

# Municipal Court Recorder

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## Driver Responsibility Program

by Rebekah Lammey, Program Administrator, and Sherrie Zgabay, Manager, DPS Driver Improvement

The Driver Responsibility law is governed by Texas Transportation Code, Chapter 708, which was enacted under House Bill 3588 during the 78<sup>th</sup> Legislature, Regular Session. This law established a system to assess surcharges based on certain traffic offenses. The Driver Responsibility Program (DRP) applies to offenses that occurred on or after September 1, 2003. This program does not replace other administrative suspension, cancellation or revocation actions that result from the same convictions. Surcharges assessed for DRP are in addition to other reinstatement fees required for other adminis-

trative actions. There are two criteria for the assessment of surcharges.

### Point System Surcharges

Points are assessed to moving traffic violation convictions within a limited time period. Once the conviction has been reported to the Texas Department of Public Safety (DPS), points will be assigned and will remain on the driver record for a period of three years. Points are assigned as outlined below:

- Two points for a moving violation conviction in Texas or another state.

- Points will not be assigned for speeding less than 10 percent over the speed limit or seat belt convictions. Effective September 1, 2005, points will be assigned for child safety seat convictions.
- Three points for a moving violation conviction in Texas or another state that resulted in a crash.
- The three year time frame is calculated from the conviction date.
- Six points = \$100, and each point above six = \$25.

Texas Administrative Code, Title 37,

*Points continued on page 7*

## What Are Crimes of Moral Turpitude?

by Meichihko Proctor, TMCEC Program Attorney & Deputy Counsel

Moral turpitude refers to conduct that shocks the conscience as being inherently base, vile or depraved; and contrary to both the accepted rules of morality and the duties owed between persons or to society in general. The term typically implies something immoral in itself, regardless of whether it is punishable by law. The doing of the act, and not its prohibition by statute, fixes the moral turpitude.<sup>1</sup>

Texas courts have held a number of offenses to be crimes of moral turpitude, including crimes involving (1)

“dishonesty, fraud, deceit, misrepresentation, or deliberate violence;” (2) matters of “personal morality;” (3) conduct committed “knowingly contrary to justice, honesty, principle, or good morals;” (4) “baseness, vileness, or depravity;” (5) conduct “immoral in itself, regardless of whether it is punishable by law;” or (6) “immoral conduct” that is “willful, flagrant, or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community.”<sup>2</sup>

*Turpitude continued on page 5*

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# AROUND THE STATE

## TCCA Annual Conference

The Gulf Coast Chapter of the Texas Court Clerks Association (TCCA) is hosting the Annual Conference this year in Galveston, Texas. The event will be held at the historic Hotel Galvez located on the Seawall, October 1-4, 2006. The theme *Rejuvenating Courts Across Texas: Promoting Balance in the Workplace* is supported by speakers that will inspire attendees to return to their courts rejuvenated and refreshed. Not only will there be motivational speakers, but the conference offers a one-of-a-kind vendor exhibit, focused on Texas municipal court needs.

Clerks in attendance will also have the opportunity to attend Level I and II preparatory courses and take Level I, II or III exams. The conference counts toward municipal court clerk certification educational requirements.

Conference, prep course and exam registration forms are available at [www.texasclerks.org](http://www.texasclerks.org). Registration forms received after August 25, 2006 will be charged a \$175 registration fee. Attendees are responsible for making their own hotel reservations by calling 409/765-7721 or 800/996-3426 and stating they are attending the TCCA Conference. More hotel information is available online at [www.galveston.com/galvez](http://www.galveston.com/galvez). The \$90 hotel rate is guaranteed through September 6, 2006. For questions concerning the conference, please contact Jennifer Sullivan, at 979/885-6733 or [jsullivan@ci.sealy.tx.us](mailto:jsullivan@ci.sealy.tx.us). See also page 14 in this newsletter for a list of sessions offered.

## Municipal Court Week

During the week of November 6-10, 2006, municipal courts across Texas are encouraged to host events recognizing the work of local courts and personnel by celebrating Municipal Court Week.

Each year more courts and cities join in this annual recognition of the important role municipal courts play in their communities. A variety of events are sponsored, including local proclamations (see sample on page 16 of this newsletter), balloons and candy, receptions, exhibits, student field trips, mock trials, Q & A sessions, theatrical productions, appreciation dinners, court tours, open houses, amnesty programs, video showings, and newsletter/newspaper articles.

Log on to the TMCEC website ([www.tmcec.com](http://www.tmcec.com)) for more ideas!

Cities who have participated in the past include: Alvin, Austin, Balch Springs, Bastrop, Beeville, Cockrell Hill, Coppell, Corsicana, Crowley, Dallas, Galveston, Hallettsville, Harlingen, Italy, Jacksboro, Katy, Kennedale, Killeen, Missouri City, Montgomery, Nassau Bay, North Richland Hills, Pearland, Princeton, Richardson, Roanoke, Round Rock, San Antonio, Seabrook, Sealy, Sweeny, and Webster.



# FROM THE GENERAL COUNSEL

## Ryan Kellus Turner

### Preparations for AY07 Regional Conferences Afoot

What a month! With the last regional conferences of AY06 “in the can” on July 13<sup>th</sup>, the Center commenced strategic operations for Academic Year 2007. A curriculum was proposed and approved by the TMCEC Education Committee and Board of Directors on July 21<sup>st</sup>. Thirteen days later, more than 20 volunteer faculty members from different parts of the state, representing different sized courts and experiences, assembled for a two-day curriculum development meeting. By the end of the meeting, learning objectives for the regional judges programs were drafted for presentations and the faculty used feedback from their peers to sculpt the content of each session.

On August 17<sup>th</sup>, new and veteran faculty members returned once again to Austin for a two-day faculty development meeting with Dr. Louis Phillips, one of the nation’s leading experts on adult and continuing education. Dr. Phillips has trained thousands of instructors for organizations, including The National Judicial College, where he has served as a faculty member for over a decade. The knowledge he imparts to our faculty members in turn helps them maximize their ability to convey information to TMCEC’s audience.

We are very excited about this year’s agenda for the Regional Judges Program and encourage you to check it out on page 4. The faculty is quickly building up momentum for what promises to be another great year.

On Tuesday, October 10, 2006 at 8 a.m., nestled in a piney forest of East Texas, the first Regional Clerks Conference of the new academic year will begin in Nacogdoches. It will be followed by the judges program on October 12<sup>th</sup>. By the time the participants open the binders containing course materials, faculty will have spent a combined hundreds of hours preparing their course materials and presentations. TMCEC staff will have spent considerable time and energy coordinating travel arrangements, faculty housing accommodations, copy-ready course materials, and audio-visual needs. For the most part, all of these efforts and expenditures will be invisible to the audience, not just in Nacogdoches but throughout the academic year at all nine regional conferences.

It takes large sums of sweat equity and capital to put this traveling road show together. In light of booming operations costs and the economy, TMCEC of late has had to depend more on our participants and their municipalities in order to continue offering all of the services provided by the Center (*e.g.*, technical assistance, conferences, clerks certification, publications, *etc.*) Just as we need and appreciate your continued support, we depend on our volunteer faculty to bring the message to our audience.

Since 1984, TMCEC has strived to produce the highest quality of judicial and continuing legal education. Professionally, nothing makes me happier than hearing or reading that participants believe TMCEC consistently delivers services that are

on par with premier state and national organizations that provide judicial and legal education. Not surprising, over the years, our participants have come to expect solid content and instruction from TMCEC and its faculty. TMCEC faculty sacrifice time (and in some instances, personal vacation hours and income) to support our educational mission. We appreciate local governments and state agencies allowing our volunteers to participate as faculty as a part of their jobs. We depend on these volunteer faculty members (including their families) for doing what it takes to make it all happen. A list of AY06 faculty begins on page 15 in this newsletter. When you have a chance, we encourage you to thank our faculty volunteers for their efforts. 🙏

#### Oath of Office

New judges and chief clerks are reminded that after election or appointment and before taking the oath of office, they must file (1) a Statement of Appointed or Elected Officer, and (2) an Oath of Office with the city secretary. Following the receipt of the Statement of Appointed or Elected Officer by the city secretary, the Oath of Office must be sworn to and filed. Copies of these documents are located at [www.tmcec.com](http://www.tmcec.com) or by calling the Center (800/252-3718). When judges and clerks are reappointed, both the Oath and Statement must again be sworn and signed.

**Model Agenda (tentative)**  
**12-Hour Regional Judges Program FY07**

**Arrival Day**

2:00 – 5:00 p.m.      Optional Pre-conference: Court Security  
 3:00 - 5:00 p.m.      Registration

**Day 1**

6:45 – 8:00 a.m.      Registration and Breakfast  
 8:00                      Announcements  
 8:00 – 9:15 a.m.      Aged Drivers\*  
 9:30 – 11:00 a.m.      Conditions of Bail in DWI and Other Crimes\*+  
 11:00 – 12:00 p.m.      Ethics: The Role of the Court in Identifying Attorney Misconduct+  
 12:00 – 1:00 p.m.      Lunch  
 1:00 – 2:00 p.m.      Case Law and Attorney General Opinion Update+  
 2:00 – 3:00 p.m.      Custom Deferred Disposition Orders for At-Risk Drivers\* +

TRACK A		TRACK B <i>(concurrent w/ Clerks Program)</i>
3:15 – 4:00 p.m.	Fraud and Identity Issues in Municipal Court	Jury Charges
4:00 – 5:00 p.m.	What Every Judge Must Know About Extraterritorial Jurisdiction	Juvenile Case Managers

5:15 – 6:00 p.m.      Optional Debriefing Session+ (.75 MCLE)

**Day 2**

6:45 – 8:00 a.m.      Breakfast

TRACK A		TRACK B
8:00 – 9:30 a.m.	Possession: Care, Custody and Control*	A Protocol for Conducting Dangerous Dog Hearings
9:30 – 10:30 a.m.	Recusal and Disqualification+	Aggressive Driving*

10:45 – 12:00 pm      Citations: Tickets Are for Concerts and Sporting Events

12:00 p.m.              Adjourn

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\* Denotes Municipal Traffic Safety Initiatives (MTSI) curriculum funded by a grant from the Texas Department of Transportation.  
 + Denotes course that will be submitted for ethics MCLE credit (program total of 3.0 hours).

Whether a crime, or the circumstances of its commission, involves moral turpitude is a question of law to be resolved by the court.<sup>3</sup>

### How Can Crimes of Moral Turpitude Affect Your Court?

There are several consequences for defendants, witnesses or attorneys if they have been convicted of a crime of moral turpitude. A few of those consequences are outlined here. First, the credibility of a witness can be attacked if the witness has been convicted of a crime involving moral turpitude. Texas Rule of Criminal Evidence 609(a) states:

For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime shall be admitted if elicited from him or established by public record but only if the crime was a felony or **involved moral turpitude, regardless of punishment**, and the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to a party<sup>4</sup> (emphasis added).

Additionally, if an attorney has a final judgment convicting him or her of a crime involving moral turpitude; it is cause for the attorney's suspension or disbarment by the State Bar of Texas.<sup>5</sup> Conviction of some crimes, particularly those involving intentional dishonesty for personal gain, establishes moral turpitude on its face.<sup>6</sup> However, the commission of some crimes, standing alone, does not implicate an attorney's fitness to practice law. In such cases, moral turpitude cannot be imputed from the conviction alone and inquiry must be made into the circumstances surrounding the commission of the crime.<sup>7</sup>

Also important, if a prospective juror is under indictment or other legal accusation for misdemeanor theft or a felony, he or she is absolutely disqualified from serving on a jury.<sup>8</sup> Note that Texas courts have held that theft is a crime of moral turpitude.<sup>9</sup>

A relatively exhaustive list of crimes of moral turpitude, compiled by Diane Beckham, appears in the Texas District and County Attorney's Association's *2005-07 Criminal Laws of Texas* book. For your convenience, it is reprinted with permission from Texas District & County Attorneys Association, *Criminal Laws of Texas 2005-07* by Diane Beckham, © 2005. To order a copy, visit [www.tdcaa.com](http://www.tdcaa.com) or call 512/474-2436. 📌

## Crimes of Moral Turpitude

<i>Crime</i>	<i>Authority</i>
Sexual assault of a child	<i>In the Matter of GMP</i> , 909 S.W.2d 198 (Tex. App.—Houston [14 <sup>th</sup> Dist.] 1995, no pet.).
Lying to a police officer (filing false report)	<i>Lape v. State</i> , 893 S.W.2d 949 (Tex. App.—Houston 14th Dist.] 1994, pet. ref'd; <i>Robertson v. State</i> , 685 S.W.2d 488 (Tex. App.—Fort Worth 1985, no pet.) (“no clear cut criteria” for moral turpitude).
Mail fraud	<i>State Bar v. Heard</i> , 603 S.W.2d 829 (Tex. 1980).
Tax evasion	<i>In re Humphreys</i> , 880 S.W.2d 402 (Tex. 1994) (whether a case involves moral turpitude is a question of law); <i>In the Matter of Birdwell</i> , 20 S.W.3d 685 (Tex. 2000).
Prostitution	<i>Holgin v. State</i> , 480 S.W.2d 405 (Tex. Crim. App. 1972); <i>Husting v. State</i> , 790 S.W.2d 121 (Tex. App.—San Antonio 1990, no pet.).
Purchase of a child	<i>In the Matter of Thacker</i> , 881 S.W.2d 307 (Tex. 1994).
Indecent exposure	<i>Polk v. State</i> , 865 S.W.2d 627 (Tex. App.—Fort Worth 1993, pet. ref'd).
Failure to stop & render aid	<i>Tate v. State Bar of Texas</i> , 920 S.W.2d 727 (Tex. App.—Houston [1st Dist.] 1996, writ denied).
Theft	<i>Milligan v. State</i> , 554 S.W.2d 192 (Tex. Crim. App. 1977).

*continued*

Aggravated assault by a man on a woman	<i>Jackson v. State</i> , 50 S.W.3d 579, 591 (Tex. App.—Fort Worth 2001, pet. ref'd); <i>Ludwig v. State</i> , 969 S.W.2d 22 (Tex. App.—Fort Worth 1998, pet. ref'd); <i>Hardeman v. State</i> , 868 S.W.2d 404 (Tex. App.—Austin 1993), pet. dismissed, 891 S.W.2d 960 (Tex. Crim. App. 1995).
Assault by a male on a female	<i>Trippell v. State</i> , 535 S.W.2d 178 (Tex. Crim. App. 1976).
Communicating a false alarm	Op.Tex. Att’y Gen. DM 96-140 (1996).
Murder and indecent exposure	<i>Polk v. State</i> , 865 S.W.2d 627 (Tex. App.—Fort Worth 1993, pet. ref'd).
Swindling	<i>Sherman v. State</i> , 62 S.W.2d 146 (Tex. Crim. App. 1933).
Bank fraud	<i>Searcy v. State Bar of Texas</i> , 604 S.W.2d 256 (Tex. 1980).
Theft, shoplifting	<i>Milligan v. State</i> , 554 S.W.2d 192 (Tex. Crim. App. 1977).

## Not Crimes of Moral Turpitude

<i>Crime</i>	<i>Authority</i>
Felony drug possession	<i>In the Matter of Lock</i> , 54 S.W.3d 305 (Tex. 2001)
Delivery of marijuana	<i>Hernandez v. State</i> , 976 S.W.2d 753 (Tex. App.—Houston [1st Dist.] 1998), <i>pet. ref'd</i> , 981 S.W.2d 652 (Tex. Crim. App. 1998).
Misprision	<i>Duncan v. Board of Disciplinary Appeals</i> , 898 S.W.2d 759 (Tex. 1995) (crimes involving moral turpitude are those that involve dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect adversely on a person’s honesty or trustworthiness).
Aggravated assault with SBI	<i>Turton v. State Bar of Texas</i> , 775 S.W.2d 712 (Tex. App.—San Antonio 1989, writ den.) (not on its face a felony involving moral turpitude—look into the circumstances of the offense to determine).
Misdemeanor possession of marijuana	<i>Bell v. State</i> , 620 S.W.2d 116 (Tex. Crim. App. 1981).
Juvenile delinquency	<i>Rivas v. State</i> , 501 S.W.2d 918 (Tex. Crim. App. 1973).
Unlawfully carrying a weapon	<i>Trippell v. State</i> , 535 S.W.2d 178 (Tex. Crim. App. 1976).
Gambling	<i>Neill v. State</i> , 258 S.W.2d 328 (Tex. Crim. App. 1953).
Misdemeanor DWI	<i>Shipman v. State</i> , 604 S.W.2d 182 (Tex. Crim. App. 1980); <i>Janecka v. State</i> , 937 S.W.2d 456 (Tex. Crim. App. 1996).
Public intoxication	<i>Ochoa v. State</i> , 481 S.W.2d 847 (Tex. Crim. App. 1972).
Reckless conduct	<i>Patterson v. State</i> , 783 S.W.2d 268 (Tex. App.—Houston [14th Dist.] 1989, pet. ref'd).
Assault	<i>Valdez v. State</i> , 450 S.W.2d 624 (Tex. Crim. App. 1970).
Disrupting the peace	<i>Garza v. State</i> , 532 S.W.2d 624 (Tex. Crim. App. 1976).
Criminal trespass	<i>Hutson v. State</i> , 843 S.W.2d 106 (Tex. App.—Texarkana 1992, no pet.).
Criminal mischief	<i>Gonzalez v. State</i> , 648 S.W.2d 740 (Tex. App.—Beaumont 1983, no pet.).
Soliciting bonding business	Op. Tex. Att’y Gen. GA-299 (2005) (violations of Tex. Occ. Code §1704.304 (soliciting bonding business in a police station, jail, prison, detention facility, or other place of detention)).

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<sup>1</sup> *Muniz v. State*, 575 S.W.2d 408 (Tex. Civ. App.—Corpus Christi 1978, writ refused n.r.e.).

<sup>2</sup> *In re G.M.P.*, 909 S.W.2d 198, 208 (Tex. App.—Houston [14th Dist] 1995, no writ); *Turton v. State Bar of Texas*, 775 S.W.2d 712, 716 (Tex. App.—San Antonio 1989, writ denied).

<sup>3</sup> *Id.*

<sup>4</sup> Tex. R. Crim. Evid. 609(a).

<sup>5</sup> *Searcy v. State Bar of Texas*, 604 S.W.2d 256, 260 n. 2 (Tex. Civ. App.—San Antonio 1980, writ ref'd n.r.e.).

<sup>6</sup> *In re Strick*, 43 Cal.3d 644, 738 P.2d 743, 749, 238 Cal. Rptr. 397, 403 (1987).

<sup>7</sup> *Id.*

<sup>8</sup> Tex. Code. Crim. Proc. Arts. 35.16; 35.19.

<sup>9</sup> *Arambula v. State*, 112 S.W.2d 737 (Tex. Crim. App. 1938) (theft a crime involving moral turpitude).

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### Points continued from page 1

Part 1, Chapter 15, Subchapter D, Rule 15.89 provides a list of moving traffic violations and if the violation is assessed points. See page 10 in this newsletter for a list of Class C offenses.

#### **Conviction Based Surcharges**

Drivers who receive a conviction for an offense outlined below will pay an annual surcharge for a period of three years from the date of conviction. Points are not assessed for these offenses because the surcharge is automatic upon conviction. Furthermore, the surcharge is cumulative for multiple convictions of the same offense. Once the conviction has been reported to the DPS, the following annual surcharges will be assessed:

- Driving While Intoxicated, Intoxication Assault, Intoxication Manslaughter:
  - First time offense = \$1,000;
  - Second or subsequent offense = \$1,500;
  - DWI with a blood alcohol concentration of 0.16 or greater = \$2,000;

- Failure to Maintain Financial Responsibility: \$250;
- Driving While License Invalid: \$250;
- No Driver License: \$100.

Each year, on the anniversary date of the original notice, the DPS will review the driver record history to determine if the driver still meets surcharge requirement criteria. If the record reflects six or more points or if the conviction is within the previous 36 month period, the driver will be assessed another surcharge. Annual assessment based on points will include additional surcharges if more points have accrued since the first notice was mailed. No points or surcharges will be assessed if the conviction is deferred, or if a driving safety course has been completed.

The Texas Transportation Code, Chapter 708, authorized the DPS to contract with a third party vendor for the collection of surcharges, and allows the vendor to collect service fees in addition to the surcharge. Municipal Services Bureau (MSB) was awarded the contract, and collects four percent in addition to the original surcharge.

Fees are charged for other services, such as installment agreements and electronic payments. MSB provides a customer service call-center to assist with questions regarding payments and compliance requirements. If driving privileges have been revoked for failure to pay the surcharge, once the payment and related collection fees are received by MSB, the DPS will be notified.

The DRP program was created to enhance traffic safety and gain monies for the Trauma Center Fund and Texas Mobility Fund. In state fiscal years 2004 and 2005, the Trauma Center and Texas Mobility funds each received 49.5 percent of the collections. The remaining 1 percent of collections is received by the DPS for administration of the program. Effective September 1, 2005, the Trauma Center and General Revenue funds are recipients of the collections. As of July 2006, the total revenue billed by the DRP program was \$442,775,241.00 with \$132,848,616.82 collected.

Court questions regarding the DRP program can be addressed to Rebekah Lammey, Project Administrator for DRP at 512/424-2953. 📧

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# Texas DPS Driver Responsibility FAQs

## (Questions from Drivers)

- Q. How do I know when to pay a surcharge?**
- A.** You will be mailed written notice of the surcharge requirement to the address of record on file with the Department. To change your address you may visit your local Driver License Office or you may be eligible to change your address online at [www.texasonline.state.tx.us](http://www.texasonline.state.tx.us).
- Q. How many points are on my driving history?**
- A.** To obtain a list of the traffic convictions posted to your driving history, a copy of your driver record may be purchased for a fee. Driver records may be purchased online or by submitting a written request through the mail.
- Q. How do I know which traffic offenses will result in points?**
- A.** Traffic offenses resulting in points are designated by 37 TAC §15.89. (See page 10 in this newsletter for a list.)
- Q. Do offenses which occurred prior to September 1, 2003 count under the Driver Responsibility Program?**
- A.** No. Due to amendments to Transportation Code, Chapter 708, by HB 2 in the Third Special Session of the 78th Legislative Session, only offenses that occur after September 1, 2003 will be assessed points or surcharges.
- Q. One of the traffic convictions on my driving record should actually have been reported as a Driver Safety Course (DSC). How can I have this corrected?**
- A.** Contact the court that reported the information to DPS. DPS must receive written documenta-
- tion from the court in order to correct the driving record.
- Q. I received a Surcharge Notice that says I have a no insurance conviction on my record but that ticket was dismissed by the court.**
- A.** Contact the court that reported the information to DPS. DPS must receive written documentation from the court in order to correct the driving record.
- Q. I have multiple convictions for "No Insurance" that require the filing of an SR-22, will I also have to pay a surcharge?**
- A.** Yes. Any violation that occurred on or after September 1, 2003 will incur a surcharge of \$250 each year for 3 years.
- Q. I received a Surcharge Notice that says I have a no insurance conviction on my record but I had insurance at the time of the offense.**
- A.** You may contact DPS Customer Service to provide proof of insurance so your record may be updated. However, please note that this will not remove the conviction from your driver record and you will still be required to pay the surcharge.
- Q. I received a Surcharge Notice for a DWI conviction. Do I have to pay the full amount at one time to prevent suspension of my license?**
- A.** No. Installment plans are available. Please contact Municipal Services Bureau (MSB) by telephone at 800/688-6882 or by email at [msb@txdps.state.tx.us](mailto:msb@txdps.state.tx.us) for more information regarding installment agreements. A fee of \$2.50 will apply to each payment. Please note that once an installment agreement has been made, failing to pay as agreed results in a default and driving privileges will be automatically suspended until the balance is paid in full. An installment agreement is only permitted one time per surcharge requirement.
- Q. I just received notice that my driver license is revoked for failing to pay a surcharge. I never received anything from DPS telling me that I owed a surcharge.**
- A.** The Surcharge Notice advising of payment requirement and pending revocation action will be mailed to the address of record as shown on the driver record. State law requires an address change to be updated within 30 days for non-CDL and CDL drivers.
- Q. What about out-of-state convictions; will they accrue surcharges?**
- A.** Yes.
- Any conviction for a traffic offense that meets the definition of a moving violation will accrue points.
- Any out-of-state conviction relating to the operation of a motor vehicle while intoxicated will be assessed the DWI surcharge.
- Other conviction based surcharges require convictions under specific Texas statutes, therefore, out-of-state convictions for DWLI, no DL, and no insurance will not be assessed a surcharge.

**Q. I don't have a Texas driver license so why do I have to pay a surcharge?**

**A.** Individuals who have a Texas Identification Card or have an unlicensed driver history who receive convictions that qualify under DRP must pay the surcharge. If these individuals fail to submit the payment, DPS will suspend their driving privilege in Texas. This not only prevents issuance of a Texas license but may also affect their ability to obtain or renew a license in other states.

**Q. I have received a notice informing me that I have accrued four points; what do I need to do?**

**A.** This is an advisory notice for informational purposes only. This is to inform the individual that any additional convictions for moving violations will result in a surcharge requirement.

**Q. What are service fees and why do I have to pay them?**

**A.** The Transportation Code, Chapter 708, authorized DPS to contract with a third party to collect surcharges owed and allows the third party vendor to charge a service fee in addition to the surcharge. There are also fees for online credit card processing and electronic check transactions handled by telephone.

**Q. I defaulted on my installment plan; what happens now?**

**A.** Driving privileges will be suspended and the suspension will remain in effect until the remaining balance on the defaulted agreement is paid in full. If you default on the installment agreement, you are not eligible to enter another installment agreement for the payment of that particular sur-

charge.

**Q. What is the State going to do with the money collected under DRP?**

**A.** The revenue collected will be directed to the Texas Trauma Center Fund and the Texas General Revenue Fund. Each will receive 49.5 percent and DPS will receive one percent for administration of the program.

**Q. I would like to pay my surcharge by credit card; will this be a payment option?**

**A.** Yes. Currently, payments are accepted via the web by visiting [www.txdps.state.tx.us](http://www.txdps.state.tx.us) and clicking on online services. Specific questions regarding payment should be directed by telephone to 800/688-6882 or by email to [msb@txdps.state.tx.us](mailto:msb@txdps.state.tx.us).

**Q. How does the online payment of surcharges work?**

**A.** The online payment of surcharges is a simple process. The first step is to log in by entering the driver license number or identification card number (or DPS assigned number located on the conviction surcharge notice), date of birth, last name of the individual who owes the surcharge (must be entered exactly as it is listed on file with DPS), and the reference number located on the top right hand side of conviction surcharge notice. This allows the application to do a real-time query of the surcharge database to determine eligibility and fees.

**Q. Can commercial driver license holders use this online service?**

**A.** Yes, commercial driver license holders can use this online service to complete payment of their surcharge fees.

**Q. What payment options are available online?**

**A.** The application allows payment via credit cards only. The following four credit cards are accepted:

- Visa
- MasterCard
- Discover
- American Express

**Q. What information do I need to make a payment online?**

**A.** In order to make a payment online, the billing name and address, and a valid credit card number with the expiration date are required.

**Q. Can I print the payment receipt after completing the request?**

**A.** Yes, a receipt page is available to print once a request is completed.

**Q. Whom do I contact with technical difficulties in operating the site?**

**A.** For technical assistance, contact MSB at 800/688-6882 from 8 a.m. to 9 p.m. Monday - Thursday, 8 a.m. - 6 p.m. Friday, and 8 a.m. - 12 p.m. Saturday.

**Q. How do I contact DPS?**

**A.** You may contact DPS Customer Service at 512/424-2600 or by email by [drp@txdps.state.tx.us](mailto:drp@txdps.state.tx.us). 

Reprinted from DBS/MSB website:  
<https://www.msb-gila.com/ePay/Faq.aspx>.

# Moving Violations Titles

The Center often gets calls asking where to find a list of moving violations. A list is not found in any statute, but the Texas Department of Public Safety (DPS) has devised a list that is found in the Texas Administrative Code (T.A.C.). Precisely, it is located in Title 37, Part 1, Chapter 15, Subchapter D, Section 15.89(b), T.A.C.

DPS, in Title 37, defines moving violations “as an act committed in connection with the operation of a motor vehicle on a public street or highway, which constitutes a hazard to traffic and is prohibited by state law or city ordinance.”

Section 15.89(b), T.A.C., is a table of moving offenses listed by arrest titles. To simplify it for municipal courts, TMCEC

removed the higher-class offenses that DPS also considers moving violations.

Additionally, the table indicates which moving violations incur points under the driver responsibility program. What may be confusing is that speeding shows that it does not incur any points. The reason for this is because speeding must be at least 10 percent over the posted speed limit to acquire points. Hence, courts must be sure to correctly code speeding when reporting convictions. (The code for speeding 10 percent over the speed limit is 3586.)

This information, including the higher-class offenses, is available online at <http://info.sos.state.tx.us/fids/200505125-1.html>.

## Moving Violations that will be Assessed Points

Title 37 Part 1 (DPS) Texas Administrative Code Chapter 15 Subchapter D Rule 89 [Figure: 37 TAC §15.89(b)]

<i>Arrest Title</i>	<i>Driver Responsibility Points</i>	<i>Arrest Title</i>	<i>Driver Responsibility Points</i>
Backed up on shoulder (or roadway) of controlled access highway	Yes	Disregarded flashing yellow signal	Yes
Bus driver failed to activate warning signal/equipment	Yes	Disregarded lane control signal	Yes
Bus failed to stop at RR crossing	Yes	Disregarded no lane change sign	Yes
Bus shifting gears while crossing RR tracks	Yes	Disregarded no passing zone	Yes
Changed lane when unsafe	Yes	Disregarded police officer	Yes
Coasting	Yes	Disregarded RR crossing gate or flagman	Yes
Coasting (truck, truck tractor or bus, specify) with clutch disengaged	Yes	Disregarded signal at RR crossing	Yes
Crossed RR with heavy equipment without notice	Yes	Disregarded traffic control device	Yes
Crossed RR with heavy equipment without stop (or safety)	Yes	Disregarded turn marks at intersection	Yes
Crossing fire hose without permission	Yes	Disregarded warning sign at construction	Yes
Crossing physical barrier	Yes	Drive into block where fire engine stopped	Yes
Cut across driveway to make turn	Yes	Driving under influence (DUI)—minor	Yes
Cut corner left turn	Yes	Drove center lane (not passing, not turning left)	Yes
Cut in after passing	Yes	Drove on (or across) streetcar tracks where prohibited	Yes
Did not use designated lane or direction	Yes	Drove on sidewalk	Yes
Disregard solid green turn signal arrow	Yes	Drove on wrong side—RR crossing	Yes
Disregarded flashing red signal (at stop sign, <i>etc.</i> )	Yes	Drove on wrong side of approaching bridge	Yes
		Drove on wrong side of divided highway	Yes
		Drove on wrong side of road	Yes
		Drove on wrong side road approaching intersection	Yes

<i>Arrest Title</i>	<i>Driver Responsibility Points</i>	<i>Arrest Title</i>	<i>Driver Responsibility Points</i>
Drove on wrong side road approaching RR grade crossing	Yes	Fail to stop for streetcar—or stop at wrong location	Yes
Drove on wrong side road awaiting access to ferry	Yes	Fail to stop—emerging from alley, driveway or building	Yes
Drove onto (or from) controlled access highway where prohibited	Yes	Fail to use due care for pedestrian	Yes
Drove through safety zone	Yes	Fail to use proper headlight beam	Yes
Drove to left of rotary traffic island	Yes	Fail to yield at stop intersection	Yes
Drove without lights—when required	Yes	Fail to yield at yield intersection	Yes
Drove wrong way in designated lane	Yes	Fail to yield for blind or incapacitated person	Yes
Drove wrong way on one-way roadway	Yes	Fail to yield right of way	Yes
Endorsement violation CDL	Yes	Fail to yield right of way from private road	Yes
Fail to control speed	Yes	Fail to yield row at open intersection (specify type)	Yes
Fail to dim headlights—following	Yes	Fail to yield row leaving (private drive, alley, building)	Yes
Fail to dim headlights—meeting	Yes	Fail to yield row on green arrow signal	Yes
Fail to drive in single lane	Yes	Fail to yield row on green signal	Yes
Fail to give hand signals when required	Yes	Fail to yield row on left at obstruction	Yes
Fail to give info/render aid	No	Fail to yield row to emergency vehicle	Yes
Fail to give one-half of roadway	Yes	Fail to yield row to pedestrian at signal intersection	Yes
Fail to keep to right on mountain road	Yes	Fail to yield row to pedestrian in crosswalk	Yes
Fail to pass left safely	Yes	Fail to yield row to pedestrian in crosswalk—no signal	Yes
Fail to pass met vehicle to right	Yes	Fail to yield row to pedestrian on sidewalk	Yes
Fail to pass to right safely	Yes	Fail to yield row to pedestrian turning right or left at intersection	Yes
Fail to signal for stop	Yes	Fail to yield row to pedestrian—green arrow signal	Yes
Fail to signal required distance before turning	Yes	Fail to yield row—changing lanes	Yes
Fail to signal turn	Yes	Fail to yield row—turning left (at intersection, alley, private road or driveway)	Yes
Fail to signal with turn indicator	Yes	Fail to yield row—turning right on red signal	Yes
Fail to sound horn—mountain road	Yes	Fail to yield to vehicle in intersection	Yes
Fail to stop—designated point—at stop sign	Yes	Fail to yield to vehicle leaving highway	Yes
Fail to stop—designated point—at yield sign	Yes	Failed to give way when overtaken	Yes
Fail to stop and render aid—misdemeanor	No	Failed to signal lane change	Yes
Fail to stop at marked RR crossing	Yes	Following ambulance	Yes
Fail to stop at proper place (at traffic light)	Yes	Following fire apparatus	Yes
Fail to stop at proper place (flashing red signal)	Yes	Following too closely	Yes
Fail to stop at proper place (not at intersection)	Yes	Following too closely—caravan	Yes
Fail to stop for approaching train	Yes		
Fail to stop for approaching train—hazardous proximity	Yes		
Fail to stop for school bus (or remain stopped, specify)	Yes		

<i>Arrest Title</i>	<i>Driver Responsibility Points</i>	<i>Arrest Title</i>	<i>Driver Responsibility Points</i>
Following too closely—truck	Yes	Passing authorized emergency vehicle	Yes
Head lamps glaring not adjusted	Yes	Permitted/operated unsafe vehicle	Yes
Heavy equipment disregarded signal of train	Yes	Person(s) riding in trailer or semi-trailer	Yes
Illegal backing	Yes	Prohibited motor vehicle on controlled-access highway	Yes
Illegal pass on right	Yes	Ran red light	Yes
Illegally passed streetcar	Yes	Ran stop sign	Yes
Impeding traffic	Yes	Restriction violation—CDL	Yes
Improper turn	Yes	Slower vehicle failed to keep to right	Yes
Improper turn or stop hand signal	Yes	Speed under minimum	Yes
Improper use of auxiliary driving lamps	Yes	Speeding	No
Improper use of auxiliary passing lamps	Yes	Speeding > 10% above posted speed limit	Yes
Improper use of lighting—hwy. equip.	Yes	Speeding—15 miles or over (CDL)	Yes
Improper use of spot lamps	Yes	Speeding—school zone	Yes
Improper use of turn indicator	Yes	Too many riders on motorcycle	Yes
Increased speed while being overtaken	Yes	Turned across dividing section	Yes
Interfere with streetcar	Yes	Turned left from wrong lane	Yes
Leaving scene of accident	Yes	Turned right from wrong lane	Yes
Leaving scene of accident—vehicle damage	Yes	Turned right too wide	Yes
Made U-turn on curve or hill	Yes	Turned so as to impede or interfere with streetcar	Yes
No commercial driver license (CDL)	No	Turned when unsafe	Yes
No double trailer endorsement (CDL)	No	Unauthorized use of siren, bell or whistle	Yes
No driver license	No	Unsafe speed (too fast for conditions)	Yes
No hazmat endorsement (CDL)	No	Unsafe start from parked, stopped or standing position	Yes
No motorcycle endorsement	No	Use of school bus signal for wrong purpose	Yes
No passenger vehicle endorsement (CDL)	No	Veh. hauling explosives (or flammable materials) failed to stop at RR crossing	Yes
No tank vehicle endorsement (CDL)	No	Veh. hauling explosives failed to reduce speed at RR crossing	Yes
No school bus endorsement (CDL)	No	Vehicle without required equipment or in unsafe condition	Yes
Obstructed view through windshield	Yes	Violate DL restriction	Yes
Obstructing traffic	Yes	Violate DL restriction on occupational license	Yes
Open Container DRIVER	Yes	Violate operating hours-minor	Yes
Operate vehicle more than one passenger-minor	Yes	Violated out of service order	Yes
Operate vehicle where prohibited	Yes	Wrong side road—not passing	Yes
Operate vehicle with child in open bed	Yes	Wrong side, 4 or more lane, two-way roadway	Yes
Passed streetcar on left without reducing speed or without caution	Yes		
Passed vehicle stopped for pedestrian	Yes		
Passed—insufficient clearance	Yes		
Passengers/load obstruct driver's view or control	Yes		



## RESOURCES FOR YOUR COURT

### 20th National College on Judicial Conduct and Ethics

The Center for Judicial Ethics will hold its 20th National College on Judicial Conduct and Ethics on October 19-21, 2006 at the Embassy Suites Downtown Lakefront, located at 511 N. Columbus, Chicago, Illinois. The National College provides a forum for commission members, staff, judges, judicial educators, and attorneys to learn about and discuss professional standards for judges and current issues in judicial discipline. The College will begin Thursday, October 19 with registration and a reception. There will be one plenary session Friday morning entitled "What Do We Mean by Judicial Impartiality?" followed by concurrent workshops through Saturday noon.

The \$275 registration fee includes one set of conference resource materials, the reception (with cash bar), and the Friday luncheon. The Embassy Suites Downtown Lakefront (800/362-2779, Group Code: AJS) has reserved a block of rooms for College participants at \$199 per night (single occupancy), plus tax. Reservations must be made with the hotel by September 20, 2006. Questions? Please contact Krista Meador at the American Judicature Society (515/271-2284).

### TMCA Annual Meeting

The Annual Meeting of the Texas Municipal Courts Association (TMCA) will be held in Galveston at the San Luis Spa and Resort on September 14-16, 2006. Study sessions for the clerks' certification will be offered on September 14. There will be educational sessions for judges and clerks on September 14 and 15. The courses will include *School Discipline in Criminal Courts, Technology and Ethical Issues, Search & Seizure, Customer Service in the Courts, Jail Credit, Possession, Court Security, Red Light Enforcement, and Current Issues* (hot checks, dismissals, deferred, appeals, electronic records).

The business meeting of TMCA will be conducted on Saturday, September 16. The registration fee will be \$95. For additional information, go to the TMCA website ([www.txmca.com](http://www.txmca.com)) or contact Judge Robert Doty at 806/775-2468 or [rdoty@mail.ci.lubbock.tx.us](mailto:rdoty@mail.ci.lubbock.tx.us).

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### Courage to Live

Alcohol-related traffic crashes still remain a leading cause of death for our nation's youth. The alcohol involvement fatal crash rate for young drivers is about twice that of drivers over the age of 21.

In response to this disturbing epidemic, The National Judicial College, with funding from the National Highway Traffic Safety Administration (NHTSA) and the Office of Juvenile Justice Delinquency and Prevention, developed the *Courage to Live* program. This innovative program is designed to address the seriousness of underage drinking and driving through community education and judicial outreach. The program's key goals are to help students devise action plans that they can use in their own schools to combat drinking and driving.

The *Courage to Live* program is a curriculum developed by The National Judicial College that brings judges to schools

to educate students about the serious consequences of underage drinking and driving. Part of the program involves judges conducting live DUI hearings in the classroom.

The judges' manual for the program contains models for one-day, half-day and one-hour curricula. The 122-page guidebook contains chapters on how to create and tailor the *Courage to Live* program in your community. The manual may be ordered from The National Judicial College, *Courage To Live*, Mail Stop 358, Reno, Nevada, 89557. Call 800/25-JUDGE (800/255-8343) or 775/784-6747.

Further information may also be obtained from NHTSA at 202/366-9765.



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## National Collections Conference

The Governmental Collectors Association of Texas (GCAT) is pleased to announce the first National Court Collections Conference on September 18-20, 2006 at the Golden Nugget Hotel in Las Vegas, Nevada (800/846-5336). GCAT has been at the forefront of innovations in court collections since its inception in 1999. Through its workshops and educational programs, GCAT has helped many Texas cities and counties increase court collections revenue. The National Conference will bring together collection professionals from both public and private sectors to examine ideas, technologies and tools to improve court collections. Topics will include *Comparing Private & Public Section Collection Approaches, Collections Models: In-house, Outsourcing, Combinations, Court Collections from Scratch, Private Sector Collections, Dealing with Difficult People, Obstacles to Court Collections, Information Technology, Judicial Enforcement Unit – Las Vegas Municipal Court, Third Party Collections Contracts, and Technology Tools & Skip Tracing*. Information is available online at: [www.govcat.net/conferences/conferences.htm](http://www.govcat.net/conferences/conferences.htm).

## TCCA Annual Meeting

The Annual Meeting of the Texas Court Clerks Association (TCCA) will be held in Galveston at the Hotel Galvez (409/765-7721) on October 1-4, 2006. Study sessions for the clerks' certification will be offered on September 30th and the examination for all three levels will be offered on October 1st. There will be educational sessions for clerks on October 1-4, including the topics *First Timer's Orientation, Mental Health Through Optimism, Humor in the Workplace, Power of Negative Thinking, Pumping up the Positive, Leadership by Dr. Seuss, and Ask Margaret*. The business meeting of TCCA will be conducted on Tuesday, October 3, 2006. The registration fee is \$175 for those registering after August 25, 2006.

For additional information, contact Jennifer Sullivan at 979/885-6733 or [jsullivan@ci.sealy.tx.us](mailto:jsullivan@ci.sealy.tx.us).

## TCAT Conference

The Teen Court Association of Texas (TCAT) will host their Annual Conference on November 7-10, 2006 at the McAllen Holiday Inn Civic Center, 200 W. Expressway 83 (956/686-2471). The program will offer speakers on *Gang Trends, M.A.D.D., Volunteer Appreciation, Court Security, Child*

*Abuse Education & Prevention, Leadership, Juvenile Law, Juvenile Consequences, and Parents & Youth Rights*.

For more information, contact Diana Ramos at 956/972-7920 or [dramos@mcallenpd.net](mailto:dramos@mcallenpd.net).

## Court Security Survey

The Texas Judicial Council's Committee on Court Security, with the assistance of the Office of Court Administration (OCA), conducted a survey on trial court security last Spring. The findings will soon be online at the OCA website: [www.courts.state.tx.us/oca](http://www.courts.state.tx.us/oca).

Some of the key findings are shown below:

- Trial court judges across the state reported nearly 4,200 security incidents in their courtrooms, judges' chambers or staff offices during the reporting period.
- Over 40 percent of the 932 respondent judges reported security incidents in their courtrooms, chambers or staff offices.
- The total number of incidents with injuries reported for all court types was 64.
- Over half of the security incidents occurred in criminal cases. Of the remaining incidents, about twice as many were associated with family law cases as with other civil cases. Only a small percentage occurred in juvenile cases.
- Sixty-seven percent of the municipal court buildings were reported as having no *overall building environment security measures*—items, plans, policies, and/or procedures pertaining to all aspects of court building security.

As the TMCEC staff reviews the extensive findings, more information will be included in *The Recorder*. Until then, TMCEC recommends going online to read the survey findings and recommendations.

The Texas Judicial Council is the policy-making body for the state judiciary. The Council was created in 1929 by the 41st Legislature to continuously study and report on the organization and practices of the Texas judicial system.

The Council studies methods to simplify judicial procedures, expedite court business, and better administer justice. It examines the work accomplished by the courts and submits recommendations for improvement of the system to the Legislature, the Governor and the Supreme Court. The Council receives and considers input from judges, public officials, members of the bar, and citizens.



# FROM THE CENTER

## October 2006

### East Texas Regional Judges and Clerks Conference

In October 2006, TMCEC will offer its first FY07 regional judges and clerks conference in Nacogdoches, rather than in Tyler. The program will be held at the historic Fredonia Hotel. Please make plans to attend. The dates are as follows:

*12-hour Clerks Regional Conference*  
Nacogdoches, October 10-11, 2006

*12-hour Judges Regional Conference*  
Nacogdoches, October 12-13, 2006

The TMCEC Academic Schedule will be mailed to courts in early September with additional information about the pre-conferences, testing times for certification, etc.

### Registration Fees

For FY07, the TMCEC Board of Directors has adopted a \$50 registration fee for all participants attending TMCEC programs, except for prosecutors who must pay a \$250 fee. Please remember to budget for this expense and remit payment prior to attending the programs. The \$50 fee will apply to the following programs:

- 32-hour New, Non-Attorney Judges Conferences
- 12-hour Regional Judges Conferences
- 12-hour Low Volume Seminars for Judges and Clerks
- 6-hour Legislative Updates
- 32-hour New Clerks Conferences
- 12-hour Regional Clerks Conferences
- 12-hour Court Administrators Conference
- 12- and 24-hour Special Topic Conferences
- 12-hour Bailiffs and Warrant Officers Conferences

For most programs, the TMCEC grant will continue to provide two nights of housing and most breakfast and lunch meals, as well as course materials. Attorney judges opting for MCLE credit will be charged an additional \$100 fee for that credit for 12-hour programs. Attorney judges may opt to take the judicial or age exemption or may opt not to seek MCLE credit.

## Looking Back on FY06

A review of the overall evaluations for last year indicates that the Center's programs were well received by the TMCEC constituency. TMCEC, however, is always looking for ways to improve its program. If you have questions, comments or suggestions, do not hesitate to contact Hope Lochridge, TMCEC Executive Director (800/252-3718 or lochridge@tmcec.com).

TMCEC wishes to thank the many faculty members who participated in FY06 programs in the past year.

W. Clay Abbott, DWI Prosecutor, TDCAA

Michelle Allard, Document Management Specialist, San Angelo

Sgt. Vince Aurentz, Dallas Police Department

Det. Charles Avery, Drug Recognition Expert, Dallas Police Department

Ron Bennet, Commission Counsel, Commission on Judicial Conduct (SCJC)

Sgt. Stephen Berkley, DPS, Fort Worth

Cathy Bradford, SCJC

Elaine Brown, Court Administrator, Katy

The Honorable John Bull, Presiding Judge, San Antonio

The Honorable Deanna Burnett, Municipal Judge, Carrollton  
Thelma J. Carpenter, Bailiff, Magnolia

Debbie Carter, Public Policy Coordinator, Texas Council on Family Violence

The Honorable Reynolds Cate, Municipal Judge, Helotes

Thomas Cellio, Emergency Medical Training, Plano

Candace Chappell, Senior Assistant City Attorney, Irving

The Honorable Stephen M. Crane, Municipal Judge, Rowlett and City Attorney Mesquite

Olivia Cruz, Court Clerk, Boerne

Hilda Pharris Cuthbertson, Court Administrator, Bryan

Ed David, Marshal, Baytown  
The Honorable Vikram Deivanayagam, Municipal Judge, Woodway

Tiffany Dowling, Former TMCEC Program Attorney

Steve Drake, Government Information Analyst, Texas State Library

Russ Duncan, Asst. Collections Specialist, Office of Court Administration

Arlethia Dupree, IT Project Director, Fort Worth

Arthur "Cappy" Eads, Municipal Judge, Village of Salado

The Honorable Gary Ellsworth, Municipal Judge, Spearman

Sr. Officer Dave Fallwell, College Station Police Department

Ross Fischer, Assistant Chief Disciplinary Counsel, State Bar of Texas, San Antonio

The Honorable Linda Frank, Municipal Judge, Plano and Chief Prosecutor, Arlington

Angela Garcia, Judicial Information Manager, Office of Court Administration

Susie Garcia, Court Administrator, San Marcos

The Honorable Allen Gilbert, Municipal Judge, San Angelo

Tracie Glaeser, Court Administrator, Round Rock

The Honorable Bonnie Goldstein, Municipal Judge, Cities of Cockrell Hill and Dallas, Prosecutor, McKinney

John Greene, Assistant City Attorney, Austin

The Honorable Karl B. Grube, Pinellas County Court, Florida

Rey Guzman, TMCEC Multimedia Specialist

Jacqueline Habersham, Senior Commissioner Counsel, SCJC

Leisa Hardin, Court Administrator, Crowley

The Honorable Sara Hartin, Municipal Judge, New Braunfels

The Honorable Sharon Hatten, Associate Municipal Judge, Midland

John M. Hawkins, Assistant District Attorney Denton County Criminal District Attorney's Office

Rene Henry, Office of Court Administration, Financial Management Specialist

Victor Hidalgo, Investigator, SSCJC

The Honorable Brian S. Holman, Presiding Judge, Lewisville

Susan Keller, Assistant City Attorney, Carrollton

Dr. Sarah Kerrigan, Forensic Toxicologist, Houston

Andy Kerstens, Bailiff, Webster

Kimberly Kierce, Court Administrator, Richardson

Lynda Kilgore, Court Administrator, La Porte

The Honorable Matthew King, Presiding Municipal Judge, Keller

James P. Koca, Criminal Justice Director, Council of Governments, San Angelo

The Honorable Antonio Kosta, Presiding Judge, Harker Heights

Rhonda Kuehn, Deputy Court Clerk, Brenham

Rebekah Lammey, Program Administrator, DPS

The Honorable C. Victor Lander, Municipal Judge, Dallas

Jim Lehman, Collections Specialist, Office of Court Administration

Randy Leverich, Marshal, Abilene

Dr. Richard Lewis, President, Round Top Consulting Associates, San Antonio

*Faculty continued on page 22*

## LOCAL PROCLAMATION MUNICIPAL COURT WEEK NOVEMBER 6-10, 2006

**WHEREAS**, the Municipal Court of \_\_\_\_\_, a time honored and vital part of local government, has existed since \_\_\_\_\_.

**WHEREAS** more people, citizens and non-citizens alike, come in personal contact with municipal courts than all other Texas courts combined, and

**WHEREAS** public impression of the entire Texas judicial system is largely dependent upon the public's experience in municipal court,

**WHEREAS**, Municipal Judges and court support personnel have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all, and conform to the standards set by the Canons of Judicial Conduct,

**WHEREAS**, the Municipal Courts serve as the local justice center for the enforcement of local ordinances and fine-only state offenses that protect the peace and dignity of our community,

**WHEREAS**, the Municipal Judges and Clerks continually strive to improve the administration of justice through participation in judicial education programs, seminars, workshops and the annual meetings of their state and local professional organizations.

**WHEREAS**, it is most appropriate that we recognize the accomplishments of the 908 Texas Municipal Courts, and salute their critical role in preserving public safety, protecting the quality of life in Texas communities, and deterring future criminal behavior,

**WHEREAS**, I \_\_\_\_\_, Mayor of the City of \_\_\_\_\_, do recognize the week of November 6-10, 2006, as Municipal Court Week, and further extend appreciation to all \_\_\_\_\_ Municipal Judges and court support personnel for the vital services they perform and their exemplary dedication to our community. I call upon all residents of \_\_\_\_\_ to join with the City Council in recognizing the vital service they perform and their exemplary dedication to the communities they represent.

**ON** this day \_\_\_\_\_ of \_\_\_\_\_, 2006.

\_\_\_\_\_, Mayor

\_\_\_\_\_, Attest



## 2006-2007 TMCEC Academic Schedule At-A-Glance



Conference	Date(s)	City	Hotel Information
TMCA Annual Meeting	September 14-16, 2006	Galveston	San Luis Resort & Spa, 5222 Seawall Blvd.
32-Hour New Clerks	September 25-29, 2006	Austin	Doubletree Austin, 6505 IH-35 North
12-Hour Regional Clerks	October 10-11, 2006	Nacogdoches	Fredonia Hotel, 200 North Fredonia
12-Hour Regional Judges	October 12-13, 2006	Nacogdoches	Fredonia Hotel, 200 North Fredonia
12-Hour Bailiffs/Warrant Officers	Oct. 31 - Nov. 1, 2006	Kerrville	Inn of the Hills, 1001 Junction Highway
12-Hour Low Volume Seminar	November 6-7, 2006	McAllen	Renaissance Casa de Palmas, 101 N. Main Street
12-Hour Regional Judges and Clerks	November 16-17, 2006	Austin	Omni Hotel Southpark, 4140 Governor's Row
32-Hour New Judges and Clerks	December 4-8, 2006	Austin	Omni Hotel Southpark, 4140 Governor's Row
12-Hour Prosecutors	January 16-17, 2007	Austin	Omni Hotel Southpark, 4140 Governor's Row
Court Administrator Special Topic: ICM: Human Resource Management	January 16-18, 2007	Austin	Omni Hotel Southpark, 4140 Governor's Row
12-Hour Regional Judges and Clerks	January 30-31, 2007	San Antonio	Omni San Antonio Hotel, 9821 Colonnade Blvd.
Courts & Local Government Technology	Jan. 30 - Feb. 1, 2007	Austin	Austin Convention Center
Level III Assessment Clinic	February 9-11, 2007	New Braunfels	John Newcombe Tennis Ranch, 325 Mission Valley
12-Hour Regional Judges and Clerks	February 26-27, 2007	Houston	Omni Houston Hotel, Four Riverway
12-Hour Low Volume Seminar	March 8-9, 2007	Abilene	MGM Elegante Suites, 4250 Ridgmont Drive
12-Hour Regional Judges and Clerks	March 22-23, 2007	Richardson	Richardson Hotel, 701 East Campbell Road
12-Hour Regional Judges and Clerks	April 12-13, 2007	Amarillo	Ambassador Hotel, 3100 I-40 West
12-Hour Low Volume Seminar	April 24-25, 2007	Tyler	Holiday Inn Tyler, 5701 South Broadway
12-Hour Regional Clerks	May 1-2, 2007	S. Padre Island	Radisson South Padre Island, 500 Padre Blvd.
12-Hour Regional Judges (Attorneys)	May 7-8, 2007	S. Padre Island	Radisson South Padre Island, 500 Padre Blvd.
12-Hour Regional Judges (Non-Attorneys)	May 9-10, 2007	S. Padre Island	Radisson South Padre Island, 500 Padre Blvd.
12-Hour Prosecutors	May 23-24, 2007	Houston	Omni Houston Hotel at Westside, 13210 Katy Freeway
12-Hour Bailiffs/Warrant Officers	June 11-12, 2007	Corpus Christi	Omni Corpus Christi Hotel Marina Tower, 707 North Shoreline
12-Hour Court Administrators	June 13-14, 2007	Corpus Christi	Omni Corpus Christi Hotel Marina Tower, 707 North Shoreline
12-Hour Regional Judges and Clerks	June 27-28, 2007	Odessa	MCM Elegante, 5200 E. University
32-Hour New Judges and Clerks	July 16-20, 2007	Austin	Omni Hotel Southpark, 4140 Governor's Row
2007 Legislative Updates:	August 7, 2007	Lubbock	Holiday Inn Hotel & Towers, 801 Avenue Q
	August 14, 2007	Houston	Omni Westside, 13210 Katy Freeway
	August 17, 2007	Austin	Omni Southpark, 4140 Governor's Row

# TEXAS MUNICIPAL COURTS EDUCATION CENTER FY07 REGISTRATION FORM

**Conference Date:** \_\_\_\_\_ **Conference Site:** \_\_\_\_\_

- Check one:**  Non-attorney Judge (\$50 fee)       Clerk (\$50 fee)       Prosecutor (\$250 fee)  
 Attorney Judge **not seeking CLE credit** (\$50 fee)       Court Administrator (\$50 fee)       Prosecutor **not requiring a room** (\$100 fee)  
 Attorney Judge **seeking CLE credit** (\$150 fee)       Assessment Clinic (\$100 fee)       Bailiff/Warrant Officer\* (\$50 fee)

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

(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):

- |   |  |   |   |
|---|--|---|---|
| <input type="checkbox"/> Full Time                | <input type="checkbox"/> Part Time                 | <input type="checkbox"/> Attorney             | <input type="checkbox"/> Non-Attorney                     |
| <input type="checkbox"/> Presiding Judge          | <input type="checkbox"/> Associate/Alternate Judge | <input type="checkbox"/> Justice of the Peace | <input type="checkbox"/> Mayor ( <i>ex officio</i> Judge) |
| <input type="checkbox"/> Court Administrator      | <input type="checkbox"/> Court Clerk               | <input type="checkbox"/> Deputy Court Clerk   | <input type="checkbox"/> Other:                           |
| <input type="checkbox"/> Bailiff/Warrant Officer* | <input type="checkbox"/> 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 judge, 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 conference. 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 conference site. If I do not attend the program, TMCEC reserves the right to invoice me or my city for meal expenses, course materials and, if applicable, housing (\$85 plus tax per night). I understand that I will be responsible for the housing expense if I do not cancel or use my room. If I have requested a room, I certify that I live at least 30 miles or 30 minutes driving time from the conference site. Participants in the Assessment Clinics must cancel in writing two weeks prior to the seminar to receive refund. Payment is due with registration form. **Registration shall be confirmed upon receipt of registration form and payment.**

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 type:	<b>Credit Card Number</b>	<b>Expiration Date</b>	<b>Verification Number</b> <small>(found on back of card)</small>
<input type="checkbox"/> MasterCard	Name as it appears on card (print clearly): _____	_____	_____
<input type="checkbox"/> Visa	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.



## CLERK'S CORNER

by Margaret Robbins, Program Director, TMCEC

Another day has begun. The sun is bright and cheery—in fact it is down right hot already! When I reach my office, the telephone is ringing and when I answer, I hear, “It’s me again, Margaret!” After taking the call and looking at the stack of messages, I decide it is time to do a Q and A for the *Clerks’ Corner* again; so here it is.

**Q. Where does it state in the law that a car must have a front and rear license plate?**

**A.** Section 502.404, Transportation Code.

**Q. Can someone who has a class A or B driver’s license take a driving safety course or be granted deferred disposition?**

**A.** Yes. A person can have a class A or B driver’s license that is not a commercial driver’s license. See Sections 521.081 and .082 of the Transportation Code. These types of licenses are issued for driving a certain weight of vehicles. They do not have “commercial driver’s license” on them like a commercial driver’s license is required to have on it. See Section 522.030, Transportation Code, which lists the requirements of the contents of a commercial driver’s license.

**Q. What does the court do with money sent by the county to the city as a fee for registering a vehicle in the county?**

**A.** Section 502.173, Transportation Code, authorizes the commissioners’ court of a county that has a “population greater than 1.3 million and in which a municipality with a population of more than one million is primarily

located may by order impose an additional fee of not less than 50 cents or more than \$1.50 for registering a vehicle in the county. The commissioners’ court of any other county may impose by order an additional fee of not more than \$1.50 for registering a vehicle in the county.”

A county imposing a fee under this section may deduct 10 percent for administrative costs. The county may also deduct from the fee revenue an amount proportional to the percentage of county residents who live in unincorporated areas of the county. After making the deductions, the county must send the remainder of the fee to the municipalities in the county according to their population.

The fee shall be deposited in the Child Safety Fund. A municipality with a population greater than 850,000 shall deposit the fee to the credit of the Child Safety Fund. A municipality with a population less than 850,000 shall use the fee in accordance with subsection (f), Article 102.014, Code of Criminal Procedure, which provides that the money collected for the Child Safety Fund must be used for any existing school crossing guard program. If the city does not operate such a program or if the money exceeds the amount necessary to fund such a program, the city may deposit the additional money in an interest-bearing account or expend it for programs designed to enhance child safety, health or nutrition, including child abuse prevention and intervention,

and drug and alcohol abuse prevention.

**Q. When may the time payment fee be added to a defendant’s case?**

**A.** The only time that the time payment fee can be added is after the judge has entered (signed) a final judgment and the defendant fails to pay any part of the fine, costs or restitution on or after the 31st day after the judgment is entered assessing the fine, court costs or restitution.

This means that when a defendant does not complete a driving safety course (DSC) or deferred disposition, the time payment fee is not due until the 31st day after the judge signs the judgment assessing the fine and costs at the end of the deferred or DSC. If a defendant fails to appear, there is no time payment fee because there is no judgment.

To count the 31 days, start the next day after the judgment is signed. This is day one. Count calendar days. If the 30th day falls on a weekend or holiday, go to the next working day of the court. The 31st day will be the next day.

**Q. Who sets the fines for defendants?**

**A.** The judge: Article 42.01, Code of Criminal Procedure, defines judgment as the “written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant.” Article 45.022, Code of Criminal

*Q&A continued on page 21*

## 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 (Sec. 106.071, A.B.C.).</li> <li>• Acquittals of DUI (Sec. 106.117(4), A.B.C.).</li> <li>Orders of deferred disposition (Sec. 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 (Sec. 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 (Sec. 106.115(c) and (d), A.B.C.).</li> </ul>	<p><b>Failure to Attend School (Sec. 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 (Sec. 161.252, H.S.C.) Sec. 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) Sec. 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 (Sec. 106.071, A.B.C.).</li> <li>• Orders of deferred disposition (Sec. 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 (Sec. 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 (Sec. 106.115(c) and (d), A.B.C.).</li> </ul>	
<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 licenses (Automatic suspension under Sec. 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 denied 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 licenses (Automatic suspension under Sec. 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 denied 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 licenses (Automatic suspension under Sec. 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 denied 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 licenses (Automatic suspension under Sec. 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 denied 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 licenses (Automatic suspension under Sec. 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 denied issuance as a sanction of contempt; clerk notifies DPS of order.</li> </ul>
<b>DR-18</b>			<ul style="list-style-type: none"> <li>• Motor Vehicle Fuel Theft (Sec. 31.03, P.C.) or if reporting electronically use DPS code 3206; automatic suspension on second conviction (Sec. 521.349, T.C.).</li> <li>• Open Container (Sec. 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 (Sec. 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 Sec. 521.453, T.C. (Driver's license suspensions is not less than 90 days or more than one year (Sec. 521.346, T.C.).</p>

Procedure, provides that “proof as to the offense may be heard upon a plea of guilty or a plea of *nolo contendere* and the punishment assessed by the court.”

Article 45.041, Code of Criminal Procedure, provides that judge is the one that directs how a defendant pays a fine.

**Q. For which violations are the fines doubled when they occur in a construction or maintenance work zone when workers are present?**

**A.** The fines may be doubled for all the offenses in Subtitle C, Rules of the Road offenses, Transportation Code, except inspection offenses (Chapter 548), pedestrian offenses (Chapter 552), and child passenger safety seat system offenses and safety belt offenses

involving children (Sections 545.412 and .413).

Section 542.404, Transportation Code, provides that the minimum fine applicable is twice the minimum fine and that the maximum fine applicable is twice the maximum fine applicable in construction or maintenance work zones when workers are present. Hence, the judge has the authority to set the fine at twice the amount that he or she could ordinarily set it. Clerks do not have authority to set or change fines and cannot automatically double the fines if the judge has not doubled the fines. The judge has the authority to double the fines but does not have to do so.

**Q. What forms do I use to report offenses to DPS?**

**A.** See page 20 of this newsletter for a chart outlining the forms used for different codes.

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## Walking the Line Between Legal Advice and Legal Information: A Clerk's Dilemma

by Elisabeth Gazda, TMCEC Program Coordinator

Almost everyone who has stood in line at a municipal court has probably glanced at the sign in front of the court clerk's station that reads, "Clerks may not give legal advice." Although surely most take little notice of the sign, the implications of the instruction are important. As court personnel, clerks are prohibited from dispensing legal advice, but are welcome to give legal information. The main reason for the distinction is that clerks are not attorneys, and therefore may not give advice without committing unauthorized practice of law (Section 81.101, Government Code); also, should a clerk give incorrect advice, the clerk may be held responsible for an unsatisfactory outcome in a case. So what exactly can a clerk say without giving legal advice? While the line isn't always perfectly clear, the following should assist in demystifying the issue. And remember, it is acceptable to tell a litigant "I don't know," to recommend the litigant consult an attorney for more information, or to provide the litigant with the contact information of someone who can further answer a question.

Clerks are certainly allowed to provide litigants with general information. As such, a clerk should be well versed on what happens during a criminal case (including the magistration, trial and sentencing). Clerk certification courses and manuals will provide this information, and clerks should stay abreast of any changes made to court procedure. Particular attention should be paid to rules of court. These tend to vary from court-to-court, so a clerk should make sure to know the rules of his or her court. Clerks should also have easy access to a contact list with the

telephone, email and physical address of local bar associations (and their affiliated lawyer referral services), police departments, jails, hospitals, and other useful agencies.

It is recommended that courts develop standard answers to commonly asked questions, such as "Do I need a

### Clerks May Provide:

- Basic answers as to what occurs during a hearing before a magistrate, indigence hearing, jury duty, court proceedings, *etc.*
- Court rules, procedures, practices (and where to locate this information)
- Where to find common statutes (print and on-line)
- Forms (or the location of forms)
- Information on how to complete forms
- Assistance in filling out forms for disabled litigants, if the customer tells the clerk what to write
- Docket reports, files
- Information on how to bring a case to trial
- Information regarding deadlines
- Contact numbers for agencies
- Referrals to local bar associations or community mediation centers
- Pamphlets from bar associations/legal services detailing legal procedures


lawyer?” “Can you recommend a lawyer?” and “Should I plead guilty?” With standard answers, litigants will receive uniform information from all clerks in any court. Standard answers also greatly reduce the possibility that a clerk will cross the line between legal information and legal advice. Specific answers to questions should be included in guidelines, as well as general answers.

The meaning of “legal advice” is not always clear. However, remember that a clerk’s duty is one of impartiality. Therefore, anything that could be construed as giving a litigant an unfair advantage over another litigant or showing favoritism for a litigant may also be construed as legal advice. Another way to avoid accidentally giving legal advice is to avoid “Should I?” questions. If confronted with such a question, it is best to recommend that the litigant seek the advice of an attorney. Courts may assist clerks by providing guidelines for answering questions, pamphlets that may provide litigants with additional legal information, and contact numbers for lawyer referral services. A sample pamphlet is available on the TMCEC website at [www.tmcec.com/coursemats/procedurespamphlet2005.pdf](http://www.tmcec.com/coursemats/procedurespamphlet2005.pdf). Many municipal court websites contain “Frequently Asked Questions” sections that specifically state that court clerks are prohibited from giving legal advice.

Other states have addressed the issue of legal advice versus legal information in a variety of ways, usually through the supreme court of the state. Michigan created an interactive training program and CD. New Mexico and New Jersey require clerks to post notices saying what information clerks can provide and what they cannot. Utah provides guidelines for clerks, as does Florida, California and Iowa. Iowa’s guidelines, for example, have highly detailed answers to questions concerning everything from domestic abuse cases, to probate, to divorce cases.

Clerks must be careful as they walk the line between offering legal information and legal advice but, with diligence and knowledge of common distinctions between the two areas, problems will likely be avoided. The following resources are good starting points for clerks with questions regarding legal advice and legal information:

- Greacen, John, “Legal information vs. legal advice— Developments during the last five years,” available at [www.ajs.org/prose/pro\\_greacen.asp](http://www.ajs.org/prose/pro_greacen.asp);
- Greacen, John, “Clerk’s Office Staff Cannot Give Legal Advice: What Does it Mean?” *Court Manager*, vol. 10, no. 1 (Winter 1996), page 35. This #1 article, favored by *Court Manager* readers, contains a self-test and general principles for clerks to follow when giving legal information to litigants.

- “May I Help You? Legal Advice vs. Legal Information: a Resource for Court Clerks,” published by the Judicial Council of California, available at [www.courtinfo.ca.gov/programs/access/documents/mayihelpeyou.pdf](http://www.courtinfo.ca.gov/programs/access/documents/mayihelpeyou.pdf). 

### Clerks May Not Provide:

- An opinion regarding the probable outcome of a case
- An opinion whether or not the customer should hire an attorney or sue
- An explanation of a statute of limitations
- A recommendation for a lawyer
- Confidential information (*i.e.*, social security numbers)
- Certain words litigants should use in filling out forms
- Information regarding the outcome of a case before it becomes public
- Legal research for a litigant
- Hearing scheduling
- Information the clerk is not sure about
- Any *ex parte* communication with a judge for a litigant
- Favoritism to either party in litigation

#### Faculty cont. from page 16

Hope Lochridge, TMCEC  
Executive Director

Sgt. Mark Lockridge, DPS  
Waxahachie

Sandra Mabbett, Judicial  
Information Specialist, OCA

The Honorable Jan Blacklock  
Matthews, Municipal Judge,  
Lubbock

Dr. Garry McDaniel, Consult-  
ant, PowerWorks

The Honorable Stewart W.  
Milner, Municipal Judge,  
Arlington

Dr. Oma Morey, Adult  
Education Consultant,  
Galveston

Tammy Odom, Deputy Clerk,  
Sweeny

James Oswald, Marshal,  
Lubbock

The Honorable Katherine  
Peake, Presiding Judge,  
Fredericksburg

The Honorable Earl Penrod,  
Superior Court Judge,  
Indiana

Dr. Louis Phillips, Adult  
Education Consultant,  
Georgia

Luevada Posey, Former  
Deputy Clerk, Copperas  
Cove

Captain Jerome Powell, DPS,  
Waco

Meichinko Proctor, TMCEC  
Program Attorney and  
Deputy Counsel

Lawrence G. Provins, Assistant  
City Attorney, Pearland

The Honorable Robin A.  
Ramsay, Presiding Municipal  
Judge, Denton

The Honorable Robert C.  
Richter, Municipal Judge,  
Missouri City

Pat Riffell, Court Administra-  
tor, Pearland

Margaret Robbins, TMCEC  
Program Director

*Faculty continued on page 24*



# Municipal Traffic Safety Initiative: News You Can Use

## “Buckle Up in Your Truck” Fact Sheet and Talking Points

Below is a fact sheet, including talking points to help encourage pickup truck drivers and passengers to use seat belts. Judges and court support personnel are encouraged to use these facts when speaking to defendants in court, to civic and school groups, and with members of the city council.

### **Buckle Up in Your Truck: Pickup Truck Drivers and Passengers Still at Greatest Risk**

- In 2005, observed safety belt use among pickup truck drivers and passengers was only 73 percent (compared to the 83 percent in passenger cars and 85 percent in vans and SUVs).
- Even more alarming, the ejection rate for occupants of pickup trucks involved in fatal crashes is nearly double the rate for passenger car occupants – because pickup trucks in fatal crashes roll over twice as often as passenger cars.
- You can increase the odds of survival in a rollover crash in light trucks by nearly 80 percent by wearing a safety belt.
- Safety belt use in U.S. rural areas consistently trails the national average, with pick-up truck drivers and passengers among those least likely to buckle up.
- Only 21 percent of Americans live in rural areas of this country, but rural traffic crashes account for nearly two-thirds of U.S. passenger vehicle occupant fatalities and more than three-fourths of all

pickup truck occupant fatalities occur outside urban areas.

- The goal is simple: to save more lives by convincing pickup truck drivers and their passengers to always buckle up.

### **Safety Belts Save Lives**

- In 2002, motor vehicle crashes were the leading cause of death for males and females from three to 33 years old.
- Safety belts are the single most effective way to protect people in vehicle crashes.
- In 2004, 75 percent of the passenger vehicle occupants, who were in a serious crash and were restrained, survived the crash.
- According to the National Highway Traffic Safety Administration (NHTSA), 31,693 passenger vehicle occupants died in crashes during 2004 – and more than half of those killed were NOT wearing their safety belts.
- Although safety belt use increased to a record 82 percent in 2005 (up from 58 percent since 1994), there are still too many people who choose not to regularly wear their safety belts.
- 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.

- Teens and young adults, both males and females, between the ages of 16 and 24 are the age group least likely to wear their safety belts – dropping to a 77 percent belt use compared to 84 percent among boys and girls in the 8 to 15 age range.

### **“Buckle Up in Your Truck”**

- Many part-time safety belt users say they forget to wear their safety belts on shorter trips or when traveling close to home.
- Traffic crashes can and do happen anywhere any time – close to home, on your way to work, or while driving your kids to school.
- During the holidays, long trips can be even more deadly.
- When you leave this court, please remember to “Buckle Up in Your Truck.”

Facts and talking points adapted from NHTSA web site:

[www.nhtsa.dot.gov/nhtsa/whatis/regions/Region04/planner/images/downloads/SEPAFS.doc](http://www.nhtsa.dot.gov/nhtsa/whatis/regions/Region04/planner/images/downloads/SEPAFS.doc)



# Deadline for 2006 Texas Judicial System Annual Report

In order to capture your court's data for the *2006 Texas Judicial System Annual Report*, the Office of Court Administration (OCA) must receive your municipal court monthly activity reports for state fiscal year 2006 (September 1, 2005 through August 31, 2006) **by October 4, 2006.**

All municipal courts must submit a monthly court activity report to OCA, **even if the court has no activity for the month.**

The monthly court activity report collects information needed by the Legislature to make decisions regarding the jurisdiction, structure and needs of the court system. The information is also used by many other entities or individuals: the Comptroller's Office, the Legislative Budget Board, the Department of Public Safety, local judges, city councils, commissioner's courts, local and state auditors, the media (especially local newspapers), the Texas Municipal Courts Education Center, research or special interest groups, universities (professors and students), attorneys, individuals running against incumbent judges in elections, and members of the general public. Reports from September 1992 to the present are available to the public on the OCA website at [www.dm.courts.state.tx.us/oca/reportselection.aspx](http://www.dm.courts.state.tx.us/oca/reportselection.aspx).

Please call Sandra Mabbett, Judicial Information Specialist, at 512/463-1640 if you need assistance with or have questions about the monthly reports.

## Faculty cont. from page 22

Ana Rodriguez, Public Policy Analyst, Texas Council on Family Violence  
Alfred Rogers, Deputy Marshal, Dallas  
Charlie Rogers, Marshal, LaMarque  
The Honorable Lester Rorick, Presiding Judge, Pasadena  
Mary Sammons, Senior Court Management Consultant, National Center for State Courts, Virginia  
Ruben M. Saucedo, Warrant Officer, Leon Valley Marshal Service  
Suzy Seitzler, Municipal Clerk/Administrator, Waco  
The Honorable Robin D. Smith, Presiding Judge, Midland  
The Honorable Steve Smith, 361st District Court Judge, Bryan  
Judy Spalding, Commission Counsel, SSCJC  
The Honorable Edward Spillane, Presiding Judge, College Station  
Rebecca Stark, Municipal Clerk, Austin  
Sr. Corporal Lorelei Tanney, Dallas Police Department  
The Honorable Lowell Thompson, Presiding Judge, Corsicana  
Ryan Kellus Turner, TMCEC General Counsel  
The Honorable John Vasquez, Municipal Judge, Austin  
Lauren Waite, Former TMCEC Program Coordinator  
Jackie Watson, Criminal Investigator, Huntsville Special Prosecution Unit  
Sgt. David Welch, Dallas Police Training Academy  
Kathryn Wells-Vogel, Court Administrator, Longview  
Kat West, Director MAXIMUS, Inc., Ohio  
The Honorable Denn Whalen, Municipal Judge, Odessa  
Ron White, Marshal, White Settlement  
The Honorable Steve Williamson, Municipal Judge, Fort Worth  
The Honorable Edward Winfrey, Municipal Judge, Decatur  
Ted Wood, Special Counsel for Trial Courts, OCA  
Tony Wooley, City Marshal, De Soto Municipal Court  
Lois Wright, TMCEC Program Attorney  
Seana Willing, Executive Director, SCJC  
Peter Yong, Warrant Officer, Killeen  
Sherrie Zgabay, Manager, DPS Driver Improvement

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

### **TMCEC MISSION STATEMENT**

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

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