

Regional Roundtables & Statewide Summit Report 2021 -2022



ACKNOWLEDGMENTS

TMCEC would like to recognize the leadership and support of Judge Barbara Hervey, the Texas Court of Criminal Appeals, the TMCEC Board of Directors, and the Texas Municipal Courts Association. Special thanks to Pamela Liston, Michael Acuña, and the Regional Directors for making the Regional Roundtables & Statewide Summit a success through their thoughtful promotion and masterful facilitation. TMCEC would also like to thank each person, court, and city that participated in the AY 2022 Regional Roundtables & Statewide Summit.

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FROM THE EXECUTIVE DIRECTOR

Since 2016, fines, court costs, inability to pay, and matters pertaining to bail and jail commitments have occupied a more prominent role in criminal justice legislation in Texas. TMCEC believes that facilitating small group conversations amongst judges and court personnel throughout Texas is essential to understanding and implementing these new laws.

Harnessing the power of these conversations and gleaned insights is truly what makes the TMCEC Regional Roundtables & Statewide Summit such a special event.

In AY 2022, TMCEC gathered over 150 municipal judges and court personnel from all 10 TMCA regions in Texas to have a roundtable discussion about these important topics within each region and share what they learned from their own region with the other regions in Texas.

In planning, we sought to leverage lessons learned prior to the pandemic during the AY 2020 TMCEC Regional Roundtables. In AY 22, TMCEC envisioned and executed an event where representatives from each region came together to meet within their own regions and then convened to share what they learned with the other regions.

To accommodate the challenge of ample space for such a large scale event, we took a bookends approach. The event was held twice—once at the beginning of the academic year and again at its conclusion. Regions 1-5 convened in Fort Worth. Regions 6-10 convened in Georgetown. (Since Regions 6-10 did not get to participate in AY 20 because of the pandemic, their event was held first.) Though responses varied from region to region, the format of the conversation and the questions used at each roundtable remained the same. Another constant was the collegiality of participants and careful consideration of the legal issues.

TMCEC is grateful to the Texas Court of Criminal Appeals and the Texas Legislature for special rider funding that made the Regional Roundtables & Statewide Summit possible. The issues summarized in this report are of value to the Texas judiciary, local governments, and policy makers and provide a foundation for future conversations.

Regards,

Ryan Kellus Turner
Executive Director
Texas Municipal Courts Education Center

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OVERVIEW

About the TMCEC Regional Roundtables & Statewide Summit

PURPOSE

In AY 2020, TMCEC launched a Regional Roundtable series to educate municipal judges and court support personnel about the proper implementation of new procedures regarding bail, fines, fees, requests for community service, jail commitments, and jail credit in cases involving fine-only misdemeanors. Special focus was given to alternative means of discharging defendants without an ability to pay in full. The program was a unique opportunity for people within the same region of Texas to engage with one another, share common issues, and have an open dialogue in a guided setting.

Building upon the AY 2020 roundtables, TMCEC developed the Regional Roundtable & Statewide Summit, which was held in two parts in AY 2022. Instead of going to each region, TMCEC hosted two events where multiple regions came together. Each of the 10 TMCA regions had their own guided discussion and then shared significant highlights with the other regions present at the event. The purpose of this event was to convene municipal judges and clerks by region to discuss challenges, share solutions, and learn from each other's experiences. Like the AY 2020 roundtables, the discussion topics related to fines, fees, costs, jail credit, jail commitments, and bail.

This publication summarizes each region's discussion and includes an executive summary of the highlights shared with the group.

COURSE MATERIALS

Course materials included a list of discussion questions; a Fines, Fees, Costs & Indigence Bench Card; and the bill summary for S.B. 6 (Bail Reform).

The curated list of discussion questions provided the structure for the roundtable and directed the flow of the timed conversation. Importantly, the course materials also included a “bench card.” One side of the card contains information related to fines, fees, costs, and indigence. The flip side of the card contains a summary of the law related to each question set. Altogether, the bench card provided education on current law, set the legal backdrop attendees needed to engage in the guided discussion, and acted as a handy tool for applying the concepts in court.

SET-UP

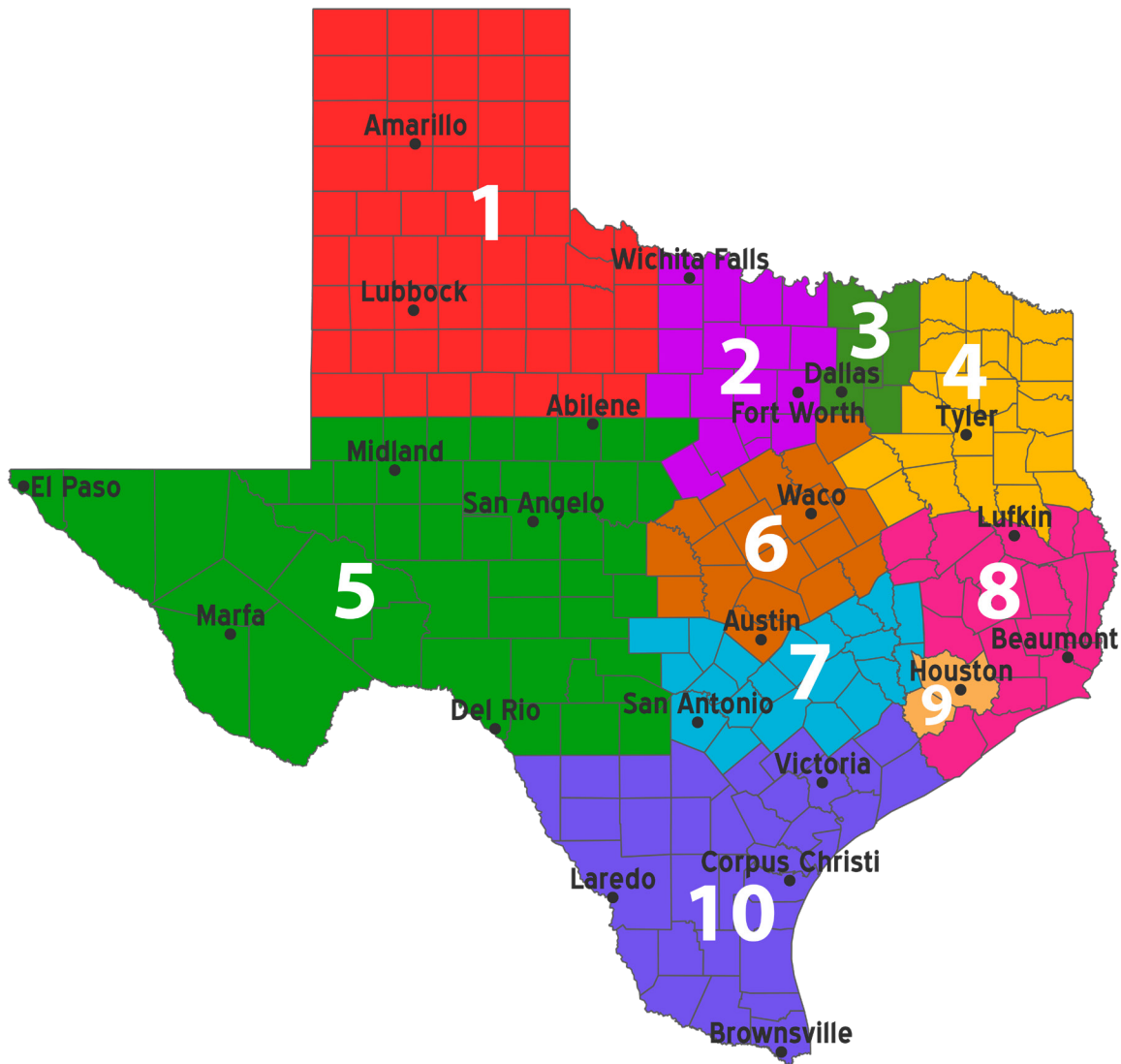
TMCEC hosted the Regional Roundtable & Statewide Summit in two parts (first for Regions 6-10 and second for Regions 1-5). Between the two events, all the state’s 10 TMCA regions participated. Each event included a separate conversation for each region where each question had a recommended allotment of time. This ensured that each question associated with the four enumerated topics were discussed. Attendees read the legal backdrop for each topic section off the bench card, then fielded the corresponding discussion questions.

After the timed roundtables, all regions at the event came back together to report highlights to the whole group. The reporting session had two facilitators who guided each region in sharing their answers to the discussion questions with the group. This session was also timed to ensure all regions were able to share their highlights.

The first event, hosted in Georgetown, included Regions 6-10 because those regions did not get to participate in the AY 2020 roundtables due to cancellations because of COVID-19. The second event, hosted in Fort Worth, welcomed Regions 1-5.



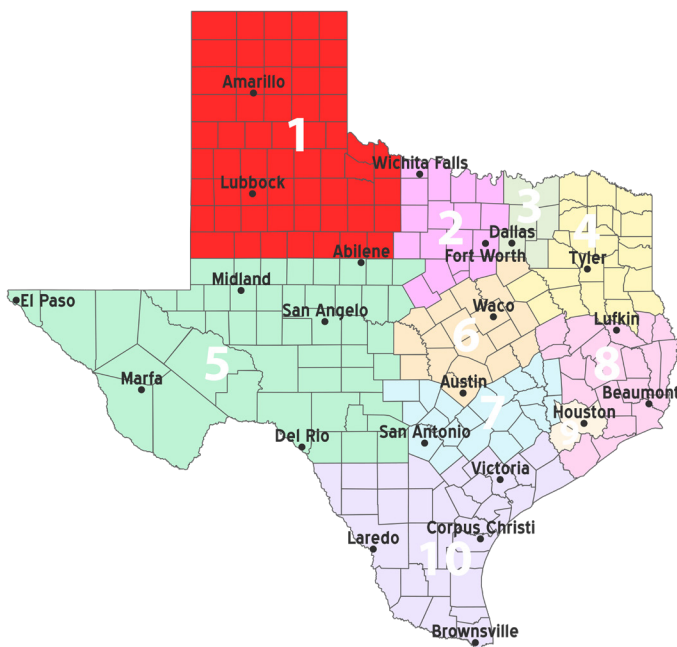
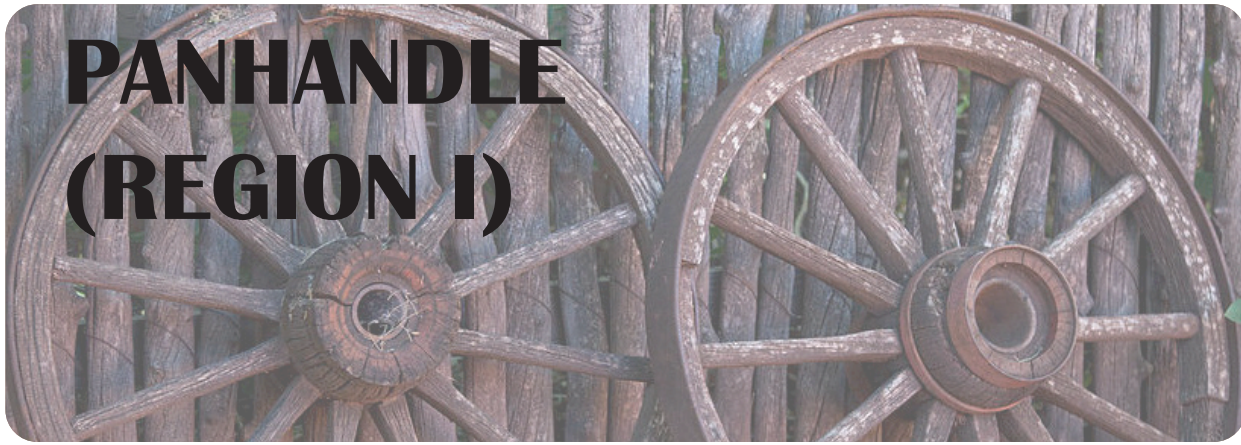
TMCA REGIONS



Region I (Panhandle)
Region II (North Texas - West)
Region III (North Texas - East)
Region IV (East Texas)
Region V (West Texas)

Region VI (Central Texas)
Region VII (South Central Texas)
Region VIII (Gulf Coast)
Region IX (Houston Metro)
Region X (South Texas)

PANHANDLE (REGION I)



The Texas Panhandle is home to the courts in Region I. Hon. Janet Blacklock Matthews, Region I Director and Judge for the City of Wilson, led the discussion. Ten representatives attended, including seven judges, one clerk, one director of court services, one prosecutor. This region’s participants represented cities of the panhandle plains, including Amarillo, Crosbyton, Hamlin, Hereford, Rochester, Seminole, Shallowater, Vernon, and Wilson.

Region I has a uniquely rural perspective. Though the region is home to populous cities like Lubbock and Amarillo, small courts in the region typically operate part-time, some even rely on judges to act as their own clerk. Cities, counties, and courts are very spread out, which effects communication, processes, and resources. This can be seen, for example, in the group’s discussion of types of enforcement and implementation of S.B. 6. Cities that do not have their own jail or adequate staff approach processes differently.

This region had many ideas about balancing between the technological convenience of remote hearings and the legal rights of the defendant. The consensus was that making sure critical information is provided to the defendant on paper and having

the defendant complete paperwork prior to any virtual proceeding strikes the balance. The group shared a collective concern about the integrity of the court and individuals trying to do court business virtually under inappropriate circumstances. Examples given were defendants appearing virtually while driving a car, performing a medical procedure, and taking off in a plane.

Participants focused discussion on determining ability to pay, making a distinction between indigence and having insufficient resources. Participants considered indigence to be a baseline. The latter determination, insufficient resources, was found to be more complicated. The group discussed avoiding an “overfocus” on past or future ability to pay because the law requires a determination of a present ability to pay. The preferred method of the group for making this determination was an open-ended conversation. They recommended asking for explanations and learning about the person’s daily life from those explanations. The group discussed motivational interviewing as a technique for this conversation and a good baseline skill set. Documentation for determination of ability to pay is uniquely important in rural areas because in a small community, individuals have more personal relationships with each other and with city officials. Close-knit communities may have more investment and interest in the outcome of cases resulting in more scrutiny of the court and/or the judge.

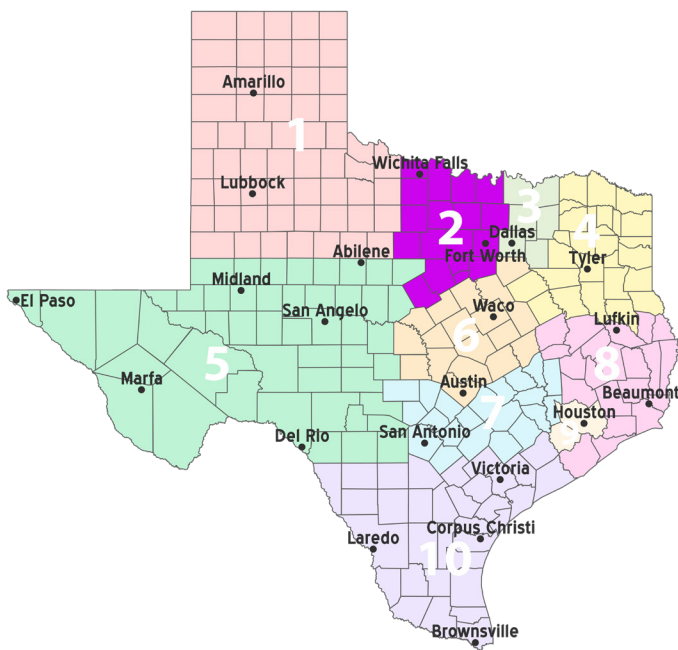
Region I

Cities Represented and Population		
1	Amarillo	199,225
2	Crosbyton	1,810
3	Hamlin	1,810
4	Hereford	14,692
5	Rochester	339
6	Seminole	7,683
7	Shallowater	2,573
8	Vernon	10,078
9	Wilson	358





NORTH TEXAS - WEST (REGION II)



North Texas cities host Region II courts. Hon. Teresa Evans, Region II Director and Associate Judge for the City of Arlington, led the discussion. Twenty-one representatives attended, including six judges, five court administrators, eight clerks, and two customer service representatives. Cities represented included Arlington, Boyd, Bridgeport, Colleyville, Denton, Fort Worth, Kennedale, Krum, Lewisville, Oak Ridge, Rhome, Springtown, and Westlake.

This region had several ideas about determining ability to pay. All agreed the best practice is just an individual conversation on a case-by-case basis. “How much can you afford to pay?” Find out what their present situation is and make that determination individually taking into consideration everything in front of you. Each court represented handles this process differently though. One city has a specific docket. Defendants complete a packet beforehand to bring to the docket. Another city has an email system where defendants can send in requests for payment plans or indigency determinations. Another court has a financial disclosure form. Other considerations discussed were the impact of inflation and the time of year. “Just because someone can pay today does not mean that next week or the following month they can still make that same payment.” More than one court includes on every paper coming out of the court: If you can’t make this payment, if something happens, come to court to talk to us.

Multiple participants shared a desire to try to make judgments and policies geared toward success. One city offers community service to everyone regardless of their circumstances. The reasoning behind the process is regardless of someone's income, they still may not be able to pay. If their amount of fines is high, a payment plan may not be reasonable on its own or likely to be successful. Community service as part of a hybrid judgment can help in that situation. That court shared its program of holding court in the community at different centers. Another court is looking into the same model. This makes getting to court more convenient. They hold it on the weekends so that people are less likely to have to take off work. The goal is to make court a positive experience. "The more positive it is, the more we take into consideration, the more likely we are to get compliance and get cases off our books."

Participants identified the need to reach defendants at different levels of understanding. "Different people learn differently." Some may benefit more from a text message. Some need a face-to-face conversation with the judge to explain the process. "Even if they aren't happy paying the fine, if they understood the process and what it took to get there, they're going to be more likely to be satisfied with the result." Participants stressed the importance of documenting all the steps taken, things explained, and conversations they had with defendants. If the ultimate outcome is commitment, courts need to document everything leading up to that point.

The group also discussed leveraging technology. One court described their online platform system, which sends out a text message a few days after the



citation is issued. The message invites the defendant to access a website that displays personalized options based on the law and the court’s policies. For example, if the defendant is a juvenile, they will be directed, based on the law, to appear in court. Individuals eligible for deferred disposition will have that option listed whereas if the charge is ineligible, it won’t be listed. There is an extensive decision tree built into the online platform. As the case progresses, the system updates. It shows them what the conditions of deferred are and what happens if they don’t complete them. Another text message informs them how many days are left until certain deadlines.



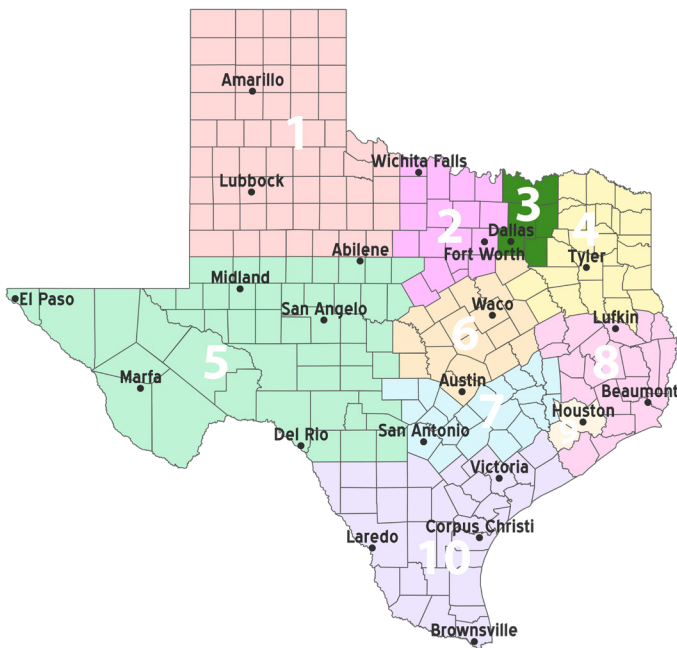
Region II

Cities Represented and Population

1	Arlington	397,269
2	Boyd	1,375
3	Bridgeport	6,498
4	Colleyville	26,766
5	Denton	139,734
6	Ft. Worth	892,221
7	Kennedale	8,393
8	Krum	5,088
9	Lewisville	107,740
10	Oak Ridge	524
11	Rhome	1,748
12	Springtown	3,059
13	Westlake	1,511



NORTH TEXAS - EAST (REGION III)



North Texas also yields the courts of Region III. Hon. Ashley McSwain, Region III Director and Associate Judge for the City of Wylie, led the discussion. Seventeen representatives attended, including seven judges, nine individuals who supervise or manage the court, and one assistant city attorney. This region’s participating cities included Bells, Combine, Dallas, Fate, Garland, Irving, McKinney, Royse City, and Wylie.

Participants in Region III had a nuanced discussion tailored to the distinctions of the courts in the region. For example, their conversation

about fine schedules was informed by the recent lawsuits in Dallas surrounding bail schedules, which raised concerns. One judge said it is not a good plan to publish a fine schedule because it can be misleading. Topics unique to this group related to juveniles, mental illness, language interpreters, and citizenship.

The participants in this region had many suggestions relating to determining ability to pay. One approach was to acknowledge the amount of money involved (not take it lightly) and find out how much time would be enough for them. Always tell them if circumstances change, contact the court. One judge looked beyond income and asked how many people are at home or how many dependents they have. Is there already documentation of hardship from governmental assistance? What is the

specific cost of living? Prioritize the questions—what is the most important thing the court needs to know? More than one participant expressed their policy of not punishing parents with fines on their children but instead finding meaningful ways for younger defendants to discharge the judgment. This region also discussed the numerous avenues for community service, including job clinics, therapy, and writing essays (for students).

This region devoted much discussion to bail and S.B. 6 (bail reform). One particular concern was the need for the multiple agencies involved in the system to understand their sphere of responsibility. Other issues include the staffing needed to meet the bill’s requirements and practical issues for magistrates who serve as judges in non-record municipal courts.

In the metroplex, communication to defendants is key. Some courts represented in this region use text messaging (one participant mentioned Court Notify), post cards, and mailed notices to keep defendants informed and help them remember to appear. One participant noted being mindful that using postcards may raise privacy concerns because neighbors might see that they have a warrant. Another participant mentioned the use of standing orders to help clerks assist defendants who do not want to appear in court. Notices, according to one participant, also hold individuals accountable.

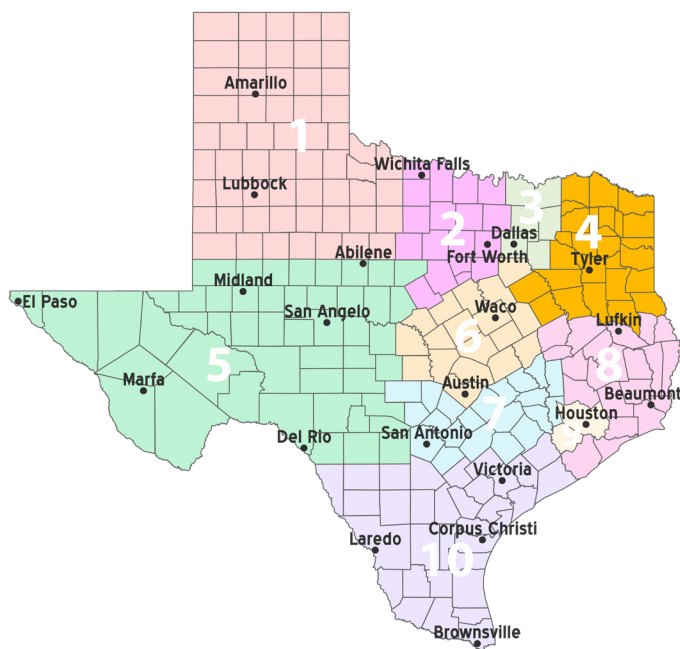
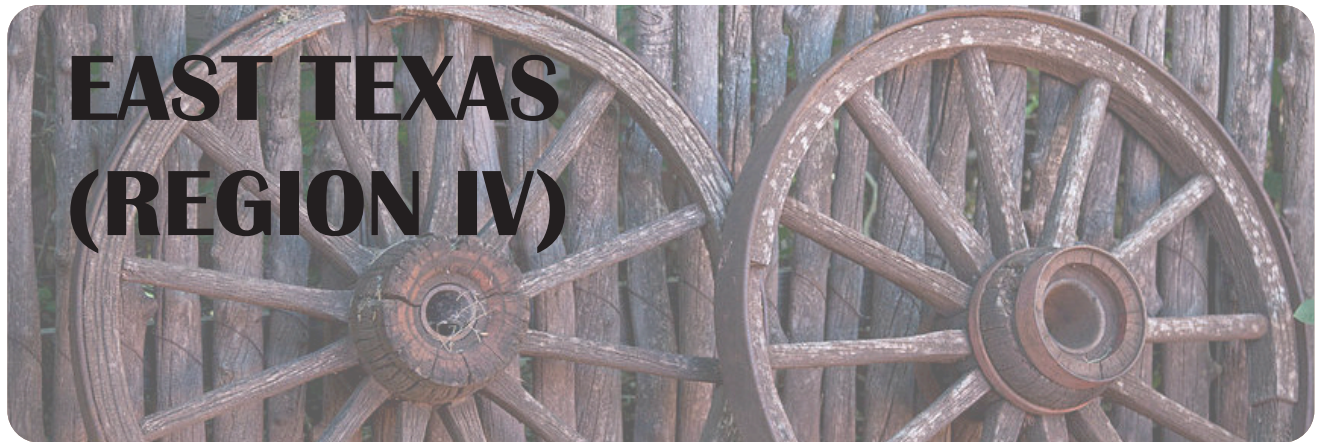


Region III

Cities Represented and Population

1	Bells	1,824
2	Combine	2,535
3	Dallas	1,304,379
4	Fate	14,300
5	Garland	238,622
6	Irving	240,475
7	McKinney	191,197
8	Royse City	13,373
9	Wylie	51,251





The Piney Woods of East Texas host the courts in Region IV. Hon. Forrest Phifer, Region IV Director and Presiding Judge for the Cities of Rusk, Alto, Wells, and Cuney, led the discussion. Fourteen representatives attended, including six judges and eight clerks. This region’s participating cities included Alto, Cuney, Daingerfield, De Kalb, East Mountain, Elkhart, Kerens, Quitman, Richland, Rusk, Tyler, and Wells.

The focus of Region IV’s discussion was the importance of communication, whether to defendants, jail staff, police officers, or the public. Several

courts shared innovative ideas and success stories for overcoming communication barriers and misunderstandings. One court educates the public about the court using community events, videos, TikTok, news articles, quarterly newsletters, and podcasts. Because the court sits in a college town, its public communication strategy also targets schools and universities, making sure students know about community service options. Other courts educate defendants and the public using brochures, courtesy letters, and the court’s website. One participant noted a common misunderstanding regarding fines and costs. For example, a school zone sign says, “Fine up to \$200,” but that doesn’t include court costs. Defendants are less likely to be frustrated if they have all the information. Most participants said their courts provide information on common offenses and an explanation of fines, fees, and costs. Sometimes this

is provided at the time of the citation, by mail, or at their court appearance. Many courts in this region agreed that some defendants prefer not to come to court or at least to spend as little time as possible at the court. Therefore, information about court processes should be easy for them to access whether in court or not.

For indigence-related cases, communication is increasingly important. All courts shared examples of taking the necessary time with defendants to understand their situation and make sure they can succeed at satisfying the judgment. One judge tells defendants, “I don’t want to set you up for failure.” The extra time is necessary because, as one judge said, “Each case is individual—not cookie cutter.” Courts also need to take the time to make sure defendants understand what is expected of them. One court said the clerks are very explicit and highlight due dates on the paperwork. Another court said the judge explains everything in court and then the clerk reiterates it at the window. One court stressed the need for bilingual court employees. Making sure the documents provided are easy to understand was also mentioned. The need for understanding extends through the life of the case. “Circumstances change,” commented one participant. All agreed that it is important to show defendants the court is willing to work with them.

“I don’t want to set you up for failure.”

Though many participants from Region IV said they have a good working relationship with the jail, some shared challenges, including capacity of the jail or non-admittance for Class C arrestees. However, one judge shared that she and the mayor explained to the sheriff that individuals arrested on



Class C warrants would not take up any space. Therefore, there was no need to move those individuals into the general jail population. The sheriff agreed to permit them to stay in a holding cell until the judge could come to magistrate them.



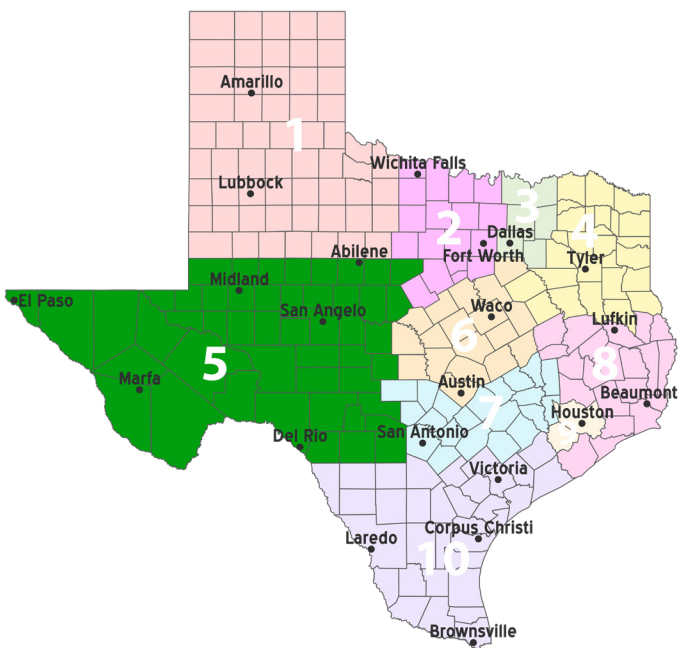
Region IV

Cities Represented and Population

1	Alto	1,099
2	Cuney	134
3	Daingerfield	2,679
4	De Kalb	1,616
5	East Mountain	1,197
6	Elkhart	1,428
7	Kerens	1,795
8	Quitman	2,310
9	Richland	275
10	Rusk	5,598
11	Tyler	105,859
12	Wells	899

“Each case is individual—not cookie cutter.”

WEST TEXAS (REGION V)



The rugged terrain of West Texas is home to the courts of Region V. Hon. Tim Meek, Region V Director and Presiding Judge for the City of Midland, led the discussion. Eight representatives attended, including four judges, one clerk, one court coordinator, one city attorney, and one executive assistant. This region's participants represented cities near the New Mexico and Mexico borders, the Pecos River, and everywhere in between. Cities represented included Big Lake, Big Spring, Del Rio, Midland, and Sabinal.

The participants in this region discussed individual justice in individual cases in multiple contexts, including issuing *capias pro fine*, setting bail, and determining ability to pay. According to the group, a *capias pro fine* is a tool to be used when the circumstances call for it—not as a standard process. This group also discussed whether using the public safety report system cuts against individual justice. Does it chip away at discretion? In the context of ability to pay (but applicable in multiple contexts), one participant pointed out that a judge's intuition is a valuable tool, especially for an experienced judge.

The importance of understanding was also a common theme of the discussion. Defendants need to know there is a next step and that what has been ordered in terms of satisfying the judgment is not set in stone. Orders can be changed if circumstances change. Judges



need to communicate that and reiterate it each time they talk with the defendant. “You have to walk the walk. You can’t just say we’re reasonable people, come back and talk to us. They have to see you being reasonable. So if you treat them fairly at their first hearing, they’re more likely to feel like you’re going to treat them fairly if they come back.”

Because the region is spread out, all agreed that there should be more collaboration with the counties, especially in the context of bail and implementing S.B. 6.



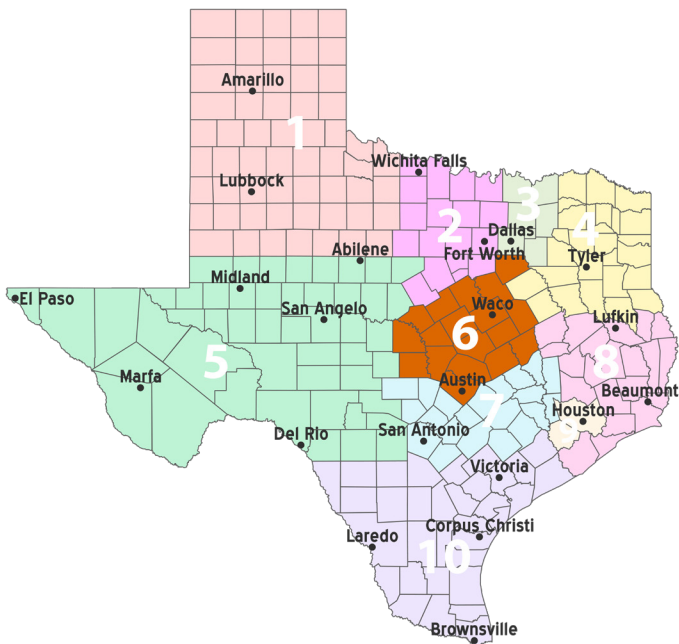
Region V

Cities Represented and Population

1	Big Lake	3,226
2	Big Spring	27,878
3	Del Rio	35,828
4	Midland	141,194
5	Sabinal	1,061

“You have to walk the walk. You can’t just say we’re reasonable people, come back and talk to us. They have to see you being reasonable. So if you treat them fairly at their first hearing, they’re more likely to feel like you’re going to treat them fairly if they come back.”

CENTRAL TEXAS (REGION VI)



Region VI courts hail from the Texas Hill Country and the south central portion of the Brazos River Basin. Hon. Sherry Statman, Region VI Director and Presiding Judge for the City of Austin, led the discussion. Nineteen representatives attended, including 13 judges, three clerks, and three court administrators. Cities with representatives from this region included Austin, Cedar Park, Georgetown, Harker Heights, Killeen, Leander, Llano, Mexia, Pflugerville, Rosebud, Temple, Waco, and Woodway.

Participants in this region shared several ideas for determining ability to pay, such as talking to defendants and helping them fill out forms and aid applications. One participant noted that often forms are not completed properly, so assistance makes the process more efficient. The group discussed the importance of understanding privacy related to the determination of ability to pay. They also noted that the message from the legislature is a clear directive to the judicial branch to determine ability to pay based on where defendants are now, not in the past or in the future.

This group had some unique magistration processes. One city is possibly the only city in Texas to have an interlocal agreement where municipal judges exclusively

perform magistration at the county jail, which obviates the need for a city jail. Of all the participants, none of them set bail at a city jail (even the city with a city jail sets bail at another facility).

This region was the only group that used all types of enforcement, including civil enforcement. Most stated they did not use capiases pro fine. All courts represented use private collection firms. The second most-used type of enforcement was OmniBase. Next was Scofflaw, which a few participants find to be the best because individuals must register their vehicle every year. Two courts use civil enforcement. Specifically, they use abstract of judgment for code enforcement cases because it relates to property. In discussing active enforcement and capiases pro fine, this region stressed the importance of having a final judgment and holding a timely commitment hearing.

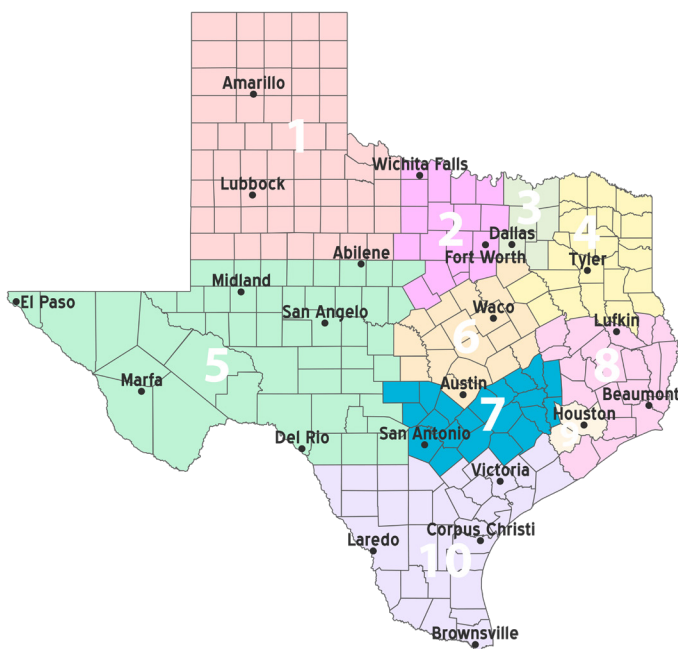
Region VI

Cities Represented and Population

1	Austin	965,872
2	Cedar Park	77,181
3	Georgetown	75,470
4	Harker Heights	31,657
5	Killeen	148,573
6	Leander	60,613
7	Llano	3,490
8	Mexia	7,319
9	Pflugerville	63,610
10	Rosebud	1,419
11	Temple	76,590
12	Waco	137,779
13	Woodway	8,936



SOUTH CENTRAL TEXAS (REGION VII)



From the Balcones Escarpment to the Brazos Valley, Region VII courts are situated in the southern part of the Texas Triangle. Hon. Ed Spillane, Region VII Director and Presiding Judge for the City of College Station, led the discussion. Thirteen representatives attended, including nine judges, three court administrators, and one clerk. Cities with representatives from this region included Brenham, College Station, Fredericksburg, Helotes, Luling, Navasota, New Braunfels, San Antonio, Seguin, and Snook.

Participants in this region had several ideas about documenting and determining ability to pay. One recommendation was a checklist for the judge to complete. If there is a hardship, document it. The court needs to adapt to people’s changing circumstances. Another recommendation was using the Texas Wage Summary from the Texas Workforce Commission to help determine ability to pay. Payment plans must be doable. “We want defendants to be successful, to give dignity to defendants.”

Other ideas discussed centered around payment plans. For example, one court uses standing orders to allow clerks to help defendants at the front counter rather than requiring them to come to court. One court has a team that follows up on payment

plans. Another court recommended moving away from standard intervals for payment plans and instead consider the individual circumstances.



This region’s participants stressed the importance of collaboration with counties. They also agreed that magistrate duties should be spread evenly and fairly across all magistrates and counties. Several participants explained their relationships with their county. One city has a rotation list for magistrates to sign search warrants between 10:00 p.m and 6:00 a.m. That list includes district, county, and municipal judges. Another city collaborates

with the county through quarterly stakeholder meetings on mental health and larger monthly meetings. One city has a bail bond board that has participation from both the city and county. Another city has a jail that the county helps staff. The city’s municipal court also works closely with the center for healthcare services, which is a county service.

“We want defendants to be successful, to give dignity to defendants.”

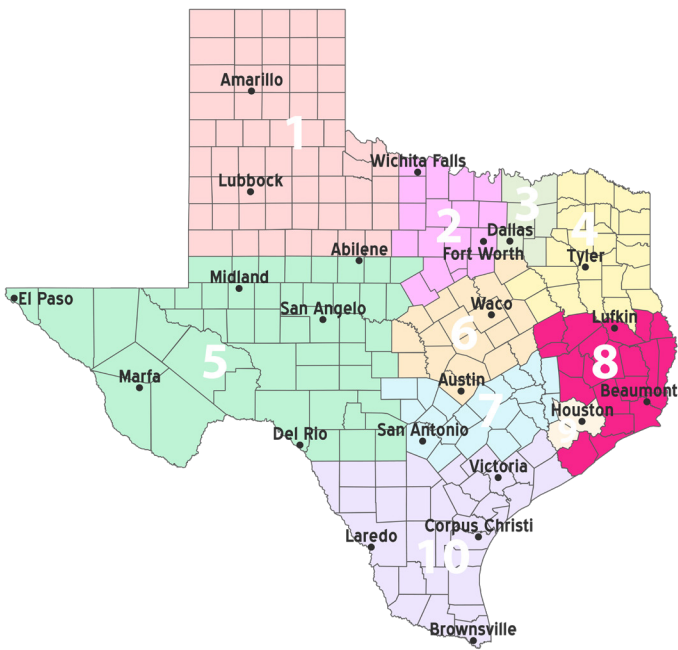


Region VII

Cities Represented and Population

1	Brenham	17,297
2	College Station	115,802
3	Fredericksburg	11,341
4	Helotes	9,525
5	Luling	5,850
6	Navasota	7,786
7	New Braunfels	84,622
8	San Antonio	1,451,853
9	Seguin	29,458
10	Snook	554

GULF COAST (REGION VIII)



Stretching from the Piney Woods to the Gulf of Mexico, Region VIII courts are situated in Southeast and Deep East Texas. Hon. Gary Scott, Region VIII Director and Presiding Judge for the City of Panorama Village, led the discussion. Thirteen representatives attended, including six judges and seven court administrators. Cities with representatives from this region included Cleveland, Conroe, Friendswood, La Marque, Lake Jackson, Panorama Village, Pearland, Prairie View, Texas City, Vidor, and Willis.

The consensus of the participants representing Region VIII was that what their courts do matters and affects behavior. It was evident through their responses that this belief makes these courts thorough and conscientious in their processes. This region’s conversation yielded many examples. Regarding publishing fine schedules, most courts recognize the convenience of them but opt to provide other ways for defendants desiring not to come to court to take care of their citation. “Fine schedules are convenient but are a limitation to changing behavior,” commented one participant. Providing convenience does not deter future violations. According to another participant, such schedules contribute to a misunderstanding regarding when a defendant “owes” money.

Participants shared significant efforts and concern for indigence-related cases. Specifically, one court said they give defendants “every option they can come up with to help them satisfy. We don’t want to put anyone in jail.” Great care is taken by the courts in the group to determine whether a defendant can pay the judgment or needs special consideration. More than one participant shared the importance of discretion when discussing a defendant’s financial status in front of the whole docket. One judge said he didn’t use the word indigent because of potential stigma but instead focused on ability to pay. Courts shared the importance of time management in indigence-related cases. Some defendants just want to get in and out of court due to the court’s huge dockets. Smaller dockets are appropriate for more lengthy conversations about payment plans. To make sure no one slips through the cracks in a large docket, clerks in one court are trained to inform defendants to call the court if they run into any difficulty. One court filters out defendants who truly need to see the judge by having the prosecutor available in the lobby. The court administrator checks individuals in and sends them to the prosecutor. The prosecutor makes them an offer. If they take the offer, the court addresses their ability to pay. Another court uses a similar process to filter out defendants with special circumstances. One judge pre-approved a standing order and the prosecutor has a standing offer—thus, everyone agrees and the result is more efficiency.

This group gave deep thought to jail credit. One judge stated that the new law has made processing jail credit requests more uniform city to city, which increases a perception of fairness. If different courts do it differently, the participant said, the perception is that one of them is doing it wrong. Another participant identified a cost-benefit analysis associated with jail credit and waiving fines. If someone has just gotten out of prison and has no job, no money, maybe no family, why try to force them to pay if



they can't? Getting a job will be difficult for them. A judge can almost always find them indigent and waive what they owe. He also suggested encouraging them to get a driver's license. "Use our positions to effect positive change."

Participants had helpful advice about communicating with city councils about the court, especially about when a defendant owes money and where the money goes. One participant noted that education is easier in smaller groups or one-on-one. One court had success educating the city auditor, who in turn educates the city council. Moreover, someone suggested starting with the finance departments. One court administrator goes to the first meeting of each newly appointed city council and presents on the court, especially regarding revenue and where it goes. Another recommendation was to use a summary sheet explaining things like due process and the relationship between the court and city council.

Region VIII

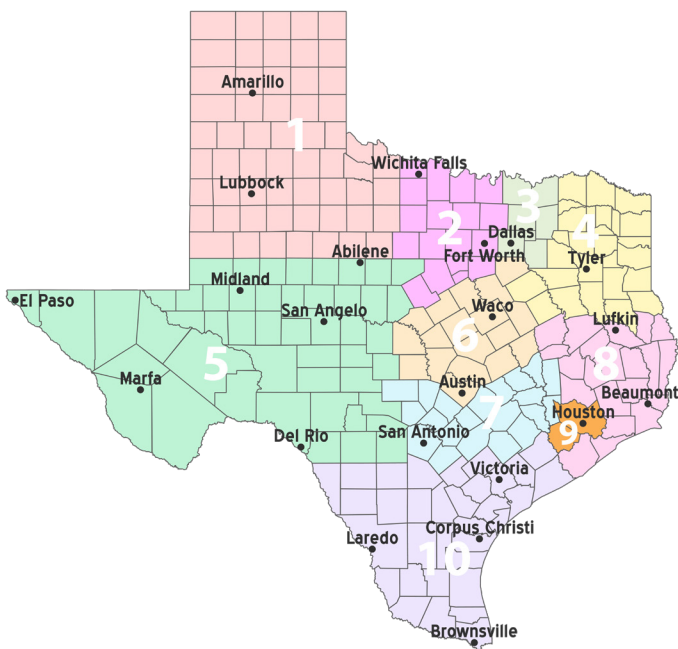
Cities Represented and Population

1	Cleveland	8,150
2	Conroe	88,369
3	Friendswood	39,893
4	La Marque	16,983
5	Lake Jackson	27,269
6	Panorama Village	2,641
7	Pearland	125,817
8	Prairie View	6,813
9	Texas City	49,468
10	Vidor	10,658
11	Willis	1,748
12	Springtown	6,731



"Use our positions to effect positive change."

HOUSTON METRO (REGION IX)



Region IX is made up of only two counties: Fort Bend and Harris. However, the city and county with the highest population in Texas are in Region IX. Hon. Julie Escalante, Region IX Director and Presiding Judge for the City of Baytown, led the discussion. Eighteen representatives attended, including 11 judges, two court administrators, two clerks, and three other court employees. Cities with representatives from this region included Baytown, Fulshear, Houston, Jersey Village, Piney Point Village, Richmond, Seabrook, South Houston, Sugar Land, and Waller.

Due to the composition of Region IX, participants had a unique perspective with many of them working in the largest municipal court in Texas. For example, the convenience of fine schedules bears a lot of weight in a court with such high volume. In addition to efficiency, the fine schedule can help with consistency among so many judges. One judge remarked that with such high volume, consistency and propriety are key. Some judges create their own baseline and navigate based on the facts of the case. There must be room for discretion. Another court said the fine schedule is available for convenience only. “Once a defendant appears in front of the judge, the judge has complete discretion over the entire fine range.”

This region discussed the importance of communicating all the options for satisfying the judgment. One court has a booklet of information that accompanies citations. Another court mentioned standing orders from the prosecutor to understand what can be done in their absence. One court shared information about their Safe Haven/Safe Harbor Court and referring self-identified veterans to veterans court.

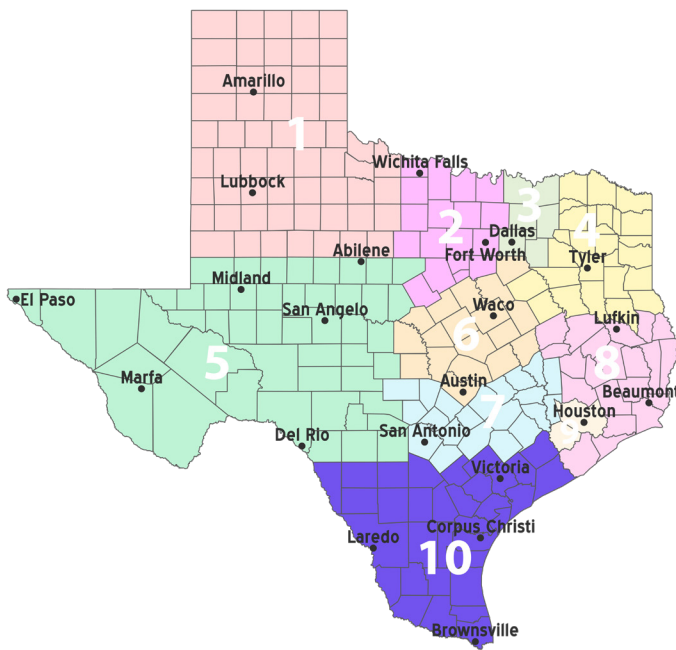
The region also had a robust discussion about community service. One participant shared that the flexibility offered by the community service statute has helped during the pandemic. Letting them choose their community service can also alleviate transportation issues for defendants. One participant suggested talking with the defendant about potential roadblocks for completing community service, such as childcare, transportation, elder care, etc.

Region IX

Cities Represented and Population

1	Baytown	76,089
2	Fulshear	12,213
3	Houston	2,313,238
4	Jersey Village	7,900
5	Piney Point Village	3,435
6	Richmond	12,592
7	Seabrook	13,849
8	South Houston	17,522
9	Sugar Land	118,563
10	Waller	3,276





Region X encompasses much of South Texas and the Gulf Coast of Texas. Hon. Henrie Morales, Region X Director and Presiding Judge for the City of Aransas Pass, led the discussion. Fifteen representatives attended, including 11 judges, two court administrators, one clerk, and a court director. Cities with representatives from this region included Agua Dulce, Aransas Pass, Beeville, Corpus Christi, Dilley, Freer, Harlingen, Karnes City, Laredo, McAllen, Mission, Premont, Victoria, and Yorktown.

This region’s participants were split half and half regarding publishing fine schedules. Half published one and half did not. However, all the courts indicated they had a fine schedule. The group identified a possible misconception of defendants related to when they owe money to the court. It is important that they understand that the fine schedule is not an indication of what a defendant owes. If a defendant received a citation, they don’t owe anything at that point. Another source of confusion identified by the group is a fine schedule that does not include court costs, which are subject to change.

Participants discussed the importance of assessing ability to pay, providing payment plans, and doing individual justice in individual cases. The group also discussed

Ernest Friesen’s Eight Purposes of Courts (e.g., appear to do individual justice in individual cases).

In determining ability to pay, the courts in this region look not only to governmental assistance and medical documentation, but also documentation related to disasters (e.g., FEMA assistance and photos). Most courts represented have been through at least one hurricane or tropical storm, which can impact ability to pay.

Some participants shared a preference for working with the defendant to come up with a payment plan. According to one participant, defendants will more likely be successful if they have a part in making the plan. Alternatively ask whether they can do community service. Waivers may be appropriate, especially if they can’t physically do community service.

This region also discussed communication with defendants through brochures explaining alternative methods for satisfying the judgment and court websites.



Region X

Cities Represented and Population

1	Agua Dulce	611
2	Aransas Pass	9,269
3	Beeville	14,261
4	Corpus Christi	326,332
5	Dilley	4,441
6	Freer	2,647
7	Harlingen	65,028
8	Karnes City	3,398
9	Laredo	260,571
10	McAllen	142,557
11	Mission	83,796
12	Premont	2,564
13	Victoria	66,974
14	Yorktown	2,257

EXECUTIVE SUMMARY

At each event, regional directors and TMCEC staff guided participants through a structured discussion centered on statutes and procedures related to fines, fees, costs, indigence, and bail including new legislative changes. Below is a summary of common responses across all ten regions using the structured topics and questions.

SECTION I. IMPOSING FINES, FEES, & COURT COSTS

1. Municipal and justice courts in Texas have been criticized for not making “meaningful use of the fine range.” The law requires judges to consider the full range of punishment in sentencing. Fine schedules are promulgated by courts for the convenience of defendants. However, there is concern that such fine schedules suggest a predetermined punishment that a court intends to impose regardless of a defendant’s individual circumstances or ability to pay.

a. Does your court publish a fine schedule?

Nearly all courts have a fine schedule, but some do not publish one. Overall, courts agree that publishing a fine schedule has benefits, including convenience for defendants as well as the courts. However, most regions shared concerns about perception and whether the public understands fine schedules—especially their purpose, scope, application, and limitations. A common concern related to the public’s understanding of when a defendant “owes” money. A fine schedule is not a judgment. Practically, those courts who publish a fine schedule do so as a courtesy for some defendants. However, the regions stressed the importance of individual justice in individual cases, which includes consideration of ability to pay, the full range of punishment, and all options provided to the defendant by law to satisfy the judgment.

b. What strategies can be employed by courts to ensure that published fine schedules are not misunderstood by the public?

Courts from all regions take great care to educate the public about fines and court costs using various strategies. Most court websites are a primary information hub for defendants. Because most fine schedules are published on the courts’ websites, participants shared several insights about content. First, make sure the information is correct and complete. Many courts that publish fine schedules make sure the schedule reflects not only the fine but the court costs, too. Court websites provide a disclaimer with the fine schedule explaining that a citation does not mean the defendant owes anything. Further, they explain how a court case flows and when fines, fees, and costs are imposed in the case. They also explain the options for satisfying a judgment, including payment plans and community service. Courts provide this information and more, not only on their website but also in brochures, courtesy letters, notices, videos, news articles, and text messages.

2. The law requires that when a defendant enters a plea in open court, the judge shall make an inquiry into the defendant’s ability to pay the fine and costs. How does your court document that this “open court” inquiry is occurring?

Courts varied in the ways they document this inquiry. Some mentioned using a checklist of routine court procedures that accompanies each case. The inquiry is an item that can be checked off. Others document it by making notes in the docket, case software, payment plan, order, forms, and other paperwork. Where applicable, some courts mentioned documenting in multiple places that the defendant can pay. If it is determined they can pay or they say they can pay, some courts document that with a signature at each stage of the case.

a. Related: During the COVID-19 pandemic, via Governor’s disaster declaration and Supreme Court of Texas emergency orders, virtual/remote proceedings have been treated as tantamount to “open court.” Legislation that would have made virtual/remote proceedings permanent failed to pass the legislature in 2021. What has been your court’s experience with virtual/remote proceedings? Do you believe it is possible to strike a balance between the convenience posed by such technology and constitutional and other legal issues that have historically shown no regard for convenience?

The courts’ experiences were split between positive, neutral, and negative. However, most courts would like remote proceedings to remain an option (none wanted them mandated though). Many courts still regularly have virtual dockets. Those who shared positive experiences explained that virtual proceedings provide more access to court and increase the number of defendants who appear. For example, someone who cannot take off work to appear in person can make a 15-minute virtual appearance. Another positive aspect mentioned was the removal of hostility. For example, code enforcement cases often involve heated issues. One court uses virtual proceedings for code enforcement cases and finds it neutralizes the hostility.

There was an overall concern that virtual/remote hearings may compromise the integrity of court proceedings, especially trials. The regions provided numerous examples that supported their concern, which centered around the location of defendants joining remotely (e.g., while driving a car, taking off in a plane, using the bathroom, lying in bed) and defendants’ decorum during virtual proceedings (e.g., not dressed, not on camera, not paying attention). Most courts did not hold virtual jury trials and would not in the future if allowed. According to some courts, the constitutional protections provided in person cannot truly be replicated virtually.

Some courts said it is possible to strike a balance between convenience and constitutional protections, but it must be carefully done.

3. If the judge determines that the defendant is unable to immediately pay the fine and costs, the judge shall allow the defendant to pay the fine and costs in “specified portions at designated intervals.”

a. Does your court use a standardized portion/interval?

Most courts use a standardized portion and/or interval for payment plans, which varied from court to court. However, the general shared practice for such a standard was as a starting point.

If the defendant is unable to pay according to the standard agreement, the judge individualizes it. Additionally, courts mentioned the ongoing ability of defendants to see a judge to adjust a payment plan. A common theme for this topic was communication. The courts reiterate to defendants the importance of communicating with the court if their situation changes or if they cannot make a payment.

b. If not, how does the court determine the portion and interval to order?

Those courts that do not use a standard determine the portion and interval on a case-by-case basis.

4. A new amendment, Article 45.041(c-1), Code of Criminal Procedure, states “in imposing a fine and cost in a case involving a misdemeanor punishable by a fine only, the justice or judge shall credit a defendant for any time the defendant spent in jail or prison while serving a sentence for another offense if that confinement occurred after the commission of the misdemeanor.”

a. At what stage of the case does Article 45.041(c-1) apply? When does it not apply?

The courts in each region understood Article 45.041(c-1) to apply at sentencing, when the fine and costs are imposed. It does not apply if the defendant has not been sentenced or if the confinement happened before the misdemeanor at hand was committed. Some courts noted the statute’s inapplicability post-judgment. However, some courts discussed the open door for generosity to apply jail credit beyond what the statute requires.

b. Does Article 45.041(c-1) apply to instances where defendants were committed to jail on other Class C misdemeanors?

The courts agreed that it does not. Under the statute, the jail credit is for time spent in jail or prison serving a sentence. Municipal and justice courts, who have jurisdiction over Class C misdemeanors, do not sentence individuals to jail. The sentence is to pay the fine and costs. Commitment to jail is distinct from a sentence.

SECTION II. DETERMINING ABILITY TO PAY & INDIGENCE

1. A judge may require a defendant who fails to pay a previously assessed fine or costs or who is determined by the court to have insufficient resources or income to pay a fine or costs to discharge all or part of the fine or costs by performing community service. While the law requires defendants be provided information regarding alternatives to full payment, it does not specify what information should be provided to a court. What are some best practices for determining whether a defendant has insufficient resources or income leading to discharge via community service?

The predominant response to this question was to have a conversation with the individual. Most judges recommended asking questions until the judge understands their situation. Many courts mentioned the importance of communicating and having forms in languages other than English.

All courts have a process for making this determination, but it varies based on the court. Some

courts have a specialized docket. One court has an email system. Most courts have forms or information packets for the defendant to complete. Many courts addressed issues with sensitive information and recommended that financial information only be viewed by the judge and not become part of the case file. Another best practice mentioned was having the individual swear to the information provided, whether in an affidavit or in court.

2. What are the possible motivations and/or implications of the law specifying that a court shall only consider a defendant's present ability to pay?

The consensus was that circumstances change. What a person could pay in the past or may be able to pay in the future should not be considered. Many courts commented that because things change, the court's ongoing message (whether in person, on the website, or on paperwork) is to contact the court if something changes.

3. In addition to the Federal Poverty Guideline and the Living Wage Calculator, are there other recommended resources that may be used for guidance in deciding indigence or ability to pay?

Recommendations included asking if they already receive federal or state governmental assistance, such as the Texas Temporary Assistance for Needy Families (TANF), and using services like the Texas Workforce Commission or Accurant to search and/or verify financial and employment information.

4. Why is it important for a court to communicate and document its expectation to defendants who are unable to pay in the manner ordered by a judge?

Responses included the importance of defendants knowing what to do next and having something to refer to if they have questions.

SECTION III. BAIL

By virtue of being a judge, municipal judges are magistrates for the county in which the municipality is located. Some cities are in more than one county. This means that the municipal judges in these cities are magistrates for more than one county. Magistrate duties are performed different ways in different parts of Texas, and judges may be a part of multiple, differing systems. Some municipal judges regularly perform magistrate duties. Others do not. Additionally, while some municipal judges perform certain magistrate duties, they may not perform all magistrate duties authorized by law. The purpose of the following questions is to gauge how magistrate practices pertaining to bail vary in different regions of the state.

- 1. Do municipal judges in your city regularly perform magistrate duties pertaining to the setting of bail per Articles 15.17 and 17.15, Code of Criminal Procedure?**
 - a. Yes, only for Class C Misdemeanors on charges that will be filed in the municipal court.**
 - b. Yes, for both misdemeanor and felonies.**
 - c. No. (Specify how magistrate duties pertaining to the setting of bail for misdemeanors and felonies are handled in the county.)**

Of the participating judges, less than 20% do not regularly perform magistration. The remaining judges perform magistrate duties. About half of those only magistrate on Class C misdemeanor charges and half magistrate for both misdemeanors and felonies. In the cities and counties

represented by judges who do not perform magistration, either the justices of the peace or statutory magistrates do so. Some participants reported that their county jail will not take individuals with Class C misdemeanor charges or will only take those charged with public intoxication.

2. In what locations is bail set in your county? (Examples: city jail, county jail, etc.)

Responses included city jails, county jails, holding facilities, detention facilities, other city and county facilities, courtrooms, and remotely from homes and offices.

3. In the context of bail-related matters, do judges and clerks in your municipal court collaborate with county officials and employees? Describe collaborations in your locale.

The general consensus among participants was the importance and benefits of collaboration and the need for more of it. Whether it existed varied between locales. On one end of the spectrum, some courts reported no collaboration at all. Other courts reported good working relationships with the county, which included regular meetings and shared systems, processes, and facilities. Along that spectrum, some reported merely sharing information and forms and some reported experiencing friction and resistance to collaboration. In some counties, municipal judges as magistrates feel left out of the loop.

4. Eye on the Horizon: Bail changes are coming to Texas. During the 87th Legislature, 2nd Special Session, S.B. 6 (the Damon Allen Act) was passed into law. S.B. 6 addresses release practices surrounding habitual and violent offenders and aims to better protect the safety of their victims, law enforcement officers, and communities. The bill allows defendants to receive individual assessments and increases data reporting to create a more transparent, accountable system. (See, TMCEC S.B. 6 Summary). Based off what participants presently know about S.B. 6, what is the top concern about implementing S.B. 6?

One of these events was held before most of S.B. 6 took effect (December 2021) and the other took place four months after implementation (August 2022). The top concerns shared at each event are, therefore, shared separately below.

Top concerns shared before implementation of S.B. 6:

- Whether the State could meet all the deadlines for implementation;
- Constitutional challenges (i.e., citizenship);
- Whether the magistrates will be ready;
- Sheriffs, jailers, and peace officers setting bail on Class C charges;
- Whether personal bonds will still be effective;
- Accessing criminal history information;
- Becoming familiar with the new system;
- How the county will implement it;
- What happens if there is a problem with the system;
- Who is doing what (responsibilities including financial); and
- Bail schedules.

Top concerns shared after implementation of S.B. 6:

- Duplication of effort;
- Communication;
- Staffing (one jurisdiction reported having to use two full-time clerical positions and two full-time judges to keep up with the work required by the bill; difficulties in rural areas);
- Separate systems and resistance to using another system;
- Confusion;
- Knowing and meeting all the deadlines;
- Whether there is a need to use the system even if the magistrate does not set bail for Class C or higher charges (e.g., protective orders, requirements related to Class C family violence);
- Accessing the training to use the system (distinct from the magistrate duty training);
- The Public Safety Report's impact on individualized bail determinations;
- Ascertaining whether the person has other charges in other jurisdictions;
- Whether this will result in decreased involvement by cities and municipal judges;
- Incomplete criminal history information (i.e., arrests);
- Superfluous conditions that are automatically added by the system; and
- The system doesn't provide as much data as was promised to the magistrate setting bail.

SECTION IV. COURT ACTIONS ON NON-PAYMENT

Take a moment to review the list of permissible and impermissible actions listed on the desk card. Afterwards, consider the following questions pertaining to:

1. Types of Enforcement: There are four types of enforcement. Which type of enforcement is used the most and least in the region?

Of the participants, the types of enforcement most used were capiases pro fine and private collection firms (though neither of those are used by all courts). Some courts reported using OmniBase (driver's license renewal) and Scofflaw (registration renewal) but discussed numerous issues with the effectiveness of those programs. The least used among the regions was civil enforcement (e.g., abstract of judgment, writ of execution).

2. Steps Leading to Commitment: Under Article 45.045 of the Code of Criminal Procedure (Capias Pro Fine), there are eight prerequisite steps that must occur before a defendant can be committed to jail for failure to satisfy the judgment in accordance with its terms. Each step is essential. Documentation for each step is important because the process is subject to public scrutiny. To uphold the rule of law, courts must also comply with the law. In terms of compliance and documentation, which step(s) potentially pose the greatest challenge to courts utilizing a capias pro fine? Is there consensus as to which step(s) and where things can go wrong?

The majority identified Step 8 (Timely Commitment Hearing) as the greatest challenge and where things can go wrong. If there is not good communication between the county and the municipal court, the judge will not know the person has been arrested on their capias pro fine. The group strongly recommended not issuing a capias pro fine unless the communication is in place to ensure the judge holds a timely hearing after arrest.

Several regions identified Step 7 (Arrest on Capias Pro Fine) for two reasons. One was that some officers either choose not to arrest for capiases pro fine or do not have access to capiases pro fines in the system in their patrol car, so arrests are not made. The other was that many jails will not accept individuals arrested on a capias pro fine. For those courts, the process leads to nowhere regarding enforcement and is not worth the trouble.

Other steps mentioned were Step 3 (Final Judgment) and Step 5 (Show Cause Hearing for Capias Pro Fine). Without a final judgment, there is no basis for the capias pro fine, as one region pointed out. Multiple regions shared the importance of correcting addresses for show cause notices and updating systems after someone is arrested on a capias pro fine to remove the capias pro fine.



CONCLUSION

More individuals (e.g., defendants, witnesses, and jurors) come into contact with municipal courts than all other Texas courts combined. Because these interactions are often the only direct exposure a person will have to the courts, the public's impression of the entire Texas judicial system is largely dependent upon their experience in municipal court. As such, it is vital that municipal courts ensure equal protection, preserve due process, and treat all individuals with dignity and respect. This starts with a firm grasp on all applicable laws.

Texas laws providing procedural protections to low-income defendants are among the best in the nation. In fact, *Tate v. Short* (1971), one of the early U.S. Supreme Court decisions related to indigence issues, originated in Texas. Since *Tate*, the Texas Legislature has addressed indigence and related issues numerous times. They have created, revised, and repealed state laws to reflect the most current guidance regarding indigence and the enforcement of fines. All criminal defendants, whether charged with a felony or a fine-only misdemeanor, are entitled to these procedural safeguards.

The structured format of the 2021-2022 Regional Roundtables & Statewide Summit fostered understanding, cooperation, application, and evaluation. The fair administration of justice has always been a foundation of TMCEC's judicial education. In recent years, however, TMCEC has added emphasis to issues related to fines, fees, costs, and indigence. This is in response not only to significant legislative changes, but also increased media attention to fine-only misdemeanors. The Regional Roundtables & Statewide Summit represents a continuation of this focus. It provided an opportunity for judges, court support personnel, and other municipal employees to get together and demonstrate a commitment to implementing new procedures regarding bail, fines, fees, community service, jail commitments, and jail credit.

The enterprise of municipal courts in Texas has undergone significant change in the last 20 years. Increased subject matter jurisdiction and a litany of new laws and legal issues have redefined their role. Challenging the misconception that municipal courts are little more than revenue generators that exclusively adjudicate traffic offenses, municipal courts in the 21st century serve a critical role in ensuring procedural fairness, preserving public safety, protecting quality of life in Texas communities, and deterring future criminal behavior.



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