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Racial Profiling & Pretext Stops

by W. Clay Abbott
General Counsel, TMCEC, Austin

Texas criminal justice has entered a new millennium with the problems of the past several centuries trailing behind. One of the most formidable issues facing the justice system is the issue of racial profiling and pretext stops. The issue is found at the crossroads of racial discrimination and adaptation of the law of search and seizure to a mobile society. The transportation choice of drug dealers, couriers, and users is also the device of choice of the whole population—the automobile. Because of its ease and tangible results, interdiction has become a buzzword in drug investigation. Interdiction fights drug trafficking by restricting the supply lines through in-route seizures.

Unfortunately, those supply lines are the streets and highways we all drive. At the same time, there is a national protest concerning a clearly perceived and heart-wrenching anecdotal accusation that police are making traffic stops based upon D.W.B.—“Driving While Black.” The objection is that profiling has abandoned conduct indicators and is based largely or solely on race. When these two trends or conditions clash, a complicated legal, constitutional, political, and sociological issue is born.

Birth of Profiles

As police procedures strove to keep pace with Psychology and Behavioral Sciences, officers sought to quantify

the more archaic “nose for trouble.” This observational extrapolation was the basis for the stop immortalized in *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868 (1968) and the legal development of the standard of “reasonable suspicion.” The Ohio officer in *Terry* observed behavior that his years of experience totaled up to the casing of a drug store for a robbery. As law enforcement attempted to distill these venerable “street smarts” into easy-to-follow instructions, they developed profiles. Psychologists aided police in “profiling” serial killers and rapists. The FBI profiled spies and then terrorists. It was only a matter of

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Public Perception, Road Rage & the Role of the Court

by Ryan Kellus Turner
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Public Perception

A recent survey gauging changes in public attitudes and behaviors in light of terrorist attack on September 11th provides an interesting insight into the perception of American drivers:

- More than three-quarters (79%) of people polled believe that a lack of courtesy is a serious national problem on American roadways.

- More than half (58%) say they have personally encountered reckless and aggressive drivers on the road.
- 64% perceive that the problem is getting worse.¹

Do Texans share the national sentiment that such a problem exists on the streets and roads of the Lone Star

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Special Traffic Edition

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AROUND THE STATE

Juvenile Law Specialization Intensive Review

The Texas Juvenile Probation Commission and Juvenile Law Section will sponsor its 2nd Annual Juvenile Law Specialization Intensive Review Course September 9-10, 2002 in Austin. This course is designed specifically for those attorneys who will be or are intending to take the Legal Specialization Exam. Check the web site of the Juvenile Law Section of the State Bar for additional information at www.juvenilelaw.org.

Standards for Attorney Certification are established by the Texas Board of Legal Specialization (TBLS). Information about the program can be accessed via the web site of the Juvenile Section of the State Bar of Texas [www.juvenilelaw.org] or by writing the TBLS at P. O. Box 12487, Austin, Texas 78711 or calling 800/204-222 ext 1454 or 512/453-7266. Information about legal specialization is also available online at www.tbls.org.

Special Appreciation

The Corpus Municipal Court hosted a tour of the electronic or paperless municipal courthouse for participants in the ABA *Traffic Court Technology Seminar* in March. Presiding Judge Rudy Tamez explained how the document scanning equipment worked and its impact on how judges and clerks performed their duties. The Corpus Court has been working toward becoming paperless for the past four years. Judge Tamez stated, "It cannot be done overnight. Corpus started processing cases electronically beginning in 1998 after many months of planning. Although the change has not resulted in a reduction in force, it has improved fine collections."

On the Move...

James D. Bethke, former TMCEC General Counsel, was selected in March as Task Force Director for the Indigent Defense Fund, a program of the Office of Court Administration that was formed as a result of Senate Bill 7.

Rob Kepple was selected in early April as Executive Director of the Texas District and County Attorneys Association. He succeeds Tom Krampitz, who left the TDCCA to become General Counsel of the Texas Motor Speedway in the Dallas area.

Joseph Martinez was selected in December to serve as the Executive Director of the Texas Criminal Defense Lawyers Association in Austin.

Judge Mike O'Neal, Administrative Judge of the Dallas Municipal Court, now serves as the Chairman of the State Commission on Judicial Conduct.



FROM THE GENERAL COUNSEL

W. Clay Abbott

Racial Profiling

In this issue is an article on racial profiling. I broached this topic with some trepidation. I presented the same material at the *Traffic Court Technology School* in Corpus Christi last month and preceded the lecture with a survey of the audience's opinions concerning racial profiling through use of the responder system. A wiser person might have gleaned more from the results than I did, but one fact was apparent: even in our fairly cohesive group, opinions were spread across the whole spectrum. I expect the results would have been similar if I had grabbed a random sample of Texans off the streets. Whatever your view, please consider that this is an issue we must address with sensitivity and rationality. I hope the article helps you begin your response.

"Well, Officer ... About That Driver's License"

During the TMCEC 12-hour judges' program in Amarillo, the question arose about dismissals of no driver's license cases versus expired driver's license cases. Your general counsel was caught flat-footed and promised a response the next day. The next day I forgot. Here is the answer I promised.

Two separate violations are created in the Transportation Code related to driver's licenses. One violation is for driving without a valid driver's license. The other violation is for failing to display a license. A \$10 fee can be collected for a dismissal of one violation, but not for dismissal of the other.

Section 521.021, Transportation Code sets out the offense of driving without a valid license. It prohibits operation of a motor vehicle on a highway in the state without a license issued under Chapter 521, Transportation Code. Section 521.271, T.C. controls the expiration of driver's licenses. Together they create an offense of driving with an expired license. Section 521.026, T.C. gives the court discretion to dismiss such a charge if the defendant remedies the expiration in 10 working days. In such a case, since the defendant was in fact guilty, a \$10 administrative fee is permitted by statute. Since the statute says, "a judge may" dismiss the charge, the dismissal is in the court's discretion and the citation may be dismissed without a motion from the state.

Another violation is found in Section 521.025, T.C. A person required to hold a license must carry it while driving and display it on demand to a peace officer, magistrate, or court officer. Failure to display the license is punishable by a \$200 fine and the offense may be enhanced. The offense is complicated by a defense created in Subsection (d). It is a defense to prosecution if the defendant presents in court a driver's license: 1) issued to the defendant; 2) for the type of vehicle driven; 3) valid at the time of the offense. If this defense is established, then the defendant is not guilty. The requirement that the license be produced in court may give the court the ability to dismiss the citation without a state's motion. The statute is not clear on this issue; a state's motion is still a good idea. This statute does not authorize an

administrative fee. A fee would also be inappropriate because this is not a remedy provision, but rather a defense to the conduct.

Are You Getting the Most from Your Prosecutor?

An excellent article recently appeared in the Texas Municipal League (TML) publication – Claire Silverman's "Ten Tips: Using Your City Attorney More Effectively," *Texas Town and City*, (Vol. LXXXI, Number 11) December 2001. Although the article did not relate to the city attorney as a prosecutor, it made the point that cities often underutilize their attorneys. So do municipal courts.

Prosecutors are essential for the trial of cases and the dismissal of cases – as discussed earlier in relation to driver's license violations. As the representative of the State of Texas, the prosecutor has the ultimate responsibility for determining whom the State of Texas charges with what offenses. Prosecutors, like city attorneys in the civil arena, are often under-utilized in a number of other respects.

The prosecutor is a party and cannot communicate ex parte concerning the case with the judge. Likewise, the prosecutor is not required to be present during pleas of guilty to the court. In many courts this results in the prosecutor acting like a hired gun for trial with little or no other duties. To help your court get the most out of your prosecutor, I have listed below some other valid non-trial uses for prosecutors.

1. Deciding what offense the officer tried to charge the defen-

dant with. I often get calls from clerks who are trying to discern what violation is on a citation, trying to find the violation in the law, and trying to argue fine points of law with cops. If these issues are given to a prosecutor, he or she should be better able to screen, research, draft complaints, and correct police misunderstandings than a clerk. Neither judge nor clerk needs to be delving into the facts of the case at the filing stage.

2. **Drafting complaints.** Although clerks most often accomplish the routine preparation of complaints, the language of the charging instrument is a duty of the representative of the state, not the court. The contents of the complaint must be proven by the state through the prosecutor as written. Earlier input from the prosecutor helps limit dismissals and refiling before trial, and all the trouble that comes with it.

3. **Plea Bargaining.** Too often the

defendant traps the clerk or judge in *ex parte* diatribes. What the defendant wants to do is argue his or her case without trying it. Sometimes, rarely perhaps, the defendant has a point, and the case does not need to be tried. The prosecutor is under no obligation to avoid communication with an *ex parte* defendant or defense counsel. Prosecutors should be cautious not to give legal advice, urge, or persuade defendants to waive any rights (including the right to remain silent), or otherwise abuse a defendant's rights. Clearly the ability to plea bargain is part and parcel of the role of the attorney for the state.

4. **Briefing Legal Issues.** As an attorney for the state and a party to each case before the court, the prosecutor can be asked to brief issues of law that are of concern to the court. Remember the defense must be provided an opportunity to brief the issue as well, and both sides are entitled to the other's

submissions.

5. **Assisting in Collections Issues.** A good prosecutor should be as interested in securing compliance with judgments as the court or staff is, perhaps even more so. Justice is dependent on consequences, not only paper victories. There are many communications, demands, and financial decisions better made by a prosecutor than by the neutral and detached judge. Yet, in the post-judgment area, prosecutors are as absent as they are in the screening process.

The list could go on, but I will not further belabor the point. As the TML article so clearly put forward, money spent on legal counsel before a crisis saves so much more spent due to no legal counsel. As municipal courts come into their own, so must municipal prosecutors. The professionalism, expertise, and benefit they bring as an essential ingredient in municipal courts will more than offset their cost. 📌

Racial continued from page 1

time before drug enforcement officers developed first airport courier and then highway courier profiles. The role of race in the development and implementation of these profiles is hotly contested.

Death of Pretext

As the last decade sped on, the issue of racial profiling was interwoven with the objection to pretext stops. Defense lawyers and civil libertarians argued that officers were making traffic stops with ulterior motivations, most commonly drug interdiction, and that allowing such a use of the traffic stop violated the Fourth Amendment prohibition of unreasonable searches and seizures. The basis of the objections to pretext stops is echoed in the protest currently heard

concerning racial profiling. The argument is that an eagle-eyed officer with sufficient time can find a traffic violation in the operation of the most law-abiding driver. If this conclusion is granted, it follows that the officer is provided the opportunity to stop any driver for any nefarious subjective rationale, including racially motivated ones. The objectors argued that the courts should delve into the specific and subjective intent and motives for each traffic stop. They urged individual evaluation of each officer's motivations for reasonableness under the Fourth Amendment.

The U.S. Supreme Court laid the objection to rest in *Whren v. United States*, 116 S.Ct.1769 (1996), when they held that Fourth Amendment reasonableness depends on the presence of objective probable cause, not

upon the subjective proper or improper motivation of the officer for the stop. The Court, refusing to enter into analysis of motivation, ruled, "Subjective intentions play no role in ordinary, probable cause Fourth Amendment analysis." The fact that a traffic stop was a pretext for some purpose other than traffic control gave no basis for application of the Fourth Amendment exclusionary rule. The Court did throw a lifeline that created the present push in the area of profiling. They held, "...the constitutional basis for objecting to intentionally discriminatory application of laws is the Equal Protection Clause." The Court held out the possibility of Fourteenth Amendment protection even as they closed protection under the Fourth Amendment.

The Texas Court of Criminal Appeals has arrived at the same conclusion in applying federal and state constitutional principles to pretextual traffic stops, see *Crittenden v. State*, 899 S.W.2d 668 (C.C.A. 1995). Holding that an objective test was proper, the court deemed irrelevant the officer's subjective ulterior motive.

Driving While Black

In the last several years, the American Civil Liberties Union, in connection with many other civil liberty-related watch dog groups, have developed statistical and anecdotal proof of the existence of racial profiling. Major lawsuits have bloomed in states as varied as New Jersey and Oklahoma. (See: *Driving While Black: Racial Profiling on our Nation's Highways*, An ACLU Special Report, by David A. Harris, University of Toledo College of Law, at www.aclu.org/profiling/report/index.html).

The stories from that report and others have been appearing frequently in the media. The anecdotal proof of this problem is compelling. It is also clear that the opponents of racial profiling are organized and motivated. The stories presented by the ACLU and others have the ability to—and do—alter the general public's perception of the criminal justice system.

Need for Statistical Information

Attacks on proposed racial profiling legislation have not come in support of racial profiling as a legitimate law enforcement technique, but rather in attacking the statistical significance of race in traffic stops and searches. (See: *Exposing the "myth" of racial profiling*, George Will, *Washington Post*, Thursday April 19, 2001, found with numerous similar articles at www.kpoa.org/news1.htm). Not surprisingly, a major part of most racial profiling legislation is an attempt to gather data.

The debate in legislatures, courts, and the public is unlikely to be put to rest by the resulting data, but it should give shape to the development of the issue and its resolution. For an interesting example of data gathered in response to the issue of racial profiling, see: *Traffic Stop Data Report*, Texas Department of Public Safety found at www.txdps.state.tx.us/director_staff/public_information/indextrafrep.htm. An awareness of this issue is the first step in its resolution. Police officers, departments, prosecutors, and judges need to be aware of public perception of the justice system and dedicated to facing criticism and not hiding from it.

The Texas Response

The 77th Legislature of the State of Texas passed Senate Bill 1074 on May 26, 2001 Governor Perry signed it into law on June 14, 2001, and it became effective September 1, 2001. SB 1074 was entitled "An act relating to the prevention of racial profiling by certain police officers." The act created Articles 2.131 through 2.138, Code of Criminal Procedure (hereinafter C.C.P.); it also amended several other codes. The act had several key parts. First, it prohibited racial profiling. It defined racial profiling. Next, it created an elaborate system of data gathering, local response, and documentation. Finally, it provided for mandatory peace officer education.

The search and seizure implications of the general ban on racial profiling and its definition will be dealt with in the next section.

The data collection scheme requires first that every law enforcement agency, including independent city marshal's offices, "adopt a detailed written policy on profiling" that includes: a definition of racial profiling, a prohibition of racial profiling, a complaint system, and public education concerning the complaint

system, Article 2.132, C.C.P. The second major requirement is the collection of traffic and pedestrian stop information. The citizen and officer are not identified, but the race or ethnicity of the citizen must be recorded and the conducting of a search or consent search must be documented. These plans and the data collection that go with them must be implemented by January 1, 2002.

The race or ethnicity of the defendant, as well as whether a search or consent search was made in each traffic conviction, must also be reported by justice and municipal courts as part of their monthly traffic conviction report to the Texas Department of Public Safety, Section 542.202, Transportation Code.

Article 2.133 creates a more exhaustive set of reports that officers must make of every vehicle or pedestrian stop. The report amounts to a full incident report for each stop specifically noting race or ethnicity of the detained citizen, a detailed report of the basis of the stop, and complete information regarding searches and charges. Article 2.134, C.C.P. requires the compilation and analysis of those reports by the department. The department must compile and interpret the data and report it to the political subdivision governing the department. An exception to this requirement is provided in Article 2.135, C.C.P. Officers of departments that install video recording equipment in each police vehicle and require recording of each traffic or pedestrian stop are exempt from the more strenuous reporting requirements. Departments may also certify they cannot afford the equipment and petition DPS for grants. Article 2.135, C.C.P. requires the department to hold the videos for 90 days or until the resolution of any complaint based on a taped confrontation.

The act also requires all Texas peace officers and police chiefs to receive initial and continuing education on racial profiling. These requirements were integrated into existing educational requirements.

Implications of Articles 2.131 & 3.05, C.C.P.

Article 2.131, C.C.P., prohibits racial profiling. But, it contains no punishment for violation. Article 3.05, C.C.P., defines racial profiling as, "... a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or information identifying the individual as having engaged in criminal activity." Although no punishment for violation is set out in the code, when the prohibition of racial profiling is combined with the very

broad prohibitions of Article 38.23, C.C.P., which requires the court's exclusion of "... evidence obtained by an officer ...in violation of any provision of the ...laws of the State of Texas," a new basis for exclusion is created. Although not exactly the same as the old pretext objection, it too is based on the officer's subjective motivations and not simply the existence or lack of probable cause. The defendant would be required to show a violation of the ban on racial profiling in order to suppress the resulting evidence from such a stop.

This new basis of objection raises numerous discovery, proof, and credibility issues. No doubt the next several years will be filled with trial and appellate courts trying to sort out these issues. Article 2.134(f), C.C.P., states that the data collected

under that section does not constitute *prima facie* evidence of profiling. A case-by-case analysis, just like the one the U.S. Supreme Court hoped to avoid in *Whren, supra*, is now necessary.

What Does the Future Hold?

Obviously, the law on racial profiling is in a state of flux and is likely to remain so for some time in the future. The goal of all parts of the criminal justice system should be to halt racial profiling and document that deliberate racial profiling is not taking place. The loss of public faith – particularly the minority community's – in the Texas system of justice can also be reversed by meaningful dialog in the complaint systems created by the new acts. Although it may sound utopian, as usual, the best hope for criminal justice lies in honest communication. 🗑️

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State? In a poll of 1,000 Texans conducted by Scripps Howard Data Center, 82 percent surveyed said other drivers are either frequently or occasionally aggressive. The poll found that 81 percent believed that aggressive driving is a problem and 66 percent believe that the problem is worse than it was five years ago.²

Distinguishing "Aggressive Driving" from "Road Rage"

The terms "aggressive driving" and "road rage" are often used interchangeably, but they are not synonymous. Aggressive driving involves a traffic offense or a combination of offenses. In contrast, road rage occurs when a traffic incident escalates into a volatile expression of anger (e.g., a driver becomes so angered by an aggressive driving incident that he or she overreacts and responds by making an obscene gesture, screaming, honking, slamming on his or her brakes, or brandishing a weapon).

Law Enforcement Response

While polls suggest support for more laws to deter aggressive and violent drivers, it is hard to imagine how more laws are substitutes for enforcing laws already on the books.

Recognizing that a thin line often separates aggressive driving from potentially deadly road rage, the Dallas Police Department implemented the STARR (Strategic Targeting Against Road Rage) program in 1998. Since the program's inception, over 30,000 citations have been issued for aggressive/dangerous driving.³

While various explanations exist for why aggressive driving appears to be on the rise, anecdotal evidence suggests that the answer may lie in the fact that the average number of miles traveled by drivers has increased by 15 percent in the last decade and that the average Texas driver spends 36 hours a year sitting in traffic – triple the time spent two decades ago.⁴

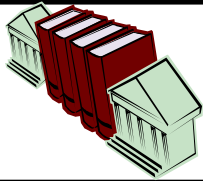
The Role of Municipal Courts

Annually, more than 41,000 people die in traffic accidents, according to the National Highway Traffic Safety Administration (NHTSA). The government agency says that two-thirds of these deaths are the result of road rage.⁵

The key to lowering the number of fatalities on Texas highways is increased awareness of dynamics of aggressive driving.

While public awareness of aggressive driving appears to be emerging as a societal objective, increased awareness is needed in the courtroom: in the minds of judges and prosecutors who oversee the enforcement of traffic laws. Assuming that all traffic violations are not created equal, courts must consider ways to identify and distinguish aggressive drivers from other violators. While fines combined with the visceral sensation of impending doom of skyrocketing auto

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RESOURCES FOR YOUR COURT

Immigrants in the Courts

Immigrants in the Courts (edited by Joanne I. Moore and Margaret Fisher) is an excellent resource for learning about the legal and cultural systems of China, Mexico, Russia, Vietnam, and the Muslim world. Texas municipal courts see immigrants from many of these countries in their courts.

The book outlines the legal systems of these countries, as well as how the general population of a country perceives its legal system compared to that of the United States.

The book was developed under a grant from the State Justice Institute. It may be ordered from online bookstores such as www.amazon.com or from local retail book suppliers. (1999: University of Washington Press, 264 pages, \$19.95)

CLE/CJE Offered

Several excellent continuing legal and judicial education programs (CLE and CJE) will be offered this spring and summer:

Special Court Jurisdiction
Reno, Nevada – May 13-24, 2002
National Judicial College
800/255-JUDGE (800/255-8343)
www.judges.org

15th Annual Rusty Duncan Advanced Criminal Law
San Antonio – June 6-8, 2002
Texas Criminal Defense Lawyers Association
512/478-2514
www.tccla.com

Decision Making
Reno, Nevada – July 15-19, 2002
National Judicial College
800/255-JUDGE (800/255-8343)
www.judges.org

17th Annual Conference of NACM
Portland, Oregon – July 21-25, 2002
National Association for Court Management (NACM)
757/259-1841
www.nacmnet.org

Criminal Evidence
Reno, Nevada – July 22-26, 2002
National Judicial College
800/255-JUDGE (800/255-8343)
www.judges.org

Advanced Criminal Law 2002
Houston – July 22-25, 2002
State Bar of Texas
800/204-2222 (x1574)
www.texasbarcle.com

Advanced Evidence
Reno, Nevada – August 12-16, 2002
National Judicial College
800/255-JUDGE (800/255-8343)
www.judges.org

Great Issues in Law as Reflected in Literature
Reno, Nevada – August 12-16, 2002
National Judicial College
800/255-JUDGE (800/255-8343)
www.judges.org

Family Violence Newsletter

The National Center for State Courts' (NCSC) Family Violence Community of Practice is inaugurating its quarterly newsletter with the Spring 2002 issue. The newsletter can be found on the NCSC web site Projects & Initiatives page at www.ncsconline.org/Projects_Initiatives/index.htm. Scroll down to the Communities of Practice section and click on Spring 2002 Newsletter. In addition, a pdf file of the newsletter is attached to this message.

The Family Violence Community of Practice newsletter is intended to share ideas and keep our colleagues informed about practices that improve the justice system's response in family violence cases. Please contact Madelynn Herman, knowledge management analyst, at mherman@ncsc.dni.us or (757) 259-1549 with questions, concerns, or suggestions for the Family Violence CoP. More resources can be found

on the NCSC web site at www.ncsconline.org in the Court Information topic folder on Juvenile and Family Justice.



Buckle Up America

Each May, *Buckle Up America Week* (May 20–27, 2002) marks a high point in the national push for greater seat belt and child safety seat use.

This year, in conjunction with the week's *Operation ABC Mobilization*, the National Traffic Safety and Highway Administration (NTSHA) will focus on one of the most at-risk populations: teenagers. Due in part to low seat belt use, fatality rates for teen drivers are four times higher than for older drivers. NTSHA recommends using the start of the prom, graduation, and summer seasons—a time when teenagers are more likely to be driving and at greater risk of death or injury due to traffic crashes—as an opportunity to spread the *Buckle Up* message.

To raise the bar even higher in 2002, there will be an unprecedented level of law enforcement activity throughout the nation. First, under *Operation ABC Mobilization*, thousands of law enforcement agencies across the country will mobilize to actively enforce state seat belt and child passenger safety laws. They will be on special alert for teen drivers and passengers.

In addition to the *Operation ABC Mobilization*, several states, including Texas, will launch a high visibility seat belt enforcement campaign called *Click It or Ticket*, which will be supported by radio and television advertisements to let the public know about enforcement efforts. Last year, a successful *Click It or Ticket* campaign in several southeastern states resulted in an overall nine percent increase in seat belt use.

Texas courts can support the national effort through getting involved in local programs as part of community service options for juveniles and

minors or as court initiatives. NTSHA has a variety of resource materials available for local adaptation:

Youth Leader Packet: Messages about safety and health directed at youth can be especially effective when they come from the youth themselves. This packet contains activities and information that high school leaders can use to promote seat belt use to their peers. Because of the timing of *Buckle Up America Week*, many of these activities are geared toward prom and graduation season, but they can be used in conjunction with other school activities or ceremonies.

Health and Medical Packet: Public health and medical groups are being provided materials to undertake their own activities and gain press coverage in support of *Buckle Up America Week*. This packet contains information that health professionals can use to promote seat belt use to their patients, clients, and colleagues (especially teens).

Law Enforcement Youth Leader Packet: This packet will help law enforcement officers who work with young people on a regular basis to engage these relationships and get youth to talk and think about traffic safety issues. This section includes conversation starters, a presentation, talking points, and a resources page.

Listing of State Highway Safety Offices and Resources: This listing makes it as easy as possible for partners to contact the seat belt and child passenger safety program coordinators in their States.

Logos: Color and black & white logos for *Buckle Up America* and *Operation ABC* are available in

Buckle Up Texas

The *Buckle Up Texas* Program is a statewide campaign to increase safety belt and child safety seat usage. The overall goal of the program is to increase the usage rate by 8.4 percent for adults and 2 percent for children.

To achieve this goal, the program combines a concerted local and statewide media campaign with additional law enforcement activity to reinforce the message. These periods of added enforcement and concentrated media efforts, called *Waves*, are centered on the high traffic holiday periods. The wave periods revolve around major holidays in an effort to focus on high traffic times. These dates are flexible; they may vary slightly depending on your local jurisdiction. Police officers will be working overtime, issuing citations, in an effort to reduce the number of injuries and fatalities on Texas roadways.

Studies have shown that the combination of media exposure and increased traffic enforcement are successful in increasing the occupant protection usage rates. *Buckle Up Texas* is a project of the Texas Municipal Police Association.

Judges and court managers might want to contact local law enforcement to see if there will be a sudden influx of seat belt tickets on their dockets. This information can help them warn their court clerks to be prepared for the additional work that may come their way as a result of enforcement campaigns.

FY 2002 *Wave* Enforcement Periods:

- Thanksgiving (November 19-25, 2001)
- Valentine's Day (February 10-16, 2002)*
- Spring Break (March 15-24, 2002)*
- Memorial Day (May 24-30, 2002)
- Independence Day (July 1-7, 2002)
- Labor Day (August 30-September 5, 2002)

* Valentine's Day and Spring Break enforcement were optional. *Wave* cities had to choose one depending on which had more traffic for them.

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The Cost of No Restraint

Back Seat

ADULTS (17 and over) No violation

CHILDREN (4-16) \$100 - \$200 fine to driver

CHILDREN (up to 4 or less than 36 inches tall) \$100 - \$200 fine to driver

Driver's Seat

DRIVER (over 15) \$25 - \$50 fine



Front Passenger's Seat

ADULTS (15 and over) \$25 - \$50 to offender

CHILDREN (4-16) \$100 - \$200 to driver

CHILDREN (up to 4 or less than 36 inches tall) \$100 - \$200 to driver

Seat Belt Laws Effective September 1, 2001

Children in safety seats

A child under 4 years old or less than 36 inches tall must be restrained in child safety seat in accordance with the manufacturer's instructions.

Child in seat belts

A child age 4 through 16 must be restrained in a seat belt regardless of position in the vehicle.

Pick-up trucks and trailers

A child under age 18 cannot ride in the open bed of a pick-up truck or trailer on a public road.

Adults in seat belts

A person age 15 or older must be restrained in a seat belt if seated in the front seat.

Buckle Up Children

New child safety seat laws went into effect on September 1, 2001, that increase the fine for not securing children in child passenger safety seat systems. The minimum fine increased from \$25 to \$100, and the maximum fine jumped from \$50 to \$200. The new law also makes it an offense to operate a motor vehicle without properly restraining a child younger than four (4) years of age, or less than 36 inches in height in a child passenger safety seat system. The law also requires all passengers under the age of 17 to be properly restrained. In addition, remember that all front seat passengers must be properly restrained regardless of age. 🚗

Passenger Safety Seat System and Safety Belt

Effective on offenses committed on or after September 1, 2001

Age	Person Responsible	Type of Restraint	Location in Vehicle	Penalty	Eligible for Special DSC (emphasizes seatbelts & child safety seat systems)	Eligible for DSC	Eligible for Deferred Disposition
child under age 4 or less than 36 inches	driver	child passengers safety seat system	front and back seats	minimum \$100 maximum \$200	yes	no	yes
child at least age 4 and under age 17	driver	safety belt	front and back seats	minimum \$100 maximum \$200	yes	no	yes
at least age 15	person	safety belt	front seat	minimum \$25 maximum \$50	no	yes (if driver)	yes

Definitions

- Child passenger safety seat system means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.
- Passenger vehicle means a passenger car, light truck, sport utility vehicle, truck, or truck tractor. (“Passenger car” means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate 10 or fewer passengers, including the operator. “Light truck” means a truck, including a pickup truck, panel delivery truck, or carryall truck, that has a manufacturer’s carrying capacity of 2,000 pounds or less. Since “sport utility vehicle” is not specifically defined, look to the definition of passenger vehicle. “Truck” means a motor vehicle designed, used, or maintained primarily to transport property. “Truck tractor” means a motor vehicle designed and used primarily to draw another vehicle but not constructed to carry a load other than a part of the weight of the other vehicle and its load. “Motor vehicle” means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires. Section 541.201, T.C.)
- Safety belt means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.
- Secured in connection with use of a safety belt means using the lap belt and any shoulder straps according to the manufacturer of the vehicle, if the safety belt is original equipment; or the manufacturer of the safety belt, if the safety belt has been added to the vehicle.

Section 545.412, T.C. does not apply to:

- A person operating a vehicle transporting passengers for hire;
- A person transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.

Defenses to the prosecution under Section 545.413, T.C.

- The person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;
- The person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;
- The person is employed by the United States Postal Service and performs a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;
- The person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;
- The person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle; or
- The person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.163, T.C. that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more. (Section 502.163, T.C. provides for a fee for commercial motor vehicle used primarily for farm purposes.)

Amount of Due the State

- Fifty percent of the fines must be remitted to the State Comptroller at the end of the city’s fiscal year.
- Court costs must be remitted quarterly.

Buckle continued from page 8

English and Spanish. Logos have also been created to represent the youth, faith, health, and law enforcement communities.

Additional information and resources can be found on the NHTSA web site, www.nhtsa.dot.gov, as well as the new web site, www.buckleupamerica.org, or by writing NHTSA at 400 7th St. SW, Washington, DC 20590 or calling 202/366-9550. ➔



Public continued from page 6

insurance premiums may deter some, neither ensure that offenders will confront the cognitive distortions that underlie their behavior. It is for this reason that courts should consider the various sentencing options available to them under Article 45.051 of the Code of Criminal Procedure. In addition to the wide array of conditions located in Article 45.051(b)(1-6) and (b)(8), the statute authorizes the court to custom tailor conditions to fit the facts of the case and the characteristics of the defendant.

Click It or Ticket

by Mitch Landry

Program Manager, Texas Municipal Police Association, Austin

Year 2001 Texas data shows seat belt use at 76 percent. That means nearly one in four Texans is still not buckling up. That's why concerned safety advocates and law enforcement officials are launching a vigorous statewide campaign called *Click It or Ticket Texas*. The reason this new campaign will make an important difference is:

- The message is clear and simple.
- Intensive work with elected officials and community leaders including employers builds support before the highly visible traffic enforcement begins.
- Special attention is given to working closely with African American and Hispanic community leaders, including faith-based leaders, to get their advice and help in spreading the word about the upcoming enforcement/awareness campaign and why it is needed.
- Paid TV and radio announcements get the clear enforcement message

out to the at-risk populations who have so far not been convinced to buckle up.

The *Click It or Ticket Texas* enforcement and awareness campaign will be conducted May 20 - June 2, 2002, with a second mobilization around Thanksgiving. Law enforcement from across the state have committed to the program and will be increasing seat belt enforcement efforts during the campaign. The campaign was conducted in eight southeastern states last year, which resulted in a 9 percentage point increase in belt use.

When seat belt use in Texas reaches 85 percent, each year we can save an estimated 241 lives and prevent 5,275 injuries. Beyond the human toll, rising insurance rates and medical costs are everyone's concern. A 9 percent increase in seat belt use in Texas would produce economic savings of \$392 million.

For more information about *Click It or Ticket*, please log on to www.texasclickitorticket.com. ➔

Conclusion

Through a combination of early intervention, deterrence, and preventive measures, municipal courts have the opportunity to increase the awareness of drivers who are a potential danger to themselves and others. For this opportunity to be realized, however, a heightened sense of awareness must exist in every community. Municipal courts are imperative in achieving this accomplishment. ➔

¹ Public Agenda and Pew Charitable Trust poll of 2,013 people conducted on January 2-23, 2002 (Margin of error +/-2 percentage points). The poll suggested that a majority of those polled support creating a public service campaign to promote driving courtesy and legal restrictions on the use of cellular phones in public places. The results of the poll are available at www.publicagenda.org

² Drake Witham, "Dallas police try to keep drivers from road rage," *Dallas Morning News* (October 1, 2001).

³ *Id.*

⁴ *Id.*

⁵ www.cnn.com/US/9707/18/aggressive.driving "'Road Rage' runs rampant in high-stress U.S. society" (July 18, 1997).

Stopping School Bullies

The Attorney General's Office, Juvenile Crime Intervention Division, has developed a *Consequences* curriculum that addresses topics such as getting into trouble at school, property crime, and running away. The curriculum is designed to assist middle school students in understanding how the juvenile justice system in Texas operates and how criminal behavior affects not only their lives, but also the lives of everyone around them.

Over 50 school districts have already implemented the program, and staff from the A.G.'s Office are traveling around the state providing training sessions to school districts.

Another resource offered by the Office of the Attorney General is the School Violence Prevention Task Force Report. After the school shooting in Columbine High School three years ago, Attorney General John Cornyn formed the A.G.'s School Violence Prevention Task Force, in cooperation with the Texas Education Agency, to explore ways to prevent episodes of violence in Texas schools. The report is a culmination of public meetings with parents, teachers, law enforcement officials, and experts and contains information on programs that have proved successful in other areas.

A copy of the report is available through the "Criminal Justice" section of the Attorney General's web site at www.oag.state.tx.us.

Information about either program is available by contacting the Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548.



Junior Judges "Helping Kids Make Smart Choices"

The Texas Young Lawyers Association (TYLA) has created yet another excellent public education program. The program, subtitled "Helping Kids Make Smart Choices," teaches elementary aged children to make good decisions regarding cheating, destroying property, teasing, bullying, stealing, drugs and alcohol, and gangs and weapons. Clever videos introduce each topic, after which the teacher, attorney, or judge leads a discussion that lasts one to four hours.

"Younger and younger children are committing crimes," said TYLA President Amos Mazzant. "This program is aimed at kids who are old enough to know right from wrong, but are probably too young to have committed a crime. We want to stop bad behavior before it starts."

The curriculum guide, which is designed for fourth graders, includes teaching strategies, vocabulary words, additional activities, and a legal term glossary at the back of the curriculum guide. The video has an introduction and seven five-minute vignettes. The time required of volunteer attorneys or judges is about one hour (to teach drugs and alcohol and gangs and weapons units) to four hours (if attorney teaches all units). The classroom teacher can teach any units not taught by an attorney or judge.

For more information about *Junior Judges*, contact the TYLA office at (800) 204-2222, Ext. 6429 or P.O. Box 12487, Austin, Texas 78711. To download the *Junior Judges* curriculum in PDF format, go to the web site of TYLA: www.tyla.org/curriculums.html. 📄

Crossing the Line Adds Gang Units

Crossing the Line, TYLA's popular middle-school curriculum to teach students the legal consequences of certain behavior, is adding three new units covering gang-related activities, evading arrest, and failure to report a crime. Nicole Deborde of the Harris County District Attorney's Office, Kim Ogg, the Executive Director of Crime Stoppers, and Jennifer Rymell, TYLA vice-president and a former municipal judge in Fort Worth, were the primary authors for the new chapters.

The curriculum is designed to educate students about their obligations and rights as they enter the adult world. It encourages discussion on each of the curriculum topics: graffiti; criminal mischief; alcohol; curfew; tobacco; truancy; drugs; arson; theft; weapons; assault and disorderly conduct; discrimination; and sexual harassment, as well as the three new topics.

Copies of the videotapes may be ordered from TYLA for a small fee from the TYLA office at (800) 204-2222, Ext. 6429 or P.O. Box 12487, Austin, Texas 78711. To download curriculum in PDF format, go to the web site of TYLA:
www.tyla.org/curriculum.html. ↗



Other TYLA Curriculum Programs

NOT IN MY BACKYARD

Target Audience: High School and Pre-AP Junior High Students
Educates students about fundamental principals in environmental law, public policy, and the role of governmental agencies with regards to environmental issues. Uses role-playing activities, which culminate in a mock hearing.

SUPREME TEAM

Target Audience: High School Students
Educates students about the Constitution through the eyes of the U.S. Supreme Court. Uses role-playing in a mock confirmation. Includes examination of different types of potential cases and culminates in a moot court presentation.

VOTEXAS

Target Audience: High School Students (particularly Seniors)
Educates students about voting and the electoral process. Covers the historical development of the right to vote and uses a hands-on approach to teach the students about the parties, candidates, and issues. Includes mock candidate debates and mock election.

WE THE JURY

Target Audience: High School Students
Educates students about the importance of the jury process in our democratic society. Teaches what it means to be a juror, how jurors are selected, and the role that a juror plays in a trial. Students participate in a mock jury selection process, then view a mock trial for which they serve as jurors. Includes video available through the TYLA office.

BORDERS AND BOUNDARIES

Target Audience: Parents
A companion to the *Crossing the Line* program. Designed to educate parents about the basic structure of the juvenile justice system, services available for at-risk youth, and child behaviors that may be indicators of criminal activity. Also available in Spanish. Includes video, which is available from the TYLA office.

For more information, contact the TYLA office at (800) 204-2222, Ext. 6429 or P.O. Box 12487, Austin, Texas 78711. To download curriculum in PDF format, go to the web site of TYLA: www.tyla.org/curriculum.html.

2001 Monitoring the Future Survey Released

Smoking Among Teenagers Decreases Sharply

Use of cigarettes by American teenagers decreased from 2000 to 2001 according to the annual *Monitoring the Future Survey* released in December 2001 by the Department of Health and Human Services. This decline, observed for 8th and 10th graders, continues a decreasing trend begun around 1996. Decreases have also been found for seniors in recent years. These reductions in teenage smoking come on the heels of increases from the early to mid 1990s.

The most notable change in the 2001 survey was a continuation of the decrease in cigarette use among 8th and 10th graders. Decreases were observed for 8th and 10th graders based on the lifetime, past month, and daily use measures. Past month use declined from 14.6 percent to 12.2 percent among 8th graders and from 23.9 percent to 21.3 percent among 10th graders. These changes continue a general pattern of declines seen between 1996 and 2000.

Use of Cigarettes and Smokeless Tobacco

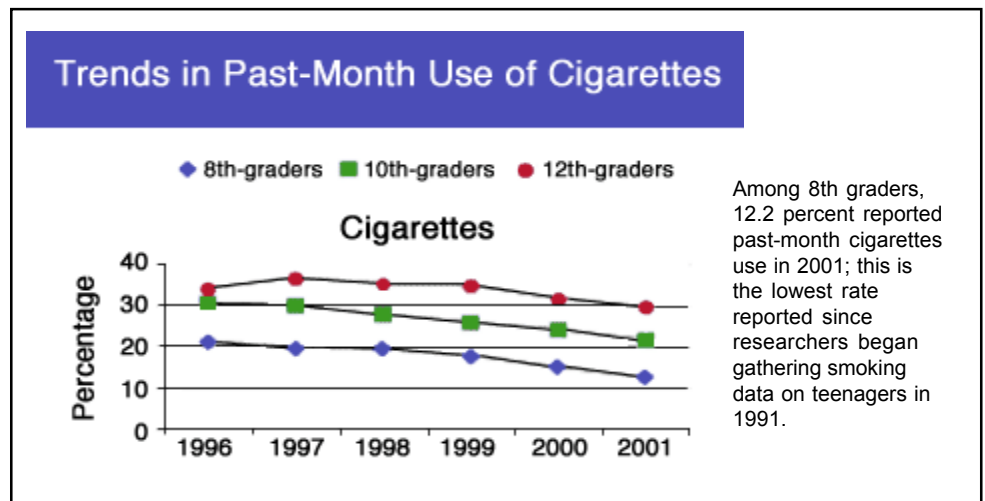
Cigarette use by 8th and 10th graders declined in several categories between 2000 and 2001. Lifetime use decreased from 40.5 percent to 36.6 percent among 8th graders and from 55.1 percent to 52.8 percent among 10th graders. Past month use declined from 14.6 percent to 12.2 percent among 8th graders and from 23.9 percent to 21.3 percent among 10th graders. Daily use in the past month declined from 7.4 percent to 5.5 percent among 8th graders and from 14.0 percent to 12.2 percent among 10th graders.

Recent years have seen several declines in smoking by youth. Reductions in smoking between 1999 and 2000 involved students in all three grades and several categories of use; between 1998 and 1999 past month use declined among 8th graders; and between 1997 and 1998 cigarette use decreased among 10th and 12th graders.

Use of "bidis" decreased among 8th and 10th graders. Past year use of these small, flavored cigarettes went from 3.9 percent to 2.7 percent among 8th graders and from 6.4 percent to 4.9 percent among 10th graders.

the past year declined among 8th graders from 18.5 percent in 2000 to 16.6 percent in 2001 and (2) in an exception to the overall pattern, daily alcohol use increased among 12th graders from 2.9 percent to 3.6 percent.

The *Monitoring the Future Survey*, conducted by the University of Michigan's Institute for Social Research and funded by the National Institute on Drug Abuse (NIDA), at the National Institutes of Health, has tracked 12th graders' illicit drug use and attitudes towards drugs since 1975. In 1991, 8th



Rates of smokeless tobacco use remained statistically unchanged between 2000 and 2001. In 2001, 4.0 percent of 8th graders, 6.9 percent of 10th graders, and 7.8 percent of 12th graders reported using smokeless tobacco in the past month.

Alcohol Use

Between 2000 and 2001, alcohol use indicators remained mostly stable with some signs of decrease, but only two changes that were statistically significant: (1) having been drunk in

and 10th graders were added to the study. The 2001 study surveyed a representative sample of more than 44,000 students in 424 schools across the nation about lifetime use, past year use, past month use, and daily use of drugs, alcohol, cigarettes, and smokeless tobacco. Only the findings on alcohol and tobacco are included in this article. For more information, visit the following sites:

www.drugabusestatistics.samhsa.gov

www.cdc.gov/nccdphp/dash/yrbs/index.htm.

www.hhs.gov/news/.

The National Institute on Drug Abuse (NIDA) is a component of the National Institutes of Health, U.S. Department of Health and Human Services. NIDA supports more than 85 percent of the world's research on the health aspects of drug abuse and addiction. The Institute carries out a large variety of programs to ensure the rapid dissemination of research information and its implementation in policy and practice. Fact sheets on the health effects of drugs of abuse and other topics can be ordered free of charge in English and Spanish by calling NIDA Infofax at 1-888-NIH-NIDA (644-6432) or 1-888-TTY-NIDA (889-6432) for the deaf. These fact sheets and further information on NIDA research and other activities can be found on the NIDA home page at www.drugabuse.gov. This article was adapted from the NIDA web site. ↗

TMCEC 2002 Schedule

JUDGES

July 2-3, 2002
El Paso
Hilton Camino Real
101 South El Paso St. - 79901
915/534-3007
Registration Deadline: 6/5

SPECIAL TOPICS FOR JUDGES

July 15-17, 2002
San Antonio
Joint Ethics Conference
St. Anthony Hotel
300 East Texas Street - 78205
210/277-5592
Registration Deadline: 6/17

JUDGES & CLERKS FROM LOW VOLUME COURTS

May 20-21, 2002
Denton
Radisson
2211-35th North - 76205
940/582-4499
Registration Deadline: 5/1

June 24-25, 2002
Conroe
Del Lago Conference Center & Resort
600 Del Lago Boulevard - 77356
936/582-6100
Registration Deadline: 5/23

NEW NON-ATTORNEY JUDGES AND CLERKS

July 21-25, 2002
Austin
Lakeway Inn
101 Lakeway Drive - 78734
512/261-6600
Registration Deadline: 6/24

CLERKS

July 2-3, 2002
El Paso
Hilton Camino Real
101 South El Paso St. - 79901
915/534-3007
Registration Deadline: 6/5

PROSECUTORS

June 3-4, 2002
Austin
Hilton Airport
9515 New Airport Drive - 78719
512/385-6767
Registration Deadline: 5/6

COURT ADMINISTRATORS

June 3-4, 2002
Austin
Hilton Airport
9515 New Airport Drive - 78719
512/385-6767
Registration Deadline: 5/6

Task Force on Indigent Defense

The Task Force on Indigent Defense is a permanent Standing Committee of Texas Judicial Council. The 77th Texas Legislature authorized the Task Force to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services. It further authorized the Task Force to monitor grants and enforce compliance with grant terms. On March 22, 2002, the Task Force adopted Sections 173.1-173.402 of the Texas Administrative Code on an emergency basis in order to implement this grant authority established by the Texas Legislature.

These sections establish the guide-

lines for the administration of a new grant program for counties to improve indigent defense services. These sections set forth the general terms, conditions, criteria, and funding formula for awarding these grants. Grants will aid counties to maintain, improve, and enhance the delivery of indigent defense services, and will promote compliance by counties with the requirements of state law and task force policies and standards relating to indigent defense.

Along with these new rules, the Task Force also prepared a grant application kit that was mailed to all counties the second week of April. The purpose of these grant rules and

grant application kit was to ensure that the \$ 7.2 million of state grant funding available for the remainder of this fiscal year could be awarded to the state's counties with the least delay and inefficiency. Without the adoption of these new rules, many counties would not likely be able to expend the grant funds fully, efficiently, or effectively and the Task Force would be unable to distribute these grant funds in a fiscally responsible and fair manner.

For more information on the Task Force on Indigent Defense and its activities, please visit the Texas Judiciary Online at www.courts.state.tx.us/fair_defense/index.htm. ↗

TEXAS MUNICIPAL COURTS EDUCATION CENTER PRESENTS ... THE FAMILY VIOLENCE AND JUVENILE WEBSITE

TMCEC

Home Seminars Publications Judges Clerks Prosecutors Bailiff/Warrant Officer News Links About Us

Texas Municipal Courts Education Center

● Family Violence



Bench Book



Links



Forms



Readings

See or hear TMCEC
General Counsel
W. Clay Abbott discuss emergency
protection orders and family
violence.

Emergency Protection Orders - W. Clay Abbott, General Counsel, TMCEC



Video



Audio

Link to other web sites
with additional information
and resources.

What Is Family Violence? - W. Clay Abbott, General Counsel, TMCEC



Video



Audio

Emergency Protection Orders and Guns - W. Clay Abbott, General Counsel, TMCEC



Video



Audio

● Juveniles and Minors



Bench Book



Links



Forms



Readings

See or hear TMCEC
Program Attorney/Deputy Counsel
Ryan K. Turner discuss
juveniles and
municipal court

Taking Juveniles into Custody - Ryan K. Turner Program Attorney/Deputy Counsel, TMCEC



Video



Audio

What Is Family Violence? - W. Clay Abbott, General Counsel, TMCEC



Video



Audio

Want to know more?
Click on the Readings link
to take you to more
information.

Visit www.tmcec.com and click on Juvenile and Family Violence web page to access video, audio, forms, links and more related to family violence and juveniles.



FROM THE CENTER

Warrant Officer/Bailiff Program

TMCEC will offer a 12-hour program for bailiffs and warrant officers on May 13-14, 2002 in San Angelo, Texas at the Holiday Inn. Topics to be covered included: *Juvenile Issues, Warrant Round-Ups and Amnesty Programs, Crowd Control, Security Procedures, Summons and Other Process, and Duties During Trial.* Parts of the program will be held at the San Angelo Municipal Court. TMCEC grant funds will be used to provide all qualified participants with two nights lodging at the seminar hotel, two breakfasts, one lunch, and course materials. For additional information, contact Jo Dale Pavia at TMCEC (800/252-3718).

Excellent presentations. Congratulations. Best staff that I have seen!

Thank you for all you taught me. I do appreciate your instruction. The staff is outstanding and rate five stars.

Best juvenile information I've been given.

Very well planned and covered. Got all points across.

Good discussion and interaction.

This has been one of the better seminars I have been to. Your hospitality is top notch. I look forward to returning over and over again.

Comments by participants at the 01/02 Bailiff/Warrant Officer TMCEC Program

Court Administrator Program

On June 3-4, 2002, TMCEC will offer its second court administrator seminar in Austin at the new Hilton Airport Hotel. Clerks participating in the Level III certification program are required to attend one of these programs to be eligible for certification. Topics covered will address management skills.

TMCEC grant funds will be used to provide all qualified participants with two nights lodging at the seminar hotel, two breakfasts, one lunch, and course materials.

A program on personal security will be offered and, thus, local court security funds may be used to pay for travel. For additional information, contact Margaret Robbins at TMCEC (800/252-3718).

Ninth Annual Trial Skills City Prosecutors Training

On June 3-4, 2002, TMCEC will offer its ninth annual prosecutor skills seminar in Austin at the new Hilton Airport Hotel. The registration fee is \$250 for those needing housing and \$100 for commuters. The \$250 registration fee includes two nights lodging at the seminar hotel, two breakfasts, one lunch, and course materials.

The overall purpose of this program is to provide each participant with the necessary legal tools, tempered with the tenets of professional conduct, to effectively and competently prosecute in the municipal courts of this state. Presentations and materials cover both theory and practice of municipal court prosecutions of fine-only misdemeanors. Other courses include: *A.G. and Case Law Update, Ethics, Enhancements, and Seat Belts.*

For additional information, contact Clay Abbott at TMCEC (800/252-3718). The course will cover enhancements as required by House Bill 587 (Section 12.47, P.C. and Article 42.014, C.C.P.).

This course relieved some of my fears and anxieties that I encounter or go through during the workday.

The coaching and counseling for managers were great classes.

Interesting, interactive, and fun!

Excellent. Very informative.

Best session I have ever attended.

I always enjoy attending TMCEC [programs]. I go back to the office with so much more knowledge! Thanks!

Comments by participants at 02/02 TMCEC Court Administrator Program

**TEXAS MUNICIPAL COURTS EDUCATION CENTER
2001-2002 REGISTRATION FORM**

Program Attending: _____ Program Dates: _____
[city]

- Judge Clerk Court Administrator Bailiff/Warrant Officer Prosecutor

TMCEC computer data is updated from the information you provide. Please print legibly and fill out form completely.

Last Name: _____ First Name: _____ MI: _____

Date Appointed/Elected/Hired: _____ Years Experience: _____ Male/Female: _____

HOUSING INFORMATION

TMCEC will make all hotel reservations from the information you provide on this form. TMCEC will pay for a single occupancy room at all seminars: four nights at the 32-hour seminars, three nights at the 24-hour seminars/assessment clinics and two nights at the 12-hour seminars. To share with another seminar participant, you must indicate that person's name on this form.

- I need a private, single-occupancy room.
 I need a room shared with a seminar participant. [Please indicate roommate by entering seminar participant's name: _____ (Room will have 2 double beds.)]
 I need a private double-occupancy room, but I'll be sharing with a guest. [I will pay additional cost, if any, per night]
I will require: 1 king bed 2 double beds
 I do not need a room at the seminar.

Arrival date: _____ Mode of Transportation: _____ Smoker Non-Smoker

COURT MAILING ADDRESS

It is TMCEC's policy to mail all correspondence directly to the court address.

Street: _____ City: _____ Zip: _____

Office Telephone #: _____ Court #: _____ FAX #: _____

Primary City Served: _____ Other Cities Served: _____

- Attorney Non-Attorney Full Time Part Time

- Status: Presiding Judge Associate/Alternate Judge Justice of the Peace Mayor Bailiff
 Court Clerk Deputy Clerk Court Administrator Warrant Officer
 Prosecutor (A registration fee of \$250/\$100 must accompany registration form.)
 Other: _____

I certify that I am currently serving as a municipal court judge, city prosecutor, or court support personnel in the State of Texas. I agree that I will be responsible for any costs incurred if I do not cancel ten (10) working days prior to the seminar. If I have requested a room, I certify that I live at least 30 miles from or must travel at least 30 minutes to the seminar site. Payment is required ONLY for the prosecutors' program, joint ethics conference, and assessment clinics; payment is due with registration form.

Participant Signature _____

Date _____

TMCEC • 1609 Shoal Creek Boulevard, Suite 302 • Austin, TX 78701 • FAX 512/435-6118



Traffic Technology

Imagine, if you will, you are out for your Sunday drive and as you come upon a stop light you notice that the light has turned yellow, so you increase your traveling speed and zip through the now red light. A box on your dash beeps three times and says, "You ran that light and you were speeding, a photo has been taken of your car, expect to receive a citation in the mail in two to three business days. Thank you."

You decide to stop and eat. While in the restaurant you notice that your car is leaving without you. Immediately you call the police and report your car stolen. After hearing a brief description of your car, the police locate your car still in operation. Fortunately you installed an automated kill switch on your car, allowing the police to kill the engine on your car. Your car is brought back to you a half-hour after you reported it stolen. You are curious about what happened during that half-hour so you connect your download box to your event data recorded on your car. You then have a printout of the speed your car was driven including any fluctuation, the route in town taken, and the notification if any parts were missing.

All of these technologies will be available to the masses soon, and many of them already are. TMCEC, along with the ABA Judicial Division's Conference of Special Court Judges and the National Highway Traffic Safety Administration, held a *Traffic Court Technology*

Seminar March 21-23, 2002, which discussed and debated current and future traffic technology. Many of the technologies related to law enforcement, but many of the technologies will have an impact on municipal courts, specifically regarding traffic violations. Following is a review of a few of the items discussed at the seminar.

Photo Enforcement Technology

Photo enforcement has been used all over the world for over 30 years and in the United States since 1987. According to www.washingtontechnology.com, approximately 50 jurisdictions in the United States are using photo enforcement in some form. There are many different models of intersection safety cameras, which are the cameras used for traffic enforcement. Some have the ability to accurately determine the speed of the vehicle passing through the intersection as well as detecting vehicles that run the solid red light; many only detect red light violators. In general, photographs are only taken if traffic laws are violated. In several jurisdictions, the registered owner of the vehicle receives the ticket, in others a picture of the driver is taken and the driver receives the ticket.

For more information:

www.photocop.com/

Vendors - American Traffic Systems
408/922-2100

Ingram Technologies, L.L.C 801/966-7735

Laser Technology, Inc. 303/649-1000
Nestor Traffic Systems, Inc. 401/331-9640

Transformation Systems, Inc. 713/952-7494

Jurisdictions using Photo Enforcement Technology - www.sense.bc.ca/jrsdctn.htm

Automated Locating Systems

Presently, onboard navigational systems, such as OnStar, allow for the simple tracking of a vehicle, including if a vehicle is stolen. OnStar can locate the vehicle and contact the police as to its whereabouts, aiding in the recovery. OnStar also notifies local law enforcement if the airbags in the automobile are deployed and no one answers its call. Presently, these are all paid for services, in that the vehicle owner chooses to have these services. The potential future of the technology includes law enforcement having the capability to locate a stolen vehicle and stopping a fleeing vehicle by shutting down the engine, all through the automated system installed on the automobile.

Onboard Event Data Recorders

Event Data Recorders (EDR), are devices which record information related to an "event." In most EDRs today the "event" refers to a vehicle crash, but as technology improves the user may define "event." EDRs have the ability to collect data about a car's activities during the "event," similar to the little black box in airplanes. For example, in a car accident, the

EDR would record every movement the car made up to and a few seconds following that crash. This data can aid law enforcement in understanding the specific aspects of the crash. Presently, General Motors and Ford are the only auto manufacturers in the United States installing EDR on some of the automobiles that they sell. The future of EDRs is unknown; potentially car owners could download their own data from their cars. For instance, a parent of a new driver could determine the speed at which the new driver was traveling, if he or she was wearing a seat belt, how many times the doors opened and closed, etc.

For more information:

National Highway Traffic Safety Administration - [www-nrd.nhtsa.dot.gov/edr-site/](http://www.nrd.nhtsa.dot.gov/edr-site/)

These are just a sample of the technologies available and technologies coming. Courts should begin preparing for cases dealing with technology. Flashlights with alcohol detectors (PAS Systems International, www.sniffalcohol.com), cameras for school buses to discourage illegal passing, and driver's licenses that resist counterfeiting are all technologies available. Technology also brings benefits to the courts in the improvement of current technology. For instance, self-monitoring equipment, such as radar at intersections, does not require expert testimony in court. As with all technology, there are challenging issues to be addressed, including public acceptance, but traffic technology's ultimate goal is to decrease traffic violations, which is a worthy goal. 🚧

New Traffic Codes

New codes by DPS have finally been released. The list provided contains new codes implemented during the 77th Legislative Session. These codes are ready for submission to DPS.

- 3323 Open Container
- 3202 Violate Operating Hours - Minor
- 3201 Operate Vehicle with More Than One Passenger - Minor

If you need further assistance, please do not hesitate to contact Reggie Andrews at DPS Traffic Reporting 512-424-2028, or the Center.

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