

Court Security and Technology Funds

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Objectives

- Identify the statutory basis for these two funds.
- Examine the necessary ordinances and money-collection methods for the funds.
- Explore the many ways that money collected through the Court Security and Technology Funds may be used.

Court Security Fund

Let's break down § 102.017 C.C.P.

- (b) "The governing body of a municipality **by ordinance** may create a municipal court building security fund and may require a defendant **convicted** of a misdemeanor offense in a municipal court to pay a \$3 security fee as a cost of the court."
- (c) A person is considered convicted if: (1) a sentence is imposed on the person, or (3) the court defers final disposition of the person's case.

1997 AG-Letter Op. 97-025

- What constitutes a “trial” for purposes of collecting the security fee from defendants “convicted in a trial?”
- Trial: a judicial examination and determination of issues between parties to action. Black’s Law Dictionary 1504 (6th ed. 1990).
- In Texas, criminal cases define “trial” within the context of the particular statute or constitutional provision at issue.

- For example, a defendant charged with a misdemeanor punishable by fine only may make a plea of guilty or nolo contendere *by mail* to the court. Code Crim. Proc. art. 27.14(b).
- In a misdemeanor case arising out of a moving traffic violation punishable by fine only, *payment of the fine* by the defendant constitutes a finding of guilty in open court, as though the defendant has pleaded nolo contendere. *Id.* art. 27.14(c).
- In both cases, a judgment and sentence may be rendered in the absence of the defendant. *Id.* art. 42.14

- While a plea and conviction by mail do not involve a trial before a judge or jury, and do not require appearance in court, they involve a judicial finding that the defendant is guilty of an offense that comports with the ordinary meaning of “trial.”
- BUT appearance in open court at a pre-trial hearing, arraignment, or docket call, without a conviction, does NOT fall within the statute’s definition of “convicted.”

Court Security Fund

(d) The clerks shall collect the costs and pay them to the municipal treasurer or to any other official who discharges the duties commonly delegated to the treasurer, for deposit in a fund to be known as the municipal court building security fund.

Delegated funds may be put in an interest-bearing account, but the interest must be used for the same purpose as the money was originally designated.

(e) The municipal court building fund shall be administered by or under the direction of the governing body of the municipality.

Court Security Fund

• (d) A fund designated by this subsection may be used only to finance security personnel for a municipal court, or to finance items when used for the purpose of providing security services for buildings housing a municipal court, including:

- (1) the purchase or repair of X-ray machines and conveying systems;
- (2) handheld metal detectors;
- (3) walkthrough metal detectors;
- (4) identification cards and systems;

- (5) electronic locking and surveillance equipment;
- (6) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (7) signage;
- (8) confiscated weaponry inventory and tracking systems;
- (9) locks, chains, alarms, or similar security devices;
- (10) the purchase or repair of bullet-proof glass; and
- (11) continuing education on security issues for court personnel and security personnel.

How May the Fund be Used?

- The Code Construction Act, Sec. 311.005(13), G.C., says that “including” is a term of enlargement, not limitation, so things not on this list are not necessarily excluded.

Sec. 311.023 allows the court to consider the object sought to be attained in construing a statute.

1998 AG-Opinion JC-0014

- Clip-on microphones for county deputy sheriffs' portable radios do not constitute “security hardware” under Code of Criminal Procedure article 102.017(d)(9).
- The old statute enumerated the list “specifically and narrowly” to “only” the “following items,” whereas the new version expands it.

1998 AG-Opinion Letter 98-026

- It is not a function of the county attorney to provide courthouse security, so the county attorney's contracted security officer is not a legal function of his position and the security fund is off limits.

‘Contract security personnel’ does not describe an employee with benefits.

2002 AG-Opinion JC-0476

- Article 102.017 does not empower the Commissioners Court to establish a security force for the courthouse even though 102.017(d)(6) permits them to use the fund to pay for peace officers and contract security personnel who provide “appropriate security services.”
- The use was prohibited even though it titled its force members “bailiffs,” one of the categories of security personnel whose payment is permissible.

Let's use this money!

Architectural Elements-Exterior

- Building security and glass
- Grounds: don't provide items that could be used by intruders to gain building access
- Parking: provide cameras, a separate lot for employees and citizens, reserved spaces by numbers, direct court access for judges and court employees
- Lighting: light entire perimeter to discourage and observe unlawful entry
- Entrance: screen visitors, use security cameras, ID card access for authorized personnel
- Landscape: don't provide places for intruders to conceal themselves

Architectural Elements-Interior

- Entrance: metal detectors, large bag searches
- Foot traffic: public areas and lobbies should be routinely searched
- Doors: exterior doors with cylinder locks, deadbolts, or electronic locks
- Restrooms: routinely searched
- Lighting
- Window: drop boxes can be dangerous due to harmful items being placed in them, bulletproof glass, security cameras, vault for collections

Interior continued

- Panic buttons: for the bench, bailiff's station, chambers, and clerk's window
- Courtroom: secured and locked when not in use, emergency lighting, separation of judge's area from spectator area by a barrier
- Alarm system: maintain an emergency power source, intrusion alarms, fire alarms, smoke detectors, sprinkler systems, and fire extinguishers
- Security plan: keep a written security manual on file.

Crime Prevention through Environmental Design

- CPTED: by proper design and management of buildings and urban space, criminal activity can be deterred.
- National Crime Prevention Council
1700 K Street NW, 2nd Floor
Washington, D.C., 20006-3817
- Contact Terry Modglin, Director, Municipal Initiatives, for more information 202/466-6272 ext. 129

Operational Elements

- Participation: involve everyone in security
- Continuing Education: your registration fees next year can come out of the court security fund
- Policies: how will handle courtroom issues, jury issues
- Personnel providing appropriate security services

Technological Elements

- Closed circuit television
- X-Ray machines
- Walk-through metal detectors
- Handheld metal detectors
- ID card access
- Emergency alarms

Safety Equipment Suppliers:

<u>ADT Security Systems</u> 140 Heimer Rd, # 100 San Antonio, TX 78232 (210) 491-3220 (210) 491-3259 FAX	<u>EG&G Astrophysics</u> 141 Chastain Manor Dr. Norcross, GA 30071 (770) 409-0344 (770) 409-8087 FAX	<u>Garrett Security System</u> 2814 National Drive Garland, TX 75041 (214) 278-6151 (214) 271-0186 FAX
<u>Control Screening</u> Natl Sales Office # 203 35 W. Pittsburgh St. Greensburg, PA 15601 (412) 837-5411 (412) 837-5425 FAX	<u>GALLS</u> 2680 Palumbo Drive Lexington, KY 40509 1-800-477-7766 www.galls.com	<u>Security Defense Systems Corp.</u> PO Box 243 139 Chestnut Street Nutley, NJ 07110 (210) 235-0606 (210) 235-0132 FAX

Technology Fund

Art. 102.0172 C.C.P.

- (a) The governing body of a municipality **by ordinance** may create a municipal court technology fund and may require a defendant **convicted** of a misdemeanor offense in a municipal court or municipal court of record to pay a technology fee not to exceed \$4 as a cost of court.
- (b) Convicted means (1) a sentence is imposed on the person; (2) *the person is placed on community supervision, including deferred adjudication community supervision*; or (3) the court defers final disposition of the person's case.

Technology Fund

- (c) The municipal court clerk shall collect the costs and pay the funds to the municipal treasurer, or to any other official who discharges the duties commonly delegated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund.
- (e) The municipal court technology fund shall be administered by or under the direction of the governing body of the municipality.

Technology Fund

(d) A fund designated by this article may be used only to finance the **purchase** of or to **maintain** technological enhancements for a municipal court or municipal court of record, **including**:

- (1) computer systems;
- (2) computer networks;
- (3) computer hardware;
- (4) computer software;
- (5) imaging systems;
- (6) electronic kiosks;
- (7) electronic ticket writers;
- (8) docket management systems.

Technology Fund

- Does it increase the technological capacity of the court?
- Don't forget the small stuff! Copy machines, telephone systems, answering machines, handsfree devices, wireless and internet services, printers, scanners, fax machines.

133.105 Support of Court-Related Purposes

- For offenses other than pedestrian or parking offenses, there is a \$4 fee for the support of the judiciary.
- The treasurer deposits 60 cents into the general fund of the municipality to promote the efficient operation of the municipal court and the investigation, prosecution, and enforcement of offenses within its jurisdiction.
- The other \$3.40 goes to the comptroller's judicial fund.
- Effective Dec. 1, 2005!

Remember

- 1) Use the lists as guidelines.
- 2) Reacquaint yourself periodically with some of the less-obvious uses of these funds.
- 3) The Newspaper Test: How would this look to the local media?
