

# The *Recorder* Municipal Court

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— “This is a fine-only offense; you don’t have a right to an attorney” —

## THE OVERSIMPLIFICATION OF THE ASSISTANCE OF COUNSEL IN THE ADJUDICATION OF CLASS C MISDEMEANORS IN TEXAS

Ryan Kellus Turner

General Counsel and Director of Education, TMCEC

### 1. (noun)

*oversimplification, simplism*  
*an act of excessive simplification;*  
*the act of making something seem*  
*simpler than it really is*

### 2. (noun)

*oversimplification, simplism*  
*a simplification that goes too far*  
*(to the point of misrepresentation)<sup>1</sup>*

### Constitutional Law 101

The 6<sup>th</sup> Amendment of the U.S. Constitution provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed,

which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Nine core principles constitute the 6<sup>th</sup> Amendment:

1. Speedy trial
2. Public trial
3. Impartial jury

*Right to an Attorney continued on page 7*

## THE ABC’S OF MUNICIPAL CASE LAW

Mark Goodner, Program Attorney and Deputy Counsel, TMCEC

The Texas Municipal Courts Education Center maintains a list of cases that contains over 100 important decisions pertinent to municipal courts. These cases can be found on our website under programs>judges>caselaw. Currently, all the listed cases are linked to word documents containing the text of the decisions. We are in the process of adding brief summary descriptions of each case in order to enhance the usefulness of this list as a resource. Look for these summaries to be added to the website in the coming months.

To highlight the importance and usefulness of these cases, I wanted

to discuss some of these decisions in *The Recorder*. This month, we will start with three cases beginning with the top of the alphabet.

### Aleman v. State<sup>1</sup>

In *Aleman v. State*, the court reversed a conviction of driving while intoxicated<sup>2</sup>. Aleman was a Spanish-speaking defendant who did not read or write English and understood very little spoken English.<sup>3</sup> The trial court took Aleman’s plea during a group arraignment for 75 defendants.<sup>4</sup> Defendants were separated into English-speaking and Spanish-speaking groups.<sup>5</sup> The trial court

*Case Law continued on page 5*

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## AROUND THE STATE

### 81<sup>ST</sup> LEGISLATIVE SESSION

The Legislature will convene for the 81st Regular Session on January 13, 2009. By the time you receive this issue of *The Recorder*, hundreds of bills will have been prefiled in each House. Shown below are the key dates for the 81<sup>st</sup> Legislature.

- **Monday, November 10, 2008**  
Prefiling of legislation for the 81st Legislature begins
- **Tuesday, January 13, 2009** (1st day)  
81st Legislature convenes at noon
- **Friday, March 13, 2009** (60th day)  
Deadline for filing bills and joint resolutions other than local bills, emergency appropriations, and bills that have been declared an emergency by the governor
- **Monday, June 1, 2009** (140th day)  
Last day of 81st Regular Session
- **Sunday, June 21, 2009** (20th day following final adjournment)  
Last day governor can sign or veto bills passed during the regular legislative session
- **Monday, August 31, 2009** (91st day following final adjournment)  
Date that bills without specific effective dates (that could not be effective immediately) become law

If you wish to view a list of the bills that have been filed, follow the progress of a bill, or learn of when committee hearings and floor action is scheduled, go to Texas Legislature Online [<http://www.capitol.state.tx.us/>]. This website, developed by the Texas Legislative Council, is very user friendly and free. You can even sign up to receive e-mails of upcoming house or senate committee meetings.

TMCEC will be monitoring the legislative process in preparation for its three legislative update programs shown below. The registration fee is \$100 (plus \$50 for CLE). The fee covers the course materials, a continental breakfast, and lunch on the day of the program. Participants are responsible for making and paying for their own hotel reservations.

August 4, 2009, Lubbock, Holiday Inn Park Plaza - 877.863.4780

August 10, 2009, Houston, Omni Hotel Houston (off Riverway)  
713.871.8181

August 14, 2009, Austin, Doubletree (IH 35 and 2222) 512.454.3737

# UPDATE

## PROOF OF LAWFUL STATUS NOW REQUIRED FOR TEXAS DRIVER LICENSES OR IDENTIFICATION CARDS

Beginning October 1, the Department of Public Safety (DPS) will require applicants who are not U.S. citizens or lawful permanent residents of the United States to present proof of their lawful status in the United States before they are issued an original, renewal, or duplicate Texas driver license or identification card.

Administrative rule 37 T.A.C. § 15.171, adopted on August 25, 2008, is intended to enhance the security of the Texas driver license and identification cards, protect the integrity of the licensing process and reduce the risk of identity theft and fraud. Strengthening identity and residency requirements assists DPS in issuing secure documents that are routinely used by financial institutions, retailers, law enforcement, and other entities to establish the identity of their customers.

Under the new rule, the DPS will issue driver licenses or identification cards to non-U.S. citizens only when acceptable documentation has been provided to the Department to confirm the applicant's lawful status in the United States. Upon verification of lawful status in the United States, the individual will receive a license with a Temporary Visitor designation and status date on the face of the card. The new rule also requires the cardholder to provide proof that their lawful status has been updated or extended before DPS will issue a duplicate or renewal. DPS will cancel the license or ID card if the cardholder is unable to present valid documentation that shows federal approval to remain in the United States beyond the status date.

An applicant whose lawful admission period is less than six months will not be issued a driver license or identification card.

An individual who is not legally present in the United States because he or she has entered the country without permission, or has stayed beyond the period authorized by federal authorities, will not be granted a DL or ID card.

For more detailed information on the new rule, see the following information.

### Rule 37

Rule 37 T.A.C. 15.171 Issuance of Driver Licenses and Identification Certificates to Non-citizens  
October 1, 2008.

#### **A Citizen of the United States:**

If U.S. citizen, *no* documentation is needed.

#### **A New US Citizen:**

The applicant must present:

- Birth certificate issued by the appropriate U.S. state (or District of Columbia) Bureau of Vital Statistics or equivalent agency;

- Certificate of U.S. Citizenship;
- Certificate of U.S. Naturalization;
- U.S. Citizen Identification Card; or
- Identification Card for Resident Citizen of the United States.

#### **A Lawful Permanent Resident of the United States:**

If the applicant is a lawful permanent resident of the U.S., the applicant must present:

- Valid U.S. Dept. of State "Immigrant Visa"; or

*Proof of Status continued on page 4*

- Valid U.S. Resident Alien Card (Form I-551)

**All others who are NOT a citizen or a lawful permanent resident of the United States:**

- Must present valid documentation issued by the U.S. Dept. of Justice, U.S. Dept. of State, U.S. Dept. of Homeland Security, U.S. Immigration and Naturalization Service, or U.S. Bureau of Citizenship and Immigration Services, that shows LAWFUL TEMPORARY ADMISSION to the U.S.
- If unable to present lawful status documentation, NO DL or ID card will be issued.
- If documentation indicates a lawful temporary admission period of MORE than six months, the Temporary Visitor designation and status date will be printed on the card.
- If the lawful admission period in the U.S. expires in LESS than six months from the date of application, NO DL or ID card (original, renewal, or duplicate) will be issued.
- If documentation has an indefinite expiration date of lawful temporary admission (“D/S” or “Duration of Status”), the Temporary Visitor status date printed on the card will be one (1) year from the date of application.
- Prior to expiration of the Temporary Visitor status date, the applicant must present in-person at a driver license office, valid documentation of a status change or extension of stay in the U.S. and obtain a duplicate (or renewal) with an updated Temporary Visitor status date.
- If the applicant does not provide the necessary documentation and update the Temporary Visitor status date on or before the status date expiration, the card will be cancelled and the person may not operate a motor vehicle until the cancellation has been lifted.
- If the expiration date of the card expires on or before the Temporary Visitor status date, documentation will be required to update the Temporary Visitor status date when the card is renewed.

NOTE: Border Crossing cards are NOT acceptable for establishing a lawful temporary admission for a license or identification certificate.



## DOES THE TEXAS MUNICIPAL COURTS EDUCATION CENTER HAVE YOUR CURRENT EMAIL ADDRESS?

The Texas Municipal Courts Education Center frequently sends out important information via e-mail. To ensure you receive this information in a timely manner, please keep your e-mail address current with us. To submit or update your e-mail information, please contact Pat Ek, Registration Coordinator, at 800.435.6118, or [ek@tmcec.com](mailto:ek@tmcec.com)

explained the due process rights of the defendants in English, and a county prosecutor translated the trial court's explanation for the group of Spanish-speaking defendants.<sup>6</sup> The county prosecutor discussed a plea bargain with Aleman, telling him that the judge would recommend two months in jail.<sup>7</sup>

When Aleman was called before the judge, the prosecutor asked the court to wait for a qualified court interpreter.<sup>8</sup> The court interpreter later arrived and was instructed to help the group of Spanish-speaking defendants complete a form.<sup>9</sup> It took the interpreter 45 minutes to an hour to help the five or six defendants complete the form, and during this time, Aleman told the interpreter that he was dissatisfied with the jail time recommendation and that he could not afford an attorney.<sup>10</sup> The interpreter did not communicate Aleman's comments to the court or the prosecutor.<sup>11</sup>

When Aleman entered his plea of guilty, the interpreter had left the courtroom, and the prosecutor interpreted for Aleman.<sup>12</sup> Aleman was unable to tell the trial court that he was not agreeable to accepting two months in jail, and he believed that his only option at the time was to plead guilty.<sup>13</sup> He entered a plea of guilty and was convicted of driving while intoxicated.<sup>14</sup>

The court of appeals found that Aleman was deprived of the constitutional and statutory rights to an interpreter when the available court interpreter, because she believed her role was limited to assisting in the completion of plea papers, failed to communicate Aleman's dissatisfaction with the jail time recommendation and his inability to afford an attorney.<sup>15</sup> The right to an interpreter can be traced to

the constitutional guarantees of confrontation<sup>16</sup>, which includes the right to be heard.<sup>17</sup> The court of appeals stated that the role of an interpreter was not merely to translate and explain the proceedings, but also to provide the defendant with a voice that can be heard and understood during a criminal proceeding.<sup>18</sup> Aleman was denied this voice, and this denial rendered his plea of guilty involuntary.<sup>19</sup> When it is determined from the totality of circumstances that a defendant's plea was involuntary, the reviewing court has no alternative but to reverse.<sup>20</sup>

*Aleman* has been cited in two other Texas appellate decisions<sup>21</sup>, by the Supreme Court of Iowa<sup>22</sup>, and in several secondary sources. *Aleman* shows municipal courts, as well as all others in Texas, that not only is there a clear right to an interpreter, but that interpreter must fulfill more than one function. The interpreter can't only be the defendant's ears and take in the information for the defendant, the interpreter must also be the defendant's voice so that he or she may be heard.

### **Burns v. State**<sup>23</sup>

*Burns* is a bond forfeiture case.<sup>24</sup> John Burns was surety for Pedro Alvarez who was indicted for the felony offense of delivery of a controlled substance.<sup>25</sup> Burns executed an appearance bond for \$100,000 on behalf of Alvarez.<sup>26</sup> Alvarez failed to appear, and the court ordered his bond forfeited.<sup>27</sup> The State filed for summary judgment on the bond forfeiture, and the trial court granted the State's motion, entering a final judgment for the State.<sup>28</sup>

Burns, as surety, appealed, alleging nine points of error.<sup>29</sup> In two of his points of error, Burns argued that summary judgment was improper because a fact issue existed concerning whether the principal's

name was called at the courthouse door as required by Article 22.02 of the Code of Criminal Procedure.<sup>30</sup> According to that article, the name of the defendant shall be called distinctly at the courthouse door, and if the defendant does not appear within a reasonable amount of time after the call is made, judgment shall be entered for the State unless good cause is shown why the defendant did not appear.<sup>31</sup> Only substantial compliance with article 22.02 is required.<sup>32</sup>

Burns pointed to deposition testimony of the bailiff showing that Alvarez's name was not called outside the courthouse door, but in the hallway outside the courtroom on the sixth floor of the courthouse.<sup>33</sup> The Court held that the bailiff's actions of calling the name in the hallway were in substantial compliance with article 22.02.<sup>34</sup> When the State put on evidence of substantial compliance, proof that Alvarez's name was not called at the courthouse door does not defeat the State's showing of substantial compliance.<sup>35</sup> The court reasoned that to hold otherwise would render the term "substantial compliance" meaningless.<sup>36</sup> The court of appeals affirmed the summary judgment in this case.<sup>37</sup>

While this case was later reversed on other grounds, the issue of calling the defendant at the courthouse door was not addressed.<sup>38</sup> The case has subsequently been cited regarding the courthouse door issue, and it still holds that calling for the defendant outside of the courtroom (even on the sixth floor) is in substantial compliance with article 22.02 of the Code of Criminal Procedure.<sup>39</sup>

### **Cannon v. State**<sup>40</sup>

In *Cannon*, the defendant was convicted of violating a city ordinance by the municipal court.<sup>41</sup>

Prior to trial, a complaint describing the alleged criminal activity was drafted by the prosecutor.<sup>42</sup> The affiant then signed the complaint, and it was filed on June 6, 1994.<sup>43</sup> Shortly thereafter, someone noticed a discrepancy in the complaint.<sup>44</sup> The date of the offense alleged in the complaint was incorrect.<sup>45</sup> It read November 5, 1992, when the correct date was actually November 5, 1991.<sup>46</sup> A new complaint was drafted, and it was again signed by the affiant and filed on June 8, 1994.<sup>47</sup>

At trial, the prosecutor, while reading the complaint to the veniremen, realized that he had the first, incorrect complaint.<sup>48</sup> The prosecutor asked for leave to correct the date from 1992 to 1991.<sup>49</sup> The defendant objected, but the court permitted the prosecution to correct the error, and the jury found the defendant guilty.<sup>50</sup> The defendant appealed, arguing that the change to the complaint amounted to a trial amendment that vitiated the complaint.<sup>51</sup> However, the court found the error harmless and affirmed.<sup>52</sup> The defendant appealed once again.<sup>53</sup>

The court of appeals said that normally an attempt to materially amend a complaint does vitiate the charging instrument because a complaint when changed is no longer the affidavit of the affiant.<sup>54</sup> It is “not the sworn accusation of anyone.”<sup>55</sup> However, when the change is made under oath, it is lawful and enforceable.<sup>56</sup> Because the amended complaint was “sworn anew,” its contents were verified, and it remained a viable charging instrument.<sup>57</sup> The judgment was affirmed.<sup>58</sup>

This is an important case for municipal courts because it clearly allows a complaint to be amended if the affiant “re-swears” to the complaint. ✍

- 1 957 S.W.2d 592 (Tex. App.—El Paso 1997).
- 2 *Id.* at 594.
- 3 *Id.* at 593.
- 4 *Id.*
- 5 *Id.*
- 6 *Id.*
- 7 *Id.*
- 8 *Id.*
- 9 *Id.*
- 10 *Id.* at 593-594.
- 11 *Id.* at 594.
- 12 *Id.*
- 13 *Id.*
- 14 *Id.* at 593.
- 15 *Id.* at 594. The court cited the Code of Criminal Procedure art. 38.30(a) which provides that in any criminal proceeding, an interpreter must be sworn to interpret for a defendant or a witness who does not understand and speak English.
- 16 *Id.* at 594 citing *Baltierra v. State*, 586 S.W.2d 553, 556 (Tex. Crim.App. 1979).
- 17 *Id.* citing Tex. Const. art. I, § 10.
- 18 *Id.*
- 19 *Id.*
- 20 *Id.*
- 21 See *Giraldo v. State*, 2001 WL 951711, \*4 (Tex. App.—Houston [14<sup>th</sup> Dist.] Aug. 23, 2001) and *Butler v. State*, 2001 WL 395376, \*1 (Tex. App.—Houston [14<sup>th</sup> Dist.] Apr. 19, 2001).
- 22 See *Ledezma v. State*, 626 N.W.2d 134, 150 (Iowa April 25, 2001) (No. 99-1019).
- 23 814 S.W.2d 768 (Tex. App.—Houston [14<sup>th</sup> Dist.] July 18, 1991).
- 24 *Id.* at 769.
- 25 *Id.*
- 26 *Id.*
- 27 *Id.*
- 28 *Id.*
- 29 *Id.*
- 30 *Id.* at 772.
- 31 *Id.* citing Tex. Code of Crim. Proc. art. 22.02.
- 32 *Id.* citing *Tocher v. State*, 517 S.W.2d 299, 300 (Tex. Crim.App. 1975), *Bennett v. State*, 394 S.W.2d 804, 807 (Tex. Crim.App. 1965), and *Deem v. State*, 342 S.W.2d 758, 759 (Tex. Crim.App. 1961).
- 33 *Id.* at 772.
- 34 *Id.*
- 35 *Id.*
- 36 *Id.*
- 37 *Id.* at 773.
- 38 See *Alvarez v. State*, 861 S.W.2d 878 (Tex. Crim.App. December 23, 1992).
- 39 See *Quintero v. State*, 1998 WL 104960, \*2 (Tex. App.—Houston [14<sup>th</sup> Dist.] March 12, 1998) and *Aspilla v. State*, 952 S.W.2d 610, 613 (Tex. App.—Houston [14<sup>th</sup> Dist.] August 28, 1997).
- 40 925 S.W.2d 126 (Tex. App.—Amarillo 1996).
- 41 *Id.* at 127.
- 42 *Id.*
- 43 *Id.*
- 44 *Id.*
- 45 *Id.*
- 46 *Id.*
- 47 *Id.*
- 48 *Id.*
- 49 *Id.*
- 50 *Id.* at 128.
- 51 *Id.*
- 52 *Id.*
- 53 *Id.*
- 54 *Id.* citing *Wynn v. State*, 864 S.W.2d 539, 540 (Tex. Crim.App. 1993), *Blackman v. State*, 242 S.W.2d 441, 441 (Tex. Crim.App. 1951), and *Givens v. State*, 235 S.W.2d 899, 900 (Tex. Crim.App. 1951).
- 55 *Id.* citing *Givens*, 235 S.W.2d at 900.
- 56 *Id.*
- 57 *Id.*
- 58 *Id.*

# NOTICE

## TMCEC Housing Policy

Effective September 1, 2008, TMCEC can only offer housing at grant expense to those judges and court support personnel whose court is located 30 or more miles from the hotel site. In the past, TMCEC has honored a 30-minute drive rule, but TMCEC is no longer able to do so.

Participants whose courts are within 30 miles MAY opt to pay for the housing themselves. Please contact the TMCEC Registration Coordinator, Pat Ek ([ek@tmcec.com](mailto:ek@tmcec.com)) to set this up. It is called an “IPO—(Individual Portfolio or Individual Pays Own) charge—rather than a charge to the TMCEC master account. A credit card will be needed to hold the room. There is an IPO form on the TMCEC website.

Also, quite a few hotels are now charging a 24-72 hour cancellation policy. If you cancel within that window and TMCEC is billed for your room, TMCEC will bill you for the charge. While we will make every effort to use the room, it is not always possible. The charge is \$85 plus tax. Also, if you change your mind and decide to not arrive at the seminar until the next morning (drive in the morning the seminar begins) and have asked for a room, you may be charged a “no-show” fee. TMCEC will bill you for this, as well.

4. Jury trial
5. Venue
6. Notice
7. Confrontation of witnesses
8. Compulsory process
9. Assistance of counsel

With the exception of venue, each of these principles is contained in Article I, Section 10 of the Texas Constitution and Articles 1.05 & 1.051 of the Code of Criminal Procedure. All principles, except venue, have been deemed incorporated via the Due Process Clause of the 14<sup>th</sup> Amendment and are thus required of the states.<sup>2</sup>

### **Principle Nine: Assistance of Counsel**

When examining the constitutional right to the assistance of counsel, it is of critical importance to distinguish between (1) the right of the people to retain an attorney and (2) the right of the people to have a court-appointed attorney. For the convenience of classification, comparison and contrast, I will refer to these as Type 1 and Type 2 rights to the assistance of counsel.

**Type 1.** The right of the defendant to retain an attorney to appear on their behalf in court; and to provide legal advice and advocacy.

**Type 2.** The right of a defendant to have counsel appointed by the court at the expense of the public.

Because most defendants accused of fine-only offenses proceed *pro se* (on one's own behalf: without an attorney),<sup>3</sup> the right to the assistance of counsel is sometimes misunderstood and oversimplified (e.g., "This is a fine-only offense; you don't have a right to an attorney"). Such oversimplification blurs the

distinction between Type 1 and Type 2 rights and effectively distorts the actual law pertaining to the assistance of counsel. While most defendants may not be legally entitled to have an attorney appointed to represent them at the expense of the public (Type 2), every defendant, including those accused of fine-only offenses has the right to retain an attorney to advise them and advocate on their behalf (Type 1). This concept is so basic, yet so important that it is even embodied in Chapter 45 of the Code of Criminal Procedure which governs proceedings in municipal and justice courts.<sup>4</sup>

Our principled system of justice depends on every member of the courtroom workgroup (e.g., judges, court personnel, and prosecutors) understanding the difference between such Type 1 and Type 2 rights. Members of the judiciary and of the bar are further ethically obligated to ensure that no formal or informal procedures are utilized that violate Type 1 rights. Judges ought to be mindful that by virtue of a defendant's legal interest in a proceeding, a defendant ostensibly has right to be heard by counsel.<sup>5</sup> Similarly, prosecutors shall not initiate or encourage efforts to obtain from an unrepresented accused a waiver of important pre-trial, trial, or post-trial rights (e.g., the right to the assistance of retained counsel).<sup>6</sup>

### **Type 2 Court-Appointed Counsel for the Indigent**

In regard to Type 2 rights, readers should know the general rule, the exception to the general rule, and be able to identify the gray areas where legal questions remain unanswered. General rule: A court has no *duty* to appoint an attorney to represent an indigent defendant in a Class C misdemeanor. *Barcroft v. State*, 881

S.W.2d 838 (Tex. App. Tyler 1994) (emphasis added).

Exception: Article 1.051(c) of the Texas Code of Criminal Procedure states:

An indigent defendant is entitled to have an attorney appointed to represent him in any adversary judicial proceeding that may result in punishment by confinement *and in any other criminal proceeding if the court concludes that the interests of justice require representation.* If an indigent defendant is entitled to and requests appointed counsel, the court shall appoint counsel to represent the defendant as soon as possible.<sup>7</sup>

Reconciling the general rule with the exception, at least at first glance, appears relatively straightforward. A court is not obligated to appoint an indigent defendant accused of a Class C misdemeanor an attorney at the public's expense. Such an appointment is, however, statutorily authorized where the court concludes that the *interest of justice* requires such representation.

But what is "the interest of justice?" What distinguishing features warrant the appointment of counsel to an indigent defendant in either a municipal or justice court? In the context of Article 1.051(c), neither the courts of appeals nor the Texas Court of Criminal Appeals have addressed the issue.

Federal case law suggests that "special circumstances" in which failure to appoint counsel results in a trial lacking "fundamental fairness" violates due process. Attempting to extrapolate "fundamental fairness," and "special circumstances" into the cloistered legal universe of Texas municipal and justice courts, debatably casts some light on the

meaning of the “interest of justice.” The “special circumstances” case law, however, should be distinguished from the line of cases addressing the relationship between the right to the assistance of counsel and misdemeanors involving actual or possible incarceration.<sup>8</sup> In *Gideon v. Wainright*, Justice Harlan explained that “the ‘special circumstances’ rule has continued to exist in form while its substance has been substantially and steadily eroded.”<sup>9</sup> The rule was designed to prevent trials lacking “fundamental fairness” because of the absence of counsel. Between 1945 and 1961, the U.S. Supreme Court handed down a series of opinions that can loosely be described as constituting a constellation of such “special circumstances.” These circumstances can be broken down into three general categories:

1. Where the personal characteristics of the defendant make it unlikely that the defendant can obtain an adequate defense of his own (e.g., limited education, youth, and immaturity<sup>10</sup>, insanity or abnormality<sup>11</sup>),
2. Where the technical complexity of the charges<sup>12</sup> or of possible defenses to the charges<sup>13</sup> require the specialized skill set of an attorney, and
3. Where events occurring at trial that raise problems of prejudice (improper conduct by the judge and/or prosecution<sup>14</sup>, prejudicial developments during trial).<sup>15</sup>

While it is uncertain to what degree, if any, such case is controlling in making an “interest of justice” appointment, there is no reason to believe that municipal judges and justices of the peace are prohibited from making such appointments pursuant to Article 1.051(c). To the contrary, in 1988, prompted by inquiries from justices of the peace,

the Harris County Attorney asked the Attorney General of Texas a series of questions “concerning the appointment of counsel for defendants charged with Class C misdemeanors.”<sup>16</sup> The Attorney General noted “[i]t appears that your questions have resulted from the enactment of S.B. 1109 (now article 1.051 of the Code of Criminal Procedure).”<sup>17</sup>

Attorney General Opinion JM-977, however, does little to provide guidance to judges in terms of what criteria to consider when deciding whether to make such an appointment. In their treatise on Texas criminal practice and procedure (specifically, their discussion of prosecutions in which the accused is eligible for appointed counsel), University of Texas Law School Professors George Dix and Robert Dawson come closest to articulating a standard for the appointment of counsel in Class C misdemeanors:

Since punishment by confinement is not available upon conviction of a Class C misdemeanor, defendants prosecuted for such offenses have no right to appointed counsel. But article 1.051 authorizes the court to appoint counsel if the court determines that “the interest of justice require representation.” Whether or not this is the case should be determined largely on the basis of whether the case presents defensive possibilities that are most likely to be adequately presented to the court only by an attorney. If this is the case, an attorney can and must be appointed regardless of the minor nature of the charged offense.<sup>18</sup>

It is fair to say that the standard posed by Dix and Dawson at least implicitly embraces a certain facets of the “special circumstances” approach described above.

## But Who Pays?

So under certain, yet ill-defined, circumstances, municipal judges and justices of the peace have a statutory mandate, if not a constitutional obligation stemming from the 14<sup>th</sup> Amendment, to appoint counsel for indigent defendants for Class C misdemeanors. After such appointments are made, who is responsible for picking up the tab?

These appointments, though comparatively few in number, are at the expense of the public. Who then is responsible for paying for the costs of such appointments? Dix and Dawson, in a footnote accompanying their discussion of the interest of justice requiring representation, state “Any attorney appointed in such a case is entitled to payment under Vernon’s Ann C. Cr. P. art. 26.05.” Article 26.05(f), in part, provides that “[a]ll payments made under this article shall be paid from the general fund of the county in which the prosecution was instituted.”<sup>19</sup>

It is safe to assume that suggesting that counties pay for “interest of justice” appointments may not be well received by many Texas counties who already feel besieged by the costs of indigent defense costs associated with county and district courts. Those who are even tangentially familiar with the topic of indigent defense in Texas are aware that since the 2001 Texas Fair Defense Act, a number of counties perceive that the financial burden placed upon them by state government is disproportionate in light of the amount of money the state redirects to counties to pay for indigent defense. To suggest that any amount of such money may be siphoned away by the order of a municipal judge is likely to be unpopular with county officials who are already understandably distressed by the costs of indigent appointments.



Such officials are likely to assert that municipal governments are solely responsible for paying the costs of attorney fees stemming from an “interest of justice” appointments made by municipal judges. In support of this point of view, counties may be able to point to a handful of municipalities who have in the past paid for such expenditures.

In support of the proposition that “interest of justice” appointments made by municipal judges should be paid for out of a county’s indigent defense funds, advocates for municipal government need only ask the Legislature to follow the money. While counties are understandably very protective of what they perceive as “their” indigent defense funds, since 2007, more than two-thirds of indigent defense money directed to counties actually comes from revenue collected by municipal courts (in the form of state mandated court costs to help pay for indigent defense).<sup>20</sup>

For the last two decades, the Legislature has without fail every two years promulgated new court costs to pay for a litany of state sanctioned endeavors.<sup>21</sup> As city and county governments are not allowed to keep one penny of fine money until 100 percent of court costs are collected and paid to the state, the continual escalation of court costs has become a wedge issue that continues to slowly erode the relationship between state and local governments (city and county). The exception to escalating level of local government disdain for state mandated court costs are optional fees that are authorized by state law but not mandated. Such “optional fees” are not as objectionable to local governments because they have parity with state court costs (in terms of when they are collected) and most of such fees are truly costs which benefit the court.<sup>22</sup> These fees are then kept in a designated fund for the benefit of

the court (e.g., juvenile case manager fund, court security fund, court technology fund).

A number of municipal judges find it disturbing that, while they are obligated to collect court costs that are used to assist counties in paying for indigent defense, there is not a single mechanism in place to cover the costs of an “interest of justice” appointment in municipal court. Furthermore, while a justice of the peace, as a county official, at least has a systemic avenue for requesting “interest of justice” funding by the county, “it’s a long way from the municipal court to the county commissioner’s court.”

### **“Oversimplification, Have You Met Minimization?”**

Those unfamiliar with the modern realities of municipal and justice courts, are likely to minimize any discussion of “interest of justice” appointments by asserting that the cases adjudicated in these courts are *just* fine-only offenses and categorically do not require the appointment of counsel. This approach is also a dangerous oversimplification. In the last 20 years, the volume and consequences of being convicted of a Class C misdemeanor have changed.

Though Texas law still states that conviction of a Class C misdemeanor does not impose any legal disability or disadvantage,<sup>23</sup> it is hard to reconcile the law with present day reality. Unlike in years past, certain Class C misdemeanor judgments can now be used to enhance subsequent criminal charges. Today, tens of thousands of people who have been convicted of Class C misdemeanors are required to pay surcharges to the state in order to either keep or renew their driver’s licenses. Rather than making drivers more responsible, it’s easy to argue that the DPS

Driver’s Responsibility Program has inadvertently contributed to the emergence of a new scowflaw subculture where even people who may truly want to comply with the law find it increasingly difficult and expensive. From the perspectives of many who work in municipal courts, the perceived byproduct is a revolving door in which more people are repeatedly arrested, jailed, fined, rearrested, jailed again, and repeatedly fined.

Today, the vast majority of children who engage in illegal behavior that falls within the classification of conduct indicating a need for supervision (CINS) are not petitioned to answer in juvenile court. Rather, because the definition of CINS includes Class C misdemeanors (excluding traffic), the vast majority of children who could be adjudicated through our civil law-oriented juvenile justice system are now criminally prosecuted as misdemeanants in municipal and justice courts. Unlike children facing CINS petitions in juvenile courts, children in municipal and justice court face the prospect of fines, a criminal record, and (depending on the offense) various collateral consequences that potentially follow them into adulthood.<sup>24</sup> While children facing a CINS petition in juvenile court face no potential loss of freedom upon reaching adulthood, the same is not necessarily true of children convicted in a municipal or justice court.<sup>25</sup> Furthermore, while indigent children facing CINS petitions in juvenile court are entitled to appointment of counsel under Title 3 of the Family Code, children accused of the exact same conduct (be it theft or possession of drug paraphernalia) in municipal and justice courts are not equally entitled to a court appointed attorney. How can such disparity possibly be reconciled with the interests of justice?

## Conclusion

It is actually quite simple. Do not oversimplify legal issues pertaining to the assistance of counsel. Defendants have the right, and should be provided the opportunity, to retain counsel to represent them in cases involving Class C misdemeanors. While most indigent defendants accused of Class C misdemeanors will likely not be entitled to a court-appointed attorney, state law recognizes even in Class C misdemeanors that this will not always be the case.

Rather than waiting for “the perfect storm” (i.e., lawsuits or a mandate from an appellate court), municipalities and counties should be proactive and work with the Legislature in the next session to devise a funding mechanism for “interest of justice” appointments for Class C misdemeanors. Just as the law requires local governments to pay for language interpreters and accommodations to the hearing impaired, local governments should be prepared to pay for “interest of justice” appointments. This can be accomplished by allowing municipal or justice courts to have access to existing indigent defense funds. Alternatively, this can be accomplished through legislation which would give local governments the option of creating a designated fund specifically to pay for such appointments and other interest of justice related expenses. 🚧

1 “oversimplification.” Definitions.net. STANDS4 LLC, 2008. 31 October. 2008. <http://www.definitions.net/definition/oversimplification>.

2 See, Exhibit 2.3. David W. Neubauer, *American Courts and the Criminal Justice System 9<sup>th</sup> ed.*, Thompson Wadsworth (2008) at 34.

3 “pro se.” *Merriam-Webster’s Dictionary of Law*. Merriam-Webster, Inc. 31 Oct. 2008. Dictionary.com <http://dictionary.reference.com/browse/pro+se>.

4 Art. 45.020(a). “The defendant has a right to appear by counsel as in all other cases.”

5 Canon 3B(8), Tex. Canon of Judicial Conduct. This Canon is sometimes misconstrued as being inapplicable to municipal judges and justices of the peace. Not true. The only portion of 3B(8) that is inapplicable is the portion pertaining to ex parte communication. See, Canon 6C(1) (a).

6 Rule 3.09(c), Tex. Disciplinary R. of Professional

Conduct.

7 Emphasis added.

8 *Argersinger v. Hamlin*, 407 U.S. 25 (1972) (refusing to extend the constitutional right to court-appointed counsel to those accused of “petty offenses”); *Scott v. Illinois*, 440 U.S. 367 (1979) (narrowing *Argersinger* by ruling that a defendant is guaranteed the right to legal counsel, paid by the state but only in cases involving actual incarceration, rather than when incarceration is a potential possibility).

9 *Gideon*, 372 U.S. 335, 350 (1963) stands for the proposition that indigents accused of noncapital, felony cases have a constitutional right to the appointment of counsel.

10 *Moore v. Michigan*, 355 U.S. 155 (1957); *Pennsylvania ex rel. Herman v. Claudy*, 350 U.S. 116 (1956); *Uveges v. Pennsylvania*, 335 U.S. 437 (1948); *Wade v. Mayo*, 334 U.S. 672 (1948); *Marino v. Ragen*, 332 U.S. 561 (1947); *De Meerleer v. Michigan*, 329 U.S. 663 (1947).

11 *Massey v. Moore*, 348 U.S. 105 (1954); *Palmer v. Ashe*, 342 U.S. 134 (1951).

12 *Moore v. Michigan*, 355 U.S. 155 (1957); *Pennsylvania ex rel. Herman v. Claudy*, 350 U.S. 116 (1956); *Williams v. Kaiser*, 323 U.S. 471 (1945).

13 *Rice v. Olson*, 324 U.S. 786 (1945); *McNeal v. Culver*, 365 U.S. 109 (1961).

14 *Gibbs v. Burke*, 337 U.S. 773 (1949); *Townsend v. Burke*, 334 U.S. 736 (1948); *Palmer v. Ashe*, 342 U.S. 134 (1951); *White v. Ragen*, 324 U.S. 760 (1945).

15 *Cash v. Culver*, 358 U.S. 633 (1959).

16 Opinion No. JM-977.

17 *Id.* at 2.

18 42 *Texas Practice Series* at 239 (internal citations omitted) (emphasis added).

19 Code Crim. Pro. (Vernon 2007).

20 The Indigent Defense Fee (Sec. 133.107, Local Government Code) is a two dollar court cost associated with criminal convictions. According to data from the Office of Court Administration in FY 07 sixty-five percent of the money used to fund indigent representation through the fair defense account came from municipal courts.

21 Dan Feldstein, “Loser Fees Taking Place of New Taxes” *Houston Chronicle* (March 5, 2006) A1.

22 See, generally, Bennett Sandlin, “Optional Court Fees: Leveling the Playing Field” *Texas Town and City* (June 2008) at 32-33.

23 Sec. 12.03(c), Tex. Penal Code (Vernon 2007).

24 Examples include, public intoxication, disorderly conduct, most offense found in Chapter 106 of the Alcoholic Beverage Code, driving while license invalid, and failure to maintain financial responsibility.

25 “Seemingly minor misdemeanor convictions cannot only affect one’s eligibility for certain types of jobs, but also their ability to get student or admission to college, as well as government housing.” Amanda Kerr, “How Rowdiness Led to a Nightmare” *Chicago Tribune* (October 4, 2008) [http://www.chicagotribune.com/topic/va-news1\\_100408oct04,0,6480926.story](http://www.chicagotribune.com/topic/va-news1_100408oct04,0,6480926.story). See also, C. Victor Lander, “View from the Bench: Collateral Damage” *Dallas Weekly* Volume 55, Number 21 (May-June 2008) at 11.

26 Ryan Kellus Turner, “Holding Youth Accountable: What Peace Officers, Prosecutors, and Judges Need to Know About HB 2319, Fine-Only Offenses, and Juveniles Now Adults” *Municipal Court Recorder* Volume 13, No. 2 December 2003) at 1.

27 Sec. 51.09, Tex. Family Code (Vernon 2007).



## Stop Take Notice

The Texas Municipal Courts Association Public Outreach Committee along with Texas Municipal Courts Education Center would like to encourage you to go out in your community and address the need for traffic safety.

Please take the time to look at the TMCEC website ([www.tmcec.com](http://www.tmcec.com)) and use the materials provided to help your community understand the importance of safe driving. The TMCA Public Outreach Committee CHALLENGES all municipal court personnel to speak at schools, senior centers, and civic groups to help promote the court and importance of traffic safety.

We also encourage you to sign up for the speaker’s bureau, which will help locate speakers for schools and civic groups requesting this type of outreach. Please fax your information to TMCEC at 512.435.6118 or email [robinson@tmcec.com](mailto:robinson@tmcec.com).

### Add Me to the Speakers’ Bureau

Name: \_\_\_\_\_

Court: \_\_\_\_\_

Tel. # \_\_\_\_\_

Email: \_\_\_\_\_



## RESOURCES FOR YOUR COURT



### SAVE THE DATE: **LIFESAVERS 2009**

The National Conference on Highway Safety Priorities is offering its *2009 Lifesavers Conference* in Nashville, Tennessee on March 29 – April 1, 2009. For more information, go to [www.lifesaversconference.org](http://www.lifesaversconference.org). The program is filled with many interesting educational sessions, as well as exhibits from traffic safety entities.

## ANNUAL REPORT ON THE TEXAS JUDICIAL SYSTEM YEAR 2008

Each year the Office of Court Administration prepares the Annual Statistical Report for the Texas Judiciary. The next two pages contain statistical information on municipal courts, showing an overall activity report, as well as a profile of the trial and appellate judges in the state. The entire report, as well as reports since 1996, may be accessed on the OCA web site at <http://www.courts.state.tx.us/pubs/annual-reports.asp>. The annual reports include court structure charts, information on jurisdiction, judicial qualifications, and salaries (non-municipal) on the Texas judiciary. Monthly activity of the municipal courts may be accessed at <http://data.courts.state.tx.us/OCA/ReportSelection.aspx>. These reports are excellent ways to compare the changes in your courts caseload with that of other municipal courts.

Also, Texas municipal courts are to be congratulated. In FY 2008, **99.2 %** of the courts reported their data to OCA!

### CHANGE IN OCA REPORTING FORM

Effective September 9, 2009, the Official Municipal Court Monthly Report form will change. Remember to go to the OCA website: [www.courts.state.tx.us](http://www.courts.state.tx.us) to download the form and the instructions. The new form will collect more information on active, inactive & reactivated cases, compliance dismissals, contempt cases, drug paraphernalia cases, orders for nonsecure custody, detention hearings, transfers to juvenile court, and more. A copy of the proposed revised form will be posted soon.

Sections 171.1 and 171.2 of the Texas Administrative Code require submission of court activity reports each month to the Texas Judicial Council by no later than 20 days after the end of the month for which statistics are reported. The monthly report is not designed to report everything that a court does, nor everything that requires the attention or time of the judge or court support personnel. Instead, the monthly report is designed to provide information required by law or needed by the judicial, legislative, and executive branches of government to make decisions regarding the jurisdiction, structure, and needs of the court system.



# MUNICIPAL COURTS

**Cases Filed** – More than eight million cases were filed in the state’s municipal courts in 2008, an increase of 2.5 percent over the number filed the previous year. Traffic and parking cases constituted approximately 82 percent of the incoming caseload.

The 10 most populous cities, representing 42.5 percent of the state’s population living in cities and towns, accounted for 47.5 percent of all cases filed. Statewide, the number of cases filed in municipal courts was 429 cases per 1,000 population. The highest per capita filing rates occurred in Estelline (41,563 cases per 1,000) and Westlake—a suburb of Fort Worth—(39,571 cases per 1,000) and were considerably higher than the rates in all other cities of the state.

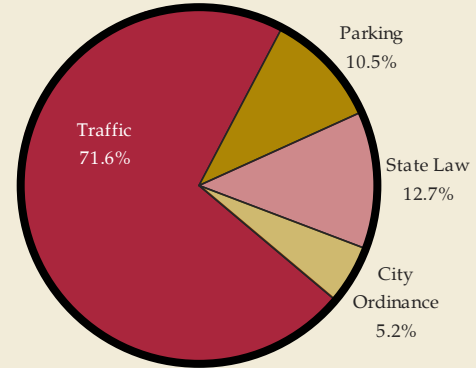
**Clearance Rates** – Municipal courts disposed of 6,950,472 cases in 2008—an increase of 3.1 percent from the number disposed during the previous year. Since the number of dispositions increased by a larger percentage than the number of new cases filed, the statewide clearance rate for municipal court cases rose slightly to 86.6 percent (compared to 86.1 percent the year before). By case type, traffic (non-parking) cases had the highest clearance rate (89.9 percent), while city ordinance cases had the lowest clearance rate (69.1 percent).

**Manner of Disposition** – In 2008, municipal courts disposed of more than 5.8 million traffic and parking cases. The largest share of these cases, 36.5 percent, were disposed of by payment of a fine (without appearing before a judge) or by a bond forfeiture. Approximately 16 percent were disposed of after completion of deferred disposition or driving safety courses, 16 percent were disposed of after a bench trial or other appearance before a judge, and only 0.1 percent were disposed of by a jury trial.

Municipal courts also disposed of more than one million state law and city ordinance cases (i.e., non-traffic cases). Approximately 35 percent of these cases were disposed of by payment of a fine or by bond forfeiture. While the jury trial rate for these cases (0.2 percent) was similar to the rate for traffic and parking cases, defendants in state law and city ordinance cases were more likely to have a bench trial or other appearance before the judge (28.5 percent) in order to dispose of the case.

Overall, guilty findings were made in almost all (97.4 percent) of the 1,265,245 cases that were not dismissed and went to bench trial or were otherwise disposed of by an appearance before the judge.<sup>1</sup> In contrast, guilty verdicts accounted for 81.2 percent of the 5,335 cases that went to jury trial.

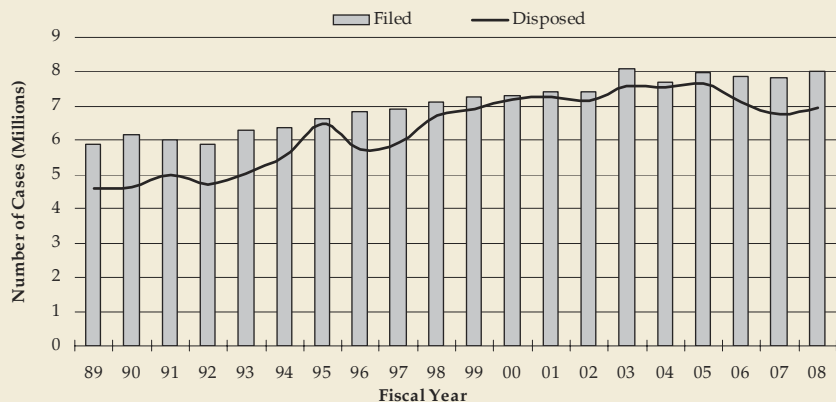
**Cases Filed in Fiscal Year 2008**



**Filings per 1,000 Population  
Fiscal Year 2008**

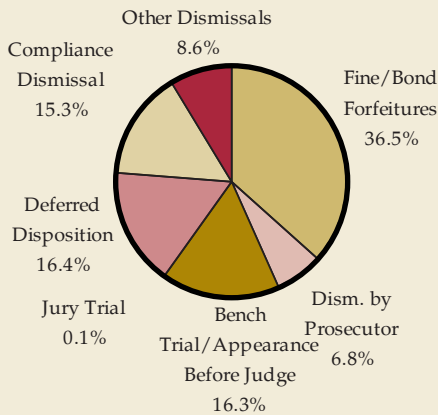
Cities with Highest Filings per Capita	Filings per Capita in 5 Most Populous Cities
Estelline - 41,563	Houston - 632
Westlake - 39,571	San Antonio - 284
Montgomery - 7,165	Dallas - 349
Cuney - 6,115	Austin - 583
Patton Village - 5,509	Fort Worth - 642
<b>Statewide - 429</b>	

**Municipal Court Cases**



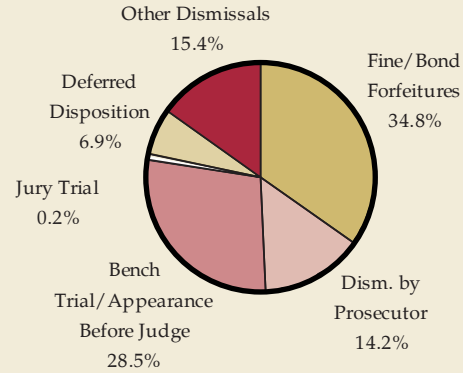
### Disposition of Traffic Cases

(5,879,261 Cases)



### Disposition of Non-Traffic Cases

(1,071,211 Cases)

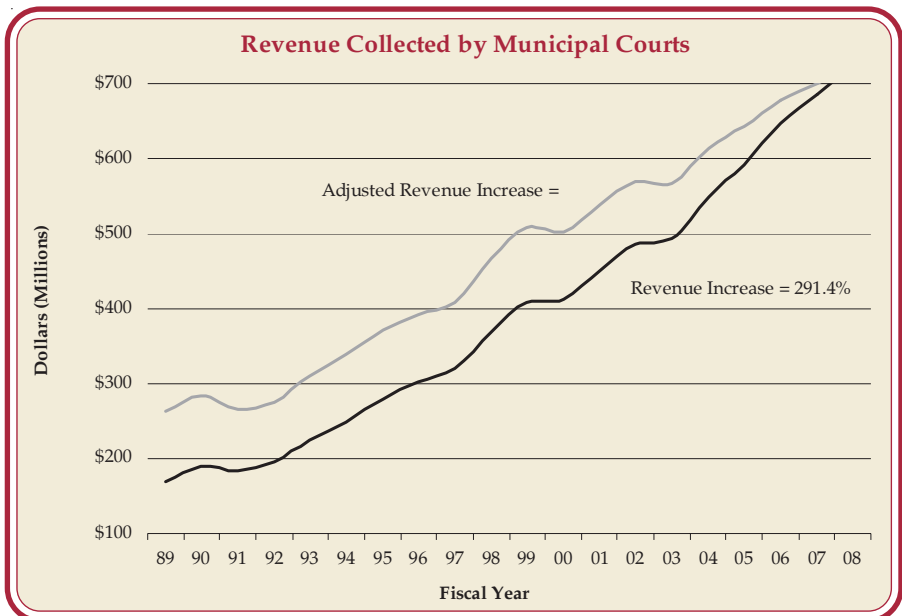


**Juvenile Case Activity** – Juvenile cases filed in municipal courts increased 0.3 percent from the previous year to 321,669. Transportation Code (traffic) cases accounted for 46 percent of the juvenile cases filed in 2008. The number of cases filed under most of the juvenile case categories has fluctuated over the years. Since 2004, however, cases involving driving under the influence of alcohol declined an average of 8.6 percent per year and Education Code cases involving offenses other than failure to attend school declined an average of 9.6 percent per year. In 2008, nearly 1,500 cases were referred to juvenile court—an increase of 75 percent over the number made during the previous year.

**Magistrate Activity** – In 2008, municipal courts issued 6,358 search warrants, more than 2.6 million arrest warrants, 9,099 magistrate orders for emergency protection, and 220,383 magistrate warnings to adults. Arrest warrants, emergency protective orders, and mental health hearings generally increased over the past decade. Magistrate activity in juvenile cases, however, generally declined. Certifications of juvenile statements declined 60.7 percent between 1999 and 2008 (down from 2,113 in 1999 to 831 in 2008), and warnings administered to juveniles declined 52.7 percent (from 4,845 in 1999 to 2,293 in 2008).

**Court Revenue** – The amount of revenue collected by municipal courts increased steadily over the last 20 years. In 2008, the courts collected revenue in excess of \$725 million—an increase of more than \$26 million from the previous year. The amount collected in 2008 was 329 percent higher than that collected 20 years previously in 1989, or 175 percent higher when adjusted for inflation.<sup>2</sup>

Excluding cases dismissed prior to trial or at trial, the amount of revenue collected per disposition averaged approximately \$127.



1. Guilty and *nolo contendere* pleas are included in the “Trial by Judge” category in the Municipal Court Monthly Activity Report.  
 2. Using Consumer Price Index Conversion Factors.

# ACTIVITY REPORT FOR MUNICIPAL COURTS

SEPTEMBER 1, 2007 TO AUGUST 31, 2008

**99.2 Percent Reporting Rate**  
10,920 Reports Received Out of a Possible 11,004

	<u>Traffic</u>		<u>Non-Traffic</u>		<b>REPORTED TOTALS</b>
	<u>Misdemeanors</u>		<u>Misdemeanors</u>		
	<u>Non - Parking</u>	<u>Parking</u>	<u>State Law</u>	<u>City Ordinance</u>	
<b>NEW CASES FILED</b>	<b>5,749,780</b>	<b>844,188</b>	<b>1,017,852</b>	<b>415,482</b>	<b>8,027,302</b>
<b>DISPOSITIONS:</b>					
Dispositions Prior to Trial:					
<i>Bond Forfeitures</i>	42,133	3,331	12,765	2,684	<b>60,913</b>
<i>Fined</i>	1,541,394	561,104	275,055	82,302	<b>2,459,855</b>
<i>Cases Dismissed</i>	310,375	89,740	100,189	52,233	<b>552,537</b>
<b>Total Dispositions Prior to Trial</b>	<b>1,893,902</b>	<b>654,175</b>	<b>388,009</b>	<b>137,219</b>	<b>3,073,305</b>
Dispositions at Trial:					
<i>Trial by Judge</i>					
Guilty	907,268	23,610	225,393	76,085	<b>1,232,356</b>
Not Guilty	11,445	17,564	2,470	1,410	<b>32,889</b>
<i>Trial by Jury</i>					
Guilty	3,036	52	690	552	<b>4,330</b>
Not Guilty	610	9	208	178	<b>1,005</b>
<i>Dismissed at Trial</i>	494,125	10,188	109,691	55,325	<b>669,329</b>
<b>Total Dispositions at Trial</b>	<b>1,416,484</b>	<b>51,423</b>	<b>338,452</b>	<b>133,550</b>	<b>1,939,909</b>
Cases Dismissed After:					
<i>Driver Safety Course</i>	462,807	---	---	---	<b>462,807</b>
<i>Deferred Disposition</i>	500,204	1,811	57,544	16,437	<b>575,996</b>
<i>Proof of Financial Responsibility</i>	488,819	---	---	---	<b>488,819</b>
<i>Compliance Dismissal</i>	409,636	---	---	---	<b>409,636</b>
<b>Total Cases Dismissed After</b>	<b>1,861,466</b>	<b>1,811</b>	<b>57,544</b>	<b>16,437</b>	<b>1,937,258</b>
<b>TOTAL DISPOSITIONS</b>	<b>5,171,852</b>	<b>707,409</b>	<b>784,005</b>	<b>287,206</b>	<b>6,950,472</b>
<b>COMMUNITY SERVICE ORDERED</b>	122,933	630	40,952	10,363	<b>174,878</b>
<b>CASES APPEALED</b>	10,746	243	2,388	471	<b>13,848</b>
<b>JUVENILE ACTIVITY:</b>					
Transportation Code Cases Filed					149,037
Non-Driving Alcoholic Beverage Code Cases Filed					35,701
DUI of Alcohol Cases Filed					2,868
Health & Safety Code Cases Filed					8,607
Failure to Attend School Cases Filed					20,051
Education Code Cases Filed					8,978
Violation of Local Daytime Curfew Ordinance Cases Filed					13,142
All Other Non-Traffic Fine-Only Cases Filed					83,285
Waiver of Jurisdiction of Non-Traffic Cases					5,600
Referred to Juvenile Court for Delinquent Conduct					1,466
Held in Contempt, Fined, or Denied Driving Privileges					7,293
Warnings Administered					2,293
Statements Certified					831
<b>OTHER ACTIVITY:</b>					
Parent Contributing to Nonattendance Cases Filed					8,129
Safety Responsibility and Driver's License Suspension Hearings Held					605
Search Warrants Issued					6,358
Arrest Warrants Issued					
Class C Misdemeanors					2,534,498
Felonies and Class A and B Misdemeanors					73,253
<i>Total Arrest Warrants Issued</i>					2,607,751
Magistrate Warnings Given					
Class A and B Misdemeanors					146,632
Felonies					73,751
<i>Total Magistrate Warnings Given</i>					220,383
Emergency Mental Health Hearings Held					1,822
Magistrate's Orders for Emergency Protection					9,099
<b>TOTAL REVENUE</b>					<b>\$725,406,833</b>

# PROFILE OF APPELLATE AND TRIAL JUDGES\*

(AS OF SEPTEMBER 1, 2008)

	Supreme Court	Court of Criminal Appeals	Court of Appeals	District Courts	Criminal District Courts	County Courts at Law	Probate Courts	County Courts	Justice Courts	Municipal Courts
<b>NUMBER OF JUDGES:</b>										
Number of Judge Positions	9	9	80	431	13	222	18	254	821	1414
Number of Judges	9	9	79	429	13	222	18	254	819	1406
Number of Vacant Positions	0	0	1	2	0	0	0	0	2	8
Number of Municipalities w/ Courts	--	--	--	--	--	--	--	--	--	917
Cities with No Courts	--	--	--	--	--	--	--	--	--	277
<b>AGE OF JUDGES:</b>										
Mean	(n = 9) 53	(n = 9) 65	(n = 79) 56	(n = 429) 56	(n = 13) 52	(n = 185) 61	(n = 16) 67	(n = 199) 56	(n = 700) 57	(n = 1179) 58
Oldest	63	75	74	75	64	84	77	80	89	90
Youngest	42	55	38	36	40	37	56	31	25	26
<b>RANGE OF AGE:</b>										
Under 25	0	0	0	0	0	0	0	0	0	0
25 through 34	0	0	0	0	0	0	0	1	10	18
35 through 44	1	0	9	50	3	21	0	11	53	150
45 through 54	5	0	26	138	5	75	0	39	173	298
55 through 64	3	7	33	201	5	69	12	98	289	408
65 through 74	0	1	11	38	0	15	3	44	143	224
Over 75	0	1	0	2	0	5	1	6	32	81
<b>GENDER OF JUDGES:</b>										
Males	(n = 9) 8	(n = 9) 5	(n = 79) 48	(n = 429) 306	(n = 13) 10	(n = 185) 153	(n = 16) 14	(n = 199) 225	(n = 700) 548	(n = 1179) 930
Females	1	4	31	123	3	69	4	29	270	473
<b>ETHNICITY OF JUDGES:</b>										
African-American	(n=9) 2	(n=9) 0	(n=79) 2	(n=429) 12	(n=13) 2	(n=185) 7	(n=16) 0	(n=199) 2	(n=700) 26	(n=1179) 50
American Indian or Alaska Native	0	0	1	2	0	0	0	0	1	12
Asian or Pacific Islander	0	0	1	2	0	0	0	0	0	10
Hispanic/Latino	1	0	11	61	0	35	2	17	127	175
White (Non-Hispanic)	6	9	63	340	10	145	10	189	513	835
Other	0	0	0	4	0	2	0	1	0	10
<b>LENGTH OF SERVICE:</b>										
Average	(n=9) 6 Yr 9 Mo	(n=9) 9 Yr 5 Mo	(n=79) 7 Yr 3 Mo	(n=429) 9 Yr 0 Mo	(n=13) 5 Yr 6 Mo	(n=185) 9 Yr 1 Mo	(n=16) 14 Yr 7 Mo	(n=199) 7 Yr 7 Mo	(n=700) 9 Yr 7 Mo	(n=1179) 8 Yr 9 Mo
Longest	19 Yr 8 Mo	15 Yr 8 Mo	21 Yr 8 Mo	28 Yr 7 Mo	18 Yr 4 Mo	32 Yr 5 Mo	27 Yr 0 Mo	30 Yr 7 Mo	45 Yr 5 Mo	44 Yr 1 Mo
<b>RANGE OF SERVICE ON THIS COURT IN YEARS:</b>										
Under 1 Year	0	0	2	13	1	0	0	2	13	70
1 through 4	5	0	20	113	6	55	3	96	230	491
5 through 9	3	5	32	125	2	84	3	93	274	336
10 through 14	0	3	19	72	2	31	3	28	130	229
15 through 19	1	1	5	76	2	21	4	20	96	90
20 through 24	0	0	1	21	0	23	3	10	37	72
25 through 29	0	0	0	12	0	7	2	4	31	43
30 through 34	0	0	0	0	0	1	0	1	6	14
35 through 39	0	0	0	0	0	0	0	0	1	6
Over 40	0	0	0	0	0	0	0	0	1	2
<b>FIRST ASSUMED OFFICE BY:</b>										
Appointment	(n=9) 5 (56%)	(n=9) 1 (11%)	(n=79) 45 (57%)	(n=429) 172 (40%)	(n=13) 4 (31%)	(n=185) 67 (30%)	(n=16) 7 (39%)	(n=199) 46 (18%)	(n=700) 217 (26%)	(n=1179) 1374 (99%)
Election	4 (44%)	8 (89%)	34 (43%)	257 (60%)	9 (69%)	155 (70%)	11 (61%)	208 (82%)	602 (74%)	14 (1%)
<b>EDUCATION:</b>										
<b>HIGH SCHOOL:</b>										
Attended	--	--	--	--	--	--	--	--	40 (6%)	26 (2%)
Graduated	--	--	--	--	--	--	--	--	662 (93%)	1148 (89%)
<b>COLLEGE:</b>										
Attended	0 (0%)	0 (0%)	0 (0%)	6 (1%)	0 (0%)	5 (2%)	0 (0%)	35 (16%)	168 (24%)	136 (11%)
Graduated	9 (100%)	9 (100%)	77 (97%)	395 (93%)	12 (92%)	187 (85%)	15 (83%)	140 (65%)	232 (33%)	799 (62%)
<b>LAW SCHOOL:</b>										
Attended	0 (0%)	0 (0%)	0 (0%)	4 (1%)	0 (0%)	3 (1%)	0 (0%)	0 (0%)	3 (0%)	5 (0%)
Graduated	9 (100%)	9 (100%)	79 (100%)	423 (99%)	13 (100%)	216 (99%)	18 (100%)	28 (13%)	62 (9%)	724 (56%)
<b>LICENSED TO PRACTICE LAW:</b>										
Number Licensed	9 (100%)	9 (100%)	79 (100%)	429 (100%)	13 (100%)	222 (100%)	18 (100%)	27 (11%)	61 (7%)	735 (52%)
Mean Year Licensed	1983	1974	1979	1980	1982	1982	1975	1978	1982	1983
<b>RANGE OF YEAR LICENSED:</b>										
Before 1955	0	0	0	1	0	1	1	0	0	6
1955 through 1959	0	1	1	2	0	1	0	1	1	7
1960 through 1964	0	0	2	6	0	3	1	1	1	21
1965 through 1969	0	1	5	26	1	11	1	5	5	58
1970 through 1974	1	2	12	64	1	22	4	5	12	79
1975 through 1979	2	3	16	104	2	40	8	3	7	113
1980 through 1984	2	2	21	94	4	40	2	4	10	108
1985 through 1989	1	0	14	56	2	56	0	3	5	96
1990 through 1994	3	0	7	58	2	31	1	2	9	121
1995 through 1999	0	0	1	17	1	17	0	3	10	97
Since 2000	0	0	0	2	0	0	0	0	1	29
<b>ORIGINALLY CAME TO THIS COURT FROM:</b>										
Attorney Private Practice	1 (11%)	2 (22%)	22 (28%)	--	--	--	--	--	--	--
Judge of Lower Court	6 (67%)	4 (44%)	14 (18%)	--	--	--	--	--	--	--
Legislative Service	1 (11%)	3 (33%)	3 (4%)	--	--	--	--	--	--	--
Other Governmental Service	1 (11%)	0 (0%)	0 (0%)	--	--	--	--	--	--	--
<b>PREVIOUS EXPERIENCE:</b>										
Prosecutor	0 (0%)	5 (56%)	14 (18%)	177 (41%)	5 (38%)	95 (43%)	3 (17%)	9 (4%)	--	--
Attorney Private Practice	6 (67%)	9 (100%)	43 (54%)	314 (73%)	12 (92%)	141 (64%)	15 (83%)	23 (9%)	--	--
Judge of Lower Court	4 (44%)	2 (22%)	15 (19%)	67 (16%)	1 (8%)	34 (15%)	3 (17%)	13 (5%)	--	--
County Commissioner	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	16 (6%)	--	--

\* Data may be incomplete, as this chart includes only information reported to OCA.

# 2009 GREAT TEXAS WARRANT ROUND UP

Law enforcement from across Texas will be conducting a statewide warrant roundup for Class C offenses, March 7-16, 2009. The purpose behind this roundup is to increase levels of compliance through voluntary means or arrest. A unified effort across the state will help achieve this goal.

There is only one requirement to

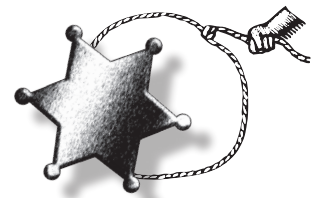
participate—each agency must be able to collect statistics that will be accumulated and released to the media at the end of the roundup.

Each agency will determine its own level of involvement during the roundup period and will plan its own operations. Any agency that is interested in participating in this roundup (and wishes to be listed as a

participant in the statewide publicity) should contact any of the following people:

- Rebecca Stark, Austin Municipal Court, at [rebecca.stark@ci.austin.tx.us](mailto:rebecca.stark@ci.austin.tx.us).
- Don McKinley at [don.mckinley@ci.austin.tx.us](mailto:don.mckinley@ci.austin.tx.us).
- Lisa Howard, Hurst Municipal Court, at [lhoward@ci.hurst.tx.us](mailto:lhoward@ci.hurst.tx.us).

## 2009 Great Texas Warrant Round Up — Participation Form —



- Yes, we wish to participate in the 2009 statewide warrant round up
- Please put us on the list to be contacted for the 2010 round up
- Please provide additional information

Name of Court/Agency: \_\_\_\_\_

Contact Person/Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

*I agree to send out notices on or around February 13, 2009 and participate in the actual round up (actually make arrests) on or after March 7, 2009 to the fullest extent that my entity can participate.*

Signature \_\_\_\_\_

Note: If the contact person listed above is not also the media contact person, please list the media contact below:

Name \_\_\_\_\_ Title \_\_\_\_\_ Department \_\_\_\_\_ Phone # \_\_\_\_\_

**FAX AGREEMENT TO: Rebecca Stark or Don McKinley at 512.974.4682**

**EMAIL AGREEMENT TO: [roundup@ci.austin.tx.us](mailto:roundup@ci.austin.tx.us)**

Note: The special roundup email address will be monitored regularly to keep current. The master participant list will be placed on the Austin Municipal Court's website at [www.ci.austin.tx.us/court](http://www.ci.austin.tx.us/court). It should be undated at least weekly.

If you have any questions, please feel free to call or email:

Rebecca Stark **512.974.4690** [rebecca.stark@ci.austin.tx.us](mailto:rebecca.stark@ci.austin.tx.us)

Don McKinley **512.974.4820** [don.mckinley@ci.austin.tx.us](mailto:don.mckinley@ci.austin.tx.us)

Or anyone else who has done this before – all great sources of info!



# LEARNING TO TALK TO THE “BLANK WALL”

## Discussing Drinking and Driving with Teens

By Melody Luetkehans, Program Attorney, National Judicial College

For anyone that deals with teenagers on a regular basis, you know how difficult it is to impress upon them the potential seriousness of their various actions. In today’s world, one of the most serious actions taken by many teenagers is the decision to drink then drive.

Unfortunately, the message to not drink, let alone not to drink *and drive*, often isn’t heard when presented by familiar adults in the teen’s world. Sometimes it takes an outside authority figure to bring the message home.

That is where you, as a judge, have the ability to give that message to teens outside your courtroom - where the rubber meets the road, in schools and youth organizations.

In 2006, traffic crashes were the major cause of death in teens (15-20). On average, a teen died in a traffic crash every hour of every weekend and every two hours during the week. These statistics (from NHTSA - The National Highway Traffic Safety Administration) alone are terrible and can leave adults feeling helpless.

However, the National Judicial College through funding by the NHTSA is presenting to judges a fully developed outreach program providing judges with the tools necessary to take that message into the schools.

The *Courage To Live* program is a judicial outreach program to combat underage drinking and driving. The program teaches interested judges how to get involved with their local schools by providing judges with the teaching tools, resources, and information they need to deliver a strong prevention message to our nation’s youth.

The program is divided into two sections. First, there is a review of current trends in juvenile drinking and driving, with an emphasis on how underage drinking affects the developing youthful body. Second, participants will learn the steps necessary in making effective presentations of that information to that special teenage population.

Participants will learn how to speak so that teenagers will listen. It will also provide the participants with content ready presentations that he or she that can be taken back to their jurisdictions and quickly implemented.

This course is fully funded (tuition, learning materials, travel, and lodging) by the NHTSA. Successful applicants will commit to making at least a one-hour (50 minute) presentation at the judge’s local secondary school within the upcoming school year and reporting back to NJC on the results of that presentation.

For more information, please contact Melody Luetkehans at (800) 25-JUDGE (800-255-8343).



In the *Courage To Live* Faculty Development Workshop, to be held February 9-12, 2009, participants will learn the steps necessary to talk with teens about the dangers of drinking and driving.



## FROM THE CENTER

### 16TH ANNUAL MUNICIPAL PROSECUTORS CONFERENCE

Texas law provides that prosecutions in a municipal court shall be conducted by the city attorney or by a deputy city attorney. Such prosecutors have an ethical and legal obligation to not only represent the State of Texas, but to see that justice is done. In light of specific dilemmas that are unique to municipal courts, ethical and educated prosecutors are essential to the successful administration of justice in our communities. Presentations will focus on ethics, as well as on procedural, substantive, and case law.

**CLE Credit**—These seminars will be submitted for CLE credit by the State Bar of Texas. We plan to provide for at least one hour of ethics at each school. The pre-conference offers an additional three hours of CLE credit. The TMCA Board adopted the \$100 fee that applies only to attorney judges and prosecutors who wish to receive CLE credit for their attendance at TMCEC programs. The fee is **voluntary** and is used for expenditures not allowed by the Texas Court of Criminal Appeals (membership services, salary supplements, food, and refreshments). If you do not wish to seek CLE credit from TMCA, you can obtain it from

another provider.

**Registration Fee**—Municipal prosecutors may register for either of the prosecutors’ seminars. Housing, two breakfasts, and one lunch are included with the fee. The registration fee is \$300 (\$400 with CLE) if housing is requested. Municipal prosecutors who do not need housing at the conference hotel may pay a \$150 registration fee (\$250 with CLE). **Prosecutors who must cancel for any reason will be charged a \$100 cancellation fee if notice of cancellation is not received five working days prior to the seminar.** A registration fee of \$350 (\$450 with CLE) will be charged for non-municipal prosecutors or attorneys.

**Dallas** (Addison)  
**March 3-5, 2009**  
Crowne Plaza Addison  
14315 Midway Rd.  
75001  
888.444.0401  
**Register by: 2/3/09**

**Austin**  
**June 29-July 1, 2009**  
Omni Downtown  
700 San Jacinto  
78701  
512.476.3700  
**Register by: 5/29/09**

### MUNICIPAL BAILIFFS & WARRANT OFFICERS CONFERENCE

Bailiffs and warrant officers are essential resources for judges and clerks in maintaining courtroom security, serving processes for the court, and assisting in fine collection and enforcement. In FY 2008-2009, TMCEC is offering two 12-hour seminars for municipal bailiffs and warrant officers, accompanied by four-hour pre-conferences. The courses will include segments on court security. This may allow for participants’ registration fees and travel to be paid for by local court security funds. Credit of 12 TCLEOSE hours will be awarded to participants who complete all 12 conference hours. Four hours of TCLEOSE credit is offered at the pre-conference. Partial credit is not given for the pre-conference or conference participation. The registration fee is \$100.

Those attending the TMCEC Municipal Bailiffs and Warrant Officers Conference may also wish to attend the Texas Marshal Association’s (TMA) 13<sup>th</sup> Annual Conference and Training Seminar. The TMA Conference will be held May 11-13, 2009 in Round Rock, Texas at the same facility, and immediately preceding the TMCEC Conference. The training will consist of approximately 20 hours of TCLEOSE approved training in the areas of Court Security, Defensive Tactics, Handcuffing, and Firearms Training. More information can be found at [www.texasmarshals.org](http://www.texasmarshals.org).

**Pre-Conference**—Optional four-hour pre-conferences will be held prior to each of the 12-hour programs. Pre-conference topics will be announced at a later date via the TMCEC *Recorder* and in conference confirmation letters. Registration forms will be enclosed with conference confirmation letters. An additional four TCLEOSE hours will be awarded to those who choose to attend the pre-conference.

**Dallas** (Addison)  
**February 3-5, 2009**  
Crowne Plaza Addison  
14315 Midway Rd.  
75001  
888.444.0401  
**Register by: 2/3/09**

**Round Rock** (outside Austin)  
**May 13-15, 2009**  
Wingate Inn  
1209 N. IH35  
78664  
512.341.7000  
**Register by: 4/15/09**

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## MANAGING TECHNOLOGY

Courts succeed when they properly manage technology fundamentals. Court leaders must be savvy about technology project planning, project management, technology standards, and how to use technology to assist courts in day-to-day operations. Learn how technology can be used in all of the National Association for Court Management's core competencies, as well as the role technology should play in organizational performance.

This course is designed to help administrators and clerks manage technology and technology resources, enhance their technology management skills, and integrate technology into their management strategies. It is being offered by TMCEC in conjunction with the Institute for Court Management and the National Center for State Courts.

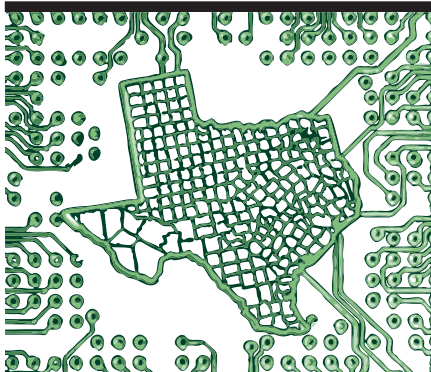
This course is a three-day program. The February 8-11 program begins at 8 a.m. on Day Two and concludes at 12 noon on Day Four. (Day One is arrival day—no classes, only certification sessions.) This course counts toward certification in the Texas Municipal Courts Certification Program and in the NCSC Court Executive Development Program and Court Management Program. Tuition for NCSC courses is usually \$845. There is only a \$50 registration fee for municipal clerks and court administrators to attend this February as grant funds are underwriting the cost. Housing is provided, if requested, on the nights of February 8th, 9th, and 10th. Note: Study sessions will be held on Sunday, February 8, 2009 from 1:00 to 5:00 p.m. Certification exams will be held from 1:00 to 5:00 p.m. on Wednesday, February 11, 2009.

**Austin**  
**February 8-11, 2009 (S-M-T-W)**  
Omni Hotel Southpark  
4140 Governor's Row  
78744  
512.448.2222  
**Register by: 1/3/09**

## 2009 COURTS & LOCAL GOVERNMENT (CoLoGo) TECHNOLOGY CONFERENCE

TMCEC is again collaborating with the other judicial education entities to co-sponsor CoLoGo on January 27- 29, 2009 in Austin, Texas. This annual conference is organized by the Texas Association of Counties and offers judges and clerks from all levels of the judiciary the opportunity to stay up-to-date on the latest technological advances affecting court administration. The registration fee is \$175 after January 1st. The conference will be held at the Crowne Plaza Hotel (6120 North IH 35, Austin 78728—888.444.0401). Participants are responsible for making their own hotel reservations and payment. A limited number of rooms are available at the state rate of \$85 plus tax. Attendance at the program counts toward clerk certification credit, but NOT toward the annual mandatory judicial education requirement for municipal judges.

Registration for the conference allows you to attend informative technology workshops, presentations, and exhibits, including four specialized workshops on January 27<sup>th</sup> for municipal courts, justice courts, county courts, and local government professionals. In addition to the on-site vendor show with products specific to county and municipal governments, attendees are furnished transportation and admission to the exposition floor of the Government Technology Conference (GTC) Expo on the Wednesday afternoon (January 28th). The GTC Expo at the Austin Convention Center is part of the 2008 Annual Government Technology Conference, and features more than 100 vendors of products and services used by government entities. A brochure was sent to all courts in November.



# CoLoGo

**2009 Courts and Local Government  
Technology Conference  
January 27-29, 2009  
Crowne Plaza Hotel Austin**

## 2008 - 2009 TMCEC ACADEMIC SCHEDULE AT-A-GLANCE

SEMINAR	DATE(S)	CITY	HOTEL
12-Hour Regional Judges &	January 7-9, 2009	San Antonio	Omni at Colonnade
Level III Assessment Clinic	January 22-25, 2009	Austin	Doubletree Hotel
Texas Association of Counties: Courts & Local Government Technology Conference	January 27-29, 2009	Austin	Crowne Plaza
12-Hour Regional Judges & Clerks Seminar	February 1-3, 2009 (waitlist for clerks)	Dallas	Crowne Plaza Addison
Bailiffs/Warrant Officers	February 3-5, 2009	Dallas	Crowne Plaza Addison
Court Administrators Special Topic ICM: Managing Technology	February 8-11, 2009	Austin	Omni Southpark
12-Hour Regional Judges Seminar	February 22-24, 2009	Galveston	The San Luis Resort & Spa
12-Hour Municipal Prosecutors Conference	March 3-5, 2009	Dallas	Crowne Plaza Addison
12-Hour Regional Judges & Clerks Seminar	March 15-17, 2009	Houston	Omni Riverway
12-Hour Regional Judges & Clerks Seminar	April 1-3, 2009	Amarillo	Ambassador Hotel
12-Hour Regional Clerks Seminar	April 27-29, 2009	S. Padre Island	Radisson Resort
12-Hour Attorney Judges Seminar	May 3-5, 2009	S. Padre Island	Radisson Resort
12-Hour Non-Attorney Judges Seminar	May 5-7, 2009	S. Padre Island	Radisson Resort
Bailiffs/Warrant Officers	May 13-15, 2009	Round Rock	Wingate Inn & Conference Center
Traffic Safety Conference	May 27-29, 2009	Austin	Omni Southpark
12-Hour Regional Judges & Clerks Seminar	June 23-25, 2009	Odessa	MCM Elegante
12-Hour Regional Court Administrator Seminar	June 29-July 1, 2009	Austin	Omni Downtown
12-Hour Municipal Prosecutors Conference	June 29-July 1, 2009	Austin	Omni Downtown
32-Hour New Judges & Clerks Seminar	July 13-17, 2009	Austin	Crowne Plaza
Legislative Update - Lubbock	August 4, 2009	Lubbock	Holiday Inn Towers
Legislative Update - Houston	August 10, 2009	Houston	Omni Riverway
Legislative Update - Austin	August 14, 2009	Austin	Doubletree

## REMINDER: ALTERNATIVE JUDICIAL EDUCATION

Experienced municipal judges who have completed two years of TMCEC courses may opt to fulfill the 12-hour mandatory judicial education requirements for 2008 - 2009 by attending a course offered by an approved continuing legal education provider. The accredited providers are the American Academy of Judicial Education, the ABA Traffic Seminar, the Harvard Law School, the Houston Law School and Foundation, the Juvenile Law Section of the State Bar of Texas, The National Judicial College, National College of District Attorneys, South Texas School of Law, the State Bar of Texas Professional Development Programs, the Texas Criminal Defense Lawyers Project, Texas District and County Attorneys Association, Texas Justice Courts Training Center, and the Texas Municipal Courts Association. Please check with TMCEC for the most up-to-date list of approved providers. The course must relate to the jurisdiction of the municipal courts and be at least 12 hours in length. Video, audio, and online programs are ineligible. After an initial two-year period, judges may "opt-out" only every other year. Judges are asked to complete an intent to opt out form prior to April 30, 2009. If you have questions, please contact Hope Lochridge at the Center (800.252.3718).

**TEXAS MUNICIPAL COURTS EDUCATION CENTER  
2009 REGISTRATION FORM**

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

Check one:

- |                                                                                      |                                                                           |                                                                            |
|--------------------------------------------------------------------------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <input type="checkbox"/> New, Non-Attorney Judge or Clerk at 32-hour program (\$100) | <input type="checkbox"/> Traffic Safety Conference-Judges & Clerks (\$50) | <input type="checkbox"/> Assessment Clinic (\$100 fee)                     |
| <input type="checkbox"/> Non-Attorney Judge (\$50)                                   | <input type="checkbox"/> Clerk/Court Administrator (\$50)                 | <input type="checkbox"/> Prosecutor <b>not seeking CLE credit</b> (\$300)  |
| <input type="checkbox"/> Attorney Judge <b>not seeking CLE credit</b> (\$50)         | <input type="checkbox"/> Bailiff/Warrant Officer* (\$100 fee)             | <input type="checkbox"/> Prosecutor <b>seeking credit CLE</b> (\$400)      |
| <input type="checkbox"/> Attorney Judge <b>seeking CLE credit</b> (\$150)            | <input type="checkbox"/> Legislative Update (\$100 fee)                   | <input type="checkbox"/> Prosecutor <b>not seeking CLE/no room</b> (\$150) |
|                                                                                      |                                                                           | <input type="checkbox"/> Prosecutor <b>seeking CLE/no room</b> (\$250)     |

By choosing TMCEC as your CLE provider, attorney-judges and prosecutors help TMCA pay for expenses not covered by the Court of Criminal Appeals grant. Your voluntary support is appreciated. (For more information, see the TMCEC Academic Schedule).

Name (please print legibly): Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_  
Names you prefer to be called (if different): \_\_\_\_\_  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 most seminars: four nights at the 32-hour seminars, three nights at the 24-hour seminars/assessment clinics, two nights at the 12-hour seminars, and one night at the 8-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 non-registered guest. [I will pay additional costs, if any per night] I will require:  1 king bed  2 double beds  
 I do not need a room at the seminar.  
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"/> Municipal Judge                                | <input type="checkbox"/> Court Clerk          | <input type="checkbox"/> Mayor (ex officio Judge) |
| <input type="checkbox"/> Court Administrator                            | <input type="checkbox"/> Prosecutor           | <input type="checkbox"/> Other: _____             |
| <input type="checkbox"/> Bailiff/Warrant Officer/Marshal*               | <input type="checkbox"/> Justice of the Peace |                                                   |
| <input type="checkbox"/> Attorney <input type="checkbox"/> Non-Attorney | <input type="checkbox"/> Deputy Court Clerk   |                                                   |

**\*Bailiffs/Warrant Officers/Marshals:** Municipal judge's signature required to attend Bailiff/Warrant Officer/Marshal 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 first try to cancel by calling the TMCEC office in Austin. If I must cancel on the day before or day of the seminar due to an emergency, I will call the TMCEC registration desk at the conference site IF I have been unable to reach a staff member at the TMCEC office in Austin. 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 my court is located at least 30 miles driving time from the conference site. Participants in the Assessment Clinics must cancel in writing two weeks prior to the seminar to receive a refund. Payment is due with the registration form. Registration shall be confirmed only upon receipt of registration form and payment.

\_\_\_\_\_  
Participant Signature (may only be signed by participant)

\_\_\_\_\_  
Date

**PAYMENT INFORMATION:**

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

Credit Card Payment:

Credit card type:	Amount to Charge:	Credit Card Number	Expiration Date
<input type="checkbox"/> MasterCard	\$ _____	_____	_____
<input type="checkbox"/> Visa		Name as it appears on card (print clearly): _____	
		Authorized Signature: _____	

Please return completed form with payment to TMCEC at 1609 Shoal Creek Boulevard, Suite 302, Austin, TX 78701, or fax to 512/435-6118.

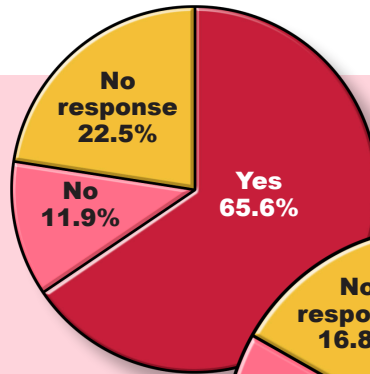
# Support for Courts and Judicial Education

Each year TMCEC asks judges and court support personnel to answer survey questions on their record of attendance sheets. In FY 08, TMCEC asked several questions on how courts finance their courts and whether the city offers financial assistance to clerks to attend TMCEC programs. Shown below are the responses.

## How Judges Responded:

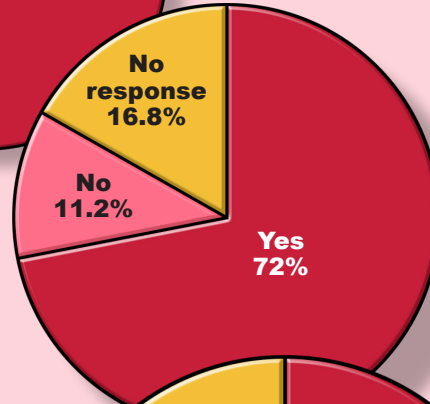
**Has your city adopted the court security fee?**

Yes: 732      No: 132



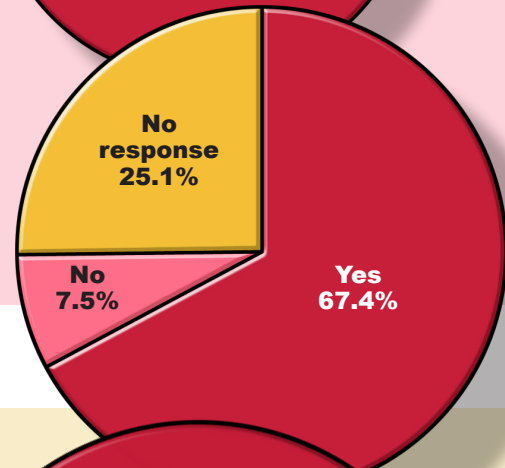
**Has your city adopted the court technology fee?**

Yes: 804      No: 152



**Do you think that these funds are being used according to the purpose outlined in the statute?**

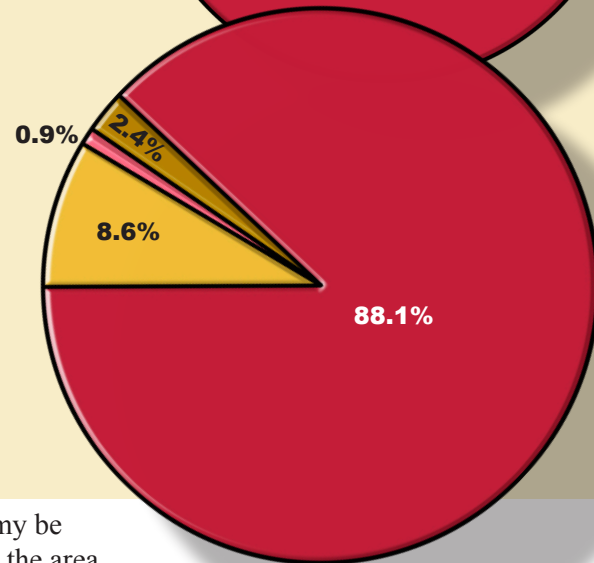
Yes: 752      No: 83



## How Clerks Responded:

**Does your city:**

- Provide you with financial assistance to attend TMCEC programs, including travel, meals, and registration fees?      979
- Pay only the registration fees for attending TMCEC programs?      95
- Provide no financial support, and all expenses for attending TMCEC programs is incurred by the attendee?      10
- No response.      29



Results of the entire set of questions asked each group may be accessed on the TMCEC website at [www.tmcec.com](http://www.tmcec.com), in the area called Resources on the Docket.



## MUNICIPAL TRAFFIC SAFETY INITIATIVES

—NEWS YOU CAN USE—

### 2<sup>nd</sup> Annual Municipal Traffic Safety Conference - May 27-29, 2009

Texas is known for many things: The University of Texas, longhorns, bluebonnets, being the Lone Star State, and many other features that make Texas stand out among the other states. However, Texas is a stand out nationally in drunk driving deaths as well. Experts estimate that 70 Texans are injured or killed in alcohol-related crashes every day.<sup>i</sup> In Texas, someone is hurt or killed in an alcohol-related crash every 19 minutes, and drunk driving claims five lives every day.<sup>ii</sup>

Drunk driving is *the most frequently committed violent crime* in our country. And, in Texas, this crime is committed more frequently than in any other state. According to the National Highway Traffic Safety Administration (NHTSA), 3,363 people were killed in alcohol-related crashes in Texas in 2007, and more than 63,500 people were injured in 2006. The 2007 percentage of crashes which are alcohol-related in Texas (48%) is far above the national average (41%).<sup>iii</sup>

One way we can come together as a community to address this serious concern is to attend the May TMCEC Municipal Traffic Safety Initiatives three-day conference that is geared specifically to municipal courts and city officials to address traffic safety. Judges, clerks, and city officials are invited to attend.

Traffic laws are about public safety, not fines or gross revenue. The enforcement of such laws are necessary to prevent injuries and save lives. Yet Texas continues to lead the nation in traffic-related fatalities. Creating a community culture that prioritizes traffic safety requires that city council members, city managers, law enforcement, and municipal courts approach traffic safety with a unified focus.

While at the conference, some of the sessions you will have the opportunity to attend are: *Blood Warrants, Booster Seats/Child Safety Seats, How Municipal Courts Can Make a Difference, Red Light Cameras & Enforcement, OMNI Base Failure to Appear, Community or Problem Solving Courts, Aggressive Drivers, Young Drivers, DUI, Distracted Driving, Judges in the Classroom*, and much more.

The TMCEC Traffic Safety Conference will be May 27-29, 2009 in Austin at the Omni Southpark Hotel. Priority will be given to those who did not attend the 2008 Municipal Traffic Safety Conference. Space is limited so be sure to send in your reservation form today. For more information, please visit the TMCEC Municipal Traffic Safety Initiatives website, [www.tmcec.com](http://www.tmcec.com) and click on *Municipal Traffic Safety Initiative*. There are many benefits in attending this conference; however, one of the main benefits is bringing together a variety of people, such as city officials, to see how each person's role is important in addressing the seriousness of traffic safety.

This is a wonderful opportunity for you to gather educational resources on traffic safety. Let's join together and show that Texas no longer wants the title of being #1 in **Drunk Driving Deaths!**

See you in May!

For more information, contact Lisa Robinson, TMCEC TxDOT Grant Administrator at [robinson@tmcec.com](mailto:robinson@tmcec.com) or 800.252.3718.

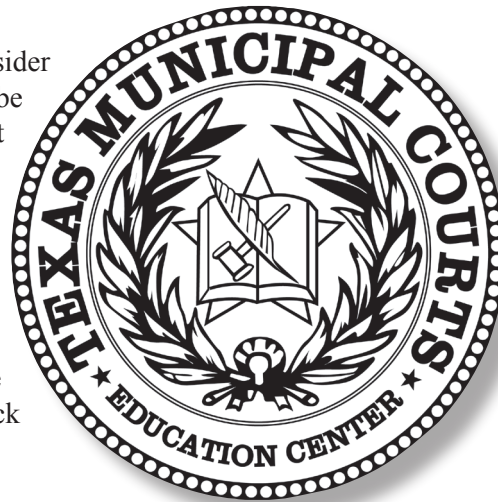
<sup>i</sup> <http://www.texasdwi.org/>  
<sup>ii</sup> <http://www.texasdwi.org/>  
<sup>iii</sup> [http://www.madd.org/chapter/4800\\_2658](http://www.madd.org/chapter/4800_2658)



# REMEMBER TMCEC

TMCEC Board of Directors and the staff members hope that you will consider making a contribution to TMCEC 501(c)(3) foundation. These funds will be used to support judicial education for municipal judges and court support personnel in Texas.

TMCEC is a 501(c)(3) non-profit organization. Contributions are tax deductible on the donor's federal income tax return. TMCEC received a "Letter of Determination" in 2006, after making application to become a 501(c)(3). If you wish to contribute, please send checks payable to the Texas Municipal Courts Education Center, 1609 Shoal Creek Blvd., Suite 302, Austin, Texas 78701. Please indicate in bottom left hand corner of check or in a cover letter that this is a contribution to the 501(c)(3). Thank you.



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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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