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## WHEN THE ACTS OF A JUDGE MAY BE VOID: A Look at the Constitutional Oath Requirement in Light of Section 29.005 of the Texas Government Code

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Article XVI, Section 1 of the Texas Constitution requires all elected and appointed officials to take an oath of office before assuming the official duties of their office. Before assuming the official duties of their office, municipal judges must take the oaths in Subsections (a) and (b) and retain the signed statement required in Subsection (b) (known as the anti-bribery oath) with the official records of the office.<sup>1</sup> This has been interpreted to mean with the city secretary or the municipal court clerk.<sup>2</sup> Prior to 2001, Article XVI, Section 1 required all officers to file the signed statement in Subsection (b) with the Secretary of State. On November

6, 2001, Texas voters passed the provisions of HJR 75 amending this requirement, making it only applicable to members of the Legislature, the Secretary of State, and all other elected and appointed “state” officers, excluding elected and appointed municipal officers.<sup>3</sup>

Under Section 29.005 of the Texas Government Code, a municipal judge serves for a term of office of two years unless the municipality provides for a longer term. In 1993, the Texas Legislature amended Section 29.005 to provide that when a municipal judge’s term of office expires, if that judge is not reappointed within 91 days, he or she continues to serve for another term of office beginning on

*Oaths continued on pg. 3*

## SHADES OF GREY: Sometimes the Letter of the Law Exists Somewhere Between Black and White

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On a scale of one to 10 (10 being clear as a blue sky on a beautiful spring day and one being clear as mud), how clearly is legislation written? When this question was posed to a group of judges and clerks over the course of several judicial education seminars, the responses varied from a low of zero (with some already thinking outside of the box) to a high of seven, along with a few

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chuckles and groans. The statutes are there; we can read them in black and white. Unfortunately, an analysis of many statutes is not as black and white as the text with which the statutes are printed. Often, we must rely on our abilities to interpret those words. As the

*Shades of Grey continued on pg. 8*

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## AROUND THE STATE

### 2013 MUNICIPAL TRAFFIC SAFETY INITIATIVES AWARD WINNERS

TMCEC was proud to again sponsor the annual Municipal Traffic Safety Initiatives 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 in the area of traffic safety in 2012. All municipal courts in the State of Texas were eligible and encouraged to apply. In 2013, an impressive 24 courts were recognized for their exceptional efforts to increase traffic safety. Award recipients and honorable mentions were honored at the TMCEC Traffic Safety Conference on April 3rd in Austin.

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

- Alvin
- Harker Heights
- Hickory Creek
- Lakeway
- Universal City

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

- Bryan
- Burleson
- College Station
- Conroe
- Friendswood
- Frisco
- La Porte
- Mansfield
- Socorro

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

- Arlington
- El Paso
- Houston
- Irving

Honorable Mentions:

- Hutto
- Lewisville
- Odessa
- Pasadena
- Sweeny
- Windcrest

TMCEC hopes to offer the program again next year with TxDOT funding.



the date the previous term expired, unless the appointing authority acts in some way inconsistent with the retention of that office by the incumbent.<sup>4</sup> This is commonly referred to as a reappointment by operation of law. Whether an oath taken and filed prior to the previous term expires along with the previous term or continues to satisfy the constitutional requirement for subsequent terms is not specifically addressed by Article XVI, Section 1 or Section 29.005, which does not reference the oath of office at all,<sup>5</sup> but merely the term of office. Article XVI, Section 1 requires an oath for “appointed” officers, but does not expressly address the factual situation of a reappointment or of continuing to serve for another term. Case law is more alarming than it is helpful because no Texas case explicitly holds that a municipal judge must re-take and re-file an oath of office when he or she continues to serve a subsequent term under Section 29.005, but some Texas courts of appeal could be construed to suggest such a requirement and that the failure to do so results in a constitutionally disqualified judge.

### Texas Case Law

The El Paso Court of Appeals concluded in *Prieto Bail Bonds v. State*,<sup>6</sup> that the assignment of a senior judge to serve in a judicial capacity constitutes the appointment of the senior judge to a new office, who thus is required to take additional oaths upon retirement in order to comply with Article XVI, Section 1 of the Texas Constitution. *Prieto* involved a retired judge assigned by a regional presiding judge to preside over an impact court.<sup>7</sup> The retired judge had served as both a district judge and as a justice on the El Paso Court of Appeals for 23 years. He retired from the El Paso Court of Appeals in 1992. Upon his retirement, the retired judge made an election to continue serving as a senior judge pursuant to Section 75.001 of the Government Code.<sup>8</sup> The retired judge took his last oath of office in 1986 and apparently did not take any additional oaths upon retirement. The El Paso Court of Appeals determined on remand that the retired judge was an “appointed officer”

as a result of his assignment by the regional presiding judge to preside over the impact court.<sup>9</sup> Based upon this determination, the El Paso Court of Appeals nullified an order signed by the retired judge because he had not taken the oaths required of appointed officers.<sup>10</sup> Before the case was remanded, the same court held that the judge was a de facto judge despite the absence of an oath and his actions were not void; that the judge’s authority could only be questioned through quo warranto<sup>11</sup> action.<sup>12</sup> The remand was in light of the Court of Criminal Appeals opinion in *Wilson v. State*,<sup>13</sup> which overruled earlier precedent that a procedural irregularity in the assignment of a former judge who is otherwise qualified may be challenged only through a quo warranto proceeding, and held that a party may so challenge by regular appeal provided the party objects at pretrial. On remand, the El Paso court changed its mind and its holding.

The Eastland Court of Appeals respectfully disagreed with this holding in *Hennington v. State*.<sup>14</sup> In *Hennington*, the defendant filed a motion asking the court to void its previous opinion, contending that two of the justices who participated in the consideration of the subsequent appeal were not qualified to serve (consider his appeal) in accordance with the Texas Constitution, based on his allegation that they had failed to comply with the oath requirements for “appointed officers” contained in Article XVI, Section 1.<sup>15</sup> The court found that the oath requirements of Article XVI, Section 1 applied to newly appointed officers and that a senior judge sitting by assignment is neither an appointed officer nor an officer occupying a new office.<sup>16</sup> The justices in this case were retired justices sitting by assignment pursuant to Section 75.001 of the Government Code. The court also found that both justices had taken and filed the appropriate oaths of office *at the beginning of each term of office* while on active duty.<sup>17</sup> According to the court, such oaths taken and filed during active duty satisfied the constitutional requirements for oaths.<sup>18</sup>

What can we glean from these cases? Under *Prieto*, if a municipal judge who continues to serve a subsequent

## GREAT TEXAS WARRANT ROUNDUP

Over the past seven years, courts and law enforcement agencies from all over the State of Texas have joined together to form what is known as the Great Texas Warrant Roundup. The number of participants has grown each year, with representation from all parts of the State. The latest event took place in March of 2013 where over 325 entities participated—the highest number of participants to date! As of April 1, 2013, 198 participants reported clearing a combined 196,453 arrest warrants and *capias pro fines*, with a face value cleared of over 39.5 million dollars. Thanks to everyone who participated and reported, and made this year’s Great Texas Warrant Roundup a great success. Start preparing now for 2014. For questions or additional information, contact either Don McKinley at [don.mckinley@austintexas.gov](mailto:don.mckinley@austintexas.gov) or Rebecca Stark at [rebecca.stark@austintexas.gov](mailto:rebecca.stark@austintexas.gov).

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term pursuant to Section 29.005 is an “appointed officer,” he or she is required to take and file an additional oath. However, the judge in *Prieto* can be distinguished from a municipal judge continuing to serve under Section 29.005. The court found the retired judge to be “appointed” because of the process of assignment. Retired judges are assigned by the presiding judge of an administrative region pursuant to Section 74.055 of the Government Code. Under that section, the presiding judge maintains a list of retired and former judges who meet certain requirements and therefore qualify for assignments. The retired judge must certify to the presiding judge that he or she will not appear and plead as an attorney in any court in Texas for a period of two years. Thus, the retired judge’s placement on the presiding judge’s list, and thereby his or her eligibility to receive assignments, is subject to the presiding judge’s determination that the retired judge meets the statutory requirements. Under this statutory scheme, according to the El Paso Court of Appeals, the presiding judge is essentially a gatekeeper, and as such, his or her placement of a retired judge on the list is akin to an appointment of that retired judge to a position of availability for assignment to various courts as needed.<sup>19</sup> This process markedly differs from the operation of Section 29.005 on the reappointment of municipal judges, unless inaction by the appointing authority constitutes a gatekeeping function, which seems unlikely.<sup>20</sup> However, distinguishing *Prieto* does not fully resolve the issue.

While *Hennington* could support a parallel conclusion that municipal judges, who, like retired justices sitting by assignment, continue to serve another term pursuant to Section 29.005, are not newly appointed officers or officers occupying a new office requiring a new oath and filing, there is an important distinction between the two groups of judges. The justices satisfied the oath requirement, according to the court, by retaking and filing oaths at the beginning of each term of office during active duty. The parallel, thus, breaks down because the municipal judges cannot likewise rely on an oath taken and filed before “each” term of office if they have not taken and filed one upon reappointment by operation of law to a subsequent term. By not taking and filing an oath before continuing to serve another term, *Hennington* could be construed to mean that municipal judges have not satisfied the constitutional oath requirement.

In *Ex parte Dorsett*,<sup>21</sup> a Grapevine municipal judge signed an “Order Setting Pre-Trial Hearing” for April 7, 2005.<sup>22</sup> The appellant filed a motion to quash the charge because the municipal judge did not have a current oath of office on file.<sup>23</sup> The municipal judge promptly swore a new oath of office, denied appellant’s motion to quash, and provided him with a copy of the new oath of office.<sup>24</sup> Appellant

sought habeas relief, claiming that his liberty was illegally restrained by the municipal judge’s threat to issue a *capias pro fine* if he did not pay the fine and that the judgment was void because the municipal judge did not have an oath of office on file when the pretrial hearing order was issued.<sup>25</sup> The Fort Worth Court of Appeals found no merit in appellant’s argument, concluding that even if the municipal judge lacked authority to enter the order setting the pretrial hearing before he swore the new oath, he had the authority to render judgment after he swore the new oath.<sup>26</sup> The court noted that the judge’s term of office and oath would have expired before he signed the 2005 pretrial order since his last oath was in 1998 and Grapevine municipal judges serve four-year terms.<sup>27</sup> This suggests that an oath expires when a term expires, requiring a new oath to be taken and filed before each term. Without a new oath, this case implies that a judge may not have authority to enter orders or render a judgment.

Noticeably missing from this discussion are any cases, let alone Texas Court of Criminal Appeals cases, explicitly holding that a municipal judge must re-take and re-file an oath of office when he or she continues to serve a subsequent term under Section 29.005. However, if the suggestions of the aforementioned cases are correct and municipal judges must re-take and re-file an oath of office before each term, even when a term begins by operation of Section 29.005, then what are the consequences of failing to do so?

### Consequences

Case law suggests that failing to *file* an oath that has been taken does not deprive a judge of his or her authority,<sup>28</sup> however, the acts of a judge who has not *taken* the oath of office are void. The distinction between void and voidable is that an act that is void is no act at all,<sup>29</sup> whereas if an act is merely voidable, it must be attacked directly, and unless successfully attacked, becomes final.<sup>30</sup> After granting the State’s second motion for rehearing, the Texas Court of Criminal Appeals in *French v. State*,<sup>31</sup> held void the actions of a temporarily appointed municipal judge because he had not taken the oath of office. Different from being disqualified from acting in a particular case, the special judge in *French* did not possess the prescribed qualifications to act because he had not taken the constitutionally required oath.<sup>32</sup> The Court found that the right to act in the capacity as a judge depends upon the taking of the oath of office prescribed by the Constitution, constituting a condition precedent to his or her right to act in that capacity.<sup>33</sup> The municipal judge in *French*, however, had never taken an oath (and therefore couldn’t be a *de facto* or *de jure* judge according to the Court). So it is safe to say that the acts of a judge who has never taken an oath of office are void.

Are the acts of a judge who has taken an oath in a previous term likewise void? Recall *Prieto*, involving a retired judge subsequently assigned. The State argued in that case that previous oaths taken satisfied the constitutional requirement.<sup>34</sup> The El Paso Court of Appeals found this argument unpersuasive and without supportive authority, but offered no authority for its opposite conclusion.<sup>35</sup> The court went on to find that all judicial actions taken by the judge were without authority, and thus without effect.<sup>36</sup> Interestingly, as previously mentioned, the El Paso Court of Appeals originally held that the judge was a de facto judge despite the absence of an oath and his actions were not void, but on remand changed its holding, which it found did not require a determination of whether the judge's actions are void or merely voidable (but the court felt bound to mention the holding in *French* that "without the taking of the oath prescribed by the Constitution of this State, one cannot become either a de jure or de facto judge, and his acts as such are void").<sup>37</sup>

Prior to the holding in *French*, the de facto doctrine sustained a long history. Based on that doctrine, the dissent in *French* concluded that the alternate municipal judge appointed by the mayor pursuant to an ordinance of the City of Hurst was a de facto magistrate despite the fact that he had never taken an oath of office, making the search warrant he issued valid.<sup>38</sup> The dissent cites *Ex Parte Tracey*,<sup>39</sup> which calls it correct doctrine that a de facto officer may be one who holds under color of election or appointment or one who exercises the duties of an office for a length of time, and with acquiescence on the part of the authorities and of the public. The excerpt from that case cites *State v. Carroll*,<sup>40</sup> which, at that time, was considered to be the leading authority by all courts.<sup>41</sup> According to *Carroll*, a de facto officer exists under the following circumstances:

First, without a known appointment or election but under such circumstances of reputation or acquiescence as were calculated to induce people, without inquiry to submit to or invoke his action, supposing him to be the officer he assumed to be. *Second, under color of a known and valid appointment or election but where the officer had failed to conform to some precedent requirement or condition, as to take an oath, give a bond, or the like.* Third, under color of a known election or appointment, void, because the officer was not eligible, or because there was a want of power in the electing or appointing body, or by reason of some defect or irregularity in its exercise; such ineligibility, want of power, or defect being unknown to the public. Fourth, under color of an election or appointment, by or pursuant to a public unconstitutional law, before the same is adjudged to be such. (emphasis added)<sup>42</sup>

The United States Supreme Court called *Carroll* the leading case on what constitutes a de facto officer in *United*

*States v. Royer*.<sup>43</sup> The Texas Court of Criminal Appeals, in *Weatherford v. State*,<sup>44</sup> cited *Carroll* for the holding that a de facto officer is one who acts under color of a known and valid appointment, but has failed to conform to some precedent requirement, such as to take an oath, give a bond, or the like.<sup>45</sup>

Texas courts of appeal in the 20th and 21st centuries are not grappling with the doctrine of a de facto officer, but are instead summarily stating that a judge is constitutionally disqualified if he or she has not taken the required oaths and the acts of a judge who is constitutionally disqualified are void, citing *French*.<sup>46</sup> Recall that the municipal judge in *French* had never taken an oath. Is it not possible that a judge who has taken a previous oath and has been reappointed by operation of law is acting under color of a known appointment, and is thus a de facto judge? The answer is no if failing to re-take the oath makes a judge constitutionally disqualified. The Court in *French* was clear that a constitutionally disqualified judge cannot be a de facto judge.<sup>47</sup>

### Best Practice

The best practice for a municipal judge is to take and file an oath before each term of office, even if the term results as an operation of Section 29.005 of the Government Code. This is because some Texas case law suggests (or possibly assumes) an oath expires at the end of a term and a new oath and filing are required before each term to satisfy Article XVI, Section 1 of the Texas Constitution (assuming a judge who is reappointed by operation of law is an "appointed official" for constitutional purposes). If that is true, failing to re-take an oath makes a judge constitutionally disqualified and his or her acts are void. If a judge has not re-taken and re-filed an oath, and a defendant raises the issue before judgment, then according to *Dorsett*,<sup>48</sup> the judge should consider swearing and filing a new oath in order to have authority to render judgment. The idiom may be overused, but still rings true—better safe than sorry.

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<sup>1</sup> Article XVI, Section 1(c), Texas Constitution.

<sup>2</sup> See, W. Clay Abbott, "General Counsel Update: Constitutional Amendment Changes Destination of 'Anti-bribery' Affidavit," *The Recorder* (February 2002) at 1.

<sup>3</sup> *Id.*; See also, HJR 75, available at <http://www.capitol.state.tx.us/Search/DocViewer.aspx?K2DocKey=odbc%3a%2f%2fTLO%2fTLO.dbo.vwArchBillDocs%2f77%2fR%2fH%2fJR%2f0075%2f3%2fB%40TloArchBillDocs2&QueryText=H.J.R.+No.+75&HighlightType=1> (last visited April 15, 2013).

<sup>4</sup> See, *City of Robstown v. Verastegui*, 995 S.W.2d 315, 316 (Tex. App.—Corpus Christi 1999, no writ).

<sup>5</sup> Section 25.0017 of the Government Code specifically requires a regional presiding judge to maintain a file containing the

oaths of office filed with the presiding judge as required by Section 25.0017(a). There is no such provision in Chapter 29 for municipal judges. *See, McMillan v. State*, 2012 Tex. App. LEXIS 6627 (Tex. App.—Corpus Christi Aug. 9, 2012).

<sup>6</sup> 994 S.W.2d 316, 319-20 (Tex. App.—El Paso 1999, pet. ref'd).

<sup>7</sup> *Id.* at 318.

<sup>8</sup> Section 75.001. Judicial Retiree Election to Be Judicial Officer. (a) A retiree under Subtitle D or E of Title 8 may elect to be a judicial officer. (b) An election under this section may be made: (1) not later than the 90th day after the date of the person's retirement in a document addressed to the chief justice of the supreme court; or (2) after the 90th day after the date of the person's retirement in a petition addressed to the supreme court. (c) An election under Subsection (b)(2) takes effect only on approval of the petition by the supreme court. (d) A retiree who makes an election under this section shall be designated a senior judge.

<sup>9</sup> *Prieto*, 994 S.W.2d at 319-20.

<sup>10</sup> *Id.* at 321.

<sup>11</sup> Quo warranto is Latin for "by what warrant;" the name for a writ (order) used to challenge another's right to either public or corporate office. *See, Nolo's Plain English Law Dictionary*, available at <http://www.nolo.com/dictionary/quo-warranto-term.html>.

<sup>12</sup> *See, Prieto Bail Bonds v. State*, 948 S.W.2d 69, 71-72 (Tex. App.—El Paso 1997, pet. granted, judgment vacated and cause remanded), 978 S.W.2d 574, 575 (Tex. Crim. App. 1998).

<sup>13</sup> 977 S.W.2d 379 (Tex. Crim. App. 1998).

<sup>14</sup> 144 S.W.3d 42, 45 (Tex. App.—Eastland 2004, pet. ref'd).

The Austin Court of Appeals also disagreed with *Prieto's* reasoning in *Delamora v. State*, 128 S.W.3d 344, 359 (Tex. App.—Austin 2004, pet. ref'd) (distinguished its own case based on the law and facts, and recognized that it is not bound by another appellate court).

<sup>15</sup> *Hennington*, 144 S.W.3d at 43 (the provision of the Constitution that applied in this case was subsequently amended in 2001, but does not affect the court's analysis or the application of this case to this article).

<sup>16</sup> *Id.* at 45.

<sup>17</sup> *Id.* at 43 (emphasis added).

<sup>18</sup> *Id.* at 46.

<sup>19</sup> *Prieto*, 994 S.W.2d at 320.

<sup>20</sup> *See, Tex. Atty. Gen. Letter Op. No. 97-020* (concluding that the Legislature intended any affirmative action taken by a city council to mean "action" under Section 29.005 of the Government Code).

<sup>21</sup> 2006 Tex. App. LEXIS 8134 (Tex. App.—Fort Worth Sept. 14, 2006, pet. ref'd).

<sup>22</sup> *Id.* at \*2.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at \*3.

<sup>26</sup> *Id.* at \*6; *See also, Stoudenmeier v. First Nat'l Bank of Wichita Falls*, 246 S.W. 761 (Tex. Civ. App.—Fort Worth 1922, no writ) (holding that a judgment was not void when a trial judge failed to take the oath of office before issuing a "writ of inquiry," but did take the oath of office before entering a final judgment).

<sup>27</sup> *Id.* at \*4.

<sup>28</sup> *See, Thomas v. Burkhalter*, 90 S.W.3d 425, 427 (Tex.

App.—Amarillo 2002, pet. denied) (absence of oaths does not establish that they were never taken); *Soderman v. State*, 915 S.W.2d 605, 611-12 (Tex. App.—Houston [14th Dist.] 1996, writ ref'd); *Treis v. Swalberg*, 2008 Tex. App. LEXIS 4497, 2-3 (Tex. App.—Waco June 18, 2008, no pet.).

<sup>29</sup> *Lindsay v. Jaffray*, 55 Tex. 626 (1881) ("A void judgment is in legal effect no judgment") (quoting Freeman on Judgments, Section 117).

<sup>30</sup> *Roccaforte v. Jefferson County*, 341 S.W.3d 919, 922 (Tex. 2011).

<sup>31</sup> 572 S.W.2d 934, 939 (Tex. Crim. App. 1977).

<sup>32</sup> *Lackey v. State*, 364 S.W.3d 837, 843 (Tex. Crim. App. 2012);

*Davis v. State*, 956 S.W.2d 555, 559 (Tex. Crim. App. 1997).

<sup>33</sup> *French*, 572 S.W.2d at 939.

<sup>34</sup> *Prieto*, 994 S.W. 2d at 320.

<sup>35</sup> *Id.* at 321.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *French*, 572 S.W.2d at 939.

<sup>39</sup> 93 S.W. 538 (Tex. Crim. App. 1905).

<sup>40</sup> 38 Conn. 449 (Conn. 1871).

<sup>41</sup> *Id.*

<sup>42</sup> *State v. Carroll*, 38 Conn. 449, 471-472 (Conn. 1871).

<sup>43</sup> 268 U.S. 394, 397 (1925).

<sup>44</sup> 21 S.W. 251 (Tex. Crim. App. 1893).

<sup>45</sup> The Court went on to say such is the holding in *Cox v. Houston & Texas Central Railway Company*, 4 S.W. 455, 457 (Tex. 1887); *Thompson v. Johnson*, 19 S.W. 784 (Tex. 1893); *McKinney v. O'Connor*, 26 Tex. 5 (1861).

<sup>46</sup> *See, Ex parte Dorsett*, 2006 Tex. App. LEXIS 8134, \*4-\*5 (Tex. App.—Fort Worth Sept. 14, 2006, pet. ref'd); *Kneip v. State*, 2001 Tex. App. LEXIS 5326 (Tex. App.—San Antonio August 8, 2001, no writ); *Lovell v. Wilson*, 1998 Tex. App. LEXIS 4161 (Tex. App.—Dallas July 4, 1998, no writ).

<sup>47</sup> In fact, the appellant's petition for discretionary review in *Prieto* was granted in part to determine whether the court of appeals erred in concluding that the judge was a de facto judge acting under color of title because he had not taken the prescribed oath of office. As discussed previously, case law suggests that by failing to re-file the oath, a judge does not meet the constitutional requirements of Article XVI, Section 1. And the consequence of not re-taking the oath, thus, appears to be that the judge's actions are void. The Court as recently as 1997 contrasted the consequences of acts involving the violation of a statutory procedure with constitutional disqualification and lack of qualification, referring to the former as having not been deemed to be void, but voidable, but the latter as void. *Davis v. State*, *Supra* note 32. Moreover, the Court has said a challenge to a judge's qualifications may be raised at any time and is not waived by failure to object at trial. *See, Wilson v. State*, 977 S.W.2d 379, 380 (Tex. Crim. App. 1998); *Johnson v. State*, 869 S.W.2d 347, 351 (Tex. Crim. App. 1994).

<sup>48</sup> The Fort Worth Court of Appeals held in *Ex Parte Dorsett* that the district court did not err in concluding that Appellant was not entitled to habeas corpus relief because the municipal judge had authority to enter judgment, which was not void, where he had renewed his oath of office before he entered judgment. *See, endnotes 21 and 26.*

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## Anti-bribery Statement of Officer and Oath of Office

Upon appointment or election and before assuming the duties of office, all judges and clerks of the court must first file a sworn statement of officer with the records of the office. Usually, the city secretary maintains these records. As shown on this page, the statements are different for elected and appointed officials. After filing one of the anti-bribery statements, the official, whether elected or appointed, must then swear to the oath of office. The oath is filed with the city secretary.

These forms are accessible online [www.tmcec.com/Resources/Books/Forms\\_Book](http://www.tmcec.com/Resources/Books/Forms_Book) at or in the 2011 edition of the *TMCEC Forms Book*, Chapter 1 or at [www.tmcec.com/Programs/Judges/Oaths\\_of\\_Office](http://www.tmcec.com/Programs/Judges/Oaths_of_Office).

ANTI-BRIBERY OATH OF APPOINTED OFFICER (Pursuant to Tex. Const. Art. XVI, Sec. 1(b), amended 2001)

### THE STATE OF TEXAS

**Statement of Appointed Officer**  
(Please type or print legibly)

I, \_\_\_\_\_, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment, as a reward to secure my appointment or confirmation thereof, so help me God.

\_\_\_\_\_  
Affiant

ANTI-BRIBERY OATH OF ELECTED OFFICER (Pursuant to Tex. Const. Art. XVI, Sec. 1(b), amended 2001)

### THE STATE OF TEXAS

**Statement of Elected Officer**  
(Please type or print legibly)

I, \_\_\_\_\_, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected, so help me God.

OATH OF OFFICE (Tex. Const. Art. XVI, Sec. 1(a), amended 2001)

### IN THE NAME AND BY THE AUTHORITY OF

### THE STATE OF TEXAS

#### Oath of Office

I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and the laws of the United States and of this State, so help me God.



Texas Legislature is hard at work drafting, tweaking, and repealing laws, this is a perfect time to examine some of the statutes that are not so clearly written. Perhaps American songsmith Billy Joel said it best:

*Shades of grey wherever I go  
The more I find out the less that I know  
Black and white is how it should be  
But shades of grey are the colors I see.<sup>1</sup>*

No, this is not part four to a bestselling adult book franchise, but rather an opportunity to dissect and discuss some of the statutes affecting municipal courts, where interpretation creates areas that do not fit squarely into the black or the white. Instead, we are left to navigate through the shades of grey.

### **To Accept or Not to Accept: A Payment by Mail**

Municipal and justice courts operate under special (more specific) rules, within an entire chapter in the Code of Criminal Procedure: Chapter 45. However, other rules exist outside of Chapter 45 and relate only to cases involving fine-only misdemeanors. One of these rules allows a defendant to send in payment of a fine and costs by mail, without entering a plea otherwise.<sup>2</sup>

Consider the following scenario. A defendant is cited with a moving violation. The amount listed on the citation as acceptable to the court is \$197.10. The defendant sends in \$125. How can this be handled? Let us look to a portion of Article 27.14 of the Code of Criminal Procedure for some guidance.



### **PLEA OF GUILTY OR NOLO CONTENDERE IN MISDEMEANOR.**

(c) In a misdemeanor case for which the maximum possible punishment is by fine only, payment of a fine or *an amount accepted by the court* constitutes a finding of guilty in open court as though a plea of nolo contendere had been entered by the defendant and constitutes a waiver of a jury trial in writing. (emphasis added)

If you receive a lesser amount than that listed as acceptable to the court, can you interpret it as a nolo contendere plea, convict the defendant, and then seek the remainder of the balance? Or are you limited to either rejecting the payment or accepting it as full payment? Reasonable minds disagree. Two well-respected municipal judges were asked for their thoughts on this situation. One said you could indeed accept it and convict the defendant, and then give notice that they still owe \$72.10. The other treated the situation in a way consistent with the notions of accord and satisfaction in civil practice—that if what is offered is accepted by the court, it is in satisfaction of the entire debt. Nonetheless, many municipal judges balk at the idea of treating a defendant’s payment as a settlement offer of sorts.

To accept means to receive something with approval and intention to keep it.<sup>3</sup> Some think that if a lesser amount is accepted, then it is an amount “acceptable” to the court and nothing else is owed. Others rely on the common meaning of accept as merely taking a payment, with the remainder still owed. The grey exists in the definition of “accepted” and how judges interpret the statute.

### **To Appear or Not to Appear: For a Minor Alcohol Offense**

It is a general rule that child defendants must appear in open court to enter a plea.<sup>4</sup> This can be problematic when the child defendant does not reside in the area where the case is pending; however, child defendants may, with leave of the court, enter their plea before a judge in the county of their residence.<sup>5</sup>

In another far off code, exists a statute made up of just 18 words that has caused quite a bit of frustration to judges, especially in college towns and vacation spots. Chapter 106 of the Alcoholic Beverage Code governs minor alcohol offenses<sup>6</sup> and the sentencing guidelines for minors charged with such offenses. Section 106.10 provides:

### **PLEA OF GUILTY BY MINOR.**

No minor may plead *guilty* to an offense under this chapter except in open court before a judge.



(emphasis added)

Presumptively, this provision is meant to parallel the one in Article 45.0215 of the Code of Criminal Procedure, requiring the personal presence of a child defendant, before the judge, to enter a plea. Why might the Legislature desire for child defendants to personally appear before the judge? Most likely, it is so the judge has the opportunity to talk to the child and attempt to curb any potential gateway behavior. Minors charged with alcohol offenses, unfortunately, often end up committing drug or higher alcohol-related offenses, so it makes sense that the Legislature would also want judges to have the opportunity to counsel minors (defendants under 21 years of age who are charged with minor alcohol offenses) rather than just allow the defendant to enter a plea by mail and never go before a judge. Requiring a personal appearance encourages the minor to take responsibility for his or her actions and, through the inconvenience of having to appear in court, take the charge more seriously.

Nonetheless, compare Section 106.10 to Article 45.0215. Note that in the Code of Criminal Procedure, the child must enter *a plea* in open court, but under the Alcoholic Beverage Code, the minor must only enter *a plea of guilty* in open court. Does this mean that a minor can enter a plea of not guilty or no contest through some means other than in person in open court, say through appearance by an attorney or even by mail?

Consider a spring break hypothetical. Olive Tudrink, a 20-year-old Texas Tech student, is on her college spring break trip in South Padre Island where she is ticketed for minor in consumption of alcohol. Her court date is set for three weeks later, but by that time, she is back in Lubbock and knee-deep in studying for finals. Must Olive really travel back to South Padre Island to enter a plea to the alcohol charges? Is the court really unable to proceed on this case until Olive can physically appear all the way across Texas? According to Section 106.10, Olive cannot plead guilty except in open court before the judge. But can she plead no contest through the mail or by hiring an attorney to appear on her behalf in the South Padre Island Municipal Court?

A strict interpretation of the statute seems clear that, yes, Olive can plead no contest through the mail or hire an attorney to appear on her behalf. But does that interpretation accomplish the purpose behind the statute of requiring a minor to appear before a judge for sentencing? Consider too that judges are required to impose certain sanctions on minors convicted of or put on deferred for certain alcohol-related offenses, including awareness classes and community service. Because we are talking about minors (those under 21

years of age charged with minor alcohol offenses), the provision in Chapter 45 allowing a child defendant to enter a plea in the county of his or her residence does not apply, as children are minors, but not all minors are children (i.e., those who are 17- to 20-years old).

So what is a judge to do? The answer is not so clear, and the practice varies across the state, with some judges requiring a personal appearance and many defense attorneys making big business off these cases in beach, vacation, or college towns.

#### Bill to Watch

**H.B. 310: if enacted would help resolve the problem of requiring a personal appearance by those minor defendants who live out of the area. The bill would make an exception to the requirement in Section 106.10 that a plea of guilty be entered in open court for those minors who live outside of the county where the offense is alleged to have been committed, as long as they are not charged with driving under the influence and have not been previously convicted of a Chapter 106 Alcoholic Beverage Code offense. The bill would not resolve the issue of whether a plea other than guilty can be entered without a personal appearance.**

#### To Collect or Not to Collect: The \$20 Fee on an Expired Inspection Sticker

Vehicles are required to be annually inspected, with limited exceptions, and display a valid inspection sticker on the front windshield. It is an offense to operate a vehicle with an expired inspection sticker.<sup>7</sup> Nevertheless, Section 548.605 of the Transportation Code provides a compliance dismissal allowing a charge of driving with an expired inspection certificate to be dismissed if the defendant remedies the defect. Let us go directly to the statute:

#### DISMISSAL OF CHARGE; ADMINISTRATIVE FEE.

(a) In this section, “working day” means any day other than a Saturday, a Sunday, or a holiday on which county offices are closed.

(b) The court shall:

(1) dismiss a charge of driving with an expired inspection certificate if:

(A) the defendant remedies the defect within 20 working days or before the defendant’s first court appearance date, whichever is later; and

(B) the inspection certificate has not been expired for more than 60 days; and

(2) assess an administrative fee not to exceed \$20 when the charge of driving with an expired

inspection certificate has been remedied.  
(c) Notwithstanding Subsection (b)(1)(B), the court may dismiss a charge of driving with an expired inspection certificate that has been expired for more than 60 days.<sup>8</sup>

Interpretation of this statute essentially results in two compliance dismissals: one for those stickers expired 60 days or less and another for those expired more than 60 days. For those expired 60 days or less, the defendant is *entitled* to a dismissal, meaning the court shall dismiss,<sup>9</sup> if the defendant gets the vehicle inspected and pays the administrative fee. If the sticker has been expired more than 60 days, the defendant is no longer entitled to a dismissal but it is at the court's discretion and no fee is authorized to be assessed.<sup>10</sup>

The statute seems clear enough, but many judges and clerks have questioned why a defendant would have to pay an administrative fee when driving on an inspection sticker that was expired only one month, but not have to pay a fee when driving on an inspection sticker that was a year out of date.

Although it is firmly established that a court cannot assess a fee against a defendant without the express statutory authority to do so,<sup>11</sup> does Section 548.605 prohibit a court from assessing an administrative fee on a dismissal for an inspection sticker more than 60 days expired? The long-held belief is yes, but a closer look at the statute reveals the answer is not so black and white. Subsection (b) says that the court must dismiss the charge if (1)(A), (1)(B), and (2) are all met. Those requirements are that the defect is remedied by a certain time, the inspection sticker has not been expired more than 60 days, and the defendant pays the administrative fee, respectively. Subsection (c) provides that notwithstanding Subsection (b)(1)(B), the provision regarding the 60-day expiration, the court may dismiss the charge. Subsection (c) simply changes the *shall* (mandatory dismissal) to a *may* (discretionary dismissal) if the certificate was expired more than 60 days; it does nothing to affect subsection (b)(2)—the assessment of an administrative fee.

Some have argued that Subsection (c) stands on its own; therefore, if no fee is authorized in Subsection (c), then no fee can be assessed. However, under this rationale, the deadline for a defendant to remedy the defect (at the later of 20 working days or the first court appearance) would also not apply. Can it really be that a defendant would have an unspecified amount of time in which to remedy the defect and still possibly be eligible for a dismissal? Moreover, if Subsection (c) truly stands on its own, then a court could dismiss a

charge for an expired inspection sticker that had been expired more than 60 days without even obtaining compliance! Certainly the Legislature did not intend this.<sup>12</sup>

An unofficial poll of several well-respected municipal judges and court administrators revealed that several courts do assess an administrative fee when the sticker was expired more than 60 days; however, they do not promote that fact. A few judges do not assess the fee because the statute is vague enough to cause concern. Other courts simply do not grant the discretionary compliance dismissal for those long-overdue inspections to avoid any question of whether an administrative fee is authorized.

#### Bills to Watch

**S.B. 790: if enacted, would correct this issue by explicitly adding a provision to Subsection (c) providing that the court shall assess an administrative fee of \$20 when dismissing a charge under Subsection (c) (the discretionary dismissal for those stickers expired more than 60 days). The bill would also create a flat \$20 administrative fee for all compliance dismissals, resolving some of the other confusion surrounding compliance dismissals.**

**H.B. 2890 and S.B. 1350: if enacted would repeal Section 548.605 altogether, in an effort to combine the registration sticker and inspection sticker into one.**

#### To Move or Not to Move: to Dismiss

When statutes are drafted, there can be exceptions, defenses, and affirmative defenses to its application; each carries a different burden. It is up to the defendant to raise the existence of a defense at trial. A defense to prosecution is not a compliance dismissal. Rather, if a defense is raised, one of two things should happen: the issue is turned over to the fact finder at trial to result in an acquittal<sup>13</sup> or the prosecutor can make a motion to dismiss that the court can grant. The court may not sua sponte dismiss a case just because the defendant introduces evidence of a defense.

There are a few common defenses to prosecution that raise the question: is a motion from the prosecutor required for a court to dismiss the charge? This comes up especially when the defendant brings in proof of financial responsibility, proof of a driver's license, or proof of a child safety seat.<sup>14</sup>

Let us start with the defense to the charge of Failure to Maintain Financial Responsibility<sup>15</sup> contained in

Section 601.193 of the Transportation Code.

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.

The statute clearly says proof of financial responsibility is a defense to prosecution, which would ordinarily require evidence at trial and an acquittal or the granting of a motion to dismiss from the prosecutor. However, Subsection (b) contemplates the court dismissing the charge, and, as some argue, gives the court authority to unilaterally dismiss the charge following verification of the proof.

How many courts require the prosecutor to make a motion to dismiss each individual FMFR charge after the defendant has brought in, for example, proof of valid insurance? How many prosecutors are even involved with a case at this stage? Technically, to dismiss such a charge, following evidence of a defense, the court would need a motion to dismiss from the prosecutor. For those judges who read the statute this way, prosecutors commonly file a standing motion to dismiss all cases in which the defense statute would apply. The standing motion is the easiest solution to bridge the grey area between the competing interpretations that, on one hand, the prosecutor must make a motion to dismiss for the court to so order, and on the other hand, that the court is given the authority to dismiss from the confusing language in the statute.

The defense to prosecution for not having a valid driver's license in one's possession while operating a vehicle is more problematic. Section 521.025 provides, in part:

LICENSE TO BE CARRIED AND EXHIBITED ON DEMAND; CRIMINAL PENALTY.

(d) It is a defense to prosecution under this section if the person charged produces in court a driver's license:

- (1) issued to that person;
- (2) appropriate for the type of vehicle operated; and
- (3) valid at the time of the arrest for the offense.

(f) The court may assess a defendant an administrative fee not to exceed \$10 if a charge under this section is dismissed because of the defense listed under Subsection (d).

Clearly, it is a defense to prosecution to bring in proof of a valid driver's license; it is not a compliance dismissal. However, Subsection (f) reads more like a compliance dismissal with the assessment of an administrative fee. Note, though, that the court may assess the administrative fee *if* the case is dismissed; it does not contemplate the fee being assessed *prior* to the case being dismissed. On what authority can a court assess fees against a defendant *after* a dismissal?

Again, there is disagreement in how judges interpret this statute, with some requiring a motion to dismiss from the prosecutor and others treating this more like a compliance dismissal not needing a prosecutor's involvement. Many courts, in an effort to avoid any claims of improper assessment, decline to assess the administrative fee post-dismissal. A standing motion from the prosecutor helps to bridge the gap between the competing interpretations.

Lastly, the common and controversial defense to prosecution available to a person charged with a child passenger safety seat offense is found in Section 545.4121 of the Transportation Code.

DEFENSE; POSSESSION OF CHILD PASSENGER SAFETY SEAT SYSTEM.

(a) This section applies to an offense committed under Section 545.412.

(b) It is a defense to prosecution of an offense to which this section applies that the defendant provides to the court evidence satisfactory to the court that the defendant possesses an appropriate child passenger safety seat system for each child required to be secured in a child passenger safety seat system under Section 545.412(a).

This defense is more in line with the traditional defense to prosecution, as contemplated in the Penal

**Bills to Watch Regarding Section 545.4121**

**H.B. 1294: if enacted would limit the defense to prosecution to those defendants who can show that they were not also cited or arrested for any other offense and subsequently obtained a child passenger safety seat.**

**H.B. 2790: if enacted would limit the defense to those defendants charged with their first offense of violating the child passenger safety seat requirement who were not involved in a motor vehicle collision at the time of the offense.**

**S.B. 271: if enacted would repeal the defense altogether.**

Code definition. Notice how the defendant must provide evidence that is satisfactory to the court. This contemplates some sort of trial proceeding where the court rules on the defense. However, it does not then authorize the court to dismiss the charge; rather, the court would then acquit the defendant. For a dismissal, the court would need to rule on a motion to dismiss. Nevertheless, because of efficiency concerns, the lack of prosecutorial involvement prior to a plea being entered, and the use of standing orders, many courts, process these cases as dismissals. Although technically improper, the statutes are just vague enough to fall in the grey area.

### To Clear or Not to Clear: an OmniBase Hold

Arguably the most valuable passive enforcement tool at the courts' disposal is the Failure to Appear/Failure to Pay OmniBase program. In a nutshell, the program allows courts to flag a person's license, denying renewal to those defendants who have failed to appear or have failed to pay for any offense in the municipal court's jurisdiction. Overall, courts feel it is a wonderful program that works well and clearly.<sup>16</sup> There are, however, a few of shades of grey lurking in the statutes. Consider the following situation:

An angry defendant calls you. Last year, he missed two appearance dates. He was flagged in the Failure to Appear/OmniBase program that holds the renewal of his license. He has since moved to Arkansas, and cannot get his license there either as a result of this OmniBase hold. He owes \$500, and he would like to be put on a payment plan. Generally, you approve payment plans, but you have some hesitation with this one as he is now an out of state defendant. You tell him that he can indeed pay over time, but you will not release the OmniBase hold until his judgment is paid in full. This makes practical sense, because with the hold, there is an incentive to pay; but once the hold is lifted and the defendant gets his license, the incentive to pay disappears. Furthermore, if the defendant makes one payment, gets his license in Arkansas, and then stops paying, OmniBase will no longer apply to him as an Arkansas resident. The defendant is upset because he needs and wants his license in Arkansas.

So the question becomes: can OmniBase holds be cleared this way when dealing with payment plans? What do the statutes say? Let us look to part of Section 706.005 of the Transportation Code.

CLEARANCE NOTICE TO DEPARTMENT.  
(a) A political subdivision shall immediately notify the department that there is no cause to continue to deny

renewal of a person's driver's license based on the person's previous failure to appear or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a), on payment of a fee as provided by Section 706.006 and:

- (1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;
- (2) the dismissal of the charge for which the warrant of arrest was issued or judgment arose;
- (3) the posting of bond or the giving of other security to reinstate the charge for which the warrant was issued;
- (4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or
- (5) other suitable arrangement to pay the fine and cost within the court's discretion.

Reading Section 706.005(a) and (a)(5), we can see courts shall immediately lift the hold on payment of the fee and a "suitable arrangement" to pay the fine. The arrangement has to be "suitable" within the court's discretion, and it is important to note that a judge never *has* to offer a defendant a payment plan. Many judges have interpreted this statute to provide that the court could say the only "suitable" arrangement is for the OmniBase fee to be paid and the hold lifted only upon the last and final payment. Others feel that if they are going to accept a payment plan and the OmniBase fee has been paid, then the court must lift the hold on acceptance of the agreement.

### Bill to Watch Regarding the OmniBase Program

**H.B. 2890: if enacted would reduce the administrative fee from \$30 to \$10.**

### OmniBase Discharge

Another issue related to OmniBase is the discharge of the \$30 administrative fee. Consider the following scenario. A defendant is convicted, but the judge finds her to be indigent and she satisfied her judgment through community service. Does this satisfaction through community service apply to the OmniBase fee as well?

Refer once again to Section 706.005 (printed above), which requires the city to immediately send a clearance notice upon payment of the \$30 OmniBase fee and the "payment or discharge" of the fine and costs of court. Upon reading the statute, one could easily interpret it to mean that the OmniBase fee is clearly separate from the fines and costs of the case as they are mentioned in separate clauses. However, an equally

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reasonable interpretation would be that the OmniBase fee is a cost of court, and it is possible to discharge through community service. After all, if a defendant is indigent and cannot afford to pay the fine and court costs, it makes little sense that they could afford to pay this administrative fee to release the hold. As courts can no longer engage in the “pay or lay system,” an indigent person always has to be offered an alternate means of discharge other than payment of money.<sup>17</sup> An alternate means is to offer the indigent an alternative to jail if they cannot pay, and a defendant should never be jailed for an unpaid OmniBase fee. However, the OmniBase statutes never contemplate what happens when the court does not collect actual money from the defendant, whereas the statutes governing third party collections contracts—another useful collections tool—do contemplate the growing number of defendants who discharge payment of fines and court costs through community service. One can see the black and white begin to blur and gaps start to surface.

### **To Serve or Not to Serve: Criminal Process from Municipal Courts**

Municipal judges are authorized to issue warrants of arrest for defendants charged with offenses in their court. Article 45.014 of the Code of Criminal Procedure provides that when a sworn complaint or affidavit based on probable cause is filed with the court, the judge may issue a warrant for the arrest of the accused. The warrant shall be directed to the proper peace officer and command that the defendant be brought before the authority issuing the warrant. The statute goes on to provide that Chapter 15 of the Code of Criminal Procedure applies to a warrant of arrest issued under Chapter 45 to the extent it is not inconsistent or in conflict with Chapter 45.

Article 15.06 of the Code of Criminal Procedure provides that a warrant of arrest issued by any county or district clerk or by any magistrate (except a mayor-magistrate) shall extend to any part of the State and that any peace officer to whom the warrant is directed or into whose hands the warrant has been transferred shall be authorized to execute the warrant in any county in the State. The common practice in Texas is that any arrest warrant issued by the judge can be served by any peace officer anywhere in the State. Were this not the case, think of how difficult it could be to enforce court orders to appear for Class C misdemeanor cases.

However, Article 45.202 of the Code of Criminal Procedure, the specific provision for municipal courts,

complicates the analysis, taking it out of the realm of black and white and putting it squarely into the grey area.

#### **SERVICE OF PROCESS.**

(a) All process issuing out of a municipal court may be served and shall be served when directed by the court, by a peace officer or marshal of the municipality within which it is situated, under the same rules as are provided by law for the service by sheriffs and constables of process issuing out of the justice court, so far as applicable.

(b) The peace officer or marshal may serve all process issuing out of a municipal court anywhere in the county in which the municipality is situated. If the municipality is situated in more than one county, the peace officer or marshal may serve the process throughout those counties.

What is the definition of process? According to *Black's Law Dictionary* (9<sup>th</sup> Edition), process is a summons or writ, especially to appear or respond in court. Criminal process is defined as “a process (such as an arrest warrant) that issues to compel a person to answer for a crime.” The TMCEC Certification Study Guide defines process as written orders issued by a judge or magistrate, and includes a warrant of arrest, a capias, a capias pro fine, and a summons.<sup>18</sup>

What does this mean? The broader interpretation is that arrest warrants are arrest warrants (whether issued under Chapter 15 of the Code of Criminal Procedure or the more-specific Article 45.014) and can thus be served by any officer anywhere in the State. The narrower interpretation is that an arrest warrant issued by a municipal judge as a judge and not a magistrate is governed by Article 45.202, and can therefore only be served by the peace officer or marshal in the county where the city is located. This interpretation is bolstered by the fact that Article 15.06—authorizing service of warrants anywhere in the State—applies specifically to arrest warrants issued by magistrates. An arrest warrant issued under Article 45.014 is issued by a judge, not a magistrate, having jurisdiction of a case filed in his or her court.

The latter interpretation is widely criticized by warrant officers working in the municipal courts because of the fear that it would limit the officers' ability to execute warrants in those cities that are close to a county border. Surely the law cannot mean that if an officer is in the neighboring town, just across a county border, and sees a wanted subject, that the officer has no authority to make the arrest. This is one grey area with potentially scary consequences depending on the interpretation.

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## To Credit or Not to Credit: \$50 per Eight Hours of Time Served

One final grey area—for purposes of this article at least—that has left some judges scratching their heads is the issue regarding credit for time served in jail. How much credit are defendants entitled to? Is there a maximum amount?<sup>19</sup>

It is well-settled that a person earning credit for time served is due no less than \$50 per period of time, period being between eight and 24 hours in jail. We find that guidance in Article 45.048 of the Code of Criminal Procedure.

### DISCHARGED FROM JAIL.

(a) A defendant placed in jail on account of failure to pay the fine and costs shall be discharged on habeas corpus by showing that the defendant:

- (1) is too poor to pay the fine and costs; or
- (2) has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$50 for each period of time served, as specified by the convicting court in the judgment in the case.

(b) A convicting court may specify a period of time that is not less than eight hours or more than 24 hours as the period for which a defendant who fails to pay the fines and costs in the case must remain in jail to satisfy \$50 of the fine and costs.

Confusion arises, however, when reading Subsection (a) (2) in conjunction with Subsection (b). Subsection (a) (2) mentions “not less than \$50” which is very different than Subsection (b) which says the court should specify a period of time (at least eight and not more than 24 hours) that the person must remain to satisfy \$50. The former has no upper limit (just a minimum of \$50 per 24 hours served); the latter would limit credit to no more than \$50 per eight hours.

## Conclusion

Continuing with Billy Joel’s lyrics from the song *Shades of Grey*:

*Now with the wisdom of years  
I try to reason things out  
And the only people I fear  
are those who never have doubts.*

Ideally, all legislation would be written so as never to warrant interpretation; however, realistically, judges are tasked with deciding issues of law and interpreting what statutes mean, require, or prohibit. Statutes can be confusing and interpretations may conflict, but many courts rely on these grey areas to tailor procedures that

most appropriately satisfy the needs of their court and community. At the very least, thinking about these shades of grey helps us all to better attempt to effectuate the letter of the law. And besides, if everything were black and white, what fun would that be?

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<sup>1</sup> Lyrics and performance by Billy Joel, *Shades of Grey*, from the *River of Dreams* album (1993).

<sup>2</sup> Article 27.14(c), Code of Criminal Procedure.

<sup>3</sup> Definition from [www.dictionary.law.com](http://www.dictionary.law.com). See also, Section 311.011(a) of the Government Code, regarding the common usage of words.

<sup>4</sup> Article 45.0215(a)(1) of the Code of Criminal Procedure requires that in any case against a child (defined as a person under the age of 17 who has not had the disabilities of minority removed), the municipal judge or justice of the peace must take the defendant’s plea in open court. The statute also provides that a person charged with “sexting” must enter a plea in open court. Article 45.0215(a)(2), Code of Criminal Procedure.

<sup>5</sup> Article 45.0215(c), Code of Criminal Procedure.

<sup>6</sup> Minor alcohol offenses are: minor in consumption, minor in possession, minor driving under the influence, purchase of or attempt to purchase alcohol by a minor, or misrepresentation of age by a minor.

<sup>7</sup> Section 548.602, Transportation Code.

<sup>8</sup> Note that this statute parallels the compliance dismissal for an expired handicap parking placard that is found in Section 681.013 of the Transportation Code.

<sup>9</sup> See, Section 311.016(2), Government Code.

<sup>10</sup> See, Section 311.016(1), Government Code.

<sup>11</sup> See, Articles 103.002 and 45.203(d), Code of Criminal Procedure.

<sup>12</sup> A review of the legislative history on Section 548.605 reveals that the original statute was a discretionary dismissal if the defendant remedied the defect within 10 working days and allowed the court to assess an administrative fee not to exceed \$10. A 1999 amendment created the two dismissals, one mandatory and one discretionary, and a 2007 amendment increased the time frame in which the defendant had to comply and the amount of the administrative fee. Nowhere in the bill analysis for any of the amendments is it stated or implied that a fee cannot be charged for a discretionary dismissal. See also, Section 311.023(5), Government Code.

<sup>13</sup> See, Section 2.03, Penal Code.

<sup>14</sup> See the defenses available in Section 601.193, Section 521.025(d) and (f), and Section 545.4121 of the Transportation Code, respectively.

<sup>15</sup> Section 601.191, Transportation Code.

<sup>16</sup> See, Chapter 706, Transportation Code. See also, Regan Metteauer, “Omnibase Services of Texas: No Show, No Pay, No Problem?” *The Recorder* (May 2013) at 15.

<sup>17</sup> See, Ryan Kellus Turner, “Pay or Lay: *Tate v. Short* Revisited,” *The Recorder* (March 2003) at 1.

<sup>18</sup> See, Section 311.011(a), Government Code.

<sup>19</sup> The jail credit issue has been highlighted as a point of concern and confusion in Dallas. Steve Thompson, “Dallas Judges, City Officials Differ on Jail Credit Issue,” *Dallas Morning News* (Aug. 4, 2012).

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# OMNIBASE SERVICES OF TEXAS:

## No Show. No Pay. No Problem?



Regan Metteauer  
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Almost 30 percent of Dallas County criminal defendants charged with misdemeanors fail to appear in court, according to a 2013 study.<sup>1</sup> And this is not a problem unique to Dallas County. If appearance, final disposition, and justice are goals of any city, the Department of Public Safety (DPS) has a resource to achieve those goals. The Failure to Appear/Failure to Pay Program, authorized by Chapter 706 of the Texas Transportation Code and administered by DPS, restricts the ability to renew a driver's license of a person with an outstanding violation.

### Chapter 706

Chapter 706 of the Transportation Code authorizes the Failure to Appear/Failure to Pay Program and prescribes requirements and parameters for the program. Under Section 706.002, last amended in 2003, a city may contract with DPS to deny renewal of the driver's license of a person who fails to appear for a complaint or citation or fails to pay or satisfy a judgment ordering payment of a fine and costs in the manner ordered by the court for any offense of which the court has jurisdiction. Section 706.008 authorizes DPS to contract with a private vendor to implement the program, and since 1996, OmniBase Services of Texas has been the selected vendor. Under Section 706.009, the vendor must establish and maintain customer support services as directed by DPS, including a toll-free telephone service line for persons denied renewal under the program, and comply with the terms, policies, and rules adopted by DPS to administer the program. OmniBase provides an 800 number and operator assistance for persons to contact the Interactive Voice Response System, which is available on a 24-hour basis. OmniBase also provides contact support for users.

### Requirements

A city must have a contract with DPS in effect to implement the provisions of Chapter 706. If a city has

such a contract, a peace officer authorized to issue a citation in that city must issue a written warning to every person issued a citation that if the person fails to appear in court for the prosecution of the offense, or fails to pay or satisfy a judgment ordering the payment of a fine and costs in the manner ordered by the court, the person may be denied renewal of the person's driver's license.<sup>2</sup> The warning may be printed on the same instrument as the citation.<sup>3</sup>

Section 706.004(b) lists the required information a court must send to DPS (via OmniBase): the name, date of birth, and driver's license number of the person; the nature and date of the alleged violation; a statement that the person failed to appear as required by law or failed to satisfy a judgment ordering payment of a fine and costs in the manner ordered by the court; and any other information required by DPS. The court is also required to immediately give DPS (via OmniBase) a clearance notice that there is no cause to continue to deny a person's driver's license when the person has paid the administrative fee<sup>4</sup> and any of the following have occurred: (1) perfection of an appeal; (2) dismissal of the charge; (3) posting of bond or giving of other security; (4) payment or discharge of the fine and cost owed; or (5) other suitable arrangement to pay the fine and costs within the court's discretion. Section 706.011 provides for immunity from suit for the state or political subdivision based on an act or omission under Chapter 706.

The person who fails to appear is required to pay an administrative fee of \$30 for each complaint or citation reported to DPS, unless the person is acquitted.<sup>5</sup> If the person fails to pay or satisfy a judgment ordering payment of a fine and costs in the manner the court orders, he or she is similarly required to pay an administrative fee of \$30.<sup>6</sup>

Requirements for records relating to fees and disposition of fees are found in Section 706.007.

### Court Feedback

According to OmniBase, as of March 1, 2011, 695 Texas cities participated in the Failure to Appear/Failure to Pay Program.<sup>7</sup> Also as of that date, 10.1 million

## How It Works

1. The court transmits an offense to OmniBase.
2. OmniBase notifies DPS to flag the violator's driving record.
3. OmniBase notifies the violator of the restriction upon renewal of his or her driver's license and assists in resolving.
4. The violator contacts the court and resolves the offense.
5. The court collects applicable fines, court costs, and the statutory administrative fee.\*
6. The court notifies OmniBase of disposition of the offense.
7. OmniBase notifies DPS to remove the restriction on the driver's license.
8. The court keeps any fines collected and a portion of the administrative fee.

<http://omnibase.com>

*\*This would only apply in a failure to pay situation. In a failure to appear situation, the defendant could post bond to reinstate the charge.*

offenses have been entered and 57.4 percent cleared.<sup>8</sup> Those that use OmniBase have varied assessments of its utility, ranging from high praise to backlash. The general sentiment seems to be that overall, it is effective, but not without its problems. Robyn Schwab, Municipal Court Supervisor for the City of Brownwood, said her court uses OmniBase and loves it so much that they have stopped using their collection agency. Ruth Sandoval, Chief Court Clerk Administrator with the City of Lakeway, said it is nice to have a tool to make people comply with their tickets. Cathy Haney, Director of the Municipal Court in Missouri City, said she loves it when it is working properly and feels that it is the best tool courts have for collection. Similar sentiments were expressed by Kimberly Davee in the City of Brady and Larissa Ward in Glenn Heights. Brenda Kent, with the City of Shoreacres, said she is happy with it most of the time and that overall, a lot of people come pay as a result of the program. Melinda Davis, with the City of Colleyville, pointed out that it is very helpful in collecting fines on old and new citations because it forces people to pay their fines, however that collection

can take time because of the six-year renewal period.

Many courts have experienced accuracy problems. Common reported problems include accuracy of the accounting portion of the quarterly billing statement, a decrease in the ability to timely process cases for both submissions and clearances when compared to past years, issues with the system not clearing holds when processed and old cases reappearing, and difficulty with accurate reporting in general.

## OmniBase Update on the Horizon

Aware of the difficulties faced by courts, instead of patching flaws in the software, OmniBase has new software coming out designed to be quicker and more accurate, according to OmniBase President, Charles Cannon. In its final stages of testing now, the new software will allow more direct access to DPS. Whereas now it would take three to four days to clear an individual, the new software would make that possible in less than 24 hours. Additionally, the new software will have improved data validity checks, giving OmniBase a better chance of knowing immediately if the information provided by the court is valid instead of having to wait on DPS. Mr. Cannon hopes to get the software out to select courts within the next couple of months and to the majority of courts within a year. With 13 years' experience at OmniBase, Mr. Cannon said he is able to isolate and diagnose most issues with the software, so if the technicians cannot resolve a problem, he may be contacted directly. "We take pride in our work and try to provide the best service and resources, keep the courts happy, and get people cleared in a timely fashion," said Mr. Cannon. "Tomorrow is a better and brighter day."

For more information, visit <http://www.omnibase.com>.

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<sup>1</sup> Robert G. Morris, *Pretrial Release Mechanisms in Dallas County, Texas: Differences in Failure to Appear (FTA), Recidivism/Pretrial Misconduct, and Associated Costs of FTA* 7 (The University of Texas at Dallas 2013), available at <http://www.ddbail.com/news/files/DallasPretrialReleaseReport.pdf> (last visited April 8, 2013).

<sup>2</sup> Section 706.003, Transportation Code.

<sup>3</sup> *Id.*

<sup>4</sup> Section 706.006, Transportation Code.

<sup>5</sup> Section 706.006(a), Transportation Code.

<sup>6</sup> Section 706.006(b), Transportation Code.

<sup>7</sup> OMNIBASE Services of Texas, Failure to Appear Statistics, available at <http://omnibase.com/> (last visited March 12, 2013).

<sup>8</sup> *Id.*





# TRAFFIC SAFETY: NEWS YOU CAN USE

## EMPHASIZING THE CONSEQUENCES OF DRINKING AND DRIVING IN YOUR COMMUNITY WITH *SHATTERED DREAMS*

Brenna McGee  
TxDOT Grant Administrator & Program Attorney  
TMCEC

Motor vehicle crashes remain the leading cause of death of 15-20 year olds,<sup>1</sup> and the National Highway Traffic Safety Administration (NHTSA) reported that 30 percent of the young drivers who were killed in crashes in 2010 had a BAC of .08 or higher.<sup>2</sup> Communities around Texas are often faced with these tragedies, and many Texas high schools are turning to *Shattered Dreams*, a youth-led community collaborative program, to prevent more fatalities.

*Shattered Dreams* was first developed by the Bexar County DWI Task Force Advisory Board on Underage Drinking in 1998.<sup>3</sup> It is an expanded and renamed version of the *Every 15 Minutes* program first developed by the police department of Chico, California in 1996.<sup>4</sup> The original program name emphasized the frequency with which people die in alcohol-related crashes, while the name *Shattered Dreams* emphasizes the result of such crashes: the shattered dreams of those who drink and drive, the innocent victims, and the families.<sup>5</sup>

Although each community that puts on a *Shattered Dreams* program does it a little differently, the basic idea remains the same: *Shattered Dreams* is an educational experience meant to remind everyone involved of the dangers associated with drinking and driving.<sup>6</sup> First, each *Shattered Dreams* program begins with the dramatization of an alcohol-related car crash on or near a high school campus that is played out before the student body during a school day.<sup>7</sup> While the students watch, police, fire, and other emergency personnel respond to the scene.<sup>8</sup> The victim students are transported by ambulance or helicopter to a local hospital, while the deceased students are transported to a funeral home.<sup>9</sup> The drunk driver is arrested and transported to jail for booking and arraignment.<sup>10</sup>

“What we did was the court piece, and we just took over it,” Constance White, the Director of Court Services for the Burleson Municipal Court, said about the local *Shattered Dreams* program. “We did the book-in, the arraignment, the whole thing. It was a real view of what happens. The judge did everything as if it was a real DWI suspect.”

Throughout the day, other elements of the crash unfold. To give students a better understanding of the number of alcohol-related deaths, an individual dressed as the Grim Reaper appears periodically throughout the school day to select a new victim.<sup>11</sup> The Grim Reaper will enter a classroom every 15 minutes and select a student victim because, when the program first originated in the mid-1990s, the 15-minute time period represented how often someone was killed in an alcohol-related collision.<sup>12</sup> As students are pulled from class, a police officer will read the student’s obituary that was written by his or her parents.<sup>13</sup> The victims are taken out of class, made-up in makeup and dressed in black t-shirts to symbolize death, and then returned to their classrooms to continue their day in silence.<sup>14</sup> By the end of the day, every student has one or more “dead” classmates present in the classroom.<sup>15</sup> In some programs, the dead students, crash victims, and drunk driver are taken on an overnight retreat to enhance the learning experience, although this is not always done.<sup>16</sup> In others, there is a parent retreat as well.<sup>17</sup>

The next morning, a wrap-up assembly is held, featuring those who played roles in the previous day’s drama, including the crash victims, the drunk driver, their parents, and participating law enforcement and medical personnel.<sup>18</sup> Sometimes a mock memorial is held for the victims as well,<sup>19</sup> or a mock trial for the drunk driver.<sup>20</sup> Impact statements from community members whose real lives have been affected by teenage alcohol use and drunk driving bring closure to the program and reinforce its message: never drink and drive.<sup>21</sup>

“You could hear a pin drop in that assembly,” Dave Parker, a principal at Memorial High School, told the *Memorial Examiner* in 2012, describing what it was like during the wrap-up assembly where the students heard from a mother who had lost a child to a drunk driver.<sup>22</sup> “They sat there for more than an hour. It’s hard to keep their attention for that long.”

As of April 2012, more than 200 schools in Texas have conducted a *Shattered Dreams* program.<sup>23</sup> The presentation is most often held before prom or graduation, occasions on which teenagers are most likely to consume alcoholic beverages.<sup>24</sup> Although the effectiveness of putting on a *Shattered Dreams* program can be hard to measure, in a study done by the South



Texas Injury Prevention and Research Center at the University of Texas Health Science Center in 2003, of the students who participated in a *Shattered Dreams* program, 83 percent believed that their friends would be less likely to drive after drinking as a result of *Shattered Dreams*, and a majority also reported that as a result of *Shattered Dreams*, they were more likely to talk with their friends about the risks of underage drinking and impaired driving.<sup>25</sup>

“During the last 12 years we have all heard from many students that the *Shattered Dreams* program had a significant impact on their decision-making and choices,” said Judge Denise Mitrano, the Presiding Judge for the City of La Porte.

If you are looking to bring *Shattered Dreams* to your community, planning will be key. *Shattered Dreams* is designed to be a comprehensive underage drinking and impaired driving prevention program that involves the school administration and faculty, students, parents, community organizations, law enforcement, emergency medical services, and area hospitals in the planning and implementation of the activities.

“*Shattered Dreams* is a big deal in La Porte, and during

a typical year, the following agencies will participate in the program: La Porte High School, the municipal court, the police department, the local funeral home, Life Flight, PHI, Bayshore and Hermann Hospitals, the fire department, EMS, TABC, and the Bay Area Council on Drugs and Alcohol,” said Judge Mitrano. “We even have Texas Department of Criminal Justice bring a guard and an inmate in shackles to speak to the students.”

Due to the comprehensive nature of the program, planning with so many organizations usually begins at least six months prior to the main two-day event.<sup>26</sup>

“The last time we participated, in 2012, we were involved from the ground floor,” White said. “We met for four months, every two weeks.”

Once you decide to bring *Shattered Dreams* to your city, the first step will likely be to organize a team of community leaders who are dedicated to the program and to the cause of preventing underage drinking and driving.<sup>27</sup> This team will be the core group of decision-makers.<sup>28</sup> It is suggested that the team have 12 to 15 members, and they should represent a good cross-section of your community, including: school personnel,

law enforcement, medical professionals, mental health professionals, business people, student organizations, non-profit organizations, faith community members, parents, and other youth advocates.<sup>29</sup>

“Get people on-board earlier,” White shared as her tip for making *Shattered Dreams* successful. “Give people as much notice as possible. We had a lot of meetings, but something good came out of every meeting.”

Once you have a leadership team in place, other teams should then be organized. These teams, which range from a campus team to a mock crash team to a public relations team, will help you accomplish the major tasks associated with *Shattered Dreams*.<sup>30</sup> For example, the campus team can be in charge of notifying the school district’s central office personnel of the interest in sponsoring the *Shattered Dreams* program and obtaining permission from the superintendent and school board to participate.<sup>31</sup>

“We didn’t spearhead the project because there are so many players,” White said, explaining that the local school was the primary organizer of the *Shattered Dreams* program in Burleson. “But a court could lead it if its Teen Court program is big enough.”

Cost can also be an early factor to consider when planning a *Shattered Dreams* program. Although the Texas Alcohol Beverage Commission (TABC) once financially supported *Shattered Dreams*, TABC no longer funds the program but does participate in the on-site crash scene, retreat, and parent education workshops.<sup>32</sup> One option to consider is asking local businesses to sponsor or donate to the program. For example, Anderson High School in Austin had its *Shattered Dreams* program sponsored by local radio station KASE 101.<sup>33</sup>

Organizing a *Shattered Dreams* program is no easy task. If your court would like to start a *Shattered Dreams* program in your community, a great place to start is with the *Shattered Dreams: A Guide for Program Planners*, available at: <http://www.waco-texas.com/pdf/fire/prevention/shattered-dreams-program.pdf>. Although this guide was produced in 2004, it is extremely helpful for planning purposes as it contains very detailed guides and instructions on organizing, planning, events, activities, sample waivers, and other information needed on how to get a *Shattered Dreams* program up and running.

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<sup>1</sup> National Highway Traffic Safety Administration Traffic Safety Facts, 2010 Data, *Young Drivers*, DOT HS 811 622 available at <http://www.nrd.nhtsa.dot.gov/Pubs/811622.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> Wharton Shattered Dreams, [http://www.whartonems.com/shattered\\_dreams/sdenter.html](http://www.whartonems.com/shattered_dreams/sdenter.html) (last visited March 4, 2013).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Matthew O. Gayle, “Kennard ‘Shattered Dreams’ a Success,” *County Life Daily News*, May 29, 2012, available at <http://countylifeonline.com/2012/05/29/kennard-shattered-dreams-a-success/>.

<sup>7</sup> Texas Alcoholic Beverage Commission, *Shattered Dreams*, [http://www.tabc.state.tx.us/education/shattered\\_dreams.asp](http://www.tabc.state.tx.us/education/shattered_dreams.asp) (last visited March 4, 2013).

<sup>8</sup> City of Frisco, *Shattered Dreams*, <http://www.ci.frisco.tx.us/departments/police/Pages/ShatteredDreams.aspx> (last visited March 4, 2013).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Kim Hilsenbeck, “Shattered Dreams: High School Program Dramatizes Effects of Drinking and Driving,” *Hays Free Press*, March 8, 2012, available at <http://haysfreepress.com/2012/03/08/shattered-dreams-high-school-program-dramatizes-effects-of-drinking-and-driving/comment-page-1/#axzz2MaauRTVI>.

<sup>12</sup> City of Frisco, *Supra*, note 8.

<sup>13</sup> Kim Hilsenbeck, *Supra*, note 11.

<sup>14</sup> *Id.*

<sup>15</sup> Texas Alcoholic Beverage Commission, *Supra*, note 7.

<sup>16</sup> City of Frisco, *Supra*, note 8.

<sup>17</sup> The South Texas Injury Prevention and Research Center at the University of Texas Health Science Center at San Antonio, *Shattered Dreams: A Guide for Program Planners*, <http://www.waco-texas.com/pdf/fire/prevention/shattered-dreams-program.pdf> (last visited March 4, 2013).

<sup>18</sup> Kim Hilsenbeck, *Supra*, note 11.

<sup>19</sup> City of Frisco, *Supra*, note 8.

<sup>20</sup> South Texas Injury Prevention, *Supra*, note 17.

<sup>21</sup> Texas Alcoholic Beverage Commission, *Supra*, note 7.

<sup>22</sup> Rusty Graham, “Shattered Dreams: Memorial High Sees Impact of Drinking, Driving,” *Memorial Examiner*, April 11, 2012, available at [http://www.yourhoustonnews.com/memorial/news/shattered-dreams-memorial-high-sees-impact-of-drinking-driving/article\\_28f02728-25a3-5f78-8ea7-75e6f37abdb7.html](http://www.yourhoustonnews.com/memorial/news/shattered-dreams-memorial-high-sees-impact-of-drinking-driving/article_28f02728-25a3-5f78-8ea7-75e6f37abdb7.html).

<sup>23</sup> Panther Nation News, *Shattered Dreams at MHS*, <http://pnn.midwayisd.org/pnn/2012/04/shattered-dreams/> (last visited March 4, 2013).

<sup>24</sup> City of Frisco, *Supra*, note 8.

<sup>25</sup> South Texas Injury Prevention, *Supra*, note 17.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Texas Alcoholic Beverage Commission, *Supra*, note 7.

<sup>33</sup> April Michaud, “Shattered Dreams: Exposing Youth to the Realities of Drinking and Driving,” *The Examiner*, April 3, 2012, available at <http://www.examiner.com/article/shattered-dreams-exposing-youth-to-the-realities-of-drinking-and-driving>.

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# REACHING OUT TO YOUR COMMUNITY WITH DRIVING ON THE RIGHT SIDE OF THE ROAD

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In most Texas communities driving is the primary means of transportation. School-age children anxiously await their first drivers' license or the freedom to ride their bicycle without parental supervision. Traffic safety is real—not abstract or theoretical. Hoping to build upon students' natural interest and curiosity surrounding driving, TMCEC developed the Driving on the Right Side of the Road (DRSR) program.

Fist developed by TMCEC in 2008, the DRSR program is a series of lessons at the elementary and secondary levels that focus on citizenship education and traffic safety. Traffic safety issues are pertinent to young people and they provide a foundation for understanding rights and responsibilities as students learn about the proper operation of bicycles, scooters, ATVs, and motor vehicles in Texas. Students can apply their existing knowledge of common rules and laws relating to traffic, enhancing the practical benefit of a civics lesson.

When DRSR was originally developed, it was designed to be a traffic safety curriculum guide for grades 4, 7, and high school government. Today, just five years later, DRSR has grown and expanded into all grade levels. No longer just a social studies program, DRSR is now being presented in conjunction with language arts, health, foreign language, and even math curriculums.

Of course, the more things change the more they stay the same. DRSR still has the same goals and objectives as it did when it began: the purpose of the DRSR program remains to offer a preventative education program to encourage responsible decision-making when it comes to obeying traffic laws and to follow safe practices. Today DRSR remains a collaborative effort between TMCEC, the Texas Department of Transportation (TxDOT), and the Law-Related Education Department of the State Bar of Texas (LRE). It is still intended that municipal judges, clerks, and city officials will use these materials in their communities and serve as valuable resource persons in the classroom.

A wide variety of materials have been developed through collaboration with experienced, certified teachers to help students learn about traffic safety. Lessons use interactive strategies and online games to teach traffic safety while studying local and national government and the responsibilities of citizenship. Some materials have been used with success for years, such as the Our Town map, while other materials are brand new. Some of the newest DRSR materials include *Be Careful, Lulu!* and *Don't Monkey Around with Safety in a Car*, two children's picture books; *What If... A Story of Shattered Lives*, a reader's theater that illustrates with vibrant images the dangers of drinking and driving; and *State v. Young*, a high-school level mock trial that includes depositions, exhibits, and the Rules of Evidence. All of the materials in the DRSR program are updated regularly with the latest statistics and aligned with the required standardized tests.

TMCEC encourages members of the judiciary to volunteer to be guest speakers in local schools and to invite school and other civic groups into the courtroom. Judges, clerks, lawyers, and other court support personnel, as well as those working in law enforcement, can bring the DRSR lessons alive by providing real life or hypothetical examples, accurate descriptions of what the law requires, answer many of the questions that may arise, while giving students an opportunity to interact with positive role models. Contact your local school and see if there are any events you can participate in—such as a career day or Read Across America—or invite a class to your court. You could put on a mock trial and serve as a director, giving tips to make the mock trial more authentic. For those interested in being frequent guest speakers, TMCEC organizes a Speakers Bureau. To sign up, please visit the Speakers Bureau website at [www.tmcec.com/MTSI/Speakers\\_Bureau](http://www.tmcec.com/MTSI/Speakers_Bureau).

When speaking to a class or having groups visit your court, TMCEC has developed additional materials to make your speech easier to deliver. Along with the DRSR classroom materials discussed above, TMCEC has developed special lessons that are specifically intended for judges and other court personnel to teach. For example, TMCEC has a lesson entitled Jury Trials and Traffic Safety, which was prepared by TMCEC



Program Attorney & Deputy Counsel Mark Goodner. This lesson explores the jury trial process and the people's right to a trial by an impartial jury. This lesson also covers municipal court jurisdiction and the number of traffic offenses that occur. Although this lesson can be taught by a teacher, it is best taught by someone from the judiciary who can speak with expertise on this topic. This and other lesson plans for judges can be found at [www.tmcec.com/DRSR/Teaching\\_Materials](http://www.tmcec.com/DRSR/Teaching_Materials).

TMCEC also offers a lending library of DVDs that can be used when speaking to a group. These videos can be used to help enliven your presentation or to prepare students for your presentation. There is no charge and the loan period is two weeks. The list of available DVDs can be found on the TMCEC website at [www.tmcec.com/DRSR/Lending\\_Library](http://www.tmcec.com/DRSR/Lending_Library). Email [tmcec@tmcec.com](mailto:tmcec@tmcec.com) with the name of the program that you would like to borrow and we will send it to you. 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.

TMCEC and TxDOT also both offer a range of free promotional, informational, and educational (PI&E) items that you can hand out to students or other groups to reinforce the DRSR traffic safety message. Some free materials include pencils, highlighters, coloring books, and whistles. These materials all have a traffic safety message, such as "Drink. Drive. Go to Jail." or "Talk. Text. Crash." These materials remind the students of the lessons they learned during your talk. To get these materials, please contact TMCEC at [tmcec@tmcec.com](mailto:tmcec@tmcec.com) or 512.320.8274, or contact your local TxDOT Traffic Safety Specialist. A list of all the TxDOT Traffic Safety Specialists can be found on the

TMCEC website at [www.tmcec.com/mtsi/resources\\_and\\_materials](http://www.tmcec.com/mtsi/resources_and_materials).

For many courts, DRSR and TxDOT materials are an integral part of their public outreach efforts. For example, League City participated in Municipal Courts Week last year and part of their outreach was a table set up in the courthouse lobby with materials provided by TMCEC and TxDOT. Last year Richland Hills received a lot of DRSR goodies from TMCEC and they were given out by the police department at their National Night Out event. Hudson Oaks had three locations for its National Night Out events, and Court Clerk Joni May went to all three locations and handed out DRSR materials and talked about what she does in court. Universal City participated in the city's annual Veteran's Day parade and two court clerks walked next to the decorated warrant car, giving away DRSR and TxDOT materials such as pens, pencils, key chains, and coloring books. In Bryan, parents waiting in the pick-up line at a local high school were handed bags containing TxDOT and TMCEC materials. In Alvin, the court hosted a 5K educational fun run, and DRSR and other educational materials were distributed at booths along the race course. And in Socorro, Judge Alejandro Vidales went over "A Day in Municipal Court" with the students at a local elementary school for career day.

As an added incentive to encourage involvement in DRSR and other outreach programs, the Texas Municipal Courts Association (TMCA) is beginning a new recognition program. According to Judges Bonnie Goldstein of Royse City and Phyllis Rogers of Sulphur Springs, the TMCA recognition program is a newly-established program wherein the TMCA Public Outreach Committee will review applications and activities of different courts who are engaging in public outreach activities and recognize those courts who are doing outstanding work at the TMCA annual meeting, as well as through sending recognition letters to city councils regarding the outreach activities of the court. At this time, the program is a work in progress and TMCA is working on an application process, which they hope to have established soon. According to Judges Goldstein and Rogers, DRSR presentations will qualify for program recognition, whether done at the court or at schools as they are encouraging use of the available resources at TMCEC and creative outreach and educational programs.

If you are interested in the DRSR program, please check the TMCEC website for the most recent information: [www.drsr.info](http://www.drsr.info). TMCEC will continually revise the DRSR materials to bring you the most current materials available.



## Driving on the Right Side of the Road

### Lessons for K-12

#### **About Driving on the Right Side of the Road**

Motor vehicle crashes are the leading cause of death for 15-20 year olds. Younger children are often hurt if they do not wear their safety belt, do not obey traffic signals, or fail to wear protective equipment when bicycling or rollerblading. The purpose of the DRSR program is to offer a preventive educational program to encourage responsible decision-making when it comes to obeying traffic laws and following safe practices.

The DRSR program has created a series of lessons for social studies classes at the elementary and secondary levels on citizenship, education, and traffic safety. The program is aligned with standardized tests.

The lessons use interactive strategies and online games to teach traffic safety while studying city, state, and national government, the three branches of government, and the responsibilities of citizenship. Elementary lessons also use traffic safety content to teach language arts and math skills.

Information sheets provide teachers with background information about traffic laws and municipal court. Resource persons from the courts can bring the lessons alive by providing real life or hypothetical examples, accurate descriptions of what the law requires, and serving as positive role models for students.

#### **DRSR Instructional Materials**

A wide variety of materials have been developed through collaboration with experienced, certified

teachers to help teach students in grades K-12 about traffic safety. The traffic safety content is presented in conjunction with social studies, language arts, and even math curriculums. Below is a summary of the materials currently available:

#### **The Instructional Packet:**

There are four levels to the instructional packet – all on traffic safety issues. All levels are easily adaptable and can be used for all types of learners in all grade levels.

#### **K-3 & Traffic Be Smart-Stay Safe Centers:**

The early elementary lessons focus on booster seats and include a puppet script, a design-a-booster-seat activity, an I Spy exercise with the Our Town map, and a safe and unsafe matching exercise. All are highly interactive and effective with younger students. A limited number of booster seat posters are available to support the instruction.

Also included are fun, colorful activities, such as traffic safety bingo, a scavenger hunt, a seek & find, the Hit the Road card game (i.e., Go Fish), and the Dangerous Dan card game (i.e., Old Maid).

Traffic Be Smart-Stay Safe Centers are designed to be independent center activities; these materials are also adaptable to whole group instruction. Each activity comes with a set of directions for the students to follow. Students use the provided traffic safety information sheets to complete activities such as Traffic Safety Cause & Effect, Comic Strip, Book of Facts, and Alphabet Traffic Safety.

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### Level One (upper elementary):

The elementary lessons introduce important skills and reinforce traffic safety concepts. Map skills are taught using the Our Town map. A traffic safety match up exercise helps students identify safe and unsafe behavior. After playing the TxDOT Land game, students are given the opportunity to hone decision-making skills on safety rules. The unit concludes with a city council simulation on an ordinance governing vehicle safety.

### Level Two (middle school):

The Our Town map is used to study laws related to traffic safety, followed by an instructional game called X CAR O. This game combines traffic safety questions with a review of city, county, and state government. Students then have the opportunity to learn about the requirements for a driver's license in Texas.

### Level Three (high school):

Government students evaluate traffic safety proposals, study the purpose of ignition interlock devices, and learn how a bill moves through the state legislature. A review of federalism is provided for students to review local, state, and national traffic laws. A mock legislative hearing of a DUI case is included for students to simulate the judicial process.

### Our Town Map (all ages):

This colorful poster shows over 20 examples of safe and unsafe behavior in a typical town. The illustration not only teaches about traffic safety and decision-making, but also builds map skills. Class sets are available, as well as a limited number of rulers. This is an excellent resource to generate discussion with a guest speaker from the municipal courts. The map can also be used to teach about communities and city government.

### Sponge Book (primary):

This activity book is designed to bring traffic safety knowledge to students as they wait in the cafeteria line, before the bell rings, or in any other five-minute opportunity that a teacher has to teach a short mini-lesson. The creative Sponge activities include songs, rhymes, chants, and quizzes.

### Skill Building Exercises – Do Nows for 2nd, 3rd, 4th, and 5th Grades:

The DRSR Do-Nows are a set of skill building activities that build upon the content of the DRSR

project while helping prepare students for standardized testing. There are currently four sets of “Do-Now” exercises aligned with the TEKS curriculum for social studies, language arts, and math.

### Mock Trial Guide (all ages):

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

### State v. Young (high school):

This is a mock trial packet involving a texting-while-driving case for high school students. It contains witness statements and exhibits, as well as procedures for conducting a criminal trial and the rules of evidence.

### Children's Books:

The DRSR program offers a series of children's books on traffic safety. These are available on the website listed above, as well as in soft cover and Big Book format. Both are available in English and Spanish. An audio file, available on the website, allows students to listen to the stories as they read along in the book(s). A limited number of puppets are also available for students to re-enact the story of Marigold as they read.

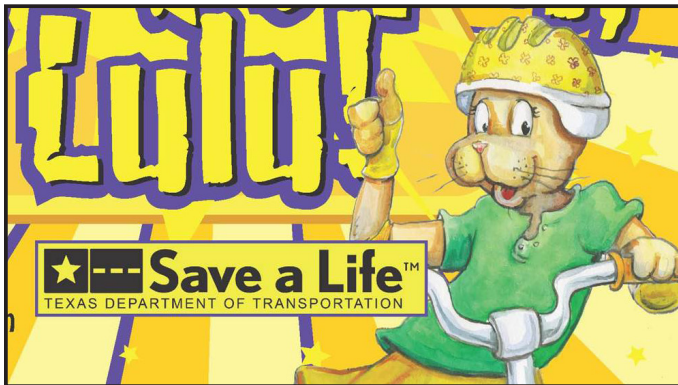


*Don't Monkey Around With Safety On Field Trips* – Marigold learns about traffic safety when her class goes on a field trip to a local museum. Students in the story are asked to sign a contract for safe behavior. An unexpected occurrence (losing a hair ribbon) reminds Marigold of the importance of asking adults for assistance. Spanish version: *No hagas payasadas durante paseos escolares: La seguridad no es un juego.*

*The Safe-T-Squad* – Students form a club when they

realize there is a lot of unsafe behavior on campus. They become so astute at identifying safe and unsafe behavior that at the end they realize that even adults need reminders. Spanish version: *El escuadrón de seguridad*.

*Don't Monkey Around With Safety In A Car* – Marigold learns about not distracting her parents as they drive, as well as not driving while drinking alcohol. Spanish version: *No juegues con la seguridad en un carro*.



*Be Careful, Lulu!* – Lulu's uncle explains to her to be careful, especially in cars, when bicycling, and when skate-boarding. Spanish version: *Ten cuidado, Lulú*.

*A Day in Municipal Court* – This coloring book, available in both English and Spanish versions, teaches students what to expect in municipal court. It reviews the role of the judge, clerk, witness, defendant, and jury. The material is an excellent resource for field trips or when teaching about courts in a unit on city government. A challenging set of rebus puzzles is included in the English version at the end. Spanish version: *Un día en el Tribunal Municipal*.

### Substitute Lesson Plans:

These lesson plans were designed to stand-alone as emergency substitute plans. Four levels, covering kindergarten through high school, are included. Not only do these materials support the acquisition of the Texas ELA and Social Studies Standards (the TEKS), but they simultaneously teach traffic safety.

Reader's Theater: *What If... A Story of Shattered Lives*:

This script about the consequences of drinking alcohol and driving offers middle school students an opportunity to perform and use their voice to depict characters in this tragedy. Suitable for youth groups and clubs, as well as classroom instruction. Spanish version: *Y qué si... La historia de unas vidas rotas*.

### Video, Audio, and Online Resources:

Background material on traffic safety is available from the Texas Municipal Courts Education Center via information sheets, audio files, web pages, and video segments. Go to [www.tmcec.com](http://www.tmcec.com).

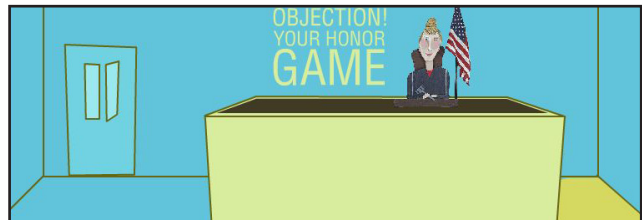
### Online Games (all ages):

These online games teach about traffic safety and our system of government using a fun, interactive method.

Students read a case, play as the prosecution or defense, and pick a municipal jury.



Students must decide if the question is objectionable or acceptable, considering the case and the witness on the stand.



This simulation will assist teachers in walking students through the Texas legislative system. Students will be asked to make the best choices as a traffic safety bill works its way through the process to becoming a law.



This game is played like Concentration and can be played in English or Spanish. The goal is to make as many pairs of traffic safety cards as you can in the



shortest amount of time. The cards shuffle so you can play each level over and over or move on to the next level.



Students must make safe and smart choices to get from one place to another in their community.



#### **Other Online Traffic Safety Games:**

*Things on Wheels* – Answer the questions about bicycles, inline skating, and skateboarding to win! (grades 1-8)

*Bus Safety Challenge* – Do you know what it takes to stay safe on the bus? (grades 1-8)

*Young Driver Millionaire Challenge* – In the game style of Who Wants to be a Millionaire, this challenge will quiz the knowledge of would-be young drivers to see if they have what it takes to be on the road. (grades 8-12)

*Traffic Safety Quiz* – Test your general knowledge of Texas traffic safety. (all grade levels)

#### **Municipal Traffic Safety Initiatives (MTSI):**

MTSI is another grant program of the Texas Department of Transportation in which municipal judges and court support personnel are encouraged to conduct public outreach programs for schools and civic groups on traffic safety issues. The purpose of MTSI is to raise public awareness of the importance of traffic safety in local communities. Many of the materials are useful as background information for classroom teachers. For information and resources, go to [www.tmcec.com/tmcec/mtsi](http://www.tmcec.com/tmcec/mtsi).

#### **MTSI and DRSR Website Resources:**

There are many resources available to teachers and classroom resource persons on the MTSI [[www.tmcec.com/tmcec/mtsi](http://www.tmcec.com/tmcec/mtsi)] and DRSR [[www.drsr.info](http://www.drsr.info)] website pages that can be accessed from the TMCEC main page [[www.tmcec.com](http://www.tmcec.com)]. On these sites, users will find facts and statistics, coloring books and activity pages, information sheets, videos, audio files, sample presentations and PowerPoint material, interactive games, and more. The websites are frequently updated and include excellent materials from other traffic safety projects, as well as the DRSR and MTSI programs.

#### **Sample PowerPoint Presentations:**

Located on the DRSR and MTSI websites, sample PowerPoint presentations give speakers and teachers ideas about what might be included in a classroom or community group talk.

#### **Law-Related Education Department:**

The website of the Law-Related Education Department of the State Bar of Texas and Law Focused Education, Inc. also offers many resources for teaching about traffic safety and other laws with interactive strategies and interesting content. Many outstanding activities may be accessed via the LRE website [www.texaslre.org](http://www.texaslre.org).

#### **DRSR Workshops:**

The DRSR program offers teacher training workshops via the regional education service centers, local school districts, statewide teacher conferences, and individual schools. The cost is underwritten by grant funds from the Texas Department of Transportation. Contact [tmcec@tmcec.com](mailto:tmcec@tmcec.com) to set up a local program. Over 600 teachers were trained in all areas of the state during the summer of 2012. These teachers will teach children traffic safety and bring municipal court representatives into the classroom to act as a resource. Dates for 2013 workshops may be found on page 26.

#### **Speakers Bureau:**

TMCEC maintains a list of judges and court support personnel interested in speaking to student and community groups. Grant funding is sometimes available to provide speakers with handouts, maps, rulers, stickers, and other items for distribution to the audience to help reinforce the important traffic safety messages. Call TMCEC at 800.252.3718 or email [tmcec@tmcec.com](mailto:tmcec@tmcec.com) to volunteer as a speaker or to request a guest speaker.

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# Driving on the Right Side of the Road Workshops

You are invited to attend any of the upcoming Driving on the Right Side of the Road (DRSR) workshops to learn more about the DRSR resources and materials, meet and visit with teachers who are attending the workshop so they may use you as a resource person in the classroom in the future, or to be a part of the workshop as a resource person.

## Region 1 Edinburg

Date: June 12, 2013

Location: TxDOT Pharr District, 600 W. Expressway 83,  
Pharr, TX 78577

## Region 2 Corpus Christi

Date: June 28, 2013

Location: Education Service Center Region II,  
209 N. Water Street, Corpus Christi, TX 78411

## Region 3 Victoria

Date: June 27, 2013

Location: Victoria ISD Professional Development Center,  
102 Profit Drive, Victoria, TX 77901

## Region 11 Fort Worth

Date: June 12, 2013

Location: Denton ISD, 1307 North Locust,  
Denton, TX 76201

## Region 13 Austin

Date: June 7, 2013

Location: Education Service Center Region XIII,  
5701 Springdale Road, Austin, TX 78723

## Region 16 Amarillo

Date: June 14, 2013

Location: Education Service Center Region XVI,  
5800 Bell Street, Amarillo, TX 79109

## Region 17 Lubbock

Date: June 12, 2013

Location: Education Service Center Region XVII,  
1111 West Loop 289, Lubbock, TX 79416

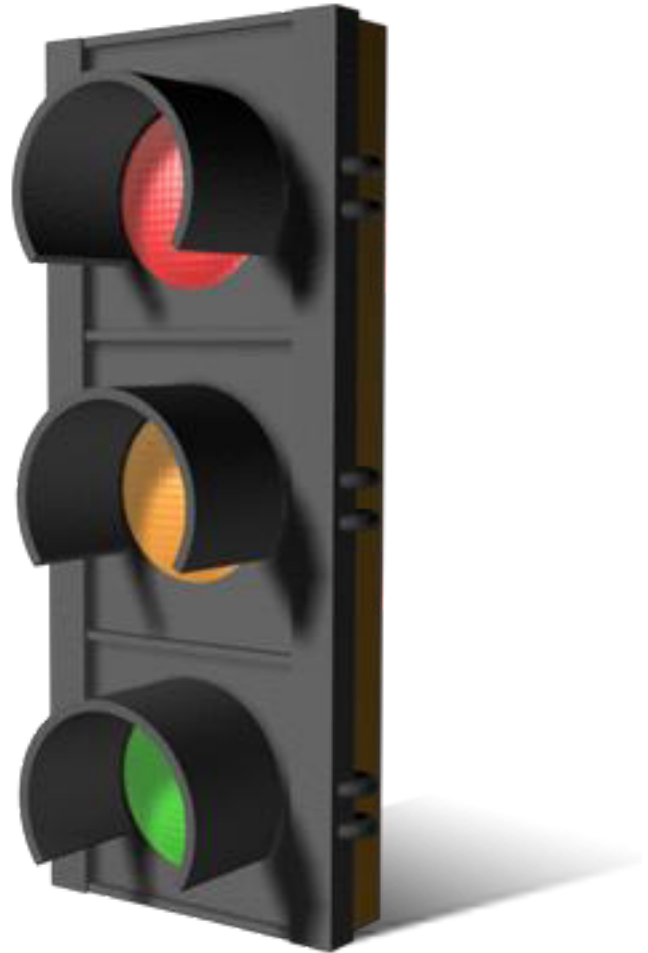
## Region 20 San Antonio

Date: August 9, 2013

Location: Education Service Center Region XX,  
1314 Hines Street, San Antonio, TX 78208

Registration is free and each workshop is from 9:00 am to 4:00 pm. No lunch will be provided.

More workshops are currently being added. If you do not see one in your area on the above list, please check the DRSR website at [www.tmcec.com/DRSR/Training\\_Dates](http://www.tmcec.com/DRSR/Training_Dates) for the most up-to-date list of locations and dates. If you have any questions or if you would like to attend any of the upcoming Driving on the Right Side of the Road workshops, contact Brenna McGee at [mcgee@tmcec.com](mailto:mcgee@tmcec.com).



## Driving on the Right Side of the Road Materials Request - 2013

**Please print:**

Name: \_\_\_\_\_ Email address: \_\_\_\_\_

Court: \_\_\_\_\_ Date needed by: \_\_\_\_\_

Mailing address: (please provide the address where you want the materials sent)

City: \_\_\_\_\_ Zip code: \_\_\_\_\_

How will these materials be used? \_\_\_\_\_

**Materials requested:**

Note: Materials will be provided at no charge as long as there is funding and the materials are in stock.

- Mock Trials (1) – (Or, you may request up to 5 at no charge. Indicate # \_\_\_\_ )
- Mock Trial: *State v. Young* \_\_\_ English (up to 25)
- Big Book (11" X 15") – *Don't Monkey Around with Traffic Safety in Cars* (1)
- Big Book (11" X 15") – *Don't Monkey Around with Safety on Field Trips* (1)
- Big Book (11" X 15") – *The Safety T-Squad* (1)
- Big Book (11" X 15") – *Be Careful, Lulu!* (1)
- Student Version – *Don't Monkey Around with Traffic Safety in Cars* \_\_\_ English or \_\_\_ Spanish (up to 25 each)
- Student Version – *Don't Monkey Around with Safety on Field Trips* \_\_\_ English or \_\_\_ Spanish (up to 25 each)
- Student Version – *The Safe T-Squad* \_\_\_ English or \_\_\_ Spanish (up to 25 each)
- Student Version– *Be Careful, Lulu!* (1) \_\_\_ English or \_\_\_ Spanish (up to 25 each)
- Municipal Court Coloring Book \_\_\_ English or \_\_\_ Spanish (up to 25 each)
- Growth Chart Poster on Child Safety (1-3) \_\_\_\_\_
- Class Set of Our Town Maps (25)
- What If... A Story of Shattered Lives* (1) \_\_\_ English or \_\_\_ Spanish (up to 25 each)



Additional resources are located on the DRSR website at: [www.tmcec.com/drsr](http://www.tmcec.com/drsr)

To receive the materials requested, please fax this form back to: 512.435.6118, scan and email to [tmcec@tmcec.com](mailto:tmcec@tmcec.com), or mail to: DRSR, TMCEC, 2210 Hancock Drive, Austin, TX 78756 Questions? Call TMCEC at 800.252.3718

This project is funded by grants from the Texas Department of Transportation and the Texas Court of Criminal Appeals and developed in collaboration with the State Bar of Texas-Law Related Education.



# RESOURCES FOR YOUR COURT

## I'M A SAFE KID!

TMCEC can offer courts up to three copies of the I'm a Safe Kid Growth Chart posters for use in the court or community at no charge. The posters are printed in English on one side and Spanish on the other. They measure 5 feet 1 inch in length and indicate "rear facing zone," "forward facing zone," "booster seat zone," and "vehicle seat belt zone." The poster educates parents on what type of seat their children should be sitting in for safety. Kids think it is exciting to see how tall they are and find out what "zone" they are in. This is a great opportunity to educate parents and families about being safe in the vehicle. To order copies, call TMCEC (800.252.3718) or send an email to [tmcec@tmcec.com](mailto:tmcec@tmcec.com).

## TMCA ANNUAL MEETING & EDUCATION PROGRAM

The TMCA Annual Meeting will be held in San Antonio July 11-13, 2013 at the Menger Hotel (800.345.9285). An interesting agenda is planned, including the following topics:

- The Emerging Threat of Mexican Drug Cartels, Gangs, Smuggling, Trafficking
- Drugs & Weapons Threats
- Courts, Communities, and the Law
- State Bar CLE Video Programs

The Annual TMCA Outstanding Judge and Clerk Awards will be presented. Twenty vendors will be present to showcase the latest software and collection tools for courts to adopt. The program will offer credit toward judges' "flex time," clerk certification, and attorney CLE.

For more information, go to <http://www.txmca.com/annualMeeting.htm>.

## TMCA WEBSITE

Check out the revised TMCA website: [www.txmca.com/](http://www.txmca.com/), which now contains information on bills introduced in the 83rd Legislative Session of interest to municipal courts. Also accessible is information on the Association, TMCA board and committees, the Speakers Bureau, the Annual Meeting, and the Outstanding Judge and Clerk Awards.

**I'M A SAFE KID!**

Are you more than 40 pounds and under 4'9" tall? You need a booster!

Save a Life SalveunaVida

Are you ready to ride on the seat? Seat belts do not usually fit until kids are 4'9" tall, weigh about 80 pounds and are 8-12 years old.

**Test yourself . . .**

- ✓ Can you sit with your hips against the back of the seat?
- ✓ Do your knees bend comfortably at the edge of the seat?
- ✓ Does the belt cross the center of your shoulder and is the lap belt low, touching the tops of your legs?
- ✓ Can you sit like this the entire trip?

If you answered "no" to any of these questions, you need to keep using your booster.

You are ready for a booster when . . .

- You weigh at least 40 pounds, or
- Your shoulders grow above the car seat top harness slot, or
- Your ears are at the top of your car seat.

Boosters help protect kids by keeping the seat belts in the safest position. The lap belt stays low, touching the tops of the legs. The shoulder belt is centered on your shoulder and chest, so you won't put it behind your back or under your arm.

The back seat is the safest place. Ride in the back seat until you are at least 13 years old.

Toddlers and preschoolers ride in forward-facing car seats with a harness until they weigh at least 40 pounds.

Babies ride rear-facing until they are at least 1 year AND 20 pounds. Keep children rear-facing to 30-35 pounds if your car seat allows it.

TMCEC

Height and weight are approximate. Always check your car seat manufacturer's instructions to be sure your child meets the weight and height requirements for the car seat.

# EDUCATION UPDATE

## THE CLERKS ARE MARCHING ON: PROFESSIONAL DEVELOPMENT FOR COURT PERSONNEL

Regan Metteauer  
Program Attorney  
TMCEC

For clerks seeking to further their career or enhance their profession, local, statewide, and national educational opportunities await. Cities and courts—beneficiaries of well-trained clerks—have a wealth of resources available to reap the benefits of having clerks with advanced knowledge and job skills. How far a city can take its clerks is as far as that city’s creativity and determination. Clerks should be encouraged by those who have gone before them and opened the door to professional development as well as those who continually strive today to provide opportunities for clerks to become proficient administrators of justice.

### Local Training Plans

The importance of training cannot be overstated. This is especially true of the growing field of court administration, which requires precise knowledge of a vast subject matter. “It’s crucial,” said Pat Riffel, Court Administrator with the City of Pearland. “Because of what we do and the consequences of not knowing, it’s impossible to do it without adequate training.” Hilda Cuthbertson, Court Administrator for the City of Bryan, added, “the consequences of a clerk making an error can result in a serious liability for the city, making it very important to have clerks understand fundamental legal principles.”

Training, like anything important, should not be approached flippantly or without focus. A training plan or model is, therefore, vital to ensure success. “A training plan keeps track of who is doing what,” said Ms. Riffel. “It is written and turned into management so they don’t wonder why someone is doing something; it’s set in stone.” In Pearland, for example, obtaining Level I Certification is built into the job description. All candidates are notified prior to interviewing and hiring that certification within two years of employment is required. According to Ms. Riffel, this ties the city into allowing clerks to maintain certification, which makes the training plan successful. To encourage participation, Pearland clerks receive the first three chapters of the

study guide their first week on the job and have three months to complete it. After completion, they receive the next three chapters. Ms. Riffel said it is good to do it early, when they are really eager to get moving on the program.

Ms. Cuthbertson has found that what has been successful in Bryan is to allow the new clerk to get acclimated to the legal terminology for the first six months before sending him or her to the current 24-hour TMCEC New Clerks Boot Camp. This also addresses any longevity concerns with new clerks. During those six months, new clerks are responsible for studying the Level I study guide. In particular, the chapters on An Overview of the Courts, Authorities and Duties, and Ethics must be completed in the first three months. Since Bryan is a medium-volume court, new clerks are allowed to visit with each clerk and city marshal with whom they will be working and to observe dockets and trial proceedings during the first few weeks. Ms. Cuthbertson believes the success of a manager lies with her employees. She spends time with each new clerk, explaining what it means to take an oath and become an officer of the court. She also assesses a new clerk’s progress and work prior to enrollment in the TMCEC New Clerks Program and prepares the clerk for the experience at the school.

In College Station, the Honorable Judge Ed Spillane teaches area and surrounding area clerks once a month

### UPCOMING PROGRAMS FOR CLERKS

- TMCEC Court Administrators Seminar, June 17-19, 2013 in Corpus Christi
- TMCA Annual Conference, July 11-13, 2013 in San Antonio
- TMCEC New Clerks “Bootcamp” Seminar, July 15-18, 2013 in Austin
- TMCEC 2013 Legislative Update, August 15 in Lubbock, August 20 in Houston, and August 23 in Austin
- TCCA Annual Conference, October 14-16, 2013 in San Antonio

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on the following two-hour topics: Alcoholic Beverage Code, Canons of Judicial Conduct, Contempt, Defensive Driving and Deferred Disposition, Expunctions, Legislative Update, Recusal, and Warrants 101. After six months, the topics repeat. College Station clerks also participate in TMCEC webinars.

The City of Houston is passionate about making sure its clerks get certified and stay certified. In an effort to ensure all clerks get a chance to get their hours, whether for renewal or certification, the Houston Municipal Court has partnered with the Texas Court Clerks Association (TCCA) Gulf Coast Chapter to offer 34 hours of education. According to Howard LeFleur, one of the Administrative Managers for Court Operations and the leader of the Clerk Education and Certification projects, each month from April to December, the Gulf Coast Chapter will offer up to four hours of credit for any clerk, not just their chapter members. Their hope is to offer two educational sessions in July in cities like Pearland, Missouri City, Brenham, Houston, and Beaumont and to make registration available on the TCCA website for \$15. Testing is another area Houston has focused on, according to Mr. LeFleur, by planning a testing schedule in conjunction with training sessions.

### **Development Opportunities as Big as Texas**

The Texas Legislature, the Court of Criminal Appeals, and the Texas Municipal Courts Association (TMCA), recognize the importance of training and allocating funds for that purpose. Across the state, the Texas Municipal Courts Education Center (TMCEC), TCCA, and TMCA promulgate professional development for clerks.

Even before its creation in 1972, TCCA's visionary, Lorna Nelson, and her judge, J.B. Masterson, recognized the importance of a unified plan for procedures in municipal courts.<sup>1</sup> The interest and concern among clerks in the 20th century continues to grow today. Among its many endeavors, TCCA encourages professional development by administering a Scholarship Program, which offers up to \$650 in scholarships for attendance at TCCA's Annual Conference and up to \$150 for attendance at a TMCEC Seminar.<sup>2</sup>

TMCEC offers programs and resources for municipal court clerks, which include a 1-800-helpline, orientations, publications, clinics, webinars, New Clerk Boot Camp, a Level III Assessment Clinic, a Court Administrators Seminar, 10 Regional Clerks Seminars, and a Traffic Safety Conference. Eight-hour TMCEC regional clerks programs will continue in FY14, but TMCEC is also planning some special topic one-

day schools that focus on specific areas of concern and facilitate networking with other clerks as well as interaction with judges and other court personnel. Topics will include warrants and *capias pro fines*, court cost workshops, court security, commercial motor vehicle violations, and municipal court jurisdiction and offenses.

For those new to the profession, TMCEC will be restoring the New Clerks Boot Camp Program to the 32-hour format for FY14 and implementing a new clerk mentoring program. Mentors and mentees will be invited to attend some of the special topic schools and mixers and visit each other's courts. TMCEC Program Director Katie Tefft thinks it is extremely important for clerks—from the court administrator who oversees a hundred clerks to the lone clerk who is also the utilities billing clerk/animal control officer/city secretary—to be proud of their profession. "Clerks play such an important role in the day-to-day administration of the criminal justice system with which most Texans come in contact, and continuing education is the best way to maintain competence. Although many clerks are pigeon-holed into performing one type of task (i.e., warrant processing, bond forfeitures, data entry), many doors are open to clerks who take advantage of learning all they can about the role of municipal courts, the criminal justice system, constitutional issues, juvenile issues, and administrative issues," said Ms. Tefft.

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*We want your input! Let us know what courses you want to see in TMCEC's regional programs next academic year by emailing us at [tmcec@tmcec.com](mailto:tmcec@tmcec.com).*

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### **National Efforts Toward Professional Development**

National organizations also offer continuing education programs for court support personnel, including the National Center for State Courts (NCSC), Institute for Court Management (ICM), and National Association for Court Management (NACM). NCSC is acknowledged as the premier provider of services that improve the administration of justice in the U.S. and worldwide.<sup>3</sup> ICM's educational programs are continuously evolving to meet the needs of the field of court administration, which has grown exponentially.<sup>4</sup> Both created by leaders of the mid-20th century court reform movement and merged in the 1980s, NSCS

and ICM provide a wealth of resources to court administrators. Most notably, its Court Management Program (CMP) offers three levels of certification: the Certified Court Manager (CCM), the Certified Court Executive (CCE), and the NCSC-ICM Fellows Certification.<sup>5</sup> NCSC offers courses online as well as face-to-face with a number of online courses that are free of charge. Other resources include publications, consulting services, technology tools, public outreach tools, conferences, and an extensive database on court-related subjects.

NACM, established in 1985 and the largest organization of court management professionals in the world, addresses court management issues, publishes a quarterly magazine, promulgates Trial Court Management Guides and a model code of ethics, and provides members with up-to-date information about technology, problem-solving strategies, collection procedures, facility management, security plans, and team building.<sup>6</sup>

Alexander Hamilton referred to what he called “the ordinary administration of criminal and civil justice” as the “great cement of society.”<sup>7</sup> According to Hamilton, “[i]t is that, which—being the immediate and visible guardian of life and property, having its benefits and its terrors in constant activity before the public eye, regulating all those personal interests and familiar concerns to which the sensibility of individuals is more immediately awake—contributes more than any other circumstance to impressing upon the minds of the people affection, esteem, and reverence towards the government.”<sup>8</sup> Such lofty administration is the role of the municipal clerk. The preservation of that role is a fundamental endeavor, and numerous educational opportunities await clerks and the cities they serve.

### Useful Websites for Continuing Clerk Education

- National Association for Court Management at [www.nacmnet.org/](http://www.nacmnet.org/).
- Conference of State Court Administrators at [www.cosca.ncsc.dni.us/](http://www.cosca.ncsc.dni.us/).
- National Center for State Courts at [www.ncsconline.org/](http://www.ncsconline.org/).
- Judicial Administration at Michigan State University at [www.judicialadministration.msu.edu/](http://www.judicialadministration.msu.edu/).

<sup>1</sup> Texas Court Clerks Association, *About TCCA*, available at <http://www.texascourtclerks.org/about>.

<sup>2</sup> *Id.* For guidelines and an application, visit <http://www.texascourtclerks.org/assets/TCCA%20SCHOLARSHIP%20APPLICATION%281%29.pdf>.

<sup>3</sup> National Center for State Courts, *ICM History*, available at <http://www.ncsc.org/Education-and-Careers/Courses/ICM-History.aspx>.

<sup>4</sup> *Id.*

<sup>5</sup> National Center for State Courts, *ICM/NCSC Court Management Program (CMP) & ICM Fellow Certification Models*, available at <http://www.ncsc.org/Education-and-Careers/Certification-Programs/Court-Management-Program/ICM-Certification-Model.aspx>.

<sup>6</sup> National Association for Court Management, *About Us*, available at <http://www.nacmnet.org/about/index.html>.

<sup>7</sup> Alexander Hamilton, *Federalist*, No. 17 (December 5, 1787).

<sup>8</sup> *Id.*

### Reminder for Municipal Judges

The Rules of Judicial Education changed in FY 13 for municipal judges. The changes are outlined below and apply this academic year (as of September 1, 2012).

- Municipal judges are now required to annually complete 16 hours of judicial education (an increase of four hours).
- After judges have completed at least two years of required continuous, live judicial education through TMCEC, municipal judges must complete eight hours of judicial education comprised of continuous live presentation. The remaining eight hours can be thought of as “flex-time” and can be satisfied through live presentation, approved online education, or any combination of approved live events and online education.
- Additionally, after two years of judicial education, municipal judges may choose to participate in relevant, approved non-TMCEC presentations of at least eight hours of live presentation with the remaining eight hours through live presentation, online education, or any combination thereof. The choice to “opt-out” of TMCEC training is available in alternating years.

An extensive FAQ can be found on the TMCEC website at [www.tmcec.com/Programs/Judges/Judicial\\_Education\\_Changes\\_FAQ](http://www.tmcec.com/Programs/Judges/Judicial_Education_Changes_FAQ).

The Rules of Judicial Education are promulgated by the Texas Court of Criminal Appeals and may be accessed at [www.cca.courts.state.tx.us/jcptfund/pdf/RulesOfJudEd/pdf](http://www.cca.courts.state.tx.us/jcptfund/pdf/RulesOfJudEd/pdf).

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# FROM THE CENTER

## JUVENILE CASE MANAGERS

TMCEC has again received a supplemental grant from the Texas Court of Criminal Appeals to offer a two-day conference for juvenile case managers (JCMs). It will be held in Austin on June 26th (8 to 5) and June 27th (8 to 12) at the Omni Southpark Hotel. Juvenile case managers from municipal courts are eligible to attend for a \$50 registration fee. A single room fee of \$50 per night also applies. See page 38 for a registration form. If space permits, juvenile case managers from justice courts may also attend. Registration for JCMs from justice courts will be open after June 1, 2013. JCMs working in municipal courts may also attend the TMCEC

clerks regional programs and the legislative updates. There are a great number of resources on the TMCEC website for courts wishing to start a JCM program. Go to [www.tmcec.com/Resources/JCM-SB61/](http://www.tmcec.com/Resources/JCM-SB61/). A listserv for JCMs has been set up in Google Groups ([jcma-of-texas@googlegroups.com](mailto:jcma-of-texas@googlegroups.com)) by members of the Juvenile Case Managers Association of Texas. This listserv and association are designed to support JCMs working in Texas municipal courts. To join the group, email Carlin Caliman ([Carlin.Caliman@arlingtontx.gov](mailto:Carlin.Caliman@arlingtontx.gov)) with your name, title, and city. You may also contact Ms. Caliman for more information about the Association.

### *In Appreciation*

TMCEC wishes to express its appreciation to Mr. Terry Pence, Traffic Safety Director, Traffic Operations Division, and Ms. Lydia Bryan-Valdez, CTCM/Paralegal/Traffic Safety Program Manager-Program Areas: Safe Routes to School Statewide (non-infrastructure), Driver Behavior, Bike/Pedestrian Safety and Roadway Safety, Texas Department of Transportation for their valuable assistance in procuring funding and helping to implement the DRSR program.

We also wish to thank Ms. Carol Campa, the TxDOT Austin District Traffic Safety Specialist, for generously making Public Information & Education Materials on traffic safety available to TMCEC and municipal courts across Texas. TMCEC also appreciates the donation of bike lights from Bike Texas, which have been used in schools and community events by DRSR volunteers in the courts.

We thank all of you.

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## TRAFFIC SAFETY CONFERENCE

TMCEC was pleased to see 223 enthusiastic participants at the Municipal Traffic Safety Initiatives Conference in Austin April 2-4, 2013. The award winners were recognized (see list on page 2 of this issue) and the video of their accomplishments may be accessed at [www.tmcec.com/MTSI/Traffic-Safety-Awards-2013](http://www.tmcec.com/MTSI/Traffic-Safety-Awards-2013). In addition, the course materials may be downloaded at [www.tmcec.com/MTSI/Traffic\\_Safety\\_Conference\\_2013](http://www.tmcec.com/MTSI/Traffic_Safety_Conference_2013), audio files of the conference will be added soon.

Special appreciation is given to Regan Metteauer, TMCEC Program Attorney, for her work as the conference planner and facilitator, as well as Brenna McGee, the TMCEC TxDOT Grant Administrator & Program Attorney for her work with award winners, vendors, and exhibitors. A list of the vendors/exhibitors is found on page 40 of this issue. TMCEC also thanks the Omni Hotels for providing a free two-night stay to the winner of the drawing at the rollover convincer demonstration.



# 2013 Webinar Series

Presented by the Texas Municipal  
Courts Education Center

## Upcoming Webinars:

### **The Silver Tsunami: Courts and the Growing Elder Population**

**May 16 (Thursday) @ 10:00 a.m.**

Presented by Mark Goodner, Program Attorney & Deputy Counsel, TMCEC

### **Can I Do This Electronically? And all that it entails...**

**May 30 (Thursday) @ 10:00 a.m.**

Presenter TBD

### **Distracted Driving**

**June 6 (Thursday) @ 10:00 a.m.**

Presented by Garry Parker, Law Enforcement Liaison, Texas Municipal Police Association

### **Conviction Reporting and Surcharge Updates**

**June 20 (Thursday) @ 10:00 a.m.**

Presented by Cheryl Garren, Texas Department of Public Safety, Assistant Manager, Enforcement & Compliance

### **OmniBase and Scofflaw**

**July 11 (Thursday) @ 10:00 a.m.**

Presented by Brenna McGee, TxDOT Grant Administrator & Program Attorney, TMCEC and Regan Metteauer, Program Attorney, TMCEC

### **Nonappearance Crimes: FTA, VPTA & Beyond**

**July 25 (Thursday) @ 10:00 a.m.**

Presented by Katie Tefft, Program Director, TMCEC

## Recent Webinars Now Playing On Demand:

### **Blood Warrants**

Presented by W. Clay Abbott, DWI Resource Prosecutor, TDCOA

### **The Classroom to Municipal Court Pipeline**

Presented by Ryan Turner, General Counsel & Director of Education, TMCEC

### **Juveniles: Constitutional Issues from Searches to Confessions**

Presented by Ryan Turner, General Counsel & Director of Education, TMCEC

### **The Texas Model for Addressing Disproportionality & Disparities**

Presented by Joyce James, Associate Deputy Executive Commissioner, Center for Elimination of Disproportionality and Disparities

## 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 judicial education credit and credit toward the clerk certification program. All upcoming webinars are approved for MCLE credit from the State Bar for licensed attorneys. Archived webinars eligible for MCLE credit are marked with a yellow label on the Webinars on Demand page of the OLC.

## Webinar Instructions:

### To view a TMCEC webinar:

1. First go to the Online Learning Center at <http://online.tmcec.com>.
2. Find the login box in the upper left corner of the page and enter your TMCEC username and password. Call TMCEC and we can give you that information if you do not already know it.
3. Click Login.

### To enroll in an upcoming webinar:

1. Look for the list of **Course Categories** in the middle of the page just below the welcome message.
2. Click on **Upcoming Webinars** to view a full schedule.
3. Click on the title of the webinar you would like to attend.
4. You will see a message that says "You are about to enroll yourself as a member of this course. Are you sure you wish to do this?" You need not pre-register for upcoming webinars, but you must be enrolled to view the webinar link, course materials, and most importantly, to receive credit for the webinar. Click **Yes** to enroll.
5. You are now considered enrolled in the webinar. You will see the webinar title and, below, links for Webinar, Course Materials (there may be more than one), Evaluation, CLE reporting (if applicable), and a Certificate.

### To view the webinar, no more than 30 minutes prior to the scheduled start time:

1. Click on the **Webinar** link inside the course page for the webinar you would like to view.
2. The link will open a new window in your web browser. You should see the title of the webinar and two options for logging in. Choose **Enter as a Guest** and type your full name into the space provided. Do not enter your same username and password, as it will not work with Adobe Connect.
3. Click **Enter Room**.
4. You will experience a short delay as the software to display the webinar is automatically installed and configured on your system. You should not be asked to download or confirm anything. When the software is configured, you should be able to view the webinar.
5. Make sure you have the sound turned up on your computer speakers as you will not be calling in on the telephone.

For more detailed instructions on watching webinars, visit the **Upcoming Webinars page of the OLC**, the **Webinars page on the TMCEC website**, or contact TMCEC at 800.252.3718.



# LEGISLATIVE UPDATE '13 REGISTRATION FORM

The registration fee for Legislative Update is \$100 for municipal judges and court personnel and \$150 for all non-municipal court personnel. If you need lodging, you will have to make your own reservation and cover the cost with the hotel. TMCEC will send you hotel information upon receipt of your registration form and the registration fee.

Judges can obtain up to seven hours of judicial education credit, clerks can obtain up to seven hours credit toward the certification program, and licensed peace officers (bailiffs and/or warrant officers) can obtain up to seven hours of TCLEOSE credit. Up to six hours of CLE credit will be submitted for licensed attorneys with an additional payment of \$50.

Please check the program you would like to attend and return completed form with the registration fee payment to TMCEC.

**PROGRAM SITE:**

- LUBBOCK     HOUSTON     AUSTIN
- August 15, 2013    August 20, 2013    August 23, 2013
- Overton Hotel    Omni Houston    Omni Southpark
- 806.776.7000    Riverway    512.448.2222
- 713.871.8181

Course lasts from 9:00 a.m. to 4:00 p.m. with an optional Q&A from 4:00-5:00 p.m.

Name (please print legibly): \_\_\_\_\_

Street: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_

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

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

Email Address: \_\_\_\_\_

**Check all that apply:**

- Full Time     Part Time     Attorney\*\*     Non-Attorney     Prosecutor     Defense Lawyer (\$150)\*\*
- Presiding Judge/Judge     Associate/Alternate Judge     Bailiff/Warrant Officer     Mayor & Council (\$150)\*\*
- Court Administrator     Court Clerk     Deputy Court Clerk     Other (\$150):

\*\* Please add \$50 if requesting CLE credit.

*I understand that I will be responsible for making and paying for my own hotel reservation. Payment is required for this program; payment is due with this form. The registration fee is refundable if the Center is notified of cancellation in writing 10 days prior to the seminar.*

\_\_\_\_\_  
Participant Signature Date

**PAYMENT INFORMATION:**

\$100 Check for Registration Fee Enclosed

For participants who do not work in a municipal court:  
 \$150 Check for Registration Fee Enclosed

\*\*  \$50 Check for CLE Fee Enclosed

Credit Card Registration: (Please indicate clearly if combining registration forms with a single payment.)

Credit Card type:

Credit Card Number	Expiration Date
<input type="checkbox"/> MasterCard _____	_____
<input type="checkbox"/> Visa	Name as it appears on card (print clearly): _____
Total Amount:	
\$ _____	Authorized Signature _____

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756.  
Fax registration forms with credit card information to 512.435.6118.

## 2012 - 2013 TMCEC Academic Schedule At-A-Glance

Seminar	Date(s)	City	Hotel Information
Regional Attorney Judges Seminar	May 5-7, 2013 (Su-M-T)	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S. Padre Island, TX
Regional Non-Attorney Judges Seminar	May 7-9, 2013 (T-W-Th)	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S. Padre Island, TX
Clinic (Bond Forfeitures)	May 15, 2013 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX
Bailiff and Warrant Officer Seminar	May 22-24, 2013 (W-Th-F)	Galveston	San Luis Resort Spa & Conference Center 5222 Seawall Boulevard, Galveston, TX
New Judges & Clerks Orientation	June 5, 2013 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX
Regional Clerks Seminar	June 10-11, 2013 (M-T)	Waco	Hilton Waco 113 South University Parks Dr. Waco, TX
Regional Judges Seminar	June 10-12, 2013 (M-T-W)	Waco	Hilton Waco 113 South University Parks Dr. Waco, TX
Prosecutors & Court Administrator Seminar	June 17-19, 2013 (M-T-W)	Corpus Christi	Omni Corpus Christi Hotel Bayfront Tower 900 N. Shoreline Blvd., Corpus Christi, TX
Juvenile Case Managers	June 26-27, 2013 (W-TH)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
Magistrates Conference	July 9, 2013 (T)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
New Clerks Seminar	July 15-18, 2013 (M-T-W-Th)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
New Judges Seminar	July 15-19, 2013 (M-T-W-Th-F)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
Legislative Update - Lubbock	August 15, 2013 (Th)	Lubbock	Overton Hotel & Conference Center 2322 Mac Davis Lane, Lubbock, TX
Legislative Update - Houston	August 20, 2013 (T)	Houston	Omni Houston Hotel 4 Riverway, Houston, TX
Legislative Update - Austin	August 23, 2013 (F)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX

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

## UPCOMING PROGRAMS

### **Bailiffs and Warrant Officers Conference • May 22-24 • San Luis Resort • Galveston**

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, Emerging Weapons, Alive @ 25, Gangs, Domestic Violence, Identity Theft, Jury Trials, and Nonappearance Crimes. Participants can also attend the pre-conference session on the first day on Reading Body Language: Recognizing Signs of Threat and Deception. The registration fee is \$100 and includes up to 16 hours of TCLEOSE credit. There is a \$50 per night single room fee.

### **Court Administrators Seminar • June 17-19 • Omni Bayfront Tower • Corpus Christi**

This program focuses on management tools and leadership skills for court administrators and court supervisors. Seminar topics include Sovereign Citizens, Best Practices in Court Security, Standing Orders, Effective Communication, and tracks on technology, budgeting and cash handling, and legal topics. Participants can attend the optional pre-conference session on the first day on Leadership and Organizational Success. The registration fee is \$100, plus the \$50 per night single room fee.

### **Municipal Prosecutors Conference • June 17-19 • Omni Bayfront Tower • Corpus Christi**

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, the Silver

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Tsunami, Sovereign Immunity, Complaints, Disorderly & Disruptive Offenses, Non-Appearance Crimes, Teen Court, Alive @ 25, Speeding & Speed Limits, Human Trafficking, Domestic Violence, Ethics, and Habeas Corpus & Class Cs. Participants can attend the optional pre-conference session on the first day on new legislation. The cost begins at \$100 (\$200 for CLE credit), plus housing. The conference counts for up to 14 hours of CLE credit, including 3 hours of ethics.

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**Juvenile Case Managers Seminar • June 25-27 • Omni Southpark • Austin**

For the second year, TMCEC is sponsoring, with the Juvenile Case Managers Association, a special conference specifically for juvenile case managers. Teen court coordinators and judges and clerks wishing to start a JCM program may attend as well. The cost is \$50, plus single housing fees (\$50 per night). Visit the TMCEC website, resources page, for more information on S.B. 61, JCMs, and educational opportunities.

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**Clinic: The Magistrate’s Role in Traffic Safety • July 9 (8:30 – 3:00) • Omni Southpark • Austin**

As the gate-keeper to the Texas criminal justice system, the magistrate serves an important role in promoting and increasing traffic safety in his or her community. This special one-day seminar, open only to municipal judges and city magistrates, will offer an in-depth discussion of magistrate duties, including Article 15.17 warnings, the setting and revocation of bond, and the treatment of offenders through consular notifications and the use of interpreters. Structured around a hypothetical arrest of a DWI suspect, participants will learn about blood draw warrants, bond conditions on DWI cases, and auto ignition interlock devices. Finally, participants will see first-hand a video magistration and discuss the laws behind using electronic broadcast systems. This clinic offers 5.5 hours of judicial education and MCLE credit (including some ethics credit). Registration is still just \$20 per judge, but, as an added bonus, will include one night’s stay in a hotel, breakfast, and lunch.

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**New Clerks “Boot Camp” Seminar • July 15-18 • Omni Southpark • Austin**

Offering classes on court procedures – from the filing of a citation or complaint to final disposition of a case – this seminar is a great opportunity for new or less-experienced clerks to learn the basics of municipal court processes. Courses include introduction to the codes, court costs, driving safety courses and deferred disposition, juveniles, nonappearance crimes, OCA reporting, and court security, plus a lot more! This seminar is 24 hours, over four days, and costs just \$200.

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**New Judges Seminar • July 15-19 • Omni Southpark • Austin**

This course is a requirement for new judges, who are not licensed attorneys, within one year of appointment. Over five days and 32 hours of instruction (or more if attending an optional session), new judges will learn about magistrate duties, bail and bonds, judicial ethics, court decorum, judicial authority, traffic laws, ordinances, court costs, citations and complaints, driving safety courses and deferred disposition, trial processes, contempt, juveniles, indigence and enforcement of judgments, and evidence. This seminar costs \$200 for the week.

**Legislative Updates**

See page 31 of this issue for more information.

For all programs, register early as space is limited. Registration forms are available for all programs on the TMCEC website.

**TEXAS MUNICIPAL COURTS EDUCATION CENTER  
FY13 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: \_\_\_\_\_

**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 Programs. To share with a specific seminar participant, you must indicate that person's name on this form.

- I request a private, single-occupancy room (\$50 per night : \_\_\_\_\_ # of nights x \$50 = \$\_\_\_\_\_ )
- 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 request a private double-occupancy room, but I'll be sharing with a non-participating guest. I will pay additional cost (\$50 per night : \_\_\_\_\_ # of nights x \$50 = \$\_\_\_\_\_ ). I will require:  1 king bed  2 double beds
- I do not need a room at the seminar.

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

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

**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. All judges are allowed a hotel at grant expense on the evening of Day 1.**

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 that 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 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  
FY13 REGISTRATION FORM:**

**Court Administrators, Bailiffs & Warrant Officers, and Juvenile Case Managers**

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

Check one:

- Juvenile Case Managers (\$50)  
 Court Administrators Seminar (\$100)  
 Bailiff/Warrant Officers\* (\$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: \_\_\_\_\_

**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 the Bailiff/Warrant Officers Conference, the Court Administrators Seminar, and the Juvenile Case Managers Conference.** To share with a specific seminar participant, you must indicate that person's name on this form.

- I request a private, single-occupancy room (\$50 per night : \_\_\_\_\_ # of nights x \$50 = \$ \_\_\_\_\_ )  
 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 request a private double-occupancy room, but I'll be sharing with a non-participating guest. I will pay additional cost (\$50 per night : \_\_\_\_\_ # of nights x \$50 = \$ \_\_\_\_\_ ). I will require:  1 king bed  2 double beds  
 I do not need a room at the seminar.

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

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):

- |  |                                    |   |                                       |   |
|--|------------------------------------|---|---------------------------------------|---|
| <input type="checkbox"/> Full Time                 | <input type="checkbox"/> Part Time | <input type="checkbox"/> Attorney             | <input type="checkbox"/> Non-Attorney | <input type="checkbox"/> Baliff/Warrant Officer |
| <input type="checkbox"/> Presiding Judge/Judge     |                                    | <input type="checkbox"/> Justice of the Peace |                                       | <input type="checkbox"/> Juvenile Case Manager  |
| <input type="checkbox"/> Associate/Alternate Judge |                                    | <input type="checkbox"/> Mayor                |                                       | <input type="checkbox"/> Other _____            |

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

Judge's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Municipal Court of: \_\_\_\_\_ TCLEOSE 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 that 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 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:

Credit card type:	Amount to Charge:	Credit Card Number	Expiration Date
<input type="checkbox"/> MasterCard	\$ _____	_____	_____
<input type="checkbox"/> 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  
FY13 REGISTRATION FORM:  
New Judges, New Clerks, and Prosecutors Conferences**

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

Check one:

- New, Non-Attorney Judge Program (\$200)
- New Clerk Program (\$200)
- Non-municipal prosecutor seeking CLE credit (\$400)
- Non-municipal prosecutor not seeking CLE credit (\$300)

- Prosecutor not seeking CLE/no room (\$100)
- Prosecutor seeking CLE/no room (\$200)
- Prosecutor not seeking CLE/with room (\$250)
- Prosecutor seeking CLE/with room (\$350)

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

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

**HOUSING INFORMATION**

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

- I need a private, single-occupancy room.
- I need a room shared with a seminar participant. TMCEC will assign you a roommate or you may request a roommate by entering seminar participant's name here here: \_\_\_\_\_ (Room will have 2 double beds.)]
- I need a private double-occupancy room, but I'll be sharing with a non-participating guest. I will pay additional cost, if any, per night.  
 I will require:  1 king bed  2 double beds
- I do not need a room at the seminar.

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

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):

- |  |  |   |                                       |   |   |
|--|--|---|---------------------------------------|---|---|
| <input type="checkbox"/> Full Time                 | <input type="checkbox"/> Part Time               | <input type="checkbox"/> Attorney             | <input type="checkbox"/> Non-Attorney | <input type="checkbox"/> Court Clerk                      | <input type="checkbox"/> Deputy Court Clerk |
| <input type="checkbox"/> Presiding Judge/Judge     | <input type="checkbox"/> Court Administrator     | <input type="checkbox"/> Court Administrator  | <input type="checkbox"/> Prosecutor   | <input type="checkbox"/> Mayor ( <i>ex officio</i> Judge) |   |
| <input type="checkbox"/> Associate/Alternate Judge | <input type="checkbox"/> Bailiff/Warrant Officer | <input type="checkbox"/> Justice of the Peace | <input type="checkbox"/> Other _____  |   |   |

I certify that I am currently serving as a municipal judge, prosecutor, 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 that 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 registration form and full payment of both the registration fee and the hotel room.**

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

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

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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.

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