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Attorney General Opinions Update

By Jeff Moore, Assistant Attorney General, Chief - Municipal Affairs Section and
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The following is a summary of recent Attorney General opinions of interest to Municipal Courts issued between September 2000 and December 2002. A categorized index is located at the back of these opinion summaries.

A copy of the opinions noted in this Article may be obtained from the Attorney General's website at www.oag.state.tx.us, or call the Publications Section of the Attorney General's Office at 512/936-1730. For additional information on any of the topics covered, please call the Municipal Affairs Section of the Attorney General's Office at (512) 475-4683.

City/Government Administrative Authority Opinions

JC-575 "State Officer" refers to State-Level Officers

Article XVI, Section 1(b) of the Texas Constitution requires elected and appointed officers to sign an anti-bribery statement before taking the oath or affirmation of office required by Article XVI, Section 1(a). State-level officers, but not local officers, must file the signed statement with the Secretary or State. Local officers must sign the statement and retain it with the official records of the office. Questions about

whether a particular office is a "state officer" within Article XVI, Section 1(c) may be resolved by consulting relevant statutes, constitutional provisions, and judicial decisions.

City/Government Ordinance Authority Opinions

JC-460 Home-Rule City Could Not Adopt Ordinance Making Ran Red Light Offenses Civil

Absent specific legislative authorization, a home-rule municipality such as the City of Richardson may not adopt an ordinance that imposes a civil penalty for violation of Section 544.007(d) of

AG Opinions continued on page 6

Questioned Court Documents

Decreasing the Use of False Identities

By John Young, Document Examiner, Midland Municipal Court

I am always amazed at the lengths of trouble some people will endure in attempting to avoid paying traffic fines. When very innovative excuses for the violation does not work and receiving a traffic citation is inevitable, it seems the next step is to simply use someone else's name or even create a name, then sign the false name on the citation, all the while explaining to the officer how they lost or forgot their driver's license card. This situation seems to be more frequent among persons with outstanding arrest warrants who do not want to be arrested at the time of the

traffic stop.

Another effort attempted is to appear in court and claim they never received a traffic citation, have no knowledge of the complaint, and that they never signed the citation on file. Whatever the situation may be, it poses a problem for the court and its employees. In the above scenarios, the citation becomes a "questioned document," or a document with questionable authenticity. Some courts and law enforcement agencies across the state have implemented a few

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AROUND THE STATE

Seat Belt Survey

TMCEC is encouraging all Texas municipal courts to return the seat belt survey that was recently distributed by the Texas Municipal Police Association (TMPA). The purpose of the survey is to collect data to assess the impact of occupant protection enforcement on the municipal court system. It will provide information on how seat belt violations citations are processed from issuance to adjudication. Questions about the survey should be directed to Raquel Dennie or Jennifer Gonzales at TMPA (800/848-2088).

**Appointments to State
Commissions/Committees**

Judge Monica A. Gonzalez from the San Antonio Municipal Court was appointed in October 2002 to serve on the State Commission on Judicial Conduct. Judge Gonzalez was appointed to complete the last year of the six-year term vacated by Judge Michael O'Neal of Dallas who retired in September 2002. Commissioners are required to meet at least six times each year and receive no pay for their service. Appointments are made by the Supreme Court of Texas and confirmed by the Texas Senate.

In October 2002, Judge Berta Mejia of the Houston Municipal Court was appointed by the Supreme Court of Texas to serve on the Judicial Committee on Information Technology as a voting member. Judge Joe Pirtle of the Seabrook Municipal Court was appointed as the liaison member.

**Association Membership
Renewal Deadlines**

- September 1 Texas Municipal Courts Association
Contact: Judge Robert Richter 281/333-9229
- February 1 Texas Teen Court Association
Contact: Tammy Hawkins 915/335-3352
- February 1 Texas Court Clerks Association
Contact: Janell Kucera 281/275-2561



FROM THE GENERAL COUNSEL

W. Clay Abbott

Crimes Committed in Municipal Court

Reporting Offenses

During the summer TMCEC *Ethics and the Media* tour it became apparent that many clerks, judges, prosecutors, warrant officers, and other court staff forgot an important lesson they learned in elementary school. This phenomenon is understandable if you consider how much specialized information and how many specific procedures one must learn to function in municipal court. Our intensive immersion in that study tends to eclipse fundamental concepts we already knew. Specifically, we forgot what to do when a crime was committed in municipal court. Our well-trained minds race to thoughts of contempt, revocation, and reversing judgments. We forgot what we learned as children: If you see a crime, you are supposed to call the police.

Many criminal statutes are based on acts that are typically conducted in court or governmental operations. The most common examples are the offenses of Failure to Appear (Section 38.10, Penal Code) and Violate Promise to Appear (Section 543.009, Transportation Code). These offenses can only be committed in the court setting and are among the most routine offenses prosecuted in our courts. These offenses are both dealt with in great detail in Chapter 3, Part 6 in TMCEC's *Municipal Court Guide* Level II.

The possible offenses that could be committed fall into the same categories as criminal offenses, generally: crimes against persons, fraud offenses, and public order offenses. Some offenses require the target or perpetrator be a

public servant—including judges, clerks, prosecutors, jurors, or peace officers. Other offenses hinge on a fraudulent tangible item being tendered as evidence, a fraudulent document being filed with the court, or untruthful testimony given in court. In addition, pretending to be a lawyer in court or claiming papers were created by the court are both criminal offenses. Finally, disrupting court proceedings by disorderly conduct is an offense separate from disorderly conduct or proceedings for contempt.

Almost all of the offenses listed here could be direct or indirect contempt. But, since the punishment for contempt in municipal court is limited to \$100 in fines and three days in jail by Section 21.003, Government Code, the punishment is more limited than even a Class B misdemeanor. Additionally, contempt findings do not create a criminal record. Contempt proceedings might also require appointment of counsel with hearings and proof more complicated than criminal trials. Finally, by proceeding as contempt, the court loses the advantage of police investigation and record preservation. For a more complete discussion of contempt see Chapter 5 of the TMCEC *Municipal Judges Book*.

Offenses By or Against Court Personnel

As public servants, judges, clerks, prosecutors, and jurors have certain special protections and responsibilities under the criminal statutes. Section 36.02 of the Penal Code sets out the traditional offense of bribery. It makes it a crime—a second-degree felony—

to offer, confer, agree to confer, solicit, accept, or agree to accept any benefit for the recipient's exercise of discretion in a judicial proceeding. This obviously applies to judges, clerks (setting dockets, *etc.*), prosecutors, and possibly even warrant officers. The crime is committed by the offer or acceptance. That the decision had already been made or that the actor did not have the authority to make the decision are not defenses.

Under Section 36.03 of the Penal Code, the same public servants are protected from influence or attempted influence "by means of coercion." The actor must attempt to influence the discretion of the public servant or a known legal duty. The sole exception is when the coercion is made by a governing body as an official action. If the coercion is the threat to commit a felony, the offense is a third degree felony; otherwise, the offense is a Class A misdemeanor.

Great protection, but what about the less talkative stalkers? Section 36.06, Penal Code creates a third degree felony for harming or threatening to harm a public servant by an unlawful act in retaliation for or on account of the other's service or status as a public servant. Again, public servants include: judges, clerks, prosecutors, jurors, bailiffs, and peace officers. If the threat or harm is proactive, the offense is called Obstruction; if the threat or harm is reactive, the offense is called Retaliation. If the offense is committed against a juror, the offense is raised to a felony of the second degree. Reporting and prosecuting these offenses is necessary for the

safety of the essential folks in the criminal justice system and to assure the viability of the system itself.

Some violations are less obvious. Section 36.09, Penal Code gives some real teeth to Canon 4D(4) of the Code of Judicial Conduct. That section makes the act of conferring or offering to confer a gift to a judge in violation of the Canons a Class A misdemeanor. Accepting the gift doesn't seem to be covered by the statute but could result in sanction under the Canons.

Also a bit subtler is Section 36.04, Penal Code, which prohibits persons from privately addressing a public servant who exercises official discretion in an adjudicatory proceeding. The actor must intend to influence the outcome of the adjudicatory proceeding on the basis of considerations not authorized by law. This provides a tool for protecting judges and prosecutors and perhaps clerks and warrant officers from subtle bribery attempts and the court from persistent attempts to engage in *ex parte* communication.

Witnesses and prospective witnesses are named alongside public servants in Section 36.06, Penal Code prohibiting Obstruction or Retaliation against them for their service or prospective service in testifying. In addition, Section 36.05, Penal Code prohibits Tampering with Witnesses. The section applies equally to witnesses and prospective witnesses. Prohibited acts include conferring or offering to confer a benefit and coercion. The acts must be committed with the specific intent to influence the witness. The act must also specifically influence the witness to: testify falsely, withhold testimony or cooperation, elude process, disobey process, or delay or discontinue prosecution. Confidence in the fairness of our trial processes depends on prompt and effective prosecution of this offense.

Prosecutors are provided a defense for offers to delay or end prosecution involving restitution or plea bargains. Prosecutors, defense counsel, and bailiffs should also be aware of this offense. While it must be committed intentionally, misunderstandings can arise easily from conferring any benefit or service on witnesses by any of these court participants.

Many offenses can be committed only against peace officers, and several may occur in municipal court. An individual commits a Class B misdemeanor under Section 38.04, Penal Code for fleeing from a person they know to be a peace officer that is lawfully attempting to detain or arrest them. The arrest or "Terry Stop" detention must be lawful, and the defendant must flee from a peace officer and not simply court personnel. Proving the attempted arrest was lawful will probably require verified court orders, judgments, or warrants. Higher degrees of the offense can be committed by high-speed chases and when injuries are inflicted during pursuit.

Section 38.03, Penal Code prohibits Resisting Arrest. Like Evading, it can only be committed against a peace officer or a person directed by a peace officer in the officer's presence. The defendant must use force to prevent an arrest, search, or transportation. The defendant does not have to be the person arrested, searched, or transported. Unlike Evading, the arrest or search does not have to be proven to be legal, and an illegal arrest or search is not a defense to resisting. Resisting Arrest is a Class A misdemeanor, unless a weapon is used in which case the offense is a felony of the third degree.

Occasionally, defendants brought over from the jail or brought in on a warrant will release themselves on their own recognizance—in other words they escape. Section 38.06, Penal Code defines the offense of Escape as

escaping from custody while: under arrest for, charged with, or convicted of an offense; or in custody under a lawful order of a court. Again, the lawfulness of the custody is an element here. In order to prove Escape, court orders and judgments need to be properly prepared and signed. Copies of warrants, orders, and *capias* should be verified by the clerk and included in materials provided to the investigating agency. While Escape is normally a Class A misdemeanor, it can be raised as high as a first degree felony based on the use of weapons or incarceration in penitentiaries.

Fraud Offenses

The most basic court related fraud offense is Perjury; it is also one of the most misunderstood offenses in American jurisprudence. Most people believe that Perjury is swearing to a false statement or making a false statement under oath. The actual elements are expanded under Section 37.02, Penal Code to include specific knowledge of the statements, meaning a specific intent to deceive and that the statement is required or authorized to be made under oath. It applies to statements made under oath and statements made and later sworn to by the affiant. Perjury is a Class A misdemeanor. Proof of knowledge of the falsity can be very difficult.

When discussing Perjury, most people are referring to false testimony under oath in court. Under Section 37.03, Penal Code, this is in fact Aggravated Perjury. Aggravated Perjury is a felony of the third degree. It incorporates all of the elements of Perjury and includes two additional elements. The first is that the statement be made during (sworn testimony at trial or a hearing) or in connection with (documents related to a criminal case) an official proceeding. This law applies to a good number of documents provided in municipal court including, but not limited to, request for DSC,

complaints, sworn motions for continuance, and sworn statements made pursuant to an order of deferred disposition. The second element—and the hardest to understand—is that the false statement must be material to that official proceeding. In simplest terms, the false statement must cause a different result than a truthful one. This last element can also be difficult to prove.

Like Perjury, cases might be prosecuted under Section 37.08, Penal Code, which prohibits false reports to peace officers. Such statements do not need to be under oath but must still be made with specific knowledge of the falsity of the statement, an intent to deceive, and material to an official investigation. It is limited, like resisting and evading, to actions directed to peace officers. Violations of this section are Class B misdemeanors.

There are two Penal Code sections that make some perjury type offenses easier to prosecute. Both apply to records or documents presented to the court. John Young, a document examiner with the City of Midland, discusses the investigation of these “Questioned Documents” in an excellent article in this issue of *The Recorder*.

Section 37.09, Penal Code prohibits the alteration, destruction, concealment, creation, presentment, or use of any false record, document, or thing with the intent to affect its use as evidence or the outcome of the proceeding. This is a statute built for the presentment of false insurance information. It requires an intent to impair or affect. It also requires proof of knowledge of the existence of an official proceeding. These elements are much easier to meet than Perjury and are fairly simple to meet in most false document presentations. Notice here that the falsity need not be material; only the intent to affect the outcome needs to be established.

The second provision is Section 37.10, Penal Code, prohibiting Tampering with a Government Document. A government document is defined in Section 37.01(2), Penal Code as “anything belonging to, received by, or kept by government for information, including court records.” Insurance cards produced for evidence of compliance with the Texas Motor Vehicle Safety Act are also specifically identified as government records by Section 37.01(2)(D). Making a false entry or alteration to a government document is illegal. Giving a false name or other information during the issuance of a citation falls under the making false entry provision. So does the entry of false information on a request for DSC or financial information sheet for indigence determination. Making, presenting, or using a government record with knowledge of its falsity is also a violation of this section. Destruction of government documents is prohibited, as is the creation, possession, or sale of false government records. If the document presented or used is an insurance card, the violation is a Class B misdemeanor. If the defendant sells or makes the insurance card, it is a third degree felony. For other documents, the violation is a Class A misdemeanor unless the defendant intended to defraud or harm another, in which case it is a state jail felony. Exceptions are made for the destruction of documents pursuant to the Local Government Code’s power to establish record retention schedules. It is also a defense if the falsity could have no effect on the purpose for the creation of the record. This provision turns the materiality element in Perjury inside-out and clearly places the burden on the defendant to establish that no harm was done.

This is also an offense of which clerks, warrant officers, prosecutors, and even judges should be aware. It can be very

easy to step over this line. It should make each court participant treat records as a public trust and not a personal possession or diary.

Too many violations of this statute go unreported. Many county attorneys or district attorneys may not prosecute every conceivable violation of this statute. Yet, the section exists to put fear into the hearts of those that abuse the system by fraud. If you are reporting the offense, make sure to give the investigator the names of the witness to the presentation, the documents themselves, and any other information they will need to present to prosecutors for prosecution. Keep in mind, the less work that remains to be done in the case by the investigator or prosecutor when the case leaves your office, the more enthusiastically it will be received by the investigator or prosecutor down the line. Make sure your local prosecutor knows that you screen your reports and the importance of the deterrent effect of prosecution of those cases you present to your court.

Hindering Proceedings by Disorderly Conduct

Contempt will not be discussed in this article, but a fairly complete discussion is contained in Chapter 5 of the newly published TMCEC *Municipal Judges Book*. Disrupting court is punishable by contempt or perhaps by the more heavy-handed Class A misdemeanor found in Section 38.13 of the Penal Code. That section provides for an offense of intentionally “hindering an official proceeding by noise or violent or tumultuous behavior or disturbance.” Reckless hindering is also prohibited if the defendant is first warned. It is important to note that punishment of a violation of this section by contempt probably bars prosecution of the offense in county court. In deciding how to proceed, it is important to weigh the immediate nature of contempt versus the far

higher penalty range of the Penal Code provision.

Conclusion

If courts continue to under-report violent or fraudulent offenses that occur in our courts, the results are unacceptable. First, violations of the law go unpunished. Second, persons abusing the system of justice are rewarded instead of being punished, giving an incentive to do the wrong thing. Those properly following the law are placed in a comparative disadvantage. Finally, and most importantly, we lose public confidence and become targets for more outrageous and dangerous violations of the law. We have the right and duty to protect ourselves with the law and to protect the systems in which we work. Our duty is owed not only to our loved ones who wait for us to come home at night, but the public that has trusted us with the dispensation of justice.

AG Opinions continued from page 1

the Transportation Code, which makes the running of red light a crime. The city is not prohibited from adopting an ordinance authorizing the use of automated enforcement equipment to identify criminal red light violations at roadway intersections.

JC-481 Harris County Could Regulate Color of Lighting of Tow Trucks Performing Nonconsent Tows

Assuming that Harris County's regulations regarding nonconsent towing and storage services are in all aspects proprietary in nature, Harris County may, by rule or ordinance, prohibit a tow truck operator performing nonconsent tows from having auxiliary stop and tail lamps in or under the factory mounted light bar. In addition, Harris County may prohibit a tow truck from having a red or blue lens in the emergency lights.

Harris County could require wreckers performing nonconsent tows be equipped with amber colored lights.

JC-485 Application of Sexually Oriented Business Ordinance to School, Church, or Other Entity Located outside City Limits

A city may apply a municipal ordinance to prohibit a sexually oriented business within a specified distance of a school, church, or other entity covered by Section 243.006(a)(2) of the Local Government Code even though that entity is not within the corporate limits of the city in question, so long as the sexually oriented business is within those limits. Such application does not violate the statutory requirement that the ordinance apply only in the city's corporate limits.

Compensation Opinion

JC-376 Prospective Increase in Compensation of Court Personnel is a "Court-Related Purpose"

Compensation of court personnel is a "court-related purpose" within the meaning of Section 21.006 of the Government Code. Retroactive increases in compensation for services already rendered violate Article III, Section 53 of the Texas Constitution. Prospective increases in compensation do not.

Criminal Procedure Opinions Court Operations

JC-393 Pre- and Post-Conviction Jail Time Credit

A misdemeanor who is confined when a court orders a term of confinement to enforce the discharge of a fine or costs on a second conviction serves the confinements concurrently unless the court orders the terms to be served consecutively under Article 42.08 of the Code of Criminal Procedure. See, Tex. Code Crim. Proc. Ann. Arts. 42.08, 43.03(b) (Vernon Supp. 2001). On the other

hand, if the misdemeanor is ordered to be confined to enforce the discharge of multiple fines or costs when he or she is not confined, the confinements are served consecutively. If fines or costs are discharged consecutively, the court's order must indicate that the confinements will run consecutively. See, *Id.* Article 42.08(a). The court's order also should contain five elements, which may be adapted to the circumstances of a confinement to enforce a default: (1) the prior conviction's trial court number; (2) the correct name of the court where the prior conviction was taken; (3) the prior conviction's date; (4) the prior conviction's term; and (5) the prior conviction's nature. See, *Banks v. State*, 708 S.W.2d 460, 461 (Tex. Crim. App. 1986) (en banc).

A defendant convicted of multiple Class C misdemeanors receives credit for time spent in confinement prior to sentencing on each of the sentences as though the time ran concurrently. See, *Hannington v. State*, 832 S.W.2d 355, 356 (Tex. Crim. App. 1992) (en banc) (per curiam); *Ex parte Bynum*, 772 S.W.2d 113, 115 16 (Tex. Crim. App. 1989) (en banc) (per curiam).

JC-404 "Recording of the Communication" through Closed Circuit Video Teleconferencing for Acceptance of Pleas and Waivers Means Video Recording

When a court accepts a plea or waiver of a defendant's right by closed circuit video teleconferencing pursuant to Code of Criminal Procedure Article 27.18, a video recording of the communication must be made and preserved until all appellate proceedings have been disposed of. The record preservation requirement for video recordings in Article 27.18(c) does not conflict with the record preservation requirements for court reporters' notes in Government Code, Section 52.046 and Rule 13.6 of the Texas Rules of Appellate Procedure,

because the latter two provisions deal with different records. Both the recording required by Article 27.18 and the court reporter's stenographic notes must be kept. However, the official court reporter need not attend the portion of the proceedings conducted by video conferencing to make a written record of it if the parties decide that this is unnecessary.

JC-405 Providing Jury List Information

In both civil and criminal actions, jury lists must be disclosed to the parties when the parties announce ready for trial. Subject to the direction of the presiding judge the district clerk may, in his or her discretion, release such information to the parties at any time after the jury list has been delivered to the sheriff to summon the jurors. The clerk must not show undue favoritism, and may not provide the list to one party while withholding it from another. Information contained in jury questionnaires completed pursuant to Section 62.0132 of the Government Code, while confidential with respect to third parties, is available to the litigants in the cause of action in question. While personal information concerning jurors serving in particular criminal proceedings is confidential pursuant to Article 35.29 of the Code of Criminal Procedure, and may not be disclosed by the district clerk absent an order from the trial court, Article 35.29 does not preclude the provision of such information concerning the general panel to counsel for the purpose of voir dire.

JC-454 Municipal or Justice Court Cannot Jail Juvenile for Contempt of Court

A justice court may not order a child to be confined for a term of detention for contempt for violation of a justice court order. In the event that suit is brought against a county as a result of a justice court ordering a child detained for contempt without

authority to do so, the county could invoke immunity with respect to state claims, but, depending on the facts, could be subject to suit under federal claims brought under 42 U.S.C. § 1983. A hearing for a child referred to juvenile court for contempt must be conducted as that for a child who has engaged in delinquent conduct. Neither status offenders nor nonoffenders may be detained in nonsecure detention facilities.

JC-463 Accumulated "Pretrial Diversion Fees" and Interest Must Be Returned to Individual Who Paid Fees and Unclaimed Fees and Interest Become Abandoned Property which Must Be Reported and Delivered to the Comptroller

Pretrial diversion fee moneys that remain in the pretrial diversion fund must be returned to the individuals who paid those fees. They do not belong to the county attorney's office nor to the county because the county attorney was not authorized to collect the pretrial diversion fees. There does not seem to be any statutory authority that would allow or require the county attorney's office or the county to retain these funds. Interest earned on the pretrial diversion fees deposited in the pretrial account must also be returned to the individuals who paid those fees. Under the common law, interest follows principal. The county attorney's office must make a reasonable effort to return the pretrial diversion fees and the interest earned on those fees to the individuals who paid the fees. But assuming those individuals cannot be located or are unknown, those funds may become abandoned property that must be reported and delivered to the Comptroller of Public Accounts pursuant to Chapter 74 of the Property Code.

JC-516 Suggested Fine is Not a "Debt" which May Be Collected by Private Vendor

Article 103.0031 of the Code of Criminal Procedure is inapplicable in a case in which a justice of the peace has informally suggested an acceptable fine in connection with the issuance of an arrest warrant for failure to appear in a Class C misdemeanor case.

JC-528 Bail Bondsman Cannot Collect Attorney Legal Fees From Bail Bond Client

Chapter 1704 of the Occupations Code regulates bail bond sureties. See, Tex. Occ. Code Ann. §§ 1704.001-.306 (Vernon 2002). The statute creates a county bail bond board in each county with a population of 110,000 or more to administer and enforce the statute. Tex. Occ. Code Ann. §§ 1704.051, .101-.102 (Vernon 2002). A person may not act as a bail bond surety in such a county unless the person holds a license issued by the board. See, *Id.* § 1704.151. The only exception to the licensing requirement is for an attorney who executes a bail bond or acts as a surety for a person the attorney represents in the criminal case for which the bond is given.

Section 1704.252 of the Occupations Code authorizes a county bail bond board to revoke or suspend a bail bond surety license if the license holder "pays commissions or fees to . . . a person or business entity not licensed under this chapter." This Section "prohibits" the collection by a bail bondsman from a person for whom the bondsman executes a bond of a legal fee for an attorney and remittal of that fee to the attorney because it is sufficiently broad to cover the collection and remittal of such fee.

JC-549 Requiring Legal Counsel for Indigent Criminal Defendants Be Appointed in Certain Days Based on County Population Does Not Violate Equal Protection Guarantees

A court would likely find that Article 1.051(c) of the Code of Criminal

Procedure, as amended by the Texas Fair Defense Act, requiring that counsel for indigent criminal defendants be appointed within one day of the defendant's request in populous counties and within three days of the request in less populous counties does not violate the equal protection guarantees of the state and federal constitutions. The legislature has defined "indigency" and provided a flexible standard applicable to all counties for the purposes of appointing counsel to indigent defendants under Article 1.051. A court would likely find that the Article 1.051 indigency standard because of its relative flexibility does not violate, on its face, the state and federal guarantees of equal protection.

JC-554 Towing Company May Not Provide Anything of Value to Parking Facility Owners/Violations May Be Prosecuted in Municipal Court

Section 684.082(a) of the Transportation Code prohibits a towing company from providing free of charge to the owner of a parking facility services such as roadside assistance or lot maintenance, including parking space striping and fire lane markings in connection with the removal of vehicles from a parking facility. The penalty attached to violations of Chapter 684 is applicable to both parking facility owners and towing companies. Various local prosecutors are responsible for the enforcement of this statute in municipal and justice courts.

JC-579 Grand Jury Hearings are "Criminal Proceedings" and Requires an Appointment of a Properly Qualified Interpreter for a Witness

Chapter 57 of the Government Code established standards for court interpreters who assist participants in court proceedings who either do not speak or understand English, or who

are deaf or hearing-impaired. It requires that a court shall appoint a certified court interpreter or a licensed court interpreter if a motion for an interpreter is filed by a party or a witness in a criminal proceeding or on the motion of the court. Because of the liberal reading of "proceeding" and that testimony before a grand jury is by no means trivial since its investigative function has the specific purpose of determining whether probable cause exists to institute criminal prosecution, a grand jury hearing is a "criminal proceeding" requiring the appointment of a properly qualified interpreter for a witness who is either non-English speaking or deaf or hearing-impaired.

JC-584 A Certified or Licensed Court Interpreter is Required in Misdemeanor Case in Justice Court

Chapter 57 of the Government Code applies to a plea in a misdemeanor case in justice court. A court clerk who merely converses with a defendant in a language other than English does not "act as a licensed court interpreter" within the meaning of Chapter 57. In either a civil or criminal proceeding, whether a party has filed a interpreter will depend upon the facts and is a question for the trial or request. In a criminal proceeding, a court must also take into account the defendant's constitutional right to an interpreter and Article 38.30 of the Code Criminal Procedure. Chapter 57 established qualifications for spoken-language interpreters appointed in criminal cases under the authority of Article 38.30.

If the only person who is licensed to interpret in a particular language resides in a distant location, a court in a populous county would be required to appoint that person. On the other hand, if there is no interpreter licensed to interpret in a particular language, the appointment of an unlicensed person may be within a court's inherent power.

Chapter 57 does not alter preexisting law on the payment of appointed court

interpreters. It does not require counties to pay for spoken-language interpreters in civil cases. Courts retain their authority under the Rules of Civil Procedure and the Civil Practice and Remedies Code to fix an interpreter's compensation and to direct how an interpreter will be paid in civil cases. A county may not require a court to select an interpreter from an interpreter service under contract with the county, although a court may choose to do so.

GA-0002 A Bail Bondsman's Bonding Capacity is Effected when Executing a Bond on a Persons Held in His County Jail on Charges from Another County

Bail bonds written by a licensed surety in a county where the person is licensed to secure an appearance by a defendant in another county are executed in the licensing county for the purpose of determining the bondsman's financial capacity under Section 1704.203 of the Occupation Code.

Police Activities

JC-387 Municipal Peace Officer May Execute an Emergency Detention Warrant

Section 573.012 of the Texas Health and Safety Code authorizes a municipal or county peace officer to execute an emergency detention warrant. See, Tex. Health & Safety Code Ann. § 573.012(d) (Vernon Supp. 2001). A person who is actually admitted to a facility for emergency detention after a preliminary examination must be transported in accordance with Section 574.045. See, *Id.* §§ 573.025, .026.

JC-416 Texas Department of Public Safety is Not Authorized to Establish and Administer a Training and Safety Program for Off-Road Dirt Bikes

A state agency may exercise only those

powers specifically conferred by statute, or those which may necessarily be inferred therefrom. See, Tex. Att’y Gen. Op. No. JC-0189 (2000) at 4. Chapter 662 of the Transportation Code grants to the DPS authority to establish and administer “a motorcycle operator training and safety program.” Because a “dirt bike” is not a “motorcycle” for purposes of Chapter 662, we conclude that the DPS may not regulate courses of instruction in the operation of off-road dirt bikes.

JC-451 Driver Who Falls Asleep at the Wheel May Be Prosecuted for Failure to Drive in Single Marked Lane

Although this office cannot determine in any particular instance in an attorney general opinion whether a person has violated Section 545.060(a) of the Transportation Code, the offense of Failure to Drive in a Single Marked Lane, the fact that a driver was asleep when he or she moved from the single lane does not as a matter of law remove that person’s conduct from the scope of the statute.

JC-466 Peace Officers Authority to Arrest on Casino Boats

The seaward boundary of the State of Texas and its coastal counties extends three marine leagues into the Gulf of Mexico. The state and its coastal counties may exercise criminal jurisdiction on the state’s territorial waters, provided that there is no conflict with federal law or the rights of foreign nations. Texas peace officers acting as security guards on casino boats have the authority to make arrests under state law within the state’s territorial waters. The extent of that authority depends upon the type of peace officer and whether he or she is within his or her jurisdiction.

Once a casino boat sails beyond the state’s seaward boundary, a Texas peace officer no longer has the authority to make arrests under the law of the State

of Texas. Within the jurisdiction of the United States, federal law may authorize a peace officer to make an arrest under certain circumstances. On the high seas, beyond the jurisdiction of both the State of Texas and the United States, the law of the ship’s flag state and international law may be relevant to a Texas peace officer’s authority to keep order on the ship and to detain passengers.

JC-497 Peace Officer Not Required to Take TCLEOSE Course on Traffic Laws and Use of Radar Equipment

A peace officer is not currently required by Section 644.101(d) of the Transportation Code to attend continuing education courses regarding enforcement of traffic and highway laws and the use of radar equipment.

JC-500 Racial Profiling Statute is Not Unconstitutional Due to Bill’s Title

No enactment of the Texas Legislature may be held invalid for a deficiency in title under Article III, Section 35 of the Texas Constitution, as amended in 1986. Senate Bill 1074 is not unconstitutional for failure to meet the title requirement in Article III, Section 35 of the Texas Constitution.

JC-522 Constable without a Permanent Peace Officer License is Still a Peace Officer as Defined by Code of Criminal Procedure

Local Government Code, Section 86.0021(b) requires a constable to obtain a permanent peace officer license from the Texas Commission on Law Enforcement Officers Standards and Education (“TCLEOSE”) under Section 1701 of the Occupation Code. However, a constable who has not yet obtained a permanent peace officer license as required by Section 86.0021 of the Local Government Code is a peace officer for purposes of Article 2.12(2) of the Code of Criminal Procedure, though there are statutes

that only apply to peace officers that have obtained a peace officers license.

JC-530 City Police Officer May Issue Traffic Citations within Drainage District while Working as Drainage District Officer

Section 49.216 of the Water Code and the Interlocal Cooperation Act authorize a drainage district to contract with another local government for law enforcement services within the district. A city police officer acting as peace officer in a drainage district under such a contract is in fact a drainage-district peace officer. A drainage-district peace officer is authorized by Section 49.216 to make warrantless arrests for state-law traffic violations within the district.

JC-532 City Police Officer Acting within County Pursuant to Mutual Aid Agreement May Issue Traffic Citations within County

The authority of certain local governments to enter into mutual assistance agreements pursuant to Section 362.002(b) of the Local Government Code is not dependent on the existence of a state of civil emergency. A city police officer acting within a county on the basis of such an agreement is, under the terms of Section 362.003 of the Local Government Code, within his or her jurisdiction when enforcing traffic laws in the county.

JC-541 Sheriffs Are Not Authorized to Post in County Jail a List of Preapproved Bondsmen

Chapter 17 of the Code of Criminal Procedure controls taking of bail bonds in the county that does not have a bail bond board. This Chapter authorizes an officer taking a bond to require proof of sufficiency of security offered by the bondsmen. Arguably, Chapter 17 might authorize a sheriff to preapprove bondsmen on a voluntary basis, provided that the

officer taking a bond from a preapproved bondsman verifies that the bondsman's security is still sufficient. However, no provision in Chapter 17 expressly nor impliedly authorizes a sheriff to provide a list of preapproved bondsmen to inmates.

JC-548 Honorably Retired Peace Officer of the State Park Law Enforcement Program is Exempt from Statutory Reactivation and Continuing Education Requirements

A peace officer who takes "a break in employment" but who wishes to resume service as a peace officer must reactivate his or her license in accordance with Rules of the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE). Tex. Occ. Code Ann. § 1701.316(a) (Vernon 2002); see, 37 Tex. Admin. Code § 217.19 (2002) (TCLEOSE, "Reactivation of a License"). In addition, an active, licensed peace officer generally must complete at least 40 hours of continuing education programs every 24 months. See, Tex. Occ. Code Ann. § 1701.351(a) (Vernon 2002); 37 Tex. Admin. Code § 217.11 (2002) (TCLEOSE, "Legislatively Required Continuing Education for Licensees"). But Section 1701.356 of the Occupations Code exempts from the reactivation and continuing education requirements "[a]n honorably retired commissioned officer of the Department of Public Safety who is a special ranger . . . or retired state employee" who holds a permanent license that was issued before January 1, 1995. See, Tex. Occ. Code Ann. § 1701.356 (Vernon 2002). Presumably, a licensed peace officer who has retired from the State Park Law Enforcement Program is a retired state employee for the purposes of Section 1701.356.

Prosecutor Activities

JC-380 Prosecutor Can Serve as Reserve Military Legal Officer

Based on the fundamental differences between military and civilian attorneys and strong state policy encouraging reserve membership in the armed forces, we do not believe that service as a reserve military legal officer constitutes the private practice of law in the context of the Professional Prosecutors Act. Service as a legal officer in the United States Air Force Reserve does not violate the Professional Prosecutors Act because it is not the private practice of law.

JC-542 Prosecutor May Not Withhold Autopsy Report from Public unless Court Order is Obtained to Prevent Hindrance of Investigation and Prosecution of a Murder

An autopsy report prepared in connection with an inquest by a justice of the peace into a murder may be inspected by the public pursuant to Section 27.004 of the Government Code. Chapter 49 of the Code of Criminal Procedure, which governs inquests, does not provide confidentiality for records of an inquest conducted by a justice of the peace, or for an autopsy report prepared as part of the inquest. We find no statute that would except such an autopsy report from public inspection under Government Code, Section 27.004. However, should the district attorney's office or the police department wish to prohibit public disclosure of an autopsy report to prevent hindrance of the investigation and prosecution of a murder, it might find relief by securing a court order requiring the autopsy report in the justice's custody to be withheld from public inspection.

GA-0005 District Attorney Pro Tem Does Not Have the Authority to Modify a Standing Local

Agreement between a District Attorney's Office and a Law Enforcement Agency regarding the Distribution of Forfeited Funds

A district attorney pro tem appointed under the terms of Article 2.07 of the Code of Criminal Procedure for a specific case does not have the authority to alter the terms of disposition of a local agreement on forfeited property under Chapter 59 of the Code of Criminal Procedure.

Driver's License Opinions

JC-409 Social Security Number is Not Required for Individual to Receive a Driver's License

Pursuant to 42 U.S.C. § 666 (1994 & Supp. IV 1998) and Texas Family Code, Section 231.302, in order to aid in the collection of child support, the Texas Department of Public Safety must require any and all applicants for a Texas driver's license who possess a social security number to provide that number. Tex. Fam. Code Ann. § 231.302 (Vernon Supp. 2001). An individual is not required to have a social security number as a condition of receiving a license.

JC-423 Use of Driver's License Information from Magnetic Strip to Prevent Minors from Acquiring Alcoholic Beverages Does Not Violate the Federal Driver's Privacy Protection Act

House Bill 3016, adopted by the 77th Texas Legislature, "permits the use of information accessed by using the magnetic strip on a . . . driver's license by persons other than law enforcement officials when used to prevent the purchase of alcoholic beverages by minors and to comply with Texas Alcoholic Beverage Commission record keeping Rules regarding private club memberships."

In light of the fact that preventing minors from acquiring alcoholic beverages is therefore a matter related

to the public safety, and the use of magnetic stripe information is specifically authorized by House Bill 3016 for that purpose, as well as for the other reasons articulated above, we conclude that House Bill 3016 does not fall afoul of the Federal Driver's Privacy Protection Act, 18 U.S.C. § 2721.

JC-499 Use of Driver's License Information from the Magnetic Strip Cannot Be Used to Create and Maintain Membership List nor Retain Driver's License Numbers for Private Clubs Licensed to Sell Alcohol

The Federal Driver's Privacy Protection Act of 1994, 18 U.S.C. §§2721- 2725 (2000) (the "DPPA"), applies to personal information collected by the Texas Department of Public Safety in connection with driver's licenses. The Department of Public Safety must comply with this federal law in releasing personal information subject to its protections.

State law does not permit a private club licensed to sell alcohol to its members by the Texas Alcoholic Beverage Commission to use the magnetic strip on driver's licenses to obtain members' driver's license numbers for the purpose of creating and maintaining membership lists nor does it permit clubs to retain driver's license numbers obtained from a magnetic strip for this purpose. See, Tex. Transp. Code Ann. § 521.126 (Vernon Supp. 2002); Tex. Alco. Bev. Code Ann. § 109.61 (Vernon Supp. 2002); 16 Tex. Admin. Code §§ 41.49, .52 (2002).

The conclusion of Attorney General Opinion JC-0423 that Section 109.61(a) of the Alcoholic Beverage Code authorizes the use of magnetic strip information to prevent underage drinking or other violations of the Alcoholic Beverage Code and that this use of the magnetic strip does not

implicate the DPPA is affirmed. See, Tex. Att'y Gen. Op. No. JC-0423 (2001) at 2, 4.

JC-540 Banks are Not Permitted to Use Information Contained in Magnetic Stripe of a Texas Driver's License

Transportation Code §521.126 restricts the use of magnetic stripe information on a Texas driver's license to law enforcement and governmental purposes. This Section does not permit financial institutions to access magnetic stripe information on Texas driver's licenses. The restrictions on access to magnetic stripe information on Texas driver's licenses under Section 521.126 of the Texas Transportation Code are not preempted by the USA Patriot Act of 2001, Pub. L. No. 107-56.

Education Opinions

JC-446 School Districts are Not Required to Expel a Student Who Commits Certain Alcohol- and Drug-Related Felonies within 300 Feet of School Property

A school district is not required to expel a student whose conduct: (1) constitutes a felony; (2) would require removal under Section 37.006(a)(2)(C) or (D) of the Education Code; (3) *does not* occur on school property or while attending a school-sponsored or school-related activity on or off of school property; and (4) *does* occur within 300 feet of school property as defined in Section 37.006(a)(2).

JC-504 To Sustain a Conviction of Disruptive Activities under Education Code Section 37.123, Actor Must Intentionally Engage in One of Five Conducts

Subsection 37.123(b) of the Education Code defines five kinds of conduct that constitute "disruptive activity." All five kinds of disruptive activity must be intentional to constitute an offense. See, Tex. Educ. Code Ann. § 37.123(a)

(Vernon 1996). To sustain a conviction, the actor must be shown under Subsection (4) to intend to disrupt "a lawful assembly in progress." *Id.* § 37.123(a), (b)(4). To sustain a conviction under Subsection (5), the actor need not disrupt, or intend to disrupt, a lawful assembly; rather, the actor must either intend to obstruct or restrain "the passage of a person at an exit or entrance to the campus or property," or he must intend to prevent or attempt to prevent by force or violence or by threat of such "the ingress or egress of a person to or from the property or campus." *Id.* § 37.123(a), (b)(5). Furthermore, it must be shown that he actually obstructed or restrained "the passage of a person at an exit or entrance to the campus or property" or that he actually prevented or attempted to prevent "the ingress or egress of a person to or from the property or campus." *Id.* In both situations under Subsection (5), he must be shown to have done so "without the authorization of the administration of the school." *Id.*

"Disruption of classes" is made an offense by a different statute, Section 37.124 of the Education Code. See, Tex. Educ. Code Ann. § 37.124 (Vernon 1996). It is a separate offense, and its elements differ from those of Section 37.123. Furthermore, an offense thereunder is a Class C, rather than a Class B misdemeanor. See, *Id.* § 37.124(b) ("offense under [Section 37.124] is a Class C misdemeanor"); see also *Id.* § 37.123(c) ("offense under [Section 37.123] is a Class B misdemeanor"). A brief we have received suggests that disruption of a class constitutes disruption of a "lawful assembly" under Section 37.123.

Section 37.123 of the Education Code, which prohibits disruptive activities on a school campus, requires in order to sustain a conviction that the actor intentionally engaged in one of the

five species of conduct described in that statute, rather than merely engaged in conduct that ultimately resulted in one of the effects described therein.

Election Opinion

JC-483 Justice of the Peace Elected to a Four-Year Term Is Entitled to Finish Out That Term, Even Though the Precinct which He is Elected is Abolished by Redistricting

Pursuant to Article V, Section 18(c) of the Texas Constitution, a justice of the peace elected to a four-year term is entitled to serve out his or her term of office in the precinct in which he or she resides when the precinct to which he or she was elected is abolished by redistricting. The justice of the peace is not required to resign from the office and to run for reelection instead of serving out the full four-year term.

Municipal Court Building Security Fund Opinions

JC-476 Municipal Court Building Security Fund Can Be Used to Pay for Security Personal, but Does Not Empower to Establish a Force of Licensed Peace Officers

Code of Criminal Procedure, Article 102.017(b) requires a defendant convicted of a misdemeanor offense in a justice court, county court, county court at large, district court, or municipal court to pay a three dollar security fee as a court cost. These funds are to be “used only to finance items when used for the purpose of providing security services for buildings housing a district, county, justice, or municipal court, as appropriate.” Tex. Code Crim. Proc. Ann. art. 102.017(d).

Article 102.017 of the Code of Criminal Procedure provides authority for the Ector County Commissioners Court to expend funds for the provision of courthouse security.

However it does not provide authority, either expressly or by necessary implication, for the Commissioners Court to establish a courthouse security force of licensed peace officers.

Public Street Opinions

JC-343 Properly Bonded Ready-Mixed Concrete Truck with Proper Gross Load Can Be Operated on the Highway unless Highway Designated for Lower Maximum Gross Weight of Vehicle

Pursuant to Section 622.012 of the Transportation Code, properly bonded ready-mixed concrete trucks with a gross load not heavier than 69,000 pounds may be operated on public highways unless the particular highway or bridge in question is subject to a lower maximum weight set by order of the Texas Transportation Commission in accordance with Section 621.102 of the Transportation Code.

JC-503 County Construction or Maintenance of Public Roads/ How a Road May Become a Public Road

A county is limited to expending public funds on the construction and maintenance of public roads. A county may not expend public funds to construct, improve, or maintain private roads, except as authorized by Article III, Section 52(f) of the Texas Constitution. In general, a road may become a public road either pursuant to the statutory procedures set forth in the county road and eminent domain laws, by dedication, or by prescriptive easement.

Before maintaining a road that has not been officially established as a public road, a commissioners court must either obtain a judicial order declaring the road a public road or, alternatively, in a county with a population greater than 50,000, make its own determination that the road has become a public road by dedication or

by prescriptive easement. Private landowners or others affected by a commissioners court’s determination that a road is a public road may seek to have their rights adjudicated by a court. In such an action challenging a commissioners court’s determination that a road is a public road, the status of the road would be a question of fact.

In counties of 50,000 or fewer persons governed by Chapter 281 of the Transportation Code, a commissioners court is not authorized to determine that a road has become a public road by dedication or by prescriptive easement based on events occurring after that Chapter’s effective date, or to maintain such a road on the basis of those common law doctrines.

JC-517 Permits Authorizing Oversize or Overweight Commercial Vehicles to Operate on Public Roads

Section 623.011 of the Transportation Code requires the Department of Transportation to issue a permit authorizing the operation of an oversize or overweight motor vehicle if the applicant meets the statutory requirements. See, Tex. Transp. Code Ann. § 623.011(a) (Vernon Supp. 2002). As Section 623.011(b) makes clear, an applicant for a permit must meet three requirements: (1) demonstrate that the vehicle is appropriately registered; (2) file security in the amount of \$15,000, payable to the Department and “the counties of this state”; and (3) pay a base permit fee of \$75, as well as any additional fees. Accordingly, once an applicant has satisfied the three requirements, it is qualified for a permit, and the Department must issue one.

JC-551 Transportation Code Authorizes Cities to Restrict Commercial Vehicles to Two Lanes

AG Opinions continued on page 20

Juveniles Now Adults: Unanswered Questions in Trial Courts of Limited Jurisdiction

By Ryan Kellus Turner, Program Attorney and Deputy Counsel, TMCEC

One area of juvenile law impacting municipal and justice courts remains unresolved: How do such courts enforce their judgments against juvenile defendants who are now adults?

Over the years, the lack of legal authority in this area coupled with mounting frustration amongst judges has resulted in inconsistent judicial practices throughout the State. At the core of such practices, however, remains another fundamental unanswered question: Can a municipal or justice court enforce a judgment or order against an adult defendant, who violated a court order as a juvenile, in the same manner you would a defendant who is an adult (*i.e.*, commit the defendant to jail on a *capias pro fine*)? We know that you cannot commit a **juvenile** to jail on a *capias pro fine*.¹ But what about when the defendant is now an **adult**?

Of all the different responses courts have taken on this issue, there appears to be three general approaches.

1. Reluctance – A growing number of courts appreciate that there is neither case law nor statutory law that answers the question. Accordingly, many courts make little effort to enforce their orders. Contrary to Article 45.058 of the Code of Criminal Procedure, some judges mistakenly believe

that they have no authority to even order the juvenile be taken into custody. Other than ordering DPS to deny the renewal of the juvenile's driver's license, many courts believe there is little or nothing else they can do to enforce their orders.

2. Attrition – Some judges take the perspective that compelling a juvenile to comply with the court's order is a battle of wills between the juvenile and the judge. Consequently, some judges are willing to take the juvenile into custody as many times as necessary (the rationale being that sooner or later the juvenile will ultimately get tired of repeatedly being taken into custody).
3. Passive Aggression – Other judges feel that regardless of a juvenile's age, once a juvenile defendant has been found guilty and given an order by the court, no further efforts are necessary on the court's part. Such courts wait for the defendant to turn age 17 and then commit the defendant to jail on a *capias pro fine* warrant. Though relatively few judges are believed to engage in this practice, it is common enough to have its own name: "throwing the defendant a birthday party."

Each of the three stated perspectives debatably has merits. None of them, however, are free from criticism.

"Reluctance" does not bring about compliance. "Attrition" may be ideal but is often infeasible. Neither does it provide answers to the previously stated legal questions. "Passive Aggression," because of a judge's duty to "dispose of all matters promptly, efficiently, and fairly,"² is not ethical. Additionally, it inherently advocates judges "lying in wait" for youthful offenders to reach age 17. Critics have claimed that this practice may be illegal and that "birthday parties" are "the domain of the small of mind and little of heart."³

The bottom line is that at this time, Texas law contains more questions than answers when it comes to enforcing municipal courts' orders on juvenile offenders who are now adults. Caution is encouraged. Ultimately, until either the Legislature or the Court of Criminal Appeals resolves such lingering questions, courts are encouraged to consult with their city attorney. ⚖️

¹ Article 45.050(a), Code of Criminal Procedure.

² Canon 3(B)(9), Code of Judicial Conduct.

³ Correspondence, Professor Robert O. Dawson, Bryant Smith Chair in Law, University of Texas School of Law (7/12/02).

Interested in Juveniles?

TMCEC is sponsoring a special topic Juveniles 12-Hour Judges Seminar on June 17-18, 2003 at the Omni Bayfront Hotel in Corpus Christi. See the description on page 22 of this newsletter and use the form on page 23 to register.

Attendance at the seminar fulfills the mandatory judicial education requirement for experienced judges.

Court Cost Exercise

By Margaret Robbins – Program Director, TMCEC

Assessing and collecting court costs and fees is a difficult task at best and at worst, a nightmare. Thankfully, many courts have computers with the ability to accurately allocate costs and fees to the proper funds. Texas, however, still has many courts that are not automated and must calculate the fees and costs manually. Regardless of whether the court has technology or not, clerks must be familiar with court costs and fees. The following scenario is an opportunity to see if you understand what court costs are to be collected and how the costs are allocated. For each part of the scenario figure out:

- (1) the total court costs and fees required to be assessed;
- (2) the amount of jail credit given to each charge;
- (3) the total amount collected; and
- (4) how the costs and fees are allocated.

Defendant James Speedster is charged with:

- Speeding,
- Failure to Secure Child in a Passenger Safety Seat System,
- Failure to Display Driver's License,
- Expired Registration,
- Failure to Maintain Financial Responsibility,
- Defective Tail Lamps, and
- Running a Red Light.

The officer issues a citation for speeding and arrests the defendant on the other charges. The time is 7:30 p.m. The next morning at 9:30 a.m., the judge sees the defendant and explains the defendant's rights and asks the defendant for a plea on each of the charges for which the defendant was arrested. The defendant pleads not guilty to all charges except

for the Failure to Secure Child in a Passenger Safety Seat System. The judge sets a bond on each of the not guilty pleas. The defendant posts a cash bond for each charge and with each bond signs a conditional plea of no contest. The judge gives \$100 credit for every eight hours confinement in jail. The city has adopted ordinances requiring the court to assess the technology and the building security fees.

- **Speeding:** The defendant requests to take a driving safety course (DSC) for the Speeding charge. The defendant pleads no contest, pays court costs and an administrative fee. The court grants DSC, enters judgment and sets the fine at \$175, but defers imposition of the judgment for 180 days. The defendant fails to present the court with evidence of completion and fails to appear at the show cause hearing. The judge imposes judgment and issues a *capias pro fine*. The defendant is arrested six months later and spends 10 hours in jail. The judge gives the defendant jail credit for time spent in jail before conviction and after conviction.
- **Failure to Secure Child in a Passenger Safety Seat System:** The judge assesses a fine of \$200 plus court costs for the Failure to Secure Child in a Passenger Safety Seat System charge. The judge gives the defendant jail credit. The defendant requests an extension to pay the rest of the judgment. The judge requires the defendant to make payments of \$50 monthly until the judgment is paid.
- **Failure to Display Driver's License:** The defendant presents the court with a driver's license that was valid on the day the defendant

was issued a citation. The prosecutor makes a motion to dismiss the charge. The court grants the motion and dismisses the charge. The court refunds the cash bond to the defendant.

- **Expired Registration:** The defendant renews his registration and presents proof to the court within 10 working days. The court dismisses the charge and assesses a fee. The court refunds the cash bond to the defendant.
- **Failure to Maintain Financial Responsibility:** The defendant presents proof of financial responsibility by bringing in an insurance card that shows defendant had insurance the day the citation was issued. After the court verifies the validity of the insurance, the court dismisses the charge. The court refunds the cash bond to the defendant.
- **Defective Tail Lamp:** The defendant fixes the defective tail lamp and requests that the court dismiss the charge. The judge explains that he does not have authority to dismiss the charge unless the prosecutor makes a motion for dismissal. The prosecutor does not make a motion for a dismissal. The defendant pleads no contest. The judge sets the fine at \$45 plus court costs and gives jail credit to the defendant. The court refunds the cash bond to the defendant.
- **Running a Red Light:** The defendant pleads not guilty to the Running a Red Light charge and requests a jury trial. The afternoon before the trial, the defendant requests a continuance because he is ill. The judge grants the continuance and resets the case. At the next trial setting, the defendant

fails to appear. The judge accepts the conditional plea of no contest and forfeits the bond for the fine and costs. The court immediately notifies the defendant of the court's action. The defendant requests a new trial. The court allows the defendant to withdraw the no contest plea, reinstates the

bond, and sets the case for a jury trial. The defendant requests a subpoena duces tecum for the officer to bring the radar maintenance log to court. The defendant also requests a subpoena be issued for a witness who was riding with him the

day of the arrest. The jury convicts the defendant and sets the fine at \$150. The judge gives the defendant jail credit. The court refunds the cash bond to the defendant. The defendant pays the fine within 30 days of the judgment

Answer

Charge	Fine Assessed	Court Costs Assessed	Fees Assessed	Jail Credit Given	Total Amount Collected and Allocation
Speeding	\$175	\$43	\$5 Arrest fee \$10 DSC fee \$25 Time Payment Fee \$50 Warrant Fee \$4 Technology Fee \$3 Building Security Fee	\$100 for pre-conviction arrest \$100 for post conviction arrest	\$105 + \$10 DSC fee collected (\$105 pro-rated through all court costs and fees; \$42.40 to State & 62.60 Local costs) \$0 to fine.
Failure to Secure Child in a Passenger Safety Seat System	\$200	\$43	\$5 Arrest Fee \$4 Technology Fee \$3 Building Security Fee \$25 Time Payment Fee	\$100 pre-conviction arrest	\$180 collected (\$80 to court costs and fees; \$52.50 to State; \$27.50 Local costs) \$100 to fine (\$100 sent to state at end of city's fiscal year)
Failure to Display DL	Dismissed	None	None	None	None
Expired Registration	Dismissed	None	\$10 administrative fee	None	\$10 Local fee
Failure to Maintain Financial Responsibility	Dismissed	None	None	None	None
Defective tail lamp	\$45	\$43	\$5 Arrest Fee \$4 Technology Fee \$3 Building Security Fee	\$100 pre-conviction arrest	Fine and costs paid by jail credit
Running a Red Light	\$150	\$43	\$5 Arrest Fee \$4 Technology Fee \$3 Building Security Fee \$3 Jury Fee \$5 Subpoena Fee	\$100 pre-conviction arrest	\$113 collected (\$63 to court costs and fees; \$40 to State; \$23 Local costs) \$50 to fine

Total fines deposited to city treasury – \$50
 Total fines to be remitted to state – \$100
 Total local court costs and fees deposited to city – \$123.10
 Total state court costs remitted to state – \$134.90



COURT SECURITY

Jo Dale Bearden

Designing a Court Security Plan

Whether it be a three ring binder containing policies and procedures for every aspect of court security or a five page stapled set of policies and procedures, your court should have some type of court security manual. Court security manuals serve two purposes: they serve as a security plan for all court officials and through that they provide a safe and secure environment for all court participants. The court security manual should be used to guide, regulate, and control the court decorum and the court personnel.

Unlike most areas in law enforcement, court security is proactive. Proactive meaning that court security is based on deterrence, detection, and prevention. In order to be proactive, it is necessary that those developing the court security manual involve all needed individuals, determine appropriate responses, and ensure adequate training. In theory, developing a court security plan should be thorough, including site surveys, risk assessments, threat assessments, etc. But, in the real world, one must be reasonable and practical, courts are working with a budget and in some circumstances those who sign off on proposals do not have an understanding of the court, much less the need for security. With these thoughts in mind, following are some areas to be considered when developing a court security plan.

Courthouse Physical Security

A thorough knowledge and working understanding of the courthouse facility is needed in order to develop a security manual. This includes knowledge of the floor plan, openings, areas of vulnerability, and more. Private security contractors can be hired to do

a security assessment of a facility. Along with the assessment, a report of security would be prepared for the court. According to which contractor is used, only an assessment and report may be completed or an assessment, report, and proposal that includes prices if you use that contractor to make those changes and improvements.

If this is outside the scope of your budget, there are many site assessment checklists available to use at no charge. TMCEC's website has a checklist at www.tmcec.com. The U.S. Marshal's Service will provide a checklist if you contact their local office. The checklist the court uses should contain all areas of the court facility. Including—but not limited to—lighting, doors and windows, elevators, storage areas, perimeter areas, communications, parking areas, the courtroom specifically, chambers, jury deliberation areas, and public areas. Regardless of the way the assessment is done, an initial security assessment should be done prior to developing a court security plan and then again to update the plan.

Routine Security Procedures

A court security plan should include policy and procedures regarding the routine security procedures. This includes the court security activities that are done everyday or annually, such as security screening, mail screening, duress alarms, inspection of building and ground, and procedures for court proceedings. The policies regarding these activities should include specific guidelines on how the activities should be undertaken. For instance, in the security screening area, if the court uses metal detectors, the security manual should have a section devoted to what

type of metal detector is being used, what proper procedure is in using that detector, what happens if weapons are detected, how is that handled, and which officers will be handling security screening?

Developing Contingency Safety & Security Plans

In preparing the court security plan, the potential for disaster and what to do when it hits should be included. All court personnel should be ready to react to emergency and potential emergency situations, such as bomb threats, fires, and even tornados. Contact information, evacuation procedures, maps, interagency agreements, and personnel profiles should be kept in the security plan.

Truly effective courthouse security requires the cooperation of all court personnel and participants. That cooperation is gained when there are policies and procedures in place to control behavior. This is just a general guide and really, more of a starting point. In order to develop a functional court security manual, it is important that many additional resources, including court security research, other municipal courts, and professional organizations, be researched.

Where to look for more information:

Wisconsin Courthouse Security Manual, Fox Valley Technical College, November 2000 (Contact Angie Balfe, Fox Valley Technical College, 888/370-1752 – Cost: \$20.)

Physical Security Checklist, Scott Stephens, Austin Police Department (Available at www.tmcec.com)

Thanks to Honorable Allen Gilbert, San Angelo Municipal Court.

Documents continued from page 1

implemented a few counter-measures that have lessened the frequency of occurrence of scenarios similar to the examples above and aided in the identity of the true violators.

One effective method used is obtaining a thumbprint from violators who cannot produce a government issued driver's license or identification card. This method has its limitations, one of which is that a fingerprint from a juvenile driver cannot be obtained. Although fingerprint ink technology is better than ever with small self-contained inkpads for convenience, some officers find it awkward to use and often forget to request the violator's print. When used properly and consistently, the fingerprint requirement is very effective, but some ticket forgeries still occur (see, *Fraud Offenses*, W. Clay Abbott, in this issue of *The Recorder* for definition and description of Forgery). However, positive identification or elimination of suspects is much easier. Some courts rely on document examiners who have been officially trained in handwriting identification. These special investigators often are employed as bailiffs or warrant officers of the court. Courts with no "in court" document examiner may have to rely on a document examiner who is a member of a law enforcement agency in their area. Document examiners are usually assigned to forgery and

IN THE CITY OF MIDLAND
MUNICIPAL COURT
MIDLAND, TEXAS

NO. K 215901
COURT COPY

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS

I, _____, do solemnly swear that
I have good reason to believe and do believe that _____
Name (Last) (First) (Middle), on or about
the _____ day of _____, 20____, and before the
making and filing of this complaint, within the incorporated limits of the City of Midland,
County of Midland, and the State of Texas, did then and there drive and operate a motor
vehicle upon _____
(Location)
(a) public streets) in the City, County, and State aforesaid, and did then and there, in the
manner checked below, unlawfully
() operate a motor vehicle at the rate of speed of _____ miles per hour in a
_____ mile per hour zone, said speed being greater than was reasonable
and prudent under existing conditions
() disobey a traffic signal by entering on a red light
() disobey a stop sign (fail to stop said motor vehicle before entering said inter-
section when faced with a stop sign)
() operating said motor vehicle without possessing a valid operator's license for
the type of vehicle being operated
() fail to yield the right of way to another vehicle which was entitled to the right
of way _____
() failure to maintain financial responsibility (No Insurance)
() other violation _____
and against the Peace and Dignity of the State.

Subscribed and sworn before me, by _____
the _____ day of _____, A.D., 20____.

Notary Public, Midland County, Texas

Address _____
City & State _____ Zip _____ Phone _____
Bus. Address _____ Bus. Phone _____
Date of Birth _____ Sex _____ Race _____
D.L. No. _____ C.D.L. Other I.D. No. _____
Veh. Make _____ Veh. Model _____ Year _____ Type _____
Color _____ Lic. No. _____ Lic. State _____
Time Citation Issued _____ a.m./p.m. Accident: Major Minor
Remarks _____
Parent's Name _____

if defendant unable to
provide identification,
affix thumbprint in box →

I hereby acknowledge receipt of the above notice and promise to appear in Municipal
Court within 14 days from the above date and enter a plea to the above charge.

X _____ THIS IS NOT A PLEA OF GUILTY

PLEASE BEAR DOWN - YOU ARE MAKING FOUR COPIES

fraud units of the police or sheriff's department and have a tremendous caseload. They are always willing to help, but it may take some time before they can get to the court's request. To make matters worse, some violators will actually appear in court and enter a plea under a false name including signing a time pay agreement form and other related documents adding to the pile of "questioned documents" (see, *Fraud*

Offenses, W. Clay Abbott, in this issue of *The Recorder* for definition and description of Perjury). Some courts have a photo system for persons with a deferred payment plan. It is not unusual to discover a defendant's picture entered under several different names over the course of several years. The photo system is a

Documents continued on page 20

DEFERRED PAYMENT PROVISIONS AND AGREEMENT

**City of Midland Municipal Court
406 E. Illinois, Midland, Texas
915-685-7313**

The undersigned hereby requests deferred payment of duly assessed fines totaling \$ _____, payable to the City of Midland Municipal Court, Midland, Texas. The undersigned also represents to said Court that he/she is able to pay said total amount in full as follows:

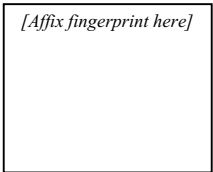
- _____ A. I agree to pay \$ _____ on or before _____, and agree to pay the remaining amount due in full on or before _____.
- _____ B. I agree to pay \$ _____ on _____ of each and every week/mo until said amount is paid in full, such payments to commence on _____.
- _____ C. I agree to pay \$ _____ every other _____ until said amount is paid in full, such payments to commence on _____.
- _____ D. I agree to pay _____

*I understand that no variance shall be allowed from the above scheduled payments without specific written permission of the Court. I also understand that no changes can be made to my payment arrangements on the telephone, I must appear in person to make further arrangements. I further fully understand that **FAILURE OR REFUSAL TO PAY THE ASSESSED FINES AS HEREIN PROVIDED SHALL SUBJECT ME TO ARREST AND CONFINEMENT UNTIL SUCH TIME THAT THE FINES AND COSTS HAVE BEEN SATISFIED ACCORDING TO LAW.***

I represent to the Court that I: Am an indigent person (complete affidavit)

Am not an indigent person, but desire deferred payments

I have read (or had read and explained to me) the foregoing deferred payment provisions and I fully understand all of them without exception.



Witness

Signature of Defendant

Today's Date

Name _____ Date of Birth _____
Address _____ Apt _____ City _____ Zip _____
Home Phone _____ Work Phone _____
Employer's Name _____ Address _____ City _____
Driver's License No. _____ Social Security No. _____

IF UNDER 17 YEARS OF AGE THE FOLLOWING INFORMATION IS REQUIRED

Parent's Name _____ Work Phone _____
School & Grade Enrolled _____ School I.D. No. _____

COURT NO(S). _____

(Nov 2002) _____ Account Number _____



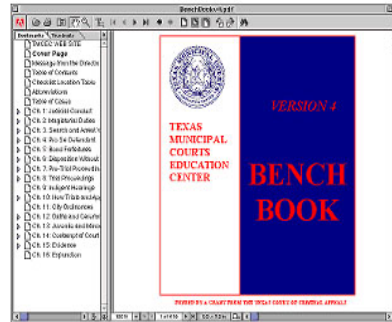
FROM THE CENTER

Electronic Bench Book

TMCEC has placed its *Bench Book* online with links to relevant forms, statutes, and case law. It may be accessed via the TMCEC web site at www.tmcec.com. The case law links include pre-1998 Texas cases that are difficult to access online elsewhere because they are not on the current Court of Criminal Appeals web site. Great appreciation is expressed to Nigel Gusdorf (former TMCEC Program Attorney) of Austin for his work on this project.

Download the [Bench Book!](#)

Requires the free [Adobe Acrobat Reader](#)



The TMCEC Bench Book in Adobe Acrobat format.

Download the [Bench Book](#) | Download the [Acrobat Reader](#)

1. Links in the electronic Bench Book are **blue** or **red**, as shown in this excerpt below:

<input type="checkbox"/> 2. Set any reasonable conditions that will assure the appearance of the defendant.	Valenciano v. State, 720 S.W.2d 523 (Tex. Crim. App. 1986)
<input type="checkbox"/> 3. Sureties, generally:	
<input type="checkbox"/> If only one surety, must be worth at least double the amount of bail set less exempted, encumbered or indebted property.	Art. 17.13, C.C.P. Form

2. Clicking on a link to a **blue** Texas court opinion will download a **Microsoft Word document** with the full text of that opinion.

3. Clicking on other **blue** links will take you to a **web page** that displays the full text of the statute, rule, attorney general opinion or federal court opinion that you clicked on.

4. Clicking on a **red Form** link will download a **Microsoft Word document** with the complete form.

5. When you are through viewing the web page or Word document, press the **Alt + Tab** keys on your keyboard to return to the Bench Book.

If you have trouble with these navigation hints, click [here](#).

Clicking a **checklist link** will take you to that Checklist in the Bench Book:

SEE [CHECKLIST 37](#)

Checklist 37
<input type="checkbox"/> 1. Opening ceremony and remarks:
<input type="checkbox"/> Opening announcement given by bailiff or court clerk.
<input type="checkbox"/> Judge's opening statements:
<input type="checkbox"/> Explain court procedures.

Click Acrobat's Go to Previous View arrow to return to your previous location in the Bench Book.

To **search** for a key word or phrase, click the binoculars in Acrobat Reader, or choose Find from the Edit Menu. Enter the word or phrase you want to search for and click the "Find" button.

Download [Bench Book](#) | Download [Acrobat Reader](#)
[Return to Top of Page](#) | [Home Page](#)

Court Administrator Seminar

TMCEC will offer the first of two 12-hour court administrator programs on March 18-19, 2003 at the Hilton Arlington. The housing deadline is February 21, 2003. The course focuses on developing the court administrator as a manager and supervisor to help improve the efficiency and fair administration of Texas municipal courts. The program is not limited to clerks and court administrators who are supervisors, but is open to all court support staff that is seeking Level III Certification. Housing, course materials, two breakfasts, and a lunch will be provided. Please register by February 21, 2003. A registration form may be found in the TMCEC

Academic Schedule or on page 23 of this newsletter. A flyer will be mailed to all courts in early February.

Bailiff/Warrant Officer Seminar

TMCEC is offering TCLEOSE credit for a specially designed program for bailiffs and warrant officers in Arlington on March 18-19, 2003. Topics to be covered include: *Professionalism and Ethics, Investigating Forged Government Documents, Legal Aspects of Forged Government Documents, Warrant Round Ups and Amnesty Programs: A How To, Security Screening, Intelligence Gathering, Emergency*

Management, Developing a Court Security Manual, Identifying the Mentally Ill, Developing a Marshal's Office, Utilizing EPOs for Court Security Terrorism and Bomb Threats, Verbal Judo, Contempt and Decorum, and Arrestable Offenses. There is no registration fee. The program is funded by a grant from the Court of Criminal Appeals. Housing, course materials, two breakfasts, and a lunch will be provided. Please register by February 21, 2003. A registration form may be found in the TMCEC Academic Schedule or on page 23 of this newsletter. A flyer will be mailed to all courts in early February.

**March 18-19, 2003
Arlington Hilton**

**12-hours TCLEOSE credit
4-hours TCLEOSE credit for pre-conference (Court Security - joint pre-conference with Court Administrators program)**

AG Opinion continued from page 12

of Traffic Not Two or More Lanes

Section 545.0651(b) of the Texas Transportation Code authorizes a municipality to "restrict, by class of vehicle, through traffic to two designated lanes of a highway in the municipality." The term "two" means precisely two and may not be construed to mean "two or more."

Recent Attorney General Opinions Index

City/Government Administrative Authority Opinion

JC-575

City/Government Ordinance Authority Opinions

JC-460, JC-481, JC-485

Compensation Opinion

JC-376

Criminal Procedure Opinions: Court Operations

JC-393, JC-404, JC-405, JC-454, JC-463, JC-516, JC-528, JC-549, JC-554, JC-579, JC-584, GA-0002

Police Activities

JC-387, JC-416, JC-541, JC-466, JC-497, JC-500, JC-522, JC-530, JC-532, JC-541, JC-548

Prosecutor Activities

JC-380, JC-542, GA-0005

Driver's License Opinions

JC-409, JC-423, JC-499, JC-540

Education Opinions

JC-446, JC-504


Election Opinion

JC-483

Municipal Court Building Security Fund Opinions


JC-476

Public Street Opinions

JC-343, JC-503, JC-517, JC-551 

Documents continued from page 17

with Governmental Records, Section 37.10, Penal Code. There are numerous statutes that may apply to this fraudulent activity (see, *Crimes Committed in Municipal Court*, W. Clay Abbott, in this issue of *The Recorder* for definition and description of those statutes).

Whatever the scam may be, I certainly encourage filing the appropriate charges on persons involved in this activity in attempts to curb this trend. 

Note from TMCEC: When buying ink pads for finger printing, look for stainfree, high-contrast, instant-drying, permanent ink. An example may be seen at www.sirchie.com/section1/ezid.asp.

Remember, municipal courts may not finger print juveniles without permission from your juvenile court (see, 158.002(a), Family Code).

Academic Schedule

NEW, NON-ATTORNEY JUDGES:

7/21-7/25, 2003 **32-Hour Judges/Clerks** Radisson Hotel Austin 512/478-9611 Registration due: 6/27

12-HOUR JUDGES:

2/20-2/21, 2003 **12-Hour Judges/Clerks** Adam's Mark Hotel Houston 713/978-7400 Registration due: 1/27
3/3-3/4, 2003 **12-Hour Judges/Clerks** Omni Dallas Hotel Park West 972/869-4300 Registration due: 2/10
4/10-4/11, 2003 **12-Hour Judges/Clerks** Holiday Inn Park Plaza Lubbock 806/797-3241 Registration due: 3/14
5/5-5/6, 2003 **12-Hour Atty Judges** Radisson South Padre 956/761-6511 Registration due: 4/7
5/7-5/8, 2003 **12-Hour Non-Atty Judges** Radisson South Padre 956/761-6511 Registration due: 4/7
6/5-6/6, 2003 **12-Hour Judges/Clerks** Hilton Midland & Towers 915/683-6131 Registration due: 5/12

JUDGES 12-HOUR SPECIAL TOPIC:

5/21-5/22, 2003 **Topic: Evidence** Omni Southpark Austin 512/448-2222 Registration due: 4/25
6/17-6/18, 2003 **Topic: Juveniles** Omni Bayfront Corpus Christi 361/887-1600 Registration due: 5/23

JUDGES AND CLERKS 12-HOUR LOW VOLUME COURTS:

3/27-3/28, 2003 **Low Volume** **Wait List** Embassy Suites Abilene 915/698-1234 Registration due: 3/1

NEW CLERKS:

7/21-7/25, 2003 **32-Hour Judges/Clerks** Radisson Hotel & Suites Austin 512/478-9611 Registration due: 6/27

CLERKS 12-HOUR:

2/20-2/21, 2003 **12-Hour Judges/Clerks** Adam's Mark Hotel & Resort 713/978-7400 Registration due: 1/27
3/3-3/4, 2003 **12-Hour Judges/Clerks** Omni Dallas Hotel Park West 972/869-4300 Registration due: 2/10
4/10-4/11, 2003 **12-Hour Judges/Clerks** Holiday Inn Park Plaza Lubbock 806/797-3241 Registration due: 3/14
5/1-5/2, 2003 **12-Hour Clerks** **Wait List** Radisson South Padre 956/761-6511 Registration due: 4/7
6/5-6/6, 2003 **12-Hour Judges/Clerks** Hilton Midland & Towers 915/683-6131 Registration due: 5/12

PROSECUTORS:

6/17-6/18, 2003 **Prosecutors** Omni Bayfront Corpus Christi 361/887-1600 Registration due: 5/23

COURT ADMINISTRATORS:

3/18-3/19, 2003 **Court Administrators** Hilton Arlington 817/640-3322 Registration due: 2/21
6/17-6/18, 2003 **Court Administrators** Omni Bayfront Corpus Christi 361/887-1600 Registration due: 5/23

BAILIFFS & WARRANT OFFICERS

3/18-3/19, 2003 **Bailiffs/Warrant Officers** Hilton Arlington 817/640-3322 Registration due: 2/21

LEGISLATIVE UPDATES FOR JUDGES & ALL COURT PERSONNEL:

8/4, 2003 **Legislative Update** Sofitel Houston 281/445-9000 Registration due: 6/11
8/8, 2003 **Legislative Update** Omni Southpark Austin 512/448-2222 Registration due: 6/11

CLERK CERTIFICATION LEVEL III ASSESSMENT CLINICS:

5/20-5/22, 2003 **Assessment Clinic** Omni Southpark Austin 512/448-2222 Registration due: 4/25

A Reminder!

Once registered, please call TMCEC if your housing needs change. You will be billed \$80 plus tax if you reserve a room and do not use it. If you need to change your arrival date, contact the TMCEC offices to cancel the room (or to add a night) so that grant funds won't be wasted.

Judges Special Topic Schools

In contrast to the regional 12-hour schools, which expose judges to a variety of subjects and presenters, the Special Topic Schools will have fewer presenters and will concentrate on exploring different facets of a single subject matter. Presentations will be longer in length, subjects will be explored in greater depth, and there will be greater opportunity for audience interaction. The special topics for FY 2003 are *Evidence*, May 21-22, 2003, and *Juvenile Law Issues in Municipal Court*, June 17-18, 2003.

Evidence

Topics tentatively scheduled for address include:

- *Common Predicate Issues*
- *Novel Science, Opinions, & Expert Testimony*
- *Judicial Notice*
- *Relevancy and Its Limits*
- *Privileges*
- *Witnesses, Competence, & Confrontation Issues*
- *Making Sense of Hearsay*
- *Authentication, Identification, & Content Issues*
- *Case Law Update & Notable Attorney General Opinions*
- *Mock Pre-Trial Hearing: Traffic Related Suppression Hearing*

Who Should Attend? This program addresses the application of the Texas Rules of Evidence to issues encountered in municipal court. The program will include breakout sessions with both basic and advanced tracks. Judges wishing to increase their knowledge of the Rules of Evidence when ruling on trial issues are encouraged to attend.

Conference Site and Dates:

Austin

May 21-22, 2003 (W-Th)

Omni Southpark Austin

4140 Governor's Row

Zip Code: 78744

512/448-2222

Register By: April 25, 2003

Juvenile Law Issues in Municipal Court

In FY 2001, TMCEC offered its first special topic school: *Juveniles and the Law*. In response to the positive feedback from participants, the Center is once again offering this program in FY 2003. Only the name of the program has changed.

Topics tentatively scheduled for address include:

- *Overview of Processing Juveniles in Municipal Court*
- *Juvenile Confessions and Related Magistrate Issues*
- *School Attendance*
- *Juvenile & Gang Crime Issues in Municipal Court*
- *Juvenile-Related Ethical Issues*
- *Theories of Juvenile Delinquency*
- *Panel Discussion: Juvenile Programs and Perspectives*
- *Case Law and Attorney General Opinion Update*
- *Juveniles Now Adults: Unanswered Questions in Trial Courts of Limited Jurisdiction*

Who Should Attend? This program is designed for judges who handle either substantial juvenile dockets or a substantial interest in the subject of juvenile law.

Conference Site and Dates:

Corpus Christi

June 17-18, 2003 (T-W)

Omni Bayfront Corpus Christi

900 N. Shoreline Blvd.

Zip Code: 78401

361/887-1600

Register By: May 23, 2003

NOTE: To attend either of the Special Topic Schools, a judge must have attended two years of TMCEC schools during the last two academic years. Enrollment will be on a first-come, first-served basis and is limited to the first 75 qualified judges. Either school fulfills the mandatory judicial education requirement for municipal judges. Judges who have already attended a TMCEC seminar in FY 2003 may attend these seminars at their own expense. The Special Topic Schools fulfill the annual requirement for judicial education for experienced judges.

TMCEC 2002-2003 REGISTRATION FORM

Program Attending: _____ Program Dates: _____
[city]

- I also intend to attend the Mock Plea and Mock Trial Workshop or the Survey of the Rules of Evidence pre-conference class.
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: _____
Names also known by: _____ Male/Female: _____
Position held: _____
Date Appointed/Elected/Hired: _____ Years Experience: _____

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 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.

Date arriving: _____ Arriving by: Car Airplane Smoker Non-Smoker

COURT MAILING ADDRESS

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

Municipal Court of: _____ Mailing Address: _____
City: _____ Zip Code: _____ Email: _____
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
Court Clerk Deputy Clerk Court Administrator Warrant Officer/Bailiff
Prosecutor
Assessment Clinic (A registration fee of \$100 must accompany registration form.)
Other: _____

*Warrant Officers/Bailiffs: Municipal judge's signature required to attend Warrant Officers/Bailiffs program:
Judge's Signature _____ Date: _____
Municipal Court of _____

I certify that I am currently serving as a municipal 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 five (5) working days prior to the seminar. If I have requested a room, I certify that I live at least 30 miles from the seminar site and have read the cancellation and no show policies in the General Seminar Information section located on pages 17-18 in the Academic Schedule. Payment is required ONLY for the assessment clinics and legislative updates; payment is due with registration form. Participants in the assessment clinics and legislative updates must cancel in writing two weeks prior to seminar to receive refund.

Participant Signature _____ Date _____

New Year's Computer Cleaning

At the dawn of a New Year, many of you may have made New Year's resolutions regarding your health, your future, or even your relationships. I challenge you to make a different sort of resolution in 2003: "I, (insert your name), do vow to make a concerted effort towards keeping my computer uncontaminated." Now that you have made the resolution, here is how you keep it.

1. Delete Cookies

Digital cookies, or cookies, are small files that are placed on your computer's hard drive by a website. Their purpose is two-fold. First, cookies make web surfing more efficient, in that the information does not have to be downloaded each time you visit the website. Cookies also save your preferences for browsing, such as frames or no frames, the background colors, and even the links that you choose.

The second purpose of cookies is to track your web surfing habits, as well as to gather marketing information on you. Companies such as *DoubleClick Inc.* and *Focalink Communications* use cookies to track your web surfing habits from which they create a profile of you. Advertisements can then be targeted toward you because your profile shows a potential interest. Both *Netscape* and *Explorer* have tools—look under *Internet Options*—that allow the user to control cookies. The user can choose to be prompted to accept or reject cookies while

surfing or to never accept cookies. Keep in mind; if you do a lot of Internet surfing, some websites will not work properly without cookies.

Cookies also take up valuable disk space on your computer. Different operating systems store cookies differently, but all allow you to either select the cookies you want to delete or delete them all. *Internet Explorer 6.0* allows you to easily delete cookies:

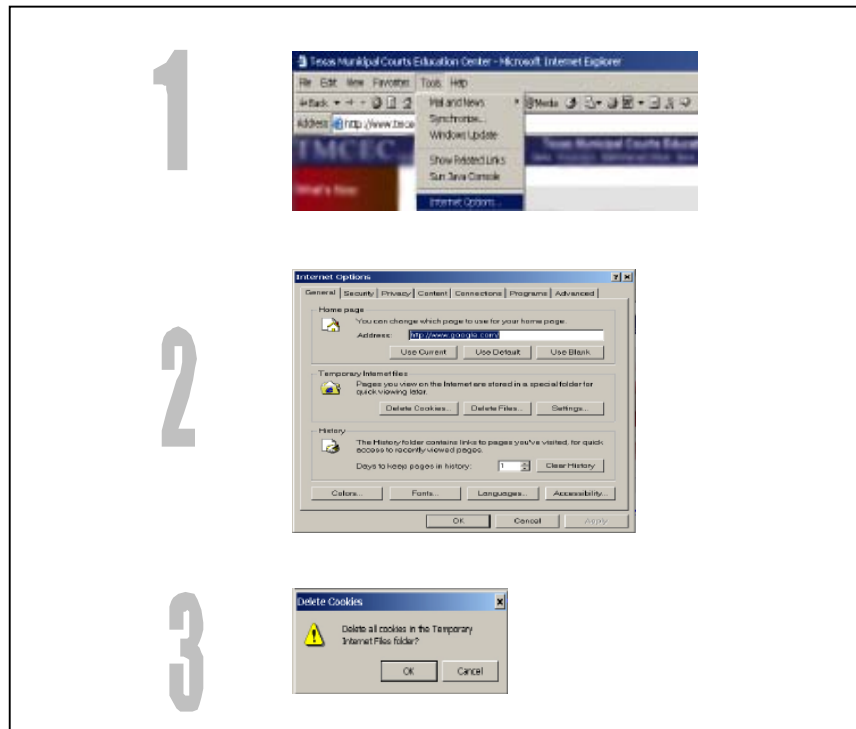
- Open the *Explorer* browser and click on *Tools*, then *Internet Options*.
- Under the *General* tab click *Delete Cookies*.

Windows 2000 stores cookies under

C:\Documents and Settings*your profile*\Cookies; just select the cookies and delete. To locate cookies on any operating system, click on the *Start* button, select *Search for Files or Folders* and enter *cookies* as your search parameter on the local hard drive (usually C: drive). Once the files are located, open the cookie folder and delete the cookies.

2. Delete Temporary Internet Files

Temporary Internet files serve a similar purpose as cookies, to make web surfing more efficient. As cookies are storing the information about a



website, the temporary Internet file folder is storing the images from the website. Each time you revisit a site, the images are already on your hard drive and are more quickly recalled to the screen.

Temporary Internet files are easy to delete. Again, *Internet Explorer 6.0* allows you to easily delete these files:

- Open the *Explorer* browser and click on *Tools*, then *Internet Options*.
- Under the *General* tab click *Delete Files*.

By clicking the *Settings* tabs you can control the amount of space allotted for storing files and change the location of where those files are stored. *Windows 2000* stores the temporary Internet files under `C:\Documents and Settings\your profile\local settings\temporary internet files`; just select the images and files and delete. To locate the temporary Internet file folder on any operating system, click on the *Start* button, select *Search for Files or Folders* and enter *temporary internet file* as your search parameter on the local hard drive (usually C: drive). Once the files are located, open the folder and delete its contents.

3. Install Virus Protection Software on Your Computer

A computer virus is a program that can copy itself into another program and multiply itself. For instance, you open an e-mail that asks you to click here for a greeting card from someone you trust, you click on the link and a picture opens. You may think to yourself, that's nice but why would he/she send me a greeting card. Minutes later you get calls from everyone on your e-mail distribution list saying you sent them the greeting card and they sent it to everyone in their distribution lists. This virus didn't do any major harm to your computer, but it was

annoying and embarrassing for you and possibly it tied up your server so that no one was able to send or receive e-mail.

Downloading files or software from websites, bulletin boards, or e-mails typically is how computer viruses are ingested. Sharing floppy disks with infected files can also pass viruses. Most viruses infect executable files (extension.exe), meaning a file that will need to be run in order for your computer to be infected. Take the e-mail example above; the virus did not execute itself until you clicked to open the greeting card. E-mail is the most common way that viruses are spread. You do not get a virus just by reading an e-mail message; the file has to be executed—by opening an attachment or clicking on a link.

Updated virus protection software should be on your computer. Why? Take the e-mail scenario above: If you had an updated version of a virus protection software, when you clicked on that link, your software would have alerted you that the file was contaminated. There are many types of virus protection software available. The most common are *McAfee* (www.mcafee.com) and *Symantec Norton* (www.symantec.com). Both can be purchased and downloaded from their websites. Most importantly updates are part of the original purchase, meaning that you can update your software as often as the updates are available from the company's website.

Once virus protection software is installed on your computer, you should start a regular schedule of scanning your computer for viruses. Once installed, most scanning software will put an icon in the bottom right hand corner of your monitor that, when double-clicked, will open the security center and walk you through scanning your computer. TIP: Delete cookies and temporary Internet files from your computer prior to running a virus

scan. If there are large amounts of cookies or files on your computer, the virus scan could take a very long time.

4. Take Control of Your E-mail

SPAM—no not the processed meat that comes in a tin can, but those Unsolicited Bulk E-mails—can overwhelm your Inbox. Messages titled, “Lose Weight Fast,” “Make More Money,” and even “Change Your Life Today” unfortunately cannot be stopped completely, but there are some tricks of the trade you can do to decrease the amount of them. Most e-mail software has some tools to decrease the amount of SPAM that gets into your Inbox, usually called mail filters, junk mail filters, or adult content filters. *Outlook* for example has an add to junk mail list option which then sends specified e-mail (either by content or e-mail address) to the place you designate, such as Deleted Items.

SPAM locates you by you giving your e-mail address out, either when a website asks for it or by purchasing items online. Typically, your e-mail address is sold to companies that trade e-mail lists, so the SPAM in your Inbox grows and grows. Instead of using your primary e-mail account on these places, set-up a free account, such as www.yahoo.com, and use this e-mail account when surfing online or purchasing items online. Then only this account gets the bulk of the SPAM.

All of the above steps are doable, even if you aren't a “computer person.” These are simple steps. There are many more maintenance projects you could do to your computer, such as regularly backing up your computer, or “tweaking” your computer to make your computer more efficient. But, doing just these few things will help your computer run more smoothly. Make 2003 the year of the **Clean Computer!**

Advancements in Court Technology

By Janell Kucera, Court Administrator, Sugar Land Municipal Court

In recent years, technology has made great advancements in the courtroom and in the daily operations of the court. In fact, frequent upgrades of personal computers are needed to keep pace with technological changes. Judges and prosecutors now have access to computers in the courtroom, enabling them to actually see past offenses of defendants and improve the decision-making process. Like Sugar Land, most courts in Texas have replaced time-intensive manual procedures with computers and court-related software.

Sugar Land Municipal Court continues to evaluate technology as a way to conduct business more efficiently and make government more accessible. This is a significant goal for Sugar Land, a city of 65,000 that grew 158 percent from 1990 to 2000 and was the fastest growing among the state's largest 45 cities. Some of the ways Sugar Land has leveraged technology include the following:

Court Technology Fund

The 1999 Texas Legislature adopted a Court Technology Fund and Fee, effective Sept. 1, 1999, which enables municipal courts to purchase computer systems, networks, hardware, software, imaging systems, electronic kiosks, electronic ticket writers, and docket management systems. No longer does Sugar Land Municipal Court or any other court in Texas have to rely solely on the city budget, as this fund was earmarked specifically for courts.

In order to establish this fund and fee, a city ordinance must be approved; whereby, a fee not to exceed \$4 is established as a cost of the court, which in turn may be charged to each defendant convicted of a misdemeanor (see, Code of Criminal Procedure,

Article 102.0172 – Court Costs; Municipal Court Technology Fund). This Article expires Sept. 1, 2005, unless it is extended at the next legislative session in 2003. Sugar Land adopted the Court Technology Fund with a \$4 fee on Oct. 4, 1999, by City Ordinance No. 1209.

Interactive Voice Response System

Sugar Land Municipal Court was the second court in the State of Texas to install a new telephone system, called the Interactive Voice Response System. Providing defendants with court dates, fine amounts, trial dates, directions to the court and driving safety courses, this service is available 24 hours a day, seven days a week. Defendants may call 281/275-2601 to hear the court information in English or 281/275-2602 to hear the information in Spanish. After providing their driver's license number and ticket number, voice prompts lead defendants through the telephone system, with an operator available at any time.

Recently, an option to pay by credit card was added to the system. This system prevents a trip to court to learn about information such as court dates and fine amounts and make payments. The Court Technology Fund funded this new technology in Sugar Land.

Website Services

A variety of web site services enable municipal courts to work more efficiently. In Sugar Land, citizens have the following options to pay traffic and non-traffic violations incurred in the City of Sugar Land:

(1) Appear in person at the Municipal Court Building, 1200 Highway 6, Monday through Friday from 8 a.m. to 5 p.m.;

- (2) Utilize a drop box for envelope payment at the Municipal Court Building; or
- (3) Call 1-888/462-1157 and use a MasterCard or Visa credit card to pay the fine. The easiest method, however, is to visit Sugar Land's Website and pay tickets online. A menu-driven format guides customers through the payment procedure using major credit cards. Citizens receiving jury summons also can check the Web site for updated information on jury duty.

Looking to the future, several court-related technologies are on the drawing board for Sugar Land Municipal Court, including electronic ticket writers, imaging and video arraignments. These technologies, like those already in place, offer the ability to further improve judicial administration in our courts and build public trust and confidence.

Electronic Ticket Writers

Sugar Land also plans this year to implement electronic ticket writers, which have been on the market for several years. This product is becoming smaller in size and more durable and rugged for outdoor use. These ticket writers are very efficient with their elimination of data entry of tickets, as well as the need to decipher the handwriting of police officers.

Thermal paper is used for the ticket, and the device includes a printer. Tickets are printed and presented to offenders for their signatures as a promise to appear. Some products offer an interface directly to court systems, while others require a download procedure to interface with the system. Some of these products are more rugged than others and can withstand rain and survive direct hits

to the ground. Some act as a palm pilot and can be utilized for other purposes such as e-mail and Internet access. The data base contains outstanding warrants, street locations of the city, all violations including city ordinances, arraignment dates, and notes for the officers, while the dates come up automatically each day. They have swipe capabilities for the drivers' license, eliminating the need for the officer to key in the information.

Note from TMCEC: When buying electronic ticket writers, consider carefully the size and weight. Some officers have stated a preference for the less bulky ones.

Imaging

Imaging is not quite so prevalent in Texas courts. Several courts currently are in the process of imaging; Sugar Land has budgeted for the implementation of this technology. Imaging can significantly reduce the enormous amount of paperwork generated by a court's daily operations, a benefit that eases the endless battle of boxing, storing, and labeling. Imaging can solve these problems, but an archive policy for electronic storage of records must be approved by the state.

Records that are imaged are handled in a completely different way.

- (1) Each file is indexed and assigned a number.
- (2) The documents are then electronically placed in the proper electronic file.
- (3) They can be part of a workflow system; whereby, they are electronically sent to judges, prosecutors, and clerks as predetermined by the workflow system. For instance, a statement of intent to prosecute is submitted to the court. It is imaged through a

scanner, and through the workflow system, the statement is automatically routed to the prosecutor for approval. After approval or disapproval, the document is automatically routed back to a clerk for further processing.

Documents that are created on the court software system are automatically scanned by the system; therefore, manual scanning is not required. It takes approximately five years to complete the cycle for imaging. This is the designated time required by the state to maintain court records. It is the dream of all courts to someday become totally paperless.

Imaging can also capture signatures electronically using an e-pad that allows defendants to electronically sign court documents. Then with a click, the signatures are placed on the correct lines of electronic forms. Judges can also use an electronic signature to sign documents in the courtroom.

Video Arraignments

Video arraignments have been around for a few years, but this is not applicable for all courts. A court uses this means when the judge must travel a good distance to another jail location to arraign a prisoner or prisoners. One video camera is installed at the court and the other at the jail site, allowing the defendant to see the judge and vice versa. This type of technology eliminates the health concerns of the judge as well as security issues because the judge never comes in direct contact with the defendant. It also saves time and money in transporting prisoners, as well as security issues with the officer.

Larger courts also use video arraignments because defendants are typically booked in the county jail, which is oftentimes miles from the court. Video arraignments are perfect

for this type of situation. Sugar Land Municipal Court plans to budget for video arraignments in the near future.

Sugar Land's commitment to court technology is an organizational initiative intended to accommodate our citizens, who expect a government that works as efficiently as possible. With a population of mostly college-educated citizens who work in engineering and technical positions, the City likes to stay one step ahead of its technologically minded community. Sugar Land continues to seek opportunities to make City programs, activities and, most importantly, the democratic process of governance easily accessible to the community.

Sugar Land is a city with a population of 60,400 located in Fort Bend County southeast of Houston. In FY02, according to the records of the Office of Court Administration, 19,776 cases were filed.

TMCEC Legislative Update

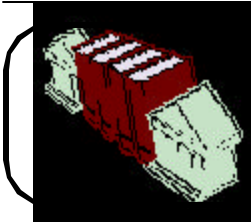
Houston
August 4, 2003
Sofitel Hotel

Austin
August 8, 2003
Omni Southpark

Registration Fee: \$50

**Use the
form on
page 23
in this
newsletter
to register
to attend.**





RESOURCES FOR YOUR COURT

Caseload Trends in the Municipal Courts

Analysis of Activity for Year Ended August 31, 2002

Background

In FY 2002, municipal courts and municipal courts of record operated in 877 Texas cities. Municipal courts have original and exclusive jurisdiction over violations of city ordinances and resolutions rules or orders of joint boards that operate airports under Section 22.074, Transportation Code and that are punishable by a fine not to exceed: 1) \$2,000 in cases arising under ordinances or resolutions, rules or orders involving fire safety, zoning, public health, and sanitation; and 2) \$500 in all other cases arising under a municipal ordinance or airport board resolution, rule or order.

In addition, municipal courts have concurrent jurisdiction with justice of the peace courts in misdemeanor cases resulting from violations of state laws within the city limits or property owned by the municipality located in the municipality's extraterritorial jurisdiction when punishment is limited to a fine or the case arises under Chapter 106 of the Alcoholic Beverage Code relating to minors and does not include confinement as an authorized sanction. Municipal courts of record may also have additional jurisdiction provided by local ordinance.

Filings and dispositions

Municipal court caseloads remained relatively stable. In FY 2002, filings in Texas municipal courts grew by only 0.3 percent (from 7,443,443 to 7,445,864) from the

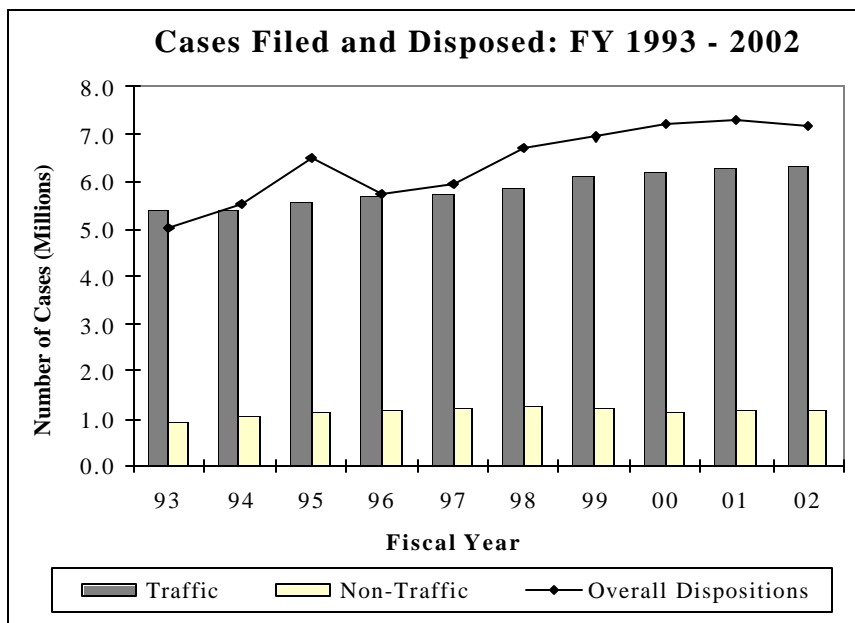
previous fiscal year.

Case filings in the eight largest cities accounted for 47.0 percent of all filings in the state. In FY 2002, the combined case filings of municipal courts in the eight largest cities—

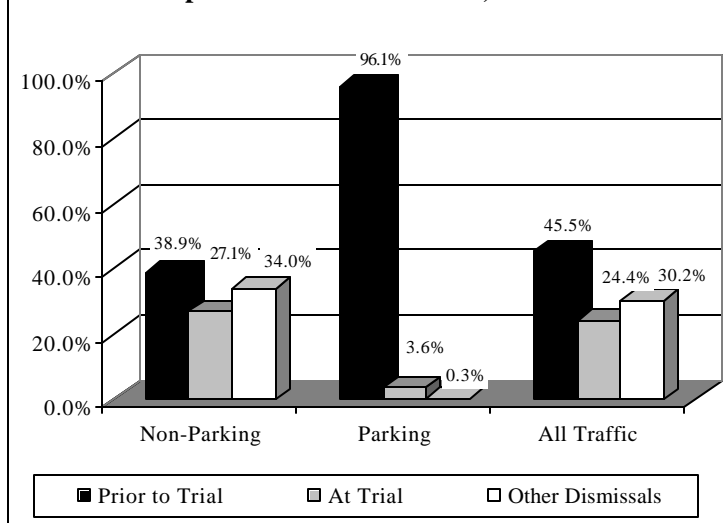
Houston, Dallas, San Antonio, El Paso, Austin, Fort Worth, Arlington, and Corpus Christi—totaled 3,502,029. This is 0.8 percent more than the 3,474,302 cases filed during the

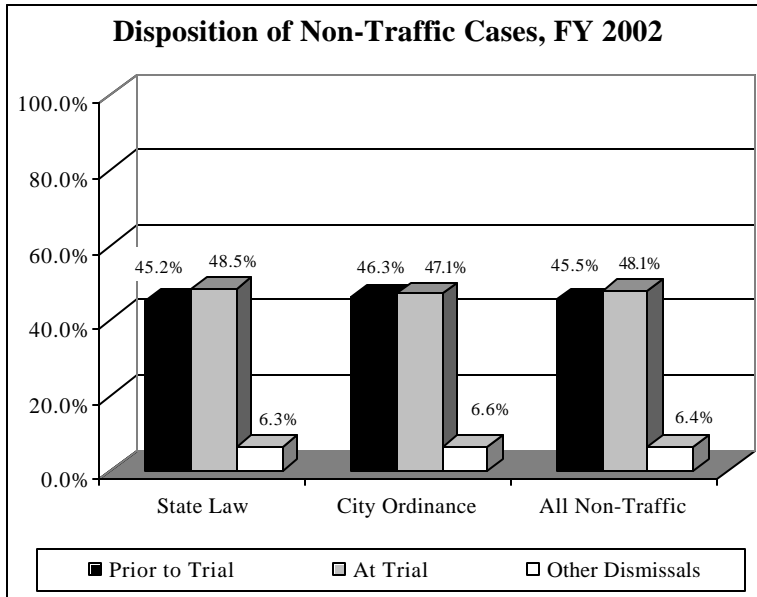
previous fiscal year.

Traffic cases continued to dominate docket activity. Traffic cases accounted for 84.7 percent (6,309,195 cases) of all cases filed,



Disposition of Traffic Cases, FY 2002





while non-traffic misdemeanor cases (1,136,669 cases) accounted for the remaining 15.3 percent of cases filed in FY 2002. Non-parking traffic cases accounted for 70.3 percent (5,234,243 cases) of total case filings, while parking cases comprised another 14.4 percent (1,074,952 cases).

The number of traffic misdemeanor filings has increased an average of 1.8 percent per fiscal year over the last decade, for a total increase of 17.4 percent (from 5,372,123 cases filed in FY 1993 to 6,309,195 filed in FY 2002). Non-parking traffic filings grew from 5,220,530 in FY 2001 to 5,234,243 in FY 2002, an increase of 0.3 percent. In addition, parking cases increased by less than 0.8 percent, from 1,066,817 in FY 2001 to 1,074,952 in FY 2002.

Over the last ten years, the number of non-traffic misdemeanors filed has increased an average of 2.6 percent per fiscal year, for a total increase of 24.3 percent (from 914,423 cases in FY 1993 to 1,136,669 cases in FY 2002). From FY 2001 to FY 2002, state law non-traffic misdemeanor filings fell by 1.9 percent (17,663 cases) to 894,074, while non-traffic city ordinance violations fell by 0.7 percent (1,764 cases) to 242,595.

total number of cases disposed has increased an average of 4.3 percent per year over the last decade, resulting in an overall increase of 42.3 percent (from 5,032,017 cases disposed in FY 1993 to 7,157,958 in FY 2002).

Dispositions prior to trial made up 45.5 percent of all traffic dispositions. In FY 2002, 2,796,858 traffic cases were disposed prior to trial; of these cases, 86.3 percent (2,414,056 cases) were disposed by payment of fine or forfeiture of a deposit made to ensure appearance. Another 24.4 percent (1,499,854 cases) of all traffic cases were disposed at trial, and 30.2 percent (1,856,380 cases) were dismissed. Most parking cases (96.1 percent, or 679,106 of 706,551 cases) were disposed before trial, with 93.5 percent of these cases being disposed by payment of a fine or forfeiture of a deposit.

Nearly half of non-traffic cases were disposed before a judge or jury. In FY 2002, 48.1 percent

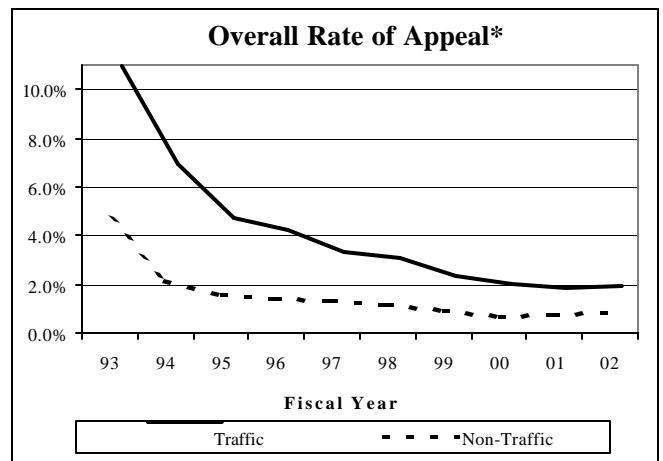
The overall number of dispositions fell for the first time since FY 1996. In FY 2002, dispositions declined by 1.7 percent from the previous fiscal year (from 7,280,452 to 7,157,958). However, the

(483,820 cases) of non-traffic cases were disposed before a judge or jury, while 45.5 percent (456,727 cases) were disposed prior to trial, and 6.4 percent (64,319 cases) were dismissed due to compliance with deferred disposition requirements.

Other Activity

Of all cases that were disposed at trial in FY 2002 and were not dismissed, 99.7 percent were disposed before the judge without a jury. Of the 1,185,728 cases that were not dismissed at trial, 1,181,879 (99.7 percent) were tried before a judge alone, and 3,849 cases (0.3 percent) were decided by a jury. Not guilty findings were made in 2.6 percent (30,331) of cases that went to bench trial, compared to 23.3 percent (897) of cases that went to jury trial.

The number of appeals filed grew for the first time in the last 10 fiscal years. During FY 2002, the number of appeals increased 4.9 percent to 13,679 (from 13,034 in FY 2001).



* The rate of appeal equals the number of appeals divided by the number of convictions at trial during the fiscal year.

Traffic case appeals grew by 3.2 percent (from 10,996 in FY 2001 to 11,346 in FY 2002), while appeals involving non-traffic cases climbed 14.5 percent (to 2,333 from 2,038 in the previous fiscal year). However, over the last ten years, the number of appeals has decreased an average of

16.4 percent per fiscal year (from 72,904 appeals in FY 1993 to 13,679 appeals in FY 2002), representing a total 81.2 percent decrease for the decade. The number of convictions, on the other hand, has increased an average of 5.0 percent per fiscal year (from 787,021 in FY 1993 to 1,154,500 in FY 2002), representing a 46.7 percent increase for the decade.

As a percentage of convictions at trial, the number of appeals filed has remained relatively constant over the last three fiscal years. In FY 2002, the overall rate of appeal was 1.2 percent, compared to 1.1 percent in FY 2001 and 1.2 percent in FY 2000. Traffic cases were appealed at a slightly higher rate (1.3 percent) than non-traffic cases (0.8 percent) in FY 2002.

The number of arrest warrants, search warrants, magistrate warnings, and emergency protective orders all increased. During FY 2002, judges issued 2,067,648 arrest warrants (3.4 percent more than the 2,000,053 issued in FY 2001), 5,908 search warrants (12.6 percent more than the 5,247 issued in FY 2001), 205,219 magistrate warnings (8.2 percent more than the 189,628 given in FY 2001), and 5,992 emergency protective orders (11.1 percent more than the 5,392 issued in FY 2001).

Juvenile activity fell by 3.0 percent. In FY 2002, municipal courts handled 277,804 juvenile matters, compared to 286,261 during the previous fiscal year. Transportation Code violations accounted for 37.9 percent of juvenile matters, while Alcoholic Beverage Code violations not involving driving comprised 14.5 percent. Health and Safety Code (tobacco-related) violations comprised 5.0 percent, Education Code (school-related) violations comprised 3.1 percent, and driving under the influence of alcohol violations comprised 1.4 percent, and

all other violations accounted for the remaining 38.1 percent.

Revenue

Municipal court revenue increased by 7.6 percent. Revenue collected by reporting courts during FY 2002 totaled \$485,964,834, compared to \$451,599,258 in FY 2001. The amount of revenue per disposition averaged approximately \$68, compared to \$62

the previous fiscal year. Although municipalities collect this revenue, a portion of it is remitted to various special funds maintained by the state government.

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Explanation Of Case Categories

TRAFFIC MISDEMEANORS

This category includes all non-jailable misdemeanor violations of the Texas traffic laws and other violations of laws relating to the operation or ownership of a motor vehicle. Maximum punishment is by fine and such sanctions, if any, as authorized by statute not consisting of confinement in jail or imprisonment.

NON-PARKING

This includes all violations that do not involve offenses for improper parking (for example: Exceeding the Speed Limit, Failure to Stop at a Traffic Control Device, Expired or No Driver's License or Inspection Sticker, etc.).

PARKING

This includes violations of state law or municipal ordinance involving the improper standing of a vehicle (for example: Parking on Highway Right of Way, Within an Intersection, Overparking, etc.).

NON-TRAFFIC MISDEMEANORS

This category includes all other Class C or other non-jailable misdemeanor violations:

STATE LAW

Violations are those usually found in the Texas Penal Code and other state laws (for example: Public Intoxication, Disorderly Conduct, Assault, Theft under \$50, etc.). Maximum punishment is by fine and such sanctions, if any, as authorized by statute not consisting of confinement in jail or imprisonment.

CITY ORDINANCE

Violations are those non-traffic offenses found in municipal ordinances (for example, Dog Running at Large, Plumbing Code Violation, etc.). Ordinance violations involving litter, fire safety, zoning, public health, and sanitation are punishable by fines only, up to a maximum of \$2,000. Punishment for violation of other types of city ordinances is limited to fines only, not to exceed \$500.

**Total of Reported Municipal Court Activity
for the Year Ended August 31, 2002**

**93 Percent Reporting Rate
9,736 Reports Received Out of a Possible 10,463**

	TRAFFIC MISDEMEANORS		NON-TRAFFIC MISDEMEANORS		REPORTED TOTALS
	Non-Parking	Parking	State Law	City Ordinance	
NEW CASES FILED	5,234,243	1,074,952	894,074	242,595	7,445,864
DISPOSITIONS:					
Dispositions Prior to Trial:					
<i>Deposit Forfeited</i>	52,855	997	13,561	2,264	69,677
<i>Fined</i>	1,726,419	633,785	258,288	67,854	2,686,346
<i>Cases Dismissed</i>	338,478	44,324	78,719	36,041	497,562
Dispositions at Trial:					
<i>Trial by Judge</i>					
Guilty	859,668	16,970	216,939	57,971	1,151,548
Not Guilty	22,772	345	4,577	2,637	30,331
<i>Trial by Jury</i>					
Guilty	1,922	57	596	377	2,952
Not Guilty	526	21	250	100	897
<i>Dismissed at Trial</i>	589,395	8,178	153,534	46,839	797,946
Cases Dismissed After:					
<i>Driving Safety Course</i>	436,253	0	0	0	436,253
<i>Deferred Disposition</i>	508,567	1,874	49,159	15,160	574,760
<i>Proof of Financial Responsibility</i>	511,275	0	0	0	511,275
<i>Compliance Dismissal</i>	398,411	0	0	0	398,411
Total Dispositions	5,446,241	1,066,551	1,115,623	229,243	7,157,958
COMMUNITY SERVICE ORDERED	124,259	941	34,013	7,308	166,521
CASES APPEALED	11,227	119	1,739	594	13,679
JUVENILE ACTIVITY:					
Alcoholic Beverage Code Offenses Filed					40,344
DUI of Alcohol Offenses Filed					3,856
Health & Safety Code Offenses Filed					13,766
Transportation Code Offenses Filed					105,271
Tuancy or Failure to Attend Hearings					16,145
All Other Non-Traffic Fine-Only Offenses					79,151
Waiver of Jurisdiction of Non-Traffic Cases					5,004
Education Code Violations Filed					8,483
Warnings Administered					4,318
Statements Certified					1,466
OTHER ACTIVITY:					
Safety Responsibility and Driver's License Suspension Hearings Held					618
Search Warrants Issued					5,908
Arrest Warrants Issued					2,067,648
Magistrate Warnings Given					205,219
Emergency Mental Commitment Hearings Held					999
Emergency Protective Orders					5,992
TOTAL REVENUE					\$485,964,834

NCSC/ICM Courses

The National Center for State Courts (NCSC) provides a variety of educational opportunities geared to the needs of the state courts. A division of NCSC is the Institute for Court Management (ICM) offers specialty courses. Several courses titles, dates and location are shown below:

FEBRUARY 2003

- 11-12** *Court Security Summit*, Norfolk, Virginia (NCSC)
- 24-26** *Navigating Courts Through Technology Decisions: Technology for Court Administrators*, San Francisco, California (ICM)

MARCH 2003

- 5-7** *Court Security*, San Diego, California (ICM)
- 10-12** *Developing Customer Service Programs in the Courts*, San Diego, California (ICM)

APRIL 2003

- 2-4** *Managing Human Resources*, Alexandria, Virginia (ICM)
- 7-9** *Managing Court Financial Resources*, Alexandria, Virginia (ICM)
- 28-30** *Building a Better Courthouse: Technology and Design in New Court Facilities*, Denver, Colorado (ICM)

MAY 2003

- 7-9** *Court Performance Standards*, Orlando, Florida (ICM)
- 12-14** *Fundamental Issues of Caseload Management*, Orlando, Florida (ICM)
- 21-23** *Project Management*, Williamsburg, Virginia (ICM)

For additional information, call 800/616-6160 for a 2003 Institute for Court Management catalog. Additional information about the National Center for State Courts may be found at www.ncsonline.org or by calling 800/616-6164.

**TEXAS MUNICIPAL COURTS
EDUCATION CENTER
1609 SHOAL CREEK BLVD., SUITE 302
AUSTIN, TX 78701
www.tmcec.com**

TMCEC MISSION STATEMENT

To provide high quality judicial education, technical assistance, and the necessary resource material to assist municipal court judges, court support personnel, and prosecutors in obtaining and maintaining professional competence.

Change Service Requested