

•s• Where Does the Money Go? •s•  
Regional Judges and Clerks, FY 11

Presented by:  
Katie Tefft  
Program Attorney, TMCEC



TMCEC HIGHWAY PATROL  
111 Some Road Within, The City, TX 78900

CITATION NO. 0123456789

I hereby promise to appear at the time and place designated in this notice.

SIGNATURE:

This is not a plea of guilty.

VIOLATOR LAST NAME			FIRST	MIDDLE	PHONE #			
<i>Trouble</i>			<i>Ima</i>	<i>B.</i>	<i>512-555-5555</i>			
RESIDENCE ADDRESS				CITY	STATE	ZIP		
<i>12345 Main Street</i>				<i>The City</i>	<i>TX</i>	<i>78900</i>		
DL or ID	STATE	CLASS	DATE OF BIRTH			RACE	SEX	HEIGHT
<i>01122334</i>	<i>TX</i>	<i>C</i>	<i>05</i>	<i>15</i>	<i>65</i>	<i>C</i>	<i>F</i>	<i>5'6"</i>
LICENSE PLATE #		STATE	YEAR	MAKE	MODEL	COLOR		
<i>HOT MAMA</i>		<i>TX</i>	<i>2008</i>	<i>Lexus</i>	<i>RX</i>	<i>Silver</i>		
DATE		TIME	WEATHER	TRAFFIC	ACCIDENT	SCHOOL ZONE		
<i>10</i>	<i>10</i>	<i>10</i>	<i>1500 hours</i>	<i>Clear</i>	<i>Light</i>	<i>Y</i> <input type="checkbox"/> <i>N</i> <input checked="" type="checkbox"/>	<i>Y</i> <input type="checkbox"/> <i>N</i> <input checked="" type="checkbox"/>	
LOCATION			ALLEGED SPEED	SPEED LIMIT	CONSTR ZONE	WORKERS PRESENT		
<i>Somewhere downtown</i>					<i>Y</i> <input type="checkbox"/> <i>N</i> <input checked="" type="checkbox"/>	<i>Y</i> <input type="checkbox"/> <i>N</i> <input checked="" type="checkbox"/>		
VIOLATION(S):								
1. <i>Passing a School Bus</i>								
2. <i>No Insurance</i>								
3. <i>Unrestrained Child 8-16</i>								
4.								
OTHER REQUIRED STUFF								
<i>for the police department to keep track of, not the court...</i>								
YOU ARE HEREBY NOTIFIED TO APPEAR BEFORE								
JUDGE <i>Robin Gavel</i>								
at <i>The City Municipal Court</i>					on or before <i>10 days from now</i>			
ISSUED BY								
<i>Trooper Gotcha</i>								

### •s• Where Does the Money Go? •s•

#### Hypothetical:

Defendant enters a plea of no contest, is convicted of all 3 counts, pays off the fine and costs in installments over 6 months:

#### Passing a school bus

Fine: \$200 (the min)

Costs:		
	STATE	CITY
40 - CF	36.00	4.00
6 - JSF	5.40	0.60
2 - IDF	1.80	0.20
4 - JRF	3.60	0.40
30 - STF	28.50	1.50
3 - TF	0.00	3.00
.10 - MVF	0.09	0.01
25 - CS	0.00	25.00
5 - AF	1.00	4.00
25 - TPF	<u>12.50</u>	<u>12.50</u>
	88.89	51.21

Costs: + \$140.10

Collect: \$340.10

Remit: - \$88.89

Keep: \$251.21

#### No insurance

Fine: \$175 (the min)

Costs:		
	STATE	CITY
40 - CF	36.00	4.00
6 - JSF	5.40	0.60
2 - IDF	1.80	0.20
4 - JRF	3.60	0.40
5 - AF	1.00	4.00
25 - TPF	<u>12.50</u>	<u>12.50</u>
	60.30	21.70

Costs: + \$82.00

Collect: \$257.00

Remit: -\$60.30

Keep: \$196.70

City collected \$812.20
City remitted \$288.08
City kept \$524.12

#### Unrestrained child

Fine: \$100 (the min)

Costs:		
	STATE	CITY
40 - CF	36.00	4.00
6 - JSF	5.40	0.60
2 - IDF	1.80	0.20
4 - JRF	3.60	0.40
30 - STF	28.50	1.50
3 - TF	0.00	3.00
.10 - MVF	0.09	0.01
5 - AF	1.00	4.00
25 - TPF	<u>12.50</u>	<u>12.50</u>
	88.89	26.21

Costs: + \$115.10

Collect: \$215.10

Remit: - \$138.89

Keep: \$76.21

#### Wrinkles:

- Defendant takes specialized DSC instead of conviction on the unrestrained child charge?
- Judge imposes the maximum on passing a school bus and no insurance charge?
- Judge imposes the maximum on unrestrained child charge?
- Defendant had previously been convicted of FMFR?

# Now what if...

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DATE	TIME	WEATHER	TRAFFIC	ACCIDENT	SCHOOL ZONE			
<i>10</i>	<i>10</i>	<i>1500 hours</i>	<i>Clear</i>	<i>Light</i>	<i>Y</i> <input type="checkbox"/> <i>N</i> <input checked="" type="checkbox"/>	<i>Y</i> <input type="checkbox"/> <i>N</i> <input checked="" type="checkbox"/>		
LOCATION	ALLEGED SPEED	SPEED LIMIT	CONSTR ZONE	WORKERS PRESENT				
<i>Somewhere downtown</i>			<i>Y</i> <input type="checkbox"/> <i>N</i> <input checked="" type="checkbox"/>	<i>Y</i> <input type="checkbox"/> <i>N</i> <input checked="" type="checkbox"/>				
VIOLATION(S):								
1. <i>Unrestrained Child Age 5</i>								
2.								
3.								
4.								
OTHER REQUIRED STUFF								
<i>for the police department to keep track of, not the court...</i>								
YOU ARE HEREBY NOTIFIED TO APPEAR BEFORE								
JUDGE <i>Robin Gavel</i>								
at <i>The City Municipal Court</i> on or before <i>10 days from now</i>								
ISSUED BY <i>Trooper Gotcha</i>								

**•s• Where Does the Money Go? •s•**

Hypothetical:

Defendant is convicted, pays off the fine and costs in two installment payments:

**Child Passenger Safety Seat Offense**

Fine: \$25 (the max)

Costs:	STATE	CITY
40 - CF	36.00	4.00
6 - JSF	5.40	0.60
2 - IDF	1.80	0.20
4 - JRF	3.60	0.40
30 - STF	28.50	1.50
3 - TF	0.00	3.00
.10 - MVF	0.09	0.01
.15 - CSS	0.15	0.00
5 - AF	1.00	4.00
25 - TPF	<u>12.50</u>	<u>12.50</u>
	89.04	26.21

City collected \$140.25  
City remitted \$101.54  
City kept \$38.71

## •\$• Where Does the Money Go? •\$•

### •\$• What to Send to the State

#### Court Costs & Fees

- Most are set by the Legislature; some require a city ordinance be enacted to collect
- Sent to the State Comptroller of Public Accounts in accordance with Chapter 133 of the Local Government Code
  - An officer or clerk who collects a fee in a municipal court case shall deposit the money in the municipal treasury [Section 133.052, LGC]
  - Fee may be deposited in an interest bearing account, and the municipality may retain any interest accrued on the fee if the state's portion is timely remitted [Section 133.053, LGC]
  - If the municipality timely remits, municipality may retain 10% of the collected fee in most cases [Section 133.058, LGC]
  - The report used to remit fees to the Comptroller must be submitted by the last day of the month following a calendar quarter to be considered timely [Section 133.056, LGC]
- Costs and fees can only be collected if authorized by statute
  - An officer may not impose a cost for a service not performed or for a service for which a cost is not expressly provided by law [Article 103.002, CCP]
  - Costs may not be imposed or collected in criminal cases in municipal court by municipal ordinance [Article 45.203(d), CCP]



Note: this chart may not identify all applicable costs of court to any given case. See the Court Costs chart in the back of this binder for more info.

Cost	Statute	Amount	Amount Remitted*	Applies to
Consolidated Fee (CF)	133.102, LGC	\$40.00	90% (\$36.00) - credited to 14 accounts; on the quarterly report	All but parking and pedestrian offenses
Judicial Support Fee (JSF)	133.105, LGC	\$6.00	90% (\$5.40) <sup>†</sup> - deposited in the judicial fund; on the quarterly report	All but parking and pedestrian offenses
Indigent Defense Fund (IDF)	133.107, LGC	\$2.00	90% (\$1.80) - credited to the fair defense account; on the quarterly report	All but parking and pedestrian offenses
Juror Reimbursement Fee (JRF)	102.0045, CCP	\$4.00	90% (\$3.60) - deposited in the jury service fund; on the quarterly report	All but parking and pedestrian offenses
State Traffic (STF)	542.4031, TC	\$30.00	95% (\$28.50) - $\frac{2}{3}$ credited to state general revenue fund; $\frac{1}{3}$ to trauma and emergency medical services account; on the quarterly report	Rules of the Road offenses (chapters 541-600, TC)

Local Traffic Fee (TF)	542.403, TC	\$3.00	-0-	Rules of the Road offenses (chapters 541-600, TC)
Moving Violation Fee (MVF)	102.022, CCP	\$0.10	90% (\$0.09) – credited to the Civil Justice Data Repository fund (TCLEOSE); on the quarterly report	Moving violations defined by DPS (37 TAC § 15.89)
Child Safety Seat Fee (CSS)	545.412, TC	\$0.15	100%** - to purchase safety seats for low income families (TxDOT); submitted monthly	Child passenger safety seat violations
Child Safety Fund (CS)	102.014(c), CCP	\$25.00	-0- <sup>††</sup>	Rules of the Road offenses occurring in a school crossing zone
Child Safety Fund (CS)	102.014(c), CCP	\$25.00	-0- <sup>††</sup>	Passing a school bus violations (Section 545.066, TC)
Child Safety Fund (CS)	102.014(d), CCP	\$20.00	-0- <sup>††</sup>	Failure to attend school or parent contributing to nonattendance violations (Sections 25.093 & 25.094, EC)
Jury Fee	102.004, CCP	\$3.00	-0-	If convicted by a jury or withdraw jury trial request within 24 hours of trial
Jury Trial Failure to Appear	45.026, CCP	varies	-0-	Costs incurred for impanelling the jury when defendant fails to appear for jury trial
Peace Officer Services (arrest fee)	102.011, CCP & 133.104, LGC	\$5.00	20%*** (\$1.00) – deposited in the state's general revenue fund; on the quarterly report	Warrantless arrests or issuance of citation for traffic law, ordinance, or penal law
Peace Officer Services (warrant fee)	102.011, CCP & 133.104, LGC	\$50.00	20%*** (\$10.00) – deposited in the state's general revenue fund; on the quarterly report	Processing or executing arrest warrant, capias, or capias pro fine
Other Peace Officer Services	102.011, CCP	varies	-0-	Testifying overtime; summons fee (\$35); subpoena fee (\$5); etc.
Restitution Fee	42.037, CCP	\$12.00	50% (\$6.00) – paid to the crime victims compensation fund; no direction on how to remit	If restitution made in specified installments
Time Payment Fee	133.103, LGC	\$25.00	50% <sup>†††</sup> (\$12.50) – deposited in the state's general fund; on the quarterly report	If pay any part of fine, costs, or restitution paid on or after the 31 <sup>st</sup> day after the date judgment is entered assessing the fine, costs, and restitution

OmniBase Fee	706.006 & 706.007, TC	\$30.00	87% (\$26.00) – \$20.00 to State (\$10 for DPS, \$10 for general fund) & \$6.00 to OmniBase (per contract); on the quarterly report	Failure to pay or failure to appear if city has contract
Collection Agency Fee	103.0031, CCP	30% of unpaid fines, fees, costs, restitution, forfeited bonds	100% paid to the private attorney or vendor (or if in Houston, to the court)	Failure to pay or failure to appear if city has contract and amount is more than 60 days past due or more than 60 days have elapsed since the failure to appear
Building Security Fund	102.017, CCP	\$3.00	-0- <sup>††††</sup>	All offenses if city has ordinance
Technology Fund	102.0172, CCP	≤ \$4.00	-0- <sup>†††††</sup>	All offenses if city has ordinance
Juvenile Case Manager Fund	102.0174, CCP	≤ \$5.00	-0- <sup>††††††</sup>	All offenses if city has ordinance
Child Safety Fund	102.014(a)&(b), CCP	\$2-\$5 if pop > 850,000; ≤ \$5 if pop < 850,000	-0- <sup>††</sup>	Parking violations under Section 542.202 or Chapter 682, TC, if city has ordinance
Special Expense Fee	45.203, CCP	≤ \$25.00	-0-	Service of arrest warrant for FTA or VPTA if city has ordinance
Credit Card Processing Fee & Service Charge	132.002, 132.003, & 132.004, LGC	≤ 5% of fine, cost, or fee; Service charge is same as for NSF check	-0-	If paid by credit card and authorized by governing body  Note: the court has no authority to collect an NSF fee on a check

- \* Assuming amount is remitted timely
- \*\* No incentive for submitting timely (must be remitted monthly if applicable)
- \*\*\* If officer is a state officer; otherwise 100% of cost stays with the municipality

<sup>†</sup> **Judicial Support Fee:** \$0.60 retained by the municipality must be used to promote the efficient operation of the court and the investigation, prosecution, and enforcement of offenses within the jurisdiction of the court

<sup>††</sup> **Child Safety Fund:** Shall be deposited in municipal child safety trust fund in municipalities with population greater than 850,000; for municipalities with population less than 850,000, shall first fund school crossing guard program with excess expended for programs designed to enhance public safety and security

<sup>†††</sup> **Time Payment Fee:** 10% of the money retained by the municipality (\$2.50) shall be used for the purpose of improving the efficiency of the administration of justice; the city shall prioritize the needs of the judicial officer who collected the fee

<sup>††††</sup> **Security Fund:** To be used only for security personnel, services, and items related to buildings that house the operations of the municipal courts

<sup>†††††</sup> **Technology Fund:** To be used only to finance the purchase of or to maintain technological enhancements for a municipal court

<sup>††††††</sup> **Juvenile Case Manager Fund:** To be used only to finance the salary and benefits of a juvenile case manager

### Miscellaneous Other Fees:

- Driving record fees [Article 45.0511, CCP]: \$10 plus the TexasOnline cost; 100% of cost to be remitted to Comptroller on the quarterly report
- Teen court administrative fees [Article 45.052, CCP]: \$10 fee for cost of administering teen court and \$10 fee for cost of teen court performing its duties; may waive these costs and all other costs under this section (note: this is two \$20 fees if the municipality is in the Texas-Louisiana border region); nothing remitted to State

### Fines

- Who sets the fine?
  - Legislature prescribes the minimum and maximum penalty
  - Judge sets the fine amount in the judgment; this is a judicial function
- Fine money collected for violations of highway laws in Title 7 shall be used to (1) construct and maintain roads, bridges, and culverts in the municipality; (2) enforce laws regulating the use of highways by motor vehicles; and (3) defray the expense of county traffic officers. [Section 542.402(a), TC]
- For municipalities with a population less than 5,000, in each fiscal year the municipality may retain from fines and special expense fees collected for violations of Title 7 (Chapters 501 et seq.) up to 30% of the municipality's total revenue (less federal funds and bond proceeds) from the preceding year. After reaching that 30%, the municipality shall remit to the Comptroller any portion of a fine or special expense fee that exceeds \$1. [Section 542.402(b), TC]
  - Read this statute carefully; requires notice be given to Comptroller upon retaining 20%
- Certain other offenses require a portion of the fine collected be sent to the State:

Note: the following chart shows the more common fines that require a percentage of the fine be remitted to the State. For more obscure Class C or fine-only offenses, check the statute assessing the penalty to see if any portion of the fine must be remitted.

Offense	Statute	Fine Amount	Amount Remitted	To Whom; Notes
<b>Child restraint offenses:</b>				To the Comptroller
Operating a passenger vehicle and transporting a child under 8 (unless taller than 4'9") not secured in a child passenger safety seat system	545.412, TC	\$0-\$25	50% - see Subsection (h)	At the end of the fiscal year
Operating a passenger vehicle while allowing a child (age 8-16) to ride unsecured by a safety belt (driver receives citation)	545.413(b), TC	\$100-\$200	50% - see Subsection (j)	Credited to the tertiary care fund for use by trauma centers
<b>Motor carrier weight violations:</b>				
Operating overweight vehicle or combination of vehicles	621.506, TC -and- 621.101, TC	See next page	See next page	See next page
Loading or causing to be loaded a	621.503, TC			

vehicle exceeding weight limitations		<i>For this block:</i>	<i>For this block:</i>	<i>For this block:</i>
Violating ready-mixed concrete truck axle weight restrictions	622.012, TC	\$100-\$150; \$300-\$500;	50% - if weight is more than 5,000 lbs heavier than allowable weight – see Section 621.506(g)	To the Comptroller
Violating length and axle-load restrictions for vehicles transporting milk	622.031, TC	or \$500-\$1,000 depending on weight; or may be less for certain axle weight violations		On quarterly report
Violating recyclable materials truck axle weight restrictions	622.133, TC			If municipality is within 20 miles of Mexico border, no remittance (entire fine stays with city for road maintenance)
Over gross weight for vehicle transporting seed cotton, child pepper modules, or related equipment	622.953, TC			
Violating axle weight restrictions for vehicle transporting solid waste	623.162, TC			
Operating or directing operation of permitted oversize/overweight vehicle at a weight heavier than that authorized, or in a county not designated, by permit	623.019, TC	\$100-\$150; \$300-\$500; \$500-\$1,000 depending on weight	50%	To the Comptroller  Does not specify when – presumably quarterly
Parent Contributing to Nonattendance offense	25.093, EC	\$0-\$500	50%	To the school district, charter school, or JJAEP child is ordered to attend
Parks and Wildlife Code violations	All PWC offenses (excluding Chapter 31 – Water Safety Act violations)	\$25-\$500	85% - see Section 12.107 rule for justice courts  or  100% - as municipal courts are not mentioned in statute	To the Parks and Wildlife Department  Within 10 days of collection  To be sent with a statement containing the docket number of the case, name of defendant, and offense committed

Recall Tex. Atty. Gen. Op. GA-0745 (2009) - discussed in this year's Case Law Update - in which the Attorney General ruled that a defendant can be placed on deferred disposition for a Parks and Wildlife Code offense, despite the requirement that a portion of the fine usually be remitted to the Parks and Wildlife Department. As a special expense fee is not a fine, and Section 12.107 of the Parks and Wildlife Code only requires the fine to be remitted, no portion of the special expense fee must be sent to PWD.

- Water Code violations under Chapter 7 also require a portion of the fine to be sent to the State.

**Partial or Installment Payments: Proration**

- Comptroller requires courts to allocate money collected first to court costs and fees, then to fines [Tex. Atty. Gen. Op. No. M-1076 (1972); reaffirmed in Tex. Atty. Gen. Op. GA-0147 (2004)]
- When a court collects all costs owed during one quarter, even though they were paid through installments, the clerk reports all the costs on that quarter's report
- If court collects only part of the costs in a reporting quarter, court must prorate the costs collected among all the court costs, including the local court costs, and report the state's portion on the quarterly report
- If court does not prorate and report, city must forfeit its handling fees

To prorate, the court should use the following formula:

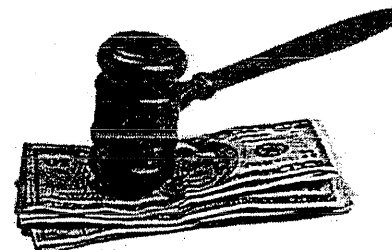
$$\frac{\text{Amount collected}}{\text{Total costs/fees}} = \text{Percentage to apply to each cost/fee}$$

- Court does not have to remit money it did not collect
  - If a defendant discharges the total amount due the court, including fine and court costs, by community service
  - If a defendant does not pay any money to the court because the defendant had sufficient jail-time credit for both fine and court costs
  - If the defendant discharges only part of the total amount due by community service or jail credit, and pays money for part of the judgment, the credit goes first to the fine and then to court costs

**•\$• What to Collect in the First Place**

**Enhancements**

According to the Texas Legislative Council's *Drafting Manual*, "An enhancement is an increase, because of the circumstances of the offense or because of the criminal history of the defendant, to the punishment otherwise applicable to an offense."



- Must be alleged in the charging instrument!

The following chart shows the Transportation Code offenses for which the penalty range can be enhanced for a second or subsequent conviction and still keep the offense in the municipal court's jurisdiction:

Offense	Statute	Fine Range on First Conviction	Fine Range on Second/ Subsequent Conviction
Selling or offering a vehicle without a title	501.152, TC	\$1-\$100	\$2-\$200
Failure to determine right of possession of vehicle by ship or airplane captain	501.156, TC	\$50-\$500	\$100-\$1,000
Operating a vehicle without having possession of the appropriate DL for the class of vehicle being operated; Failure to display license on magistrate's, court officer's, or peace officer's demand	521.025, TC	\$0-\$200	\$25-\$200 if within 1 year
Operating a passenger vehicle and transporting a child under age 8 (unless taller than 4'9") not secured in a child passenger safety seat system	545.412, TC	\$0-\$25	\$0-\$250
Operating or permitting another to operate a vehicle that emits visible smoke for 10 or more second or that remains suspended in the air for 10 or more seconds	547.605(d), TC	\$1-\$350	\$200-\$1,000

Violating motor vehicle emissions requirements	548.306, TC	\$1-\$350	\$200-\$1,000
FMFR: Failure to maintain financial responsibility	601.191, TC	\$175-\$350	\$350-\$1,000
Operating overweight vehicle or combination of vehicles	621.101, TC	Depends on weight	Doubled if within 1 year
Loading or causing to be loaded a vehicle exceeding weight limitations	621.503, TC	Depends on weight	Doubled if within 1 year
Violating ready-mixed concrete truck axle weight restrictions	622.012, TC	Depends on weight	Doubled if within 1 year
Violating length and axle-load restrictions for vehicles transporting milk	622.031, TC	Depends on weight	Doubled if within 1 year
Violating recyclable materials truck axle weight restrictions	622.133, TC	Depends on weight	Doubled if within 1 year
Over gross weight for vehicle transporting seed cotton, chile pepper modules, or related equipment	622.953, TC	Depends on weight	Doubled if within 1 year
Operating or directing operation of permitted oversize/overweight vehicle at weight heavier than that, or in a county not designated, in the permit	623.019, TC	Depends on weight	Doubled if within 1 year
Violating axle weight restrictions for vehicle transporting solid waste	623.162, TC	Depends on weight	Doubled if within 1 year
Violating movement of manufactured home regulations	623.092 – 623.104, TC	\$0-\$500; if no permit, fine is \$1,000	\$2,000 for second offense; \$4,000 for third or subsequent offense
Violating handicapped parking laws: improperly standing a vehicle without required plates/placards in a space reserved for persons with disabilities; standing a vehicle so as to block access for person with disabilities; lending disabled parking placard to be used in violation of this section	681.011, TC	\$500-\$750	\$500/\$550 - \$800 for second conviction; \$550-\$800 for third conviction; \$800-\$1,100 for fourth conviction; \$1,250 for fifth conviction
Operating patron's vehicle without required financial responsibility by a valet	686.006, TC	\$175-\$350	\$350-\$1,000

Also see enhancements for the following statutes (making no guarantee this is an exhaustive list):

- Business Commerce Code: Section 204.005 (violating sale of plastic bulk container regulations by a person in the business of recycling, shredding, or destroying plastic bulk merchandise containers)
- Health and Safety Code: Sections 241.057 (hospital without a license) and 462.008 (causing unwarranted commitment of a person to a treatment facility by person other than an individual)
  - Note: there are also statutes in this code for which the fine amount on a second or subsequent conviction is less than on a first
- Natural Resources Code: Section 61.127 (violating commissioners court rules on beaches and dunes, regarding litter, possession of animals, and swimming)
- Occupations Code: Section 104.007 (violating provisions of the Healing Art Identification Act)
- Water Code: Sections 7.157 (violating laws regarding injection wells), 7.158 (failure or refusal to plug a well), 7.159 (violating laws regarding water wells, drilled shafts, or mined shafts), 7.160 (violating laws regarding subsurface excavations), 7.1735 (violating maintenance contracts and performance bonds), and 7.187(b) (violating outdoor burning of waste and combustible material regulations)

### Special Circumstances

- Minimum and maximum fines are doubled on Rules of the Road offenses - or the offense of disobeying highway warning signs/driving around barricades under Section 472.022 - that occur in a construction or maintenance work zone when workers are present (does not apply to inspection or pedestrian offenses or to passenger restraint laws) [Section 542.404, TC]

- For a Rules of the Road offense that involves the failure to yield the ROW to another vehicle, fine range is increased to \$500-\$2,000 if a person other than the defendant suffered bodily injury, or to \$1,000-\$4,000 if person other than the defendant suffered serious bodily injury [Section 542.4045, TC]
- If the failure to yield ROW to a pedestrian at a crosswalk results in serious bodily injury or death to a blind or disabled person, fine increases from \$200 maximum to not more than \$500 [Section 552.003, TC]
- If the failure to yield to a blind pedestrian results in serious bodily injury or death of the blind person, fine increases from \$200 maximum to not more than \$500 [Section 552.010, TC]

### Waiver of Fines and Costs

#### Community Service

- Judge may allow a defendant who fails to pay a previously assessed fine and costs, or a defendant found indigent (with insufficient resources to pay the fine and costs), to discharge the money owed through community service
- Rate = not less than \$50 for each 8 hours

#### Time Served

- Defendants are entitled to credit for time served in the same cause prior to judgment
- Judge may allow a defendant who fails to pay a previously assessed fine and costs – who is not indigent – to discharge the money owed by credit for time served
- Rate = not less than \$50 for each period of time served
- Period of time = not less than 8, not more than 24 hours (so the minimum rate is \$50 for 24 hours)

#### Waiver

- Judge may waive payment of fine or costs imposed if the court determines that (1) the defendant is indigent and (2) discharging the money owed through community service would impose an undue hardship [Article 45.0491, CCP]
  - Document these findings in an order waiving costs
- Judge may waive payment of costs imposed if the defendant successfully completes teen court [Article 45.052, CCP]
- Judge may waive payment of a collection agency (30%) fee if the court determines the defendant is indigent, or has insufficient resources or income, or is otherwise unable to pay all or part of the underlying fine or costs [Article 103.0031(d), CCP]
- Judge may waive the juvenile case manager fee in case of financial hardship; this must be written into the city ordinance authorizing the fee [Article 102.017, CCP]
- Judge may release the defendant from obligation to pay costs of impanelling a jury trial where defendant failed to appear for jury trial if good cause shown for failure to appear [Article 45.026, CCP]

#### Questions:

Contact the State Comptroller of Public Accounts at 800.531.5441 (x 34276)

## Responses to claims that the municipal court is not generating enough revenue:

### •S• The National Center for State Courts' Municipal Court FAQs asks:

How should the court deal with local funding and authorities who see it as a "cash cow" to generate local revenue from such things as traffic and parking infractions?

Answer: The independence of the judiciary requires that courts be free of political influences, not be subject in their operation to revenue-production requirements, and provide impartial judges and hearing officers. Once fines and fees have been imposed, however, respect for the dignity of the law and maintenance of the court's integrity require that the court take appropriate steps to ensure that fines and fees are collected.

<sup>2</sup>See David C. Steelman, John A. Goerdt, and James E. McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg, VA: National Center for State Courts, 2004), p. 41.

### •S• Texas law against quotas

Section 720.002, Transportation Code: Prohibition on Traffic-Offense Quotas

(a) A political subdivision or an agency of this state may not establish or maintain, formally or informally, a plan to evaluate, promote, compensate, or discipline:

- (1) a peace officer according to the officer's issuance of a predetermined or specified number of any type or combination of types of traffic citations; or
- (2) a justice of the peace or a judge of a county court, statutory county court, municipal court, or municipal court of record according to the amount of money the justice or judge collects from persons convicted of a traffic offense.

(b) A political subdivision or an agency of this state may not require or suggest to a peace officer, a justice of the peace, or a judge of a county court, statutory county court, municipal court, or municipal court of record:

- (1) that the peace officer is required or expected to issue a predetermined or specified number of any type or combination of types of traffic citations within a specified period; or
- (2) that the justice or judge is required or expected to collect a predetermined amount of money from persons convicted of a traffic offense within a specified period.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 737, Sec. 1, eff. June 19, 2009.

(d) This section does not prohibit a municipality from obtaining budgetary information from a municipal court or a municipal court of record, including an estimate of the amount of money the court anticipates will be collected in a budget year.

(e) A violation of this section by an elected official is misconduct and a ground for removal from office. A violation of this section by a person who is not an elected official is a ground for removal from the person's position.

(f) In this section:

- (1) "Conviction" means the rendition of an order by a court imposing a punishment of incarceration or a fine.
- (2) "Traffic offense" means an offense under:
  - (A) Chapter 521; or
  - (B) Subtitle C.

### •S• Ethical violations based on excerpts from the Code of Judicial Conduct

**Preamble:** Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us.

#### **Canon 2: Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities**

- A. A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B. A judge shall not allow any relationship to influence judicial conduct or judgment . . . .

### Canon 3: Performing the Duties of Judicial Office Impartially and Diligently

#### B. Adjudicative Responsibilities.

(2) A judge should be faithful to the law and shall maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

#### C. Administrative Responsibilities.

(1) A judge should diligently and promptly discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge should require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge with supervisory authority for the judicial performance of other judges should take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

# The Municipal Court Recorder

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## The Role of the Municipal Court in City Government, or Municipal Judges are from Mars, City Officials are from Venus

By Lauren Crawford, Legal Counsel  
Texas Municipal League

Sometimes it can feel like municipal judges and city officials come from completely different planets. In this article, we will take a light-hearted, example-based approach to a very real question: what comprises appropriate or inappropriate actions on the part of the governing body, city staff, and municipal judge? The Texas Code of Judicial Conduct, which applies to all municipal judges in Texas, can help clarify many of these issues. The hypothetical situations given here are exaggerated,

but the ethical considerations are practical. All of the canons referenced in this article may be found in the Code of Judicial Conduct, and on the websites of the Office of Court Administration, and of the State Commission on Judicial Conduct.

[www.courts.state.tx.us/judethics/canons.asp](http://www.courts.state.tx.us/judethics/canons.asp)  
[www.scjc.tx.us](http://www.scjc.tx.us)

### City Officials, Here are Six Ways to Drive Your Municipal Judge Crazy:

If it is budget time, send your judge the following memo: "The budget is really tight this year. Hardly anyone in court showed up with a lawyer last year. The bills from the city attorney for prosecuting in municipal court are killing us. Why not hold court without the prosecutor unless the defendant has a lawyer?"

*continues on page 8*

In a similar situation, two criminal complaints for disorderly conduct were filed in court. The judge went forward with a pretrial hearing and trial, found the defendant guilty, and assessed a fine. No prosecutor was involved. In addition, the defendant was never advised of her rights and never entered a plea. The Texas Commission on Judicial Conduct found that the judge, in failing to involve a prosecutor, failed to comply with the law and also demonstrated lack of competence in the law, in violation of Canons 2A and 3B(2) of the Code of Judicial Conduct. Similarly, when a police officer was charged with assault, a municipal judge summoned witnesses to her office, outside the presence of a prosecutor or defense attorney, to "gather information pertaining to the allegations." The judge eventually found the officer guilty and sent a certified letter requesting \$250 for the fine, all without involving a prosecutor. The Commission held that this also constituted evidence of failure to comply with the law and demonstrated lack of competence in the law, in violation of Canons 2A and 3B(2).

If you are having difficulty with stray dogs and are considering a new animal control ordinance, ask the judge to attend the council meeting. Tell the judge in public that you want this ordinance strictly enforced because it is such a problem. Instruct the judge regarding possible fine amounts and other creative judicial orders he or she should use.

Canon 3B(10) requires a judge to abstain from any public comment regarding a pending or impending proceeding which may come before the court which would suggest the judge's probable decision in the case. Here, if the council dictates fine amounts and other creative judicial orders, that may be construed as suggesting the judge's decision in related cases. The Texas Committee on Judicial Ethics has also held that, by attending a meeting of the county commissioners court where the commissioners directed the judge on past rulings in his court, the judge violated both Canon 3B(10) and Canon 3B(2), which forbids a judge from being "swayed by partisan interests, public clamor, or fear of criticism."

If you review the reports made by the municipal court and think that you can raise a lot more money, call the judge in and insist that the court collect more money. Tell the judge that her staff and court personnel will be cut unless the court increases the amount of money collected.

As the TMCEC *Judge's Book* states, the importance of municipal court revenue plays a significant part in a city's revenue generation. Texas municipal courts generate millions of dollars each year in fines and fees. However, the court should not be viewed as a "cash cow" by the city, nor should the judge fall into being "swayed by partisan interests [or] public clamor," as Canon 3B(2) prohibits it. A judge should remember, though, that municipal court revenues are important to the city's budgeting process, and that city officials are required to be concerned and informed about those revenues. In addition, a city should keep in mind that traffic-offense quotas are prohibited by Texas Transportation Code §720.002, and that a city smaller than 5,000 is limited to having 30% or less of its budget come from traffic citations, under Texas Transportation Code §542.402.

**Municipal Judges, Here Are Six Ways to Drive Your City Officials Crazy:**

If the city manager asks you for information about the standards for properly accounting for and depositing monies collected by the court, tell the manager that it is none of his or her business and you are not obligated to share any information with the city manager or the city council.

As a part of the city, the municipal court is required to share financial information with the city's governing body. To refuse to do so does not promote public confidence in the integrity of the judiciary, violating Canon 2A. In addition to refusal to provide such information, judges also have been reprimanded for fiscal mismanagement, unposted receipts, unprocessed complaints, failure to file monthly activity reports, and failure to provide public records upon request, among other records issues. These kinds of records problems have been found to indicate a violation of Canon 3B(2), as they show a lack of professional competence in the law.

This is only an excerpt from this article. To view the complete article, go to [www.tmcec.com](http://www.tmcec.com) >  
Resources > The Recorder > May 2008 edition

Where Does the Money Go?

COMPTROLLER REPORTING FORMS

State Criminal Costs and Fees: City Quarterly Report .....17

Child Safety Seat Monthly Court Costs Payment .....19

Excess Highway Fines .....20

Child Safety Seat and Seat Belt Violation Fines .....22

a. T Code ■ 32610

b. ■

• DO NOT WRITE IN SHADED AREAS

# State Criminal Costs and Fees

• **CITY QUARTERLY REPORT** - This report must be filed by the due date even if no payment is due.  
 An amount or a zero (0) MUST be entered on all lines for Columns 1 and 3.

City identification number	f. Report for quarter ending <b>QUARTER ENDING</b>	g.	e. Due date of report
d. City name and mailing address		h. IMPORTANT Blacken this box if your address has changed. Show changes by the preprinted information. → 1 <input type="checkbox"/>	

• SEE BACK FOR INSTRUCTIONS

**SECTION I: Reports for offenses committed**

Column 1 <b>TOTAL COLLECTED</b> <small>(State court costs only) Dollars and cents</small>	Column 2 <b>SERVICE FEE</b> <small>(See instructions)</small>	Column 3 <b>AMOUNT DUE STATE</b> <small>(Col. 1 minus Col. 2)</small>
---	---	---

1. 01-01-04 Forward	\$	
2. 09-01-01 -- 12-31-03		
3. 08-31-99 -- 08-31-01		
4. 09-01-97 -- 08-30-99		
5. 09-01-91 -- 08-31-97		
6. Jury Reimbursement Fee (JRF)		
7. Indigent Defense Fund (IDF)		
8. Moving Violation Fees (MVF)		
State Traffic Fine (STF)	(5%)	
<b>SECTION II: As applicable</b>		
10. Peace Officer Fees (Report 20% of fees from actions by state officers only.)		\$
11. Failure to Appear/Pay Fees (FTA) (Report \$20 of the administrative fee.)		
12. Motor Carrier Weight Violations (MCW) (Report 50% of the fines collected.)		
13. Time Payment Fees (TP) (Report 50% of the \$25 fee.)		
14. Driving Records Fee (DRF) (Report 100% of fees collected.)		
15. Judicial Support Fee (JS)		
16. TOTAL DUE FOR THIS PERIOD (Total of Items 1 thru 15 in Column 3.)		\$

\*\*\* DO NOT DETACH \*\*\*

17. TOTAL AMOUNT DUE AND PAYABLE (Same as Item 16) 17. \$

City name		
-----------	--	--

■ T Code   ■ City identification no.   ■ Period

For assistance, call (800) 531-5441, ext. 3-4276, or (512) 463-4276.

32600

Pay the amount in Item 17 payable to:  
**STATE COMPTROLLER**  
 Mail to: **COMPTROLLER OF PUBLIC ACCOUNTS**  
 P.O. Box 149361  
 Austin, TX 78714-9361

I, (type or print name) \_\_\_\_\_ certify that the information above is true as shown in the records of the treasury of the city named.

**sign here** ▶

Title	Date
Phone number (Area code and number)	

## INSTRUCTIONS FOR COMPLETING STATE CRIMINAL COSTS AND FEES REPORT

*THIS REPORT MUST BE FILED BY THE DUE DATE EVEN IF NO PAYMENT IS DUE.  
AN AMOUNT OR A ZERO (0) MUST BE ENTERED ON ALL LINES FOR COLUMNS 1 AND 3.*

**Column 2** - A service fee may be taken only when the payment is postmarked by the due date. A ten (10) percent service fee applies to Items 1-8. A five (5) percent service fee applies to Item 9 - State Traffic Fine.

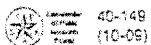
**Section I (Items 1-5)** - Report in a "lump sum" amount the total court costs collected, based on the date of the offense. Collections will be distributed to the various court costs in effect during each of these periods, based on historical data for that specific time period. *Note: Peace Officer Fees, FTA, MVF and Time Payment Fees should be reported where indicated.*

- Item 6 - Jury Reimbursement Fee (JRF)** - A \$4 court cost assessed on convictions of all offenses except pedestrian or parking of a motor vehicle (Code of Criminal Procedure, Art. 102.0045, effective Sept. 1, 2005).
- Item 7 - Indigent Defense Fund (IDF)** - A \$2 court cost assessed on convictions of all offenses except pedestrian or parking of a motor vehicle (Local Government Code, Section 133.107, effective Jan. 1, 2008).
- Item 8 - Moving Violation Fees (MVF)** - For offenses committed on or after Jan. 1, 2010 only. A \$0.10 court cost is assessed on conviction of moving violations (Code of Criminal Procedure, Art. 102.022).
- Item 9 - State Traffic Fine (STF)** - A \$30 court cost shall be assessed on the conviction of any offense under Transportation Code Title 7, Subtitle C "Rules of the Road" (Transportation Code, Section 542.4031). *Note: State parking and pedestrian violations are included. A five (5) percent service fee is allowed on this fund.*

**Section II: As applicable**

- Item 10 - Peace Officer Fees** - Report 20 percent for actions by state officers only (Code of Criminal Procedure, Art. 102.011).
- Item 11 - Failure to Appear/Pay Fee (FTA)** - A \$30 administrative fee shall be assessed on a failure to appear or satisfy a judgment for certain violations (Transportation Code, Section 706.002) only if a city has contracted with the Department of Public Safety. Two-thirds (\$20) is sent to the state. One-third (\$10) is retained locally.
- Item 12 - Motor Carrier Weight Violations (MCWV)** - Remit 50 percent of the fines collected on violations of Transportation Code, Section 621.506. Only the fines for Over Allowed Gross Weight single axle, tandem axle or gross weight and Over Allowed Gross Weight-Zoned violations should be reported. For offenses committed on or after Sept. 1, 1999, which occurred within 20 miles of an international border, the entire fine shall be deposited in the municipal or county treasury for the purpose of road maintenance.
- Item 13 - Time Payment Fees (TP)** - Report 50 percent of any portion of the \$25 fee collected from a person who pays any part of a fine, court cost or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court cost or restitution (Local Government Code, Section 133.103).
- Item 14 - Driving Record Fees (DRF)** - Remit fee assessed by the judge when he orders a driving record from DPS for deferred disposition cases (Code of Criminal Procedure, Art. 45.0511 c-1).
- Item 15 - Judicial Support Fees (JS)** - A \$6 court cost assessed on convictions of all offenses except pedestrian or parking of a motor vehicle. Local jurisdiction retains \$0.60 of each fee and remits \$5.40 to the state (Local Government Code, Section 103.105). *Note: For offenses Dec. 1, 2005 through Dec. 31, 2007, only \$4 assessed on convictions.*

***Please complete and sign this report and enter a telephone number that  
can be called if additional information is necessary.***



# CHILD SAFETY SEAT MONTHLY COURT COSTS PAYMENT

City / County name		Identification number
Contact name		Phone (Area code and number)

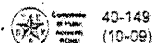
Month	Year
-------	------

Amount of payment ..... \$ \_\_\_\_\_

Complete this form and make the amount payable to:  
**STATE COMPTROLLER**  
 Mail to: COMPTROLLER OF PUBLIC ACCOUNTS  
 P.O. Box 149361  
 Austin, TX 78714-9361

For assistance, call (800) 531-5441, ext. 3-4276, or (512) 463-4276.

**DETACH AND RETURN THE BOTTOM PORTION ONLY.  
 KEEP THE TOP PORTION FOR YOUR RECORDS.**



# CHILD SAFETY SEAT MONTHLY COURT COSTS PAYMENT

City / County name			Amount of payment .....	\$	<input type="text"/>
Taxpayer number	Month	Year	Contact	Phone (Area code and number)	

Tcode   
  Dep   
  Taxpayer no.   
  Aml.

90100    710



a. T Code ■ 32120

b. ■

# EXCESS HIGHWAY FINES

• DO NOT WRITE IN SHADED AREAS

c. City identification number  
■

d. Report for quarter ending

e. ■

If any information preprinted on this form is incorrect, cross out the incorrect information and write in the correct information.

f. City name and mailing address

g. ■

h. ■

This report must be filed when your city's fines and special expenses exceed 30 percent of your city's revenue less federal funds and bond proceeds. This report should be filed in the quarter following the month that the payment becomes due. Further instructions are on the reverse side.

City fiscal year begins (Month, year) \_\_\_\_\_ ends (Month, year) \_\_\_\_\_

1. Total revenue less federal funds and bond proceeds from <i>previous</i> fiscal year (Taken from audit required by Section 103.001, Local Government Code).....	1.	_____
2. Multiply amount in Item 1 by .30 (30%) .....	2. ■	_____
3. Enter the total amount of highway fines and special expenses collected this fiscal year (See definitions and instructions for Item 3).....	3.	_____
4. Enter amount exceeded (Item 3 minus Item 2).....	4.	_____
5. Multiply the total <i>number</i> of convictions by \$1.00 for all highway fines and special expenses collected after the 30% cap is reached .....	5.	_____
6. Excess highway fines and special expenses due the state (Item 4 minus Item 5).....	6.	_____
7. Deduct the amounts on Items 5 and 8 from prior reports submitted this fiscal year. Enter zero if this is the first report filed this year .....	7.	_____
8. Excess highway fines and special expenses due this quarter (Item 6 minus Item 7).....	8. ■	_____
<b>*** DO NOT DETACH ***</b>		
9. TOTAL AMOUNT DUE AND PAYABLE (Same as Item 8).....	9. ■	_____

City name

■ T Code    ■ City identification no.    ■ Period

For assistance call (800) 252-1382, toll free nationwide.  
The Austin number is (512) 463-4600.

32030

Complete this report and make the amount in Item 9 payable to: STATE COMPTROLLER

Our mailing address is: P.O. Box 149361  
Austin, Texas 78714-9361

I, (type or print name) \_\_\_\_\_ certify that the information above is true as shown in the records of the treasury of the city named.

Authorized agent

**sign here** ▶

Title \_\_\_\_\_ Date \_\_\_\_\_

Phone number (Area code and number) \_\_\_\_\_

**INSTRUCTIONS FOR REPORTING  
EXCESS HIGHWAY FINES AND SPECIAL EXPENSES**

- Item 3** - Highway fines - fines collected for offenses under V.T.C.A., Transportation Code, Title 7, Vehicles and Traffic.  
Special Expenses - Special expenses collected under Vernon's Ann. C.C.P. art. 45.051/45.0511, for offenses under V.T.C.A., Transportation Code, Title 7, Vehicles and Traffic.  
*Note: Please include special expenses in calculating your city's total highway fines collected.*

If Item 3 is *LESS THAN* Item 2, this report is not yet required to be filed.

If Item 3 is *GREATER THAN* Item 2, please complete the report and remit the amount due and payable on line 9.

**NOTE:** *A financial statement must be filed when your city's current highway fines and special expenses reach 20 percent of your revenue less federal funds and bond proceeds. The financial statements and notification must be filed within 120 days of the end of your fiscal year.*

# CHILD SAFETY SEAT AND SEAT BELT VIOLATION FINES - TERTIARY CARE FUND

a. T Code ■ 32170

c. City/County Identification Number

d. Report for fiscal year ending

f. Due date of report

g. City/County name and mailing address

h. IMPORTANT  
Blacken this box if your address has changed. Show changes by the preprinted information.

Under Ch. 559, Government Code, you are entitled to review, request, and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at the address or toll-free number listed on this form.

Please check if fiscal year has changed from previous report

- REPORT MUST BE FILED EVEN IF NO PAYMENT IS DUE.
- DO NOT WRITE IN SHADED AREAS.

Transportation Code, Sections 545.412 (h) and 545.413 (b) and (j)

Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality or county's fiscal year, shall send to the Comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of sections 545.412 and 545.413 (b). The Comptroller shall deposit the amount received to the credit of the Tertiary Care Fund for use by trauma centers.

Municipal and county officials should use this form to submit payment of 50 percent of the fines collected on these violations during their fiscal year. This report is due 30 days after the end of the city or county's fiscal year.

1. TOTAL AMOUNT OF FINES COLLECTED \_\_\_\_\_ 1. ■ \$ \_\_\_\_\_

X .50

2. TOTAL AMOUNT OF FINES DUE THE STATE (Multiply amount in Item 1 by .50) \_\_\_\_\_ 2. \_\_\_\_\_

\*\*\* DO NOT DETACH \*\*\*

3. TOTAL AMOUNT OF PAYMENT (Same as Item 2) \_\_\_\_\_ 3. ■ \$ \_\_\_\_\_

City/County name

Shaded area for address changes

■ T Code   ■ Identification no.   ■ Period

32060

I, (type or print name) \_\_\_\_\_ certify that the information above is true as shown in the records of the city or county named.

Authorized agent

**sign here** ▶

Title \_\_\_\_\_ Date \_\_\_\_\_

Daytime phone (Area code and number) \_\_\_\_\_

Complete this report and make the amount in Item 3 payable to:  
STATE COMPTROLLER

Mail to: COMPTROLLER OF PUBLIC ACCOUNTS  
P.O. Box 149361  
Austin, Texas 78714-9361