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THE TEXAS PRIVACY ACT: TALL ENOUGH FENCES TO KEEP OUT NOSY DRONES?

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The age of unmanned aircraft whizzing through the air above our heads is here. By 2020, the Federal Aviation Administration estimates that almost 30,000 unmanned aircraft, more commonly known as “drones,” will be regularly flying through the national airspace.¹ While many will welcome the days of aerial burrito or pizza delivery, drone use raises significant privacy concerns. In 2013, the Texas Legislature responded to those

concerns by enacting the Texas Privacy Act, Chapter 423 of the Government Code, to protect the privacy expectations of Texans while establishing guidelines for the legitimate use of drones in this state (see Figure A on pg. 3).² In passing the Act, the Texas Legislature has provided Texans security in their homes against unwanted and unreasonable invasions of privacy by drones leading up to more expansive federal regulation of drone use coming in 2015 by way of the “FAA Air Transportation Modernization and Safety Improvement Act.”³ Until that time when drones will be integrated

Texas Privacy Act continued on pg. 3

SELF-REPRESENTED DEFENDANTS: THE BOUNDARIES OF JUDICIAL ASSISTANCE

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In *Faretta v. California*, 422 U.S. 806 (1975), the U.S. Supreme Court recognized a 6th Amendment right, made applicable to the states through the 14th Amendment, of self-representation in a criminal matter. In a speech to the Massachusetts Conference on Pro Se Litigants on March 15, 2001, Chief Justice Marshall of the Supreme Judicial Court of Massachusetts surveyed the deep historical roots of the right to self-representation in this country, including

the early colonies, where the right to have a lawyer was often limited, but never the right to represent oneself.¹ The exercise of this right is commonplace in Texas municipal courts and in courts throughout the nation that adjudicate fine-only criminal offenses. It is important, therefore, that courts be familiar with best practices and ethical considerations related to self-represented defendants, more commonly referred to as pro se defendants. Specifically, judges and court support personnel should know what is

Self-Represented Defendants continued on pg.7

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AROUND THE STATE

2014 MUNICIPAL TRAFFIC SAFETY INITIATIVE AWARD WINNERS

TMCEC was proud to again sponsor the annual Municipal Traffic Safety Initiative Awards, made possible by a grant from the Texas Department of Transportation. The awards recognized those municipal courts that made outstanding contributions to their communities by promoting traffic safety and taking steps to reduce drinking and driving in the previous year. All municipal courts in Texas were eligible to apply. Of the 25 applicant courts, 10 were selected to receive awards and three were recognized with honorable mention. Award recipients and honorable mentions were honored at the TMCEC Traffic Safety Conference on April 3 in Houston.

Winners in the low volume courts, serving a population below 30,000:

- Harker Heights
- Lakeway
- Linden
- Magnolia
- Moulton

Winners in the medium volume courts, serving populations between 30,000 and 149,999:

- College Station
- La Porte
- San Marcos

Winners in the high volume courts, serving a population of 150,000 or more:

- Arlington
- Irving

Honorable Mentions:

- Balch Springs
- Hutto
- Pasadena

THANK YOU!

At the recent Traffic Safety Conference, the donations were made by the following groups to help offset the cost of refreshments and an evening reception. We thank our sponsors:

GHS Ltd./NET Data Corporation [www.ghs-limited.com]

Linebarger Goggan Blair & Sampson, L.L.P. [www.lgbs.com]

McCreary Veselka Bragg & Allen, P.C. [www.mvbalaw.com]

Perdue Brandon Fielder Collins & Mott, L.L.P. [www.pbfcm.com]

Smart Start, Inc. [www.smartstartinc.com]



into the public airspace for commercial uses, only recreational use of drones will be allowed. Texas has taken a first step to define the contours of a particular recreational use of drones: image capturing.

I. Legal Background

The first half of the 4th Amendment to the U.S. Constitution guarantees people a right to be secure in their “persons, houses, papers, and effects” against unreasonable searches and seizures. Beyond privacy considerations, this guarantee protects people from unreasonable searches conducted by law enforcement without warrants. The Exclusionary Rule, grounded in the 4th Amendment, also protects criminal defendants from the admission of evidence collected as a result of illegal searches by law enforcement.⁴ The U.S. Supreme Court defined the baseline for modern jurisprudence on privacy considerations in *Katz v. United States*, a case that supplied the modern rule that a warrantless search violates the 4th Amendment when the search violates a person’s actual, subjective expectation of privacy and that expectation is one that society is prepared to recognize as reasonable.⁵ While individual

and societal expectations of privacy grounded the *Katz* decision, traditional 4th Amendment jurisprudence focused on preventing information-seeking trespasses into constitutionally protected areas—persons, places, papers, and effects.⁶ The U.S. Supreme Court recently reaffirmed the validity of this traditional notion of 4th Amendment property protection in *United States v. Jones*, holding that *Katz’s* protection of individuals’ privacy rights supplemented the 4th Amendment’s original protection of physical areas.⁷ In many respects, the Texas Exclusionary Rule mirrors the federal one but unlike the 4th Amendment, the Texas Rule applies to certain actions by private individuals as well as those by government officers.⁸

Modern surveillance technology, such as drones, butts up against the tension between privacy and more efficient, safer police work. The appeal of using drones is precisely that operators do not need to trespass onto private property, nor alert persons located on the property, to conduct surveillance. Certain smaller drones, modeled after tiny buzzing hummingbirds, can perform incredibly invasive surveillance in an incredibly inconspicuous manner.⁹ Case law relevant to modern aerial surveillance has struggled to deal with technological advancements that skirt around the bright-line rules the U.S. Supreme Court has sought

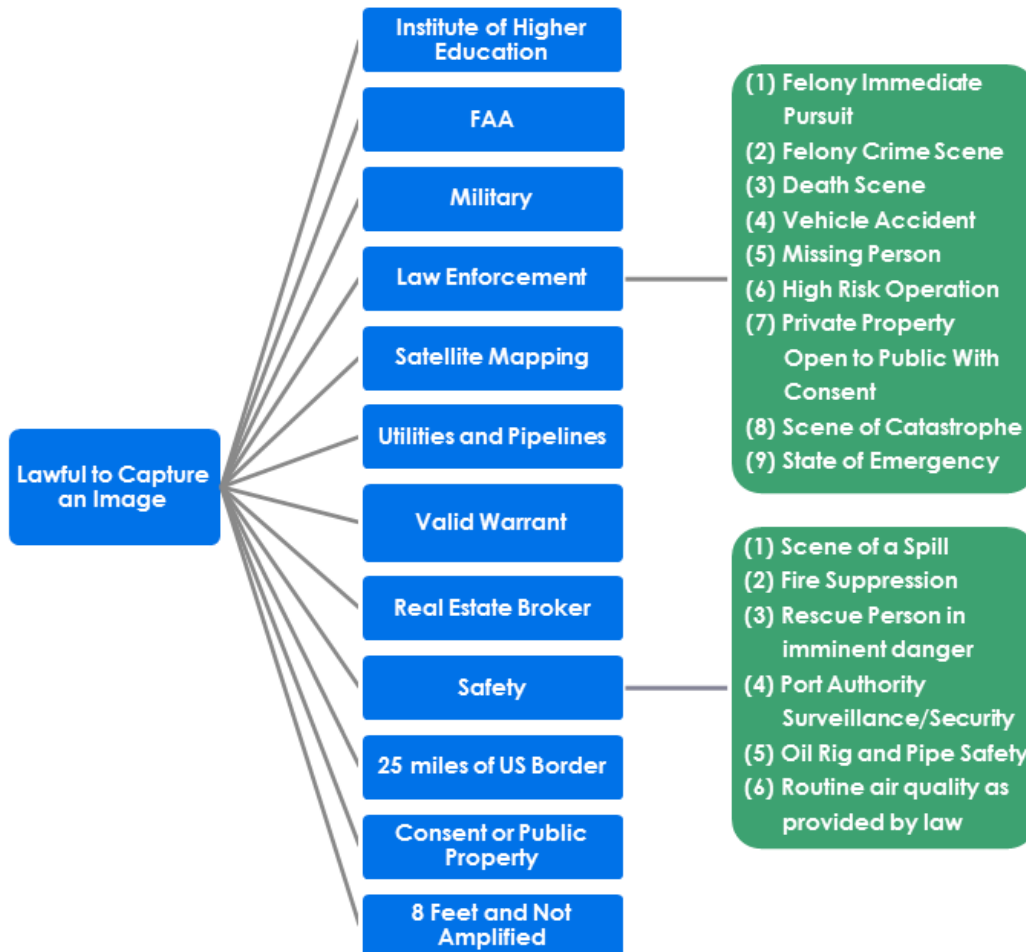


Figure A.

to establish.¹⁰ While the U.S. Supreme Court has not directly addressed the potential trespassory aspect of aerial surveillance, the Supreme Court has affirmed the legitimacy of aerial surveillance conducted from within navigable airspace. In *Florida v. Riley*, the U.S. Supreme Court cited *Katz* to hold a person had no reasonable expectation of privacy from overhead observation from a police helicopter flying at 400 feet, where any aircraft could potentially fly.¹¹ In *Riley* the court went on to suggest in dicta that 400 feet, near the height standard regulated by the FAA, may be a minimal height for non-violating aerial surveillance.¹² Certainly, a benefit of drones is the ability to fly below this threshold, undetected, to get a closer look at the subject of surveillance.

On the use of advanced surveillance technologies, the U.S. Supreme Court has invalidated law enforcement's use of thermal scanners and GPS trackers to collect information about the "intimate details" of a home or the whereabouts of a suspect's car, respectively.¹³ While the aerial surveillance cases upheld the legitimacy of aerial surveillance because the subject of surveillance had no reasonable expectation of privacy, the technology cases directly addressed and invalidated invasive searches into constitutionally protected areas—houses and effects.

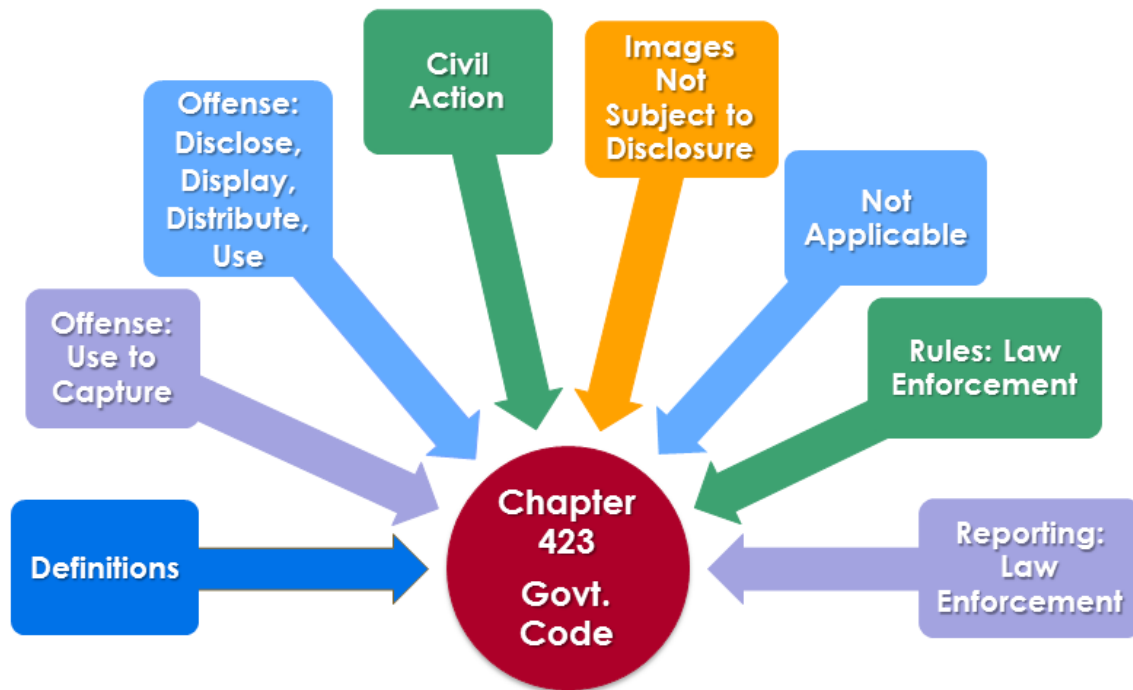
Considering the aerial surveillance and technology cases together may provide a rough estimation of the legitimacy of drone surveillance, in advance of the Supreme Court directly addressing the issue. *Kyllo v. United States* provides that a search violates the 4th Amendment when "sense-enhancing" technology that is not in general public use collects information that is unobtainable without physical intrusion into a protected area such as a home. What technology is in "general public use" has not been clarified by subsequent case law. *Kyllo* concerned a thermal scanner that measured external heat emissions from non-specific areas of a building.¹⁴ Today, thermal scanners are available for less than \$50, but that does not mean a homeowner reasonably expects her neighbors will conduct random heat scans of her home.¹⁵ Yet, law enforcement use of a sophisticated, \$20,000 mapping camera to photograph an industrial complex was held to not invade an expectation of privacy in *Dow Chemical Co. v. United States*.¹⁶ Considering that the camera used in *Dow Chemical* did not allow law enforcement to collect information that was otherwise unknowable without intrusion into a constitutionally-protected area, understanding these cases together suggests that it is primarily the object of the surveillance rather than the sophistication of the technology itself that will determine whether a 4th Amendment-violating search has occurred.

Therefore, the constitutional status of drone surveillance may likely depend on the particular use of a drone in specific circumstances. When the skies become a public highway for commercial drone use in 2015, a person may frequently invite drones to her doorstep for food or package deliveries.¹⁷ As a result, a reasonable expectation against visual observations may no longer exist. Yet, a further feature of drone surveillance is that operators can equip the drone with more advanced technology than simple visual cameras. Infrared cameras, thermal scanners, and super-sensitive parabolic microphones, for example, could all be attached to a drone flying over a private residence. If that technology gave the drone operator information about what was going on inside the home, then the 4th Amendment should invalidate such searches. The *Kyllo* "general public use" exception may permit visual observations of a house exterior, while still invalidating more hi-tech observations. The key for the U.S. Supreme Court will be to shore up questions concerning the trespassory aspects of drone use to make sure the *Kyllo* exception doesn't sell off privacy as cheaply as Amazon sells hi-tech equipment.

II. Exploring the Legislation

The crystal clear lesson from the case law history is that the only definite answer to modern privacy problems is, "it depends." In the face of this murkiness comes the Texas Privacy Act—legislation aimed at guaranteeing privacy and fostering valuable drone technology advancements. The Texas Legislature recognized the broad applications of drones for capturing images, which new Section 423.001 of the Government Code defines as "any capturing of sound waves, thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property in this state or an individual located on that property." The rest of new Chapter 423 sets out two offenses, lawful instances of image capturing remedies for violations, evidentiary provisions, and directives for regulation on law enforcement uses of drones in Texas. The Texas Privacy Act solidifies privacy protections for private real property throughout this state, and the individuals living upon that real property. New Section 423.003 prohibits the use of drones to capture images of an individual or privately owned real property with the intent to conduct surveillance on that person or property. Additionally, new Section 423.004 prohibits the possession, disclosure, display, distribution, or use of an image captured in violation of Section 423.003. While destruction of the captured image provides a defense to prosecution, each individual image captured constitutes a separate misdemeanor offense. To capture images using drones or possess the images is a Class C misdemeanor, while the disclosure, display, or distribution of the images is a Class B misdemeanor.

Figure B.



Under new Section 423.006, violators also face potential civil penalties up to \$10,000 for each image captured.

The Act also protects criminal and civil defendants by barring the admission of images captured illegally or even incidentally to lawful image capturing into evidence in a criminal or civil trial. However, images may always be admitted into evidence to prove violations of Section 423.003 or 423.004, respectively. The evidentiary provisions of the Act, contained in new Section 423.005, go further to prevent the disclosure of captured images for the purposes of the Texas Open Records Act, Chapter 552 of the Government Code, or legal compulsion for the release of capture images for any other purpose.

Despite the broad privacy protections of the new statutes, the Texas Legislature created wide latitude for legitimate uses of drones to capture images by providing roughly 25 specific types of lawful image capturing in new Section 423.002 (see, Figure B). Law enforcement authorities, or agents thereof, may use drones to capture images when in immediate pursuit of an individual the authorities have reasonable belief or probable cause to suspect has committed a felony offense. While law enforcement authorities must generally have a search or arrest warrant to enter private real property, this exception allows authorities an opportunity to use drones for image capturing in the exigent circumstance of an immediate pursuit. More broadly, anyone may use drones to capture images of persons or private real property within 25 miles of the U.S.-Mexico border.

The Act also allows for other law enforcement-centric uses of drones to capture images in high-risk tactical

operations, felony crime scene investigations, missing person searches, and scenes of human fatalities.

In addition to 4th Amendment concerns, opposition to the Texas Privacy Act focused on 1st Amendment freedom of speech issues. Many opponents to the Act voiced these concerns at Senate and House Committee meetings last spring, often representing various free press interests.¹⁸ The Texas Legislature attempted to respond to these interests by specifying numerous acceptable non-law enforcement uses of drones to capture images, with which law enforcement legal advisors and prosecutors should familiarize themselves. Important lawful means of drone use include capturing images: with the consent of the private real property owner, of public property or an individual on public real property, of real property within 25 miles of the U.S.-Mexico border, or while the drone remains on public property at a height of no more than eight feet above ground and the image was captured without means to amplify the image beyond normal human perception. Additionally, the Act allows for legitimate drone image capturing for certain academic and commercial purposes such as utilities operation maintenance, mapping, real estate development, and academic research.

III. Analysis and Implications

The myriad of lawful uses for drones listed in Section 423.002 reflect the Legislature's recognition of the increasing usefulness of drones in many applications. Yet, the balancing act between this recognition and the privacy protections attempted in the Act poses serious problems for criminal and civil enforcement of drone image capturing offenses. Most notably, prosecutors must prove that a defendant captured the image with

the intent to conduct surveillance. Section 423.003 pegs the meaning of “intent” to the definition within Section 6.03 of the Penal Code.¹⁹ But nothing in the Texas Privacy Acts defines what it means to “conduct surveillance,” leaving prosecutors and judges to guess as to how to deal with the defendant who claims he or she meant not to conduct surveillance but to photograph landscapes, for example. Additionally, because Sections 423.003 and 423.004 provide a defense if a defendant destroys the images upon knowledge that the capture of images violated 423.003, liability can only be imposed if the defendant retained, used, or distributed the images. Therefore, the Act may not offer much help to prosecutors to stop the act of image capturing, itself, rather than to penalize drone-captured image retention, use, or distribution.

Civil litigants, comparatively, are limited in most cases to recovering a maximum of \$10,000 and they, too, must carefully navigate the list of legitimate uses. The sponsor of the enacting legislation, Senator Craig Estes, remarked that even early editions of the Act had so many exemptions it was “like Swiss cheese.”²⁰ Clearly, the Texas Legislature acted to get out in front of 2015 federal regulations that will open the national airspace to commercial drone use. But the difficulties of proving images were captured in violation of 423.003, coupled with limitations on civil recoveries, raises questions whether the Texas Privacy Act will have any significant precedential effect on privacy law in Texas courts.

Where the Act truly shows its value, however, is in its evidentiary provisions. The only legal use at trial of images captured in violation of Sections 423.003 or 423.004 is to prove violations of those sections. Otherwise, illegally captured images as well as images captured incidentally to lawful image capture cannot be used as evidence in any judicial proceeding. Nor are these images subject to disclosure under the Open Records Act of Chapter 552 of the Government Code, or any other means of legal compulsion for the release of the images. For criminal defendants, these evidentiary provisions resemble Article 38.23 of the Code of Criminal Procedure, and protect against the use of illegally captured images as trial evidence of guilt of other offenses, no matter whether a government official or a private citizen captured the image. Arguably, however, such provisions are overbroad in scope and could undermine civil liberty protections. It is hard to reconcile provisions of the Act prohibiting governmental disclosure of exculpatory images or prohibiting criminal defendants from using such evidence in a judicial proceeding in light of the passage of the Michael Morton Act.²¹

An important dilemma facing Texas magistrates is whether illegally or incidentally captured images can be used to support the issuance of a valid search or arrest warrant. Texas courts have strictly held that a

search cannot be lawfully performed under a search warrant supported by information illegally obtained by law enforcement.²² Of course, this potentially leaves open the door for drone images illegally captured by private citizens to be turned over to law enforcement and subsequently be used to support a search warrant. While neither Section 423.003 of the Government Code nor Article 38.23 of the Code of Criminal Procedure specifically bars the admission of evidence procured under a search warrant supported by information obtained illegally by an independent third party, Texas case law states that suppression of such evidence is generally required.²³ Texas courts have refused to allow private citizens to deliver illegally obtained evidence on a “silver platter” to authorities for use in criminal trials.²⁴ Therefore, magistrates should keep in mind that the Texas Exclusionary Rule applies to certain actions by private individuals as well as those by government actors.²⁵ In short, the complexities of determining at warrant issuance or suppression stages the validity of evidence searches that are linked to information obtained through the use of drones ensures that Texas courts will need to show off their skills handling the challenges of the new legislation. Fear not, judges will not be the only ones tasked with new duties: the Texas Privacy Act directs the Texas Department of Public Safety to adopt regulations on appropriate drone use within the state.

IV. Conclusion

Though you likely will not be able to hear them, increasing numbers of drones will fly in Texas skies in the near future. With Texas A&M-Corpus Christi recently selected as an FAA national test site and other interested parties advocating increased security applications of drones near the national border, the limitations and effectiveness of the Texas Privacy Act will be put to the test.²⁶ The procedural and practical complexities of the legislation surely suggests that this balancing act of legitimate technology use and privacy will begin to topple, but let’s hope that constitutional privacy guarantees are not the end of the scale that comes crashing to the ground.

¹ “FAA chief says drones will force change at agency,” *Washington Times*, <http://www.washingtontimes.com/news/2012/aug/7/faa-chief-says-drones-will-force-change-at-agency/> (accessed 2/3/14).

² Acts, 2013, 83rd Regular Legislature, Chapter 1390 (H.B. 912).

³ “FAA Modernization and Reform Act 2012,” <https://www.govtrack.us/congress/bills/112/hr658> (accessed 2/2/14).

⁴ The Exclusionary Rule was applied to federal courts in *Weeks v. United States*, 232 U.S. 383 (1914), and to state courts through selective incorporation of the 14th Amendment in *Mapp v. Ohio*, 367 U.S. 643 (1961).

⁵ Judge Harlan’s concurrence in *Katz v. United States*, 389 U.S. 347 (1967), which became the rule of law in later cases, stated a two-fold requirement for affording an individual privacy right: one, that the individual has an actual, subjective expectation of privacy; and two, that the expectation be one society is prepared to recognize as reasonable.

- ⁶ *United States v. Jones*, 132 S. Ct. 945 (2012); *Olmstead v. United States*, 277 U.S. 438 (1928); *Boyd v. United States*, 116 U.S. 616 (1886).
- ⁷ *United States v. Jones*, 132 S. Ct. 945 (2012).
- ⁸ *Miles v. State*, 241 S.W.3d 28, 32 (Tex. Crim. App. 2007).
- ⁹ The AeroVironment Nano Hummingbird is a tiny spy drone, modeled after a hummingbird. The Defense Advanced Research Projects Agency (DARPA), a Department of Defense agency, provided the specifications and \$4 million to fund the drone's development, <http://www.avinc.com/nano> (accessed 2/2/14).
- ¹⁰ In *California v. Ciraolo*, 476 U.S. 207 (1986), police flew over a suspect's house at 1,000 feet and took pictures in which they could identify marijuana plants.
- ¹¹ In *Florida v. Riley*, 488 U.S. 445 (1989), the Supreme Court held that warrantless police observation via a helicopter flying at 400 feet above ground of a suspect's marijuana growing operation on his property was not a 4th Amendment search.
- ¹² *Id.* at 451.
- ¹³ In *Kyllo v. United States*, 533 U.S. 27 (2001), the Supreme Court invalidated the warrantless use of thermal scanners to measure heat emissions from a suspect's home. Police believed that the suspect was using heat lamps to grow marijuana (he was), and the thermal scanner registered "hot spots" from the roof areas, which the police used as probable cause to support a subsequent search warrant. In *United States v. Jones*, 132 S. Ct. 945 (2012), the Supreme Court held that a GPS tracking device attached to a suspect's car constituted a search because the device physically intruded onto the suspect's "effect."
- ¹⁴ *Id.*
- ¹⁵ While the thermal scanner used in *Kyllo*, the Agema Thermovision 210, was an advanced model, basic thermal scanners that provide similar information can be found on Amazon.com for around \$50.
- ¹⁶ *Dow Chemical Co. v. United States*, 476 U.S. 227 (1986).
- ¹⁷ Amazon is currently working on using drones to deliver packages. See, <http://www.amazon.com/b?node=8037720011> (accessed 3/24/14). And, maybe more importantly, the Burrito Bomber is a planned use of drones to deliver burritos by drone. See, <http://www.darwin-aerospace.com/burritobomber> (accessed 3/24/14).
- ¹⁸ Commenters representing the National Press Association, broadcasters associations, journalists, and television production groups spoke out against the legislation at the House Committee on Criminal Jurisprudence (March 26, 2013), and the Senate Committee on Agriculture, Rural Affairs, and Homeland Security (May 13, 2013).
- ¹⁹ Section 6.03 of the Penal Code states, "a person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result."
- ²⁰ "Adding Exemptions, Texas Senate Approves Drone Bill," *Texas Tribune*, <http://www.texastribune.org/2013/05/17/senate-panel-passes-drone-bill/> (accessed 1/30/14).
- ²¹ See, generally, Sara Kincaid, "The Michael Morton Act and Texas Municipal Courts" *The Recorder* (January 2014).
- ²² *Brown v. State*, 605 S.W.2d 572 (Tex. Crim. App. 1980), *overruled on other grounds by Hedicke v. State*, 779 S.W.2d 837 (Tex. Crim. App. 1989); *State v. Aguirre*, 5 S.W.3d 911 (Tex. App.—Houston [14th Dist.] 1999, no pet.) ("the evidence obtained from executing the warrant [supported by illegally obtained information] was the fruit of an illegal search and was properly suppressed.").
- ²³ *State v. Johnson*, 896 S.W.2d 277 (Tex. App.—Houston [1st Dist.] 1995), *aff'd* 939 S.W.2d 586 (Tex. Crim. App. 1996).
- ²⁴ *Id.*
- ²⁵ *Supra*, note 8.
- ²⁶ "Border Reps Split on Using Drones for Security," *Texas Tribune*, <http://www.texastribune.org/2014/01/22/border-reps-split-using-drones-border-security/> (accessed 2/1/14).



Self-Represented Defendants continued from pg. 1

required, permissible, and impermissible when assisting self-represented defendants.

Challenges associated with self-represented defendants include ethical and practical hurdles. First, the court must balance the ethical obligation of impartiality with the legal obligation of access to court and a fair trial. Second, the court must overcome practical difficulties that arise when a layperson attempts to navigate a system with numerous technical requirements, the ignorance of which can result in harsh consequences.

Ethical Assistance of Self-Represented Defendants

The basic standard that guides the ethical conduct of all judges in Texas is the Texas Code of Judicial Conduct. Under that Code, all Texas judges are required to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.² They are also required to give every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.³ Affording the right to be heard while remaining impartial is an especially hard line to walk with defendants who represent themselves. The American Bar Association amended its Model Code of Judicial Conduct in 2007, adding Comment 4 to Rule 2.2, providing that it is not a violation of the rule requiring impartiality and fairness for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.⁴ Articulation in black letter law articulating the boundaries of "reasonable accommodations" that may be provided remains to be seen. Without such permission in our own Code or any other clear guidelines,⁵ the fear of crossing that line has, in part, fostered a passive approach to assisting self-represented defendants. After all, that is the safe approach. There is no requirement to treat self-represented defendants differently. Texas case law does not differentiate between litigants represented by counsel and litigants not represented by counsel.⁶ As recently as 2012, an opinion by the Fort Worth Court of Appeals states that it is not the court's responsibility to school a pro se litigant in legal terminology and procedure.⁷ The Dallas Court of Appeals noted in an opinion that a pro se litigant's difficulties with the technicalities of a trial do not constitute grounds for reversal, citing the Texas Supreme Court.⁸ This view of assisting self-represented defendants is the majority view in the United States.⁹ According to this view, it is best when a judge accords the self-represented litigant no "special treatment."¹⁰ Reasons for holding this majority view range from believing self-representation to be a voluntary choice to believing it to be an unwise choice because of the potential consequences.¹¹ Compare this framework to that of Canada, which places an obligation on judges to provide self-represented litigants assistance.¹²

Overcoming Practical Challenges

Providing no assistance to self-represented defendants may be the safe approach, but it is not the only approach. In Texas municipal courts, a passive approach is at best, inefficient for the court, and at worst, harsh for the self-represented defendant. In the interests of fairness and efficiency, many Texas courts are taking a more active approach to assisting self-represented defendants.¹³ This happens both at the window and in the courtroom.

Something as simple as providing information goes a long way in making case flow more efficient. Some courts publish their local rules, forms, defendants' rights, and additional information on their court website. Those courts also supplement with printed pamphlets or checklists available at the window. Education and training for court staff should be established and reviewed consistently. The key is training based on a clear standard.¹⁴ For example, telling the court staff that ethically they cannot give legal advice is a vague standard without guidelines explaining what they can and cannot do (Say this. Don't say this.).

In the courtroom, scripts are useful for explaining to self-represented defendants the courtroom process and what is expected of them. Scripts should be brief and in language they can understand.¹⁵

One practical challenge in the courtroom is getting the necessary information from the defendant to reach a fair decision with neutrality. Some judges permit a narrative by the defendant, but this can be counterproductive and time consuming. Other judges explain that there is some basic information they need in these types of cases and ask the same scripted questions for each type of case. The scripted question approach has also been used to establish foundational requirements for admissibility of evidence.

It may be helpful to have a script explaining to the attorney for the State how the court intends to conduct the proceedings to ensure that self-represented defendants understand what is going on and are able to participate meaningfully. This may include asking the prosecuting attorney to avoid using legalese. For resistant attorneys, judges may require the attorney to explain to the self-represented defendant the basis for any objections with enough detail that he or she can take necessary steps to correct it.

Conclusion

Self-represented defendants will always be on municipal court dockets. Judges are required to be impartial and to give the right to be heard. Striking a balance between the two does not necessarily mean abstaining from all assistance to self-represented defendants. In fact, appropriate assistance fosters neutrality. If the lodestar is fairness, then what is permissible is ensuring the case

is decided on the law and facts of the case, which is consistent with judicial neutrality.

Resources for the Court:

- SelfHelpSupport.org
- TexasCourtHelp.org
- Texas Access to Justice Commission: <http://www.texasatj.org/SRL>

¹ Albrecht, Rebecca A., Greacen, John M., Hough, Bonnie Rose, and Zorza, Richard. "Judicial Techniques for Cases Involving Self-Represented Litigants." *The Judges' Journal* Winter 2003 American Bar Association Volume 42, Number 1, Page 19.

² Canon 2A, Code of Judicial Conduct.

³ Canon 3B(8), Code of Judicial Conduct. While Canon 6C(1)(a) exempts municipal judges from complying with Canon 3B(8) pertaining to ex parte communications in lieu of complying with 6C(2), the right to be heard stems from the Texas Constitution, Article I, Section 19. *Univ. of Tex. Med. School v. Than*, 901 S.W.2d 926, 930 (Tex. 1995).

⁴ Rule 2.2, Comment 4, American Bar Association Model Code of Judicial Conduct, February 2007, available online at http://www.americanbar.org/content/dam/aba/migrated/judiciaethics/ABA_MCJC_approved_authcheckdam.pdf.

⁵ There is no similar comment in the Texas Code of Judicial Conduct or an advisory opinion on point by the State Commission on Judicial Conduct.

⁶ *Mansfield State Bank v. Cohn*, 573 S.W.2d 181 (Tex. 1978).

⁷ *Parsons v. Greenberg*, 2012 Tex. App. LEXIS 888, 19-20 (Tex. App.—Fort Worth Feb. 2, 2012, no pet.).

⁸ *Cheng v. Wang*, 315 S.W.3d 668, 672 (Tex. App.—Dallas 2010, no pet.) (citing *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184-85 (Tex. 1978) ("There cannot be two sets of procedural rules, one for litigants with counsel and the other for litigants representing themselves.")).

⁹ Albrecht, Rebecca A., Greacen, John M., Hough, Bonnie Rose, and Zorza, Richard. "Judicial Techniques for Cases Involving Self-Represented Litigants." *The Judges' Journal* Winter 2003 American Bar Association Volume 42, Number 1, Page 10. The minority position, taken by the federal courts, Alaska, Connecticut, and Minnesota (as articulated by Minnesota), is that "[a] trial court has a duty to ensure fairness to a pro se litigant by allowing reasonable accommodation so long as there is no prejudice to the adverse party."

¹⁰ *Id.*

¹¹ *Id.*

¹² Goldschmidt, Jona, *Judicial Assistance to Self-Represented Parties: Lessons from the Canadian Experience*, Loyola University Chicago (2006).

¹³ See, for example, *Representing Yourself in Municipal Court* on the Lakeway Municipal Court's website: <http://www.cityoflakeway.com/index.aspx?NID=703>; Pro Se Litigation Information, a brochure available on the San Antonio Municipal Court's website: <http://www.sanantonio.gov/court/pdf/pro-se.pdf>.

¹⁴ Self-Represented Litigation Network, *Ethical Guidelines for Clerk and Court Staff: Legal Information versus Legal Advice*, <http://www.srln.org> (accessed on September 26, 2013).

¹⁵ For more information on effectively communicating with self-represented defendants and a sample script, see, *Best Practices for Communicating with Self-Represented Defendants*, a webinar presentation by David L. Garza, Municipal Judge, City of Bee Cave, available on the TMCEC Online Learning Center at <http://online.tmcec.com/course/view.php?id=164> (login required).

Editor's Note: In the May 2013 issue of the Recorder, the first part of this series entitled "Shades of Grey: Sometimes the Letter of the Law Exists Somewhere Between Black and White," examined and dissected several areas of the black letter law where interpretation can lead to something other than black and white clarity—areas that could be called "shades of grey." Written and published during the 83rd Legislative Session, it focused on statutes and the areas of disagreement or confusion that can still arise even after the Legislature carefully drafted them. This second installment continues the examination of shades of grey that come about due to varying interpretations of statutes and sometimes the continued tradition of longstanding court practices and procedures.

MORE SHADES OF GREY

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Comedienne Carol Burnett once said "I do the 'New York Times' crossword puzzle every morning to keep the old grey matter ticking." Fortunately, for those in the legal world, just coming to work each day can be enough of a head scratcher to keep the grey matter running. Unfortunately and unlike a crossword puzzle, in municipal courts especially, there are many words to decipher and few clues as to what they mean.

What Constitutes Proof of Financial Responsibility?

There are many instances in the law when a driver must provide proof of financial responsibility. Drivers must provide evidence of financial responsibility when asked for it by a law enforcement officer, when involved in a collision, when registering a vehicle or getting it inspected, or when renewing a driver's license. However, there are two common instances in which a driver's financial responsibility must be established.

First, when charged with Failure to Maintain Financial Responsibility (FMFR) under Section 601.191 of the Transportation Code, a person can get the charge dismissed by utilizing the defense in Section 601.193:

DEFENSE: FINANCIAL RESPONSIBILITY IN EFFECT AT TIME OF ALLEGED OFFENSE.

- (a) It is a defense to prosecution under Section 601.191 or 601.195 that the person charged produces to the court one of the documents listed in Section 601.053(a) that was valid at the time that the offense is alleged to have occurred.
- (b) After the court verifies a document produced under Subsection (a), the court shall dismiss the charge.

Additionally, courts receive evidence of financial responsibility when granting a driving safety course under Article 45.0511 of the Code of Criminal Procedure. Subsection (b)(6) of the article requires the defendant to "provide evidence of financial responsibility as required by Chapter 601, Transportation Code."

In both of these instances the evidence that must be provided is outlined in Section 601.053 of the Transportation Code:

EVIDENCE OF FINANCIAL RESPONSIBILITY.

- (a) As a condition of operating in this state a motor vehicle to which Section 601.051 applies, the operator of the vehicle on request shall provide to a peace officer, as defined by Article 2.12, Code of Criminal Procedure, or a person involved in an accident with the operator evidence of financial responsibility by exhibiting:
- (1) a motor vehicle liability insurance policy covering the vehicle that satisfies Subchapter D or a photocopy of the policy;
 - (2) a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance under Section 601.081 and issued by a liability insurer for the motor vehicle;
 - (3) an insurance binder that confirms the operator is in compliance with this chapter;
 - (4) a surety bond certificate issued under Section 601.121;
 - (5) a certificate of a deposit with the comptroller covering the vehicle issued under Section 601.122;
 - (6) a copy of a certificate of a deposit with the appropriate county judge covering the vehicle issued under Section 601.123; or
 - (7) a certificate of self-insurance covering the vehicle issued under Section 601.124 or a photocopy of the certificate.

Most drivers establish financial responsibility through an insurance policy, and provide proof through a standard proof of insurance card. As seen above in Subsections (a)(1) and (a)(2), a person shows evidence by showing a policy of a standard insurance form that covers the vehicle. But what type of policy covers the vehicle? Many (although not most) courts have policies in place requiring insurance that covers the specific driver by name in the policy along with coverage of the car. These court policies appear to go further than the law requires.

Chapter 601 only requires coverage of the vehicle, but this can be confusing. What if the person does not have a vehicle? What if the person does not drive regularly? Do courts need to see coverage for the car he or she was driving at the time of the citation or a car that he or she will drive during the time they will be completing the driving safety course? These questions have arisen time and time again. The law only requires coverage of the vehicle. The only vehicle the court has knowledge of is the one listed on the face of the citation. If the defendant can show coverage for that car, presumably they have met the requirement set forth in Chapter 601. There is no requirement that a defendant be named on the policy. In fact, Section 601.076 of the Transportation Code includes within the required terms on an owner's policy that it cover a vehicle and pay on behalf of the named insured or another person who uses the vehicle with express or implied permission. This is extensive coverage, and would apply to someone driving with permission (as long as they are not specifically excepted from the policy). Likewise, Section 601.054 states that evidence from an owner shall be accepted for a driver that is an employee of the owner or that is a member of the owner's immediate family or household. These sections reveal a lower threshold of evidence that must be presented than many courts think exists. Keeping these statutes in mind may not clear up all of the shades of grey regarding insurance and financial responsibility, but it may save some heartache and hassle for both courts and defendants.

Who Can Administer the Oath for a Complaint in Municipal Court?

One of the requirements for a municipal court complaint—the charging instrument—is that the complaint be sworn to before an appropriate officer. The question becomes: who can be this officer and administer the oath to the affiant?

Article 45.019(d) of the Code of Criminal Procedure provides that “a complaint may be sworn to before any officer authorized to administer oaths.” Those persons authorized to administer an oath in Texas are outlined in Section 602.002 of the Government Code, and include:

- (1) a judge, retired judge, or clerk of a municipal court;
- (2) a judge, retired judge, senior judge, clerk, or commissioner of a court of record;
- (3) a justice of the peace or a clerk of a justice court;
- (4) an associate judge, magistrate, master, referee, or criminal law hearing officer;
- (5) a notary public;
- (6) a member of a board or commission created by a law of this state, in a matter pertaining to a duty of the board or commission;
- (7) a person employed by the Texas Ethics Commission who has a duty related to a report required by Title 15, Election Code, in a matter pertaining to that duty;

- (8) a county tax assessor-collector or an employee of the county tax assessor-collector if the oath relates to a document that is required or authorized to be filed in the office of the county tax assessor-collector;
- (9) the secretary of state or a former secretary of state;
- (10) an employee of a personal bond office, or an employee of a county, who is employed to obtain information required to be obtained under oath if the oath is required or authorized by Article 17.04 or by Article 26.04(n) or (o), Code of Criminal Procedure;
- (11) the lieutenant governor or a former lieutenant governor;
- (12) the speaker of the house of representatives or a former speaker of the house of representatives;
- (13) the governor or a former governor;
- (14) a legislator or retired legislator;
- (15) the attorney general or a former attorney general;
- (16) the secretary or clerk of a municipality in a matter pertaining to the official business of the municipality; or
- (17) a peace officer described by Article 2.12, Code of Criminal Procedure, if: (A) the oath is administered when the officer is engaged in the performance of the officer's duties; and (B) the administration of the oath relates to the officer's duties.

This list is extensive, even providing the authority for a peace officer to swear out a complaint in front of another—a common practice amongst police officers, especially those working a night shift when the courts are closed.

However, immediately following the above cited subsection, Article 45.019(e) provides that “a complaint in *municipal court* may be sworn to before:

- (1) the municipal judge;
- (2) the clerk of the court or a deputy clerk;
- (3) the city secretary; or
- (4) the city attorney or a deputy city attorney.”

(emphasis added)

How can one reconcile the provision in Subsection (d)—allowing anyone in Section 602.002 of the Government Code to administer the oath—with the provision in Subsection (e)—providing only four categories of persons who may administer the oath in municipal court?

The Code Construction Act offers little assistance. Specific provisions prevail over general provisions.¹ In this case, Subsection (e) provides a specific provision for municipal courts, while Subsection (d) provides a general provision. Because Chapter 45 governs procedures in both justice and municipal courts, one interpretation is that that the list of those who can administer the oath in the Government Code applies to complaints in justice court, but the limited list

in Subsection (e) applies to complaints in municipal court. Then again, the two subsections can be reconciled because Subsection (e) actually adds to the list contained in the Government Code; neither the deputy clerk of the court nor the (deputy) city attorney is mentioned in the Government Code list. But why repeat the judge or city secretary? The Code Construction Act also provides that effect should be given to all provisions.²

Notice that both Subsection (d) and (e) use the word may, which the Code Construction Act provides creates a discretionary authority or grants a permission or power.³ Thus, those persons mentioned in Subsection (e) are granted the authority to administer an oath. The provision does not state that the complaint must be sworn to before one of those persons.

So what is the court to do? Some city attorneys have opined to, if possible, have the complaints be sworn before one of the persons listed in Subsection (e) of Article 45.019 of the Code of Criminal Procedure, and if not possible, then to one of the parties listed in Section 602.002 of the Government Code. Remember, any credible person acquainted with the facts of the alleged offense, through personal knowledge or hearsay, may be an affiant on a complaint,⁴ other than, of course, the judge who should serve as a neutral and unbiased party. The question here involves who can serve as the jurat. At this time, the authors are not aware of any case law challenging the use of an officer not authorized under Subsection (e). However, case law makes clear that a complaint is defective if it does not contain a proper jurat, including if the jurat shows that the affidavit was sworn before someone who had no authority to administer the oath.⁵ This is one shade of grey that has no black or white answer, but could carry extreme consequences.

Probable Cause: More than Just an Affidavit

Article 45.014 of the Code of Criminal Procedure provides that “when a sworn complaint or affidavit based on probable cause has been filed before the justice or municipal court, the justice or judge may issue a warrant for the arrest of the accused. . . .” This statute, referring to an arrest warrant, is the only time in the Code of Criminal Procedure when a warrant is issued by a judge, and not by a magistrate. While this procedure provides considerable utility for municipal courts, the precise statutory and constitutional requirements for this type of warrant are sometimes overlooked.⁶

The plain language of the statute authorizes a judge to issue a warrant upon the filing of a sworn complaint (presumably defined as a charging instrument because of its placement in Chapter 45⁷) or a probable cause affidavit (like what would be required for the issuance of an arrest warrant by a magistrate under Chapter 15 of the Code of Criminal Procedure). It does not require both a complaint and affidavit be filed for that authority to attach. It also

does not address probable cause, aside from the actual affidavit.

Article 1.06 of the Code of Criminal Procedure provides that “no warrant to search any place or to seize any person or thing shall issue without describing them as near as may be, nor without probable cause supported by oath or affirmation.” This protection follows the same rights enumerated in Article I, Section 9 of the Texas Constitution and the 4th Amendment to the U.S. Constitution. All these provisions make clear that no warrant shall issue without probable cause. Article 45.014 does not change this requirement.

So how does this play out in municipal court practice? Consider the following, not-so-hard to imagine, scenario. Defendant is cited for Class C assault. There is an incident report filed, although the officers issue a citation rather than making a full custodial arrest due to limited jail space. The actual citation, containing only the information required under Article 14.06 of the Code of Criminal Procedure, is filed with the court.⁸ Now let us imagine that the defendant fails to appear when instructed to on the citation. Article 27.14(d) of the Code of Criminal Procedure requires that a complaint be filed when a defendant pleads not guilty to an offense or fails to appear based on written notice, thus a complaint is filed for the assault charge. Using Article 45.014, does this complaint alone, based on a ticket with no facts and limited information, give the municipal judge the authority to issue an arrest warrant for Class C assault?

Unfortunately, this is the practice that often occurs, with utility trumping the statutory and constitutional requirements to determine probable cause prior to issuing an arrest warrant. True, Article 45.014 does not require a probable cause affidavit be filed, but the judge must still be able to determine probable cause from something. The judge, from his own experience calling the docket with no answer from the defendant, may have enough information to determine probable cause for a failure to appear offense, but what about for the assault case?

This is an area in which many confuse probable cause with probable cause affidavit. Remember that Article 1.06 of the Code of Criminal Procedure allows probable cause to be supported by oath or affirmation, not in writing. Perhaps a judge could talk with the officer, or review the incident report filed in the hypothetical situation discussed above.⁹ Either way, it is important to read Article 45.014 together with, and not to the exclusion of, Article 1.06.

The Re-test Requirement for Provisional License Holders on Deferred Disposition

When it comes to deferred disposition, courts realize that there are special rules regarding young drivers. Subsection 45.051(b-1) of the Code of Criminal Procedure requires that all drivers younger than 25 who are charged with a traffic offense classified as a moving violation and that

are placed on deferred must take a driving safety course.¹⁰ Judges may also require an additional driving safety course designed for young drivers and approved under Section 1001.111 of the Education Code.¹¹ An additional requirement that frequently leads to questions is that provisional license holders must be examined (or re-examined) by the Department of Public Safety (DPS). This brings up recurring questions about provisional licenses as well as the examination itself. Thankfully, this grey area can be clarified with a little digging.

What is a provisional license?

Simply put, a provisional license is any license issued to a driver under the age of 18 that expires on the 18th birthday of the license holder.¹² Thankfully, if the court is dealing with a 16 or 17 year old driver, the provisional license should be easy to spot. Section 521.123 of the Transportation Code requires DPS to designate and clearly mark any license issued to a person under 18 years of age as provisional.

Which examination is required from DPS?

Frequently, court personnel call the Texas Municipal Courts Education Center wondering whether the required test for provisional license holders is the written test or the driving portion. Subsection 45.051(b-1)(3) specifies that the driver shall be examined as required by Section 521.161(b)(2) of the Transportation Code. So, which part of the tradition driver's license examination is that?

Sec. 521.161. EXAMINATION OF LICENSE APPLICANTS.

(a) Except as otherwise provided by this subchapter, the department shall examine each applicant for a driver's license. The examination shall be held in the county in which the applicant resides or applies not later than the 10th day after the date on which the application is made.

(b) The examination must include:

(1) a test of the applicant's:

(A) vision;

(B) ability to identify and understand highway signs in English that regulate, warn, or direct traffic;

(C) knowledge of the traffic laws of this state; and

(D) knowledge of motorists' rights and responsibilities in relation to bicyclists;

(2) a demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type that the applicant will be licensed to operate; and

(3) any additional examination the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely.

(c) The department shall give each applicant the option of taking the parts of the examination under Subsections (b)(1)(B), (C), and (D) in writing in addition to or instead of through a mechanical, electronic, or other

testing method. If the applicant takes that part of the examination in writing in addition to another testing method, the applicant is considered to have passed that part of the examination if the applicant passes either version of the examination. The department shall inform each person taking the examination of the person's rights under this subsection.

As Subsection (b)(1) above references a test of vision, highway sign identification, knowledge of laws, and knowledge of rights in relation to bicycles. Subsection (c) tells us that this test can be taken in writing or some other testing method (except for the vision portion). Reading these subsections together, it is easy to see that (b)(1) is what is traditionally thought of as the written portion of the examination. Subsection (b)(2), however, is the part we must require provisional license holders to complete as a condition of deferred disposition and it refers to a demonstration rather than a test. This demonstration of the ability to exercise control in the operation of a vehicle would be done behind the wheel, and can be thought of as the driving portion of the exam.

If faced with the question of "Which part of the test do I have to take again?" from a teenage driver seeking deferred, the short answer is: "The driving part."

So, what's a three-letter word for grey area? L-A-W.

¹ Section 311.026(b), Government Code.

² Section 311.021, Government Code.

³ Section 311.016(1), Government Code.

⁴ *Cisco v. State*, 411 S.W.2d 547 (Tex. Crim. App. 1967).

⁵ *State v. Pierce*, 816 S.W.2d 824 (Tex. App.—Austin 1991, no pet.).

⁶ Notice that the specific requirements for the warrant in Article 45.014 differ from those in Article 15.02 of the Code of Criminal Procedure, as does the procedure to be followed by the officer upon executing the warrant. In practice, the Chapter 45 arrest warrant issued by a municipal judge or justice of the peace operates more like a *capias* (per Chapter 23 or Chapter 43 of the Code of Criminal Procedure), as it is issued by a judge having jurisdiction of a case and directs the officer to bring the arrestee before that court, rather than before a magistrate as required under Chapter 15.

⁷ For more on the several definitions of the term *complaint*, see, Ryan Kellus Turner, "Complaints, Complaints, Complaints: Don't Let the Language of the Law Confuse You" *Municipal Court Recorder* (July 2004) 6-9.

⁸ This information that must be contained is the written notice of the time and place the person must appear before the magistrate, the name and address of the person charged, the offense charged, and the domestic violence admonishment. See, Article 14.06(b), Code of Criminal Procedure.

⁹ For more on what may be considered in determining probable cause for an arrest warrant, albeit in a magistrate context, see, Mark Goodner, "Rounding the Corners: Criminal Application of the Four Corners Rule" *The Municipal Court Recorder* (June 2012) 16-18.

¹⁰ Article 45.051(b-1)(2), Code of Criminal Procedure.

¹¹ This additional driving safety course has been commonly referred to as Alive at 25. This new option was added with the passage of Senate Bill 1330 in the 82nd Legislature, and became effective on January 1, 2012.

¹² Sec. 521.271 (a)(2), Transportation Code.



TRAFFIC SAFETY: NEWS YOU CAN USE

Practical Suggestions for Visiting Speakers

Judges, prosecutors, and clerks are often invited into K-12 classrooms for Law Day presentations, a traffic safety event, a unit on the court system, or as part of a reading or social studies program. TMCEC, through its Driving on the Right Side of the Road grant from TxDOT, has a variety of resources to help you, including coloring books, powerpoint presentations, handouts, give-a-ways, mock trials, and more. Contact Ned Minevitz (ned@tmcec.com) and let him know the subject and grade level. Below are some suggestions for your visit:

DO:

- Use a variety of methods and examples
- Send materials to the teacher for students to read before your presentation, such as a handbook or pamphlet, case study, or newspaper articles
- Begin your presentation at the students' level and relate to their world through hypothetical or real examples involving young people and the law
- Briefly tell the students about your work and explain the goals of your visit
- Translate legalese into plain English
- Move around the room and use the chalkboard, white board, or flipchart to illustrate ideas
- Introduce only one or two main topics and explain them thoroughly
- Localize examples for students' interest and understanding
- Encourage questions
- Use humor and a personal approach - ask the teacher to provide name tags for the students
- Express your appreciation to the teacher for incorporating a guest speaker into his/her lesson plan and consider a thank you letter to the principal or superintendent

DON'T:

- Lecture to students
- Read a prepared speech
- Try to cover a broad range of topics in one class period
- Talk down to students
- Let one or two students dominate the discussion
- Feel you must defend everything about the operation of the legal system: An unrealistic portrait of the system can increase student cynicism; a thoughtful, balanced presentation can enhance understanding
- Give advice on individual problems

AVOID:

- Telling too many "war stories"
- Combining several classes: students may be shy about asking questions in larger groups
- Visiting schools before a school holiday

REMEMBER:

- TMCEC would appreciate any photos or copies of handouts or powerpoints to put on the DRSR website for other judges and court personnel to use. Send them to tmcec@tmcec.com, please.
- E-mail us at tmcec@tmcec.com if you want to be added to the TMCEC/TMCA Speakers' Bureau.

DRSR Information Sheets

On the DRSR website, TMCEC maintains Information Sheets on traffic safety topics [www.tmcec.com/drsr/information_sheets/]. The resource materials can be used as handouts in class or as background material to help the speaker prepare his/her presentation.

Aggressive Driving
Bicycle Safety
Cell Phones & Texting
Distracted Driving
Distracted Driving - Driving with Pets
Driving While Intoxicated & Driving Under the Influence
Drowsy Driving
How Much a DWI Costs
Ignition Interlock
In-Line Skating

Motorcycles
Passenger Safety
Pedestrians
Railroad Crossings
School Buses & School Zones
Safety Belts & Child Restraints
Skateboarding
Speeding
Things With Wheels
Turn Around Don't Drown
Young Drivers

Driving on the Right Side of the Road

Courts & Classrooms: TMCEC Lending Library

Texas municipal judges and court support personnel can have an impact on the behavior of young drivers by reaching out to teachers, schools, and community groups and offering to serve as guest speakers. To help enliven your presentation or to prepare students for your presentation, we recommend that you use one of the VHSs or DVDs from TMCEC's lending library. TMCEC developed this lending library as part of the Driving on the Right Side of the Road grant program.

There is no charge and the loan period is two weeks. Email tmcec@tmcec.com with the name of the program that you would like to borrow. You may borrow up to two at a time. Please provide us with a short description of how you intend to use the DVD and the name and mailing address to which it should be shipped.

If showing the DVD yourself, we recommend that you preview it and be prepared to review its important points. It is also sometimes a good idea to use the interrupted film technique in which you stop the video at pre-determined times and discuss the relevant issues.

Thank you for participating in this traffic safety program, funded by a grant from TxDOT.

Jacqui's Story. This is the unforgettable story of two lives changed by a fatal drunk driving collision outside Austin, Texas. Jacqueline Saburido, a 20-year-old college student who lost her face, hands, and much of her eyesight, and Reginald Stephey, the high school football player driving drunk that night, give candid interviews in this 28 minute documentary-style video presented in three parts. TxDOT (high school+)

Confronting Drunk Driving. Features the true story of Mike Poveromo, a young man who killed his two best friends in a drunk driving car crash when he was a teenager. 26 minutes. Human Relations Media (grades 7 – college)

Courage to Live. Featuring a program piloted by Sonoma County Superior Court Judge Gary Nadler on the hazards of drug and alcohol use, this DVD includes candid responses by inmates incarcerated on drug and alcohol charges and shares the story of Brandon, a 17 year-old whose life was forever changed after a tragic accident. 37 minutes. National Judicial College (grades 7 - college+)

Drugged Driving: The Road to Disaster. This video takes a hard look at how drugs impact driver alertness, reflexes and perception skills, the legal consequences of impaired driving, and tells the tragic story of a teenage girl's death

resulting from impaired driving. 25 minutes. Human Relations Media (grades 7 – college+)

DUI: The Hard Truth. Using video reenactments and interviews, this program demonstrates how driving under the influence of alcohol can result in unforgettable pain, suffering, and death. 26 minutes. Human Relations Media (grades 7 – college+)

Dying High 2: Real Stories of Drugged Driving. Viewers follow an ambulance driver to a multi-vehicle collision involving teens and drugs, resulting in a spinal cord injury. 20 minutes. Human Relations Media (grades 7 – college+)

On the Road: A Program for Teens and Their Parents. Produced by the USAA Educational Foundation, this 8 minute DVD covers driver distractions, emergency conditions, and impaired driving. (teens+)

The Unsafe Driving Acts of Motorists in the Vicinity of Large Trucks. In this 17-minute DVD, the Federal Motor Carrier Safety Administration (FMSCA) highlights the unsafe driving acts of motorists that contribute to collisions between automobiles and large trucks. The unsafe driving acts are presented in four categories: judgment problems, speed-related behaviors, right-of-way or headway-related behaviors, and lane change or lane position problems. (high school+)

Driving Stupid. This video examines the stories of four crashes caused by different unsafe driving habits: drunk driving, drowsy driving, distracted driving, and speeding. It tells the stories from the perspectives of those involved, their family members, law enforcement, and doctors. 19 minutes. Human Relations Media (grades 7 – college+)

TMCEC has set up a speakers bureau for judges and court support personnel who are interested in making presentations to school age children or partnering on this project. Please consider joining.

Add me to the Speakers Bureau

Name: _____

Court: _____

Telephone: _____

E-mail: _____

DISTRACTED DRIVING - DRIVING WITH PETS

DON'T LET YOUR PET DISTRACT YOU

One driving distraction that is often overlooked is our pets. Can a person really pay attention to the road with a 60 pound golden retriever on his or her lap? The answer is NO. It is surprising, then, that states generally do not have laws that prohibit this type of behavior. As of December, 2009, Hawaii is the only state that strictly prohibits motorists from driving with a pet on their lap.

An American Automobile Association (AAA) study found that 80 percent of drivers take their pets along for car rides, but less than 20 percent restrain them. One out of five drivers admits to letting a dog sit in his or her lap while driving. The same study found that driving with a pet in the car is the third worst driving distraction behind talking on a phone and texting.

Being distracted while driving increases the chances of a crash. If a crash does occur, the pet can be very harmful to the driver. You can imagine how much worse the injuries resulting from a crash would be if instead of just slamming into an airbag, the driver slammed into a large dog. Unfortunately, many people do not give their pet any type of restraint (i.e., seatbelt) when they are traveling with pets in their cars. This, of course, is extremely unsafe for your beloved pet as well. You buckle yourself up, so why wouldn't you buckle your pet up too?

Here are some of the ways that having a pet in your car can be distracting:

- If your pet is on your lap, it is harder to see the road.
- A barking dog can be very annoying to a driver.
- A loose pet diverts a driver's attention from the road.
- If an animal is unrestrained in the backseat or pickup truck bed it can decrease visibility out of the back of the vehicle, especially if the animal is jumping around.



RULES OF THE ROAD

As mentioned above, only Hawaii specifically prohibits driving with an animal on your lap. All states, including Texas, have rules against distracted driving or reckless driving. So, if a police officer thinks that your pet is distracting you, you might get pulled over. Also, if your pet is distracting you, you are much more likely to commit an offense such as running a red light, cutting off another vehicle, or being at fault in a collision.

Recently, some states, such as California and Virginia, have begun to discuss laws that would put restrictions on driving with pets. At least eight states – California, Connecticut, Massachusetts, Nevada, New Hampshire, Oregon, Rhode Island, and Washington – have laws that require an animal to be secured while riding in the bed of a pickup truck. Texas, too, may start looking into potential restrictions. It is likely that in the future we will see new laws that specifically address driving with pets.

ON THE SAFE SIDE

If you are going to drive with your pet in the car, it is important to do so correctly and safely. First, you should restrain your pet. If you are involved in a collision while travelling 35 mph, with a 60-pound unrestrained dog, that dog is capable of causing an impact of up to 2,700 pounds. That is the equivalent of a one-ton rock falling on top of you. Second, it is also extremely unsafe to drive with your pet unrestrained in the bed of a pickup truck. Any sudden bump or swerve could send your pet flying from the vehicle. Third, letting your pet hang its head out of a window is not only distracting to the driver, but may also block the driver from seeing surrounding traffic.

Continued on pg. 24



RESOURCES FOR YOUR COURT

Self-Help Legal Forms and Information

The website of the Office of Court Administration [www.courts.state.tx.us/pubs/pubs-home.asp] offers self-help legal forms and information in cooperation with other agencies and non-profits. Shown below are forms and publications that may be helpful to persons who come to the customer service window in your court.

Texas Court Help has general information about going through the court system. It is a project of OCA, Lone Star Legal Aid, Texas Legal Services Center, and the Texas Access to Justice Commission funded by Legal Services Corporation. Go to: [<http://www.texascourthelp.org/>]

Texas Law Help is a project of the Texas Access to Justice Commission and the Texas Equal Access to Justice Foundation, in partnership with participating legal aid organizations. Go to [<http://texaslawhelp.org/>]

The State Law Library [<http://www.sll.texas.gov/>] offers consumer and self-help information.

Protective Order Kit

English version [pdf] [<http://www.courts.state.tx.us/oca/pdf/ProtectiveOrderKit-English.pdf>].
Spanish version [pdf] [<http://www.courts.state.tx.us/oca/pdf/ProtectiveOrderKit-Spanish.pdf>].

Supreme Court Approved Divorce Forms

Set One – for divorces that do not involve children or real property. Use of the forms is not required; however, a trial court must not refuse to accept any of the proposed forms simply because the applicant used forms or is not represented by counsel. Go to [<http://texaslawhelp.org/resource/texas-supreme-court-approved-divorce-forms-un?ref=StLeS>].

SelfHelpSupport.org is a project of the Self-Represented Litigation Network that supports the growing network of self-help program practitioners with an online clearinghouse of information relating to self-representation. Go to: [www.selfhelpsupport.org/].

Brochures

Defending Yourself in a Criminal Case [pdf] [<https://www.texasbar.com/Content/NavigationMenu/ForLawyers/Committees/MisdemeanorBrochure.pdf>].

Municipal Court Procedures (Adults) [doc] [<http://www.tmcec.com/public/files/File/Resources/Pamphlets/2009%20adult%20procedures%20pamphlet.doc>].

Municipal Court Procedures (Adults) - IN SPANISH [doc][<http://www.tmcec.com/public/files/File/Resources/Pamphlets/2009%20adult%20procedures%20pamphlet%20SPAN.doc>]

Municipal Court Procedures (Children - Ages 10-16) [pdf][<http://www.tmcec.com/public/files/File/Resources/Pamphlets/Municipal%20Court%20Procedures%20Pamphlet%20Children.pdf>]

Municipal Court Procedures (Children - Ages 10-16) - IN SPANISH [doc][<http://www.tmcec.com/public/files/File/Resources/Pamphlets/2009%20juvenile%20procedures%20pamphlet%20SPAN.doc>]

Associations Related to Municipal Courts

There are several associations that offer training and advocacy on issues related to municipal courts. Their websites and the amount of the dues are shown below:

Government Collectors Association of Texas [www.gov.cat.net] - Dues: \$150

Juvenile Case Managers Association of Texas [www.jcmaoftexas.com] - Dues: \$50

Texas City Attorneys Association [www.texascityattorneys.org]

Texas Court Clerks Association [www.texascourtclerks.org] - Dues: \$40

Texas Marshals Association [www.texasmarshals.org] - Dues: \$60

Texas Municipal Courts Association [www.txmca.com] - Dues: \$50

Texas Teen Court Association [www.txteencourt.com] - Dues: \$35



The National Judicial College 2014 Traffic Webcasts

Changes are continually occurring in the field of traffic related cases, especially in the areas of impaired and distracted driving. With this in mind, the National Judicial College is a “live” 3-day program on drugged driving and offering two newly developed impaired driving traffic webcasts. Each webcast is a stand-alone program designed for any judge, ALJ, or hearing officer who handles traffic cases. The webcasts feature outstanding faculty, cutting-edge information, and helpful supplemental materials, which you can access from the comfort of your chambers or office. Tuition is free, but you must pre-register. These webcasts are made possible by the generous funding from the National Highway Traffic Safety Administration.

Drugged Driving Essentials Update

May 14-16, 2014 | Reno, Nevada

Tuition: \$745 | Conference Fee: \$195

Tuition Coverage Scholarships Available for Traffic Judges

Unlike alcohol impaired driving, drugged driving has no bright line test for impairment. Drugged driving cases require a judge to utilize a variety of judicial tools to effectively adjudicate these cases. The NJC Drugged Driving Essentials course will describe the major classes of drugs and how they affect driving; will discuss what a drug recognition expert does in the field of drug recognition; will demonstrate through a courtroom mock trial how to qualify a DRE as an expert; will identify effective and efficient sentencing options; and will demonstrate how to prepare a legally sufficient order for continued court supervision.

Ignition Interlocks: Status Update

July 24, 2014

10:00 a.m. PST | 11:00 a.m. MST | 12:00 p.m. CST | 1:00 p.m. ET

Faculty: Erin Holmes, Traffic Injury Research Foundation (TIRF)

Tuition: Free | Register: <http://bit.ly/1brguVq>

Oftentimes in impaired driving cases, a defendant will be required to install an ignition interlock system on their vehicle before they are allowed to drive again. Some states require the offender to install these devices after the first conviction; other states require interlocks to be installed after repeat offenses. There are a wide variety of ignition interlock systems, and they vary in terms of capabilities and analysis offered by each. This webcast will provide a brief overview of the basics of ignition interlock technology; will delve into the capabilities and limitations of the ignition interlock; will discuss the current status of ignition interlock laws nationwide; and will provide information on the newest technology updates.

FMSCA Webcast: Role of the Traffic Court Judge-Practical & Ethical Considerations

September 18, 2014

12:00 p.m. PST | 1:00 p.m. MST | 2:00 p.m. CST | 3:00 p.m. EST

Faculty: Hon. Robert McBeth, WA

Tuition: Free | Register: <http://bit.ly/1n9azts>

Judicial mishandling of a CDL case can have far reaching consequences for both the judge and the state, including revocation of federal highway funds. This webcast explores how traffic judges can improve the quality of justice in their traffic court by facilitating initiatives which promote a better perception of the court by adhering to the highest standards of judicial conduct, and delves into the ever changing role of the traffic judge.

The NJC has previously presented various webcasts regarding traffic issues, which are available for viewing 24/7 at the NJC’s website: <http://www.judges.org/webcasts/recorded/index.html>.

**LAST CALL: Judges Mandatory Judicial Education Hours
for FY14 must be completed and reported to TMCEC by 8.31.2014**

FROM THE CENTER

2014 TMCEC Juvenile Case Manager Conference

Under state law, local governments are tasked with adopting minimum training and educational standards for juvenile case managers. S.B. 61 passed during the 82nd Regular Legislature (2011) mandated the establishment minimum training and educational standards for juvenile case managers. Prior to this enactment, Texas law established no minimum standard of training or education for juvenile case managers.

TMCEC is excited to again offer training for juvenile case managers on July 7-9, 2014 in Austin at the Omni Southpark Hotel. Conference topics will pertain to the role of the juvenile case manager, case planning and management, applicable procedural and substantive law, courtroom proceedings and presentations, local programs and services (including access procedures), ethics, and detecting and preventing abuse, exploitation, and neglect of children. The purpose of this conference is to create consistency across court systems and enable juvenile case managers to be more effective in their multifaceted jobs and to optimize their utility as part of the courtroom workgroup.

An optional pre-conference will be offered on the Texas FRIDAY Program, offered by the Texas Municipal Police Association with funding from TxDOT. FRIDAY stands for Focus on Reducing Impaired Driving Among Youth.

The registration fee is \$50, plus applicable housing fees (\$50 per night for a single room). You may also fax, email, or mail the JCM Seminar registration form. Go to www.tmcec.com/Programs/Registration for more information about the program. We encourage you to register online for the regional programs [<http://register.tmcec.com>].

Save the Date! Omni Southpark Hotel in Austin July 7-9, 2014.

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Bailiffs and Warrant Officers Conference • May 18-20 • San Antonio Omni at the Colonnade

This conference, designed for those who provide security or serve process for municipal courts, will cover important updates on case law and attorney general opinions, as well as offer courses on Best Practices in Court Security, 4th Amendment Search & Seizure, Jury Trials, Designer Drugs, Skip Tracing, Mental Health Issues, Alive at 25, Warrant Service, Emerging Weapons, License Plate Readers, Digital Technology, Domestic Violence, Fugitive Apprehension, Mexican Drug Cartels, Nonappearance Crimes, and Bond Forfeitures. Participants can also attend the pre-conference sessions on the first day on Distracted Driving for Law Enforcement and Legislative Update. The registration fee is \$100 and includes up to 16 hours of TCOLE credit. There is a \$50 per night single room fee.

View the brochure online: [pdf] [http://www.tmcec.com/files/5513/9696/8914/Bailiff_and_Warrant_Officer_Brochure_-_Updated_Agenda.pdf]

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Municipal Prosecutors Conference • June 23 - 25 • Hilton NASA Clear Lake (Houston)

This special conference is designed to provide each participant the necessary legal tools, tempered with the tenets of professional conduct, to effectively and competently prosecute in Texas municipal courts. The agenda has a variety of topics for new and veteran prosecutors alike, including a Legislative, Case Law, and Attorney General Opinion Update, Juvenile Justice Reform, Social Hosting, Pre-trial Motions, Law of Sound, E-Cigs, Drones, Michael Morton Act, DUI Enforcement & Alcohol Awareness, and International Codes. Participants can attend the optional pre-conference session on the first day on the History & Dilemmas of Prosecuting in Municipal Court. The cost begins at \$100 (\$200 for CLE credit), plus housing. The conference counts for up to 14.75 hours of CLE credit, including 3 hours of ethics.

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

UPCOMING PROGRAMS

2013 - 2014 TMCEC Academic Schedule At-A-Glance

Seminar	Date(s)	City	Hotel Information
Regional Attorney Judges Seminar	May 4-6, 2014 (Su-M-T) WAIT LIST	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S. Padre Island, TX
Regional Non-Attorney Judges Seminar	May 6-8, 2014 (T-W-Th)	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S. Padre Island, TX
New Judges & Clerks Orientation	May 14, 2014 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX
Bailiffs and Warrant Officers Seminar	May 18-20, 2014 (Su-M-T)	San Antonio	Omni San Antonio at the Colonnade 9821 Colonnade Boulevard, San Antonio, TX
Regional Clerks Seminar	June 9-10, 2014 (M-T)	El Paso	Wyndham El Paso Airport 2027 Airway Boulevard, El Paso, TX
Regional Judges Seminar	June 9-11, 2014 (M-T-W)	El Paso	Wyndham El Paso Airport 2027 Airway Boulevard, El Paso, TX
Prosecutors & Court Administrators Seminar	June 23-25, 2014 (M-T-W)	Houston	Hilton NASA Clear Lake 3000 NASA Road 1, Houston, TX
Juvenile Case Managers Seminar	July 7-9, 2014 (M-T-W)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX

(for those eligible for "flex-time")

Affirmation of Completion for Judicial Education Credit for Municipal Judges (FY 14)

I, _____, do hereby affirm that I attended ___ hours of continuing legal or judicial education offered on _____ by the following approved provider _____ . I am attaching a copy of proof, such as a certificate, agenda, or receipt.

Signature

Date

(Please print)

Name: _____

City: _____

Email: _____

Deadline: 8.31.2014

Email, fax or mail to TMCEC:

tmcec@tmcec.com
(512) 435-6118 (fax)
2210 Hancock Drive
Austin, TX 78756

TEXAS MUNICIPAL COURTS EDUCATION CENTER
FY14 REGISTRATION FORM:

Regional Judges Seminar

Conference Date: _____ Conference Site: _____

Check one:

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

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: _____ Years experience: _____
Emergency contact: _____ DOB: _____

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**. 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: _____

I certify that I am currently serving as a municipal judge or court support personnel in the State of Texas. I agree that I will be responsible for any costs incurred if

I plan to attend the following sessions in their entirety:

- Day 1: Pre-Conference, 1 p.m. – 5 p.m. (4 hours)

(In Tyler and South Padre Attorney judges seminars, the pre-conference will be a post-conference and will be on Day 3, 1 p.m.-5 p.m.)

- Day 2: Seminar, 8 a.m. – 5 p.m. (8 hours)

- Day 3: Seminar, 8 a.m. – Noon (4 hours)

***I understand that if I do not attend Day 3 in its entirety, then I am not allowed a hotel room at grant expense on the evening of Day 2.**

Judges (living or working 30+ miles from hotel) are allowed a double room at the hotel at grant expense on the evening of Day 1.

I do not cancel at least 10 business days prior to the conference. I agree that if I do **not** cancel at least 10 business days prior to the event then I am **not** eligible for a refund of the registration fee. I will first try to cancel by calling the TMCEC office in Austin. If I must cancel on the day before or day of the seminar due to an emergency, I will call the TMCEC registration desk at the conference site IF I have been unable to reach a staff member at the TMCEC office in Austin. If I do not attend the program, TMCEC reserves the right to invoice me or my city for meal expenses, course materials and, if applicable, housing (\$85 or more plus tax per night). I understand that I will be responsible for the housing expense if I do not cancel or use my room. If I have requested a room, I certify that I work at least 30 miles from the conference site. **Full payment is due with the registration form. Registration shall be confirmed only upon receipt of the registration form and full payment of both the registration fee and the hotel room.**

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.

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

- 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
FY14 REGISTRATION FORM:**

Regional Clerks Seminars

Note: Please use other registration forms for Court Administrators Conference

Conference Date: _____ Conference Site: _____

Clerk/Court Administrator (\$50) for Regional Seminar

Name (please print legibly): Last Name: _____ First Name: _____ MI: _____
Names you prefer to be called (if different): _____ Female/Male: _____
Position held: _____
Date Hired: _____ Years experience: _____
Emergency contact and phone 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 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 for one night only). 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 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 Court Clerk/Deputy Clerk Juvenile Case Manager
 Court Administrator Other _____

I certify that I am currently serving as municipal court support personnel in the State of Texas. I agree that I will be responsible for any costs incurred if I do not cancel at least 10 business days prior to the conference. I agree that if I do **not** cancel at least 10 business days prior to the event then I am **not** eligible for a refund of the registration fee. I will first try to cancel by calling the TMCEC office in Austin. If I must cancel on the day before or the day of the seminar due to an emergency, I will call the TMCEC registration desk at the conference site IF I have been unable to reach a staff member at the TMCEC office in Austin. If I do not attend the program, TMCEC reserves the right to invoice me or my city for meal expenses, course materials and, if applicable, housing (\$85 or more plus tax per night). I understand that I will be responsible for the housing expense if I do not cancel or use my room. If I have requested a room, I certify that I work at least 30 miles from the conference site. **Full payment is due with the registration form. Registration shall be confirmed only upon receipt of the registration form and full payment of both the registration fee and the hotel room.**

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.

Amount Enclosed: \$ _____ = **Registration Fee:** \$ 50 + **Housing Fee:** \$ _____

- 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
FY14 REGISTRATION FORM:**

Court Administrators, Bailiffs & Warrant Officers, Level III Assessment Clinic, and Traffic Safety Conferences

Conference Date: _____ Conference Site: _____

Check one:

- 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: _____ Years experience: _____
Emergency contact: _____ DOB: _____

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, Bailiff/Warrant Officer seminar, Level III Assessment Clinic, the Court Administrators conference and the Traffic Safety Conference**. 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: _____

STATUS (Check all that apply):

- Full Time Part Time Attorney Non-Attorney Mayor/Judge Bailiff/Warrant Officer
- Presiding Judge Justice of the Peace Other _____
- Associate/Alternate Judge Mayor (*ex officio* Judge)

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

Judge's Signature: _____ Date: _____
Municipal Court of: _____ TCOLE PID # _____

I certify that I am currently serving as a municipal judge or court support personnel in the State of Texas. I agree that I will be responsible for any costs incurred if I do not cancel at least 10 business days prior to the conference. I agree that if I do **not** cancel at least 10 business days prior to the event then I am **not** eligible for a refund of the registration fee. I will first try to cancel by calling the TMCEC office in Austin. If I must cancel on the day before or day of the seminar due to an emergency, I will call the TMCEC registration desk at the conference site IF I have been unable to reach a staff member at the TMCEC office in Austin. If I do not attend the program, TMCEC reserves the right to invoice me or my city for meal expenses, course materials and, if applicable, housing (\$85 or more plus tax per night). I understand that I will be responsible for the housing expense if I do not cancel or use my room. If I have requested a room, I certify that I work at least 30 miles from the conference site. **Full payment is due with the registration form. Registration shall be confirmed only upon receipt of the registration form and full payment of both the registration fee and the hotel room.**

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.

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

- 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.



2014 Spring and Summer Webinar Series

TEXAS MUNICIPAL COURTS EDUCATION CENTER

April 24: Commercial Motor Vehicles

May 1: *State v. Cooper*

May 22: Noise

June 12: Bonds

July 10: DUIs

July 24: Habeas Corpus

August 7: Pre-Trials

August 21: Court Interpreters



About Webinars

- Webinar participation is open to all municipal judges, clerks, court administrators, prosecutors, bailiffs, warrant officers, juvenile case managers, and court interpreters.
- All webinars begin at 10:00 a.m. and last approximately one hour. Webinar participation counts for one hour of credit toward the clerk certification program. Webinars noted with a label on the Online Learning Center (OLC) count for one hour of judicial credit (red label) and many will be submitted for MCLE credit from the State Bar for licensed attorneys (yellow label).

2014 Spring Webinars On Demand

February 6: Protective Order Reporting

Presented by Kim Piechowiak, Domestic Violence Resource Attorney, Office of Court Administration

February 20: Parks and Wildlife Code Offenses and Boater Education Courses

Presented by Kerry Spears, Staff Attorney, Law Enforcement Division, Texas Parks and Wildlife Department

March 6: Child Safety Seat Laws

Presented by Lynda Walker, Certified Passenger Safety Technician, Law Enforcement Liaison, Texas Municipal Police Association

March 20: Self-Represented Defendants

Presented by the Honorable David L. Garza, Judge, City of Bee Cave

For more information on webinars, visit our webpage at <http://tmcec.com/programs/webinars/> or the OLC at <http://online.tmcec.com>.

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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.

Annual Meeting: Texas Municipal Courts Association July 17-19, 2014, Inn of the Hills, Kerrville

This year the TMCA Annual Meeting will offer 13.5 hours of approved judicial education programming that meets the mandatory requirements for judges with more than two years of TMCEC training, as well as credit towards clerk certification. A highlight of the program will be Russ Strand, a nationally recognized retired U.S. army CID (Criminal Investigation Division) Special Agent and current Chief, Behavioral Sciences Education & Training Division at U.S. Army Military Police School. He will be speaking on Deception Perception in the Courtroom. Other topics include family violence, military courts, technology & safety, courtroom safety. Videos from the State Bar's Advanced Criminal Law program will be offered. There is no charge for CLE. Also, the Association will be celebrating its 40th Anniversary!

Registration may be completed online [<http://www.txmca.com/conferenceReg.php>] or by mail. The registration fee is \$135—it includes three receptions, breakfast each day, wi-fi, Friday afternoon's optional event, the awards banquet, and the dinner on Friday.

Continued from *Driving with Pets*, pg. 15

There are many affordable options for restraining your pet in a vehicle, such as pet seatbelts and crates. See the "Additional Resources" section below for online dealers.

ADDITIONAL RESOURCES

- Assessment of the current state of laws as they relate to driving with pets: <http://www.cga.ct.gov/2009/rpt/2009-R-0458.htm>.
- Cartoon showing the dangers of driving with unrestrained pets: <http://www.youtube.com/watch?v=wjrdBt0Bkc>.
- Retailer website for pet restraints with compelling reasons for using them: <http://www.canineauto.com/>.

This article is an example of a DRSR Information Sheet [www.tmcec.com/drsr/information_sheets].

- ¹ Frisman, Paul. "Pets in Cars and Distracted Driving." December 17, 2009. <http://www.cga.ct.gov/2009/rpt/2009-R-0458.htm>.
- ² Baker, Meghan. "We're Driven to Distraction When Fido is Co-Pilot," Study Finds. August 19, 2010. <http://www.foxnews.com/us/2010/08/19/driven-distraction-pets-car-just-dangerous-texting>.
- ³ Bark Buckle Up. <http://www.barkbuckleup.com/WhyBuckleUp.asp>.