

# Municipal Court Recorder

Volume 15

MAY 2006

No. 2

©2006 Texas Municipal Courts Education Center, Austin. Funded by a grant from the Court of Criminal Appeals.

## Bulk Requests The “Ticket Stop” Example

By Ted Wood, Special Counsel for Trial Courts, Office of Court Administration

### You’ve Got Mail

Many of you have recently received a letter from a driving safety course provider out of Houston known as Ticket Stop. By means of the letter, Ticket Stop requests the names and addresses of individuals whom you have authorized to take a driving safety course. Additionally, the company seeks to obtain the date by which each individual must present a course completion certificate to the court. Obviously, Ticket Stop wants this information in order to directly market its courses.

What did you do with your Ticket Stop request? Did you give the company the

information it wants? Did you throw the letter in the trash? Is the letter still on your desk?

A number of you called the TMCEC staff for guidance. The staff quickly realized that an article in the *Municipal Court Recorder* would be helpful. So if you’ve received a Ticket Stop letter you may well be interested in the rest of this article. If you haven’t received a letter, you may want to read a little further anyway. Chances are good that your Ticket Stop letter (or one just like it from another company) will arrive sometime soon.

### The Incredible [B]ulk

The Ticket Stop requests are “bulk requests” – in other words, requests for all information of a certain type for a particular period of time. The typical Ticket Stop request seeks information on actions taken by the court during a specific month. For example, a November 9<sup>th</sup> letter to one court requests information on all persons who were authorized to take a driving safety course during October.

There is an idea floating around that a bulk request is inferior to a request for a specific record and may be declined

*Bulk Requests continued on page 4*

## Apathy in Our Courts, Death on Our Roads

by Ryan Kellus Turner, General Counsel, TMCEC

Like many of you, I feel passionate about the importance of local trial courts of limited jurisdiction. The legal subject matter of criminal cases tried in municipal and justice courts relate to two capstone values: (1) quality of life and (2) public safety.

While we may be able to recognize the importance of enforcing traffic laws, it’s easy (if not human nature) to be blinded (if not desensitized) by the sheer volume

of cases that come before our courts. In FY05, nearly 5.7 million cases (73.3%) of all cases adjudicated in Texas municipal courts involved non-parking traffic violations.<sup>1</sup> While the numbers are enough to make a clear mind bleary, the consequences of becoming desensitized are sobering. In 2004, approximately 40% of fatal crashes in Texas were speed related.<sup>2</sup>

*Apathy continued on page 7*

### INSIDE THIS ISSUE

<i>Apathy in Our Courts, Death on Our Roads</i> by Ryan Kellus Turner .....	1
<i>Bulk Requests: The “Ticket Stop” Example</i> by Ted Wood .....	1
<b>Columns</b>	
Around the State .....	2
<i>Bench Book</i> Survey .....	6
Clerks Corner .....	25
Ethics Update .....	24
From the Center .....	13
From the General Counsel .....	3
FY06 Academic Schedule .....	28
OCA Survey .....	23
Resources for Your Court .....	14
Registration Form .....	27
Traffic Safety .....	19

## Texas Municipal Courts Education Center

1609 Shoal Creek Boulevard, Suite 302  
Austin, Texas 78701  
512/320-8274 or 800/252-3718  
Fax: 512/435-6118  
Website: www.tmcec.com

*Fair and Impartial Justice for All*

### FY06 TMCA/TMCEC Officers

President: Steve Williamson, Fort Worth  
President-Elect: Robin Ramsay, Denton  
1<sup>st</sup> V.P.: Robert Doty, Lubbock  
2<sup>nd</sup> V.P.: Brian Holman, Lewisville  
Secretary: Leisa Hardin, Crowley  
Treasurer: Robert C. Richter, Missouri City  
Past-President: Dan Francis, Robinson

### Directors

Gary Ellsworth, Spearman • Ninfa Mares,  
Fort Worth • C. Victor Lander, Dallas •  
Lowell Thompson, Corsicana • George Bill  
Robinson, Yorktown • Denn Whalen,  
Odessa • Julian E. Weisler, II, Brenham •  
Walter Dick Kettler, Beverly Hills • Donna  
Starkey, Alvin • Lester Rorick, Pasadena

### Staff

- Hope Lochridge, Executive Director
- Ryan Kellus Turner, General Counsel
- Margaret Danforth, Admin. Director
- Margaret Robbins, Program Director
- Lois Wright, Program Attorney
- Patricia Russo, Program Assistant II
- Rey Guzman, Multimedia Specialist
- Carrie Harper, Registration Coordinator
- Kellie Williamson, Admin. Assistant
- Lauren Waite, Program Coordinator

Published by the Texas Municipal Courts Education Center through a grant from the Texas Court of Criminal Appeals. Subscriptions are free to all municipal judges, clerks, prosecutors, and support personnel employed by the municipal court. Others may purchase an annual subscription for \$50.

Articles and items of interest not otherwise copyrighted may be reprinted with attribution as follows: "Reprinted from the *Municipal Court Recorder* with permission from the Texas Municipal Courts Education Center."

The views expressed are solely those of the authors and are not those of the TMCA Board of Directors or the staff of TMCEC.



## AROUND THE STATE

### State Bar of Texas Provides Judicial Criticism 'Hot-Line'

The administration of justice depends in large part on public confidence. Unjust criticism of judges or of the judicial system erodes that public confidence. To help educate the public, the State Bar of Texas has created a response program for judges who feel that inaccurate reporting of a court procedure or unfair criticism of a judge has taken place.

Under this response program, judges may call 800/204-2222, extension 2013, to be connected to a State Bar of Texas staff member in charge of Public Information. The State Bar staff will gather background information regarding the matter. The staff will then recommend an appropriate course of action to the State Bar President, who may provide advice to the judge involved, develop an appropriate public response on behalf of the State Bar of Texas, or elect not to issue a public response.

The following are situations in which a public response might be warranted:

- When the criticism displays a misunderstanding of a judge's role in the legal system and a response would enhance the public's understanding of the proper functioning of the legal system;
- When the criticism is materially inaccurate; or
- When a report does not contain enough of the facts involved to be fair.

The following are examples of when a public response to criticism might **not** be appropriate:

- When the criticism is a fair comment or opinion;
- When the criticism arises during a political campaign and a response may be construed as an endorsement of a particular judicial candidate;
- When the response might prejudice a pending judicial proceeding; or
- When the controversy is insignificant.

Submitted by Judge Reynolds Cate, City of Helotes and member of the Public Affairs Committee of the State Bar of Texas.

### Reminder

The Office of Court Administration asks that you complete the Court Security Survey ASAP. It was sent by email or fax to all municipal judges in early April. See page 23 in this newsletter for more information.



# FROM THE GENERAL COUNSEL

## Ryan Kellus Turner

### Read Any Good AG Opinions Recently?

For the past few months, those of us involved in school attendance issues have waited to see how the Office of the Attorney General would construe recent legislation aimed at compelling school districts to timely file school attendance charges against children. The opinion (GA-417) was released on March 27<sup>th</sup>, and I anticipate that judges hearing such criminal cases will warmly receive it. For the few school districts that still stockpile school attendance charges in defiance of the mandatory filing law, let's hope that this opinion adequately clarifies the law and satisfies those who during the last legislative session called for new legislation authorizing criminal charges to be filed against such "tardy" school districts.

On February 10<sup>th</sup>, the AG issued an opinion that will surely confuse those who have not by now learned the TMCEC mantra: "Deferred disposition is not deferred adjudication." Don't let the fact that the opinion talks about "court costs"

and "*capias pro fines*" fool you. Opinion GA-0396 addressed whether "the state may continue to collect fines and court costs where no motion to adjudicate has been filed and the term of **deferred adjudication** has expired" (emphasis added). The opinion is sure to ruffle the feathers of collection groups since it essentially states that such collections could only occur in limited circumstances. What does this mean to municipal and justice courts? Absolutely nothing. If you don't know why this is so, I urge you to read, "Deferred Adjudication is Not Deferred Disposition." The article is available online in the *Municipal Court Recorder* archives ([www.tmcec.com/newsletter/Aug02recorderNo2.pdf](http://www.tmcec.com/newsletter/Aug02recorderNo2.pdf)).

Since Article 45.051 of the Code of Criminal Procedure contains no language even remotely similar to Article 42.12, Section 5(h), one might assume that this opinion isn't even worth discussing. In light of the number of municipal court websites that still prominently talk about

deferred adjudication, I have a feeling that we will nevertheless be talking about GA-0396 and repeating our mantra.

One last thought: If all judges are magistrates, why do municipal judges and justices of the peace do the vast majority of magistrate work and not receive additional compensation? I don't seem to see many district judges or appellate court members making many "jail runs." Furthermore, I don't recall reading where local trial court judges have any more of an obligation to do magistrate duties than any other judge in Texas.

So, do local trial court judges have more of an obligation to perform magistrate duties than any other magistrate of the county? Check out GA-426 (issued on May 1, 2006). For links to these and other AG Opinions of interest to municipal courts, visit the TMCEC website at [www.tmcec.com](http://www.tmcec.com).

### Change to Rules of Judicial Education

The Court of Criminal Appeals recently amended the procedure to handle judges who have not met the annual mandatory judicial education requirement. The following text shows the change.

#### **RULE 10. WAIVERS OF COMPLIANCE.**

a. Upon receipt of the reports required by Rule 9b, the applicable Education Committee will advise the named judges or judicial officers of the deficiency. Within 30 days of the receipt of such notice, the judge or judicial officer may submit a statement of the reasons that prevented compliance. Thereafter, unless the applicable Committee grants a waiver for good cause shown, it will report the name of the judge or judicial officer to the State

~~Commission on Judicial Conduct~~ ~~Court of Criminal Appeals~~ by November 1.

b. ~~The Court of Criminal Appeals will forward to the State Commission on Judicial Conduct names of all judges or judicial officers who were determined to be delinquent in continuing judicial education hours, including those who are delinquent but leaving office and not planning to run for another term.~~ Thereafter, neither the applicable Committee grantee nor the ~~Court of Criminal Appeals~~ shall not ~~will~~ communicate with the judge or judicial officer as to their status except to refer them to the Commission on Judicial Conduct.

or ignored. This idea is false.

Similarly, an idea exists that a records request for commercial purposes is of less stature than a request for a not-for-profit reason. This idea is also false.

When considering whether to provide the information sought in a bulk request, forget the fact that the requestor is asking for a mountain of material. Forget also that the requestor wants the information in order to make a buck. Instead, analyze the bulk request as though a single record were being requested for a non-commercial purpose.

### **Analyze This**

The Ticket Stop request letter can accordingly be analyzed by thinking about the following, more basic scenario. Assume that Person A requests information on a case in which Person B arranged to take a driving safety course. Specifically, Person A requests Person B's name and address as well as the date by which Person B must complete the course. Would you provide the requested information to Person A? If so, then you should provide Ticket Stop with the information it has requested.

The public has a right to access the records of criminal court cases under the common law.<sup>1</sup> The municipal court documents involving a defendant's plea and request to take a driving safety course are clearly criminal court case records. Thus, a municipal court should provide Person A with the requested information about Person B's case. Consistent with this conclusion, your court should provide the information Ticket Stop has requested concerning individuals who have agreed to take a driving safety course.

### **Back to the Future**

As detailed above, Ticket Stop requests information on persons who—during the preceding month—have agreed to take a driving safety course. But Ticket Stop also asks for information that doesn't yet exist. The company spokeswoman's specific request for future information is as follows:

*I request to receive this information on a weekly or monthly basis to include the previous week's or month's information. Please notify me if you require a written request each time or if we can be set up to receive the list automatically each time you run it.*

Do you need to provide Ticket Stop with the information it seeks on a continuous basis in response to the company's initial request? The answer is no. While you **may** provide Ticket Stop with information every month or every week if you so desire, you aren't required to do so. If Ticket Stop wishes to receive information from future court cases, the company will have to make new requests. For example, to be entitled to information for the entire month of January 2006, Ticket Stop must request the information after January has ended.

### **The Shape of Things**

In its letter, Ticket Stop indicates a desire for a "list" of individuals who have been authorized to complete a driving safety course. Additionally, the company announces a preference for "information in electronic format" and volunteers to "supply prepaid postage envelopes for disks." Ticket Stop even offers to pay reasonable programming fees if lists do not currently exist. Clearly, Ticket Stop would like to receive a computer disk containing the requested names, addresses, and course completion dates.

Is your court required to provide Ticket Stop with a report on a computer disk listing all of the

information the company has requested? The answer depends on whether the information concerning persons who have agreed to take a driving safety course is maintained on a computer.

If your court does maintain such information on a computer, then you should provide the information on a computer disk.<sup>2</sup> The information should generally be provided in the form of a report even if you don't currently generate such a report. This is because producing a report should be a fairly simple matter when the relevant information is on a computer. If, however, you don't currently generate a report and would need additional hardware or software to do so, then you need not create a report.

If your court doesn't maintain the requested information on a computer, then you don't need to provide the information on a computer disk. Paper is fine.<sup>3</sup> Unless you already generate a paper report, you need not produce one. Nothing compels you to compile information that is not maintained on a computer into a format that does not already exist. Making paper copies of court documents containing the requested information and then mailing those paper copies to Ticket Stop constitutes compliance with the company's request.

### **The Color of Money**

Most entities making bulk requests fully expect to pay for court information. Ticket Stop is no exception as the following statement from the company's spokeswoman shows.

*I agree to pay reasonable duplication fees for the processing of these lists. I also agree to pay reasonable programming fees if these lists do not currently exist in your system. Please notify me of the amount if any you charge for these lists and/or programming prior to your incurring any expenses.*

What may your court charge for

providing information to Ticket Stop?

Your court may assess a charge for paper copies. Likewise, you may assess a charge for a computer disk onto which information is copied. These are the “duplication fees” mentioned in the letter.

You are also entitled to charge for the labor involved in preparing a report that does not currently exist. Ticket Stop assumes that such a report will be in electronic form and therefore the company’s letter speaks of “programming fees.” You are entitled to charge not only programming fees, however, but also fees for the cost involved if you prepare a paper report. Similarly, you may charge for the labor involved in copying original documents from case files.

No law dictates the specific amount a municipal court may charge for the materials and services mentioned above. The amount your court charges for providing a copy (whether on paper, computer disk, or some other material) should be established in a municipal ordinance. The established charges should be reasonable. (A charge that covers your costs but doesn’t include a profit would certainly seem to be reasonable.) As a practical matter, many courts assess the same charges that state agencies are required to charge for public information. These charges are detailed in the Texas Administrative Code.<sup>4</sup> Particularly relevant charges include paper copies (10 cents per page), disks (\$1.00), hourly computer programming labor charge (\$28.50), and an hourly charge for other labor (\$15.00). The Administrative Code rules also permit an “overhead fee” equal to 20 percent of the labor charges.

Note that the Administrative Code authorizes the assessment of charges for postal or shipping expenses as well as supplies such as labels and boxes.<sup>5</sup> Sales tax is not to be charged.<sup>6</sup>

Ticket Stop specifically requests that you notify the company prior to incurring any expenses. This is a good practice even if the requestor doesn’t explicitly ask to be notified. By communicating up front, instances of preparing information for a requestor who may no longer be willing to pay are greatly reduced.

### **The Wizard of Speed and Time**

How quickly must you respond to the Ticket Stop letter? How much time do you have to comply with the company’s request? Remember, the company’s right to the requested information is founded in common law. Accordingly, there are no statutes or rules specifying the time within which you must respond and comply.<sup>7</sup>

The best practice is to contact the requestor without delay and talk about the time you will probably need to comply with the request. Then do your best to provide the information within the anticipated time period. Ticket Stop and other driving safety course providers need the information they seek fairly quickly. Persons who agree to take a driving safety course must complete a course within 90 days deferring imposition of the judgment.<sup>8</sup> Information about individuals whose 90-day time period has passed (or nearly passed) is of no use to a driving safety course provider.

What about refusing to copy the requested records yourself but inviting the requestor to come to the court and make copies? Would this be an adequate response to the Ticket Stop request?

There is nothing wrong with permitting a requestor to come to your court and copy records.<sup>9</sup> But refusing to make copies for a requestor contravenes the spirit of the common-law requirement that court records be open. A requestor shouldn’t have to physically do the copying in order to obtain copies of requested records.<sup>10</sup>

### **The Great Escape**

What if you feel your court is too busy to comply with the request? Can you simply say that the court lacks adequate staff and is too busy to provide the requested information?

An idea exists that a “too busy/inadequate staff” course of reasoning will allow a court to escape from complying with a bulk request. This idea probably has its genesis in the Public Information Act (PIA). The PIA recognizes that some information requests may “result in substantial interference with [a governmental body’s] ongoing operations.”<sup>11</sup> However, the PIA does not excuse a governmental body from providing requested information for this reason.<sup>12</sup>

Rule 12 of the Texas Rules of Judicial Administration goes a step further. Like the PIA, Rule 12 recognizes that certain information requests can indeed be burdensome. But unlike the PIA, Rule 12 permits such requests to be outright denied. Specifically, Rule 12.8(a) reads as follows:

*A records custodian may deny a request for a judicial record under this rule only if the records custodian . . . makes specific, non-conclusory findings that compliance with the request would substantially and unreasonably impede the routine operation of the court or judicial agency.*

As noted in footnotes 2 and 6, however, neither the PIA nor Rule 12 apply to court case records. The common law requires that court case records be open to the public. There does not appear to be any exception to this requirement for busy courts with staffing concerns. Accordingly, courts would be ill-advised to deny a request for court case records on grounds that the court is too busy or understaffed.

Your best bet may be to contact the requestor and detail the costs<sup>13</sup> you will have to recoup in order to provide the information promptly. The requestor

can then decide whether to proceed with the request.

### Great Expectations

Bulk requests like the one from Ticket Stop are becoming more and more common. Hopefully this article has been educational and from this point forward municipal courts will lead the way in responding properly to bulk requests.

<sup>1</sup> *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597, 98 S.Ct. 1306, 1312, 55 L.Ed.2d 570, 579 (1978); *Op. Tex. Att’y Gen. No. DM-166* (1992).

<sup>2</sup> As mentioned earlier, the public’s right to access criminal court case records is founded in the common law. The Public Information Act (PIA) doesn’t apply to court records. TEX. GOV’T CODE ANN. §§ 552.003(1)(b); 552.0035 (Vernon 2004). However, the PIA can be instructive in

determining how to respond to information requests. Accordingly, the PIA serves as a guide here. *See* TEX. GOV’T CODE ANN. § 552.228 (Vernon 2004).

<sup>3</sup> Please note Ticket Stop’s request that the company be notified “if paper is the only medium.” Such notification should be made before any copies are produced. Ticket Stop may or may not want information that is available only in paper form.

<sup>4</sup> 1 TEX. ADMIN. CODE §§ 111.63, 111.69, 111.70 (2002) (Tex. Bldg. & Proc. Comm’n).

<sup>5</sup> 1 TEX. ADMIN. CODE § 111.63 (2002) (Tex. Bldg. & Proc. Comm’n).

<sup>6</sup> *Id.*

<sup>7</sup> Texas Rule of Judicial Administration 12.6(b) requires the custodian of a “judicial record” to act within 14 days. Rule 12 is inapplicable here, however, because “court case records” (such as those sought by Ticket Stop) fall outside the definition of judicial records. Like the

PIA, Rule 12 may be instructive even though it is inapplicable.

<sup>8</sup> TEX. CODE CRIM. PROC ANN. art. 45.0511(c) (Vernon Supp. 2005).

<sup>9</sup> Ideally, courts will not allow a requestor to rummage through the court’s files in search of the requested information. A better practice would involve pulling the relevant files and then allowing the requestor to make copies.

<sup>10</sup> The PIA requires that a “suitable copy” be provided when a copy is requested. TEX. GOV’T CODE ANN. § 552.228(a) (Vernon 2004). Although the PIA doesn’t apply to records of the judiciary, courts would be well-advised to go along with the statute here.

<sup>11</sup> TEX. GOV’T CODE ANN § 552.231 (Vernon 2004).

<sup>12</sup> *Id.*

<sup>13</sup> These costs may be in the form of overtime, part-time help, contracted services and the like.

## TMCEC Bench Book Survey

TMCEC is in the process of updating its *Bench Book*. Please fill out the survey below with your suggestions or email your comments to [tmcec@tmcec.com](mailto:tmcec@tmcec.com).

	Needs				
	Poor	Improvement	Adequate	Excellent	Outstanding
Overall evaluation of the <i>Bench Book</i>	1	2	3	4	5
Usefulness	1	2	3	4	5
Degree of detail	1	2	3	4	5
Clarity	1	2	3	4	5

On average, how many times a month do you use the TMCEC *Bench Book*? \_\_\_\_\_

Are you a full-time or part-time judge? \_\_\_ Full-time \_\_\_ Part-time

Are there any new chapters or topics needed? \_\_\_\_\_  
\_\_\_\_\_

Would you use the *Bench Book* if provided a copy in CD-ROM or DVD format that was linked to relevant forms, cases, and statutes? \_\_\_ Yes \_\_\_ No

Please fax completed survey to 512/435-6118.

Could any of these deaths have been prevented? Is there anything more that municipal courts in Texas can do to lower the number of such fatalities?

The Texas Municipal Courts Education Center believes that the answer is “yes.” It is the reason TMCEC is spearheading the Municipal Traffic Safety Initiatives (MTSI). Funded by a grant from the Texas Department of Transportation, the MTSI is intended to be a wake up call for all stakeholders in municipal government. While a portion of the MTSI focuses on the attitudes of local government officials and their role in traffic safety, increasing awareness requires the acknowledgment of the local judiciary.

An important part of preserving quality of life in our communities begins by effectively addressing the driving behaviors that occur on our roadways. While this certainly requires courts to take a critical look at how they handle repeat and high-risk traffic offenders, it also requires local governments to take a good look in the mirror. Has your local government become desensitized to dangerous driving behaviors?

Changing these behaviors requires a healthy dose of introspection in our courts, in our council chambers, and, most importantly, in the minds of the defendants who are accused of behaviors that, if unchanged, potentially result in property damage, physical pain, sorrow, and death.

While all defendants who come to municipal courts are presumed innocent, more than 53% do not contest the traffic charges filed against them. Municipal courts impose judgments totaling over half a billion dollars in fines and costs annually. Do these fines deter unsafe driving behavior? In some cases—maybe. In all cases—no.

Sometimes a fine is not fine [excuse the pun]. While imposing a fine of nearly \$200 may deter a great number of the individuals who come before the court, what about the others? A fine of \$200 is likely to have little impact on a millionaire. By the same token, a \$200 fine imposed on a 16-year-old driver is likely to have little impact if it is being paid by parents or grandparents.

Fines have their place in the world of sentencing. But fines are just one part of sentencing. Another purpose of sentencing is rehabilitation. While ordering driving safety courses may rehabilitate some defendants, I’ve heard many judges question the efficacy of repeatedly ordering defendants to attend such classes.

A significant number of traffic offenses that are Class C misdemeanors potentially lead to offenses that carry greater criminal penalties (e.g., to engage in reckless driving one must first commit the offense of speeding). Ultimately, reckless driving can result in felony manslaughter. When individuals are convicted of such a crime, sentencing tends to focus on incapacitation and retribution. What if something could have been done earlier to change the metaphorical path of such defendants? Is anyone really comfortable in admitting that someone has to die before dangerous driving behaviors matter?

TMCEC challenges all courts to think about how deferred disposition can be used in new and unique ways to specifically address the behavior of the defendant. In past issues of the *Municipal Court Recorder* we have addressed the history and unique role that deferred disposition plays in municipal and justice courts (See, *Deferred Disposition: “Thinking Outside of the Box” versus “Abuse of Discretion,”* Vol. 11, No. 5 [July 2002]). We have also addressed how deferred disposition

can be the basis of both creative and potential controversial sentencing (See, *Shame-based Sentencing: Thinking “Outside of the Box” or “Out of Bounds,”* Vol. 11, No. 7 [August 2002]). These articles are available online at [www.tmcec.com/newsletter/recorder.html](http://www.tmcec.com/newsletter/recorder.html).

We encourage all courts to accept our challenge and resist apathy and desensitization and revisit these articles.

We want to know what you are doing in your court to address dangerous driving behavior. Do you have any deferred disposition orders that are custom tailored for specific types of traffic offenders? What are you doing in your court that makes our roadways safer? We want to know if there is anyone awake out there! Fax us at 512/435-6118 or send us email at [tmcec@tmcec.com](mailto:tmcec@tmcec.com). In upcoming issues, we will share your thoughts and continue to discuss how traffic safety begins at the local level of government.

<sup>1</sup> *Annual Report of the Texas Judicial System, Fiscal Year 2005*, Office of Court Administration, Austin, Texas at 57.

<sup>2</sup> State Traffic Safety Information, NHTSA, August 2004.

## Reminder to Judges

Please respond to the OCA Court Security Survey. See page 23 in this newsletter for details.

**THE BIG THREE— REGISTRATION, INSPECTION, AND FINANCIAL RESPONSIBILITY REQUIREMENTS**

	<b>Registration</b>	<b>Inspection</b>	<b>Financial Responsibility</b>
<b>General Rule</b>	Motor Vehicles must be registered Transportation Code §502.002.	Transportation Code §548.051—Those motor vehicles registered in this state must be inspected (list of vehicles not required to be inspected found at Transportation Code §548.052).	Transportation Code §601.051— Can't operate a motor vehicle unless financial responsibility is established [Motor Vehicle defined in §601.002(5)]
<b>“All-Terrain Vehicles”*</b>	Transportation Code §502.006(a)—Cannot be registered for operation on a public highway EXCEPT state, county, or municipality may register all terrain vehicle for operation on a public beach or highway to maintain public safety and welfare.	Not required	Required if all-terrain vehicle is designed for use on a highway. Not required if all-terrain is not designed for use on a highway [See definition of motor vehicle Transportation Code §601.002(5)]
<b>“Electric Bicycles”*</b>	Transportation Code §502.0075—Not required to be registered.	Not required	Not required—Not a Motor Vehicle [See Transportation Code §541.201(11)]
<b>“Golf Carts”*</b>	Transportation Code §502.0071—Not required to be registered if (1) operation occurs in daytime AND (A) operated for distance not more than 2 miles from origin to/from golf course or (B) operated entirely within a master planned community or (C) operated on a public or private beach.	Only required if registered	No financial responsibility for golf carts that are not required to be registered under §502.0071
<b>“Moped”*</b>	Transportation Code §502.007—Treat as a Motorcycle—Registration required.	Required	Required
<b>“Motorized Mobility Device”*</b>	Transportation Code §502.0074—Not required to be registered. Transportation Code §551.302	Not required	Not required—Not a motor vehicle
<b>“Neighborhood Electric Vehicle”*</b>	The Texas Department of Transportation may adopt rules relating to registration. (Has not done so.)	Only if required to be registered (Not at this time)	Not required
<b>“Electric Personal Assistive Mobility Device”*</b>	Texas Administrative Code Rule 17.22(g)—Not required to be registered.	Not required	Not required—Not a motor vehicle under Transportation Code §601.002
<b>“Motorcycle”*</b>	Transportation Code §§502.002 and 502.405 Motor vehicle, registration required.	Required	Required
<b>“Pocket Bike or Minimotor Bike”*</b>	Chapter 502, Transportation Code contains no provisions for registration.	Not required	Not required—Not designed for use on highway

\* See Definitions, page 9. Chart developed by Judge Robert Barfield, El Lago. Used with permission.

## Definitions

**All-terrain vehicle** (§502.001 TRANSP. Registration of Vehicles – General Provisions – Definitions – 663.001 TRANSP. All terrain Vehicles – General Provisions – Definitions) means a motor vehicle that is not a golf cart and is (A) equipped with a saddle or bench for the use of the rider; (B) designed to propel itself with three or more tires in contact with the ground; (C) designed by the manufacturer for off-highway use by the operator only; and (D) not designed by the manufacturer primarily for farming or lawn care.

**Bicycle** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a device that a person may ride and that is propelled by human power and has two tandem wheels at least one of which is more than 14 inches in diameter.

**Electric personal assistive mobility device** (§551.201 TRANSP. – Rules of the Road – Operation of Bicycles, Mopeds and Play Vehicles – EPAMD – Definitions) means a two non-tandem wheeled device designed for transporting one person that is: (1) self-balancing and (2) propelled by an electric propulsion system with an average power of 750 watts or one horsepower.

**Electric bicycle** (§541.201 TRANSP. – Rules of the Road – Definition – Vehicles) means a bicycle that: (A) is designed to be propelled by an electric motor, exclusively or in combination with the application of human power, (B) cannot attain a speed of more than 20 miles per hour without the application of human power, and (C) does not exceed a weight of 100 pounds.

**Golf cart** (§502.001 TRANSP. Registration of Vehicles – General Provisions – Definitions) means a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course.

**Light truck** (§502.001 TRANSP. Registration of Vehicles – General Provisions – Definitions) means a commercial motor vehicle designed by the manufacturer primarily for carrying capacity of one ton or less.

**Light truck** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a truck, including a pick-up truck, panel delivery truck, or carryall truck, that has a manufacturer's rated carrying capacity of 2,000 pounds or less.

**Moped** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a motor-driven cycle that cannot attain a speed in one mile of more than 30 miles per hour and the engine of which: (A) cannot produce more than two-brake horse-power; and (B) is an internal combustion engine, has a piston displacement of 50 cubic centimeters or less, and connects to a power drive system that does not require the operator to shift gears.

**Motorcycle** (§502.001 TRANSP. Registration of Vehicles – General Provisions – Definitions) means a motor vehicle designed to propel itself with not more than three wheels in contact with the ground. The term does not include a tractor.

**Motorcycle** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a motor vehicle other than a tractor that is equipped with a rider's saddle and designed to have not more than three wheels on the ground when propelled.

**Motor-driven cycle** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a motorcycle equipped with a motor that has an engine piston displacement of 250 cubic centimeters or less. The term does not include an electric bicycle.

**Motor assisted scooter** (§551.301 TRANSP. – Rules of the Road – Operations of Bicycles, Mopeds, and Play Vehicles – Neighborhood Electric Vehicles – Definitions) means a self-propelled device with: (A) at least two wheels in contact with the ground during operation; (B) a braking system capable of stopping the device under typical operating conditions; (C) a gas or electric motor not exceeding 40 cubic centimeters; (D) a deck designed to allow a person to stand or sit while operating the device; and (E) the ability to be propelled by human power alone.

**Motor vehicle** (§502.001 TRANSP. Registration of Vehicles – General Provisions – Definitions) means a vehicle that is self-propelled. Motor vehicle: (A) any motor driven or propelled vehicle required to be registered under the laws of this state; (B) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds; (C) a house trailer; (D) an all-terrain vehicle, as defined by §502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of the state; or (E) a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state, other than a motorcycle, motor-driven cycle, or moped designed for and used exclusively on a golf course.

**Motor vehicle** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires. The term does not include an electric bicycle or an electric personal assistive mobility device, as defined by Section 551.201 TRANSP.

**Motor vehicle** (§601.002 TRANSP. Motor Vehicle Safety Responsibility Act – General Provisions – Definitions) means a self-propelled vehicle designed for use on a highway, a trailer or semitrailer designed for use with a self-propelled vehicle, or a vehicle propelled by electric power from overhead wires and not operated on rails. The term does not include: a traction engine, a road roller or grader, a tractor crane, a power shovel, a well driller, an implement of husbandry, or an electric personal assistive mobility device, as defined by Section 551.201 TRANSP.

**Motorized mobility device** (§542.009 TRANSP. Rules of the Road – General Provisions – Applicability) means a device designed for transportation of persons with physical disabilities

that: (1) has three or more wheels; (2) is propelled by a battery-powered motor; (3) has not more than one forward gear; and (4) is not capable of speeds exceeding eight miles per hour. For the purposes of this subtitle, a person operating a nonmotorized wheelchair or motorized mobility device is considered to be a pedestrian.

**Neighborhood electric vehicle** (§551.301 TRANSP. – Rules of the Road – Operations of Bicycles, Mopeds, and Play Vehicles – Neighborhood Electric Vehicles – Definitions) means a vehicle subject to Federal Motor Vehicle Safety Standard 500 (49 C.F.R. §571.500).

**Passenger car** (§502.001 TRANSP. Registration of Vehicles – General Provisions – Definitions) means a motor vehicle, other than a motorcycle, golf cart, light truck, or bus, designed or used primarily for the transportation of persons.

**Passenger car** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate 10 or fewer passengers, including the operator.

**Pocket bike or minimotorbike** (§551.301 TRANSP. - Rules of the Road - Operations of Bicycles, Mopeds, and Play Vehicles - Neighborhood Electric Vehicles - Definitions) means a self-propelled vehicle that is equipped with an electric motor or internal combustion engine having a piston displacement of less than 50 cubic centimeter, is designed to propel itself with not more than two wheels in contact with the ground, has a seat or saddle for the use of highway, and is ineligible for a certificate of title. Not a (A) moped or motorcycle; (B) electric bicycle or motor-driven cycle; (C) a motorized mobility device; (D) an electric personal assistive mobility device; or (E) a neighborhood electric vehicle.

**Truck** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a motor vehicle designed, used or maintained primarily to transport property.

**Truck tractor** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a motor vehicle designed and used primarily to draw another vehicle but not constructed to carry a load other than a part of the weight of the other vehicle and its load.

**Vehicle** (§502.001 TRANSP. Registration of Vehicles – General Provisions – Definitions) means a device in or by which a person or property is or may be transported or drawn on a public highway, other than a device used exclusively on stationary rails or tracks.

**Vehicle** (§541.201 TRANSP. – Rules of the Road – Definitions – Vehicles) means a device that can be used to transport or draw persons or property on a highway. The term does not include: (A) a device exclusively used on stationary rails or tracks; or (B) manufactured housing as that term is defined by Chapter 1201, Occupations Code.

# Parking Offenses

COURT COSTS for Conviction of Parking Offenses Committed on or after December 1, 2005

## STATE COURT COSTS

OFFENSE/DESCRIPTION	State STF	Total*
<b><u>MUNICIPAL ORDINANCES</u></b>		
<ul style="list-style-type: none"> <li>■ Parking (authorized by Sections 542.202-542.203, Transportation Code)</li> <li>■ Pedestrian</li> </ul>	N/A N/A	N/A <sup>1</sup> N/A
<b><u>STATE LAW</u></b>		
<ul style="list-style-type: none"> <li>■ Transportation Code, Subtitle C, Rules of the Road Sections 545.301, 545.302, 545.303, 545.307                             <ul style="list-style-type: none"> <li>• Parking &amp; Pedestrian (outside school crossing zone)</li> <li>• Parking &amp; Pedestrian (in school crossing zone)</li> </ul> </li> <li>■ Transportation Code, Chapter 681, Privilege Parking</li> <li>■ Transportation Code, Section 684.011</li> <li>■ All other parking misdemeanors</li> </ul>	30.00 30.00 N/A N/A N/A	30.00 30.00 N/A N/A N/A

## LOCAL COURT COSTS

OFFENSE/DESCRIPTION	Local TFC	Local CS	Local AF	Total*
<b><u>MUNICIPAL ORDINANCES</u></b>				
<ul style="list-style-type: none"> <li>■ Parking (authorized by Sections 542.202-542.203, Transportation Code)</li> <li>■ Pedestrian</li> </ul>	N/A N/A	N/A N/A	5.00 5.00	5.00 <sup>1</sup> 5.00
<b><u>STATE LAW</u></b>				
<ul style="list-style-type: none"> <li>■ Transportation Code, Subtitle C, Rules of the Road Sections 545.301, 545.302, 545.303, 545.307                             <ul style="list-style-type: none"> <li>• Parking &amp; Pedestrian (outside school crossing zone)</li> <li>• Parking &amp; Pedestrian (in school crossing zone)</li> </ul> </li> <li>■ Transportation Code, Chapter 681, Privilege Parking</li> <li>■ Transportation Code, Section 684.011</li> <li>■ All other parking misdemeanors</li> </ul>	3.00 3.00 N/A N/A N/A	N/A 25.00 N/A N/A N/A	5.00 5.00 5.00 5.00 5.00	8.00 33.00 5.00 5.00 5.00

*\*See additional fees on next page that may be added (Applies to parking handled only as a criminal case)*

Effective December 1, 2005

Rev. 12/05

**\*Add applicable fees and other costs whenever they apply.**

- \*■ \$2-5 court costs for cities with population greater than 850,000 that have adopted appropriate ordinance, regulation or order (mandatory).
- \*■ Up to \$5 court costs for cities with population less than 850,000 that have adopted appropriate ordinance, regulation or order (optional).

**\* FEES (Add the following fees whenever they apply):**

- **Applicable fees for services of peace officers under Art. 102.011, Code of Criminal Procedure (C.C.P.):**
  - **Warrant Fee:** \$50 for executing or processing an issued arrest warrant or *apias*. When service is performed by a peace officer employed by the State, 20% (\$10) is sent to the State.
  - **Summoning a Witness:** \$5 for serving a subpoena.
  - **Summoning a Jury:** \$5 for summoning a jury.
  - **Service of a Summons** (for a defendant or a child's parents): \$35.
  - **Other costs:** Costs for peace officer's time testifying while off duty.

■ **Fees Created by City Ordinance:**

- **Juvenile Case Manager Fee:** \$5 fee for every fine-only misdemeanor offense if governing body has passed the required ordinance establishing a juvenile case manager fund. (Art. 102.0174, C.C.P.) Effective January 1, 2006.
- **Municipal Court Building Security Fee:** \$3 on every conviction if governing body has passed required ordinance establishing building security fund. (Art. 102.017, C.C.P.)
- **Municipal Court Technology Fund:** Up to \$4 on every conviction if governing body has passed required ordinance establishing the municipal court technology fund. (Art. 102.0172, C.C.P.)
- **Jury Fee:** \$3 fee collected upon conviction when case tried before a jury. \$3 fee collected upon conviction if defendant had requested a jury trial and then withdrew the request not earlier than 24 hours before the time of trial; fee to be paid even if case is deferred. (Art. 102.004, C.C.P.)
- **Special Expense Fee:** At the conclusion of the deferral period under Article 45.051, C.C.P., upon dismissal of the charge, the court may assess a special expense fee not to exceed the amount of fine assessed but not imposed at the beginning of the deferral. (Art. 45.051(c), C.C.P.)
- **Time Payment Fee:** The court shall collect a fee of \$25 from a person who has been convicted and pays any part of the fine, court costs or restitution on or after the 31<sup>st</sup> day after the date on which the judgment is entered. One-half (\$12.50) is sent to the State. One-tenth (\$2.50) is retained locally for judicial efficiency. Four-tenths (\$10) are retained locally with no restrictions. (Section 133.103, Local Government Code)
- **Traffic Law Failure to Appear (FTA):** \$30 for failure to appear or failure to pay or satisfy a judgment for violation of any fine-only offense **if city has contracted with the Department of Public Safety** to deny renewal of driver's licenses. Two-thirds (\$20) are sent to the State. One-third (\$10) is retained locally. Applies on any violation over which municipal court has jurisdiction of under Art. 4.14, C.C.P. (Chapter 706, T.C.)

**Excess Fines:** Cities with population less than 5,000 must remit all but one dollar of fines and special expenses under Article 45.051, C.C.P., for Title 7, T.C., offenses when the fines and special expenses for such offenses reach 30 percent of the city's budget less any federal money. (Section 542.402(b), T.C.)

**(Note:** See Section 545.308, T.C., The governing body of a local authority, by ordinance, order, or other official action, may provide that in a prosecution for an offense involving the stopping, standing, or parking of an unattended motor vehicle it is presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place the offense occurred. Effective 9/1/2001.)

Name of Cost/Fee	Legal Reference	Abbreviation
Arrest Fee	Code of Criminal Procedure, Article 102.011	AF
Consolidated Fee	Local Government Code, Section 133.102	CF
Traffic Fund	Transportation Code, Section 542.403	TFC
Child Safety Fund	Code of Criminal Procedure, Article 102.014	CS
State Traffic Fee	Transportation Code, Section 542.403i	STF

# DPS Reporting Forms

	ALCOHOLIC BEVERAGE CODE	EDUCATION CODE	HEALTH AND SAFETY CODE	PENAL CODE	TRANSPORTATION CODE
<b>DIC-15</b>	<p><b>Chapter 106 (Minors under the age of 21)</b></p> <ul style="list-style-type: none"> <li>• Convictions: driver's license suspensions or denial of driver's license (§106.071, A.B.C.).</li> <li>• Acquittals of DUI (§106.117(4), A.B.C.).</li> <li>• Orders of deferred disposition (§106.117(3), A.B.C.).</li> <li>• Failure to complete alcohol awareness program: court must order suspension or denial of driver's license (§106.115(c) and (d), A.B.C.).</li> <li>• Failure to complete community service: court must order suspension or denial of driver's license (§106.115(c) and (d), A.B.C.).</li> </ul>	<p><b>Failure to Attend School (§25.094, E.C.) (Procedures in Art. 45.054(f), C.C.P.)</b></p> <p>Discretionary sanction: court may order driver's license suspended not to exceed 365 days.</p>	<p><b>Possession, Purchase, Consumption, or Receipt of Cigarettes, or Tobacco Products by Minors—Under age 18 (§161.252, H.S.C.) §161.254, H.S.C.</b></p> <p>Failure to complete the tobacco awareness program or tobacco related community service: court must order DPS to suspend or deny issuance of driver's license.</p>	<p><b>Public Intoxication (Age 17 and under age 21) §49.02(e), P.C.</b></p> <ul style="list-style-type: none"> <li>• Convictions: driver's license suspensions or denial of driver's license (§106.071, A.B.C.).</li> <li>• Orders of deferred disposition (§106.117(3), A.B.C.).</li> <li>• Failure to complete alcohol awareness program: court must order of suspension or denial of driver's license (§106.115(c) and (d), A.B.C.).</li> <li>• Failure to complete community service: court must order of suspension or denial of driver's license (§106.115(c) and (d), A.B.C.).</li> </ul>	<p><b>Passing a School Bus (§545.066(d), T.C.)</b></p> <p>On a second or subsequent conviction, court may order driver's license suspended for not longer than 6 months, beginning on date of conviction.</p>
<b>DIC-81</b>	<p><b>Under Age 17</b></p> <ul style="list-style-type: none"> <li>• Failure to appear: DPS will suspend or deny issuance of driver's license (Automatic suspension under §521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and judge orders driver's license suspended as a sanction of contempt; clerk notifies DPS of order.</li> </ul>	<p><b>Under Age 17</b></p> <ul style="list-style-type: none"> <li>• Failure to appear: DPS will suspend or deny issuance of driver's license (Automatic suspension under §521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and judge orders driver's license suspended or denies driver's license as a sanction of contempt; clerk notifies DPS of order.</li> </ul>	<p><b>Under Age 17</b></p> <ul style="list-style-type: none"> <li>• Failure to appear: DPS will suspend or deny issuance of driver's license (Automatic suspension under §521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and judge orders driver's license suspended or denies issuance as a sanction of contempt; clerk notifies DPS of order.</li> </ul>	<p><b>Under Age 17</b></p> <ul style="list-style-type: none"> <li>• Failure to appear: DPS will suspend or deny issuance of driver's license (Automatic suspension under §521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and judge orders driver's license suspended or denies issuance as a sanction of contempt; clerk notifies DPS of order.</li> </ul>	<p><b>Under Age 17</b></p> <ul style="list-style-type: none"> <li>• Failure to appear: DPS will suspend or deny issuance of driver's license (Automatic suspension under §521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and judge orders driver's license suspended or denies issuance as a sanction of contempt; clerk notifies DPS of order.</li> </ul>
<b>DR-18</b>			<p><b>Motor Vehicle Fuel Theft (§31.03, P.C.) or if reporting electronically use DPS code 3206: automatic suspension on second conviction (§521.349, T.C.).</b></p> <ul style="list-style-type: none"> <li>• Open Container (§49.031, P.C.) or if reporting electronically use DPS code 3323.</li> </ul>		<p>If not reporting electronically, can use DR-18 or back of citation.</p> <ul style="list-style-type: none"> <li>• Report all traffic convictions and final forfeitures of bond including convictions and forfeitures of city traffic ordinances (§543.201, T.C.).</li> <li>• Dismissals of DSC or motorcycle safety course (Art.45.0511(c), C.C.P.)</li> </ul>
<b>DIC-21</b>					<p>Convictions of offenses under §521.453, T.C. (Driver's license suspension is not less than 90 days or more than one year (§521.346, T.C.).</p>



# FROM THE CENTER

## Prosecutor Seminar

TMCEC will offer the second of two 12-hour prosecutor programs on May 25-26, 2006 at the Omni Hotel in Corpus Christi. The TMCEC Annual Municipal Prosecutors Conference is the only program in the state designed to specifically assist such attorneys in obtaining and maintaining professional competence. Presentations will focus on ethics, as well as procedural, substantive, and case law. The Center asks that participants attend the entire conference. As this program is underwritten by public moneys, it is required that participants attend all sessions to ensure the best use of public resources. Please do not enroll in the program if you do not intend to stay the entire time. Municipal prosecutors may register for the 12-hour prosecutor's conference for \$250. Housing, two breakfasts, one lunch, and course materials are included in the fee. Municipal prosecutors who do not need housing at the conference hotel may pay a \$100 registration fee. Prosecutors who must cancel for personal or professional reasons will be charged a \$100 cancellation fee if notice of cancellation is not received five (5) working days prior to the conference. A registration fee of \$300 (or \$150 if no housing is needed) will be charged for non-municipal prosecutors or attorneys. A registration form may be found in the TMCEC Academic Schedule or on page 27 of this newsletter. A flyer will be mailed to all courts in early May.

## Bailiff/Warrant Officer Seminar

TMCEC is offering for TCLEOSE credit a specially designed bailiffs and warrant officers program on June 27-28, 2006 in College Station. The program is funded by a grant from the Court of Criminal Appeals, and there is no registration fee. Housing, course materials, two breakfasts, and a lunch will be provided. Please register by May 29, 2006. A registration form may be found in the TMCEC Academic Schedule or on page 27 of this newsletter. The program will offer 12 hours of TCLEOSE credit with four additional TCLEOSE credit hours for the pre-conference. A flyer will be mailed to all courts in early May.

## About Our Courts

TMCEC surveys its constituency via the certification forms at seminars. Shown below are the results of clerks' responses at the 12-hour regional conferences.

### Q1. If a defendant in the clerk's office is unable to communicate in English, how do you inform the defendant of court procedures?

- 27% by certified interpreter (court employee)
- 12% by certified interpreter (contracted or consulting agreement)
- 46% employee converses in language of defendant
- 6% by language line
- 6% other
- 3% do not know

### Q2. In an average month, how many non-English speaking defendants does the clerk's office assist?

- 44% 1-20
- 17% 21-50
- 12% 51-100
- 23% more than 100
- 4% do not know

### Q3. How does your court handle court collections?

- 31% city marshal, warrant officer, or other city peace officer
- 32% contract with Texas Department of Public Safety for Failure to Appear Program
- 28% contract with a private collection vendor
- 42% in-house collection (clerks)
- 13% all of the above
- 2% none of the above

### Q4. Is your court a paperless court or in the process of becoming a paperless court?

- 23% Yes
- 74% No



# RESOURCES FOR YOUR COURT

## All Rise!

Calling All Judges! Have you ever wanted to visit a classroom but did not know what to present or who to contact about arranging the visit? The *All Rise! Comprehending the Texas Court System* program is designed to help build public awareness and understanding of the Texas judiciary, through judges visiting classrooms.

One of the components of *All Rise* is an interactive computer game that will help students understand the role of Texas courts. The game features various levels of questioning and applications for students about the Texas court system. First, students will identify the functions of the individual courts. Secondly, scenarios are given involving actions that will result in cases being taken to court. Students will have to identify the correct court that will hear each case and follow a criminal or civil case as it travels through the court system. The last level features a challenge round featuring questions submitted by Texas judges and justices.

Don't have a school to work with? If you need help finding a classroom, please fill in the information requested on the registration form online at [www.texasre.org/allrise\\_intro.html](http://www.texasre.org/allrise_intro.html), or contact the Law-Related Education Department at the State Bar of Texas (512/463-1463). The project is funded by the Texas Bar Foundation.



## OCA Report

The Office of Court Administration and Texas Judicial Council have released the *2005 Annual Statistical Report for the Texas Judiciary*, which provides synopses and highlights of court activity. The report: (1) illustrates slow, steady growth in the volume of civil, criminal, and juvenile cases filed at all levels of the trial courts over the last decade (p. 34-52); and (2) highlights a substantial decline over the past 20 years in the use of civil and criminal trials in the judicial system despite the continued growth in caseload (p. 32). Excerpts

from the *Annual Report* about municipal courts are reprinted with permission in this issue of the *Municipal Court Recorder*. The entire report may be downloaded from [www.courts.state.tx.us/oca/PublicInfo/AR2005/2005\\_Annual\\_Report.pdf](http://www.courts.state.tx.us/oca/PublicInfo/AR2005/2005_Annual_Report.pdf). Also, on the OCA website, readers may find the statistical reports of the municipal courts listed alphabetically by city or numerically by population size.

The *2005 Annual Report of the Judicial Support Agencies, Boards, and Commissions*, which details the activities and accomplishments of the judicial branch entities supported by OCA for the fiscal year, is also available now on the above-mentioned website.

## Licensed Court Interpreters

Beginning September 1, 2006, the Texas Department of Licensing & Regulation (TDLR) will require all licensed court interpreters to take eight hours of continuing education before renewing their licenses. All courses must be approved by TDLR, and must include two hours of instruction in ethics. The remaining six hours may be taken in one or more of the following subjects:

- Laws and rules affecting the practice of a licensed court interpreter;
- Ethics;
- Business practices; and
- Practice topics; *e.g.*, etiquette, modes, vocabulary, technology, transcription, translation, grammar and spelling, and voice training.

Courses may be completed during the full year preceding the license expiration date. Look for upcoming courses in San Antonio and Houston provided by the Texas Association for Judicial Interpreters and Translators. Check [www.tajit.org](http://www.tajit.org) for updates during the month of May.

TMCEC is considering offering this training. Please email the names of your licensed court interpreters to Hope Lochridge at TMCEC ([lochridge@tmcec.com](mailto:lochridge@tmcec.com)).



# Municipal Courts

**Cases Filed** – Roughly eight million cases were filed in the state’s municipal courts in 2005, slightly above the average of about 7,740,000 cases that were filed over each of the last five years. Consistent with previous years, traffic and parking cases constituted approximately 83 percent of the incoming caseload.

The 10 largest cities, representing 33 percent of the state’s population, accounted for half of all cases filed. Seven of the 10 cities had per capita filing rates slightly above the statewide average of 0.45. The highest per capita filing rates, however, occurred in Westlake (a suburb of Fort Worth with a population of 206) and Estelline (with a population of 169, located in Hall County) and were considerably higher than the rates in all other cities of the state.

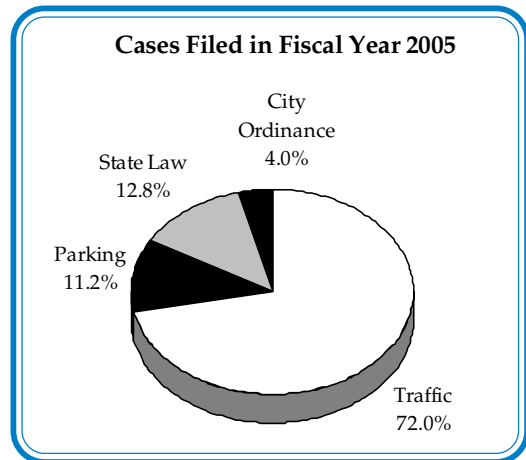
**Clearance Rates** – Municipal courts disposed of 7,659,420 cases in 2005—continuing the upward trend in the number cases disposed over the past decade. Although dispositions increased by 1.7 percent from the previous year, the average case clearance rate fell slightly from 97.6 to 95.8 percent—slightly below the five-year average of 96.1 percent. By case type, traffic (non-parking) cases had the highest clearance rate (100 percent) while state law and city ordinance cases both had the lowest clearance rate (83 percent).

**Manner of Disposition** – In 2005, municipal courts disposed of nearly 5.6 million traffic cases, the largest share—approximately 37 percent—of which was disposed of by payment of a fine (without appearing before a judge) or by a bond forfeiture. Sixteen percent were disposed of after a bench trial or other appearance before a judge, and only 0.1 percent were disposed of by a jury trial.

Municipal courts also disposed of more than 1.1 million state law and city ordinance cases (i.e., non-traffic cases). One third of these cases were disposed of by payment of a fine or by a bond forfeiture. While the jury trial rate was the same as for traffic cases (0.1 percent), defendants in these cases were more likely to have a bench trial or other appearance before the judge (27.5 percent) in order to dispose of the case.

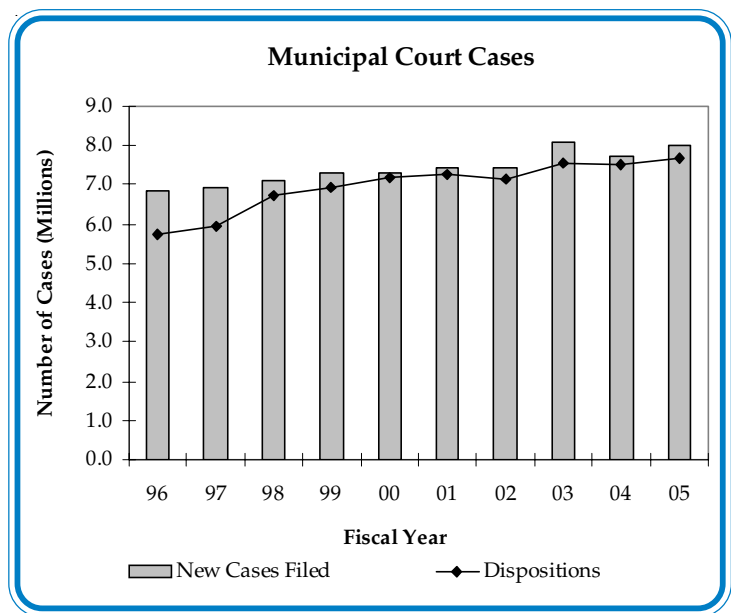
Overall, guilty findings were made in approximately 98.7 percent of the 1,345,130 cases that were not dismissed and went to bench trial or were otherwise disposed of by an appearance before the judge.<sup>1</sup> In

1. Guilty and *nolo contendere* pleas are included in the “Trial by Judge” category in the Municipal Court Monthly Activity Report.



**Filings per Capita in Fiscal Year 2005**

Cities with Highest Filings per Capita	Filings per Capita in Largest Cities
Westlake - 58.5	Houston - 0.7
Estelline - 17.3	San Antonio - 0.3
Montgomery - 7.8	Dallas - 0.5
Domino - 7.5	Austin - 0.6
Martindale - 5.6	Fort Worth - 0.6



contrast, guilty verdicts accounted for 73.5 percent of 5,175 cases that went to jury trial.

### Juvenile Case

**Activity –** In 2005, 340,527 juvenile cases were filed in the municipal courts, down from a record high of more than 372,000 cases filed during the previous year but nearly identical to the number filed in 2003. Transportation Code cases constituted the only category in which the

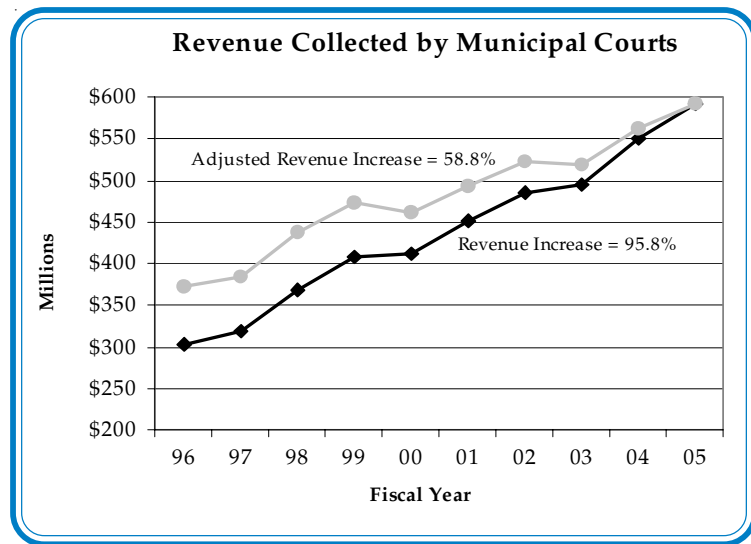
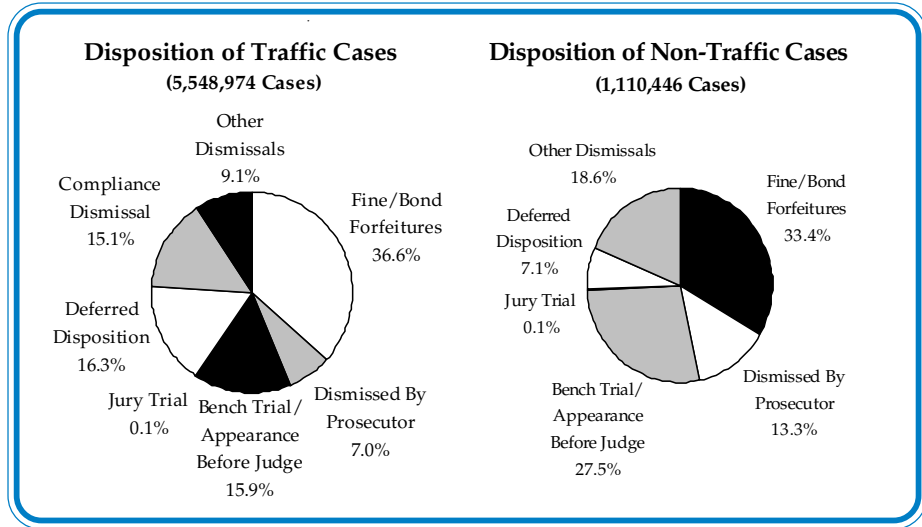
number of cases filed in 2005 exceeded the average number of cases filed over the last five years. Since 2001, the number of cases in which municipal courts waived jurisdiction and referred a juvenile to juvenile court generally declined—from 7,354 cases in 2000 to 3,941 in 2005.

**Magistrate Activity –** In 2005, municipal courts issued approximately 6,700 search warrants, more than 2.3 million arrest warrants, nearly 7,500 magistrate orders for emergency protection, and more than 250,000 magistrate warnings to adults, continuing the upward trend in these areas of court activity over recent years. Magistrate activity in juvenile cases, however, declined over the past few years. Warnings administered to juveniles declined steadily from 5,419 warnings in 2000 to 3,316 in 2005, and certifications of juvenile statements declined from 1,555 in 2003 to 1,265 in 2005.

**Court Revenue –** The amount of revenue collected by municipal courts increased steadily over the last 10 years. In 2005, the courts collected revenue in excess of \$592 million—an increase of more than \$40 million from the previous year. The amount collected in 2005 was 96 percent higher than that collected in 1996, or 59 percent higher when adjusted for inflation.<sup>2</sup>

Excluding cases dismissed prior to trial or at trial, the amount of revenue collected per disposition averaged approximately \$170—an increase of 90 percent from the previous year, which may be due, in part, to improvements in reporting compliance.

2. Using Consumer Price Index Conversion Factors.



*The following cities did not submit activity reports for the entire fiscal year:*

- Garrison
- La Ward
- Milford

*The following cities submitted incomplete reports for the fiscal year:*

Briaroaks: 8% *	Gordon: 83%	Old River-Winfree: 83%
Caney City: 83%	Groesbeck: 25%	Pine Forest: 75%
Childress: 83%	Kirbyville: 58%	Rio Hondo: 83%
Clint: 42%	Maypearl: 83%	San Augustine: 83%
Elsa: 58%	Natalia: 33%	Trinity: 92%
Fate: 33%		

\* Percentage of reports received

## Activity Report for Municipal Courts

September 1, 2004 to August 31, 2005

99.0 Percent Reporting Rate					
10,789 Reports Received Out of a Possible 10,896					
	Traffic Misdemeanors		Non-Traffic Misdemeanors		REPORTED TOTALS
	Non - Parking	Parking	State Law	City Ordinance	
<b>NEW CASES FILED</b>	<b>5,754,794</b>	<b>898,584</b>	<b>1,023,009</b>	<b>318,051</b>	<b>7,994,438</b>
<b>DISPOSITIONS:</b>					
Dispositions Prior to Trial:					
<i>Bond Forfeitures</i>	44,168	1,684	17,515	2,411	65,778
<i>Fined</i>	1,725,004	625,887	275,880	75,602	2,702,373
<i>Cases Dismissed</i>	357,226	99,196	100,583	47,107	604,112
<b>Total Dispositions Prior to Trial</b>	<b>2,126,398</b>	<b>726,767</b>	<b>393,978</b>	<b>125,120</b>	<b>3,372,263</b>
Dispositions at Trial:					
<i>Trial by Judge</i>					
Guilty	987,129	40,310	238,246	62,043	1,327,728
Not Guilty	12,352	415	2,919	1,716	17,402
<i>Trial by Jury</i>					
Guilty	2,707	84	669	344	3,804
Not Guilty	789	28	349	205	1,371
<i>Dismissed at Trial</i>	579,758	13,970	152,087	54,260	800,075
<b>Total Dispositions at Trial</b>	<b>1,582,735</b>	<b>54,807</b>	<b>394,270</b>	<b>118,568</b>	<b>2,150,380</b>
Cases Dismissed After:					
<i>Driver Safety Course</i>	436,643	---	---	---	436,643
<i>Deferred Disposition</i>	629,712	1,777	58,885	19,625	709,999
<i>Proof of Financial Responsibility</i>	523,852	---	---	---	523,852
<i>Compliance Dismissal</i>	466,283	---	---	---	466,283
<b>Total Cases Dismissed After</b>	<b>2,056,490</b>	<b>1,777</b>	<b>58,885</b>	<b>19,625</b>	<b>2,136,777</b>
<b>TOTAL DISPOSITIONS</b>	<b>5,765,623</b>	<b>783,351</b>	<b>847,133</b>	<b>263,313</b>	<b>7,659,420</b>
<b>COMMUNITY SERVICE ORDERED</b>	166,267	1,389	35,960	10,421	214,037
<b>CASES APPEALED</b>	13,547	113	2,280	400	16,340
<b>JUVENILE ACTIVITY:</b>					
Transportation Code Cases Filed . . . . .					166,766
Non-Driving Alcoholic Beverage Code Cases Filed . . . . .					35,403
DUI of Alcohol Cases Filed . . . . .					3,453
Health & Safety Code Cases Filed . . . . .					11,242
Failure to Attend School Cases Filed . . . . .					13,420
Education Code Cases Filed . . . . .					10,149
Violation of Local Daytime Curfew Ordinance Cases Filed . . . . .					10,315
All Other Non-Traffic Fine-Only Cases Filed . . . . .					89,779
Waiver of Jurisdiction of Non-Traffic Cases . . . . .					3,941
Referred to Juvenile Court for Delinquent Conduct . . . . .					783
Held in Contempt, Fined, or Denied Driving Privileges . . . . .					11,542
Warnings Administered . . . . .					3,316
Statements Certified . . . . .					1,265
<b>OTHER ACTIVITY:</b>					
Parent Contributing to Nonattendance Cases Filed . . . . .					7,413
Safety Responsibility and Driver's License Suspension Hearings Held . . . . .					867
Search Warrants Issued . . . . .					6,701
Arrest Warrants Issued					
Class C Misdemeanors . . . . .					2,289,578
Felonies and Class A and B Misdemeanors . . . . .					71,535
<i>Total Arrest Warrants Issued</i> . . . . .					2,361,113
Magistrate Warnings Given					
Class A and B Misdemeanors . . . . .					174,860
Felonies . . . . .					80,850
<i>Total Magistrate Warnings Given</i> . . . . .					255,710
Emergency Mental Health Hearings Held . . . . .					835
Magistrate's Orders for Emergency Protection . . . . .					7,472
<b>TOTAL REVENUE</b> . . . . .					<b>\$592,162,820</b>

# A Comparison of Judge Profiles in the Justice and Municipal Courts for 1995 vs. 2005

	Justice Courts 1995	Justice Courts 2005	Municipal Courts 1995	Municipal Courts 2005
<b><i>Number of Judges</i></b>				
Number of Judge Positions	842	826	1,215*	1,378
Number of Judges	842	826	1,141*	1,367
<b><i>Age of Judges</i></b>				
Mean	54	60	53	57
Oldest	88	93	90	89
Youngest	23	27	22	24
<b><i>Gender of Judges</i></b>				
Males	N/A	547	N/A	900
Females	N/A	268	N/A	441
<b><i>Ethnicity of Judges</i></b>				
African-American	N/A	21	N/A	32
American Indian or Alaska Native	N/A	2	N/A	7
Asian or Pacific Islander	N/A	0	N/A	7
Hispanic/Latino	N/A	108	N/A	132
White (Non-Hispanic)	N/A	503	N/A	779
Other	N/A	2	N/A	6
<b><i>First Assumed Office by:</i></b>				
Appointment	118 (14%)	154 (21%)	1,192 (99%)	1,221 (99%)
Election	705 (86%)	594 (79%)	10 (1%)	17 (1%)
<b><i>Education</i></b>				
Attended High School	739 (97%)	38 (5%)	964 (97%)	24 (2%)
Graduated High School	680 (90%)	656 (93%)	917 (92%)	1,029 (96%)
Attended College	437 (58%)	156 (22%)	736 (74%)	115 (11%)
Graduated College	226 (30%)	229 (33%)	603 (61%)	693 (65%)
Attended Law School	63 (8%)	5 (1%)	460 (46%)	7 (1%)
Graduated Law School	56 (7%)	52 (7%)	450 (45%)	543 (51%)
<b><i>Licensed to Practice Law</i></b>				
Number Licensed	49 (6%)	53 (6%)	450 (39%)	551 (40%)
Mean Year Licensed	1973	1980	1975	1980

\*Some cities have more than one judge, and 43 persons serve as judge of two or more municipal courts in separate cities.

Compiled from FY95 and FY05 Annual Report of the Office of Court Administration.



# TRAFFIC SAFETY

## Traffic Safety Materials

Municipal judges and court support personnel are frequently asked to make presentations on traffic law to school groups and civic organizations. A great many materials that supplement such presentations are available on the web site of state and national organizations and agencies. Shown below is a list of those that focus on seat belts and child protection seats:

Texas Department of Transportation – [www.dot.state.tx.us/trafficsafety](http://www.dot.state.tx.us/trafficsafety)

Safe Riders – [www.dshs.state.tx.us/saferiders](http://www.dshs.state.tx.us/saferiders)

National Highway Traffic Safety Administration – [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)

Click It or Ticket – [www.buckleupamerica.org](http://www.buckleupamerica.org)

American Academy of Pediatrics – [www.aap.org](http://www.aap.org)

National Safe Kids Campaign – [www.safekids.org](http://www.safekids.org)

Also, on the following pages are “talking points” on traffic safety and the importance of seat belts for use before civic and school groups. Watch the TMCEC website for a new traffic safety page that will have links to more materials, sample power point presentations, and other useful information.

Also, TMCEC has received from TxDOT copies of the poster shown below entitled “Even super heroes need seat belts.” This colorful, 12 x 16 poster is suitable for hanging on a bulletin board in your court lobby or


city hall. If you would like a copy at no charge, please contact TMCEC, 1609 Shoal Creek Blvd., Suite 302, Austin, Texas 78701. Or, email [tmcec@tmcec.com](mailto:tmcec@tmcec.com) and ask for the free poster – please remember to provide your name, court, and mailing address. Only a limited number are available.

The TMCEC staff members and board of directors encourage you to speak out and *Save a Life!* Judges may speak, write, lecture, teach, and participate in extra-judicial activities concerning the law, legal system, administration of justice and non-legal subjects, subject to the requirements of the Code of Judicial Conduct.



**Even super heroes  
need safety seats.**

**Buckle Up Your Child**

 **Save a Life™**  
Texas Department of Transportation

---

# Click It or Ticket

## FACT SHEET & TALKING POINTS

### “Click It or Ticket” – Safety Belts Save Lives

- Regular safety belt use is the single most effective way to protect people and reduce fatalities in motor vehicle crashes.
- Yet nearly one in five Americans (18 percent nationally) still fail to regularly wear their safety belts when driving or riding in a motor vehicle.
- Although safety belt use increased to a record 82 percent nationally in 2005 (up from 58 percent since 1994), too many Americans still choose not to regularly wear their safety belts.
- According to the National Highway Traffic Safety Administration (NHTSA), 31,693 passenger vehicle occupants died in traffic crashes during 2004 – and 55 percent of those killed were **NOT** wearing their safety belts at the time of the crash.
- In 2005, observed safety belt use in primary law states averaged 85 percent, compared to 75 percent in states with secondary laws.

### Young Males, Pickup Truck Occupants, Rural Drivers and Drivers at Night are Those Least Likely to Buckle Up and at Greatest Risk

- Men – especially younger men – are much less likely to buckle up. In 2004, 67 percent of male drivers and 73 percent of male passengers between the ages of 18 and 34 who were killed in crashes were **NOT** wearing their safety belts.
- According to NHTSA, pickup truck drivers and passengers, particularly young males, consistently have the lowest safety belt usage rates of all motorists.
- In 2005, the observed safety belt use rate in pickup trucks was only 73 percent, compared to 83 percent in passenger cars and 85 percent in vans and SUVs.
- This lack of safety belt use is deadly. In 2004, 68 percent of pickup truck drivers and 73 percent of pickup truck passengers who were killed in traffic crashes were not buckled up.
- One of the deadliest causes in any vehicle crash comes when passengers get ejected from the vehicle – with

most coming from failure to wear safety belts.

- In fact, 74 percent of passenger vehicle occupants who were totally ejected from their vehicle in 2004 were killed. But only one in 100 drivers and passengers in fatal crashes who were wearing their safety belts were totally ejected and killed.
- The ejection rate for occupants of light trucks (*e.g.*, pickup trucks) involved in fatal crashes is nearly double the rate for passenger car occupants.
- Motorists can increase the odds of survival in a rollover crash in a light truck by nearly 80 percent by wearing their safety belt.
- Americans driving or riding on rural roadways face a much greater risk of being injured or killed in traffic crashes than do those in urban or suburban areas, according to the NHTSA.
- Safety belt use in the nation’s rural areas consistently trails the national average.
- Nationally, in 2005, only 79 percent of rural drivers and their passengers were observed wearing their safety belts compared to 81 percent for urban motorists and 83 percent among suburban motorists.
- During 2004, 55 percent of Texas’s total traffic fatalities occurred in rural areas. One big factor is lower safety belt use on rural roadways.
- While only about a fifth of Americans live in rural areas, rural traffic fatalities accounted for 58 percent of the nation’s total in 2004.
- Even more alarming, the motor vehicle crash fatality rate per 100 million vehicle miles traveled in rural areas is almost double the fatality rate in urban areas.
- Part of the danger to rural drivers comes from delayed recovery and emergency response along isolated roadways. But much of the danger is also due to excessive speed, increased alcohol use, vehicle rollovers, and higher occupant ejection rates.

---

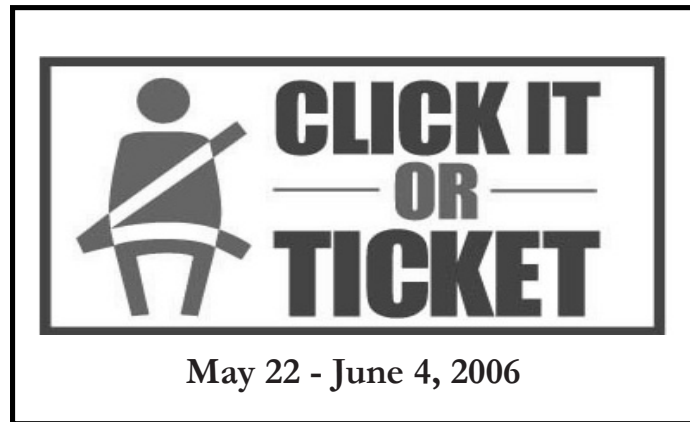
## No More Excuses – “Click It or Ticket”

- National, state, and local law enforcement officials will be zeroing in on the one in five Americans who still don't get it.
- The goal is simple: Save more lives by convincing drivers and passengers to always buckle up.
- This special “Click It or Ticket” safety belt high-visibility enforcement mobilization includes a variety of increased enforcement and outreach activities to reach rural motorists, including special television and radio advertisements targeting non-belt users.
- The 2006 “Click It or Ticket” national enforcement mobilization runs from May 22 through June 4.

Hundreds of state and local law enforcement and highway safety officials during this period will engage in aggressive enforcement of seat belt laws.

- TMCEC supports efforts of local prosecutors in enforcing seat belt laws in an effort to save lives on Texas roadways. TMCEC encourages all Texas cities to join in this effort. Attitudes towards traffic safety and compliance with related laws begins at the local level. Become part of TMCEC's Municipal Traffic Safety Initiatives (MTSI).

For more information, please visit [www.buckleupamerica.org](http://www.buckleupamerica.org)



## Calendar of Events

<i>Date</i>	<i>Event</i>	<i>Sponsor</i>
May 22-29	Buckle Up America	NHTSA
May 22-June 4	Click It or Ticket Mobilization	Air Bag and Seat Belt Safety Campaign & NHTSA
July 19	Ride Your Motorcycle to Work Day	Ride to Work, Inc.
August 6-12	National Stop on Red Week	Federal Highway Administration
August 16-September 4	Impaired Driving High-visibility Enforcement	NHTSA
October	Walk to School Month	Partnership for a Walkable America
October 2-6	Drive Safely Work Week	Network of Employers for Traffic Safety
October 4	Walk to School Day	Partnership for a Walkable America
December	National Drunk & Drugged Driving Prevention Month (3D Month)	National Commission Against Drunk Driving (NCADD)

# News on Traffic Safety in Texas

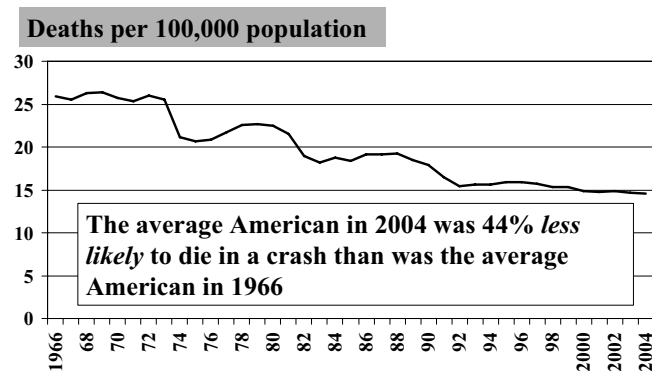
Texas seat belt use jumped from 83.2 percent in 2004 to 89.9 percent in 2005. This is a one-year conversion rate of 39.9 percent—the highest in the country!

NHTSA<sup>1</sup> also announced that there were:

- 238 fewer traffic deaths in Texas in 2004.
- 129 fewer alcohol-related deaths in Texas—a 7.3 percent decline.

This meant that the average American in 2004 was 44 percent less likely to die in a crash as the average American in 1966.

## Decades of Progress: The Odds of Dying in a Crash

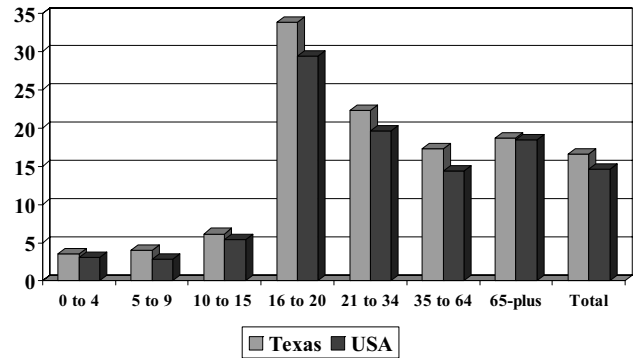


The reduction may be attributed to many factors, including the *Click It or Ticket It, You Drink & Drive, You Lose*, and the continuing Blue TALON campaigns. This reduction in the traffic fatality rate is excellent news because Americans do a lot of driving. Every day of the year 292 million or so people in this country collectively drive nearly eight billion miles. That's more than a daily round trip, from Earth to Pluto and back!

In addition to the higher risk of dying in an automobile crash, 16-20 year olds also face a much greater risk than anyone else of dying in an alcohol-related crash. When young persons move from the 10-15 age group into the 16-20 groups, their risk goes up by a factor of nine.

In a recent NHTSA telephone survey on drinking and driving, the age group with the second-highest percentage of heavy or problem drinkers<sup>2</sup> are 16-20 year olds. Although they can't drink legally, nearly one in nine of them (12 percent) consume five or more drinks at least one day in a routine month.

## Who is *most* at risk?



2003 Traffic Fatalities per 100,000 population, by age

To combat these alarming statistics, traffic safety experts recommend putting restrictions on drivers under the age of 18, such as graduated licenses, and expanding high visibility of safety belt, speed and impaired driving laws.

Experts call for strict enforcement. Young persons charged with breaking a traffic law or underage drinking law should not be given a “break.” The ticket, arrest, and conviction may be just the incident needed to save a life by getting his or her attention.

Another recommendation is the establishment of DWI courts, whose purpose is to break the cycle of DWI recidivism through a combination of punishment, restriction, counseling, and rehabilitation. The Texas Center for the Judiciary has received funding from TxDOT to create the position of a Judicial Resource Liaison whose role is to encourage Texas courts to establish DWI Courts and adopt efficient case disposition practices for DWI cases. The Honorable David L. Hodges (former County Court at Law Judge, Waco) has been appointed to this position. He may be contacted at davidh@yourhonor.com.

At the *Save a Life Summit* in Austin last fall, Hope Andrade, a TxDOT Commissioner from San Antonio, reminded participants to “Keep your message clear. The enforcement is the message: drive drunk or ride unbuckled and you will be caught and punished.” Municipal courts can play an important role in this campaign by ensuring fair, but swift consequences by effective case flow management and bringing cases promptly to trial.

*Continued from News on Traffic*

<sup>1</sup> National Highway Traffic Safety Administration

<sup>2</sup> A heavy or problem drinker is defined as one that, in a typical month:

- Consumes 5 or more drinks in one sitting on at least four separate occasions; or
- Consumes 9 or more drinks at least once per month.

This article was summarized from presentations by Kenneth Coupland (Region VI Traffic Safety Coordinator, NHTSA) and Hope Andrade (Member, Texas Transportation Commission, San Antonio) on September 12, 2005 at the *Save a Life Summit* in Austin.

**TOTAL CRIMINAL TRAFFIC SAFETY DISPOSITONS IN TEXAS**

District Courts	Number	Percentage of Total
Felony DWI	12,648	0.16%
<b>County Courts</b>		
DWI/DUID	104,426	1.30%
<b>Justice Courts</b>		
Traffic	2,135,693	26.64%
<b>Total</b>	<b>2,252,767</b>	<b>28.10%</b>
<b>Municipal Courts</b>		
Traffic Only (excluding DUI)	<b>5,765,623</b>	<b>71.90</b>
<b>GRAND TOTAL</b>	<b>8,018,390</b>	<b>100%</b>

Source: *Annual Report of the Texas Judicial System, Fiscal Year 2005*

## A Reminder to Judges

In early April, the Chief Justice Wallace Jefferson in cooperation with the Office of Court Adminstartion (OCA) sent a letter and court security survey to all muncipal judges by email, fax or mail. The response has been disappointingly low. Please respond ASAP by logging onto the websites at the URLs shown below. Thank you.

1) Municipal Courtroom - Top 20 Most Populous Cities - To be completed by both presiding and associate judges:

[www.survey.courts.state.tx.us/cgi-bin/qwebcorporate.cgi?idx=WK9C9W](http://www.survey.courts.state.tx.us/cgi-bin/qwebcorporate.cgi?idx=WK9C9W)

2) Municipal Courthouse - Top 20 Most Populous Cities - To be completed by presiding judges only:

[www.survey.courts.state.tx.us/cgi-bin/qwebcorporate.cgi?idx=RCDEWX](http://www.survey.courts.state.tx.us/cgi-bin/qwebcorporate.cgi?idx=RCDEWX)

3) Municipal Combined (Courthouse and Courtroom) - Cities Other than 20 Most Populous - To be completed by presiding judges only:

[www.survey.courts.state.tx.us/cgi-bin/qwebcorporate.cgi?idx=USMPPW](http://www.survey.courts.state.tx.us/cgi-bin/qwebcorporate.cgi?idx=USMPPW)

Questions? Contact Mary Cowherd at OCA at 512/463.1625.



# ETHICS UPDATE

## Public Statement No. PS-2006-1

In July of 2004, a press conference was held by a parents' rights group to announce the filing of a complaint against a judge who they accused of violating the Texas Code of Judicial Conduct for his extrajudicial service on several boards, including Texas CASA ("Court Appointed Special Advocates"). Based on the notoriety caused by the announcement, the State Commission on Judicial Conduct determined that the best interests of the judiciary and the public would be served by issuing this Public Statement addressing the Commission's position regarding the propriety of judges who serve on the Texas CASA board of directors.

Texas CASA, Inc. is a statewide, nonprofit organization devoted to the recruitment, training, and oversight of volunteers who serve as court-appointed special advocates for abused and neglected children in juvenile dependency proceedings. Volunteers for CASA are specially trained to advocate for the best interests of a child involved in a court proceeding. Although CASA may differ in some ways from typical advocacy groups such as MADD ("Mothers Against Drunk Drivers") or ATLA ("Association of Trial Lawyers of America"), it is nonetheless a victim advocacy group whose volunteers are partisan, not neutral, in the judicial process. In many cases a CASA volunteer's recommendations may conflict with the position taken by attorneys for the birth parents or even the minors themselves, all of whom are parties in the proceedings before the judge.

In general, judges are required to avoid impropriety and the appearance of impropriety in all of the judge's

activities. Canon 2. In order to promote public confidence in the judiciary, it is not enough that a judge be fair and impartial when deciding cases, he must also *appear* to be fair and impartial. Canon 4A(1) of the Texas Code of Judicial Conduct addresses the appearance of impropriety and partiality by stating that "a judge shall conduct all of the judge's extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as a judge." While judges are encouraged to engage in civic and charitable activities, their participation is restricted to activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties. Canon 4C. Likewise, if the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly or frequently engaged in adversary proceedings in any court, a judge should not serve as an officer, director, trustee or non-legal advisor of the organization. Canon 4C(1).

In order to avoid the appearance of impropriety and partiality, judges should be cautious about serving an organization, even one as noble and praiseworthy as CASA, when such an organization advocates a particular legal philosophy or position. This is especially true when the organization will be involved in proceedings likely to come before the judge. See Jeffrey Shaman, et al., *Judicial Conduct and Ethics* §9.10 (3d ed. 2000). While it is true that judges who serve any sort of advocacy group run the risk that the public will perceive that the judge supports the policy positions of that organization, judges who serve an organization like

CASA would likewise endanger the public perception of the judge's impartiality, for it would not be unreasonable for the public to believe that a judge who is affiliated with CASA would endorse and be partial to CASA and the CASA volunteer's recommendations. When asked to rule in a case involving CASA, a judge's relationship with the organization may cause a perception that the CASA volunteer's opinion will be afforded greater weight because of the judge's connection with CASA. This would be true regardless of whether the board on which the judge would serve was local or statewide.<sup>1</sup>

The Commission's position regarding a judge's service on CASA should be limited to those judges who hear cases in which CASA volunteers appear as advocates, or who have appellate jurisdiction over such cases. The Commission would note that the appearance of impropriety in some cases could be cured with a full disclosure of the judge's affiliation with CASA, on the record, followed with the informed consent of the parties and their counsel to allow the judge to continue to hear and decide the case. Naturally, if a judge were asked to recuse from cases too frequently because of the relationship with CASA, that judge should step down from his or her membership on the board. Canon 3B(1).

Finally, in concluding that such service by a judge could be improper, the Commission is not criticizing any judge's desire to serve CASA, nor is it suggesting that CASA is not a

*Ethics continued on page 26*

## Caseflow Management in Texas Municipal Courts

By Margaret Robbins, Program Director, TMCEC

Why should Texas municipal courts be interested in caseflow management? The answer can be found in municipal courts' mission statements, several of which are found on the Internet. These statements talk about fairness and justice for defendants in the municipal courts. Fairness and justice involves rights and processes. Along with guaranteeing rights and processes, courts must ensure that the day-to-day operations of the court are properly managed.

Caseflow management is about the day-to-day *active* management of the court's cases to ensure that justice occurs. This is accomplished by establishing goals and expectations and then managing what happens by monitoring the day-to-day activity. Municipal court must assure accountability for each case moving through its justice system. The court is responsible for compliance with its goals and expectations.

Laying a sound foundation is crucial to establishing a caseflow management system. Leadership and vision are the key elements of the foundation and, without them, caseflow management will fail. Leadership must include both the judge and clerk working together as a team to coordinate and administer the caseflow management system. It is noteworthy to know that the Texas Code of Judicial Conduct requires judges to be knowledgeable in court administration and to cooperate with other judges and court staff. Presumably the Code already had the teamwork model already in mind. It is usually the judge who sets the tone about leadership and vision, but it

takes both the judge and clerk in the leadership role to develop the court vision and achieve successful caseflow management.

When developing a caseflow management system, the court must look at performance standards as a core component of the system. Performance standards have been developed by the Bureau of Justice Management. The following standards are from *Trial Court Performance Standards* from the Bureau of Justice Assistance Monograph (NCJ 161567, July 1997):

- Access to Justice;
- Expedition and Timeliness;
- Equality, Fairness, and Integrity;
- Independence and Accountability; and
- Public Trust and Confidence.

These performance standards "do not tell people what to do and how to do things." Instead they are tools to support development of court leadership, sound management, and strategic planning and performance assessment.

Another essential component to the success of caseflow management is the stakeholders. Courts must determine who their stakeholders are and then develop a partnership with them. Some common examples of stakeholders might be other judges, clerks, and support staff in the court, the defense bar, and other city departments. Communication about the operations of the court and the stakeholders' part plays a vital role in

caseflow management.

A basic principle of caseflow management is that the court controls its cases. The court has a plan and the leadership to carry out the plan. This means that defendants and defense lawyers do not control the pace of the case movement; the court does. Judges control continuances, judges and clerks control the trial dockets; the court monitors the movement of its cases throughout the process by daily, weekly, or monthly reports and taking action when necessary to ensure cases stay on track.

Part of court control of cases involves a differentiated case management system (DCM). This is a concept in which courts recognize that cases differ in complexity and require different actions and resources to resolve. Examples of DCM might include the following:

- Fast Case Track – Defendants appear timely, waive jury trial, plead guilty or *nolo contendere*, and pay the fine and costs; the judge accepts plea, enters judgment and the case is disposed.
- Basic Case Track – Defendant requests trial—either bench or jury (traffic case, disorderly conduct, public intoxication); or defendants request driving safety course or deferred disposition.
- Complex Case Track – City ordinance case—multiple complaints filed or multiple witnesses, etc.

The DCM requires an early screening process of cases when filed. For example, many municipal court traffic

cases fall into the “Basic Case Track.” Defendants, if eligible for a driving safety course will request a driving safety course. If they have already had a driving safety course in the preceding 12 months, they usually request deferred disposition. The reason for this is because of the point system and surcharges on driver’s licenses. Defendants with commercial driver’s licenses charged with traffic offenses fall into this same case track as they generally request a trial because they are not eligible for a driving safety course or for deferred disposition.

One of the important issues of DCM is control of continuances. If a court does not control its continuances, the court will have a backlog of trials. Even the law recognizes that continuances should not be used as a delaying tactic. Article 29.03, Code of Criminal Procedure, requires that continuances be put in writing, be for sufficient cause, and be for only as

long as is necessary. Accordingly, as part of the caseload management system, courts should have a continuance policy that is fair to defendants, witnesses, victims, and all involved in the municipal court justice system. DCM means that courts understand their court system, the types of cases filed, and are using a sound plan for managing it.

How does a court know if their caseload management system is working? The only way is to measure and monitor it. The court must decide what to measure and how to measure it. Each court decides what information to collect, which measures are priority, and what their uses are. After making these decisions, the court decides which types of reports are necessary for monitoring. This is an ongoing daily process.

This might seem like a tall order for *some* Texas municipal courts. Some of the state’s courts are small; handle just a few cases a month and only have a part-

time judge. Whereas other municipal courts manage thousands of cases a month and have many full-time judges. Texas is a big state and Texas municipal courts are probably more diverse and different from each other than the other courts in the state. All courts, nevertheless, can benefit from caseload management practices because caseload management helps courts determine accountability for daily management.

All municipal courts are constantly changing because technology changes, laws change, processes change, and staff changes. Courts have to decide how to properly manage the day-to-day operations. Caseload management gives courts the tools to help them reduce delay in the court regardless of its size. Courts just have to remember that small and large courts require different skills and techniques to manage their cases.

## Resources on Caseload Management

For more information on caseload management, go to the website of the National Center for State Courts (NCSC) at [www.ncsconline.org](http://www.ncsconline.org) and search the site for its resources on this topic. You will find dozens of listings that include books, articles, forms, reports, best practices, conference proceedings, and more. At a minimum, TMCEC recommends reviewing (1) *NCSC Caseload Management Resource Guide of Court Topics*, (2) *Best Practices Institute on Successful Caseload Management Techniques*, and (3) the information contained under Trial Court Performance Standards. The links are shown below.

(1) [www.ncsconline.org/WC/Education/CasSysGuide.htm](http://www.ncsconline.org/WC/Education/CasSysGuide.htm)

(2) [www.ncsconline.org/Projects\\_Initiatives/BPI/CaseloadManagement.htm](http://www.ncsconline.org/Projects_Initiatives/BPI/CaseloadManagement.htm)

(3) [www.ncsconline.org/D\\_Research/tcps/contents.htm](http://www.ncsconline.org/D_Research/tcps/contents.htm)

NCSC has published an excellent resource, *Caseload Management: The Heart of Court Management in the New Millennium*, written by David C. Steelman, John A. Goerdt, and James E. McMillan. It is part of the required reading for the TCCA/TMCEC Level III Clerks Certification program. Copies may be purchased from NCSC for \$27. NCSC also offers a three-day course on *Fundamentals of Caseload Management* that is highly recommended.



### Ethics continued from page 24

praiseworthy organization. Further, the Commission’s position is based on the Texas Code of Judicial Conduct as it currently is written. If future revisions to the Code were to allow for such service by a judge, or if the Legislature were to provide statutory authority for a judge to serve such an organization, this Public Statement would have no further effect.

This Public Statement, issued pursuant to the authority granted by Article 5, §1-a(10) of the Texas Constitution, is intended to help preserve the integrity of all judges in the State of Texas, to promote public confidence in the judiciary, and to encourage judges to maintain high standards of professional conduct.

Signed this 18th day of November, 2005.

Seminar Date: \_\_\_\_\_ Seminar Site: \_\_\_\_\_

Type of Program:  Judge  Clerk  Court Administrator  Prosecutor  Bailiff/Warrant Officer\*
 Assessment Clinic (\$100 program fee) [ \$250/\$100 fee]

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

Name (please print legibly): Last Name: \_\_\_\_\_ First Name : \_\_\_\_\_ MI: \_\_\_\_\_

Names also known by: \_\_\_\_\_ Female/Male: \_\_\_\_\_

Position held: \_\_\_\_\_

Date appointed/Hired/Elected: \_\_\_\_\_ Years experience: \_\_\_\_\_

Emergency contact: \_\_\_\_\_

HOUSING INFORMATION

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

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

How will you be traveling to seminar?  Driving  Flying
Arrival date: \_\_\_\_\_  Smoker  Non-Smoker

Municipal Court of: \_\_\_\_\_ Email Address: \_\_\_\_\_

Court Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_

Office Telephone #: \_\_\_\_\_ Court #: \_\_\_\_\_ FAX: \_\_\_\_\_

Primary City Served: \_\_\_\_\_ Other Cities Served: \_\_\_\_\_

STATUS (Check all that apply):

- Full Time  Part Time  Attorney  Non-Attorney
 Presiding Judge  Associate/Alternate Judge  Justice of the Peace  Mayor
 Court Administrator  Court Clerk  Deputy Court Clerk  Other: \_\_\_\_\_
 Bailiff/Warrant Officer  Prosecutor

\*Bailiffs/Warrant Officers: Municipal judge's signature required to attend Bailiff/Warrant Officer programs.

Judge's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Municipal Court of: \_\_\_\_\_

I certify that I am currently serving as a municipal court judge, city prosecutor or court support personnel in the State of Texas. I agree that I will be responsible for any costs incurred if I do not cancel five (5) working days prior to the seminar. I will cancel by calling the Center. If I must cancel on the day before the seminar due to an emergency, I will call the TMCEC registration desk at the seminar site. If I am a "no show," TMCEC reserves the right to invoice me or my city for meal expenses, course materials and possibly housing (\$80 plus tax per night). If I have requested a room, I certify that I live at least 30 miles or 30 minutes driving time from the seminar site. \*Payment is required ONLY for the Prosecutor Programs, Assessment Clinics and the Legislative Updates; payment is due with registration form. Participants in the Assessment Clinics must cancel in writing two weeks prior to the seminar to receive refund.

Participant Signature

Date

PAYMENT INFORMATION:

- Check Enclosed (Make checks payable to TMCEC.)
 Credit Card (Complete the following: \$2.00 will be added for each registration made with credit card payment.)

Credit Card Registration: (Please indicate clearly if combining registration forms with a single payment.)

Credit Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_ Verification Number \_\_\_\_\_
(found on back of card)
Credit card type:
 MasterCard \_\_\_\_\_
 Visa \_\_\_\_\_
Name as it appears on card (print clearly): \_\_\_\_\_
Authorized Signature \_\_\_\_\_

Please return completed form with payment to TMCEC at 1609 Shoal Creek Boulevard, Suite 302, Austin, TX 78701.
Fax registration forms with credit card information to 512/435-6118.

---

# 2005-2006 TMCEC Academic Schedule At-A-Glance

Conference:	Dates(s):	City:	Hotel Information:
12-Hr Low Volume Seminar	May 25-26, 2006	Corpus Christi	Omni Bayfront
12-Hr Prosecutors Conference	May 25-26, 2006	Corpus Christi	Omni Bayfront
Level III Assessment Clinic	<b>CANCELED</b> June 5-7, 2006	Austin	Vintage Villas
12-Hr Court Administrators Conference	June 13-14, 2006	Austin (Lakeway)	Lakeway Inn
12-Hr Low Volume Seminar	June 27-28, 2006	College Station	Hilton Conference Center
12-Hr Bailiffs/Warrant Officers Conference	June 27-28, 2006	College Station	Hilton Conference Center
12-Hr Regional Judges/Clerks Conferences	July 12-13, 2006	El Paso	Camino Real
32-Hr New Judges/Clerks Conferences	July 24-28, 2006	Horseshoe Bay	Marriott Resort

---

**TEXAS MUNICIPAL COURTS  
EDUCATION CENTER  
1609 SHOAL CREEK BLVD., SUITE 302  
AUSTIN, TX 78701  
[www.tmcec.com](http://www.tmcec.com)**

Presorted Standard  
U.S. Postage  
PAID  
Austin, Texas  
Permit No. 114

## 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**