

# The Recorder

The Journal of Texas Municipal Courts

Volume 25

January 2016

No. 2

© 2016 Texas Municipal Courts Education Center. Funded by a grant from the Texas Court of Criminal Appeals.

## Everything Has Not Changed: What Municipal Courts Need to Know About Guns and New Legislation

Regan Metteauer  
Program Attorney, TMCEC

### I. Open Carry (H.B. 910) Laws Do Not Permit Guns in Courts

Fireworks were not the only things that fizzled on New Year's Day. The highly anticipated open carry law (H.B. 910, 84th Legislature) went into effect on January 1, 2016 without a bang. Roughly 100 people gathered in Austin openly carrying various weapons,<sup>1</sup> demonstrating to a quiet downtown, atypical on any

given work day, but not surprising in the aftermath of the last celebration of 2015. Similar demonstrations occurred in several other Texas cities. So far, law enforcement officials have few open-carry-related incidents to report. The Austin Police Department reports receiving no calls related to open carry.<sup>2</sup> Kevin Lawrence, the Executive Director of the Texas Municipal Police Association, was quoted by the media as hearing no issues the weekend after New Year's Day from police departments in the state.<sup>3</sup>

*Guns and New Legislation continued on pg. 6*

## Judicial Donation Trust Funds: A Statutory Violation of the Canons of Judicial Conduct?

Benjamin Gibbs,  
Texas Municipal Courts Fellow  
Juris Doctor Candidate, 2017, Baylor Law School

Despite the noble and worthy goal of helping needy children and their families, the 84th Texas Legislature (2015) passed a law that, if utilized by local governments, will likely put judges of county, justice, and municipal courts in violation of the Canons of Judicial Conduct.

### I. Eclipsed by Truancy Reform: Judicial Donation Trust Funds and H.B. 2398

Although part of the high profile truancy reform bill (H.B. 2390), Judicial Donation Trust Funds did not exist prior to 2015 and received little, if any, scrutiny during the recent legislative session. Once H.B. 2398 was amended in the Senate with truancy reforms,

*Judicial Donation Trust Funds continued on pg. 13*

### Inside This Issue

Academic Schedule .....	37	Registration Forms .....	38
Court Structure of Texas .....	26	Resources on Ethics .....	22
Drug Trend Alert .....	30	Resources for Your Court .....	24
From the Center .....	33	Teen Court Seminar .....	24
Impaired Driving Symposium .....	36	Traffic Safety Update .....	30
Mental Health Summit .....	40	Truancy FAQs .....	34
Public Outreach .....	32	Warrant Round Up.....	29

## Texas Municipal Courts Education Center

2210 Hancock Drive  
Austin, Texas 78756  
512.320.8274 or 800.252.3718  
Fax: 512.435.6118  
www.tmcec.com

### *Fair and Impartial Justice for All*

#### FY16 TMCEC Officers

President: Edward Spillane, College Station  
President-Elect: Stewart Milner, Arlington  
1st V.P.: Esmeralda Garcia, Houston  
2nd V.P.: Robin A. Ramsay, Denton  
Secretary: Hilda Cuthbertson, Bryan  
Treasurer: Robert C. Richter, Missouri City  
Past-President: Kathleen Person, Temple

#### Directors

Sheila Seymore, Canyon • Danny Rodgers,  
Fort Worth • Michael Acuna, Dallas • Phyllis  
Rogers, Sulphur Springs • Sharon Hatten  
• David L. Garza, Bee Cave • John Bull,  
San Antonio • Donna Starkey, Alvin • Julie  
Escalante, Baytown

#### Staff

- Hope Lochridge, Executive Director
- Ryan Kellus Turner, General Counsel & Director of Education
- Mark Goodner, Deputy Counsel & Director of Judicial Education
- Robby Chapman, Director of Clerk Education & Program Attorney
- Regan Metteauer, Program Attorney
- Deadra Stark, Administrative Director
- Patty Thamez, Program Coordinator & Network Administrator
- Tessa Madison, Program Coordinator
- Ned Minevitz, TxDOT Grants Administrator & Program Attorney
- Elizabeth De La Garza, TxDOT Grants Administrator
- Pat Ek, Registration Coordinator
- Demoine Jones, Multi-Media Specialist
- Crystal Ferguson, Research Assistant & Office Manager
- Avani Bhansali, Administrative Assistant
- Molly Knowles, Communications Assistant

Published by the Texas Municipal Courts Education Center through a grant from the Texas Court of Criminal Appeals. An annual subscription is available for \$35.

Articles and items of interest not otherwise copyrighted may be reprinted with attribution as follows: "Reprinted from *The Recorder: The Journal of Texas Municipal Courts* with permission from the Texas Municipal Courts Education Center."

The views expressed are solely those of the authors and are not necessarily those of the TMCEC Board of Directors or of TMCEC staff members.



## AROUND THE STATE

### Mark your Calendars:

#### Interesting Training Opportunities:

- ▶ NACM Mid-Year Meeting – February 14-16, 2016 - Mobile, Alabama
- ▶ ABA Traffic Court Seminar – March 16-18, 2016 – New Orleans, Louisiana
- ▶ TMCEC Traffic Safety Conference – March 20-22, 2016 – Omni Dallas Park West
- ▶ NHTSA Lifesavers – April 3-5, 2016 – Long Beach, California
- ▶ Teen Court Planning Seminar – April 4-5, 2016 – Georgetown Municipal Court & Comfort Suites
- ▶ TMCEC Mental Health Summit – May 9-11, 2016 – Austin Omni Southpark
- ▶ NJC Traffic Issues in the 21st Century – May 16-19, 2016 – Reno, Nevada
- ▶ TMCA Annual Meeting & Education Program – June 9-11, 2016 – San Antonio Omni Riverwalk
- ▶ TMCEC Impaired Driving Symposium – August 4-5, 2016 – Austin Sheraton Hotel (offered with other judicial education centers)

### 2016 Great Texas Warrant Round-Up

The 10th Great Texas Warrant Round-Up is scheduled for this spring. Go to [www.austintexas.gov/warrant\\_round\\_up/AMC\\_2016\\_Warrant.cfm](http://www.austintexas.gov/warrant_round_up/AMC_2016_Warrant.cfm) to register. This statewide effort brought in 144,000 outstanding warrants last year. For more information, see page 29 of this issue of *The Recorder*.

### Appreciation

TMCEC wishes to express its sincere appreciation to the TMCEC faculty and staff members, listed below, who travelled to Williamsburg, VA in 2015 to acquire the certification to bring back the ICM certification program to Texas last year.

Robby Chapman, Austin  
Hilda Cuthbertson, Bryan  
Tracie Glaeser, Jarrell  
Mark Goodner, Austin  
Pat Riffel, Friendswood  
Bonnie Townsend, Lockhart

#### Key:

ABA – American Bar Association  
ICM – Institute for Court Management  
NACM – National Association of Court Managers  
NHTSA – National Highway Traffic Safety Association  
NJC – National Judicial College  
TMCEC – Texas Municipal Courts Education Center  
TMCA – Texas Municipal Courts Association

---

## FROM THE GENERAL COUNSEL

### Texas Court of Criminal Appeals: Motion for rehearing in *Villarreal* improvidently granted

Ryan Kellus Turner  
General Counsel and Director of Education, TMCEC

#### Let's Recap

In *State v. Villarreal* (No. PD-0306-14) (November 26, 2014), the Texas Court of Criminal Appeals, in a 5-4 decision, held that nonconsensual search of blood of a DWI suspect, conducted pursuant to the mandatory blood draw and implied consent provisions in Chapter 724 of the Transportation Code, violates the 4th Amendment when undertaken in the absence of a warrant.

The holding in *Villarreal* was hardly a surprise in light of the number of state intermediate appellate courts that reached similar conclusion, in light of the U.S. Supreme Court decision in *Missouri v. McNeely*, 133 S.Ct. 1552 (2013) (holding that natural metabolization of alcohol does not present a per se exception to the 4th Amendment's warrant requirement for nonconsensual blood testing). For some Texas prosecutors, the most disappointing part of *Villarreal* was that, by a single vote, the Court rejected implied consent as a possible exception to the search warrant requirement when DWI suspects refuse to consent. To those prosecutors, *Villarreal* appeared to be the beginning of the end for the validity of implied consent as a basis for justifying a warrantless blood draw.

However, there was still a glimmer of hope for advocates of the argument that implied consent was irrevocable. In December 2014, Judge Cathy Cochran, Judge Tom Price, and Judge Paul Womack, three of the judges whose votes constituted a majority, left the Court. (All three chose to not seek re-election.) Three newly elected judges (Judge David Newell, Judge Burt Richardson, and Judge Kevin Yeary), took their place on the Court in January 2015. Some hoped that the change in the Court's make-up would result in a different decision. In February 2015, the Court granted the State's motion for rehearing. Many assumed that the granting of the motion foreshadowed a different outcome. Assuming that the other members of the Court did not change their initial votes, the outcome of the decision in *Villarreal* could be changed with only one vote from a newly elected judge.

On December 16, 2015, the glimmer of hope was dashed. In a *per curiam* opinion, an opinion in which the decision rendered is made by a majority of the court acting collectively, but without identifying any specific judge, the Court in 40 words held that the State's motion for rehearing was improvidently granted, and that no further motions would be entertained.

#### Anticlimax?

This is not simply a 40 word *per curiam* opinion. The concurring opinions total 7,539 words. The dissenting opinions total 12,349 words. Contrary to what others have written, this opinion is hardly anticlimactic or a non-decision. In fact, despite what many predicted, the Court reaffirmed the holding in *Villarreal*.

The three newest members of the Court made their positions known. Judge Richardson and Judge Newell issued separate opinions concurring in the denial of the State's motion for rehearing. Judge Yeary issued a dissenting opinion.

---

## Concurring Opinions

The pivotal plot-twist in *Villarreal* is the concurring opinion issued by Judge Meyers who dissented in *Villarreal*, but now no longer believes Section 724.012(b)(3)(B) (which applies when the DWI suspect has two prior DWI convictions of the Transportation Code) creates a valid exception to the warrant requirement for a blood draw in intoxication cases.

Judge Richardson explained that while it makes sense that a repeat DWI offender *should* have a lessened expectation of privacy, a defendant's status as a repeat offender does not fall within an exception recognized by the U.S. Supreme Court. Section 724.012(b)(3)(B) of the Transportation Code neither creates a valid exception to the 4th Amendment's warrant requirement nor does the Legislature have the authority to create a statutory exception.

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

## Dissenting Opinions

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

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

## The End?

Allow me to reiterate what I wrote exactly one year ago. "For the time being, what all Texas magistrates

---

need to know is that the holding in *Villarreal* excises Sections 724.011(a), 724.012(b), and 724.013 from the Transportation Code. Also, municipal judges, in their roles as magistrates, should anticipate continued, concerted efforts by law enforcement to procure blood pursuant to a search warrant. This only seems all the more certain in light of *Villarreal*.” “Texas Magistrates Should Anticipate More Requests for ‘Blood Warrants’ in Light of Court of Criminal Appeals Decision in *Villarreal*,” *The Recorder* (February 2015) at 3.

Throughout 2015, intermediate courts of appeals in Texas have rejected the idea that a warrantless blood draw can be upheld solely on the suspect implied consent law and/or the mandatory blood draw statute of Chapter 724. There is consensus that the only way a warrantless blood draw will be upheld is with actual voluntary consent or exigent circumstances.

This brings us back to why Texas magistrates should anticipate more requests for blood warrants and why the interests of law enforcement are best served by procuring a blood warrant. This appears particularly true in light of how technology is changing the process of obtaining a search warrant and recent changes to Article 18.01 of the Code of Criminal Procedure, which allow information in support of a search warrant to be provided by electronic means. See, “2015 Legislative Update,” *The Recorder* (August 2015) at 45.

In light of how long it took for this case to reach resolution, it has been suggested that we should not expect any further guidance in the near future from the Court on the issues presented in *Villarreal*. However, when it comes to implied consent, there is a host of state law issues the Court could choose to review. Furthermore, on December 11, 2015, the U.S. Supreme Court decided it would consider whether states can make it a crime for DWI suspects to refuse to take blood-alcohol tests when law enforcement has not secured a warrant. The court took cases from Minnesota and North Dakota, which have implied consent laws that require motorists to submit to blood, breath, or urine tests if a police officer believes they are intoxicated. To paraphrase Winston Churchill, this may not be the end. It may not even be the beginning of the end. But it may perhaps be the end of the beginning.

### **Lessons from Ferguson: What Every Municipal Court Needs to Know**

The tragic events of 2014 in Ferguson, Missouri in the wake of the shooting of Michael Brown by Officer Darren Wilson not only triggered protests and civil disorder; but it placed a community of 20,000 people at the center of vigorous debate in the United States about the relationship between law enforcement officers and African-Americans, the militarization of the police, and the use-of-force doctrine in Missouri and nationwide.

In response to the shooting and subsequent unrest, the U.S. Department of Justice conducted an investigation into the policing practices of the Ferguson Police Department. In March 2015, the U.S. Justice Department announced they had determined that the Ferguson Police Department had engaged in misconduct against the citizenry of Ferguson by discriminating against African-Americans and applying racial stereotypes, in a “pattern or practice of unlawful conduct.” While the conclusions of the 100-page report pertaining to law enforcement priorities were widely reported, media accounts predominantly focused on law enforcement practices. The report also detailed **practices in the municipal court** that imposed substantial and unnecessary barriers to defendants that undermined the court, eroded community trust, contributed to making policing less effective, and ultimately devastated the City of Ferguson.

In response, TMCEC is offering courses at the regional judges and clerks programs this year on “What Every Judge Needs to Know About Ferguson” (judges) and “Lessons Learned from Ferguson” (clerks). A webpage on the TMCEC website [[www.tmcec.com/ferguson/](http://www.tmcec.com/ferguson/)] offers additional information on the topic, including links to commission recommendations, news clippings, magazine articles, radio broadcasts, and other media coverage. Also on this webpage is a link to the TMCEC Online Learning Center where you may access a webinar on Commitments, presented by Ryan Kellus Turner, General Counsel & Director of Education, TMCEC.

[www.tmcec.com/ferguson](http://www.tmcec.com/ferguson)

Fears may generally be subsided, however, confusion abounds. Some things are clear. There is no longer a license to carry a *concealed* handgun (CHL). It is now a license to carry a handgun (HL).<sup>4</sup> The roughly 826,000 CHL holders,<sup>5</sup> as of January 1, 2016, now hold a HL. HL holders must carry an openly carried handgun in a shoulder or belt holster.<sup>6</sup> Of course, HL holders generally may carry concealed handguns; it is just no longer required. Eligibility for a license has not changed.<sup>7</sup> The same is not true for HL instruction. HL applicants must now receive instruction on use of restraint holders and methods to ensure the secure carrying of openly carried handguns.<sup>8</sup>

Restrictions still exist regarding where a HL holder may carry.<sup>9</sup> Section 46.03(a)(3) of the Penal Code prohibits a person (HL holder or not) from going with a firearm<sup>10</sup> (among other weapons) on the premises of any government court or offices utilized by the court without written regulations or written authorization of the court. This prohibition is unaffected by the open carry law.

## II. Gun Legislation Focuses on Notice to Handgun License Holders

### A. S.B. 273 Makes It Clear That Cities and Counties (Not Courts) Are Limited in Where They Can Prohibit License Holders from Carrying Concealed Handguns

The primary area of confusion with gun legislation is signage. This confusion, though associated with the open carry law, actually generates in part from another piece of gun legislation, S.B. 273.<sup>11</sup> That bill, effective September 1, 2015, added Section 411.209 of the Government Code, allowing citizens to file complaints against state agencies and political subdivisions (*e.g.*, counties and cities) for unlawfully posting (1) signs (or giving oral notice) that comply with Section 30.06 of the Penal Code (trespass by license holder with a concealed handgun) or (2) signs referring to 30.06 or to a concealed handgun license if the signs prohibit a license holder who is carrying a handgun from entering or remaining on property owned or leased by the entity unless license holders are prohibited from carrying a handgun on such property by Section 46.03 or Section 46.035 of the Penal Code, providing civil penalties. If a license holder is not prohibited by those two Penal Code sections from carrying a concealed handgun on property owned or leased by a government entity,

Building That Houses Only a Court and/or Court Offices	Mixed-Use Building	City or County Building That Does Not House a Court or Court Offices	Property Owner Other than a Governmental Entity (Private Business)
<ul style="list-style-type: none"> <li>• No Liability for City/County Signs or Oral Notice Relating to Concealed Handguns</li> <li>• Firearms Are Prohibited Everywhere in the Building (3rd Degree Felony)</li> <li>• Signs Are Not Required</li> </ul>	<ul style="list-style-type: none"> <li>• Possible Liability for City/County Signs or Oral Notice Relating to Concealed Handguns</li> <li>• Where Firearms Are Prohibited Depends on Whether the Presence of Courts and Court Offices Can Be Segregated or Is So Ubiquitous That the Entire Building Is Considered the Premises of the Courts and/or Court Offices</li> <li>• Signs Are Not Required, and May Trigger Civil Penalties if Posted in the Wrong Place</li> </ul>	<ul style="list-style-type: none"> <li>• Liability for City/County Signs or Oral Notice Relating to Concealed Handguns if Building is Open to the Public and a License Holder Is Not Otherwise Prohibited by Sections 46.03 or 46.035 of the Penal Code from Carrying a Handgun There</li> <li>• Firearms Likely Not Prohibited</li> <li>• Signs Are Prohibited</li> </ul>	<ul style="list-style-type: none"> <li>• No Liability for City/County Signs or Oral Notice Relating to Concealed Handguns</li> <li>• Firearms Prohibited if Proper Notice is Given</li> <li>• Signs or Oral Communication Are Required to Trigger Trespass Offense by License Holder</li> </ul>

---

then that entity is liable for civil penalties if it posts the very specific signs described in Section 411.209. Note that neither Section 46.03 nor 46.035 of the Penal Code requires signs be posted. Therefore, prohibition of handguns (among other weapons) under Section 46.03 and Section 46.035 (in courts, for example) does not hinge on posting a sign, but posting the wrong sign in the wrong place may result in civil penalties for cities and counties.

**B. Trespass Statutes Related to License Holders Allow Property Owners to Prohibit Concealed and Open Carry of Handguns, but Not Cities or Counties (Once Again Inapplicable to Courts)**

Property owners desiring to prohibit HL holders from carrying concealed or openly carried handguns may do so, but only if they provide notice that meets the requirements of Sections 30.06 and 30.07 of the Penal Code respectively. Those provisions do not apply if the property on which a license holder is carrying a handgun is owned or leased by a governmental entity and the premises is not one on which the license holder is prohibited from carrying a handgun by Sections 46.03 and 46.035 of the Penal Code.

Section 30.05 of the Penal Code (criminal trespass) creates an offense for entering or remaining on or in property of another, including a building, without effective consent if the person had notice that entry was forbidden or receives notice to depart, but failed to do so. This section applies to state agencies and political subdivisions. Subsection (f), however, provides a defense to prosecution if the basis for forbidding entry to the building was that entering with a handgun was prohibited and the person was carrying a HL and a concealed or openly carried handgun.

**C. The Notice Prohibitions on Cities and Counties in S.B. 273 Are Unclear When Applied to Buildings that House Courts, Court Offices, and Offices Unaffiliated with Courts**

Understandably wanting to avoid a lawsuit, government entities began to scrutinize the signage on their buildings. The following dilemma surfaced: What if a building consists of courthouses and court offices, which are expressly listed in Section 46.03 of the Penal Code as places where weapons are prohibited (even by HL holders), but also consists of offices not listed in either Section 46.03 or 46.035 (or to further complicate the dilemma, what if the room the court uses is also itself used for non-court purposes when court is not in session)? Does the presence of a courthouse or court office make the entire building a prohibited place to carry a firearm under Section 46.03 of the Penal Code? Thus, are signs posted in or on the building prohibiting weapons safe from running afoul of Section 411.209 of the Government Code? Or does the building become compartmentalized? What if a person must walk through an area used by the court in order to get to other parts of the building? What about shared areas like waiting rooms and bathrooms?

**Does the presence of a courthouse or court office make the entire building a prohibited place to carry a firearm under Section 46.03 of the Penal Code?**

The Legislature has not answered those questions, but some guidance exists. The Attorney General partially addressed this issue in two opinions in December 2015 (*KP-0047* and *KP-0049*). A request for opinion made by Hays County Criminal District Attorney, Wes Mau, asked whether “Weapons Free Zone” signs posted in the parking lot of and at the entrance to the Hays County Government Center violate Section 411.209 of the Government Code.<sup>12</sup> Many of the offices at the Center house courts or court offices, but several offices in the Center are unaffiliated with the court. According to the Attorney General, Hays County may only prohibit concealed handguns<sup>13</sup> in courtrooms and those offices determined to be “essential to their operations,” relying on a previous opinion (*KP-0047*) addressing the relationship between Sections 30.06, 46.03, and 46.035 of the Penal Code.<sup>14</sup> Thus, according to the Attorney General, the signs posted at the Hays County Government Center violate Section 411.209 of the Government Code.

---

#### D. Who Says the Printing Industry Is Dead?

However, Section 411.209 is a statute that prohibits a very specific type of sign. Arguably, a sign reading “Weapons Free Zone” does not violate the statute. Section 411.209 prohibits signs described by Section 30.06 of the Penal Code, which contains prescribed exact language, contrasting colors, and type and size of letters. (Some savvy print shop out there stands to make a killing printing these signs.) It also prohibits signs that expressly refer to Section 30.06 or expressly refer to a concealed handgun license. A sign reading “Weapons Free Zone” neither satisfies the stringent requirements of notice in Section 30.06 nor refers to that statute or a concealed handgun license. To be sure, that sign has no effect on a license holder’s ability to carry a handgun on property where he or she is not otherwise prohibited by law to carry.<sup>15</sup> So the sign may be ineffective and unenforceable, but it arguably does not violate Section 411.209.

Whether or not the sign is ineffective and unenforceable hinges on whether or not a license holder is prohibited by law to carry a handgun at the Hays County Government Center. This begs the original question posed: What if a building consists of courthouses and court offices as well as other offices unaffiliated with the court? This was the question posed to the Attorney General in *KP-0047*. Subsection 46.03(a)(3) of the Penal Code prohibits a person [*license holder or not*] from intentionally, knowingly, or recklessly going with a firearm [*among other weapons*] on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court.” “Premises” is defined as having the meaning assigned by Section 46.035 of the Penal Code, where it is defined as “a building or a portion of a building,” excluding “any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.”

#### E. Different Statutory Interpretations Exist as to Whether a “Mixed-Use” Building Is the Premises of a Court or Court Office

Whether or not an entire building is considered the “premises of any government court or offices utilized by the court” is not clear. Recognizing that the Legislature did not intend to limit its handgun prohibition in Subsection 46.03(a)(3) to only the rooms that house the courts, the Attorney General finds no guidance from the Legislature as to the precise boundary of prohibition in a building or portion of a building, and thus, taking a conservative approach, opines that Subsection 46.03(a)(3) encompasses only government courtrooms and those offices “essential to the operation of the government court.” The Attorney General does not state a basis for requiring the “premises of any...offices utilized by the court” to be “essential” to the operation of the court. Previously in the opinion, that phrase was merely construed to mean “a building or portion of a building that is a place where the business of a government court is transacted.”

**Whether or not an entire building is considered the “premises of any government court or offices utilized by the court” is not clear.**

However, *KP-0047* is not the only construction of 46.03(a)(3). The Tarrant County District Attorney’s Office construed the term “premises” in Subsection 46.03(a)(3) to mean “the entire building or portion of the building which can be considered auxiliary and appurtenant to courts and court offices, including nearby common areas such as restrooms, hallways, lobbies, and vestibules, but excluding any grounds outside the building which would normally come within the word ‘premises’ but for the exclusion of outside areas provided by the [L]egislature in [Section] 46.035(f)(3).”<sup>16</sup> The basis for the Tarrant County DA’s construction is the customary meaning of “premises,” defined outside of Section 46.035 as “real property including all appurtenances and grounds.”<sup>17</sup> According to this construction, if the Legislature had not intended the ordinary, customary sense of the word premises, “it would not have specifically excluded exterior portions of the real estate by stating that ‘[t]he term does not include any public or private driveway, street, sidewalk or walkway,



---

parking lot, parking garage, or other parking area.”<sup>18</sup> Relevant to the question at hand, the Tarrant County DA finds it feasible in some “mixed use” buildings, where courts and the offices utilized by courts are physically segregated from other governmental uses within the building, to consider the “premises” of courts and its offices as being only a portion of such buildings. However, in other buildings,<sup>19</sup> “the presence of courts and offices utilized by courts is so ubiquitous that the entire building must be considered the premises of the courts and offices utilized by the courts.”<sup>20</sup> This is contemplated in the Legislature’s definition of premises as “a building or portion of a building” in Section 46.035(f)(3) of the Penal Code.

Both the Attorney General and the Tarrant County District Attorney point out that had the Legislature intended to limit its firearm prohibition in courthouses strictly to court rooms and offices without including appurtenant areas, it certainly could have done so, just as it did in Section 46.035(c), prohibiting a license holder from carrying a handgun “in the room or rooms where a meeting of a government entity is held” if the meeting is an open meeting subject to Chapter 551 of the Government Code and required notice is provided. The language used in prohibiting firearms (and other weapons) in courts and offices utilized by the courts is far broader. The Texas Municipal League seems to also broadly construe the use of “premises” in Section 46.03(a)(3) of the Penal Code to mean that a license holder may not carry a firearm into a building that houses a city’s municipal court and/or office used by the court, as have advising attorneys for years under concealed carry law.<sup>21</sup>

In light of the new law, Texas cities and counties must examine their own buildings, the position and extensiveness of the presence of court houses and offices utilized by the court within those buildings, and the wording and effectiveness of its signs on those buildings. It is worth noting that though the prohibition on firearms in courts and its offices can be read broadly to include a building that houses a court and/or court offices along with offices unaffiliated with the court, the Attorney General does not read it that way. For signs relating to *concealed handguns* that trigger civil penalties for cities and counties, the Attorney General opines that cities and counties may only prohibit concealed handguns in courtrooms and those offices “essential to the operation of the government court.” That is important to keep in mind because the Attorney General receives complaints from citizens under Section 411.209 of the Government Code and investigates the complaint to determine whether legal action is warranted.<sup>22</sup>

#### **F. Signs Are Not Required to Prohibit Firearms in Courts, but Do Provide Notice to Handgun License Holders**

If a building is indeed considered to be the premises of a government court or offices utilized by the court, no sign is required, meaning a person (license holder or not) is prohibited by Section 46.03(a)(3) of the Penal Code from going on such premises with a firearm (among other weapons) regardless whether a sign is posted. Posting signs at such a building is not a bad idea, however, to provide notice of the prohibition and prevent potential incidents from occurring. Such a sign does not have to meet the stringent requirements of Section 30.06 or 30.07 of the Penal Code (discussed below), and including language from those statutes on a sign at the court would arguably be inappropriate (such language could mislead a person to believe bringing a firearm into a court is merely a Class C misdemeanor, whereas a violation of Section 46.03(a)(3) is a third degree felony).<sup>23</sup>

### **III. Municipal and Justice Courts: Gun Legislation Created New Class C Misdemeanor “Gun Crimes”**

As a result of new gun legislation, municipal and justice courts will see handgun-related cases filed in their courts. H.B. 910 created two new Class C misdemeanors (effective January 1, 2016). The first is found in Section 30.06 of the Penal Code, making it an offense for a license holder to carry a concealed handgun on property of another<sup>24</sup> without effective consent (punishable by a fine not to exceed \$200, a deviation from

---

the standard maximum fine of \$500 for a Class C misdemeanor in the Penal Code).<sup>25</sup> To commit an offense, the license holder must have received notice that entry on the property by a license holder with a concealed handgun was forbidden. Notice means the owner of the property (or someone with apparent authority to act for the owner) orally tells the license holder or provides written communication, which must be in one of two forms:

- (1) a card or other document that must say “Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun;” or
- (2) a sign posted on the property that includes the aforementioned language in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public.<sup>26</sup>

The second new Class C misdemeanor is similar, but applies to openly carried handguns. Section 30.07 of the Penal Code makes it an offense for a license holder to openly carry a handgun on property of another<sup>27</sup> without effective consent if the license holder received notice that entry on the property by a license holder openly carrying a handgun was forbidden (also punishable by a fine not to exceed \$200).<sup>28</sup> Notice means the owner of the property (or someone with apparent authority to act for the owner) orally tells the license holder or provides written communication, which must be in one of two forms:

- (1) a card or other document that must say “Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly;” or
- (2) a sign posted on the property that includes the aforementioned language in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.<sup>29</sup>

#### **IV. Conclusion: Some Things Changed, but Important Things Stayed the Same**

Open carry has no effect on the prohibition of weapons in the courtroom and court offices. It is a third degree felony to intentionally, knowingly, or recklessly go with a firearm on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court.<sup>30</sup> However, the interplay of the prohibition on firearms in the court and its offices with the notice prohibition on cities and counties<sup>31</sup> regarding concealed handguns may cause confusion. Comprehensive legislation tends to bring the entire topic addressed by the

**Open carry has no effect on the prohibition of weapons in the courtroom and court offices.**

legislation into question. Everything relating to guns, handgun licenses, and weapons in the courtroom did not change. To be clear, if a building only contains courts and court offices, nothing in the new gun legislation allows firearms to be carried anywhere in the building, even if the person has a handgun license. The new gun laws’ effect is narrow, but complicated. The issue is “mixed-use” buildings (and rooms) that house courts and offices of the courts as well as offices unaffiliated with the courts. The new gun laws, specifically the notice prohibition on cities and counties related to concealed handguns, may have an effect on signs posted and oral warnings given at the building that houses the court and/or its offices if the building also houses offices unaffiliated with the court. Signs are not required for the prohibition on firearms in the court and its offices to be effective. To avoid liability for steep civil penalties, cities and counties will need to examine their buildings, and specifically for those buildings that house courts and/or court offices, determine whether the building constitutes a “premises” as that is defined in the Penal Code.<sup>32</sup> References made in this article to Attorney General opinions, *KP-0047* and *KP-0049*, as well as to statutory constructions by Tarrant County and the Texas Municipal League are instructive. Though Attorney General opinions are not binding on the courts, under a new law,<sup>33</sup> the Attorney General, upon receiving a complaint that a city’s or county’s signs violate the law,

investigates and determines whether legal action is required. If the Attorney General determines that legal action is warranted, he must give the city or county notice and 15 days to cure the violation. If the city or county does not cure the violation within that time frame, the Attorney General or the appropriate county or district attorney may sue to collect the civil penalty.

**Section 411.209 Analysis: The starting point is whether a license holder is permitted by law to carry a concealed handgun in the building or portion of the building.**

1. A license holder is generally permitted to carry a concealed handgun on property owned or leased by a government entity that is open to the public unless prohibited by Section 46.03 or 46.035 of the Penal Code. For purposes of Section 46.03(a)(3), different constructions of the word “premises” exist regarding whether or not a building is the premises of a government court or offices utilized by the court. According to the Attorney General (AG), a state agency or political subdivision may only prohibit concealed handguns (presumably by a sign or oral notice) in government courtrooms and those offices “essential to the operation of the government court.” The implication is that if a building houses something other than “government courtrooms and those offices ‘essential to the operation of the government court,’” an entity is only permitted to give notice prohibiting concealed handguns for those particular courtrooms and offices.\*
2. If the license holder is permitted to carry a concealed handgun in the building or portion of the building, the state agency or political subdivision may not give Section 30.06, P.C. notice or post a sign referring to either Section 30.06 or concealed handguns that prohibits a license holder from carrying a concealed handgun in the building or portion of the building. According to the AG, even a sign saying “Weapons Free Zone” would violate Section 411.209 if posted in the parking lot of and entrance to a building housing offices that are not courtrooms or offices essential to the operation of the court (KP-0049).\*
3. Signs not referring to 30.06 or concealed handguns arguably do not violate Section 411.209 (But See, KP-0049), but have no effect on a license holder’s ability to carry a handgun in the building if they are permitted by law to carry there.
4. If the license holder is not permitted by law to carry a concealed handgun in the building, Section 411.209 does not apply.

\*This is solely the opinion of the AG and broader constructions of the word “premises” exist, however, it is the AG who receives a complaint from a citizen under Section 411.209 and investigates that complaint to determine whether legal action is required.

1. KXAN, *Few issues in first weekend of open carry in Texas*, <http://kxan.com/2016/01/04/few-issues-in-first-weekend-of-open-carry-in-texas/> (posted January 4, 2016, 1:24 p.m. CST).
2. *Id.*
3. *Id.*
4. Subchapter H, Chapter 411, G.C.
5. The Texas Tribune, *As Open Carry Takes Effect, Officials Predict Lawsuits*, <http://www.texastribune.org/2016/01/01/new-open-carry-law-could-come-lawsuits/> (January 1, 2016).
6. Sec. 46.035(a), P.C.
7. Sec. 411.172(a), G.C.
8. Sec. 411.188(b), G.C.
9. See, Secs. 46.03, 46.035, P.C.
10. A “firearm” generally means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Sec. 46.01(a)(3), P.C. A “handgun” is a subset of a firearm, meaning any firearm that is designed, made, or adapted to be fired with one hand. Sec. 46.01(a)(5), P.C.
11. To add to the confusion, the title of Sec. 411.209, G.C. is WRONGFUL EXCLUSION OF CONCEALED HANDGUN LICENSE HOLDER. S.B. 273 was sent to the Governor 18 days before H.B. 910 (open carry) was signed by the Governor and its effective date was four months before the effective date of H.B. 910. From September 1, 2015 to December 31, 2015, Sec. 411.209 necessarily applied only to concealed handgun licenses (handgun licenses did not yet exist). Upon the effective date of H.B. 910, concealed handgun licenses no longer exist, but are replaced by handgun licenses. However, even in light of the now effective amendments to Chapter 411 of the Government Code and the absence of delineation between a concealed and openly

---

carried handgun, the prohibition in Sec. 411.209, G.C. only applies to concealed handguns. Sec. 411.209 mentions Sec. 30.06, P.C. (trespass by license holder with a concealed handgun) and only refers to concealed handguns. It does not refer to the notice in Sec. 30.07, P.C. (trespass by license holder with an openly carried handgun), which did not become effective until January 1, 2016. A possible construction of the statute could be that, effective January 1, 2016, “concealed handgun license” encompasses handgun licenses because the Legislature changed nearly all references to concealed handgun licenses to handgun licenses in H.B. 910. Sec. 411.209 uses the language, “a license holder carrying a handgun under the authority of [S]ubchapter [411],” which, effective January 1, 2016, is a HL holder. However, the fact that the Legislature changed some references to concealed handgun licenses and not others could support the opposite conclusion. So far, Sec. 411.209 has been construed to only apply to concealed handgun licenses. See, *Tex. Atty. Gen. Op. KP-0049*; Scott Houston, *Cities and Firearms: Legal Q&A*, <http://www.tml.org/p/July%202015%20QA%20-%20MunicipalGunRegulation%20FINAL%20with%20chart.pdf> (July 2015) p. 10. That may change in the 85th Legislative Session in 2017.

12. *RQ-0051-KP*.
13. See note 11.
14. *Tex. Atty. Gen. Op. KP-0049* (12/21/15); See also, *Tex. Atty. Gen. Op. KP-0047* (12/21/15).
15. Scott Houston, *Cities and Firearms: Legal Q&A*, [http://tmcec.com/files/4614/4656/8376/00\\_-\\_DeLeef\\_BINDER\\_Guns.pdf](http://tmcec.com/files/4614/4656/8376/00_-_DeLeef_BINDER_Guns.pdf) (December 22, 2015) p. 18.
16. Memo. From Sharen Wilson, Criminal District Attorney, Tarrant County, to Tarrant County Officials, *Handgun Licenses and Courthouses* (December 14, 2015).
17. *Id.* See also, Secs. 24.0061 and 92.001 of the Property Code; *Black's Law Dictionary* (Bryan A. Garner ed., 9th ed., West 2009).
18. See note 14.
19. *Id.*
20. *Id.*
21. See note 13, pp.6, 18.
22. Sec. 411.209(d)-(g), G.C.
23. That said, if the building is considered to be the premises of a government court or offices utilized by the court, and notice is given that satisfies Section 30.06 and 30.07 respectively, a license holder commits a Class C misdemeanor if he or she carries a concealed or openly carried handgun in the building. Subsections 30.06(e) and 30.07(e) provide exceptions to the respective offenses if the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035 of the Penal Code. The premises of a government court or offices utilized by the court are premises where a license holder is prohibited from carrying a handgun under 46.03. Therefore, Sections 30.06 and 30.07 apply (meaning a premises described by 46.03(a)(3) could post 30.06 and 30.07 signs and a license holder would then be trespassing if he or she entered with a concealed or openly carried handgun). However, violations of 30.06 and 30.07 are Class C misdemeanors (or Class A misdemeanors if, after entering the property, the license holder was personally given oral notice described by 30.06(b) or 30.07(b) respectively and subsequently failed to depart), whereas a violation of 46.03(a)(3) is a third degree felony. Notice of a possible commission of a third degree felony should take precedent over notice of a possible misdemeanor and does not have onerous sign requirements.
24. It is not an offense under Section 30.06 if the property is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035 of the Penal Code. Sec. 30.06(e), P.C. Posting 30.06 signs or signs referring to Section 30.06 or concealed handguns in such places where it is not an offense for a license holder to carry a handgun trigger the civil penalties in Section 411.209 of the Government Code.
25. The offense is a Class A misdemeanor if, after entering the property, the license holder was personally given oral notice described by 30.06(b) and subsequently failed to depart. Sec. 30.06(d), P.C.
26. What satisfies “written communication” under Sec. 30.06, P.C. changed effective January 1, 2016. Old 30.06 signs are no longer correct.
27. Sec. 30.07(e), P.C. See note 23.
28. The offense is a Class A misdemeanor if, after entering the property, the license holder was personally given oral notice described by 30.07(b) and subsequently failed to depart. Sec. 30.07(d), P.C.
29. Sec. 30.06(c)(3)(B)(iii) does not contain the words, “at each entrance to the property,” as is found in Sec. 30.07(c)(3)(B)(iii).
30. Sec. 46.03(a)(3), P.C.
31. Sec. 411.209, G.C.
32. Sec. 46.035(f), P.C.
33. Sec. 411.209, G.C.

Judicial Donation Trust Funds and other provisions of the bill were for the most part overshadowed.

Under the new Chapter 36 of the Government Code, the governing body of a municipality or county, pursuant to Section 36.001, is authorized to establish a judicial donation trust fund (JDTF). Section 81.032 of the Local Government Code is amended to allow a local governing body to accept a gift, grant, donation, or other consideration from a public or private source, designated for the JDTF, a designated account held outside of the treasury.<sup>1</sup> Money so received shall be awarded by judges in accordance with the local rules adopted pursuant to Section 36.002 of the Government Code. Interest and income from assets shall be credited to and deposited in the JDTF.

Section 36.002 requires the governing body to adopt procedures necessary to receive and disburse money from the JDTF. It must establish eligibility requirements for disbursement to assist needy children or families who appear before a county, justice, or municipal court for a criminal offense or truant conduct, as applicable, by providing money for resources and services that eliminate barriers to school attendance or that seek to prevent criminal behavior.<sup>2</sup>

In accordance with those rules, the judge of a county, justice, or municipal court may award money from the JDTF, but only “to eligible children or families who appear before the court for a truancy or curfew violation or in another misdemeanor offense proceeding before the court.”<sup>3</sup> The judge then orders the local government’s treasurer to issue payment of the award from the JDTF.<sup>4</sup>

This presents an ethical issue: is it proper for judges to be making such an award?

## **II. The JDTF Conflicts with the Canons of Judicial Conduct**

Legal acts of judges, authorized by statute, can create ethical issues.<sup>5</sup> Judges in jurisdictions that choose to establish a JDTF potentially face an array of ethical pitfalls.

### **A. Canon 2: Promoting Public Confidence: Not Advancing the Private Interests of Others**

When a judge distributes money from the fund, the judge must take care not to appear to discriminate between defendants so as to avoid the appearance of impropriety.<sup>6</sup> Not only must a judge refrain from actual discrimination, but the judge must not convey or permit others to convey the impression that they are in a special position to influence the judge.<sup>7</sup> This can be impossible when the judge is charged with simultaneously dispensing even-handed justice and charitable funds for a defendant’s benefit. Many defendants are already prone to see the judiciary as biased and the deck as stacked against them. Adding to that the perception of uneven distribution of money, particularly to others who are perceived as favored by the judge, could make this already strict canon impossible to adhere to.

### **B. Canon 3B(1): Implications on Recusal**

The paradox of the JDTF is that funds must be given to defendants in criminal cases (and to their families) to prevent criminal behavior, but the judge must not obtain information about the underlying offense before a plea or else that judge must recuse.<sup>8</sup> If a judge receives such information about the underlying case before a plea is entered, the judge must recuse immediately.<sup>9</sup> This would not be a mere inconvenience. The judge must take constant care not to hear facts relevant to the underlying case, or else lose impartiality. The two easy answers to this would produce their own problems. A court could assign two judges to each juvenile docket: one to hear the case and the other to hear the JDTF information, but the funding and personnel issues for this would make it impractical, particularly for courts which may have only one judge.

If a judge waits until the entry of a plea, this would obviate the improper information issues, but would create additional issues with the appearance of bias. Consider, for a moment, a judge sentencing a juvenile to a fine, and then ordering the local treasurer to issue a check to that defendant to prevent criminality. The appearance that the judge is ordering the fine paid

---

from the JDTF seems difficult to deny. This would run counter to the entire purpose of the fund.

### **C. Canon 3B(6)/3C(1): Socioeconomic Bias/ Discharging Judicial Duties Without Bias or Prejudice**

The judge must not manifest bias, which can be a difficult task when confronted with a courtroom full of defendants and a directive to distribute funds to needy defendants and their families.<sup>10</sup> A judge is expressly forbidden to express bias based upon socioeconomic status. Under the dictates of Chapter 36, the judge is directed to assign money to prevent criminal behavior. Combined with the Canon 3B and 3C requirements that this be performed without bias or prejudice, or the appearance thereof, distribution to a defendant becomes nearly impossible to accomplish both fairly and with the appearance of fairness.

### **D. Canon 4B(2)/4C(2): Personal Participation in Fund Raising**

Only cities and counties, not courts themselves, can establish a judicial donation trust fund. The statute expressly requires the fund be kept separate, and that it not enhance the general fund.<sup>11</sup> The governing body may *accept*, but no permission is given in the statute for cities to *solicit* donations. Under the Canons of Judicial Conduct, judges are prohibited from personally participating in public fund raising activities.<sup>12</sup> However, in absence of language to the contrary in Chapter 36, judges may believe that such fund raising is implicitly authorized.

The problem here is also one of perception. How can a judge avoid the appearance of bias when a defendant who has made a sizeable donation to the fund appears for a criminal matter? Can a judge reach out a hand to a wealthy citizen to donate to a JDTF without the unspoken suggestion that a finger will remain on the scales of justice?

### **E. Ex Parte Communications**

If a judge is to distribute funds from a JDTF, that judge must understand the situation of the juvenile and of the family. Although laudable, a judge must

be careful how this information is obtained, and how it affects the proceedings in the underlying case. Judges are not allowed to obtain this information via *ex parte* communications.<sup>13</sup> Few exceptions apply. One is when the communication is contemplated or authorized by law.<sup>14</sup> Chapter 36 of the Government Code neither explicitly contemplates nor authorizes such communications.

Even without obtaining information in an improper *ex parte* hearing, Canon 6C(2) prohibits a municipal judge or justice of the peace from improperly considering communications concerning the merits of a pending judicial hearing. Determining whether, and how much, distribution of the fund would appropriately be applied to remove barriers to school attendance or prevent criminality would almost certainly have to include some information about the pending case.

### **III. Just Because It Is Legal Does Not Make It Ethical**

Even if a judge's conduct unquestionably conforms to the guidelines set out by the city or county in establishing a JDTF, that does not mean the judge's conduct complies with the Canons on Judicial Conduct. To be clear, the Texas Legislature is under no obligation to pass laws that comply with the Code of Judicial Conduct. By the same token, the State Commission on Judicial Conduct (SCJC), in a public statement, has made it clear that just because the act of a judge is legal does not necessarily mean that it is ethical or compliant with the Code of Judicial Conduct.<sup>15</sup>

### **IV. The State Commission on Judicial (SCJC) Conduct Should Issue a Public Statement**

The Texas Constitution states that the SCJC "may issue a public statement concerning any proceeding when sources other than the Commission cause notoriety concerning a judge or the Commission itself and it determines that the best interests of a judge or of the public will be served by issuing the statement."<sup>16</sup> This provision has been construed by some to mean that unless there is an active proceeding before the SCJC, that no public statement

can be issued. However, the commissioners of the SCJC ultimately get to make the decision.

This is an instance where it is in the best interest of the Texas judiciary and of the public that the SCJC issue a public statement. It is important that county commissioners and city council members understand the potential ethical implications on county, justice, and municipal judges prior to establishing a JDTF. Normally, such local officials can request an opinion from the Attorney General of Texas. In this instance, however, that is not an option. The Attorney General has already opined that whether a judge's conduct in specific circumstances offends the Code of Judicial Conduct is ultimately a matter for the SCJC.<sup>17</sup>

The potential for ethical problems posed by the establishment of a JDTF could implicate more than half of the judges in Texas. Without a public statement from the SCJC, local governments will have no authoritative guidance and judges may be pressured by well-meaning local officials to engage in judicial misconduct.

1. Sec. 36.001(a-b), G.C.
2. Sec. 36.002(2), G.C.
3. Sec. 36.003(a), G.C.
4. Sec. 36.003(b), G.C.
5. Texas State Commission on Judicial Conduct, Public Statement No. PS-2000-1: "...the commission notes, an act that is legal is not necessarily an act that is ethical."
6. Texas Code of Judicial Conduct, Canon 2(A): "A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."
7. Texas Code of Judicial Conduct, Canon 2(B): "A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness."
8. Texas Rules of Civil Procedure, Rule 18b(b)(1)-(3): "A judge must recuse in any proceeding in which: (1) the judge's impartiality might reasonably be questioned; (2) the judge has a personal bias or prejudice concerning the subject matter or a party; (3) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding..."
9. Secs. 29.055 - 29.057, G.C.
10. Texas Code of Judicial Conduct, Canon 3(B)(6): "A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not

limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not knowingly permit staff, court officials and others subject to the judge's direction and control to do so." (emphasis added)

11. Sec. 36.001, L.G.C.
12. Texas Code of Judicial Conduct, Canon 4(B)(2): "A judge... should not personally participate in public fund raising activities."
13. Canon 3B(8) applies to county judges. Canon 6(C)(2) applies to justices of the peace and municipal judges.
14. Texas Code of Judicial Conduct, Canon 6C(2)(g).
15. See note 5.
16. Tex. Const. art. V, sec. 1-a(10).
17. *Tex. Atty. Gen. Op. GA-0199* (6/10/04).

#### **MCLE Emeritus (70 or older) Exemption Removed; Judicial Exemption Remains Unchanged**

On April 28, 2015, the Supreme Court of Texas issued an order approving amendments to Article XII of the State Bar Rules. Specifically, the amendments remove the Minimum Continuing Legal Education (MCLE) exemption for an Emeritus member of the State Bar. The State Bar Task Force on Aging Lawyer Issues recommended the elimination of the exemption with the purpose of ensuring all active attorneys remain current in the law.

Although the order was issued in April of 2015, the changes for Emeritus members do not go into effect until June 1, 2016. This means current Emeritus members (that were previously exempt) will be required to, once again, complete MCLE requirements annually starting with the compliance year beginning on or after June 1, 2016. Members who turn 70 on or after June 1 of this year will continue to comply with MCLE requirements as they have in the past.

Previously exempt Emeritus members can apply CLE hours completed within the immediately preceding 12 months towards their first compliance year, as long as the CLE hours were not used for compliance in any prior year.

The judicial exemption available to attorney municipal judges remains unchanged, and those attorneys claiming the judicial exemption still do not have to report the completion of MCLE hours.

It should be mentioned while MCLE requirements and exemptions only apply to the 58% of municipal judges that are attorneys, ALL municipal judges are required to complete annual judicial education hours. Additionally, those municipal judges that have taken advantage of the Emeritus exemption in the past, can satisfy MCLE requirements by attending TMCEC Regional Programs.

Questions? Contact the State Bar MCLE department about MCLE (512.463.1463) and TMCEC about judicial education requirements (800.252.3718).



### EXAMPLES OF IMPROPER JUDICIAL CONDUCT

The following are examples of judicial misconduct that resulted in disciplinary action by the Commission in fiscal year 2015. These are illustrative examples of misconduct and do not represent every disciplinary action taken by the Commission in fiscal year 2015. The summaries below are listed in relation to specific violations of the Texas Code of Judicial Conduct, the Texas Constitution, and other statutes or rules. They are also listed in ascending order of the severity of the disciplinary action imposed, and may involve more than one violation. The full text of any public sanction is published on the Commission website. A copy of any public disciplinary record may also be requested by contacting the Commission.

These sanction summaries are provided with the intent to educate and inform the judiciary and the public regarding misconduct that the Commission found to warrant disciplinary action in fiscal year 2015. The reader should note that the summaries provide only general information and may omit mitigating or aggravating facts that the Commission considered when determining the level of sanction to be imposed. Additionally, the reader should not make any inference from the fact situations provided in these summaries.

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

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

- The judge failed to comply with the law and demonstrated a lack of professional competence in the law by intervening in a private dispute between a contractor and an electrician when no case was pending in his court, and by exceeding his authority through an independent investigation into the merits of the electrician's claims. In addition, the judge lent the prestige of his judicial office to advance the private interest of the electrician and gave the impression the electrician was in a special position to influence the judge. [Violation of Canons 2A, 2B and 3B(2) of the Texas Code of Judicial Conduct.] Public Reprimand and Order of Additional Education of a District Court Judge. (12/19/14).
- The judge failed to comply with the law when he reimbursed himself from campaign funds for travel expenses that were not properly reported to the Texas Ethics Commission. The fact that his financial reports were purportedly prepared and filed by his attorney did not mitigate the judge's responsibility as the officeholder/candidate to ensure the accuracy of the reports before signing them. The judge also engaged in questionable personal conduct that resulted in his arrest and in multiple criminal investigations. Though not ultimately prosecuted for any offense, the judge's off-the-bench conduct generated a high level of negative attention and criticism levied against him which cast public discredit upon the judge and the judiciary as a whole. [Violations



---

of Canon 2A of the Texas Code of Judicial Conduct; Article V, §1-a(6)A of the Texas Constitution.] Public Warning of a Former District Judge. (03/09/15).

- The judge failed to comply with the law and demonstrated a lack of professional competence in the law by (a) failing to timely execute the business of the court, (b) failing to hold jury or bench trials, (c) failing to reduce her rulings to final, written, appealable judgments, (d) failing to maintain proper records, (e) failing to conduct proper fiscal management, and (f) failing to provide public documents and information to citizens regarding cases that were filed in the judge's court. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] Public Admonition of a Former Municipal Court Judge. (05/14/15).
- The judge failed to comply with the law and demonstrated a lack of professional competence in the law when, in the absence of any written complaints and without a case having been filed with the court, the judge summoned the accused and witnesses to court, questioned them about the merits of oral complaints, performed her own independent investigation into the matter, and accompanied a law enforcement officer to the home of the accused so that a citation could be issued. The judge demonstrated a bias in favor of a public official, lent the prestige of the judicial office to advance the private interest of that individual, and allowed herself to be swayed by public clamor and/or fear of criticism. Additionally, in another matter, the judge failed to comply with the law and demonstrated a lack of professional competence in the law by accepting a defendant's plea over the telephone and signing the defendant's name to the plea form and waiver of a jury trial. [Violation of Canons 2A, 2B, 3B(2) and 3B(5) of the Texas Code of Judicial Conduct]. Private Reprimand and Order of Judicial Conduct of a Municipal Court Judge. (03/13/15).
- The judge failed to comply with the law and demonstrated a lack of professional competence in the law by: (1) entering an order of eviction that allowed the violating tenant an additional 90 days to come into compliance with the terms of the lease agreement; (2) failing to set and hear eviction matters within the time periods set forth in the applicable procedural rules; (3) failing to afford the Housing Authority the right to be heard on its motion to change venue; (4) granting a motion for new trial in an eviction proceeding, and (5) exceeding his authority by appointing a temporary judge. [Violation of 2A, 2B, 3B(2), 3B(5) and 3B(8) of the Texas Code of Judicial Conduct]. Private Reprimand of a Justice of the Peace. (03/25/15).
- The judge failed to comply with the law when she removed a defense attorney's recusal motion from the court's file in violation of Rule 75 of the Texas Rules of Civil Procedure. [Violation of Canon 2A of the Texas Code of Judicial Conduct]. Private Reprimand of a Former District Court Judge. (01/08/15).
- The judge failed to comply with the law and failed to maintain professional competence in the law when she issued waivers of the 72-hour waiting period before performing marriages for certain individuals without any legal authority and for collecting a fee in some cases for issuing the waiver. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution]. Private Reprimand of a Justice of the Peace. (03/02/15).
- The judge failed to comply with the law and failed to maintain professional competence in the law by directing a sheriff's deputy to attach a local attorney and bring him to her courtroom in handcuffs for a short hearing on an unopposed motion. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct]. Private Reprimand of a District Court Judge. (03/02/15).
- The judge failed to follow the law and demonstrated a lack of professional competence in the law by magistrating defendants and accepting payment of fines without requiring defendants to enter a written plea or waiver of jury trial prior to accepting payment, and in the absence of a written judgment upon which to base any payment plan or the enforcement thereof. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] Private Admonition and Order of Additional Education of a Municipal Court Judge. (07/29/15).
- The judge failed to comply with the law and failed to maintain professional competence in the law when the judge deprived a litigant of his right to a hearing on the Sworn Statement of Inability to Pay and incorrectly advised him that there was "not time for a hearing." [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] Private Admonition and Order of Additional Education of a Justice of the Peace. (08/31/15).

- 
- The judge failed to comply with the law and acted improperly when he failed to provide notice to an attorney or to the litigants involved in a pending CPS case that the judge was meeting and observing the children in the hospital. The Commission determined, based on comments made by the judge to the media, that the hospital visit provided the judge with evidence from an extrajudicial source, depriving the litigants of their right to have a fair, neutral and detached arbiter decide their case. [Violation of Canon 2A]. Private Admonition of County Court at Law Judge. (12/12/14).
  - The judge failed to follow the law and demonstrated a lack of professional competence in the law by releasing a criminal defendant on a PR bond while an aggravated sexual assault of a child case remained pending. [Violation of 2A and 3B(2) of the Texas Code of Judicial Conduct]. Private Admonition of a Justice of the Peace. (12/22/14).
  - The judge failed to follow the law and demonstrated a lack of professional competence in the law by denying litigants and members of the public access to the courtroom. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] Private Admonition of a Senior Judge. (07/29/15).

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

- The judge allowed his name, judicial title, and court facilities to be used to promote the private interests of his local church by allowing his name and judicial title to be printed in flyers for the church's toy drive, using the courthouse to collect toys, and allowing the court's phone number to be a contact point for the toy drive. The judge also failed to comply with the law and displayed a lack of professional competence in the law when he routinely dismissed traffic citations without a motion from the State in exchange for a dismissal fee. [Violation of Canons 2A, 2B and 3B(2) of the Texas Code of Judicial Conduct.] Public Reprimand and Order of Additional Education of Justice of the Peace. (11/18/14).
- During a traffic stop, the judge repeatedly identified herself to police officers as being a judge, offered to show the officers her judicial badge, and attempted to use her position as a judge to obtain favorable treatment and escape the consequences of her conduct. The judge's conduct during the traffic stop, her arrest for driving while intoxicated, and her subsequent plea of no contest to a speeding charge received widespread media attention which cast public discredit upon the judiciary and the administration of justice. [Violation of Canon 2B of the Texas Code of Judicial Conduct; Article V, §1-a(6)A of the Texas Constitution.] Public Admonition of an Appellate Court Justice. (03/13/15).
- The judge failed to comply with the law and demonstrated a lack of professional competence in the law when she attempted to mediate a private dispute between two individuals neither of whom had filed any criminal and/or civil proceedings in her court. The judge exceeded her authority when she met with both individuals, discussed the allegations, reviewed "evidence" submitted by the individuals, and reached a decision resolving the individuals' dispute. Thereafter, the judge made attempts to enforce her decision in favor of one of the individuals. The Commission concluded the judge's efforts to assist one of the individuals constituted an improper use of the prestige of her judicial office to advance the individual's private interests. [Violation of Canons 2A, 2B and 3B(2) of the Texas Code of Judicial Conduct]. Private Admonition and Order of Additional Education of a Justice of the Peace. (11/18/14).

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

- The judge failed to maintain order and decorum in the courtroom when she took no action to appropriately and timely address what she believed was contemptuous conduct. Based on her interactions with defense attorneys and prosecutors while in chambers, the judge should have known there had been a miscommunication to the bailiff that resulted in an individual's hour-long detention and should have taken immediate action to correct that misapprehension. [Violation of Canons 3B(3) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] Private Warning of a District Court Judge. (08/24/15).

---

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

- The judge failed to treat attorneys from the State Counsel for Offenders office, and one of their expert witnesses, in a patient, dignified, and courteous manner when he belittled, degraded, and demeaned these persons in open court. Moreover, the comments to the attorneys and the expert witness were sufficiently impatient, discourteous, and undignified as to cause a reasonable person to perceive that the judge harbored a bias against these persons, as well as the offenders themselves, and a fair trial would not be possible. Also, comments made by the judge during his speech/presentation before a political action committee could cause a reasonable person to perceive the judge would not be fair and impartial when presiding over civil commitment proceedings. [Violation of Canons 3B(4), 3B(5), 3B(10), 4A(1) and 4A(2) of the Texas Code of Judicial Conduct; Article V, §1-a(6)A of the Texas Constitution.] Public Reprimand and Order of Additional Education of a District Court Judge. (04/24/15).
- The judge failed to treat certain attorneys with the patience, dignity, and courtesy expected of a judicial officer, including the refusal to allow an attorney to appear in her courtroom while attired in shorts due to a medically-required knee brace. This conduct became widely known in the legal community, leading to the filing of recusal motions against her and numerous media stories. Moreover, the judge’s repeated attempts to intervene and assert her “rights” in pending recusal proceedings constituted a willful and/or persistent failure to follow the law and demonstrated incompetence in performing the duties of her office. [Violation of Canons 2A and 3B(4) of the Texas Code of Judicial Conduct; Article V, §1-a(6)A of the Texas Constitution.] Public Admonition of a Former County Court at Law Judge.<sup>1</sup>
- The judge failed to treat the County Clerk and her staff in a patient, dignified, and courteous manner. The judge charged the Clerk with criminal contempt after becoming personally affronted by the conduct of the Clerk and her staff toward him, and confused an offense to his sensibilities with obstruction to the administration of justice. The judge also demonstrated a lack of competence in the manner in which he performed some of his judicial duties. [Violation of Canons 2A, 3B(2) and 3B(4) of the Texas Code of Judicial Conduct]. Private Reprimand and Order of Additional Education of a County Court at Law Judge. (12/18/14).
- The judge failed in his duty to be patient, dignified, and courteous to the jurors when he chastised them for their verdict and accused them of ignoring the law and violating their oath. The Commission concluded the incident itself was sufficient to cast public discredit upon the Texas judiciary regardless of the media’s embellishments. [Violation of Canon 3B(4) of the Texas Code of Judicial Conduct]. Private Reprimand of a Senior Judge. (12/12/14).
- The judge engaged in numerous conversations with subordinates in which she used profanity, vulgar language, and made sexual references. Although the judge believed and intended that these conversations were private, all of the conversations took place at the courthouse during regular business hours. The Commission found that the judge was responsible for creating and/or perpetuating a work-place environment where these types of conversations were allowed to take place and made no effort to stop the offending conduct when requested by an employee. [Violations of Canons 3B(4) of the Texas Code of Judicial Conduct]. Private Reprimand of a Municipal Court Judge. (02/08/15).
- The judge failed to maintain patience, courtesy, and dignity towards an attorney who had cases pending before the judge and made comments in a manner that demonstrated the judge harbored a personal bias or prejudice against him. [Violation of Canons 3B(4) and 3B(5) of the Texas Code of Judicial Conduct]. Private Admonition of a County Criminal Court at Law Judge. (09/12/14).

**CANON 3B(6): A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not knowingly permit staff, court officials and others subject to the judge’s direction and control to do so.**

---

<sup>1</sup> On appeal, the Special Court of Review found that the judge’s conduct warranted a Public Reprimand.

- 
- The judge failed to comply with the law and demonstrated a lack of professional competence in the law by expelling the district attorney from her courtroom in violation of the “Open Courts” doctrine. The judge also failed to treat litigants, attorneys and others with patience, dignity, and courtesy, through her aforementioned expulsion of the district attorney from her courtroom and when she held a “marathon” court session lasting until 4 a.m. without allowing formal breaks. The judge also manifested a religious and/or cultural bias by describing the district attorney as a “New York Jew” and by criticizing a prosecutor’s beard because it made him look like a “Muslim.” [Violation of Canons 2A, 3B(2), 3B(4) and 3B(6) of the Texas Code of Judicial Conduct.] Public Admonition and Order of Additional Education of a District Court Judge. (05/11/15).

**CANON 3B(8): A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.**

- The judge failed to provide parties with notice and an opportunity to be heard. The judge issued a clarified judgment making substantive changes to the original judgment after his plenary power had expired and without any legal basis for doing so. [Violation of Canons 2A and 3B(8) of the Texas Code of Judicial Conduct]. Private Admonition and Order of Additional Education of a Justice of the Peace. (09/16/14).

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

- The judge’s close, personal relationship with a defendant/victim and her children and his failure to disclose the nature of the relationship to the defendant, cast a reasonable doubt on his ability to act impartially as a judge during the magistration of the defendant. [Violation of Canon 4A(1) of the Texas Code of Judicial Conduct]. Private Warning and Order of Additional Education of a Justice of the Peace. (03/20/15).

**CANON 4E(1): A judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary, except for the estate, trust or person of a member of the judge’s family, and then only if such service will not interfere with the proper performance of judicial duties.**

- The judge failed to follow the law when she served in a fiduciary capacity as an independent executor of the will and estate of her friend. [Violation of Canon 4E(1) of the Texas Code of Judicial Conduct]. Private Admonition of a District Court Judge. (11/10/14).

**CANON 6C(2): A justice of the peace or a municipal court judge, except as authorized by law, shall not directly or indirectly initiate, permit, nor consider *ex parte* or other communications concerning the merits of a pending judicial proceeding.**

- The judge failed to comply with the law and demonstrated a lack of professional competence in the law by (a) entering a judgment in the absence of pleadings, without serving a litigant with citation and without providing the litigant adequate notice of the hearing, (b) issuing criminal summonses in civil cases, (c) failing to reduce her rulings to final, written, appealable judgments, (d) failing to afford litigants the right to appeal the court’s judgment, (e) presiding over a matter over which the court lacked jurisdiction, (f) maintaining incomplete and/or inaccurate court records, and (g) conducting informal private mediations of disputes without proper notice to the parties, while excluding individuals from entering the courtroom to observe the proceedings in violation of the “Open Courts” doctrine. Moreover, the court exceeded her authority in conducting an independent investigation with information from an *ex parte*, extra-judicial source [Violation of Canons 2A, 3B(2) and 6C(2) of the Texas Code of Judicial Conduct.] Public Reprimand and Order of Additional Education of a Justice of the Peace. (03/19/15).
- The judge routinely engaged in out-of-court communications with individuals regarding cases that were pending or impending in his court. In addition, the judge failed to treat a litigant in a patient, dignified, and courteous manner. The Commission further concluded the judge failed to follow the law and improperly used the prestige

---

of his office when he requested, obtained, and disclosed to the Commission the litigant's criminal history and reports from local law enforcement agencies. There was no indication the judge obtained a waiver from the named individual in order to obtain this information and it appeared the judge was able to obtain this information solely due to his status as a judge in an attempt to discredit the litigant in furtherance of his own private interest in responding to the Commission's inquiry. [Violation of Canons 2A, 2B, 3B(4) and 6C(2) of the Texas Code of Judicial Conduct]. Private Warning and Order of Additional Education of a Justice of the Peace. (10/01/14).

- The judge failed to comply with the law and demonstrated a lack of professional competence in the law when the judge visited the property and spoke to its tenants while the misdemeanor cases against the landlord were pending in the court. The Commission concluded the judge's actions amounted to her performing her own independent investigation of the merits of the pending cases outside the presences of the parties and without their knowledge or consent. [Violation of Canons 2A, 3B(2) and 6C(2) of the Texas Code of Judicial Conduct.] Private Admonition and Order of Additional Education of a Justice of the Peace. (07/29/15).

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

- The judge failed to be diligent and timely execute the business of the court, including her failure to regularly appear for court and failure to sign orders for months at a time, causing an extreme backlog of cases. Moreover, the judge took no ameliorative action for these failures until the appellate court intervened, and then the judge was suddenly able to produce missing documents alleged to have been signed months earlier. The judge also failed to comply with the law and demonstrated a lack of professional competence in the law when she dismissed over 600 cases on December 30-31, 2013, without notifying the parties and without holding hearings. [Violations of Article V, §1-a(6)A of the Texas Constitution; Canons 2A, 3B(2) and 3B(8) of the Texas Code of Judicial Conduct.] Public Reprimand of a Former District Court Judge (09/04/14).
- The judge failed to comply with the law and engaged in willful and persistent conduct that was clearly inconsistent with the proper performance of his judicial duties and casts public discredit upon the judiciary and the administration of justice when he used his position and authority to bully, retaliate against, and punish several attorneys who had filed motions to recuse, grievances, criminal complaints and removal actions against him. The attorneys had previously represented the judge's ex-wife or were otherwise involved in litigation with the judge's then-girlfriend. The judge (a) engaged in the improper practice of law, (b) misused government resources, (c) injected himself into personal litigation regarding children, (d) failed to disclose relationships or to recuse due to close, personal relationships, (e) lied under oath, (f) engaged in witness tampering, (g) harassed, bullied, and maligned numerous county officials, (h) subjected attorneys and their clients to biased, unfair, discriminatory, and partial treatment through his judicial rulings and procedures, (i) abused his discretion, and (k) failed to afford these attorneys or their clients with notice, the right to be heard, and other due process safeguards. Moreover, the judge failed to treat attorneys and their clients with the requisite patience, dignity, and courtesy expected of a judicial officer. [Violation of Canons 2A, 2B, 3B(1), 3B(4), 3B(5), 3B(8) and 4G of the Texas Code of Judicial Conduct; Article V, §1-a(6)A of the Texas Constitution.] Public Reprimand of a Former County Court at Law Judge. (10/23/14).
- The judge's actions placed the judge, a motorist, and other motorists in danger, and created an appearance that the judge was acting as an arm of the police which is inconsistent with his duties as a neutral and detached judicial officer. The judge's conduct and the perception of bias and impropriety that flowed from it occurred on more than one occasion and resulted in negative media attention which cast public discredit upon the judiciary and/or the administration of justice. [Violation of Article V, §1-a(6)A of the Texas Constitution]. Private Admonition and Order of Additional Education of a Justice of the Peace. (03/13/15).

---

Excerpt from the *State Commission on Judicial Conduct 2015 Annual Report*.

## RESOURCES ON ETHICS

### Center for Judicial Ethics

The Center for Judicial Ethics (CJE) is a national clearinghouse for information about judicial ethics and discipline. The CJE publishes the *Judicial Conduct Reporter* (contains articles on trending issues, summaries of state ethics advisory opinions, and so forth). Every two years, the CJE hosts the National College on Judicial Conduct and Ethics. As a private organization, the CJE does not have authority to discipline or investigate judges. The CJE became a part of the National Center for State Courts, following the dissolution of the American Judicature Society.

The CJE website [[www.ncsc.org/cje](http://www.ncsc.org/cje)] provides access to the quarterly publication, *Judicial Conduct Reporter*; information on the conference (last offered in Chicago Fall 2015), a weekly blog, and a publications list (downloadable and listed below).

- [An Ethics Guide for Judges and Their Families](#)
- [An Ethics Guide for Judges and Their Families \(discussion guide\)](#)
- [An Ethics Guide for Part-Time Lawyer Judges](#)
- [Ethical Standards for Judges](#)
- [Communicating with Voters: Ethics and Judicial Campaign Speech \(study materials\)](#)
- [Communicating with Voters: Ethics and Judicial Campaign Speech \(instructor's manual\)](#)
- [Reaching Out or Overreaching: Judicial Ethics and Self-Represented Litigants](#)
- [A Study of State Judicial Discipline Sanctions](#)
- [When Judges Speak Up: Ethics, the Public, & the Media \(study materials\)](#)
- [When Judges Speak Up: Ethics, the Public, & the Media \(instructor's manual\)](#)

For additional information, contact Cynthia Gray at 703.841.6914.



### On the Merits

*On the Merits* is the ethics blog of the Texas Center for Legal Ethics (TCLE). *On the Merits* takes a close

look at significant legal stories with an eye toward addressing the legal myths and misconceptions that turn up in news stories, movies, TV programs, websites, anonymous emails, and other forms of mass communications. The goal of this blog is to provide readers with a thoughtful examination of what the media and others are saying about the legal profession and to apply the frequently-absent context of how the legal system actually works. A recent post, for example, is “Immigration Judge Prevails in Recusal Dustup.”

TCLE is a member-based, non-profit organization. From their website [[www.legaethicstexas.com](http://www.legaethicstexas.com)]: “Our members serve as ambassadors for the legal profession, promoting and enhancing professionalism, ethics, and civility among lawyers. If you believe—as we do—that a lawyer’s word is a bond to be honored and respected, please join us in bringing professionalism to practice.” Annual paid membership (starting at \$100 a year), made as donations to the Center, provides premium access to exclusive content on the TCLE Website that is not available to the general public.

TCLE serves as a repository and source for ethics rules and opinions via the TCLE website. While most of the articles, links, and resources are designed for practicing attorneys, there are some useful resources for judges as well. The Lawyer’s Creed, for example, is something all judges should be familiar with [[https://www.legaethicstexas.com/Downloads/Texas-Lawyers-Creed/Texas\\_Lawyers\\_Creed.aspx](https://www.legaethicstexas.com/Downloads/Texas-Lawyers-Creed/Texas_Lawyers_Creed.aspx)]. A familiar phrase contained within the creed is “My word is my bond.”



### Judicial Ethics Opinions

The Committee on Judicial Ethics of the State Bar of Texas Judicial Section issues written judicial ethics opinions in response to written questions requesting interpretations of the Code of Judicial Conduct. The legal division of the Office of Court Administration (OCA) publishes those opinions and promulgates a subject matter index and footnotes which reference current code provisions for the opinions. The opinions

---

may be accessed on the OCA website at [www.txcourts.gov/media/678096/JudicialEthicsOpinions.pdf](http://www.txcourts.gov/media/678096/JudicialEthicsOpinions.pdf). The University of Houston, *Texas Ethics Reporter*, also maintains a site where the opinions may be accessed by number: [www.law.uh.edu/libraries/ethics/Judicial/jeaol/numbersindexb.html](http://www.law.uh.edu/libraries/ethics/Judicial/jeaol/numbersindexb.html).

Judges who have questions about the Code of Judicial Conduct may contact the State Commission on Judicial Conduct and receive guidance from its attorneys or assistance in contacting the Committee on Judicial Ethics for a written opinion. Neither the oral advice of the Commission's attorneys nor the written opinions of the Committee are binding on the Commission itself in disciplinary proceedings.

The advisory opinions issued by the Committee on Judicial Ethics construe the Code of Judicial Conduct as it exists on the date the opinion is issued. Subsequent amendments to the Code may affect the application of an opinion.

### **State Commission on Judicial Conduct**

The State Commission on Judicial Conduct (SCJC) is an independent Texas state agency created by an amendment to the Texas Constitution in 1965, which is responsible for investigating allegations of judicial misconduct or judicial disability, and for disciplining judges. The SCJC consists of 13 commission members who each serve six-year terms, and a staff of 14. The SCJC staff members are available to discuss potential ethical conflicts with judges and court staff before an issue is reported as a complaint. Call 877.228.5750 and ask for one of the attorneys.

The SCJC maintains a website [[www.scjc.state.tx.us/scjc.asp](http://www.scjc.state.tx.us/scjc.asp)] that contains the following information:

- The Canons of Judicial Conduct;
- Governing Provisions;
- Private and Public Sanctions;
- Annual Reports (2015-2001) of the Commission with listings of sanctions and reprimands, as well as statistical data about disciplinary actions;
- Public Statements;
- Amicus Curiae Program (about impairment); and
- FAQs, Forms, and More.



### **Annual Report: State Commission on Judicial Conduct**

SCJC has released its *2015 Annual Report*, which provides statistical information on the number of violations of the Code of Judicial Conduct filed, investigated, and disposed of. On page 16 of this journal is an excerpt from this publication showing examples of improper judicial conduct. Although municipal judges comprise the greatest in number of any type of judge in Texas (1,272 judges, 34%), only six percent of the cases filed were for the municipal judiciary. The entire report may be accessed at [www.scjc.state.tx.us](http://www.scjc.state.tx.us).

### **Amicus Curiae**

Started in 2001, Amicus Curiae ("Amicus") is a judicial disciplinary and education program intended to address a growing concern, often generated by scandals reported by the media, of judicial misconduct caused by impairment. Before the Commission started this program, complaints of judicial misconduct relating to impairment, such as drug or alcohol abuse or mental illness, were sanctioned or dismissed if unfounded. The underlying impairment was never addressed. Amicus affords a third option under the Commission's authority to order additional training and education to a judge found to have violated a canon of judicial conduct. Amicus offers assistance to the judge to address the underlying personal impairment causally connected to the misconduct. One advantage Amicus offers over other similar programs such as the Texas Lawyers Assistance Program operated by the State Bar of Texas is its ability to assist all judges, attorney and non-attorney alike.

Although the confidential referral to Amicus by the Commission through the disciplinary process does not shield the judge from any sanction that the Commission deems appropriate, the Commission recognizes that not all impairment issues result in misconduct. In order to reach out to those judges who may be suffering in silence and who may not be the subject of a complaint as a result of their impairment, Amicus offers a self-referral component to its program, which affords judges an opportunity to seek assistance, in confidence, outside the disciplinary process.

For more information about the program, including how to make a confidential referral, please contact the Amicus Program Manager at 512.463.7769.



## RESOURCES FOR YOUR COURT

### New TYLA Video on Teen Binge Drinking

*The Unconscious Truth – The Physical and Legal Effects of Underage Binge Drinking* is a multi-media project created by the Texas Young Lawyers Association (TYLA) to educate students and parents on the signs of alcohol poisoning and the legal and physical consequences associated with binge drinking.

The project begins with a video inspired by actual events and shows the beginnings of a great party. It follows “Hannah” who lives at the home and her best friend, “Shelby.” The party continues with Shelby’s goal of consuming numerous shots in just a short amount of time. Soon after, Shelby begins showing the signs of alcohol poisoning, but her friends just tell her she will “feel better now” after she throws up and to “sleep it off.” The video continues with the physical effects of the alcohol on Shelby and is followed by the arrest of Hannah and her father.

The surprising ending will provoke many discussions regarding the signs of alcohol poisoning, the duties, if any, of the drinker’s friends and the potential criminal and civil consequences of everyone involved. The discussion is supported by curriculum explaining points in the video and the different synopsis and endings. In addition, there are videos from the Allen family for students and parents and a myths section which can be used as a true/false game or quiz. The guided discussion materials may be downloaded: [www.tyla.org/tyla/assets/File/UnconsciousTruthCurriculum12FINAL.pdf](http://www.tyla.org/tyla/assets/File/UnconsciousTruthCurriculum12FINAL.pdf). For more information, contact TYLA at 800.204.2222 ext. 1800 or [www.tyla.org](http://www.tyla.org).



### Interested in Starting a Teen Court?

TMCEC is offering a teen court planning session on April 4-5, 2016 in Georgetown. If you are interested in attending, please contact Ned Minevitz ([ned@tmcec.com](mailto:ned@tmcec.com)). The seminar is designed for those who do not yet have a teen court in place, but if space is available, those with existing teen courts will be admitted. There is no registration fee. Judges, clerks, community leaders, juvenile case managers, and city officials are eligible to attend. Funding from TxDOT will provide travel, housing, and per diem expenses.





---

## OCA Annual Report

The Office of Court Administration and Texas Judicial Council have released the *2015 Annual Statistical Report* for the Texas Judiciary, which provides synopses and highlights of court activity. Excerpts from the *Annual Report* about municipal courts are reprinted in this issue of *The Recorder*. The entire report may be downloaded from [www.txcourts.gov/media/1097007/Judge-Profile-Sept-15.pdf](http://www.txcourts.gov/media/1097007/Judge-Profile-Sept-15.pdf), or from the OCA website. Also, on the OCA website, readers may find the statistical reports of the municipal courts alphabetically by city or numerically by population size. The report also includes a summary of juvenile or minor activity by city.

	<u>Justice Courts</u>	<u>Municipal Courts</u>
Number of Judges		
Number of Judge Positions	807	1272
Age of Judges		
Mean	58	49
Oldest	89	97
Youngest	26	26
Gender of Judges		
Males	511	781
Females	293	474
Length of Service		
Average	8 Yr. 4 Mo.	9 Yr. 11 Mo.
Longest	52 Yr. 5 Mo.	50 Yr. 10 Mo.
First Assumed Office By		
Appointment	204 (25%)	1560 (125%)
Election	600 (75%)	17 (1%)
College Graduated	258 (34%)	809 (67%)
Law School Graduated	66 (9%)	697 (58%)

Excerpt from *FY15 Annual Report of Office of Court Administration*.

## Court Security Incidents

Since 2007, the Office of Court Administration has collected data related to all court security breaches or inappropriate conduct or comments made upon the court and its personnel. These may be accessed at [www.txcourts.gov/statistics/court-security-incident-reports.aspx](http://www.txcourts.gov/statistics/court-security-incident-reports.aspx). An incident report must be submitted within three business days of the incident. For instructions on completing and submitting the report, go to <http://www.txcourts.gov/media/7329/IR-Instructions-Municipal-3-08.pdf>.

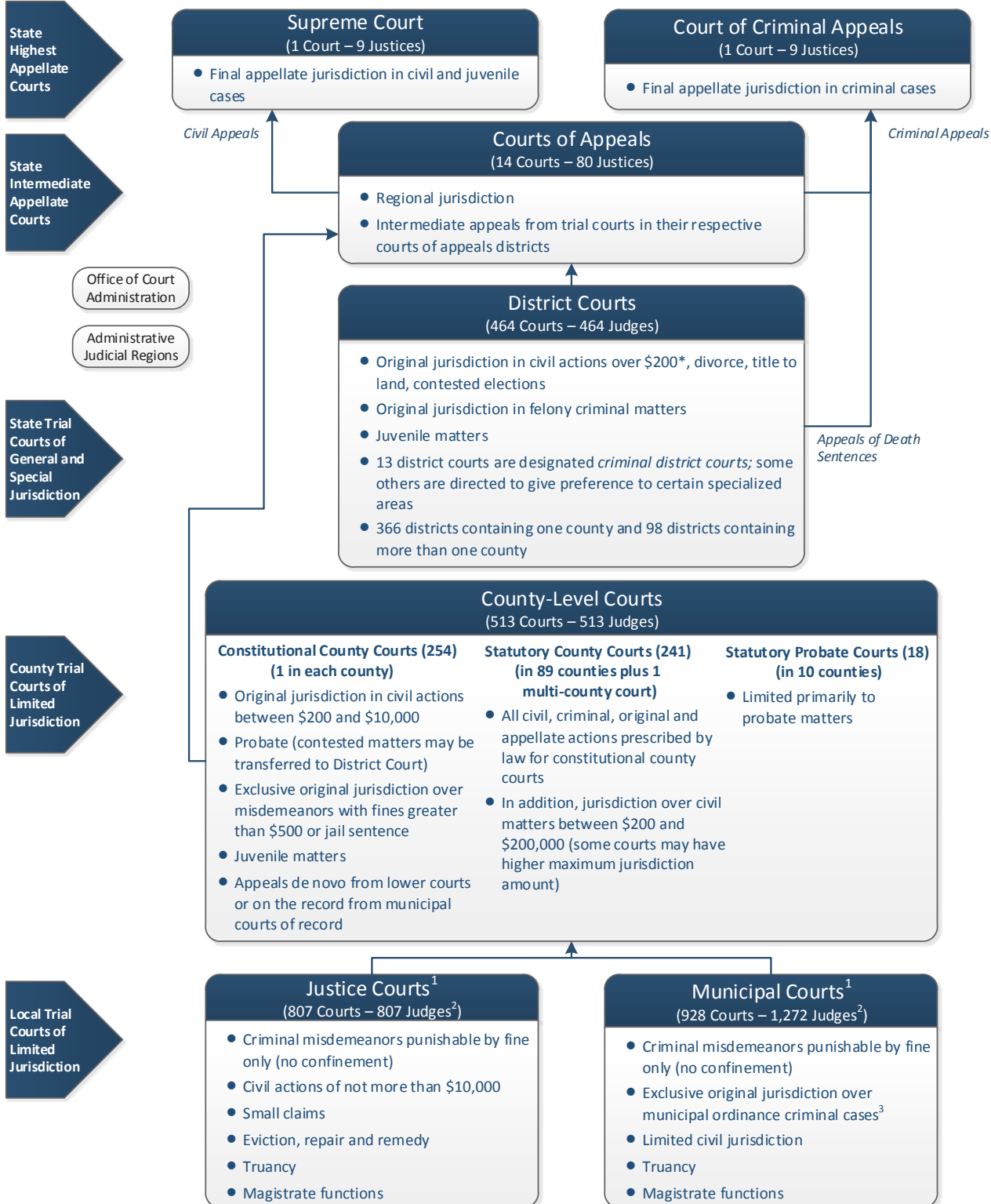
## Livesavers 2016

Livesavers is a national conference dedicated to reducing deaths and injuries on U.S. roadways. Often attended by over 2,000 participants, it is a forum for the presentation of proven countermeasures and initiatives that address today's critical highway safety problems. The 2.5 day conference offers 80+ workshops, two motivational plenary sessions, an exhibit hall, and many networking opportunities. It will be held April 3-5, 2016 in Long Beach California. Visit [www.livesaversconference.org](http://www.livesaversconference.org) for more information.



# Court Structure of Texas

September 1, 2015



1. All justice courts and most municipal courts are not courts of record. Appeals from these courts are by trial *de novo* in the county-level courts, and in some instances in the district courts.  
 2. Some municipal courts are courts of record—appeals from the courts are taken on the record to the county-level courts. As of February 2015, 155 courts indicated that they were a court of record; a list is posted at <http://www.txcourts.gov/about-texas-courts.aspx>.  
 3. An offense that arises under a municipal ordinance is punishable by a fine not to exceed: (1) \$2,000 for ordinances that govern fire safety, zoning, and public health or (2) \$500 for all others.

From the OCA Annual Statistical Report, 2015, [www.txcourts.gov/media/1097010/Court-Structure-Chart-Sept-2015.pdf](http://www.txcourts.gov/media/1097010/Court-Structure-Chart-Sept-2015.pdf)

---

## ABA 2016 Traffic Court Seminar

The Traffic Court Seminar (offered by the Judicial Division of the National Conference of Specialized Court Judges, American Bar Association), is designed for judges, judicial officers, prosecutors, and defense attorneys appearing in these courts. Attendance will provide participants with an opportunity to meet and network with others from throughout the country to discuss the latest developments in traffic court law, technology, and scientific evidence.

March 16-18, 2016  
Hotel Monteleone  
214 Royal Street  
New Orleans, Louisiana  
504.523.3341



The complete agenda and all registration information can be found at [www.ambar.org/2016TrafficSeminar](http://www.ambar.org/2016TrafficSeminar). Register by January 22, 2016 for the early bird rate on the registration fee. All sessions will be held at the Hotel Monteleone. Rooms at the ABA's preferred rate will be held until February 23, 2016.

There are a limited number of scholarships available. For more information, please email [Cheronne.Mayes@americanbar.org](mailto:Cheronne.Mayes@americanbar.org).

## Traffic Safety Webinars: National Judicial College

### Older Driver Update

Thursday, February 25, 2016  
12:00 p.m. CST



THE NATIONAL  
JUDICIAL COLLEGE

Register at <https://register.judges.org/>.

The CDC Reports that in 2012, there were over 36 million drivers, age 65 and older, on the roads in the United States. Of those advanced aged drivers, 5,560 people were killed, and 214,000 injured in motor vehicle crashes. With so many vehicle injuries occurring amongst this advanced aged driving population, it is important for judges who hear traffic matters to be aware of the issues affecting this group.

This webcast will delve into many issues related to older drivers including, describing the changing demographic trends in the United States related to this population; identifying normal age-related changes in the body; and analyzing the judicial role in crafting sentences for the older driver.

### Effective Sentencing for the Multiple DUI Offenders

Thursday, February 10, 2016  
12:00 p.m. CST

Register at <https://register.judges.org/>.

When hearing traffic cases, judges are often tasked with sentencing many DUI defendants for the second or third time. To curb the incidence of multiple offenders, judges should aim to find alternative sentences that will be more effective than the "standard sentence." Based on current research studies, and existing programs that have proven effective, this webcast will provide the trial judge with practical and effective sentencing alternatives for the multiple DUI offender. The webcast will provide examples of alternative sentences which can be practical for the metropolitan court, as well as the rural court.

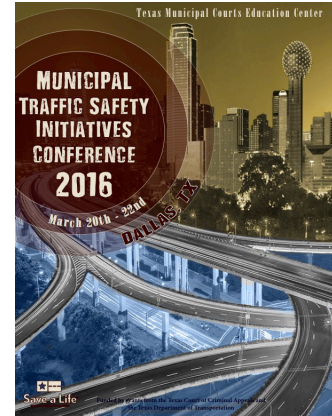
Contact the National Judicial College for more information: 800.255.8343.

---

## 2016 Municipal Traffic Safety Initiatives Conference

TMCEC is pleased to offer a three-day conference March 20-22, 2016, focusing on impaired driving and other traffic law issues. The Municipal Traffic Safety Initiatives (MTSI) Conference is funded by a generous grant from the Texas Department of Transportation. It is open to judges, clerks, juvenile case managers, prosecutors, and other municipal court staff to attend.

March 20-22, 2016 (Sunday-Tuesday)  
Omni Park West Hotel  
1590 Lyndon B. Johnson Freeway  
Dallas, TX 75234



The MTSI Conference will offer an extensive array of courses. The optional session on Sunday will feature retired County Judge Mary Celeste from Denver, Colorado speaking on marijuana and driving and the history, neuroscience, and toxicology of marijuana. Sunday will conclude with a presentation by Sergeant Kevin McGee, a Drug Recognition Expert from Prosper, Texas. The conference will continue on Monday and Tuesday with courses such as *Traffic Death:*

*Accident or Murder? The Prism Through Which We Should View, Women and Impaired Driving, My Car Does What? A Judge's Guide to Traffic Safety Technology and Pitfalls,* and many more! The MTSI Award winners and honorable mention recipients will also be recognized at this conference. Please visit <http://www.tmcec.com/mtsi/mtsi-conference/> to register and for more information.

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

If you have any questions, please contact Ned Minevitz at [ned@tmcec.com](mailto:ned@tmcec.com) or 512.320.8274 or Regan Metteauer at [regan@tmcec.com](mailto:regan@tmcec.com) or 512.320.8274.

### **Bailiffs and Warrant Officers Interested in Becoming Certified Court Security Specialists**

For the first time ever (and likely the last time so don't miss this!), TMCEC is offering Courses 21006 and 21007 for those officers interested in completing their Court Security Specialist Certification. This opportunity will be offered twice in 2016. The first opportunity to complete this training will be held on May 19-20, 2016, the two days following the Annual Bailiffs and Warrant Officers Conference May 16-18, 2016. There will be a separate registration form and fee (\$100). The hotel is the Omni Park West in Dallas, however, the training for 21006 and 21007 will not be held at the hotel, but is tentatively scheduled in Denton. The second opportunity for this training is tentatively scheduled for July 14-15, 2016 in San Marcos.

The registration fee will include a hotel stay on the nights of May 18 and May 19. Meals are not provided as part of this training. Additional equipment and ammunition may be required. More information on requirements for the courses will be provided as it becomes available to those on the list of interested officers. Interested officers should contact Regan Metteauer at [regan@tmcec.com](mailto:regan@tmcec.com). Space is limited, so preference will be given to those who have already completed court security courses and those who register for the 2016 Bailiffs and Warrant Officers Conference preceding the training.

Officers who took the court security courses TMCEC offered last year (21001, 21002, 21005), complete the court security courses offered at the 2016 annual conference (21003 and 21004), 21006, and 21007 will have completed the necessary courses for certification (ordering and receiving a certificate from TCOLE is also required for certification). As a result of offering these courses, TMCEC anticipates up to 120 officers becoming eligible for certification this year. Please don't miss this opportunity!

## THE 2016 GREAT TEXAS WARRANT ROUNDUP

The 10th statewide 2016 Great Texas Warrant Roundup is set to kickoff this spring. This event joins together cities all over Texas in a combined effort to serve outstanding arrest warrants. Strong focus is placed on contacting and encouraging individuals with outstanding warrants to contact their respective courts to come into compliance with court orders before any arrests are made.

Last year, 323 entities participated, resulting in over 144,000 cleared warrants. This success results from increased media attention and the influential force behind such a vast concerted effort.

Interested courts (or other entities) may register online at [www.austintexas.gov/warrant\\_round\\_up/AMC\\_2016\\_Warrant.cfm](http://www.austintexas.gov/warrant_round_up/AMC_2016_Warrant.cfm). Paper forms will no longer be faxed or emailed to the participating agencies. All participants need to register, even those that participate every year; the deadline to enroll is Friday, January 23, 2016. Registering after that date is permitted, but timely registration ensures exposure for a particular roundup, which is critical to the success of the roundup.

**NEW THIS YEAR**, a secured web portal has been created where participants can access copies of sample mailers, posters, media notices, door hang tags, cable television presentation, etc. Participants will enter their own collection statistics in the secured web portal; the data collection spreadsheet and instructions will also be available on the portal. The goal is to streamline the process and ensure higher rates of accuracy for the data collection. Instructions on how to access the web portal will be emailed to those who are registered.

Participating courts must keep statistics on the total number of warrants, the number of warrants cancelled (by service, payment, jail credit, etc.), and the amount of money actually collected and report those statistics to the Austin Municipal Court. Other records need not be reported.

For more information, contact:

Mary Jane Grubb  
Austin Municipal Court Clerk  
512.974.4690  
[maryjane.grubb@austintexas.gov](mailto:maryjane.grubb@austintexas.gov)

Kim Chadwick  
Austin Municipal Court Operations Manager  
512.974.4820  
[kimberly.chadwick@austintexas.gov](mailto:kimberly.chadwick@austintexas.gov)





## Drug Trend Alert: Marijuana Wax, Oil, or Concentrates

By Jermaine Galloway  
Police Officer & Public Speaker, Tall Cops Say Stop

There is a new drug trend that is currently sweeping the country and is overwhelming college campus law enforcement, safety officials and administrators. The term for it is “dabbing,” but at a street level it is referred to as marijuana wax, oil or concentrates.

As many would expect when they hear the word marijuana, what comes to mind is a green leafy substance that is smoked through a glass marijuana pipe or a bong. The first thing that you need to do is get that image, knowledge of standard paraphernalia and terms out of your mind. This “new” marijuana is completely different than anything we have dealt with in the past.

### What Are Marijuana Concentrates?

Marijuana concentrates are the extracted resins from green leafy marijuana, which can raise the THC content from the standard street level 15% THC to 60-80% THC. Also, concentrates are not green or leafy. They look like wax, butter, oil or amber colored glass shards, called “shatter.”

Concentrates are commonly extracted using butane (when run through the dry herbal marijuana buds, it extracts the THC). The watery/waxy THC is then heated to bubble off the butane. The use of butane is not the only method to create concentrates, but it is the most popular.

Once packaged, this product can simply look like a small portion of wax. Concentrates can also be laced with other drugs or put into various food products. Obviously, this changes the delivery method and makes identification more discrete.

Using butane, a common fuel, for extraction, has its problems. The use of butane has caused multiple explosions all over the country, including one in a university housing complex near the University of Montana, in October of 2014. These explosions have killed and severely burned people nationwide. The explosions are also causing serious structural damage to their property and neighboring properties.

### Dabbing Has Many Street Names

This drug goes by the monikers “dabs,” “butter,” “budder,” “amber,” “honey,” “oil” or “BHO,” which stands for “Butane Honey Oil” or “Butane Hash Oil.” You will also see clothing or fliers with the term “710.” This term is similar to the street level term of 420, which is the universal time and date to get high. In this case, 710 is the word “OIL” turned upside down, making a popular drug reference.



Along with the incredibly high THC, marijuana concentrates have some non-traditional symptoms. Some users report hallucinations, passing out, extreme highs (even from small portions) and high levels of impairment.

### Users Need Advanced Paraphernalia

After creating the marijuana concentrate, the subject uses a more specific bong or pipe, which is called an “Oil Rig,” to smoke the wax. They can also purchase adapters for a standard bong to make it usable for dabs. A popular trend is to use a device that looks like a standard e-cigarette, specific to concentrates and oils,

The “dabbing” movement is extremely popular, evolving quickly, and there are many different types of

paraphernalia, terms, logos and concentrate types coming into our communities. As this trend's popularity continues to skyrocket with individuals of all ages, we need to continue to educate ourselves on the dangers and use of "dabbing".

*Jermaine Galloway is a police officer in Idaho and is also known as "The Tall Cop." For more specific information on drug concentrates, paraphernalia, BHO explosions and this trend, contact him at [Jermaine@tallcopsaysstop.com](mailto:Jermaine@tallcopsaysstop.com). He will be a presenter at the 2016 MTSI Traffic Safety Conference sponsored by TMCEC in Dallas on March 20-22, 2016.*

## New State Fact Sheets: Costs of Motor Vehicle Crash Deaths

Learn about your state's cost of motor vehicle crash deaths and get more information on evidence-based strategies that are proven to save lives and money. These fact sheets have been developed as a tool to highlight current cost data and strategies proven effective to prevent crashes such as:

- graduated driver licensing laws;
- sobriety checkpoints;
- ignition interlocks for those convicted of driving while intoxicated;
- car seat and booster seat use through distribution plus education programs and child passenger safety laws; and
- seat belt use through enacting and enforcing primary seat belt laws for all seating positions.



Data are available for all 50 states and the District of Columbia and divided up by federal health and human services regions.

- [Cost of Motor Vehicle Crash Deaths](#)<sup>1</sup>
- For more information about prevention strategies, visit [www.cdc.gov/motorvehiclesafety](http://www.cdc.gov/motorvehiclesafety) and [www.cdc.gov/psr/motorvehicle/](http://www.cdc.gov/psr/motorvehicle/).
- For more information about cost estimates, visit the CDC's newly updates, free, interactive tool: Moto Vehicle Prioritizing Interventions and Cost Calculator for States, 2.0. This tool will help state decision makers prioritize and select from a suite of effective motor vehicle injury prevention interventions. The interventions include alcohol ignition interlocks, universal motorcycle helmet laws, sobriety checkpoints, and primary seat belt-use laws. CDC's MV PICCS 2.0 calculates the expected number and monetized value of injuries prevented and lives saved at the state level. The calculator also includes the costs of implementing up to 14 interventions, while taking in account available resources. A fact sheet for each intervention and a final report with a user guide are included.

### Why is This Important?

In the United States, motor vehicle crashes are in the top 10 causes of death for people aged 1-54, and over 30,000 people are killed in crashes each year. In 2013, crash death resulted in \$44 billion in medical and work loss costs.

### Additional Motor Vehicle State Data

- [Drunk Driving State Data & Strategies](#)<sup>2</sup>
- [Restraint Use State Data & Strategies](#)<sup>3</sup>
- [Motor Vehicle State Data & Information](#)<sup>4</sup>
- [Assessment of Characteristics of State Data Linkage Systems](#)<sup>5</sup>



1. <http://goo.gl/Gd0JQC>
2. <http://goo.gl/bZMJ8Z>
3. <http://goo.gl/wqkRwp>
4. <http://goo.gl/wN96M7>
5. <http://goo.gl/Lwztau>

---

## Keeping the kids in your community safe using driving on the right side of the Road

Driving on the Right Side of the Road (DRSR) is a TxDOT funded program aimed at teaching school aged children about traffic safety. With this generous funding, the Texas Municipal Courts Education Center (TMCEC) and Texas Law Related Education/ Law Focused Education, Inc. have created materials to use in the classroom, in community groups or presentations, and in homes to help teach children the important rules of the road that will keep them safe from childhood through adulthood. All the resources that DRSR has created are free of charge, and are available both in hard copy through TMCEC and online through the DRSR website, [www.drsr.info](http://www.drsr.info). To request more information about how to use or obtain DRSR's books and curriculum, please contact Liz De La Garza at 512.320.8274 or [elizabeth@tmcec.com](mailto:elizabeth@tmcec.com).

Some of the free resources available to your court are:

**Children's Books about Safety:** DRSR currently has six colorful and interactive children's books that use monkeys to teach children about traffic safety. All books are available in both English and Spanish. These titles include:

- *Don't Monkey Around with Safety in a Car*
- *Don't Monkey Around on Your Bicycle*
- *Don't Monkey Around with Safety on Field Trips*
- *Safe-T-Squad*
- *Be Careful, Lulu! and*
- *Safe, Not Sorry (Sticker Book)*

These books can be distributed in a court lobby, or used actively during school presentations given by your court. Parents can use these books at home as bed-time reading. Teachers use these books during reading time or can use individual books as prizes for students to take home.

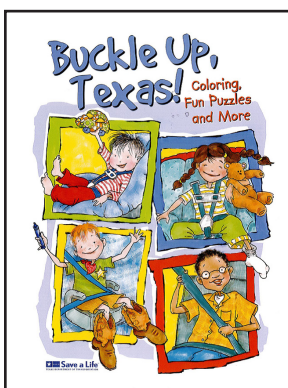
**Curriculum and Lessons about Safety:** DRSR has developed a curriculum for teachers to use in the classroom to teach safety while teaching social studies, math, health, and reading/writing. Court personnel can use this curriculum while presenting to classrooms or to community groups. For more information about how to use the DRSR K-3 and K-12 curriculum, please contact us! We would love to help you organize a presentation to your local schools and community groups.

**Mock Trials:** DRSR offers two comprehensive guidebooks on setting up a mock trial. The books contain everything you need to get started organizing a mock trial in your community.

**Traffic Safety DVDs:** DRSR has an extensive lending library that covers a wide variety of traffic safety issues. These DVDs can be lent to your court for a month at a time at no charge to you. Topics include underage drinking, impaired driving, and more. Please contact Liz De La Garza at [elizabeth@tmcec.com](mailto:elizabeth@tmcec.com) for more information!

**Posters, Brochures, and Promotional Items:** Many courts have set up a traffic safety exhibit in their lobby to help teach the public about traffic safety. DRSR has a wide variety of posters, safety brochures, and promotional items to help you stock this area. We have posters that discourage impaired driving and distracted driving. Informational posters about booster seats and seat belt laws are also available. Finally, DRSR carries various items, such as pencils, pens, and notepads that encourage safe behavior. All these items can be shipped free of charge to your court!

### Examples of some of the items available through DRSR:





---

## FROM THE CENTER

---

### Texas Truancy Transition

H.B. 2398 (84th Legislative Session) marked the end of the “criminalization of truancy” and created an entirely new and unique type of court and set of procedures to handle school attendance cases involving children. Outside of the provisions in newly created Title 3A of the Family Code, juvenile courts in Texas no longer have original jurisdiction of school attendance in Texas. Justice, municipal, and certain county courts are designated as truancy courts, having original, exclusive jurisdiction over allegations of truant conduct. TMCEC has created a webpage with helpful links to explain H.B. 2398 and its new procedures governing civil cases in truancy courts. It may be accessed at [www.tmcec.com/truancy](http://www.tmcec.com/truancy). There is also a twitter feed that provides up to date news articles and events related to truancy: @TxTruancyTrans.

On the Texas Truancy Transition webpage, readers will find the following:

- Final version of the H.B. 2398
- Section by Section Analysis of H.B. 2398
- Flowcharts with Commentary Outlining Procedures
- [Texas Truancy Court Resource Manual](#)
- 40 Truancy Court Forms
- 58 pages of Truancy Court Procedure Checklists

Working with the Texas Justice Court Training Center, TMCEC developed an online [Texas Truancy Court Resource Manual](#) to help courts navigate and implement the new truancy laws.

By now, most courts have taken the necessary steps to expunge criminal cases of Failure to Attend School (convictions and dismissed cases) prior to September 1, 2015. If not, please review the FAQs shown on the next page to answer your questions. A form from the Revised TMCEC 2015 *Forms Book* may also be found on page 35 of this issue of *The Recorder*.

### TMCEC 2015 *Forms Book*

TMCEC has released its revised 2015 *Forms Book* with over 250 ready-to-use forms, notices, letters, warnings, and ordinances. These were developed specifically for use by municipal judges, court clerks, and prosecutors. These forms may be modified to meet the needs of your court.

Some of the new forms include:

- Affidavit for Search Warrant Submitted by Telephone or Other Electronic Means,
- Orders Restoring Stolen Property,
- Inventory of Property Taken under a Search Warrant,
- Order Directing Safekeeping of Property Taken under a Search Warrant,
- Dismissal of Parent Contributing to Non-Attendance Charge,
- Order For Expunction of Records: Failure to Attend School, and
- Notice of Appeal and Appeal Bond: Dangerous Dog.

The 2015 *Forms Book* may be ordered from TMCEC for \$25 plus \$3.95 shipping. It may also be downloaded from [http://tmcec.com/resources/books/forms\\_book/](http://tmcec.com/resources/books/forms_book/).

### TMCEC 2015 *Bench Book*

The TMCEC 2015 *Bench Book* is also available. It is designed as a reference guide for Texas municipal judges serving in their capacity as trial court judges and magistrates. This 11th edition of the TMCEC 2015 *Bench Book* incorporates recent federal and state case law as well as important statutory changes from the 84th Regular Legislature. Notably, H.B. 2398 (84th Legislature) repealed the offense of Failure to Attend School and designated justice, municipal, and certain county courts as truancy courts, having original, exclusive jurisdiction over allegations of truant conduct, handled as civil cases under Title 3A of the Family Code. The newly created Title 3A of the Family Code contains the procedures truancy courts are to use—the Code of Criminal Procedure generally does not apply. In order to stress the distinction between a municipal court and a truancy court, there are no checklists for Truant Conduct in this edition of the *Bench Book*. Truancy court resources are available on the TMCEC website at [www.tmcec.com/truancy](http://www.tmcec.com/truancy). New freestanding truancy court procedures and forms can be found in the new online *Texas Truancy Court Resource Manual*, available on our website at [www.tmcec.com/truancy](http://www.tmcec.com/truancy).

The 2015 *Bench Book* may be ordered from TMCEC for \$25 plus \$3.95 shipping. It may also be downloaded from [www.tmcec.com/resources/books/bench\\_book/](http://www.tmcec.com/resources/books/bench_book/) in either. The online version contains links to relevant statutes and case law.

## Class C Handbook

The *Texas Class C and Fine-only Misdemeanors Handbook* (the “Green Book”) represents a comprehensive effort to compile all Class C, fine-only criminal offenses under state law. Covering 26 codes and containing roughly 1,300 offenses, it includes statutory cites for both the offense and penalty provision(s), the fine or fine range for each offense, DPS reporting codes for each of the offenses that have assigned codes, and notes those offenses that are

enhanceable or for which circumstances would heighten the punishment category. A new appendix contains the list of moving violations promulgated by DPS in the Texas Administrative Code. The 2015 edition also contains indices with traffic offenses and Penal Code offense titles that correlate with those indices contained in the *Texas Criminal and Traffic Law Manual*. The *Class C Handbook* may be ordered from TMCEC for \$25 plus \$3.95 shipping.

## Truancy FAQs

### Questions Asked Related to Expunctions of Failure to Attend School Cases Prior to 9.1.15

**Must all failure-to-attend-school cases that are supposed to be expunged be expunged on September 1<sup>st</sup>? Can there be any expunctions before September 1<sup>st</sup>? Can there be any expunctions after September 1<sup>st</sup>?**

The cases should not be expunged prior to September 1. This is because the law calling for the expunctions does not go into effect until September 1. Section 45.0541 calls on courts to expunge all convictions and all dismissed failure-to-attend-school cases. This requirement becomes effective on September 1<sup>st</sup>, along with the rest of the bill. Does a court need to order all of these expunctions on September 1<sup>st</sup>? Well, the bill doesn’t exactly say that, but the intent is that orders of expunction be entered in these cases promptly. The closer to September 1<sup>st</sup> that the orders of expunction can be entered, the better.

**Must all open, pending, unadjudicated failure-to-attend-school cases be expunged by the court on September 1<sup>st</sup>?**

No. The expunction requirement only applies to cases that have resulted in convictions and cases that have been dismissed.

**What if the defendant in a case eligible for automatic expunction still owes a fine/costs or hasn’t complied with a condition of the court order?**

The case will still be expunged, and the statute says they are released from all penalties and disabilities resulting from the complaint or conviction, so they would no longer owe fines/costs or be required to comply with the court order. If the court has ordered the Department of Public Safety (DPS) to suspend the defendant’s driver’s license for failure to pay a fine, the court should order DPS to remove the suspension prior to expunction.

**Are unpaid fines and court costs still owed in failure-to-attend-school cases that have been expunged?**

No. Article 45.0541(c) says, in pertinent part, that “[a]fter entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose.” The obligation to pay a fine and court costs is a disability resulting from the conviction. The defendant is to be released from all such disabilities. So the defendant will no longer owe anything.

**Can an expunction order cover more than one case? Or does each case need to have its own expunction order?**

Yes, a single expunction order can cover more than one case. My recommendation would be to list the number (and perhaps the style) of every affected case at the top of the expunction order. One order could cover all of the cases for a certain month or even for a certain year (or maybe even longer that).

**Do we expunge Parent Contributing to Nonattendance cases?**

No, those cases are still criminal, and may not be automatically expunged pursuant to Article 45.0541.

Excerpt from [www.tmcec.com/truancy](http://www.tmcec.com/truancy)

**ORDER FOR EXPUNCTION OF RECORDS: FAILURE TO ATTEND SCHOOL (Art. 45.0541, C.C.P.)**

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF \_\_\_\_\_

§

\_\_\_\_\_ COUNTY, TEXAS

SEE ATTACHED LIST

**ORDER OF EXPUNCTION**

According to the records of the Court, *(the above named individual)* or *(the attached list of individuals)* has either been convicted of or has had a complaint dismissed for Failure to Attend School (Section 25.094, E.C., repealed September 1, 2015), and per **Article 45.0541 of the Code of Criminal Procedure**, is entitled to have the conviction, complaint, and records relating to the conviction or complaint expunged.

**Therefore, it is hereby Ordered, Adjudged, and Decreed** that all convictions, complaints, verdicts, sentences, and other documents relating to the offense of Failure to Attend School be expunged from the individual's record.

Upon entry of this order, any individual named in this order is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose. Art. 45.0541, C.C.P.

This order applies to all records relating to a Failure to Attend School case, including those in the possession of a school district or law enforcement agency.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

*(municipal court seal)*

\_\_\_\_\_  
Judge, Municipal Court

City of \_\_\_\_\_

\_\_\_\_\_ County, Texas

The above form is an excerpt from the TMCEC 2015 Forms Book. See page 33 of this issue of *The Recorder* for information on how to order. The 2015 Forms Book is also available online at [www.tmcec.com/resources/books/forms\\_book/](http://www.tmcec.com/resources/books/forms_book/).

Note: For forms related to civil cases for truant conduct, see the [Texas Truancy Court Resource Manual](#) for truancy courts. It may be accessed at [www.tmcec/truancy](http://www.tmcec/truancy). This manual is not available for purchase in paper form.



---

## One Day Clerk Clinics

TMCEC has partnered with the Texas Court Clerks Association (TCCA) to offer more educational opportunities to clerks throughout the state, particularly those in more rural cities. These programs will offer topics similar to those at the regional clerks conference such as legislative updates, legal aid vs legal advise, professionalism/ethics, and statutory reporting. These programs are designed for both experienced and new clerks. Judges may also attend for "flex-time" credit.

The programs will be from 8:00 a.m. to 5:00 p.m. There is no registration fee. To register visit [www.tmcec.com](http://www.tmcec.com). Registration is only available online. Breakfast and lunch will be provided. Hotel rooms will not be provided, as this program is designed for local courts. The first one was offered November 12, 2015 in Midland and was highly rated by participants.

Nacogdoches  
April 14, 2016  
Hampton Inn & Suites  
3625 South Street  
Zip Code: 75964  
936.560.9901  
Register by: 3/14/16

## Impaired Driving Symposium:

TMCEC, in partnership with the Texas Association of Counties, Texas Center for the Judiciary, and Texas Justice Court Training Center, proudly present an Impaired Driving Symposium for judges with funding from the Texas Court of Criminal Appeals and the Texas Department of Transportation.

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

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

The symposium will be held at the Sheraton Austin Hotel at the Capitol on August 4-5, 2016. The deadline to register is July 1, 2016. Email [tmcec@tmcec.com](mailto:tmcec@tmcec.com) for a registration form. A limited amount of travel funds are available to reimburse participants.

## Study Guides Revised

TMCEC has completed its revision of Level I and Level II Clerk Certification Study Guides. These massive publications (@444 pages in Level I and @592 pages in Level II) help clerks study for the certification exams. Go to [www.tmcec.com/clerk-certification/education\\_requirements/](http://www.tmcec.com/clerk-certification/education_requirements/) for more information on certification. The materials are also helpful for all readers wishing to know more about laws and procedures that apply to municipal courts.

There are nine units in each guide, as shown below:

### Level I

- Overview of the Courts
- Role of the Clerk
- Court Ethics
- Charging and Pre-Trial
- Trial Process and Procedures
- Post-Trial Procedure
- State and City Reports
- Traffic Law
- Communications and Stress Management

### Level II

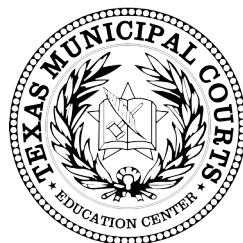
- Equal Justice Under the Law
- Overview of Processing Cases
- Code of Criminal Procedure & Penal Code
- Bond Forfeitures
- Children and Minors
- Financial Management
- Records and Caseflow Management
- Legal Research
- Court Technology

The materials can be downloaded at no charge from the TMCEC website: [www.tmcec.com/resources/clerk-study-guides](http://www.tmcec.com/resources/clerk-study-guides) on January 20, 2016 or they may be purchased for \$25 plus shipping \$3.95 shipping. The print version is coil bound. Contact [tmcec@tmcec.com](mailto:tmcec@tmcec.com) for an order form or call 800.252.3718.

## 2015 - 2016 TMCEC Academic Schedule At-A-Glance

Seminar	Date(s)	City	Hotel Information
Clerks One Day Clinic	January 21, 2016 (Th)	McAllen	Doubletree Hotel 1800 S. 2nd Street, McAllen, TX 78503
Level III Assessment Clinic	January 25-28, 2016 (M-T-W-Th)	Austin	Crowne Plaza Austin 6121 IH 35 North, Austin, TX 78752
Regional Judges Seminar	February 7-9, 2016 (Su-M-T)	Galveston	San Luis Resort 5222 Seawall Boulevard, Galveston, TX 77551
Regional Judges and Clerks Seminar	February 14-16, 2016 (Su-M-T)	Houston	Omni Houston Westside 13210 Katy Freeway, Houston, TX 77079
Regional Judges Seminar	March 7-9, 2016 (M-T-W)	Addison	Crowne Plaza Dallas Galleria - Addison 14315 Midway Road, Addison, TX 75001
Regional Clerks Seminar	March 9-11, 2016 (W-Th-F)	Addison	Crowne Plaza Dallas Galleria - Addison 14315 Midway Road, Addison, TX 75001
New Judges & Clerks Orientation	March 16, 2016 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX 78756
Traffic Safety Conference	March 20-22, 2016 (Su-M-T)	Dallas	Omni Dallas at Park West 1590 Lyndon B Johnson Fwy, Dallas, TX 75234
Prosecutor's Seminar	March 28-30, 2016 (M-T-W)	Houston	Omni Houston Westside 13210 Katy Freeway, Houston, TX 77079
Teen Court Seminar	April 4-5, 2016 (M-T)	Georgetown	Comfort Suites 11 Waters Edge Cir, Georgetown, TX 78626
Regional Judges & Clerks Seminar	April 11-13, 2016 (M-T-W)	Lubbock	Overton Hotel 2322 Mac Davis Ln. Lubbock, TX 79401
One Day Clinic	April 14, 2016 (Th)	Nacogdoches	Hampton Inn & Suites 3625 South Street Nacogdoches, TX 75964
Regional Clerks Seminar	April 25-27, 2016 (M-T-W)	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S. Padre Island, TX 78597
Regional Attorney Judges Seminar	May 1-3, 2016 (Su-M-T)	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S. Padre Island, TX 78597
Regional Non-Attorney Judges Seminar	May 3-5, 2016 (T-W-Th)	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S. Padre Island, TX 78597
Mental Health Summit	May 9-11, 2016 (M-T-W)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX 78744
Bailiffs and Warrant Officers Seminar	May 16-18, 2016 (M-T-W)	Dallas	Omni Dallas at Park West 1590 Lyndon B Johnson Fwy, Dallas, TX 75234
New Judges & Clerk Orientation	June 1, 2016 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX 78756
Prosecutors & Court Administrators Seminar	June 5-7, 2016 (Su-M-T)	Corpus Christi	Omni Corpus Christi 900 N. Shoreline, Corpus Christi, TX 78401
Regional Judges & Clerks Seminar	June 20-22, 2016 (M-T-W)	El Paso	Wyndham El Paso Airport Hotel 2027 Airway Boulevard, El Paso, TX 79925
Juvenile Case Mangers Seminar	June 27-29, 2016 (M-T-W)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX 78744
New Judges & Clerks Seminar	July 11-15, 2016 (M-T-W-Th-F)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX 78744
Impaired Driving Symposium	August 4-5, 2016 (Th-F)	Austin	Austin Sheraton 701 E. 11 St. Austin, Texas 78701

Register Online: <http://register.tmcec.com>



Note: There are special registration forms to be used to register for the Traffic Safety Conference, Teen Court Planning Seminar, Mental Health Summit, and Impaired Driving Symposium. Please email [register@tmcec.com](mailto:register@tmcec.com) for a registration form.

**TEXAS MUNICIPAL COURTS EDUCATION CENTER**  
**FY16 REGISTRATION FORM:**  
**Regional Judges & Clerks Seminar, Court Administrators, Bailiffs & Warrant Officers, and**  
**Level III Assessment Clinic**

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

Check one:

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

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

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

Name (please print legibly): Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Names you prefer to be called (if different): \_\_\_\_\_ Female/Male: \_\_\_\_\_

Position held: \_\_\_\_\_ Date appointed/hired/elected: \_\_\_\_\_ Are you also a mayor?: \_\_\_\_\_

Emergency contact (Please include name and contact number): \_\_\_\_\_

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

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

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

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

I do not need a room at the seminar.

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

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

Municipal Court of: \_\_\_\_\_ Email Address: \_\_\_\_\_

Court Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_

Office Telephone #: \_\_\_\_\_ Court #: \_\_\_\_\_ Fax: \_\_\_\_\_

Primary City Served: \_\_\_\_\_ Other Cities Served: \_\_\_\_\_

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

Judge's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

DOB: \_\_\_\_\_ TCOLE PID # \_\_\_\_\_

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

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

\_\_\_\_\_  
*Date*

**PAYMENT INFORMATION:**

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

Check Enclosed (Make checks payable to TMCEC.)

Credit Card

Credit Card Payment:

Amount to Charge: \_\_\_\_\_ Credit Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Credit card type: \$ \_\_\_\_\_

MasterCard

Visa Name as it appears on card (print clearly): \_\_\_\_\_

Authorized signature: \_\_\_\_\_

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

**TEXAS MUNICIPAL COURTS EDUCATION CENTER**  
**FY16 REGISTRATION FORM:**  
**New Judges and New Clerks, and Prosecutors Conferences**

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

**Check one:**

<input type="checkbox"/> New, Non-Attorney Judge Program (\$200) <input type="checkbox"/> New Clerk Program (\$200) <input type="checkbox"/> Non-municipal prosecutor seeking CLE credit (\$400) <input type="checkbox"/> Non-municipal prosecutor not seeking CLE credit (\$300)	<input type="checkbox"/> Prosecutor not seeking CLE/no room (\$100) <input type="checkbox"/> Prosecutor seeking CLE/no room (\$200) <input type="checkbox"/> Prosecutor not seeking CLE/with room (\$250) <input type="checkbox"/> Prosecutor seeking CLE/with room (\$350)
--	--

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

Name *(please print legibly)*: Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_  
 Names you prefer to be called (if different): \_\_\_\_\_ Female/Male: \_\_\_\_\_  
 Position held: \_\_\_\_\_  
 Date appointed/hired/elected: \_\_\_\_\_ Years experience: \_\_\_\_\_  
 Emergency contact (Please include name and contact number): \_\_\_\_\_

**HOUSING INFORMATION**

**TMCEC will make all hotel reservations** from the information you provide on this form. **TMCEC will pay for a single occupancy room at the following seminars:** four nights at the new judges seminars, four nights at the new clerks seminars, and two nights at the prosecutors conference (if selected). To share with another seminar participant, you must indicate that person's name on this form.

- I need a private, single-occupancy room. TMCEC can only guarantee a private room, type of room (queen, king or 2 double beds\*) is dependent on hotels availability. Special Request: \_\_\_\_\_
- I need a room shared with a seminar participant. Room will have 2 double beds. TMCEC will assign you a roommate or you may request a roommate by entering seminar participant's name here: \_\_\_\_\_
- I do not need a room at the seminar.

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

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

Municipal Court of: \_\_\_\_\_ Email Address: \_\_\_\_\_  
 Court Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Office Telephone #: \_\_\_\_\_ Court #: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Primary City Served: \_\_\_\_\_ Other Cities Served: \_\_\_\_\_

**STATUS (Check all that apply):**

- Full Time  Part Time  Attorney  Non-Attorney  Court Clerk  Deputy Court Clerk
- Presiding Judge  Court Administrator  Prosecutor  Mayor (*ex officio* Judge)
- Associate/Alternate Judge  Bailiff/Warrant Officer  Justice of the Peace  Other \_\_\_\_\_

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 and full payment of fees.**

\_\_\_\_\_  
*Participant Signature (May only be signed by participant)      Date*

**PAYMENT INFORMATION:** Payment **will not** be processed until all pertinent information on this form is complete.

- Check Enclosed (*Make checks payable to TMCEC.*) **Amount Enclosed: \$** \_\_\_\_\_
  - 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: \_\_\_\_\_

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

TEXAS MUNICIPAL COURTS  
EDUCATION CENTER  
2210 Hancock Drive  
AUSTIN, TX 78756  
www.tmcec.com

Presorted Standard  
U.S. Postage  
PAID  
Austin, Texas  
Permit No. 114

## 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.

The Recorder is available online at [www.tmcec.com](http://www.tmcec.com). The print version is paid for and mailed to you by TMCA as a membership benefit. Thank you for being a member of TMCA. For more information: [www.txmca.com](http://www.txmca.com).

TMCEC proudly presents a Mental Health Summit primarily for municipal judges, magistrates, and prosecutors. The goal of this summit is to equip and inspire participants to impact their communities by changing the way the criminal justice system responds to mental illness. This seminar will not only empower participants to better serve individuals with mental illness, but also outline the big picture so that participants can lead their communities and bring the right people together to improve the quality of the administration of justice in Texas.

**May 9-11, 2016 (M-T-W)**

Omni Southpark Hotel in Austin

4140 Governor's Row  
Zip Code: 78744  
512.448.222

Register by: April 8, 2016