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IMPAIRED DRIVING: CASE LAW REVIEW 2017

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The following decisions and opinions were issued between the dates of October 1, 2015 and October 1, 2016 except where noted (*). Acknowledgment: Thank you Judge David Newell, Courtney Corbello, Benjamin Gibbs, Carmen Roe, Stacey Soule, and Randy Zamora. Your insight and assistance helped us bring this paper to fruition.

The search incident to arrest doctrine does not apply to warrantless blood draws, but it does apply to warrantless breath tests.

Birchfield v. North Dakota, 136 S. Ct. 2160 (2016)

In a 5-3 decision, the Court examined three consolidated cases involving state laws criminalizing refusal to take warrantless tests measuring blood alcohol concentration (BAC). All three defendants were arrested for drunk driving. Defendants Birchfield (North Dakota) and Beylund (North Dakota) received warnings

Case Law Update continued on pg. 3

COMMUNITY SERVICE: SUGGESTED PRACTICES AND POTENTIAL PROBLEM AREAS

Molly Knowles, Communications Assistant, TMCEC

Community Service: An Alternative Mean

In *Tate v. Short* (1971), the Supreme Court of the United States held that the Equal Protection Clause prohibits converting fines to jail time solely because the defendant is indigent.¹ Prior to *Tate v. Short*, Texas employed a “pay or lay” system, in which defendants, if unable to pay fines, were incarcerated to satisfy their punishments. The abolishment of the “pay or lay” system created a new hurdle for courts. If unable to use commitment to enforce judgment, how would courts be able to satisfactorily encourage de-

Community Service continued on pg. 11

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AROUND THE STATE

DRSR SELECTED FOR AWARD

The Driving on the Right Side of the Road (DRSR) grant was selected to receive the 2016 J.C. Montgomery, Jr. Child Safety Award by the Texas Office for Prevention of Developmental Disabilities. This award recognizes the people and organizations of Texas for their tireless and extraordinary work to keep children safe. Other award winners included groups from the medical field, individuals, and groups working for child safety, and even a biker group working against child abuse. These groups do amazing work to keep children safe in Texas.



The awards ceremony was held at the State Capitol in Austin, Texas. Attending were DRSR and TMCEC staff members Elizabeth De La Garza, Crystal Ferguson, and Ned Minevitz, and TxDOT representatives Lydia Bryan-Valdez and Michael Teran. Accepting the award on behalf of the grant was Elizabeth De La Garza, TxDOT Grant Administrator for the DRSR grant. DRSR is honored to have received this prestigious award, and to have been in the company of so many people who care about the children of Texas so deeply. To see the dedicated work the other winners are doing for the safety of kids was both heartwarming and humbling.



Presenting the award to Elizabeth De La Garza, DRSR Grant Administrator, is Dr. Richard Garnett from Fort Worth. Dr. Garnett is the Chair for the Executive Committee of the Texas Office for Prevention of Developmental Disabilities.



that they were obligated to submit to blood tests. Defendant Bernard (Minnesota) received instruction that a breath test was required. Birchfield and Bernard refused and were convicted of a criminal offense for the refusal. Beylund complied with the demand for the blood sample and his license was subsequently administratively suspended based on the test results revealing a high BAC.

Justice Alito delivered the opinion of the Court. If the warrantless searches in these cases comport with the 4th Amendment, it follows that a state may criminalize the refusal to comply with a demand to submit to required testing, just as a state may make it a crime to obstruct the execution of a valid search warrant. It also follows that the test results are not inadmissible under federal law in a criminal prosecution or civil or administrative proceeding. Because all three defendants were searched or told they were required to submit to a search after being placed under arrest, the Court considered how the search-incident-to-arrest doctrine applies to breath and blood tests incident to such arrests. In situations that could not have been envisioned when the 4th Amendment was adopted, like searches of data in a cell phone (*Riley v. California*, 134 S. Ct. 2473 (2014)), the Court does not have “guidance from the founding era,” and therefore, determines whether to exempt a given type of search from the warrant requirement “by assessing, on the one hand, the degree to which it intrudes upon an individual’s privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests.”

Using the same analysis as in *Riley*, the Court found that breath tests do not implicate significant privacy concerns, but that blood tests are a different matter. For breath tests, the physical intrusion is almost negligible, the tests only result in a BAC reading and no sample is left, and participation in the test does not enhance embarrassment inherent in any arrest. (“Humans have never been known to assert a possessory interest in or any emotional attachment to any of the air in their lungs.”) Blood tests, however,

require piercing the skin and extracting a part of the subject’s body, are significantly more intrusive than blowing into a tube, and place in the hands of law enforcement a sample that can be preserved holding information beyond a BAC reading.

Weighing this against legitimate state and federal interests, the Court finds that the laws at issue in these cases making it a crime to refuse to submit to a BAC test are designed to provide an incentive to cooperate in drunk driving cases, which serves an important function. Balancing privacy with the interests of the State, the Court concludes that the 4th Amendment permits warrantless breath tests incident to arrests for drunk driving, but not warrantless blood tests.

As for the implied consent laws at issue, the Court concludes that motorists cannot be deemed to have consented to submit to a blood test on pain of committing a criminal offense (the Court notes its prior opinions that refer approvingly to the general concept of implied consent laws that impose civil penalties and evidentiary consequences on motorists who refuse to comply). The Court notes more than once that while the exigent circumstances exception involves an evaluation of the particular facts of each case, the search-incident-to-arrest exception is categorical. It does not depend on an evaluation of the threat to officer safety or the threat of evidence loss in a particular case.

Justice Sotomayor joined the majority’s disposition of *Birchfield* and *Beylund*, in which the Court holds that the search-incident-to-arrest exception to the 4th Amendment’s warrant requirement does not permit warrantless blood tests, but dissented from the Court’s disposition of *Bernard*, in which the Court holds that the same exception permits warrantless breath tests. Justice Sotomayor would instead require a warrant unless exigent circumstances existed, finding the search-incident-to-arrest exception “ill-suited to breath tests.” (“[N]o governmental interest categorically makes it impractical for an office to obtain a warrant before measuring a driver’s alcohol level.”) She describes the precedential framework differently, requiring an analysis of all exceptions to determine whether to apply them categorically

or on a case-by-case basis. Relying in part on *Camara v. Municipal Court of City and County of San Francisco*, 387 U.S. 523, (1967) (having to do with routine home searches for possible housing code violations) she gives different examples of where having to procure a warrant does not frustrate governmental interests.

Justice Thomas concurred in part in the judgment and dissented in part, finding that the majority contorted the search-incident-to-arrest exception to the 4th Amendment's warrant requirement. According to Thomas, the tests revealing the BAC of a driver suspected of driving drunk are constitutional under the exigent circumstances exception to the warrant requirement. The majority's "hairsplitting" between breath and blood tests makes little sense to Thomas, who finds that either the search-incident-to-arrest exception permits bodily searches to prevent the destruction of BAC evidence, or it does not. This decision is a further erosion of exceptions to the search warrant requirement. Justice Thomas, reiterating his dissent from *Missouri v. McNeely*, 133 S. Ct. 1552 (2013), Justice Thomas would find both breath and blood tests for BAC constitutional based on exigent circumstances from the natural dissipation of alcohol in the bloodstream.

Commentary: Will this be the case that breathes new life into breath testing? What are the odds that we will see at least one bill introduced during the 85th Legislature criminalizing refusal to provide a breath specimen? What are the odds such a bill will become law? In North Dakota, a first-time offense is punishable by a mandatory fine of \$500.

The State's motion for rehearing in the *Villarreal* case was improvidently granted and denied.

State v. Villarreal, 475 S.W.3d 784 (Tex. Crim. App. 2015)

In *State v. Villarreal*, 2014 Tex. Crim. App. LEXIS 1898 (Tex. Crim. App. November 26, 2014), the Texas Court of Criminal Appeals, in a 5-4 decision, held that a nonconsensual search of blood of a DWI suspect, conducted pursuant to the mandatory blood draw and implied consent provisions in Chapter

724 of the Transportation Code, violates the 4th Amendment when undertaken in the absence of a warrant. Three judges filed concurrences. Two judges wrote dissenting opinions. Each dissenting opinion was joined by one other judge.

Although Judge Meyers believes it improper to imply consent based on past convictions, in a concurring opinion no longer believes Section 724.012(b)(3)(B) of the Transportation Code (which applies when the DWI suspect has two prior DWI convictions) creates a valid exception to the warrant requirement for a blood draw in intoxication cases.

Judge Richardson explained that while it makes sense that a repeat DWI offender should have a lessened expectation of privacy, a defendant's status as a repeat offender does not fall within an exception recognized by the Supreme Court. Section 724.012(b)(3)(B) of the Transportation Code does not create an exception to the 4th Amendment's warrant requirement and the Legislature does not have the authority to create a statutory exception.

Judge Newell wrote in support of the *Villarreal* opinion. Per se rules are strongly disfavored under the 4th Amendment. Accordingly, a *per se* warrantless blood draw based on the criminal record of the subject and the dissipation of alcohol is impermissible. Prior convictions do not diminish the individual's 4th Amendment protections. While the State has a compelling interest in keeping the public safe from drunk drivers, to be constitutionally permissible, a warrantless search has to serve more than a general interest in crime control. He rejected arguments that the search at issue in this case is an administrative search and driving is a "closely regulated industry." Like *McNeely*, the *Villarreal* opinion is narrow and does not hold that drawing a driver's blood could be justified upon a showing of exigent circumstances or that another exception to the warrant requirement might apply. In light of Supreme Court precedent, he cannot support a holding that a felony DWI defendant has a greater expectation of privacy in the contents of his cell phone than his own blood.

Judge Keasler, joined by Judge Hervey, explained

that although the Transportation Code does not create a per se exigency exception to the 4th Amendment and the State has failed to establish exigency in this case, given the circumstances of this case and the underlying interests at play, the blood draw was constitutionally reasonable. Villarreal's status as a recidivist DWI offender resulted in a diminished expectation of privacy. The search of Villarreal should be considered a regulatory search and the means and procedures of the search performed on Villarreal were reasonable.

Judge Yeary, joined by Presiding Judge Keller, asserted that when dealing with incorrigible drunk drivers and the warrantless taking of blood, the touchstone is reasonableness. This requires a balancing of interests. To require a search warrant in cases involving DWI suspects with two prior convictions does not protect the privacy interests of the citizenry. It does, however, frustrate the governmental purpose behind the search (i.e., preventing the destruction of evidence) and is inconsistent with the 4th Amendment's warrant requirement. This should be the standard when evaluating the "implied consent" statutes. The criterion in the statute in question involves an *objective* determination of the known facts by peace officers. To require a magistrate to rubber stamp the determination of a peace officer's determination that there is probable cause to draw blood elevates meddlesome formality over 4th Amendment substance. Under a general balancing approach, the scope of an already existing exception—the exigent circumstances exception—to the warrant requirement properly extends to authorize automatic blood draws for incorrigible DWI offenders when the terms of the statute are satisfied.

Commentary: This is not simply a 40-word *per curiam* opinion. The concurring opinions total 7,539 words. The dissenting opinions total 12,349 words. Contrary to what others have written, this opinion is hardly anticlimactic or a non-decision. In fact, despite what many predicted, the Court reaffirmed the holding in *Villarreal*. The pivotal plot-twist in *Villarreal* is the concurring opinion issued by Judge Meyers who dissented in *Villarreal*, but switched sides in this opinion. The three new members of the Court made their positions known. Judge Richardson

and Judge Newell issued separate opinions concurring in the denial of the State's motion for rehearing. Judge Yeary issued a dissenting opinion.

The holding in *Villarreal* was hardly a surprise. A number of state intermediate appellate courts reached similar conclusions, in light of the U.S. Supreme Court decision in *Missouri v. McNeely*, 133 S. Ct. 1552 (2013) (holding that natural metabolization of alcohol does not present a per se exception to the 4th Amendment's warrant requirement for nonconsensual blood testing.) While prosecutors continued to hold out hope for a reversal, few were surprised that the that U.S. Supreme Court denied the State's petition for certiorari in *Villarreal* after the decision in *Birchfield v. N. Dakota*, 136 S. Ct. 2160 (2016) (See above.)

The defendant's warrantless blood draw was not justified by exigent circumstances where the only support for exigency in the record was the defendant's own self-imposed delay and 40 minutes' worth of alcohol dissipation.

Weems v. State, 2016 Tex. Crim. App. LEXIS 85 (Tex. Crim. App. May 25, 2016)

The defendant crashed his car around 11:30 p.m. and ran from the scene. It took law enforcement approximately 40 minutes to locate him while he actively hid from law enforcement under a car approximately a half a mile away. Based on the observations of the responding deputy, he was arrested for DWI, refused a breath or blood test, and was taken to a nearby hospital ("about two minutes away") to be treated for injuries. The deputy filled out a request for blood draw, which was performed two hours later, the testing of which showed intoxication. The trial court denied suppression, but the court of appeals found that denial to be error and that admission was harmful. The Court agreed.

Most of the State's grounds in this case had already been considered and resolved by *Villarreal*. However, the Court points out that neither *Villarreal* nor *McNeely* presented an opportunity to address whether circumstances surrounding a warrantless blood draw satisfied the exigency exception and rendered the search constitutionally permissible. The Court,

presented with such an opportunity in this case, applied an exigency analysis, which requires an objective evaluation of the facts reasonably available to the officer at the time of the search.

The Court compared the totality of the circumstances in this case to that in *Schmerber*, “where time had to be taken to bring the accused to the hospital and to investigate the scene of the accident, there was no time to seek out a magistrate and secure a warrant.” Here, the record is silent as to whether the deputy knew it would take over two hours for hospital personnel to draw blood, how long the procedure in the county for DWI arrestees takes, what procedures, if any, existed for obtaining a warrant when an arrestee is taken to the hospital, whether the deputy could have reasonably obtained a warrant, or how long it would have taken to do so. The deputy’s testimony implied that he knew it would take a long time before the hospital would draw blood and that a magistrate was available (though the record did not reflect that definitively). Also, another officer was with the deputy throughout the investigation and while he waited at the hospital for the blood draw. According to the Court, on this record, the State did not demonstrate that practical problems existed in obtaining a warrant “within a timeframe that still preserved the opportunity to obtain reliable evidence.”

A warrantless blood draw was justified under the exigency exception where law enforcement officers were confronted with the natural destruction of evidence through dissipation of methamphetamine in the blood, possible contamination of the blood test due to treatment for the defendant’s injuries, logistical and practical constraints posed by the severity of the fatal crash, and the attendant duties this crash demanded.

Cole v. State, 2016 Tex. Crim. App. LEXIS 84 (Tex. Crim. App. May 25, 2016)

At 10:30 p.m., the defendant, Steven Cole, drove his large pickup truck 110 miles per hour down a city street in Longview, Texas, ran a red light, and struck another pickup truck, causing an explosion that instantly killed the driver of the truck. The fire had continued explosions. Fourteen officers were

dispatched to the scene, which was not cleaned up and cleared until 6:00 the next morning. Officers rescued Cole from his truck and EMS transported him to the hospital. Cole was arrested at the hospital and refused a blood test after repeatedly telling the arresting officer he used “meth” and was not drunk. The officer requested hospital staff to draw his blood (pursuant to Section 724.012(b)(1)(A) of the Transportation Code to be used when an officer reasonably believes that, as a direct result of a suspect’s intoxication, someone is killed in a motor vehicle crash), the testing of which revealed intoxicating levels of amphetamine and methamphetamine. The trial court found exigent circumstances for drawing the blood without a warrant and denied Cole’s motion to suppress the blood test results. The court of appeals found error in the trial court’s denial of Cole’s motion to suppress and found no exigent circumstances in the record.

According to the court of appeals, law enforcement could have been able to draw the defendant’s blood pursuant to a warrant before 2:00 a.m.; that timeline, the court suggests, demonstrates that an exigency did not exist. The Court rejects the court of appeals’ analytical approach in constructing a time line containing a hypothetical warrant obtained at a particular point followed by the potential timeliness of the search’s results as an impermissible view of law enforcement action through the lens of hindsight. The proper focus of an exigency analysis is whether officers had a reasonable belief that obtaining a warrant was impractical based on the circumstances and information known at the time of the search.

To that end, the Court finds the amount of time it took the lead crash investigator, Higginbotham, to investigate the scene posed the largest obstacle to procuring a warrant, which took three hours to complete and could only be done by that particular officer. The record also showed that Higginbotham could not leave the scene and the arresting officer could not simultaneously handle the responsibility for Cole’s custody and drawing up a statement regarding her belief of his intoxication. The crash scene’s location and the public safety danger required a number of officers at the scene. According to the Court, it is relevant that there was no indication that officers not on scene were unavailable to get a

warrant; however, that does not prevent an exigency finding. Here, the record does not establish that there was a readily available officer where the number of officers necessarily on scene comprised nearly half of the minimum amount of officers the department requires for the entire city over two shifts. Additionally, the record showed procuring a warrant would have taken an hour to an hour and a half “at best.” During that time, Higginbotham was reasonably concerned that both potential medical intervention performed at the hospital and the natural dissipation of methamphetamine in Cole’s body would adversely affect the reliability of his blood sample. According to EMS, Cole reported having “pain all over.” Higginbotham was reasonably concerned that the administration of pain medication, specifically narcotics, would affect the blood sample’s integrity.

Finally, the Court finds that the lack of a known elimination rate of a substance that law enforcement believes a suspect ingested does not necessarily mean that the body’s natural metabolism of intoxicating substances is irrelevant to or cuts against the State’s exigency argument, but instead, serves to distinguish this case from *McNeely*. Without a known elimination rate of methamphetamine, law enforcement faced inevitable evidence destruction without the ability to know—unlike alcohol’s widely accepted elimination rate—how much evidence it was losing as time passed.

Judge Johnson dissented, finding a warrant was required and agreed with the court of appeals, based on the record, that exigent circumstances did not exist.

Isolated statements globally asserting that a blood draw was conducted without a warrant are not enough to apprise the trial court that it must consider whether there were exigent circumstances to permit a warrantless search in a DWI case, when the entire record shows the only basis of the motion to suppress was that the statutory requirements for a mandatory blood draw had not been met.

Douds v. State, 472 S.W.3d 670 (Tex. Crim. App. 2015)

Judge Meyers dissented, finding it was the State’s burden to prove that the draw was reasonable, therefore, Douds had no burden to show a lack of exigency and he did not abandon his claim by focusing on the statute at the hearing.

HIPAA does not affect the Court’s holding in *Hardy* with respect to 4th Amendment standing to complain of the State’s acquisition by a grand jury subpoena duces tecum of medical records containing Blood Alcohol Content (BAC) results from a blood test performed for medical purposes.

State v. Huse, 2016 Tex. Crim. App. LEXIS 72 (Tex. Crim. App. April 13, 2016)

The appellee was taken to a hospital after missing a curve and plowing his car into a cotton field. His blood was drawn for medical purposes. The State obtained BAC evidence by issuing a grand jury subpoena for the defendant’s hospital medical records in a DWI prosecution, first when no grand jury was investigating the appellee, and subsequently after a motion to suppress the records was filed and the State moved to dismiss the information (this subpoena was based on an application signed by the foreman of the grand jury). The trial court granted the defendant’s motion to suppress the medical records, finding that obtaining the medical records without a warrant violated the 4th Amendment and that a misuse of the grand jury subpoena process violated state and federal law (HIPAA), requiring suppression under the Texas exclusionary rule. The court of appeals reversed, finding that the defendant lacked standing under *State v. Hardy*, 963 S.W.2d 516 (Tex. Crim. App. 1997), to raise a 4th Amendment challenge to the State’s acquisition of his medical records, and that the State did not acquire the records through an unlawful grand jury subpoena, so Article 38.23 of the Code of Criminal Procedure did not require suppression.

Because HIPAA compliance was mandated after the Court’s decision in *Hardy*, the Court granted the appellee’s petition for discretionary review to address whether the advent of HIPAA materially impacts the relevant holding in *Hardy*, and whether the State’s grand jury subpoena process violated either HIPAA or state law.

Under *Hardy*, whether a person has standing to complain of the State's acquisition of the results of a blood test performed by the hospital for medical purposes depends on whether society recognizes as reasonable any expectation of privacy, not in medical records as a general rule, but in that subset of privately generated and maintained medical records that would show the result of a blood alcohol analysis in an individual that the State suspects of driving while intoxicated. The *Hardy* Court concluded that "whatever interests society may have in safeguarding the privacy of medical records [in general], they are not sufficiently strong to require protection of blood-alcohol test results taken by hospital personnel solely for medical purposes after a traffic accident." Does HIPAA undercut that analysis? The Court says no, finding that HIPAA expressly permits the disclosure of otherwise "protected health information" when it is sought by way of a grand jury subpoena, as it was in both *Hardy* and this case.

The Court also found that at least one of the grand jury subpoenas did not violate state law, and thus, did not violate HIPAA, which provides for disclosure when a grand jury subpoena exists and (perhaps) is validly issued in accordance with governing state or federal law. The Court finds that the first grand jury subpoena duces tecum was proper under state law because none of the circumstances surrounding it conflicts with any of the relevant statutory provisions. Finding an alternative ground to exist to conclude the evidence was properly obtained, the Court does not answer the question whether the second subpoena was proper.

A court of appeals' ruling that Section 724.012 of the Transportation Code requiring an arresting officer to take a blood specimen from a repeat DWI offender who is arrested for that offense, without a warrant, was not facially unconstitutional must be reconsidered in light of interim U.S. Supreme Court and Texas Court of Criminal Appeals decisions.

McGruder v. State, 483 S.W.3d 880 (Tex. Crim. App. 2016)

Here, the defendant's sole argument was that Section 724.012 of the Transportation Code (requiring a

breath or blood analysis when the officer has reliable information that the driver already has two or more prior DWI offenses) violates the 4th Amendment on its face "because it requires an arresting officer to take a specimen for blood-alcohol analysis regardless of whether he either (1) first obtains a warrant, or else (2) acts upon particularized exigent circumstances that would obviate the need for a warrant." To succeed on this facial challenge, the appellant "must establish that the statute always operates unconstitutionally in all possible circumstances." Because the court of appeals did not have the benefit of the decision of the U.S. Supreme Court in *City of Los Angeles v. Patel*, 135 S. Ct. 2443 (2015) (determining the standard of review for facial constitutionality) or the decision of this Court in *State v. Villarreal*, 475 S.W.3d 784, 813 (Tex. Crim. App. 2014) (holding that Section 724.012(b) (3)(B) of the Texas Transportation Code does not, by itself, "form a constitutionally valid alternative to the 4th Amendment warrant requirement"), the Court remanded the cause to that court for further consideration in light of the intervening opinions in *Villarreal* and *Patel*.

Exigent circumstances did not exist to justify a warrantless blood draw where an understaffed police shift was not an emergency, but was routine.

Bonsignore v. State, 2016 Tex. App. LEXIS 6986 (Tex. App.—Fort Worth June 30, 2016, no pet.)

The small size of a police department for a small municipality cannot constitute an exigent circumstance excusing failure to obtain a warrant "for the simple and obvious reason that the vast majority of municipalities outlying major cities... as well as countless other small municipalities scattered across Texas have access to modern technologies that attenuate the handicaps that small police forces might otherwise encounter." The court cites *McNeely*, 133 S. Ct. at 1561-63 (acknowledging that technological innovations and standard-form applications help to streamline the warrant process and expressing concerns about approaches that potentially discourage jurisdictions from pursuing progressive means of acquiring warrants that meet the legitimate interests of law enforcement while preserving the protections afforded by warrants).

Taking a defendant's blood sample without a warrant violated his 4th Amendment rights because the State did not show that the defendant consented; the trial court erred in relying on the federal good-faith exception; and because Section 724.012 of the Transportation Code did not require that the officer obtain a blood draw without a warrant, the officer could not have relied in good faith on the statute to conclude that no warrant was required.

Perez v. State, 2016 Tex. App. LEXIS 4745 (Tex. App.—Houston [14th Dist.] May 5, 2016, no pet.)

Exigent circumstances existed to draw the defendant's blood where (1) Trooper Kindell was the only trooper on duty in his county at the time of the collision, (2) Kindell was solely responsible for the cleanup of the crash and the ensuing investigation, which had to be completed before leaving the scene to interview the defendant, (3) the other troopers who assisted were the only troopers on duty in their respective counties, (4) Kindell did not arrive on scene until almost an hour and a half after the crash (long after the defendant had been taken to the hospital), and (5) a warrant would have taken another hour to an hour and a half to obtain.

Cosino v. State, 2016 Tex. App. LEXIS 8294 (Tex. App.—Waco August 3, 2016, no pet.)

Applying *Cole v. State*, 2016 Tex. Crim. App. LEXIS 84 (Tex. Crim. App. May 25, 2016), and *Weems v. State*, 2016 Tex. Crim. App. LEXIS 85 (Tex. Crim. App. May 25, 2016), supra, the court finds this to fall closer to *Cole* on the spectrum. Finding exigent circumstances justified Kindell's warrantless blood draw, the court concludes that the record reasonably supports the trial court's denial of the defendant's motion to suppress.

The court also rejected the defendant's argument that the State improperly told the jury that he could have killed the driver of the other vehicle involved in the collision because it was a reasonable deduction from the evidence and was in response to the defense's statement to the jury that sending him to prison was a "death sentence" because the defendant has HIV. Because the State's statement was not improper, it

No exigent circumstances existed to draw the defendant's blood without a warrant where the trooper did not attempt to contact one of the 13 magistrate judges in the county within the 45 minutes between arriving on scene and the blood draw, even though no judge was on duty and in one of the trooper's previous experiences, it had taken three hours to obtain a warrant.

Fears v. State, 2016 Tex. App. LEXIS 3708 (Tex. App.—Houston [1st Dist.] April 12, 2016, no pet.)

Additionally, the court also found unpersuasive the defendant's belligerence and the testimony of an assistant district attorney on the general length of time in obtaining a warrant with no testimony specific to the circumstances of this case. Finally, the trooper testified he thought he did not need a warrant.

Exigent circumstances did not exist to justify a warrantless blood draw in a prosecution for Driving While Intoxicated with Child Passenger (Section 49.045 of the Penal Code). The record showed four officers on scene that took care of passenger identification and CPS notification and that the arresting officer assumed the defendant would not cooperate in providing the officer retrograde extrapolation information.

Bell v. State, 485 S.W.3d 663 (Tex. App.—Eastland 2016, no pet.)

Here, the trial court found that none of the officers involved attempted to determine whether a magistrate was available to sign a warrant for a blood draw. The officer also testified that he relied on the Transportation Code's implied consent provision when he went to the hospital to obtain the blood specimen. Other arguments proffered by the State included that the warrantless blood draw was reasonable and that, regardless, the exceptions of implied consent, exigent circumstances, special needs, and search incident to arrest dispensed with the warrant requirement. The court cites *Villarreal* as holding that "warrantless blood draws are not reasonable, that implied consent that has been withdrawn or revoked cannot serve as the requisite free and voluntary consent necessary to satisfy the

4th Amendment, that the special-needs doctrine does not apply, and that the search-incident-to-arrest exception does not apply.”

The arresting officer who relied on Texas’ mandatory blood draw statute (Section 724.012(b) (1), Transportation Code) to take the defendant’s blood without her consent following a collision violated the 4th Amendment; the exigency exception did not apply because there was a magistrate on duty two and a half miles from the collision site, but the officer made no attempt to obtain a warrant.

Roop v. State, 484 S.W.3d 594 (Tex. App.—Austin 2016, pet. ref’d)

When reviewing a magistrate’s probable cause determination for a blood draw warrant under Article 18.01(c) of the Code of Criminal Procedure, the trial court properly allowed testimony to explain that the “11:59 a.m.” notation on the probable cause affidavit was a typographical error, that the time the officer came into contact with defendant was really 11:59 p.m., and therefore, that the information was not stale when the magistrate issued the blood draw warrant at 2:00 a.m.

Somoza v. State, 481 S.W.3d 693 (Tex. App.—Houston [1st Dist.] 2015, no pet.)

Generally, when the trial court determines whether probable cause supported the magistrate’s decision to issue a warrant, the court is constrained to the four corners of the probable cause affidavit. However, the Court of Criminal Appeals has held that “purely technical discrepancies in dates or times do not automatically vitiate the validity of search or arrest warrants.” *Green v. State*, 799 S.W.2d 756, 759 (Tex. Crim. App. 1990). In *Green*, the Court ruled against the State concerning a search warrant that contained an incorrect date, claimed by the State to be a clerical error, because the State offered no evidence corroborating that contention. Two Texas courts of appeals (Fort Worth and Amarillo) have, in unpublished decisions, extended the rationale in *Green* to allow for the consideration of testimony at a suppression hearing that an error in the supporting probable cause affidavit was a typographical error. This court adopts the rationale of its sister courts

and concludes that the trial court properly allowed testimony from officers at the suppression hearing to explain why the “11:59 a.m.” notation on the probable cause affidavit was a typographical error.

One justice concurred in the judgment, but would find the four corners of the affidavit in this case sufficient to support the search warrant. According to the concurring opinion, allowing oral testimony to supplement the affidavit at a suppression hearing opens the door to further testimonial correction of affidavits beyond clerical errors; such a procedure could be prone to abuse.

(See the December 2016 issue of *The Recorder* for the rest of the FY17 case law and attorney general opinion update)

Impaired Driving Symposium

July 24-25, 2017
Hyatt Regency Lost Pines Resort
Cedar Creek

This joint program brings together judges of all levels to discuss impaired driving issues. Most importantly, this conference provides an opportunity to discuss these issues with fellow judges in order to better understand roles and responsibilities when dealing with an impaired driving case.

This symposium is only for judges and will count for eight hours of judicial education credit as well as CLE credit.

The symposium will be held at the Hyatt Regency Lost Pines Resort, Cedar Creek on July 24-25, 2017. Email tmcec@tmcec.com for a registration form. A limited amount of travel funds are available to reimburse participants.





defendants to make court ordered payments? After all, incarceration of individuals for nonpayment of fines dates back to the Twelve Tables of Rome and the Law of Moses. Prior to *Tate v. Short*, all 50 states were imprisoning indigent offenders.²

Tate v. Short established “alternative means” in such situations and Texas courts have continued to change, improve, and adapt their implementations of *Tate* to include the use of payment plans and community service. Since communities vary in size, needs, and resources, municipal courts in Texas have taken a wide range of approaches when establishing community service programs and options for indigent offenders.

Suggested Practices

When developing a list of best practices, it is important to keep community service completion as the central goal. The intention of community service is multi-faceted; for instance, it is capable of bettering the community, rehabilitating offenders, and avoiding jailing of individuals who are willing to cooperate. However, none of these goals are capable of fruition if the vast majority of indigent offenders fail to complete their required hours.

Clear Communication - The majority of offenders faced with the opportunity to perform community service in lieu of paying a fine and court costs they cannot afford want to successfully complete their required hours. A challenge these offenders face is finding themselves in a court system they have either never encountered before or simply do not understand. It is important for a court to mitigate these anxieties and present community service information that is straightforward and easy to navigate. This includes ensuring staff is available to assist offenders in understanding requirements and expectations. Ideally, the vast amount of communication will happen on the front-end of the program. For instance, the Hurst Municipal Court requires offenders to attend an orientation prior to beginning their community service hours. This orientation introduces participants to the guidelines and requirements and offers a setting for them to ask questions.

Another illustration of clear communication implemented by the Hurst Municipal Court is providing offenders with an exhaustive list of service opportunities. Many courts that outsource their community service have adopted this practice; however, the Hurst Municipal Court includes not only the contact information for service options, but also guidelines for each organization. For example, some organizations may not accept offenders facing charges involving moral turpitude, or they may require individuals to be able to perform specific physical duties. If the court does some of the research and “leg-work,” defendants spend less time contacting organizations who are ultimately unwilling to supervise their community service.

Creating a list of local service opportunities may seem like a simple task, but the challenge is creating an effective, up-to-date, and accurate list. In order to compile such a list, a court needs to build relationships with community organizations willing to accept offenders. Without such relationships, a defendant faces the challenge of finding a legitimate opportunity in a slew of potential non-profits and government agencies. Ideally, a court will be able to compile data from their existing community service options and present organizations with the benefits of supervising. For instance, a court’s estimation of how many offenders and

A justice or judge may require a defendant who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs, to discharge all or part of the fine or costs by performing community service.

*Article 45.049,
Code of Criminal Procedure*

approximate hours of service would reach their organization offers a non-profit incentive to work together. The more challenging aspect of this practice is building relationships with organizations willing to accept special populations, such as minors, seniors, individuals with disabilities, or those with extensive criminal backgrounds. Courts must actively seek opportunities for these populations and take the time and effort to build meaningful relationships.

Establishing Checks - In addition to helping offenders locate opportunities, building relationships helps courts establish checks within their community service systems. By law, organizations are required to supervise defendants while performing community service.³ If a court is able to build relationships with these organizations, they will be more likely to receive cooperation when it comes to supervision. Unfortunately, any program runs the risk of fraud, but with the cooperation of all involved parties, there are ways to establish helpful checks. A suggested practice would be to work with respective organizations to establish a specific person who is responsible for signing off on offenders' hours. A court would then have one specific point of contact to refer to if any questions should arise (i.e., whether or not the signature is legitimate, what specific type of service was completed, etc.).

The justice or judge may order the defendant to perform community service work ... only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under this article to perform community service must agree to supervise the defendant. ...

*Article 45.049,
Code of Criminal Procedure*

Meaningful Orders - Texas law states that a judge may not order a defendant to perform more than 16 hours per week of community service, unless more than 16 hours does not create a hardship.⁴ However, in seeking cooperation from offenders, courts must keep in mind that community service must not create an undue hardship and that the term "undue hardship" should be applied in an individualistic manner. A judge should consider and incorporate defendants' circumstances to make orders meaningful and realistic for individual defendants. Perhaps much less than 16 hours a week is a reasonable and achievable order for a defendant who is working two jobs and caring for children. How many hours could this defendant realistically devote to community service? In some situations, even committing to a few hours a week requires significant sacrifice from a defendant. For other defendants if ordered 16 hours per week, they would never successfully satisfy the order, frustrating the intentions and impeding the goals of community service.

Location should also be considered when determining a meaningful order. For instance, Presiding Judge Ed Spillane in College Station is often willing to approve community service close to a defendant's home if they do not have reliable transportation. Other courts approve community service in other localities if the offender lives elsewhere. There is no requirement in the law that community service be completed in the court's jurisdictional boundaries.

By considering the defendant's ability to complete the order's requirements, the court not only creates community service success, but builds an understanding and open relationship with offenders. In turn, this improves cooperation.

Determining a Structure - Under Texas law, a court must specify the number of hours of service required from an indigent defendant to discharge fines and costs.⁵ Additionally, required hours must be completed within a governmental entity or a non-profit organization that provides services to the general public that enhance social welfare and the general well-being of the community. The government entity or non-profit organization the defendant completes his or her required hours with must agree to supervise the defendant in the per-

formance of the defendant's work.⁵ Such guidelines allow courts to determine whether an in-house program, outsourced options, or a mixed system, would best incorporate their resources and community's needs.

Remember to report to your council and community the number of hours completed and the labor value of this work.

An in-house community service program involves projects associated with the municipal court or city entity. For example, the San Antonio Municipal Court highly recommends indigent offenders take advantage of service opportunities in their Parks and Recreation Department. Projects such as San Angelo's community garden, which establishes a source of food for local families in need, also serves as a way for indigent offenders to satisfy their judgments.⁷ In-house community service programs allow for direct supervision of offenders by a city entity and provide the city with the opportunity to directly interact with and improve their communities.

Due to potential costs and required resources associated with in-house programs, many courts have chosen to rely on outsourced community service options. One reason for this may simply be the small number of indigent offenders some courts see on a regular basis. For instance, Presiding Judge Kevin Madison in Lakeway has found it most cost-effective to refer offenders to local non-profit agencies as opposed to employing a case manager to handle community service. The cost of managing an in-house program would outweigh the benefits in Lakeway. Courts that have opted for outsourcing community service leave the responsibility of finding eligible non-profits to the defendant. Some courts provide a list of pre-approved entities and organizations.

Other courts have chosen a mixed approach: a system that gives offenders the option of completing court-ordered community service within a governmental agency or seek a judge's approval for serving a local non-profit. Dallas Municipal Court, for example, refers defendants to the Volunteer Center of North Texas to locate non-profit organizations; however, for certain citations, Court and Detention Services can also grant offenders the ability to work at participating Dallas governmental facilities. Such opportunities can be approved by a clerk up to a certain amount, but must be served on consecutive days.

Whether using an in-house program, outsourced options, or a mixed system, municipal courts around Texas need to be flexible and creative in order to best serve their communities and utilize available resources.

Community Service for Minors and Children - When dealing with minors and children, community service can fulfill multiple roles. First, in the same way that community service operates as an alternative mean for indigent offenders to discharge fines and costs, community service is also available to children as an alternative mean to discharge their sentences.⁸ Second, many substance-related status offenses, like minor alcohol offenses, require alcohol-related community service to be incorporated as a mandatory remedial measure into the sentence upon conviction or into the order granting deferred disposition.⁹ Community service for minors is more broadly defined in Texas law as, for example, it allows credit for tutoring; this allows courts to adapt programs to include community opportunities, best-utilize resources, and confront the offender's specific rehabilitative needs.

An example of successful community service options for juvenile and minor offenders facing substance-related offenses is College Station Municipal Court's use of the Victim Impact Panel (VIP) program in cooperation with Mothers Against Drunk Driving (MADD).¹⁰ Minors with alcohol-related offenses are required to attend the hour-long VIP program, which is held nearly monthly. The goal of the VIP program is to rehabilitate offenders and help them avoid more serious substance-related crimes, such as getting behind the wheel of a car while under the influence. Approving community service options through non-profit organizations such as Carpool, a Texas A&M University student-run rideshare organization, MADD, and an in-house city initiatives

clean-up efforts surrounding their bar district, the College Station Municipal Court continues to improve and adapt options for offenders by keeping their community and rehabilitative purpose as a focus of their program.

Potential Problem Areas

Community service is sometimes required to do justice (indigent defendants) and is other times required because of the offense (minors and children). Courts across the state experience similar potential challenges and pitfalls.

Lack of Resources - Many argue that community service success requires extensive resources, but it can alternatively be argued that community service success requires creativity, time, and effort. Creativity, time, and effort are all non-monetary and reproducible regardless of resource restraints. In an attempt to shift the former line of thinking, a court must consider what successful community service can provide for its city, instead of only considering what the necessity of community service requires from its city. For instance, although a seemingly lack luster, common, and catch-all service opportunity, many courts find trash pick-up or graffiti clean-up to be an inexpensive project for offenders. City clean-up initiatives should not be written off because they are not innovative. Such projects require few resources and do improve communities. For years, it has been posed that community cleanliness reduces crime.¹¹ By improving morale, increasing citizens' pride in their communities, and reducing fear of crime, clean-up initiatives serve an important role in communities and are a cost-effective opportunity for offenders.

The Fear of Alleged Bias - The importance of public perceptions extends to the implementation of community service. Although community service orders should be implemented on a case-by-case basis and should leave room for accommodations to improve compliance, they must still comply with Texas law and should use some form of pre-calculation in order to eliminate potential allegations of bias or favoritism.¹²

The Use of Religious Organizations - Are religious organizations acceptable when referring offenders to potential service opportunities? The question arises out of fear of creating a gray area between church and state. However, if a religious organization is providing service to the general public and enhancing social welfare and general well-being of the community, why would the organization not be acceptable? Consider that Texas law leaves the definition of community service as broad as reasonably acceptable and that many courts are searching for service opportunities. It becomes difficult to argue that local religious organizations are off-limits. In fact, would it be discriminatory to completely disapprove of a non-profit as a community service option based merely on their religious affiliation (assuming their service projects were bettering the local community and not just the congregation)? If choosing to approve community service for religious organizations, courts need to establish what types of service for these organizations are acceptable. It is obviously unconstitutional to order an offender to practice a specific religion (i.e., attend services, pass out informational pamphlets regarding a religion, etc.), but serving in a church's food pantry that serves the local community (not just congregants) does not run afoul of the Constitution. Religious organizations are exemplary resources when seeking opportunities for offenders, and may be more accepting of special populations.

Conclusion

Community service is a statutory necessity in Texas municipal courts that deserves attention. Community service programs must continue to evolve to meet the needs of communities and remain resourceful for courts and reasonable for offenders. Although not simple, a balance of priorities, creativity, building relationships with local organizations, and establishing clear communication with defendants are ideal places to start when

aiming to improve community service programs.

Need help locating a Non-Profit?
Go to <http://501c3lookup.org>

1. *Tate v. Short*, 401 U.S. 395 (1971).
2. See, Derek Weston, "Fines, Imprisonment, and the Poor: Thirty Dollars or Thirty Days" *California Law Review*, Vol. 57, No. 3 (May 1969).
3. Section 45.049(c), Code of Criminal Procedure.
4. Section 45.049(d), Code of Criminal Procedure.
5. Article 45.049(b), Code of Criminal Procedure.
6. Article 45.049(c), Code of Criminal Procedure.
7. For further discussion of San Angelo's community garden, see Ryan Kellus Turner, "Serving the Community while Avoiding Getting Served," *Municipal Court Recorder*, Vol. 13, No. 4 (March 2004).
8. Under Article 45.0492, courts do not have to consider an ability to pay before ordering community service for children. The mere fact that the defendant is a child allows a judge to order the discharge of fines and costs through community service.
9. Section 106.071(e), Alcoholic Beverage Code, requires that community service ordered must be related to education about or prevention of misuse of alcohol or drugs, or that is appropriate for rehabilitative purposes.
10. Find a MADD Victim Impact Panel, www.madd.org/victim-impact-panels/.
11. See, Bernard E. Harcourt & Jens Ludwig, "Broken Windows: New Evidence from New York City and a Five-City Social Experiment" *University of Chicago Law Review*, Vol. 73, No. 271 (2006).
12. Canons 3(B)(5), 3(B)(6), Code of Judicial Conduct.

Truancy Prevention and Intervention Funding Opportunity to Fund Juvenile Case Managers Programs

The Criminal Justice Division of the Office of the Governor wishes to remind all truancy prevention stakeholders of the available funding for costs associated with juvenile case managers. A request for applications for the Truancy Prevention and Intervention (TPI) Program is currently active and seeks to award up to \$6 million for projects beginning as early as May 1, 2017. Applications must be submitted and certified in the *eGrants* system (<http://eGrants.gov.texas.gov>) by **February 20, 2017** to be considered for funding.

TPI Program grants may be used to hire juvenile case managers to provide truancy prevention and intervention services. Priority for grant awards shall be given to justice, municipal, and constitutional county courts that are authorized under Sec. 65.004, Texas Family Code, to exercise jurisdiction over cases involving allegations of truant conduct (truancy courts), that are requesting funds to establish a new juvenile case manager in a jurisdiction that does not already have a juvenile case manager.

More information, including authorized and unauthorized uses of funds, can be found on the Office of the Governor's *eGrants* grant application and management website as well as the TMCEC website: <http://tmcec.com/programs/jcm/>. The full funding announcement can be found at https://egrants.gov.texas.gov/FileDirectory/TP-Truancy_Prevention_Announce-com_PY18.pdf.

Questions regarding this grant program should be directed to Andrew Friedrichs at 512.463.8232 or Andrew.Friedrichs@gov.texas.gov.

SERVICE ANIMALS AND THE COURTS

Deborah Smith, Senior Knowledge and Information Services Analyst,
National Center for State Courts



The Americans with Disabilities Act provides for the use of service animals, but not “emotional-support” animals. What provisions must courts make when members of the public or employees request to bring a service or emotional-support animal to court?

Access and Service Animals

The right of access to the courts falls under the Title II Public Services Section A of the Americans with Disabilities Act (ADA). Title II of the ADA also ensures that the earlier nondiscrimination requirements of Section 504 of the Rehabilitation Act of 1973, which applied to public entities receiving federal financial assistance, now apply to all state public entities, including courts. States are not immune from lawsuits under Title II and may also have disability-rights legislation or court rules that are broader than Title II.

The final ADA Title II revised regulations went into effect in March 2011. These regulations permit service animals. Most states also have regulations that apply to service animals. If state laws or regulations are broader than the ADA, those would also apply, but state regulations cannot place limits on ADA regulations. Under the ADA, service animals are defined as “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability” (28 CFR 35.104 Definitions). While only dogs are included under the definition, a special provision makes an exception for miniature horses in certain cases (28 CFR 35.136 (i)). Under Department of Justice (DOJ) regulations, public entities can only ask two questions—“if the animal is required because of a disability and what work or task the animal has been trained to perform.” The entity cannot ask about the “nature or extent of a person’s disability” (28 C.F.R. § 36.302(c)(6)).

The ADA does not allow for emotional-support animals. Emotional-support animals that are used just for psychiatric support are different from a service animal, which helps “persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors” (28 CFR 35.104 Definitions). So, while a comfort dog that only provides emotional support is not allowed under the ADA, an animal that has been trained to perform specific tasks, including preventing epileptic seizures or interrupting behaviors that the individual has trouble controlling, is allowed. Examples of alert training might include nudging the person or walking around the person in a circle. However, even if an animal qualifies as a service animal, a public entity can ask them to leave if the animal is not housebroken or is out of control (28 C.F.R. §35.136).

A broader definition that includes assistance animals used for emotional support is applied to Section 504, the Fair Housing Act (FHA), and the Air Carrier Access Act (ACAA). Courts that receive federal funding are covered by both the ADA and Section 504, but the broader definition has only been applied in housing cases.

The DOJ has released FAQs about “Service Animals and the ADA,” which explain the difference between an emotional-support animal and a service animal. If someone is having an anxiety attack, and the animal helps to calm them, that is an emotional-support animal and not covered by the ADA. If the animal has been trained to sense that an attack is imminent and can take an action to help avoid or reduce the attack, then the animal qualifies as a service animal. Since the public entity can only ask if the animal is required because of a disability and what the animal has been trained to do, this may be a difficult determination for a frontline court employee. Service animals do not have to be trained by a professional, so the individual with the disability may have trained their own service animal. The ADA does not cover service animals that are still

being trained; however, some states provide coverage under state statutes. Staff may not ask for certification, and the animal is not required to wear special tags, vests, or harnesses.

DOJ regulations once limited service-animal species to dogs that were individually trained to perform work for persons with disabilities, but the final revised regulations include a special provision for miniature horses. Many advocacy organizations provided input on why to include miniature horses—for example, severe allergies to dogs, fear of dogs, longevity (miniature horses can live 30 years), strength (horses can pull a wheel chair), sharp eyesight, and calm nature. Miniature horses are about the size of a large dog and have been used in other venues, such as schools. Four factors are used to determine if a miniature horse must be accommodated (28 CFR 35.136 Service Animals): 1) Is the animal housebroken? 2) Is the animal under the owner’s control? 3) Can the facility accommodate the type, size, and weight (usually 70-100 pounds, similar to a large dog)? 4) Is there a legitimate public safety concern?

Emotional-support or therapy animals are used in several courts in California, Colorado, Florida, Maryland, Michigan, Pennsylvania, and Washington State. Statutory authority exists in some but not all of these states. Typically, these programs are started by the prosecuting attorney’s office to provide support for child witnesses who have been traumatized. Veterans courts have also begun to recognize the therapeutic benefits of emotional-support animals. Courts that allow or even encourage the use of emotional-support/therapy dogs for the benefit of victims or litigants are not dealing with ADA or Section 504 issues.

Service Animals and Court Employment (Title I)

Title I of the ADA covers all court employment practices, including application, promotion, testing, medical examinations, hiring assignments, layoff/recall, evaluation, termination, disciplinary actions, compensation, training, and leave/benefits. Title I does not define “service animal.” The miniature-horse exception only specifically applies to Titles II and III. Under Title I, an employee can request to bring a service animal as a reasonable accommodation. This leaves open the possibility that an emotional-support animal could be considered a reasonable accommodation. The analysis goes back to whether the employee has a disability (which is to be construed broadly). The Americans with Disabilities Act Amendments Act of 2008 (ADAAA) and the Equal Employment Office Commission Regulations define a disability using a three-pronged approach:

- a physical or mental impairment that substantially limits one or more major life activities (sometimes referred to in the regulations as an “actual disability”);
- a record of a physical or mental impairment that substantially limited a major life activity (“record of”); or
- when a covered entity takes an action prohibited by the ADA because of an actual or perceived impairment that is not both transitory and minor (“regarded as”) (29 CFR, Section 1630.2(g)).

If an employee is only covered under the “regarded as” part of the definition, the employee cannot request a reasonable accommodation. This third prong applies to other aspects of the employment relationship, such as hiring, promoting, harassment, or firing. If an employee has a disability under the first or second prong of the definition, he or she may request a service animal as a reasonable accommodation. This does not preclude the employee from asking for an emotional-support animal as a reasonable accommodation. Employers are not automatically required to allow the request for a service animal if the animal is not needed or if the animal causes a disruption in the workplace. The employer can request reasonable documentation that the accommodation is needed. This documentation does not necessarily have to come from a doctor. The employee must show the need for the accommodation, that the animal is trained to provide the needed assistance, and that the animal will not disrupt the workplace. The service animal may be necessary to assist with a medical problem, such as diabetes or epilepsy. This is the employee’s personal decision, so the employer must accommodate this medical assistance unless the employer can show an undue hardship. Because Title I does not define “service animal,” the employer must review a request for a service animal or

emotional-support animal in the same way as any other reasonable accommodation for an employee. This could mean that more types or breeds of animals are included under Title I.

Conclusion

Animals can come in contact with courthouses under several different scenarios. Someone may be a witness, a litigant, or an attorney in a court case or may be entering the court to file paperwork. If the person has a disability and the animal is a dog (or, in some situations, a miniature horse) that has been trained to assist the person with specific tasks that address the disability, then the public entity must permit the person to be accompanied by the service animal under Title II of the ADA. Animals that are not housebroken or are out of control may be excluded. Court employees, including judges, may request bringing an animal to work with them as a reasonable accommodation under Title I of the ADA. These requests are treated as any other request for a reasonable accommodation and must be allowed if the animal is needed by the employee, has been trained, and does not disrupt the workplace. The reasonable accommodation under Title I may include animals that are not included under the “service animal” definition of Title II. Some courts may allow programs that provide emotional-support animals to help calm child victims while they testify. These animals are provided as a service by the court and are not covered by the ADA or Section 504.

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Texas Law: Assistance Animals

Under Texas law, courts must permit individuals with assistance animals to enter anywhere the public is allowed to go if both the individual and the animal meet the definitions in Section 121.002 of the Human Resources Code. No person with a disability may be denied admittance to any public facility in the state because of their disability. Subsection 121.003(c), Human Resources Code. Nor may they be denied the use of an assistance animal. *Id.* An assistance animal (or service animal) is defined as “a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability.” Section 121.002, Human Resources Code. “Person with a disability” is defined as a person who has (1) a mental or physical disability; (2) an intellectual or developmental disability; (3) a hearing impairment; (4) deafness; (5) a speech impairment; (6) a visual impairment; (6) post-traumatic stress disorder; or (7) any health impairment that requires special ambulatory devices or services. *Id.* A public facility includes “a public building maintained by any unit or subdivision of government.” *Id.*

If a person’s disability is not readily apparent, court staff may inquire about whether the service animal is required because the person has a disability and what type of work or task the service animal is trained to perform. Subsection 121.003(l), Human Resources Code. Court staff may not otherwise make demands or inquiries related to the qualifications or certifications of a service animal except to determine the basic type of assistance provided by the service animal. Subsection 121.003(k), Human Resources Code.

Denying admittance or use of an assistance animal constitutes discrimination and is a misdemeanor punishable by a fine of not more than \$300 and 30 hours of community service. Section 121.004, Human Resources Code. In addition, a violator is deemed to have deprived the person with a disability of his or her civil liberties. *Id.* A person so deprived may maintain a cause of action for damages. *Id.*

ETHICS UPDATE

EXAMPLES OF IMPROPER JUDICIAL CONDUCT

The following are examples of judicial misconduct that resulted in disciplinary action by the Commission in fiscal year 2016. These are illustrative examples of misconduct and may not represent every disciplinary action taken by the Commission in fiscal year 2016. The summaries below are listed in relation to specific violations of the Texas Code of Judicial Conduct, the Texas Constitution, and other statutes or rules. They are also listed in descending order of the severity of the disciplinary action imposed, and may involve more than one violation. The full text of any public sanction is published on the Commission website. A copy of any public disciplinary record may also be requested by contacting the Commission.

These sanction summaries are provided with the intent to educate and inform the judiciary and the public regarding misconduct that the Commission found to warrant disciplinary action in fiscal year 2016. The reader should note that the summaries provide only general information and may omit mitigating or aggravating facts that the Commission considered when determining the level of sanction to be imposed. Additionally, the reader should not make any inference from the fact situations provided in these summaries.

It is important to remember that the purpose of judicial discipline is not to punish the judge for engaging in misconduct but to protect the public by alerting them that conduct that violates the public trust will not be condoned. However, the reader should note that not every transgression reported to the Commission will, or should, result in disciplinary action. The Commission has broad discretion to determine whether disciplinary action is appropriate, and the degree of discipline to be imposed. Factors such as the seriousness of the transgression, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system, will inform and impact the Commission's decision in each case. It is the Commission's sincere desire that providing this information will protect and preserve the public's confidence in the competence, integrity, impartiality, and independence of the judiciary and further assist the judiciary in establishing, maintaining and enforcing the highest standards of conduct — both on the bench and in their personal lives.

CANON 2A: A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

- Among other misconduct, the judge failed to comply with the law and failed to maintain professional competence in the law by (a) failing to immediately transfer his own divorce case out of his court, (b) filing motions in his own court in connection with his pending divorce action, (c) failing to timely rule on or refer recusal motions, and (d) attempting to intervene in proceedings relating to his own recusal by having an attorney file motions asking the judges presiding over the recusals to reconsider their decisions or grant a new trial. [Violation of Canons 2A, 2B, 3B(1), 3B(2) and 3B(5) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Reprimand and Order of Additional Education of a District Court Judge.* (02/25/16)
- The judge failed to comply with the law and failed to maintain professional competence in the law when, after a bench trial, he (a) took the case under advisement, (b) entered a written judgment that was inconsistent with the amount of damages sought and presented at trial, (c) failed to provide notice of the entry of the lower judgment amount to the parties, (d) failed to afford the parties an opportunity to be heard on the legal issue that resulted in the lower judgment amount, and (e) failed to announce the final judgment in open court as required by law. [Violation of Canons 2A, 3B(2) and 3B(8) of the Texas Code of Judicial Conduct.] *Public Admonition and Order of Additional Education of a Justice of the Peace.* (01/28/16)

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- The judge failed to comply with the law, failed to maintain professional competence in the law, and failed to show proper deference to appellate court decisions by persistently failing to follow clear directives issued by the appellate court. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Private Reprimand and Order of Additional Education of a County Court at Law Judge.* (04/19/16)
 - The judge failed to comply with the law and demonstrated a lack of professional competence in the law by enforcing local rules that unfairly punished defendants for the dilatory conduct of their attorneys and by enforcing such rules in an unreasonable, inconsistent, arbitrary, and inflexible manner. The judge also failed to comply with the law and demonstrated a lack of professional competence in the law by intervening in the judge's own recusal. [Violation of Canons 2A, 3B(2) and 3B(8) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Municipal Court Judge.* (09/01/15)
 - The judge failed to follow the law and demonstrated a lack of professional competence in the law by denying litigants and members of the public, including Commission staff, access to the courtroom while judicial proceedings were taking place. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace.* (11/06/15)
 - The judge failed to comply with the law and demonstrated a lack of professional competence in the law by temporarily barring a Community Supervisions Officer from attending court proceedings in his court. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a County Judge.* (03/07/16)
 - The judge failed to comply with the law and demonstrated a lack of professional competence in the law to the extent that the judge used the peace bond process to improperly enjoin a litigant from exercising her rights to free speech under the United States and Texas Constitutions. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace.* (03/29/16)
 - The judge failed to comply with the law by driving while intoxicated, a criminal offense to which she later pled guilty. [Violation of Canon 2A of the Texas Code of Judicial Conduct.] *Private Warning of a Former Associate Judge.* (05/02/16)
 - The judges failed to comply with the law when they participated in proceedings relating to their own recusals by having attorneys attempt to depose the State's attorneys and actively challenge the State's efforts to have them recused. The judges pursued the challenge to the recusal motions out of a fear that their reputations would be harmed by false allegations set forth in the motions. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warnings of a Municipal Court Judge and a Former Municipal Court Judge.* (08/26/16)
 - The judge failed to comply with the law and demonstrated a lack of professional competence in the law when she summoned two witnesses to court using writs of attachment and punished the witnesses with incarceration for violating her orders despite the fact that the witnesses were no longer subject to active subpoenas after the trial date in the case had been continued. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a District Court Judge.* (08/05/16)
 - The judge failed to comply with the law and failed to maintain professional competence in the law by not accepting a letter as a plea of not guilty and instead instructing the defendant that the only option to resolve outstanding warrants was to pay the fines and costs. The letters between the judge and the defendant, which were not shared with the prosecutor, constituted improper ex parte communications concerning the merits of the pending case. [Violation of Canons 2A, 3B(2) and 6C(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education to a Justice of the Peace.* (07/13/16)

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- The judge failed to comply with the law and failed to maintain professional competence in the law by not securing a written jury trial waiver from a litigant or creating a contemporaneous record indicating that the litigant knowingly and voluntarily waived the right orally. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Municipal Court Judge.* (07/18/16)

CANON 2B: A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge.

- The judge failed to comply with the law by driving while intoxicated, a criminal offense to which he entered a plea of “no contest.” Although the judge insisted that he was not looking for special treatment during the traffic stop, the numerous invocations of his judicial position would lead a reasonable person to conclude that he was trying to influence the officer’s investigation. [Violation of Canons 2A and 2B of the Texas Code of Judicial Conduct.] *Public Admonition and Order of Additional Education of a County Court at Law Judge.* (07/12/16)
- The judge’s email to a colleague presiding over a custody case involving members of the judge’s own family constituted an improper use of the prestige of judicial office to advance the private interests of the judge’s family and raised concerns that the judge was using the prestige of judicial office to influence another judge to rule favorably on a pending motion. [Violation of Canon 2B of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional Education of a District Court Judge.* (09/10/15)
- The judge failed to maintain professional competence in the law, allowed a family member’s relationship to influence the judge’s judgment and conduct, acted with bias toward the family member, and took action in a judicial proceeding in which the judge was disqualified by law when the judge: (1) magistrated the family member; (2) issued the family member a PR bond and (3) secured the family member’s release after 5:00 p.m. without the Sheriff’s authorization. [Violation of Canons 2A, 2B, 3B(1), 3B(2) and 3B(5) of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional Education of a Justice of Peace.* (07/28/16)
- The judge lent the prestige of judicial office to advance the private interests of a defendant by permitting court staff to send letters and other communications to another judge in a manner that was perceived by the recipient as an improper attempt to obtain favorable or special treatment for the defendant. [Violation of Canon 2B of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a District Court Judge.* (03/09/16)

CANON 3B(3): A judge shall require order and decorum in proceedings before the judge.

- The judge’s policy and practice of handling litigants whose cell phones go off in court failed to maintain proper courtroom decorum and failed to treat individuals with the appropriate dignity and courtesy required of a judicial officer. [Violation of Canons 3B(3) and 3B(4) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a County Court at Law Judge.* (04/25/16)

CANON 3B(4): A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge’s direction and control.

- Among other misconduct, the judge failed to treat litigants and others with the dignity and courtesy expected of a judicial officer due to his frequent and extended absences from the court, which also interfered with the proper performance of his judicial duties. [Violation of Canons 2A, 3B(2), and 3B(4) of the

Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Reprimand of a Former Justice of the Peace.* (02/29/16)

- Among other misconduct, the judge failed to treat a litigant with the requisite dignity and courtesy expected of a judicial officer when he left her a voicemail message that any reasonable person would find threatening, intimidating, and harassing. [Violation of Canons 2A, 3B(2), 3B(4) and 6C(2) of the Texas Code of Judicial Conduct.] *Public Reprimand of a Municipal Court Judge.* (07/18/16)
- The judge failed to be patient, dignified, and courteous toward litigants and failed to afford these litigants the right to be heard according to law. [Violation of Canons 3B(4) and 3B(8) of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional Education of a Municipal Court Judge.* (09/21/15)
- The judge failed to treat an attorney and his client with the patience, dignity and courtesy expected of a judicial officer. Additionally, the judge's private, in-chambers meeting with the victim in the case raised questions that the judge might be unduly influenced or swayed by information obtained through such an improper independent investigation. [Violation of Canons 2A, 3B(4) and 3B(8) of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional Education of a District Court Judge.* (02/23/16)

CANON 3B(10): A judge shall abstain from public comment about a pending or impending proceeding which may come before the judge's court in a manner which suggests to a reasonable person the judge's probable decision on any particular case.

- The judge undermined the public's confidence in her impartiality and independence by defending her rulings in the press, giving rise to a legitimate concern that she would not be fair or impartial in other cases involving victims of sexual assault. The judge's reckless and inaccurate public statements about the victim re-victimized her and other victims of sexual assault, undermined public confidence in the judiciary, and cast public discredit upon the administration of justice. [Violation of Canon 3B(10) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Warning and Order of Additional Education of a District Court Judge.* (09/05/15)

CANON 4A(1) and (2): A judge shall conduct all of the judge's extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as a judge; or interfere with the proper performance of judicial duties.

- The judge sent an email to the local county party chair offering a "win/win solution" that purported to confer benefits of legal impunity, paid legal expenses, and political endorsement in return for her opponent's withdrawal of a legal challenge to the judge's candidacy. In a Facebook post about her opponent, the judge used offensive or profane terms that cast public discredit upon the judiciary and cast doubt on her capacity to act impartially as a judge. [Violations of Canons 2A and 4A(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Warning and Order of Additional Education of a Justice of the Peace.* (09/22/15)
- The judge used public resources to retaliate against a political opponent and to pressure colleagues into interceding on the judge's behalf in the opponent's political campaign. The judge's conduct toward the political opponent outweighed any matters of legitimate public concern raised by the judge in a press conference, described by the media as "bizarre," and undermined public confidence in the judiciary and administration of justice. [Violation of Canons 2A, 2B, 3B(2), 3B(4) and 4A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Private Reprimand of a District Court Judge.* (09/01/15)
- The judge lent the prestige of judicial office to advance the private interests of a particular advocacy group and engaged in extra-judicial conduct that raised a question as to the judge's capacity to be fair and impartial by refusing to remove the courtroom display of an award received from the organization after defense attorneys

complained and other judges expressed that the display was problematic. [Violation of Canons 2B and 4A(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Private Admonition of a County Criminal Court at Law Judge.* (02/19/16)

CANON 4D(2): A judge shall not be an officer, director or manager of a publicly owned business. For purposes of this Canon, a “publicly owned business” is a business having more than ten owners who are not related to the judge by consanguinity or affinity within the third degree of relationship.

- Among other misconduct, the judge allowed his name and judicial title to be used to promote the private interests of a local bank and continued to serve as a director of the bank, a publicly owned business, after he assumed the bench. [Violation of Canons 2A, 2B, 3B(1), 3B(2), 3B(4), 3B(5), 3B(8), 3B(10), and 4D(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Reprimand of a District Court Judge.* (09/05/15)

CANON 5(2): A judge or judicial candidate shall not authorize the public use of his or her name endorsing another candidate for any public office, except that either may indicate support for a political party. A judge or judicial candidate may attend political events and express his or her views on political matters in accord with this Canon and Canon 3B(10).

- The judge authorized candidates to use the judge’s name and judicial title in campaign literature that constituted public endorsements of various candidates for public office. [Violation of Canon 5(2) of the Texas Code of Judicial Conduct.] *Private Warning of a Former County Judge.* (11/06/15)

ARTICLE V, §1-a(6)A: A judge may be disciplined for willful or persistent violation of the rules promulgated by the Supreme Court of Texas, willful violation of the Code of Judicial Conduct, incompetence in performing the duties of office, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or the administration of justice.

- The judge failed to comply with the law and failed to maintain professional competence in the law by failing to review plea paperwork from the special prosecutor and by approving pleas that assessed fines that exceeded amounts allowed by law. The judge’s acceptance of the special prosecutor’s assurances that the pleas and fines were legal, even after concerns about the prosecutor’s plea practice had been brought to his attention by the Commission in its investigation of earlier complaints, was inconsistent with the proper performance of his judicial duties and cast public discredit upon the judiciary and the administration of justice. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Warning and Order of Additional Education of a County Judge.* (02/29/16)
- The judge’s attempt to pull over a motorist for reckless driving and his threats to have the motorist incarcerated without legal justification for alleged contempt of court occurring outside the courtroom (and outside the county) demonstrated a failure to comply with the law, a failure to maintain professional competence in the law, and cast public discredit upon the judiciary and the administration of justice. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Warning and Order of Additional Education of a Justice of the Peace.* (03/03/16)
- The judge engaged in willful conduct that was inconsistent with the proper performance of his duties and cast public discredit upon the judiciary and the administration of justice when, in the absence of any legal authority, he ordered a defendant to get married and to write Bible verses as a condition of probation in lieu of serving time in jail. [Violation of Article V, §1-a(6)A of the Texas Constitution.] *Private Admonition of a County Court at Law Judge.* (03/07/16)

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TRAFFIC SAFETY UPDATE



DrugFacts

www.drugabuse.gov

Use of illicit¹ drugs or misuse of prescription drugs can make driving a car unsafe—just like driving after drinking alcohol. Drugged driving puts the driver, passengers, and others who share the road at risk.

Why is drugged driving dangerous?

The effects of specific drugs differ depending on how they act in the brain. For example, marijuana can slow reaction time, impair judgment of time and distance, and decrease coordination. Drivers who have used cocaine or methamphetamine can be aggressive and reckless when driving. Certain kinds of sedatives, called benzodiazepines, can cause dizziness and drowsiness. All of these impairments can lead to vehicle crashes.

Research studies have shown negative effects of marijuana on drivers, including an increase in lane weaving, poor reaction time, and altered attention to the road. Use of alcohol with marijuana made drivers more impaired, causing even more lane weaving.²

It is difficult to determine how specific drugs affect driving because people tend to mix various substances, including alcohol. But we do know that even small amounts of some drugs can have a measurable effect. As a result, some states have zero-tolerance laws for drugged driving. This means a person can face charges for driving under the influence (DUI) if there is *any* amount of drug in the blood or urine. It's important to note that many states are waiting for research to better define blood levels that indicate impairment, such as those they use with alcohol.

Read more about other commonly abused drugs and their health effects, which could impair driving, at www.drugabuse.gov/drugs-abuse/commonly-abused-drugs-charts.

How many people take drugs and drive?

According to the 2014 National Survey on Drug Use and Health (NSDUH), 10 million people aged 12 or older reported driving under the influence of illicit drugs during the year prior to being surveyed.³

NSDUH findings also show that men are more likely than women to drive under the influence of drugs or alcohol. And a higher percentage of young adults aged 18 to 25 drive after taking drugs or drinking than do adults 26 or older.⁴

Which drugs are linked to drugged driving?

After alcohol, marijuana is the drug most often found in the blood of drivers involved in crashes. Tests for detecting marijuana in drivers measure the level of *delta-9-tetrahydrocannabinol* (THC), marijuana's mind-altering ingredient, in the blood. But the role that marijuana plays in crashes is often unclear. THC can be detected in body fluids for days or even weeks after use, and it is often combined with alcohol. The risk associated with marijuana in combination with alcohol, cocaine, or benzodiazepines appears to be greater than that for either drug by itself.⁵

Several studies have shown that drivers with THC in their blood were roughly twice as likely to be responsible for a

deadly crash or be killed than drivers who hadn't used drugs or alcohol.⁶ However, a large NHTSA study found no significant increased crash risk traceable to marijuana after controlling for drivers' age, gender, race, and presence of alcohol.⁷ More research is needed.

Along with marijuana, prescription drugs are also commonly linked to drugged driving crashes. A 2010 nationwide study of deadly crashes found that about 47 percent of drivers who tested positive for drugs had used a prescription drug, compared to 37 percent of those had used marijuana and about 10 percent of those who had used cocaine. The most common prescription drugs found were pain relievers.⁸ However, the study did not distinguish between medically-supervised and illicit use of the prescription drugs.

How often does drugged driving cause crashes?

It's hard to measure how many crashes are caused by drugged driving. This is because:

- a good roadside test for drug levels in the body doesn't yet exist;
- police don't usually test for drugs if drivers have reached an illegal blood alcohol level because there's already enough evidence for a DUI charge; and
- many drivers who cause crashes are found to have both drugs and alcohol or more than one drug in their system, making it hard to know which substance had the greater effect.

One NHTSA study found that in 2009, 18 percent of drivers killed in a crash tested positive for at least one drug.⁹ A 2010 study showed that 11 percent of deadly crashes involved a drugged driver.¹⁰

Why is drugged driving a problem in teens and young adults?

Teen drivers are less experienced and are more likely than older drivers to underestimate or not recognize dangerous situations. They are also more likely to speed and allow less distance between vehicles. When lack of driving experience is combined with drug use, the results can be tragic. Car crashes are the leading cause of death among young people aged 16 to 19 years.¹¹

A 2011 survey of middle and high school students showed that, in the two weeks before the survey, 12 percent of high school seniors had driven after using marijuana, compared to around nine percent who had driven after drinking alcohol.¹²

A study of college students with access to a car found that one in six had driven under the influence of a drug other than alcohol at least once in the past year. Marijuana was the most common drug used, followed by cocaine and prescription pain relievers.¹³

What steps can people take to prevent drugged driving?

Because drugged driving puts people at a higher risk for crashes, public health experts urge people who use drugs and alcohol to develop social strategies to prevent them from getting behind the wheel of a car while impaired. Steps people can take include:

- offering to be a designated driver;
- appointing a designated driver to take all car keys;
- getting a ride to and from parties where there are drugs and alcohol; and
- discussing the risks of drugged driving with friends in advance.

Drugged Driving in Older Adults

- In 2010, more than one-quarter of drugged drivers in deadly crashes were aged 50 years or older.¹⁴
- Illicit drug use in adults aged 50 to 59 has increased, more than doubling from 3 percent in 2002 to 7 percent in 2010.¹⁵
- Mental decline in older adults can lead to taking a prescription drug more or less often than they should or in the wrong amount. Older adults also may not break down the drug in their system as quickly as younger people. These factors can lead to unintended intoxication while behind the wheel of a car.

Points to Remember

- Use of illicit drugs or misuse of prescription drugs can make driving a car unsafe—just like driving after drinking alcohol.
- In 2014, 10 million people aged 12 or older reported driving under the influence of illicit drugs in the past year.
- It's hard to measure how many crashes drugged driving causes.
- After alcohol, marijuana is the drug most often linked to drugged driving.
- In 2010, more than one-quarter of drugged drivers in fatal crashes were aged 50 years or older.
- When lack of driving experience is combined with drug use, the results can be tragic.
- People who use drugs and alcohol should develop social strategies to prevent them from getting behind the wheel of a car while impaired.

Learn More

For more information about drugged driving, visit:

www.drugabuse.gov/related-topics/drugged-driving
www.whitehouse.gov/ondcp/drugged-driving

For more information about marijuana and prescription drug misuse, visit: www.drugabuse.gov/drugs-abuse/marijuana
www.drugabuse.gov/drugs-abuse/prescription-drugs-cold-medicines

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1. "Illicit" refers to use of illegal drugs, including marijuana according to federal law, and misuse of prescription drugs.
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3. Center for Behavioral Health Statistics and Quality (CBHSQ). *Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health.* Rockville, MD: Substance Abuse and Mental Health Services Administration; 2015. HHS Publication No. SMA 15-4927, NSDUH Series H- 50. See also, endnote 1.
4. *Id.*
5. Wilson FA, Stimpson JP, Pagán JA. Fatal crashes from drivers testing positive for drugs in the U.S., 1993- 2010. *Public Health Rep Wash DC* 1974. 2014;129(4):342-350.
6. Biecheler M-B, Peytavin J-F, Facy F, Martineau H. SAM survey on "drugs and fatal accidents": search of substances consumed and comparison between drivers involved under the influence of alcohol or cannabis. *Traffic Inj Prev.* 2008;9(1):11-21. doi:10.1080/15389580701737561. Elvik R. Risk of road accident associated with the use of drugs: a systematic review and meta-analysis of evidence from epidemiological studies. *Accid Anal Prev.* 2013;60:254-267. doi:10.1016/j.aap.2012.06.017. See also, endnote 5.
7. Compton RP, Berning A. *Drug and Alcohol Crash Risk.* Washington, DC: National Highway Traffic Safety Administration; 2015. DOT HA 812 117.
8. See, endnote 5.
9. *Drug Involvement of Fatally Injured Drivers.* Washington, DC: National Highway Traffic Safety Administration; 2010. Drugs include illicit substances and prescription and over-the-counter medicines. The study excluded nicotine, aspirin, alcohol, and drugs given after the crash.
10. See, endnote 5.
11. Teen Drivers: Get the Facts | Motor Vehicle Safety | CDC Injury Center. http://www.cdc.gov/motorvehiclesafety/teen_drivers/teendriv_ers_factsheet.html. Published October 14, 2015. Accessed April 7, 2016.
12. O'Malley PM, Johnston LD. Driving after drug or alcohol use by US high school seniors, 2001-2011. *Am J Public Health.* 2013;103(11):2027-2034. doi:10.2105/AJPH.2013.301246.
13. Arria AM, Caldeira KM, Vincent KB, Garnier-Dykstra LM, O'Grady KE. Substance-related traffic-risk behaviors among college students. *Drug Alcohol Depend.* 2011;118(2-3):306-312. doi:10.1016/j.drugalcdep.2011.04.012.
14. Brady JE, Li G. Trends in Alcohol and Other Drugs Detected in Fatally Injured Drivers in the United States, 1999–2010. *Am J Epidemiol.* January 2014;kw327. doi:10.1093/aje/kwt327.
15. See, endnote 3.

Is Your Court Interested In Preventing Alcohol and Drug Impaired Driving??

TMCEC, through its TxDOT funded Municipal Traffic Safety Initiatives grant, provides courts and cities with FREE resources designed to increase traffic safety and prevent impaired driving. Please visit <http://www.tmcec.com/mtsi> to learn how your court can obtain:

- Anti-DWI brochures, posters, and books
- Notepads, stickers, games, and exercises designed to prevent impaired driving
- Updates on impaired driving legislation in this year's session
- Impairment simulation goggles and DVDs for loan

...**And much more!**

MTSI Impaired Driving DVDs for Loan



TMCEC, through its generous funding from TxDOT, can loan municipal courts in Texas impaired driving DVDs for up to one month. The court is responsible for mailing the DVD back to TMCEC. To order, please contact Ned Minevitz at Ned@tmcec.com or 512.320.8274.

Abusing Over-The-Counter Drugs: Teen drug abuse isn't limited to illicit drugs. Many OTC (over-the-counter) drugs are misused by kids—from cold remedies to pain killers to diet pills. Innocorp (Teen-Adult).

Alcohol and Sex Prescription for Poor Decision Making: This program explores how the use of alcohol clouds thinking, hinders decision-making skills, and creates an unfavorable atmosphere for making healthy decisions. Innocorp (Teen-Adult).

All You Need to Know About Alcohol in 17 Minutes: All types of alcohol-related health problems are reviewed, including addiction, damage to the teen brain and details about fetal alcohol syndrome. Innocorp (Teen-Adult).

Binge Drinking: The Facts: The trend of binge drinking—the intentional consumption of excessive amounts of alcohol—shows no decline in schools and colleges across the country. Innocorp (Teen-Adult).

Brain Scans: Alcohol and the Teenage Brain: This video takes teenagers on a tour of several labs across the country including one at the University of California at San Diego where doctors are researching the effects of alcohol use in teenage brains. Innocorp (Teen-Adult).

Brotherly Love: Brotherly Love is the story of two brothers who worked together, played together, and died together at the hands of a drunk driver. Twenty-three year old George Palmer and twenty-one year old Tom Palmer were driving home one night after helping their grandparents move when the driver of another car crossed the centerline and hit them head-on. This story is about the pain of losing not one but two loved ones, the effect on an entire small community, and the journey of a family struggling to deal with their deaths over two decades after the tragedy occurred. The pain of losing a loved one never goes away. Drunk Busters of America, LLC (Grade 5-Adult).

BSAFE – Battling Substance Abuse for Everyone: This DVD from the Texas Young Lawyer's Association explores the dangers of substance abuse at all ages. (Middle School-Adult).

Buzz in a Bottle: The Dangers of Caffeine-Spiked Energy Drinks: With the lure of an over-the-counter jolt, kids are consuming more energy drinks than ever before and in many cases mixing them with alcohol. Innocorp (Teen-Adult).

Confronting Drunk Driving: Features the true story of Mike Poveromo, a young man who killed his two best friends in a drunk driving car crash when he was a teenager. Human Relations Media (Grade 7-College).

Courage to Live: Featuring a program piloted by Sonoma County Superior Court Judge Gary Nadler on the hazards of drug and alcohol use, this DVD includes candid responses by inmates incarcerated on drug and alcohol charges and shares the story of Brandon, a 17 year-old whose life was forever changed after a tragic accident. National Judicial College (Grade 7-College).

Crossing Deadly Lanes: This graphic program presents a profound reminder against drinking and driving that will inform, sadden, and move viewers, both young and old. Real DUI offenders (with no prior criminal records), judges, lawyers, emergency and medical personnel, and victims all share their stories about the hard realities of DUI-related fatalities and prison. GO Media Companies (Grade 5-Adult).

Drinking & Driving: The End of the Road: In 2007, an estimated 18,000 people died in alcohol-related traffic crashes—an average of one every 30 minutes. Young people will learn that being under the influence of alcohol adversely affects a person's ability to drive a motor vehicle. Interactive Educational Media (Grade 5-12).

Drinking Games, Alcohol Abuse, and Overdose: This hard-hitting program reveals the truth about teens that engage in drinking games and put themselves at risk for alcohol poisoning, overdose and death. Innocorp (Teen-Adult).

Driving Stupid: This program dramatizes that most teens overestimate their driving skills and underestimate the risks involved in texting while driving, driving drowsy, and driving under the influence. True to life stories accentuate these very real dangers. A young woman describes how a driver who was texting caused a crash that killed her parents and left her with severe injuries. Another teen describes falling asleep while driving and how the resulting crash left him wheel-chair bound for life. A trauma center nurse and a police officer describe the kinds of injuries they have seen for teenage victims of crashes due to alcohol and drugs. The film also shows teens participating in a driving skills program that safely exposes them to a variety of hazards and teaches them the importance of developing safe driving skills. Human Relations Media (Grade K-12).

Drugged Driving: The Road to Disaster: This video takes a hard look at how drugs impact driver alertness, reflexes and perception on skills, the legal consequences of impaired driving, and tells the tragic story of a teenage girl's death resulting from impaired driving. Human Relations Media (Grades 7-College).

Drugs: Crime and Punishment: Powerfully presents the life-altering impact of a drug arrest, trial, conviction, and incarceration. The accounts and dramatic reenactments of young people who broke the law and got caught show the harsh realities of being handcuffed, arrested, booked, fingerprinted, and locked up. Human Relations Media (Grades 7-College).

DUI: The Hard Truth: Using video reenactments and interviews, this program demonstrates how driving under the influence of alcohol can result in unforgettable pain, suffering, and death. Human Relations Media (Grades 7-College).

Dying High: Teens in the ER: This hard hitting, reality-based video gives viewers a chance to see what goes on inside emergency rooms as doctors treat teens for drug overdose, alcohol poisoning, car wreck traumas, and more. Human Relations Media (Grades 7-College).

Dying High 2: Real Stories of Drugged Driving: Viewers follow an ambulance driver to a multi-vehicle collision involving teens and drugs, resulting in a spinal cord injury. Human Relations Media (Grades 7-College).

Edible Marijuana: Is it Safe?: While many teens may think that eating marijuana is an okay way to get high, it is in fact dangerous, risky, and still illegal for teens in every state, even those where marijuana use is legal. Innocorp (Teen-Adult).

Emerging Drugs of Abuse: This powerful, no-nonsense video shows teens how underground labs profit by concocting new compounds that mimic the effects of illegal drugs. Innocorp (Teen-Adult).

Everything You Need to Know About Drugs and the Teen Brain in 22 minutes: Compelling animation and smoothly rendered graphics, backed with a chill-out sound track, will draw in the target audience for this program about the physiological and behavioral effects of alcohol and drugs on teens. Innocorp (Teen-Adult).

Everything You Need to Know About Marijuana in 22 Minutes: Students receive a clear message that marijuana is an unsafe, addictive, and debilitating drug. Live-action footage coupled with visuals and realistic descriptions present the effects of marijuana on the body and mind in a direct manner. Innocorp (Teen-Adult).

Everything You Need to Know about Prescription & Over-The-Counter Drugs in 17 Minutes: Program takes a close look at the dos and don'ts of prescription and OTC medicines, informing viewers of their potential risks including abuse, addiction, overdose and death. Innocorp (Teen-Adult).

Forever Changed: Have you ever gotten behind the wheel of your car after drinking alcohol? Did you ever tell yourself that you were fine to drive after drinking and that crashes only happened to "other people"? Tom Melin always referred to himself as a professional drunk driver. He began driving under the influence of alcohol at the age of 16 and never thought twice about the consequences until his life was forever changed. His story uses real life experience to demonstrate the devastating consequences of drinking and driving. Forever Changed Productions LLC (High School-Adult).

How Could This Happen? A True Story about Binge Drinking and Death: This program gives students a close up look at the story of Molly Amman, a vivacious nineteen-year-old, straight-A student who died of acute alcohol poisoning in 2011. Innocorp (Teen-Adult).

Jacqui's Story: This is the unforgettable story of two lives changed by a fatal drunk driving collision outside Austin, Texas. Jacqueline Saburido, a 20-year-old college student who lost her face, hands, and much of her eyesight, and Reginald Stephey, the high school football player driving drunk that night, give candid interviews in this documentary-style video presented in three parts. TxDOT (Teen-Adult).

Marijuana and the Teenage Brain: This program informs students about the latest research on the effects of marijuana on the brain. Recovering marijuana addicts provide a human face to the effects of marijuana as they describe why they started using and how use led to dependency and addiction. Innocorp (Teen-Adult).

Marijuana: Does Legal Mean Safe?: Many teens think that pot is harmless because some states have legalized marijuana for medical and/or recreational purposes. This fact-based program emphasizes that legality is not the same thing as safety and details the risks of marijuana on mental and physical health. Innocorp (Teen-Adult).

National Road Safety Foundation Impaired Driving Stories: Fictional stories of impaired driving. National Road Safety Foundation (Middle School-High School).

Overdose Epidemic: What Can be Done to Stop It?: The spike in drug overdose is alarming and dangerous—it has become an epidemic in many communities across the country. Why is this happening? Innocorp (Teen-Adult).

Shattered: This Emmy award-nominated program offers compelling interviews with eyewitnesses, the young convicted drunk driver, her boyfriend and family, and the victim's family. Shattered provides viewers with an experience so powerful and personal it will feel as if they were behind the wheel that night. CWK Media Company (Middle School-Adult).

Sudden Impact: After the Crash: Drunk driving crashes: they happen every day, and when they do, the reporting on the nightly news goes something like this: "One dead, give injured in a car crash. Drunk driving suspected." This program, narrated by Tom Brokaw, goes behind the scenes of one such "accident" and describes what happens in the course of a year after the crash. Comes with teacher's guide booklet. NBC News (Grades 7-College).

Teen Truth: An Inside Look at Drug and Alcohol Abuse: This compelling video, much of it shot by teens themselves, weaves together footage of real drug addicts in recovery, with teens who have casually experimented with drugs and alcohol. Innocorp (Teen-Adult).

The Deadly Consequences of Drunk Driving: This three-part video collection tells the story of one fatal drunk driving crash and the many lives that are forever affected. The videos can be used individually or as part of three different lessons, and includes the following titles: The Crash, Left Behind, and Choices. **WARNING: Videos contain graphic images and intense content.** Two Sisters' Productions (Grade 5-Adult).

- **The Crash:** tells the story of a fatal car crash that killed Katie DeCubellis, 13, and Marsha Bowman, 44, on October 29, 1999. That night, Marsha was driving her daughter, Becky, and Katie (Becky's friend) to the mall. A drunk driver slammed into their vehicle from behind, sending the car into oncoming traffic. Becky survived that night, and speaks openly about her experience, as does Katie's family, and all those who were involved.
- **Left Behind:** explores the shattered lives of the people who loved Katie DeCubellis and Marsha Bowman. This story focuses on the after effects of the drunk driving crash that took their lives and left Marsha's daughter, Becky, forever scarred by the tragedy. Now, John DeCubellis, Meg DeCubellis, and Becky Bowman work ceaselessly to raise public awareness for the need to make responsible decisions. However, no amount of work can erase the pain or loss for those left behind.
- **Choices:** reveals the ripple effects of one decision made by Stephen Reise on the night of October 29, 1999, when he chose to drive while impaired. Both Katie DeCubellis and Marsha Bowman were killed on their way to the mall when Reise slammed into the back of Marsha's car. Reise is currently serving 14 years imprisonment and 30 years' probation. Both families, however, are serving life sentences as a result of his choice.

The New Marijuana: Higher Potency, Greater Dangers: The potency of THC, the mind-altering chemical in marijuana, has more than doubled in the last 20 years creating a greater risk for impairment and a far higher risk of addiction. Video presents viewers with up-to-date information on THC potency and looks at how THC affects the brain, how you become addicted, how marijuana impacts brain chemistry, cognitive function as well as mental and physical health. Innocorp (Teen-Adult).

The Unconscious Truth: Physical and Legal Effects of Underage Binge Drinking: This powerful DVD from the Texas Young Lawyers Association explores the dangers of underage binge drinking. This DVD comes with a workbook. (Teen-Adult).

This is Your Brain on Alcohol: New studies show that the complex brain builds its basic capacities and potential for the future during the adolescent years. Innocorp (Teen-Adult).

Too Much: The Extreme Danger of Binge Drinking: Against the backdrop of spring break overindulgence in Panama City, Florida, this documentary examines the harrowing and tragic consequences of underage drinkers who do not understand the real risks of out-of-control alcohol abuse. Innocorp (Teens-Adults).

Underage Drinking: Is it Worth it?: New scientific studies show how even small amounts of alcohol can create chronic health issues for teen brains. Viewers learn that DWI and DUI take thousands of lives every year. Innocorp (Teen-Adult).

Victims...All Victims: Powerful stories of drunk driving tragedies. UT/TV-Houston. (Teen-Adult).

Youth Courts, Getting the Most Out of the Deliberation Process: The deliberation process is a critical component of every youth court. The "Getting the Most Out of the Deliberation Process" lesson is designed to educate youth court jurors or judge panels on the deliberation process so that they can be better equipped to recommend fair, constructive, appropriate, and restorative dispositions for youth court defendants/respondents. We hope that you will find the flexibility of this lesson useful as you help prepare your youth volunteers to serve in this crucial youth court function. (Age 7+).

www.tmcec.com/mtsi

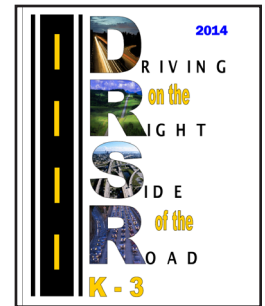
DRSR Curriculum: Traffic Safety

The Driving on the Right Side of the Road (DRSR) traffic safety grant is funded by the Texas Department of Transportation, and its mission is bringing traffic safety issues education to the school aged children of Texas. Many courts are familiar with the seven children's books DRSR has developed, but DRSR has also created a comprehensive kindergarten through 12th grade curriculum that infuses traffic safety into social studies, English language and reading, government, health, and other educational curriculum. These materials can be used by courts when hosting groups of children in their courtroom, or when they are out visiting children in their communities. By providing municipal courts with traffic safety education material free of charge that classrooms receive, municipal courts are able to become a resource for the classroom. If you are interested in hosting an event using our teacher-approved curriculum, please do not hesitate to call or email us. We are here to assist you in reaching out to your communities!

Contact:
Elizabeth De La Garza
TxDOT Grant Administrator
Driving on the Right Side of the Road
elizabeth@tmcec.com
512.320.8274

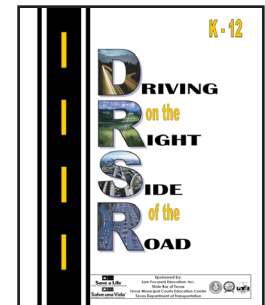
K-3 Curriculum Book:

These instructional materials are available as one bound color printed packet. Individual sections can be downloaded at our website. These early elementary lessons focus on booster seats and include a puppet script, a "design a booster seat activity," an I Spy exercise with the Our Town map, and a safe and unsafe matching exercise. All are highly interactive and effective with younger students. A limited number of booster seat posters are available to support instruction. Also included in this bound book of lessons is the Traffic Safety Activities & Games section and the Traffic Be Smart – Stay Safe Safety Centers. These are designed to be used with young children to help teach safety through games and independent center activities.



K-12 Curriculum Book:

Levels One, Two, and Three are available in a bound color printed book. Individual levels are available for download at our website, www.drsr.info. These leveled activities are appropriate for grades 4 through 12. For more information in using these lessons for a presentation to students in the classroom or for short presentations, please do not hesitate to contact Liz De La Garza at 512.320.8274.

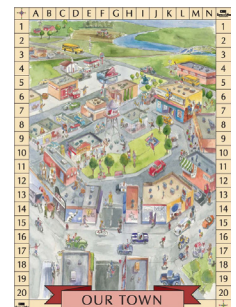


Pocket U.S. Constitutions:

Pocket U.S. Constitutions are available for use on Constitution Day (September 17th), Celebrate Freedom Week (September 17th - 23rd), for classroom presentations, and as a part of courtroom lobby information centers.

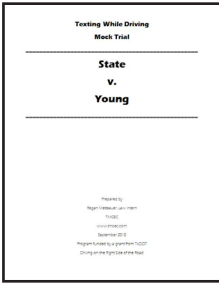
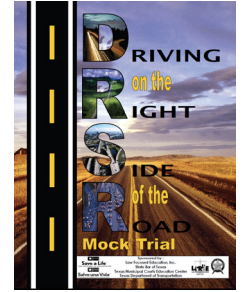
Our Town Map (all ages):

This colorful poster shows over 20 examples of safe and unsafe behavior in a model town. The illustration not only teaches about traffic safety and decision-making, but also builds map skills. This map has many other classroom uses, and can be used in the lobby of courtrooms to teach short traffic safety lessons to children who visit the municipal court with their parents. Class sets are available for presentations.



Mock Trial Guide:

Three scaffolded levels of mock trial scripts are included in this guide to teach students about traffic safety, as well as the legal system and our judiciary, while building verbal presentation skills. The cases include a safety belt violation and a juvenile DUI.



State v. Young:

A mock trial packet involving a texting while driving case for high school students. Contains witness statements and evidentiary exhibits, as well as procedures for conducting a criminal trial and the rules of evidence.

Our material order forms for these materials and more are available for download on our website, www.drsr.info under the Material Request Forms tab. Or, just call 800.252.3718 or email us at elizabeth@tmcec.com. Making it easier to help you serve your community is our job.

Court Security Specialist Certification

TMCEC would like to recognize those bailiffs and warrant officers who have obtained the Court Security Specialist Certification. This certification is a rigorous 40-hour endeavor. TMCEC dedicated two academic years (FY 15 and FY 16) to helping officers obtain this highly requested training. Thank you to those officers who have achieved this certification in order to better serve our courts. Below are the names and cities of officers who currently hold this certification, based on records from the Texas Commission on Law Enforcement and self-reporting to TMCEC. The certifications represent the efforts of providers such as the Texas Marshal Association, various County Sheriff's Offices, various City Marshals' Offices, as well as TMCEC. A special thanks to Randy Harris, Constable, Precinct 4, Tom Green County, without whom TMCEC's court security offerings would not have been possible.

John C. Arnold, Orange
Steven Behringer, Garland
Jeremy B. Bellamy, Universal City
Douglas M. Campbell, Bedford
Robert Cantu, River Oaks
Gaylon M. Carnley, Lufkin
Elizabeth J. Cope, Angleton
Kenny Dickerson, Seagoville
Curtis R. Ellenburg, University Park
Michael V. Ellison, Southside Place
Jackie W. Everitt, Conroe
Michael A. Foran, Bedford
Gene S. Fuqua, Haltom City
Christopher N. Giordano, Bryan
Kerry Guthery, Sugar Land
Carey D. Hale, Jersey Village

Daniel T. Holmen, Frisco
Robert W. Hopkins, Pantego
Henry Hughes, III, Nassau Bay
Michael D. Hunter, Sachse
William T. Johnson, Lewisville
Darryl R. Kessner, Hedwig Village
Christopher Kitts, Leonard
Ernie D. Kilburn, Brownwood
John Klodowski, Plano
Reynaldo Lara, San Juan
Thomas Lockett, Kemah
Jerry W. Lyons, Jr., Angleton
Raymond G. McCreary, Conroe
Bryan D. McNabb, Southside Place
Brian W. Meserole, Leonard
John A. Morris, Waxahachie

Richard D. Pierce, Cedar Park
Paul Prestwood, Bryan
Jerry G. Rand, Lancaster
William A. Reeder, Bryan
Terry Riley, Ivanhoe
Ronald Robicheaux, Bellaire
Daniel Rodriguez, Bryan
Aaron D. Sherwood, Lewisville
Bruce Smith, Temple
Henry Snow, Oak Ridge North
Chad Watson, Pantego
Lee D. Westcott, Burleson
Jason B. Williams, Lewisville
Anthony W. Wooley, Red Oak
William J. Wright, Hedwig Village

If you are interested in future certification courses, please contact Regan Metteauer: regan@tmcec.com. If you were recently certified and did not respond to TMCEC's request for certification information or have not yet received your certificate, email us (tmcec@tmcec.com) and we will add you.

RESOURCES FOR YOUR COURT

2017 MTSI CONFERENCE

TMCEC is pleased to offer a three-day conference March 27-29, 2017, focusing on impaired driving and other traffic law issues. The Municipal Traffic Safety Initiatives (MTSI) Conference is funded by a generous grant from the Texas Department of Transportation (TxDOT). It is open to judges, clerks, juvenile case managers, prosecutors, and other municipal court staff to attend.

March 27-29, 2017
Omni Austin Southpark
4140 Governors Row
Austin, Texas 78744



The MTSI Conference provides courts with tools, updates, programs, and networking to prevent impaired driving in their respective communities. This year's conference will feature two unique presentations by authors. Mike Knetzger, from Green Bay, Wisconsin, will tell the sobering tale of how he lost his stepdaughter to a drunk driver in 2008. Author of *Ashley's Story*, Mr. Knetzger speaks to audiences across the country in his crusade against impaired driving.

Chris Sandy, author of *Enduring Regret: Two Different Stories of Drunk Driving, Two Very Different Prisons*, uses his life journey to connect with audiences about the consequences of impaired driving. After serving over eight years in a Georgia prison following his DUI, Chris has made it his life's work to prevent impaired driving. His unique perspective shows the positive rehabilitative effects that result from our judicial system.

The conference will also feature programs that courts can utilize in sentencing minors and as conditions of deferred disposition, such as the *Reality Education for Drivers (RED) Program: Hospital-Based Injury Prevention for Teen Drivers*, *Victim Impact Panels*, and *Teen Court*. Other sessions include *Road to Zero: Collaborating to Prevent Highway Deaths*, *Co-Occurring Substance Abuse and Mental Health Disorders*, *Repeat Alcohol-Related Offenders: A New Tool for Courts*, *Electronic Search Warrants*, *Challenges and Solutions for Drugged Driving*, and much more. This conference will feature speakers from The National Judicial College, the National Safety Council, Montgomery County's No Refusal Program, Teens in the Driver's Seat, Texans Standing Tall, the Department of State Health Services, and Texas municipal courts. The MTSI Award winners and honorable mention recipients will also be recognized at this conference. Please visit <http://tmcec.com/mtsi/mtsi-conference/> to register and for more information.

The registration fee is \$50. Sign up today to ensure your spot!

If you have any questions, please contact Ned Minevitz at ned@tmcec.com or 512.320.8274 or Regan Metteauer at regan@tmcec.com or 512.320.8274.

INTERESTED IN STARTING A TEEN COURT?

TMCEC is offering a teen court planning session on April 10-11, 2017 in Georgetown. If you are interested in attending, please contact Ned Minevitz (ned@tmcec.com). The seminar is designed for those who do not yet have a teen court in place, but if space is available, those with existing teen courts will be admitted. There is no registration fee. Judges, clerks, community leaders, juvenile case managers, and city officials are eligible to attend. Funding from TxDOT will provide travel, housing, and per diem expenses.



OCA ANNUAL REPORT

The Office of Court Administration and Texas Judicial Council have released the *2016 Annual Statistical Report* for the Texas Judiciary, which provides synopses and highlights of court activity. Excerpts from the *Annual Report* about municipal courts are reprinted in this issue of *The Recorder*. The entire report may be downloaded from <http://www.txcourts.gov/statistics/annual-statistical-reports/2016/>, or from the OCA website. Also, on the OCA website, readers may find the statistical reports of the municipal courts alphabetically by city or numerically by population size. The report also includes a summary of juvenile or minor activity by city.

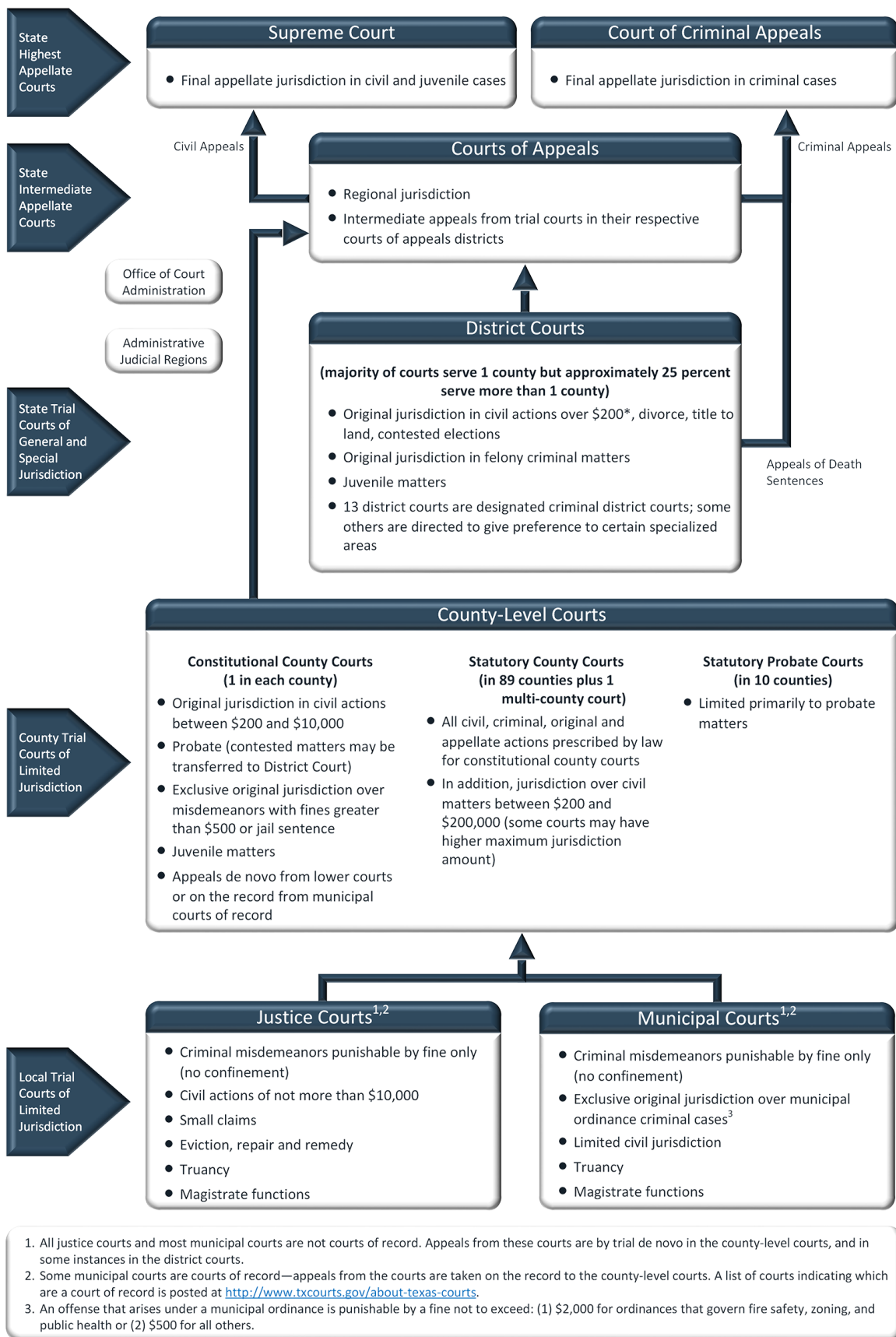
	<u>Justice Courts</u>	<u>Municipal Courts</u>
Number of Judges		
Number of Judge Positions	806	1294
Age of Judges		
Mean	58	61
Oldest	90	98
Youngest	25	24
Gender of Judges		
Males	507	784
Females	295	493
Length of Service		
Average	9 Yr. 2 Mo.	9 Yr. 9 Mo.
Longest	53 Yr. 5 Mo.	51 Yr. 10 Mo.
First Assumed Office By		
Appointment	213 (27%)	1597 (99%)
Election	590 (73%)	16 (1%)
College Graduated	254 (34%)	822 (68%)
Law School Graduated	69 (9%)	707 (58%)
Excerpt from <i>FY16 Annual Report of Office of Court Administration</i> .		

LIVESAVERS 2017

Lifesavers is a national conference dedicated to reducing deaths and injuries on U.S. roadways. Often attended by over 2,000 participants, it is a forum for the presentation of proven countermeasures and initiatives that address today's critical highway safety problems. The 2.5 day conference offers 80+ workshops, two motivational plenary sessions, an exhibit hall, and many networking opportunities. It will be held March 26 - 28, 2017 in Charlotte, North Carolina. Visit www.lifesaversconference.org for more information. Lifesavers will be held in San Antonio in 2018.



Court Structure of Texas



From the OCA Annual Statistical Report, 2016, www.txcourts.gov/media.

FROM THE CENTER

FY 18 TMCEC Registration Fees

The TMCEC Board of Directors voted at the July 2016 board meeting to increase registration fees in FY 18 (September 1, 2017 – August 31, 2018). This reflects a \$50 increase per person per event for the regional conferences, the JCM conference, the court administrator conference, bailiff/warrant officer conference, and the new judges and new clerks weeklong seminars. We regret that this is necessary, but hotel and faculty travel costs have greatly increased over the last two years. We know that many cities and courts begin the budget process in the late Winter and hope that this will help you plan for FY 18.

- Judges Regional - \$100
- Clerks Regional - \$100
- Juvenile Case Managers Conference - \$100
- Court Administrators - \$150
- Bailiff/Warrant Officer - \$150
- New Judges/New Clerks - \$250 (no single room fee)

The single room fee of \$50 a night remains the same.

Prosecutors' registration & housing fees remain as listed in FY 17. Their fees were raised by \$50 in FY 17.
FY 17 Prosecutors Fees:

- Not seeking CLE/no room - \$150
- Not seeking CLE/with room - \$300
- Seeking CLE/no room - \$250
- Seeking CLE/with room - \$400
- Non-Municipal prosecutor seeking CLE/with room - \$450
- Non-Municipal prosecutor not seeking CLE/with room - \$350 Single room fees stay at \$50 a night



E-Book: The Municipal Judges Book

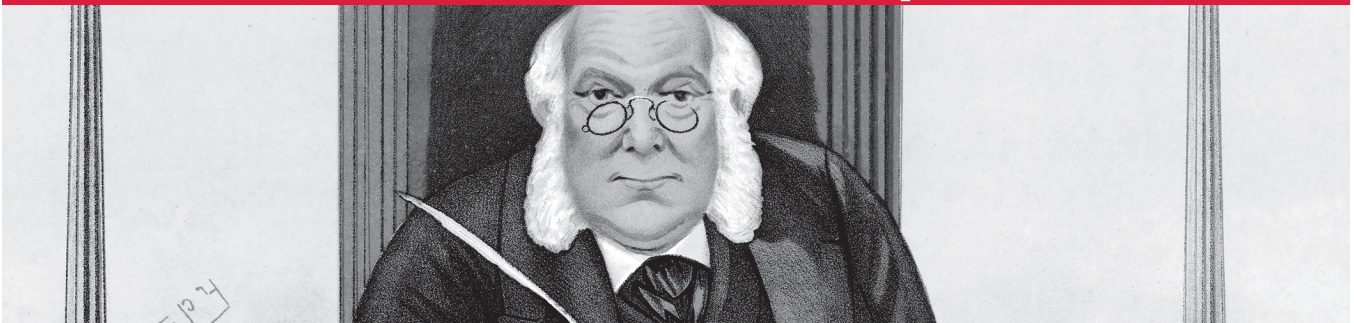
The 5th edition of *The Municipal Judges Book* is now an ebook! Go to the TMCEC website to purchase and download: (www.tmcec.com/resources/books/) Topics included: overview of the Texas court system; judgments, indigence, & enforcement; rights of the accused and victims; contempt; juveniles in municipal court; judicial ethics; and legal research. Cost: \$9.99.

The MUNICIPAL JUDGES BOOK

E-book

available now!

Available for Kindle, Nook, tablets and phones.



Visit www.tmcec.com/resources/books/ to download.

**TEXAS MUNICIPAL COURTS EDUCATION CENTER
FY17 REGISTRATION FORM:**

Regional Judges & Clerks Seminar, Court Administrators, Bailiffs & Warrant Officers, and Traffic Safety

Conference Date: _____

Conference Site: _____

Check one:

- Non-Attorney Judge (\$50)
- Attorney Judge not-seeking CLE credit (\$50)
- Attorney Judge seeking CLE credit (\$150)
- Regional Clerks (\$50)

- Traffic Safety Conference - Judges & Clerks (\$50)
- Court Administrators Seminar (\$100)
- Bailiff/Warrant Officer (\$100)

By choosing TMCEC as your MCLE provider, attorney-judges help TMCEC pay for expenses not covered by the Court of Criminal Appeals grant. Your voluntary support is appreciated. The CLE fee will be deposited into the grantee's private fund account to cover expenses unallowable under grant guidelines, such as staff compensation, membership services, and building fund.

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: _____ Are you also a mayor?: _____

Emergency contact (Please include name and contact number): _____

HOUSING INFORMATION - Note: \$50 a night single room fee

TMCEC will make all hotel reservations from the information you provide on this form. TMCEC will pay for a **double occupancy room at all regional judges and clerks seminars**. To share with a specific seminar participant, you must indicate that person's name on this form.

I request a private room (\$50 per night : ____ # of nights x \$50 = \$ ____). TMCEC can only guarantee a private room, type of room (queen, king, or 2 double beds*) is dependent on hotels availability. Special Request: _____

I request a room shared with a seminar participant. Room will have 2 double beds. TMCEC will assign roommate **or** you may request roommate by entering seminar participant's name here: _____

I do not need a room at the seminar.

Hotel Arrival Date (this must be filled out in order to reserve a room): _____

*If you bring a companion with you to stay in the hotel, the hotel reserves the right to charge an additional fee.

Municipal Court of: _____ Email Address: _____

Court Mailing Address: _____ City: _____ Zip: _____

Office Telephone #: _____ Court #: _____ Fax: _____

Primary City Served: _____ Other Cities Served: _____

***Bailiffs/Warrant Officers:** Municipal judge's signature required to attend Bailiffs/Warrant Officers' program.

Judge's Signature: _____ Date: _____

DOB: _____ TCOLE PID # _____

I have read and accepted the cancelation policy, which is outlined in full on page 10-11 of the Academic Catalog and under the Registration section of the website, www.tmcec.com. **Full payment is due with the registration form. Registration shall be confirmed only upon receipt of the registration form (with all applicable information completed) and full payment of fees.**

Participant Signature (may only be signed by participant)

Date

PAYMENT INFORMATION:

Registration/CLE Fee: \$ _____ + **Housing Fee:** \$ _____ = **Amount Enclosed:** \$ _____

- Check Enclosed (Make checks payable to TMCEC.)
- Credit Card

Credit Card Payment:

Amount to Charge: _____ *Credit Card Number* _____ *Expiration Date* _____

Credit card type: \$ _____

- MasterCard
- Visa *Name as it appears on card (print clearly):* _____

Authorized signature: _____

Receipts are automatically sent to registrant upon payment. To have an additional receipt emailed to your finance department list email address here:

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756, or fax to 512.435.6118.

In Appreciation: TMCEC Faculty

TMCEC wishes to extend a debt of gratitude to the faculty members and course directors who participated in FY16 programs. Without the hard work and dedication of the following faculty members, TMCEC would not have been able to make the year's programs an overall success.

Clay Abbott, DWI Resource Prosecutor, Texas District & County Attorney Association
Dan Abreu, Senior Project Associate, Policy Research Associates, Inc., Delmar, NY
Art Acevedo, Former Police Chief, City of Austin
Courtney Acklin, Court Administrator, Palestine
Michael Acuna, Judge, Dallas
Katie Alexander, Advanced Child Abuse Investigation Training Program Instructor, Texas Municipal Police Association, Austin
Richard Alpert, Assistant Criminal District Attorney, Tarrant County
Gloria Arizmendez, Juvenile Case Manager, Pasadena
Robert Barfield, Judge, El Lago
R. J. Boatman, Associate Judge, South Houston
Shona Bohon, TMCA Coordinator, Midland
Michelle Bovis, Licensed Chemical Dependency Counselor, Substance Abuse Professional, Lone Star Counseling Services, Houston
Jennifer Bozorgnia, Court Services Coordinator, Irving
John Brady, Risk & Safety Specialist, Sr., Travis County Human Resources Management Department, Austin
Jaime Brew, Court Administrator, Sugar Land
Thomas Bridges, Retired District Attorney, Portland
Elaine Brown, Retired Court Administrator, Katy
Raquel Brown, Judge, Fort Worth
Pat Burnett, Lead Investigator, SPCA of Texas, Austin
Steve Burres, DWI Investigator, Irving Police Department
Amy Calhoun, Program Supervisor III, Conviction Reporting, Department of Public Safety, Austin
Carlin Caliman, Juvenile Case Coordinator, Arlington
Natasha Castille, Juvenile Case Manager, Rowlett
Mary Celeste, Retired Judge, Denver County Court, Colorado
Katherine Chancia, Staff Attorney, Harris County Justice Courts, Houston
Robby Chapman, Director of Clerk Education & Program Attorney, TMCEC
Michelle Chewing, Court Services Coordinator, Irving
April Christiansen, Court Administrator, Cedar Park
Todd Clement, Attorney, The Clement Firm, Dallas
Donovan Collins, Sergeant/Training Coordinator, Dallas Area Rapid Transit Police Department
Susan Crotty, Program Development Executive, Driver Safety - Courts Division National Safety Council, Itasca, IL
Scott Cubbler, Protective Security Advisor, U.S. Department of Homeland Security, Houston
Hilda Cuthbertson, Judge, Snook
Elizabeth De La Garza, TxDOT Grant Administrator, TMCEC
Lillia De La Garza, Case Manager, Corpus Christi
Vikram Deivanayagam, Presiding Judge, Woodway
Peter DeLeaf, Associate Judge, El Lago
Warren Diepraam, First Assistant, Waller County
Matt Dixon, Prosecutor, Arlington
Julie Doshier, Prosecutor, Richardson
Ray Duke, Assistant District Attorney, El Paso County
Melissa Eager, Program Supervisor III, Department of Public Safety, Austin
Alex Epstein, Senior Director, Digital Strategy & Content, National Safety Council, Chicago, Illinois
Julie Escalante, Presiding Judge, Baytown
Tony Fabelo, Director of Research, Justice Center, Council of State Governments, Austin
Dianna Faulkenberry, Court Administrator, Decatur
Alyse Ferguson, Attorney Director, Collin County Mental Health Managed Counsel Program
Erin Foley, Forensic Director, Department of State Health Services, Austin
Matthew Freeman, Court Administrator, Frisco
Phyllis Frye, Associate Judge, Houston
Jermaine Galloway, Tall Cop Says Stop, Boise, Idaho
Frederick Garcia, Clerk of the Court, San Antonio
David Garza, Presiding Judge, Bee Cave
Carol Gauntt, Associate Judge, Weatherford
Allen Gilbert, Presiding Judge, San Angelo
Rodney Goble, Judge, Woodway
Gilbert Gonzales, Director, Mental Health Department, Bexar County
Mark Goodner, Deputy Counsel and Director of Judicial Education, TMCEC
Gary Graber, Town Justice, Darien, New York
Peter Graham, Associate Judge, Irving
Jacqueline Habersham, Senior Commission Counsel, Commission on Judicial Conduct, Austin
Andrew Hagen, Judge, Uvalde
Charles Hamilton, Protective Security Advisor for West Texas, Department of Homeland Security
David Hamilton, Prosecutor, Reno in Lamar County
Marco Hanson, Spanish Interpreter, Austin Certified Translation, LLC
Randy Harris, Constable PCT 4, Tom Green County
Courtney Harvey, Manager, Crisis Services and Client Rights Department, Department of State Health Service, Austin
John Hazeslip, Emergency Response Team, Harris County Sheriff's Office
Ryan Henry, Attorney At Law, The Law Office of Ryan Henry, PLLC, San Antonio
James Heupel, Associate Judge, Fredericksburg
Brian Holman, Presiding Judge, Lewisville
Erin Holmes, Director, Traffic Safety Programs, Foundation for Advancing Alcohol Responsibility
Ray Hosack, Law Enforcement Speaker, U.S. Law Shield, Plano
Scott Houston, Deputy Executive Director and General Counsel, Texas Municipal League
Lisa Howard, Court Administrator, Hurst
Sally Howard, Senior Juvenile Case Manager, Austin
Kate Huddleston, Chief of Staff, Office of State Representative Tom Craddick
Leah Huff, Former Court Admin, City of Southlake
Dana Huffman, Presiding Judge, Balch Springs
Dana Jacobson, Presiding Judge, Fair Oaks Ranch
Alfred Jenkins, Associate Judge, Austin
David Johnson, Chief Prosecutor, Arlington
Robert Johnson, Chief Toxicologist, Tarrant County Medical Examiner's Office
Dale Kasperek, Director of National Programs, National Center for State Courts, Williamsburg, VA
Tim Keesling, Manager, Military Veteran Peer Network, Texas Veterans Commission
Casey Kennedy, Director, Information Services, Office of Court Administration
Matthew King, Tarrant County Magistrate, Tarrant County
Myra Kirkland, Presiding Judge, Blue Ridge

Rhonda Kuehn, Court Administrator, Brenham
 Camila Kunau, Prosecutor, San Antonio
 Patrick LeBlanc, MACE Director of Business Development, Dallas
 Jim Lehman, CEO/Special Consultant, The Lehman Group
 Brian Leija, Administrative Specialist, Houston
 Hope Lochridge, Executive Director, TMCEC
 Mike Lozito, Director of Judicial Services, Bexar County
 Sandra Ma, Court Administrator, Dalworthington Gardens
 Sandra Mabbett, Judicial Information Analyst, Office of Court Administration
 Michael Macha, Protective Security Advisor, Office of Infrastructure Protection, U.S. Department of Homeland Security, Houston
 Fawn Mackey, Court Administrator, Sealy
 Tessa Madison, Former Program Coordinator, TMCEC
 Gordon Marcum, Judge, Houston
 Emma Martin, Government Information Analyst, Texas State Library and Archives Commission
 Ivan Martinez, Assistant District Attorney, 34th Judicial District Attorney's Office, El Paso
 Victor Martinez, Assistant District Attorney, El Paso
 Jan Blacklock Matthews, Judge, Wilson
 Patricia McArdle, Court Investigations Supervisor, Dallas County Probate Courts
 Kelley McCormick, Border Prosecution Unit, Hidalgo County Criminal District Attorney's Office
 Terry McCraw, Captain, Collin County Sheriff's Department
 Erin McGann, Justice Involved Veterans Coordinator, Texas Veterans Commission, Austin
 Kevin McGee, Drug Recognition Expert, Prosper Police Department
 Ronald McPherson, Protective Security Advisor, U.S. Dept of Homeland Security South Texas District, San Antonio
 Ashley McSwain, Court Administrator, Van Alstyne
 Victoria Medley, Court Administrator, Amarillo
 Regan Metteauer, Program Attorney, TMCEC
 Marilyn Miller, Presiding Judge, Dripping Springs
 Stewart Milner, Chief Judge, Arlington
 Ned Minevitz, TxDOT Grant Administrator & Program Attorney, TMCEC
 Laura Mueller, Associate Attorney, Bojorquez Law Firm, Austin
 Timothy Murphy, Presiding Judge, Bedford
 Patricia Nasworthy, Assistant City Attorney, Grand Prairie
 Erik Nielsen, Staff Counsel, State Commission on Judicial Conduct
 Peter Odom, Senior Attorney, National Traffic Law Center, National District Attorney's Association, Alexandria, VA
 Tammy Odom, Court Administrator, Texas City
 Melissa Pace, Client Liaison/Business Development, Perdue Brandon Fielder Collins and Mott, LLP, Arlington
 Toniya Parker, Program Specialist V, Child & Adolescent Program Services, Department of State Health Services
 Travis Parker, Senior Project Associate II, Policy Research Associates, Inc., Delmar, NY
 Deborah Parsons, Assistant Director, Danger Without Intentions
 Harvey Perriott, Protective Security Advisor North Texas District, U.S. Department of Homeland Security, Dallas
 Kimberly Piechowiak, Domestic Violence Resource Attorney, Office of Court Administration
 Luevada Posey, Court Administrator, Killeen
 Timothy Preece, Driver Responsibility Program Program Administrator, Texas Department of Public Safety
 Leandra Quick, Former Clerk, Bulverde
 William Ragsdale, Presiding Judge, Ingram
 Maria Elena Ramon, General Counsel, Office of Court Administration
 Doraliz Ramos, Protective Intelligence Investigator, United States Marshals Service, Houston
 Robin Ramsay, Presiding Judge, Denton
 Eric Ransleben, Associate Judge, Trophy Club
 Cathleen Riedel, Presiding Judge, Leander
 Pat Riffel, Court Administrator, Friendswood
 Eli Rivera, Chief Investigator, Waller County
 Ruby Rivera, Juvenile Case Manager, Odessa
 Sheila Roach, Deputy Clerk, Canyon
 Sherri Russell, City Attorney, Lake Jackson
 Randy Sarosdy, General Counsel, Texas Justice Court Training Center
 Chad Schmucker, President, National Judicial College, Reno, Nevada
 Gary Scott, Presiding Judge, Panorama Village
 Melissa Shearer, Director, Travis County Mental Health Public Defender's Office
 Barron Slack, Assistant District Attorney, Lubbock County
 Landra Solansky, Court Administrator, Seguin
 Stacey Soule, Assistant State Prosecutor, Non-Municipal Court Employee
 Jennifer Sowinski, Clinical Supervisor, Austin Downtown Community Court
 Edward Spillane, Presiding Judge, College Station
 Jason Steans, Misdemeanor Mental Health Prosecutor, Travis County Attorney's Office
 Jed Paul Tamayo, Juvenile Case Manager, Frisco
 Jacqueline Teel, Assistant JCM, Frisco
 Gary Teeler, Assistant Commander, Texas Parks & Wildlife Law Enforcement Field Operations
 Zindia Thomas, Assistant General Counsel, Texas Municipal League
 Stephen Thorne, Ph.D., Psychologist, Austin
 Patti Tobias, Principal Court Management Consultant, National Center for State Courts, Denver, Colorado
 Bonnie Townsend, Associate Judge, Lockhart
 James Tucker, Hot Check Office Administrator, Lubbock County District Attorney's Office
 James Turner, Crisis Intervention Team, Crisis Intervention Team, Austin Police Department
 Ryan Turner, General Counsel & Director of Education, TMCEC
 Cameron Vann, Attorney, Texas Lawyer's Assistance Program
 Stanley Vick, Senior Police Officer, Crisis Intervention Team, Austin Police Department
 Soila Villarreal, Program Specialist V, Texas Department of State Health Services Division for Mental Health and Substance Abuse
 Mark Vincent, Irving Police Department
 B.J. Wagner, MS, Director of Smart Justice, Meadows Mental Health Policy Institute, Dallas
 Laura Weiser, Judicial Resource Liaison, Texas Center for the Judiciary
 Kathy Weishuhn, Special Investigator Program Director, Department of Family Protective Services
 Kathryn Wells-Vogel, Court Director, Odessa
 Constance White, Former Director of Court Services, Burleson
 Sean Whittmore, Assistant Criminal District Attorney, Waller County Criminal District Attorney's Office
 Seana Willing, Executive Director, State Commission on Judicial Conduct
 Ted Wood, Former Special Counsel To Trial Courts, Office of Court Administration
 Bonnie Zuber, Government Information Analyst, Texas State Library and Archives Commission

Note: Our apologies if we failed to list your name. Please send us an email (tmcec@tmcec.com) and we will update our faculty roster.

2016 - 2017 Academic Schedule At-A-Glance

Seminar	Date(s)	City	Hotel Information
Clerks One Day Clinic	February 2, 2017 (Th)	McAllen	Doubletree Hotel 1800 S. 2nd Street, McAllen, TX 78503
New Judges & Clerks Orientation	February 8, 2017 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX 78756
Regional Judges Seminar (Waitlist Only)	February 19-21, 2017 (Su-M-T)	Galveston	San Luis Resort 5222 Seawall Blvd., Galveston, TX 77551
Regional Judges and Clerks Seminar	February 26-28, 2017 (Su-M-T)	Houston	Omni Houston Westside 13210 Katy Freeway, Houston, TX 77079
Regional Clerks Seminar	March 6-8, 2017 (M-T-W)	Addison	Crowne Plaza Dallas Galleria 14315 Midway Road, Addison, TX 75001
Regional Judges Seminar	March 8-10, 2017 (W-Th-F)	Addison	Crowne Plaza Dallas Galleria 14315 Midway Road, Addison, TX 75001
Prosecutor's Seminar	March 22-24, 2017 (W-Th-F)	San Marcos	Embassy Suites 1001 E McCarty Ln, San Marcos, TX 78666
Municipal Traffic Safety Initiatives Conference	March 27-29, 2017 (M-T-W)	Austin	Omni Southpark 4140 Governors Row, Austin, TX 78744
Regional Judges & Clerks Seminar	April 3-5, 2017 (M-T-W)	Amarillo	Ambassador Hotel 3100 I-40 Frontage Rd., Amarillo, TX 79102
Teen Court Seminar	April 10-11, 2017 (M,T)	Georgetown	Comfort Suites 11 Waters Edge Circle Georgetown, TX 78626
Clerks One Day Clinic	April 20, 2017 (Th)	Beaumont	Holiday Inn & Suites 3950 I-10 South, Beaumont, TX 77705
Regional Clerks Seminar	May 1-3, 2017 (M-T-W)	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd, S. Padre Island, TX 78597
Regional Attorney Judges Seminar	May 7-9, 2017 (Su-M-T)	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd, S. Padre Island, TX 78597
Regional Non-Attorney Judges Seminar	May 9-11, 2017 (T-W-Th)	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd, S. Padre Island, TX 78597
Bailiffs and Warrant Officers Seminar	May 15-17, 2017 (M-T-W)	Huntsville	Veterans Conference Center 455 SH 75N, Huntsville, TX 77320
New Judges & Clerk Orientation	May 17, 2017 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX 78756
Regional Judges & Clerks Seminar	June 5-7, 2017 (M-T-W)	Odessa	MCM Elegante 5200 E University Blvd, Odessa, TX 79762
Juvenile Case Managers Seminar	June 11-13, 2017 (S-M-T)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX 78744
Prosecutors & Court Administrators Seminar	June 26-28, 2017 (M-T-W)	Addison	Crowne Plaza Dallas Galleria 14315 Midway Road, Addison, TX 75001
Clerks One Day Clinic	June 30, 2017 (F)	Austin	TMCEC 2210 Hancock Drive, Austin, TX 78756
One Day Clinic	July 7, 2017	Austin	TMCEC 2210 Hancock Drive, Austin, TX 78756
New Judges & Clerks Seminar	July 17-21, 2017 (M-T-W-Th-F)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX 78744
Impaired Driving Symposium	July 24-25, 2017 (M,T)	Cedar Creek	Hyatt Regency Lost Pines Resort and Spa 575 Hyatt Lost Pines Rd Cedar Creek, TX 78612
Legislative Update	August 4, 2017 (F)	Lubbock	Overton Hotel 2322 Mac Davis Ln. Lubbock, TX 79401
Legislative Update	August 8, 2017 (T)	Houston	Omni Houston Hotel 13210 Katy Freeway, Houston, TX 77079
Legislative Update	August 15, 2017 (T)	Dallas	Omni Dallas Hotel Park West 1590 LBJ Fwy, Dallas, TX 75234
Legislative Update	August 18, 2017 (F)	Austin	Omni Southpark 4140 Governors Row, Austin, TX 78744

Note: There are special registration forms to be used to register for the New Judges and New Clerks Seminars, Prosecutors Conference, Teen Court Planning Seminar, Traffic Safety Conference, and Impaired Driving Symposium. Please visit our website at www.tmcec.com/registration/ or email register@tmcec.com for a registration form.

Register Online: register.tmcec.com

Change Service Requested

TMCEC MISSION STATEMENT

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

HELP US HELP YOU: GUIDELINES FOR 800-LINE CALLS

In order that TMCEC may better serve all of its constituents, please consider the following in utilizing the 800-line:

- Remember, the Center only takes questions from judges, clerks, city attorneys (including county attorneys and designated municipal prosecutors), and bailiffs or warrant officers. Please do not refer defendants, commercial vendors, members of your city council, or other peace officers to TMCEC.
- While you may have come to rely on the 800-line as your first response and primary method of resolving court-related questions, we ask that you view it as your last resort.
- Before you decide to call, please make a concerted effort to locate the pertinent portions of relevant statutes (e.g., Penal Code, Code Criminal Procedure, Transportation Code, etc.). Please do not call without first having carefully examined the statute(s) in question.
- Questions pertaining to court costs, records and reporting, record management, local government issues, open record requests, and ethical dilemmas should be made directly to agencies specializing in the subject matter.
- Judges with questions are asked to call in person rather than having clerks or other court personnel call on their behalf.
- Clerks should call only after consulting with their judges and after exhausting all local resources.
- TMCEC cannot give legal advice. Please do not attempt to utilize the legal resources of TMCEC in lieu of consulting your city attorney.
- Questions should not be submitted by means other than the 800-line.
- Please do not ask TMCEC to prepare a written response to your legal question.
- Please do not call the Center if your question pertains to a personal legal matter.

If you do call, please be patient. Your call will be returned in the order it is received. However, due to the high volume of telephone calls received and the importance of other services provided by TMCEC (e.g., training, program development, publications), your calls may not be returned immediately. We do make every effort to return calls within 24 hours.