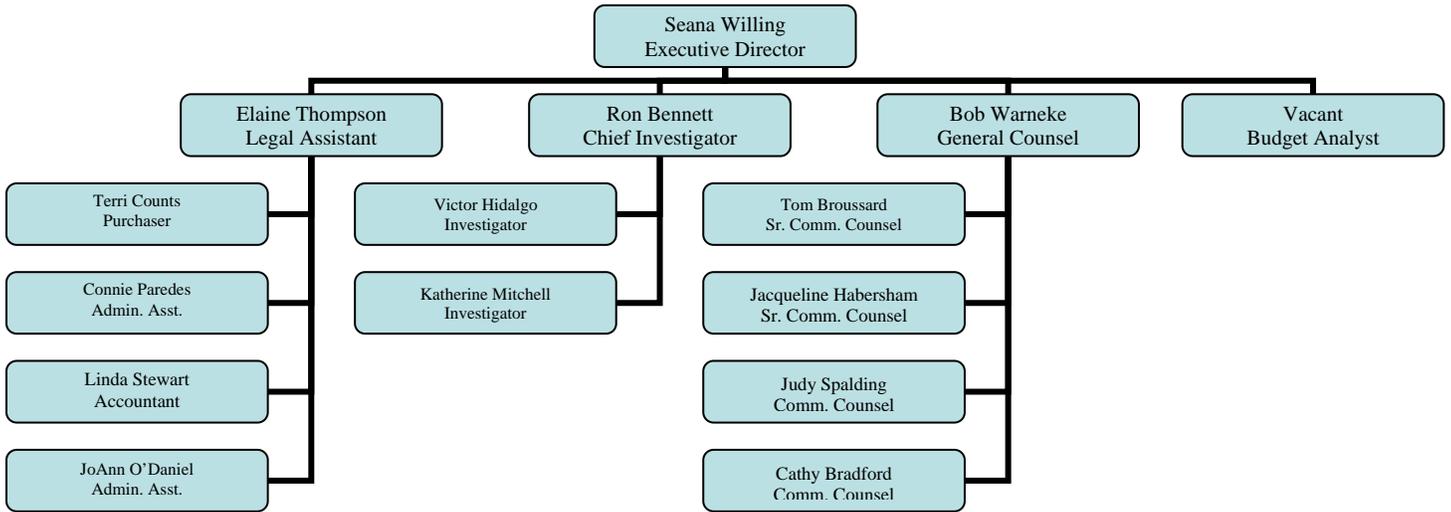
**Courts of Appeals Districts**  
 (Effective September 1, 2005)



- 7 Courts of Appeals District
- Overlap of Districts 5 and 6
- Overlap of Districts 6 and 12

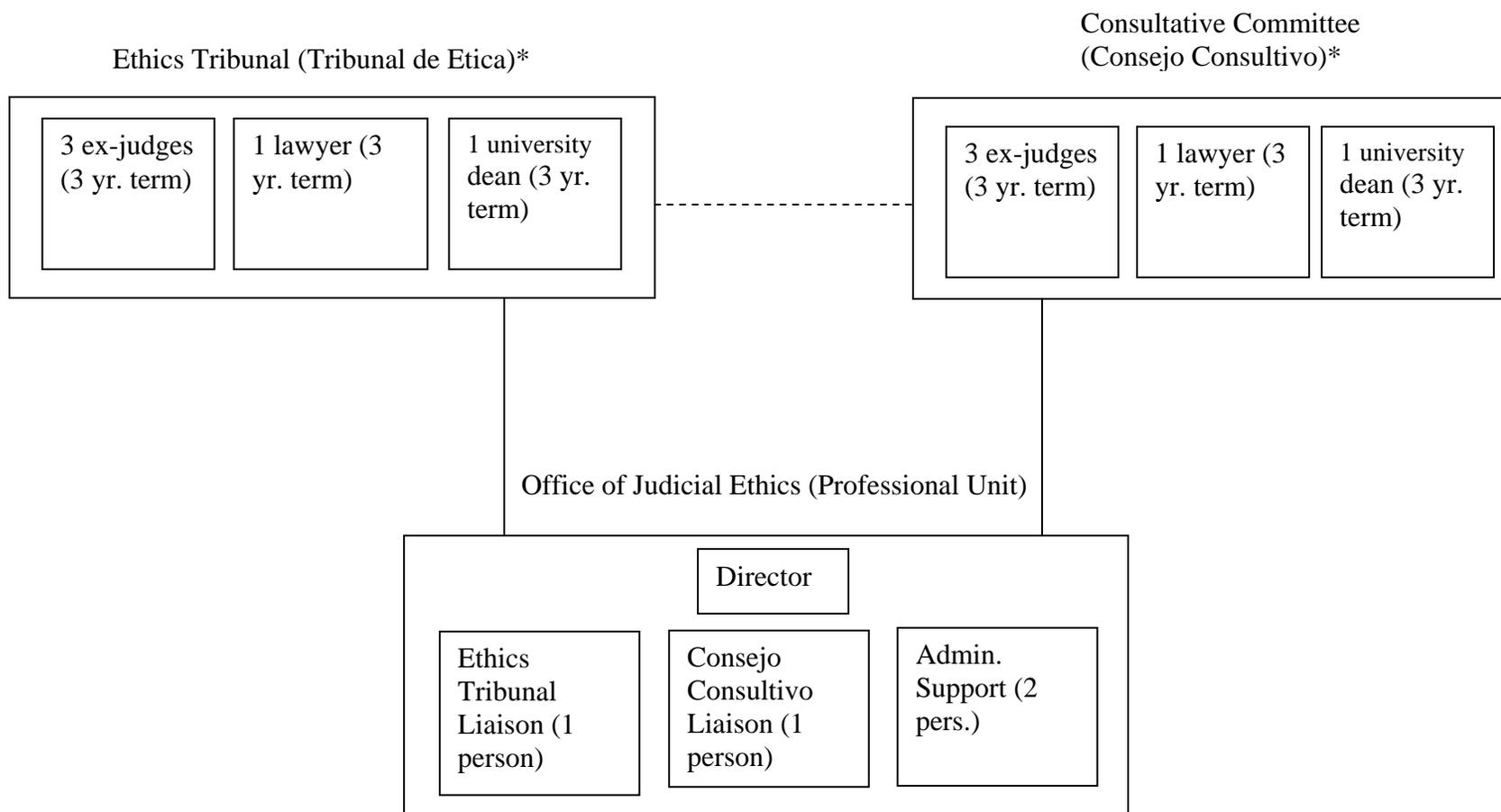


**Annex: G**  
State Commission on Judicial Conduct/Professional Unit  
Organizational Chart



**Annex H**  
**Paraguay Office of Judicial Ethics Composition**

# of judges and magistrates under jurisdiction: approx. 800-900  
 # of employees in the professional unit: 5



- \*Notes on Ethics Tribunal and Consultative Council
- All appointed by the Supreme Court
  - Membership in one precludes membership in other
  - Three year terms
  - Terms not staggered

## Annex I

### Annotated List of Resources Identified during Study Tour

#### Texas State Commission on Judicial Conduct

- Texas State Commission on Judicial Conduct (SCJC) 2005 Annual Report, 28 pages (2004 and previous years available online [http://www.scjc.state.tx.us/ANNUAL\\_REPORT\\_2004.pdf](http://www.scjc.state.tx.us/ANNUAL_REPORT_2004.pdf))\*
- Printouts of screens in MS Access judicial complaint case tracking system\*
- Thirty-four page “Public Sanction and Censure Distribution List” containing individuals and organizations to be notified when judge or magistrate is publicly sanctioned\*
- SCJC Operating Budget for Fiscal Year 2006\*
- Copies of actual sanction decisions issued by SCJC with names redacted. Four come with video tapes showing judicial misconduct that lead to sanctions.\*
- Sanction Chili Chart. One page handout illustrating the relative severity of sanction remedies available to the SCJC\*
- SCJC Internal Voucher Packet. Contains “Internal Voucher Memo”, State of Texas Purchase Voucher format, sample receipt, SCJC purchase order\*
- “Total Phone Calls by Staff” tracking sheet\*
- SCJC website ([www.scjc.state.tx.us](http://www.scjc.state.tx.us))\*
  - Public sanctions link [http://www.scjc.state.tx.us/summprivsanctrevised\\_.pdf](http://www.scjc.state.tx.us/summprivsanctrevised_.pdf)
  - Private sanctions link <http://www.scjc.state.tx.us/FY2005PUB-SANC.pdf>
  - Resignations link <http://www.scjc.state.tx.us/resignlist.pdf>
  - Suspensions link <http://www.scjc.state.tx.us/sumorder.php>
  - Review judicial opinions <http://www.scjc.state.tx.us/84.pdf>
  - Spanish information link <http://www.scjc.state.tx.us/spanish.php>
- CD with form letters in English and Spanish in response to most frequent communications with complainants/judges/witnesses\*
- Meeting Book, A bound copy of all ethics complaint recommendations from the SCJC/Professional Unit to the Commission prepared for each Commission member. Each recommendation (dismissal, sanction or other) includes appropriate support documentation. Sent to 13 members of the Commission 2 weeks prior to each of the year’s 6 Commission meetings.\*
- *Amicus Curiae* Policies and Procedures Manual
- *Amicus Curiae* Handbook
- Various *Amicus Curiae* materials: drug, alcohol and mental illness questionnaires, “Letter of Inquiry” questionnaire
- Court of Criminal Appeals Judicial and Court Personnel Training Program: Rules of Judicial Education, 8 pages.

#### Texas Committee on Judicial Ethics

- TCJE consultative opinions online ([www.courts.state.tx.us/Judethics/ethicsop.asp](http://www.courts.state.tx.us/Judethics/ethicsop.asp)). 300 consultative opinions on judicial ethics issues since 1975.\*

## Annex I

### Texas Supreme Court

- The Texas Judicial System. Eighteen page pamphlet with section on “Judicial Conduct and Discipline.”\*<sup>1</sup>

### Office of Court Administration

- “Court Structure of Texas,” one page handout

### Texas Center for the Judiciary

- '05-'06 College for New Judges (course packet, judicial conduct content)
- You Asked for It – You Got It! (course packet, judicial conduct content)
- Mental Health Conference for Judges (handout)
- Family Violence Conference (handout)
- Criminal Justice Conference (handout)
- Various annual conference announcements (handouts)
- The Meaning of Justice (handout)
- The US Constitution and Fascinating Facts about It (booklet)
- “In Chambers” TCJ serial publication

### Secretaria General de la Suprema Corte de Mexico

- *Serie Etica Judicial* – This seven part series outlines philosophical justifications for ethics codes and, among other items, reprints inauguration speeches for the Mexican Judicial Ethics Code of 2004. This series might be more useful to an ethics code drafter than individuals focused on creating specific mechanisms to implement the code of ethics.
- “Codigo de Etica del Poder Judicial de la Federacion” (booklet). The Corte Suprema de Justicia de Paraguay/USAID/MSI printing “Codigo de Etica Judicial de la Republica del Paraguay” is more complete than this sample.

\*Denotes form or resource potentially adaptable for use in the Paraguayan Office of Judicial Ethics.

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<sup>1</sup> Sumando booklets could be adapted to this format.