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MAKING IT PERSONAL: THE MISUNDERSTANDING, UTILITY, AND LIMITS OF PERSONAL BONDS IN TEXAS

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The 8th Amendment prohibition against excessive bail is one of the few rights of criminal defendants that has not been expressly incorporated into the 14th Amendment.¹ Consequently, laws governing bail vary amongst the states.² In Texas, the right to bail is rooted in the state constitution, making Texas one of 41 “right-to-bail states.”³ Subject to few limitations, Texas strongly favors the individual’s right to bail.⁴

Bail has attracted increasing scrutiny, particularly in the context of pre-trial bail. Criminal justice reform advocates claim that “money bail”—practices requiring defendants to pay money to procure release via either a surety bond (where money is paid to a surety) or cash bond (where money is deposited with the government)—disproportionately hurts many low-income defendants who, while presumed innocent, cannot afford to pay to secure their release from jail. As a result, Texas jails are overcrowded and public officials are taking notice.

In 2017, during a rare joint appearance before the Senate Committee on Criminal Justice, Texas Supreme Court Chief Justice Nathan Hecht and Court of Criminal Appeals Presiding Judge Sharon Keller described a system in need of reform.⁵ Judge Keller stated that 75 percent of people incarcerated in Texas jails are awaiting trial. Such pre-trial detention is racially disparate and expensive. Local tax payers pay \$1 billion per year for a system that keeps low-risk defendants in jail and simultaneously lets high-risk defendants make bail and walk free.⁶ Chief Justice Hecht described it as a “lose, lose, lose, lose, lose proposition.”⁷

In the wake of a civil rights lawsuit, *O'Donnell v. Harris County*, and an accompanying revised order, local governments and courts across the state are reexamining their bail practices.⁸ Specifically, the order prohibits the county from detaining an indigent person in instances where a person with money would be allowed

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AROUND THE STATE

TMCA Annual Meeting

The Annual Meeting and Educational Program of the Texas Municipal Courts Association will be held on August 2-3, 2018 in San Antonio at the Omni La Mansion del Rio Hotel. The program begins at 1:00 pm on Thursday and concludes at 5:00 pm on Friday. The outstanding municipal jurist, clerk, and prosecutor for 2018 will be recognized at the banquet on Friday. Attendance counts toward mandatory judicial education credit, clerk certification credit, and continuing legal education credit.

An excellent program has been developed including judicial education programming on the following topics:

- *Challenges for Magistrates: Appointing Counsel, Mental Health Assessments, and Personal Bonds*
- *Court Security: Lessons Learned from the Las Vegas Shooting*
- *Implementing a Comprehensive Campus Based Truancy Intervention Program*
- *Procedural Justice*
- *Planning for & Surviving a Natural Disaster*

To register, go to <http://www.txmca.com/conference-2018/conference-hotel-2/>.

In Appreciation

TMCEC wishes to express our appreciation to Bill Hill, the Grant Auditor for the Texas Court of Criminal Appeals. Mr. Hill will be retiring this summer and will be greatly missed by everyone at TMCEC. Mr. Hill joined the Court as the judicial auditor in 1989. He has been an exceptionally competent and courteous professional in his nearly 25-year career at the Court. Calls from an auditor are often met with dread, but with Bill it was always a pleasure. He offered sound and thoughtful guidance on how to comply with fiscal policies and state rules and regulations. We wish Mr. Hill the best of luck in his future endeavors and hope he will stay in touch. TMCEC welcomes Carl Pederson, who will replace Mr. Hill.

We also wish to express thanks to Megan Molleur for her expertise and enthusiasm. Ms. Molleur will continue to work at the Court's grant office as the Grant Attorney & Administrator. Judge Barbara Hervey also deserves gratitude for her tireless work on the grants. Judge Hervey has served as the Court Liaison to the judicial education programs for the past 15 years. In this capacity, she has represented grantees in the legislative appropriations process while overseeing all grant activities.

The quality and breadth of the TMCEC programming would not be possible without the efforts and dedication of the advisory board, committees, and volunteer faculty. We thank each of them for their countless contributions, especially Judge Michael Acuna of the Dallas Municipal Court. Judge Acuna is currently serving as President of the Texas Municipal Courts Association and TMCEC for FY18. Judge Acuna's thoughtfulness and focus bring a new level of professionalism and inspiration to the Board and TMCEC staff.

DRIVER'S LICENSE REINSTATEMENT: A COMPLICATED JOURNEY

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Nearly all of Texas' rural and metropolitan areas face the same reality. Their citizens must drive in order to carry out their own daily responsibilities. As a result, a driver's license and access to a personal vehicle are necessities, rather than luxuries for many people. To illustrate this point, as of 2017 there were over 24 million registered vehicles in Texas, enough for approximately 85% of the state's population.¹ Additionally, 93 percent of surveyed Texans reported that their personal vehicle was their primary mode of transportation.² Despite these numbers and trends, the Texas Department of Public Safety (DPS) has retained broad authority to suspend licenses as punishment for committing certain offenses, such as driving while intoxicated (DWI), accruing excessive moving traffic violations within a 12 or 24-month period, or failing to pay traffic fines and fees.³ In some instances, license suspensions are automatic. An individual who fails or refuses a blood or breath test following an arrest for DWI may have their driver's license suspended for a period ranging from 90 days to two years, without a conviction.⁴ Suspensions are burdensome. Everyday tasks become significantly more difficult or even impossible without a driver's license, especially for low-income individuals, forcing many to choose between driving without a valid license and not driving at all.

Fortunately, the DPS has created a three-step process for reinstating a suspended driver's license. First, an individual must wait until his or her suspension period has elapsed. The duration of the suspension varies, depending on the particular offense committed, but most suspensions resulting from traffic violations last between 30 and 90 days. Second, that individual must submit a Driver License Eligibility and Reinstatement application, available online via Texas.gov. The form asks for the individual's driver's license number, birth date, and the last four digits of his or her social security number. Finally, the individual must submit payment for the reinstatement fee, including, if any, court fees, along with any required suspension compliance documents and a Financial Responsibility Insurance Certificate (SR-22) from the individual's insurance company. The fee is typically \$100.00.

Although the reinstatement process is ordinarily arduous, aggravating factors can introduce further complications. For example, the Texas Medical Advisory Board (TMAB) can review a particular driver, determine that he or she is medically incapable of safely operating a motor vehicle, and decide to suspend or revoke his or her driver's license.⁵ In addition to complying with the normal reinstatement process, that individual may also need to be medically approved by the TMAB, submit his or her medical information, and pass a driving test.⁶ DWI and DUI convictions will also create additional hurdles. An adult who is convicted of a DWI may be required to complete a 12-hour alcohol education program within 180 days of conviction or complete a 15-hour drug education program within the same time period.⁷ DWI-related suspensions are also typically longer than those resulting from other traffic violations, with sentences lasting up to two years for first-time offenders.⁸

The state's Driver Responsibility Program imposes perhaps the most pervasive burden on drivers, in the form of recurring fines and fees, sometimes resulting from offenses unrelated to driving. The program's Driver Responsibility Surcharge, a civil surcharge levied against an individual on top of the criminal penalties resulting from a conviction, if left unpaid, can impose a longer suspension than the one mandated by the original offense.⁹ Drivers incur surcharges if they are convicted of certain offenses or have accumulated six "points" on their driving record within a three-year period.¹⁰ The fees typically owed can be substantial. For

example, a first-time DWI conviction will impose a recurring \$1,000 surcharge annually over three years.¹¹ Driving without insurance also results in a recurring annual surcharge, not to exceed \$250 per year.¹² These fees must be paid within 105 days of their assessment or the DPS will suspend the driver's license, provided the driver has not already had their license suspended as a consequence of the original traffic violation.¹³ Any surcharge suspension will remain in effect until either the surcharge and related costs are paid in full or the driver establishes an installment agreement with the state. Until then, the individual must either refrain from driving or risk driving with an invalid license, which poses additional criminal penalties.

Generally, Texas lacks viable alternatives to driving, which exacerbates the problems faced by those with suspended licenses. Public transportation is often underfunded and underutilized. According to a 2016 poll conducted by Texas A&M University, only one percent of respondents stated that public transportation was their primary means of transportation, compared to five percent of respondents stating the same in 2014.¹⁴ The poll also reported that 48 percent of respondents believe traffic congestion in their region is caused by underinvestment in public transportation.¹⁵ Access and availability partially explain Texas' low public transportation usage, with 43 percent of respondents stating that public transportation is not available to them.¹⁶ The accessibility problem only worsens for those in low-income areas. In the Dallas and McAllen metropolitan areas, more than 80 percent of jobs are considered "not reasonably accessible" via public transportation for people living in low-income communities.¹⁷ If jobs are not reasonably accessible without a vehicle, then a driver's license suspension can essentially amount to a revocation of employment. Although complete data is unavailable for Texas, a study performed in New Jersey found that 40 percent of respondents lost their job upon having their driver's license suspended and 88 percent of respondents reported lower income.¹⁸ It is also important to note that the effect of a license suspension should be slightly muted in New Jersey, given that the state's public transit system, NJ Transit, is the nation's largest statewide public transit system and has an annual budget of more than \$3 billion.¹⁹ In comparison, Texas allocated approximately \$2.6 billion in revenues to public transportation in 2016, despite the fact that Texas is far larger than New Jersey in terms of both population and geographic area.²⁰

Fortunately for drivers who have had their licenses suspended, there are several organizations willing to assist them with reinstatement. The State of Texas has furnished a webpage with links to application forms and driver services, allowing drivers to handle their own reinstatements.²¹ Texas has also created two supplementary programs to assist those who are unable to pay their surcharges. Individuals living at or below 125 percent of the federal poverty level can qualify for the Driver Responsibility Surcharge Indigence Program, which would reduce their surcharge to 10 percent of the total amount assessed, not to exceed a total cost of \$250.²² Individuals with incomes above 125 percent, but below 300 percent, of the federal poverty level can qualify for the Surcharge Incentive Program, which can reduce an individual's surcharge by up to 50 percent of the total amount assessed.²³ Alternatively, the Texas Legal Services Center has set up a website dedicated to providing free and reliable legal information to low-income Texans.²⁴ The site provides helpful legal information, forms, and tools for finding local legal assistance as well as a calendar specifying dates and locations for upcoming clinics. Although this service is not exclusively tailored for driver's license reinstatements, users can find assistance for a variety of driving-related needs, such as applying for an occupational driver's license. Finally, the Austin Municipal Court, Texas Fair Defense Project, and University of Texas School of Law Student Pro Bono Program operate driver's license recovery clinics in Austin where pro bono attorneys and law students assist drivers with outstanding cases, paperwork, and documents such as surcharge waivers.²⁵ Other Texas law schools operate similar services throughout the state. These clinics are open to the public at no cost and are a great opportunity for individuals with suspended licenses to find qualified lawyers specifically dedicated to solving their problems.

San Antonio Judge Ana Zaragoza has described the reinstatement process as overwhelming. The defendants in her courtroom are typically unaware of any outstanding warrants against them and are unsure how to

address them on their own. In response, Judge Zaragoza and her staff have created informational flyers to help defendants check their driver's license eligibility, contact the municipal services bureau, and analyze their outstanding issues with the DPS.

Judges have their own unique opportunity to help drivers with suspended licenses, especially those drivers whose licenses were invalidated through noncompliance with the Driver Responsibility Program. Judge Jean Spradling (Harris County Criminal Court Law No. 15) has promoted the use of indigency affidavits and waivers to reduce defendants' future surcharges.²⁶ Justice of the Peace David Cobos (Midland County) has also encouraged defendants to take advantage of the DPS indigency affidavit.²⁷ He has also gone a step further, frequently granting deferred dispositions for drivers who prove they can take responsibility. For example, if a driver is assessed a surcharge for an offense of driving without insurance, he will defer the charge for up to six months, providing the defendant with time to pay their other surcharges or fines on file with the DPS or file an indigency affidavit.²⁸ In the meantime, he provides occupational licenses to those with suspended licenses, allowing them to continue to work and gather their finances.²⁹ If drivers verify that they are maintaining compliance during that six-month period, he will dismiss the charge, saving the driver from a conviction and an additional surcharge.³⁰ Municipal clerks may assist defendants by placing relevant information on court bulletin boards or via pamphlets and handouts (see next page for sample bulletin).

The cycle of convictions, suspensions, and surcharges exacts a heavy toll on Texas drivers, but judges and other municipal court staff can play a key role in reducing drivers' financial burdens. License suspension is a heavy punishment, especially when it is levied as an incentive to collect fines, fees, and surcharges. It hampers drivers' ability to pay their fines and can trap them in a cycle of payments and further suspensions. Local municipalities and courts can take the lead in alleviating this burden by providing court users with information about available legal services, especially the DPS Indigency Surcharge Program, to help Texas drivers struggling with fines and surcharges.

1. *Summary of Motor Vehicle Registrations for Fiscal Year September 1, 2016 to August 31, 2017*, Texas Department of Motor Vehicles, (2017).
2. 2016 Texas Transportation Poll Statewide Overview, Transportation Policy Research Center, Texas A&M Transportation Institute (2016).
3. *Notification of Enforcement Action*, Texas Department of Public Safety, <https://www.dps.texas.gov/DriverLicense/suspensionNotification.htm> (last visited June 26, 2018).
4. *Administrative License Revocation (ALR) Program*, Texas Department of Public Safety, <https://www.dps.texas.gov/DriverLicense/alr.htm> (last visited June 28, 2018).
5. *Texas Medical Evaluation Process for Driver Licensing*, Texas Department of Public Safety, <https://www.dps.texas.gov/DriverLicense/MedicalRevocation.htm> (last visited June 15, 2018).
6. *Id.*
7. *Alcohol-Related Offenses*, Texas Department of Public Safety, <https://www.dps.texas.gov/DriverLicense/AlcoholRelatedOffenses.htm> (last visited June 15, 2018).
8. *Id.*
9. See, *Driver Responsibility Program*, Texas Department of Public Safety, <https://www.dps.texas.gov/DriverLicense/drj.htm> (last visited June 15, 2018).
10. *Id.*
11. *Id.*
12. *Id.*
13. *Id.*
14. Transportation Policy Research Center, *supra* note 2, at 1.
15. *Id.* at 4.
16. *Id.* at 6.
17. Joshua Aiken, *Reinstating Common Sense*, Prison Policy Initiative, <https://www.prisonpolicy.org/driving/national.html> (Dec. 12, 2016).
18. *Motor Vehicles Affordability and Fairness Task Force Final Report*, Alan M. Voorhees Transportation Center and N.J. Motor Vehicle Commission, Trenton Motor Vehicles and Affordability Task Force (2006).
19. Kevin Pula, Douglas Shinkle & Jaime Rall, National Conference of State Legislatures, *On Track: How States Fund and Support Public Transportation*, 12 (2015).
20. Linda Cherrington, Shuman Tan & Todd Hansen, Texas A&M Transportation Institute, *Sources of Funding Transit in Texas*, 14 (2017).
21. See, Texas.gov, <https://texas.gov/#drivers> (last visited June 28, 2018) (website provides links for registration and reinstatement forms for drivers).
22. *Texas DPS Driver Responsibility Indigency/Incentive Program*, Texas Department of Public Safety, <https://www.txsurchargeonline.com/indigence.aspx> (last visited June 29, 2018).
23. *Id.*
24. Texas Law Help, <https://texaslawhelp.org/> (last visited June 28, 2018).
25. *Austin Driver's License Recovery Clinic*, City of Austin, https://www.austintexas.gov/sites/default/files/files/Municipal_Court_Flyer_11-13-17.pdf (last visited June 15, 2018).
26. Joel Nihlean, *Getting Out of the Traffic Surcharge Trap*, Texas Association of Counties, <https://www.county.org/magazine/features/Pages/2017%20January/Getting-Out-of-the-Traffic-Surcharge-Trap.aspx> (January 30, 2017).
27. *Id.*
28. *Id.*
29. *Id.*
30. *Id.*



How to Find Out Why DPS Will Not Issue You a License: Researching Driver's License Suspensions and Holds

Checking Driver's License Eligibility

Call DPS

You can always call the Department of Public Safety (DPS) at 512.424.2600 to discuss your eligibility issues. There is usually a long wait time associated with most calls, so accessing the DPS website is usually much quicker.

Use the DPS Eligibility Website

To obtain information on eligibility, including a complete list of reasons for ineligibility, visit the DPS License Eligibility website at: <https://texas.gov/#drivers> and **Click on Driver License Reinstatement and Status**. The system will prompt you to enter the following information and then generate an eligibility report: Driver License or ID Number, Date of Birth, and Last 4 Digits of Your Social Security Number.

Information on DPS Surcharges and Waiver Applications

Call Municipal Services Bureau

Municipal Services Bureau, which operates the surcharge program for DPS. You can call them for information about your surcharges at 1.800.688.6882.

Access the Surcharge Website

To obtain information regarding outstanding DPS surcharges, or to make an application to have your fees lowered or waived through the DPS Indigency and Incentive Programs, you should access the Texas DPS Driver Responsibility Surcharge Online Services website at: <https://www.txsurchargeonline.com>. In order to access your information, you must know the zip code associated with your driver's license. Download and print the indigency/incentive application for reduction of surcharges. Once completed, mail it to MSB, P.O. Box 16733, Austin, TX 78761-6733. If you have any questions about the application, call 800.688.6882.

Checking for Outstanding Warrants

To obtain a list of outstanding cases that have been reported to DPS that are preventing you from obtaining a valid Texas driver's license, check the DPS Failure to Appear website at: <http://www.texasfailuretoappear.com>. You can also call OmniBase Services at 1.800.686.0570 to discuss outstanding citations, if you do not have internet access.

Adapted from materials provided by Judge Ana Zaragoza and San Antonio Legal Aid.

Continued from pg.1

to pay and get out of jail.⁹ In response, many local governments are considering whether to use a risk assessment measurement tool in making bail determinations¹⁰ and whether to increase the use of personal bonds.¹¹

Can personal bonds in Texas “level the playing field” and avoid the problems and harms associated with “money bail?”

I. The Basics: Bail and Bonds in Texas

Bail is “the security given by the accused that he will appear and answer before the proper court the accusation brought against him”¹² Security comes in the form of two types of bonds.

- A *bail bond* is a written undertaking entered into by the defendant and a surety (e.g., a bail bondsmen or third party) or, alternatively, cash deposited by the defendant or a third party.¹³
- A *personal bond* is a written undertaking entered into by the defendant without a surety or cash deposit, which personally obligates the defendant to pay a specific amount, plus necessary and reasonable expenses in locating and arresting the defendant for failure to appear.¹⁴

The Code of Criminal Procedure contains a host of permissive and mandatory conditions for release on bond. Most provisions in the Code of Criminal Procedure, however, only reference “bonds,” without reference to either bail bonds or personal bonds.

A. Setting Bail

Article 17.15 of the Code of Criminal Procedure contains five rules for determining the amount of bail. The practical value of these rules is questionable, particularly when setting a specific amount of bail. It can feel somewhat like a guessing game. Some scholars believe the rules can also be of value to the judiciary when choosing to require either a bail bond or personal bond. The five rules:

1. Bail shall be sufficiently high to give reasonable assurance that the accused will return.
2. The power to require bail is not to be used to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.
4. The ability to make bail is to be regarded and proof may be taken upon this point.
5. The future safety of the victim of the alleged offense and the community shall be considered.

B. Assurances and Assumptions

It seems simple. Bail should be set in a way that compels defendants to return to court. It should not, however, be used as a punishment, or as a way of restraining a person’s liberty (particularly because defendants are legally presumed innocent).

Unfortunately, it is not simple. Citing Article 17.15(1) of the Code of Criminal Procedure, a Texas court of appeals emphasized that bail is not a *guarantee* that a defendant will appear but rather a *reasonable assurance* that a defendant will make all required appearances in court.¹⁵ However, as explained by Professors George Dix and John Schmolesky, the Article 17.15 rules for fixing the amount of bail are predicated on a questionable assumption. Specifically, that a defendant who is otherwise unwilling to appear can actually be motivated to appear by imposing a risk of financial loss should the defendant fail to appear.¹⁶

Professors Dix and Schmolesky provide an important and timely reminder: no external motivation will compel all people to appear, regardless of whether it is a bail bond or personal bond. Categorical solutions will not secure appearances.

Bail probably works best when it is individualized according to the facts and circumstances of the offense.¹⁷ Article 17.51(3) demonstrates that the Legislature is neither oblivious to the plight of those who cannot make bail, nor unwilling to prescribe statutory processes for such matters. Similarly, Article 17.15(5) suggests that rights of the defendant are not to be considered exclusively. The future safety of victims and the public also matter.

C. Bail in Different Contexts

In municipal courts, as in all Texas criminal trial courts, the issue of bail arises in three distinct contexts: (1) as magistrates, municipal judges set bail on felonies and misdemeanors;¹⁸ (2) as trial judges, a municipal judge may choose to secure a defendant's appearance at trial by requiring the defendant to give bail;¹⁹ and (3) as a trial judge, a municipal judge approves bail when a defendant is appealing a judgment of the court.²⁰

II. Personal Bonds and Bail Bonds in Municipal and Justice Courts

In 2017, the Legislature restricted the use of bail bonds in municipal and justice courts in favor of promoting personal bonds (the second context described above). A sliver of bail reform passed. Article 45.016 of the Code of Criminal Procedure states that a judge is authorized to require a defendant to give a personal bond to secure appearance. The judge may not, however, require a defendant to give a bail bond unless: (1) the defendant fails to appear with respect to the applicable offense; (2) the judge determines that the defendant has sufficient resources/income to give a bail bond; and (3) a bail bond is necessary to secure appearance. If the defendant refuses to give a personal bond or refuses or otherwise fails to give a bail bond, the defendant may be held in custody (subject to a reconsideration requirement after 48 hours).

III. Personal Bonds Revisited

Personal bonds are not new. The Code of Criminal Procedure has authorized their use since 1966.²¹ What is new is the sharpened focus on the role that money (i.e., "legal financial obligations") plays in the criminal justice system²² and the call for Texas law to contain a "presumption of release" and shift to predominant use of personal bonds.²³ In other words, the recent changes to Article 45.016 of the Code of Criminal Procedure, which are familiar to municipal and justice courts, may foreshadow future changes in Texas law.

A. Are Personal Bonds Misunderstood?

In one Texas county, judges are reportedly leery of personal bonds.²⁴ In another Texas county, personal bonds have become the norm (in conjunction with a risk assessment measurement, three out of five pre-trial defendants are released on personal bond).²⁵

Why the disparity? Is there a stigma associated with personal bonds?²⁶ If so, could it be because personal bonds have lived in the shadows of bail bonds, whose prominence is bolstered by the wealth and influence of the American bail bond industry?²⁷

Personal bonds are not lesser or inferior to bail bonds and their utility is not intended to only benefit defendants who cannot afford a bail bond.²⁸ It is possible, however, that personal bonds are not as well-utilized, or as generally accepted as bail bonds, because they are misunderstood.

1. Mistaken Identity: Personal Bonds Are Not “Release on Own Recognizance”

The biggest misconception surrounding personal bonds in Texas is that a personal bond is synonymous with “release on own recognizance.” *Black’s Law Dictionary* defines the latter as:

Pre-trial release on the person’s own promise that he will show up for trial (no bond required). A species of bail in which the defendant acknowledges personally without sureties his obligation to appear in court at the next hearing or trial date of his case. It is used in place of a bail bond when the judge or magistrate is satisfied that the defendant will appear without the need of a surety bond or other form of security.²⁹

While “release on own recognizance” does not entail a risk of financial loss, personal bonds do. Contrary to popular belief, a personal bond, as defined by Articles 17.03(a) and 17.04(3) of the Code of Criminal Procedure, is a type of secured bond. Confusion on this point is compounded by the fact that personal bonds are commonly, yet mistakenly referred to as “personal recognizance bonds” (a.k.a. “PR bonds”), which are unsecured.

A personal bond is also distinct from release under Article 15.17(b) of the Code of Criminal Procedure, which authorizes a magistrate to release a defendant “without bond” and order him to appear in a municipal or justice court if the defendant is charged with a Class C misdemeanor and has not previously been convicted of an offense other than a Class C misdemeanor.

Other than the limited, narrow exception in Article 15.17(b), Texas law has never allowed pre-trial release without any security (i.e., on the defendant’s own recognizance).³⁰ Personal bonds are no exception. Defendants released on personal bonds have “skin in the game” due to the fact that their release has been financially secured (see, discussion of bond forfeiture below).

2. Personal Bonds Have Their Place Along with Bail Bonds

In 2017, some in the bail bond industry claimed that a bail reform proposal before the Texas Legislature, which sought to increase the use of personal bonds, would have driven bail bondsmen out of business.³¹ Bail bondsmen were pleased that the particular bail reform proposal failed.³² However, even without a legislative mandate, magistrates and judges in Texas already have the general authority to increase the use of personal bonds under Article 17.03 of the Code of Criminal Procedure.

Increased use of personal bonds will not eliminate the need for commercial bail bonds for three reasons. First, as described below, not all defendants will meet the requirement for a personal bond. Second, because of specific facts and circumstances (including past history of failure to appear) magistrates and judges are unlikely to allow personal bonds in all cases where defendants otherwise meet the requirements. Third, some defendants, those who may have little intention of returning to court, have an incentive to prefer a commercial bail bond over a personal bond. The bail bondsman is “on the hook” if a defendant with a commercial bail bond fails to appear. In contrast, a defendant on a personal bond who fails to appear is personally responsible to pay the bond amount.

3. Like Bail Bonds, Personal Bonds Are Subject to Bond Forfeiture

The prospect of a defendant being held personally liable for the amount of a personal bond assumes, of course, that bond forfeiture will occur. The vast majority of existing case law concerning personal bonds concerns the issues of “release because of delay” and indigence.³³ Increased use of personal bonds may

redirect the focus to bond forfeiture and indigence. (For example, in instances where there is discretion to allow a personal bond, is it an abuse of discretion for a magistrate or judge to consider whether a defendant can actually pay the specified amount, or the probability of the government recovering the amount of the bond in the event of forfeiture?)

It is important to note that bond forfeiture is not discretionary.³⁴ Nevertheless, in different locales, for different reasons (frequently, limited resources and time), bond forfeiture seemingly takes a back seat to what are perceived as more important court functions.

Personal bonds, like bail bonds, are subject to bond forfeiture.³⁵ In Travis County, which leads Texas in personal bond release, when a defendant released on personal bond fails to appear, the county attorney's office commences a bond forfeiture lawsuit seeking a predetermined amount of the bond within 30 days.³⁶

4. Personal Bonds Are Not Just for the “Big City” (A Personal Bond Office Is Not Required)

Legislation enacted in 1973 permits every county and every judicial district comprising more than one county to establish a “personal bond office” for the purpose of gathering and presenting information on defendants to determine eligibility on personal bond.³⁷ Also known as pre-trial release offices, personal bond offices have been established in counties throughout Texas to provide an inexpensive alternative to a commercial bail bondsman.³⁸

There are definite advantages to having a personal bond office. For example, it does not have to comply with the statutory requirements of the law regulating bail bond operations.³⁹ A personal bond office can facilitate quick and effective identification of defendants to be released on personal bonds, which in turn, promotes efficient jail management. Ostensibly, the primary advantage of a personal bond office is that a magistrate or judge would be more likely to allow a personal bond if it were recommended by an impartial third party, rather than on the representation of an attorney.⁴⁰

Personal bond/pretrial service and other similar offices exist in about 40 percent of Texas counties.⁴¹ The absence of personal bond and pretrial services offices in the other 154 counties may help explain why personal bonds are not as widely used in Texas. As most of these offices exist in urban areas, there may be an urban-rural divide when it comes to the use of personal bonds. Perhaps it is the result of inadvertent messaging. While a personal bond office may be an invaluable case-management resource, particularly pre-trial, having a personal bond office is not a prerequisite for a magistrate or judge allowing release on personal bond. Similarly, while personal bonds may be best utilized in conjunction with some type of risk assessment measure, under current law a risk assessment measure is not required.

It is a mistake to conflate personal bond offices with personal bonds. Personal bonds are not granted by personal bond offices. Personal bonds are granted by magistrates and judges and the authority for their use exists in both rural and urban Texas.

B. Despite Their Utility, Personal Bonds Have Requirements and Limitations

Subject to limitations, personal bonds provide an excellent tool for decreasing jail overcrowding.⁴² Although they are largely bound by the same rules and conditions that govern bail bonds, the Code of Criminal Procedure sets forth some specific conditions governing personal bonds.

1. Not All Offenses Are Eligible

Generally, magistrates and judges may rely on their own discretion when determining whether to release a defendant on a personal bond.⁴³ Notably, only a trial court before which a case is pending may release a defendant on personal bond for the following seven enumerated offenses:⁴⁴

- Capital murder;
- Aggravated kidnapping, sexual assault, or robbery;
- Deadly assault on a law enforcement or corrections officer, member or employee of the Board of Pardons and Paroles, or court participant;
- Injury to a child, an elderly individual, or disabled individual;
- Burglary;
- Engaging in organized criminal activity; or
- A controlled substances felony under Chapter 481, Health and Safety Code, or Section 485.033, Health and Safety Code, punishable by imprisonment for a minimum term or by a maximum fine that is more than a minimum term or maximum fine for a first degree felony.

Similarly, if a defendant refuses to submit to a magistrate's demand for testing for the presence of a controlled substance, the magistrate is not authorized to approve a personal bond; the authority to issue a release on personal bond may only be granted by the trial court.⁴⁵

With the exception of the enumerated offenses, and subject to the requirements below, a defendant may be released on personal bond even when the defendant's arrest is the result of an out-of-county warrant. In such instances, when a defendant is released on a personal bond, the judge of the court issuing the arrest warrant may not revoke the personal bond except for good cause.⁴⁶

2. Personal Bonds Have Specific Requirements

A personal bond is sufficient if it contains the following seven requirements:⁴⁷

- The requisites of a bail bond;
- The defendant's name, address, and place of employment;
- The defendant's date and place of birth;
- The defendant's height, weight, and color of hair and eyes;
- The number and state of issuance of defendant's driver's license;
- The name and address of the defendant's nearest relative; and
- An oath sworn and signed by the defendant promising to appear to answer the charges or pay the principal sum specified in the bond together with the expenses and fees occasioned by the failure to appear.

These requirements may be troubling to some. The requirements could be construed to mean certain persons are ineligible for release on personal bonds because they are unemployed, homeless, or lack government-issued identification. The requirements of Article 17.131 of the Code of Criminal Procedure are at odds with the American Bar Association (ABA) guidance on pretrial release, which presumes a defendant is entitled to release without a secured bond barring "evidence that there is a substantial risk of nonappearance or need for additional conditions."⁴⁸ It is unclear under the ABA standards whether a defendant's employment status, homelessness, or lack of identification qualifies as evidence of a substantial risk of nonappearance.⁴⁹

Arguably the requirements in Article 17.131 limit the utility and promise of personal bonds to “level the playing field” and avoid the problems and harms associated with bail bonds.

3. Limitations on Personal Bonds Also Extend to Defendants with Mental Illness or Intellectual Disabilities

There are special considerations applicable to personal bonds when a defendant is mentally ill or has an intellectual disability. These provisions, contained in Article 17.032 of the Code of Criminal Procedure, must be read in conjunction with Article 16.22, which states that a sheriff or municipal jailer who receives credible evidence to suspect that a defendant has a mental illness, or is a person with an intellectual disability, is mandated to notify a magistrate of this fact within 12 hours.

For those defendants who are mentally ill or have an intellectual disability, release on personal bond is mandatory subject to the following limitations:

- The accused has not previously been convicted of a “violent offense” (specifically, (1) murder, (2) capital murder, (3) kidnapping, (4) aggravated kidnapping, (5) indecency with a child, (6) assault involving bodily injury and family violence, (7) sexual assault, (8) aggravated assault, (9) aggravated sexual assault, (10) injury to a child, elderly individual, or disabled individual, (11) aggravated robbery, (12) continuous sexual assault of a child, or (13) continuous trafficking of persons);⁵⁰
- The accused is not now charged with a violent offense;
- The defendant must be examined by the local mental health authority or expert (per Article 16.22);
- The applicable expert in a written assessment appointed to examine the defendant both concluded that the accused has a mental illness or is a person with intellectual disability, is competent to stand trial and recommends applicable treatment or services;
- The magistrate determines in consultation with a local provider of services that appropriate mental health or intellectual disability services for the defendant are available; and
- The magistrate must make a finding after considering all circumstances and information that a personal bond will reasonably ensure the defendant’s appearance in court and the safety of the community.

Unless good cause is shown for not requiring treatment, the magistrate shall require as a condition of personal bond release that the defendant submit to outpatient or inpatient mental health treatment as recommended by the local mental health authority if the defendant’s mental illness is chronic in nature; or the defendant’s ability to function independently will continue to deteriorate if the defendant is not treated.

In conjunction with Article 17.15, the magistrate may also require the defendant, as a condition of release, to comply with other conditions that are reasonably necessary to protect the community.

Conclusion

Particularly in pre-trial matters, the criminal justice system has long endeavored to strike an equitable balance between the competing aims of individual liberty and ensuring a defendant’s appearance in court. This is not the first time in Texas history that the principle of bail and its administration has been subjected to question, criticism, and calls for reform.⁵¹

Subject to statutory restrictions and requirements, personal bonds are in many cases a viable alternative to bail bonds in Texas. Of course, whether a personal bond is appropriate is not just a matter of statutory law; it requires careful consideration of the facts and circumstances of individual cases. It is a decision entrusted to magistrates and judges.

Personal bonds were passed into law in 1965 in response to those who believed that it was irrational to require an accused either to remain in jail at the expense of taxpayers or to pay a professional bail bondsman when there was only a remote possibility of flight.⁵² Yet more than 50 years later, personal bonds generally remain underutilized throughout Texas.

Although personal bonds have untapped potential to remedy some of the criticisms of criminal justice reform advocates, and others calling for bail reform, personal bonds also have limitations and are no panacea. Increased, widespread use of personal bonds may also result in civil judgments and additional legal financial obligations that may hurt low income defendants.

1. George C. Thomas III, *The Criminal Procedure Road Not Taken: Due Process and the Protection of Innocence*, 3 Ohio St. J. Crim. L. 169, 173 (2005).
2. Timothy R. Schnacke & National Institute of Corrections, *Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform* p.15 (2014).
3. See, Ariana Linder Mayer, *What the Right Hand Gives: Prohibitive Interpretations of the State Constitutional Right to Bail*, 78 Fordham L. Rev. 267, 284 (2009) (so called “right-to-bail” states have adopted stronger protections than guaranteed by federal law by providing a constitutional right to bail in noncapital cases).
4. As a general rule, particularly in cases involving misdemeanors, bail may not be denied. Since 2005, however, the Texas Legislature, with the support of voters, has amended the Texas Constitution to carve out exceptions to the general right to bail. Per amendments to the Texas Constitution, Article I, Section 11, the right to bail may be denied by a magistrate: (1) when the accused is arrested for a capital offense and the State presents proof evident that conviction and death sentence will result from trial; (2) when the accused is arrested for violating a condition of bond relating to family violence; (3) when the accused is arrested for violating a magistrate’s order of emergency protection or a protective order; or (4) when the accused is arrested for certain sexual offenses involving a child (Article 17.153, Code of Criminal Procedure).
5. Mike Ward, *Bail Bondsmen: Reform Bill Will Drive Us Out of Business*, Houston Chronicle, <https://www.houstonchronicle.com/news/houston-texas/texas/article/Bail-bondsmen-Reform-bill-will-drive-us-out-of-11050902.php> (April 5, 2017).
6. *Id.*
7. *Id.*
8. Jolie McCulloch, *How Harris County’s Federal Bail Lawsuit Spreads beyond Houston*, Texas Tribune, <https://www.texastribune.org/2017/10/02/how-harris-countys-bail-lawsuit-spreads-beyond-houston/> (October 2, 2017).
9. *O’Donnell v. Harris County*, 882 F.3d 528 (5th Cir. 2018), opinion withdrawn and superseded on reh’g sub nom; *O’Donnell v. Harris County*, 892 F.2d 147 (5th Cir. 2018) (affirming and reversing in part the trial court’s conclusions of law, the 5th Circuit Court of Appeals held that the Harris County’s bail system violated due process because Texas law created a protected liberty interest in a right to bail and the current procedure did not sufficiently protect detainees from magistrates imposing bail as an instrument of oppression); see also, Gabrielle Banks, *Federal Judge on Landmark Harris County Bail Suit Implements Revision to Policy*, Houston Chronicle, <https://m.chron.com/news/houston-texas/houston/article/Federal-judge-on-landmark-Harris-County-bail-suit-13038920.php> (June 29, 2018).
10. Florian Martin, *New Risk Assessment Tool Meant to Make Harris County Bail Rulings More Fair*, Houston Public Media, <https://www.houstonpublicmedia.org/articles/news/2017/07/31/228089/new-risk-assessment-tool-meant-to-make-harris-county-bail-rulings-more-fair/> (July 31, 2017); see also, Nathan Fennell, Meredith Prescott & Lyndon B. Johnson Sch. Pub. Affairs, *Risk, Not Resources: Improving the Pretrial Release Process in Texas* p.4, (2016).
11. John Buntin, *The Fight to Fix America’s Broken Bail System*, Governing Magazine, <http://www.governing.com/topics/public-justice-safety/gov-bail-reform-texas-new-jersey.html> (October 2017).
12. Article 17.01, Code of Criminal Procedure.
13. Article 17.02, Code of Criminal Procedure.
14. Articles 17.03(a), 17.04 (3), Code of Criminal Procedure.
15. *Ex parte Bogia*, 56 S.W.3d 835, 840 (Tex. App.—Houston [1st Dist.] 2001, no pet.).
16. George E. Dix & John M. Schmolesky, *40-43b Texas Practice: Criminal Practice and Procedure* Section 21:25 (3d ed. 2011).
17. Article 17.15(4), Code of Criminal Procedure.
18. Chapter 17, Code of Criminal Procedure.
19. Article 45.016, Code of Criminal Procedure.
20. Article 45.0425, Code of Criminal Procedure.
21. Article 17.03, Code of Criminal Procedure (1965) (current version at Article 17.03, Code of Criminal Procedure (2017)).
22. Ned Minevitz, “Broadening Bearden: Pre-Trial Justice and Why Bail Practices May Be in Store for Major Changes,” *The Recorder*, pp.1, 9 (August 2016).
23. Fennell, Prescott & Lyndon B. Johnson Sch. Pub. Affairs, *Supra* note 10, at 9.
24. James Pinkerton, *Judges Leery of No-Cost Personal Bonds*, Houston Chronicle, <https://www.chron.com/news/houston-texas/article/Harris-County-judges-leery-of-personal-3851998.php> (September 9, 2012).
25. Steven Kreytak, *Travis County Leads Texas in Personal Bond Releases*, Austin American-Statesman, <https://www.statesman.com/news/local/travis-county-leads-texas-personal-bond-releases/3BJMFvpelQkvwqSyGwrVJK/>; *infra* note 40, at 10 (November 21, 2010).

26. See generally, Lindsey Linder & Texas Criminal Justice Coalition, *Responses to Five Claims About Personal Bonds and Pretrial Reform*, <https://www.texascjc.org/system/files/publications/TCJC%20Fact%20Sheet%20%28Pretrial%20Opposition%20Claims%29.pdf>. (2017) (In 2017, proponents of pretrial bail reform facing opposition from the commercial bail industry published a fact sheet refuting five common claims about personal bonds).
27. See, Gillian B. White, *Who Really Makes Money Off of Bail Bonds?*, *The Atlantic* (May 12, 2017), <https://www.theatlantic.com/business/archive/2017/05/bail-bonds/526542/> (although there are more than 25,000 bail-bonds companies throughout the United States, there are only 10 insurers responsible for underwriting the bulk of the \$14 billion in bail bonds issued each year. The bail bond industry as a whole brings in around \$2 billion in profit a year).
28. See, *Alberti v. Sheriff of Harris County, Tex.*, 406 F. Supp. 649, 686 (S.D. Tex. 1975) (arrested persons should not be denied the possibility of release on personal bond or recognizance solely because of their ability to obtain release on a bail bond).
29. *Release on Recognizance*, *Black's Law Dictionary* (6th ed. 1990).
30. Dix & Schmolesky, *Supra* note 16, Section 21:16.
31. Ward, *Supra* note 5.
32. *Major Momentum Shift: Texas Legislature Squarely Rejects New Jersey-Style Bail Reform*, American Bail Coalition, <http://www.americanbailcoalition.org/in-the-news/major-momentum-shift-texas-legislature-squarely-rejects-new-jersey-style-bail-reform/>. (last visited July 2, 2018).
33. A defendant who is detained in jail may only be held for a period ranging from no longer than 5 days, if the defendant is accused of a fine-only misdemeanor, to 90 days, if the defendant is accused of a felony. Article 17.151, Code of Criminal Procedure. Article 17.151 applies to magistrates and trial courts although most case law concerns trial court actions. Generally, if the State is not ready for trial by the time the period has expired, the defendant must be released either on personal bond or by reducing the amount of bail. If the defendant is indigent, a trial court “must reduce bail to an amount that the record reflects the accused can make in order to effectuate release.” *Rowe v. State*, 853 S.W.2d 581 (Tex. Crim. App. 1993). If an indigent defendant demonstrates that he is unable to pay any amount of bail and the trial court chooses to lower his bail requirement rather than release him on personal bond, it can be an abuse of discretion. *Id.* at 582. The same is true in cases involving indigent defendants who are unable to pay reduced bail. See generally, *Ex parte Avila*, 201 S.W.3d 824 (Tex. App.—Waco 2006, no pet.); *Ex parte Ancira*, 942 S.W.2d 46 (Tex. App.—Houston [14th Dist.] 1997, no writ).
34. Article 22.10. Code of Criminal Procedure.
35. Article 22.10. Code of Criminal Procedure; see also, *Gramercy Ins. Co. v. State*, 834 S.W.2d 379, 382 (Tex. App.—San Antonio 1992, no writ) (Equity, due process, and basic concepts of fairness require that the provisions concerning forfeiture be similarly applied to surety bonds and personal bonds).
36. Kreytak, *Supra* note 25.
37. Article 17.42, Code of Criminal Procedure.
38. John M. Schmolesky, *1 Texas Criminal Practice Guide* Section 12.03(3)(b) (Matthew Bender and Company ed., 2018) (Article 17.42 authorizes a defendant released on personal bond is required to pay a personal bond fee, which may be used solely for defraying the expenses of the personal bond office (including costs of extradition). The personal bond fee is \$20.00 or three percent of the bond, whichever is greater. The fee may be waived for good cause. Notably, a personal bond fee is expressly prohibited for personal bonds used in municipal and justice courts per Article 45.016 of the Code of Criminal Procedure).
39. *Tex. Atty. Gen. Op. JM-901* (1988).
40. Schmolesky, *Supra* note 38.
41. Dottie Carmichael et al., *Liberty and Justice: Pretrial Practices in Texas* xvi, 45, http://www.txcourts.gov/media/1437499/170308_bond-study-report.pdf (2017).
42. A county court judge may lack jurisdiction to hold bail-review hearings for county jail inmates awaiting charges and to unilaterally change the status of their bonds from surety bonds to personal bonds in order to deal with a chronic jail-overcrowding problem, even though the judge qualifies as a magistrate and does not change the amounts of the bonds, where a qualified magistrate previously exercised jurisdiction over the bail issues and nothing is done to prompt or solicit the judge’s intervention. *Guerra v. Garza*, 987 S.W.2d 593 (Tex. Crim. App. 1999).
43. Article 17.03(a), Code of Criminal Procedure.
44. Article 17.03(b), Code of Criminal Procedure.
45. *Id.*
46. Article 17.031, Code of Criminal Procedure.
47. Article 17.04, Code of Criminal Procedure.
48. American Bar Association, *Criminal Justice Section Standards: Pretrial Release*, Std. 10-5.1.
49. *Id.*
50. Article 17.032(a), Criminal Procedure.
51. Harold Don Teague, *Bail in Texas*, 43 Tex. L.Rev. 356 (1965).
52. *Id.* at 356, 375.

DID YOU KNOW?



TMCEC makes audio recordings of some of its conferences. These may be accessed at no charge on the course materials page of the respective program. Go to www.tmcec.com/course-m/. Currently audio recordings of the 2018 Houston Regional Judges and Clerks Conferences and the San Antonio Court Administrator and Prosecutor Conferences are available.

A Guide to Pretrial Release for Magistrates, Judges, and Officers*

	Arrest Type	Who?				When?	
		Determination of PC ¹	15.17 Warnings ²	Set Bail	Take Bail	Maximum Time Held Before Magistration	Maximum Time Held Pending Trial
Arrests Under Warrant	Class C Misdemeanor, Post-charging³	Judge issuing warrant	Judge	Judge, but generally only personal bond is permitted ⁴	Judge or officer	48 hours	48 hours after bail is set (if bail is required) until reconsideration of bail requirement ⁵ ; 5 days
	Misdemeanor	Judge or magistrate issuing warrant	Magistrate	Magistrate seeing defendant after arrest (not issuing magistrate) or peace officer (only if magistrate is not available) ⁶	Magistrate or officer	48 hours	15 days for Class A or B Misdemeanor 5 days Class C misdemeanor
	Felony	Judge or magistrate issuing warrant	Magistrate	Court where prosecution is pending (if in session) magistrate seeing defendant after arrest or peace officer (only if no amount has been fixed by court or magistrate)	Magistrate or officer	48 hours	90 Days
Warrantless Arrests	Misdemeanor	Magistrate after arrest	Magistrate	Magistrate	Magistrate or officer	24 hours	15 days for Class A or B misdemeanor 5 days for Class C misdemeanor
	Misdemeanor (No magistrate available)	If no determination has been made within 24 hours, Art. 17.033 triggers release on statutory bail amount	Will not happen while in custody prior to charging	Set by peace officer – Statutory max of \$5000	Officer can take bail or must release on personal bond, if defendant is unable to pay or secure a surety	24 hours	Defendant not held past 24 hours, unless a motion is filed by the state.
	Felony	Determined by magistrate after arrest	Magistrate	Magistrate	Magistrate or officer	48 hours	90 Days
	Felony (No magistrate available)	If no determination has been made within 48 hours, Art. 17.044 triggers release on statutory bail amount	Will not happen while in custody prior to charging	Set by peace officer – Statutory max of \$10,000	Officer can take bail or must release on personal bond, if defendant is unable to pay or secure a surety	48 hours	Defendant not held past 24 hours, unless a motion is filed by the state.

*This chart was developed by Mark Goodner, Deputy Counsel and Director of Judicial Education, TMCEC. It is intended to assist judges, magistrates, and peace officers with the pretrial release process by clearly designating the appropriate official and the required timing according to the type of arrest and level of offense.

1. See, *County of Riverside v. McLaughlin*, 500 U.S. 44 (U.S. 1991).
2. See, Arts. 2.09 and 15.17, Code of Criminal Procedure.
3. A court in which a charging instrument has been filed has exclusive jurisdiction over the offense. See, Art. 4.16, Code of Criminal Procedure.
4. A judge is authorized to require a defendant to give a personal bond to secure appearance. The judge may not require a defendant to give a bail bond unless: (1) the defendant fails to appear with respect to the applicable offense; and (2) the judge determines that the defendant has sufficient resources/income to give a bail bond; and (3) a bail bond is necessary to secure appearance. If the defendant refuses to give a personal bond or refuses or otherwise fails to give a bail bond, the defendant may be held in custody. See, Art. 45.016, Code of Criminal Procedure.
5. If a defendant charged with a Class C misdemeanor is required to give a bail bond and remains in custody, without giving the bond, for more than 48 hours, the judge shall reconsider the requirement for the defendant to give the bond and presume that the defendant does not have sufficient resources/income to give the bond. This may likely lead to release, unless it is clear that the defendant is refusing to give bond. See, Art. 45.016, Code of Criminal Procedure.
6. See, Arts. 17.05 and 17.20, Code of Criminal Procedure.

ESSENTIAL COMPONENTS OF JUDICIAL PRACTICE

WHAT EVERY JUDGE NEEDS TO KNOW ABOUT TRAUMA

As a judge with a treatment or problem-solving court, you probably know that many people who appear before you have experienced violence or other traumatic events. In fact, the experience of trauma among people with substance abuse and mental health disorders, especially those involved with the justice system, is so high as to be considered an almost universal experience.

What you may not know is that these trauma experiences affect the person's physical health, mental health, and ability to respond successfully to treatment and other interventions. The stress of the courtroom environment may also affect the ability of trauma survivors to communicate effectively with you and court personnel. Many judges have come to recognize that acknowledging and understanding the impact of trauma on court participants may lead to more successful interactions and outcomes.

Recognizing the impact of past trauma on treatment court participants does not mean that you must be both judge and treatment provider. Rather, trauma awareness is an opportunity to make small adjustments that improve judicial outcomes while minimizing avoidable challenges and conflict during and after hearings. This brief provides information, specific strategies, and resources that many treatment court judges have found beneficial.

What You Say: *Communication Counts*

I deal with sexually violent persons. These men have at least two convictions each for either adult violent rapes or child molestation. I don't have any problems with security. I don't have one person that has to come into court in shackles, not one, because I give them respect. I call them by their names. It starts there. — Criminal Court Judge

Every interaction between a judge and a treatment court participant is an opportunity for engagement. For a person who has experienced past trauma or may still be experiencing violence in their lives, a judge's words can be potentially hurtful or potentially healing. Trauma-informed judicial practice recognizes the role that trauma may play in how an individual perceives what the judge says and how he or she says it.

Courtroom Communication

JUDGE'S COMMENT	PERCEPTION OF TRAUMA SURVIVOR	TRAUMA-INFORMED APPROACH
"Your drug screen is dirty."	"I'm dirty. There is something wrong with me."	"Your drug screen shows the presence of drugs."
"Did you take your pills today?"	"I'm a failure. I'm a bad person. No one cares how the drugs make me feel."	"Are the medications your doctor prescribed working well for you?"
"You didn't follow the contract, you're going to jail; we're done with you. There is nothing more we can do."	"I'm hopeless. Why should I care how I behave in jail? They expect trouble anyway."	"Maybe what we've been doing isn't the best way for us to support you. I'm going to ask you not to give up on recovery. We're not going to give up on you."
"I'm sending you for a mental health evaluation."	"I must be crazy. There is something wrong with me that can't be fixed."	"I'd like to refer you to a doctor who can help us better understand how to support you."

There are an infinite number of possible communications between a judge and treatment court participant, and there is no script to follow to ensure that each communication is trauma-informed. However, the table below provides some common examples of comments a judge might make; how a trauma survivor might hear or perceive that comment; and another, more trauma-informed way of expressing the judge's concern.

Many judges have found that expressing concern and using less negative, punitive, or judgmental language has a positive impact on participants. A treatment court judge serving veterans explained, "I always begin by telling a participant, 'Thank you for your service.' One court graduate later said to me, 'Here I was, charged with 10 felonies, and you thanked me for my service. I really struggled with that, but it gave me hope, and it was a good thing to say.'"

Treatment court judges who have made an effort to implement trauma-informed approaches point out that it is important not to give short shrift to those who are doing well. Giving them credit may bolster their chances of success. Hearing positive feedback given to others also serves as an incentive to individuals who may be struggling to complete court-ordered treatment. For example, one treatment court judge tells participants:

"Many of you have done well, and I would like to be able to spend an equal amount of time with each of you. I have several cases to get through today and I'm going to spend a bit more time with individuals who are having problems. I am proud of all of you who are doing well; you serve as an inspiration to your peers."

What You Do: Court Processes and Procedures

*What the judge did was pretty incredible. He asked me to come forward. It created a sense of privacy. I didn't have to shout across a really busy courtroom. He really helped me in that simple act of asking me to come closer. I was able to do what I needed to do, and he was able to hear what he needed to hear. I had been in the mental health system for 14 years, and **this judge changed my life in that one simple act.** — Trauma Survivor*

Much of what takes place in a legal proceeding, even in treatment courts, may be confusing to someone new to the criminal justice system. In many cases, the simple act of giving treatment court participants a clear explanation of what is going to happen helps alleviate their fears and lessen the possibility that they will disrupt courtroom proceedings.

The table on the following page lists some common courtroom experiences, how a trauma survivor might respond to or perceive them, and concrete suggestions for providing a more trauma-informed experience that is more likely to engage the participant. Note that many of these tools are effective not only in working with treatment court participants, but with witnesses and other people who may come before the court. The goal is to guarantee physical and emotional safety for all trauma survivors who appear in your court.

In addition to modifying courtroom procedures, many treatment judges have developed unique ways to help individuals participate more fully in their own recovery. They include the following:

Photography. Some treatment court judges give participants disposable cameras and ask them to record what is important for them to stay sober. The individuals work with their case managers to write about what the photographs mean to them. This has been used successfully in a Brooklyn treatment court, where the photographs are used as an incentive for participants to remain in treatment. When shared with the judge, they help her understand better what the individual needs to do to recover.

Letters. In similar fashion, some treatment court judges have participants write letters or journal entries. These letters may focus on positive experiences the individual has had since they last saw the judge or times

Courtroom Procedures

COURTROOM EXPERIENCE	REACTION OF TRAUMA SURVIVOR	TRAUMA-INFORMED APPROACH
A court officer handcuffs a participant without warning to remand him or her to jail because they have not met the requirements of their agreement with the court.	Anxiety about being restrained; fear about what is going to happen.	Tell the court officer and the individual you intend to remand them. Explain why. Explain what is going to happen and when. <i>(The court officer will walk behind you; you will be handcuffed, etc.).</i>
A judge remands one individual to jail but not another when they both have done the same things (e.g., had a positive drug screen) and they are both in the courtroom at the same time.	Concern about fairness; feeling that someone else is getting special treatment.	Explain why you are doing this. For example, <i>“Both Sam and Meredith had positive drugs screens. Sam is new to drug court and this is the first time he had a positive screen. We are going to try again to see if the approach we’re using can be effective. Meredith has had multiple positive drug screens; I’m remanding her to jail because the approach we’ve been using here hasn’t been effective in supporting her recovery. I wish I had a better choice, and I hope she won’t give up on recovery.”</i>
Individuals who are frightened and agitated are required to wait before appearing before the judge.	Increased agitation; anxiety; acting out.	Clearly provide scheduling information in the morning so participants know what will be expected of them and when. To the greatest extent possible, prioritize who appears before you and when; those who are especially anxious may have the most trouble waiting and be more likely to act out.
A judge conducts a sidebar conversation with attorneys.	Suspicion, betrayal, shame, fear.	Tell the participant what is happening and why. For example, <i>“We have to discuss some issues related to your case. We just need a minute to do it on the side.”</i>
A participant enters a plea that does not appear to be consistent with the evidence, his or her own description of the event, or his or her own best interests.	Memory impairment; confusion about courtroom procedures; inability to process implications of the plea.	Adjourn to allow time for courtroom team to discuss whether and how to accept the plea.

that they felt good about themselves. They may write about their hopes for recovery or problems they are having in treatment.

Stories/DVDs for Children. Another treatment court judge has found a way to help parents who are in residential treatment stay connected with their children. Parents choose from among donated children’s books and are videotaped reading for their child. They may offer a short introduction (e.g., “Mommy can’t be with you now, but I’m going to read you this story”). The books and DVDs are given to the children’s caregiver. This helps lessen the chance that individuals will drop out of treatment because they are separated from their children and reinforces the importance of their role as parents.

Many trauma survivors involved in the justice system report that forensic peer specialists have helped bridge the gap between the treatment and judicial systems. Forensic peer specialists are individuals with histories of mental health and/or substance abuse treatment and criminal justice involvement who are trained to help those with similar histories. They share their experiences as people in recovery and ex-offenders and can help link treatment court participants with housing, employment, educational opportunities, and community services.

How You Do It: *The Courtroom Environment*

When you go into a court you don't know what's going on because you're terrified. There are guns, they've got you chained up, and you're under the influence. All these things are happening at once. — Trauma Survivor

The courtroom setting can be intimidating, even for individuals who have not experienced violence and trauma in their lives. Many practices may be perceived as shocking and dehumanizing to someone experiencing the court for the first time. For example, in some courts, people are handcuffed and forced to appear in prison jumpsuits. Courtrooms frequently include many signs telling individuals what not to do. For example: “Don’t touch court papers.” “No cell phones allowed in court.” “No food, drinks, or gum,” “No T-shirts or tank tops. Dress code enforced.” Many of the signs serve to intimidate and separate participants, who may feel as if they are being treated with disdain. There is also concern about how to make the courtroom safe for participants when perpetrators and/or victims of their crimes are in attendance.

Courtroom Environment

PHYSICAL ENVIRONMENT	REACTION OF TRAUMA SURVIVOR	TRAUMA-INFORMED APPROACH
The judge sits behind a desk (or “bench”), and participants sit at a table some distance from the bench.	Feeling separate; isolated; unworthy; afraid.	In some treatment courts, the judge comes out from behind the bench and sits at a table in front.
Participants are required to address the court from their place at the defendant’s table.	Fear of authority; inability to communicate clearly, especially if an abuser is in the courtroom.	When practical, ask the participant to come close; speak to them beside or right in front of the bench.
Multiple signs instruct participants about what they are not allowed to do.	Feeling intimidated; lack of respect; untrustworthy; treated like a child.	Eliminate all but the most necessary of signs; word those that remain to indicate respect for everyone who reads them.
A court officer jingles handcuffs while standing behind a participant.	Anxiety; inability to pay attention to what the judge is saying; fear.	Eliminate this type of nonverbal intimidation, especially if you have no intention of remanding the individual. Tell the court officers not to stand too close. Respect an individual’s personal space.
A judge asks a participant to explain her behavior or the impact of abuse without acknowledging the impact of others in the courtroom.	Intimidation or fear of abusers who may be in the courtroom; reluctance to share information in front of family members or others who do not believe them.	Save questions about sensitive issues for when the courtroom is empty or allow the participant to approach the bench. If ongoing abuse or intimidation is suspected, engage those people in activities outside the courtroom while the participant shares her story.

The table below highlights some aspects of the physical environment in a typical courtroom, how a trauma survivor might react to them, and how they can be modified. The goal is to promote physical and emotional safety for trauma survivors, as well as for victims, while not sacrificing the security or formality of the judicial proceedings.

Treatment court judges who have received training in trauma-informed approaches have cited it as a valuable experience. The purpose of training is not to have judges probe for trauma experiences or do the work of case managers or treatment providers. Rather, the aim is for judges and all court personnel to have a better understanding of trauma, its impact on an individual’s behavior in the courtroom and in treatment, and the types of services that help trauma survivors heal. Trauma training can also help you understand what to look for in a trauma-informed service provider before you make a referral. Resources for judicial training are listed at the end of this article.

Serving in a treatment court may result in secondary or vicarious trauma for judicial officers and staff. Because trauma is so prevalent, trainings that provide opportunities for all court personnel to explore their own experiences of trauma may help them better understand their own and participants' behavior and create a safe, healing environment for all.

Knowledge of evidence-based, trauma-specific treatments can help a judge evaluate whether participants referred for community treatment are receiving the services most likely to promote recovery. In many communities, the presence of treatment courts has helped bolster the number and range of trauma services available to individuals with mental health and substance use diagnoses. Judges who understand trauma and its consequences are in a better position to advocate for the development of trauma-specific services and trauma-informed service systems.

Conclusion

Most treatment court participants are survivors of trauma. Many treatment court judges have found that understanding and acknowledging trauma helps to engage participants in services, treatment, and judicial interventions, whether or not they have a trauma-related or other mental health diagnosis. Communicating effectively and respectfully with treatment court participants, eliminating unnecessary court procedures that could be perceived as threatening, and modifying the physical environment to create a sense of safety can help to ensure that trauma survivors benefit from judicial interventions. Training and resources are available to support treatment courts in becoming trauma-informed.

Resources for More Information

SAMHSA'S National Center on Trauma-Informed Care (NCTIC): NCTIC provides training, consultation, and other technical assistance to courts, jails and prisons, and other justice system partners. NCTIC also provides free training and materials on the Trauma, Addictions, and Mental Health Recovery (TAMAR) program, a structured, 15-week trauma-specific group intervention for women and men with histories of trauma who are in corrections, state psychiatric hospitals, and community settings. For more information, visit the NCTIC website at <http://www.nasmhpd.org/TA/nctic.aspx>.

The National Child Traumatic Stress Network (NCTSN): NCTSN has developed a suite of products for judges serving traumatized children. They are available free online at www.nctsn.org.

SAMHSA's National GAINS Center for Behavioral Health and Justice: The GAINS Center's primary focus is on expanding access to community based services for adults with behavioral health issues at all points of contact with the criminal justice system. The GAINS Center provides technical assistance to several of SAMHSA's justice-related grant programs and to the field, including trauma-informed response trainings, strategic planning workshops, and policy academies. For more information, visit the GAINS Center website at <http://gainscenter.samhsa.gov/> or call 800.311.4246.

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RESOURCES FOR YOUR COURT

Implementing Electronic Warrants

Improving DUI System Efficiency: A Guide to Implementing Electronic Warrants is a new best practices guide for implementing and using electronic warrants. It was created by the Justice Management Institute through a grant from the Foundation for Advancing Alcohol Responsibility. At 114 pages, this guide covers a wide range of topics related to electronic warrants including legislation, cost, case studies (including some from Texas), unintended consequences, and much more. This is an excellent resource for courts already using electronic warrants as well as courts planning on implementing them. The resource can be accessed free of charge at https://www.responsibility.org/wp-content/uploads/2018/04/FAAR_3715-eWarrants-Interactive-PDF_V-4.pdf?pdf=eWarrants_Implementation_Guide.

Law Enforcement Liaison Traffic Stop

The article on page 22 of this issue of *The Recorder* is an example of the types of articles sent out by the LEL Traffic Stop, a project of the National Law Enforcement Liaison (LEL) Program offered by the Governor's Highway Safety Administration. The LEL Traffic Stop is a weekly broadcast email produced by the National LEL Program featuring news, announcements, new publications and more from the world of traffic safety and enforcement. It is filled with interesting details and stories about how to make our roads and highways safer. To subscribe (no charge), go to <https://www.nlelp.org/resources/lel-traffic-stop/>.

NATIONAL NIGHT OUT OCTOBER 2, 2018



MUNICIPAL COURT WEEK NOVEMBER 5-9, 2018



To order traffic safety materials for these events, visit <http://www.tmcec.com/drsr/materials-request-forms/>.
To report planned participation in either event, e-mail Ned Minevitz at ned@tmcec.com.

TRAFFIC SAFETY UPDATE: NEWS YOU CAN USE

CDOT Survey Finds Lots of People are Driving While Stoned

By J. Adrian Stanley, Twitter: @JAdrianStanley1

Most people know it's illegal to drive while high on marijuana. But the Colorado Department of Transportation has found that a lot of cannabis users don't take the law seriously, even though it can result in a DUI, or worse yet, a crash.

That information comes from CDOT's Cannabis Conversation, a statewide survey that collected anonymous responses from 7,698 marijuana users and 3,722 non-users. The survey is still open and findings and analysis won't be finalized until summer. But there's a big number that already sticks out: Of the users, 69 percent said they have driven under the influence of marijuana in the past year, with 27 percent saying they drive high almost daily.

Now, there is controversy about how the state determines whether someone is high when police are doling out DUIs. THC stays in the body longer than alcohol, and it can be difficult to determine if someone is actually high when driving. The state limit for THC in blood is 5 nanograms per milliliter.

But remember: These survey numbers are self-reported. And there's this little nugget from CDOT's press release: "Forty percent of recreational users and 34 percent of medical users said they don't think being under the influence of marijuana affects their ability to drive safely. About 10 percent of all users think it makes them a better driver."

While it's hard to determine whether someone crashed their car due to marijuana, another drug, distraction from a cell phone or simple error, CDOT found that in 2016, 51 fatalities in Colorado involved drivers who were over the limit for THC.

If you're interested in the topic, *The Denver Post* published an analysis of high driving on Aug. 25, 2017, called "Exclusive: Traffic fatalities linked to marijuana are up sharply in Colorado. Is legalization to blame?" One interesting Colorado fact from that report: "Those who tested positive for alcohol in fatal crashes from 2013 to 2015 — figures for 2016 were not available — grew 17 percent, from 129 to 151.

"By contrast, the number of drivers who tested positive for marijuana use jumped 145 percent — from 47 in 2013 to 115 in 2016."

CDOT worked with a group of partners for its Cannabis Conversation, including dispensaries. Todd Mitchem, managing partner of Dacorum Strategies, a Denver-based government affairs and community outreach firm for the cannabis industry, stated in the CDOT release that government, industry and other partners will have to work together to combat high driving. "This isn't something that law enforcement can solve, or something CDOT can solve, or something the marijuana industry can solve. We have to work together and be honest with each other about the challenges."

This article first appeared in the Colorado Springs Independent on August 25, 2018.

The Cannabis Conversation survey can be accessed at <https://www.codot.gov/safety/alcohol-and-impaired-driving/druggeddriving>.

The Denver Post article can be accessed at <https://www.denverpost.com/2017/08/25/colorado-marijuana-traffic-fatalities/>

This article was also posted in the April 27, 2018 edition of National Law Enforcement Liaison (LEL) Program's weekly bulletin: The LEL Traffic Stop. See note on page 21 of this issue of The Recorder for more information on the bulletin.



In 2016, 51 fatalities in Colorado involved drivers who were over the limit for THC

FROM THE CENTER

Reminder!

TMCEC has sent all courts a roster of judges and court support personnel that our database shows as active in your court. Please review carefully. Please remember to include those judges who work at local jails as magistrates. It is important that they receive legal updates and reminders, too!

Another Reminder: Equally or More Important!!

Judges are reminded that August 31, 2018 is the deadline to complete the mandatory judicial education requirements for the year September 1, 2017-August 31, 2018. While TMCEC sends reminders to judges as a courtesy, it is the responsibility of the individual judge to make sure that their hours are completed and reported to TMCEC. You can check your transcript at <https://register.tmcec.com/web/Online>. Judges who fail to complete the mandatory 16 hours of judicial education risk having their names submitted to the State Commission on Judicial Conduct. There is a waiver process for those with extreme medical conditions or when emergency or tragic situations arise. These waivers are rarely approved. For information, contact, Mark Goodner at TMCEC: goodner@tmcec.com.

Fines, Fees, Costs & Indigence Revisited

TMCEC has added a four-hour program at the Omni Westside in Houston on August 24, 2018 from 10 am - 3 pm. The registration fee is \$20 and continental breakfast and lunch is provided. The program is designed for judges, clerks, and prosecutors. It was offered earlier in the summer in Waco and San Marcos and was highly rated. Participants from the earlier programs commented:

- *Excellent! Excellent!*
- *Love these intense classes.*
- *Excellent job clearing up the judicial requirements for indigence, ability to pay, and alternative payments.*
- *Great speakers. Discussed topics thoroughly.*
- *Thank you, Regan and Ryan! Y'all are always engaging and informative.*

Register online at <https://register.tmcec.com/>, email tmcec@tmcec.com for a registration form, or download a registration form at www.tmcec.com/registration/.

More Summer Webinars

Watch your email, access the TMCEC Online Learning Center at <https://tmcec.remote-learner.net/>, or go to the TMCEC webpage at <http://www.tmcec.com/webinars/> to see what July and August webinars are planned. These are a great way to complete your mandatory judicial education requirements or requirements for clerk certification renewal. The following webinars are currently scheduled with more to come in August:

- July 26, 2018, *Immigration Issues in Municipal Courts*, presented by Alex Wathen, Attorney at Law, Wathen & Associates
- August 9, 2018, *Productive Pairs*, presented by Patti Tobias, Principal Court Management Consultant, Court Consulting Services, National Center for State Courts (Note: Due to technological difficulties in its first airing on July 12th, this webinar is a second live airing and will be archived on August 10th.)
- August 23, 2018 *Setting Up a Court of Record*, presented by Ryan Henry, Attorney, Law Offices of Ryan Henry, PLLC

Have Your Court Security Officers Completed the Mandatory Training?

State law now requires bailiffs, marshals, warrant officers, or any persons who acts in the capacity of providing security to your court to complete one of two TCOLE courses no later than August 31, 2019. Courses have been offered by TMCEC, the JP Training Center, local sheriff and police academies, local councils of government, and private vendors. This includes non-licensed peace officers (civilians) who are assigned to perform court security and those working the metal detectors in your front lobby. TMCEC is offering two eight-hour programs (TCOLE Course #10999) twice in August:

- August 1, 2018 at the Omni Dallas Park West – registration fee \$50. A room block is available but is paid for by local funds or the individual.
- August 23, 2018 in Corsicana (offered in cooperation with the Corsicana Municipal Court). No registration fee. Housing

must be made by individuals at nearby hotels.

Register online at <https://register.tmcec.com/web/Online>, email tmcec@tmcec.com for a registration form, or download a registration form at www.tmcec.com/registration/.

FY 19 TMCEC Schedule

TMCEC hopes to open registration for the FY 19 academic year on August 1, 2018. Watch your email for a list of conferences, your mail box for the Academic Catalog, and the TMCEC website. TMCEC encourages courts to register early so that the TMCEC staff can properly plan the meeting. The first regional conference of the year will be held in Tyler at the Tyler Holiday Inn. Regional Clerks will be October 22-24, 2018 and Regional Judges will be held October 24-26, 2018.

2018 Mental Health Summit: Register Now!

Judges and prosecutors are invited to attend the 2018 TMCEC Mental Health Summit on July 30-31, 2018 at the Omni Dallas Hotel at Park West. Please see the dynamic agenda shown on page 25 of this issue of *The Recorder*. Travel funds are available for reimbursement for mileage, airfare, and meals not provided by the conference. The registration fee is only \$50 and there is neither a CLE fee nor single room fee. Participants may register online at <https://register.tmcec.com/> or use the registration form on page 26 of this issue of *The Recorder*. Register soon, as the enrollment is limited to 125 participants and filling up quickly!

The National Center for State Courts (NCSC) has released its *Trends in State Courts 2018*. The publication is available online at <http://www.ncsc.org/sitecore/content/microsites/trends/home/Annual-Publication.aspx>. Amongst the articles are those listed below which may be accessed by clicking on the link. Other articles, covering family law and civil issues, are not listed.

- *New York State's Opioid Intervention Court*: Opioid addiction has reached crisis levels in the United States. The Opioid Intervention Court in Buffalo New York, serves as a model other state courts could follow to fight this epidemic.
- *A Firm Foothold: Establishing the Judiciary's Role in the National Response to Human Trafficking*: Courts are uniquely positioned to see the many faces of human trafficking. This article tells you how the Maryland Judiciary is becoming better equipped to identify and address human-trafficking issues, what it has learned, and its plans for the future.
- *Florida's GRACE Court*: GRACE Court is the first unified, trauma-informed human-trafficking court in the nation. It was developed to comprehensively address all the needs of the young human-trafficking survivors who appear in the juvenile court of the 11th Judicial Circuit of Florida.
- *Peacemaking Programs Offer State Courts an Alternative Path*: Peacemaking is a form of Native American justice that stresses reconciliation over adversarial court processes. Can peacemaking be applied to state courts?
- *Developing a Research Agenda for Access to Justice*: Courts can achieve the promise of access to justice for all by embracing human-centered design. A research agenda built on legal-design principles will enable courts to ground future investments in scientifically rigorous, user-driven innovation and evaluation.
- *Responding to the Clash Between Access to Justice and Immigration Arrests in State Court Facilities*: Changes in federal immigration enforcement policies can affect not only state court operations, but also public attitudes about appearing in court. How should state and local courts respond to federal immigration enforcement activities in and around their facilities?
- *Promoting Access to Justice for Immigrant Crime Victims and Children: Findings of a National Judicial Survey and Recommendations*: Immigrant crime victims are becoming more common in state courts. A national survey of judges in 2017 provides a look at what types of cases involving immigrants and their families are appearing in the courts.
- *When Might Blockchain Appear in Your Court?:* The verifiable integrity of Blockchain records, linked and secured using cryptography, could soon be used in a variety of innovative ways to resolve court recordkeeping challenges. At the same time, Blockchain presents new legal issues that courts must be prepped to address.
- *Cybersecurity: Protecting Court Data Assets*: State court systems are guardians of sensitive data for individuals and organizations. To best address the threat of a cyberattack, internal coordination and external collaboration are essential in data governance.

TMCEC'S 2ND MENTAL HEALTH SUMMIT

JULY 30 - 31, 2018

Omni Dallas Hotel at Park West

1500 Lyndon B. Johnson Freeway | Dallas, Texas 75234

Agenda times and topics subject to change

Day 1 July 30, 2018

6:45 – 7:50 a.m.	Registration and Breakfast
8:00 – 8:15 a.m.	Welcome and Announcements
8:15 – 8:45 a.m.	Texas Judicial Commission on Mental Health Hon. Barbara P. Hervey, Judge, Texas Court of Criminal Appeals
8:45 – 9:30 a.m.	Mental Health in the 85th Texas Legislature Hon. Edward J. Spillane III, Presiding Judge, College Station Municipal Court
9:30 – 9:45 a.m.	Break
9:45 – 10:45 a.m.	Criminal Justice-Mental Health Partnerships B.J. Wagner, Senior Director of Smart Justice, Meadows Mental Health Policy Institute Hon. Ann Collins, Judge, Fort Worth Municipal Court Ramey C. Heddins, Senior Director of Criminal Justice, MHMR Tarrant County
10:45 – 11:00 a.m.	Break
11:00 – 12:00 noon	Identifying Mental Illness: Magistration and Municipal Courts J. Randall Price, Ph.D., ABPP, FACPN, Price, Proctor & Associates, LLP
12:00 – 1:00 p.m.	Lunch
1:00 – 2:00 p.m.	Assessment of Individuals with Mental Health and Co-Occurring Substance Abuse Disorders Erin Holmes, Director, Traffic Safety Programs, Responsibility.org
2:00 – 2:15 p.m.	Break
2:15 – 3:15 p.m.	Diversion Strategies in Cases Involving Mental Health Gary Raney, Retired Sheriff, Ada County, Idaho A.D. Paul, Sergeant, Crisis Intervention Team Program Coordinator, Plano Police Department Hon. Kristin Wade, Judge, County Court of Criminal Appeals #1
3:15 – 3:30 p.m.	Break
3:30 – 5:00 p.m.	Mental Health Services Dr. Courtney Harvey, Forensic Director, Health and Human Services Commission

Day 2 July 31, 2018

6:45 – 7:50 a.m.	Breakfast
8:00 – 8:50 a.m.	Trauma Informed Care Dr. Brian Sims, Senior Director of Medical and Behavioral Health, National Association of State Mental Health Program Directors
8:50 – 9:00 a.m.	Break
9:00 – 10:30 a.m.	Competency: Case Law and Statutes – Filling in the Blanks Hon. David Newell, Judge, Texas Court of Criminal Appeals Hon. Ryan Turner, General Counsel & Director of Education, TMCEC
10:30 – 10:45 a.m.	Break
10:45 – 12:00 p.m.	Judicial Leadership in Managing Cases Involving Mental Illness Hon. Steven Leifman, Associate Administrative Judge, Miami-Dade County Court, 11th Judicial Circuit of Florida
12:00 p.m.	Adjourn

Credit Hours

CLE Credit: Up to 10.25 hours if attended 8-5 on Day 1 and 8-12 on Day 2

Judicial Education and Clerk Certification Credit: 12 hours if attended 8-5 on Day 1 and 8-12 on Day 2

There is no TCOLE credit for attending this conference.

Funded by a grant from the Texas Court of Criminal Appeals

TEXAS MUNICIPAL COURTS EDUCATION CENTER
FY18 REGISTRATION FORM:

Mental Health Summit

Conference Date: July 30-31, 2018

Conference Site: Omni Dallas Parkwest
1590 Lyndon B Johnson Fwy
Dallas TX 75234
972.869.4300

Note: Registration is \$50 for municipal judges, court support personnel, and city employees or officials. There is no second seminar fee for attending the Mental Health Summit and no charge for the hotel room. Participants are eligible for reimbursement of travel (mileage, air fare, etc.) and per diem (meals) within state and federal limits. There is no additional fee for CLE credit. Contact TMCEC for rates for non-municipal participants.

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: There is no single room fee.

TMCEC will make all hotel reservations from the information you provide on this form. TMCEC will pay for a private room at the Mental Health Summit. To instead share with a specific seminar participant, you must indicate that person's name on this form.

I request a private room (no single room fee). TMCEC can only guarantee a private room; the type of room (queen, king, or 2 double beds*) is dependent on the hotel's availability. Special Request: _____

I request a room shared with a seminar participant. Room will have 2 double beds. TMCEC will assign a roommate or you may request a roommate by entering the 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): _____ Smoker Non-Smoker

*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: _____

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 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 the registrant upon payment. To have an additional receipt emailed to your finance department, list the email address here: _____

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756, or fax to 512.435.6118. Because this conference is paid for by grant funds, by submitting this form, you agree to attend the general conference in its entirety.

CERTIFICATION UPDATE

Change is Underway on the Level III Reading List

The Education Committee of the Texas Court Clerks Association, in partnership with TMCEC, formed a sub-committee to complete a periodic review of the Level III required reading. This project is scheduled approximately every five years with an overall goal to refresh and update this high level of learning. It is essential to maintain materials that are relevant and significant in today's business environment. The Book Review Team met in Plano in March 2018 and developed a comprehensive plan for implementation and a scheduled release of the revised book list.

FAQs:

When will the new list of books be published?

September 1, 2018 (Target date)

Will the number of books be reduced?

Yes, they will reduce from 16 to 14.

When will I be required to test on the new books?

L3 Exam 2020 will commence on September 1, 2019.

What is the last date I can take the exam on this set of books?

The last time L3 Exam 2018 will be administered is on the final exam site in August 2019, date to be announced.

When will the study questions for L3 Exam 2020 be released?

These dates will vary and will continue to be published on the website by title as they become available.

Don't let these changes slow your study progress. The team is committed to keep you moving forward in your Level III goals. Here are some helpful hints as you plan your course of study.

1. We are continuously looking for audio and e-books to compliment the hard copy books which have been a valued study tool.
2. *Protecting Court*, by Jimmie Barrett, is no longer in publication which made it a priority change. A new book, *Court Security for Judges, Officers and Court Personnel* has been selected. Stay tuned for more information. Continue to study *Protecting Court*. The content between the two books is quite similar with many of the same historic references and will not affect the exam questions.
3. The *Caseflow Management* book is now only available by download and will no longer be offered in hard copy through the borrowing program.
4. The *Financial Management Handbook* has now become an abridged version that excludes charts and other outdated subject matter. It is currently available on the TMCEC website by download and will no longer be offered in hard copy through the borrowing program.
5. L3 Exam 2020 Part C has the least change. *Hiring & Firing* has been moved to Part C from Part A.
6. The books have been reorganized in a more topic-related order with focus on keeping an equal number of books within each part.

You are always welcome to give your input to any of the representatives of the Book Review Team. Please contact Tracie Glaeser at tracie@tmcec.com with your ideas.

2018 Book Review Team:
April Christiansen, Cedar Park
Chrissy Dahse, Willis
Janis Fletcher, Sherman
Melissa Lindberg, Abilene
Pat Riffel, Friendswood
Tracie Glaeser, TMCEC

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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.

Verify Your Renewal Status Online

There is now a way for you to verify the status of your Clerk Certification Renewal online! Once logged into your online account at register.tmcec.com, look for the tab “Certification Renewal.” Displayed under the tab is the most current year renewed. For example, if you have already renewed for FY 18 it will say “2017-2018 Yes” (see the example to the right). If you do not remember your log in information, please contact TMCEC for assistance.

Emails will no longer be sent out confirming renewals. This will now serve as your confirmation.

The screenshot shows the Texas Municipal Courts Education Center website. The header includes the logo, the name "Texas Municipal Courts Education Center", and navigation links for "Sign Out", "Online", "Cart", and a "Keyword Search" box. Below the header is a dark navigation bar with "Register", "My Account", and "MANAGE CREDITS". The main content area has a sidebar with "Online Test" and "Status" (Active). The main content area has a navigation menu with "About Me", "My Courts", "Committee/Faculty", "Clerk Certification", and "IDEA". Under "Clerk Certification", there are tabs for "Upcoming Events", "Past Events", and "Transcript". The "Certification" section shows a table with the following data:

Certification Level	Level I	Level I Certification Date	12/30/2016
Certification Pending	No	Level II Certification Date	
Non Compliant	No	Level III Certification Date	
Non Compliant Date			

The "Certification Renewal" section shows a table with the following data:

YEAR	RENEWAL STATUS
2017-2018	Yes